



Visalia City Council Agenda

For the regular meeting of: Tuesday, January 16, 2007

Location: City Hall Council Chambers

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

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)

5:30 p.m.

Public Comment on Work Session Items -

5:30 p.m.

1. Council acceptance of the fiscal year 2005-06 Measure T Audit Report, as recommended by the Citizens Advisory Committee (CAC).

ITEMS OF INTEREST

CLOSED SESSION

6:00 p.m. (Or, immediately following Work Session)

2. *Item removed at the request of staff*
3. Conference with Real Property Negotiators (GC54956.8)
Property: Park/basin acquisition from a portion of a parcel located at the North West corner of Goshen Ave and future Virmargo Street ; APN 098-050-059; For regional master planned recreational and storm drainage purposes
Under Negotiation: Price, terms, conditions of purchase
Negotiators: Steve Salomon, Andrew Benelli, Eagle Meadows of Visalia 44 LLC.
4. *Item removed at the request of staff*
5. Conference with Real Property Negotiators (GC54956.8)
Property: Approximately 50 acres located north of Riggan and approximately one quarter mile west of Demaree. APN 077-060-005.
Under Negotiation: Price, terms, conditions of acquisition and/or disposition
Negotiators: Steve Salomon, Andrew Benelli, Modoc Ditch Company

REGULAR SESSION
7:00 p.m.

PLEDGE OF ALLEGIANCE

INVOCATION - Floyd E. Westbrook, Visalia Christian Ministries

SPECIAL PRESENTATIONS/RECOGNITION

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

CHANGES TO THE AGENDA/ITEMS TO BE PULLED FOR DISCUSSION

6. **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) Authorize the Mayor to sign a letter of support for the Sequoia Natural History Association's grant application to Tourism Cares.
 - c) Adopt Resolution No. 2007-06 supporting the San Joaquin River Settlement and requesting the U.S. Congress to incorporate into federal authorizing legislation mitigation measures to offset possible groundwater impacts generated by reduced water flows in the Friant-Kern Canal system and authorizing the Mayor to send the attached letter.
 - d) Authorization for the City Manager to sign a professional services agreement with James H. Harbottle for Labor Negotiation Services for \$5,000 a month through August of 2007.
 - e) Continue Appointment of City of Visalia's representative to the Measure R Citizen's Oversight Committee to Monday, February 5, 2007. *(Continued from January 8, 2007)*
 - f) First reading of Ordinance 2007-01 Authorizing Sale of APN: 094-285-15 located at the southwest corner of Oak and Bridge consisting of approximately 17,308 square feet to Paloma Development.

g) Authorization for the Transit Division to accept the new regional bus pass as full fare on any of our fixed route buses, amend the annual fund transfer agreement with Tulare County to include the distribution of the revenue generated by the sale of the passes, and authorize the City Manager to sign a letter acknowledging our participation.

Authorization to record the following final maps:

h) Shannon Ranch 2 Units No. 3 & 5, located at the northwest corner of Mooney Boulevard and Riggin Avenue (175 lots - APN: 0781-140-020 & 023).

i) Riverbend Village Unit 6 & 7, located just north of Modoc Ditch, west of the future Santa Fe Street (17 lots and 18 lots respectively) and the formation of Landscape and Lighting District No. 07-03, Riverbend Village Unit 6-11 (Resolution Nos. 2007-07 and 2007-08 required)

7. Continued PUBLIC HEARING (Continued from December 18, 2006) **(separate motions required)**

a. Adoption of Negative Declaration No. 2006-099. **Resolution No. 2007-09 required.**

b. **Public Hearing** for General Plan Amendment No. 2006-05: A request by Visalia Land Company, Inc. and the City of Visalia to change the General Plan land use designation from RLD (Low Density Residential) to RMD (Medium Density Residential) on 17.5 acres. The site is located on the north side of Myrtle Ave. between Linwood and Chinowth Streets, and the east and west sides of Chinowth St. from 500 feet south of Noble Avenue to approximately 1,160 feet south of Noble Avenue APNs: Visalia Land Co., Inc. - 087-060-007,008,009, and 010, City of Visalia - 087-060-001, 002, 004, 006, 011, 012, 013, 014, 024, and 025, 087-090-015,016,017,018,019,020,021,022,023,025,028,030, 031,032, and 033. **Resolution No. 2007-10 required.**

c. **Public Hearing** for First Reading of Change of Zone No. 2006- 04: A request by Visalia Land Company, Inc. and the City of Visalia to change the zoning from R-1-6 (Single-Family Residence, 6,000 sq.ft. minimum lot size) to R-M-2 (Multi-Family Residential) on 17.5 acres. The site is located on the north side of Myrtle Ave. between Linwood and Chinowth Streets, and the east and west sides of Chinowth St. from 500 feet south of Noble Avenue to approximately 1,160 feet south of Noble Avenue APNs: Visalia Land Co., Inc. - 087-060-007,008,009, and 010, City of Visalia - 087-060-001, 002, 004, 006, 011, 012, 013, 014, 024, and 025, 087-090-015,016,017,018,019,020,021,022,023,025,028,030, 031,032, and 033. **Ordinance No. 2007-03.**

8. **Continued PUBLIC HEARING** (Continued from December 18, 2006) Consider increasing the Transportation Impact Fees. After hearing testimony, consider approval of proposed Transportation Impact Fee Schedule per Resolution. **Resolution No. 2006-111 required.** *Recommend to be continued to February 5, 2007- motion required*

9. Introduction of Ordinance 2007-02 amending the City's Oak Tree Ordinance (Chapter 24 of Title 12 of the Municipal Code)

10. Public Hearing and Final Adoption of Ordinance 2006-18: Amending Portions of Titles 16 and 17 of the Visalia Municipal Code Pertaining to the Review of Planning Commission Decisions by the City Council.

Convene jointly as the Redevelopment Agency and the Visalia City Council

11. Adopt a Resolution authorizing the sale of 1631 N. Encina to Habitat for Humanity for \$200,000 and hold a Public Hearing in compliance with Health and Safety Code 33433. **RDA Resolution 2007-01 required.**

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

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

REPORT OF CLOSED SESSION MATTERS FINALIZED BETWEEN COUNCIL MEETINGS

Upcoming Council Meetings

Monday, February 5, 2007 - City Hall Council Chambers

Monday, February 12, 2007 - Tentative Joint Council/Planning Commission (TBD)

Tuesday, February 20, 2007 - City Hall Council Chambers

Saturday, February 24, 2007- Joint City Council/Planning Commission (Convention Center)

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: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 1

Agenda Item Wording: Council acceptance of the fiscal year 2005-06 Measure T Audit Report, as recommended by the Citizens Advisory Committee (CAC).

Deadline for Action: January 16, 2007

Submitting Department:

Contact Name and Phone Number: Gus Aiello, 713-4423

Department Recommendation: That Council accept the 2005-06 Measure T Audit Report as recommended by the Citizens Advisory Committee.

Summary/background: With the passage of Measure T, the City is required to conduct an annual procedures audit by an independent audit firm. M. Green and Company LLP, Certified Public Accountants has performed an audit of the Measure T funds for the fiscal year ended 2005-06. The final report, which indicates the Measure is being implemented as planned, is presented for Council review and acceptance. The Citizens Advisory Committee (CAC) has reviewed and concurs with the final audit report and recommends that Council accept the report as written.

Discussion

At its March 29, 2004 meeting, Council approved an item which detailed various accountability policies for City staff to implement with regards to Measure T. One of these policies includes an annual audit of Measure T funds by an independent auditor. The City has contracted M. Green and Company LLP, Certified Public Accountants, to conduct the first three annual audits. The audit report for fiscal year 2004-05 was presented to and accepted by Council at its work session on January 17, 2006. The 2005-06 annual audit report is presented for Council consideration and acceptance.

Included in the accountability policies noted above is the Citizens Advisory Committee's (CAC) review and acceptance of the final audit report. At its December 6th meeting, the CAC heard a presentation from Vicki Gilson of M. Green, who discussed the audit report in detail. The CAC made a motion to accept the report as written and recommends that Council do the same.

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__

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

2004-05 and 2005-06 Accomplishments

Measure T was designed to increase public safety efforts in Visalia. Table I – Measure T Plan Elements, Years 1 & 2, recaps the accomplishments achieved during the first two years of Measure T implementation, from July 2004 to June 2006.

Table I - Measure T Plan Years 1 & 2

FY 04/05	
Milestone	Status
Hire (5) new Police Officers	(5) Officers hired 7/04
Purchase (5) new Police vehicles	(5) vehicles purchased 5/04
New Police Admin/Dispatch Center*	The location of the facility is part of the Civic Center study, currently in process
Design and construct (2) Police Precincts*	Contract completion date is scheduled for July 1, 2007
Purchase (5) acres of land for a NW Fire Station/Training facility*	Land was acquired at the corner of Shirk and the future Ferguson 4/7/05.
Design NW Fire Station and Training facility*	Council has approved a program budget of \$6.4 million. Designs have been completed by RRM Design Group and construction bidding will take place in Spring 2007

FY 05/06	
Milestone	Status
Hire (5) new Police Officers	(5) Officers hired 7/05
Purchase (5) new Police vehicles	(5) vehicles purchased 7/05
Develop/construct the NW Fire Station/Training facility*	Council has approved a program budget of \$6.4 million. Designs have been completed by RRM Design Group and construction bidding will take place in Spring 2007
Purchase a Fire Engine*	Council approved a change from purchasing a Fire Engine to a Quint apparatus during the recertification of the 05/06 plan
Acquire (2) acres of land for a SE Fire Station*	The location of the property is part of the SE Master Plan

* Includes contributions from the General Fund and Impact Fees

Looking Forward

During the first year of Measure T implementation, fiscal year 2004-05, revenues came in below plan. Since then, revenues have exceeded the plan. In fiscal year 2005-06, revenues came in approximately 11.5% higher than the plan, although first year revenues were approximately 8.5% below budget. During the first two years of the plan implementation, revenues exceed the budget by \$172,612. Please see Chart I – Measure T Revenues, for details of the first two years of revenues.

Chart I - Measure T Revenues

Fiscal Year	Budget	Actual	Difference
2004-05	4,578,250	4,217,184	(361,066)
2005-06	4,660,310	5,193,988	533,678
Total	9,238,560	9,411,172	172,612

Plan Implementation

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Council will recall that the Measure passed by the voters indicates that the Plan must be implemented in the following order:

- Implement the current year plan. Based on the current level of revenues, funding should be sufficient to implement the fiscal year 2006-07 plan. Although there are excess revenues over the first two years of the plan, staff recommends not accelerating any elements of the plan, as the excess revenues will be spent on capital projects that will cost more than the original budget. For example, the NW fire project was budgeted at \$4.9 million in the Measure T plan, but will actually cost \$6.4 million, requiring an additional \$1.5 million to fully fund.
- Fund the economic uncertainty fund, provided sufficient funding is available after funding the current year plan. The Measure requires that the economic uncertainty fund be funded each year and as of the fiscal year end 2005-06, it is fully funded in the amount of \$1,165,078, which is 25% of budgeted revenues.
- Accelerate the Plan, if excess funding is available. Because capital projects costs are higher than the original plan anticipated, excess funding will not be available and the plan will not be accelerated.
- Add new plan elements if all three of the above criteria are met.

Table II, Measure T plan Year 3, displays year three plan elements and their status.

Table II - Measure T Plan Year 3

Milestone	Projected 06/07	Status
Hire (5) new Police Officers	(5) officers hired 7/06	
Purchase (5) new Police vehicles	(5) Police vehicles have been ordered through Groppetti Automotive	
Hire (4) new Firefighters to staff the NW Fire Station	Council authorized the advanced hiring of (4) new Firefighters. These positions have been filled.	
Complete 2 new Police precincts	Estimated completion date is March 2007	
Develop/construct the NW Fire Station/Training facility*	Estimated completion date is July 2008	

* Includes contributions from the General Fund and Impact Fees

Audit Process and Results

The audit conducted by M. Green was an agreed upon procedures audit in which the City outlines the scope of work. M. Green was asked to review all the compliance agreements spelled out in the ballot proposition (the agreed upon compliance procedures are included in the final audit report).

Although not considered a true financial audit, the audit process was very detailed, including a review of financial information. The following documents were requested by the auditor and provided by City staff for auditor review and comment:

- City Manager certification - June 2006
- Budget information for Police and Fire – regular budget and Measure T for FY 2006 including proposed, adopted and any amendments
- Fund accounting information for all Measure T related funds for the period ending June 30, 2006, including balance sheet, expenditures, revenues (summary and detail), economic uncertainty fund and accounting records related to construction in progress

- Fund accounting information for all police and fire related expenditures for period ending June 30, 2006, including balance sheet, expenditures and revenues (summary and detail)
- City baseline computations, with supporting documentation, as to pre-Measure T expenditures for police and fire
- California State Board of Equalization agreements and/or amendments
- City cash receipting policy
- City cash, accounts payable and purchasing policies
- Any reports and correspondence provided to City Council or the Citizens Advisory Committee for the period July, 2005 to date
- City Council minutes where Measure T was discussed or action was taken
- Any written policies regarding administration of Measure T monies including most recent program guidelines
- Documentation supporting City interest allocation to Measure T funds
- Documentation regarding inter-fund advances or payables involving Measure T funds
- Copies of remittance advices comprising all Measure T funds for FY 2006 to date
- Any non-privileged documents or communication from the City Attorney regarding Measure T monies and their disbursement or receipt
- City summary of receipts and disbursements
- Personnel detail including date of hire and termination

After its review of the all the above, the audit firm found that the City complied with the ballot measure as outlined in the audit procedures. There are two findings noted in the final audit report:

1. Finding

Depreciation expense charged to the Measure T Police fund in 2005-06 did not include depreciation from fiscal year 2004-05. The Plan depreciates vehicles purchased with Measure T funds and sets up a replacement account for those vehicles in the future. The depreciation expense from the vehicles purchased in 2004-05 was not included in fiscal year 2005-06 because the fixed asset system did not properly identify those vehicles as Measure T vehicles to be replaced in the future.

Resolution

The error here would under collect resources to purchase new Measure T vehicles when those purchased need to be replaced. Staff has enhanced the City's fixed asset system to include a location code, which identifies all Measure T Police vehicles and accounts for the proper depreciation expense. The correct depreciation expense adjustment has been made to include the 2004-05 depreciation expense.

2. Finding

Firefighter salary and benefits expenses were charged to the Measure T Fire fund in 2005-06.

Resolution

Council authorized the advanced hiring of 4 Firefighters which were scheduled in the Measure T plan for fiscal year 2006-07. When Council approved the advanced

hiring, it also directed the salary and benefits expenses of the Firefighters to be charged to the General until the beginning of fiscal year 2006/07.

The salary and benefits expenses of those Firefighters were inadvertently charged to the Measure T Fire fund. Upon the hiring of the Firefighters, the new employee personnel action forms noted that the employees were Measure T Firefighters and subsequently coded to the Measure T fund. These expenses should have been charged to the General Fund through fiscal year 2005-06 and then charged to the Measure T Fire fund beginning July, 2006. Staff has made the adjustment to move the salary and benefits expense to the General Fund.

To alleviate future situations similar to that from above, staff will attach a copy of the Council minutes to the personnel action form to ensure charges are coded to the proper funds.

Conclusion

Measure T is being implemented according to plan. The results of the recent audit by M. Green support the fact that the Plan is moving forward as approved by voters.

Prior Council/Board Actions: January 11, 2006 – Approval and acceptance of the 2004/05 Measure T audit report.

Committee/Commission Review and Actions: Citizens Advisory Committee review and approval on December 6, 2006.

Alternatives: Do not accept the Measure T final audit report

Attachments: Attachment #1 - CAC memo of acceptance of the Measure T audit report
Attachment #2 - Fiscal year 2005-06 Measure T audit report

Recommended Motion (and Alternative Motions if expected): That Council accept the 2005-06 Measure T Audit Report as recommended by the Citizens Advisory Committee.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 6b

Agenda Item Wording: Authorize the Mayor to sign a letter of support for the Sequoia Natural History Association's grant application to Tourism Cares.

Deadline for Action: Feb. 1

Submitting Department: Administration

Contact Name and Phone Number:
Leslie Caviglia, 713-4317

Department Recommendation

It is recommended that the Council authorize the Mayor to sign a letter of support for the Sequoia Natural History Association's grant application to Tourism Cares.

Department Discussion:

The Sequoia Natural History Association (SNHA) is applying for a \$68,000 from Tourism Cares to provide additional marketing of and educational opportunities in Sequoia Kings Canyon National Parks.

If awarded, the SNHA is proposing to use \$57,000 of the funds for additional marketing and advertising of the park, and \$11,000 to enhance visitor experiences in the park by improving the educational exhibits and activities in the park.

Staff believes that supporting the SNHA's efforts to promote the park and encourage more visitors to come to the area is appropriate and in keeping with Council's direction to encourage more visitors to come to Visalia. The Visalia Convention and Visitor's Bureau is also supporting this application.

The SNHA is a non-profit educational organization that partners with the National Park Service and the US Army Corps of Engineers. The organization operates the local national park visitor center bookstores, the Kaweah Heritage Visitor Center bookstore, the children's bookstore at Beetle Rock, Crystal Cave tours, the Sequoia Field Institute and Beetle Rock Education Center, field seminars and outreach education, and the Pear Lake backcountry ski hut.

Tourism Cares is a non-profit organization created by the tourism industry to "give back" to the industry. They conduct volunteer programs to help restore historic sites, provide grants to worthy tourism endeavors, and conducts efforts to support the future workforce of the industry by providing scholarships and educational opportunities.

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.): _____

Review:

Dept. Head: LBC 1507

Finance

City Atty

City Mgr

Prior Council/Board Actions: N/A

Committee/Commission Review and Actions: N/A

Alternatives: To not support the grant

Attachments: N/A

Recommended Motion (and Alternative Motions if expected):

I move to authorize the Mayor to sign a letter of support for the Sequoia Natural History Association's grant application to Tourism Cares.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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)*

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 6c

Agenda Item Wording: Adopt Resolution No. 2007-06 supporting the San Joaquin River Settlement and requesting the U.S. Congress to incorporate into federal authorizing legislation mitigation measures to offset possible groundwater impacts generated by reduced water flows in the Friant-Kern Canal system and authorizing the Mayor to send the attached letter.

Deadline for Action: None

Submitting Department: Community Development

Contact Name and Phone Number:

Mike Olmos 713-4332
Alex Peltzer 636-0200

Department Recommendation: Adopt the enclosed resolution supporting the San Joaquin River Settlement Agreement and requesting the U.S. Congress to incorporate into federal enabling legislation mitigation measures to offset possible impacts generated by reduced flows in the Friant-Kern Canal system; authorize the Mayor to forward said resolution to federal legislators.

Summary/background: A settlement agreement was recently reached to resolve long-standing litigation regarding restoration of a salmon fishery in the San Joaquin River. The settlement agreement will require that federal legislation be passed to enable the agreement to be implemented as currently structured. The necessary enabling legislation has been introduced in Congress and should be acted on during the next 3-4 months.

Mayor Jesus Gamboa and Assistant City Manager Mike Olmos attended a meeting on January 4, 2007, hosted by Tulare County Supervisor Allen Ishida, during which representatives of Tulare County and various cities discussed the potential impacts to our region due to reduction of water flows in the Friant-Kern Canal system to be caused by future implementation of the settlement agreement. During the meeting, city councils in

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

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Tulare County were encouraged to adopt resolutions requesting federal legislators to include mitigation measures in upcoming legislation enabling the San Joaquin River Settlement. Potential mitigation measures would be directed at offsetting several possible impacts of reduced surface water supplies in the Friant-Kern system including but not limited to: (1) adverse impacts to local farmers due to loss or reduction of available surface water in the Friant system; (2) indirect regional economic effects generated by impacts to the farming industry; (3) increased regional groundwater deficit caused by increased farm pumping; and (4) potential increased groundwater pollution due to a modified groundwater structure caused by increased pumping.

The San Joaquin River litigation has taken approximately 15 years to reach a settlement. Local stakeholders, including, but not limited to, irrigation districts, environmental groups, farming interests, and communities receiving Friant water, have been involved in the settlement effort. It appears that local stakeholders are now generally in agreement that the settlement provides a reasonable compromise to resolve the litigation issues. In this respect, staff believes that the settlement agreement should be supported, but that Congress be urged to consider the potential adverse impacts to the farming community, groundwater resources, and the regional economy caused by water flow reductions in the Friant-Kern system. In doing so, federal legislators should be encouraged to incorporate mitigation measures into enabling legislation to offset these potential impacts during implementation phases of the settlement agreement.

The enclosed resolution is recommended for Council adoption to establish the City's support for implementing the settlement agreement and requesting that mitigation measures be incorporated into federal enabling legislation.

Prior Council/Board Actions: Closed sessions regarding potential litigation.

Committee/Commission Review and Actions: NA

Alternatives: Do not adopt resolution.

Attachments: Draft resolution.

Recommended Motion (and Alternative Motions if expected): I move to adopt the enclosed resolution #2007-06 pertaining to the San Joaquin River settlement and federal enabling legislation.

Environmental Assessment Status

CEQA Review: NA

NEPA Review: NA

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) NA*

Copies of this report have been provided to: NA

**BEFORE THE CITY COUNCIL
OF THE CITY OF VISALIA**

**ADOPTION OF A RESOLUTION)
SEEKING A SURFACE WATER)
MITIGATION RESOLUTION IN)
THE SAN JOAQUIN RIVER)
SETTLEMENT)**

Resolution No. 2007-06

WHEREAS, the City of Visalia lies within the service area of the Friant Division of the Central Valley Project; and

WHEREAS, the City is aware that there has been long-standing litigation challenging the use of water within the Friant Division of the Central Valley Project, and such litigation has specifically sought the release of water from the Friant Dam to restore the San Joaquin River and re-establish a salmon fishery, resulting in less water being available for deliver within the Friant Division; and

WHEREAS, the City understands that the United States District Court for the Eastern District of California ruled that the Bureau of Reclamation had an obligation to release water to restore the San Joaquin River and re-establish a salmon fishery thereon, and that a trial was scheduled to determine the amount of water required to meet the legal obligations as determined by the Court; and

WHEREAS, the parties to the litigation, including but not limited to irrigation and water districts in the County of Tulare, initiated settlement discussions with the Plaintiffs and the Federal government, which resulted in a settlement of the litigation; and

WHEREAS, the City of Visalia understands that the settlement limits the amount of water and costs that can be utilized from within Friant Division to meet the obligation of restoring the San Joaquin River and re-establishing a fishery therein; and

WHEREAS, the City understands that the Settlement Agreement includes a parallel water management goal that is designed to mitigate the water supply impacts to the Friant Division of the Central Valley Project caused by implementation of the settlement, but which water management goal lacks some specificity as to the precise means by which such mitigation shall occur; and

WHEREAS, there will be serious implication associated with the unmitigated loss of surface water supplies in the Friant Division of the Central Valley Project, which could affect all communities within the Friant Service Area; and

WHEREAS, loss of surface water could result in pumping from groundwater aquifers. Many of our Valley cities and communities rely solely on groundwater for their municipal supply, including the cities of Dinuba, Exeter, Farmersville, Porterville, Tulare, Visalia and Woodlake; and

WHEREAS, the demand for quality water to meet the growing demands of urban, agricultural and environmental uses in the San Joaquin Valley now means that the Valley currently

experiences a water supply deficit that will only grow if the Settlement Agreement is implemented without any mitigation for water supply losses; and

WHEREAS, the City of Visalia has adopted several initiatives to improve water supply conditions for the future of the growth and development of our community. Such programs include a Groundwater Mitigation Ordinance which requires certain actions to be undertaken with respect to proposed new developments within the City of Visalia, and an aggressive program to utilize existing storm water facilities and other City owned facilities to enhance groundwater recharge within the City limits of the City of Visalia. Additionally the City has engaged in an aggressive program to acquire additional water rights to support its water resource needs and has implemented programs related to water conservation within the community; and

WHEREAS, the City believes that the enactment of legislation by Congress that would authorize implementation of certain provisions of the Settlement should appropriately consider measures to mitigate the water supply impacts occasioned by the Settlement in a manner which is consistent with ongoing activities of the irrigation and water districts within the Friant Division of the Central Valley Project as well as the communities that are adjacent to or served by those districts.

NOW THEREFORE, BE IT RESOLVED THAT the City Council for the City of Visalia urges members of Congress to approve legislation authorizing implementation of the Settlement and to consider appropriate measures to mitigate the water supply impacts associated with the Settlement.

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 _____ passed and adopted by the Council of the City of Visalia at a regular meeting held on _____.

Dated: _____ STEVEN M. SALOMON, CITY CLERK

By Donjia Huffmon, Chief Deputy City Clerk

January 12, 2007

This document last revised: 1/12/07 1:49:00 PM

Page 5

File location and name: H:\(1) AGENDAS for Council\2007\011607\Item 6c San Joaquin River 01 16 071.doc

Members of Congress

Re: Legislation Authorizing Implementation of Certain Provisions of the
Settlement Related to the San Joaquin River

Dear Members of Congress:

As members of the City Council of the City of Visalia, we urge Congress to take appropriate action to authorize implementation of certain provisions of the historic San Joaquin River Settlement. The City strongly supports the settlement reached between water and irrigation districts within the Friant Division of the Central Valley Project and the environmental plaintiffs who initiated the action nearly 18 years ago. We believe that the settlement limits the water supply impacts and costs within the Friant Division in a manner far more appropriate that would have likely occurred had the case gone to trial and judgment.

It is imperative that implementation of the settlement be accomplished in a manner which appropriately mitigates the potential water supply impacts associated with restoration of flows into the San Joaquin River from Friant Dam for the purpose of restoring a salmon fishery. Reductions in water supplies to the Friant Service Area could create serious impacts for communities throughout the service area. Most of the municipalities within the Friant Service Area including the City of Visalia receive the bulk of their water supplies from underground water aquifers. It is possible that unmitigated service water impacts associated with implementation of the settlement could result in additional groundwater pumping creating potential serious implications for the communities that exist throughout the eastern side of the Southern San Joaquin Valley.

We understand that the settlement includes a water management goal which obligates the Bureau of Reclamation to develop a plan to mitigate the water supply impacts associated with the implementation of the restoration flows to restore the salmon fishery below Friant Dam. It is imperative that Congress indicated a strong support for implementation of the water management goal as a means to assure that the long term viability of the community that we serve and others like ours in the San Joaquin Valley are protected.

We also would like for you to know that the City of Visalia takes the management of its water supply resources very seriously. In recent years, the City has implemented ordinances to require groundwater mitigation as a condition of all new development. The City has been actively engaged in cooperative programs with the Kaweah Delta Water Conservation District and the Tulare Irrigation District to enhance groundwater recharge programs in and around the City of Visalia. The City has also acquired additional water supplies that it can utilize to enhance its own groundwater recharge programs, and is

presently re-visiting its surface water master plan for the purpose, among others, of ensuring that storm water drainage facilities can be utilized for groundwater recharge purposes as well as storm water control. And, finally the City has a long history of encouraging additional water conservation within our community boundaries.

We commend you for your leadership in taking action to authorize the implementation of certain provisions of the settlement and we thank the settling parties for their hard work to find a reasonable accommodation and to avoid the potentially catastrophic impacts of proceeding to trial.

Thank you for considering the needs of our community on this very important issue. We are available to provide you any additional information you may need.

Sincerely,

City of Visalia Agenda Item Transmittal

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 6d

Agenda Item Wording: Authorization for the City Manager to sign a professional services agreement with James H. Harbottle for Labor Negotiation Services for \$5,000 a month through August of 2007.

Deadline for Action: None

Submitting Department: Administrative Services

Contact Name and Phone Number: Eric Frost x4474, Janice Avila x4417

Department Recommendation: That the City Council, enter into an agreement with James H. Harbottle for Labor Relations Services for a set fee of \$5,000 per month through August of 2007. At that time, the monthly retainer can either be renegotiated or the City would pay Mr. Harbottle's standard negotiations rate of \$200 an hour.

Summary/background: The City has 5 labor groups who's Memorandum of Understandings are set to expire as of June 30, 2007. The five groups are:

- Fire
- Police
- Police Management
- Miscellaneous Employees
- Supervisors and Managers

To facilitate the negotiations process, staff identified five potential negotiators. All these professionals could do the job and their fees are identified in Table I, Potential Negotiator Fees:

Table I
Potential Negotiator Fees

Negotiator	Location	Fee/Hr
Altschule	Visalia	\$200
Avery	Los Gatos	\$205
Caves	Porterville	\$150
Harbottle	Visalia	\$200
Liebert Cassidy	Los Angeles	\$160 to \$260

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Although the hourly rate is important, the most important result should be outcome of the negotiations. The fees paid to negotiators will be minimal compared to the wages and benefits paid in the future. Staff also feels that it is important that the same negotiator be used for all the negotiations. Having consistency with the main negotiator will probably improve the results of negotiation process.

After considering the various options, staff approached Jim Harbottle to negotiate a potential agreement. Mr. Harbottle worked on Mobile Home Lease negotiations and most recently was the City's chief negotiator with Group M. Since Council appeared satisfied with his work and the fees for the negotiators appear comparable, staff worked with Mr. Harbottle on a potential agreement for Council's consideration.

Because of the number of groups being worked with, Mr. Harbottle suggested that a retainer be paid in-lieu of an hourly billing. He has committed to at least four days a month for negotiations. Mr. Harbottle also has committed to being available during evenings and weekends during the negotiation process. As a result, if Mr. Harbottle devotes 32 hours a month to these negotiations, his average hourly rate drops to \$156.25 an hour. This rate compares favorable to the other alternatives available to the City.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives: Council could consider any of the other potential negotiators.

Attachments: #1 Proposed James H. Harbottle Contract

Recommended Motion (and Alternative Motions if expected): Move that the Council authorize the City Manager to enter into a professional services agreement with James H. Harbottle for \$5,000 a month through August of 2007. In August, the contract may be renegotiated or the City may pay Mr. Harbottle's hourly rate of \$200.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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:

**City of Visalia
Agenda Item Transmittal**

Meeting Date January 16, 2007

Agenda Item Number (Assigned by City Clerk): 6 e

Agenda Item Wording: Continue appointment of City of Visalia's representative to the Measure R Citizen Oversight Committee to Monday, February 5, 2007.

Deadline for Action: N/A

Submitting Department: Administration

Contact Name and Phone Number:

Leslie Caviglia, 713-4317

Department Recommendation:

Staff recommends the Council continue the appointment of the City's representative to the Measure R Citizen Oversight Committee to Monday, February 5, 2007.

Summary/background:

The Tulare County Transportation Authority has extended the deadline for submitting the nominations to Wednesday, Feb. 12. The Authority will be considering the matter at ill not be considering the appointment until Feb. 12. The additional time will allow the Council sub-committee to consider the possible composition of the entire Citizen's Oversight Committee when recommending a nominee to represent Visalia.

At the Council's Dec. 4 meeting, the Council appointed Vice Mayor Greg Kirkpatrick and Council Member Bob Link to serve as a sub committee to review applications submitted by citizen's interested in serving as the City's representative on the Measure R Citizen's Oversight Committee.

The Visalia members of the Measure R campaign committee, as well the City's committee and commission members, were contacted about applying to serve on the committee, and/or, helping to recruit other people to serve on the Committee. There were also notices in the media about how to apply.

The Measure R Expenditure Plan calls for a 16 member oversight Committee. The purpose of this Committee is to provide input on implementation of the plan, to advise the TCAG Board if and when the plan needs to be augmented, to ensure that the funds are being spent in accordance with the plan., to inform the public, and to ensure that the Transportation Measure funding program revenues and expenditures are spent as promised in the Measure passed by the voters.

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.): _____

Review:

Dept. Head LBC

Finance N/A

City Atty N/A

City Mgr

The Committee may receive, review and recommend any action or revision to the plans, programs, audits or projects that is within the scope of stated scope including:

- *Receive, review, inspect, and recommend action on independent financial and performance audits related to the Measure
- *Receive, review, and recommend action on other periodic reports, studies and plans from responsible agencies. Such reports, studies and plans must be directly related to Measure programs, revenues, or expenditures.
- *Review and comment upon Measure expenditures to ensure they are consistent with the Expenditure Plan.
- *Annually review how sales tax receipts are being spent and publicize the results
- *Present Committee recommendations, findings, and requests to the public and TCAG in a formal annual report to inform Tulare County residents how funds are being spent.
- *The Committee will have full access to the TCAG independent auditor and will have the authority to request and review specific information, with the understanding that the Committee will rely upon data, processes and studies available from TCAG, and other relevant data generated by reputable sources. It is understood that TCAG will be continuously striving to improve the reliability of data and to update analytical and modeling processes, and that the Committee will be kept abreast of such efforts, and is invited to participate in development of such updates in a review capacity.

The Expenditure Plan defines the Committee membership as follows:

- *One member appointed by each City and the County
- *One representative from a major private sector Tulare County employer, nominated by the Tulare County Economic Development Corporation
- *One representative from the building industry, nominated by the Tulare County Building Industry Association.
- *One representative from the agriculture industry, nominated by the Tulare County Farm Bureau.
- *One representative from the Hispanic community, nominated by the Tulare Kings Hispanic Chamber of Commerce.
- *One representative from an advocacy group representing bicyclists and pedestrians, and/or transit.
- *One member who is a professional in the field of audit, finance and/or budgeting with a minimum of five years in a relevant and senior decision-making position in the public or private sector.
- *One representative from an environmental advocacy group
(The representatives for the last three positions will be selected from applications solicited from Tulare County representatives will be selected by the other 13 seated Board members, subject to final approval by TCAG.

Prior Council/Board Actions:

Dec. 4 – The Council appointed a sub-committee of the Council to make a recommendation to the Council.

Jan. 8 – The Council continued the item until Jan. 16

Committee/Commission Review and Actions: N/A

Alternatives:

Attachments:

Recommended Motion (and Alternative Motions if expected):

I move to approve the staff recommendation to continue the appointment of the City's nominee to the Measure R Oversight Committee to Monday, February 5, 2007.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 6f

Agenda Item Wording: Introduction of Ordinance 2007-01 Authorizing Sale of APN:094-285-15 located at the southwest corner of Oak and Bridge, consisting of approximately 17,308 square feet to Paloma Development at a purchase price of \$255,293.

Deadline for Action: None

Submitting Department: Administration; Community Development

Contact Name and Phone Number:

Steve Salomon, City Manager: 713-4312
Michael Olmos, Assistant City Manager: 713-4332
Colleen Carlson, Consultant: 627-4400

Department Recommendation:

1. Approve the first reading of an ordinance to sell parcel at southwest corner of Oak Avenue and Bridge Street adjacent to and east of 222 Garden (APN:094-285-15 consisting of approximately 17,308 square feet) to Paloma Development at a purchase price of \$255,293 (\$14.75 per sq. ft.) per Hopper appraisal dated August 7, 2006.

Summary/background:

In the ongoing effort to strengthen the downtown employment base and revitalize East Downtown, the City Council authorized staff to negotiate with Paloma Development Company for the sale of a City owned parcel at the southwest corner of Bridge and Oak Streets. The sale of the property will require Paloma to obtain building permits to construct a professional office building at this location within 18 months of execution of a purchase and sale agreement.

The property proposed for sale is the east half (approximately 17,308 sq. ft.) of the approximately 32,670 s.f. lot bounded by Oak to the north, Garden to the west, Center to the south, and Bridge to the east. The first half was sold in 2003 to Paloma Development for \$8.00 per sq. ft. Paloma then developed the attractive Santa Fe style professional office building on that lot in a manner that allowed for abutment of a second phase building to the east which was anticipated in the sale of the initial parcel.

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

Review:

Dept. Head MO 1/10/07
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

Paloma designed its original building (Phase I) to the west in a manner that would allow a Phase II building to abut. A condition of the original purchase and sale agreement was a right of first refusal on the lot at issue here. Although the right of first refusal expired by its stated terms, Paloma believes it is in a reasonable position for the City to allow Paloma to build out Phase II to complete its project and expand on its original investment and commitment to the development of the neighborhood.

If Council authorizes this transaction, development of the site will remove an existing public parking lot containing 38 spaces. While parking availability has been a concern in this area of downtown, the City has taken significant steps to provide additional parking in the vicinity. New public parking lots have recently been completed at the northeast corner of Oak Avenue and Santa Fe Street (55 spaces) and southwest corner of Oak and Tipton (23 spaces next to Chamber of Commerce building). In addition, the City recently acquired the 61,888 sq. ft. parcel Gas Co. at 300 N. Tipton (northeast corner of Oak and Tipton). A design and improvement plan is being prepared to convert the Gas Co. site to public parking.

Paloma plans to develop approximately 25,000 sq. ft. of additional offices compatible with their current professional mix for either lease or sale as condominium suites in a two story complex. The expansion will utilize similar architectural style of the existing building so that the entire block will be architecturally consistent. The proposed purchase and sale agreement requires that the sale be completed within 18 months of the execution, including issuance of a building permit for the construction of the new building. The buyer can satisfy the terms of the agreement and complete the sale at any time within the 18 month period. However, the purchase and sale agreement stipulates that at the end of the first 6 months, a one-time escalation clause goes into effect and the purchase price increases by 5% from \$14.75 per sq. ft. to approximately \$15.49 per sq. ft.

Prior Council/Board Actions:

June 5, 2006 -- Council authorized staff to 1) Obtain an appraisal of the property; 2) Negotiate the terms of a Purchase and Sale Agreement and 3) Return to Council for final review and, if acceptable, approval of a Purchase and Sale Agreement

December 18, 2006 – Council reviewed the appraisal, approved a purchase and sale agreement, and directed staff to return with an ordinance re sale of said property.

Committee/Commission Review and Actions: None.

Alternatives: None recommended

Attachments: Proposed Ordinance re Sale
Location Map

Recommended Motion (and Alternative Motions if expected): I move to approve the first reading of the ordinance #2007-01 to sell the Property identified in the proposed ordinance.

Environmental Assessment Status

CEQA Review: The property sale has been evaluated under CEQA and determined categorically exempt from CEQA per CEQA Guidelines Section 15332. The proposed development would likely be determined categorically exempt as Class 32 infill, but such additional environmental analysis may be required when specific uses for this property are

determined.

NEPA Review: None

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)*

If the first and second reading of the ordinance is approved, escrow will be opened and tracked in accord with the purchase and sale agreement.

Copies of this report have been provided to:

ORDINANCE NO. 2007-01

AUTHORIZING SALE OF CERTAIN PROPERTY TO PALOMA DEVELOPMENT CO., INC. OR
ITS VESTEE

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA

Section 1: The City of Visalia owns all the legal and beneficial interest in certain real property described as the parcel adjacent to and east of 222 Garden Street at the southwest corner of Oak Avenue and Bridge Street, identified by Assessors Parcel Number 094-285-015, and more particularly described as:

That portion of Lots 1, 2 and 3 of Block 23 of the 'Original Townsite of the City of Visalia' recorded in Book 3 at Page 48 of Maps, T.C.R. situated in the SW1/4 of Section 29, Township 18 South, Range 25 East, Mount Diablo Base and Meridian, in the City of Visalia, County of Tulare, State of California, more particularly described as follows:

Commencing at the northeast corner of said Lot 1; thence S 00°00'26" W 5.02 feet along the east line of said lot to the TRUE POINT OF BEGINNING; thence S 00°00'26" W 116.68 feet along said east line to a point 1.75 feet north of the north line of the alley as shown on said map, as measured at right angles to the north line of said alley; thence N 89°48'17" W 142.36 feet parallel with said north line to a point 121.00 feet east of the west line of Lot 4 of said map; thence N 00°00'22" E 121.67 feet parallel with said west line to the north line of said Lot 3; thence S 89°48'04" E 137.38 feet along the north line of said Lots 3, 2 and 1; thence S 44°53'49" E 7.06 feet to the POINT OF BEGINNING.

CONTAINING APPROXIMATELY 17,308 S.F.

Section 2: Said real property is located at the southwest corner of Oak Avenue and Bridge Streets, and

Section 3: The City of Visalia has determined that it is in the City's interest to sell said real property and Paloma Development Co., Inc. or its vestee wishes to purchase said real property and the rights and entitlement, all on the terms and conditions set forth in a Purchase and Sale Agreement and Escrow Instructions.

Section 4: The Charter of the City of Visalia empowers the City to acquire and dispose of real property for the common benefit, and consistent with such authority, the Council hereby finds that the sale of the property herein described is for the common benefit and authorizes the transfer of ownership in and to said real property to Paloma Development Co., Inc. or its vestee per the terms and conditions of the above-mentioned agreement.

Section 5: This ordinance was passed after a first and second reading and shall become effective thirty days after passage hereof.

PASSED AND ADOPTED:

ATTEST:

STEVEN M. SALOMON, CITY CLERK

JESUS GAMBOA, MAYOR

APPROVED BY CITY ATTORNEY:

ALEX PELTZER

City of Visalia Agenda Item Transmittal

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 6g

Agenda Item Wording: Authorization for the Transit Division to accept the new regional bus pass as full fare on any of our fixed route buses, amend the annual fund transfer agreement with Tulare County to include the distribution of the revenue generated by the sale of the passes, and authorize the City Manager to sign a letter acknowledging our participation.

Deadline for Action: January 8, 2006.

Submitting Department: Administration – Transit Division

Contact Name and Phone Number:
Monty Cox 713-4591

Department Recommendation: Authorize the Transit Division to accept the new regional bus pass as full fare on any of our fixed route buses, amend the annual fund transfer agreement with Tulare County to include the distribution of the revenue generated by the sale of the passes, and authorize the City Manager to sign a letter acknowledging our participation.

Summary/background:

The state auditors that oversee the Transportation Development Act (TDA) funds have identified the creation of a countywide bus pass as a requirement of the TDA. In addition, during last years unmet transit needs process this was identified as an unmet need that is reasonable to meet and must be implemented within this year. TCAG has indicated that failure to implement it will result in no TDA funds being distributed for Streets and Roads (\$75,000 for Visalia this year).

The County has proposed a relatively simple program that they will administer at no charge. A description of the proposed pass program is as follows:

Tulare County Area Transit (TCAT) has offered to use their existing bus pass, which is now only good on TCAT, for use as an area-wide transit pass. The County will administer the program, print the passes, and supply all of the transit agencies with a supply of passes for sale at a designated site. They will not charge any administrative fee for their coordination efforts. The price of the pass will be \$45 per month, and would be honored by all transit agencies (no additional fare will be charged for the boarding passenger). Each transit system will be responsible for tracking the number of County passes sold each month, the number of boarding passengers using the regional pass, and a monthly report will be compiled and forwarded to the

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

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

County. The County will then supply each agency with a quarterly report analyzing the sale of passes and number of passengers during that particular quarter. The revenue from the sale of the Countywide Pass will be distributed based on the percentage of total rides provided on each transit system. The funds will be dispersed annually in a similar manner as the Transportation Development Act (TDA) funds on an annual basis. Provision for this County wide pass will be added to the annual fund transfer agreement with Tulare County. Staff will return to Council with a detailed description of the program authorization to enter into a reimbursement agreement prior to implementation of the pass; however, this letter is needed now to acknowledge our participation.

This will be offered on a 1-3 year trial basis and can be canceled, at our discretion, at any time if the need arises. Since this pass will benefit primarily transit riders that travel from City to City and will not replace any existing transfer arrangements between cities such as Visalia & Tulare, (we both offer one free transfer), the financial impact on Visalia is expected to be minimal (1% of our ridership currently transfers from the County buses). While there will be virtually no financial effect on Visalia for this new pass program, the benefits to bus riders will potentially be significant, and we will make the county transit agencies compliant with the transfer requirements.

Prior Council/Board Actions: None

Committee/Commission Review and Actions: None

Alternatives: The City could elect not to participate in the regional pass.

Attachments: None

City Manager Recommendation:

Recommended Motion (and Alternative Motions if expected): I move that the City Council authorize the Transit Division to accept the new regional bus pass as full fare on any of our fixed route buses, amend the annual fund transfer agreement with Tulare County to include the distribution of the revenue generated by the sale of the passes, and authorize the City Manager to sign a letter acknowledging our participation.

<i>Financial Impact</i>	
Funding Source:	
Account Number:	
Budget Recap:	
Total Estimated cost: \$0	New Revenue: \$ 0
Amount Budgeted: \$ 0	Lost Revenue:\$
New funding required:\$	New Personnel: \$
Council Policy Change: Yes_____ No <u>X</u>	

Environmental Assessment Status

CEQA Review:

Required? No
Review and Action: Prior:
Require:

NEPA Review:

Required? No
Review and Action: Prior:
Require:

Tracking Information: *Record a Notice of Completion with the County Recorder*

Copies of this report have been provided to:

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 6h

Agenda Item Wording: Authorize the Recordation of the Final Map for Shannon Ranch 2 Units No. 3 & 5, located at the northwest corner of Mooney Boulevard and Riffin Avenue (175 lots).

APN: 0781-140-020 & 023

Deadline for Action: February 5, 2007

Submitting Department: Public Works, Engineering

Contact Name and Phone Number:

Andrew Benelli 713-4340
Greg Dais 713-4164

Department Recommendation and Summary:

Final Map

Staff recommends that City Council authorize the recordation of the final map for Shannon Ranch 2 Units No. 3 & 5 containing 175 single family lots. All bonds, cash payments, agreements and final map are in the possession of the City as follows: 1) An executed subdivision agreement; 2) An executed reimbursement agreement; 3) Faithful Performance Bond in the amount of \$2,885,398.43 and Labor and Material Bond in the amount of \$1,442,699.22; 4) cash payment of \$710,113.08 distributed to various accounts; and 5) Final Map. This project is being constructed by Centex Homes.

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

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.): _____

Review:

Dept. Head _____
(Initials & date required)

Finance _____ n/a
City Atty _____ n/a
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

According to Resolution No. 2004-117 adopted by City Council on October 18, 2004 the City will reimburse the Developer for street improvements made to Arterial or Collector streets. This development is constructing street improvements along Mooney Boulevard (Collector) and Riggan Avenue (Arterial). The City will be reimbursing approximately \$1,013,878 to the developer (Centex Homes) by giving a combination of fee credits for Transportation Impact Fees and cash payment.

The City will be also reimbursing to the developer (Centex Homes) approximately \$106,395 for installing storm water master plan line.

Landscape & Lighting

Shannon Ranch 2 Units No. 3 & 5 Subdivision was annexed into the Landscape and Lighting District No. 06-02 by City Council on February 21, 2006.

Prior Council/Board Actions: On February 21, 2006 the City Council approved Landscape and Lighting District 06-02.

Committee/Commission Review and Actions: The tentative subdivision map for Shannon Ranch 2 Units No. 3 & 5 was approved by the Planning Commission on September 13, 2004. The tentative map will expire on September 13, 2006.

On March 27, 2006 the Planning Commission approved a one year extension, expiring on September 13, 2007.

Alternatives: N/A

Attachments: Location map, Owners Disclosure Form and Subdivision Map

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

“I move to authorize the recordation of the Final Map for Shannon Ranch 2 Units No. 3 & 5.”

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)*

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Authorize the Recordation of the Final Maps for Riverbend Village Unit 6 & 7, located just north of Modoc Ditch, west of the future Santa Fe Street (17 lots and 18 lots respectively) and the formation of Landscape and Lighting District No. 07-03, Riverbend Village Unit 6-11 (Resolution Nos. 07-_____ required).

APN: 091-010-039

Deadline for Action: January 16, 2007

Submitting Department: Public Works

Contact Name and Phone Number:

Andrew Benelli 713-4340
Steven Son 713-4259

Department Recommendation and Summary:

Final Map

Staff recommends that City Council approve the recordation of the final map for Riverbend Village Unit 6 & 7 containing 35 lots. All bonds, cash payments, subdivision agreement and final map are in the possession of the City as follows: 1) Executed subdivision agreements; 2) Faithful Performance Bonds in the amount of \$330,192.90 and Labor and Material Bonds in the amount of \$168,196.45; 3) cash payment of \$126,209.79 distributed to various accounts; and 4) Final Maps. Riverbend Village Unit 6-11 is being developed by Hughes Homes.

The Faithful Performance Bond covers the cost of constructing the public improvements noted in the subdivision agreement and the Labor and Material Bond covers the salaries and benefits as well as the materials supplied to install the required public improvements. As required by the Subdivision Ordinance, the Faithful Performance Bond covers 100% of the cost of the public improvements. The Labor and Material Bond is valued at 50% of the Faithful Performance Bond. A Maintenance Bond valued at 10% of the cost of the public improvements will be required prior to recording the Notice of Completion. The Maintenance Bond is held for one year after the recording and acts as a warranty for the public improvements installed per the subdivision agreement. The cash payment covers Development Impact Fees such as storm water acquisition, waterways, sewer front foot fees and any outstanding plan check and

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.

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

inspection fees. The plan check and inspection fees are estimated at the beginning of the final map process and are not confirmed until the subdivision agreement is finalized. Differences are due in cash at the time of City Council approval of the final map.

Landscape & Lighting

Staff recommends that the City Council: adopt Resolution No. 07-_____ Initiating Proceedings for the formation of the Assessment District No. 07-03, Riverbend Village; adopt the Engineer's Report as submitted; and adopt Resolution No. 07-_____ confirming the Engineer's Report, ordering the improvements and levying the annual assessments. The assessment for this Subdivision has been computed to be \$445.96 per lot

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

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

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

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

Committee/Commission Review and Actions: The tentative subdivision map for Riverbend Village Unit 6-11 subdivision was approved by the Planning Commission on June 13, 2005. The tentative map will expire on June 13, 2007.

Alternatives: N/A

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

City Manager Recommendation:

Recommended Motions (and Alternative Motions if expected):

"I move to authorize the recordation of the Final Maps for Riverbend Village Units 6 & 7 and I move to adopt Resolution No. 07-_____ Initiating Proceedings for Formation of Assessment District No. 07-03 "Riverbend Village Units 6-11" and adopt Resolution No. 07-_____ Ordering the Improvements for Assessment District No. 07-03 "Riverbend Village Units 6-11."

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):

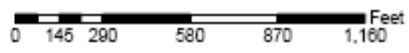
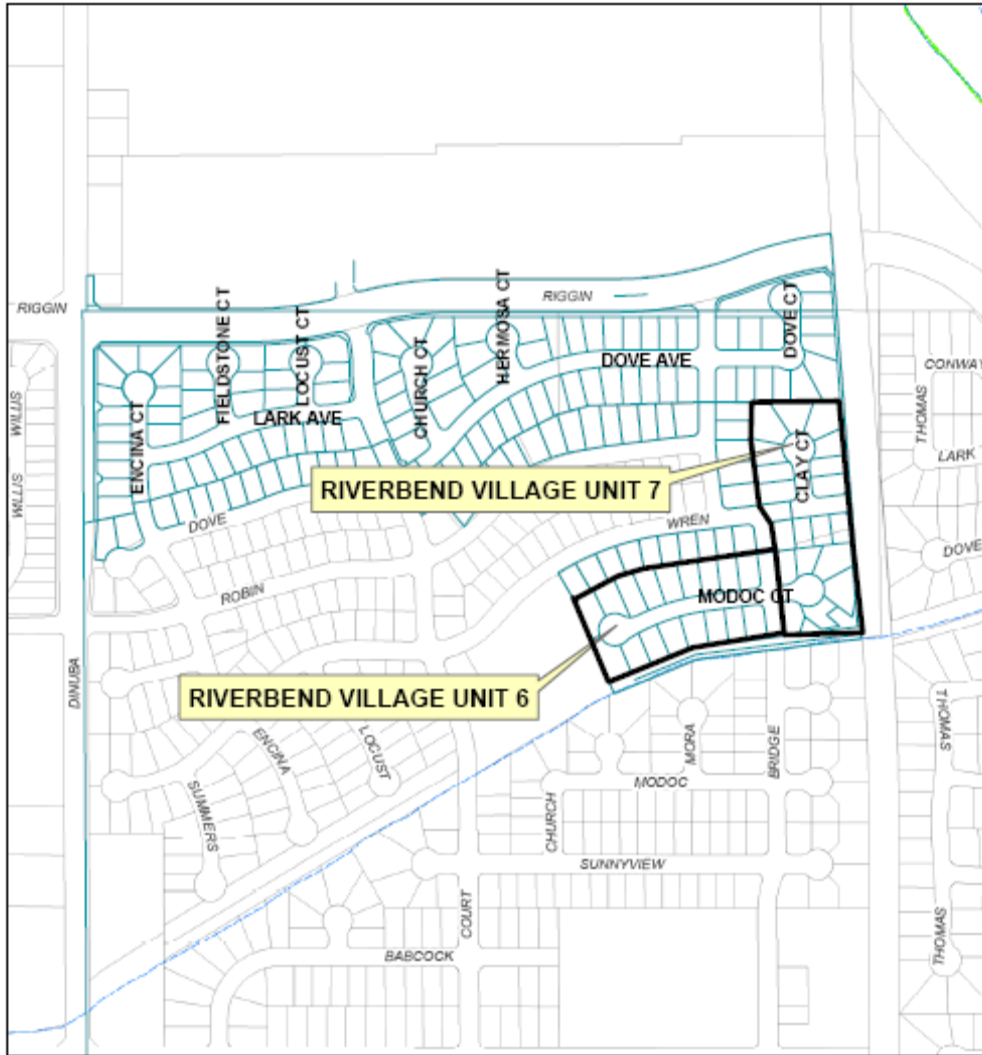
Risk Management Review (Signature):

City Attorney Review (Signature):

Administrative Services Finance Review (Signature):

Others:

VICINITY MAP



RESOLUTION NO. 07-_____

RESOLUTION INITIATING PROCEEDINGS
FOR ASSESSMENT DISTRICT 07-03
RIVERBEND VILLAGE UNITS 6-11
(Pursuant to Landscape and Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council proposes to form an assessment district pursuant to the Landscaping & Lighting act of 1972 (Section 22500 and following, Streets & Highways Code) for the purpose of the following improvements:

Maintenance of turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements.
2. The proposed district shall be designated Assessment District No. 07-03, City of Visalia, Tulare County, California” and shall include the land shown on the map designated “Assessment Diagram, Assessment District No. 07-03, City of Visalia, Tulare County, California”, which is on file with the City Clerk and is hereby approved and known as “Riverbend Village Units 6-11”.
3. The City Engineer of the City of Visalia is hereby designated engineer for the purpose of these formation proceedings. The City Council hereby directs the Engineer to prepare and file with the City Clerk a report in accordance with Article 4 of Chapter 1 of the Landscape & Lighting Act of 1972.

PASSED AND ADOPTED:

CLERK'S CERTIFICATION TO COUNTY AUDITOR

ASSESSMENT DISTRICT NO. 07-03
RIVERBEND VILLAGE UNITS 6-11
(Pursuant to Landscaping & Lighting Act of 1972)

TO THE COUNTY AUDITOR OF THE COUNTY OF TULARE:

I hereby certify that the attached document is a true copy of that certain Engineer's Report, including assessments and assessment diagram, for "Assessment District No. 07-03, City of Visalia, Tulare County, California" confirmed by the City Council of the City of Visalia on the 8th day of January, 2007 by its Resolution No. 07-_____

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

RESOLUTION NO. 07-_____

RESOLUTION ORDERING IMPROVEMENTS FOR
ASSESSMENT DISTRICT NO. 07-03
RIVERBEND VILLAGE UNITS 6-11
(Pursuant to the Landscape & Lighting Act of 1972)

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The City Council adopted its Resolution Initiating Proceedings for Assessment District No. 07-03, City of Visalia, Tulare County, California, and directed the preparation and filing of the Engineer's Report on the proposed formation.
2. The Engineer for the proceedings has filed an Engineer's Report with the City Clerk.
3. Owners of all land within the boundaries of the proposed landscape and lighting district have filed their consent to the formation of the proposed district, and to the adoption of the Engineer's Report and the levy of the assessments stated therein.
4. The City Council hereby orders the improvements and the annexation to the assessment district described in the Resolution Initiating Proceedings and in the Engineer's Report.
5. The City Council hereby confirms the diagram and the assessment contained in the Engineer's Report and levies the assessment for the fiscal year 2007-08.
6. The City Council hereby forwards the following attachments to Tulare County Recorder's Office for recordation:
 - a. Clerk's Certification to County Auditor
 - b. Resolution Initiating Proceedings
 - c. Resolution Ordering Improvements
 - d. Engineer's Report:
 - Exhibit A - Assessment Diagram showing all parcels of real property within the Assessment District
 - Exhibit B - Landscape Location Diagram
 - Exhibit C - Tax Roll Assessment
 - Exhibit D - Engineer's Report

PASSED AND ADOPTED

Exhibit "A"

Assessment Diagram Assessment District No. 07-03 City of Visalia, Tulare County, California

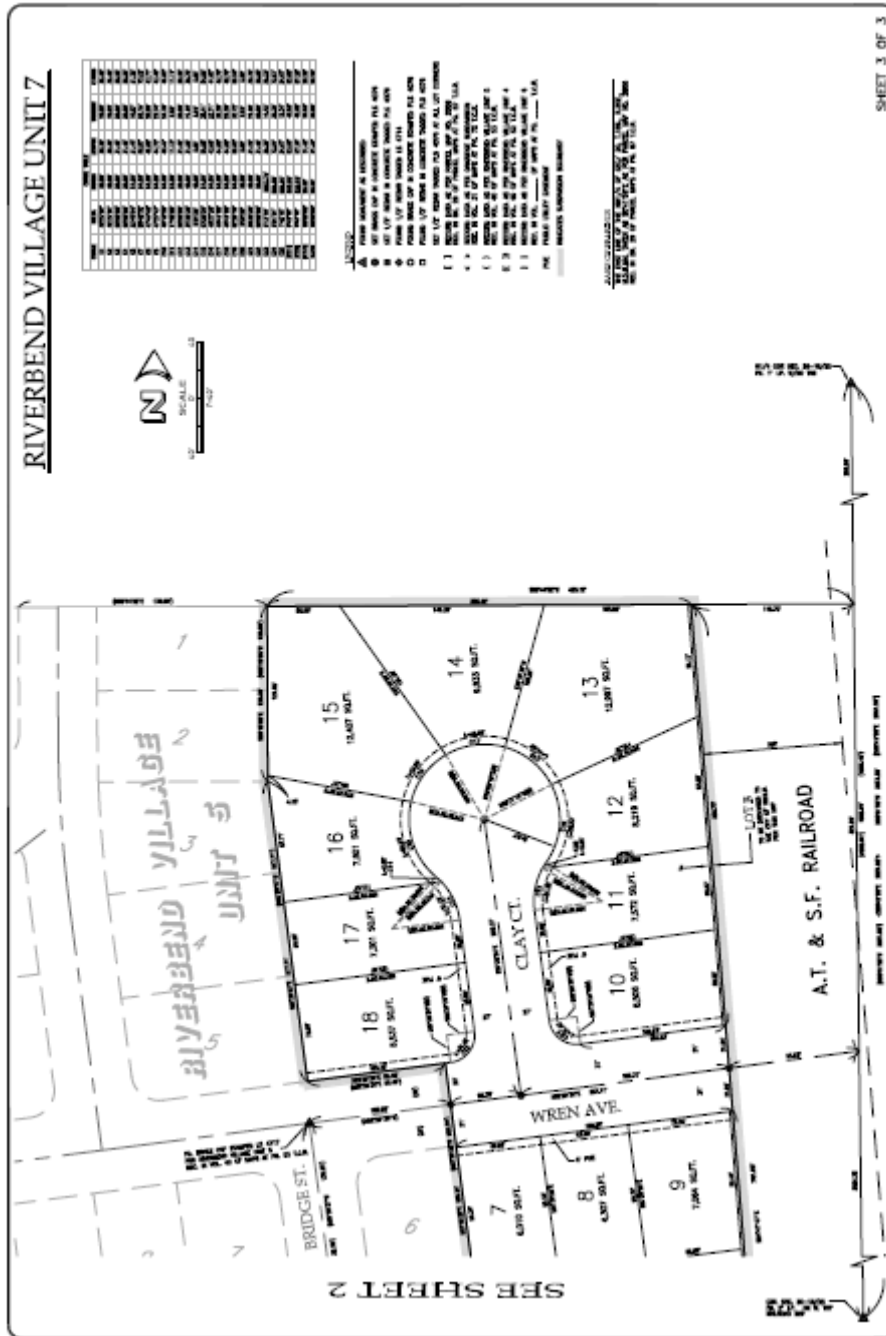


Exhibit "B"

Assessment Diagram
Assessment District No. 07-03
City of Visalia, Tulare County, California

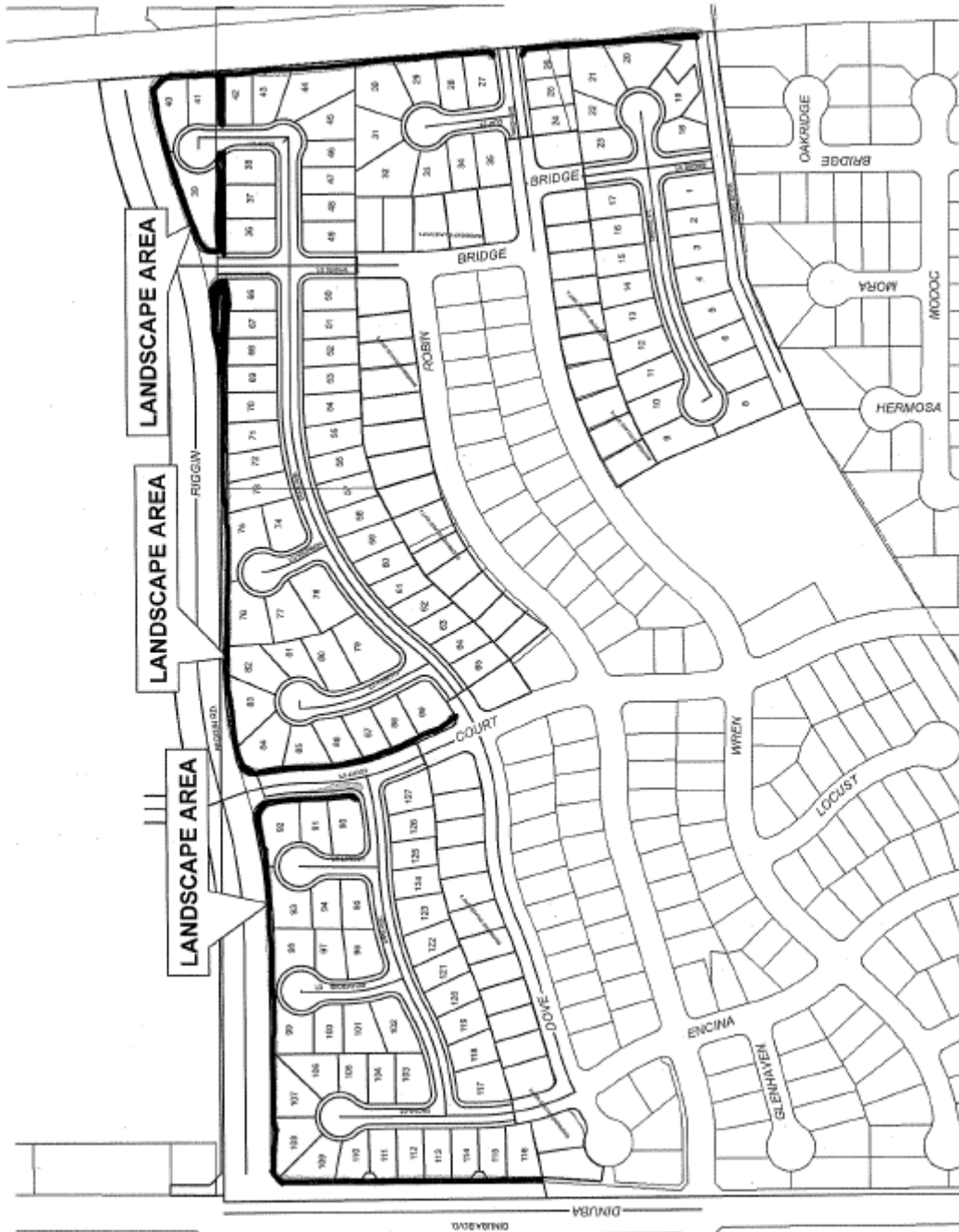


Exhibit "C"

Engineer's Report
Landscape & Lighting Assessment District 07-03
Riverbend Village Units 6-11
Fiscal Year 2007-08

<u>APN #</u>	<u>Assessment</u>	<u>Owner</u>	<u>Lot #</u>	<u>District</u>
To Be Assigned	\$445.96	To Be Assigned	07-0301	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0302	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0303	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0304	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0305	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0306	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0307	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0308	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0309	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0310	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0311	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0312	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0313	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0314	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0315	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0316	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0317	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0318	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0319	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0320	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0321	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0322	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0323	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0324	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0325	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0326	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0327	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0328	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0329	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0330	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0331	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0332	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0333	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0334	Riverbend Village Unit 6-11
To Be Assigned	\$445.96	To Be Assigned	07-0335	Riverbend Village Unit 6-11

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 07-03
Riverbend Village Units 6-11
Fiscal Year 2007-08

General Description

This Assessment District (District) is located along Riggins Road. Exhibit "A" is a map of Assessment District 07-03. This District includes the maintenance of turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements. The maintenance of irrigation systems and block includes, but is not limited to, maintaining the structural and operational integrity of these features and repairing any acts of vandalism (graffiti, theft or damage) that may occur. The maintenance of pavement on local streets includes preventative maintenance by means including, but not limited to overlays, chip seals/crack seals and reclaimer (oiling). The total number lots within the district are 127. At this time overall landscape master plan was not prepared by the developer so staff had to estimate landscape and tree quantities based on approved tentative map for Riverbend Village Units 6-11.

Determination of Benefit

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

Method of Apportionment

In order to provide an equitable assessment to all owners within the District, the following method of apportionment has been used. All lots in the District benefit equally, including lots not adjacent to landscape areas, block walls, street lights and pocket parks. The lots not adjacent to landscape areas, block walls and street lights benefit by the uniform maintenance and overall appearance of the District. All lots in the District have frontage on an internal local street and therefore derive a direct benefit from the maintenance of the local streets.

Estimated Costs

The estimated costs to maintain the District includes the costs to maintain turf areas, shrub areas, irrigation systems, trees, block walls, pavement on local streets and any other applicable equipment or improvements. The regular preventive maintenance of pavement on local streets is based on the following schedule: Chip Seal on a 15 year cycle; Overlays on a 10 year cycle; Crack Seal on an 8 year cycle and Reclaimer on a 6 year cycle.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 07-03
Riverbend Village Units 6-11
Fiscal Year 2007-08

The quantities and estimated costs are as follows:

<u>Description</u>	<u>Unit</u>	<u>Amount</u>	<u>Cost per unit</u>	<u>Total Cost</u>
Turf Area	Sq. Ft.	49698	\$0.199	\$9,889.90
Shrub Area	Sq. Ft.	33132	\$0.199	\$6,593.27
Water	Sq. Ft.	82830	\$0.050	\$4,141.50
Electricity	Sq. Ft.	82830	\$0.008	\$662.64
Trees	Each	418	\$25.00	\$10,450.00
Street Lights	Each	25	\$105.00	\$2,625.00
Chip Seal (15 year cycle)	Sq. Ft.	174889	\$0.19	\$2,215.26
Crack Seal (8 year cycle)	Sq. Ft.	174889	\$0.03	\$641.25
Reclamite (6 year cycle)	Sq. Ft.	174889	\$0.02	\$615.35
Overlays (10 year cycle)	Sq. Ft.	174889	\$0.65	\$11,367.79
Project Management Costs	Each	127	\$18.00	\$2,286.00
TOTAL				\$51,487.95
10% Reserve Fund				\$5,148.80
GRAND TOTAL				\$56,636.75
Per Lot				\$445.96

Annual Cost Increase

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

$$A_{max} \text{ for any given year "n"} = (\$56,636.75) (1.05)^{(n-1)}$$

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

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

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 07-03
Riverbend Village Units 6-11
Fiscal Year 2007-08

The reserve fund shall be maintained at a level of 10% of the estimated annual cost of maintaining the improvements in the district. If the reserve fund falls below 10%, then an amount will be calculated to restore the reserve fund to a level of 10%. This amount will be recognized as a deficit and applied to next year's annual assessment.

Example 1. The estimated year four cost of maintaining the improvements in the district is \$61,734.06 [a 9% increase over the base year estimated cost of \$56,636.75]. The maximum annual assessment for year four is \$65,564.12 [$A_{\max} = (\$56,636.75)$ ⁽⁴⁻¹⁾ (1.05)]. The assessment will be set at \$61,734.06 because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 2. The estimated year four cost of maintaining the improvements in the district is \$63,999.53 [a 7% increase over the previous year assessment and a 13.0% increase over the base year estimated cost of \$56,636.75]. The reserve fund is determined to be at a level of 8% of the estimated year four cost of maintaining the improvements in the district. An amount of \$1,279.99 will restore the reserve fund to a level of 10%. This amount is recognized as a deficit. The maximum annual assessment for year four is \$65,564.12 [$A_{\max} = (\$56,636.75)$ (1.05)⁽⁴⁻¹⁾]. The year four assessment will be set at \$63,999.53 plus the deficit amount of \$1,279.99 which equals \$65,279.52 [a 9% increase over the previous year assessment] because it is less than the maximum annual assessment and less than the 10% maximum annual increase.

Example 3. The estimated year four cost of maintaining the improvements in the district is \$61,734.06 [a 9% increase over the base year assessment of \$56,636.75] and damage occurred to the masonry wall raising the year five expenses to \$69,096.84 [a 22% increase over the previous year assessment]. The year five assessment will be capped at \$67,907.46 (a 10% increase over the previous year) and below the maximum annual assessment of \$68,842.32 [$A_{\max} = (\$56,636.75)$ ⁽⁵⁻¹⁾ (1.05)]. The difference of \$1,189.38 is recognized as a deficit and will be carried over into future years' assessments until the masonry wall repair expenses are fully paid.

Exhibit "D"

Engineer's Report
Landscape & Lighting Assessment District 07-03
Riverbend Village Units 6-11
Fiscal Year 2007-08

City Engineer Certification

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

Andrew Benelli
Public Works Director

RCE 50022

Date

City of Visalia

Memo



To: City Council
From: Brandon Smith, Associate Planner
Date: January 16, 2007
Re: Continued Item from December 18, 2006: General Plan Amendment No. 2006-05 and Change of Zone No. 2006-04

Recommended Motion

I move to approve the General Plan Amendment and Change of Zone as recommended in the staff report dated December 18, 2006.

Discussion

On December 18, 2006, the agenda item for General Plan Amendment No. 2006-05 and Change of Zone No. 2006-04 was continued by the direction of the City Council. This was to allow time for the applicant to work further with Councilmembers and staff to address concerns regarding the overall project, including the approved subdivision and Conditional Use Permit. The City Council continued the item to the meeting of January 16, 2007.

The GPA and COZ are requests by Visalia Land Company, Inc. and the City of Visalia to change the General Plan Land Use and Zoning Designations on 17.5 acres from Low Density Residential (R-1-6) to Medium Density Residential (R-M-2). The Planning Commission, on November 28, 2006, approved the Visalia Palms Tentative Subdivision Map and Conditional Use Permit No. 2006-42, a 36-unit residential subdivision for senior citizens with private streets and common areas maintained by a Homeowners Association. The project site is on the north side of Myrtle Ave. between Linwood and Chinowth Streets, and the east and west sides of Chinowth St. from 500 feet south of Noble Avenue to approximately 1,160 feet south of Noble Avenue.

Follow-Up with Applicant

On December 22, 2006, staff met with Councilmember Collins to discuss his concerns regarding the project. Councilmember Collins expressed overall support for the increased density on this infill project, but identified aspects of the project related to design, functionality, and area connectivity that were of concern. These topics included the gated aspect of the senior citizen project and its impact to connectivity, public safety, air quality, and the reduced street widths that diminish on-street guest parking and sidewalks. Following this meeting, staff consulted with the applicant regarding these concerns for his further consideration. The applicant expressed a desire to address these concerns where practical while retaining a project that was in substantial conformance with the plans approved by the Planning Commission.

On December 29, 2006, Mr. DeLucia met with Councilmember Collins to discuss the development details of the project. As a result, Mr. DeLucia voluntarily elected to make revisions to the approved project as addressed in a letter dated January 3, 2007 (attached to this memo as Exhibit "A").

The letter is a voluntary offer to amend the approved entitlements (subdivision and CUP) to achieve increased compatibility internal to the project and between the project and neighboring properties. Specifically the applicant proposes to:

- Delete references to a “gated community”. The project will be modified to delete the gates and allow unrestricted access. If the applicant desires to make the project a gated community in the future, it will require approval of a future CUP Amendment;
- Replace the approved masonry walls on the east and west sides of the subdivision with wooden walls,
- Add an on-site sidewalk that connects the east and west adjacent properties,
- The project’s Covenants, Conditions & Restrictions (CC&Rs) and Homeowners Association (HOA) will allow consideration by the HOA for future expansion of the HOA to include properties to the east and west if future developments on these sites are substantially compatible and consistent with the Visalia Palms development. Additionally, the applicant will offer an access agreement on the stub-out points to adjacent properties so that future developments on these sites can extend their on-site circulation systems to match that of the Visalia Palms development,
- Add guest parking where practical to do so,
- Preserve an on-site cork oak specimen tree, and
- Provide flexibility in the house designs and architectural finishes.

Staff has determined that the changes proposed in the letter are in “substantial conformance” with the Planning Commission’s original approval. As such, they can be incorporated into the final project design without the need for further action by either the Planning Commission or City Council.

Attachments

- Exhibit “A” - Letter from applicant Joseph DeLucia dated January 3, 2007
- City Council staff report dated December 18, 2006
- Revised Resolutions and Ordinance (incorporating dates of continuance for public hearing to January 16, 2007)

City of Visalia Agenda Item Transmittal

Meeting Date: December 18, 2006

Agenda Item Number (Assigned by City Clerk): 7

Item continued from December 18, 2006 to January 16, 2007.

a) Adoption of Negative Declaration No. 2006-099. Resolution No. 2007-09 required.

b) Public hearing for General Plan Amendment No. 2006-05: A request by Visalia Land Company, Inc. and the City of Visalia to change the General Plan land use designation from RLD (Low Density Residential) to RMD (Medium Density Residential) on 17.5 acres. **Resolution No. 2007-10 required.**

c) Introduction of Ordinance for First Reading of Change of Zone No. 2006- 04: A request by Visalia Land Company, Inc. and the City of Visalia to change the zoning from R-1-6 (Single-Family Residence, 6,000 sq. ft. minimum lot size) to R-M-2 (Multi-Family Residential) on 17.5 acres. **Ordinance No. 2007-03 required.**

Location: The site is located on the north side of Myrtle Ave. between Linwood and Chinowth Streets, and the east and west sides of Chinowth St. from 500 feet south of Noble Avenue to approximately 1,160 feet south of Noble Avenue APNs: Visalia Land Co., Inc. - 087-060-007,008,009, and 010, City of Visalia – 087-060-001, 002, 004, 006, 011, 012, 013, 014, 024, and 025, 087-090-015,016,017,018,019,020,021,022,023,025,028,030, 031,032, and 033.

Deadline for Action: None

Submitting Department: Community Development - Planning

Contact Name and Phone Number:

Brandon Smith, Associate Planner, 713-4636
Teresa Nickell, Project Planner, 713-4328
Paul Scheibel, AICP, Principal Planner 713-4369

Department Recommendation and Summary:

The Planning Commission recommends that the City Council adopt Negative Declaration No. 2006-099, and approve General Plan Amendment No. 2006-05 and Change of Zone No. 2006-04. The Commission's recommendation included an amendment to change one parcel in the subject area (APN: 087-090-020) that contains a portion of an existing mobile home park from R-1-6 to R-M-3, so that it would be consistent with the zoning of the remainder of the Country Manor Mobile Home Park. The Commission's recommendation is based on the findings that the project proposed by the applicant is consistent with the General Plan related to promoting

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_

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

higher density infill projects, and will provide opportunities to serve the housing needs of senior citizens.

The GPA and COZ were originally requested by the project applicant, Visalia Land Company, Inc. The applicant represents four parcels on approximately four acres located on the north side of West Myrtle Avenue approximately 165 feet west of South Chinowth Street (See Exhibit "1" for the identification of parcels represented by Visalia Land Company). The remainder of the GPA and COZ area has been added by the City of Visalia.

Upon receiving the application of the GPA and COZ for the senior residential development, City staff determined it to be advantageous to expand the boundaries of the request to include other R-1-6 zoned properties to the west toward Linwood Street and to the east on both sides of Chinowth Street (See Exhibit "1" for all other parcels included in the GPA and COZ). Thus, the proposed change in land use and zoning will change approximately 17.5 acres from Low Density Residential (R-1-6 Zone) to Medium Density Residential (R-M-2 Zone). The analysis pertaining to the expansion is discussed in greater detail below.

Approved Tentative Subdivision Map and Conditional Use Permit

The applicant requested the land use and zone change in order to accommodate a 36-unit planned residential development for senior citizens. The project would have an overall density of 13.48 units per net acre, which would necessitate changing the land use and zoning designations on the site from Low Density R-1-6 (2 - 7 units / net acre) to Medium Density R-M-2 (10 - 15 units / net acre).

The subdivision, shown in Exhibits "3" and "4", will yield a total of 36 independent living units comprised of single-family reattached units and duplex units, with one dwelling unit per lot. The subdivision will be gated and will contain private streets and common areas to be maintained by a Homeowners Association. Staff supported allowing the proposed development as a gated community since it would provide an increased level of safety and sense of security to its senior residents. Also, the design facilitates the potential future expansion of the subdivision's private streets to adjoining properties.

Staff Recommendation to Expand Boundary of Land Use and Zone Change

The recommendation to expand the land use and zone change area came during the Site Plan Review process for the senior residential development. An analysis of the neighborhood surrounding the subdivision site – particularly the R-1-6 zoned land to the west and east (see the existing zoning map attached as Exhibit "2") – disclosed that the neighborhood contains a diverse mix of undeveloped land, single-family, and multi-family dwelling units. However, the area suffers from haphazard parcelization, and water and sewer lines located along Myrtle Ave. do not presently have the capacity to handle demands from new dwelling units of any density. The small parcelization and existing R-1-6 zoning do not provide incentive for landowners to upgrade infrastructure for infill development.

City staff concluded that the neighborhood possessed several strong attributes and opportunities that would favor multi-family zoning as the highest and best use of land in the expanded project area. These attributes include:

- proximity to collector streets and commercial and office centers (Land Use Element Objective 4.1.E),
- an inherent mix of housing densities and types (Objective 4.1.D), and
- proximity to existing public facilities such as police and fire protection.

The addition of the proposed subdivision would facilitate the upgrade and expansion of infrastructure lines, the benefits of which could be shared by other properties in the area. Also,

the concept of increasing allowed densities in the surrounding neighborhood to allow progressive development opportunities on vacant land would be consistent with the City Council's direction to promote and encourage infill residential development. The applicant agreed to partner with the City on the expanded GPA/COZ action.

Zoning Ordinance Section 17.44.020(A) states that for areas of zone changes that are in multiple ownership, all property owners or their authorized agents for properties within the affected area shall join in filing for a zone change application, unless the Planning Commission adopts a resolution of intention which allows the City to initiate work on the zone change without the consent of the affected property owners. The Planning Commission initiated the expansion of the zone change area through Resolution of Intention No. 2006-110, adopted by consent of the Commission on September 25, 2006.

Neighborhood Outreach to Expanded Area

Following the Commission's initiation to expand the zone change area, 22 letters and surveys were mailed to property owners in the expansion area who in sum represented 30 parcels in the area considered for zoning change. The letters gave notice of a community information meeting hosted by City staff to provide an open forum for discussion of the proposal and provide answers to questions.

Staff received surveys from property owners representing seventeen of the parcels. Of these surveys, property owners representing fourteen of the parcels were supportive of the zone change to R-M-2. One parcel responded as being neutral towards the zone change, and two parcels (separate owners) were opposed to the zone change.

A community information meeting was held at Veva Blunt Elementary School (located one-quarter mile south of the intersection of Chinowth & Myrtle) on the evening of October 11, 2006. Approximately fifteen neighbors were in attendance in addition to City staff and the project applicant, with responses to the zone change generally being positive. Most of the neighbors were in favor of both the applicant's project and the GPA/COZ expansion. The two primary reasons for their support were the project's expansion of sewer and water to properties in the area that aren't served now, and the opportunity to consolidate properties to maximize development potential.

Environmental Finding

In making a recommendation, the Council is required to make an environmental finding, in accordance with the California Environmental Quality Act (CEQA). Staff is recommending that the Council certify Negative Declaration No. 2006-099, which was prepared for the GPA and COZ in addition to the Tentative Subdivision Map and Conditional Use Permit requested by the applicant. On November 28, 2006, after holding a public hearing, the Planning Commission adopted the Negative Declaration for its consideration of environmental impacts related to the Tentative Subdivision Map and Conditional Use Permit.

Committee/Commission Review and Actions:

The expanded boundaries of the General Plan land use and zoning designations were initiated by the Planning Commission through a Resolution of Intention adopted on September 25, 2006.

The Planning Commission held a public hearing on November 28, 2006 on this project, with the Commission voting 5-0 to approve the above-mentioned Visalia Palms Tentative Subdivision Map and Conditional use Permit No. 2006-42, and to recommend approval of the GPA and COZ. During the public hearing for the item, four individuals including the applicant's representing agent, spoke to the item. Mr. Gary French, who resides at 3944 W. Myrtle, raised a question regarding whether improvements were warranted to nearby streets. Mr. Laurance Henderson, who resides at 4007 W. Myrtle, expressed concern that he would not be notified of

multi-family units permitted by right under the R-M-2 zone were to be constructed. Ms. Mona Ekema, representing CVC Housing who owns property in the subject area, praised the request stating that the site was ideal for multi-family residential uses.

In making a recommendation, Commissioner Segrue noted that the subject area included one parcel belonging to Country Manor Mobile Home Park located on the east side of Chinowth Street. Though the project would change the land use and zoning designation of the site to R-M-2, the zoning would still be inconsistent with the majority of the mobile home park that is currently designated as High Density Residential (R-M-3 zone). The Commission therefore approved the request with an amendment that this one parcel be changed from R-1-6 to R-M-3 for zoning consistency with the remainder of the mobile home park.

Prior Council/Board Actions: None.

Alternatives: None recommended.

Attachments:

- Resolution for General Plan Amendment
- Ordinance for Change of Zone
- Exhibit "1" – Proposed Land Use Map
- Exhibit "2" – Existing and Proposed Zoning Map
- Exhibit "3" – Visalia Palms Subdivision Map approved by Planning Commission
- Exhibit "4" – Visalia Palms Site Plan Map approved by Planning Commission
- Planning Commission Staff Report from November 28, 2006
- Location Map

Recommended Motion (and Alternative Motions if expected):

I move to certify Negative Declaration No. 2006-99 by adoption of Resolution No. 2007-09.

I move to approve General Plan Amendment No. 2006-05 and Change of Zone No. 2006-04 by adoption of Resolution No. 2007-10 and Ordinance No. 2007-03.

Environmental Assessment Status

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

NEPA Review:

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:

RESOLUTION NO. 2007-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA,
ADOPTING NEGATIVE DECLARATION NO. 2006-099, WHICH EVALUATES
ENVIRONMENTAL IMPACTS FOR GENERAL PLAN AMENDMENT NO. 2006-05 AND
CHANGE OF ZONE NO. 2006-04.

WHEREAS, a request was made by Visalia Land Company, Inc. and the City of Visalia for General Plan Amendment No. 2006-05, a request to change the General Plan land use designation from RLD (Residential Low Density) to RMD (Residential Medium Density) on 17.5 acres, and for Change of Zone No. 2006-04, a request to change the zoning from R-1-6 (Single-family Residential – 6,000 sq. ft. minimum) to R-M-2 (Multi-family Residential – 3,000 sq. ft. minimum) on 17.5 acres. The subject site is located on the north side of West Myrtle Avenue between South Linwood and South Chinowth Streets, and the east and west sides of South Chinowth Street, beginning at 500 feet south of West Noble Avenue and ending approximately at 1,160 feet south of West Noble Avenue (APNs: Visalia Land Company, Inc. – 087-060-007 to 010; City of Visalia – 087-060-001, 002, 004, 006, 011 to 014, 024 and 025, 087-090-015 to 023, 025, 028, and 030 to 033.; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Commission on November 28, 2006 for the Project; and

WHEREAS, the Planning Commission of the City of Visalia considered the project in accordance with Section 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 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. 2006-099 which evaluates environmental impacts for General Plan Amendment No. 2006-05 and Change of Zone No. 2006-04. The documents and other material which constitute the record of the proceedings upon which the decisions based are located at the office of the City Planner, 315 E. Acequia Avenue, Visalia, California, 93291.

RESOLUTION NO. 2007-10

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VISALIA RECOMMENDING APPROVAL OF GENERAL PLAN AMENDMENT NO. 2006-05, A REQUEST BY VISALIA LAND COMPANY, INC. AND THE CITY OF VISALIA TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION FROM RLD (RESIDENTIAL LOW DENSITY) TO RMD (RESIDENTIAL MEDIUM DENSITY) ON 17.5 ACRES. THE SUBJECT SITE IS LOCATED ON THE NORTH SIDE OF WEST MYRTLE AVENUE BETWEEN SOUTH LINWOOD AND SOUTH CHINOWTH STREETS, AND THE EAST AND WEST SIDES OF SOUTH CHINOWTH STREET, BEGINNING AT 500 FEET SOUTH OF WEST NOBLE AVENUE AND ENDING APPROXIMATELY AT 1,160 FEET SOUTH OF WEST NOBLE AVENUE (APNS: VISALIA LAND COMPANY, INC. – 087-060-007 TO 010; CITY OF VISALIA – 087-060-001, 002, 004, 006, 011 TO 014, 024 AND 025, 087-090-015 TO 023, 025, 028, AND 030 TO 033.

WHEREAS, General Plan Amendment No. 2006-05 is a request by Visalia Land Company, Inc. and the City of Visalia to change the General Plan land use designation from RLD (Residential Low Density) to RMD (Residential Medium Density) on 17.5 acres. The subject site is located on the north side of West Myrtle Avenue between South Linwood and South Chinowth Streets, and the east and west sides of South Chinowth Street, beginning at 500 feet south of West Noble Avenue and ending approximately at 1,160 feet south of West Noble Avenue (APNs: Visalia Land Company, Inc. – 087-060-007 to 010; City of Visalia – 087-060-001, 002, 004, 006, 011 to 014, 024 and 025, 087-090-015 to 023, 025, 028, and 030 to 033.; and

WHEREAS, the Planning Commission of the City of Visalia, after twenty (20) days published notice, held a public hearing before said Commission on November 28, 2006; and

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

WHEREAS, the City Council of the City of Visalia, after ten (10) days published notice for a public hearing on December 18, 2006, which was continued to a date certain on January 16, 2007, held a public hearing before said Council on January 16, 2007; 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.

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 Planning Commission of the City of Visalia recommends approval to the City Council of the proposed General Plan Amendment based on the following specific findings and based on the evidence presented:

1. That the proposed General Plan Amendment is consistent with the intent of the General Plan, and is not detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
2. That the proposed land use designation of Medium Density Residential would be compatible with existing land uses and land use designations in the surrounding vicinity.
3. That an Initial Study was prepared for the requested General Plan Amendment consistent with CEQA, which disclosed that environmental impacts are determined to be not significant, and therefore Negative Declaration No. 2006-99 will be adopted for this project.
4. That there is no evidence before the Planning Commission that the proposed project to change properties from low density residential to medium density residential land use designation 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.

BE IT FURTHER RESOLVED that the official General Plan Land Use Map of the City of Visalia is hereby amended to show said property changes as illustrated in Exhibit "A" attached hereunto.

ORDINANCE NO. 2007-03

AMENDING THE ZONING MAP OF THE CITY OF VISALIA BY CHANGING THE ZONING DESIGNATION ON 17.5 ACRES FROM R-1-6 (SINGLE-FAMILY RESIDENTIAL, 6,000 SQ. FT. MIN. LOT SIZE) TO R-M-2 (MULTI-FAMILY RESIDENTIAL, ONE UNIT PER 3,000 SQ. FT. SITE AREA), LOCATED ON THE NORTH SIDE OF MYRTLE AVE. BETWEEN LINWOOD AND CHINOWTH STREETS, AND THE EAST AND WEST SIDES OF CHINOWTH ST. FROM 500 FEET SOUTH OF NOBLE AVENUE TO APPROXIMATELY 1,160 FEET SOUTH OF NOBLE AVENUE.

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 17.5 acres of R-1-6 (Single-family Residential, 6,000 sq. ft. minimum lot size) Zone on the City of Visalia Zoning Map to R-M-2 (Multi-family Residential, one unit per 3,000 sq. ft. site area). The project site is located on the north side of Myrtle Ave. between Linwood and Chinowth Streets, and the east and west sides of Chinowth St. from 500 feet south of Noble Avenue to approximately 1,160 feet south of Noble Avenue. (APNs: Visalia Land Co., Inc. - 087-060-007,008,009, and 010, City of Visalia – 087-060-001, 002, 004, 006, 011, 012, 013, 014, 024, and 025, 087-090-015,016,017,018,019,020,021,022,023,025,028,030, 031,032, and 033); and

Section 2: The official Zoning Map of the City of Visalia is hereby amended to show said property changes as illustrated in Exhibit "A" attached hereunto.

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

City of Visalia Agenda Item Transmittal

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk):

Agenda Item Wording: Introduction of Ordinance 2007-___
Amending the City's Oak Tree Ordinance (Chapter 24 of Title 12 of
the Municipal Code)

Deadline for Action: N/A

Submitting Department: Parks & Recreation Department

Contact Name and Phone Number: Vincent Elizondo, 713-
4367

Department Recommendation:

City staff recommends that the City Council amend the Oak Tree Ordinance and approve the amended Oak Tree Mitigation Policy. The ordinance is presented for introduction; if approved for introduction, the Ordinance together with the Policy would be returned for adoption at the next scheduled Council meeting. No public hearing is required, but input from the public is invited.

Background Information:

Periodically the City of Visalia has undertaken reviews of the Oak Tree Ordinance as needed to ensure that it meets the goals of the Council to enhance the beauty of Visalia and preserve and enhance the valley oak tree. The last revision of the ordinance occurred in 1995.

At the request of City staff and the Urban Tree Foundation, the City Attorney's office has undertaken a review of the Oak Tree Ordinance and has prepared a draft revision of the ordinance. The review and revision addresses three major areas of concern that have arisen in the course of the City's experience with enforcing and applying the Oak Tree Ordinance. Those areas are:

- 1) **Mitigation** - a clearer and more specific mitigation policy needs to be established to address situations in which an oak tree may be removed for development purposes. This policy needs to provide a means by which property owners are required to mitigate for the loss of important oak trees, without at the same time establishing a "way out" of the ordinance.

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

Review:

Dept. Head _____
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required
or N/A)

City Mgr _____
(Initials Required)

If report is being re-routed after
revisions leave date of initials if
no significant change has
affected Finance or City Attorney
Review.

- 2) **Removal Standards** - the ordinance needs to have a clearer set of standards that can be applied by the city's designated tree official in determining when an oak tree may be removed.
- 3) **Application of Oak Tree Ordinance to New Development** - The treatment of oak trees in relation to new development is addressed in one section of the current ordinance. It is necessary for City officials to address issues involving oak tree avoidance and preservation, and protection during the construction process. It is also essential for them to be integrated into the development review process (i.e., site plan review, building permit issuance).

Discussion:

The City has a successful history of establishing strong protections for valley oak trees, both on public and private property. The City has long recognized that preserving this symbol of the community requires protecting the existing stock of oak trees on public as well as private property. The City's current Oak Tree Ordinance has served this goal well.

At the same time, a certain level of tension has arisen between the City and property owners who either are fearful that the oak trees on their property could cause damage as they age, or desire to remove their trees in order to allow more intensive development of their property, or both. To date, this tension has been addressed adequately through the flexibility that is built into the Oak Tree Ordinance. For example, the ordinance allows for removal of oak trees where one of any number of criteria is met, and these criteria were purposefully left somewhat open and little defined in order to better address particular factual situations. However, as experience grows, areas have been identified where the standards need to be refined.

At the same time, experience has also shown that mitigation could be a useful tool in ensuring that, where private property owners truly have no choice but to remove an oak tree for purposes of utilizing their property, the loss of the tree is offset by new trees elsewhere in the City. By imposing a mitigation fee, funds are available to provide for the planting of new trees, primarily on public property where the trees can be planted in a systematic fashion and can then be cared for adequately.

In the process of drafting a stronger mitigation policy, one drawback has been identified. Property owners, and the City itself, may view the mitigation policy as an "option", which would be available to a property owner where a removal permit would not otherwise be granted, if the property owner agrees to pay a high enough mitigation amount. Such an ability to "buy your way out of" a private property owner's obligation to protect existing healthy oak trees is something the City desires to avoid.

Therefore, these two issues go hand in hand: at the same time that a mitigation policy is adopted, the removal standard needs to be refined so that it is clear that whether to remove a tree is a decision that must be made independently from the mitigation issue.

Proposed Revisions to Oak Tree Ordinance (Attachment 1):

Article 1 General Provisions - The current ordinance is not broken down into divisions or articles. The proposed revised ordinance would organize the current provisions into 5 articles, beginning with general provisions and definitions in Article 1. Only minor changes are being proposed for Article 1.

- The Public Works Director, currently designated as the city official responsible for

implementing the ordinance, has been replaced with City Manager or designee throughout the ordinance. This reflects current practice.

- The arboriculture and pruning standards, referred to throughout the ordinance, are redefined to be the “International Society of Arboriculture Best Management Practices for Tree Pruning and the ANSI A300 Pruning Standards.” These are accepted standards for tree pruning.

Article 2 Removal Permit - The basic prohibition against removing a tree without a permit and the removal permit requirements are now organized in a separate Article 2.

- Section 12.24.20 is the heart of the ordinance. The changes in wording and the move to the front of the ordinance are designed to strengthen the basic prohibition against damaging an oak tree on private property. The language clarifies that any unpermitted destruction or damage to an oak tree is a violation of the municipal code. It also clarifies that pruning a tree without the required notice and without adhering to the designated standards is also a violation. This does not change current law.
- Section 12.24.030, establishing the process by which a removal permit is obtained, has been reworded to recognize the current practices. New to this section is a provision that allows for the property owner to obtain his or her own report of a certified arborist and submit that report in support of the permit application.
- A new Section 12.24.035 establishes the removal criteria. The three basic grounds for removing a tree have been retained, but more specific criteria are provided.
- As amended, the three grounds for removing a tree are:

- The health of the tree warrant removal - specific wording regarding what qualifies as adequate grounds for removing a tree based on the health of the tree have been provided.
- The tree is in a location that prevents reasonable enjoyment of the property - specific criteria that would have to be met are provided. This is the ground that would be cited where a property owner is seeking to protect existing structures or to build new structures, but the tree is otherwise healthy. As such, it is likely to be the most contested area of the new ordinance.
- Urban forestry practices warrant removal - this area has been clarified to apply only to those circumstances in which the property cannot support the number of trees that exist. It is likely only to be applied to younger trees, and to undeveloped lots.

- Of particular note, the proposed changes to the criteria include a reference in the “reasonable enjoyment” criteria that specifies one reason to deny a “reasonable enjoyment” removal permit is the availability of an alternative to removal that could be made feasible by the addition of funds from the City’s mitigation fund. This is designed to allow City staff to find creative solutions that allow a particularly valuable oak tree to remain on the property while still providing for reasonable development of the property.
- A new section 12.24.037 has been created to impose the mitigation requirement. This requirement would only be triggered if the tree is removed based on the “reasonable enjoyment” ground. The ordinance as proposed would allow the City Manager to set the mitigation requirement through a policy that is ratified by resolution of the City Council. (A separate Mitigation Policy has been drafted and is also attached.)
- Minor changes to the noticing requirements regarding decisions on oak tree removal

permits have been made to section 12.24.040. These are designed to keep the general public informed of removal decisions affecting private property.

Article 3 - Pruning Requirements and Oak Tree Maintenance Fund - Pruning and maintenance provisions have been set off in a separate Article 3.

- Minor changes to the pruning requirements have been made.
- Changes have been made to section 12.24.110, establishing more specifics regarding the oak tree mitigation fund, and the use of that fund. Again, the City Manager is authorized and required to establish policies regarding the oak tree mitigation fund, which are required to be part of the Oak Tree Mitigation Policy referred to above.

Article 4 - Development Standards - Provisions affecting development where oak trees remain in place are set off in a separate Article 4.

- A general prohibition was added at Section 12.24.120, subsection A, establishing that no new development may encroach into the crown-drip-line of a Valley Oak tree unless specifically approved by the City Manager (or designee). This provision is intended to trigger the application of development standards, which pursuant to other provisions of this Article are to be developed as "development guidelines." These guidelines, to be approved by resolution of the City Council, are already included in the current version of the ordinance, and have in fact been established and are on now of file with the City. The main goal of the proposed revisions is to ensure that the City is authorized to impose these guidelines on all new development, and to create a mechanism for bringing oak tree issues to the site plan review process.
- A provision has been added requiring the builder to provide a deposit to ensure compliance with oak tree guidelines during construction.

Article 5 - Enforcement - Enforcement is now set off in a separate Article 5.

- Most of the enforcement provisions are proposed to be deleted. Various enforcement tools are located elsewhere throughout the Municipal Code, and the specific enforcement language from this chapter needs to be deleted in order to avoid duplication and conflict in procedures.
- Provisions have been added clarifying that violation of the oak tree ordinance constitutes a public nuisance, and refining this definition. This is necessary so that nuisance abatement provisions found elsewhere in the code can be applied to oak tree violations.
- Provisions regarding penalties have been amended to clarify that, in addition to a fine, a mitigation amount shall be charged to anyone violating the ordinance. The mitigation amount is double what would ordinarily be charged. This provision is intended to discourage people who are denied a permit, or believe they would be denied if they applied, from proceeding with removal despite this. Currently, the fine for violating the ordinance is not more than what would be charged for those who actually obtain a permit and pay the mitigation amount.

Mitigation Policy (Attachment 2):

Concurrently with adoption of the revisions to the ordinance, staff is presenting a new Mitigation Policy. As noted above, the proposed revised ordinance includes a requirement that a mitigation fee be paid in accordance with the City's adopted mitigation policy. This policy is required to be prepared by the City Manager or designee and approved or amended by resolution of the City Council. The ordinance also calls for the Mitigation Policy to include directives on how the City uses the funds collected through mitigation payments.

Attached for the Council's consideration as Attachment 2 is the proposed City of Visalia Oak Tree Mitigation Policy.

Mitigation: In short, the mitigation is based on the diameter at breast height ("DBH") of the tree being removed, and would be imposed only for trees that are removed under the "development" criteria. The mitigation requirement would not be imposed, therefore, on trees removed because of the health of the tree or because good urban forestry practice requires removal (i.e., because there are more oak trees than can be accommodated on the property). Instead of paying the mitigation fee, a property owner can also plant replacement trees where appropriate.

As stated in the attached policy, an example of the application of the mitigation policy is as follows:

Property Owner A proposes to remove an oak tree with a DBH of 20 inches in order to accommodate a garage reconstruction. Citing the particular location of the tree, and the lack of any reasonable alternative to removal, the City Manager has determined that the tree may be removed. The owner proposes to mitigate by planting three replacement trees on the property and paying \$2,040 in mitigation fees ($\$120 \times 20 = \$2,400$, less \$360 (or $\$120 \times 3$) to recognize the in-kind mitigation). The mitigation proposal is acceptable because the property can reasonably accommodate three replacement oak trees. The fee is appropriate because the three replacement trees have the result of reducing the mitigation fee by the equivalent of \$120 per in-kind tree.

Use of Funds: The proposed policy also contains guidelines for the use of the mitigation funds as collected by the City. One highlight of this policy is that the mitigation fund may be used to assist private property owners who desire to maintain an oak tree that would otherwise be removed because avoiding the tree is financially infeasible, where use of the mitigation funds makes avoidance of the tree feasible. An example of this is where a property owner agrees to redesign a planned improvement in order to save an oak tree in exchange for a grant from the mitigation fund to offset a portion of the cost of this redesign.

Prior Council Actions:

The City Council last revised the City's Oak Tree Ordinance in 1995.

Committee/Commission Review and Actions:

The Visalia Parks & Recreation Commission reviewed this matter at their regular meeting of August 15, 2006 and unanimously voted to recommend to the City Council to approve the new Oak Tree Mitigation Policy along with the proposed Oak Tree Ordinance revisions.

The proposed ordinance and policy have also been reviewed by Alan George, who chaired the citizens group that helped draft the original oak tree ordinance.

Attachments: Attachment 1: Proposed Oak Tree Ordinance Revisions :
Attachment 2: Proposed City of Visalia Oak Tree Mitigation Policy

Recommended Motion (and Alternative Motions if expected):

I move to introduce Ordinance 2007-__ Amending the City's Oak Tree Ordinance (Chapter 24 of Title 12 of the Municipal Code).

Environmental Assessment Status

CEQA Review:

NEPA Review:

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:

**City of Visalia
Oak Tree Mitigation Policy**

February 1, 2007

I. Authority and Adoption

This Oak Tree Mitigation Policy has been developed pursuant to Visalia Municipal Code sections 12.24.037 and 12.24.110. This Policy shall be approved by resolution of the City Council and shall become effective immediately upon such approval. A copy of the resolution approving this policy shall be attached hereto.

II. Mitigation

It is the policy of the City of Visalia that property owners who are granted a permit to remove an oak tree be required to mitigate for the loss of the oak tree by paying a mitigation fee, or by performing in-kind mitigation, or by a combination of payment of mitigation fee and in-kind mitigation, according to the following formulas:

- A. Mitigation Fee: The mitigation fee to be paid shall be determined by the following formula
\$120 multiplied times DBH
DBH = diameter, in inches, at breast height of the tree to be removed.
- B. In Kind Mitigation: The property owner may elect to satisfy some or all of the mitigation requirement by planting new oak trees on his or her property. If in-kind mitigation is elected, the property owner must plant one new oak tree for every inch of DBH of the existing tree. It is anticipated that for larger trees it will not be feasible to satisfy all of the mitigation requirement through in-kind mitigation because the property will not reasonably sustain the number of oak trees required. The City Manager, or designee, shall determine the amount of in-kind mitigation that is appropriate in any particular case. Each tree allowed to be planted as in-kind mitigation will reduce the mitigation fee that is payable by \$120 per tree. Where a property owner elects to satisfy some or all of the mitigation requirement through in-kind mitigation, the property owner shall do so with the understanding that the property owner will be responsible for protecting the health of the replacement trees (including the obligation to provide irrigation), that purposeful damaging or neglect of the replacement trees will be subject to prosecution pursuant to the Visalia Municipal Code, and that any pruning or removal of the trees must be accomplished in compliance with the Visalia Municipal Code.

Note: The mitigation fee formula provided above is intended to represent the reasonable estimate of the cost to replace the tree with new trees on the basis of one new tree per inch of the existing tree's diameter.

Example: Property Owner A proposes to remove an oak tree with a DBH of 20 inches in order to accommodate a garage reconstruction. Citing the particular location of the tree, and the lack of any reasonable alternative to removal, the City Manager has determined that the tree may be removed. The owner proposes to mitigate by planting three replacement trees on the property and paying \$2,040 in mitigation fees ($\$120 \times 20 = \$2,400$, less \$360 (or $\$120 \times 3$) to recognize the in-kind mitigation). The mitigation proposal is acceptable because the property can reasonably accommodate three replacement oak trees. The fee is appropriate because the three replacement trees have the result of reducing the mitigation fee by the equivalent of \$120 per in-kind tree.

Mitigation is shall not be required for trees that are approved for removal pursuant to section Subsections (A) or (C) of Visalia Municipal Code section 12.24.035 (removal warranted because

of the health of the tree or because removal furthers urban forestry or land management practices).

II. Oak Tree Maintenance Fund

- A. This policy shall apply to the Oak Tree Maintenance Fund created by operation of ordinance, Visalia Municipal Code section 12.24.110.
- B. Funds from the Oak Tree Maintenance Fund shall be expended only for the purposes enumerated below:
 1. In support of planting oak trees on public and private property within the City of Visalia. Such expenditures may include the cost of purchasing and planting trees, and preparing the land for planting, including the cost of installing irrigation improvements. Any private property owner may apply to have an oak tree planted on his or her property at public expense, provided such expense does not exceed \$120.
 2. In support of the care and preservation of existing oak trees on public property, and on private property but only where the private property owner has demonstrated an inability to pay for such care and preservation.
 3. To offset the expense to a private property owner in making improvements on private property that are necessary to create a reasonable alternative to removing an existing oak tree. It is intended that expenditures under this category only be made where, if not for the use of funds from the Oak Tree Mitigation Fund, there would be no reasonable alternative to removing the tree. It is not intended to be used where normal repairs to improvements to private property, though necessitated by the existence of an oak tree, constitute an ordinary and reasonable burden on the property owner.

Example 1: Property Owner A has an oak tree that is lifting the foundation of a garage. Requiring the property owner to reconstruct the garage at his cost is not reasonable, and therefore a removal permit may be granted; however, with the contribution of \$500 from the Oak Tree Maintenance Fund, the property owner agrees to reconstruct a portion of the garage and thereby save the tree. Because it would create a reasonable alternative to removing the tree, an expenditure from the Oak Tree Maintenance Fund is appropriate.
- C. The Parks and Recreation Director shall prepare an annual report accounting for the balance in the Oak Tree Mitigation Fund and summarizing the use to which such fund was put during the preceding year.

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 10

Public Hearing and Final Adoption of Ordinance 2006-18:
Amending Portions Of Titles 16 And 17 Of The Visalia
Municipal Code Pertaining To The Review Of Planning
Commission Decisions By The City Council

Deadline for Action: None

Submitting Department: City Attorney and Community
Development Department

Contact Name and Phone Number: Alex Peltzer, City Attorney
(636-0200)

Department Recommendation:

A. Hold a Public Hearing and take testimony from interested members of the public.

B. Adopt Ordinance 2006-18, revising the Appeal process of Planning Commission actions;

Summary/background: The proposed Subdivision and Zoning Ordinance Text Amendments are the result of previous City Council direction to staff to draft changes to the City's Appeal process so that the City Council, acting as a body, may review Planning Commission decisions. The City Council approved the introduction of the Ordinance at its December 18, 2006, Council Meeting. At that time, the Council also directed that the item be returned to the Planning Commission for further review and comment. That review occurred on January 8, 2007. The Planning Commission did not formally provide any additional comments to the Council, and did not revise their previous position.

Prior Action and Review:

In addition to the Council action described above, a prior version of the ordinance was reviewed by the Planning Commission in July of 2006. At that time, the Commission voted 4-0 to recommend against enactment of the ordinance. Following that action, that item was brought to the City Council on July 17, 2006, at which time the Council voted to table the matter pending further discussion with Planning Commission members.

At the direction of City Council in November of 2006, a new version of the ordinance was drafted, in part to respond to some of the concerns of the Planning Commission. One

For action by:
 City Council
 Redev. AgencyBd.
 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_____

Review:

Dept. Head AP (LB)
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required
or N/A)

City Mgr SS (LB)
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

aspect of the ordinance that has not changed, and which was the subject of objection by the Planning Commission, is the fact that an appealing council member will be entitled to participate in the deliberation and vote on the appeal. The ordinance is specifically designed to allow this to occur without creating a conflict on the part of the appealing Council Member.

General Description of Changes:

In general, the ordinance as currently drafted has three main points: 1) the council member appeal provisions would apply only tentative map approvals by the Planning Commission, and related entitlements, but would not apply to stand alone conditional use permits or other decisions not related to maps; 2) a council appeal would be triggered by a single council member rather than the two required by the first version of the proposed ordinance; and 3) the appealing council member would be required to state the policy issue to be discussed in connection with the appeal, but should not state opposition or support for the application as a whole.

In addition to these three points, the attached ordinance includes many of the features of the previous draft, which were intended to resolve pre-existing inconsistencies, and which are not in conflict with the above concepts. For example, appeal periods for maps are currently different for all other types of appeals, and it was intended that these periods be made uniform. Further, the standards for reviewing a decision are in need of clarifying, whether the appeal is made by the council or by the standard “interested party” trigger. Staff believed these changes are still important to make.

Outline:

Section 1 of the proposed ordinance contains general findings and recitals and are self explanatory.

Section 2 is a modification of existing appeal procedures that are applicable only to subdivision map approvals made according to the provisions of Title 16 of the Municipal Code. This section contains the provisions relating to council member appeal, as detailed above. It specifies that if a tentative map is appealed by a council member, the accompanying entitlements (such as conditional use permits or variances) that are conditions of the tentative map are also automatically appealed.

Section 3 creates a new Municipal Code section in Chapter 2 (General) of Title 17 (Zoning). This new section contains all of the same provisions as the modified Title 16 appeal procedures created by Section 2 of the ordinance, with the exception of the council member appeal provisions. These new uniform appeal procedures, other than council appeals, would be applicable to all decisions of the Planning Commission that are made pursuant to the various chapters of the Zoning Ordinance (Title 17).

The proposed uniform appeal procedures would impose a uniform 10-day appeal period (some decisions are currently subject to 5 “working day” appeal periods).

The ordinance would clarify the standard for review when an appeal or call for review is made, and clarify what action the Council can take on review. These additions to the code reflect current practice.

Sections 4 through 8 of the proposed ordinance make conforming changes to several provisions of Title 17 that currently have their own varying appeal provisions, and replace these provisions with references to the uniform appeal procedure established by Section 3. The only substantive change created by these amendments is the change in the appeal period from five business days in most cases to 10 calendar days. Again, the council member appeal procedures would not apply to these approvals, unless they were made in connection to a tentative map.

Alternatives: The City Council may approve, modify, or not approve the Subdivision and Zoning Ordinance Text Amendments. The City Council may alternately return the matter to staff with further direction as the City Council deems appropriate.

Attachments:

Exhibit A- Ordinance No. 2006-18.

Recommended Motion (and Alternative Motions if expected):

I move to adopt Ordinance 2006-18, Amending Portions Of Titles 16 And 17 Of The Visalia Municipal Code Pertaining To The Review Of Planning Commission Decisions By The City Council.

Environmental Assessment Status

1. **CEQA Review:** The project is considered Categorical Exempt under Section 15305 of the Guidelines for the Implementation of the California Environmental Quality Act (CEQA). (Categorical Exemption No. 2006-70)

NEPA Review: None

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)*

**City of Visalia
Agenda Item Transmittal**

Meeting Date: January 16, 2007

Agenda Item Number (Assigned by City Clerk): 11

Agenda Item Wording: Adopt a Resolution authorizing the sale of 1631 N. Encina to Habitat for Humanity for \$200,000 and hold a Public Hearing in compliance with Health and Safety Code 33433. **RDA Resolution 2007-01 required.**

Deadline for Action:

Submitting Department: Community Development and Administrative Services

Contact Name and Phone Number: Eric Frost, x4474, Sharon Sheltzer, x4414

Department Recommendation: That the City Council and Redevelopment Agency conduct the required public hearing before selling Agency property to Habitat for Humanity at 1631 N. Encina. After the public hearing, if appropriate, authorize the sale of 1631 N. Encina to Habitat for Humanity of Tulare County for appraised value, \$200,000.

Note: Council and the Redevelopment Agency took action upon this item at their December 4, 2006 meeting. However, upon review, the Development and Disposition Agreement (DDA) had not been attached and the City Attorney asked that this item be considered again, including the DDA.

Summary/background:

The Agency owns land at 1631 N. Encina which was originally purchased in the early 1990s with the intention of creating transitional housing. However, the proposed operator of the property, the Good News Center, decided against going forward with the project after understanding that no religious education of the facility's users could occur.

In the last year, the Agency has worked with Habitat for Humanity to sell the property. The property will be divided into 5 parcels to build 4 homes and have a parcel dedicated to the City for a street. Habitat will use these lots to build homes according to their building program.

Habitat for Humanity Building Program. On a Habitat for Humanity home, much of the construction cost is reduced due to donated labor from homeowners and volunteers. Habitat enlists the future owner and community volunteers to construct the homes. Families must be

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.): _____

Review:

Dept. Head AB for EF
1/9/07
(Initials & date required)

Finance _____
City Atty _____
(Initials & date required or N/A)

City Mgr SS (dh)
(Initials Required)

If report is being re-routed after revisions leave date of initials if no significant change has affected Finance or City Attorney Review.

willing to partner with Habitat, putting in 500 hours of “sweat equity” working on their own homes and other Habitat projects. These efforts have produced a number of homes.

Habitat for Humanity, prior to conveying the property will obtain a promissory note, deed of trust, insurance and an affordability agreement from the qualified persons. These security documents will name the Agency as the secured party, payee, and/or beneficiary. The security documents will contain a provision that the loan is forgivable at the expiration of the forty-five (45) year affordability covenant. During such time, if the owner ceases to comply with the covenants contained in the security documents, the loan shall become immediately due and payable to the Agency, pursuant to the terms of the security documents, unless the obligations are assumed by a qualified transferee.

Required Redevelopment Disclosures.

Because the property is owned by the Redevelopment Agency, the Agency needs to disclose certain information according to the Health and Safety Code 33433. The required information is as follows:

- 1) The proposed purchase and sale agreement;
- 2) The total cost to acquire and assemble the property;
- 3) The estimated value of the property;
- 4) An explanation of why the property’s sale will assist in eliminating blight; and,
- 5) The proposed sale price’s basis.

The proposed development and disposition agreement is attached. The cost of acquiring and assembling the project is as shown in Table I, Land and Development Costs:

Table I	
Land and Development Costs	
1631 N. Encina	
Land Acquisition Cost	115,000
Dunn's Sand, Inc. (contractor)	184,055
Ditch and Utility Equipment	16,702
CA Water Contract	34,284
SCE Contract	12,212
Plan Check Fee	448
Tulare County Recording Fee	45
Forester Weber consultants	11,213
VIAH Consultant	6,937
CUP - Parcel Map	5,554
Development (HOME Funded)	271,450
Total Costs	386,450

The Agency engaged an appraiser to determine the value of the property. The appraised value for the parcel which includes 4 lots is \$200,000. The reason the Agency has proceed ahead with this development is that the parcel is an odd shaped parcel that will not develop into several residential lots without Agency intervention. The advantage of having the Agency

prepare this lot for sale to Habitat for Humanity is that the homes will improve the housing stock of the neighborhood and remain affordable due to Habitat for Humanity's building program. The agreed upon sale price for the appraised value, \$200,000.

Attachment #1, Final Parcel Map, shows the parcel. The fifth parcel will be dedicated to the City to be a street. However, the street is non-standard and is necessary to accommodate access to the homes on the parcel. A lighting and landscape maintenance assessment district will be formed to pay for the cost of maintaining that street.

Prior Council/Board Actions:

Committee/Commission Review and Actions:

Alternatives:

Attachments: #1 Site map for 1631 N. Encina

Recommended Motion (and Alternative Motions if expected):

After conducting a public hearing.

Adopt RDA Resolution 2007-01 to sell the parcels at 1631 N. Encina to Habitat for Humanity for \$200,000.

Environmental Assessment Status

CEQA Review:

NEPA Review:

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: Habitat for Humanity of Tulare County

RDA RESOLUTION NO. 2007-01

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF VISALIA
AUTHORIZING THE DISPOSITION AND DEVELOPMENT OF 1631 NORTH ENCINA TO
HABITAT FOR HUMANITY OF TULARE COUNTY FOR AFFORDABLE HOUSING

WHEREAS, on December 4, 2006, at a noticed public hearing of the Redevelopment Agency of the City of Visalia (“Agency”), the Agency considered a proposal to sell property located at 1631 N. Encina to Habitat for Humanity of Tulare County for the development of affordable housing; and.

WHEREAS, the Agency attempted to conduct a properly noticed public hearing on December 4, 2006, pursuant to the requirements of Section 33433 of the California Health and Safety Code; and

WHEREAS, the proposed Disposition and Development Agreement was not made a part of the public notice and was not presented to the Agency Board at the public hearing conducted on December 4, 2006 pursuant to the requirements of Section 33433 of the California Health and Safety Code; and

WHEREAS, the Agency properly noticed and conducted an additional public hearing on January 16, 2006, which included the Disposition and Development Agreement, pursuant to the requirements of Section 33433 of the California Health and Safety Code; and

WHEREAS, the Agency proposed to sell the said real property for its appraised value of \$200,000, and for Habitat for Humanity of Tulare County to develop affordable housing upon same pursuant to the terms and condition of that certain Disposition and Development Agreement.

NOW THEREFORE, BE IT RESOLVED that the Agency hereby authorizes the sale of 1631 North Encina to Habitat for Humanity of Tulare County for the appraised value of \$200,000, and finds that the proposed consideration is not less than the highest and best use for the property in accordance with the Central Visalia Redevelopment Plan.

BE IT FURTHER RESOLVED that the Agency authorizes the sale of 1631 North Encina to Habitat for Humanity of Tulare County pursuant to the terms and conditions of that certain Disposition and Development Agreement agreed upon by Habitat for Humanity of Tulare County and awaiting execution by the Agency; and

BE IT FURTHER RESOLVED, that the Agency general manager is authorized to execute that certain Disposition and Development Agreement between the Agency and Habitat for Humanity of Tulare County.

PASSED AND ADOPTED by the Board of the Redevelopment Agency of the City of Visalia, Tulare County, State of California, this 16th day of January, 2007, by the following vote:

AYES: BOARD MEMBERS

NOES: BOARD MEMBERS

ABSENT: BOARD MEMBERS

ABSTAIN: BOARD MEMBERS

AGENCY CHAIR

ATTEST:

AGENCY CLERK

I, the undersigned City Clerk, do hereby certify that the foregoing Resolution was duly and regularly adopted by the Redevelopment Agency of the City of Visalia, California, at a regular meeting thereof held on the 16th day of January, 2007, is a true and correct copy. The original of which is on file in my office.

Agency Clerk