CITY COUNCIL AGENDA  
PORTERVILLE, CALIFORNIA  
MARCH 7, 2006, 6:00 P.M.

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

CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation: Porterville Citizens for Responsible Hillside Development v. City of Porterville.
   2- Government Code Section 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   6 - Government Code Section 54957: Public Employment - Golf Course Manager.

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

Pledge of Allegiance Led by Mrs. Schaffer’s Third Grade Class, Olive Street School
Invocation

PRESENTATION
   Employee of the Month - Fernando Yacuta

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

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

1. Approval of City Council Minutes of February 7, 2006 and February 13, 2006

2. Claim - SBC/Pacific Bell
3. **Claim - Evangelina Gomez**  
   Re: Rejecting a claim in the amount of $2,216 for personal items allegedly stolen out of towed vehicle while claimant was detained by the Police Department.

4. **Waukesha Engine Upgrades - Wastewater Treatment Facility**  
   Re: Authorizing staff to begin negotiations with Valley Power (formerly Stewart & Stevenson) to upgrade equipment used to produce air for the plant’s secondary treatment process, at a cost not to exceed $700,000, as a reimbursement expense through the CIEDB loan program.

5. **Award of Contract - Demolition Project - Two Date Avenue Residential Units**  
   Re: Awarding contract to Bowen Engineering & Environmental of Fresno, in the amount of $23,100, for demolition at 387 South B St. and 129 E. Date Ave.

6. **Approval for Community Civic Event - Porterville Chamber of Commerce Iris Festival April 22, 2006**  
   Re: Approving annual Iris Festival event, to be held downtown with street closures, scheduled for April 22, 2006, from 9:00 a.m. to 5:00 p.m.

7. **Approval for Community Civic Event - Porterville Breakfast Rotary Cancer Run, May 6, 2006**  
   Approving annual Breakfast Rotary Cancer Run to be held on May 6, 2006, from 5:00 a.m. to 11:00 a.m., to be held in the general vicinity of Granite Hills High School.

8. **Engineer’s Reports and Setting of a Public Hearing for Establishing Lighting and Landscape Maintenance Districts and Tax Assessments for Parcels Within: Sierra Meadows, Phase One Subdivision; Williams Ranch, Phases Two and Three Subdivision; Sunrise Villa, Phase One Subdivision; New Expressions, Phase Four Subdivision; Meadow Breeze, Phase One Subdivision; Meadow Breeze, Phase Two Subdivision; Amalene Estates Subdivision; and Riverview Estates, Phase Four Subdivision.**  
   Re: Approving proceedings for the formation of new Districts; appointing Douglas Wilson of Willdan Engineers as the Engineer of Work, and setting March 21, 2006 for the public hearing to form Districts, and levy and collect tax assessments.

9. **Authorize Letter of Support for Grant Application by Porterville Area Wellness Services**  
   Re: Authorizing the Mayor to sign letter of support for local non-profit agency.

10. **Department of Transportation Drug and Alcohol Regulations**  
    Re: Updating Section II A and II B of the City’s Alcohol and Drug Abuse Policy as required by law.

11. **Amendment to the City’s Contract with CalPERS Local Safety Members and Local Miscellaneous Members**  
    Re: Authorizing amendments to the City’s Contract with CalPERS to provide public safety employees with the 3% at 55 full formula retirement benefit, and to provide miscellaneous employees with the 2.7% at 55 full formula retirement benefit, to become effective July 1, 2006.
Re: Authorizing staff to negotiate the sale of the 1982 Van Pelt Ladder Truck to the City of Lindsay for $48,000, at $1,000 per month for 48 months, at no interest.

13. Curbside Recycle Selection Committee Status Report Responses to Requests for Proposals for Collection of Residential Recyclables
Re: Update by the Selection Committee on the status of the responses to the Collection RFP.

13a. League of California Cities’ Request for Support Regarding Federal Telecommunications
Re: Approving inclusion in League’s letter to the California congressional delegation urging consideration of key telecommunications principles.

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

PUBLIC HEARINGS

14. General Plan Amendment 1-2006 (A) (Formerly 5-2004) and Zone Change 1-2006 (Porterville Commercial Center)
Re: Considering GPA, from Industrial to General Commercial, and Zone Change, from M-1 (Light Manufacturing) to C-2 (D) (General Commercial with Design Review Overlay), for 3.4± acre southern most portion of site, south of Vandalia Street alignment (modified from previously requested northerly 7.3± acre site).

15. General Plan Amendment 1-2006 (B) and Zone Change 2-2006 (Pacific West Architecture)
Re: Considering GPA, from Industrial to Medium Density Residential, and Zone Change, from M-1 (Light Manufacturing) to R-2 (Four Family Residential), for 4.48± acre vacant site consisting of 2 parcels located generally on the southeast corner of Date Ave. and E Street

16. Conditional Use Permit 1-2006 (Pacific West Communities, Inc.)
Re: Considering CUP to allow the development of a 64 unit apartment complex on a 4.48± acre vacant site generally located on the southeast corner of Date Avenue and E Street.

17. General Plan Amendment 1-2006 (C) and Zone Change 3-2006 (Smee)
Re: Considering GPA, from High Density Residential to Heavy Commercial, and Zone Change, from R-3(D) (Multiple Family Residential with “D” Overlay Site Review) to C-3 (Heavy Commercial), for 12.9± acre site consisting of 3 parcels located generally on the SW corner of Mathew St. and West Olive Ave.

18. Iris Hills Estates Tentative Subdivision Map (Jerome Stehly)
Re: Considering approval of Tentative Subdivision Map to divide a vacant 39± acre residentially zoned parcel into 119 lots located generally on the southeast corner of North Main Street and Reid Avenue.

19. Adjustments to City Facility Reservation and Rental Charges
Re: Considering increases based on the recommendation of the Parks & Leisure Services Commission.
20. **Consideration of Police Fee Adjustment**  
   Re: Considering modifications to the Police Department fees based on the recommendations of consultant MAXIMUS, Inc.

**SCHEDULED MATTERS**

21. **Declare Community Center Property Surplus and Initiate Process to Dispose of Real Property**  
   Re: Declaring property located at 466 East Putnam as surplus and authorizing staff to initiate process for dispose of said property.

22. **Proposed Amendment to the Porterville Municipal Code Section 12.2.1, Article II, “Fireworks”**  
   Re: Considering amending Code to limit non-profit organizations to either 2 or 3 consecutive lottery wins to obtain a permit to sell fireworks.

23. **Affirm Use of Caltrans Procedures for Acquisition of Right of Way**  
   Re: Approving Caltrans’ request that the City use Caltrans’ procedures to negotiate and acquire right of way whenever a project involves State or Federal funds.

24. **Interpretation of Ambiguity - Electronic Reader Board Sign**  
   Re: Clarifying language in the Sign Ordinance to determine whether an electronic reader board constitutes a permanent reader panel.

25. **Workforce Housing Reward Grant Program**  
   Re: Approving submission of grant application to the Department of Housing & Community Development, with an anticipated award of approximately $120,000.

26. **Authorization to Submit Application for “Helen Putnam Award for Excellence”**  
   Re: Establishing the submission of application packet, projected to take approximately 40 staff hours to complete, as a priority.

27. **A Report Relating to Options Regarding Enhanced Services for an Internal Auditor**  
   Re: Considering options regarding an internal audit function for the City.

Adjourn to a Meeting of the Porterville Redevelopment Agency.

**PORTERVILLE REDEVELOPMENT AGENCY AGENDA**  
March 7, 2006

Roll Call

**WRITTEN COMMUNICATIONS**

**ORAL COMMUNICATIONS**

**PUBLIC HEARING**

PRA-1. **Lease Agreement for Property Located at 287 N. Hockett Street**  
   Re: Approving year-to-year lease agreement at a rate of $1,350 per month with annual 3% increases to A-STEP, Inc.
Adjourn the Redevelopment Agency Meeting to a Meeting of the Porterville City Council.

**ORAL COMMUNICATIONS**

**OTHER MATTERS**

**CLOSED SESSION**

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

**ADJOURNMENT** - to the meeting of March 14, 2006

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 Chief Deputy City Clerk at (559) 782-7442. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
FEBRUARY 7, 2006, 6:00 P.M.

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

PORTERVILLE REDEVELOPMENT AGENCY AGENDA

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

JOINT ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
1- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.
5 - Government Code Section 54957 - Public Employment - Golf Course Manager.

The Redevelopment Meeting closed and then reconvened during Closed Session.

7:00 P.M. RECONVENE REDEVELOPMENT IN OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION FOR REDEVELOPMENT
City Attorney Julia Lew reported that the Redevelopment Agency had approved the request of United Hearts Center for Healing for early termination of its lease.

Documentation: M.O. PRA-01-020706
Disposition: Approved.

The Council adjourned the Porterville Redevelopment Agency meeting to a meeting of the City Council at 7:07 p.m.

RECONVENE CITY COUNCIL IN OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
The City Attorney reported that no action had been taken.

Pledge of Allegiance Led by the Leadership Porterville Class of 2006
Invocation - one individual participated.

At the Council’s request, Members of the Leadership Porterville Class of 2006 introduced themselves:

• Valentina Renteria-Godoy, Family Healthcare Network
• April Black, Woodard Homes
• Emelina Martinez, Porterville Developmental Center
• Ronnie Witzel, Family Healthcare Network
• Patrick Braddock, Home Realty & Land Company
• Karen Contreras, Family Healthcare Network
• Josef Guerrero, Porterville Feed
• Patrice Hildreth, City of Porterville

ORAL COMMUNICATIONS

• Wayne Harris, 583 W. Dexter Avenue, requested that he be allowed the opportunity to speak on Item No. 24 when the Council addressed the matter.
• Rick Patterson, 12228 Road 296, came forward and voiced concerns with a notice he recently received from the City regarding the required clean up of his property adjacent to the Porter Slough. He then provided photos to the Council of other properties allegedly not in compliance. A discussion ensued as to staff’s action and the current status of the matter. Mr. Patterson was requested to provide his contact information to the City Manager or Clerk for follow-up.
• Jeff Fong, Unity Marketing of Visalia, came forward and spoke against the fingerprinting requirement of the recently adopted Ordinance pertaining to Vendors and Solicitors.
• Dick Eckhoff, 197 North Main requested that he be allowed the opportunity to speak on Item No. 23 when the Council addressed that item. He then voiced concerns with Item No. 30, suggesting that the matter should be dropped.
• Donnette Silva-Carter, Chamber of Commerce CEO, 91 N. Main Street, came forward and informed everyone of 3 upcoming gang prevention forums and invited all to attend:
  1) February 13, 2006, 6:00 p.m. to 8:00 p.m. at Bartlett Middle School;
2) March 13, 2006, 6:00 p.m. to 8:00 p.m. at Burton Middle School; and
3) April 10, 2006, 6:00 p.m. to 8:00 p.m. at Pioneer Middle School.

- Jim Winton, business address of 150 W. Morton Avenue, requested the opportunity to speak on Item No. 25 when the matter was before the Council.
- Dorothy Broome, 863 S. Crystal Street, praised the Leadership Porterville Class of 2006, and voiced support for Flag Design “F” in Item No. 22.
- Greg Shelton, 888 N. Williford Drive, requested that he be allowed the opportunity to address the Council on Item No. 26 when the matter was being considered.

**PRESENTATION**

Employee of the Month - Glenn Irish
CAGR - Auditor Steve Presley came forward and provided a brief presentation.

**CONSENT CALENDAR**

Item Nos. 1, 9, and 10 were removed.

2. CLAIM - JOSE SANDOVAL

Recommendation: That the City 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. 01-020706
Disposition: Approved.

3. CLAIM - DANIEL CABALLERO

Recommendation: That the City 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. 02-020706
Disposition: Approved.

4. AUTHORIZATION TO ADVERTISE FOR BIDS - DEMOLITION PROJECT - TWO DATE AVENUE RESIDENTIAL UNITS

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

Documentation: M.O. 03-020706
Disposition: Approved.

5. APPROVAL OF BICYCLE TRANSPORTATION ACCOUNT GRANT AGREEMENT

Recommendation: That the City Council:
1. Approve the Bicycle Transportation Account Grant Agreement; and
2. Authorize the Mayor to sign the agreement on behalf of the City of Porterville.

Documentation: M.O. 04-020706
Disposition: Approved.

6. REQUEST FOR ONE (1) TEMPORARY MODULAR STRUCTURE TO BE UTILIZED AS A SALES OFFICE

Recommendation: That the City Council adopt the resolution and conditions of approval for the temporary modular structure for a period of time not to exceed six months from the date of approval.

Documentation: Resolution 15-2006
Disposition: Approved.

7. REDEVELOPMENT AGENCY ANNUAL REPORT TO LEGISLATIVE BODY


Documentation: M.O. 05-020706
Disposition: Approved.

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

Recommendation: That the City Council:
1. Adopt the 2006 Citizen Participation Plan; and
2. Appoint Pat Contreras, Linda Olmedo, Grace Munoz-Rios, Rudy Roman, John Dennis, and Robert Ruentes to the Citizens’ Advisory and Housing Opportunity Committee for a one-year term.

Documentation: M.O. 06-020706
Disposition: Approved.

11. REQUEST TO APPLY FOR EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS

Recommendation: That the City Council:
1. Authorize the filing of the grant application; and
2. Authorize the Mayor to sign all necessary documents as pertains to the grant.

Documentation: M.O. 07-020706
Disposition: Approved.
COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve Item Nos. 2 through 8, and 11.

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

10. AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, EMPLOYEE BENEFIT TRUST FUND, EMPLOYEE RETIREMENT SYSTEM AND THE PERSONNEL SYSTEM RULES AND REGULATIONS

Recommendation: That the City Council:
1. Adopt the draft resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2005-2006 and 2006-2007, the Employee Benefit Trust Fund, the Employee Retirement System, and the Personnel System Rules and Regulations; and
2. Authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council adopt the draft resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2005-2006 and 2006-2007, the Employee Benefit Trust Fund, the Employee Retirement System, and the Personnel System Rules and Regulations; and authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

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

Disposition: Approved.

1. CITY COUNCIL MINUTES OF DECEMBER 20, 2005; AND JANUARY 3, 2006

Recommendation: That the City Council approve the City Council Minutes of December 20, 2005 and January 3, 2006.

City Manager John Longley introduced the item.

Council Member West voiced disagreement with a portion of the Minutes of January 3, 2006. He then referenced his letter to the Council dated February 7, 2006, and requested that Mr. Longley read said letter into the record.
To: Porterville City Council
From: Council Member Kelly West

With regard to the leadership reorganization I recognize that according to the City’s Charter that the Mayor serves at the pleasure of the Council and that the leadership may be changed at any time. At the same time I must object to the portrayal of this change in the Council minutes. The minutes, while themselves accurate, are a record of an inaccurate discussion.

Any reader of the minutes might conclude that a violation of the City’s Charter had taken place. I would like to reiterate that no violation was ever established. The minutes as presented are nothing more than the permanent documentation of hearsay.

I would like to repeat my challenge to any other Council Member to investigate the allegations independently and they will see for themselves that the alleged events never took place.

I accept my recall as the “pleasure of the Council” but am confident that this action was a personal attack rather than any decision made based on fact.

Kelly West
February 7, 2006

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve the City Council Minutes of December 20, 2005 and January 3, 2006.

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

Disposition: Approved.

9. REQUEST FOR SPECIAL FIREWORKS PERMIT

Recommendation: That the City Council approve the request for a special fireworks permit to the Exchange Club of Porterville for Calendar Year 2006, give First Reading to the draft ordinance and order it to print.

Mayor Pro Tem Hamilton thanked the Exchange Club for its efforts over the last several years.
COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West that the Council approve the request for a special fireworks permit to the Exchange Club of Porterville for Calendar Year 2006, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE.

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

Disposition: Approved.

PUBLIC HEARINGS
12. GENERAL PLAN AMENDMENT 1-2006 (A) (FORMERLY 5-2004) AND ZONE CHANGE 1-2006 (PORTERVILLE COMMERCIAL CENTER)

Recommendation: That the City Council:
1. Take an option as outlined in the options section of the report; or
2. Adopt the draft resolution approving the Environmental Impact Report prepared for General Plan Amendment 1-2006(A) and Zone Change 1-2006;
3. Adopt the draft resolution approving General Plan Amendment 1-2006(A);
4. Adopt the draft revised ordinance approving Zone Change 1-2006 and give first reading to the draft ordinance; and
5. Waive further reading of the draft ordinance and order it to print.

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

Mr. Dunlap noted the written request – copies of which were provided to the Council – of Applicant John Hale, JLH Properties, to continue the public hearing until March 7, 2006. He then provided a brief overview of the other General Plan Amendments before the Council that evening and spoke of the importance of proper timing and clustering of the GPAs to adhere to the four per year maximum. He informed the Council that staff recommended that each of the GPAs before the Council that evening be considered as one, and the two additional GPAs – A and B – be continued to the Meeting of March 7, 2006. Mr. Dunlap concluded that if in the event the Council chose not to continue the items, he would present the full staff report.

Mayor Pro Tem Hamilton confirmed that the public hearing had been noticed and that staff had received the applicant’s request for continuance that day. He noted that individuals were present to testify and indicated that he would like to at least open the public hearing.

The Council concurred with opening the public hearing.
The public hearing opened at 7:36 p.m.

- John Hale, Bakersfield resident and applicant, came forward and requested that the item be continued to the meeting of March 7, 2006. He indicated that he had arranged for approximately five or six individuals from throughout California to attend the meeting to speak in support of the project, but because of staff’s recommendation to continue the item so as to coincide with other GPAs, he had advised the individuals not to come that evening. After confirming with the Mayor that the public hearing would continue, Mr. Hale spoke of the lengthy process to date, and voiced support for the item, noting how the project would benefit the City and its residents.
- Ben Ennis, 643 North Westwood, voiced displeasure with the City’s past approval of The Home Depot project, and spoke against the proposed GPA, suggesting that the project would negatively impact Riverwalk’s ability to secure tenants.
- Daryl Nicholson, 26914 Avenue 140, came forward in opposition to the proposed GPA. He then reiterated his concerns raised during the public hearing of December 20, 2005, and suggested deficiencies existed in the traffic mitigation, particularly as to the left turn lanes on eastbound Highway 190 at the Jaye Street intersection.
- Greg Shelton, 888 North Williford Drive, voiced concern with reducing the City’s inventory of industrially-zoned property.

The public hearing closed at 7:57 p.m.

Mayor Pro Tem Hamilton cautioned that the City might dilute its M-1 inventory, and commented that he would prefer to at least complete the land use portion of the General Plan Update before the Council considered the proposed GPA. He then voiced displeasure with how The Home Depot project had previously been processed.

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

Mayor Martinez noted the applicant’s request for continuance to March 7, 2006 and commented that he did not feel comfortable voting on the item until a full Council was present.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West that the City Council closed the public hearing and proceed with voting on the item that evening.

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

Mayor Martinez confirmed with the City Attorney that a vote was not necessary to continue the item.

Disposition: Direction given to staff to continue the item to March 7, 2006.
13. GENERAL PLAN AMENDMENT 1-2006 (B) AND ZONE CHANGE 2-2006
(PACIFIC WEST ARCHITECTURE)

Recommendation: That the City Council:
1. Take an action as outlined in the options section of the report; or
2. Adopt the draft resolution approving the Negative Declaration prepared for General Plan Amendment 1-2006 (B) and Zone Change 2-2006;
3. Adopt the draft resolution approving General Plan Amendment 1-2006 (B);
4. Approve the proposed Zone Change and give first reading to the draft ordinance; and
5. Waive further reading of the draft ordinance approving Zone Change 2-2006, and order it to print.

Mayor Pro Tem Hamilton suggested that the Council at least open the public hearing and allow testimony.

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

The public hearing opened at 8:04 p.m.

- Celinda Lopez, 420 Camellia, voiced concern with traffic.

At the Mayor’s request, Community Development Director confirmed that a traffic study had been conducted and the impact was found not to be significant. It was stated that a copy of said study was available for the public to view.

- Felipe Martinez, 195 East Putnam Avenue, voiced concern with increased traffic on Date Avenue.
- Josef Guerrero, 332 South F Street, voiced support for the project, but noted traffic issues.

Mayor Pro Tem Hamilton voiced concern with losing an M-1 zoned property with railway access. A discussion ensued as to other properties with railway access. He then noted the high quality of other projects built by the developer.

Council Member West voiced concern with traffic issues, specifically on E Street. Staff indicated that the traffic volumes associated with the project were believed to be relatively incidental on the overall streets, and commented the project was one of the lowest intense uses available.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West to continue the public hearing until the meeting of March 7, 2006.

M.O. 10-020706

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

14. GENERAL PLAN AMENDMENT 1-2006 (C) AND ZONE CHANGE 3-2006 (SMEE BUILDERS)

Recommendation: That the City Council open the public hearing for General Plan Amendment 1-2006 (C) and Zone Change 3-2006 and continue the item until staff has received comments, if any, on the modified Environmental Initial Study, and re-notice the continued public hearing.

Mayor Martinez noted staff’s request to continue the item.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West that the Council continue the public hearing until the meeting of M.O. 11-020706 March 7, 2006.

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


The Council recessed for ten minutes.

Mayor Pro Tem Hamilton requested that Item No. 12 be reconsidered, as no action to continue the item had been taken.

12. GENERAL PLAN AMENDMENT 1-2006 (A) (FORMERLY 5-2004) AND ZONE CHANGE 1-2006 (PORTERVILLE COMMERCIAL CENTER)

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West that the Council continue the public hearing until the meeting of M.O. 12-020706 March 7, 2006.

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


Mayor Pro Tem Hamilton then noted staff’s request for the Council to re-address Item No. 9. He pointed out that the item consisted of approving an Ordinance and that as such additional action was required.
9. REQUEST FOR SPECIAL FIREWORKS PERMIT

City Attorney Julia Lew clarified for the Council what action was required.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council give first reading to the Ordinance, waive further reading, and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE.

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

City Manager John Longley read the Ordinance by title only.

Disposition: Approved.

15. ZONE CHANGE 13-2005 (PREZONING) AND ANNEXATION 463 (BECHARA CONSTRUCTION)

Recommendation: That the City Council:
1. Adopt the draft resolution approving a Negative Declaration for Zone Change 13-2005 and Annexation 463;
2. Adopt a resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo;
3. Approve the proposed Zone Change and give first reading to the draft ordinance; and

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

The public hearing opened at 8:35 p.m.

- Jim Winton, business address at 150 W. Morton Avenue, came forward on behalf of the applicant and requested approval of the item.

The public hearing closed at 8:38 p.m.

A discussion ensued as to the boundaries of the property and the location at which a block wall would be required.
COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the draft resolution approving a Negative Declaration for Zone Change 13-2005 and Annexation 463; adopt a resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo; approve the proposed Zone Change and give first reading to the draft ordinance, waive further reading, and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 13-2005 BEING A PRE-ZONING FROM COUNTY C-3 (SERVICE COMMERCIAL) TO CITY C-3 (D)(HEAVY COMMERCIAL “D” OVERLAY SITE REVIEW) AND CITY R-1 (ONE FAMILY RESIDENTIAL) TO CITY C-3 (D)(HEAVY COMMERCIAL “D” OVERLAY SITE REVIEW) FOR THAT SITE GENERALLY LOCATED AT THE SOUTHWEST CORNER OF WESTWOOD STREET AND OLIVE AVENUE.

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

City Manager John Longley read the Ordinance by title only.

Disposition: Approved.

16. AN EXTENSION OF AN INTERIM URGENCY ORDINANCE FOR THE PROTECTION OF THE HILLSIDE AREA OF THE COMMUNITY

Recommendation: That the City Council hold a public hearing and adopt the draft ordinance extending the Interim Urgency Ordinance for the protection of the hillside areas of the community defining process and criteria for the development of hillside properties within the City of Porterville Urban Development Boundary.

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

The public hearing opened at 8:44 p.m.

• Greg Shelton, address on record, noted Mr. Winton’s prediction that the process would take two years.

The public hearing closed at 8:45 p.m.

Mayor Pro Tem Hamilton voiced concern with the lack of a specifically identified grade to distinguish “hillside” from “non-hillside,” and questioned whether language had been removed from the draft before the Council. A discussion ensued as to the general hillside classification, during which staff
indicated that the draft ordinance before the Council had not been changed. In response to Mayor Pro Tem Hamilton’s concern over the development of relatively flat properties being impacted by the ordinance, it was suggested that a waiver process be included in the ordinance for those properties which fell below a six percent grade, for example. Staff indicated that a definition for calculating slope ought to also be included in the ordinance so as to provide clear direction. So as to allow staff the time necessary to properly draft the revisions to the ordinance, it was suggested to continue the item to an adjourned meeting the following week.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West to continue the item to February 14, 2006 at 6:00 p.m.

M.O. 14-020706

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

Disposition: Continued to February 14, 2006 at 6:00 p.m.

17. BENCHMARK COST RECOVERY RATES FOR RECREATION FEES

Recommendation: That the City Council conduct a public hearing, consider the Parks and Leisure Services Commission benchmark recommendations, and adopt the draft resolution establishing benchmark cost recovery rates for recreation fees.

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

The public hearing opened at 8:59 p.m.

- Greg Shelton, Parks & Leisure Services Commissioner, came forward and spoke in favor of the proposed cost recovery rates.

The public hearing closed at 9:00 p.m.

In response to questions posed by Mayor Pro Tem Hamilton, a discussion ensued as to the inclusion of departmental administrative costs in the proposed formulas, and how the increases would impact the public. Mayor Pro Tem Hamilton voiced concern with increasing the fees too drastically, but agreed that the fees needed to be adjusted. Staff indicated that the fee adjustments would be analyzed and could be brought back for further adjustments at a later time, depending on the impact.

Mayor Pro Tem Hamilton thanked the Parks & Leisure Services Commission for their work and moved that the Council accept the Commission’s recommendation. He then requested that mid-way through the pool season, the Council be provided a memorandum summarizing the impact.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West that the Council adopt the draft resolution establishing benchmark cost recovery rates for recreation fees as recommended by the Parks & Leisure Services Commission.
AYES: West, Hamilton, Stadtherr, Martinez
NOES: None
ABSTAIN: None
ABSENT: Irish

Disposition: Approved.

18. SPORTS COMPLEX FEES AND CHARGES

Recommendation: That the City Council conduct a public hearing on Sports Complex Fees and Charges, consider the Parks and Leisure Services Commission recommendation to increase the parking fees, and adopt one of the three draft resolutions.

City Manager John Longley presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report, which included the following options:

Option No. 1: Eliminate parking fees and transfer revenue burden as follows:

Parking Fees: Eliminated
Participant Use Fee (per game)
  Youth event $4.50
  Adult event $10.00
Field reservation for practice (per day, per team)
  Youth team $24.00
  Adult team $48.00

Option No. 2: Adjust parking fees as follows:

Recreational vehicle or bus $10.00
Other motor vehicle $3.00
Seasonal pass per game day $1.50

Option No. 3: Eliminate parking fees without transferring revenue burden.

The public hearing opened at 9:13 p.m.

- Greg Shelton, Parks & Leisure Services Commissioner, voiced support for the Commission’s recommendation to approve Option No. 2.

The public hearing closed at 9:15 p.m.

Mayor Pro Tem Hamilton noted the considerable maintenance costs of the Sports Complex and agreed that the costs needed to be offset.
COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve Option No. 2, as recommended by the Parks & Leisure Services Commission.

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

Disposition: Option No. 2 approved.

19. COST ALLOCATION PLAN AND USER FEE STUDY, INCLUDING, ALL OTHER FEES

Recommendation: That the City Council open the public hearing on the Cost Allocation Plan and User Fee Study, including the Police Department Fees and Miscellaneous Fees, and continue the item to the City Council Meeting of February 21, 2006.

City Manager John Longley presented the item, and Deputy City Manager Frank Guyton presented the staff report. Mr. Guyton then requested that an adjourned meeting be set for February 28, 2006 so as to allow sufficient time to discuss the item.

The public hearing opened at 9:18 p.m. and was continued when nobody came forward.

Mayor Pro Tem Hamilton voiced concern with again continuing the matter, and commented that he would not be in favor of continuing it again past the February 28th meeting.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Stadtherr that the Council continue the public hearing until February 28, 2006 at 6:30 p.m.

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

Disposition: Continued to February 28, 2006 at 6:30 p.m.

SECOND READINGS

20. ORDINANCE 1687, CANCELLATION OF WILLIAMSON ACT CONTRACT NO. 10699

Recommendation: That the City Council give Second Reading to Ordinance No. 1687, waive further reading, and adopt said Ordinance.

City Manager John Longley presented the item and the staff report.
COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the City Council give Second Reading to Ordinance No. 1687, waive further reading and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CANCELLING WILLIAMSON ACT CONTRACT NUMBER 10699, CONSISTING OF APPROXIMATELY 37.44 ACRES WEST OF HILLCREST AND NORTH AND SOUTH OF MORTON AVENUE.

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

City Manager John Longley read the Ordinance by title only.

Disposition: Approved.

21. ORDINANCE 1688, ZONE CHANGE 11-2005 (PRE-ZONING)

Recommendation: That the Council give Second Reading to Ordinance No. 1688, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member West that the City Council give Second Reading to Ordinance No. 1688, waive further reading and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 11-2005 (PRE-ZONING) CONSISTING OF 704± ACRES AND CONTAINING NINE (9) PARCELS LOCATED GENERALLY SOUTH AND WEST OF THE PORTERVILLE MUNICIPAL AIRPORT.

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

The City Manager read by title only.

Disposition: Approved.

The Council recessed for ten minutes.
ORAL COMMUNICATIONS

- Jim Winton, 150 W. Morton Avenue, spoke regarding Item No. 25, suggesting that fee increases should not be based on the construction index, but rather tied to either the CPI or the interest rate of the amortization schedule. He also noted that subdivision maps should also be charged the impact fee.

- Greg Shelton, address on record, came forward regarding Item 26 and noted the City’s plan was to have utilized that particular site. He spoke in favor of fewer, more realistic projections in terms of City’s General Plan, rather than planning a greater number of unattainable projects, suggesting the later was an exercise in futility.

- Pete McCracken, 657 Village Green, spoke regarding Item 30 and cautioned about moving too hastily to meet the deadlines for a June election. He suggested, in the event the Council chose to move forward, instead aiming for a November ballot measure.

- Wayne Harris, address on record, requested that the Council move forward with the Indiana Street Reconstruction project and noted the benefits of such plan.

- Dick Eckhoff, address on record, spoke regarding Item 23, suggesting revisions be made regarding 1) the terms of appointees; 2) residency requirements; 3) Council’s authority regarding appointments and removals; and 4) succession of appointees.

SCHEDULED MATTERS

22. SELECTION OF CITY FLAG DESIGN

Recommendation: That the City Council:

1. Select a flag design and authorize staff to obtain costs and time estimates to develop the design into the Official City Flag;
2. Direct staff to bring back the cost estimates for final Council approval; and
3. Direct staff to present the Council with a draft policy on the use of the Official City Flag upon the presentation of the completed project to the Council.

Mayor Martinez requested that the item be continued to the next meeting so as to allow Council Member Irish the opportunity to participate in the decision.

The Council agreed to continue the item to the meeting of February 21, 2006.

Disposition: Continued to February 21, 2006.

23. ESTABLISHMENT OF THE INDEPENDENT CITIZENS’ OVERSIGHT COMMITTEE FOR MEASURE H

Recommendation: That the City Council:

1. Adopt the draft resolution establishing an independent citizen’s oversight committee charged to monitor the expenditure of General Fund Revenues derived from the Transactions and Use Tax for Public Safety, Police and Fire Protection and allocated through the Public Safety Sales Tax Fund;
2. Direct staff to provide notification to the public and accept applications to serve on the Transactions and Use Tax Oversight Committee; and

3. Set the Council meeting date of May 2, 2006, to bring back a list of applications for consideration by Council.

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

A discussion ensued as to the suggested changes brought forth by Mr. Eckhoff. The possible revisions discussed included establishing the committee by allowing each Council Member to appoint one individual to a two-year term and one individual to a four-year term so as to provide membership continuity; to provide clarification of succession of appointments, with the Council voting as a body for appointments made after the initial committee was established; and to revise the standards of residency to be consistent with the provisions set forth in the resolution.

The Council directed staff to revise the draft resolution as discussed and bring the item back to the Council on February 21, 2006.

Disposition: Continued to February 21, 2006.

24. FUNDING AND CONSTRUCTION OPTION - INDIANA STREET RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Re-affirm that the Jaye Street Corridor Project remains the priority project; and
2. Direct staff to re-visit the Indiana Street Reconstruction Project during the 2006/2007 budgeting process.

City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report, which included the following options:

Option No. 1: Fund the $661,850 from the refinance of the COP’s. This obviously results in under funding a portion of Jaye Street.

Option No. 2: Remove the traffic signal (Indiana & Putnam) and the concrete improvement components (curb, gutter & sidewalk) from the Indiana Street Reconstruction Project for a savings of $341,600. Fund the remaining shortfall of $320,250 ($661,850 - $341,600) from the refinance of the COP’s. Submit the Indiana Street Shoulder Stabilization Project for CMAQ grant consideration in FY 2006/2007 and install the concrete improvements in FY 2006/2007, if the project is approved by TCAG.

Option No. 3: Remove the traffic signal and concrete improvement components and construct two lanes only from Putnam to Olive Avenue for a savings
of $410,140. Fund the remaining shortfall of $251,710 from the refinancing of the COPs.

Option No. 4: Remove the traffic signal from the project for a savings of $253,500. Fund the remaining shortfall of $408,350 from the refinanced COP’s allocated to the Westwood Street Reconstruction project. $550,000 was allocated for the Westwood Project at the November 15, 2005 Council meeting. If the transfer is approved, $141,650 will remain in the Westwood Street Reconstruction account.

Option No. 5: Defer the Indiana Street Reconstruction Project until July 2006 and fund from next year’s Local Transportation Funds allotment. This would eliminate or curtail other capital projects as well as potentially diminish annual maintenance programs.

Mayor Pro Tem Hamilton suggested an “Option No. 6” which would remove the traffic signal (Indiana & Putnam) and the concrete improvement components (curb, gutter & sidewalk) from the Indiana Street Reconstruction Project for a savings of $341,600; allocate the remaining shortfall of $320,250 ($661,850 - $341,600) out of Street Funds in the FY 2006/2007 Budget; and submit the Indiana Street Shoulder Stabilization Project for CMAQ grant consideration in FY 2006/2007, if the project is approved by TCAG.

Council Member Stadtherr pointed out that Mayor Pro Tem Hamilton’s suggested Option No. 6 was basically Option No. 2 amended to remove COP refinance language and instead insert that staff would locate the funds in the 2006/2007 Budget.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council reaffirm that the Jaye Street Corridor Project remains the priority project; and direct staff to re-visit the Indiana Street Reconstruction Project during the 2006/2007 budgeting process.

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

Disposition: Approved, as amended.

25. HILLSIDE ORDINANCE DEVELOPMENT - COST ALLOCATION

Recommendation: That the City Council:
1. Select Option No. 2 and direct staff to borrow up to $122,000 from the Risk Management Fund to pay for the development of a hillside ordinance.
2. Direct that a public hearing be set and that a Hillside Impact Fee be proposed for consideration, based on $122,000 divided by the “per
square footage” of the total area affected by the hillside ordinance. Notice will be provided to each owner of hillside property.

3. Authorize the fee to be increased July 1 of each year based on the construction index.

4. The Impact Fee shall be charged at time of permit issuance, lot split, final parcel map, or conditional use permit issuance.

City Manager John Longley presented the item and Deputy City Manager Frank Guyton presented the staff report.

Mayor Pro Tem Hamilton questioned how the City would track the fees to make them equitable and to ensure that the City did not collect more than the cost of drafting the Ordinance. Staff indicated that the process would not allow for collecting more than the $122,000. It was then suggested that the annual fee adjustment as referenced in No. 3 of staff’s report be based on the amortization schedule as opposed to the construction index.

City Attorney Julia Lew recommended that subdivision maps be added to the list outlined in No. 4 of staff’s recommendation. The Council agreed.

City Manager John Longley confirmed with the Council that the public hearing should be scheduled for the second meeting in March, 2006.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve Option No. 2 and direct staff to borrow up to $122,000 from the Risk Management Fund to pay for the development of a hillside ordinance; direct that a public hearing be set for March 21, 2006 and that a Hillside Impact Fee be proposed for consideration, based on $122,000 divided by the “per square footage” of the total area affected by the hillside ordinance, with notice will be provided to each owner of hillside property; authorize the fee to be increased July 1 of each year based on the amortization schedule; and that the impact fee shall be charged at the time of permit issuance, lot split, parcel map, subdivision map, or conditional use permit issuance.

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

Mr. Guyton pointed out that staff was still developing the guidelines for determining hillside, and suggested that it might be too soon to proceed.

Mr. Longley requested that the City Attorney research the process of establishing a fee that would be imposed on a yet to be determined area. It was decided that the matter would be continued to the next meeting to address that issue.

Disposition: Continued to February 21, 2006, with direction given to staff.
26. GENERAL PLAN REFERRAL – PORTERVILLE UNIFIED SCHOOL DISTRICT

Recommendation: That the City Council determine that the proposed elementary school to be located on the northwest corner of Hillcrest and Morton Avenue is consistent with the General Plan of the City of Porterville.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Mayor Martinez that the Council determine that the proposed elementary school to be located on the northwest corner of Hillcrest and Morton Avenue is consistent with the General Plan of the City of Porterville.

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

Disposition: Approved.

27. CONSIDERATION OF A REVISED PROPERTY TAX REVENUE SHARING AGREEMENT

Recommendation: That the City Council authorize the Mayor to sign the Property Tax Agreement.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council authorize the Mayor to sign the Property Tax Agreement with the County of Tulare.

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

Disposition: Approved.

28. CONSIDERATION OF REQUESTING GENERAL PLAN REVIEW OF SPECIFIC DEVELOPMENT CONCEPTS FOR KEY FACILITIES WITHIN PORTERVILLE

Recommendation: For the Council’s consideration.

City Manager John Longley presented the item and the staff report.
In response to a question posed by Council Member West, Mr. Longley clarified that the item was only in the concept stage and that none of the interested parties had been contacted. He indicated that the matter before the Council was to determine whether such concept would be consistent with the General Plan.

Mayor Pro Tem Hamilton moved that the Council approve the review of the concept during the course of the General Plan Update process, and that staff be directed to also lobby U.S. Representative Devin Nunes for his support.

Council Member Stadtherr commented on alternative locations for a university center, such as locating it on a high school campus or at the adult school so as to provide for a seamless transition for the student. It was noted that the facility concept presented to the Council did not preclude other options.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council approve the review of the concept during the course of the General Plan Update process, and that staff be directed to lobby U.S. Representative Devin Nunes for his support.

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

Disposition: Approved, with direction given to staff.

29. INTERNAL AUDIT

Recommendation: For Council discussion only.

City Manager presented the item and the staff report.

Council Member Stadtherr spoke of the results of the survey of those cities with internal audit controls, which were generally cities with populations that exceeded 100,000. He commented that due to growth, the City would at some point need to consider moving in that direction.

Mayor Pro Tem Hamilton agreed with the concept and questioned whether the City could afford proceeding. He then confirmed with staff that no cost analysis had been done.

The Council requested that staff prepare a cost analysis and bring the item back with said analysis and the result of the survey.

Disposition: Continued with direction given to staff.
30. REQUEST TO CONSIDER CALLING A PUBLIC HEARING REGARDING THE METHOD OF SELECTING THE MAYOR

Recommendation: Item presented for Council’s consideration.

City Manager John Longley presented the item.

Mayor Pro Tem Hamilton noted that the item was the least important item to him.

Council Member Stadtherr spoke in favor of setting a public hearing. He stated that although the public voted on the issue three years ago, the population had grown by 10% due to the recent annexations. He added that greater voter turnout would likely occur due to the election being held in an even number year, as opposed to the last election which was held in an odd year. He advocated reactivating the Charter Commission, making the necessary changes in its membership, and direct the Commission to make recommendations for the next Council. He spoke in favor of either proceeding with a public hearing, or reactivating the Commission without a public hearing.

Mayor Pro Tem Hamilton cautioned that if the Council proceeded with a public hearing, only a few citizens that attended the meeting might sway the decision, while the majority of the residents likely had no opinion on the issue. He reiterated his contention that the system in place worked.

Council Member West commented that the next Council should decide. A discussion ensued as to whether the next Council would have time to act in order to get any Charter Amendment on the November ballot, and whether the Council should take any action.

Council Member Stadtherr moved that the Council set a public hearing for February 21, 2006 to take testimony regarding the method of selecting the Mayor.

Council Member West seconded the motion.

City Manager John Longley clarified that if the motion passed, a public hearing would be set for February 21, 2006, and that the matter would not then be considered in March. He added that in the event that the motion did not pass, then no public hearing would be set for February 21, 2006, but that the consideration previously scheduled for March would still take place.

A discussion ensued regarding moving forward with the February 21st public hearing versus considering the matter in March as was previously directed.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West that the Council set a public hearing for February 21, 2006 to take testimony regarding the method of selecting the Mayor.

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

Mayor Martinez commented that the Council had set February 14th as the time for the adjourned meeting to discuss Item No. 16, which he noted was Valentine’s Day. He requested that another date be selected. After some discussion, it was suggested to re-scheduled the meeting to February 13, 2006 at 5:00 p.m.

16. AN EXTENSION OF AN INTERIM URGENCY ORDINANCE FOR THE PROTECTION OF THE HILLSIDE AREA OF THE COMMUNITY

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Mayor Martinez that the Council continue Item No. 16, with the direction previously decided by M.O. 22-020706 the Council, to the adjourned meeting of February 13, 2006 at 5:00 p.m.

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

Disposition: Continued to February 13, 2006 at 5:00 p.m.

ORAL COMMUNICATIONS
• Dick Eckhoff, address on record, requested clarification on Item No. 23.

OTHER MATTERS
• Mayor Pro Tem Hamilton referenced Council Member West’s letter read into the record by Mr. Longley and clarified that during his own investigation of the allegations, he had been informed that Mr. West had never explicitly nor directly requested that the parking placards be installed, but rather that staff had perceived it to be Mr. West’s desire.
• Council Member Stadtherr suggested that the City should also pay the taxes on the 100% attendance prize.

ADJOURNMENT
The Council adjourned at 10:45 p.m. to the meeting of February 13, 2006.

__________________________________________
Patrice Hildreth, Deputy City Clerk

SEAL

__________________________________________
Pedro R. Martinez, Mayor
Call to Order at 5:04 p.m.
Roll Call: Council Member Irish, Council Member West, Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor Martinez

Pledge of Allegiance Led by Council Member Irish
Invocation - a moment of silence was observed.

**ORAL COMMUNICATIONS**

None

**SCHEDULED MATTER**

1. **AN EXTENSION OF AN INTERIM URGENCY ORDINANCE FOR THE PROTECTION OF THE HILLSIDE AREA OF THE COMMUNITY**

Recommendation: That the City Council hold the continued public hearing and adopt the draft ordinance extending for a one-year term the Interim Urgency Ordinance for the protection of the hillside areas of the community defining the process and criteria for the development of hillside properties within the City of Porterville Urban Development Boundary.

City Manager John Longley presented the item and the staff report. He then called on City Attorney Julia Lew to elaborate on the specific revisions to the Ordinance.

Ms. Lew informed the Council that the draft ordinance initially provided with the Agenda had since been updated by staff, and that the Council should disregard the first version. She stated that pursuant to the direction from the Council at the last meeting, staff had added language which would allow for the Council to waive, upon request by the applicant, all or part of the conditions required by the Ordinance for properties with an average slope of less than 6%. She noted that the calculation for determining slope was also set forth in the Ordinance. Ms. Lew added that the scope of waiver was further broadened by allowing applicants seeking a waiver to provide information sufficient to show that such provisions were unnecessary or irrelevant to their proposed project. Ms. Lew then noted for the record that Plano Street had been misspelled as “Plan Street” and would be corrected.

Mayor Pro Tem Hamilton voiced concern with requiring property owners whose land consisted of a less than 6% grade to come before the Council for a waiver. A discussion ensued as to the waiver process. Mayor Pro Tem Hamilton commented that his only concern with the waiver was the probable lengthy process in securing a waiver. He requested that language be included in the Ordinance that would ensure the waiver process was timely.
Ms. Lew commented that there would be no reason for the process not to be timely, as it would only entail transmitting the request to the Council and placing the item on the next Agenda.

Senior Planner Julie Boyle agreed with Ms. Lew’s contention that the process would not be lengthy.

In response to concerns raised by Mayor Martinez, Ms. Lew indicated that every time the Council granted a waiver, it would be setting precedent, particularly in situations that involved a slope greater than 6%. A discussion ensued as to the relationship between properties situated at lower elevations and those at higher elevations, particularly as to drainage issues, and the timing of development of each. It was pointed out that such issue would likely be addressed in the permanent Ordinance.

Mr. Longley estimated that if the process moved forward extremely efficiently, the soonest a permanent Ordinance could be completed would be June or July 2006.

Ms. Lew confirmed that language could be added to the Ordinance which would set forth requirements for expediting the process to ensure a timely processing of the waiver application.

- Jim Winton, business address at 150 W. Morton, clarified with staff that the CAD-based software referenced in Section 6 of the draft Ordinance would be AutoCad or something similar. He then noted that the only issue with the ordinance of which he was aware pertained to the requirement of developers to provide detailed information of houses to be built. He noted that there were some situation in which developers had not planned to build houses. A discussion ensued as to that requirement.

Project Manager Susan Duke clarified that the waiver applied to properties with a slope less than 6%, and not 6% or less.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the draft ordinance extending the Interim Urgency Ordinance for a one-year term for the protection of the hillside areas of the community defining the process and criteria for the development of hillside properties within the City of Porterville Urban Development Boundary, as amended to revise waiver language to expedite the process, requiring presentation of the waiver to the Council at the next Council Meeting if the applicant files for said waiver at least seven days prior to the meeting date.

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

Disposition: Approved.
ADJOURNMENT

The Council adjourned at 5:25 p.m. to the meeting of February 21, 2006 at 6:00 p.m.

Patrice Hildreth, Deputy City Clerk

ATTEST:

________________________
Pedro R. Martinez, Mayor
SUBJECT: CLAIM - SBC/PACIFIC BELL

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: SBC/Pacific Bell has filed a claim against the City for property damage. SBC/Pacific Bell is claiming that their conduit located at Henderson Avenue and Newcomb Avenue was damaged by Halopoff & Sons, a City contractor, on August 4, 2005.

The amount being claimed as of the date of the claim is $3,000.00, based on repair costs.

RECOMMENDATION: That the Council reject said claim, and refer the matter to the City's insurance adjustor, and direct the City Clerk to give the claimant proper notification.
January 20, 2006

City of Porterville

P O Box 432
Porterville, Ca. 93258

Dear Sir,

SBC is currently calculating it losses, we respectfully requesting permission to substitute the actual cost from this estimate cost. As soon as the actual amount is known we will notify you with that amount.

Claim Number - PACBCS2005080H0024
Damage Location - HENDERSON AVE. AND NEWCOMB
Damage City - PORTERVILLE
Date Occurred - 08/04/2005
Reported By - LINDSAY, ERIC
CTTN - 000
Type of Facility Damage - CN
Locate Numbers - UNKNOWN
Adverse Party Name(s) - HALOPOFF AND SON
Adverse Party Phone - 559-781-7676
Down Claim Number - EL5246080420050001
Wire Center - POTR

Sincerely,

Diane Mancini
SBC Manager
626-844-9217
CLAIM FORM
(Please Type Or Print)

CLAIM AGAINST
City of Porterville

Claimant's Name
SBC/Pacific Bell

Claimant's Date of Birth
Telephone # (626) 844-9217

Claimant's Address
41 S. Chester Av RM 205
Pasadena Ca 91106

Address where Notices about Claim are to be sent, if different from above:

Date of Incident/Accident/Arrest:
8-4-05

Date Injuries, Damages or Losses were discovered:
Conduit damage.

Location of Incident/Accident/Arrest:
Henderson & New comb,
Porterville

What did Entity or Employee do to cause this Loss, Damage or Injury?
City of Porterville hired
HalOpoff & Sons to trench install
drain/sewer/st lights/Box etc.

What are the Names of the Entity's Employees who caused this Injury, Damage or Loss (if known)?

What specific Injuries, Damages or Losses did Claimant receive?
Conduit damage

What Amount of Money is Claimant Seeking, or which is the appropriate court of Jurisdiction [Govt. code 910(9)]?

estimate see attached letter $3,000.00

How was this Amount Calculated, if applicable (please itemize)?

Date Signed: 1/20/06 Signature: Diane Mancini

If signed by Representative:
Representative's Name
Diane Mancini
Address
41 S. Chester Av RM 205 Pasadena Ca 91106
Telephone # (626) 844-9217
Relationship to Claimant MANAGER
Ticket ID: Version: 00 Notice ID: USAN2005072001315
Taken Time: 07/20/2005 09:20
Notice Type: Normal
UPDATE BY: 484322

Message Number: 0270235 Received by USAN at 09:20 on 07/20/05 by CWH

Work Begins: 07/22/05 at 09:30 Notice: 020 hrs Priority: 2

Caller: BRENDA WOLF
Company: HALOPOFF & SON
Address: 140 E. MORTON AVE
City: PORTERVILLE State: CA Zip: 93257
Telephone: 559-781-7676 Fax: 559-781-8055
Alt #s:
Nature of Work: TR & EXC TO INST C,G,S/WLKS,WTR,STORM *
Done for: CITY OF PORTERVILLE
Foreman: JOHN HALOPOFF Area Marked in White Paint
Permit Type: NO
Location:

ALL/O W. HENDERSON AVE (WRK INCL 10' BEYOND FACE/O C ON N & S SIDES)FR E/SI/O N. NEWCOMB ST TO A PT 500' W/O N.WESTWOOD ST (WRK INCL ALL INT)

Place: PORTERVILLE County: TULARE State: CA

Map Book:
Page Grid
0000 000
Long/Lat Long: -119.073936 Lat: 36.079185 Long: -119.051270 Lat: 36.081406
State Grid E: 0 N: 0 E: 0 N: 0

REMARKS:
* DRN, SWR, ST LIGHTS, BOX, CULVERT & RD WRK.

Sent to:
CHARTU = CHARTER COMM - TULARE CTYPOR = CITY PORTERVILLE
PBTHAN = PACIFIC BELL HANFORD SCETUL = SO CAL EDISON TULARE
SCGVIS = SO CAL GAS VISALIA VEREXR = VERISON CAL EXETER

TOTAL P.03
SUBJECT: CLAIM - EVANGELINA GOMEZ

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Evangelina Gomez has filed a claim against the City for property damage. Ms. Gomez stated that she was detained by the police and her vehicle towed on November 4, 2005. Ms. Gomez is claiming that her purse, money, jewelry, and personal documents, which were in the vehicle, were stolen while the vehicle was stored.

The amount being claimed as of the date of the claim is $2,216.00, based on replacement cost of the items.

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

Item No. 3
CLAIM AGAINST CITY OF PORTERVILLE

Claimant's name: Evangelina Gomez SS#: [redacted]
Claimant's Telephone No.: 782 8523 DOB: [redacted]
Claimant's address: 870 E Willow Porterville
Address where notices about claim are to be sent, if different from above:

Date of incident/accident: 11-4-05
Date injuries, damages, or losses were discovered: 11-9-05
Location of incident/accident: next to Carol's house
(Use back of this form or attach diagram if necessary to answer this question in detail.)

What did entity or employee do to cause this loss, damage, or injury? Purse and belongings lifted by Aaron Sutherland and other officers in the car.
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)?
Aaron Sutherland and other officers

What specific injuries, damages, or losses did claimant receive? Black purse with $700 jewelry and driver's license important papers for me and family, all stolen.
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)]
2,116

How was this amount calculated (please itemize)?
See Itemized List
(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 1-30-05 Signature: Eva Gomez

If signed by representative:
Representative's Name: 
Address: 
Telephone #: 
Relationship to Claimant: 
Gomel's purse was in the vehicle when the vehicle was stored. I stored the vehicle and the purse was on the front passenger side of the vehicle.
Eva's items belonging.

- Black Hills gold bracelet $400.00
- Gold men's necklace with letter F $250.00
- Gold sapphire heart and god's medallion $300.00
- Diamond cut chain $350.00
- Small envelope with rent money $750.00
- ID Card
- Driver's license $250.00
- 2 days gold rings one with horse shoe and the other one, with the letter F in the middle $400.00
- And a black stone
- Bracelet with Andreas name $99.00
- Broken girls necklace $320.00
- Bracelet with Andreas name $300.00
- Important paper for my family and me $650.00
- CDs $300 - $450
- Greeting card $2.00
SUBJECT: WAUKESHA ENGINE UPGRADES - WASTEWATER TREATMENT FACILITY

SOURCE: Administrative Services/Purchasing

COMMENT: In accordance with the City’s Purchasing Policy and Procedure Manual, as amended by Resolution No. 122-87 adopted by Council on October 10, 1987, Staff hereby requests approval to negotiate upgrading the City’s Waukesha engines at the Wastewater Treatment Facility (WWTF). These engines are essential for producing air for the plant’s secondary treatment process. The process requires that two engines operate 24/7 with one unit for stand-by and one operating in rotation.

The WWTF currently operates with three Waukesha engines installed new in 1994. They had major overhauls in 2003 and have each accumulated more than 50,000 operating hours. A fourth engine (the stand-by unit), installed in 1978, is inoperable since it no longer complies with air quality standards. The system also includes a 1956 model Waukesha power generator purchased and installed in 1978 as used equipment. Repair parts are no longer available for this generator. Additionally, the San Joaquin Valley Air Pollution Control District has imposed more stringent operating conditions, resulting in a greater demand for servicing, monitoring and inspection of the engines.

The City’s growth over the past several years has necessitated that Staff propose an upgrade project that will allow for greater service flexibility, mission stability, and will provide for a higher level of reliability for the WWTF’s operation. Staff is recommending that we bring the fourth, stand-by engine back on line by replacing it with a new Waukesha Model H18GLD 227 hp. Engine Blower, and that we procure and install a 140Kw Waukesha natural gas fired generator with the necessary switch gear to produce electricity for meeting the base load demands of the facility 24 hours per day. In order to bring the three operating Waukesha engines into compliance with Air Board emissions standards, they must be upgraded with Air Fuel Ratio Controllers. The controllers will monitor engine load and adjust the fuel air mixture to assure continued efficient operation and improve the engines’ performance. This will reduce the fuel demand thereby reducing the need to buy natural gas.

D.D. Appropriated/Funded  C.M. [Signature]  Item No. 4
Valley Power (formerly Stewart & Stevenson) is the City’s contract service provider and the sole Waukesha contractor in our area. The cost of this upgrade project is approximately $700,000 and is included in our California Infrastructure & Economic Development Bank (CIEDB) loan program. Staff has confirmed with a representative of the CIEDB that this upgrade is a reimbursable expense, and we have been given approval to negotiate with the sole source contractor. Staff is requesting Council approval to negotiate with Valley Power to provide the necessary upgrades at a cost not to exceed $700,000.

RECOMMENDATION: That Council authorize Staff to begin negotiations with Valley Power to upgrade the Wastewater Treatment Facility’s Waukesha engine equipment. Further, that Council authorize payment upon satisfactory completion of the project.
SUBJECT: AWARD OF CONTRACT – DEMOLITION PROJECT – TWO DATE AVENUE RESIDENTIAL UNITS

SOURCE: Public Works Department - Engineering Division

COMMENT: On February 28, 2006, staff received two (2) bids for the demolition of two single-family residences, one at 387 S. “B” Street and the other at 129 E. Date Avenue. The City purchased the homes during right-of-way acquisition for the future Date Avenue Reconstruction Project. The homes are in conflict with the proposed public improvements related to this project. Staff reviewed the homes and found them unsalvageable.

The low bid is 34% under the $34,980 estimated probable cost for the project. Funding is from Local Transportation Funds.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bowen Engineering &amp; Environmental</td>
<td>$23,100</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
</tr>
<tr>
<td>Vollmer Excavation</td>
<td>$30,525</td>
</tr>
<tr>
<td>Strathmore, CA</td>
<td></td>
</tr>
</tbody>
</table>

Staff has found the low bid acceptable.

RECOMMENDATION: That City Council:

1. Award the Demolition Project-Two Date Avenue Residential Units to Bowen Engineering & Environmental in the amount of $23,100;

2. Authorize progress payments up to 90% of the contract amount; and

3. Authorize a 10% contingency to cover unforeseen construction costs.

ATTACHMENT: Locator Map
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
PORTERVILLE CHAMBER OF COMMERCE
IRIS FESTIVAL, APRIL 22, 2006

SOURCE: Administrative Services - Finance Division, Business Tax Section

COMMENT: The Porterville Chamber of Commerce is requesting approval to hold its 8th Annual Iris Festival on Saturday, April 22, 2006, from 3:30 a.m. to 7:30 p.m. (9:00 a.m. to 5:00 p.m. is actual event time). The following street/sidewalk/parking lot closures/uses are requested:

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

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

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

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

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

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

Application date: 01/30/06  Event date: 4-22-06
Name of Event: Iris Festival
Sponsoring organization: Porterville Chamber of Commerce  PHONE # 784-7502
Address: 93 N. Main Suite A
Authorized representative: Donnette Silva Carter  PHONE # 784-7502
Address:
Event chairperson: Gary Giraudie  PHONE # 784-6485
Location of event (location map must be attached): Main Street

Type of event/method of operation: Festival - food & craft booths, stage, entertainment, kids amusements
Nonprofit status determination: 501(c)(4)

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

<table>
<thead>
<tr>
<th>Service</th>
<th>Quantity</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Barricades (quantity)</td>
<td>400</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Police protection</td>
<td>Yes</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Street sweeping</td>
<td>Yes</td>
<td></td>
<td>X</td>
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<tr>
<td>Refuse pickup</td>
<td>No</td>
<td></td>
<td>X</td>
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<tr>
<td>Other</td>
<td></td>
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</tbody>
</table>

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

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

Approve  Deny

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

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

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

City Code requirements:

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

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

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

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

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

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

Porterville Chamber

(130/106)

(Date)

(Name of organization) (Signature)
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: Fris Festival

Sponsoring organization: Porterville Chamber

Location: Main Street Event date: 4-22-05

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>Vendors will be submitted one week prior to event.</td>
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</table>
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:  This Festival

Sponsoring organization:  Porterville Chamber of Commerce

Event date:  4-22-06  Hours: Event 9am-5pm  Street closure 3:30am-7:30pm

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>Oliver</td>
<td>Morton</td>
<td>Booths, Kids</td>
</tr>
<tr>
<td>Garden</td>
<td>Main</td>
<td>East Alley</td>
<td>area, stage</td>
</tr>
<tr>
<td>Oak</td>
<td>Division</td>
<td>Second</td>
<td>entertainment</td>
</tr>
<tr>
<td>Mill</td>
<td>Division</td>
<td>East Alley</td>
<td>pedestrian</td>
</tr>
<tr>
<td>Putnam</td>
<td>Division</td>
<td>East Alley</td>
<td>traffic</td>
</tr>
<tr>
<td>Cleveland</td>
<td>Division</td>
<td>East Alley</td>
<td></td>
</tr>
<tr>
<td>Thurman</td>
<td>Division</td>
<td>East Alley</td>
<td></td>
</tr>
<tr>
<td>Harrison</td>
<td>Division</td>
<td>East Alley</td>
<td></td>
</tr>
<tr>
<td>Main</td>
<td>Olive</td>
<td>Cleveland</td>
<td>Sidewalk</td>
</tr>
<tr>
<td>Oak</td>
<td>Main</td>
<td>Second</td>
<td>Sales</td>
</tr>
<tr>
<td>Mill</td>
<td>Hackett</td>
<td>Main</td>
<td></td>
</tr>
<tr>
<td>Putnam</td>
<td>Hackett</td>
<td>Main</td>
<td></td>
</tr>
</tbody>
</table>

Parking lots and spaces

Location
Parking lot between Allen's and previous J.C. Penney
Activity
Booths, Shuttle stop
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

PORTERVILLE CHAMBER OF COMMERCE

IRIS FESTIVAL

APRIL 22, 2006

Business License Supervisor:
S. Perkins

Submit vendor list prior to event.

Public Works Director:
B. Rodriguez

Participants make every effort to cleanup area and not impede Main Street vehicle travel.

Community Development Director:
B. Dunlap

No comments.

Field Services Manager:
B. Styles

Pick up and return barricades at 555 N. Prospect.

Chief of Fire Operations:
M. Garcia

Putnam Street (east to west) must remain open. Main from Morton to Olive-one side of the street or the center of the Street must remain clear for emergency traffic. Do not block fire hydrants.

Parks and Leisure Services Director:
J. Perrine

Clean up following the event. Keep public out of planters and off the newly planted trees.

Police Chief:
S. Rodriguez

Use adequate barricades for road closure.

Deputy City Manager:
F. Guyton

See attached, exhibit A, page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Porterville Chamber of Commerce
Event: Iris Festival
Event Chairman: Gary Giraudi
Location: Main Street
Date of Event: April 22, 2006
Time of Event: 3:30 a.m. to 7:30 p.m.

RISK MANAGEMENT: Conditions of Approval

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

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

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

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

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

1. Name and home address of the applicant:

   ___________________________ Phone # ___________________________

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:

   ___________________________________________________________
   ___________________________________________________________

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

   ___________________________________________________________

5. Dates and hours of operation of amplification equipment:

   ___________________________________________________________
   ___________________________________________________________

6. A general description of the sound amplifying equipment to be used:

   ___________________________________________________________
I hereby certify that all statements and answers on this registration form are true and correct.

Applicant

Date

Chief of Police

Date

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

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

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

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

cc:


3/27/01
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT - PORTERVILLE BREAKFAST ROTARY CANCER RUN, MAY 6, 2006

SOURCE: Administrative Services - Finance Division, Business Tax Section

COMMENT: Porterville Breakfast Rotary is requesting approval to hold a 5K Cancer Run on Saturday, May 6, 2006, from 5:00 a.m. to 11 a.m. The 5K run will start at Tulsa Street and Putnam Avenue, head south to Olive Avenue, turn west on Olive Avenue, turn north on Crestview Street, then east on Morton Avenue, turn south on Conner Street, and turn east on Putnam to finish at Tulsa Street. No street closures are requested. This application is submitted in accordance with the Community Civic Events Ordinance No. 1326, as amended.

The application has been routed according to the ordinance regulations and reviewed by all of the departments involved. All requirements are listed on the attached Exhibit “A.” The application, Exhibit “A,” the agreement, request for street usage, and a map showing the streets to be used are attached.

RECOMMENDATION: That Council approve the Community Civic Event Application and Agreement from Porterville Breakfast Rotary, subject to the Restrictions and Requirements contained in application, agreement and exhibit “A” of the Community Civic Event application form.

ATTACHMENT: Community civic event application and agreement, vendor list, request for street, sidewalk and parking lot closure/usage, map, exhibit A, outside amplifier permit.

D.D. _____ Appropriated/Funded _____ C.M. _____ Item No. 7
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 1-11-2006  Event date: May 16th 2006

Name of Event: Porterville Breakfast Rotary Cancer Run

Sponsoring organization: Porterville Breakfast Rotary
Address: 122 E Market Porterville CA 93257

Authorized representative: Jackie Wittzel
Address: 934 W Sorenton Porterville CA 93257

Event chairperson: Marilyn Lalanne

Location of event (location map must be attached): Granite Hills High School

Type of event/method of operation: 5K Run

Nonprofit status determination:

City services requested (any fees associated with these services will be billed separately): No

Barricades (quantity):            Street sweeping Yes ___ No ___
Police protection Yes ___ No ___             Refuse pickup Yes ___ No ___
Other:

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

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

Approve Deny

_______ _______ Bus Lic Spvr

_______ _______ Pub Works Dir

_______ _______ Comm Dev Dir

_______ _______ Field Svcs Mgr

_______ _______ Fire Chief

_______ _______ Parks Dir

_______ _______ Police Chief

_______ _______ Risk Manager
CITY OF PORTERVILLE

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

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

City Code requirements:

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

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

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

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

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

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 1326, as amended, and the terms and conditions set forth by City Council and stated in Exhibit "A." The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind 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 Breakfast Rotary

(Name of organization)

1-16-2004

(Signature)

(Date)
CITY OF PORTERVILLE

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

Name of event: **Porterville Breakfast Rotary 5K Run**

Sponsoring organization: **Porterville Breakfast Rotary**

Location: **Granite Hills High School**  Event date: **May 6th, 2006**

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>Porterville Breakfast Rotary</td>
<td></td>
<td>781-1017</td>
<td>Running Event</td>
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</tbody>
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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: Porterville Breakfast Rotary 5K Run

Sponsoring organization: Porterville Breakfast Rotary

Event date: May 16th, 2016 Hours: 5am to 11am

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Closed</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
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</thead>
<tbody>
<tr>
<td>Putnam Ave</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Olive Ave</td>
<td></td>
<td></td>
<td>5K Run</td>
<td></td>
</tr>
<tr>
<td>Crestview St</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morton Ave</td>
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<tr>
<td>Corner St</td>
<td></td>
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<table>
<thead>
<tr>
<th>Sidewalks</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Putnam Ave</td>
<td></td>
<td></td>
<td>5K Run</td>
</tr>
<tr>
<td>Olive Ave</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Crestview St</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Morton Ave</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Corner St</td>
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</tbody>
</table>

Parking lots and spaces Location Activity
Granite Hills High School participant parking
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
PORTERVILLE BREAKFAST ROTARY
CANCER RUN
MAY 6, 2006

<table>
<thead>
<tr>
<th>Role</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business License Supervisor: S. Perkins</td>
<td>No requirements.</td>
</tr>
<tr>
<td>Public Works Director: B. Rodriguez</td>
<td>Participants to make every effort to collect trash and other debris generated from event.</td>
</tr>
<tr>
<td>Community Development Director: B. Dunlap</td>
<td>No comments.</td>
</tr>
<tr>
<td>Field Services Manager: B. Styles</td>
<td>No comments.</td>
</tr>
<tr>
<td>Chief of Fire Operations: M. Garcia</td>
<td>No comments.</td>
</tr>
<tr>
<td>Parks and Leisure Services Director: J. Perrine</td>
<td>No comments.</td>
</tr>
<tr>
<td>Police Chief: S. Rodriguez</td>
<td>Take measures as deemed appropriate for protection of runners/participants. Safety persons on route should wear high visibility vests.</td>
</tr>
<tr>
<td>Deputy City Manager: F. Guyton</td>
<td>See exhibit &quot;A&quot;, page 2</td>
</tr>
</tbody>
</table>
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Porterville Breakfast Rotary
Event: 5 K Cancer Run
Event Chairman: Marty Lalanne
Location: Granite Hills High School
Date of Event: May 6, 2006
Time of Event: 5:00 a.m. to 11:00 a.m.

RISK MANAGEMENT: Conditions of Approval

That the Porterville Breakfast Rotary 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.

a. 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.

Approval of the Community Civic Events Permit by the Porterville City Council pertains only to authorized activities conducted at designated locations within the incorporated area of the City of Porterville, and such approval shall not be construed or interpreted to authorize sponsor utilization of public right-of-ways outside of the jurisdiction of the City of Porterville.

EXHIBIT "A," Page 2
CITY OF PORTERVILLE

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

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

1. Name and home address of the applicant:
   Mary Lalanne  
   Phone # 781-6667
   1345 N Lotsas Way Porterville

2. Address where amplification equipment is to be used:
   Granite Hills High School  
   Phone # 359-4815

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

4. Type of event for which amplification equipment will be used:
   5K Run

5. Dates and hours of operation of amplification equipment:
   6:00 am - 11am

6. A general description of the sound amplifying equipment to be used:
   Announcement of run from 8am to 11am
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]
Applicant

[Signature]
Chief of Police

[Date]

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

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

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

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

cc:

____________________________________________________

____________________________________________________

____________________________________________________

3/27/01
SUBJECT: ENGINEER’S REPORTS AND SETTING OF A PUBLIC HEARING FOR ESTABLISHING LIGHTING AND LANDSCAPE MAINTENANCE DISTRICTS AND TAX ASSESSMENTS FOR PARCELS WITHIN; SIERRA MEADOWS, PHASE ONE SUBDIVISION; WILLIAMS RANCH, PHASES TWO AND THREE SUBDIVISION; SUNRISE VILLA, PHASE ONE SUBDIVISION; NEW EXPRESSIONS, PHASE FOUR SUBDIVISION; MEADOW BREEZE, PHASE ONE SUBDIVISION, MEADOW BREEZE, PHASE TWO SUBDIVISION; AMALENE ESTATES SUBDIVISION; AND RIVERVIEW ESTATES, PHASE FOUR SUBDIVISION

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: New subdivisions within the City are required to petition for the formation of a Maintenance Assessment District. The districts are formed to secure funding from parcels within the subdivisions for operational and maintenance expenses of public lighting and any public landscape areas. The City utilizes the authority governed by the 1972 Lighting and Landscape Assessment Act to create a district for each subdivision. Thereafter, every year a process must be followed of evaluating maintenance needs and establishing an assessment to be placed upon the tax rolls for every parcel within each district.

The Council has previously authorized the use of Willdan Engineers for assistance with various engineering services needed by the Parks and Leisure Services Department. Willdan has assisted city staff in the effort to organize these new districts. The attached Resolutions are necessary to initiate the process of creating new districts for eight subdivisions. The first Resolution is to order the formation of the new Districts, appoint Willdan’s San Joaquin Area Manager, Douglas Wilson, as the Engineer of Work, and order the preparation of Engineer’s Reports. The Engineer’s Reports accompany this staff report. The second Resolution is provided to give preliminary approval to the Reports as the basis for creation of proposed assessments. The last Resolution declares the intent to form the districts, levy and collect tax assessments, and sets March 21, 2006 for a Public Hearing.

RECOMMENDATION: That the City Council adopt:
1. A Resolution Ordering the Proceedings for Formation of Landscape and Lighting Maintenance District number 30, 31, 32, 33, 34, 35, 36, and 37, and ordering the preparation of the Engineer’s Reports.
2. A Resolution Giving Preliminary Approval to the Engineer’s Reports

ITEM NO.: 8
ATTACHMENT: Resolution Ordering the Proceedings for Formation of Landscape and Lighting Maintenance District Nos. 30 through 37, and Preparation of Engineer’s Reports

Resolution Giving Preliminary Approval to the Engineer’s Reports

Resolution Declaring Intent to Form Districts, Levy and Collect Assessments, and Setting a Public Hearing for March 21, 2006

Locator Map

Engineer’s Reports for each Landscape and Lighting Maintenance District numbers 30, 31, 32, 33, 34, 35, 36, and 37
RESOLUTION NO. 2006


WHEREAS, it has been determined by the City Council of the City of Porterville that the public interest, convenience and necessity required the installation and planting of landscape materials, the installation and construction of irrigation systems, the installation of lighting and other facilities set forth in Section 22525 of the Streets and Highways Code, State of California; and

WHEREAS, the cost for operation and maintenance of the landscaping and lighting improvements is to be determined and considered for assessment to the benefiting properties; and

WHEREAS, Section 22622 requires that an Engineer’s Report be prepared to establish new Landscape and Lighting Maintenance Districts, and outlining the initial assessments to be levied against the properties within each assessment district.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Porterville as follows:

1. That the public interest, convenience and necessity required the formation of Landscape and Lighting Maintenance District numbers 30, 31, 32, 33, 34, 35, 36, and 37 as authorized by Section 22525 of the Streets and Highways Code, State of California.

2. That proceedings are to be conducted for the formation of said Landscape and Lighting Maintenance Districts.

3. That the properties to be specifically charged for maintenance of landscaping and lighting improvements shall be located within the boundary of the proposed districts, and maps to illustrate said boundaries are hereby ordered to be prepared.

4. That Douglas Wilson be appointed as “Engineer of Work” with all applicable provisions of Article 4, Division 15 of the Landscape and Lighting Act of 1972 applied to said “Engineer of Work”.

5. That the cost of maintaining the landscape and lighting facilities in each of said Landscape and Lighting Maintenance Districts shall be borne by the property owners within the district, and said cost shall be assessed according to said 1972 Act.
6. That the Engineer of Work is hereby ordered to prepare a report for each District in accordance with Article 4, Division 15 of said 1972 Act.

APPROVED AND ADOPTED THIS 7TH DAY OF MARCH 2006

__________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By: _______________________
Georgia Hawley, Deputy City Clerk
RESOLUTION NO. -2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, GIVING PRELIMINARY APPROVAL OF ENGINEER'S REPORTS FOR LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS ENCOMPASSING SIERRA MEADOWS, PHASE ONE SUBDIVISION; WILLIAMS RANCH, PHASES TWO AND THREE SUBDIVISION; SUNRISE VILLA, PHASE ONE SUBDIVISION; NEW EXPRESSIONS, PHASE FOUR SUBDIVISION; MEADOW BREEZE, PHASE ONE SUBDIVISION, MEADOW BREEZE, PHASE TWO SUBDIVISION; AMALIE ESTATES SUBDIVISION; AND RIVERVIEW ESTATES, PHASE FOUR SUBDIVISION

WHEREAS, on the 7th day of March, 2006 said City Council did direct by Resolution that the Engineer of Work was to make and file with the City Clerk of said City a report in writing for each subdivision as required by the Landscaping and Lighting Act of 1972; and

WHEREAS, said Engineer of Work has made and filed with the City Clerk of said City each report in writing as called for in said Resolution and under and pursuant to said Act, which reports have been presented to this Council for consideration; and

WHEREAS, said Council has duly considered said reports and each and every part thereof; and finds that each and every part of said reports is sufficient, and that said reports nor any part thereof, requires or should be modified; and

WHEREAS, reference is hereby made to said Engineer's Reports for further, full and more particular description of proposed Assessment Districts, and the same Engineer's Reports so on file, shall govern for all details as to the extent of said Assessment Districts.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Porterville as follows:

1. That the Engineer's Estimate of the itemized costs and expenses of said work and of the incidental expenses in connection therewith, contained in said reports be, and each of them are hereby preliminarily approved and confirmed.

2. That the diagram showing the Assessment District referred to and described in said reports, the boundaries of the subdivision of land within said Assessment District as the same existed at the time of passage of said Resolution, are hereby preliminarily approved and confirmed.

3. That the proposed assessments upon the subdivisions of land in each said Assessment District is in proportion to the estimated benefit to be received by said subdivisions, respectively, from said work and of the incidental expenses thereof, as contained in said report, is hereby preliminarily approved and confirmed.
4. That said reports shall stand as the Engineer’s Report for the purposes of all subsequent proceedings pursuant to each of the proposed districts.

APPROVED AND ADOPTED THIS 7th DAY OF MARCH 2006.

______________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By:____________________________
Georgia Hawley, Deputy City Clerk
RESOLUTION NO. -2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, DECLARING ITS INTENTION TO FORM ASSESSMENT DISTRICTS AND TO LEVY AND COLLECT ASSESSMENTS IN THE 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, THE COST AND EXPENSE THEREOF, AND THE AMOUNT EACH PARCEL THEREIN IS INITIALLY TO BE ASSESSED; DESIGNATING SAID DISTRICTS AS LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS, DETERMINING THAT THESE PROCEEDINGS SHALL BE TAKEN PURSUANT TO THE LANDSCAPING AND LIGHTING ACT OF 1972; OFFERING A TIME AND PLACE FOR HEARING OBJECTIONS THERETO; WITH SAID PROCEEDINGS PERTAINING TO: SIERRA MEADOWS, PHASE ONE SUBDIVISION; WILLIAMS RANCH, PHASES TWO AND THREE SUBDIVISION; SUNRISE VILLA, PHASE ONE SUBDIVISION; NEW EXPRESSIONS, PHASE FOUR SUBDIVISION; MEADOW BREEZE, PHASE ONE SUBDIVISION, MEADOW BREEZE, PHASE TWO SUBDIVISION; AMALENE ESTATES SUBDIVISION; AND RIVERRVIEW ESTATES, PHASE FOUR SUBDIVISION.

The City Council of the City of Porterville, pursuant to the provisions of the Landscaping and Lighting Act of 1972, being Division 15 of the Streets and Highways Code of the State of California, does resolve as follows:

SECTION 1. DESCRIPTION OF WORK
That the public interest and convenience requires it is the intention of the City Council of the City of Porterville, California, to order the following work be done, to wit:

1. Maintenance and servicing of facilities and landscaping as authorized by Section 22424 of the Streets and Highways code.

2. Any and all work and materials appurtenant thereto or which are necessary or convenient for the maintenance and servicing thereof.

SECTION 2. LOCATION OF WORK
The foregoing described work is to be located within the following areas:

1. Right-of-way, easements, and public lands within Sierra Meadows, Phase one Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting Maintenance District No. 30.”

2. Right-of-way, easements, and public lands within Williams Ranch Phase 2 and 3 Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting Maintenance District No. 31.”
3. Right-of-way, easements, and public lands within Sunrise Villa, Phase One Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting Maintenance District No. 32.”

4. Right-of-way, easements, and public lands within New Expressions, Phase 4 Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting maintenance District No. 33.”

5. Right-of-way, easements, and public lands within Meadow Breeze, Phase 2 Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting Maintenance District No. 34.”

6. Right-of-way, easements, and public lands within Meadow Breeze Phase 1 Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting Maintenance District No. 35.”

7. Right-of-way, easements, and public lands within Amalene Estates Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting Maintenance District No. 36.”

8. Right-of-way, easements, and public lands within Riverview Estates, Phase 4 Subdivision, more particularly described on maps which are on file in the City Clerk’s office entitled “Landscape and Lighting Maintenance District No. 37.”

SECTION 3. DESCRIPTION OF ASSESSMENT DISTRICT
That the contemplated work is of more local than ordinary public benefit, and the expense of said work is chargeable upon districts, which districts are to be assessed to pay the cost and expenses thereof, and said districts are described as follows:

All that certain territory of the City of Porterville, included within the exterior boundary line shown upon respective Maps of Landscape and Lighting Maintenance District numbers 30, 31, 32, 33, 34, 35, 36, and 37, which Maps are on file in the Office of the City Clerk of said City.

SECTION 4. REPORT OF ENGINEER
The City Council of said City by Resolution has approved the reports of the Engineer of Work, which reports indicate the amount of the proposed assessment, the district boundary, detailed description of improvements, and the method of assessment. The Engineer’s Reports for Landscape and Lighting Maintenance District No. 30 through District No. 37 are on file in the Office of the City Clerk of said City, and were prepared for the 2006-2007 fiscal year in accordance with the Landscaping and Lighting Act of 1972. Reference to said reports is hereby made for all particulars for the amount and extent of the assessments and for the extent of the work.
SECTION 5. COLLECTION OF ASSESSMENTS
The assessment shall be collected at the time and in the same manner as County taxes are collected. The Engineer of Work shall file a report annually with the City Council of said City and said Council will annually conduct a hearing upon said report at a regular meeting held between March and June, at which time assessments for the next fiscal year will be determined.

SECTION 6. TIME AND PLACE OF HEARING
Notice is hereby given that on the 21st day of March 2006 at the hour of 7:00 p.m. in the city Council Chambers at 291 North Main Street, in the City of Porterville, any and all persons having any objections to the work or extent of the assessment districts may appear and show cause why said work should not be done or carried out in accordance with Resolution of Intention. The City Council will consider all oral and written protests.

SECTION 7. LANDSCAPING AND LIGHTING ACT OF 1972
All the work herein proposed shall be done and carried through in pursuance of an act of the legislature of the State of California designated the Landscaping and Lighting Act of 1972, being Division 15 of the Streets and Highways Code of the State of California.

SECTION 8. PUBLICATION OF RESOLUTION OF INTENTIONS
Published notice shall be made pursuant to Section 6061 of the Government Code. The publication of the Notice of Hearing shall be completed at least 10 days prior to the date of hearing.

SECTION 9. CERTIFICATION
The City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED THIS 7TH DAY OF MARCH 2006.

______________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By: _______________________
Georgia Hawley, Deputy City Clerk
SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No.____________. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include landscaping and lighting at Sierra Meadows, Phase 1 Subdivision into the Landscape and Lighting Maintenance District No. 30. The City Council has determined that the areas to be landscaped and lighted will have an effect upon all parcels within the proposed boundaries of the District. The areas for street lights are included on all the streets located within the subdivision. Proposed areas for lighting are on both sides of the streets located within the subdivision. The landscaping includes a masonry wall along the south and west boundaries as well as a small portion of the east boundary. The wall maintenance includes: cleaning, repairing, painting and rodent control. A landscaped area was installed by the developer generally adjacent to the masonry walls. The landscaped area maintenance includes cleaning, weed control, maintenance of irrigation facilities, and control of the growth.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 23 - 5800 lumen, 4 - 9500 lumen and 5
- 16000 lumen. Total landscaped area to be maintained is 438 lineal feet of 7’6” masonry wall and 2301 lineal feet of 6’8” masonry wall, and 26,639 square feet of landscaped area.

Maintenance activities within the Landscape and Lighting Maintenance District No. are to include landscape and lighting maintenance.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Sierra Meadows, Phase I Subdivision.

SECTION 5. Estimated Costs

The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and the improvements have been installed and certain maintenance on the areas will be necessary during fiscal year 2006-2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. In this District assessments will be made during the 2006-2007 Fiscal Year.

**Estimated Assessment 2006-2007**

<table>
<thead>
<tr>
<th>Landscaped Area</th>
<th></th>
</tr>
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<tbody>
<tr>
<td>Wall 2739 L.F. @ $.46 per L.F.</td>
<td>$1,259.94</td>
</tr>
<tr>
<td>Landscaped area 26,639 sq ft @ $.39/sq ft</td>
<td>$10,389.21</td>
</tr>
</tbody>
</table>

**Electricity/Lighting***

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 fixtures, 5,800 lumens @ $30.21 per year</td>
<td>$694.83</td>
</tr>
<tr>
<td>4 fixtures 9500 lumens @ $36.27 per year</td>
<td>$145.08</td>
</tr>
<tr>
<td>5 fixtures, 16,000 lumens @ $47.47 per year</td>
<td>$237.35</td>
</tr>
</tbody>
</table>

**Project Management Costs**
56 Lots @ $12.00 per lot 

$672.00

Sub Total 2006-2007 $13,398.41

15% Reserve Fund

$2,009.76

Total 2006-2007 Initial Assessment $15,408.17

*Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2007/2008 will refer back to the prior year’s CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled “Landscape and Lighting Maintenance District No. 30 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 30. The establishment and maintenance of the
improvements is a vital part of the development of Sierra Meadows, Phase 1 Subdivision. The City Council of Porterville has determined that to insure satisfactory levels of maintenance for the landscape and lighting at Sierra Meadows, Phase 1 Subdivision, it should become Landscape and Lighting Maintenance District No. 30. The subdivision consists of 56 Lots. The Landscape area, which benefits the 56 lots, is generally located along the masonry wall along the west and south boundaries of the subdivision along Indiana Street and Gibbons Avenue.

Landscape and Lighting Maintenance District No. 30 will consist of an area comprising approximately 39.35 acres. A total of 56 lots are proposed to be developed. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the protection or safety, economic and humanistic values. The City Council has determined that, for the preservation of values incorporated within this development, all lots will receive equal benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.
2. Properly maintained landscaping and lighting benefits all properties in the development.
3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

Estimated 2006-2007 Assessment

Assessment (A) = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}}.
A = \frac{15,408.17}{56} = \$275.14\text{ per lot for Sierra Meadow, Phase 1 Subdivision}

Total Assessment for 2006-2007 = \$275.14
Total developed lot count is 56 lots.

SECTION 8. Order of Events


2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.

3. City Council Adopts Resolution of Intention to Order the Formation of Landscape and Lighting Maintenance District No. 30 and determines the district.


5. Every year between April and June the Engineer of Work file a report with the City Council.

6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

[Signature]

Douglas Wilson
Engineer of the Work
Landscape & Lighting District No. 30

The Northwest quarter of the Southwest quarter of Section 2, Township 22 South, Range 27 east, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California.
CITY OF PORTERVILLE
ENGINEER’S REPORT FOR LANDSCAPING AND LIGHTING
MAINTENANCE DISTRICT NO. 31

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No. ____________ . The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include lighting at Williams Ranch Phase 2 and 3 Subdivision into the Landscape and Lighting Maintenance District No. 31. The City Council has determined that the areas to be lighted will have an effect upon all parcels within the proposed boundaries of the District. The District includes lighting on Westwood Street, Luisa Avenue, Monache Lane, Lucia Court, Oxford Place, Wellington Street, Maritza Place, Silver Maple Street and Red Oak Street as a part of the subdivision. Proposed areas for lighting are on both sides of the streets located within the subdivision.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 26.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Williams Ranch Phase 2 and 3 Subdivision.
SECTION 5. Estimated Costs

The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and it is intended that the improvements will be constructed during or before the 2006 – 2007 fiscal year and certain lighting costs will be incurred during fiscal year 2006 -2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. District 31 assessments during the 2006-2007 Fiscal Year are as follows.

Estimated Assessment 2006-2007

Electricity /Lighting*

24 fixtures, 5,800 lumens @ $30.21 per year $725.04

2 fixtures, 16,000 lumens @ $47.47 per year $ 94.94

Project Management Costs

85 Lots @ $12.00 per lot $1,020.00

Sub Total 2006-2007 $1,839.98

Incidental Expenses

15% Reserve Fund $276.00

Total 2006-2007 Initial Assessment $2115.98

*Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.
After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2007/2008 will refer back to the prior year’s CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled “Landscape and Lighting Maintenance District No. 31 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 31. The establishment and maintenance of the improvements is a vital part of the development of Williams Ranch Phase 2 and 3 Subdivision. The City Council of Porterville has determined that to insure satisfactory levels of street lighting at Williams Ranch Phase 2 and 3 Subdivision, it should become Landscape and Lighting Maintenance District No. 31. The lighting includes 2 lights.

Landscape and Lighting Maintenance District No. 31 will consist of an area comprising approximately 22.55 acres. A total of 85 lots are proposed to be developed in Williams Ranch Phase 2 and 3 Subdivision. The improvements will consist of those improvements described in
Section 4 of this report. The maintenance of the improvements is a vital part of the development for the protection or safety, economic and humanistic values. The City Council has determined that, for the preservation of values incorporated within this development, all lots will receive equal benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.
2. Properly maintained landscaping and lighting benefits all properties in the development.
3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

**Estimated 2006-2007 Assessment**

\[
A = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}}
\]

\[
\text{Assessment (A)} = \frac{2115.98}{85} = 24.88 \text{ per lot for Williams Ranch Phase 2 and 3 Subdivision}
\]

Total Assessment for 2006-2007 = $2,115.98
Total developed lot count is 85 lots.

**SECTION 8. Order of Events**

2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.
3. City Council Adopts Resolution of Intention to Order the Formation of Landscape and Lighting Maintenance District No. 31 and determines the district.
5. Every year between April and June the Engineer of Work file a report with the City Council.

6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

Douglas Wilson
Engineer of the Work
Landscape and Lighting District No. 31

That portion of the Northwest quarter of the Southwest quarter of Section 21, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

Beginning at the Southeast corner of Lot 8 of Williams Ranch, Phase One, per map recorded in Book 39, page 30 of Maps in the Office of the County Recorder of said County;

Thence, South 89°54'06" West, 399.51 feet to the Southeast corner of Lot 13 of said Williams Ranch, Phase One;

Thence, South 00°05'42" East, 114.00 feet to the Southeast corner of Lot 14 of said Williams Ranch, Phase One;

Thence, North 89°54'06" East, 30.00 feet;

Thence, South 00°05'42" East, 50.00 feet;

Thence, South 89°54'06" West, 30.00 feet to the Northeast corner of Lot 15 of said Williams Ranch, Phase One;

Thence, South 00°05'42' East, 114.00 feet to the Southeast corner of said Lot 15;

Thence, South 89°54'06" West, 65.00 feet to the Southwest corner of said Lot 15;

Thence, South 00°05'42" East, 30.00 feet;

Thence, South 89°54'06" West, 60.00 feet;

Thence, North 00°05'42" West, 30.00 feet to the Southeast corner of Lot 16 of said Williams Ranch, Phase One;

Thence, South 89°54'06" West, 464.50 feet to the Southwest corner of Lot 21 of said Williams Ranch, Phase One, said Southwest corner being a point in the West line of the East 15 acres of the North half of the Northwest quarter of said Southwest quarter;

Thence, South 00°05'42" East, 64.72 feet to the Southwest corner of the East 15 acres of the North half of the Northwest quarter of said Southwest quarter;

Thence, North 89°53'42" East, 14.24 feet;

Thence, South 00°36'08" East, 168.01 feet;
Thence, South 89°53'42" West, 340.00 feet to a point in the West line of the Northwest quarter of said Southwest quarter;

Thence, South 00°04'48" West, 492.76 feet to the Southwest corner of the Northwest quarter of said Southwest quarter;

Thence, North 89°53'18" East, 1,314.79 feet to the Southeast corner of the Northwest quarter of said Southwest quarter;

Thence, North 00°05'42" West, 1,003.21 feet along the East line of the Northwest quarter of said Southwest quarter to the point of beginning.
CITY OF PORTERVILLE
ENGINEER'S REPORT FOR LANDSCAPING AND LIGHTING
MAINTENANCE DISTRICT NO.32

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville
Resolution No. __________. The report is in compliance with the requirement of Article 4,
Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and

SECTION 2. General Description

The City Council has elected to include lighting at Sunrise Villa, Phase One
Subdivision into the Landscape and Lighting Maintenance District No. 32. The City Council has
determined that the areas to be lighted will have an effect upon all parcels within the proposed
boundaries of the District. The District includes lighting on Cottage Street as a part of the
subdivision. Proposed areas for lighting are on the only side of the street that has lots created in
the subdivision.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in
conformance with the requirements of the City of Porterville. All lights to be maintained will be
shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City
of Porterville. The total street lights to be maintained are 2.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Sunrise Villa,
Phase One Subdivision.

SECTION 5. Estimated Costs
The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and it is intended that the improvements will be constructed during or before the 2006 – 2007 fiscal year and certain lighting costs will be incurred during fiscal year 2006 -2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. District 32 assessments during the 2006-2007 Fiscal Year are as follows.

Estimated Assessment 2006-2007

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electricity/Lighting*</td>
<td></td>
</tr>
<tr>
<td>2 fixtures, 5,800 lumens @ $30.21 per year</td>
<td>$60.42</td>
</tr>
</tbody>
</table>

**Project Management Costs**

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 Lots @ $15.00 per lot</td>
<td>$120.00</td>
</tr>
<tr>
<td><strong>Sub Total 2006-2007</strong></td>
<td>$180.42</td>
</tr>
</tbody>
</table>

**Incidental Expenses**

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>15% Reserve Fund</td>
<td>$27.06</td>
</tr>
<tr>
<td><strong>Total 2006-2007 Initial Assessment</strong></td>
<td>$207.48</td>
</tr>
</tbody>
</table>

*Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year...
2007/2008 will refer back to the prior year’s CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled “Landscape and Lighting Maintenance District No. 32 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 32. The establishment and maintenance of the improvements is a vital part of the development of Sunrise Villa, Phase One Subdivision. The City Council of Porterville has determined that to insure satisfactory levels of street lighting at Sunrise Villa, Phase One Subdivision, it should become Landscape and Lighting Maintenance District No. 32. The lighting consists of 2 street lights.

Landscape and Lighting Maintenance District No. 32 will consist of an area comprising approximately 1.46 acres. A total of 8 lots are proposed to be developed in Sunrise Villa, Phase One Subdivision. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the protection or safety, economic and humanistic values. The City Council has determined that, for the preservation of values incorporated within this development, all lots will receive equal benefit from the landscaping and street lighting.
The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.
2. Properly maintained landscaping and lighting benefits all properties in the development.
3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

**Estimated 2006-2007 Assessment**

\[
\text{Assessment (A)} = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}}
\]

\[
A = \frac{\$207.48}{8} = \$25.94 \text{ per lot for Sunrise Villa, Phase One Subdivision.}
\]

Total Assessment for 2006-2007 = $207.48

Total developed lot count is 8 lots.

**SECTION 8. Order of Events**

2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.
3. City Council Adopts Resolution of Intention to Order the Formation of Landscape and Lighting Maintenance District No. 32 and determines the district.
4. City Council adopts Resolution Ordering the Improvements and the Formation of Landscape and Lighting Maintenance District No. 32.
5. Every year between April and June the Engineer of Work file a report with the City Council.
6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

Douglas Wilson
Engineer of the Work
Landscape & Lighting District No. 32
Sunrise Villa, Phase One

That portion of the South half of the Southwest quarter of Section 23, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

Beginning at the Southwest corner of the Northwest quarter of Lot 146 of Pioneer Land Company's First Subdivision per map recorded in Book 3, page 34 of Maps in the Office of the County Recorder of said County;

Thence, North 02°17'27" West, 152.50 feet along the West line of said Lot 146 to the beginning of a 200.00 foot radius tangent curve, concave to the West;

Thence, Northerly, along said curve, through a central angle of 14°04'11" an arc distance of 49.11 feet, to the beginning of a 200.00 foot radius reverse curve, concave to the East, a radial to said beginning bears South 73°38'22" West;

Thence, Northerly, along said curve, through a central angle of 14°04'11" an arc distance of 49.11 feet;

Thence, tangent to said curve, North 02°17'27" West, 237.04 feet;

Thence, South 89°32'15" East, 166.54 feet;

Thence, South 00°27'45" West, 6.99 feet;

Thence, South 02°17'27" East, 476.92 feet;

Thence, South 89°36'39" West, 154.10 feet to the point of beginning.
SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No.___________. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include landscaping and lighting at New Expressions, Phase 4 Subdivision into the Landscape and Lighting Maintenance District No. 33. The City Council has determined that the areas to be landscaped and lighted will have an effect upon all parcels within the proposed boundaries of the District. The areas for street lights are included on all the streets located within the subdivision. Proposed areas for lighting are on both sides of the streets located within the subdivision. The landscaping includes a masonry wall. The wall maintenance includes: cleaning, repairing, painting vegetation and rodent control, and a set aside for replacement.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 13. Total landscaped area to be maintained are 220 lineal feet of masonry wall. Maintenance activities within the Landscape and Lighting Maintenance District No. 33 are to include landscape and lighting maintenance.
SECTION 4. **Improvements**

Landscape and lighting improvements were made by the developer of New Expressions, Phase 4 Subdivision.

SECTION 5. **Estimated Costs**

The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and the improvements have been installed and certain maintenance on the areas will be necessary during fiscal year 2006-2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. In this District assessments will be made during the 2006-2007 Fiscal Year.

**Estimated Assessment 2006-2007**

**Landscaped Area**

Wall 220 L.F. @ .46 per L.F. $ 101.20

**Electricity /Lighting**

11 fixtures, 5,800 lumens @ $30.21 per year $ 332.31

2 fixtures 9500 lumens @ #36.27 per year $ 72.54

**Project Management Costs**

54 Lots @ $12.00 per lot $ 696.00

Sub Total 2006-2007 $ 1202.05

15% Reserve Fund $ 180.31

Total 2006-2007 Initial Assessment $1,382.36
**Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.**

After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2007/2008 will refer back to the prior year’s CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled “Landscape and Lighting Maintenance District No. 33 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 33. The establishment and maintenance of the improvements is a vital part of the development of New Expressions, Phase 4 Subdivision. The City Council of Porterville has determined that to insure satisfactory levels of maintenance for the landscape and lighting at New Expressions, Phase 4 Subdivision, it should become Landscape and Lighting Maintenance District No. 33. The subdivision consists of 58 Lots. The
Landscape area, which benefits the 68 lots, is located along the westerly boundary of the district, separating the district and State Highway 65.

Landscape and Lighting Maintenance District No. 33 will consist of an area comprising approximately 10.04 acres. A total of 58 lots are proposed to be developed. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the protection or safety, economic and humanistic values. The City Council has determined that, for the preservation of values incorporated within this development, all lots will receive equal benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.

2. Properly maintained landscaping and lighting benefits all properties in the development.

3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

**Estimated 2006-2007 Assessment**

\[
A = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}}
\]

\[
A = \frac{\$1382.36}{58} = \$23.82 \text{ per lot for at New Expressions, Phase 4 Subdivision}
\]

Total Assessment for 2006-2007 = $1,382.36
Total developed lot count is 58 lots.

**SECTION 8. Order of Events**

2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.

3. City Council Adopts Resolution of Intention to Order the Formation of Landscape and Lighting Maintenance District No. 33 and determines the district.


5. Every year between April and June the Engineer of Work file a report with the City Council.

6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

Douglas Wilson
Engineer of the Work
New Expressions Phase Four
Landscape and Lighting District No. 33

That portion of the Remainder of New Expressions, Phase Three in the City of Porterville, County of Tulare, State of California per map recorded in Book 40, page 35 of Maps in the Office of the County Recorder of said County, described as follows:

Beginning at the point of intersection of the centerline of Indiana Street with the Easterly prolongation of the North line of Lot 145 of said New Expressions, Phase Three;

Thence, along the Northerly boundary of said New Expressions, Phase Three, North 89°50'57" West, 220.00 feet to the Northwest corner of Lot 142 of said New Expressions, Phase Three;

Thence, North 00°09'03" East, 30.00 feet;

Thence, North 89°50'57" West, 50.00 feet;

Thence, South 00°09'03" West, 35.00 feet to the Northeast corner of Lot 141 of said New Expressions, Phase Three;

Thence, North 89°50'57" West, 658.65 feet to the Northwest corner of Lot 130 of said New Expressions, Phase Three and the beginning of a 675.00 foot radius non-tangent curve, concave to the East, a radial to said beginning bears South 79°27'06" West;

Thence, Northerly, along said curve, through a central angle of 01°09'23" an arc distance of 13.62 feet;

Thence, non-tangent to said curve, South 80°36'29" West, 165.90 feet to the Northwest corner of Lot 129 of said New Expressions, Phase Three and the beginning of a 5,847.00 foot radius non-tangent curve, concave to the East, a radial to said beginning bears South 86°10'14" West;

Thence, departing the Northerly line of said New Expressions, Phase Three Northerly, along said curve, through a central angle of 02°09'11" an arc distance of 219.72 feet;

Thence, non-tangent to said curve, South 89°50'57" East, 260.78 feet;

Thence, North 00°09'03" East, 200.00 feet;

Thence, South 89°50'57" East, 95.00 feet;

Thence, North 00°09'03" East, 70.00 feet;

Thence, South 89°50'57" East, 50.00 feet;
Thence, South 00°09'03" West, 30.00 feet;
Thence, South 89°50'57" East, 190.00 feet;
Thence, North 00°09'03" East, 30.00 feet;
Thence, South 89°50'57" East, 50.00 feet;
Thence, South 00°09'03" West, 30.00 feet;
Thence, South 89°50'57" East, 190.00 feet;
Thence, North 00°09'03" East, 39.68 feet;
Thence, South 89°50'57" East, 50.00 feet;
Thence, South 00°09'03" West, 30.00 feet;
Thence, South 89°50'57" East, 220.00 feet to a point in the centerline of Indiana Street;
Thence, South 00°09'03" West, 450.00 feet to the point of beginning.
SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No. __________. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include lighting at Meadow Breeze, Phase 2 Subdivision into the Landscape and Lighting Maintenance District No. 34. The City Council has determined that the areas to be lighted will have an effect upon all parcels within the proposed boundaries of the District. The District includes lighting on Mathew Street, Michael Place, Verdugo Place, Lu Ann Place Belmont Place and Brian Avenue as a part of the subdivision. Proposed areas for lighting are on both sides of the streets located within the subdivision.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 19.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Meadow Breeze, Phase 2 Subdivision.

SECTION 5. Estimated Costs
The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and it is intended that the improvements will be constructed during or before the 2006 – 2007 fiscal year and certain lighting costs will be incurred during fiscal year 2006-2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. District 34 assessments during the 2006-2007 Fiscal Year are as follows.

Estimated Assessment 2006-2007

**Electricity /Lighting***

14 fixtures, 5,800 lumens @ $30.21 per year $ 422.94

5 fixtures, 9,500 lumens @ $36.27 per year $ 181.35

**Project Management Costs**

78 Lots @ $12.00 per lot $ 936.00

Sub Total 2006-2007 $1,540.29

**Incidental Expenses**

15% Reserve Fund $ 231.04

Total 2006-2007 Initial Assessment $1,771.33

*Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The
Consumer Price Index is based on the San Francisco Model, and any increase for the year 2007/2008 will refer back to the prior year's CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled "Landscape and Lighting Maintenance District No. 34 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 34. The establishment and maintenance of the improvements is a vital part of the development of Meadow Breeze, Phase 2 Subdivision. The City Council of Porterville has determined that to insure satisfactory levels of maintenance of street lighting at Meadow Breeze, Phase 2 Subdivision, it should become Landscape and Lighting Maintenance District No. 34. The lighting includes 19 street lights.

Landscape and Lighting Maintenance District No. 34 will consist of an area comprising approximately 17.70 acres. A total of 78 lots are proposed to be developed in Meadow Breeze, Phase 2 Subdivision. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the protection or safety, economic and humanistic values. The City Council has determined that, for
the preservation of values incorporated within this development, all lots will receive equal
benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.
2. Properly maintained landscaping and lighting benefits all properties in the development.
3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

**Estimated 2006-2007 Assessment**

\[
\text{Assessment (A)} = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}}.
\]

\[
A = \frac{1771.33}{78} = 22.70 \text{ per lot for Meadow Breeze, Phase 2 Subdivision}
\]

Total Assessment for 2006-2007 = $1,771.33 Total developed lot count is 78 lots.

**SECTION 8. Order of Events**

2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.
3. City Council Adopts Resolution of Intention to Order the Formation of Landscape and Lighting Maintenance District No. 34 and determines the district.
4. City Council adopts Resolution Ordering the Improvements and the Formation of Landscape and Lighting Maintenance District No. 34.
5. Every year between April and June the Engineer of Work file a report with the City Council.
6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

Douglas Wilson  
Engineer of the Work
CITY OF PORTERVILLE

BEING A PORTION OF THE NORTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 21, T.21S., R.27E., M.D.B.&M.,
CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

LEGEND

⊙ STREET LIGHTS (19 ea.)
● FIRE HYDRANT

SCALE: 1" = 200'

Meadow Breeze
Phase Two
That portion of the Northeast quarter of Section 21, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, City of Porterville, County of Tulare, State of California, described as follows:

Beginning at the Southwest corner of Lot 35 of Meadow Breeze per map recorded in Book 40, page 84 of Maps in the Office of the County Recorder of said County;

Thence, North 89°51'08" West, 70.00 feet to the Northwest corner of Lot 36 of said Meadow Breeze;

Thence, North 01°09'01" West, 29.22 feet to the Northeast corner of Lot 396 of Orchard Ridge, Phase 9 per map recorded in Book 40, page 4 of Maps in the Office of the County Recorder of said County;

Thence, North 89°44'13" West, 1,313.71 feet to the Northwest corner of Lot 352 of Orchard Ridge, Phase 8 per map recorded in Book 39, page 76 of Maps in the Office of the County Recorder of said County;

Thence, North 00°12'58" West, 657.05 feet to the Northwest corner of said Northeast quarter;

Thence, South 89°36'32" East, 260.02 feet along the North line of said Northeast quarter;

Thence, South 00°12'58" East, 130.01 feet;

Thence, South 89°36'32" East, 959.85 feet;

Thence, North 00°12'58" East, 130.01 feet to a point in the North line of said Northeast quarter;

Thence, South 89°36'32" East, 140.01 feet along the North line of said Northeast quarter;

Thence, South 00°12'46" East, 515.00 feet along the West line of Castle Woods, Phase 2, per map recorded in Book 38, page 74 of Maps in the Office of the County Recorder of said County and along the West line of Lot 34 of said Meadow Breeze to the Southwest corner of said Lot 34;

Thence, South 19°33'39" East, 73.60 feet to the Northwest corner of said Lot 35;

Thence, South 00°12'46" East, 98.84 feet to the point of beginning.
CITY OF PORTERVILLE
ENGINEER’S REPORT FOR LANDSCAPING AND LIGHTING
MAINTENANCE DISTRICT NO. 35

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No. ___________. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include lighting at Meadow Breeze Phase 1 Subdivision into the Landscape and Lighting Maintenance District No. 35. The City Council has determined that the areas to be lighted will have an effect upon all parcels within the proposed boundaries of the District. The District includes lighting on Brian Avenue, Pamela Avenue, and Salisbury Street as a part of the subdivision. Proposed areas for lighting are on both sides of the streets located within the subdivision.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 9.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Meadow Breeze Phase 1 Subdivision.
SECTION 5. Estimated Costs

The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and it is intended that the improvements will be constructed during or before the 2006 – 2007 fiscal year and certain lighting costs will be incurred during fiscal year 2006 -2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. District 35 assessments during the 2006-2007 Fiscal Year are as follows.

Estimated Assessment 2006-2007

Electricity/Lighting*

9 fixtures, 5,800 lumens @ $30.21 per year $271.89

Project Management Costs

44 Lots @ $12.00 per lot $528.00

Sub Total 2006-2007 $799.89

Incidental Expenses

15% Reserve Fund $119.98

Total 2006-2007 Initial Assessment $919.87

*Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the
prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2007/2008 will refer back to the prior year’s CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled “Landscape and Lighting Maintenance District No. 35 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 35. The establishment and maintenance of the improvements is a vital part of the development of Meadow Breeze Phase 1 Subdivision. The City Council of Porterville has determined that to insure satisfactory levels of maintenance of street lighting at Meadow Breeze Phase 1 Subdivision, it should become Landscape and Lighting Maintenance District No. 35. The lighting includes 9 street lights.

Landscape and Lighting Maintenance District No. 35 will consist of an area comprising approximately 10.05 acres. A total of 44 lots are proposed to be developed in Meadow Breeze Phase 1 Subdivision. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the
protection or safety, economic and humanistic values. The City Council has determined that, for the preservation of values incorporated within this development, all lots will receive equal benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.
2. Properly maintained landscaping and lighting benefits all properties in the development.
3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

Estimated 2006-2007 Assessment

\[
A = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}}
\]

\[
\begin{align*}
A &= \text{\$919.87} = \text{\$20.90 per lot for Meadow Breeze Phase 1 Subdivision} \\
44 &\text{Total Assessment for 2006-2007 = \$919.87} \\
&\text{Total developed lot count is 44 lots.}
\end{align*}
\]

SECTION 8. Order of Events


2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.

3. City Council Adopts Resolution of Intention to Order the Formation of Landscape and Lighting Maintenance District No. 35 and determines the district.

4. City Council adopts Resolution Ordering the Improvements and the Formation of Landscape and Lighting Maintenance District No. 35.
5. Every year between April and June the Engineer of Work file a report with the City Council.

6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

Douglas Wilson  
Engineer of the Work
LANDSCAPE & LIGHTING DISTRICT NO. 35

City of Porterville
MEADOW BREEZE


LEGEND

Street Lights (9 ea.)

FIRE HYDRANT

SCALE: 1" = 200'

LOCATION MAP
NOT TO SCALE

2004
Landscape and Lighting District No. 35

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

Beginning at the Southwest corner of the Northeast quarter of the Northeast quarter of said Section 21;

Thence, North 01°09'01" West, 625.10 feet along the West line of the Northeast quarter of the Northeast quarter of said Section 21;

Thence, South 89°51'08" East, 70.00 feet;

Thence, North 00°12'46" West, 98.84 feet;

Thence, North 19°33'39" West, 73.60 feet;

Thence, North 00°12'46" West, 60.00 feet to the Southwest corner of Lot 55 of said Castle Woods, Phase 2;

Thence, South 89°36'32" East, 105.01 feet to the Southeast corner of said Lot 55;

Thence, North 89°47'14" East, 60.00 feet to a point in the East line of Salisbury Street per said Castle Woods, Phase 2;

Thence, North 00°12'46" West, 33.74 feet to the Southwest corner of Lot 48 of said Castle Woods, Phase 2;

Thence, South 89°47'26" East, 307.00 feet to the Southeast corner of Lot 44 of said Castle Woods, Phase 2;

Thence, South 00°12'46" East, 93.40 feet to the Southwest corner of Lot 43 of said Castle Woods, Phase 2, said Southwest corner being the beginning of a 50.00 foot radius non-tangent curve, concave to the South, a radial to said beginning bears North 21°03'21" West;

Thence, Easterly, along said curve, through a central angle of 68°45'29" an arc distance of 60.00 feet to the Westerly Southeast corner of said Lot 43;

Thence, non-tangent to said curve, North 47°42'08" East, 134.04 feet to the Easterly Southeast corner of said Lot 43 said Easterly Southeast corner being a point in the West
line of Lot 22 of Castle Woods, Phase 1 per map recorded in Book 37, page 42 of Maps in the Office of the County Recorder of said County;

Thence, South 01°49'31" East, 218.00 feet to the Southwest corner of Lot 20 of said Castle Woods, Phase 1 said Southwest corner also being the Northeast corner of Parcel 2 of Parcel Map No. 2458 per map recorded in Book 25, page 59 of Parcel maps in the Office of the County Recorder of said County;

Thence, South 02°06'10" East, 326.61 feet to the Southeast corner of said Parcel 2;

Thence, North 89°47'32" West, 408.95 feet along the South line of said Parcel 2;

Thence, South 01°09'01" East, 326.87 feet, to a point in the South line of the Northeast quarter of the Northeast quarter of said Section 21;

Thence, North 89°51'08" West, 275.07 feet to the point of beginning.
SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No.____________. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include landscaping and lighting at Amalene Estates Subdivision into the Landscape and Lighting Maintenance District No. 36. The City Council has determined that the areas to be landscaped and lighted will have an effect upon all parcels within the proposed boundaries of the District. The areas for street lights are included on all the streets located within the subdivision. Proposed areas for lighting are on both sides of the streets located within the subdivision. The landscaping includes a masonry wall along the east boundary. The wall maintenance includes: cleaning, repairing, painting and rodent control. A landscaped area was installed by the developer generally adjacent to the masonry walls. The landscaped area maintenance includes cleaning, weed control, maintenance of irrigation facilities, and control of the growth.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City
of Porterville. The total street lights to be maintained are 11. Total landscaped area to be maintained is 339 lineal feet of 6-foot masonry wall, and 1870 square feet of landscaped area. Maintenance activities within the Landscape and Lighting Maintenance District No. 36 are to include landscape and lighting maintenance.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Amalene Estates Subdivision.

SECTION 5. Estimated Costs

The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and the improvements have been installed and certain maintenance on the areas will be necessary during fiscal year 2006-2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. In this District assessments will be made during the 2006-2007 Fiscal Year.

Estimated Assessment 2006-2007

**Landscaped Area**

<table>
<thead>
<tr>
<th>Masonry wall</th>
<th>339 L.F. @ $0.46 per L.F.</th>
<th>$ 155.94</th>
</tr>
</thead>
<tbody>
<tr>
<td>1870 sq ft landscaped area @ $0.68 per sq ft</td>
<td>$1,271.60</td>
<td></td>
</tr>
</tbody>
</table>

**Electricity/Lighting**

<table>
<thead>
<tr>
<th>10 fixtures, 5,800 lumens @ $30.21 per year</th>
<th>$ 302.10</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 fixtures, 16,000 lumens @ $47.47 per year</td>
<td>$ 47.47</td>
</tr>
</tbody>
</table>

**Project Management Costs**

| 24 Lots @ $12.00 per lot | $ 288.00 |
Sub Total 2006-2007 $2,065.11

15% Reserve Fund $ 309.76

Total 2006-2007 Initial Assessment $2,374.87

** Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2007/2008 will refer back to the prior year’s CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled “Landscape and Lighting Maintenance District No. 36 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 36. The establishment and maintenance of the improvements is a vital part of the development of Amalene Estates Subdivision. The City
Council of Porterville has determined that to insure satisfactory levels of maintenance for the landscape and lighting at Amalene Estates Subdivision, it should become Landscape and Lighting Maintenance District No. 36. The subdivision consists of 24 Lots. The Landscape area, which benefits the 24 lots, is located along the easterly boundary of the district.

Landscape and Lighting Maintenance District No. 36 will consist of an area comprising approximately 11.13 acres. A total of 24 lots are proposed to be developed. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the protection or safety, economic and humanistic values. The City Council has determined that, for the preservation of values incorporated within this development, all lots will receive equal benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic appearance of the area.

2. Properly maintained landscaping and lighting benefits all properties in the development.

3. The lots not adjacent to the landscaping and lighting facility improvements benefit for the maintenance equally to those lots adjacent to the improvements.

**Estimated 2006-2007 Assessment**

\[ A = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}} \]

\[ A = \frac{2,374.87}{24} = 98.94 \text{ per lot for Amalene Estates Subdivision} \]
Total Assessment for 2006-2007 = $2,374.87

Total developed lot count is 24 lots.

SECTION 8. Order of Events


2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.

3. City Council Adopts Resolution of Intention to Order the Formation of Landscape and Lighting Maintenance District No. 36 and determines the district.

4. City Council adopts Resolution Ordering the Improvements and the Formation of Landscape and Lighting Maintenance District No. 36.

5. Every year between April and June the Engineer of Work file a report with the City Council.

6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

Douglas Wilson
Engineer of the Work
Arnalene Estates
Landscape & Lighting District No. 36

That portion of the North half of the Northeast quarter of Section 32, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

Beginning at a point in the East line of said Northeast quarter, said point being South 00°15'22" West, 987.35 feet of the Northeast corner of said Northeast quarter;

Thence, North 89°56'25" West, 42.00 feet to the Northeast corner of Lot 1 of The Ford Estates, Unit No. 1, per map recorded in Book 37, page 99 of Maps, Tulare County Records;

Thence, North 89°56'25" West, 165.08 feet along the North line of said Lot 1 and the Westerly prolongation thereof;

Thence, South 00°14'04" West, 41.54 feet to the Northeast corner of Lot 20 of said The Ford Estates, Unit No. 1;

Thence, North 89°57'12" West, 105.00 feet to the Northwest corner of said Lot 20;

Thence, South 00°14'04" West, 30.00 feet to the Northeast corner of Lot 18 of said The Ford Estates, Unit No. 1;

Thence, North 89°57'12" West, 537.95 feet along the North line of said The Ford Estates, Unit No. 1 and the Westerly prolongation thereof;

Thence, North 00°15'22" East, 84.28 feet;

Thence, South 89°55'28" East, 85.00 feet;

Thence, North 00°15'22" East, 315.00 feet;

Thence, South 89°55'28" East, 105.00 feet;

Thence, North 00°15'22" East, 200.00 feet;

Thence, South 89°55'28" East, 230.00 feet;

Thence, South 00°15'22" West, 120.00 feet;
Thence, South 89°55'28" East, 209.90 feet to the beginning of a 330.00 foot radius tangent curve, concave to the South;

Thence, Easterly, along said curve, through a central angle of 11°40'06" an arc distance of 67.20 feet, to the beginning of a 270.00 foot radius reverse curve, concave to the North, a radial to said beginning bears South 11°44'38" West;

Thence, Easterly, along said curve, through a central angle of 11°40'06" an arc distance of 54.99 feet;

Thence, tangent to said curve, South 89°55'28" East, 36.71 feet;

Thence, North 45°09'57" East, 28.33 feet;

Thence, South 89°44'38" East, 42.00 feet to a point in the East line of said Northeast quarter;

Thence, South 00°15'22" West, 414.82 feet to the point of beginning.
CITY OF PORTERVILLE  
ENGINEER’S REPORT FOR LANDSCAPING AND LIGHTING  
MAINTENANCE DISTRICT NO. 37

SECTION 1. Authority for Report

This report is prepared by order of the City Council of the City of Porterville Resolution No. __________. The report is in compliance with the requirement of Article 4, Chapter 1, Division 15 of the Streets and Highways Code, State of California (Landscape and Lighting Act of 1972).

SECTION 2. General Description

The City Council has elected to include lighting at Riverview Estates, Phase 4 Subdivision into the Landscape and Lighting Maintenance District No. 37. The City Council has determined that the areas to be lighted will have an effect upon all parcels within the proposed boundaries of the District. The District includes lighting on Parkwest Street and Union Lane as a part of the subdivision. Proposed areas for lighting are on both sides of the streets located within the subdivision.

SECTION 3. Plans and Specifications

The plans and specifications for the lighting were prepared by the developer and are in conformance with the requirements of the City of Porterville. All lights to be maintained will be shown on the subdivision maps as roadway rights-of-way, or easements to be granted to the City of Porterville. The total street lights to be maintained are 5.

SECTION 4. Improvements

Landscape and lighting improvements were made by the developer of Riverview Estates, Phase 4 Subdivision.
SECTION 5. Estimated Costs

The construction cost will be borne by the developer and will not be assessed. The subdivision map has been filed for record and it is intended that the improvements will be constructed during or before the 2006 – 2007 fiscal year and certain lighting costs will be incurred during fiscal year 2006 -2007. It is appropriate that the assessments be made in advance of the anticipated expenditure to provide working capital for the maintenance effort. District 37 assessments during the 2006-2007 Fiscal Year are as follows.

Estimated Assessment 2006-2007

**Electricity/Lighting***

5 fixtures, 5,800 lumens @ $30.21 per year $151.05

**Project Management Costs**

17 Lots @ $15.00 per lot $255.00

Sub Total 2006-2007 $406.05

**Incidental Expenses**

15% Reserve Fund $ 60.91

Total 2006-2007 Initial Assessment $466.96

*Lighting costs are based on 29% benefit of total cost because lights are spaced closer together resulting in 40% more lights than the city standard outside the maintenance district.

After the 2006-2007 fiscal year, the assessments shall be increased with the cost of service. The increased cost of services shall be the lesser of the actual prior year’s cost or the
prior year’s estimated cost adjusted according to the annualized Consumer price Index rate. The Consumer Price Index is based on the San Francisco Model, and any increase for the year 2007/2008 will refer back to the prior year’s CPI. In the event that the costs of services provided do not increase to exceed the full amount of CPI from one year, such excess CPI percentage shall be carried over from year to year and may be utilized to increase the amount of assessment in future years.

SECTION 6. Assessment Diagram

A copy of the proposed assessment diagram entitled “Landscape and Lighting Maintenance District No. 37 is attached to this report and by reference is made part thereof.

SECTION 7. Assessment

The initial cost of constructing improvements has been borne by the developer. The improvement areas are established for the benefit of all properties within the proposed Landscape and Lighting Maintenance District No. 37. The establishment and maintenance of the improvements is a vital part of the development of Riverview Estates, Phase 4 Subdivision. The City Council of Porterville has determined that to insure satisfactory levels of maintenance of street lighting at Riverview Estates, Phase 4 Subdivision, it should become Landscape and Lighting Maintenance District No. 37. The lighting includes 5 street lights.

Landscape and Lighting Maintenance District No. 37 will consist of an area comprising approximately 3.81 acres. A total of 24 lots are proposed to be developed in Riverview Estates, Phase 4 Subdivision. The improvements will consist of those improvements described in Section 4 of this report. The maintenance of the improvements is a vital part of the development for the
protection or safety, economic and humanistic values. The City Council has determined that, for
the preservation of values incorporated within this development, all lots will receive equal
benefit from the landscaping and street lighting.

The determination of benefits takes into consideration the following facts:

1. The purpose of the improvements is to provide a favorable aesthetic
   appearance of the area.
2. Properly maintained landscaping and lighting benefits all properties in the
development.
3. The lots not adjacent to the landscaping and lighting facility improvements
   benefit for the maintenance equally to those lots adjacent to the
   improvements.

**Estimated 2006-2007 Assessment**

\[
\text{Assessment (A)} = \frac{\text{Cost (C)}}{\text{Number of Lots (L)}}
\]

\[
A = \frac{\$466.96}{17} = \$27.46 \text{ per lot for Riverview Estates, Phase 4 Subdivision}
\]

Total Assessment for 2006-2007 = $466.96
Total developed lot count is 17 lots.

SECTION 8. Order of Events

1. City Council adopts Resolution Instituting Proceedings, appoints an Engineer of
   Work and Orders Engineer’s Report.
2. City Council Adopts Resolution of Preliminary Approval of Engineer’s Report.
3. City Council Adopts Resolution of Intention to Order the Formation of Landscape
   and Lighting Maintenance District No. 37 and determines the district.
4. City Council adopts Resolution Ordering the Improvements and the Formation of
   Landscape and Lighting Maintenance District No. 37.
5. Every year between April and June the Engineer of Work file a report with the City Council.

6. Every year between April and June, the City Council conducts a public hearing and approves, or modifies the individual assessments.

Douglas Wilson
Engineer of the Work
Riverview Phase 4
Landscape and Lighting District No. 37

That portion of Parcel 2 and of Parcel 4 of Parcel Map No. 4239, in the City of Porterville, County of Tulare, State of California per map recorded in Book 43, page 43 of Parcel Maps in the Office of the County Recorder, described as follows:

Beginning at the Northeast corner of said Parcel 4;

Thence, South 89°51'04" West, 421.41 feet along the North line of said Parcel 4 and the North line of said Parcel 2;

Thence, North 78°20'43" West, 61.15 feet along the North line of said Parcel 2,

Thence, South 89°51'04" West, 100.00 feet to the Northwest corner of said Parcel 2;

Thence, South 00°32'34" West, 300.09 feet along the West line of said Parcel 2;

Thence, South 89°27'26" East, 160.00 feet;

Thence, North 00°32'34" East, 9.49 feet;

Thence, North 89°51'04" East, 421.40 feet to a point in the East line of said Parcel 4;

Thence, North 00°32'34" East, 280.02 feet to the point of beginning.
SUBJECT: AUTHORIZE LETTER OF SUPPORT FOR GRANT APPLICATION BY PORTERVILLE AREA WELLNESS SERVICE, INC.

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Porterville Area Wellness Services, Inc. (PAWS) is a local 501(c)3 non-profit agency comprised of member organizations and individuals working to improve the health and welfare of Porterville area residents, especially those with special needs. PAWS was incorporated in 2001 as a collaborative to address community health concerns. Among its achievements PAWS can claim the introduction of Safe from the Start in Tulare County, a social marketing campaign aimed at reducing children’s exposure to violence. PAWS conducts regular bereavement support groups, sponsors the Braun Memorial diabetes free screening project, and has been a sponsor of the Alliance for the Mentally Ill. PAWS is also the agency that secured a $15,000 grant from First Five Tulare County to fund gang prevention forums, which have been held the past two years within Porterville.

PAWS has met monthly over the past 5 years, initially under Chaplain Bill Busch’s able leadership. In preparation for his retirement in mid 2006, a new Chairperson (Rev. Virginia Barnes) has been elected and the organization has chosen to undertake a health focused assessment, planning and capacity building process. The work to be undertaken during the one-year planning period can be summarized as follows:

Phase 1, Research - Recruitment of planning participants, data gathering, and Porterville area health disparities assessment.
Phase 2, Clarification of PAWS mission – Revisiting where the organization is and where it wants to go.
Phase 3, Plan Development of PAWS - Internal organizational infra structure and functioning, and externally defining the PAWS role in the community.
Phase 4, Strategic plan for PAWS - Action and implementation plans with time lines to realize the PAWS mission.
Phase 5, Evaluation - Documentation & organizational capacity necessary to ensure successful progress towards goals.
Phase 6, Conclusion of planning process – A final report on the planning process will be released including a set of recommendations and future steps to be taken.

A contracted facilitator from Capacity Builders, Inc. will coordinate planning work, engaging the PAWS Board and Executive Committee, PAWS affiliates and other stakeholder groups and representative community members. The Parks and Leisure Services Department has been participating as a member of PAWS for the last year, and has been supportive of the ambition of the Board of Directors to undertake a capacity building and planning process. The application for the planning services grant is now being finalized, and letters of support are sought.

ITEM NO.: 9
RECOMMENDATION: Authorize the Mayor to sign a letter to Porterville Area Wellness Services, Inc. in support of their Planning Grant Application.

ATTACHMENT: Letter of Support
March 7, 2006

Porterville Area Wellness Services, Inc.
P.O. Box 743
Porterville, CA 93257

Subject: Support of Planning Grant Application

On behalf of the City Council of the City of Porterville, I am writing in support of Porterville Area Wellness Services’ (PAWS) application to The California Endowment for a Planning Grant. We are constantly aware of the nutritional and health disparities that reduce children’s ability to function in school, and incapacitate adults in the work place and at home. Poor mental and physical health, drug and alcohol addiction, youth and domestic violence all serve to lower the quality of life for individuals, families and the community.

The City of Porterville has benefited from the contributions PAWS has made to the health of our community over the past five years. The Porterville City Council strongly agrees with the need for community partnership, and the development of collaboration among human service providers. We support PAWS in assuming a leadership role in meeting these needs.

Pedro R. Martinez
Mayor
COUNCIL AGENDA: March 7, 2006

SUBJECT: Department of Transportation Drug and Alcohol Regulations

SOURCE: City Manager’s Office (Transit)

COMMENT: On May 1, 1992, the City of Porterville implemented an Alcohol and Drug Abuse Policy for all City employees, required by the Drug Free Workplace Act of 1988, followed by an Addendum effective January 1, 1996, to comply with Department of Transportation (DOT) Drug and Alcohol Regulations.

The City has two groups of employees who must comply with DOT regulations:

(1) City mechanics in their performance of “safety-sensitive functions” when they perform maintenance of a revenue service vehicle or equipment used in revenue service (City’s transit fleet), and they are required to comply with DOT regulations for Federal Transit Administration (FTA) employees, 49 CFR, parts 40 and 655; and

(2) City employees required to hold a Commercial Driver’s License (CDL) as a requirement of their position and in their performance of “safety-sensitive functions” which include, among other things, inspecting, servicing, or conditioning their commercial vehicle, as well as time spent driving their vehicle. This group of employees must comply with DOT regulations for Federal Motor Carrier Safety Administration (FMCSA) employees, 49 CFR, parts 40 and 382.

Previously, this addendum covered both groups of employees as Section II of the City’s Alcohol and Drug Abuse Policy.

Both groups of employees are required to comply with the DOT 49 CFR, part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs; however, the two groups are subject to different sections of DOT regulations dealing with Controlled Substance and Alcohol Use Regulations. The majority of the regulations apply to both groups, but there are a few instances where different, or additional, regulations apply.

DD Appropriated/Funded CM

Item No. ___
In an effort to update the City's regulations, incorporate additional information for clarification, and assure the designated employees' understanding of what is required of their employment, the former Section II has been revised into Section II A for FTA employees (Mechanics) and Section II B for FMCSA employees (Field Services classifications).

All of the regulations outlined in the new revisions are required by law. There are no additional City requirements imposed upon employees over and above that outlined in the regulations.

The City Attorney has reviewed these revisions and concurs with their contents.

City Council action is required for formal approval of Section II A and II B.

RECOMMENDATION: That the City Council:

1. Approve Section II A and II B of the City's Alcohol and Drug Abuse Policy;

2. Authorize staff to add Section II A and II B to Section IV-C-8 of the City's Administrative Policy Manual; and

3. Authorize staff to provide designated employees with appropriate training and copies of the revised policies.

ATTACHMENTS:

1. City's Alcohol and Drug Abuse Policy Addendum (former Section II);
2. Amended Section II A (FTA employees); and
3. Amended Section II B (FMCSA employees).
SECTION II

1.0 STATEMENT OF POLICY

Effective January 1, 1996, the City of Porterville must comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the City must comply with the regulations of the Federal Transit Administration (FTA). Adoption of a policy is one of the City's obligations under the regulations. This policy sets forth the rights and obligations of covered employees. If you are an employee covered by these new requirements, you should familiarize yourself with the provisions of this policy BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.

If you are an employee covered by this policy, you should be aware that you are still required to comply with the provisions of the City's Alcohol and Drug Abuse Policy effective May 1, 1992. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in the policy.

The City of Porterville recognizes that the use and/or abuse of alcohol or controlled substances by employees presents a serious threat to the safety and health of the employees and the general public. City employees and contractors have a responsibility to the public to deliver transit services in a safe and conscientious manner. In order to achieve as safe a job performance as possible, employees must be able to work in a drug-free environment and themselves be free from the effects of alcohol and other job-impairing substances. Accordingly, the use by an employee of an intoxicating liquor, controlled substance, drug not medically authorized, or any other substance which impairs job performance or poses a hazard to the safety and welfare of the employee, the public or other employees, is strictly prohibited and could result in termination.

The City believes that the implementation of this program will help discourage substance abuse and reduce absenteeism, accidents, health care costs, and other drug-related problems. The City further believes this program will enhance the safety and health of its employees by fostering the early identification of employees or potential employees with drug abuse problems.

In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug and alcohol substance abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.
2.0 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U. S. Department of Transportation has enacted 49 CFR Part 653 and Part 654 that mandate urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The U. S. Department of Transportation (DOT) has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the DOT has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.

3.0 CONTACT PERSON

Any person with questions regarding this policy, or any other aspect of the drug-free and alcohol-free transit program, should contact:

Administrative Services Manager
City of Porterville
291 N. Main Street
Porterville, CA 93257
(209) 782-7464

4.0 COVERED EMPLOYEES

Employees in the attached job classifications are "covered employees," and thus, are subject to all of the provisions of this policy. This policy applies to all safety-sensitive and non-safety-sensitive transit system (and City) employees, paid part-time employees, and contractors when they are on transit property or when performing any transit-related business. This policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work. Visitors, vendors, and contractor employees are governed by this policy while on transit premises and will not be permitted to conduct transit business if found to be in violation of this policy.

Employees who perform safety-sensitive functions will be subject to random testing. A safety-sensitive function is any duty related to the safe operation of mass transit service including the operation, dispatch, and maintenance of a revenue service vehicle (whether or not the vehicle is in revenue service) and any other employee who holds a Commercial Driver's License. A list of safety-sensitive positions is attached.
Employees who perform "safety sensitive functions" as described in Section 4.0 below are also "covered employees."

5.0 SAFETY SENSITIVE FUNCTIONS

Covered employees may not be under the influence or in possession of controlled substances or alcohol during work hours. Further, certain conduct is prohibited while performing and prior to performing safety sensitive functions. The following are safety sensitive functions:

a. Operation of a revenue service vehicle.

b. Operation of a nonrevenue service vehicle which meets the FHWA weight standards, e.g.:
   
   (1) a vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
   
   (2) a vehicle with a gross vehicle weight of at least 26,001 pounds.

c. Controlling dispatch or movement of a revenue service vehicle or equipment used in revenue service.

d. Maintaining a revenue service vehicle.

e. Carrying firearms for security purposes relating to the transit system.

6.0 PROHIBITIONS

The following conduct is prohibited and may result in discipline, up to and including termination:

a. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions while having an alcohol concentration level of 0.04 or greater;

b. Performing a safety sensitive function within four hours of using alcohol;

c. Being on duty or operating a vehicle described above, while possessing alcohol;

d. Using alcohol while performing a safety sensitive function;

e. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions when the employee used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the
employee's ability to safely operate a vehicle;

f. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions if the employee tests positive for controlled substances;

g. Refusing to submit to any alcohol or controlled substances test required by this Policy. A covered employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

A refusal to submit to an alcohol or controlled substances test required by this Policy includes, but is not limited to:

(1) A refusal to provide a urine sample for a drug test;

(2) An inability to provide a urine sample without a valid medical explanation;

(3) A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;

(4) An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;

(5) Tampering with or attempting to adulterate the urine specimen or collection procedure;

(6) Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;

(7) Leaving the scene of an accident without a valid reason as to why authorization from a supervisor or manager (who has the responsibility to make a determination as to whether to send the employee for a post-accident drug and/or alcohol test) was not obtained.

h. Consuming alcohol during the eight hours immediately following an accident, unless the covered employee has been informed that his or her actions have been completely discounted as a contributing factor to the accident, or until the employee undergoes a post-accident alcohol test, whichever occurs first.
In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988. All employees covered by this policy have previously been provided with a copy of the City's Drug Free Workplace Statement, and have signed an acknowledgment that they have read the Statement and agreed to comply with it.

7.0 CONSEQUENCES FOR EMPLOYEES FOUND TO HAVE ALCOHOL CONCENTRATION LEVELS OF 0.02 OR GREATER BUT LESS THAN 0.04

An employee whose alcohol test indicates an alcohol concentration level between 0.02 and 0.04 will be removed from his or her safety sensitive position for at least 24 hours unless a retest results in a concentration measure of less than 0.02.

8.0 CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES

a. Pre-Employment Testing:

All applicants for classifications which are covered by the DOT regulations, as well as all employees who transfer from classifications which are not covered to classifications which are covered, will be required to submit to pre-employment/pre-duty drug testing. Applicants will not be assigned to a safety sensitive position if they do not pass the test.

b. Post-Accident Testing:

Post-Accident drug and alcohol testing will be conducted on employees following an accident until the City determines, using the best information available at the time of the decision, that the covered employee's performance could be completely discounted as a contributing factor to the accident. Not only will the operator of the vehicle be tested, but so will any other covered employee whose performance may have contributed to the accident, such as a maintenance person. Note: To test non-operators (e.g., a maintenance person), the City will determine whether the employee contributed to the accident, using the best information available at the time of the decision.

Every effort shall be made to perform post-accident alcohol tests within two hours following an accident. No test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident.
An accident occurs in the following circumstances:

(1) when an individual dies as a result of an occurrence involving the vehicle;

(2) when an individual suffers bodily injury as a result of an occurrence involving the vehicle; or

(3) when a vehicle suffers disabling damage. Disabling damage means damage to the vehicle which precludes departure from the scene in its usual manner in daylight after simple repairs.

c. Random Testing:

Covered employees will be subject to random alcohol and drug testing as follows:

A random alcohol test will be administered just prior to the employee performing a safety-sensitive function (e.g., driving) while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function. The City will subject at least 25% of the total number of covered employees to random alcohol testing per year.

A random drug test will be administered to at least 50% of the total number of covered employees per year. Some employees may be tested more than once in a year, while others are not tested at all depending on the random selection.

On the date an employee is selected for random drug testing, his/her supervisor will ensure his/her duties are covered. The employee will receive a written notice in the morning indicating the time he/she is to report to the lab for testing.

d. Reasonable Suspicion Testing:

Covered employees are also required to submit to an alcohol or drug test when a trained supervisor has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, such as blurry eyes, slurring, or alcohol on the breath. The supervisor may not rely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test.

Every effort shall be made to perform a reasonable suspicion alcohol test within two hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after
eight hours following the observation.

To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

e. Return to Duty/Follow-Up Testing:

A covered employee who has violated any of the prohibitions of this policy must submit to a return-to-duty test before he/she may be returned to his/her position. The test result must indicate an alcohol concentration of less than 0.02 or a verified negative result on a controlled substances test. In addition, because studies have shown that the relapse rate is highest during the first year of recovery, the employee will be subject to follow-up testing which is separate from the random testing obligation. The employee will be subject to at least six unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation.

9.0 PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL

a. Alcohol Testing:

Alcohol testing will be conducted by using an evidential breath testing device (EBT) approved by the National Highway Traffic Safety Administration.

A screening test will be conducted first. If the result is an alcohol concentration level of less than 0.02, the test is considered a negative test. If the alcohol concentration level is 0.02 or more, a second confirmation test will be conducted.

Non-EBT devices may be used for initial screening tests. The procedures that will be utilized by the lab for collection and testing of the specimen are attached to this policy.

b. Drug Testing:

Drug testing will be conducted pursuant to the procedures attached to this policy.

(1) The urine specimen will be split into two bottles labeled as "primary" and "split" specimen. Both bottles will be sent to the lab.
If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours to request that the split specimen be analyzed by a different certified lab.

The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

If the test is positive for one or more of the drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis.

All drug test results will be reviewed and interpreted by a physician before they are reported to the employee and then to the City.

With all positive drug tests, the physician (a.k.a medical review officer) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the City as "negative."

10. REFUSAL TO SUBMIT TO AN ALCOHOL AND/OR DRUG TEST

A covered employee who refuses to submit to any required drug/alcohol testing will be treated in the same manner as an employee who tested 0.04 or greater on an alcohol test or tested positively on a controlled substances test.

11. CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination.

If a covered employee is not terminated, the employee:

a. Must be removed from performing any safety-sensitive function;

b. Must submit to an examination by a substance abuse professional in accordance with paragraph 12 of this policy. Upon a determination by the substance abuse professional, the employee may be required to undergo treatment for his/her alcohol or drug abuse. The City is not required to pay for this treatment;

c. May not be returned to his/her former safety-sensitive position until the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed) which indicates an alcohol concentration
level of less than 0.02 or a negative result on a controlled substance test; and

d. Will be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety-sensitive position in accordance with paragraph 12 of this policy.

12. EMPLOYMENT ASSESSMENT

In addition to any non-terminating disciplinary action which might be imposed by the employer, any employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40 will be evaluated by a Substance Abuse Professional (SAP). A SAP is a licensed physical psychologist, social worker, employee assistance professional or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse.

Assessment by a SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the employer. The appropriate disciplinary code should be consulted to determine the consequences of performance-based infractions and violation of policy provisions.

If an employee is allowed to return to duty, he/she must properly follow the rehabilitation program prescribed by the SAP, the employee must pass return-to-duty drug and alcohol tests and be subject to unannounced follow-up tests for a period of one to five years. The cost of any treatment or rehabilitation services will be paid directly by the employee or their insurance provider. Employees will be allowed to take accumulated vacation, or a personal leave of absence to participate in the prescribed rehabilitation program.

13. RE-ENTRY CONTRACTS

Employees who re-enter the workforce must agree to a re-entry contract. That contract may include, but is not limited to:

   a. A release to work statement from an approved Substance Abuse Professional.
   b. A negative test for drugs and/or alcohol.
   c. An agreement to unannounced frequent follow-up testing.
   d. A statement of expected work-related behaviors.
   e. An agreement to follow specific after-care requirements with the understanding that violation of the re-entry contract is grounds for termination.
14. REPORTING

All contractors shall comply with the Federal Transit Administration reporting requirements. Payment for services may be withheld when reports are not submitted in a timely manner.
JOB CLASSIFICATIONS FOR
"COVERED EMPLOYEES"
(Employees within these Classifications who
are required to have a Commercial Driver's License
and perform "safety-sensitive functions", as
well as classifications responsible for
maintenance of revenue service vehicles - Dial-A-Colt)

Field Service Worker I, II, III
Field Services Supervisor
Mechanic I, II, III
Park Maintenance Worker II
Shop Supervisor
Wastewater Treatment Facility Operator I, II, III
# Drug Testing Custody and Control Form

## National Toxicology Laboratories INC.

1100 California Ave.  
Bakersfield, California 93304  
805/322-4250  
800/350-3515  
FAX 805/322-4322

## TO BE COMPLETED BY COLLECTOR OR EMPLOYER REPRESENTATIVE

<table>
<thead>
<tr>
<th>Step</th>
<th>Employer Name, Address, and Identification Number (Print Clearly)</th>
<th>Employee Soc. Sec. #</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Morinda Medical</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step</th>
<th>Donor's Name or ID. Number (Print Clearly)</th>
<th>Donor I.D. Verified:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>☑ PHOTO I.D. X</td>
</tr>
<tr>
<td></td>
<td></td>
<td>☑ Employer Representative: X</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step</th>
<th>Donor's Signature Authorizing This Test.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>X</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step</th>
<th>Donor's Signature Authorizing Release of this Test to Requestor (See Step 1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2A</td>
<td>X</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step</th>
<th>Reason for Test</th>
<th>Reasonable Cause</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-employment</td>
<td>Post Accident</td>
</tr>
<tr>
<td></td>
<td>Random</td>
<td>Reasonable Cause</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Step</th>
<th>Temperature of Specimen (Unwitnessed Samples Only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Has been read within 4 minutes:</td>
</tr>
<tr>
<td></td>
<td>☐ Yes ☑ No</td>
</tr>
<tr>
<td></td>
<td>Temperature is within range of 32.5 - 37.7°C/90.5 - 99.8°F</td>
</tr>
<tr>
<td></td>
<td>☐ Yes ☑ No</td>
</tr>
</tbody>
</table>

## Collection Witnessed

| Yes ☑ No ☒ | This form is not for federally mandated testing.  
For Non DOT/NIDA Use Only |

<table>
<thead>
<tr>
<th>Collector's Name</th>
<th>Collector's Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Collection Address and Phone No.</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>841 W. Morton, Porterville CA 93257</td>
<td>209-781-5762</td>
</tr>
</tbody>
</table>

## Remarks Concerning Collection Irregularities:

List medications taken in the past two weeks:

## To Be Initiated by Collector and Completed As Necessary Thereafter

These areas must be completed

<table>
<thead>
<tr>
<th>Purpose of Change</th>
<th>Released By - Signature - Print Name</th>
<th>Received By - Signature - Print Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Step 7</td>
<td>Provide Specimen for Testing</td>
<td>Released By Donor</td>
<td></td>
</tr>
</tbody>
</table>

| Ship to Lab |
| Signature | Printed |

| Received by Lab |
| Signature | Printed |

<table>
<thead>
<tr>
<th>LAB RESULTS PHONED:</th>
</tr>
</thead>
<tbody>
<tr>
<td>TO: (EMPLOYER REP.)</td>
</tr>
<tr>
<td>(DATE) (TIME)</td>
</tr>
<tr>
<td>PHONED BY:</td>
</tr>
</tbody>
</table>
U.S. Department of Transportation (DOT) Breath Alcohol Testing Form

[THE INSTRUCTIONS FOR COMPLETING THIS FORM ARE ON THE BACK OF COPY 3]

► STEP 1: TO BE COMPLETED BY BREATH ALCOHOL TECHNICIAN

A. Employee Name

   (PRINT) (First, M.I., Last)

B. SSN or Employee ID No.

C. Employer Name,
   Address, &
   Telephone No.

   ( ) Telephone Number

D. Reason for Test:  □ Pre-employment □ Random □ Reasonable Suspicion/Cause □ Post-accident □ Return to Duty □ Follow-up

► STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to breath alcohol testing required by U.S. Department of Transportation regulations and that the identifying information provided on this form is true and correct.

Signature of Employee

Date

Month

Day

Year

► STEP 3: TO BE COMPLETED BY BREATH ALCOHOL TECHNICIAN

I certify that I have conducted breath alcohol testing on the above named individual in accordance with the procedures established in the U.S. Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing devices identified, and that the results are as recorded.

Screening test: Complete only if the testing device is not designed to print the following.

<table>
<thead>
<tr>
<th>Test No.</th>
<th>Testing Device Name</th>
<th>Testing Device Serial Number</th>
<th>AM</th>
<th>PM</th>
<th>Result</th>
</tr>
</thead>
</table>

Confirmation test: Confirmation test results MUST be affixed to the back of each copy of this form.

Remarks:

( ) Breath Alcohol Technician's Name (First, M.I., Last)

Signature of Breath Alcohol Technician

Date

Month

Day

Year

► STEP 4: TO BE COMPLETED BY EMPLOYEE

I certify that I have submitted to the breath alcohol test the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment if the results are 0.02 or greater.

Signature of Employee

Date

Month

Day

Year

COPY 1 - ORIGINAL - FORWARD TO THE EMPLOYER

OMB No. 2105-0529
Exp. Date: 2/28/97
341-FS-C3 (Rev. 12/94)
SECTION II A (FTA EMPLOYEES)

1.0 STATEMENT OF POLICY

Effective January 1, 1996, the City of Porterville was obligated to comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the City must comply with the regulations of the Federal Transit Administration (FTA). Adoption of a policy was also one of the City’s obligations under the regulations. This policy sets forth the rights and obligations of covered employees. If you are an employee covered by these requirements, you should familiarize yourself with the provisions of this policy BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT. The following Policy is being amended effective January 1, 2006, to comply with updated rules and regulations and to ensure the City’s compliance with the United States Department of Transportation 49 CFR, Parts 40 and 655, specifically.

If you are an employee covered by this policy, you should be aware that you are still required to comply with the provisions of the City’s Alcohol and Drug Abuse Policy, effective May 1, 1992. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in that policy.

The City of Porterville recognizes that the use and/or abuse of alcohol or controlled substances by employees presents a serious threat to the safety and health of the employees and the general public. City employees have a responsibility to the public to deliver transit services in a safe and conscientious manner. In order to achieve as safe a job performance as possible, employees must be able to work in a drug-free environment and themselves be free from the effects of alcohol and other job-impairing substances. Accordingly, the use by an employee of an intoxicating liquor, controlled substance, drug not medically authorized, or any other substance which impairs job performance or poses a hazard to the safety and welfare of the employee, the public or other employees, is strictly prohibited and could result in termination.

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In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug and alcohol substance abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.
2.0 PURPOSE

The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transit industry. The Federal Transit Administration (FTA) of the U. S. Department of Transportation has enacted 49 CFR Part 655 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive employees in the transit industry, and prevents performance of safety-sensitive functions when there is a positive test result. All covered employees under this policy shall be required to submit to drug and alcohol testing administered in accordance with 49 CFR Part 655. The U. S. Department of Transportation (DOT) has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the DOT has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees, and others when so noted.

3.0 DEFINITIONS

The following is a list of common abbreviations and definitions used in connection with this policy:

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>ASD</td>
<td>Alcohol Screening Devise</td>
</tr>
<tr>
<td>ATF</td>
<td>Alcohol Testing Form</td>
</tr>
<tr>
<td>BAT</td>
<td>Breath Alcohol Technician</td>
</tr>
<tr>
<td>CCF</td>
<td>Custody &amp; Control Form</td>
</tr>
<tr>
<td>COLLECTOR</td>
<td>A person who instructs and assists employees at a collection site.</td>
</tr>
<tr>
<td>DER</td>
<td>Designated employer representative – an employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes.</td>
</tr>
<tr>
<td>DFWA</td>
<td>Drug-Free Workplace Act</td>
</tr>
<tr>
<td>DHHS</td>
<td>Department of Health and Human Services</td>
</tr>
<tr>
<td>DILUTE SPECIMEN</td>
<td>A specimen with creatinine and specific gravity values that are lower than expected for human urine.</td>
</tr>
<tr>
<td>DOT</td>
<td>Department of Transportation</td>
</tr>
<tr>
<td>EBT</td>
<td>Evidential Breath Testing Device</td>
</tr>
<tr>
<td>FTA</td>
<td>Federal Transit Administration</td>
</tr>
<tr>
<td>FMCSA</td>
<td>Federal Motor Carrier Safety Administration</td>
</tr>
<tr>
<td>MRO</td>
<td>Medical Review Officer - A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating medical explanations for certain drug test results.</td>
</tr>
<tr>
<td>OTC</td>
<td>Over-the-counter</td>
</tr>
</tbody>
</table>
PRIMARY SPECIMEN
In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

SPLIT SPECIMEN
In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

SAP
Substance Abuse Professional – A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

4.0 CONTACT PERSON
Any person with questions regarding this policy, or any other aspect of the drug-free and alcohol-free program, should contact:

Assistant to the City Manager
City of Porterville
291 N. Main Street
Porterville, CA 93257
(559) 782-7448

5.0 COVERED EMPLOYEES
All employees in the attached job classifications are “covered employees,” and thus, subject to all of the provisions of this policy. A “covered employee” means a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for the City of Porterville, subject to this part. This policy applies to all safety-sensitive employees of the City of Porterville, subject to DOT regulations, specifically 49 CFR, Parts 40 and 655.

6.0 SAFETY SENSITIVE FUNCTIONS
Covered employees may not be under the influence, or in possession, of controlled substances or alcohol during work hours. A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions. Safety-Sensitive Classifications include:

A. Operation of a revenue service vehicle, whether or not the vehicle is in revenue service;
B. Operation of a non-revenue service vehicle if the vehicle is required to be operated by a holder of a Commercial Driver’s License;
C. Maintenance of a revenue service vehicle or equipment used in revenue service (includes parts repair, rebuilding and overhaul);
D. Controlling movement or dispatch of a revenue service vehicle;
E. Security personnel that carry firearms.

7.0 PROHIBITIONS

The following conduct is prohibited and shall result in discipline, up to and including termination:

A. The use of the following illegal drugs:
   (1) Marijuana or its metabolites
   (2) Cocaine or its metabolites
   (3) Opiates (including morphine, codeine, heroin)
   (4) Amphetamines or methamphetamines
   (5) Phencyclidine or PCP

B. Reporting for duty, or remaining on duty requiring the performance of safety-sensitive functions, if the employee tests positive for controlled substances;

C. Reporting for duty, or remaining on duty requiring the performance of safety-sensitive functions, when the employee used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee’s ability;

D. Use of alcohol within four (4) hours prior to performing safety-sensitive functions, or while performing a safety-sensitive function;

E. Use of alcohol during specified on-call hours:
   (1) the covered employee will be given the opportunity to acknowledge the use of alcohol at the time he/she is called to report to duty and to the inability to perform his/her safety-sensitive function;
   (2) the covered employee shall take an alcohol test, if he/she has acknowledged the use of alcohol, but claims ability to perform his/her safety-sensitive function;

F. The use of alcohol by any covered employee required to take a post accident alcohol test for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first;

G. No covered employee found to have an alcohol concentration of .02, or greater, but
less than .04 shall be permitted to perform, or continue to perform safety-sensitive functions, until:

(1) The employee’s alcohol concentration measures less than .02; or

(2) The start of the employee’s next regularly scheduled duty period, but not less than eight (8) hours following the administration of the test.

H. Refusing to submit to an alcohol or controlled substance test required by this Policy, including, but not limited to:

(1) Failure to appear for any test (except pre-employment) within a reasonable time;

(2) Failure to remain at the testing site until the testing process is complete;

(3) Failure to provide a urine specimen for any drug test or breath or saliva specimen for any alcohol test;

(4) Failure to permit an observed or monitored collection, when required;

(5) Failure to provide a sufficient urine or breath specimen without adequate medical explanation;

(6) Failure or declining to take a second test, when required;

(7) Failure to undergo a medical exam or evaluation, when required;

(8) Failure to cooperate with any part of the testing process (e.g., refusal to empty pockets, behaving in a confrontational manner, etc.);

(9) Having a verified adulterated or substituted test result;

(10) Leaving the scene of an accident without just cause prior to submitting to post-accident tests, when required;

(11) In alcohol testing, failure to sign the certification at Step 2 of the Alcohol Testing Form.

8.0 CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES

A. Pre-Employment Testing:
(1) Before a covered employee, or applicant, can perform a safety-sensitive function for the first time, the employee or applicant must take a pre-employment drug test with a verified negative result. A negative test result is required prior to the first performance of safety-sensitive work.

(2) Before a covered employee is permitted to transfer from a non safety-sensitive function to a safety-sensitive function, he or she must take a pre-employment drug test with a verified negative result.

(3) If a pre-employment drug test is canceled, the City of Porterville will require the covered employee, or applicant, to take another pre-employment drug test, with a verified negative result.

(4) When a covered employee, or applicant, has not performed a safety-sensitive function for 90 consecutive calendar days, regardless of the reason, and the employee has not been in the City’s random selection pool during that time, the City shall ensure that the employee takes a pre-employment drug test with a verified negative result.

B. Reasonable Suspicion Testing:

(1) The City of Porterville shall conduct a drug and/or alcohol test when it has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

(2) The City’s determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body orders of the covered employee consistent with possible drug use or alcohol misuse. A supervisor, or other City official who is trained in detecting the signs and symptoms of drug use and alcohol misuse, must make the required observations.

(3) Alcohol testing is authorized under this section only if the observations required are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. The City may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

(4) If an alcohol test required by this section is not administered within 2 hours following the determination required in this section, the City shall prepare
and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within 8 hours following the determination made under this section, the City shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

C. Post-Accident Testing:

(1) Accidents

(a) Fatal Accidents – (i) As soon as practicable following an accident involving the loss of human life, the City shall conduct drug and alcohol tests on each surviving covered employee operating a mass transit vehicle at the time of the accident. (ii) The City shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the City using the best information available at the time of the decision.

(b) Non-Fatal Accidents – (i) As soon as practicable following an accident not involving the loss of human life in which a mass transit vehicle is involved, the City shall determine if the accident meets FTA criteria; i.e., injury that requires immediate medical treatment away from the scene; or disabling damage to one or more of the vehicles involved that requires a tow-away from the site. In that case, the City shall drug and alcohol test each covered employee operating the mass transit vehicle at the time of the accident unless the City determines, using the best information available at the time of the decision, that the covered employee’s performance can be completely discounted as a contributing factor to the accident. The City shall also drug and alcohol test any other covered employee whose performance could have contributed to the accident, as determined by the City using the best information available at the time of the decision. (ii) If an alcohol test required by this section is not administered within two hours following the accident, the City shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If a required alcohol test is not administered within eight hours following the accident, the City shall cease attempts to administer an alcohol test and document the reasons for the failure to test.

(2) The City shall ensure that a covered employee required to be drug tested under this section is tested as soon as practicable but within 32 hours of the accident.
(3) A covered employee who is subject to the post-accident testing who fails to remain readily available for such testing, including notifying the City, or its representatives, of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed by the City to have refused to submit to testing.

(4) The decision not to administer a drug and/or alcohol test under this section shall be based on the City’s determination, using the best available information at the time of the determination that the employee’s performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test.

(5) Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

(6) The results of a blood, urine, or breath test for the use of prohibited drugs or alcohol misuse, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such test conforms to the applicable Federal, State, or local testing requirements, and that the test results are obtained by the City. Such test results may be used only when the City is unable to perform a post-accident test within the required period noted in this section.

D. Random Testing:

(1) The minimum annual percentage rate for random drug testing shall be Fifty Percent (50%) of covered employees, and the random alcohol testing rate shall be ten percent (10%) of covered employees, or the annual percentage rates for random drug and alcohol testing as determined and modified in accordance with the Department of Transportation regulations.

(2) The selection of covered employees for random drug and alcohol testing shall be made by a computer-based random number generator that is matched with employees’ Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.
(3) The City shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rates for random drug and alcohol testing as determined by the Department of Transportation.

(4) The City shall ensure that random drug and alcohol tests conducted are unannounced and unpredictable, and the dates for administering random tests shall be spread reasonably throughout the calendar year.

(5) The City requires that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the covered employee is performing a safety-sensitive function at the time of the notification, the City shall ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately.

(6) A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

E. Return to Duty Testing:

When a covered employee refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of .04 or greater, whether or not the City decides to retain the covered employee, the City shall refer the covered employee to a Substance Abuse Professional (SAP) for evaluation and recommended course of action, at the employee’s expense, in accordance with 49 CFR Part 40.

If the City decides to retain the covered employee, at minimum, the following shall be required of the covered employee:

(1) Successful completion of a SAP-recommended and/or education program;

(2) A negative return-to-duty drug test and/or an alcohol test with an alcohol concentration of less than 0.02 shall be required before resuming performance of safety-sensitive duties;

(3) A canceled test requires that the employee must retake the test;

(4) The City shall make the determination of when the employee can return to work following completion of the SAP-recommended treatment/education
program;

(5) Follow-up testing and other pertinent requirements of 49 CFR Part 40, a copy of which is available for review in the City Manager’s Office, must be completed.

F. Follow-Up Testing:

The City shall conduct follow-up testing of each employee who returns to duty, as specified in 49 CFR Part 40. The procedure includes, at minimum, the SAP establishing a written follow-up testing plan which will outline whether follow-up testing will be for drugs, alcohol, or both. The employee will be directed to be subject to at least six unannounced follow-up tests in the first twelve months of safety-sensitive duty following the employee’s return to safety-sensitive functions. In addition, the City shall comply with the SAP’s recommendations relating to the return-to-duty of the covered employee.

9.0 DRUG AND ALCOHOL TESTING PROCEDURES

In accordance with Federal Transit Administration (FTA) 49 CFR Part 655, all covered employees shall be subject to drug and alcohol testing procedures contained in 49 CFR Part 40. A copy of the specific requirements relating to 49 CFR Part 40 are available in the City Manager’s Office for review. In general, the procedures shall be as follows:

A. Drug Testing

(1) The employee, upon notification of a drug test, shall report immediately to the address given for collection of a urine specimen for drug testing.

(2) Upon providing positive identification to the collector, the basic collection procedure will be explained to the employee, which procedures must be adhered to.

(3) Upon providing a sufficient urine specimen to the collector, the urine specimen will be split into two bottles labeled “primary” and “split” specimen. Both bottles will be sent to the lab.

(4) If the primary specimen tests positive for the presence of illegal, controlled substances, the employee will be notified by the Medical Review Officer (MRO), and the employee will be given an opportunity to discuss the positive test result, and the employee will have an opportunity to present a legitimate medical explanation for the positive result.

(5) If the employee is unable to provide sufficient information to the MRO in
order for the MRO to change a verified positive drug test, or refusal to test, the employee will have 72 hours from the notification of the positive test result to request that the split specimen be analyzed by a different certified lab.

(6) All drug test results will be reviewed and interpreted by a physician (MRO) before they are reported to the employee and then to the City.

(7) With all positive drug tests, the physician (MRO) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical explanation, the test result may be reported to the City as “negative.”

(8) The City must direct an immediate collection under direct observation with no advance notice to the employee if:

(a) The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the City that there was not an adequate medical explanation for the result.

(b) The MRO reported to the City that the original positive, adulterated, or substituted result had to be canceled because the test of the split specimen could not be performed.

(c) The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative/dilute and that a second collection must take place under direct observation.

(9) If the MRO notifies the City that an employee had a “negative drug test that was dilute,” the following procedures will be followed:

(a) If the creatinine is between 2 mg/dL, but less than, or equal to, 5 mg/dL, and the MRO directs the City to conduct a re-collection under direct observation, the City shall do so immediately.

(b) The City shall ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site.

(c) The City shall treat the result of the re-collection test as the “test result of record.”
(d) If the result of the re-collection test is also negative and dilute, the City will not be permitted to make the employee take another test.

(e) If the employee declines to take a test that the City directs him or her to take under this section, the employee has refused the test for purposes of this part and DOT agency regulations.

B. Alcohol Testing

(1) The employee, upon notice of an alcohol test, shall report immediately to the address given for an alcohol screening test.

(2) Upon providing positive identification to the Breath Alcohol Technician (BAT), the basic testing procedure will be explained to the employee, which procedures must be adhered to.

(3) An individually wrapped or sealed mouthpiece will be inserted into an Evidential Breath Testing Device (EBT), and the employee shall be instructed to blow steadily and forcefully into the mouthpiece for at least six seconds, or until the device indicates that an adequate amount of breath has been obtained.

(4) The employee will be shown the displayed test result.

(5) If the test result is an alcohol concentration of less than 0.02, the test will be considered a negative test. If the alcohol concentration level is 0.02 or higher, a second confirmation test will be conducted.

(6) If a confirmation test is required, there will be a waiting period of at least 15 minutes, but no longer than 30 minutes after the completion of the screening test. During this “waiting period,” the employee shall be given instructions, and observed, by the BAT. The employee will also be informed of the consequences of a positive test. The result of the confirmation test shall be deemed final.

(7) If the alcohol confirmation test result is lower than 0.02, nothing further will be required of the employee.

(8) If the alcohol confirmation test result is 0.02 - 0.039, the employee must be removed from safety-sensitive duty for 8 hours, or until the test result is below 0.02.
(9) If the confirmation test result is 0.04 or greater, the employee shall be immediately removed from duty, referred to a Substance Abuse Professional (SAP), and the City’s discipline procedure for policy violation shall be initiated.

(10) The test result will be transmitted to the Designated Employer Representative (DER) in a confidential manner.

10.0 CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST

A. Immediately after receiving notice from a Medical Review Officer (MRO) that a covered employee has a verified positive drug test result, the City shall require that the covered employee cease performing a safety-sensitive function.

B. Immediately after receiving notice from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol test result of 0.04 or greater, the City shall require that the covered employee cease performing a safety-sensitive function.

C. If a covered employee refuses to submit to a drug or alcohol test required by this part, the City shall require that the covered employee cease performing a safety-sensitive function.

D. Before allowing the covered employee to resume performing a safety-sensitive function, the City shall ensure the employee meets the requirements of 49 CFR Part 40 for returning to duty, including taking a return-to-duty drug and/or alcohol test.

E. It is the custom of the City of Porterville that a positive result from a drug or alcohol test will result in termination, in accordance with the City’s Zero Tolerance Policy relating to its Drug and Alcohol Program. However, whether or not it is the decision of the City to terminate the employee, the employee shall be referred to a Substance Abuse Professional and be subject to the provisions contained in Section 11.0 (Employment Assessment).

11.0 EMPLOYMENT ASSESSMENT

In addition to any disciplinary action which might be imposed by the City, any employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40 shall be evaluated by a Substance Abuse Professional (SAP) and the following procedure shall be initiated:

A. The employee shall be removed from performing any safety-sensitive function.

B. The employee shall submit to an examination by a SAP. Upon a determination by
the SAP, the employee may be required to undergo treatment for his or her alcohol or drug abuse. The cost of any treatment or rehabilitation service will be paid directly by the employee or his/her insurance provider, and not the City of Porterville.

C. Upon successful completion of a SAP-recommended treatment and/or education program, a negative return-to-duty drug test and/or alcohol test result of less than 0.02 is required.

D. A canceled test requires that the employee must re-take the test.

E. The test may be for both drugs and alcohol, but must be for whichever substance the employee previously tested positive.

F. The City shall make the determination if, and when, the employee can return to work following completion of the SAP-recommended treatment/education program.

Assessment by a SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the City of Porterville. The appropriate disciplinary action will be considered to determine the consequences of performance-based infractions and/or violation of policy provisions.

If an employee is allowed to return to duty, he/she must: (1) properly follow the rehabilitation program prescribed by the SAP; (2) pass the required return-to-duty drug and/or alcohol tests; and (3) be subject to unannounced follow-up testing for a period of one to five years, which will include, at minimum, at least six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee’s return to safety-sensitive functions.

Employees will be allowed to take accumulated vacation, or a personal leave of absence to participate in the prescribed rehabilitation program.

12.0 RE-ENTRY CONTRACTS

Employees who re-enter the workforce must agree to a re-entry contract. That contract may include, but is not limited to:

A. A release to work statement from an approved Substance Abuse Professional.

B. A negative test for drugs and/or alcohol.

C. An agreement to unannounced frequent follow-up testing.

D. A statement of expected work-related behaviors.
E. An agreement to follow specific after-care requirements with the understanding that violation of the re-entry contract is grounds for termination.
JOB CLASSIFICATIONS FOR
"COVERED EMPLOYEES"
(Classifications responsible for maintenance of revenue service vehicles)
CITY OPERATED LOCAL TRANSIT (C.O.L.T.)

Mechanic Assistant

Mechanic I

Mechanic II

Shop Supervisor (Only if he/she performs or may be called upon to perform any of the Safety-sensitive functions contained in this Policy.)
U.S. Department of Transportation (DOT)  
Alcohol Testing Form  
(The instructions for completing this form are on the back of Copy 3)

**Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN**

A: Employee Name  
   (Print) (First, M.I., Last)

B: SSN or Employee ID No.  

C: Employer Name  
   LACMTA
   Street
   City, ST ZIP  
   One Gateway Plaza  
   Los Angeles, CA 90012-2952  
   DER Name and Telephone No.  
   (213) 922-7172  
   DER Name  
   DER Phone Number

D: Reason for Test: -Random -Reasonable Susp -Post-Accident -Return to Duty -Follow-up -Pre-employment

**Step 2: TO BE COMPLETED BY EMPLOYEE**

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

Signature of Employee

Date

**Step 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN**

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: - BAT - STI  
DEVICE: - SALIVA - BREATH*  
15-Minute Wait: - Yes - No

SCREENING TEST: (For BREATH DEVICE* write in the space below only if the testing device is not designed to print)

Test #:  
Testing Device Name  
Device Serial # OR Lot # & Exp Date  
Activation Time  
Reading Time  
Result

CONFIRMATION TEST: Results MUST be affixed to each copy of this form or printed directly onto the form.

REMARKS:

Signature of Alcohol Technician  

Date

**Step 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER**

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

Signature of Employee

Date

OMB No. 2185-0629
SECTION II B (FMCSA EMPLOYEES)

1.0 STATEMENT OF POLICY

Effective January 1, 1996, the City of Porterville was obligated to comply with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the City must comply with the regulations of the Federal Motor Carrier Safety Administration (FMCSA). Adoption of a policy was also one of the City’s obligations under the regulations. This policy sets forth the rights and obligations of covered employees. If you are an employee covered by these requirements, you should familiarize yourself with the provisions of this policy BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT. The following Policy is being amended effective January 1, 2006, to comply with updated rules and regulations and to ensure the City’s compliance with the United States Department of Transportation 49 CFR, Parts 40 and 382, specifically.

If you are an employee covered by this policy, you should be aware that you are still required to comply with the provisions of the City’s Alcohol and Drug Abuse Policy, effective May 1, 1992. The obligations and requirements set forth below are in addition to existing obligations and requirements set forth in that policy.

The City of Porterville recognizes that the use and/or abuse of alcohol or controlled substances by employees presents a serious threat to the safety and health of the employees and the general public. City employees have a responsibility to the public to deliver transportation services in a safe and conscientious manner. In order to achieve as safe a job performance as possible, employees must be able to work in a drug-free environment and themselves be free from the effects of alcohol and other job-impairing substances. Accordingly, the use by an employee of an intoxicating liquor, controlled substance, drug not medically authorized, or any other substance which impairs job performance or poses a hazard to the safety and welfare of the employee, the public or other employees, is strictly prohibited and could result in termination.

The City believes that the implementation of this program will help discourage substance abuse and reduce absenteeism, accidents, health care costs, and other drug-related problems. The City further believes this program will enhance the safety and health of its employees by fostering the early identification of employees, or potential employees, with drug abuse problems.

In meeting these goals, it is our policy to (1) assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug and alcohol substance abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees to seek professional assistance any time personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.
2.0 PURPOSE

The purpose of this policy is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles, and to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs in the transportation industry. The Federal Motor Carrier Safety Administration (FMCSA) of the U. S. Department of Transportation has enacted 49 CFR Part 382 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive employees in the transportation industry, and prevents performance of safety-sensitive functions when there is a positive test result. All covered employees under this policy shall be required to submit to drug and alcohol testing administered in accordance with 49 CFR Part 382. The U. S. Department of Transportation (DOT) has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the DOT has enacted 49 CFR Part 29, “The Drug-Free Workplace Act of 1988,” and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees, and others when so noted.

3.0 DEFINITIONS

The following is a list of common abbreviations and definitions used in connection with this policy:

- **ASD**: Alcohol Screening Devise
- **ATF**: Alcohol Testing Form
- **BAT**: Breath Alcohol Technician
- **CCF**: Custody & Control Form
- **COLLECTOR**: A person who instructs and assists employees at a collection site.
- **DER**: Designated employer representative – an employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes.
- **DFWA**: Drug-Free Workplace Act
- **DHHS**: Department of Health and Human Services
- **DILUTE SPECIMEN**: A specimen with creatinine and specific gravity values that are lower than expected for human urine.
- **DOT**: Department of Transportation
- **EBT**: Evidential Breath Testing Device
- **FTA**: Federal Transit Administration
- **FMCSA**: Federal Motor Carrier Safety Administration
- **MRO**: Medical Review Officer - A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer’s drug testing program and evaluating
medical explanations for certain drug test results.

Over-the-counter

PRIMARY SPECIMEN
In drug testing, the urine specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of validity testing. The primary specimen is distinguished from the split specimen, defined in this section.

SPLIT SPECIMEN
In drug testing, a part of the urine specimen that is sent to a first laboratory and retained unopened, and which is transported to a second laboratory in the event that the employee requests that it be tested following a verified positive test of the primary specimen or a verified adulterated or substituted test result.

SAP
Substance Abuse Professional – A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

4.0 CONTACT PERSON

Any person with questions regarding this policy, or any other aspect of the drug-free and alcohol-free program, should contact:

Assistant to the City Manager
City of Porterville
291 N. Main Street
Porterville, CA 93257
(559) 782-7448

5.0 COVERED EMPLOYEES

All employees in the attached job classifications are “covered employees,” and thus, subject to all of the provisions of this policy. A “covered employee” means a person, including an applicant or transferee, who performs or will perform a safety-sensitive function for the City of Porterville, subject to this part. This policy applies to all safety-sensitive employees of the City of Porterville, subject to DOT regulations, specifically 49 CFR, Parts 40 and 382.

6.0 SAFETY SENSITIVE FUNCTIONS

Covered employees may not be under the influence, or in possession, of controlled substances or alcohol during work hours. A covered employee is considered to be performing a safety-sensitive function and includes all time from the time a driver begins to work, or is required to be in readiness to work, until the time he/she is relieved from work, and all responsibility for performing work. Safety-Sensitive Classifications shall include:
A. All time at the City plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the employee has been relieved from duty by the City;
B. All time inspecting equipment as required by 392.7 and 392.8 of this subchapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
C. All time spent at the driving controls of a commercial motor vehicle in operation;
D. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
E. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipment loaded or unloaded; and
F. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

7.0 PROHIBITIONS

The following conduct is prohibited and shall result in discipline, up to and including termination:

A. The use of the following illegal drugs:
   (1) Marijuana or its metabolites
   (2) Cocaine or its metabolites
   (3) Opiates (including morphine, codeine, heroin)
   (4) Amphetamines or methamphetamines
   (5) Phencyclidine or PCP

B. Reporting for duty, or remaining on duty requiring the performance of safety-sensitive functions, if the employee tests positive for controlled substances;

C. Reporting for duty, or remaining on duty requiring the performance of safety-sensitive functions, when the employee used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee’s ability;

D. Use of alcohol within four (4) hours prior to performing safety-sensitive functions, or while performing a safety-sensitive function;

E. Use of alcohol during specified on-call hours:
   (1) the covered employee will be given the opportunity to acknowledge the use of alcohol at the time he/she is called to report to duty and to the inability to perform his/her safety-sensitive function;
(2) the covered employee shall take an alcohol test, if he/she has acknowledged
the use of alcohol, but claims ability to perform his/her safety-sensitive
function;

F. The use of alcohol by any covered employee required to take a post accident alcohol
test for eight (8) hours following the accident, or until he or she undergoes a post-
accident alcohol test, whichever occurs first;

G. No covered employee found to have an alcohol concentration of .02, or greater, but
less than .04 shall be permitted to perform, or continue to perform safety-sensitive
functions, until:

(1) The employee's alcohol concentration measures less than .02; or

(2) The start of the employee’s next regularly scheduled duty period, but not less
than twenty-four (24) hours following the administration of the test.

H. Refusing to submit to an alcohol or controlled substance test required by this Policy,
including, but not limited to:

(1) Failure to appear for any test (except pre-employment) within a reasonable
time;

(2) Failure to remain at the testing site until the testing process is complete;

(3) Failure to provide a urine specimen for any drug test or breath or saliva
specimen for any alcohol test;

(4) Failure to permit an observed or monitored collection, when required;

(5) Failure to provide a sufficient urine or breath specimen without adequate
medical explanation;

(6) Failure or declining to take a second test, when required;

(7) Failure to undergo a medical exam or evaluation, when required;

(8) Failure to cooperate with any part of the testing process (e.g., refusal to empty
pockets, behaving in a confrontational manner, etc.);

(9) Having a verified adulterated or substituted test result;

(10) Leaving the scene of an accident without just cause prior to submitting to
post-accident tests, when required;

(11) In alcohol testing, failure to sign the certification at Step 2 of the Alcohol Testing Form.

8.0 CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES

A. Pre-Employment Testing:

(1) Prior to the first time a covered employee performs safety-sensitive functions for the City, the employee shall undergo testing for controlled substances as a condition prior to being used, unless the City uses the exception in paragraph (2) of this section. The City shall not allow an employee, who the City intends to hire or use, to perform safety-sensitive functions unless the City has received a controlled substances test result from the MRO indicating a verified negative test result for that employee.

(2) The City is not required to administer a controlled substances test required by paragraph (1) of this section if:

(a) The employee has participated in a controlled substances testing program that meets the requirements of this part within the previous 30 days; and

(b) While participating in that program, either:

(i) was tested for controlled substances within the past 6 months (from the date of application with the City), or

(ii) participated in the random controlled substances testing program for the previous 12 months (from the date of application with the City); and

(c) The City ensures that no prior employer of the employee of whom the City has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

(3) If the City exercises the exception in paragraph (2) of this section, it shall contact the controlled substances testing program(s) in which the employee participates or participated and shall obtain and retain from the testing program(s) the following information:
(a) Name(s) and address(es) of the program(s);

(b) Verification that the employee participates or participated in the program(s);

(c) Verification that the program(s) conforms to part 40 of this title;

(d) Verification that the employee is qualified under the rules of this part, including that the employee has not refused to be tested for controlled substances;

(e) The date the employee was last tested for controlled substances;

(f) The results of any tests taken within the previous six months and any other violations of subpart (2) of this part.

(4) The City may conduct pre-employment alcohol testing under this part. If it so chooses, it must comply with the following requirements:

(a) It must conduct a pre-employment alcohol test before the first performance of safety-sensitive functions by every covered employee (whether a new employee or someone who has transferred to a position involving the performance of safety-sensitive functions);

(b) It must treat all safety-sensitive employees performing safety-sensitive functions the same for the purpose of pre-employment alcohol testing (i.e., it must not test some covered employees and not others);

(c) It must conduct the pre-employment tests after making a contingent offer of employment or transfer, subject to the employee passing the pre-employment alcohol test;

(d) It must conduct all pre-employment alcohol tests using the alcohol testing procedures of 49 CFR part 40 of this title; and

(e) It must not allow a covered employee to begin performing safety-sensitive functions unless the result of the employee’s test indicates an alcohol concentration of less than 0.02.

B. Reasonable Suspicion Testing:

(1) The City of Porterville shall conduct a drug and/or alcohol test when it has
reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse.

(2) The City’s determination that reasonable suspicion exists shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body orders of the covered employee consistent with possible drug use or alcohol misuse. The observations may include indications of the chronic and withdrawal effects of controlled substances. A supervisor, or other City official who is trained in detecting the signs and symptoms of drug use and alcohol misuse, must make the required observations.

(3) Alcohol testing is authorized under this section only if the observations required are made during, just preceding, or just after the period of the workday that the covered employee is required to be in compliance with this part. The City may direct a covered employee to undergo reasonable suspicion testing for alcohol only while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions.

(4) If an alcohol test required by this section is not administered within 2 hours following the determination required in this section, the City shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If an alcohol test required by this section is not administered within 8 hours following the determination made under this section, the City shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test.

(5) Notwithstanding the absence of a reasonable suspicion alcohol test under this section, no employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions while the employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, nor shall the City permit the driver to perform or continue to perform safety-sensitive functions, until:

(a) An alcohol test is administered and the driver’s alcohol concentration measures less than 0.02; or

(b) Twenty-four (24) hours have elapsed following the determination under paragraph (1) of this section that there is reasonable suspicion to believe that the employee has violated the prohibitions in this part concerning the use of alcohol.
(c) Except as provided in paragraph (5) of this section, no employer shall take any action under this part against an employee based solely on the driver's behavior and appearance, with respect to alcohol use, in the absence of an alcohol test. This does not prohibit the City with independent authority of this part from taking any action otherwise consistent with law.

(6) A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.

C. Post-Accident Testing:

(1) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road, the City shall test for alcohol for each of its surviving employees:

(a) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(b) Who receives a citation within 8 hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(2) As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road, the City shall test for controlled substances for each of its surviving employees:

(a) Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(b) Who receives a citation within thirty-two hours of the occurrence
under State or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

(3) Alcohol tests: If a test required by this section is not administered within two hours following the accident, the City shall prepare and maintain on file a record stating the reasons the test was not promptly administered. If a test required by this section is not administered within eight hours following the accident, the City shall cease attempts to administer an alcohol test and shall prepare and maintain the same record. Records shall be submitted to the FMCSA upon request.

(4) Controlled substance tests: If a test required by this section is not administered within 32 hours following the accident, the City shall cease attempts to administer a controlled substances test, and prepare and maintain on file a record stating the reasons the test was not promptly administered. Records shall be submitted to the FMCSA upon request.

(5) An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the City to have refused to submit to testing. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(6) The City shall provide employees with necessary post-accident information, procedures and instructions, prior to the employee operating a commercial motor vehicle, so that employees will be able to comply with the requirements of this section.

(7) The results of a breath or blood test for the use of alcohol, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local alcohol testing
requirements, and that the results of the tests are obtained by the City.

(8) The results of a urine test for the use of controlled substances, conducted by Federal, State, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, State or local controlled substances testing requirements, and that the results of the tests are obtained by the City.

D. Random Testing:

(1) The minimum annual percentage rate for random drug testing shall be Fifty Percent (50%) of covered employees, and the random alcohol testing rate shall be ten percent (10%) of covered employees, or the annual percentage rates for random drug and alcohol testing as determined and modified in accordance with the Department of Transportation regulations.

(2) The selection of covered employees for random drug and alcohol testing shall be made by a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made.

(3) The City shall randomly select a sufficient number of covered employees for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rates for random drug and alcohol testing as determined by the Department of Transportation.

(4) The City shall ensure that random drug and alcohol tests conducted are unannounced and unpredictable, and the dates for administering random tests shall be spread reasonably throughout the calendar year.

(5) The City requires that each covered employee who is notified of selection for random drug or random alcohol testing proceed to the test site immediately. If the covered employee is performing a safety-sensitive function at the time of the notification, the City shall ensure that the employee ceases to perform the safety-sensitive function and proceeds to the testing site immediately.

(6) A covered employee shall only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions; just before the employee is to perform safety-sensitive functions; or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.
E. Return to Duty Testing:

When a covered employee refuses to submit to a test, has a verified positive drug test result, and/or has a confirmed alcohol test result of .04 or greater, whether or not the City decides to retain the covered employee, the City shall refer the covered employee to a Substance Abuse Professional (SAP) for evaluation and recommended course of action, at the employee’s expense, in accordance with 49 CFR part 40.

If the City decides to retain the covered employee, at minimum, the following shall be required of the covered employee:

1. Successful completion of a SAP-recommended and/or education program;
2. A negative return-to-duty drug test and/or an alcohol test with an alcohol concentration of less than 0.02 shall be required before resuming performance of safety-sensitive duties;
3. A canceled test requires that the employee must retake the test;
4. The City shall make the determination of when the employee can return to work following completion of the SAP-recommended treatment/education program;
5. Follow-up testing and other pertinent requirements of 49 CFR Part 40, a copy of which is available for review in the City Manager’s Office, must be completed.

F. Follow-Up Testing:

The City shall conduct follow-up testing of each employee who returns to duty, as specified in 49 CFR Part 40. The procedure includes, at minimum, the SAP establishing a written follow-up testing plan which will outline whether follow-up testing will be for drugs, alcohol, or both. The employee will be directed to be subject to at least six unannounced follow-up tests in the first twelve months of safety-sensitive duty following the employee’s return to safety-sensitive functions. In addition, the City shall comply with the SAP’s recommendations relating to the return-to-duty of the covered employee.

9.0 DRUG AND ALCOHOL TESTING PROCEDURES

In accordance with Federal Motor Carrier Safety Administration 49 CFR Part 382, all covered employees shall be subject to drug and alcohol testing procedures contained in 49 CFR Part 40. A copy of the specific requirements relating to 49 CFR Part 40 are available in the City Manager’s
Office for review. In general, the procedures shall be as follows:

A. Drug Testing

1. The employee, upon notification of a drug test, shall report immediately to the address given for collection of a urine specimen for drug testing.

2. Upon providing positive identification to the collector, the basic collection procedure will be explained to the employee, which procedures must be adhered to.

3. Upon providing a sufficient urine specimen to the collector, the urine specimen will be split into two bottles labeled “primary” and “split” specimen. Both bottles will be sent to the lab.

4. If the primary specimen tests positive for the presence of illegal, controlled substances, the employee will be notified by the Medical Review Officer (MRO), and the employee will be given an opportunity to discuss the positive test result, and the employee will have an opportunity to present a legitimate medical explanation for the positive result.

5. If the employee is unable to provide sufficient information to the MRO in order for the MRO to change a verified positive drug test, or refusal to test, the employee will have 72 hours from the notification of the positive test result to request that the split specimen be analyzed by a different certified lab.

6. All drug test results will be reviewed and interpreted by a physician (MRO) before they are reported to the employee and then to the City.

7. With all positive drug tests, the physician (MRO) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical explanation, the test result may be reported to the City as “negative.”

8. The City must direct an immediate collection under direct observation with no advance notice to the employee if:

   a. The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the City that there was not an adequate medical explanation for the result.
(b) The MRO reported to the City that the original positive, adulterated, or substituted result had to be canceled because the test of the split specimen could not be performed.

(c) The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative/dilute and that a second collection must take place under direct observation.

(9) If the MRO notifies the City that an employee had a “negative drug test that was dilute,” the following procedures will be followed:

(a) If the creatinine is between 2 mg/dL, but less than or equal to 5 mg/dL, and the MRO directs the City to conduct a re-collection under direct observation, the City shall do so immediately.

(b) The City shall ensure that the employee is given the minimum possible advance notice that he or she must go to the collection site.

(c) The City shall treat the result of the re-collection test as the “test result of record.”

(d) If the result of the re-collection test is also negative and dilute, the City will not be permitted to make the employee take another test.

(e) If the employee declines to take a test that the City directs him or her to take under this section, the employee has refused the test for purposes of this part and DOT agency regulations.

B. Alcohol Testing

(1) The employee, upon notice of an alcohol test, shall report immediately to the address given for an alcohol screening test.

(2) Upon providing positive identification to the Breath Alcohol Technician (BAT), the basic testing procedure will be explained to the employee, which procedures must be adhered to.

(3) An individually wrapped or sealed mouthpiece will be inserted into an Evidential Breath Testing Device (EBT), and the employee shall be instructed to blow steadily and forcefully into the mouthpiece for at least six seconds, or until the device indicates that an adequate amount of breath has been
The employee will be shown the displayed test result.

If the test result is an alcohol concentration of less than 0.02, the test will be considered a negative test. If the alcohol concentration level is 0.02 or higher, a second confirmation test will be conducted.

If a confirmation test is required, there will be a waiting period of at least 15 minutes, but no longer than 30 minutes after the completion of the screening test. During this “waiting period,” the employee shall be given instructions, and observed, by the BAT. The employee will also be informed of the consequences of a positive test. The result of the confirmation test shall be deemed final.

If the alcohol confirmation test result is lower than 0.02, nothing further will be required of the employee.

If the alcohol confirmation test result is 0.02 - 0.039, the employee must be removed from safety-sensitive duty for 24 hours, or until the test result is below 0.02.

If the confirmation test result is 0.04 or greater, the employee shall be immediately removed from duty, referred to a Substance Abuse Professional (SAP), and the City’s discipline procedure for policy violation shall be initiated.

The test result will be transmitted to the Designated Employer Representative (DER) in a confidential manner.

10.0 CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST

A. Immediately after receiving notice from a Medical Review Officer (MRO) that a covered employee has a verified positive drug test result, the City shall require that the covered employee cease performing a safety-sensitive function.

B. Immediately after receiving notice from a Breath Alcohol Technician (BAT) that a covered employee has a confirmed alcohol test result of 0.04 or greater, the City shall require that the covered employee cease performing a safety-sensitive function.

C. If a covered employee refuses to submit to a drug or alcohol test required by this part, the City shall require that the covered employee cease performing a safety-sensitive function.
D. Before allowing the covered employee to resume performing a safety-sensitive function, the City shall ensure the employee meets the requirements of 49 CFR Part 40 for returning to duty, including taking a return-to-duty drug and/or alcohol test.

E. It is the custom of the City of Porterville that a positive result from a drug or alcohol test will result in termination, in accordance with the City's Zero Tolerance Policy relating to its Drug and Alcohol Program. However, whether or not it is the decision of the City to terminate the employee, the employee shall be referred to a Substance Abuse Professional and be subject to the provisions contained in Section 11.0 (Employment Assessment).

11.0 EMPLOYMENT ASSESSMENT

In addition to any disciplinary action which might be imposed by the City, any employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40 shall be evaluated by a Substance Abuse Professional (SAP) and the following procedure shall be initiated:

A. The employee shall be removed from performing any safety-sensitive function.

B. The employee shall submit to an examination by a SAP. Upon a determination by the SAP, the employee may be required to undergo treatment for his/her alcohol or drug abuse. The cost of any treatment or rehabilitation service will be paid directly by the employee or his/her insurance provider, and not the City of Porterville.

C. Upon successful completion of a SAP-recommended treatment and/or education program, a negative return-to-duty drug test and/or alcohol test result of less than 0.02 is required.

D. A canceled test requires that the employee must re-take the test.

E. The test may be for both drugs and alcohol, but must be for whichever substance the employee previously tested positive.

F. The City shall make the determination if, and when, the employee can return to work following completion of the SAP-recommended treatment/education program.

Assessment by a SAP does not shield an employee from disciplinary action or guarantee employment or reinstatement with the City of Porterville. The appropriate disciplinary action will be considered to determine the consequences of performance-based infractions and/or violation of policy provisions.
If an employee is allowed to return to duty, he/she must: (1) properly follow the rehabilitation program prescribed by the SAP; (2) pass the required return-to-duty drug and/or alcohol tests; and (3) be subject to unannounced follow-up testing for a period of one to five years, which will include, at minimum, at least six unannounced follow-up tests in the first 12 months of safety-sensitive duty following the employee’s return to safety-sensitive functions.

Employees will be allowed to take accumulated vacation, or a personal leave of absence to participate in the prescribed rehabilitation program.

12.0 EMPLOYEE ADMISSION

A. Employees who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation and treatment requirements of this part and Part 40 of this title, provided that:

(1) The admission is in accordance with a written City-established voluntary self-identification program or policy that meets the requirements of paragraph B of this section;

(2) The employee does not self-identify in order to avoid testing under the requirements of this part;

(3) The employee makes the admission of alcohol misuse or controlled substances use prior to performing a safety sensitive function (i.e., prior to reporting for duty); and

(4) The employee does not perform a safety sensitive function until the City is satisfied that the employee has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

B. A qualified voluntary self-identification program or policy must contain the following elements:

(1) It must prohibit the City from taking adverse action against an employee making a voluntary admission of alcohol misuse or controlled substances use within the parameters of the program or policy and paragraph A of this section;

(2) It must allow the employee sufficient opportunity to seek evaluation, education or treatment to establish control over the employee’s drug or alcohol problem;
(3) It must permit the employee to return to safety sensitive duties only upon successful completion of an educational or treatment program, as determined by a drug and alcohol abuse evaluation expert i.e., employee assistance professional, substance abuse professional, or qualified drug and alcohol counselor;

(4) It must ensure that:

(a) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty test with a result indicating an alcohol concentration of less than 0.02; and/or

(b) Prior to the employee participating in a safety sensitive function, the employee shall undergo a return to duty controlled substance test with a verified negative test result for controlled substances use; and

(c) It may incorporate employee monitoring and include non-DOT follow-up testing.

12.0 RE-ENTRY CONTRACTS

Employees who re-enter the workforce must agree to a re-entry contract. That contract may include, but is not limited to:

A. A release to work statement from an approved Substance Abuse Professional.

B. A negative test for drugs and/or alcohol.

C. An agreement to unannounced frequent follow-up testing.

D. A statement of expected work-related behaviors.

E. An agreement to follow specific after-care requirements with the understanding that violation of the re-entry contract is grounds for termination.
JOB CLASSIFICATIONS FOR
"COVERED EMPLOYEES"

Field Services Worker I
Field Services Worker II
Field Services Worker III
Field Services Supervisor
Park Maintenance Worker II
Wastewater Treatment Facility Operator I
Wastewater Treatment Facility Operator II
Wastewater Treatment Facility Operator III
U.S. Department of Transportation (DOT)
Alcohol Testing Form
(The instructions for completing this form are on the back of Copy 1)

Step 1: TO BE COMPLETED BY ALCOHOL TECHNICIAN

<table>
<thead>
<tr>
<th>A: Employee Name</th>
<th>(Print) (First, M.I., Last)</th>
</tr>
</thead>
<tbody>
<tr>
<td>B: SSN or Employee ID No.</td>
<td></td>
</tr>
<tr>
<td>C: Employer Name</td>
<td>LACMTA</td>
</tr>
<tr>
<td>Street</td>
<td>One Gateway Plaza</td>
</tr>
<tr>
<td>City, ST ZIP</td>
<td>Los Angeles, CA 90012-2952</td>
</tr>
<tr>
<td>DER Name and Telephone No.</td>
<td>(213) 922-7172</td>
</tr>
</tbody>
</table>

D: Reason for Test: -Random -Reasonable Susp -Post-Accident -Return to Duty -Follow-up -Pre-employment

STEP 2: TO BE COMPLETED BY EMPLOYEE

I certify that I am about to submit to alcohol testing required by US Department of Transportation regulations and that the identifying information provided on the form is true and correct.

Signature of Employee

Date Month Day Year

STEP 3: TO BE COMPLETED BY ALCOHOL TECHNICIAN

(If the technician conducting the screening test is not the same technician who will be conducting the confirmation test, each technician must complete their own form.) I certify that I have conducted alcohol testing on the above named individual in accordance with the procedures established in the US Department of Transportation regulation, 49 CFR Part 40, that I am qualified to operate the testing device(s) identified, and that the results are as recorded.

TECHNICIAN: - BAT - STI DEVICE: - SALIVA - BREATH 15-Minute Wait: - Yes - No

SCREENING TEST: (For BREATH DEVICE* write in the space below only if the testing device is not designed to print.)

<table>
<thead>
<tr>
<th>Test #</th>
<th>Testing Device Name</th>
<th>Device Serial #</th>
<th>DR Lot # &amp; Exp Date</th>
<th>Activation Time</th>
<th>Reading Time</th>
<th>Result</th>
</tr>
</thead>
</table>

CONFIRMATION TEST: Results MUST be affixed to each copy of this form or printed directly onto the form.

REMARKS:

Alcohol Technician's Company

Company Street Address

(PRINT) Alcohol Technician's Name (First, M.I., Last)

Company City, State, Zip

Phone Number

Signature of Alcohol Technician

Date Month Day Year

STEP 4: TO BE COMPLETED BY EMPLOYEE IF TEST RESULT IS 0.02 OR HIGHER

I certify that I have submitted to the alcohol test, the results of which are accurately recorded on this form. I understand that I must not drive, perform safety-sensitive duties, or operate heavy equipment because the results are 0.02 or greater.

Signature of Employee

Date Month Day Year

COPY 1 -- ORIGINAL -- FORWARD TO THE EMPLOYER

OMB No. 2105-0529
SUBJECT: Amendment to the City's Contract with CalPERS Local Safety Members and Local Miscellaneous Members

SOURCE: Administrative Services/Human Resources

COMMENT: At the conclusion of Meet and Confer Sessions on matters within the scope and purview of the Meyers-Milias-Brown Act, Memorandums of Understanding (M.O.U.'s) with recognized employee organizations were executed. Stipulated within the M.O.U.'s were provisions to amend the City's contract with the California Public Employees' Retirement System (CalPERS) to provide public safety employees with the 3% @ 55 full formula retirement benefit, effective July 1, 2006, or as soon thereafter as possible, and to provide public miscellaneous employees with the 2.7% @ 55 full formula retirement benefit, effective July 1, 2006, or as soon thereafter as possible.

The pertinent M.O.U.'s contained provisions making the amendment to the CalPERS contract for Local Miscellaneous Plan Members contingent upon the City paying the additional 1% of the employee's share of the monthly retirement contribution and, pursuant to Government Code Section 20474, by a majority vote of all eligible miscellaneous employees verifying their willingness to participate in the 2.7% @ 55 retirement plan, which changes the employee's rate of contribution.

As authorized by Council Resolutions Nos. 21-2005, 25-2005, 179-2005, 180-2005 and 16-2006, staff requested actuarial valuations and obtained the necessary documents to proceed with the amendments to the City's contract with CalPERS for Local Safety Plan Members and Local Miscellaneous Plan Members. The procedures for the plan amendments are stated in the attached letter from CalPERS dated February 6, 2006. Also attached are Summaries of Major Provisions for 3% @ 55 for Local Safety Members and 2.7% @ 55 for Local Miscellaneous Members, and the Contract Amendment Cost Analysis (actuarial valuation) for each amendment.

RECOMMENDATION: That the City Council:

1) Approve the attached draft Resolution of Intent authorizing the amendments to the City's Contract with...
CalPERS to provide public safety employees with the 3% @ 55 full formula retirement benefit, and to provide miscellaneous employees with the 2.7% @ 55 full formula retirement benefit, to become effective July 1, 2006; and,

2) Authorize the Mayor to execute these documents and the amended Contract upon receipt, on behalf of the City of Porterville; and,

3) Give first reading to the Enabling Ordinance, waive further reading of the ordinance, and order the ordinance to print.

ATTACHMENTS: 1) CalPERS Letter dated February 6, 2006  
2) Summaries of Major Provisions  
3) Draft Resolution of Intent/Contract Amendment Exhibit “A”  
4) Draft Enabling Ordinance  
5) Contract Amendment Cost Analyses
February 6, 2006

Ms. Sheryl White
Human Resources Analyst
City of Porterville
291 N. Main Street
Porterville, CA 93257

Dear Ms. White:

Enclosed are two copies of the Resolution of Intention to amend the agency's contract to provide Section 21354.5 (2.7% @ 55 Full formula) for local miscellaneous members and Section 21363.1 (3% @ 55 Full formula) for local safety members.

Also enclosed are the following documents:

1. Form CON-12, Certification of Governing Body’s Action.
2. Form CON-12A, Certification of Compliance With Government Code Section 7507.
3. 2.7% @ 55 Formula Ballot.
4. Summary of Major Provisions (2.7% @ 55 Formula).
5. Summary of Major Provisions (3% @ 55 Formula).
7. Form CON-11A, Sample Ordinance.

The sample Ordinance is a guide only and is included to allow sufficient time to prepare the Ordinance for a first and final reading. The Resolution of Intention and accompanying documents should not be held pending final reading of the Ordinance.

Government Code Section 20474 requires a secret ballot election by the employees affected whenever the contract is amended to provide a benefit which changes the employees' rate of contribution. A ballot for the employees' election is enclosed. The results of the election are to be certified on the enclosed Form CON-15, Certification of Employee Election. The contract shall not be amended if a majority of the affected members vote to disapprove the proposed plan.
Any change in the employee or employer contribution rates will become effective as of the effective date of the contract amendment.

The Contract Amendment Cost Analysis (actuarial valuation) information was based on the most recent annual valuation and is good until the next annual valuation report is sent to your agency. If your agency does not take action to amend its contract and we have mailed the next annual valuation report to your agency, you must contact our office for an updated cost analysis.

Disclosure of the cost of this Contract Amendment

**Miscellaneous Plan:**

We recommend that the agency disclose these values identified in the amendment actuarial valuation for the adoption of this plan amendment:

1) Change in the Present Value of Benefits $ 4,672,286
2) Change in the Accrued Liability $ 2,873,626
3) Change in the Total Employer Rate 5.971%

**Safety Plan:**

We recommend that the agency disclose these values identified in the amendment actuarial valuation for the adoption of this plan amendment:

1) Change in the Present Value of Benefits $ 2,284,994
2) Change in the Accrued Liability $ 1,676,837
3) Change in the Total Employer Rate 5.532%

Government Code Section 7507 requires that the future annual costs of the proposed contract amendment be made public at a public meeting at least two weeks prior to the adoption of the final Ordinance. The agency is to certify compliance on the enclosed Certification of Compliance with Government Code Section 7507.

The local miscellaneous member contribution rate will be 8% of reportable earnings, as of the effective date of the amendment to the contract.

In summary, the following documents must be returned to this office before we can forward the actual contract and other final documents necessary to complete the proposed amendment. DO NOT HOLD THESE DOCUMENTS PENDING ADOPTION OF THE FINAL ORDINANCE.
ORIGINIAL SIGNATURES ARE REQUIRED

1. Resolution of Intention, original or certified copy.

2. Certification of Governing Body's Action (CON-12), original.

3. Certification of Compliance with Government Code Section 7507, (CON-12A), original or certified copy.


If your agency adopts the Resolution of Intention on March 7, 2006, the earliest date the final Ordinance may be adopted is March 27, 2006. There must be a 20 day period between the adoption of the Resolution of Intention and the adoption of the final Ordinance pursuant to Government Code Section 20471. THERE ARE NO EXCEPTIONS TO THIS LAW.

The effective date of this amendment cannot be earlier than the first day of a payroll period following the effective date of the final Ordinance.

Please do not retype the Amendment to Contract and/or agreement documents. Only documents provided by this office will be accepted. If you have a problem with any of the documents, please contact this office prior to presenting to your governing body for adoption. Another contract amendment cannot be started until this amendment is completed or cancelled.

If you have any questions regarding this letter or the enclosed material, please call (888) CalPERS (225-7377).

Sincerely,

[Signature]

Michael Latino
Employer Representative
Public Agency Contract Services

ML:rc

Enclosures

cc: Fresno Regional Office
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
Actuarial and Employer Services Branch
Public Agency Contract Services
(888) CalPERS (225-7377)

SUMMARY OF MAJOR PROVISIONS
3% @ 55 Formula (Section 21363.1)
Local Safety Members

SERVICE RETIREMENT
To be eligible for service retirement, a member must be at least age 50 and have five years of CalPERS credited service. If provided by the employer’s contract, mandatory retirement age for local safety members is age 60.

The monthly retirement allowance is determined by age at retirement, years of service credit and final compensation. The basic benefit is 3% of final compensation for each year of credited service upon retirement at age 55. If retirement is earlier than age 55, the percentage of final compensation decreases for each quarter year of attained age to 2.40% at age 50. The allowance is limited to 90% of final compensation.

Final compensation is the average monthly pay rate during the last consecutive 36 months of employment, or 12 months if provided by the employer’s contract, unless the member designates a different period of 36 or 12 consecutive months when the average pay rate was higher. Certain items of special compensation earned during your final compensation period will be included in your final compensation, in accordance with Board regulations.

DISABILITY RETIREMENT
Members substantially incapacitated from performing the usual duties for the position for his/her current employer, and from performing the usual duties of the position for other CalPERS covered employers (including State agencies, schools, and local public agencies), and where similar positions with these other employers with reasonably comparable in pay, benefits, and promotional opportunities are not available, would be eligible for disability retirement provided they have at least five years of service credit. The monthly retirement allowance is 1.8% of final compensation for each year of service. The maximum percentage for members who have between 10,000 and 18,518 years of service credit is one-third of their final compensation. If the member is eligible for service retirement the member will receive the highest allowance payable, service or disability. If provided by the employer’s contract, the benefit would be a minimum of 30% of final compensation for the first five years of service credit, plus 1% for each additional year of service to a maximum benefit of 50% of final compensation.

INDUSTRIAL DISABILITY RETIREMENT
Members permanently incapacitated from performing their duties, as defined above under Disability Retirement, and the disability is a result of a job-related injury or illness may receive an Industrial Disability Retirement benefit equal to 50% of their final compensation. If provided in the employer’s contract and the member is totally disabled, the disability retirement allowance would equal 75% of final compensation in lieu of the disability retirement allowance otherwise provided. If the member is eligible for service retirement, the service retirement allowance is payable. The total allowance cannot exceed 90% of final compensation.

PRE-RETIREMENT DEATH BENEFITS
Basic Death Benefit: This benefit is a refund of the member’s contributions plus interest and up to six months’ pay (one month’s salary rate for each year of current service to a maximum of six months).
1957 Survivor Benefit: An eligible beneficiary may elect to receive either the Basic Death Benefit or the 1957 Survivor Benefit. The 1957 Survivor Benefit provides a monthly allowance equal to one-half of the highest service retirement allowance the member would have received had he/she retired on the date of death. The 1957 Survivor Benefit is payable to the surviving spouse or registered domestic partner until death or to eligible unmarried children until age 18.

1959 Survivor Benefit: (If provided by the employer's contract and the member is not covered under social security.) A surviving spouse or registered domestic partner and eligible children may receive a monthly allowance as determined by the level of coverage. This benefit is payable in addition to the Basic Death Benefit or 1957 Survivor Benefit. Children are eligible if under age 22 and unmarried.

Pre-Retirement Optional Settlement 2 Death Benefit: (If provided by the employer's contract.) The spouse or registered domestic partner of a deceased member, who was eligible to retire for service at the time of death, may to elect to receive the Pre-Retirement Optional Settlement 2 Death Benefit in lieu of the lump sum Basic Death Benefit. The benefit is a monthly allowance equal to the amount the member would have received if he/she had retired for service on the date of death and elected Optional Settlement 2, the highest monthly allowance a member can leave a spouse or registered domestic partner.

Special Death Benefit: A surviving spouse, registered domestic partner, or eligible children or step children may receive a monthly allowance equal to one-half of the final compensation. If the cause of death is due to external violence or physical force while on the job, and there are eligible surviving children in addition to a spouse or registered domestic partner, the allowance may be increased to a maximum of 75%.

COST-OF-LIVING ADJUSTMENTS
The cost of living allowance increases are limited to a maximum of 2% compounded annually unless the employer's contract provides a 3, 4, or 5% increase.

DEATH AFTER RETIREMENT
The lump sum death benefit is $500 (or $600, $2,000, $3,000, $4,000 or $5,000 if provided by the employer's contract) regardless of the retirement plan chosen by the member at the time of retirement.

TERMINATION OF EMPLOYMENT
Members who have separated from employment may elect to leave their contributions on deposit or request a refund of contributions and interest. Those who leave their contributions on deposit may apply at a later date for a monthly retirement allowance if the minimum service and age requirements are met. Members who request a refund of their contributions terminate their membership and are not eligible for any future benefits unless they return to CalPERS membership.

EMPLOYEE CONTRIBUTIONS
Local safety members covered by the 3% @ 55 formula contribute 9% of reportable earnings. Those covered under a modified formula (coordinated with Social Security) do not contribute on the first $133.33 earned.

The employer also contributes toward the cost of the benefits. The amount contributed by the employer for current service retirement benefits generally exceeds the cost to the employee. In addition, the employer bears the entire cost of prior service benefits (the period of time before the employer provided retirement coverage under CalPERS). All employer contribution rates are subject to adjustment by the CalPERS Board of Administration.
SUMMARY OF MAJOR PROVISIONS
2.7% @ 55 Formula (Section 21354.5)
Local Miscellaneous Members

SERVICE RETIREMENT

To be eligible for service retirement, a member must be at least age 50 and have five years of CalPERS credited service. There is no compulsory retirement age.

The monthly retirement allowance is determined by age at retirement, years of service credit and final compensation. The basic benefit is 2.7% of final compensation for each year of credited service upon retirement at age 55. If retirement is earlier than age 55, the percentage of final compensation decreases for each quarter year of attained age to 2% at age 50.

Final compensation is the average monthly pay rate during the last consecutive 36 months of employment, or 12 months if provided by the employer’s contract, unless the member designates a different period of 36 or 12 consecutive months when the average pay rate was higher.

DISABILITY RETIREMENT

Members substantially incapacitated from performing the usual duties for the position for his/her current employer, and from performing the usual duties of the position for other CalPERS covered employers (including State agencies, schools, and local public agencies), and where similar positions with these other employers with reasonably comparable in pay, benefits, and promotional opportunities are not available, would be eligible for disability retirement provided they have at least five years of service credit. The monthly retirement allowance is 1.8% of final compensation for each year of service. The maximum percentage for members who have between 10,000 and 18,518 years of service credit is one-third of their final compensation. If the member is eligible for service retirement the member will receive the highest allowance payable, service or disability. If provided by the employer’s contract, the benefit would be a minimum of 30% of final compensation for the first five years of service credit, plus 1% for each additional year of service to a maximum benefit of 50% of final compensation.

INDUSTRIAL DISABILITY RETIREMENT

If provided by the employer’s contract, members permanently incapacitated from performing their duties, as defined above under Disability Retirement, and the disability is a result of a job-related injury or illness may receive an Industrial Disability Retirement benefit equal to 50% of their final compensation. If provided in the employer’s contract and the member is totally disabled, the disability retirement allowance would equal 75% of final compensation in lieu of the disability retirement allowance otherwise provided. If the member is eligible for service retirement, the service retirement allowance is payable. The total allowance cannot exceed 90% of final compensation.

PRE-RETIREMENT DEATH BENEFITS

Basic Death Benefit: This benefit is a refund of the member’s contributions plus interest and up to six months’ pay (one month’s salary rate for each year of current service to a maximum of six months).
1957 Survivor Benefit: An eligible beneficiary may elect to receive either the Basic Death Benefit or the 1957 Survivor Benefit. The 1957 Survivor Benefit provides a monthly allowance equal to one-half of the highest service retirement allowance the member would have received had he/she retired on the date of death. The 1957 Survivor Benefit is payable to the surviving spouse or registered domestic partner until death or to eligible unmarried children until age 18.

1959 Survivor Benefit: (If provided by the employer’s contract and the member is not covered under social security.) A surviving spouse or registered domestic partner and eligible children may receive a monthly allowance as determined by the level of coverage. This benefit is payable in addition to the Basic Death Benefit or 1957 Survivor Benefit. Children are eligible if under age 22 and unmarried.

Pre-Retirement Optional Settlement 2 Death Benefit: (If provided by the employer’s contract.) The spouse or registered domestic partner of a deceased member, who was eligible to retire for service at the time of death, may to elect to receive the Pre-Retirement Optional Settlement 2 Death Benefit in lieu of the lump sum Basic Death Benefit. The benefit is a monthly allowance equal to the amount the member would have received if he/she had retired for service on the date of death and elected Optional Settlement 2, the highest monthly allowance a member can leave a spouse or registered domestic partner.

COST-OF-LIVING ADJUSTMENTS

The cost of living allowance increases are limited to a maximum of 2% compounded annually unless the employer’s contract provides a 3, 4, or 5% increase.

DEATH AFTER RETIREMENT

The lump sum death benefit is $500 (or $600, $2,000, $3,000, $4,000 or $5,000 if provided by the employer’s contract) regardless of the retirement plan chosen by the member at the time of retirement.

TERMINATION OF EMPLOYMENT

Members who have separated from employment may elect to leave their contributions on deposit or request a refund of contributions and interest. Those who leave their contributions on deposit may apply at a later date for a monthly retirement allowance if the minimum service and age requirements are met. Members who request a refund of their contributions terminate their membership and are not eligible for any future benefits unless they return to CalPERS membership.

EMPLOYEE CONTRIBUTIONS

Miscellaneous members covered by the 2.7% @ 55 formula contribute 8% of reportable earnings. Those covered under a modified formula (coordinated with Social Security) do not contribute on the first $133.33 earned.

The employer also contributes toward the cost of the benefits. The amount contributed by the employer for current service retirement benefits generally exceeds the cost to the employee. In addition, the employer bears the entire cost of prior service benefits (the period of time before the employer provided retirement coverage under CalPERS). All employer contribution rates are subject to adjustment by the CalPERS Board of Administration.
RESOLUTION NO. _____-2006


WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 21354.5 (2.7% @ 55 Full formula) for local miscellaneous members and Section 21363.1 (3% @ 55 Full formula) for local safety members.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as “Exhibit,” and by this reference made a part hereof.

________________________________________
Pedro R. Martinez, Mayor

Attest:

Georgia Hawley, Chief Deputy City Clerk
AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Porterville


A. Paragraphs 1 through 13 are hereby stricken from said contract as executed effective January 1, 2004, and hereby replaced by the following paragraphs numbered 1 through 14 inclusive:

1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 55 for local safety members.

2. Public Agency shall participate in the Public Employees' Retirement System from and after January 1, 1982 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:

   a. Local Fire Fighters (herein referred to as local safety members);

   b. Local Police Officers (herein referred to as local safety members);

   c. Employees other than local safety members (herein referred to as local miscellaneous members).

4. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

   a. ELECTED OFFICIALS; AND

   b. MEMBERS OF THE LOCAL SYSTEM WHO UPON CONTRACT DATE DID NOT EXECUTE AND FILE A WAIVER OF RIGHTS WITH RESPECT TO SAID LOCAL SYSTEM.

5. Assets heretofore accumulated with respect to members under the local retirement system who waived their rights under that system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system have been credited to the individual membership account of each such employee under the Public Employees' Retirement System.

6. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after the effective date of this amendment to contract shall be determined in accordance with Section 21354.5 of said Retirement Law (2.7% at age 55 Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
9. Public Agency elected and elects to be subject to the following optional provisions:

a. Section 21536 (Local System Service Credit Included in Basic Death Benefit).

b. Section 21573 (Third Level of 1959 Survivor Benefits) for local safety members only.

c. Section 20042 (One-Year Final Compensation).

d. Section 20965 (Credit for Unused Sick Leave).

e. Section 21024 (Military Service Credit as Public Service).

f. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local miscellaneous members only.

g. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local miscellaneous members only.

10. Public Agency, in accordance with Government Code Section 20834, shall not be considered an "employer" for purposes of the Public Employees' Retirement Law. Contributions of the Public Agency shall be fixed and determined as provided in Government Code Section 20834, and such contributions hereafter made shall be held by the Board as provided in Government Code Section 20834.

11. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.

12. Public Agency shall also contribute to said Retirement System as follows:

a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.

b. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members.
c. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.

d. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

13. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

14. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of ________________, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF PORTERVILLE

BY
PRESIDING OFFICER

Witness Date:

Attest:

Clerk
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY
COUNCIL OF THE CITY OF PORTERVILLE AND THE BOARD OF ADMINISTRATION
OF THE CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM

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

Section 1.

That an amendment to the contract between the City Council of the City of Porterville
and the Board of Administration of the California Public Employees’ Retirement System is
hereby authorized, a copy of said amendment being attached hereto, marked “Exhibit,” and by
such reference made a part hereof as though herein set out in full.

Section 2.

The Mayor of the City of Porterville is hereby authorized, empowered, and directed to
execute said amendment for and on behalf of said Agency.

Section 3.

This Ordinance shall take effect thirty days after the date of its adoption, and pursuant
to City Charter, three days prior to the adoption thereof, shall be published at least once in the
Porterville Recorder, a newspaper of general circulation, published and circulated in the City of
Porterville and thenceforth and thereafter the same shall be in full force and effect.

ADOPTED and approved this ____ day of _______________ , 2006.

__________________________
Pedro R. Martinez, Mayor

Attest:

__________________________
Georgia Hawley, Chief Deputy City Clerk
Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- First, all actuarial calculations, including the ones in this cost estimate are based on a number of assumptions about the future. There are demographic assumptions about the percentage of employees that will terminate, die, become disabled, and retire in each future year. There are economic assumptions about future salary increases for each active employee, and the assumption with the greatest impact, future asset returns at CalPERS for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. For example, the asset earnings for the past 15 years at CalPERS have ranged from -7.2% to 20.5% while the 15 year compound return has been 9.4%, well above our assumption.

- Second, the very nature of actuarial funding produces the answer to the question of amendment cost as the sum of two separate pieces:
  1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and
  2. The increase in Past Service Cost (i.e., Accrued Liability - representing the current value of the increased benefit for all past service of current members) which is expressed as a lump sum dollar amount.

The cost is the sum of a percent of future pay and a lump sum dollar amount (the sum of an apple and an orange if you will). To communicate the total cost, either the increase in Normal Cost (i.e., future percent of payroll) must be converted to a lump sum dollar amount (in which case the total cost is the increase in the present value of benefits), or the Past Service Cost (i.e., the lump sum) must be converted to a percent of payroll (in which case the total cost is expressed as the increase in the employer’s rate, part of which is permanent and part temporary). Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. So, the new employer rate can be computed in many different ways depending on how long one will take to pay for it. And as the first bullet point above states; all of these results depend on all assumptions being exactly realized.

Assets for Pooled Plans

Pooled plans at CalPERS share assets within the pool. Therefore, the concepts of a plan’s assets and surplus/unfunded liability are no longer valid, with two exceptions. The first exception is the need to determine superfunded status and the second exception is the need to transfer assets between pools when a plan changes benefit formulas and must transfer from one pool to another. This transfer process is described in the section below. Replacing the concept of a plan’s assets and a plan’s surplus/unfunded liability are the pool’s assets and surplus/unfunded liability and the concept of the plan’s side fund.

The potential change to each meaningful measurement for the plan due to this potential plan amendment will be disclosed in the remaining sections of this communication.
Transfers between Pools

Plans at CalPERS are assigned to pools based on the service retirement formula for which they contract. Therefore, a request to amend from one service retirement formula to another requires a transfer of the plan from its current pool, call it Pool A, to a new pool, call it Pool B. When such an amendment occurs, the transfer between pools will be deemed to have occurred as of the first annual rate setting actuarial valuation that recognizes the new contract amendment. In this case that will be the June 30, 2005 actuarial valuation. So, if this proposed amendment is adopted, the plan will “cash out” of pool A and “buy into” pool B as of June 30, 2005. When the plan “cashes out” of Pool A, the plan will receive a prorated share of pool A’s assets (excluding side funds) based on the ratio of the plan’s liabilities to pool A’s liabilities. The plan’s remaining unamortized side fund as of June 30, 2005 will be added to this share of Pool A’s assets to form the plan’s total assets to cover the new higher liabilities that the plan brings into pool B as of June 30, 2005. The difference between total assets brought by the plan into pool B and the amount needed for the plan to “buy into” pool B will form the plan’s new side fund.

Changes in Rate Volatility

As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Unless these assumptions (terminations, deaths, disabilities, retirements, salary growth, and investment return) are exactly realized each year, there will be differences on a year to year basis. The year to year differences between actual experience and the assumptions are called actuarial gains and losses and serve to raise or lower the employer’s rates from year to year. So, the rates will bounce around, especially due to the ups and downs of investment returns.

The volatility in annual employer rates will be affected by this amendment. The reason is that this amendment will require your plan to transfer into a pool with higher benefits and earlier retirement ages. This will in turn require the accumulation of more assets per member earlier in their careers. Rate volatility can be measured by the ratio of assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two pools, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active payroll. In a given year, consider what happens when assets rise or fall 10% above or below the actuarial assumption. For the pool with a ratio of 4, this 10 percent gain or loss in assets is the same in dollars as 40% of payroll and for the pool with a ratio of 8; this is equivalent to 80% of payroll. If this gain or loss is spread over 10 years (and we oversimplify by ignoring interest on the gain or loss), then the first pool’s rate changes by 4% of pay while the second pool’s rate changes by 8% of pay.

For all pools, the desired state is to be 100% funded (i.e., to bring assets to equal accrued liability). Therefore, we disclose the ratio of accrued liability to payroll rather than assets to payroll as a measure of the pool’s potential future rate volatility. The higher the ratio, the more volatile the future rate may be. The table below contains these measures of potential future rate volatility for the plan’s current pool and the new pool into which it would transfer. It should be noted that these ratios increase over time but generally tend to stabilize as the plan matures.

<table>
<thead>
<tr>
<th></th>
<th>Current Pre-Amendment Pool As of June 30, 2004</th>
<th>New Post-Amendment Pool As of June 30, 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pool’s Accrued Liability</td>
<td>996,203,370</td>
<td>1,252,474,736</td>
</tr>
<tr>
<td>Pool’s Payroll</td>
<td>149,407,703</td>
<td>154,903,754</td>
</tr>
<tr>
<td>Volatility Index</td>
<td>6.7</td>
<td>8.1</td>
</tr>
</tbody>
</table>
Changes in the Present Value of Benefits

The table below shows the change in the plan's total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for current members of the plan (i.e., without regard to future employees). The increase in this amount must be paid by increases in future employer and perhaps future employee contributions. As such, the change in the present value of benefits due to the plan amendment represents the total "cost" of the plan amendment. Some of this total cost may be covered by additional employee contributions and/or current side fund surplus.

<table>
<thead>
<tr>
<th></th>
<th>Pre-Amendment As of June 30, 2004</th>
<th>Change As of June 30, 2004</th>
<th>Post-Amendment As of June 30, 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan's Present Value of Benefits</td>
<td>32,097,570</td>
<td>2,284,994</td>
<td>34,382,564</td>
</tr>
</tbody>
</table>

Change in Superfunded Status

A plan with an actuarial value of assets (AVA) in excess of the total present value of benefits is called superfunded, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move from being super-funded to being in an unfunded position. It is CalPERS policy to retain a plan's superfunded status throughout a fiscal year based on the most recently completed actuarial valuation regardless of plan amendments. So, superfunded status would change only on the subsequent valuation date, for the 2007-08 fiscal year. The projected superfunded status for fiscal 2007-08 with and without this plan amendment is shown below.

<table>
<thead>
<tr>
<th></th>
<th>Pre-Amendment Fiscal Year 2007-08</th>
<th>Post-Amendment Fiscal Year 2007-08</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan's Superfunded Status</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>

Changes in Accrued Liability

It is not required, nor necessarily desirable, to be superfunded. Instead, the actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates this "desirable" level of funding as of that point in time. The accrued liability is equal to the present value of benefits less the present value of scheduled future employee contributions and future employer normal costs. That is, the present value of benefits represents the funding level needed if there is to be no future contributions and the accrued liability represents the funding level if there is to be future contributions (employee contributions and future employer normal costs). When a plan is "on schedule", only future employee contributions and future employer normal costs are needed. A plan that is "behind schedule" must temporarily increase contributions to get back on schedule and a plan that is "ahead of schedule" can temporarily reduce future contributions. The change in your plan's accrued liability as of June 30, 2004 as if the amendment were recognized in that actuarial valuation is shown below.

<table>
<thead>
<tr>
<th></th>
<th>Pre-Amendment As of June 30, 2004</th>
<th>Change As of June 30, 2004</th>
<th>Post-Amendment As of June 30, 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plan's Accrued Liability</td>
<td>23,678,463</td>
<td>1,676,837</td>
<td>25,355,300</td>
</tr>
</tbody>
</table>
Changes in the Plan’s Side Fund

As stated in the section on transfers between pools, if this amendment is adopted in time to be recognized in the June 30, 2005 actuarial valuation, the plan will be deemed to change pools on that valuation date. In this case, the plan’s side fund will be adjusted as necessary as of this date. Shown below is the development of the plan’s projected assets to be “cashed out” of the pool it is leaving as of June 30, 2005.

<table>
<thead>
<tr>
<th>Projected Pre-Amendment Amounts as of June 30, 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Plan’s projected Accrued Liability without the plan amendment</td>
</tr>
<tr>
<td>2. Current Pool’s projected Accrued Liability</td>
</tr>
<tr>
<td>3. Plan’s share of current Pool’s projected Accrued Liability (1) / (2)</td>
</tr>
<tr>
<td>4. Current Pool’s projected Actuarial Value of Assets excluding side funds</td>
</tr>
<tr>
<td>5. Plan’s share of Current Pool’s projected non-side fund Assets (3) x (4)</td>
</tr>
<tr>
<td>6. Plan’s projected side fund without plan amendment</td>
</tr>
<tr>
<td>7. Plan’s projected total asset “cash out” of current pool at actuarial value (5) + (6)</td>
</tr>
</tbody>
</table>

Shown below is the plan’s "buy in" to the new pool and the change in the plan’s side fund projected as of June 30, 2004.

<table>
<thead>
<tr>
<th>Projected Post-Amendment Amounts As of June 30, 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Plan’s projected Accrued Liability with plan amendment</td>
</tr>
<tr>
<td>2. New Pool’s projected funded ratio</td>
</tr>
<tr>
<td>3. Projected assets needed to &quot;buy into&quot; new Pool (1) x (2)</td>
</tr>
<tr>
<td>4. Plan’s projected total Assets Available (from (7) in table above)</td>
</tr>
<tr>
<td>5. Plan’s projected new side fund (4) – (3)</td>
</tr>
</tbody>
</table>

Changes in the Initial Employer Contribution Rate

CalPERS’ policy is to implement rate changes due to plan amendments immediately on the effective date of the change in plan benefits. This change is displayed as the “Change to Total Employer Rate” below. If the contract amendment effective date is on or before June 30, 2006, the change in the employer contribution rate will be added to the employer’s rate for the current fiscal year.

In general, CalPERS’ policy provides that, upon a plan amendment, the side fund will be broken into two components. The first component is the change in the side fund due to the plan amendment. This component will be separately amortized over 20 years. The second component of the side fund is the remaining unamortized portion of side fund as though no amendment had occurred. This pre-existing component will continue to be amortized as it was prior to the plan amendment. Finally, these two components will be added together to form a single side fund amount. The amortization period of this combined single side fund will be set to produce a single side fund payment that is as close as possible to the payment that would have resulted had the two side fund components not been combined. CalPERS amortization policies may require a further change in the amortization period known as a fresh start. These policies are contained in Appendix A of Section 2 of your 2004 annual actuarial report.

The table below shows the change in your plan’s employer contribution rate for fiscal 2006-2007 due to the plan amendment. The post-amendment information shown is the actual initial contribution rate that will apply.
during fiscal 2006-2007 if you adopt the amendment prior to fiscal 2006-2007. The change in normal cost may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The plan's amortization of its side fund is a temporary adjustment to the employer contribution to “get the plan back on schedule” over the amortization period shown.

<table>
<thead>
<tr>
<th></th>
<th>Pre-Amendment Fiscal Year 2006-07 Rate</th>
<th>Change to Total Employer Rate</th>
<th>Post-Amendment Fiscal Year 2006-07 Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006-2007 Employer Rate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pool's Net Employer Normal Cost</td>
<td>11.595%</td>
<td>1.468%</td>
<td>13.063%</td>
</tr>
<tr>
<td>Pool's Payment on the Unfunded Liability</td>
<td>0.263%</td>
<td>0.236%</td>
<td>0.499%</td>
</tr>
<tr>
<td>Surcharge for Class 1 Benefits</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) FAC 1</td>
<td>0.744%</td>
<td>0.064%</td>
<td>0.808%</td>
</tr>
<tr>
<td>Phase out of Normal Cost Difference</td>
<td>0.002%</td>
<td>0.000%</td>
<td>0.002%</td>
</tr>
<tr>
<td>Amortization of Side Fund</td>
<td>8.294%</td>
<td>3.764%</td>
<td>12.058%</td>
</tr>
<tr>
<td>Total Employer Rate</td>
<td>20.898%</td>
<td>5.532%</td>
<td>26.430%</td>
</tr>
<tr>
<td>Side Fund Amortization Period</td>
<td></td>
<td>14</td>
<td></td>
</tr>
<tr>
<td>2007-2008 Estimated Employer Rate</td>
<td>20.9%</td>
<td>5.5%</td>
<td>26.4%</td>
</tr>
</tbody>
</table>

The table below shows the change in your plan's employee contribution rate (if any) for fiscal 2006-2007 due to the plan amendment.

<table>
<thead>
<tr>
<th></th>
<th>Pre-Amendment Fiscal Year 2006-07 Rate</th>
<th>Change to Total Employer Rate</th>
<th>Post-Amendment Fiscal Year 2006-07 Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006-2007 Employer Rate</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>9.000%</td>
<td>0.000%</td>
<td>9.000%</td>
</tr>
</tbody>
</table>

Additional Disclosure

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes may not be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Please note that the 2007-2008 projected cost in the cost analysis provided in this document should not be relied upon once the CalPERS actuarial staffs have completed the next annual valuation, that is, the annual valuation as of June 30, 2005. If you have not taken action to amend your contract, and we have already completed the June 30, 2005 annual valuation report, we recommend you contact our office for an updated cost analysis, based on the new annual valuation. In any case, an amendment effective after June 30, 2006 will require an updated cost analysis.

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendices of the June 30, 2004 annual report. Only mandated benefit improvements included in the June 30, 2004 annual report have been incorporated into this cost analysis. Please note that the results shown here are subject to change if any of the data or plan provisions differ from what was used in this study.
Certification

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2004 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.

May Shuang Yu, A.S.A., M.A.A.A.
Senior Pension Actuary, CalPERS

Fin Process Ids:  Annual - 254975  Base - 256713  Proposal - 256714

January 6, 2006  Pooled Formula Change  Page 6 of 8
Summary of Plan Amendments Valued

COVERAGE GROUP 74001

Pre-Amendment

- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 2% @ 50 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

<table>
<thead>
<tr>
<th>Retirement Age</th>
<th>2% at 50 Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>2.000%</td>
</tr>
<tr>
<td>51</td>
<td>2.140%</td>
</tr>
<tr>
<td>52</td>
<td>2.280%</td>
</tr>
<tr>
<td>53</td>
<td>2.420%</td>
</tr>
<tr>
<td>54</td>
<td>2.560%</td>
</tr>
<tr>
<td>55 and older</td>
<td>2.700%</td>
</tr>
</tbody>
</table>

Post-Amendment

- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 3% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

<table>
<thead>
<tr>
<th>Retirement Age</th>
<th>3% at 55 Factor</th>
</tr>
</thead>
<tbody>
<tr>
<td>50</td>
<td>2.400%</td>
</tr>
<tr>
<td>51</td>
<td>2.520%</td>
</tr>
<tr>
<td>52</td>
<td>2.640%</td>
</tr>
<tr>
<td>53</td>
<td>2.760%</td>
</tr>
<tr>
<td>54</td>
<td>2.880%</td>
</tr>
<tr>
<td>55 and older</td>
<td>3.000%</td>
</tr>
</tbody>
</table>
COVERAGE GROUP 75001

Pre-Amendment
- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 2% @ 50 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

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<tr>
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<td>2.700%</td>
</tr>
</tbody>
</table>

Post-Amendment
- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 3% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

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<tr>
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</tr>
<tr>
<td>54</td>
<td>2.880%</td>
</tr>
<tr>
<td>55 and older</td>
<td>3.000%</td>
</tr>
</tbody>
</table>
Actuarial Cost Estimates in General

What will this amendment cost? Unfortunately, there is no simple answer. There are two major reasons for the complexity of the answer:

- First, all actuarial calculations, including the ones in this cost estimate are based on a lot of assumptions about the future – demographic assumptions about the percentage of your employees that will terminate, die, become disabled, and retire in each future year, and economic assumptions about what salary increases each employee receives and the most important assumption: what the assets at CalPERS will earn for each year into the future until the last dollar is paid to current members of your plan. While CalPERS has set these assumptions as our best estimate of the real future of your plan, it must be understood that these assumptions are very long term predictors and will surely not be realized each year as we go forward. For example, the asset earnings for the past 15 years at CalPERS have ranged from -7.2% to 20.5%, yet the 15 year compound return has been 9.7%, well above our assumption.

- Second, the very nature of actuarial funding produces the answer to the question of amendment cost as the sum of two separate pieces:
  1. The increase in Normal Cost (i.e., the increase in future annual premiums in the absence of surplus or unfunded liability) expressed as a percentage of total active payroll, and
  2. The increase in Past Service Cost (i.e., Accrued Liability – representing the current value of the increased benefit for all past service of current members) which is expressed as a lump sum dollar amount.

   The cost is the sum of a percent of future pay and a lump sum dollar amount (the sum of an apple and an orange if you will). To communicate the total cost, either the increase in Normal Cost (i.e., future percent of payroll) must be converted to a lump sum dollar amount (in which case the result is called the increase in the present value of benefits), or the Past Service Cost (i.e., the lump sum) must be converted to a percent of payroll (in which case the result is the increase in the employer’s rate). Converting the Past Service Cost lump sum to a percent of payroll requires a specific amortization period. So, the new employer rate can be computed in many different ways depending on how long one will take to pay for it. And don’t forget the first bullet point above; all of these results depends on all of the assumptions being exactly realized.

Rate Volatility

As is stated above, the cost estimates supplied in this communication are based on a number of assumptions about very long term demographic and economic behavior. Even if these assumptions are exactly realized (terminations, deaths, disabilities, retirements, salary growth, and investment return) there will be differences on a year to year basis. This year to year difference between actual experience and the assumptions is called gains and losses and serve to raise or lower the employer’s rates from year to year. So, the rates will bounce around, especially due to the ups and downs of investment returns.

The volatility in annual employer rates may be affected by this amendment. The reason is that higher benefits and earlier retirement ages require the accumulation of more assets per member earlier in their career. Rate volatility can be measured by the ratio of plan assets to active member payroll. Higher asset to payroll ratios produce more volatile employer rates. To see this, consider two plans, one with assets that are 4 times active member payroll, and the other with assets that are 8 times active member payroll. In a given year, see what happens when assets rise or fall 10% above or below the actuarial assumption. For the plan with a ratio of 4, this 10 percent gain or loss in assets is the same in dollars as 40% of payroll; and for the plan with a ratio of 8, this is equivalent to 80% of payroll. If this gain or loss is spread over 20 years (and we oversimplify by ignoring interest on the gain or loss), then the first plan’s rate changes by 2% of pay while the second plan’s rate changes by 4% of pay.
CONTRACT AMENDMENT COST ANALYSIS - VALUATION BASIS: June, 30 2004
MISCELLANEOUS PLAN FOR CITY OF PORTERVILLE

Employer Number: 1297
Benefit Description: Section 21354.5, 2.7% @ 55 Full formula for All Active Local Miscellaneous Members Only

When a plan is amended, liability changes but assets do not. In addition, the desired state is to be 100% funded (i.e., to bring assets to equal accrued liability). Therefore, we disclose the ratio of accrued liability to payroll rather than assets to payroll as a measure of the plan’s potential future rate volatility. The higher the ratio, the more volatile the future rate may be. The table below contains these measures of potential future rate volatility.

<table>
<thead>
<tr>
<th></th>
<th>Current Plan</th>
<th>Post-Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accrued Liability</td>
<td>$32,092,161</td>
<td>34,965,787</td>
</tr>
<tr>
<td>Payroll</td>
<td>6,797,333</td>
<td>6,797,333</td>
</tr>
<tr>
<td>Volatility Index</td>
<td>4.72</td>
<td>5.14</td>
</tr>
</tbody>
</table>

It should also be noted that these ratios tend to stabilize as the plan matures. That is, all plans with no past service start their lives with zero assets and zero accrued liability – and so asset to payroll ratio and liability to payroll ratio of zero. However, as time goes by these ratios begin to rise and then tend to stabilize at some constant amount as the plan matures. Higher benefit levels and earlier expected retirements produce higher constant future ratios. For example, our miscellaneous plan pools have ratios that range from 2.75 for the “2% at 60” pool to a ratio of 4.71 for the “3% at 60” pool. For safety pools, the ratios range from 3.02 for the “2% at 55” pool to a ratio of 9.36 for the “3% at 50” pool.

**Present Value of Projected Benefits**

The table below shows the change in the total present value of benefits for the proposed plan amendment. The present value of benefits represents the total dollars needed today to fund all future benefits for current members of the plan (i.e., without regard to future employees). The difference between this amount and current plan assets must be paid by future employee and employer contributions. As such, the change in the present value of benefits due to the plan amendment represents the “cost” of the plan amendment.

However, for plans with excess assets some or all of this “cost” may already be covered by current excess assets.

<table>
<thead>
<tr>
<th></th>
<th>As of June 30, 2004</th>
<th>Current Plan</th>
<th>Post-Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Assets at Market Value (MVA)</td>
<td>$24,650,310</td>
<td>$24,650,310</td>
<td></td>
</tr>
<tr>
<td>Actuarial Value of Assets (AVA)</td>
<td>25,028,559</td>
<td>25,028,559</td>
<td></td>
</tr>
<tr>
<td>AVA/MVA</td>
<td>101.5%</td>
<td>101.5%</td>
<td></td>
</tr>
<tr>
<td>Present Value of Projected Benefits (PVB)</td>
<td>$41,069,145</td>
<td>$45,741,431</td>
<td></td>
</tr>
<tr>
<td>Actuarial Value of Assets (AVA)</td>
<td>25,028,559</td>
<td>25,028,559</td>
<td></td>
</tr>
<tr>
<td>Present Value of Future Employer and Employee Contributions (PVB - AVA)</td>
<td>$16,040,586</td>
<td>$20,712,872</td>
<td></td>
</tr>
<tr>
<td>Change to PVB</td>
<td></td>
<td>4,672,286</td>
<td></td>
</tr>
</tbody>
</table>

**Accrued Liability**

It is not required, nor necessarily desirable, to have accumulated assets sufficient to cover the total present value of benefits until every member has left employment. Instead, the actuarial funding process calculates a regular contribution schedule of employee contributions and employer contributions (called normal costs) which are designed to accumulate with interest to equal the total present value of benefits by the time every member has left employment. As of each June 30, the actuary calculates the “desirable” level of plan assets as of that point in time.
by subtracting the present value of scheduled future employee contributions and future employer normal costs from the total present value of benefits. The resulting "desirable" level of assets is called the accrued liability.

A plan with assets exactly equal to the plan's accrued liability is simply "on schedule" in funding that plan, and only future employee contributions and future employer normal costs are needed. A plan with assets below the accrued liability is "behind schedule", or is said to have an unfunded liability, and must temporarily increase contributions to get back on schedule. A plan with assets in excess of the plan's accrued liability is "ahead of schedule", or is said to have excess assets, and can temporarily reduce future contributions. A plan with assets (AVA) in excess of the total present value of benefits is called super-funded, and neither future employer nor employee contributions are required. Of course, events such as plan amendments and investment or demographic gains or losses can change a plan's condition from year to year. For example, a plan amendment could cause a plan to move all the way from being super-funded to being in an unfunded position.

The changes in your plan's accrued liability, unfunded accrued liability, and the funded ratio as of June 30, 2004 due to the plan amendment are shown in the table below.

<table>
<thead>
<tr>
<th>As of June 30, 2004</th>
<th>Current Plan</th>
<th>Post-Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Entry Age Normal Accrued Liability (AL)</td>
<td>$32,092,161</td>
<td>34,965,787</td>
</tr>
<tr>
<td>Actuarial Value of Assets (AVA)</td>
<td>25,028,559</td>
<td>25,028,559</td>
</tr>
<tr>
<td>Unfunded Liability(Excess Assets) (UAL = AL - AVA)</td>
<td>$7,063,602</td>
<td>9,937,228</td>
</tr>
<tr>
<td>Funded Ratio (AVA / AL)</td>
<td>78.0%</td>
<td>71.6%</td>
</tr>
<tr>
<td>Change to AL</td>
<td></td>
<td>2,873,526</td>
</tr>
</tbody>
</table>

Total Employer Contribution Rate

While the table above gives the changes in the accrued liability and funded status of the plan due to the amendment, there remains the question of what will happen to the employer contribution rate because of the change in plan provisions.

CalPERS policy is to implement rate changes due to plan amendments immediately on the effective date of the change in plan benefits. This change is displayed as the "Change to Total Employer Rate" on the following page. If the contract amendment effective date is on or before June 30, 2006, the change in the employer contribution rate should be added to the employer's current rate. In general, the policy also provides that the change in unfunded liability due to the plan amendment will be separately amortized over a period of 20 years from the effective date of the amendment and all other components of the plan's unfunded liability/excess assets will continue to be amortized separately.

However, your actuary may choose to apply different rules to plans with a current employer contribution rate of zero. The pre-amendment excess assets in these plans were sufficient to cover the employer's normal cost for one or more years into the future. A plan amendment will use up some or all of the pre-amendment excess assets. In order to maintain our goal of providing rates that are relatively stable, while taking into account known or expected future events, your actuary may decide to spread any remaining excess assets over a single number of years. This is known as a "fresh start" and will, in no case, be less than 5 years. You may call your actuary to discuss further alternative financing options. If the amendment uses up all excess assets and creates an unfunded liability (i.e., from being ahead of schedule to behind schedule), the total post-amendment unfunded liability may be amortized over 20 years.

In no case may the annual contribution with regard to a positive unfunded liability be less than the amount which would be required to amortize that unfunded liability, as a level percent of pay, over 30 years. The table on the following page shows the change in your plan's employer contribution rate due to the plan amendment for fiscal 2006-2007.
<table>
<thead>
<tr>
<th>As of June 30, 2004</th>
<th>Current Plan</th>
<th>Post-Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006-2007 Employer Rate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payment for Normal Cost</td>
<td>7.988%</td>
<td>10.107%</td>
</tr>
<tr>
<td>Payment on Amortization Bases</td>
<td>6.111%</td>
<td>9.963%</td>
</tr>
<tr>
<td>Total Employer Rate</td>
<td>14.099%</td>
<td>20.070%</td>
</tr>
<tr>
<td>Change to Normal Cost</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change to Total Employer Rate</td>
<td></td>
<td>2.119%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5.971%</td>
</tr>
<tr>
<td>Current Amortization Bases</td>
<td>Multiple Bases</td>
<td></td>
</tr>
<tr>
<td>Amendment Amortization Base</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Fresh Start</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>- Multiple Base</td>
<td></td>
<td>20-year</td>
</tr>
<tr>
<td>2006-2007 Employee Rate</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Employee Rate</td>
<td>7.000%</td>
<td>8.000%</td>
</tr>
<tr>
<td>Change to Total Employee Rate</td>
<td></td>
<td>1.000%</td>
</tr>
<tr>
<td>2007-2008</td>
<td></td>
<td></td>
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<tr>
<td>Estimated Employer Rate (recognizing 12% investment return for 2004-2005)</td>
<td>14.0%</td>
<td>19.9%</td>
</tr>
<tr>
<td>Projection Amortization Base</td>
<td>Multiple Base</td>
<td>Multiple Base</td>
</tr>
</tbody>
</table>

1 - Details of the current amortization base are shown on page 13 of the June 30, 2004 annual valuation report. If you have adopted any other subsequent amendments, the current amortization base is the schedule after these adopted amendments.

2 - If a fixed number of years is shown, it means that the current unfunded actuarial liability is projected and amortized over this fixed number of years. This amortization replaces the amortization schedule shown in your June 30, 2004 annual valuation and any other subsequent amendments you have adopted.

3 - If 20-year is shown, it means that the change in liability due to plan amendments is amortized separately over a 20-year period. This amortization schedule is in addition to the amortization schedule shown in the June 30, 2004 annual valuation and any other subsequent amendments you have adopted.

In the above table, the information shown represents the actual initial contribution rate that will apply during fiscal 2006-2007 if you adopt the amendment. However, these figures do not incorporate the projected 12% investment return in 2004-2005. The estimated employer rates shown in the 2007-2008 box, which incorporate this return, **will give you a good estimate of what to expect in 2007-2008**.

Note that the change in normal cost in the table above may be much more indicative of the long term change in the employer contribution rate due to the plan amendment. The plan's payment on amortization bases shown in the table above is a temporary adjustment to the employer contribution to "get the plan back on schedule". This temporary adjustment to the employer rate varies in duration from plan to plan. For example, a plan with initial excess assets being amortized over a short period of time will typically experience a large rate increase when excess assets are fully amortized. While a plan amendment for such a plan may produce little or no increase in the employer contribution rate now, the change in normal cost due to the plan amendment will become fully reflected in the employer contribution rate as soon as initial excess assets are fully amortized.
Disclosure

If your agency is requesting cost information for two or more benefit changes, the cost of adopting more than one of these changes may not be obtained by adding the individual costs. Instead, a separate valuation must be done to provide a cost analysis for the combination of benefit changes. If the proposed plan amendment applies to only some of the employees in the plan, the rate change due to the plan amendment still applies to the entire plan, and is still based on the total plan payroll.

Any mandated benefit improvements not included in the June 30, 2004 annual valuation have not been incorporated into this cost analysis.

Please note that the 2007-2008 projected cost in the cost analysis provided in this document should not be relied upon once the CalPERS actuarial staff have completed the next annual valuation, that is, the annual valuation as of June 30, 2005. If you have not taken action to amend your contract, and we have already completed the June 30, 2005 annual valuation report, we recommend you contact our office for an updated cost analysis, based on the new annual valuation. In any case, an amendment effective after June 30, 2007 will require an updated cost analysis.

Descriptions of the actuarial methodologies, actuarial assumptions, and plan benefit provisions may be found in the appendixes of the June 30, 2004 annual report. Please note that the results shown here are subject to change if any of the data or plan provisions change from what was used in this study.

Certification

This actuarial valuation for the proposed plan amendment is based on the participant, benefits, and asset data used in the June 30, 2004 annual valuation, with the benefits modified if necessary to reflect what is currently provided under your contract with CalPERS, and further modified to reflect the proposed plan amendment. The valuation has been performed in accordance with standards of practice prescribed by the Actuarial Standards Board, and the assumptions and methods are internally consistent and reasonable for this plan, as prescribed by the CalPERS Board of Administration according to provisions set forth in the California Public Employees' Retirement Law.

May Shuang Yu, A.S.A., M.A.A.A.
Senior Pension Actuary, CalPERS
Summary of Plan Amendments Valued

COVERAGE GROUP 70001

Pre-Amendment
- The Service Retirement benefit calculated for service earned by this group of members is a monthly allowance equal to the product of the 2% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

<table>
<thead>
<tr>
<th>Retirement Age</th>
<th>2% at 55 Factor</th>
<th>Retirement Age</th>
<th>2% at 55 Factor</th>
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<tbody>
<tr>
<td>50</td>
<td>1.426%</td>
<td>57</td>
<td>2.104%</td>
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<tr>
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<td>1.522%</td>
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<tr>
<td>55</td>
<td>2.000%</td>
<td>62</td>
<td>2.366%</td>
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<tr>
<td>56</td>
<td>2.052%</td>
<td>63 and older</td>
<td>2.418%</td>
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</tbody>
</table>

- This group of members is required to contribute 7% of reportable earnings. (Members with a modified formula contribute 7% of reportable earnings in excess of $133.33 per month).

Post-Amendment
- The Service Retirement benefit calculated for service earned by this group of members (applying to active members only) is a monthly allowance equal to the product of the 2.7% @ 55 benefit factor, years of service, and final compensation. (Final compensation is reduced by $133.33 per month for members with a modified formula). The benefit factors for retirement at integral ages are shown below:

<table>
<thead>
<tr>
<th>Retirement Age</th>
<th>2.7% at 55 Factor</th>
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<tr>
<td>50</td>
<td>2.000%</td>
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<tr>
<td>51</td>
<td>2.140%</td>
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<tr>
<td>52</td>
<td>2.280%</td>
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<tr>
<td>53</td>
<td>2.420%</td>
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<tr>
<td>54</td>
<td>2.560%</td>
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<tr>
<td>55 and older</td>
<td>2.700%</td>
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</tbody>
</table>

- This group of members is required to contribute 8% of reportable earnings. (Members with a modified formula contribute 8% of reportable earnings in excess of $133.33 per month).
Probability of Retirement for New Miscellaneous Benefit Formulas

The introduction of the three new miscellaneous formulas will affect future retirement behavior. As a result, we developed 3 sets of probability of retirements to reflect the estimated changes in retirement pattern. At this point, we cannot know the exact impact the new formulas will have. As we perform experience studies in the future, we will modify our retirement assumptions accordingly. The table below contains the new probability of retirement.

<table>
<thead>
<tr>
<th>Retirement Age</th>
<th>2.5% @ 55</th>
<th>2.7% @ 55</th>
<th>3% @ 60</th>
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<tbody>
<tr>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
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<tr>
<td>50</td>
<td>5%</td>
<td>7%</td>
<td>5%</td>
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<tr>
<td>70</td>
<td>100%</td>
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SUBJECT: PROPOSED SALE OF 1982 FIRE APPARATUS

SOURCE: FIRE DEPARTMENT

COMMENT: The City of Porterville Fire Department has a 1982 Van Pelt Ladder Truck which has been replaced. The 1982 apparatus has a current value of $48,000.

The City of Lindsay has expressed interest in purchasing the unit at our asking price of $48,000. The request is to pay the City of Porterville $1,000 dollars per month for 48 months.

Staff is in agreement with the proposed offer as the City of Lindsay is a partner in our County Wide Mutual Aid Program. This would allow us access to the ladder truck whenever the City of Porterville needs additional apparatus.

RECOMMENDATION: That the City Council:

1- Authorize staff to negotiate the sale of the 1982 Van Pelt Ladder Truck to the City of Lindsay for $48,000.

2- Authorize the Finance Department to accept monthly payments from the City of Lindsay at $1,000 per month for 48 months. No interest.

3- Authorize the Mayor to sign an agreement between the City of Porterville and the City of Lindsay as long as the price or duration of the loan do not change.

4- Authorize the funds received to be placed in the Fire Department’s equipment replacement fund.

ATTACHMENTS: 1- None
SUBJECT: CURBSIDE RECYCLE SELECTION COMMITTEE STATUS REPORT
RESPONSES TO REQUESTS FOR PROPOSALS FOR COLLECTION OF RESIDENTIAL RECYCLABLES

SOURCE: CITY ATTORNEY

COMMENT: On January 17, 2006, the Responses to the above-referenced Request for Proposals were opened. Two Responses were received, one from Sunset Waste Paper, Inc., and one from the City of Porterville. Pursuant to direction given at the time of the award of a contract for the processing of the City’s residential recyclables, in lieu of utilizing the City’s auditor as a member of the committee, this office has retained an individual with experience and familiarity in this area to assist in making a recommendation to the City Council. James Greco, of California Waste Associates, is an engineer with twenty-eight years experience in the solid waste management field. His experience includes 12 years with a multi-national corporation, and five years with a national trade association. Mr. Greco is familiar with Tulare County, in that he has performed consulting work for the Consolidated Waste Management Authority (CWMA), and he has also worked for other cities and counties in the State of California.

Mr. Greco and I expect to have our initial analysis completed by early this week, and anticipate that we will then be contacting both City and Sunset Waste Paper staff concerning any clarifications that are needed. If we are able to coordinate with the participants, and get questions answered and any issues resolved, this office intends to bring a recommendation back to the City Council on March 21, 2006.

RECOMMENDATION: This status report is made for information purposes only.
SUBJECT: LEAGUE OF CALIFORNIA CITIES’ REQUEST FOR SUPPORT REGARDING FEDERAL TELECOMMUNICATIONS

SOURCE: City Clerk

COMMENT: The League of California Cities’ is requesting that the member cities sign onto the League’s letter to the California congressional delegation urging the delegation to consider key telecommunications principles as they move forward with the reform of federal telecommunications. The League’s memo of February 28, 2006, which includes the League’s letter, is attached for Council’s consideration. The League is asking that the City respond by March 10, 2006.

Recommendation: That the Council approve the request as presented by the League of California Cities, and direct the City Manager to contact the League by March 10, 2006 for inclusion on the letter to the California congressional delegation.

Attachment: League of California Cities Memo dated February 28, 2006

Item No. 13A
February 28, 2006

TO: Mayors, Councilmembers and City Managers (Please distribute)

FROM: Chris McKenzie, Executive Director

RE: Federal Telecommunications: Please sign onto the League letter individually or as a city TODAY!

ACTION REQUESTED: The League of California Cities is asking your city to sign onto the League letter to the California congressional delegation that urges the delegation to consider key telecommunications principles as they move forward with the reform of federal telecommunications law. The letter along with a list of cities who have signed on will be delivered to the California delegation during the National League of Cities Congressional City Conference in March.

Background: The telecommunications debate at both the state and federal level promises to be a big issue for cities in 2006. The challenge for local governments will be to retain our current or equivalent revenue stream, protect the management of the local right-of-way, ensure that our citizens have access to the communications services going into local communities and that local businesses have the communications infrastructure to support robust economic activity.

In February of 2006, the League Board of Directors approved a policy framework for telecommunications reform that the subcommittee on telecommunications developed. The subcommittee continues to review and monitor legislation at both the state and federal level as it is introduced. Additionally, in December 2005 the League sent all cities the Western City article, “How Telecommunications Revolution Will Affect Your City,” that outlined the basics of telecommunications.

This letter to the Congressional Delegation will help the League advocate on behalf of California cities during the National League of Cities Congressional City Conference in March. If your city would like to sign onto this letter, please send an email to Genevieve Morelos at gmorelos@cacities.org by Friday March 10, 2006. In the email please include information on how we should list your support: for entire cities, please just list your city name, for individuals please list your name, your title and your city name.

League Letter to the California Congressional Delegation re: Telecommunications Reform
February 28, 2006

Dear California Congressional Delegation and California Senators:

On behalf of the League of California Cities (League), and the hundreds of California’s cities we represent, we write to urge you to consider the following principles as you continue your deliberations on federal telecommunications law reform.

The League and California cities strongly support and encourage telecommunication innovation and increased competition in any federal telecommunications policy overhaul. We strongly believe, however, that cities’ responsibility to protect their residents and local businesses must be considered as part of any reform measures. The continued involvement of local government in any new federal or state regulatory scheme by way of locally negotiated agreements is an essential component of telecommunications regulations; best serves the needs of consumers, and is consistent with the goal of providing consumers greater choice in telecommunications option.

Specific principles that we believe must be considered as part of reform are:

**PRESERVE VALUABLE CITY SERVICES**
Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments. It is essential that California cities retain current revenue in order to maintain basic services to our residents, including public safety, traffic management, and street and sidewalk preservation.

**ENSURE SERVICE AVAILABILITY TO ALL CONSUMERS**
Address a reasonable timeframe for deployment of telecommunications services by providers that includes a clear plan for sequencing of the build-out of facilities within an entire franchise area.

**MAINTAIN THE KEY ELEMENTS IN LOCAL FRANCHISE AGREEMENTS**
Municipalities must be able to continue to ensure the provision of key services, including public, education and government channels, as well as make sure that local emergency alerts and institutional networks meet specific local needs.

**PRESERVE LOCAL GOVERNMENT’S MANAGEMENT OF THE PUBLIC RIGHTS-OF-WAY**
Local governments are important and proven stewards of the public rights-of-way, and are pivotal in helping to prevent public safety issues resulting from overcrowding and improper use; ensuring local emergency (911) services are provided, as well as addressing customer service and local business concerns.

**PRESERVE LOCAL AUTHORITY TO DEPLOY AND OPERATE MUNICIPAL BROADBAND NETWORKS**
Allow local governments to meet their community’s needs to broadband telecommunications needs by preserving their authority to develop and operate municipal broadband networks, either through public-private partnerships or systems wholly owned by the municipality.
California cities have traditionally been staunch supporters of competition in cable and telephone service. We look forward to working closely with you as federal legislation addressing these important issues develops.

Sincerely,

Chris McKenzie
Executive Director
CITY COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING (CONTINUED)- STAFF REPORT

TITLE: GENERAL PLAN AMENDMENT 1-2006 (A) (FORMERLY 5-2004) AND ZONE CHANGE 1-2006

APPLICANT: John Hale
220 Pine Street
Bakersfield, CA 93301

PROJECT LOCATION: Northeast corner of South Jaye Street and State Route 190.

SPECIFIC REQUEST: The applicant had originally requested a General Plan Amendment and Zone Change for that 10.7± acre vacant site located on the northeast corner of South Jaye Street and State Route 190. The applicant has submitted a letter requesting modification to the application to include only the 3.4± acre southernmost portion of the site, south of the Vandalia Street alignment. The northerly 7.3± acre portion is not part of the requested General Plan Amendment and Zone Change as modified.

PROJECT DETAILS: General Plan Amendment 1-2006 (A) proposes to change the Land Use Element of the General Plan from Industrial to General Commercial.

Zone Change 1-2006 proposes to change the present zoning from M-1 (Light Manufacturing) to C-2 D (General Commercial with Design Review Overlay) Zone contingent upon approval of General Plan Amendment 1-2006 (A).

A conceptual plan for a 75,000± square foot commercial center is attached to the staff report. As noted above, the northerly 7.3±-acre portion of the site is not a part of the requested action, so only the development elements referenced in the plan south of the Vandalia Street alignment are applicable. The specific development plans for the site would be brought back to Council for approval. Prior to the development, if General Plan Amendment 1-2006 (A), and Zone Change 1-2006 were to be approved, any use requiring a Conditional Use Permit would also be brought back to Council.

GENERAL PLAN LAND USE DESIGNATION: Industrial.

SURROUNDING AREA ZONING AND LAND USE:

North: Industrial land (only one lot is currently developed), Tule River.
South: State Route 190, Commercial uses, including a hotel, and restaurants, Wal-Mart Distribution Center.

ITEM NO. 14

DD APPROPRIATED/FUNDED_____ CM_______
East: Industrial uses.
West: 64 acres of vacant land, (proposed for commercial development), Multi-family and Single family residential.

STAFF ANALYSIS:

The proposed project area is currently zoned M-1 (light industrial). The site location does have the qualities recommended by the City’s General Plan for development of an industrial site. The project area is away from residential uses and adjacent to transportation facilities such as State Route 190 and the Union Pacific Railroad. Staff calculations show that approximately 453 acres of industrial land are currently available in the City of Porterville. The largest portion of that amount, over 50%, is in the vicinity of the airport, and the City is in the process of constructing a water inter-tie system that would provide that area City water supply. The loss of 3.4± acres of industrial land would be considered de minimus, considering the scope of available. The Airport Water Inter-tie project is slated for completion in the 2006-2007 Fiscal Year, making availability of the industrial zoned lands near the airport forthcoming.

The Land Use Element of the City’s General Plan defines General Commercial as a “land use designation intended to provide for a variety of commercial activities and development, including …regional and sub-regional shopping centers. Primarily, general commercial is oriented to retail comparison shopping, and allows supporting public, financial, and professional uses.” The General Plan notes that General Commercial land uses should be concentrated and located along major arterial and collector streets to adequately accommodate the volumes of traffic typically generated by such uses without disruption to the community and residential development.

Jaye Street is a planned arterial, as is Springville Avenue in the vicinity of the project. Vandalia Avenue, which would be a dedicated city street, is a necessary circulation link when the Poplar Avenue connection to Jaye Street is eliminated. The traffic study completed as part of the EIR requires mitigation measures to ensure adequate functionality of adjacent streets with the additional trips generated by the project. The location of the proposed project meets the parameters defined by the General Plan for the proposed use.

Development of the site as proposed will be consistent with development to the south of the project area and proposed development west of the project area. Environmental impacts were evaluated in comparison to what would be constructed if the General Plan land use and zoning remained industrial. All environmental impacts were found to be less than significant with the incorporation of mitigation measures.

The public hearing was opened and closed at the previous meeting of February 4, 2006, but the full staff report was not at that time presented. The applicant requests that the Council reopen the public hearing and allow staff to present the full staff report for Council consideration.
ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No Project. Denial of the proposed general plan amendment would not allow the change of zone as proposed.

2. Approve the project. Approval of the general plan amendment and zone change as proposed in the modified project description would allow for future development of the site to be in conformance with the General Plan and proposed zoning.

ENVIRONMENTAL: On October 15, 2004, the Environmental Coordinator made a preliminary determination that an Environmental Impact Report would be required for the proposed project, and an Initial Study was circulated for a thirty day period. The Draft Environmental Impact Report has been transmitted to interested agencies, groups, and individuals for a thirty (30) day review period from November 10, 2005 to December 10, 2005. On December 20, 2005, the City Council held a public hearing to obtain comments from the public. Five agencies provided comment on the project, and those comments as well as comments received at the public hearing were addressed in the Final EIR, which was publicly noticed and made available from January 23, 2006 to February 2, 2006.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: January 7, 2004

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution certifying the Environmental Impact Report prepared for General Plan Amendment 1-2006 (A) and Zone Change 1-2006;

2. Adopt the draft resolution approving General Plan Amendment 1-2006 (A);

3. Adopt the draft ordinance approving Zone Change 1-2006 and give first reading to the draft ordinance.

4. Waive further reading of the draft ordinance, and approve Zone Change 1-2006.

ATTACHMENTS:

1. Zoning/Land Use Map
2. Zone Change Application
3. Letter from applicant requesting proposal modification
4. Conceptual Site Plan
5. Final Environmental Initial Report
6. Draft Resolution certifying Environmental Impact Report for General Plan Amendment 1-2006 (A) and Zone Change 1-2006
7. Draft Resolution approving General Plan Amendment 1-2006 (A)
8. Draft Ordinance approving Zone Change 1-2006
APPLICATION FOR CHANGE OF ZONE NO. ..........................

TO THE PORTERVILLE CITY PLANNING COMMISSION:

We, the owners of real property set opposite our respective names, hereby petition to have Ordinance No. 707 amended by reclassifying from Zone M-1 to Zone C-2-D, the property described hereon and shown in colored cross-hatching on the attached map which, together with the Property Owner's List, also attached hereto, are made a part of this petition.

The property is situated on the East side of Jaye Street, between Poplar Avenue and Vandalia Avenue.

Exact legal description of said property being APN: 240-300-017

CONSISTING OF APPROXIMATELY 3.40 ACRES

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

   Yes,
   
   The City of Porterville has extended growth to the south end of the town, which this Rezone will be in harmony with existing and proposed commercial uses.

2. Is the property involved in the proposed reclassification more suitable for the purposes permitted in the proposed classification than for the purposes permitted in the present classification?

   No,
   
   Commercial development is the highest and best use of the property.

3. Would the uses permitted by the proposed zone be detrimental in any way to surrounding property?

   No,
   
   Surrounding property is predominantly vacant land & industrial/office uses.

FORM B

ATTACHMENT
ITEM NO. 2
4. What were the original deed restrictions, if any, concerning the type and class of uses permitted on the property involved? Give the expiration date of these restrictions.

(You may attach a copy of these restrictions, after properly underlining the portions that are in answer to this question.)

N/A

The following spaces are for signatures of owners whose properties lie within the radius of 300 feet of the property proposed to be reclassified and who approve of the change. (Not required. (See Item 2, Page 4.))

(Attach extra sheets if necessary.)

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<th>NO. ON MAP</th>
<th>NAME</th>
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We, the undersigned property owners, herewith request that our respective properties which are included in the reclassification petitioned for, be reclassified and for the reasons herein enumerated.

(This space is for signatures of owners of property actually included in the proposed reclassification. Attach extra sheet if necessary)

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STATE OF CALIFORNIA )
COUNTY OF TULARE )

I, John Hale, being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Planning Commission as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application herewith submitted and that the statements and information above referred to are in all respects true and correct except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at ................................................., 19..........................

Telephone Number 661-323-4523
Signed

Mailing Address 2300 Pine St
Bakersfield, CA 93301

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

Received .........................................

By ...........................................
For The Porterville City Planning Commission

---3---
February 28, 2006

VIA FACSIMILE and U.S. MAIL

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

Re: Porterville Commercial Center

Dear Brad:

As you know, I am the applicant for the above-referenced project (the “Project”). On March 19, 2004, I submitted an application to the City for a proposed commercial development project on the approximate 10.7 acre site located at the northeast corner of Jaye Street and State Route 190 (the “Application”). The Application consists of an amendment to the General Plan land use designation of the site from Industrial to General Commercial and a Zone Change amendment from the Light Manufacturing zoning district (M-1) to the Central Commercial zoning district (C-2) with a Design Review Overlay (D). I am writing to amend the Application to apply only to the approximate 3.4 acre parcel fronting Jaye Street (Assessor Parcel Number 260-300-17, map is attached).

I am also writing to request that the public comment period be re-opened on the Project. Based on my conversations with City staff, I understood that this matter was likely to be continued from the City Council’s February 7, 2006 meeting to its March 7, 2006 meeting. At staff’s direction, I also sent a letter formally requesting continuance of the item so that the City could act on multiple, pending General Plan amendment applications in one hearing. As a result, I did not have several Project consultants that are dispersed in various locations throughout the state attend the February 7th hearing. As you know, at its February 7th hearing, the City Council heard public testimony regarding the Project and closed the public comment period. I am writing to request that the public comment period be re-opened so that I can have a meaningful opportunity to be heard by the City Council on the amended Project application.
Bradley Dunlap  
February 28, 2006  
Page 2  

Thank you for your consideration of these matters. Please do not hesitate to contact me should you have any questions or comments regarding the matters raised by this letter.

Very truly yours,

[Signature]

John Hale  

cc: Dave Mossman  
Mike Tolladay  
Julie Boyle  
Matt Francois
FINAL
ENVIRONMENTAL IMPACT REPORT

for the
Porterville Commercial Center Project

Submitted by
Quad Knopf
5110 West Cypress Avenue
P.O. Box 3699
Visalia, California 93278
(559) 733-0440

January 2006
FINAL
ENVIRONMENTAL IMPACT REPORT
for the
Porterville
Commercial Center Project

SCH #2004091116

Submitted By
Quad Knopf
5110 West Cypress Avenue
P.O. Box 3699
Visalia, California 93278
(559) 733-0440

January 2006
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CHAPTER ONE

INTRODUCTION
CHAPTER ONE - INTRODUCTION

In October 2004, the City of Porterville distributed to public agencies and interested citizens a Notice of Preparation (NOP) together with an Initial Study for the proposed Porterville Commercial Center project. The NOP informed these agencies of the City’s intent to prepare an Environmental Impact Report (EIR). The 30-day review of the NOP/Initial Study started on October 6, 2004 and ended on November 5, 2004. The City also invited interested agencies and citizens to a scoping meeting on October 21, 2004 to solicit comments on the information contained in the Initial Study. The comments received during that period are contained in Appendix B of the Draft EIR.

In November 2005, the City requested from the State Clearinghouse a shortened review period of 30 days. The State Clearinghouse determined that the request was consistent with criteria set forth in the written guidelines of the Office of Planning and Research for shortened review and in Section 21091 of the Public Resource Code. A Draft EIR was delivered to the State Clearinghouse and mailed out to agencies on November 11, 2005, for a 30-day review period. A notice was published in the Porterville Recorder on November 11, 2005, notifying the public of the availability of the Draft EIR and soliciting comments thereon. The City Council held a public hearing on December 20, 2005.

Upon the close of the public review period, the City prepared responses to both written and oral comments. These comments and the responses thereto are contained in this Final EIR. Chapter Two provides a verbatim excerpt of all written and oral comments on the Draft EIR and presents responses to significant environmental issues raised in the comments. Where a comment results in a change to the EIR text, a notation is made in the response indicating that the text is revised. Chapter Three of the Final EIR includes a revised Mitigation Implementation and Monitoring Program that includes all of the recommended mitigation measures. Actual comment letters and minutes of the December 20, 2005, Public Hearing on the Draft EIR are contained in Appendix A.

Responses to comments are directed towards the disposition of significant environmental issues that are raised in the comments, as set forth in Section 15088(b) of the California Environmental Quality Act CEQA Guidelines. When reviewing the comments and in developing responses thereto, every effort is made to compare the comment to the facts contained in the Draft EIR, and to provide supplemental information to provide “substantial evidence” about the presence or absence of environmental impacts. According to CEQA, Section 15064(f)(5) “argument, speculation, unsubstantiated opinions, or narrative, or evidence that is clearly inaccurate or erroneous does not constitute such [substantial] evidence.” Responses are not provided to comments on the non-environmental aspects of the proposed project. For comments not directed to significant environmental issues, the responses indicate that the comment has been “noted”.

CEQA requires that a Final EIR be prepared, certified and considered by the City Council prior to taking action on the project. The Final EIR provides the City of Porterville with an opportunity to respond to comments on the Draft EIR and to incorporate any changes necessary to clarify and/or supplement information contained in the document. This Final EIR, therefore, summarizes all environmentally related issues raised during the comment period. This Final EIR

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will be circulated to community public agencies and will be available to all commenting agencies for at least ten (10) days prior to its certification, as required by CEQA.
CHAPTER TWO

COMMENTS AND RESPONSES
CHAPTER TWO – COMMENTS AND RESPONSES

Section 2.1 provides a list of all agencies, organizations and individuals that submitted comments on the accuracy and sufficiency of the Draft EIR. The excerpted comments and responses to environmental issues raised in those letters are presented in Section 2.2. Oral comments and associated responses thereto received at the City Council meeting of December 20, 2005, are also included in Section 2.2.

2.1 LIST OF COMMENTATORS

The following agencies, organizations and individuals provided written or oral comments on the Draft EIR:

Written Comments:

1. Matthew D. Francois, Esq.
   Cassidy Shinko Dawson Kawakami
   20 California Street, Suite 500
   San Francisco, CA 94111

2. Jim Perrine, Director
   Parks & Leisure Services
   City of Porterville
   291 North Main Street
   Porterville, CA 93257

3. Mike Mirmazaheri, Chief
   Floodway Protection Section
   Department of Water Resources
   1416 Ninth Street
   P.O. Box 942836
   Sacramento, CA 94236-0001

4. Al Dias
   Office of Transportation Planning
   District 6
   Caltrans
   1352 West Olive Avenue
   P.O. Box 12616
   Fresno, CA 93778-2616

5. Hector Guerra
   Senior Air Quality Planner
   San Joaquin Valley Air Pollution Control District
   Central Regional Office
   1990 East Gettysburg Ave
   Fresno, CA 93726-6061
Oral Comments:

7. John Hale  
   2200 Pine Street  
   Bakersfield CA

8. Daryl Nicholson  
   26914 Avenue 140  
   Porterville CA

9. Greg Shelton  
   888 North Williford Drive  
   Porterville CA

10. Ben Ennis  
    643 North Westwood  
    Porterville CA

11. Boyd K. Leavitt  
    457 East Oak Avenue  
    Porterville CA

12. Dick Eckhoff  
    197 North Main  
    Porterville CA

13. Felipe Martinez  
    195 Putnam Avenue  
    Porterville CA

2.2 Responses to Comments

This section restates the written and oral comments received on the Draft EIR during the 30-day review period. Following each comment (shown in italics) is a response intended to either supplement, clarify, or amend information provided in the Draft EIR, or refer the commentor to the appropriate place in the Draft EIR where the information is found. Each letter and corresponding response is numbered for reference. Comments not directed to significant environmental issues may be included in this section; responses thereto indicate that the comment has been noted and that no detailed response is necessary. Comments and responses are referenced by comment letter number and comment number. For example, response 1-1 indicates the first comment of the first commentor, etc.
COMMENT LETTER 1

MATTHEW D. FRANCOIS
CASSIDY SHIMKO DAWSON KAWAKAMI
20 CALIFORNIA STREET. SUITE 500
SAN FRANCISCO, CA 94111

Comment 1-1

... since most of the traffic impacts associated with the Project only occur under cumulative conditions, it needs to be made clear that the Project is only responsible for mitigating its proportional fair share of the cumulative impacts along with the other reasonably foreseeable projects identified in the traffic study.

Response 1-1

Table 13 of the Traffic Impact Study, Appendix H of the Draft EIR, identifies the pro rata share of the project’s impacts based on the Caltrans Guide for the Preparation of Traffic Impact Studies (June 2001). The methodology used in the pro rata share calculation is not a legal standard for determining equitable responsibility and cost of the project’s traffic impact; rather the intent is to provide a means for establishing rough proportionality of the project’s traffic impacts.

Comment 1-2

The table purporting to calculate the Project’s pro-rata share to the various traffic improvements included in the Traffic Study (Appendix H to the DEIR) uses an appropriate application of the Caltrans proportionate share equation. The value for $T_E$ in the equation should be changed, however, to account for existing traffic only and not existing plus other approved projects...

Response 1-2

The value of $T_E$ is based upon the definition given in the Caltrans Guide for the Preparation of Traffic Impact Studies (June 2001).

Comment 1-3

In addition, the traffic mitigation measures are inconsistently described in Tables ES-1, 7-1, and Impact 3.15.1.

Response 1-3

Mitigation Measure #3.15.1 identified Table ES-1; ES-7 has been corrected.
Comment 1-4

*The traffic improvements proposed to mitigate cumulative traffic conditions need to be traced back to the Capital Improvement Program or some other reasonable plan of actual mitigation that the City commits itself to implementing. For instance, the Project Staff Report should discuss the City's approved traffic improvement plan for Jaye Street. In addition, the Staff Report should discuss the other improvements, noting that the Project and other probable future developments will be conditioned on paying their fair share toward these improvements, that the monies will be used by the City to finance these improvements, and that once a certain specified threshold of development is met, no further development will be allowed until these improvements are constructed.*

Response 1-4

Only those projects that are General Plan level can be traced to the Capital Improvement Program. Project specific impacts and mitigation will be undertaken in conjunction with project implementation.

Comment 1-5

*The current Project site plan shows Vandalia Avenue at its maximum length of approximately 250 feet. The traffic study nonetheless recommends that Vandalia Avenue be lengthened to 300 feet.*

Response 1-5

Vandalia Avenue serves as a storage lane for traffic access to Jaye Street. The amount of storage that would be provided by 2 - 300 foot lanes could be provided by additional lanes of a shorter length.

Comment 1-6

*In addition, the concept of internal capture rate is discussed in the Traffic Study, but does not appear to have been applied to the Project.*

Response 1-6

Internal capture rates were calculated and applied to the project. The Traffic Impact Study has been amended with a table to display the calculated internal capture rates.

Comment 1-7

*Further, there is no requirement that a Development Agreement be entered into in connection with this Project.*
Response 1-7

Early discussion with the project applicant identified a Development Agreement as the preferred method of determining project specific design features and mitigation measures. Since publication of the Draft EIR, other methods to achieve the same purpose have been identified and the City may instead require a Design Overlay Site Review.

Comment 1-8

Mitigation Measure 3.3.1 needs to be amended to clarify that alternative-fueled construction equipment will be used, "if feasible." Since the Project emissions fall below the San Joaquin Valley Air Pollution Control District's 10 ton per year thresholds, the references to "mitigated" and "unmitigated" emissions in Table 3.3-8 is confusing and makes no sense. Similarly, since the Project's air quality impacts are less than the District's thresholds, the Project's contribution to cumulative air quality impacts (i.e., ROG, NOx, and PM10) will be less than cumulatively considerable. The text of Chapter 5 (Cumulative Impacts) should be revised accordingly.

Response 1-8

In the Draft EIR, Table 3.3-8 only applies to operational emissions. The title of the table has been changed to reflect this. Table 3.3-7, "Construction, Equipment, Mitigation Measures," has been amended. The phrase "where feasible" is now included for "use of alternative field or catalyst equipped diesel construction equipment," and "replaces fossil-fueled equipment with electrically driven equivalents."

Comment 1-9

Under Section 4.2 (Reduced Project Size Alternative), the reference to a 5% reduction was apparently intended to refer to a 50% reduction. Correct the typographical error in the first sentence of the fourth paragraph under Section 4.1 (No Project Alternative).

Response 1-9

Section 4.2 (Reduced Project Size Alternative) has been corrected.

Comment 1-10

In regard to Table 7-1 (Mitigation and Monitoring Program), the "Implementation," "Monitoring," and "Time Span" sections need to be completed for Mitigation Measure 3.3.1. The timing of Mitigation Measures 3.1.1 and 3.1.2 should probably be revised to read: "Prior to issuance of building permits." The timing for Mitigation Measures 3.15.1 and 3.15.2 also needs to be specified.

Response 1-10

Table 7-1 (Mitigation and Monitoring Program) has been corrected.

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COMMENT LETTER 2

JIM PERRINE
PARKS & LEISURE SERVICES – DIRECTOR
CITY OF PORTERVILLE
291 N, MAIN STREET
PORTERVILLE, CA 93257

Comment 2-1

The Draft EIR for the reference project indicates that Impact #3.4.2 “Removal of a Valley Oak Tree” is necessary because the alteration of the project plans "is not practical or feasible."

Response 2-1

Construction of the street improvements can be designed to accommodate the Valley oak tree. The applicant will modify the site plan to retain the oak in place. Thus, Mitigation Measure #3.4.2 is no longer required. A conclusion to Impact #3.4.1 – Special Status Species – Migratory Birds is added. Construction activities may disturb avian predators and other migratory birds during nesting season and is a potentially significant impact, but will be less than significant with mitigation. Mitigation Measure #3.4.1 is modified.

COMMENT LETTER 3

MIKE MIRMAZAHERI, CHIEF
FLOODWAY PROTECTION SECTION
DEPARTMENT OF WATER RESOURCES
1416 NINTH STREET
P.O. BOX 942836
SACRAMENTO, CA 94236

Comment 3-1

Portions of the proposed project may be located within a regulated stream over which The Reclamation Board has jurisdiction and exercises authority.

Response 3-1

The Draft EIR correctly states that the project is not located within a regulated stream, wetlands or a 100 year flood zone
COMMENT LETTER 4

AL DIAS
OFFICE OF TRANSPORTATION PLANNING
DISTRICT 6
CALTRANS
1352 WEST OLIVE AVENUE
P.O. BOX 12616
FRESNO, CA  93778-2616

Comment 4-1

The internal capture rates of 36% to 53% shown in Appendix H (Page 11) of the DEIR are above the allowed 5% threshold and are excessive because the proposed project does not have true mixed uses, i.e. residential or commercial components.

Response 4-1

A basic premise behind the data presented in the Trip Generation Manual is that they were collected at single-use, free-standing sites. However, the development of mixed-use or multi-use sites is increasingly popular. While the trip generation rates for individual uses on such sites may be the same or similar to what they are for free standing sites, there is potential for interaction among those uses within the multi-use site, particularly where the trip can be by walking. A common example of this internal-trip making occurs at multi-use developments containing two or more ITE use classifications between which trips can be made without using the off-site road system. As outlined in the ITE Trip Generation Handbook, an internal capture rate can generally be defined as a percentage reduction that can be applied to the trip generation estimates for individual land uses to account for trips internal to the site. Although the proposed project does not have a mixed use with a residential component, the Trip Generation Manual does not state that a mixed/multi use development requires a residential component.

The following internal capture rates were derived from studies outlined in the Trip Generation Handbook and applied to approved/pending projects (including Riverwalk) and to the project:

Free Standing Discount Superstore – 36%
Specialty Retail Center – 36%
Sit Down Restaurant – 53%
Fast Food with Drive Thru – 41%
Gasoline/Service Station – 36%

Comment 4-2

Opening day improvements, without the Riverwalk Marketplace project, should include the following as a minimum:

Intersection of Vandalia Avenue and Jaye Street

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*Eastbound Vandalia. Avenue - 1 left, 1 shared through/left, 1 right*

*Westbound Vandalia Avenue - 1 left, 1 right*

*Northbound Jaye Street - 2 through, 1 right*

*Southbound Jaye Street - 2 left, 2 through*

**Intersection of SR 190 and Jaye Street**

*Eastbound SR 190 - 1 left, 2 through, 1 right. Westbound SR 190 - 1 left, 2 through, 1 right Northbound Jaye Street - 1 left, 1 through, 1 right Southbound Jaye Street - 2 left, 2 through, 2 right.*

**Response 4-2**

If the Riverwalk Marketplace project were not constructed for opening day of the Porterville Commercial Center project, there would be no need for any improvements to eastbound Vandalia at Vandalia and Jaye Streets.

**Comment 4-3**

*It is recommended that an additional 12 feet of right-of-way on the east side of Jaye Street be acquired for an additional left turn/through lane. Building pads should be set back an additional 20 feet for any future additional traffic or utility improvements.*

**Response 4-3**

The designs, as illustrated in Appendix H of the Draft EIR, show the needed configuration of that area for traffic projected to 2030. All necessary right-of-way will be obtained prior to construction of the project, as shown in preliminary maps prepared by City Staff. Setbacks will conform to City Code.

**Comment 4-4**

*Ultimate improvements to the intersection of SR 190 and Jaye Street should include dual northbound left-turn lanes and two through northbound lanes to accommodate the high percentage of slow-moving trucks from the distribution center. Without these additional lanes, the intersection is projected to operate at LOS E in 2030.*

**Response 4-4**

Impacts of the proposed project without consideration of adjacent pending development are relatively minor. The improvements recommended above are in response to the anticipated cumulative impacts of the adjacent projects. Mitigation monitoring after each phase of development of the Riverwalk Marketplace project would ensure continued function of the SR 190/Jaye Street intersection. If the Riverwalk Marketplace project were not built, the full extent
of the improvements recommended above would not be required. The Traffic Impact Study for the project outlines mitigation measures needed for the project.

Comment 4-5

The City of Porterville is required to monitor the LOS of SR 190/Jaye Street intersection. When the LOS of the intersection falls below LOS D or the LOS of the eastbound left-turn movements is E, all development within the vicinity is to be halted once the set threshold is reached.

Response 4-5

Comment noted.

Comment 4-6

It is recommended that the project proponent needs to implement the improvements prior to opening day or make a "fair share" funding contribution towards future required improvements as noted in the Draft Environmental Impact Report. The City of Porterville is financially responsible for the improvements of the SR 190/Jaye Street intersection. The City of Porterville should create a development impact fee program to help fund future, local and State transportation improvement projects necessitated by the accumulated impacts of development. The Freeway Agreement between Caltrans and the City of Porterville maintains SR 190 as a freeway between SR 65 and Jaye Street and an expressway east of Jaye Street with the intersection of SR 190 and Jaye Street maintained as an at-grade intersection.

Response 4-6

The project proponent will implement improvements needed for opening day traffic as discussed in the Traffic Impact Study. For improvements required in addition to opening day scenario, the project proponent will either implement the improvements or make a fair share funding contribution towards required improvements as noted in the Draft EIR. Likewise, the City will make a fair share contribution to future improvements to State Route 190 and Jaye Street. While the City accepts that its percentage of responsibility for improvements is large, the burden must be shared with those developments occurring east of the City, in County communities and at the tribal reservation. The City cannot agree to fund all projects unless there is a nexus for traffic volumes due to City development. Following the City's update to the General Plan Circulation Element, the City will study the establishment of a new impact fee for State facilities.

Comment 4-7

The close intersection spacing on Jaye Street between SR 190 and Vandalia Avenue and the excessive turning traffic at the intersection of SR 190 and Jaye Street may require additional street improvements in the future. The proposed project and future land use changes require that mitigation monitoring. Through the continual mitigation monitoring acceptable levels of service for all local roads and State facilities may be developed and improvements implemented prior to the LOS being affected.
Response 4-7

The Draft EIR states that the City shall implement and monitor Mitigating Measure 3.15.1 (Page 3-60 Draft EIR).

Comment 4-8

*It is recommended that the City of Porterville conduct a corridor study for SR 190, which will ultimately have a combination of full interchanges, partial interchanges, and at-grade intersections. The City will have the full financial responsibility for the future widening of SR 190 and making intersection improvements to the SR. 190 at Jaye Street intersection to obtain a minimum LOS C. for the intersection.*

Response 4-8

The Porterville Commercial Center project does not create traffic impacts substantial enough to merit a corridor study for State Route 190. Regarding financial responsibility, please note the response to Comment 4-6.

Comment 4-9

*The existing intersection when signalized needs to be synchronized with the SR 190/Jaye Street intersection.*

Response 4-9

The existing “T” intersection when signalized will be synchronized with the SR 190/Jaye Street intersection; however, the City will determine which technology provides the appropriate degree of accuracy.

Comment 4-10

*Existing curb, gutter and sidewalk, and curb ramps may need to be reconstructed to meet current ADA standards or other applicable State or Federal accessibility and safety requirements.*

*All existing concrete curb, gutter and sidewalk that is damaged; broken and/or cracked shall be removed and replaced in-kind.*

*Any and all damaged concrete surfaces within the right-of-way which pose a safety hazard due to potential tripping hazards shall be replaced or repaired in accordance with ADA and/or applicable State or Federal requirements.*

Response 4-10

Comment noted.
Comment 4-11

An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. Activity and work planned in the State right-of-way shall be performed to State standards and specifications, at no cost to the State. Engineering plans, calculations, specifications, and reports (documents) shall be stamped and signed by a licensed Engineer or Architect. Engineering documents for activity and work in the State right-of-way shall be submitted using Metric Units. However, dual units may be used for activity and work in the right-of-way costing $1,000,000 or less, or by an exception approved by the Director. The preferred method of delineating dual units is by showing the English unit first then the Metric unit next to it in parenthesis. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. Encroachment permits will be issued in accordance with Streets and Highway Codes, Section 671.5, "Time Limitations." Encroachment permits do not run with the land. A change in ownership requires a new permit.

Response 4-11

Comment noted.

Comment 4-12

All proposed landscaping plans along the SR 190 right-of-way including corner cut-off shall meet current standards as determined by the District Landscape Architect. All features of landscaping shall be evaluated for type, location and site visibility conflicts during the encroachment review process. All permits for landscaping in conventional highway right-of-way must be accompanied by a "District" approved maintenance agreement obligating a local agency or the permittee to maintaining the landscaping. Said maintenance agreement must accompany and be approved prior to issuance of the landscape permit. Proposed landscape projects in access control rights-of-way require an exception process, and approval is subject to the Headquarters Departmental approval process.

Response 4-12

Comment noted.

Comment 4-13

Dust control measures shall be implemented on the site in a manner to prevent dust from entering the State right-of-way.

Response 4-13

Comment noted.
Comment 4-14

Stormwater is not allowed to be discharged to the State right-of-way. Since the proposed development/project involves one acre or more of ground disturbance, the applicant needs to be advised by the lead agency to contact the Central Valley Regional Water Quality Control Board office in Fresno at (559) 445-5116 to determine whether a Notice of Construction will be required. The applicant will be required to adhere to Caltrans construction stormwater requirements if there is proposed work within the State right-of-way.

Response 4-14

Comment noted.

Comment 4-15

Advertising signs within the immediate area outside the State right-of-way need to be cleared through the Caltrans Right-of-Way Division, Office of Outdoor Advertising. The project proponent must construct and maintain the advertising signs without access to the State Routes.

Response 4-15

Comment noted.

Comment 4-16

Alternative transportation policies should be applied to the development. An assessment of multi-modal facilities should be conducted. This assessment should be used to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City. The assessment should include the following:

Pedestrian walkways should link this retail complex to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.

Response 4-16

The project is adjacent to the recently constructed Tule River Parkway Trail, and is accessible to pedestrians and bicyclists. The project size is not so great that a trail within the development is necessary, but sidewalks throughout the retail center and crosswalks connecting separated buildings will meet the intent of trails. The site plan will be designed to encourage pedestrian activity within the center. Bus turnouts along the project’s Jaye Street frontage will be provided with implementation of the related projects.

Comment 4-17

The project should develop a Transportation Management Plan (TMP). The TMP needs to address construction and traffic impacts during the building of the sewer, drainage and other
infrastructure. The goal of the TMP is to reduce overall trips and the impact of those trips on transportation/air quality.

Response 4-17

A traffic control plan will be completed to manage traffic impacts during construction.

Comment 4-18

The consideration of bicycles as an alternative needs more attention. The project should offer internal amenities to encourage bicycle use. These include parking, security, lockers and showers. However, internal bicycle paths should be coordinated with local and regional pathways to further encourage the use of bicycles for commuter and recreational purposes.

Response 4-18

The project is adjacent to the recently constructed Tule River Parkway Trail, and is accessible to pedestrians and bicyclists. The project size is not so great that a trail within the development is necessary, but sidewalks throughout the retail center and crosswalks connecting separated buildings will meet the intent of trails. The site plan will be designed to encourage pedestrian activity within the center. Bus turnouts along the project’s Jaye Street frontage will be provided with implementation of the related projects.

Comment 4-19

Local roads in the vicinity of the SR 190/Jaye Street intersection are experiencing severe queuing resulting in peak-period congestion that has the potential to exacerbate local (spot) as well as regional air quality concerns. This raises concerns pertaining to the cumulatively significant impact this project will have on air quality.

Response 4-19

The circulation improvements mitigating traffic impacts to the site, as well as the planned and upcoming circulation improvements to the Jaye Street corridor will reduce traffic congestion and alleviate local (spot) air quality impacts.
COMMENT LETTER 5

HECTOR GUERRA
SENIOR AIR QUALITY PLANNER
SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
CENTRAL REGIONAL OFFICE
1990 EAST GETTYSBURG AVE
FRESNO, CA 93726-6061

Comment 5-1

The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required:

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.

If a non-residential project is 5.0 or more acres in area or will include moving, depositing, or relocating more than 2,506 cubic yards per day of bulk materials on at least three days, a Dust Control Plan must be submitted as specified in Section 6-3-1 of Rule 8021 Construction activities shall not commence until the District has approved the Dust Control Plan

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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 4692 (Commercial Charbroiling) This rule regulates chain-driven charbroilers to limit Volatile Organic Compounds (VOC) and PM10 emissions. Items subject to this rule include (but are not limited to): grill charbroilers, flamebroilers and direct-fired barbecues.

Response 5-1

Comment noted

ORAL COMMENT 6

JOHN HALE
2200 PINE STREET
BAKERSFIELD CA

Mr. Hale is the project applicant and stated he looks forward to the opportunity to build a quality project and bring something to the community to be proud of and was present to answer any questions

Response 6-1

Comment noted

ORAL COMMENT 7

DARYL NICHOLSON
26914 AVENUE 140
PORTERVILLE CA

Mr. Nicholson identified several issues: the project, the property, the process and traffic and the impacts to an oak tree. The property is not zoned appropriately in the General Plan; he didn’t like the process of proposing a zone change in an EIR and then changing the General Plan. The intersection [SR 190 and Jaye Street] is the worst intersection in Porterville.

Response 7-1

The Draft TIS (Traffic Impact Study) fully analyzes the environmental effects of project related traffic impacts and identifies required mitigation measures that reduce the level of impacts to less than significant.
ORAL COMMENT 8

GREG SHELTON
888 NORTH WILLIFORD DRIVE
PORTERVILLE CA

Mr. Shelton did not like the process under consideration by the City Council.

Response 8-1

The comment apparently does not refer to the environmental process pursuant to the California Environmental Quality Act (CEQA). The CEQA process has been followed in a legal and appropriate manner.

ORAL COMMENT 9

BEN ENNIS
643 NORTH WESTWOOD
PORTERVILLE CA

Mr. Ennis didn’t receive a copy of the Draft EIR until the afternoon before the hearing [December 20, 2005]. He stated that Alternative 4.2 has mistakes and he doesn't like the process that is under consideration by the City Council.

Response 9-1

See Response 1-9.

ORAL COMMENT 10

BOYD K. LEAVITT
457 EAST OAK AVENUE
PORTERVILLE CA

Mr. Leavitt believes that a complete economic report should be prepare for a complete EIR

Response 10-1

Economic and social impacts are not the subject of EIRs, except to the extent that they contribute to or are caused by physical impacts on the environment. However, recent California court decisions (Bakersfield Citizens for Local Control v. City of Bakersfield, Panama 99 Properties LLC, and Castle and Cooke Commercial-CA, Inc., as well as Dolan Ingram, et al. v. City of Redding and Wal-Mart, Inc., et al.) have made clear that for large retail developers, an economic impact analysis should be undertaken to assess the possibility of “urban decay” and deterioration and direct physical impacts on the environment. However, the proposed 75,000 square foot shopping center does not meet the size precedents of other projects where economic studies were found to be appropriate and needed by the courts.
ORAL COMMENT 11

DICK ECKHOFF
197 NORTH MAIN
PORTERVILLE CA

Mr. Eckhoff supports preserving the oak tree located on the west side of the property.

Response 11-1

See response to Comment 2-1.

ORAL COMMENT 12

FELIPE MARTINEZ
195 PUTNAME AVENUE
PORTERVILLE CA

Mr. Martinez asked if the apartments going in on Date and E Streets were taken into account in the traffic study.

Response 12-1

The Traffic Impact Study (Appendix H of the Draft EIR) fully analyzed the impacts of traffic for existing and proposed projects and future, pending projects known at the time that the Notice of Preparation was issued.
CHAPTER THREE

MITIGATION REPORTING/MONITORING PROGRAM
CHAPTER THREE – MITIGATION REPORTING/MONITORING PROGRAM

3.1 INTRODUCTION

State and local Agencies are required by Section 21081.6 of the California Public Resources Code to establish a mitigation monitoring and reporting program for all projects that are approved and which require CEQA processing.

Local agencies are given broad latitude in developing programs to meet the requirements of Public Resources Code Section 21081.6. The mitigation-monitoring program outlined in this document is based upon guidance issued by the Governor’s Office of Planning and Research.

In this instance, mitigation of the potentially significant environmental impacts attributable to the project will be implemented by the City in accordance with its construction plan review and site inspection activities.

The mitigation and reporting program for the proposed project corresponds to mitigation measures outlined in the Draft EIR plus modifications made in response to comments thereto. The program summarizes the significant environmental issues identified in the EIR, the mitigation measures required to reduce each potentially significant impact to less than significance, and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures.
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<thead>
<tr>
<th>Impact Number</th>
<th>Developer Initial</th>
<th>Responsible Party</th>
<th>Mitigation Measure</th>
<th>City Approval</th>
<th>Time Span</th>
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<tr>
<td>Impact #3.1.1: Visual Compatibility</td>
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<td>City of Porterville</td>
<td>Mitigation Measure #3.1.1: The north and west elevations of the Porterville Commercial Center will be designed to minimize views of urban development and will be landscaped with trees and shrubbery. A licensed landscape architect will design a landscaping plan to achieve these goals. Outdoor billboards shall be excluded from the site. The design and appearance of retail stores, restaurants, and fueling station structures shall be in conformance with the City's Building codes.</td>
<td>Completed prior to issuance of building permit.</td>
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<td>Impact #3.1.2: Light and Glare</td>
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<td>City of Porterville</td>
<td>Mitigation Measure #3.1.2: A lighting plan will be developed by a registered illumination engineer so that lighting levels comply with generally accepted standards. Lighting will be designed to avoid direct exposure of lighting elements and associated glare into adjacent areas. No more than a 0.25 footcandle increase shall be detected off-site on adjacent properties.</td>
<td>Completed prior to issuance of building permit.</td>
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| Impact #3.3.1: PM_{10} From Construction Activities | San Joaquin Valley Air Pollution Control District | | • Mitigation Measure #3.3.1: The optional dust control measures in Tables 3.3-4 and 3.3-5 will be implemented. Enhanced Control Measures – The following measures should be implemented at construction sites when required to mitigate significant PM_{10} impacts (note these measures are to be implemented in addition to Regulation VIII requirements)  
  - Limit traffic speeds on unpaved roads to 15 mph; and  
  - Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.  
Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction.  
  - 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*; and  
  - Limit area subject to excavation, grading, and other construction activity at any | During construction period |
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<td><em>Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation.</em></td>
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<td>Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002</td>
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<td>Heavy duty equipment (scrapers, graders, trenchers, earth movers, etc.)</td>
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<td>- Use of alternative fueled or catalyst equipped diesel construction equipment</td>
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<td>- Minimize idling time (e.g., 10 minute maximum)</td>
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<td>- Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use</td>
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<td>- Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)</td>
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<td>- 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</td>
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<td>- Implement activity management (e.g. rescheduling activities to reduce short-term impacts)</td>
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<td>Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002</td>
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<td>Impact #3.4.1: Special Status Species – Migratory Birds</td>
<td>City of Porterville</td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.4.1: The nesting season for avian predators and other migratory birds generally occurs sometime between February 1 and September 15. A pre-construction survey for migratory birds will be conducted prior to construction. If nesting is occurring, construction activities within 250 feet of the nest will not occur.</td>
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<td>Impact #3.5.1:</td>
<td>City of Porterville</td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.5.1: Should buried cultural resources be discovered during construction, the project contractor shall immediately halt all work within 50-feet of the find until a qualified professional archaeologist can be consulted to evaluate the find and implement appropriate mitigation measures. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner. Should the County Coroner determine that such remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State law, to arrange for Native American</td>
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<td>During construction period.</td>
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Porterville Commercial Center
Final Environmental Impact Report

January 2006
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<tr>
<td>Impact #3.11.1: Construction Noise</td>
<td>City of Porterville</td>
<td><strong>Mitigation Measure #3.11.1:</strong> Noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. Also, effective mufflers shall be fitted to gas- and diesel-powered equipment.</td>
<td>Before opening day of project</td>
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<td>Impact #3.15.1: Increased traffic</td>
<td>City of Porterville</td>
<td><strong>Mitigation Measure #3.15.1:</strong> The following mitigation measures are recommended to reduce traffic impacts to a less than significant level:</td>
<td>Before opening day of project</td>
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Under “Existing plus Approved/Pending Projects plus Project Only” conditions, the following mitigation measures are recommended:

1. **Springville Avenue/Jaye Street** intersection: Install a traffic signal. This intersection is projected to operate at LOS “F” conditions during the AM and PM peak hour periods. This is a result of vehicles experiencing long periods of delay on Springville Avenue (minor street) while waiting for a “gap” to enter or cross Jaye Street (major street). This intersection is also projected to meet the Caltrans’ Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS “B” conditions during the AM and PM peak hour periods.

2. **Vandalia Avenue/Jaye Street** intersection: Install a traffic signal and widen the southbound approach to accommodate a dedicated left turn lane. This two-way stop-controlled intersection, which currently provides access to a home improvement store and garden center, is projected to operate at LOS “F” conditions during the AM and PM peak hour periods under this scenario. This intersection is also projected to meet the Caltrans’ Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS “C” conditions during the AM and PM peak hour periods.

3. **State Route 190/Jaye Street** intersection: Widen the southbound approach of this signalized intersection to include dual right turn lanes. Under “Existing plus Approved/Pending Projects” conditions this intersection is projected to operate at LOS “E” conditions during the PM peak hour period. With the implementation of the recommended mitigation measures, this intersection is projected to operate at LOS “D” conditions during the AM and PM peak hour.
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<td>4. <strong>Project Driveways:</strong>  It is recommended that the project driveways along Springville Avenue contain shared movements as shown in Figure 8. The project driveway on Jaye Street between State Route 190 and Vandalia Avenue is recommended to be a “right turn only” driveway and should provide for a deceleration lane no less than 100 feet in length. For recommended phasing of these mitigation measures please refer to the TIS (Appendix H).</td>
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<td>Before opening day of project</td>
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<td>Impact #3.15.2: Exceeds traffic threshold needed to maintain level of service</td>
<td>City of Porterville</td>
<td><strong>Mitigation Measure #3.15.2:</strong> The following mitigation measures are recommended to reduce traffic impacts to a <strong>less than significant</strong> level:</td>
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APPENDIX A

WRITTEN AND ORAL COMMENTS
DATE: November 17, 2005.

TO: Julie Boyle, Senior Planner

FROM: Jim Perrine, Parks & Leisure Services Director

SUBJECT: Environmental Review – Porterville Commercial Center

The Draft EIR for the reference project indicates that Impact #3.4.2 Removal of a Valley Oak Tree is necessary because the alteration of the project plans, “is not practical or feasible.” There should be no question that modification of preliminary development plans is always feasible. To say otherwise would imply that procedural review and comment including environmental mitigation and presentation of public comments, are of no consequence.

The practicality of modifying plans would similarly imply that such modification would jeopardize the achievement of the Project Objective. No discussion is offered on how the preservation of a single mature Oak tree would jeopardize the stated Project Objective—building and operating an economically and competitive commercial center.

The preservation of the Oak tree would enhance the aesthetics, mitigate for the loss of scenic agricultural field land along a heavily traveled corridor of the City, and provide pedestrian attraction to the proposed commercial center. The preservation of this tree would thus foster the Project Objective.

No discussion is offered to indicate that the single mature Oak tree is of poor health or in a declining or dangerous condition beyond reasonable preservation care. Therefore, alternative project plans and street designs must be considered. Opportunities for public analysis and comment on these alternatives need to be provided.

From the Desk of
Jim Perrine, Director
Parks & Leisure Services
Phone: 782.7539
Fax: 781.7854
December 1, 2005

Julie Boyle
City of Porterville
291 N. Main Street
Porterville, CA 93257

RE: Porterville Commercial Center

Dear Julie Boyle:

We have reviewed your shortened review request and have determined that it is consistent with the criteria set forth in the written guidelines of the Office of Planning and Research for shortened reviews, and Section 21091 of the Public Resources Code.

The shortened review period for an EIR shall not be less than 30 days. The review process for the referenced project will start on 11/10/2005 and end on 12/9/2005.

If you have any questions, please contact Scott Morgan at (916) 445-0613.

Sincerely,

Scott Morgan
Director

cc: file
San Joaquin Valley
Air Pollution Control District

December 5, 2005

Bradley D. Dunlap
Community Development Director
City of Porterville
291 N. Main Street
Porterville, CA 93257

Subject: Draft Environmental Impact Report — Porterville Commercial Center Project

Dear Mr. Dunlap,

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Draft Environmental Impact Report (DEIR) for the Porterville Commercial Center Project (Project) forwarded by Quad/Knopf for the City of Porterville. The DEIR appropriately addresses the project's potential impact on Air Quality. Development as a result of this project will be subject to District rules and regulations. The District previously commented on November 16, 2004, Reference No. S20040304, and it appears that our comments were thoroughly addressed. We agree that all mitigations included in the DEIR Mitigation Measures 3.3.1 through 3.3.4 should be implemented to the extent specified to reduce air quality impacts. Also, we concur with the conclusions and recommendations contained in Appendix H Traffic (as it relates to road improvements to minimize trauma impacts and thereby preserves air quality).

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

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.

If a non-residential project is 5.0 or more acres in area or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least three days, a Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021. Construction activities shall not commence until the District has approved the Dust Control Plan. A template of the District’s Dust Control Plan is available at: http://www.valleyair.org/comply/PM10/forms/DCP-Form%20-%2010-14-2004.pdf.

David J. Cline
Executive Director / Air Pollution Control Officer
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 as specified in Section 6.4.2 of Rule 8021. A template of the District’s Construction Notification Form is available at: http://www.valleyair.org/busind/comply/PM10/forms/Reg%20VIII%20Notification%20-%2011-17-2004.pdf.

**Rule 3135.** (Dust Control Plan Fee) This rule requires the applicant to submit a fee in addition to a Dust Control Plan. The purpose of this fee is to recover the District’s cost for reviewing these plans and conducting compliance inspections. More information on the fee is available at: http://www.valleyair.org/rules/currentrules/Rule%203135%201005.pdf.

**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 applicant must contact the District’s Small Business Assistance Office at (209) 557-6446 / (559) 230-5888 / (661) 326-6969 to receive additional information/instructions.

**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 4601** (Architectural Coatings) limits volatile organic compounds from architectural coatings. This rule specifies architectural coatings, clean up and labeling requirements.

**Rule 4621** (Gasoline Transfer into Stationary Storage Containers, Delivery Vessels, and Bulk Plants) This rule limits VOC emissions from stationary gasoline storage tanks with capacity greater than 250 gallons (except for tanks subject to Rule 4623), gasoline delivery vessels, and tanks with capacity than 250 gallons, but not exceeding 19,800 gallons located at gasoline bulk plants and **Rule 4622** (Gasoline Transfer into Motor Vehicle Fuel Tanks) which limits emissions of gasoline vapors from the transfer of gasoline into motor vehicle fuel tanks.

**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 4692** (Commercial Charbroiling) This rule regulates chain-driven charbroilers to limit Volatile Organic Compounds (VOC) and PM10 emissions. Items subject to this rule include (but are not limited to): grill charbroilers, flamebroilers and direct-fired barbecues.

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) 230-5820.

Sincerely,

[Signature]

Hector R. Guerra
Senior Air Quality Planner

c: file
DEC 02 2005

Bradley D. Dunlap, Community Development Director
City of Porterville
291 North Main Street
Porterville, California 93257

Porterville Commercial Center
State Clearinghouse (SCH) Number: 2004101087

Staff for The Department of Water Resources has reviewed the subject document and provides the following comments:

Portions of the proposed project may be located within a regulated stream over which The Reclamation Board has jurisdiction and exercises authority. If the project includes any "channel reconfiguration" that was not previously permitted, new plans must be submitted. Section 8710 of the California Water Code requires that a Board permit must be obtained prior to start of any work, including excavation and construction activities, within floodways, levees, and 10 feet landward of the landside levee toes. A list of streams regulated by the Board is contained in the California Code of Regulations, Title 23, Section 112.

Section 8(b)(2) of the Regulations states that applications for permits submitted to the Board must include a completed environmental questionnaire that accompanies the application and a copy of any environmental documents if they are prepared for the project. For any foreseeable significant environmental impacts, mitigation for such impacts shall be proposed. Applications are reviewed for compliance with the California Environmental Quality Act.

Section 8(b)(4) of the Regulations states that additional information, such as geotechnical exploration, soil testing, hydraulic or sediment transport studies, biological surveys, environmental surveys and other analyses may be required at any time prior to Board action on the application.

You may disregard this notice if your project is outside of the Board jurisdiction. For further information, please contact Sam Brandon of my staff at (916) 574-0651.

Sincerely,

Mike Mirmazaheri, Chief
Floodway Protection Section

cc: Governor's Office of Planning and Research
State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, CA 95814
VIA FACSCIMILE and U.S. MAIL

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

Re:  Draft Environmental Impact Report for the Porterville Commercial Center Project

Dear Mr. Dunlap:

We are writing on behalf of our client, John Hale ("Hale"), to provide comments on the proposed Draft Environmental Impact Report ("DEIR") for the Porterville Commercial Center (the "Project") dated November 2005. While the DEIR adequately analyzes the Project’s potential significant environmental effects in a manner that comports with the requirements of the California Environmental Quality Act ("CEQA"), we are writing to clarify and amplify several points that are raised by the DEIR, as mentioned below.

As a preliminary matter, since most of the traffic impacts associated with the Project only occur under cumulative conditions, it needs to be made clear that the Project is only responsible for mitigating its proportional fair share of the cumulative impacts along with the other reasonably foreseeable projects identified in the traffic study. See, CEQA Guidelines §15130(b)(5) ("An EIR shall examine reasonable, feasible options for mitigating or avoiding the project’s contribution to any significant cumulative effects.") (emphasis added); see, also, Anderson First Coalition v. City of Anderson, 130 Cal.App.4th 1173, 1188 (2005) ("A single project’s contribution to a cumulative impact is deemed less than significant if the project is required to implement or fund its ‘fair share’ of a mitigation measure designed to alleviate the cumulative impact.") and CEQA Guidelines § 15130(a)(3) ("An EIR may determine that a project’s contribution to a significant cumulative impact will be rendered less than cumulatively considerable and thus is not significant. A project’s contribution is less than cumulatively considerable if the project is required to implement or fund its fair share of a mitigation measure or measures designed to alleviate the cumulative impact.").
Mr. Bradley Dunlap  
December 9, 2005  
Page 2

The table purporting to calculate the Project’s pro-rata share to the various traffic improvements included in the Traffic Study (Appendix H to the DEIR) uses an appropriate application of the Caltrans proportionate share equation. The value for $T_E$ in the equation should be changed, however, to account for existing traffic only and not existing plus other approved projects, since the other projects listed in the study will also be required to participate in contributions to the stated roadway improvements. In addition, the traffic mitigation measures are inconsistently described in Tables ES-1, 7-1, and Impact 3.15.1. The measures should be revised to clearly and concisely state the amount of the Project’s dollar contribution to the various traffic improvements as well as compliance with any applicable Traffic Impact Fee Program.

The traffic improvements proposed to mitigate cumulative traffic conditions need to be traced back to the Capital Improvement Program or some other reasonable plan of actual mitigation that the City commits itself to implementing. For instance, the Project Staff Report should discuss the City’s approved traffic improvement plan for Jaye Street. In addition, the Staff Report should discuss the other improvements, noting that the Project and other probable future developments will be conditioned on paying their fair share toward these improvements, that the monies will be used by the City to finance these improvements, and that once a certain specified threshold of development is met, no further development will be allowed until these improvements are constructed.

The current Project site plan shows Vandalia Avenue at its maximum length of approximately 250 feet. The traffic study nonetheless recommends that Vandalia Avenue be lengthened to 300 feet. This “recommendation” is not needed in order to mitigate any environmental impact and would be infeasible in any event given the commercial development located immediately to the east of the Project site. As you know, the City may only impose “feasible” mitigation measures on the proposed Project, i.e., ones that are “capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.” Public Resources Code § 21061.1. The lengthening of Vandalia Avenue is not such a feasible mitigation measure.

In addition, the concept of internal capture rate is discussed in the Traffic Study, but does not appear to have been applied to the Project. The Project trips should be adjusted for the internal capture rate, as was done for the Riverwalk Marketplace Project.

Further, there is no requirement that a Development Agreement be entered into in connection with this Project. See, DEIR, pp. 1-1, 2-1. While the Project sponsor has expressed a willingness to enter into such an agreement with the City, it should be made clear that this agreement is not mandated by any local or state law. In addition, the DEIR should note that the State Clearinghouse, in accordance with Public Resources Code § 21091 and Appendix K to the CEQA Guidelines, agreed to a shortened 30 day review period for the DEIR.

Mitigation Measure 3.3.1 needs to be amended to clarify that alternative-fueled construction equipment will be used, “if feasible.” Since the Project emissions fall below the
San Joaquin Valley Air Pollution Control District’s 10 ton per year thresholds, the references to “mitigated” and “unmitigated” emissions in Table 3.3-8 is confusing and makes no sense. Similarly, since the Project’s air quality impacts are less than the District’s thresholds, the Project’s contribution to cumulative air quality impacts (i.e., ROG, NOx, and PM10) will be less than cumulatively considerable. The text of Chapter 5 (Cumulative Impacts) should be revised accordingly.

Under section 4.2 (Reduced Project Size Alternative), the reference to a 5% reduction was apparently intended to refer to a 50% reduction. Correct the typographical error in the first sentence of the fourth paragraph under section 4.1 (No Project Alternative).

In regard to Table 7-1 (Mitigation and Monitoring Program), the “Implementation,” “Monitoring,” and “Time Span” sections need to be completed for Mitigation Measure 3.3.1. The timing of Mitigation Measures 3.1.1 and 3.1.2 should probably be revised to read: “Prior to issuance of building permits.” The timing for Mitigation Measures 3.15.1 and 3.15.2 also needs to be specified.

Thank you for your consideration of Hale’s comments on the DEIR. Please do not hesitate to contact me with any questions or comments.

Very truly yours,

Matthew D. Francois

cc: John Hale
    Dave Mossman
    John Schuler
    Mike Tolladay
December 19, 2005

Bradley D. Dunlap  
City of Porterville  
291 North Main Street  
Porterville, CA 93257

Subject: Porterville Commercial Center (NEC Jaye/SH190)  
SCH#: 2004101087

Dear Bradley D. Dunlap:

The enclosed comment(s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on December 9, 2005. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2004101087) when contacting this office.

Sincerely,

Terry Roberts  
Senior Planner, State Clearinghouse

Enclosures  
cc: Resources Agency
December 15, 2005

Mr. Bradley D. Dunlap, AICP
City of Porterville
291 N. Main Street
Porterville, CA 93257

Dear Mr. Dunlap:

Thank you for the opportunity to review the Notice of Preparation for the Porterville Commercial Center draft Environmental Impact Report (DEIR) notice of Completion (NOP). The project proposes that the zoning designation be changed from light manufacturing to central commercial. The proposal will allow the construction of, at maximum, a 75,000 square-foot shopping center consisting of three building pads for fast food restaurants, a gas station and three pads for general retail stores. These elements would complement an adjacent large anchor tenant (Home Depot), with several smaller retail stores and other facilities. The project site is located on the northeast corner of State Route (SR) 190 and Jaye Street, in the City of Porterville. Caltrans has the following comments:

The City and Caltrans staff met on December 16, 2005 to discuss the City's proposed Jaye Street geometrics for opening day improvements. Caltrans and the City staff have agreed to the following:

The internal capture rates of 36% to 53% shown in Appendix II (Page 11) of the DEIR are above the allowed 5% threshold and are excessive because the proposed project does not have true mixed uses, i.e. residential or commercial components. The capture rate for the gas station is acceptable, but the capture rates for the other uses are too high. Because additional traffic studies will be required for future phases of the Riverwalk Marketplace project, a revised traffic study will not be requested.

Right-turn in and out access to the site on the east side of Jaye Street should be no closer than 300 feet from SR 190.

Opening day improvements, without the Riverwalk Marketplace project, should include the following as a minimum:

Intercept of Vandalia Avenue and Jaye Street

"Caltrans improves mobility across California"
Mr. Bradley D. Dunlap
December 15, 2005
Page 2

Eastbound Vandalia Avenue - 1 left, 1 shared through/left, 1 right
Westbound Vandalia Avenue - 1 left, 1 right
Northbound Jaye Street - 2 through, 1 right
Southbound Jaye Street - 2 left, 2 through

**Intersection of SR 190 and Jaye Street**

Eastbound SR 190 - 1 left, 2 through, 1 right
Westbound SR 190 - 1 left, 2 through, 1 right
Northbound Jaye Street - 1 left, 1 through, 1 right
Southbound Jaye Street - 2 left, 2 through, 2 right

It is recommended that an additional 12 feet of right-of-way on the east side of Jaye Street be acquired for an additional left turn/through lane. Building pads should be set back an additional 20 feet for any future additional traffic or utility improvements.

Opening day improvements, with the Riverwalk Marketplace project, should include the following:

**Intersection of Vandalia Avenue and Jaye Street**

Eastbound Vandalia Avenue - 1 left, 1 shared through/left, 1 right
Westbound Vandalia Avenue - 1 left, 1 shared through/left, 1 shared through/right
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Eastbound SR 190 - 2 left, 2 through, 1 right
Westbound SR 190 - 1 left, 2 through, 1 right
Northbound Jaye Street - 1 left, 1 through, 1 right
Southbound Jaye Street - 2 left, 2 through, 2 right

Ultimate improvements to the intersection of SR 190 and Jaye Street should include dual northbound left-turn lanes and two through northbound lanes to accommodate the high percentage of slow-moving trucks from the distribution center. Without these additional lanes, the intersection is projected to operate at LOS E in 2030.

The City of Porterville is required to monitor the LOS of SR 190/Jaye Street intersection. When the LOS of the intersection falls below LOS D or the LOS of the eastbound left-turn movements is E, all development within the vicinity is to be halted once the set threshold is reached.

It is recommended that the project proponent needs to implement the improvements prior to opening day or make a "fair share" funding contribution towards future required improvements as noted in the Draft Environmental Impact Report. The City of Porterville is financially responsible for the improvements of the SR 190/Jaye Street intersection. The City of Porterville should create a development impact fee program to help fund future local and State transportation
improvement projects necessitated by the accumulated impacts of development. The Freeway Agreement between Caltrans and the City of Porterville maintains SR 190 as a freeway between SR 65 and Jaye Street and an expressway east of Jaye Street with the intersection of SR 190 and Jaye Street maintained as an at-grade intersection.

The close intersection spacing on Jaye Street between SR 190 and Vandalia Avenue and the excessive turning traffic at the intersection of SR 190 and Jaye Street may require additional street improvements in the future. The proposed project and future land use changes require that mitigation monitoring. Through the continual mitigation monitoring acceptable levels of service for all local roads and State facilities may be developed and improvements implemented prior to the LOS being affected.

It is recommended that the City of Porterville conduct a corridor study for SR 190, which will ultimately have a combination of full interchanges, partial interchanges, and at-grade intersections. The City will have the full financial responsibility for the future widening of SR 190 and making intersection improvements to the SR 190 at Jaye Street intersection to obtain a minimum LOS C for the intersection.

The existing “T” intersection when signalized needs to be provided with interconnect cable in order to be synchronized with the SR 190/Jaye Street intersection.

Existing curb, gutter and sidewalk, and curb ramps may need to be reconstructed to meet current ADA standards or other applicable State or Federal accessibility and safety requirements.

All existing concrete curb, gutter and sidewalk that is damaged, broken and/or cracked shall be removed and replaced in-kind.

Any and all damaged concrete surfaces within the right-of-way which pose a safety hazard due to potential tripping hazards shall be replaced or repaired in accordance with ADA and/or applicable State or Federal requirements.

An encroachment permit must be obtained for all proposed activities for placement of encroachments within, under or over the State highway rights-of-way. Activity and work planned in the State right-of-way shall be performed to State standards and specifications, at no cost to the State. Engineering plans, calculations, specifications, and reports (documents) shall be stamped and signed by a licensed Engineer or Architect. Engineering documents for activity and work in the State right-of-way shall be submitted using Metric Units. However, dual units may be used for activity and work in the right-of-way costing $1,000,000 or less, or by an exception approved by the Director. The preferred method of delineating dual units is by showing the English unit first then the Metric unit next to it in parenthesis. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. Encroachment permits will be issued in accordance with Streets and Highway Codes, Section 671.5, “Time Limitations.” Encroachment permits do not run with the land. A change in ownership requires a new permit.
All proposed landscaping plans along the SR 190 right-of-way including corner cut-off shall meet current standards as determined by the District Landscape Architect. All features of landscaping shall be evaluated for type, location and site visibility conflicts during the encroachment review process. All permits for landscaping in conventional highway right-of-way must be accompanied by a “District” approved maintenance agreement obligating a local agency or the permittee to maintain the landscaping. Said maintenance agreement must accompany and be approved prior to issuance of the landscape permit. Proposed landscape projects in access control rights-of-way require an exception process, and approval is subject to the Headquarters Departmental approval process.

Dust control measures shall be implemented on the site in a manner to prevent dust from entering the State right-of-way.

Stormwater is not allowed to be discharged to the State right-of-way. Since the proposed development/project involves one acre or more of ground disturbance, the applicant needs to be advised by the lead agency to contact the Central Valley Regional Water Quality Control Board office in Fresno at (559) 445-5116 to determine whether a Notice of Construction will be required. The applicant will be required to adhere to Caltrans construction stormwater requirements if there is proposed work within the State right-of-way. Additional information on Caltrans stormwater management requirements may be found on the Internet at www.dot.ca.gov/hq/env/stormwater/index.htm.

Advertising signs within the immediate area outside the State right-of-way need to be cleared through the Caltrans Right-of-Way Division, Office of Outdoor Advertising. The project proponent must construct and maintain the advertising signs without access to the State Routes. Contact Susan Swenssen at (209) 948-7869 or (209) 948-7641 for additional information or to obtain a sign permit application. Additional information on Caltrans Outdoor Advertising Permit requirements may also be found on the Internet at www.dot.ca.gov/hq/oda.

Alternative transportation policies should be applied to the development. An assessment of multi-modal facilities should be conducted. This assessment should be used to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City. The assessment should include the following:

Pedestrian walkways should link this retail complex to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.

The project should develop a Transportation Management Plan (TMP). The TMP needs to address construction and traffic impacts during the building of the sewer, drainage and etc. infrastructure. The goal of the TMP is to reduce overall trips and the impact of those trips on transportation/air quality.

The consideration of bicycles as an alternative needs more attention. The project should offer internal amenities to encourage bicycle use. These include parking, security, lockers and

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showers. However, internal bicycle paths should be coordinated with local and regional pathways to further encourage the use of bicycles for commuter and recreational purposes.

Local roads in the vicinity of the SR 190/Jaye Street intersection are experiencing severe queuing resulting in peak-period congestion that has the potential to exacerbate local (spot) as well as regional air quality concerns. This raises concerns pertaining to the cumulatively significant impact this project will have on air quality.

Please be advised that any future development adjacent to a State Route, whether the entitlement is deemed by the lead agency to be discretionary or ministerial should be sent to Caltrans for review. Please send a response to our comments and a copy of the Council resolution related to the proposed project. If you have any questions, please call me at (559) 488-7306.

Sincerely,

[Signature]

AL-DIAS
Office of Transportation Planning
District 6

C: Mr. Brad Dunlap, Planner, City of Porterville
   State Clearinghouse
   Mr. Ted Smalley, TCAG Staff
December 21, 2005

2135-IGR/CEQA
6-TUL-190-15.95 +/-
"ADDITIONAL"
NOP FOR PORTERVILLE
COMMERCIAL CENTER
SCH# 2004101087

Mr. Bradley D. Dunlap, AICP
City of Porterville
291 N. Main Street
Porterville, CA 93257

Dear Mr. Dunlap:

This letter will supercede our letter of December 15, 2005. Thank you for the opportunity to review the Notice of Preparation for the Porterville Commercial Center draft Environmental Impact Report (DEIR) notice of Completion (NOP). The project proposes that the zoning designation be changed from light manufacturing to central commercial. The proposal will allow the construction of, at maximum, a 75,000 square-foot shopping center consisting of three, building pads for fast food restaurants, a gas station and three pads for general retail stores. These elements would complement an adjacent large anchor tenant (Home Depot), with several smaller retail stores and other facilities. The project site is located on the northeast corner of State Route (SR) 190 and Jaye Street, in the City of Porterville. Caltrans has the following comments:

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"Caltrans improves mobility across California"
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Mr. Bradley D. Dunlap  
December 21, 2005  
Page 5

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Sincerely,

[Signature]

AL DIAS  
Office of Transportation Planning  
District 6

C: Mr. Brad Dunlap, Planner, City of Porterville  
State Clearinghouse  
Mr. Ted Smalley, TCAG Staff

"Caltrans improves mobility across California"
TRANSCRIPT OF PUBLIC COMMENTARY PORTION OF
PUBLIC HEARING ITEM 14 - PORTERVILLE COMMERCIAL CENTER
DRAFT ENVIRONMENT IMPACT REPORT
PORTERVILLE CITY COUNCIL MEETING
DECEMBER 20, 2005

PUBLIC HEARINGS
ITEM 14. PORTERVILLE COMMERCIAL CENTER DRAFT ENVIRONMENTAL
IMPACT REPORT

City Manager John Longley presented the item, and Community
Development Director Brad Dunlap presented the staff report. Mr.
Dunlap then introduced Mr. Stephen Peck, AICP, of Quad Knopf,
Inc., the consultant who prepared the Environmental Impact Report
(“EIR”), who made a presentation of the EIR to everyone. Mr.
Dunlap then noted the written request – copies of which had been
provided to the Council – of Thomas C. Brodersen, Esq., attorney
for Ennis Commercial Properties, LLC, to continue the public
hearing until the January 17, 2006 Council Meeting.

The Public Hearing opened at 8:20 p.m.

JOHN HALE: Yes, I’m John Hale, 2200 Pine Street,
Bakersfield. I’m the project applicant. I
think that Mr. Peck and his staff would be
better suited to answer any specifics with
regard to the Environmental Impact Report, as
they are the experts there. I just want to
reiterate that we’re, we own the property,
we’re, we’ve made an investment in
Porterville. We look forward to the
opportunity to build a quality project and
bring something to the community that you
would be proud of, and I’m here to answer any
specific questions you would have regarding
the project, and anything regarding that.
Thank you very much.

DARYL NICHOLSON: Good evening Mr. Mayor and City Council
Members. My name is Daryl Nicholson. I live
at 26914 Avenue 140 in the City of
Porterville. I hope you will grant me just a
little more than three minutes. We just sat
through a long discussion on a circle that
could have been done in some other setting,
an I hope that I can get through what I have
to talk to you about. I’d like to address
three issues tonight with you, and I, and ask for your consideration. First issue is the property. The second issue is the project, and the third issue is the process. The property: the property that you’re looking at and considering an Environmental Impact Report is currently not zoned appropriately in your General Plan. The property is not commercial in your General Plan, and it appears to me, as a citizen of the City, that the process is, that we’re getting the horse before the cart here. The cart before the horse, I guess. Why would you consider a project when its, when you haven’t even addressed the large issue of a General Plan. We came before you about six or eight months ago. We had a Special Meeting on General Plan, and of that meeting, this was the worst project that you had before you, as defined by your vote, and it is the first project to come before you in some kind of other form. Its not right for one developer to take precedent because of something called expedited processing. Home Depot was slipped in under the radar. Home Depot was allowed Industrial Zone because it sold lumber, and that’s appropriate for an Industrial Zoning. But, none, none of the projects or the proposals that you’ve just seen on that board have anything to do with proper zoning and a General Plan of Industrial. They are Commercial Zoning, and therefore to be looking at an EIR before you’ve even looked at the General Plan is just not appropriate. Traffic and circulation, this is the worst major intersection in Porterville. We have one intersection that probably more impacted, it’s a minor intersection, at Henderson and Prospect. This is a disaster. Home Depot has shown through their increased traffic that you can wait at times through a whole cycle of the lights, and not get through anymore, without this development. You have already approved, through form of previous approvals, additional Commercial at this intersection. Nothing further should be approved here at this intersection until you’ve looked very carefully at traffic. You just heard that it was only a minor, or
insignificant. Nothing in that EIR, unless you have it in writing, nothing I have just heard addresses the eastbound lane of 190. There are times today now that, that stacking lane is not long enough to, to accept the cars, so they stop in the fast lane of 190 today, without any further commercial development. O.K.? There’s so many cars that can’t get through and it becomes worse and worse. Tonight at 5:10, they didn’t get through on one cycle of the lights. O.K.? That’s with one business there. Please be careful, traffic is a major mitigation, and eastbound 190 is, is set with additional commercial, is set to be a disaster. You must work with CalTrans if you’re going to approve anything else beyond what you’ve approved now, to extend that further, or you can’t approve it. It’s a mitigated factor that you can address. Now, all of the, the westbound lane at 190 was not addressed in it, and it is a mitigation based upon increased traffic that you’re going to push off of that highway and onto Jaye Street. It’s, I don’t know how many of you are out there all the time, especially during rush hour, coming and going, but it’s a disaster ready to happen, and you need to look carefully at it. That’s why it was zoned Industrial, so that Industrial doesn’t have nearly the traffic generation that the project that you see up there, but hasn’t even been zoned or general planned for. You have already approved enough commercial at that intersection for any type of mitigation you can do with that intersection with CalTrans. It’s been done, and further approval will only create problems in the future. This developer is currently advertising for commercial pads. He doesn’t have his General Plan, he doesn’t have a Zone Change, he doesn’t have an approval of Conditional Use Permit, he has nothing, but you’re addressing an EIR that will address a large project. Those need to come first, before someone from out of town, a carpetbagger in the worst sense, would come and ask for this approval from you, put forward so that later on, you’re not going to
be able to address the General Plan correctly because you’ve already approved an EIR. You won’t be able to address the zoning properly, because you’ve already taken an action tonight. The process: we, your residents don’t understand this process. Why does one piece of property singled out for expedited delivery. Why is this before you? We don’t understand it. We have been waiting in line. We have been told that staff is inundated, and so we wait our turn, and this project, started way after others, at the time I was here last, he hadn’t even paid his fees for a General Plan Amendment. I have two projects with fees paid, and yet I get put to the back. When you expedite one project, in front of others, you injure those people that are waiting, because it’s staff time, it’s staff processing, it’s your time looking at it, to the injury of others. So, your staff report says that the City of Porterville asked for this to be expedited. I’m wondering if you, our electors, our elected representatives of the City of Porterville, are aware of it and asked for it. If so, then you’ve made a decision. If not, it shouldn’t be there. No plans that I saw tonight address the traffic impact at that intersection, and therefore, there are significant mitigations that need to be addressed in a full EIR, not a mitigated EIR. I just heard that an Oak tree is not significant anymore in the City of Porterville. Some of you are probably aware that in a development that I was involved in, we changed the entire circulation working with the City to, quote, save an Oak tree on a residential street that basically went almost nowhere. But, we worked with you to save that Oak tree, and worked with your staff. We’d ask you to make this developer to consider an Oak tree as a significant mitigating circumstance, and therefore, again, do a full Environmental Impact Report to save the Oak tree, if that’s the new process for the citizens, and I believe it. I’m very much a believer in it, and we worked with you, not as an antagonist, but to save one that was, and we saved one there, you
don’t do it there. An Oak tree can be divined in almost any project. An Oak tree could surely be kept in an industrial project in which this property is currently zoned, and general planned for. The real question is why does this applicant get a shortened review period? Why does this applicant move ahead of others, while we wait, and wait, and wait. We don’t understand, I don’t know the answer, but I bring that to your attention. Your residents who live in this community, your residents who work in this community, your residents who invest in this community, your residents who spend time and money to make this community a better, a better place to both live, work, and invest, your residents deserve at least a fair process system in which their projects come in line, and are not put on the shelf while someone else’s project rolls on and comes before you for your approval. I don’t know, except for input what action you are taking tonight. But I would ask you to take an action tonight. I would ask you to take an action tonight to send this back, this application back to staff, to take it off of your January Agenda, and, so that this application can go in line, the way it was paid for, the person who paid the fee is supposed to be in line to get approvals. Until that happens, you should not be addressing this type of application tonight, in my humble opinion. They should be expected to get in line, just for the consideration. You may or may not approve or deny any other project in that line, but it’s important for the process to happen correctly. We’re your residents, we’re your elected, electorate, and we’re asking right now for help from you tonight. We have been injured by placing somebody in front of us, and we ask for some correction in that injury. As I said, The Home Depot was approved on a technicality. These are not technicalities here. These are not consistent with your zoning, and therefore, that’s the first process that needs to take place. I hope you don’t take a General Plan Amendment, a Zone Change, and a Conditional Use Permit all in one night. That’s not what
the process was made for. That doesn’t allow for public input at each on of those stages. That’s just rolling through and approving a specific plan. We need your help tonight to send this project back to staff to get in line, or have staff work with some of us, and tell us why it’s not appropriate. For, we think it is appropriate and we’ve got money invested here, time invested here, and our lives invested here. We need your help tonight. I thank you. I thank you for your time, and Mr. Mayor I thank you for the extended time I have taken. I appreciate it.

GREG SHELTON:

Greg Shelton, 888 North Williford Drive. I remember when all this was happening. I don’t remember, I don’t agree with Mr. Nicholson about it being under the radar. I think it was pretty much above the radar. We all knew what was going on over there. My recollection was that Ben had optioned all of the commercial property because he rightly believed that nothing could go into the manufacturing property, which it shouldn’t have, but it was a popular project, and I do agree with Mr. Nicholson in the fact that I think we let it through on a technicality. And, Ben, if I remember, was probably in line to get that lease, and he didn’t get it; but, I will give him this - he took his lumps and he walked away, and he developed the other one, or he’s been trying to develop the other one. And, he played it by the book. He got his, when something was asked, he did it. When he asked for an EIR, he got it. I think he spent a hundred and some odd thousand dollars for a traffic study. You know, that apparently this gentleman is going to piggyback on. So, it just seems, you know, I just feel like Ben’s took his lumps on this last one, and he should, he deserves a little consideration, you know, on his project. We shouldn’t be shoveling anybody in front of him. Thank you.

BEN ENNIS:

(Mr. Ennis provides documents to Mr. Longley for distribution to the Council.) There’s one for each. My name is Bill Ennis. Anyway, that’s what everyone’s calling me today, and
I’m not sure why. Ben Ennis, 643 North Westwood, Porterville. I, of course, have some concerns with this project. I have some concerns with what I think is fair play on the part of the City. I was never informed that this draft EIR was available, even though I’ve had meetings with staff this month. And, it was regarding the draft EIR for Riverwalk. So, I was very surprised, after asking that I would be provided with the draft EIR, that I was not. I received this at 4:00 today and I read as much of it as I could. But, I hope the Council received one of these. I would encourage you to read through it. I also am very surprised that the State Clearinghouse was petitioned to cut the review from 45 days to 30 days. I don’t know why all this is happening out...well, I do know why. It’s happening because of what I consider a non-conforming use of having a retail establishment in an industrial zone, and if that applies, then I would think that I could go to the corner there, and put in a Walgreen’s, as long as they sold toothpicks, because that’s a wood product. They could sell 2x4s out of the back, and would qualify, if there’s no percentages or anything, as long as they’re building products. Home Depot is a home improvement store. As a home improvement store, it sells a lot of the same things that Long’s Drugs sells, that Rite-Aid sells, that WalMart sells, and your local appliance stores sell, and I doubt that if the lumber products would amount to more than ten percent. I know that we build a lot of houses, and the only time that we ever buy a 2x4 from Home Depot is whenever we are kind of desperate, because they’re not in the bulk business. They’re for the local person that’s doing a, sometime of a project at home. I noticed by reading the EIR that it says that the changing of this zoning would eliminate potential conflicts with the City’s Zoning Code and general planned land use designation. To me, there either is no conflict, or this is a conflict. And, if there is no conflict, and that’s a proper zoning, then why are we changing the zoning on the Home Depot store? Why aren’t we just
changing the zoning on the out-front if that was the real issue. As far as traffic mitigations, CalTrans in their letter to Randy Rouda, which is in this, asked that the two centers be addressed in the same traffic impact study, which was not done.

COUNCIL MEMBER
IRISH:

I move to extend Mr. Ennis' time.

BEN ENNIS:

O.K. Thank you. There, basically, even though all of the things was said about the traffic impact things there, I would question what's going to be done beyond and above their traffic impact fees. Basically, along the frontage they have one extra lane, and then really nothing more than what we have to do in a residential subdivision. So, they're not doing a whole lot. I resent the fact that whenever Home Depot went in, they considered Poplar Road the main entrance, which probably does accommodate ten to fifteen percent of the people going in, so that no improvements had to be done along the frontage of Jaye Street. That was almost criminal, in my opinion. It, of all things that the City should have done, that never should have happened. I was told by a friend of mine who has worked for Home Depot for many many years, his name is George Ray, and he handles Arizona and Southern California, and he told me at an ICSC, which is International Council of Shopping Centers, that the, that Home Depot was actually looking at a site at North Grand and Highway 65, came into see the staff about it, the staff directed them to the industrial property, when that property up there that they came into look at was zoned right. So, it was a kind of a conspiracy to put Home Depot, as far as I'm concerned, into an Industrial Zone, and to take and stretch the Zoning Ordinance as far as you could stretch it. Of all of the intersection improvements, I'm not sure what that's being required of them, but we're having to go across south of Highway 190 on Jaye Street to do improvements over the turn lanes and all where WalMart trucks come out, in front of the Burger King.
That's part of ours. Part of ours is to put in the east and west bound additional lanes, and then also, I'm being asked to fund a project study report, PSR, for that intersection. Now, we're considering on the other site, 75,000, but we're not considering anything about the Home Depot. They slid through free. They're there. But that's not right to, whenever they create the traffic, some of the traffic, and then come in and they don't get involved in this. Will we be paying impact fees also? Sure we will. The report on the 75,000 square feet, it says that they would, that that project would create somewhere between 240 to 600 employees, and that's without them having to do, what I can see, any real basic, anything above the real basic improvements above what (inaudible) commercial building here in town would probably take. Also, I'm looking through it and remind, I remind you that I got this at 4:00, and didn't have but less than an hour to look at it, but on the Alternatives, 4.2, there's a lot of mistakes in there. It says that if they reduce the project by five percent, it will come out at 35,000 square feet. I think that things like that need to be corrected in there. I think that should be fifty percent. The Alternative Site, that made me laugh. It, Alternative 4.3, that's on North Grand, the one where they went into check on before. And then, the Alternative 4.1, that you could take as no project at all, so I do object to the EIR as it is written, there's a lot of mistakes in there. I would like to talk about the center that we've been doing, when we started on this three years ago, I remind you that we started because we had donated the majority of the land along the river, wait a minute, let me back up. We did not donate it. We talked Ted into donating the ground along the river, and then we helped with that portion that needed to be taken care of, so that they could have the walkway along there. Then we donated the land along Highway 65, and, that goes then around the ponding basin. The whole concept of this was that the people would be able to walk from
the subdivision over, around and into the project, and sit down and have a Coke or
coffee, or have a meal, a sandwich, whatever they wanted to. That’s why that this
foodcourt was so important. It’s another reason that this project is called Riverwalk
Marketplace. I was all tied together three years ago. We though we would only be doing
mostly studies for like a year and three months or so, and it has been three years. I
gave you a letter there, and that is kind of a monthly letter that we get from our leasing
agents, and it was written at the first of the month. You can read it there, but it
tells you that Target and Lowes are both interested in this project. It also tells
you that the other tenants that have expressed ongoing interest: Applebee’s,
Famous Dave’s BBQ, Chili’s, Me and Ed’s Pizza, Chuck E. Cheese, Panda Express, Tokyo
Bowl, China Bowl, Carl’s Jr., Del Taco, Blimpy’s, Subway, Coldstone, Starbuck’s,
America’s Tire, Wells Fargo, Tulare County Federal Union, Bank of the Sierra, Barnes and
Noble, T-Mobile, Marshall’s, Dress Barn, Fashion Bug, Bright Now, which is a dental
office, Circuit City, I should also add to that Best Buy has been talking to them also.
Now, Smart & Final, Pet Co, Payless Shoes, Famous Footwear, Pier One, Big Lots, and LA
Weight Loss. Within the last part of it that they wrote, was I think is what’s very
important. It says that “we believe that it is extremely important that we continue to
keep these tenants in our project to ensure the utmost success of our proposed regional
center. The restaurants, fast food tenants in particular, are critical to the success of our project, as they 1) are excellent traffic
generators that create cross-shopping opportunities with other retailers; 2) provide a needed, as well as expected
service, which contributes greatly towards achieving our one-stop shopping experience
goal; 3) add important name recognition and brand loyalty; and 4) a very important
component to ensuring that we achieve a well-balanced tenant mix. We will be awaiting
your comments looking forward to continuing
our marketing efforts with our ultimate goal being to provide Porterville with a first class regional shopping center.” That’s exactly what are plans laid out was a first-class regional shopping center, and I would ask the Council that they support us in that. If we move the food across the street, across eight lanes of traffic, people will get in their cars to go eat, and then most of them will not come back, and those retailers know that. If you look at Visalia, you will see the new shopping center on South Mooney, all of the food is located on the east side. They did have Krispy Kreme, but they closed up. I’m not against the zoning on that property, as far as being commercial. I think that it’s kind of covering up what we made the mistake on with Home Depot, and I think that we need to get this shopping center well-established. Why would you want to take and risk a 640,000 shopping center for a 75,000 retail pads there? The difference is about two million dollars each year in taxes that each one of them would generate. I’ve heard all kinds of discussions on how important it is that the City save money wherever they can, and this just doesn’t make sense. We’ve been years in trying to make this first, and even thought the letter from our attorneys that you have asked for it to be put off, I’m just ready to go on down the road and get something done – right, wrong, or otherwise. So, I would just as soon that you make whatever decisions you’re going to make and I can go ahead and tell these people and they can make their own decisions what they want to do. Thank you.

BOYD K. LEAVITT: First of all, I hope I’m given the same time consideration that Mr. Nicholson had – eleven and a half minutes, or Mr. Ennis had – thirteen minutes, although I don’t think I’ll need that much. My name is Boyd K. Leavitt. I reside at 457 East Oak Avenue. The reason I’m here tonight is I read the paper this morning, and I was unaware of some of things that were taking place. And if the paper was accurate, and I’m sure they are, I agree with everything that Mr. Nicholson said, so I’m
not going to repeat that. I believe there should be a complete economic, complete EIR. But, the one thing that seems to be missing, the reason this one project before you tonight, is here earlier, not only the fast track, but they were not required to do an Economic Impact Report, and the one at Riverwalk was required to do that. Well, if Riverwalk is going to have an economic impact on the community, I would expect this one would too. It’s already going to have an impact on Riverwalk. So, to have a complete environmental, or economic report in this Environmental Impact Report, that should be a component of it, just like the other. Otherwise you have a double standard. You’re expecting one person to provide more data than you are the other one, and they’re in the same area. So, I think that it’s incomplete if you don’t require that of the development before you - an Economic Impact Report. Now if I could take just another minute, I’m still within my time, the subject of the Oak tree. If I could be a tree-hugger for a minute. We in the Porterville area have been very sensitive about the Oak trees, as Mayor Nicholson said, they had to save an Oak tree one time, and they had to work around, and the community is very interested in it, and people work around having it. If I read the brief part I had, I didn’t have the big book, but I’m not asking for one, I got the impression that they were saying that it’s not important, it’s not practical. Well, I disagree. I recently returned from China, and I’ve been in various places in the North and South. I’ve even seen trees growing inside buildings, so I’m not going to buy into the fact that you can’t leave the tree. You certainly can, but you have to have a motivation to also not only keep it, but to save it, and so I think that should be addressed thoroughly in the Environmental Impact Report. So without repeating everything else that’s been said, I think you’ve got a double standard if you’re requiring one to do an Economic Impact Report within the EIR, and you’re not the other one. And, I think it should be a complete EIR.
Thank you very much. That was two minutes, fifty-seven seconds.

DICK ECKHOFF:

Dick Eckhoff, business address 197 North Main. I think that I shall never see a poem lovely as a tree. It's a poem I learned a long time ago, and I really enjoyed it. And then I just got to thinking here, we've got all the media here, and I could just see the headlines tomorrow, "Tree City Cuts Oak." Well, I studies some architecture, and I did a lot of design work in the forest and stuff on roads, and trees can be dodged. I dodged a whole lot of Redwoods anywhere's from 24 dba, up to about 15-20 feet dba, and believe me we had to dodge those things. We worked around it. You know, anybody can go up and take a big square lot or ground and draw lines on it, divide it up and create something. I take that back, make a checkerboard, they don't create a thing. A painter can take a 10x10 square foot piece, or 10x10 foot piece of wood and throw paint on it, cover it up and make it all red, and he's painted it, but he hasn't created a work of art. An artist will come in and design something on there and make it look like something. And, a tree is not that difficult to dodge. It's not that difficult to work around, and it could be a real focal point. When my dad moved his house out onto 104 in Terra Bella, we found a little old Oak scrub sitting out there, and he took that up and planted it in the front yard, and it was known as the Lone Oakland Ranch ever since, and that tree is still there. If Frank Lloyd Wright had just decided that big boulder was something in the way and had thrown it out, it would have never become a hearthstone for Fallingwater, probably the number one piece of architecture in the world in all times.

In the report here I'm reading, let's see, if I can read this with one eye, "...the nesting season for avian predators and other migratory birds generally occurs sometime between February 1 and September 15. Therefore, it is recommended that removal of the Valley Oak on the project site should occur outside the nesting season. If the
tree is to be removed, etc., etc., etc." It says replacement will be at the rate of three trees, at least one fifteen gallon size for each six inches of breast height diameter, etc., etc. That's an awful lot of work, an awful of concern, an awful lot of hassle in reporting and checking and studying and everything. Why not just leave the blessed thing there and be done with it. I would also like to flip over a couple of pages here, and there's a memorandum from the desk of Jim Perrine, Director, draft EIR for the referenced project indicates that the impact, the removal of Valley Oak tree is necessary because the alteration of the project lands, "is not practical or feasible." I think we, never mind. There should be no question that modification of preliminary of development plans is always feasible. To say otherwise would imply that procedural review and comment, including environmental mitigation, presentation of public comments, are of no consequence. In other words, why am I standing up here? You're probably wondering that anyway. Practicality of modifying plans with similarity imply that such modifications would jeopardize the achievement of the project objective. No discussion is offered on how the preservation of a single mature Oak tree would jeopardize the stated project objective. The preservation of the Oak tree should, would enhance the aesthetics, mitigate the loss of scenic agricultural field land, and so on. Year ago, I was in a photo studio here in town and saw an old photograph that was being renovated. It was taken from the top of Scenic Heights up here, shooting south, and all you saw was Oak trees. Now, all I see is power poles, radio towers, and a lot of buildings, and some trees that have been planted, but were not native here. Like I say, there's no reason that Oak tree can't be worked around. Instead of going out there and seeing how much you can cut up and how much you can throw down on a piece of property, lets try to be a little artistic. Let's design around what we've go there, instead of creating something that doesn't even look right.
Otherwise we’re going to wind up as another great poet, Ogden Nash wrote, “I think I shall never see a billboard lovely as a tree. And if billboards do not fall, I will never see a tree at all.” Thank you.

(After closing, and re-opening the public hearing...)

FELIPE MARTINEZ: Felipe Martinez, 195 Putnam Avenue, here in Porterville. You know, I’m not in favor or against, or anything like that. What I would recommend is that we go back and look at it. I believe that on the corner of Date and E Street we’re going to have some apartments going in there. So, is that taken into account on the traffic study that was done? If it wasn’t shame on all of us. I’m not going to sit here and point fingers, and fire anybody, but let’s go back, take two steps back, humble ourselves, and, lets be the servant and stewards that we really should be to the community, and look at that corner that’s a very important corner to the economics of Porterville, to the economics of certain individuals to their own pockets, but most importantly to do the stewardship and look at that corner, and come back and look at it. Because, I have lived around that area for over forty years. I’ve been all over that little corner there. I can’t remember how old I was the first time I totaled by first car, was one that corner, and that was my fault. But, I would recommend that we go back and look at the environmental report and not move one forward faster than the other one. And I believe on that corner, we’ve also done a lot of the, changed zones from residential to high-residential to commercial, and of all these things that I’ve seen over the last three years that I’ve come for the Council to listen, and you gentlemen have made some really good decisions, and some decisions that deep in your heart were the right decisions, but only you knew that it was the right decision or not. We can sit back here and tell you they’re all wrong, or one’s wrong, but I would greatly appreciate it if
you would take this back and say, you know what, let's go back and look at the drawing board again, and let's count those people that are moving in, and let's count the houses that aren't built yet, and let's count exactly what's going on. Like I said, I'm not in favor or against either project. I'm in favor as far as sitting on the Board of the Tulare/Kings Hispanic Chamber, it's an economic revenue that's coming in. As far as a citizen of this community, well heck yes, wouldn't I want two million dollars of taxes coming in and helping our infrastructure, and helping our police and fire departments, and getting rid of our water, and getting rid of all these things. So, that's what I'm in favor is, let's take a step back and wait before we make decisions. Thank you.

The public hearing closed at 8:59 p.m.
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF CERTIFICATION OF AN
ENVIRONMENTAL IMPACT REPORT FOR GENERAL PLAN AMENDMENT 1-2006 (A)
(FORMERLY 5-2004) AND ZONE CHANGE 1-2006 FOR THAT 3.4± ACRE VACANT SITE
LOCATED ON THE NORTHEAST CORNER OF
SOUTH JAYE STREET AND STATE ROUTE 190

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of
February 7, 2006, conducted a public hearing to consider General Plan Amendment 1-2006 (A) and
Zone Change 1-2006 for a 10.7± acre vacant site located on the northeast corner of South Jaye Street
and State Route 190; and

WHEREAS: On March 2, 2006 the applicant submitted a letter to the City requesting to
scale back the scope of the request from 10.7± acres to 3.4± acres; and

WHEREAS: General Plan Amendment 1- 2006 (A), proposes to change the Land Use
Element of the General Plan from Industrial to General Commercial; and

WHEREAS: Zone Change 1-2006 proposes to change the present zoning form M-1 (Light
Manufacturing) to C-2 ‘D’ (General Commercial with Design Review Overlay) Zone contingent
upon approval of General Plan Amendment 1-2006 (A); and

WHEREAS: A conceptual plan for a 75,000± square foot commercial center is attached to
the staff report. As noted above, the northerly 7.3±-acre portion of the site is not a part of the
requested action, so only the development elements referenced in the plan south of the Vandalia
Street alignment are applicable. The specific development plans for the site would be brought back
to Council for approval. Prior to the development, if General Plan Amendment 1-2006 (A), and
Zone Change 1-2006 were to be approved, any use requiring a Conditional Use Permit would also be
brought back to Council; and

WHEREAS: A reconnaissance-level field survey was conducted on September 10, 2004 by
Quad Knopf biologist James W. Jones, Jr. to determine whether special-status plant and animal
species occur on an area which includes the subject site (area between State Route 190 to the south,
Springville Avenue to the north, Jaye Street to the west and an existing Home Depot store and vacant
lot to the east) or if habitats for such species are present in the project area. No Elderberry shrubs,
wetland habitat, or Kit Fox dens were found to exist on the subject site. The biological study was
included by reference into the Environmental Impact Report for this project; and

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

1. That an Environmental Impact Report was prepared in accordance with the California

ATTACHMENT
ITEM NO. 9
Environmental Quality Act.

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

The Environmental Impact Report was evaluated in light of the prepared technical reports, 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 Environmental Impact Report prepared for this project was made available for public review and comment for a thirty (30) day review period from November 11, 2005 to December 11, 2005. The agencies and parties that responded were: Matthew Francois, Esq. of Cassidy Shimko Dawson Kawakami; Porterville Parks and Leisure Services; California Department of Water Resources Floodway Protection Section; Caltrans District 6, Office of Transportation Planning; and the San Joaquin Valley Air Pollution Control District. Comments were received at the public hearing in December from John Hale, Daryl Nicholson, Greg Shelton, Ben Ennis, Boyd Leavitt, Dick Eckhoff, and Felipe Martinez. All comments have been responded to in the Final EIR.

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

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

The reconnaissance-level field survey conducted on September 10, 2004 by Quad Knopf biologist James W. Jones, Jr. determined that there are no Elderberry shrubs, wetland habitat, or Kit Fox dens located on the subject site. Potential impacts to migratory birds associated with the removal of one oak tree on site will be mitigated as described in the mitigation monitoring reporting program or will be avoided through incorporation of the oak tree into site design.

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 analysis prepared for this project supporting the Environmental Impact Report reflects the independent judgment of the City of Porterville.
9. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Environmental Impact Report for this project. The developer/applicant will be required to sign a document committing to comply with the adopted mitigation measures prior to any construction on the site.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Environmental Impact Report prepared for General Plan Amendment 1-2006 (A) and Zone Change 1-2006, and that the mitigation measures defined in Attachment A shall be implemented by the applicant or his/her successors with project implementation.

Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ______________________
   Georgia Hawley, Chief Deputy City Clerk
RESOLUTION NO. _________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING GENERAL PLAN AMENDMENT 1-2006 (A) (FORMERLY 5-2004) WHICH
PROPOSES TO CHANGE THE LAND USE DESIGNATION FROM INDUSTRIAL TO
GENERAL COMMERCIAL FOR THAT 3.4± ACRE VACANT PARCEL LOCATED ON THE
NORTHEAST CORNER OF SOUTH JAYE STREET AND STATE ROUTE 190

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of
February 7, 2006, conducted a public hearing to consider General Plan Amendment 1-2006 (A) and
Zone Change 1-2006 for a 10.7± acre vacant site located on the northeast corner of South Jaye Street
and State Route 190; and

WHEREAS: On March 2, 2006 the applicant submitted a letter to the City requesting to
scale back the scope of the request from 10.7± acres to 3.4± acres; and

WHEREAS: In conjunction with General Plan Amendment 1-2006 (A), Zone Change
1-2006 proposes to change the present zoning for the same site from M-1 (Light Manufacturing) to
C-2 ‘D’ (General Commercial with Design Review Overlay); and

WHEREAS: A conceptual plan for a 75,000± square foot commercial center is attached to
the staff report. As noted above, the northerly 7.3±-acre portion of the site is not a part of the
requested action, so only the development elements referenced in the plan south of the Vandalia
Street alignment are applicable. The specific development plans for the site would be brought back
to Council for approval. Prior to the development, if General Plan Amendment 1-2006 (A), and
Zone Change 1-2006 were to be approved, any use requiring a Conditional Use Permit would also be
brought back to Council; and

WHEREAS: The City Council received testimony from all interested parties relative to the
General Plan Amendment; and

WHEREAS: The City Council made the following findings:

1. That the proposed General Plan Amendment is consistent with the goals and policies
of the General Plan.

   1.1 Well balanced land use pattern, with compatibility among adjacent uses,
satisfying the economic, social and environmental requirements of the
community.

   1.3 Primary retail trade center for a large market area,

3.1 The distribution and intensity of land uses in the community shall conform to
the Land Use and Circulation Plan.
2. The amendment to the Land Use Element of the General Plan from Industrial to General Commercial with the associated Zone Change 1-2006 from M-1 (Light Manufacturing) to C-2 ‘D’ (General Commercial with Design Review Overlay) will allow for future development of the site to be in conformance with the General Plan and Zoning Ordinance.

3. That an Environmental Impact Report was prepared for this project in accordance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment and that implementation of the projects will comply with the recommended mitigation measures.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve General Plan Amendment 1-2006 (A) being an amendment to the Land Use Element of the General Plan as described above.

______________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ____________________________
Georgia Hawley, Chief Deputy City Clerk
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 1-2006 FROM M-1 (LIGHT MANUFACTURING) TO C-2 ‘D’ (GENERAL COMMERCIAL DESIGN REVIEW OVERLAY) FOR THAT 3.4± ACRE VACANT SITE LOCATED ON THE NORTHEAST CORNER OF SOUTH JAYE STREET AND STATE ROUTE 190

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of February 7, 2006, conducted a public hearing to consider General Plan Amendment 1-2006 (A) and Zone Change 1-2006 for a 10.7± acre vacant site located on the northeast corner of South Jaye Street and State Route 190; and

WHEREAS: On March 2, 2006 the applicant submitted a letter to the City requesting to scale back the scope of the request from 10.7± acres to 3.4± acres; and

WHEREAS: General Plan Amendment 1-2006 (A), proposes to change the Land Use Element of the General Plan from Industrial to General Commercial; and

WHEREAS: In conjunction with General Plan Amendment 1-2006 (A), Zone Change 1-2006 proposes to change the present zoning for the same site from M-1 (Light Manufacturing) to C-2 ‘D’ (General Commercial with Design Review Overlay); and

WHEREAS: A conceptual plan for a 75,000± square foot commercial center is attached to the staff report. As noted above, the northerly 7.3±-acre portion of the site is not a part of the requested action, so only the development elements referenced in the plan south of the Vandalia Street alignment are applicable. The specific development plans for the site would be brought back to Council for approval. Prior to the development, if General Plan Amendment 1-2006 (A), and Zone Change 1-2006 were to be approved, any use requiring a Conditional Use Permit would also be brought back to Council; and

WHEREAS: The City Council of the City of Porterville, after proceedings duly had and taken, and after due and legal notice having been given, as prescribed by Ordinance 1198 of the City of Porterville, and the laws of the State of California, has determined that the public interest would best be served by approval of Zone Change 1-2006; and

WHEREAS: The City Council made the following findings in support of the approval of Zone Change 1-2006:

1. The Land Use Element of the General Plan (General Plan Amendment 1-2006 (A)), through the proposed change, designates the subject site for General Commercial uses.

2. That the proposed zoning to C-2 ‘D’ (General Commercial with Design Review...
Overlay) for the subject site is consistent with the proposed General Plan designation.

3. That all uses listed in Article 8 of the Porterville Zoning Ordinance will be allowed in the C-2 ‘D’ (General Commercial with Design Review Overlay) Zone subject to all other laws, rules and regulations.

4. That an Environmental Impact Report was certified for this project in accordance with the California Environmental Quality Act and mitigation measures incorporated into the approval will be precedent to project implementation.

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

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

Section 1: Zone Change 1-2006 is contingent upon approval of GPA 1-2006 (A).

Section 2: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change 1-2006, is hereby re-zoned from M-1 (Light Manufacturing) to C-2 ‘D’ (General Commercial with Design Review Overlay) for that 3.4± acre vacant site located on the northeast corner of South Jaye Street and State Route 190, more particularly shown on the attached map, incorporated herein by this reference as Exhibit “A” subject to prior approval of General Plan Amendment 1-2006 (A); and

Section 3: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show that all of the above described real property is re-zoned from M-1 (Light Manufacturing) to C-2 ‘D’ (General Commercial with Design Review Overlay) for that 3.4± acre vacant site located on the northeast corner of South Jaye Street and State Route 190; and

Section 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

__________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By _______________________
Georgia Hawley, Chief Deputy City Clerk
## Mitigation Monitoring Program

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<tr>
<th>Impact Number</th>
<th>Developer Initial</th>
<th>Responsible Party</th>
<th>Mitigation Measure</th>
<th>City Approval</th>
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<tr>
<td>Impact #3.1.1: Visual Compatibility</td>
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<td>Mitigation Measure #3.1.1: The north and west elevations of the Porterville Commercial Center will be designed to minimize views of urban development and will be landscaped with trees and shrubbery. A licensed landscape architect will design a landscaping plan to achieve these goals. Outdoor billboards shall be excluded from the site. The design and appearance of retail stores, restaurants, and fueling station structures shall be in conformance with the City’s Building codes.</td>
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<td>Impact #3.1.2: Light and Glare</td>
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<td>Mitigation Measure #3.1.2: A light plan will be developed by a registered illumination engineer so that lighting levels comply with generally accepted standards. Lighting will be designed to avoid direct exposure of lighting elements and associated glare into adjacent areas. No more than a 0.25 footcandle increase shall be detected offsite on adjacent properties</td>
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| Impact #3.3.1: PM_{10} From Construction Activities | | | 1. Mitigation Measure #3.3.1: The optional dust control measures in Tables 3.3-4 and 3.3-5 will be implemented.  
Enhanced Control Measures – The following measures should be implemented at construction sites when required to mitigate significant PM_{10} impacts (note these measures are to be implemented in addition to Regulation VIII requirements)  
- Limit traffic speeds on unpaved roads to 15 mph; and  
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.  
Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction.  
- 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*; and  
- Limit area subject to excavation, grading, and other construction activity at any one time  
*Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent opacity limitation.  
Heavy duty equipment (scrapers, graders, trenchers, earth movers, etc.)  
- Use of alternative fueled or catalyst equipped diesel construction equipment  
- Minimize idling time (e.g., 10 minute maximum) | |

Porterville Commercial Center  
Final Environmental Impact Report  
January 2006  
3-1
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|               |                  |                   | ▪ 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  
▪ Implement activity management (e.g. rescheduling activities to reduce short-term impacts) |               |

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002

**Impact #3.4.1:** Special Status Species – Migratory Birds  
**Mitigation Measure #3.4.1:** The nesting season for avian predators and other migratory birds generally occurs sometime between February 1 and September 15. Therefore, it is recommended that removal of the Valley oak on the project site should occur outside the nesting season. If the tree is to be removed during the nesting season, a biologist should evaluate the tree to determine if nesting is occurring. If a nesting avian predator or other migratory bird nest is detected, removal of the nest-bearing tree should not occur until all of the young have fledged.

**Impact #3.5.1:**  
**Mitigation Measure #3.5.1:** Should buried cultural resources be discovered during construction, the project contractor shall immediately halt all work within 50-feet of the find until a qualified professional archaeologist can be consulted to evaluate the find and implement appropriate mitigation measures. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner. Should the County Coroner determine that such remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State law, to arrange for Native American participation in determining the disposition of such remains.

**Impact #3.11.1:** Construction Noise  
**Mitigation Measure #3.11.1:** Noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. Also, effective mufflers shall be fitted to gas- and diesel-powered equipment.

**Impact #3.15.1:** Increased traffic  
**Mitigation Measure #3.15.1:** Implement the mitigation measures listed in the Traffic Impact Study (Appendix H)

**Impact #3.15.2:** Exceeds traffic threshold needed to maintain level of service  
**Mitigation Measure #3.15.2:** Implement the mitigation measures listed in the Traffic Impact Study (Appendix H).
Exhibit A
Zoning Map
CITY COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING (CONTINUED)

TITLE: GENERAL PLAN AMENDMENT 1-2006 (B) AND ZONE CHANGE 2-2006 (PACIFIC WEST ARCHITECTURE)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting a General Plan Amendment and Zone Change for that 4.48± acre vacant site consisting of two (2) parcels located generally on the southeast corner of Date Avenue and "E" Street.

On February 7, 2006, the Porterville City Council opened the public hearing. Due to the numerous General Plan amendments proposed, and the options to these amendments, the public hearing was continued and Staff was directed to bring this item back to the City Council meeting of March 7, 2006.

General Plan Amendment 1-2006 (B), proposes to change the Land Use Element of the General Plan from Industrial to Medium Density Residential.

Zone Change 2-2006 proposes to change the present zoning form M-1 (Light Manufacturing) to R-2 (Four Family Residential) Zone upon approval of General Plan Amendment 1-2006 (B).

A conceptual plan for a 64 unit apartment complex was reviewed by the Project Review Committee on August 10, 2005 and December 7, 2005. The project proposes development of nine (9) buildings, eight (8) of which are for residential use and one of which would serve for community use.

The eight (8) residential buildings consist of 64 residential units. The residential buildings are designed as two-story, walk-up structures in a garden-style setting. The buildings will be oriented appropriately throughout the site with the intent to create a community concept. Carports and uncovered parking spaces will be located throughout the project site with access to and from the residential buildings by concrete walkways.

The project will include three (3) residential unit plans ranging in size from approximately 904 square feet per unit (2 bedroom/1 bath) to 1,401 square feet (4 bedroom/2 bath). All units are designed to include a covered patio or a balcony. Four (4) handicap accessible units would be designed to serve the disabled and two (2) additional units shall be designed for individuals with sensory impairments. The two-story structures will have a maximum building height of 26 feet.
All but one (1) of the residential units (which will be reserved for an on-site manager) would provide low-income rental units. All 64 units in the proposed project would be considered assisted units under the HOME Program.

Proposed on-site amenities include a 2,500 square foot community building consisting of an office, a maintenance room, computer center, laundry facilities, exercise room, and a common room. Barbecue areas with tables and benches would be situated throughout the project site and surrounded by open space. The project also includes a 2,500 square foot playground/recreation area with equipment and a pool/spa.

Upon approval of General Plan Amendment 1-2006 (B) and Zone Change 2-2006, the applicant/agent will be required to submit a conditional use permit to the City Council for review and approval.

ENVIRONMENTAL: On January 10, 2006, 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 the State Clearing House and interested agencies, groups and individuals for a twenty (20) day review period from January 11, 2006 to January 31, 2006. At the end of that period, no agencies responded.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the Negative Declaration prepared for General Plan Amendment 1-2006 (B) and Zone Change 2-2006;

2. Adopt the draft resolution approving General Plan Amendment 1-2006 (B);

3. Approve the proposed Zone Change and give first reading to the draft ordinance.

4. Waive further reading of the draft ordinance approving Zone Change 2-2006, and order to print.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING (CONTINUED) - STAFF REPORT

TITLE: GENERAL PLAN AMENDMENT 1-2006 (B) AND ZONE CHANGE 2-2006

APPLICANT: Pacific West Architecture
13 12th Avenue South
Nampa, Idaho 83651

PROJECT LOCATION: Generally on the southeast corner of Date Avenue and “E” Street.

SPECIFIC REQUEST: The applicant is requesting a General Plan Amendment and Zone Change for that 4.48± acre vacant site consisting of two (2) parcels.

On February 7, 2006, the Porterville City Council opened the public hearing. Due to the numerous General Plan amendments proposed, and the options to these amendments, the public hearing was continued and Staff was directed to bring this item back to the City Council meeting of March 7, 2006.

PROJECT DETAILS: General Plan Amendment 1-2006 (B), proposes to change the Land Use Element of the General Plan from Industrial to Medium Density Residential.

Zone Change 2-2006 proposes to change the present zoning form M-1 (Light Manufacturing) to R-2 (Four Family Residential) Zone upon approval of General Plan Amendment 1-2006 (B).

A conceptual plan for a 64 unit apartment complex was reviewed by the Project Review Committee on August 10, 2005 and December 7, 2005. The project proposes development of nine (9) buildings, eight (8) of which are for residential use and one of which would serve for community use.

The eight (8) residential buildings consist of 64 residential units. The residential buildings are designed as two-story, walk-up structures in a garden-style setting. The buildings will be oriented appropriately throughout the site with the intent to create a community concept. Carports and uncovered parking spaces will be located throughout the project site with access to and from the residential buildings by concrete walkways.

The project will include three (3) residential unit plans ranging in size from approximately 904 square feet per unit (2 bedroom/1 bath) to 1,401 square feet (4 bedroom/2 bath). All units are designed to include a covered patio or a balcony. Four (4) handicap accessible units would be designed to serve the disabled and two (2) additional units shall be designed for individuals with sensory impairments. The two-story structures will have a maximum building height of 26 feet.

All but one (1) of the residential units (which will be reserved for an on-site manager) would provide low-income rental units. All 64 units in the proposed project would be considered assisted units under the HOME Program.
Proposed on-site amenities include a 2,500 square foot community building consisting of an office, a maintenance room, computer center, laundry facilities, exercise room, and a common room. Barbecue areas with tables and benches would be situated throughout the project site and surrounded by open space. The project also includes a 2,500 square foot playground/recreation area with equipment and a pool/spa.

Upon approval of General Plan Amendment 1-2006 (B) and Zone Change 2-2006, the applicant/agent will be required to submit a conditional use permit to the City Council for review and approval.

GENERAL PLAN LAND USE DESIGNATION: Industrial.

SURROUNDING AREA ZONING AND LAND USE:

North: City - Vacant, vacant business and a lumber yard.
South: City - Vacant and the Tule River.
East: City - Railroad tracks, commercial business and residential dwellings.
West: City - "E" Street and residential dwellings.

STAFF ANALYSIS: Due to the location of approximately four (4) elderberry shrubs located at the southwest corner of the site, a minor change in the location of the apartment(s) proposed for this area may be required.

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.

Upon approval of General Plan Amendment 1-2006 (B) and Zone Change 2-2006, the applicant/agent will be required to submit a conditional use permit to the City Council for review and approval.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No Project. Denial of the proposed general plan amendment would not allow the change of zone as proposed.

2. Approve the project. Approval of the general plan amendment as proposed and zone change as proposed, would allow for future development of the site to be in conformance with the General Plan and proposed zoning.
ENVIROMENTAL: On January 10, 2006, 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 the State Clearing House and interested agencies, groups and individuals for a twenty (20) day review period from January 11, 2006 to January 31, 2006. At the end of that period, no agencies responded.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: August 10, 2005 and December 7, 2005.

DATE ACCEPTED AS COMPLETE: February 7, 2006

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the Negative Declaration prepared for General Plan Amendment 1-2006 (B) and Zone Change 2-2006;

2. Adopt the draft resolution approving General Plan Amendment 1-2006 (B);

3. Approve the proposed Zone Change and give first reading to the draft ordinance.

4. Waive further reading of the draft ordinance approving Zone Change 2-2006, and order to print.

ATTACHMENTS:

1. Zoning/Land Use/General Plan Map
2. Zone Change Application
3. Conceptual site plan for the proposed apartment complex
4. Environmental Initial Study
5. Draft Resolution approving Negative Declaration for General Plan Amendment 1-2006 (B) and Zone Change 2-2006
6. Draft Resolution approving General Plan Amendment 1-2006 (B)
7. Draft Ordinance approving Zone Change 2-2006
APPLICATION FOR CHANGE OF ZONE NO. ........................

TO THE PORTERVILLE CITY PLANNING COMMISSION:

We, the owners of real property set opposite our respective names, hereby petition to have Ordinance No. 707 amended by reclassifying from Zone M-1 to Zone R-2, the property described hereon and shown in colored cross-hatching on the attached map which, together with the Property Owner's List, also attached hereto, are made a part of this petition.

The property is situated on the .......................................................... side .......... of ............ "E" .................. Street.

between ........ River Street .......................................................... Street and .......... Date Avenue .......................................... Street.

Exact legal description of said property being See Attached

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

   Yes, There is a significant demand for rental housing in the City of Porterville. A recent market study evidences the shortage of affordable housing. The Redevelopment Agency Strategic Plan designates this site for high density.

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

   Yes, This area is redeveloping into a residential district. The previous manufacturing use is no longer desirable given the proximity of other residences.

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

   No, The proposed use will be a compliment to the surrounding properties. It removes industrial use from a residential neighborhood.

FORM B  

ATTACHMENT ITEM NO. 2
4. What were the original deed restrictions, if any, concerning the type and class of uses permitted on the property involved? Give the expiration date of these restrictions.

(You may attach a copy of these restrictions, after properly underscoring the portions that are in answer to this question.)

There are no deed restrictions.

The following spaces are for signatures of owners whose properties lie within the radius of 300 feet of the property proposed to be reclassified and who approve of the change. (Not required. (See Item 2, Page 4.))

(Attach extra sheets if necessary.)

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<thead>
<tr>
<th>NO. ON MAP</th>
<th>NAME</th>
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We, the undersigned property owners, herewith request that our respective properties which are included in the reclassification petitioned for, be reclassified and for the reasons herein enumerated.

(This space is for signatures of owners of property actually included in the proposed reclassification. Attach extra sheets if necessary.)

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STATE OF CALIFORNIA )
COUNTY OF TULARE )

I, Caleb Roop, being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Planning Commission as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application herewith submitted and that the statements and information above referred to are in all respects true and correct except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at this 7th day of November, 2005.

Telephone Number (208)461-0022 ext. 3015
Signed
Mailing Address 13-12th Avenue South, Nampa, ID 83651

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

Received
Date
Receipt No.

By
For The Porterville City Planning Commission

--- 8 ---
INITIAL STUDY

Sequoia Village at River's Edge

Pacific West Communities, Inc.

Porterville, California

JANUARY 2006
City of Porterville
Initial Study/Environmental Checklist

1. Project title: Sequoia Village at River’s Edge

2. Lead agency name and address:
   City of Porterville
   Community Development Department, Planning
   291 N. Main Street
   Porterville, CA 93257

3. Contact person and phone number:
   Julie Boyle, Senior Planner
   (559) 782-7460

4. Project location:
   424 South E Street
   Porterville, CA 93257
   APN 260-260-001 and 260-250-017 (See Figures 1 and 2)

5. Project sponsor’s name and address:
   Pacific West Communities, Inc.
   13 – 12th Ave. South
   Nampa, Idaho 83651

6. General plan designation: Industrial

7. Zoning: (M-1) Light Manufacturing

8. Description of project:

   Overview
   The project proposes redevelopment of an approximately 4.48 acre parcel (APN 260-260-001), located in the City of Porterville, Tulare County. The project site is located at 424 South E Street, near the corner of South E Street and River Avenue. The project consists of two major components: a) the construction of 64 dwelling units and; b) on-site amenities, including a community building, a pool/spa, a play area, and a barbecue area. The project also includes a 0.39 gross acre area proposed for street dedication along the southern portion of the project site at E Street (APN 260-250-017).

   The project involves a request for an amendment to the City of Porterville’s General Plan land use designation from Industrial to High Density Residential and a zoning change from M-1 to R-3. The High Density Residential land use designation allows for 15 to 43 residential units per acre and must be accommodated by available infrastructure services. The R-3 zoning designation permits multiple dwellings, groups of dwellings, and accessory buildings.
Figure 3
Project Site Plan
Existing Site Setting, Conditions and Background

The project site is located on the east side of South E Street at River Avenue in the southeastern part of the City of Porterville. The property is a level, upland site consisting of approximately 4.48 acres. The project site lies at approximately 450 feet above mean sea level, is relatively flat, and slopes slightly to the south. The southern boundary of the project site is approximately 100 yards north of the Tule River and is separated from the river by unimproved, dry land.

Although the project site is not currently in use, the following improvements occupy the property: 1) two large foundation slabs; and 2) an abandoned, concrete water tank. The existing improvements were associated with a pallet manufacturing and citrus processing facility which operated from 1967 to July 2003, when a fire damaged the building. Before 1967, the structure was utilized as a feed store.

In 1986, a 550 gallon tank was removed from the northwest corner of the property under the oversight of the Tulare County Environmental Health Services (TCEHS). TCEHS issued a “no further investigation” letter that same year.

Residential Low-income Housing Units

The primary land use component of the project is multi-family residential use. The 64-unit apartment buildings would be constructed on approximately 0.88 acres of the 4.48 acre site (20% site coverage). The project proposes development of 9 buildings, 8 of which are for residential use and one of which would serve for community use.

The 8 residential buildings consist of 64 residential units (density of approximately 15 units per acre). The residential buildings are designed as two-story, walk-up structures in a garden-style setting. The buildings will be oriented appropriately throughout the site with the intent to create a community concept. Carports and uncovered parking spaces will be located throughout the project site with access to and from the residential buildings by concrete walkways. The carports and uncovered parking spaces are designed to accommodate approximately 128 parking spaces.

The project includes three (3) residential unit plans ranging in size from approximately 904 square feet per unit (2 bedroom/1 bath) to 1,401 square feet (4 bedroom/2 bath). All units are designed to include a covered patio or a balcony. Four handicap accessible units would be designed to serve the disabled and two additional units would be designed for individuals with sensory impairments. The two-story structures will have a maximum building height of 26 feet from the ground surface elevation.

All but one of the residential units (which would be reserved for an on-site manager) would provide low-income rental units. All 64 units in the proposed project would be considered assisted units under the HOME Program. The project is intended to further redevelopment of the project site with multi-family residential uses in accordance with the Porterville Redevelopment Strategic Plan.

Community Building and other on-site amenities

Proposed on-site amenities include a 2,500 square foot community building consisting of an office, maintenance room, computer center, laundry facilities, exercise room, and a common room. Barbecue areas with tables and benches would be situated throughout the project site and surrounded by open space. The project also includes a 2,500 square foot playground/recreation area with equipment and a pool/spa.
On-Site Circulation Improvements  
The project proposes to dedicate to the City of Porterville a 0.39 gross acre area along the southern portion of the project site at E Street. Following dedication, APN 260-250-017 would result in a net area of 0.10 acres. The project also includes on-site circulation improvements and site access as shown in Figure 3, Project Site Plan. Access would be available from E Street.

Demolition and Grading  
The project would involve demolition of the existing concrete building foundations that previously supported the former warehouse uses. Although the project site is level, site grading is proposed to allow development of the eight two-story apartment buildings, the community building and on-site recreational areas. The project also involves trenching and excavation to install on-site circulation improvements and utilities. The cut and fill needed for grading is expected to be balanced on site.

Subdivision  
The project does not include any subdivision approvals.

Planning Applications  
The following applications have been filed for approval by the City of Porterville:

- General Plan Amendment: request for an amendment to the General Plan land use designation on project site from Industrial to High Density Residential.

- Zoning Ordinance Amendment: request to rezone the project site from M-1 Light Manufacturing to R-3 Multiple Family Zone.

- Design Review: request for Design Review for approval of the project site plan and architecture.

9. Surrounding land uses and setting:

The proposed project site is located in a light manufacturing – residential interface area within the City of Porterville. The parcels to the north and south are unimproved open lots. A railroad right-of-way and light manufacturing of wood products and a warehouse characterize the area east of the project site. Apartments and single-family dwellings occupy the area to the west. The Tule River is located approximately 100 yards south of the project site. Areas south of the project site and the Tule River consist of vacant industrial buildings.

The site is within 1 mile of area services, including shopping, banks, post office, library, elementary school, senior high school, bus stops, parks and local hospital. “Big box” retailers, including Wal-Mart, Target, and Mervyn’s, are located about 2.6 miles from the site.

10. Other public agencies whose approval may be required:

- California Department of Housing and Community Development (in partnership with US Department of Housing and Urban Development): award of HOME loan to provide construction financing for the project.

- Central Valley Regional Water Quality Control Board: filing of a Notice of Intent to construct pursuant to NPDES General Construction Permit.
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 a lead agency cites in the parentheses following 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) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.

4) “Negative Declaration: Less Than Significant With 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 XVII, Earlier Analyses, may be cross-referenced).

5) Earlier analyses 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). In this case, a brief discussion should identify the following:
   a) Earlier Analysis Used. Identify 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 Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

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.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is “Less Than Significant with Mitigation Incorporation” as indicated by the checklist on the following pages.

☐ Aesthetics ☐ Agriculture Resources ☑ Air Quality
☑ Biological Resources ☐ Cultural Resources ☐ Geology / Soils
☐ Hazards & Hazardous Materials ☐ Hydrology / Water Quality ☐ Land Use / Planning
☐ Mineral Resources ✓ Noise ☐ Population / Housing
☐ Public Services ☐ Recreation ☐ Transportation / Traffic
☐ Utilities / Service Systems ☐ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)
On the basis of this initial evaluation:

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

☐

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☒

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL REPORT is required.

☐

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐

I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) 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, nothing further is required.

Date 1/10/06

Signature

Title COMMUNITY DEV. DIR.

SEQUOIA VILLAGE INITIAL STUDY
JANUARY 2006
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<td>I. AESTHETICS – Would the project:</td>
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<td>a) Have a substantial adverse effect on a scenic vista?</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>
<td>□</td>
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<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>□</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>
<td>□</td>
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*Response to a*: The project site is located in a primarily industrial area, with industrial uses to the north, east, and south of the site and residential uses to the west. Approximately 100 yards south of the project site is the Tule River. The primary component of the project would be the construction of 8, two-story residential buildings and 1, one-story community building.

The proposed project would consist of infill development within a predominantly industrial and residential area. The project site is not surrounded by or located near any designated scenic vistas. Consequently, the project would not have a substantial adverse effect on a scenic vista.

*Response to b, c, d*: As described above, the project site is surrounded primarily by industrial uses and some residential use. The site does not contain any rock outcroppings, or buildings of historic significance that would be damaged or lost as a result of site development and is not within the vicinity of a state scenic highway. One existing oak tree is located on the northern property line of the project and the project incorporates measures to preserve the oak tree.

The existing visual character and quality of the site and its surroundings is generally poor due to the fact that building foundations for the former warehouse use characterize the site. The resulting residential development would change the visual appearance and character of the site and its surroundings by introducing high quality two-story residential structures clustered in building complexes throughout the site. Building heights would range from approximately 17 feet for the community building to a maximum building height of 26 feet for the apartment buildings. Although the change in visual character would be
apparent and dramatic, this change in appearance would not result in further degradation of the visual character or quality of the site and its surroundings because it would replace the existing foundations and building remnants with new residential construction. It is expected that the project would result in an improvement over the current appearance of the site and its surroundings, and the proposed residential development would be compatible with residential uses to the west. For these reasons, the project would result in a less than significant visual and aesthetic impact.

No uses currently occupy the project site. No site improvements currently generate excessive amounts of light and glare. The proposed construction of residential units on the project site with areas of glazing (windows), exterior lighting, illuminated directory signage and vehicle parking lots potentially could introduce new sources of light and glare.

The City of Porterville Zoning Ordinance establishes performance standards that are required to ensure that all uses and activities are developed and conducted in a manner so as to not produce impacts on surrounding properties or the neighborhood at large. The project would be required to comply with the provisions of the City of Porterville Zoning Ordinance limiting light and glare impacts. Specifically, the project would be required to implement the following light and glare controls:

Section 2618(F). Performance standards – Glare.
(1) No direct or reflected glare, whether produced by floodlight, 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.

Therefore, either through initial design, or through conditions of project approval, light and glare-reducing measures will be included in the approved project design.

As the project is required to comply with the provisions of the City of Porterville Zoning Ordinance, compliance with these provisions would reduce impacts to less-than-significant levels.

Supporting Sources: HOME Narrative, General Plan, Zoning Ordinance, A.L.T.A. Survey, Phase I
II. AGRICULTURE RESOURCES – In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. 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?

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

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?

Response to a), b), c): As noted above, the project site is developed with minor site improvements (two foundation slabs and a concrete water tank) and is located in an urban area in Porterville. No agricultural uses or production-related activities currently occur on the project site. The site is currently zoned M-1 Light Manufacturing. The existing zoning is not intended for agricultural use and the site is not subject to a Williamson Act contract. The project would not result in the conversion of prime or unique farmland.

The project would redevelop an existing, developed but unoccupied site with new residential buildings. The project site is located in a developed area, which does not include farmland. The project would result in no impacts to the environment which could result in the conversion of farmland.

Supporting Sources: HOME Narrative, Phase I, A.L.T.A. Survey
### III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

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<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
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<td>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
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<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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<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
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<td>e) Create objectionable odors affecting a substantial number of people?</td>
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**Response to a), b), c), e):** Tulare County is located within the San Joaquin Valley Air Basin (SJVAB), which is under the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). Air quality in the San Joaquin Valley is among the poorest in the state and the Valley experiences 35 to 40 days when it exceeds the federal health based ground level ozone standard and more than 100 days per year when the Valley exceeds the State ozone standard. Currently, the San Joaquin Valley is designated as extreme non-attainment for the federal 1-hour ground-level ozone levels and in serious non-attainment for the federal 8-hour ground-level ozone standards.¹

To meet federal Clean Air Act requirements, the SJVAPCD adopted an Ozone Attainment Demonstration Plan (1994) and a PM10 Attainment Demonstration Plan (1997). In addition, to meet California Clean Air Act requirements, the District adopted an Air Quality Attainment Plan (1991) and corresponding updates to address the California ozone standard.

¹ [http://www.valleyair.org/general_info](http://www.valleyair.org/general_info)
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The SJVAPCD Clean Air Plan is prepared and based, in part, on land use forecasts presented in local general plans. Projected air quality conditions for the City of Porterville are based on the land uses assumed under the City of Porterville General Plan. These projections are reflected in the SJVAPCD Air Quality Plan.

The project includes a request for a General Plan amendment and rezoning, which would change the General Plan land use designation to High Density Residential and rezone the project site from M-1 Light Manufacturing zoning to R-3 Multiple Family Zone. The conversion of industrial uses to residential uses on the project site is consistent with the City of Porterville’s adopted Redevelopment Strategic Plan which contemplated redevelopment of the project site in accordance with the Porterville Housing Element.

Residential use results in significantly lower impacts on air quality than do manufacturing uses because manufacturing and industrial uses often generate stationary source pollutant emissions. Under the existing City of Porterville General Plan projections, the project site could be occupied by approximately 98,000 square feet of industrial/manufacturing uses which would be a source of stationary and mobile source emissions. Development of the residential uses would result in minimal stationary source emissions due to HVAC mechanical equipment. Consequently, the project would not conflict with the SJVAPCD Air Quality Plan. In addition, the change from a light manufacturing zoning designation to a residential use designation allowing 64 apartments would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.

The proposed project would result in a redevelopment of this site with up to 64 residential units and a community building. This proposed land use would generate an increase in mobile source emissions when compared to existing conditions associated with the vacant site. The introduction of these emissions is not expected to significantly change air quality on or around the site in that the land uses that are proposed would generate low emissions. In addition, the project is of a size (up to 64 residential units) that would generate only 422 average daily vehicle trips. The projected average daily vehicle trips for the proposed project falls far below the recommended assessment threshold set by the District Guidelines. It is anticipated that the project will not result in significant air quality impacts to surrounding land uses due to project development and operations.

Construction and operation of the project would not be expected to create objectionable odors affecting a number of people because the project involves typical residential building construction.

Response to dj:

Construction Impacts

The SJVAPCD does not require the quantitative analysis of air pollutant emissions generated by construction activities if recommended mitigation measures are implemented by the project. These mitigation measures would be implemented during project construction; therefore, a qualitative rather than quantitative evaluation of construction emissions was conducted.
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Although construction-generated emissions are typically short-term and temporary in duration, they have the potential to represent a significant air quality impact, particularly for PM$_{10}$ and PM$_{2.5}$ emissions. Construction emissions may potentially result in substantial increases in localized PM$_{10}$ and PM$_{2.5}$ concentrations; adverse health effects; and nuisance concerns.

The area west of the project site is developed with residential land uses (single-family dwellings) which are considered sensitive air quality receptors. Residents of the area could be exposed to dust and similar air pollutants during the grading and construction phases of the proposed project. The project also has the potential to result in generating air pollutant emissions and dust during the grading and construction phases of the development. Because the project incorporates standard measures to control air pollutant emissions during construction and elevated emissions due to construction will be temporary, the project will have less than significant impact on exposing sensitive receptors to substantial pollutant concentrations. As required by regulations of the SJVAPCD, the following measures will be implemented to ensure that the project results in less-than-significant construction air quality impacts:

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

- When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

- Within urban areas, trackout shall be immediately removed when it extends 50 or more feet
from the site and at the end of each workday.

- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

With the implementation of the above-listed measures, the project would result in a less than significant air quality impact.

In addition to the required control measures discussed above, the following control measures will be implemented to the extent feasible.

*Enhanced Control Measures* – The following measures should be implemented at construction sites to mitigate significant construction emissions of PM-10:

- Limit traffic speeds on unpaved roads to 15 mph; and
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.

*Additional Control Measures* – The following measures are encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions:

- 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; and
- Limit area subject to excavation, grading, and other construction activity at any one time.

IV. BIOLOGICAL RESOURCES –
Would the project:

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?

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?

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?

d) 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?

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

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?

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Response to a), e): Based on available information, review of aerial photographs and a property A.L.T.A. survey, approximately four elderberry shrubs, which potentially provide habitat for the valley elderberry longhorn beetle (VELB), have been detected along the southwest corner of the property. However, focused surveys for elderberry shrubs have not been conducted throughout the project site, so the condition of the shrubs is unknown.

The valley elderberry longhorn beetle is listed as a threatened species under the Endangered Species Act (16 U.S.C. 1531 et seq.). It is dependent on its host plant, elderberry (Sambucus species), which is a common component of riparian forests and adjacent upland habitats of California's Central Valley. Loss of elderberry shrubs would be considered a significant impact on valley elderberry longhorn beetle. The project is designed to avoid removal and disturbance elderberry shrubs present on the project site. These areas will be protected from disturbance during the construction and operation of the project. Accordingly, the following avoidance and protective measures for the valley elderberry longhorn beetle will be implemented as part of the project:

- Before project construction, conduct a survey for elderberry shrubs where elderberries could occur on the project site.
- Fence and flag all areas to be avoided during construction activities. Provide a minimum setback of at least 20 feet from the dripline of each elderberry plant.
- Brief contractors on the need to avoid damaging the elderberry plants. Instruct work crews about the status of the beetle and the need to protect its elderberry host plant.
- Erect signs every 50 feet along the edge of the avoidance areas with the following information: “This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment.” The signs should be clearly readable from a distance of 20 feet, and must be maintained for the duration of construction.
- Protect buffer areas after construction from adverse effects of the project. Measures such as fencing, signs, weeding, and trash removal are usually appropriate.
- No insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or the host elderberry plants should be used in the setback/buffer areas.

Implementation of these measures would reduce impacts on the valley elderberry longhorn beetle to a less-than-significant level.

In the event an elderberry shrub cannot be avoided by the proposed project, the following measures will be implemented:

- All elderberry shrubs with one or more stems measuring 1.0 inch or greater in diameter at
ground level will be searched for beetle exit holes (external evidence of beetle presence). In addition, all elderberry stems one inch or greater in diameter at ground level must be tallied by diameter size class. In conformance with the USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle (1999) (CGVELB), this information will be used to determine planting ratios for replacement vegetation.

- Elderberry plants with one or more stems measuring 1.0 inch or greater in diameter at ground level must be transplanted to a conservation area, as defined in the CGVELB.

- Elderberry stems measuring 1.0 inch or greater in diameter at ground level that are adversely affected (i.e. transplanted or destroyed) must be replaced, in the conservation area, with elderberry seedlings or cuttings at a ratio ranging from 1:1 to 8:1 (new plantings to affected stems), as listed and explained in Table 1 of the CGVELB.

- As outlined in Table 1 of the CGVELB, a mix of native plants associated with the elderberry plants at the project site or similar sites will be planted at ratios ranging from 1:1 to 2:1 (native tree/plant species to each elderberry seedling or cutting).

- Transplanting will be conducted in accordance with the CGVELB transplanting procedures and will be monitored by a qualified biologist as described in the CGVELB.

- Transplanting of elderberry plants will conform to the transplanting procedures outlined in the CGVELB. In addition, planting of additional elderberry seedlings or cuttings and planting of associated native plants will be in accordance with the CGVELB.

- Monitoring of the population of valley elderberry longhorn beetles, the general condition of the conservation area, and the condition of the elderberry and associated native plantings in the conservation area will be conducted as described in the CGVELB.

Implementation of these avoidance and protective measures would ensure impacts on the valley elderberry longhorn beetle would remain less than significant.

The City of Porterville General Plan Open Space and Conservation Element includes goals and policies encouraging the protection of biological resources with which the project is consistent. Below are the primary open space and conservation goals and policies that are pertinent to the subject property and project:

Open Space
1.1 Natural resources conserved and preserved.
1.2 Balanced mix of open space uses and development throughout the urban area for the enhancement of visual resources, recreation opportunities, avoidance of hazards, and conservation of natural resources.
3.1 Different kinds of open space have different functions. Wherever possible, the City of Porterville shall include in its open space plan, lands that can be used for at least two of the
six major open space functions: preservation of natural resources, managed production of resources, recreation, protection of public health and safety, preservation of significant archaeological or cultural sites, and provision of access to water courses and natural habitats.

3.10 The City shall require maximum open space in all community land developments consistent with the needs of residents and economic feasibility.

Conservation

1.1 Significant biological resources conserved and preserved.

3.1 The City shall protect the Tule River corridor within the Urban Area Boundary in order to reduce flood hazards, protect significant biological resources, and provide for recreational uses and scenic views.

3.4 The City shall use appropriate flood control measures to assure the safety of residents while emphasizing maintenance of natural wildlife habitats and vegetation.

3.14 Adequate mitigation measures (e.g., selective preservation, replanting, sensitive site planning, etc.) shall be required of all developments that will adversely impact significant biological resources.

There is no evidence of the presence of any regionally-occurring special-status plant species on the project site. However, one existing 3’ diameter oak tree is located along the northern boundary of the project site, just west of an existing concrete slab. The project proposes to preserve the existing 3’ diameter oak tree along the northern project site boundary. This mitigation measure would bring the project into conformance with local policies protecting biological resources. Therefore, the impact would be less than significant.

*Response to b), c), d)*: While the project site is located approximately 100 yards north of the Tule River, the project site is completely developed and is located in a light manufacturing – residential interface portion of the City of Porterville. Before a fire consumed the prior structures on the project site in July 1993, the project site was actively used as a pallet manufacturing and citrus processing facility. At present, light manufacturing facilities, warehouses, unimproved lots and residential units surround the project site.

Although the project site is located approximately 100 yards north of the Tule River, no evidence of riparian or wetland habitat is present on the project site. An undeveloped, open lot separates the project site from the Tule River. Based on a site visit and aerial photograph review, the project site does not contain evidence of the presence of wetlands that are subject to Section 404 of the Clean Water Act. Given existing site conditions, the project will not interfere with the movement of any native or resident or migratory fish found in the Tule River nor would it result in the loss of riparian or wetland habitat. In addition, as the site is located in a light manufacturing – residential area of Porterville, and the site has been heavily damaged due to a fire, the potential for wildlife movement through the site is minimal. For these reasons, project development would result in less-than-significant impacts to biological resources.
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*Response to it:* The project site is located in the southeastern portion of the City of Porterville, approximately 100 yards north of the Tule River. A local, regional, or state habitat conservation plan has not been adopted for this area.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, 1994 and 2005 aerial photographs, Phase I, General Plan, Clean Water Act, Relevant CDFG and USFWS regulations, USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle (July 9, 1999), National Wetlands Inventory Map
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<td>V. CULTURAL RESOURCES — Would the project:</td>
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<tr>
<td>a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?</td>
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<tr>
<td>b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?</td>
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<tr>
<td>c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?</td>
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<td>d) Disturb any human remains, including those interred outside of formal cemeteries?</td>
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*Response to a), c)*: Minor improvements, including two foundation slabs and a concrete water tank, are located on the project site. However, no buildings or other structures remain on the site. Because there are no existing buildings on the site, the project would not result in any impacts to a historic resource, as defined in CEQA Guidelines Section 15064.5.

The project site is developed and is relatively flat. It lacks unique geologic features or conditions that would be characteristic of a unique paleontological resource. No impact is expected on a unique geologic feature or a unique paleontological resource.

*Response to b), d)*: The project site is level and composed of sandy loam soil. In 1986, the site was disturbed to complete the removal of a 550 gallon underground gasoline tank; no evidence of archaeological resources or human remains was detected at the time of removal. Moreover, the site has been developed since the early 1900’s and was consumed by fire in July 2003. The fire consumed all of the structures on the property and all of the pallets and some of the bins. No evidence of tribal lands has been identified within one mile of the project site. Accordingly, the presence of potential archaeological resources or human remains on the project site is extremely unlikely.

Nevertheless, although there is very limited potential for impacts to subsurface cultural resources and human remains during project construction, the project would implement the following standard measures during construction to minimize disturbance:
• **Undiscovered/Unrecorded Archaeological Sites.** Before the initiation of construction or ground-disturbing activities associated with the proposed project, all construction personnel shall be alerted to the possibility of buried cultural resources. If artifacts or unusual amounts of stone, bone, or shell are uncovered during construction activities, work within 50 feet of the specific construction site at which the suspected resources have been uncovered shall be suspended, and the City of Porterville Planning Department shall be immediately contacted. At that time, the City shall retain a professional archaeological consultant. The archaeologist shall conduct a field investigation of the specific site and recommend mitigation deemed necessary for the protection or recovery of any cultural resources concluded by the archaeologist to represent significant or potentially significant resources as defined by CEQA. The City shall implement the mitigation prior to the resumption of construction activities at the construction site.

• **Undiscovered/Unrecorded Human Remains.** If human remains are discovered on the project site during construction, work within 50 feet of the remains shall be suspended immediately, and the City of Porterville Planning Department and the county coroner shall be immediately notified. If the remains are determined by the county coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The City of Porterville shall also retain a professional archaeological consultant. The archaeologist shall conduct a field investigation of the specific site and consult with the Most Likely Descendant identified by the NAHC. As necessary, the archaeological consultant may provide professional assistance to the Most Likely Descendant including the excavation and removal of the human remains. The City shall implement any mitigation prior to the resumption of activities at the site where the remains were discovered.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, Phase I, CEQA Guidelines § 15064.5
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**VI. GEOLOGY AND SOILS** – Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

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.

   ![Checkmark]

ii) Strong seismic ground shaking?

   ![Checkmark]

iii) Seismic-related ground failure, including liquefaction?

   ![Checkmark]

iv) Landslides?

   ![Checkmark]

b) Result in substantial soil erosion or the loss of topsoil?

   ![Checkmark]

c) 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?

   ![Checkmark]

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (2001), creating substantial risks to life or property?

   ![Checkmark]

e) 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?

   ![Checkmark]
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**Response to a), ii), iii), iv), c), d), e)**: The project site is not located within any geologic special study zone, such as the Alquist Priolo zone. Furthermore, there are no active or inactive earthquake faults on or near the project site.

The project site is located within the Great Valley geomorphic province. The dominant soil type in the general area of the project site is San Emigdio loam, a very deep, well-drained soil on alluvial fans. The soil is well-suited to building sites. The site is unlikely to be subject to strong ground shaking during a seismic event. In addition, given site conditions, the soil found on the site is not expected to be subject to liquefaction during a seismic event.

The project site is level and does not contain any steep hillsides, nor is it adjacent to any steep slopes. The site, therefore, is not susceptible to landslides or mudflows that would adversely affect the project site.

Soil conditions characterizing the site are unlikely to result in differential settlement of site improvements. The potential for damage to buildings and site improvements and the risk to the safety of residents is slight. Soil conditions on the project site will be stabilized for site development and residential occupancy in accordance with standard foundation recommendations.

The project would be served by the public sanitary sewer system, as required by the City of Porterville Municipal Code, Section 25-34.1. No septic tanks or alternative wastewater treatment system are proposed.

The Project applicant will conduct a soils investigation to confirm the soils condition and foundation recommendations as part of the final design and grading permit process for review and approval by the City of Porterville prior to the commencement of any grading activities. Soils and foundation recommendations will be implemented in accordance with the City of Porterville Grading Ordinance and Uniform Building Code requirements. Implementation of these measures ensures that the project would not result in significant geotechnical impacts.

**Response to b)**: The project would result in site grading and some soil disturbance for site preparation and development. Grading on the project site would result in the removal of two, large foundation slabs on the project site. However, San Emigdio loam, the dominant soil type on the project site, is characterized by slow surface runoff and slight potential for erosion. Given level site conditions and the dominant soil type on the project site, the potential for soil erosion or the loss of topsoil is expected to be minimal.

**Supporting Sources**: HOME Narrative, A.L.T.A. Survey, Phase I, Porterville Municipal Code, Soil Survey of Tulare County, California, Central Part (USDA Soil Conservation Service)
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<td>VII. HAZARDS AND HAZARDOUS MATERIALS – Would the project:</td>
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<tr>
<td>a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</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>
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<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>
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<td>d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
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<td>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 result in a safety hazard for people residing or working in the project area?</td>
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<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>
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<td>g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
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SEQUOIA VILLAGE INITIAL STUDY
JANUARY 2006
h) 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?

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*Response to a), b), c), d), e), f), g), h):* The project proposes a redevelopment of a former light industrial site with residential uses. The proposed project will not involve hazardous materials. The project would not result in the routine transport, use or disposal of hazardous materials. In addition, it does not have the potential to encounter contaminated soil and groundwater or to emit hazardous materials. The project would also not be located on a site that is listed as a hazardous materials site.

In August 2005, RNC Environmental conducted a Phase I environmental assessment of the project site. RNC's report, Phase I Environmental Site Assessment (August 9, 2005), disclosed the following findings:

1. The project site is presently occupied by concrete foundations and pads of a former wooden frame facility and the remaining bins and burned debris that remain from a fire that occurred in July 2003. Prior to the 2003 fire, the property had been utilized for pallet manufacturing and citrus processing since 1967. Before 1967, the structure was utilized as a feed store. Buildings were reportedly constructed in the early 1900s on the project site.

2. Records found at the Tulare County Environmental Health Services (TCEHS) office show that a 550 gallon underground gasoline tank was located 77 feet east of the intersection of South E Street and Date Avenue on the project site. On July 31, 1986, this tank was removed and a soil sample collected beneath the tank site by Consolidated Testing Laboratory and submitted for analysis to BC Laboratories, Inc. in Bakersfield, CA. There were no detectable results using the Purgeable Aromatics test method. On September 3, 1986 the TCEHS office issued a “no further evaluation” letter to then owner of the project site, Mr. George Stiebel. Copies of these documents are found in Appendix F of the Phase I Environmental Site Assessment (August 9, 2005) conducted by RNC Environmental for the project site.

3. The fire of July 2003 consumed all of the structures on the property and all of the pallets and bins (except for some bins on the east portion of the property). The fire burned extremely hot and likely consumed the types of hazardous materials typically used at the facility. The only known releases of hazardous materials during the fire were ammonia gas and perhaps ethylene gas. Approximately one-half of the surface of the soil over the entire project site was obscured from view by burned and unburned debris, equipment, or weeds. The contents of the debris/soil piles were not clearly ascertainable because they were burned and collected into large mounds. At that time, the facility was undergoing debris removal.
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4. The project site is located at a residential/industrial property interface area of the City. As such, there are numerous sites within one-half mile which contain underground storage tanks. Unclosed, leaking storage tank cases found on a nearby property were of sufficient distance to not be an impact to residential development on the project site. In addition, cleanup and remediation sites in areas surrounding the property are sufficiently well-defined, under agency control and of sufficient distance to not cause an impact on the project site.

RNC concluded that, in conformance with the scope and limitations of ASTM Practice E1527-00 and of the proposed US Environmental Protection Agency All Appropriate Inquiry rules, the assessment of the project site revealed no evidence of recognized environmental conditions affecting development of the site.

The project site is not located within the boundaries of an adopted airport land use plan, or within two (2) miles of an airport or in the vicinity of a private airstrip. As the project site is not located within such areas, development of the site would not result in any airport safety hazard impacts for people residing or working in the area.

The project site contains approximately 4.48 acres of developed land approximately 100 yards north of the Tule River. The site is located in a light manufacturing – residential interface portion of the City of Porterville. The parcels to the north and south are unimproved open fields. To the east is a railroad right-of-way, light manufacturing of wood products, and a warehouse. To the west are single-family dwellings. Access to the project is proposed from South E Street, a fully-developed public street. The location of and access to the site allow for ingress and egress to the area during a major emergency. The Porterville General Plan identifies evacuation routes that are to be used in the event of a major emergency. The project site is consistent with this emergency response plan. As such, the project would not impact emergency access to the project site or its surrounding area or impact the City’s ability to implement the City’s Emergency Preparedness Plan.

The project site is developed and predominantly surrounded by industrial uses, with some residential use. The site is not located in an areas of wild lands, subject to wild land fires. The project and future residents would not be exposed to risk of loss, injury or death involving wildfires.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, Phase I, City of Porterville Emergency Operations Plan
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<tr>
<td>a) Violate any water quality standards or waste discharge requirements?</td>
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<tr>
<td>b) 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>
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<tr>
<td>c) 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>
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<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>
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<tr>
<td>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?</td>
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<tr>
<td>f) Otherwise substantially degrade water quality?</td>
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<td>g) Place housing within a 100-year flood hazard area as mapped on a federal Flood</td>
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<tr>
<td>Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
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<tr>
<td>b) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?</td>
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<tr>
<td>i) 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?</td>
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<tr>
<td>j) Inundation by seiche, tsunami, or mudflow?</td>
<td>☐</td>
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*Response to a), b), c), d), e), f), g), h), i)*: At present, the project site drains into the City of Porterville storm water drainage system. The potential water quality impacts from the project would include non-point source pollutants, such as runoff from additional parking and landscaping areas, soil sediments, petroleum products, and fertilizers associated with project landscaping.

The City of Porterville is required to comply with the National Clean Water Act regulations, which are administered through the National Pollutant Discharge Elimination System (NPDES) permit regulations administered by the Central Valley Regional Water Quality Control Board (RWQCB). Furthermore, the City is required to obtain a Citywide NPDES permit. Development of any site that is larger than one (1) acre in size, such as the project site, requires the filing of a Notice of Intent to construct the project under the NPDES Construction Activity Storm Water Permit. The project will be required to develop a Storm Water Pollution Prevention Plan (SWPPP). Development and implementation of a SWPPP would reduce the project's water quality impacts to less than significant. The SWPPP would include standard best management practices (BMPs) regarding the control of the discharge of surface runoff and associated water quality impacts.

The proposed project will not utilize groundwater. The Phase I Environmental Site Assessment by RNC Environmental (August 9, 2005) reported groundwater levels in a well located approximately one-half mile west of the project site ranged from 52 to 100 feet below the ground surface from 1999 to 2004. It is unlikely that during the site grading and construction phases, groundwater will be encountered. Consequently, the project would not significantly alter groundwater recharge.

The project site at present is developed and consists of two, large foundation slabs and a concrete water tank. The proposed development of 64 residential units and ancillary structures potentially may alter existing drainage patterns of the project site and the surrounding area which could alter the rate or amount of surface runoff. The site will be graded to allow for discharge of stormwater into the City of Porterville's storm drainage system. The City of Porterville has concluded that the existing, public storm water drainage system in this area is adequate to serve the project site.
As discussed above, although the project has the potential to alter existing drainage patterns and water quality, the resulting impacts would be less-than-significant.

The project site is located approximately 450 feet above mean sea level. The site does not have the potential to be exposed to tidal flooding. The project site is not located within the Federal Emergency Management Agency (FEMA) Flood Zone A-1, where lands are subject to flooding during a 100-year storm event. The majority of the project site is located within Zone C, areas of minimal flooding. The southern portion of the project site is located in Zone B, area between the limits of the 100-year flood and 500-year flood, or certain areas subject to 100-year flooding with an average depth of less than 1 foot or where the contributing drainage area is less than one square mile. While construction of residential units is proposed for the site, such housing would be located within FEMA Zone C and outside of a 100-year flood hazard area. Additionally, given the project site location and developed conditions, redevelopment of the site would not likely impede or redirect flood water flows or expose people or structures to a significant risk of loss, injury or death involving flooding.

Response to j: The project site is located in a relatively flat, developed, industrial/residential area and is approximately 100 yards north of the Tule River in the southeastern portion of the City of Porterville. As such, the potential for impacts to the project site and future residents from a seiche, tsunami, or mudflow would be extremely low. Therefore, the project would not result in a significant impact.

IX. LAND USE AND PLANNING – Would the project:

a) Physically divide an established community? ☐ ☐ ☐ ☒

b) 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?

☐ ☐ ☐ ☒

c) Conflict with any applicable habitat conservation plan or natural community conservation plan? ☐ ☐ ☐ ☒

Response a), b), c): The project site is presently developed and is located adjacent to existing industrial uses to the north, south and east and residential development to the west. Redevelopment of the site with residential units would not physically divide an established community as the project site would enable infill residential development of a former industrial site. Redevelopment of the site as proposed would appear as an extension to the existing residential community west of the project site.

The project proposes an amendment to the General Plan land use designation adopted for the project site. The proposed General Plan amendment would redesignate the project site Industrial to High Density Residential consistent with the City’s plans to convert industrial uses in this area to multi-family residential development as set forth in the Redevelopment Strategic Plan. The High Density Residential designation allows for 15 to 43 residential units per acre and must be accommodated by available infrastructure services. The General Plan further provides:

The High Density Residential designation is also intended to provide incentive for the redevelopment of certain existing dilapidated buildings and parcels, and the infill of vacant parcels. Thus, it expands the overall housing opportunities in the community by allowing a higher net yield of units per acre of development with consequent higher economic returns.

Additionally, the project proposes to rezone the project site from the existing M-1 Light Manufacturing zoning designation to R-3. The R-3 zoning allows for multiple dwellings, groups of dwellings and accessory buildings. The proposed General Plan Amendment, rezoning and project development, as designed, would not conflict with the pertinent policies of the General Plan which encourage multi-family housing opportunities in Porterville.

SEQUOIA VILLAGE INITIAL STUDY
JANUARY 2006
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The project site is not subject to or a part of an adopted habitat conservation plan or natural community conservation plan.

**Supporting Sources:** HOME Narrative, A.L.T.A. Survey, General Plan, Phase I, Redevelopment Strategic Plan
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<tr>
<td>X. MINERAL RESOURCES – Would the project:</td>
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<td>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
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<tr>
<td>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?</td>
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*Response a), b)*: The project site is level and developed. The site does not contain any known mineral resources or mineral resource recovery sites. Therefore, the project would not result in a significant impact to mineral resources.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, Phase I
XI. NOISE – Would the project result in:

a) 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?

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

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?

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?

Response to a), b), d): The project site is located in an area that is developed with industrial land uses, including manufacturing facilities and railroad tracks, and residential dwellings. The City of Porterville includes policies, which identify standards and maximum noise limits for these land uses. The City of Porterville General Plan Noise Element establishes the following noise standards and limits for apartments and multi-family residential uses:

- Policy 3.3.1 – Areas within the City of Porterville shall be designated as noise-impacted if exposed to existing or projected future noise levels at the exterior of buildings which exceed 60 dB Ldn (or CNEL).
• Policy 3.3.2 – New development of residential or other noise-sensitive land uses will not be permitted in noise-impacted areas unless effective mitigation measures are incorporated into the specific design of such projects to reduce noise levels to 60 dB Ldn (or CNEL) or less within outdoor activity areas and 45 dB Ldn (or CNEL) or less within interior living spaces. Where it is not possible to reduce exterior noise levels within outdoor activity areas to 60 dB Ldn (or CNEL) or less after the practical application of the best available noise reduction technology, an exterior noise level of up to 65 dB Ldn (or CNEL) will be allowed. Under no circumstances will an interior noise level exceeding 45 dB Ldn be allowed with the windows and doors closed. It should be noted that in instances where the windows and doors must remain closed to achieve acoustical isolation, mechanical ventilation or air conditioning must be provided.

• Policy 3.3.5 – The City of Porterville shall enforce the State Noise Insulation Standards (California Administrative code, Title 24) and Chapter 35 of the Uniform Building Code (UBC). Title 24 requires that interior noise levels not exceed 45 dB Ldn (or CNEL) with the windows and doors closed within new developments of multi-family dwellings, condominiums, hotels or motels. UBC Chapter 35 requires that common wall and floor/ceiling assemblies within multi-family dwellings comply with minimum standards concerning the transmission of airborne sound and structure-borne impact noise. Title 24 requires conformance with the above-described standards be documented by the submission of an acoustical analysis whenever new multi-family dwellings, condominiums, hotels or motels are proposed for areas within the 60 dB Ldn (or CNEL) contour of a major noise source as determined by the local jurisdiction.

Operational Noise

The project proposes multi-family residential uses and a community building for the apartment residents. This land use is a low noise generator and would be designed to comply with the standards of the General Plan and the City Zoning Ordinance. Although project-generated traffic would increase noise levels along E Street and River Avenue in the vicinity of the project site, elevated noise levels would not be expected to be significant due to the minor increase in traffic generated by the project and the industrial nature of the surrounding land uses. The potential for long-term elevated noise levels is extremely low and compliance with applicable noise standards is expected.

The proposed apartment buildings may be exposed to elevated noise levels associated with railroad operations near the eastern border of the project site. Pursuant to the City’s Municipal Code Section 2617, in locations where a residential use is being developed adjacent to an existing nonresidential use, the residential development shall construct a wall if one does not already exist. The property line between residential and nonresidential use shall be developed with a six-foot (6') high masonry block wall. Subject masonry block wall shall step down to forty-two inches (42") in height from the side property line intersecting the front property line to a depth equal to the required front or side yard setback of the abutting residential use in order to provide for safe line of sight for vehicular traffic. Wall height separating residential uses from nonresidential uses and public rights of way may be increased in height to accommodate adequate sound
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attenuation as required through the findings of an acoustical analysis prepared by an acoustical professional. The wall design shall be approved as part of the project by the city engineer to ensure that adequate line of sight distance is provided. The city engineer may approve new wall/fencing materials that become available in the future for use as an alternative to a masonry block wall based on its proven comparable properties for durability, sound, light, and glare attenuation. Topography, berming, and other alternative methods of mitigating the nuisance of noise might be considered at time of project review. Compliance with the City’s Municipal Code would ensure that noise levels associated with railroad operations would be less than significant.

*Construction Noise*

Construction activities would have the potential to generate noise levels, on a temporary basis, in excess of the City’s established standards. Implementation of the following standard construction measures would result in less than significant impact on temporary noise levels:

- **Increases in Short-Term Construction-Generated Noise.** Per the City of Porterville Municipal Code, Section 20-35, excavation activities involving the use of any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property shall be reduced to the fullest extent possible between 10 p.m. and 7 a.m., except with the express written permission of the administrative authority, or in case of an emergency as otherwise provided in that article.

- In addition, all construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and acoustical shields or shrouds, in accordance with manufacturers’ recommendations. Construction equipment and truck routes shall be arranged to minimize travel adjacent to occupied residences. Stationary construction equipment and staging areas shall be located as far as possible from sensitive receptors, and temporary acoustic barriers may be installed around stationary equipment if necessary.

As described above, project construction has the potential to result in temporary groundborne noise and in temporary increases in ambient noise levels associated with construction activities. Implementation of the mitigation measures described above would reduce such impacts to a less than significant level. The construction-related mitigation measures identified above would minimize the project’s impact to such temporary increase in ambient noise levels in the project vicinity to less than significant.

*Response to c), e), f):* The residential units and associated residential uses proposed for the project site would not result in any substantial permanent increases in ambient noise levels in the vicinity of the project site. The project site is not located within the boundaries or the planning area of an airport land use plan or within the vicinity of a private airstrip, where noise levels are expected to be higher due to frequent aircraft use of airspace. Residents, therefore, would not be exposed to excessive noise levels associated with such areas.

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<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>
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<td>b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?</td>
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<tr>
<td>c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
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*Response to a:* The project site is developed and served by an existing, public street. The project proposes an amendment to the Porterville General Plan land use designation for the project site. The amendment would permit a residential use that is currently not permitted for the site. The project proposes 64-residential units on a 4.48 acre site, which would serve as an extension to an already existing residential area immediately west of the project site. The project proposal for a General Plan amendment, while allowing for a higher residential density than currently permitted for the project site, would result in a less than significant impact on population growth in the area because the project would provide affordable housing opportunities in accordance with the City’s General Plan policies encouraging improvements to the City’s housing supply.

*Response to b, c:* The project site is currently developed with two large foundation slabs and a concrete water tank. The site is vacant and not in use. No impacts, loss of existing housing, or displacement of people, necessitating the construction of replacement housing, would occur.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, General Plan, Phase I
XIII. PUBLIC SERVICES - Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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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<td>Fire protection?</td>
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<td>Police protection?</td>
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<td>Schools?</td>
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<td>Parks?</td>
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<td>Other public facilities?</td>
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Response: The City of Porterville Fire Department would serve the project site. At present, the City of Porterville operates two fire stations. The County of Tulare also operates three fire stations within the City of Porterville. The buildings to be constructed under the project would be required to meet Uniform Housing Code, Building Code, and Uniform Fire Code standards. Given the level of existing fire protection services and compliance with housing, building and fire code standards, the project is not expected to require an extension or expansion of this public service.

The City of Porterville Police Department would serve the project site. Police Department beat officers are assigned to serve the area. At present, the City of Porterville operates one police station. The County of Tulare also operates a Sheriff’s Substation within the City of Porterville. The residential component of the project is designed to be accessed from an existing street, which would be accessible to the public. However, the buildings, parking areas and landscaped grounds would be secured, so police surveillance service of the site would not be significant. With the introduction of up to 64 residential units, calls for service will increase in the area, but the increase would not significantly impact current police service operations.

The City of Porterville imposes a Utility Users Tax to fund basic City services. In addition, adequate infrastructure to provide sewer, water, storm drainage, and streets services to the subject sites have been accounted for in the Master Plans and funding mechanisms have been implemented.
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The Porterville Unified School District (PUSD) would serve the project site. The school district uses a student-per-household enrollment formula to determine estimated students and district capacity. The State law provisions for addressing school impacts are limited. For assessing new residential development that would result in an increase in student enrollment, local school districts are limited to levying impact fees. The residential component of the project would be required to pay a School Facilities Development Fee, which is paid at the time a building permit is issued. As the project includes a General Plan Amendment, which would permit a residential development, the number of estimated students would increase. The limited increase in student enrollment associated with 64 new residential units, however, would result in a less than significant impact on public school services for the project.

See Section XIV for a discussion of parks and recreation impacts.

See Section XVI for a discussion of other public facilities and services.

**Supporting Sources:** HOME Narrative, A.L.T.A. Survey, General Plan, Phase I, City of Porterville Fire Department, City of Porterville Police Department, Porterville Unified School District
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XIV. RECREATION – Would the project:

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?

b) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response to a), b): The project site is located in an area that has access to public parks and open space. Orange Street Mini Park is located less than one-quarter mile from the project site. Additionally, the Tule River Walk, a trail system along the Tule River, is located approximately 100 yards to the south of the project site. The project proposes the construction of 64 residential units for the site. The limited size and scope of the project will have less than significant impact on the use of existing neighborhood and regional parks and recreational facilities.

The project includes the development of a 2,500 square foot playground/recreation area with equipment, a pool/spa, barbecue areas with tables and benches surrounded by open space. These recreational facilities would serve 64 residential units and occupy less than 0.1 acres. The limited size and scope of these proposed recreational facilities would serve the proposed development and result in a less than significant physical effect on the environment.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Site Plan, General Plan, Phase I
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<td>XV. TRANSPORTATION/TRAFFIC – Would the project:</td>
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<td>a) Cause an increase in traffic which is substantial in relation to</td>
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<td>the existing traffic load and capacity of the street system (i.e.,</td>
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<td>result in a substantial increase in either the number of vehicle</td>
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<td>trips, the volume to capacity ratio on roads, or congestion at</td>
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<td>intersections)?</td>
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<td>b) Exceed, either individually or cumulatively, a level of service</td>
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<td>standard established by the county congestion management agency for</td>
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<td>designated roads or highways?</td>
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<td>c) Result in a change in air traffic patterns, including either an</td>
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<td>increase in traffic levels or a change in location that results in</td>
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<td>substantial safety risks?</td>
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<td>d) Substantially increase hazards due to a design feature (e.g.,</td>
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<td>sharp curves or dangerous intersections) or incompatible uses (e.g.,</td>
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<td>farm equipment)?</td>
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<td>e) Result in inadequate emergency access?</td>
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<td>f) Result in inadequate parking capacity?</td>
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<td>g) Conflict with adopted policies, plans, or programs supporting</td>
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<td>alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
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Response to a): The project site is situated in the southeastern portion of the City of Porterville. The site is currently accessed from South E Street, Date Avenue and River Avenue. At present, the site is developed with minor improvements and is unoccupied. Although the project site previously generated traffic, no uses that generate traffic currently occupy the project site.
Based on observations, it appears that South E Street, Date Avenue, and River Avenue intersections operate at acceptable levels of service during daytime and peak hour conditions. The project proposes redevelopment of the site with up to 64 residential units. Additional traffic would be generated by this project but, given the limited size and scope of the development, a total of approximately 320 daily trips are anticipated to be generated. The project would generate fewer than approximately 30 peak hour trips based on standard trip generation rates. The increase in traffic would be less than significant in relation to existing traffic load and capacity of the street system.

*Response to b), c), d), e), f), g):* Given the minor increase in traffic described above, the project is unlikely to exceed, either individually or cumulatively, established level of service standards.

The proposed project development of 64 residential units and on-site amenities on a currently developed site would not impact air traffic patterns.

The project is designed to utilize South E Street, an existing street, to access the proposed residential units. With the addition of 64 residential units to the area, there is the need to widen South E Street to accommodate the proposed project. The project includes dedication of an approximately 0.29 acre area in the southern portion of the project site to enable reconfiguration of E Street in the vicinity of the River Avenue intersection. The project therefore would not substantially increase hazards due to design features.

As proposed, the project is designed to provide adequate emergency access to all buildings and storage areas. The project would be served by an existing residential street, South E Street, for emergency access to and from the project site.

The project proposes the construction of carports and designated parking areas on the project site for use by project residents. The project is designed to meet or exceed the minimum off-street parking requirements of the City of Porterville Zoning Ordinance.

Transit access is available in the vicinity of the project site via three bus stops located within one-quarter mile of the site. The project is not expected to result in any impacts to alternative transportation programs as the project has limited transit access nor will the project conflict with adopted policies, plans, or programs supporting alternative transportation.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, Site Plan, Phase I, General Plan, Porterville Zoning Ordinance
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<tr>
<td>XVI. UTILITIES AND SERVICE SYSTEMS – Would the project:</td>
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<td>a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
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<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>
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<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>
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<td>d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</td>
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<td>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?</td>
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<td>f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?</td>
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<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
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Response to a), b), c), d), e), f), g): The project would be served by the City of Porterville. The project site is included within the City of Porterville Sewer, Water and Storm Drain Master Plans. In 1994, the capacity of the City of Porterville Wastewater Treatment Plant was increased 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 approximately 71,000 people. The City’s population as of January 2005 was 44,496 people. The project’s proposed construction of 64 residential units is extremely unlikely to exceed wastewater treatment requirements of the City of Porterville Sewer, Water and Storm Drain Master Plans.

The City of Porterville recently reviewed and concluded that redevelopment of the site with residential use and project construction would be adequately served by existing wastewater treatment facilities and the storm water drainage system. Therefore, impacts to wastewater treatment and system capacity and storm water drainage facilities would be less than significant. Moreover, the City of Porterville has determined that, in addition to its existing commitments, it has adequate capacity to serve the project’s projected demand.

Domestic water service to the subject property is provided by the City of Porterville. The City provides water through groundwater pumping, recycled through annual precipitation and recharge programs operated by local irrigation companies. Per the Master Plan, new wells are developed as demand for water increases. Redevelopment of the site with residential use would be adequately served by the existing water facilities. While the project proposes an amendment to the Porterville General Plan, a Rezoning and development of up to 64 residential units, this action would not result in a significant change in solid waste generation. The City of Porterville will be responsible for providing solid waste services for the project site. The City will make use of the Teapot Dome Landfill operated by the County of Tulare. Adequate capacity exists in that landfill for additional development in the City. Impacts to solid waste service and landfill capacity would therefore be less-than-significant. The project would also comply with federal, state, and local statutes and regulations related to solid waste.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Site Plan, Phase I, General Plan, Zoning Ordinance/Municipal Code, City of Porterville
<table>
<thead>
<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<td>a)</td>
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<td>b)</td>
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<td>c)</td>
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Response to a), b), c): While the project site is located in proximity to the Tule River, the site currently has limited potential to provide wildlife movement through the site due to the site’s disturbed condition. Thus, redevelopment of the project site would not significantly reduce, threaten or eliminate an animal or plant community. This impact would be less-than-significant.

The project includes a General Plan Amendment, which would permit residential development in lieu of the industrial uses that are currently permitted. However, the limited size and scope of the project, which proposes 64, new residential units on approximately 4.48 acres of property, along with above-identified mitigation measures, would result in less than significant cumulative impacts on items such as air quality, traffic, public services, and utilities/service systems. Such impacts were identified in the Porterville General Plan EIR and adequate mitigation measures have been adopted. Additionally, as proposed, the project is unlikely to result in adverse effects, direct or indirect, on human beings and no such impacts have been identified in the preceding environmental analysis.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Phase I, General Plan EIR

SEQUOIA VILLAGE INITIAL STUDY
JANUARY 2006
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
GENERAL PLAN AMENDMENT 1-2006 (B) AND ZONE CHANGE 2-2006 FOR
THAT 4.48± ACRE VACANT SITE LOCATED GENERALLY ON THE SOUTHEAST
CORNER OF DATE AVENUE AND “E” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of February 7, 2006, opened the public hearing to consider General Plan Amendment 1-2006 (B) and
Zone Change 2-2006 for that 4.48± acre vacant site consisting of two (2) parcels located on the
southeast corner of Date Avenue and “E” Street; and

WHEREAS: Due to the numerous General Plan amendments proposed, and the options to
these amendments, the public hearing was continued and Staff was directed to bring this item back
to the City Council meeting of March 7, 2006; and

WHEREAS: On March 7, 2006, the Porterville City Council at its regularly scheduled
meeting, conducted the continued public hearing for General Plan Amendment 1-2006 (B) and Zone
Change 2-2006; and

WHEREAS: General Plan Amendment 1-2006 (B), proposes to change the Land Use
Element of the General Plan from Industrial to Medium Density Residential; and

WHEREAS: Zone Change 1-2006 proposes to change the present zoning form M-1
(Light Manufacturing) to R-2 (Four Family Residential) Zone upon approval of General Plan
Amendment 1-2006 (B); and

WHEREAS: A conceptual plan for a 64 unit apartment complex was reviewed by the
Project Review Committee on August 10, 2005 and December 7, 2005. The project proposes
development of nine (9) buildings, eight (8) of which are for 64 residential units, one of which would
serve for community use; and

WHEREAS: All but one (1) of the residential units (which will be reserved for an on-site
manager) would provide low-income rental units. All 64 units in the proposed project would be
considered assisted units under the HOME Program; and

WHEREAS: Proposed on-site amenities include a 2,500 square foot community building
consisting of an office, a maintenance room, computer center, laundry facilities, exercise room, and
a common room. Barbecue areas with tables and benches would be situated throughout the project
site and surrounded by open space. The project also includes a 2,500 square foot
playground/recreation area with equipment and a pool/spa; and

ATTACHMENT
ITEM NO. 5
WHEREAS: Upon approval of General Plan Amendment 1-2006 (B) and Zone Change 2-2006, the applicant/agent will be required to submit a conditional use permit to the City Council for review and approval; 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 in accordance with the California Environmental Quality Act.

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

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

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

4. On January 10, 2006, 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 the State Clearing House and interested agencies, groups and individuals for a twenty (20) day review period from January 11, 2006 to January 31, 2006. At the end of that period, no agencies responded.

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

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

   An on-site inspection was conducted. approximately four (4) elderberry shrubs, which potentially provide habitat for the valley elderberry longhorn beetle (VELB) were observed at the southwest corner of the subject site. Mitigation measures to avoid significant impact pertaining to these shrubs have been addressed for Biological Resources in the Environmental Study and incorporated into a Mitigation Monitoring Program attached hereto as Attachment A.
7. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department’s consideration of a “de minimis impact” pursuant to Section 711.2 et. Seq. of the Fish and Game Code.

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

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

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for General Plan Amendment 1-2006 (B) and Zone Change 2-2006, and that the mitigation measures defined in Attachment A shall be implemented by the applicant or his/her successors with project implementation.

________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ______________________
Georgia Hawley, Chief Deputy City Clerk
## Mitigation Monitoring Program Attachment A

<table>
<thead>
<tr>
<th>Impact No.</th>
<th>Impact</th>
<th>Mitigation Measure</th>
<th>Level Of Significance After Mitigation</th>
<th>Responsible Party</th>
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</thead>
<tbody>
<tr>
<td>Impact #3 d: Air Quality</td>
<td>Exposure sensitive receptors to substantial pollutant concentration</td>
<td>Enhancement Control measures The following measures should be implemented at the construction site when required to mitigate significant PM10 and PM 25 impacts (Note: these measure are to be implemented in addition to Regulation VIII requirements).</td>
<td>Less than significant with mitigation</td>
<td>SJVAPCD/CITY OF PORTERVILE</td>
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<td>- All disturbed area, including storage pies, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a trap or other suitable cover or vegetative ground cover.</td>
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<td>- All on-site unpaved roads shall be effectively stabilized of dust emissions using water or chemical stabilizers/suppressant.</td>
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<td>- All land clearing, grubbing, scraping, excavation and land leveling, grading, cut &amp; fill, and demolition additives shall be effective controlled of fugitive dust emissions utilizing application of water or by presoaking.</td>
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<td>- When material are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.</td>
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<tr>
<td>Impact No.</td>
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<td>Mitigation Measure</td>
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| Impact #3 d: Air   | Exposure sensitive receptors to substantial pollutant concentration   | • All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday.  
• Following the addition of material to, or the removal of material from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.  
• Within urban area, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.  
• Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.  
• Limit traffic speeds on unpaved roads to 15 mph.  
• Install sandbags or other erosion control measure 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.  
• Suspend excavation and grading activity when winds exceed 20 mph.  
• Limit area subject to excavation, grading, and other construction activity at nay on time. |
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<th>Level Of Significance After Mitigation</th>
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| **Impact #4 a & e Biological** | a. Have a substantial adverse effect, wither directly or through habitat modifications, on and species identified as a candidate, sensitive, or special status species in local or regional plans, polices, or regulations, or by the California Department of Fish and Game or U. S. Fish and Wildlife Service.  
e. Conflict with the provisions of adopted habitat conservation Plan, Natural community conservation Plan, or other approved local, regional, or state habitat conservation plan. | Approximately four elderberry shrubs, which potentially provide habitat for the valley elderberry longhorn beetle (VELB) have been detected at the southwest corner of the subject site. The project is designed to avoid removal and disturbance of the shrubs on the site. Accordingly, the following avoidance and protective measures for the valley elderberry longhorn beetle will be implemented as part of the project.  
- Fence and flag all areas to be avoided during construction activities. Provide a minimum setback of at least 20 feet from the dripline of each elderberry plant.  
- Brief contractors on the need to avoid damaging the elderberry plants. Instruct work crews about the status of the beetle and the need to protect its elderberry host plant.  
- Erect signs every 50 feet along the edge of the avoidance areas with the following information: “This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed this species is protected by the Endangered species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment.” The signs should be clearly readable for a distance of 20 feet, and must be maintained for the duration of construction. | Less than significant with mitigation | CDF&G/USFWS |

Date: XXXXX
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<tr>
<td>Impact #4 a &amp; e</td>
<td>Biological (continued)</td>
<td>- Protect buffer areas after construction from adverse effects of the project. Measures such, as fencing, signs, weeding, and trash removal are usually appropriate.</td>
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<td>- No insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or the host elderberry plants should be used in the setback/buffer areas.</td>
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<td>There is no evidence of the presence of any regionally occurring special-status plant species on the project site. However, no existing 3’ diameter oak tree is located along the northern boundary of the project site, just west of an existing concrete slap. The project proposes to preserve the exiting 3’ diameter oak tree along the northern project site boundary. This mitigation measure would bring the project into conformance with local policies protecting biological resources.</td>
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<tr>
<td>Impact #11 a, b</td>
<td>Noise</td>
<td>a. Exposure of persons to or generation of noise levels in excess of standards established in the noise ordinance.</td>
<td>Less than significant with mitigation</td>
<td>City of Porterville</td>
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<tr>
<td>&amp; d.</td>
<td></td>
<td>The project site is located in an area that is developed with industrial land uses, including manufacturing facilities and railroad tracks and residential dwellings. The city of Porterville includes polices, which identify standards and maximum noise limits for these land uses. The City of Porterville General Plan Noise element establishes the following noise standards and limits for apartment and multiple-family residential uses:</td>
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<td>Impact No.</td>
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<td>Mitigation Measure</td>
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| Impact #11 a, b & d.: Noise (continued) | b. Exposure of persons to or generation of excessive ground born vibration or ground borne noise levels. d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. | - Policy 3.31: Areas within the City of Porterville shall be designated as noise-impact if exposed to existing or projected future noise levels at the exterior of buildings which exceed 60 dB Ldn (CNEL)  
- Policy 3.3.2: New development of residential or other noise-sensitive land uses will not be permitted in noise-impacted areas unless effective mitigation measures are incorporated into the specific design of such projects to reduce noise levels to 60 dB Ldn (or CNEL) or less within outdoor activity areas and 45 dB Ldn (or CNEL) or less within interior living spaces. Under no circumstances will an interior noise level exceeding 45 dB Ldn be allowed with the windows and doors closed.  
- Policy 3.35: The City of Porterville shall enforce the State Noise Insulation Standards (California Administrative Code, Title 24) and Chapter of the California Building Code.  
- The Porterville Municipal Code, Section 20-35, excavation activities involving the use of any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property shall be reduced to the fullest extent possible between 10 p.m. and 7 a.m. | | |
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</table>
| Impact #11 a, b & d.: Noise (continued) | Section 0.00.60 C. of the Noise Element of the General Plan states the following:  

“Noise sources associated with construction, provided such activities do not take place before 6:00 a.m. or after 9:00 p.m. on any day except Saturday or Sunday, or before 7:00 p.m. on any day except Saturday or Sunday, or before 7:00 a.m. or after 5:00 p.m. on Saturday or Sunday.

Section 0.00.60 D. of the Noise Element of the General Plan states the following:

“Noise sources associated with the maintenance of residential property provided such activities take place between the hours of 6:00 a.m. and 9:00 p.m. on Saturday or Sunday.

In addition, all construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and acoustical shields or shrouds, in accordance with manufacturer’s recommendations. Construction equipment and truck routes shall be arranged to minimize travel adjacent to occupied residences. Stationary construction equipment and staging areas shall be located as far as possible from sensitive receptors, and temporary acoustic barriers may be installed around stationary equipment if necessary. | | |
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL FOR
GENERAL PLAN AMENDMENT 1-2006 (B) FOR
THAT 4.48± ACRE VACANT SITE LOCATED GENERALLY ON THE
SOUTHEAST CORNER OF DATE AVENUE AND "E" STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of February 7, 2006, opened the public hearing to consider General Plan Amendment 1-2006 (B) and
Zone Change 2-2006 for that 4.48± acre vacant site consisting of two (2) parcels located on the
southeast corner of Date Avenue and "E" Street; and

WHEREAS: Due to the numerous General Plan amendments proposed, and the options to
these amendments, the public hearing was continued and Staff was directed to bring this item back
to the City Council meeting of March 7, 2006; and

WHEREAS: On March 7, 2006, the Porterville City Council at its regularly scheduled
meeting, conducted the continued public hearing for General Plan Amendment 1-2006 (B) and Zone
Change 2-2006; and

WHEREAS: General Plan Amendment 1- 2006 (B), proposes to change the Land Use
Element of the General Plan from Industrial to Medium Density Residential; and

WHEREAS: In conjunction with General Plan Amendment 1- 2006 (B), Zone Change
2-2006 proposes to change the present zoning from M-1 (Light Manufacturing) to R-2 (Four Family
Residential) Zone upon approval of General Plan Amendment 1-2006 (B); and

WHEREAS: A conceptual plan for a 64 unit apartment complex has been reviewed by the
Project Review Committee on August 10, 2005 and December 7, 2005. The project proposes
development of nine (9) buildings, eight (8) of which are for 64 residential units, one of which would
serve for community use; and

WHEREAS: All but one (1) of the residential units (which will be reserved for an on-site
manager) would provide low-income rental units. All 64 units in the proposed project would be
considered assisted units under the HOME Program; and

WHEREAS: Proposed on-site amenities include a 2,500 square foot community building
consisting of an office, a maintenance room, computer center, laundry facilities, exercise room, and
a common room. Barbecue areas with tables and benches would be situated throughout the project
site and surrounded by open space. The project also includes a 2,500 square foot playground/recreation area with equipment and a pool/spa; and

ATTACHMENT
ITEM NO. 6
WHEREAS: Upon approval of General Plan Amendment 1-2006 (B) and Zone Change 2-2006, the applicant/agent will be required to submit a conditional use permit to the City Council for review and approval; and

WHEREAS: The City Council received testimony from all interested parties relative to the General Plan Amendment; and

WHEREAS: The City Council made the following findings:

1. That the proposed General Plan Amendment is consistent with the goals and policies of the General Plan and implements the redevelopment project area strategic plan which designates the site as multiple family residential.

2. The amendment to the Land Use Element of the General Plan from Industrial to Medium Density Residential with the associated Zone Change 2-2006 from M-1 (Light Manufacturing) to R-2 (Medium Density Residential) will allow for future development of the site to be in conformance with the General Plan and Zoning Ordinance.

3. That a Negative Declaration was prepared for this project in accordance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment and that implementation of the projects will comply with the recommended mitigation measures.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve General Plan Amendment 1-2006 (B) being an amendment to the Land Use Element of the General Plan as described above.

______________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ___________________________
Georgia Hawley, Chief Deputy City Clerk
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING ZONE CHANGE 2-2006 FROM M-1 (LIGHT
MANUFACTURING) TO R-2 (FOUR FAMILY RESIDENTIAL) FOR THAT 4.48± ACRE
VACANT SITE LOCATED GENERALLY ON THE
SOUTHEAST CORNER OF DATE AVENUE AND “E” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of February 7, 2006, opened the public hearing to consider General Plan Amendment 1-2006 (B) and
Zone Change 2-2006 for that 4.48± acre vacant site consisting of two (2) parcels located on the
southeast corner of Date Avenue and “E” Street; and

WHEREAS: Due to the numerous General Plan amendments proposed, and the options to
these amendments, the public hearing was continued and Staff was directed to bring this item back
to the City Council meeting of March 7, 2006; and

WHEREAS: On March 7, 2006, the Porterville City Council at its regularly scheduled
meeting, conducted the continued public hearing for General Plan Amendment 1-2006 (B) and Zone
Change 2-2006; and

WHEREAS: Zone Change 2-2006 proposes to change the present zoning form M-1 (Light
Manufacturing) to R-2 (Four Family Residential) Zone; and

WHEREAS: In conjunction with Zone Change 1-2006, General Plan Amendment 1-2006
(B), proposes to change the Land Use Element of the General Plan from Industrial to Medium
Density Residential; and

WHEREAS: A conceptual plan for a 64 unit apartment complex has been reviewed by the
Project Review Committee on August 10, 2005 and December 7, 2005. The project proposes
development of nine (9) buildings, eight (8) of which are for 64 residential units and one of which
would serve for community use; and

WHEREAS: All but one (1) of the residential units (which will be reserved for an on-site
manager) would provide low-income rental units. All 64 units in the proposed project would be
considered assisted units under the HOME Program; and

WHEREAS: Proposed on-site amenities include a 2,500 square foot community building
consisting of an office, a maintenance room, computer center, laundry facilities, exercise room, and
a common room. Barbecue areas with tables and benches would be situated throughout the project
site and surrounded by open space. The project also includes a 2,500 square foot
playground/recreation area with equipment and a pool/spa; and
WHEREAS: Upon approval of General Plan Amendment 1-2006 (B) and Zone Change 2-2006, the applicant/agent will be required to submit a conditional use permit to the City Council for review and approval; and

WHEREAS: The City Council of the City of Porterville, after proceedings duly had and taken, and after due and legal notice having been given, as prescribed by Ordinance 1198 of the City of Porterville, and the laws of the State of California, has determined that the public interest would best be served by approval of Zone Change 2-2006; and

WHEREAS: The City Council made the following findings in support of the approval of Zone Change 2-2005:

1. The Land Use Element of the General Plan, through the approval of (General Plan Amendment 1-2006 (B), designates the subject site for Medium Density Residential uses.

2. That the proposed zoning to R-2 (Four Family Residential) for the subject site is consistent with the proposed General Plan designation.

3. That all uses listed in Article 2, and Article 3 of the Porterville Zoning Ordinance will be allowed in the R-2 (Four Family Residential) Zone subject to all other laws, rules and regulations.

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

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

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

Section 1: Zone Change 2-2006 is approved contingent upon approval of General Plan Amendment 1-2006(B).

Section 2: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change 2-2006, is hereby re-zoned from M-1 (Light Manufacturing) to R-2 (Four Family Residential) for that 4.48± acre vacant site located generally on the southeast corner of Date Avenue and “E” Street, more particularly shown on the attached map, incorporated herein by this reference as Exhibit “A”; and
Section 3: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show that all of the above described real property is re-zoned from M-1 (Light Manufacturing) to R-2 (Four Family Residential) for that 4.48± acre vacant site located generally at the southeast corner of Date Avenue and “E” Street; and

Section 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

______________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ___________________________
Georgia Hawley, Chief Deputy City Clerk
ZONE CHANGE #2-2006

CITY COUNCIL
ORDINANCE NO.__________

PROPOSED CHANGE
M-1 TO R-2

EXHIBIT "A"
CITY COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING

TITLE: CONDITIONAL USE PERMIT 1-2006 (PACIFIC WEST COMMUNITIES, INC)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Conditional Use Permit 1-2006 to allow the development of a 64 unit apartment complex on a 4.48± acre vacant site consisting of two (2) parcels located generally on the southeast corner of Date Avenue and "E" Street.

The project proposes development of nine (9) buildings, eight (8) of which are for residential use and one of which would serve for community use. The eight (8) residential buildings consist of 64 residential units. The residential buildings are designed as two-story, walk-up structures in a garden-style setting. The buildings will be oriented appropriately throughout the site with the intent to create a community concept. Carports and uncovered parking spaces will be located throughout the project site with access to and from the residential buildings by concrete walkways.

At the public hearing on February 7, 2006, for the General Plan Amendment and Zone Change for this project, a few residents expressed a concern regarding traffic generated by the project. Based on existing improvements, it appears that South "E" Street, Date Avenue and River Avenue intersections operate at acceptable levels of service during daytime and peak hour conditions. The project proposes redevelopment of the site with up to 64 residential units. Additional traffic would be generated by this project but, given the limited size and scope of the development, a total of approximately 320 daily trips are anticipated to be generated. The project would generate fewer than approximately 30 peak hour trips based on standard trip generation rates. The increase in traffic would be less than significant in relation to existing traffic load and capacity of the street system.

Although the project applicant is seeking approvals to facilitate the development of an affordable housing apartment complex, the applicant has not requested any development incentives provided for in Government Code Section 65915/et.seq. Code for Affordable Housing Projects.
ENVIRONMENTAL: On January 10, 2006, 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 (see Attachment 4 General Plan Amendment 1-2006 (B) and Zone Change 2-2006 (Pacific West Architecture)), have been transmitted to the State Clearing-house and interested agencies, groups and individuals for a twenty (20) day review period from January 11, 2006 to January 31, 2006. On February 2, 2006 the San Joaquin Valley Air Pollution Control District provided standard comments and concurred with the environmental document conclusions.

RECOMMENDATION: That the City Council:

1. Adopt the Draft Resolution approving Conditional Use Permit 1-2006 subject to conditions of approval.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING - STAFF REPORT

TITLE: CONDITIONAL USE PERMIT 1-2006 (PACIFIC WEST COMMUNITIES, INC)

APPLICANT: Pacific West Architecture
13 12th Avenue South
Nampa, Idaho 83651

PROJECT LOCATION: Generally on the southeast corner of Date Avenue and "E" Street.

SPECIFIC REQUEST: The applicant is requesting a Conditional Use Permit 1-2006 for a 4.48± acre vacant site consisting of two (2) parcels located generally on the southeast corner of Date Avenue and "E" Street.

On February 7, 2006, the Porterville City Council opened the public hearing for General Plan Amendment 1-2006 (B) and Zone Change 2-2006 for the proposed project. Due to the numerous General Plan amendments proposed, and the options to these amendments, the public hearing was continued and Staff was directed to bring this item back to the City Council meeting of March 7, 2006. The Council also requested staff prepare the Conditional Use Permit application be processed concurrently with the General Plan Amendment and Zone Change. As a result, this Conditional Use Permit application is before Council tonight.

PROJECT DETAILS: Conditional Use Permit 1-2006 for a 4.48± acre vacant site.

The proposed CUP would allow for the development of a 64 unit apartment which consists of a total of nine (9) buildings. Eight (8) of the buildings are for residential use and one community building.

The eight (8) residential buildings consist of 64 residential units. The residential buildings are designed as two-story, walk-up structures in a garden-style setting. The buildings will be oriented appropriately throughout the site with the intent to create a community concept. Carports and uncovered parking spaces will be located throughout the project site with access to and from the residential buildings by concrete walkways.

The project will include three (3) residential unit plans ranging in size from approximately 904 square feet per unit (2 bedroom/1 bath) to 1,401 square feet (4 bedroom/2 bath). All units are designed to include a covered patio or a balcony. Four (4) handicap accessible units will be designed to serve the disabled and two (2) additional units shall be designed for individuals with sensory impairments. The two-story structures will have a maximum building height of 26 feet.
All but one (1) of the residential units (which will be reserved for an on-site manager) would provide low-income rental units. All 64 units in the proposed project would be considered assisted units under the HOME Program.

Proposed on-site amenities include a 2,500 square foot community building consisting of an office, a maintenance room, computer center, laundry facilities, exercise room, and a common room. Barbecue areas with tables and benches would be situated throughout the project site and surrounded by open space. The project also includes a 2,500 square foot playground/recreation area with equipment and a pool/spa, and a fountain at the site entrance.

GENERAL PLAN LAND USE DESIGNATION:  R-2 (Medium Density Residential)

SURROUNDING AREA ZONING AND LAND USE:

North:  City - Vacant, vacant business and a lumber yard.
South:  City - Vacant and the Tule River.
East:  City - Railroad tracks, commercial business and residential dwellings.
West:  City - "E" Street and residential dwellings.

STAFF ANALYSIS:  Due to the location of a small cluster of elderberry shrubs located at the southwest corner of the site, a minor change in the location of the apartment(s) proposed for this area may be required.

Development of the site as proposed will provide needed housing in conformance with the City’s General Plan Land Use and Housing Elements and is in compliance with requirements of the State Subdivision Map Act and local ordinances.

Questions regarding increased traffic in this area were expressed at the City Council meeting of February 7, 2006. The environmental Initial Study pages A-40 and A-41 addressed this issue as follows:

The project site is situated in the southeastern portion of the City of Porterville. The site is currently accessed from South “E” Street, Date Avenue and River Avenue. At present, the site is developed with minor improvements and is unoccupied. Although the project site previously generated traffic, no uses that generate traffic currently occupy the project site.

Based on observations, it appears that South “E” Street, Date Avenue and River Avenue intersections operate at acceptable levels of service during daytime and peak hour conditions. The project proposes redevelopment of the site with up to 64 residential units. Additional traffic would be generated by this project but, given the limited size and scope of the development, a total of approximately 320 daily trips are anticipated to be generated. The project would generate fewer than approximately 30 peak hour trips based on standard trip generation rates. The increase in traffic would be less than significant in relation to existing traffic load and capacity of the street system.
ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No Project. Denial of the proposed project would prohibit the construction of an apartment complex on the subject site as proposed.

2. Approve the Project. Approval of the request would result in the applicant being conditionally allowed to construct a 64-unit apartment complex as proposed.

ENVIRONMENTAL: On January 10, 2006, 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 (see Attachment 4 of General Plan Amendment 1-2006 (B) and Zone Change 2-2006 (Pacific West Architecture)), have been transmitted to the State Clearing-house and interested agencies, groups and individuals for a twenty (20) day review period from January 11, 2006 to January 31, 2006. On February 2, 2006 the San Joaquin Valley Air Pollution Control District provided standard comments and concurred with the Environmental Documents.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: August 10, 2005 and December 7, 2005.

DATE ACCEPTED AS COMPLETE: March 7, 2006

RECOMMENDATION: That the City Council:

1. Adopt the Draft Resolution approving the Conditional Use Permit 1-2006 subject to conditions of approval.

ATTACHMENTS:

1. Locator Map
2. Site Plan
3. Landscape
4. Elevations
5. San Joaquin Valley Air Pollution Control District letter
6. Negative Declaration (same as GENERAL PLAN AMENDMENT 1-2006 (B) AND ZONE CHANGE 2-2006 (PACIFIC WEST ARCHITECTURE))
7. Initial Study (same as GENERAL PLAN AMENDMENT 1-2006 (B) AND ZONE CHANGE 2-2006 (PACIFIC WEST ARCHITECTURE)).
8. Draft Resolution approving CUP 1-2006
CONDITIONAL USE PERMIT # 6-2006

LOCATOR MAP

ATTACHMENT ITEM NO. 1
February 2, 2006

City of Porterville
Community Development Dept, Planning
Attn: Julie Boyle, Senior Planner
291 North Main Street
Porterville, CA 93258

Subject: Initial Study, Proposed Mitigated Negative Declaration: Sequoia Village at River's Edge
APN: 260-260-001 and 260-250-017 (Pacific West Communities, Inc.)

Dear Ms. Boyle:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above and the District concurs that a Mitigated Negative Declaration would be appropriate in addressing air quality related issues. The entire San Joaquin Valley Air Basin (SJVAB) is designated non-attainment for ozone and particulate matter (PM10 and PM2.5). This project will contribute to the overall decline in air quality due to construction activities, increases in motor vehicle traffic and other operational emissions associated with new development such as space heating, fireplaces, and the use of landscape maintenance equipment. We also offer the following comments:

With the adoption of District Rule 9510 (Indirect Source Review) on December 15, 2005, the District will be requiring projects subject to the rule to quantify indirect, area source, and construction exhaust emissions and to mitigate a portion of these emissions. The rule becomes effective on March 1, 2006. Projects that have not received their final discretionary approval by March 1, 2006 must file an application with the District by April 2, 2006. Rule 9510 was adopted to reduce the impacts of growth in emissions from all new development in the San Joaquin Valley. The emission reductions expected from the rule allow the District to achieve attainment of the federal air quality standards for ozone and PM10 by 2010. This leads the District to conclude that cumulative impacts of new development projects will be mitigated to a level that is less than significant through implementation of Rule 9510.

Based on the information provided, the proposed project will be subject to the following District rules. The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. This project may be subject to additional District Rules. To identify additional rules or regulations that apply to this project, or for further information, the applicant is strongly encouraged to contact the District’s Small Business Assistance Office at (559) 230-5888. Current District rules can be found at http://www.valleyair.org/rules/1ruleslist.htm. To avoid unnecessary delays in the project, applications should be submitted to the District as soon as the project developer has determined the scope of the project.

**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 and demolition activities, road construction, bulk materials storage, paved and unpaved roads, carryout and track out, etc. The District’s compliance assistance bulletin for construction sites can be found at: http://www.valleyair.org/busind/comply/PM10/Reg%20VIII%20CAB.pdf.
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 as specified in Section 6.4.2 of Rule 8021. A template of the District's Construction Notification Form is available at http://www.valleymair.org/busind/comply/PM10/forms/Notification%20Form%20Final%2012.01.2005.doc

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 as specified in Section 6.4.1 of Rule 8021. A template of the District's Construction Notification Form is available at http://www.valleymair.org/busind/comply/PM10/forms/Notification%20Form%20Final%2012.01.2005.doc.

The project will likely be subject to provisions within Rule 8031 (Bulk Materials), Rule 8041 (Carryout and Track out), Rule 8051 (Open Areas), Rule 8061 (Paved and Unpaved Roads), and Rule 8071 (Unpaved Vehicle/Equipment Traffic Areas).

Rule 4002 (National Emission Standards for Hazardous Air Pollutants). In the event that any portion of an existing building will be renovated, partially demolished or removed, the project will be subject to District 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-contractor in accordance with CAL-OSHA requirements. If you have any questions concerning asbestos related requirements, please contact Mr. Brian Dodds of this office at (559) 230-5962, or contact CAL-OSHA at (559) 454-1295. An Asbestos Requirements Bulletin has been enclosed for the applicant. The District's Asbestos Requirements Bulletin can be found at: http://valleymair.org/busind/comply/asbestosbulletn.htm

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 use of open burning and specifies the types of materials that may be open burned. Agricultural material shall not be burned when the land use is converting from agriculture to non-agricultural purposes (e.g., commercial, industrial, institutional, or residential uses). Section 5.1 of this rule prohibits the burning of trees and other vegetative (non-agricultural) material whenever the land is being developed for non-agricultural purposes. In the event that the project applicant 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, clean up 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) This rule 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 on our website at www.valleymair.org. For compliance assistance, please contact Mr. Wayne Clarke, Air Quality Compliance Manager, at (559) 230-5968.

Rule 4902 (Residential Water Heaters) This rule applies to and limits emissions of NOx from residential natural gas-fired water heaters.
Rule 9510. (Indirect Source Review) This rule requires the applicants of certain development projects to submit an application to the District when applying for the development’s last discretionary approval. The rule requires developers to mitigate emissions at the project site to mitigate emissions at the project site to the extent feasible and to pay a mitigation fee to the District for a percentage of the remaining emissions. The ISR rule becomes effective March 1st, 2006. Projects that have not received a final discretionary approval by March 1, 2006 must submit an ISR application by March 31, 2006.

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 these projects to provide additional reductions of the overall level of emissions. (Note: Some of the measures may already exist as City of Porterville 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.

- 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/
  - Increased wall and ceiling insulation (beyond building code requirements)
  - 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://eandie.lbl.gov/heatisland/
  - Radiant heat barrier. See http://www.eere.energy.gov/consumerinfo/refbriefs/bc7.html
  - Energy efficient lighting, heating and cooling systems. See http://www.energystar.gov/
  - Programmable thermostat(s) for all heating and cooling systems
  - Awnings or other shading mechanism for windows
  - Porch/Patio overhangs
  - Ceiling fans
  - Low or non-polluting landscape maintenance equipment (e.g. electric lawn mowers, reel mowers, leaf vacuums, electric trimmers and edgers, etc.)
  - Utilize day lighting (natural lighting) systems such as skylights, light shelves, interior transom windows etc. See http://www.advancedbuildings.org

- The District encourages the applicant and fleet operators using the facility to take advantage of the District’s Heavy-Duty Engine program to reduce project emissions. The Heavy Duty program provides incentives for the replacement of older diesel engines with new, cleaner, fuel-efficient diesel engines. The program also provides incentives for the re-power of older, heavy-duty trucks with cleaner diesel engines or alternative fuel engines. New alternative fuel heavy-duty trucks also qualify. For more information regarding this program contact the District at (559) 230-5858 or visit our website at http://www.valleyair.org/transportation/heavydutyidx.htm.
The applicant should implement measures to reduce the amount of single occupancy vehicle employee traffic to and from the project area that further reduce air pollution in the valley. This could include such provisions as encouraging employees to rideshare or carpool to the project site, and incorporating a compressed workweek schedule. Check out the “Spare the Air” section of our website www.valleyair.org.

The applicant should require that all diesel engines be shut off when not in use on the premises to reduce emissions from idling.

Construction activity mitigation measures include:
- Limit area subject to excavation, grading, and other construction activity at any one time.
- 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.
- 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.

The applicant should use diesel equipment fueled by alternative diesel fuel blends or Ultra Low Sulfur Diesel (ULSD). The California Air Resources Board (CARB) has verified specific alternative diesel fuel blends for NOx and PM emission reduction. Only fuels that have been certified by CARB should be used. Information on biodiesel can be found on CARB’s website at http://www.arb.ca.gov/fuels/diesel/altfuel.htm and the EPA’s website at http://www.epa.gov/oms/models/biodiesel.htm. The applicant should also use CARB certified alternative fueled engines in construction equipment where practicable. Alternative fueled equipment may be powered by Compressed Natural Gas (CNG), Liquid Propane Gas (LPG), electric motors, or other CARB certified off-road technologies. To find engines certified by the CARB, see their certification website http://www.arb.ca.gov/msprog/offroad/cert/cert.php. For more information on any of the technologies listed above, please contact Mr. Chris Acree, Senior Air Quality Specialist, at (559) 230-5829.

Construction equipment should have engines that meet the current off-road engine emission standard (as certified by the CARB), or be re-powered with an engine that meets this standard. Tier I, Tier II and Tier III engines have significantly less NOx and PM emissions compared to uncontrolled engines. To find engines certified by the CARB, 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. Rule 9510 requires construction exhaust emissions to be reduced by 20 percent for NOx and 45 percent for PM10 when compared to the statewide fleet average or to pay an in lieu mitigation fee. For more information on heavy-duty engines, please contact Mr. Thomas Astone, Air Quality Specialist, at (559) 230-5800.

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 or Mr. Dave Mitchell, Planning Manager, at (559) 230-5807 and provide the reference number at the top of this letter.

Sincerely,

[Signature]

Georgia A Stewart
Air Quality Specialist
Central Region

C: File
NEGATIVE DECLARATION

LEAD AGENCY: City of Porterville
PROJECT APPLICANTS: Pacific West Architecture

291 North Main Street
PROJECT TITLE: General Plan Amendment 1-2006 (B), Zone Change 2-2006 and Conditional Use Permit 1-2006.
Porterville, California 93257
13 12th Avenue South
Nampa, Idaho 83651

ADDRESS/LOCATION: Generally the southeast corner of Date Avenue and "E" Street.

PROJECT APPLICANT: Pacific West Architecture

PROJECT DESCRIPTION: The applicant is requesting a General Plan Amendment and Zone Change for that 4.48 ±
acre vacant site consisting of two (2) parcels located generally on the southeast corner of Date Avenue and "E"
Street.

General Plan Amendment 1-2006 (B), proposes to change the Land Use Element of the General Plan from Industrial
to Medium Density Residential.

Zone Change 2-2006 proposes to change the present zoning from M-1 (Light Manufacturing) to R-2 (Four Family
Residential) Zone upon approval of General Plan Amendment 1-2006 (B).

Pursuant to Section 301 A(2) of the Porterville Zoning Ordinance, approval of Conditional Use Permit 1-2006 would
allow for the construction of a 64 unit multiple family apartment complex.

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

On January 10, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative
Declaration would be appropriate for the proposed project described herein and has found that this project will have
no significant impact on the environment for the following reasons:

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

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

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

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

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

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

Dated: January 10, 2006

Bradley D. Dunlap, Environmental Coordinator

291 N. Main St., Porterville, CA 93257 PHONE 559.782.7460 FAX 559.781.6437
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 1-2006, FOR A 64 UNIT APARTMENT COMPLEX ON A 4.48± ACRE VACANT SITE LOCATED GENERALLY ON THE SOUTHEAST CORNER OF DATE AVENUE AND “E” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of March 7, 2006, opened the public hearing to consider Conditional Use Permit 1-2006 for a 4.48± acre vacant site consisting of two (2) parcels located on the southeast corner of Date Avenue and “E” Street; and

WHEREAS: A conceptual plan for a 64 unit apartment complex was reviewed by the Project Review Committee on August 10, 2005 and December 7, 2005. The project proposes development of nine (9) buildings, eight (8) of which are for 64 residential units, one of which would serve for community use; and

WHEREAS: All but one (1) of the residential units (which will be reserved for an on-site manager) would provide low-income rental units. All 64 units in the proposed project would be considered assisted units under the HOME Program; and

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

1. The General Plan designates the subject site as Medium Density Residential.
   The subject site is zoned R-2 (Four Family Residential) which is supported by the General Plan. The proposed use is allowed pursuant to approval of a Conditional Use Permit.

2. That the site is physically suitable for the type of development proposed.
   The site is generally level. The soil is not highly expansive and therefore will not create any barriers to the proposed project.

3. Due to the location of a cluster of elderberry shrubs located at the southwest corner of the site, a minor change in the location of the apartment(s) proposed for this area may be required. The Environmental Coordinator made a determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study includes the proposed Mitigation Measures (Attachment 4).

4. That the proposed location of the project and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. Project
will comply with the United States Wildlife Services Conservation Guidelines for the Valley Elderberry Longhorn Beetle.

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

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

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

WHEREAS: The Project Review Committee has dictated the following conditions:


2. The DEVELOPER/APPLICANT shall pay all applicable fees in accordance with the Municipal Code and State law. 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.

3. The DEVELOPER/APPLICANT shall comply with Appendix Chapter 33, “Excavation and Grading” of the California Building Code by providing a soils engineering report and a grading and drainage plan signed by a civil engineer or architect. The DEVELOPER/APPLICANT shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

4. The DEVELOPER/APPLICANT shall construct drainage facilities as required to serve the property (Ord. No. 1306). The City has infrastructure in place that will accept the runoff from the proposed development. The site must surface drain to City streets, otherwise an on-site drainage will be required. On-site drainage reservoirs shall be landscaped and maintained as part of a development association.

5. The DEVELOPER/APPLICANT shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by the City Council and property necessary for disabled ramp(s) (Ord. 1306). It will be the burden of this development to dedicate additional right of way and improve a full width public street between River Avenue
and the southerly property line. A sketch of the “E” Street alignment is attached and made a part of these conditions.

6. The DEVELOPER/APPLICANT shall construct street paving (half street, if necessary to match existing grades), curb, gutter, sidewalk, wheelchair ramp(s), water, sewer, etc. along the frontage of the parcel north of River Avenue, except where they exist and are in good condition in the opinion of the City Engineer. Complete street improvements, including curb, gutter and sidewalk on both sides, shall be installed for that segment of “E” Street, south of River Avenue.

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

8. The DEVELOPER/APPLICANT shall provide streetlights on marbelite poles complying with Southern California Edison Company specifications, as approved by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. 9500 lumen streetlights shall be installed along the east-side of “E” Street at 320 foot intervals. Site plans shall illustrate the nearest existing lights for determining appropriate spacing.

9. The DEVELOPER/APPLICANT shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, prior to the issuance of an occupancy permit (e.g., foundations, septic tanks, irrigation pipes, etc.).

10. The DEVELOPER/APPLICANT shall abandon existing wells, if any, after first obtaining an abandonment permit from the County Department of Environmental Health, and shall provide the City Engineer with proof of compliance with County regulations prior to performing any grading.

11. The DEVELOPER/APPLICANT shall provide off-site improvements, easements, permits, calculations, etc. if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the improvements or an adjacent development (e.g. water, sewer, drainage, etc.).

12. The DEVELOPER/APPLICANT shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.

13. The DEVELOPER/APPLICANT shall construct a masonry wall along the easterly property line. The wall shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Department.
14. The DEVELOPER/APPLICANT shall construct the pipe connecting to on-site fire hydrants to City water main standards and shall provide easements for maintenance of the fire hydrants.

15. The DEVELOPER/APPLICANT shall install all required refuse container enclosures according to City standards. The DEVELOPER/APPLICANT shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container locations require refuse trucks to travel on the parking lot.

16. The DEVELOPER/APPLICANT shall comply with City standard for “back-flow” prevention pursuant to Resolution No. 9615.

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

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

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

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

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

22. DEVELOPER/APPLICANT will obtain approval from the Tulare County Health Department prior to issuance of the building permit for public swimming pool.

23. The number of required disabled accessible units will be in compliance with State and Federal law.

24. Fire suppression system required.

25. Demolition permit required prior to removal of existing structures and/or foundations.

26. Signs require a separate permit.

27. Eliminate interior property lines.

28. Comply with latest applicable codes.
29. Based on the occupancy classification, a fire sprinkler and/or fire alarm may be required.

30. When a fire sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are:
   a. Twenty or more in Group I, Divisions 1.1 and 1.2 Occupancies.
   b. One hundred or more in all other occupancies.

31. Submit two (2) complete sets of sprinkler and/or fire alarm plans to Fire Department for review prior to installation

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

33. Additional fire hydrants will be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

34. Hydrants must be placed within 50 feet of the Fire Department Connection for the fire sprinkler system.

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

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

37. Access roads shall be provided for every facility, building or portion of a building, when any portion of the facility or portion of an exterior wall is located more than 150 feet from a fire apparatus access as measured by an approved route around the exterior of the building.

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

39. All turns on driveways must meet the minimum radius allowed set by City standards.

40. Project must meet minimum fire flow requirements per table in appendix III-A & III-B of the California Fire Code. Fire Flow for this project as proposed is 2000 GPM, requiring a minimum of two (2) hydrants.
41. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Sec. 22500.1.

42. Any gates installed in the project that restrict access must be fitted with a Knox Key. Knox box will be required. Application may be obtained from the Fire Department.

43. The wrought iron fence shown on the site plan must be six feet tall and shall meet the following standards:

   a. The wall(s) shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Director.
   b. The wall(s) shall include articulation at intervals of approximately 80 feet except where such articulation is precluded by design constraints. In no case shall a wall exceed 160 feet without articulation. Methods of articulation may include the following:
   c. A minimum planting of six (6) feet in width to a minimum of 24 inch change of plane.
   d. A minimum of an 18 inch change in height.
   e. A section of semi-open fence, except where such a feature would interfere with required sound protection.
   f. A change of material.

44. The Developer/Applicant will provide a water feature (fountain) at the entrance from “E” Street.

45. The Development shall conform to the approved site plan, building elevations and colors and materials as indicated on Attachments 2-4.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Conditional Use Permit 1-2006, and that the mitigation measures defined in attachment 4 of General Plan Amendment 1-2006 (B) and Zone Change 2-2006 (Pacific West Architecture) shall be implemented by the applicant or his/her successors with project implementation.

________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ______________________
Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING (CONTINUED)

TITLE: GENERAL PLAN AMENDMENT 1-2006 (C) AND ZONE CHANGE 3-2006 (SMEE)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting a General Plan Amendment and Zone Change for that 12.9± acre vacant site consisting of three (3) parcels (one parcel is developed with a single family residential dwelling and the remaining two (2) are vacant) located generally on the southwest corner of Mathew Street and West Olive Avenue.

On February 7, 2006, the Porterville City Council opened the public hearing. Due to a change in the area proposed for the General Plan Amendment and Zone Change, the City Council continued the item until Staff had time to receive comments if any on the modified environmental Initial Study and re-notice of the continued public hearing for an additional 20 day period.

General Plan Amendment 1-2006 (C) proposes to change the Land Use Element of the General Plan from High Density Residential to Heavy Commercial.

Zone Change 3-2006 proposes to change the present zoning from R-3 (D) (Multiple Family Residential with a “D” Overlay Site Review) to C-3 (Heavy Commercial).

ENVIRONMENTAL: On February 10, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups and individuals for a twenty (20) day review period from February 13, 2006 to March 5, 2006. The only agencies that responded were from the Burton Elementary School District and the San Joaquin Valley Air Pollution Control District. Those comments addressing the environmental portion of the project have been incorporated into the Mitigation Monitoring Program as Attachment “A” of the environmental resolution.
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the Negative Declaration prepared for General Plan Amendment 1-2006 (C) and Zone Change 3-2006;

2. Adopt the draft resolution approving General Plan Amendment 1-2006 (C);

3. Approve proposed Zone Change 3-2006 and give first reading to the draft ordinance.

4. Waive further reading of the draft ordinance approving Zone Change 3-2006, and order to print.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING (CONTINUED) - STAFF REPORT

TITLE: GENERAL PLAN AMENDMENT 1-2006 (C) AND ZONE CHANGE 3-2006

APPLICANT: Smee Builders
2220 N. Leila Street
Visalia, CA 93291

PROJECT LOCATION: Generally on the southwest corner of Mathew Street and West Olive Avenue.

SPECIFIC REQUEST: The applicant is requesting a General Plan Amendment and Zone Change for that 12.9± acre vacant site consisting of three (3) parcels (one parcel is developed with a single family residential dwelling and the remaining two (2) are vacant) located generally on the southwest corner of Mathew Street and West Olive Avenue.

On February 7, 2006, the Porterville City Council opened the public hearing. Due to a change in the area proposed for the General Plan Amendment and Zone Change, the City Council continued the item until Staff had time to receive comments if any on the modified environmental Initial Study and re-notice of the continued public hearing for an additional 20 day period.

PROJECT DETAILS: General Plan Amendment 1- 2006 (C) proposes to change the Land Use Element of the General Plan from High Density Residential to Heavy Commercial.

Zone Change 3-2006 proposes to change the present zoning form R-3 (D) (Multiple Family Residential with a “D” Overlay Site Review) to C-3 (Heavy Commercial) upon approval of General Plan Amendment 1-2006 (C).

GENERAL PLAN LAND USE DESIGNATION: High Density Residential

SURROUNDING AREA ZONING AND LAND USE:

North: City - West Olive Avenue, commercial lot. multiple family residential uses.
South: City - Approved tentative single family/multiple family residential subdivision.
East: City - Mathew Street, mini-storage.
West: City - Four (4) Residential dwellings and a mobile home park.
CITY OF PORTERVILLE
DEPARTMENT OF COMMUNITY DEVELOPMENT AND SERVICES
PLANNING DIVISION
ENVIRONMENTAL INFORMATION FORM

Date Filed: AUGUST 30, 2005
(To be completed by Applicant or Engineer)

For Office Use Only:
Receipt No. _______ Amount: ________________
Date: _______________ Payer: __________________
Received By: _________________________________
ERC No. ________________ Project No. __________

Note: Failure to answer applicant questions could delay the processing of your application or require you to resubmit your application.

GENERAL INFORMATION:

1. Name and address of developer or project sponsor: NICHOLSON & SMEE
2. Address of project: SOUTH SIDE OLIVE AVENUE WEST OF MATHEW
3. Name, address and telephone number of person to be contacted concerning this project:
   GARY SMEE 2220 N. LEILA STREET VISALIA, CA 93291 (559) 627-4767
4. Indicate number of the permit application for the project to which this form pertains: BSR 03-2004
5. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:
   GENERAL PLAN AMENDMENT AND ZONE CHANGE
6. Existing zoning district: R-3D
7. Proposed use of site (project for which this form is filed):
   COMMERCIAL (GENERAL PLAN AMENDMENT & ZONE CHANGE)

PROJECT DESCRIPTION:

8. Site size: 17.8 AC±
9. Square footage: N/A
10. Number of floors of construction: N/A
11. Amount of off-street parking provided: N/A
12. Attach plans.
13. Proposed scheduling: N/A
14. Associated project: Owner is in process of development applications for the residential property adjacent and South of the Subject Site
15. Anticipated incremental development: N/A

ATTACHMENT
ITEM NO. 2
16. If residential, indicate the number of units, schedule of unit sizes, range of sales prices or rents and type of household size expected: _______________

17. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area and loading facilities: Specific development has not been identified

18. If industrial, indicate type, estimated employment per shift and loading facilities: N/A

19. If institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities and community benefits to be derived from the project: N/A

20. If the project involves a variance, conditional use or rezoning application, state this and indicate clearly why the application is required: This application is for a general plan amendment and zone change

Re the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary).

21. Change in existing features of any bays, tidelands, beaches, lakes, or hills or substantial alteration of ground contours
   YES   NO

22. Change in scenic views or vistas from existing residential areas or public lands or roads
   YES   NO

23. Changes in pattern, scale or character or general area of project
   YES   NO

24. Significant amounts of solid waste or litter
   YES   NO

25. Change in dust, ash, smoke, fumes or odors in vicinity
   YES   NO

26. Change in ocean, bay, lake, stream or ground water quality or alteration of existing drainage patterns
   YES   NO

27. Substantial change in existing noise or vibration levels in the vicinity
   YES   NO

28. Site on filled land or on slope of 10 percent or more
   YES   NO

29. Use of disposal of potentially hazardous materials, such as toxic substances, flammables or explosives
   YES   NO

30. Substantial change in demand for municipal services (police, fire, water, sewage, etc.)
   YES   NO

31. Substantially increased fossil fuel consumption (electricity, oil, natural gas, etc.)
   YES   NO

32. Relationship to a larger project or series of projects
   YES   NO

ENVIRONMENTAL SETTING:

33. Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site. Snapshots or polaroid photos will be accepted:

THE SITE INCLUDES 5 EXISTING RESIDENTIAL STRUCTURES AND 2 OUTBUILDINGS. THE SITE IS LEVEL. A MAJORITY OF THE SITE HAS BEEN FARMED FOR MORE THAN 20 YEARS. NO UNIQUE FEATURES HAVE BEEN IDENTIFIED ON THE SITE.
34. Describe the surrounding properties, including information on plants and animals and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc). Attach photographs of the vicinity. Snapshots or polaroid photos will be accepted:

NORTH: SINGLE FAMILY RESIDENTIAL, MULTI FAMILY RESIDENTIAL, COMMERCIAL

EAST: COMMERCIAL (SELF STORAGE), MULTI FAMILY RESIDENTIAL

SOUTH: SCHOOL - VACANT

WEST: SINGLE FAMILY RESIDENTIAL & MOBILE HOME PARK

All applicants or engineers must check one of the following boxes:

   [ ] I hereby authorize the City of Porterville Planning Division to prepare an Environmental Impact Report for my project, if necessary. I understand the City will bill me, and I agree to pay the City for the actual cost of preparation of the Draft Environmental Impact Report. I further understand that no action approving the project will be taken by the City until the cost of the Environmental Impact Report is paid.

   [ ] __________

   [ ] I hereby authorize the engineer or surveyor as my representative to authorize the City Planning Division to prepare an Environmental Impact Report for my project, if necessary. I understand the City will bill me, and I agree to pay the City for the actual cost of preparation of the Draft Environmental Impact Report. I further understand that no action approving the project will be taken by the City until the cost of the Environmental Impact Report is paid.

   [ ] Please do not proceed with the preparation of an Environmental Impact Report for my project until the City Planning Division has received a written authorization letter from me or my authorized representative.

CERTIFICATION: I hereby certify that the statements furnished above and in the attached exhibits present that data and information required for this initial environmental evaluation to the best of my ability, and that the facts, statements and information presented are true and correct to the best of my knowledge and belief.

[Signature]

[8/30/05]

[Date]

Applicant/Engineer

<table>
<thead>
<tr>
<th>150 WEST MORTON</th>
<th>PORTERVILLE</th>
<th>CA</th>
<th>93257</th>
</tr>
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<tbody>
<tr>
<td>Street Address</td>
<td>City</td>
<td>State</td>
<td>Zip</td>
</tr>
</tbody>
</table>

| 559-781-2700 | Telephone |


NEGATIVE DECLARATION

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

PROJECT APPLICANTS: Smee Builders
2220 N. Leila Street
Visalia, CA 93291

PROJECT TITLE: General Plan Amendment 1-2006 (C) and Zone Change 3-2006.

ADDRESS/LOCATION: Generally the southwest corner of Mathew Street and West Olive Avenue

PROJECT APPLICANT: Smee Builders

PROJECT DESCRIPTION: The applicant is requesting a General Plan Amendment and Zone Change for that 12.9± acre site consisting of three (3) parcels. One parcel is developed with a single family residential dwelling and the remaining two (2) parcels are vacant.

General Plan Amendment 1-2006 (C), proposes to change the Land Use Element of the General Plan from High Density Residential to Heavy Commercial.

Zone Change 3-2006 proposes to change the present zoning form R-3 (D) (Multiple Family Residential with a "D" Overlay Site Review) to C-3 (Heavy Commercial) upon approval of General Plan Amendment 1-2006 (C).

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

On January February 10, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project described herein and has found that this project will have no significant impact on the environment for the following reasons:

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

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

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

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

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

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: February 10, 2006

Approved: Bradley D. Dunlap, Environmental Coordinator

Bradley D. Dunlap, Environmental Coordinator

291 N. Main St., Porterville, CA 93257 PHONE 559.782.7460 FAX 559.781.6437
City of Porterville

Environmental Checklist Form

1. Project title: General Plan Amendment and Zone Change at Olive and Mathew

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, Community Development Director
   (559) 782-7460

4. Project location: South side of Olive Ave, between Mathew Street and Lombardi Street (see figure 1)

5. Project sponsor's name and address: Smee Builders
   2220 N. Leila Street
   Visalia, Ca 93291

6. General plan designation: High Density Residential

7. Zoning: R-3 (High Density) Zone

8. Description of project: (SEE ATTACHED FIGURE 1 & 2 VICINITY MAPS)

The City of Porterville is evaluating the potential environmental impacts of approval of a General Plan Amendment and Zone Change of 12.9± acres from High Density Residential (R-3) to Heavy Commercial (C-3). The subject site consists of three (3) parcels. One parcel is developed with a single family residential dwelling. The remaining two (2) parcels are vacant. The subject site is being considered for development of an 83,000± square foot Retail Shopping Center consistent with the General Plan Amendment and Zone Change on the site located on the south side of Olive Avenue, between Mathew Street and Lombardi Street. Existing conditions on the site permit R-3 uses.

One elderberry shrub, west of and immediately adjacent to the project area is present but slated for relocation as a condition of the recently approved residential project south of the project.

9. Surrounding land uses and setting:
   North: City R-2 – High density residential (Foxwood Apartments).
   South: City R-1 – Proposed 81 lot subdivision, on a recently annexed parcel in the R-1 (One family residential) Zone.
   East: City C-3 – Commercial uses (mini storage).
   West: City R-1 – Single family residential.

The FIRM Flood Insurance Map 060407 0010D, Dated October 15, 1985 indicates the site is in Flood Zone B. No flood hazard mitigation measures are required within "B" which is the 500-year floodplain.

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

None
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a Potentially Significant Impact as indicated by the checklist on the following pages.

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards & Hazardous Materials
- Hydrology/Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population/Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

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

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) 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, nothing further is required.

Signature
Bradley D. Dunlap, AICP
Printed name

ACTING CD DIRECTOR

Date
2/10/06

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 a lead agency cites in the parentheses following 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) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With 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 XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses 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). In this case, a brief discussion should identify the following:
   
a) Earlier Analysis Used. Identify 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 Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

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.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   
a) the significance criteria or threshold, if any, used to evaluate each question; and
   
b) the mitigation measure identified, if any, to reduce the impact too less than significance
EARLIER ANALYSIS
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.

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

Project Area

1000 0 1000 Feet
Issues:

1. AESTHETICS – Would the project:

   a) Have a substantial adverse effect on a scenic vista? □ □ □ ☒

   b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? □ □ □ ☒

   c) Substantially degrade the existing visual character or quality of the site and its surroundings? □ □ □ ☒

   d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area? □ ☒ □ □

Responses:

a), b), c) No Impact – The project will not have an adverse effect on a scenic vista; the proposed retail shopping center would have no effect on the aesthetic qualities and characteristics of the project area beyond the already approved residential development potential. The project is not within the vicinity of a state scenic highway, nor would it damage any scenic resources. Sources 1, 5 & 35.

d) Less Than Significant With Mitigation – New sources of light and glare will result from subsequent street lighting, and residential dwellings to be installed/developed. Sources 2.

Mitigation Measure: 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 streetlight 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. Sources 1, 2, & 7.
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? □ □ ☒ ☐

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? □ □ ☒ ☐

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? □ □ ☒ ☐

**Responses:**

a), b), c) Less Than Significant Impact – With the exception of the parcel developed with the single family residential dwelling, the remaining portion of the site is currently fallow and is disked annually for weed abatement; the site is not under a Williamson Act contract. The soil type is Tagus loam, which is rated prime for agriculture, however, the parcel is not considered prime agricultural land due to the relatively small size of the area to be converted, and the presence of existing urban development to the north, east and west, and the planned and approved development south of the project area. Sources 1 & 35
III. AIR QUALITY — Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan?  
   - Potentially Significant Impact
   - Less than Significant With Mitigation Incorporation
   - Less than Significant Impact
   - No Impact

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?  
   - Potentially Significant Impact
   - Less than Significant With Mitigation Incorporation
   - Less than Significant Impact
   - No Impact

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)?  
   - Potentially Significant Impact
   - Less than Significant With Mitigation Incorporation
   - Less than Significant Impact
   - No Impact

d) Expose sensitive receptors to substantial pollutant concentrations?  
   - Potentially Significant Impact
   - Less than Significant With Mitigation Incorporation
   - Less than Significant Impact
   - No Impact

e) Create objectionable odors affecting a substantial number of people?  
   - Potentially Significant Impact
   - Less than Significant With Mitigation Incorporation
   - Less than Significant Impact
   - No Impact

Response:

a), b), c): Less Than Significant Impact With Mitigation Incorporation — Air Quality Impacts from this project will come mainly from two sources – particulate (dust) emissions from project construction, and operational emissions from vehicular trips associated with the project. Construction emissions are temporary in nature, and are considered by the San Joaquin Valley Air Pollution Control District (SVAPCD) to be less than significant if the SVAPCD’s Regulation VIII mandatory dust control measures are followed. Because these measures are mandatory, and therefore part of the regulatory setting of the project, they do not constitute mitigation. Regulation VIII also contains optional dust control measures that will be followed during project construction and will help further reduce particulate emissions. Because these measures are voluntary, they are considered to be mitigation. Regulation VIII mandatory and optional dust control measures are listed in Tables 1 through 4.

The project exceeds the Small Project Analysis Level published by the San Joaquin Valley Air Pollution Control District in the Guide for Assessing and Mitigating Air Quality Impacts (GAMAQI) for Regional Shopping Centers developments (Reference: Guide for Assessing and Mitigating Air Quality Impacts, San Joaquin Valley Air Pollution Control District, January 10, 2002). Therefore the project was analyzed at the Cursory Analysis Level (CAL), which requires that an URBEMIS computer emissions model be run for the project.

Operational emissions from the project are almost exclusively a function of automobile trips generated by the project (Operational Emissions cannot exceed 10 tons/yr). An URBEMIS 2002 8.7 computer program was used to estimate operational project emissions, based on the estimated number of trips generated by the project, estimated average miles per trip (9.5 miles), and the large percentage of workers who live and work in Porterville (93% in 2000 Census). The results, summarized in Table 5, indicate that impacts from this project will not be significant.
d) Less Than Significant Impact – Significant carbon monoxide pollutant concentrations would be created if there is significant congestion on roadways or at intersections which exceed the standards set forth in the GAMAQI which stipulates that carbon monoxide levels will not constitute a significant impact unless levels of service (LOS) fall below D (GAMAQI Guidelines, SJVAPCD, 2002, Section 5.6.3). The Transportation/Traffic Section of this Initial Study (Section XV) has concluded that this project will not cause LOS to fall below D, therefore the project’s potential to expose sensitive receptors to substantial pollutant concentrations will be less than significant.

e) No Impact – Development of the site as a residential subdivision will not generate objectionable odors.

### Table 1

**Regulation VIII Control Measures for Construction Emissions of PM10**

<table>
<thead>
<tr>
<th>Regulation VIII Control Measures – The following controls are required to be implemented at all construction sites.</th>
</tr>
</thead>
<tbody>
<tr>
<td>All disturbed areas, including storage piles, which are not being effectively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.</td>
</tr>
</tbody>
</table>

| All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. |

| All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions using water or by presoaking. |

| With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. |

| When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space form the top of the container shall be maintained. |

| All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) |

| Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. |

| Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. |

| Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. |

| Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour. |

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002, and SJVAPCD Regulation VIII
Table 2
Information to be Contained in a Dust Control Plan as Required by Regulation VIII

<table>
<thead>
<tr>
<th>A dust control plan shall contain all of the following information:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name(s), address(es), and phone number(s) of person(s) and owner(s)/operator(s) responsible for the preparation, submittal, and implementation of the Dust Control Plan and responsible for the dust generating operation and the application of dust control measures.</td>
</tr>
<tr>
<td>A plot plan which shows the type and location of each project.</td>
</tr>
<tr>
<td>The total area of land surface to be disturbed, daily throughput volume of earthmoving in cubic yards, and total area in acres of the entire project site.</td>
</tr>
<tr>
<td>The expected start and completion dates of dust generating and soil disturbance activities to be performed on the site.</td>
</tr>
<tr>
<td>The actual and potential sources of fugitive dust emissions on the site and the location of bulk material handling and storage areas, paved and unpaved roads; entrances and exits where carryout/trackout may occur; and traffic areas.</td>
</tr>
<tr>
<td>Dust suppressants to be applied, including: product specifications; manufacturer's usage instructions (method, frequency, and intensity of application); type, number, and capacity of application equipment; and information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.</td>
</tr>
<tr>
<td>Specific surface treatment(s) and/or control measures utilized to control material carryout, trackout, and sedimentation where unpaved and/or access points join paved public access roads.</td>
</tr>
<tr>
<td>At least one key individual representing the owner/operator or any person who prepares a Dust Control Plan must complete a Dust Control Training Class conducted by the District. The District will conduct Dust Control Training Classes on an as needed basis.</td>
</tr>
</tbody>
</table>

Table 3
Enhanced and Additional Control Measures for Construction Emissions of PM10

<table>
<thead>
<tr>
<th>Enhanced Control Measures – The following measure should be implemented at construction sites when required to mitigate significant PM10 impacts (note this measure is to be implemented in addition to Regulation VIII requirements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.</td>
</tr>
<tr>
<td>Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction.</td>
</tr>
<tr>
<td>Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</td>
</tr>
<tr>
<td>Install wind breaks at windward side(s) of construction areas</td>
</tr>
<tr>
<td>Suspend excavation and grading activity when winds exceed 20 mph*; and</td>
</tr>
<tr>
<td>Limit area subject to excavation, grading, and other construction activity at any one time</td>
</tr>
</tbody>
</table>

*Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation.
Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
### Table 4
**Construction Equipment Mitigation Measures**

<table>
<thead>
<tr>
<th>Emission Source</th>
<th>Mitigation Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heavy duty equipment (scrapers, graders, trenchers, earth movers, etc.)</td>
<td>Use of alternative fueled or catalyst equipped diesel construction equipment</td>
</tr>
<tr>
<td></td>
<td>Minimize idling time (e.g., 10 minute maximum) Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use</td>
</tr>
<tr>
<td></td>
<td>Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>Implement activity management (e.g. rescheduling activities to reduce short-term impacts)</td>
</tr>
</tbody>
</table>

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002

### Table 5
**Project Emissions (Tons/Year)**

<table>
<thead>
<tr>
<th></th>
<th>ROG</th>
<th>NOx</th>
<th>CO</th>
<th>SO₂</th>
<th>PM₁₀</th>
</tr>
</thead>
<tbody>
<tr>
<td>Area Unmitigated</td>
<td>.18</td>
<td>.15</td>
<td>.19</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Operational Unmitigated</td>
<td>6.61</td>
<td>10.07</td>
<td>86.67</td>
<td>0.07</td>
<td>7.31</td>
</tr>
<tr>
<td>Operational Mitigated</td>
<td>6.57</td>
<td>9.99</td>
<td>86.04</td>
<td>0.007</td>
<td>7.25</td>
</tr>
<tr>
<td>Total Unmitigated</td>
<td>6.79</td>
<td>10.21</td>
<td>86.87</td>
<td>0.07</td>
<td>7.31</td>
</tr>
<tr>
<td>Significant</td>
<td>No</td>
<td>No</td>
<td>No 1</td>
<td>No 2</td>
<td>No 3</td>
</tr>
</tbody>
</table>

1) "Not significant" result based on conclusion from the Traffic Report that level of service (LOS) will not fall below D, as specified in GAMAQI Guidelines, SJVAPCD, 2002 Section 5.6.3.

2) San Joaquin Valley is in compliance for SO2 (Heather Ellison, Bakersfield office of SJVAPCD, May 2005).

3) In compliance, and impacts will not be at a significant level, if lead agency follows Regulation VIII requirements (Heather Ellison, Bakersfield office of SJVAPCD, May 2005).
IV. BIOLOGICAL RESOURCES -- Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
</tbody>
</table>

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?

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?

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?

d) 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?

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

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?

Response:

a), b), c), d) Less Than Significant -- A biological report was prepared for this area and the planned subdivision south of this project site. The biological report identified potential biological resources on the property south of the subject site, and one potential resource on this project area. However, as a mitigation measure of the adjacent project, the single elderberry shrub that is near to the subject project site will be relocated to the riparian habitat at the southern end of the adjacent site. The mitigation measure will be completed prior to construction of any future commercial development on the project site, and the proposed project will therefore not result in any additional impacts.

To restate the instructions of the adjacent project mitigation measures: Prior to construction activity within 100 feet of any elderberry shrub, the developer shall secure a written opinion from the U.S. Fish and Wildlife Service that such activity is not likely to affect the Valley Elderberry Longhorn Beetle. The developer shall ensure compliance with all conditions of approval included in such a letter. Also, prior to the removal of any elderberry bush with one or more stems greater than one inch in diameter at ground level, the developer shall
secure a Section 10(a) Incidental Take permit from the U.S. Fish and Wildlife Service. The developer shall ensure compliance with all conditions of approval, and mitigation measures identified in such permit.

e), f) No Impact – Neither the City nor the County has adopted local conservation policies or ordinances or a habitat conservation plan.
V. CULTURAL RESOURCES – Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

d) Disturb any human remains, including those interred outside of formal cemeteries?

Response:

a) No Impact – There are no known historical resources on the site. Sources 1 & 30.

b), c), d) Less Than Significant Impact – No archeological or paleontological resources are known to exist on the subject site. Many years of cultivation would have removed any surface evidence of such resources. There is a low potential that excavation will uncover previously unknown artifacts. However, in the event that artifacts or remains are encountered, all construction within 50 feet of the find shall be halted and a qualified archeologist consulted to determine the disposition of the find. Sources 1 & 30.
VI. GEOLOGY AND SOILS – Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
   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.
   ii) Strong seismic ground shaking?
   iii) Seismic-related ground failure, including liquefaction?
   iv) Landslides?

b) Result in substantial soil erosion or the loss of topsoil?

c) 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?

d) 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?

e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?

Response:

a), b), c), d) Less Than Significant – According to the Division of Mines and Geology, no active faults underlay the project site. There are no Alquist-Priolo earthquake faults known to exist within the County.

The project site is not located in an area subject to liquefaction, subsidence, landslide or substantial soil erosion conditions (City of Porterville General Plan). According to the USDA Soils Report for Tulare County- Central Part, the soils on the site can generally be described as loam soils, which have low potential for shrink-swell problems. Sources 4, 7, 29, & 30.

e) No Impact – The proposed project will be on the City’s sewer system and will not involve the use of septic tanks or alternative waste water disposal systems. Sources 4 & 7.
VII. HAZARDS AND HAZARDOUS MATERIALS — Would the project:

<table>
<thead>
<tr>
<th></th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) 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>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>
</tr>
<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>
</tr>
<tr>
<td>d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 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>
</tr>
<tr>
<td>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 result in a safety hazard for people residing or working in the project area?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<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>
</tr>
<tr>
<td>g) 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>h) 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>
</tbody>
</table>

Response:

a), b), c), d), g), h) No Impact — The proposed General Plan Amendment and Zone Change will not result in the use or disposal of hazardous materials (based on the C-3 maximum assumed use for a church and commercial development). The proposed project is in an urbanized area, outside the risk area of wildland fires. Sources 7.

e), f) No Impact — The subject site is just under two miles distance from the Porterville Municipal Airport. The only restriction to development within the horizontal zone is a maximum building height of 150 feet. No development to that height is proposed. The project site is not within two miles of a private airstrip. (Tulare County Comprehensive Airport Land Use Plan, 1992). Sources 7 & 12.
### VIII. HYDROLOGY AND WATER QUALITY –

Would the project:

- a) Violate any water quality standards or waste discharge requirements?  ![ ]  ![ ]  ![x]  ![ ]
- b) 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)?  ![ ]  ![ ]  ![x]  ![ ]
- c) 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?  ![ ]  ![ ]  ![x]  ![ ]
- 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?  ![ ]  ![ ]  ![x]  ![ ]
- e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?  ![ ]  ![ ]  ![x]  ![ ]
- f) Otherwise substantially degrade water quality?  ![ ]  ![ ]  ![x]  ![ ]
- 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?  ![ ]  ![ ]  ![ ]  ![x]
- h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?  ![ ]  ![ ]  ![ ]  ![x]
- i) 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?  ![ ]  ![ ]  ![x]  ![ ]
- j) Inundation by seiche, tsunami, or mudflow?  ![ ]  ![ ]  ![ ]  ![x]

**Response:**

a), b), f) **Less than Significant Impact** – It is not anticipated that the development of the site as proposed would significantly deplete ground water supplies or reduce public water supply from the City’s unconfined ground water aquifer. The City has recently approved capital projects that would add wells and
infrastructure to increase the City's overall water supply. The approved General Plan Amendment would be consistent with the proposed use. The Capital water system projects are intended to serve projects such as this, and the impact is therefore less than significant. Sources 4.

c), d), e) **Less Than Significant Impact** – The subject site is within the boundary of the Storm Water Master Plan, which requires that the site be adequately drained to surface streets, and underground piping as appropriate. No storm water discharges will be directed to the Tule River, which is south of the subject site. Sources 35.

g) h) **No Impact** – The site is within Flood Zone "B", the 500-year flood hazard zone. No flood hazard mitigation measures are required within Flood Zone "B". Sources 26

i) **Less Than Significant Impact** – According to Army Corps of Engineers' data, the project area is within the 24-hour inundation area of the Success Dam in the event of its failure. The safety element designates appropriate evacuation routes. Because of the time for evacuation and the location of the project area, the impact is less than significant. Sources 1, 4, 26, & 35.

j) **No Impact** – The project is not located near a body of water that could generate seiche or tsunami effects. The site is level and will not engender mudflow events. Sources 26 & 35.
IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?  □  □  ❌  □

b) 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?  □  □  ❌  □

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?  □  □  □  ❌

Response:

a), b) Less Than Significant – The Proposal is an infill development with R-1 development to the west and C-3 development to the east. The proposed project would not physically divide an established community. The proposed project area is planned and zoned for R-3 development. Sources 1, 2, 3, 4, 12, 30, 35.

c) No Impact – No habitat conservation plan or natural community conservation plan has been adopted for the project area or adjacent lands. Sources 1, 2, 3, 4, 12 & 30.
X. MINERAL RESOURCES — Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?  

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?

Response:

a), b): No Impact. There are no known mineral resources on the proposed project area. Sources: 4.
XI. NOISE – Would the project result in:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) 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?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Response:

a): Less Than Significant Impact with Mitigation Incorporation – Development of the site as proposed will result in short-term increases in noise associated with construction equipment that may exceed the City’s noise level standards. As these activities will be restricted to daytime hours and will be short-term in nature, the impact will be less than significant. Sources: 6.

Mitigation Measure: To reduce noise impacts to adjacent residential land uses, construction activities must be scheduled between the hours of 7:00 am and 5:00 pm Monday through Friday, and 9:00 am to 5:00 pm Saturday and Sunday.

b), c), d), e) Less Than Significant Impact – The proposed project would not generate groundborne vibrations or noises, nor would it result in a substantial increase in ambient noise levels above any development which might occur that is compliant with the current zoning of R-3. The subject site lies within the horizontal zone of the Porterville Municipal Airport. The subject site is not within the 60dB Noise Contour. No development restrictions apply within the Horizontal Zone and no significant noise impacts will occur. Sources 4 & 6.

f) No Impact – There are no private airstrips within two miles of the project site. (Tulare County Comprehensive Airport Land Use Plan, 1992). Sources 4.
XII. POPULATION AND HOUSING – Would the project:

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)?

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Response:

a), No Impact – The approval of the General Plan Amendment and the proposed zone change will not result in additional dwelling units or population growth, directly or indirectly. Sources: 1, 3 & 30.

b), c) Less Than Significant Impact – The project proponent is negotiating acquisition of one home and appurtenant structures, which would result in displacement of one family. The family will be fairly compensated and is a willing seller and participant in the General Plan Amendment and Zone Change.
XIII. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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:

- Fire protection?
- Police protection?
- Schools?
- Parks?
- Other public facilities?

Response:

a) Less Than Significant Impact

**Fire Protection** – The City of Porterville will provide fire protection services to the project site; adequate facilities are in place to provide fire service.

**Police Protection** – The City of Porterville will also provide police protection services to the project site upon development. Adequate facilities are in place to provide police service. The impact will be less than significant.

**Schools** – The project will not result in the addition of any students to the relevant school districts: Porterville Unified School District and Burton School District. This impact is less than significant.

**Parks** – Commercial development will not increase the demand for recreational facilities.

**Other Public Facilities** – Other public facilities are discussed in Sections VIII Hydrology/ Water Quality, XIV Recreation, XV Transportation/Traffic, and XVI Utilities/Service Systems.

Sources 1, 2, 3, 5, 7 & 8.
### XIV. RECREATION –

<table>
<thead>
<tr>
<th>Option</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact with Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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<td>a) Would the project 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>
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<td>b) Does the project include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?</td>
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**Response:**

a), b) *Less Than Significant Impact* – The project would not have the potential to increase demand on recreational facilities in other areas of the City in proportion to on-site population. The impact of the project to recreational facilities is considered to be less than significant. Sources 5 & 8.
XV. TRANSPORTATION/TRAFFIC — Would the project:

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)?

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?

f) Result in inadequate parking capacity?

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Response:

a), b), e) Less Than Significant Impact — As noted in the project description, the project is based on assumed development of a retail shopping center, though no site plan has yet been submitted, the project proponent estimates no more than 83,000± square feet of built structure. The proposed development of 83,000± square feet of commercial retail shopping center would result in approximately 310 additional daily trips. If the project were to be developed to its maximum potential under current R-3 zoning (one unit for every 1500 square feet of land for the entire 12.9 acres) and municipal development standards, results would be approximately 374 multiple family residential units and 2,420 additional daily trips. Both types of development are within the capacity of the existing infrastructure. Sources 1,2,34 & 35.

Primary access to the subject site will be from Olive Avenue, a designated major arterial. The most recent traffic counts indicate that Olive Avenue is operating at 10,263 trips per day. As a four-lane divided major arterial, Olive Avenue has capacity to accommodate 30,000 trips per day.

Mathew Street will be developed to its full collector width upon development of the adjacent school, yielding a capacity of 12,500 trips per day. In addition, the Burton School District and the City of Porterville are cooperating to fund a traffic signal at the intersection of Mathew Street and Olive
Avenue with construction anticipated within one to two years. Until the traffic signal is installed, the intersection of Olive Avenue and Mathew Street will be a 4-way stop controlled intersection. The proposed commercial development was not anticipated in the Land Use and Circulation Elements of the General Plan, but sufficient infrastructure has been programmed in the Circulation Element to accommodate the incremental effects of the proposed development. Traffic impact fees will be collected upon development to fund the project's proportionate share of road system improvements.

c) **No Impact** – The project will not have any affect on air traffic patterns. Sources 1 & 2

d) **No Impact** – The project meets the standards and guidelines set forth by the City of Porterville.

f) **No Impact** – Adequate parking will be provided in compliance with the City's ordinance and building code regulations that govern development of commercial development. Sources 1 & 2.

g) **No Impact** – The proposed project will not conflict with any existing alternate transportation. Sources 1 & 2.
XVI. UTILITIES AND SERVICE SYSTEMS —
Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? ☑ ☑ ☑ ☐

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? ☐ ☑ ☑ ☑

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? ☐ ☑ ☑ ☑

d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? ☑ ☐ ☑ ☑

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? ☑ ☑ ☑ ☑

f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? ☑ ☑ ☑ ☑

g) Comply with federal, state, and local statutes and regulations related to solid waste? ☑ ☑ ☑ ☑ ☑

Response:

a), b), c), d), e) Less Than Significant Impact — With regards to wastewater, the project will be served by the City of Porterville. The Porterville Wastewater treatment plant can accommodate flows generated by the commercial retail development, and the project will not exceed the wastewater treatment requirements of the applicable Regional Water Quality Control Board. The impact is less than significant. New storm water drainage facilities will be installed as needed to serve the project area. Sources 30 & 35.

f) Less Than Significant Impact — The City of Porterville disposes of its solid waste at the Teapot Dome Disposal Site, southwest of the City. The landfill has sufficient permitted capacity to accommodate the project’s solid waste disposal needs for at least the next 15 years. Sources 28 & 35.

g) No Impact — Refuse removed from the project area will conform to County regulations.
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?

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<th>Potentially Significant Impact</th>
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b) 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 past projects, the effects of other current projects, and the effects of probable future projects)?

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

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Response:

a) Less than significant. – A biological report was prepared for this area and the planned subdivision south of this project site. The biological report identified potential biological resources on the property south of the subject site, and one potential resource on this project area located on the west side of the site. However, as a mitigation measure of the adjacent project, the single elderberry shrub located on the west side of the subject project site will be relocated to the riparian habitat at the southern end of the adjacent site. The mitigation measure will be completed prior to construction of any future commercial development on the project site, and the proposed project will therefore not result in any additional impacts.

The parcel with the existing single-family residential dwelling contains ornamental vegetation found on residential lots. The remainder of the site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. As such, no endangered of threatened or rare species or habitats exist and no impact will occur.

b) No Impact. Development of this area has been 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 this area. Additionally, the future use of the site with commercial uses would have less impact on the demand for water and sewer than would be required by multiple family residential uses.

c) No Impact. Approval of the General Plan Amendment and Zone Change will allow for future development of the site pursuant to requirements of the Porterville Zoning Ordinance which is designed to ensure compatible development and adequate protection to neighboring land uses.
1/20/2006

Dear John Longley,

Thank you for providing me with the "heads up" regarding the proposed re-zoning of the property just to the north of Summit Charter Academy. Currently the area is experiencing significant congestion as buses and cars deliver and pick up students from school. Summit Charter Academy currently has 383 students and expects to have over 600 in the next few years. Having heavy commercial along the route to school causes significant danger to pedestrians, buses and cars as they negotiate their way to and from school.

The District will need considerable assurances that the above matters have been fully addressed before the District could accept the proposed change. Please contact me to give additional information regarding this proposed zone change.

Sincerely,

Donald R. Brown, PhD
Superintendent
Burton School District
January 23, 2006

Bradley D. Dunlap
Community Development Director
City of Porterville
291 North Main Street
Porterville, CA 93258

Subject: General Plan Amendment and Zone Change at Olive and Mathew From High Density Residential (R-3) to Heavy Commercial (C-3), Smee Builders

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 construction activities in preparation of the site, and ongoing traffic and other 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.

With the adoption of District Rule 9510 (Indirect Source Review) on December 15, 2005, the District will be requiring projects subject to the rule to quantify indirect, area source, and construction emissions. The District has not typically recommended quantifying emissions from construction activities, but now the District will require quantification of construction exhaust emissions. The District still considers that the fugitive dust PM10 emissions generated during construction activities are reduced to levels considered less-than-significant through compliance with Regulation VIII Fugitive Dust Rules and does not require quantification.

Based on the information provided, the proposed project will be subject to the following District rules. The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. This project may be subject to additional District Rules. To identify additional rules or regulations that apply to this project, or for further information, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found at http://www.valleyair.org/rules/1ruleslist.htm. To avoid unnecessary delays in the project, applications should be submitted to the District as soon as the project developer has determined the scope of the project.

David L. Crow
Executive Director / Air Pollution Control Officer

San Joaquin Valley
Air Pollution Control District

Reference No. C20060092
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 and demolition activities, road construction, bulk materials storage, paved and unpaved roads, carryout and track out, etc. The District's compliance assistance bulletin for construction sites can be found at: http://www.valleyair.org/busind/comply/PM10/Reg%20VIII%20CAB.pdf.

If a non-residential project is 5.0 or more acres in area or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least three days, a Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021. Construction activities shall not commence until the District has approved the Dust Control Plan. A template of the District's Dust Control Plan is available at http://www.valleyair.org/busind/comply/PM10/forms/DCP-Form%20-%2012-01-2005.doc.

The project will likely be subject to provisions within Rule 8031 (Bulk Materials), Rule 8041 (Carryout and Track out), Rule 8051 (Open Areas), Rule 8061 (Paved and Unpaved Roads), and Rule 8071 (Unpaved Vehicle/Equipment Traffic Areas).

Rule 3135 (Dust Control Plan Fee) This rule requires the applicant to submit a fee in addition to a Dust Control Plan. The purpose of this fee is to recover the District's cost for reviewing these plans and conducting compliance inspections. More information on the fee is available at: http://www.valleyair.org/rules currtrules/Rule%203135%201005.pdf.

Rule 4002 (National Emission Standards for Hazardous Air Pollutants). In the event that any portion of an existing building will be renovated, partially demolished or removed, the project will be subject to District 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-contractor in accordance with CAL-OSHA requirements. If you have any questions concerning asbestos related requirements, please contact Mr. Brian Dodds of this office at (559) 230-5962, or contact CAL-OSHA at (559) 454-1295. An Asbestos Requirements Bulletin has been enclosed for the applicant. The District's Asbestos Requirements Bulletin can be found at: http://valleyair.org/busind/comply/asbestosbuln.htm.

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 use of open burning and specifies the types of materials that may be open burned. Agricultural material shall not be burned when the land use is converting from agriculture to non-agricultural purposes (e.g., commercial, industrial, institutional, or residential uses). Section 5.1 of this rule prohibits the burning of trees and other vegetative (non-agricultural) material whenever the land is being developed for non-agricultural purposes. In the event that the project applicant 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, clean up 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 9510. (Indirect Source Review) This rule requires the applicants of certain development projects to submit an application to the District when applying for the development's last discretionary approval. The rule requires developers to mitigate emissions at the project site to mitigate emissions at the project site to the extent feasible and to pay a mitigation fee to the District for a percentage of the remaining emissions. The ISR rule becomes effective March 1st, 2006. Projects that have not received a final discretionary approval by March 1, 2006 must submit an ISR application by March 31, 2006.

This project may be subject to additional District Rules not enumerated above. To identify additional rules or regulations that apply to this project, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5688.

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 of Porterville 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.ufori.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.

- 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/
  - Increased wall and ceiling insulation (beyond building code requirements)
  - Energy efficient widows (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.aqmd.gov/pdfs/brochures/paintguide.html
  - High-albedo (reflecting) roofing material. See http://eeetd.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, heating and cooling systems. See http://www.energystar.gov/
  - Programmable thermostat(s) for all heating and cooling systems
  - Awnings or other shading mechanism for windows
  - Porch/Patio overhangs
  - Ceiling fans
  - Low or non-polluting landscape maintenance equipment (e.g. electric lawn mowers, reel mowers, leaf vacuums, electric trimmers and edgers, etc.)
  - Utilize daylighting (natural lighting) systems such as skylights, light shelves, interior transom windows etc. See http://www.advancedbuildings.org
The District encourages the applicant and fleet operators using the facility to take advantage of the District's Heavy-Duty Engine program to reduce project emissions. The Heavy Duty program provides incentives for the replacement of older diesel engines with new, cleaner, fuel-efficient diesel engines. The program also provides incentives for the re-power of older, heavy-duty trucks with cleaner diesel engines or alternative fuel engines. New alternative fuel heavy-duty trucks also qualify. For more information regarding this program contact the District at (559) 230-5858 or visit our website at http://www.valleymire.org/transportation/heavydutylidx.htm.

The applicant/tenant(s) should implement measures to reduce the amount of single occupancy vehicle employee traffic to and from the project area that further reduce air pollution in the valley. This could include such provisions as encouraging employees to rideshare or carpool to the project site, and incorporating a compressed workweek schedule. Check out the “Spare the Air” section of our website www.valleymire.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 be found at http://www.dsireusa.org/, http://rrredc.nrel.gov/, http://www.energy.ca.gov/renewables/

The applicant/tenant(s) should require that all diesel engines be shut off when not in use on the premises to reduce emissions from idling.

Idle reduction technologies save fuel and reduce diesel emissions from idling trucks and construction equipment. The applicant should incorporate idle reduction strategies that reduce the main propulsion engine idling time through alternative technologies. Examples of such technologies can be found on the U.S. Environmental Protection Agency's website http://www.epa.gov/otaq/smartway/idlingtechnologies.htm. Idle reduction mitigation measures include: The applicant/tenant(s) should require that all diesel engines be shut off when not in use on the premises to reduce emissions from idling. If Truck Refrigeration Units (TRU's) will be utilized, provide an alternative energy source for the TRU to allow diesel engines to be completely turned off. Electrify truck-parking areas to allow trucks with sleeper cabs to use electric heating and cooling to eliminate the need to idle their diesel engines.

Construction activity mitigation measures include:
- Limit area subject to excavation, grading, and other construction activity at any one time
- 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. 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.
- Minimize obstruction of traffic on adjacent roadways.
The applicant should use diesel equipment fueled by alternative diesel fuel blends or Ultra Low Sulfur Diesel (ULSD). The California Air Resources Board (CARB) has verified specific alternative diesel fuel blends for NOx and PM emission reduction. Only fuels that have been certified by CARB should be used. Information on biodiesel can be found on CARB’s website at http://www.arb.ca.gov/fuels/diesel/altaltdiesel/altaltdiesel.htm and the EPA’s website at http://www.epa.gov/oms/models/biodsl.htm. The applicant should also use CARB certified alternative fueled engines in construction equipment where practicable. Alternative fueled equipment may be powered by Compressed Natural Gas (CNG), Liquid Propane Gas (LPG), electric motors, or other CARB certified off-road technologies. To find engines certified by the CARB, see their certification website http://www.arb.ca.gov/msprog/offroad/cert/cert.php. For more information on any of the technologies listed above, please contact Mr. Chris Acree, Senior Air Quality Specialist, at (559) 230-5829.

Construction equipment should have engines that meet the current off-road engine emission standard (as certified by the CARB), or be re-powered with an engine that meets this standard. Tier I, Tier II and Tier III engines have significantly less NOx and PM emissions compared to uncontrolled engines. To find engines certified by the CARB, 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. Rule 9510 requires construction exhaust emissions to be reduced by 20 percent for NOx and 45 percent for PM10 when compared to the statewide fleet average or to pay an in lieu mitigation fee. For more information on heavy-duty engines, please contact Mr. Thomas Astone, Air Quality Specialist, at (559) 230-5800.

In addition to the above measures, the District has entered into voluntary Air Quality Mitigation Agreements (Mitigation Agreement) with several developers as an alternative approach to further reducing air quality impacts. These agreements require the District and the applicant to quantify operational emissions, and identify on-site mitigation to reduce the proposed project's net impact on air quality. The developer commits to providing funding on a per-ton of emissions basis to the District to purchase emission reductions through its grant and incentive programs to fully mitigate the net emissions. The District commits to reduce the net emissions and to manage and monitor the emission reduction projects over time. The reductions would be over and above those required by Rule 9510. The District asks that developers interested in a Mitigation Agreement meet with District staff to discuss the specifics of the project and the contract. District staff is available to meet with project proponents to discuss Mitigation Agreements for specific projects. For more information, or questions concerning this topic, please call Mr. Dave Mitchell, Planning Manager, at (559) 230-5807.

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 or Mr. Dave Mitchell, Planning Manager, at (559) 230-5807 and provide the reference number at the top of this letter.

Sincerely,

Georgia A Stewart
Air Quality Specialist
Central Region

C: File
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 GENERAL PLAN AMENDMENT 1-2006 (C) AND ZONE CHANGE 3-2006 FOR THAT 12.9± ACRE SITE LOCATED GENERALLY ON THE SOUTHWEST CORNER OF MATHEW STREET AND WEST OLIVE AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of February 7, 2006, opened the public hearing to consider General Plan Amendment 1-2006 (C) and Zone Change 3-2006 for that 12.9± acre site consisting of three (3) parcels (one parcel is developed with a single family residential dwelling and the remaining two (2) are vacant) located generally on the southwest corner of Mathew Street and West Olive Avenue; and

WHEREAS: Due to a change in the area proposed for the General Plan Amendment and Zone Change, the City Council continued the item until Staff had time to receive comments if any on the modified Environmental Initial Study and re-notice of the continued public hearing for an additional 20 day period from February 13, 2006 to March 5, 2006. The only agencies that responded were the Burton Elementary School District and the San Joaquin Valley Air Pollution Control District. Those comments addressing the environmental portion of the project have been incorporated into the Mitigation Monitoring Program as Attachment “A” of the environmental resolution; and

WHEREAS: On March 7, 2006, the Porterville City Council at its regularly scheduled meeting, conducted the continued public hearing for General Plan Amendment 1-2006 (C) and Zone Change 3-2006; and

WHEREAS: General Plan Amendment 1- 2006 (C), proposes to change the Land Use Element of the General Plan from High Density Residential to Heavy Commercial; and

WHEREAS: Zone Change 3-2006 proposes to change the present zoning from R-3 (D) (Multiple Family Residential with a “D” Overlay Site Review) to C-3 (Heavy Commercial); 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 in accordance with the California Environmental Quality Act.

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

The proposed Negative Declaration was evaluated in light of the prepared environmental initial study, comments from interested parties and the public, as well

ATTACHMENT
ITEM NO. 7
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. On February 10, 2006, the Environmental Coordinator made a preliminary
determination that a Mitigated Negative Declaration would be appropriate for the
proposed project. The revised Initial Study and proposed Mitigation Measures have
been transmitted to interested agencies, groups and individuals for a twenty (20) day
review period from February 13, 2006 to March 5, 2006. The only agencies that
responded were from the Burton Elementary School District and the San Joaquin
Valley Air Pollution Control District. Those comments addressing the environmental
portion of the project have been incorporated into the Mitigation Monitoring Program
as Attachment “A” of the environmental resolution.

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

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

A biological report was prepared for this area and the planned subdivision south of
this project site. The biological report identified potential biological resources on the
property to the south of the subject site, and on potential resource on the west side of
the project area. However, as mitigation measure of the adjacent project, the single
elderberry shrub that is located on the west side of the project site will be relocated to
the riparian habitat south of the subject site.

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 minimus 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 judgment of the City of Porterville.

9. The developer/applicant shall comply with all mitigation measures adopted as a
component of the approval of the Mitigated Negative Declaration for this project.
The developer/applicant will be required to sign a document committing to comply
with the adopted mitigation measures prior to any construction on the site.
NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for General Plan Amendment 1-2006 (C) and Zone Change 3-2006, and that the mitigation measures defined in Attachment A shall be implemented by the applicant or his/her successors with project implementation.

________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ________________________
Georgia Hawley, Chief Deputy City Clerk
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<tr>
<th>Impact No.</th>
<th>Impact</th>
<th>Mitigation Measure</th>
<th>Level Of Significance After Mitigation</th>
<th>Responsible Party</th>
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<tr>
<td>Impact #1 Aesthetics</td>
<td>Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area.</td>
<td>New sources of light and glare will result from subsequent street lighting subsequent to development. 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 streetlight and on-site 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>Less than significant with mitigation</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
<td>Mitigation Measure</td>
<td>Level Of Significance After Mitigation</td>
<td>Responsible Party</td>
</tr>
<tr>
<td>------------</td>
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<td>----------------------------------------</td>
</tr>
<tr>
<td>Impact #1 a, b, c &amp;d: Air Quality</td>
<td>Conflict with or obstruct implementation of applicable air quality. Violate any air quality standard or contribute substantially to an existing or projected air quality violation. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is no-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).</td>
<td>Air Quality Impacts from this project will come mainly from two sources: particulate (dust) emissions from project construction, and operational emissions from vehicular trips associated with the project. Construction emissions are temporary in nature and are considered by the San Joaquin Valley Air Pollution Control District (SJVAPCD) to be less than significant if the SJVAPCD's Regulation VIII mandatory dust control measures are followed. Because these measures are mandatory, and therefore part of the regulatory setting of the project, they do not constitute mitigation. Regulation VIII also contains optional dust control measures that will be followed during project construction and will help further reduce particulate emissions. Because these measures are voluntary, they are considered to be mitigation. Regulation VIII mandatory and optional dust control measures are listed in Tables 1 through 4 on the following pages. The project exceeds the Small Project Analysis Level published by the San Joaquin Valley Air Pollution Control District in the guide for assessing and Mitigating Air Quality Impacts (GAMAQI) for Regional Shopping Center developments. Therefore the project was analyzed at the Cursory Analysis Level (CAL), which requires that an URBEMIS computer emissions model be run for the project.</td>
<td>Less than significant with mitigation</td>
<td>SJVAPCD &amp; the City of Porterville</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
<td>Mitigation Measure</td>
<td>Level Of Significance After Mitigation</td>
<td>Responsible Party</td>
</tr>
<tr>
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</tr>
<tr>
<td>Impact #1 a, b, c &amp;d: Air Quality (continued)</td>
<td>Expose sensitive receptors to substantial pollutant concentrations.</td>
<td>Operational emissions from the project are almost exclusively a function of automobile trips generated by the project (Operational Emissions cannot exceed 10tons/yr). An URBEMIS 2002 8.7-computer program was used to estimate operational project emissions, based on the estimated number of trips generated by the project, estimated average miles per trip (9.5 miles) and the large percentage of workers who live and work in Porterville (93% in 2000 Census). The result, summarized in Table 5, indicate that impact form this project will not be significant.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
<td>Mitigation Measure</td>
<td>Level Of Significance After Mitigation</td>
<td>Responsible Party</td>
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</tr>
<tr>
<td>Impact #11 a. Noise</td>
<td>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.</td>
<td>Development of the site as proposed will result in short-term increases in noise associated with construction equipment that may exceed the City’s noise level standards. As these activities will be restricted to daily time hours and will be short-term in nature, the impact will be less than significant. To reduce noise impacts to adjacent residential land uses, construction activities must be scheduled between the hours of 7:00 a.m. and 5:00 p.m. Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday and Sunday.</td>
<td>Less than significant with mitigation</td>
<td>City of Porterville</td>
</tr>
</tbody>
</table>
Table 1
Regulation VIII Control Measures for Construction Emissions of PM10

| Regulation VIII Control Measures – The following controls are required to be implemented at all construction sites. |
| All disturbed areas, including storage piles, which are not being effectively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover. |
| All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant. |
| All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions using water or by presoaking. |
| With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition. |
| When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space form the top of the container shall be maintained. |
| All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.) |
| Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant. |
| Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday. |
| Any site with 150 or more vehicle trips per day shall prevent carryout and trackout. |
| Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour. |

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002, and SJVAPCD Regulation VIII
Table 2
Information to be Contained in a Dust Control Plan as Required by Regulation VIII

<table>
<thead>
<tr>
<th>A dust control plan shall contain all of the following information:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name(s), address(es), and phone number(s) of person(s) and owner(s)/operator(s) responsible for the preparation, submittal, and implementation of the Dust Control Plan and responsible for the dust generating operation and the application of dust control measures.</td>
</tr>
<tr>
<td>A plot plan which shows the type and location of each project.</td>
</tr>
<tr>
<td>The total area of land surface to be disturbed, daily throughput volume of earthmoving in cubic yards, and total area in acres of the entire project site.</td>
</tr>
<tr>
<td>The expected start and completion dates of dust generating and soil disturbance activities to be performed on the site.</td>
</tr>
<tr>
<td>The actual and potential sources of fugitive dust emissions on the site and the location of bulk material handling and storage areas, paved and unpaved roads; entrances and exits where carryout/truckout may occur; and traffic areas.</td>
</tr>
<tr>
<td>Dust suppressants to be applied, including: product specifications; manufacturer’s usage instructions (method, frequency, and intensity of application); type, number, and capacity of application equipment; and information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.</td>
</tr>
<tr>
<td>Specific surface treatment(s) and/or control measures utilized to control material carryout, trackout, and sedimentation where unpaved and/or access points join paved public access roads.</td>
</tr>
<tr>
<td>At least one key individual representing the owner/operator or any person who prepares a Dust Control Plan must complete a Dust Control Training Class conducted by the District. The District will conduct Dust Control Training Classes on an as needed basis.</td>
</tr>
</tbody>
</table>

Table 3
Enhanced and Additional Control Measures for Construction Emissions of PM10

<table>
<thead>
<tr>
<th>Enhanced Control Measures – The following measure should be implemented at construction sites when required to mitigate significant PM10 impacts (note this measure is to be implemented in addition to Regulation VIII requirements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.</td>
</tr>
<tr>
<td>Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction.</td>
</tr>
<tr>
<td>Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</td>
</tr>
<tr>
<td>Install wind breaks at windward side(s) of construction areas</td>
</tr>
<tr>
<td>Suspend excavation and grading activity when winds exceed 20 mph*; and</td>
</tr>
<tr>
<td>Limit area subject to excavation, grading, and other construction activity at any one time</td>
</tr>
</tbody>
</table>

*Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent opacity limitation. Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
<table>
<thead>
<tr>
<th>Emission Source</th>
<th>Mitigation Measure</th>
</tr>
</thead>
</table>
| Heavy duty equipment (scrapers, graders, trenchers, earth movers, etc.) | Use of alternative fueled or catalyst equipped diesel construction equipment  
Minimize idling time (e.g., 10 minute maximum)  
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  
Implement activity management (e.g. rescheduling activities to reduce short-term impacts). |

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
RESOLUTION NO. _______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL FOR
GENERAL PLAN AMENDMENT 1-2006 (C) FOR
THAT 12.9± ACRE SITE LOCATED GENERALLY ON THE
SOUTHWEST CORNER OF MATHEW STREET AND WEST OLIVE AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of
February 7, 2006, opened the public hearing to consider General Plan Amendment 1-2006 (C) and
Zone Change 3-2006 for that 12.9± acre site consisting of three (3) parcels (one parcel is developed
with a single family residential dwelling and the remaining two (2) are vacant) located generally on
the southwest corner of Mathew Street and West Olive Avenue; and

WHEREAS: Due to a change in the area proposed for the General Plan Amendment and
Zone Change, the City Council continued the item until Staff had time to receive comments if any on
the modified Environmental Initial Study and re-notice of the continued public hearing for an
additional 20 day period from February 13, 2006 to March 5, 2006. The only agencies that
responded were the Burton Elementary School District and the San Joaquin Valley Air Pollution
Control District. Those comments addressing the environmental portion of the project have been
incorporated into the Mitigation Monitoring Program as Attachment “A” of the environmental
resolution; and

WHEREAS: On March 7, 2006, the Porterville City Council at its regularly scheduled
meeting, conducted the continued public hearing for General Plan Amendment 1-2006 (C) and Zone
Change 3-2006; and

WHEREAS: General Plan Amendment 1- 2006 (C), proposes to change the Land Use
Element of the General Plan from High Density Residential to Heavy Commercial; and

WHEREAS: Zone Change 3-2006 proposes to change the present zoning from R-3 (D)
(Multiple Family Residential with a “D” Overlay Site Review) to C-3 (Heavy Commercial).

WHEREAS: The City Council received testimony from all interested parties relative to the
General Plan Amendment; and

WHEREAS: The City Council made the following findings:

1. That the proposed General Plan Amendment is consistent with the goals and policies
of the General Plan and implements the redevelopment project area strategic plan
which designates the site as multiple family residential.

2. The amendment to the Land Use Element of the General Plan from High Density
Residential to Medium Density Residential with the associated Zone Change 3-2006
from R-3 (D) (Multiple Family Residential with “D” Overlay Site Review) to C-3 (Heavy Commercial) will allow for future development of the site to be in conformance with the General Plan and Zoning Ordinance.

1. That a Negative Declaration was prepared for this project in accordance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment and that implementation of the projects will comply with the recommended mitigation measures.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve General Plan Amendment 1-2006 (C) being an amendment to the Land Use Element of the General Plan as described above.

Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ______________________________
Georgia Hawley, Chief Deputy City Clerk
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 3-2006 FROM R-3 (D) (MULTIPLE FAMILY RESIDENTIAL WITH A “D” Overlay Site Review) TO C-3 (HEAVY COMMERCIAL) FOR THAT SITE LOCATED ON THE SOUTHWEST CORNER OF MATHEW STREET AND WEST OLIVE AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of February 7, 2006, opened the public hearing to consider General Plan Amendment 1-2006 (C) and Zone Change 3-2006 for that 12.9± acre site consisting of three (3) parcels (one parcel is developed with a single family residential dwelling and the remaining two (2) are vacant) located generally on the southwest corner of Mathew Street and West Olive Avenue; and

WHEREAS: Due to a change in the area proposed for the General Plan Amendment and Zone Change, the City Council continued the item until Staff had time to receive comments if any on the modified Environmental Initial Study and re-notice of the continued public hearing for an additional 20 day period from February 13, 2006 to March 5, 2006. As of this date, the only agencies that responded were the Burton Elementary School District and the San Joaquin Valley Air Pollution Control District. Those comments addressing the environmental portion of the project have been incorporated into the Mitigation Monitoring Program as Attachment “A” of the environmental resolution; and

WHEREAS: On March 7, 2006, the Porterville City Council at its regularly scheduled meeting, conducted the continued public hearing for General Plan Amendment 1-2006 (C) and Zone Change 3-2006; and

WHEREAS: General Plan Amendment 1-2006 (C), proposes to change the Land Use Element of the General Plan from High Density Residential to Heavy Commercial; and

WHEREAS: Zone Change 3-2006 proposes to change the present zoning from R-3 (D) (Multiple Family Residential with a “D” Overlay Site Review) to C-3 (Heavy Commercial); and

WHEREAS: The City Council of the City of Porterville, after proceedings duly had and taken, and after due and legal notice having been given, as prescribed by Ordinance 1198 of the City of Porterville, and the laws of the State of California, has determined that the public interest would best be served by approval of Zone Change 3-2006; and

WHEREAS: The City Council made the following findings in support of the approval of Zone Change 3-2006:

1. The Land Use Element of the General Plan, through the approval of General Plan Amendment 1-2006 (c), designates the subject site for Heavy Commercial uses.
2. That the proposed zoning to C-3 (Heavy Commercial) for the subject site is consistent with the proposed General Plan designation.

3. That all uses listed in Article 7, Article 8 and Article 9 of the Porterville Zoning Ordinance will be allowed in the C-3 (Heavy Commercial) Zone subject to all other laws, rules and regulations.

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

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

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

Section 1: Zone Change 3-2006 is approved contingent upon approval of General Plan Amendment 1-2006(C); and

Section 2: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change 3-2006, is hereby re-zoned from R-3 (Multiple Family Residential with a “D” Overlay Site Review) to C-3 (Heavy Commercial) for that 12.9± acre site located generally on the southwest corner of Mathew Street and West Olive Avenue, more particularly shown on the attached map, incorporated herein by this reference as Exhibit “A”; and

Section 3: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show that all of the above described real property is re-zoned from R-3 (Multiple Family Residential with a “D” Overlay Site Review) to C-3 (Heavy Commercial) for that 12.9± acre site located generally on the southwest corner of Mathew Street and West Olive Avenue; and

Section 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

__________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By _______________________
Georgia Hawley, Chief Deputy City Clerk
ZONE CHANGE 3–2006

DELTA AVE.

OLIVE AVE.

REMAINDER #1

90 89 88 87 86 85 84 83 82

CLARE AVENUE

BURTON ELEMENTARY SCHOOL

PROPOSED ZONE CHANGE

R–3(D) TO C–3

CITY COUNCIL

ORDINANCE NO.#

EXHIBIT "A"
PUBLIC HEARING

SUBJECT: IRIS HILL ESTATES TENTATIVE SUBDIVISION MAP (JEROME STEHLY)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Iris Hill Estates Tentative Subdivision Map to divide a vacant 39± acre parcel zoned City R-1 (One-Family Zone) into a 119 lot single family residential subdivision. The subject site is located generally on the southeast corner of North Main Street and Reid Avenue.

In addition, the applicant is requesting City Council’s approval to allow for an excessive lot depth for Parcels 30, 36, 41, 49, 50 and 66. Lots 32, 33, 35, 42, 44, 45, 48 and 70 have one lot line dimension in excess of 180 feet, however the average lot depth is less than 180 feet. This is due to topography, the irregular shape of the 39± acre vacant parcel and the desire of the developer to provide lots which are developable, consistent with the topography and able to provide a non-grid interior street circulation plan. Pursuant to Section 21-7 b of the Subdivision Ordinance, the depth of each residential lot shall not be less than ninety (90) feet nor more than one hundred eighty (180) feet. Due to topography, the irregular shape of the 39± acre vacant parcel and layout of the streets and proposed lots, the excessive depths cannot be avoided.

Additionally, the applicant is requesting City Council’s approval to allow for double frontage lots for those lots fronting on North Main Street and Reid Avenue. Pursuant to Section 21-7d of the Subdivision Ordinance, double frontage lots will not be permitted except where in the opinion of the City Council topographic or unusual physical conditions justify a deviation. The request was based on the topographic conditions within the property, but also upon the City Council desire to eliminate driveways on arterial, collector and other heavily traveled streets. As a condition of approval, a six (6) foot high masonry block wall and landscaping will be required along the full length of North Main Street and Reid Avenue fronting on the subject subdivision. Access from these lots abutting North Main Street and Reid Avenue will not be allowed.

Pursuant to City Ordinance 1692, an interim urgency ordinance for the protection of the Hillside Area, the developer has submitted schematics of the proposed development. Prior to approval, City Staff has worked with the project proponent on the design theme for the development and conditions of approval have been added to reflect the general design of the units.

DDsO Appropriated/Funded_____ CM _____

ITEM NO. 18
On February 10, 2006, the Environmental Review Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate based on the Initial Study. The Negative Declaration prepared for this project was made available for public review and comment. The 20-day review period was from February 10, 2006 to March 1, 2006. The only agency that responded was from the San Joaquin Valley Air Pollution Control District. Those comments have been incorporated into the Mitigation Monitoring Plan as Attachment A of the environmental resolution.

RECOMMENDATION: That the City Council:

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

(2) Adopt the draft resolution approving Iris Hill Estates Tentative Subdivision Map.

ATTACHMENT:

1. Complete Staff Report
PUBLIC HEARING

TITLE: IRIS HILL ESTATES TENTATIVE SUBDIVISION MAP

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT: Jerome Stehly
Pathfinder Land, LLC
32542 Aqueduct Road
Bonsall, CA 92003

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

PROJECT LOCATION: Generally the southeast corner of North Main Street and Reid Avenue.

SPECIFIC REQUEST: The applicant is requesting approval of Iris Hill Estates Tentative Subdivision Map to divide a vacant 39± acre parcel zoned City R-1 (One-Family Zone) into a 119 lot single family residential subdivision.

PROJECT DETAILS: Interior streets will allow the circulation to enter and exit North Main Street from Pioneer Avenue to the south and at two (2) points onto Reid Avenue to the North. The average lot size exceeds 6,000 square feet.

In addition, the applicant is requesting City Council’s approval to allow for an excessive lot depth for Parcels 30, 36, 41, 49, 50 and 66.Lots 32, 33, 35, 42, 44, 45, 48 and 70 have one lot line dimension in excess of 180 feet, however the average lot depth is less than 180 feet. This is due to topography, the irregular shape of the 39± acre vacant parcel and the desire of the developer to provide lots which are developable, consistent with the topography and able to provide a non-grid interior street circulation plan. Pursuant to Section 21-7 b of the Subdivision Ordinance, the depth of each residential lot shall not be less than ninety (90) feet nor more than one hundred eighty (180) feet. Due to topography, the irregular shape of the 39± acre vacant parcel and layout of the streets and proposed lots, the excessive depths cannot be avoided.

Additionally, the applicant is requesting City Council’s approval to allow for double frontage lots for those lots fronting on North Main Street and Reid Avenue. Pursuant to Section 21-7d of the Subdivision Ordinance, double frontage lots will not be permitted except where in the opinion of the City Council topographic or unusual physical conditions justify a deviation. The request was based on the topographic conditions within the property, but also upon the City
Council desire to eliminate driveways on arterial, collector and other heavily traveled streets. As a condition of approval, a six (6) foot high masonry block wall and landscaping will be required along the full length of North Main Street and Reid Avenue fronting on the subject subdivision. Access to North Main Street and Reid Avenue from these lots will not be allowed.

Pursuant to Section 21-1.4 of the Subdivision Ordinance, the City Council can modify any of the requirements and regulations set forth in the Subdivision Ordinance provided that the City Council find the following facts with respect thereto:

a. That there are special circumstances or conditions affecting such property.

Response: Due to topography, the irregular shape of the 39± acre parcel and the desire of the developer to provide lots which are developable, consistent with the topography and able to provide a non-grid interior street circulation plan, the excessive lot depths for Parcels 30, 36, 41, 49, 50, 66, 32, 33, 35, 42, 44, 45, 48 and 70 cannot be avoided.

Also, the request to allow double frontage lots for those lots fronting on North Main Street and Reid Avenue was not only based on the topographic conditions within the property, but also upon the City Council’s desire to eliminate driveways on arterial, collector and other heavily traveled streets. As a condition of approval, a six (6) foot high masonry block wall and landscaping will be required along the full length of North Main Street and Reid Avenue fronting on the subject subdivision. Access to North Main Street and Reid Avenue from these lots will not be allowed.

b. That the modifications are necessary for the preservation and enjoyment of a substantial property right of the petitioner.

Response: The modifications are requested to allow the property to be subdivided pursuant to all other City design standards.

c. That the granting of the modifications will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.

Response: The exception will allow the property lines for the interior lots to have an average of 185± feet in depth, which is five feet more than the allowed maximum of 180 feet. The only exception would be to Parcel 66 which would have a lot depth of 492± feet.

The exception to allow for double frontage lots along North Main Street and Reid Avenue is consistent with other similar subdivisions. Access
from driveways onto arterial, collector and other heavily traveled streets is discouraged.

d. That the granting of the exception is in accordance with the purposes prescribed in Section 21-1.1 of this Chapter and the Subdivision Map Act.

Response: The modification will allow for the subject site to be developed while insuring that pursuant to Section 21-1.1 (Purpose and Scope) of the Subdivision Ordinance the objectives in this section are achieved.

e. That the granting of the exception is consistent with the General Plan. Any exception may be granted subject to any reasonable conditions which are deemed necessary to effectuate the purposes of this Chapter.

Response: The design of the tentative subdivision map complies with the requirements of the Zoning Ordinance and Subdivision Ordinance (with the exception of lot depth and double frontage lots) and is consistent with the density allowed by the General Plan.

GENERAL PLAN DESIGNATION: Low Density Residential.

SURROUNDING ZONING LAND USE:

North: City - Reid Avenue, fallow land and citrus.
South: City - One single family dwelling and vacant hillside.
East: City - Hillside and developed single family residential subdivision.
West: City - North Main Street, fallow land, a restaurant and the Union Pacific Railroad.

PUBLIC REVIEW: Pursuant to CEQA, a request for comment dated February 10, 2006, was mailed to the following public/private agencies for a 20 day review period:

San Joaquin Valley Air Pollution Control District

The District provided standard comments on February 24, 2006, and agrees that preliminary analysis indicates that this project will have a less than significant impact on the ambient air quality. Although development in the air basin, including this project, contributes to a cumulative air quality effect, the mitigation measures incorporated into the project will reduce all impacts to less than significant.
The Subdivision Review Committee, on March 1, 2006, 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.

STAFF ANALYSIS: Development of the site as proposed will provide needed housing in conformance with the City’s General Plan Land Use and Housing Elements and requirements of the California Subdivision Map Act and local ordinances.

The proposal to develop the 39± acre site with a single family residential subdivision in two phases is consistent with the General Plan’s Low Density Residential land use designation and R-1 (One-Family Residential) zoning classification for the site.

Due to topography, the irregular shape of the 39± acre parcel and layout of the streets and proposed lots, the excessive lot depth for the property lines for those aforementioned parcels can not be avoided. The exception to allow for the double frontage lots along North Main Street and Reid Avenue is consistent with other similar subdivisions in which access from driveways onto arterial, collector and other heavily traveled streets is discouraged. Therefore, the request to modify the requirements and regulations set forth in the Subdivision Ordinance is justified.

Pursuant to City Ordinance 1692, an interim urgency ordinance for the protection of the Hillside Area, the developer has submitted schematics of the proposed development. Prior to approval City Staff has worked with the project proponent on the design theme for the development. The lower southern section of the subdivision is more flat with homes aligned to be consistent and parallel to the contours of the land. The easterly section of the subdivision with increasing slopes have been designed to flow parallel with the contours of the hillside. The subdivision street infrastructure is also consistent with the topography and parallel with the hillside contours.
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.

ENVIRONMENTAL: February 10, 2006, 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: March 11, 2005

DATE ACCEPTED AS COMPLETE: March 7, 2006

RECOMMENDATION: That the City Council:

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

(2) Adopt the draft resolution approving Iris Hill Estates Tentative Subdivision Map.

ATTACHMENTS:

1. Iris Hill Estates Tentative Subdivision Map
2. Letter requesting an exception to the excessive lot depth and double frontage lots
3. Letter from the San Joaquin Valley Air Pollution Control District
4. Environmental Initial Study
5. Negative Declaration
6. Draft Environmental Resolution
7. Draft Resolution of Approval
February 22, 2006

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

RE: Iris Hill

Dear Mr. Dunlap,

The Tentative Subdivision Map of Iris Hill includes lots which exceed the maximum 180 foot depth set forth in Section 21-7b of the Subdivision Ordinance. A review of the Tentative Subdivision Map will verify that the subject site has a very irregular boundary. In addition to the irregular boundary, it is the desire of the developer to provide lots which are developable consistent with the topography and provide a non-grid interior street circulation plan. As a result of those factors, the development plan has resulted in average lot depths in excess of 180 feet for lots 30, 36, 41, 49, 50 and 66. Lots 32, 33, 35, 42, 44, 45, 48 and 70 have one lot line dimension in excess of 180 feet, however the average lot depth is less than 180 feet.

Section 21-7d, indicates that double frontage lots will not be permitted except where in the opinion of the City Council topographic or unusual physical conditions justify a deviation. We are including an exception request for the double frontage lots shown along North Main Street and Reid Avenue based not only on the topographic conditions within the property, but also upon the City Councils desire to eliminate driveways on arterial, collector and other heavily traveled streets.

In the event you need more information related to the exceptions being requested, please let us know.

Very Truly Yours,

James S. Winton
Civil Engineer

cc: Jerome Stehly

JSW/bg
Encls.
San Joaquin Valley
Air Pollution Control District

February 24, 2006

Reference No. C20060380

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

Subject: Environmental Checklist for Iris Hills Estates – APNs 255-250-015, 016 and 247-030-059, 060

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 construction activities in preparation of the site, and ongoing traffic and other operational emissions. Preliminary analysis indicates that this project will have a less-than-significant impact on the ambient air quality. 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:

The Environmental Checklist indicates that the project will comply with the District’s Regulation VIII (Fugitive PM10 Prohibitions) rules and a Dust Control Plan is to be submitted. Based on the information provided, the proposed project will also be subject to the following District rules. The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. This project may be subject to additional District Rules not enumerated below. To identify additional rules or regulations that apply to this project, or for further information, the applicant is strongly encouraged to contact the District’s Small Business Assistance Office at (661) 326-6969. Current District rules can be found at http://www.valleyair.org/rules/frulelist.htm.

**Rule 3135** (Dust Control Plan Fee) This rule requires the applicant to submit a fee in addition to a Dust Control Plan. The purpose of this fee is to recover the District’s cost for reviewing these plans and conducting compliance inspections. Information on the fee and a Dust Control Plan template are available at the following District website at http://www.valleyair.org/busind/comply/PM10/compliance_PM10.htm.

**Rule 4102** (Nuisance) This rule 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) This rule regulates the use of open burning and specifies the types of materials that may be open burned. Agricultural material shall not be burned when the land use is converting from agriculture to non-agricultural purposes (e.g., commercial, industrial, institutional, or residential uses). Section 5.1 of this rule prohibits the burning of trees and other vegetative (non-agricultural) material whenever the land is being developed for non-agricultural purposes. In the event
that the project applicant burned or burns agricultural material, it would be in violation of Rule 4103 and be subject to District enforcement action.

**Rule 4601** (Architectural Coatings) This rule limits volatile organic compounds from architectural coatings by specifying architectural coatings storage, clean up 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) This rule 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 on our website at [www.valleymir.org](http://www.valleymir.org). For compliance assistance, please contact Mr. Wayne Clarke, Air Quality Compliance Manager, at (559) 230-5968.

**Rule 4902** (Residential Water Heaters) This rule applies to and limits emissions of NOx from residential natural gas-fired water heaters.

**Rule 9510** (Indirect Source Review) This rule requires the applicants of certain development projects to submit an application to the District when applying for the development's last discretionary approval. The rule requires developers to mitigate emissions at the project site to the extent feasible and to pay a mitigation fee to the District for a percentage of the remaining emissions. The ISR rule becomes effective March 1, 2006. Projects that have a final discretionary application in process and have not received approval by March 1, 2006 must submit an ISR application by April 3, 2006.

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 of Porterville 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 for incorporation into the project:

- Large canopy trees should be carefully selected and located to protect the building(s) from energy consuming environmental conditions, and to shade 50% of paved areas within 15 years. Structural soil should be used under paved areas to improve tree growth. For information on Structural Soil see [http://www.hort.cornell.edu/uhl/outreach/ccs/](http://www.hort.cornell.edu/uhl/outreach/ccs/). For information on Tree Selection see [http://www.ufef.org/](http://www.ufef.org/). For Urban Forestry see [http://www.igc.org/bookstore/energy/downloads/svj_tree_guidelines.pdf](http://www.igc.org/bookstore/energy/downloads/svj_tree_guidelines.pdf), [http://www.coolcommunities.org](http://www.coolcommunities.org) and [http://wcufore.ucdavis.edu](http://wcufore.ucdavis.edu).

- 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), lighting, appliances, and heating and cooling systems. See http://www.energystar.gov/
- Programmable thermostats for all heating and cooling systems
- Use Low and No-VOC coatings and paints. See South Coast's site for No-VOC Coatings at http://www.agmd.gov/ordas/brochures/paintguide.html
- High-albedo (reflecting) roofing material. See http://eetd.lbl.gov/coolroof/
- Radiant heat barrier. See http://www.eere.energy.gov/consumerinfo/refbriefs/bc7.html
- Features to promote energy self-sufficiency (solar water-heating systems, photovoltaic cells, solar thermal electricity systems, small wind turbines, etc.) Rebate and incentive programs are offered for alternative energy equipment. See http://www.dsireusa.org/, http://fredc.nrel.gov/, and http://www.energy.ca.gov/renewables/
- Awnings or other shading mechanism for windows
- Porch, patio and walkway overhangs
- Ceiling fans, whole house fans
- 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 units to encourage use of electric landscape maintenance equipment
- Natural gas fireplaces (instead of wood-burning fireplaces or heaters)
- Natural gas lines (if available to this area) in backyard or patio areas to encourage the use of gas barbecues
- Pre-wire the units with high speed modem connections/DSL and extra phone lines
- Exits to adjoining streets should be designed to reduce time to re-enter traffic from the project site

- The District encourages the applicant and fleet operators using the facility to take advantage of the District's Heavy-Duty Program to reduce project emissions. The Heavy Duty program provides incentives for the replacement of older diesel engines with new, cleaner, fuel-efficient diesel engines. The program also provides incentives for the re-power of older, heavy-duty trucks with cleaner diesel engines or alternative fuel engines. New alternative fuel heavy-duty trucks also qualify. For more information regarding this program contact the District at (559) 230-5858 or visit our website at http://www.valleymd.org/transportation/heavydutvydx.htm.

- Construction activity mitigation measures include:
  - 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)
  - Require that all diesel engines be shut off when not in use to reduce emissions from idling
  - 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
  - Off road trucks should be equipped with on-road engines when possible
  - Minimize obstruction of traffic on adjacent roadways

- Construction equipment may be powered by diesel engines fueled by alternative diesel fuel blends or Ultra Low Sulfur Diesel (ULSD). The California Air Resources Board (CARB) has verified specific alternative diesel fuel blends for NOx and PM emission reduction. Only fuels that have been certified by CARB should be used. Information on biodiesel can be found on CARB's website at http://www.arb.ca.gov/fuels/diesel/aldiesel/aldiesel.htm and the EPA's website at http://www.epa.gov/oms/models/biodsl.htm. The applicant should also use CARB certified alternative fueled engines in
construction equipment where practicable. Alternative fueled equipment may be powered by Compressed Natural Gas (CNG), Liquid Propane Gas (LPG), electric motors, or other CARB certified off-road technologies. To find engines certified by the CARB, see their certification website http://www.arb.ca.gov/msprog/offroad/cert/cert.php. For more information on any of the technologies listed above, please contact Mr. Chris Acree, Senior Air Quality Specialist, at (559) 230-5829.

- Construction equipment may be used that meets the current off-road engine emission standard (as certified by the CARB), or be re-powered with an engine that meets this standard. Tier I, Tier II and Tier III engines have significantly less NOx and PM emissions compared to uncontrolled engines. To find engines certified by the CARB, 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. Rule 9510 requires construction exhaust emissions to be reduced by 20 percent for NOx and 45 percent for PM10 when compared to the statewide fleet average or to pay an in lieu mitigation fee. For more information on heavy-duty engines, please contact Mr. Thomas Astone, Air Quality Specialist, at (559) 230-5800.

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) 230-5819 or Mr. Dave Mitchell, Planning Manager, at (559) 230-5807 and provide the reference number at the top of this letter.

Sincerely,

Jessica R. Willis
Air Quality Specialist
Central Region

c: file
City of Porterville

Environmental Checklist For
Iris Hills Estates

1. Project title: Iris Hills Estates

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, AICP
   Community Development Director
   (559) 782-7460

4. Project location: Southeast corner of Reid Avenue and North Main Street (See Figures 1 and 2)

5. Project sponsor’s name and address: Mr. Jerome Stehly
   Pathfinder Land, LLC
   32542 Aqueduct Road
   Bonsall, CA 92003

6. General plan designation: Single Family Residential

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

8. Description of project: See Figures 1, 2, and 3

The project proposes development of approximately 103 single family residential units on 39± acres, identified by Tulare County Assessor’s Parcel Numbers 255-250-016, 255-250-015, 247-030-059, and 247-030-060. The project is generally located southeast of the intersection of North Main Street and Reid Avenue. The project is within the area defined as the hillside development area and is subject to the requirements thereof, including the Interim Urgency Ordinance.

There are no known environmental aspects peculiar to the proposed project area.

9. Surrounding land uses and setting:

To the north of the project is a citrus orchard and scattered single-family dwellings. The city limits are immediately north of the project site, except for the three lots on which the residences are built. Within the City, the lots north of the project are zoned R-1, and outside the City, the County has zoned the land for Commercial, Residential, and Agricultural uses. Reid Avenue follows the northern property boundary. South of the project, within the City, the land is zoned R-1 and one dwelling is adjacent to the project site. Further south, the land is vacant. East of the project, at the crest of the adjacent hill, is an established residential subdivision. West of the project site is North Main Street, with fallow lands, a single restaurant and the Union Pacific Railroad short line track beyond.

The FIRM Flood Insurance Map 060407 0010D, Dated October 15, 1985 indicates the site is in Flood Zone C minimal flooding (area of 500yr flood zone).

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

None
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a Potentially Significant Impact as indicated by the checklist on the following pages.

☐ Aesthetics                     ☐ Agriculture Resources        ☒ Air Quality
☐ Biological Resources           ☐ Cultural Resources            ☒ Geology/Soils
☐ Hazards & Hazardous Materials  ☒ Hydrology/Water Quality        ☐ Land Use / Planning
☐ Mineral Resources              ☐ Noise                         ☐ Population/Housing
☐ Public Services                ☐ Recreation                    ☒ Transportation/Traffic
☒ Utilities / Service Systems     ☐ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

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

☒ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) 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, nothing further is required.

Julie DeBoyle
ACTING CD DIRECTOR

Bradley D. Dunlap, AICP
City of Porterville

2/10/06

Signature

Date

Printed name
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 a lead agency cites in the parentheses following 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) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With 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 XVII, "Earlier Analyses," may be cross-referenced).

5) Earlier analyses 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). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify 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 Measures Incorporated," describe the mitigation measures, which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

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.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance
EARLIER ANALYSIS

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.

SOURCE REFERENCES

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

a) Have a substantial adverse effect on a scenic vista?
   | Potentially Significant Impact | Less than Significant Impact With Mitigation Incorporation | Less than Significant Impact | No Impact |
   | □ | □ | □ | □ |

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
   | □ | □ | □ | □ |

c) Substantially degrade the existing visual character or quality of the site and its surroundings?
   | □ | □ | □ | □ |

d) Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?
   | □ | □ | □ | □ |

Responses:

a), c), d): Less Than Significant Impact. The project area is in an area defined by the City of Porterville as a hillside area, but not as a scenic vista. The proposed development would change the view of the hillside from Main Street, but would be consistent with existing development to the east of the project area. The development would not obstruct views of the higher foothills and the Sierra Nevada Mountain range further east. The project would include new street and house lighting within the project area. This lighting would be required to meet City standards and would not adversely affect day or night-time views in the area. Sources: 1 & 5.

b): No Impact. There are no scenic resources on the site and the project area is not within or adjacent to a State Scenic Highway. The proposed residential development will be compatible with the existing and future land uses surrounding it, and it will not substantially degrade the existing visual character of the site. Sources: 1, 5, & 35.
II. AGRICULTURE RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland.

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?

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

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?

Responses:

a), b), c): No Impact. The project area is within the limits of the City of Porterville and is not being farmed. It is zoned for R-1 (single family residential) development and would not result in any indirect impact that could result in conversion of farmland to non-agricultural use. Sources: 1 & 35.
III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

a) Conflict with or obstruct implementation of the applicable air quality plan? ☐ ☒ ☐ ☐

b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? ☐ ☒ ☐ ☐

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)? ☐ ☒ ☐ ☐

d) Expose sensitive receptors to substantial pollutant concentrations? ☐ ☒ ☐ ☐

e) Create objectionable odors affecting a substantial number of people? ☐ ☐ ☒ ☐

Response:

a), b), c), d): Less Than Significant Impact with Mitigation Incorporation. The project is smaller than the 152 unit threshold for small project analysis level defined by the San Joaquin Valley Air Pollution Control District (District), and as such, an URBEMIS model run was not performed. To comply with the District’s restriction of PM_{10} generating activities, the project proponent will follow all Regulation VIII requirements (Tables 1 and 2). In addition, the proponent will further mitigate impacts by meeting the enhanced and additional control measures for construction emissions of PM_{10} (Table 3). These actions will reduce any potential impact to less than significant.

e): No Impact. The project would not create any scents or odors. Sources: 4 & 24.
<table>
<thead>
<tr>
<th>Regulation VIII Control Measures – The following controls are required to be implemented at all construction sites.</th>
</tr>
</thead>
<tbody>
<tr>
<td>All disturbed areas, including storage piles, which are not being effectively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.</td>
</tr>
<tr>
<td>All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.</td>
</tr>
<tr>
<td>All land clearing, grubbing, scraping, excavation, land leveling, grading, cut &amp; fill, and demolition activities shall be effectively controlled of fugitive dust emissions using water or by presoaking.</td>
</tr>
<tr>
<td>With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.</td>
</tr>
<tr>
<td>When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space form the top of the container shall be maintained.</td>
</tr>
<tr>
<td>All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)</td>
</tr>
<tr>
<td>Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.</td>
</tr>
<tr>
<td>Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.</td>
</tr>
<tr>
<td>Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.</td>
</tr>
<tr>
<td>Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.</td>
</tr>
</tbody>
</table>

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002, and SJVAPCD Regulation VIII
Table 2

Information to be Contained in a Dust Control Plan as Required by Regulation VIII

<table>
<thead>
<tr>
<th>A dust control plan shall contain all of the following information:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name(s), address(es), and phone number(s) of person(s) and owner(s)/operator(s) responsible for the preparation, submittal, and implementation of the Dust Control Plan and responsible for the dust generating operation and the application of dust control measures.</td>
</tr>
<tr>
<td>A plot plan which shows the type and location of each project.</td>
</tr>
<tr>
<td>The total area of land surface to be disturbed, daily throughput volume of earthmoving in cubic yards, and total area in acres of the entire project site.</td>
</tr>
<tr>
<td>The expected start and completion dates of dust generating and soil disturbance activities to be performed on the site.</td>
</tr>
<tr>
<td>The actual and potential sources of fugitive dust emissions on the site and the location of bulk material handling and storage areas, paved and unpaved roads, entrances and exits where carryout/trackout may occur; and traffic areas.</td>
</tr>
<tr>
<td>Dust suppressants to be applied, including: product specifications; manufacturer's usage instructions (method, frequency, and intensity of application); type, number, and capacity of application equipment; and information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.</td>
</tr>
<tr>
<td>Specific surface treatment(s) and/or control measures utilized to control material carryout, trackout, and sedimentation where unpaved and/or access points join paved public access roads.</td>
</tr>
<tr>
<td>At least one key individual representing the owner/operator or any person who prepares a Dust Control Plan must complete a Dust Control Training Class conducted by the District. The District will conduct Dust Control Training Classes on an as needed basis.</td>
</tr>
</tbody>
</table>

Table 3

Enhanced and Additional Control Measures for Construction Emissions of PM10

<table>
<thead>
<tr>
<th>Enhanced Control Measures – The following measure should be implemented at construction sites when required to mitigate significant PM10 impacts (note this measure is to be implemented in addition to Regulation VIII requirements.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.</td>
</tr>
<tr>
<td>Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction.</td>
</tr>
<tr>
<td>Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</td>
</tr>
<tr>
<td>Install wind breaks at windward side(s) of construction areas</td>
</tr>
<tr>
<td>Suspend excavation and grading activity when winds exceed 20 mph*; and</td>
</tr>
<tr>
<td>Limit area subject to excavation, grading, and other construction activity at any one time</td>
</tr>
</tbody>
</table>

*Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent opacity limitation.
Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
IV. BIOLOGICAL RESOURCES — Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
</table>

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?

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?

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?

d) 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?

e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

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?

Response:

a), b), c), d), e), f): No Impact. The project is located on fallow, undeveloped land and the proposed use is consistent with the City's General Plan for future residential development. A field survey by City Staff identified no sensitive species and no habitat on site. The project area is void of trees and shrubs, and is disked regularly for weed abatement. Approval of the project would not result in a conflict with the local ordinances, policies, or habitat conservation plans. Sources: 4, 5, 15, & 30.
V. CULTURAL RESOURCES  -- Would the project:

a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5? ☒ ☐ ☐ ☒

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5? ☐ ☐ ☐ ☒

c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? ☐ ☐ ☐ ☒

d) Disturb any human remains, including those interred outside of formal cemeteries? ☐ ☐ ☐ ☒

Response:

a), b), c), d): No Impact. The project area was formerly a productive citrus orchard but the trees have been removed and the site is currently fallow. No known historic, archaeological, or paleontological resources exist on site. Sources: 4 & 30.
VI. GEOLOGY AND SOILS — Would the project:

<table>
<thead>
<tr>
<th>a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:</th>
</tr>
</thead>
<tbody>
<tr>
<td>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.</td>
</tr>
<tr>
<td>ii) Strong seismic ground shaking?</td>
</tr>
<tr>
<td>iii) Seismic-related ground failure, including liquefaction?</td>
</tr>
<tr>
<td>iv) Landslides?</td>
</tr>
<tr>
<td>Potentially Significant Impact</td>
</tr>
<tr>
<td>☐</td>
</tr>
</tbody>
</table>

b) Result in substantial soil erosion or the loss of topsoil? |
| ☐ | ☒ | ☐ | ☐ |

c) 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? |
| ☐ | ☒ | ☐ | ☐ |

d) 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? |
| ☐ | ☒ | ☐ | ☐ |

e) 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? |
| ☐ | ☐ | ☐ | ☒ |

Response:

a) i, ii, iii), e): No Impact- The project area is not in the vicinity of any Alquist-Priolo Earthquake Fault Zones as defined by the State Geologist, and would not result in any seismic related impacts. The project will be fully served by the City wastewater treatment facility, and would not require installation of any septic tanks.

a) iv), b), c), d): Less Than Significant Impact with Mitigation Incorporation- The project is located on the soil type Cibo Clay as defined by the US Department of Agriculture's Natural Resources Conservation Service. In the Soils Survey of Tulare County, Central Part, Cibo Clay is described as having slow permeability and high erosion hazard. The soil is also subject to expansion. The slopes associated with the Cibo Clay (up to 15% within the project area) results in some risk of landslides, instability, erosion, and expansion. These risks will be mitigated by the developer through a thorough soils study and engineering methods to stabilize the soils. The City Engineer will work with the developer to ensure appropriate actions are taken to reduce the potential of impact to less than significant. Development of the site as proposed will result in ground disturbance through leveling, grading, etc. and could contribute to minor soil erosion during construction. Normal project procedures, including the enforcement of a site development plan and other development related conditions of approval would maintain a less than significant impact in regards to erosion. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the California Building Code, etc., will be required. A hydrology and soils report will be required as per the City requirements. Sources: 29.
VII. HAZARDS AND HAZARDOUS MATERIALS   --
Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

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?

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

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 result in a safety hazard for people residing or working in the project area?

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?

g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

h) 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?

Response:

a), b), c), d): No Impact. The project as proposed will not involve hazardous materials, and the project site is not contaminated. Sources: 7.

e), f), g), h): No Impact. The project is not within the vicinity of an airport or an airstrip. The project will not result in any change or interference with an adopted emergency response plan or evacuation plan. Mandatory conformance with the Porterville Zoning Ordinance and the Porterville weed abatement program will ensure that the project will not expose people or structures to a significant risk of loss due to wildfire. Sources: 7 & 12.
VIII. HYDROLOGY AND WATER QUALITY --

Would the project:

<table>
<thead>
<tr>
<th>a) Violate any water quality standards or waste discharge requirements?</th>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>b) 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>
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<td>☐</td>
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</tr>
<tr>
<td>c) 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>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>
<td>☐</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>f) Otherwise substantially degrade water quality?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>i) 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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>j) Inundation by seiche, tsunami, or mudflow?</td>
<td>☐</td>
<td>☐</td>
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</tr>
</tbody>
</table>

Response:

a), c), d), e), f), g): Less Than Significant with Mitigation Incorporation- Water quality standards could be violated by oils, chemicals, and residues conveyed by stormwater runoff along streets, driveways, and other impervious surfaces. 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 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. 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. Drainage 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 features are constructed. The installation of the curbs, gutters and drop inlets to allow water to channel into the existing storm drain line will prevent any future drainage problems in this area.

The City’s wastewater treatment plant has a permitted capacity of 5.3 million gallons per day (mgd) and is currently operating at 5.1 mgd. The plant has a rated capacity of 8 mgd, but is limited to the permitted capacity of 5.3 mgd because of a lack of land on which to use the treated effluent as irrigation water. The City has secured land and is in the process of annexing that land for effluent irrigation and biosolids spreading. Use of these lands will increase the permitted capacity of the treatment plan.

b) : Less Than Significant Impact- It is not anticipated that the development of the site as proposed would significantly deplete groundwater supplies or reduce public water supply from the City’s unconfined groundwater aquifer. The City has recently approved capital projects that would add wells and infrastructure to increase the City’s overall water supply. The proposed use is consistent with the General Plan; the capital water system projects are intended to serve projects such as this, and the impact is therefore less than significant.

j), h), i), j): No Impact- The project site is outside the 100-year flood plain and the Success Dam flood inundation area, as defined by the Army Corps of Engineers. The FIRM Flood Insurance Map 060407 0010D, Dated October 15, 1985 indicates the site is in Flood Zone C minimal flooding (area of 500yr flood zone). The project site is not in an area that could generate seiche or tsunami effects. The site would not be subject to mudflow events.
IX. LAND USE AND PLANNING - Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant Impact With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</tr>
</tbody>
</table>

a) Physically divide an established community?

b) 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?

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

Response:

a), b), c): No Impact. Porterville’s General Plan designates the subject area for R-1 Zone (Single Family Residential Zone). The proposed project will not disrupt or divide the physical arrangement of the established community in this area. 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 and the Zoning Ordinance. The project as proposed will not violate any of the existing polices, nor will it conflict with any applicable environmental plans or policies adopted by agencies with jurisdiction over the project. Therefore, no impact will occur. Sources: 1, 2, 3, 4, 12, & 30.
X. MINERAL RESOURCES -- Would the project:

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less than Significant With Mitigation Incorporation</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
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<tbody>
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</tbody>
</table>

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

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?

Response:

a), b): No Impact. There are no known mineral resources on the proposed project area. Sources: 4.
XI. NOISE -- Would the project result in:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less than Significant Impact</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) 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?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
</tr>
</tbody>
</table>

Response:

a), b), c), d): Less Than Significant Impact with Mitigation Incorporation. Development of the site as proposed will result in short-term increases in noise associated with construction equipment. To mitigate the potential impacts, construction activities will be restricted to daytime hours: 7:00 PM to 5:00 PM Monday through Friday and 9:00 AM to 5:00 PM Saturday and Sunday.

c), d): Less Than Significant Impact. There will be an slight increase in noise from additional traffic in the area and general noise from increased population after construction is complete and residential uses are in place and occupied. However, the project site is designated for the proposed use in the City’s General Plan and is consistent with existing and planned adjacent uses. These impacts will be less than significant. Sources: 6.

e), f): No Impact. The project is not within the vicinity of an airport or private airstrip. Sources: 6.
XII. POPULATION AND HOUSING  -- Would the project:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less than Significant Impact</th>
<th>Less than Significant Impact</th>
<th>No Impact</th>
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</table>

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)?

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

Response:

a), b), c): No Impact. 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; rather, it serves to accommodate the current growth projections. The proposed project will facilitate development envisioned by the General Plan for this area. Further, the project as proposed will not require the removal of any existing housing. Sources: 1, 3 & 30.
XIII. PUBLIC SERVICES

Would the project:

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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:

- Fire protection?
- Police protection?
- Schools?
- Parks?
- Other public facilities?

Response:

a): Less than Significant Impact. Fire, Police, Schools, Parks, and other Public Facilities will experience increased demand resulting from the development of the 39± acre site as proposed. The anticipated increased demand will be marginal, incremental initial impacts on the above referenced services. Sources: 1, 2, 3, 5, 7 & 8.
XIV. RECREATION --- Would the project:

a) Would the project 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?

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response:

a), b): Less Than Significant Impact. The proposed site for subdivision and development is not currently used for recreational activities and a proposed residential subdivision development of such project will not reduce the quality or quantity of such opportunities.

City parks and recreation facilities will be sufficient to accommodate the recreational needs stemming from subsequent residential development of the site. Sources: 5 & 8.
XV. TRANSPORTATION/TRAFFIC — Would the project:

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

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)?

b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

e) Result in inadequate emergency access?

f) Result in inadequate parking capacity?

g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Response:

a), b): Less Than Significant Impact with Mitigation Incorporation. Development of the 39± acre site with 103 single family residential units is anticipated to result in about 986 additional daily vehicle trips. Both North Main and Reid Avenues are arterials adjacent to the project area and have a capacity of 12,500 daily trips. The increase of trips generated by the proposed project may reduce the Level of Service in the project area. The project proponent will be required to pay pro rata traffic impact fees to partially fund the improvements required by the project. The City will pool these funds with those obtained from other projects, as well as capital funds to make the necessary improvements. Source 34.

c), g): No Impact. The proposed development was anticipated in the Land Use Element and Circulation Elements of the General Plan and will not conflict with that plan. The project is not within the vicinity of a public airport or private airstrip. Sources 1, 2, 34, & 35.

d), e), f): Less Than Significant Impact. Compliance with the City Code will ensure provision of adequate off-street parking. The project will not result in hazards related to design features. Adequate emergency access and parking will be provided in compliance with the City of Porterville’s ordinance and Building Code Regulations that govern development of single-family residential lots. Sources: 1, 2, 34, & 35.
**XVI. UTILITIES AND SERVICE SYSTEMS --**  
Would the project:

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Less than Significant Impact with Mitigation Incorporation</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>
</tr>
<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>
</tr>
<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>
<td>☐</td>
</tr>
<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>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>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?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>f) Be served by a landfill with sufficient permitted capacity to accommodate the project’s solid waste disposal needs?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
<td>☐</td>
<td>☐</td>
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</tbody>
</table>

**Response:**

a), b), c), e): **Less Than Significant Impact with Mitigation Incorporation.** The City’s wastewater treatment plant has a permitted capacity of 5.3 million gallons per day (mgd) and is currently operating at 5.1 mgd. The plant has a rated capacity of 8 mgd, but is limited to the permitted capacity of 5.3 mgd because of a lack of land on which to use the treated effluent as irrigation water. The City has secured land and is in the process of annexing that land for effluent irrigation and biosolids spreading. Use of these lands will increase the permitted capacity of the treatment plan. Occupation of the project will not be permitted prior to completion of the annexation of land for biosolids spreading. New stormwater drainage facilities will installed as needed to serve the project. Sources: 30 & 35.

f): **No Impact.** The City of Porterville disposes of its solid waste at the Tea Pot Dome Disposal Site, southwest of the City. The landfill has sufficient permitted capacity to accommodate the projects solid waste disposal needs. Sources: 28 & 35.

g): **No Impact.** Refuse removed from the project area will conform to County regulations.
XVII. MANDATORY FINDINGS OF SIGNIFICANCE --

Would the project:

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?  □  □  □  ☒

b) 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 past projects, the effects of other current projects, and the effects of probable future projects)?  □  □  □  ☒

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?  □  □  □  ☒

Response:

a), b), c): No Impact. The project as proposed will have no impact on the quality of the natural environment, individually or cumulatively, and will not have substantial adverse effects on humans either directly or indirectly.
NEGATIVE DECLARATION

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

PROJECT APPLICANTS: Jerome Stehly
32542 Aqueduct Road
Bonsall, CA 92003

PROJECT TITLE: Iris Hill Tentative Subdivision Map

ADDRESS/LOCATION: Generally the southeast corner of North Main Street and Reid Avenue.

PROJECT APPLICANT: Jerome Stehly

PROJECT DESCRIPTION: The Tentative Subdivision Map for Iris Hill Tentative Subdivision proposes to divide a 39 ± acre vacant parcel zoned City R-1 (One Family Residential) Zone into 119 single family residential lots in two (2) phases.

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

On February 10, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project described herein and has found that this project will have no significant impact on the environment for the following reasons:

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

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

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

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

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

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: February 10, 2005
Word: NegdeclinHILL

Approved: [Signature]
Bradley D. Dunlap, Environmental Coordinator
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 IRIS HILL ESTATES TENTATIVE
SUBDIVISION MAP FOR THAT 39± ACRE VACANT
SITE GENERALLY LOCATED ON THE SOUTHEAST CORNER
OF NORTH MAIN STREET AND REID AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of March 7, 2006, conducted a public hearing to consider approval of Iris Hill Estates
Tentative Subdivision Map for a 39± acre vacant site to develop 119± single family residential
parcels for that site located generally on the southeast corner of North Main Street and Reid
Avenue; and

WHEREAS: On February 10, 2006, the Environmental Coordinator made a preliminary
determination that a Mitigated Negative Declaration would be appropriate for the proposed
project; and

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

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

2. That the Negative Declaration prepared for this project was made available for
public review and comment. The 20 day review period was from February 10,
2006 to March 1. The San Joaquin Valley Air Pollution Control District provided
standard comments and concurred with the determination of the environmental
document.

3. That the proposed project will not create adverse environmental impacts;

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

4. That the mitigation measures contained in the Negative Declaration were
incorporated into a Mitigation Monitoring Program attached hereto as Attachment
A and included as condition 49 in the proposed resolution of approval for Iris Hill
Tentative Subdivision Map;
5. That the City Council is the decision-making body for the project;

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; and

8. That the environmental document and analysis prepared for this 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 for Iris Hill Tentative Subdivision Map as described herein.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By __________________________

Georgia Hawley, Chief Deputy City Clerk
## Mitigation Monitoring Program
### Attachment A

<table>
<thead>
<tr>
<th>Impact No.</th>
<th>Impact</th>
<th>Mitigation Measure</th>
<th>Level Of Significance After Mitigation</th>
<th>Responsible Party</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Impact #3 a, b, c, d: Air Quality</strong></td>
<td>Conflict with or obstruct implementation of the applicable air quality plan. Violate any air quality standard or contribute substantially to an existing or projected air violation. 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. Expose sensitive receptors to substantial pollutant concentration.</td>
<td>Air Quality Impacts from this project will come mainly from two sources: particulate (dust) emissions from project construction, and operational emissions from vehicular trips associated with the project. Construction emissions are temporary in nature and are considered by the San Joaquin Valley Air Pollution Control District (SJVAPCD) to be less than significant if the SJVAPCD's Regulation VIII mandatory dust control measures are followed. Because these measures are mandatory, and therefore part of the regulatory setting of the project, they do not constitute mitigation. Regulation VIII also contains optional dust control measures that will be followed during project construction and will help further reduce particulate emissions. Because these measures are voluntary, they are considered to be mitigation. Regulation VIII mandatory and optional dust control measures are listed in Tables 1 through 4 on the following pages. The project does not exceed the Small Project Analysis Level published by the San Joaquin Valley Air Pollution Control District in the guide for assessing and Mitigating Air Quality Impacts (GAMAQI) for Residential developments.</td>
<td>Less than significant</td>
<td>SJVAPCD/City of Porterville</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
<td>Mitigation Measure</td>
<td>Level Of Significance After Mitigation</td>
<td>Responsible Party</td>
</tr>
<tr>
<td>-----------</td>
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</tr>
<tr>
<td>Impact #6 a, b, c, d) iv Geology and Soils</td>
<td>Expose people or structures to potential substantial adverse effects, including the risk or loss, injury, or death involving: Landslides Result in substantial soil erosion or the loss of topsoil. 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. Be located on expansive soil, creating substantial risks to life or property.</td>
<td>The project is located on the soil type Cibo Clay as defined by the US Department of Agriculture’s Natural Resources conservation Service. In the Soils survey of Tulare county, Central Part, Cibo Clay is described as having slow permeability and high erosion hazards. The soil is also subject to expansion. The slopes associated with the Cibo Clay (up to 15% within the project area) results in some risk of landslides, instability, erosion, and expansion. The developer through a thorough soils study and engineering methods to stabilize the soils will mitigate these risks. The City Engineer will work with the developer to ensure appropriate actions are taken to reduce the potential of impact to less than significant. Development of the site as proposed will result in ground disturbance through leveling, grading, etc., and could contribute to minor soil erosion during construction. Normal project procedures, including the enforcement of a site development plan and other development related conditions of approval would maintain a less than significant impact in regards to erosion. In addition, conformance with the City Storm Drain master Plan, and requirements relative to grading, the California Building code, etc., will be required. A hydrology and soils report will be required as per the City requirements.</td>
<td>Less than significant</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
<td>Mitigation Measure</td>
<td>Level Of Significance After Mitigation</td>
<td>Responsible Party</td>
</tr>
<tr>
<td>-----------</td>
<td>------------------------------------------------------------------------</td>
<td>------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>---------------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Impact #8 a, c, d, e, f Hydrology and Water Quality</td>
<td>Violate and water quality standards or waste discharge requirements. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in manner that would result in substantial erosion or siltation on or off-site. Substantially alter the existing drainage pattern of the site or area, including thought 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>Oils, chemicals and residues conveyed by storm water runoff along streets, driveways and other impervious surfaces, could violate water quality standards. 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 site is within the boundaries of the City’s Master Plan for Strom Drainage (2001). Consequently, the storm water generated from future development of the site has been anticipated by the plan. 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. Drainage 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 features are constructed. The installation of the curbs, gutters and drop inlets to allow water to channel into the existing storm drain line will prevent any future drainage problems in this area. The City’s wastewater treatment plant has a permitted capacity of 5.3 million gallons per day (mgd) and is currently operating at 5.1 mgd. The plant has a rated capacity of 8 mgd, but is limited to the permitted capacity of 5.3 mgd because of a lack of land on which</td>
<td>Less than significant</td>
<td>City of Porterville</td>
</tr>
</tbody>
</table>

Date: March 1, 2006
<table>
<thead>
<tr>
<th>Impact No.</th>
<th>Hydrology and Water Quality (continued)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impact</td>
<td>Create or contribute runoff water that would exceed the capacity of existing or planter storm water drainage systems or provide substantial sources of additional sources of polluted runoff.</td>
</tr>
<tr>
<td>Impact</td>
<td>Otherwise substantially degrade water quality.</td>
</tr>
<tr>
<td>Responsible Party</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>Level Of Significance After Mitigation</td>
<td>Less than significant</td>
</tr>
<tr>
<td>Mitigation Measure</td>
<td>to use the retreated effluent as irrigation water. The city has secured land and is in the process of annexing that land for effluent irrigation and biosolids spreading. Use of this land will increase the permitted capacity of the treatment plant.</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
</tr>
<tr>
<td>-----------</td>
<td>--------</td>
</tr>
<tr>
<td>Impact #11 a, b: Noise</td>
<td>Exposure of person 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 Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels.</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
</tr>
<tr>
<td>-----------</td>
<td>--------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Impact #15 a, b: Transportation/Traffic</td>
<td>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. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated road or highways.</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact</td>
</tr>
<tr>
<td>------------</td>
<td>--------</td>
</tr>
<tr>
<td>Impact #16a, b, c: Utilities and Service Systems</td>
<td>Exceed wastewater treatment requirements of the applicable Regional Water Quality control Board. 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>
</tr>
<tr>
<td>Impact #16b</td>
<td></td>
</tr>
<tr>
<td>Impact #16c</td>
<td></td>
</tr>
</tbody>
</table>
### Table 1
**Regulation VIII Control Measures for Construction Emissions of PM10**

<table>
<thead>
<tr>
<th>Regulation VIII Control Measures – The following controls are required to be implemented at all construction sites.</th>
</tr>
</thead>
<tbody>
<tr>
<td>All disturbed areas, including storage piles, which are not being effectively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.</td>
</tr>
<tr>
<td>All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.</td>
</tr>
<tr>
<td>All land clearing, grubbing, scraping, excavation, land leveling, grading, cut &amp; fill, and demolition activities shall be effectively controlled of fugitive dust emissions using water or by presoaking.</td>
</tr>
<tr>
<td>With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.</td>
</tr>
<tr>
<td>When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space form the top of the container shall be maintained.</td>
</tr>
<tr>
<td>All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)</td>
</tr>
<tr>
<td>Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.</td>
</tr>
<tr>
<td>Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.</td>
</tr>
<tr>
<td>Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.</td>
</tr>
<tr>
<td>Limit the speed of vehicles traveling on uncontrolled unpaved access/haul roads within construction sites to a maximum of 15 miles per hour.</td>
</tr>
</tbody>
</table>

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002, and SJVAPCD Regulation VIII
### Table 2
**Information to be Contained in a Dust Control Plan as Required by Regulation VIII**

<table>
<thead>
<tr>
<th>A dust control plan shall contain all of the following information:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name(s), address(es), and phone number(s) of person(s) and owner(s)/operator(s) responsible for the preparation, submittal, and implementation of the Dust Control Plan and responsible for the dust generating operation and the application of dust control measures.</td>
</tr>
<tr>
<td>A plot plan which shows the type and location of each project.</td>
</tr>
<tr>
<td>The total area of land surface to be disturbed, daily throughput volume of earthmoving in cubic yards, and total area in acres of the entire project site.</td>
</tr>
<tr>
<td>The expected start and completion dates of dust generating and soil disturbance activities to be performed on the site.</td>
</tr>
<tr>
<td>The actual and potential sources of fugitive dust emissions on the site and the location of bulk material handling and storage areas, paved and unpaved roads; entrances and exits where carryout/trackout may occur; and traffic areas.</td>
</tr>
<tr>
<td>Dust suppressants to be applied, including: product specifications; manufacturer’s usage instructions (method, frequency, and intensity of application); type, number, and capacity of application equipment; and information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.</td>
</tr>
<tr>
<td>Specific surface treatment(s) and/or control measures utilized to control material carryout, trackout, and sedimentation where unpaved and/or access points join paved public access roads.</td>
</tr>
<tr>
<td>At least one key individual representing the owner/operator or any person who prepares a Dust Control Plan must complete a Dust Control Training Class conducted by the District. The District will conduct Dust Control Training Classes on an as needed basis.</td>
</tr>
</tbody>
</table>

### Table 3
**Enhanced and Additional Control Measures for Construction Emissions of PM10**

<table>
<thead>
<tr>
<th>Enhanced Control Measures – The following measure should be implemented at construction sites when required to mitigate significant PM10 impacts (note this measure is to be implemented in addition to Regulation VIII requirements).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.</td>
</tr>
<tr>
<td>Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction.</td>
</tr>
<tr>
<td>Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.</td>
</tr>
<tr>
<td>Install wind breaks at windward side(s) of construction areas</td>
</tr>
<tr>
<td>Suspend excavation and grading activity when winds exceed 20 mph*; and</td>
</tr>
<tr>
<td>Limit area subject to excavation, grading, and other construction activity at any one time</td>
</tr>
</tbody>
</table>

*Regardless of windspeed, an owner/operator must comply with Regulation VIII’s 20 percent opacity limitation.
Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002

City of Porterville
### Table 4
Construction Equipment Mitigation Measures

<table>
<thead>
<tr>
<th>Emission Source</th>
<th>Mitigation Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heavy duty equipment</td>
<td>Use of alternative fueled or catalyst equipped diesel construction equipment</td>
</tr>
<tr>
<td>(scrapers, graders,</td>
<td>Minimize idling time (e.g., 10 minute maximum)</td>
</tr>
<tr>
<td>trenchers, earth movers, etc.)</td>
<td>Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use</td>
</tr>
<tr>
<td></td>
<td>Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)</td>
</tr>
<tr>
<td></td>
<td>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</td>
</tr>
<tr>
<td></td>
<td>Implement activity management (e.g. rescheduling activities to reduce short-term impacts.</td>
</tr>
</tbody>
</table>

Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002
RESOLUTION NO. _______________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL FOR IRIS HILL ESTATES TENTATIVE SUBDIVISION MAP FOR THAT 39± ACRE VACANT SITE GENERALLY LOCATED ON THE SOUTHEAST CORNER OF NORTH MAIN STREET AND REID AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of March 7, 2006, conducted a public hearing to consider approval of Iris Hill Estates Tentative Subdivision Map for a 39± acre vacant site to develop 119± single family residential parcels in two (2) phases for that site located generally on the southeast corner of North Main Street and Reid Avenue; and

WHEREAS: On February 10, 2006, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

WHEREAS: The Subdivision Review Committee on March 1, 2006, reviewed and discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review have been discussed with the applicant’s agent and incorporated into the draft resolution of approval; and

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

WHEREAS: The City Council made the following findings:

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

   The Land Use Element of the General Plan designates the site for Low Density Residential development (2-7 d.u./acre). The proposed subdivision will be developed to a density of 3.05 d.u./acre.

   Both North Main Street and Reid Avenue are designated arterial streets. Interior streets will allow the circulation to enter and exit North Main Street from Pioneer Avenue to the south and at two (2) points onto Reid Avenue to the North.

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

   The subject site is located on hill that gently slopes from east to west. The slope extending east has grades up to 15%. Such slopes will require substantial grading
to create individual house pads. A conceptual grading plan has been submitted. Steeper slopes provide less absorption and create additional storm run-off. Appropriate conditions of approval will be applied to the project to ensure suitable development.

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 47 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. To the north is fallow land and orchards; to the west is fallow land, a restaurant and railroad spur; to the east is fallow land and a developed subdivision on top of a hill; to the south is a single family residential dwelling and fallow land. 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 with a single exception for lot depth and double frontage lots. The development standards of the R-1 (One Family Residential) Zone including lot sizes, site coverage, parking, etc., will apply to the site.

8. Pursuant to Section 21-1.4 of the Subdivision Ordinance, the City Council can modify any of the requirements and regulations set forth in the Subdivision Ordinance provided that the City Council find the following facts with respect thereto:
a. That there are special circumstances or conditions affecting such property.

Response: Due to topography, the irregular shape of the 39± acre vacant parcel and the desire of the developer to provide lots which are developable, consistent with the topography and being able to provide a non-grid interior street circulation plan, the excessive lot depths for Parcels 30, 36, 41, 49, 50, 66, 32, 33, 35, 42, 44, 45, 48 and 70 can not be avoided.

Also, the request to allow double frontage lots for those lots fronting on North Main Street and Reid Avenue was not only based on the topographic conditions within the property, but also upon the City Council’s desire to eliminate driveways on arterial, collector and other heavily traveled streets. As a condition of approval, a six (6) foot high masonry block wall and landscaping will be required along the full length of North Main Street and Reid Avenue fronting on the subject subdivision. Access to North Main Street and Reid Avenue from these lots will not be allowed.

b. That the modifications are a necessary for the preservation and enjoyment of a substantial property right of the petitioner.

Response: The modifications are requested to allow the property to be subdivided pursuant to all other City design standards.

c. That the granting of the modifications will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.

Response: The exception will allow the property lines for the interior lots to have an average of 185± feet in depth, which is five feet more than the allowed maximum of 180 feet. The only exception would be to Parcel 66 which would have a lot depth of 492± feet.

The exception to allow for double frontage lots along North Main Street and Reid Avenue is consistent with other similar subdivisions. Access from driveways onto arterial, collector and other heavily traveled streets is discouraged.

d. That the granting of the exception is in accordance with the purposes prescribed in Section 21-1.1 of this Chapter and the Subdivision Map Act.

Response: The modification will allow for the subject site to be developed while insuring that pursuant to Section 21-1.1 (Purpose and Scope)
of the Subdivision Ordinance the objectives in this section are achieved.

e. That the granting of the exception is consistent with the General Plan. Any exception may be granted subject to any reasonable conditions which are deemed necessary to effectuate the purposes of this Chapter.

Response: The design of the tentative subdivision map complies with the requirements of the Zoning Ordinance and Subdivision Ordinance (with the exception of lot depth and double frontage lots) and is consistent with the density allowed by the General Plan.

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

1. The required twelve (12) foot side yard setback to include six (6) foot fences for all reverse corner lots shall be required. As currently designed, Lots 19, 22, 31, 69, 94, 96 and 102 are reverse corner lots.

2. No access to Lot 41 will be permitted form Pioneer Avenue and access to Reid Avenue and North Main Street will be allowed from those streets.


4. 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.

5. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and improve a right-of-way adequate for a minimum of two lanes of traffic and on-street parking, on one side, on streets adjacent to the property lines as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23). In accordance with City Council’s adopted N. Main Street alignment plan, 36 feet of additional right of way dedication is required along the westerly development boundary. An easement that varies from 15 feet to 25 feet for a graded slope, drainage, and Public Utilities shall also be dedicated along the N. Main Street frontage. A block/retaining wall along Main Street may eliminate the
need for the slope easement along Main Street. No additional right of way will be required for Reid Avenue if 60 feet exists.

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

7. 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.

8. The developer/applicant shall cause all unnecessary easement to be vacated prior to or in conjunction with the Final Map processing.

9. Prior to approval of the improvement plans, the developer/applicant shall have completed and approved, landscaping and/or lighting improvement plans, legal descriptions, etc. The developer/applicant shall petition, on a form provided by the City, to have said subdivision placed in a Lighting and Landscape Maintenance District at the time the final map is approved. Landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the subdivision. The following shall be included in said annexation to the district: (1) Lighting, (2) Public Landscaping, (3) Public walls/fences (4) Temporary on-site or off-site drainage reservoir, concrete swales, if any, etc.

The developer/applicant shall prepare an Engineer’s report for the formation of the Landscape and Lighting District, and the establishment of assessments in order to provide for ongoing maintenance of subdivision improvements to be included within the Lighting and Landscape Maintenance District. The Lighting and Landscape Maintenance District shall be established into an existing District and Landscape and Lighting improvements shall be completed and accepted concurrently with the other improvements in the subdivision.

Exclusive of assessments for a Lighting and Landscape Maintenance District, the developer/applicant shall perform all service fees and landscape maintenance for the period of time between the date that the improvements are accepted by the City until assessment begins for the Lighting and Landscape Maintenance District.

10. A minimum six (6) foot block wall and landscaping along the North Main and Reid Avenue frontages of the project will be required. Said area shall be placed in a Landscape Maintenance District. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall. The wall(s) shall meet the following standards:

a. The wall(s) shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Director.
b. The wall(s) shall include articulation at intervals of approximately 80 feet except where such articulation is precluded by design constraints. In no case shall a wall exceed 160 feet without articulation. Methods of articulation may include the following:
  * A minimum planting of six (6) feet in width to a minimum of 24 inch change of plane.
  * A minimum of an 18 inch change in height.
  * A section of semi-open fence, except where such a feature would interfere with required sound protection.
  * A change of material.

11. The developer/applicant shall furnish and plant one #15 tree approved as a City Street Tree within the front yard of each lot. One (1) additional tree is required on each corner lot.

12. The Main Street and Reid Avenue Streetscape shall comply with Ordinance No. 1483, the Water Efficient Landscape Ordinance. Landscape and irrigation designs must be provided. Two (2) sets of landscape and irrigation plans are required with a $25.00 plan check fee.

A minimum 6-foot wide landscape area shall be provided between the masonry wall and the sidewalk along the Main Street and Reid Avenue frontages. A wall and landscape maintenance easement shall be conveyed to the City of Porterville along the rear yards of lots abutting Main Street and Reid Avenue, unless the walls are located entirely within public right-of-way.

13. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix Chapter 33 of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:

a. Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);

b. Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading (CBC Appendix chapter 33). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;

c. Soils Report(s) in accordance with Chapter 18 of the California Building Code. Specific to this development is the necessity to address slope stability, prior to approval of the improvement plans. Said report shall be prepared in accordance with Guidelines for Evaluating and Mitigating Seismic Hazards in California.
14. 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.

15. In accordance with Section 21-510 of the Subdivision Ordinance, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months.

16. 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.

17. 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. The developer/applicant shall communicate, in writing, with the irrigation company of record discussing the proposed development and determine if the development will have any impact on their facilities. Copies of the written correspondences shall be delivered via certified mail with a copy to the City.

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

20. 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.).

21. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible
for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.

22. 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.

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

24. 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. There are significant improvements, property acquisitions and other issues involved in implementing the Strom Drain Master Plan. Should it become unreasonable to implement the Storm Drain Master Plan upon development of the proposed subdivision,
the developer/applicant may provide on-site or off-site temporary drainage reservoirs in accordance with City Standards.

25. The developer/applicant shall construct a concrete drainage swale, replacing the existing ditch along the easterly boundary, if in the opinion of the City Engineer it becomes an integral part of the development’s drainage system. The hillside runoff, specifically along the easterly project boundary, shall be captured by a concrete swale or other means acceptable to the City Engineer and directed to the City’s drainage system. Access to, from, and along these drainage facilities shall be provided for maintenance purposes as approved by the City Engineer.

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

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

28. 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.

29. 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.
30. The developer/applicant shall construct two (2) City standard barricades at the end of all dead end streets.

31. Due to the adopted N. Main Street alignment plan, the developer/applicant shall construct Main Street improvements in the following manner:

   a. Construct curb, gutter, sidewalk, drainage ditch, cut slope, and block wall as shown on the preliminary improvement plans on file at the City of Porterville. A block/retaining wall along Main Street may eliminate the need drainage ditch and cut slope (slope easement) along Main Street.

   b. The profile grades shown on the preliminary improvement plans are acceptable to the City and can be used for design purposes.

   c. Extend the existing road easterly to provide for safe parking (8' of parking and a 4' shoulder) along full frontage.

   d. The street shall be wide enough to accommodate a northbound deceleration lane/right hand turn lane onto Reid Avenue. This lane shall also be a minimum of 100 feet in length. No Parking will be allowed along the right hand turn lane.

   e. Construct drainage ditch along the new edge of pavement that directs the storm water to the City’s drainage system.

   f. Install a landscaping and an irrigation system along the full frontage in the areas left vacant by the construction of the herein described public improvements. These improvements will create a vacant area between the edge of pavement and the new curb. They will also create another vacant area between the back of sidewalk and the block wall.

   g. A landscape and irrigation plan shall be prepared by a Licensed Landscape Architect and delivered to the City for review as part of the improvement plans.

   h. Main Street cross section shall depict the herein described conditions.

32. The developer/applicant shall construct public improvements that provide for a minimum of two (2) lanes of traffic and on-street parking, on the north side of Pioneer Avenue, adjacent to the southerly property line, as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23).

33. The developer/applicant shall construct the sewer main from N. Grand Avenue to Reid Avenue as depicted in the Sewer Master Plan. Construction of this sewer main requires the acquisition/dedication of off-site easements.

34. 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.

35. 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).

36. Prior to acceptance of improvements, the developer/applicant shall provide streetlights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer.

37. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision: One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one (1) for each 10 lots in the subdivision or four, whichever, is greater. The model homes shall be clustered.

38. The developer/applicant shall construct water main(s) along the frontages of the proposed development, as depicted in the Water Master Plan.

39. 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.

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

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

42. Where new water mains are extended along streets where hydrants are not needed for protection of structures or similar fire problems, fire hydrants shall be provided at a spacing not to exceed 1,000 feet to provide for transportation hazards.

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

44. Depending on the location of the existing fire hydrant(s), additional fire hydrants will be required.

45. Access roads shall be provided for every facility, building or portion of a building, when any portion of the facility or portion of an exterior wall is located more than 150 feet from a fire apparatus access as measured by an approved route around the exterior of the
building.

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

47. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Sec. 22500.1

48. At all times, the residential uses on the subject site shall be operated and maintained to comply with State Law, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.

49. 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.

50. The developer/applicant will ensure the following guidelines for material and colors are adopted by the builder. The guidelines pertain to both residential and community property contained in the subdivision. The guidelines can only be modified by approval of the Porterville City Council, unless the Council delegates such authority to City Staff.

   Exterior material must consist of wood siding, composite wood/cement fiberboard siding, or stucco. Highly reflective roofing and white or blue roofing is not permitted. Exterior colors may be varied throughout the development, so long as the color palette is composed of complementary colors, such as “earth tones”. No single exterior color scheme shall be used on more than 25% of the residential units. Acceptable colors include: muted green shades, tans and creams, all shades or gray, earth tones, and muted yellows. If blue tones are to be used, they shall have a substantial grey blend. Light colors such as white, cream, or light beige are acceptable but shall not dominate the subdivision. Trim (window, door, fascia, railings, shutters, etc.) shall be painted in a contrasting but complementary color to the body color of the home. Bright pastels and primary colors are not allowed as body or trim colors.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By __________________________

Georgia Hawley, Chief Deputy City Clerk
COUNCIL AGENDA: MARCH 7, 2006

PUBLIC HEARING

SUBJECT: ADJUSTMENTS TO CITY FACILITY RESERVATION AND RENTAL CHARGES

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The City Council has previously established rental charges for scheduled usage and activities at City facilities generally under the care and custody of the Parks and Leisure Services Department. These charges were last updated in 2002. Staff has provided suggestions to the Parks and Leisure Services Commission for adjustments to these charges. The Commission considered the suggestions at their February 2, 2006 meeting and made a few modifications to the staff suggested charges. The Commission has recommended that the City Council adopt the adjustments as indicated on the attached list. The Commission also recommends that the charges be evaluated for adjustments annually. A public hearing has been noticed for this meeting to provide the City Council with the ability to implement adjustments to the current facility reservation and rental charges.

RECOMMENDATION: Conduct a public hearing and adopt the Resolution adjusting City facility reservation and rental charges effective May 1, 2006.

ATTACHMENT: List of current and proposed facility reservation and rental charges
Resolution adjusting City facility reservation and rental charges
# CITY OF PORTERVILLE
## FACILITY RESERVATION AND RENTAL CHARGES

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RESOLUTION NO. – 2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADJUSTING CITY FACILITY RESERVATION AND RENTAL CHARGES

WHEREAS, the City of Porterville owns and operates various public facilities, which are available for rental on a reservation basis.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Porterville that, effective May 1, 2006, certain city facility reservation and rental charges be adjusted and established as indicated on Attachment ‘A’ hereto.

APPROVED AND ADOPTED THIS 7TH DAY OF MARCH 2006.

________________________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By: ______________________________
    Georgia Hawley, Deputy City Clerk
**RESOLUTION NO. – 2006, ATTACHMENT ‘A’**

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<td>per hour</td>
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</tr>
<tr>
<td>Sports Complex - Youth Game</td>
<td>per person, per game</td>
<td>$ 1.00</td>
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<tr>
<td>Sports Complex - Youth Practice</td>
<td>per hour</td>
<td>$ 5.00</td>
</tr>
<tr>
<td>OHV Track</td>
<td>per day/use</td>
<td>$ 500.00</td>
</tr>
<tr>
<td>(track preparation only, flaggers &amp; EMTs not included)</td>
<td></td>
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</tr>
<tr>
<td>Pool</td>
<td>(includes lifeguards) per hour</td>
<td>$ 125.00</td>
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</tbody>
</table>
SUBJECT: CONSIDERATION OF POLICE FEE ADJUSTMENT

SOURCE: Police Department

COMMENT: The City of Porterville has completed a citywide fee study, prepared by Maximus. The purpose of the study was to review the current fee schedule, and determine if the fee should be adjusted to improve cost recovery. The last such study took place in 1988, and many of the fees established in 1988 have not changed.

The Council reviewed the fee study in a study session held on July 8, 2005. At that time, Council requested that staff bring back the results of the study, by Department, in successive months beginning in the month of August.

The Police Department reviewed the current 1988 fee schedule, reassessed the services offered, audited the staff hours associated with each task, and provided the adjusted services and time factors to Maximus. The final product reflects current services provided by the Police Department, the time staff works at each task, and incorporated current staff salaries into the calculation of the suggested fee.

Upon completion of the study and review of the final Cost Allocation Plan & User Fee Study provided by Maximus, the Police Department recommends review and consideration of the fees as recommended in the attached schedule. The fees for LiveScan fingerprinting, copying of crime reports, and false alarms call for discussion and special consideration.

1. The current Police Department fee for LiveScan fingerprinting is $13.00 (Police Fee-11). This fee is intended to recover the cost of having a police employee obtain the person's fingerprints on the LiveScan system. In addition to the fingerprinting fee, the person being fingerprinted is expected to pay any/all costs charged by the Department of Justice, which varies from $32.00 to $69.00, depending on the extent of the background check.

DD[30] Appropriated/Funded [Signature] CM [Signature] Item No. 20
2. The current charge for the copying of Police Accident/Crime Reports that are requested by the public is $25.00 (Police-14). The current fees are set through the Public Records Act, which allows a charge of no more than 12¢ a page, plus employee cost for the act of copying, plus paper, copy machine depreciation, and toner. The $25.00 fee is in line with the Public Records Act requirements and fairly compensates the Police Department for this service.

3. The Police False Alarm Fees (Police – 15) has prompted much review and analysis. The current fee is $16.00 for the third false alarm response in a six-month period, which is preceded by a letter to the property owner explaining the ordinance and the potential for a fee. The property owner is sent a second letter at the time of billing, highlighting the ordinance and the dates and times of the Police Department’s response to their property. It appears the ordinance defines this False Alarm Service Fee as a penalty or fine against the persons or businesses who experience an excessive number of false alarms that necessitate a police response. It is believed the intent of the ordinance was to encourage or move persons or businesses to have properly functioning alarms that are activated upon the true need for a police response.

During fiscal year 2004/2005, officers of the Police Department responded to 2,138 burglary alarm calls, 1,685 of which were determined to be erroneous or false in nature. The Maximus schedule recommends raising the fee to $112, however, the Police Department feels this is excessive as a penalty and recommends an adjustment to $50.00 for the third false alarm response.

**RECOMMENDATION:** That Council review and adjust Police Department Fees as recommended in the Maximus schedule, with the following exceptions; Adjust the fee for LiveScan fingerprinting to $15.00; Retain the Police Crime/Accident Report copying fee at $25.00; and adjust the False Alarm Service Fee to $50.00.
COUNCIL AGENDA: MARCH 7, 2006

SUBJECT: DECLARE COMMUNITY CENTER PROPERTY SURPLUS AND INITIATE PROCESS TO DISPOSE OF REAL PROPERTY

SOURCE: Parks & Leisure Services Department

COMMENT: The Porterville Community Center located at 466 East Putnam Avenue is no longer being utilized for City programs. All activities have been relocated to other facilities and scheduling of the facility for rental has been discontinued. The facility is in need of considerable renovation and the City does not have a funding source to accomplish the renovation. In addition, no funds are available to adequately maintain the facility in the future.

The main portion of the building was erected in the early 1950’s, with two wings added to the north side by the early 1960’s. The building contains 7,025 square feet of floor area, an additional 1,250 square foot basement, and a 2,835 square foot covered patio. The building is accompanied by a large paved parking lot on the 1.47 acre parcel of land.

Staff have evaluated the condition of the existing building and determined that it needs a new roof, mechanical replacements, replacement of flooring and floor surfacing, plumbing replacement, electrical sub-panel replacements, attic draft stop installations, repainting of both inside and outside, disability access improvement, and other improvements to make it fully usable for City conducted public assembly activities or rentals.

Staff estimates the cost for the design and construction of these improvements at $2.7 million. Following direction by the City Council, an independent estimate of cost for the needed improvements was determined to be between $1.5 million and $2.1 million according to Mr. John Gifford, a local contractor. Ongoing annual maintenance for the building is estimated at $190,000 without the improvements, and $90,000 if the improvements are made.

An appraisal of the property value has been obtained. The City also has a real estate broker on retainer to assist with real property disposal. However, prior to placing the property onto the market for sale, other public agencies must be notified to determine their interest in the property.

It would be appropriate at this time for the City Council to authorize the City Purchasing Agent to initiate the process to dispose of this real property. Final disposition will be brought back to the Council for consideration prior to approval of any contract. The disposition of any proceeds from sale of the property can be directed at the time that the matter is brought back to the City Council.

ITEM NO.: 21

_____ Dir. _____ Appropriated/Funded _____ CM
RECOMMENDATION:  That the City Council:

1. Declare the real property located at 466 East Putnam Avenue as surplus, and

2. Authorize the City Purchasing Agent to initiate the statutory process and coordinate efforts to dispose of this real property.

ATTACHMENT:

Locator map
Building Official’s Memorandum of January 23, 2006
Letter from John Gifford Construction dated January 30, 2006
MEMORANDUM

DATE: January 23, 2006

TO: Jim Perrine, Director
    Parks and Leisure Services Department

FROM: Bob Oates, Chief Building Official
       Building Division

SUBJECT: Community Center
         466 E. Putnam Avenue

After our site visit last Thursday, January 19, 2006, I have come up with the following guess at what I would estimate costs for putting the Community Center back to acceptable levels.

I am sure unknowns will be discovered during the repair, remodel process that will require additional monies. Lead paint and asbestos are two concerns that could run the costs up. Compliance with ADA is another major expense and concern.

<table>
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<tr>
<th>Description</th>
<th>Cost</th>
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<tr>
<td>Roofing</td>
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<td>Kitchen</td>
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<td>Painting</td>
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<td>Miscellaneous-Doors, Thresholds, Weatherization, Etc.</td>
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<td><strong>Total</strong></td>
<td><strong>$2,392,500</strong></td>
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</tbody>
</table>
30 January 2006

Bob Oates
Chief Building Official
City of Porterville
291 N. Main St.
Porterville, CA 93257

RE: Community Center

Thanks for meeting with me to tour the Porterville Community Center. At your request, I have compiled an estimated cost for the repairs and improvements necessary to return it to a useful condition. This estimate and list of suggested repairs are based solely on a visual inspection of the building performed during our meeting and in no way should be interpreted as a complete analysis. They are preliminary in nature and intended to assist the City in determining the proper course of action only and should not be relied upon or used as an actual construction cost estimate.

For the purposes of determining the scope of the work, I used the following assumptions;

- The occupancy would remain Assembly, Division 2 as defined by the California Building Code
- All repairs and renovations would be required to comply with the currently adopted Codes and Regulations of the City and State
- Access to and within the building should comply with ADA
- The intent of the repairs and renovation would be to return the building to a stable condition and one which would require the minimum of repairs in the 10 year period following completion
- The continued use as a social and recreational facility, owned by the City and rented out to the public for multiple functions
- All work would be subject to the prevailing wage rates as determined by the CDL

I was unable to visually verify or deny the existence of asbestos in several of the building components, at a minimum the roofing, roof mastic, floor tiles and mastic, pipe duct insulation, water heater and HVAC venting. Given the age and type of construction of the building, I think it would be safe to assume that asbestos is present and would require remediation prior to any repairs.

The repairs and renovations included in this estimate are;

- Roof replacement
- Repairs to all water damaged fascia and roof structural members and sheathing
- Demolition of the existing restrooms and reconfiguring to ADA compliant restrooms
- Demolition of the (e) Kitchen and construction of a commercial kitchen, complete with range, hood and Ansul extinguishing system
- Repairs of all water damaged floor substrates and structural members
- Reconfiguring the main portion of the building by removing the (e) interior wall
- Reconfiguration of the East wing from individuals offices to larger spaces
- Replacement of broken or settling concrete areas, including portions of the patio, steps and railing where appropriate
- Installation of two new ADA compliant ramps at the primary entrances front and back
- Replacement of all (e) doors and hardware with ADA and CBC compliant hollow metal doors, jambs and exiting devices
- Installation of a manual fire alarm in accordance with CBC and NFPA 72
- Installation of a fire sprinkler system, at a minimum to include the stage area and the basement
- Exit signage and emergency lighting
- Replacement of HVAC systems
- Upgrades and repairs to the building electrical and plumbing systems
- Replacement and upgrades to exterior and interior lighting, fixtures and controls
- Repairs to the asphalt parking areas
- Repairs or replacement of acoustic and plaster ceilings
- Interior and exterior wall repairs and painting
- Architectural design and engineering fees

The estimated minimum cost for the above listed items is $1,500,000.00. In addition, there is a high probability that more concealed damage may be discovered to the structural portions of the building necessitating more extensive repairs and Code upgrades than noted here. This of course would add to the estimated cost presented here and is difficult to determine, but may raise the overall cost to as high as $2,100,000.00

I hope this helps in your deliberations,

[Signature]

John Gifford
SUBJECT: PROPOSED AMENDMENT TO THE PORTERVILLE MUNICIPAL CODE
CHAPTER 12, ARTICLE II, "FIREWORKS", SECTION 12.2.1

SOURCE: Fire Department

COMMENT: On February 21, 2006, the City Council directed Staff to bring back an item regarding the possible amendment of the Fireworks Ordinance which would preclude a non-profit organization from being granted a firework's permit for more than three consecutive years.

The proposed revision to the Fireworks Ordinance would regulate the number of times, up to three consecutive years, that any non-profit organization could obtain a Fireworks permit through the current lottery process. Once a non-profit organization reached three consecutive years, that organization would not be eligible to participate in the application process for a Fireworks permit for a period of one year, thus increasing the opportunities of the other non-profit organizations to successfully obtain a Fireworks permit through the current lottery process.

At Council’s direction and upon review of the current process, staff is recommending the following two options for Council consideration:

Option 1: Amend Municipal Code Section 12.2.1 to limit non-profit organizations to a three (3) year limitation; or

Option 2: Amend Municipal Code Section 12.2.1 to limit non-profit organizations to a two (2) year limitation.

As the 2006 process has begun, any revision to the Fireworks Ordinance would not become effective until 2007.

RECOMMENDATION: That the City Council:
1. Approve Option 1, or Option 2, and direct Staff to bring back a draft ordinance modifying Porterville Municipal Code Section 12.2.1 for Council consideration; or


Item No. 22
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<td>Monache Band Parents</td>
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<td>Chamber of Commerce</td>
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<td>VFW Mt. Whitney Post # 201</td>
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<td>Porterville Adult Day Care</td>
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<td>Porterville Pregnancy Resource Center</td>
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<td>Porterville Church of God</td>
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<td>The Barn Theater</td>
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<td>Granite Hill High School, Class of 2007</td>
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AFFIRM USE OF CALTRANS PROCEDURES FOR ACQUISITION OF RIGHT OF WAY

Public Works Department - Engineering Division

This matter was brought to Council's attention on February 21, 2006 and at that time; Council directed that the item be brought back for further discussion. As stated before, Caltrans is requesting that the City of Porterville affirm that the City will use Caltrans procedures to negotiate and acquire right of way whenever a project involves State or Federal funds. Presently, the City uses its own procedures whenever local monies are the sole funding source.

The City's procedures are more streamlined and do not require the services of a State certified right of way agent. Further, City procedures allow City Council to approve or reject a signed agreement even if the acceptance offer is at the appraised value. Caltrans procedures require that the Council pre-approve the offer prior to any negotiations, or automatically approve the signed document negotiated by the right of way agent.

Caltrans reviewed the City's procedures and found, in their opinion, that the City's procedures do not include the necessary steps to fully protect the seller's interests. Because the City has never formally agreed to use Caltrans procedures and because Caltrans is aware that the City has its own procedures, Caltrans is insisting that the City affirm and commit to using Caltrans procedures on all projects involving State and Federal funds.

Caltrans recently notified the City that all State and Federally funded projects are on hold until the City affirms that it will abide by Caltrans procedures when using State or Federal funds. Projects currently affected by the "hold" are the Plano/Tule River Bridge project, the Plano/Mulberry Traffic Signal project and the Hybrid Vehicle Purchase project.

That the City Council:

1. Affirm by resolution that right of way negotiations and acquisition procedures will adhere to Caltrans procedures;

2. Direct the City Clerk to transmit said approved resolution to Caltrans Right of Way Division; and

3. Direct the Public Works Director to transmit under separate cover a letter to the Caltrans right of way agent requesting that Caltrans remove the hold on all City projects.

Resolution
RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AFFIRMATION OF THE USE OF CALTRANS
PROCEDURES FOR THE ACQUISITION OF
RIGHT OF WAY FOR STATE OR FEDERALLY
FUNDED PROJECTS

WHEREAS, Caltrans has notified the City of Porterville that it must use Caltrans
procedures to negotiate and acquire right of way whenever a project involves State or Federal
funds, even if right of way purchase monies are funded locally; and

WHEREAS, Caltrans has also notified the City of Porterville it has placed on hold all
State and Federally funded projects for the City until such time as the City of Porterville
affirms through resolution that it will use Caltrans procedures to negotiate and acquire right of
way for all State and Federally funded projects;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville
does affirm and assure that Caltrans procedures to negotiate and acquire right of way for all
State and Federally funded projects will be adhered to.

PASSED AND ADOPTED this 7th day of March, 2006.

__________________________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By: Georgia Hawley, Deputy Chief City Clerk
CITY COUNCIL AGENDA: MARCH 7, 2006

SUBJECT: INTERPRETATION OF AMBIGUITY – ELECTRONIC READER BOARD SIGN

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: City Staff has received a sign permit application to allow for a freestanding double faced electronic reader board sign to be located at 832 N. Main Street (Valley Motors).

Section 2010. (Prohibited Signs and Advertising Structures) of the Porterville Zoning Ordinance states the following:

A. “Any sign or advertising structure that is rotating, animated or contains any moving parts, shall not be permitted”.

B. “Any energized sign or advertising structure containing flashing lights, including signs or advertising structures with lights flashing in sequence to simulate movement [will not be allowed]”.

Section 2020 A. 2. c. of the Sign Ordinance provides for “permanent reader panels” which have been approved most often for churches. The current code was put into effect long before the common utilization of electronic reader boards came about

Staff is seeking a City Council determination as to whether an electronic reader board constitutes a permanent reader panel.

Staff believes that if an electronic reader board contains only text messages without flashing, characters, or animation, it should be considered the same as a permanent reader panel. It is simply modern technology to achieve the same end.

An exhibit showing the proposed sign that triggered this request is attached for reference.
RECOMMENDATION: That the City Council direct Staff to undertake the following:

1. Address this sign and future signs of this nature as an allowable sign as long as it/they fall within the standards (height, size, allowable square footage, etc., to include limitations on message action) of Article Twenty (Signs and Advertising Structures) of the Porterville Zoning Ordinance; and

2. Direct Staff to clarify the use of electronic reader boards in the Sign Ordinance amendment which is currently underway.

Attachments:

1. Proposed sign
2. Letter from Valley Motors
3. Section 2600 A of the Porterville Sign Ordinance
4. Section 2010 (Prohibited signs and Advertising Structures)
5. Section 2020 A. 2. c.
6. Draft Resolution clarifying ambiguity
VALLEY MOTORS - LED MESSAGE BOARD & HEADER CABINET PYLON SI

1/2" = 1'

5901 E. CLINTON AVE. FRESNO, CA. 93727
TEL (559)292-2944 / FAX (559) 292-2980
www.fresnoneon.com / nate@fresnoneon.com

PROJECT: Valley Motors
CONTACT: Don Weaver
SALES PERSON: Jack
DATE: 2/9/2006
CITY OF PORTERVILLE
PLANNING DEPARTMENT

JOSE,

PER OUR CONVERSATION ON TUESDAY I AM SUBMITTING A PROPOSAL TO INSTALL A LED MESSAGE CENTER SIGN AT OUR LOCATION AT 832 NORTH MAIN STREET. THE SIGN WE ARE PROPOSING WOULD MEET ALL CITY CODES SUCH AS ENGINEERING, SETBACKS, AND HEIGHT RESTRICTIONS. IT WOULD BE LOCATED IN FRONT OF OUR BUSINESS AND BE DOUBLE-SIDED. THE ENTIRE SIGN WOULD MEASURE 10'4"W X 5'4"H WITH THE MESSAGE CENTER MEASURING 10'4" X 3'4". THE TOP 2' WOULD BE OUR LOGO. THE TEXT WOULD BE A MAXIMUM OF THREE LINES. I HAVE INCLUDED DRAWINGS AND PICTURES THAT WILL SHOW AN APPROXIMATE IMAGE OF THE SIGN.

IT IS NOT OUR INTENT TO HAVE A "FLASHING" OR "MOVING" DISPLAY THAT WOULD BE DETRIMENTAL TO OUR CITY'S IMAGE, BUT RATHER TO ENHANCE IT. IT IS OUR DESIRE TO NOT ONLY ATTRACT BUSINESS TO OUR LOCATION BUT TO PROMOTE OUR CITY AS WELL. WE BELIEVE THIS CAN ACCOMPLISH BOTH GOALS. WE WOULD ESTIMATE AT LEAST 25% OF ADVERTISING TIME TO PROMOTE PROGRAMS IN THE CITY.

DON WEAVER

ATTACHMENT
ITEM NO. 2
ARTICLE TWENTY-SIX

GENERAL PROVISIONS AND EXCEPTIONS

SECTION 2600: Clarification of Ambiguity or Interpretation.

A. In the event of need for any clarification or interpretation, the City Council shall ascertain all pertinent facts and by resolution shall set forth its findings. Said clarification or interpretation shall govern until modified by resolution adopted in like manner or by appropriate amendment of this Ordinance. The foregoing shall apply in the following cases:

1. If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this Ordinance;

2. If ambiguity exists with reference to matters of height, yard, area and other requirements;

3. If uncertainty exists with reference to a zone boundary;

4. If an unforeseen condition arises or technological changes have been introduced;

5. If ambiguity or uncertainty arises as to the meaning of any word or provision contained in this Ordinance.

SECTION 2601: Public Utility Lines and Mains.

A. The provisions of this Ordinance shall not be construed to limit installation or maintenance of public utility pole lines pipes, conduits and distribution mains and domestic water wells or require any use permit therefor.

SECTION 2602: Height.

A. Height of a building shall be measured along the vertical distance from the average level of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof.

B. Churches and schools may be erected to a height of not more than seventy-five (75) feet, provided that such buildings shall in any case comply with the provisions of Section 2604.

C. Penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain buildings, fire and parapet walls, skylights, towers, roof signs, flagpoles, chimneys, smokestacks, television and radio masts or similar structures
SECTION 2009: Compliance with Federal and State Regulations.

A. Nothing contained in this Article shall be construed to exempt compliance with applicable outdoor advertising regulations of any federal or state agency having authority over the control of signs and advertising structures within such jurisdictions as may be designated adjacent to and along any Freeway, Highway, Interstate Highway, or Primary Highway.

B. If at any time a regulation or a provision of this Article conflicts with a similar regulation or a provision of another governmental agency, the more restrictive application shall apply unless noted otherwise.

SECTION 2010: Prohibited Signs and Advertising Structures.

A. Any sign or advertising structure that is rotating, animated, or contains any moving parts, shall not be permitted.

B. Any energized sign or advertising structure containing flashing lights, including signs or advertising structures with lights flashing in sequence to simulate movement.

C. No signs or sources of illumination shall be permitted in any zoned district if in the opinion of the Director of Community Development and Services they impose a glare upon any street, alley, driveway, parking area, adjacent property, or into the eyes of any motorist or pedestrian.

D. Non-appurtenant signs shall not be permitted in any zoned district.

E. Advertising structures containing display surface areas or image areas in excess of the maximum square footage permitted for allowable signing within the zoned districts in which they are located or are intended to be located, shall not be permitted.

F. No portable signs shall be permitted in any zoned district with the exception of those temporary advertising devices listed in Section 2013.

SECTION 2011: Temporary Real Estate Subdivision Signs.

A. Two temporary real estate subdivision signs, each face not to exceed one-hundred (100) square feet in area, may be located on any new subdivision zone; provided, that such signs and advertising structures shall be removed twenty-four (24)
C. When an exterior wall of a building faces abutting property in an R Zone, no advertising sign shall be painted or placed on such wall, or on any portion of the lot between said wall and said R Zone.

D. Signs attached to a building shall be mounted parallel to the face of the structure and shall not project more than eighteen (18) inches from the main building or its attached canopy, nor shall such sign exceed the roofline of the building to which it is attached.

E. Center Identification Signs: One (1) free standing Center Identification sign shall be permitted for integrated developments of five (5) or more separated businesses, providing that:

1. The total area of said sign shall not exceed forty (40) square feet plus five (5) square feet for each additional business in the center over five up to a maximum area allowed of one-hundred (100) square feet.

2. Said sign shall not exceed twelve (12) feet in height above the highest finished grade at the front property line.

3. Said sign with less than eight (8) feet clearance above finished grade or ground sign may be permitted in the front setback area within the P-0 zone, provided that no such sign shall be located within a ten (10) foot radius of the corner property lines of a corner lot.

SECTION 2020: Advertising in C-2, C-3, C-H, M-1, M-2, and A-D Zone.

A. The following regulations shall apply to all signs and advertising structures in the C-2, C-3, and C-H Commercial Zones, in the M-1 and M-2 Industrial Zone, and in the A-D Airport Development Zone.

1. No sign shall be permitted that does not pertain directly to an approved business service or activity conducted on the premises except as provided in section 2011 and Section 2012, or unless exempted by Section 2006.

2. Business Identification Signs: Not more than four (4) signs are permitted for the same business per business frontage and shall be subject to the following:
a. Their total advertising area shall not exceed either:

(i) Fifteen percent (15%) of the business face to which signs pertain, or forty (40) square feet, whichever is greater, for businesses conducted primarily within a building, or

(ii) One (1) square foot per linear foot of display frontage up to fifty (50) feet plus one-half (½) square foot for each additional linear foot of display frontage to which such signs pertain for businesses conducted primarily outside of a building.

b. Their height, including any part of the sign or advertising structure, shall not exceed the roofline of the building to which such signs are attached.

c. Freestanding business identification signs, permanent reader panels, or combinations thereof and their supporting structures, provided that:

(i) Their total height above the finished grade at the front property line does not exceed thirty (30) feet in height.

(ii) All other stipulated requirements relating to location, size, area, projection over public right-of-way, height, total signs or setbacks contained herein have been satisfied.

(iii) A business with frontage on more than one street shall be allowed additional signing on each street frontage, computed by the above formula.

(iv) No ground sign shall be located or constructed in any manner which could constitute a hazard to vehicular or pedestrian traffic on public or private property, and shall be subject to all of the regulations in this chapter.

Ground signs shall be subject to the setback requirements applicable to buildings in the zoning district where located.
(v) Signs displayed on awnings, canopies, and marquees shall be subject to all of the regulations as stipulated in this chapter.

Temporary signs, pennants, or banners shall not be suspended from any structure which, in the opinion of the Building Inspector, is not capable of supporting additional weight or wind loads.

(vi) When an exterior wall of a building faces abutting property in an R zone, no advertising signs shall be painted or placed on such wall, or on any portion of the lot between said wall and said R zone.

(vii) The total advertising area permitted within this section shall include all business identification signs in the aggregate, visible from the exterior of the business.

3. Center Identification Signs: In addition to the above, one (1) center identification sign per street frontage is allowed for integrated developments of five (5) or more separate businesses, subject to the following:

a. The combined sign area of the center identification sign does not exceed thirty (30) square feet per one hundred (100) lineal feet of the street frontage on which the sign is located, provided, however, that no one sign shall exceed three hundred and twenty (320) square feet per face.

b. No sign is permitted for frontage areas, located adjacent to residentially zoned districts, within a projection of the adjacent residential building setback line.

c. No sign shall exceed twenty (20) feet in height above the highest finished grade of the center at the street right-of-way line.

d. No sign shall be located within twenty (20) feet of the side property lines on interior lots, or in such a manner as to constitute a hazard to pedestrian or vehicular traffic.
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADOPTING AN INTERPRETATION OF AMBIGUITY WITH REGARD TO
ELECTRONIC READER BOARD SIGNS

WHEREAS: On March 7, 2006, the City Council considered whether an electric
reader board sign constitutes a permanent reader panel in light of Section 2010
(Prohibited Signs and Advertising Structures) of the Porterville Zoning Ordinance; and

WHEREAS: The ambiguity in this case results from the concern that under
current City Code the appropriate classification of LED technology is not defined, and a
question of the meaning and intent of this ordinance arises. Although this is not proposed
as an animated sign, these signs do have the potential of falling within the prohibited
sections of the Sign Ordinance; and

WHEREAS: It appears that pursuant to Section 2020 A. 2. c. of the Porterville
Zoning Ordinance “permanent reader panels”, the sign as proposed would be compatible
with this section.

WHEREAS: The City Council intends to provide guidance to City Staff and the
business community with regard to the approved resolution of ambiguity in the City’s
Zoning Ordinance.

NOW THEREFORE BE IT RESOLVED: That the City Council of the City of
Porterville does hereby adopt this resolution of ambiguity indicating that electronic
reader board signs will be allowed subject to the following condition:

1. That electronic reader boards will be allowed as long as they fall within the
guidelines (height, size, allowable square footage, etc., and do not include animation,
characters, flashing, or similar rapid movements) of Article Twenty (Signs and
Advertising Structures) of the Porterville Zoning Ordinance.

________________________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By: ________________________________
   Georgia Hawley, Chief Deputy City Clerk

ATTACHMENT
ITEM NO. 1
SUBJECT: WORKFORCE HOUSING REWARD GRANT PROGRAM

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The Workforce Housing Incentive Grant Program (WFH) is an innovative program designed to encourage cities and counties to approve new residential housing affordable to lower income households. The WFH Program, funded through the passage of Proposition 46 (Chapter 482, Statutes of 2002), provides grant funds to eligible local governments for every qualifying unit permitted beginning calendar year 2004. The City was awarded $143,575 for the housing produced in the 2004 calendar year. Grant awards can be used to fund any capital asset project. The first grant funds were designated for the new skate board park, Murry Park improvements, and the traffic signal at Plano Street and Mulberry Avenue.

The Department of Housing and Community Development (HCD) has issued the application for the second round of these grant funds which is due March 22, 2006. WFH Program funds will be awarded based on the number of bedrooms in newly constructed housing units affordable to very low-and low-income households with final land use approval issued on or after January 1, 2004 and building permits issued between January 1, 2005 and December 31, 2005.

All applicants must meet the following WFH Program threshold requirements to be eligible for funding:

- Housing Element adopted and found in compliance by HCD by December 31, 2005
- Submittal of the Annual Progress Report for 2004 to HCD by December 31, 2005
- Final land use approvals issued on or after January 1, 2004 and building permits for affordable units issued between January 1, 2005 through December 31, 2005

The City has met these threshold requirements with the final phases of the Casas Buena Vista subdivision and therefore is in the position to submit an application to the State for these grant funds.
The City anticipates receiving approximately $120,000 for the second year of the program. The planned uses for these funds include assisting one of the following projects:

1) the major reconstruction of the downtown public parking lot at the southeast corner of Hockett Street and Mill Avenue. These funds could be used in conjunction with Section 108 loan funds remaining from the construction of the Heritage Center for the reconstruction of the parking lot. Since this is an allowable use of funds under HUD guidelines, staff is in the process of amending the Consolidated Plan and the annual Action Plan to incorporate utilizing Section 108 funds for parking lot projects. This will be on the City Council agenda for approval the first meeting in May.

2) the completion of the Indiana Street project. This is a previously approved capital improvement project that is currently lacking the funding necessary to complete construction.

As typical with this type of state contract, the Mayor is authorized to sign the application, the Standard Agreement and all other participation documents, while the Community Development Director is authorized to execute all drawdown requests and other administrative documents for the program.

RECOMMENDATION: That the City Council:

1. Authorize the application submittal to the Department of Housing and Community Development for the Workforce Housing Reward Grant Program.

2. Approve the draft resolution authorizing the execution of the standard agreement and any other documents necessary to secure a Workforce Housing Reward Grant from the State of California.

3. Authorize the Mayor to sign the application, the Standard Agreement and all other participation documents and the Community Development Director to sign all drawdown requests and other administrative documents required for the Workforce Housing Reward Grant Program.

ATTACHMENT: Draft Resolution
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AUTHORIZING APPLICATION FOR WORKFORCE HOUSING REWARD GRANT

WHEREAS: The State of California, Department of Housing and Community Development (the "Department") has issued a Notice of Funding Availability dated May, 2005 (the "NOFA") under its Workforce Housing Reward (WFH) Program; and

WHEREAS: The City of Porterville ("Applicant") desires to apply for a WFH grant and submit the Application Package released December 2005 by the Department for the WFH Program; and

WHEREAS: The Department is authorized to approve funding allocations for the WFH Program, subject to the terms and conditions of the NOFA, Program Guidelines, Application Package, and Standard Agreement.

NOW, THEREFORE BE IT RESOLVED:

1. Application is hereby authorized and directed to apply for and submit to the Department the Application Package released December 2005 by the Department of the WFH Program. If the application is approved, Applicant is hereby authorized and directed to enter into, execute, and deliver a State of California Standard Agreement (the "Standard Agreement"), and any and all other documents required or deemed necessary or appropriate to secure a WFH Grant from the Department, and all amendments thereto (collectively, the "WFH Grant Documents").

2. Application shall be subject to the terms and conditions as specified in the Standard Agreement. Funds are to be used for allowable capital asset project expenditures to be identified in Exhibit A of the Standard Agreement. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application are enforceable through the Standard Agreement. Applicant hereby agrees to use the funds for eligible capital asset(s) in the manner presented in the application as approved by the Department and in accordance with the NOFA and Program Guidelines and Application Package.

3. That the Mayor and/or their designee are authorized to execute in the name of the City of Porterville the Application package and the WFH Grant Documents as required by the Department for participation in the WFH Program and that the Community Development Director is authorized to execute in the name of the City of Porterville grant drawdown requests, and all other administrative documents required by the Department for administration of the WFH program.

Pedro R. Martinez, Mayor
Attest:
John Longley, City Clerk
SUBJECT: AUTHORIZATION TO SUBMIT APPLICATION FOR "HELEN PUTNAM AWARD FOR EXCELLENCE"

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The League of California Cities has released a call for entries for the prestigious "Helen Putnam Award for Excellence". The annual awards event was established in 1982 and recognizes cities that deliver the highest quality and level of service in the most effective manner possible. Awards are given in variety of categories, including Public Works, Infrastructure, and Transportation. The application submittal deadline is April 12, 2006.

Staff believes that the Heritage Center construction, in conjunction with Santa Fe Elementary School, Orange Avenue reconstruction, and Casas Buena Vista development has significantly revitalized the neighborhood and provides for the needs of the area’s residents. As such, these projects, taken as a whole, make an excellent candidate for submission of an award application.

As Council is aware, staff is working on a variety of priority projects. Preparation of the award application is estimated to require a minimum of forty (40) staff hours to complete. Staff is seeking Council's input with regard to establishing the award application submittal as a priority project.

RECOMMENDATION: That the City Council establish submission of an application packet for the "Helen Putnam Award of Excellence" to the California League of Cities as a priority.
CITY COUNCIL AGENDA  

SUBJECT:  A Report Relating to Options Regarding Enhanced Services for An Internal Auditor  

SOURCE: Council Member Stadtherr and City Manager Longley  

The Council has asked for additional information regarding an internal auditor. Attached is information which has been collected regarding independent auditors in California cities.  

Section 59 of the City Charter: This provision requires the Council to employ a CPA annually to investigate the accounts and transactions of all city officers and employees having the collection, custody or distribution of public money or property, or the power to approve, allow or audit demands on the city treasury.  

Section 13 of the City Charter: This provision defines the administrative officers of the City (city manager, city attorney and a city clerk) and authorizes their appointment by the City Council. The section authorizes the council to define by ordinance other officers deemed necessary.  

Section 21 of the City Charter: This provision defines the specific duties in the Charter that are the responsibility of the City Manager.  

A Memorandum about Cities that Employ Internal Auditors: This memorandum provides case studies of California cities which have retained internal auditors. It also defines where the internal auditor reports.  

- In three cities (Berkeley, Oakland and Long Beach) the position is elected.  
- The survey indicated that the internal auditors report to the city manager or deputy city manager in Glendale and San Clemente,  
- An audit committee in Modesto, and  
- The finance director in Sunnyvale.  

If the position is to be full-time, the cost depends upon the salary for the position. To be consistent with normal City personnel procedures, there should be a full recruitment; the cost defined by Modesto of $156,000 would most probably be in the “ballpark”. Cost would include salary, benefits, direct administrative cost (office expense, telephone, travel training, supplies),  

[Signatures] Councilmember Stadtherr  City Manager Longley  

Item No. 27
and limited clerical and technical support.

Currently, the City does have an independent auditor who reports to the Council annually regarding his opinion relating to the Consolidated Annual Financial Report. At this time, about $37,740 is allocated for the service. This audit is required by the Charter’s Section 59, and cannot be accomplished by an internal auditor who may otherwise be retained by the City.

An internal auditor can reduce the risk of misstatements, but no system of internal control can guarantee accurate reporting with perfect certainty. All internal control systems have limitations. What is important is finding the right balance. Excessive control is counterproductive and a waste of taxpayer dollars. Too little control presents undue risks and possibility that the Council is neglecting its fiducial duty.

A Summary of Responses to Questions asked of California Cities on December 21, 2005: This summary established the cities that have internal auditors.

It appears the following options are open:

• Continue with the current annual audit of accounts and the CAFR.

• Enhance the current annual audit of account and the CAFR with contractual services. This would occur at the time of the Budget with an increased line item for audit services being included in the Budget. This could be managed by an audit committee of the Council or a combined audit committee including two council members, city attorney, city manager, and finance director.

• Hire an auditor as an employee of the City. To accomplish this, the Council should include the additional cost within the Budget. If the Council or an Audit Committee is to manage the internal auditor, then an ordinance should be prepared to implement the position consistent with the City Charter. If the Council determines to proceed with an auditor, consideration should be given to how the officer will be supervised. If the entire Council supervises, then all supervision will be at Council meetings as it is currently with the city attorney and city manager. In this case, it is suggested that the ordinance creating the position be very specific as to the position and how it is functionally integrated into the current City organization.
CITY CHARTER SECTIONS:

Sec. 59. Employment of certified public accountant to audit city books.
The city council shall employ a certified public accountant annually to investigate the accounts and transactions of all city officers and employees having the collection, custody or distribution of public money or property, or the power to approve, allow or audit demands on the city treasury. (2-5-35; 4-2-63; 4-6-71)
Amendment note—On April 6, 1971, § 59 was amended by the addition of the word “council” following the second word of the section.

Sec. 13. Legislative officers; administrative officers; other officers and commissions; consolidation of offices.
The legislative officers of the City of Porterville shall consist of five (5) members of the council, one of whom shall act as mayor. In addition, there shall be the following administrative officers who shall be appointed by the council: a city manager, a city attorney and a city clerk.

The council may, by ordinance provide for such other officers as deemed necessary and the council may further establish by ordinance commissions deemed by it to be necessary or proper to aid in the orderly administration of the City of Porterville.

All members of commissions and legislative committees shall be appointed by the council. The council may appoint members to other boards or committees. Administrative officers may appoint members to temporary administrative committees.
(3-4-03)

The council may, at any time, when in its judgment, the interest of the city so demands, by a four-fifths (4/5) vote thereof, consolidate by ordinance two or more city administrative offices and place the same in charge of one such officer. (4-2-63; 4-6-71; 3-8-83)

Sec. 21. City manager; to become resident; powers and duties; bond.
The city manager shall be the administrative head of the city government. The City Manager shall establish residency in the City of Porterville within a reasonable period of time within the discretion of the Council. His/her powers and duties shall be as follows:

(a) To see that all ordinances are enforced.
(b) To appoint except as otherwise provided in this Charter, all heads of departments, subordinate officials and employees, and remove the same, except as otherwise herein provided, and have general supervision and control over the same.
(c) Repealed. 4-6-71.
(d) To see that all the provisions of all franchises, permits, and privileges granted by the city are fully observed, and report to the council any violation thereof.
(e) To act, as purchasing agent for the city, should he/she be so appointed by the council.
(f) To attend all meetings of the council unless excused therefrom by the council or mayor.
(g) To examine or cause to be examined, without notice, the conduct of any officer or employee of the city.
(h) To keep the council advised as to the needs of the city.
(i) To devote his/her entire time to the interests of the city.
(j), (k) Repealed. 4-6-71.
(l) Repealed.(3-4-03.)
(m) To possess such other powers and perform such additional duties as are prescribed by this Charter, or may be prescribed by ordinance. (2-5-35.)
(n) Repealed. 4-6-71.
February 16, 2006

TO: John Longley, City Manager  
Frank Guyton, Deputy City Manager  

FROM: Linda Clark, Assistant to the City Manager  

SUBJECT: Cities that Employ Internal Auditors  

Throughout this week, I have been contacting several cities in California that responded to our inquiry about utilizing an Internal Auditing system. The following is a summary of what I have been able to determine from those contacts:

**Berkeley:** Ann-Marie Hogan is the City Auditor, and her position is an elected position. She states that only three cities in California have elected positions – Berkeley, Oakland, and Long Beach. Most others are either appointed by the City Council, or some have been appointed by the City Manager. Berkeley has a population of 105,000 and a City budget of $250 million. Ms. Hogan stressed that population or the City budget should not necessarily be the determining factors whether or not a municipality should employ an Internal Auditor, or what size the auditing function should be. She said it should be determined by what types of auditable functions the municipality has. In other words, what functions that upon closer observation could provide savings for the municipality. For instance, Berkeley has a large business license section, and their business licenses are expensive, so they have been successful in finding revenue in that area. Also, she states if a city has numerous construction contracts, this can produce savings because contractors are usually arguing over change orders, etc. Their performance auditing function has a staff of six people. Ms. Hogan gave me the figure of $658,000 for general expenses, and an administrative budget of $282,000, which includes Ms. Hogan and her secretary. She stressed that salaries are high; however, that includes all benefits, and they have a very high workers compensation rate in that area. She will attempt to pull together some additional information, if possible, and provide it to us.

**Glendale:** Ron Ahlers, the Assistant Finance Director, was the City representative available to discuss their program. Glendale has a population of 207,000. Mr. Ahlers advised they have a staff of five individuals, with their City Auditor being an executive position. Their budget is almost entirely salary -- $640,000. The auditing staff are all CPA’s, and they are all certified internal auditors. Glendale has an electrical utility,
well as water, sewer and refuse. Because of operating so many utilities, Mr. Ahlers stated that the auditors have probably saved their city three times what their annual budget is to conduct the services. For instance, in one case they recently found an adjustment in the amount of $180,000 due to the city from the Los Angeles Water and Power Company, which was an over-charge to the city. Throughout the years, he estimated they had saved millions of dollars mainly on contracts, street contracts, contracts for major power purchases, efficiency audits in different departments, petty cash audits, etc. Annually, they do a duplicate accounts payable audit, and recently found a $120,000 double payment to one of their medical vendors; however, only one-half of one percent of their invoices have been double-paid. When their City Auditor first began working for Glendale, in January, 2000, it was quite political, and he now reports to the Assistant City Manager, and on a consultant basis, to the Finance Director. They also have an oversight committee comprised of five individuals appointed by the City Council. They meet quarterly, and the City Auditor reports to them as well. Additionally, once a year he makes a presentation to the City Council with the results of the entire individual audits conducted in that prior year.

**Modesto:** Gary Niemhuis, the Senior Auditor, is the only auditor for the City of Modesto which has a population of 210,000. He has a budget of approximately $156,000 per year, with approximately $70,000 of that available to be used for professional services that are contracted out. Depending on functions completed in a given year, this $70,000 may actually dwindle down to $20,000 being available for outside services. Because he is a staff of one, he is limited to what he can accomplish, knowing there are many areas he would like to be able to audit, but they have to prioritize where the greatest risks are to lose the most money. They look at all of their programs and determine where particular problem areas may be. They only do performance audits – not financial audits. They review departments to see if programs are in compliance with regulations, contracts, etc. They also have an Audit Committee comprised of three members of the City Council (they have a seven-member Council); he compiles his audit plans that he proposes, takes them to the Audit Committee for their approval, and then on to the City Council for its approval. He does not work for the City Manager. He states that many agencies have a mix of people on their Audit Committees. Some have Council members as well as bankers or individuals with financial experience. It varies, but the purpose generally is to attempt to get the audit function away from the City Manager or Finance Director for independence reasons – he states this is a common problem.

**Sunnyvale:** I spoke to Sue English who has held her Auditor’s position with the City of Sunnyvale for only six months. They have a population of 131,700. They have two auditors who do a performance auditing function, and they perform four to five audits each year, with a budget of approximately $250,000. They budget by hours, not by job. They budget approximately $75,000 to $120,000 for a large audit, and $16,000 to $30,000 for a smaller audit. They do performance audits as well as financial operational audits; however, the latter is mostly contracted out. She stated the ideal situation is to have an independent internal auditor. However, she reports directly to the Finance Director, so there isn’t that “independence.” She also added that most departments don’t like to be audited, even though Sunnyvale has had this auditing procedure in place for six
years. They have not been able to keep anyone in their auditing position for any great length of time, and the departments generally have a “hands off – let me do my job” type of attitude. Ms. English’s prior job was with Pierce County in Washington State, and felt their program was much better. They have an independent auditing committee comprised of members of the Council, members of the Executive Management, and two citizens with auditing experience. They have an Auditor, and Audit Coordinator and contract auditors, which bring in independence. She stated they are very focused on the criminal justice system – what the Police do, how that impacts the court system, the jails, how to recoup costs, etc. She highly recommends the independent committee approach, rather than being responsible to report to the City Manager or Finance Director.

San Clemente: Tom Rendina, the City’s Finance Manager, responded to our questions. They have a position within the Finance Division; it’s an accounting position with a variety of duties. The internal auditing process is the responsibility of this staff accountant. Mr. Rendina stated they run an annual internal audit program and identify three or four objectives each year. Every year, they always audit all petty cash boxes throughout the city. Additionally, other audits are specific to what they may be looking at that particular year, and generally identify areas they feel may require more scrutiny. This year, they plan to audit employee travel and Council expense reports. This last year, they audited their payroll function and benefit codes; and when personnel turnover occurred in the Accounts Payable section, that was audited. What is being audited during a particular year is generally the consensus of three people: the Finance Manager, the City Manager, and the Accountant. The internal auditor’s report is directed to the City Manager. Each year, in addition to identifying new areas to audit, they also review the prior year’s recommendations and do a report as to the status of the recommendations. He emphasized this is clearly a part-time position with the City of San Clemente. They are only active about half of the year doing the audits, and they rarely launch an audit before November. Approximately ten percent of the staff auditor’s time is spent on audits during this six-month period, and the audit function is fairly informal. San Clemente has a population of 65,380. Mr. Rendina said they’re not sure they are large enough to keep a full-time internal auditor busy. The position they have is not a dedicated internal auditor function. Their external auditor has never come up with any findings to indicate their internal controls aren’t working, and they feel very comfortable with the process they have. Most years, they estimate this auditing function costs approximately $5,000.

The cities of Fresno and Riverside are the only two cities that haven’t responded to my request. If I receive any additional information from either of them, I will prepare an addendum to this memo so you have access to all of the information available.
Questions asked on December 21, 2005:

1. Does your City employ an *internal* audit person or staff of folks? If staff, how many?
2. Do you require any kind of certification such as CIA or CPA for those employees? Any other special training?
3. To whom does this person or group report (e.g., Council only, Council with some accountability to Finance)?
4. Name and population of your City.

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<th>INTERNAL AUDITOR(S)</th>
<th>CERTIFICATION OR TRAINING</th>
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<td>Viki Copeland, FD</td>
<td></td>
</tr>
<tr>
<td>Huntington Beach</td>
<td>198,000</td>
<td>X</td>
<td></td>
<td></td>
<td>Dan Villella</td>
<td>On going internal audit is part of management responsibility; no dedicated person</td>
</tr>
<tr>
<td>Indio</td>
<td>68,000</td>
<td>X</td>
<td></td>
<td></td>
<td>Kelly Smith</td>
<td></td>
</tr>
<tr>
<td>Irwindale</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Abe DeDios</td>
<td></td>
</tr>
<tr>
<td>Laguna Niguel</td>
<td>66,000</td>
<td>X</td>
<td></td>
<td></td>
<td>Cheryl Dysas, FD</td>
<td></td>
</tr>
<tr>
<td>Lomita</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Lori Ann Farrel, Admin Svc Dir</td>
<td></td>
</tr>
<tr>
<td>Maywood</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Michael Williams, FD</td>
<td></td>
</tr>
</tbody>
</table>
Questions asked on December 21, 2005:

1. Does your City employ an internal audit person or staff of folks? If staff, how many?
2. Do you require any kind of certification such as CIA or CPA for those employees? Any other special training?
3. To whom does this person or group report (e.g., Council only, Council with some accountability to Finance)?
4. Name and population of your City.

Responses:

<table>
<thead>
<tr>
<th>CITY</th>
<th>POPULATION</th>
<th>INTERNAL AUDITOR(S)</th>
<th>CERTIFICATION OR TRAINING</th>
<th>REPORTING TO</th>
<th>RESPONDENT</th>
<th>ADDITIONAL COMMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Menlo Park</td>
<td>31,262</td>
<td>X</td>
<td></td>
<td></td>
<td>Carol Augustine, FD</td>
<td>Primarily performance audits</td>
</tr>
<tr>
<td>Modesto</td>
<td>210,000</td>
<td>X</td>
<td></td>
<td>City Clerk and Auditor</td>
<td>Gary Niemhuis, Sr. Auditor</td>
<td>Would love to have one, but haven't been able to justify it as a stand-alone position</td>
</tr>
<tr>
<td>Monterey</td>
<td>30,241</td>
<td>X</td>
<td></td>
<td></td>
<td>Don Rhoads, FD</td>
<td>Staff is appointed; plan to add to staff in FY2006</td>
</tr>
<tr>
<td>Redwood City</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>Bran Ponty, FD</td>
<td>IA is staff accountant; spends &lt;180 hrs per yr</td>
</tr>
<tr>
<td>Riverside</td>
<td>277,000</td>
<td>X</td>
<td>Prefer CIA/CPA + gov audit exp</td>
<td></td>
<td>Cheryl Johannes, IA Mgr</td>
<td>Performance auditing: primary focus is on operations and organizational structure with secondary focus on budget and expenditures</td>
</tr>
<tr>
<td>San Clemente</td>
<td>65,380</td>
<td>X</td>
<td>IA reports to CM with dotted line to CFO Accting spvr; audit reports to CM</td>
<td></td>
<td>Tom Rendina</td>
<td></td>
</tr>
<tr>
<td>San Luis Obispo</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>Bill Stalter, FD</td>
<td></td>
</tr>
<tr>
<td>Santa Clara</td>
<td>107,000</td>
<td>X</td>
<td></td>
<td></td>
<td>Fred Schulenburg, FSM</td>
<td></td>
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<tr>
<td>Seaside</td>
<td>34,918</td>
<td>X</td>
<td></td>
<td></td>
<td>Daphne Hodgson, FD</td>
<td></td>
</tr>
<tr>
<td>Sunnyvale</td>
<td>131,700</td>
<td>X</td>
<td>MPA/MBA + 3-5 yrs performance audit exp</td>
<td>Finance Director</td>
<td>Sue English</td>
<td>Ron Nault</td>
</tr>
<tr>
<td>Tustin</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
Public Hearing

Subject: Lease Agreement for Property Located at 287 N. Hockett Street

Source: Community Development - Redevelopment

Comment: On February 2, 2001, the Porterville Redevelopment Agency purchased the property located at 287 N. Hockett Street as a site for a future parking lot. To date, funding has not been available for the construction of a parking lot at this location and during the December 7, 2004 Closed Session, the Agency approved the lease or sale of the building. The prior tenants of the building were Porterville Adult Literacy Program, operated by the City's Parks and Leisure Services Department, and subsequently, the United Hearts Center for Healing.

As directed by the Redevelopment Agency, staff has listed the building for lease and has had two inquiries regarding the facility. Of the two inquiries, only A-STEP, Inc. has followed-up with a lease application, expressing a desire to expand their outpatient chemical dependency counseling center to Porterville by leasing the building located at 287 N. Hockett Street. A-STEP, Inc. is a non-profit corporation and has been in operation in Visalia since 2002. The owners also operate a for-profit outpatient chemical dependency counseling center, Recovery Resources, and have indicated that they desire to sublet a portion of the building to their for-profit operation. Recovery Resources has been in operation in Visalia since 1999.

The lease would be a year-to-year lease, with no specified term for expiration. The cost for the lease is $1350.00 per month, based on a survey of rents for similar downtown buildings. Should A-STEP, Inc. desire to exercise an option to purchase the building, the terms and price would be negotiated based on an updated appraisal of the property.

Recommendation: That the Porterville Redevelopment Agency:

1) Adopt the attached Resolution of the Porterville Redevelopment Agency authorizing the lease of property to A-STEP, Inc.;

2) Approve a year-to-year lease agreement, including the option to purchase, with A-STEP, Inc. at a rate of $1350.00 per month, to be adjusted annually as outlined in the lease agreement, and;

3) Authorize the Redevelopment Agency Chairman to sign the all documents on behalf of the Agency.

Attachment: 1) Resolution
2) Public Report
3) Site Map
4) Lease Agreement

Item No. PRA-1
RESOLUTION ______

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY
AUTHORIZING THE LEASE OF PROPERTY TO
A-STEP, INC.

WHEREAS, the Porterville Redevelopment Agency ("Agency") is a community
redevelopment agency organized and existing under the Community Redevelopment
Law, Health, and Safety Code 33000 et seq.; and

WHEREAS, the City Council of the City of Porterville has approved a
Redevelopment Plan for the Porterville Redevelopment Project; and

WHEREAS, one of the goals of the Redevelopment Plan is to eliminate the
blighting influence of underutilized or vacant buildings; and

WHEREAS, the Agency proposed to enter into a Lease Agreement for the
building located at 287 N. Hockett Street; and

WHEREAS, a Public Report has been prepared pursuant to Section 33433 of the
California Health and Safety Code describing the proposed transaction, and has been
available to the public for a minimum two-week period; and,

WHEREAS, the Agency has made the following findings with regard to the
project:

1) The lease of the property is based on the fair market value of the building as
determined by a survey of rents within the area.

2) The proposed development will eliminate the blighting influence of
underutilized or vacant buildings.

3) The project is consistent with the Porterville Redevelopment Plan and
Implementation Plan for the Porterville Redevelopment Agency.

NOW THEREFORE, THE PORTERVILLE REDEVELOPMENT AGENCY
DOES RESOLVE AS FOLLOWS:

1) The Agency finds and determines that the development is of benefit to the
Porterville Redevelopment Project.

2) The Agency finds and determines that the development will assist in the
elimination of the blighting influence of underutilized or vacant buildings.

3) The Agency approves the lease of property owned by the Agency that is
located at 287 N. Hockett Street in the City of Porterville pursuant to the terms
and conditions of the Lease Agreement.
Passed, approved, and adopted this 7th day of March 2006.

AYES:

NOES:

ABSTAIN:

ABSENT:

__________________________________________

Pedro R. Martinez, Chair

ATTEST: ____________________________________

John Longley, Secretary
The Porterville Redevelopment Agency desires to provide for lease of the building located at 287 N. Hockett Street in the City of Porterville. The proposal before the Porterville Redevelopment Agency is the lease of said building to the A-STEP, Inc. pursuant to the terms and conditions of the Lease Agreement.

California Redevelopment Law permits a redevelopment agency to enter into an Agreement in order to set forth the terms and conditions relating to the Agency’s lease of the Site. This report includes the following information regarding the proposed lease:

1. A copy of the proposed sale or lease.

2. A summary of the agreement which describes any costs to be borne by the Agency and the estimated value of any land to be conveyed, determined at the highest and best use permitted under the Redevelopment Plan and with consideration for the restrictions and conditions contained in the Agreement.

3. An explanation of why the sale or lease will assist in the elimination of blight as identified in the Porterville Redevelopment Plan.

This report fulfills those requirements.

**Proposed Sale, Lease or Agreement**

A copy of the proposed agreement is available for review in the Community Development Department, located at City Hall, 291 N. Main Street, Porterville, California.

**Summary of Agreement**

The financial terms of the agreement include a stipulated price for the lease of the building located at 287 N. Hockett Street, Porterville, California. General terms and conditions of the Agreement are as follows:

1. Lessee’s intended use of the building is as an outpatient chemical dependency counseling center.

2. Lessee has indicated an intent to sublet a portion of the facility to Recovery Resources, a for-profit corporation, offering outpatient chemical dependency counseling services.
3. Lessee will pay to the Agency a sum of $1,350.00 per month for the building located at 287 N. Hockett Street, Porterville, California. Said lease amount will increase annually by 3%, rounded to the nearest dollar.

4. Lessee will be granted first right to purchase should Agency desire to sell the property.

**Fair Market Value or Fair Reuse Value (33433 (b)(1)-(2))**

A survey of rents within the Redevelopment Project Area were conducted and the survey determined the fair market value for the building. The survey determined the fair market value for the parcel to be $1,350.00 per month without any special restrictions, based on comparable rents in the area.

**Conformity with Implementation Plan (33433(b))**

The project is contained in the Implementation Plan for the Porterville Redevelopment Agency and is therefore in conformance with that plan, as required by redevelopment law.

**Agency Findings**

Agency staff has reviewed the request and has made the following findings:

1. The lease of the property is based on the fair market value of the parcel as determined by a survey of rents within the area.

2. The proposed use of the building will eliminate the blighting influence of underutilized or vacant buildings.

3. The project is consistent with the Porterville Redevelopment Plan and Implementation Plan for the Porterville Redevelopment Agency.
AGREEMENT FOR LEASE OF PREMISES

THIS AGREEMENT, is entered into as of this ______ day of _____________, 2005 by and between the PORTERVILLE REDEVELOPMENT AGENCY, hereinafter referred to as "Lessor", and A-STEP, Inc., a non-profit corporation., hereinafter referred to as "Lessee", with respect to the following:

WHEREAS, Lessor owns the real property located at 287 North Hockett Street in the City of Porterville, County of Tulare, California and more particularly described in Exhibit A, attached hereto; and

WHEREAS, Lessee desires to cause the property to be leased for an out-patient chemical dependency counseling center; and

WHEREAS, Lessor is willing to enter into a lease with Lessee under the terms and conditions set forth below.

ACCORDINGLY, IT IS AGREED:

PART 1.
LEASE, TERM, OPTION TO EXTEND, HOLDOVER, ASSIGNMENT, SUBLETTING

1.1 Lease.
Lessee will lease the Premises located at 287 North Hockett Street, in the City of Porterville, County of Tulare, California, from Lessor on the terms and conditions set forth below.

1.2 Lessee's Possession Date and Term.
Lessee will be entitled to exclusive possession of the Premises on the date to be mutually agreed upon by Lessee and Lessor. If Lessee takes possession of the Premises on other than on the first day of a calendar month, the initial term will consist of the unexpired portion of the calendar month in which Lessee holds possession of the Premises plus 1 full year from the first day of the calendar month immediately following. The anniversary date will be the first day of the first full month of the term.

1.3 Lessee's Option to Extend Term.
Provided Lessee is not then in default of this Lease, Lessee may extend this Lease on a year-to-year term from the expiration date of the initial term by serving a Notice of Election to Extend on Lessor at least 30 calendar days before the expiration of the initial term. The year-to-year term will be subject to the same terms and conditions as the initial term, including the annual percentage rent increase as stated in Section 2.1.3 of this agreement, until the tenancy is terminated in a manner provided by law.

1.4 Lessee's Option to Purchase.
Lessee is provided with the first option to purchase the property, subject to appraisal and evaluation, for the same price and same terms and conditions to be offered to any other potential buyer. Lessee is provided the first option to renew purchase option upon satisfactory completion of the first year lease. The option to purchase may be cancelled by either party at the end of each year of lease, with written notice at least 30 days prior to the end of the lease period. Upon termination of the lease, by either the Lessee or Lessor, the option to purchase will expire.

1.5 Holdover without Consent.
If Lessee holds over beyond the expiration of the initial term of this Lease without the written consent of Lessor, the holding over will be deemed a month-to-month tenancy including the annual percentage rent increase, until the tenancy is terminated in a manner provided by law.
1.6 Assignment and Subletting.
Lessee has indicated an intent to sublet a portion of the facility to Recovery Resources, a for-profit corporation, offering outpatient chemical dependency counseling services. Lessee may not assign this Agreement, or sublet any additional portion thereof to any organization other than Recovery Resources, without the prior written consent of Lessor, which consent will not be unreasonably withheld.

2. RENT

2.1 Amount.
Lessee will pay the following rent to Lessor for the exclusive use and occupancy of the Premises.

2.1.1 Daily Rent.
On the first day of occupancy, the sum of $44.39 per day for any unexpired portion of the calendar month in which the building is occupied, plus the sum of $2,700.00, for the first and last month’s rent.

2.1.2 Monthly Rent.
On the first day of the second full month of occupancy, and on the first day of each month thereafter, the sum of $1350.00 per month, in advance. Payments not made by the fifth day of the month for which the rent is owed shall be subject to a $50.00 late fee.

2.1.3 Annual Adjustment.
The monthly rent will be increased by 3%, rounded up to the nearest dollar, on every anniversary date following the first full year of the term, including any holdover period.

2.1.4 Place of Payment.
Lessee will pay all rent at the City of Porterville Finance Department, located at 291 North Main Street, Porterville, California 93257.

3. USE OF PREMISES.

3.1 Allowed Uses.
Lessee and Lessee's subtenants will use the Premises only for the provision of providing outpatient chemical dependency counseling services, unless Lessee first obtains Lessor's written consent for other uses. Lessee will use the Premises in compliance with all laws, ordinances, and other governmental regulations now in force or which may hereafter be in force relating thereto, including, but not limited to all building, safety and public health requirements and regulations.

3.2 Prohibited Uses.
Lessee will not commit or permit the commission of any acts on the Property that:

1. Increase Lessor's existing rates for, or causes the cancellation of, any fire, casualty, liability, or other policy of Lessor insuring the Premises or its contents; or

2. Violate or conflict with any law, statute, ordinance, or governmental rule or regulation, whether now in force or hereafter enacted, applicable to the Premises; or

3. Constitute waste on the Premises, or the maintenance of a nuisance as defined by the laws of California.

4. MAINTENANCE, REPAIR AND UPKEEP.

4.1 Lessee's Responsibilities.
Lessee will be responsible for all maintenance, repair and upkeep of the Premises including all building
interiors and exteriors, all exterior structures and attached equipment and fixtures, including fire extinguishers, whether furnished or constructed by Lessor or by Lessee, all pest control, and all parking areas. Lessee will be responsible for complying with all codes or laws requiring alterations, maintenance or restoration of the Premises during the term of the lease, at no cost to Lessor, including codes requiring fire extinguishers or other fire suppression equipment. If Lessee is required by any code or regulation to construct any alteration as a result of Lessee's, or any subtenant's particular and specific use of the Premises, or if Lessee is required to repair any deterioration or damage to the Premises caused by Lessee's clients, invitees, or subtenants, or by Lessee's lack of ordinary care, Lessee will either directly pay, or will reimburse Lessor for, the reasonable cost thereof.

Lessee will be responsible providing all custodial service and supplies for the Premises. On the expiration or termination of this Lease, Lessee will deliver the Premises to Lessor in as good condition and repair as existed upon possession of Premises, reasonable wear and tear and damage by the elements accepted.

4.2 Lessor's Responsibilities

Lessor will be responsible for maintenance of the grounds.

5. UTILITIES.

5.1 Lessee's Responsibilities.
Lessee shall be responsible for and will pay for all utilities and services furnished to the Premises, including gas, electricity, telephone, water, trash collection, and all related connection charges.

6. LESSEE'S ALTERATIONS.

6.1 Alterations Permitted.
Lessee, may make such alterations, additions or improvements to the interior of the building on the Premises as Lessee deems necessary in order to conduct Lessee's business on the Premises, including the addition, rerouting or expansion of electrical circuits, telephone and data lines. Lessee may install such signs, awnings, canopies, marquee's or other advertising of Lessee's or any subtenant's services on any exterior wall, door or window on the building, provided that such changes must not weaken or cause structural damage to the building or reduce the value of the Premises or result in a lien upon the Premises. All signs, awnings, canopies, or marquee's displayed on any exterior wall, door or window on the building shall comply with the Porterville Redevelopment Agency guidelines for Project Area #1 and must be in compliance with City Codes. Lessor will be notified in writing before any alterations, additions or improvements are undertaken by Lessee. All such alterations, additions or improvements will be at Lessee's sole expense.

6.2 Permits.
Lessee will obtain all governmental permits required for such changes, and such changes must comply with all applicable laws and regulations. All changes must comply with the Porterville Redevelopment Agency's guidelines.

6.3 Lessor's Inspection.
Lessor may, at Lessor's own expense, inspect any of Lessee's work carried out under the terms of this paragraph 6, and may consult with any contractor, subcontractor or architect, as to any aspect of such work.

6.4 Ownership and Removal.
All alterations, additions, improvements, signs, awnings, canopies, marquee's or other advertising provided by Lessee or and subtenant and not removed by Lessee within 30 days of the expiration or other termination of the lease will become the property of Lessor, unless Lessor instructs Lessee in writing to
remove the same at Lessee's sole expense. Lessee will promptly repair any damage to the Premises caused by any such removal, at no cost to Lessor.

7. INSURANCE.

7.1 Lessee’s Insurance
Lessee, at its own expense, shall procure and maintain, throughout the term of this Lease, public liability insurance including bodily injury and property damage insuring Lessee and Lessor with minimum coverage as follows:

- $1,000,000 for personal injury or each person
- $1,000,000 for personal injury or death of two or more persons in each accident or event.

The policy must contain, or be endorsed to contain the following:

City of Porterville and Porterville Redevelopment Agency
The City of Porterville, Porterville Redevelopment Agency, its officers, employees, agents and subtenants must be covered as additional insured as respects liability arising out of activities performed by or on behalf of Lessee; and premises owned, occupied or used by Lessee. The coverage must contain no special limitations on the scope of protection afforded to Lessor, its officers, employees, or agents.

Lessee shall also procure and maintain, at its expense, throughout the term of this Lease, insurance against loss or damage to any structures constituting any part of the demised Premises, by fire and lighting, with extended coverage insurance.

Lessee will provide Lessor with a certificate or certificates of coverage showing the policy or policies are issued by insurers admitted to conduct business in the State of California.

The policy must not be suspended, voided, canceled, or reduced in coverage or in limits, except after 30 days prior written notice has been given to Lessor.

7.2 Proof of Insurance
Throughout Lessee’s occupancy of the Premises Lessor will provide Lessee with a certificate or certificates acceptable to Lessee showing compliance with the provisions required above, and on written request of Lessee, will provide Lessee with a true and complete copy of any policy or policies required above.

8. DESTRUCTION OF PREMISES

8.1 Repair.
If the Premises are damaged or destroyed from any cause whatsoever before the end of the initial term, Lessor will proceed with due diligence to repair or reconstruct the Premises to a condition substantially equivalent to their condition immediately before the damage or destruction. If such damage or destruction occurs during the last year of the initial term, Lessor will not be obligated to repair or reconstruct the Premises unless Lessee exercises its right to extend the term in accordance with paragraph 1.3, above.

8.2 Rent Adjustment.
Lessor will compensate Lessee for any period of time during which Lessee was unable to use the Premises by a pro-rata rent reduction based on square footage or other appropriate criteria during the period of non-use.
9. INDEMNITY.

9.1 Lessor's Indemnity.
Lessor will hold harmless, defend and indemnify Lessee from and against any liability, claims, actions, costs, damages or losses and expenses (including, without limitation, reasonable attorneys' fees and expenses) for injury, including death, to any person or damage to any property resulting from Lessor's acts or omissions with respect to the Premises. Lessor's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred before expiration or termination.

9.2 Lessee's Indemnity.
Lessee will hold harmless, defend and indemnify Lessor from and against any liability, claims, actions, costs, damages, losses and expenses (including, without limitation, reasonable attorney's fees and expenses) for injury, including death, to any person, damage to any property, or enforcement actions under California Prevailing Wage laws or any other applicable statute or ordinance, resulting from Lessee's acts or omissions with respect to the Premises. Lessee's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred before expiration or termination.

10. CONDEMNATION.

10.1 Lessee's Right to Terminate.
In the event of a total or partial taking of the Premises by an entity other than Lessee, exercising the right of eminent domain, which taking renders the majority of the Premises useless for the uses permitted under this Lease, Lessee will have the option of terminating this Lease.

10.2 Reduction of Rent.
If only a portion of the Premises is taken, and Lessee does not terminate this Lease as provided in paragraph 10.1, above, Lessor will reduce the rent thereafter payable by a pro-rata reduction based on square footage or other appropriate criteria.

11. TERMINATION FOR CAUSE.

11.1 Cause.
Either party may terminate this Agreement for cause without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement. Cause for the purpose of this Agreement exists if a party:

(a) is adjudged a bankrupt, or
(b) becomes insolvent or has a receiver appointed, or
(c) makes a general assignment for the benefit of creditors, or
(d) suffers any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
(e) materially breaches this Agreement.

11.2 Termination of Lease on Reduction in Funding.
Lessor acknowledges that Lessee will be either directly, or indirectly through its subtenants, dependent upon certain County and/or State funding to pay the rent provided for in this Agreement. Lessee will promptly notify Lessor in writing of any substantial reduction in County and/or State funding, with proof of reduction from said funding source, affecting Lessee's ability to perform under this Agreement. If Lessor elects to terminate, this Lease will terminate 90 days after delivery of written notice to Lessee.
11.3 Notice to Defaulting Party.
For any of the above occurrences except item (e), termination may be effected upon written notice by the terminating party specifying the date of the termination. Upon a material breach, the Agreement may be terminated only after the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within 5 calendar days of delivery of a written notice specifying the nature of the breach. If the breach is not remedied within that 5-day period, the non-defaulting party may terminate this Agreement by delivering a further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within the 5-day period, the defaulting party may deliver a written proposal to the non-defaulting party within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent will not be unreasonably withheld, the defaulting party will immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate after delivering a written notice specifying the date of termination.

11.4 Delivery of Notices.
Notices given under paragraph 11.2 will be deemed delivered as provided in paragraph 12.17 below.

11.5 Obligations Surviving Termination.
Termination of this Agreement will not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

11.6 Unlawful Detainer.
The notices provided for in paragraph 12.2 are in addition to any required statutory notices for unlawful detainer proceedings under Code of Civil Procedure section 1161 et seq.

12. MISCELLANEOUS.

12.1 Quiet Enjoyment.
Upon the payment of the rent and Reimbursables and the performance of all the terms, covenants and conditions by Lessee to be performed as herein provided, Lessee will be allowed to peaceably and quietly hold and enjoy the Premises during the term of this lease, or any extended term thereof.

12.2 Surrender.
Lessee will peaceably surrender possession of the Premises upon the expiration or other termination of this lease, and will return the Premises to Lessor in as good a condition as when received, reasonable wear and tear and damage from the elements excepted, except for so much of said Premises as may be injured or destroyed by fire, earthquake or other casualty not the fault of Lessee.

12.3 Amendment.
This Agreement may be modified, amended or terminated at any time by mutual consent in writing of the parties hereto.

12.4 Entire Agreement Represented.
This Agreement represents the entire understanding between Lessor and Lessee as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified, waived or repealed without the written consent of both parties.

12.5. Headings.
Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.
12.6 Interpretation.
This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

12.7 No Third Party Beneficiaries.
Unless specifically set forth, the parties to this Agreement do not intend to provide any third party with any benefit or enforceable legal or equitable fight or remedy.

12.8 Governing Law.
This Agreement will be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. Any litigation arising out of this Agreement will be brought in Tulare County California. Lessor waives the removal provisions of California code of Civil Procedure Section 394.

12.9 Waivers.
The failure of either party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any fight to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment will not be considered to be a waiver of any preceding breach of the Agreement by the other party.

12.10 Exhibits and Recitals.
All Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

12.11 Conflict with Laws or Regulations; Severability.
This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision will be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement will continue in full force and effect. If either party, exercising its sole discretion, elects to defend this agreement against a third party suit alleging any invalidity in this Agreement, they must do so at their own expense.

12.12 Further Assurances.
Each party will execute any additional documents and will perform any further acts which may be reasonably required to effect the purposes of this Agreement. Lessee will, on request by Lessor, execute appropriate estoppel certificates and attornments in favor of any trust deed holders or encumbrances.

12.13 Assurances of Non-discrimination.
Lessor will not discriminate in employment or the performance of the Work or in the provision of services called for under this Agreement on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

Lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.
12.14 Lessor's Right to Enter to Inspect and Post.
Lessee will permit Lessor and its agents to enter upon the Premises at all reasonable times for the purpose of posting notices of non-responsibility for alterations or additions made by Lessee, or for the purpose of inspecting the Premises, and, within six (6) months prior to the expiration of the term of this Lease, or any extension thereof, will permit Lessor to enter for the purpose of placing ordinary for sale or for lease signs.

12.15 Brokers.
All negotiations relative to this Agreement have been carried out directly by representatives of Lessor and Lessee without the participation of brokers and each party represents to the other that there are no unpaid broker's fees in connection with this Agreement.

12.16 Encumbrance of Premises.
Lessor may encumber the Premises so long as Lessee's quiet enjoyment of the Premises is not disturbed thereby.

12.17 Notices.
All notices required to be given under this Agreement must be delivered to the addresses set forth below, unless otherwise instructed in writing, and will be deemed delivered on the following dates:

12.17.1 Notice to Lessor.
When delivered to Lessor in person, or when mailed by certified mail, postage prepaid, to Porterville Redevelopment Agency at 291 North Main Street, Porterville, California 93257.

12.17.2 Notice to Lessee.
When delivered to Lessee in person, or when mailed by certified mail, postage prepaid, A-STEP, Inc., 213 N. West Street, Visalia, CA 93291.

12.19 Successors and Assigns.
This Agreement is binding on and will inure to the benefit of the successors and assigns of the parties, but nothing in this section shall be construed as consent by Lessor to any sublease or assignment by Lessee if such consent is otherwise required by the terms of this Agreement.

12.20 Duplicate Originals.
This Agreement will be executed in duplicate originals.

12.21 Time of the Essence.
Time is of the essence of this Agreement.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

PORTERVILLE REDEVELOPMENT AGENCY

Date:________________________

By:__________________________
Pedro R. Martinez, Chairman
LESSOR

ATTEST:

By:__________________________
John Longley, Executive Secretary

A-STEP, INC.

Date:________________________

By:__________________________
Jeri Thompson
LESSEE

Date:________________________

Approved as to form:

By:__________________________
Julia Lew, City Attorney