

**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
DECEMBER 3, 2013, 5:30 P.M.**

Call to Order
Roll Call

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

**JOINT CITY COUNCIL / SUCCESSOR AGENCY TO THE
PORTERVILLE REDEVELOPMENT AGENCY AGENDA
291 N. MAIN STREET, PORTERVILLE, CA**

Roll Call: Agency Members/Chairman

ORAL COMMUNICATIONS

This is the opportunity to address the City Council and/or Successor Agency on any matter scheduled for Closed Session. Unless additional time is authorized by the Council/Agency, all commentary shall be limited to three minutes.

JOINT CITY COUNCIL/AGENCY CLOSED SESSION:

- A. Closed Session Pursuant to:
- 1- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: County of Tulare v. All Persons Interested in the Matter of the Addition of the 2010 Amendment to Redevelopment Plan for the Redevelopment Project Area No. 1, as Adopted by Ordinance 1765 on June 15, 2010, by the City of Porterville, et al., Tulare County Superior Court Case No. 249877.

During Closed Session, the Joint Council/Successor Agency Meeting shall adjourn to a Meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:

- B. Closed Session Pursuant to:
- 1 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: City of Porterville v. County of Tulare et al., Tulare County Superior Court No. 249043.
 - 2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: 30.57 mile line of railroad between Strathmore, CA milepost 268.60 and Jovista, CA milepost 299.17 in Tulare County, particularly that portion of the railroad line within the limits of the City of Porterville. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Union Pacific Railroad. Under Negotiation: Terms and Price.
 - 3- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: A Portion of APN 197-090-005. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and City of Lindsay. Under Negotiation: Terms and Price.

- 4 - Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: 280 North Fourth Street. Agency Negotiators: John Lollis. Negotiating Parties: City of Porterville and CSET. Under Negotiation: Terms and Price.
- 5- Government Code Section 54956.95 – Liability Claim: Claimant: Jesus Alvarado. Agency claimed against: City of Porterville.
- 6- Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Steve Kabot. Employee Organization: Fire Officer Series.
- 7- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: City of Chico, et al. v. John Chiang, Sacramento County Superior Court, Case No. 34-2013-80001593.
- 8- Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Donald Sipple, et al. v. City of Alameda, et al., Los Angeles Superior Court, Case No. BC462270.
- 9- Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One Case.

6:30 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member Gurrola
Invocation

PRESENTATIONS

Employee of the Month – Ramon Velasco
Employee Service Awards
Southern California Gas Company

AB 1234 REPORTS

This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.

- 1. Council of Cities – November 20, 2013
- 2. Consolidated Waste Management Authority (CWMA) – November 21, 2013
- 3. Tulare County Association of Governments (TCAG) – November 25, 2013

REPORTS

This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.

- I. City Commission and Committee Meetings:
 - 1. Parks & Leisure Services Commission
 - 2. Library & Literacy Commission
 - 3. Arts Commission
 - 4. Youth Commission
- II. Staff Informational Items
 - 1. Building Permit Activity – October 2013
 - 2. Wall of Fame Nomination Period

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. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

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. All items removed from the Consent Calendar for further discussion will be heard at the end of Scheduled Matters.

1. **Minutes of November 13, 2013**
2. **This Item has been removed.**
3. **Emergency Roof Repair at Airway Restaurant**
Re: Considering awarding contract in the amount of \$16,000 to Double J's Roofing of Porterville, for the installation of a new roof membrane and replacement of damaged plywood sheathing at the Airway Restaurant.
4. **Request to Establish a Fee for Staff to Provide the Optional Service of Reviewing Photometric Plans**
Re: Considering approval to schedule a public hearing to establish a Photometric Plan Check Fee.
5. **Revised Christmas Eve Library Hours**
Re: Considering authorization to close the City Library at 5:30 p.m. on December 24, 2013.
6. **Consideration of Cancellation of January 7, 2014 City Council Meeting**
Re: Consideration of cancelling the first regular Council Meeting in January 2014.
7. **Review of Local Emergency Status**
Re: Reviewing the City's status of local emergency pursuant to Article 14, Section 8630 of the California Emergency Services Act.

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

PUBLIC HEARINGS

8. **Continuance of Public Hearing for the Adoption of California Building and Fire Codes**
Re: Consideration of continuance of public hearing for the adoption of 2013 California Building and Fire codes to December 17, 2013.
9. **Riverview Estates – Tentative Subdivision Map No. 5**
Re: Consideration of approving the Negative Declaration and Tentative Subdivision Map for Riverview Estates No. 5, generally located on the east side of Mathew Street and south of Union Lane.

SECOND READINGS

10. Ordinance 1801 – Development Ordinance Amendment

Re: Second Reading of Ordinance No. 1801, An Ordinance of the City Council of the City of Porterville Amending the Porterville Municipal Code Pertaining to Chapter 21, Development Ordinance, which was given first reading on November 19, 2013, and has been printed.

11. Ordinance 1802 – Zone Change 2012-020-Z

Re: Second Reading of Ordinance No. 1802, An Ordinance of the City Council of the City of Porterville Approving Zone Change 2012-020-Z Reducing the Acreage of Public/Semi-Public (PS) Zoning and Increasing the Acreage of General Industrial (IG) Zoning for that 13.15± Acre Site Generally Located at the Southeast Corner of Jaye Street and Montgomery Avenue, which was given first reading on November 19, 2013, and has been printed.

SCHEDULED MATTERS

12. Amendment to City Policy Related to Use of Cargo/Shipping Containers

Re: Consideration of draft modifications to Resolution 29-2005, amending regulations pertaining to the temporary use of cargo containers for storage for commercial and industrial uses.

13. Sunday Library Service Hours

Re: Consideration of authorization to commence Sunday City Library hours from 1:00 p.m. to 5:00 p.m., effective January 5, 2014.

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

Any Closed Session Items not completed prior to 6:30 p.m. will be considered at this time.

ADJOURNMENT - to the meeting of December 17, 2013.

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 Office of City Clerk at (559) 782-7464. 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 during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City's website at www.ci.porterville.ca.us.

COUNCIL AGENDA: DECEMBER 3, 2013

SUBJECT: BUILDING PERMIT ACTIVITY – OCTOBER 2013

SOURCE: Public Works Department - Engineering Division

COMMENT: The Building Permit Activity Report (BPAR) presented herein to the City Council covers the month of October 2013.

The two main categories include new residential permits issued and new commercial permits issued. New residential permits issued in October 2013 (6) are up 20% from October 2012 (5). New commercial permits issued in October 2013 (0) remain the same as were issued in October 2012.

This year to date, new single family residential construction is up 34.6% from last year and new commercial construction is up 150% from last year.

RECOMMENDATION: None. Informational Only.

ATTACHMENT: October 2013 Building Permit Activity Report

P:\pubworks\General\Council\Building Permit Activity Report - 2013-12-03.doc

Dir Bor Appropriated/Funded ALA CM J

Report No. II 1

**CITY OF PORTERVILLE - BUILDING DIVISION
REPORT FOR THE PERIODS OF
1/1/2012 - 10/31/2012 AND
1/1/2013 - 10/31/2013**

PERMIT	NUMBER OF PERMITS ISSUED				ACTUAL VALUATION OF PERMITS ISSUED				BUILDING FEES TOTALS FOR PERMITS ISSUED			
	OCTOBER 2013	OCTOBER 2012	THIS YEAR TO DATE	LAST YEAR TO DATE	OCTOBER 2013	OCTOBER 2012	THIS YEAR TO DATE	LAST YEAR TO DATE	OCTOBER 2013	OCTOBER 2012	THIS YEAR TO DATE	LAST YEAR TO DATE
NEW RESID	6	5	35	26	1,257,695	1,137,893	7,883,249	5,937,399	11,683	10,031	74,648	55,489
NEW COMM	0	0	5	2	0	0	10,035,267	470,000	0	0	30,881	9,932
RESID IMPROV	11	13	93	123	231,850	139,864	1,051,847	1,820,563	6,263	6,549	34,712	48,046
COMM IMPROV	4	1	55	51	587,000	500	16,071,642	2,600,994	6,276	160	61,847	26,810
OTHER	28	27	218	201	233,625	231,453	1,980,934	1,575,343	5,575	5,017	43,034	38,452
ELECT	14	20	167	117	295,720	328,955	1,954,175	1,431,564	2,838	3,654	33,206	19,871
PLUMB	20	32	319	284	0	0	16,224	263,800	3,156	4,658	44,560	41,274
TOTALS	83	98	892	804	2,605,890	1,838,665	38,993,338	14,099,663	35,791	30,069	322,889	239,874

	NEW DWELLING UNITS TOTALS			
	OCTOBER 2013	OCTOBER 2012	THIS YEAR TO DATE	LAST YEAR TO DATE
SINGLE FAMILY	6	5	35	26
TOTAL	6	5	35	26

CHIEF BUILDING OFFICIAL

INFORMATIONAL ITEM

SUBJECT: WALL OF FAME NOMINATION PERIOD

SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

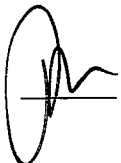
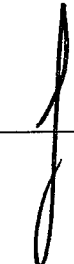
COMMENT: This report is to serve as a reminder regarding the upcoming consideration of nominations for "Wall of Fame" honorees.

The current nomination procedure specifies that the Wall of Fame is for posthumous honors. Nominations must be submitted by members of the City Council and are to identify a sponsor that is to be responsible for providing the photograph, picture frame, biography, and name plate for placement on the wall. Council consideration of nominees traditionally occurs during January.

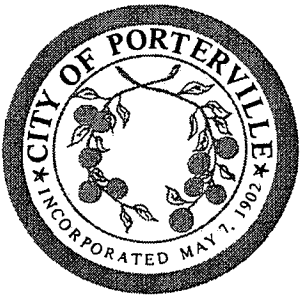
Pursuant to City Council direction, the Parks & Leisure Services Commission is currently reviewing the process by which honorees are selected. Upon its completion, the Commission's recommendations will be presented to the Council for its consideration.

RECOMMENDATION: Informational report only.

ATTACHMENTS: 1. Wall of Fame Nomination Form
2. Wall of Fame Placement Procedure

 Director N/A Appropriate/Funded  CM

Report No. II-2



HERITAGE COMMUNITY CENTER "WALL OF FAME" NOMINATION/PLACEMENT REQUEST

Based on a history of service to the Community and in recognition of significant efforts on behalf of the residents of Porterville, I/we request the Porterville City Council posthumously honor the person listed below with inclusion on the City's Wall of Fame located at the Heritage Community Center.

All nominations will be considered and Wall of Fame placements made in accordance with the Placement Procedure stated on the reverse.

Name of Nominee: _____

Description of Nominee's Community Involvement/Service Activities: _____

Sponsor's Name(s): _____

Telephone: _____

Address: _____

City/State/Zip: _____

Relationship to Nominee: _____

Nomination Submitted by: _____

Mayor/City Council Member Signature

Date

HERITAGE COMMUNITY CENTER "WALL OF FAME" PLACEMENT PROCEDURE

The "Wall of Fame" is a portion of the hallway wall within the Porterville Heritage Center, located at 256 E. Orange Avenue. Those who are honored on the "Wall of Fame" are posthumously recognized for their significant efforts and service to the Porterville Community. The City Council will determine the appropriateness of each nomination for placement on the "Wall of Fame". Recognition shall consist of a framed five by seven inch portrait, a brief biography, and bronze engraved name plate of common and similar style to the "Mayor's Wall of Honor" within City Hall. Honorees will also be featured on the City's website.

Only the Mayor and members of the City Council may submit nominations for this honor. The nomination shall be in writing to the City Clerk stating the type and duration of services the nominated individual provided to the Porterville Community prior to their passing. A nomination shall identify a sponsoring contact person willing to assume responsibility for supplying the framed portrait and nameplate, and who shall be responsible for all cost of such. All nominations will be retained by the City Clerk and placed on the agenda for consideration by the City Council at their first regular meeting held in each calendar year.

The City Council shall make the sole determination regarding the worthiness of the nominated individual's service to the heritage of the community in regards to the honor of being included for placement on the "Wall of Fame". The honor of recognition on the "Wall of Fame" shall be for an indefinite period of time. A perpetual plaque will be displayed with name plates to recognize the Honorees whose pictures may have to be removed due to limited space in the future. The City Council may at its discretion, consider at any time the removal of the honor and return of the portrait to the sponsor.

**ADJOURNED CITY COUNCIL MINUTES
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
NOVEMBER 13, 2013, 4:15 P.M.**

Called to Order at 4:15 p.m.

Roll Call: Council Member McCracken, Council Member Gurrola, Mayor Hamilton

Absent: Council Member Shelton, Vice Mayor Ward

ORAL COMMUNICATIONS

- Barry Caplan, Porterville, spoke regarding Items A-1 and A-2, and requested that there be a means for the public to evaluate the City Manager and City Attorney.

CLOSED SESSION:

A. Closed Session Pursuant to:

1- Government Code Section 54957 – Public Employee Performance Evaluation - Title: City Manager.

2- Government Code Section 54957 - Public Employee Performance Evaluation - Title: City Attorney.

ADJOURNMENT

The Council adjourned at 5:33 p.m. to the meeting of November 19, 2013.

Luisa M. Zavala, Deputy City Clerk

SEAL

Cameron Hamilton, Mayor

COUNCIL AGENDA: DECEMBER 3, 2013

THIS ITEM HAS BEEN REMOVED.

COUNCIL AGENDA: DECEMBER 3, 2013

SUBJECT: EMERGENCY ROOF REPAIR AT AIRWAY RESTAURANT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Airway Restaurant roof is in need of immediate repair. The recent rains damaged carpet, ceiling, and walls. The rain also revealed some structural damage to the plywood sheathing (roof deck). The other structural elements of the roof (rafters, girders, etc.) appear to be in good shape.

Containing the damage is important so that other water related problems such as mold, electrical and mechanical damage do not create health and safety issues. Staff solicited bids from local roofing contractors to remove the existing roof membrane (approximately 3,300 sf), replace damaged plywood sheathing as needed and install a new roof membrane. The City received quotes from the following contractors:

	<u>Name</u>	<u>Quote</u>
1.	Double J's Roofing Porterville, CA	\$16,000
2.	Smith's Roofing Porterville, CA	\$16,000
3.	Jake's Roofing Porterville, CA	\$20,500

Double J's Roofing and Smith's Roofing presented identical quotes. Telephone conversations with both contractors revealed that Double J's can begin work one week after award of contract. Smith's Roofing indicated that they could not begin work until January 2014. Based on this fact, staff recommends that the City Council award the Airway Restaurant Roofing Project to Double J's Roofing of Porterville. Funding for the project is available from the Airport Operating Fund.

RECOMMENDATION: That the City Council:

1. Award the Airway Restaurant Re-Roofing Project to Double J's Roofing in the amount of \$16,000;
2. Authorize a 5% contingency (\$775) to pay for unforeseen construction issues; and
3. Authorize progress payments up to 95% of the contract amount.

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Appropriated/Funded 

CM 

Item No. 3

CITY COUNCIL AGENDA: DECEMBER 3, 2013

CONSENT CALENDAR

SUBJECT: REQUEST TO ESTABLISH A FEE FOR STAFF TO PROVIDE THE OPTIONAL SERVICE OF REVIEWING PHOTOMETRIC PLANS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

BACKGROUND: In the November 19, 2013, staff report regarding the proposed Development Ordinance, staff identified the need to follow up with an item for City Council's consideration regarding the review of photometric (i.e. site lighting) plans. Photometry is the science of the measurement of light, in terms of its perceived brightness to the human eye. The 2030 Porterville General Plan identified implementation policy LU-I-25 "Establish buffering requirements and performance standards intended to minimize harmful effects of excessive noise, light, glare, and other adverse environmental impacts." Section 300.07 Lighting and Illumination of the Porterville Development Ordinance provides standards for the use of outdoor artificial light that may have a detrimental effect on the environment. As building permits have been submitted, staff has requested photometric plans to identify the location of light sources and the resulting distribution of light.

A few members of the Porterville Development Ordinance Committee identified issues with providing photometric plans on small scale projects. Staff is proposing that, at the applicant's request, the City may provide the task of generating these photometric plans, for a fee based on staff time and the software required.

COMMENT: Staff has researched and tested software programs, and has estimated that the time required to provide this service is approximately two to three hours, dependent upon the size of the project. The software would cost the City approximately \$100 annually, which would be absorbed into the departmental operating budget. Staff is proposing a flat fee of \$158.00, which is based on two hours of staff time at the hourly rate of \$79.00. This is the cost in the current fee schedule for Community Development Department general research in excess of 30 minutes. A sample photometric plan is attached for your reference.

RECOMMENDATION: That the City Council direct staff to schedule a public hearing to consider adoption of a fee for photometric plan review services as an optional service to applicants.

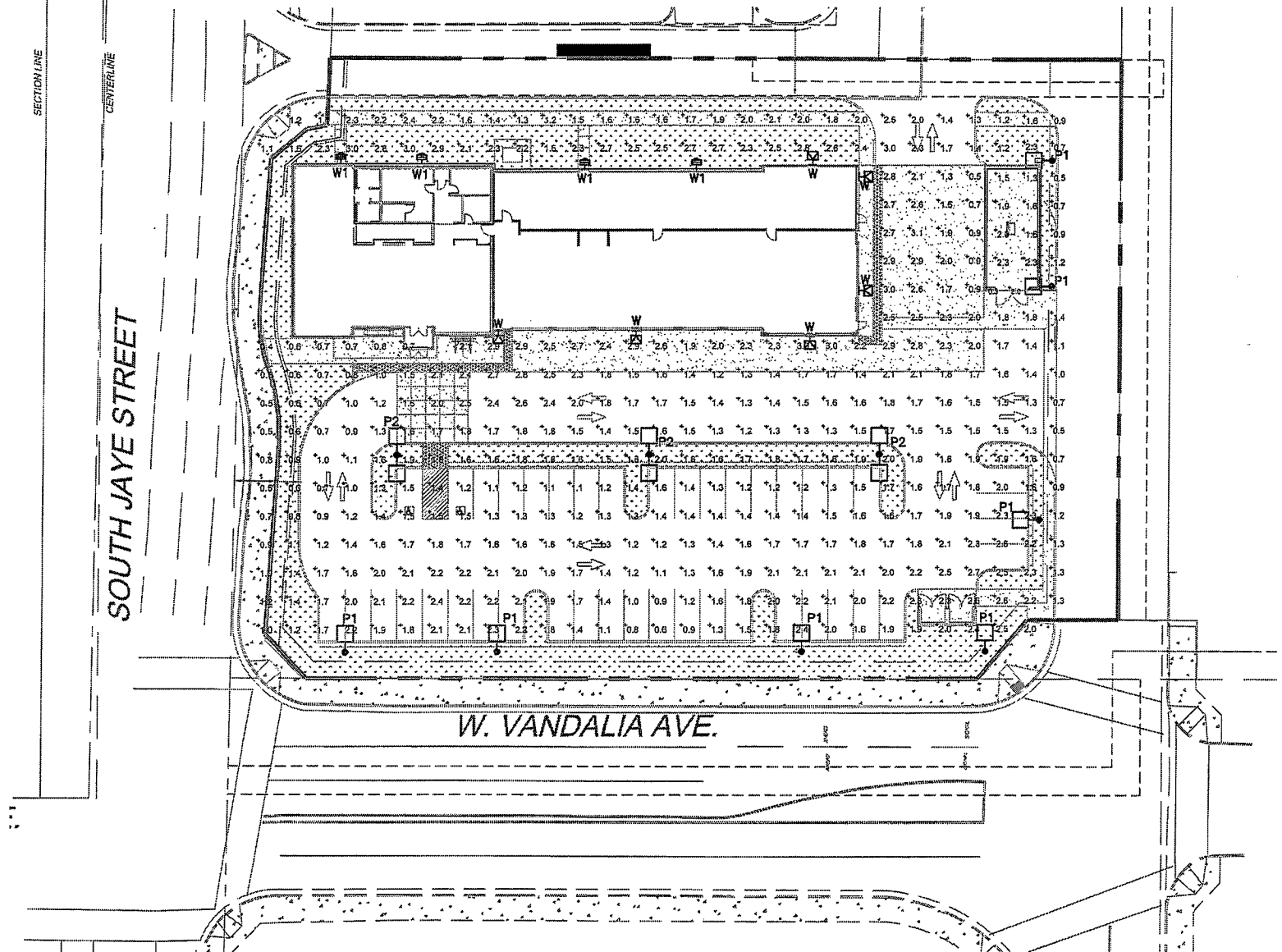
ATTACHMENTS: Sample photometric plan

DD  CM  Appro./Funded 

Item No. 4

STATISTICS

Description	Symbol	Avg	Max	Min	Max/Min	Avg/Min
Calc Zone #2	+	1.7 fc	3.0 fc	0.5 fc	8.3:1	4.3:1
TRASH ENCLOSURE	+	1.4 fc	2.3 fc	0.5 fc	4.5:1	2.9:1



ATTACHMENT
ITEM NO.

COUNCIL AGENDA: DECEMBER 3, 2013

SUBJECT: REVISED CHRISTMAS EVE LIBRARY HOURS

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Staff requests that City Council authorize the revision of public service hours for Tuesday, December 24, 2013, allowing the library to close at 5:30 p.m. instead of 8:00 p.m.

Historically, December 24 has low library visits, computer usage, circulation, and typically operates with fewer staff since overall usage is very low. Staff will alter their work schedule and/or utilize vacation time if they choose to account for the shorter work day. If Council gives approval, advanced notice of the early closure will be posted for the public and no library materials will be due on this day.

During this same agenda topic on December 4, 2012, a member of Council inquired about the amount of public usage at other City facilities on December 24. Statistics available from December 24, 2012 show: Library-270 people, 12 calls; Heritage Center-0 people and 2 calls; Parks and Leisure in City Hall-1 person and 0 calls; Administrative Services 0 people and 1 call; City Manager's office 0 people and 1 call; and Finance- 97 people and 1 call.

RECOMMENDATION: That City Council authorize the closing of the City Library at 5:30 p.m. on December 24, 2013.

M Director N/A Appropriated/Funded

 City Manager

ITEM NO.: 5

COUNCIL AGENDA – DECEMBER 3, 2013

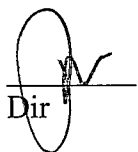
SUBJECT: CANCELLATION OF JANUARY 7, 2014 CITY COUNCIL MEETING

SOURCE: ADMINISTRATION

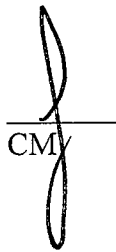
COMMENT: The City Council has cancelled the first Council meeting in January for the past ten years due to staff workloads and efforts to conform to the vacation and administrative leave policies by relevant management and support personnel. In light of this, the item is again being presented for Council's consideration.

If the January 7th meeting is not held, the next regularly scheduled meeting would be January 21, 2014. However, should a necessity arise, a special meeting could be conducted to expedite any item which might require immediate action.

RECOMMENDATION: That the City Council cancel the January 7, 2014 Council Meeting.


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Item No. 6

SUBJECT: REVIEW OF LOCAL EMERGENCY STATUS

SOURCE: Administration

COMMENT: In accordance with the City Council's Resolution of Local Emergency adopted on December 21, 2010, and pursuant to Article 14, Section 8630 of the California Emergency Services Act, the Council must review the status of its local emergency at every regularly scheduled meeting and make a determination whether to continue or terminate the local emergency declaration.

Since its last review on November 19, 2013, City staff has continued its coordination with both State and Federal representatives in having made claims for reimbursement for public areas reported as suffering flood damage. An estimated total of \$361,750 in damage repair projects were defined and accepted by both State (CEMA) and Federal (FEMA) emergency agencies, which after final FEMA administrative review, a total of approximately \$270,000 was approved. Although all repair projects were originally to be completed by no later than July 2012, the City received a one (1)-year extension to July 2013.

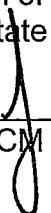
At its meeting on October 16, 2012, the Council awarded a contract in the amount of \$95,391.71 to Greg Bartlett Construction (Porterville), beginning CEMA repairs to Plano Street (south of Thurman Avenue), El Granito Street (near Zalud Park), E. Grand Avenue (at Henrahan Street), and W. Grand Avenue (at Hawaii Street). At its meeting on December 18, 2012, the Council accepted the completion of these identified CEMA repairs, including \$90,295.53 in final construction costs.

At its meeting on March 5, 2013, the Council awarded a contract in the amount of \$29,997.25, also to Greg Bartlett Construction (Porterville), for CEMA repairs of West Street and related storm drain improvements between Scranton and Tea Pot Dome Avenues. At its meeting on May 7, 2013, the Council accepted the completion of these identified CEMA repairs, including \$19,392.25 in final construction costs.

At its meeting on April 2, 2013, the Council awarded a contract in the amount of \$138,350 to Intermountain Slurry Seal, Inc. (Reno, Nevada), for the CEMA repair of Henderson Avenue between Patsy and Balmoral Streets. At its meeting on August 6, 2013, the Council accepted the completion of the identified CEMA repairs, which staff continues to work with the State to finalize repair reimbursements.


Dir


App/Fund


CM

Item No. 7

RECOMMENDATION:

That the Council:

1. Receive the status report and review of the designated local emergency; and
2. Pursuant to the requirements of Article 14, Section 8630 of the California Emergency Services Act, determine that a need exists to continue said local emergency designation.

ATTACHMENT: None


COUNCIL AGENDA – DECEMBER 3, 2013

SUBJECT: CONTINUANCE OF PUBLIC HEARING FOR THE ADOPTION OF
CALIFORNIA BUILDING AND FIRE CODES


SOURCE: PUBLIC WORKS DEPARTMENT / BUILDING DIVISION
FIRE DEPARTMENT

COMMENT: Staff requests that the Council continue the Public Hearing for the adoption of the
California Building and Fire Codes to December 17, 2013 so as to ensure
compliance with State noticing requirements.

RECOMMENDATION: That the City Council continue the Public Hearing to December
17, 2013.


Dir


Approp./
Funded


CM

Item No. 8

CITY COUNCIL AGENDA: DECEMBER 3, 2013

PUBLIC HEARING


SUBJECT: RIVERVIEW ESTATES - TENTATIVE SUBDIVISION MAP NO. 5


SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISON

COMMENT: The applicant is proposing completion of a previously approved subdivision known as Riverview Estates. The majority of the subdivision was constructed during the mid-2000's. The remaining phase of Riverview Estates No. 5 is approximately 7.47 acres and is located at the southernmost portion of the original subdivision. The 7.47± acre site is proposed to be subdivided into 33 single-family residential lots. The City's General Plan Land Use Map designates this area as Low Density Residential and is Zoned RS-2 (Low Density Residential). The property will accommodate proposed lot sizes ranging from approximately 6,000 square feet to 12,500 square feet, with the majority of lots in the 7,000 square feet range. Vehicular access to the site will be primarily from South Mathew Street, east on Orange Avenue and south on Parkwest Street. Alternate emergency access will be provided via a locked gate (passable only by emergency vehicles) that will be constructed at the southern end of Parkwest Street. The gate will lead to an all weather surface (unpaved) road that will connect to an existing emergency vehicle road that runs east-west along the Tule River, just south of the project site.

The project site is located generally on the east side of Mathew Street and south of Union Lane. Land uses in the area surrounding the project site consist of residential (north and west); vacant/open land (east); and vacant/open land and the Tule River (south). The property will be divided into 33 lots, 30 of which will be used for development of single-family residential units while the remaining three (3) lots, approximately .42 acres, will serve as a temporary drainage basin as shown as lots 25, 26 and 27 on Riverview Estates No. 5 Tentative Subdivision Map.

As required by Chapter 300.05 of the Porterville Development Ordinance, a biological evaluation was required due to the proximity of elderberry shrubs being located within 300 feet of the proposed project area. On October 10, 2013, the Environmental Coordinator made a determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups

DD  Appropriated/Funded N/A

CM 

Item No. 9

and individuals for review and comments. Comments have been received from San Joaquin Valley Air Pollution Control District (SJVAPCD) and they concluded that the project specific criteria pollutant emissions would have no significant adverse impact on air quality. The SJVAPCD letter is attached to the staff report.

The Initial Study concluded that, with the implementation of avoidance measures for the valley elderberry longhorn beetle, there are no biological issues that would preclude the development of the River View Estates Subdivision Project No. 5. Appropriate surveys and avoidance measures have been proposed to ensure that the project results in less than significant impacts to all biological resources.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the Negative Declaration for Riverview Estates No. 5 Tentative Subdivision Map; and
2. Adopt a draft resolution approving Riverview Estates No. 5 Tentative Subdivision Map, subject to conditions of approval.

ATTACHMENT: Complete Staff Report

CITY COUNCIL AGENDA: DECEMBER 3, 2013

PUBLIC HEARING

SUBJECT: RIVERVIEW ESTATES- TENTATIVE SUBDIVISION MAP NO. 5

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISON

APPLICANT: Smee Builders, Inc.
444 N. Prospect, Suite A
Porterville, California 93257

AGENT: James Winton & Associates
150 West Morton Avenue
Porterville, California 93257

PROJECT LOCATION:

The 7.47± acre project site is situated in the southwestern portion of the original subdivision (Riverview Estates), along Parkwest Street, generally east of Mathew Street and north of the alignment of Date Avenue.

SPECIFIC REQUEST:

The applicant is requesting approval of Riverview Estates No. 5 Tentative Subdivision Map (TSM) to divide a 7.47± acre parcel east of Mathew Street and south of Union Lane. The City's General Plan Land Use Map designates this site as Low Density Residential and is Zoned RS-2 (Low Density Residential). The property will be divided into 33 lots, 30 of which will be used for the development of single-family residential units and the remainder three (3) lots, approximately .42 acres, will serve as a temporary drainage basin shown on lots 25, 26 and 27 on the TSM.

PROJECT DETAILS

The approximately 7.47 acre project area is the southernmost portion of the original subdivision and proposes 33 single-family residential lots. Lot sizes range from approximately 6,000 square feet to 12,500 square feet with the majority of lots in the 7,000 square feet range. Vehicular access to the site will be primarily from South Mathew Street, east on Orange Avenue and south on Parkwest Street. Alternate emergency access will be provided via a locked gate (passable only by emergency vehicles) that will be constructed at the southern end of Parkwest Street. The gate will lead to an all-weather surface (unpaved) road that will connect to an existing emergency vehicle road that runs east-west along the Tule River, just south of the project site. Storm water will be directed to a temporary drainage basin (identified currently as lots 25-27 in the proposed Tentative Subdivision Map). Street improvements, including construction of curb, gutter and sidewalk, will mirror the existing Riverview Estates residential development since this is a continuation of an existing development along with the prolongation of Parkwest Street. Parkway strips behind the curb will not be implemented for this phase of Riverview Estates in order for public improvements

to align with those to the north. It should be noted that because of the existing Valley Elderberry Shrubs located south of lots 19, and 22-24, protective measures shall be implemented as follows:

- Prior to the initiation of ground disturbance, a four foot tall, high visibility, temporary exclusionary fence will be installed at the maximum distance feasible for construction occurring within the 100 foot buffer of the elderberry shrubs remaining within the work area;
- If any elderberry shrubs will be encroached upon within 100 feet, an exclusion fence will be placed no closer than 20 feet from the drip line of the elderberry shrub;
- No encroachment within 20 feet of an elderberry shrub will be allowed without prior approval of the United States Fish and Wildlife Service;
- No work will be conducted within the established exclusion zones. In addition, all vehicle operations will be minimized around these shrubs;
- All equipment will be staged away from the elderberry shrubs, in previously disturbed areas;
- Signs that designate the buffer areas as Valley Elderberry Longhorn Beetle (VELB) habitat, and that describe the federal protection status of the species, shall be erected every 50 feet along the edge of the avoidance areas;
- A qualified biologist, skilled in the identification and habitat needs of the VELB, shall be present to monitor compliance with avoidance of all elderberry shrubs not transplanted or trimmed. If, at any time, elderberry shrub impact avoidance measures are not followed, the biologist shall be given the power to suspend construction operations until such activities are corrected and an alternate course of action is taken that ensures no impacts to the elderberry shrubs will occur;
- Prior to the initiation of ground disturbing activities, a qualified biologist will conduct threatened and endangered species training. Personnel that will be working in the project site will be trained in the life history, habitat requirements, protection status, impact avoidance measures, and penalties under the Federal Endangered Species Act for unauthorized take of the VELB. A written handout will be provided to construction personnel that will include the above-mentioned information, illustrations and photographs of pertinent aspects of VELB life history. All personnel conducting work in the project site will be required to attend the training prior to working on site. A signup sheet will be maintained that provides written verification of all training meeting attendees;
- All vehicles and equipment entering the project site shall be in good working condition and free from leaks. In the event that a vehicle or equipment item is found to be leaking fluid, operation of the vehicle or equipment item shall be terminated and it shall be repaired or replaced. If possible, repairs should be conducted in a contained area. All contaminated soil will be collected and properly disposed of off the project site. All construction materials will be staged away from all elderberry shrubs and any spills will be cleaned immediately. No herbicides, fertilizers or other chemicals that may harm the elderberry shrubs shall be used within 100 feet of the shrubs; and
- Construction will permanently alter the portions of the 100-foot buffer zones within the work area surrounding the project. Following construction, areas within the buffer zones will be restored to the extent feasible.

GENERAL PLAN DESIGNATION: Low Density Residential

SURROUNDING ZONING AND LAND USES:

North: RS-2 (Low Density Residential) - Single-family residential units

West: RS-2 (Low Density Residential) - Single-family residential units

South: RS-2 (Low Density Residential) - Vacant and the Tule River

East: County Island - Vacant Lot

ENVIRONMENTAL REVIEW:

As required by Chapter 300.05 of the Porterville Development Ordinance, a biological evaluation was required due to the proximity of the elderberry shrubs being located within 300 feet of the proposed project area. On October 10, 2013, the Environmental Coordinator made a determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups and individuals for review and comments. Comments have been received from San Joaquin Valley Air Pollution Control District (SJVAPCD) which concluded that the project specific criteria pollutant emissions would have no significant adverse impact on air quality. SJVAPCD letter is attached to the staff report. The Initial Study concluded that there are no biological issues that would preclude the development of the River View Estates Subdivision Project No. 5. Appropriate surveys and avoidance measures have been proposed to ensure that the project results in less than significant impacts to all biological resources.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: May 8, 2013

DATE ACCEPTED AS COMPLETE: November 7, 2013

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the Mitigated Negative Declaration for Riverview Estates No. 5 Tentative Subdivision Map; and
2. Adopt the draft resolution approving Riverview Estates No. 5 Tentative Subdivision Map.

ATTACHMENTS:

1. Riverview Estates No. 5 Tentative Subdivision Map
2. Initial Study/Mitigated Negative Declaration
3. Mitigation Monitoring Program
4. Letter from San Joaquin Valley Air Pollution Control District
5. Draft Environmental Resolution
6. Draft Resolution of Approval

BEING THE REMAINDER OF RIVERVIEW ESTATES, PHASE 4, LOCATED WITHIN THE NORTHEAST 1/4 OF SECTION 33, T.21S., R.27E., M.D.B.&M., CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

Owner: SMEE BUILDERS, Inc.
4444 N. PROSPECT, SUITE A
PORTERVILLE, CALIFORNIA 93257
(559) 768-0325

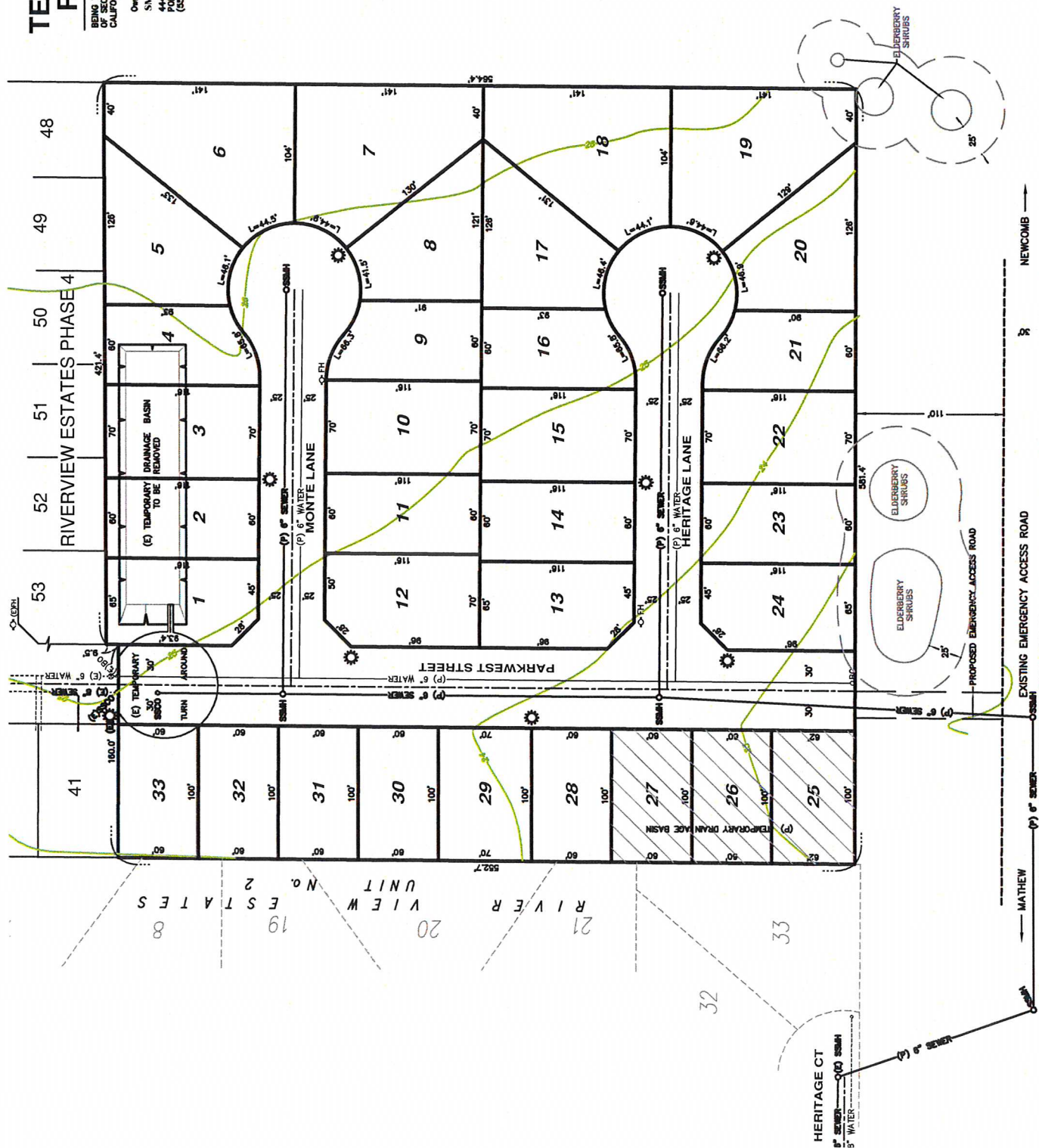
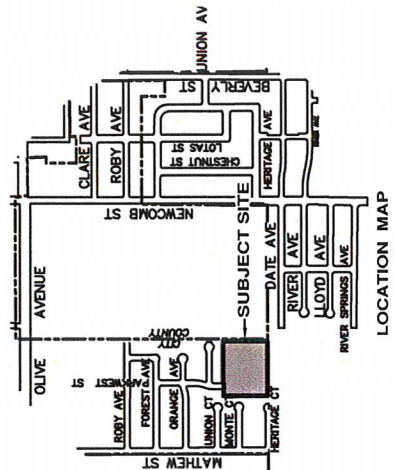
By: JAMES WINTON & ASSOCIATES
150 WEST MORTON AVENUE
PORTERVILLE, CALIFORNIA 93257
(559) 761-2700

1. DATE OF PREPARATION: APRIL 18, 2013
2. ZONE: RS-2. GENERAL PLANE: LOW DENSITY RESIDENTIAL
3. ALL DISTANCES SHOWN ARE IN FEET & DECIMALS THEREOF AND ARE APPROXIMATE
4. GROSS PARCEL AREA = 7.47 ACRES. GROSS DENSITY = 4.4 UNIT/ACRES
5. NET PARCEL AREA = 5.82 ACRES.
6. EXISTING LAND USE: VACANT.
7. PROPOSED LAND USE: SINGLE FAMILY RESIDENTIAL (100% OF SITE).
8. IMPROVEMENTS TO CONFORM TO APPLICABLE ORDINANCES & STATUTES.
9. EASEMENTS FOR PUBLIC UTILITIES TO BE PROVIDED AS REQUIRED.

- | | |
|---------------------------|-------------------------------------|
| 11. TELEPHONE BY: | SSC |
| 12. POWER BY: | SOUTHERN CALIFORNIA EDISON CO. |
| 13. CABLE T.V. BY: | CHARTER COMMUNICATIONS |
| 14. DOMESTIC WATER BY: | CITY OF PORTERVILLE |
| 15. SEWAGE DISPOSAL BY: | CITY OF PORTERVILLE |
| 16. REFUSE COLLECTION BY: | CITY OF PORTERVILLE |
| 17. DRAINAGE: | SURFACE DRAIN AND ON-SITE RETENTION |
| 18. WATER QUANTITY: | AS PER CITY STANDARDS. |
| 19. OFF STREET PARKING: | 2 SPACES/UNIT. |



SCALE: 1" = 50'



ATTACHMENT
ITEM NO. 1

Draft Initial Study and Mitigated Negative Declaration for River View Estates

Due to the size of the document, this item is
available at the following locations for
review:

Community Development Department
Counter
City Clerk Counter
City of Porterville Website

SECTION FOUR – MITIGATION MONITORING PLAN

State and local agencies are required by Section 21081.6 of the California Public Resources Code to establish a monitoring and reporting program for all projects which are approved and which require CEQA processing.

Local agencies are given broad latitude in developing programs to meet the requirements of Public Resources Code Section 21081.6. The mitigation monitoring program outlined in this document is based upon guidance issued by the Governor's Office of Planning and Research.

The mitigation monitoring and reporting program for the proposed project corresponds to mitigation measures outlined in the project Mitigated Negative Declaration (MND). The Program summarizes the environmental issues identified in the MND, the mitigation measures required to reduce each potentially significant impact and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures.

Mitigation Monitoring Plan

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
3.4 Biological Resources				
3.4-1	<p>To avoid impacts to VELB, the following measures shall be implemented:</p> <ul style="list-style-type: none"> ▪ Prior to the initiation of ground disturbance, a four foot tall, high visibility, temporary exclusionary fence will be installed at the maximum distance feasible for construction occurring within the 100 foot buffer of the elderberry shrubs remaining within the work area; ▪ If any elderberry shrubs will be encroached upon within 100 feet, an exclusion fence will be placed no closer than 20 feet from the drip line of the elderberry shrub; ▪ Any elderberry shrubs that will be encroached upon within 20 feet will be considered to be impacted; ▪ No work will be conducted within the established exclusion zones. In addition, all vehicle operations will be minimized around these shrubs; ▪ All equipment will be staged away from the elderberry shrubs, in previously disturbed areas; 	City of Porterville	USFWS/CDFW	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ Signs that designate the buffer areas as VELB habitat, and that describe the federal protection status of the species, should be erected every 50 feet along the edge of the avoidance areas; ▪ A qualified biologist, skilled in the identification and habitat needs of the VELB, shall be present to monitor compliance with avoidance of all elderberry shrubs not transplanted or trimmed. If, at any time, elderberry shrub impact avoidance measures are not followed, the biologist shall be given the power to suspend construction operations until such activities are corrected and an alternate course of action is taken that ensures no impacts to the elderberry shrubs will occur; ▪ Prior to the initiation of ground disturbing activities, a qualified biologist will conduct threatening and endangered species training. Personnel that will be working in the project site will be trained in the life history, habitat requirements, protection status, impact avoidance measures, and penalties under the federal endangered species act for unauthorized take of the VELB. A written handout will be provided to construction personnel that will include the above-mentioned information, illustrations and photographs of pertinent aspects of VELB life 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>history. All personnel conducting work in the project site will be required to attend the training prior to working on site. A signup sheet will be maintained that provides written verification of all training meeting attendees;</p> <ul style="list-style-type: none"> ▪ All vehicles and equipment entering the project site shall be in good working condition and free from leaks. In the event that a vehicle or equipment item is found to be leaking fluid, operation of the vehicle or equipment item shall be terminated and it shall be repaired or replaced. If possible, repairs should be conducted in a contained area. All contaminated soil will be collected and properly disposed of off the project site. All construction materials will be staged away from all elderberry shrubs and any spills will be cleaned immediately. No herbicides, fertilizers or other chemicals that may harm the elderberry shrubs shall be used within 100 feet of the shrubs; and ▪ Construction will permanently alter the portions of the 100-foot buffer zones within the work area surrounding the project. Following construction, areas within the buffer zones will be restored to the extent feasible. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>history. All personnel conducting work in the project site will be required to attend the training prior to working on site. A signup sheet will be maintained that provides written verification of all training meeting attendees;</p> <ul style="list-style-type: none"> ▪ All vehicles and equipment entering the project site shall be in good working condition and free from leaks. In the event that a vehicle or equipment item is found to be leaking fluid, operation of the vehicle or equipment item shall be terminated and it shall be repaired or replaced. If possible, repairs should be conducted in a contained area. All contaminated soil will be collected and properly disposed of off the project site. All construction materials will be staged away from all elderberry shrubs and any spills will be cleaned immediately. No herbicides, fertilizers or other chemicals that may harm the elderberry shrubs shall be used within 100 feet of the shrubs; and ▪ Construction will permanently alter the portions of the 100-foot buffer zones within the work area surrounding the project. Following construction, areas within the buffer zones will be restored to the extent feasible. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	survey shall be performed within 14 days of construction to identify active nests and mark those nests for avoidance. During the nesting period, raptor nests shall be avoided by 500 feet and all other migratory bird nests shall be avoided by 250 feet.			
3.4.4	<p>Because there is the potential for San Joaquin kit foxes and/or American badgers to occur on the project site, the USFWS Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011) shall be implemented. The measures that are listed below have been excerpted from those guidelines and will protect San Joaquin kit foxes from direct mortality and from destruction of active dens and natal or pupping dens. These measures will also protect American badgers. The Lead Agency or Designee shall determine the applicability of the following measures depending on specific construction activities and shall implement such measures when required.</p> <ul style="list-style-type: none"> Pre-construction surveys shall be conducted no fewer than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities, or any project activity likely to impact the San Joaquin kit fox or American badger. Exclusion zones shall be 	City of Porterville	USFWS/CDFW	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation								
	<p>placed in accordance with USFWS Recommendations using the following:</p> <table><tr><td>Potential Den</td><td>50 foot radius</td></tr><tr><td>Known Den</td><td>100 foot radius</td></tr><tr><td>Natal/Pupping Den (Occupied and Unoccupied)</td><td>Contact U.S. Fish and Wildlife Service for guidance</td></tr><tr><td>Atypical Den</td><td>50 foot radius</td></tr></table> <p>If dens must be removed, they must be appropriately monitored and excavated by a trained wildlife biologist. Replacement dens will be required. Destruction of natal dens and other “known” kit fox dens must not occur until authorized by USFWS.</p> <ul style="list-style-type: none">Project-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However if it does occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.	Potential Den	50 foot radius	Known Den	100 foot radius	Natal/Pupping Den (Occupied and Unoccupied)	Contact U.S. Fish and Wildlife Service for guidance	Atypical Den	50 foot radius			
Potential Den	50 foot radius											
Known Den	100 foot radius											
Natal/Pupping Den (Occupied and Unoccupied)	Contact U.S. Fish and Wildlife Service for guidance											
Atypical Den	50 foot radius											

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the Service and the California Department of Fish and Wildlife (CDFW) shall be contacted as noted under measure 13 referenced below. ▪ Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the Service has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>moved only once to remove it from the path of construction activity, until the fox has escaped.</p> <ul style="list-style-type: none"> • All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site. ▪ No firearms shall be allowed on the project site. ▪ No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens. ▪ Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional project-related restrictions deemed necessary by the Service. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ A representative shall be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number shall be provided to the Service. ▪ An employee education program should be conducted for any project that has anticipated impacts to kit fox or other endangered species. The program should consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program should include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during project construction and implementation. A fact sheet conveying this information should be prepared for distribution to 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>the previously referenced people and anyone else who may enter the project site.</p> <ul style="list-style-type: none"> ▪ Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc. should be re-contoured if necessary, and revegetated to promote restoration of the area to pre-project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the project, but after project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas should be determined on a site-specific basis in consultation with the Service, CDFW, and revegetation experts. ▪ In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the Service should be contacted for guidance. ▪ Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>the CDFW immediately in the case of a dead, injured or entrapped kit fox. The CDFW contact for immediate assistance is State Dispatch at (916)445-0045. They will contact the local warden or Mr. Paul Hoffman, the wildlife biologist, at (530)934-9309. The Service should be contacted at the numbers below.</p> <ul style="list-style-type: none"> ▪ The Sacramento Fish and Wildlife Office and CDFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Service contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below. The CDFW contact is Mr. Paul Hoffman at 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670, (530) 934-9309. The above listed measures would also protect American badgers. ▪ New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>kit fox was observed should also be provided to the Service at the address below.</p> <p>Any project-related information required by the Service or questions concerning the above conditions or their implementation may be directed in writing to the U.S. Fish and Wildlife Service at:</p> <p style="padding-left: 40px;">Endangered Species Division 2800 Cottage Way, Suite W2605 Sacramento, California 95825-1846 (916) 414-6620 or (916) 414-6600</p>			
3.5 Cultural Resources				
3.5.1	<p>Although there is no obvious evidence of historic or archaeological sites on the project site, there is the potential during project-related excavation and construction for the discovery of cultural resources. The City of Porterville shall incorporate into the construction contract(s) for the project a provision that includes the following measures:</p> <ul style="list-style-type: none"> ▪ Before initiation of construction or ground-disturbing activities associated with the project, the project proponent for all project phases shall require all construction personnel to be alerted to the possibility of buried cultural resources, including historic, archeological and paleontological resources; 	City of Porterville	City of Porterville	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ The general contractor and its supervisory staff shall be responsible for monitoring the construction project for disturbance of cultural resources; and ▪ If a potentially significant historical, archaeological, or paleontological resource, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains or trash deposits are encountered during subsurface construction activities (i.e., trenching, grading), all construction activities within a 100-foot radius of the identified potential resource shall cease until a qualified archaeologist evaluates the item for its significance and records the item on the appropriate State Department of Parks and Recreation (DPR) forms. The archaeologist shall determine whether the item requires further study. If, after the qualified archaeologist conducts appropriate technical analyses, the item is determined to be significant under California Environmental Quality Act, the archaeologist shall recommend feasible mitigation measures, which may include avoidance, preservation in place or other appropriate measure, as outlined in Public Resources Code section 21083.2. The City of Porterville shall implement said measures. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
3.5.2	The City of Porterville will incorporate into the construction contract(s) a provision that in the event a fossil or fossil formations are discovered during any subsurface construction activities for the proposed project (i.e., trenching, grading), all excavations within 100 feet of the find shall be temporarily halted until the find is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The paleontologist shall notify the appropriate representative at the City of Porterville, who shall coordinate with the paleontologist as to any necessary investigation of the find. If the find is determined to be significant under CEQA, the City shall implement those measures, which may include avoidance, preservation in place, or other appropriate measures, as outlined in Public Resources Code section 21083.2.	City of Porterville	City of Porterville	Less than Significant
3.8 Hazards/Hazardous Materials				
3.8.1	Construction contractors shall ensure that any construction equipment that normally includes a spark arrester shall be equipped with an arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.	City of Porterville	City of Porterville	Less than Significant
3.8.2	Construction contractors shall ensure that during construction, staging areas, building areas, and/or areas slated for development using spark-producing	City of Porterville	City of Porterville	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	equipment shall be cleared of dried vegetation or other materials that could serve as fuel for combustion. To the extent feasible, the contractor shall keep these areas clear of combustible materials to maintain a firebreak.			
3.12 Noise				
3.12.2	Construction activities shall be limited to between 6:00 A.M. and 9 P.M. Monday through Friday and between 7:00 A.M. and 5:00 PM on Saturday or Sunday to avoid noise-sensitive hours of the day. Construction activities shall be prohibited on holidays (President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Day, and New Year's Day).	City of Porterville	City of Porterville	Less than Significant
3.12.3	The construction contract shall require the construction contractor to ensure that construction equipment noise is minimized by muffling and shielding intakes and exhaust on construction equipment (in accordance with the manufacturer's specifications) and by shrouding or shielding impact tools.	City of Porterville	City of Porterville	Less than Significant

Notes: USFWS = U.S. Fish and Wildlife Service, CDFW = California Department of Fish and Wildlife



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT



November 20, 2013

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

Agency Project: Tentative Subdivision Map No. 5 - Riverview Estates

District CEQA Reference No: 20130986

Dear Mr. Dunlap:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above consisting of 33 single family residential units, located generally south of Roby Avenue and east of Mathew Street at the prolongation of Parkwest Street, in Porterville, CA. The District offers the following comments:

1. Based on information provided to the District, project specific emissions of criteria pollutants are not expected to exceed District significance thresholds of 10 tons/year NOX, 10 tons/year ROG, and 15 tons/year PM10. Therefore, the District concludes that project specific criteria pollutant emissions would have no significant adverse impact on air quality.
2. Based on information provided to the District, at full build-out, the proposed project would not be equal to or exceed 50 residential dwelling units. Therefore, the District concludes that the proposed project is not subject to District Rule 9510 (Indirect Source Review).
3. The proposed project may be subject to District Rules and Regulations, including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). The above list of rules is neither exhaustive nor exclusive.

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061
www.valleyair.org www.healthyairliving.com

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (805) 392-2441 FAX: (805) 392-2442
ATTACHMENT
ITEM NO. 4

More information regarding compliance with District rules and regulation can be obtained by visiting the District's website:

- Complete listing of all current District rules and regulation:
<http://www.valleyair.org/rules/1ruleslist.htm>;
- Information on controlling fugitive dust emissions:
http://www.valleyair.org/busind/comply/PM10/compliance_PM10.htm;

4. The District recommends that a copy of the District's comments be provided to the project proponent.

If you have any questions or require further information, please contact Georgia Stewart by phone at (559) 230-5937 or by e-mail at georgia.stewart@valleyair.org.

Sincerely,

David Warner
Director of Permit Services



For: Arnaud Marjollet
Permit Services Manager

DW: gs

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A
MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE
RIVERVIEW ESTATES NO. 5 TENTATIVE SUBDIVISION MAP FOR THAT 7.47± ACRE
SITE LOCATED GENERALLY ON THE EAST SIDE OF MATHEW STREET
AND SOUTH OF UNION LANE.

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of December 3, 2013, conducted a public hearing to consider approving Riverview Estates No. 5 Tentative Subdivision Map, being a division of a 7.47± acre parcel zoned Low Density Residential (Single-family Residential) into a 33 lot single-family residential subdivision to be developed for that site located generally on the east side of Mathew Street and south of Union Lane; and

WHEREAS: On October 10, 2013, the Environmental Coordinator made a determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

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

1. That a Mitigated Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act.
2. That the Mitigated Negative Declaration prepared for this project was made available for public review and comments. The 20-day review period was from November 9, 2013 to November 28, 2013. Comments were received from the SJVAPCD. Comments have been noted in the file and addressed as appropriate.
3. That the proposed project could have a significant effect on the environment, but through implementation of the Mitigation Monitoring Program (Exhibit A), as defined, will not create adverse environmental impacts.

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

4. That the City Council is the decision-making body for the project.
5. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program, attached hereto as Exhibit A, and is included as conditions of approval in the Riverview Estates No. 5 Tentative Subdivision Map.

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

A reconnaissance-level biological assessment (included in the appendices of the environmental Initial Study and available for review) was conducted on-site. The only sensitive resource identified on the project site during the surveys was the blue elderberry shrub, which provides habitat for the federally threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*). A total of 66 blue elderberry shrubs were identified within 100 feet of the project site. Eight blue elderberry shrubs were located on the project site, 20 blue elderberry shrubs were located within 20 feet of the project site, and an additional 38 blue elderberry shrubs were located within 100 feet of the project site. The valley elderberry longhorn beetle (VELB) is completely dependent on its host plant, the elderberry shrub, which is a common component of the remaining riparian forests and adjacent upland habitats of California's Central Valley.

7. That the environmental assessment and analysis prepared for this project supporting the Mitigated Negative Declaration reflects the independent judgment of the City of Porterville.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Mitigated Negative Declaration for Riverview Estates No. 5 Tentative Subdivision Map as described herein.

PASSED, APPROVED, and ADOPTED this 3rd day of December, 2013

Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
IN SUPPORT OF APPROVAL OF A TENTATIVE SUBDIVISION MAP FOR
RIVERVIEW ESTATES NO. 5 FOR THAT 7.47± ACRE SITE LOCATED GENERALLY ON
THE EAST SIDE OF MATHEW STREET AND
SOUTH OF UNION LANE

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of December 3, 2013, conducted a public hearing to consider approval of Riverview Estates No. 5 Tentative Subdivision Map, being a division of a 7.47± acre parcel zoned Low Density Residential (Single-Family Residential) into a 33 lot single-family residential subdivision to be developed generally located on the east side of Mathew Street and south of Union Lane; and

WHEREAS: On November 9, 2013, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

WHEREAS: The Project Review Committee on May 8, 2013, reviewed and discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review have been discussed with the applicant's agent and incorporated into the draft resolution of approval; and

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

WHEREAS: The City Council made the following findings:

1. That the design and improvements of the proposed project are consistent with the General Plan, as required by the California government Code Section 66473.5. The Land Use Element of the General Plan designates the site as Low Density Residential development (6.0 dwelling units/gross acre). The proposed subdivision will be developed to a density of 4.4 dwelling units/gross acre.

The property will accommodate the proposed lot sizes range from approximately 6,000 square feet to 12,500 sq. ft. with the majority of lots in the 7,000 square feet range. Vehicular access to the site will be primarily from S. Mathew Street, east on Orange Avenue and south on Parkwest Street. Alternate emergency access will be provided via a locked gate (passable only by emergency vehicles) that will be constructed at the southern end of Parkwest Street. The gate will lead to an all-weather surface (unpaved) road that will connect to an existing emergency vehicle road that runs east-west along the Tule River, just south of the project site.

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

**ATTACHMENT
ITEM NO. 6**

Low Density Residential is typical for a single-family subdivision and is consistent with the Land Use Element of the General Plan density per gross acreage.

3. That the design of the project, or proposed improvements could have a significant effect on the environment, but through implementation of the Mitigation Monitoring Program (Exhibit A), as defined, will not create adverse environmental impacts. Condition 47 of this resolution requires the developer/applicant to comply with all Mitigation Measures contained in the Mitigation Monitoring Program attached to the resolution.
4. The Initial Study prepared for this project indicates that all potential impacts will be mitigated to less than significant levels. Through the implementation of the mitigation measures contained in the Mitigation Monitoring Program, the result in impacts addressed will be less than significant.
5. 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. Findings and conditions of approval are implemented to insure the public health, safety or welfare, and prevent materially injurious activity to properties or improvements in the area.
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 Porterville Development Ordinance. The proposed project complies with all the requirements of the Porterville Development Ordinance, except otherwise noted within the project details. The development standards of the RS-2 (Low Density Residential) Zone, including development standards, supplemental regulation, lot sizes, site coverage, parking, etc., will apply to the site.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Riverview Estates No. 5 Tentative Subdivision Map subject to the following conditions:

1. Per Section 403.02 (f) subsection (10) of the Porterville Development Ordinance, the subdivision trees and landscaping design shall be approved by the City and shall be planted at a time and in locations approved by the Director of Parks and Leisure Services, all in general accord with the requirements of the Porterville Municipal Code.
 - a. At least one (1) tree shall be planted on each residential lot. A minimum size of five (5) gallon trees shall be installed upon all lots abutting interior, local and

collector streets, and fifteen (15) gallon trees shall be planted upon parcels having frontage on arterial thoroughfares.

- b. Other improvements deemed necessary by the City Council for public health, safety or welfare.
2. Per Section 403.03 (i) of the Porterville Development Ordinance, each subdivision shall provide for the extension of improvements such as, but not limited to, lighting, common landscaping areas, including pocket parks, perimeter walls, drainage systems beneficial to specific subdivisions, drainage reservoirs, and open space areas, and the maintenance of such facilities through appropriate mechanisms as approved by the City Attorney. If a Landscaping and Lighting Maintenance District, Benefit Assessment District, or similar district is required, the following standards apply:
 - a. Prior to the approval of improvement plans for a development, the applicant shall submit the following information for the establishment of a landscaping and lighting maintenance district, the extension of the subject improvements into the assessment area, and the maintenance of the improvements once constructed:
 - i. A petition on a form provided by the City requesting to have the subdivision placed in a district at the time the final map is approved by the City.
 - ii. Completed and approved landscaping and lighting improvement plans, and legal description.
 - b. The district shall be established, or the annexation into an existing district concluded, and improvements completed and accepted concurrently with the other improvements in the subdivision.
 - c. Exclusive of assessments for a district, the applicant shall pay all service fees and maintain all new district improvements in a safe and healthy manner for the greater of a ninety (90) day plant establishment period following acceptance of the subdivision improvements, or until assessment begins for the district.
3. Per Section 403.01 (b) subsection (10) of the Porterville Development Ordinance, as a condition of approval of a tentative map, the City shall require the subdivider to dedicate or make an irrevocable offer of dedication of land, to pay a fee in lieu thereof, or a combination of both, for neighborhood and community open space, park and recreational purposes. In order to conform to the policies of the General Plan and maintain existing standards for parks and recreation facilities, the park area required to be dedicated shall be equal to the ratio of the ultimate population of the subdivision to the current population of the City multiplied by the total park area within the City's planning area at the time of filing of the tentative map but in no case shall be less than three (3) acres of park area per one thousand (1,000) persons nor more than five (5)

acres per one thousand (1,000) persons who will live in the subdivision, calculated as follows:

- a. The ultimate population of the subdivision is based upon the approved residential density and the average household size for the type of unit;
 - b. Total population of the City shall be as reported in the most recent available federal census;
 - c. Current park acreage shall be the amount of neighborhood and community park acreage identified in the General Plan or any more recent records, maps, or reports.
4. The developer/applicant shall comply with Section 201.04 residential single-family development standards of the Porterville Development Ordinance (PDO).
5. Unless otherwise noted, the developer/applicant shall comply with the City Master Plans, Standard Specifications for Public Works Construction (2009 Edition), and Standard Plans and Specifications (2007 Edition), except where they are in conflict with the Americans with Disabilities Act and the 2010 California Building Code, the Tulare County Hazardous Waste Management Plan, the California Manual on Uniform Traffic Control Devices, the Porterville Circulation Element, and the Tulare County Congestion Management Program.
6. 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.
7. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and completely improve the proposed internal subdivision streets (Chapter 403 of the PDO).
8. The developer/applicant shall provide and show all required utility easements on the Final Map.
9. 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.
10. The developer/applicant shall cause all unnecessary easement to be vacated prior to or in conjunction with the Final Map processing.

11. Prior to approval of the improvement plans, the developer/ applicant shall have completed and approved landscaping and/or lighting improvement plans. The developer/applicant shall petition, on a form provided by the City, to have said subdivision placed in a Lighting and Landscape Maintenance District, Benefit Assessment District or similar district to include: (1) Lighting; (2) Recreational Open Space, if any; (3) Common Public Landscaping, inclusive of parkway strips (if any); (4) Public walls/fences, if any; (5) Drainage reservoir, if any; (6) streets, inclusive of concrete curbs, gutters, and sidewalks; and (7) any other public improvement complying with Series 400, Section 403.03 (i) of the Development Ordinance. The developer/applicant shall submit a processing fee of \$375 with the executed petition form.
12. The City shall prepare an Engineer's Report for the establishment of the assessments in order to provide for ongoing maintenance of the subdivision improvements to be included in the Lighting and Landscape Maintenance District. The Lighting and Landscape Maintenance District shall be established, or annexation into an existing District shall be concluded and landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the project.
13. Exclusive of assessments for a Lighting and Landscape Maintenance District, the developer/applicant shall pay all service fees and maintain all new lighting and landscape improvements in a safe and healthy manner for the greater of a minimum 90-day plant establishment period following acceptance of the subdivision improvements, or until assessment begins for the Lighting and Landscape Maintenance District.
14. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Chapter 18 and Appendix J of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:
 - a. Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);
 - b. Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading (CBC Appendix chapter 33). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;
 - c. Soils Report(s) in accordance with Chapter 18 of the California Building Code.
15. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

16. In accordance with Series 400, Section 403.02 (g) or (h) of the Development Ordinance, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months of the Final Map acceptance.
17. Prior to start of grading on any unit, the developer/applicant shall abandon and cap any existing wells that are no longer in service. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health. Prior to acceptance of improvements, the developer/applicant shall provide the City Engineer with proof of completion in compliance with County regulations. Developer/applicant shall comply with City standard for "backflow" prevention pursuant to Resolution No. 9615 for all wells that will remain in service. Wells that will remain in service shall be designated on the Tentative Subdivision Map.
18. The developer/applicant shall replace or provide surety for replacement of irrigation pipes in the right-of-way if, in the opinion of the City Engineer, replacement is warranted. The developer/applicant shall provide easements for irrigation pipes across lots created, if pipes are to remain active. The developer/applicant shall also cure leaks in any irrigation pipe that will continue in use.
19. Prior to recording the final map, the developer/applicant shall provide surety for off-site improvements and provide easements, permits, calculations, etc. if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the subdivision (e.g. water, sewer, drainage, etc.).
20. The developer/applicant shall coordinate with the U.S. Postal Service regarding the kind of mail facilities that will be utilized. If neighborhood box units (NBUs) are to be used, construct sidewalks in a timely manner to facilitate NBU installation.
21. The developer/applicant shall obtain a City demolition permit prior to approval of the improvement plans and, under City inspection, remove all existing, abandoned and unnecessary items to the satisfaction of the City Engineer prior to acceptance of the improvements (e.g. buildings, foundations, septic tanks, irrigation pipes, etc.).
22. The developer/applicant shall assure compliance with applicable San Joaquin Valley 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.

23. 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 began enforcing 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) are not subject to the emission-reduction requirements of the rule.

- a. 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 may be 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.
24. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), etc., along the full frontage of all proposed subdivision lots except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.
25. Building or foundation permits shall not be issued until all of the following items are accepted as complete:
- The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;
 - The water system is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);
 - Street base rock for accessibility by the public safety officials and building inspectors;
 - Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, Drainage and Soils Report, a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommendation contained in the Preliminary Soils Report;
 - Lot corners are marked;
 - Fire hydrants are accepted by the Fire Department and the Engineering Division.

DRAINAGE CONDITIONS

26. The developer/applicant shall properly backfill the existing temporary drainage reservoir shown on Lots 1 through 4. The responsible soils engineering shall, as part of his/her normal certification process, confirm proper abandonment of this facility.
27. Prior to approval of the Tentative Subdivision Map, the developer/applicant shall provide drainage calculations for the purpose of defining the number of lots impacted by a temporary drainage reservoir.
28. 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. The developer/applicant shall 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.
29. The developer/applicant is hereby noticed that all temporary drainage reservoirs servicing the immediate area are at capacity and is strongly encouraged to implement the Storm Drain Master Plan by constructing Drainage Reservoir No. 51. This reservoir is considered a Master Plan Facility, therefore improvements and land acquisition are subject to reimbursement pursuant to City Code Section 19A-40. Acquisition of property will be in accordance with the City's adopted Property Acquisition Procedures.
30. The developer/applicant is advised that compliance 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.

STREET CONDITIONS

31. To accommodate refuse vehicles and street sweepers, the developer/applicant shall dedicate and improve, to City standards, temporary turn-arounds at the ends of dead-end streets. Parkwest Drive will require a temporary turn-around and dedication of an easement. The turn-around shall be enclosed with a chain link fence per City Standards and include gate for accessing the emergency vehicular road.
32. The developer/applicant shall construct all-weather alternative vehicular access road(s) equipped with a double 2.5" pipe security gate with Knox padlock to accommodate emergency service vehicles at such time that phased development of the subdivision results in the creation of a dead-end cul-de-sac streets in excess of 600 feet long.
33. The developer/applicant shall cause all regulatory and street name signs to be installed prior to occupancy of any house located where its occupants will utilize a street that does not have them.
34. The developer/applicant shall construct two (2) City standard barricades at the end of all dead-end streets.
35. The developer/applicant shall provide street striping and flexible delineators as necessary to provide safe vehicular movements where directed by the City Engineer.
36. The developer/applicant shall construct street improvements that comply with the intention of the adopted Development Ordinance and per the attached details. The right of way width shall be fifty (50) feet wide with a parkway between the back of curb and sidewalk. Dry public utilities shall be located within an easement outside of the public right of way.
37. The developer/applicant shall modify the Tentative Subdivision Map to illustrate street widths that are consistent with the attached local street width standard.

SEWER CONDITIONS

38. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to residential occupancy of any house in the subdivision.
39. The developer/applicant shall upgrade the sewer lift station on Mathew Street if it becomes necessary to direct sewage through this facility.

UTILITY CONDITIONS

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

41. Prior to acceptance of improvements, the developer/applicant shall provide 5800 lumen street lights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Spacing between street lights shall not exceed 160 feet.

WATER CONDITIONS

42. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision. One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one (1) for each ten (10) lots in the subdivision or four (4), whichever is greater. The model homes shall be clustered.
43. The location of the proposed development may be a prominent area for constructing a municipal water well. Therefore, the City may approach the owner with an option to purchase property large enough to house such a facility. Acquisition of property will be in accordance with the City's adopted Property Acquisition Procedures.
44. The developer/applicant shall construct a Master Plan twelve (12) inch water main related appurtenance (pressure regulating station, valves, fittings, etc.) from the proposed subdivision to the end of Date Avenue, between Patsy Street and the extension of Parkwest Street.
45. The developer/applicant shall have a Civil Engineer design a water system that will provide a fire flow at each fire hydrant of 1,000 g.p.m. with 20 p.s.i. residual pressure for a dwelling less than 3,600 square feet and 1,500 g.p.m. with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600 square feet.

SPECIAL CONDITIONS

46. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction and reimbursement requests shall be processed in accordance with Series 400, Section 403.02 of the Development Ordinance.
47. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Prior to recording the final map, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.
48. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.
49. The project must comply with latest applicable codes.
50. 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.

51. Fire hydrant spacing shall be as follows: In Residential development, one hydrant shall be installed at 500-foot intervals and in Commercial development, one hydrant shall be installed at 300-foot intervals, or as required by Appendix C California Fire Code.
52. All dead-end access roads in excess of 150 feet must be provided with an approved turn-around complying with City Standards.
53. Project must meet minimum fire flow requirements per the table in Appendix B & C of the California Fire Code.

PASSED, APPROVED, and ADOPTED this 3rd day of December, 2013

Cameron J. Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

SECTION FOUR – MITIGATION MONITORING PLAN

State and local agencies are required by Section 21081.6 of the California Public Resources Code to establish a monitoring and reporting program for all projects which are approved and which require CEQA processing.

Local agencies are given broad latitude in developing programs to meet the requirements of Public Resources Code Section 21081.6. The mitigation monitoring program outlined in this document is based upon guidance issued by the Governor's Office of Planning and Research.

The mitigation monitoring and reporting program for the proposed project corresponds to mitigation measures outlined in the project Mitigated Negative Declaration (MND). The Program summarizes the environmental issues identified in the MND, the mitigation measures required to reduce each potentially significant impact and the agency or agencies responsible for monitoring and reporting on the implementation of the mitigation measures.

Mitigation Monitoring Plan

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
3.4 Biological Resources				
3.4-1	<p>To avoid impacts to VELB, the following measures shall be implemented:</p> <ul style="list-style-type: none"> ▪ Prior to the initiation of ground disturbance, a four foot tall, high visibility, temporary exclusionary fence will be installed at the maximum distance feasible for construction occurring within the 100 foot buffer of the elderberry shrubs remaining within the work area; ▪ If any elderberry shrubs will be encroached upon within 100 feet, an exclusion fence will be placed no closer than 20 feet from the drip line of the elderberry shrub; ▪ Any elderberry shrubs that will be encroached upon within 20 feet will be considered to be impacted; ▪ No work will be conducted within the established exclusion zones. In addition, all vehicle operations will be minimized around these shrubs; ▪ All equipment will be staged away from the elderberry shrubs, in previously disturbed areas; 	City of Porterville	USFWS/CDFW	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ Signs that designate the buffer areas as VELB habitat, and that describe the federal protection status of the species, should be erected every 50 feet along the edge of the avoidance areas; ▪ A qualified biologist, skilled in the identification and habitat needs of the VELB, shall be present to monitor compliance with avoidance of all elderberry shrubs not transplanted or trimmed. If, at any time, elderberry shrub impact avoidance measures are not followed, the biologist shall be given the power to suspend construction operations until such activities are corrected and an alternate course of action is taken that ensures no impacts to the elderberry shrubs will occur; ▪ Prior to the initiation of ground disturbing activities, a qualified biologist will conduct threatening and endangered species training. Personnel that will be working in the project site will be trained in the life history, habitat requirements, protection status, impact avoidance measures, and penalties under the federal endangered species act for unauthorized take of the VELB. A written handout will be provided to construction personnel that will include the above-mentioned information, illustrations and photographs of pertinent aspects of VELB life 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>history. All personnel conducting work in the project site will be required to attend the training prior to working on site. A signup sheet will be maintained that provides written verification of all training meeting attendees;</p> <ul style="list-style-type: none"> ▪ All vehicles and equipment entering the project site shall be in good working condition and free from leaks. In the event that a vehicle or equipment item is found to be leaking fluid, operation of the vehicle or equipment item shall be terminated and it shall be repaired or replaced. If possible, repairs should be conducted in a contained area. All contaminated soil will be collected and properly disposed of off the project site. All construction materials will be staged away from all elderberry shrubs and any spills will be cleaned immediately. No herbicides, fertilizers or other chemicals that may harm the elderberry shrubs shall be used within 100 feet of the shrubs; and ▪ Construction will permanently alter the portions of the 100-foot buffer zones within the work area surrounding the project. Following construction, areas within the buffer zones will be restored to the extent feasible. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>history. All personnel conducting work in the project site will be required to attend the training prior to working on site. A sign-up sheet will be maintained that provides written verification of all training meeting attendees;</p> <ul style="list-style-type: none"> ▪ All vehicles and equipment entering the project site shall be in good working condition and free from leaks. In the event that a vehicle or equipment item is found to be leaking fluid, operation of the vehicle or equipment item shall be terminated and it shall be repaired or replaced. If possible, repairs should be conducted in a contained area. All contaminated soil will be collected and properly disposed of off the project site. All construction materials will be staged away from all elderberry shrubs and any spills will be cleaned immediately. No herbicides, fertilizers or other chemicals that may harm the elderberry shrubs shall be used within 100 feet of the shrubs; and ▪ Construction will permanently alter the portions of the 100-foot buffer zones within the work area surrounding the project. Following construction, areas within the buffer zones will be restored to the extent feasible. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	survey shall be performed within 14 days of construction to identify active nests and mark those nests for avoidance. During the nesting period, raptor nests shall be avoided by 500 feet and all other migratory bird nests shall be avoided by 250 feet.			
3.4.4	<p>Because there is the potential for San Joaquin kit foxes and/or American badgers to occur on the project site, the USFWS Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011) shall be implemented. The measures that are listed below have been excerpted from those guidelines and will protect San Joaquin kit foxes from direct mortality and from destruction of active dens and natal or pupping dens. These measures will also protect American badgers. The Lead Agency or Designee shall determine the applicability of the following measures depending on specific construction activities and shall implement such measures when required.</p> <ul style="list-style-type: none"> Pre-construction surveys shall be conducted no fewer than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities, or any project activity likely to impact the San Joaquin kit fox or American badger. Exclusion zones shall be 	City of Porterville	USFWS/CDFW	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation								
	<p>placed in accordance with USFWS Recommendations using the following:</p> <table><tr><td>Potential Den</td><td>50 foot radius</td></tr><tr><td>Known Den</td><td>100 foot radius</td></tr><tr><td>Natal/Pupping (Occupied and Unoccupied)</td><td>Den and Contact U.S. Fish and Wildlife Service for guidance</td></tr><tr><td>Atypical Den</td><td>50 foot radius</td></tr></table> <p>If dens must be removed, they must be appropriately monitored and excavated by a trained wildlife biologist. Replacement dens will be required. Destruction of natal dens and other “known” kit fox dens must not occur until authorized by USFWS.</p> <ul style="list-style-type: none">Project-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on county roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However if it does occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.	Potential Den	50 foot radius	Known Den	100 foot radius	Natal/Pupping (Occupied and Unoccupied)	Den and Contact U.S. Fish and Wildlife Service for guidance	Atypical Den	50 foot radius			
Potential Den	50 foot radius											
Known Den	100 foot radius											
Natal/Pupping (Occupied and Unoccupied)	Den and Contact U.S. Fish and Wildlife Service for guidance											
Atypical Den	50 foot radius											

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of a project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks shall be installed. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. If at any time a trapped or injured kit fox is discovered, the Service and the California Department of Fish and Wildlife (CDFW) shall be contacted as noted under measure 13 referenced below. ▪ Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the Service has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>moved only once to remove it from the path of construction activity, until the fox has escaped.</p> <ul style="list-style-type: none"> • All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site. ▪ No firearms shall be allowed on the project site. ▪ No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens. ▪ Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and Federal legislation, as well as additional project-related restrictions deemed necessary by the Service. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ A representative shall be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number shall be provided to the Service. ▪ An employee education program should be conducted for any project that has anticipated impacts to kit fox or other endangered species. The program should consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program should include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during project construction and implementation. A fact sheet conveying this information should be prepared for distribution to 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>the previously referenced people and anyone else who may enter the project site.</p> <ul style="list-style-type: none"> Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc. should be re-contoured if necessary, and revegetated to promote restoration of the area to pre-project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the project, but after project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas should be determined on a site-specific basis in consultation with the Service, CDFW, and revegetation experts. In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the Service should be contacted for guidance. Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>the CDFW immediately in the case of a dead, injured or entrapped kit fox. The CDFW contact for immediate assistance is State Dispatch at (916)445-0045. They will contact the local warden or Mr. Paul Hoffman, the wildlife biologist, at (530)934-9309. The Service should be contacted at the numbers below.</p> <ul style="list-style-type: none"> ▪ The Sacramento Fish and Wildlife Office and CDFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The Service contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below. The CDFW contact is Mr. Paul Hoffman at 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670, (530) 934-9309. The above listed measures would also protect American badgers. ▪ New sightings of kit fox shall be reported to the California Natural Diversity Database (CNDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<p>kit fox was observed should also be provided to the Service at the address below.</p> <p>Any project-related information required by the Service or questions concerning the above conditions or their implementation may be directed in writing to the U.S. Fish and Wildlife Service at:</p> <p style="padding-left: 40px;">Endangered Species Division 2800 Cottage Way, Suite W2605 Sacramento, California 95825-1846 (916) 414-6620 or (916) 414-6600</p>			
3.5 Cultural Resources				
3.5.1	<p>Although there is no obvious evidence of historic or archaeological sites on the project site, there is the potential during project-related excavation and construction for the discovery of cultural resources. The City of Porterville shall incorporate into the construction contract(s) for the project a provision that includes the following measures:</p> <ul style="list-style-type: none"> ▪ Before initiation of construction or ground-disturbing activities associated with the project, the project proponent for all project phases shall require all construction personnel to be alerted to the possibility of buried cultural resources, including historic, archeological and paleontological resources; 	City of Porterville	City of Porterville	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	<ul style="list-style-type: none"> ▪ The general contractor and its supervisory staff shall be responsible for monitoring the construction project for disturbance of cultural resources; and ▪ If a potentially significant historical, archaeological, or paleontological resource, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains or trash deposits are encountered during subsurface construction activities (i.e., trenching, grading), all construction activities within a 100-foot radius of the identified potential resource shall cease until a qualified archaeologist evaluates the item for its significance and records the item on the appropriate State Department of Parks and Recreation (DPR) forms. The archaeologist shall determine whether the item requires further study. If, after the qualified archaeologist conducts appropriate technical analyses, the item is determined to be significant under California Environmental Quality Act, the archaeologist shall recommend feasible mitigation measures, which may include avoidance, preservation in place or other appropriate measure, as outlined in Public Resources Code section 21083.2. The City of Porterville shall implement said measures. 			

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
3.5.2	The City of Porterville will incorporate into the construction contract(s) a provision that in the event a fossil or fossil formations are discovered during any subsurface construction activities for the proposed project (i.e., trenching, grading), all excavations within 100 feet of the find shall be temporarily halted until the find is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The paleontologist shall notify the appropriate representative at the City of Porterville, who shall coordinate with the paleontologist as to any necessary investigation of the find. If the find is determined to be significant under CEQA, the City shall implement those measures, which may include avoidance, preservation in place, or other appropriate measures, as outlined in Public Resources Code section 21083.2.	City of Porterville	City of Porterville	Less than Significant
3.8 Hazards/Hazardous Materials				
3.8.1	Construction contractors shall ensure that any construction equipment that normally includes a spark arrester shall be equipped with an arrester in good working order. This includes, but is not limited to, vehicles, heavy equipment, and chainsaws.	City of Porterville	City of Porterville	Less than Significant
3.8.2	Construction contractors shall ensure that during construction, staging areas, building areas, and/or areas slated for development using spark-producing	City of Porterville	City of Porterville	Less than Significant

Impact Number	Mitigation Measure	Implementing Agency	Monitoring Agency	Level of Significance After Mitigation
	equipment shall be cleared of dried vegetation or other materials that could serve as fuel for combustion. To the extent feasible, the contractor shall keep these areas clear of combustible materials to maintain a firebreak.			
3.12 Noise				
3.12.2	Construction activities shall be limited to between 6:00 A.M. and 9 P.M. Monday through Friday and between 7:00 A.M. and 5:00 PM on Saturday or Sunday to avoid noise-sensitive hours of the day. Construction activities shall be prohibited on holidays (President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Day, and New Year's Day).	City of Porterville	City of Porterville	Less than Significant
3.12.3	The construction contract shall require the construction contractor to ensure that construction equipment noise is minimized by muffling and shielding intakes and exhaust on construction equipment (in accordance with the manufacturer's specifications) and by shrouding or shielding impact tools.	City of Porterville	City of Porterville	Less than Significant

Notes: USFWS = U.S. Fish and Wildlife Service, CDFW = California Department of Fish and Wildlife

COUNCIL AGENDA – DECEMBER 3, 2013

SUBJECT: SECOND READING – ORDINANCE 1801, DEVELOPMENT ORDINANCE AMENDMENT


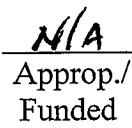
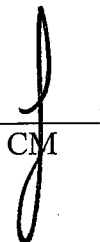
SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

COMMENT: Ordinance No. 1801, An Ordinance of the City Council of the City of Porterville Amending the Porterville Municipal Code Pertaining to Chapter 21, Development Ordinance, was given first reading on November 19, 2013, and has been printed.

RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1801, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1801

Item No. 10

		
Dir	Approp./ Funded	CM

ORDINANCE NO. 1801

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE AMENDING THE PORTERVILLE MUNICIPAL CODE
PERTAINING TO CHAPTER 21, DEVELOPMENT ORDINANCE

WHEREAS: On March 4, 2008, the City Council of the City of Porterville adopted a comprehensive General Plan Update and Land Use Diagram that included a vision, goals, policies and land use designations to guide development within the City of Porterville's Planning Area through the year 2030; and

WHEREAS: On May 4, 2010, the City Council adopted the Porterville Development Ordinance, which replaced Chapter 21 "Subdivisions" and Appendix A "Zoning"; and

WHEREAS: On July 31, 2012, the City Council adopted revisions to the Porterville Development Ordinance, Series 100, 200, 600 and 700; and

WHEREAS: The Development Ordinance is the key policy tool that implements the General Plan; and

WHEREAS: Staff has determined that changes to the current Development Ordinance (Chapter 21 of the Municipal Code) are necessary and appropriate, and such amendments may assist in creating a positive impact on the development community of the City as a whole; and

WHEREAS: The amendments to the Development Ordinance have been reviewed by the Porterville Development Ordinance Committee and found to be appropriate for the community; and

WHEREAS: The amended Series have been reviewed by the City Attorney and found to be in conformance with Federal, State and local laws; and

WHEREAS: A public hearing was held before the City Council on November 5, 2013, pursuant to the Planning and Zoning Law of the State of California and the Municipal Code of the City; and

WHEREAS: The Porterville Development Ordinance is an implementation measure of the policies, goals and objectives of the Porterville 2030 General Plan. The Environmental Coordinator made a determination on the basis of substantial evidence that the addendum to the Porterville General Plan Final Environmental Impact Report that was prepared for the adoption of the Development Ordinance is appropriate in addressing the environmental circumstances of the proposed amendments; therefore, no Subsequent or Supplemental EIR as described in Sections 15162 and 15163 of the CEQA Guidelines would be required.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does hereby amend Chapter 21 of the Porterville Municipal Code, as attached hereto as Exhibit A, and fully incorporated herein by reference.

This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED AND ADOPTED this 3rd day of December, 2013.

Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

Exhibit A

An Ordinance of the City Council of the Ordinance 1801 City of Porterville Amending the Porterville Municipal Code Pertaining to Chapter 21, Development Code

Due to the large volume of Exhibit A, copies are available for public review in the following locations:

Office of City Clerk
City Hall
291 North Main Street
Porterville, CA 93257
(559) 782-7464

Community Development Department
City Hall
291 North Main Street
Porterville, CA 93257
(559) 782-7460

City's website: www.ci.porterville.ca.us

COUNCIL AGENDA – DECEMBER 3, 2013

SUBJECT: SECOND READING – ORDINANCE 1802, ZONE CHANGE 2012-020-Z

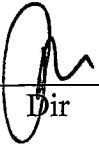

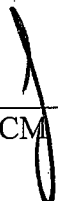
SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

COMMENT: Ordinance No. 1802, An Ordinance of the City Council of the City of Porterville Approving Zone Change 2012-020-Z Reducing the Acreage of Public/Semi-Public (PS) Zoning and Increasing the Acreage of General Industrial (IG) Zoning for that 13.15± Acre Site Generally Located at the Southeast Corner of Jaye Street and Montgomery Avenue, was given first reading on November 19, 2013, and has been printed.

RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1802, waive further reading, and adopt said Ordinance.

ATTACHMENT: Ordinance No. 1802

Item No. 11

		
Dir	Approp./ Funded	CM

ORDINANCE NO. 1802

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING ZONE CHANGE 2012-020-Z REDUCING THE ACREAGE OF
PUBLIC/SEMI-PUBLIC (PS) ZONING AND INCREASING THE ACREAGE OF GENERAL
INDUSTRIAL (IG) ZONING FOR THAT 13.15± ACRE SITE GENERALLY LOCATED AT
THE SOUTHEAST CORNER OF JAYE STREET AND MONTGOMERY AVENUE

WHEREAS: That the City Council of the City of Porterville at its regularly scheduled meeting of November 19, 2013, conducted a public hearing to approve findings and consider Zone Change 2012-020-Z, being a change to the configuration of the present zoning classifications of the subject parcel, already Industrial and Public/Semi-Public, to more accurately reflect the area needed of Public/Semi-public for the proposed Public Safety Building for the site located on the southeast corner of Jaye Street and Montgomery Avenue; and

WHEREAS: That the City Council of the City of Porterville determined that the proposed Zone Change (2012-020-Z) is consistent with the guiding and implementation policies of the adopted 2030 General Plan; and

WHEREAS: That a Mitigated Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act and was transmitted to interested agencies and made available for public review and comment. The review period ran for twenty (20) days from October 24, 2013 to November 13, 2013. One comment was received; the San Joaquin Valley Air Pollution Control District wrote to confirm effectiveness of the implementation of standard management practices to result in less than significant impacts from the project and to remind the City of future permitting requirements; and

WHEREAS: The City Council made the following findings that the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan that the City has adopted.

- a. The project supports and complies with General Plan guiding policies:
 - LU-G-1: Promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the City.* In the City's 2030 General Plan, fire, police, and emergency services were discussed as an important function for the continued success of the community. Chapter 7.5 of the Public Health & Safety Element proposed additional police satellite offices and four new fire stations to be developed within the life of the General Plan. The location of the project area would work well to enhance response times citywide, and provides emergency service resources at a location south of the Tule River, which has long been a goal of both Departments.
 - LU-G-3 Promote sustainability in the design and development of public and private development projects.* The proposed development of the site would result in a shared building, providing space for offices and equipment for both Police and Fire Departments. The building design proposes separate areas for

each Department to accommodate their specific needs in support of the General Plan.

- b. An amendment to the General Plan designation is being processed concurrently with this Zone Change request. Approval of the Zone Change is consistent with and contingent upon the approval of General Plan Amendment 2012-020-G, to ensure consistency between the General Plan and Zoning.
- c. The subject Zone Change will not create adverse environmental impacts on the adjacent neighborhood when mitigation measures are implemented and standards of the Development Ordinance and General Plan are applied to the subsequent development project.

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

Section 1: That the following described property in the City of Porterville, County of Tulare, State of California, is hereby rezoned configuring the present zoning classifications of the subject parcel, including Industrial and Public/Semi-Public, to more accurately reflect the area needed of Public/Semi-public for the proposed Public Safety Building for the site, pursuant to Section 3 below, for the parcel described herein as Assessor's Parcel Number 269-050-034 located on the southeast corner of Jaye Street and Montgomery Avenue; and

Section 2: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show the above described real property is rezoned to reflect Public/Semi-public for the southwestern-most 2.1± acres and General Industrial for the remainder of the site described above, more particularly shown on the attached map as Exhibit "A"; and

Section 3: This ordinance shall be in full force and effect not sooner than thirty (30) days from and after the ordinance's publication and passage.

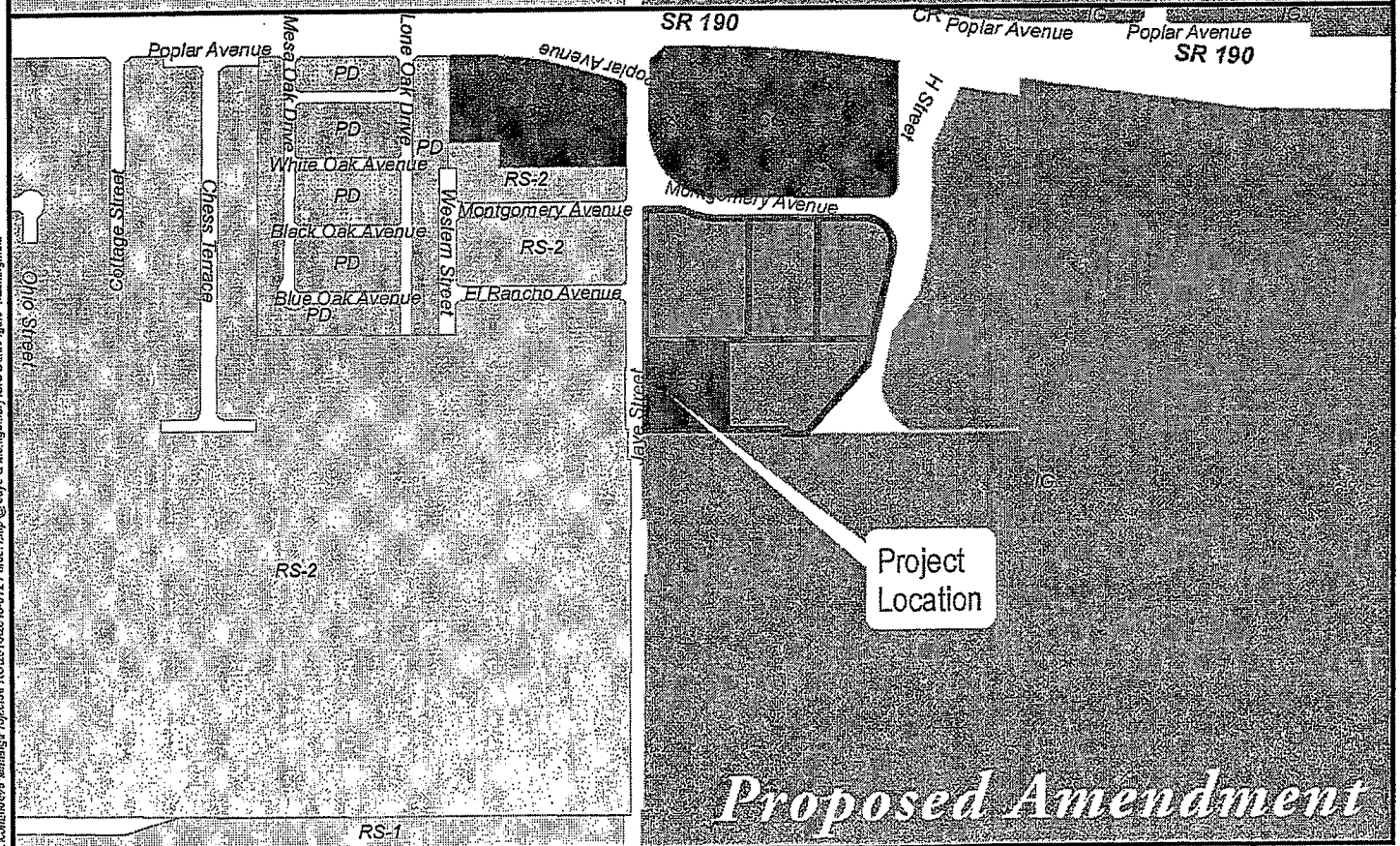
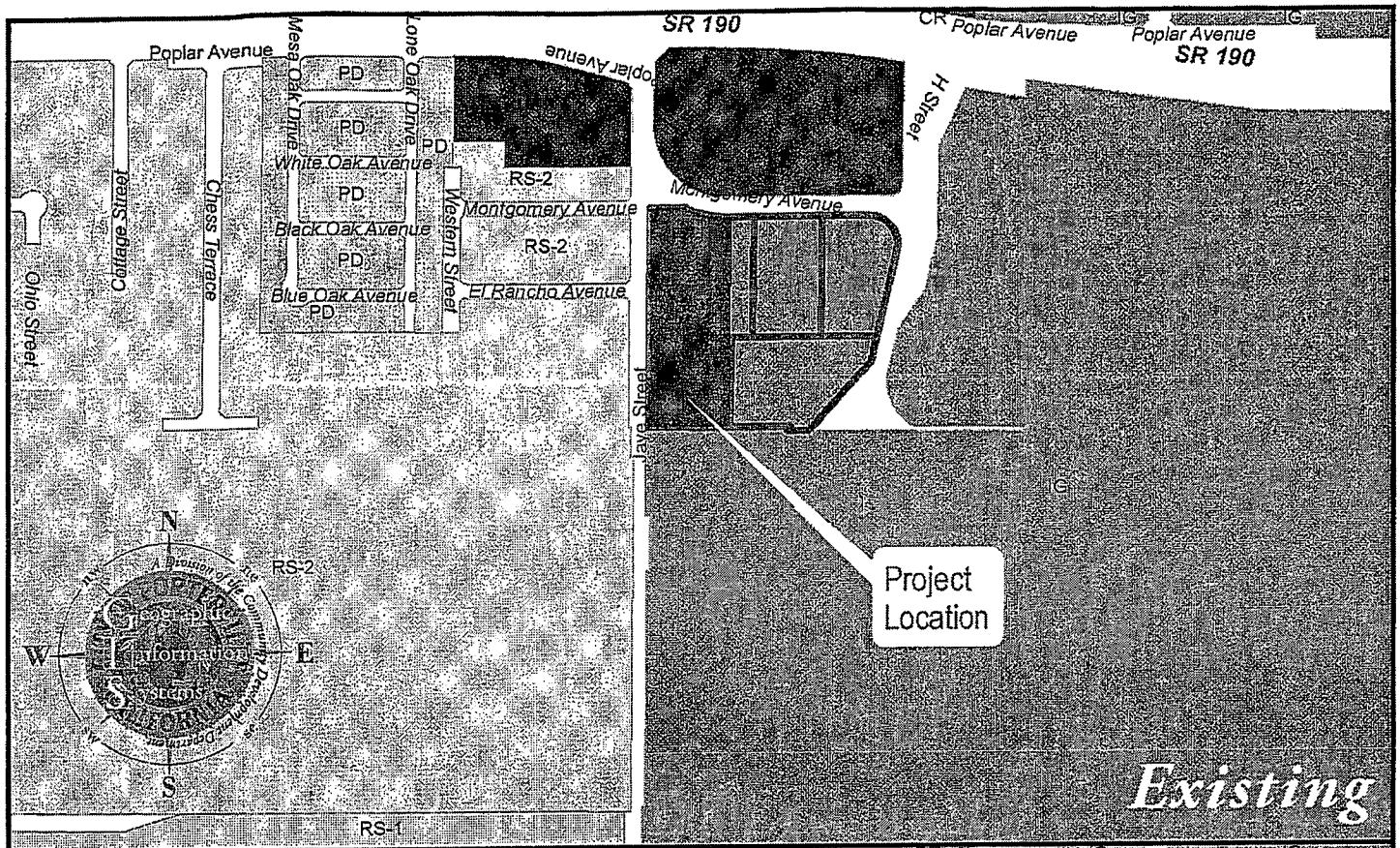
PASSED, APPROVED AND ADOPTED this ____ day of December, 2013.

By: _____
Cameron J. Hamilton, Mayor

ATTEST:

John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



PRC 2013-012 Public Safety Building - TPM **Zoning Map** **ATTACHMENT** **ITEM NO. 3**

COUNCIL AGENDA: DECEMBER 3, 2013

SUBJECT: AMENDMENT TO CITY POLICY RELATED TO USE OF CARGO/SHIPPING CONTAINERS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: At the City Council Meeting of November 5, 2013, the City Council directed staff to develop modified standards regarding the use of cargo/shipping containers and to bring back a resolution amending Resolution 29-2005, which contains the current policies on use of temporary structures. Based on staff's understanding of the Council's direction, an applicant could apply for use of a cargo container under either a ministerial process for limited term requests or a discretionary process for long term use.

For the ministerial process, the application would be reviewed by the Zoning Administrator and proposed criteria would include limiting the number of containers to one (per business or parcel whichever results in fewer cargo/shipping containers per site), limiting duration of use to 100 days, accounting for specific on-site factors such as screening, maintenance of parking and drive aisles as well as loading access, and not violating any setback provisions.

The discretionary process would allow the applicant to request use of more than one (1) temporary structure and/or on a longer term basis but require City Council review for consideration of more stringent restrictions where appropriate. Since these provisions would be contained in a resolution rather than an ordinance, the applicant could not apply for a variance.

In addition to the referenced site considerations, the Council directed staff to propose a fee to allow the temporary use of a cargo container subject to the criteria summarized above. It is important to note that the current fee for approval of a Temporary Structure Permit is \$454.00. This current fee accounts for the review of plans for the proposed structure(s) and preparation of the staff report for City Council as well as a quick site inspection. The same fee could apply to the new ministerial process, which would be more monitoring intensive in lieu of the Council agenda process.

As an alternative, at least one Councilmember recommended allowing a discretionary process requiring an initial per unit application fee and a fee per unit per month for units that would be stored longer than 100 days. The intent of the higher cost is partially to discourage use of the units long term and to account for additional staff time to closely monitor all permitted cargo containers and tracking of payments to ensure compliance.

If the Council opts to move forward with the two tier temporary storage permit process, Staff will prepare an agenda item amending the adopted fee schedule. In addition to the application processing fees, planning staff would likely need to rely on assistance from code enforcement to monitor whether structures are being

DBS Appropriated/Funded N/A CM J
ACTING

Item No. 12

removed in a timely manner and the administrative citation process would be used to bring about compliance. The administrative citation process can include financial consequences if early compliance is not achieved. Citations would start at \$100.00 and progress to \$500.00. If noncompliance is maintained, the citations could be issued daily. After that staff would seek court action.

RECOMMENDATION: That the City Council adopt the draft modifications to Resolution 29-2005, amending regulations related to the temporary use of cargo containers for storage for commercial and industrial uses.

ATTACHMENTS:

1. Resolution 29-2005, with proposed modifications
2. Resolution 29-2005, with proposed modifications in redline
3. November 5, 2013 Staff Report

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADOPTING INTERPRETATIONS OF AMBIGUITY AND
STATEMENTS OF CITY COUNCIL INTENT WITH REGARD TO
TEMPORARY (CARGO/SHIPPING CONTAINERS),
MOBILE AND PERMANENT DEVELOPMENT

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

WHEREAS: On March 1, 2005, the City Council adopted Resolution 29-2005, providing an interpretation of ambiguity and statements of City Council intent with regard to temporary, mobile, and permanent development; and

WHEREAS: On November 5, 2013, and December 3, 2013, the City Council considered modifications to Resolution 29-2005 as it relates to cargo/shipping containers for nonresidential uses; and

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

WHEREAS: The City Council intends to provide guidance to City Staff and the development community with regard to the approved interpretation of such ambiguity in the City Code and Development Zoning Ordinance and to give an indication as to the likely standards of review and intent of City Council in considering future development proposals and provide additional clarification relative to the temporary use of cargo/shipping containers.

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

- 1) **Permanent Commercial Buildings:** In order to be considered a “permanent” commercial building, subject to complying with the Development Ordinance and applicable building and fire codes, and securing a building permit, a structure must be affixed to the ground through a foundation, foundation system or other similar means, except as described below. By this standard, cargo/shipping containers, catering trucks, and trailers would not be considered “permanent” commercial buildings. Modular buildings, sheds, pre-fabricated buildings, etc., may be

considered to be permanent buildings provided they are affixed to foundations. Full development standards as required by City Code would apply in such cases.

- 2) **Permanent Commercial Buildings – Exception for Food Vending Booths:** Food vending booths, food or coffee kiosks, “hot-dog” stands etc. without a foundation may be considered to be “permanent” provided the following conditions are met:
 - a) The type and location of the use is permitted by the Zoning Ordinance.
 - b) The type, location, and intensity of the use are included in all calculations of site improvement requirements, including parking calculations, etc.
 - c) The development is clearly accessory to the primary use of the site, and its hours of operation are limited to those of the primary use.
 - d) The development fully complies with adopted building codes, including fire protection and the requirements of State and Local Public Health authorities.
- 3) **Permanent Commercial Buildings – Exception for Approved Temporary Buildings:** Modular and similar buildings, whether on permanent foundations or not, may be approved by the City Council as temporary buildings. Site development standards for such cases shall be determined as described below.
- 4) **Non-Standard Development as Accessory Use:** Except for on-farm produce stands and cargo/shipping containers as specifically addressed herein, non-standard development will only be approved as an accessory to standard, permanent development on the same site, or on an adjacent related site. This will help to ensure that minimum site improvements are provided for commercial uses.
- 5) **Use of Cargo/Shipping Containers as Temporary Non-Standard Development; Short Term:** Where appropriate and necessary for short term use, the Zoning Administrator may approve use of cargo/shipping containers in Commercial and Industrial zone districts associated with an existing development for additional storage capacity subject to the following specific criteria:
 - The number of containers is limited to one per business or parcel, whichever results in fewer containers per site.
 - The cargo/shipping container shall not remain on site for longer than 100 days.
 - The placement of the cargo/shipping container shall be such that it does not interfere with the permanent site improvements, including but not limited to, parking, loading areas, on-site circulation, and accessibility.
 - The placement of the cargo/shipping container shall not encroach into required setbacks, and must not be visible from off site or public streets. .

- Use of a cargo/shipping container may be granted subject to payment of an adopted fee for a Ministerial Temporary Structure Permit. Use of cargo/shipping containers in manners not consistent with this section, may only be authorized by the City Council.

6) **Use of Cargo/Shipping Containers as Temporary Non-Standard Development; Long Term:** Where appropriate and necessary for longer term use, the Council may approve use of cargo/shipping containers in Commercial and Industrial zone districts associated with an existing development for additional storage capacity subject to the following specific criteria:

- The number of containers allowed would be determined by Council.
- The time period requested shall be specified by the applicant. Final expiration of the permit shall be coterminous with the permit expiration date approved by Council. Extensions will not be permitted. However, the applicant may apply for another long term, discretionary, permit. Failure to obtain the renewed permit could result in Code Enforcement action and associated fines.
- The placement of the cargo/shipping container shall be such that it does not interfere with the permanent site improvements, including but not limited to, parking, loading areas, on-site circulation, and accessibility.
- The placement of the cargo/shipping container shall not encroach into required setbacks, and must not be visible from off site or public streets. .
- Use of a cargo/shipping container may be granted subject to payment of an adopted fee for a Discretionary Temporary Structure Permit application with a monthly fee applicable upon approval and commencing at 100 days of use. The fee would apply for any month or portion thereof the container continues to be stored on site.
- Council may require additional conditions intended to ensure the use does not create blight.

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

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

- 9) **Temporary Building Permits – Effect on Standards for Existing Conforming Development:** Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extraordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.
- 10) **Conditional Use Permits for “Street Vending” – Effect on Standards for Existing Conforming Development -** Conditional Use Permits for “Street Vending” for periods longer than five days do not require a finding of business stress or emergency. For that reason, such uses will not be permitted to cause an existing conforming development to become non-conforming.
- 11) **Standards of Review – Non-standard Development:** It is the intent of City Council to consider the impact that proposed Temporary Building Permits and Conditional Use Permits for longer term street vending will have on other similar businesses. Such uses are intended to offer flexibility under unusual circumstances and will not be encouraged as a means to compete with businesses in permanent buildings by avoiding development standards that would otherwise apply.
- 12) **Compliance with Zoning Ordinance and City Code – Non-Standard Development:** None of the above shall be construed to permit non-standard development to violate the Zoning Ordinance or other provisions of City Code. No use may be authorized by a Temporary Building Permit or as a Conditional Use Permit for street vending that is not permitted by the underlying Zoning Classification. Such restriction includes limitations on outdoor sales where applicable.

PASSED, APPROVED AND ADOPTED this 3rd day of December, 2013.

By: _____
Cameron J. Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADOPTING INTERPRETATIONS OF AMBIGUITY AND
STATEMENTS OF CITY COUNCIL INTENT WITH REGARD TO
TEMPORARY (CARGO/SHIPPING CONTAINERS),
MOBILE AND PERMANENT DEVELOPMENT
~~MOBILE AND PERMANENT DEVELOPMENT~~

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

WHEREAS: On March 1, 2005, the City Council adopted Resolution 29-2005, providing an interpretation of ambiguity and statements of City Council intent with regard to temporary, mobile, and permanent development; and

WHEREAS: On November 5, 2013, and December 3, 2013, the City Council considered modifications to Resolution 29-2005 as it relates to cargo/shipping containers for nonresidential uses; and

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

WHEREAS: The City Council intends to provide guidance to City Staff and the development community with regard to the approved interpretation of such ambiguity in the City Code and Development Zoning Ordinance and to give an indication as to the likely standards of review and intent of City Council in considering future development proposals and provide additional clarification relative to the temporary use of cargo/shipping containers.

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

- 1) **Permanent Commercial Buildings:** In order to be considered a “permanent” commercial building, subject to complying with the Development Ordinance and applicable building and fire codes, and securing a building permit, a structure must be affixed to the ground through a foundation, foundation system or other similar means, except as described below. By this standard, cargo/shipping containers, catering trucks, and trailers would not be considered “permanent” commercial buildings. Modular buildings, sheds, pre-fabricated buildings, etc., may be

considered to be permanent buildings provided they are affixed to foundations. Full development standards as required by City Code would apply in such cases.

- 2) **Permanent Commercial Buildings – Exception for Food Vending Booths:** Food vending booths, food or coffee kiosks, “hot-dog” stands etc. without a foundation may be considered to be “permanent” provided the following conditions are met:
 - a) The type and location of the use is permitted by the Zoning Ordinance.
 - b) The type, location, and intensity of the use are included in all calculations of site improvement requirements, including parking calculations, etc.
 - c) The development is clearly accessory to the primary use of the site, and its hours of operation are limited to those of the primary use.
 - d) The development fully complies with adopted building codes, including fire protection and the requirements of State and Local Public Health authorities.
- 3) **Permanent Commercial Buildings – Exception for Approved Temporary Buildings:** Modular and similar buildings, whether on permanent foundations or not, may be approved by the City Council as temporary buildings. Site development standards for such cases shall be determined as described below.
- 4) **Non-Standard Development as Accessory Use:** Except for on-farm produce stands and cargo/shipping containers as specifically addressed herein, non-standard development will only be approved as an accessory to standard, permanent development on the same site, or on an adjacent related site. This will help to ensure that minimum site improvements are provided for commercial uses.
- 5) **Use of Cargo/Shipping Containers as Temporary Non-Standard Development; Short Term:** Where appropriate and necessary for short term use, the Zoning Administrator may approve use of cargo/shipping containers in Commercial and Industrial zone districts associated with an existing development for additional storage capacity subject to the following specific criteria:
 - The number of containers is limited to one per business or parcel, whichever results in fewer containers per site.
 - The cargo/shipping container shall not remain on site for longer than 100 days.
 - The placement of the cargo/shipping container shall be such that it does not interfere with the permanent site improvements, including but not limited to, parking, loading areas, on-site circulation, and accessibility.
 - The placement of the cargo/shipping container shall not encroach into required setbacks, and must not be visible from off site or public streets. .

- Use of a cargo/shipping container may be granted subject to payment of an adopted fee for a Ministerial Temporary Structure Permit. Use of cargo/shipping containers in manners not consistent with this section, may only be authorized by the City Council.

6) Use of Cargo/Shipping Containers as Temporary Non-Standard Development; Long Term: Where appropriate and necessary for longer term use, the Council may approve use of cargo/shipping containers in Commercial and Industrial zone districts associated with an existing development for additional storage capacity subject to the following specific criteria:

- The number of containers allowed would be determined by Council.
- The time period requested shall be specified by the applicant. Final expiration of the permit shall be coterminous with the permit expiration date approved by Council. Extensions will not be permitted. However, the applicant may apply for another long term, discretionary, permit. Failure to obtain the renewed permit could result in Code Enforcement action and associated fines.
- The placement of the cargo/shipping container shall be such that it does not interfere with the permanent site improvements, including but not limited to, parking, loading areas, on-site circulation, and accessibility.
- The placement of the cargo/shipping container shall not encroach into required setbacks, and must not be visible from off site or public streets. .
- Use of a cargo/shipping container may be granted subject to payment of an adopted fee for a Discretionary Temporary Structure Permit application with a monthly fee applicable upon approval and commencing at 100 days of use. The fee would apply for any month or portion thereof the container continues to be stored on site.
- Council may require additional conditions intended to ensure the use does not create blight.

5)7) Time Limits Required for Non-Standard Development: Non-standard development may be approved by the City Council as either a “Temporary Building” or a “Street Vendor” as appropriate. In all such cases, approval will be for a limited period of time. The approval period will not typically exceed the reasonable period of time necessary to secure a permanent replacement. In some cases, a reasonable period of time may be granted to allow for market testing, “proof-of-concept”, etc. Site improvement standards for such development shall be determined by the City Council on a case-by-case basis using guidelines as established below.

6)8) Development Standards – Non-Standard Development: All non-standard development requires approval by the City Council with appropriate Conditions of Approval. Such development may require site improvements that differ from those required for permanent development. Staff reports for such proposals should identify both the proposed site improvements and the improvements that would be required for similar, permanent development.

- ~~7~~9) **Temporary Building Permits – Effect on Standards for Existing Conforming Development:** Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extraordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.
- ~~8~~10) **Conditional Use Permits for “Street Vending” – Effect on Standards for Existing Conforming Development** - Conditional Use Permits for “Street Vending” for periods longer than five days do not require a finding of business stress or emergency. For that reason, such uses will not be permitted to cause an existing conforming development to become non-conforming.
- ~~9~~11) **Standards of Review – Non-standard Development:** It is the intent of City Council to consider the impact that proposed Temporary Building Permits and Conditional Use Permits for longer term street vending will have on other similar businesses. Such uses are intended to offer flexibility under unusual circumstances and will not be encouraged as a means to compete with businesses in permanent buildings by avoiding development standards that would otherwise apply.
- ~~10~~12) **Compliance with Zoning Ordinance and City Code – Non-Standard Development:** None of the above shall be construed to permit non-standard development to violate the Zoning Ordinance or other provisions of City Code. No use may be authorized by a Temporary Building Permit or as a Conditional Use Permit for street vending that is not permitted by the underlying Zoning Classification. Such restriction includes limitations on outdoor sales where applicable.

PASSED, APPROVED AND ADOPTED this 3rd day of December, 2013.

By: _____
Cameron J. Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

COUNCIL AGENDA: NOVEMBER 5, 2013

SUBJECT: REQUEST FOR DIRECTION RELATED TO USE OF CARGO/SHIPPING CONTAINERS FOR STORAGE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: Over the years, the use of cargo containers, also known as shipping containers or seatrains, has increased to solve the storage needs of businesses. Cargo containers are placed around the City, typically in parking lots and drive aisles, presumably for seasonal storage for commercial uses. However, they are being kept year-round, which indicates they are likely being used to meet ongoing storage needs. A review of the policies in place for cargo containers has prompted this request for direction from the City Council.

When used for short time periods, such as the holiday season, cargo containers have been considered temporary structures and would be considered through a temporary structure permit approved by the City Council as represented in the Council's recent approval of Walmart's request. More often, staff is seeing cargo containers brought to a site for a permanent solution to a lack of on-site storage within the building. Ideally, a business or land use would expand the permanent structure to accommodate the growing need. At best, use of a cargo container on a permanent basis could be achieved by classifying the container as an accessory structure. However, the Porterville Development Ordinance, Section 301.01 discusses accessory structures, stating that they are also subject to the development and size regulations found in Chapter 300, General Site Regulations, and requires that they "shall be designed to be of similar/compatible architecture and materials as the main buildings". This requirement effectively precludes the use of cargo containers as a permanent accessory structure.

Cargo containers are not intended for permanent use on a site, and are, therefore, addressed in Chapter 7-3.3 of the Municipal Code as a temporary structure (Attachment 1). In 2005, the City Council approved Resolution 29-2005 (Attachment 2), interpreting ambiguity regarding temporary, mobile, and permanent development. Many factors were considered with this resolution, and one specifically pertained to the use of cargo/shipping containers for temporary use.

In that resolution, the Council determined that cargo containers are not a permanent commercial building, and that approval of a temporary building would require Council approval. Statement 7 of the resolution states:

Temporary Building Permits- Effect on Standards for Existing Conforming Development: Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize

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Item No. 21

**ATTACHMENT
ITEM NO. 3**

such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extraordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.

Consistent with this resolution, a few stores have requested Council approval to use cargo containers during the holiday season, which is typically October through December, to accommodate additional storage needs associated with increased sales. Although few in number, the Council has historically approved these requests as they are received.

The City Council, as well as staff, makes a concerted effort to work together with members of the retail community to find ways to accommodate seasonal storage needs as well as the City's desire to maintain a well-kept and neat appearance. While some retailers do follow proper protocol in requesting approval to use containers, there are many who do not. This creates an inequity among the retail community and results in negative impacts to existing, permanent commercial uses. It is important to note that the unapproved use of cargo containers is not limited to commercial uses; containers can be seen on residential and vacant sites as well. Even Departments of the City use cargo containers for long term functions in certain applications, including the Corporation Yard, at the Sports Park, and elsewhere for storage. The photographs attached to the report provide insight into the prevalence of cargo container usage.

Whether the initial use of the containers is authorized or not, sometimes the containers become "permanent" features of a site, and the problem seems to grow with each passing year. Without proper review, placement of cargo containers could affect parking availability, development aesthetics, on-site and off-site vehicular circulation, setback requirements, or site accessibility. In certain cases, the primary use could become out of compliance with the Development Ordinance and Municipal Code through loss of parking or a loading zone, or blocking of fire lanes.

In an effort to maintain a business-friendly focus and encourage equal treatment toward all retailers, staff requests direction from Council using one or more of the following options:

1. Maintain existing standards and the original resolution of ambiguity and continue to implement as originally approved in 2005.
2. Modify existing temporary structures standards to include additional specifics related to use of cargo containers.
3. Modify Resolution 29-2005 to allow approval at staff level where certain criteria are met related to number of containers, time frames, location of

containers, and site specific concerns related to the permanent use. Staff recommends those criteria be a single container, not longer than 100 days where the container can be located in such an area that it does not impact parking, loading, circulation, or accessibility. Defined timeframes longer than 100 days could be allowed if the container is screened or architecturally compatible with the main building.

4. Allow the unrestricted use of cargo containers provided they do not result in a deficiency in any local, state or federal regulation.

RECOMMENDATION: That the City Council provide direction to staff for use of cargo/shipping containers for storage.

ATTACHMENTS:

1. Chapter 7-3.3 of the Porterville Municipal Code
2. Resolution 29-2005
3. Photographs of examples of cargo container usage and placement in Porterville.

7-3.3: TEMPORARY STRUCTURES:

- A. For purposes of this article the word "structure" shall include any building, tent, canopy, or any other type of construction approved by the city council.
- B. Upon written application to the city council, the city council is hereby empowered to issue a permit enabling an applicant in time of stress or emergency or in conjunction with development of residential, commercial, or industrial projects, to erect, construct, maintain and utilize a temporary structure within the city of Porterville.
- C. Said permit so issued shall provide the type of construction to be permitted; the location of said structure; the size of said structure; the period of time that said structure may be utilized; and provisions that said structure shall be demolished at the termination of said permit and all other requirements and conditions deemed necessary or expedient by the city council.
- D. In the event the applicant fails to satisfy all conditions set forth by the city council in the permit, the right to construct, maintain and utilize the temporary structure may be terminated immediately by action of the city council; and, in addition thereto, a violation of the conditions of said permit is hereby declared to be unlawful.
- E. Nothing herein shall permit an applicant to make use of any structure in violation of any zoning law, ordinance or regulation of the city. (Ord. 1066 § A, 12-3-1974; Ord. 1148 § A, 7-18-1978; Ord. 1212 § A, 8-5-1980; Ord. 1295 § A, 2-7-1984; Ord. 1371 § A, 1-6-1987; Ord. 1422 § A, 11-21-1989; Ord. 1476 § 1, 7-21-1992)

RESOLUTION NO. 29-2005

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

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

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

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

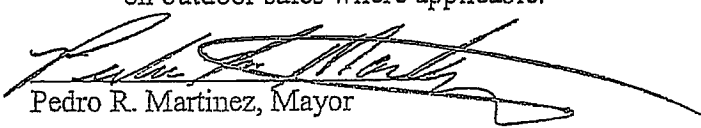
NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby adopt statements of interpretation of ambiguity and statements of City Council intent as follows:

- 1) **Permanent Commercial Buildings:** In order to be considered a "permanent" commercial building, subject only to securing a building permit, a structure must be affixed to the ground through a foundation, foundation system or other similar means, except as described below. By this standard, shipping containers, catering trucks, and trailers would not be considered "permanent" commercial buildings. Modular buildings, sheds, pre-fabricated buildings, etc., may be considered to be permanent buildings provided they are affixed to foundations. Full development standards as required by City Code would apply in such cases.
- 2) **Permanent Commercial Buildings – Exception for Food Vending Booths:** Food vending booths, food or coffee kiosks, "hot-dog" stands etc. without a foundation may be considered to be "permanent" provided the following conditions are met.
 - a) The type and location of the use is permitted by the Zoning Ordinance.

**ATTACHMENT
ITEM NO. 2**

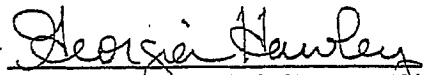
- b) The type, location, and intensity of the use are included in all calculations of site improvement requirements, including parking calculations, etc.
 - c) The development is clearly accessory to the primary use of the site, and its hours of operation are limited to those of the primary use.
 - d) The development fully complies with adopted building codes, including fire protection and the requirements of State and Local Public Health authorities.
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- 7) **Temporary Building Permits – Effect on Standards for Existing Conforming Development:** Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extra-ordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.
- 8) **Conditional Use Permits for “Street Vending” – Effect on Standards for Existing Conforming Development -** Conditional Use Permits for “Street Vending” for periods longer than five days do not require a finding of business stress or emergency. For that reason, such uses will not be permitted to cause an existing conforming development to become non-conforming.
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- 10) **Compliance with Zoning Ordinance and City Code – Non-Standard Development:** None of the above shall be construed to permit non-standard development to violate the Zoning Ordinance or other provisions of City Code. No use may be authorized by a Temporary Building Permit or as a Conditional Use Permit for street vending that is not permitted by the underlying Zoning Classification. Such restriction includes limitations on outdoor sales where applicable.


Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By 
Georgia Hawley, Chief Deputy City Clerk

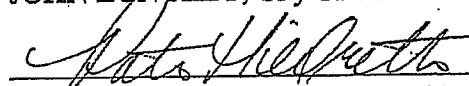
STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

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 1st day of March, 2005.

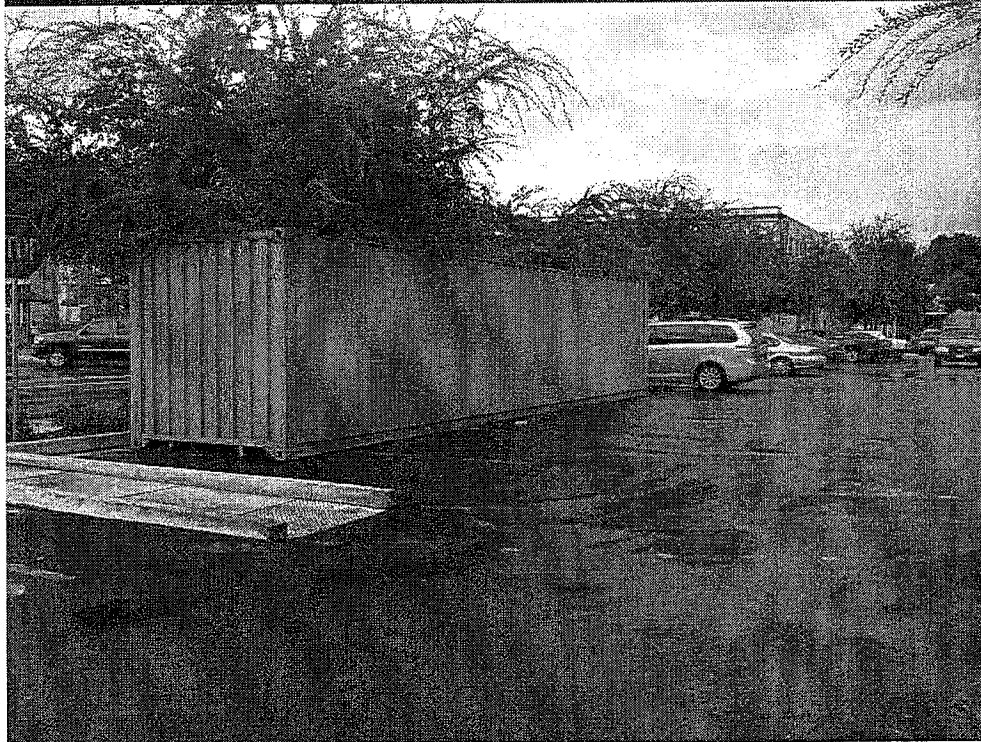
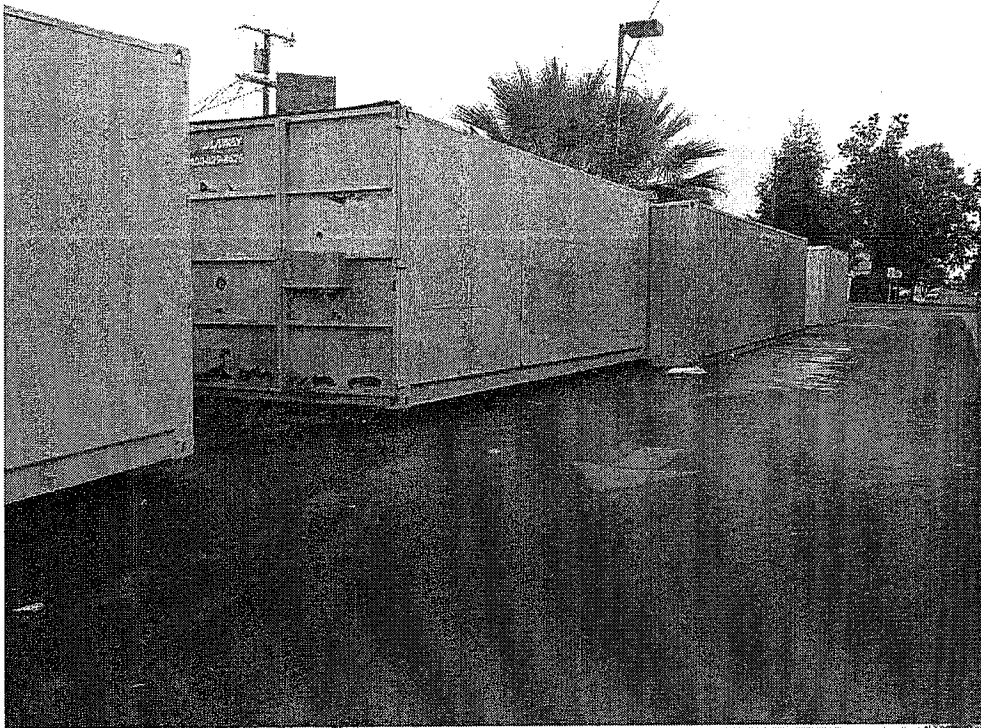
THAT said resolution was duly passed adopted by the following vote:

Council:	WEST	IRISH	HAMILTON	STADTHERR	MARTINEZ
AYES:	X	X	X		X
NOES:					
ABSTAIN:					
ABSENT:				X	

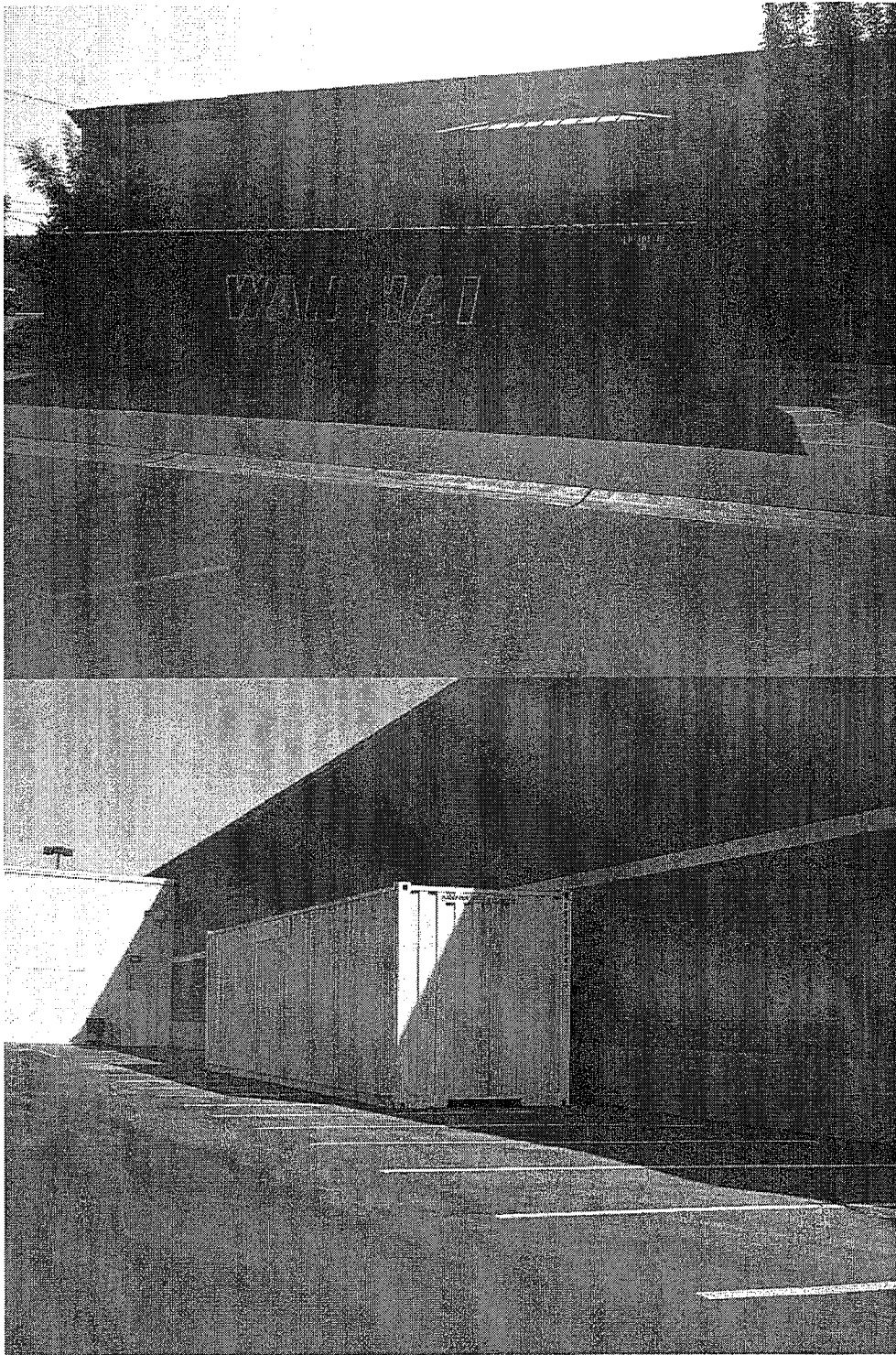
JOHN LONGLEY, City Clerk

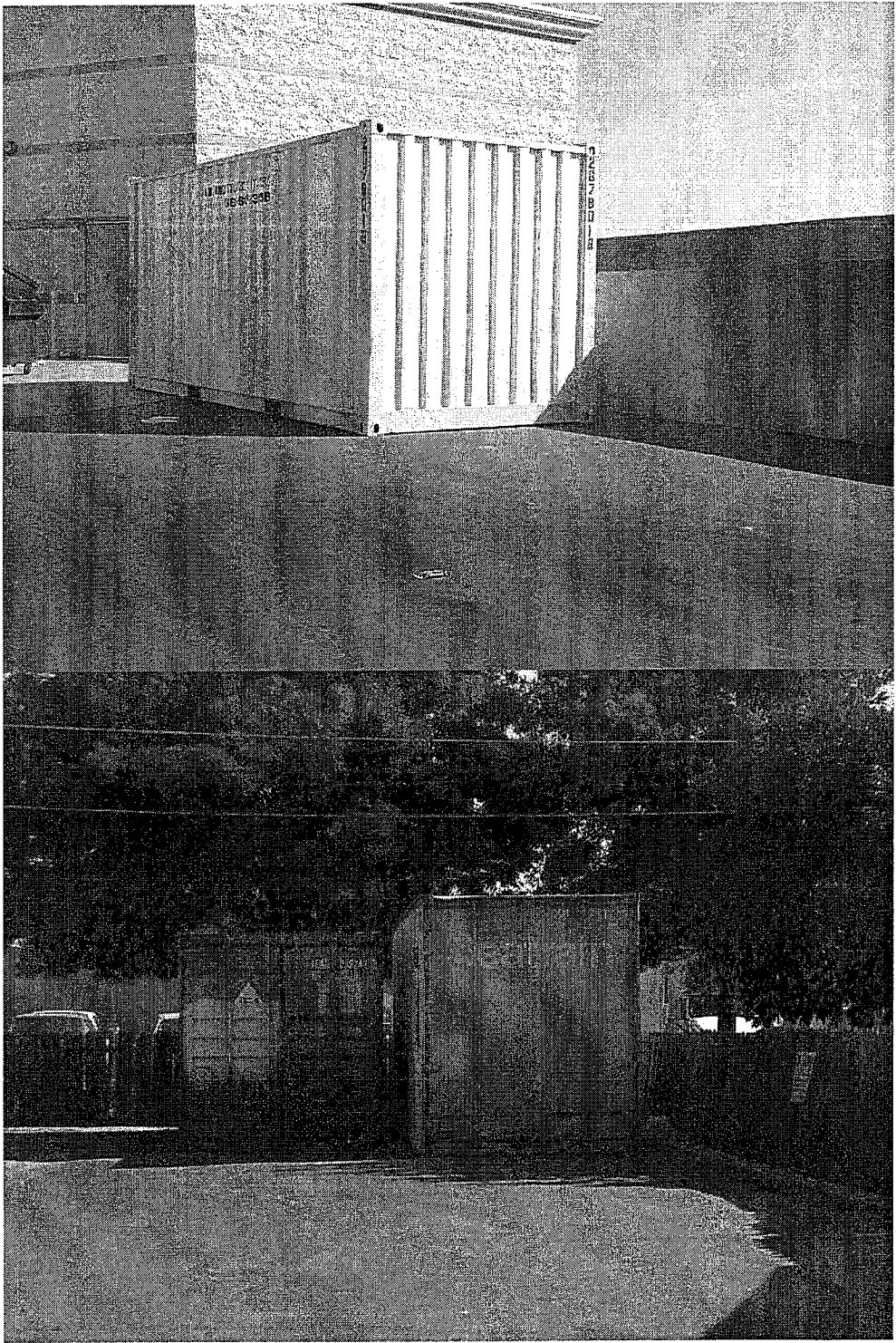


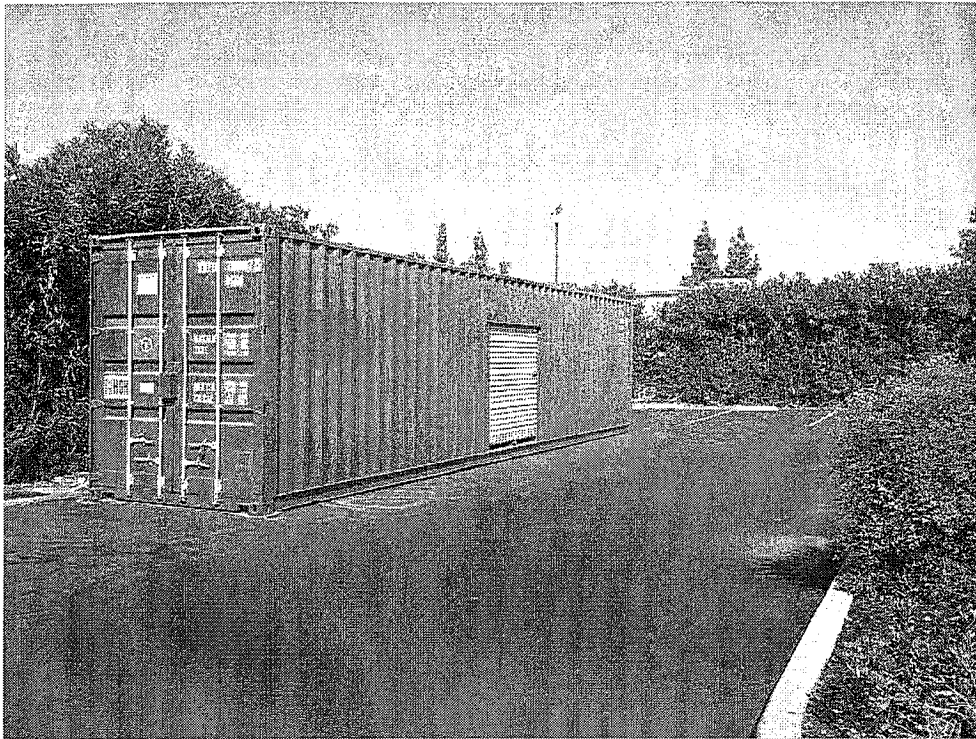
by Patrice Hildreth, Deputy City Clerk

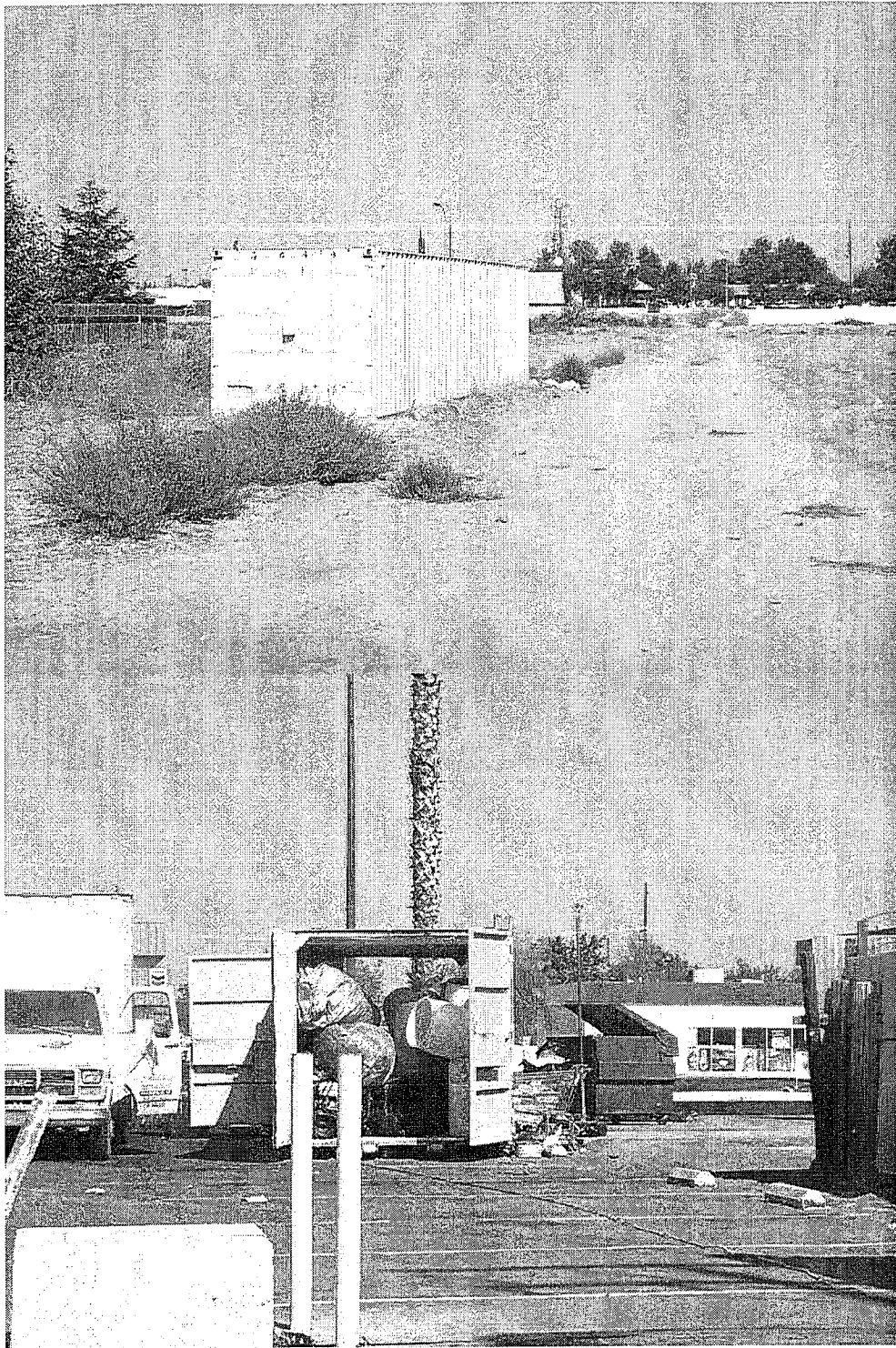


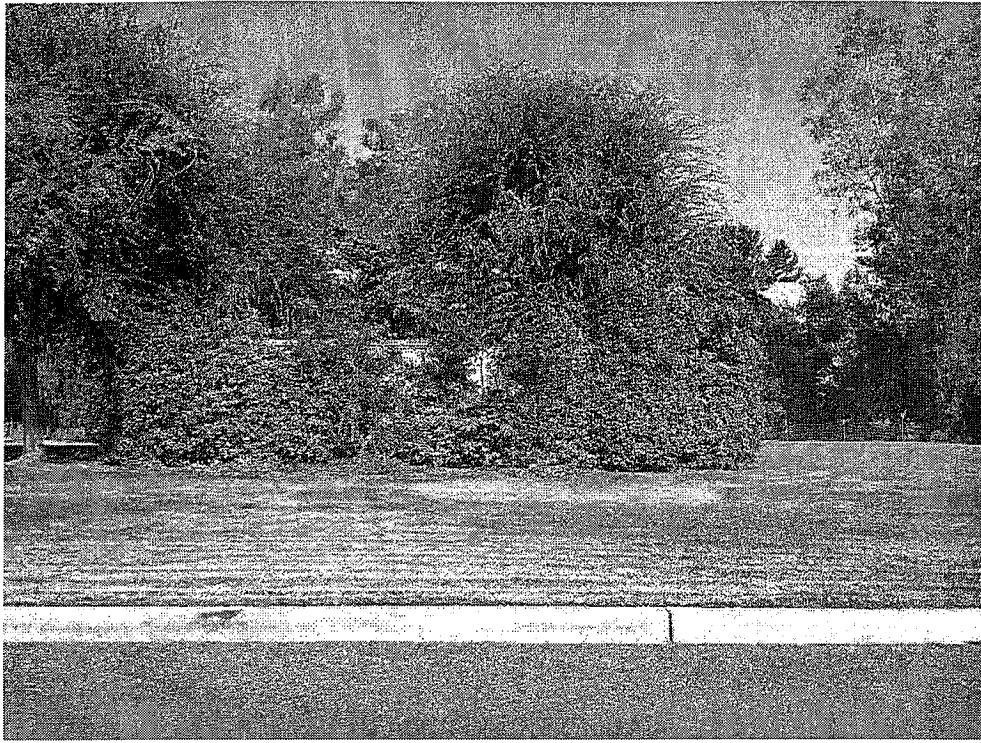
ATTACHMENT 3











COUNCIL AGENDA: DECEMBER 3, 2013

SUBJECT: SUNDAY LIBRARY SERVICE HOURS

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The Library and Literacy Commission directed staff at their November 12, 2013, meeting to bring an item forward for City Council's consideration and approval regarding extending the Library hours to include opening on Sundays from 1:00 to 5:00 p.m.

The City Library currently maintains 62 public service hours at the main library facility Monday through Saturday. It has become increasingly apparent, as seen over the last few years, that, due to economic circumstances, a majority of Library patrons served Monday – Saturday come to the City Library out of necessity for a safe place to gather, access technology, and utilize other resources that no other agency in our community offers. In addition to providing patrons with such services as books, newspapers, music CDs, videos and DVDs, books on CDs, copy machines, and many diverse programs, the Library is utilized as a warming center in the winter and a cooling center in the summer.

Annually, the main Library serves in various capacities to over 222,000 visitors, circulates over 288,000 items, accommodates over 62,000 computer sessions, and answers over 15,000 reference questions. This year staff surveyed Library patrons at the end of summer and 317 patrons responded that they would like Sunday Library hours, 162 responded that it made no difference to them, and 0 responded that they would be opposed to the idea.

Incorporating an additional day of Library service for our community will have minimal impact on current Library staffing and cost is estimated to be \$8,000 annually for personnel and utilities. This could be a six month pilot program followed by a staff report to the Library and Literacy Commission and City Council on its outcome. Should it merit the continuance of the program, staff would include the program as part of the upcoming budget development process for FY 2014-15 and seek Council approval.

Funding does exist in the current FY 2013-14 budget to accommodate the expansion of Library hours at the main Library on

DJ Director

MS Appropriated/Funded

J City Manager

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Sundays to add 4 hours of service per week. Funding for the additional hours is available in the budget through Measure H and the General Fund. A decrease in the Measure H books budget this fiscal year allowed partial funding for part-time staffing increase in order to provide more programming, an increase of hours at the main Library and the MJS Library, and provide for more community outreach opportunities. General Fund money originally budgeted for San Joaquin Valley Library System annual membership dues allowed for additional funding to support those same services, due to a one-time savings opportunity from the State. A staff survey assured that there is an ample amount of full and part-time staff willing to work on Sundays should the Library be open.

RECOMMENDATION: That City Council provide direction to staff on the commencement of Sunday City Library hours.