

# Visalia City Council Agenda



For the regular meeting of: Monday, April 3, 2006

Location: Visalia Convention Center

Mayor: Jesus J. Gamboa  
Vice Mayor: Greg Kirkpatrick  
Council Member: Greg Collins  
Council Member: Donald K. Landers  
Council Member: Bob Link

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All items listed under the Consent Calendar are considered to be routine and will be enacted by one motion. If anyone desires discussion on any item on the Consent Calendar, please contact the City Clerk who will then request that Council make the item part of the regular agenda.

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## **JOINT VISALIA CITY COUNCIL/VISALIA PLANNING COMMISSION WORK SESSION AND ACTION ITEMS (as described)** **4:00 p.m.**

1. Review of proposed Lowery Ranch Master Plan.
2. Southeast Area Master Plan – Project update, located on the south side of Caldwell Avenue, between Santa Fe Street and Lovers Lane, to Avenue 272, Moule and Polyzoides Architects and Urbanists are the consultants, David Thurman consultant Project Manager, Andrew Chamberlain City Staff Project Manager.
3. Discussion of proposed policy relating to review of Commission actions by the City Council.  
*(Discussion item only, written material will not be available.)*

## **WORK SESSION AND ACTION ITEMS (as described)** **5:30 p.m. (Or, immediately following Joint Session)**

4. Review the status of the Northwest Fire Station and Training Facility project, including a presentation of the current design, and authorize the Construction Manager of the project to begin soliciting bids.

*\*Any items not completed prior to Closed Session may be continued to the evening session at the discretion of the Council.*

## **ITEMS OF INTEREST**

## **CLOSED SESSION** **6:00 p.m. (Or, immediately following Work Session)**

5. Conference with Legal Counsel – Anticipated Litigation (1)  
(Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9 GC)

6. Conference with Legal Counsel – Existing Litigation  
(Subdivision (1) of Section 54956.9 GC)
  - a. Name of Case: Laidlaw v. City of Visalia; Case #1:05-CV-00199
  - b. Name of Case: City of Visalia v. Harrah et al.; TCSC Case No. 04-210016
  
7. Conference with Real Property Negotiators  
Property: 52-acre Modoc Basin located north of Riggin Avenue and west of Demaree St.  
Under Negotiation: Price, terms conditions of purchase  
Negotiators: Steve Salomon, Alex Peltzer, Andrew Benelli, Modoc Ditch Company
  
8. Item removed from Agenda.
  
9. Conference with Real Property Negotiators  
Property: corner of Burke and Center; APN 094-190-010  
Under Negotiation: Price, terms, conditions of purchase  
Negotiators: Steve Salomon, Mike Olmos, Marty Zeeb, Chris Beck, Kyle Rhinebeck

**REGULAR SESSION**

**7:00 p.m.**

**PLEDGE OF ALLEGIANCE**

**INVOCATION** – Harry Wood

**SPECIAL PRESENTATIONS/RECOGNITION**

**CITIZENS REQUESTS** - This is the time for members of the public to comment on any matter within the jurisdiction of the Visalia City Council. This is also the public's opportunity to request that a Consent Calendar item be removed from that section and made a regular agenda item for discussion purposes. Comments related to Regular or Public Hearing Items listed on this agenda will be heard at the time the item is discussed or at the time the Public Hearing is opened for comment. The Council Members ask that you keep your comments brief and positive. Creative criticism, presented with appropriate courtesy, is welcome. The Council cannot legally discuss or take official action on citizen request items that are introduced tonight. In fairness to all who wish to speak tonight, each speaker from the public will be allowed three minutes (speaker timing lights mounted on the lectern will notify you with a flashing red light when your time has expired). Please begin your comments by stating and spelling your name and providing your address.

**CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION**

10. CONSENT CALENDAR - Consent Calendar items are considered routine and will be enacted by a single vote of the Council with no discussion. For a Consent Calendar item to be discussed, or voted upon individually, it must be removed at the request of the Council.
  - a) Authorization to read ordinances by title only.
  - b) Approval of \$5,000 sponsorship for the upcoming Visalia Biztalk Conference.

- c) Authorization to bid the Construction of Visalia Parkway from Dans Street to Demaree Street without the requirement for the payment of prevailing wages pursuant to Resolution No. 83-02. Project No. 1241-00000-720000-0-9810-2005.
- d) Request authorization to accept an "Irrevocable Offer to Dedicate Real Property" for a portion of Riggan Avenue right-of-way for roadway purposes as offered per Document No. 2003-0011275, dated February 10, 2003, Document No. 2005-0032400, dated March 29, 2005 and Shannon Ranch East Subdivision said right of way generally located between Modoc Ditch and Dayton Street; **Resolution 2006-29 required.**
- e) Approve amended and restated Joint Powers Agreement from the Consolidated Waste Management Authority.
- f) Grant a six unity density bonus for the Conditional Use Permit No. 2006-04, to allow 44 multiple family units for the development located at 4219 W. Walnut Avenue, for the West Star company (APN 119-040-005, 006.)
- g) Authorization for the Formation, Annexation, or Amendment of the following Landscape and Lighting District(s), and authorization *for the Recordation of the final map(s)* related thereto (if applicable):
  - 1. Authorize the Recordation of the Final Map for Hall Estates, located at the northeast corner of Cherry Avenue and Lovers Lane (30 lots) and the Formation of Landscape and Lighting District No. 06-05, Hall Estates; **Resolution 2006-34 and 2006-35 required.**  
APN: 127-030-014
- h) Authorization to file a Notice of Completion for the West Side Taxiway Construction and related projects at the Visalia Municipal Airport; project numbers 4011-00000-720000-0-9568-2008 & 4011-00000-720000-0-9736-2005 corresponding to FAA AIP project numbers 3-06-0271-17, 19, 20, 21, & 22.
- i) Authorization to execute a final Certificate of Cancellation of Land Conservation Contract No. 10080 located on property owned by Frank Luisi (Quad Knopf, agent). The site is located at the northwest corner of Mooney Boulevard and Ferguson Avenue in the City of Visalia, County of Tulare. (APN: 089-010-034) **Resolution 2006-36 required.**
- j) **Second Reading of the following Ordinance(s):**
  - 1. **Ordinance 2006-05** authorizing the lease of certain portions of real property located at the Visalia Municipal Airport to the Federal Aviation Administration for the purpose of maintaining and operating Navigational Equipment.
- 11. PUBLIC HEARING - Appeal of Planning Commission approval of Conditional Use Permit 2006-14: a request by Visalia Adventure Park amending Conditional Use Permit 2003-39, to allow on-site sales of beer and wine at a commercial recreation facility in the CSO (Planned Shopping/Office) Zone. The site is located at 5600 W. Cypress Avenue; APN: 087-450-019; **Resolution 2006-32 required.**

12. PUBLIC HEARING -

- a. **Resolution 2006-30** Adopting Negative Declaration No. 2006-11 for General Plan Amendment No. 2005-22 and Change of Zone No. 2005-23; *(A separate Motion by the Council is required.)*
- b. **Resolution 2006-31** approving General Plan Amendment No. 2005-22, a request by Dan Baker (Neil Zerlang, agent) to change the General Plan land use designation from Rural Residential to Low Density Residential on approximately three acres, located on the north side of Caldwell Avenue, between Aspen Street (private) and Peppertree Court (APNs: 119-690-43/44); *(A separate Motion by the Council is required.)*
- c. **Introduction of Ordinance 2006-06**, approving Change of Zone No. 2005-23, a request by Dan Baker (Neil Zerlang, agent) to change the zoning designation from RA (Rural Residential) to R-1-6 (Single-family Residential, 6,000 square foot minimum lot size) on approximately three acres, located on the north side of Caldwell Avenue, between Aspen Street (private) and Peppertree Court (APNs: 119-690-43/44).

13. PUBLIC HEARING - for Disestablishment of Agricultural Preserve No. 3430: a request by Frank Luisi, property owner (Quad Knopf, agent) to cancel 30 acres of Agricultural Preserve No. 3430. The site is located at the northwest corner of Mooney Boulevard and Ferguson Avenue in the City of Visalia, County of Tulare. (APN: 089-010-034) **Resolution 2006-33 required.**

**-Convene jointly as the Redevelopment Agency Board and the Visalia City Council for the following item:**

14. PUBLIC HEARING - Extension of the Redevelopment Agency Project Area: **Introduction of RDA Ordinance 2006-01** extending the duration of the Downtown Redevelopment project area, time limit for the receipt of tax increment and debt repayment period by two years pursuant to Cal. Health & Safety Code Section 33333.6(e)(2)(D) (S.B. 1097).

**-Adjourn as the Redevelopment Agency Board and remain seated as the Visalia City Council**

**REPORT ON ACTIONS TAKEN IN CLOSED SESSION**

**REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS**

**Upcoming Council Meetings**

Monday, April 17, 2006

Monday, May 1, 2006

Tuesday, May 2, 2006 (Joint City of Visalia/VUSD Meeting hosted by VUSD, 6-8 p.m., 5 p.m. dinner for elected officials & senior staff, VUSD District Offices)

Monday, May 15, 2006

Work Session 4:00 p.m.

Regular Session 7:00 p.m.

City Hall Council Chambers  
707 West Acequia Avenue

Last printed 03/31/2006 10:11 AM

In compliance with the American Disabilities Act, if you need special assistance to participate in meetings call (559) 713-4512 48-hours in advance of the meeting. For Hearing-Impaired - Call (559) 713-4900 (TDD) 48-hours in advance of the scheduled meeting time to request signing services.

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 1

**Agenda Item Wording:** Review of proposed Lowery Ranch Master Plan

**Deadline for Action:** None

**Submitting Department:** Community Development

**Contact Name and Phone Number:** Fred Brusuelas 713-4364  
Mike Olmos 713- 4332

For action by:  
 City Council &  
Planning Commission  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which  
agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 45 min.

**Department Recommendation:** The City Council and Planning Commission are being requested to jointly review and provide comments and direction regarding development issues pertaining to the proposed Lowery Ranch Master Plan.

Staff recommends that the City Council and Planning Commission discuss the Master Plan and direct modifications to provide the following:

1. Greater street connectivity,
2. Reduced cul-de-sac streets,
3. Higher residential density (*6 dwelling units per gross acre would be desirable*),
4. Increased integration of uses,
5. Enhancement of Modoc Basin as a community amenity or provide new combined park/ storm water /recharge facility,
6. Grid pattern street design for walkability
7. Agricultural land mitigation measures,
8. Development phasing reflecting orderly growth and community-wide needs, and
9. Ag buffer concepts

With the agreement of the applicants, and concurrence from Council and Commission, staff will process the project as a specific plan.

**Background:** The City Council has previously commented that a master plan in northwest Visalia may be necessary in advance of any new residential subdivision review and approvals. Particular comments were made about development "context" and "connectivity". The big picture question was also about the master plan area fitting with adjoining property to create proper neighborhoods and community. The City Council also communicated to staff at the 2005 Council Retreat that an analysis of approved residential projects, undeveloped residential lots and capacity analysis of vacant infill residential properties be prepared for review and comment. It was the intent that the information will assist in the evaluating land supply within the city and assist in determining annexation phasing for projects such as the Lowery Ranch Master Plan. The data has been collected and the report is being prepared for City Council review at an upcoming meeting.

**Project Summary:** The applicants for the Lowery Ranch Master Plan are Pacific Union Homes and Mangano Homes. This Master Plan project comprises 570 acres of land and is located north of Riggan Avenue between Akers and Demaree Street. City Council and Planning Commission comments at this time will assist the staff in processing the Master Plan and related entitlement applications (General Plan Amendment, Zoning Amendment, and Subdivisions, etc.)

The Planning Division has received a development project for site plan review consideration. The submitted project "Lowery Ranch – Village 1" is a 126 acre subdivision proposal located east of Demaree Avenue adjacent to the Shannon Parkway alignment.

The project location is immediately west of the Shannon Ranch Master Plan area on land recently annexed into the city limits. This 126 acre phase one project comprises a mix of residential zoning (totaling 278 lots); commercial property (4.5 acres); and park land (2.1 acre site and 1.3 acre site). There is, in addition to this phase one proposal, a 570 acre developer prepared Master Plan of the area of which phase one is a part.

The 126 acre phase one proposal of the 570 acre Lowery Ranch Master Plan was presented to the site plan review committee for comment. It was determined by staff that the Lowery Master Plan be reviewed by the City Council for comment prior to any action on the phased development.

The Lowery Ranch project represents a major development proposal that necessitates critical policy and design review by the Council and Commission. In calendar year 2005, the City Council commented that a Work Session is appropriate to discuss the possibility of a Master Plan being prepared for this northwest area of the community. The City Council has also voiced opinions about the design of continued urban growth and the manner in which the physical development of the city is occurring. Issues pertaining to street connectivity; pedestrian access (walkability); cul-de-sac street design; park/ponding basins; school locations; and agricultural land impacts have been of particular interest. It is therefore, appropriate at this time for the City Council and Planning Commission to review and comment on this major proposal prior to projects in the Lowery Ranch being processed by the city staff.

**Land Use Summary:** The Lowrey Ranch Master Plan proposal (570 acres) has the following land use characteristics:

Residential

445 gross acres for mixed residential development

4.4 dwelling units per gross acre

1,958 total mixed residential units:

*High Density 144 units multiple family (7.35% of total units)*

*Medium Density 378 units multiple family (19.31% of total units)*

*Low Density 1,436 units single family (73.34% of total units)*

Non-residential (Gross acres)

123 acres of non- residential development

18 acres Elementary School

4.5 acres Neighborhood Commercial

5.5 acres City Park

22 acres Pocket Parks

11 acres Bike/ Pedestrian Trails

This document last revised: 3/31/06 10:04:00 AM

By author: fbrusuelas

File location and name: H:\(1) AGENDAS for Council\2006\040306\Item 1 Lowrey.doc

12.8 acres Waterway Greenspace Corridor/Trail  
50 acres Conservation/Storm Drain/Recharge Basin

**Staff Review:** Staff has reviewed the Lowery Ranch Proposal and offers the following comments for discussion and consideration:

1. The creation of a 570 acre master plan development in the northwest area of the city represents an important community expansion and evolution to the city's physical form. Necessary for review and approval of the master plan is conformance with the 2020 General Plan or applicable amendments to the plan.

2. Adopted Goals, Policies, and Objectives of the 2020 General Plan that will be used to evaluate the master plan project will include but not be limited to the following:

*A. Provide a viable range of housing alternatives (Goal 4).*

*B. Encourage development of comprehensively planned, compact, well-integrated areas for single-family and multi-family residential development using schools, neighborhood parks, and open space conservation facilities as key planning components (4.1.C).*

*C. Provide new residential areas that offer a variety of housing densities, types, sizes, costs and locations to meet projected demand throughout the community (4.1.D).*

*D. Ensure that natural and open space features such as Valley Oak trees and community waterways are treated as special site amenities which are preserved and enhanced in conformity with the Open Space, Conservation, Recreation and Parks Element (4.17).*

*E. Continue to coordinate community waterway issues (storm drainage & irrigation) with irrigation districts, private ditch companies, private landowners, and public agencies (5.1.2).*

*F. Promote schools as focal points for neighborhood areas and as planning elements for new growth areas (5.3.C).*

*G. Promote ways to reduce the number of vehicle-miles traveled in the planning area (5.6.B).*

*H. Protect agricultural land from premature urban development (6.3.A).*

3. The entire 570 acre Lowery Ranch area is within the current 129,000 Urban Development Boundary. The portion of the site generally situated south of Avenue 316 is also within the 98,700 UDB.

4. The Lowery Ranch Master Plan design is a unique "cul-de-sac / pocket park" oriented development proposal. There is a wide range of residential lot sizes to accommodate a variety of housing product choices. The plan also offers a generous amount of park-open space areas and trails for pedestrians and bicycles.

5. The master plan includes a school site located in the center of the project area adjacent to a proposed city park and neighborhood commercial center. Combined with numerous multiple family residential nodes placed throughout the area, the plan attempts to include desirable land use components to create a balanced neighborhood setting.



6. The street circulation network has one north/south collector (Linwood); one major east/west collector (Shannon Parkway) and one minor east/west collector to serve the master plan area. The other streets are local or cul-de-sac streets serving the majority of residential lots.

**Staff Comments:** The Lowery Ranch Master Plan is an enhanced yet conventional subdivision design that segments blocks of land uses and connects them with major streets to create larger blocks. The Lowery Ranch design establishes at least 12 identifiable neighborhood segments framed by 94 cul-de-sac streets, backing lots with walls, and side street fencing. Typical of most conventional subdivision designs is the segmentation of residential product types to create homogeneous block areas. The Lowery Ranch design establishes these residential enclaves with pocket parks and cul-de-sacs as the predominant neighborhood design pattern. These predominant segments are then connected with other residential segments by local streets. The resulting effect is a framed neighborhood of segmented parts. This current design does not yet fully achieve effective neighborhood integration.

The opinion of staff is that there are other approaches to achieving good design, market acceptance and neighborhood creation. The plan strives to “create a well integrated neighborhood” (*Visalia General Plan Policy 4.1.C*) and with plan modifications can achieve an improved form and function to the northwest area of the community.

It is suggested by staff that a “traditional design” be considered as an alternative to the submitted conventional design. The traditional design approach would result in less cul-de-sac streets (or no cul-de-sac streets) and more street connectivity to disperse vehicular traffic, pedestrians and bicycles. Pocket parks could also be reduced in favor of a park/ponding basin amenity and/or expanded city neighborhood park combined with a storm basin. Typical of the “Traditional Design” are grid street patterns and mixed land use integration.

Staff recommends that the City Council and Planning Commission comment and give direction on the Lowery Ranch Master Plan based upon the following items and other master plan issues that are of Council and Commission interest:

**1. Specific Plan:** The applicants have discussed with staff that the Lowery Ranch Master Plan could be adopted as a Specific Plan via a public hearing process rather than an informal Guideline Document (Master Plan). The Specific Plan provides regulatory commitment to the master plan design, development standards, and land use mix and would “lock in” design development standards, project phasing and other plan components.

**2. Agricultural Preserves:** The 570 acre Master Plan area has Williamson Act (agricultural land contract) properties that have been filed with a Notice of Non-renewal. The 126 acre phase one area is within the city limits and has lands subject to the Williamson act. Staff and applicants are working on an agricultural easement exchange program for Williamson Act contract cancellation requests. It is the staff intent to have this program available for the Lowery Ranch Master Plan to participate if and when contract cancellations are requested. An agricultural land contract cancellation will be required for any subdivision development that occurs prior to the notice of non-renewal time period expiration. The easement exchange program would be included as a component of the specific plan.

**3. Park Land:** The Lowery Ranch Master Plan proposal has a 5.5 acre Neighborhood Park and 22 acres of Pocket Parks. Additional acreage is allocated for trails, waterways and storm water ponding basin. These are both commendable aspects of the design. Is the concept of pocket parks acceptable or should there be fewer, but larger open space area? The Park and Recreation Commission has reviewed the master plan and commented that they find the design acceptable in concept. It was suggested that some pocket parks could be eliminated. A memo dated March 27,

2006, from the Parks and Recreation director and a memo to the Parks and Recreation Commission dated March 10, 2006 are attached. Staff believes that the area will need a neighborhood park and also encourages the disposal of strategically located pocket parks throughout the plan area.

**4. Storm Water Ponding:** The developer is working with the Modoc Ditch Company to secure an agreement to dispose of storm water in the large basin located on Riggins, west of Demaree for the project. The ponding basin has potential to be developed as a focal point for this emerging neighborhood. The Master Plan should place emphasis on Modoc Basin as a potential opportunity for aesthetic and recreation enhancement in addition to stormwater drainage and groundwater recharge. If the Modoc Basin is not available, a combined park/basin facility to serve the area will be needed.

**5. Residential Mix/ Density:** The project, as shown, contains an approximate ratio of 27% multiple family and 73% single family. This ratio is typical of conventional land use patterns in Visalia. The project is enhanced with small lot single family areas. However, housing types are segmented and need to be integrated. The plan should include a greater mix of housing types to achieve better integration and increased residential density.

**6. General Plan Consistency:** The project must be evaluated for consistency with the adopted 2020 General Plan. General Plan Amendments will be necessary as it relates to Neighborhood Commercial locations, density and other adopted land use policies.

**7. Environmental Review:** The processing of the Lowery Ranch Master Plan as a specific plan will require environmental review as required by the California Environmental Quality Act (CEQA). The Master Plan area is currently designated in the General Plan for a mix of urban uses. The specific plan may include modifications to land use designations. An initial study will be prepared pursuant to CEQA to determine the appropriate environmental finding for the specific plan.

**Prior Council/Board Actions:** N/A

**Committee/Commission Review and Actions:** N/A

**Alternatives:** N/A

**Attachments:**

1. Lowery Ranch Master Plan Maps
2. General Plan Map
3. City Limit Map
4. Ag Preserve Map
5. Aerial Photo
6. Parks and Recreation Director Memo – March 27, 2006
7. Parks and Recreation Commission Memo – March 10, 2006

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Discussion item only.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes____ No____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No

Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number:** 2

**Agenda Item Wording:**

Item for: Joint City Council/Planning Commission Work Session

Southeast Area Master Plan – Project update, located on the south side of Caldwell Avenue, between Santa Fe Street and Lovers Lane, to Avenue 272.

**Deadline for Action:** None

**Submitting Department:** Community Development - Planning

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 15

**Contact Name and Phone Number:** Andrew J. Chamberlain, AICP 713-4003  
Fred Brusuelas, AICP 713-4364

Update for the Southeast Area Master Plan: The City of Visalia City Council has authorized the preparation of a “Southeast Area Master Plan” for the purpose of comprehensively planning for future development in an 850 acre area so that future residences, parks, schools, offices, commercial areas, streets, and pathways are coordinated and integrated. The City is interested in developing a Master Plan for this emerging neighborhood that incorporates contemporary urban design techniques to create a high quality, well planned, urban neighborhood that will be acceptable in the local economy. The urban design techniques implemented into this neighborhood may serve as a model for other future neighborhoods in the City of Visalia.

The Southeast Area Master Plan had the first scheduled meeting, a Discovery Workshop, on March 15, 2006. The next milestone is the Charrette, which is scheduled for April 10<sup>th</sup> through the 14<sup>th</sup>.

The consultant’s tentative schedule proposes to have a draft concept plan available for review by the end of May. The draft plan would be based upon the input and direction received during the Charrette, and should contain land uses, roadway circulation patterns, open space areas, pedestrian and bike paths, and special nodes such as potential locations for quasi public uses such as churches, schools, parks and related facilities. The draft plan would be presented by the consultant and Task Force at Planning Commission and City Council work sessions for input and direction to refine the product. Based upon Task Force, Planning Commission, City Council, and community input and direction, a final plan will be prepared. The final plan would then be used as the basis for the preparation of the environmental documents (EIR) and enabling actions.

The draft and final plans will be both map and code based, with design standards being developed in conjunction with the proposed land use and circulation map. This is intended to bring the standards and maps together early in the process to provide a comprehensive view of the proposed master plan.

Discovery Workshop – this all day workshop, which was held on March 15, 2006, provided an opportunity for the consultant to receive input from a variety of community groups and property owners in and adjacent to the subject site, along with the City Council, Planning Commission, Task Force and City Staff.

Charrette – The Charrette is planned for April 10<sup>th</sup> through the 14<sup>th</sup> at the Convention Center, a schedule of activities will be available by April 4<sup>th</sup> or sooner. The consultant will be setting up their work area and begin work on April 9<sup>th</sup>, and plans to have an informal open house in the afternoon to provide an opportunity for Council, Commission and Task Force members to meet the consultant team and become familiar with the type of work which is proposed for the coming week.

The Charrette is a creative, intense work session with public workshops and open houses. It is intended to be a collaborative planning process that harnesses the talents and energies of all interested parties to create and support a feasible plan that is representative of community values while providing opportunities for better design techniques over the current development patterns in the community. The public design Charrette has emerged as an alternative to the “design and present” style of planning. It provides a framework for creating a shared vision with community involvement, directed by consultants representing key disciplines.

Moule and Polyzoides Architects and Urbanists are the consultants, David Thurman consultant Project Manager, Andrew Chamberlain City Staff Project Manager

Item of Interest: The French word, "Charrette" means "cart" and is often used to describe the final, intense work effort expended by art and architecture students to meet a project deadline. This use of the term is said to originate from the École des Beaux Arts in Paris during the 19th century, where proctors circulated a cart, or “charrette”, to collect final drawings while students frantically put finishing touches on their work.



**Attachments:**

- Southeast Area Master Plan Materials from Consultant Discovery Workshop

**City Manager Recommendation:**

**Recommended Motion:** None – Information Only

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes

Review and Action: Prior:

Required: An EIR has been scheduled for this project which would be the subject of future reviews.

**NEPA Review:**

Required? No

Review and Action: Prior:

Required:

**Tracking Information:**

Anticipated schedule of review: Continued Updates

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## City of Visalia Agenda Item Transmittal

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 4

**Agenda Item Wording:** Review the status of the Northwest Fire Station and Training Facility project, including a presentation of the current design, and authorize the Construction Manager of the project to begin soliciting bids.

**Deadline for Action:** April 3, 2006

**Submitting Department:** Fire/Finance

**Contact Name and Phone Number:**

Doyle Sewell, 713-4486  
Gus Aiello, 713-4423

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 30

### Recommendation

That Council receive a status report on the Northwest fire station and training facility project and authorize the construction manager to move forward with the bidding process. Project designs will be presented by the architecture firm, RRM.

### Summary

The City's Measure T plan has the design of a fire station and training facility programmed in year 2 (FY 05/06). The project is moving forward as outlined in Table I – NW Fire Project Status, below.

Table I - NW Fire Project Status

Task	Status
Acquire land	Complete
Select Construction Manager	Complete
Select design firm	Complete
Develop design	In process
Develop bid packages	In process
Solicit bids	October, 2006
Approve GMP	November, 2006
Begin construction	December, 2006
Project complete	October, 2007



## Discussion

### Project Benefits

Upon completion, the Northwest Fire project will provide multiple benefits to the citizens of Visalia as well as City Fire staff. Historically, the northwest portion of the City has experienced response times in excess of 8 minutes. The new station will reduce those times to approximately 5 minutes. In addition to decreased response times on the suppression side, the training facility will allow Fire staff to be trained to handle various fire situations. The training facility includes props to simulate fires in a residence, commercial business and a multiple story housing unit, allowing staff to be prepared for any situation. The training facility will also eliminate the need for Fire staff to train on public roads and facilities as well as the need to travel to offsite training locations. The Fire facility will also serve as a primary Emergency Operations Center (EOC) until the public safety building is complete at which time it will serve as a backup EOC.

### Project Progress

On December 19, 2005, Council received an update on the status of the Northwest fire project, which included discussion of the following:

- Approximately 5 acres of land has been purchased at Shirk and the future Ferguson Avenue.
- The City has entered into a contract with BJ Perch Construction, Inc. to provide construction management (CM) at risk services. Under this agreement, all subcontracts for preconstruction and construction services will be the responsibility of BJ Perch, who will provide the City with a guaranteed maximum price (GMP).
- RRM Design has been selected to provide architectural services.

Since the last status update, BJ Perch and RRM, in conjunction with City personnel, have completed a preliminary design. Details of the design will be presented by the project architect, Kirk Van Cleave of RRM.

### Project Cost

With regards to the cost of the project, the original March 2003 budgeted amount was \$4.92 million. Construction costs have dramatically increased over the past three years due to increased construction activity and worldwide demands for materials. In reviewing two construction costs indexes over the past three years, the following is evident:

- The Lee-Saylor index, which is done by construction consultant Sierra West Group in Sacramento, indicates a 12.25% annual increase in costs in both 2004 and 2005
- The Turner cost index, which is done by Turner Construction in New York, projects a 15% increase in cost in 2006

Table II – Cost Increases details the costs increases by year from 2004 through 2006 the City might expect to see given the findings of the indexes above.

Table II - Cost Increases

Year	% Increase
2004	12.25%
2005	12.25%
2006*	15.00%
Total	39.50%

\* Projected

Over a three year period, construction costs will likely have risen approximately 1.10% (39.5% / 36 months) per month. Using this rate increase, the expected increase on the Fire project from the budgeted amount done in March 2003 until construction begins in November of 2006, a 44 month period is 48.4%. The current estimate to complete the Northwest Fire project is \$7.40 million, a 50.4% increase from the original estimate done in March 2003. Table III – Northwest Fire Project Budget, below details the project funding sources:

Table III - Northwest Fire Project Budget (in millions)

	Original Estimate	Current Estimate	\$ Increase	% Increase
Fire Impact Fees	3.25	4.89	1.64	
Measure T	1.67	2.51	0.84	
Total	4.92	7.40	2.48	50.4%

Although approximately 50% higher than the original estimate done in 2003, the project can be funded through Fire impact fees and the Measure T fund as planned. City staff performed a financial analysis on both the impact fee fund and the Measure T fund over a 20-year period beginning the first year of Measure T (04/05). Revenue and expense estimates indicate that both funds will be able to support the cost of the fire station project. Regarding the portion of the project funded from Fire impact fees, a General Fund advance will be required as originally planned. However, projected impact fee revenues are higher than budgeted. For example, in 05/06 projected revenues are \$660,000 compared to the budgeted \$240,000. Because fire impact fee revenues are coming in stronger, the advance required from the General Fund will be less. However, even with the increase in revenues, construction costs seem to be increasing at a faster pace. To stay on track with current construction costs, staff will review the current fire impact fee structure and report the findings to Council in the event the review indicates a need to increase the fee to meet the public safety needs of new development.

Upon receipt of a guaranteed maximum price from BJ Perch following the bidding process, staff will seek Council approval to appropriate additional funding as required.

**Prior Council/Board Actions:**

**December 19, 2005** – Update to Council on the status of the Northwest fire station and training facility.

**July 18, 2005** – Authorization to enter into a contract with BJ Perch Construction, Inc. for Construction Manager at Risk services for the Northwest Fire Station and Training Facility.

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:**

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move to receive the status report on the Northwest fire station and training facility and authorize the Construction Manager to proceed with the bidding process.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes _____ No _____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes \_\_\_\_\_ No \_\_\_\_\_

Review and Action: Prior: \_\_\_\_\_

<b>NEPA Review:</b>	Required:
Required? Yes	No
Review and Action:	Prior:
	Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## City of Visalia Agenda Item Transmittal

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10b

**Agenda Item Wording:** Approval of a \$5,000 sponsorship for the upcoming Visalia Biztalk Conference.

**Deadline for Action:** April 30, 2006

**Submitting Department:** Administration, Community Development

**Contact Name and Phone Number:** Steve Salomon, City Manager, x4312; Leslie Caviglia, Deputy City Manager, x4317; Traci Myers, Economic Development Coordinator, x4373.

For action by:

City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

Work Session  
 Closed Session  
Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.):   1  

### Department Recommendation and Summary:

It is recommended that the City Council authorize a \$5,000 sponsorship for the upcoming Biztalk conference scheduled for October 6 at the Visalia Convention Center, with the funding coming from the Economic Development budget, specifically the promotions and community support categories.

Stan Simpson, Chairman Emeritus of Buckman-Mitchell, Inc., and Harlan Hutson of Harlan Hutson Entertainment, Inc. are working together to coordinate a business conference in Visalia. The purpose is to bring together business, education and government leaders in and around Visalia to motivate and demonstrate new and innovative ways to be successful in today's global marketplace.

They have secured Burt Rutan of Dinuba, designer of SpaceShipOne, the world's first privately-built manned aircraft to reach space, to be the keynote speaker. He also designed the first successful human-powered aircraft which is now on display in the Air and Space Museum in Washington, D.C. Sir Richard Branson, owner of the Virgin Group, is licensing SpaceShipOne's technology, with flights to begin in 2007.

Also booked is celebrated speaker and former NFL referee Jim Tunney. Tunney works with national and international corporations and organizations to develop leadership skills and increase personal productivity. Conference organizers are working now to book a broad and diverse range of speakers.

Other pertinent topics during the day will include "Marketing in the 21<sup>st</sup> Century – How to reach the i-pod generation," "Hall of Innovation – Making your dream a reality today from people who have done it," and "Money Just Might Grow on Trees – funding sources for your growing business...venture capital, angel investors and lines of credit."

Staff is recommending that the City sponsor the event as a way of encouraging new and innovative business approaches and providing opportunities to strengthen businesses in the community. As of Friday, March 24, Kaweah Delta Health Care District, Idea Printing and Graphics, The Buckman Mitchell Group and Stanley and Wendy Simpson had signed on as Silver Sponsors. A \$5,000 sponsorship from the Economic Development Division would lend the same level of support from the City.

**Prior Council/Board Actions:** N/A

**Committee/Commission Review and Actions:** N/A

**Alternatives:** N/A

**Attachments:** Promotional Information

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

I move approval of the \$5,000 allocation from the Economic Development Division as the City's sponsorship of the Biztalk 06 Conference.

***Financial Impact***

**Funding Source:**

Account Number: \_Split equally between 0011-18109-528400 and 0011-18109-556100  
(Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$5,000	New Revenue:\$ 0
Amount Budgeted:\$10,000	Lost Revenue:\$ 0
New funding required:\$0	New Personnel:\$ 0
Council Policy Change: Yes_____	No_x____

Copies of this report have been provided to:



## City of Visalia Agenda Item Transmittal

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10c

**Agenda Item Wording:** Authorization to bid the Construction of Visalia Parkway from Dans Street to Demaree Street without the requirement for the payment of prevailing wages pursuant to Resolution No. 83-02. Project No. 1241-00000-720000-0-9810-2005.

**Deadline for Action:** None

**Submitting Department:** Public Works Department

**Contact Name and Phone Number:** Adam Ennis 713-4323,  
Jim Funk 713-4540, David Jacobs 713-4492

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.):   1  

**Department Recommendation and Summary:** Staff recommends that the City Council authorize the construction of Visalia Parkway from Dans Street to Demaree Street without the requirement for the payment of prevailing wages pursuant to Resolution No. 83-02. Project No.1241-00000-720000-0-9810-2005. The project area is generally located along the Visalia Parkway alignment between Demaree Street and Dans Street. The estimated cost of the project is \$ 500,000.

Visalia Parkway from Demaree Street to Dans Street is intended to provide a second access for the new Cottonwood Creek School scheduled to open in the Fall of 2006 and provide better traffic circulation in this area. This project will construct the northern half of the 110' right-of-way Visalia Parkway between Dans Street and Demaree Street. The street will be a two lane road until full build out occurs in the future when it will become a four lane road and extension across Packwood Creek to County Center Street is completed. The project also includes signaling the Visalia Parkway and Demaree Street intersection and paveouts west, north and south of the intersection. In addition, additional paving and a median curb will be installed along the school frontage. The street is shown as an arterial street as part of the April 2001 Circulation Element.

Council is empowered to authorize the construction of capital improvement projects without the requirement of paying prevailing wage if only locally generated funds are used to pay for the project. In this case, Visalia Parkway is an arterial street, and the City will use locally generated transportation impact fee funds to finance the project.

The project is scheduled to go out to bid April 4, 2006 and be under construction approximately June 12, 2006. Project completion is anticipated to be about August 11, 2006.

**Alternatives:** None recommended.

**Attachments:** Location Map



**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move to authorize the bid for the construction of Visalia Parkway from Dans Street to Demaree Street without the requirement for the payment of prevailing wages pursuant to Resolution No. 83-02. Project No. 1241-00000-720000-0-9810-2005.

***Financial Impact***

**Funding Source:**

Account Number: 1241-00000-720000-0-9810-2005

**Budget Recap:**

Total Estimated cost: \$500,000	New Revenue:	\$
Amount Budgeted: \$500,000	Lost Revenue:	\$
New funding required: \$0	New Personnel:	\$
Council Policy Change: Yes____	No__X	

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes  No  A Mitigated Negative Declaration has been prepared.  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes  No   
Review and Action: Prior:  
Required:

Copies of this report have been provided to:

**Tracking Information:** (Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)

*None*

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10d

**Agenda Item Wording:** Request authorization to accept an "Irrevocable Offer to Dedicate Real Property" for Riggin Avenue right-of-way for roadway purposes as offered per Document No. 2003-0011275, Dated February 10, 2003, Document No. 2005-0032400, Dated March 29, 2005 and Shannon Ranch East Subdivision generally located between Modoc Ditch and Dayton Street.

Resolution No 2006-29

**Deadline for Action:** April 3, 2006

**Submitting Department:** Public Works, Engineering

**Contact Name and Phone Number:**

Andrew Benelli: 713-4340

Greg Dais: 713-4164

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 2 min.

**Department Recommendation and Summary:** Staff recommends that the City Council accept the "Irrevocable Offer to Dedicate Real Property" for Riggin Avenue right-of-way for roadway purposes as offered per Document No. 2003-0011275, Dated February 10, 2003, Document No. 2005-0032400, Dated March 29, 2005 and Shannon Ranch East Subdivision generally located between Modoc Ditch and Dayton Street.

The "Irrevocable Offer to Dedicate Real Property" that was offered in Document No. 2005-0032400, Dated March 29, 2005 for the future realignment and widening of the south half of Riggin Avenue. The "Irrevocable Offer to Dedicate Real Property" that was offered in Document No. 2003-0011275, Dated February 10, 2003 and Shannon Ranch East Subdivision for the future realignment and widening of the north half of Riggin Avenue. The Irrevocable Offer is used when the streets are not going to be dedicated and built with the map, but sometime in the future. This allows the City to accept the dedication when the City or a developer is ready to construct the roadways. Until the City accepts the Irrevocable Offer the property owner still has use of the land.

Acceptance of the irrevocable offer to dedicate will provide the City of Visalia with a 110-foot wide street right-of-way along Riggin Avenue between Modoc Ditch and Dayton Street. The Riggin Avenue street improvements will be constructed by Centex Homes and will consist of constructing a full width road with a median island between Modoc Ditch and Dayton Street. This will complete the section of Riggin Avenue between County Center Street and Dayton Street. Future development will compete the widening of Riggin Avenue on the north side from Dayton Street to Dinuba Blvd. The cost of improvements to the arterial street will be subject to reimbursement under the City's Transportation Impact Fee program.

Finally, staff recommends the City Council accept the irrevocable offer of dedication along Riggins Avenue. Having the dedication now will allow the City to move forward with the road widening of Riggins Avenue up to Dayton Street.

**Prior Council/Board Actions:** City Council approved the recordation of Shannon Ranch East Subdivision

**Committee/Commission Review and Actions:** None

**Alternatives:** Relinquish the Irrevocable Offer of Dedication for Real Property as offered per Document No. 2003-0011275, Dated February 10, 2003, Document No. 2005-0032400, Dated March 29, 2005 and Shannon Ranch East Subdivision.

**Attachments:** Project location sketch.

**City Manager/Executive Director Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

Move to accept an "Irrevocable Offer to Dedicate Real Property" for Riggins Avenue right-of-way for roadway purposes as offered per Document No. 2003-0011275, Dated February 10, 2003, Document No. 2005-0032400, Dated March 29, 2005 and Shannon Ranch East Subdivision.

Copies of this report have been provided to:

***Financial Impact***

**Funding Source:**

Account Number:

**Budget Recap:**

Total Estimated cost:	\$ N/A	New Revenue:	\$ N/A
Amount Budgeted:	\$ N/A	Lost Revenue:	\$ N/A
New funding required:	\$ N/A	New Personnel:	\$ N/A
Council Policy Change:	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes  No

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes  No

Review and Action: Prior:  
Required:

**Review and Approval - As needed:**

**Department Head Review (Signature):**

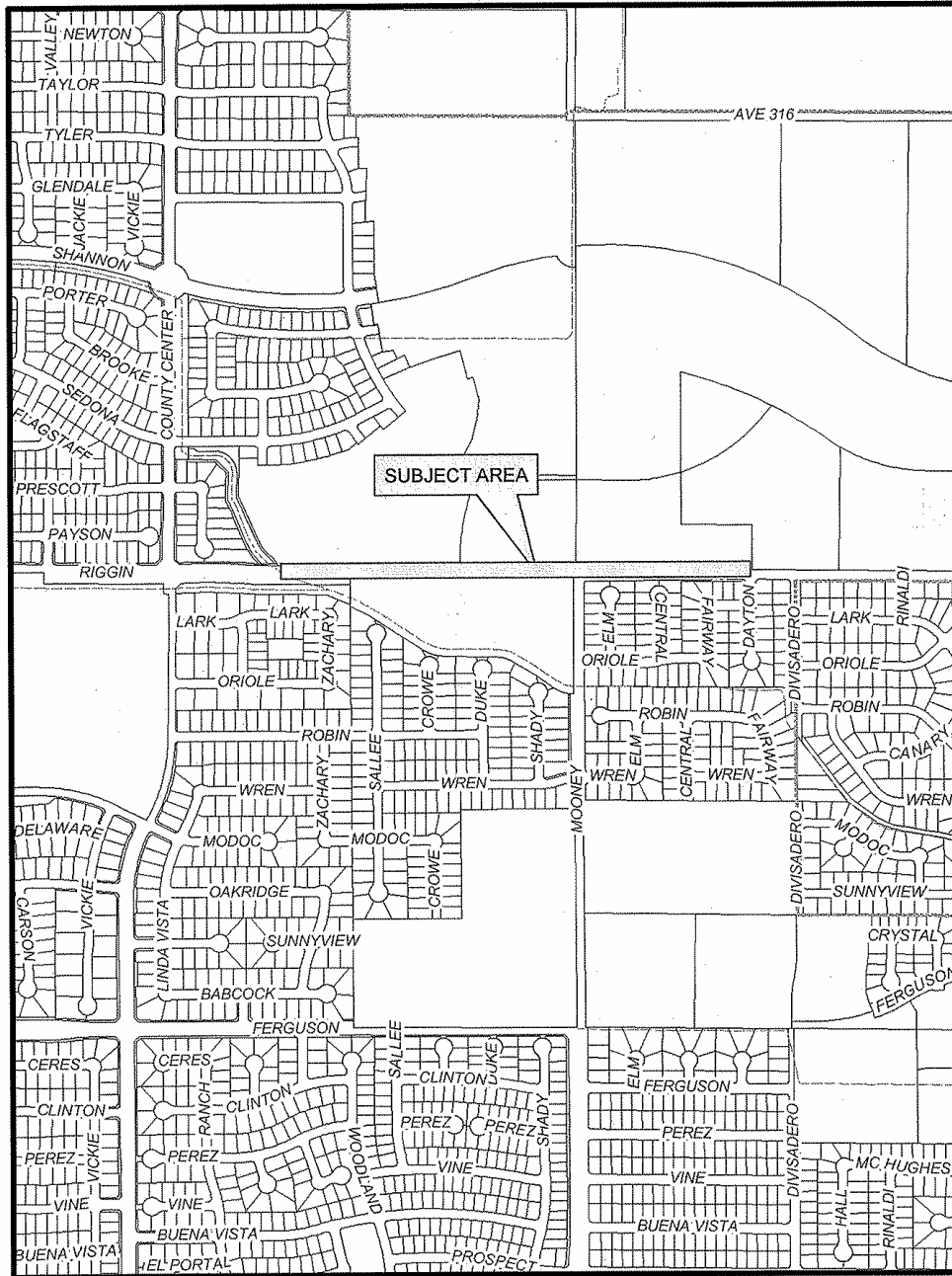
**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

# RIGGIN IRREVOCABLE OFFER



## LOCATION MAP

**RESOLUTION NO. 2006-29**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA  
AUTHORIZING THE ACCEPTANCE OF A  
IRREVOCABLE OFFER TO DEDICATE REAL PROPERTY**

**WHEREAS**, as offered per Document No. 2003-0011275, Dated February 10, 2003, Document No. 2005-0032400, Dated March 29, 2005 and Shannon Ranch East Subdivision and

**WHEREAS**, the City Council of the City of Visalia finds it to be in the public interest to accept into the City's street system those certain parcels more particularly and legally described as follows:

**Parcel A**

That portion of Parcel 2 of Parcel Map No. 4684, recorded in Book 47 of Parcel Maps at Page 89 of Tulare County Records, located in the Northeast quarter of Section 24, Township 18 South, Range 24 East, Mount Diablo Base and Meridian in the City of Visalia, County of Tulare, State of California described as follows:

Beginning at the Northwest corner of said Parcel 2, said point being on the North line of the Northeast quarter of said Section 24;

Thence South 89°21'21" East, along said North line, a distance of 1308.93 feet, to the Northeast corner of said Section 24;

Thence South 00°05'33" East, along the East line of said Section 24, a distance of 78.00 feet, to a line parallel with and 78.00 feet South of the North line of said Northeast quarter;

Thence North 89°21'21" West, along said parallel line, a distance of 42.00 feet to the South line of that existing Irrevocable Offer of Dedication in favor of the City of Visalia, recorded March 29, 2005, as Document No. 2005-0032400, Tulare County Records;

Thence along the South line of said Irrevocable Offer of Dedication, the following courses;

Thence (1) North 44°43'27" West a distance of 35.58 feet to a point on a line that is parallel with and 53.00 feet south of said North line of the Northeast quarter;

Thence (2) North 89°21'21" West, along a line parallel with and 53.00 feet south of said North line of the Northeast quarter, a distance of 604.38 feet;

Thence (3) westerly 239.66 feet along a curve concave to the South, with a central angle of 05°36'58" and a radius of 2445.00 feet;

Thence (4) westerly 250.44 feet along a reverse curve concave to the North, with a central angle of 05°36'58" and a radius of 2555.00 feet;

Thence (5) North 89°21'21" West, along a line parallel with and 77.00 feet South of said North line, a distance of 147.99 feet, to the West line of said Parcel 2;

Thence North 00°02'50" West, along said West line, a distance of 77.01 feet to the TRUE POINT OF BEGINNING.

See Exhibit A for map.

### **Parcel B**

That portion of Parcel 4 of Parcel Map No. 4649, recorded in Book 47 of Parcel Maps at Page 54 of Tulare County Records, and those portions of Lots 1 and 2 of Shannon Ranch Central Subdivision Map, recorded in Volume 40 of Maps, at Page 99 of Tulare County Records, located in the Southeast quarter of Section 13, Township 18 South, Range 24 East, and in the Southwest quarter of Section 18, Township 18 South, Range 25 East, Mount Diablo Base and Meridian in the City of Visalia, County of Tulare, State of California described as follows:

Beginning at the South quarter corner of the Southeast quarter of said Section 13;

Thence North 89°32'45" West, along the South line of said Southeast quarter, a distance of 388.92 feet, to Southwest corner of said Parcel 4;

Thence North 34°43'26" West along the West line of said Parcel 4, a distance of 40.37 feet, to a line parallel with and 33.00 feet North of said Section line, to a point on the North line of that Irrevocable Offer of Dedication in favor of the City of Visalia recorded February 10, 2003 as Document No. 2003-11275, Tulare County Records;

Thence along the North line of said Irrevocable Offer of Dedication, the following courses;

Thence (1) South 89°32'45" East along said parallel line, a distance of 412.18 feet, to a point 33.00 feet North of the South quarter corner of said Southeast quarter;

Thence (2) South 89°32'21" East along a line parallel with and 33.00 feet North of the South line of the Southeast quarter of said Southeast quarter, a distance of 148.92 feet;

Thence (3) easterly 239.66 feet along a curve concave to the North, with a central angle of 05°36'58" and a radius of 2445.00 feet;

Thence (4) easterly 250.44 feet along a reverse curve concave to the South, with a central angle of 05°36'58" and a radius of 2555.00 feet to the East line of said Parcel 4;

Thence (5) South 89°32'21" East along said parallel line, a distance of 598.34 feet, to the northwesterly line of that Irrevocable Offer of Dedication in favor of the City of Visalia per Shannon Ranch East, recorded in Volume 40 of Maps at Page 46, Tulare County Records;

Thence North 45°16'37" East, along said northwesterly line, a distance of 42.29 feet to a line parallel with and 42.00 feet West of the East line of the Southeast quarter of the Southeast quarter of said Section 13, said parallel line also being the West line of said Irrevocable Offer of Dedication in favor of the City of Visalia, recorded February 10, 2003, as Document No. 2003-11275, Tulare County Records;

Thence South 89°28'04" East, a distance of 84.00 feet to a line parallel with and 42.00 feet East of said East line, said line also being the East line of said Irrevocable Offer of Dedication, and a point on the northeasterly line of said Irrevocable Offer of Dedication in favor of the City of Visalia, per Shannon Ranch East;

Thence South 44°39'04" East along said northeasterly line, a distance of 42.62 feet, to a line parallel with and 57.00 feet North of the South line of said Section 18, said parallel line also being the North line of said Irrevocable Offer of Dedication in favor of the City of Visalia, recorded February 10, 2003;

Thence along the North line of said Irrevocable Offer of Dedication, the following courses;

Thence (1) South 89°23'42" East along said parallel line, a distance of 170.52 feet;

Thence (2) easterly 201.68 feet, along a curve, concave to the North, with a central angle of 04°43'34" and a radius of 2445.00 feet;

Thence (3) continuing easterly 210.75 feet, along said a reverse curve, concave to the South, with a central angle of 04°43'34" and a radius of 2555.00 feet, to the intersection with a line parallel to and 74.00 feet North of the South line of said Section 18;

Thence (4) South 89°23'42" East along said parallel and line, 360.17 feet, to the East line of said Lot 2;

Thence South 00°05'34" West along said East line, a distance of 74.00 feet, to the South line of said Section 18;

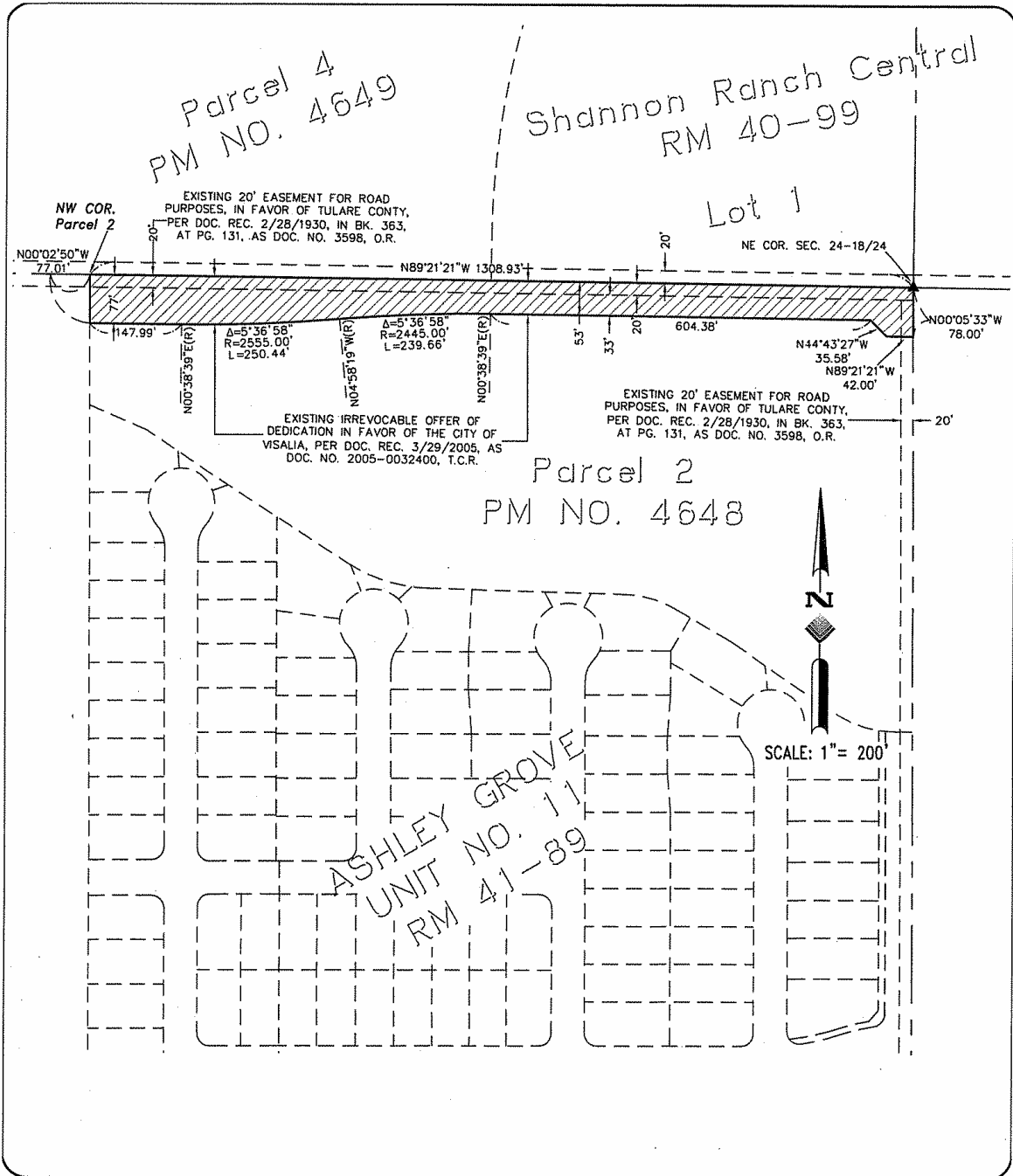
Thence North 89°23'42" West, along said South line, a distance of 1014.80 feet, to the Southwest quarter of said Section 18;

Thence North 89°32'21" West, along the South line of the Southeast quarter of the Southeast quarter of said Section 13, a distance of 1308.93 feet, to the South quarter corner of said Southeast quarter, and TRUE POINT OF BEGINNING;

See Exhibit B for map.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Visalia hereby accepts the "Irrevocable Offer to Dedicate Real Property" as described herein and made a part thereof.






PLOT DATE:	3/1/06
JOB NO.	050690
DWG. NAME:	050690-IOD TAKE4.dwg
SCALE:	1"=200'
SHEET NO.:	1 of 1

**EXHIBIT A**

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**PROPOSED DEDICATION**

PREPARED BY:



**Quad Knopf**

6110 W. CYPRESS AVE  
P.O. BOX 3699  
VISALIA, CA 93278  
TEL: (559) 733-0440  
FAX: (559) 733-7821

DRW BY: \_\_\_\_\_

CHK BY: \_\_\_\_\_



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10e

**Agenda Item Wording:**

Approve the amended and restated Joint Powers Agreement for the Consolidated Waste Management Authority (CWMA).

**Deadline for Action:**

April 3, 2006

**Submitting Department:**

Public Works

**Contact Name and Phone Number**

Andrew Benelli, Public Works Director 713-4340  
Jim Bean, Public Works Manager, Solid Waste & Fleet  
713-4564

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): \_\_\_\_\_

**Department Recommendation and Summary:**

Staff recommends that Council approve the amended and restated Joint Powers Agreement for the Consolidated Waste Management Authority (CWMA). The terms of this Agreement are similar to the current Agreement except that this Agreement adds Tulare County as a member of the CWMA and excludes Woodlake as a member.

**Background**

In 1999, the City of Visalia entered into a joint powers agreement with the cities of Dinuba, Lindsay, and Porterville to form the Consolidated Waste Management Authority (CWMA). In 2002, the remaining incorporated cities of Tulare County joined the CWMA (Exeter, Farmersville, Woodlake, and Tulare). Per the agreement, the CWMA acts as an "independent public agency to comprehensively plan, develop, operate and manage the collection, diversion, recycling, processing and disposal of solid waste within the County of Tulare."

The CWMA Board has been working with Tulare County staff to include the County in the CWMA. The County membership is very important to the CWMA cities because the County operates the landfills. The unincorporated areas of the County also contain many residential and commercial waste generators. The County and the CWMA have both been funding public awareness campaigns. With the County as a member of the CWMA those campaigns will be able to be combined resulting in increased efficiencies. The combined program should be able to reach more people at a lower cost. The County has also been funding other programs like the Household Hazardous Waste program that can benefit from a combined effort. The County and the CWMA cities are all working on developing construction and demolition recycling programs that can more effectively be conducted with the County as a member of the CWMA. Having the County as a CWMA member will significantly improve this region's

opportunities to develop programs that will increase recycling and decrease the volume of waste deposited at the landfills.

On March 16<sup>th</sup>, 2005, the CWMA Board approved recommending that the member agencies adopt the proposed Agreement which includes Tulare County as a member agency and excludes Woodlake as a member agency. Woodlake submitted a letter expressing their desire to withdraw from the CWMA in December, 2005. Their request was approved by the CWMA Board on January 26<sup>th</sup>, 2006. Woodlake did not provide a reason for withdrawing from the CWMA.

The agreement has additionally been revised to state that an alternate Member of the Board “shall be a member of the legislative body of the member which he or she represents” (Section 7a). Visalia’s member on the Board is Councilmember Bob Link. Visalia’s alternate member on the Board is Councilmember Greg Kirkpatrick.

**Prior Council/Board Actions:**

The City Council approved the amended Joint Powers Agreement in 2002.

**Alternatives:**

Do not approve the amended and restated Joint Powers Agreement.

**Attachments:**

Amended and restated Joint Powers Agreement.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Approve the amended and restated Joint Powers Agreement.

***Financial Impact***

**Funding Source:**  
Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$	
Amount Budgeted: \$	Lost Revenue: \$	
New funding required:\$	New Personnel: \$	
Council Policy Change: ___ No___		

Copies of this report have been provided to:



**REVISED**  
**“AMENDED AND RESTATED JOINT POWERS AGREEMENT”**  
**CONSOLIDATED WASTE MANAGEMENT AUTHORITY**

**THIS AGREEMENT** is entered into as of \_\_\_\_\_, between the CITIES OF VISALIA, PORTERVILLE, LINDSAY, DINUBA, TULARE (including its Board of Public Utilities Commissioners), EXETER, FARMERSVILLE, and the COUNTY of TULARE (COUNTY) hereinafter collectively referred to as Members, with reference to the following:

- A. On December 8, 1999 the CITIES OF VISALIA, PORTERVILLE, LINDSAY, DINUBA, and TULARE entered into a Joint Powers Agreement forming the Consolidated Waste Management Authority (CWMA).
- B. On November 26, 2002 Cities of EXETER, FARMERSVILLE and WOODLAKE joined the CWMA as equal members.
- C. On December 15, 2005, the City of Woodlake submitted their desire to withdraw from the CWMA and on January 26, 2006 was formally accepted by CWMA by approval of Resolution No. 2006-01.
- D. On the November 17, 2005, CWMA Board approved Resolution No. 2005-04 accepting the COUNTY’S desire to join the CWMA, subject to the terms and conditions set forth below.
- E. The Members intend by this Agreement to create a Joint Powers Authority ("the Authority") to act as a regional agency and independent public agency to comprehensively plan, develop, operate and manage the, transformation, diversion, recycling,

processing and disposal of solid waste within the Members' jurisdictions;

- F. The Members further intend by this Agreement to provide for the funding reasonably anticipated to be necessary for the above purposes.
- G. Members are authorized to enter into this Agreement pursuant to Government Code §6500 et seq. and Public Resources Code §40970 et seq.
- H. The Members intend that the Authority be the responsible party for compliance with Article 1 (Commencing with Section 41780) of Chapter 6 of the Public Resources Code.
- I. The City of Tulare by charter has a Board of Public Utilities Commissioners to which responsibility has been delegated for solid waste management, and which must thereby also be a signatory to this Agreement.

**ACCORDINGLY, IT IS AGREED:**

**1. CREATION OF SEPARATE AGENCY:** There is hereby created a regional agency which is an agency separate from the parties to the Agreement, and which is responsible for the administration of the Agreement, to be known as "Consolidated Waste Management Authority" (CWMA). Within thirty (30) days of the effective date of this Agreement, the parties shall cause a notice of this Agreement to be prepared and filed with the office of the California Secretary of State as required by Government Code §6503.5.

**2. DEFINITIONS:** Unless otherwise required by the context, the following terms shall have the following meanings:

- a. "Act" shall mean the California Integrated Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.) and all regulations adopted under that legislation, as that legislation and those regulations may be amended from time to time.
- b. "Authority" shall mean the Consolidated Waste Management Authority, which is the public and separate authority created by this Agreement;
- c. "Board" or "Board of Directors" shall mean the Board of Directors of CWMA as provided in this Agreement to govern and administer the Authority.
- d. "Member" shall mean any of the signatories of this Agreement and "Members" shall mean all of the signatories to this Agreement.
- e. "Solid Waste" shall mean all putrescible and nonputrescible solid, semi-solid and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes, including special wastes as defined in Public Resources Code §41450, but not including hazardous wastes, low-level radioactive waste, or medical waste, as more particularly defined in



Public Resources Code §40191 as it may be amended from time to time.

- f. "Solid waste landfill" or "solid waste disposal site" shall mean a disposal facility that accepts, or has accepted, solid waste for land disposal as more particularly defined in Public Resources Code §40122 as it may be amended from time to time.
- g. "SRRE" shall mean a Source Reduction and Recycling Element as required by the Act as that element may be amended from time to time.
- h. "NDFE" shall mean a Non-Disposal Facility Element as required by the Act as that element may be amended from time to time.
- i. "HHWE" shall mean Household Hazardous Waste Element as required by the Act as that element may be amended from time to time.
- j. "Transfer facility" shall mean a facility, together with necessary accessory facilities, used for the receiving, processing, recycling and transportation of solid waste, and the recovery of materials from solid waste, as more particularly defined in Public Resources Code §40200 as it may be amended from time to time.
- k. "CIWMP" shall mean County Integrated Waste Management Plan as required by the Act as that plan may be amended from time to time.

**3. PURPOSE:** The purpose of the Authority is to provide for the joint exercise of certain powers common to the Members and for the exercise of such additional powers as are conferred by law in order to meet the requirements of the Act. The Members are each empowered by the laws of the State of California

to exercise the powers specified in this Agreement and to comply with the provisions of the Act and other laws. These common powers shall be exercised for the benefit of any one or more of the Members or otherwise in the manner set forth in this Agreement.

The Members will be responsible for implementation of their programs and enter this agreement with the intent to operate the Authority in compliance with the requirements of the Act with a minimum level of staff, addressing those operations and programs that can be most cost-effectively handled at the regional level by maximizing local resources, private sector participation and contract services. The duties and responsibilities of each Member are described in the County Integrated Waste Management Plan (CIWMP) which is hereby incorporated in this agreement. The Authority is formed with the sole purpose and intent of jointly measuring disposal reduction by the member agencies and of facilitating the development of joint programs and projects that provide economies of scale. The members will exercise independent power within their own jurisdiction, to including but not limited to, the establishment or approval of fees, the collection of solid waste, landfills and the administration of landfills and transfer stations.

**4. POWERS:** The Authority is hereby authorized, in its own name, to exercise any power common to the parties as to solid waste management within the boundaries of the Member jurisdictions, and to thereby perform all acts necessary to accomplish its purpose as stated in this Agreement, except as may be otherwise provided in this Agreement, including, but not limited to, the following:

- a. To make and/or assume contracts;

- b. To employ agents, employees, consultants and such other persons or firms as it may deem necessary;
- c. To acquire by condemnation or otherwise land and/or facilities not owned by any member to construct, manage, maintain or operate any building, works or improvements, including systems, plants, Disposal Sites, Transfer Facilities or other facilities for the purposes of collection, disposal, treatment, transformation, diversion, or recycling of solid waste;
- d. To incur debts, liabilities or obligations, subject to the limitations provided in this Agreement;
- e. To sue and be sued in its own name;
- f. To apply for and accept grants, advances and contributions;
- g. To set processing, disposal fees and other rates, and to levy and collect fees and charges, including tipping fees and gate fees as provide by this Agreement, or as permitted by law for Authority owned and/or operated facilities.
- h. To adopt ordinances and resolutions as authorized by law;
- i. To issue bonds in any manner authorized by law;
- j. To adopt an annual budget;
- k. To exercise the authority otherwise vested in any party to this Agreement to apply for State or Federal funding to defray any of the costs of operation of the Authority;
- l. To take such actions as are deemed necessary to address transformation, reduction, recycling and diversion goals for solid

waste as mandated by the Act, or as deemed desirable by the Authority;

- m. To require appropriate reports from agencies, organizations and businesses which collect recyclables and;
- n. To license, franchise, permit and/or contract with qualified persons, including, but not limited to, independent haulers or any Member of the Authority, and to provide any service required by the Authority to accomplish its purpose.

The Authority shall have no responsibility for the operation of the Tulare County Solid Waste Enterprise Fund to include, but not be limited to, the operation of the Tulare County landfills and transfer stations, the establishment of reserves or for the setting of tipping or gate fees.

**5. OBLIGATIONS OF AUTHORITY:** No debt, liability or obligation of the Authority shall constitute a debt, liability or obligation of any of the Members, except as otherwise provided in this Agreement.

**6. DESIGNATION OF ADMINISTERING AGENCY:** The powers of the Authority provided in this Agreement shall be exercised in the manner provided by law for the exercise of such powers by the Members.

**7. ORGANIZATION:**

- a. **GOVERNING BOARD:** The Authority shall be governed by a Board of Directors which shall be composed of one (1) sitting member of each of the city councils, or in the case of the City of Tulare, a member of its Board of Public Utilities, and one (1) sitting member of the Tulare County Board of Supervisors. In addition, each of the

parties may designate an alternate Member of the Board who may participate as a Member of the Board only when the principal Member is absent. An alternate Member of the Board shall be a member of the legislative body of the member which he or she represents. Directors and alternates shall serve without compensation, except that they may be reimbursed for reasonable out-of-pocket expenses associated with their service on the Board as authorized by the Board.

- b. TERM: The Members from the city councils and the COUNTY and the alternates shall serve at the pleasure of the legislative body which appointed them.
- c. MEETINGS: Regular meetings of the Board shall be held at least quarterly, on such dates and times and at such locations as the Board shall fix by resolution. Special meetings of the Board shall be called in accordance with Government Code §54596. All meetings shall comply with the provisions of the Ralph M. Brown Act (Government Code §54950 et seq.)
- d. QUORUM: Five (5) Members of the Board shall constitute a quorum in order to conduct business.
- e. VOTING: A simple majority of the quorum shall be required for the adoption of a resolution, ordinance or other action of the Board, except that: (a) a majority vote of less than a quorum may vote to adjourn; (b) any of the following actions shall require a vote of two-thirds (2/3) of the authorized members of the board (as opposed to a quorum):

- (1) Adoption of an annual budget;
  - (2) Any modification of the annual budget;
  - (3) Contracts up to \$25,000 and for terms of up to two (2) years, which are otherwise not subject to a four fifths (4/5) vote as hereinafter provided;
  - (4) Admission of additional members;
  - (5) Appointment, employment, or dismissal of an employee, including any independent contractor who functions as an employee.
  - (6) Obtain reimbursement from any member for failure to implement programs identified in their SRRE, NDFE and HHWE;
  - (7) Compromise or payment of any claim against the Authority;
  - (8) To acquire by condemnation property not owned by the Members;
- (c) A four-fifths (4/5) vote of the Board (as opposed to a quorum) is required for the following actions:

- (1) The acquisition or lease of real property or equipment in excess of 1 year lease term.
- (2) Contracts in excess of \$25,000 or a 2 year term;

And (d) unanimous vote of the Board (as opposed to a quorum) is required for the:

- (1) The issuance, execution or delivery of bonds;
- (2) The formation of an assessment district or other similar financing mechanism.

f. MINUTES: The Board shall cause minutes of all meetings to be prepared, and shall cause a copy of the minutes to be delivered to

each member of the Board, and filed with the governing body of each party, as soon as practicable after each meeting.

- g. **RULES:** The Board shall adopt such other bylaws, rules and regulations for the conduct of its business as it shall deem necessary or desirable consistent with the provisions of this Agreement.
- h. **OFFICERS:** The officers of the Authority shall be a Chairperson, Vice-Chairperson, Secretary, Treasurer, Auditor, and such other officers as the Board shall designate. The election of officers will take place at the first meeting of a new fiscal year. The Authority may employ or contract for the services of a Treasurer and Auditor. The Treasurer is designated as the depository for the Authority. The Treasurer shall be formally designated by a resolution adopted by the Board of Directors stating the effective date of the appointment and the term of the appointment.
- i. **BONDING:** The Board shall designate the public office or officers or person or persons who have charge of, handle, or have access to any property of the Authority, and shall require such public officer or officers or person or persons to file an official bond in an appropriate amount to be fixed by the Board.

**8. ACCOUNTABILITY, REPORTS AND AUDITS:** There shall be strict accountability of all funds, and the Auditor shall report any and all receipts and disbursements to the Board with such frequency as shall reasonably be required by the Board. In addition, the Auditor shall either make or contract with a certified public accountant to make an annual audit of the accounts and records of the Authority as required by Government Code §6505. In each case, the minimum

requirements of the audit shall be those prescribed by the State Controller for special districts pursuant to Government Code §26909, and shall conform to generally accepted accounting principles. The auditor shall be formally designated by a resolution adopted by the Board of Directors stating the effective date of the appointment and the term of the appointment.

**9. OPERATING BUDGET:** The Board shall approve an operating budget as required to conduct its business in a manner consistent with the purposes of the Authority. In addition to normal operating requirements, the budget shall address the capital costs of developing future solid waste facilities.

**10. CONTRIBUTIONS:** The Authority shall have the power to establish a joint operating fund. The fund shall be used to pay all administrative, operating and other expenses incurred by the Authority. Funding shall be from Member contributions as determined by the Authority and other sources. No Member shall be obligated to make any contributions of funds to the Authority for facilities to be established in accordance with this Agreement or pay any other amounts on behalf of the Authority without that Member's consent evidenced by a written instrument signed by a duly authorized representative of the Member.

**11. ISSUANCE OF BONDS:** If the Board should decide by a unanimous vote that it will be necessary to acquire, construct, improve and finance a project for the purposes of the disposal, treatment, transformation, diversion or recycling of solid waste, the Authority may issue bonds, including revenue bonds for that purpose as authorized by Government Code §6540 et seq.

**12. ASSESSMENTS FOR EXTRAORDINARY COSTS:** In the event the Authority should experience an unanticipated need to pay for extra-ordinary



costs, or to pay for any and all costs of litigation or indemnification as provided in this Agreement, and to the extent that such costs cannot otherwise be reasonably funded through use of reserves on hand or through the other revenue sources authorized by this Agreement, the Board may allocate the additional costs, whether actually incurred or estimated to be necessary, among the Members in proportion to the population contained within the boundaries then current of the Members as last determined by the California Department of Finance. The Members agree that they will then contribute their proportionate share of the additional costs within a reasonable period of time as determined by the Board.

**13. INVESTMENT OF SURPLUS FUNDS:** The Authority may invest any money in the treasury that is not required for its immediate necessities in the same manner, and upon the same conditions, as any local agency may do pursuant to Government Code §53601.

**14. FISCAL YEAR:** The fiscal year for the Authority shall extend from July 1 to June 30 of each year.

**15. CONTRACT FOR STAFFING:** The Authority shall employ or contract for the services of legal counsel who shall advise the Authority on legal matters. The Authority may also employ its own Executive Director and administrative staff, or it may contract with any Member for that purpose.

**16. RESTRICTIONS ON OPERATIONS:** The Authority may not regulate tipping or gate fees for authority-owned facilities that are different for any one party to this agreement (or its residents) than any other party (or its residents) without the consent of the affected members.

Under no circumstances shall the Authority assume responsibility for hazardous waste disposal sites as defined by Health and Safety Code §25117.1.

**17. CIVIL PENALTIES:** Any civil penalties which are imposed pursuant to the Act by the California Integrated Waste Management Board will be paid by the Authority. In the event that a Member or Members fails to implement the programs identified in the CIWMP or fulfill its obligations under this Agreement, the Authority may request reimbursement for any civil penalties assessed by the California Integrated Waste Management Board as a result of this action, from the offending Member or Members.

If it is determined that a Member has failed to fulfill its obligation under this Agreement, which failure results in the imposition of penalties by the California Integrated Waste Management Board, such member shall be obligated to pay all incurred penalties and costs of enforcement including but not limited to attorney's fees and costs.

**18. WITHDRAWAL:** Any Member may withdraw from the Authority by filing with the Authority a written notice to withdraw one hundred eighty (180) days prior to the date of withdrawal. The withdrawal of the Member shall have no effect on the continuance of this Agreement among the remaining Members. The withdrawing Member shall remain responsible for its proportionate share of the then Fiscal Year's operating budget. Except upon vote by the Board to terminate the Authority, any Member that withdraws as provided herein shall be proportionately liable for all the outstanding obligations or debts incurred by the Authority, including remaining unfunded capital expenditures incurred or approved prior to the date of written notice of withdrawal of such Member. The

assets contributed by the withdrawing member or the value of the assets at the date of withdrawal will be returned to the withdrawing member.

**19. TERM AND TERMINATION:** This Agreement shall become effective, and the Authority shall come into existence, on the date that the last of the named parties executes the Agreement. The Agreement, and the Authority, shall thereafter continue in full force and effect until the governing bodies of the parties unanimously elect to terminate the Agreement.

Upon effective election to terminate this Agreement, the Board shall continue to act as a board to wind up and settle the affairs of the Authority. The Board shall adequately provide for the known debts, liabilities and obligations of the Authority, and shall then distribute the assets of the Authority among the Members, as follows:

- a. The assets contributed by each Member, or the value thereof as of the date of termination shall be distributed to that entity.
- b. The remaining assets shall then be distributed in proportion to the population contained within the boundaries then current of the Members as last determined by the California Department of Finance.

The distribution of assets shall be made in-kind to the extent possible by returning to each Member those assets contributed by such parties to the Authority; however, no party shall be required to accept transfer of an asset in kind,

Notwithstanding any other provision by the Board for payment of all known debts, liabilities and obligations of the Authority, each of the Members shall remain liable for any and all such debts, liabilities, and obligations in

proportion to the population contained within the boundaries of the last determined by the California Department of Finance as of the effective date of termination of the Agreement.

Upon termination of the Authority, each Member shall continue to assume its full responsibility to comply with the requirements of Part 2 of Division 30 (commencing with Section 40900) of the Public Resources Code, including, but not limited to, Article 1 (commencing with Section 41780); shall continue to implement any source reduction, recycling, and composting programs included in their SRREs, NDFEs, and HHWEs which may be amended from time to time and are subject to revision approved by the California Integrated Waste Management Board; and shall report and track its own disposal and diversion programs as required by law.

**20. INDEMNIFICATION/CONTRIBUTION:** The Authority shall hold harmless, defend and indemnify the Members, and their agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property (including property owned by any Member), arising out of the activities of the Authority, or its agents, officers and employees under this Agreement. The foregoing indemnification obligations shall continue beyond the term of this Agreement as to any acts or omissions occurring before or under this Agreement or any extension of this Agreement.

To the extent that the Authority is unable or unwilling to hold harmless, defend and indemnify any party to this Agreement as provided in this Section, such party shall be entitled to contribution from each of the other parties in proportion to the population contained within the boundaries of the Member as

last determined by the California Department of Finance as of the date that the obligation of the Authority for such indemnification is liquidated.

**21. INSURANCE:** The Authority shall obtain general liability and environmental insurance containing liability in such amounts as the Board shall determine will be necessary to adequately insure against the risks of liability that may be incurred by the Authority. The Members, their officers, directors and employees, shall be named as additional insureds.

**22. CLAIMS:** All claims against the Authority, including, but not limited to, claims by public officers and employees for fees, salaries, wages, mileage, or any other expenses, shall be filed within the time and in the manner specified in Chapter 2 (commencing with Section 910) of Part 3, Division 3.6 of Title 1 of the Government Code.

**23. ENTIRE AGREEMENT REPRESENTED:** This Agreement represents the entire agreement among the parties as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of all of the parties.

**24. HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

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

**Consolidated Waste Management Authority**  
707 W. Acequia

Visalia CA 93291  
(559) 738-3318  
FAX: (559) 730-7043

**MEMBERS:**

City of Dinuba  
405 E. El Monte Way  
Dinuba, CA 93618  
(Fax No.: (559) 591-5902 / Confirming No.: (559) 591-5906)

City of Lindsay  
P.O. Box 369  
Lindsay CA 93247  
(Fax No.: (559) 562-5748 / Confirming No.: (559) 562-5945)

City of Porterville  
291 N. Main Street  
Porterville, CA 93257  
(Fax No.: (559) 781-6437 / Confirming No.: (559) 782-7460)

City of Tulare  
411 E. Kern Ave.  
Tulare CA 93274  
(Fax No.: (559) 685-2398 / Confirming No.: (559) 684-4200)

City of Visalia  
707 W. Acequia  
Visalia CA 93277  
(Fax No.: (559) 730-7043 / Confirming No.: (559) 738-3318)

City of Exeter  
P.O. Box 237  
Exeter, CA 93221  
(Fax No.: (559) 562-3516 / Confirming No.: (559) 592-3318)

City of Farmersville  
909 W. Visalia Rd.  
Farmersville, CA 93223  
(Fax No.: (559) 747-6724 / Confirming No.: (559) 747-0458)

City of Woodlake (member until June 30, 2006)  
350 N. Valencia Blvd.  
Woodlake, CA 93286  
(Fax No.: (559) 564-8776 / Confirming No.: (559) 564-2317

County of Tulare  
2800 Burrel  
Visalia, CA 93291  
(Fax No.: (559) 733-6318 / Confirming No.: Fax (559) 733-6531)

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

**26. CONSTRUCTION:** This Agreement reflects the contributions of all parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

**27. NO THIRD PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

**28. WAIVERS:** The failure of any party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach.

**29. EXHIBITS AND RECITALS:** The recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

**30. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the

conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to any party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

**31. FURTHER ASSURANCES:** Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to affect the purposes of this Agreement.

**32. COUNTERPARTS:** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

/  
//  
Dated: \_\_\_\_\_

CITY OF DINUBA

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Dinuba



Dated: \_\_\_\_\_

CITY OF LINDSAY

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Lindsay

Dated: \_\_\_\_\_

CITY OF PORTERVILLE

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Porterville

Dated: \_\_\_\_\_

CITY OF TULARE

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Tulare

Dated: \_\_\_\_\_  
UTILITIES

CITY OF TULARE BOARD OF PUBLIC

By \_\_\_\_\_

\_\_\_\_\_  
ATTEST  
Secretary of the Board

Dated: \_\_\_\_\_

CITY OF VISALIA

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Visalia

Dated: \_\_\_\_\_

CITY OF EXETER

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Exeter

Dated: \_\_\_\_\_

CITY OF FARMERSVILLE

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
ATTEST  
Clerk of the City of Farmersville

Dated: \_\_\_\_\_

COUNTY OF TULARE

By \_\_\_\_\_  
Chairman

\_\_\_\_\_  
ATTEST  
Clerk of the Board



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number:** 10f

**Agenda Item Wording:**

Consent Calendar Item for:

Grant a six unit density bonus for the Conditional Use Permit No. 2006-04, to allow 44 multiple family units for the development located at 4219 W. Walnut Avenue, for the West Star company (APN 119-040-005, 006)

**Deadline for Action:** None

**Submitting Department:** Community Development - Planning

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.):   0  

**Contact Name and Phone Number:** Andrew J. Chamberlain, AICP 713-4003  
Fred Brusuelas, AICP 713-4364

**Recommendation and Summary:** Staff recommends that the City Council grant the density bonus allowed by the Municipal Code to allow an increase in the number of multiple family units from 38 to 44 for the proposed project. This recommendation is based upon the Planning Commission approval of the project which consists of 44 multiple-family units, 11 four-plex two-story buildings, and a subdivision map (see Exhibits "A" and "B"). The subdivision, as shown in Exhibit "B" will divide the 2.61 acres into 12 parcels. The project will have access and maintenance agreements, good neighbor policies, and a Homeowners Association.

Density

The City of Visalia Land Use Element Policy 4.1.19 promotes medium density residential development (up to 33 persons per acre - 10 to 15 dwelling units per net acre) for in-fill or new development. With 44 units, the project density is approximately 17 units per acre. The higher density is requested because the project is eligible for a density bonus based on the provision of usable open space. The project contains approximately 37,000 square feet of usable open space.

The Planning Commission staff report indicates that the project is eligible for a 16% density bonus, because the applicants were only asking for 6 additional units, which could be achieved by the 16% density bonus. Based upon the 32% usable open space, the project is actually eligible for the 20% density bonus which would allow 8 additional units.

Net Site Area: 113,747 sq. ft. = 2.61 acres

113,747 sq. ft. divided by 3,000 sq. ft. (minimum site area per unit in R-M-2 zone) = 38 units

Total Open Space = 36,814 sq. ft. = 32.3% of the Net Area = 20% Density Bonus

38 units X 20% = 8 units (7.6) = total allowable units = 46 units with Density Bonus

Requested units = 44 units

The applicant is providing 36,814 square feet of usable open space; therefore the project qualifies for a density bonus of 20% or eight additional units per the Zoning Ordinance section 17.26.040(B). In calculating the open space, the Zoning Ordinance defines the “Usable Open Space” as the “area within a planned development which is deemed suitable for use by the residents of the PD; not including parking areas, private patios, required building separation, parking and access, or storage areas.” The open space for this site does include portions of the front and side setback areas, if connected to larger usable open space areas, but does not include the fenced Evans Ditch area along the south side of the site. The fenced ditch area, which is approximately 7,729 sq. ft., is included in the net site area, but is not included as a part of the open space because it is not accessible to the residents of the complex.

Zoning Ordinance Section 17.26.040(B) states as follows:

B. Density. The average number of dwelling units per net area shall not exceed the maximum density prescribed by the site area regulations or the site area per dwelling in which the planned unit development is located, subject to a density bonus which may be granted by the city council upon recommendation by the planning commission. A density bonus may be granted as part of a planned development based on the following guidelines:

Percent of Net Site in Usable Open Space	Area Percent of Density Bonus
6% to 10%	6%
11% to 20%	10%
21% to 25%	16%
Over 25%	20%

Council Action – The City Council review and approval of the density bonus does not require a resolution, it may be approved as a consent item. The Conditional Use Permit and Tentative Map were reviewed and approved by the Planning Commission, along with a Negative Declaration. The actions are final pending the Council approval of the recommended density bonus.

General Plan Policy – The Land Use Element provides Policy No. 4.1.3 (5) as follows:

Density shall not exceed the underlying zoning provisions. Density increases may be granted in accordance with the Zoning Ordinance such as density bonuses or for infill projects, or for affordable housing. The proposed density bonus is consistent with the General Plan as provided in Zoning Ordinance Section 17.26.040(B)

**Committee/Commission Review and Actions:**

The Planning Commission held a public hearing on February 13, 2006 and recommended approval of Conditional Use Permit No. 2006-04 and Walnut Village Tentative Subdivision Map (4-0-1, Logan, Salinas, Segrue, Peck - Perez abstain).

During the public hearing no persons spoke in opposition to the items. West Star Construction spoke in support of the items. They indicated that they had contacted the neighborhood (adjacent residents) prior to the Planning Commission meeting and held a Neighborhood Meeting to explain the project and get comments from the neighbors.

**Related Projects:**

None

**Prior Council/Board Actions:**

None

**Alternatives:**

None Recommended

**Attachments:**

- Exhibit "A" – Development Plan
- Exhibit "B" – Subdivision Map
- Exhibit "C" – Unit Elevation
- Aerial Photo
- Location Map
- Planning Commission Staff Report

**City Manager Recommendation:**

**Recommended Motion:** Move to approve density bonus for Conditional Use Permit No. 2006-04.

<i><b>Financial Impact</b></i>	
<b>Funding Source:</b>	
Account Number: _____	(Call Finance for assistance)
<b>Budget Recap:</b>	
Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project which was approved by the Planning Commission as a part of the conditional use permit and map. Since only the density bonus is the subject of the City Council review, not the use permit or tentative map, Council does not have to certify the Negative Declaration.

**NEPA Review:**

Required? No

Review and Action: Prior:

Required:

**Tracking Information:**

Anticipated schedule of review: No further actions

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10g(1)

**Agenda Item Wording:** Authorize the Recordation of the Final Map for Hall Estates, located at the northeast corner of Cherry Avenue and Lovers Lane (30 lots) and the Formation of Landscape and Lighting District No. 06-05, Hall Estates (Resolution Nos. 06-34 and 06-35 required). APN: 127-030-014

**Deadline for Action:** N/A

**Submitting Department:** Public Works

**Contact Name and Phone Number:**

Andrew Benelli 713-4340  
Ken McSheehy 713-4447

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.):   1  

**Department Recommendation and Summary:**

***Final Map***

Staff recommends that City Council authorize the recordation of the final map for Hall Estates containing 30 single family lots. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) Faithful Performance Bond in the amount of \$319,582.46 and Labor and Material Bond in the amount of \$159,791.23; 3) cash payment of \$127,177.92 distributed to various accounts; and 4) Final Map. The developer of Hall Estates is New America Homes.

The Faithful Performance Bond covers the cost of constructing the public improvements noted in the subdivision agreement and the Labor and Material Bond covers the salaries and benefits as well as the materials supplied to install the required public improvements. As required by the Subdivision Ordinance, the Faithful Performance Bond covers 100% of the cost of the public improvements. The Labor and Material Bond is valued at 50% of the Faithful Performance Bond. A Maintenance Bond valued at 10% of the cost of the public improvements will be required prior to recording the Notice of Completion. The Maintenance Bond is held for one year after the recording and acts as a warranty for the public improvements installed per the subdivision agreement. The cash payment covers Development Impact Fees such as storm water acquisition, waterways, sewer front foot fees and any outstanding plan check and inspection fees. The plan check and inspection fees are estimated at the beginning of the final map process and are not confirmed until the subdivision agreement is finalized. Differences are due in cash at the time of City Council approval of the final map.

According to Resolution No. 2004-117 adopted by City Council on October 18, 2004 the City will reimburse the developer for street improvements made to Arterial and Collector streets. This



development is constructing street improvements on Lovers Lane (Arterial). The City will be reimbursing the developer approximately \$36,000 for Arterial/Collector street improvements. The reimbursement will come through a combination of fee credits for Transportation Impact Fees and cash payment.

### ***Landscape & Lighting***

Staff recommends that the City Council: adopt Resolution No. 06-34 Initiating Proceedings for Formation of Assessment District No. 06-05, Hall Estates; adopt the Engineer's Report as submitted; and adopt Resolution No. 06-35 confirming the Engineer's Report, ordering the improvements and levying the annual assessments.

The City of Visalia has been allowing the developers of subdivisions to form assessment districts under the Landscape and Lighting Act of 1972, and now under Proposition 218, in lieu of using homeowners associations for the maintenance of common features such as landscaping, irrigation systems, street lights, trees on local streets and pavement on local streets. The maintenance of these improvements is a special benefit to the development and enhances the land values to the individual property owners in the district.

The Landscape and Lighting Act allows for the use of summary proceedings when all the affected property owners have given their written consent. This process waives the requirement for a public hearing since the owners of this development have given their written consent to form this district.

**Prior Council/Board Actions:** The City has been allowing the use of the Landscape and Lighting Act of 1972 for maintaining common area features that are a special benefit and enhance the subdivision.

On September 7, 2004, Council approved the Street Maintenance Assessment Policy establishing guidelines and processes for placing street maintenance costs into assessment districts.

**Committee/Commission Review and Actions:** The tentative subdivision map for Hall Estates subdivision was approved by the Planning Commission on May 23, 2005. The tentative map will expire on May 23, 2007.

**Alternatives:** N/A

**Attachments:** Location Map; Resolution Initiating Proceedings; Clerk's Certification; Resolution Ordering the Improvements; Exhibits "A", "B", "C", "D"

**City Manager Recommendation:**

**Recommended Motions (and Alternative Motions if expected):**

"I move to authorize the recordation of the Final Map for Hall Estates and I move to adopt Resolution No. 06-34 Initiating Proceedings for Formation of Assessment District No. 06-05 "Hall Estates" and adopt Resolution No. 06-35 Ordering the Improvements for Assessment District No. 06-05 "Hall Estates."

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

**Copies of this report have been provided to:**

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes  No  
Review and Action: Prior: Negative Declaration processed with tentative map  
Required:

**NEPA Review:**

Required? Yes  No  
Review and Action: Prior:  
Required:

**Tracking Information:** (Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)

**Review and Approval - As needed:**

**Department Head Review (Signature):**

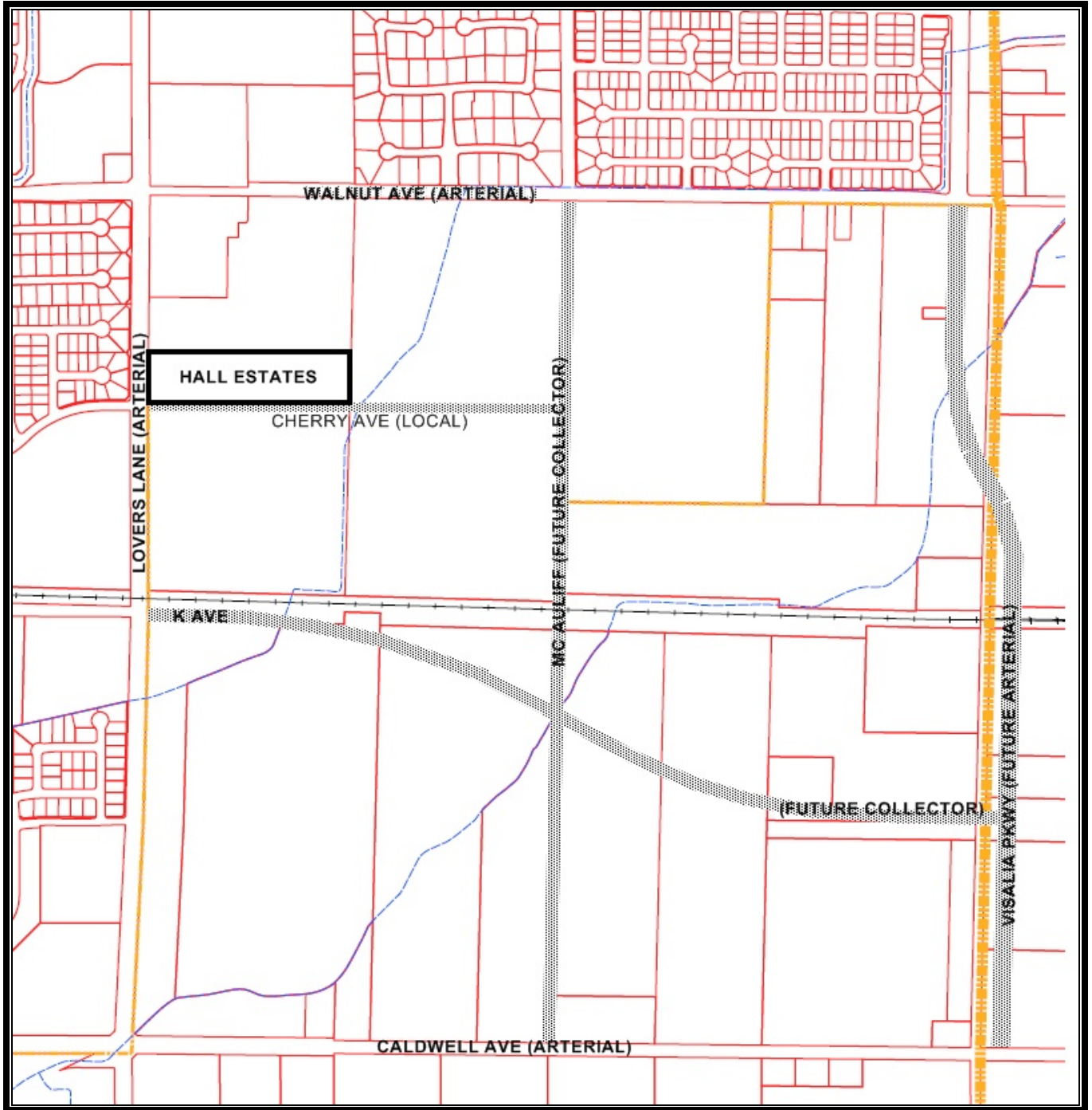
**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

# LOCATION MAP



RESOLUTION NO. 06-34

RESOLUTION INITIATING PROCEEDINGS FOR  
ASSESSMENT DISTRICT 06-05  
HALL ESTATES  
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to form an assessment district pursuant to the Landscaping & Lighting act of 1972 (Section 22500 and following, Streets & Highways Code) for the purpose of the following improvements:  
  
Maintenance of streetlights and pavement on local streets.
2. The proposed district shall be designated Assessment District No. 06-05, City of Visalia, Tulare County, California, and shall include the land shown on the map designated "Assessment Diagram, Assessment District No. 06-05, City of Visalia, Tulare County, California", which is on file with the City Clerk and is hereby approved and known as "Hall Estates".
3. The City Engineer of the City of Visalia is hereby designated engineer for the purpose of these formation proceedings. The City Council hereby directs the Engineer to prepare and file with the City Clerk a report in accordance with Article 4 of Chapter 1 of the Landscape & Lighting Act of 1972.

PASSED AND ADOPTED:

CLERK'S CERTIFICATION TO COUNTY AUDITOR

ASSESSMENT DISTRICT NO. 06-05

HALL ESTATES

(Pursuant to Landscaping & Lighting Act of 1972)

TO THE COUNTY AUDITOR OF THE COUNTY OF TULARE:

I hereby certify that the attached document is a true copy of that certain Engineer's Report, including assessments and assessment diagram, for "Assessment District No. 06-05, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 3rd day of April, 2006 by its Resolution No. 06-34 & 35

This document is certified, and is filed with you, pursuant to Section 22641 of the Streets and Highways Code.

RESOLUTION NO. 06-35

RESOLUTION ORDERING IMPROVEMENTS FOR  
ASSESSMENT DISTRICT NO. 06-05  
HALL ESTATES  
(Pursuant to the Landscape & Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council adopted its Resolution Initiating Proceedings for Assessment District No. 06-05, City of Visalia, Tulare County, California, and directed the preparation and filing of the Engineer's Report on the proposed formation.
2. The Engineer for the proceedings has filed an Engineer's Report with the City Clerk.
3. Owners of all land within the boundaries of the proposed landscape and lighting district have filed their consent to the formation of the proposed district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.
4. The City Council hereby orders the improvements and the formation of the assessment district described in the Resolution Initiating Proceedings and in the Engineer's Report.
5. The City Council hereby confirms the diagram and the assessment contained in the Engineer's Report and levies the assessment for the fiscal year 2006-07.
6. The City Council hereby forwards the following attachments to Tulare County Recorder's Office for recordation:
  - a. Clerk's Certification to County Auditor
  - b. Resolution Initiating Proceedings
  - c. Resolution Ordering Improvements
  - d. Engineer's Report:
    - Exhibit A - Assessment Diagram showing all parcels of real property within the Assessment District
    - Exhibit B - Streetlight Location Diagram
    - Exhibit C - Tax Roll Assessment
    - Exhibit D - Engineer's Report

PASSED AND ADOPTED





**Exhibit "B"**

Streetlight Location Diagram  
Hall Estates



## Exhibit "C"

Tax Roll Assessment  
Hall Estates  
Fiscal Year 2006-07

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$108.80	To Be Assigned	06-0501	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0502	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0503	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0504	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0505	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0506	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0507	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0508	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0509	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0510	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0511	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0512	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0513	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0514	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0515	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0516	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0517	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0518	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0519	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0520	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0521	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0522	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0523	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0524	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0525	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0526	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0527	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0528	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0529	Hall Estates
To Be Assigned	\$108.80	To Be Assigned	06-0530	Hall Estates

## **Exhibit "D"**

Engineer's Report  
Landscape & Lighting Assessment District 06-05  
Hall Estates  
Fiscal Year 2006-07

### General Description

This Assessment District (District) is located on the south side of Riggin Avenue between Linwood Street and Demaree Street. Exhibit "A" is a map of Assessment District 06-05. This District includes the maintenance of streetlights and pavement on local public streets and any other applicable equipment or improvements. The maintenance of streetlights includes the energy costs and maintenance costs established by Southern California Edison's rate schedule. The maintenance of pavement on local public streets includes preventative maintenance by means including, but not limited to overlays, chip seals/crack seals and reclamite (oiling). The total number lots within the district are 30.

### Determination of Benefit

The purpose of lighting is to provide safety and visual impressions for the area. The maintenance of the street lights is vital for the protection of both economic and humanistic values of the development. In order to preserve the values incorporated within developments and to concurrently have an adequate funding source for the maintenance of all internal local streets within the subdivision, the City Council has determined that street lights and all internal local streets should be included in a maintenance district to ensure satisfactory levels of maintenance.

### Method of Apportionment

In order to provide an equitable assessment to all owners within the District, the following method of apportionment has been used. All lots in the District benefit equally, including lots not adjacent to street lights. The lots not adjacent to street lights benefit by the uniform maintenance and overall appearance of the District. All lots in the District derive a direct benefit from the maintenance of the local streets adjacent to this private, gated subdivision.

### Estimated Costs

The estimated costs to maintain the District includes the costs to maintain street lights and pavement on local streets and any other applicable equipment or improvements. The regular preventive maintenance of pavement on local streets is based on the following schedule: Chip Seal on a 15 year cycle; Overlays on a 10 year cycle; Crack Seal on an 8 year cycle and Reclamite on a 6 year cycle.

## Exhibit "D"

Engineer's Report  
Landscape & Lighting Assessment District 06-05  
Hall Estates  
Fiscal Year 2006-07

The quantities and estimated costs are as follows:

<u>Description</u>	<u>Unit</u>	<u>Amount</u>	<u>Cost per unit</u>	<u>Total Cost</u>
Turf Area	Sq. Ft.	0	\$0.199	\$0.00
Shrub Area	Sq. Ft.	0	\$0.199	\$0.00
Water	Sq. Ft.	0	\$0.050	\$0.00
Electricity	Sq. Ft.	0	\$0.008	\$0.00
Trees In Landscape Lots	Each	0	\$25.00	\$0.00
Trees In Local Street Parkways	Each	0	\$25.00	\$0.00
Street Lights	Each	7	\$105.00	\$735.00
Chip Seal (15 year cycle)	Sq. Ft.	19944	\$0.190	\$252.62
Crack Seal ( 8 year cycle)	Sq. Ft.	19944	\$0.02933	\$73.13
Reclamite (6 year cycle)	Sq. Ft.	19944	\$0.0211110	\$70.17
Overlays (10 year cycle)	Sq. Ft.	19944	\$0.65	\$1,296.36
Project Management Costs	Lots	30	\$18.00	\$540.00
<b>TOTAL</b>				<b>\$2,967.28</b>
10% Reserve Fund				\$296.73
<b>GRAND TOTAL</b>				<b>\$3,264.01</b>
<b>COST PER LOT</b>				<b>\$108.80</b>

### Annual Cost Increase

This assessment district shall be subject to a maximum annual assessment ( $A_{max}$ ) for any given year "n" based on the following formula:

$$A_{max} \text{ for any given year "n"} = (\$3,264.01) (1.05)^{(n-1)}$$

where "n" equals the age of the assessment district with year one (1) being the year that the assessment district was formed;

The actual annual assessment for any given year will be based on the estimated cost of maintaining the improvements in the district plus any prior years' deficit and less any carryover. In no case shall the annual assessment be greater than maximum annual assessment as calculated by the formula above. The maximum annual increase for any given year shall be limited to 10% as long as the annual assessment does not exceed the maximum annual assessment as calculated by the formula above.

The reserve fund shall be maintained at a level of 10% of the estimated annual cost of maintaining the improvements in the district. If the reserve fund falls below 10%, then an

**Exhibit "D"**

Engineer's Report  
Landscape & Lighting Assessment District 06-05  
Hall Estates  
Fiscal Year 2006-07

amount will be calculated to restore the reserve fund to a level of 10%. This amount will be recognized as a deficit and applied to next year's annual assessment.

Example 1. The estimated year four cost of maintaining the improvements in the district is \$3,557.77 [a 9% increase over the base year estimated cost of \$3,264.01]. The maximum annual assessment for year four is \$3,778.50<sup>(4-1)</sup>

[ $A_{max} = (\$3,264.01) (1.05)^{(4-1)}$ ]. The assessment will be set at \$3,557.77 because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 2. The estimated year four cost of maintaining the improvements in the district is \$3,688.33 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$3,264.01]. The reserve fund is determined to be at a level of 8% of the estimated year four cost of maintaining the improvements in the district. An amount of \$73.77 will restore the reserve fund to a level of 10%. This amount is recognized as a deficit. The maximum annual assessment for year four is \$3,778.50 [ $A_{max} = (\$3,264.01) (1.05)^{(4-1)}$ ].

The year four assessment will be set at \$3,688.33 plus the deficit amount of \$73.77 which equals \$3,762.10 [a 9% increase over the previous year assessment] because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 3. The estimated year four cost of maintaining the improvements in the district is \$3,557.77 [a 9% increase over the base year assessment of \$3,264.01] and damage occurred to the masonry wall raising the year five expenses to \$3,982.09 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$3,913.55 (a 10% increase over the previous year) and below the maximum annual assessment of

$\$3,967.42 [A_{max} = (\$3,264.01) (1.05)^{(5-1)}]$ . The difference of \$68.54 is recognized as a deficit and will be carried over into future years' assessments until the masonry wall repair expenses are fully paid.

City Engineer Certification

I hereby certify that this report was prepared under my supervision and this report is based on information obtained from the improvement plans of the subject development.

---

Andrew Benelli  
Assistant Director Engineering

RCE 50022

Date

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10h

**Agenda Item Wording:** Authorization to file a Notice of Completion for the West Side Taxiway Construction and related projects at the Visalia Municipal Airport; Project numbers 4011-00000-720000-0-9568-2003 & 4011-00000-720000-0-9736-2005 corresponding to FAA AIP Project numbers 3-06-0271-17, 19, 20, 21, & 22.

**Deadline for Action:** N/A

**Submitting Department:** Administrative Services

**Contact Name and Phone Number:** Mario Cifuentez II,  
Airport Manager, x4480

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.):\_\_

**Department Recommendation and Summary:**

Executive Summary:

Airport staff recommends that Council authorize city staff to file a Notice of Completion on the West Side Parallel Taxiway project including AIP project Nos. 3-06-0271-17, 19, 20, 21 & 22 at a final cost of \$3,015,072.09. Albeit there were delays on the project due to a shortage of materials, the project was completed within the allotted project time. The final project cost includes \$132,325.90 in change orders, which is 4.6% of the bid award. The total change order amount was largely the result of drainage revisions required to the east side taxiway area and additional striping work that was required by the FAA to meet new Part 139 safety requirements. The majority of the change orders are attributable to FAA funded projects and as such, \$125,709.61 in additional grant funding has been allocated to cover the cost of the change orders. The net cost to the Airport Enterprise Fund for all change orders is \$6,616.29.

Background:

In December, 2005, Glen Wells Construction completed all work on the above referenced project, at a final cost of \$3,015,072.09. The increase in cost of the project is the result of several items. A copy of the change orders and the engineer's reports for each change order has been attached to this report. The Engineer's reports explain the changes in detail and the additional costs incurred.

The two major items necessitating the change orders were changes to the drainage system in the runway safety area and restriping of all taxiways on the airport. This project included the installation of a storm water drainage system between the runway and the new parallel taxiway. During the construction of the drainage system it was determined that when the water in Persian ditch was flowing at maximum capacity, the water would back up through the drop inlets and flood the infield. This is unacceptable as it becomes a bird attractant. Prior to the installation of

the infield drainage, the airport had no data on the actual depth of the culvert that runs under the runway. Once the actual depth of the culvert was determined during construction, it was determined that the installation of the globe valve and flapper valves was necessary to limit the flow of water in the appropriate direction depending on the season. During months the Persian ditch is flowing for irrigation purposes, the valves will be closed to allow the water to run downstream and not backup through the airfield drainage system. During the wet weather months, the valves will be opened to allow storm water to runoff. Airport maintenance personnel will monitor the water flow and position the valves accordingly.

During last years annual FAA inspection, it was noted that the existing taxiway markings were faded and the inspector recommended that the airport repaint all existing taxiway markings. This project was added to the Taxiway project as a change order and thereby became eligible for FAA funding and the airport has been reimbursed for 95% of the cost of that additional work.

Additionally, the project included the relocation of the segmented circle and wind sock used as a visual aide by pilots to determine the active runway and appropriate traffic pattern at the airport.

**Prior Council/Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:**

**Attachments:** Project Layout, Change Order Nos. 1-4, Associated Engineers Reports.

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Move that Council authorize the Filing of a Notice of Completion for the West Side Taxiway construction and related projects at the Visalia Municipal Airport; Project Nos. 4011-00000-720000-0-9568-2003 & 4011-00000-720000-0-9736-2005, corresponding to FAA AIP Project Nos. 3-0271-17, 19, 20, 21 & 22.



**Financial Impact**

**Funding Source:**

Account Number: 4011-00000-720000-0-9568-2003 &  
4011-00000-720000-0-9736-2005

**Budget Recap:**

Total Estimated cost:	\$3,015,072.09	New Revenue:	\$125,709.61
Amount Budgeted:	\$2,880,068.00	Lost Revenue:	\$
New funding required:	\$9,294.48	New Personnel:	\$
Council Policy Change:	Yes_____ No__ <input checked="" type="checkbox"/> __		

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes \_\_\_\_\_ No   
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes \_\_\_\_\_ No   
Review and Action: Prior:  
Required:

**Tracking Information:** (Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10i

**Agenda Item Wording:**

Authorization to execute a final Certificate of Cancellation of Land Conservation No. 10080 located on property owned by Frank Luisi (Quad Knopf, agent). The site is located at the northwest corner of Mooney Boulevard and Ferguson Avenue in the City of Visalia, County of Tulare. (APN: 089-010-034) **Resolution No. 2006-36 required.**

**Deadline for Action:** None

**Submitting Department:** Community Development Planning

**Contact Name and Phone Number:** Brandon Smith, Associate Planner 713-4636

For action by:

- City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

- Work Session  
 Closed Session  
 Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 3

**Recommendation and Summary:** Staff recommends that the Council authorize the City Manager to execute and record the final Certificate of Cancellation for the remainder of Land Conservation Contract No. 10080, encompassing property on the northwest corner of Mooney Boulevard and Ferguson Avenue. This action must be approved by Council before the public hearing regarding the related agriculture preserve diminishment can be held on the April 3, 2006 Council agenda.

On March 6, 2006, the City Council, in accordance with the procedures set up in the Williamson Act, approved a tentative cancellation of the contract, subject to certain conditions including the payment of a penalty fee for ending the contract. All conditions have now been met. They are:

1. The applicant shall make full payment to the Tulare County Treasurer for the amount of the cancellation fee, which is \$406,250 (12.50 % of the land's current fair market value of \$3,250,000).

*Staff has received a copy of a receipt verifying that this fee was paid in full on March 13, 2006. A copy of the receipt is attached.*

2. Unless the cancellation fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, the fee shall be recomputed as of the date of notice that the landowner has satisfied the required conditions of the tentative cancellation.

*As stated in 1), the cancellation fee was paid in full on March 13, 2006.*

3. The applicant shall file an application and pay application fees for the diminishment of Agricultural Preserve No. 3430.

*The applicant has filed a request for diminishment. The public hearing regarding this request is scheduled on the April 3, 2006 agenda.*

In 2005, the applicant filed the discretionary permits (tentative subdivision map) needed for the site's alternative land use specified by the agent. The Planning Commission approved these items on October 10, 2005, in which the approval was conditioned on the successful removal of the contract. Ashley Grove 13 Vesting Tentative Subdivision Map is a request to divide 29 acres into 118 lots for single-family residential use consistent with the existing R-1-6 zoning.

**Committee/Commission Review and Actions:**

On October 10, 2005, the Planning Commission approved Ashley Grove 13 Vesting Tentative Subdivision Map subject to completion of the Williamson Act contract cancellation and agricultural preserve disestablishment.

**Prior Council/Board Actions:**

On March 6, 2006, after holding a public hearing, the City Council approved the tentative cancellation of the land conservation contract on a 5-0 vote. The conditions of the tentative cancellation have now been met.

**Alternatives:**

None recommended.

**Attachments:**

- Resolution
- Recorded Certificate of Tentative Cancellation
- Receipt of payment of Cancellation fees
- Map showing area to be removed from contract
- City Council Staff Report from March 6, 2006
- Location Sketch

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** I move to adopt Resolution No. 2006-36, authorizing Staff to execute and record the final Certificate of Cancellation for Land Conservation Contract No. 10080.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes____ No____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes

Review and Action: Prior:

The Council previously certified negative Declaration No. 2006-007 on March 6, 2006. This document is adequate for use with this proposal.

Required:

**NEPA Review:**

Required? No

Review and Action: Prior:

Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

None.

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## RESOLUTION NO. 2006-36

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA AUTHORIZING THE EXECUTION OF CERTIFICATE OF CANCELLATION OF LAND CONSERVATION NO. 10080 LOCATED ON THE NORTHWEST CORNER OF MOONEY BOULEVARD AND FERGUSON AVENUE. FRANK LUISI ET AL, PROPERTY OWNERS; QUAD KNOPF, AGENT

**WHEREAS**, a request was made for the cancellation 29 acres of Williamson Act Land Conservation Contract No. 10080 within Agricultural Preserve No. 3430, located on the northwest corner of Mooney Boulevard and Ferguson Avenue within APN 089-010-034. The request was made by property owners Frank Luisi et al, represented by Quad Knopf; and

**WHEREAS**, the property owner had served a Notice of Nonrenewal for the entire area contained under said Contract, and the notice was recorded as Document No. 2004-0091885 at the Tulare County Recorder on September 9, 2004; and

**WHEREAS**, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this project, and no mitigation measures would be required; and

**WHEREAS**, the Director of the State Department of Conservation, in a written correspondence to the City dated January 30, 2006, did not find evidence against making the consistency findings for the cancellation of the contract, and therefore determined that the Visalia City Council has an adequate basis to support the findings required to cancel said contract; and

**WHEREAS**, the City Council of the City of Visalia, after twenty-one (21) days published notice held a public hearing before said Council on March 6, 2006; and

**WHEREAS**, the City Council of the City of Visalia found that the findings required by State law by which said contract may be tentatively canceled were made, and that the Contract Cancellation was carried out in accordance with procedures for tentative cancellation of contracts outlined in State law; and

**WHEREAS**, the City Council of the City of Visalia approved the Tentative Cancellation of Land Conservation Contract No. 10080 on March 6, 2006 based on certain findings and conditions; and

**WHEREAS**; evidence has now been presented that all conditions of said tentative cancellation have been met.

**NOW, THEREFORE, BE IT RESOLVED** that a Negative Declaration was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines, and was previously adopted for the Cancellation of Land Conservation No. 10080.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia authorizes the execution of a Certificate of Cancellation for Land Conservation Contract No. 10080, in accordance with the terms of this resolution under the provisions of Sections 51280 through 51287 of the State Government Code.

## City of Visalia Agenda Item Transmittal

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 10j(1)

**Agenda Item Wording:** Second Reading and Adoption of Ordinance No. 2006-05 authorizing the lease of certain portions of real property located at the Visalia Municipal Airport to the Federal Aviation Administration for the purpose of maintaining and operating Navigational Equipment.

**Deadline for Action:**

**Submitting Department:** Administrative Services – Airport

**Contact Name and Phone Number:** Mario Cifuentez, II  
Airport Manager, x4480

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): \_\_\_\_\_

### **Department Recommendation and Summary:**

#### Executive Summary:

City Staff recommends that Council adopt Ordinance No. 2006-05 and authorize the City Manager to execute the attached Memorandum of Agreement with the Federal Aviation Administration (FAA) allowing the FAA to occupy areas of property on the airport for the purpose of providing navigation aides necessary for aircraft operations. The term of this agreement is for twenty (20) years. Pursuant to FAA Grant Assurances, the Airport is required to provide the space without cost to the Government.

#### Background:

The Federal Aviation Administration currently occupies several areas of real property owned by the City of Visalia for the purpose of maintaining and operating navigation equipment used as part of the instrument landing system, to assist users of the Visalia Municipal Airport. Previously, this occupancy has been granted by lease agreements. However, for several years, the FAA has struggled with the accuracy of the on-airport no cost land leases. Often times, the leases contained inaccurate legal descriptions or new equipment was installed but no leases were ever initiated. In an effort to streamline the leasing process and to correct these problems, the FAA has developed the Memorandum of Agreement (MOA). The MOA will replace all individual no cost land leases on-airport.

The new MOA process eliminates the use of legal descriptions and relies on a List of Facilities and the Airport Layout Plan (ALP) to identify where the facilities are located. Both the City and the FAA agree that the continued operation and maintenance of the facility is of benefit to and necessary for the continued operation of the Visalia Municipal Airport. Both parties further desire to enter into this new agreement at this time, which will provide for their continued use.

This document last revised: 3/31/06 9:57:00 AM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\040306\Item 10j(1) Second Reading of FAA Ordinance.doc



The term of the agreement begins October 1, 2006 and ends September 30, 2026. No monetary consideration is to be received by the Airport, as the rights extended to the Government are in consideration of the obligations assumed by the Federal Government in its establishment, operations and maintenance of the facility.

**Prior Council Actions:**

March 20, 2006 – Introduction of Ordinance No. 2006-05 Authorizing the lease of certain portions of real property located at the Visalia Municipal Airport to the Federal Aviation Administration for the purpose of maintaining and operating Navigational Equipment.

June 2, 1997 – Introduction of Ordinance 97\_\_ Authorizing the lease of certain real property located generally along the extended centerline of Runway 30 at the Visalia Municipal Airport to the United States of America for the purpose of maintaining and operating a “Middle Marker” facility.

September 3, 1996 – Introduction of Ordinance 9620 Authorizing the lease of certain real property located on Avenue 256 west of State Highway 63 (Mooney Blvd.) to the United States of America for the “Outer Marker” facility which is also part of the Instrument Landing System for the Visalia Municipal Airport.

**Committee/Commission Review and Actions:** The Airport Committee recommends execution of this Agreement.

**Alternatives:**

**Attachments:** Proposed Memorandum of Agreement

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):** Move the Second Reading and adoption of Ordinance No. 2006-05 authorizing the lease of several areas of airport property at the Visalia Municipal Airport to the Federal Aviation Administration for the purpose of operating Navigational Aides, and authorize the City Manager to execute said lease.

This document last revised: 3/31/06 9:57:00 AM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\040306\Item 10j(1) Second Reading of FAA Ordinance.doc

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No <input checked="" type="checkbox"/>	

Copies of this report have been provided to:

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes \_\_\_\_\_ No

Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes \_\_\_\_\_ No

Review and Action: Prior:  
Required:

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

Others:

This document last revised: 3/31/06 9:57:00 AM

By author: Mario Cifuentez

File location and name: H:\(1) AGENDAS for Council\2006\040306\Item 10j(1) Second Reading of FAA Ordinance.doc

ORDINANCE NO. 2006-05

**AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF VISALIA**

**AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM  
OF AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION  
(FAA) FOR THE CONTINUED INSTALLATION AND OPERATION OF  
FAA OWNED NAVIGATIONAL AIDS.**

**WHEREAS**, the City of Visalia owns approximately 720 acres of certain real property generally referred to as the Visalia Municipal Airport, and,

**WHEREAS**, the United States of America, Department of Transportation, Federal Aviation Administration has utilized said real property for the construction, maintenance and operation of a Navigation Equipment since 1977, and,

**WHEREAS**, said Navigational Aids are of benefit to, and necessary for the continued operation of the Visalia Municipal Airport, and,

**WHEREAS**, the FAA has determined that a Memorandum of Agreement is the most appropriate document to govern the leasing process with Airports and the parties wish to enter into a new agreement for the continued use of the property and existing facilities, and,

**WHEREAS**, the subject real property is more particularly located on the approved Airport Layout Plan.

**Be it ordained by the Council of the City of Visalia,**

Section 1. The City Manager of the City of Visalia be, and is hereby authorized to execute on behalf of the City of Visalia, that certain Memorandum of Agreement by and between the City of Visalia and the Federal Aviation Administration, Agreement No. DTFAWP-06-L-00048.

Section 2. This ordinance shall go into effect thirty (30) days after its passage.

## City of Visalia Agenda Item Transmittal

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 11

**Agenda Item Wording:** Appeal of the Planning Commission's approval of Conditional Use Permit 2006-14, a request by Visalia Adventure Park amending Conditional Use Permit 2003-39, to allow on-site sales of beer and wine at a commercial recreation facility in the CSO (Planned Shopping/Office) Zone. The site is located at 5600 W. Cypress Avenue APN: 087-450-019.

Resolution No. 2006-32 required.

**Deadline for Action:** April 17, 2006 – A public hearing is required to be held no later than 45 days after receipt of an appeal, which was submitted on March 3, 2006.

**Submitting Department:** Community Development- Planning

**Contact Name and Phone Number:**

Paul Scheibel 713-4369  
Fred Brusuelas 713-4364

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 60

**Department Recommendation and Summary:** A resolution denying the appeal and upholding the Planning Commission's approval of this item is attached with this report. The conditional use permit was approved by the Planning Commission on March 27, 2006, allowing the sale of beer and wine at the Visalia Adventure Park. Reverend Mark Wilson, the pastor of the Sierra Baptist Church, appealed the decision on March 3, 2006. A copy of the appeal letter is attached.

### Background

The applicant is requesting an amendment to CUP 2003-39, that originally entitled the Adventure park to be constructed, but prohibited the sales of beer and wine. The applicant is requesting the amendment to eliminate that condition and allow the sales of beer and wine on site in the restaurant/dining area only. The park is comprised of a 20,408 square foot two-story primary building which houses laser tag, an arcade and a separate restaurant/dining area. The rest of the park includes miniature golf, a batting cage, two miniature car racetracks, and bumper boats. An operational statement is attached.

Included in the original conditions of approval, is the provision that an annual review of the project's compliance with the conditions of the CUP, and a report be prepared to the Planning Commission on the facility's compliance with the CUP conditions (Condition No. 16). The facility has been granted final occupancy of the main building and the outdoor areas (go-karts, miniature golf, etc.) within the last year. Staff anticipates conducting this review and preparing its findings to the Planning Commission during the late Spring 2006 timeframe after the entire recreational project has been in operation for a full year.

## *Standard*

In considering a request for a CUP or an amendment to an existing CUP, the City Council must make findings consistent with the General Plan and Zoning Ordinance, per Zoning Ordinance Section 17.38.110:

That the proposed conditional use permit amendment is consistent with the policies and intent of the General Plan and Zoning Ordinance. Specifically, the amendment to allow beer and wine sales is consistent with the required findings of Zoning Ordinance Section 17.38.110:

- The proposed location of the facility is in accordance with the objectives of the Zoning Ordinance and the purposes of the zone in which the site is located.
- The proposed location of the facility and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity.

In approving CUP 2006-14 (the amendment to the original permit), the Planning Commission made those findings based on the following factors:

1. Similar establishments exist in Visalia and throughout California which sell beer and wine. Chuck E Cheese and the Visalia Oak's Stadium sell alcohol. Staff did a survey of 29 similar fun parks in California. Of those 29 parks, eight sold beer and wine. While a majority of the establishments did not serve alcohol, most of those parks did not have a separate dining area.
2. The applicant demonstrated that adequate controls are already in place to deal with patrons who have consumed alcohol at other locations and have come to the Visalia Adventure Park to participate in the activities.
3. Issues arising from the sale of alcohol would be mitigated by restricting the areas of consumption and by prohibiting those who drink at the Park from operating the boats and go-karts. These were made conditions of approval. (Condition Nos. 3 and 4)

## *Approved Conditions*

The Planning Commission approved the project with the following conditions:

1. That alcoholic beverages be restricted to the dining area of the Adventure Park.
2. That signs be posted at the two exits of the dining area which state, "No adult beverages allowed beyond this point."
3. That all patrons who purchase alcohol be stamped with an invisible ink that can be viewed under a black light. Stamped patrons shall not be permitted to operate motorized boats or go-karts.
4. That all patrons who appear to be intoxicated shall not be permitted to operate motorized boats or go-karts.
5. That all necessary licenses from the California Alcoholic Beverage Control, commonly known as ABC board, shall be obtained, kept current and complied with.
6. That all applicable city codes and ordinances be met.
7. That the applicant submit to the City of Visalia a signed receipt and acceptance of conditions from the applicant and property owner, stating that they understand and agree to all the conditions of Conditional Use Permit No. 2006-14.

## **Appeal**

Reverend Wilson filed a letter of appeal (attached) in which he states the City Planning Commission's decision that the proposed project will be detrimental to the public health, safety, welfare of the community. He further states that the Planning Commission's decision was not supported by evidence in the record. His reasons for the appeal are discussed in detail in the attached letter. Petitions against the Conditional Use Permit and in favor of the Appeal have been filed and are attached to the staff report.

Two of the main points included in the Appeal are the likelihood of increased police service calls to the facility if alcohol sales are allowed, and the negative impact thru “behavior modeling” on youths when exposed to persons participating in physical activities, particularly driving go-karts, while having alcohol available for consumption at the facility.

Letters from the Tulare County Office of Education, dated March 21, 2006, and from Friday Night Live, dated March 24, 2006, opposing the applicant’s request for alcoholic beverages sales, are provided for the City Council’s consideration. Both letters post-date the Planning Commission’s action. In addition, other correspondences received by the City on this matter are also included in the correspondence attached with this report.

*Police Service Calls*

During the Planning Commission hearing, several residents expressed concern that the presence of alcohol would increase the calls for police service to the facility. City staff, including the Visalia Police Department crime analysis office, conducted a comparative analysis of police service calls to the Visalia Adventure Park, Visalia Chuck E Cheese, John’s Incredible Pizza in Bakersfield, and John’s Incredible Pizza in Fresno. The purpose of the analysis is to determine if there is a correlation between alcohol sales and police service calls at these types of venues to the degree that the alcohol sales could be shown to have a likely impact on public safety or an inordinate demand for police resources at the Adventure Park facility.

The John’s Incredible Pizza facilities in Bakersfield and Fresno sell beer and wine. The Bakersfield establishment also has go-karts, which is similar to the Visalia Adventure Park. The Chuck E Cheese facility in Visalia is similar to Adventure Park in that it is a children’s-oriented commercial recreation venue. Chuck E Cheese sells beer and wine. It does not offer activities such as go-karts, bumper boats, or batting cages. The table below provides a summary of the comparative analysis:

CITY	FACILITY	REPORTING PERIOD	NUMBER OF SERVICE CALLS	AVERAGE PER YEAR
Visalia	Adventure Park	10/04 to 3/06	49	33
Visalia	Chuck E Cheese	1/03 to 3/06	54	18
Bakersfield	John’s Incredible Pizza	1/02 to 3/06	129	30
Fresno	John’s Incredible Pizza	12/99 to 3/06	291	46

The results of the survey suggest that the Visalia Adventure Park currently has a similar call for police service as the other venues that serve alcohol. It should be noted that calls for service could not be isolated to exclusively alcohol-related calls, and include such crimes as vehicle theft from the parking lots, identity theft, and disturbances. Further, the information does not differentiate between calls made by the venue operator and by visitors to the property.

**Prior Council/Board Actions**

On January 20, 2004, the City Council approved the purchase and sale agreement between the City of Visalia and Visalia Investment Associates for 6.65 acres at the southwest corner of Akers and State Highway 198.

On April 1, 2003, the City Council approved a General Plan Amendment and Change of Zone from Agriculture to Commercial Shopping Office on the subject property.

### **Committee/Commission Review and Actions**

On February 27, 2006, the Planning Commission passed and adopted Resolution No. 2006-28, approving Conditional Use Permit No. 2006-14. The Conditional Use Permit is a request to amend Conditional Use Permit 2003-39, to allow the on-site sale of beer and wine at the Visalia Adventure Park.

On September 22, 2003, the Planning Commission passed and adopted Resolution No. 2003-94, approving Conditional Use Permit No. 2003-39. The Conditional Use Permit was a request to allow development of a family fun park with a miniature golf course, batting cage, and miniature race track and bumper boats.

On February 25, 2002, the Planning Commission passed and adopted Resolution No. 2002-22, approving Conditional Use Permit No. 2002-04. The Conditional Use Permit was a request to allow a planned commercial development with a combined gas station/convenience store/car wash, a drive-thru coffee kiosk, two fast food restaurants with drive-throughs, and an 85-room hotel, located on the southwest corner of Akers Street and Highway 198.

### **Environmental Review**

The project is considered Categorical Exempt under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA) (Categorical Exemption Number 2006-27).

### **Alternatives**

The Council may affirm, reverse or modify the Planning Commission's decision regarding the conditional use permit and the conditions of approval, such as placing a limited initial time period on the alcohol sales approval. The City Council may also decide to return the matter to the Planning Commission for reconsideration if substantial new information is received during the Appeal hearing.

If the City Council chooses to uphold the Appeal and deny the application for CUP amendment for alcoholic beverages sales, staff recommends that the Council direct the preparation of a resolution with necessary findings for consideration at the meeting of April 17, 2006.

### **Attachments**

- Resolution denying the Appellant's request (approving the project)
- Copy of Appeal with Appellant's letter
- Copy of Planning Commission Resolution No. 2006-28, Approving Conditional Use Permit No. 2006-14 (unsigned)
- Copy of Resolution No. 2003-93, Approving Conditional Use Permit No. CUP 2003-39
- Letter from Tulare County Office of Education, dated March 21, 2006
- Letter from Friday Night, dated March 24, 2006
- Additional Correspondence Received
- Operational Statement
- Site Plan
- Location Map
- Planning Commission Staff Report – February 27, 2006

**City Manager Recommendation**

**Recommended Motion:** Move to deny the Appeal, and approve CUP 2006-14, with any additional conditions deemed appropriate by the City Council.

**Alternate Motion:** Direct staff to prepare a resolution with findings upholding the Appeal, and denying CUP 2006-14, to be presented to Council for adoption on April 17, 2006.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**NEPA Review:**

Required? Yes No  
Review and Action: Prior:  
Required:

**Tracking Information:** *(Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date)*

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



RESOLUTION NO. 2006-32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA denying THE APPEAL and approving CONDITIONAL USE PERMIT NO. 2006-14, A REQUEST TO AMEND CUP 2003-39, TO ALLOW ON-SITE SALE OF BEER AND WINE AT A COMMERCIAL RECREATION FACILITY IN THE PLANNED SHOPPING OFFICE COMMERCIAL ZONE(CSO), LOCATED AT 5600 w. Cypress avenue.

**WHEREAS**, Conditional Use Permit No. 2006-14: A request by Visalia Adventure Park to amend CUP 2003-39, to allow on-site sale of beer and wine at a commercial recreation facility in the Planned Shopping Office Commercial Zone (CSO). This project is located at 5600 W. Cypress Avenue (APN 087-450-19); and

**WHEREAS**, the Planning Commission of the City of Visalia, after duly published notice did hold a public hearing before the Planning Commission on February 27, 2006; and

**WHEREAS**, the Planning Commission of the City of Visalia, after conducting a public hearing, approved Conditional Use Permit No. 2006-14 with conditions of approval; and

**WHEREAS**, an Appeal action was received on March 3, 2006'; and

**WHEREAS**, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before the City Council on April 3, 2006; and

**WHEREAS**, the City Council of the City of Visalia finds the conditional use permit to be in accordance with Section 17.38.110 of the Zoning Ordinance of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

**NOW, THEREFORE, BE IT RESOLVED**, that the project is exempt from further environmental review pursuant to CEQA section 15305.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the City Council of the City of Visalia makes the following specific findings and based on the evidence presented:

That the proposed conditional use permit amendment is consistent with the policies and intent of the General Plan and Zoning Ordinance. Specifically, the amendment to allow beer and wine sales is consistent with the required findings of Zoning Ordinance Section 17.38.110:

The proposed location of the facility is in accordance with the objectives of the Zoning Ordinance and the purposes of the zone in which the site is located.

The proposed location of the facility and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, nor materially injurious to properties or improvements in the vicinity.

3. That the project is considered Categorically Exempt under Section 15305 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA). (Categorical Exemption No. 2006-27).

**BE IT FURTHER RESOLVED** that the City Council denies the applicant's appeal and approves the conditional use permit on the real property herein above described in accordance with the terms of

this resolution, including the conditions of approval of Condition Use Permit No. CUP 2003-39 as contained in Resolution No. 2003-93 that are not otherwise in conflict with this CUP amendment, and are incorporated herein by reference, under the provisions of Section 17.38 of the Ordinance Code of the City of Visalia, subject to the following conditions:

1. That alcoholic beverages be restricted to the dining area of the Adventure Park.
2. That signs be posted at the two exits of the dining area which state, "No adult beverages allowed beyond this point."
3. That all patrons who purchase alcohol be stamped with an invisible ink that can be viewed under a black light. Stamped patrons shall not be permitted to operate motorized boats or go-karts.
4. That all patrons who appear to be intoxicated shall not be permitted to operate motorized boats or go-karts.
5. That all necessary licenses from the California Alcoholic Beverage Control, commonly known as ABC board, shall be obtained, kept current and complied with.
6. That all applicable city codes and ordinances be met.
7. That the applicant submit to the City of Visalia a signed receipt and acceptance of conditions from the applicant and property owner, stating that they understand and agree to all the conditions of Conditional Use Permit No. 2006-14.

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number:** 12

**Agenda Item Wording:**

Public hearing for:

1. **Resolution No. 2006- 30:** Negative Declaration No. 2006-11 for General Plan Amendment No. 2005-22 and Change of Zone No. 2005-23; **(A separate Motion by the Council is required.)**
2. **Resolution 2006-31** approving General Plan Amendment No. 2005-22, a request by Dan Baker (Neil Zerlang, agent) to change the General Plan land use designation from Rural Residential to Low Density Residential on approximately three acres, located on the north side of Caldwell Avenue, between Aspen Street (private) and Peppertree Court (APNs: 119-690-43/44); **(A separate Motion by the Council is required.)**
3. **Introduction of Ordinance 2006-06**, approving Change of Zone No. 2005-23, a request by Dan Baker (Neil Zerlang, agent) to change the zoning designation from RA (Rural Residential) to R-1-6 (Single-family Residential, 6,000 square foot minimum lot size) on approximately three acres, located on the north side of Caldwell Avenue, between Aspen Street (private) and Peppertree Court (APNs: 119-690-43/44).

For action by:

- City Council  
 Redev. Agency Bd.  
 Cap. Impr. Corp.  
 VPFA

For placement on which agenda:

- Work Session  
 Closed Session  
 Regular Session:  
 Consent Calendar  
 Regular Item  
 Public Hearing

Est. Time (Min.): 15

**Deadline for Action:** None

**Submitting Department:** Community Development - Planning

**Contact Name and Phone Number:** Paul Scheibel, AICP 713-4369  
Fred Brusuelas, AICP 713-4364

**Recommendation and Summary:** The Planning Commission recommends approval of the applicant's request for the General Plan land use and zoning map amendments. This recommendation is based upon the Commission's findings, as follows:

- The amendments are consistent with the policies of the City's General Plan and Zoning Ordinance, and Airport Land Use Commission (ALUC).
- The amendments will provide opportunities for the site to serve the needs of new housing in the area at an increased density development density that is compatible with adjacent development.

The proposed amendments will change the General Plan land use designation on approximately three acres from Rural Residential to Low Density Residential and to change the zone from R-A (Rural Residential) to R-1-6 (Single-family Residential, minimum 6,000 square

feet). The site is in an outlying portion of the City. However, it is adjacent to an existing low density single-family development (Turnberry Place subdivision).

The GPA and Change of Zone would allow an increase in density from a maximum of one to two units per acre, to a density range of three to five units per acre. The applicant has filed a tentative subdivision map to develop the site with nine single-family residence lots, a private street with cul-de-sac, and an on-site retention basin (Exhibit 3). The subdivision would result in a density of three units per acre. That subdivision application would go forward to the Planning Commission if the GPA and Change of Zone are approved by the City Council. City Council comments for enhancing the design of the subdivision project are also encouraged. Staff will work with the applicant on measures to enhance the project, such as landscaping the retention basin and a pedestrian pass-through at the cul-de-sac to Caldwell Avenue, as the project moves forward through the approval process.

#### Airport Land Use Compatibility

The project area is located approximately one mile east of the approach path for Runway 30 at the Visalia Municipal Airport. Runway 30 is the primary use runway at the Visalia Airport and is used for approximately 65% of the airports estimated 45,000 annual operations. The City of Visalia Airport Committee reviewed the proposal on September 13, 2005, for consistency with the County's Comprehensive Airport Land Use Plan and found it to be consistent with the Plan. The Committee and staff determined that this is an in-fill project, and would be consistent with existing development in that area. The Committee made a unanimous motion to support the project as proposed.

This project is the second project (after Turnberry Place, immediately east of the site) to request increased density in this designated Rural Residential area. The change in General Plan designation to Low Density Residential will allow more conventional single family residential densities to be achieved on this site while maintaining compatibility with nearby rural residential uses.

#### Correspondence with Tulare Airport Land Use Commission

The project area is also located within the "B2" Conical Zone. The Tulare County Airport Land Use Commission (ALUC) reviewed the project on January 11, 2006, and unanimously approved the project.

#### **Committee/Commission Review and Actions:**

On February 27, 2006, the Planning Commission conducted a public hearing to consider the request. The Commission heard testimony from one resident who lives to the north of the project site. The resident expressed concern about storm water runoff in his development (Hidden Acres subdivision). The City Engineer explained there is not an area-wide stormwater drainage system in this area because the City's storm water drainage policy requires large lot subdivisions (individual lots greater than one acre in size) to retain runoff on-site. After closing the public hearing, the Planning Commission voted unanimously (5:0) to recommend approval of the GPA and Change of zone requests.

#### **Related Projects:**

None

**Alternatives:**

1. Deny the project by finding the proposed General Plan land use and Zoning Map amendments are not consistent with the General Plan; or
2. Refer the matter back to the Planning Commission; or
3. Continue the matter to a future City Council hearing.

**Attachments:**

- Resolution for adoption of ND No. 2006-11
- Resolution for approval of GPA 2005-22
- Ordinance introducing Change of Zone 2005-23
- Land Use Map
- Zoning Map
- Conceptual Subdivision Map
- Environmental Document
- Aerial Photo
- Location Map
- Planning Commission Staff Report

**City Manager Recommendation:**

**Recommended Motion:** I move to adopt Negative Declaration No. 2006-11, approve General Plan Amendment No. 2005-22, and introduce the ordinance approving Change of Zone 2005-23.

**Financial Impact**

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue: \$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to: Applicant

**Environmental Assessment Status**

**CEQA Review:**

Required? Yes

Review and Action: Prior:

Required: A Negative Declaration has been prepared for the project. It will need to be certified prior to a decision on the project.

**NEPA Review:**

Required? No

Review and Action: Prior:

Required:

**Tracking Information:**

Anticipated schedule of review: If approved, the Change of Zone would require a second reading. If denied, resolutions denying portions or all of the components of the requested action will be returned to the City Council at a later date.

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**



RESOLUTION NO. 2006-30

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,  
ADOPTING NEGATIVE DECLARATION NO. 2006-11, WHICH EVALUATES  
ENVIRONMENTAL IMPACTS FOR CHANGE OF ZONE NO. 2005-23, AND  
GENERAL PLAN AMENDMENT NO. 2005-22

**WHEREAS**, Change of Zone No. 2005-23, and General Plan Amendment No. 2005-22, (hereinafter "Project") is a request to change the zoning on approximately three acres from RA (Rural Residential) to RLD (Residential Low Density), a request to change the General Plan Land Use Designation on approximately three acres, located on the north side of Caldwell Avenue, between Aspen Street (private) and Peppertree Court APNs: 119-690-43 and 44;

**WHEREAS**, the City Council of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Council on April 3, 2006 for the Project; and

**WHEREAS**, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this Project, and that no mitigation measures would be required for the Project; and

**WHEREAS**, on the basis of this Initial Study, a Negative Declaration has been prepared for the Project pursuant to the California Environmental Quality Act of 1970 (CEQA), as amended; and

**WHEREAS**, the Initial Study and Negative Declaration for the Project were prepared and noticed for review and comment; and

**WHEREAS**, any comments received during the advertised comment period were reviewed and considered in accordance with provisions of CEQA; and

**WHEREAS**, the City Council of the City of Visalia considered the Initial Study and Negative Declaration and found that the Initial Study and Negative Declaration contain and reflect the independent judgment of the City of Visalia; and

**WHEREAS**, pursuant to AB 3158, Chapter 1706 of the Statute of 1990, the City Council of the City of Visalia hereby finds that no evidence has emerged as a result of said Initial Study to indicate that the proposed project will have any potential, either individually or cumulatively, for adverse effect on wildlife resources.

**NOW, THEREFORE, BE IT RESOLVED** that a Negative Declaration was prepared consistent with the California Environmental Quality Act (CEQA) and the City of Visalia Environmental Guidelines.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia hereby finds, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and hereby adopts Negative Declaration No. 2006-11 which evaluates environmental impacts for Change of Zone No. 2005-23, and General Plan Amendment No. 2005-22. The documents and other material which constitute the record of the proceedings upon which the decisions based are located at the office of the City Planner, 315 E. Acequia Avenue, Visalia, California, 93291.

RESOLUTION NO. 2006-31



A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,

APPROVING GENERAL PLAN AMENDMENT NO. 2005-22, A REQUEST TO CHANGE THE LAND USE DESIGNATION FROM RURAL RESIDENTIAL TO LOW DENSITY RESIDENTIAL ON THREE ACRES, LOCATED ON THE NORTH SIDE OF CALDWELL AVENUE, BETWEEN ASPEN STREET (PRIVATE), AND PEPPERTREE COURT

**WHEREAS**, an application for General Plan Amendment No. 2005-22, requested by Dan Baker (Neil Zerlang, agent) to change the General Plan Land Use Designation from Rural Residential to Low Density Residential, located on the north side of Caldwell Ave., between Aspen Court (private), and Peppertree Court APNs: 119-690-43 and 44; and

**WHEREAS**, the Planning Commission of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Commission on February 27, 2006; and

**WHEREAS**, the Planning Commission of the City of Visalia considered the General Plan Amendment in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing and recommended approval of the general plan amendment; and

**WHEREAS**, the City Council of the City of Visalia, after ten (10) days published notice held a public hearing before said Council on April 3, 2006; and

**WHEREAS**, the City Council of the City of Visalia finds the General Plan Amendment to be in accordance with Section 17.54.070 of the Zoning Ordinance of the City of Visalia based on evidence contained in the staff report and testimony presented at the public hearing; and

**WHEREAS**, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this project, and no mitigation measures would be required.

**NOW, THEREFORE, BE IT RESOLVED** that Negative Declaration No. 2006-11 was prepared consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia approves the General Plan Amendment based on the following specific findings and based on the evidence presented:

1. That the land use changes proposed and recommended in General Plan Amendment No. 2005-22 would result in an efficient land use pattern, consistent with the area's adjacent residential land uses.
2. That an Initial Study was prepared for this project, consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and that Negative Declaration No. 2006-11 was adopted by the City Council.
3. That the General Plan Amendment is consistent with the intent of the General Plan and Zoning Ordinance, and is not detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.
4. That there is no evidence before the City Council that the proposed projects will have any potential for adverse effects on wildlife resources, as defined in Section 711.2 of the Department of Fish and Game Code.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia approves the General Plan Amendment described herein, in accordance with the terms of this resolution under the provisions of Section 17.54.070 of the Ordinance Code of the City of Visalia and based on the above findings.

ORDINANCE NO. 2006-06

AN ORDINANCE OF THE CITY OF VISALIA, APPROVING CHANGE OF  
ZONE NO. 2005-23, TO CHANGE THE ZONING FROM RA (RURAL RESIDENTIAL) TO R-1-6 (SINGLE  
FAMILY RESIDENTIAL) ON APPROXIMATELY THREE ACRES

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA**

**Section 1:** The Planning Commission of the City of Visalia has recommended to the City Council Change of Zone No. 2005-23, to change the zoning from RA (Rural Residential) to R-1-6 Single Family Residential, for residential development, on the north side of Caldwell Avenue, between Aspen Street (private) and Peppertree Court APNs: 119-690-43 and 44.

**Section 2:** This property and Zoning Map of the City of Visalia is hereby amended to show said property changes.

**Section 3:** This ordinance shall become effective 30 days after passage hereof.

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 13

**Agenda Item Wording:**

Public Hearing for Disestablishment of Agricultural Preserve No. 3430: a request by Frank Luisi, property owner (Quad Knopf, agent) to cancel 29 acres of Agricultural Preserve No. 3430. The site is located at the northwest corner of Mooney Boulevard and Ferguson Avenue in the City of Visalia, County of Tulare. (APN: 089-010-034) **Resolution No. 2006-33 required.**

**Deadline for Action:** None

**Submitting Department:** Community Development – Planning

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
- Consent Calendar
- Regular Item
- Public Hearing

Est. Time (Min.): 10

**Contact Name and Phone Number:** Brandon Smith, Associate Planner 713-4636

**Recommendation and Summary:** Staff recommends that the Council hold a public hearing and then approve the attached resolution to disestablish the 29-acre remainder of Agricultural Preserve No. 3430. The hearing to consider disestablishment of Agricultural Preserve No. 3430 is the last step in the request for removing all Williamson Act restrictions on the property before any maps facilitating residential development can be recorded.

Background

The Williamson Act is the state law that establishes the procedures for agricultural preserves. The agricultural preserve process has two steps. First, the law allows a County or City to establish land that is being used for agriculture as an Agricultural Preserve. Once the land is so designated, property owners within the Preserve may then sign a contract with the County (or City) to keep the land in exclusive agricultural use for a period of at least 10 years. In exchange for this contract, the property owner's property tax bill is reduced to reflect the fact that the property may only be used for agriculture. Once all contracts have been dissolved in a preserve, then the preserve may be disestablished. The Williamson Act does not explicitly outline a procedure for the disestablishment, diminishment, or enlargement of agriculture preserves, but rather states that the procedure shall be the same that is used to establish a preserve (Govt. Code 51231). Therefore, consistent with the Williamson Act, a public hearing shall be held before the Council takes action to authorize the disestablishment of the preserve.

In the case of the subject property owned by Frank Luisi et al, the County established Agricultural Preserve No. 3430 on the property in 1976. The contract was automatically renewed annually until a notice of non-renewal went into effect in 2005 at the request of the property owners.

In 2002, the land was annexed into the City limits. On January 18, 2005, the City approved a Contract Cancellation and Diminishment of Agriculture Preserve for 50 of the site's 79 acres. On March 6, 2006, the City Council, in accordance with the procedures contained in the Williamson Act, approved a tentative cancellation for the remaining 29 acres of the contract, subject to certain conditions including the payment of a penalty fee for ending the contract. Those conditions required the applicant to pay the State-mandated cancellation penalty fee to the County Tax Collector and to request application for the disestablishment of the agricultural preserve. All conditions have now been met. A related item on the April 3 agenda requests that Council find that the conditions have been met and that the contract cancellation shall be finalized. Following the contract cancellation, the agricultural preserve must be disestablished to eliminate all remaining Williamson Act restrictions on the subject 29 acres of the Luisi property.

When Agricultural Preserve No. 3430 was established in 1976, the City's adopted Urban Development Boundary did not allow urban development north of Goshen Avenue. Thus, at that time, designation of the site as an agricultural preserve by the County Board of Supervisors was appropriate. However, when the City General Plan was amended to expand the Urban Development Boundary system to Pratt Avenue in the early 1990's, development ensued in the vicinity of the site. Today, the site is surrounded on three sides by residential development. Given the changes in land uses that have occurred during this time, Staff believes that it is appropriate to disestablish the preserve as requested by the applicant. The disestablishment will eliminate the restriction of the site to agricultural uses only, and will allow for the Ashley Grove 13 Subdivision as the alternative use for the site proposed by the applicant to proceed.

#### **Committee/Commission Review and Actions:**

On October 10, 2005, the Planning Commission approved Ashley Grove 13 Vesting Tentative Subdivision Map as the alternative land use on the site in accordance with the Williamson Act.

#### **Prior Council/Board Actions:**

On March 6, 2006, after holding a public hearing, the City Council approved the tentative cancellation of the land conservation contract on a 5-0 vote. The conditions of the tentative cancellation have now been met.

The Council is also requested on the April 3, 2006 agenda to authorize execution of a final Cancellation of Land Conservation Contract No. 10080. This must be done prior to disestablishment of the preserve, but can be done at the same meeting.

#### **Alternatives:**

None recommended

#### **Attachments:**

- Resolution
- City Council Staff Report from March 6, 2006
- Map showing area to be removed from agricultural preserve
- Location Sketch

#### **City Manager Recommendation:**

This document last revised 3/31/06 10:01 AM

By author: Brandon Smith

File location and name: H:\(1) AGENDAS for Council\2006\040306\Item 13 Nunley Disestablishment public hearing.doc

**Recommended Motion (and Alternative Motions if expected):** I move to adopt Resolution No. 2006- 33, approving the disestablishment of Agricultural Preserve No. 3430.

***Financial Impact***

**Funding Source:**

Account Number: \_\_\_\_\_ (Call Finance for assistance)

**Budget Recap:**

Total Estimated cost: \$	New Revenue: \$
Amount Budgeted: \$	Lost Revenue:\$
New funding required: \$	New Personnel: \$
Council Policy Change: Yes_____ No_____	

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required? Yes

Review and Action: Prior:

The Council previously certified Negative Declaration No. 2006-007 on March 6, 2006. This document is adequate for use with this proposal.

Required:

**NEPA Review:**

Required? No

Review and Action: Prior:

Required:

**Tracking Information:** (*Staff must list/include appropriate review, assessment, appointment and contract dates and other information that needs to be followed up on at a future date*)

None.

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

## RESOLUTION NO. 2006-33

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA DISESTABLISHING AGRICULTURAL PRESERVE NO. 3430 LOCATED ON THE NORTHWEST CORNER OF MOONEY BOULEVARD AND FERGUSON AVENUE. FRANK LUISI ET AL, PROPERTY OWNERS; QUAD KNOPF, AGENT

**WHEREAS**, Agricultural Preserve No. 3430 and Land Conservation Contract No. 10080, located on the northwest corner of Mooney Blvd. and Ferguson Ave. within APN 089-010-034 were established and entered into between the County of Tulare and the property owner in 1976 pursuant to the Williamson Act (California Government Code Section 51200 et seq.); and

**WHEREAS**, the subject site was annexed to the City of Visalia on August 5, 2002; and

**WHEREAS**, the applicant has filed an application for cancellation of the remaining 29 acres of Land Conservation Contract No. 10080 in accordance with the provisions of the Williamson Act: and

**WHEREAS**, an Initial Study was prepared which disclosed that no significant environmental impacts would result from this project, and no mitigation measures would be required; and

**WHEREAS**, the City Council of the City of Visalia, after twenty-one (21) days published notice held a public hearing before said Council on March 6, 2006; and

**WHEREAS**, the City Council of the City of Visalia approved the Tentative Cancellation of Land Conservation Contract No. 10080 on March 6, 2006 based on certain findings and conditions; and

**WHEREAS**; evidence has now been presented that all conditions of said tentative cancellation have been met, and that the City Council of the City of Visalia has authorized the recording of a Certificate of Cancellation of Land Conservation Contract No. 10080.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Visalia finds that Negative Declaration No. 2006-007 adequately evaluates the potential environmental impacts of the project.

**BE IT FURTHER RESOLVED** that the City Council of the City of Visalia hereby disestablishes Agricultural Preserve No. 3430.



**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** April 3, 2006

**Agenda Item Number (Assigned by City Clerk):** 14

**Agenda Item Wording:** Public Hearing - Extension of the Redevelopment Agency Project Area: Introduction of Ordinance 2006-01 extending the duration of the Downtown Redevelopment Project Area, time limit for the receipt of tax increment and debt repayment period by two years pursuant to Cal. Health & Safety Code Section 33333.6(e)(2)(D) (S.B. 1096).

**Deadline for Action:** None

**Submitting Department:** Community Development and Administrative Services

For action by:

- City Council
- Redev. Agency Bd.
- Cap. Impr. Corp.
- VPFA

For placement on which agenda:

- Work Session
- Closed Session
- Regular Session:
  - Consent Calendar
  - Regular Item
  - Public Hearing

Est. Time (Min.): 10

**Contact Name and Phone Number:**

Michael Olmos, Assistant City Manager, 713-4332  
Fred Brusuelas, Community Development & Public Works  
Assistant Director 713-4364  
Kari Blofsky, Financial Analyst, 713-4298

**Department Recommendation and Summary:**

Staff recommends that City Council extend the life of the Downtown Redevelopment Project Area time limit including the period to receive tax increment and pay indebtedness by two (2) years.

To accomplish this, City Council must conduct a public hearing and authorize the Executive Director, or his designee to record the Ordinance in the office of the County Recorder of Tulare County. This action will extend the project life from July 2021 to 2023.

Background:

In partial response to the 2004-05 and 2005-06 State budget problems, redevelopment agencies throughout the State of California were required to make payments to the Educational Revenue Augmentation Fund ("ERAF") in each county. The funds used for the ERAF payment would otherwise have been used to pay for projects necessary to carry out the goals of the redevelopment plan. This transfer of Redevelopment Regular Funds to ERAF was collected by County Auditors who deposited the funds with respective school entities. Specifically, this action resulted in the Community Redevelopment Agency of the City of Visalia making a 2005 ERAF payment of \$331,879.83 and a 2006 payment of \$333,548.80.

Senate Bill 1096 permitted an amendment to certain redevelopment plans to extend the Effectiveness Limit of the redevelopment plan and the Debt Repayment Limit by one year for each ERAF payment made. Because 2 payments were made, the Redevelopment Agency is entitled to extend RDA project areas for 2 additional years.

This action to some extent will reimburse, in years 2022 and 2023, the Community Redevelopment Agency for (2004-05 and 2005-06) ERAF payments. The action therefore postpones for 2 years when primary taxing jurisdictions will receive the tax increment property tax. The tax increment amounts for 2006 are listed below in Chart 1, Taxing Agency Tax increment. These monies represent the amount of tax increment, as of 2006, derived from the following agencies that would be recaptured back into the Redevelopment Regular Fund for each year of the extension.

Chart 1

TAXING AGENCY	2006 Tax Increment
VUSD	59,068
COS	10,340
SCHOOLS	4,775
AIR POLLUTION CD	68
COUNTY	71,679
FLOOD	1,059
LIBRARY	3,343
MEMORIAL	376
CEMETARY	342
DELTA	4,554
CITY OF VISALIA	29,557
KD HOSPITAL	1,843
KD WATER CONS.	2,655
<b>TOTAL</b>	<b>189,658</b>

Each of these taxing entities has been notified of the Agency's intent to consider the 2 year extension.

The Redevelopment Agency has other project areas which could also have their project life extended. However, the same law authorizes the proposed extension for the Downtown project area also offers an option to extend the project's life by 10 years with certain restrictions. These additional options also require supporting studies. Staff is researching the advantages and disadvantages of acting upon these options. The Downtown project area, however, did not qualify for the additional options. As a result, staff is recommending the 2 year extension for the Downtown project area at this time.

**Prior Council / Board Actions:**

**Committee/Commission Review and Actions:**

**Alternatives:**

None Recommended

**Attachments:**

Copy of respective Ordinance

**City Manager Recommendation:**

**Recommended Motion (and Alternative Motions if expected):**

Upon holding a Public Hearing:

I move the City Council:

- Authorize the Ordinance extending the life of the Downtown Redevelopment Project Area including the respective indebtedness repayment periods by two years;
- Authorize the Executive Director, or his designee to record the Ordinance in the office of the County Recorder of Tulare County.

***Financial Impact***

**Funding Source:**

Redevelopment Regular Funds

**Budget Recap:**

Total Estimated cost: \$	New Revenue:\$
Amount Budgeted: \$	Lost Revenue:\$
New funding required: \$	New Personnel:\$
Council Policy Change: Yes_____	No__x__

Copies of this report have been provided to:

***Environmental Assessment Status***

**CEQA Review:**

Required?	Yes	No	X
Review and Action:	Prior:		
	Required:		

**NEPA Review:**

Required?	Yes	No	X
Review and Action:	Prior:		
	Required:		

**Tracking Information:**

**Review and Approval - As needed:**

**Department Head Review (Signature):**

**Risk Management Review (Signature):**

**City Attorney Review (Signature):**

**Administrative Services Finance Review (Signature):**

**Others:**

**ORDINANCE NO. 2006-01**

**AN ORDINANCE OF THE CITY OF VISALIA EXTENDING THE TIME LIMIT FOR EFFECTIVENESS OF THE REDEVELOPMENT PLAN AND THE TIME LIMIT ON THE RECEIPT OF TAX INCREMENT AND PAYMENT OF INDEBTEDNESS FOR THE DOWNTOWN REDEVELOPMENT PROJECT**

WHEREAS, the City Council of the City of Visalia (the "City Council") adopted Ordinance No. 2239 on August 3, 1970, approving and adopting the Redevelopment Plan (the "Redevelopment Plan") for the Downtown Redevelopment Project (the "Project"); and

WHEREAS, on May 5, 1987, the City Council adopted Ordinance No. 8719, establishing certain limitations with respect to the Redevelopment Plan; and

WHEREAS, on December 5, 1994, the City Council adopted Ordinance No. 9454, amending certain limitations with respect to the Redevelopment Plan; and

WHEREAS, on January 12, 2004, the City Council adopted Ordinance No. 2003-01, extending the time limit on the effectiveness of the Redevelopment Plan by one year and extending the time limit for incurring indebtedness with respect to the Redevelopment Plan; and

WHEREAS, the current time limit on the effectiveness of the Redevelopment Plan established pursuant to the Redevelopment Plan, as amended, is July 24, 2011; and

WHEREAS, the current time limit on the receipt of tax increment and payment of indebtedness with respect to the Redevelopment Plan pursuant to the Redevelopment Plan, as amended, is July 24, 2021; and

WHEREAS, the time limit on the establishment of debt with respect to the Redevelopment Plan pursuant to the Redevelopment Plan, as amended, expired on January 1, 2004; and

WHEREAS, the Redevelopment Agency of the City of Visalia, (the "Agency") has been designated as the official redevelopment agency in the City of Visalia (the "City") to carry out the functions and requirements of the Community Redevelopment Law of the State of California (the "CRL," Health and Safety Code Section 33000 et seq.) and to implement the Redevelopment Plan; and

WHEREAS, Section 33333.6 of the Health and Safety Code was amended by Senate Bill 1096 in 2004 ("SB 1096"), to provide that when an agency is required to make a payment pursuant to Section 33681.12, the legislative body may amend the redevelopment plan to extend by one year the time limit on the effectiveness of the redevelopment plan and the time limit on receipt of tax increment and payment of indebtedness by one year for each year the Agency makes such a payment (referred to herein as a "SB 1096 amendment"); and

WHEREAS, Section 33333.6 of the Health and Safety Code further provides that in adopting a SB 1096 amendment, neither the City Council nor the Agency is required comply with Health and Safety Code Section 33354.6, or Article 12 of the CRL, or other provisions of the CRL relating to the amendment of redevelopment plans; and

WHEREAS, pursuant to Health and Safety Code Section 33681.12 the Agency was required to make a payment to the Tulare County Educational Revenue Augmentation Fund for the fiscal year 2004-2005; and

WHEREAS, the funds used to make the payment to the Tulare County Educational Revenue Augmentation Fund for the fiscal year 2004-2005 pursuant to Health and Safety Code Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the Redevelopment Plan; and

WHEREAS, pursuant to Health and Safety Code Section 33681.12 the Agency is required to make a payment to the Tulare County Educational Revenue Augmentation Fund for the fiscal year 2005-2006; and

WHEREAS, the funds used to make the payment to the Tulare County Educational Revenue Augmentation Fund for the fiscal year 2005-2006 pursuant to Health and Safety Code Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the Redevelopment Plan; and

WHEREAS, the time limit for the effectiveness of the Redevelopment Plan pursuant to Health and Safety Code Section 33333.6 is less than 10 years from the last day of the fiscal year in which a payment is made pursuant to Health and Safety Code Section 33681.12; and

WHEREAS, based upon the foregoing, the City Council may amend the Redevelopment Plan to extend by two years the time limit on the effectiveness of the Redevelopment Plan, the time limit on the receipt of tax increment, and the time limit on the payment of indebtedness (the "Downtown Redevelopment Plan SB 1096 Amendment"); and

WHEREAS, the City Council held a public hearing in the City Council Chambers, 707 West Acequia Avenue, Visalia, California, on April 3, 2006, to consider the adoption of the Downtown Redevelopment Plan SB 1096 Amendment; and

WHEREAS, a notice of said hearing was duly and regularly published in the Visalia Times-Delta, a newspaper of general circulation in the City on March 15, 2006, and a copy of said notice and affidavit of publication are on file with the City Clerk; and

WHEREAS, copies of the notice of public hearing were mailed to the governing body of each affected taxing entity in the Project Area on February 22, 2006; and

WHEREAS, the City Council has provided an opportunity for all persons to be heard and has received and considered all evidence and testimony presented for or against any and all aspects of the proposed Downtown Redevelopment Plan SB 1096 Amendment.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VISALIA DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. The time limit on the effectiveness of the Redevelopment Plan, as amended, shall be amended to provide that the Redevelopment Plan shall terminate on July 24, 2023.

Section 2. The time limit for receipt of tax increment and payment of indebtedness pursuant to the Redevelopment Plan, as amended, shall be July 24, 2023.

Section 3. The City Council hereby finds that the funds used to make the payment to the Tulare County Educational Revenue Augmentation Fund for the fiscal year 2004-2005 pursuant to Health and Safety Code Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the Redevelopment Plan.

Section 4. The City Council hereby finds that the funds used to make the payment to the Tulare County Educational Revenue Augmentation Fund for the fiscal year 2005-2006 pursuant to Health and Safety Code Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the Redevelopment Plan.

Section 5. Ordinance Nos. 2239, 8719, 9454, and 2003-01 are continued in full force and effect except as amended by this Ordinance.

Section 6. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 7. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

Section 8. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of Visalia, and cause the same to be published once in the Visalia Times-Delta, a newspaper of general circulation, published and circulated in the City of Visalia, and it will take effect thirty (30) days after its final passage.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney