

Visalia City Council Agenda



For the regular meeting of: Monday, October 17, 2005

Location: City Hall Council Chambers

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

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.

WORK SESSION AND ACTION ITEMS (as described)

4:00 p.m.

1. Authorization to execute an agreement with Consultants, Moule & Polyzoides and Crawford Multari & Clark for preparation of the Southeast Area Master Plan affecting approximately 1790 acres in the amount of \$975,477.
2. Consideration to initiate Caldwell-Lovers Lane Northeast Annexation.
3. Discussion on the proposed Construction and Demolition Ordinance (Chapter 8.29) to increase the recycling and reuse of construction and demolition debris.
4. Update on Scenic Airline's scheduled service to Las Vegas from the Visalia Airport.

**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 Labor Negotiator
Employee Groups: Group M
Agency Negotiator: Jim Harbottle, Eric Frost, Janice Avila

6. Conference with Real Property Negotiator
Property: approximately 150,000 square feet of City of Visalia owned property located adjacent to the Visalia Airport
Under Negotiation: Price, terms, conditions of potential lease
Negotiators: Steve Salomon, Mario Cifuentez, REP Commercial Hospitality Group

REGULAR SESSION

7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION -

SPECIAL PRESENTATIONS/RECOGNITION

Proclamation presentation declaring October 18-22, 2005, "National Medical Assistants Week."

Proclamation presentation declaring October 22, 2005, "Make a Difference Day."

Proclamation presentation declaring October 23-31, 2005 "Red Ribbon Week."

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

7. 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 a 5-year extension of the private golf cart privileges at the Valley Oaks Golf Course.

c) Approval of the 2005/06 transit agreement with Tulare County to provide transit service to the unincorporated areas of the greater Visalia Urbanized Area contiguous to the City, including Goshen, for \$275,114.

d) Item removed from agenda.

e) Authorization to purchase 5 hybrid sedans for the Building Division.

f) Authorization to apply for a grant from the San Joaquin Valley Air Pollution Control District (SJVAPCD) requesting \$350,000 to partially fund the purchase of seven CNG powered garbage trucks.

g) **Second Reading of the following Ordinance(s):**

1. **Ordinance 2005-14** Change of Zone No. 2002-12: A request by Bill Morgan to change the zoning on approximately 11 acres from IL (Light Industrial) to seven acres of R-1-6 (Single Family Residential) and four acres of QP (Quasi-Public.) The site is located on the north side of the railroad tracks of K Road and east of Santa Fe Street (APN: 123-080-009, 019, 020.)
2. **Ordinance 2005-18**, Change of Zone No. 2005-17: A request by Michael Ray Sutherland to change the zoning from R-1-6 (Single-Family Residential) to R-1-4.5 (Single/Multi-Family Residential) on approximately 14.2 acres and to QP (Quasi-Public) on approximately 6.5 acres. The site is located on the north side of Goshen Avenue, approximately 1,500 feet west of Lovers Lane (APN: 098-050-014, 020, 058, 059).
3. **Ordinance 2005-19** establishing regulations Governing Medical Marijuana Dispensaries, the Cultivation and Processing of Medical Marijuana and the Public Use/Consumption of Medical Marijuana.

h) Request authorization to file a Notice of Completion on the following:

1. Shannon Ranch 3 & 4, containing 52 lots, located at the N.E. corner of Demaree Street and Shannon Parkway.
2. Pinkham-Walnut Park / Pond Construction located at Pinkham Street at Cherry Avenue. Project No. 3011-72-0-0-9198-2003.
3. Project No. 1231-00000-720000-0-9083-2003 the North Visalia Sanitary Sewer Trunkline Improvements (Cost \$1,921,483.23).

At the request of applicant Item 8 to be continued to Monday, November 7, 2005 (Motion required.)

8. PUBLIC HEARING -

- a. Certification of Negative Declaration No. 2005-057; **Resolution 2005-xx required (A separate Motion by the Council is required.)**
- b. Appeal of the Planning Commission's denial of Vesting Tentative Subdivision Map 5482 and Conditional Use Permit 2005-18, to create seven parcels and a remainder for a

single-family residential development on 1.45 acres zone R-1, located at 4204 South Demaree Street (Garza Ranch) APN 126-020-033; **Resolution 2005-xx required (A separate Motion by the Council is required.)**

At the request of staff Item 9 to be continued to Monday, November 7, 2005 (Motion required.)

9. CONTINUED PUBLIC HEARING from October 3, 2005 -

- a. Certify Mitigated Negative Declaration No. 2005-071. **Resolution 2005-125 required. (A separate Motion by the Council is required.)**
- b. General Plan Amendment No. 2004-31: a request by Fred Machado (Branum Group, agent) to change the General Plan land use designation on 48 acres from Business Research Park to 6.0 acres of Professional / Administrative Office, 7.7 acres of Park, and 34.3 acres of Low Density Residential. The project site is located on the north side of Goshen Avenue, approximately ¼ mile east of Shirk Street. (APN: 077-100-19, 27, 28, 34) **Resolution No. 2005-126 required.**
- c. **Introduction of Ordinance 2005-17** for Change of Zone No. 2004-32: a request by Fred Machado (Branum Group, agent) to change the Zoning designation on 48 acres from BRP (Business Research Park) to 6.0 acres of PA (Professional / Administrative Office), 7.7 acres of QP (Quasi-Public), and 34.3 acres of R-1-6 (Single-family Residential, 6,000 sq. ft. min. lot size).

The project site is located on the north side of Goshen Avenue, approximately ¼ mile east of Shirk Street. (APN: 077-100-19, 27, 28, 34.) Applicant: Fred Machado; Agent: Branum Group.

10. PUBLIC HEARING - Appeal of Planning Commission denial of Variance No. 2005-11: A request by Tom and Betty Johnson to allow a variance from the standard 10-foot side yard setback in the R-1-20 zone. The site is located at 204 North Fairway Street (APN: 093-313-002.) **Resolution 2005-148 required.**

11. PUBLIC HEARING - Appeal of Planning Commission approval of Variance No. 2005-13, a request by Stan Canby and Tabby Lucio to allow a variance from the standard 10-foot side yard setback in the R-1-12 zone, located at 124 N. Fairway Street. APN 093-313-004. **Resolution 2005-149 required.**

12. PUBLIC HEARING -

- a. Certify Negative Declaration No. 2005-75. **Resolution 2005-150 required. (A separate Motion by the Council is required.)**
- b. General Plan Amendment No. 2005-14 is a request by Mangano Homes, Inc to change the general plan land use designations from Public Institutional to Low and Medium Density Residential. APN 119-600 035, 119-590-058. **Resolution 2005-151 required.**
- c. **Introduction of Ordinance 2005-20** for Change of Zone No. 2005-13 is a request by Mangano Homes, Inc to change the zoning from QP (Quasi-Public) to R-1-6 (Single-

family Residential) and R-M-2 (Medium Density Residential) APN 119-600-035, 119-590-058.

13. PUBLIC HEARING -

- a. Certify Negative Declaration No. 2005-59, **Resolution 2005-120 required.** (*A separate Motion by the Council is required.*)
- b. General Plan Amendment No. 2005-11. A request by West Coast Construction (Quad Knopf, agent) to change the General Plan land use designation from RMD to RHD on 5 acres. The site is located on the north side of the Cameron Avenue alignment, approximately 300 feet east of Court Street. APN: 126-100-006 (portion), **Resolution 2005-121 required.**
- c. **Introduction of Ordinance 2005-16** for Change of Zone No. 2005-12. A request by West Coast Construction (Quad Knopf, agent) to change the zoning from R-M-2 to R-M-3 on 5 acres. The site is located on the north side of the Cameron Avenue alignment, approximately 300 feet east of Court Street. APN: 126-100-006 (portion).

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

Monday, October 24, 2005 (Special Meeting 6 p.m. Closed Session 7 p.m. Regular Session)

Monday, November 7, 2005

Monday, November 21, 2005

Monday, December 5, 2005

Work Session 4:00 p.m.

Regular Session 7:00 p.m.

City Hall Council Chambers

707 West Acequia Avenue

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: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Authorization to execute an agreement with urban design team, Moule & Polyzoides and Crawford Multari & Clark for preparation of the Southeast Area Master Plan affecting approximately 1790 acres in the amount of \$975,477.

Deadline for Action: None

Submitting Department: Community Development and Public Works Dept. - 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.): 30

Contact Name and Phone Number:

Michael Olmos, Community Development & Public Works Director 713-4332

Fred Brusuelas, Community Development & Public Works Assistant Director 713-4364

Department Recommendation and Summary:

Staff recommends: (1) Authorize the City Manager to execute an agreement with the Consultants to perform the scope of work; (2) Authorize Administrative Services Director to appropriate funds from General Fund Reserve for the project. (3) direct City Staff to return to Council with a program for reimbursement related to the cost of preparing the Master Plan; (4) direct City Staff not to accept or process any annexation applications or General Plan Amendments within the Boundary Area; and (5) direct City Staff to return to City Council with a list of additional Task Force Members to be considered from interested persons within the expanded project area.

Background:

The City Council has expressed a strong interest in having quality urban planning and physical development within the City. Topics of smart growth, street and pedestrian connectivity, efficient residential densities, open space, multi-use park-ponding recharge basins, school sites, and recognition of surrounding land use relationships have been frequent topics of discussion.

Particular attention has been given to the issue of neighborhood "context", regarding the relationships of individual projects to larger neighborhoods. Questions have been routinely asked about the manner in which development projects fit with the existing character of the surrounding area and how the projects fit with future development. The issue of context has been critical in evaluating development projects to assure that approved projects have

continuity with the surrounding area and that approved projects are an integral part of building wholesome neighborhoods and community.

The City Council previously selected the urban design firm of Moule & Polyzoides to prepare the City's Southeast Area Master Plan and directed staff to negotiate an agreement. The original proposal was to Master Plan 850 acres contained within the area of Caldwell Avenue, Santa Fe Avenue, Lovers Lane and Avenue 272. The City Council, in addition, asked that consideration be given for inclusion of 940 acres of land that is contiguous and east of Lovers Lane. This additional area of land would comprise a total of 1,790 acres that defines the Southeast Quadrant of land within the City's 129,000 Urban Development Boundary. The total cost (all Consultants & Tasks) for the original 850 acres area is \$667,750. The total cost for the combined 850 acre area plus the additional 940 acre area is \$975,477.

The per acre cost for the original 850 acres of land is \$785.58 per acre. The per acre cost for the combined 1,790 acre of land is \$544.96 per acre. The difference between the two proposals is \$240.62 less per acre for the combined total of 1,790 acres. The sub-consultant firm of Crawford Multari & Clark will be preparing the Environmental Impact Report in addition to other land use planning tasks. They are asking, for business purposes, a separate stand alone agreement for the EIR only. This will not affect the total costs that have been described.

The Southeast Area Master Plan will establish a Master Plan for the 1,790 acre area that will identify a preferred land use pattern, policies, infrastructure needs, public facilities (schools, parks, fire stations, etc.), and development standards. Emphasis will be placed on neighborhood design, integration of land uses, walkability, connectivity, and establishing a cohesive, livable planned neighborhood. The plan will identify a series of recommended changes to the City's General Plan, Zoning, development standards, and other policies affecting waterways, land use, and other neighborhood standards. The Consultants will prepare an Environmental Impact Report to enable these policy and standards revisions to be considered for adoption. The plan will address additional topics including timing of agricultural preserve withdrawals.

There are numerous projects presently being processed that are located along the City's urban-agricultural edge. Many of these interface areas are in agricultural preserve status and at the termination of the City's physical infrastructure. Due to the continued urban growth pressures and efforts of land developers to meet market demand, the housing construction and subdivision activity remains strong. While the City's 2020 General Plan remains the basis for land use decision making, it is apparent that an additional, more detailed level of planning guidance is needed along the City's urban edge to meet the goal of future quality neighborhoods and community.

Should land within the southeast area be designated for Master Plan status it will result in suspending Annexation and General Plan Amendments applications for a period of about 2 years. This includes 12-14 months for plan preparation and processing of the necessary environmental review, and 4-6 months for processing implementing General Plan and code amendments. During this period of time 1,790 acres of land would be affected.

State Annexation law makes suspension of annexations for the southeast area an advisable course. Properties annexed to a city are prohibited by state law from being re-designated under the General Plan for a minimum of 2 years. If properties are annexed to the City prior to implementation of a Master Plan, they will be zoned to classifications consistent with the current

General Plan designations, which may later conflict with designations recommended in the Masterplan.

The effect of suspending development during the Master Plan preparation period could delay, to some degree, the current momentum of urban growth in the southeast area. The effect on the availability of land for residential development on a community wide basis would be less. Current estimations, from available information in the building and planning divisions, indicate that since the year 2000 approximately 10, 200 residential lots have been approved for development via tentative or final subdivision maps. During the same period of time approximately 5,900 residential building permits were issued for both single family residential and multi-family residential units. The estimated number of approved undeveloped residential units, both single family residential and multi-family residential, community wide is approximately 4,300. In addition, approximately 1,700 single and multi-family units are currently being processed for Planning Commission review. All of the proposed and approved housing units in the current inventory are located in other areas of the community. The number of housing starts permitted by the City in recent years is as follows: 2003- 994 single family, 86 multiple family; 2004- 1,104 single family, 165 multiple family; 2005 (though September) 1,095 single family, 68 multiple family.

The recommended Southeast Master Plan area (original area and expansion area) is not yet served by City sewer facilities. A sewer construction project currently underway will extend a new major trunkline from the west to Santa Fe Street along the Visalia Parkway alignment. A future sewer project will extend the trunkline in the Visalia Parkway alignment east to Lovers Lane, then north in Lovers Lane to Walnut Avenue. The new trunkline will provide sewer to areas located east of Santa Fe, south of Caldwell Avenue, and areas located east of Lovers Lane, south of Walnut Avenue. The future sewer project will require acquisition of right-of-way for the Visalia Parkway alignment to Lovers Lane, engineering design, environmental documentation, bidding, and construction. The estimated time frame to complete the future sewer line as a City Capital Improvement Project is 3-5 years. This trunkline project is scheduled after the Northside Sewer Project and Southside Sewer Project, which are both now under construction. The need for a significant amount of right-of-way acquisition for Visalia Parkway and the sewer line through undeveloped property, and completion of an environmental analysis, will comprise much of this timeframe. Regardless of the Master Plan effort, development in the southeast area will be delayed until completion of the trunkline extension.

As can be seen in the attached maps, a substantial number of properties in the proposed study expansion area are subject to Williamson Act contracts. It is not known at this time whether notices of non-renewal have been filed on any of these properties. Removal of lands from Williamson Act status will take considerable time to complete. The Master Plan will recommend a systematic method of addressing Williamson Act issues as part of plan implementation.

During early discussions on the Master Plan, Council considered preparing a Specific Plan for the Southeast area. A specific plan would provide the same level of detail as the Master Plan, but it would lock in all details as mandatory City standards. Council favored the Master Plan because it will establish a sufficient framework to achieve the desired level of planning and standards but would have the flexibility to be adjusted over time as market conditions or community needs changed. Due to inherent flexibility, the development industry has also generally favored the Master Plan approach.

The area of land located immediately north and south of K Road, east of Lovers Lane, has a submitted Annexation application comprising 361 acres. Approximately 259 acres is located south of K Road and within the recommended Southeast Area Master Plan Boundary. This Annexation proposal (Annexation 2005-03) has been put on hold until the Southeast Master Plan Boundary is determined by the City Council. Further evaluation of the southeast area indicates the area of land north of K Road (approximately 102 acres) could be considered for inclusion into the Southeast Area Master Plan Boundary. The benefit of including the property is to coordinate land use and circulation relationships along the critical interface of McAuliff Avenue, K Road, Cameron Creek, and the Rail Road Tracks. It appears, due to the location of Cameron Creek, the railroad tracks and the S.C.E. Electrical substation, that K Road is not feasible for extension to Road 148 as shown on the City's Circulation Element. In addition, it is uncertain what the best north-south alignment of McAuliff Avenue should be in this area without further study. Should the 102 acre area be included, it will require a cost adjustment for additional work.

The City will undertake a comprehensive community-wide General Plan update beginning in 2006. This General Plan update will provide broad based planning for the entire community. While a General Plan by itself can serve as the functional basis for community planning, it can lack sufficient detail to address neighborhood level development issues. A Master Plan process can provide sufficient additional planning policies and standards to provide more precise and effective neighborhood planning. The policies and standards that arise out of the South East Master Plan will address the precise planning needs of this neighborhood and will be incorporated into the upcoming comprehensive General Plan update.

The Southeast Master Plan will require an appropriation from the General Fund to undertake the project. These funds are currently unbudgeted. The cost of preparing the Southeast Master Plan can be reimbursed to the City when development of these properties occurs in the future. Staff has reviewed the reimbursement program with the City Attorney to confirm that it is allowable under state law. A fee may be imposed on those benefiting from the Master Plan at the time of land entitlement and/or development. The Government Code allows a fee to be established that is equitable and proportionate to those benefiting from the Master Plan. It will be the task of the City Staff to prepare a study and fee schedule for adoption by the City Council in conjunction with the Master Plan adoption.

The City Council has previously directed Staff not to process applications for land use entitlements if the location was within the boundaries of an ongoing Master Plan study area. Staff concurs with this directive and supports the continued practice during the Southeast Master Plan preparation.

Prior Council/Board Actions: Council authorized Staff to negotiate with Moule & Polyzoides a fee for expanded study area.

Committee/Commission Review and Actions: N/A

Alternatives:

1. Award contract for only the original 850 acre area. Authorize City Manager to execute agreement in amount of \$667,750.
2. Award contract to include the original 850 acres, 945 acre expanded area, and 102 acre optional area located north of K Road. Authorize City Manager to negotiate and execute contract for total Master Plan area of 1897 acres.
3. Award contract to include the original 850 acres and expanded area of 621 acres that does not extend north of Caldwell Avenue. Authorize City Manager to negotiate and execute contract for an area south of Caldwell Avenue between Santa Fe Street and Road 148 only, said cost to be between \$667,750 and \$975,477. If this option is undertaken, staff recommends that Council require property owners/ developers to prepare their own Environmental Document and Master Plan in the 426 acre area north of Caldwell Avenue. If Master Plan is prepared by interested property owners/developers for the area north of Caldwell, City should approve scope of work and urban design team to prepare the plan. Cost of work to be borne by property owners/interested developers. Master Plan to be reviewed and approved by City of Visalia and implementation strategies adopted prior to development of area.
4. Do not prepare a Master Plan or Specific Pan - defer to upcoming General Plan update.

Attachments:

- Letter From Polyzoides and Crawford
- Moule & Polyzoides Project Proposals (2 pages)
- Crawford Multari & Clark EIR Proposals (3 pages)
- Map of Southeast Area Master Plan
- Map of Alternative Plan Areas
- Map of Visalia Parkway/ Sewer Trunkline Alignments

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): Move to authorize the City Manager execute agreements with Moule & Polyzoides and Crawford Multari & Clark to prepare the Southeast Master Plan as recommended.

Copies of this report have been provided to:

<i>Financial Impact</i>			
Funding Source: General Fund Reserves			
Account Number:			
Budget Recap:			
Total Estimated cost: \$ 975,477	New Revenue:		\$
Amount Budgeted: \$ -0-	Lost Revenue:		\$
New funding required: \$975,477	New Personnel:		\$
Council Policy Change: Yes___ No_X__			

Environmental Assessment Status

CEQA Review: Not Required

Required? No

Review and Action: Prior:
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:

City of Visalia
Agenda Item Transmittal

Meeting Date: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 2

Agenda Item Wording: Consideration to initiate Caldwell – Lovers Lane northeast Annexation

Deadline for Action: None

Submitting Department: Community Development and Public Works Dept. - 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.): 60

Contact Name and Phone Number:

Michael Olmos, Community Development & Public Works Director 713-4332
Fred Brusuelas, Community Development & Public Works Assistant Director 713-4364

Department Recommendation and Summary:

Staff recommends that the Annexation area located within the Southeast Master Plan Boundary not be considered until the Master Plan is adopted.

Background:

An Annexation application was submitted and determined to be complete in August 2005 comprising 361.56 acres of land on twelve separate parcels. The subject area is located in the northeast quadrant of Caldwell Avenue and Lovers Lane. This Annexation site is located within a portion of the southeast Master Plan Boundary that is being considered by the City Council. Due to the pending Southeast Master Plan consultant selection process and City Council decision to execute a contract, this Annexation request has remained on hold. It has been the practice that Annexation requests not be considered if the land is within a proposed or on-going Master Plan study area.

The Southeast Master Plan study area was initially an 850 acre area with boundaries along Santa Fe, Lovers Lane, Caldwell and Avenue 272. An expanded study area comprising an additional 940 acres between K Road, Avenue 272, Caldwell and Road 148 has been included for City Council consideration. It is within this expanded study area that a portion of the Annexation request is located.

A future study of the area by Staff suggests that the area of land located along the north side of K Road and is also a part of the Annexation area request should be considered for inclusion into the Southeast Area Master Plan. The primary reasons for including the additional approximately 102 acres north of K Road into the Southeast Area Master Plan boundary is that:

(1) Future K Road street alignment will not extend easterly to Road 148 as shown on the General Plan Circulation element due to the existing electrical sub station along Road 148 and;
(2) the interface of land north of K Road if not Master Planned would leave a 102 acre gap of land between the existing city limits and the Southeast Area Master Plan Boundary.

The 361 acres of land being considered for Annexation is predominantly in agricultural preserves (no protested parcels). According to the Engineering Division only the 102 acre area north of K Road has available sewer service. The remaining 259 acres of land does not have available sewer connection as identified in the City's Sewer Master Plan.

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives:

Allow the Annexation request to be processed

Attachments: Annexation map 2005-03
Southeast Area Master Plan Boundary Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that no Annexations be considered within the Southeast Area Master Plan Boundary until the plan is adopted.

Copies of this report have been provided to:

<i>Financial Impact</i>			
Funding Source:			
Account Number: None.			
Budget Recap:			
Total Estimated cost: \$		New Revenue:	\$
Amount Budgeted: \$		Lost Revenue: \$	
New funding required: \$		New Personnel:	\$
Council Policy Change:	Yes_____	No_X__	

Environmental Assessment Status

CEQA Review: Not Required

Required? No

Review and Action: Prior:
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:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 3

Agenda Item Wording:

Discussion regarding proposed Construction and Demolition Recycling Ordinance (Chapter 8.29) to increase the recycling and reuse of construction and demolition debris.

Deadline for Action:

Not Applicable

Submitting Department:

Community Development and Public Works

Contact Name and Phone Number

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

Department Recommendation and Summary:

City staff will be making a short presentation about countywide efforts to increase recycling of construction and demolition waste material. Staff will be requesting City Council provide direction on a proposed ordinance that will require contractors to recycle a percentage of construction and demolition waste material.

History:

In 1989, the California Integrated Waste Board enacted the California Waste Management Act of 1989. (AB 939). AB 939 contains language that requires that all California cities and counties prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals. AB 939 also requires that cities and counties make substantial reductions in the volume of waste materials going to the landfills, or face fines up to \$10,000 per day.

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). Per the agreement, the CWMA was created to act 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". When the CWMA was first formed the cities had a combined annual diversion rate of 52%. In 2002, four other cities (Exeter, Farmerville, Woodlake and Tulare) joined the CWMA. In 2003, the CWMA's combined annual diversion rate dropped to 44% (the tonnages are always one year in arrears). An analysis of the decrease indicates that it primarily resulted from more construction and demolition material being deposited at the County landfills. The County also increased their efforts to identify the source of material that was being deposited by "self-haulers." The self hauls are all deliveries not made by city disposal trucks or other recognized city contract haulers. The self hauls include everything from pickup trucks to dump trucks.

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

Many loads are delivered in trucks with large roll off bins. A significant amount of the material delivered by self haul is construction and demolition waste from Visalia or other cities belonging to the CWMA. The City of Visalia's current diversion rate is about 47%.

In April 2005, the CWMA's tonnage report was sent to the California Waste Management Board, showing that the diversion rate had fallen to 44%. Because the diversion level was less than 50% the CWMA had to request a time extension to meet State's requirements. The CWMA also had to prepare a plan to raise the diversion level back up to 50% or better. The CWMA has agreed to the following programs to reach this goal:

- All eight cities will implement commercial green waste programs,
- All eight cities will adopt Construction and Demolition Ordinances,
- Expand public outreach programs, and;
- Temporarily implement a waste to energy program.

With all of these programs in place CWMA staff is confident that the diversion level will increase back above the 50% level.

The CWMA Board has adopted a model Construction and Demolition Ordinance (C & D) for all of the member cities to use. Mayor Link is Visalia's representative on the CWMA Board. The CWMA cities are all required by the State to introduce a C & D Ordinance to their respective City Councils before November 1, 2005. The CWMA Board has set a goal for the cities to have the C & D Ordinances adopted by the end of the year. Staff members from the CWMA cities have met with representatives from the Building Industry Association (BIA) to review the model ordinance. The BIA indicated that they support the concepts in the model ordinance and want to work with the cities to make the implementation as simple as possible. Tulare County is also working on a C & D Ordinance. The BIA stated that they would prefer that all of the cities and the County adopt similar ordinances. The CWMA member cities and Tulare County have agreed to combine efforts to have an informational meeting for contractors and private haulers. A date for the meeting has not yet been established. CWMA members are working with County personnel to edit the model ordinance to be consistent with the County's draft ordinance. Tulare County recently issued a Request for Proposals (RFP) to vendors interested in accepting and processing construction and demolition materials at the County's three landfill sites. Staff's goal is to come back to Council on November 21, 2005 to introduce (first reading) the final draft of the ordinance. After the ordinance is adopted by Council, staff's goal is to implement it by January 1, 2006.

All of the CWMA Cities must promote the reduction of solid waste and reduce the stream of solid waste going to landfills so that the CWMA can meet the State requirement for 50% diversion. Waste from construction, demolition, and renovation of buildings represents a significant portion of the material being deposited in the landfills, and much of this waste is suitable for recycling and reuse. With the implementation of this new construction and demolition ordinance, the City will be committed to the reduction of construction and demolition by requiring that contractors establish a Recycling and Reuse Plan for construction and demolition (C&D) waste. Many California cities and counties have already adopted C&D ordinances. In this area, Fresno County and Fresno City and the City of Sanger have implemented construction and demolition ordinances similar to the one proposed in this staff report, to assist them to reach their goals set by AB 939.

For details concerning disposal requirements, penalties or other information, please see the attached C&D Ordinance proposal.

Prior Council/Board Actions:

None

Alternatives:

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. XXXX

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF VISALIA, CALIFORNIA,
AMENDING THE CITY OF VISALIA MUNICIPAL CODE
BY ADDING A NEW CHAPTER 8.29, CONSTRUCTION
AND DEMOLITION MATERIALS MANAGEMENT
TO TITLE EIGHT OF THE VISALIA MUNICIPAL CODE**

WHEREAS, under California law as embodied in the California Waste Management Act of 1989 (California Public Resources Code Sections 40000 et seq.), the City of Visalia is required to prepare, adopt and implement source reduction and recycling plans to reach landfill diversion goals, and is required to make substantial reductions in the volume of waste materials going to the landfills, or face fines up to \$10,000 per day; and

WHEREAS, in order to meet these goals it is necessary that the City promote the reduction of solid waste, and reduce the stream of solid waste going to landfills; and

WHEREAS, waste from construction, demolition, and renovation of buildings represents a significant portion of the volume of waste presently coming from the City of Visalia and much of this waste is particularly suitable for recycling and reuse; and

WHEREAS, waste reduction, reuse and recycling of C&D Materials reduces the amount of C&D Materials transported for disposal in landfills and transformation facilities, increases site and worker safety, and are cost effective; and

WHEREAS, the City's commitment to the reduction of waste requires the establishment of programs for recycling and salvaging of construction and demolition (C&D) waste; and

WHEREAS, except in unusual circumstances, it is feasible to divert at least fifty percent (50%) of all C&D Materials from construction, demolition, and renovation projects; and

WHEREAS, certain types of projects are exempt from these requirements; and

WHEREAS, to ensure compliance with this Chapter and ensure that those contractors that comply with this Chapter are not placed at a competitive disadvantage, it is necessary to impose a penalty for non-compliance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VISALIA
HEREBY ORDAINS THAT:

Title eight the Visalia Municipal Code is amended by adding a new Chapter 8.29 "CONSTRUCTION AND DEMOLITION MATERIALS MANAGEMENT," to read in its entirety as follows:

CHAPTER 8.29

CONSTRUCTION AND DEMOLITION MATERIALS MANAGEMENT

Section 8.29.010 – PURPOSE:

The purpose of this chapter is to increase the recycling and reuse of construction and demolition debris, consistent with the goals of the California Integrated Waste Management Act of 1989.

Section 8.29.020 – DEFINITIONS:

The following definitions apply in the application of this chapter.

(A) **Construction and Demolition Debris or C&D Debris** means material, other than hazardous waste, radioactive waste, or medical waste, that is generated by or results from construction or demolition-related activities including, but not limited to: construction, deconstruction, demolition, excavation, land clearing, landscaping, reconstruction, remodeling, renovation, repair, and site clean-up. C&D debris includes, but is not limited to: asphalt, concrete, brick, lumber, gypsum wallboard, cardboard and other associated packaging, roofing material, ceramic tile, carpeting, plastic pipe, steel, rock, soil, gravel, tree stumps, and other vegetative matter.

(B) **Director** means the Director of the Community Development and Public Works Department or his/her authorized representative.

(C) **Dispose** means the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the state.

(D) **Hazardous Waste** means hazardous waste as defined by section 40141 of the Public Resources Code.

(E) **Inert material** means nonputrescible solid material which includes, without limitation, soil, rock, gravel, concrete, asphalt, brick, ceramics, and similar material that does not contain hazardous waste, radioactive waste, medical waste, soluble pollutants, or decomposable matter.

(F) **Medical Waste** means waste regulated pursuant to the Medical Waste Management Act, section 117600 et seq. of the Health and Safety Code, and not deemed to be solid waste pursuant to section 40191 (b)(3) of the Public Resources Code.

(G) **Permit** means any permit issued by the building official pursuant to Chapter 8.29 of this code.

(H) **Person** means an individual, association, firm, company, partnership, political subdivision, government agency, municipality, public or private corporation, or any other entity whatsoever.

(I) **Project** means:

1. Any work, requiring one or more permits, the total value of which exceeds \$20,000 (or the total square footage of which exceeds 500);
2. Any work, requiring one or more permits, which consists only of the demolition of a structure or structures, irrespective of the total value (square footage) of the demolition work; or
3. Any work, requiring one or more permits, which consists only of grading, irrespective of the total value (or area) of the grading work.

A project may consist of work requiring more than one permit only if the Director determines that the work will take place within a single parcel or, upon request, that related work will take place within parcels that are in close proximity to one another.

A project does not include any work which is determined by the Director to be necessary to protect the public health or safety in direct response to an emergency or disaster proclaimed by the appropriate federal, state or local official, or governing body;

(J) **Project C&D Debris** means the C&D debris generated within a project. Project C&D debris does not include rock, soil, or gravel that is transferred from one location to another location within the project site and that is not removed from the project site.

(K) **Project Completion** means the date of the final inspection of the project, or if no final inspection is required, 30 calendar days following the date the work authorized by the permit(s) is completed, as determined by the Director.

(L) **Radioactive Waste** means waste regulated pursuant to the Radiation Control Law, section 114960 et seq. of the Health and Safety Code.

(M) **Recycle or Recycling** means the process of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise be disposed, and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. Recycling does not include the transfer of rock, soil, or gravel from one location to another location within the project site.

(N) **Recycling and Reuse Plan or RRP** means a written plan for recycling and reuse of project C&D debris prepared and submitted pursuant to Section 8.29.040 in a form prescribed or approved by the Director.

(O) **Responsible Person** means a person responsible for, or alleged to be responsible for, a violation of any provision of this chapter. A responsible person may include the person applying for the permit, the owner(s) of the real property on which the project will take place, and the owner's authorized representative.

(P) **Reuse** means the use of a material in the same or similar form as originally

produced, which material would otherwise be disposed. Reuse does not include the transfer of rock, soil, or gravel from one location to another location within the project site.

(Q) **Solid Waste** means all putrescible and nonputrescible solid, semisolid, 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. Notwithstanding the foregoing, "solid waste" does not include any of the following:

1. Hazardous waste;
2. Materials or substances that are salvaged for reuse or recycling that are not disposed;
3. Radioactive waste; or
4. Medical waste.

(R) **Vendor** means any company, person, or other third party that disposes, collects, receives, recycles, or reuses project C&D debris.

Section 8.29.030 – RECYCLING AND REUSE REQUIREMENTS:

(A) At least (100) percent, determined by weight, of all soil, cement block, concrete, asphalt, rock, and gravel removed from a project site must be recycled or reused unless a lower percentage is approved by the Director upon a determination that recycling or reuse of (100) percent of all such materials is not reasonably feasible. To the extent practicable, soil, rock, and gravel to be removed from the project site may not be commingled with other project C&D debris.

(B) At least 50 percent, determined by weight, of all project C&D debris, exclusive of soil, rock, and gravel, must be recycled or reused unless a lower percentage is approved by the Director upon a determination that recycling or reuse of 50 percent of all such materials is not reasonably feasible.

(C) Inert materials, exclusive of soil, rock, and gravel, may comprise no more than two-thirds, determined by weight, of the percentage of project C&D debris that is required to be recycled or reused under subsection B, unless a higher percentage of inert materials is approved by the Director upon a determination that the project will not otherwise generate or result in sufficient C&D debris to meet the level of recycling or reuse required in subsection B.

(D) In the event the required percentages of C&D debris have not been recycled or reused, every ton or fraction of a ton of C&D debris that has not been recycled or reused as required constitutes a separate violation of this chapter for which the Director may impose administrative penalties as provided by subsection C of Section 8.29.080.

F. Nothing in this section is intended to prohibit or discourage recycling or reuse of more than the required percentage of any project C&D debris.

SECTION 8.29.040 – SUBMISSION AND REQUIRED CONTENTS OF RECYCLING AND REUSE PLAN

(A) A Recycling and Reuse Plan (RRP) must be submitted to the Public Works Department after an application for a permit has been filed for a project, unless an RRP for the project is already on file with the Community Development and Public Works Department

B. An RRP must contain all of the following information:

1. The name and address of the person applying for the permit;
2. Unless waived by the Director, evidence that the owner or owners of the subject property acknowledge that they are aware of and understand that a violation of any provision of this chapter may result in the imposition of administrative penalties and that any unpaid administrative penalties imposed may be declared a lien on the subject property;
3. A description of the project, including location, scope, required permit(s), and estimated timeline for completion of the project;
4. The estimated total weight of the project C&D debris, with separate estimates for (1) soil, concrete, cement block, asphalt, rock, and gravel; (2) all other inert materials; and (3) all other project C&D debris;
5. The estimated total weight of the project C&D debris which will be recycled or reused, with separate estimates for (1) soil, concrete, cement block, asphalt, rock, and gravel; (2) all other inert materials; and (3) all other project C&D debris;
6. The names and addresses of all vendors and facilities proposed to be used to collect, receive, dispose, recycle, or reuse the project C&D debris;
7. The recycling or reuse rate, as applicable, of each vendor and facility proposed to be used to recycle or reuse the project C&D debris; and
8. The estimated percentage, determined by weight, of the project C&D debris that will be recycled or reused, with separate estimates for: (1) soil, concrete, cement block, asphalt, rock, and gravel; (2) all other inert materials; and (3) all other project C&D debris.

SECTION 8.29.050 – APPROVAL OF RECYCLING AND REUSE PLAN

(A) No permit will be issued for a project unless and until the Director has reviewed and approved an RRP for the project. An RRP will be approved only if the Director determines that:

1. The RRP contains all of the information required by Section 8.29.040; and
2. The RRP demonstrates compliance with the requirements of Section 8.29.030. If approved by the Director, the recycling or reuse rate of a vendor or facility employed in the recycling or reuse of project C&D debris may be used to substantiate the amount of project C&D debris recycled or reused by that vendor or facility.

B. If at any time it becomes apparent that the contents of an approved RRP are no longer accurate, the Director must be notified immediately to determine whether an addendum to the RRP must be submitted.

C. In the event an addendum to an RRP is required, the addendum must be submitted with such information as may be required by the Director to ensure compliance with subsection B of Section 8.29.040.

SECTION XX-6 – EVIDENCE OF COMPLIANCE WITH RECYCLING AND REUSE REQUIREMENTS

(A) No later than 30 days after issuance of the first permit for the project, an initial progress report must be submitted to the Director. Annual progress reports must be submitted thereafter, on or before March 1 of every year, until project completion. The progress reports must be in a form prescribed or approved by the Director and contain all of the following information:

1. A brief description of the status of completion of the project;
2. The estimated weight of all project C&D debris that has been generated, reused or recycled, and disposed to date, with separate estimates for (1) soil, concrete, cement block, asphalt, rock, and gravel; (2) all other inert materials; and (3) all other project C&D debris;
3. The estimated percentage that inert materials, exclusive of soil, concrete, cement block, asphalt, rock, and gravel, comprise of the total project C&D debris that has been recycled or reused to date; and
4. The name and address of each vendor and facility used to collect, receive, dispose, recycle, or reuse the project C&D debris to date, and the recycling or reuse rate, as applicable, of each vendor and facility used to recycle or reuse the project C&D debris to date.

(B) Notwithstanding the foregoing, an annual progress report is not required if the Director has been notified that a final compliance report will be submitted on or before May 30 of the same year. In the event that no final compliance report is

submitted by May 30, a progress report must be submitted no later than May 30.

(C) Within 30 days following project completion, a final compliance report containing the following information and documentation must be submitted to the Director, with separate weights and calculations shown for (1) soil, concrete, cement block, asphalt, rock, and gravel; (2) all other inert materials; and (3) all other project C&D debris:

1. The weight of all project C&D debris;
2. The weight of the project C&D debris that was recycled or reused;
3. The weight of the project C&D debris that was disposed;
4. Copies of receipts from every vendor or facility that collected, transported, or received any project C&D debris. Each receipt must specify the weight of any project C&D debris handled by the vendor or facility and must clearly demonstrate that all such C&D debris originated from the project site;
5. A calculation of the actual percentage, determined by weight, of project C&D debris that was recycled or reused; and
6. A description of the manner in which the project C&D debris was recycled or reused and the name and address of all vendors and facilities employed in the recycling or reuse of project C&D debris, including the recycling or reuse rate of each vendor or facility, as applicable.

D. Failure to accurately account for and submit the required documentation for all project C&D debris in the final compliance report constitutes a violation of this chapter.

SECTION 8.29.070 – WEIGHING OF PROJECT C&D DEBRIS

All project C&D debris must be weighed on scales that comply with all applicable state and county regulatory requirements for accuracy and maintenance, except when the Director determines that weighing C&D debris is not practical. In that event, a volumetric measurement must be used and the volume converted to weight based on the standardized conversion rate table approved by the Director for this purpose.

SECTION 8.29.080 – NOTICE OF VIOLATION AND ADMINISTRATIVE PENALTY

(A) In addition to any other remedy authorized by this code or applicable law, any violation of the provisions of this chapter will be subject to an administrative penalty, enforcement, and collection proceedings, as set forth in this chapter and authorized by section 53069.4 of the California Government Code. Each day of a continuing violation constitutes a separate violation.

(B) Except as otherwise provided in subsection C, the Director may impose an

administrative penalty for each violation in an amount not to exceed \$500 for the first violation, \$1000 for the second violation of the same provision of this chapter within one year after the first violation, and \$1,000 for each additional violation of the same provision of this chapter within one year after the first violation. Where a violation constitutes a continuing violation, no administrative penalty will be imposed unless the violation is not corrected within 30 days of the date of service of a notice describing the violation. Upon a determination by the Director that a continuing violation cannot be subsequently corrected or cured, the violation will be deemed corrected at the end of 60 days following the date of service of the notice of violation.

(C) If the Director determines that a project is in violation of the requirements of Section 8.29.030, the Director may impose an administrative penalty equal to \$100.00 for every ton or fraction of a ton of C&D debris that was not recycled or reused as required.

(D) Whenever the Director determines that a violation of any provision of this chapter has occurred, the Director is authorized to issue a notice of violation. The Director's issuance of a notice of violation is final unless an administrative appeal has been filed as provided in Section 8.29.090. If such an administrative appeal is not filed, the Director may withhold approval of any and all RRP's submitted by the responsible person on any project(s) until the applicable administrative penalty has been paid, and the amount of any unpaid administrative penalty may be declared a lien on any real property on which the project took place, as provided in Section 8.29.110.

(E) The notice of violation shall specify the conditions constituting the violation, the time, if any, within which the violation must be corrected, the applicable administrative penalty, and the availability of an administrative appeal as provided in Section 8.29.090. The notice of violation shall also state that if such an administrative appeal is not filed and the applicable administrative penalty has not been paid, the Director may withhold approval of any and all RRP's submitted by the responsible person on any project(s) until such penalty has been paid, and the amount of any unpaid administrative penalty may be declared a lien on any real property on which the project took place, as provided in Section 8.29.110.

(F) A notice of violation shall be served upon a responsible person(s) by personal delivery or by registered or certified mail, return receipt requested, at the Director's election. In the event, after reasonable effort, the Director is unable to serve the notice of violation as set above, service shall be accomplished by posting a copy of the notice on the premises of the project. The date of service is deemed to be the date of mailing, personal delivery, or posting, as applicable.

(G) The total amount of administrative penalties imposed for a project under this section may not exceed five percent of the value of the project, as described on the permit application(s), or \$5,000, whichever is less.

SECTION 8.29.090 – ADMINISTRATIVE REVIEW OF NOTICE OF VIOLATION

(A) Any person upon whom a notice of violation has been served may request an administrative review of the accuracy of the contents of the notice and/or the propriety of any administrative penalty by filing a written notice of appeal with the Director no later than 30 days after the date of service of the notice of violation. The notice of appeal must include all facts supporting the appeal and any statements and evidence, including copies of all written documentation and a list of any witnesses that the appellant wishes to be considered in connection with the appeal.

(B) The appeal shall be heard by a hearing officer designated by the Director. The hearing officer shall conduct a hearing concerning the appeal within 45 days from the date that the notice of appeal is filed, or on a later date if agreed upon by the appellant and the county, and shall give the appellant ten days prior written notice of the date of the hearing. The hearing officer shall sustain, rescind, or modify the notice of violation by written decision. The hearing officer shall have the power to waive any portion of an administrative penalty in a manner consistent with the decision. Service of the hearing officer's decision shall be made on the appellant in the manner provided in subsection C of Section 8.29.080. The decision of the hearing officer is final and effective on the date of service of the written decision, is not subject to further administrative review, and constitutes the final administrative decision. If judicial review of the final administrative decision is not sought in accordance with the provisions of Section 8.29.110, the decision of the hearing officer shall be deemed confirmed and the Director may withhold approval of any and all RRP's submitted by the responsible person on any project(s) until the applicable administrative penalty has been paid, and the amount of any unpaid administrative penalty may be declared a lien on any real property on which the project took place, as provided in Section 8.29.110.

SECTION 8.29.110 – JUDICIAL REVIEW

Within 20 days after service of the written decision of the hearing officer, a person contesting that decision may seek review of the decision by filing an appeal in the superior court pursuant to section 53069.4 of the Government Code. A copy of the notice of appeal must be served in person or by first-class mail upon the clerk of the City of Visalia by the person filing the appeal and a copy of the notice of appeal must be submitted to the Director. If the decision of the court is against the contestant, the Director may withhold approval of any and all RRP's submitted by the responsible person on any project(s) until the applicable administrative penalty has been paid, or the amount of any unpaid administrative penalty may be declared a lien on any real property on which the project took place, as provided in Section 8.29.110.

SECTION 8.29.110 – ENFORCEMENT AND COLLECTION OF ADMINISTRATIVE PENALTIES

(A) Prior to recordation of a lien declared under this Chapter in the amount of an unpaid administrative penalty, notice shall be given to the owner of the property to be subject to the lien and shall be served in the same manner as a summons may be served pursuant to section 415.10 et seq. of the Code of Civil Procedure.

(B) The lien shall attach upon recordation in the office of the county recorder.

The lien shall specify the amount of the lien, the date of the violations, the date of the final decision, the street address (if any), legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel.

(C) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, the city shall record a notice of the discharge containing the information specified in subsection B.

SECTION 8.29.120 – STANDARDS, GUIDELINES, AND CRITERIA

The Director may establish and/or adopt standards, guidelines, and criteria consistent with this chapter which are reasonably necessary to achieve the objectives of this chapter.

SECTION 8.29.130 – INSPECTIONS, INQUIRIES, AND AUDITS

The Director may make any and all inspections, inquiries, and audits as the Director may deem necessary to determine compliance with this chapter.

**ESTABLISHING RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION
DEBRIS REQUIREMENTS AND ADDING SECTION 7-15-1036 PERTAINING TO THE
WASTE MANAGEMENT PLAN**

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE,
CALIFORNIA, ORDAINS AS FOLLOWS:**

Section 1. Article 10 is added to the County of Tulare's Ordinance Code Chapter 3 Part IV to read as follows:

Article 10

RECYCLING AND DIVERSION OF CONSTRUCTION AND DEMOLITION DEBRIS

SECTION: 4-03-1500. DEFINITIONS:

For the purposes of this Article, the following words and phrases shall have the following meanings unless the context otherwise requires:

- (a) "**ACCESSORY STRUCTURE**": means a structure containing no kitchen or bathroom and located upon the same lot or parcel as the principal use or structure to which it is an accessory. The structure is customary, incidental and subordinate to the use of the principal building or the principal use of the land. All accessory structures shall be constructed with, or subsequent to, the construction of the principal structure or activation of the principal use.
- (b) "**APPLICANT**": means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the County for the applicable permits to undertake any construction, demolition or renovation project within the County, as defined in this Chapter, and who is, therefore, responsible for meeting the requirements of this Chapter.
- (c) "**BUILDING OFFICIAL**": means the Officer or other designated authority charged with the administration and enforcement of this Chapter, or the Building Official's duly authorized representative.
- (d) "**CONSTRUCTION**": means all building, landscaping, remodeling, including the addition, removal or destruction of buildings and landscaping.
- (e) "**CONSTRUCTION AND DEMOLITION DEBRIS**": means and includes
 - (1) Used or commonly discarded materials generally considered to be not water soluble and non-hazardous in nature, including but are not limited to, steel, copper, aluminum, glass, brick, concrete, asphalt material, pipe, gypsum, wallboard and lumber from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure and/or landscaping, including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing, landscaping and development operations for a construction project; or
 - (2) Remnants of new materials, including but are not limited to, cardboard, paper, plastic, wood and metal scraps from any construction, demolition and/or landscape project.

- (f) "**CONTRACTOR**": means any person or entity holding, or required to hold, a contractor's license of any type under the laws of the State of California, or who performs (whether as contractor, subcontractor, owner-builder, or otherwise) any construction, demolition, remodeling, renovation or landscaping service relating to buildings or accessory structures in the unincorporated area of Tulare County.
- (g) "**COVERED PROJECT**": means and includes any project which consists of one or more of the following:
- (1) Demolition projects that are 500 square feet or greater.
 - (2) The renovation, remodel or addition to an existing residential structure that is equal to or greater than 500 square feet.
 - (3) The renovation, remodel or addition to an existing commercial or multi-family residential structure that is equal to or greater than 1,000 square feet.
 - (4) Residential development and any new residential structure that is equal to or greater than 1,000 square feet.
 - (5) Commercial or multi-family residential development, and any new structure that is equal to or greater than 1,000 square feet.
 - (6) All County sponsored construction, demolition and renovation projects that are equal to or greater than 1,000 square feet.
 - (7) All County public works and construction projects which are awarded pursuant to the competitive bid procedures.
- (h) "**DECONSTRUCTION**": means a process to dismantle or remove useable materials from structures, in a manner which maximizes the recovery of building materials for reuse and recycling and minimizes the amount of waste transported for disposal in landfills and transformation facilities.
- (i) "**DEMOLITION**": means the deconstructing, razing, ruining, tearing down or wrecking of any structure, wall, fence or paving, whether in whole or in part, whether interior or exterior. Demolition needs to be done by a contractor or owner-builder.
- (j) "**DESIGNATED RECYCLABLE AND REUSABLE MATERIALS**": means and includes:
- (1) Inert solids, asphalt and masonry building materials generally used in construction including, but are not limited to, concrete, rock, stone and brick.
 - (2) Wood materials including any and all dimensional lumber, fencing or construction wood that is not chemically treated, creosoted, CCA pressure treated, contaminated or painted.
 - (3) Vegetative materials including trees, tree parts, shrubs, stumps, logs, brush or any other type of plants that are cleared from a site for construction or other use. The following materials are excluded as the materials are not recyclable and should be landfilled: bamboo, palm fronds and yucca.

- (4) Metals including all metal scrap such as, but are not limited to, pipes, siding, window frames, door frames and fences.
 - (5) Roofing materials including wood shingles and shakes as well as asphalt, stone and slate based roofing material.
 - (6) Salvageable materials and structures including, but are not limited to, doors, windows, fixtures, hardwood flooring, sinks, bathtubs and appliances.
 - (7) Any other materials that the Building Official determines can be diverted due to the identification of a recycling facility, reuse facility or market accessible from the County.
- (k) **“DIRECTOR OF RESOURCE MANAGEMENT AGENCY”**: means the Resource Management Agency Director of Tulare County or his authorized representative.
- (l) **"DIVERT" and "DIVERSION"**: means to use material for any lawful purpose other than disposal in a landfill, transformation facility or alternative daily cover. Methods to divert materials from landfills include Reuse, Salvage and Recycling. Diversion does not include illegal dumping.
- (m) **“EMERGENCY DEMOLITION”**: means an emergency demolition can be performed only when a facility is determined to be structurally unsound and in danger of imminent collapse *and* a state or local government agency has issued an immediate demolition order. The order for emergency demolition only applies to the part of the building that is unsound; attached buildings may not be demolished under this order and must be treated as a regular demolition.
- (n) **"FACILITIES"**: means recycling, salvage and reuse establishments and landfills.
- (o) **"INERT SOLIDS"**: includes asphalt, concrete, rock, stone, brick, sand, soil and fines.
- (p) **"NON-COVERED PROJECTS"**: Construction, demolition and renovation projects within the County that do not meet the established thresholds for Covered Projects.
- (q) **“OWNER-BUILDER”**: see “CONTRACTOR”.
- (r) **"PERMIT"**: means an official document or certificate issued by the Building Official authorizing performance of a specified activity.
- (s) **"PROJECT"**: means any activity involving construction, demolition or renovation, and which requires issuance of a permit from the County of Tulare.
- (t) **"RECYCLABLES"**: means materials which would otherwise become solid waste but which are capable of or suitable for recycling.
- (u) **"RECYCLING"**: means the process of collecting, sorting, cleansing, treating and reconstituting or converting construction and demolition debris that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw materials for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace or in the form of useable energy. Recycling does not include transformation.

- (v) "**RENOVATION**": means any change, addition or modification to an existing structure.
- (w) "**REUSE**": means further or repeated use of Construction and Demolition Debris.
- (x) "**SALVAGE**": means the controlled removal of materials from a Covered Project for the purpose of recycling, reuse or storage for later reuse.
- (y) "**SOURCE SEPARATED**": means recyclables that have been segregated from solid waste by or for the generator thereof on the premises at which they were generated for handling different from that of solid waste.
- (z) "**STRUCTURE**": means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
- (aa) "**WASTE MANAGEMENT PLAN**": means a form provided by the County for the purpose of compliance with this Chapter that must be submitted by the Applicant for any Covered Project.

SECTION 4-03-1505. DECONSTRUCTION AND SALVAGE AND RECOVERY:

- (a) Recovered and salvaged designated recyclable and reusable materials from the deconstruction phase shall be counted towards the diversion requirements of this Chapter.

SECTION 4-03-1510. DIVERSION REQUIREMENTS:

- (a) One hundred percent (100%) of inert solids and at least fifty percent (50%) by weight of the remaining construction and demolition debris resulting from the project shall be diverted to an approved facility or by salvage.
- (b) For each Covered Project, the diversion requirements of this Chapter shall be met by submitting and following a Waste Management Plan that includes the following:
 - (1) Deconstructing and salvaging all or part of the structure as practicable, and
 - (2) Directing one hundred percent (100%) of inert solids to reuse or recycling facilities approved by the County, and
 - (3) Source separating non-inert materials, such as cardboard and paper, wood, metals, green waste, new gypsum wallboard, tile, porcelain fixtures, and other easily recycled materials, and directing them to recycling facilities approved by the County and taking the remainder (but no more than 50% by weight) to a facility for disposal.
- (c) The Applicant for any Covered Project shall make reasonable efforts to ensure that all construction and demolition waste diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales that are in compliance with all regulatory requirements for accuracy and maintenance.
- (d) Although it may not be an explicit condition of the building permit, Contractors working on Non-Covered Projects are encouraged to divert material from

construction and demolition projects to the maximum extent practicable in accordance with this Chapter.

SECTION 4-03-1515. PROJECTS EXEMPT FROM THIS CHAPTER.

- (a) Emergency demolition required to protect the public health, safety or welfare.
- (b) County-sponsored demolition of a substandard structure or construction required to protect public health or safety in an emergency.
- (c) Projects in any single-family residential district, which consist solely of a swimming pool.
- (d) Projects for which only a plumbing permit, electrical permit or mechanical permit is required.
- (e) A project for which a valid building permit has been lawfully issued by the County prior to the effective date of this Chapter.
- (f) A project of County public construction for which the notice inviting bids has been published prior to the effective date of this Chapter.

SECTION 4-03-1520. WASTE MANAGEMENT PLAN REQUIREMENTS:

- (a) Every Applicant for building or demolition permits involving any Covered Project shall complete and submit a properly completed "Waste Management Plan," on a form prescribed by the County for this purpose, as an integral part of the building or demolition permit application process. The Waste Management Plan shall indicate all of the following:
 - (1) The intended salvage, reuse and recycling facilities, chosen from a list of facilities approved by the County, to use, collect or receive all construction and/or demolition debris from the project.
 - (2) That one hundred percent (100%) of inert solids and at least fifty percent (50%) by weight of all construction and demolition debris will be diverted.
 - (3) That the Applicant has submitted an appropriate Waste Management Option Fee if submitting their own Waste Management Plan for review.
- (b) Approval of alternative facilities or special salvage or reuse options may be requested of the Building Official.
- (c) Approval by the Solid Waste Manager, or designee, of the Waste Management Plan as complying with this Chapter shall be a condition precedent to the issuance of any building or demolition permit for a Covered Project.

SECTION 4-03-1525. REVIEW OF WASTE MANAGEMENT PLAN:

- (a) A Waste Management Plan shall be approved or denied no later than fifteen (15) days after a complete application is made.
- (b) Notwithstanding any other provision of this Chapter, no permit shall be issued for any Covered Project unless and until the Waste Management Plan has been approved.

- (1) All of the information has been remitted on the Waste Management Plan.
 - (2) The Waste Management Plan establishes a mechanism such that the diversion requirement shall be met.
- (c) If the Solid Waste Manager determines that the Waste Management Plan application is incomplete or fails to indicate that one hundred percent (100%) of inert solids and at least fifty percent (50%) by weight of all construction and demolition debris generated by the Project will be reused or recycled, he or she shall either:
- (1) Return the Waste Management Plan application to the Building Official marked “Denied”, including a statement of reasons, which shall then immediately stop processing the building or demolition permit application, or
 - (2) Return the Waste Management Plan to the Building Official marked “Further Explanation Required”.

SECTION 4-03-1530. DIVERSION REQUIREMENT EXEMPTION.

- (a) Application: If an Applicant for a Covered Project experiences circumstances that the Applicant believes make it infeasible to comply with established Diversion Requirements, the Applicant may request, in writing, an exemption from one or all of the waste diversion requirements during the building permit process.
- (b) Meeting with Solid Waste Manager: The Solid Waste Manager, or designee, shall review all exemption request information supplied by the Applicant and may meet with the Applicant to assess alternative ways of meeting waste diversion requirements. Based on the information supplied by the Applicant, the Solid Waste Manager, or designee, shall determine whether it is possible for the Applicant to meet any or all of the Diversion Requirements of the project.
- (c) Granting of Exemption: If it is determined that it is infeasible for the Applicant to meet all of the diversion requirements specified herein, the Solid Waste Manager, or designee, shall determine alternate permit conditions and the Building Official will inform the Applicant, in writing, of any such alternative requirements.

SECTION 4-03-1535. WASTE MANAGEMENT OPTION FEE:

An Applicant that chooses to file his or her own Waste Management Plan and not utilize the Waste Management Plan developed by the County shall pay to the County a fee as established by resolution to compensate the County for all expenses incurred in reviewing the Waste Management Plan.

SECTION 4-03-1540. ON-SITE PRACTICES:

During the term of the Covered Project, the Applicant shall according to the Applicant’s Waste Management Plan recycle, reuse or divert the required percentages of waste, and keep records of the tonnage. To the maximum extent feasible, project waste shall be source separated on-site to increase diversion.

SECTION 4-03-1545. REPORTING:

- (a) Progress reports during construction may be required.
- (b) All documentation is subject to verification by the County.
- (c) It is unlawful for any person to submit documentation to the County under this Chapter which that person knows to contain any false statements, including but not limited to, false statements regarding tonnage of materials recycled or diverted.

SECTION 4-03-1550. ENFORCEMENT:

The Resource Management Agency Director or his designee shall administer this Chapter and shall enforce the requirements of this Chapter, including but not limited to, the authority to order that work be stopped where any work is being done contrary to the provisions of this Chapter.

SECTION 4-03-1555. VIOLATIONS AND PENALTIES:

Any person violating any of the provisions of this Chapter shall be guilty of an infraction and shall be punishable as provided in section 125 of this Ordinance Code. Each such person shall be deemed guilty of a separate offense for each and every day, or portion thereof, during which any violation of any such provision of this Chapter is committed, permitted or continued by such person, and shall be punishable therefore as provided herein above.

SECTION 4-03-1560. APPEAL:

- (a) Except as herein provided, all appeals of decisions made by the Building Official or the Solid Waste Manager, or designee, on matters set forth in this Chapter shall be subject to the provisions of section 165 of this Ordinance Code.
- (b) Within ten (10) calendar days after the date on which written notice of the decision is mailed or delivered to the owner, applicant or other interested party, the owner, applicant, other interested party or his authorized agent may appeal to the Board of Supervisors for review of the decision. The decision shall be final unless such an appeal is filed within ten (10) calendar days of the mailing or delivery of notices to the applicant.
- (c) At the time of filing the appeal, the appellant shall pay a fee in an amount adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors.

Section 2. Section 7-15-1036 is here added to the Tulare County Ordinance Code to read as follows:

SECTION 07-15-1036. WASTE MANAGEMENT PLAN:

Applicants must comply with Tulare County Ordinance Code sections 4-03-1500 et. seq. prior to any permit being issued under this chapter.

Section 3. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in the _____, a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the _____ day of _____, 200__, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

Chairman, Board of Supervisors

ATTEST: C. BRIAN HADDIX
County Administrative Officer/
Clerk of the Board of Supervisors
of the County of Tulare

By: _____

Deputy



City of Visalia
SOLID WASTE DEPARTMENT
**CONSTRUCTION AND DEMOLITION DEBRIS
RECYCLING AND REUSE PLAN**

Complete and Submit to:

Today's Date: _____

City of Visalia Solid Waste Department
336 N. Ben Maddox Way, Visalia, CA 93291
Telephone: (559) 713-4500 FAX: (559) 713-4818
Office Hours: 8:00 a.m. - 4:30 p.m. Monday - Friday

Applicants Name: _____	
Applicants Mailing Address:	
Company Address _____	Phone: _____
Street _____	Fax: _____
City, State, Zip _____	e-mail: _____

Project Name: _____
Project Site Address: _____
Assessor's Parcel Number: _____ - _____ - _____
Plan Check Number(s): _____
Project Type: <input type="checkbox"/> Construction <input type="checkbox"/> Demolition <input type="checkbox"/> Grading
Relation to Project: <input type="checkbox"/> Owner <input type="checkbox"/> Contractor <input type="checkbox"/> Authorized Representative
Expected Project Start Date: _____ Expected Project End Date: _____
Project Description: _____ _____

FOR SOLID WASTE USE ONLY	
RRP ID: _____	Project Valuation: \$ _____
Meets 50% Requirement: <input type="checkbox"/> Yes <input type="checkbox"/> No	
Project Exempt? <input type="checkbox"/> Yes Reason: _____	
Approved Percent if Lower than 50%: _____ %	
Reason for Approval of Lower Percent: _____	
RRP Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No	Date: _____
Approved by: _____	(559) 713- _____
Signature	Print Name



**City of Visalia
SOLID WASTE DEPARTMENT
CONSTRUCTION AND DEMOLITION DEBRIS
RECYCLING AND REUSE PLAN
Vendors & Facilities**

In Table 1, list all recyclers, waste haulers, deconstruction contractors, salvage companies, recycling facilities, materials recovery facilities, landfills, and transfer stations that will be used for disposal, recycling, or reuse of project construction and demolition (C&D) debris. List any potential alternative vendors and facilities to be used. This will avoid the need to submit an amended RRP in case the services of a vendor or facility outside of the original selection are used.

Obtain Handling Method and Estimated Recycling Rate by contacting each facility. **If you intend to deliver material to an Inert Debris Engineered Fill Operation, please read the information provided in the attached instruction sheet.**

TABLE 1

Material Hauling Company	Address of Facility Where Materials will be Delivered	Facility Phone Number	Facility Handling Method*	Estimated Recycling / Reuse Rate (%) <i>(if applicable)</i>

*Provide a description of the manner in which the project C&D debris will be handled (recycled, reused, salvaged, disposed, processed, etc.)

**The Recycling / Reused Rate is the amount of material recycled / reused by a facility divided by the amount of material delivered to that facility.



City of Visalia
SOLID WASTE DEPARTMENT
C & D DEBRIS RECYCLING AND REUSE PLAN
Estimating C&D Debris Recycled, Reused, and Disposed

Estimating Tonnage

In **Table 2**, estimate the tonnage of C&D debris that you expect to generate, recycle, reuse, and dispose. If you are unable to provide estimates based on comparable projects that you have completed in the past, you may calculate expected tonnage using the Construction and Demolition Debris Generation Rates Table below. Then, refer to **Attachment 1** (Construction and Demolition Debris Composition Table) to determine the likely composition of the material that you will generate. Use **Attachments 2** and **3** to assist you in completing Table 2.

Construction and Demolition Debris Generation Rates
 (from City of Visalia Best Management Practices Guide)

Activity	Residential Project (pounds generated per sq.ft.)	Non-Residential Project (pounds generated per sq.ft.)
Renovation		
New Construction		
Demolition		

Recycling Requirements:

1. At least 50 percent of rock, soil, and gravel removed from a project site must be recycled or reused.
2. At least 50 percent of all other C&D debris, exclusive of rock, soil, and gravel must also be recycled or reused.
 - a. No more than 2/3 of this C&D debris can consist of inert materials such as asphalt, brick, concrete, and ceramics. The remaining 1/3 must consist of non-inert materials such as wood, gypsum, metal, plastic, etc.

➔ Applicants are encouraged to divert waste from landfills to the maximum extent feasible. The County is available to assist in not only meeting the 50 percent requirement, but also exceeding it.

TABLE 2

Inert material to be delivered to Inert Debris Engineered Fill Operations: 0 tons (do not include in table below):

Material Type	A Total Tons to be Generated D + E	B Tons to be Recycled	C Tons to be Reused or Salvaged	D Total Tons Recycled, or Reused / Salvaged B + C		E Tons to be Disposed
				tons	% of total tons generated (D ÷ A)	
Mixed C&D: Wood, Gypsum, Metal, Glass, Plastic, Organics, etc.						
Inert Debris: Asphalt, Brick, Concrete, Ceramic, Rebar, etc. (can represent a max. of 2/3 of the required 50% diversion)						
TOTAL TONS						
Diversion Rate Calculation: $\frac{D}{A}$ tons ÷ A tons = Diversion %				Diversion % Total		

Rock, Soil, Gravel (recycle or reused 50% of material removed from project site)						
TOTAL TONS						
Diversion Rate Calculation: $\frac{D}{A}$ tons ÷ A tons = Diversion %				Diversion % Total		

Note: If less than 50% diversion, describe extenuating factors preventing the project from meeting the 50% rate (attach additional sheets if necessary):
Recent Tests have determined that soil is contaminated and will be taken to a special waste landfill.



**City of Visalia
SOLID WASTE DEPARTMENT
CONSTRUCTION AND DEMOLITION
DEBRIS
RECYCLING AND REUSE PLAN
Signature Page**

Project Name: _____

Project Site Address: _____
Street

City, State, Zip

Owner Information: _____
Print Name

Street, State, Zip

Please sign below if you are the owner(s) or Legal representatives(s)

Not that any violation of the provisions of [Chapter _____](#) of the [Construction and Demolition \(C&D\) Debris Recycling and Reuse Ordinance](#) will be subject to an administrative penalty, enforcement, and collection proceedings, as set forth in the chapter and authorized by Section 53069.4 of the California Government Code. [The Director of Community Development and Public Works](#) may withhold approval of any and Recycling and Reuse Plans submitted by the responsible person on any project(s) until the applicable administrative penalty has been paid. In addition, the amount of any unpaid administrative penalty may be declared a lien on any real property on which the project took place, as provided in [Section _____ of the _____ Ordinance](#).

The undersigned fully acknowledges the requirements of [Chapter _____, Title _____ - Utilities of the _____ City of Visalia, C&D Debris Recycling, and Reuse Ordinance, Section _____](#). If you are not the owner(s), attach a notarized statement indicating you are the legal representative.

Signature

Print Name

Date

Signature

Print Name

Date

Signature

Print Name

Date

City of Visalia Agenda Item Transmittal

Meeting Date: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 4

Agenda Item Wording: Update on Scenic Airline's Scheduled Service to Las Vegas from the Visalia Airport.

Deadline for Action: None

Submitting Department: Administrative Services - Airport

Contact Name and Phone Number: Mario Cifuentez, II
713-4480

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

Department Recommendation and Summary:

Executive Summary:

On September 30, 2005, Scenic Airlines completed its first full month of operating non-stop flights from Visalia to Las Vegas. Following a hugely successful grand opening event on September 1st, the Airline sold 1,548 tickets in the month of September and has sold a total of 1,948 tickets through October 3rd. The number of tickets sold in eight (8) weeks, so far, totals over 200 tickets more than United Airlines sold all last year.

Background:

The new service began September 1, 2005, operating a pressurized 19-passenger Beechcraft 1900 aircraft from the North Las Vegas Airport providing ten (10) flights per week. Fares start as low as \$89 per one-way trip. Since that time, sales have been steadily increasing and Scenic officials have stated that they are pleased with the average daily sales.

As expected, weekend flights are typically full or close to full. However, midweek flights have shown appeal to the local traveler. One recent flight, midweek, had 15 passengers booked. Of those 15 passengers, 3 were continuing on via the free shuttle to catch a connecting flight out of Las Vegas International Airport.

The airport has received many compliments on the new service from satisfied passengers and all signs point to the number of the passengers increasing. Scenic continues to advertise the new service in both print and radio media and the airport is receiving numerous inquiries daily about the service.

Prior Council/Board Actions:

December 1, 1997 - Council authorized the execution of this same agreement with West Air Commuter Airlines.

May 4, 1998 - Council authorized the execution of this same agreement with SkyWest Airlines.

June 16, 2003 - Council adopted Resolution 2003-79 authorized staff to submit an application for the Small Community Air Service Development Grant.

Committee/Commission Review and Actions:

Alternatives:

Attachments:

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

Financial Impact

Funding Source:
Account Number: _____ (Call Finance for assistance)

Budget Recap:

Total Estimated cost: \$250,000	New Revenue:	\$
Amount Budgeted: \$-0-	Lost Revenue:	\$
New funding required:\$50,000	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: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 7b

Agenda Item Wording: Approval of a 5-year extension of the private golf cart privileges at the Valley Oaks Golf Course.

Deadline for Action: N/A

Submitting Department: Administrative Services

Contact Name and Phone Number: Mario Cifuentez II, 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.): 20

Department Recommendation and Summary:

Recommendation

Staff recommends that Council approve a 5-year extension to the private golf cart privileges extended to the original 43 members of the Valley Oaks Golf Club. The extension will expire on October 31, 2010. Staff will bring the item back for Council review in May 2010 for further review and consideration of an additional extension. Additionally, staff recommends the following actions be taken:

- Extend the private cart privileges for an additional 5-year period
- Increase the Private Cart Trail Fee from \$70 to \$90 per month
- Authorize CourseCo to invite those previous owners to take advantage of the private cart privilege once again

Summary:

In November 2000, Council approved a 5-year phase out of private golf cart privileges at the Valley Oaks Golf Course. Under the provisions of Council's decisions, 43 private cart owners at that time were "grandfathered" in and allowed to use their carts until November 2005. In the update to Council in September 2004, it was reported that Valley Oaks Golf Course was issuing an average 30 passes per month for the remaining allowed private carts. Since that time, a total of 26 cart owners have voluntarily removed themselves from the list by means of selling their cart or discontinuing playing golf for whatever reason. At this time, there are 17 cart owners still operating their own carts, with an average of 12 of them buying private cart permits in any one month.

The decision by Council to eliminate the usage of private carts was based largely upon the recommendation of CourseCo., in November 2000. CourseCo. still maintains the position that the elimination of private golf carts at Valley Oaks Golf Course is in the best financial interest of the course. A letter supporting that position is attached to this report.

Based on staff discussions with the private cart owners, users that buy passes on a monthly basis play approximately twelve (12) rounds per month. At this time, private cart owners pay a private cart trail fee of \$70 per month. CourseCo already sells a discount punch card for golf carts at a rate of \$8.75 per round. If Council chooses to extend the private cart privileges for an additional 5 years, staff would recommend that Council authorize CourseCo to increase the monthly rate for private carts from \$70 per month to \$90 per month reflecting the actual average usage of private carts. The increase in this rate equates to an average of \$1.70 per round, but would bring those fees in line with what other users at the course pay for cart usage. During discussions with representatives from the Valley Oaks golf club, they mentioned that they would be willing to pay a monthly trail fee of \$90 per month. Based on the high level of play by the monthly ticket holders, that rate would provide the course with total revenue more reflective of what would be received if they used the carts provided by Valley Oaks.

If Council were to allow the current users to continue to use their private carts, that action would be an about-face to the other golfers who have already sold their carts in anticipation of the November 2005 deadline. If Council approves the 5-year extension, staff recommends that Council authorize CourseCo to extend an offer to previous cart owners to take advantage of the private cart privileges once again.

Recommendations

In conclusion and based upon the aforementioned summary, staff recommends that Council:

- Extend the private cart privileges for an additional 5-year period
- Increase the Private Cart Trail Fee from \$70 to \$90 per month
- Authorize CourseCo to invite those previous owners to take advantage of the private cart privilege once again

Prior Council/Board Actions:

September 7, 2004 – Council authorized the first year of a six (6) year CIP plan for Valley Oaks Golf Course.

July 18, 2005 – Council approved the Golf Course CIP program, supported the elimination of private golf cart usage & authorized staff to move forward with the analysis of monthly tickets.

Committee/Commission Review and Actions:

Alternatives:

Attachments: CourseCo recommendation on the phase out of private golf carts.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

That the City Council:

- Extend the private golf cart privileges for an additional 5-year period
- Increase the private cart trail fee to \$90 per month
- Authorize CourseCo to invite previous private cart owners to take advantage of the private cart privilege once again.

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: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 7c

Agenda Item Wording: Approval of the 2005/06 transit agreement with Tulare County to provide transit service to the unincorporated areas of the greater Visalia Urbanized Area contiguous to the City, including Goshen, for \$275,114.

Deadline for Action: October 17, 2005.

Submitting Department: Community Development Department-Transit Division

Contact Name and Phone Number:

Monty Cox, Transit Manager, 713-4591
Mike Olmos, Community Development Director, 713-4332

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: Approve the 2005/06 transit agreement with Tulare County and authorize the City Manager to execute the necessary documents.

Summary: This agreement is an annual agreement between the City of Visalia and Tulare County to provide Visalia City Coach (VCC) service to the unincorporated areas of the greater Visalia Urbanized Area contiguous to the City, including Goshen.

The agreement includes a transfer of \$275,114 from the County to the City equal to the County portion of the VCC service provided, which fully reimburses the City for the services provided. Of this amount \$125,032 is transferred from the County's portion of the Local Transportation Fund and the remainder \$150,082 is comprised of federal funds and farebox revenues which we collect and retain. This \$275,114 covers the service to Goshen and the other county pockets within the Visalia Urbanized Area. It does not include any service to Farmersville or Exeter as this will be addressed through separate agreements with those cities.

The reimbursement is based on predetermined formulas that calculate the percentage of service provided to the County, and then apply this percentage to the entire VCC budget to determine the County's share. The formulas were developed the first year of the annual agreement in 1981 and updated each year since to reflect actual usage. The formulas are based on a percentage of the ridership who reside in the County, a multiplier factor adjusting for the distance to get to and from the County, and the number of service hours expended within the County areas. The funds are taken from the County's share of the Federal Transit Administration (FTA) Section 5307, County Local Transportation Fund and farebox revenues. These revenues are adequate to fully compensate the City for services provided.

Prior Council/Board Actions: Since 1981, the City and County have entered into annually updated agreements for the provision and coordination of public transit services in the Visalia Urbanized Area.

Committee/Commission Review and Actions: None

Alternatives: The City could elect not to service the unincorporated sections of the Visalia Urbanized Area, requiring the County to find an alternate provider. Such action could result in less efficiency and increased costs in the Visalia Region.

Attachments: Copy of the Agreement

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council approve the 2005/06 Transit Agreement between the City of Visalia and the County of Tulare providing Visalia City Coach (VCC) service to the unincorporated sections of the greater Visalia Urbanized Area contiguous to the City, and authorize the City Manager to execute the necessary documents.

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 <u>X</u>

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)*

Copies of this report have been provided to:

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: 10/17/2005

Agenda Item Number (Assigned by City Clerk): 7e

Agenda Item Wording: Authorization to purchase 5 Hybrid sedans for the Building Division

Deadline for Action: None

Submitting Department: Community Development and Administrative Services

Contact Name and Phone Number: Eric Frost, x4474; Dennis Lehman, x4495; Renee Nagel, x4375

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.): 5

Department Recommendation and Summary:

That the City Council authorize the Purchasing Division to obtain 5 hybrid sedans, either Toyota Prius or Honda Civics, for the Building Division for an amount not to exceed in total \$115,000.

Special authorization is being requested because it is difficult to obtain hybrid vehicles as the cars are being rationed to dealers. Purchasing may need to purchase the vehicles from several dealers to assure timely delivery, although every effort is being made to purchase the vehicles here locally. Four are to be purchased from the Building Safety Fund and one is already authorized in the budget from the vehicle replacement fund.

Discussion

The Building Safety Division has increased its staffing in the past several years due to unprecedented building growth. Three regular building safety inspectors and seven contract or hourly positions have been added over the last three years.

By borrowing vehicles from the fleet, reallocating the Planning and Redevelopment divisions' vehicles to Building Safety, renting vehicles from local car rental agencies and not retiring vehicles when replacements have come into the Building Safety Division, the division has provided cars to its inspectors. This process, however, was a stop gap measure. If building activity had declined, the borrowed, rented or otherwise obtained vehicles would have been returned. But with continued building activity, a better long-term solution needs to be implemented.

The City has a new fleet management policy which requires that new vehicle requests be reviewed by the fleet manager, Mike Morgantini. Mr. Morgantini supported the vehicle request and recommended that Building Safety purchase Escape Hybrids.

The City has a goal of using alternate fuel vehicles when possible and feasible. The best current options appear to be hybrid vehicles. Due to high market demand, Purchasing has found that dealers are being allocated hybrid vehicles and frequently the manufacturers are only producing hybrid vehicles with high-end add-ons. Basic transportation hybrids are hard to find. Such is the case for the Ford Escape hybrid. As a result, the Department directed Purchasing to find available hybrids and recommend an alternative.

Purchasing recently found that Honda Civic and Toyota Prius hybrids are the most readily available and least costly hybrids on the market. A recent bid established a price of \$21,360 and \$23,000, respectively for the Civic or Prius. Purchasing recommends and the department concurs that the City Council authorize Purchasing to negotiate for 5 hybrid vehicles for a cost not to exceed \$115,000 plus tax. If all the vehicles cannot be timely purchased from one dealer, the Purchasing Division is authorized to purchase the hybrid vehicles from multiple dealers as long as the purchase price is at or below \$21,360 and \$23,000 for a Honda Civic or Toyota Prius, respectively.

The funding for these vehicles will come from the following sources: 1 will be funded from the vehicle replacement fund and 4 will be purchased from the Building Safety reserve account. The reserve account has approximately \$1.1 million available.

Prior Council/Board Actions:

Committee/Commission Review and Actions: The Fleet Manager recommends the replacement of two vehicles driven by the building inspectors.

Alternatives: Originally, the building safety division pursued a plan to purchase hybrid Ford Escapes. However, the available hybrids were all special edition or fully loaded vehicles with costs exceeding \$34,000 each. In addition, no one dealer has had more than one or two vehicles.

Attachments:

<i>Financial Impact</i>	
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_____	

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): That the City Council authorize the Purchasing Division to obtain 5 hybrid sedans, either Toyota Prius or Honda Civics, for the Building Division for an amount not to exceed in total \$115,000 plus tax.

Funding will come from the vehicle replacement fund for one vehicle and from the Building Safety reserve account for four vehicles. The expenditure from the Building Safety reserve account is a new budget appropriation.

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: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 7f

Agenda Item Wording:

Request Council authorization to apply for a grant from the San Joaquin Valley Air Pollution Control District (SJVAPCD) requesting \$350,000 to partially fund the purchase of seven CNG powered garbage trucks.

Deadline for Action:

October 17, 2005

Submitting Department:

Community Development and Public Works

Contact Name and Phone Number

Andrew Benelli, Assistant Community Development and Public Works Director 713-4340
Jim Bean, Public Works Manager 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 requests City Council authorization to apply for a grant from the San Joaquin Valley Air Pollution Control District (SJVAPCD) to partially fund the purchase of seven compressed natural gas (CNG) disposal trucks. The grant application will request \$350,000 from the District's Heavy-duty Engine Emission Reduction Incentive Program. If the City receives the grant, the money will be used to pay for the higher differential cost of CNG powered trucks over diesel power trucks. CNG powered disposal trucks cost approximately \$50,000 more than diesel powered trucks (about \$242,000 versus \$192,000).

The State of California now requires that disposal trucks adhere to much stricter emission control standards than other large trucks. By taking advantage of the SJVAPCD program grant, the City will continue to take a proactive stance toward reducing air pollution in the Central Valley. The Visalia Solid Waste Division is currently operating seven CNG disposal trucks. The Street Maintenance Division is currently operating one CNG dump truck.

The City of Visalia has been awarded funds from this program in the last two grant cycles. Both of the previous awards were for approximately \$100,000 even though the City had requested \$350,000. The trucks that the City purchased with the first grant award were delivered in June, 2005. The funds from the second grant cycle will be used for trucks that are scheduled to be delivered in late spring, 2006. If the City is awarded funds from this grant application, the trucks that are purchased will be delivered in spring, 2007. The City has also received grant funds from the Department of Energy to help purchase CNG trucks. Staff is also working on an application for Federal Highway funds (Congestion Mitigation and Air Quality Grant) requesting \$210,308 to contribute to the purchase of CNG trucks.

Funding If the Grant is Approved:

The grant funds will be used as partial funding to purchase seven CNG garbage trucks. Five of the new trucks will replace diesel powered units that were identified as requiring replacement in the 06-07 capital budget. Two of the new trucks will be used to increase the City's fleet to accommodate new growth.

Total cost to replace the seven trucks with alternative fuel (CNG) trucks is estimated at \$1,693,910. The capital replacement funding currently available in the Solid Waste fund for replacement of these seven trucks is \$771,961 (accumulated depreciation and salvage value), so the total additional funding required is \$921,949. This additional cost for replacement includes two items: adding the alternative fuel equipment to the trucks at a cost per truck of about \$50,000 per truck (\$350,000 total), and an additional inflationary cost per truck of about \$81,707 (\$571,049 total), over the original purchase price established eleven years ago. The grant will provide \$350,000 towards the purchase of the seven solid waste trucks, making the additional funding over and above what is available for purchase of these seven trucks \$571,049. Solid Waste also applied for additional funding in the amount of \$210,308 from the Congestive Mitigation Air Quality CMAQ program funding for 06/07 budget, which would reduce the additional funding needed to \$360,741, if approved. This amount can be provided from existing capital replacement cash reserves within the Solid Waste Fund, which is estimated to be approximately \$1,785,000 on 7/30/2006.

Justification:

Five new garbage trucks will be needed to replace vehicles that are beyond their useful life. Two trucks will be needed to accommodate growth. Staff recommends purchasing CNG powered trucks to satisfy California emissions regulations and provide proactive measures reducing air pollution. Purchasing these alternative fuel vehicles now will put Visalia on a proactive path toward compliance with current and future emissions control regulations.

Prior Council/Board Actions:

City Council authorized staff to apply for SJVAPCD funding in 2003 and 2004. Council authorized staff to apply for Federal Highway Funds (CMAQ grant) in June 2004.

Alternatives:

Purchase diesel power trucks without grant funds.

Attachments:

Resolution No. 2005-

City Manager Recommendation:**Recommended Motion (and Alternative Motions if expected):**

The City Manager is authorized to submit a grant application to San Joaquin Valley Air Pollution Control District requesting \$350,000 to help fund the purchase of seven compressed natural gas powered disposal trucks.

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___	

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:

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA ENDORSING
APPLICATION UNDER THE HEAVY DUTY ENGINE EMISSIONS REDUCTION INCENTIVE
PROGRAM BY 2005 SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT
GRANTS**

WHEREAS, the City of Visalia desires to share in regional goals of cleaner air and recognizes the value that clean air has in benefiting the health of Visalia's citizens, attracting businesses, and improving the quality of life in Visalia: and

WHEREAS, the City of Visalia is eligible to receive grant funds towards the purchase of Alternative Fuel Vehicles: and

WHEREAS, additional heavy duty vehicles are needed by the City of Visalia in the near future by the Sanitation Department, and the use of CNG vehicles would be of benefit to the City towards reducing harmful emissions: and

WHEREAS, the San Joaquin Valley Air Pollution Control District has provided the City an opportunity to enhance the use of Visalia's Capital budget during FY 2006/2007 for Clean Air Projects: and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Visalia does hereby resolve, determine, and find as follows:

Section 1. The City Council does fully support the use of CNG powered vehicles as demonstration of the City's commitment to clean air.

Section 2. The City Council does fully support the concepts as defined in the City's application for funding under said SJVAPCD Heavy-Duty Engine Emissions Reduction Incentive program, including the project implementation schedule and all other elements.

Section 3. The City's staff is authorized to apply for SJVAPCD Heavy- Duty Engine Emission Reduction Incentive funding on behalf of the City of Visalia under the Fiscal Year 2006 – 07 Budget Year. Capital Budget funds have been identified to support the City's application to cover the differential costs associated with CNG vehicles.

PASSED AND ADOPTED: STEVEN M. SALOMON, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF VISALIA)

I, Steven M. Salomon, City Clerk of the City of Visalia, certify the foregoing is the full and true Resolution 05-_____ passed and adopted by the Council of the City of Visalia at a regular meeting held on October 17, 2005.

Dated: October 17, 2005

STEVEN M. SALOMON, CITY CLERK

By Roxanne Yoder, Chief Deputy

City of Visalia
Agenda Item Transmittal

Meeting Date: October 17, 2005

Agenda Item Number: 7g(1)

Agenda Item Wording:

Second Reading; Ordinance 2005-14, Change of Zone No. 2002-12 is a request by Bill Morgan to change the zoning on approximately 11 acres from IL (Light Industrial) to seven acres of R-1-6 (Single-Family Residential) and four acres of QP (Quasi-Public). The site is located on the north side of the railroad tracks north of K Road and east of Santa Fe Street (APN: 123-080-009, 019, 020) **Ordinance No. 2005-14 required.**

Deadline for Action: None

Submitting Department: Community Development / Public Works - Planning

Contact Name and Phone Number: Jason Pausma, Associate Planner (559) 713-4348

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

Recommendation and Summary: Staff recommends that the Council approve the second reading of Change of Zone 2002-12. The City Council held a public hearing on this item on October 3, 2005 and approved the first reading of the zone with a 5-0 vote.

If the second reading for this change of zone is approved, approximately seven acres of IL (Light Industrial) zoned land will be re-designated to R-1-6 (Single Family Residential) zoned land and four acres of IL (Light Industrial) zoned land will be re-designated to QP (Quasi-Public) for a linear landscaped detention basin.

If the change of zone is approved at the second reading, it will become effective 30 days from October 17, 2005.

Committee/Commission Review and Actions:

The project has been amended since the Planning Commission reviewed this project on June 13, 2005. The Planning Commission has not reviewed the recently modified Zoning and General Plan amendment designations. The Council did approve the amended Change of Zone and General Plan amendment at the first reading of the Ordinance on October 3, 2005.

The requested Change of Zone and General Plan Amendment originally went to the Planning Commission for review on January 27, 2003. The public hearing was continued indefinitely due to concerns about possible contaminated soil from the operations and processing of olives at the former olive processing facility. A Phase 1 Environmental report was issued in June of 2004. Pursuant to the recommendations contained in the Phase 1 Environmental Site

Assessment, Geo-Phase Environmental, Inc. conducted further investigation of the subject site by collecting a series of soil samples from depths as great as 27 feet and submitting them to a laboratory for analytical testing.

The report concluded the low levels of olive brine found at the site of the former olive processing plant do not constitute a hazardous release and are not hazardous to human health if ingested. However, the condition of the soil does render the affected parts of the property unsuitable for residential use due to the soil conditions that are unsuitable for growing many trees and other domestic flora. The applicant has indicated to staff that measures will be taken to ensure the suitability of this site for residential landscaping. These measures include adding two to five feet of clean fill dirt, as this site is located in a flood zone. The applicant has also contacted ASR Engineering, Inc., and in a letter dated June 10, 2005 ASR Engineering indicated that other products like DeSalt and DeSalt Plus have been shown to improve soil quality impacted by brines. Remediation of soil conditions to ensure that landscaping or trees will thrive will be recommended as a condition of approval on the tentative map.

The Planning Commission held a public hearing on June 13, 2005, and recommended approval of General Plan Amendment No. 2002-13 and Change of Zone No. 2002-12 on a 3-0 vote (Commissioners Perez and Salinas absent). During the public hearing, two persons spoke to the item. Mike Lane, the applicant's agent spoke in support of the proposed general plan amendment and change of zone. Christine Watson, a neighboring resident spoke in opposition to the project, citing concerns about possible contamination of the soil on the site of the former olive processing plant. She refused to give her address, and produced a soil sample in a glass jar, claiming it to be contaminated soil from the subject site. After she spoke, it was reiterated that a Phase 1 Environmental Assessment and additional subsequent soil testing had been performed on this site.

Prior Council/Board Actions:

The Council heard this item on July 12, 2005 and continued it, directing staff to work with the applicant to come up with an alternative design that reduces the land use conflicts between the Light Industrial and the Low Density Residential designated properties along the long narrow parcel on the western portion of the site.

This item was modified and brought back to the Council on October 3, 2005 for the first reading of the Ordinance, and was approved on a 5-0 vote.

Alternatives:

None recommended

Attachments:

- Ordinance No. 2005-14
- Zoning Map
- Location Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to approve the second reading of Ordinance No. 2005-14, approving Change of Zone No. 2002-12.

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: A Negative Declaration was certified at the first hearing for this change of zone.

Required:

NEPA Review:

Required? 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:

ORDINANCE NO. 2005-14

AMENDING THE ZONING MAP OF THE CITY OF VISALIA CHANGING THE ZONING FROM IL (LIGHT INDUSTRIAL) TO SEVEN ACRES OF R-1-6 (SINGLE-FAMILY RESIDENTIAL) AND FOUR ACRES OF QP (QUASI-PUBLIC) ON APPROXIMATELY 11 ACRES ON THE NORTH SIDE OF THE RAILROAD TRACK NORTH OF K ROAD, ON THE EAST SIDE OF SANTA FE STREET; BILL MORGAN, APPLICANT

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 changes to the Zoning Map of the City of Visalia that would change the zoning from IL (Light Industrial) to seven acres of R-1-6 (Single-Family Residential) and four acres of QP (Quasi-Public) on 11 acres on the north side of the railroad tracks north of K Road, east of Santa Fe Street; APN123-080-009, 019, 020; City of Visalia; and

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: October 17, 2005

Agenda Item Number: 7g(2)

Agenda Item Wording:

Second Reading; Ordinance 2005-18, Change of Zone No. 2005-17: A request by Michael Ray Sutherland to change the zoning from R-1-6 (Single-Family Residential) to R-1-4.5 (Single/Multi-Family Residential) on approximately 14.2 acres and to QP (Quasi-Public) on approximately 6.5 acres. The site is located on the north side of Goshen Avenue, approximately 1,500 feet west of Lovers Lane (APN: 098-050-014, 020, 058, 059). **Ordinance No. 2005-18 required.**

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

Deadline for Action: None

Submitting Department: Community Development / Public Works - Planning

Contact Name and Phone Number: Jason Pausma, Associate Planner (559) 713-4348

Recommendation and Summary: Staff recommends that the Council approve the second reading of Change of Zone 2005-17. The City Council held a public hearing on this item on October 3, 2005 and approved the first reading of the zone with a 5-0 vote.

If the second reading for this change of zone is approved, approximately 14 acres of R-1-6 (Single Family Residential) zoned land will be re-designated to R-1-4.5 (Single Family Residential) zoned land, and approximately 6.5 acres of R-1-6 zoned land will be re-designated to QP (Quasi-Public) for a dual use park/pond basin.

If the change of zone is approved at the second reading, it will become effective 30 days from October 17, 2005.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on September 12, 2005 and recommended approval of Change of Zone No. 2005-17 on a 5-0 vote. The Planning Commission found that the proposed change to R-1-4.5 was consistent with the General Plan land use designation of Low Density Residential. General Plan Land Use Policy 4.1.18 provides for R-1-4.5 type development in the Northeast Specific Plan Area.

The Planning Commission also determined that the project is consistent with the goals and objectives of the Northeast Specific Plan, of which this project is located. Finally, the Planning Commission also found that the existing single and multi-family zones in the surrounding area would be consistent with the proposal for R-1-4.5 and QP Zoning. This proposal does not

increase the potential for land use conflicts since the area already contains a mix of single-family and multiple-family land uses and designations.

During the public hearing, no persons spoke in opposition to the requested zone change.

Prior Council/Board Actions:

First Reading by City Council on October 3, 2005.

Alternatives:

None recommended

Attachments:

- Ordinance No. 2005-18
- Zoning Map
- Location Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to approve the second reading of Ordinance No. 2005-18, approving Change of Zone No. 2005-17.

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:

A Negative Declaration was certified at the first hearing for this change of zone.

Required:

NEPA Review:

Required? 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:

ORDINANCE NO. 2005-18

AN ORDINANCE OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF CHANGE OF ZONE NO. 2005-17, TO CHANGE THE ZONING FROM R-1-6 (SINGLE-FAMILY RESIDENTIAL) TO R-1-4.5 (SINGLE/MULTI-FAMILY RESIDENTIAL) ON APPROXIMATELY 14.2 ACRES AND TO QP (QUASI-PUBLIC) ON APPROXIMATELY 6.5 ACRES FOR THE DEVELOPMENT OF A SINGLE FAMILY RESIDENTIAL SUBDIVISION AND A PARK/POND BASIN

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. 2005-17, to change the zoning from R-1-6 (Single Family Residential) to R-1-4.5 (Single/Multi-Family Residential) on approximately 14.2 acres and to QP (Quasi-Public) on approximately 6.5 acres, for the development of a single family residential subdivision and park/pond basin for Michael Ray Sutherland, on the north side of Goshen Avenue, approximately 1,500 feet west of Lovers Lane , APN 098-050-014, 020, 058, 059, City of Visalia.

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.

MEMORANDUM

To: Visalia City Council

From: Daniel M. Dooley, City Attorney
Alex M. Peltzer, Assistant City Attorney
Kris B. Pedersen, Deputy City Attorney
Dooley Herr & Peltzer, LLP

DATE: October 13, 2005

RE: Regular Item for October 17, 2005
Second Reading of Ordinance for the Regulation of
Medical Marijuana Dispensaries, the Cultivation and
Processing of Medical Marijuana and the Public
Use/Consumption of Medical Marijuana;
Special Zoning Provisions

This memorandum is being submitted to the City Council for its consideration of the second reading and final adoption of proposed ordinance to regulate medical marijuana dispensaries and related activities.

Minor modifications have been made following the first reading of the proposed ordinance to address concerns raised by Council members and members of the public in the public comment portion of the meeting. In addition to the re-alphabetization of the ordinance to correct typographical errors and the addition of technical enacting language to the preliminary portion of the ordinance, the following sections have been modified:

1) Modifications to section 5.66.020 were made to clarify the application of the ordinance to clinics and other state-licensed entities. At the introduction of the ordinance, both the Council and Jeff Nunes raised an issue concerning the application of the ordinance to a “clinic” or “pharmacy” for which specific licensing procedures exist under state law. The City Attorney indicated the ordinance would apply to entities that are otherwise licensed, provided those entities engage in the activity that comes under the definition of Medical Marijuana Business, as defined in the ordinance. Upon further review of that definition, it appears that some of the language in section 5.66.020 as introduced has the potential to cause some confusion. Specifically, the definition of “dispensary” (which is one of the activities that could constitute a Medical Marijuana Business) includes the provision: “Unless otherwise regulated by this Code or applicable law, a ‘medical marijuana dispensary’ shall not include...”. The ordinance then

goes on to list several types of entities for which licenses under various state law provisions may be obtained. The wording “unless otherwise regulated by this Code” causes uncertainty in that it appears to be a circular reference. This language was intended to make clear that, regardless of licensing by other state entities, the regulations contained in this ordinance should apply to any entity that engages in the defined activity. However, the language that follows this may appear to have the opposite effect, and except the enumerated entities from local regulation. Therefore, to the extent the language referred to above causes confusion, the City Attorney recommends that the language be removed, and the exception from the definition of “medical marijuana dispensary” be deleted entirely.

The ordinance proposed for final approval contains this deletion and clarification. Thus, in effect, if adopted as presented, *any* business engaging in the provision or distribution of medicinal marijuana will have to comply with the ordinance. This will ensure consistent application to *all* businesses applying for a permit under the proposed ordinance.

2. The Police Department requested the inclusion of a requirement of disclosing all alias names used and previous addresses for a period of ten years, rather than the five years as was originally specified in the proposed ordinance. This is needed to assist the Department in its background check obligations, and is considered a minor change to the ordinance.

3. Council requested evaluation of the possible imposition of a filing fee for an applicant to pursue an appeal from a denial of a permit. However, in reviewing the City’s Municipal Code and the various provisions allowing an appeal of a denial of a permit, no appeal fee has been assessed in those provisions (see, for example, the Adult Oriented Businesses applications). For this reason, the City Attorney is not recommending including a fee for appealing the denial of the permit at this time. Instead, the Council may be interested in directing staff to consider a more broadly applicable appeal fee.

4. Council requested reference to scales used within the businesses to be certified by Weights and Measures. This specific reference has been included with the proposed ordinance. (See page 12, paragraph E.)

5. Council sought clarification of the definition of “fully enclosed structure.” Therefore, specific reference to include a ceiling, roof or top to the enclosed structure has been added. (See page 13, paragraph G; and page 17.)

6. Mr. Nunes, or his representative, Mr. Bill Pike, sought clarification of a Business’ right to sell informational items such as books and literature. Therefore, specific reference to permit the sale of information items only has been added. (See, page 13, paragraph I.)

RECOMMENDATION

The above-noted changes to the ordinance are minor in nature and address specific issues raised at the introduction of the ordinance two weeks ago. The City Attorney recommends that the Council consider this proposed ordinance as amended for final adoption.

ORDINANCE No. 2005-_____

**An Ordinance of the City Council
of the City of Visalia Adopting Regulations Regarding
Medical Marijuana Dispensaries, the Cultivation and Processing of
Medical Marijuana and the Public Use/Consumption of Medical Marijuana**

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

SECTION 1: PURPOSE

The purpose of this Ordinance is

- A. To amend Title 5 of the City of Visalia Municipal Code pertaining to Business Regulations by adding Chapter 5.66 and creating regulations regarding the operation of “Medical Marijuana Dispensaries” within the City of Visalia;
- B. To amend Title 8 of the City of Visalia Municipal Code pertaining to Health and Safety by adding Chapter 8.64 and creating regulations regarding the “Public Use and Consumption of Medical Marijuana”; and
- C. To amend Title 17 of the City of Visalia Municipal Code pertaining to Zoning by adding Chapter 17.64 and restricting the location of Medical Marijuana Businesses.

SECTION 2: FINDINGS

- A. The voters of the State of California approved proposition 215 (codified as California Health and Safety Code section 11362.5, et seq. and entitled “The Compassionate Use Act of 1996”).
- B. The intent of Proposition 215 was to enable seriously ill Californians to obtain and use marijuana for medical purposes, where that medical use is deemed appropriate and has been recommended by a physician, without fear of criminal prosecution under limited, specified circumstances.
- C. In 2004, the State Legislature enacted SB 420 to clarify the scope of the Compassionate Use Act of 1996 to allow cities and other government bodies to adopt and enforce rules and regulations consistent with SB 420.
- D. In June 2005, the United States Supreme Court issued a decision entitled Gonzales v. Raich (2005) 545 U.S. ____ wherein it determined the cultivation and use of marijuana in compliance with California law is a violation of federal law, and may be prosecuted under federal law.
- E. The City of Visalia has identified a number of health, safety, and welfare concerns associated with dispensaries, the cultivation, processing, and public use/consumption of medicinal marijuana. These adverse impacts require careful consideration and regulation of the location and manner in

which the uses are to operate so as to prevent impacts on nearby residents, businesses and the community at large.

F. The City of Visalia neither condones nor condemns the use of marijuana, but finds it important to ensure that the adverse impacts from the medical use of marijuana are minimized in the City of Visalia.

G. The City of Visalia has received inquiries from prospective operators for the establishment of various related businesses, such as a medical marijuana dispensary, a co-operative cultivation operation and related processing center. Currently, the City of Visalia has no rules or regulations governing medical marijuana or dispensaries of medical marijuana.

H. To protect the public health, safety, and welfare, it is the desire of the City Council to modify the municipal code consistent with and complimentary to The Compassionate Use Act of 1996 and SB 420.

I. The City Council acknowledges the federal government and its law enforcement and prosecuting agents have jurisdiction to enforce the Controlled Substances Act, 21 U.S.C. Section 841, within the city limits of the City of Visalia. It is the City Council's intention that nothing in this ordinance shall be deemed to prevent federal prosecution of violations of the Controlled Substances Act within the City of Visalia.

J. It is the City Council's intention that nothing in this ordinance shall be construed to (1) allow persons to engage in conduct that endangers others or causes a public nuisance, (2) allow the use of marijuana for non-medical purposes, or (3) allow any activity relating to the cultivation, distribution, or consumption of marijuana that is otherwise illegal.

K. The City Council desires to adopt reasonable time, place and manner regulations that address the adverse secondary effects of medical marijuana dispensaries, the cultivation and processing thereof and the public use/consumption of marijuana for medical purposes. This Ordinance both complies with applicable state law, as well as imposes reasonable restrictive rules and regulations protecting the public health, safety, and welfare of the residents and businesses within the City of Visalia.

L. The locational requirements established by this ordinance do not unreasonably restrict the establishment or operation of a medical marijuana dispensary in the City of Visalia, and the application of this ordinance results in a reasonable number of appropriate locations for such dispensaries.

M. The City Council of the City of Visalia also finds that locational criteria alone do not adequately protect the health, safety, and general welfare of the citizens of the City of Visalia. Thus, certain requirements with respect to the ownership and operation of medical marijuana dispensaries, cultivation and processing of medical marijuana, and the public use/consumption of marijuana for medical purposes are in the public interest.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDING

This ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines section 15061(b)(3). The City Council finds that the adoption of this ordinance does not have the potential for causing a significant adverse effect on the environment.

SECTION 4. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact than any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION 5. AMENDMENT OF VISALIA MUNICIPAL CODE

The amendments to Title 5, Title 8 and Title 17 of the Visalia Municipal Code, which are described in the attached Exhibit A incorporated herein and made a part hereof, are hereby adopted as ordinances of the City of Visalia.

SECTION 6. EFFECTIVE DATE

This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 7. PUBLICATION

At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City. In addition, a notice shall be published once in the Visalia Times-Delta, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

I, Roxanne Yoder, City Clerk of the City of Visalia, do hereby certify that the foregoing Ordinance was introduced at the _____, 2005 City Council meeting and duly adopted by the following vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT:

COUNCIL MEMBERS:

BOB LINK
Mayor of the City

ATTEST:

Roxanne Yoder
City Clerk of the City of Visalia

APPROVED AS TO FORM:

Daniel M. Dooley
City Attorney

Exhibit "A"

Ordinance No. 2005 - _____

SECTION 1: AMENDMENT OF TITLE 5 OF THE CITY OF VISALIA MUNICIPAL CODE RELATING TO BUSINESS REGULATIONS: ADDITION OF CHAPTER 5.66 ENTITLED "MEDICAL MARIJUANA DISPENSARIES"

Title 5 of the Visalia Municipal Code is hereby amended by adding thereto Chapter 5.66, which shall read as follows:

Chapter 5.66

MEDICAL MARIJUANA DISPENSARIES

Article 1. General

Section 5.66.010 Purpose and Intent

It is the purpose and intent of this ordinance to promote the health, safety, and general welfare of the residents and businesses within the City by regulating medical marijuana dispensaries. It is not the intent nor effect of this ordinance to restrict or deny qualified patients access to marijuana for medical purpose as intended by the passage of the Compassionate Use Act of 1996 and SB 420 in 2004. Neither is it the intent nor effect of this ordinance to condone or legitimize the use of marijuana.

Section 5.66.020 Definitions

All definitions set forth in Health & Safety Code sections 11362.5 and 11362.7 *et seq.*, as may be amended, including but not limited to the terms "attending physician", "person with an identification card", "primary caregiver", "qualified patient", "identification card", and "serious medical condition", shall apply under this Ordinance in addition to the definitions set forth as follows:

"Applicant" means a person who is required to file an application for a permit under this chapter, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee or agent of a Medical Marijuana Business.

"City Planner" means the City Planner holding office in the City of Visalia or his or her designee.

"Medical Marijuana" is defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

"Medical Marijuana Dispensary" means any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by,

or distributed to three or more of the following: (1) a qualified patient, (2) a person with an identification card, or (3) a primary caregiver. All three of these terms are defined in strict accordance with California Health and Safety Code sections 11362.5, and 11362.7 *et seq.*

“Medical Marijuana Businesses” means any Medical Marijuana Dispensary; any cultivation and/or processing of medical marijuana operations by primary caregivers for three or more qualified patients or persons with identification cards; or collective or cooperative cultivation operations.

“Cultivation of medical marijuana” means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Processing of medical marijuana” means the harvesting of marijuana or the use of any process or equipment, including but not limited to dehydrators or humidifiers, that may be necessary to convert raw marijuana plants or plant parts into a consumable product.

“Permittee” means the person to whom a Medical Marijuana Business permit is issued.

“Written Recommendation” shall have the same definition as California Health and Safety Code section 11362.7 *et seq.*, and as may be amended.

Section 5.66.030 Enforcement of Chapter.

The City Planner of the City of Visalia shall have the responsibility and duty of enforcement of this Chapter.

Article 2. Medical Marijuana Business Permit

Section 5.66.040 Medical Marijuana Business Permit Required.

A. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City of Visalia the operation of a Medical Marijuana Business unless the person first obtains and continues to maintain in full force and effect a Medical Marijuana Business permit from the City of Visalia as herein required.

B. A Medical Marijuana Business shall also be required to apply for and maintain a general City of Visalia business license as a prerequisite to obtaining a permit pursuant to the terms hereof.

Section 5.66.050 Applications.

A. The applicant for a Medical Marijuana Business permit shall submit to the City Planner or designee an application for a permit. The application shall be made under penalty of perjury and shall include the following information:

1. The full name and all alias names used in the previous ten (10) years, present address, and telephone number of the applicant;
2. The address to which notice of action on the application is to be mailed;
3. Previous addresses for the past ten (10) years immediately prior to the present address of the applicant;
4. Written proof that the applicant is over the age of eighteen (18) years of age.
5. Applicant's height, weight, color of eyes and hair;
6. An identification photograph of the applicant;
7. All business, occupation, or employment of the applicant for the five years immediately preceding the date of the application;
8. The business license history of the applicant, including whether such person, in previously operating in this or another city, county or state under a license has had such license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation;
9. The name or names of the person or persons having the management or supervision of applicant's business;
10. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of such offense(s), and the sentence(s) received therefore;
11. The name of all employees, independent contractors, and other persons who will work at the proposed Medical Marijuana Business;
12. The names and addresses of all suppliers of marijuana products. Any change in suppliers must be disclosed in advance to the City by requesting an amended business license.
13. The proposed security arrangements for ensuring the safety of persons, safe and secure storage of the marijuana, and to protect the premises from theft which shall be kept confidential and not disclosed to the public as the public interest is served in preserving the confidentiality of such security arrangements;

14. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the proposed Medical Marijuana Business. The sketch or diagram need not be professionally prepared, but must be drawn with marked dimensions of the interior of the premises;
15. A current and accurate straight-line drawing depicting the building and/or the portion thereof to be occupied by the proposed Medical Marijuana Business and the property lines of any church, school, park, recreation center, youth center, or residential zone or use within 1,000 feet of the primary entrance of the proposed Medical Marijuana Business;
16. Authorization for the City of Visalia, its agents and employees to seek verification of the information contained within the application;
17. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct; and
18. Such other identification and information as deemed necessary by the City Planner or designee.

B. If the applicant has completed the application improperly, or if the application is incomplete, the City Planner or designee shall within ten (10) days of receipt of the original application, notify the applicant of such fact.

C. The fact that an applicant possesses other types of state or City permits or licenses does not exempt the applicant from the requirement of obtaining a Medical Marijuana Business permit.

Section 5.66.060 Term, Renewals and Fees.

A. Unless otherwise suspended or revoked, a Medical Marijuana Business permit shall expire one (1) year following its issuance. An operator of a Medical Marijuana Business may re-apply for a permit for subsequent year(s).

B. Every application for a permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee shall not include fingerprinting, photographing or background check costs and shall be in addition to any other business license fee or permit fee imposed by this code or other governmental agencies.

Section 5.66.070 Notification of Community.

A. Within ten (10) calendar days of filing an application for a Medical Marijuana Business permit, the applicant shall provide the City Planner or designee with proof that all residents and property owners within 1,000 feet of the proposed premises have been notified in writing by U.S. mail of the applicant's intent to open such a business and filing of such application.

Section 5.66.080 Investigation and Action on Application.

A. The City Planner or designee, in consultation with the City of Visalia Chief of Police, shall conduct a background check of any applicant for a Medical Marijuana Business permit or employee thereof and shall conduct an investigation of the application.

B. After the background checks and investigation are complete, and in no case later than forty-five (45) days after receipt of a completed application, the City Planner or designee shall determine whether to issue the Medical Marijuana Business permit. The City Planner or designee may grant the permit subject to conditions he or she deems reasonable under the circumstances to protect the public health, safety and welfare of the community. The City Planner or designee shall cause a written notice of his or her decision to issue or deny a permit to be delivered in person or mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested.

Section 5.66.090 Grounds for Denial of Permit.

The grounds for denial of a permit shall be one or more of the following:

A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule or regulation.

B. The applicant has violated any local or state law, statute, rule or regulation relating to medical marijuana business.

C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit.

D. The applicant, his or her agent or employees, or any person who is exercising managerial authority on behalf of the applicant has been convicted of a felony or of a misdemeanor involving moral turpitude, or has engaged in misconduct related to the qualifications, functions or duties of a permittee. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices.

F. The applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocations of a permit.

G. An applicant is under eighteen (18) years of age.

H. The Medical Marijuana Business does not comply with the ordinance standards of the City of Visalia Municipal Code or the development standards set forth in this Chapter.

- I. The required application or renewal fees have not been paid.

Section 5.66.100 Appeal from Denial.

A. An applicant aggrieved by the decision of the City Planner or designee to deny a permit may appeal such decision to the City Council by filing a written notice with the City Clerk within ten (10) calendar days of service of the written notice of decision. If an appeal is not taken within such time, the City Planner's decision shall be final.

B. Upon filing of a timely appeal, the permit application shall be scheduled by the City Clerk for a public hearing within forty-five (45) calendar days.

C. Notice of the hearing shall be given by the posting of notice on the premises where the activity is to be conducted for a period of not less than five (5) working days prior to the date of the hearing. In addition, a copy of the notice of hearing shall be mailed to the applicant at least five (5) working days in advance of the hearing. The City Council may give such additional notice of hearing as it deems appropriate in a particular case.

D. Following public hearing, the City Council may grant the permit subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community or it may deny the issuance of the permit for any of the grounds specified in this Chapter. The decision of the City Council shall be final.

Section 5.66.110 Suspension or Revocation of Permit.

A. The City Planner or designee may suspend or revoke a permit when the permittee or the permittee's agent or employee has committed any one or more of the following acts:

1. Any act which would be considered a ground for denial of the permit in the first instance.
2. Violates any other provision of this Chapter or any local or State law, statute, rule or regulation relating to his or her permitted activity.
3. Engages in or permits misconduct substantially related to the qualification, functions or duties of the permittee.
4. Conducts the permitted business in a manner contrary to the health, safety, or welfare of the public.
5. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or

outside the premises, traffic control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business.

6. Violates or fails to comply with the terms and conditions or the permit.

B. Prior to suspension or revocation, the City Planner or designee shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) working days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by certified U.S. Mail, postage prepaid, addressed to the permittee at his or her address as it appears in his application for the permit.

C. If any permittee or person acting under the authority of a permittee is convicted of a public offense in any court for the violation of any law which relates to his or her permit, the City Planner or designee may immediately revoke the permit without any further action, other than giving notice of revocation to the permittee. In this circumstance, during the pendency of any appeal to the City Council, the permit shall not remain in effect.

D. Any permittee aggrieved by the decision of the City Planner or designee in suspending or revoking a permit may, within ten (10) calendar days, appeal to the City Council by filing a written notice with the City Clerk. Unless otherwise stated in this Chapter, during the pendency of the appeal to the Council, the permit shall remain in effect. If such appeal is not taken within ten (10) days, the decision of the City Planner or designee shall be final. If an appeal is timely filed, the appeal shall be held in accordance with the procedures for considering an appeal of the denial of a permit. The City Council may suspend or revoke the permit for any of the grounds specified in this Chapter. The City Council's decision shall be final.

Section 5.66.120 Judicial Review.

Judicial review of a final decision made under this Chapter may be had by filing a petition for a writ of mandate with the superior court in accordance with the provision of the California Code of Civil Procedure section 1094.5. Any such petition shall be filed within ninety (90) days after the day the decision becomes final as provided in California Code of Civil Procedure section 1094.6, which shall be applicable for such actions.

Section 5.66.130 Effect of Denial or Revocation.

When the City Planner or designee has denied or revoked a permit and the time for appeal to the City Council has elapsed, or if after appeal to the City Council, the decision of the City Planner or designee has been affirmed by the City Council, no new application for a permit shall be accepted from the

applicant and no permit shall be issued to such person or to any corporation in which he or she shall have any beneficial interest for a period of one (1) year after the action denying or revoking the permit.

Article 3. Facilities and Employees

Section 5.66.140 Operating requirements.

A Medical Marijuana Business, once permitted by the City Planner or Designee, shall meet the following operating standards for the duration of the use:

- A. A Medical Marijuana Business shall be open for business only between the hours of 9:00 a.m. and 5:00 p.m. on any particular day.
- B. A Medical Marijuana Business shall maintain a current register of the names of all employees employed by the Business.
- C. A Medical Marijuana Business shall maintain a current register of all qualified patients, persons with identification cards and primary caregivers to whom it provides or distributes medical marijuana. Once documented the qualified patients, persons with identification cards and primary caregivers shall be “registered” patrons of the Business. The Business’s register shall be subject to periodic inspection to ensure compliance with the state law. The Business shall further maintain records of all patients and primary caregivers using the identification card number only when issued by the county, or its agent, pursuant to California Health and Safety Code section 11362.7 *et seq.*, so as to protect the confidentiality of the cardholders, or a copy of the written recommendation from a physician stating the need for medical marijuana.
- D. The building entrance to a Medical Marijuana Business shall be clearly and legibly posted with a notice indicating that persons under the age of eighteen (18) years are precluded from entering the premises unless they are a qualified patient and they are in the presence of their parent or guardian.
- E. A Medical Marijuana Dispensary may not possess more than eight (8) ounces, as measured by a scale certified by the appropriate county or state weights and measures authority, of dried marijuana per registered qualified patient or primary caregiver on the premises. However, if a qualified patient or primary caregiver has a doctor’s recommendation that this quantity does not meet the qualified patient’s medical needs, the may not possess an amount of marijuana in excess of the registered patient’s needs.
- F. No marijuana shall be smoked, ingested or otherwise consumed on the premises of the Business. The term “premises” includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a Medical Marijuana Business shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the Business is prohibited.

G. Any cultivation of medical marijuana or processing of medical marijuana conducted by the Business shall at all times occur in a secure, locked, and fully enclosed structure, including a ceiling, roof or top. No Medical Marijuana Business may cultivate or process more than 99 marijuana plants, whether mature or immature.

H. No Medical Marijuana Business shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the Business.

I. No Medical Marijuana Business shall conduct or engage in the commercial sale of any product, good or service, except the sale of informational items, books, reading materials and literature. The term “commercial sale” does not include the provision of medical marijuana on terms and conditions consistent with this Chapter and the Compassionate Use Act of 1996, and any amendments thereto.

J. A Medical Marijuana Business shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

K. A Medical Marijuana Business shall provide litter removal services once during each day of operation on and in front of the premises and, if necessary, on public sidewalks within one hundred (100) feet of the premises.

L. A Medical Marijuana Business shall not cultivate, distribute or sell medical marijuana for a profit. A Business may receive compensation for its actual expenses, including reasonable compensation for service provided, or for payment of out-of-pocket expenses incurred in providing those services. However, any such Business must pay applicable sales tax on such sales or services and maintain the applicable seller’s permit or similar permit from the State Franchise Tax Board or other applicable agency.

M. A Medical Marijuana Business shall meet all the operating criteria for the dispensing of medical marijuana as required pursuant to California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

N. Each Medical Marijuana Business shall allow the City Planner or designee to have access to the Business’s books, records, accounts, and any and all data relevant to its activities for the purposes of conducting an audit or examination. Books, records, accounts, and any and all relevant data shall be produced no later than 24 hours after receipt of the City Planner’s written request(s).

O. The Medical Marijuana Business shall meet any specific additional operating procedures and measures as may be imposed as conditions of approval by the City Planner or designee to ensure that operations of the

Business is consistent with protection of the health, safety and welfare of the community, qualified patients and primary caregivers, and will not adversely affect surrounding uses.

P. The building in which the Medical Marijuana Business is located shall comply with all applicable local, state and federal rules, regulations and laws including, but not limited to, building codes and the Americans with Disability Act, as certified by the Building Official of the City.

Q. Any marijuana provided by a Medical Marijuana Business for the purpose of consumption by the recipient shall be contained in a package that includes, in a conspicuous location, the following warning: "Smoking has been found to be hazardous to the health of the consumer, and smoking by pregnant women may result in fetal injury, premature birth and low birth weight. Further, ingestion of marijuana in any form may be hazardous to the health of the consumer and may impair the judgment of the consumer."

R. A Medical Marijuana Business that provides marijuana in the form of food or other comestibles shall obtain and maintain the appropriate licenses from the County Health Department for the provisions of food or other comestibles.

S. A Medical Marijuana Business shall provide to the City Planner or designee, upon request, written evidence to the City Planner or designee's reasonable satisfaction, that the Business is not engaged in interstate commerce.

T. No Medical Marijuana Business shall sell or display any drug paraphernalia as defined in California Health and Safety Code section 11364, *et seq.*, or any implement that may be used to administer, use, consume, smoke or ingest medical marijuana.

Failure to comply with any of the above operating requirements shall result in the revocation of any permit issued.

Section 5.66.150 Zoning and Development Standards.

The provisions of Chapter 17.64 of Title 17 ("Zoning") of the Municipal Code are applicable to Medical Marijuana Dispensaries and compliance with those provisions shall be considered additional requirements for a permit required by this Chapter.

Section 5.66.160 Minors.

A. It shall be unlawful for any permittee, operator, or other person in charge of any Medical Marijuana Business to employ any person who is not a least eighteen (18) years of age.

B. Persons under the age of eighteen (18) years shall not be allowed on the premises of a Medical Marijuana Business unless they are a qualified patient and they are in the presence of their parent or guardian.

Section 5.66.170 Display of permit.

Every Medical Marijuana Business shall display at all times during business hours the permit issued pursuant to the provisions of this Chapter in a conspicuous place so that the same may be readily seen by all persons entering the Medical Marijuana Business.

Section 5.66.180 Transfer of permits.

A. A permittee shall not operate a Medical Marijuana Business under the authority of a Medical Marijuana Business permit at any place other than the address of the Medical Marijuana Business stated in the application for the permit.

B. A permittee shall not transfer ownership or control of a Medical Marijuana Business permit to another person unless and until the transferee obtains an amendment to the permit from the City Planner or designee stating that the transferee is now the permittee. Such an amendment may be obtained only if the transferee files an application with the City Planner or designee in accordance with this Chapter and accompanies the application with the transfer fee in an amount set by the resolution of the City Council, and the City Manager determines that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the City Planner or designee has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

Section 5.66.190 Violations of Chapter: Enforcement.

A. Any person that violates any provision of this Chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

B. Any use of condition caused or permitted to exist in violation of any of the provisions of this Chapter shall be and is hereby declared a public nuisance and may be summarily abated by the City pursuant to the City of Visalia Municipal Code.

C. Any person who violates, causes, or permits another person to violate any provision of this Chapter commits a misdemeanor.

D. The violation of any provisions of this Chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

E. In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this Chapter may be subject to administrative remedies as set forth by City ordinance.

Article 4. Miscellaneous Provisions

Section 5.66.200 Severability.

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, word, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this Chapter.

Section 5.66.210 Existing Medical Marijuana Dispensaries; Time Limit for Filing Application for Permit.

The continued operation of a Medical Marijuana Business in existence before the effective date of this Chapter without having obtained a permit pursuant to the provisions of this Chapter for more than ninety (90) days after the effective date of this Chapter shall constitute a violation of this Chapter.

SECTION 2: AMENDMENT OF TITLE 8 OF THE CITY OF VISALIA MUNICIPAL CODE RELATING TO HEALTH AND SAFETY: ADDITION OF CHAPTER 8.64 ENTITLED: "PUBLIC USE/CONSUMPTION OF MEDICAL MARIJUANA"

Chapter 8.64 of Title 8 of the Visalia Municipal Code is added to read as follows:

Chapter 8.64

PUBLIC USE/CONSUMPTION OF MEDICAL MARIJUANA

Section 8.64.010 Purpose and Intent

It is the purpose of this ordinance to promote the health, safety, morals, general welfare and enjoyment of private property of the residents within the City of Visalia by restricting the public use and consumption of marijuana for medical purposes and by regulating the individual cultivation of medical marijuana.

Section 8.64.020 Definitions

All definitions set forth in Health & Safety Code sections 11362.5 and 11362.7 *et seq*, as may be amended, including but not limited to the terms "person with an identification card", "primary caregiver", "qualified patient", and "identification card" shall apply under this Ordinance in addition to the definitions set forth as follows:

"Medical Marijuana" is defined in strict accordance with California Health and Safety Code section 11362.5 and 11362.7 *et seq*.

"Cultivation of medical marijuana" means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq*.

Section 8.64.030 Regulations Applicable to Public Use/Consumption of Medical Marijuana

No person shall smoke, ingest, or otherwise consume medical marijuana in the City of Visalia unless such smoking, ingesting or consumption occurs entirely within a private residence.

Section 8.64.040 Regulations Applicable to Individual Cultivation

In addition to any other applicable regulation under the Municipal Code, all cultivation of medical marijuana in the City of Visalia shall occur at all times in a secure, locked and fully enclosed structure, including a ceiling, roof or top.

SECTION 3: AMENDMENT OF TITLE 17 OF THE CITY OF VISALIA MUNICIPAL CODE RELATING TO ZONING: ADDITION OF CHAPTER 8.64 ENTITLED “MEDICAL MARIJUANA BUSINESSES”

Chapter 17.64 of Title 17 of the Visalia Municipal Code is added to read as follows:

Chapter 17.64

MEDICAL MARIJUANA BUSINESSES

Section 17.64.010 Purpose and Intent

It is the purpose and intent of this Chapter to promote the health, safety, and general welfare of the residents and businesses within the City by regulating the location and manner of development of medical marijuana businesses. It is not the intent nor effect of this ordinance to restrict or deny qualified patients access to marijuana for medical purpose as intended by the passage of the Compassionate Use Act of 1996 and SB 420 in 2004. Neither is it the intent nor effect of this ordinance to condone or legitimize the use of marijuana.

It is the intent of this Chapter to prevent community wide secondary adverse impacts which can be brought about by the concentration of medical marijuana businesses in close proximity to each other or proximity to other incompatible uses, such as schools for minors, day care facilities, churches, parks, youth recreational facilities and residentially zoned districts or uses. It is, therefore, the purpose of this Chapter to establish reasonable and uniform regulations to prevent the concentration of medical marijuana businesses or their close proximity to other incompatible uses, while allowing for the location of medical marijuana businesses in certain areas and in compliance with California’s Compassionate Use Act of 1996 and passage of S.B. 240 in 2004.

Section 17.64.020 Definitions

All definitions set forth in Health & Safety Code sections 11362.5 and 11362.7 *et seq.*, as may be amended, including but not limited to the terms “attending physician”, “person with an identification card”, “primary caregiver”, “qualified patient”, “identification card”, and “serious medical condition”, shall apply under this Ordinance in addition to the definitions set forth as follows:

“Church” means a structure or leased portion of a structure which is used primarily for religious worship and related religious activities.

“Cultivation of medical marijuana” means the growing of medical marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Collective or cooperative cultivation” means the association within California of qualified patients, persons with valid identification cards, and

designated primary care givers to cultivate marijuana for medical purposes as defined in strict accordance with California Health and Safety Code sections 11362.5 and 11362.7 *et seq.*

“Medical Marijuana” is defined in Title 5, Chapter 5.66, Section 5.66.020.

“Medical Marijuana Business” is defined in Title 5, Chapter 5.66, Section 5.66.020.

“Medical Marijuana Dispensary” is defined in Title 5, Chapter 5.66, Section 5.66.020.

Section 17.64.030 Permitted Zones; Minimum Proximity; Other Requirements

A. Medical Marijuana Businesses shall not be established or located in any zone in the City of Visalia, other than in the C-S (Service Commercial) Zone.

B. No Medical Marijuana Businesses shall be located:

1. Within 500 feet of any residential zone district; or
2. Within 1,000 feet of another Medical Marijuana Dispensary, an public or private elementary school, middle school or high school; or
3. Within 1,000 feet of any recreation center, public library, public park, day care center, or church; or
4. Within 1,000 feet of any youth-orientated establishment characterized by either or both of the following: (a) the establishment advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors; or (b) the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors.

The uses and zones set forth in this subsection shall be collectively known as “sensitive uses.” The distance between a medical marijuana businesses and a “sensitive use” shall be measured in a straight line, without regard to the intervening structures or objects, from the primary entrance of the medical marijuana business to the property line in which the “sensitive use” occurs or is located.

C. A Medical Marijuana Business is not and may not be approved as an accessory use to any other use permitted by this Code.

D. No more than one Medical Marijuana Business may operate out of a single building.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 7h(1)

Agenda Item Wording: Request authorization to file a Notice of Completion for Shannon Ranch No. 3 & 4, containing 52 lots, located at the N.E. Corner of Demaree Street and Shannon Parkway.

Deadline for Action: None

Submitting Department: Community Development & Public Works Department

Contact Name and Phone Number:

Andrew Benelli – 713-4340
Norm Goldstrom – 713-4638

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 Min.

Department Recommendation and Summary: The recommendation is that City Council give authorization to file a Notice of Completion as all the necessary improvements for this subdivision have been completed and are ready for acceptance by the City of Visalia. The subdivision was developed by Centex Homes. Centex Homes has submitted a maintenance bond in the amount of \$43,050.00 as required by the Subdivision Map Act to guarantee the improvements against defects for one year.

Prior Council/Board Actions: Final Map recording was approved at Council meeting of April 7, 2003.

Committee/Commission Review and Actions: The tentative subdivision map for Shannon Ranch No. 3 & 4 was approved by Planning Commission on June 3, 2002.

Alternatives: N/A

Attachments: Location sketch and vicinity map.

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I hereby authorize filing a Notice of Completion for Shannon Ranch No. 3 & 4.

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:	Environmental finding completed for tentative subdivision 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:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 7h(2)

Agenda Item Wording: Request authorization to file a Notice of Completion for the Pinkham-Walnut Park / Pond Construction located at Pinkham Street at Cherry Avenue. Project No. 3011-72-0-0-9198-2003.

Deadline for Action:N/A

Submitting Department: Engineering and Transportation Services

Contact Name and Phone Number:

Norm Goldstrom, Community Development & Public Works;
713-4638
Don Stone, Parks & Recreation; 713-4397

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: That authorization be given to file a Notice of Completion on Project Number 3011-72-0-0-9198-2003, Pinkham-Walnut Park / Pond Construction located at Pinkham Street at Cherry Avenue.

All work has been completed on this project by the contractor, Dunn Sand of Visalia, California at a final cost of \$640,396.21, a 3.07% increase in project costs. The original contract was awarded for \$620,740.40.

The increase to the contract amount was the result of four minor change orders that added and deleted items from the contract for a total sum of \$19,655.81.

Change Order Number One was for the removal of an unknown abandoned underground farm irrigation pipeline that ran east to west across the southern portion of the property, at the cost of \$2,451.80.

Change Order Number Two reflects substitutions of the specified irrigation controller and flow meter requested by Park Maintenance. This change reflects Park Maintenance's current requirements. In addition, a change in the playground swing set was made to improve safety by allowing more spacing between play equipment. Change Order Number Two also allows for the addition of four under walk drains for the cost of \$2,059.00.

Change Order Number Three was for additional engineered wood fiber material for the playground surface that was needed to meet the safety regulations. Cost of \$3,780.00.

Change Order Number Four was for added weather related pumping and increased landscape bark cover at the cost of \$11,365.01.

Construction of the project completes the neighborhood park designated for this area.

Prior Council/Board Actions: City Council awarded the Project on August 16, 2004.

Committee/Commission Review and Actions:N/A

Alternatives:None

Attachments:Location sketch

City Manager/Executive Director Recommendation:

Recommended Motion (and Alternative Motions if expected): Move to file a Notice of Completion for the Pinkham-Walnut Park / Pond Construction located at Pinkham Street at Cherry Avenue. Project No. 3011-72-0-0-9198-2003.

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:

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: October 17, 2005

Agenda Item Number (Assigned by City Clerk): 7h(3)

Agenda Item Wording: Request authorization to file a Notice of Completion for Project No. 1231-00000-720000-0-9083-2003 the North Visalia Sanitary Sewer Trunkline Improvements. (Cost \$1,921,483.23)

Deadline for Action: None

Submitting Department: Community Development and 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 min.

Department Recommendation and Summary: Staff recommends that authorization be given to file a Notice of Completion for Project No. 1231-00000-720000-0-9083-2003, the North Visalia Sanitary Sewer Trunkline Improvements. The project consisted of the construction of a sanitary sewer trunk line in Ferguson Avenue, Mooney Blvd. and Riggin Avenue. The project area is generally located along Ferguson Avenue from Zachary Street to Mooney Blvd., along Mooney Blvd. from Ferguson Avenue to Riggin Avenue, and along Riggin Avenue from Mooney Blvd. to Dinuba Highway. See Exhibit #1 for sewer alignment. Two sewer lift stations were also eliminated by extending lines from the trunk sewer to the lift stations. One lift station was located at Giddings Street and Sunnyview Avenue and the second at Ferguson Avenue and Elm Street.

All of the work has been completed on this project by Bill Nelson General Engineering Construction Inc. at a final cost of \$1,921,483.23. The contract amount for this job was \$1,873,810.00. The overage of \$47,673.23 (2.6%) was due to six changes. The change orders are:

- 1) On the plans, the trunk sewer line was located at the east edge of pavement of Mooney Boulevard from approximately Ferguson Avenue to about 150' south of Wren Avenue. At this location, the sewer line was to be about 10' west of the recorded location of an existing water line which is part of a water system that was constructed many years ago and later acquired by California Water Service. However, at the start of construction it was discovered that the water line was only 5 feet from the proposed sewer trunkline location. Due to the depth and diameter of the trunk sewer line and the type of water pipe, the original sewer location was not feasible for construction. Therefore, the sewer location was moved 15 feet west of the original location. Due to moving the sewer line,

the entire trench width required repaving rather than only half the width originally assumed since the sewer was originally centered at approximately edge of pavement. (Cost \$39,480.00)

- 2) One manhole on Ferguson Avenue was modified from a standard manhole (Deduct \$7,500.00) to a drop manhole with 8" stub (Cost \$9,600.00) to facilitate future tie-in to development to north. The subdivider of the development to the north is reimbursing the City for additional costs. (Net cost which will be reimbursed by developer \$2,100.00).
- 3) Due to caving sand soils on Giddings Street between Riggins Avenue and Robin Drive, the sewer trench collapsed resulting in damage to about 140 feet of Tulare County Storm Drain. The storm drain had to be repaired. (Cost of \$3,897.48).
- 4) On the plans, the existing lift station manhole near Giddings Street and Sunnyview Avenue was shown to be removed and replaced with a new manhole to facilitate tie-in and elimination of the sewer lift station. It was anticipated that tying into the existing manhole could be costly and difficult due to the new sewer pipe invert being located near the elevation of the base of the existing manhole. However, during construction it was found that the pipe could be easily tied into the existing manhole and save time on sewer flow interruption. One manhole removal (Deduct \$1,500.00) and one 48" manhole construction (Deduct \$5,000.00) was eliminated and one new tie-in (Cost \$1,000.00) was added. (Net Deduct \$5,500).
- 5) An abandoned manhole discovered in Mooney Boulevard near Oriole Avenue was anticipated to be blocking possible future projects and was removed. (Cost \$1,500.00).
- 6) Due to caving sand soils on Giddings Street near Sunnyview Avenue, the sewer trench collapsed resulting in damage to about 81 feet of curb, gutter and sidewalk. The curb, gutter and sidewalk had to be repaired. (Cost of \$6,195.75).

Prior Council/Board Actions: Award of contract on March 21, 2005.

Committee/Commission Review and Actions: None

Alternatives: None

Attachments: Location Sketch

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected):

I hereby move to authorize filing the Notice of Completion for Project No. 1231-00000-720000-0-9083-2003 the North Visalia Sanitary Sewer Trunkline Improvements.

Financial Impact

Funding Source:

Account Number: 1231-00000-720000-0-9083-2003 (Wastewater-Operations)

Budget Recap:

Total Estimated cost:	\$1,921,483.23	New Revenue:	\$
Amount Budgeted:	\$1,824,000*	Lost Revenue:	\$
New funding required:	\$	New Personnel:	\$
Council Policy Change:	Yes ___	No	<u>X</u>

* Plus 2.52 million dollar sewer bond.

Copies of this report have been provided to:

Environmental Assessment Status

CEQA Review:

Required?	Yes	X	No
Review and Action:	Prior:	EIR Sanitary Sewer Master Plan - 1995	
	Require:	None	

NEPA Review:

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

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*)
Record a Notice of Completion with the County Recorder
Pay Contractor the 10% withholding 35 days from recording 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

Memo



ITEM

To: City Council and City Manager

From: Paul Scheibel, AICP
Principal Planner

CC: Michael Olmos, AICP
Fred Brusuelas, AICP

Date: October 17, 2005

Re: Continued Public Hearing-Appeal of the Planning Commission's Denial of
Tentative Subdivision No. 5482 and Conditional Use Permit No. CUP 2005-
18 (Garza Ranch)

ITEM 8

Staff and the applicant request a continuance of this Public Hearing item to the meeting of November 7, 2005. This request is made to allow additional time to explore potential alternative design solutions to the project as currently designed.

City of Visalia

Memo



To: City Council
From: Brandon Smith, Associate Planner
Date: October 17, 2005
Re: Continuance of General Plan Amendment No. 2004-31 and Change of Zone No. 2004-32 ITEM 9

Recommendation

Staff is recommending that the agenda item for General Plan Amendment No. 2004-31 and Change of Zone No. 2004-32 be continued to November 7, 2005. The project applicant concurs with the request to continue the public hearing to November 7, 2005.

Background

On September 6, 2005, the agenda item for General Plan Amendment No. 2004-31 and Change of Zone No. 2004-32, a request by Fred Machado (Branum Group, agent) to change the General Plan Land Use and Zoning Designations on 48 acres from Business Research Park to 6.0 acres of Professional / Administrative Office, 7.7 acres of Park, and 34.3 acres of Low Density Residential, was continued to October 3, 2005 at the request of the applicant. On October 3, 2005, the item was continued a second time to October 17, 2005 at staff's recommendation. The public hearing was opened for the item on September 6, 2005, and will be opened again when the item is heard. The project site is located on the north side of Goshen Avenue, approximately ¼ mile east of Shirk Street.

Recommended Motion

I move to continue the public hearing for the Certification of Mitigated Negative Declaration No. 2005-071, General Plan Amendment No. 2004-31, and Introduction of Ordinance 2005-17 for Change of Zone No. 2004-32 to November 7, 2005.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 17, 2005

Agenda Item Number: 10

Agenda Item Wording:

Appeal of Variance No. 2005-11: A request by Tom and Betty Johnson to allow a variance from the standard 10-foot side yard setback in the R-1-20 zone. The site is located at 204 North Fairway Street (APN: 093-313-002) Resolution 2005-148 required.

Deadline for Action: October 27, 2005 – A public hearing is required to be held no later than 45 days after receipt of an appeal, which was submitted on September 19, 2005.

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.): 20

Contact Name and Phone Number: Travis Page, Planner (559) 713-4449
Mike Olmos, Department of Public Works and City Development (559) 713-4332

Planning Commission Recommendation and Summary

On September 12, 2005 the Planning Commission denied Variance No. 2005-11, a request for relief from the required building setbacks to allow a five-foot encroachment into the required 10-foot side yard at 204 North Fairway Street. The purpose of the encroachment is to accommodate the removal of an existing carport that is five feet from the property line, and to replace the carport with a garage that would also be five feet from the property line. The proposed garage will be located 20 feet farther back east from the existing carport (see Exhibit "A").

The appellant, who is also the applicant for this Variance, contends the Variance should be approved on the basis of practical difficulties and hardships that will be experienced if the Variance is denied, and due to exceptional circumstances that are applicable to the property. The applicant also contends that there are similar variances to setbacks previously allowed in the neighborhood that were not fully explained or considered and safety and visual improvements that were not considered in the review.

Analysis

Staff recommends that the Planning Commission's denial of the Variance be upheld. In denying the Variance, the Planning Commission determined that two of the required five findings were able to be made, but they could not find practical difficulty or unnecessary hardship related with the property, exceptional or extraordinary circumstances or conditions applicable to the property, or that strict or literal interpretation and enforcement of the specified regulation would

deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone . Staff does not concur with the request based upon the fact that there is room to construct a garage unit within the setbacks on the side of the house, and having a detached garage structure in the rear yard would be consistent with the character of the neighborhood. The proposed garage would encroach into the 10-foot side-yard setback and be set five feet from the side property line. The proposed garage would be constructed 20 feet farther back from its current location. However, in reviewing the applicant's site plan, it appears there is adequate area east of the existing residence in the buildable portion of the lot that could facilitate a new garage.

Required Findings

- 1. That strict or literal interpretation and enforcement of the specified regulation would not result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;*
- 2. That there are not exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;*
- 3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;*
- 4. That the granting of the variance will constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;*
- 5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

The applicant was made aware of these required findings and has submitted a letter depicting how their current situation meets these requirements for a variance approval (see exhibit "B").

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on September 12, 2005 denying Variance No. 2005-11 on a 4-0 vote. During the public hearing, one person spoke to the item. The son-in-law of the applicant spoke in support of the proposed Variance.

Prior Council/Board Actions:

None.

Alternatives:

None recommended

Attachments:

- City Council Resolution
- Planning Commission Resolution Denying Request
- Exhibit "A" – Current Site
- Exhibit "B" – Proposed Site Plan
- Exhibit "C" – Applicant's Letter
- Correspondence
- Pictures Submitted by Applicant
- Location Map
- Planning Commission Staff Report
- Aerial Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to deny Variance No. 2005-11 by adoption of Resolution No. 2005-148.

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

<u>Review and Approval - As needed:</u>
Department Head Review (Signature):
Risk Management Review (Signature):
City Attorney Review (Signature):
Administrative Services Finance Review (Signature):
Others:

RESOLUTION NO. 2005-106

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA

DENYING VARIANCE NO 2005-11, A REQUEST FOR A VARIANCE FROM THE STANDARD 10-FOOT SIDE YARD SETBACK IN THE R-1-20 ZONE. THE SITE IS LOCATED AT 204 NORTH FAIRWAY STREET

WHEREAS, Variance No. 2005-11 is a request by Tom and Betty Johnson to allow a variance from the standard 10-foot side yard setback in the R-1-20 zone. The site is located at 204 North Fairway Street (APN 093-313-002); and

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days published notice did hold a public hearing before said Commission on September 12, 2005; and

WHEREAS, the Planning Commission of the City of Visalia finds the variance to NOT be in accordance with Section 17.42.110, of the Ordinance Code of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the Planning Commission finds the project to be Categorically Exempt consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines. (Exemption No.2005-78)

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 Planning Commission of the City of Visalia denies the variance and makes the following specific findings based on the evidence presented:

6. That strict or literal interpretation and enforcement of the specified regulation would not result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;

Requiring the setbacks prescribed by Chapter 17.12 of the Zoning Ordinance (which pertains to the R-1 Single-family Residential Zone) would not consume a considerable buildable portion of the subject site so much as to prevent a detached building of similar size from being built elsewhere on the site. Staff has determined that a building of equal or greater size can be built on the lot in generally the same location while maintaining all setbacks applicable to the site. Therefore, Staff cannot find a practical difficulty or unnecessary hardship imposed by the Zoning Ordinance that is applicable to this site.

7. That there are not exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;

This site is similar in size and configuration to other parcels in this zone in this area. The subject site sufficiently meets all of the minimum standards to site area and width as prescribed by the Zoning Ordinance. In fact, the site is larger than several

other lots on the block which are subject to R-1 Zoning Standards, and does not contain any natural features or barriers that present unusual hardships. The site also presents itself with the luxury of being able to accommodate a large structure on the side or to the rear of the primary structure. Overall, Staff is not able to find an exceptional or extraordinary circumstance or conditions applicable to the property involved to support the side yard setback

8. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;

Other property owners in this area have properties developed which do meet the required setbacks.

9. That the granting of the variance will constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;

Other properties in this zone have complied with all required setbacks for new construction.

10. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;

The granting of the variance would not affect public health or safety, but may be injurious to properties of improvements in the vicinity by creating a lot which does not meet the typical requirement for a side-yard setback.

Commissioner Segrue offered the motion to this resolution. Commissioner Thompson seconded the motion and it carried by the following vote:

AYES: Commissioners Segrue, Thompson, Pérez, Salinas

NOES:

ABSTAINED: Commissioner Logan

ABSENT:

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss
CITY OF VISALIA)

ATTEST: Fred Brusuelas, AICP
Community Development & Public Works Assistant Director

RESOLUTION NO. 2005-148

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA

DENYING VARIANCE NO 2005-11, A REQUEST FOR A VARIANCE FROM THE STANDARD 10-FOOT SIDE YARD SETBACK IN THE R-1-20 ZONE. THE SITE IS LOCATED AT 204 NORTH FAIRWAY STREET

WHEREAS, Variance No. 2005-11 is a request by Tom and Betty Johnson to allow a variance from the standard 10-foot side yard setback in the R-1-20 zone. The site is located at 204 North Fairway Street (APN 093-313-002); and

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days published notice did hold a public hearing before said Commission on September 12, 2005; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice did hold a public hearing before said Council on October 17, 2005; and

WHEREAS, the City Council of the City of Visalia finds the variance to NOT be in accordance with Section 17.42.110, of the Ordinance Code of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the City Council finds the project to be Categorically Exempt consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines. (Exemption No.2005-78)

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 denies the variance and makes the following specific findings based on the evidence presented:

1. That strict or literal interpretation and enforcement of the specified regulation would not result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;

Requiring the setbacks prescribed by Chapter 17.12 of the Zoning Ordinance (which pertains to the R-1 Single-family Residential Zone) would not consume a considerable buildable portion of the subject site so much as to prevent a detached building of similar size from being built elsewhere on the site. Staff has determined that a building of equal or greater size can be built on the lot in generally the same location while maintaining all setbacks applicable to the site. Therefore, Staff cannot find a practical difficulty or unnecessary hardship imposed by the Zoning Ordinance that is applicable to this site.

2. That there are not exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;

This site is similar in size and configuration to other parcels in this zone in this area. The subject site sufficiently meets all of the minimum standards to site area and width as prescribed by the Zoning Ordinance. In fact, the site is larger than several other lots on the block which are subject to R-1 Zoning Standards, and does not contain any natural features or barriers that present unusual hardships. The site also presents itself with the luxury of being able to accommodate a large structure on the side or to the rear of the primary structure. Overall, Staff is not able to find an exceptional or extraordinary circumstance or conditions applicable to the property involved to support the side yard setback

3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;

Other property owners in this area have properties developed which do meet the required setbacks.

4. That the granting of the variance will constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;

Other properties in this zone have complied with all required setbacks for new construction.

5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;

The granting of the variance would not affect public health or safety, but may be injurious to properties of improvements in the vicinity by creating a lot which does not meet the typical requirement for a side-yard setback.

City of Visalia
Agenda Item Transmittal

Meeting Date: October 17, 2005

Agenda Item Number: 11

Agenda Item Wording:

Public hearing for: Appeal of Variance No. 2005-13: A request by Stan Canby Jr. to allow a variance from the standard 10-foot side yard setback in the R-1-12 zone. The site is located at 124 North Fairway Street (APN 093-313-003) Resolution 2005-149 required.

Deadline for Action: None

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.): 20

Contact Name and Phone Number: Andrew Chamberlain, AICP (559) 713-4003
Mike Olmos, Department of Public Works and City Development (559) 713-4332

Recommendation and Summary

Staff recommends that the City Council uphold the Planning Commission approval of Variance No 2005-13, by denying the appeal. On September 12, 2005 the Planning Commission approved Variance No. 2005-13. The variance allows a reduction in the side yard setback from 10 feet to 5 feet on the north side of the parcel. The Planning Commission found that the applicant had begun construction based upon a building permit issued in error by the City of Visalia. A majority of the Commission felt that the applicant had acted in good faith with the expectation of completing the project with a five foot setback.

The proposed garage structure, illustrated in Exhibit "A", would be five feet from the side property line. The plan indicates that this is a reconstruction of an existing carport/patio enclosure. Based upon aerial photographs, the previous structure was approximately 14 feet from the property line. The proposed structure extends north into the side yard setback area which the previous structure did not occupy. On the south side of the site there is an existing patio/carport which is approximately 3.5 feet from the property line. Approval of the variance would result in non-conforming setbacks on both the north and south side property lines of this site.

Appeal

The attached appeal from Elaine Stetson cites the fact that a variance request on the opposite side of her property was denied during the same meeting for a similar proposal. She feels that the granting of the variance is a granting of a special privilege not accorded other properties in the same zone. She also points out that the staff recommendation to the Planning Commission was to deny the variance.

Required Findings

- 1. That strict or literal interpretation and enforcement of the specified regulation would not result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;*
- 2. That there are not exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;*
- 3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;*
- 4. That the granting of the variance will constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;*
- 5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on September 12, 2005 approving Variance No. 2005-13 on a 3-1 vote (Segrue – No). While a majority of the Commissioners found that the issuance of a building permit and the partial construction of the garage represented a hardship and special circumstances, Commissioner Segrue opposed the variance. He felt that the status of the applicant as a design professional represented a responsibility to have the correct setbacks from the beginning.

During the public hearing four persons spoke to the item. Mr. Canby, and Tabby Lucio spoke to the item supporting the request based upon the issuance of a building permit by the City of Visalia and that there are other non-conforming setbacks in the neighborhood. A neighbor, Mrs. Ahlstrand spoke with concerns to the removal of landscaping, and indicating that remodeling could be done within the setbacks. Mrs. Stetson, the adjoining neighbor on the south side where the reduced setback is being requested, spoke in opposition to the variance. She stated that the Green Akers area is desirable based upon the larger setbacks and all of the landscaping, and that the variance is inconsistent with the character of the area. She also pointed out that there is another variance to her south property line wherein she is potentially losing landscaping and buffering along both sides of her property.

Prior Council/Board Actions:

None.

Alternatives:

None recommended

Attachments:

- City Council Resolution

- Planning Commission Resolution Approving Request
- Site Plan
- Location Map
- Planning Commission Staff Report
- Aerial Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to deny the appeal of Variance No. 2005-13 by adoption of Resolution No. 2005-149 .

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

The project was found to be Categorically Exempt under CEQA provisions.

NEPA Review:

Required? 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:

RESOLUTION NO. 2005-128

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF VISALIA
APPROVING VARIANCE NO 2005-13, A REQUEST FOR A VARIANCE FROM THE
STANDARD 10-FOOT SIDE YARD SETBACKS IN THE R-1-20 ZONE. THE SITE IS
LOCATED AT 124 NORTH FAIRWAY STREET

WHEREAS, Variance No. 2005-13 is a request by Stan Canby Jr. to allow a variance from the standard 10-foot side yard setback in the R-1-20 zone. The site is located at 124 North Fairway Street (APN 093-313-003); and

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days published notice did hold a public hearing before said Commission on September 12, 2005; and

WHEREAS, the Planning Commission of the City of Visalia finds the variance to be in accordance with Section 17.42.110, of the Ordinance Code of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the Planning Commission finds the project to be Categorically Exempt consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines. (Exemption No.2005-96)

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 Planning Commission of the City of Visalia approves the variance and makes the following specific findings based on the evidence presented:

1. That strict or literal interpretation and enforcement of the specified regulation would not result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;

The issuance of a building permit and construction in "good faith" by the applicant represents an unnecessary hardship inconsistent with the objectives of the zoning ordinance.

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;

The issuance of a building permit and construction in "good faith" by the applicant represents extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone.

3. That strict or literal interpretation and enforcement of the specified regulation would not deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;

Other property owners in this area have properties developed which do not meet the required setbacks.

4. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;

The issuance of a building permit and construction in "good faith" by the applicant represents circumstances which do not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone.

5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

The granting of the variance would not affect public health or safety, or be injurious to properties of improvements in the vicinity.

Commissioner Thompson offered the motion to this resolution. Commissioner Pérez seconded the motion and it carried by the following vote:

AYES: Commissioners Thompson, Pérez, Salinas

NOES: Commissioner Segrue

ABSTAINED: Commissioner Logan

ABSENT:

STATE OF CALIFORNIA)

COUNTY OF TULARE) ss

CITY OF VISALIA)

ATTEST: Fred Brusuelas, AICP

Community Development & Public Works Assistant Director

RESOLUTION NO. 2005-149

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA DENYING THE APPEAL, AND APPROVING VARIANCE NO 2005-13, A REQUEST FOR A VARIANCE FROM THE STANDARD 10-FOOT SIDE YARD SETBACK IN THE R-1-20 ZONE. THE SITE IS LOCATED AT 204 NORTH FAIRWAY STREET

WHEREAS, Variance No. 2005-13 is a request by Stan Canby Jr. to allow a variance from the standard 10-foot side yard setback in the R-1-20 zone. The site is located at 124 North Fairway Street (APN 093-313-003); and

WHEREAS, the Planning Commission of the City of Visalia, after ten (10) days published notice did hold a public hearing before said Commission on September 12, 2005; and

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice did hold a public hearing before said Commission on September 12, 2005; and

WHEREAS, the City Council of the City of Visalia finds the variance to be in accordance with Section 17.42.110, of the Ordinance Code of the City of Visalia based on the evidence contained in the staff report and testimony presented at the public hearing; and

WHEREAS, the City Council finds the project to be Categorically Exempt consistent with the California Environmental Quality Act and City of Visalia Environmental Guidelines. (Exemption No.2005-96)

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 denies the appeal, and upholds the Planning Commission approval of the variance, and makes the following specific findings based on the evidence presented:

1. That strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the objectives of the zoning ordinance;

The issuance of a building permit and construction in "good faith" by the applicant represents an unnecessary hardship inconsistent with the objectives of the zoning ordinance.

2. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone;

The issuance of a building permit and construction in "good faith" by the applicant

represents extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zone.

3. That strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zone;

Other property owners in this area have properties developed which do not meet the required setbacks.

4. That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone;

The issuance of a building permit and construction in "good faith" by the applicant represents circumstances which do not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zone.

5. That the granting of the variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

The granting of the variance would not affect public health or safety, or be injurious to properties or improvements in the vicinity.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 17, 2005

Agenda Item Number: 12

Agenda Item Wording:

Public hearing for:

1. **General Plan Amendment No. 2005-14.** is a request by Mangano Homes to change the general plan land use designations on approximately 9.5 acres from Public Institutional to Low and Medium Density Residential. Resolution No. 2005-151 required.
2. **First Reading of Change of Zone No. 2005-02.** is a request to change the zoning on approximately 9.5 acres from QP (Quasi Public) to R-1-6 (Low Density Residential) and R-M-2 (Medium Density Residential), Ordinance No. 2005-20 required.
3. **Certify Negative Declaration No. 2005-75,** Resolution No. 2005-150 required.

The site is located on the west side of Linwood Street, between Mary and Cherry Avenues. APN 119-600-035, 119-590-058.

Deadline for Action: None

Submitting Department: Community Development and Public Works Department - Planning

Contact Name and Phone Number: Andrew J. Chamberlain, Senior Planner (559) 713-4003

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.): 20

Recommendation and Summary: The Planning Commission recommends that the City Council approve General Plan Amendment No. 2005-14 and Change of Zone No 2005-13. The proposed action would change the zoning and land use designations on approximately 9.5 acres from QP (Quasi Public) to R-1-6 (Low Density Residential) on approximately 7 acres, and to R-M-2 (Medium Density Residential) on approximately 2.5 acres.

The submittal by the applicant was for the entire 9.5 acres to be re-designated for Low Density Residential (R-1-6). During the review of the application, staff found a 7.5 acre Medium Density site at the southeast corner of Akers Street and Wagner Avenue (1,300 feet west of the project site), which was incorporated into the new high school athletic fields. This resulted in a 7.5 acre loss of multiple-family in the area. The staff recommendation to the Planning Commission was to modify the applicants request to include some medium density zoning into the proposed project along Linwood Street. The Planning Commission concurred with staff, they identified the site as an "infill site" which has been slated for change for many years based on the College of the Sequoias cutting up the old farm site for the adjacent neighborhoods and shopping to the south, west and northeast. The Commission indicated that the street improvements created

along Linwood Street by the proposal would reduce risks to pedestrians and that there is a need for multiple family and increased densities within the City.

A tentative subdivision map, including a conceptual Medium Density Residential layout of individual units on small lots, has been reviewed through the Site Plan Review process. The map has not been submitted for Planning Commission review, pending final action on this GPA/COZ and further review by the Site Plan Review Committee on the details for the proposed Medium Density portion of the site. The applicants have proposed a cluster of single family homes as an affordable alternative to typical multiple-family residential duplex or four-plex units. This would result in R-M-2 densities with a single family product. Based upon the location as an in-fill site, street configuration and character of the immediate area, staff is open to considering alternatives to typical apartments at this site.

Addition of Residential Units in Non-Designated Areas Towards UDB:

The General Plan Amendment and Change of Zone, if approved, will include the creation of residential units in an area not previously identified or designated for Residential land uses. Over the past few years, the City Council has approved other General Plan Amendments which have converted areas not cited for residential growth to residential designations in various locations around the City. An example would include the conversion of Business Research Park (BRP) designations at Highway 198/McAuliff and Shirk/Riggin. When such General Plan Amendments are approved, they contribute towards reaching the 129,000 population criteria for the City's Urban Development Boundary, but do not promote the build out of existing residential designations at an equal pace.

Committee/Commission Review and Actions:

The Planning Commission held a public hearing on September 12, 2005 and recommended approval of General Plan Amendment No. 2005-14 and Change of Zone No. 2005-13 (4-0-1, Commissioner Perez abstained due to proximity of residence).

During the public hearing three neighbors spoke in opposition to the proposed amendments. All three cited the proposed medium density along Linwood Street as a concern, along with the fact the schools in the area result in children walking along Linwood Street which may not be safe with the added vehicle trips from any type of residential development. Two of the neighbors indicated a desire to see the site retained as a pasture or some type of community open space. Bob Dowds, representing Mangano Homes spoke in favor of the items.

Related Projects:

None

Prior Council/Board Actions:

None.

Alternatives:

None recommended

Attachments:

- Resolutions and Ordinance
- Environmental Document

- General Plan Land Use Map
- Zoning Map
- Aerial Map
- Location Map
- Planning Commission Staff Report

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to certify Negative Declaration No. 2005-75 by adoption of Resolution No. 2005-150, and to approve General Plan Amendment No. 2005-01, and Change of Zone No. 2005-02 by introduction of Ordinance No. 2005-20, and adoption of Resolution No. 2005-151.

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: 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: City Council 2nd reading - November 7, 2005

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. 2005-151

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

APPROVING GENERAL PLAN AMENDMENT NO. 2005-14, A REQUEST TO CHANGE THE LAND USE DESIGNATION FROM PUBLIC INSTITUTIONAL ON APPROXIMATELY 9.5 ACRES TO 7 ACRES OF LOW DENSITY RESIDENTIAL, AND APPROXIMATELY 2.5 ACRES OF MEDIUM DENSITY RESIDENTIAL, LOCATED ON THE EAST SIDE OF ASKERS STREET SOUTH OF CALDWELL AVENUE

WHEREAS, an application for General Plan Amendment No. 2005-14, requested by Mangano Homes to change the General Plan Land Use Designation from Public Institutional on approximately 9.5 acres to approximately 7 acres of Low Density Residential and approximately 2.5 acres of Medium Density Residential, located on the east side of Akers Street south of Caldwell Avenue, south half of APN: 119-600-035, 119-590-058; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty-one (21) days published notice, held a public hearing before said Commission on September 12, 2005; 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 October 17, 2005; and

WHEREAS, the City Council of the City of Visalia finds the general plan amendment to be in accordance with Section 17.54.080 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 a Negative Declaration 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 proposed 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. 2005-14 would result in an efficient land use pattern, consistent with the area's surrounding 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. 2005-75 is hereby adopted.
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. 2005-20

AN ORDINANCE OF THE CITY OF VISALIA, RECOMMENDING APPROVAL OF CHANGE OF ZONE NO. 2005-13, TO CHANGE THE ZONING FROM QP (QUASI PUBLIC) TO R-1-6 (SINGLE FAMILY RESIDENTIAL) ON APPROXIMATELY 7 ACRES, AND R-M-2 (MULTI-FAMILY RESIDENTIAL) ON APPROXIMATELY 2.5 ACRES FOR RESIDENTIAL DEVELOPMENT

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. 2005-13, to change the zoning from QP (Quasi Public) to R-1-6 Single Family Residential) and R-M-2 (Multi-Family Residential), for residential development, on the west side of Linwood Street between Mary and Cherry Avenues. APN: 119-600-035, 119-590--58.

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.

RESOLUTION NO. 2005-150

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

ADOPTING NEGATIVE DECLARATION NO. 2005-75, WHICH EVALUATES ENVIRONMENTAL IMPACTS FOR GENERAL PLAN AMENDMENT NO. 2005-14, AND CHANGE OF ZONE NO. 2005-13

WHEREAS, General Plan Amendment No. 2005-14 and Change of Zone No 2005-13 is a request to change the land use designation and zoning from Quasi Public (QP) to Low Density Residential (R-1-6) on approximately 7 acres and to Medium Density Residential (R-M-2) on approximately 2.5 acres (hereinafter "Project"). The site is located on the west side of Linwood Street between Mary and Cherry Avenues APN 119-600-035, 119-590-058; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Commission on September 12, 2005 for the Project; and

WHEREAS, the Planning Commission of the City of Visalia considered the project in accordance with Sections 17.44.070, and 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 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 Planning Commission of the City of Visalia found that the Negative Declaration contains and reflects the independent judgment of the City of Visalia; and

WHEREAS, the City Council of the City of Visalia considered the Initial Study and Negative Declaration and concurs with the findings of the Planning Commission; 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. 2005-75 which evaluates environmental impacts for General Plan Amendment No. 2005-14 and Change of Zone No 2005-13. 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.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: October 17, 2005

Agenda Item Number: 13

Agenda Item Wording:

Public hearing for:

1. Certify Negative Declaration No. 2005-59. Resolution 2005-120 required.
2. General Plan Amendment No. 2005-11. A request by West Coast Construction (Quad Knopf, agent) to change the General Plan land use designation from Medium Density Residential to High Density Residential on 5 acres. The site is located on the north side of the Cameron Avenue alignment, approximately 300 feet east of Court Street. APN: 126-100-006 (portion). Resolution No. 2005-121 required.
3. First Reading of Change of Zone No. 2005-12. A request by West Coast Construction (Quad Knopf, agent) to change the zoning from R-M-2 to R-M-3 on 5 acres. The site is located on the north side of the Cameron Avenue alignment, approximately 300 feet east of Court Street. APN: 126-100-006 (portion). Ordinance No. 2005-16 required.

Deadline for Action: None

Contact Name and Phone Number: Travis Page, Planner (559) 713-4449
Mike Olmos, Department of Public Works and City Development (559) 713-4332

Recommendation

The Planning Commission recommends that the City Council certify Negative Declaration No. 2005-59 and approve General Plan Amendment No. 2005-11 and Change of Zone 2005-12. The General Plan Amendment and Change of Zone are being proposed in order to accommodate a new 96-unit multi-family residential site. The proposed action would change the land use designation on approximately 5 acres from Residential Medium Density to Residential High Density.

Background and Analysis

On August 8, 2005 the Planning Commission approved Conditional Use Permit No. 2005-25 and recommended that the City Council approve General Plan Amendment No. 2005-11 and Change of Zone No. 2005-12. The GPA and COZ were reviewed by the City Council on September 6, 2005. The Council continued the items because they had several concerns

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.): 20

regarding the construction of Cameron Street, pedestrian access, and available open space on the site. The Council directed staff and the applicant to consider revisions to the CUP component of the project to address these concerns. The Council further directed staff to proceed to Planning Commission to review any revisions to this project.

On October 10, 2005 the Planning Commission reviewed the proposed revisions to Conditional Use Permit 2005-25, and determined that the changes were in substantial conformance with the original approved project, and that the revisions would help create a better multi-family residential project.

Circulation

The City Engineer has considered and approved the adequacy of access and circulation to the project site. The proposed change is not anticipated to significantly increase vehicle trips in the area. Under the R-M-2 zone, 70 units could be built in the proposed area, whereas CUP No. 2005-25 is proposing 96 units. This represents a possible increase of up to 290 car trips per day which is not expected to degrade the level of service (LOS) of the extension of Cameron Avenue. The apartment complex will have access through this portion of Cameron Avenue. Cameron Avenue feeds in to Court Street, shown on the Circulation Element as an arterial status roadway that links Cameron Avenue to Caldwell Avenue, another arterial status roadway. West of Court Street, Cameron Avenue connects Court Street with Mooney Boulevard.

Additional Open Space

The items that have been revised are noted as follows:

- Additional Open Space - .36 acres (7.5%) to .41 acres (8.7%).
The applicant has revised the original project to allow for more open space. The applicant has also condensed a large portion of the open space into one central location rather than dispersing it throughout the site.
- Pool and Recreation area being centrally located on site.
The applicant has centrally located the pool area to make it more easily accessible for the residents.
- Parking Reduction – 154 spaces (24 being compact) to 152 spaces (no compact).
Parking is calculated at 1.6 stalls per unit which exceeds the minimum parking requirement. The applicant has eliminated two parking spaces, but has designed all of the proposed stalls to City standards, eliminating all of the compact stalls that were proposed on the original site plan.

Attachments:

- Resolution and Ordinance
- Revised Site Plan for CUP 2005-25
- Original Site Plan for CUP 2005-25
- Existing and Proposed Land Use Map
- Existing and Proposed Zoning Map
- Location Map

- Environmental Document
- Memo to Planning Commission Dated October 10,2005
- City Council Staff Report Dated September 6, 2005
- Planning Commission Staff Report
- Aerial Map

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move to certify Negative Declaration No. 2005-59 by adoption of Resolution No. 2005-120

I move to approve General Plan Amendment No. 2005-11 and Change of Zone 2005-12 by adoption of Resolution No. 2005-121 and Ordinance No. 2005-16.

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: 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:

Review and Approval - As needed:

Department Head Review (Signature):

Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
ADOPTING NEGATIVE DECLARATION NO. 2005-59, WHICH EVALUATES
ENVIRONMENTAL IMPACTS FOR CONDITIONAL USE PERMIT NO. 2005-25, GENERAL
PLAN AMENDMENT NO. 2005-11 AND CHANGE OF ZONE NO. 2005-12.

WHEREAS, Conditional Use Permit No. 2005-25, General Plan Amendment No. 2005-11 and Change of Zone No. 2005-12 (hereinafter "Project") is a request by West Coast Construction to change the General Plan land use designation from residential medium density to residential high density on five acres, and a request to change the zoning from R-M-2 (multi-family residential) to R-M-3, (multi-family residential), and a request to allow a 96-unit apartment complex on five acres located approximately 300 feet east of Court Street.. APN: 126-100-006; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Commission on August 8, 2005 for the Project; and

WHEREAS, the Planning Commission of the City of Visalia considered the project in accordance with Section 17.44.070, 17.54.070 and 17.38.110 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 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 Planning Commission of the City of Visalia found that the Negative Declaration contains and reflects the independent judgment of the City of Visalia; and

WHEREAS, the City Council of the City of Visalia considered the Initial Study and Negative Declaration and concurs with the findings of the Planning Commission; 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. 2005-59 which evaluates environmental impacts for Conditional Use Permit No. 2005-25, General Plan Amendment No. 2005-11 and Change of Zone 2005-12. 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.

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

APPROVING GENERAL PLAN AMENDMENT NO. 2005-11, A REQUEST TO CHANGE THE LAND USE DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL TO HIGH DENSITY RESIDENTIAL ON APPROXIMATELY 5 ACRES, LOCATED ON THE NORTH SIDE OF THE CAMERON AVENUE ALIGNMENT, APPROXIMATELY 300 FEET EAST OF COURT STREET.

WHEREAS, an application for General Plan Amendment No. 2005-11, A request by West Coast Construction (Quad Knopf, agent) to change the General Plan land use designation from Medium Density Residential to High Density Residential on 5 acres. The site is located on the north side of the Cameron Avenue alignment, approximately 300 feet east of Court Street. APN: 126-100-006 (portion); and

WHEREAS, the Planning Commission of the City of Visalia, after twenty-one (21) days published notice, held a public hearing before said Commission on August 8, 2005; 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 September 6, 2005; and

WHEREAS, the City Council of the City of Visalia finds the general plan amendment to be in accordance with Section 17.54.080 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 a Negative Declaration 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 proposed 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. 2005-11 would result in an efficient land use pattern, consistent with the area's surrounding 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. 2005-59 is hereby adopted.

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 17.54.080 of the Ordinance Code of the City of Visalia and based on the above findings.

ORDINANCE NO. 2005-16

AN ORDINANCE OF THE CITY OF VISALIA, APPROVING CHANGE OF

ZONE NO. 2005-12, TO CHANGE THE ZONING FROM R-M-2 TO R-M-3 (MULTI-FAMILY RESIDENTIAL) ON APPROXIMATELY 5 ACRES LOCATED ON THE NORTH SIDE OF THE CAMERON AVENUE ALIGNMENT, APPROXIMATELY 300 FEET EAST OF COURT STREET

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. 2005-12, to change the zoning from R-M-2 to R-M-3 (Multi-Family Residential), for the development of a 96-unit apartment complex for West Coast Construction, on the north side of the Cameron Avenue alignment, approximately 300 feet east of Court Street. APN: 126-100-006 (portion).

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

Memo



To: City Council and City Manager
From: Paul Scheibel, AICP, Principal Planner
Travis B. Page, Planning Division
CC: Michael Olmos, AICP, Community Development Director
Date: October 17, 2005
Re: Supplemental Materials for Agenda Item 13, Continued Public Hearing on GPA 2005-11 and Change of Zone (COZ) 2005-12 [West Coast Construction (Cameron Apartments, CUP 2005-25)]

Pursuant to the City Council's direction on September 6, 2005, in continuing GPA 2005-11 and COZ 2005-12, the following information is provided to supplement the staff report for this item.

On October 10, 2005, the Planning Commission received and discussed in detail a revised version of the site plan for CUP 2005-25 (Cameron Apartments). The Planning Commission determined the revisions to the project are in substantial conformance with the project as it had previously reviewed and approved on August 8, 2005. The changes to the site plan are reflected in the revised site plan for the project (Exhibit A), and are noted as follows:

- **Additional Open Space on the Site-** The open space area has been increased from .36 acre (7.5% of the project site) to .41 acre (8.7% of the project site). The City standard for open space is 5% of the project site, per Zoning Ordinance Section 17.26.040C. The additional open space was achieved by reconfiguring the pool and recreation center to the center of the site, and by eliminating four parallel parking spaces in favor of increased landscaping, as discussed below.
- **Parking Reduction-** The site will have 152 spaces (1.6 spaces per unit) instead of 154 spaces (1.7 spaces per unit). Four parallel spaces were eliminated, and two additional perpendicular spaces were added to the site. The City standard for multi-family developments is 1.5 spaces per unit (Zoning Ordinance Section 17.34.020A.2).
- **Increased Pedestrian Access-** This was a concern expressed by the City Council. On further examination, staff concurred with the applicant that the pedestrian access plan is optimal as currently proposed. The approved but unbuilt project to the north is an office development (see Exhibit B). It was determined that direct access to the office development would incur more detractions than advantages. There is still reasonable pedestrian access from the site to Court Street and Caldwell Avenue since the north side of Cameron Ave. will be fully improved, including sidewalk and parkway, between the project site and Court St. (see Exhibit C).

The City Council also expressed several concerns that may not be directly related to the project site plan, and for which adequate documentation was not available at the September 6, 2005 City Council public hearing. These issues and their justifications are summarized as follows:

Access From Cameron Avenue- As shown on Exhibit C, the southern half of Cameron Ave. (a local road), and the northern half along The Church of Christ of Visalia campus will be improved from Court St. to Santa Fe Ave., as a condition of approval of the Salerno Estates Tract along the south side of Cameron Ave. The Salerno Estates Tract, including the improvements of Cameron Ave. are under construction at this time. The Cameron Apartments project (CUP 2005-25) will improve the north side of Cameron Ave. to match up with the improvements to the west. The north side of Cameron Ave. east of CUP 2005-25 has been offered for dedication to the City. However, it is anticipated that the north half of Cameron Ave. (east of CUP 2005-25) will not be improved until the railroad right-of-way along Santa Fe Ave. has been abandoned, and connection of Cameron Ave. with Santa Fe Ave. is undertaken. The City Engineer and the Fire Marshal have determined the road improvements along Cameron Ave. (see Exhibit C) would be adequate for the project and for area traffic circulation and emergency access for the foreseeable future.

- Offsite Recreational Opportunities- In addition to the onsite open space, including a pool and recreation center, future residents of the project will have access to Blain Park (Neighborhood Park designation), approximately .7 mile from the project site.
- Density Bonus In Lieu of Change of Zone- The applicant does not propose a density bonus because they do not desire to encumber the development with an affordable housing agreement. The applicant proposes to offer these as market rate units.
- Previous Land Use Amendments- Based on a search of the City's records and maps, staff has determined the entire site (10.78 acres) has been the subject of one previous General Plan Amendment (GPA 98-03).

General Plan Amendment GPA 98-03, was approved by the City Council on June 15, 1998. It changed the original 10.78-acre parcel from Medium Density Residential to Commercial Shopping /Office (northern 5.3-acre portion fronting Caldwell Ave.) and Low Density Residential to Medium Density Residential (southern 5-acre portion, the subject site of this application). The current GPA proposal (GPA 2005-11) is to amend the Medium Density Residential designation of the southern portion of the site to High Density Residential. This GPA is being requested by the proponent of CUP 2005-25 (Cameron Apartments). CUP 2005-25 proposes a 96-unit apartment complex. Under the current land use designation (RMD), a maximum of 72-units could be developed on the site. A vicinity map, the current GPA proposal, and an extract of the 1991 General Plan Land Use and Circulation Element Map are attached as Exhibit D.

The September 6, 2005, City Council Staff Report is provided as Exhibit E.

Attachments

Exhibit A - Revised Site Plan, CUP 2005-25

Exhibit B - October 10, 2005, Memo for Planning Commission, with Revised Project Exhibits

Exhibit C - Cameron Avenue Improvement Plans

Exhibit D - Land Use Summary

Exhibit E - September 6, 2005, City Council Staff Report