Call to Order
Roll Call

Adjourn to a Joint Meeting of the Porterville City Council and Porterville Redevelopment Agency.

**JOINT COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY AGENDA**

Roll Call: Agency Members

**ORAL COMMUNICATIONS**
This is the opportunity to address the City Council and/or Redevelopment Agency on any matter scheduled for Closed Session.

**REDEVELOPMENT AGENCY CLOSED SESSION:**
A. Closed Session Pursuant to:

Adjourned to a meeting of the Porterville City Council.

**CLOSED SESSION:**
B. Closed Session Pursuant to:
   4- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – One Case.

7:00 P.M. RECONVENE OPEN SESSION

**REPORT ON ANY AGENCY OR CITY ACTION TAKEN IN CLOSED SESSION**

Pledge of Allegiance Led by Mayor Hamilton
Invocation

**PROCLAMATIONS**
“Freedom Days” – June 14, 2008 through July 4, 2008
PRESENTATIONS
Employee Service Awards
City Manager’s Featured Project
La Sierra High School – Project Citizen

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. City Council Minutes of February 19, 2008

2. Budget Adjustment
   Re: Approving budget adjustment to account for receipt of $1,000 in grant monies from Wal-Mart Foundation to be used to purchase smoke detectors to be provided at no cost to citizens who cannot afford them.

3. Authorization to Advertise for Bids – Alley Reconstruction Between D Street and Hockett Street
   Re: Approving staff’s recommended plans and project manual consisting of the installation of new paving, a concrete V-ditch, and two wheelchair ramps for Alley Reconstruction between D Street and Hockett Street.

4. Award of Contract – Airport Toxic Remediation Project
   Re: Awarding contract to Petrosius Construction, Inc. of Visalia in the amount of $359,622.26 for the project consisting of remediation of toxic soil in the area of the airport adjacent to the Porterville Air Attack Base.

5. Acceptance of Project - Date Avenue Reconstruction – ‘A’ Street Reconstruction & Storm Drain Project
   Re: Accepting project as complete from Mitch Brown Construction, Inc., and authorizing the filing of the Notice of Completion, for project consisting of the reconstruction of Date Avenue and the Reconstruction of ‘A’ Street from Date Avenue south to its terminus.

6. Acceptance of Project - Oak Avenue Improvement Project
   Re: Accepting project as complete from Halopoff & Sons, Inc., and authorizing the filing of the Notice of Completion, for project consisting of improvements to the parking lot and street along Oak Street from Hockett Street to Division.

7. Acceptance of Project - Traffic Signal #11 (Indiana Street and Putnam Avenue)
   Re: Accepting project as complete from A-C Electric Company, and authorizing the filing of the Notice of Completion, for project consisting of the installation of a new traffic signal at the intersection of Indiana Street and Putnam Avenue.

8. Acceptance of Project – Mathew and Westfield Storm Drain Project
   Re: Accepting project as complete from Montes Pacific Engineering, and authorizing the filing of the Notice of Completion, for project consisting of the installation of a catch basin, and related work in the vicinity of Mathew Street and Westfield Avenue.
9. City-County Agreements Related to Scranton – Indiana Widening Project
   Re: Considering approval of the Maintenance & Operation Agreement and City/County Cooperative
   Agreement relative to the Scranton Avenue and Indiana Street Widening Project from Gibbons Avenue to
   a point approximately 400 feet east of State Route 65.

10. Approval of Agreement with California Department of Forestry and Fire Protection (Cal Fire)
    Re: Approving agreement to document terms of Resolution 27-2008 defining landing fees for air attack
    aircraft at the Porterville Municipal Airport.

11. City Easement Conveyance to Verizon Wireless
    Re: Considering request to convey an easement to Fresno MSA Limited Partnership d/b/a
    Verizon Wireless for the installation and maintenance of underground electrical facilities related to the
    proposed wireless communications tower to be located in the vicinity of Fire Station No. 2.

12. Annual Adjustment of Fees by Application of the ENR Cost Index
    Re: Informational report on the annual adjustment of fees.

13. Follow-Up on Effectiveness of Casas Buena Vista Bump-Outs
    Re: Follow-up report on the effectiveness of modified bump-outs along Rio Vista Street located within
    the Casas Buena Vista Subdivision.

14. Consider Approval of Rule 20-A Funds Project
    Re: Considering approval of the location of Division Street from Putnam Avenue to Olive Avenue as the
    Council’s choice to receive Rule 20-A Underground Utility Funds.

15. Third Annual National Dump the Pump Day
    Re: Notice of the third annual National Dump the Pump Day, June 19, 2008, and coinciding Porterville
    Transit activities.

16. State Department of Finance – Population and Housing Estimates
    Re: Considering submittal of request for State certification for the City of Porterville January 1, 2008,
    population of 51,863.

17. Status Report on the Feasibility of Transit Bus Conversion Into a Mobile Library
    Re: Status report on information gathered to date regarding the feasibility of converting a surplus transit
    bus into a mobile library.

18. Authorize Library Centennial Celebration Along With Street Closure and Wine Reception
    Re: Consideration of approving event to include the closure of Thurman Street from Hockett to Division
    from 9:00 a.m. to 11:00 a.m. on October 11, 2008, and a no-fee invitation only wine reception to take
    place the evening of Friday, October 10, 2008.

19. Proposed Changes in the Table of Organization Within the Public Works Department, Field Services
    Division
    Re: Considering resolution authorizing a change in the Table of Organizations and amending the Position
    Allocation Schedule and Position Pay Plan of the City’s Employee Pay and Benefit Plan.

20. Renewal of Contract for Legislative Advocacy Services, and Proposed Increased Services
    Re: Considering the renewal of contract with Michael J. Arnold and Associates for State legislative
    advocacy services.
A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible

PUBLIC HEARINGS
21. **Conditional Use Permit – Type 20 Beer and Wine**
   Re: Considering approval of Conditional Use Permit 3-2008 to allow for the Type 20 Off Sale Beer and Wine for the Wal-Mart Shopping Center located at 1250 W. Henderson Avenue, and a Letter of Public Convenience or Necessity.

22. **Zone Change Amendment 1-2008 (Conceptual Plan), Tentative Subdivision Map “Garden Court Villas” and Conditional Use Permit 5-2008 (Specific Plans) - (Woodard Homes)**
   Re: Considering approval of a zone change amendment from R-2 (Four Family Residential) to PD (R-2) (Planned Unit Development-Four Family Residential) Zone for eleven (11) lots originally approved for River View Estates Phase Three located generally on the north and south sides of Roby Avenue extending east and west of Belmont Street.

23. **An Extension of Time for an Interim Ordinance Adopting an Interim Zoning Matrix and Implementation Plan for the Porterville 2030 General Plan – Update Report**
   Re: Considering extension of the Interim Urgency Ordinance for the implementation of the newly adopted 2030 General Plan for a period of 10 months and 15 days.

SCHEDULED MATTERS
24. **Design (D) Overlay Review 2-2008 – Jaye Street Crossing**
   Re: Consideration of D Overlay pertaining to the development of a new 75,000 sq. ft. commercial center to be located at the northeast corner of Jaye Street and State Route 190.

25. **Request to Allow Re-Submittal for a Conditional Use Permit 4-96 to Allow a Type 20, Beer and Wine Off-Sale License and Mini-Mart with Gas Pumps, Located at 244 North “D” Street (“D” Street Chevron Station)**
   Re: Consideration of request to authorize re-application for a Conditional Use Permit (CUP) similar to CUP 4-96, including the authorization for a Type 20 Beer and Wine Off-Sale license.

26. **Status Report – Proposed Ordinance Per Ad Hoc Non-Driveway Parking Committee and City Council Recommendations**
   Status report on the preparation of a draft ordinance prohibiting the parking on lawns.

27. **Draft Articles of Incorporation and By-Laws – Porterville Airport Area Development Corporation**
   Re: Consideration of draft articles and bylaws for a proposed nonprofit corporation (the “Porterville Airport Area Development Corporation”) to aid in the financing and administering of funds for the public works projects and improvements associated with any development on the Tribal-owned land at the Airport.

Adjourn to a meeting of the Porterville Redevelopment Agency.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA
May 20, 2008

Roll Call: Agency Members/Chairperson

WRITTEN COMMUNICATIONS

ORAL COMMUNICATIONS
SCHEDULED MATTER
PRA-1. Authorization to Subordinate Promissory Note – Centennial Plaza
Re: Considering approval of the subordination of the Promissory Note from Ennis Commercial
Properties, LLC to Smith Commercial Properties, LLC.

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 May 27, 2008 at 6:00 p.m.

It shall be the policy of the City Council to complete meetings, including closed sessions, by
11:00 p.m. unless, upon consensus, Council elects to continue past the adjournment hour.

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.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet
are available for public inspection at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257,
during normal business hours.
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
FEBRUARY 19, 2008, 6:00 P.M.

Call to Order at 6:00 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez, Mayor Pro Tem Felipe Martinez, Council Member Hernandez, Mayor Hamilton

ORAL COMMUNICATIONS
- Larry Newby, 418 North Kanai Drive, came forward to speak in regards to Item A-5 of Closed Session, and voiced support for approving the proposal.

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

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had been taken.

Pledge of Allegiance Led by Council Member Eddie Hernandez
Invocation -- One individual participated

PRESENTATIONS
Employee of the Month – Janet Uresti
City Manager’s Featured Project

ORAL COMMUNICATIONS
- Samantha Mesker, 286 W. Date, with Porterville A.S.A. Fast Pitch, introduced the organization’s Board Members and spoke in favor of strong, open communication between the
City and the League Board to avoid the circumstances of the prior year. She then spoke of the unsafe conditions of the fields and requested assistance.

- Gary Giraudi, 100 S. Westwood., spoke of the 10th Annual Iris Festival (Item No. 24) and of its world-wide draw, and thanked the Council for their continued support.
- Greg Shelton, 888 N. Williford Dr., spoke in regards to Item No. 36 and informed Council that he would be available to answer questions.
- Martha Alcazar Flores, Frugal Fashions, 461 N. Main St., Hispanic Chamber of Commerce, came forward to extend an invitation to the Chamber’s mixer, to be held at Charlie’s Pizza Kitchen on February 21st at 5:30 p.m.
- Donnette Silva Carter, 93 N. Main St., Porterville Chamber of Commerce, came forward to speak about a cooperative project between the Chamber and the Police Department to establish a reward fund to address the issue of stolen vehicles in the city; and announced that Porterville Electric had made the first donation to the fund in the amount of $1,000.00.

**CONSENT CALENDAR**

Item No. 15 was removed by staff and continued to the next City Council Meeting. Items 2, 8, 18, 23, 24 and 27 were removed for further discussion.

1. **CITY COUNCIL MINUTES OF NOVEMBER 6, 2007**

Recommendation: That the City Council accept the minutes of November 6, 2007.

Documentation: M.O. 01-021908
Disposition: Approved

3. **CLAIM – EL FUTURO CREDIT UNION**

Recommendation: Staff recommends that Council:
1. Approve settlement of the building portion of the claim in the amount of $34,478.94;
2. Authorize the City’s Claims Adjustor to make payment to Claimant in the amount of $34,478.94 for the building portion of the claim; and
3. Direct the City Clerk to provide proper notification to the Claimant.

Documentation: M.O. 02-021908
Disposition: Approved

4. **CLAIM – LORENA ESPINOSA LEMUS**

Recommendation: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 03-021908
Disposition: Approved
5. CLAIM – MICHAEL FRIESEN

Recommendation: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 04-021908
Disposition: Approved

6. CLAIM – RUDOLPH MULLINS

Recommendation: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 05-021908
Disposition: Approved

7. CLAIM – STEPHEN MINNICK

Recommendation: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 06-021908
Disposition: Approved

9. AUTHORIZATION TO ADVERTISE FOR BIDS – NEWCOMB STREET SHOULDER STABILIZATION PROJECT

Documentation: That the City Council:
1. Approve Staff’s recommended plans and project manual; and
2. Authorize Staff to advertise for bids on the project.

Documentation: M.O. 07-021908

10. AUTHORIZATION TO PARTICIPATE FINANCIALLY WITH ENNIS COMMERCIAL PROPERTIES, LLC – RIVERWALK MARKETPLACE OFF-SITE LANDSCAPE IMPROVEMENTS

Recommendation: That City Council:
1. Authorize the City to participate with Ennis Commercial Properties, LLC in the State Route 190 Landscape and Irrigation Project;
2. Authorize the City to pay ECP an amount of $31,768 upon proof of payment by ECP to Rainscape;
3. Authorize progress payments up to 90% of the contract amount; and
4. Authorize a 10% contingency to cover unforeseen construction costs, and 6% for staff time and construction engineering.

Documentation: M.O. 08-021908  
Disposition: Approved

11. AWARD OF CONTRACT – MATHEW AND WESTFIELD STORM DRAIN PROJECT

Recommendation: That City Council:
1. Award the Mathew and Westfield Storm Drain Project to Montes Pacific Engineering in the amount of $16,372.00;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs, and 5% for staff time and construction engineering.

Documentation: M.O. 09-021908  
Disposition: Approved

12. AWARD OF CONTRACT – SCREENING AND GRIT TOWER EQUIPMENT UPGRADE 2007 PROJECT

Recommendation: That the City Council:
1. Award the Screening and Grit Equipment Upgrade Project to Smith Construction in the amount of $973,228;
2. Authorize a 10% contingency to cover unforeseen construction costs and authorize an additional $10,000 to cover construction management costs;
3. Authorize the Finance Director to make a budget adjustment in the amount of $1,080,550 from the WWTF Capital Reserve fund to the FY 2007/2008 budget; and
4. Authorize staff to make progress payments up to 90% of the contract amount.

Documentation: M.O. 10-021908  
Disposition: Approved

13. AWARD CONTRACT – AUTOMATIC SELF-CLEANING WATER FILTER

Recommendation: That Council award the contract for an automatic self-cleaning water filter to Orival, Inc., of Englewood, NJ, in the amount of $8,925.88. Further, that Council authorize payment upon satisfactory delivery of the equipment.

Documentation: M.O. 11-021908  
Disposition: Approved
14. AUTHORIZATION TO NEGOTIATE CONTRACT FOR PLANNING OF ENTREPRENEURIAL TRAINING MARKET ANALYSIS

Recommendation: That the City Council:
1. Authorize staff to negotiate a contract with Chabin Concepts for the analysis of market and industry trends for planning of entrepreneurial training and business incubator assessment, with fees for services not to exceed those rates quoted in the proposal;
2. Authorize staff to negotiate a contract with the next highest ranked firm (MuniServices, LLC) in the event a contract cannot be negotiated with Chabin Concepts;
3. Authorize the Mayor to sign all contract documents; and
4. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

Documentation: M.O. 12-021908
Disposition: Approved

16. EXTENSION OF TIME – TENTATIVE PARCEL MAP 6-2005

Recommendation: That the City Council adopt the draft resolution approving a two (2) year extension of time for TPM 6-2005 Tentative Parcel Map.

Documentation: Resolution 07-2008
Disposition: Approved

17. REDEVELOPMENT AGENCY ANNUAL REPORT TO LEGISLATIVE BODY


Documentation: M.O. 13-021908
Disposition: Approved

19. STREETS PERFORMANCE MEASURE QUARTERLY UPDATE

Recommendation: Information Only

20. INFORMATIONAL UPDATE REGARDING OFF HIGHWAY MOTOR VEHICLE STATE RECREATION GRANTS

Recommendation: Information Only

21. AIRPORT LEASE RENEWAL – LOT 44B

Recommendation: That the Council approve the extension of the Lease Agreement between the
City of Porterville and Mr. Albert Quatacker of Porterville for Lot 44B at the Porterville Municipal Airport.

Documentation: M.O. 14-021908
Disposition: Approved

22. CITY TRANSIT ANALYSIS AND REQUEST FOR MODIFICATIONS TO DEMAND-RESPONSE SYSTEM

Recommendation: That the City Council:
1. Reduce the current Demand-Response operating hours to coincide with Fixed Route operating hours;
2. Authorize staff to advertise the availability of the Demand-Response system to the general public through the process of a “waiting list” giving preference to Seniors and ADA passengers, with said service beginning February 22, 2008;
3. Establish a fare for General Ridership at $3.00 per ride; and
4. Authorize staff to join other transit agencies and request TCAG consider implementing a 15% farebox ratio, rather than the 20% currently required.

Documentation: M.O. 15-021908
Disposition: Approved

25. CONSIDERATION OF PROPOSED 2008-2009 FISCAL YEAR BUDGET CALENDAR

Recommendation: That the City Council consider and approve the proposed budget calendar for the 2008-2009 Fiscal Year.

Documentation: M.O. 16-021908
Disposition: Approved

26. PROPOSED CHANGES IN THE TABLE OF ORGANIZATION WITHIN BOTH THE POLICE AND PUBLIC WORKS DEPARTMENTS

Recommendation: That the City Council:
1. Adopt the proposed draft Resolutions authorizing a change in the Table of Organizations and amending the Position Allocation Schedule and Position Pay Plan of the City’s Employee Pay and Benefit Plan;
2. Authorize the establishment of a Deputy Public Works Director/City Engineer classification at salary range 236 ($6,8963-$8,416), and Assistant City Engineer classification at salary range 224 ($6,119-$7,469), and Construction/Project Manager classification at salary range 203 ($4,964-$6,059), effective upon the successful recruitment of an Assistant City Engineer, and modifying the Classification Plan; and
3. Authorize the Mayor to execute these and other documents necessary to implement the provisions hereof.

Documentation: Resolution 08-2008  
Resolution 09-2008  

Disposition: Approved

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Pedro Martinez that the Council approve Items 1, 3-7, 9-14, 16, 17, 19-22, 25 and 26. The motion carried unanimously.

2. LEAVE TO FILE LATE CLAIM – EL FUTURO CREDIT UNION

Recommendation: Staff recommends that the Council deny said Application for Leave to Present a Late Claim related to the contents portion of the claim; and direct the City Clerk to give the Claimant proper notification.

City Manager John Longley introduced the item. Deputy City Manager John Lollis notified the Council that the staff recommendation had been changed to accept the late claim.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Council accept the Application for Leave to Present a Late Claim related to the contents portion of the claim. The motion carried unanimously.

Disposition: Approved, as amended.

8. BUDGET ADJUSTMENTS FOR THE 2007-08 FISCAL YEAR

Recommendation: That the Council approve the proposed budget adjustments, and authorize staff to modify revenue and expenditure estimates as described on the presented schedule.

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

Council Member Hernandez asked if the donation to the library from the Muir Living Trust was a one-time donation, or one that would occur on an annual basis; and whether the reason for the contribution was known. Deputy City Manager Lollis answered that it was a one-time donation, and Parks and Leisure Services Director Jim Perrine responded that Mr. Muir had named a number of organizations and educational facilities in the community and nation in his trust. Council Member Hernandez suggested that Mr. Muir’s generosity be remembered in any future dedications to the library.
COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Council M.O. 18-021908 Member Pedro Martinez that the Council approve the proposed budget adjustments, and authorize staff to modify revenue and expenditure estimates as described on the presented schedule. The motion carried unanimously.

Disposition: Approved

18. CODE ENFORCEMENT UPDATE

Recommendation: For Information Only

City Manager Longley introduced the item, and Fire Chief Mario Garcia presented the staff report.

Council Member Pedro Martinez stated that he looked forward to seeing an additional Code Enforcement officer on staff, and liked that compliance was being sought prior to the issuance of fines.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council M.O. 19-021908 Member Hernandez that the Council accept the update. The motion carried unanimously.

Disposition: Approved

23. APPROVE CONCESSION LICENSE WITH PORTERVILLE ASA FAST PITCH

Recommendation: Contingent upon full payment of the Hayes Field lighting fees for 2007, that the City Council approve the Hayes Field Concession License Agreement between Porterville ASA Fast Pitch and the City of Porterville, and authorize and direct the Mayor to sign the Agreement once the debt is paid.

City Manager Longley introduced the item.

Council Member Hernandez inquired about the condition of the fields and for an update on the fees that had yet to be paid. Parks & Leisure Services Director Perrine updated Council on the progress being made to ready the fields for play, and of communications with ASA Fast Pitch regarding payment of fees due to the City.

Council Member Pedro Martinez asked if efforts made to maintain the fields could be coordinated with ASA and similar groups. Parks & Leisure Services Director Perrine replied that there has been communication with ASA representatives about the field and that their participation was welcomed by the City.

Council Member Pedro Martinez asked if there were any future plans to develop softball fields, since the areas being used were not meant for that purpose. City Manager Longley
responded that there was a Capital Program being considered by the City that included the development of a softball complex.

COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Council Member Pedro Martinez that the Council approve the Hayes Field Concession License Agreement between Porterville ASA Fast Pitch and the City of Porterville, contingent upon full payment of the Hayes Field lighting fees for 2007, and authorize and direct the Mayor to sign the Agreement once the debt is paid. The motion carried unanimously.

Disposition: Approved

24. APPROVAL FOR COMMUNITY CIVIC EVENT – PORTERVILLE CHAMBER OF COMMERCE – IRIS FESTIVAL, APRIL 26, 2008

Recommendation: That the City 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.

City Manager Longley presented the item.

Council Member Pedro Martinez congratulated the Porterville Chamber of Commerce for the success of this event and thanked them for their hard work.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez 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. The motion carried unanimously.

Disposition: Approved

27. CONSIDERATION OF SUPPORT FOR THE COUNCIL OF CITIES DISCUSSION PAPERS ON COUNTY-WIDE REVENUE SHARING AND COUNTY DEVELOPMENT IMPACT FEES

Recommendation: That the City Council consider the support for the Council of Cities discussion papers on County-wide revenue sharing and County Development Impact Fees.

City Manager Longley introduced the item, and Deputy City Manager Lollis presented the staff report.

Council Member Pedro Martinez asked if the Board of Supervisors had taken a position on
the issue, to which Mr. Lollis responded that he believed they had not. Council Member Pedro Martinez stated that it was important to consider the interests of all cities and avoid entering into a relationship where cities are played against each other. Deputy City Manager Lollis noted that there was a commitment on the part of the current chair to engage the cities in some of the issues.

Mayor Pro Tem Felipe Martinez stated the City of Porterville provided library services to smaller surrounding cities without compensation, and that the drive behind the County’s efforts were economic.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Council support the Council of Cities discussion papers on County-wide revenue sharing and County Development Impact Fees. The motion carried unanimously.

Disposition: Approved

PUBLIC HEARINGS

28. CONTINUED – MODIFICATION #1 TO CONDITIONAL USE PERMIT 5-2007 SEAFOOD CAFÉ/EL REVENTON

Recommendation: That the City Council:
1. Approve the inclusion of conditions #11, #13, and #14; and
2. Approve Conditional Use Permit 5-2007 Modification #1, subject to the revised conditions of approval.

Mayor Hamilton and Mayor Pro Tem Felipe Martinez exited the Chambers due to conflicts of interests.

City Manager Longley introduced the item, and Associate Planner Jose Ortiz presented the staff report.

The hearing was re-opened to the public at 8:09 p.m.

- Martha Alcazar Flores, 249 S. Indiana, spoke in favor of the modifications, and commended the efforts of City staff and the Council to address the issues with this project.

- Greg Shelton, 888 N. Williford Dr., expressed his concerns with the amount of 911 service calls made to the establishment, relative to similar businesses in the city; and spoke of issues that had yet to be addressed by the applicant.

- Mary McClure, 23149 Joseph Court, spoke about fire suppression, the absence of a fire hydrant at the applicant’s site, and commented on the need for consistency in CUP requirements.

The hearing was closed to the public at 8:20 p.m.

Council Member McCracken asked how the applicant was able to obtain an occupancy
permit without meeting all the conditions set forth. Community Development Director Brad Dunlap stated that the circumstance was unusual in that the applicant received a permit to operate a dance floor within an existing restaurant. He explained that it was not new construction and with the minimal extent of building permit issuance requirements, there was no trigger for many on-site and off-site improvements. Mr. Dunlap added that items were missed, primarily as a result of conditions not being worded effectively to tie with the phasing, and that measures had been taken to prevent similar events from happening in the future. He noted that a condition had been added that would require the property owner to complete all phase one conditions.

Council Member McCracken asked if the existing operation was in compliance with the Fire Code. Fire Battalion Chief Blasdell stated that the applicant was in compliance at that time. A brief discussion ensued in regard to the fire flow requirements for Phases One and Two.

Council Member Pedro Martinez asked if the conditions of Phase One and Two were clearly defined and understood by staff and the applicant. Associate Planner Ortiz replied that the Phase One and Phase Two requirements were included in the resolution before Council, which would supersede the original resolution approved on June 5, 2007. Mr. Ortiz added that staff was requesting that Council consider phasing the block wall, at the rear of the property, as development occurred.

Community Development Director Brad Dunlap clarified that the resolution handed out at the meeting contained information that had already been provided to Council, but was put into resolution format.

Council Member Hernandez inquired about the block wall condition. Mr. Dunlap clarified that the block wall was tied to Phase Two based on the conditions of approval, but if there were issues created by the operation of the business that would require revisiting that, the City Council could call up the Use Permit for consideration and modify the conditions of approval.

City Attorney Julia Lew stated that the resolution that was being considered for approval required some additional language to the title to read, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE RECINDING AND REPLACING RESOLUTION NO. 44-2007 CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 5-2007 TO ALLOW THE EXPANSION OF AN EXISTING RESTAURANT WITH LIVE ENTERTAINMENT AND BANQUET FACILITY/DANCEHALL WITH SEPARATE BAR AREAS INTO A PREVIOUSLY UTILIZED BOWLING AREA (FORMERLY OLIVE BOWL) TO BE LOCATED AT 1091 W. OLIVE AVE.” She noted that in addition, any reference to 44-2007 within the new resolution should be amended to reflect the new resolution number.

A motion was made by Council Member Hernandez that the Council approve the resolution rescinding and replacing resolution no. 44-2007, and the revised resolution approving modification no.1 of the conditional use permit.

At the City Manager’s request, the City Attorney explained three affirmative votes were required under the City’s Charter to pass a resolution.
Council Member Pedro Martinez clarified that the Council was considering a modification to the existing floor plan, and that any other changes would be brought before Council for consideration. He proposed a friendly amendment to Council Member Hernandez’s motion that required the applicant to install security cameras. He then seconded the motion. Council Member Hernandez accepted the amendment.

Council Member McCracken proposed a friendly amendment that required all conditions for Phase One be completed within 60 days of the resolution being approved, and that all Phase One requirements be completed prior to the issuance of any additional building permits. The amendment was accepted.

Council Member Pedro Martinez requested that staff notify Council upon the completion of Phase One conditions and the issuance of any building permits.

COUNCIL ACTION:  MOVED by Council Member Hernandez, SECONDED by Council Member Pedro Martinez, as amended by Council Member Pedro Martinez and further amended by Council Member McCracken that the Council approve the resolution rescinding and replacing Resolution No. 44-2007, the revised Resolution approving Modification No. 1 of the Conditional Use Permit, adding conditions to require all Phase One conditions are met prior to the issuance of any building permits and the installation of security cameras.

AYES:  P. Martinez, Hernandez, McCracken
NOES:  None
ABSTAIN:  F. Martinez, Hamilton
ABSENT:  None

Disposition:  Approved, as amended.

The Council recessed for ten minutes.

29.  CONDITIONAL USE PERMIT 1-2008

Recommendation:  That the City Council adopt the draft resolution approving the Conditional Use Permit 1-2008 subject to conditions of approval.

City Manager Longley introduced the item, and City Planner Ben Kimball presented the staff report.

The hearing opened to the public at 9:00 p.m.

•  Jim Rogers, 2036 W. Nancy Ave., spoke in favor of the project.

The hearing closed to the public at 9:02 p.m.
COUNCIL ACTION: Moved Mayor Pro Tem Felipe Martinez, seconded by Council Member Hernandez that the Council adopt the draft resolution approving the Conditional Use Permit 1-2008 subject to conditions of approval. The motion carried unanimously.

Disposition: Approved

30. DRIVE-THRU RESTAURANTS – MODIFICATION #1 TO CUP 8-82 GENERAL & SPECIFIC PLAN

Recommendation: Staff recommends that the City Council approve modification #1 to CUP 8-82 subject to conditions of approval.

City Manager Longley presented the staff report, and Associate Planner Jose Ortiz presented the staff report. During the staff report, Mr. Ortiz stated that it was brought to staff’s attention that there may be an issue with groundwater and/or soils contamination on the site. He added that he had attempted to contact the Regional Water Quality Control Board to verify whether there was a need for concern, but efforts were unsuccessful. Mr. Ortiz then requested that a condition be added to read as, “The applicant shall submit clearance from the Regional Water Quality Control Board to the satisfaction of the City Engineer regarding groundwater and/or soils contamination prior to the issuance of building permits at the proposed site”.

Community Development Director Dunlap elaborated on the groundwater and/or soils contamination issue that was brought to staff’s attention earlier that day, and requested that the last sentence of condition #11 of the resolution be stricken.

The hearing opened to the public at 9:15 p.m.

- Mark Hillman, 250 N. Main St., stated that the monitoring wells were mitigated in the late 1980s.

- Jerry Eoff, 752 E. Putnam, questioned whether the site in consideration was viable; expressed concern with the size of the project area, surface drainage, and sewer connections; and with the effects on nearby houses, and with the likely the increase in traffic.

- John Larios Cervantez, E. Putnam, expressed concerns regarding traffic, gang activity and the effects on nearby residential areas.

The hearing closed to the public at 9:24 p.m.

Council Member Hernandez expressed concern regarding noise and lighting impact on nearby residential. A brief discussion ensued, in which options to mitigate noise and light were discussed; vines along the east and south walls were mentioned, and it was brought to Council’s attention that there was a ten foot buffer on other side of the walls already.
Mayor Pro Tem Felipe Martinez stated that he was concerned with a lack of crosswalks available for foot traffic and inquired about parking along Putnam Avenue.

- John Larios Cervantez, E. Putnam, reiterated his concerns.

Council Member Pedro Martinez stated that he had an issue with the business hours being proposed, and thought that midnight was too late.

Mayor Hamilton addressed the issues raised by residents of the area, stating that he believed the business would slow traffic down, and that multiple use areas in neighborhoods were better for air quality.

- Mary McClure, address on record, wanted to know who brought the issue of contamination to staff’s attention, and why she was informed so late in the day.

City Manager Longley explained that the issue was brought up after the agenda review, and that staff felt it would be better to address the issue with an additional condition as opposed to postponing the item.

COUNCIL ACTION: MOVED Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council approve modification #1 to CUP 8-82 subject to conditions of approval as amended to add the Condition to require applicant to submit proof of compliance regarding groundwater and/or soils contamination to the satisfaction of the City Engineer, prior to the issuance of building permits; and striking of the last sentence of Condition #11. The motion carried unanimously.

Disposition: Approved

31. CRESTVIEW PARK TENTATIVE SUBDIVISION

Recommendation: That the City Council:

1. Adopt the draft resolution approving the Mitigated Negative Declaration for Crestview Park Tentative Subdivision Map; and

2. Adopt the draft resolution approving Crestview Park Tentative Subdivision Map subject to conditions of approval.

City Manager Longley introduced the item, and City Planner Ben Kimball presented the staff report. During the staff report Mr. Kimball requested that Condition #25 be re-worded for clarity to read, “To accommodate refuse vehicles and street sweepers, the developer/applicant shall dedicated and approve temporary turnarounds where streets dead end at phase lines within the development boundaries”.

The hearing opened to the public at 9:55 p.m.
Sal Gonzalez, 147 K Street, Tulare resident, spoke in favor of the item.

Don Pearson, 1189 E. Putnam, inquired about the possibility of a retaining wall between the Crestview lots and his property; and also spoke about the Pioneer ditch that ran through Lot No. 42.

City Planner Kimball clarified that if a grade separation existed that was six inches or greater between the properties, a retaining wall would be needed. A brief discussion ensued between Mr. Pearson and Public Works Director Baldo Rodriguez about the types of retaining walls.

The hearing closed to the public at 10:01 p.m.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member McCracken to adopt the draft resolution approving the Mitigated Negative Declaration for Crestview Park Tentative Subdivision Map; and adopt the draft resolution approving Crestview Park Tentative Subdivision Map, subject to conditions of approval and amended to include the rewording of Condition No. 25 to read, “To accommodate refuse vehicles and street sweepers, the developer/application shall dedicate and improve temporary turnarounds for streets that end at phase lines within the development boundaries.” The motion carried unanimously.

Disposition: Approved

The Council recessed for five minutes.

Mayor Hamilton stated that in light of the late hour some scheduled items would be considered in one motion. Council Member Pedro Martinez made a motion to accept Item Nos. 32, 34, 37 and 38.

SCHEDULED MATTERS

32. CDBG CITIZEN’S ADVISORY AND HOUSING OPPORTUNITY COMMITTEE AND CITIZEN PARTICIPATION PLAN

Recommendation: That the City Council:

1. Adopt the 2008 Citizen Participation Plan; and
2. Appoint existing members Pat Contreras, Linda Olmedo, Grace Munoz-Rios, Rudy Roman, and John Dennis and new committee members, Theb Manivahn and Rebecca Vigil to the Citizen’s Advisory and Housing Opportunity Committee for a one-year term.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Felipe Martinez that the Council adopt the 2008 Citizen Participation Plan; and appoint existing members Pat Contreras, Linda Olmedo,
Grace Munoz-Rios, Rudy Roman, and John Dennis and new committee members Theb Manivahn and Rebecca Vigil to the Citizen’s Advisory and Housing Opportunity Committee for a one-year term. The motion carried unanimously.

Disposition: Approved

34. 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 2008, give first reading to the draft ordinance, and order it to print.

 COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Felipe Martinez that the City Council approve the request for a special fireworks permit to the Exchange Club of Porterville for Calendar Year 2008, give first reading to the draft ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE, and order it to print. The motion carried unanimously.

 The City Manager read the ordinance by title only.

Disposition: Approved

37. INTERIM FINANCIAL STATUS REPORTS AND GRANTS SUMMARY REPORT

 Recommendation: That the City Council accept the interim financial status reports and grants summary report as presented.

 COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Felipe Martinez that the City Council accept the interim financial status report and grants summary report as presented. The motion carried unanimously.

Disposition: Approved

38. QUARTERLY PORTFOLIO SUMMARY

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

 COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Felipe Martinez that the City Council accept the quarterly Portfolio
Summary in accordance with SB 564 and SB 866. The motion carried unanimously.

Disposition: Approved

33. LETTER OF PUBLIC CONVENIENCE OR NECESSITY / HESHAM MAKLOUF – 700 S. PLANO STREET

Recommendation: That the City Council approve a letter supporting the issuance of a Type 21 off-sale of beer, wine and distilled spirits license within Census Tract No. 39.01 for the Plano Handy Market located at 700 South Plano Street.

City Manager Longley introduced the item, and City Planner Kimball presented the staff report.

A brief discussion ensued, in which the number of permits within the area was clarified.

- Maricela Kasab, 31 N. Westwood, Store Manager, stated that the store’s customers were in favor as it would prevent them from having to cross Plano Street.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the City Council approve a letter supporting the issuance of a Type 21 off-sale of beer, wine and distilled spirits license within Census Tract No. 39.01 for the Plano Handy Market located at 700 South Plano Street.

AYES: McCracken, F. Martinez, E. Hernandez
NOES: P. Martinez, Hamilton
ABSTAIN: None
ABSENT: None

Disposition: Approved

35. REVIEW OF SEWER CONNECTION POLICY

Recommendation: That the City Council:
   1. Deny Mr. Ramos’s request for a waiver from the City’s Sewer Connection policy; and
   2. Re-affirm the City’s current policy that prohibits the installation of septic tanks if a sewer main is within 1320’ of a specific property.

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

At Mayor Pro Tem Felipe Martinez’s request, the Public Works Director explained the various conditions within the City’s Sewer Connection Policy that would require Mr. Ramos to
connect to the City’s sewer, and provided information regarding Tulare and Visalia’s City Sewer Connection Policy.

Mayor Hamilton and Council Member Pedro Martinez concurred that they did not want septic tanks within city limits, and Council Member Pedro Martinez and Mayor Pro Tem Felipe Martinez agreed that $80,000 was a large fee for one individual to pay.

- Federico Ramos, 1891 W. Harrison, came forward to speak. Recognizing that Mr. Ramos did not speak English, Council Member Pedro Martinez offered to translate. Mr. Ramos stated that he had purchased the property with the intent of building a house, but the cost of connecting to the sewer would cost him more than he had paid for the property and he could not afford it.

After some discussion Council provided direction to continue the item to the City Council Meeting of March 4, 2008. The Council directed staff to look into policies of other cities and bring back options for Council’s review. It was requested that the City Attorney look into ways to advise title companies of City requirements regarding sewer connections.

Disposition: Direction given.

36. CONSIDER PERMANENT MONUMENT IN MURRY PARK

Recommendation: That the City Council consider the application; and
1. Take under advisement the recommendation and concerns of the Parks & Leisure Services Commission;
2. Approve installation of the specified permanent monument at staff’s recommended location within Murry Park; and
3. Specify that the Council’s action of approval requires completion of the monument installation within one year, unless a time extension is requested and granted.

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

City Attorney Julia Lew stated that it was her recommendation that the Council adhere to the policy that was adopted, and noted that the application was consistent with donations.

Council Member Pedro Martinez questioned the applicant’s intentions, and stated that he was not in support.

City Attorney Julia Lew stated that the words must be those of the applicant and the Council should not get involved with the content.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Hernandez that the Council approve installation of the specified permanent monument at staff’s recommended location within Murry Park; and specify that the Council’s action of approval requires
completion of the monument installation within one year, unless a time extension is requested and granted.

AYES: McCracken, F. Martinez, Hernandez, Hamilton
NOES: P. Martinez
ABSTAIN: None
ABSENT: None

Disposition: Approved

39. STATUS REPORT OF PROJECT PROPOSAL FOR INFRASTRUCTURE AND OPERATIONAL ENHANCEMENTS

Recommendation: Information only.

City Manager Longley introduced the item, and Deputy City Manager Lollis presented the staff report.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Mayor Pro Tem Felipe Martinez that the Council take no further action on the matter, and that staff determine if Johnson Controls has met all contractual obligations.

AYES: McCracken, F. Martinez, Hamilton
NOES: P. Martinez, Hernandez
ABSTAIN: None
ABSENT: None

Disposition: Approved

The Council adjourned at 11:02 p.m. to a Meeting of the Porterville Redevelopment Agency.

PORTERVILLE REDEVELOPMENT AGENCY AGENDA
February 19, 2008

Roll Call: Member McCracken, Member Pedro Martinez, Member Hernandez, Vice Chairman Felipe Martinez, Chairman Hamilton

WRITTEN COMMUNICATIONS
ORAL COMMUNICATIONS
None

SCHEDULED MATTER
PRA-1. REFUNDING REDEVELOPMENT AGENCY 2002 TAX ALLOCATION REFUNDING BODS
Recommendation: That the Redevelopment Agency:
1. Adopt a resolution appoint the firm of Raymond Haight, Attorney at Law, to serve as bond counsel for the proposed bond issue; and
2. Adopt a resolution appointing the firm of Raymond Haight, Attorney at Law to serve as disclosure counsel for the proposed bond issue; and
3. Adopt a resolution appointing the firm of Wulff, Hansen, & Company as underwriter for the proposed bond issue; and
4. Authorize the Chairman, Executive Director, Secretary, and Treasurer to sign all documents necessary to achieve the refunding.

Agency Member McCracken and Vice Chair Felipe Martinez noted a conflict of interest and exited Chambers.

Secretary Longley introduced the item, and Executive Director Brad Dunlap presented the staff report.

A brief discussion ensued with regard to how the action would effect the Porterville Hotel project.

AGENCY ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Agency adopt a resolution appoint the firm of Raymond Haight, Attorney at Law, to serve as bond counsel for the proposed bond issue; adopt a resolution appointing the firm of Raymond Haight, Attorney at Law to serve as disclosure counsel for the proposed bond issue; adopt a resolution appointing the firm of Wulff, Hansen, & Company as underwriter for the proposed bond issue; and authorize the Chairman, Executive Director, Secretary, and Treasurer to sign all documents necessary to achieve the refunding.

AYES: P. Martinez, Hernandez, Hamilton
NOES: None
ABSTAIN: McCracken, F. Martinez
ABSENT: None

Disposition: Approved

The Redevelopment Agency meeting adjourned at 11:13 p.m. to a meeting of the Porterville City Council.

ORAL COMMUNICATIONS
None

OTHER MATTERS
- Council Member Hernandez:
  1) Announced that he was running for election.
  2) Spoke of the “Rockin’ for Alzheimer’s” event, taking place at 5:00 p.m. on Friday,
February 29, 2008 at the Senior Day Care Center. He encouraged everyone to support and donate to the center.

- Mayor Pro Tem Felipe Martinez congratulated Porterville High School on their victory over South High School in basketball.
- Council Member Pedro Martinez:
  1) Voiced his appreciation for staff’s dedication in attending the meeting for its duration.
  1) Extended an invitation to the 34th annual Elks Hoop Shoot Competition at 10 a.m. on February 23, 2008 at the Pioneer Middle School gym.
  2) Mentioned that a Monache student had been recognized by the state for academic excellence and requested that council recognize that student.
  3) Apologized for not being able to attend the Crime and Fire Prevention 2008 event, honoring emergency personnel.
- Council Member Hernandez:
  1) Announced that he would be cooking at the Crime and Fire Prevention 2008 event taking place on February 21, 2008 at the Strathmore Veteran’s Memorial Building and encouraged others to attend and recognize emergency personnel.
  2) Spoke about the possible Charter High School being considered by the School Board, which if approved would be located at the vacant Burton campus.
- City Manager Longley notified Council of the annual Budget Advance to take place February 20-22, 2008.
- Mayor Pro Tem Felipe Martinez asked Mayor Hamilton to confirm that he was running for re-election.
- Mayor Hamilton requested a proclamation for Porterville High School for winning the Polly Wilhelmsen Tournament.

The Council recessed for 10 minutes at 11:20 p.m. and reconvened in Closed Session.

CLOSED SESSION
The Council reconvened Open Session at 11:39 p.m. and reported that no action had taken place in Closed Session.

ADJOURNMENT
The Council adjourned at 11:40 p.m. to the meeting of February 26, 2008 at 6:00 p.m.

_____________________________________________________
Luisa Herrera, Deputy City Clerk

SEAL

_____________________________________________________
Cameron Hamilton, Mayor
SUBJECT:       BUDGET ADJUSTMENT

SOURCE:       FIRE DEPARTMENT

COMMENT:     The Porterville Fire Department has received $1,000 from the Wal-Mart Foundation through the Wal-Mart Distribution Center’s Community grant. The City of Porterville’s Free Smoke Alarm Program was discontinued several years ago. The Fire Department requests the funds be earmarked to purchase smoke detectors to be given to citizens of our community who cannot afford to purchase a smoke detector for their home. It is anticipated the $1,000 grant will provide roughly 200 smoke detectors to our citizens of Porterville. In addition, the purchase of the smoke detectors will be made from our local Wal-Mart retail store.

We thank the Wal-Mart Foundation for their kind and generous donation which in turn will be used to purchase smoke detectors to protect the safety of the citizens of Porterville.

RECOMMENDATIONS: That the City Council:

1) Authorize staff to accept the grant funds and to authorize a budget adjustment to the Fire Department in the amount of $1,000.

2) Approve the use of the funds to purchase smoke detectors and provide them free of charge to the citizens of the City of Porterville who cannot afford to purchase a smoke detector for their home.

ATTACHMENT: None.

Item No. 2
COUNCIL AGENDA: MAY 20, 2008

SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – ALLEY RECONSTRUCTION BETWEEN D STREET AND HOCKETT STREET

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for the Alley Reconstruction between D Street and Hockett Street. The project includes new paving, a concrete V-ditch, and two wheelchair ramps.

The Plans and Project Manual are available in the La Barca Conference Room for Council’s review.

The estimate of probable cost for the entire project is $40,826.50 with $4,083 required for the construction contingency (10%). An additional $1,542 is required for construction management, quality control and inspection. The total estimated cost associated with the project is $46,451.50. An Estimate of Probable Cost is attached for Council’s review.

Funding for the project is approved in the 2007/2008 Annual Budget under Miscellaneous Alley and the funding source is Local Transportation Funds.

RECOMMENDATION: That City Council:

1. Approve staff’s recommended plans and project manual; and

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

ATTACHMENTS: Estimate of Probable Cost
Locator Map

P:\Pubworks\Engineering\Council Items\Authorization to Advertise for Bids - D and Hockett Alley - 2008-05-20.doc

[Signature]

Item No. 3
## ALLEY RECONSTRUCTION BETWEEN D ST. AND HOCKETT ST.

City of Porterville

Engineers Estimate

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>UNIT</th>
<th>QUANTITY</th>
<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Mobilization/Demobilization and Clean Up</td>
<td>LS</td>
<td>1</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Traffic Control</td>
<td>LS</td>
<td>1</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>3</td>
<td>Demolition, Clearing and Grubbing, Excavation</td>
<td>LS</td>
<td>1</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td></td>
<td>(includes A.C. removal and concrete)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Caltrans Curb Ramps per detail</td>
<td>EA</td>
<td>2</td>
<td>$3,000.00</td>
<td>$6,000.00</td>
</tr>
<tr>
<td>5</td>
<td>3&quot; A.C.</td>
<td>TN</td>
<td>55</td>
<td>$100.00</td>
<td>$5,500.00</td>
</tr>
<tr>
<td>6</td>
<td>6&quot; Class 2 Base</td>
<td>CY</td>
<td>54</td>
<td>$60.00</td>
<td>$3,240.00</td>
</tr>
<tr>
<td>7</td>
<td>Install 4' V-Gutter</td>
<td>LF</td>
<td>241</td>
<td>$25.00</td>
<td>$6,025.00</td>
</tr>
<tr>
<td>8</td>
<td>Install Concrete Apron for Alley</td>
<td>SF</td>
<td>80</td>
<td>$30.00</td>
<td>$2,400.00</td>
</tr>
<tr>
<td>9</td>
<td>Adjust Sewer Cleanout</td>
<td>EA</td>
<td>1</td>
<td>$1,000.00</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>10</td>
<td>Adjust Valves</td>
<td>EA</td>
<td>2</td>
<td>$300.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>11</td>
<td>Adjust Utility Box</td>
<td>EA</td>
<td>2</td>
<td>$300.00</td>
<td>$600.00</td>
</tr>
<tr>
<td>12</td>
<td>Re-Align Wooden Fence</td>
<td>LF</td>
<td>25</td>
<td>$30.00</td>
<td>$750.00</td>
</tr>
</tbody>
</table>

Sub Total $37,115.00

10% Contingency $3,711.50

Total $40,826.50

---

5-14-08  
Project Manager

5/14/08  
Public Works Director

5-14-08  
City Engineer

5/15/08  
City Manager
Alley Reconstruction
Between D St. and Hockett St.
SUBJECT: AWARD OF CONTRACT – AIRPORT TOXIC REMEDIATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On May 14, 2008, staff received two bids for the Airport Toxic Remediation Project. The project includes the spreading and compaction of contaminated dirt, placement of a 0.3" geo-synthetic clay liner over the contaminated soil, placement of 4 inches of disintegrated granite over the clay liner capped by 2 inches of asphalt concrete.

The Airport Toxic Remediation project is a project mandated by the Department of Toxic Substances Control (DTSC). Past pesticide loading practices rendered a small area adjacent to the Porterville Air Attack Base contaminated with pesticide residual. The DTSC directed that the City prepare plans and specifications consistent with the City's approved "Removal Action Work" (RAW) plan. The plan provides the specific guidelines and requirements to properly and legally remediate the contaminated site.

The Engineer's Estimate of Probable Cost was $340,000. The low bid is approximately 5.8% above the engineer's estimate. An additional $35,962 (10%) is needed for construction contingency and an additional $12,500 (3.5%) is needed for construction management and soil testing services. Funding for the project was budgeted in the 2007/2008 budget. Risk management and COP funds will pay for the project.

The two bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Bid Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Petrosius Construction, Inc. Visalia, CA</td>
<td>$359,622.26</td>
</tr>
<tr>
<td>Bowen Engineering &amp; Environmental Fresno, CA</td>
<td>$420,000.00</td>
</tr>
</tbody>
</table>

Staff reviewed the low proposal and found it acceptable and in conformance with the bid documents.
RECOMMENDATION: That the City Council:

1. Award the Airport Toxic Remediation project to Petrosius Construction, Inc. in the amount of $359,622.26;

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

3. Authorize a 10% contingency to cover unforeseen construction costs, and 3.5% for construction management and soil testing services

ATTACHMENT: Locator Map

P:\pubworks\Engineering\Council Items\Award of Contract - Airport Toxic Remediation Project - 2008-05-20.doc
SUBJECT: ACCEPTANCE OF PROJECT – DATE AVENUE RECONSTRUCTION – ‘A’ STREET RECONSTRUCTION & STORM DRAIN PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Mitch Brown Construction, Inc. has completed the Date Avenue Reconstruction – ‘A’ Street Reconstruction & Storm Drain Project per plans and specifications. The project included the reconstruction of Date Avenue to collector standards (60’ wide right of way) from Main Street to Cornell Street including one lane of traffic in each direction with on street parking, sewer and water services where applicable, storm drain, fire hydrants, 8” water main crossings at all street intersections, street intersection curb returns and street lighting. An add alternate was included for construction of full concrete improvements along Date Avenue.

Included in this project was the reconstruction of ‘A’ Street from Date Avenue south to its terminus. Also included with this segment of work was an 18” storm drain pipe extended through Porterville Concrete Pipe’s property south to the Tule River. Storm water from ‘A’ Street previously sheet flowed across Porterville Concrete Pipe’s property to the river.

City Council authorized expenditure of $712,913.81 for construction. Final construction cost is $683,190.28. Funding for this project was approved in the 2007/2008 fiscal year budget from Certificates of Participation Refinance (COP), Local Transportation Funds (LTF) and Carryover.

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

RECOMMENDATION: That City Council:

1. Accept the project as complete;

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

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

ATTACHMENT: Locator Map
SUBJECT: ACCEPTANCE OF PROJECT – OAK AVENUE IMPROVEMENT PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Halopoff & Sons, Inc. has completed the Oak Avenue Improvement Project per plans and specifications. The Base Bid included improvements to the parking lot on the south side of Oak Avenue between Hockett Street and Division. This is the former location of the Singer Building, which was purchased by the City and demolished. Completion of the parking lot included new paving, median island with stamped concrete, landscaping, lighting and striping. Add Alternate A included street improvements along Oak Avenue from Hockett Street to Division including new paving, curb and gutter, stamped crosswalks, stamped sidewalks, disabled ramps, nostalgic street lights, landscaping, irrigation, signing and striping. An additional four (4) parking stalls were provided on the north side of Oak Avenue.

City Council authorized an expenditure of $285,369.71 for construction. Final construction cost is $257,754.79. Funding for this project is from FTA grant and LTF, and was approved in the 2007/2008 Annual Budget for transit facility pedestrian mall.

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

RECOMMENDATION: That City Council:

1. Accept the project as complete; and

2. Authorize the filing of the Notice of Completion.

ATTACHMENT: Locator Map

P:\pub\works\Engineering\Council Items\Acceptance of Project - Oak Avenue Improvement Project - 2008-05-20.doc

Dir Appropriated/Funded CM Item No. 60
COUNCIL AGENDA: MAY 20, 2008

SUBJECT: ACCEPTANCE OF PROJECT – TRAFFIC SIGNAL #11 (INDIANA STREET AND PUTNAM AVENUE)

SOURCE: Public Works Department - Engineering Division

COMMENT: A-C Electric Company has completed the Traffic Signal #11 (Indiana Street and Putnam Avenue) Project per plans and specifications. The project included new curb ramps, asphalt paving, striping and markings, and the construction of a new traffic signal.

City Council authorized expenditure of $282,700 for construction. Final construction cost is $263,550. Funding for the project was approved in the 2007/2008 Annual Budget under Indiana-Putnam Traffic Signal and the funding source is local transportation and work force housing funds.

A-C Electric Company requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the project as complete;

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

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

ATTACHMENT: Locator Map

P:\pubworks\Engineering\Council Items\Acceptance of Project - Traffic Signal #11 (Indiana St & Putnam Ave) - 2008-05-20.doc

[Signatures]

Item No. 7
SUBJECT: ACCEPTANCE OF PROJECT – MATHEW AND WESTFIELD STORM DRAIN PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Montes Pacific Engineering has completed the Mathew and Westfield Storm Drain Project per plans and specifications. The project included a catch basin, asphalt concrete berm, asphalt concrete improvements, and connection to an existing storm drain line.

City Council authorized an expenditure of $20,949 for construction. Final construction cost is $16,372. Funding is provided by developer impact fees and was approved in the 07/08 Annual Budget as a part of the Storm Drain Master Plan Update.

Montes Pacific Engineering requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

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

ATTACHMENT: Locator Map

P:\pubworks\Engineering\Council Items\Acceptance of Project - Mathew and Westfield Storm Drain Project Project - 2008-05-20.doc

Dir _____ Appropriated/Funded MB CM _____ Item No. 8
Mathew and Westfield Storm Drain Project
City of Porterville
SUBJECT: CITY-COUNTY AGREEMENTS RELATED TO SCRANTON – INDIANA WIDENING PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Staff is currently working on construction plans and specifications for the Scranton Avenue and Indiana Street Widening Project from Gibbons Avenue to a point approximately 400 feet east of State Route 65. The plans are about 95 percent complete and currently in line to be the first Measure R Regional Project.

Both road segments lie within the County’s jurisdiction and all construction aspects were under Tulare County Resource Management Agency control. The passage of Measure R and Council’s September 4, 2007 action agreeing to taking over the project has necessitated the need for agreements that will define jurisdictional rights. These agreements will define agency authority to acquire rights-of-way, design authority, maintenance and future operational responsibilities (permitting agency) within said street segments.

Upon approval of these agreements, the City will have the authority to design, construct, maintain, and issue public works permits within these street segments. However, interest rights will remain with the County until annexation. The only drawback is the City’s inability to claim additional funds through funding sources that are categorized based on maintained roadway miles.

The attached joint agreements will allow the City to move forward with this significant Measure R Regional Project and one step closer to the ultimate General Plan Circulation goal of having a four lane road along Jaye Street, Gibbons Avenue, Indiana Street and Scranton Avenue between State Route 190 and State Route 65. The agencies’ legal counsels have reviewed the agreements and found them to be acceptable.

RECOMMENDATION: That City Council:

1. Approve the Maintenance & Operation Agreement and City/County Cooperative Agreement as written;

2. Authorize the Mayor and City Clerk to execute two (2) of each agreement with Tulare County; and

3. Authorize the City Clerk to forward the agreements to Tulare County for Board of Supervisor action.

ATTACHMENTS: Locator Map
City - County Cooperative Agreement
Maintenance Agreement w/ Exhibit

P:\pub\work\Engineering\Council Items\City County Agreements Related to the Scranton - Indiana Widening - 2008-.doc

Dir [Signature] Appropriated/Funded [Signature] CM [Signature] Item No. 9
HIGHWAY 65

CITY
COUNTY

SCRANTON AVE.

STATE
COUNTY

RIGHT OF WAY ON INDIANA
SOUTH OF SCRANTON TERMINATES
AT CENTERLINE OF HEMLOCK AVE.

GIBBONS AVE.

OHIO ST.
COTTAGE PL.

HEMLOCK AVE.

EXHIBIT "A"

- AREA OF INTEREST

SCALE: 1" = 200'

"0°" 100° 200°"
COOPERATIVE AGREEMENT
SCRANTON AVENUE AND INDIANA STREET WIDENING PROJECT
BETWEEN STATE ROUTE 65 AND GIBBONS AVENUE

This Cooperative Agreement ("AGREEMENT") is made and entered into this _____ day of
___________, 2008 by and between the COUNTY OF TULARE, hereinafter referred to
as COUNTY, and the CITY OF PORTERVILLE, hereinafter referred to as CITY, with
reference to the following:

WHEREAS, the CITY is the lead agency on a project to widen Scranton Avenue and
Indiana Street, beginning about 350 feet east of State Route 65 and terminating at Gibbons
Avenue, hereinafter referred to as PROJECT, using funds from the 2006 Half-Cent
Transportation Sales Tax Measure Expenditure Plan and Use Tax Ordinance hereinafter
referred to as MEASURE R; and

WHEREAS, on January 25, 2008, the CITY 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
Clearinghouse, interested agencies, groups, and individuals for a thirty (30) day review period from
February 15, 2008, to March 15, 2008. At the end of the review period, the only comments were
from the Native American Heritage Commission and the Department of Transportation; and

WHEREAS, CITY on April 1, 2008, by way of Resolution No. 30-2008, adopted a
mitigated negative declaration/environmental assessment (State Clearinghouse Number
2008021082) in accordance with the California Environmental Quality Act hereinafter referred
to as ENVIRONMENTAL DOCUMENT; and

WHEREAS, COUNTY, on June 10, 2008 ratified ENVIRONMENTAL
DOCUMENT; and

WHEREAS, a portion of the PROJECT is within the county of Tulare and COUNTY
desires CITY to acquire right of way for the PROJECT in conformance with the preferred
alignment selected for this PROJECT and ENVIRONMENTAL DOCUMENT; and

WHEREAS, CITY has received authorization and allocation from the Tulare County
Transportation Authority for funding from Measure R; and

WHEREAS, CITY is willing to perform right of way activities required for the
PROJECT; and

WHEREAS, COUNTY and CITY intend to define the terms and conditions under
which the right of way and utility relocations are to be handled: and

WHEREAS, this AGREEMENT is entered into pursuant to Government Code Section
6500 et. seq.
NOW, THEREFORE, it is agreed as follows:

1. Activities of CITY. CITY agrees to provide all necessary right of way support activities to acquire PROJECT right of way located within the county of Tulare. Said right of way support activities shall include, but not be limited to, the following:
   a. Preparing maps, deeds and descriptions.
   b. Making fair market value appraisals and relocation valuations.
   c. Acquiring private property for public purposes in CITY’S name by negotiation.
   d. Acquiring by condemnation private property for a public purpose in COUNTY’S name if COUNTY issues a Resolution of Necessity or in CITY’S name if CITY issues a Resolution of Necessity.
   e. Proceed with the condemnation process, including initiate and control the eminent domain proceedings, if necessary, for the acquisition of any right of way required for the PROJECT upon the issuance of a valid Resolution of Necessity pursuant to Code of Civil Procedure Section 1245.220.
   f. CITY will follow the Eminent Domain process pursuant to Code of Civil Procedure Section 1230.10 et. seq.
   g. Providing required relocation assistance payments and services to affected landowners.
   h. Opening escrow, obtaining title reports, making arrangements to convey title and close escrow.
   i. Completing acquisitions through disbursement of funds, close of escrow and satisfaction of judgments or settlement of condemnation actions initiated on behalf of the PROJECT.
   j. Providing oversight and paying for utility relocations within existing or proposed COUNTY right of way to ensure relocations will not conflict with the PROJECT.
   k. Relinquish to COUNTY legal title to property acquired by CITY in COUNTY within 180 days following the filing of the Notice of Completion for PROJECT by CITY.

2. Activities of COUNTY. COUNTY shall support the efforts of CITY to acquire right of way and utility relocations for the project by actions including, but not limited to, the following:
   a. Minor changes in the PROJECT alignment or description that may affect right of way to be obtained by CITY shall be subject to the approval of the Resource Management Agency Director and said approval is hereby delegated by COUNTY to the Resource Management Agency Director and shall not be unreasonably withheld.
   b. COUNTY shall make available to CITY all records, maps, drawings and permits involving installation of utilities in COUNTY right of way.
   c. If any public, private or COUNTY-owned utility or public facility conflicts with the PROJECT, COUNTY shall cooperate with the CITY to make all necessary arrangements with the owners of such utilities and facilities for their protection, relocation or removal in accordance with COUNTY policy for those utilities and facilities located within the limits of work within the county of Tulare.
d. Accept from CITY relinquished property within 90 days of the relinquishment documents being presented to COUNTY.

3. Project Description. The complete description of the PROJECT is contained in the ENVIRONMENTAL DOCUMENT and supporting technical studies indicated by reference in the ENVIRONMENTAL DOCUMENT. As the final engineering for the PROJECT is completed by CITY, further refinement of the right of way to be obtained may be necessary, but will be generally consistent with approved PROJECT description.

4. Acquisition of Rights-of-Way. CITY shall comply with all State right of way laws, the Federal Uniform Acquisition and Relocation Assistance Act, and any other federal laws applicable to CITY or the PROJECT.

5. Funding. All obligations of CITY under the terms of this AGREEMENT will be funded using Measure R funds through the Tulare County Transportation Authority. Neither party is required to use its funds to support this PROJECT.

6. No Rights in Third Parties. Nothing in the provisions of this AGREEMENT is intended to create duties or obligations to or rights in third parties not parties to this AGREEMENT or to affect the legal liability of either party to the AGREEMENT by imposing any standard of care with respect to the maintenance of the COUNTY’s property different from the standard of care imposed by law.

7. COUNTY Indemnification. Neither COUNTY nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority or jurisdiction delegated to CITY under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, CITY shall fully defend, indemnify and save harmless COUNTY and its officers and employees from all claims, suits, actions or eminent domain proceedings of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by CITY under or in connection with any work, authority, or jurisdiction delegated to CITY under this AGREEMENT, including any claims for attorney fees, private attorney general fees and/or costs by or awarded to any party from COUNTY. To the extent that COUNTY is required to use COUNTY staff or resources in responding to any such claim, suit, action or eminent domain proceeding, CITY will reimburse COUNTY upon appropriate documentation of these expenditures. COUNTY resources include, but are not limited to staff time, duplication costs, record preparation costs and time and/or any other or indirect cost associated with responding to the claim, suit, action or eminent domain proceeding. CITY shall maintain adequate insurance coverage, either through policies issued by insurance companies or through self-insurance reserves to provide said indemnity.

a) Furthermore, CITY agrees to vigorously defend the County, and in the absence of that defense, CITY and its counsel will:
   1) Promptly notify COUNTY of any eminent domain proceedings initiated pursuant to this agreement in COUNTY’s name;
   2) Make no settlement of any claim, suit, action or eminent domain proceeding in
COUNTY’s name which would abrogate the County’s discretionary authority or require the County to delegate any discretionary authority;

3) Submit, at least three (3) working days prior to any filing deadline, or as otherwise agreed by counsel, to County Counsel drafts of all pleadings and briefs to be filed on behalf of County for review and approval. County Counsel shall approve any draft pleading or brief within (1) working day of receipt, or as otherwise agreed by counsel, and if it fails to do so, then the pleading or brief may be filed with the court as if it had been approved by County Counsel.

4) Provide to County Counsel no later than the date such pleadings are due to be filed with the Court, copies of all pleadings and briefs filed on behalf of CITY and the COUNTY.

b) COUNTY will promptly notify CITY of any such claim, suit, action which comes to COUNTY’s attention.

c) COUNTY may, within its unlimited discretion, and at City’s expense, participate in the defense or litigation of any such claim, suit, action or eminent domain proceeding in COUNTY’s name, if COUNTY elects to defend or litigate the claim, suit, action or eminent domain proceeding in good faith.

d) Neither the COUNTY nor the CITY shall be required to pay or perform any settlement of such claim, suit, action or eminent domain proceeding in COUNTY’s name unless the settlement is approved in writing by each of them.

8. CITY Indemnification. Neither CITY nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority or jurisdiction delegated to COUNTY under this AGREEMENT. It is understood and agreed that, pursuant to Government Code Section 895.4, COUNTY shall fully defend, indemnify and save harmless CITY and its officers and employees from all claims, suits, or actions of every name, kind and description brought for or on account of injury (as defined by Government Code Section 810.8) occurring by reason of anything done or omitted to be done by COUNTY under or in connection with any work, authority, or jurisdiction delegated to COUNTY under this AGREEMENT, including any claims for attorney fees, private attorney general fees and/or costs by or awarded to any party from CITY. To the extent that CITY is required to use CITY staff or resources in responding to any such claim, suit, action or proceeding, COUNTY will reimburse CITY upon appropriate documentation of these expenditures. CITY resources include, but are not limited to staff time, duplication costs, record preparation costs and time and/or any other or indirect cost associated with responding to the claim, suit, action or eminent domain proceeding. COUNTY shall maintain adequate insurance coverage, either through policies issued by insurance companies or through self-insurance reserves to provide said indemnity.

a) Furthermore, COUNTY agrees to vigorously defend the City, and in the absence of that defense, COUNTY and its counsel will:

1) Make no settlement of any claim, suit, action or proceeding in CITY’s name which would abrogate the City’s discretionary authority or require the City to delegate any discretionary authority;

2) Submit, at least three (3) working days prior to any filing deadline, or as otherwise agreed by counsel, to the City Attorney drafts of all pleadings and
b) CITY will promptly notify COUNTY of any such claim, suit, action which comes to CITY’s attention.

c) CITY may, within its unlimited discretion, and at County’s expense, participate in the defense or litigation of any such claim, suit, action or proceeding in CITY’s name, if CITY elects to defend or litigate the claim, suit, action or eminent domain proceeding in good faith.

d) Neither the COUNTY nor the CITY shall be required to pay or perform any settlement of such claim, suit, action or proceeding in CITY’s name unless the settlement is approved in writing by each of them.

9. Amendment. No alteration or variation of the terms to this AGREEMENT shall be valid unless made in writing and signed by the parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

10. Termination. This AGREEMENT shall terminate upon the completion of the right of way acquisition and utility relocation by CITY for the PROJECT, or on December 31, 2010, whichever is earlier in time, unless both parties agree by amendment to this AGREEMENT to an extension of time.

11. Final Integrated Agreement. This AGREEMENT constitutes the entire, final and binding understanding between the parties hereto with respect to the terms of this AGREEMENT; that no other statement or representation, written or oral, express or implied, has been received or relied upon by any other party hereto in entering into this AGREEMENT, and that all prior discussions, statements, and negotiations made or which have occurred prior to the date of this AGREEMENT shall be deemed merged into this AGREEMENT and the documents referred to herein, and shall not be used for any other purpose whatsoever.

12. Severability and Construction. If any provision of this AGREEMENT is held to be illegal, invalid, or unenforceable under present or future laws, such provisions shall be fully severable. This AGREEMENT shall be construed and enforced as though such illegal, invalid, or unenforceable provision had never comprised a part of this AGREEMENT and the remaining provisions of this AGREEMENT shall remain in full force and effect.

13. Venue. This AGREEMENT shall be construed in accordance with the laws of the State of California. The parties agree to submit themselves to the jurisdiction of the court venue in Tulare County (or in the case of exclusive federal jurisdiction, the U.S. District Court for the Eastern District of California in Fresno) in any action relating to this AGREEMENT or the enforcement of interpretation thereof.
14. Attorneys’ Fees and Costs. Each party will bear their own costs, including attorneys’ fees, in connection with enforcing the terms and conditions of this AGREEMENT.

15. Headings. 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.

16. Notices. Except as may be otherwise required by law, any notice to be given shall be written and shall be personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and address as follows:

County:  RMA Director
         Government Plaza
         5961 S. Mooney Blvd.
         Visalia, CA 93277
         (Phone No. (559) 733-6291 / Fax No. (559) 730-2653

City:  City Manager
        291 N. Main St.
        Porterville, CA 93257
        (Phone No. (559) 782-7466 / Fax No. (559) 715-4013

17. Construction. This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 will not apply to address and interpret any uncertainty.

18. 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 right 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.

19. Exhibits and Recitals. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.
IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

CITY COUNCIL  
CITY OF PORTERVILLE  
STATE OF CALIFORNIA

By: ___________________________  
CAMERON J. HAMILTON, Mayor

BOARD OF SUPERVISORS  
COUNTY OF TULARE  
STATE OF CALIFORNIA

By: ___________________________  
CONNIE CONWAY, Chairman

ATTEST: ________________________  
City Clerk

ATTEST: ________________________  
Clerk of the Board of Supervisors

APPROVED AS TO LEGAL FORM: ________________________  
City Attorney

APPROVED AS TO LEGAL FORM: ________________________  
County Counsel
MAINTENANCE AND OPERATIONS AGREEMENT
SCRANTON AVENUE AND INDIANA STREET
BETWEEN STATE ROUTE 65 AND GIBBONS AVENUE

THIS AGREEMENT is entered into this _____ day of __________________, 2008, between
the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as
CITY, with reference to the following:

A. WHEREAS, in order to accommodate growth and development within its jurisdiction,
CITY desires to improve Scranton Avenue and Indiana Street generally between State
Route 65 and Gibbons Avenue (see Exhibit "A")

B. WHEREAS, City desires to maintain, repair and operate the roadway system including
but not limited to roadway surface, drainage, traffic signal/striping and encroachment
permitting responsibility; and

C. WHEREAS, CITY desires to undertake such improvement at some time in the future and
COUNTY is willing to allow CITY to undertake such improvement; and

D. WHEREAS, Government Code section 54981 authorizes COUNTY and CITY to contract
for the improvement, maintenance, repair and operation by CITY of streets and highways
within COUNTY’S jurisdiction.

ACCORDINGLY, IT IS AGREED:

1. COUNTY authorizes CITY to undertake, at no risk or expense to the COUNTY, the
maintenance and improvement of that portion of Scranton Avenue and Indiana Street
generally between State Route 65 and Gibbons Avenue. The specific portion is more
particularity identified in Exhibit "A" which is attached hereto and incorporated herein by
this reference.

2. CITY agrees to maintain, repair and operate the roadway system and to construct future
improvements in accordance with all applicable Federal, State, and local laws,
regulations and directives, with the exception of COUNTY’S road standards. CITY shall
provide and administer all encroachment permits and other controls required by state and
local laws, regulations and ordinances, in accordance with CITY’s standards.
3. CITY agrees that no authorization, oversight, input or requirement other than the authority conferred by this Agreement shall be necessary from the COUNTY.

4. The term of this Agreement is indefinite and shall continue until such time as the referenced segment of Scranton Avenue and Indiana Street is annexed to CITY. The indemnity provisions contained in paragraph 6 of this Agreement shall continue in full force and effect beyond expiration by annexation or termination of this Agreement by any other means.

5. CITY hereby agrees to pay all expenses arising out of the design, repair, operation, maintenance, construction and/or upkeep of said portion of Scranton Avenue and Indiana Street and hereby waives any claim against the COUNTY for any cost of design, repair, operation, maintenance, construction and/or upkeep of said portion of Scranton Avenue and Indiana Street.

6. From and after the execution of this Agreement, CITY shall have all responsibility and liability for all activities and omissions related to the design, construction, upkeep, repair, operation and maintenance of said portion of Scranton Avenue and Indiana Street, including its integration with any connecting roads and streets, and CITY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including, but not limited to court cost and attorney fees, death or injury to any person and/or damage to any property (including COUNTY property), arising out of or related to said design, construction, upkeep, repair, operation, maintenance or integration by CITY, its agents, officers, independent contractors, developers and employees. CITY specifically agrees to hold harmless, defend and indemnify COUNTY for any and all claims arising out of COUNTY’S waiver of COUNTY’S road standards and any actions or omissions by CITY in connection with any encroachment permit or other discretionary permit issued by CITY to facilitate this Agreement. This indemnification obligation shall continue beyond the term of this Agreement or any extension of this Agreement. CITY shall maintain adequate
insurance coverage, either through policies issued by insurance companies or through self insurance reserves, to provide said indemnity to the COUNTY.

7. From and after the execution of this Agreement, CITY shall enforce all traffic and pedestrian safety laws and ordinances on said portion of Scranton Avenue and Indiana Street, and COUNTY shall have no responsibility or liability therefore.

8. CITY shall maintain complete and accurate records with respect to all works of improvement authorized by this Agreement.

9. This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force of effect. No part of this Agreement may be modified without the written consent of both parties.

10. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

   COUNTY:
   RMA Director
   Government Plaza
   5861 S. Mooney Blvd.
   Visalia, CA 93277

   (Fax No.: (559) 730-2653 / Phone No. (559) 733-6291)

   CITY:
   City Manager
   291 N. Main St.
   Porterville, CA 93257

   (Fax No.: (559) 715-4013 / Phone No. (559) 782-7456)

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

11. 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. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.
13. This Agreement shall 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 shall be brought in Tulare County, California.

14. The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party or either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

15. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

16. This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court of other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall 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 shall continue in full force and effect.

17. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.

18. CITY expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

19. This Agreement shall become effective upon the award of a contract by CITY for the construction of improvements for the project to widen Scranton Avenue and Indiana Street.

/ 
/
THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

BY ____________________________
Connie Conway, Chairman

ATTEST: Jean Rousseau
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By ____________________________
Deputy Clerk

Approved as to Form

By ____________________________
County Counsel

CITY OF PORTERVILLE

BY ____________________________
Cameron J. Hamilton, Mayor

ATTEST: John Longley
City Clerk of the City of Porterville

BY ____________________________
Deputy

Approved as to Form

BY ____________________________
City Attorney
SUBJECT: APPROVAL OF AGREEMENT WITH DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CAL FIRE)

SOURCE: ADMINISTRATION/AIRPORT MANAGER

COMMENT: On March 18, 2008, the City Council approved Resolution 27-2008 which defined the landing fees charged by the City to Cal Fire for the landing of air attack aircraft at the Porterville Municipal Airport. In order to streamline the processing of payments, Cal Fire has requested that the terms set forth in said resolution be documented in an agreement between the City of Porterville and Cal Fire.

RECOMMENDATION: That the City Council:

1. Approve Agreement No. 4CA00049 between the Department of Forestry and Fire Protection (Cal Fire) and the City of Porterville; and

2. Authorize the City Manager to sign said Agreement and transmit same to Cal Fire.

ATTACHMENT: Cal Fire Agreement No. 4CA00049
Resolution No. 27-2008

Item No. 10

[Signatures]
May 9, 2008

John Longley, City Manager
City of Porterville
291 North Main Street
Porterville, CA 93257

Subject: Agreement Number 4CA00049

Dear Mr. Longley:

In an effort to streamline the way the State of California conducts business, you will note that in the new format of the Standard Agreement (STD 213/210), a copy of the General Terms and Conditions (GTC) is not provided. The GTC’s are available on the Internet at www.dgs.ca.gov/contracts and may be downloaded and printed for your files. However, if you do not have Internet capabilities, you may request a hard copy by contacting the person listed in the paragraph below.

This Agreement cannot be considered binding on either party until approved by appropriate authorized State agencies. No services should be provided prior to approval, as the State is not obligated to make any payments on any agreement prior to final approval. Expeditious handling of this Agreement is appreciated. For inquiries regarding this Agreement, please call Linda Goddard (916) 324-6349.

Complete the following item(s) and return to the address stated below:

☑️ **Standard Agreement (STD 213/210)**. Please download and print three (3) top copies with original signatures, and one (1) complete signed contract package and return immediately for further processing. Return to either address below:

- **Overnight Carrier Address (UPS, Fed-Ex, etc.)**
  - Linda Goddard
  - CAL FIRE Business Services Contract Office
  - 1300 U Street
  - Sacramento, CA 95818

- **Regular Mail (USPS)**
  - Linda Goddard
  - CAL FIRE Business Services Contract Office
  - P.O. Box 944246
  - Sacramento, CA 94244-2460

☑️ **Payee Data Record (STD 204)**. No payment can be made unless this form is completed and returned.

☑️ **Contractor Certification Clauses (CCC)**. The CCC package contains clauses and conditions that may apply to your agreement and to persons doing business with the State of California. The CCC will be kept on file in a central location and must be renewed every three (3) years and updated as changes occur. It is available on the Internet site referenced in paragraph one above. Please sign and return the first page of the current CCC. Failure to do so will prohibit the State of California from doing business with your company.

☑️ **Voluntary Statistical Data Sheet (VSDS-PDF)** has been attached. It is optional to complete and return this form to our department. Returned forms will be used for informational purposes only.

☐ Copy of your insurance certification which states coverage will not be canceled without 30 days written notice to the State of California, and which also includes the State of California, its officers, agents, and employees as additional insured.

☐ The attached Agreement is signed on behalf of the Dept. of Forestry and Fire Protection (CAL FIRE). Continue processing and when approved, return the original to this office.

☐ The attached approved Agreement is for your records. You are now authorized to provide the agreed upon services.

Linda K Goddard, Contract Analyst

Attachment(s)
EXHIBIT A
(Standard Agreement)

SCOPE OF WORK

1. Contractor agrees to provide to the Department of Forestry and Fire Protection (CAL FIRE) landing capability at the Porterville Municipal Airport as follows:

   The Porterville Air Attack Base is a joint CAL FIRE/USFS operated facility. The Air Attack Base provides fire retardant and support for fire fighting aircraft and is physically located at the Porterville Municipal Airport in Tulare County. The contractor shall provide use of the runway and taxiways as needed for CAL FIRE firefighting aircraft.

2. The services shall be performed at: Porterville City Airport
   1893 S. Newcomb
   Porterville, CA 93257

3. The services shall be provided, seven days per week, 24 hours per day. Peak season occurs between May and November.

4. The project representatives during the term of this agreement will be:

<table>
<thead>
<tr>
<th>State Agency: Department of Forestry and Fire Protection (CAL FIRE)</th>
<th>Contractor: City of Porterville</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: Julio Quiroz</td>
<td>Name: John Longley</td>
</tr>
<tr>
<td>Phone: (559) 784-0828</td>
<td>Phone: (559) 782-7466</td>
</tr>
<tr>
<td>Fax: (559) 789-0198</td>
<td>Fax: (559) 715-4013</td>
</tr>
<tr>
<td>Email: <a href="mailto:Julio.Quiroz@fire.ca.gov">Julio.Quiroz@fire.ca.gov</a></td>
<td>Email: <a href="mailto:jlongley@ci.porterville.ca.us">jlongley@ci.porterville.ca.us</a></td>
</tr>
</tbody>
</table>

Direct all inquiries to:

<table>
<thead>
<tr>
<th>State Agency: Department of Forestry and Fire Protection (CAL FIRE)</th>
<th>Contractor: City of Porterville</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section/Unit: Business Services/Contracts</td>
<td>Section/Unit: Porterville Airport</td>
</tr>
<tr>
<td>Attention: Linda Goddard</td>
<td>Attention: John Longley</td>
</tr>
<tr>
<td>Address: P. O. Box 944246, Sacramento, CA 94244</td>
<td>Address: 291 North Main Street Porterville, CA 93257</td>
</tr>
<tr>
<td>Phone: (916) 324-6349</td>
<td>Phone: (559) 782-7540</td>
</tr>
<tr>
<td>Fax: (916) 323-1888</td>
<td>Fax: (559) 788-2554</td>
</tr>
<tr>
<td>Email: <a href="mailto:Linda.Goddard@fire.ca.gov">Linda.Goddard@fire.ca.gov</a></td>
<td>Email: <a href="mailto:jlongley@ci.porterville.ca.us">jlongley@ci.porterville.ca.us</a></td>
</tr>
</tbody>
</table>
EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. **Excise Tax**
   
The State of California is exempt from federal excise taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Agreement. California may pay any applicable sales and use tax imposed by another state.

2. **Settlement of Disputes**
   
   In the event of a dispute, within ten (10) days of discovery of the problem contractor shall file a "Notice of Dispute" with:

   Department of Forestry and Fire Protection  
   Attention: Contracts Manager  
   P.O. Box 944246  
   Sacramento, CA 94244-2460

   Within ten (10) days of CDF receiving contractor's notice, the contracts manager or designee shall advise contractor of the findings and recommend a method to resolve the dispute. Decision of the contracts manager or designee shall be final.

   In the event of a dispute, the language contained within this Agreement shall prevail over any other language including that of the bid proposal.

3. **Right to Terminate (SCM 7.85)**
   
The State reserves the right to terminate this agreement subject to thirty (30) days written notice to the Contractor. Contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

   However, the agreement can be immediately terminated for cause. (Refer to GTC, Exhibit C, Item 7. Termination for Cause)

4. **Potential Subcontractors**
   
   Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

5. **Evaluation of Contractor**
   
   Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over $5,000.
**STATE OF CALIFORNIA**  
**PAYEE DATA RECORD**  
(Required when receiving payment from the State of California in lieu of IRS W-9)  
STD. 204 (Rev. 6/2003)

**INSTRUCTIONS:** Complete all information on this form. Sign, date and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this **fully completed** form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement.  
**NOTE:** Governmental entities, federal, State, and local (including school districts) are not required to submit this form.

<table>
<thead>
<tr>
<th>PAYEE’S LEGAL BUSINESS NAME (Type or Print)</th>
</tr>
</thead>
<tbody>
<tr>
<td>SOLE PROPRIETOR-ENTER NAME AS SHOWN ON SSN (Last, First, M.I.)</td>
</tr>
<tr>
<td>MAILING ADDRESS (Number and Street or P.O. Box Number)</td>
</tr>
<tr>
<td>CITY, STATE, ZIP CODE</td>
</tr>
</tbody>
</table>

**ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN):**

| ☐ PARTNERSHIP |
| ☐ ESTATE OR TRUST |

**CORPORATION:**

- MEDICAL (e.g., dentistry, psychotherapy, chiropractic, etc.)
- LEGAL (e.g., attorney services)
- EXEMPT (nonprofit)
- ALL OTHERS

**INDIVIDUAL OR SOLE PROPRIETOR ENTER SOCIAL SECURITY NUMBER:**

(SSN required by authority of California Revenue and Tax Code Section 18846)

| ☐ California Resident – Qualified to do business in California or maintains a permanent place of business in California. |
| ☐ California nonresident (see reverse side) – Payments to nonresidents for services may be subject to State income tax withholding. |
| ☐ No services performed in California. |
| ☐ Copy of Franchise Tax Board waiver of State withholding attached. |

**I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State Agency below.**

<table>
<thead>
<tr>
<th>AUTHORIZED PAYEE REPRESENTATIVE’S NAME (Type or Print)</th>
<th>TITLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>SIGNATURE</td>
<td>DATE</td>
</tr>
</tbody>
</table>

**Please return completed form to:**

<table>
<thead>
<tr>
<th>Department/Office: Forestry and Fire Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unit/Section: Business Services/AB 75 coordinator</td>
</tr>
<tr>
<td>Mailing Address: PO Box 944246</td>
</tr>
<tr>
<td>City/State/Zip: Sacramento, CA 94244-2460</td>
</tr>
<tr>
<td>Telephone: (916) 324-7087</td>
</tr>
<tr>
<td>E-Mail Address: <a href="mailto:donna.kazman@fire.ca.gov">donna.kazman@fire.ca.gov</a></td>
</tr>
</tbody>
</table>
CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<table>
<thead>
<tr>
<th>Contractor/Bidder Firm Name (Printed)</th>
<th>Federal ID Number</th>
</tr>
</thead>
</table>

By (Authorized Signature)

Printed Name and Title of Person Signing

Date Executed

Executed in the County of

CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

   a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

   b. Establish a Drug-Free Awareness Program to inform employees about:

      1) the dangers of drug abuse in the workplace;
      2) the person's or organization's policy of maintaining a drug-free workplace;
      3) any available counseling, rehabilitation and employee assistance programs; and,
      4) penalties that may be imposed upon employees for drug abuse violations.

   c. Every employee who works on the proposed Agreement will:

      1) receive a copy of the company's drug-free workplace policy statement; and,
      2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the
or the Department of Justice to determine the contractor’s compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over $100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.


1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.

2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.

2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))
VOLUNTARY STATISTICAL DATA SHEET
Information to be used for reporting purposes only

Public Contract Code 10111 requires state agencies to capture information on ethnicity, race and gender (ERG) of business owners on all awarded contracts and procurements to the extent that the information has been voluntarily reported to the department. The awarding department is prohibited from using this data to discriminate or provide a preference in the solicitation or acceptance of bids, quotes, or estimates for goods, services, construction and/or information technology. This information shall not be collected until after the contract award is made. The completion of this form is strictly voluntary.

The data you provide on this form should best describe the ownership of your business. Ownership of a business should be determined as follows:

- For a business that is an sole proprietorship, partnership, corporation, or joint venture at least 51 percent is owned by one or more individuals in a classification designated below or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more individuals in a designated classification, or
- For other business entities, the owner is the person controlling management and daily operations and who “owns” the business.

For purposes of this report, respond only if the business has its home office in the United States and which is not a branch or subsidiary of a foreign corporation, firm, or other business.

**Ethnicity/Minority Classification**

- ☐ Asian-Indian – a person whose origins are from India, Pakistan, or Bangladesh.
- ☐ Black – a person having origins in any of the Black racial groups of Africa.
- ☐ Hispanic – a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race.
- ☐ Native American – an American Indian, Eskimo, Aleut, or Native Hawaiian.
- ☐ Pacific Asian – a person whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, or the United States Trust Territories of the Pacific including the Northern Marianas
- ☐ Other – Any other group of natural persons identified as minorities in the respective project specifications of an awarding department or participating local agency.

**Race Classification**

- ☐ American Indian or Alaska Native
- ☐ Black or African American
- ☐ Other
- ☐ Asian
- ☐ Native Hawaiian or Other Pacific Islander
- ☐ White

**Gender Classification**

- ☐ Female
- ☐ Male

**ITEMS BELOW TO BE COMPLETED BY STATE AGENCY/DEPARTMENT ONLY**

- ☐ Goods
- ☐ Services
- ☐ Construction

Total Contract Purchase: ___________________  Contract Award Date: ___________________

DGS VSDS (Rev 6/06)
COUNCIL AGENDA: MAY 20, 2008

SUBJECT: CITY EASEMENT CONVEYANCE TO VERIZON WIRELESS

SOURCE: Public Works Department - Engineering Division

COMMENT: Fresno MSA Limited Partnership d/b/a Verizon Wireless is requesting an easement from the City of Porterville for the purpose of installing and maintaining utility lines, cables and conduits over, under or along a proposed 5 foot wide easement from the east right-of-way of Newcomb Street to the proposed wireless communications tower site. The tower site is generally located on a portion of vacant land at Fire Station #2, east of Newcomb Street and north of Morton Avenue. The electrical facilities, consisting of buried conduits and related electrical appurtenances, are necessary for the expansion of Verizon’s supply network.

City Council approved the tower site location during the January 15, 2007 meeting and on March 4, 2008 executed a Land Use Agreement between the City and Verizon Wireless that legally defined the site location and access rights. Unfortunately, the conduit route to the site, described in the attached Grant of Easement was not a part of this document.

RECOMMENDATION: That the City Council:

1. Accept Verizon Wireless request to have the City convey an easement for the installation and maintenance of underground electrical facilities;

2. Authorize the Mayor to sign the Grant of Easement; and

3. Authorize the City Clerk to mail the signed Grant of Easement to Verizon Wireless for recordation.

ATTACHMENTS: Resolution
Grant of Easement Document
Exhibit “A” – Legal Description
Exhibit “B” – Locator Map

Item No. 11
RESOLUTION NO.________________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE AUTHORIZING A GRANT DEED OF EASEMENT
TO VERIZON WIRELESS

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby grants to Fresno MSA limited Partnership d/b/a Verizon Wireless, its successors and assigns, an easement and right of way to construct, use, maintain, operate, alter, add to, repair, replace, reconstruct, inspect and remove at any time and from time to time underground electrical supply systems and communication systems, consisting of utility lines, cables and conduits and other appurtenant fixtures and equipment necessary or useful for distributing electrical energy and for transmitting intelligence by electrical means, in, on, over, across and along that certain real property in the County of Tulare, State of California, described as follows:

See Exhibit "A" and shown on Exhibit "B" attached hereto and made a part hereof by reference, consisting of two pages.

BE IT FURTHER RESOLVED that the foregoing has been authorized by the City Council for the City of Porterville.

______________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
GRANT OF EASEMENT

<table>
<thead>
<tr>
<th>Atlas Sheet</th>
<th>Section</th>
<th>Township</th>
<th>Range</th>
<th>Street/Avenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>E 5</td>
<td>27</td>
<td>T 21 S</td>
<td>R 27 E</td>
<td>NEWCOMB STREET</td>
</tr>
</tbody>
</table>

CITY OF PORTERVILLE, a municipal corporation, hereby grants to Fresno MSA Limited Partnership d/b/a Verizon Wireless and its successors an EASEMENT for construction, maintenance, operation, repair and replacement of utility lines, cables and conduits upon, over, across and within that certain real property in the City of Porterville, County of Tulare, State of California, described as follows:

See Exhibit "A" and shown on Exhibit "B" attached hereto and made a part hereof by reference, consisting of two pages.
EXECUTED this ___ day of ____________________, 20__.

GRANTOR
CITY OF PORTERVILLE, a municipal corporation

Cameron Hamilton, Mayor

John Longley, City Clerk

[CORPORATE SEAL]

STATE OF CALIFORNIA

County of ____________________________

) ss

On this the ___ day of ____________________, 20__, before me, ________________,

Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared _______________________________________________________

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

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

(for notary seal or stamp)

Form RW 6-1(Q) (Revised 3/02)
EXHIBIT “A”

A 5.00 FOOT WIDE EASEMENT FOR UTILITIES PURPOSES, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT A BRASS CAP MONUMENT STAMPED R.C.E. 12616 AT THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 21 SOUTH, RANGE 27 EAST, M.D.B.&M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, AS SHOWN ON RECORD OF SURVEY FILED IN BOOK 18 OF LICENSED SURVEYS, AT PAGE 47;

THENENCE, N 00°05'01" W, ON AND ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 485.64 FEET;

THENENCE, LEAVING SAID WEST LINE, N 89°54'59" E, A DISTANCE OF 262.00 FEET;

THENENCE, N 44°54'44" E, A DISTANCE OF 5.00 FEET TO THE TRUE POINT OF BEGINNING;

THENENCE, N 45°05'16" W, A DISTANCE OF 48.67 FEET TO A POINT HEREINAFTER DESCRIBED AS POINT "B";

THENENCE, CONTINUING N 45°05'16" W, A DISTANCE OF 207.90 FEET, MORE OR LESS, TO A LINE PARALLEL WITH AND 2.5 FEET EAST OF, AS MEASURED AT RIGHT ANGLES TO, THE EAST RIGHT OF WAY LINE OF NEWCOMB STREET;

THENENCE, N 00°05'01" W, ALONG SAID PARALLEL LINE, A DISTANCE OF 126.85 FEET;

THENENCE, N 50°44'23" W, A DISTANCE OF 5.99 FEET, MORE OR LESS, TO THE TERMINUS, BEING THE EAST RIGHT OF WAY LINE OF NEWCOMB STREET.

TOGETHER WITH A 5.00 FOOT WIDE EASEMENT FOR UTILITIES PURPOSES, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE ABOVE DESCRIBED POINT "B";

THENENCE, S 85°59'14" E, A DISTANCE OF 19.86 FEET;

THENENCE, S 45°05'16" E, A DISTANCE OF 33.66 FEET.

BASIS OF BEARING FOR THE EASEMENT DESCRIBED HEREIN IS THE BEARING OF N 00°05'01" W FOR WEST LINE OF NORTHWEST QUARTER OF SECTION 27, T.21 S., R.27 E., M.D.B. & M.
EXHIBIT "B"

EASEMENT LOCATOR MAP

NORTH

EXISTING UTILITY POLE

N50°44'23"W 5.99'

5' EASEMENT NOT TO CROSS RIGHT OF WAY LINE

PROPOSED VERIZON WIRELESS
5' WIDE UTILITY EASEMENT

POINT "B"

N45°05'16"E 33.66'

585°59'14"E 19.86'

P.O.B.

PROPOSED VERIZON WIRELESS
DEMISED PREMISE
30' x 90' (2,700 SQ. FT.)

PROPERTY BOUNDARY

MORTON AVENUE

INDICATES 5' WIDE EASEMENT FOR UTILITIES

SCALE:

0 50 100 200

A PORTION OF THE NORTHWEST QUARTER OF SECTION 27, T. 21 S,
RANGE 27 E, M.D.B. & M., IN THE CITY
OF PORTERVILLE, COUNTY OF TULARE,
STATE OF CALIFORNIA.

OWNER: CITY OF PORTERVILLE
APN: 251-010-001

DRAWN BY: KP
CHC'K BY: GJS

SMITHCO SURVEYING ENGINEERING
P.O. BOX 1588, BAKERSFIELD, CA 93309
PHONE: (661) 324-2960 FAX: (661) 322-0130
SUBJECT: ANNUAL ADJUSTMENT OF FEES BY APPLICATION OF THE ENR COST INDEX

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: City Staff endeavors to honor its commitment to the Home Builders Association (HBA) by providing 60-days notice prior to the effective date of the annually adjusted fees. The Home Builders Association of Tulare/Kings Counties, Inc. has requested that they be notified of the annual adjustment of the attached fees, which are adjusted annually by application of the ENR Cost Index. Most of the fees in Exhibit “H” Connection Fees were in effect before January 1, 1989 (the effective date of the Mitigation Fee Act) and have only been increased by the Engineering News Record 20 City Construction Cost Index. The fees subject to the Act, that were adopted or increased after its effective date, were adopted or increased in accordance with those regulations. Again this year, City staff gave notice to the Home Builders Association for the fees covered by the Mitigation Fee Act. The applicable fees are: 1) Hillside Development Trunk Line Sewer Fees; 2) Hillside Development Water Trunk Fees; 3) Transportation Impact Fees; and 4) Parks Impact Fees.

In response to our notification, Bob Keenan, President of the HBA, asked that the City forego increasing fees this year due to the current downturn in home sales. Staff appreciates Mr. Keenan’s position but feels that the minor increase of 3.3% will have little to no effect on the housing situation.

In accordance with prior City Council authorization, staff calculates and adjusts all of the attached fees annually. The policy as of 2003 is to give the Council notice of all of the attached adjustments annually (whether they are subject to the Mitigation Fee Act or not) before the new fees become effective.

The fee adjustments are shown in the attached Exhibit “A” Park Impact Fees and Exhibit “H” Connection Fees and will go into effect on July 1, 2008.

RECOMMENDATION: Consistent with agreements and previous instructions, this report is provided for information purposes. It is recommended that the City Council use this information to inform any citizens that may inquire about fee adjustments.

ATTACHMENT: Exhibit “A” Park Impact Fees
Exhibit “H” Connection Fees
Home Builders Association Letter dated May 6, 2008
EXHIBIT 'A'

PARK IMPACT FEES ◊

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date 07/15/07</th>
<th>Effective Date 07/01/08*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Single Family (R-1) Δ</td>
<td>$594</td>
<td>$614</td>
</tr>
<tr>
<td>2. Multiple Family Per Unit Δ</td>
<td>$461</td>
<td>$476</td>
</tr>
<tr>
<td>3. Mobile Homes Δ</td>
<td>$333</td>
<td>$344</td>
</tr>
</tbody>
</table>

To be increased annually by the Engineering News Record Construction Cost Index.

ΔResolution #2-99 (Establishing ENR Annual Adjustment)
* Based on ENR Index = 8126 dated 4/14/08
◊ Fees Covered by the Mitigation Fee Act
## EXHIBIT 'H'  
CONNECTION FEES

### TRUNK LINE SEWER FEES

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>$7/15/07</th>
<th>$7/01/08*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hillside Development - per acre (Δ 142-02)</td>
<td></td>
<td>$904</td>
<td>$934</td>
</tr>
<tr>
<td>Single Family (R-1) - per acre (Δ 94-90)</td>
<td></td>
<td>$1,656</td>
<td>$1,711</td>
</tr>
<tr>
<td>Duplex (R-2) - per acre (Δ 94-90)</td>
<td></td>
<td>$3,849</td>
<td>$3,976</td>
</tr>
<tr>
<td>Multiple Family (R-3 &amp; R-4) - per acre (Δ 94-90)</td>
<td></td>
<td>$8,979</td>
<td>$9,275</td>
</tr>
<tr>
<td>Institutional - per acre**(Δ 94-90)</td>
<td></td>
<td>$624</td>
<td>$645</td>
</tr>
<tr>
<td>Commercial &amp; Professional Office - per acre**(Δ 94-90)</td>
<td></td>
<td>$2,340</td>
<td>$2,417</td>
</tr>
<tr>
<td>Industrial - per acre**(Δ 94-90)</td>
<td></td>
<td>$9,989</td>
<td>$10,319</td>
</tr>
</tbody>
</table>

### TREATMENT PLANT FEES

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>$7/15/07</th>
<th>$7/01/08*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family and Multiple Family - per unit (Δ 67-03)</td>
<td></td>
<td>$2,716</td>
<td>$2,806</td>
</tr>
<tr>
<td>Commercial and Industrial - per sewer connection (Δ 67-03)</td>
<td></td>
<td>$9.71</td>
<td>$10.03</td>
</tr>
<tr>
<td>(per gpd)</td>
<td></td>
<td></td>
<td>(per gpd)</td>
</tr>
<tr>
<td>($2,716.00)</td>
<td></td>
<td>($2,806.00)</td>
<td></td>
</tr>
</tbody>
</table>

### SEWER CONNECTION CHARGES

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>$7/15/07</th>
<th>$7/01/08*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Six Inch or Smaller - per foot</td>
<td></td>
<td>$8.94</td>
<td>$9.24</td>
</tr>
<tr>
<td>Eight Inch - per foot</td>
<td></td>
<td>$11.74</td>
<td>$12.13</td>
</tr>
</tbody>
</table>

### WATER TRUNK FEES

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>$7/15/07</th>
<th>$7/01/08*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hillside Development - per acre (Δ 142-02)</td>
<td></td>
<td>$1,300</td>
<td>$1,343</td>
</tr>
<tr>
<td>Single Family (R-1) - per acre (Δ 93-90)</td>
<td></td>
<td>$2,712</td>
<td>$2,801</td>
</tr>
<tr>
<td>Duplex (R-2) - per acre (Δ 93-90)</td>
<td></td>
<td>$6,788</td>
<td>$7,012</td>
</tr>
<tr>
<td>Multiple Family (R-3 &amp; R-4) - per acre (Δ 93-90)</td>
<td></td>
<td>$15,848</td>
<td>$16,371</td>
</tr>
<tr>
<td>Institutional**(Δ 93-90)</td>
<td></td>
<td>$1,770</td>
<td>$1,828</td>
</tr>
<tr>
<td>Commercial and Professional Office - per acre**(Δ 93-90)</td>
<td></td>
<td>$2,038</td>
<td>$2,105</td>
</tr>
<tr>
<td>Industrial - per acre**(Δ 93-90)</td>
<td></td>
<td>$15,652</td>
<td>$16,169</td>
</tr>
</tbody>
</table>

### WATER CONNECTION FEE

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>$7/15/07</th>
<th>$7/01/08*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Connection Charges - per foot</td>
<td></td>
<td>$7.65</td>
<td>$7.90</td>
</tr>
</tbody>
</table>

### STREET LIGHT FEES

<table>
<thead>
<tr>
<th>Description</th>
<th>Effective Date</th>
<th>$7/15/07</th>
<th>$7/01/08*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple Family - per foot</td>
<td></td>
<td>$2.32</td>
<td>$2.40</td>
</tr>
<tr>
<td>Commercial/Industrial - per foot</td>
<td></td>
<td>$2.93</td>
<td>$3.03</td>
</tr>
</tbody>
</table>
STORM DRAINAGE FEES

1. Single Family (R-1) - per acre (inc. Hillside Dev.) (Δ 95-90) 
   EFFECTIVE DATE: 7/15/07 7/01/08*
   $4,467 $4,614

2. Duplex (R-2) - per acre (Δ 95-90) 
   $5,958 $6,155

3. Multiple Family (R-3 & R-4) - per acre (Δ 95-90) 
   $8,938 $9,233

4. Commercial, Industrial & Institutional - per acre (Δ 95-90) 
   $11,914 $12,307

FIRE HYDRANT FEES

1. Multiple Family - per foot 
   $3.04 $3.14

2. Commercial/Industrial - per foot 
   $4.50 $4.65

TRANSPORTATION IMPACT FEES◊

1. Single Family (R-1) per unit (Δ 50-98) 
   7/15/07 7/01/08*
   $955 $987

2. Multiple Family (per unit) (Δ 50-98) 
   $647 $668

3. General Office/ Institutional (per 1,000 sq ft of gross floor) (Δ 50-98) 
   $2,459 $2,540

4. Commercial (per 1,000 square feet of gross floor area) (Δ 50-98) 
   $4,678 $4,832

5. Light Industrial (per 1,000 square feet of gross floor area) (Δ 50-98) 
   $697 $720

FRONTAGE IMPROVEMENT VALUATION

1. Frontage Improvements are required when the 
   Building Permit valuation is over ◆
   7/15/07 7/01/08
   $16,984 $17,544
   (Beginning 2/19/04 - over a two-year period)

△Resolution Establishing ENR Annual Adjustment
◆Ordinance No. 1644 dated 2-19-04 (includes Annual Adjustment by ENR)
◊Fees Covered by the Mitigation Fee Act
*Based on ENR Index = 8126 dated 4/14/08

**Institutional, Commercial and Industrial water and sewer trunk line fees will be 
collected based upon the amount stated above, but shall be adjusted after monitoring 
of actual usage to the following fees:

Water - $162.39 per 100 GPD of actual average demand (adjusted annually by the 
ENR Construction Cost Index).

Sewer - $138.03 per 100 GPD of actual daily flow (adjusted annually by the ENR 
Construction Cost Index).

BSR: MKR: vs
May 6, 2008

Mayor and Council
City of Porterville
291 N. Main St.
Porterville, CA 93257

Dear Mayor and Council:

We appreciate your written notice of the pending increase in impact fees based on ENRCI. The increase will exceed $1,000 per single family home and increase sales prices in Porterville.

In an effort to keep housing affordable in the down market which your city is suffering along with the rest of California and the country, we request that the Council not enact the fee increase as calculated.

It would be of benefit to the potential new home buyers here or wishing to come to Porterville and a demonstration of support for your local economy, home builders and trade contractors.

We ask for your serious consideration of our request.

Respectfully,

Robert J. Keenan
President/CEO
SUBJECT: FOLLOW-UP ON EFFECTIVENESS OF CASAS BUENA VISTA BUMP-OUTS

SOURCE: Public Works Department - Engineering Division

COMMENT: A few months ago Field Services staff constructed modified bump-outs along Rio Vista Street located within the Casas Buena Vista Subdivision. The modified bump-outs were constructed by placing ceramic buttons in a specific pattern in the hope that the thumping sound when driven over would serve as a reminder to the motoring public to slow.

Field discussions with residents living on Rio Vista Street suggest that the ceramic button bump-outs have been successful and have caused motorists to pay more attention to their speed. The residents also informed Public Works that the small lots make it difficult to find adequate parking. Some residents frequently park very close to the street returns making it difficult to turn into the subdivision's narrow streets. The solution to this dilemma is to red curb the street returns. A work order has been initiated and Field Services will perform this task when time permits.

RECOMMENDATION: None - Information Only
SUBJECT: CONSIDER APPROVAL OF RULE 20-A FUNDS PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Recently, the California Public Utilities Commission (CPUC) announced a new decision that directs Southern California Edison (SCE) to take Rule 20-A underground allocations from so-called "inactive" cities and counties and use these allocations to complete projects in "active" cities and counties. In 1999, the City Council adopted a Ten Year Rule 20-A program that lists nine streets with overhead utilities that can be underground using Rule 20-A funds.

It has been approximately eight years since the last City Rule 20-A project. Edison informed the City that Porterville has accumulated approximately $145,000 in Rule 20-A funds. Edison further informed that absent a proposed project, the City will be characterized as an "inactive" city and therefore, Porterville funds will be shifted to an active project proposed in Visalia or surrounding community. If the City wishes to retain its Rule 20-A funds, a project and resolution must be approved by the Council and said project and resolution must be forwarded to Edison by June 15, 2008.

The City's Ten Year Rule 20-A Plan identifies Division Street from Putnam Avenue south to Olive Avenue as a viable project. This is one of the smaller projects but will have the most dramatic effect on the downtown area. If Council agrees with staff's recommendation, the attached resolution must be signed by the Mayor and said resolution must be transmitted to Edison before the June 15, 2008 deadline.

RECOMMENDATION: That the City Council:

1. Approve Division Street from Putnam Avenue to Olive Avenue as the Council’s choice to receive Rule 20-A Underground Utility funds;

2. Authorize the Mayor to execute the attached Rule 20-A Resolution identifying Division Street from Putnam Avenue to Olive Avenue as the preferred street to have adjacent overhead utilities underground; and

3. Authorize the City Clerk to transmit said resolution to Southern California Edison.

ATTACHMENT: Resolution
Locate Map

P:\subwork\Engineering\Council Items\Consider Approval of Rule 20A Funds Projects - 2008-05-20.doc

Dir __________ Appropriated/Funded ________ CM __________

Item No. 14
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE
APPROVING THE TRANSFER OF RULE 20-A FUNDS TO THE
CITY OF PORTERVILLE

WHEREAS, in the later part of 1967, the California Public Utilities Commission decided Case No. 8209 which established a program (commonly referred to as an "Undergrounding" Program); and

WHEREAS, Edison has notified the City of Porterville that the City of Porterville has accumulated approximately $145,000 in Rule 20-A funds, and that those funds may be shifted to an active project in another City; and

WHEREAS, the Public Works Director has identified a project in the City of Porterville to utilize those funds for undergrounding purposes;

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Porterville notify Southern California Edison that a location has been identified as Division Street from Putnam Avenue south to Olive Avenue to receive the accumulated Rule 20-A funds for undergrounding of the adjacent overhead utilities.

ADOPTED this 20th day of May, 2008.

______________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

______________________________
By Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: THIRD ANNUAL NATIONAL DUMP THE PUMP DAY

SOURCE: Administration (Transit)

COMMENT: The third annual National Dump the Pump Day will be Thursday, June 19, 2008. The day is designed to encourage people to get out of their cars and ride public transportation to raise awareness of the financial and environmental benefits. Public transportation has the ability to save people money, conserve gasoline, and reduce the harmful greenhouse gases emitted into our environment.

On June 19, Porterville Transit will join other public transit agencies from coast to coast to encourage their communities to dump the pump by leaving their cars at home and riding public transportation. By participating in this event, staff hopes people who have never used Porterville Transit will decide to give it a try instead of driving their car.

Porterville Transit will host a Transit Center Open House from 2:00 to 4:00 p.m., allowing those present to meet the staff, tour the Transit Center, and enter their names in a drawing for a free monthly bus pass. Sierra Management will be sponsoring ten free monthly bus passes for the month of July, 2008, which will allow the recipients unlimited rides on public transit for the entire month.

Porterville Transit will also be showcasing its CNG buses and retrofitted diesels further demonstrating the City of Porterville’s commitment to lead the way with environmentally-friendly vehicles. The message will be clear — With gas prices higher than ever and financial concerns affecting everyone, now is the time to save money and ride public transportation.

RECOMMENDATION: Information Only.

Appropriated/Funded

Item No. 15
SUBJECT: STATE DEPARTMENT OF FINANCE - POPULATION AND HOUSING ESTIMATES

SOURCE: COMMUNITY DEVELOPMENT AND SERVICES DEPARTMENT - PLANNING DIVISION

COMMENT: The Planning Division has received a summary report of Porterville's estimated population and housing data from the State Department of Finance. This State prepared estimate is based on a census data update conducted annually by the Planning Division.

If adopted by the Council and certified by the State, the January 1, 2008, population estimate of 51,863 for the City of Porterville becomes the basis used to distribute certain State subvention revenues to the City. The 2007 estimate was 51,467. This is an increase of approximately .8%. The City must now submit a request for certification to the State Controller.

It should be noted that according to this chart, the growth rates for the cities in Tulare County, including Porterville was very low compared to past trends, with Exeter and Tulare registering a loss in population. This recent trend appears suspect and Staff believes that there may have been a error in the previous years reporting that led to the inflated numbers.

RECOMMENDATION: That the City Council authorize the Mayor to sign a request for State certification for the City of Porterville January 1, 2008, population of 51,863.

ATTACHMENTS:

1. Department of Finance Tables dated 2007 and 2008 showing population change
2. Draft Letter

DD FAK APPROPRIATED/FUNDED CM ITEM NO. 110
<table>
<thead>
<tr>
<th>County</th>
<th>Total</th>
<th>43.6% 254</th>
<th>42.9% 257</th>
<th>42.6% 256</th>
<th>43.7% 250</th>
<th>43.7% 250</th>
<th>43.6% 254</th>
<th>43.6% 254</th>
<th>42.9% 257</th>
<th>42.6% 256</th>
<th>43.7% 250</th>
<th>43.7% 250</th>
<th>43.6% 254</th>
<th>43.6% 254</th>
<th>43.6% 254</th>
<th>43.6% 254</th>
<th>43.6% 254</th>
<th>43.6% 254</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>28,033</td>
<td>18,927</td>
<td>13,652</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
<td>13,890</td>
</tr>
<tr>
<td></td>
<td></td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
<td>11,938</td>
</tr>
<tr>
<td></td>
<td></td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
<td>19,695</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
<td>7,524</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
<td>5,909</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
<td>3,505</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
<td>1,588</td>
</tr>
<tr>
<td></td>
<td></td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
<td>777</td>
</tr>
<tr>
<td></td>
<td></td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
<td>65</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

---

**County/City**

- Woodhull
- Visionaire
- Tuscarora
- Portville
- Lindsay
- Remmertville
- Exeter
- Dingle

---

**Total Housing Units**

- SINGLE
- MULTIPLE

---

**Population**

- 2008

---

Table 2: E-6 City/County Population and Housing Estimates, 1/1/2008
May 21, 2008

Department of Finance
Demographic Research Unit
915 "L" Street, 8th Floor
Sacramento, CA 95814

To Whom It May Concern:

On May 7, 2008, the City of Porterville received from the State Department of Finance, Porterville's estimated population and housing data for 2008.

On May 20, 2008, the Porterville City Council adopted Porterville's new estimate population of 51,863 and authorized transmittal of this correspondence requesting the State Controller to certify Porterville's January 1, 2008, population as 51,863 by Minute Order No. ______________________

Sincerely,

Cameron Hamilton, Mayor
COUNCIL AGENDA: MAY 20, 2008

SUBJECT: STATUS REPORT ON THE FEASIBILITY OF TRANSIT BUS CONVERSION INTO A MOBILE LIBRARY

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The City Council requested staff to research the feasibility of converting a surplus transit bus into a mobile library and provide information for this meeting of May 20, 2008. This status report reflects the information gathered to date, but all the necessary information has not been obtained in order to formulate any staff recommendations.

Staff has contacted LDV, Inc. a company that specializes in design, construction, and retrofitting of large commercial vehicles. Specific information is needed to ascertain whether a vehicle can be modified properly to suit our project needs. This information includes, front and rear axle rating, gross vehicle weight, current vehicle weight, engine, transmission, and cabin sidewall structure specifications. This information is crucial in determining the viability of converting a vehicle built to transport 22 passengers into a mobile library. Concerns include the weight load distribution of passengers versus books, shelving, and other equipment, the increase in total load (bookcases loaded with books weigh more than passengers) and the sidewall structure where bookcases would be fastened for structural support. Specifications for the current surplus transit bus have now been obtained and communicated to LDV, Inc. The analysis should be completed within a few weeks, and complete information should be ready for the Council’s June 17, 2008 meeting.

The estimated cost to stock the mobile library with materials, supplies, electronic equipment, and furnishing is $90,900. It is estimated that the space available would house a collection of 3,760 volumes. Additional furnishings would include two public computer workstations, book return, small bench seat, and chairs for public workstations.

A mobile library could best be implemented with allocation of an additional part time position to drive the mobile library, organize materials, and serve patrons. Estimated cost to add an additional part time staff member for an average of 14 hours a week is $11,360. The annual cost of mobile library operations is estimated to be $50,475.

RECOMMENDATION: That Council accepts this status report and allows staff to gather additional information from LDV, Inc. to confirm that the transit bus vehicle can be converted for mobile library use.

ATTACHMENT: Cost Estimates of Mobile Library & Operations
## Cost Estimates Breakdown of Mobile Library & Operations

### Startup Expenses:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surplus Purchase</td>
<td>$1,000</td>
</tr>
<tr>
<td>Environmental &amp; Safety Upgrades</td>
<td>$9,000</td>
</tr>
<tr>
<td>Vehicle Retrofit</td>
<td>TBD</td>
</tr>
<tr>
<td>Library Materials</td>
<td>$84,400</td>
</tr>
<tr>
<td>Computer Equipment</td>
<td>$4,500</td>
</tr>
<tr>
<td>Software</td>
<td>$600</td>
</tr>
<tr>
<td>Printers</td>
<td>$600</td>
</tr>
<tr>
<td>Office furniture</td>
<td>$800</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$100,900+</strong></td>
</tr>
</tbody>
</table>

### Annual Operations & Maintenance:

<table>
<thead>
<tr>
<th>Description</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staff &amp; Benefits</td>
<td>$11,360</td>
</tr>
<tr>
<td>Fuel</td>
<td>$7,000</td>
</tr>
<tr>
<td>Vehicle Maintenance</td>
<td>$765</td>
</tr>
<tr>
<td>Equipment Replacement (7 year depreciation)</td>
<td>$17,850</td>
</tr>
<tr>
<td>Liability Insurance</td>
<td>$600</td>
</tr>
<tr>
<td>Library Materials</td>
<td>$10,000</td>
</tr>
<tr>
<td>Computer Equipment Service</td>
<td>$2,400</td>
</tr>
<tr>
<td>Printer &amp; Processing Supplies</td>
<td>$500</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>$50,475</strong></td>
</tr>
</tbody>
</table>
COUNCIL AGENDA: MAY 20, 2008

SUBJECT: AUTHORIZE LIBRARY CENTENNIAL CELEBRATION ALONG WITH STREET CLOSURE AND WINE RECEPTION

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: On May 20, 1908 the first public library within the City of Porterville was dedicated. Recently, a group of community individuals organized to create a celebratory event to mark the 100th anniversary. The Porterville City Library Centennial Committee is co-chaired by Sharon Patterson and Obdulia Guzman Alvarado, who also serve the City as members of the Library Board of Trustees. Other community participants include the Friends of the Library and the Porterville Recorder. The Recorder, also celebrating its 100th anniversary, wishes to link some of the anniversary promotions.

The Committee has compiled a plan for community outreach and participation in the centennial celebration. They propose to conduct several activities in the fall season, culminating in a day of events on Saturday, October 11, 2008. A short ceremony is to be conducted in front of the Library on Saturday morning and the closure of the street is requested to accommodate the ceremony and the unveiling of a plaque. A no-fee invitation only wine and appetizer reception has been suggested within the Library in the upstairs Community Room during the preceding evening of Friday, October 10, 2008.

The anticipated cost for the celebration is $3,000 and the organizers will endeavor to obtain donations for defrayment of expenses. Nevertheless, in compiling the FY 2008-2009 budget staff has identified $3,000 of Public Library Funds that could be deferred from other activities to assist with expenses, if needed. Some staff time would be utilized to support the events. Consideration is also being given to the sale of Centennial Library Cards and other memorabilia as fundraising efforts for the Library.

A comprehensive proposal for City support of this event has been prepared and is attached. City departments have been consulted. Concerns with the event planning primarily relate to the serving of wine on city property. The organizers are to provide alcohol liability insurance certificate to the satisfaction of the Risk Manager. Control of entrance to the wine reception to only those that are age appropriate must be conducted by the organizers to the satisfaction of the Chief of Police. The event also must start no sooner than 30 minutes following public closure of the Library. For the street closure, Parks & Leisure will provide logistical support and oversight.

[Signature] Director [Signature] Appropriated/Funded [Signature] City Manager ITEM NO.: 18
RECOMMENDATION: That the City Council authorizes:

1. Staff to facilitate the efforts of the Porterville City Library Centennial Committee in conducting a library centennial celebration; and

2. Street closure of Thurman from Hockett to Division from 9:00 AM to 11:00 AM on October 11, 2008; and

3. Conducting of a no-fee invitation only wine reception during the evening of Friday, October 10, 2008, subject to an acceptable alcohol liability insurance certificate, age appropriate access controls to the Community Room, and that the event commence no sooner than 30 minutes following public closure of the Library.

4. The creation and selling of Centennial Library Cards and other memorabilia for Library fundraising purposes.

ATTACHMENTS: Proposal letter from the Porterville City Library Centennial Celebration Committee
May 9, 2008

City Council
City of Porterville, California

For Consideration: PROPOSED CELEBRATION OF THE CENTENNIAL OF THE PORTERVILLE CITY LIBRARY

Background/Introduction:

The original Porterville Free Library, a Carnegie Library, was dedicated on May 20, 1908, and first opened its doors on June 19, 1908. This momentous event was marked with a celebratory reception. At the March 11, 2008 meeting of the Library Board of Trustees, the library staff and the members of the board expressed their interest in celebrating The Centennial. The Library board suggested the formation of a Centennial Committee, composed of community volunteers, to plan and implement the event. Library Trustees Sharon Patterson and Obdulia Guzman Alvarado volunteered to serve as co-chairs of this committee. The committee met on April 1, 2008, to brainstorm ideas. A press release was submitted to the Porterville Recorder to recruit volunteers. At the April 24th meeting, the committee formulated a proposal for the consideration of city officials. This plan, to implement a series of activities for the all segments of the community, will require the allocation of funds, staff resources, and the dedication of community volunteers.

Proposal:

The Porterville City Library Centennial Committee respectfully requests approval to host a city-wide celebration of one hundred years of library services to our community. The events will serve to honor a community who has devoted time and resources to the Porterville Free Library and to record and celebrate that history. Proposed dates are Friday and Saturday, October 10th and 11th, 2008. All events would be held in the Community Room and the History Room of the Porterville City Library. Changes/alterations are likely to occur as planning proceeds and events evolve.

Celebration to include: **Friday 6 - 8 p.m.**

This invitation-only event will honor current and former library staff, current and former Trustees, Friends of the Library, Benefactors, City Council, Members of City Staff, Educators, State and County Representatives, Community Leaders, and Area Librarians.

*Beverages (wine/water/soft drinks) $590 +/-
(Certificate of Insurance to be provided to the city.)

Appetizers for 170 $550 +/-

*Classical Guitarist $100

*Essay Contest for Junior/Senior High School students: Awards $125
Program to include brief history of Library and remarks by dignitaries and honored guests.

Additional costs include printing of Centennial History of Porterville City Library booklet, paper goods, invitations, and decorations $800+/-

Saturday 10 – 6 p.m.

10:00 a.m. Unveiling of plaque (donated by Porterville Women’s Club) Ribbon Cutting by Chamber of Commerce

10:30 – 11:15 a.m. Children’s events: Story Teller
11:30 – 12:15 a.m. Cinderella and face painting
1:00-2:00 p.m. Children’s author (reading and book signing)

Concluding History Event

3:00 p.m. Presentation of film highlighting History of City 1908-1964 with emphasis on History of Porterville City Library (City Historian, Will Lloyd of the Porterville Recorder, Porterville Historical Society, Melanie Wells.)

Cake and paper goods $140+/-

Additional foreseeable costs include:

Birthday Cookies (500) for Porterville residents $375 +/-
Cost for Children’s programming $140+/-

Total Cost not to exceed $3000

The Porterville City Library Centennial Committee asks for funding in this amount with the understanding that the committee will, with your approval, seek sponsors and benefactors to mediate or eliminate use of city funds.

Porterville City Library Centennial Committee appreciates your support of this effort to recognize the City Library as an integral part of the culture of our community and to honor those citizens who have dedicated themselves to this service for one hundred years.

Respectfully submitted,
Sharon Patterson
Co-Chair, Porterville City Library Centennial Committee

Obdulia Guzman Alvarado
Co-Chair, Porterville City Library Centennial Committee
SUBJECT: PROPOSED CHANGES IN THE TABLE OF ORGANIZATION WITHIN THE PUBLIC WORKS DEPARTMENT, FIELD SERVICES DIVISION

SOURCE: Administrative Services/Human Resources

COMMENT: At the April 15, 2008, meeting of the City Council, the Council approved a proposed change in the table of organization within the Field Services Division of the Public Works Department, including the formation of a Deputy Public Works Director/Field Services Manager position, the creation of an Assistant Field Services Manager consolidated with the existing Administrative Analyst II position, changing the Laboratory Supervisor to Laboratory Superintendent, and establishing the Water Systems Specialist as a supervisor.

NEW ALLOCATED POSITIONS:
1. Deputy Public Works Director/Field Services Manager
2. Assistant Field Services Manager
3. Laboratory Superintendent
4. Wastewater Operator-III
5. Two Field Services Worker III in Refuse
6. One Field Services Worker III in Streets

UNALLOCATED POSITIONS:
1. Field Services Manager
2. Administrative Analyst II
3. Laboratory Supervisor
4. Industrial Waste Inspector I
5. Two Field Services Worker II in Refuse
6. One Field Services Worker II in Streets

To effect these changes, the attached proposed position descriptions and draft Resolution has been prepared for the Council's consideration and approval.

RECOMMENDATION: That City Council:

1. Adopt the attached draft Resolution authorizing a change in the Table of Organizations and amending the Position Allocation Schedule and Position Pay Plan of the City's Employee Pay and Benefit Plan;

Dir. Appropriated/Funded CM Item No. 19
2. Authorize the establishment of a Deputy Public Works Director/Field Services Manager classification at salary range 236 ($6,896 - $8,416), an Assistant Field Services Manager classification at salary range 211 ($5,376 - $6,561), a Laboratory Superintendent classification at salary range 206 ($5,115 - $6,242) and the Water Systems Specialist classification at salary range 167 ($3,469 - $4,233), and modifying the Classification Plan; and

3. Authorize the Mayor to execute these and other documents necessary to implement the provisions hereof.

ATTACHMENT: Draft Resolution
Draft Position Descriptions
RESOLUTION NO. _____ - 2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROVIDING FOR THE CHANGE IN THE TABLE OF ORGANIZATION AND THE ESTABLISHMENT OF NEW CLASSIFICATIONS WITHIN THE PUBLIC WORKS DEPARTMENT

Whereas, the City Council has acted to provide for the reorganization and staffing allocations of the Field Services Division of the Public Works Department; and

Whereas, the reorganization and change in staffing allocations of City Departments are periodically beneficial to enhance the economy and efficiency of City operations; and

Whereas, the City Manager has considered the current organization and staffing levels of the Public Works Department, and in consultation with the Department Director has defined an organizational structure that will enhance organizational integration and effectiveness; and

Whereas, the organizational structure has been recommended to the City Council for consideration and adoption to be implemented.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Position Allocation Schedule and the Position Pay Plan of the Employee Pay and benefit Plan, and the Classification Plan of the City are hereby amended as follows:

1. Establish the classification of Deputy Public Works Director/Field Services Manager at salary range 236 ($6,896 - $8,416). This position shall be designated as Executive Management and exempt from the Competitive Service.

2. Establish the classification of Assistant Field Services Manager at salary range 211 ($5,376 - $6,561). This position shall be designated as management and be included in the Management and Confidential Series for purposes of representation.

3. Establish the classification of Laboratory Superintendent at salary range 206 ($5,115 - $6,242). This position shall be designated as management and be included in the Management and Confidential Series for purposes of representation.
4. Establish the Water Systems Specialist as a Supervisor at salary range 167 ($3,469 - $4,233). This position shall be designated as management and be included in the Management and Confidential Series for purposes of representation.

5. Amend Section II, Position Allocation Schedule and Position Pay Plan of the Employee Pay and Benefit Plan to include the addition of one Wastewater Operator III, two (2) Field Services Worker III in Refuse, and one (1) Field Services Worker III in Streets.

6. Amend Section II, Position Allocation Schedule and Position Pay Plan of the Employee Pay and Benefit Plan to reflect the deletion of the Field Services Manager, Administrative Analyst II, Laboratory Supervisor, and Industrial Waste Inspector I positions, plus reduce two (2) Field Services Worker II positions in Refuse and one (1) Field Services Worker II position in Streets.

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

Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

Patrice Hildreth, Chief Deputy City Clerk
DEPUTY PUBLIC WORKS DIRECTOR/FIELD SERVICES MANAGER

DEFINITION
Under administrative direction, plans, organizes, and directs the City's field services which may include solid waste collection and recycling, maintenance of street, sewer, storm drainage system, water production and distribution, traffic signal systems, wastewater treatment plant, environmental laboratory, and fleet operations; performs related duties as assigned.

DISTINGUISHING CHARACTERISTICS
This position serves as a member of the City's management team. The employee in this position works under the direction, is appointed by, and serves at the pleasure of the Department Head.

REPRESENTATIVE DUTIES
The duties listed below are examples of the work typically performed by the employee of this class. Not all assigned duties may be listed. Marginal duties (shown in italics) are those which are non-essential job functions for this class.

1. Directs the maintenance and construction activities of the City's public works, the collection and recycling of refuse, and the maintenance of City vehicles and equipment through subordinate supervisors.

2. Evaluates work methods and operations; plans and schedules divisional activity; prepares estimates and monitors cost of maintenance programs; directs occupational hazard and safety program.

3. Evaluates divisional policies, procedures, and services to determine effectiveness; installs changes to increase effectiveness and productivity and to meet division objectives; monitors cost accounting system to ensure integrity of data.

4. Evaluates service and equipment needs with available service vendors/products; writes or reviews bid specifications; monitors contractor/equipment performance; inspects work in progress to ensure compliance of City specifications.

5. Provides staff assistance to the Public Works Director in conducting and presenting administrative studies; prepares field services division budget and assists in preparing and monitoring the department's annual budget that includes general and enterprise funds; prepares and recommends funding sources for long range capital improvement plans; prepares and presents reports on a variety of disciplines verbally and in writing.
6. Receives and investigates citizen complaints and requests; determines and ensures appropriate disposition; monitors work completed in response to concerns forwarded by the Public Works Director; investigates and reports on matters related to claims made against the City; directs and monitors regulatory compliance and reporting for field service operations.

7. If designated by the Public Works Director, represents the City at, and may serve on, various local, State, and Federal regulatory boards and agencies for the City’s water system, sewage collection and treatment systems and collection and recycling of the City’s solid waste.

8. Serves as a member of the City’s management team; if designated by the Public Works Director, serves on the management team for meet and confer sessions; may participate in administrative studies in areas outside the scope of regular duties; may be assigned additional professional and/or managerial duties and responsibilities as necessary.

9. Represents and supports the policies and procedures established by the City Council, City Manager, and Department Heads.

EMPLOYMENT STANDARDS

Education and/or Experience
Graduation from an accredited college with a Bachelor’s degree in business administration or related field and five years of administrative experience in municipal public works or similar operations including three years of supervisory experience or any combination of training and experience that provides the desired knowledge and abilities.

Knowledge of:
principles, practices, and techniques of public works administration, laboratory, sewer, street, water production/equipment maintenance, and refuse/wastewater disposal; cost accounting, work method evaluation and modification techniques; supervision and training principles and techniques; budgetary, work planning, and time/material cost estimation techniques.

Ability to:
manage the work of others engaged in diverse maintenance activities and refuse disposal through subordinate supervisors; plan, organize, and direct public works activities; devise work production goals and evaluate work unit performance against such goals; prepare analytical reports; analyze unusual situations and resolve through application of City policy; develop comprehensive plans to satisfy future needs of department service; communicate effectively, both verbally and in writing; understand and follow verbal and written directions; establish and
maintain cooperative working relationships.

**Special Requirements**
Possession of or ability to obtain a valid California Driver's License.

**Physical Demands**
Sitting, standing, walking, some stooping, and bending. Dexterity and coordination to handle files and single pieces of paper; occasional lifting of objects up to 25 lbs. such as files, stacks of paper and other reference materials. Strength, dexterity, coordination and vision to use a keyboard and video display terminal for long periods of time. Moving from place to place within the office; some reaching for items below and above desk level.

**WORKING CONDITIONS**
Environment is generally clean with limited exposure to conditions such as dust, fumes, odors, or noise. Video display terminal is used on a daily basis. Travel throughout the City may be required.
ASSISTANT FIELD SERVICES MANAGER

DEFINITION
Under general direction assists the Deputy Public Works Director/ Field Services Manager with the City's field services operations; performs analytical studies, complex research and a variety of administrative projects; monitors regulatory compliance and reporting for field services operations; performs related duties as assigned.

DISTINGUISHING CHARACTERISTICS
This position serves as a member of the City's management team. The employee is responsible for performing the full range of professional level administrative analyst work in this position and works under the direction of the Deputy Public Works Director/ Field Services Manager.

REPRESENTATIVE DUTIES
The duties listed below are examples of the work typically performed by the employee of this class. Not all assigned duties may be listed. Marginal duties (shown in italics) are those which are non-essential job functions for this class.

1. Assists with the direction of maintenance and construction activities of the City's public works, which may include maintenance of street, sewer, storm drainage systems, water production and distribution, traffic signal systems, wastewater treatment plant, environmental laboratory, the collection and recycling of refuse, and the maintenance of City vehicles and equipment.

2. Assumes project management responsibilities; structures, assigns, schedules and participates in work tasks, monitors progress, reviews completed work; coordinates with others working on the same or related projects; oversees the work of others.

3. Evaluates divisional policies, procedures, and services to determine effectiveness; prepares comprehensive reports; recommends changes to increase effectiveness and productivity and to meet division objectives; monitors cost accounting system to ensure integrity of data;

4. Evaluates service and equipment needs with available service vendors/products; writes or reviews bid specifications; monitors contractor/equipment performance; inspects work in progress to ensure compliance of City specifications.

5. Develops long range and short term public works maintenance objectives; prepares financial analysis and service objectives reports; develops plans to
meet future service needs; assists with the preparation of division budget and controls expenditures of allocated funds.

6. Receives and investigates citizen complaints and requests; determines and ensures appropriate disposition; monitors work completed in response to concerns forwarded by the Deputy Public Works Director/Field Services Manager; investigates and reports on matters related to claims made against the City; directs and monitors regulatory compliance and reporting for field service operations.

7. May participate in administrative studies in areas outside the scope of regular duties; may be assigned additional professional and/or managerial duties and responsibilities as necessary.

8. Represents and supports the policies and procedures established by the City Council, City Manager, and Department Heads.

EMPLOYMENT STANDARDS

Education and/or Experience
Graduation from an accredited college with a Bachelor's degree in business administration, public administration, finance, accounting, organization or related field and one year of administrative experience in municipal public works or similar operations or any combination of training and experience that provides the desired knowledge and abilities.

Knowledge of:
principles, practices, and techniques of public works administration, laboratory, sewer, street, water production/equipment maintenance, and refuse/wastewater disposal; cost accounting, work method evaluation and modification techniques; supervision and training principles and techniques; budgetary, work planning, and time/material cost estimation techniques.

Ability to:
Analyze problems, work processes and records systems in diverse maintenance activities and refuse disposal; provide assistance with the direction of public works activities; devise work production goals and evaluate work unit performance against such goals; prepare analytical reports; analyze unusual situations and resolve through application of City policy; develop comprehensive plans to satisfy future needs of department service; communicate effectively, both verbally and in writing; understand and follow verbal and written directions; establish and maintain cooperative working relationships.

Special Requirements
Possession of or ability to obtain a valid California Driver's License.
Physical Demands
Sitting, standing, walking, some stooping, and bending. Dexterity and coordination to handle files and single pieces of paper; occasional lifting of objects up to 25 lbs. such as files, stacks of paper and other reference materials. Strength, dexterity, coordination and vision to use a keyboard and video display terminal for long periods of time. Moving from place to place within the office; some reaching for items below and above desk level.

WORKING CONDITIONS
Environment is generally clean with limited exposure to conditions such as dust, fumes, odors, or noise. Video display terminal is used on a daily basis. Travel throughout the City may be required.
LABORATORY SUPERINTENDENT

DEFINITION
Under direction, supervises and participates in the work of a centralized chemical laboratory to provide services in support of water and wastewater operations for the City potable water and wastewater treatment utilities; supervises the City’s industrial pretreatment program; performs related work as required.

DISTINGUISHING CHARACTERISTICS
The Laboratory Superintendent is the principal laboratory analyst, responsible for supervision, training, technical advise, and guidance of laboratory employees. The incumbent performs professional laboratory work in research and quantitative physical and chemical testing of potable water, groundwater, wastewater, bio-solids, and soil analysis.

REPRESENTATIVE DUTIES
*The duties listed below are examples of the work typically performed by the employee of this class. Not all assigned duties may be listed. Marginal duties (shown in italics) are those which are non-essential job functions for this class.*

1. Plans, organizes, reviews, evaluates laboratory programs that support water and wastewater treatment operations, processes, and all related water quality activities.

2. Plans, organizes, supervises and reviews the work of staff engaged in laboratory sampling, testing and analysis of water and wastewater, and industrial waste inspection; assists in the hiring of laboratory personnel; trains or arranges for training; evaluates employee performance; initiates disciplinary action; ensures safe working conditions.

3. Performs laboratory testing as required; operates all laboratory instruments; develops or modifies instrumentation and lab procedures; troubleshoots instrument malfunctions and maintenance of equipment.

4. Ensures regulatory compliance and lab certification; implements and reviews quality assurance/quality control program to ensure reliability of test data.

5. Supervises the City’s industrial waste pretreatment program; coordinates field investigations; investigates wastewater plant upsets related to industrial discharge; prepares code ordinance/resolution revisions; reviews construction plans; recommends issuance of wastewater discharge permits.

6. Compiles and prepares correspondence and periodic and special reports covering laboratory activities; prepares and/or directs the preparation of extensive reports and records; coordinates the maintenance of the laboratory data management system.

7. Prepares and administers the laboratory’s budget; determines the cost of laboratory services; recommends outside laboratory services; administers contracts for laboratory services; monitors new developments and equipment related to laboratory operations; recommends purchase of equipment and services.
8. Provides technical consultation to engineering and operations staff in the evaluation and solution of problems where laboratory analysis is necessary; recommends changes in methods and operations as indicated by study findings and regulatory compliance monitoring.

9. Confers with other City staff as required, providing administrative assistance and project support; represents the City in meetings with governmental and industrial representatives, other customers, and members of professional and technical organizations.

10. Represents and supports the policies and procedures established by the City Council, City Manager, Department Heads and Division Chiefs.

EMPLOYMENT STANDARDS

Education and/or Experience
Graduation from an accredited college with a Bachelor's degree in organic or inorganic chemistry, biochemistry, bacteriology, environmental or sanitary engineering, or a closely related field, and three years of supervisory experience over a laboratory major functional unit engaged in chemical and bacteriological testing and analysis or any combination of training and experience that provides the desired knowledge and abilities. An advanced degree in one of the listed educational specialties may be substituted for one year of experience.

Knowledge of:
standard analytical procedures and methods including the operation and maintenance of a Gas Chromatograph Spectrometer (GC&GC/MS), atomic absorption spectrophotometer, ICP, and UV /VIS spectrophotometer; administrative techniques, including planning, scheduling, training, and budgetary control functions; State and Federal standards related to water pollution control and water quality; computer applications related laboratory and plant processing problems; principles and techniques of effective supervision; occupational hazards and safety precautions of the work performed; principles, laws, and regulations regarding water and wastewater treatment; principles and techniques of effective public relations in an enforcement setting; programmable laboratory equipment.

Ability to:
supervise subordinate staff; design laboratory programs; develop and evaluate process control, regulatory compliance monitoring, and laboratory quality assurance programs; interpret laboratory and plant operating data and make sound recommendations for solving problems and increasing efficiency; write clear, complete, comprehensive correspondence and reports of a technical nature; explain technical scientific data in layman terms to superiors, and to the public; organize and implement original research in a problem solving environment; perform analyses with detail with accuracy; establish and maintain working relationships with other employees and those contacted from other agencies.
Skill in:
Isolating, identifying, and quantifying organic compounds; synthesizing scientific findings into logical conclusions.

Special Requirements
Possession of or ability to obtain and maintain a valid California driver's license.

Physical Demands
Dexterity and coordination to handle files and single pieces of paper; occasional lifting of objects weighing up to 40 lbs. such as laboratory equipment and other materials.
Strength, dexterity, coordination and vision to use a keyboard and video display terminal for long periods of time. Moving from place to place within the laboratory; some reaching for items above and below desk level.

WORKING CONDITIONS
Occasional exposure to unpleasant elements such as fumes and odors, and raw sewage. Works in outside weather occasionally. Temperature fluctuations due to both seasonal extremes and working in and out of doors. Video display terminal is used on a daily basis.
WATER SYSTEMS SPECIALIST

DEFINITION
Under general supervision, installs, repairs, and maintains control, data acquisition, and communications systems for the water and sewer systems; coordinates the water quality monitoring program; supervises work units in the water utility division and performs related work as required.

REPRESENTATIVE DUTIES
The duties listed below are examples of the work typically performed by the employee of this class. Not all assigned duties may be listed. Marginal duties (shown in italics) are those which are non-essential job functions for this class.

1. Monitors water system pressure, tank levels and alarms; adjusts systems settings as required.

2. Maintains activity log of the telemetry system; performs data back up and disk maintenance for telemetry computer hardware; troubleshoots and resolves computer hardware and software problems; repairs control devices and other hardware at well sites and other field locations.

3. Plans, organizes, supervises, assigns, advises, and may assist crews engaged in repair and maintenance of water wells, pumps and lift stations, backflow devices and storm drains.

4. Coordinates water quality monitoring program; schedules water sampling; compiles summary of test results; tracks test results to ensure regulatory compliance; analyzes test results tracking specific constituents; maintains database of water quality monitoring and testing.

5. Prepares monthly, quarterly and annual water quality reports; prepares written correspondence and technical reports; responds to public inquiries regarding water issues.

6. May provide computer software and hardware support for field services; may assist with maintenance of local area networks; may troubleshoot software and hardware problems for office personnel.

7. Provides after hours telemetry monitoring duties.
EMPLOYMENT STANDARDS

Education and/or Experience
Completion of related computer science coursework and three years of water operations experience or two years of experience in the maintenance of microcomputer software, hardware, networking systems, and peripherals or any combination of training and experience that provides the desired knowledge and abilities.

Knowledge of:
computer hardware operation, troubleshooting, repair, and maintenance; functions and operations of microcomputers; communications systems; common commercial microcomputer software; local area networks; water hydraulics; federal and state regulations related to water quality; principles and practices of municipal water distribution and production; water telemetry systems operation; telemetry testing equipment; safe work practices.

Ability to:
read and interpret equipment manuals and schematics related to computers and telemetry equipment; diagnose and resolve hardware/software problems; establish and maintain required records and prepare reports from such records; establish and maintain effective working relationships with subordinates, the public and representatives of other agencies; use related computer applications.

Special Requirements
Possession of or ability to obtain a valid and appropriate California Driver’s License.

Physical Demands
Strength, dexterity, coordination and vision to use keyboard and video display terminal for long periods of time. Dexterity and coordination to handle files and single pieces of paper; occasional lifting of objects weighing up to 25 lbs. such as, files, stacks of paper, reference and other materials. Moving from place to place within an office; some reaching for items above and below desk level.

WORKING CONDITIONS
Environment is generally clean with limited exposure to conditions such as dust, fumes, odors, or noise. Temperature fluctuations due to both seasonal extremes and working in and out of doors. Video display terminal is used on a daily basis. Travel throughout the area is required.
SUBJECT: RENEWAL OF CONTRACT FOR LEGISLATIVE ADVOCACY SERVICES, AND PROPOSED INCREASED SERVICES

SOURCE: Administration

COMMENT: During its meeting on April 17, 2007, the City Council authorized the City to enter into a contract with Michael J. Arnold and Associates for State legislative advocacy services. Mr. Arnold was retained for the primary purpose of ensuring the Porterville Courthouse remained funded in the State Budget, however, Mr. Arnold has also advised and assisted in other State issues.

The contract with Mr. Arnold was effective May 1, 2007, through April 30, 2008, and a successor two (2) year contract has been submitted by Mr. Arnold for Council consideration toward continued advocacy services, as well as a proposal for additional services. Monies to support the renewal of this contract ($3,000/month) are appropriated in the City Council's Professional Services account of the draft City Budget, however, the monies to support the increased services beyond the Courthouse appropriation ($1,000/month) are not appropriated.

In addition to Courthouse issues, it has been very beneficial to the City on several occasions to engage the services of Mr. Arnold on non-Courthouse issues. In the City Manager's belief, Mr. Arnold's involvement was important for initial Courthouse funding and in shaping AB 1884 regarding the PAADA JPA.

Due to it becoming apparent that his increased non-Courthouse services would be of great benefit to the City, it is staff's recommendation to execute the renewal of contract with Mr. Arnold for two (2) years, as well as to increase the scope of services rendered to include:

- Legislation to Fund the Courthouse (as in previous Agreement)
- Community Fairgrounds
- Property Development Near Airport
- State Park Funding
- State Budget
- State Legislative Issues RE: Native Americans
- State Public Works Board

Item No. 20
Monies to support the increased contract services are proposed to be divided evenly between the City Council's Contingency Account and General Fund Carryover.

RECOMMENDATION: That the Council authorize the Mayor to execute the contract with Michael J. Arnold and Associates as proposed, an agreement for State legislative advocacy services.

ATTACHMENT: New Contract for Legislative Representation
April 30, 2008

John Longley
City of Porterville
291 N. Main Street
Porterville, CA 93257

Subject: Legislative Representation -- Action Plan for the Future

Dear Mr. Longley,

Thank you for requesting that our firm provide the City of Porterville with an “Action Plan for Addressing State Public Policy Issues.” We have given considerable thought to your request. We have incorporated our recommendations into this letter and the enclosed draft contract for Legislative Representation Services. We trust this approach will meet with the approval of the public policy decision makers in Porterville. As you know, our current contract with the City expires April 30, 2008. We recommend a new two-year contract covering the period from May 1, 2008 to April 30, 2010.

Comprehensive Legislative Services Program

The City of Porterville is unique in terms of the number of state public policy issues impacting the City. The lack of the ability to effectively participate in the decision making process at the state level could seriously jeopardize future opportunities for the City of Porterville and could have adverse impacts on the residents of the City.

Specific matters of public policy include the following:

- Construction of a new county courthouse
- Location decisions concerning the courthouse
- Relocation of the community fairgrounds
- Development of the properties adjacent to the airport
- The disbursement of state park funding
- State budget decisions impacting the City
• Issues involving the Native American Community
• Public works developments involving the State Public Works Board

Matters of a general nature which are also of extreme importance to the City include:

• Protection of local government revenues during the state fiscal crisis
• Insuring fair disbursement of transportation bond money
• Infrastructure development and other state funding sources
• Protection of the authority for our elected Mayor and City Council to have authority to deal with matters which they consider to be “local affairs.”

In recognition of the above facts, we have drafted a proposed agreement for the Legislative Representation Services which will allow our firm to continue to represent the City of Porterville in a comprehensive and effective fashion on the multitude of issues which are foreseeable and the many issues which will arise in the future but which are unforeseeable at this time.

We thank you for your consideration of our proposal to provide expanded services to the City of Porterville in light of the urgent needs faced by the City and its residents. We believe this “Action Plan for Addressing State Public Policy Issues” is what Porterville needs at this time.

Sincerely,

Michael J. Arnold  
Legislative Advocate

Kristian E. Foy  
Legal Counsel
CONTRACT

between
City of Porterville
and
Michael J. Arnold and Associates, Inc.

This contract between the City of Porterville (hereinafter referred to as “the City”) and Michael J. Arnold and Associates, Inc. (hereinafter referred to as “Arnold and Associates”) provides for legislative advocacy services by Arnold and Associates on behalf of the City for the period of May 1, 2008 to April 30, 2010.

The following terms and conditions apply:

I. Arnold and Associates agrees to:

A. Provide a full range of advocacy services to influence the outcome of legislative and administrative actions affecting the interests of the City, including the following:

- Construction of a new county courthouse
- Location decisions concerning the courthouse
- Relocation of the community fairgrounds
- Development of the properties adjacent to the airport
- The disbursement of state park funding
- State budget decisions impacting the City
- Issues involving the Native American Community
- Public works developments involving the State Public Works Board
- Protection of local government revenues during the state fiscal crisis
- Insuring fair disbursement of transportation bond money
- Infrastructure development and other state funding sources
• Protection of the authority for our elected Mayor and City Council to have authority to deal with matters which they consider to be "local affairs."

B. Provide consultation to the City on the development and implementation of a legislative program.

C. Act as an official representative of the City with the California State Legislature and various governmental agencies, commissions and persons involved in governmental affairs.

D. Perform duties customarily performed by legislative advocates and governmental affairs representatives on behalf of the City to the best of its ability, experience and expertise.

E. Provide legislative updates to the City as necessary.

F. Maintain liaison with the City’s State delegation and other members of the Legislature and staff, keeping them advised of the City’s position on matters that affect the City and enlisting their assistance as necessary.

G. Assume full responsibility for preparation of reports required from lobbyists pursuant to the Fair Political Practices Act.

II. The City Agrees to:

A. Provide policy direction through the City Manager’s office.

B. Compensate Arnold & Associates $4,000 per month, plus reimbursement for necessary expenses. The retainer is due on the 1st of each month.

III. If any legal action is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney’s fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled.

Cameron J. Hamilton
Mayor
City of Porterville

______________________________
Date

Michael J. Arnold, President
President & CEO
Arnold and Associates, Inc.

______________________________
Date
PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT - TYPE 20 BEER AND WINE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

APPLICANT: Ilene Dick
235 Montgomery
San Francisco, CA 94104

PROPERTY OWNER: Wal-Mart Stores Inc.
Mitchell Building
701 S. Walton Blvd
Bentonville, Arkansas 72716

PROJECT DESCRIPTION: Conditional Use Permit 3-2008 to allow for the type 20 off sale beer and wine license and a Letter of Public Convenience or Necessity for the Wal-Mart Shopping Center located at 1250 West Henderson Avenue.

COMMENT: Pursuant to "General Rule" Exemption 14 Ca. Admin. Code 1506 (b) (3) of CEQA guidelines the project as proposed qualifies for a categorical exemption.

RECOMMENDATION: That the City Council:

1. Solicit comments on Conditional Use Permit 3-2008

2. Adopt the draft resolution approving Conditional Use Permit 3-2008 subject to conditions of approval.

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

ATTACHMENT:

1. Complete Staff Report

DD * Signed Appropriated/Funded MB [Signature] CM [Signature] Item No. 21
CONDITIONAL USE PERMIT 03-2008
FOR CITY COUNCIL MEETING OF May 20, 2008

Proposed Type 20 off-sale beer and wine license at the Wal-Mart Shopping Center located at 1250 W. Henderson Avenue.

APPLICANT: Ilene Dick
235 Montgomery
San Francisco, CA 94104

PROPERTY OWNER: Wal-Mart Stores Inc.
Mitchell Building
701 S. Walton Blvd
Bentonville, Arkansas 72716

PROJECT DESCRIPTION: The applicant is requesting approval of Conditional Use Permit 3-2008 to allow for a type 20 off-sale beer and wine license and a Letter of Public Convenience or Necessity for the Wal-Mart Shopping Center located at 1250 West Henderson Avenue.

SIZE OF PROPERTY: 13.75± acres

GENERAL PLAN CLASSIFICATION: Retail Center

ZONING CLASSIFICATION: C-2 (Central Commercial)

SURROUNDING ZONING LAND USE:
North: City R-1 - Single family residential subdivision
West: City R-2 - Monache High School
South: City C-2 (D) – Commercial Shopping Center
East: City R1 - Single family residential subdivision
LEGAL NOTICES:

<table>
<thead>
<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Categorically exempt form CEQA</td>
<td>May 3, 2008</td>
<td>April 30, 2008</td>
</tr>
</tbody>
</table>

ENVIRONMENTAL SETTING:

Pursuant to “General Rule” Exemption 14 Ca. Admin. Code 1506 (b) (3) of CEQA guidelines the project as proposed is categorical exempt.

PROJECT DESCRIPTION/ANALYSIS:

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

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

Monache High School is located to the west side of the Wal-Mart Shopping Center, within the 600 linear-foot requirement.

City Staff has contacted the Department of Alcoholic Beverage Control Board and it has been determined that the proposed off-sale license, in most cases, would not required a Letter of Public Convenience or Necessity. Census Tract 35.00, in which the subject site is located, is not over concentrated with alcoholic licenses. The over concentration of off-sale alcoholic licenses is determined by the formula comparing the population of the census tract with the number of off-sale establishments. Over concentration is reached in this census tract when the number of off-sale licenses exceeds the number of licenses allowed by the Alcoholic Beverage and Control Board. There are currently five (5) off-sale type 20 (beer and wine) licenses in Census Tract 35.00. The number of off-sale licenses allowed in Census Tract 35.00 is ten (10). Therefore, no over concentration exist. As such, the need for approval of a Letter of Public Convenience or Necessity by the City Council would not normally be required.

The Department of Alcoholic Beverage Control Board has informed Staff that at present, a moratorium for off-sale Type 20 licenses (beer and wine) is in effect, thus limiting the issuance of new licenses. The Department of Alcoholic Beverage Control Board will still approve the off-sale Type 20 licenses pursuant to approval of a Letter of Public Convenience or Necessity by the Governing Body.
STAFF RECOMMENDATION:

Staff recommends that the City Council:

1. Solicitant comments on Conditional Use Permit 3-2008
2. Adopt the draft resolution approving Conditional Use Permit 3-2008 subject to conditions of approval.
3. Authorize the Mayor to sign the Letter of Public Convenience or Necessity

ATTACHMENTS:

1. Locator Map
2. Site Plan
3. Floor Plan indicating location of proposed display of beer and wine
4. Letter of authorization from agent
5. Letter of support from Farella Braun & Martel Attorneys at Law
6. Applicant’s project description and findings of facts for conditional use permit
7. Draft Resolution
8. Letter of Public Convenience or Necessity

Fernando Rios
Project Planner

May 20, 2008
Date
LETTER OF AUTHORIZATION FOR AGENT

January 22, 2008

Planning Department
City of Porterville
291 N. Main Street
Porterville, CA 93257

Re: Wal-Mart: 1250 West Henderson Avenue, Porterville, CA 93257

I, on behalf of Wal-Mart Stores, Inc., the authorized officer of the owner of Wal-Mart, hereby authorize Ilene Dick of Farella Braun + Martel LLP as our agent to submit applications and related documents associated with certain entitlements of the above-referenced properties.

Wal-Mart Stores, Inc.

[Signature]

By: [Signature] Assistant Secretary
March 6, 2008

Via Federal Express

City of Porterville
Planning Department
291 N. Main Street
Porterville, CA 93257

Re: Wal-Mart: 1250 West Henderson Avenue, Porterville, CA 93257

Dear City of Porterville:

We represent Wal-Mart in its application to the Alcohol Beverage Control (ABC) for a Type '20 off-sale beer and wine license at the Wal-Mart store located at 1250 West Henderson Avenue. Pursuant to that ABC application, enclosed please find a completed application for a Conditional Use Permit, other required documentation and applicable fees for your consideration of the Conditional Use Permit.

Please do not hesitate to contact me at (415) 954-4958 if you have any questions about the application or any other matters.

Sincerely,

Ilene Dick

ID: cac
WAL-MART: 1250 W. HENDERSON AVENUE

PROJECT DESCRIPTION and

FINDINGS OF FACT

FOR CONDITIONAL USE PERMIT

Project Description

Wal-Mart Stores, Inc., is applying for a Type 20, off-sale beer and wine license from the California Alcohol Beverage Control (ABC) Board. Approximately 32 feet of shelf space—16 feet for warm beer and 16 feet for warm wine—amounting to far less than 1% of the existing Wal-Mart’s approximately 203,000 square feet of floor area will be devoted to the displays of warm beer and wine for purchase for off-site consumption. The project entails no physical change to the interior space or to the building envelope or exterior.

Findings of Fact

Pursuant to the Conditional Use Permit requirements under Porterville Municipal Code, Appendix A (Zoning Ordinance) Sections 801 and 2100(D), the following findings of fact are submitted for the proposed use permit authorizing the off-sale beer and wine license to be issued for the existing Wal-Mart Store located at 1250 W. Henderson Avenue.

1) Would the proposed use be materially detrimental to the public welfare of persons residing or working in the neighborhood of such proposed use or pose injury to property and improvements in such vicinity and zone in which the use is proposed?

Wal-Mart’s request to sell warm beer and wind for off-site consumption will not be materially detrimental to the health, safety and welfare of those working and living in the immediate neighborhood. The existing Wal-Mart is surrounded by commercial development along all of its southern and half of its western boundary. Monanche High School comprises the remainder of its western boundary. Residential uses comprise the site’s northern and eastern boundaries, with vehicular-oriented commercial uses similar to Wal-Mart comprising the site’s southern boundary. The Wal-Mart store is situated on the northern quarter of its site with its parking occupying some of the remaining ¼ along its West Henderson frontage. The nearest residential development is within 300’ from Wal-Mart’s boundaries.

Like the other surrounding businesses and activities, including the high school and residential uses, Wal-Mart is benefited by its proximity to local and regional transportation corridors. Given that these are all important transportation corridors for Porterville, Wal-Mart’s location is intended to be convenient to motorists even with its proximity to adjacent residences.

The proposed sale of warm beer and wine in such a negligible portion of the Wal-Mart is beneficial to Porterville in that it will increase convenience to Wal-Mart’s shoppers, but not at the expense of interfering with the existing residential neighborhood and their residents or the operations of the surrounding businesses and school. Because the warm beer and wine is sold
only for off-site consumption, the probability of increased loitering, criminal activity or nuisances arising is low.

The introduction of the off-sale warm beer and wine in a negligible area of the store does not change Wal-Mart’s consistency and compatibility with the underlying C-2 zoning, its General Commercial General Plan designation and the surrounding land uses. Based on these land uses, offering warm beer and wine in less than 1% of Wal-Mart’s floor area for off-site consumption would not be inconsistent with development pattern of which Wal-Mart is a significant part.

Significantly, to ensure minimal disruption to surrounding neighborhoods and to Monache High School from the inclusion of off-sale warm beer and wine, Wal-Mart has implemented an alcohol sales training program called Techniques of Alcohol Management (“TAM”), which is required training for all cashiers and managers. The training program focuses on recognizing and preventing any sales of alcohol that may be detrimental to the public welfare (i.e., the sale of alcohol to minors and intoxicated persons). The California Coordinated Council of Beverage Service (the group authorized by the ABC to certify training programs for the sale of alcohol) has certified the TAM for use by Wal-Mart. Implementation of this program will help ensure that the sale of alcohol at the store will not be detrimental to residents, shoppers, student, or other businesses in the vicinity of this store.

Additional security measures to ensure that the alcohol will not create a nuisance in or around the store, is that there will be up to two closed circuit security cameras to monitor the alcohol sales area and a public view monitor. In addition, the alcohol will not be located near an exit area, thereby discouraging theft.
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 3-2008 TO ALLOW THE OFF-SALE OF BEER AND WINE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR WAL-MART SHOPPING CENTER LOCATED AT 1250 WEST HENDERSON AVENUE

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of May 20, 2008, conducted a public hearing to consider Conditional Use Permit 3-2008, being a request to allow for the off-sale of beer and wine and a Letter of Public Convenience or Necessity for the Wal-Mart Shopping Center located at 1250 West Henderson Avenue.

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

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

Monache High School is located to the west side of the Wal-Mart Shopping Center

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

WHEREAS: Census Tract 35.00, in which the subject site is located, is not over concentrated with alcoholic licenses according to the Department of Alcoholic Beverage Control Board’s method for determining over concentration.

WHEREAS: The Department of Alcoholic Beverage Control Board has informed Staff that at present, a moratorium for off-sale licenses Type 20 (beer and wine) is in effect. As a result, the Department of Alcoholic Beverage Control Board will still approve the off-sale Type 20 licenses pursuant to approval of a Letter of Public Convenience or Necessity by the Governing Body.

WHEREAS: The City Council made the following findings:

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

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

3. That the standards 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.

4. That pursuant to Section 15301, Class 1, - (Exiting Facilities) of the California Environmental Quality Act Guidelines, the Conditional Use Permit to allow the sale of beer and wine under an off-sale license is Categorically Exempt.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 3-2008 subject to the following conditions:

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

2. That consumption of alcoholic beverages purchased from the Wal-Mart store shall be prohibited on Wal-Mart property located within the shopping center.

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

4. That a Letter of Public Convenience or Necessity will require approval by the Porterville City Council.

5. No outdoor advertising of alcoholic beverages is allowed.

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

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

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ____________________________
   Patrice Hildreth, Chief Deputy City Clerk
May 20, 2008

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

Attention Joyce Knodel:

RE: Wal-Mart Shopping Center – 1250 W. Henderson Avenue

Dear Ms. Knodel:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of an off-sale beer and wine license in conjunction with the Wal-Mart shopping center located at 1250 W. Henderson Avenue.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the “Business and Professions Code”, the subject site is located within Census Tract 35.00 which allows ten (10) off-sale type 20 beer and wine licenses. At present there are five (5) issued licenses.

2. On May 20, 2008, the City Council conditionally approved Conditional Use Permit 03-2008 (see attached resolution) to allow the off-sale of beer and wine in conjunction with the Wal-Mart Shopping Center located at 1250 W. Henderson Avenue. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.

3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of an off-sale beer and wine license in conjunction with the Wal-Mart Shopping Center.
Further, issuance of an off-sale license allowing only beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The majority of the alcohol sales from the Wal-Mart Shopping Center are to be in small quantities in conjunction with the purchase of other merchandise, to include an added service to the customers.

For these reasons, the City Council of the City of Porterville supports issuance of an off-sale beer and wine license from the Wal-Mart Shopping Center located at 1250 W. Henderson Avenue.

Sincerely,

Cameron Hamilton, Mayor
CITY COUNCIL AGENDA: MAY 20, 2008

PUBLIC HEARING

TITLE: ZONE CHANGE AMENDMENT 1-2008 (CONCEPTUAL PLAN), TENTATIVE SUBDIVISION MAP “GARDEN COURT VILLAS” AND CONDITIONAL USE PERMIT 5-2008 (SPECIFIC PLANS) - (WOODARD HOMES)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting a zone change amendment from R-2 (Four Family Residential) to PD (R-2) (Planned Unit Development-Four Family Residential) Zone for those eleven (11) lots originally approved for River View Estates Phase Three located generally on the north and south sides of Roby Avenue extending east and west of Belmont Street.

The subject site consists of 4.3± acres of vacant land developed with curbs and gutters, improved streets and infrastructure. The conceptual plan indicates that 43 residential units, common areas, swimming pool, children’s play area and meditation garden area are proposed.

Pursuant to Section 1705 of the Porterville Zoning Ordinance, the initiation of the zone change amendment to PD (R-2) shall include a Conceptual Development Plan (Exhibit “B”).

The applicant has submitted a letter requesting a modification to several regulations in the underlying R-2 Zone which cannot be met by the proposed planned unit development, which include minimum yard setbacks, maximum lot coverage, minimum lot area and minimum lot width when applied to the individual lots proposed for “Garden Court Villas” Tentative Subdivision Map.

Pursuant to Section 1706 of the Porterville Zoning Ordinance, approval or conditional approval of the Conceptual Development Plan for a Planned Unit Development may be granted, if, on the basis of the evidence submitted, the City Council makes the required findings.

The tentative subdivision for “Garden Court Villas” proposes to re-subdivide the 4.3± acres (formerly those eleven (11) lots originally approved for River View Estates Phase Three) located on the north and south sides of Roby Avenue into 43 residential lots to include four (4) common areas to be maintained by a new Homeowners Association. The tentative map indicates that the site will be built out
in three (3) phases. The design of this map is similar to a condominium subdivision map, however, the units and separation between the units will not have an air-space associated with condominiums. Additionally, parapets, associated with condominium subdivisions separating units and extending above the roof line will not be allowed. Pursuant to Section 1710 of the Porterville Zoning Ordinance upon approval of a Planned Unit Development zone district and requisite Conceptual Development Plan by the Porterville City Council, Specific Plans in conformity with the Conceptual Development Plan may be presented, considered and approved pursuant to Article 29 of the Porterville Zoning Ordinance via a conditional use permit.

Conditional Use Permit 5-2008 proposes to conditionally approve the Specific Plan to allow for the residential units to be constructed on the proposed subdivision lots. Pursuant to Section 1710 (Specific Plans) of the Porterville Zoning Ordinance, the specific plans shall address detail drawings of setbacks of structures, landscaping, dimensions of streets, common areas, open space, elevations of structures, floor plans, colors and the type of material to be utilized for the structures.

ENVIRONMENTAL: On June 15, 1999, the Porterville City Council approved by City Council Resolution No. 71-99 the environmental document for the modification to River View Estates 3, 4, and 5. The new lot (Unit 3) proposed a 64 unit apartment complex within the R-2 (Four Family) Zone with approval of Conditional Use Permit 5-99. In conjunction with that modification, the City Council on June 15, 1999 by Resolution 73-99 approved the environmental document for Conditional Use Permit 5-99. The proposed 43 unit Planned Unit Development is less intense than the 64 unit apartment complex, and will not create additional significant effects on the environment pursuant to CEQA so no further environmental review is required.

RECOMMENDATION: That the City Council:

1. Adopt the draft ordinance approving Zone Change Amendment 1-2008 to include the Conceptual Plan (Exhibit “B”).

2. Approve the Tentative Subdivision Map for “Garden Court Villas”.

3. Adopt the Draft Resolution approving Conditional Use Permit 5-2008 (Specific Plan) subject to conditions of approval.

ATTACHMENT:

1. Complete Staff Report
ZONE CHANGE AMENDMENT 1-2008 (CONCEPTUAL PLAN), TENTATIVE SUBDIVISION MAP "GARDEN COURT VILLAS" AND CONDITIONAL USE PERMIT 5-2008 (SPECIFIC PLANS)

FOR CITY COUNCIL MEETING OF MAY 20, 2008
For those eleven (11) lots originally approved for River View Estates Phase Three located on the north and south sides of Roby Avenue

APPLICANT: Greg Woodard
Woodard Homes Inc.
1055 W. Morton Ave.
Porterville, CA 93257

AGENTS: James Winton and Associates
150 West Morton Ave.
Porterville, CA 93257
Townsend Architectural Group
633 N. Westwood St.
Porterville, CA 93257

PROPERTY OWNER: Greg Woodard
Woodard Homes Inc.
1055 W. Morton Ave.
Porterville, CA 93257

PROJECT DESCRIPTION: The applicant is requesting a zone change amendment from R-2 (Four Family Residential) to PD (R-2) (Planned Unit Development-Four Family Residential) Zone for those eleven (11) lots originally approved for River View Estates Phase Three located generally on the north and south sides of Roby Avenue extending east and west of Belmont Street. In conjunction with the zone change, a Tentative Subdivision Map for "Garden Court Villas" is proposed for the site.

Pursuant to Section 1710 of the Porterville Zoning Ordinance upon approval of a Planned Unit Development zone district and requisite Conceptual Development Plan by the Porterville City Council, Specific Plans in conformity with the Conceptual Development Plan may be presented, considered and approved pursuant to Article 29 of the Porterville Zoning Ordinance via a conditional use permit.
ZONE CHANGE AMENDMENT 1-2008 (CONCEPTUAL PLAN)

PROJECT DESCRIPTION: The applicant is requesting a zone change amendment from R-2 (Four Family Residential) to PD (R-2) (Planned Unit Development-Four Family Residential) Zone for those eleven (11) lots originally approved for River View Estates Phase Three.

The subject site consists of 4.3± acres of vacant land developed with curbs, gutters, sidewalks, street lights, improved streets and infrastructure. The conceptual plan indicates that 43 residential units, four (4) common areas to include a swimming pool, children's play area and meditation garden area are proposed.

Pursuant to Section 1705 of the Porterville Zoning Ordinance, the initiation of the zone change to PD(R-2) shall include a Conceptual Development Plan (Exhibit "B").

The residential structures as proposed consist of Plan “A” through “E”.

Plan “A”: 1,250± square feet, two (2) stories, two (2) bedrooms and two (2) car garage with electric garage openers.

Plan “B”: 1,506± square feet, two (2) stories, two (2) bedrooms with loft area and two (2) car garage with electric garage openers.

Plan “C”: 1,315± square feet, one (1) story, two (2) bedrooms with a den/study and two (2) car garage with electric garage openers.

Plan “D”: 1,553± square feet, two (2) stories, two (2) bedrooms and two (2) car garage with electric garage openers.

Plan “E”: 1,512± square feet, two (2) stories, two (2) bedrooms with loft area and two (2) car garage with electric garage openers.

Pursuant to Section 1710 of the Porterville Zoning Ordinance upon approval of a Planned Unit Development zone district and requisite Conceptual Development Plan by the Porterville City Council, Specific Plans in conformity with the Conceptual Development Plan may be presented, considered and approved pursuant to Article 29 of the Porterville Zoning Ordinance via a conditional use permit.

The applicant has submitted a letter requesting a modification to several regulations in the underlying R-2 Zone which cannot be met by the proposed Planned Unit Development, which include minimum yard setbacks, maximum lot coverage, minimum lot area and minimum lot width when applied to the individual lots proposed for “Garden Court Villas” Tentative Subdivision Map.

Pursuant to Section 1706 of the Porterville Zoning Ordinance, approval or conditional approval of the Conceptual Development Plan for a Planned Unit Development maybe granted, if, on the basis of the evidence submitted, the City Council makes the following findings:
1. That the proposed Planned Unit Development is appropriate in location, character and timing and in accordance with requirements set forth by Section 1704 of the ordinance.

2. That the proposed Planned Unit Development will accomplish the purpose of zoning and other applicable regulations to an equivalent or higher degree than where such regulations are applied to control the development of individual lots applied through conventional zoning requirements and practices.

3. That the proposed Planned Unit Development will provide an improved level of amenities and will provide economical and efficient land use through appropriate and harmonious variety, creative design, and a better environment.

4. That the proposed location of the Planned Unit Development is in accordance with the objectives of the Zoning Ordinance and the purpose of the General Plan Land Use designation in which the site is located.

5. That the standards of population density, site area and dimensions, site coverage, yard spaces, height of structure, distance between structures and off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objective of this ordinance.

"GARDEN COURT VILLAS" TENTATIVE SUBDIVISION MAP

PROJECT DESCRIPTION: The project consists of a tentative subdivision map to re-subdivide an existing eleven (11) lot subdivision (River View Estates Unit Three) into a forty-three (43) lot residential subdivision to include four (4) additional common area lots “A”, “B”, “C” and “D” to be maintained by a Home Owners Association. The subject site consists of 4.3 acres. The tentative subdivision map indicates that the site will be built out in three (3) phases. The subject site is developed with curbs, gutters, sidewalks, street lights and improved streets. The site was originally graded pursuant to the improvement plans for River View Estates Unit Three. A six (6) inch water and eight (8) inch sewer line exists in Roby Avenue. A six (6) inch water and six (6) sewer line exists in Belmont Street. The design of this map is similar to a condominium subdivision map, however, the units and separation between the units will not have an air-space associated with condominiums. Additionally, parapets, associated with condominium subdivisions separating units and extending above the roof line will not be allowed.

Eighteen (18) of those lots fronting on the north and south side of Roby Avenue have an average lot depth of 42± feet, lot width of 42± feet and contain an average of 1,757± square feet.

The six (6) lots located immediately to the north of the aforementioned lots fronting on Roby and those three (3) lots located immediately to the south of the aforementioned lots fronting on Roby have an average lot depth of 72± feet, lot width of 42± feet and contain an average of 3,065± square feet.
The six (6) lots extending east and west along the full length of the north side of the proposed subdivision and those four (4) lots extending east and west along the full length of the south side of the subdivision west of Belmont Street have an average lot depth of 83± feet, lot width of 40± feet and contain an average of 3,513± square feet.

Six (6) of those lots located on the southeast corner of Roby Avenue and Belmont Street have an average lot depth of 50± feet, lot width of 36± feet and contain an average of 1,772± square feet. The common area for Area “A” (open space) will consist of 17,254± square feet. A portion of Area “A” will consist of a children’s play area, parking area and swimming pool. The remainder of the common area for “A” will be developed with landscaping and driveways with common ingress/egress to the Roby Avenue.

The common area for Area “B” (open space) will consist of 9,949± square feet and the common area for Area “C” (open space) will consist of 4,996± square feet. These two areas are to be developed with landscaping and driveways with common ingress/egress to the Roby Avenue.

The common area for Area “D” (open space) will consist of 4,913± square feet. A portion of this area will be developed with a meditation garden to be located on the southeast corner of Roby Avenue and Belmont Street. The remaining portion of this area will be developed with landscaping and driveways with common ingress/egress to Roby Avenue.

As mentioned previously, the applicant has submitted a letter requesting a modification to several regulations in the underlying R-2 Zone which cannot be met by the proposed planned unit development, which include minimum yard setbacks, maximum lot coverage, minimum lot area and minimum lot width when applied to the individual stamp lots proposed for “Garden Court Villas” Tentative Subdivision Map.

Based on the aforementioned letter of request, a condition of approval for “Garden Court Villas” Tentative Subdivision Map will require findings made by the City Council in regard to Planned Unit Developments pursuant to Section 1706 (Conceptual Plan) of the Porterville Zoning Ordinance based on the evidence submitted by the applicant.

**CONDITIONAL USE PERMIT 5-2008**

**PROJECT DESCRIPTION:** Conditional Use Permit 5-2008 proposes to conditionally approve the Specific Plan to allow for the 43 residential units to be constructed on the proposed subdivision lots Pursuant to Section 1710 (Specific Plans) of the Porterville Zoning Ordinance, the Specific Plan shall address detailed drawings of setbacks of structures, landscaping, dimensions of streets, common areas, open space, elevations of structures, floor plans, colors and the type of material to be utilized for the structures.
The approved tentative map for “Garden Court Villas” indicates that the site will be built out in three (3) phases.

The residential structures as proposed consist of Plan “A” through “E”.

Plan “A”: 1,250± square feet, two (2) stories, two (2) bedrooms and two (2) car garage with electric garage openers.

Plan “B”: 1,506± square feet, two (2) stories, two (2) bedrooms with loft area and two (2) car garage with electric garage openers.

Plan “C”: 1,315± square feet, one (1) story, two (2) bedrooms with a den/study and two (2) car garage with electric garage openers with electric garage openers.

Plan “D”: 1,553± square feet, two (2) stories, two (2) bedrooms and two (2) car garage with electric garage openers with electric garage openers.

Plan “E”: 1,512± square feet, two (2) stories, two (2) bedrooms with loft area and two (2) car garage with electric garage openers with electric garage openers.

The typical side yard setbacks for the proposed units will range from 0-12 feet; rear yard setbacks will range from 5 to 11 feet and the front yard setbacks will be 3 to 12 feet, with the exception of those lots fronting on Roby Avenue. The front yard setback for those units will be 14 feet from the back of sidewalk to the structure and 20 feet from the back of sidewalk to the garage door opening.

At the entrances to the common driveway area leading from the street, the applicant is proposing to place one (1) single lantern type light and pole on each side of the entrances.

On each side of the common driveway entrances for Lot 2, 7, 10 17, 18, 25, 26, 33, 34 and 38, a designated area for four (4) refuse containers is proposed.

Since no CC&R’s have been written as of this date, the applicant has provided the Planning Division with a letter of verification that the following items will be included in the Covenants, Conditions and Restrictions for “Garden Court Villas” Tentative Subdivision as follows:

a. Rollup garage doors with openers will be required.

b. Residents will be required to utilize their garage for the parking of vehicles to optimize parking of four (4) cars per lot.

c. Residents will be required to remove refuse containers from designated areas once they have been emptied, on that same day and the refuse containers are not to be stored in the front yards.
d. The final draft of said Covenant, Conditions and Restrictions shall be reviewed and approved by the Zoning Administrator and City Engineer prior to recording the final map. Any future modifications to the CC&R’s will require approval by the Zoning Administrator and City Engineer.

Conditions have been included in the attached resolution to this effect.

The common area for Area “A” (open space) will consist of 17,254± square feet. That portion of Area “A” proposed at the southwest corner of Roby Avenue and Belmont Street will consist of a swimming pool, a parking area, a bathroom and storage area, a play area to include playground equipment which will be shaded by a custom cloth canopy and sod and landscaping. The entrance will have a double trellis walk through area to include landscaping and an additional trellis in the open area site. The applicant is proposing to place double lantern type lights and poles in this area to include an aluminum six (6) foot high fence (similar to wrought iron - black in color). The remainder of the common area for “A” will be developed with landscaping and driveways with common ingress/egress to Roby Avenue. This area will be developed on the first phase of construction.

The common area for Area “B” (open space) will consist of 9,945± square feet. This area will be developed with landscaping and driveways with common ingress/egress to the Roby Avenue and will be developed on the second phase of construction.

The common area for Area “C” (open space) will consist of 4,996± square feet, and common area for Area “D” (open space) will consist of 4,913± square feet. A portion of Area “D” will be developed with a meditation garden to be located on the southeast corner of Roby Avenue and Belmont Street. The remaining portion of these two (2) areas will be developed with landscaping and driveways with common ingress/egress to the Roby Avenue. These two (2) is areas will be developed on the third and last phase.

The aforementioned meditation garden area to be located at the southeast corner of Roby Avenue and Belmont Street will have a single trellis walk through area to include landscaping. Additionally, the applicant is proposing to place double lantern type lights and poles in this area to include an aluminum six (6) foot high fence (similar to wrought iron - black in color).

Architecture for the proposed units consist of a modern Spanish/Mediterranean style and will be consistent throughout the development. Exterior stucco walls will have a tan color. Wood trim and manufactured doors will be dark brown. The metal railings will be a dark bronze color and the tile roofs will be a rust color. Each unit is proposed to have substantial window trim and decorative entryways.

Each unit will have front yard landscaping, designed to the consistent with the remainder of the development and maintained in perpetuity by the proposed home owner’s association. Rear yard landscaping will be installed and maintained by individual property owners.
Parking for each unit will be provided by attached two-car garages which will be required to remain clear for parking purposes. Enforcement for the garage parking will be provided by the proposed home owner’s association and included in the covenants, codes and restrictions. Additionally, guest parking will be provided on each unit’s driveway and along certain areas of the street frontage that are marked for parking. Additional parking will be available in the common open space.

Trash receptacles will be required to be stored out of public view when not in use and located in special curb-side can location on collection day. These proposed collection locations are shown on the Conceptual Plan (Exhibit A). Parking will be prohibited in front of these can locations in order to prevent conflict with refuse collection vehicles. By concentration the location of the trash receptacles, it is expected that excessive numbers of cans in the street can be reduced or eliminated.

GENERAL PLAN LAND USE DESIGNATION: Medium Density Residential.

SURROUNDING AREA ZONING AND LAND USE:

North: City – C-3 Storage yard for the Golden State Auto Repair.
South: City – R-2 Single family dwellings.
East: County – AE 20 Vacant land.
West: City – R-2 Apartments.

LEGAL NOTICES:

<table>
<thead>
<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>May 3, 2008</td>
<td>May 1, 2008</td>
</tr>
</tbody>
</table>

STAFF ANALYSIS: Development of the site as proposed will provide needed housing in conformance with the City’s General Plan Land Use and Housing Elements and requirements of the State Subdivision Map Act and local ordinances.

Pursuant to Section 1710 of the Porterville Zoning Ordinance upon approval of a Planned Unit Development zone district and requisite Conceptual Development Plan by the Porterville City Council, Specific Plans in conformity with the Conceptual Development Plan may be presented, considered and approved pursuant to Article 29 of the Porterville Zoning Ordinance via a conditional use permit.

Submittal of the Specific Plans will allow the City Council to review and condition the following:

Specifics of the proposed site to include dimensions, location of proposed structures, buildings, street parking, yards, play grounds open spaces, landscaping, irrigation plans, detailed architectural drawings to include materials and colors.
As mentioned previously, Conditional Use Permit 5-99 proposed a 64 unit apartment complex. The number of residential units proposed for the this (Conditional Use Permit 5-2008) project is 43. Conditional Use Permit 5-99 proposed ingress/egress from a cul-de-sac on Roby Avenue which have added additional traffic to that street. This project as proposed and the existing developed streets allows for circulation to inter/exit this area via Roby Avenue, Forest Avenue and Orange Avenue.

Based on the trips generated per day the apartment complex would have generated 414 trips per day where the proposed condominium project will generate 410 trips per day. Additionally, the General Plan allows for a density of 12 units per acre. The project as proposed will consist of 10.1 units per acre.

The Conceptual Development Plan references the location of off-site parking. This was requested to reference the area for required off-site parking in relation to the areas that will be red-curbed for the placement of refuse containers. As a result, these parking spaces are not included as a condition of approval of the Conceptual Development Plan, and the on-street parking that is proposed is in excess of the minimum parking required.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No Project. Denial of the proposed zone change amendment and Conceptual Development Plan would not allow the project to proceed. As a result, the applicant would have the ability to construct up to four (4) apartment units per lot and not require City Council review and conditional approval.

2. Approve the project. Approval of zone change amendment and Conceptual Development Plan to include approval of the tentative subdivision map would allow the project to proceed upon submittal of the Specific Plans in conformity with the Conceptual Development Plan which would require the City Council to conditionally approve the project via Conditional Use Permit 5-2008.

ENVIRONMENTAL: On June 15, 1999, the Porterville City Council approved by City Council Resolution No. 71-99 the environmental document for the modification to River View Estates 3, 4, and 5. The new lot (Unit 3) proposed a 64 unit apartment complex within the R-2 (Four Family) Zone with approval of Conditional Use Permit 5-99. In conjunction with that modification, the City Council on June 15, 1999 by Resolution 73-99 approved the environmental document for Conditional Use Permit 5-99. The proposed 43 unit Planned Unit Development is less intense than was the 64 unit apartment complex, and will not create additional significant effects on the environment pursuant to CEQA so no further environmental review is required.
RECOMMENDATION: That the City Council:

1. Adopt the draft ordinance approving Zone Change Amendment 1-2008 to include the Conceptual Plan (Exhibit “B”).

2. Approve the Tentative Subdivision Map for “Garden Court Villas”.

3. Adopt the Draft Resolution approving Conditional Use Permit 5-2008 (Specific Plan) subject to conditions of approval.

ATTACHMENTS:

1. Zoning/Land Use Map
2. Conceptual Plan (EXHIBIT “B”)
3. Tentative Subdivision Map
4. Specific Plans (EXHIBIT “A”)
5. Colored elevation drawing typical of all proposed units
6. Zone Change Application
7. Conditional Use Permit application
8. Letter requesting waiver of several regulations and requirements
9. Letter providing verification of requirements to be placed in the CC&R’s prior to recording the final map
10. City Council Environmental Resolution No. 71-99 approving findings in support of a Negative Declaration for the modification to River View Estates 3, 4, and 5 to include the site map originally proposed for Conditional Use Permit 5-99
11. City Council Environmental Resolution No. 73-99 approving findings in support of a Negative Declaration for Conditional Use Permit 5-99
12. Draft Ordinance approving Zone Change 1-2008 to include Zoning Map (Exhibit “A”) and the Conceptual Development Plan (Exhibit “B”)
13. Draft Resolution approving “Garden Court Villas” Tentative Subdivision Map
14. Draft Resolution approving Conditional Use Permit 5-2008 (Specific Plan) subject to conditions of approval.
Fire Resistance Ratings - ANSI/UL 263

See General Information for Fire Resistance Ratings - ANSI/UL 263

Design No. U376

November 21, 2007

Bearing Wall Rating — 1 HR.

Finish Rating — See Items 2, 2A, 2b or 2C.

Load Restricted for Canadian Applications — See Guide BXUV7

Configuration A

TYPICAL ONE HOUR FIRE WALL SEPARATION
1. **Wood Studs** — Nom 2 by 4 in., spaced 12, 16 or 24 in. OC as shown in Configurations A, B or C, effectively firestopped.

2. **Wall and Partition Facings and Accessories** — Nominal 5/8 in. thick, 4 ft wide panels, applied vertically to studs and bearing plates with 1/5/8 in. long Type S screws spaced 12 in. OC at perimeter of panels and 8 in. OC in the field. Vertical joints need not be staggered on opposite sides of wall. Horizontal joints of vertically applied panels need not be backed by studs.

**QUIET SOLUTION INC** — QuietRock 530 (finish rating 23 min)

2A. **Gypsum Board** — (As an alternate to Item 2; acceptable for use with Configuration A when the studs are spaced 16 in. or 24 in. OC) — 5/8 in. thick, 4 ft wide, applied either horizontally or vertically to one side of the assembly, nailed to studs and bearing plates with 6d cement coated nails 1-1/8 in. long, 0.0915 in. shank diam and 1/4 in. diam heads spaced 7 in. OC. Finish rating 27 min.

**AMERICAN GYPSUM CO** — Types AGX-1, AG-C

**BEIJING NEW BUILDING MATERIALS PUBLIC**
CERTAINEED GYPSUM INC — Types EGRG or ProRoc Type C

CERTAINEED GYPSUM CANADA INC — ProRoc Type C

G-P GYPSUM CORP, SUB OF

GEORGIA-PACIFIC CORP — Types 5, 9, C, DAP, DD, DA, DGG, DS, GPFS6

LAFARGE NORTH AMERICA INC — Types LGFC6, LGFC-C, LGFC6A, LGFC2, LGFC2A, LGFC-C/A

NATIONAL GYPSUM CO — Types FSK-C, FSW, FSW-3, FSW-5, FSW-C, FSW-G

PABCO BUILDING PRODUCTS LLC, DBA

PABCO GYPSUM — Type C, PG-9 or PG-C

PANEL REY S A — Type PRX

SIAM GYPSUM INDUSTRY (SARABURI) CO LTD — Type EX-1.

TEMPLE-INLAND FOREST PRODUCTS CORP — Type TG-C

28. Gypsum Board* — (As an alternate to Items 2 and 2A; acceptable for use with Configuration A only when the studs are spaced 15 in. OC only) — 5/8 in. thick, 4 ft wide, applied either horizontally or vertically to one side of the assembly, nailed to studs and bearing plates with 6d cement coated nails 1-7/8 in. long, 0.0915 in. shank diam and 15/64 in. diam heads spaced 7 in. OC.

AMERICAN GYPSUM CO — Types AGX-1 (finish rating 23 min.), Type AGX-11 (finish rating 26 min) or Type AG-C

BEIJING NEW BUILDING MATERIALS PUBLIC LTD CO — Type DBX-1 (finish rating 24 min).

CERTAINEED GYPSUM INC — Type 1, Type SF3 (finish rating 20 min) or FRPC, ProRoc Type C or ProRoc Type X (finish rating 26 min), Type EGRG (finish rating 29 min)

CERTAINEED GYPSUM CANADA INC — ProRoc Type C, ProRoc Type X or ProRoc Type Abuse-Resistant (finish rating 26 min)

CANADIAN GYPSUM COMPANY — Type AR (finish rating 26 min), Type C (finish rating 26 min), Type FCV (finish rating 26 min), Type IP-AR (finish rating 26 min), Type IPC-AR (finish rating 26 min), Type IP-X1 (finish rating 26 min), Type IP-X2 (finish rating 26 min), Type SCX (finish rating 26 min), Type SHX (finish rating 26 min), Type WRC (finish rating 26 min), Type WRX (finish rating 26 min).

G-P GYPSUM CORP, SUB OF

GEORGIA-PACIFIC CORP — Type 5 (finish rating 26 min), Type 6 (finish rating 23 min), Type 9 (finish rating 26 min), Type C (finish rating 26 min), Type DGG (finish rating 20 min), Type GPFS1 (finish rating 20 min), Type GPFS2 (finish rating 20 min), Type GPFS6 (finish rating 26 min), Type DS, Type DAP, Type DD (finish rating 20 min), DA.

LAFARGE NORTH AMERICA INC — Type LGFC2 (finish rating 20 min), Type LGFC3 (finish rating 20 min), Type LGFC5 (finish rating 26 min), Type LGFC-C (finish rating 20 min), Type LGFC6 (finish rating 34 min), Type LGFC2A, Type LGFC-C/A.
NATIONAL GYPSUM CO — Type FSK (finish rating 20 min), Type FSK-G (finish rating 20 min), Type FSW (finish rating 20 min), Type FSW-2 (finish rating 24 min), Type FSW-3 (finish rating 20 min), Type FSW-5 (finish rating 22 min), Type FSW-G (finish rating 20 min), Type FSK-C (finish rating 20 min), Type FSW-C (finish rating 20 min).

PABCO BUILDING PRODUCTS L L C, DBA

PABCO GYPSUM — Types C, PG-2 (finish rating 20 min), PG-3 (finish rating 20 min), Types PG-3W, PG-5W (finish rating 20 min), Type PG-4 (finish rating 20 min), Type PG-6 (finish rating 23 min), Types PG-3WS, PG-5WS (finish rating 20 min), Types PG-5, PG-9 (finish rating 26 min) or Type PG-C.

PANEL REY S A — Type PRX.

SIAM GYPSUM INDUSTRY (SARABURI) CO LTD — Type EX-1 (finish rating 26 min)

TEMPLE-INLAND FOREST PRODUCTS CORP — Type X, Veneer Plaster Base - Type X, Water Rated - Type X, Sheathing - Type X, Soffit - Type X, TG-C.

UNITED STATES GYPSUM CO — Type AR (finish rating 26 min), Type SCX (finish rating 26 min), Type C (finish rating 26 min), Type WRX (finish rating 26 min), Type WCX (finish rating 26 min), Type I-P-X1 (finish rating 26 min), Type FCV (finish rating 26 min), Type I-P-X2 (finish rating 26 min), Type SHX (finish rating 26 min), Type PRX-G (finish rating 29 min), Type IPX-AR (finish rating 26 min), Type IPC-AR (finish rating 26 min).

USG MEXICO S A DE C V — Type AR (finish rating 26 min), Type C (finish rating 26 min), Type WRX (finish rating 26 min), Type WCX (finish rating 26 min), Type I-P-X1 (finish rating 26 min), Type FCV (finish rating 26 min), Type I-P-X2 (finish rating 26 min), Type SHX (finish rating 26 min), SCX (finish rating 26 min), Type IPX-AR (finish rating 26 min), Type IPC-AR (finish rating 26 min).

2C. Gypsum Board* — (As an alternate to Items 2, 2A and 2B; acceptable for use with Configuration B) — 5/8 in. thick, 4 ft wide, applied either horizontally or vertically to one side of the assembly, nailed to studs and bearing plates with 6d cement coated nails 1-7/8 in. long. 0.0915 in. shank diam and 1/4 in. diam heads spaced 7 in. OC.

AMERICAN GYPSUM CO — Types AG-C.

CERTAINTEED GYPSUM INC — Type FRPC (Finish rating 20 min), ProRoc Type C.

CERTAINTEED GYPSUM CANADA INC — ProRoc Type C.

CANADIAN GYPSUM COMPANY — Types C, IP-X2 (finish rating 26 min).

G-P GYPSUM CORP., SUB OF

GEORGIA-PACIFIC CORP — Type 5 (finish rating 26 min).

LAFARGE NORTH AMERICA INC — Types LGFC-C, LGFC-C/A.

NATIONAL GYPSUM CO — Types FSK-C, FSW-C, FSW-G.

PABCO BUILDING PRODUCTS L L C, DBA

PABCO GYPSUM — Type C or PG-C.

TEMPLE-INLAND FOREST PRODUCTS CORP — Type TG-C.

UNITED STATES GYPSUM CO — Types C, IP-X2 (finish rating 26 min).
20. **Gypsum Board** — (As an alternate to Items 2, 2A, 2B and 2C; acceptable for use with Configuration C) — 5/8 in. thick, 4 ft. wide, applied either horizontally or vertically to one side of the assembly, nailed to studs and bearing plates with 6d cement coated nails 1-7/8 in. long, 0.0915 in. shank diam and 1/4 in. diam heads spaced 7 in. OC.

   See Gypsum Board* (CKNX) category for names of Classified companies.


4. **Batts and Blankets** — Glass fiber insulation, nom 3-1/2 in. thick, min. density of 0.80 pcf, with a flame spread of 25 or less and a smoke developed of 50 or less, friction-fitted to completely fill the stud cavities. See Batts and Blankets Category (BKNV) for names of manufacturers.

*Bearing the UL Classification Mark

Last Updated on 2007-11-21
Large double hypars with 6 posts over play equipment.
About Delgard

Delgard Premier Aluminum Fencing is made with strong, durable titanium/silicon aluminum alloy, so you can count on your Delgard fence to provide maximum stability and reliability. Our exclusive Diamond Kote 10,000™ paint finish ensures years of maintenance free use as compared to wrought iron fence and other fencing materials. We use a fire stage process that has proven to outperform other similar coatings such as powder coating.

Delgard fences come in 7 heights, 5 different colors, and 3 grades, Residential Fence, Aero Fence, and Commercial Fence.

Delgard's Premier Designer Gate Series add style and functionality to all of our gates and are a beautiful way to highlight the entrance to your home, pool, or business.

(C) Copyright Delair Group, L.L.C. All rights reserved.
To be located in the swimming pool area
And meditation garden area

To be located on each side of the driveway entrance and exists
COLOR BOARD

ROOF:
MANUFACTURER:
COLOR:
U.S. TILE
OLD WORLD BLEND

PRIMARY BODY COLOR:
MANUFACTURER:
COLOR:
FRAZEE
CW035W
RESTORATIVE

WOOD TRIM:
MANUFACTURER:
COLOR:
FRAZEE
B726N
MOCHA BROWN

STONE SILL:
MANUFACTURER:
COLOR:
FRAZEE
CW035W
RESTORATIVE

EXTERIOR DOORS:
MANUFACTURER:
COLOR:
FRAZEE
AC141N
ROBUST RED

WINDOWS:
MANUFACTURER:
COLOR:
ANDERSEN
TERRATONE

METAL RAILING:
COLOR:
PARK BRONZE

FRONT ELEVATION
PLAN "E" 1,512 SQ. FT.
APPLICATION FOR CHANGE OF ZONE
NO. ______________________

(City Page 4 of this form for information on preparing and filing this application)

CURRENT ZONING OF PARCEL(S): __R-2____

PROPOSED ZONING OF PARCEL(S): __PD-(R)____

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF PROPERTY OWNER(S):

GW HOMES, Inc., PO BOX 950 PORTERVILLE, CA 93258 559-784-6277

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF APPLICANT /CONTACT PERSON:

GREG WOODARD OR JOHN FRANZ

PO BOX 950 PORTERVILLE, CA 93258 559-784-6277

PROJECT ADDRESS AND NEAREST CROSS STREETS:

BOTH SIDES OF ROBY AVENUE AT BELMONT STREET

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)

THE CHANGE IN ZONE FROM R-2 TO PD-(R) WILL NOT CHANGE THE ALLOWED LAND USE. THE ZONE CHANGE IS REQUIRED TO DEVELOP A PROPOSED SINGLE FAMILY PLANNED UNIT DEVELOPMENT DEFINED IN THE ZONING ORDINANCE AS A HORIZONTAL CONDOMINIUM. IT WILL ALSO ENABLE SETBACKS, AND LOT SIZE TO BE MODIFIED FROM THE R-2 ZONE REQUIREMENTS.

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

AS STATED ABOVE, THE PHYSICAL USE OF THE PROPERTY WILL BE CONSISTENT WITH THE PRESENT R-2 ZONE. THE ZONE CHANGE WILL ALLOW INDIVIDUAL OWNERSHIP OF THE PROPOSED SINGLE FAMILY STRUCTURES.

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

IT IS DIFFICULT TO IDENTIFY ANY DETRIMENTAL AFFECTS TO SURROUNDING PROPERTY AS THE USE IS CONSISTENT WITH THE EXISTING ZONING.

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. (Please attach a copy of these restrictions and properly underscore the portions that are relevant)

ATTACHMENT
ITEM NO. 6
The following spaces are for signatures of owners whose properties lie within a 300-foot radius of the outside property line 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)

<table>
<thead>
<tr>
<th>No. on map</th>
<th>Name</th>
<th>Address</th>
<th>APN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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)

(Attach extra sheets if necessary)

<table>
<thead>
<tr>
<th>No. on map</th>
<th>Name</th>
<th>Address</th>
<th>APN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
TO THE PORTERVILLE CITY COUNCIL:

We, the owners of real property set opposite our respective names, hereby petition to have Ordinance No. 707 amended by reclassifying from Zone _R-2_ to Zone _PD-(R)_ 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.

OWNER'S DECLARATION

STATE OF CALIFORNIA  )
COUNTY OF TULARE    ) ss

I, GREG L. WOODARD, 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 Council 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 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 2:30 pm this 11th day of April 2008.

Telephone (559) 784-8277

Signed

Mailing Address P.O. Box 950
Porterville, CA 93258

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 Council.

Received ___________________________ Date __________________

Receipt No. _______________

By ____________________________
Mayor of the City of Porterville
REQUIREMENTS FOR FILING APPLICATION FOR CHANGE OF ZONE

1. Zone Change Application Form
2. Environmental Information Form
3. Project Review Committee (PRC) Application
4. 300-Foot Radius Map
5. Property Owners List
6. Photographs (optional)
7. Filing fee $1,105

1. The Zone Change Application form must be filled out with complete answers to every statement and question. Signatures of other owners of property to be changed should be secured where possible. Signatures of owners of property contiguous to that proposed to be changed should be secured where possible, but these signatures are not required. If signatures of persons other than the owners of property making the application are required, or offered in support of, or opposition to, the application, they may be received as evidence of notice having been served upon them of the pending application or as evidence of their opinion issue, but they shall in no case infringe upon the free exercise of the powers vested in the City of Porterville.

2. The Environmental Information Form provides information to the City regarding possible environmental impacts associated with the change of zone. The form requires the applicant to either approve preparation of an Environmental Impact Report (EIR) should one be necessary, to allow an agent to approve preparation of an EIR, or to request further discussion before preparation of an EIR. The applicant is responsible for reimbursing the costs of an EIR preparation.

3. The Project Review Committee application is to be submitted with Zone Change application and 9 copies of the plot plan. The meeting will take place on the second Wednesday from the week of submittal. After receiving the recommendation from the Project Review Committee meeting, the remainder of the items and any changes will be resubmitted to the City for processing.

4. The 300-Foot Radius Map accompanying the application must be drawn to a readable and accurate scale. It must show each parcel within 300-feet of the exterior boundaries of the properties involved and the uses of each parcel or present type of occupancy, such as a single-family residence, business, vacant, etc. The various zones surrounding the subject property must also be shown. Each parcel must be consecutively numbered to correspond to owner’s name on the Property Owners List (as explained below).

5. The Property Owners List should be typewritten or legibly printed on Avery 5160 or equivalent mailing labels, and must include the owner’s name and mailing address. Each owner’s name on this list must be numbered to correspond with the numbering placed on the 300-foot Radius Map. The list must be of the latest available assessment roll and may be obtained through the Tulare County Assessor’s Office or title company.

6. PHOTOGRAPHS of the property involved on a scale large enough to illustrate the subjects under discussion are always helpful to the City Council and are suggested as exhibits with this application.

This application is not a permit. Provide the items (1-3) listed above to the Project Review Committee for review and re-submit if necessary. After the PRC items are satisfied, submit items (4-6) to the City Planning Department for processing of the project.
CITY OF PORTERVILLE

APPLICATION FOR CONDITIONAL USE PERMIT

NOTE: The basic purpose of the Conditional Use Permit Article 29 of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

PROJECT NAME:

GARDEN COURT VILLAS

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF PROPERTY OWNER(S):

GW HOMES INC PO BOX 950 PORTERVILLE, CA 93258 559-784-6277

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF APPLICANT /CONTACT PERSON:

GREG WOODARD OR JOHN FRANZ

PO BOX 950 PORTERVILLE, CA 93258 559-784-6277

PROJECT ADDRESS AND NEAREST CROSS STREETS:

BOTH SIDES ROBY AVENUE AT BELMONT STREET

The applicant requests a Conditional Use Permit to use the above described property for the following purposes:

PLANNED UNIT DEVELOPMENT – SPECIFIC PLAN

Date of most recent sale of property:

RIVerview, PHASE 3 SUBDIVISION MAP WAS RECORDED 5/1/02

If applicant is the lessee, give date property was leased: N/A

List below the original deed restrictions pertaining to the type of improvements permitted.

DEED RESTRICTIONS (CC&R’S) FOR RIVerview PHASE 3 WERE SUBMITTED WITH

ZONE CHANGE APPLICATION

Date said restrictions expire:
A Plot Plan and 300' radius property owners map, and corresponding mailing list are attached and made a part of this application. (See detailed instructions on Page 4 of this form).

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

   PROPOSAL IS TO CREATE 43 SINGLE FAMILY RESIDENTIAL LOTS ON A SITE PRESENTLY ZONED R-2. THE PROPOSED 43 SFR LOTS ARE CONSISTENT WITH THE APARTMENT DENSITY (44 UNITS) ALLOWED UNDER EXISTING ZONING.

2. Principal requirements of intended use (Please answer the following statements as completely as possible).

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

   ASSUMING 3 PEOPLE PER HOUSEHOLD, THE RESULT WOULD BE 129 PEOPLE

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

   NONE

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

   EACH PROPOSED SFR STRUCTURE INCLUDES A 2 CAR GARAGE AND CAN ACCOMMODATE 2 UNCOVERED PARKING SPACES IN THE DRIVEWAY. THE CN RECREATION AREA INCLUDES 3 PARKING SPACES. TOTAL IS 175 PARKING SPACES.

   (d) Maximum height of buildings or structures.

   SINGLE STORY – PLATE HT 9'-0". TOP OF ROOF 14'-4"
   2 STORY – PLATE HT 18'-2". TOP OF ROOF 23'-6"

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

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

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Name</th>
<th>Address</th>
<th>APN</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

OWNER'S DECLARATION

STATE OF CALIFORNIA ) ) ss
COUNTY OF TULARE )

I, [Signature], 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 Council 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 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 1055 W Morton this 29th day of April, 2008.

Signed

Telephone (559) 734-6077

Mailing Address P.O. Box 950
Porterville, CA 93255

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 Council.

Received __________________________ Date ______________

Receipt No. ______________

By __________________________
REQUIREMENTS FOR FILING APPLICATION FOR CONDITIONAL USE PERMIT

1. Conditional Use Permit Application Form
2. 300-Foot Radius Map
3. Property Owners’ List
4. Plot Plan, Drawings or Photographs
5. Filing fee $1,164

1. The Conditional Use Application form must be filled out completely. The application must be signed by the owner or authorized agent under penalty of perjury in the space provided on Page 3.

2. The 300-Foot Radius Map accompanying the application must be to a suitable scale and must be correctly prepared. It must show each parcel within 300 feet of the exterior boundaries of property involved, not just the center point. In addition, the map must label the uses of each parcel or present type of occupancy, such as single-family residence, duplex, apartment house, business building or type of industrial use, or vacant. The various zones surrounding the subject property must also be shown. Each parcel must be consecutively numbered to correspond to owner’s name on the Property Owners’ List (as explained below).

3. The Property Owners List should be typewritten or printed on Avery 5160 or equivalent mailing labels, and must include the owner’s name and mailing address. Each owner’s name on this list must be numbered to correspond with the numbering placed on the 300-foot Radius Map. The list must be of the latest available assessment roll and may be obtained through the Tulare County Assessor’s Office or Title Company.

4. The Plot Plan, if applicable, must be drawn to a readable and accurate scale and size showing the parcel dimensions, its location with respect to adjacent streets, and the location of all existing and proposed buildings, structures or other improvements, with their distances from the parcel line clearly shown (9 copies initially with additional copies to be submitted prior to public hearing). It is suggested to include photos and drawings of the proposed buildings on a scale large enough to illustrate the subjects under discussion. Photographs or drawings of structures are also helpful, and elevation drawings, including color scheme, may be required.

Submit this information and the application to the Planning Division, City Hall, Porterville, California. The application must be complete in every respect, with all questions answered completely, before the City Planner can receive and certify the petition.

This application is not a permit. A public hearing will be held on your application.
MODIFICATION REQUEST - GARDEN COURT VILLAS

Garden Court Villas is a single family planned unit development proposed on an existing 4.3 acre parcel zoned R-2. The existing Lots (11) are all larger than 12,000 s.f. which would allow a four plex on each lot (total 44 units). The proposed development includes 43 single family units on postage stamp lots. Each lot includes the structure, parking at 2 car garage entrance and rear yard private area’s. The development also includes 37,100 s.f. of common area with amenities.

There are several regulations and requirements in the underlying R2 zone which cannot be met by the proposed planned development, which include minimum yard setbacks, maximum lot coverage, minimum lot area and minimum lot width when applied to the individual postage stamp lots proposed.

While the individual lots do not meet the zoning regulations, we believe that on an overall project basis the net lot coverage of 39% and provision of the common open area’s and amenities meet or exceed the intent of the R2 zone regulations.

We also believe that the proposed project will provide a more compatible use with the existing single family homes adjacent to the South and that the owners association management of the common open areas will ensure a consistent and well maintained project.
QUALITY • VALUE • SERVICE

Greg Woodard
Woodard Homes, Inc.
1055 W. Morton Ave., Suite B
Porterville, CA 93257
April 11, 2008

Bubba Fraiser
Planning Department
City of Porterville
291 N. Main St.
Porterville, CA 93257

Dear Mr. Fraiser:

In response to your request, we are providing verification that the following items will be included in the Covenants, Conditions and Restrictions for our planned Garden Court Villas subdivision. The final draft of said Covenants, Conditions and Restrictions will be submitted for your approval prior to Final Map recording.

- Overhead garage doors with openers.
- Residents will be required to utilize their garage for the parking of vehicles to optimize parking of four cars per lot.
- Additionally residents will be required to remove refuse cans from designated areas once the cans have been emptied, on that same day and the refuse cans are not to be stored in the front yards.

Sincerely,

[Signature]

Greg Woodard
President
Woodard Homes Inc.
RESOLUTION NO. 71-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION FOR "RIVER VIEW ESTATES UNITS 3, & 4", ( MODIFICATION NO. 1) TO ALLOW FOR THE ELIMINATION OF 11 LOTS WITH CREATION OF 85 LOTS CONSISTING OF UNIT 3/LOT 1 (4.67± ACRES) AND UNITS 4 & 5/LOTS 2 THROUGH 85 (18.75± ACRES) FOR THAT SITE GENERALLY LOCATED 800± FEET SOUTH OF WEST OLIVE AVENUE 520± FEET EAST OF SOUTH MATHEW STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 15, 1999, conducted a public hearing to consider modification of "River View Estates Units 3 & 4" Tentative Subdivision Map, to allow for the elimination of eleven (11) with creation of 85 lots consisting of Unit 3/Lot 1 (4.67± acres) and Units 4 & 5/Lots 2 through 85 (18.75± acres) for that site generally located 800± feet south of West Olive Avenue 520± feet east of South Mathew Street; and

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

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

(2) That the proposed project will not create adverse environmental impacts.

(3) That the City Council is the decision-making body for the project.

(4) That the Negative Declaration prepared for this project was made available for public review and comment.

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

(6) 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.
(7) That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgement of the City of Porterville.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration for "River View Estates Units 3 & 4" (Modification No. 1).

Virginia R. Gurola, Mayor

ATTEST:

C. G. Hoffaker, City Clerk
STATE OF CALIFORNIA

COUNTY OF TULARE

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council regularly called and held on the 15th day of June, 1999.

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

<table>
<thead>
<tr>
<th>Councilmen:</th>
<th>IRISH</th>
<th>WOODS</th>
<th>WILSON</th>
<th>LEAVITT</th>
<th>GURROLA</th>
</tr>
</thead>
<tbody>
<tr>
<td>AYES:</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>NOES:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>ABSENT:</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSTAIN:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C. G. HUFFAKER, City Clerk

By Georgia Hawley, Deputy City Clerk
RESOLUTION NO. 73-99

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION FOR CONDITIONAL USE PERMIT 5-99 TO ALLOW FOR THE CONSTRUCTION OF A 64 UNIT APARTMENT COMPLEX (INCLUDING A 1600 SQUARE FOOT COMMUNITY BUILDING) FOR THAT 4.67± ACRE SITE LOCATED AT THE EASTERLY TERMINUS OF WEST ROBY AVENUE 520 FEET EAST OF SOUTH MATHEW STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 15, 1999, conducted a public hearing to consider Conditional Use Permit 5-99 to allow for the construction of a 64 unit apartment complex (including a 1600± square foot community building) on 4.67± acres located at the easterly terminus of West Roby Avenue 520 feet east of South Mathew Street; 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.

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

4. That the Negative Declaration prepared for this project was made available for public review and comment.

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

6. 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.

7. That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgement of the City of Porterville.
NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for Conditional Use Permit 5-99.

[Signature]
Virginia R. Gurrola, Mayor

ATTEST:

[Signature]
C. G. Huffaker, City Clerk
STATE OF CALIFORNIA)  
(COUNTY OF TULARE)

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council regularly called and held on the 15th day of June, 1999.

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

<table>
<thead>
<tr>
<th>Councilmen:</th>
<th>IRISH</th>
<th>WOODS</th>
<th>WILSON</th>
<th>LEAVITT</th>
<th>GURROLA</th>
</tr>
</thead>
<tbody>
<tr>
<td>AYES:</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>NOES:</td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>ABSENT:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSTAIN:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

C. G. HUFFAKER, City Clerk

By Georgia Hawley, Deputy City Clerk
ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE PURSUANT TO ARTICLE 27 OF THE PORTERVILLE ZONING
ORDINANCE APPROVING ZONE CHANGE AMENDMENT 1-2008 FROM
R-2 (FOUR FAMILY RESIDENTIAL) ZONE TO PD (R-2) (PLANNED UNIT
DEVELOPMENT-FOUR FAMILY RESIDENTIAL) ZONE FOR THOSE ELEVEN (11) LOTS
ORIGINALLY APPROVED FOR RIVER VIEW ESTATES PHASE THREE LOCATED ON
THE NORTH AND SOUTH SIDES OF ROBY AVENUE

WHEREAS: Pursuant to Article 27 of the Porterville Zoning Ordinance, the City Council
of the City of Porterville at its regularly scheduled meeting of May 20, 2008, conducted a public
hearing to consider Zone Change Amendment 1-2008 from R-2 (Four Family Residential) to PD (R-
2) (Planned Unit Development-Four Family Residential) Zone for those eleven (11) lots originally
approved for River View Estates Phase Three located on the north and south sides of Roby Avenue; and

WHEREAS: Pursuant to Section 1705 of the Porterville Zoning Ordinance, the initiation
of the zone change amendment to PD (R-2) shall include a Conceptual Development Plan attached
and incorporated herein by reference (Exhibit “B”); and

WHEREAS: The subject site consists of 4.3± acres of vacant land developed with curbs and
gutters, improved streets and infrastructure; and

WHEREAS: The conceptual plan indicates that 43 residential units, swimming pool,
children’s play area and meditation garden area are proposed; and

WHEREAS: The applicant has submitted a letter requesting a modification to several
regulations in the underlying R-2 Zone, that cannot be met by the proposed planned unit
development, which include alterations to minimum yard setbacks, maximum lot coverage,
minimum lot area and minimum lot width when applied to the individual lots proposed for “Garden
Court Villas” Tentative Subdivision Map; and

WHEREAS: On June 15, 1999, the Porterville City Council approved by City Council
Resolution No. 71-99 the environmental document for the modification to River View Estates 3, 4,
and 5; and

WHEREAS: The modification of the 96 lot tentative subdivision map reduced the number
of lots by 11 for a total of 84 single family residential lots and one 4.25± acre lot on 23.42±
acres; and

WHEREAS: The new lot (Unit 3) consisting of 4.25± acres proposed a 64 unit apartment
complex within the R-2 (Four Family) Zone with approval of Conditional Use Permit 5-99; and

ATTACHMENT
ITEM NO. 12
WHEREAS: In conjunction with the modification, the City Council on June 15, 1999 by Resolution 73-99 approved the environmental document for Conditional Use Permit 5-99; and

WHEREAS: The applicant did not pursue the development of the apartment complex in the time limit allowed by Conditional Use Permit 5-99, the use permit became null and void; and

WHEREAS: The proposed 43 unit project is less intense than the 64 unit apartment complex, and will not create additional significant effects on the environment pursuant to CEQA so no further environmental review is required; and

WHEREAS: That this zoning classification will serve to ensure that any future development of the subject site will be in conformance with existing Conceptual Plans and policies and will not adversely impact the surrounding area.

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

SECTION 1: 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, determined that the public interest would best be served by approval of the proposed Zone Change Amendment 1-2008 (Conceptual Plan); and

SECTION 2: Based upon the evidence and reason for the request of the modifications and pursuant to Section 1706 of the Porterville Zoning Ordinance, the City Council makes the following findings:

1. That the proposed PD (R-2)-(Planned Unit Development- Multiple Family Residential) zoning classification is consistent with the General Plan.

2. The General Plan for this density range will accommodate a variety of housing types, such as small-lot single-family homes, detached zero lot line developments, duplexes, townhouses, and garden apartments.

3. Pedestrian-oriented design and clustered development can support higher levels of density.

4. The maximum residential density is 12 units per acre. The gross density proposed is 10.1 units per acre.

5. That the proposed Planned Unit Development is appropriate in location, character and timing and in accordance with requirements set forth by Section 1704 of the Zoning Ordinance.
6. Prior to development, a tentative subdivision map to include Specific Plans via a conditional use permit will require City Council approval.

7. That all uses listed in Article 2, Article 3 and Article 4 of the Porterville Zoning Ordinance will be allowed as permitted uses in the PD (R-2) Zone.

8. That the proposed Planned Unit Development will provide an improved level of amenities and will provide economical and efficient land use through appropriate and harmonious variety, creative design, and a better environment.

9. That the proposed location of the Planned Unit Development is in accordance with the objectives of the Zoning Ordinance and the purpose of the General Plan Land Use designation in which the site is located.

10. That the standards of population density, site area and dimensions, site coverage, yard spaces, height of structure, distance between structures and off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objective of this ordinance.

SECTION 3: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change Amendment 1-2008, is hereby re-zoned from R-2 (Four Family Residential) to PD (R-2) - (Planned Unit Development - Four Family Residential) Zone for those parcels located generally on the north and south sides of Roby Avenue, more particularly shown on the attached map, incorporated herein and referenced as Exhibit “A”; and

SECTION 4: 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 the subject property is re-zoned from R-2 (Four Family Residential) to PD (R-2) - (Planned Unit Development-Four Family Residential) Zone for those parcels located generally on the north and south sides of Roby Avenue, more particularly shown on the attached map, labeled Exhibit “A” and the Conceptual Plan Exhibit “B”; and

SECTION 5: That approval of this ordinance shall be contingent upon the approval of the subsequent tentative subdivision map and conditional use permit for the project.
SECTION 6: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ___________________________
Patrice Hildreth, Chief Deputy City Clerk
ZONE CHANGE AMENDMENT
No. #1-2008

OLIVE AVE.

CITY COUNCIL
ORDINANCE NO. ______

PROPOSED CHANGE
R-2 TO PD(R-2)

EXHIBIT "A"
RESOLUTION NO. 

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL FOR “GARDEN COURT VILLAS” TENTATIVE SUBDIVISION MAP FOR THAT 4.3± ACRE VACANT SITE LOCATED GENERALLY ON THE NORTH AND SOUTH SIDES OF ROBY AVENUE EXTENDING EAST AND WEST OF BELMONT STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of May 20, 2008, conducted a public hearing to consider approval of “Garden Court Villas” Tentative Subdivision Map, being a division of a 4.3± acre vacant parcel zoned PD (R-2) (Planned Unit Development-Four Family Residential) Zone for those forty-three (43) multiple family residential lots and additional four (4) common area lots (open space) located generally on the north and south sides of Roby Avenue extending east and west of Belmont Street; and

WHEREAS: On June 15, 1999, the Porterville City Council approved by City Council Resolution No. 71-99 the environmental document for the modification to River View Estates 3, 4, and 5. The new lot (Unit 3) proposed a 64 unit apartment complex within the R-2 (Four Family) Zone with approval of Conditional Use Permit 5-99. In conjunction with that modification, the City Council on June 15, 1999 by Resolution 73-99 approved the environmental document for Conditional Use Permit 5-99. The proposed 43 unit condominium is less intense than was the 64 unit apartment complex, and will not create additional significant effects on the environment pursuant to CEQA so no further environmental review is required; and

WHEREAS: The Project Review Committee on May 7, 2008 reviewed and discussed concerns and conditions that should be addressed before the City Council regarding the tentative subdivision map. 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: Pursuant to Zone Change Amendment 1-2008, the applicant submitted a letter requesting a modification to several regulations in the underlying R-2 Zone which could not be met by the proposed planned unit development. These regulations include minimum yard setbacks, maximum lot coverage, minimum lot area and minimum lot width when applied to the individual lots proposed for “Garden Court Villas” Tentative Subdivision Map; and

WHEREAS: Based upon the evidence for the request of the modifications and pursuant to Section 1706 of the Porterville Zoning Ordinance, the City Council made findings as addressed in the approved Ordinance for Zone Change 1-2008 supporting the minimum yard setbacks, maximum lot coverage, minimum lot area and minimum lot width when applied to the individual lots as proposed for “Garden Court Villas” Tentative Subdivision Map; and

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

ATTACHMENT
ITEM NO. 13
NOW, THEREFORE, BE IT RESOLVED: That the City Council hereby makes 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 2030 designates the subject site as Medium Density Residential.

   The General Plan for this density range will accommodate a variety of housing types, such as small-lot single-family homes, detached zero lot line developments, duplexes, townhouses, and garden apartments. Pedestrian-oriented design and clustered development can support higher levels of density. The maximum residential density is 12 units per acre. The gross density proposed is 10.1 units per acre.

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

   The subject site is zoned PD (R-2) - (Planned Unit Development-Four Family Residential) supported by the General Plan designation.

   All street improvements to include grading, curb, gutter, infrastructure and fire hydrants are existing. The site is generally level and has medium to coarse textured soils with a high water infiltration rate. Therefore, no barriers to development will occur.

3. 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 Medium Density Residential uses. The site has a developed multiple family residential subdivision to the west, a developed single family residential subdivision to the south, commercial to the north and vacant ground (county) to the east. Conditions of approval are included to ensure adequate development standards are met.
4. That the standards 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.

The proposed project complies with all the requirements of the Subdivision Ordinance and pursuant to Article 17 and the Zoning Ordinance (Planned Unit Development).

5. That the design of the proposed tentative subdivision is in conformance with the approved conceptual plan.

THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve “Garden Court Villas” Tentative Subdivision Map subject to the following conditions:

1. The development of the site shall conform to the approved Conceptual Development Plan for this project attached to the Staff report as Attachment 2 (EXHIBIT “B”).

2. That any future modification to the tentative map creating a conflict with the approved Conceptual Development Plan shall require City Council approval of a modification to the Conceptual Development Plan.

3. At a minimum, the following items shall be included in the Covenants, Conditions and Restrictions for “Garden Court Villas” Tentative Subdivision as follows:

   a. Rollup garage doors with openers will be required.

   b. Residents will be required to utilize their garage for the parking of vehicles to optimize parking of four (4) cars per lot.

   c. Residents will be required to remove refuse containers from designated areas once they have been emptied, on that same day and the refuse containers are not to be stored in the front yards.

4. Prior to recording the final map for “Garden Court Villa’s”, the Covenants, Conditions and Restrictions shall be recorded.

The final draft of said Covenants, Conditions and Restrictions shall be reviewed and approved by the Zoning Administrator and City Engineer prior to recording the final map. Any future modifications to the CC&R’s will require approval by the Zoning Administrator and City Engineer.
5. The following regulations of the San Joaquin Valley Air Pollution Control District (Rule 4901 - Wood Burning Fireplaces and Wood Burning Heaters) shall apply to this project:

a. In new residential developments with a density greater than two (2) dwelling units per acre, no person shall install a wood-burning fireplace.

b. In new residential development with a density equal to or greater than three (3) dwelling units per acre, no person shall install more than two (2) EPA Phase II Certified wood burning heaters (wood-stove, pellet-stove, or wood-burning insert) per acre.

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

6. Pursuant to Section 2617 of the Porterville Zoning Ordinance, the developer is not required to install a six (6) foot high block wall. In its place a six (6) foot high wood fence may be installed.

The developer has indicated that a six (6) foot high vinyl fence will be installed which will extended across the full length of the north end of the proposed subdivision.

7. One tree of minimum #15 specimen size and approved as a City Street Tree is required in the front yard of each lot. One additional tree is required on public street corner lots. Root barriers are required for all trees planted within ten feet of public sidewalks.

8. The developer/applicant shall petition, on a form provided by the City, to have the development included within a new Lighting and Landscape Maintenance District for the maintenance of the street lights along the project frontage. Submit with the petition the $375.00 fee. The developer/applicant shall cause an Engineer’s Report for the establishment of assessments to be prepared and submitted to the City for review and consideration. The Engineer’s Report must incorporate any necessary pro-rata share of cost required to maintain the financial stability of the existing Lighting and Landscape Maintenance District from which the subject land is to be removed. The Engineer’s Report shall assign the assessments to the common area(s). It shall be the responsibility of the Homeowner’s Association to pay the assessments and recover fees from the owners of individual lots/homes within the development.

9. 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.

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

11. Compliance with all applicable codes is required.
12. Plan check fees are required at the time of building permit submittal.

13. Soils compaction test may be required.

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

15. All construction offices, storage containers, etc. for temporary use must receive City Council approval.

16. NO DEFERRED ITEMS.

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

18. The project must comply with latest applicable codes.

19. 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 fire flow.

20. Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

21. 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.

22. Fire hydrant spacing shall be as follows:
    In Residential development, one hydrant shall be installed at 500-foot intervals.

23. 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.

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

25. Project must meet minimum fire flow requirements per the table in Appendix III-A & III-B of the California Fire Code.
26. The minimum fire flow for one and two family dwellings having a fire area not exceeding 3,600 square feet shall be 1,000 g.p.m. with 20 psi residual pressure. One and two family dwellings having a fire area greater than 3,600 square feet shall be 1,500 g.p.m. with 20 psi residual pressure.

27. 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 Section 22500.1.

GENERAL CONDITIONS


29. 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.

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

31. The developer/applicant shall cause all unnecessary easement(s) to be vacated prior to or in conjunction with the Final Map processing.

32. 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.

33. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix J of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:
   - Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);
- Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading. The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;
- Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);

34. 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.

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

36. 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.

**DRAINAGE CONDITIONS**

37. 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.

38. The developer/applicant is advised that he/she 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.

39. That approval of this tentative subdivision map shall be contingent upon the approval of the zone change and conditional use permit for this project.

Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By _____________________________
Patrice Hildreth, Chief Deputy City Clerk
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT
5-2008 (SPECIFIC PLANS) TO ALLOW FOR THE CONSTRUCTION OF A 43 LOT SINGLE
FAMILY RESIDENTIAL PLANNED UNIT DEVELOPMENT FOR THAT 4.3± ACRE
VACANT SITE LOCATED GENERALLY ON THE NORTH AND SOUTH SIDES OF ROBY
AVENUE EXTENDING EAST AND WEST OF BELMONT STREET

WHEREAS: On May 20, 2008 pursuant to Section 1705 of the Porterville Zoning
Ordinance the Porterville City Council approved Zone Change 1-2008 which change the zoning for
the subject site from R-2 (Four Family Residential) to PD (R-2) (Planned Unit Development-Four
Family Residential) Zone to include the Conceptual Plan for the project as proposed; and

WHEREAS: In addition to Zone Change 1-2008, the Porterville City Council also
approved a Tentative Subdivision Map for “Garden Court Villa”. The tentative subdivision map
consisting of 4.3± vacant acres proposed re-subdividing an existing eleven (11) lot subdivision
(River View Estates Unit Three) into a forty-three (43) lot residential subdivision to include
four (4) additional common areas for the subject site; and

WHEREAS: Pursuant to Section 1710 of the Porterville Zoning Ordinance upon approval
of a Planned Unit Development zone district and requisite Conceptual Development Plan by the
Porterville City Council, Specific Plans in conformity with the Conceptual Development Plan may
be presented, considered and approved pursuant to Article 29 of the Porterville Zoning Ordinance via
a conditional use permit; and

WHEREAS: Pursuant to Article 29 of the Porterville Zoning Ordinance, the City Council of
the City of Porterville at its regularly scheduled meeting of May 20, 2008, conducted a public
hearing to consider Conditional Use Permit 5-2008 (Specific Plan) to allow for construction of a 43
lot single family residential Planned Unit Development for that 4.3± vacant acre site located
generally on the north and south sides of Roby Avenue extending east and west of Belmont Street; 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. The Land Use Element of the General Plan 2030 designates the subject site as
Medium Density Residential.

ATTACHMENT
ITEM NO. 14
The General Plan for this density range will accommodate a variety of housing types, such as small-lot single-family homes, detached zero lot line developments, duplexes, townhouses, and garden apartments. Pedestrian-oriented design and clustered development can support higher levels of density. The maximum residential density is 12 units per acre.

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

That the existing PD (R-2) - (Planned Unit Development - Multiple Family Residential) is consistent with the General Plan. The density as proposed for the project will be 10.1 units per acre.

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

All street improvements to include grading, curb, gutter, sidewalk, street lights, infrastructure and fire hydrates are existing. The site is generally level. The site has medium to coarse textured soils with a high water infiltration rate. Therefore, no barriers to development will occur.

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

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

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

6. That the project as proposed complies with all design standards pursuant to Article 17 (Planned Unit Development) of the Zoning Ordinance.

7. That the City Council on June 15, 1999 by Resolution No. 71-99 approved findings in support of a Negative Declaration for the modification to River View Estates 3, 4, and 5 to include the site map originally proposed for Conditional Use Permit 5-99.

8. That the City Council on June 15, 1999 by Resolution No. 73-99 approved findings in support of a Negative Declaration for Conditional Use Permit 5-99. The applicable mitigation measures were incorporated into these conditions of approval.
NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 5-2008, subject to the following conditions:

1. That the project shall be constructed in accordance with the approved Conceptual Development Plan and Specific Development Plans and elevations, attached and incorporated herein by reference as Attachments 1 through 16 to the staff report.

2. That approval of this conditional use permit shall be contingent upon the approval of the zone change and tentative map for this project.

3. That the developer/applicant shall comply with the conditions of approval adopted for “Garden Court Villas” Tentative Subdivision.

4. That all improvements in the public right-of-way, including the fence around the swimming pool area and meditation area, shall require an encroachment permit.

5. Future construction of Phases 2 & 3 of “Garden Court Villas” Subdivision shall conform to the Conceptual and Specific Development Plans to include eleven plans, floor plans, to include colors, textures and elevations of proposed structures and residential units.

6. Parapets, associated with condominium subdivisions separating units and extending above the roof line shall be prohibited. Said separation will be as proposed on the attachment (BXUV.U376- Fire Resistant Ratings-ANSI 263). The purpose of this condition is to avoid any exterior appearance of a separation between units.

7. Any future minor modifications to the approved Specific Development Plans may be approved by the Zoning Administrator provided they are in keeping with the character of the development.

8. This project shall conform to the residential planned unit development standards contained in the Porterville Zoning Ordinance Section 1700.

9. At a minimum, the following items shall be included in the Covenants, Conditions and Restrictions for “Garden Court Villas” Tentative Subdivision as follows:

   a. Rollup garage doors with openers will be required.

   b. Residents will be required to utilize their garage for the parking of vehicles to optimize parking of four (4) cars per lot.
c. Residents will be required to remove refuse containers from designated areas once they have been emptied, on that same day and the refuse containers are not to be stored in the front yards.

10. Prior to recording the final map for “Garden Court Villa’s”, the Covenants, Conditions and Restrictions will have to be recorded.

The final draft of said Covenants, Conditions and Restrictions shall be reviewed and approved by the Zoning Administrator and City Engineer prior to recording the final map. Any future modifications to the CC&R’s will require approval by the Zoning Administrator and City Engineer.

11. Inasmuch as the project is not designed to accommodate vehicle security gates, no vehicle security gates are allowed pursuant to the approval.

12. Modified setbacks are established through the Planned Unit Development process and are shown on the Conceptual Plan attached and incorporated herein by reference as Attachment 2 (Exhibit “B”) to the staff report.

13. A patio slab as long as the entire framed opening and at least five feet wide, shall be installed adjacent to each exterior door. These slabs shall be shown on the plans submitted for building permits.

14. Each trash receptacle shall be stored so as not to be visible to public view. Said storage may be stored inside an over-sized garage, or in a back yard behind a fence. The location and access of the receptacles shall be clearly shown on the plans submitted for building permits. The Zoning Administrator shall approve receptacle storage locations prior to the issuance of building permits.

15. In the event that wood fences are constructed along the side and rear property lines on each of the individual lots, the wood fences shall include galvanized metal posts as the primary support fixture as opposed to 4 by 4 wood posts. These posts shall have metal flanges for attachment of the horizontal rails of the fence.

16. Landscaping plans for all of the commonly maintained areas, including the residence front yards, and the two open space amenity areas shall be included in the plans submitted for building permits. The Zoning Administrator shall approve the landscaping plans prior to the issuance of building permits.

17. The site landscaping shall provide additional trees throughout the development and shall be in substantial compliance with the conceptual landscape plan shown as part of Attachment 4 (Specific Plans-Exhibit “A”) incorporated herein by reference.
18. Pursuant to Section 2617 of the Porterville Zoning Ordinance, the developer is not required to install a six (6) foot high block wall. In its place a six (6) foot high wood fence may be installed.

The developer has indicated that a six (6) foot high vinyl fence will be installed which will extended across the full length of the north end of the proposed subdivision.

19. Construction activities shall be limited to the hours between 7:00 a.m. and 6:00 p.m. Monday through Saturday.

20. A Temporary Use Permit shall be secured from the Porterville City Council prior to installation or use of a lot sales office.


22. 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.

23. The developer/applicant shall comply with Appendix J, “Grading” of the 2007 California Building Code by providing a soils engineering report and a grading and drainage plan signed by a civil engineer or architect.

24. 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.

25. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306). Staff is requesting that the parking lot be designed to convey water to the The City drainage system without crossing driveways.

26. 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 full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer. All existing driveways along Roby Avenue that are in conflict with new driveways shall be removed up to the lip of gutter and replaced with full curb, gutter, and sidewalk.
27. Easements shall be in place that allow for mutual ingress, egress, and maintenance of the parking lot(s).

28. The developer/applicant is advised that he/she 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 one acre 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.

29. 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. A dust control plan is required prior to building permit issuance. The developer/applicant shall provide a street sweeper as necessary to comply.

30. The developer/applicant shall paint curbs red or pay in lieu fee for community trash container locations approved by the Public Works Department. The developer/applicant shall provide one community trash container locations per common area lot (6 Total).

31. Approval from Tulare County Health Department prior to issuance of the swimming pool permit.

32. Restrooms and main entrance must comply with ADA access laws.

33. Signs require a separate permit.

34. Swimming Pool requires a separate permit.
35. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.

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

37. The developer/applicant shall design on-site water systems meeting the requirements of California Plumbing Code and Fire Code. It shall be noted that the City water system complies with Title 22 of the California Administrative Code and any assurance to effectively provide water pressure for multi-story buildings is the sole responsibility of the owner/builder.

38. That the conditional use permit shall become null and void if not actively undertaken within two (2) years consistent with the life of the approved tentative subdivision map. Any additional time shall require a request for an extension of time for the conditional use permit and tentative map.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
Patrice Hildreth, Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: AN EXTENSION OF TIME FOR AN INTERIM ORDINANCE ADOPTING AN INTERIM ZONING MATRIX AND IMPLEMENTATION PLAN FOR THE PORTERVILLE 2030 GENERAL PLAN – UPDATE REPORT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: On March 4, 2008 the City Council of the City of Porterville adopted a Comprehensive General Plan Update that established a blueprint for city growth and development through the year 2030 which included a long term implementation program for the plan. On April 15, 2008, the City Council adopted an interim urgency ordinance to guide development decisions until a new Zoning Ordinance, consistent with the General Plan, can be adopted. The interim ordinance included a zoning matrix to assist in determining zoning classifications for each General Plan land use designation as well as findings that need to be made when the decision is not clear.

To achieve long term implementation, the City will bring both the Zoning Ordinance and the Zoning Map into conformance with the General Plan. As stated above, this effort is currently underway and is anticipated to require a year to complete. However, depending on the public input process, this timeline could, and likely will, be prolonged so that consensus can be reached.

INTERIM ORDINANCE AUTHORITY:

Government Code Section 65858 (Attachment 3) provides for a city to adopt an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan or zoning ordinance update. In this case, the City has adopted a new General Plan and has adopted an interim ordinance to guide development in the interim between General Plan adoption and the completion of the Zoning and Subdivision Ordinance adoption. Implementation of the interim ordinance will ensure that development proceeding during this interim period will further the goals, policies and objectives of the newly adopted General Plan and thereby protect the health, safety and general welfare of the residents of the City.

The General Plan was adopted with the benefit of significant public input and the land uses established in the plan were determined based on policies for future growth established in the adopted plan. The interim ordinance has been effective since adoption on April 15, 2008, but will expire after 45 days from the date of adoption. This public hearing has been scheduled pursuant to Government Code Section 65858. The public hearing allows for receiving public input on extending the ordinance. At this time staff is requesting, the City Council to extend the interim ordinance for up to 10 months and 15 days, with one additional one-year extension possible. The Council can also repeal the ordinance or let it expire, or amend the ordinance.

Item No. 23
As required under Government Code Section 65853, staff provided an update on the progress of the interim zoning ordinance's implementation at the regular City Council Meeting of May 6, 2008, prior to the scheduled public hearing.

Staff is currently working with a consultant, Dyett and Bhatia, to prepare the comprehensive update to the Zoning and Subdivision Ordinances. Stakeholder interviews have taken place to collect input from a variety of local interests on issues with the current ordinances and establish ways to improve them. The results of these interviews have been documented and will facilitate future efforts to address important issues.

A Zoning and Subdivision Ordinance Update Advisory Committee has been organized and is made up of the same individuals that served on the General Plan Update Advisory Committee. Their mission is to provide ongoing input into the development of these new ordinances. The first meeting of this group occurred on May 8, 2008. At this meeting, staff provided an overview of the process, provided background information including a summary of stakeholder interviews and discussed approval to addressing issues.

Staff is requesting an extension of 10 months and 15 days to develop the Zoning and Subdivision Ordinances. A second extension may be necessary to complete the effort. Staff will however, pursue completion of the ordinance update as expeditiously as possible.

RECOMMENDATION: That the City Council hold the public hearing, consider any and all public testimony, and extend the Interim Urgency Ordinance for the implementation of the newly adopted 2030 General Plan for a period of 10 months and 15 days.

ATTACHMENT: Attachment 1 - Interim Ordinance, Adopted April 15, 2008
Attachment 2 - Draft Extension of Interim Ordinance
ORDINANCE NO. 1738

A INTERIM ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE ADOPTING AN INTERIM GENERAL PLAN
AND ZONING CONSISTENCY PLAN AND MATRIX TO IMPLEMENT
THE PORTERVILLE 2030 GENERAL PLAN

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

SECTION 1: On March 4, 2008 the City of Porterville adopted a Comprehensive
General Plan Update that established a blueprint for city growth and development through the
year 2030; and

SECTION 2: The City Council made the determination that the adopted General Plan
sets out a vision for the future growth of the City to protect and promote the public health, safety
and general welfare for the citizens of Porterville; and

SECTION 3: The General Plan was developed through a process of soliciting significant
public input process that produced a consensus document that also represents the collective
vision of the citizens of Porterville thus creating an expectation that future growth and
development will be in alignment with the approved General Plan; and

SECTION 4: The City of Porterville is currently in the process of comprehensively
updating the Zoning and Subdivision Ordinances to implement the newly adopted General Plan
and be consistent with the information therein; and

SECTION 5: An interim program for administering zoning related actions is provided
for in Chapter 10, Section 10.2 – Implementation of the adopted General Plan and is necessary to
bridge the gap between adoption of the General Plan and adoption of the Zoning and
Subdivision Ordinance updates; and

SECTION 6, A zoning matrix has been prepared, establishing a correlation between the
new General Plan land use designations and the existing zoning classifications; and

SECTION 7, The City of Porterville desires to employ the Zoning Matrix attached
hereunto as Exhibit A, and the findings contained in SECTION 9 of this ordinance in rendering a
determination of zoning consistency with the General Plan land use designation on specific
properties; and

SECTION 8: The City Council finds that the most effective and efficient administration
of the interim ordinance shall be vested in the Zoning Administrator to make necessary findings
of consistency with the General Plan, with the understanding that decisions of the Zoning
Administrator are reviewable by the City Council or are appealable to the City Council pursuant
to Article 30 of the Zoning Ordinance; and
SECTION 9:

In making a determination of consistency with the General Plan the Zoning Administrator will make the following findings in writing within 5 days of the request:

a. That the site of the proposed development is consistent with the adopted General Plan.

b. That the site is suitable in size, shape and access to streets and infrastructure to serve the proposed development in a manner that is sensitive to surrounding land uses.

c. That the development of the site under approved land use designation will be compatible with and not be detrimental to, nor injurious to the adjacent land uses.

d. That the proposed development under the subject land use designation is necessary to maintain or improve the economic vitality of the neighborhood or community in which it is located.

e. That the proposed density and intensity of development is appropriate for the capacity of the site and will be compatible with surrounding land uses.

PASSED, ADOPTED AND APPROVED this 15th day of April, 2008.

[Signature]
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

[Signature]
By: Patrice Hildreth, Chief Deputy City Clerk
STATE OF CALIFORNIA )
CITY OF PORTERVILLE ) (SS)
COUNTY OF TULARE )

I, JOHN LONGLEY, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1738, an Interim Urgency Ordinance, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 15th day of April, 2008, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance be in full force and effect on its date of passage, April 15, 2008.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

<table>
<thead>
<tr>
<th>COUNCIL:</th>
<th>McCracken</th>
<th>P. Martinez</th>
<th>F. Martinez</th>
<th>Hernandez</th>
<th>Hamilton</th>
</tr>
</thead>
<tbody>
<tr>
<td>AYES:</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>NOES:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSTAIN:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>ABSENT:</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

JOHN LONGLEY, City Clerk

[Signature]

By: Luisa Herrera, Deputy City Clerk
ORDINANCE NO.

A INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE EXTENDING AN INTERIM ORDINANCE ADOPTING AN INTERIM GENERAL PLAN AND ZONING CONSISTENCY PLAN AND MATRIX TO IMPLEMENT THE PORTERVILLE 2030 GENERAL PLAN AND DECLARING THE URGENCY THEREOF

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

SECTION 1: The City Council of the City of Porterville has previously enacted Ordinance 1738 as an Urgency Ordinance and said Ordinance shall expire on May 30, 2008.

SECTION 2: On March 4, 2008 the City of Porterville adopted a Comprehensive General Plan Update that established a blueprint for city growth and development through the year 2030; and

SECTION 3: The City Council made the determination that the adopted General Plan sets out a vision for the future growth of the City to protect and promote the public health, safety and general welfare for the citizens of Porterville; and

SECTION 4: The General Plan was developed through a process of soliciting significant public input process that produced a consensus document that also represents the collective vision of the citizens of Porterville thus creating an expectation that future growth and development will be in alignment with the approved General Plan; and

SECTION 5: The City of Porterville is currently in the process of comprehensively updating the Zoning and Subdivision Ordinances to implement the newly adopted General Plan and be consistent with the information therein; and

SECTION 6: Until such time that the comprehensively updated Zoning and Subdivision Ordinances are adopted, there is a current and immediate threat to the public health, safety or welfare in allowing certain land uses if inconsistent with the newly adopted General Plan; and

SECTION 7: An interim program for administering zoning related actions is provided for in Chapter 10, Section 10.2 – Implementation of the adopted General Plan and is necessary to bridge the gap between adoption of the General Plan and adoption of the Zoning and Subdivision Ordinance updates by prohibiting uses inconsistent with the General Plan unless compliance is achieved pursuant to the interim program; and

SECTION 8: A zoning matrix has been prepared, establishing a correlation between the new General Plan land use designations and the existing zoning classifications; and

SECTION 9: The City of Porterville desires to employ the Zoning Matrix attached hereto as Exhibit A, and the findings contained in SECTION 9 of this ordinance in rendering a determination of zoning consistency with the General Plan land use designation on specific properties; and
SECTION 10: The City Council finds that the most effective and efficient administration of the interim ordinance shall be vested in the Zoning Administrator to make necessary findings of consistency with the General Plan, with the understanding that decisions of the Zoning Administrator are reviewable by the City Council or are appealable to the City Council pursuant to Article 30 of the Zoning Ordinance; and

SECTION 11:

In making a determination of consistency with the General Plan the Zoning Administrator will make the following findings in writing within 5 days of the request:

a. That the site of the proposed development is consistent with the adopted General Plan.

b. That the site is suitable in size, shape and access to streets and infrastructure to serve the proposed development in a manner that is sensitive to surrounding land uses.

c. That the development of the site under approved land use designation will be compatible with and not be detrimental to, nor injurious to the adjacent land uses.

d. That the proposed development under the subject land use designation is necessary to maintain or improve the economic vitality of the neighborhood or community in which it is located.

e. That the proposed density and intensity of development is appropriate for the capacity of the site and will be compatible with surrounding land uses.

SECTION 12: The City Council finds that pursuant to Government Code Section 65858(d), Staff prepared a written report and submitted it to the City Council for consideration describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report was submitted to the City Council on May 6, 2008, at least 10 days prior to the expiration of the Interim Ordinance.

SECTION 13: Work has begun on the new Zoning Ordinance; however additional time is needed to complete the process of developing the new Ordinance. A duly noticed public hearing concerning this extension was held on May 20, 2008, and any and all public testimony was considered concerning this extension.

SECTION 14: The City Council hereby extends this Interim Ordinance for a period of ten (10) months and fifteen (15) days. Said period shall commence May 20, 2008, and shall expire on March 7, 2009 unless an additional extension, as permitted by law, is approved by the City Council.
SECTION 15: The City Council does herewith direct the City Staff to prepare and submit to the City Council, for consideration of approval and issuance by the City Council, a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report shall be submitted to the City Council at least 10 days prior to the expiration of this Ordinance.

PASSED, ADOPTED AND APPROVED this ____ day of __________, 2008.

BY:

__________________________________________
Cameron Hamilton, Mayor

ATTEST:

__________________________________________
Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: DESIGN (D) OVERLAY REVIEW 2-2008- JAYE STREET CROSSING

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Design Review (D) Overlay to facilitate the development of the new 75,000 square foot commercial retail center (Jaye Street Crossing) to be located at the northeast corner of Jaye Street and State Route 190. The subject site is within the C-2 “D” (General Commercial – Design Review Overlay) Zone on ±10.7 acres.

The proposed project will include two Major Buildings (“A & B”) and six (6) building pads. The two “Major” buildings proposed are ±24,300 and ±19,700 square feet and the six (6) remaining building pads will range from ±3,500 to ±6,800 square feet. The proposed buildings will face the interior of the commercial center but will be visible to the public from each side. As such, staff has worked with the developer to present a well articulated design concept for all building elevations that will be consistent throughout the project.

Additionally, the buildings in the commercial center will be pedestrian oriented, interconnected by concrete sidewalks and paths lined with trees designed to provide a shade canopy once the trees are mature. Throughout the parking lot, trees are proposed at a ratio of one (1) for every eight (8) spaces, also to provide shade to a large percentage of the parking area within 7-10 years.

Primary access to the commercial center is from Jaye Street with secondary access along Springville Avenue. Large delivery trucks to Majors “A” and “B” will enter the commercial center from Springville Avenue. A common ingress/egress agreement for access and parking will allow shared parking and access throughout the development. The ±528 parking spaces proposed exceed the 375 spaces required for 75,000 square feet of retail and restaurant space.

ENVIRONMENTAL: On February 20, 2007 The City Council adopted Resolution 8-2007 certifying the Environmental Impact Report (EIR) for the proposed ±75,000 square foot commercial center. Included in the EIR were required mitigation measures for the project at the time of development.
RECOMMENDATION: That the City Council adopt the draft resolution containing findings and conditions in support of approval of Design Overlay Review 2-2008.

ATTACHMENTS:

1. Complete Staff Report
DESIGN REVIEW OVERLAY 2-2008 (JAYE STREET CROSSING COMMERCIAL CENTER)  
FOR CITY COUNCIL MEETING OF May 20, 2008

APPLICANT: JLH Properties  
2200 Pine Street  
Bakersfield, Ca 93301

AGENT/PROPERTY OWNER: John Hale  
JLH Properties  
2200 Pine Street  
Bakersfield, Ca 93301

PROJECT DESCRIPTION: The development of the new 75,000 square foot commercial center (Jaye Street Crossing) on the ±10.7 acre site. The site includes two Major Buildings ("A & B") and six (6) buildings. The two "Major" buildings proposed are ±24,300 and ±19,700 square feet and the six (6) other buildings will range from ±3,500 to ±6,800 square feet.

SIZE OF PROPERTY: ±10.7 acres

GENERAL PLAN CLASSIFICATION: Retail Centers

ZONING CLASSIFICATION: C-2 Central Commercial

STAFF RECOMMENDATION: That the City Council adopt the draft resolution containing findings and conditions in support of approval of Design Review Overlay Site Review 2-2008.
# PROJECT SUMMARY

**Design Review Overlay 2-2008 (Jaye Street Crossing Commercial Center)**

## Site Information

<table>
<thead>
<tr>
<th>Project Location</th>
<th>NE corner of Jaye Street and State Route 190</th>
</tr>
</thead>
<tbody>
<tr>
<td>Present Use</td>
<td>Vacant</td>
</tr>
<tr>
<td>Access</td>
<td>Jaye Street/Vandalia Ave/Springville Ave</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Surrounding</th>
<th>Existing Land Uses</th>
<th>Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North:</td>
<td>Vacant Building and Undeveloped Land</td>
<td>City – Retail Center/C-2 (Central Commercial Zone)</td>
</tr>
<tr>
<td>South:</td>
<td>Burger King &amp; Holiday Inn Express</td>
<td>City - General &amp; Service Commercial/C-3 (Heavy Commercial)</td>
</tr>
<tr>
<td>East:</td>
<td>Home Depot, Royalty Carpet, Pro-Documents Solutions.</td>
<td>City – Retail Center/C-2 (Central Commercial Zone) &amp; M-1 (Industrial)</td>
</tr>
<tr>
<td>West:</td>
<td>River Walk Commercial Center</td>
<td>City – Retail Center/PD (Central Commercial Zone)</td>
</tr>
</tbody>
</table>

## Project Details

<table>
<thead>
<tr>
<th>Parking</th>
<th>Required: 375</th>
<th>Provided: 528</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setbacks</td>
<td>Required: N/A</td>
<td></td>
</tr>
<tr>
<td>Lot Area</td>
<td>±10.7 Acres</td>
<td></td>
</tr>
<tr>
<td>Storm Water Retention</td>
<td>City System</td>
<td></td>
</tr>
<tr>
<td>Fencing</td>
<td>None</td>
<td></td>
</tr>
</tbody>
</table>
CITY COUNCIL AGENDA: MAY 20, 2008

STAFF REPORT

TITLE: DESIGN OVERLAY REVIEW 2-2008 (Jaye Street Crossing Commercial Center)

APPLICANT: John Hale – JLH Properties
2200 Pine Street
Bakersfield, CA 93301

HISTORY:

On February 20, 2007, the City Council adopted resolutions 8-2007 and 9-2007 certifying the Environmental Impact Report and approving a General Plan Amendment for a change in the Land Use Designation from Industrial to General Commercial for that ±10.7 acre site proposed for development of a new ±75,000 square foot commercial center (Jaye Street Crossing). The proposed project is located at the north east corner of Jaye Street and State Route 190. In conjunction with the General Plan Amendment, Zone Change 3-2007 changed the previous zone from M-1 (Light Manufacturing) to C-2 “D” (General Commercial with a Design Review Overlay). The Design Review Overlay allows the City Council to approve the architectural design of the buildings and site layout with improvements in the commercial center. The buildings must be architecturally compatible in design and comply with all applicable codes. A unified architectural theme is to be established and maintained for all building signage and accessory amenities to be constructed within the commercial center.

SPECIFIC REQUEST:

At this time the applicant is requesting approval of a Design Review (D) Overlay to facilitate the development of the new 75,000 square foot commercial center (Jaye Street Crossing) on the ±10.7 acre site. The site includes two Major Buildings (“A & B”) and six (6) other buildings. The two “Major” buildings proposed are ±24,300 and ±19,700 square feet and the six (6) remaining building pads will range from ±3,500 to ±6,800 square feet.

A colored rendering/elevation (typical) (Attachment 5) for buildings “D, E, F, and H,” was submitted for approval. Although the remaining buildings “C, G, Major A, and Major B” will be consistent in design with the colored rendering, the developer shall submit final design for City Council’s consent once a tenant has been secured. This would allow the tenants of buildings “C, G, Major A, and Major B” to incorporate the architectural theme, elements, and colors of the commercial center into their building design.
PROJECT DETAILS/STAFF ANALYSIS:

The proposed buildings will face the interior of the commercial center but will be visible to the public from each side. As such, staff has worked with the developer to present a well-articulated design concept for all building elevations that will be consistent throughout the project. The architectural style is Spanish-Mediterranean with plastered walls, columns and a flat roof. The colors and finish of the buildings throughout the project will be soft tones of canvasback (beige), a country cream, kings canyon grey, and spruce pine. These colors are identified on Attachment 3 attached hereto. “El Dorado Mountain” rock veneer accents will be incorporated into the design of each building along with accent lighting, cornice features, and varied rooflines for architecture variation.

The buildings in the commercial center will be pedestrian oriented, interconnected by concrete sidewalks and paths lined with trees designed to provide a canopy once they are mature. Throughout the parking lot, trees have also been proposed at a ratio of one (1) for every eight (8) spaces that ultimately will provide shade for up to 50% of the parking area within seven (7) years.

Three access points to the commercial center are proposed along Jaye Street with three secondary access points to be located along Springville Avenue. Large delivery trucks to Majors “A” and “B” will enter the center from Springville Avenue. A common ingress/egress agreement for access and parking will allow shared parking and access throughout the development. Pursuant to the Zoning Ordinance, Retail/Commercial parking is calculated at the ratio of one (1) parking space for every 200 square feet of gross floor area. The total square footage of all buildings in the commercial center equates to ±75,000 square feet, which requires 375 parking spaces for commercial retail use. The site plans provide for 528 total spaces. This total accommodates any additional parking necessary for restaurant space. The parking ratio provided, equates to one (1) space for every 142 square feet of building space, which exceeds the number of required spaces for the proposed development.

SURROUNDING LAND USES AND ZONING:

NORTH: City – Retail Center/C-2 (Central Commercial Zone) – Vacant Building and Undeveloped Land
EAST: City – Retail Center/C-2 (Central Commercial Zone) & M-1 (Industrial) – Home Depot, Royalty Carpet, Pro-Documents Solutions.
WEST: City – Retail Center/PD (Central Commercial Zone) – Approved Commercial Center.
SOUTH: City - General & Service Commercial/C-3 (Heavy Commercial) – Restaurant and Hotel.
GENERAL PLAN & ZONING:

The subject site is designated Retail Center by the City’s General Plan and Zoned C-2 (D) Central Commercial with Design Review Overlay. The proposed project is consistent with the existing General Plan and Zone requirements and standards.

ENVIRONMENTAL:

On February 20, 2007 The City Council adopted Resolution 8-2007 certifying the Environmental Impact Report (EIR) for the proposed ±75,000 square foot commercial center. Included in the EIR were required mitigation measures for the project at the time of development.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: June 2007

DATE FILED AS COMPLETE: MAY 2008

RECOMMENDATION: That the City Council adopt the draft resolution containing findings and conditions in support of approval of Design Review Overlay Review 2-2008.

ATTACHMENTS:

1. Zoning, Land Use and General Plan Designation Map
2. Environmental Impact Report Certification (Resolution 8-2007)
3. Application for Design Review Overlay
4. Site Plan A,B, & C
5. Typical Elevation
6. Colors and Materials
7-10. Elevations
11. Draft Resolution
RESOLUTION NO. 8-2007

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 1-2007
(FORMERLY 1-2006 (A)) AND ZONE CHANGE 3-2007 (FORMERLY 1-2006) FOR THAT
10.7± ACRE VACANT SITE LOCATED ON THE NORTHEAST CORNER OF
SOUTH JAYE STREET AND STATE ROUTE 190

WHEREAS: The Final Environmental Impact evaluates the development and land use
changes necessary to facilitate the development of a 10.7± acre site with a 75,000± square foot
shopping center;

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 1-2007 and Zone
Change 3-2007 for that 10.7± acre vacant site located on the northeast corner of South Jaye Street
and State Route 190, and

WHEREAS: General Plan Amendment 1-2007, proposes to change the land use map of the
Land Use Element of the General Plan from Industrial to General Commercial; and

WHEREAS: Zone Change 3-2007 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 1-2007; and

WHEREAS: Development of a 75,000± square foot commercial center was evaluated in the
Environmental Impact Report and will subsequently be brought to the City Council for approval.
Prior to the applicant/agent submitting any final map or Conditional Use Permit for processing,
General Plan Amendment 1-2007, and Zone Change 3-2007 would have to be approved; 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 Initial Study 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
Environmental Quality Act.

ATTACHMENT
ITEM NO. 2
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 1-2007 and Zone Change 3-2007, and that the mitigation measures defined in Attachment A shall be implemented by the applicant or his/her successors with project implementation.

Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By Georgia Hawley, Chief Deputy City Clerk
# Table 3-1
Mitigation Monitoring Program

<table>
<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>
</tr>
</thead>
<tbody>
<tr>
<td>Impact #3.1.1: Visual Compatibility</td>
<td></td>
<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>
<td></td>
</tr>
<tr>
<td>Impact #3.1.2: Light and Glare</td>
<td></td>
<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 offsite on adjacent properties.</td>
<td>Completed prior to issuance of building permit.</td>
<td></td>
</tr>
<tr>
<td>Impact #3.3.1: PM₁₀ From Construction Activities</td>
<td>San Joaquin Valley Air Pollution Control District</td>
<td></td>
<td>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 PM₁₀ 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.</td>
<td>During construction period</td>
<td></td>
</tr>
<tr>
<td>Impact Number</td>
<td>Developer Initial</td>
<td>Responsible Party</td>
<td>Mitigation Measure</td>
<td>City Approval</td>
<td>Time Span</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>--------------------</td>
<td>---------------</td>
<td>-----------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>City of Porterville</td>
<td>one time</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><em>Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation.</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><em>Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Heavy duty equipment (scrapers, graders, trenchers, earth movers, etc.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Use of alternative fueled or catalyst equipped diesel construction equipment</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Minimize idling time (e.g., 10 minute maximum)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Curtail construction during periods of high ambient pollutant concentrations; this may include cessation of construction activity during the peak-hour of vehicular traffic on adjacent roadways</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Implement activity management (e.g. rescheduling activities to reduce short-term impacts)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><em>Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002</em></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impact #3.4.1: Special Status Species – Migratory Birds</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>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impact #3.5.1:</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>
<td></td>
<td>During construction period.</td>
<td></td>
</tr>
<tr>
<td>Impact Identifier</td>
<td>City of Porterville</td>
<td>Responsible Party</td>
<td>Developer Initial</td>
<td>Mitigation Measure</td>
<td>Mitigation Approvals</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------------------</td>
<td>------------------</td>
<td>------------------</td>
<td>--------------------</td>
<td>--------------------</td>
</tr>
<tr>
<td>63.11.1.1: Noise</td>
<td>City of Porterville</td>
<td>City of Porterville</td>
<td>63.11.1: Noise</td>
<td>Increased Traffic</td>
<td>Before opening day of project.</td>
</tr>
<tr>
<td>63.11.5.1: Noise</td>
<td>City of Porterville</td>
<td>City of Porterville</td>
<td>63.11.5.1: Noise</td>
<td>Increased Traffic</td>
<td>Before opening day of project.</td>
</tr>
<tr>
<td>63.11.5.1: Noise</td>
<td>City of Porterville</td>
<td>City of Porterville</td>
<td>63.11.5.1: Noise</td>
<td>Increased Traffic</td>
<td>Before opening day of project.</td>
</tr>
<tr>
<td>63.11.5.1: Noise</td>
<td>City of Porterville</td>
<td>City of Porterville</td>
<td>63.11.5.1: Noise</td>
<td>Increased Traffic</td>
<td>Before opening day of project.</td>
</tr>
<tr>
<td>Impact Number</td>
<td>Developer Initial</td>
<td>Responsible Party</td>
<td>Mitigation Measure</td>
<td>City Approval</td>
<td>Time Span</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------</td>
<td>-------------------------</td>
<td>--------------------</td>
<td>---------------</td>
<td>--------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>periods.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Project Driveways:</td>
<td>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 &quot;right turn only&quot; 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>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Impact #3.15.2: Exceeds traffic threshold needed to maintain level of service</td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.15.2: The following mitigation measures are recommended to reduce traffic impacts to a less than significant level: Under &quot;Existing plus Approved/Funding Projects plus Project Only&quot; conditions, the following mitigation measures are recommended: 5. Springville Avenue/Jaye Street intersection: Install a traffic signal. This intersection is projected to operate at LOS &quot;F&quot; 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 &quot;gap&quot; 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 &quot;B&quot; conditions during the AM and PM peak hour periods. 6. 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 &quot;F&quot; 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 &quot;C&quot; conditions during the AM and PM peak hour periods. 7. State Route 190/Jaye Street intersection: Widen the southbound approach of this signalized intersection to include dual right turn lanes. Under &quot;Existing...</td>
<td></td>
<td></td>
<td>Before opening day of project</td>
</tr>
<tr>
<td>Impact Number</td>
<td>Developer Initial</td>
<td>Responsible Party</td>
<td>Mitigation Measure</td>
<td>City Approval</td>
<td>Time Span</td>
</tr>
<tr>
<td>---------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>--------------------</td>
<td>---------------</td>
<td>-----------</td>
</tr>
</tbody>
</table>

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 periods.

8. **Project Driveways**: 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 Vandella 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).
STATE OF CALIFORNIA  )
CITY OF PORTERVILLE   )  SS
COUNTY OF TULARE     )

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify
and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the
Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and
held on the 20th day of February, 2007.

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

<table>
<thead>
<tr>
<th>Council:</th>
<th>McCracken</th>
<th>P. Martinez</th>
<th>F. Martinez</th>
<th>Hernandez</th>
<th>Hamilton</th>
</tr>
</thead>
<tbody>
<tr>
<td>AYES</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>NOES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSTAIN</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ABSENT</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

JOHN LONGLEY, City Clerk

[Signature]

by Patrice Hildreth, Deputy City Clerk
APPLICATION FOR DESIGN REVIEW APPROVAL  D-OVERLAY

NOTE: The basic purpose of the supplemental "D" zone as described in Article 8 of The City Zoning Ordinance is to assure that the design and development of property will be performed giving maximum protection to the surrounding community while allowing for alternative development standards if necessary due to the unique and special characteristics of the property.

<table>
<thead>
<tr>
<th>Permit Number</th>
<th>Resolution Number</th>
</tr>
</thead>
</table>

CHECK ALL BEING APPLIED FOR:
- [ ] Conditional Use Permit
- [ ] Building Permit
- [ ] Grading/Development Plan
- [x] Other: SITE PLAN APPROVAL

Project Name: JAYE STREET CROSSING (FORMERLY PORTERVILLE COMMERCIAL)

Name of Applicant /Agent: JOHN HAIE
Telephone: 661-323-4523

Address of Applicant /Agent: 2200 PINE BAYERSFIELD, CA 93301

Name of Property Owner: VALH PROPERTIES ET AL
Telephone: 661-323-4523

Address of Owner: C/O, 2200 PINE BAYERSFIELD, CA 93301

Project Location (address, cross street): SOUTHEAST CORNER OF JAYE ST AND SPRINGVILLE

Assessors Parcel Number(s): APN 260-300-09 & APN 260-300-017

The applicant requests Design Review Approval using the above described property for the following purposes:
CONSTRUCTION AND OPERATION OF A SHOPPING CENTER

Date of most recent sale of property: MARCH 2004

If applicant is the lessee, give date property was leased: N/A

List below the original deed restrictions pertaining to the type of improvements permitted.
N/A

Date said restrictions expire: N/A

(Please attach a copy of original printed restrictions in answer to this question. Properly underline those features controlling the type and class of uses permitted.)

ATTACHMENT
ITEM NO. 3
1. State how the proposed use will not be materially detrimental to the public welfare or pose injury to property or improvements in such vicinity and zone in which the use is proposed.

   Property is zoned C-2, and proposed use is in compliance with zoning and all environmental documents approved by all governmental agencies having jurisdiction.

2. Principal requirements of intended use (Please answer the following statements as completely as possible).

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

       TBD

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

       TBD

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

       AT OR EXCEEDING CURRENT ZONING REQUIREMENTS

   (d) Maximum height of buildings or structures.

       PER CITY ORDINANCE

3. State how the design of the project does not comply with the any codes and ordinances.

       N/A

I declare under penalty of perjury that the foregoing is true and correct, executed at

8:00 A.M. this 20th day of March, 2008.

Telephone (661) 323-4523

Signed

Mailing Address 2200 Pink

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 Council.

Received Received

Date Receipt No.

By

2
REQUIREMENTS FOR FILING APPLICATION FOR DESIGN REVIEW OVERLAY

1. Design Review Overlay Application Form
2. Project Review Committee (PRC) Form - $753.00
3. Plot Plan
4. Floor Plan, Elevations, Renderings, Materials & Color Board
5. Filing fee $1,065

1. The Design Review Application form should be filled out completely. The application must be signed by the owner(s) or authorized agent under penalty of perjury in the space provided on Page 2.

2. The Project Review Committee application form is to be submitted with the Design Review application and 9 copies of the plot plan. The meeting will take place on the second Wednesday from the week of submittal. After receiving the recommendation from the Project Review Committee meeting, the remainder of the items and any changes will be resubmitted to the City for processing.

3. The Plot Plan must be drawn to a readable and accurate scale and size showing the parcel dimensions, its location with respect to adjacent streets, and the location of all existing and proposed buildings, structures or other improvements, with their distances from the parcel line clearly shown (9 copies initially for PRC with additional copies to be submitted prior to City Council approval).

4. In order for the Planning Department to process the application to the City Council meeting for approval, all of the following or a combination of these items may be required for the presentation. These items shall be a maximum of (11” x 17”) in size and may be a reduced copy of the original scaled version as long as they reflect the required changes to the PRC conditions.

   • Plot Plan and Floor Plan (Black-Line Drawings)
   • Colored and black-line elevation drawings labeled to indicate the type, colors and texture of building materials of the roof, walls, trim, and attachments
   • A Colored Renderings with sample Materials & Color Board for presentation to the City Council, being of suitable size for display (i.e. 18” x 24”)

5. The filing fee of $1,065 is due after the PRC conditions have been presented to the applicant. Additional recording and environmental fees may be required.

Submit this information and the application to the Planning Division, City Hall, Porterville, California. The application must be complete in every respect, with all questions answered completely, before the City Planner can receive and certify the petition.

This application is not a permit. A public hearing will be held on your application.
JAYE STREET CROSSING

'ICI PAINT' 458 CANVASBACK

'ICI PAINT' 726 COUNTRY CREAM

'ICI PAINT' 688 KINGS CANYON GREY

'ICI PAINT' 1083 SPRUCE PINE

CMU : 'ICI PAINT' 726 COUNTRY CREAM

ROCK VENEER : 'EL DORADO' MOUNTAIN LEDGE
RESOLUTION NO._________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF “D” OVERLAY REVIEW 2-2008 TO FACILITATE THE DEVELOPMENT OF A ±75,000 SQUARE FOOT COMMERCIAL CENTER TO BE LOCATED AT THE NORTHEAST CORNER OF JAYE STREET AND STATE ROUTE 190 IN THE C-2 (D) (CENTRAL COMMERCIAL – DESIGN OVERLAY REVIEW) ZONE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of May 20, 2008, reviewed and considered “D” Overlay Site Review 2-2008, to facilitate development of a ±75,000 square foot commercial center to be located at the northeast corner of Jaye Street and State Route 190 in the C-2 (D) (Central Commercial – “D” Overlay Site Review) Zone; and

WHEREAS: On February 7, 2007 the City Council adopted Resolution 8-2007 certifying the Final Environmental Impact Report evaluating the development, mitigation measures and land use changes necessary to facilitate the development of a ±10.7 acre site with a ±75,000 square foot shopping center.

WHEREAS: Pursuant to Article 18 (Supplemental “D” – Design Review Overlay Zone) of the Porterville Ordinance, the City Council made the following findings:

1. That the proposed project is consistent with the General Plan (designated as Retail Centers) and Zoning for the site (C-2 (D) Central Commercial – Design Overlay Site Review).
2. That the design and architectural features of the project are compatible with that of surrounding uses. The commercial center is located along Jaye Street, Vandalia Avenue and Springville Avenue with access from those streets. The landscaping and pedestrian access has been designed for appeal, convenience and ease of access. The colors and tones of materials used are neutral and blend and transition well with the surrounding uses.
3. That the site area, dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaping areas either meet or exceed the minimum requirements which will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Design Review Site Overlay 2-2008 subject to the following conditions:

ATTACHMENT
ITEM NO. 11
1. That the project shall be constructed in accordance with the approved plans and elevations, attached and incorporated herein by reference as Attachments 5-10 to the staff report. Prior to making any modification of exterior design, materials or colors, plans and/or color samples showing the proposed modifications shall be submitted to the Zoning Administrator for approval, and any modifications shall comply with the approved building plans.

Additionally, the architectural design of buildings “C, G, Major A, and Major B” shall be approved by consent of the City Council’s if the design is architecturally compatible and in compliance with all applicable codes. A unified theme shall be established and maintained for all buildings, signage and accessory amenities to be constructed within the commercial center.

2. The developer is required to implement all mitigation measures incorporated into the project approval as contained in the certified EIR (Resolution 8-2007) for the project. A copy of the mitigations measures is attached.


4. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.

5. That The City proposes that the developer/owner and the City enter into a Development Agreement in accordance with Section 2628 of the City’s Zoning Ordinance. The agreement will serve several purposes, such as, but not limited to the following:

   a. Define procedures and timeline for the potential merger of the Poplar Avenue property into the commercial center property.

   b. Define owner conveyance and City acquisition of right of way consistent with the fully executed Right of Entry dated August 21, 2007.

   c. Define reimbursement procedures for City financed public improvements servicing the commercial center property.

   d. Define timing and responsibility for relocating underground utilities within the Poplar Avenue property.
e. Define responsibilities of potential new owners' should property be sold, financed or leased.

f. A Development Agreement could, in detail, outline how the Poplar Avenue property could be exchanged for the Jaye Street and Springville Avenue right of way. Public improvements currently encumber portions of these streets adjacent to the proposed development, all which are in conformance with the fully executed Right of Entry dated August 21, 2007. Property exchange shall be based on appraised property values and comply with State Law.

6. In lieu of a Development Agreement, the developer/applicant shall convey right of way along Jaye Street and Springville Avenue consistent with the fully executed Right of Entry dated August 21, 2007. The developer/applicant shall also convey additional right of way for the driveways constructed on the east side of Jaye Street, north and south of Vandalia Avenue.

7. The developer/applicant shall comply with Appendix J of the 2007 California Building Code including provision of a grading and drainage plan signed by a licensed civil engineer or architect. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable. Staff is requesting that the parking lot be designed to convey water to the City drainage system without crossing driveways.

8. The developer/applicant shall provide a Preliminary Soils Report in accordance with the City's Municipal Code and Standard Specifications prior to issuance of building permits.

9. The developer/applicant shall construct the remaining Springville Avenue frontage improvements in accordance with the adopted Circulation Element and City Standards (arterial width standards).

10. The developer/applicant shall construct a looped water system that provides fire flow in accordance with the California Fire Code.

11. The developer/applicant shall repair previously constructed street frontage improvements in accordance with City Ordinance No. 1306. The ordinance will become affective once the Jaye Street Corridor Project guarantees lapse.

12. The developer/applicant shall pay their "Pro Rata" share of all off-site road improvements, including project related traffic signals and modifications to the State Route 190/Jaye street intersection, as defined in the traffic study (Omni-Means, November 2005) or as otherwise mutually agreed upon by all parties and returned to the City Council for approval. A Development Agreement could be an instrument that describes in detail how the developer or assignees would
reimburse the City for the completed improvements described in said traffic study.

13. In lieu of a Development Agreement, the developer/owner shall proportionally reimburse the City for constructed frontage improvements serving the subject development should the property develop in phases. The formula is as follows:

   Phased development (acres)/Entire Commercial Site (acres) x “Pro Rata” Share ($) = Reimbursement amount

The “Pro Rata” share will be defined after City Council accepts the completed off-site improvements related to this commercial development and the adjacent westerly commercial project. Staff anticipates an April 15, 2008 acceptance date.

14. The developer/applicant shall pay their proportional share of the landscape and irrigation systems within the Caltrans right of way should Poplar Avenue property become part of the proposed commercial center. A Development Agreement could stipulate this requirement should Poplar Avenue merge with the commercial center.

15. Developer/applicant shall pay their proportional share of the sidewalk constructed along Jaye Street, Kessing Street, Poplar Avenue, Vandalia Avenue, and Springville Avenue. The project will require the extension of Springville Avenue sidewalk to the eastern property line. A Development Agreement could outline in detail how the developer or assignees would reimburse the City for the completed sidewalk improvements.

16. Prior to issuance of any permits, the developer/applicant shall submit for City review and approval a precise grading and drainage 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).

17. 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 one acre 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.

18. 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 by obtaining a Dust Control Permit, 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.

19. San Joaquin Valley Air Pollution Control District (District) Adoption of Rules 9510 and 3180 - Indirect Source Review (ISR) Rules

Effective March 1, 2006, the San Joaquin Valley Air Pollution Control District will enforce the Indirect Source Rule (ISR). ISR applies to projects that are at least:

- 50 residential units
- 2,000 square feet of commercial space
- 9,000 square feet of educational space
- 10,000 square feet of government space
- 20,000 square feet of medical or recreational space
- 25,000 square feet of light industrial space
- 39,000 square feet of general office space
- 100,000 square feet of heavy industrial space
- Or, 9,000 square feet of any land use not identified above.

Projects that meet the above thresholds but are found through the application process to have mitigated emissions of less than two tons per year each of nitrogen oxides and PM10 (particulate matter 10 microns and smaller) will not be subject to the emission-reduction requirements of the rule.
3. It is the applicants' responsibility to file an application (found at http://www.valleyair.org/ISR/ISR.htm) with the District. The application must be filed with the District no later than concurrent with an application for final discretionary approval with a public agency. An application maybe filed with the District prior to applying for a final discretionary permit from the local agency, at the discretion of the applicant. This timing was included in the rule so that applications filed with the District would not interfere with the local agency development approval process and so that local agencies could consider the benefits of the ISR program emission reductions in their environmental documents.

b. The District recognizes the land use authority of local land use agencies and will not impose any design requirements upon ISR projects.

c. ISR applicants can take credit for those measures that are required by the local agency or included in the design of the project that have a quantifiable air quality benefit. ISR applicants can also take emission reduction credit for those measures that are not required by the local agency, but have been voluntarily identified by the applicant.

d. The District will be responsible for enforcing compliance for those measures identified by the applicant that are not required by the local agency and do not affect the design or construction standards. Examples of District enforced measures are operational measures such as businesses offering transit subsidies to employees and transportation demand management programs. The District will enforce those measures through a Monitoring and Reporting Schedule (MRS).

e. The District will notify the local agency when a project’s application is deemed complete, and when it is approved. The District will send copies of the preliminary and finalized MRS to the local agency for voluntary review for consistency with local regulations and programs.

f. If the local agency, or applicant or district determines that a measure on the MRS is not consistent with local agency regulations and programs, that measure will be removed from the MRS and the project will be re-assessed.

g. The District will provide a letter of rule compliance status to the local agency upon request.
h. The ISR Rules and Program does not place any requirements upon the agency. For more information regarding the Indirect Source Rule, please contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000. The Central Region office in Fresno is leading the ISR enforcement.

20. 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).

21. The developer/applicant shall provide street lights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer. 16000 H.P.S.V. street lights are to be installed along the south side of Springville Avenue at 320 foot intervals. 9500 H.P.S.V. street lights shall be installed along the both sides of Vandalia Avenue at maximum spacing of 160 feet and on the west side Kessing Street at a maximum spacing of 320 feet.

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

23. Provide a barrier curb or other physical barrier acceptable to the Community Development Director between the developed portions of the site and the undeveloped portions of the site. No parking or vehicular circulation is allowed on unpaved portions of the site.

24. 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 on-site water mains and fire hydrants for systems not isolated by a detector check valves. Otherwise, the developer/applicant shall construct the pipe connecting to on-site fire hydrants to City water main standards, detector check included, and shall provide easements for maintenance of the fire hydrants only.

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

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

27. The developer/applicant shall comply with Ordinance No. 1288 regarding Waste Water Discharge requirements and shall complete and submit a Wastewater
Discharge Permit Application, Part “A”. If monitoring is required, based on the responses to questions in Part “A” of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee.

28. If hazardous materials are to be stored in jurisdictional quantities anywhere on the property, the developer/applicant shall develop and maintain a Hazardous Materials Business Plan Program, follow Chapter 6.95 of the Health and Safety Code, and shall tell the Hazardous Materials Unit of the Tulare County Division of Environmental Health.

The developer/applicant shall provide proof of compliance with County requirements before issuance of a certificate of occupancy.

29. If underground storage tank(s) are to be used for storage of hazardous substances, the developer/applicant shall follow California Health and Safety Code, Division 20, Chapter 6.7, Section 25280 through 25299.6, governing the underground storage of hazardous substances prior to issuance of Certificate of Occupancy.

30. 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.

31. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.

32. The developer/applicant shall install a refuse container enclosure according to City Standards. The enclosure location to be approved by City prior to issuance of building permit. The enclosure should be oriented for direct pick up. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot. Developer is encouraged to install an enclosure that would accommodate a solid waste and recyclable container for collection. Trash enclosure shall be architecturally treated to blend with the development.

33. The heritage oak tree at the southeast corner of Jaye & Vandalia is to be retained. An evaluation and report on recommendations for preserving the oak is to be obtained from a qualified arborist. All work within at least twenty-five (25) feet of the trunk is to be included within the arborist evaluation and monitored to ensure the health and vitality of the oak.

34. A minimum five (5) foot wide screen-planting strip shall be provided and permanently maintained adjacent to any property line separating a parking area from a public street.
35. A minimum of 5% of parking lot and driveway areas are to be landscaped with live plant materials. The parking lot and driveway areas are to be shaded with trees planted on the property at a minimum ratio of one tree per 8 parking spaces distributed throughout the paved area. Parking lot tree wells are to be a minimum of twenty (20) square-feet in size within the curbed perimeter.

36. The owner/applicant shall incorporate areas of public right-of-way between the back of sidewalk and property line into the site landscape areas. Landscape planting of the right-of-way areas shall be consistent with the site landscaping.

37. The owner/applicant is to install trees, approved as City Street Trees, along all public roadway and State Route 190 frontages of the property. The number of trees to be planted shall be equivalent to a minimum of one tree per 35 feet of roadway/highway frontage. The trees are to be a minimum of #15 size specimens incorporated into the designated landscape areas. Root barriers are required for all trees planted within ten feet of public sidewalks. The selection of planting locations, and performance of canopy maintenance for the trees shall be conducted to minimize vehicular sight safety conflicts.

38. Provide consistent landscaping within the State Route 190 right-of-way or increase the width of the landscape area between Kessing and Jaye to provide a minimum of eight (8) feet of planting area for trees and shrubs exceeding four (4) feet in height. Any landscaping within State right-of-ways must be coordinated with Caltrans District 6 Landscaping Division to provide a cohesive landscaping plan.

39. The owner/applicant shall provide an automatic irrigation system for all landscape planting, including trees and right of way planting. All landscaping shall be installed prior to occupancy and be permanently maintained by the owner/applicant in a healthy and vigorous growing condition, and cleanly appearance.

40. Provide designated pedestrian routes between all building storefronts, linked to all roadway frontage public sidewalks, and through parking lots. Pedestrian routes are to be apart from walking within the vehicular travel ways and compliant with Americans with Disability act requirements. Provide for at least 50% shading of site pedestrian routes, within seven years by tree canopies, or approved architectural features. The project must provide low-level illumination of the walkways.

41. Provide bicycle-parking facilities at each building site to encourage employee and patron use, and provide at least one location of bicycle storage lockers for employees of the site businesses.

42. The project must comply with latest applicable codes.
Based on the occupancy classification, a fire alarm and/or an automatic sprinkler system may be required.

When a 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 less than 20.

Submit three (3) complete sets of sprinkler and/or fire alarm plans to the Fire Department for review prior to installation.

For automatic sprinkler systems, underground plans must be submitted and approved prior to submittal of the above ground plans. A hydrant will be required within 50 feet of the Fire Department connection.

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 fire flow.

Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

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.

Fire hydrant spacing shall be as follows:

In Commercial development, one hydrant shall be installed at 300-foot intervals.

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.

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

Project must meet minimum fire flow requirements per the table in Appendix B & C of the California Fire Code.

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 Section 22500.1.

A Knox box will be required. An application may be obtained from the Fire Department.
56. Hydrants will be required along streets that do not have structures facing them at a maximum spacing distance of 1000 feet per California Fire Code Appendix C Table C105.1, Note Number c.

57. That architectural detail be included on all building elevations.

58. That all secondary doors facing Jaye Street and Springville Avenue be painted to match the background color of the building wall in which the door is located and public streets.

59. The developer shall incorporate ground cover, shrubs and trees between buildings and public streets to help soften the transition between buildings and the public right-of-way.

60. All mechanical and electrical equipment must be inside the building and/or screened from public view (ex. #30 and #33 from legend) in a manner that is architecturally compatible with the building. Care must be given to screening equipment, and panels.

61. This project shall conform to the C-2 Zone development standards contained in the Porterville Zoning Ordinance Section 800.

62. Exterior materials and colors shall be specified on the architectural elevations submitted to the Building Division for building permits. Samples of these materials and colors shall also be provided at time of building permit submittal and approved by the Zoning Administrator prior to issuance of building permits.

63. The project shall be developed and maintained in accordance with approved exterior materials and colors.

64. Each trash receptacle shall be stored within a trash enclosure so as not to be visible to public view. The location and access of the receptacles shall be clearly shown on the plans submitted for building permits. The Zoning Administrator shall approve of receptacle storage locations prior to the issuance of building permits. Trash enclosure shall be architecturally treated to blend with the development.

65. Landscaping plans for all of the commonly maintained areas shall be included in the plans submitted for building permits. The Zoning Administrator shall approve the landscaping plans prior to the issuance of building permits.

66. The detailed site landscaping plan shall substantially comply with the conceptual landscape plan shown on Attachment 4B, and 4C, incorporated herein by reference.
67. Construction activities shall be limited to the hours between 7:00 a.m. and 6:00 p.m. Monday through Saturday.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By:_____________________________________
Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: REQUEST TO ALLOW RE-SUBMITTAL FOR A CONDITIONAL USE PERMIT 4-96 TO ALLOW A TYPE 20, BEER AND WINE OFF-SALE LICENSE AND MINI-MART WITH GAS PUMPS, LOCATED AT 244 NORTH “D” STREET (“D” STREET CHEVRON STATION)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On July 16, 1996, the Porterville City Council at their regularly scheduled meeting denied Conditional Use Permit 4-96 to allow a type 20 beer and wine off-sale license and a mini-market with gas pumps located at 809 East Putnam Avenue. (See minutes of Council Meeting – Attachment 1).

The applicant would like to re-apply for a Conditional Use Permit (CUP) substantially similar to CUP 4-96, including authorization for a type 20 beer and wine off-sale license. Zoning Ordinance Section 3200.D states that:

“The Council or Zoning Administrator shall not receive for filing or consider any new application which includes property which was the subject of an application upon which a hearing was conducted, for the same zone, variance purpose, Conditional Use Permit purpose or extra-heavy M-2 use permit purpose, unless the Council or Zoning Administrator shall find at a preliminary hearing that there is relevant and material evidence which the applicant can offer of a substantial change of conditions.”

The applicant’s letter indicates in brief that downtown citizens would now benefit by having the sale of alcoholic beverages in this location.

It has not been communicated to City Staff exactly how circumstances have changed since the denial of the conditional use permit. It is staff’s understanding that St. John’s Church, located two blocks to the north, that protested the sales of alcohol at this location is still in operation.

Without the benefit of additional information that would explain how circumstances have substantially changed from the time of the denial of CUP 4-96, pursuant to Zoning Ordinance Section 3200.D, staff can not recommend that there have been substantial changes in the circumstances of the area that would allow the applicant to resubmit for a conditional use permit, or a modification to a conditional use permit.

DD APPROPRIATED/FUNDED CM ITEM NO. 25
CITY COUNCIL OPTIONS:

1. Determine that there is material evidence of a substantial change in circumstances, continue the public hearing and authorize re-application for a project similar to Conditional Use Permit 4-96.

2. Determine that there is no such evidence of a substantial change in circumstances and deny re-application at this time.

RECOMMENDATION: Action to be determined by City Council.

ATTACHMENTS:

1. Minutes from City Council meeting of July 16, 1996
2. Letter informing applicant of CUP denial
3. Application for CUP 4-96
4. Site Plan and Floor Plan for CUP 4-96
5. Zoning and land use map for area including sensitive uses
6. Letter from Applicant requesting information on re-application process, dated April 23, 2008
7. Response letter from staff, dated April 29, 2008
8. Letter from Applicant asking for a re-application for CUP 4-96, dated May 6, 2008

Benjamin A. Kimball  5/20/2008
City Planner  Date
Mayor Coleman then closed the hearing to the public at 7:07 p.m. and brought this matter to the Council for comments. The Mayor then closed the public hearing at 7:08 p.m.

**COUNCIL ACTION**

MOVED by Council Member Clark, SECONDED by Mayor Pro Tem Gurrola that the Council adopt the resolution approving the Negative Declaration for Zone Change No. 5-96. The motion carried unanimously.

MOVED by Council Member Gibbons, SECONDED by Council Member Clark that the Council approve Zone Change 5-96. The motion carried unanimously.

The City Manager then read Ordinance No. 1536 by title only.

**Ordinance 1536**

MOVED by Council Member Nicholson, SECONDED by Council Member Gibbons that the Council waive further reading of Ordinance No. 1536. The motion carried unanimously.

**File 460-1-5-96**

MOVED by Council Member Gibbons, SECONDED by Council Member Clark that the Council order this Ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 5-96 FROM R-1 (ONE FAMILY RESIDENTIAL) TO O-A (OPEN AREA) FOR THAT SITE LOCATED ON THE SOUTH SIDE OF GARDEN AVENUE BETWEEN MURRY AND FIG STREETS.

AYES: Nicholson, Gurrola, Gibbons, Clark, Coleman
NOES: None
ABSENT: None
ABSTAIN: None

**Disposition:** Approved, ordinance ordered to print.

12. **CONDITIONAL USE PERMIT 4-96 - CHEVRON FOOD MART (ROBERT L. AND BRENDA J. TAYLOR)**

Recommendation: That the City Council adopt the draft resolution approving the findings and conditions prepared for Conditional Use Permit 4-96.

The City Manager presented the item and gave the staff report.

Mayor Coleman opened the public hearing at 7:10 p.m. and asked those in favor of the conditional use permit (C.U.P.) to come forward.
Bob Taylor, 378 Ruma Rancho, stated that they wanted to put a market and gas pumps on their site, and they felt they would be at a disadvantage not being able to sell beer and wine. Mr. Taylor stated that with an investment of half a million dollars, they felt alcohol sales would benefit the business and make it profitable. He stated that he didn't think the church in question was within 600 feet of the corner. He stated that they were just asking that Council approve the permit.

Council Member Gibbons asked whether there wasn't a zoning ordinance that stated the distance between a business selling alcohol and a church.

Staff stated that the distance in the ordinance was 600 feet, and this church was 450 feet.

Mike Unser, Director of Community Development and Services, stated that the church in question did not meet the requirements of the Zoning Ordinance in order to be recognized as a church, i.e., it was a non-conforming use. He stated that the distance did not matter in this instance as there was a three-acre minimum requirement in the Zoning Ordinance for churches. He stated that this permit was only because of the zone, not for the distance.

Mayor Coleman then asked those in opposition to come forward and speak.

Thomas Uptain, 114 Carmelita, stated that he was the rector of the church that didn't exist since 1911. He stated that his church was within 600 feet of the proposed site, and they already had two liquor stores just two blocks to the north and south, and another SaveMart just four blocks to the south. He stated that the church had AA and Alanon meetings in their facility. He stated that if Council approved this, then it meant the Council considers the establishment of a gas station with alcohol sales to be more important than the neighborhood in which it was placed.

Sarah Doyel, P. O. Box 423, Porterville, stated that she also represented St. Johns as a Board Member of the Church. She stated that their members were very unhappy about this conditional use permit and didn't feel that alcohol was necessary for this business to prosper.

Ann Konda, 57 South Corona Drive, came forward and spoke against the conditional use permit. She stated that they had no problem with a mini-mart or deli, but the problem was the alcohol sales. She stated that there were two facilities offering substance rehabilitation within one block of the proposed site. She stated that they did not need any more off-sale alcohol sales, particularly within 600 feet of a church that already has off-sale on both sides and more beyond the 600 feet. Ms. Konda stated that there was a State law in effect that calls for an assessment for off-sale liquor establishments within zones, and calls for an accountability of how many sites the City has, and in this particular zone there was more than allowed. She stated that if the Council approved this, then they must write a letter of public convenience and necessity. She stated that she didn't think they needed off-sale alcohol at this location. She stated that she believed the City staff made the applicant well aware of the
facilities in the area, but the applicant did not contact them or Reverend Uptain. She stated that they did not have a problem with anything but the alcohol, and if alcohol was the only thing that would make the venture go, then they all needed to rethink their priorities.

Mayor Coleman closed the hearing to the public at 7:20 p.m. and asked for comments from Council.

Council Member Nicholson stated that he had asked for a copy of the zoning ordinance, which he now had. He then briefly discussed with the staff the ordinance requirements on conditional use permits within 600 feet. Council Member Nicholson stated that comments had been made about St. Johns not being a legal church, but the church had been established prior to the ordinance being adopted, so it should be grandfathered in.

Mayor Pro Tem Gurrola questioned staff about the location map and surrounding uses. She asked if there were people living on site at the substance abuse counseling center.

Staff stated that they believed that there were people living there.

Mayor Coleman stated that he didn’t think it took beer and wine to make the business go, but it would sure help. He stated that any way a person could get people into their business meant more business. He stated that he saw no problem with selling beer and wine, because if the people from the rehab programs wanted it, they would go anywhere. He stated that they should not penalize the applicant because he was between two bigger stores.

Council Member Nicholson stated that this was a difficult situation in that if this C.U.P. was approved it would also require a letter of public convenience and necessity. He stated that the letter was a main point of the issue. He recommended placing the current item on the table and moving to the item that talks about the Letter of Public Convenience and Necessity and then coming back to the Item 12.

COUNCIL ACTION  MOVED by Council Member Nicholson, SECONDED by Mayor Pro Tem Gurrola that the Council table this item until after Item No. 15 was heard and considered. The motion carried unanimously.

Disposition: Tabled.

15. LETTER OF PUBLIC CONVENIENCE AND NECESSITY/CHEVRON FOOD MART - 244 NORTH "D" STREET (ROBERT L. & BRENDA J. TAYLOR)

Recommendation: That the City Council approve a letter supporting the issuance of an off-sale Alcoholic Beverage License within Census Tract No. 38, for the Chevron Food Mart, to be located at 244 North “D” Street.

The City Manager presented the item and gave the staff report.
At Council’s request, staff explained the census tract and the area it contained.

Council Member Gibbons asked that census tract material be included with these types of items in the future.

Bob Taylor, the applicant, stated that he needed to be able to sell alcohol in order to be profitable and for the convenience of his customers. He stated that the other convenience store owners he spoke to told him that alcohol sales help to keep them in business.

Council Member Nicholson stated that, as he understood it, it was not the convenience of the operator, but the good of the public, and that there must be a need for it that is not being met by someone else in the area. He stated that what they needed from Mr. Taylor was any input or testimony that there was a public need for the alcohol sales rather than just a business need.

Mr. Taylor stated that the people were going to be buying beer or wine at another location and he was only asking for a percentage of the sales. He stated that he would be taking business from another store, so there would not really be an increase in alcohol sales. He stated that he wanted to give people the opportunity to purchase from them. He stated that they could not come up with another business on that corner that would be profitable.

Council Member Gibbons asked Reverend Uptain why the church did not want alcohol sales in that particular location.

Reverend Uptain stated that it was because they would then have four off-sale liquor places within a four-block area.

Ann Konda stated that all the drunk driver offenders in Porterville went through the facility on “D” Street. She stated that they would be right across the street from the liquor sales. She stated that she didn’t think the State did anyone any favors when they allowed gasoline and liquor to be sold together. Mrs. Konda also spoke on the problem of mini-marts selling alcohol to minors. She stated that she didn’t see how the Council could say that the public needed this.

Mayor Pro Tem Gurrola stated that anyone that went to those rehabilitation centers could drive a block away and get alcohol now. She stated that she was looking at the convenience and necessity for the public.

Donna Guilland, 640 South Chess Terrace, stated that she saw both sides, but when it came to convenience, people wanted it immediately and wanted a one-stop place for everything. She stated that as far as the Church’s treatment center, it was only once a week for one hour. She stated that this would not be an issue if it were for on-sale alcohol, but the people would just go across the street and sit and drink their beer and wine and then drive
home. She stated that this was a convenience for the public. She stated that she agreed that the census tract was skewed.

Council Member Nicholson stated that what caused the need for the letter of public convenience and necessity was the fact that there was already more off-sale licenses in the census tract than were allowed. He stated that this was an impacted situation with more off-sale licenses then allowed. He stated that the State Legislation was trying to solve the problem of over concentration when they made the requirement for the letter of public convenience and necessity.

Staff stated that it was believed that the law came out of the Los Angeles riots and the attempt to keep an over concentration of off-sale locations from being rebuilt.

Council Member Nicholson stated that the State determines what over concentration would be, and there must be a finding of public convenience and necessity.

Sid Wheeler, P. O: Box 1272, Porterville, stated that he understood the City had lost the large market on Olive Avenue. He questioned whether a new market coming in would be granted a letter.

**COUNCIL ACTION**

MOVED by Mayor Pro Tem Gurrola, SECONDED by Council Member Clark that Council deny the Letter of Public Convenience and Necessity.

Min. Ord. 11-071696

AYES : Nicholson, Gurrola, Gibbons, Clark
NOES : Coleman
ABSENT : None
ABSTAIN: None

**Disposition:** Denied.

Mayor Coleman stated that they would now bring Item 12 back off the table.

12. **CONDITIONAL USE PERMIT 4-96 - CHEVRON FOOD MART (ROBERT L. AND BRENDA J. TAYLOR)**

**COUNCIL ACTION**

MOVED by Council Member Nicholson, SECONDED by Mayor Pro Tem Gurrola that the Council deny Conditional Use Permit 4-96.

Min. Ord. 12-071696

AYES : Nicholson, Gurrola, Gibbons, Clark
NOES : Coleman
ABSENT : None
ABSTAIN: None
Mr. and Mrs. Robert Taylor  
c/o Bob's Petro Products  
11 East Yates Avenue  
Porterville, CA 93257

Re: Chevron Food Mart  
244 North D Street, Porterville

Greetings,

As you are aware, the City Council at their regularly scheduled meeting of July 16, 1996 denied the above referenced Conditional Use Permit to allow the sale of beer and wine under an off-sale license in conjunction with the daily operations of the food market and gasoline pumps.

If you should have any questions, please do not hesitate to call.

Sincerely,

[Signature]  
Denise L. Doyel, Secretary  
Planning Division

/dd
The Applicant(s) Robert L. Taylor is/are the owner(s) or tenant(s) of property situated at 244 N. 'D' Street between Putnam Avenue and Cleveland Avenue. Exact legal description of said property being (Use separate sheet if necessary) Lots 1, 2, 3 & 4 in block 1 of Hockett and Parkhurst North Extension of Porterville in the City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 5, Page 53 of Maps, Tulare County Records. EXCEPTING therefrom, minerals and oil, gas (over)

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

(A) Above described property is owned by Robert L. & Brenda J. Taylor
Date acquired 1982

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

(C) List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.

Give date said restrictions expire None known

(You may attach copy of original printed restrictions in answer to this question after property underlining those features controlling the type and class of uses permitted thereby).

(D) REQUEST: The applicant requests a Conditional Use Permit to USE the above described property for the following purposes:

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

Sales of alcoholic beverages (beer and wine) under an off-sale license.

ATTACHMENT ITEM NO. 3
1. State how the proposed use will not be materially detrimental to the public welfare or injurious to property or improvements in such vicinity and zone in which the use is proposed to be located.

Sale of beer and wine will not be made to minors and people of age will have a neat and new facility to buy adult beverages as their vehicle is being gassed.

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

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

Since the application is for an off-sale beer and wine license this question does not apply. There will be a seating capacity for two clerks and one person in the office.

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

Maximum number of three at any one time.

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

Eighteen including Eight fueling positions and One handicapped parking spot.

(d) Maximum height of buildings or structures.

13' 6" for Food Mart Building

18' 0" for Chevron Canopy

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

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

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Name</th>
<th>Address</th>
<th>Lot</th>
<th>Block</th>
<th>Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SEE ATTACHED</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

APPLICANT'S DECLARATION

STATE OF CALIFORNIA )
                     ) ss.)
COUNTY OF TULARE )

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

I declare under penalty of perjury that the foregoing is true and correct, executed at Porterville this __________ day of __________, 19___.

Telephone No. __________________________

______________________________
Signature

______________________________
Mailing Address

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

By ________________________________

Date Received _____________________
RESOLUTION NO. _______

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE CONTAINING
FINDINGS AND CONDITIONS IN SUPPORT OF
APPROVAL OF CONDITIONAL USE PERMIT 4-96
TO ALLOW THE SALE OF BEER AND WINE UNDER AN
OFF-SALE LICENSE IN A NEW MARKET INCLUSIVE OF
GASOLINE PUMPS TO BE LOCATED AT
244 NORTH "D" STREET

WHEREAS: The City Council of the City of Porterville at its
regularly scheduled meeting of July 16, 1996, conducted a public
hearing to consider Conditional Use Permit 4-96 being a request to
allow the sale of beer and wine under an off-sale license in
conjunction with the operation of a gasoline station and mini-
market in a new proposed building in the C-2 (Central Commercial)
zone, to be located at 244 North "D" Street; and

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

WHEREAS: The City Council made the following findings:

1. That the proposed project is consistent with the General
   Plan;

2. That the design and operation of the proposed project is
   consistent with the General Plan;

3. That the proposed use is not likely to cause substantial
   environmental damage;

4. That pursuant to Section VI.B.2.C, Class 5 of the Local
   Guidelines implementing the California Environmental
   Quality Act (CEQA), the Conditional Use Permit to allow
   the sale of beer and wine under an off-sale license in
   conjunction with the operation of a mini-market and
   gasoline station is Categorically Exempt;

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

7. That the proposed sale of alcoholic beverages under an off-sale license is allowed in the C-2 zone subject to the approval of a Conditional Use Permit.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 4-96 subject to the following conditions:

1. Off-sale alcoholic beverages will be allowed only in conjunction with the normal operation of the mini-market.

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

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

______________________________
Jay C. Coleman, Mayor

ATTEST:

______________________________
C. G. Huffaker, City Clerk
Bob's Petro Products, Inc.
Proposed Convenience Store and 90 - Island Self Serve Station
2444 N "D" Street, Porterville, CA.
APN 252-184-007-000
Scale 1" = 20'

Concrete Wall
City Sewer & Water

Convenience Store (H138) 36' x 70'

Parking

Concrete Retaining Wall

Asphalt, or Concrete

Underground Tanks

NOTE: Existing building, canopy & pump island to be razed and replaced with new.
Required landscaping to be shrubs and or turf.
Wednesday, April 23, 2008

City Of Porterville
291 North Main Street
Porterville, California 93257

Attn: Mr. Bubba Frasher
Re: “D” Street Chevron
244 North “D” Street
Porterville, California

Dear Mr. Frasher,

After multiple verbal requests, I again, now in writing, formally request the City of Porterville procedure/policy for modifying an existing conditional use permit as clearly defined and approved by the City Council. There exists a defined fee for said procedure so I assume there is an application and a defined process. Please provide your response in writing in a timely manner as time is of the essence.

Please inform me when I may obtain the applicable documents as my clients are anxious to begin this process. Thank you for your cooperation. If you have any questions or require any further information please do not hesitate to contact me.

Sincerely,

Christopher Morris Sanders

Cc: Greg Chambers, Esquire
Ecc: Cameron Hamilton, Mayor
Ecc: Felipe A. Martinez, Councilman
Ecc: Pedro Martinez, Councilman
Ecc: Pete V. McCracken, Councilman
Ecc: Eduardo Hernandez, Councilman
April 29, 2008

Christopher Sanders
492 W. Kanai Ave.
Porterville, CA 93247

RE: Re-submittal for an off-sale of beer and wine license at 244 N. “D” (Chevron Food Market)

Dear Mr. Sanders,

After review of my comments addressing your request (see attached letter dated April 23, 2008) by Staff, Mr. Bradley D. Dunlap, Community Development Director has instructed me to respond as follows:

On July 16, 1996, the Porterville City Council at a public hearing denied Conditional Use Permit 4-96 for the Chevron Food Mart to allow for the sale of beer and wine under an off-sale license in conjunction with the operation of a proposed food market and a gasoline station to be located at 244 North “D” Street.

Based on Staff's findings, it is not clear, what happened after the denial of the use permit to allow sale of beer and wine. Building permits were subsequently issued to allow the fuel sales. It is still not clear as to how the mini-mart, gasoline sales was approved without the benefit of a subsequent CUP. Nevertheless, permits were issued.

Since the CUP was denied, the applicant needs to address a letter to the City Council C/O Benjamin Kimball, City Planner requesting that the City Council review the request to be allowed to re-submit an application to allow for the off-sale of beer and wine in conjunction with the existing mini-mart and fuel dispensing business located at 244 North “D” Street. It is important to note that there must be changed circumstances since the time of denial that would warrant re-submittal. Your letter should outline your view of the changed circumstances.

Respectfully,

Bubba Frasher, Assistant Planner

ATT: Letter dated April 23, 2008

CC: Bradley D. Dunlap, Community Development Director
    Benjamin Kimball, City Planner
    Jose Ortiz, Associate Planner
    John Longley, City Manager

Chris Sander Letter #2
May 6, 2008

City Of Porterville / City Council
291 North Main Street
Porterville, California 93257

Attn: Honorable Councilman
Re: “D” Street Chevron Foodmart
244 South “D” Street

Gentlemen,

This letter is to state our intent to modify the existing Conditional Use Permit for the above mentioned facility to include the off-sale of beer and wine products. On behalf of my client, I respectfully request council review this request and allow submittal of the application to modify said Conditional Use Permit to City staff.

With the addition of these products to those currently available, the downtown citizens of this community would now benefit by this added convenience.

If you have any questions or require any further information please do not hesitate to contact me. Thank you for your cooperation.

Sincerely,

Christopher Morris Sanders
TITLE: STATUS REPORT – PROPOSED ORDINANCE PER AD HOC NON-DRIVEWAY PARKING COMMITTEE AND CITY COUNCIL RECOMMENDATIONS

SOURCE: CITY ATTORNEY

COMMENT: This office is currently working on the draft ordinance per the Ad Hoc Non-Driveway Parking Committee’s draft language, and the additional direction received at the April 15, 2008 meeting. The portion of the recommended modifications concerning the requirement for adding a “driveway” as defined by the section (when an application is made for improvements exceeding $25,000) may need to be added as a separate code requirement in the zoning ordinance. The other modifications, per Council direction, are to exempt properties that currently do not have driveways or improved areas as defined by the section, and to clarify that the parking or storing of inoperable vehicles is prohibited regardless of whether on unimproved or improved properties. It is anticipated that a draft ordinance will be brought to the City Council at the June 3, 2008 meeting.

RECOMMENDATION: Report only. No action required.
TITLE: DRAFT ARTICLES OF INCORPORATION AND BYLAWS – PORTERVILLE AIRPORT AREA DEVELOPMENT CORPORATION

SOURCE: CITY ATTORNEY

COMMENT: The Southeastern Tulare County Intergovernmental Coordinating Committee/Porterville Airport Area Development Association (STIG/PAADA) is developing articles and bylaws for a proposed nonprofit corporation (the “Porterville Airport Area Development Corporation”). The corporation’s purpose would be to aid in the financing and administering of funds for the public works projects and improvements associated with any development on the Tribal-owned land by the airport. It is anticipated that this corporation would work in conjunction with the activities of the current STIG/PAADA, and with any joint powers authority created in the event special State legislation is adopted authorizing the creation of such an authority.

Attached are drafts of the Articles of Incorporation and Bylaws. These are scheduled for further review and discussion by the STIG/PAADA Board at it’s meeting scheduled for May 27, 2008, and will require approval of the City and Tribe before being submitted to the California Secretary of State. The Directors of the Corporation would parallel the Directors of STIG/PAADA. An affirmative vote of the majority of the total number of Board members is required per the current draft for decisions to be effective. The current drafts provide for President, Vice-President, Secretary and Treasurer of the Corporation, and subordinate offices could be created. The corporation would be a tax-exempt organization pursuant to Internal Revenue Code Section 501(c)(3). The organization would be subject to the Brown Act. There are still several areas in the documentation requiring further consideration and discussion, including the principal location of the corporation and the number of votes required for taking action.

RECOMMENDATION: That the City Council review and consider the attached drafts, and provide any direction to the City Attorney and its STIG/PAADA representatives.

ATTACHMENTS: 1) Draft Articles of Incorporation of the Porterville Airport Area Development Corporation
2) Draft Bylaws of the Porterville Airport Area Development Corporation

\julia\mjc\Porterville\general\agenda\nord.doc

Item No. 27
ARTICLES OF INCORPORATION [DRAFT]
-OF THE-
PORTERVILLE AREA AIRPORT DEVELOPMENT CORPORATION

ARTICLE I

The name of this corporation is: Porterville Area Airport Development Corporation.

ARTICLE II

A. This corporation is a nonprofit Public Benefit Corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public purposes.

B. The specific purposes for which this corporation is organized include the following: to assist the City of Porterville (the "City"), and the Tule River Indian Tribe (the "Tribe") and potentially other public agencies with which the City and Tribe are engaged with, in connection with the financing, acquiring, studying, planning, leasing, constructing, developing and/or improving of land, equipment, facilities, public works projects or any other public improvements for the use, benefit and enjoyment of the members of the public served by City, the Tribe and such agencies, any other public purpose incidental thereto, the administering of funds for these objectives, and to create economies and efficiencies of purpose.

ARTICLE III

The name and address in the State of California of this corporation's initial agent for service of process is:

Julia M. Lew
McCormick, Kabot, Jenner & Lew
1220 West Main Street
Visalia, CA 93291
ARTICLE IV  [DRAFT]

A. This corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)(3), Internal Revenue Code.

B. No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

ARTICLE V

The property of this corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation, organization, corporation, or governmental entity which is organized and operated exclusively for charitable or public purposes and which has established its tax exempt status.

IN WITNESS WHEREOF, for the purposes of forming the corporation under the laws of the State of California, the undersigned has executed these Articles of Incorporation this ____ day of __________________, 2008.

__________________________________________  __________________________________________
Incorporator                                 Incorporator

__________________________________________  __________________________________________
Incorporator                                 Incorporator

__________________________________________
Incorporator
Bylaws [DRAFT]
- of the -
Porterville Area Airport Development Corporation

ARTICLE I

Name, Organization and Purpose, Principal Office

Section 1.1. Name. The name of this corporation is PORTERVILLE AREA AIRPORT DEVELOPMENT CORPORATION (hereinafter referred to as the “Corporation”).

Section 1.2. Organization, Purpose and Use of Funds. The Corporation is a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law of the State of California (the “Law”) exclusively for the promotion of charitable purposes within the meaning of 501(c)(3) of the Internal Revenue Code (the “Code”) and to assist the City of Porterville (the “City”) and the Tule River Indian Tribe (the “Tribe”), and other public agencies in the State of California of which the City is a member or is otherwise engaged with, in connection with the financing, acquiring, studying, planning, leasing, constructing, developing and/or improving of land, equipment, facilities, public works projects or any other public improvement for the use, benefit and enjoyment of the members of the public served by City, Tribe and such agencies, any other public purpose incidental thereto, the administering of funds for these objectives, and to create economies and efficiencies of purpose. The activities of the Corporation shall be limited to the activities described in its Articles of Incorporation. No gains, profits or dividends shall be distributed to any of the Directors or officers of the Corporation; and no part of the net earnings, funds or assets of the Corporation shall inure to the benefit of any Director or any other person, firm or corporation excepting only the as described herein.

Section 1.3. Principal Office. The principal office of the Corporation is hereby fixed and located at ___(need physical location)____________. The Board of Directors is hereby granted full power and authority to change said principal office from one location to another. Any such change shall be noted by the Secretary opposite this section, but shall not be considered an amendment to these Bylaws.
ARTICLE II  [DRAFT]

No Members

Section 2.1. No Members. Pursuant to Section 5310 of the Law, the bylaws of a nonprofit corporation may provide that the corporation shall have no members. This Corporation shall have no members.

ARTICLE III

Directors

Section 3.1. Powers. Subject to limitation of the Articles of Incorporation, the Bylaws, and the Law, and subject to the duties of Directors as prescribed by the Bylaws, all powers of the Corporation shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be controlled by, the Board of Directors. No Director shall be responsible for any error in judgment or for anything that such Director may do or refrain from doing in good faith. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Directors shall have the following powers, to wit:

1. To select and remove all appointed officers, agents and employees of the Corporation, prescribe such powers and duties for such officers, agents and employees as may not be inconsistent with law or the Articles of Incorporation or Bylaws, fix their compensation and require from such officers, agents and employees security for faithful service;

2. To conduct, manage and control the affairs and business of the Corporation and to make such rules and regulations therefor not inconsistent with law, the Articles of Incorporation or Bylaws, as the Directors may deem best; and

3. To borrow money and incur indebtedness for the purposes of the Corporation, and to cause to be executed and delivered therefor, in the name of the Corporation or otherwise, promissory notes, bonds, certificates of participation, debentures, deeds of trust, mortgages, pledges, hypothecation or other evidences of debt and securities therefor.

Section 3.2. Number of Directors. The authorized number of Directors shall be five until changed by amendment of the Articles of Incorporation or by amendment of the Bylaws.
Section 3.3. Selection and Term of Office. The initial Directors of the Corporation shall include four (4) incorporators, two (2) of whom are designated by the Porterville City Council and whom are current Porterville City Council Members (hereinafter referred to as "City - Appointed Directors") and two (2) of whom are designated by the Tule River Tribal Council and are current or prior Tule River Tribal Council Members (hereinafter referred to as “Tribe – Appointed Directors”). The four initial directors shall appoint [by unanimous vote?] one additional director, who shall be a resident of Tulare County (hereinafter referred to as the “Board - Appointed Director”). This director shall be the same individual appointed to the Southeastern Tulare County Intergovernmental Coordinating Committee/Porterville Airport Area Association by the four members of that organization. Except as hereinafter provided and in accordance with Section 5220(d) of the law, each City and Tribe Appointed Director shall hold office until removed by its respective legislative body. The Board-Appointed Director shall hold office for a term of one year, and said term shall run consistent and in conjunction with his/her term as a member of the Southeastern Tulare County Intergovernmental Coordinating Committee/Porterville Airport Area Association.

Section 3.4. Vacancies. Subject to the provisions of Section 5224 of the Law, any Director may resign effective upon giving written notice to the President or the Secretary, unless the notice specifies a later time for the effectiveness of such resignation. No such resignation shall be effective, however, unless and until such Director shall have resigned from the Board of Directors of the Southeastern Tulare County Intergovernmental Coordinating Committee/Porterville Airport Area Association.

A vacancy or vacancies on the Board of Directors shall be deemed to exist upon the expiration of a Director's term, if the authorized number of Directors comprising the Board of Directors of the District is increased, or upon the events specified in Government Code §1770 including but not limited to the death, or resignation, on the Board of Directors of the District.

City-Appointed Director vacancies on the Board of Directors shall be filled by the Porterville City Council. Tribal-Appointed vacancies on the Board of Directors shall be filled by the Tule River Tribal Council. A Board-Appointed vacancy on the Board of Directors shall be filled by the four other (City and Tribal-Appointed) Directors [by unanimous vote?]?

Section 3.5. Organization and Annual/Quarterly Meetings. The Board of Directors shall hold at least one annual meeting for the purpose of organization and the transaction of business of the corporation. Subject to Section 3.11 hereof, quarterly meetings of the Board of Directors shall be held on the first ______________ in the month of ______________, but in no case held later than June 1 of each year.
Section 3.6. Regular Meetings. The Board of Directors by resolution may provide for the holding of regular meetings and may fix the time and place of holding such meetings.

Section 3.7. Special Meetings; Notice Waiver. A special meeting of the Board of Directors shall be held whenever called in accordance with the Ralph M. Brown Act, commencing at Section 54950 of the Government Code of the State of California and Section 5211(a)(2) of the Law and Section 3.11 hereof.

Section 3.8. Adjourned Meetings; Notice of Adjournment. The Board of Directors may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a majority may so adjourn from time to time. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this Section 3.8, the resulting adjourned regular meeting is a regular meeting for all purposes.

Section 3.9. Majority. A majority, or at least three (3), of the total number of Board of Directors (5) shall constitute a quorum for the transaction of any business. An affirmative vote of a majority, or at least three (3), of the total number of Board of Directors is required for every act or decision of the Board of Directors.

Section 3.10. Fees and Compensation. Directors shall receive no compensation or expenses from the Corporation for services as Directors of the Corporation.

Section 3.11. Ralph M. Brown Act. Notwithstanding any of the provisions of these Bylaws to the contrary, all meetings of the Board of Directors shall be subject to the Ralph M. Brown Act, commencing at Section 54950 of the Government Code of the State of California.

Section 3.12. Conduct of Meetings. The President or, in the absence of the President, the Vice President, or, in the absence of the Vice President, a Chairman chosen by a majority of the Directors present, shall preside at meetings of the Board of Directors.
ARTICLE IV [DRAFT]

Officers

Section 4.1. Officers. The officers of the Corporation shall include a President, a Vice President, a Secretary and a Treasurer, all of whom shall be appointed from the Board of Directors. The Corporation may also have, at the discretion of the Board of Directors, one or more additional Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be appointed by the Board of Directors and are not members of the Board of Directors. One person may hold two or more offices, except that the offices of President and Secretary or President and Treasurer may not be combined.

Section 4.2. President. The person serving from time-to-time as the President of the Board of Directors of the Corporation shall serve as the President of the Corporation. The President shall preside at all meetings of the Board of Directors.

Section 4.3. Vice-President. The person serving from time-to-time as Vice President of the Board of Directors shall serve as Vice-President of the Corporation. The Vice-President shall preside at meetings of the Board of Directors in the event that the President is unable to do so.

Section 4.4. Secretary. The person serving from time-to-time as Secretary of the Board of Directors shall serve as Secretary of the Corporation. The Secretary shall keep at the principal office of the Corporation a book of minutes of all meetings of Directors, with the time and place of holding, how called or authorized, the notice thereof given, and the names of those present at Directors' meetings.

Section 4.5. Treasurer. The person serving from time-to-time as the Treasurer of the Board of Directors shall serve as Treasurer of the Corporation. The Treasurer shall keep and maintain adequate and correct books of account showing the receipts and disbursements of the Corporation, and an account of its cash and other assets, if any. Such books of account shall at all reasonable times be open to inspection by any Director.

The Treasurer shall deposit all moneys of the Corporation with such depositories as are designated by the Board of Directors, and shall disburse the funds of the Corporation as may be ordered by the Board of Directors, and shall render to the President or the Board of Directors, upon request, statements of the financial condition of the Corporation.

Section 4.6. Subordinate Officers. Subordinate officers shall perform such duties as shall be prescribed from time to time by the Board of Directors.
Section 4.7. Term of Office. The term of office of the President and Vice-President of the Corporation shall coincide with the term of office of the President and Vice-President of the Board of Directors of the Corporation. The term of office of the Secretary and Treasurer of the Corporation, respectively, shall coincide with the term of office of the Secretary and Treasurer of the Board of Directors respectively.

ARTICLE V [DRAFT]

Miscellaneous

Section 5.1. Execution of Documents. The Board of Directors may authorize any officer or officers as agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent or other person shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount. Said authority shall be granted by Resolution or Minute Order and shall appear in the minutes.

Section 5.2. Inspection of Bylaws. The Corporation shall keep in its principal office the original or a copy of these Bylaws, as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by members of the public and the Directors at all reasonable times during office hours.

Section 5.3. Annual Report. The Corporation, having no members, hereby expressly dispenses with the annual report referred to in Section 6321 of the Law.

Section 5.4. Fiscal Year. The fiscal year of the Corporation shall begin July 1 of each year and end on the last day of June of the succeeding year, except the first fiscal year which shall run from the date of incorporation to _____________ , 2009.

Section 5.5. Dissolution. In the event of dissolution of the Corporation in any manner and for any cause, after the payment or adequate provision for the payment of all of its debts and liabilities, all of the remaining funds, assets and properties of the Corporation shall be paid or distributed to a nonprofit fund, foundation, organization or corporation which is organized and operated exclusively for charitable or public purposes and which has established its tax exempt status.
Section 5.6. Construction and Definitions. Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the Law shall govern the construction of these Bylaws. If any section, subsection, sentence, clause or phrase of these Bylaws, or the application thereof, is contrary to the Law, the provisions of the Law shall prevail. Without limiting the generality of the foregoing the masculine gender includes the feminine and neuter, the singular number includes the plural and the plural number includes the singular, and the term “person” includes a corporation as well as a natural person.

ARTICLE VI [DRAFT]

Amendments

Section 6.1. Power of Directors. New Bylaws may be adopted or these Bylaws may be amended or repealed by an affirmative vote of a majority of the total number of the Board of Directors. No amendment to these Bylaws shall be effective until approved by an affirmative majority vote of the Board of Directors.

CERTIFICATE OF SECRETARY

OF

PORTERVILLE AREA AIRPORT DEVELOPMENT CORPORATION

I hereby certify that I am the duly elected and acting Secretary of said corporation and that the foregoing Bylaws, comprising 6 pages, constitute the Bylaws of said corporation as duly adopted at a meeting of the Board of Directors thereof held on __________________, 2008.

[DRAFT]

______________________, Secretary
Bylaws [DRAFT]
- of the -
Porterville Area Airport Development Corporation

ARTICLE I

Name, Organization and Purpose, Principal Office

Section 1.1. Name. The name of this corporation is PORTERVILLE AREA AIRPORT DEVELOPMENT CORPORATION (hereinafter referred to as the “Corporation”).

Section 1.2. Organization, Purpose and Use of Funds. The Corporation is a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law of the State of California (the “Law”) exclusively for the promotion of charitable purposes within the meaning of 501(c)(3) of the Internal Revenue Code (the “Code”) and to assist the City of Porterville (the “City”) and the Tule River Indian Tribe (the “Tribe”), and other public agencies in the State of California of which the City is a member or is otherwise engaged with, in connection with the financing, acquiring, studying, planning, leasing, constructing, developing and/or improving of land, equipment, facilities, public works projects or any other public improvement for the use, benefit and enjoyment of the members of the public served by City, Tribe and such agencies, any other public purpose incidental thereto, the administering of funds for these objectives, and to create economies and efficiencies of purpose. The activities of the Corporation shall be limited to the activities described in its Articles of Incorporation. No gains, profits or dividends shall be distributed to any of the Directors or officers of the Corporation; and no part of the net earnings, funds or assets of the Corporation shall inure to the benefit of any Director or any other person, firm or corporation excepting only the as described herein.

Section 1.3. Principal Office. The principal office of the Corporation is hereby fixed and located at _______. The Board of Directors is hereby granted full power and authority to change said principal office from one location to another. Any such change shall be noted by the Secretary opposite this section, but shall not be considered an amendment to these Bylaws.
ARTICLE II  [DRAFT]

No Members

Section 2.1. No Members. Pursuant to Section 5310 of the Law, the bylaws of a nonprofit corporation may provide that the corporation shall have no members. This Corporation shall have no members.

ARTICLE III

Directors

Section 3.1. Powers. Subject to limitation of the Articles of Incorporation, the Bylaws, and the Law, and subject to the duties of Directors as prescribed by the Bylaws, all powers of the Corporation shall be exercised by or under the authority of, and the business and affairs of the Corporation shall be controlled by, the Board of Directors. No Director shall be responsible for any error in judgment or for anything that such Director may do or refrain from doing in good faith. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Directors shall have the following powers, to wit:

1. To select and remove all appointed officers, agents and employees of the Corporation, prescribe such powers and duties for such officers, agents and employees as may not be inconsistent with law or the Articles of Incorporation or Bylaws, fix their compensation and require from such officers, agents and employees security for faithful service;

2. To conduct, manage and control the affairs and business of the Corporation and to make such rules and regulations therefor not inconsistent with law, the Articles of Incorporation or Bylaws, as the Directors may deem best; and

3. To borrow money and incur indebtedness for the purposes of the Corporation, and to cause to be executed and delivered therefor, in the name of the Corporation or otherwise, promissory notes, bonds, certificates of participation, debentures, deeds of trust, mortgages, pledges, hypothecation or other evidences of debt and securities therefor.

Section 3.2. Number of Directors. The authorized number of Directors shall be five until changed by amendment of the Articles of Incorporation or by amendment of the Bylaws.
Section 3.3. Selection and Term of Office. The initial Directors of the Corporation shall include four (4) incorporators, two (2) of whom are designated by the Porterville City Council and whom are current Porterville City Council Members (hereinafter referred to as "City - Appointed Directors") and two (2) of whom are designated by the Tule River Tribal Council and are current or prior Tule River Tribal Council Members (hereinafter referred to as "Tribe – Appointed Directors"). The four initial directors shall appoint [by unanimous vote?] one additional director, who shall be a resident of Tulare County (hereinafter referred to as the “Board - Appointed Director”). This director shall be the same individual appointed to the Southeastern Tulare County Intergovernmental Coordinating Committee/Porterville Airport Area Association by the four members of that organization. Except as hereinafter provided and in accordance with Section 5220(d) of the law, each City and Tribe Appointed Director shall hold office until removed by its respective legislative body. The Board-Appointed Director shall hold office for a term of one year, and said term shall run consistent and in conjunction with his/her term as a member of the Southeastern Tulare County Intergovernmental Coordinating Committee/Porterville Airport Area Association.

Section 3.4. Vacancies. Subject to the provisions of Section 5224 of the Law, any Director may resign effective upon giving written notice to the President or the Secretary, unless the notice specifies a later time for the effectiveness of such resignation. No such resignation shall be effective, however, unless and until such Director shall have resigned from the Board of Directors of the Southeastern Tulare County Intergovernmental Coordinating Committee/Porterville Airport Area Association.

A vacancy or vacancies on the Board of Directors shall be deemed to exist upon the expiration of a Director's term, if the authorized number of Directors comprising the Board of Directors of the District is increased, or upon the events specified in Government Code § 1770 including but not limited to the death, or resignation, on the Board of Directors of the District.

City-Appointed Director vacancies on the Board of Directors shall be filled by the Porterville City Council. Tribal-Appointed vacancies on the Board of Directors shall be filled by the Tule River Tribal Council. A Board-Appointed vacancy on the Board of Directors shall be filled by the four other (City and Tribal-Appointed) Directors [by unanimous vote?]?

Section 3.5. Organization and Annual/Quarterly Meetings. The Board of Directors shall hold at least one annual meeting for the purpose of organization and the transaction of business of the corporation. Subject to Section 3.11 hereof, quarterly meetings of the Board of Directors shall be held on the first ____________ in the month of ____________, but in no case held later than June 1 of each year.
Section 3.6. Regular Meetings. The Board of Directors by resolution may provide for the holding of regular meetings and may fix the time and place of holding such meetings.

Section 3.7. Special Meetings; Notice Waiver. A special meeting of the Board of Directors shall be held whenever called in accordance with the Ralph M. Brown Act, commencing at Section 54950 of the Government Code of the State of California and Section 5211(a)(2) of the Law and Section 3.11 hereof.

Section 3.8. Adjourned Meetings; Notice of Adjournment. The Board of Directors may adjourn any regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a majority may so adjourn from time to time. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this Section 3.8, the resulting adjourned regular meeting is a regular meeting for all purposes.

Section 3.9. Majority. A majority, or at least three (3), of the total number of Board of Directors (5) shall constitute a quorum for the transaction of any business. An affirmative vote of a majority, or at least three (3), of the total number of Board of Directors is required for every act or decision of the Board of Directors.

Section 3.10. Fees and Compensation. Directors shall receive no compensation or expenses from the Corporation for services as Directors of the Corporation.

Section 3.11. Ralph M. Brown Act. Notwithstanding any of the provisions of these Bylaws to the contrary, all meetings of the Board of Directors shall be subject to the Ralph M. Brown Act, commencing at Section 54950 of the Government Code of the State of California.

Section 3.12. Conduct of Meetings. The President or, in the absence of the President, the Vice President, or, in the absence of the Vice President, a Chairman chosen by a majority of the Directors present, shall preside at meetings of the Board of Directors.
ARTICLE IV [DRAFT]

Officers

Section 4.1. Officers. The officers of the Corporation shall include a President, a Vice President, a Secretary and a Treasurer, all of whom shall be appointed from the Board of Directors. The Corporation may also have, at the discretion of the Board of Directors, one or more additional Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be appointed by the Board of Directors and are not members of the Board of Directors. One person may hold two or more offices, except that the offices of President and Secretary or President and Treasurer may not be combined.

Section 4.2. President. The person serving from time-to-time as the President of the Board of Directors of the Corporation shall serve as the President of the Corporation. The President shall preside at all meetings of the Board of Directors.

Section 4.3. Vice-President. The person serving from time-to-time as Vice President of the Board of Directors shall serve as Vice-President of the Corporation. The Vice-President shall preside at meetings of the Board of Directors in the event that the President is unable to do so.

Section 4.4. Secretary. The person serving from time-to-time as Secretary of the Board of Directors shall serve as Secretary of the Corporation. The Secretary shall keep at the principal office of the Corporation a book of minutes of all meetings of Directors, with the time and place of holding, how called or authorized, the notice thereof given, and the names of those present at Directors’ meetings.

Section 4.5. Treasurer. The person serving from time-to-time as the Treasurer of the Board of Directors shall serve as Treasurer of the Corporation. The Treasurer shall keep and maintain adequate and correct books of account showing the receipts and disbursements of the Corporation, and an account of its cash and other assets, if any. Such books of account shall at all reasonable times be open to inspection by any Director.

The Treasurer shall deposit all moneys of the Corporation with such depositories as are designated by the Board of Directors, and shall disburse the funds of the Corporation as may be ordered by the Board of Directors, and shall render to the President or the Board of Directors, upon request, statements of the financial condition of the Corporation.

Section 4.6. Subordinate Officers. Subordinate officers shall perform such duties as shall be prescribed from time to time by the Board of Directors.
Section 4.7. Term of Office. The term of office of the President and Vice-President of the Corporation shall coincide with the term of office of the President and Vice-President of the Board of Directors of the Corporation. The term of office of the Secretary and Treasurer of the Corporation, respectively, shall coincide with the term of office of the Secretary and Treasurer of the Board of Directors respectively.

ARTICLE V [DRAFT]

Miscellaneous

Section 5.1. Execution of Documents. The Board of Directors may authorize any officer or officers as agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent or other person shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount. Said authority shall be granted by Resolution or Minute Order and shall appear in the minutes.

Section 5.2. Inspection of Bylaws. The Corporation shall keep in its principal office the original or a copy of these Bylaws, as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by members of the public and the Directors at all reasonable times during office hours.

Section 5.3. Annual Report. The Corporation, having no members, hereby expressly dispenses with the annual report referred to in Section 6321 of the Law.

Section 5.4. Fiscal Year. The fiscal year of the Corporation shall begin July 1 of each year and end on the last day of June of the succeeding year, except the first fiscal year which shall run from the date of incorporation to ______________ , 2009.

Section 5.5. Dissolution. In the event of dissolution of the Corporation in any manner and for any cause, after the payment or adequate provision for the payment of all of its debts and liabilities, all of the remaining funds, assets and properties of the Corporation shall be paid or distributed to a nonprofit fund, foundation, organization or corporation which is organized and operated exclusively for charitable or public purposes and which has established its tax exempt status.
Section 5.6. **Construction and Definitions.** Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the Law shall govern the construction of these Bylaws. If any section, subsection, sentence, clause or phrase of these Bylaws, or the application thereof, is contrary to the Law, the provisions of the Law shall prevail. Without limiting the generality of the foregoing the masculine gender includes the feminine and neuter, the singular number includes the plural and the plural number includes the singular, and the term “person” includes a corporation as well as a natural person.

**ARTICLE VI [DRAFT]**

**Amendments**

Section 6.1. **Power of Directors.** New Bylaws may be adopted or these Bylaws may be amended or repealed by an affirmative vote of a majority of the total number of the Board of Directors. No amendment to these Bylaws shall be effective until approved by an affirmative majority vote of the Board of Directors.

**CERTIFICATE OF SECRETARY**

OF

PORTERVILLE AREA AIRPORT DEVELOPMENT CORPORATION

I hereby certify that I am the duly elected and acting Secretary of said corporation and that the foregoing Bylaws, comprising 6 pages, constitute the Bylaws of said corporation as duly adopted at a meeting of the Board of Directors thereof held on ________________, 2008.

[**DRAFT**]

, Secretary
SUBJECT: AUTHORIZATION TO SUBORDINATE PROMISSORY NOTE – CENTENNIAL PLAZA

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On November 1, 2005, the Agency entered into a Development and Disposition Agreement (DDA) with Ennis Commercial Properties, LLC for the redevelopment of approximately 8,800 square feet of real property located at the southeast corner of Main Street and Thurman Avenue, more commonly referred to as Centennial Plaza. The building was constructed as a condominium, with two separate buildings and common area. Included in the DDA is permission for the transfer of one of the two buildings on the site to be transferred to Smith Commercial Properties, LLC. On April 29, 2008, Mr. Ennis verbally notified the Agency that Ennis Commercial Properties, LLC (Ennis) has negotiated an agreement with Smith Commercial Properties, LLC (Smith) for their remaining interest in the property. The conditions contained within the DDA have been satisfied and the Certificate of Completion was issued by the Agency to Ennis in November 2007. Contained within the DDA is an Operating Covenant which sets forth the Use and Operating Covenants that have been set in place for a period of thirty (30) years and shall run with the land.

As part of the purchase price for the property Ennis provided the Agency with a Promissory Note in the amount of $15,000. At this time, Smith would like to subordinate the Promissory Note held by the Agency to Trust Deeds executed by Smith in favor of Bank of the Sierra and Ennis. Prior to escrow closing to transfer the property to Smith, the Subordination Agreements must be executed.

RECOMMENDATION: That the Porterville Redevelopment Agency:

1. Approve the subordination of the Promissory Note from Ennis Commercial Properties, LLC to Smith Commercial Properties, LLC; and

2. Authorize the Chairman and Secretary to sign all necessary documents

ATTACHMENTS: 1) Locator Map
2) Subordination Agreements
3) Promissory Note

DD2w3 Appropriated/Funded MB CM

ITEM NO. PRA-1
SUBORDINATION AGREEMENT

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT, made May 2, 2008, by SMITH COMMERCIAL PROPERTIES, LLC

owner of the land hereinafter described and hereinafter referred to as "Owner," and PORTERVILLE REDEVELOPMENT AGENCY, A PUBLIC BODY, CORPORATE AND POLITICAL

present owner and holder of the deed of trust and note first hereinafter described and hereinafter referred to as "Beneficiary";

WITNESSETH

THAT WHEREAS, ENNIS COMMERCIAL PROPERTIES, LLC, did execute a deed of trust, dated November 8, 2005, to CHICAGO TITLE COMPANY, A CALIFORNIA CORPORATION, as trustee, covering SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

to secure a note in the sum of $15,000.00, dated November 8, 2005, in favor of PORTERVILLE REDEVELOPMENT AGENCY, A PUBLIC BODY, CORPORATE AND POLITICAL, which deed of trust was recorded as instrument no. 2006-0042399, on April 21, 2006, in book N/A, page N/A, Official Records of said county; and

WHEREAS, Owner has executed, or is about to execute, a deed of trust and note in the sum of $1,000,000.00 dated , in favor of BANK OF THE SIERRA, hereinafter referred to as "Lender," payable with interest and upon the terms and conditions described therein, which deed of trust is to be recorded concurrently herewith; and

WHEREAS, it is a condition precedent to obtaining said loan that said deed of trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the deed of trust first above mentioned; and

WHEREAS, lender is willing to make said loan provided the deed of trust securing the same is a lien or charge upon the above described property prior and superior to the lien or charge of the deed of trust first above mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the deed of trust first above mentioned to the lien or charge of the deed of trust in favor of Lender; and
WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and Beneficiary is willing that the deed of trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the deed of trust first above mentioned.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed as follows:

(1) That said deed of trust securing said note in favor of Lender, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the property therein described, prior and superior to the lien or charge of the deed of trust above mentioned.

(2) That Lender would not make its loan above described without this subordination agreement.

(3) That this agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the deed of trust first above mentioned to the lien or charge of the deed of trust in favor of Lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the deeds of trust hereinbefore specifically described, any prior agreement as to such subordination including, but not limited, those provisions, if any, contained in the deed of trust first above mentioned, which provide for the subordination of the lien or charge thereof to another deed or deeds of trust or to another mortgage or mortgages.

Beneficiary declares, agrees and acknowledges that

(a) He consents to and approves (i) all provisions of the note and deed of trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender's loan;

(b) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part;

(c) He intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the deed of trust first above mentioned in favor of the lien or charge upon said land of the deed of trust in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination; and

(d) An endorsement has been placed upon the note secured by the deed of trust first above mentioned that said deed of trust has by this instrument been subordinated to the lien or charge of the deed of trust in favor of Lender above referred to.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH Allows THE PERSON Obligated on YOUR REAL PROPERTY SECURITY TO ObtAIN A Loan A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.
IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.

PORTERVILLE REDEVELOPMENT AGENCY
BY:

SMITH COMMERCIAL PROPERTIES, LLC
BY:

BY:

BY:

Beneficiary

STATE OF CALIFORNIA
COUNTY OF TULARE

On ____________________________, before me, Notary Public (here insert name and title of the officer), personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________ (Seal)

STATE OF CALIFORNIA
COUNTY OF TULARE

On ____________________________, before me, Notary Public (here insert name and title of the officer), personally appeared ____________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ____________________________ (Seal)
EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

"A Condominium comprised of:

PARCEL 1:

An undivided one half (1/2) interest in and to Parcel 1 of Parcel Map No. 4867, City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 49, Page 72 of Parcel Maps.

Excepting therefrom Units 1 through 4 as shown and defined upon the condominium plan in the Declaration For Centennial Plaza recorded November 14, 2007 as Document No. 2007-0100088 and the Amended and Restated Declaration for Centennial Plaza recorded December 13, 2007 as Document No. 2007-0107289, of Official Records.

PARCEL 2:

Units 1 and 3 as shown upon the condominium plan referred to in Parcel 1 above."

PARCEL 3:

An easement for the construction, erection, maintenance, repair, permanent staircase encroachment and secondary access upon, over, across and within the following described property:

The South 2 feet of the North 22 feet of Lot 6 in Block 7 of Pioneer & Murphy's Addition, according to the map thereof recorded in Volume 4 Page 29 of Maps, in the office of the County Recorder of said County.

APN: PTN OF 253-192-001
RECORDING REQUESTED BY:
Chicago Title Company
Escrow No.: 08-42202828-B15
Locate No.: CACT17754-7754-4422-0042202828
Title No.: 08-42202828-ak

When Recorded Mail Document To:
CITY OF PORTERVILLE
291 NORTH MAIN STREET
PORTERVILLE CA 93257

APN: PTN OF 253-192-001

SUBORDINATION AGREEMENT

NOTICE: 
THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT, made May 2, 2008, by SMITH COMMERCIAL PROPERTIES, LLC

owner of the land hereinafter described and hereinafter referred to as "Owner," and PORTERVILLE REDEVELOPMENT AGENCY, A PUBLIC BODY, CORPORATE AND POLITICAL

present owner and holder of the deed of trust and note first hereinafter described and hereinafter referred to as "Beneficiary";

WITNESSETH

THAT WHEREAS, ENNIS COMMERCIAL PROPERTIES, LLC, did execute a deed of trust, dated November 6, 2005, to CHICAGO TITLE COMPANY, A CALIFORNIA CORPORATION, as trustee, covering SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

2006-0042399, on April 21, 2006, in book N/A, page N/A, Official Records of said county; and

WHEREAS, Owner has executed, or is about to execute, a deed of trust and note in the sum of $15,000.00, dated November 7, 2008, in favor of PORTERVILLE REDEVELOPMENT AGENCY, A PUBLIC BODY, CORPORATE AND POLITICAL, which deed of trust was recorded as instrument no. 2006-0042399, on April 21, 2006, in book N/A, page N/A, Official Records of said county; and

WHEREAS, it is a condition precedent to obtaining said loan that said deed of trust last above mentioned shall unconditionally be and remain at all times a lien or charge upon the land hereinbefore described, prior and superior to the lien or charge of the deed of trust first above mentioned; and

WHEREAS, lender is willing to make said loan provided the deed of trust securing the same is a lien or charge upon the above described property prior and superior to the lien or charge of the deed of trust first above mentioned and provided that Beneficiary will specifically and unconditionally subordinate the lien or charge of the deed of trust first above mentioned to the lien or charge of the deed of trust in favor of Lender; and

INITIALS: / /
WHEREAS, it is to the mutual benefit of the parties hereto that Lender make such loan to Owner; and Beneficiary is willing that the deed of trust securing the same shall, when recorded, constitute a lien or charge upon said land which is unconditionally prior and superior to the lien or charge of the deed of trust first above mentioned.

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce Lender to make the loan above referred to, it is hereby declared, understood and agreed as follows:

(1) That said deed of trust securing said note in favor of Lender, and any renewals or extensions thereof, shall unconditionally be and remain at all times a lien or charge on the property therein described, prior and superior to the lien or charge of the deed of trust above mentioned.

(2) That Lender would not make its loan above described without this subordination agreement.

(3) That this agreement shall be the whole and only agreement with regard to the subordination of the lien or charge of the deed of trust first above mentioned to the lien or charge of the deed of trust in favor of lender above referred to and shall supersede and cancel, but only insofar as would affect the priority between the deeds of trust hereinbefore specifically described, any prior agreement as to such subordination including, but not limited, those provisions, if any, contained in the deed of trust first above mentioned, which provide for the subordination of the lien or charge thereof to another deed or deeds of trust or to another mortgage or mortgages.

Beneficiary declares, agrees and acknowledges that

(a) He consents to and approves (i) all provisions of the note and deed of trust in favor of Lender above referred to, and (ii) all agreements, including but not limited to any loan or escrow agreements, between Owner and Lender for the disbursement of the proceeds of Lender’s loan;

(b) Lender in making disbursements pursuant to any such agreement is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender disburses such proceeds and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part;

(c) He intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the deed of trust first above mentioned in favor of the lien or charge upon said land of the deed of trust in favor of Lender above referred to and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination; and

(d) An endorsement has been placed upon the note secured by the deed of trust first above mentioned that said deed of trust has by this instrument been subordinated to the lien or charge of the deed of trust in favor of Lender above referred to.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

INITIALS: / /
IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS SUBORDINATION AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT THERETO.

PORTERVILLE REDEVELOPMENT AGENCY
BY: /

BY: /

BY: /

SMITH COMMERCIAL PROPERTIES, LLC
BY: /

BY: /

BY: /

Beneficiary  
State of California  
County of  
On , Notary Public (here insert name and title of the officer), personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature (Seal)  
State of California  
County of  
On , Notary Public (here insert name and title of the officer), personally appeared , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature (Seal)
EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

"A Condominium comprised of:

PARCEL 1:

An undivided one half (1/2) interest in and to Parcel 1 of Parcel Map No. 4867, City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 49, Page 72 of Parcel Maps.

Excepting therefrom Units 1 through 4 as shown and defined upon the condominium plan in the Declaration For Centennial Plaza recorded November 14, 2007 as Document No. 2007-0100088 and the Amended and Restated Declaration for Centennial Plaza recorded December 13, 2007 as Document No. 2007-0107289, of Official Records.

PARCEL 2:

Units 1 and 3 as shown upon the condominium plan referred to in Parcel 1 above."

PARCEL 3:

An easement for the construction, erection, maintenance, repair, permanent staircase encroachment and secondary access upon, over, across and within the following described property:

The South 2 feet of the North 22 feet of Lot 6 in Block 7 of Pioneer & Murphy's Addition, according to the map thereof recorded in Volume 4 Page 29 of Maps, in the office of the County Recorder of said County.

APN: PTN OF 253-192-001
ATTACHMENT NO. 4

PROMISSORY NOTE

$15,000

Porterville, California

FOR VALUE RECEIVED, ENNIS COMMERCIAL PROPERTIES, LLC, a California limited liability company ("Borrower"), promise to pay to the PORTERVILLE REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency"), or order, at the Agency’s office at 291 N. Main Street, Porterville, California 93257, or such other place as the Agency may designate in writing, Fifteen Thousand Dollars ($15,000) (the "Note Amount"), in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. Agreement. This Promissory Note (the "Note") is given in accordance with that certain Disposition and Development Agreement executed by the Agency and Borrower, dated as of Nov. 1, 2005 (the "Agreement"). This Note is made by Borrower for the payment of a portion of the Purchase Price for the Site (as defined in the Agreement).

2. Interest. The Note amount shall bear interest at an annual rate of 6.75%, which is equal to the Bank Prime Loan rate as reported in the Federal Reserve Statistical Release dated September 30, 2005.

3. Subordination. The Promissory Note shall be subordinate to construction funding.

4. Repayment of Note Amount. Borrower shall pay to the Agency Fifteen Thousand Dollars ($15,000), plus any accrued interest, on or before the fifth anniversary of the date of this note.

5. Security. This Note is secured by a guarantee from Ben Ennis.

6. Waivers

a. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time at the Agency’s sole discretion and that the Agency may accept security in consideration for any such extension or release any security for this Note at its sole discretion all without in any way affecting the liability of Borrower.

b. No extension of time for payment of this Note made by agreement by the Agency with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

c. The obligations of Borrower under this Note shall be absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever.

Attachment No. 4-1
C:\Documents and Settings\jgoetz\Local Settings\Temporary Internet Files\OLK38\DDA.Final Doc.DOC

ATTACHMENT
ITEM NO. 3
d. Borrower waives presentment, demand, notice of protest and nonpayment, notice of default or delinquency, notice of acceleration, notice of costs, expenses or leases or interest thereon, notice of dishonor, diligence in collection or in proceeding against any of the rights of interests in or to properties securing of this Note, and the benefit of any exemption under any homestead exemption laws, if applicable.

e. No previous waiver and no failure or delay by Agency in acting with respect to the terms of this Note or the Deed of Trust shall constitute a waiver of any breach, default, or failure or condition under this Note, the Deed of Trust or the obligations secured thereby. A waiver of any term of this Note, the Deed of Trust or of any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver.

7. **Attorneys' Fees and Costs.** Borrower agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorneys’ fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

8. **Joint and Several Obligation.** This Note is the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their heirs, successors and assigns.

9. **Amendments and Modifications.** This Note may not be changed orally, but only by an amendment in writing signed by Borrower and by the Agency.

10. **Agency May Assign.** Agency may, at its option, assign its right to receive payment under this Note without necessity of obtaining the consent of the Borrower.

11. **Borrower Assignment Prohibited.** In no event shall Borrower assign or transfer any portion of this Note except to a transferee which is approved by the Agency or otherwise permitted pursuant to Section 603 of the Agreement.

12. **Terms.** Any terms not separately defined herein shall have the same meanings as set forth in the Agreement.

13. **Remedies.** All costs of collection, including, but not limited to, reasonable attorneys’ fees and all expenses incurred in connection with protection of, or realization on, the security for this Note, may be added to the principal hereunder, and shall accrue interest as provided herein. Agency shall at all times have the right to proceed against any portion of the security for this Note in such order and in such manner as such Agency may consider appropriate, without waiving any rights with respect to any of the security. Any delay or omission on the part of the Agency in exercising any right hereunder, or under the Agreement, shall not operate as a waiver of such right, or of any other right. No single or partial exercise of any right or remedy hereunder or under the Agreement or any other document or agreement shall preclude other or further exercises thereof, or the exercise of any other right or remedy. The acceptance of payment of any sum payable hereunder, or part thereof, after the due date of such payment shall not be a waiver of Agency’s right to either require prompt payment when due of all other sums payable hereunder or to declare an Event of Default for failure to make prompt or complete payment.

14. **Consents.** Borrower hereby consents to: (a) any renewal, extension or modification (whether one or more) of the terms of the Agreement or the terms or time of payment under this Attachment No. 4-2
Note, (b) the release or surrender or exchange or substitution of all or any part of the security, whether real or personal, or direct or indirect, for the payment hereof, (c) the granting of any other indulgences to Borrower, and (d) the taking or releasing of other or additional parties primarily or contingently liable hereunder. Any such renewal, extension, modification, release, surrender, exchange or substitution may be made without notice to Borrower or to any endorser, guarantor or surety hereof, and without affecting the liability of said parties hereunder.

15. **Successors and Assigns.** Whenever "Agency" is referred to in this Note, such reference shall be deemed to include the Redevelopment Agency of the City of Porterville and its successors and assigns, including, without limitation, any subsequent assignee or holder of this Note. All covenants, provisions and agreements by or on behalf of Borrower, and on behalf of any makers, endorsers, guarantors and sureties hereof which are contained herein shall inure to the benefit of the Agency and Agency's successors and assigns.

16. **Miscellaneous.** Time is of the essence hereof. This Note shall be governed by and construed under the laws of the State of California.

ENNIS COMMERCIAL PROPERTIES, LLC,
a California limited liability company

By: [Signature]
Ben Ennis, Managing Partner