



City of Woodland

City Hall
300 First Street
Woodland, CA 95695

Meeting Agenda

City Council

Tuesday, February 21, 2017

6:00 PM

Council Chambers

CITY COUNCIL CLOSED SESSION 5:00PM

A. CALL TO ORDER

B. CLOSED SESSION

B.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov. Code § 54956.8)

Properties: Yolo County Assessor's Parcel Numbers 005-750-003

Agency Negotiators: City Manager, Assistant City Manager-Community and Economic Development, City Engineer, City Attorney, Principal Civil Engineer, and City's Project Manager

Negotiating Parties: Elizabeth J. Crum & Elizabeth J Crum Revocable Trust

Under Negotiation: Price and terms of payment

B.2 CONFERENCE WITH LEGAL COUNSEL – Existing Litigation (Gov. Code § 54956.9(d)(1))

A. City of Woodland v. Elizabeth J. Crum, et al., Yolo County Superior Court, Case No. ED 16-558

B. City of Woodland v. Mark D. Milton & Victoria M. Matucci, et al., Yolo County Superior Court, Case No. ED 16-557

C. HTW West Ventures, LLC, et al., v. Robert Fowler, et al., Ventura County Superior Court, Case No. 56-2016-00488960-CU-FR-VTA

JOINT REGULAR CITY COUNCIL/WOODLAND FINANCE AUTHORITY

FEBRUARY 21, 2017

6:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. COMMUNICATIONS-PUBLIC COMMENT

This is an opportunity for the public to speak to the Council on any item other than those listed for public hearing on this agenda. Speakers are requested to use the microphone in front of the Council and to begin by stating their name, whether they reside in Woodland and the name of the organization they represent if any. The Mayor may impose a time limit on any speaker depending on the number of people wanting to speak and time available for the rest of the agenda. In the event comments are related to an item scheduled on the agenda, speakers may be required to wait to make their comments until that item is considered.

E. COMMUNICATIONS-COUNCIL/STAFF STATEMENTS AND REQUESTS

This is an opportunity for the Council Members and Staff to make comments and announcements, to express concerns, or to request Council's consideration of any items a Council Member would like to have discussed at a future Council meeting.

[17-0316](#)

SUBJECT: Long Range Calendar

Recommendation for Action: Staff recommends that the City Council receive the Long Range Calendar for informational purposes only.

Attachments: [Council Long Range Calendar](#)

F. MINUTES1. [17-196](#)

SUBJECT: City Council Meeting Minutes of January 3, 2017 and January 17, 2017

Recommendation for Action:

Attachments: [01_03_2017 DRAFT FOR APPROVAL](#)

[01_17_2017 DRAFT FOR APPROVAL](#)

G. CONSENT CALENDAR2. [17-19](#)

SUBJECT: Public Safety Department (Police and Fire) Quarterly Status report for the period of October 2016 through December 2016

Recommendation for Action

Staff recommends that the City Council accept the Public Safety Department Quarterly Status Report for October 2016 through December 2016.

Attachments: [Quarterly Safety Report](#)

3. [17-150](#)

SUBJECT: Final Acceptance and Notice of Completion for 2016 ADA Improvement Project, CIP 16-07

Recommendation for Action: Staff recommends that the City Council (1) approve Resolution No. _____, accepting the 2016 ADA Improvement Project, CIP 16-07, as complete and authorizing the City Clerk to file a

Notice of Completion

Attachments: [A - Resolution](#)

[B - Project Map](#)

4. [17-151](#) SUBJECT: Final Acceptance and Notice of Completion for 2016 Road Maintenance Project, CIP 16-01 and Remaining Fund Reallocation

Recommendation for Action: Staff recommends that the City Council:

1. Staff recommends that the City Council (1) approve Resolution No. _____, accepting the 2016 Road Maintenance Project, CIP 16-01, as complete and authorizing the City Clerk to file a Notice of Completion; and
2. Authorize the reallocation of all remaining Water Enterprise Funds from the 2016 Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03; and
3. Authorize the reallocation of all remaining Measure E Funds from the Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03.

Attachments: [A - Resolution](#)

5. [17-120](#) SUBJECT: Increase the FY 2016/2017 Vehicle Replacement Budget by \$96,046.08 and Authorize the Purchase of Two New Vehicles and One Replacement Truck

Recommendation for Action: Staff recommends that the City Council approve Resolution No. _____, authorizing a \$96,046.08 Increase to the Vehicle Replacement Budget and the Purchase of Three Vehicles.

Attachments: [Resolution](#)

[Elm Ford Ford Explorer Quote](#)

[DuPratt Ford Ford Explorer Quote](#)

[Downtown Ford Ford Explorer Quote](#)

[NAFG Ford Explorer Quote](#)

[Hanlees Toyota Rav4 Quote](#)

[Freeway Toyota Rav4 Quote](#)

[NAFG Toyota Rav4 Quote](#)

[Elm Ford F350 CrewCab Quote](#)

[NAFG Ford F350 CrewCab Quote](#)

6. [17-138](#) SUBJECT: Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27; Final Acceptance and Notice of Completion

Recommendation for Action: Staff recommends that the City Council approve Resolution No. _____, accepting the Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27 construction

contract as complete and authorizing the City Clerk to file a Notice of Completion.

Attachments: [A - Resolution](#)

7. [17-188](#) SUBJECT: Approve Consultant Agreement for Construction Management and Inspection Services for Improvements associated with Spring Lake Central Phase 1 and Phase 2 Subdivisions

Recommendation for Action: Staff recommends that the City Council adopt Resolution No. _____, to approve a consultant services agreement for construction management and inspection with Associated Engineering Consultants, Inc. in the amount of \$250,530 for Spring Lake Central Phase 1 and Phase 2 Subdivisions; and authorize the City Manager to execute the agreement and amendments up to 15% of the agreement amount.

Attachments: [Springlake Central Ph1 and Ph2 Resolution for CM and Inspection](#)

8. [17-12](#) SUBJECT: Authorizing Investment of Monies in the Local Agency Investment Fund

Recommendation for Action: Staff recommends that the City Council adopt Resolution No. _____, Authorizing the Investment of Monies in the Local Agency Investment Fund.

Attachments: [LAIF Resolution](#)

H. PUBLIC HEARINGS

9. [17-14](#) SUBJECT: Appeal of Planning Commission Decision Upholding Zoning Administrator Interpretation Regarding Use of 352 and 360 West Kentucky Avenue

Recommendation for Action: Staff recommends that the City Council:

- (1) Conduct a public hearing; and
- (2) Adopt Resolution No. _____, Denying the Appeal of the Planning Commission's December 15, 2016 Decision Upholding the City of Woodland Zoning Administrator's Interpretation Regarding the Legal Nonconforming Industrial Use on 1.213 acres at 352 and 360 West Kentucky Avenue in the Single Family Residential Zone

Attachments: [Att 1 - Zoning Interpretation](#)

[Att 2 - December 15, 2016 Planning Commission Staff Report and 8 Attachments](#)

[Att 3 - Lewis and Nicole Dennis Appeal and Supporting Materials](#)

[Att 4 - Resolution](#)

I. REPORTS OF THE CITY MANAGER

10. [17-0313](#) SUBJECT: Approve Resolution for Exception to the CalPERS 180-day Wait Period for Retired Annuitant -Police Chief.

Recommendation for Action: Staff recommends that the City approve the Resolution No. _____, for exception to the CalPERS 180-day Wait Period for Retired Annuitant -Police Chief.

Attachments: [D Bellini Retired Annuitant Agree Final](#)

[CHIEF](#)

[Reso for Exception to 180-day Wait Period.docx](#)

11. [17-195](#)

SUBJECT: Award Construction Contract for Kentucky Avenue Widening and Complete Streets Project, CIP 04-07

Recommendation for Action: Staff recommends that the City Council:

1. Adopt Resolution No. _____, to award the construction contract to A. Teichert & Son, Inc. in the amount of \$8,763,102.00 for the base bid plus Deductive Alternates C, D, E, and I for the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07, authorize a contract contingency up to 15%, and authorize the City Manager to execute the construction contract and change orders; and
2. Authorize the reallocation of \$415,000 of Water Enterprise Funds from the FY18 Budget for the Water System Leak Detection and Repairs Project, CIP 09-23, to the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07, to fund costs associated with water utility improvements that are not federally reimbursable; and
3. Appropriate \$530,000 of additional Measure E Funds to the Project; and
4. Approve a consultant services agreement for construction management, inspection, and testing services with Unico Engineering, Inc., in the amount of \$1,337,320.12 for the Project and authorize the City Manager to execute the agreement and amendments as necessary up to 15% of the agreement amount.

Attachments: [02-21-17 Resolution](#)

12. [17-315](#)

SUBJECT: Fiscal Year 2016/17 Mid-Year Budget Update

Recommendation for Action: Information purposes only; no action required.

Attachments: [Attachment A and B](#)

13. [17-316](#)

SUBJECT: Fiscal Year 2016/17 Mid-Year Budget Amendments

Recommendation for Action: Staff recommends that the City Council adopt Resolution No. _____, authorizing the amendments to the Fiscal Year 2016/17 Budget totaling \$391,910.

Attachments: [Exhibit 1- Mid-Year Adjustment Table](#)

[Budget Resolution](#)

[Attachment 1-Appropriations by Fund.pdf](#)

14. [16-855](#) SUBJECT: YMCA Fitness and Wellness Center Use Agreement Amendment

Recommendation for Action: Staff recommends that the City Council receive an update on the YMCA Fitness and Wellness Center and authorize the City Manager to execute a contract amendment to the existing use agreement to include a monthly subsidy of \$1,500 (or \$18,000 per year).

Attachments: [YMCA Contract Amendment resolution](#)

J. ADJOURN

I declare under penalty of perjury that the foregoing Agenda for the Joint Regular City Council/Woodland Finance Authority Regular Meeting of the City of Woodland scheduled for February 21, 2017 was posted on February 17, 2017 in the outside display case at City Hall, 300 First Street, Woodland, CA, and was available to the public during normal business hours.

Ana B. Gonzalez, City Clerk

Upon request, agendas and documents in the agenda packet will be made available in appropriate alternative formats to persons with a disability, as required by law. Any such request must be made in writing to the Office of the City Clerk of the City of Woodland. Requests will be valid for the calendar year in which the request is received, and must be renewed prior to January 1st. Persons needing disability-related modifications or accommodations in order to participate in public meetings, including persons requiring auxiliary aids or services, may request such modifications or accommodations by calling the Office of the City Clerk (530-661-5806) at least 48 hours prior to the meeting.

Legislation Text

File #: 17-0316, **Version:** 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Long Range Calendar

Recommendation for Action: Staff recommends that the City Council receive the Long Range Calendar for informational purposes only.

Staff Contact

Ana Gonzalez, City Clerk - (530) 661-5806, ana.gonzalez@cityofwoodland.org

Background

This calendar is being provided for planning purposes only and is intended to keep the Council apprised of upcoming agenda items and better plan for upcoming Council items.

Prepared by: Ana Gonzalez, City Clerk



Paul Navazio, City Manager

Attachment

UPDATED COUNCIL LONG RANGE CALENDAR

MARCH 3rd

SPECIAL MEETING

City Council Retreat Study / Session – (Continued) 8:00am - Noon

MARCH 7th

REGULAR MEETING

Minutes

City Council Meeting Minutes for February 7, 2017 and February 21, 2017

Presenation

Historic Preservation Commission Workplan Presentation

Consent Calendar

Final Acceptance Beamer Trunk Sewer Lining, CIP #16-11

Final Acceptance for Recycled Water Project, CIP #16-01

Award Construction Contract SL Park N1 Project, CIP 17-10

Concession Contract – Community and Senior Center

Lease Purchase Vac-Con Trucks

Public Hearing

Accessory Dwelling Unit Zoning Ord Update to comply w/New State

Water Rate Ordinance – Prop 218 Public Hearing

Regular Calendar

Approve Plans & Specs and Authorize Bid Adv for Dog Gone Alley, CIP 17-XX

Sustainable Groundwater Management Agency Update

MARCH 21st

REGULAR MEETING

Consent Calendar

2017 Road Maintenance Project, CIP 17-03; Approve Plans and Specifications, Authorize Bid Advertisement

2016/2017 ADA Improvement Project, CIP 17-12; Approve Plans and Specs, Authorize Bid Advertisement

Second Reading of Water Rate Ordinance – Prop 218 Public Hearing

Public Hearing

Accessory Dwelling Unit Zoning Ord Update to comply w/New State

Regular Calendar

Spring Budget Workshop

APRIL 4th

REGULAR MEETING

Minutes

City Council Meeting Minutes of March 7 and March 21, 2017

Consent Calendar

Final Acceptance Beamer Trunk Sewer Lining, CIP #16-11

Final Acceptance for Recycled Water Project, CIP #16-01

Public Hearing

General Plan Public Meeting – GP, EIR, Climate Action Plan

Regular Calendar

Animal Shelter Project Update

Measure E spending Plan (Tentative)

Community Choice Energy (CCE) Update

APRIL 18th

REGULAR MEETING

Consent Calendar

Sprink Lake Park N1 – Naming

Hiddleson Pool Demolition

Regular Calendar

General Plan

Parking Management Plan

Pool Feasibility Update

FUTURE TOPICS / STUDY SESSIONS (TBD):

Regulatory Framework: Marijuana (Prop 64)

Community Choice Energy / Valley Clean Energy Alliance JPA

Affordable Housing Workshop– Part II

Downtown Parking Management Plan Update (April 18th – Tentative)

Habitat Conservation JPA (May)

Street / Road Maintenance Program



City of Woodland

City Hall
300 First Street
Woodland, CA 95695

Legislation Text

1.

File #: 17-196, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: City Council Meeting Minutes of January 3, 2017 and January 17, 2017

Recommendation for Action:

Staff Contact

Ana B. Gonzalez, City Clerk - 530-661-5806, ana.gonzalez@cityofwoodland.org

Background

Prepared by: Ana B. Gonzalez, City Clerk

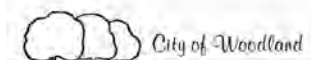
A handwritten signature in cursive script, reading "Paul Navazio".

Paul Navazio, City Manager

Attachments

City of Woodland

*City Hall
300 First Street
Woodland, CA 95695*



Meeting Minutes - Draft

Tuesday, January 3, 2017

6:00 PM

Council Chambers

City Council

**CITY COUNCIL
CLOSED SESSION
5:45PM**

A. CALL TO ORDER

B. CLOSED SESSION

- B.1 CONFERENCE WITH LABOR NEGOTIATORS, Pursuant to
Government Code Section 54957
Agency Designated Representatives: City Manager, Human Resources
Manager and Public Safety Chief
Employee Organization(s): Professional Police Employees' Association,
Police Supervisors Association and Police Mid-Management Employees**

**JOINT REGULAR CITY COUNCIL/WOODLAND FINANCE AUTHORITY
JANUARY 3, 2017
6:00 P.M.**

A. CALL TO ORDER

B. ROLL CALL

Present: 5 - Mayor Angel Barajas, Mayor Pro Tem Enrique Fernandez, Council
Member Marlin Davies, Council Member Xochitl Rodriguez and Council
Member Tom Stallard

C. PLEDGE OF ALLEGIANCE

**Pledge of Allegiance led by Woodland Chamber of Commerce Immediate Past
President Phil Hogan.**

D. COMMUNICATIONS-PUBLIC COMMENT

James Vorhees

E. COMMUNICATIONS-COUNCIL/STAFF STATEMENTS AND REQUESTS

Verbal updates provide by Council Members/Staff.

[17-111](#)

SUBJECT: Long Range Calendar

**Recommendation for Action: Staff recommends that the City Council
receive the Long Range Calendar for informational purposes only.**

F. PRESENTATIONS

1. [17-110](#) SUBJECT: Receive Presentation from the Woodland Tree Foundation

Recommendation for Action: Staff recommends that the City Council receive a presentation from the Woodland Tree Foundation highlighting 2016 program activities.

Received presentation from Marjorie Brown, Woodland Tree Foundation Vice President.

G. REPORTS OF THE CITY MANAGER

3. [17-106](#) SUBJECT: Presentation on the Sustainable Groundwater Management Act and the Formation of the Yolo Sub-Basin Groundwater Sustainability Agency

Recommended Action: Staff recommends that the City Council: 1) receive a presentation on current formation of the Yolo Sub-Basin Groundwater Sustainability Agency and 2) provide direction to staff, as needed, to inform next steps.

This item was moved ahead of Item No. 2.

Received e a presentation on current formation of the Yolo Sub-Basin Groundwater Sustainability Agency and provided irection to staff, as needed, for next steps.

2. [17-108](#) SUBJECT: Approval of Memorandum of Understanding for Regional Analysis of Fair Housing and Funding for Analysis and Related Tasks

Recommendation for Action: Staff recommends that the City Council adopt Resolution No._____, approving a memorandum of understanding to participate with other regional partners for the preparation of an analysis of fair housing (AFH) and amending the FY 2016/17 budget as necessary for pay the City's share of the analysis and related expenses; appropriating \$10,000 in Housing Trust funds (Fund 326) to the FY 2016/17 budget; resulting in a total appropriation of \$38,400 in Fund 326.

On a motion by Council Member Stallard, seconded by Council Member Davies and carried unanimously, Council Members adopted Resolution No. 6769, RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND APPROVING A MEMORANDUM OF UNDERSTANDING TO PARTICIPATE WITH REGIONAL PARTNERS FOR THE PREPARATION OF AN ANALYSIS OF FAIR HOUSING AND APPROPRIATING \$10,000 IN HOUSING TRUST FUNDS FOR THE ANALYSIS AND RELATED EXPENSE.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

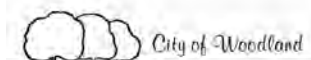
H. ADJOURNED AT 7:15PM

Respectfully submitted,

Ana B. Gonzalez, City Clerk

City of Woodland

*City Hall
300 First Street
Woodland, CA 95695*



Meeting Minutes - Draft

Tuesday, January 17, 2017

6:00 PM

Council Chambers

City Council

**CITY COUNCIL
CLOSED SESSION
5:30PM**

A. CALL TO ORDER

B. CLOSED SESSION

B.1 CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov't Code section 54956.8)

Property: Assessor's Parcel Number 027-852-005-000

Agency Negotiators: City Manager, Assistant City Manager, City Attorney

Negotiating Parties: Ashley and Main, LLC and Woodland Investment Company, LLC

Under Negotiation: Price and terms of payment

**JOINT REGULAR CITY COUNCIL/WOODLAND FINANCE
AUTHORITY/SUCCESSOR AGENCY**

JANUARY 17, 2017

6:00 P.M.

A. CALL TO ORDER

B. ROLL CALL

Present: 5 - Mayor Angel Barajas, Mayor Pro Tem Enrique Fernandez, Council Member Marlin Davies, Council Member Xochitl Rodriguez and Council Member Tom Stallard

C. PLEDGE OF ALLEGIANCE

Pledge of Allegiance led by Jim Smith.

D. COMMUNICATIONS-PUBLIC COMMENT

**Jennifer Bocanegra
Kaitlyn Hernandez
Rose Vidales
Carol Miller
Marvin Brynes
Gil Walker
Diana Ross**

E. COMMUNICATIONS-COUNCIL/STAFF STATEMENTS AND REQUESTS

Verbal updates provided by Council Members/Staff.

[17-130](#)

SUBJECT: Long Range Calendar

Recommendation for Action: Staff recommends that the City Council receive the Long Range Calendar for informational purposes only.

F. MINUTES[17-881](#)

SUBJECT: Council Meeting Minutes

Recommendation for Action: Staff recommends that the City Council adopt the minutes of the Joint Regular City Council/Woodland Finance Authority meeting of December 6, 2016 and December 20, 2016.

On a motion by Council Member Stallard, seconded by Mayor Pro Tem Fernandez and carried unanimously, Council Members adopted the minutes of the Joint Regular City Council/Woodland Finance Authority meeting of December 6, 2016 and December 20, 2016.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

G. PRESENTATIONS1. [17-119](#)

SUBJECT: Woodland Public Library Annual Report 2015-2016

Recommendation for Action: Staff recommends that the City Council receive the Woodland Public Library Annual Report 2015-2016 presented by the Woodland Public Library Board of Trustees.

Received the Woodland Public Library Annual Report 2015-2016 presented by the Woodland Public Library Board of Trustees and Library Services Director Greta Galindo.

H. CONSENT CALENDAR2. [16-864](#)

SUBJECT: Public Works Quarterly Status Report for the period of September through November 2016

Recommendation for Action: Staff recommends that the City Council accept the Public Works Department's Quarterly Status Report

Accepted the Public Works Department's Quarterly Status Report.

3. [17-107](#)

SUBJECT: Amendment to Agreement Regarding Reimbursement of Spring Lake Specific Plan Improvements - Subdivision 5004, Taylor Morrison Homes

Recommendation for Action: Staff recommends that the City Council adopt Resolution No. _____, Approving Amendment 1 to the Agreement Regarding Reimbursement of Spring Lake Specific Plan

Improvements for Subdivision 5004 with Taylor Morrison Homes of California.

Adopted Resolution No. 6768, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND APPROVING AGREEMENT REGARDING REIMBURSEMENT OF SPRING LAKE SPECIFIC PLAN IMPROVEMENTS FOR SUBDIVISION 5004 WITH TAYLOR MORRISON HOMES OF CALIFORNIA.

4. [17-112](#) SUBJECT: Approval of Plans and Specifications and Authorize Bid Advertisement for CIP 15-22, 2017 Annual Water and Sewer Repair and Replacement Project

Recommendation for Action: Staff recommends that City Council adopt Resolution No. _____, approving Plans and Specifications for CIP 15-22, Annual Water and Sewer Repair and Replacement Project.

Adopted Resolution No. 6770, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND APPROVING THE PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE 2017 ANNUAL WATER & SEWER REPAIR & REPLACEMENT PROJECT, CIP #15-22.

5. [17-128](#) SUBJECT: AB 1 (Frazier) & SB 1 (Beall) - Transportation Funding: Authorize City Manager to Submit Letters of Support

Recommendation for Action: Staff recommends that the Council authorize the City Manager to submit letters of support for AB1 (Frazier) and SB 1 (Beall) which propose to establish a comprehensive transportation funding package to include increased funding for local streets and roads.

Authorized the City Manager to submit letters of support for AB1 (Frazier) and SB 1 (Beall) which propose to establish a comprehensive transportation funding package to include increased funding for local streets and roads.

On a motion by Council Member Davies, seconded by Council Member Rodriguez and carried unanimously, Council Members adopted Consent Calendar Items No. 2 through 5.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

I. SUCCESSOR AGENCY CONSENT CALENDAR

6. [17-121](#) SUBJECT: A Resolution of the Successor Agency to the Dissolved Woodland Redevelopment Agency approving a Recognized Obligation Payment Schedule for the period of July 1, 2017 through June 30, 2018, pursuant to Health and Safety Code Section 34177(m)

Recommendation for Action: Staff recommends that the Successor Agency to the Dissolved Woodland Redevelopment Agency, approve

and adopt the attached resolutions authorizing the City Manager to submit:

1. ROPS 17/18 for the period of July 1, 2017 through June 30, 2018
2. Resolution Authorizing submittal of ROPS 17/187

Adopted Successor Agency Resolution NO. 17-01-SA, A RESOLUTION OF THE SUCCESSOR AGENCY TO THE WOODLAND REDEVELOPMENT AGENCY APPROVING AND ADOPTING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(I)(2) (A) AND (B) FOR THE PERIOD OF JULY 1, 2017 THROUGH JUNE 30, 2018.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

7. [17-117](#)

SUBJECT: Consideration of Resolution No. _____, approving a proposed administrative budget for the period of July 1, 2017 through June 30, 2018, pursuant to Health and Safety Code Section 34177 (j)

Recommendation for Action: It is recommended that the Successor Agency adopt Resolution No. _____, approving and adopting the proposed Administrative Budget pursuant to Health and Safety Code Section 34177 (j).

Adopted Resolution No. 17-02-SA, A RESOLUTION OF THE SUCCESSOR AGENCY TO THE DISSOLVED WOODLAND REDEVELOPMENT AGENCY APPROVING AND ADOPTING A PROPOSED ADMINISTRATIVE BUDGET FOR THE PERIOD OF JULY 1, 2017 THROUGH JUNE 30, 2018, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(j).

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

J. PUBLIC HEARINGS

8. [17-118](#)

SUBJECT: PUBLIC HEARING - Update of Spring Lake Infrastructure Fee

Recommendation for Action: Staff recommends that the City Council (1) hold a public hearing; and (2) adopt Resolution No. _____, increasing the Parks and Administrative components of the Spring Lake Infrastructure Fees;

Adopted Resolution No. 6771, RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND MAKING FINDINGS AND ADOPTING A SPRING LAKE INFRASTRUCTURE FEE INCREASE.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

K. REPORTS OF THE CITY MANAGER

9. [16-881](#)

SUBJECT: Award Construction Contract and Approve the Purchase of Playground Equipment for Spring Lake Park N3, CIP 15-05 (Rick

Gonzales Sr., Park)

Recommendation for Action: Staff recommends that the City Council:

- 1) Adopt Resolution No. _____, to award the construction contract in the amount of \$2,206,694.70 to JM Slover, Inc. and authorize a contingency not to exceed \$150,000 for the Spring Lake N3 Park Project CIP 15-05; and
- 2) Authorize the City Manager to execute a contract with Miracle Playsystems, Inc. for the purchase of playground equipment for Spring Lake N3 Park utilizing California Multiple Award Schedules (CMAS) pricing not to exceed \$128,851.28; and
- 3) Authorize the City Manager to execute a contract with NSP3 for the purchase of Picnic Shelter for Spring Lake N3 Park utilizing California Multiple Award Schedules (CMAS) pricing not to exceed \$75,237.79

Adopted Resolution No. 6772, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND APPROVING A CONSTRUCTION CONTRACT, AND APPROVING PURCHASE OF EQUIPMENT UTILIZING CALIFORNIA MULTIPLE AWARD SCHEDULES (CMAS) FOR THE SPRING LAKE N3 PARK PROJECT, CIP 15-05.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

10. [17-113](#)

SUBJECT: Spring Lake Park N1 Project, CIP 17-10; Approve Plans and Specifications and Authorize Bid Advertisement

Recommendation for Action: Staff recommends that the City Council:

1. Approve Resolution No. _____, approving the plans and specifications and authorizing bid advertisement for Phase 1 of the Spring Lake Park N1 Project, CIP 17-10; and
2. Direct staff to:
 - a) evaluate refinements to the Master Plan for Park N1 that integrate more usable active turf space and reduce potential public safety concerns;
 - b) solicit additional public input from Spring Lake residents after build out of the adjacent CalWest subdivision;
 - c) ensure that any revisions to the Master Plan be reviewed by the Parks and Recreation Commission and approved by the City Council prior to commencing preparation of construction drawings for the remaining 6 acres (Phase 2) of the park project.

Adopted Resolution No. 6773, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND APPROVING THE PLANS AND SPECIFICATIONS AND AUTHORIZING BID ADVERTISEMENT, FOR PHASE 1 OF THE SPRING LAKE N1 PARK PROJECT, CIP 17-10.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

11. [17-123](#) SUBJECT: 2016 Water Rate Study and Set Public Hearing

Recommendation for Action: Staff recommends that the City Council:

- 1) Receive the 2016 Water Rate Study; and
- 2) Set March 7, 2017 as the Public Hearing date for the proposed water revenue increases; and
- 3) Adopt Resolution No. _____, Adopting Procedures for Providing Notice and Receiving and Tabulating Written Protests to Property-Related Fees and Charges

Adopted Resolution No. 6774, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND ADOPTING PROCEDURES FOR PROVIDING NOTICE AND RECEIVING AND TABULATING WRITTEN PROTESTS TO PROPERTY-RELATED FEES AND CHARGES.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

12. [17-115](#) SUBJECT: Review of Priorities for FY 2017/18 CDBG Program and Approval of Revision to CDBG Application Process

Recommendation for Action: Staff recommends that the City Council:

1. Provide staff with input on funding priorities for the Fiscal Year 2017/18 CDBG program; and
2. Adopt Resolution No. _____, approving a change to the Community Development Block Grant (CDBG) application process to disqualify an applicant for future construction funding if the applicant has an open construction project funded two years ago or longer prior to a City CDBG application period with CDBG expenditures not equal to or exceeding 70 percent of the allocated CDBG funds.

Meeting went into Recess

Meeting Reconvened

Adopted Resolution No. 6775, RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND APPROVING A CHANGE TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION PROCESS.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

ON A MOTION BY COUNCIL MEMBER STALLARD, SECONDED BY COUNCIL MEMBER RODRIGUEZ AND CARRIED UNANIMOUSLY, COUNCIL MEMBERS APPROVED A MOTION TO EXTEND THE COUNCIL MEETING AN ADDITIONAL 30-MINUTES. COUNCIL TOOK A 5-MINUTE RECESS PRIOR TO RESUMING MEETING.

UPON RESUMING MEETING, COUNCIL APPROVED MOVING ITEMS NO. 15 AND 16 AHEAD OF ITEM NO. 13.

15. [17-127](#)

SUBJECT: Reappointment and Appointment of Board and Commission Members

Recommendation for Action: Staff recommends that the City Council:

- 1) Consider the reappointment of members to the various Boards and Commissions; and
- 2) Appoint new members to Commission on Aging and the Manufactured Homes Fair Practices Commissions; and
- 3) Direct a Council sub-committee to interview applicants for the Parks & Recreation Commission Vacancy.

Reappointed members to the various Boards and Commissions and appointed new members to Commission on Aging and the Manufactured Homes Fair Practices Commissions.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

16. [17-124](#)

SUBJECT: 2017 Community Service Awards Nominating Committee Report

Recommendation for Action: Staff recommends that the City Council:

- 1) Approve the nominating committee's recommended recipients selected to receive the 2017 Community Service Award; and
- 2) Determine which Council Members will present the awards to the selected award recipients.

Approved the nominating committee's recommended recipients selected to receive the 2017 Community Service Award and determined which Council Members would present the awards to the selected award recipients.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

13. [17-116](#)

SUBJECT: Winter Family Homeless Rotating Shelter Pilot Program

Recommendation for Action: Staff recommends that the City Council receive an update on a potential city sponsored winter family homeless rotating shelter and adopt Resolution No. _____, amending the FY 2016/17 budget as necessary to purchase shelter supplies in the amount of \$3000 with Housing Assistance Funds (Fund 326) for a total appropriation of \$41, 400 and authorizing the City Manager to execute an agreement to operate a pilot program at non-city owned property.

Adopted Resolution No. 6776, RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND APPROVING THE APPROPRIATION OF \$3,000 IN HOUSING ASSISTANCE FUNDS FOR WINTER SHELTER SUPPLIES AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS TO OPERATE THE PILOT PROGRAM.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

14. [17-114](#)

SUBJECT: General Plan Update: Status Report

Recommendation for Action: Staff recommends that the City Council receive a status report related to the General Plan Update.

Received status report related to the General Plan Update.

Ayes: 5 - Mayor Barajas, Mayor Pro Tem Fernandez, Council Member Davies, Council Member Rodriguez and Council Member Stallard

L. ADJOURNED AT 9:44PM

Respectfully submitted,

Ana B. Gonzalez, City Clerk

Legislation Text

2.

File #: 17-19, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Public Safety Department (Police and Fire) Quarterly Status report for the period
of October 2016 through December 2016**Recommendation for Action**

Staff recommends that the City Council accept the Public Safety Department Quarterly Status Report for October 2016 through December 2016.

Background

The Public Safety Department Quarterly Status Report includes a summary of all activity within the Department (Police and Fire). In lieu of providing comprehensive monthly status reports to the City Council and department heads via e-mail communication, the City Council now receives status reports on a quarterly basis via agenda packet.

Prepared by: Bonnie Sylva
Administrative Secretary

Reviewed by: Dan Bellini
Chief, Public Safety Dept.



Paul Navazio, City Manager

Attachment



PUBLIC SAFETY DEPARTMENT



Quarterly Report

DATE: February 7, 2017

SUBJECT: QUARTERLY REPORT FOR OCTOBER-DECEMBER 2016

POLICE:

PATROL AND INVESTIGATIONS SIGNIFICANT CASES:

OCTOBER:

- *October 2:* officers were dispatched to a call regarding a possible “break in” at an apartment. The victim said her ex-boyfriend pushed and kicked in the front door and then left on foot. Other officers were dispatched to assist and shortly thereafter located the suspect. The victim stated she and the suspect got into an argument and she told him to leave. She also described a domestic violence situation that had occurred the night before. Officers had probable cause to arrest the suspect. The suspect was arrested and booked for inflicting corporal injury, vandalism, malicious mischief, and possession of an illegal smoking pipe (typically used for methamphetamine).
- *October 4:* a detective was assigned an embezzlement case involving a former bookkeeper at St. Luke’s Episcopal Church. She was suspected of stealing more than \$15,000 from the church during the period of 2011 through 2014 and using the money for her personal expenses. On October 19, the detective arrested the 64-year-old Woodland resident on charges of embezzlement and grand theft.
- *October 6:* officers were dispatched to report of possible child molestation. The mother of a four-year old girl stated she suspected that her daughter had been molested by her father at his house. During the investigation, officers learned of other allegations of abuse against the father by his adult children. Because of the circumstances, the officers believed it was unsafe to leave the girl and her brother with the father. Officers contacted a judge for issuance of an emergency court order granting temporary custody to the mother and prohibiting the father from contacting the children or their mother. Officers went to the father’s home. The father cooperated, and the children were removed from his home without incident.
- *October 10:* officers were dispatched to the 1700 block of East Main Street regarding a subject who had been stabbed. Officers located the victim, a 40-year-old New Jersey resident, who had a stab wound in his chest. The victim identified a 33-year-old Florida resident as the suspect. The victim and suspect were team driving a big rig truck for deliveries. They were involved in an argument that led to the victim being stabbed. The weapon was located on scene. The victim was transported to UC Davis Med. Center with life threatening injuries. The suspect was arrested and booked for attempted murder.
- *October 13:* a detective completed his investigation into a 2015 child molest case in which a female juvenile victim reported that between 2006 and 2014 she was molested regularly by her mother’s boyfriend while she was 4 to 12 years old. The detective arrested the 50-year-old on a

charge of engaging in sexual penetration with a child under 10 years old. The charge carries a potential life sentence.

- *October 19:* officers were dispatched to the area of North Pioneer Avenue and East Beamer Street for the report of a possible vehicle versus pedestrian traffic collision. The collision was reported by the driver of the vehicle who remained on scene and met with the responding officers. When officers arrived, they located an unidentified Hispanic male lying in the northbound lanes of North Pioneer Avenue. The victim had severe injuries and was pronounced dead at the scene by Fire and AMR personnel.

- *October 23:* officers responded to a report of a domestic dispute. The victim had visible injuries sustained when her husband struck her in the face and head several times. The victim lost consciousness when she was struck. The victim's husband was not on scene at the time of the original contact. He later turned himself in at the police department and was arrested for felony domestic battery.

- *October 27:* a detective learned that a 33-year-old Woodland transient was out of compliance with his sex registration requirements. He was released from prison on October 18, 2016 and placed on parole in Yolo County. The suspect's parole terms required that he wear a GPS ankle monitor and stay at Walter's House, which is a residential live-in substance abuse treatment program in Woodland. On October 22, the suspect left the treatment program and cut off his ankle monitor. On Oct. 27, he was arrested by his parole agent and booked for violating his parole terms. The same day, the detective interviewed the suspect at the jail and booked him on a new charge of violating his sex registration requirements, a felony.

- *October 29:* detectives took over a rape investigation that had been reported to patrol officers. The adult female victim, who is transient, reported she had been raped in an alcove behind the Cookie Connection store earlier that morning by a male acquaintance. The suspect was positively identified as a 36-year-old transient living in Woodland. The suspect was arrested on charges of rape and penetration with a foreign object.

- *October 31:* officers responded to WMH regarding a domestic battery. Officers contacted the victim who was being treated for a wrist injury that she received when her husband grabbed her. During the battery, the victim lost her balance and fell to floor. The injury quickly worsened and she drove herself to the hospital for treatment. Her husband was contacted and later arrested for felony domestic battery.

NOVEMBER:

- *November 4:* officers responded to West Lincoln Avenue for a tree on fire. Officers interviewed witnesses and learned that a 12-year-old juvenile had set the fire. The juvenile suspect was contacted and interviewed. The suspect was issued an NTA for arson and released to his parents.

- *November 6:* a Woodland resident reported that her 17-year-old son had not been heard from since November 4. According to the RP, her son called her that day and asked to stay out late, to which she agreed. When he had not returned, or contacted family members, by November 6, she contacted WPD to file a missing person's report. The detective assigned this case has been working jointly with the Sheriff's Office because the juvenile's friend, a 17-year-old Esparto resident, was also reported to YCSO as a missing person by his mother in October of 2016, and his whereabouts were still unknown. The detective has been reviewing numerous documents that he received from search warrants, interviewing friends and associates of both juveniles, and scouring social media for indications of connections or locations of both juveniles.

- *November 7:* officers were dispatched to Lee Junior High to a report of an in-progress burglary. Two custodians were in the main office building when two males broke an office window and entered the building. Two 15-year-old male juveniles ran from the building but were quickly apprehended. The suspects were identified as Woodland residents, validated gang members, and both on Yolo County juvenile probation. The suspects removed six laptops and miscellaneous items from the building and vandalized numerous items in the building. It is estimated that the suspects stole \$3,000 in property and caused over \$1,000 in damage. All stolen property was recovered.
- *November 9:* In September, a detective took over a child molest investigation that was reported to a patrol officer. The minor victim reported that her father, a 34-year-old Woodland resident, touched her in a sexual manner two days prior. After a lengthy investigation, the detective arrested the suspect for child molestation.
- *November 11:* officers responded to a report of a glass break alarm at Romey's Liquors on Main Street. Officers found the front glass door shattered. Surveillance video showed four suspects had entered through the broken door, grabbed merchandise, and fled. On November 13, the officer that had taken the initial report saw a young male walking outside after curfew. The male was similar in appearance to one of the suspects on the video, and the officer detained the subject. The 12-year-old male was in possession of property stolen in the burglary, and he admitted he had been involved in the burglary. He was booked into juvenile hall for one count of burglary.
- *November 16:* an officer and sergeant located a subject near West Lincoln Avenue and Cottonwood Street that matched the description of a suspect who had attempted to rob Carl's Jr. restaurant earlier that day. The suspect matched an image on the surveillance video. The suspect tried to flee from the officers. After a brief foot chase, the suspect was apprehended. An eyewitness arrived at the location and positively identified the suspect as being the individual who attempted to rob Carl's Jr. The suspect was wearing the same clothing as described by the victim. The suspect was in possession of a large butcher knife, concealed in the pocket of his sweatshirt, also described by the victim. The suspect was arrested and booked.
- *November 18:* officers responded to an address on Gibson Road for a warrant service. When officers arrived, the suspect attempted to escape through the backyard. A K-9 and his handler were already set up in the backyard to prevent the suspect from fleeing. The K-9 officer identified himself to the suspect and ordered him to comply or the K-9 would be used to apprehend him. The suspect attempted to flee. The K-9 was deployed and apprehended the suspect.
- *November 20:* officers were dispatched to Rite Aid on West Main Street for a report of a grand theft. They contacted the victim, who stated she parked her father's Ford F-250 in the parking lot of Rite Aid. She went inside the store and did not lock her vehicle. When she returned to her vehicle, she noticed that her backpack was missing from the front passenger's seat. The backpack and its contents were valued at approximately \$3,700. Later that night, dispatch advised that sheriff's deputies had just located the victim's stolen property inside a stolen vehicle.
- *November 26:* an officer was driving by Del Valle Mercado on Kentucky Avenue and heard an alarm sounding from the business. The officer located a large broken pane of glass at the front of the building. Surveillance video showed a lone male suspect break the window, enter through it, steal property from the store, and flee. The officer noticed an unoccupied suspicious vehicle parked nearby. The officer located the vehicle's owner and learned a 17-year-old male had been

driving it that night. The officer contacted the suspect at his home. The suspect was similar in appearance to the male on the surveillance video. The suspect admitted his involvement in the burglary, and he was booked into juvenile hall for one count of burglary.

DECEMBER:

- *December 1:* officers responded to a report of shots fired near the intersection of Colette and Thomas Streets, and the possible suspect vehicle (dark-colored 4-door Honda) was last seen northbound on Thomas Street. The shooter was described as a young Hispanic male wearing a dark-colored hoodie type sweatshirt. Officers found a shell casing for a .45-caliber pistol. Police searched the vicinity but couldn't find a vehicle matching the description. Later that day, officers attempted to stop a dark-colored Honda on Cottonwood Street near West Cross Street. The vehicle didn't pull over. The vehicle finally stopped in the 1200 block of Kentucky Avenue, where police detained two occupants. The driver, a 27-year old resident of Woodland, was arrested and booked for failure to yield, possession of cocaine, and driving under the influence. The passenger, a 29-year-old Woodland resident, was released without charges. Officers determined this vehicle was not the vehicle involved in the shooting at Colette and Thomas Streets.
- *December 2:* a detective assisted patrol officers with an investigation into several shots that were fired into at a residence on Campos Avenue and into a vehicle parked in front of the residence. It is believed the shots were fired in the early morning, but the residents did not notice the damage until that afternoon. Bullet casings and expended rounds were collected and analyzed, but at this time, there is no known motive for the shooting and no suspect leads.
- *December 12:* officers were dispatched to a robbery call. Officers determined that a suspect pointed a gun at the victim and demanded money. The victim relinquished an undisclosed amount of money from the business, and the suspect ran southbound from the area. With video footage, patrol officers were able to place the suspect at another store shortly after the robbery. Working with detectives and posting a photo on Facebook led to an identification of the suspect.
- *December 15:* officers were contacted by a victim of a domestic rape and felony physical abuse. The victim and suspect had been married for 9 years and have a 7-year-old child. On the evening of December 12, the suspect forced the victim into having intercourse with him after he severely beat her. The suspect was arrested and an E.P.O. was issued.
- *December 15:* officers were dispatched to apartments on Pioneer Avenue for an indecent exposure call. The 28-year-old female victim reported she was in her parked car with the door open. The suspect stood between her and the open door, asked her for sex, and lowered his pants exposing his genitals. When the victim tried to retreat into her car and close the door, the suspect held the door open. The victim was eventually able to close the door and call for help.
- *December 16:* officers were dispatched to Denny's restaurant on East Main Street for a report of a male asking a female for sex in the parking lot. The 26-year-old female victim reported that the suspect walked up to her in the parking lot and asked her for sex. The victim refused and got into her car. The suspect reached into the open car window and reached down the victim's shirt. The victim was able to drive away. Both victims described the suspect as a thin Hispanic male in his 20s wearing a black jacket, blue jeans, and red shoes. Later, an officer found a male matching that description walking on Bourn Drive near Gillette Drive. The suspect, a 21-year-old Woodland resident, was identified as the suspect in both cases. He was arrested and booked for indecent exposure, sexual battery, and false imprisonment.
- *December 29:* officers arrested a suspect for prowling near the 900 block of Wendell Way. The suspect resisted arrest but was eventually controlled and handcuffed. En route to the jail, the

suspect acted in a way that made the transporting officer believe the suspect was attempting to get a weapon that may have been missed during the search. The officer pulled his vehicle over, and attempted to adjust the suspect's handcuffs. The suspect assaulted the officer. The suspect tried to escape, but the officer was able to use his TASER to subdue him. The suspect was transported to WMH for a medical clearance and then taken to the county jail.

- *December 29:* a female adult reported to officers that a male suspect had entered her unlocked apartment and demanded that she perform a sexual act on him. The victim refused and told the suspect she was going to call the police. The suspect took the victim's cell phone and threatened her with injury if she tried to call the police. He then forced the victim down onto her couch, exposed his genitals to her, and again demanded that she perform a sexual act on him. When the victim refused, the suspect pinned her down onto the couch for a short period. The victim was eventually able to coerce the suspect into getting off her by telling him she needed to use the bathroom. After getting up, the victim broke free and ran to her bedroom. The suspect then left the victim's apartment. The victim recognized the suspect as someone she had seen walking through her apartment complex on prior occasions. Officers were able to develop enough information to determine that a 20-year-old Woodland resident was the suspect in this crime. A few hours later, WPD detectives and Yolo County Probation Officers contacted the suspect and placed him under arrest. The suspect was booked on charges of burglary with the intent to commit a sexual act, false imprisonment, dissuading a victim from reporting a crime, and violation of probation.

- *December 31:* officers were dispatched to a burglary in progress on Bourn Drive. The officers contacted the victims, a 44-year-old female Woodland resident and a 45-year-old male Woodland resident. The victims told officers they were awakened by their dog barking. The male resident walked into a hallway where he was confronted by three suspects. Both residents were assaulted by the suspects during the burglary and sustained minor injuries but refused medical treatment. All three suspects fled the area. The victims described the suspects as light-skinned males about six feet tall with medium builds wearing all black clothing and black masks.

A total of 327 transients were arrested for violations ranging from violation of the City's no camping ordinance, drunk in public, narcotic violations, recyclable thefts, and warrants.

POP Projects:

There were two new POP Projects opened, and there are still six open at the end of the quarter.

School Resource Officers (SRO):

The SROs had the following activity for the 4th quarter of 2016:

Activity	Oct	Nov	Dec	Qtr. Total
Consensual contacts	1105	882	802	2789
Fighting	7	11	9	27
Alcohol violations	1	1	1	3
Gang activity	2	8	0	10
Narcotics	6	6	4	16
Truancy	8	6	0	14
Tobacco use	1	3	0	4
Vandalism	0	0	0	0

Theft	4	0	0	4
Weapons	0	0	0	0
Misdemeanor crimes	0	0	0	0
Felony crimes	0	0	0	0
Administrative/Home visits	96	134	75	305
Arrests	2	3	0	5
Citations issued	9	2	0	11

Statistical Report:

CRIME				Calendar Year 2016	
Category	Oct.	Nov.	Dec.	Reported to CA DOJ	Percent change
Homicide	0	0	0	3	200%
Rape	2	0	2	14	-13%
Robbery	4	6	4	54	6%
Aggravated Assaults	14	5	11	144	-27%
Simple Assaults	43	47	40	517	-2%
Burglary	19	13	22	221	-32%
Larceny/Thefts	81	94	93	1,039	-16%
Auto Theft	17	24	29	264	9%
Arson	0	2	0	17	13%
TOTAL	180	191	201	2273	
WORKLOAD					
Calls for Service	Oct.	Nov.	Dec.	TOTAL	
Priority 1	117	90	103	310	
Priority 2	1915	1762	1801	5478	
Priority 3	90	111	103	304	
All other calls for service	3315	2767	2854	8936	
TOTAL	5437	4730	4861	15028	
Response Times					
Priority 1	8:24	8:36	7:13		
Priority 2	13:14	12:27	10:06		
Priority 3	24:42	38:24	32:38		
Reports					
Online Reports/Coplogics	45	36	38	119	
Mail-in Reports (MLRs)	78	92	117	287	
Other case numbers issued	534	475	429	1438	
TOTAL	657	603	584	1844	
Graffiti	15	24	10	49	
290 Registrant Activity	Oct.	Nov.	Dec.		
Total registrants	137	135	133		
Other Information					
Total transient registrants	11	11	12		
290 PC violation warrants issued	1	3	0		
Not compliant with annual update	0	0	0		

Personnel		
Oct.-Dec.	Budgeted	Filled
Sworn	64	61
Non-sworn (FTE)	15	14
Non-sworn (PT/Temp.)	6	5
Total	85	80

Volunteers in Policing (ViP):

The Department's ViP program added four new volunteers this past quarter. Sadly, Chaplain John Hudnall passed away in December. The ViPs and Chaplains worked a total of 4,670.35 hours in 2016. Total hours for this quarter:

ViP Hours	Oct.	Nov.	Dec.	Total
Chaplains	23.5	15	34	72.5
Volunteers	553.75	342.75	241.5	1138

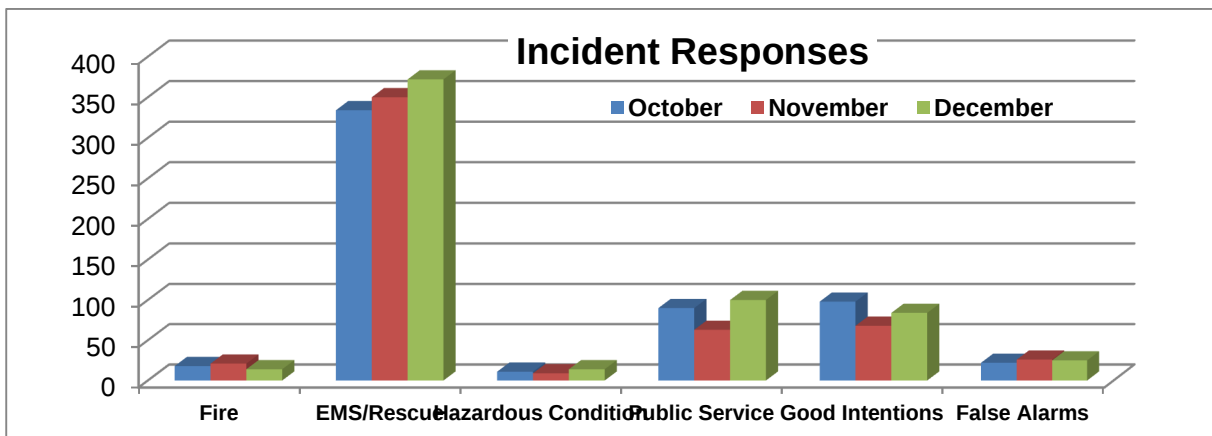
The chaplains' activities included responding to call-outs from WPD and other Yolo County LEAs for at-home deaths and death notifications to family members; counseling service; call-out for suicide; participating in the 3-on-3 basketball tournament; and the memorial service for Chaplain John Hudnall.

The volunteers' activities included participation in Drug Take Back event; Trick or Treat event; graffiti abatement; shopping cart abatement; assisting with Neighborhood Watch; various holiday toy drives; administrative work in several divisions (Detectives, Crime Analysis, Records, Property & Evidence); tagging abandoned vehicles; ViP background investigations; assistance with predictive policing; providing extra patrol; washing and stocking patrol cars.

FIRE:

The Quarterly Status Report includes a wide variety of information in an effort to better inform the public and the City Council.

	October	November	December
Total Incident Responses			
Fire	18	21	14
EMS/Rescue	334	350	372
Hazardous Condition	11	9	14
Public Service	90	63	100
Good Intentions	98	68	84
False Alarms	22	26	25
TOTAL	573	537	609
Mutual/Auto-Aid	16	12	14
Fire Prevention			
Engine Company Inspections	66	74	41
Inspections	147	131	171
Plan Reviews	17	7	19
TOTAL	230	212	231
Code Enforcement Hours	0	1	0
Fire Investigation Hours	0	0	9.5
Public Education Events			
Fire Prevention	3	2	0
Engine Company	2	7	0
TOTAL	5	9	0



Quarterly Response Times:

Based on the City's general plan, the Woodland Fire Department has adopted the national response time standards set forth in NFPA 1710. These times are calculated using en route time (the time the company leaves the station) and arrival time (the time the company arrives on scene). Below is a breakdown of response time goals and average response times (in minutes) by type of call:

Quarterly Response Times	October-December 2016		
	Response Goal	Actual	Avg. Response Time
Fire	4 minutes 90% of the time	20.75%	5:38
Full First Alarm Assignment (3 Engines, 1 Truck, 1BC)	8 minutes 90% of the time	83.33%	NA
Emergency Medical	4 minutes 90% of the time	44.73%	4:24

Automatic or Mutual Aid:

Automatic aid is provided to another agency through formal agreement and occurs automatically on significant events without any special request. Mutual aid occurs when fire departments provide help to one another upon special request when a significant event(s) (large incident or multiple small incidents) take place. Every fire agency in Yolo County is a signatory to this agreement.

	October	November	December
Aid Received	4	7	10
Aid Given	12	5	4
TOTAL	16	12	14

Significant Calls:

Patient Resuscitated

On October 14, E-2 was dispatched for report of a 47-year-old male having chest pains. E-2 responded code 3 and arrived on scene to find the patient sitting on the couch with his father attempting to provide CPR. E-2 checked the patient's vitals and he was pulseless. The patient was moved to the floor and CPR was started. AMR arrived and care was transferred. E-2 continued to rotate CPR and BVM positions while AMR provided advanced life support treatment. The patient responded to the treatment, regained a pulse, and began to breathe on his own. AMR transported the patient with two firefighters on board for support. Once at the

hospital, E-2 continued to assist. Finally, the patient had a strong pulse, was breathing on his own, and E-2 was released.

Apartment Fire on Sixth Street

On October 22, fire crews responded to a reported structure fire at 1737 Sixth Street. On scene, Battalion 1 found smoke and flames coming from a second story window, above the laundry room. The area was determined to be a storage area being used as a bedroom. Crews quickly extinguished the fire, overhauled the fire area, and found no extension into other areas of the apartment complex. Three engines, one truck, and one BC responded to the incident. The cause was undetermined after the investigation.

Structure Fire Displaces Eight Residents

On December 22, fire crews responded to a reported structure fire at 1311 Antoinette Way. On scene, E-3 reported a fully involved single story residence with smoke and flames visible. The homeowner stated eight residents were home at the time of the fire, but they were all able to escape the structure. Fire crews worked to extinguish the fire. Extensive overhaul was done to extinguish hidden fire and check for fire extension. After investigation, the cause was undetermined. The fire appeared to have started in the front of the structure near the kitchen/family room. Red Cross was called to the scene to assist with family needs. A total of 16 firefighters 3 engines, 1 truck, 1 rescue, and 1 BC responded to this incident.

Legislation Text

3.

File #: 17-150, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Final Acceptance and Notice of Completion for 2016 ADA Improvement Project,
CIP 16-07

Recommendation for Action: Staff recommends that the City Council (1) approve Resolution No. _____, accepting the 2016 ADA Improvement Project, CIP 16-07, as complete and authorizing the City Clerk to file a Notice of Completion

Staff Contact

Clara Olmedo, Associate Engineer - (530) 661-5824, clara.olmedo@cityofwoodland.org

Fiscal Impact

The total project budget is \$284,352 with funding provided from Community Development Block Grant (CDBG) as identified in the current Capital Budget as CIP 16-07. The project budget also included \$14,000 from Water Enterprise Funds and \$8,000 of Sewer Enterprise Funds for improvements associated with utility conflicts.

There is no impact to the General Fund.

Background

The City of Woodland applies for CDBG funds annually from the United States Department of Housing and Urban Development (HUD). CDBG funds must be used for activities that assist lower-income persons and to eliminate conditions of blight from the community.

In 2013, the Engineering Division applied for and received \$137,000 in CDBG grant funding for access improvements for persons with disabilities to various locations within the City, and \$25,000 CDBG grant funding for a Series Street Light Safety Improvement project. Favorable bid prices for the 2013/2014 ADA project resulted in approximately \$8,000 remaining in the budget. Due to changes in the census map, the streetlight project was deemed ineligible. The \$25,000 and \$8,000 were incorporated into the \$100,000 CDBG grant funding received in 2014 for the 2014/2015 CDBG program year for a total budget of approximately \$134,000.

Staff determined it was in the City's best interest to combine the \$134,000 with an additional \$136,000 CDBG grant funding received in 2015 for the 2015/2016 CDBG program year to construct a larger and more economical project in the summer of 2016.

Discussion

The City Council authorized bid advertisement of the Project on March 1, 2016. The project was awarded to the contractor, Central Valley Engineering & Asphalt Inc. on April 19, 2016 via Resolution No. 6616. Construction is now complete and ready for acceptance.

The project locations that were constructed were along the City's priority route, which gives access to public facilities such as parks and public schools. The priority route locations were determined through the City's ADA committee. The 2016 priority project locations are shown on the attached drawing.

Some locations were deemed infeasible for construction due to unforeseen site conditions such as extensive utility relocation work or required removal of trees which were outside the scope of the contract. Change orders were executed to remove those locations and to account for adjustments in bid quantities.

The final project cost breakdown is as follows:

Staff Time	\$15,998.29
Construction	
Construction Contract	\$200,551.50
Change Orders	\$(-56,509.05)
Total Construction	\$144,042.45
Construction Management/Inspection	\$53,870.00
Other	\$424.82
Total Project Costs	\$214,335.56
Total Project Budget	\$284,352.32
Balance	\$(70,016.76)*

*The remaining funds will be returned to their associated programs. Approximately \$52,000 of the balance is CDBG funds and the remaining are water and sewer funds.

Conclusion

Staff recommends that the City Council (1) approve Resolution No. _____, accepting the 2016 ADA Improvement Project, CIP 16-07, as complete and authorizing the City Clerk to file a Notice of Completion.

Prepared by: Clara Olmedo, Associate Engineer

Reviewed by: Brent Meyer, City Engineer
Ken Hiatt, Assistant City Manager - Community and Economic Development

A handwritten signature in black ink, appearing to read "Paul Navazio". The signature is fluid and cursive, with the first name "Paul" and last name "Navazio" clearly distinguishable.

Paul Navazio, City Manager

ATTACHMENTS:

Attachment A - Resolution

Attachment B - Project Map

RESOLUTION NO. _____
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND TO
ACCEPT THE 2016 ADA IMPROVEMENT
PROJECT (CIP 16-07) CONSTRUCTION CONTRACT AS COMPLETE AND
AUTHORIZE THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the City Council authorized staff to bid the 2016 ADA Improvement Project, CIP 16-07 on March 1, 2016; and

WHEREAS, the City Council on, April 19, 2016; authorized the City Manager to award and execute a construction contract; and

WHEREAS, the City Manager executed the construction contract with Central Valley Engineering & Asphalt, Inc. on May 20, 2016; and

WHEREAS, construction began in July 18, 2016 and was substantially completed in November 2016.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND AS FOLLOWS:

Section 1: The City Council hereby accepts 2016 ADA Improvement Project, CIP 16-07 as complete.

Section 2: The City Council hereby authorizes the City Clerk to file a Notice of Completion for the 2016 ADA Improvement Project, CIP 16-07.

PASSED AND ADOPTED this _____ day of _____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

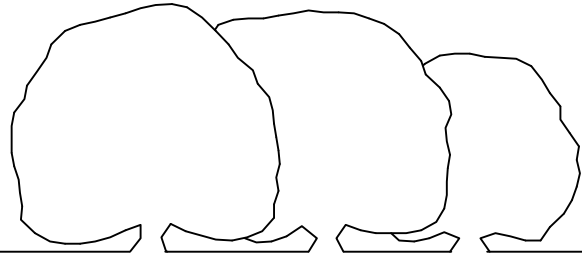
Angel Barajas, Mayor

ATTEST:

APPROVED AS TO FORM:

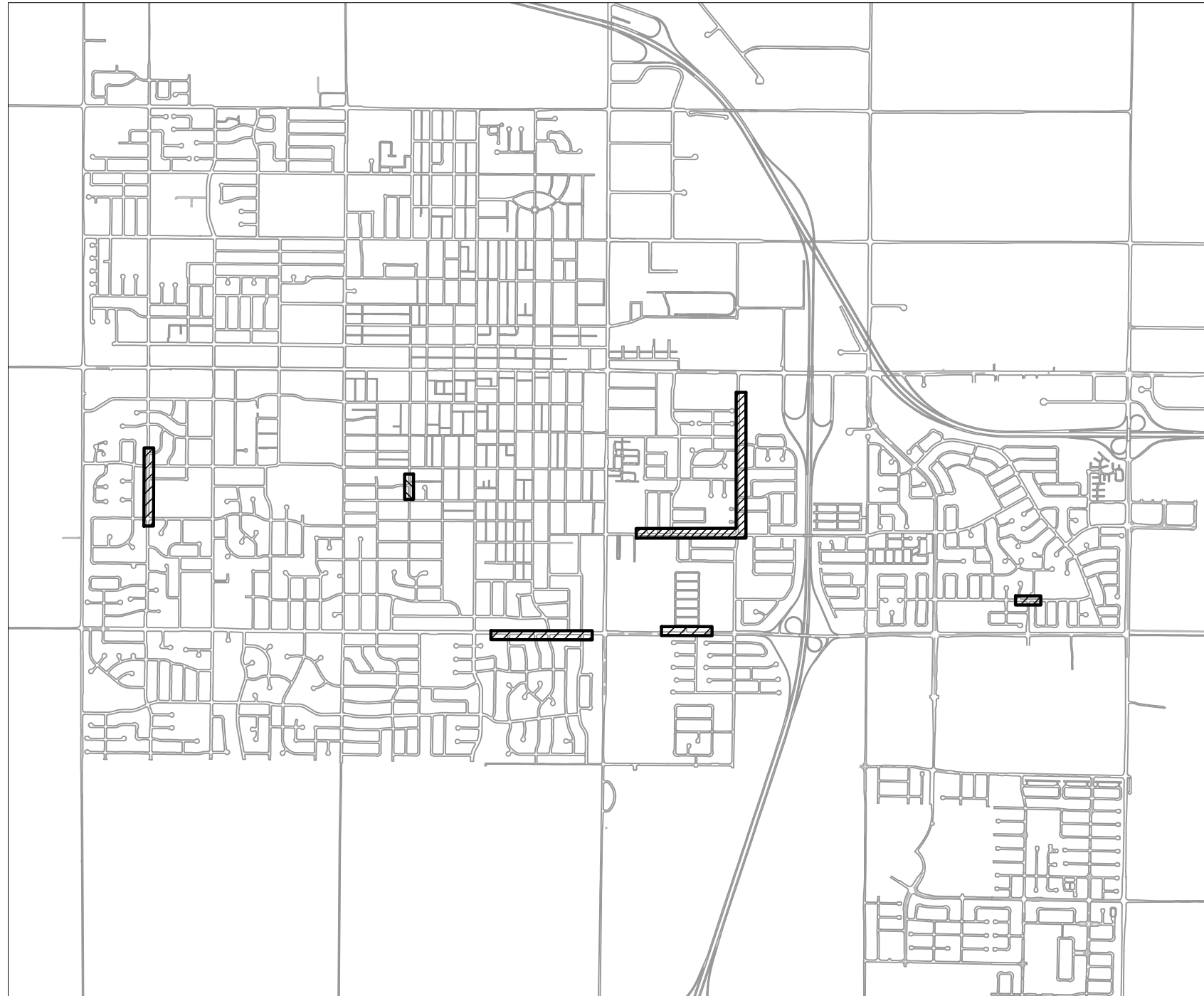
Ana B. Gonzalez, City Clerk

Kara K. Ueda, City Attorney



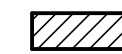
CITY OF WOODLAND

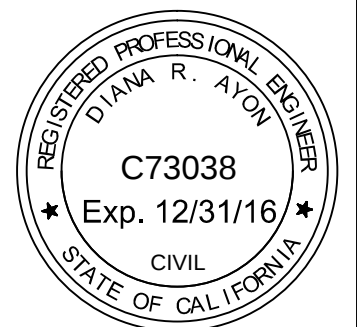
2016 ADA IMPROVEMENT PROJECT, CIP#16-07



SHEET INDEX

- 1 COVER SHEET
- 2 DETAILS
- 3 DETAILS
- 4 BASE ADA
- 5 BASE ADA
- 6 BASE ADA & ADD ALT
- 7 ADD ALTS ADA

 PROJECT LOCATIONS



PROJECT MAP

DESIGNED BY DRA	REVISIONS					BENCH MARK: ELEVATION: N/A DATUM: N/A DESCRIPTION:	PROJECT ENGINEER'S SIGNATURE BY: Diana R. Ayon DATE: 02/22/16 P.E. C70338 REGISTRATION EXP.: 12/31/16	CITY OF WOODLAND APPROVED BY: Brent Meyer, City Engineer	 CITY OF WOODLAND PUBLIC WORKS DEPARTMENT ENGINEERING DIVISION 300 FIRST ST. WOODLAND, CA 95695 (530) 661-5961	PROJECT #16-07 2016 ADA IMPROVEMENT PROJECT COVER SHEET	SCALE: N/A	SHEET NO. 1 OF 7
DRAWN BY LH	NO.	DESCRIPTION	BY	DATE	APPR. DATE						HORIZ. N/A	
REVIEWED BY KAW											VERT. N/A	
FILE:											DATE: 02/22/2016	
											PROJECT NO.	

Legislation Text

4.

File #: 17-151, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Final Acceptance and Notice of Completion for 2016 Road Maintenance Project,
CIP 16-01 and Remaining Fund Reallocation**Recommendation for Action:** Staff recommends that the City Council:

1. Staff recommends that the City Council (1) approve Resolution No. _____, accepting the 2016 Road Maintenance Project, CIP 16-01, as complete and authorizing the City Clerk to file a Notice of Completion; and
2. Authorize the reallocation of all remaining Water Enterprise Funds from the 2016 Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03; and
3. Authorize the reallocation of all remaining Measure E Funds from the Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03.

Staff Contact

Sara Andreotti, Engineering Tech - (530) 661-5951, sara.andreotti@cityofwoodland.org

Fiscal Impact

The total project budget is \$2,355,940 as identified in the current Capital Budget at project CIP 16-01. The project is primarily funded by Measure E with additional Water Enterprise Funds in the amount of \$150,000 to fund improvements associated with water utility conflicts. This project funding is consistent with the current approved Capital Budget and the Measure E Spending Plan.

The requested reallocation of remaining Measure E and Water Enterprise funds to the 2017 Road Maintenance Project, CIP#17-03, will ensure the 2017 project can complete as much pavement maintenance as possible and will fund the needed, and currently unfunded, water improvements associated with ADA ramp conflicts. There is \$211,688 of Measure E and \$112,980 of Water Enterprise funding remaining for reallocation to project #17-03.

There is no impact to the General Fund.

Background

In 2006, voters approved the Measure E, ½ cent sales tax, along with advisory measures to identify voter preferences for use of those tax proceeds. Under the advisory measures, road maintenance and repair received the second highest voter response. Accordingly, staff identified a pavement management program that included

annual road maintenance projects and periodic road rehabilitation projects for the Capital Budget.

The project performed pavement maintenance seals in Zones 1 and 2 of the City - the area bound by Main Street, CR98, East Street, and the north City limits. The work was primarily on local streets with some work on collector streets.

A publication from the Federal Highways Administration and Department of Justice (FHWA/DOJ) requires that all projects performing specific roadway improvements install ADA compliant curb ramps within the project area. Compliance with this requirement added over \$400,000 in construction and water system modification costs to this project.

Discussion

The City Council authorized bid advertisement of the Project on February 2, 2016. The project was awarded to the contractor, Intermountain Slurry Seal, Inc. on March 15, 2016 via Resolution No. 6607. Construction of the improvement was finished on schedule and under budget. The project is now complete and the project is ready for acceptance.

Change orders were executed throughout the course of the project to account for unforeseen site conditions and adjustments in bid quantities. The change orders for the Road Maintenance Project work totaled \$33,370., which was 2% of the Council approved contingency of 20%.

The City was also able to take advantage of favorable bid prices and a willing contractor to execute a change order in the amount of \$20,250 to complete seal work on Ashley Avenue, which was required of the Water Transmission West project CIP #12-05. Combining these similar work types saved the City approximately \$10,000. The Ashley Avenue work was paid for directly out of project CIP#12-05. However, since these costs were included in the CIP #16-01 construction contract, they are shown in the project breakdown below.

The project cost breakdown is as follows:

Design	
Design	\$16,305.58
Total Design	\$16,305.58
Construction	
Construction Contract	\$ 1,667,739.13
Change Orders	\$ 53,619.68
Total Construction	\$ 1,721,358.81*
Construction Management/Inspection/Staff PM	\$ 299,165.18
Other (public notice mailing, printing, construction water, etc.)	\$ 6,694.18
Total Project Costs	\$ 2,043,523.75
Total Project Budget	\$ 2,355,941.70
Difference	\$ 332,667.95

* The Construction Contract and Change Orders totals include the \$20,250 Change Order for work on Ashley Ave.

Conclusion

Staff recommends that the City Council:

1. Staff recommends that the City Council (1) approve Resolution No. _____, accepting the 2016 Road Maintenance Project, CIP 16-01, as complete and authorizing the City Clerk to file a Notice of Completion; and
2. Authorize the reallocation of all remaining Water Enterprise Funds from the 2016 Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03; and
3. Authorize the reallocation of all remaining Measure E Funds from the Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03.

Prepared by: Sara Andreotti, Engineering Technician

Reviewed by: Brent Meyer, City Engineer
Ken Hiatt, Community Development Director



Paul Navazio, City Manager

ATTACHMENTS:

Attachment A - Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND TO
ACCEPT THE 2016 ROAD MAINTENANCE PROJECT, CIP 16-01 AND AUTHORIZE
THE CITY CLERK TO FILE A NOTICE OF COMPLETION AND APPROVE
REALLOCATION OF REMAING MEASURE E AND WATER ENTERPRISES FUNDS
FROM THE 2016 ROAD MAINTENANCE ROAD PROJECT, CIP 16-01 TO THE 2017
ROAD MAINTENANCE PROJECT, CIP 17-03**

WHEREAS, the City Council authorized staff to bid the 2016 Road Maintenance Project, CIP 16-01 (the “Project”) on February 2, 2016; and

WHEREAS, the City Council on, March 15, 2016, authorized the City Manager to award and execute a construction contract; and

WHEREAS, the City Manager executed the construction contract with Intermountain Slurry Seal, Inc. on April 1, 2016; and

WHEREAS, construction began on April 18, 2016 and was substantially completed in October of 2016; and

WHEREAS, the project was completed under budget and there’s \$211,688 remaining funds from Measure E and \$112,980 Water Enterprise Funds on the 2016 Road Maintenance Project, CIP 16-01; and

WHEREAS, the City Council desires to approve reallocation of all the remaining Funds from Measure E and Water Enterprise Fund to the 2017 Road Maintenance Project, CIP 17-03.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND AS FOLLOWS:

Section 1. The City Council hereby accepts the 2016 Road Maintenance Project, CIP 16-01 and authorizes the City Clerk to file a Notice of Completion.

Section 2. The City Council hereby authorizes the reallocation of \$112,980 remaining Water Enterprise Funds from the 2016 Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03.

Section 3. The City Council hereby authorizes the reallocation of \$211,688 remaining Measure E Funds from the Road Maintenance Project, CIP 16-01, to the 2017 Road Maintenance Project, CIP 17-03.

PASSED AND ADOPTED this _____ day of _____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Angel Barajas, Mayor

ATTEST:

Ana B. Gonzalez, City Clerk



Legislation Text

5.

File #: 17-120, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 7, 2017

SUBJECT: Increase the FY 2016/2017 Vehicle Replacement Budget by \$96,046.08 and Authorize the Purchase of Two New Vehicles and One Replacement Truck

Recommendation for Action: Staff recommends that the City Council approve Resolution No. _____, authorizing a \$96,046.08 Increase to the Vehicle Replacement Budget and the Purchase of Three Vehicles.

Staff Contact

Troy Thompson, Fleet & Facilities Manager, troy.thompson@cityofwoodland.org, 530-661-5956

Council Goal

Maintain City Infrastructure - providing reliable vehicles for City department.

Fiscal Impact

The \$96,046.08 budget appropriate will be funded from the Vehicle Replacement Reserves (Fund 012) and will be used to support the purchases and build-ups of three vehicles, of which two vehicles are new additions to the fleet and one vehicle is a replacement vehicle for an older Fire Department truck that has already been approved to be replaced by the City Council during the FY2016/2017 budget cycle.

New Ford Explorer for new Fire Chief Position

The total cost of a suitable vehicle for the new Fire Chief position will be \$46,000. This amount includes the cost of the vehicle and required build-up items. Since this is a new vehicle to the fleet, the General Fund will fund the original costs. Fleet Services will collect a replacement fee, or "Fixed Rate" from the Fire Department's operating budget every year throughout its lifecycle to hold in its reserve fund to be used towards the purchase a new vehicle for when it is replaced at the end of its life. In addition to the Fixed Rate, Fleet Services will also charge the Fire Department's operating budget a Variable Rate to use towards the maintenance and fuel for the vehicle each year. Fleet Services estimates the Fixed Rate to be \$8,960.00 per year and the Variable Rate to be \$3,500.00 per year.

New Toyota Rav4 Hybrid for new Deputy Director of Public Works - Utilities Position

The total cost of a suitable vehicle for the new Deputy Director of Public Works - Utilities position will be \$35,000. This amount includes the cost of the vehicle and required build-up items. Since this is a new vehicle to the fleet and will be used in the Sewage Treatment System program, the Sewage Treatment System will fund

the original costs. Fleet Services estimates the annual Fixed Rate to be \$5,226.34 and the annual Variable Rate to be \$3,500.00, both fees will be charged to the Sewage Treatment Systems operating budget every year.

Replacement Ford F350 Crew Cab for the Fire Department

The total estimated cost of the replacement truck is \$72,000.00. This amount includes the cost of the vehicle and required build-up items, such as lighting, bed cover, specialized graphics and radios. Fleet Services budgeted only \$46,952.02 to replace the truck during the FY2015/2016 budget review cycle; this budget was based on the amount of reserve funds this truck had accumulated up to that point in time. However, there have been an additional \$9,952.00 added to its reserve balance since then for a total reserve balance of \$56,904.02, resulting in a need for an additional \$15,095.98. The justification for the increase is Fire Department's operational requirement to upgrade the truck from a super cab to a crew cab along with adding additional safety and operational features that were not installed on the older truck.

Fleet Services estimates the annual Fixed Rate to be \$10,751.33 and the annual Variable Rate to be \$4,291.82, both fees will be charged to the Fire Department every year.

Background

The City Council previously approved the budget for the new Fire Chief and Deputy Director of Public Works - Utilities positions during the FY 2016/2017 budget review. However, the vehicles for these positions were not included in the budget cycle. The purpose of this Council Communication is to request both the budget appropriations as well as the authority to purchase the new vehicles from the dealerships that were the lowest responsive bidders. In addition to the vehicles for the two new positions, there is still one last FY2016/2017 replacement truck to purchase for the Fire Department. Fleet Services invited competitive bids for: one (1) 2017 Ford Explorer for new Fire Chief position, one (1) 2017 Toyota Rav4 Hybrid for the new Deputy Director of Public Works - Utilities position, and (1) replacement 2017 Ford F350 Crew Cab truck for the Fire Department.

2017 Ford Explorer Bid

Fleet Services issued a Notice Inviting Bids to qualified Ford dealerships and four proposals were received:

- 1) Elm Ford in the amount of \$30,905.75
- 2) DuPratt Ford of Dixon in the amount of \$30,606.29
- 3) Downtown Ford of Sacramento in the amount of \$31,863.89, and
- 4) The National Auto Fleet Group of Watsonville in the amount of \$34,042.31

Elm Ford is considered the lowest responsive bidder in this case after the 5% local bidder preference is factored into the bid price.

2017 Toyota Rav4 Hybrid Bid

Fleet Services issued a Notice Inviting Bids to qualified Toyota dealerships and three bids were received by the deadline:

- 1) Hanlees Toyota of Davis in the amount of \$32,046.08
- 2) Freeway Toyota of Hanford in the amount of \$32,830.97, and
- 3) The National Auto Fleet Group of Watsonville in the amount of \$33,739.77

2017 Ford F350 Crew Cab

Fleet Services issued a Notice Inviting Bids to qualified Ford dealerships and two bids were received by the deadline:

- 1) Elm Ford in the amount of \$47,046.75, and
- 2) The National Auto Fleet Group of Watsonville in the amount of \$50,626.64

Discussion

Per the City's Purchasing Ordinance, all materials, supplies and equipment purchases greater than \$50,000 must be awarded by the City Council. Fleet Services will create purchase orders for each vehicle purchase upon Council approval. The dealerships will place the vehicles on order once the purchase orders are received from the City. It will take approximately 6-7 weeks for delivery after the orders have been placed. Once the new vehicles arrive, Fleet Services will need about two weeks to in-process the vehicles before they are released to their respective programs for use. The older vehicles will be turned in for auction once the new vehicles are fully operational. The auction proceeds will be returned to the Vehicle Replacement Fund to be used as credit towards the new vehicles' replacement reserve balance.

Conclusion

Staff recommends that the City Council approve Resolution No. _____, authorizing a \$96,046.08 Increase to the Vehicle Replacement Budget and the Purchase of Three Vehicles.

Prepared by: Troy Thompson, Fleet & Facilities Manager



Paul Navazio, City Manager

Attachments: Resolution
Elm Ford Ford Explorer Quote
DuPratt Ford Ford Explorer Quote
Downtown Ford Ford Explorer Quote
NAFG Ford Explorer Quote
Hanlees Toyota Toyota Rav4 Quote
Freeway Toyota Toyota Rav4 Quote
NAFG Toyota Rav4 Quote
Elm Ford Ford F350 Quote
NAFG Ford F350 Quote

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND
AUTHORIZING A \$96,046.08 INCREASE TO THE VEHICLE REPLACEMENT BUDGET
AND THE PURCHASE OF THREE VEHICLES**

WHEREAS, the City of Woodland requests to increase the Vehicle Replacement Budget (Fund 012-084-7841-5545) by \$96,046.08 to be used towards the purchases and build-ups of three vehicles;

WHEREAS, the City Council acknowledges that two of the vehicle purchases will be for two new positions in the City, one for the new Fire Chief position and one for the new Deputy Director of Public Works – Utilities position, and one of the vehicles will be for a replacement truck for the Fire Department that was already approved by the City Council to be replaced in FY2016/2017;

WHEREAS, the City Council acknowledges that although the funding for the positions themselves were adopted by the City Council in the FY2016/2017 budget, the budget for the vehicles for the positions were not included in the budget;

WHEREAS, the City of Woodland wishes for a budget for the Fire Chief vehicle not to exceed \$46,000.00, which includes the price of the vehicle and the build-up;

WHEREAS, the City of Woodland wishes for a budget for the Deputy Director of Public Works – Utilities vehicle not to exceed \$35,046.08, which includes the price of the vehicle and the build-up;

WHEREAS, the City of Woodland wishes for an additional \$15,095.98 budget appropriation towards the purchase of the Fire Department replacement vehicle to pay for required upgrades;

WHEREAS, the City of Woodland sought competitive bids for one (1) Ford Explorer for the new Fire Chief Position, one (1) Toyota Rav4 Hybrid for the new Deputy Director of Public Works – Utilities position, and one (1) Ford F350 Crew Cab for the Fire Department;

WHEREAS, the City of Woodland received four proposals from qualified Ford dealerships for the Ford Explorer bid: One from Elm Ford in the amount of \$30,905.75, one from DuPratt Ford in the amount of \$30,606.29, one from Downtown Ford in the amount of \$31,863.89, and one from the National Auto Fleet Group in the amount of \$34,042.31.

WHEREAS, the City of Woodland wishes to award the purchase of the Ford Explorer bid to Elm Ford in the amount of \$30,905.75 on the merit of the 5% local bidder preference;

WHEREAS, the City of Woodland received three proposals from qualified Toyota dealerships for the Toyota Rav4 Hybrid bid: One from Hanlees Toyota of Davis in the amount of \$32,046.08, one from Freeway Toyota of Hanford in the amount of \$32,830.97, and one from the National Auto Fleet Group in the amount of \$33,739.77;

WHEREAS, the City of Woodland wishes to award the purchase of the Toyota Rav4 Hybrid bid to Hanlees Toyota in the amount of \$32,046.08 on the merit of this proposal being the lowest responsive bid;

WHEREAS, the City of Woodland received two proposals from qualified Ford dealership for the Ford F350 bid: One from Elm Ford in the amount of \$47,046.75 and one from the National Auto Fleet Group in the amount of \$50,626.64;

WHEREAS, the City of Woodland wishes to award the purchase of the Ford F350 to Elm Ford in the amount of \$47,046.75 on the merit of this proposal being the lowest responsive bid;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND: hereby authorizes the increase to the Vehicle Replacement budget (Fund 012-084-7841-5545) by \$96,046.08, and authorizes the purchases of one (1) 2017 Ford Explorer from Elm Ford in the amount of \$30,905.75, one (1) 2017 Toyota Rav4 Hybrid from Hanlees Toyota in the amount of \$32,046.08, and one (1) Ford F350 Crew Cab from Elm Ford in the amount of \$47,046.75.

PASSED AND ADOPTED by the City Council on this 7th day of February 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Angel Barajas, Mayor

APPROVED AS TO FORM:

Kara K. Ueda, City Attorney

ATTEST:

Ana Gonzalez, City Clerk



National Auto Fleet Group

A Division of Chevrolet of Watsonville

490 Auto Center Drive, Watsonville, CA 95076

(855) 289-6572 • (855) BUY-NJPA • (831) 480-8497 Fax

Fleet@NationalAutoFleetGroup.com

1/4/2017

QuoteID: 9096

Troy Thompson
City of Woodland
Public Works
655 N. Pioneer Ave
Woodland, California, 95776

Dear Troy Thompson,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration.
One (1) New/Unused (2017 Ford Super Duty F-350 SRW (W3B) XL 4WD Crew Cab 6.75' Box 160" WB,) and delivered to your specified location, each for

One Unit

Base Price	\$46,760.18
Tax (8.2500 %)	\$3,857.71
Tire fee	\$8.75
Total	\$50,626.64

- per the attached specifications. Price includes 2 additional key(s), and 1 service manual(s).

This vehicle(s) is available under the **National Joint Powers Alliance Contract 102811**. Please reference this Bid number on all purchase orders to National Auto Fleet Group. Payment terms are Net 30 days after receipt of vehicle.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Jesse Cooper
National Fleet Manager
Email: jcooper@nationalautofleetgroup.com
Office: 951-440-0585
Fax: 831-289-6572



In order to Finalize your Quote, please submit this purchase packet to your governing body for Purchase Order Approval.
Once you issue a Purchase Order please send by:

Fax: (831) 480-8497

**Mail: National Auto Fleet Group
 490 Auto Center Drive
 Watsonville, CA 95076**

Email: Fleet@nationalautofleetgroup.com

We will then send a W-9 if you need one

**Please contact our main office with any questions:
 1-855-289-6572**

Vehicle Configuration Options

ENGINE

Code	Description
99T	ENGINE: 6.7L POWER STROKE V8 TURBO DIESEL B20, -inc: 4 valve OHV, manual push-button engine-exhaust braking and intelligent oil-life monitor, GVWR: 11,200 lb Payload Package, 34 Gallon Fuel Tank, 3.31 Axle Ratio, 175 Amp Heavy Duty Alternator, Dual 78-AH 750 CCA Batteries

TRANSMISSION

Code	Description
44W	TRANSMISSION: TORQSHIFT 6-SPEED AUTOMATIC, -inc: (6R140), SelectShift

WHEELS

Code	Description
64A	WHEELS: 17" ARGENT PAINTED STEEL, -inc: painted hub covers/center ornaments (STD)

TIRES

Code	Description
TD8	TIRES: LT245/75RX17E BSW A/S PLUS (4), (STD)

PRIMARY PAINT

Code	Description
PQ	RACE RED

PAINT SCHEME

Code	Description
___	STANDARD PAINT

SEAT TYPE

Code	Description
AS	MEDIUM EARTH GRAY, HD VINYL 40/20/40 SPLIT BENCH SEAT, -inc: center armrest, cupholder, storage and driver's side manual lumbar

AXLE RATIO

Code	Description
X31	3.31 AXLE RATIO

ADDITIONAL EQUIPMENT

Code	Description
90L	POWER EQUIPMENT GROUP, -inc: Deletes passenger-side lock cylinder, upgraded door trim panel, Accessory Delay, Remote Keyless Entry, Trailer Tow Mirrors w/Power Heated Glass, manual telescoping, heated convex spotter mirror and integrated clearance lamps/turn signals, Perimeter Alarm, Power Front & Rear Seat Windows, 1-touch up/down driver/passenger window, Power Tailgate Lock, Power Locks
52B	TRAILER BRAKE CONTROLLER, -inc: Verified to be compatible w/select electric over hydraulic brakes, smart trailer tow connector
76C	EXTERIOR BACKUP ALARM (PRE-INSTALLED), -inc: Custom accessory
41P	TRANSFER CASE & FUEL TANK SKID PLATES
—	GVWR: 11,200 LB PAYLOAD PACKAGE
924	PRIVACY GLASS
43B	FIXED REAR-WINDOW W/DEFROST
18B	PLATFORM RUNNING BOARDS
942	DAYTIME RUNNING LAMPS (DRL), -inc: The non-controllable 942 Daytime Running Lamps (DRL) replace the standard Daytime Running Lamps (DRL), on/off cluster controllable
66L	LED BOX LIGHTING, -inc: LED Center High-Mounted Stop Lamp (CHMSL)
85S	TOUGH BED SPRAY-IN BEDLINER, -inc: tailgate-guard, black box bed tie-down hooks and black bed attachment bolts
585	RADIO: AM/FM STEREO/SINGLE-CD/MP3
913	SYNC 3 COMMUNICATIONS & ENTERTAINMENT SYSTEM, -inc: enhanced voice recognition, 8" LCD capacitive touch screen in center stack w/swipe capability, pinch-to-zoom capability included w/available voice-activated touchscreen navigation system, AppLink, 911 Assist, Apple CarPlay and Android Auto and 2 smart charging USB ports, NOTE: SYNC AppLink lets you control some of your favorite compatible mobile apps w/your voice, It is compatible w/select smartphone platforms, Commands may vary by phone and AppLink software, 110V/400W Outlet, 1 in-dash mounted outlet, Extra Heavy-Duty 200 Amp Alternator
871	REAR VIEW CAMERA
873	REAR CHMSL CAMERA, -inc: Display in center stack screen, LED Center High-Mounted Stop Lamp (CHMSL) w/cargo light, Rear View Camera, electrochromic mirror w/video display in center stack screen
874	ULTIMATE TRAILER TOW CAMERA SYSTEM, -inc: 360 degree camera system and trailer reverse guidance, Rear CHMSL Camera Display in center stack screen, LED Center High-Mounted Stop Lamp (CHMSL) w/cargo light, Rear View Camera, electrochromic mirror w/video display in center stack screen
66S	UPFITTER SWITCHES (6), -inc: Located in overhead console
43C	110V/400W OUTLET, -inc: Extra Heavy-Duty 200 Amp Alternator
76Z	ADVANCED SECURITY PACK, -inc: SecuriLock Passive Anti-Theft System (PATS) and inclination/intrusion sensors

OPTION PACKAGE

Code	Description
610A	ORDER CODE 610A

SHIP THRU CODES

Code	Description
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2017 Fleet/Non-Retail Ford Super Duty F-350 SRW XL 4WD Crew Cab 6.75' Box 160" WB

WINDOW STICKER

2017 Ford Super Duty F-350 SRW XL 4WD Crew Cab 6.75' Box 160" WB		
CODE	MODEL	MSRP
W3B	2017 Ford Super Duty F-350 SRW XL 4WD Crew Cab 6.75' Box 160" WB	\$40,110.00
	OPTIONS	
99T	ENGINE: 6.7L POWER STROKE V8 TURBO DIESEL B20, -inc: 4 valve OHV, manual push-button engine-exhaust braking and intelligent oil-life monitor, GVWR: 11,200 lb Payload Package, 34 Gallon Fuel Tank, 3.31 Axle Ratio, 175 Amp Heavy Duty Alternator, Dual 78-AH 750 CCA Batteries	\$8,795.00
44W	TRANSMISSION: TORQSHIFT 6-SPEED AUTOMATIC, -inc: (6R140), SelectShift	\$0.00
64A	WHEELS: 17" ARGENT PAINTED STEEL, -inc: painted hub covers/center ornaments (STD)	\$0.00
TD8	TIRES: LT245/75RX17E BSW A/S PLUS (4), (STD)	\$0.00
PQ	RACE RED	\$0.00
—	STANDARD PAINT	\$0.00
AS	MEDIUM EARTH GRAY, HD VINYL 40/20/40 SPLIT BENCH SEAT, -inc: center armrest, cupholder, storage and driver's side manual lumbar	\$0.00
X31	3.31 AXLE RATIO	\$0.00
90L	POWER EQUIPMENT GROUP, -inc: Deletes passenger-side lock cylinder, upgraded door trim panel, Accessory Delay, Remote Keyless Entry, Trailer Tow Mirrors w/Power Heated Glass, manual telescoping, heated convex spotter mirror and integrated clearance lamps/turn signals, Perimeter Alarm, Power Front & Rear Seat Windows, 1-touch up/down driver/passenger window, Power Tailgate Lock, Power Locks	\$1,125.00
52B	TRAILER BRAKE CONTROLLER, -inc: Verified to be compatible w/select electric over hydraulic brakes, smart trailer tow connector	\$270.00
76C	EXTERIOR BACKUP ALARM (PRE-INSTALLED), -inc: Custom accessory	\$140.00
41P	TRANSFER CASE & FUEL TANK SKID PLATES	\$100.00
—	GVWR: 11,200 LB PAYLOAD PACKAGE	INC
924	PRIVACY GLASS	\$30.00
43B	FIXED REAR-WINDOW W/DEFROST	\$60.00
18B	PLATFORM RUNNING BOARDS	\$445.00
942	DAYTIME RUNNING LAMPS (DRL), -inc: The non-controllable 942 Daytime Running Lamps (DRL) replace the standard Daytime Running Lamps (DRL), on/off cluster controllable	\$45.00
66L	LED BOX LIGHTING, -inc: LED Center High-Mounted Stop Lamp (CHMSL)	\$60.00
85S	TOUGH BED SPRAY-IN BEDLINER, -inc: tailgate-guard, black box bed tie-down hooks and black bed attachment bolts	\$495.00
585	RADIO: AM/FM STEREO/SINGLE-CD/MP3	\$275.00
913	SYNC 3 COMMUNICATIONS & ENTERTAINMENT SYSTEM, -inc: enhanced voice recognition, 8" LCD capacitive touch screen in center stack w/swipe capability, pinch-to-zoom capability included w/available voice-activated touchscreen navigation system, AppLink, 911 Assist, Apple CarPlay and Android Auto and 2 smart charging USB ports, NOTE: SYNC AppLink lets you control some of your favorite compatible mobile apps w/your voice, It is compatible w/select smartphone platforms, Commands may vary by phone and AppLink software, 110V/400W Outlet, 1 in-dash mounted outlet, Extra Heavy-Duty 200 Amp Alternator	\$115.00
871	REAR VIEW CAMERA	INC
873	REAR CHMSL CAMERA, -inc: Display in center stack screen, LED Center High-Mounted Stop Lamp (CHMSL) w/cargo light, Rear View Camera, electrochromic mirror w/video display in center stack screen	INC
874	ULTIMATE TRAILER TOW CAMERA SYSTEM, -inc: 360 degree camera system and trailer reverse guidance, Rear CHMSL Camera Display in center stack screen, LED Center High-Mounted Stop Lamp (CHMSL) w/cargo light, Rear View Camera, electrochromic mirror w/video display in center stack screen	\$710.00
66S	UPFITTER SWITCHES (6), -inc: Located in overhead console	\$165.00
43C	110V/400W OUTLET, -inc: Extra Heavy-Duty 200 Amp Alternator	INC

76Z	ADVANCED SECURITY PACK, -inc: SecuriLock Passive Anti-Theft System (PATS) and inclination/intrusion sensors	\$60.00
610A	ORDER CODE 610A	\$0.00
SUBTOTAL		\$53,000.00
Advert/ Adjustments		\$0.00
Manufacturer Destination Charge		\$1,295.00
TOTAL PRICE		\$54,295.00
Est City: N/A MPG		
Est Highway: N/A MPG		
Est Highway Cruising Range: N/A mi		

Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

Standard Equipment**MECHANICAL**

Engine: 6.2L 2-Valve SOHC EFI NA V8 Flex-Fuel
Transmission: TorqShift 6-Speed Automatic (6R140) -inc: SelectShift
3.73 Axle Ratio
GVWR: 10,500 lb Payload Package
50-State Emissions System
Transmission w/Oil Cooler
Manual Transfer Case
Part-Time Four-Wheel Drive
72-Amp/Hr 650CCA Maintenance-Free Battery w/Run Down Protection
157 Amp Alternator
Class V Towing w/Harness, Hitch and Trailer Sway Control
3740# Maximum Payload
HD Shock Absorbers
Front Anti-Roll Bar
Firm Suspension
Hydraulic Power-Assist Steering
34 Gal. Fuel Tank
Single Stainless Steel Exhaust
Manual Locking Hubs
Front Suspension w/Coil Springs
Leaf Rear Suspension w/Leaf Springs
4-Wheel Disc Brakes w/4-Wheel ABS, Front And Rear Vented Discs, Brake Assist and Hill Hold Control

EXTERIOR

Wheels: 17" Argent Painted Steel -inc: painted hub covers/center ornaments
Tires: LT245/75Rx17E BSW A/S PLUS (4)
Regular Box Style
Steel Spare Wheel
Full-Size Spare Tire Stored Underbody w/Crankdown
Clearcoat Paint
Black Front Bumper w/Black Rub Strip/Fascia Accent and 2 Tow Hooks
Black Rear Step Bumper
Black Side Windows Trim and Black Front Windshield Trim
Black Door Handles
Black Manual Side Mirrors w/Manual Folding
Manual Extendable Trailer Style Mirrors
Fixed Rear Window
Light Tinted Glass
Variable Intermittent Wipers
Aluminum Panels
Black Grille
Front License Plate Bracket
Tailgate Rear Cargo Access
Manual Tailgate/Rear Door Lock
Fully Automatic Aero-Composite Halogen Daytime Running Lights Preference Setting Headlamps w/Delay-Off
Cargo Lamp w/High Mount Stop Light

ENTERTAINMENT

Radio: AM/FM Stereo -inc: digital clock and 6-speakers
Fixed Antenna
1 LCD Monitor In The Front

INTERIOR

4-Way Driver Seat -inc: Manual Recline and Fore/Aft Movement
4-Way Passenger Seat -inc: Manual Recline and Fore/Aft Movement
60-40 Folding Split-Bench Front Facing Flip Forward Cushion/Seatback Rear Seat
Manual Tilt/Telescoping Steering Column
Gauges -inc: Speedometer, Odometer, Oil Pressure, Engine Coolant Temp, Tachometer, Transmission Fluid Temp, Engine Hour Meter, Trip Odometer and Trip Computer
Manual Rear Windows
Manual Air Conditioning
HVAC -inc: Underseat Ducts
Illuminated Locking Glove Box
Interior Trim -inc: Chrome Interior Accents
Full Cloth Headliner
Urethane Gear Shift Knob
HD Vinyl 40/20/40 Split Bench Seat -inc: center armrest, cupholder, storage and driver's side manual lumbar
Day-Night Rearview Mirror
Passenger Visor Vanity Mirror
2 12V DC Power Outlets
Full Overhead Console w/Storage and 2 12V DC Power Outlets
Fade-To-Off Interior Lighting
Front And Rear Map Lights
Full Vinyl/Rubber Floor Covering
Underhood And Pickup Cargo Box Lights
Instrument Panel Bin and Covered Dashboard Storage
Manual 1st Row Windows
Systems Monitor
Trip Computer
Outside Temp Gauge
Analog Display
Manual Adjustable Front Head Restraints and Manual Adjustable Rear Head Restraints
Securilock Anti-Theft Ignition (pats) Engine Immobilizer
Air Filtration

SAFETY

Electronic Stability Control (ESC) And Roll Stability Control (RSC)
ABS And Driveline Traction Control
Side Impact Beams
Dual Stage Driver And Passenger Seat-Mounted Side Airbags
Tire Specific Low Tire Pressure Warning
Mykey System -inc: Top Speed Limiter, Audio Volume Limiter, Early Low Fuel Warning, Programmable Sound Chimes and Beltminder w/Audio Mute
Safety Canopy System Curtain 1st And 2nd Row Airbags
Outboard Front Lap And Shoulder Safety Belts -inc: Rear Center 3 Point and Height Adjusters

Dual Stage Driver And Passenger Front Airbags



ELM FORD

346 MAIN STREET • WOODLAND, CA 95695
P.O. BOX 2175 • WOODLAND, CALIFORNIA 95776-2175
530-662-2817

12/27/16

TO
TROY THOMPSON

BID#

	\$ 28,600.00
DOC FEE	80.00
TIRE FEE	8.75
SALES TAX	2217
LIC FEE	N/A

30,905.75

FREE DELIVERY
INCLUDING
SHOP MANUAL
ALSO DMV. LIC
INCLUDING TWO EXTRA KEYS

Rigo Torres

RIGO TORRES
ELM FORD
P.O. BOX 2175
WOODLAND, CA 95776

(530) 402-5976 cell

CNGP530

VEHICLE ORDER CONFIRMATION

12/27/16 16:17:26

==>

Dealer: F72424

2017 EXPLORER 4-DOOR

Page: 1 of 1

Order No: 0214 Priority: B3 Ord FIN: QC339 Order Type: 5B Price Level: 745

Ord Code: 100A Cust/Flt Name: CITY WOODLAND PO Number: 7777

K8B	4DR 4WD BASE	RETAIL	DLR INV		RETAIL	DLR INV
	.112.6" WB	\$33810	\$32626.00	96R	RUNNING BDS BLK	\$595 \$565.00
YZ	OXFORD WHITE			153	FRT LICENSE BKT	NC NC
7	CLOTH BUCKET				SP DLR ACCT ADJ	(1388.00)
L	MED LT CAMEL				SP FLT ACCT CR	(955.00)
100A	EQUIP GRP				FUEL CHARGE	4.14
	.18" PNTD ALUM			B4A	NET INV FLT OPT	NC 7.00
998	.3.5L V6 TIVCT	NC			DEST AND DELIV	945 945.00
44J	.6-SPD AUTO TRAN	NC	NC		TOTAL BASE AND OPTIONS	35670 32107.79
	.P245/60R18 A/S		NC		TOTAL	35670 32107.79
	CA BOARD FEES	NC	.65		*THIS IS NOT AN INVOICE*	
422	CALIF EMISSIONS	NC	NC			
76R	REVERSE SENSING	275	261.00			
	SLCTSHFT TRANS					
942	DAYTIME RUN LMP	45	42.00			
F1=Help						
F4=Submit						
S099 - PRESS F4 TO SUBMIT						
					F3/F12=Veh Ord Menu	
						QC07943

Notice Inviting Bids – 2016 or 2017 Ford Explorer 4WD



City of Woodland

**City of Woodland
655 N. Pioneer Ave
Woodland, CA 95776**

**City Contact:
Troy Thompson
troy.thompson@cityofwoodland.org
530-661-5956**

SECTION A. NOTICE INVITING BIDS

A.1 .General Description of Work

The City of Woodland is soliciting bids from qualified Ford Dealerships for one (1) 2016 or 2017 model Ford Explorer 4WD for the Fire Department including all the items listed in Exhibit "A" Vehicle Configuration Options on Page 4. The City of Woodland will choose one dealership for the purchase of this vehicle. The bid period will end upon the first 3 qualified bids received, or December 30th, 2016, whichever comes first. The dealership will be responsible for handling all the DMV paperwork and acquiring the exempt license plates on behalf of the City.

A.2. Schedule of Bid Period Activities

The tentative schedule and terms of the activities of the project is as follows:

December 22, 2016 – Notice Inviting Bids published, bid period commences

December 30, 2016 – Bids Due by 4:00pm (or when first 3 bids are received)

January 17, 2017 – Council Meeting Authorizing Purchase Award

January 18 - 20, 2017 – Purchase Order Sent to Dealership

A.3. Bid Submissions

Bids can be emailed to troy.thompson@cityofwoodland.org or either dropped off or mailed to 655 N. Pioneer Avenue, Woodland, CA 95776 no later than 4:00 pm December 30th, 2016. However, it is highly encouraged for dealerships to submit their bids sooner in order to be among the first three qualified bids received.

A.4. Owner Contact for Questions

Bidder must refer all inquiries relating to the requirements of this bid offer to Troy Thompson, Fleet & Facilities Manager, at 530-661-5956, or by e-mail at troy.thompson@cityofwoodland.org. Bidders can also address their inquiries by mail or walk-in at 655 N. Pioneer Avenue, Woodland, CA 95776.

SECTION B. DESCRIPTION OF WORK

B.1. Quote Details

Dealership must provide a quote on company letterhead with the following details:

- a. Dealer point of contact name, phone number and email address
- b. Base price of vehicle
- c. Price for each option (see Exhibit "A")
- d. Subtotals
- e. Taxes, Doc fee, other fees and transportation, use 8.25% tax rate
- f. Specify discount if offered
- g. Warranty information
- h. Net terms

SECTION C. EVALUATION

C.1. Evaluation Criteria

The City will endeavor to receive bids from at least three different dealerships.

The City will award the contract to the lowest responsive bidder taking into account the full price of the vehicle, applicable taxes/fees, optional features, and warranty terms. There will also be a 5% local bidder preference.

C.2. Award of Proposal

If the proposal is \$15,000 or less, the proposal may be awarded by the Public Works Director. If the proposal is between \$15,001 and \$50,000, the proposal may be awarded by the City Manager. If the proposal is over \$50,000 it shall be presented to the City Council for award. Contracts will be awarded to the lowest and responsible bidder. If two (2) or more bids are the same and the lowest, the authorized contracting party may accept the one it chooses.

C.3. Rejection of Bids

The City may reject any or all bids received if the estimates for the purchase exceed the allotted budget, and may waive any minor irregularities in each bid received.

EXHIBIT "A" **VEHICLE CONFIGURATION OPTIONS**

- One (1) 2016 or 2017 model Ford Explorer 4WD (K8B)
- Two (2) additional keys (4 total keys)
- One (1) Service Manual
- Options:

Code	Description
998	Engine: 3.5L TI-VCT V6 (FFV)
44J	Transmission: 6-Speed Automatic
YZ	Oxford White
-	Standard Paint
7L	Medium Light Camel, Cloth Bucket Seats
100A	Equipment Group 100A
422	California Emissions System
153	Front License Plate Bracket
96R	Running Boards – Black
942	Daytime Running Lights
76R	Reverse Sensing System



Ron DuPratt Ford

1320 NORTH FIRST STREET • DIXON, CA 95620 • (707) 678-5555 FAX (707) 678-5567 • www.RonDuPrattFord.com

CITY OF WOODLAND

655 NORTH PIONEER AVE.

WOODLAND, CA 95776

DECEMBER 28, 2016

2017 EXPLORER, 4WD, OXFORD WHITE

MSRP	\$35,670.00
SELLING PRICE	27,907.79
EXTRA KEYS (2)	233.10
SERVICE MANUAL	50.83
DOC. FEE	80.00
REG. FEE	EXEMPT
SALES TAX	2,325.82
CA TIRE FEE	8.75
TOTAL	\$30,606.29

WARRANTY: 3 YR / 36,000 BUMPER TO BUMPER & 5 YR / 60,000 POWER TRAIN

TERM: NET 30 DAYS

BILL STEPHENSON – COMMERCIAL / FLEET SALES MANAGER

RON DUPRATT FORD – DIXON, CA

CELL (707) 333-6589

E-MAIL BILL.STEPHENSON@DUPRATTFORD.COM

==>

Dealer: F72511

2017 EXPLORER 4-DOOR

Page: 1 of 1

Order No: 9999 Priority: B3 Ord FIN: QC339 Order Type: 5B Price Level: 745

Ord Code: 100A Cust/Flt Name: CITY WOODLAND PO Number:

RETAIL

RETAIL

K8B	4DR 4WD BASE	\$33810		SLCTSHFT TRANS	
	.112.6" WB		942	DAYTIME RUN LMP	45
YZ	OXFORD WHITE		96R	RUNNING BDS BLK	595
7	CLOTH BUCKET		153	FRT LICENSE BKT	NC
L	MED LT CAMEL			SP DLR ACCT ADJ	
100A	EQUIP GRP			SP FLT ACCT CR	
	.18" PNTD ALUM			FUEL CHARGE	
998	.3.5L V6 TIVCT	NC	B4A	NET INV FLT OPT	NC
44J	.6-SPD AUTO TRAN	NC		DEST AND DELIV	945
	.P245/60R18 A/S			TOTAL BASE AND OPTIONS	35670
	CA BOARD FEES	NC		TOTAL	35670
422	CALIF EMISSIONS	NC		*THIS IS NOT AN INVOICE*	
76R	REVERSE SENSING	275		*TOTAL PRICE EXCLUDES COMP PR	
794	PRICE CONCESSN				
	REMARKS TRAILER				

F1=Help

F2=Return to Order

F3/F12=Veh Ord Menu

F4=Submit

F5=Add to Library

F9=View Trailers

S099 - PRESS F4 TO SUBMIT

QC07955

THIS IS YOUR QUOTE

DOWNTOWN FORD SALES

525 N16th Street, Sacramento, CA. 95814

916-442-6931 fax 916-491-3138

S122816 300

QUOTATION

Customer

Name TROY THOMPSON

Address CITY OF WOODLAND

City State Zip

Phone VIA EMAIL

Date 12/28/2016

REP SANDRA

Phone 916-442-6931

FOB SACRAMENTO

Qty	Description	Unit Price	TOTAL
1	2017 FORD EXPLORER 4WD 998, 3.5L V6 INCLUDED 44J, TRANSMISSION 6SPEED AUTO INCLUDED YZ, OXFORD WHITE, INCLUDED 7L, CLOTH BUCKET SEATS, CAMEL, INCLUDED 100A, EQUIPMENT GROUP, INCLUDED 422, CALIFORNIA EMISSIONS, INCLUDED 153, FRONT LICENSE PLATE BRACKET, INCLUDED	\$27,410.00	\$27,410.00
1	96R, RUNNING BOARDS, BLACK	\$621.00	\$621.00
1	942, DAYTIME RUNNING LIGHTS	\$45.00	\$45.00
1	76R, REVERSE SENSING SYSTEM	\$287.00	\$287.00
2	EXTRA KEYS (TOTAL OF 4)	\$299.00	\$598.00
1	SHOP MANUAL	\$294.00	\$294.00
1	DOC FEE	\$80.00	\$80.00
	WARRANTY: 3-YEAR/36,000 MILE BUMPER TO BUMPER 5-YEAR/60,000 MILE POWERTRAIN 5-YEAR/60,000 MILE SAFETY RESTRAINT 5-YEAR/60,000 MILE CORROSION COVERAGE SANDRA SCOTT FLEET MANAGER sandrascott@downtownfordsales.com		

Payment Details

- ☐ Cash
☒ Check
☐ Credit Card

Name

CC #

Expires

Subtotal	\$29,335.00
Delivery	\$100.00
Taxes YOLO	\$2,420.14
CA Tire Tax	\$8.75
TOTAL	\$31,863.89

Office Use Only

TERMS: NET

SIGNATURE

DATE



National Auto Fleet Group

A Division of Chevrolet of Watsonville

490 Auto Center Drive, Watsonville, CA 95076

(855) 289-6572 • (855) BUY-NJPA • (831) 480-8497 Fax

Fleet@NationalAutoFleetGroup.com

12/19/2016

QuoteID: 8980

Troy Thompson
City of Woodland
Public Works
655 N. Pioneer Ave
Woodland, California, 95776

Dear Troy Thompson,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration.
One (1) New/Unused (2017 Ford Explorer (K8B) Base 4WD,) and delivered to your specified location, each for

One Unit

Base Price	\$31,439.78
Tax (8.2500 %)	\$2,593.78
Tire fee	\$8.75
Total	\$34,042.31

- per the attached specifications. Price includes 2 additional key(s), and 1 service manual(s).

This vehicle(s) is available under the **National Joint Powers Alliance Contract 102811**. Please reference this Bid number on all purchase orders to National Auto Fleet Group. Payment terms are Net 30 days after receipt of vehicle.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Jesse Cooper
National Fleet Manager
Email: jcooper@nationalautofleetgroup.com
Office: 951-440-0585
Fax: 831-289-6572



In order to Finalize your Quote, please submit this purchase packet to your governing body for Purchase Order Approval.
Once you issue a Purchase Order please send by:

Fax: (831) 480-8497

**Mail: National Auto Fleet Group
490 Auto Center Drive
Watsonville, CA 95076**

Email: Fleet@nationalautofleetgroup.com

We will then send a W-9 if you need one

**Please contact our main office with any questions:
1-855-289-6572**

Vehicle Configuration Options

ENGINE

Code	Description
998	ENGINE: 3.5L TI-VCT V6 (FFV), -inc: Flexible Fuel Vehicle (FFV) system is standard equipment for vehicles w/the 3.5L Ti-VCT V6 engine shipped to Federal Emissions States or Cross Border State dealers and is only available w/a Federal emissions system, (FFV system not available w/code 422 and requires code 936 or 423 if applicable for California Emissions State dealer destinations).Cross border states include AZ, DC, ID, NH, NV, OH, VA, WV (STD)

TRANSMISSION

Code	Description
44J	TRANSMISSION: 6-SPEED SELECTSHIFT AUTOMATIC, (STD)

PRIMARY PAINT

Code	Description
YZ	OXFORD WHITE

PAINT SCHEME

Code	Description
___	STANDARD PAINT

SEAT TYPE

Code	Description
7L	MEDIUM LIGHT CAMEL, CLOTH BUCKET SEATS, -inc: 8-way power driver's seat w/power lumbar and manual recline, 4-way manual passenger manual passenger seat w/manual recline and 4-way adjustable driver and front-passenger head restraints

OPTION PACKAGE

Code	Description
100A	EQUIPMENT GROUP 100A

ADDITIONAL EQUIPMENT

Code	Description
422	CALIFORNIA EMISSIONS SYSTEM, -inc: Required on units for California, Connecticut, Delaware, Massachusetts, Maryland, Maine, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington registration, Optional for Cross-Border States (Arizona, District of Columbia, Idaho, New Hampshire, Nevada, Ohio, Virginia and West Virginia)
153	FRONT LICENSE PLATE BRACKET
96R	RUNNING BOARDS - BLACK
942	DAYTIME RUNNING LAMPS (DRL) (NON-CONFIGURABLE)
76R	REVERSE SENSING SYSTEM

SHIP THRU CODES

Code	Description
------	-------------

2017 Fleet/Non-Retail Ford Explorer Base 4WD

WINDOW STICKER

2017 Ford Explorer Base 4WD		
CODE	MODEL	MSRP
K8B	2017 Ford Explorer Base 4WD	\$33,810.00
OPTIONS		
998	ENGINE: 3.5L TI-VCT V6 (FFV), -inc: Flexible Fuel Vehicle (FFV) system is standard equipment for vehicles w/the 3.5L Ti-VCT V6 engine shipped to Federal Emissions States or Cross Border State dealers and is only available w/a Federal emissions system, (FFV system not available w/code 422 and requires code 936 or 423 if applicable for California Emissions State dealer destinations).Cross border states include AZ, DC, ID, NH, NV, OH, VA, WV (STD)	INC
44J	TRANSMISSION: 6-SPEED SELECTSHIFT AUTOMATIC, (STD)	\$0.00
YZ	OXFORD WHITE	\$0.00
—	STANDARD PAINT	\$0.00
7L	MEDIUM LIGHT CAMEL, CLOTH BUCKET SEATS, -inc: 8-way power driver's seat w/power lumbar and manual recline, 4-way manual passenger manual passenger seat w/manual recline and 4-way adjustable driver and front-passenger head restraints	\$0.00
100A	EQUIPMENT GROUP 100A	\$0.00
422	CALIFORNIA EMISSIONS SYSTEM, -inc: Required on units for California, Connecticut, Delaware, Massachusetts, Maryland, Maine, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington registration, Optional for Cross-Border States (Arizona, District of Columbia, Idaho, New Hampshire, Nevada, Ohio, Virginia and West Virginia)	\$0.00
153	FRONT LICENSE PLATE BRACKET	\$0.00
96R	RUNNING BOARDS - BLACK	\$595.00
942	DAYTIME RUNNING LAMPS (DRL) (NON-CONFIGURABLE)	\$45.00
76R	REVERSE SENSING SYSTEM	\$275.00
SUBTOTAL		\$34,725.00
Advert/ Adjustments		\$0.00
Manufacturer Destination Charge		\$945.00
TOTAL PRICE		\$35,670.00
Est City: 15 MPG		
Est Highway: 20 MPG		
Est Highway Cruising Range: 560.00 mi		

Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

Standard Equipment**MECHANICAL**

Engine: 3.5L Ti-VCT V6 (FFV) -inc: Flexible Fuel Vehicle (FFV) system is standard equipment for vehicles w/the 3.5L Ti-VCT V6 engine shipped to Federal Emissions States or Cross Border State dealers and is only available w/a Federal emissions system, (FFV system not available w/code 422 and requires code 936 or 423 if applicable for California Emissions State dealer destinations).Cross border states include AZ, DC, ID, NH, NV, OH, VA, WV Not standard equipment in CA Emissions States.
Transmission: 6-Speed SelectShift Automatic
3.65 Axle Ratio
GVWR: 6,160 lbs
Electronic Transfer Case
Automatic Full-Time Four-Wheel Drive
58-Amp/Hr 540CCA Maintenance-Free Battery w/Run Down Protection
175 Amp Alternator
Towing w/Trailer Sway Control
Gas-Pressurized Shock Absorbers
Front And Rear Anti-Roll Bars
Electric Power-Assist Speed-Sensing Steering
18.6 Gal. Fuel Tank
Quasi-Dual Stainless Steel Exhaust w/Chrome Tailpipe Finisher
Auto Locking Hubs
Strut Front Suspension w/Coil Springs
Multi-Link Rear Suspension w/Coil Springs
4-Wheel Disc Brakes w/4-Wheel ABS, Front And Rear Vented Discs, Brake Assist, Hill Descent Control and Hill Hold Control

EXTERIOR

Wheels: 18" Painted Aluminum
Tires: P245/60R18 AS BSW
Steel Spare Wheel
Compact Spare Tire Mounted Inside Under Cargo
Clearcoat Paint
Body-Colored Front Bumper w/Black Rub Strip/Fascia Accent
Body-Colored Rear Bumper w/Black Rub Strip/Fascia Accent
Black Bodyside Cladding and Black Wheel Well Trim
Black Side Windows Trim and Black Front Windshield Trim
Black Door Handles
Black Power Side Mirrors w/Convex Spotter and Manual Folding
Fixed Rear Window w/Fixed Interval Wiper, Heated Wiper Park and Defroster
Deep Tinted Glass
Speed Sensitive Variable Intermittent Wipers
Front Windshield -inc: Sun Visor Strip
Galvanized Steel/Aluminum Panels
Lip Spoiler
Gray Grille
Liftgate Rear Cargo Access
Tailgate/Rear Door Lock Included w/Power Door Locks
Roof Rack Rails Only
Fully Automatic Aero-Composite Led Low Beam Daytime Running Lights Preference Setting Headlamps w/Delay-Off LED Brakelights

ENTERTAINMENT

Radio: AM/FM Stereo w/Single-CD/MP3 Capable -inc: 6 speakers and speed-compensated volume
Radio w/Seek-Scan, Clock and Steering Wheel Controls
Wireless Streaming
Integrated Roof Antenna
SYNC Communication & Entertainment System -inc: enhanced voice recognition, 911 Assist, 4.2" LCD screen in center stack, AppLink and 1 smart-charging multimedia USB port in the Media Hub, Note: SYNC AppLink lets you control some of your favorite compatible mobile apps w/your voice, It is compatible w/select smartphone platforms, Commands may vary by phone and AppLink software
Bluetooth Wireless Phone Connectivity

INTERIOR

60-40 Folding Split-Bench Front Facing Manual Reclining Tumble Forward Cloth Rear Seat
Manual Tilt/Telescoping Steering Column
Gauges -inc: Speedometer, Odometer, Engine Coolant Temp, Tachometer, Trip Odometer and Trip Computer
Power Rear Windows and Fixed 3rd Row Windows
Fixed 50-50 Split-Bench Cloth 3rd Row Seat Front, Manual Fold Into Floor and 2 Fixed Head Restraints
Front Cupholder
Rear Cupholder
Compass
Remote Keyless Entry w/Integrated Key Transmitter, Illuminated Entry and Panic Button
Cruise Control w/Steering Wheel Controls
Manual Air Conditioning
Rear HVAC w/Separate Controls
HVAC -inc: Underseat Ducts, Auxiliary Rear Heater and Headliner/Pillar Ducts
Illuminated Locking Glove Box
Driver Foot Rest
Interior Trim -inc: Metal-Look Instrument Panel Insert, Metal-Look Door Panel Insert, Metal-Look Console Insert and Metal-Look Interior Accents
Full Cloth Headliner
Cloth Door Trim Insert
Leather/Chrome Gear Shift Knob
Cloth Bucket Seats -inc: 8-way power driver's seat w/power lumbar and manual recline, 4-way manual passenger manual passenger seat w/manual recline and 4-way adjustable driver and front-passenger head restraints
Day-Night Rearview Mirror
Driver And Passenger Visor Vanity Mirrors w/Driver And Passenger Illumination
Full Floor Console w/Covered Storage, Full Overhead Console w/Storage and 4 12V DC Power Outlets
Front And Rear Map Lights
Fade-To-Off Interior Lighting
Full Carpet Floor Covering -inc: Carpet Front And Rear Floor Mats
Carpet Floor Trim
Cargo Space Lights
Driver / Passenger And Rear Door Bins
Power 1st Row Windows w/Driver And Passenger 1-Touch Up/Down
Delayed Accessory Power
Power Door Locks w/Autolock Feature
Systems Monitor
Trip Computer
Outside Temp Gauge

Analog Display
Seats w/Cloth Back Material
Fixed Rear Head Restraints
Front Center Armrest and Rear Center Armrest
2 Seatback Storage Pockets
Securilock Anti-Theft Ignition (pats) Engine Immobilizer
4 12V DC Power Outlets
Air Filtration

SAFETY

Advancetrac w/Roll Stability Control Electronic Stability Control (ESC) And Roll Stability Control (RSC)
Terrain Management System ABS And Driveline Traction Control
Side Impact Beams
Dual Stage Driver And Passenger Seat-Mounted Side Airbags
Tire Specific Low Tire Pressure Warning
Dual Stage Driver And Passenger Front Airbags
Safety Canopy System Curtain 1st, 2nd And 3rd Row Airbags
Airbag Occupancy Sensor
Passenger Knee Airbag
Mykey System -inc: Top Speed Limiter, Audio Volume Limiter, Early Low Fuel Warning, Programmable Sound Chimes and Beltminder w/Audio Mute
Rear Child Safety Locks
Outboard Front Lap And Shoulder Safety Belts -inc: Rear Center 3 Point, Height Adjusters and Pretensioners
Back-Up Camera w/Washer



4640 Westamerica Dr., Fairfield, CA 94534
707-759-6200 • Fax 707-759-6232



A) Andrey Polishchuchenko

4202 Chiles Road Davis CA 95616

(916)320-6649

andrey.polishchuchenko@hanlees.net

B) Base MSRP \$29030

C) Convenience Package \$1905

Tonneau Cover \$90

Carpeted Floor Mats \$224

Destination Charge \$940

D) Total MSRP \$32189

F) Discount \$2,968

D) Selling Price \$29,221

E) Doc Fee: 80.00

Reg: 261.00

FlatAddCountyFee: 9.00

Tire Fee: 8.75

Electronic Filing: 29.00

Smog Abatement Fee: 20.00

Total Fees: 407.75

Sales Tax: 2,417.33

d) Balance Due: 32,046.08 minus whatever manufacturer rebates are available at the time.

G) Warranty

Basic: 36 months/36,000 miles (all components other than normal wear and maintenance items).

Hybrid-Related Component Coverage: Hybrid-related components, including the HV battery, battery

control module, hybrid control module and inverter with converter, are covered for 8 years/100,000 miles.

The HV battery may have longer coverage under emissions warranty. Refer to applicable Warranty and

Maintenance Guide for details.

Powertrain: 60 months/60,000 miles (engine, transmission/transaxle, drive system, seatbelts and airbags).

Rust-Through: 60 months/unlimited miles (corrosion perforation of sheet metal).

Emissions: Coverages vary under Federal and California regulations. Refer to applicable Warranty and

Maintenance Guide for details.

The bid is for 2017 Rav4 Hybrid XLE white exterior with black exterior

the vehicle comes with 2 Smart Keys. 2 additional Smart Keys will cost \$735.

FREEWAY TOYOTA



1835 Glendale Ave
Hanford, CA. 93230

City of Woodland
655 N. Pioneer Ave
Woodland, CA. 95776
Attn: Troy Thomson

12/28/2016

As per your request for:

2017 Toyota RAV4 XLE Hybrid (4444)	\$27404.00
CP- Convenience Package	\$ 1804.00
EE – Entune Premium Audio N/A with CP	\$ 0.00
CF – Carpeted Floor Mats	\$ 153.00
(2) Two additional Keys cut/programed	\$ 695.00
Documentation Fee	\$ 80.00
8.25% Yolo County Tax	\$ 2486.22
CA Tire Tax	\$ 8.75
Delivery to Woodland	<u>\$ 200.00</u>
Total per Unit	\$32830.97

Protect against future mechanical or electrical issue's with Toyota Platinum Extra Care \$0 Deductible
5 Years / 100,000 Miles \$930.00
6 Years / 100,000 Miles \$1150.00
7 Years / 125,000 Miles \$1645.00

Thank you for the opportunity to earn your business.
Patrick G Ireland
Government Fleet Manager



National Auto Fleet Group

A Division of Chevrolet of Watsonville

490 Auto Center Drive, Watsonville, CA 95076

(855) 289-6572 • (855) BUY-NJPA • (831) 480-8497 Fax

Fleet@NationalAutoFleetGroup.com

12/13/2016

QuoteID: **8911**

Troy Thompson
City of Woodland
Public Works
655 N. Pioneer Ave
Woodland, California, 95776

Dear Troy Thompson,

National Auto Fleet Group is pleased to quote the following vehicle(s) for your consideration.
One (1) New/Unused (2017 Toyota RAV4 Hybrid (4444) XLE AWD (Nat'l),) and delivered to your specified location, each for

One Unit

Base Price	\$31,160.30
Tax (8.2500 %)	\$2,570.72
Tire fee	\$8.75
Total	\$33,739.77

- per the attached specifications. Price includes 2 additional key(s), and 1 service manual(s).

This vehicle(s) is available under the **National Joint Powers Alliance Contract 102811**. Please reference this Bid number on all purchase orders to National Auto Fleet Group. Payment terms are Net 30 days after receipt of vehicle.

Thank you in advance for your consideration. Should you have any questions, please do not hesitate to call.

Sincerely,

Jesse Cooper
National Fleet Manager
Email: jcooper@nationalautofleetgroup.com
Office: 951-440-0585
Fax: 831-289-6572



In order to Finalize your Quote, please submit this purchase packet to your governing body for Purchase Order Approval.
Once you issue a Purchase Order please send by:

Fax: (831) 480-8497

**Mail: National Auto Fleet Group
490 Auto Center Drive
Watsonville, CA 95076**

Email: Fleet@nationalautofleetgroup.com

We will then send a W-9 if you need one

**Please contact our main office with any questions:
1-855-289-6572**

Vehicle Configuration Options

EMISSIONS

Code	Description
FE	50 STATE EMISSIONS

PRIMARY PAINT

Code	Description
040	SUPER WHITE

PAINT SCHEME

Code	Description
___	STANDARD PAINT

SEAT TRIM

Code	Description
FC10	ASH, FABRIC SEAT TRIM

ADDITIONAL EQUIPMENT

Code	Description
CP	CONVENIENCE PACKAGE, -inc: Height Adjustable Power Liftgate w/Jam Protection, Radio: Entune Display Audio w/Navigation, 7" touch-screen w/integrated backup camera display, AM/FM CD player w/MP3/WMA playback capability, 6-speakers in 6 locations, SiriusXM Radio w/90-day complementary trial, HD Radio w/iTunes Tagging, auxiliary audio jack, USB port w/iPod connectivity and control, vehicle information w/customizable settings, hands-free phone capability, Entune App Suite, phone book access, advanced voice recognition, text-to-speech w/programmed and customizable test responses and music streaming via Bluetooth wireless technology, Blind Spot Monitor w/Rear Cross Traffic Alert, Auto On/Off Halogen Headlamps, Front & Rear Parking Sonar
EE	RADIO: ENTUNE DISPLAY AUDIO W/NAVIGATION, -inc: 7" touch-screen w/integrated backup camera display, AM/FM CD player w/MP3/WMA playback capability, 6-speakers in 6 locations, SiriusXM Radio w/90-day complementary trial, HD Radio w/iTunes Tagging, auxiliary audio jack, USB port w/iPod connectivity and control, vehicle information w/customizable settings, hands-free phone capability, Entune App Suite, phone book access, advanced voice recognition, text-to-speech w/programmed and customizable test responses and music streaming via Bluetooth wireless technology

PORT INSTALLED OPTIONS

Code	Description
CF	CARPET MAT PACKAGE, -inc: Carpet Cargo Mat, Carpet Floor Mats

2017 Fleet/Non-Retail Toyota RAV4 Hybrid XLE AWD (Natl)

WINDOW STICKER

2017 Toyota RAV4 Hybrid XLE AWD (Natl)		
CODE	MODEL	MSRP
4444	2017 Toyota RAV4 Hybrid XLE AWD (Natl)	\$29,030.00
OPTIONS		
FE	50 STATE EMISSIONS	\$0.00
040	SUPER WHITE	\$0.00
—	STANDARD PAINT	\$0.00
FC10	ASH, FABRIC SEAT TRIM	\$0.00
CP	CONVENIENCE PACKAGE, -inc: Height Adjustable Power Liftgate w/Jam Protection, Radio: Entune Display Audio w/Navigation, 7" touch-screen w/integrated backup camera display, AM/FM CD player w/MP3/WMA playback capability, 6-speakers in 6 locations, SiriusXM Radio w/90-day complementary trial, HD Radio w/iTunes Tagging, auxiliary audio jack, USB port w/iPod connectivity and control, vehicle information w/customizable settings, hands-free phone capability, Entune App Suite, phone book access, advanced voice recognition, text-to-speech w/programmed and customizable test responses and music streaming via Bluetooth wireless technology, Blind Spot Monitor w/Rear Cross Traffic Alert, Auto On/Off Halogen Headlamps, Front & Rear Parking Sonar	\$1,905.00
EE	RADIO: ENTUNE DISPLAY AUDIO W/NAVIGATION, -inc: 7" touch-screen w/integrated backup camera display, AM/FM CD player w/MP3/WMA playback capability, 6-speakers in 6 locations, SiriusXM Radio w/90-day complementary trial, HD Radio w/iTunes Tagging, auxiliary audio jack, USB port w/iPod connectivity and control, vehicle information w/customizable settings, hands-free phone capability, Entune App Suite, phone book access, advanced voice recognition, text-to-speech w/programmed and customizable test responses and music streaming via Bluetooth wireless technology	INC
CF	CARPET MAT PACKAGE, -inc: Carpet Cargo Mat, Carpet Floor Mats	\$225.00
SUBTOTAL		\$31,160.00
Advert/ Adjustments		\$0.00
Manufacturer Destination Charge		\$940.00
TOTAL PRICE		\$32,100.00
Est City: 42 (Est) MPG Est Highway: 37 (Est) MPG Est Highway Cruising Range: 499.50 mi		

Any performance-related calculations are offered solely as guidelines. Actual unit performance will depend on your operating conditions.

Standard Equipment**MECHANICAL**

Engine: 2.5L 4-Cylinder Atkinson Cycle
Transmission: CVT (Continuously Variable)
Axle Ratio: 3.542
GVWR: 4,960 lbs (2,250 kg)
Engine Auto Stop-Start Feature
Transmission w/Driver Selectable Mode, Sequential Shift Control and Oil Cooler
Electronic Transfer Case
Automatic Full-Time All-Wheel Drive
550CCA Maintenance-Free Battery w/Run Down Protection
Hybrid Electric Motor
Towing w/Trailer Sway Control
900# Maximum Payload
Gas-Pressurized Shock Absorbers
Front And Rear Anti-Roll Bars
Electric Power-Assist Speed-Sensing Steering
14.8 Gal. Fuel Tank
Single Stainless Steel Exhaust
Permanent Locking Hubs
Strut Front Suspension w/Coil Springs
Double Wishbone Rear Suspension w/Coil Springs
Regenerative 4-Wheel Disc Brakes w/4-Wheel ABS, Front Vented Discs, Brake Assist, Hill Hold Control and Electric Parking Brake
Mechanical Limited Slip Differential
Nickel Metal Hydride Traction Battery

EXTERIOR

Wheels: 17" x 7.0J 5-Spoke Alloy -inc: caps
Tires: P225/65R17H AS
Steel Spare Wheel
Compact Spare Tire Mounted Inside Under Cargo
Clearcoat Paint
Express Open/Close Sliding And Tilting Glass 1st Row Sunroof w/Sunshade
Body-Colored Front Bumper w/Black Rub Strip/Fascia Accent and Metal-Look Bumper Insert
Body-Colored Rear Bumper w/Black Rub Strip/Fascia Accent and Metal-Look Bumper Insert
Black Bodyside Moldings and Black Wheel Well Trim
Chrome Side Windows Trim and Black Front Windshield Trim
Body-Colored Door Handles
Body-Colored Power Heated Side Mirrors w/Convex Spotter, Manual Folding and Turn Signal Indicator
Fixed Rear Window w/Fixed Interval Wiper and Defroster
Deep Tinted Glass
Variable Intermittent Wipers
Fully Galvanized Steel Panels
Lip Spoiler
Black Grille
Liftgate Rear Cargo Access
Tailgate/Rear Door Lock Included w/Power Door Locks
Roof Rack Rails Only

Fully Automatic Projector Beam Halogen Daytime Running Auto High-Beam Headlamps
Front Fog Lamps
Laminated Glass

ENTERTAINMENT

Radio: Entune Audio Plus AM/FM/MP3/WMA Playback -inc: CD player, Entune App Suite, 6 speakers, HD Radio w/iTunes tagging, HD Traffic and Weather, SiriusXM Radio w/90-day trial, 6.1" touch-screen w/integrated back-up camera display, auxiliary audio jack, USB port w/iPod connectivity and control, vehicle information w/customizable settings, hands-free phone capability, phone book access and music streaming via Bluetooth wireless technology
Radio w/Seek-Scan, Clock, Speed Compensated Volume Control, Steering Wheel Controls, Voice Activation and Radio Data System
Integrated Roof Antenna
Real-Time Traffic Display

INTERIOR

Front Sport Seats -inc: 6-way adjustable driver and 4-way adjustable passenger seats, 60/40 split, sliding, reclining, fold-flat second-row seats w/height-adjustable headrests and center armrest
Split-Bench Front Facing Rear Seat
Manual Tilt/Telescoping Steering Column
Gauges -inc: Speedometer, Odometer, Engine Coolant Temp, Inclinator, Power/Regen, Trip Odometer and Trip Computer
Power Rear Windows and Fixed 3rd Row Windows
Leather Steering Wheel
Front Cupholder
Rear Cupholder
Proximity Key For Doors And Push Button Start
Valet Function
Remote Keyless Entry w/Integrated Key Transmitter, Illuminated Entry, Illuminated Ignition Switch and Panic Button
Remote Releases -Inc: Mechanical Fuel
Cruise Control w/Steering Wheel Controls
Distance Pacing
Dual Zone Front Automatic Air Conditioning
HVAC -inc: Underseat Ducts
Glove Box
Driver Foot Rest
Full Cloth Headliner
Leatherette Door Trim Insert
Urethane Gear Shift Knob
Interior Trim -inc: Metal-Look Instrument Panel Insert, Metal-Look Door Panel Insert, Piano Black Console Insert, Chrome And Metal-Look Interior Accents and Leatherette Upholstered Dashboard
Fabric Seat Trim
Day-Night Rearview Mirror
Driver And Passenger Visor Vanity Mirrors w/Driver And Passenger Auxiliary Mirror
Full Floor Console w/Covered Storage, Mini Overhead Console w/Storage and 3 12V DC Power Outlets
Front Map Lights
Fade-To-Off Interior Lighting
Full Carpet Floor Covering
Carpet Floor Trim
Trunk/Hatch Auto-Latch
Cargo Area Concealed Storage

Cargo Space Lights
FOB Controls -inc: Trunk/Hatch/Tailgate
Instrument Panel Bin, Driver And Passenger Door Bins
Power 1st Row Windows w/Driver 1-Touch Up/Down
Delayed Accessory Power
Power Door Locks w/Autolock Feature
Trip Computer
Outside Temp Gauge
Analog Display
Seats w/Cloth Back Material
Manual Adjustable Front Head Restraints
Front Center Armrest
2 Seatback Storage Pockets
Engine Immobilizer
3 12V DC Power Outlets
Air Filtration

SAFETY

Electronic Stability Control (ESC)
ABS And Driveline Traction Control
Side Impact Beams
Dual Stage Driver And Passenger Seat-Mounted Side Airbags
Pre-Collision System (pcs) Forward Collision
Lane Departure Alert (lda) w/Steering Assist Lane Keeping Assist
Lane Departure Alert (lda) w/Steering Assist Lane Departure Warning
Low Tire Pressure Warning
Dual Stage Driver And Passenger Front Airbags
Curtain 1st And 2nd Row Airbags
Airbag Occupancy Sensor
Driver Knee Airbag and Passenger Cushion Front Airbag
Rear Child Safety Locks
Outboard Front Lap And Shoulder Safety Belts -inc: Rear Center 3 Point, Height Adjusters and Pretensioners

CNGP530

VEHICLE ORDER CONFIRMATION

01/06/17 12:40:24

==>

Dealer: F72424

2017 F-SERIES SD

Page: 1 of 2

Order No: 8546 Priority: C1 Ord FIN: QC339 Order Type: 5B Price Level: 750

Ord Code: 610A Cust/Flt Name: CITY WOODLAND PO Number: 007

	RETAIL	DLR INV		RETAIL	DLR INV
W3B F350 4X4CREW/CS 160" WHEELBASE	\$40110	\$37904.00	18B PLAT RUNNING BD 11200# GVWR PKG	\$445	\$409.00
PQ RACE RED			41P SKID PLATES	100	92.00
A VNYL 40/20/40			425 50 STATE EMISS	NC	NC
S MEDIUM EARTH GR			43B BACKGLASS DEF	60	56.00
610A PREF EQUIP PKG			43C 110V/400W OUTLT	NC	NC
.XL TRIM			512 SPARE TIRE/WHL2	NC	NC
.TRAILER TOW PKG			52B BRAKE CONTROLLR	270	249.00
572 .AIR CONDITIONER	NC	NC			
99T 6.7L V8 DIESEL	8795	8092.00	TOTAL BASE AND OPTIONS	54295	47510.50
44W 6-SPEED AUTO	NC	NC	TOTAL	54295	47510.50
TD8 .LT245 BSW AS 17			*THIS IS NOT AN INVOICE*		
X31 3.31 REG AXLE	NC	NC			
90L PWR EQUIP GROUP	1125	1035.00	* MORE ORDER INFO NEXT PAGE *		
JOB #1 BUILD					

F8=Next

F1=Help

F2=Return to Order

F3/F12=Veh Ord Menu

F4=Submit

F5=Add to Library

S006 - MORE DATA IS AVAILABLE.

QC07943

==>

Dealer: F72424

2017 F-SERIES SD

Page: 2 of 2

Order No: 8546 Priority: C1 Ord FIN: QC339 Order Type: 5B Price Level: 750

Ord Code: 610A Cust/Flt Name: CITY WOODLAND PO Number: 007

	RETAIL	DLR INV		RETAIL	DLR INV
TELE TT MIR-PWR			FUEL CHARGE		\$23.50
585 AMFM/CD/CLK	275	253.00	B4A NET INV FLT OPT	NC	7.00
JACK			DEST AND DELIV	1295	1295.00
66L LED BOX LIGHT	60	56.00			
66S UPFITTER SWTCH	165	152.00	TOTAL BASE AND OPTIONS	54295	47510.50
67D XTR HVY DTY ALT	NC	NC	TOTAL	54295	47510.50
76C REVERSE ALARM	140	128.00	*THIS IS NOT AN INVOICE*		
76Z ADV SECURITY PK	60	56.00			
85S TOUGH BED	495	456.00			
874 ULTMTE TOW CAM	710	653.00			
913 SYNC 3	115	105.00			
924 PRIVACY GLASS	30	27.00			
942 DAY RUNNING LTS	45	41.00			
SP DLR ACCT ADJ		(2119.00)			
SP FLT ACCT CR		(1460.00)			

F7=Prev

F3/F12=Veh Ord Menu

F1=Help

F2=Return to Order

F4=Submit

F5=Add to Library

S099 - PRESS F4 TO SUBMIT

QC07943

Troy Thompson

From: rigo torres <rigoelmford@gmail.com>
Sent: Friday, January 06, 2017 10:23 AM
To: Troy Thompson
Subject: Fwd:
Attachments: rigo.pdf

sorry for the delay its being a crazy week thank you for the friendly reminder here are the figures please let me know you got them \$43,273.00 doc fee \$80 cal tire fee \$8.75 sales tax based on 8.5 % \$3685.00 total of \$47,046.75 also including two additional keys also a shop manual for the truck thank you troy I really appreciate it from Rigo torres of elm ford

On Fri, Jan 6, 2017 at 9:46 AM, Vicki Limon <vicki@elmford.com> wrote:

Good morning

Legislation Text

6.

File #: 17-138, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27;
Final Acceptance and Notice of Completion

Recommendation for Action: Staff recommends that the City Council approve Resolution No. _____, accepting the Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27 construction contract as complete and authorizing the City Clerk to file a Notice of Completion.

Staff Contact

Miguel Chavez, Construction Project Manager - (530) 661-5952, miguel.chavez@cityofwoodland.org

Fiscal Impact

The Capital Budget allocated a total budget of \$462,200 for this project, identified as CIP 11-27. Of that total budget, \$252,200 is a Federal Highway Safety Improvement Program (HSIP) Grant and \$210,000 is Road Development Funding.

The total construction cost for the project was \$292,784, accounting for soft costs including design, construction management, inspection and staff time resulted in total project costs of \$421,000.

There was no impact to the General Fund.

Background

Improvements associated with this project include upgrade of the existing intersection, installation of new traffic signal equipment, vehicle detection on Cleveland Street, new signal poles, signal heads, audible pedestrian signals, and pedestrian signal heads. The project also reconstructed the four non-compliant ADA curb ramps at the intersection to bring them into compliance with current state and federal standards and also microsurfaced and restriped the intersection.

Discussion

On February 16, 2016 Council approved plans and specifications for the project. On May 17, the project was awarded to Pacific Excavation Inc., via Resolution No. 6624.

The project was completed under budget and ahead of schedule and is now ready for acceptance.

Change orders were executed throughout the course of the project to account for design changes, unforeseen

site conditions and adjustments in bid quantities. The change orders totaled \$19,825, which represents less than 8% of the construction contract.

The project cost breakdown is as follows:

Design	
Design	\$12,000
Pre-Design Initial Site Assessment*	\$3,500
Total Design	\$15,500
Construction	
Construction Contract	\$272,959
Change Orders	\$19,825
Total Construction	\$292,784
Construction Management/ Inspection/ Staff Project Management	\$112,716
Total Project Costs	\$421,000
Total Project Budget	\$462,200
Difference	\$41,200

*The pre-design Initial Site Assessment was required by CALTRANS to determine the potential for impacts to the site due to the presence of hazardous materials/waste on or adjacent to the project site.

Conclusion

Staff recommends that the City Council approve Resolution No. ____, accepting the Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27, as complete and authorizing the City Clerk to file a Notice of Completion.

Prepared by: Miguel Chavez, Construction Project Manager

Reviewed by: Brent Meyer, City Engineer
Ken Hiatt, Assistant City Manager - Community & Economic Development



Paul Navazio, City Manager

ATTACHMENT:

Attachment A - Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND TO
ACCEPT THE MAIN STREET/CLEVELAND STREET SIGNAL INTERSECTION
IMPROVEMENT PROJECT, CIP 11-27 CONSTRUCTION CONTRACT AS
COMPLETE AND AUTHORIZE THE CITY CLERK TO FILE A NOTICE OF
COMPLETION**

WHEREAS, The City Council authorized staff to bid the Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27 on February 16, 2016; and

WHEREAS, The City Council on May 17, 2016 authorized the City Manager to award and execute a construction contract; and

WHEREAS, The City Manager executed the construction contract with Pacific Excavation Inc. on May 19, 2016; and

WHEREAS, the construction of these improvements began in October 2016 and were completed in January 2017; and

WHEREAS, the City Council wishes to accept the construction contract as complete and authorize the city clerk to file a notice of completion.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND AS FOLLOWS:

Section 1. The City Council hereby accepts the Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27 as complete.

Section 2. The City Council hereby authorizes the City Clerk to file a Notice of Completion for the Main Street/Cleveland Street Signal Intersection Improvement Project, CIP 11-27.

PASSED AND ADOPTED this _____ day of _____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Angel Barajas, Mayor

ATTEST:

Ana B. Gonzalez, City Clerk

Legislation Text

7.

File #: 17-188, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Approve Consultant Agreement for Construction Management and Inspection Services for Improvements associated with Spring Lake Central Phase 1 and Phase 2 Subdivisions

Recommendation for Action: Staff recommends that the City Council adopt Resolution No. _____, to approve a consultant services agreement for construction management and inspection with Associated Engineering Consultants, Inc. in the amount of \$250,530 for Spring Lake Central Phase 1 and Phase 2 Subdivisions; and authorize the City Manager to execute the agreement and amendments up to 15% of the agreement amount.

Staff Contact

Miguel Chavez, Construction Project Manager - (530) 661-5952, miguel.chavez@cityofwoodland.org

Fiscal Impact

Construction management and inspection of the Spring Lake Central Phase 1 and Phase 2 Subdivisions is funded by fees paid by the developer for this purpose.

There is no impact to the general fund.

Background

On April 16, 2015, the City Council approved the Spring Lake Central (5 Phases) Tentative Subdivision Map No. 5027, consisting of 375 single-family lots. Spring Lake Central Phase 1 and Phase 2 subdivisions consist of 99 and 70 single-family lots respectively.

The improvement plans for Spring Lake Central Phase 1 and Phase 2 are nearly complete and construction is anticipated to begin in late March.

Discussion

The construction of the Spring Lake Central Phase 1 and Phase 2 Subdivisions include improvements that will be owned by the City when they are complete. As such, the City is required to provide construction management and inspection for these projects. Given current and anticipated workload and current staffing levels, the inspection and project management cannot be performed by City Staff. The recommended action will provide these construction services using a consultant.

Associated Engineering Consultants, Inc. (AEC) is currently included on the City's list of firms pre-qualified to provide Construction Management and Inspection Services. After a review of the listed firms and the experience of each providing similar services it was determined that AEC was the most qualified to perform these services for the City at this time.

Conclusion

Staff recommends that the City Council adopt Resolution No. _____, to approve a consultant services agreement for construction management and inspection with Associated Engineering Consultants, Inc. in the amount of \$250,530 for Spring Lake Central Phase 1 and Phase 2 Subdivisions; and authorize the City Manager to execute the agreement and amendments up to 15% of the agreement amount.

Prepared by: Miguel Chavez, Construction Project Manager

Reviewed by: Katie Wurzel, Principal Civil Engineer
Brent Meyer, City Engineer
Ken Hiatt, Community Development Director



Paul Navazio, City Manager

ATTACHMENT:
Attachment A - Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND TO
APPROVING AN AGREEMENT WITH ASSOCIATED ENGINEERING
CONSULTANTS, INC. FOR CONSTRUCTION MANAGEMENT AND INSPECTION
SERVICES**

WHEREAS, On April 16, 2015, City Council approved the ±105.7 acre Spring Lake Central Tentative Subdivision Map No. 5027; and

WHEREAS, the Phase 1 and Phase 2 subdivisions and associated improvements are prepared for construction; and

WHEREAS, the City desires to have the construction management and inspection of these improvements performed by an experienced consultant selected by a qualification based selection process; and

WHEREAS, the City Council wishes to approve the Agreement and authorize its execution through the adoption of this Resolution; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND AS FOLLOWS:

Section 1. The City Council hereby approves the consultant services agreement and authorizes and directs the City Manager to execute the agreement in the amount of \$250,530 and amendments as necessary up to 15% of the agreement amount. The City Attorney is hereby authorized to make clarifying and confirming changes so long as the total dollar amount authorized in the Agreement does not change.

Section 2. An executed copy of the Agreement will be available and on file in the City Clerk's office, and are incorporated herein by reference and made a part of this Resolution.

PASSED AND ADOPTED this _____ day of _____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Angel Barajas, Mayor

ATTEST:

Ana B. Gonzalez, City Clerk



Legislation Text

8.

File #: 17-12, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Authorizing Investment of Monies in the Local Agency Investment Fund

Recommendation for Action: Staff recommends that the City Council adopt Resolution No. _____, Authorizing the Investment of Monies in the Local Agency Investment Fund.

Staff Contact

Adam Devlin, Senior Accountant, (530)661-5835, adam.devlin@cityofwoodland.org

Fiscal Impact

There is no impact on any City funds in association with the information contained herein.

Background

The Local Agency Investment Fund (LAIF), is a voluntary program created by statute. LAIF began in 1977 as a highly liquid investment alternative for California's local governments and special districts. The enabling legislation for LAIF is Section 16429.1 et seq. of the California Government Code.

This program offers local agencies the opportunity to participate in a major portfolio, which invests hundreds of millions of dollars, using the investment expertise of the State Treasurer's Office investment staff at no additional cost to the taxpayer.

LAIF has grown from 293 participants with a portfolio of \$468 million in 1977 to 2,451 participants and \$22.6 billion at the end of January 2017.

Discussion

The City of Woodland has been using LAIF since 2003 with the adoption of Council Resolution No. 4473. Currently the City's account has four authorized staff positions that are permitted to initiate transactions between the City and LAIF. Due to staffing changes within the City, LAIF administration has recommended that the City revise the resolution authorizing participation. The revised authorizations on the attached resolution include the City Manager, the City Finance Officer/City Treasurer, and Senior Accountant.

Conclusion

Staff recommends that the City Council adopt Resolution No. _____, Authorizing the Investment of Monies in the Local Agency Investment Fund.

Prepared by: Adam Devlin
Senior Accountant

Reviewed by: Kimberly McKinney
Finance Officer/Treasurer

A handwritten signature in cursive script, appearing to read "Paul Navazio".

Paul Navazio, City Manager

Attachment: LAIF Resolution

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND,
CALIFORNIA, AUTHORIZING INVESTMENT OF MONIES IN THE LOCAL AGENCY
INVESTMENT FUND**

The City Council of the City of Woodland, California (hereafter referred to as the "City Council") does resolve as follows:

WHEREAS, The Local Agency Investment Fund is established in the State Treasury under Government Code section 16429.1 et. seq. for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

WHEREAS, the City Council hereby finds that the deposit and withdrawal of money in the Local Agency Investment Fund in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein is in the best interests of the City of Woodland.

NOW, THEREFORE, BE IT RESOLVED, that the City of Woodland hereby authorizes the deposit and withdrawal of City of Woodland monies in the Local Agency Investment Fund in the State Treasury in accordance with Government Code section 16429.1 et. seq. for the purpose of investment as provided therein.

NOW, THEREFORE, BE IT RESOLVED, as follows:

Section 1. The following City of Woodland officers holding the title(s) specified herein below **or their successors in office** are each hereby authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund and may execute and deliver any and all documents necessary or advisable in order to effectuate the purposes of this resolution and the transactions contemplated hereby:

Paul Navazio, City Manager
Name/Title

Kimberly McKinney, Finance Officer/City Treasurer
Name/Title

Signature

Signature

Adam Devlin, Senior Accountant
Name/Title

Signature

RESOLUTION NO. _____

Section 2. This resolution shall remain in full force and effect until rescinded by City Council by resolution and a copy of the resolution rescinding this resolution is filed with the State Treasurer'

PASSED, APPROVED, AND ADOPTED THIS _____ DAY OF _____, 2017.

STATE OF CALIFORNIA)
COUNTY OF YOLO) ss.
CITY OF WOODLAND)

I, _____, City Clerk of the City of Woodland, County of Yolo, State of California do hereby certify that the foregoing Resolution No. _____ was regularly adopted by the City Council of said City of Woodland at a regular meeting of said council held on the _____ day of _____, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Angel Barajas, Mayor
City of Woodland

Ana Gonzalez, City Clerk
City of Woodland

Legislation Text

9.

File #: 17-14, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Appeal of Planning Commission Decision Upholding Zoning Administrator Interpretation Regarding Use of 352 and 360 West Kentucky Avenue

Recommendation for Action: Staff recommends that the City Council:

- (1) Conduct a public hearing; and
- (2) Adopt Resolution No. _____, Denying the Appeal of the Planning Commission's December 15, 2016 Decision Upholding the City of Woodland Zoning Administrator's Interpretation Regarding the Legal Nonconforming Industrial Use on 1.213 acres at 352 and 360 West Kentucky Avenue in the Single Family Residential Zone

Staff Contact

Jeff Ballantine, Associate Planner, (530) 661-5814; jeff.ballantine@cityofwoodland.org

Report in Brief

The purpose of this item is to consider an appeal of a Planning Commission decision, which denied an appeal of a Zoning Interpretation made by the Zoning Administrator (Community Development Director) for the property located at 352 and 360 West Kentucky Avenue (the "Property"). The Property is currently (and has been since the early 1990s) zoned Residential (R-1) but has consistently been used for an industrial purpose. The industrial uses created conflicts with at least one residential neighbor whose backyard abuts the Property. Due to the conflict between the non-conforming use of the Property and the neighbor's complaints about the Property, the City reviewed the Property's history and uses.

After reviewing the history of the Property and the City's Zoning Code, the Zoning Administrator, on September 20, 2016, issued an interpretation regarding the Property and the non-conforming use of the Property. Lewis and Nicole Dennis own a residence with a backyard that directly abuts the Property. After receiving and reviewing the Zoning Administrator's Interpretation, they subsequently timely appealed the Zoning Interpretation to the Planning Commission. On December 15, 2016, the Planning Commission voted 5 to 1 to deny Mr. and Mrs. Dennis' appeal and to uphold the Zoning Administrator Interpretation.

The Zoning Interpretation concerned the then-current use of the Property by 4Z Welding. Since the time Mr. and Mrs. Dennis filed the appeal, 4Z Welding decided not to renew its lease with the Property owner, and staff understands that the Property is now vacant. Due to the current status of the Property and the highly fact-specific nature of nonconforming use provisions (as explained further below), the Zoning Interpretation does not provide the Property owner the absolute right to use the Property for any industrial use that may otherwise

be permissible in an industrial zone. Any specific new use would be evaluated compared to the historic use of the Property. As of this time, it is unknown how the current owner may desire to use the Property, but a new proposed nonconforming use would be separately evaluated by City staff.

The relevant part of the Zoning Interpretation states that “the existing buildings and land can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all City requirements and policies, including all Industrial Performance Standards (Section 25-18-50) and nonconforming use requirements (Section 25-21-55).” The Zoning Interpretation also states that a “change of use may be permitted provided the Zoning Administrator can find that the new use is of the same or of a more restrict nature (Sec. 25-21-55(c)(2)).” The Zoning Interpretation also specifically states that any new or modified industrial use will require a fact-specific determination that would be made on a case-by-case basis.

The appellants submitted a significant amount of material to the Planning Commission, which is available in the December 15, 2016 staff report (Attachment 2). The appellants also submitted material to the City Council for this appeal (Attachment 3). Appellants raise two points in their appeal: (1) disagreement with a sentence in the Zoning Interpretation that the reuse of the building(s) must be similar to the use in existence at the time the property was rezoned R-1 in 1991, rather than the last legally established, less intensive use of the property; and (2) the Zoning Interpretation’s determination that the buildings and land can be used for industrial uses in their entirety is incorrect. Both issues are discussed further below.

Background

Land Use History and Zoning

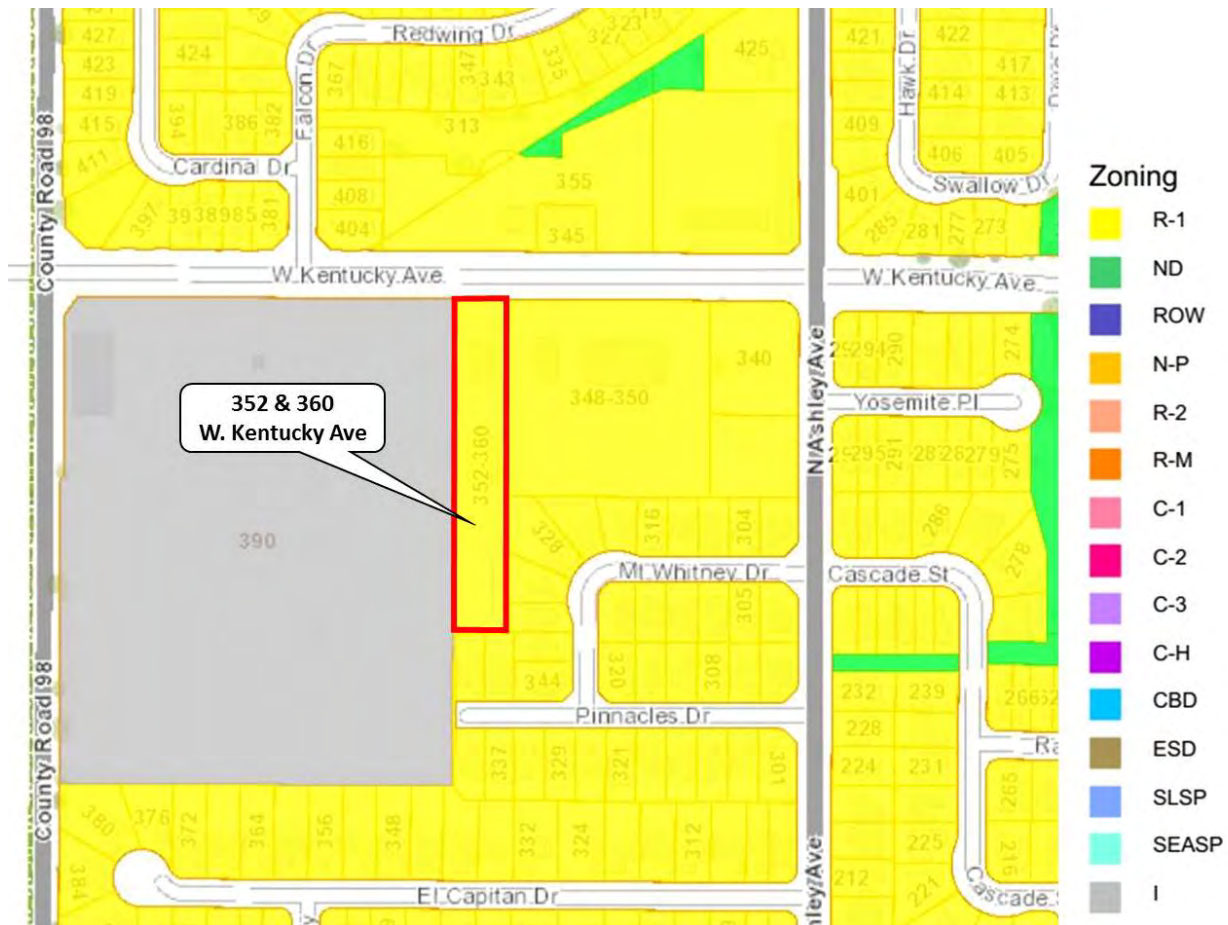
The City annexed the Property on April 16, 1991 and pre-zoned it as Single Family Residential (R-1). At the time of annexation, an existing industrial use operated on the Property. Based on a review of the LAFCO staff report for this annexation, the owner’s intention was for this Property, along with adjacent properties, to be developed with single family residences. Annexation and the resultant R-1 zoning resulted in the industrial use becoming a legal non-conforming use (as explained further below). Prior to annexation, the County had zoned the Property Light Industrial (M-1). The Property currently has a Medium Density General Plan land use designation although that designation will likely change following adoption of the City’s 2035 General Plan.

Since the City annexed the Property in 1991, numerous industrial businesses have occupied and used the Property. The Property has never been used for a single-family residential use, and it is immediately adjacent to other industrial and commercial uses on West Kentucky Avenue. Due to the legal non-conforming nature of the Property, any new nonconforming use of a building may be changed to another nonconforming use if the Zoning Administrator determines that the use is of the same or of a more restrictive nature (Sec. 25-21-55(c)(2) of the Woodland Municipal Code). Over the years, the City has placed certain restrictions on some of these businesses and has not allowed other businesses to locate at this Property, due to the legal nonconforming nature of the Property.

In September 1998, the City Council approved North Park Unit 6, a 37-lot single-family subdivision located immediately to the east of the Property. North Park Unit 6 was constructed, and residential properties now immediately abut the Property and other industrial properties along West Kentucky Avenue. The City required the residential developer to construct a masonry wall, which was constructed and remains in place. As far as

City staff can determine, a residential project has never been proposed for the Property.

Zoning Map



Since the Property was annexed into the City, several industrial businesses have used the Property, and other properties on West Kentucky have also remained in industrial uses. City staff reviewed its records and also consulted with the Property owner concerning the history and use of the Property since annexation. The City understands that the Property has been almost continually leased since February of 1992 for an industrial use of some kind. The staff report for the Planning Commission (Attachment 2) details the history of the Property as best as City staff has been able to discern.

Nonconforming Uses

A legal nonconforming use is one that was valid when originally brought into existence but became nonconforming by subsequent regulation. In other words, when a use complies with the existing zoning code but the zoning for the property changes, the use becomes a “legal nonconforming” use as it no longer complies with the zoning for that property. Here, the industrial use originally complied with the County’s zoning, but upon annexation the Property’s zoning changed to residential. The industrial use in existence at the time no longer complied with the City’s zoning, rendering it a legal nonconforming use. See Woodland Mun. Code § 25-21-55(a).

A city's zoning code may not compel the immediate discontinuance of an otherwise lawfully established use or business. A zoning code usually provides for a period of time to eliminate nonconforming uses. Additionally, expanding or enlarging a nonconforming use is generally prohibited. However, the guiding document when addressing nonconforming uses is the Zoning Code as nonconforming uses are not addressed in state statutes.

The City's Zoning Code concerning nonconforming use is sparse on detail and could and should be updated to clarify terms and specify how the City treats both abandonment of uses and expansion of uses and possibly provide for the amortization of nonconforming uses. Section 25-21-55 concerning nonconforming uses is attached to the Planning Commission staff report (Attachment 2) as Attachment 7 and is very brief. The relevant subdivisions of section 25-21-55 are subdivisions (a) and (d). Subdivision (a) provides that unless otherwise provided, any use of land, a building, or a structure lawfully existing at the time of the adoption of the Zoning Code may be continued even though the use may not conform to the Zoning Code or the zone in which it is located. Subdivision (d) provides that any nonconforming use of land and/or a building or structure what becomes vacant and remains unoccupied for a continuous period of one year shall not later be occupied except by a use that conforms to the use regulations of the zone in which it is located. In other words, if the Property remains continuously vacant for one year, only a use that conforms to the R-1 zoning will be permitted on the Property.

The Zoning Code regulates the use and development of property within City boundaries and includes a list of uses that are permitted or conditionally permitted in identified zoning land use categories. The Code also sets forth performance standards that provide general guidance to minimize health and safety and nuisance concerns. A use that was lawfully existing at the time of the adoption of new Zoning Regulations may continue, but does have additional limitations on the use of that property, consistent with Section 25-21-55.

The City, however, does not have a specific process set forth in the Zoning Code for evaluating a change in a nonconforming use because a permit is not required. The only means that the City has had to evaluate a changed use is when a business owner submits a business license to the City. The City is permitted to issue a business license for every kind of business transacted in the City that is consistent with state and federal law, and the City may require a tax or fee for issuance of the license. However, a business license is not a land use permit. *See generally* Woodland Mun. Code Ch. 13, Art. 1.

Zoning Administrator Interpretation

Over the last year or so, the City began receiving complaints from the adjacent residents, Lewis and Nicole Dennis, regarding activities on the back portion of the Property. Mr. and Mrs. Dennis complained about dust and noise from the Property. City staff initially contacted the current tenant, 4Z Welding, and then engaged the Property owners in the discussion. During the course of the discussion, the Property owners included in these discussions an individual who is interested in purchasing the Property. Due to questions raised and the complexity of the issues involved, City staff devoted a significant amount of time and effort to researching the use of the Property as well as the history of it. Upon reaching a determination of the land use issues, City staff discussed the best way to inform all interested parties of that determination. Ultimately, City staff determined that rendering a Zoning Interpretation was the fairest way to provide all interested parties (Property owner, neighbors, and others) notice of the City's interpretation, as it would provide all interested parties a determination in writing as well as an opportunity to appeal.

On September 20, 2016, Ken Hiatt, the City's then Community Development Director, acting as the Zoning Administrator, made a zoning interpretation regarding the legal nonconforming industrial use of 352 and 360 West Kentucky Avenue. Mr. Hiatt made that interpretation in writing and sent a letter to the current Property

owner, with copies mailed to the adjacent property owners notifying them of this interpretation (see Attachment 1, Zoning Interpretation).

The Zoning Administrator in the Zoning Interpretation reached the following conclusions:

1. The then-existing industrial use (4Z) was a legal nonconforming use in the Single Family Residential Zone.
2. Both the existing buildings and the land can be used for industrial uses, in their entirety, as long as such use is consistent with or less intense than the existing industrial use, and such use complies with all City requirements and polices, including all Industrial Performance Standards and nonconforming use requirements (underlining added).
3. The City's current Zoning Code includes performance standards for industrial uses requiring fencing and landscaping to be adequate to screen development from adjacent residential zones along the rear and side property lines.
4. Because the Property was being used for industrial purposes and the zoning is R-1, both the industrial buildings and industrial use of the Property are considered legal non-conforming. Thus, neither new structures nor the physical expansion of existing structures for an industrial use are permitted on the Property. Reuse of the building(s) must be similar to the use in existence at the time the Property was rezoned to R-1.
5. If the use on the Property changes, the use would be allowed so long as the Zoning Administrator finds that the new use is of the same or of a more restrictive nature than the previous use. However, the evaluation of whether a new or modified industrial use satisfies both the performance standards and non-conforming use criteria requires a fact-specific determination to be made on an individual basis.

The Zoning Interpretation also encouraged the Property owner and any future owner or tenant to work with the adjacent residential neighbors on ways to reduce dust, fumes, glare, noise, vibration, aesthetic, and/or other potential impacts. The letter also provides that any person dissatisfied with the decision may appeal the decision to the Planning Commission within ten days of the decision and that the appeal will be conducted pursuant to Section 25-28-40 of the City's Municipal Code.

The City sent the Zoning Interpretation to both the Property owner and immediately adjacent property owners of the Property informing the owners of the Zoning Interpretation, enclosing the Zoning Interpretation, and informing them of their ability to appeal. The Planning Commission considered the appeal on December 15, 2016, held a public hearing, provided the appellant and anyone interested in the matter with an opportunity to be heard during the public hearing, deliberated over the Zoning Interpretation, and adopted Resolution No. denying the appeal and upholding the Zoning Administrator's Interpretation. Lewis and Nicole Dennis subsequently appealed the Planning Commission decision to the City Council.

Nature of Appeal

Lewis and Nicole Dennis originally raised four issues in their appeal to the Planning Commission and five issues in subsequent correspondence to the Planning Commission. Some, but not all, of these issues overlapped with each other. The staff report for the December 15, 2016 Planning Commission public hearing contains a detailed discussion of the issues raised on appeal to the Planning Commission.

Lewis and Nicole Dennis submitted documents to the City on their appeal to the City Council. See Attachment 3. They state they are disputing two issues. Each is discussed below.

1. Argument: Lewis and Nicole Dennis dispute a sentence in the Zoning Interpretation that reads as follows, “The reuse of the building(s) must be similar to the use in existence at the time the property was rezoned R-1.” The appellants argue that this sentence allows the Property owner to use the Property in a more intense way if that intensity was permitted in 1991 rather than only being permitted to use the Property if a new use is less intense than the last industrial use of the Property.

Response: The Zoning Interpretation and the appellants are not saying anything different. Regarding the intensity of the use, the Zoning Interpretation states (underlining added):

Based on our review of City records, we believe that the Property has been in continuous, or near continuous use, as an industrial use since its annexation to the City. Consequently, it is our conclusion that the existing buildings and land can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all City requirements and policies, including all Industrial Performance Standards (Section 25-18-50) and nonconforming use requirements (Section 25-21-55).

The conclusion of the Zoning Interpretation is that the buildings and land may be used for an industrial use if the use is consistent with, or less intense than, the [then] existing industrial use. The City does not disagree with Lewis and Nicole Dennis that any industrial use must be at the same or less intensity than the [then] existing industrial use and also states that any use must comply with any other applicable City requirement, including Industrial Performance Standards.

The part of the Zoning Interpretation that Lewis and Nicole Dennis continue to dispute is the following passage from the Zoning Interpretation:

As stated above, due to the industrial use and the R-1 zoning, the industrial buildings and industrial use of the Property are considered legal non-conforming. As such, pursuant to Section 25-21-55, new structures or the physical expansion of existing structures for industrial use is not allowed on the Property. Any reuse of the building(s) must be similar to the use in existence at the time the Property was rezoned to R-1.

As explained above, the nonconforming use ordinance does not permit the building to be expanded from when the Property was rezoned in 1991. Thus, the City reached its conclusion that any reuse of the building must be similar to the use in existence at the time the Property was rezoned R-1. This does not change and does not negate the conclusion reached in the Zoning Interpretation that any industrial use must be consistent with, or less intense than, the [then] existing industrial use. The sentence that Lewis and Nicole Dennis dispute does not mention the intensity of the use. The sentence was primarily intended to explain that the building must generally be of a similar type, size, and use, as when the Property was annexed in 1991.

2. Argument: Lewis and Nicole Dennis dispute a sentence in the Zoning Interpretation that both the buildings and land can be used for industrial uses in their entirety and appear to believe that this would permit a more intensive use of the property to expand to the entire property without restrictions.

Response: The appellants have been concerned about the use of the back part of the Property, which is closest to their residence. Over the years, City staff has tried to be accommodating and flexible in acknowledging both the R-1 zoning of the property, the past industrial uses of the Property, and the neighboring uses (both the industrial uses on Kentucky and the residential uses behind the Property). Since the 1991 annexation, nonconforming uses have continued on the Property. But City staff imposed various conditions on different business licenses for businesses operating on the Property. To the best of staff's knowledge, the businesses have generally complied with conditions placed on their business licenses.

Some of those conditions restricted the back part of the Property. However, business licenses are not land use approvals. The City charges a business license fee for each business that operates a lawful business in the City of Woodland. The City uses the business license primarily as a revenue generating measure, but it also serves as a regulatory function in that the City may suspend or revoke a business license if the business is unlawful under state or federal law. City staff and the City Attorney have analyzed the conditions placed on the business license and does not know how the Property would have or could have been used had the City not imposed the conditions on the back part of the Property. Thus, staff reached the conclusion that the back part of the Property should not be restricted from being used in a way that continues the conditions previously placed on the business license. The appellants argue that the back part of the Property has not been used since 2003 and cites statements from City staff that aerial photographs from that time support that conclusion. While the City has reviewed aerial photographs that do in fact show the back part of the Property as not in use for an industrial use, staff does not know whether the back part of the Property remained in that condition from that particular point in time in 2003 to the present.

It is important to note, however, that this conclusion of the Zoning Administrator does not mean that the City necessarily authorized a loud or more intense use to use all or the back part of the Property. The Zoning Interpretation specifically noted that any new or modified use would be evaluated on an individual case-by-case basis.

Additionally, Mr. and Mrs. Dennis submitted a number of excerpts from land use treatises and other sources (Attachment 3).

Analysis of Future Uses

As explained above, the prior tenant decided not to renew its lease, effective October 31, 2016. Thus, the Property is currently not being used for an industrial use. The City does not know how the current Property owner or potential future owner may desire to use the Property. However, any industrial use would be required to comply with the City's Zoning Code concerning both performance standards and nonconforming use provisions. The performance standards for this Property include, among other things, requirements for outside storage of solid waste and additional landscaping to provide an aesthetically pleasing entrance to the city.

As an example, the City's Zoning Code allows the storage of RV, boat, Truck and trailer storage as a permitted use. However, the Property owner or lessee would be required to apply for and receive a conditional use permit for the storage of building materials, heavy equipment storage, service and repair yard, or a contractor storage yard. Additionally, as the appellants note on page 6 of their materials (Attachment 3), the Municipal Code also includes certain uses that are considered a nuisance (such as parking a commercial truck in excess of 10,000 pounds on private property zoned residential). Whether a proposed use would conform to the nonconforming

use provisions, to the Zoning Code, or to other provisions of the Municipal Code would be evaluated at the appropriate time. Currently, though, the City does not know of a potential new use for the Property.

Additionally, the Zoning Code provides that a nonconforming use of a building may be changed to another nonconforming use, which, in the opinion, of the zoning administrator, is of the same or of a more restrictive nature. The Zoning Code, however, does not have similar language concerning a nonconforming use of land. It is reasonable to assume, however, that the same standard would apply.

Public Notification

Public notice advertising for the public hearing on this project was prepared by the Community Development Department in accordance with notification procedures set forth in the City of Woodland's Municipal Code and State Planning Law. Two methods of public notice were used:

- Legal notice was published in the Woodland Daily Democrat on or before Saturday, February 11, 2017.
- Notices were mailed to all property owners within 300 feet of the project site on Tuesday, February 7, 2017.

Copies of the factual staff report for the proposed project have been on file at City Hall since Tuesday, February 14, 2017.

Environmental Assessment Status

The appeal, as well as the Zoning Administrator Interpretation, are exempt from the requirements of CEQA because neither are considered a "Project" as described in section 15378 of the CEQA Guidelines since neither has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Conclusion

Staff recommends that the City Council:

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. _____, Denying the Appeal of the Planning Commission's December 15, 2016 Decision Upholding the City of Woodland Zoning Administrator's Interpretation Regarding the Legal Nonconforming Industrial Use on 1.213 Acres at 352 and 360 West Kentucky Avenue in the Single Family Residential Zone

Prepared by: Kara Ueda, City Attorney and Jeff Ballantine, Associate Planner

Reviewed by: Cindy Norris, Principal Planner
Ken Hiatt, Assistant City Manager - Community and Economic Development



Paul Navazio, City Manager

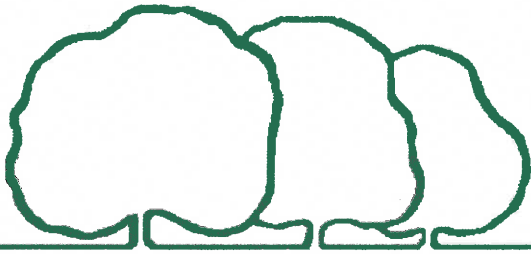
Attachments

Attachment 1 - Zoning Interpretation

Attachment 2 - December 15, 2016 Planning Commission Staff Report and 8 Attachments

Attachment 3 - Lewis and Nicole Dennis Appeal and Supporting Materials

Attachment 4 - Resolution No. _ Denying the Appeal of the Planning Commission's December 15, 2016 Decision Upholding the City of Woodland Zoning Administrator's Interpretation Regarding the Legal Nonconforming Industrial Use on 1.213 Acres at 352 and 360 West Kentucky Avenue in the Single Family Residential Zone



City of Woodland

Community Development Department 300 First Street Woodland CA 95695 (530) 661-5820 (530) 406-0832 Fax

September 22, 2016

RE: 352 & 360 West Kentucky Avenue, Zoning Compliance

Dear Property Owner,

This letter is to inform you of a zoning interpretation that has been made pertaining to 352 and 360 West Kentucky Avenue. This zoning interpretation pertains to the legal nonconforming industrial use of this property. Please see the attached zoning interpretation letter addressed to the owner of these properties, for specifics regarding this interpretation.

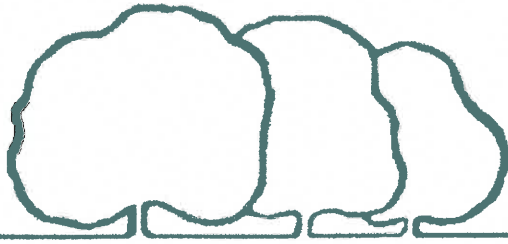
Pursuant to Section 25-28-40 of the City of Woodland Zoning Ordinance, zoning interpretations by the Zoning Administrator are subject to a 10-day appeal period. Appeals must be submitted in writing along with the filing fee to the City's Community Development Department, located at 300 First Street on or before September 7, 2017.

If you have any questions, please do not hesitate to contact myself at Ken.Hiatt@cityofwoodland.org or (530) 661-5820.

Sincerely,



Ken Hiatt
Community Development Director



City of Woodland

Community Development Department 300 First Street Woodland CA 95695 (530) 661-5820 (530) 406-0832 Fax

September 20, 2016

Brenda Siemering
352 West Kentucky Avenue
Woodland, CA 95695

RE: 352 & 360 West Kentucky Avenue, Zoning Compliance

Dear Ms. Siemering,

Per your request, this letter serves as an interpretation of the City of Woodland Zoning Code with regard to Non-Conforming Uses, Industrial Uses, and the Industrial Performance Standards for the property located at 352 and 360 West Kentucky Avenue (the "Property"). The City has reviewed the Zoning Code as well as the history and use of the Property and determined that the existing industrial use is a legal nonconforming use in the Single Family Residential Zone (R-1). At the time Yolo County LAFCO approved the annexation of the Property on April 16, 1991, an industrial use was in operation. However, the R-1 residential zone also applied upon annexation. Thus, an industrial use was operating in a residential zone when the Property was annexed to the City.

Based on our review of City records, we believe that the Property has been in continuous, or near continuous use, as an industrial use since its annexation to the City. Consequently, it is our conclusion that the existing buildings and land can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all City requirements and policies, including all Industrial Performance Standards (Section 25-18-50) and nonconforming use requirements (Section 25-21-55).

The City's performance standards for industrial uses includes, among other requirements, that fencing and landscaping must be adequate to screen development from adjacent residential zones along the rear and side property lines and that light sources shall be directed and shielded so as to not illuminate neighboring residential areas. A copy of Section 25-18-50 is enclosed with this letter.

As stated above, due to the industrial use and the R-1 zoning, the industrial buildings and industrial use of the Property are considered legal non-conforming. As such, pursuant to Section 25-21-55, new structures or the physical expansion of existing structures for industrial use is not allowed on the Property. Any reuse of the building(s) must be similar to the use in existence at the time the Property was rezoned to R-1. The yard area may be used as long as required industrial performance standards are met. A change of use may be permitted provided the Zoning Administrator can find that the new use is of the same or of a more restrictive nature (Sec. 25-21-

55(c)(2)). However, the evaluation of whether a new or modified industrial use satisfies both the performance standards and non-conforming use criteria requires a fact-specific determination that would be made on an individual, case by case basis.

Due to the Property's immediate adjacency to existing single-family residential uses, the City encourages you and any potential future owner or tenant of the Property to communicate with and work with the adjacent residential neighbors to implement measures to reduce dust, fumes, glare, noise, vibration, aesthetic, and/or other potential impacts.

This letter serves as an interpretation by the Zoning Administrator, consistent with Article 31 of the City's Zoning Code. Any person dissatisfied with any decision of the Zoning Administrator may appeal the decision to the Planning Commission at any time within ten days after the rendition of the decision by the Zoning Administrator. Said appeal shall be conducted pursuant to procedures set forth in Section 25-28-40 of the City's Municipal Code.

Sincerely,

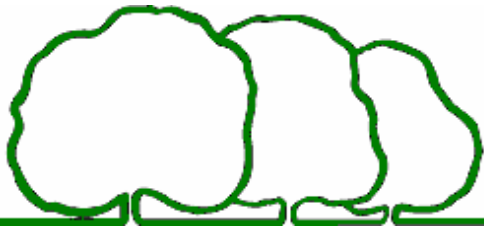


Ken Hiatt
Community Development Director

Sec. 25-18-50. - Performance standards.

- (a) Front landscaping area shall extend to the valley gutter.
- (b) A conditional use permit shall be required for assembly, fabricating, manufacturing, processing or storage of goods, materials or products in buildings or enclosed yards which may create dust, fumes, noise, odors, smoke or vibration in volumes to be offensive or objectionable beyond the premises or for any use which put a significant demand on city services (e.g., water, sewer, etc.)
- (c) Fencing and landscaping adequate to screen development from adjacent residential zones along rear and side property lines.
- (d) Outside storage of solid wastes and containers for solid waste, containers, merchandise, or other items or goods awaiting pickup, sale, or other disposition shall be prohibited except when screened to the satisfaction of the planning commission or the zoning administrator.
- (e) Additional landscaping may be required in order to provide an aesthetically pleasing entrance to the city, if appropriate.
- (f) Light sources shall be directed and shielded so as to not illuminate neighboring residential areas.

(Amended during the March 2009 supplement.)



City of Woodland

MEMORANDUM

TO: Members of the Woodland Planning Commission

FROM: Jeff Ballantine, Associate Planner

SUBJECT: Appeal of Zoning Interpretation for 352 and 360 West Kentucky Avenue

DATE: December 15, 2016

INTRODUCTION

The purpose of this item is to consider an appeal of a Zoning Interpretation issued by the Zoning Administrator (Community Development Director) for the property located at 352 and 350 West Kentucky Avenue (the “Property”). On September 20, 2016, the Zoning Administrator issued an interpretation regarding the Property, which was subsequently appealed to the Planning Commission by Lewis and Nicole Dennis. The Zoning Interpretation concerned the then-current use of the Property by 4Z Welding. Since the time Mr. and Mr. Dennis filed the appeal, 4Z Welding decided not to renew its lease with the Property owner, and the Property now appears to be vacant. It is staff’s position that due to the current status of the Property and the highly fact-specific nature of nonconforming use provisions (as explained further below), the Zoning Interpretation issued by the Zoning Administrator is moot. As of this time, it is unknown how the owner may desire to use the Property, but a new proposed nonconforming use would be separately evaluated by City staff.

BACKGROUND

The City annexed the Property on April 16, 1991. At the time of annexation, the Property was pre-zoned as Single Family Residential (R-1), and there was an existing industrial use operating on the Property. Based on a review of the LAFCO staff report for this annexation, the owner’s intention was for this Property, along with adjacent properties, to be developed with single family residences. Annexation and the resultant R-1 zoning resulted in the industrial use becoming a legal non-conforming use. Prior to annexation, the Property was zoned Light Industrial (M-1) in Yolo County. The Property currently has a Medium Density General Plan land use designation.

Since the City annexed the Property in 1991, numerous industrial businesses have occupied and used the Property. The Property has never been used for a single-family residential use, and it is

immediately adjacent to other industrial and commercial uses on West Kentucky Avenue. Due to the legal non-conforming nature of the Property, any new nonconforming use of a building may be changed to another nonconforming use if the zoning administrator determines that the use is of the same or of a more restrictive nature (Sec. 25-21-55(c)(2) of the Woodland Municipal Code). Over the years, the City has placed certain restrictions on some of these businesses and has not allowed other businesses to locate at this Property, due to the legal nonconforming nature of the Property.

In September 1998, the City Council approved a single-family subdivision located immediately to the east of the Property, referred to as North Park Unit 6. North Park Unit 6 was constructed, and residential properties now immediately abut the Property and other industrial properties along West Kentucky Avenue. As far as City staff can determine, a residential project has never been proposed for the Property.

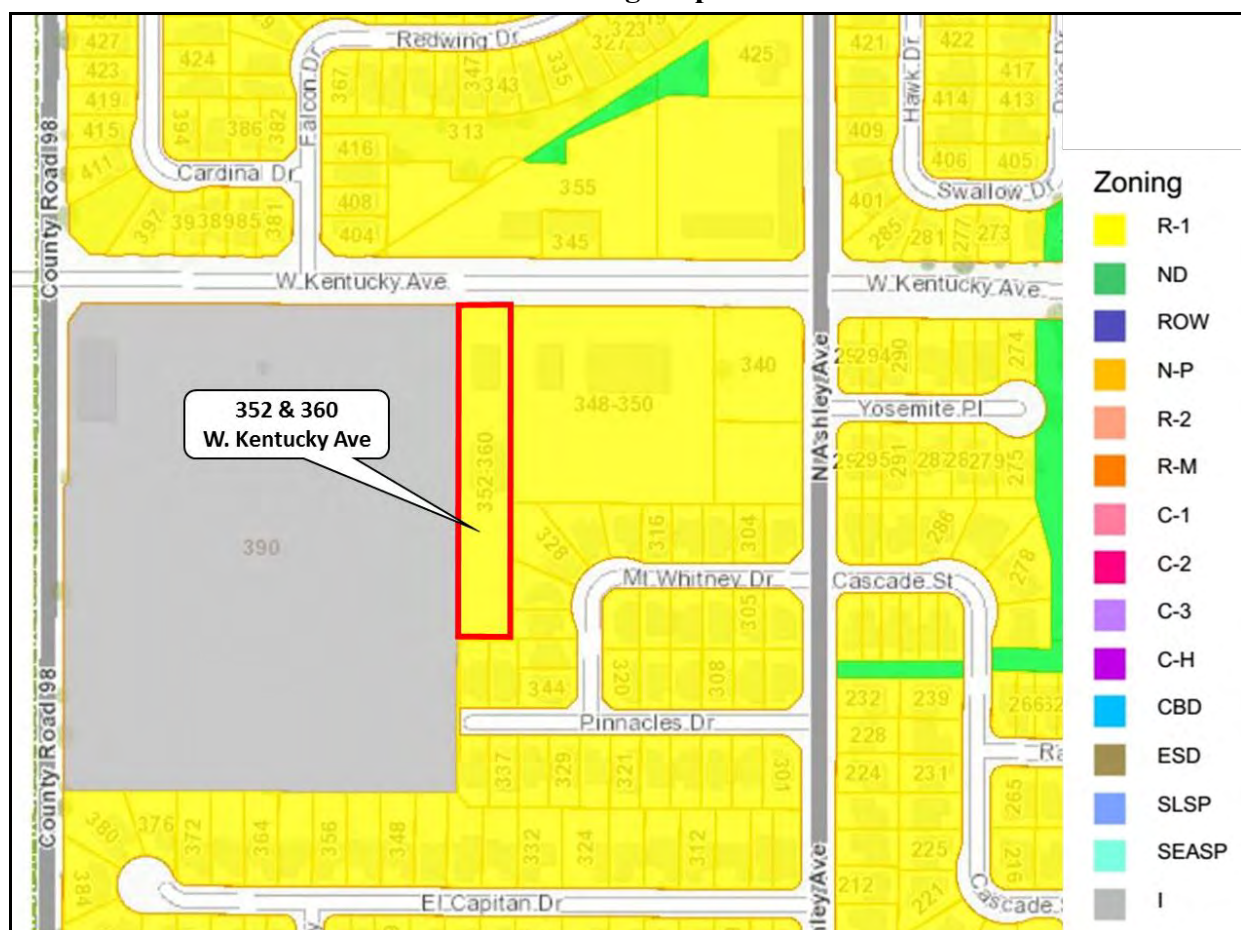
ADJACENT LAND USES AND ZONING

<u>DIRECTION</u>	<u>EXISTING USE</u>	<u>ZONING</u>
North	Kentucky Avenue and Industrial	R-1/P-D
South	Single Family Residences	R-1
East	Auto Repair and Welding Shops	R-1
West	Vacant	I/P-D

Aerial Map



Zoning Map



Nonconforming Uses

A legal nonconforming use is one that was valid when originally brought into existence but became nonconforming by subsequent regulation. In other words, when a use complies with the existing zoning code but the zoning for the property changes, the use becomes a “legal nonconforming” use as it no longer complies with the zoning for that property. Here, the industrial use originally complied with the County’s zoning, but upon annexation the Property’s zoning changed to residential. The industrial use in existence at the time no longer complied with the City’s zoning, rendering it a legal nonconforming use. See Woodland Mun. Code § 25-21-55(a).

A city’s zoning code may not compel the immediate discontinuance of an otherwise lawfully established use or business. A zoning code usually provides for a period of time to eliminate nonconforming uses. Additionally, expanding or enlarging a nonconforming use is generally prohibited. However, the guiding document when addressing nonconforming uses is the Zoning Code as nonconforming uses are not addressed in state statutes.

The City’s Zoning Code concerning nonconforming use is sparse on detail and could and should be updated to clarify terms and provide more structure concerning abandonment of uses and

expansion of uses and possibly provide for the amortization of nonconforming uses. Section 25-21-55 concerning nonconforming uses is attached to this report as Attachment 7 and is very brief. Section 25-21-55 contains four subparagraphs, only two of which are applicable here, subdivisions (a) and (d). Subdivision (a) provides that unless otherwise provided, any use of land, a building, or a structure lawfully existing at the time of the adoption of the Zoning Code may be continued even though the use may not conform to the Zoning Code or the zone in which it is located. Section 25-21-55(b) discusses the regulation of nonconforming buildings and structures and provides that no building or structure that is nonconforming may be added to or enlarged unless the building or structure is made to conform to the applicable zoning regulations. It further provides that a nonconforming building may not be moved to any other lot or any other portion of the lot unless the move will result in conformance with the Zoning Code. This section also allows for the restoration of damaged buildings in certain scenarios. Section 25-21-55(c) concerns nonconforming use of buildings but not of land or the actual use.

Finally, subdivision (d), entitled “Vacancy,” states the following:

Any nonconforming use of land and/or building or structure which becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

The Zoning Code regulates the use and development of property within City boundaries and includes a list of uses that are permitted or conditionally permitted in identified zoning land use categories. The Code also sets forth performance standards that provide general guidance to minimize health and safety and nuisance concerns. A use that was lawfully existing at the time of the adoption of new Zoning Regulations may continue, but does have additional limitations on the use of that property, consistent with Section 25-21-55.

The City, however, does not have a specific process set forth in the Zoning Code for evaluating a change in a nonconforming use because a permit is not required. The only means that the City has had to evaluate a changed use is when a business owner submits a business license to the City. The City is permitted to issue a business license for every kind of business transacted in the City that is consistent with state and federal law, and the City may require a tax or fee for issuance of the license. However, a business license is not a land use permit. *See generally* Woodland Mun. Code Ch. 13, Art. 1.

Historic Use of the Property

Since the Property was annexed into the City, several industrial businesses have used the Property, and other properties on West Kentucky have similarly remained in industrial uses. City staff has reviewed its records and also consulted with the Property owner concerning the history and use of the Property since annexation. The City understands that the Property has been almost continually leased since February of 1992 for an industrial use of some kind. The history of the Property as best as City staff has been able to discern it is as follows:

- **February 26, 1992-March 28, 2004:** The Property owner entered into a lease with Wahl's Trucking, Inc. Wahl's Trucking operated its trucking and trucking repair business from the Property during this time.

July 27, 1995. The City issued a building permit to Wahl's Trucking to construct a 50' by 75' carport structure on the Property. The City has no records indicating one way or another whether the nonconforming status of the Property was evaluated or even considered.

- **June 1, 2004- May 31, 2010:** The Property owner entered into a lease with 4Z Welding.

January 18, 2005. 4Z Welding entered into a sublease with Bill's Repair Service. The City did not grant Bill's Repair Service a business license because the proposed truck repair service use was not the same as the immediately prior use as a trucking company use.

May 25, 2006 – June 30, 2007: 4Z Welding entered into a sublease with La Tourangelle, which used the Property for the warehousing of supplies such as corrugate, tin cans, and caps used at a production facility located off-site. La Tourangelle also used the Property for storing and shipping finished goods, with approximately 5 to 7 trucks per week accessing the Property. The Community Development Department placed the following conditions on the business license: no storage outdoors, no retail sales on site, and hours shall be limited from 8 am to 5 pm.

August 13, 2008 – September 30, 2009: 4Z Welding entered into a sublease with D&S Ventures, a trucking business that intended to use the shop to store trucks and equipment.

July 20, 2009: 4Z Welding entered into a sublease with Welltec for Welltec to use the two existing buildings and to install a temporary trailer as an office. The City placed the following conditions on Welltec via its business license: low volume traffic and no receipt of materials that require a semi-truck to deliver; no outdoor storage; gravel the lot; no idling in back half of property; no storage over 6 feet in height.

- **June 1, 2010:** The Property owner entered into a lease with Tick Tack Towing. The City informed Tick Tack Towing that its proposed business would not be allowed because it would not be able to store U-Haul trailers in the rear half of the Property.
- **November 1, 2010 – October 31, 2016:** The Property Owner entered into a new lease with 4Z Welding Services, Inc. in 2010. Uses for the Property included warehouse storage, big rig and equipment parking, storage of finished goods, and parking in the rear building.

October 4, 2012: 4Z Welding Services applied for a business license, and City staff placed the following restrictions on the Property (see Attachment 3):

- No outside storage of materials will be allowed beyond the second building closest to the residential neighborhood (360 W. Kentucky Ave.).
- A layer of gravel shall be applied to vehicle travel and parking areas, as well as exposed dirt areas.
- Vehicles shall not be allowed to idle in the back half of the property beyond the second building closest to the residential neighborhood (360 W. Kentucky Ave.).
- Vehicles shall not be stored or parked within 10 feet of the masonry wall.
- 4Z Welding Services will need to update its current business license with the new addresses.
- Contact the Building and Fire Departments prior to using the buildings for code compliance and possible inspections.
- Failure to comply with these requirements could be grounds to terminate the use of the property.

October 27, 2015: 4Z Welding submitted a new building license application to the City and described the business use as welding, repair, and fabrication. City staff placed an additional restriction on the Property that, to the extent possible, large truck access, loading, off-loading, and turn around shall occur on the front half of the Property. While there were discussions between the tenant and City, there are no records of 4Z Welding actually obtaining a business license. 4Z Welding has decided not to renew its lease with the Property owner, citing pressure it and its employees have received from an adjacent residential neighbor regarding working in the rear of the Property and business operation hours (see Attachment 5). As of October 31, 2016, 4Z Welding is no longer leasing the Property, and the Property appears to be vacant.

History of Adjacent Residential Development

The residential subdivision to the south and east of the Property, called North Park Unit No. 6 (Subdivision Map No. 4332), consists of 37 single family residential lots. The City Council approved the Final Subdivision Map on September 1, 1998. One of the Conditions of Approval (Condition #9, see Attachment 6) for this subdivision required a “masonry wall along lots adjacent to industrial property to north and west.” This condition specifically references the Property (352 and 360 West Kentucky Avenue) and requires that a masonry wall be built on the property line that separates the proposed residential lots and the Property. This masonry wall was constructed and remains in place still.

Future General Plan Land Use Designation

The City is currently in the process of updating the General Plan, and the Draft 2035 General Plan (http://cityofwoodland.org/gov/depts/cd/woodland_general_plan_2035/default.asp) has been prepared. The proposed Land Use Diagram (Page LU 2-23) proposes that the Property,

Proposed 2035 General Plan Land Use Diagram

The diagram illustrates the proposed land use for the 2035 General Plan. The map shows a grid of streets, including W Kentucky Ave and Ashley Ave. The land use zones are color-coded as follows:

- Low Density Residential (LD) - Yellow
- Medium Density Residential (MD) - Orange
- High Density Residential (HD) - Brown
- Downtown Mixed Use (DX) - Red
- Corridor Mixed Use (CX) - Purple

Over the past year or so, the City began receiving complaints from the adjacent residents, Lewis and Nicole Dennis, regarding activities on the back portion of the Property. Mr. and Mrs. Dennis complained about dust and noise from the Property. City staff initially contacted the current tenant, 4Z Welding, and then engaged the Property owners in the discussion. During the course of the discussion, the Property owners included in these discussions an individual who is interested in purchasing the Property. Due to questions raised and the complexity of the issues involved, City staff devoted a significant amount of time and effort to researching the use of the Property as well as the history of it. Upon reaching a determination of the land use issues, City staff discussed the best way to inform all interested parties of that determination. Ultimately, City staff determined that rendering a Zoning Interpretation was the fairest way to provide all interested parties (Property owner, neighbors, and interested parties) notice of the City's interpretation, as it would provide all interested parties a determination in writing as well as an opportunity to appeal.

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sent a letter to the current Property owner, with copies mailed to the adjacent property owners notifying them of this interpretation (see Attachment 1, Zoning Interpretation).

The Zoning Administrator in the Zoning Interpretation reached the following conclusions:

1. The then-existing industrial use was a legal nonconforming use in the Single Family Residential Zone.
2. Both the existing buildings and the land can be used for industrial uses, in their entirety, as long as such use is consistent with or less intense than the existing industrial use, and such use complies with all City requirements and polices, including all Industrial Performance Standards and nonconforming use requirements.
3. The City's Zoning Code includes performance standards for industrial uses requiring fencing and landscaping to be adequate to screen development from adjacent residential zones along the rear and side property lines.
4. Because the Property was being used for industrial purposes and the zoning is R-1, both the industrial buildings and industrial use of the Property are considered legal non-conforming. Thus, neither new structures nor the physical expansion of existing structures for industrial use are permitted on the Property. Reuse of the building(s) must be similar to the use in existence at the time the Property was rezoned to R-1.
5. If the use on the Property changes, the use would be allowed so long as the Zoning Administrator finds that the new use is of the same or of a more restrictive nature than the previous use. However, the evaluation of whether a new or modified industrial use satisfies both the performance standards and non-conforming use criteria requires a fact-specific determination to be made on an individual basis.

The Zoning Interpretation also encouraged the Property owner and any future owner or tenant to work with the adjacent residential neighbors on ways to reduce dust, fumes, glare, noise, vibration, aesthetic, and/or other potential impacts. The letter also provides that any person dissatisfied with the decision may appeal the decision to the Planning Commission within ten days of the decision and that the appeal will be conducted pursuant to Section 25-28-40 of the City's Municipal Code.

The City sent the Zoning Interpretation to both the Property owner and immediately adjacent property owners of the Property informing the owners of the Zoning Interpretation, enclosing the Zoning Interpretation, and informing them of their ability to appeal.

NATURE OF APPEAL

On September 26, 2016, Lewis and Nicole Dennis, who own a single family house with a backyard abutting the Property, filed an appeal of the Zoning Administrator's interpretation (see Attachment 2, Appeal). Per Section 25-28-40 of the City's Zoning Ordinance, Mr. and Mrs. Dennis appealed within ten days of the action. Mr. and Mrs. Dennis appealed the Zoning Administrator's Interpretation on the following grounds:

1. No notification of public hearing or Zoning Interpretation;
2. Existing nonconforming use has not been consistent; and since it has been vacant for more than 12 months, it should have lost its nonconforming status;
3. The use was allowed to expand by building an additional new structure, and an existing nonconforming use cannot be intensified; and
4. Restrictions placed on the Property on October 4, 2012 for the re-use of the Property should be adhered to and followed.

The Municipal Code provides that if an appeal is filed, the Planning Commission shall, at its next regular meeting after the filing of an appeal, set a date for a public hearing for the appeal. To allow time to put the necessary materials together for a public hearing, the Planning Commission during its October 6, 2016 meeting set the public hearing for November 17, 2016.

On November 7, 2016, the City received a voluminous amount of material from Mr. Dennis on behalf of him and his wife (see Attachment 2). Because of the voluminous amount of material submitted and the specific arguments raised in the materials, the Planning Commission opened the public hearing on November 17, 2016 and continued the public hearing to December 15, 2016. Each of the arguments set forth in the November 7, 2016 transmittal from the appellants is set forth below.

1. “The zoning interpretation reverses a long held policy of the Community Development Department and the City of Woodland that a nonconforming use which once reduced to a use with a lesser intensity or impact on the neighborhood cannot then be reverted back to the pre-existing more intensive use at a later date. Re-establishing and making more permanent a nonconforming use which by the nature of a nonconforming use(s) should be brought into compliance with the current zoning as quickly as possible.” Also, the Zoning Interpretation’s conclusion that “the existing buildings and land (at 352 West Kentucky) can be used for industrial uses in their entirety” and “the yard may be used as long as required industrial performance standards are met” is incorrect.

Response. The City agrees that a nonconforming use may be replaced with a lesser intense use. The appellants do not cite the Zoning Interpretation’s sentence in its entirety. The Zoning Interpretation states that “the existing buildings and land can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all city requirements, including all Industrial Performance Standards (Section 25-18-50) and nonconforming use requirements (Section 25-21-55).” Currently, the Property is not being used as the tenant decided not to renew its lease. Therefore, any proposed new use that is industrial in nature will be evaluated to determine the intensity of its use. There is nothing in the Zoning Code requiring that a nonconforming use be the exact same use, and the courts have permitted changes to nonconforming uses, even if the city’s zoning code is silent on the issue. *Endara v. City of Culver City*, 140 Cal. App. 2d 33, 38 (1956).

Concerning, the impact on the neighborhood, having an impact on the neighborhood is not a criterion in the City's Zoning Code concerning nonconforming uses. With respect to this Property, the appellants have filed complaints with the City regarding the former tenant's use of the Property, primarily concerning noise and dust from trucks and other vehicles that drive through the back portion and turn around on the Property. Whether the Property will have a new industrial use and whether operation of a new use will affect the appellants are both unknown at this time.

The appellants may be obliquely referring to the City's past practice of imposing land use conditions on the Property via issuance of a business license. As stated above, the City does not have land use authority to place conditions on properties via the business license. Also as stated above, staff has concluded as a result of this process that an update to the Zoning Code is needed in order to better address and assess nonconforming uses in the City.

2. The Zoning Interpretation, if it remains, "will negatively impact the adjacent residential neighborhood in multiple ways that the zoning code and general plan are intended to protect." Additionally, the Interpretation will also have impacts on other areas around the City that are also adjacent to existing nonconforming uses.

Response: As explained above, the specific impacts to the adjacent neighbors is not a criterion for determining whether to permit a nonconforming use to be allowed on a piece of property. The appellants do not further explain why or what type of impacts will be caused by this particular Zoning Interpretation, which concerns only the Property.

3. The Property should have lost all rights to continue as a nonconforming use because it was vacant for more than one year. The appellants state that Wahl's Trucking stopped operating in 2004 following the owner's passing. A new use did not begin on the Property until May 26, 2006, when La Tourangelle, Inc. began its warehouse business. The Property should have lost all of its rights concerning a nonconforming use because the Property was vacant for more than one year. Additionally, La Tourangelle, Inc. ceased operation on October 19, 2006, and a new use did not begin until September 30, 2008.

Response: The City's Zoning Code provides, "Any nonconforming use of land and/or building or structure which becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located." Woodland Mun. Code § 25-21-55(d). This provision is in the Municipal Code because immediately compelling the discontinuance of nonconforming uses imposes a hardship and is of doubtful constitutionality. *City of Los Angeles v. A.I. Gage*, 127 Cal. App. 2d 442, 454 (1954). The City, however, does not have any records indicating that the Property was not being used during the gaps in time cited by the appellants. As discussed above, the lease history of the Property indicates that there was not a gap in time of one year or longer.

4. The City issued a building permit on August 29, 1995, for a new 50' by 75' structure in violation of the Woodland Municipal Code.

Response: The City issued a building permit in 1995, after the Property had already been zoned R-1. The City does not have any records indicating one way or another whether City staff at the time considered whether the use was conforming or not. The City also does not know whether the building permit was issued as an accessory to an existing non-conforming use or whether the structure intensified the then-existing use. Now that the issue has brought to the City's attention, City staff is determining how to treat the structure. However, the fact that the building permit was issued does not change the City's interpretation regarding the overall use of the Property.

5. In the appellants' initial appeal, they complained about not receiving notice of a public hearing or the filed Zoning Interpretation. They do not appear to have addressed that issue in the documents submitted to the City on November 7, 2016.

Response: Assuming that the appellants continue to raise this issue, the City promptly provided notice upon issuance of the Zoning Interpretation. The appellants obviously received notice because they filed this appeal. Accordingly, by appealing the Zoning Interpretation and receiving notice of the public hearing, this issue has been waived.

Additionally, Mr. and Mrs. Dennis submitted a number of excerpts from land use treatises and other sources.

ANALYSIS OF FUTURE USES

As explained above, the prior tenant decided not to renew its lease, effective October 31, 2016. Thus, the Property is currently not being used for an industrial use. The City does not know how the current Property owner or potential future owner may desire to use the Property. However, any industrial use would be required to comply with the City's Zoning Code concerning both performance standards and nonconforming use provisions.

The City's Zoning Code allows the storage of RV, boat, Truck and trailer storage as a permitted use. However, the Property owner or lessee would be required to apply for and receive a conditional use permit for the storage of building materials, heavy equipment storage, service and repair yard, or a contractor storage yard.

The following are some of the City's Zoning Code performance standards for industrial uses that are applicable to the Property:

- Fencing and landscaping adequate to screen development from adjacent residential zones along rear and side property lines.
- Outside storage of solid wastes and containers for solid waste, containers, merchandise, or other items or goods awaiting pickup, sale, or other disposition shall be prohibited

except when screened to the satisfaction of the planning commission or the zoning administrator.

- Additional landscaping may be required in order to provide an aesthetically pleasing entrance to the city, if appropriate.
- Front landscaping area shall extend to the valley gutter.
- A conditional use permit shall be required for assembly, fabricating, manufacturing, processing or storage of goods, materials or products in buildings or enclosed yards which may create dust, fumes, noise, odors, smoke or vibration in volumes to be offensive or objectionable beyond the premises or for any use which put a significant demand on city services (e.g., water, sewer, etc.)
- Light sources shall be directed and shielded so as to not illuminate neighboring residential areas.
- Additional requirements in the City's Municipal Code and General Plan, such as those pertaining to nuisances (Chapter 14A of the Municipal Code) and to noise (General Plan).

Additionally, the Zoning Code provides that a nonconforming use of a building may be changed to another nonconforming use, which, in the opinion, of the zoning administrator, is of the same or of a more restrictive nature. The Zoning Code, however, does not have similar language concerning a nonconforming use of land. It is reasonable to assume, however, that the same standard would apply.

ENVIRONMENTAL ASSESSMENT STATUS

The appeal, as well as the Zoning Administrator Interpretation, are exempt from the requirements of CEQA because neither are considered a "Project" as described in section 15378 of the CEQA Guidelines since neither has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

PUBLIC NOTIFICATION

Public notice advertising for the public hearing on this project was prepared by the Community Development Department in accordance with notification procedures set forth in the City of Woodland's Municipal Code and State Planning Law. Two methods of public notice were used:

- Legal notice was published in the Woodland Daily Democrat on or before Saturday, November 5, 2016.
- Notices were mailed to all property owners within 300 feet of the project site on Wednesday, November 2, 2016.

Copies of the factual staff report for the proposed project have been on file at City Hall since December 9, 2016.

RECOMMENDED ACTION AND NEXT STEPS

Staff recommends approval of the Zoning Administrator interpretation by making an affirmative motion as follows:

Motion: Move that the Planning Commission adopt Resolution No. PC 16-_____ denying the appeal of a Zoning Interpretation made by the Zoning Administrator on September 20 2016 regarding the allowed industrial use on 1.213 acres at 352 and 360 West Kentucky Avenue (APN 064-010-002).

As an alternative, the Planning Commission may affirm the appeal and overturn the Zoning Interpretation, in which case City staff will return to the Planning Commission on a later date for adoption of a resolution affirming the appeal.

As an additional alternative, the Planning Commission may deem the appeal moot in light of the changed circumstances regarding use of the Property, in which case the City would also return to the Planning Commission at a later date for adoption of a resolution determining such.

Any decision of the Planning Commission may be appealed to the City Council within 14 days, pursuant to Section 25-31-45 of the Woodland Municipal Code.

ATTACHMENTS:

Attachment 1 – Zoning Interpretation

Attachment 2 – Appeal (including additional information submitted by appellants on November 7, 2016)

Attachment 3 – 4Z Welding Business License Approval

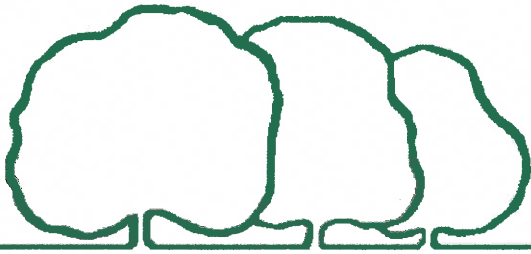
Attachment 4 – Letters of Support of Appeal

Attachment 5 – Letter from 4Z Welding

Attachment 6 – North Park Unit No. 6 Subdivision

Attachment 7 – Municipal Code Section 25-21-55, Nonconforming Uses

Attachment 8 – Resolution



City of Woodland

Community Development Department 300 First Street Woodland CA 95695 (530) 661-5820 (530) 406-0832 Fax

September 22, 2016

RE: 352 & 360 West Kentucky Avenue, Zoning Compliance

Dear Property Owner,

This letter is to inform you of a zoning interpretation that has been made pertaining to 352 and 360 West Kentucky Avenue. This zoning interpretation pertains to the legal nonconforming industrial use of this property. Please see the attached zoning interpretation letter addressed to the owner of these properties, for specifics regarding this interpretation.

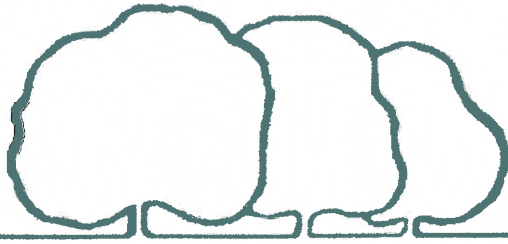
Pursuant to Section 25-28-40 of the City of Woodland Zoning Ordinance, zoning interpretations by the Zoning Administrator are subject to a 10-day appeal period. Appeals must be submitted in writing along with the filing fee to the City's Community Development Department, located at 300 First Street on or before September 7, 2017.

If you have any questions, please do not hesitate to contact myself at Ken.Hiatt@cityofwoodland.org or (530) 661-5820.

Sincerely,



Ken Hiatt
Community Development Director



City of Woodland

Community Development Department 300 First Street Woodland CA 95695 (530) 661-5820 (530) 406-0832 Fax

September 20, 2016

Brenda Siemering
352 West Kentucky Avenue
Woodland, CA 95695

RE: 352 & 360 West Kentucky Avenue, Zoning Compliance

Dear Ms. Siemering,

Per your request, this letter serves as an interpretation of the City of Woodland Zoning Code with regard to Non-Conforming Uses, Industrial Uses, and the Industrial Performance Standards for the property located at 352 and 360 West Kentucky Avenue (the "Property"). The City has reviewed the Zoning Code as well as the history and use of the Property and determined that the existing industrial use is a legal nonconforming use in the Single Family Residential Zone (R-1). At the time Yolo County LAFCO approved the annexation of the Property on April 16, 1991, an industrial use was in operation. However, the R-1 residential zone also applied upon annexation. Thus, an industrial use was operating in a residential zone when the Property was annexed to the City.

Based on our review of City records, we believe that the Property has been in continuous, or near continuous use, as an industrial use since its annexation to the City. Consequently, it is our conclusion that the existing buildings and land can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all City requirements and policies, including all Industrial Performance Standards (Section 25-18-50) and nonconforming use requirements (Section 25-21-55).

The City's performance standards for industrial uses includes, among other requirements, that fencing and landscaping must be adequate to screen development from adjacent residential zones along the rear and side property lines and that light sources shall be directed and shielded so as to not illuminate neighboring residential areas. A copy of Section 25-18-50 is enclosed with this letter.

As stated above, due to the industrial use and the R-1 zoning, the industrial buildings and industrial use of the Property are considered legal non-conforming. As such, pursuant to Section 25-21-55, new structures or the physical expansion of existing structures for industrial use is not allowed on the Property. Any reuse of the building(s) must be similar to the use in existence at the time the Property was rezoned to R-1. The yard area may be used as long as required industrial performance standards are met. A change of use may be permitted provided the Zoning Administrator can find that the new use is of the same or of a more restrictive nature (Sec. 25-21-

55(c)(2)). However, the evaluation of whether a new or modified industrial use satisfies both the performance standards and non-conforming use criteria requires a fact-specific determination that would be made on an individual, case by case basis.

Due to the Property's immediate adjacency to existing single-family residential uses, the City encourages you and any potential future owner or tenant of the Property to communicate with and work with the adjacent residential neighbors to implement measures to reduce dust, fumes, glare, noise, vibration, aesthetic, and/or other potential impacts.

This letter serves as an interpretation by the Zoning Administrator, consistent with Article 31 of the City's Zoning Code. Any person dissatisfied with any decision of the Zoning Administrator may appeal the decision to the Planning Commission at any time within ten days after the rendition of the decision by the Zoning Administrator. Said appeal shall be conducted pursuant to procedures set forth in Section 25-28-40 of the City's Municipal Code.

Sincerely,



Ken Hiatt
Community Development Director

Sec. 25-18-50. - Performance standards.

- (a) Front landscaping area shall extend to the valley gutter.
- (b) A conditional use permit shall be required for assembly, fabricating, manufacturing, processing or storage of goods, materials or products in buildings or enclosed yards which may create dust, fumes, noise, odors, smoke or vibration in volumes to be offensive or objectionable beyond the premises or for any use which put a significant demand on city services (e.g., water, sewer, etc.)
- (c) Fencing and landscaping adequate to screen development from adjacent residential zones along rear and side property lines.
- (d) Outside storage of solid wastes and containers for solid waste, containers, merchandise, or other items or goods awaiting pickup, sale, or other disposition shall be prohibited except when screened to the satisfaction of the planning commission or the zoning administrator.
- (e) Additional landscaping may be required in order to provide an aesthetically pleasing entrance to the city, if appropriate.
- (f) Light sources shall be directed and shielded so as to not illuminate neighboring residential areas.

(Amended during the March 2009 supplement.)

**Appeal of Zoning Interpretation by City Staff dated September 20, 2016
for 352 West Kentucky Avenue.**

We are appealing the Zoning Interpretation completed by City Staff on September 20, 2016 for the property at 352 West Kentucky Avenue.

This zoning interpretation reverses a long held policy of the Community Development Department and the City of Woodland that a nonconforming use which once reduced to a use with a lesser intensity or impact on the neighborhood cannot then be reverted back to the pre-existing more intensive use at a later date. Re-establishing and making more permanent a nonconforming use which by the nature of a nonconforming use(s) should be brought into compliance with the current zoning as quickly as possible.

Per the zoning interpretation letter City staff concluded "that the existing buildings and land (at 352 West Kentucky) can be used for industrial uses in their entirety" and "the yard area may be used as long as required industrial performance standards are met." We will show this determination is incorrect, goes against general planning guidelines and case law.

If this zoning interpretation is allowed to stand it will negatively impact the adjacent residential neighborhood in multiple ways that the zoning code and general plan are intended to protect. This interpretation will also have impacts on other areas around Woodland that are also adjacent to existing nonconforming uses.

History of Property/Uses/Violations

- Property annexed into the City of Woodland on April 16, 1991 and zoned as R-1 (Single Family Residential)
- In order to establish an existing nonconforming status, the business/use must have existed before the change of zoning was initiated and it must have been in full compliance with all land use regulations at the time of annexation. The burden of proof rests with the landowner. There are no records, proof or verification of the legality of the existing nonconforming status of this property as a trucking company at the time of annexation. Therefore it has not been proven that the existing nonconforming status is/was legal.

(Attachment 1)

Zoning News – American Planning Association (APA) – March 1997
Changing or Expanding Nonconforming Uses – By: Mark S. Dennison

Pg. 1

Establishment of Nonconforming Use

"What is required to establish a nonconforming use as lawful? The land use must meet two basic requirements:

- It must have existed before the prohibitory regulation was enacted.
- It must have been lawful when commenced.

The burden of proving the extent or existence of a nonconforming use rests on the landowner, who must establish both of the above points (*R.K. Kibblehouse Quarries v. Marlborough Township Zoning Hearing Board*, 630 A.2d 937 (Pa. Commw. 1993); *City of Peoria v. Danz* 585 N.E.2d 1207 (Ill. App. 1992); *Town of Ithaca v. Hill*, 571 N.Y.S2d 609 (App. Div. 1991))"

"The use in question must have been in full conformance with all applicable land-use regulations in effect when the activity began. (*City of Dublin v. Jinkes*, 615 N.E. 2d 690 (Ohio App. 1992.))"

(Attachment 2)

Longtin's – California Land Use, 2nd edition, 1987

Pg. 376-377

3.81 ESTABLISHING THE NONCONFORMING USE

"3.81[1] Actual Vested Use Required. In order to establish a nonconforming use which may legally continue in nonconformance to later established zoning regulations, the use or structure must be "actual" or in existence, and must be established to the extent that the right to continue becomes "vested." 43 Ops. Cal. Atty. Gen. 144, 147 (1964)."

3.81[2] Lawful Use Required. In addition to the requirement that the use or structure be "actual" and established to the point that the right becomes "vested," the use or structure must also be "lawful" at the time of enactment of the subsequent ordinance rendering the use nonconforming. *Melton v. City of San Pablo* (1967) 252 CA2d 794, 804, 61 CR 29.

3.81[3] Burden of Proof. The party asserting a right to a nonconforming use has the burden of proof to establish the lawful and continuing existence of the use at the time of enactment of the ordinance. *Melton v. City of San Pablo* (1967) 252 CA2d 794, 804, 61 CR 29.

- Building permit issued on 08/29/95 for a new 50' x 75' structure. Expanding an existing nonconforming use in violation of the Woodland Municipal Code.

Section 25-21-55(b)- Nonconforming Buildings and Structures.
(2) Additions and Enlargements. No building or structure nonconforming as to use, lot area, or yard width or depth regulations, may be added to or enlarged unless such nonconforming building or structure and the additions and enlargements thereto and the use thereof are all made to conform to the regulations of the zone in which it is located.

- Wahl's Trucking ceased operation in 2004 (March 28, 2004) with the owner's passing and verified verbally in a meeting we had with the owner and City staff on October 26, 2016.
- Next use opened two years later on May 26, 2006. (La Tourangelle, Inc.). In violation of WMC Section:

25-21-55 (d) – Vacancy. Any nonconforming use of land and/or building or structure which becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

Property at 352 W. Kentucky should have lost all rights to existing nonconforming status due to being vacant for more than one year.

- La Tourangelle, Inc. – Business license applied for on 05/26/06 and issued on 06/12/06 for a less intensive use of warehousing of Gourmet Oil within the existent building. Conditions placed on business by Planning Department.
 1. Sign permit needed
 2. No storage outdoors
 3. No retail sales onsite
 4. Hours indicated on application 805
- 10/19/06- Business closed. Business relocated to new location (per notes on business license application).
- La Tourangelle, Inc. ceased operation on 10/19/2006 Next use opened more than a year later on 09/30/2008. In violation of WMC Section:

25-21-55 (d) – Vacancy. Any nonconforming use of land and/or building or structure which becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

Property at 352 W. Kentucky should have lost all rights to existing nonconforming status due to being vacant for more than one year.

- D&S Ventures – Business license approved on 09/30/2008 for Trucking – using the shop to store their trucks and equipment. Approved with conditions.
- Welltec – 07/20/09 - Proposed reuse of the property by Bill Weber.
Proposed reuse approved with conditions by Planning Department.
Storage of all materials shall be inside of the two existing buildings. No outside storage will be allowed.
Obtain business license

NO BUSINESS LICENSE ISSUED

- 4Z WELDING SERVICES – Proposed reuse of property by Randy Eyraud.
10/02/12 – Letter from Randy Eyraud for reuse.
10/04/12 – Approval letter from planning.
Approved with conditions.
NO BUSINESS LICENSE ISSUED
- 4Z Welding Services – (Welding – Repair and fabrication) –Randy Eyraud
10/27/15 – Business license submitted
11/09/15 – Approved with conditions (Cindy Norris)
- Business was an extension of a nonconforming use and required a C.U.P.
 - Extension of non-conforming use.
Sec. 25-21-55 (c)(1) – Extension of Use. A nonconforming use may not be extended to other parts of a building unless authorized by the zoning administrator.

INDUSTRIAL LAND USES

- PER 25-18-10-Table 3-Permitted Uses
E) Repair, Service and Incidental Sales
7) Shop uses:
Welding (c) = Conditional use permit required if abutting a residential zone

NO CONDITIONAL USE PERMIT HAS BEEN ISSUED

ZONING INTERPRETATION

The property at 352 W. Kentucky Avenue after annexation was initially a trucking company (Wahl's Trucking), when the trucking company no longer existed and the less intensive use of warehousing (La Tourangelle, Inc.) was brought into the property. The existing nonconforming use of trucking was therefore abandoned, and the newly established less intensive use became the use of the property. This should have now been the threshold for which the same or less restrictive use in the future being brought into the property is judged. This is a move towards conformance with the current R-1 zoning for the property and consistent with prior enforcement of nonconforming cases in the past in the City of Woodland (See Attachment 3– Code Enforcement Case Summary #CE03100064).

The following are case law and planning/land use interpretations of reputable sources regarding the issue of changing a nonconforming use to a less intensive use and it not allowing the use to be reverted back to the more intensive existing nonconforming use at a later date.

Case law/Interpretations/Examples

(Attachment 1)

Zoning News – American Planning Association (APA) – March 1997

Changing or Expanding Nonconforming Uses – By: Mark S. Dennison

Pg. 1

Establishment of Nonconforming Use

“What is required to establish a nonconforming use as lawful? The land use must meet two basic requirements:

- It must have existed before the prohibitory regulation was enacted.
- It must have been lawful when commenced.

The burden of proving the extent or existence of a nonconforming use rests on the landowner, who must establish both of the above points (*R.K. Kibblehouse Quarries v. Marlborough Township Zoning Hearing Board*, 630 A.2d 937 (Pa. Commw. 1993); *City of Peoria v. Danz* 585 N.E.2d 1207 (Ill. App. 1992); *Town of Ithaca v. Hill*, 571 N.Y.S2d 609 (App. Div. 1991)”)

“The use in question must have been in full conformance with all applicable land-use regulations in effect when the activity began. (*City of Dublin v. finkes*, 615 N.E. 2d 690 (Ohio App. 1992.))”

Pg. 1-2

Limitations on Change

"A zoning ordinance can proscribe a new nonconforming use or one of a different character. The questioned use may not be grandfathered from the operation of new zoning restrictions if:

- Fails to reflect the nature and purpose of the preexisting nonconforming use
- Is different in quality or character as well as in degree
- Is different in kind in its effect on the neighborhood where it is located (*Keith v. Saco River Corridor Commission*, 464 A.2d 150 (Me. 1983))"

"Others allow changes to a less intensive nonconforming use or one that would be less detrimental to the neighborhood's character than the existing nonconforming use. (McLaughlin v. City of Brockton, 587 N. E. 2d 251 (Mass. App. 1992)) These ordinances are designed to achieve eventual eradication of nonconforming uses through gradual change to uses that are "more appropriate" to the district. (Kopietz v. Zoning Board of Appeals for the City of the Village of Clarkston, 535 N.W.2d 910 (Mich. App. 1995))."

(Attachment 2)

Longtin's – California Land Use, 2nd Edition, 1987

Pg. 377-379

3.82 EXPANSION AND ALTERATION OF NONCONFORMING USES

"3.82[1] General Rule Prohibiting Expansion of the Use...Given the objective of zoning to eliminate nonconforming uses, the California courts have generally followed a strict policy against their extension or enlargement. As stated by the court in *Paramount Rock Co. v. County of San Diego* (1960) 180 CA2d 217, 228, 4 CR 317 "The ultimate purpose of zoning is to confine certain classes of building and uses to particular localities and to reduce all nonconforming uses with the zone to conformity as speedily as is consistent with proper safeguards for the interests of those affected. Any change in the premises which tend to give permanency to, or expands the nonconforming use would not be consistent with this purpose."

3.82[2] Change in Use. Some zoning ordinances provide that a nonconforming use may be changed to a use that is similar to present nonconformity or is more restrictive in nature...changes or additions to the existing use which are dissimilar, tend to enlarge it, or tend to make it more permanent, are not protected. City of Los Altos v. Silvey (1962) 206 CA2d 606, 609, 24 CR 200 (disallowing change from bottling wines to manufacture of boats and trailers).

(Attachment 4)

The Law of Nonconforming Uses

By, Clifford H. Bloom Law, Weather & Richardson, P.C.

WHAT CONSTITUTES A "CHANGE OF USE".

Such ordinances will normally allow a change to use that is more appropriate to the District in which it is located that the existing nonconforming use. An example would be a change of use from an office use that generated significant traffic, such as a doctor's office, to an office use which generated very little traffic, such as an insurance broker that did not deal with the general public . . . such permission is usually freely given on the basis that the "New Use" is a move toward the eventual elimination of a non-conformity.

(Attachment 5)

CORNELL UNIVERSITY LAW SCHOOL

NON-CONFORMING USE

Also known as a prior nonconforming use (PNU). This exists when a zoning code is changed. But a parcel of land that is already being used for something disallowed by the new zoning code is "Grandfathered In" (is allowed to continue). For example, if a neighborhood zoning is changed to residential, a corner grocery store may be allowed to continue to operate. The PNU will generally end when the use of the land is changed. (So if the grocery store closes, the new zoning code will bar a new store from moving in.)

(Attachment 6)

TOURO LAW: 2010 – Abandonment, Discontinuance and Amortization of nonconforming uses: lessons for drafters of zoning regulation.
By, Patricia E. Salkin

Pg. 500

8. Can an abandoned use be converted to a less intensive nonconforming use?
"Typically zoning ordinances provide that abandoned uses may resume or be converted to a less intensive nonconforming use. Courts prohibit the conversion back to the more intensive use" (Taylor v. Zoning Board of Appeals of City of Evanston, 375 Ill. App. Ct. 2007). "Likewise, courts have not allowed the reversion to a previously abandoned more expansive nonconforming use once it has been abandoned" (Town of Orange v. Shay, 68 Mass. App. Ct. 358 (Mass App. Ct. 358 (Mass. App. Ct. 2007))

(Attachment 7)

Nonconforming Structures, Uses and Lots – A Discussion of the Intent and Practice of California Land Use and Planning Law Governing Nonconforming Structures, Uses and Lots

City of Tustin Community Development Department, Sept. 2011

Pg. 4-5

“To ensure that a community’s adopted vision and goals are fully accomplished overtime, regulatory provisions are put into place to require nonconforming structures, uses, or lots to be made conforming or ensure their replacement over time. Any change in a structure, use or lot that gives permanency to, or expands the nonconformity would not be consistent with this purpose and are typically prohibited.”

“As a general rule, nonconforming regulations presume that a nonconformity is detrimental to the public interest (Health, Safety, Morals or Welfare), and that the nonconformity needs to be brought into conformance with the current code at some point in time.”

(Attachment 8)

APA – American Society of Planning Officials Information Report, No. 2, May, 1949

Elimination of Non-Conforming Uses

Pg. 3

“The most commonly accepted restriction is that no nonconforming use may be extended. A nonconforming use usually may be extended throughout a building, but additions may not be made to the building, or the nonconforming use may not extend to another building. Other restrictions include...Refusing to allow a nonconforming use to be reestablished once a more highly restricted use has been substituted, and refusing to permit a re-establishment of a use if the use or building has been discontinued or abandoned for a specified period of time.”

(Attachment 9)

William & Mary Law Review – Volume 6, Issue 1, Article 2 – January 1965

The Termination of Nonconforming Uses - By: Marvin M. Moore

Pg. 2

“Zoning ordinances would commonly forbid a property owner to substitute one nonconforming use for another (Young, supra note 1, at 692). Sometimes an exception would be made to permit a change to a use more restrictive in nature.

However, the exception was usually conditioned on there being no structural alteration.”

(Attachment 10)

Pace Law School – Land Use Law Center
Beginner’s Guide to Land Use Law

Pg. 25

Changing to Another Nonconforming Use

“The consequence of finding that a material change in use has occurred, is to deem the prior nonconforming use abandoned and, therefore terminated.”

“It has been held, however that it is not only a change in volume of business conducted but in the character of that business that determines whether one business use is a continuation of another. This is true despite the generic similarity between the old and new proposed use.”

(Attachment 11)

Missouri Law Review – Volume 31, Issue 2, Spring 1966, Article 7

Zoning-Abatement of Prior Nonconforming Uses: Nuisance Regulations and Amortization Provisions – By: David M. Roberts

Pg. 4

“If the property owner has abandoned or discontinued his nonconforming use, it is within the power of the municipality to forbid a resumption of that use...”

“It also has been held that the change from one nonconforming use to another evidences an intent to abandon the former, which thereafter may not again be resumed”

(1 Antieau, op. cit. supra note 19, § 7.07; 2 Rathkopf, op. cit. supra note 11, § 61-13. Most zoning ordinances are “cumulative,” and the landowner is given the power to change to a *lesser* nonconforming use. This is a very practical provision, since it tends to bring the nonconformity more into harmony with its surroundings. See Reno, *Non-Euclidian Zoning: The use of the Floating Zone*, 23 MD. L. Rev. 105 (1963)).

(Attachment 12)

Case Western Reserve Law Review – Volume 12, Issue 4, 1961

Substitution of Nonconforming Uses

“Another method of regulating a nonconforming use is by refusing to allow a property owner to substitute one nonconforming use for another. In *State ex rel. Clifton-Highland Company v. City of Lakewood* (124 Ohio St. 399, 178 N.E. 837 (1931)), the Ohio Supreme Court held that the city could refuse to permit the property owner to substitute a new nonconforming use for an existing nonconforming use. In the *Stegner case* (120 Ohio St. 418, 166 N.E. 226 (1929)), the court upheld such a regulation even though that ordinance prohibited the substitution of a use of greater conformity than the prior nonconforming use.

In view of the above decisions, it would seem to be logically clear that if a property owner substitutes one nonconforming use for another, he has terminated his right to claim any nonconforming use (*Dorman v. Baltimore*, 187 Md. 678, 51 A.2d 658 (1947); *Town of Darien v. Webb*, 115 Conn. 581, 162 Atl. 690 (1932); *Branch v. Powers*, 210 Ark. 836, 197 S.W.2d 928 (1946)). Such a position is also supported by the general policy relating to nonconforming uses – only uses existing on the effective date of the ordinance are protected, and even those uses are to be terminated as rapidly as possible. In effect, then, the substitution of nonconforming uses is actually a termination of the prior nonconforming use through abandonment.

(Attachment 13)

MSU Extension

Understanding nonconformity: Are you ‘grandfathered’ in?

Pg. 1

“Substitution of one nonconforming use for another is usually allowed if the change is more conforming or no less conforming, allowing for the property to move closer to conformity over time with district requirements.”

Summary

The property at 352 West Kentucky Avenue is zoned R-1 and is to eventually become a residential use compatible with the surrounding residential homes.

However, it has been operating as an Industrial use or uses as an existing nonconforming use since annexation. There have been multiple violations on the site and on at least two occasions the industrial use ceased for more than 12 months and the use should have been required to be brought into compliance with the R-1 zoning that the land belongs. That was not done and Industrial uses were allowed to continue on the site. Once the use on the site was reduced to a less intensive use of warehousing in 2006 (La Tourangelle, Inc.) which was contained only within the building. Conditions were placed on that business and future businesses which restricted the use of the back lot to protect the adjacent neighbors and allow industrial businesses to continue to operate at this location. This was a move towards bringing the property towards compliance. The adjacent neighbors felt this was fair and consistent with the code. In 2015 the use of the back lot increased and with it noise and dust began to be an issue. Complaints were filed with code enforcement at the City regarding these issues. The property was placed on the market around 2015 and the property owners and a perspective buyer requested that City staff do a zoning interpretation of the property for clarification of the existing nonconforming status. The adjacent neighbors were not a part of this zoning interpretation and only found out about this by letter on September 22, 2016 notifying us that a zoning interpretation had been completed and we had 10 days to file for an appeal. If the interpretation was consistent with the past enforcement of existing nonconforming properties in the City of Woodland, we would not have filed an appeal. However by stating that the "land can be used for industrial uses in their entirety" and "the yard area may be used as long as required industrial performance standards are met." are not consistent with the ordinance and the land use goal "to achieve eventual eradication of nonconforming uses through gradual change to uses that are "more appropriate" to the district"(attachment 1). Instead the zoning interpretation gives permanency to the existing nonconforming use and is not consistent with land use law.

We request that the Planning Commission have City staff reevaluate the zoning interpretation and do more research on the property in question before making a policy decision which affects multiple families and property owners who live near this existing nonconforming property. The current interpretation will affect our properties in a negative fashion by decreasing property values and increasing the nuisances in the neighborhood. The General Plan recognized that the close proximity of Industrial activities to residential area creates land use conflicts. "By separating Industrial activities from Residential areas, Woodland has avoided many land use conflicts (pg. 14)." And that is why the Industrial uses are mainly located in the Northeastern part of town. The general plan also states that, "The City shall attempt to ensure that decisions concerning land use and development are not detrimental to the positive character and identity of Woodland's existing Residential neighborhoods." We hope that this policy is considered when making your determination.

Thank you in advance for your time in this matter.

ATTACHMENT 1

Changing or Expanding Nonconforming Uses

By Mark S. Dennison

The ultimate purpose of zoning ordinances is to confine certain classes of uses and structures to certain areas. The law generally frowns on nonconforming uses because they undermine that goal. The general rule is this: If prior to the adoption of an original zoning ordinance—or a subsequent amendment or revision—property was being used for a then-lawful purpose that the ordinance prohibits and renders nonconforming, the property owner acquires a vested right to continue the nonconforming use.

Thus, the policy of zoning ordinances is to secure the gradual or eventual elimination of nonconforming uses. To further this goal, state zoning enabling acts confer powers on local zoning bodies to impose restrictions on the expansion or change of nonconforming uses. This issue of *Zoning News* evaluates the circumstances under which a change or expansion of a nonconforming use is considered illegal under most zoning ordinances. (Where case citations are missing in the text, they appear in the accompanying sidebar.)

Establishment of Nonconforming Use

What is required to establish a nonconforming use as lawful?

The land use must meet two basic requirements:

- It must have existed before the prohibitory regulation was enacted. [See, for example, *Heyman v. Zoning Hearing Board of Abington Township*, 601 A.2d 414 (Pa. Commw. 1991).]
- It must have been lawful when commenced. [See, for example, *Oceanview Homeowners Association, Inc. v. Quadrant Construction & Engineering*, 680 P.2d 793 (Alaska 1984); *Hooper v. City of St. Paul*, 353 N.W.2d 138 (Minn. 1984).]

The burden of proving the extent or existence of a nonconforming use rests on the landowner, who must establish both of the above points. [See, for example, *R.K. Kibblehouse Quarries v. Marlborough Township Zoning Hearing Board*, 630 A.2d 937 (Pa. Commw. 1993); *City of Peoria v. Danz*, 585 N.E.2d 1207 (Ill. App. 1992); *Town of Ithaca v. Hill*, 571 N.Y.S.2d 609 (App. Div. 1991).]

A use that was begun in violation of the ordinance in effect at the time cannot gain status as a preexisting and lawful nonconforming use. [See, for example, *Lantos v. Zoning Hearing Board of Haverford Township*, 621 A.2d 1208 (Pa. Commw. 1993).] The use in question must have been in full conformance with all applicable land-use regulations in effect when the activity began. [See, for example, *City of Dublin v. Jinks*, 615 N.E.2d 690 (Ohio App. 1992).] In a few cases, the landowner's failure to obtain a certificate of occupancy when the use was established under a former zoning ordinance has prevented the property from acquiring nonconforming use status under subsequent amendments to the ordinance that prohibited the

use. [See, e.g., *Bernstein v. District of Columbia Board of Zoning Adjustment*, 376 A.2d 816 (D.C. App. 1977).]

However, where the invalidity of a use lies in the fact that the landowner failed to obtain a business license or to comply with requirements imposed by an ordinance other than the one regulating land use, such invalidity generally will not preclude the property from acquiring nonconforming use status. [See, for example, *Carroll v. Hurst*, 431 N.E.2d 1344 (Ill. App. 1982) (failure to obtain license for operation of automobile junkyard as required by state motor vehicle code did not defeat nonconforming use status under zoning ordinance).]

Limitations on Change

A zoning ordinance can proscribe a new nonconforming use or one of a different character. The questioned use may not

CASES ON CHANGE OR EXPANSION OF NONCONFORMING USE

❖ Permissible Changes

Types of changes that the courts have deemed permissible:

DiBlasi v. Zoning Board of Appeals of the Town of Litchfield, 624 A.2d 372 (Conn. 1993) (change in use from a construction office to an adult probation office).

Hall v. Brazzale, 624 A.2d 916 (Conn. App. 1993) (change from a secondary storage site to the sole storage site for construction business).

Limley v. Zoning Hearing Board of Port Vue Borough, 625 A.2d 54 (Pa. 1993) (change from private club to public restaurant and bar).

Appeal of Schneider, 521 A.2d 528 (Pa. 1987) (change of use of property from storage and repair of general hauling trucks to storage and repair of empty trash trucks).

About v. Wallace, 463 N.Y.S.2d 572 (App. Div. 1983) (change from doctor's office to professional lobbying group's office).

Kastendike v. Baltimore Association for Retarded Children, 297 A.2d 745 (Md. App. 1972) (change from nursing home for treatment of elderly and alcoholics to home for treatment of retarded children).

❖ Impermissible Changes

Types of changes that the courts have deemed impermissible:

Gilmore v. County of DuPage, 597 N.E.2d 1111 (Ill. App. 1991) (change from chiropractor's office to dentist's office).

Boivin v. Town of Sanford, 588 A.2d 1197 (Me. 1991) (change from auction barn to antique business).

Tier Oil Corp. v. Egan, 472 N.Y.S.2d 505 (App. Div. 1984) (change from gasoline service station to combination gas station and convenience store).

Stevens v. Town of Rye, 448 A.2d 426 (N.H. 1983) (change from automobile garage to bath shop and plumbing supplies showroom).

Board of Zoning Appeals v. McCulley, 300 S.E.2d 790 (Va. 1983) (change from auto body shop to metal forge and machine shop).

(continued on page 3)

be grandfathered from the operation of new zoning restrictions if it:

- fails to reflect the nature and purpose of the preexisting nonconforming use
- is different in quality or character as well as in degree
- is different in kind in its effect on the neighborhood where it is located. [See, for example, *Keith v. Saco River Corridor Commission*, 464 A.2d 150 (Me. 1983).]

To qualify as a continuation of an existing nonconforming use, a proposed use must be similar to the original use. (See, for example, *Boivin v. Town of Sanford*.) However, it need not be identical. [See, for example, *Pappas v. Zoning Board of Adjustment of the City of Philadelphia*, 589 A.2d 675 (Pa. 1991) (pizza restaurant with seating for 40 customers was similar to preexisting nonconforming use as sandwich shop that had very limited customer seating and sold primarily take-out food).]

In determining whether a new use bears adequate similarity to an existing nonconforming use, courts evaluate various factors, including:

- the extent to which the current use reflects the nature and purpose of the original use;
- whether the use is different in character, nature, and kind;
- whether the current use has a substantially different effect on the neighborhood.

[See *Zachs v. Zoning Board of Appeals*; *Knwilton v. Browning-Ferris Industries*, 260 S.E.2d 232 (Va. 1979); *Town of Bridgewater v. Chuckran*, 217 N.E.2d 726 (Mass. 1966).]

Determining whether a questioned use meets this test necessarily involves consideration of the specific facts of each case. [See, for example, *Mason v. Crooker-Mulligan*, 570 A.2d 1217 (Me. 1990).] For instance, in *Ka-Hur Enterprises, Inc. v. Zoning Board of Appeals of Provincetown*, 661 N.E.2d 120 (Mass. App. 1996), the court evaluated whether a nonconforming use as a fuel oil storage and distribution depot was terminated by a change in use. The property at issue was used as a fuel oil storage and distribution facility before the city enacted a 1951 zoning ordinance that zoned it for residential use. This use continued until 1979, when the Nauset Trawling Company acquired the property and operated a fishing business and truck repair shop on the premises that lasted until August 1987. The evidence showed that Nauset used the property primarily to operate its fishing business and to garage and repair trucks used for hauling fish.

While there was evidence that Nauset continued to store fuel in the two tanks on the premises and to make deliveries to its fishing vessels, out-of-town fishing boats, and a few homes of its employees, neighboring property owners testified that they never saw any fuel oil trucks enter or leave the premises. The town's building inspector also testified that, on his numerous visits to the property from 1985 to 1987, he never saw any evidence that the property was being used as a fuel storage and distribution facility. The court was unpersuaded by the fact that the property continued to be used for incidental storage of fuel oil. It concluded that a substantial change in use had occurred during Nauset's ownership, and the property lost its nonconforming use status.

Mark Dennison is an attorney and author who practices environmental, land-use, and zoning law in Westwood, New Jersey.

On the other hand, some courts have held that incidental storage activities that were part of the preexisting nonconforming use may be continued despite a change or discontinuance of the property's primary nonconforming business use. [See, for example, *Toys R Us v. Silva*, 639 N.Y.S.2d 881 (Sup. Ct. 1996); *Hendgen v. Clackamas County*, 849 P.2d 1135 (Ore. App. 1993).]

Some zoning ordinances allow a change in use provided that the new use would have been permitted in the most restrictively zoned district in which the original use was allowed. [See, for example, *Prudence v. Town of Ithaca Zoning Board of Appeals*, 599 N.Y.S.2d 749 (App. Div. 1993).] Others allow changes to a less intensive nonconforming use or one that would be less detrimental to the neighborhood's character than the existing nonconforming use. [See, for example, *McLaughlin v. City of Brockton*, 587 N.E.2d 251 (Mass. App. 1992).] These ordinances are designed to achieve eventual eradication of nonconforming uses through gradual change to uses that are "more appropriate" to the district. [See, for example, *Kopietz v. Zoning Board of Appeals for the City of the Village of Clarkson*, 535 N.W.2d 910 (Mich. App. 1995).]

Zoning ordinances seldom contain an absolute prohibition against all expansions of nonconforming uses, and some courts, most notably in Pennsylvania, have ruled that local ordinances cannot impose such an absolute prohibition.

Limitations on Expansion

The rationale for prohibiting a change from one nonconforming use to another applies also to expansions of preexisting nonconforming uses. The only nonconforming use entitled to protection is the one that existed when passage of the zoning ordinance made it nonconforming. Allowing the nonconforming use of land and buildings to be expanded or enlarged would further exacerbate the offense to the general community and undermine the public policy that nonconforming uses should eventually be eliminated and made to conform to the zoning laws. [See, for example, *SLS Partnership v. City of Apple Valley*.]

Zoning ordinances seldom contain an absolute prohibition against all expansions of nonconforming uses, and some courts, most notably in Pennsylvania, have ruled that local ordinances cannot impose such an absolute prohibition. [See, for example, *Gatti v. Zoning Hearing Board of Salisbury Township*, 543 A.2d 622 (Pa. Commw. 1988).] Most zoning ordinances permit some expansion. Permissible expansions typically include an increase in business volume that does not include an enlargement of the size of a nonconforming building or an extension of the nonconforming use within the confines of the same nonconforming lot or building. Impermissible expansions commonly include structural alterations that increase the size of a nonconforming building or its expansion onto additional land that was not formerly used for that purpose. The applicable zoning ordinance determines which expansions are deemed either lawful or illegal.

ATTACHMENT 2

LONGTIN'S
CALIFORNIA
LAND USE

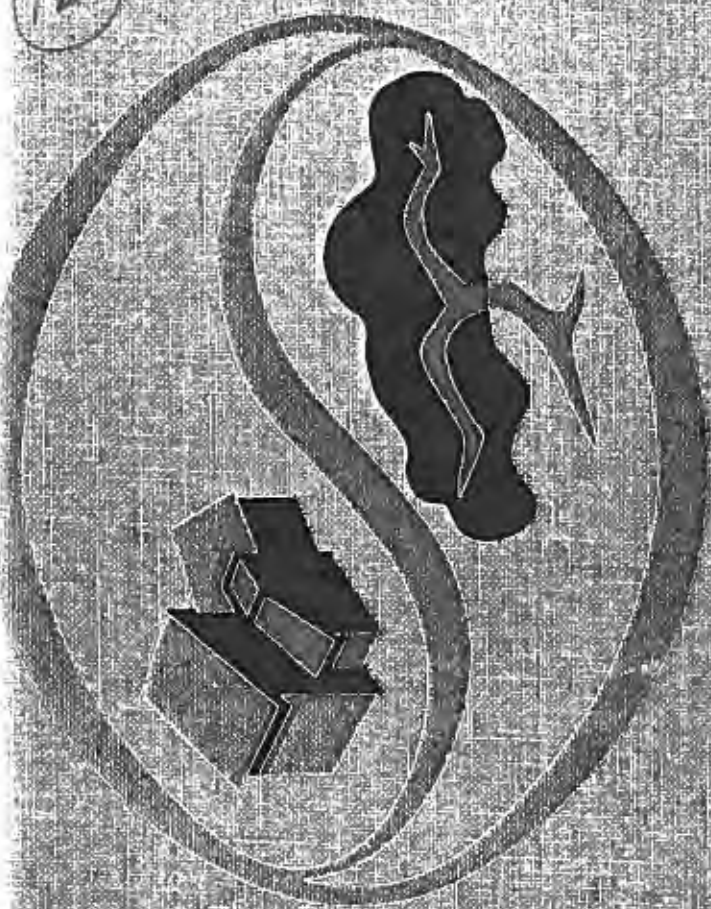
2nd Edition



1

SECTIONS
1.01-5.99

2



Longtin's california land use

2nd edition

an ordinance declaring nonconforming gravel pits a nuisance and requiring their elimination within 60 days. In an action to enjoin operation of the ordinance, the court held that the granite quarry operation was not a nuisance, and that the landowner was entitled to continue operation as a matter of right, without obtaining a conditional use permit. On the other hand, if the landowner did not have a legal nonconforming use and therefore could not maintain it as a matter of right, the zoning authority may condition any extension of the use. See also *Edmonds v. County of Los Angeles* (1953) 40 C2d 642, 651 (landowner unlawfully expanded nonconforming use of property from 20 trailer sites to 50 sites. The county permitted the expansion for three years provided the entire trailer park operation was terminated at the end of that period. The court upheld the condition.)

3.81 ESTABLISHING THE NONCONFORMING USE

3.81[1] Actual Vested Use Required. In order to establish a nonconforming use which may legally continue in nonconformance to later established zoning regulations, the use or structure must be "actual" or in existence, and must be established to the extent that the right to continue becomes "vested." 43 Ops. Cal. Atty. Gen. 144, 147 (1964). Non-use, such as pre-existing and continuous abandonment, does not amount to actual use so as to establish a nonconforming use. *Hill v. City of Manhattan Beach* (1971) 6 C3d 279, 286, 98 CR 785. Additionally, the "actual" use or structure must be established to a sufficient extent that the landowner's rights become "vested" to continue such use. See *Spindler Realty Corp. v. Monning* (1966) 243 CA2d 255, 269, 53 CR 7 (holding that the preparation of land for the construction of buildings was insufficient to establish vested rights in a landowner constituting a nonconforming use. Owner also made other substantial expenditures). See also *Anderson v. City Council* (1964) 229 CA2d 79, 88-89, 40 CR 41 (purchase of property with an intent to make a particular use of it does not give buyer vested right against future zoning regulations); and *Paramount Rock Co. v. County of San Diego* (1960) 180 CA2d 217, 4 CR 317 (obtaining permit, pre-construction planning, award of construction contracts, obtaining mortgage financing held insufficient to give landowner a vested right to expand nonconforming use). But see *Griffin v. County of Marin* (1958) 157

CA2d 507 (issuance of building permit, property survey, drafting of plans and specifications, and employing a contractor held sufficient to vest right to use property as a service station although county subsequently rezoned property to single family residential). For a detailed discussion of vested rights as against subsequently enacted zoning regulations, see §1.90 et seq.

3.81[2] Lawful Use Required. In addition to the requirement that the use or structure be "actual" and established to the point that the right becomes "vested," the use or structure must also be "lawful" at the time of enactment of the subsequent ordinance rendering the use nonconforming. *Melton v. City of San Pablo* (1967) 252 CA2d 794, 804, 61 CR 29. In *Melton*, the court held that plaintiff's use was not lawfully established in that, from the beginning, it operated in violation of the city's building codes and continued in violation thereof after the zoning ordinance was enacted. Thus, plaintiff was not entitled to the benefit of the doctrine of pre-existing nonconforming use. See also *Mang v. County of Santa Barbara* (1960) 182 CA2d 93, 100, 5 CR 724 wherein the court held that excavation and grading without a required permit was an illegal act that did not allow application of the nonconforming use doctrine.

3.81[3] Burden of Proof. The party asserting a right to a nonconforming use has the burden of proof to establish the lawful and continuing existence of the use at the time of the enactment of the ordinance. *Melton v. City of San Pablo* (1967) 252 CA2d 794, 804, 61 CR 29.

3.82 EXPANSION AND ALTERATION OF NONCONFORMING USES

3.82[1] General Rule Prohibiting Expansion of the Use. Frequently, a landowner enjoying a valid nonconforming use, seeks to change the use or expand it beyond its present scope. Although the courts have considered the issue of alteration of nonconforming uses, and have established certain rules applicable thereto, it is normally advisable to first consult the local zoning regulations, as there are differences among local jurisdictions concerning the permissible scope of change or expansion of nonconforming uses and structures. Most nonconforming use

provisions of zoning ordinances, although recognizing the right of a property owner to continue a nonconforming use existent at the time his property becomes subject to the new ordinance, prohibits any expansion or extension thereof and contemplates the eventual elimination of such uses through abandonment, obsolescence or destruction. Given the objective of zoning to eliminate nonconforming uses, the California courts have generally followed a strict policy against their extension or enlargement. As stated by the court in *Paramount Rock Co. v. County of San Diego* (1960) 180 CA2d 217, 228, 4 CR 317 “The ultimate purpose of zoning is to confine certain classes of buildings and uses to particular localities and to reduce all nonconforming uses with the zone to conformity as speedily as is consistent with proper safeguards for the interests of those affected. Any change in the premises which tends to give permanency to, or expands the nonconforming use would not be consistent with this purpose.” The court further stated that, in determining whether nonconforming use is the same before or after the application of a zoning ordinance, each case must stand on its own facts. See *Paramount*, p. 229, for a listing of eight cases wherein the courts had previously followed a strict policy against extension or enlargement of nonconforming uses. In properly analyzing the cases involving alteration of nonconforming uses, it appears necessary to analyze proposed alterations by types, to wit: change in use; change in land area or location; and change in structure. See §§3.82[2]–[4].

3.82[2] Change in Use. Some zoning ordinances provide that a nonconforming use may be changed to a use that is similar to the present nonconformity or is more restrictive in nature. Changes to a similar nonconforming use have been judicially sanctioned, even when the ordinance does not provide for such changes. *Endara v. City Culver City* (1956) 140 CA2d 33, 38, (allowing change from nonconforming manufacture of tile and ceramics to nonconforming production and storage of laminated sheets). On the other hand, changes or additions to the existing use which are dissimilar, tend to enlarge it, or tend to make it more permanent, are not protected. *City of Los Altos v. Silvey* (1962) 206 CA2d 606, 609, 24 CR 200 (disallowing change from bottling wines to manufacture of boats and trailers). In *Silvey*, the court specifically distinguished *Endara*, stating that each

case must stand on its own facts and that the trial court found, by implication, that the uses are sufficiently dissimilar to withdraw the protection of a nonconforming use. *Silvey*, pp. 610 and 611. For other cases holding a change in use improper, see *Wilson v. Edgar* (1923) 64 CA 654, 657 (change from milk bottling to dyeing and cleaning); *Orange County v. Goldring* (1953) 121 CA2d 442, 446 (change from crop growing and occasional grazing to feeding and watering three thousand head of cattle — a formidable change which added noise and odors); *County of San Diego v. McClurken* (1951) 37 CA2d 683 (change from bulk storage with movable gasoline tanks to larger oil storage tanks for a filling station); *Paramount Rock Co. v. County of San Diego* (1960) 180 CA2d 217 4 CR 317 (change from sand pit and concrete mixing to rock crushing); and *Walnut Properties, Inc. v. City Council* (1980) 100 CA3d 1018, 1024, 161 CR 411 (change from usual neighborhood theater to adult entertainment theater).

3.82[3] Change in Land Area or Location. In general, any significant changes in land area or location of a nonconforming use are usually prohibited by zoning ordinances and such prohibitions have generally been upheld by the courts. See *Yuba City v. Cherniavsky* (1931) 117 CA 568 (prohibition of change in location of nonconforming mercantile business upheld); *Edmonds v. County of Los Angeles* (1953) 40 CA2d 642 (owner of nonconforming trailer court which contained 20 trailers at the time of adoption of ordinance, was not entitled to enlarge nonconforming use to accommodate 30 or more trailers); and *City of Fontana v. Atkinson* (1963) 212 CA2d 499, 28 CR 25 (city prohibition against expanding land area of nonconforming dairy farm to additional 10 acres, upheld). On the other hand, in *McCaslin v. City of Monterey Park* (1958) 163 CA2d 339, 349, the court upheld the right of a landowner to expand a nonconforming granite quarry operation both as to area and depth of extractions in spite of a local ordinance providing “that no nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property.” The court stated that the very nature and use of an extractive business contemplates the continuance of such use of the entire parcel of land as a whole, without limitation or restriction to the immediate area excavated at the time the ordinance was passed. A mineral extractive operation is susceptible of use and has value only in

ATTACHMENT 3

Case Summary
#CE03100064

2/19/03 – Received a complaint from Assistant City Manager regarding property located at 533 Community Lane. Upon inspection observed numerous inoperable vehicles, auto parts, and misc. junk/debris. Case #CE03020019 opened and a notice to abate was sent to the property owner, via certified mail. Notice to abate cited violations of city code **Sec.14A-1-3(b)(2) & Sec. 14A-1-3(7)** (see attached)

2/28/03 - Mr. Harrison, owner, requested an extension from CDD Director Stevens in order to arrange a meeting to discuss this complaint. He was granted an extension until 3/30 due to being away on vacation.

Case closed due to lack of evidence regarding “Grandfathered In” status.

10/22/03 – Complaint was received regarding junk/debris accumulation at 533 Community Lane, the complainant also provided aerial photos of the subject property for the years 1984 and 1988, which show no storage in rear section of property.

Case #CE03100064 opened and a notice to abate sent to the property owner, via certified mail. Notice to abate cited violations of **Sec.14A-1-3(b)(2) & Sec. 14A-1-3(7)** (see attached). Case notes attached also indicated that photos were submitted which show Junk/Debris was not existing non-conforming.

11/2/03 – Letter received from Mr. Harrison requesting a hearing to challenge the declaration that a nuisance exists at subject property (case #CE03100064).

11/12/03 – Notice of hearing sent to Mr. Harrison, via registered mail, setting the hearing for December 3, 2003.

Staff Comments – The property located at 533 Community Lane, was annexed to the City in 1978 as High Density Residential (R-4) zone. This zone does not allow for industrial storage yards. The current industrial storage yard would need to have been continuous since time of its annexation in 1978 in order to be granted “Grandfathered In” status as an existing legal non-conforming use. The aerial photos submitted demonstrate that the use of the storage yard behind the existing building as not being used for storage of vehicles and junk/debris in 1980, 1984, 1988 and 1993. The “Grandfathered In” rights were not established and the legal non-conforming status no longer applies to the property.

Recommended Action - Staff recommends that the vehicles and junk/debris accumulation be declared a public nuisance, and an order to abate the violation by January 3, 2004 (30 days) be issued. If the order to abate has not been completed by that date, the Community Development Director is authorized to cause the nuisance to be abated by City personnel or private contract. Also, the Director or their agent is expressly authorized to enter upon the premises for the purpose of abating the nuisance.

ATTACHMENT 4

THE LAW OF NONCONFORMING USES

By Clifford H. Bloom
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May, 2001

the use which existed at the time of passage of a valid zoning ordinance or amendment thereto. Deardon v Detroit, 70 Mich App 163 (1976); Norton Shores v Carr, 81 Mich App 715 (1978). Even extending a roof over an existing patio to allow year-round use has been found to constitute an expansion of a nonconforming use. Jobert v Morant, 192 A2d 553 (Conn 1963).

3. What Constitutes a “Change of Use”. Related to the issue of expansion of a nonconforming use is the issue of a change of use. The Michigan Zoning and Enabling Acts permit municipalities to adopt regulations regarding the substitution of nonconforming uses. Such ordinances will normally allow a change to use that is more appropriate to the district in which it is located than the existing nonconforming use. An example would be a change of use from an office use that generated significant traffic, such as a doctor’s office, to an office use which generated very little traffic, such as an insurance broker that did not deal with the general public. While the ordinance will normally require that the permission of the municipality be obtained to change the use, such permission is usually freely given on the basis that the “new use” is a move toward the eventual elimination of a nonconformity.

Many changes of use are prohibited by local ordinances as they would be treated as establishing a new nonconforming use. It is not always easy to determine whether a change of use has occurred, though. For example, if a restaurant is operating as a nonconforming use, would it be a change of use for that restaurant to obtain a liquor license? No Michigan case has addressed this question, but the courts in New York, Connecticut, and Massachusetts have all found that obtaining a liquor license was a change in use which

ATTACHMENT 5



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nonconforming use

Also known as a prior nonconforming use (PNU), this exists when a zoning code is changed, but a parcel of land that is already being used for something disallowed by the new zoning code is "grandfathered in" (is allowed to continue). For example, if a neighborhood zoning is changed to residential, a corner grocery store may be allowed to continue to operate. The PNU will generally end when the use of the land is changed (so if the grocery store closes, the new zoning code will bar a new store from moving in).

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ATTACHMENT 6

2010

Abandonment, Discontinuance and Amortization of Nonconforming Uses: Lessons for Drafters of Zoning Regulations

Patricia E. Salkin

Touro Law Center, psalkin@tourolaw.edu

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Some courts have not looked past the presumption of abandonment created by a nonconforming use's statutorily proscribed time period of inactivity. In those courts a showing of intent to abandon a nonconforming use is not required when the statutory time period of abandonment is reasonable and specifically stated in the ordinance.¹⁹ Other courts have ruled that intent is only important where some force outside the control of the property owner prevents the continuous use of the land in a particular manner. When there is nothing involuntary about the cessation of the nonconforming use, the showing of a landowner's intent to abandon is not required.²⁰

Courts which follow this two-pronged approach requiring a showing of intent and an overt act or failure to act, have ruled that mere non-use is not sufficient to establish the fact of abandonment absent other evidence tending to prove the intent to abandon.²¹ According to such reasoning, although the passage of time can create an inference of abandonment there must be the additional showing of an intent to abandon the nonconforming use before the nonconforming use is deemed abandoned.²² The longer the time of cessation the greater the weight is attributable to that factor, but it can be overcome with evidence of the owner's intent to resume operation and factors which have prevented him/her from continuing operation.²³

A zoning ordinance requiring a proof that a nonconforming use was "voluntarily discontinued" for abandonment to occur required proof of a manifest intention to abandon the use coupled with acts or omissions implementing that intent.²⁴ Proof of a previous landowner's decision to dissolve a corporation considered a pre-existing nonconforming use and his choice to cease doing business sufficiently met this burden, and when coupled with nonuse for a statutorily sufficient time period equated to abandonment of the nonconforming use.²⁵ Attempts to sell a property for uses other than nonconforming uses, statements of the owner not to return to the site in question, and removal of equipment integral to the nonconforming use are all acts that have been found equating to the abandonment of a nonconforming use.²⁶

Some courts have ruled that the actions and intent of the current or prior landowner are crucial in determining abandonment of a nonconforming use, while the actions and intent of a lessee or future owner are irrelevant.²⁷

3. Can the Period of Abandonment/Discontinuance be Extended?

Remembering that the goal of zoning is to ultimately bring

any sales. The defendant did not advertise the business or do anything that would put the public on notice that a food establishment had opened. A month later, the defendant threw the items out. The Court did not find the defendant's actions to be a sufficient showing of operation of his business to reverse the trial court's determination that the nonconforming use was abandoned. As a result, the lower court's decision to vacate the zoning board's decision to grant a special permit to NEBC was affirmed.³⁷

8. Can an abandoned use be converted to a less intensive nonconforming use?

Typically zoning ordinances provide that abandoned uses may resume or be converted to a less intensive nonconforming use. Courts prohibit the conversion back to the more intensive use.³⁸ Likewise, courts have not allowed the reversion to a previously abandoned more expansive nonconforming use once it has been abandoned.³⁹ Where the owner of a prior nonconforming use billboard improperly added lights to the sign, he did not abandon the original nonconforming use. The court ruled that an improper expansion of a nonconforming use does not equate to an overt act of abandonment as the original use was not abandoned.⁴⁰ On the other hand, where a nonconforming use deli was converted into a take-out Chinese restaurant which operated beyond the authorization the zoning board granted to the deli, the original nonconforming use was deemed abandoned.⁴¹ The subsequent reversion of the property to a deli use was not possible as the court ruled the nonconforming use was abandoned by the prolonged improper use as a Chinese restaurant.⁴² The sale of alcohol by a restaurant has been considered an accessory use and not an expansion nor a separate and distinct use to a nonconforming restaurant.⁴³ As such the decision of a previous owner of a nonconforming use to stop serving alcohol for several years did not affect the restaurant's ability to serve alcohol in a restaurant setting.⁴⁴

IV. Amortization

A more active or aggressive method of eliminating nonconforming uses is amortization. This concept has its roots in the early 1915 case of *Hadacheck v Sebastian*, 239 U.S. 395 where the Court confirmed that the City could eliminate the brickyard use on the property in question without such action necessitating compensation. Amortization has always been a controversial tool, gaining most notoriety perhaps in

Zoning Appeals of the Town of Harrison, 57 A.D.2d 627 (N.Y. App. Div. 1977).

²⁰City of Red Bank v. Phillips, 2007 WL 4460223 (Tenn. Ct. App. 2007).

²¹Ghindia v. Buckeye Land Development, LLC., 2007 Ohio App. LEXIS 694, **12 (Ohio Ct. App., 2007).

²²Karas v. Foss, 2008 WL 859504 (N.J. Super. A.D., April 2, 2008).

²³S&S Auto Sales, Inc. v. Zoning Board of Adjustment for the Borough of Stratford, 373 N.J. Super. 603, 624. (N.J. Super. Ct. App. Div. 2004).

²⁴Ghindia v. Buckeye Land Development, LLC., 2007 Ohio App. LEXIS 694, **12 (Ohio Ct. App., 2007).

²⁵Ghindia v. Buckeye Land Development, LLC., 2007 Ohio App. LEXIS 694, **12 (Ohio Ct. App., 2007).

²⁶Pezzullo v. Ure, 2008 R.I. Super. LEXIS 167, *18 (R.I. 2008).

²⁷Face Value, LLC v. Zoning Board of Appeals of Town of East Hartford, 2008 Conn. Super. LEXIS 2931 (Conn. Super. Ct. 2008), Karas v. Foss, 2008 WL 859504 (N.J. Super. A.D., April 2, 2008), Gem City Metal Spinning Co. v. City of Dayton Board of Zoning Appeals, 2008 WL 185535 (Ohio Ct. App. 2008), Palmieri Cove Associates v. City of New Haven Board of Zoning Appeals, 2006 Conn. Super. LEXIS 848 (Conn. Super. Ct. 2006).

²⁸Custom Land Development, Inc. v. Coopertown Board of Zoning Appeals, 168 S.W.3d 764, 775 (Tenn. Ct. App. 2004).

²⁹Purich v. Draper Properties, Inc., 395 Md. 694 (2006).

³⁰Smith Bros. Woodland Management, LLC v. Zoning Board of Appeal of Town of Brookfield, 108 Conn. App. 621 (Conn. App. Ct. 2008), Purich v. Draper Properties, Inc., 395 Md. 694 (2006).

³¹Greer v. Washougal Motorcross, LLC., 2007 Wash. App. LEXIS 497, *11 (Wash. Ct. App. 2007).

³²Toys R Us v. Silva, 89 N.Y.2d 411, 676 N.E.2d 862, 654 N.Y.S.2d 100 (1996).

³³Schweizer v. Board of Adjustment of City of Newark, 2009 WL 597630 (Del. 2009).

³⁴Bialik v. Stambaugh Township, 2008 WL 1885772 (Mich. Ct. App. 2008), and Finn v. Zoning Hearing Board of Beaver Borough, 869 A.2d 1124 (Pa. Commw. Ct. 2005).

³⁵Zall v. Zoning Board of Appeals of Salisbury, 73 Mass. App. Ct. 1103 (Mass. App. Ct. 2008).

³⁶Zall v. Zoning Board of Appeals of Salisbury, 73 Mass. App. Ct. 1103 (Mass. App. Ct. 2008).

³⁷Zall v. Zoning Board of Appeals of Salisbury, 73 Mass. App. Ct. 1103 (Mass. App. Ct. 2008).

³⁸Taylor v. Zoning Board of Appeals of City of Evanston, 375 Ill. App. 3d 585 (Ill. App. Ct. 2007).

³⁹Town of Orange v. Shay, 68 Mass. App. Ct. 358 (Mass. App. Ct. 2007).

ATTACHMENT 7



Nonconforming Structures, Uses and Lots

*A DISCUSSION OF THE INTENT AND PRACTICE OF CALIFORNIA
LAND USE AND PLANNING LAW GOVERNING NONCONFORMING
STRUCTURES, USES AND LOTS*

September 2011

City of Tustin Community Development Department





To ensure that a community's adopted vision and goals are fully accomplished over time, regulatory provisions are put in place to require nonconforming structures, uses, or lots to be made conforming or ensure their replacement over time. Any change in a structure, use, or lot that gives permanency to, or expands the nonconformity would not be consistent with this purpose and are typically prohibited. In most cases, nonconformities are allowed to continue unaltered (structures may be repaired within certain limits) until the end of their economic life when they would eventually be replaced with a conforming structure, use or lot.

WHAT IS NONCONFORMING? |

Nonconforming structures, uses and lots are relatively commonplace, but the concept may not be completely understood. One might picture a dusty, old brick-making business, surrounded by single family homes, that long predates its current residential zoning; or, an old church that appears to be too close to a street property line because the City widened the right-of-way some time in the past and eliminated a portion of the property's front yard.

The Zoning Code identifies development limitations associated with various Districts identified on the City's Zoning Maps that establish uniform building setbacks, height limitations, parking requirements, minimum lot sizes, identify allowed uses, etc. Zoning rules change or are updated over time to guide, control and regulate future development.

A legal nonconforming structure, use or lot is caused by a governmental action that changes the Zoning Code, the Zoning Map, or the Subdivision Ordinance. All legal nonconforming structures, uses or lots were lawfully established under the codes at the time, but due to the adoption of a new ordinance, regulation, or map revision, the property no longer conforms to the policies and standards of the code in which the property resides.¹ Legal nonconforming is sometimes referred to with the term "grandfathered."²

Nonconforming Structure, use, or lot – A nonconforming structure, use, or lot has been lawfully established in the past but no longer meets the current code requirements (i.e. setback, height, parking, use, lot size, etc.)

As a general rule, nonconforming regulations presume that a nonconformity is detrimental to the public interest (health, safety, morals or welfare), and that the nonconformity needs to be brought into

¹ Curtin's California Land Use and Planning Law, Cecily Talbert Barclay, Solano Press Books, 2011, Guide to California Planning, William Fulton and Paul Shigley, Solano Press Books, 2005, Eastman's California Land Use and Municipal Law, John Eastman, 2006, A Planner's Dictionary, Edited by Michael Davidson and Fay Dolnick, American Planning Association, 2005.

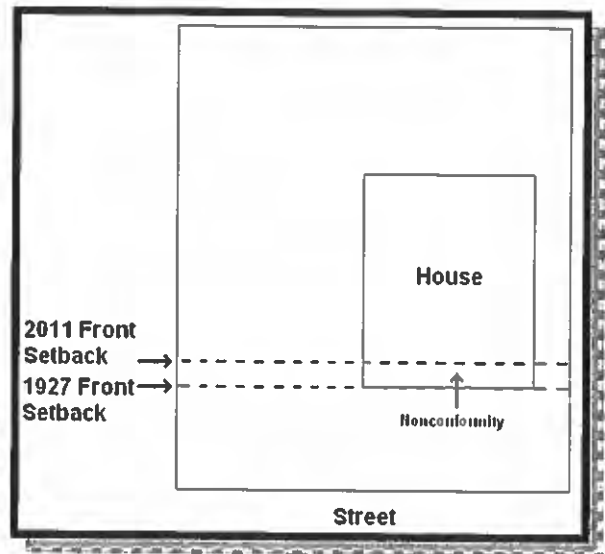
² Note: Under the Building Code, a lawfully constructed building is not affected by subsequent Building Code updates that may occur in future years. However, when an addition/alteration is proposed to a lawfully constructed older building, the addition/alteration would be required to meet current Building Code requirements and some existing building components (e.g. fire sprinklers, electrical panels, energy features, etc.) would be required to be upgraded at the time of permit issuance to current standards.

conformance with the current code at some point in time. For example, a community that finds that an existing code allows structures to be built too tall may adopt a code amendment to lower the height limit of new construction. The code looks to the future and assumes that existing, lawfully established nonconforming buildings that exceed the new height limit may continue to exist but will be brought into conformance or eliminated over time.

Nonconforming Structures – In regards to the built environment of a community, the Zoning Code implements the City’s General Plan and translates the goals and principles of that Plan to parcel-specific regulations intended to guide or restrict development to the overall aesthetic vision of the community. To accomplish this vision, the Zoning Code identifies building limitations and design requirements that restrict the height, setback, design, parking, etc. to ensure that all buildings proposed within a particular Zoning District are similar in bulk, scale and purpose.

A nonconforming structure is a lawful structure existing on the effective date of a new zoning restriction that has continued since that time without conformance to the ordinance. Again, a new zoning ordinance anticipates that a nonconforming structure will be eliminated over time and replaced with a conforming structure.

Nonconforming Structure – In the example at right, the street setback was changed to require more open space adjacent to a street after the house was lawfully constructed.



Nonconforming Structure – In the example at left, this garage was built to accommodate one car before the adoption of the current zoning requirement for a two car garage.

ATTACHMENT 8

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Elimination of Non-Conforming Uses

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buildings and uses. The most commonly accepted restriction is that no non-conforming use may be extended. A non-conforming use usually may be extended throughout a building, but additions may not be made to the building, or the non-conforming use may not extend to another building. Other restrictions include those of limiting the alterations or repairs that may be made in a non-conforming building; prohibiting rebuilding or reconstruction of buildings damaged to a specified extent in cases of fire, flood, or similar cause; refusing to allow a non-conforming use to be reestablished once a more highly restricted use has been substituted, and refusing to permit a re-establishment of a use if the use or building has been discontinued or abandoned for a specified period of time.

Some localities provide that no structural changes or alterations may be made other than to maintain the building in safe repair. Enid, Oklahoma is one such community. The more usual provision is that the structural changes or alterations will not be permitted to exceed a specified percentage of the assessed valuation of the building. Springfield, Oregon permits alterations totaling up to 50% of the value of the building in a ten year period. La Crosse, Wisconsin permits alterations up to 50% of assessed valuation for the life of the building. The percentages and the time in which they may be made vary with localities; many communities do not specify a time in which the cost of alterations aggregate.

If there are limitations on the rebuilding of structures following damage by fire, flood or similar cause, the regulations usually provide that if a specified percentage of the value of a building (ranging typically from 50 to 75%) has been destroyed, the building shall not be reconstructed. Some ordinances specify a time limit (generally no more than 2 years, and usually one year or less) in which reconstruction must be started if it is to be started at all.

If a non-conforming use is abandoned for a specified period of time, the use usually may not be re-established. Regulations vary from an unqualified statement that if discontinued, a non-conforming use may not be re-established, as in Schenectady, New York, to a statement that a period of 5 years constitutes abandonment as in Bergenfield, New Jersey. One year is the most frequently specified time period. Examples of shorter specified periods are the Brainerd, Minnesota ordinance which provides that 30 days constitutes abandonment and the Fairfax County, Virginia ordinance which specified 90 days. If it is not explicit in the ordinance, the zoning agency and the courts hold that the period of abandonment must exceed a "reasonable" time interval between tenants. Also, discontinuance of use caused by war service of the proprietor, or accident, or unpropitious circumstances does not constitute abandonment.

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Marvin M. Moore

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ARTICLES

THE TERMINATION OF NONCONFORMING USES

MARVIN M. MOORE*

A major problem confronting city planners and zoning authorities today is that posed by nonconforming uses.¹ Such uses reduce the effectiveness of zoning ordinances, depress property values, and directly contribute to urban blight. They are "an admitted cause of residential and commercial slums, traffic congestion, and other indicia of urban obsolescence. . ."² The purpose of this article is to examine and evaluate the various measures that have been devised for terminating the nonconforming use.

The early zoning laws were, for three reasons, strictly prospective in operation: First, a municipality's zoning powers are limited by the state enabling act authorizing the zoning,³ and in a number of jurisdictions the enabling act expressly prohibited the abatement of uses existing on the effective date of the zoning ordinance.⁴ Secondly, in those jurisdictions lacking such an express prohibition it was feared that the courts—traditionally hostile to retroactive laws—would view any attempt

* Assistant Professor, College of Law, University of Akron. A.B., 1955, Wayne State University; LL.B., 1957, LL.M., 1960, Duke University.

1. A nonconforming use may be defined as a use of property in existence on the effective date of a zoning ordinance, which use does not comply with the ordinance. Young, *The Regulation and Removal of Nonconforming Uses*, 12 W. RES. L. REV. 685 (1961).

2. Norton, *Elimination of Incompatible Uses and Structures*, 20 LAW & CONTEMP. PROB. 305 (1955).

3. "The basis for zoning rests ultimately in the exercise of the police power, but the cities derive their zoning powers from the state enabling acts. . ." *Id.* at 354.

4. Although this prohibition is less common than it used to be, as of 1959 the enabling acts of nearly half the states forbade all or certain municipal corporations from abruptly terminating uses in existence on the effective date of a zoning ordinance. Anderson, *The Nonconforming Use—A Product of Euclidian Zoning*, 10 SYRACUSE L. REV. 215 (1959).

to eliminate existing uses as an abuse of the police power. At first even prospective zoning rested on a tenuous constitutional basis, and there was reason to fear that the addition of a retrospective effect might cause the whole structure of zoning to crumble under the fourteenth amendment's due process clause.⁵ In 1926 the case of *Euclid v. Ambler Realty Company*⁶ settled doubts concerning the constitutionality of *prospective* zoning, but most authorities continued to assume, as before, that the owner's interest in an *existing* use was in the nature of a "vested right", which could not be constitutionally impaired without the payment of compensation.⁷ Subsequent developments have shown that this assumption was not groundless, for in most of the instances where zoning ordinances have provided for the immediate cessation of existing uses the ordinances have, when tested, been held unconstitutional.⁸

Thirdly, it was originally believed that a well-ordered community could be achieved without resorting to retroactive measures. "Zoning," it was said, "looks to the future and seeks to stabilize and protect, not to destroy."⁹ It was thought that a zoned area could endure its nonconforming uses for a few years without suffering any material disruption of orderly development and that such uses could be expected to gradually dwindle and disappear if the municipality employed certain nonretroactive measures. These measures—which are still extensively used—consisted of restrictions on: change of use, expansion, alteration, resumption following abandonment, and restoration following destruction.

Zoning ordinances would commonly forbid a property owner to substitute one nonconforming use for another.¹⁰ Sometimes an exception would be made to permit a change to a use more restrictive in nature. However, the exception was usually conditioned on there being no structural alteration.

The owner of the building housing the nonconforming use was typically prohibited from expanding the structure or from making alterations except for specified purposes or to a specified extent.¹¹

5. Comment, 57 NW. U. L. REV. 323 (1962).

6. 272 U.S. 365 (1926).

7. *Id.* at 326.

8. Note, 44 CORNELL L. Q. 453 (1959). Such ordinances have been rare.

9. *Id.* at 452.

10. Young, *supra* note 1, at 692.

11. Van Ausdall, *Regulation of Nonconforming Uses in Arkansas: Limitation and Termination*, 16 ARK. L. REV. 275 (1962). Sometimes a nonconforming use exists in a conforming structure. In this situation the ordinance would normally allow structural alterations of a kind that did not render the building nonconforming.

ATTACHMENT 10



PACE LAW SCHOOL
P A C E U N I V E R S I T Y

BEGINNER'S GUIDE TO LAND USE LAW

**Land Use Law Center
Pace University School of Law
www.law.pace.edu/landuse**

Enlargement, Alteration, or Extension

Similarly, local laws often prohibit the enlargement, alteration, or extension of a nonconforming use. To allow the expansion of nonconforming uses, which the zoning law wishes to eliminate over time, would defeat that underlying policy. Normally, the law allows the owners of nonconforming land uses to perform property repairs, conduct normal maintenance, and complete internal alterations that do not increase the degree of, or create any new, noncompliance with the locality's zoning regulations.

Courts have upheld prohibitions on the construction of an awning over a courtyard outside a restaurant, on the theory that it would create additional space for patrons to congregate and, in this sense, increase the degree of the nonconforming use. Similarly, the prohibition of the conversion of seasonal bungalows to year-round residences has been upheld as an acceptable method of preventing the enlargement of a nonconforming use.

Where nonconforming business operations are proposed to be expanded, the case law is somewhat less clear. Where roads and structures built on a parcel used as a gravel mining operation exhibited the owner's intention to use the entire parcel, the court held that expanding the mining operation to another location on the property was permitted. The addition of a body-toning operation to the premises containing a nonconforming beauty parlor, however, was considered a prohibited extension of the prior nonconforming use. The court's interest in protecting the owner's demonstrated investment in the gravel mining operation could explain the difference between these cases.

Nonconforming use provisions in zoning laws vary considerably from one locality to another. A municipality particularly intent on eliminating nonconforming uses may prohibit any physical expansion of a building; another may favor property use by allowing, for example, the construction of an additional story because it does not increase the footprint, or lot coverage, of the structure.

Changing to Another Nonconforming Use

The property owner's right to continue a nonconforming use does not allow the owner to change to a materially different use. The important question here is what constitutes a material change. The consequence of a finding that a material change in use has occurred, is to deem the prior nonconforming use abandoned and, therefore, terminated. The property owner could argue that the change of a nonconforming use from one commercial use to another, for example, should not be prohibited by the zoning law. The assertion is that to change a building's occupancy from a dairy plant to a business that rents machinery simply shifts the type of nonconformance from one commercial category to another. It has been held, however, that it is not only a change in the volume of business conducted but in the character of that business that determines whether one business use is a continuation of another. This is true despite the generic similarity between the old and new proposed use.

Occasionally, courts hold that changes from one use to another within the same category of use are permitted. In one case, for example, the owner was allowed to establish a storage business in a building that had been occupied as a nursery and florist enterprise. Determinations in these cases depend on the particular facts involved, the court's interpretation of how material the change will be and the specific language of the local ordinance that regulates changes in nonconforming uses.

Abandonment

A property owner's right to continue a nonconforming use may be lost by abandonment. Local zoning laws frequently stipulate that any discontinuance of the nonconforming use for a specified period constitutes

ATTACHMENT 11

Missouri Law Review

Volume 31
Issue 2 Spring 1966

Article 7

Spring 1966

Zoning-Abatement of Prior Nonconforming Uses: Nuisance Regulations and Amortization Provisions

David M. Roberts

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David M. Roberts, *Zoning-Abatement of Prior Nonconforming Uses: Nuisance Regulations and Amortization Provisions*, 31 MO. L. REV. (1966)

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erty owner will suffer no material hardship by prohibition of such use.¹⁸ Though the question of when a lawful nonconforming use arises may be difficult in a given set of circumstances, conceptually it comes into being when the property owner has made a substantial use of the property in a nonconforming manner. If the property owner has abandoned or discontinued his nonconforming use,¹⁹ it is within the power of the municipality to forbid a resumption of that use, again on the theory that no financial hardship will be caused beyond that which he already has inflicted on himself. It also has been held that the change from one nonconforming use to another evidences an intent to abandon the former, which thereafter may not again be resumed.²⁰

(2) *Prohibiting or limiting repairs and extensions.* If zoning ordinances are ever to be effective, nonconformities must not be allowed to enlarge or expand. All that is taken away by these regulations is the landowner's ability to make his noncompliance with the zoning laws more flagrant than it already is. On the theory that the property owner already has lost the value of his investment if his nonconforming structure has been destroyed, as by fire, his right to rebuild and repair can validly be denied.²¹ Similarly, substantial structural alterations may be prohibited.²² However, the property owner may make such repairs as are necessary to continue the nonconforming use, as long as they do not tend to enlarge it.²³

The great shortcoming of the restrictions discussed thus far is that they assume the validity of the existence of nonconformities and attempt to deal with them "after the fact." The practical effectiveness of these restrictions is questionable in most cases. Recognizing that it is necessary to devise principles which cut to the heart of the problem instead of merely chipping away at the periph-

18. Young, *supra* note 12, at 686-88.

19. Strictly speaking, the terms "abandonment" and "discontinuance" are not synonymous. The former is held to require an intent specifically to abandon the use, while no such intent is a condition precedent to the operation of an ordinance terminating the nonconforming use after non-use for a specified period of time. *Auditorium, Inc. v. Wilmington*, 47 Del. (8 Terry) 373, 386, 91 A.2d 528, 534-35 (1952). See 1 ANTIEAU, *MUNICIPAL CORPORATION LAW* § 7.07 (1956). But a few courts require intent to abandon as an element of even the discontinuation ordinances. 2 RATHKOPF, *op. cit. supra* note 11, §§ 61-14, 61-15.

20. 1 ANTIEAU, *op. cit. supra* note 19, § 7.07; 2 RATHKOPF, *op. cit. supra* note 11, § 61-13. Most zoning ordinances are "cumulative," and the landowner is given the power to change to a lesser nonconforming use. This is a very practical provision, since it tends to bring the nonconformity more into harmony with its surroundings. See Reno, *Non-Euclidian Zoning: The Use of the Floating Zone*, 23 Md. L. Rev. 105 (1963).

21. *D'Agostino v. Jaguar Realty Co.*, 22 N.J. Super. 74, 91 A.2d 500 (1952). The complexity of the problem increases when the nonconforming structure is not totally destroyed. Commonly, the applicable ordinance specifies a percentage of destruction, above which repair will not be permitted. 2 RATHKOPF, *op. cit. supra* note 11, §§ 61-14, 61-15.

22. 1 ANTIEAU, *op. cit. supra* note 19, § 7.07.

23. *Ibid.*

ATTACHMENT 12



SCHOOL OF LAW
CASE WESTERN RESERVE
UNIVERSITY

Case Western Reserve Law Review

Volume 12 | Issue 4

1961

The Regulation and Removal of Nonconforming Uses

James A. Young

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Recommended Citation

James A. Young, *The Regulation and Removal of Nonconforming Uses*, 12 Cas. W. Res. L. Rev. 681 (1961)

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been destroyed in excess of fifty per cent of value and sixty per cent of physical proportion.⁵¹ Also, the first *Curtiss v. City of Cleveland* case⁵² said that an ordinance which provided that:

... Repairs to building . . . after damage thereto shall not exceed 50 per cent of the valuation of such building unless it is changed to a conforming use, constitutes a valid exercise of the police power of the municipality.⁵³

By clear implication, an ordinance which prohibited the restoration of a nonconforming building after less than total destruction would be valid.

Substitution of Nonconforming Uses

Another method of regulating a nonconforming use is by refusing to allow a property owner to substitute one nonconforming use for another. In *State ex rel. Clifton-Highland Company v. City of Lakewood*,⁵⁴ the Ohio Supreme Court held that the city could refuse to permit the property owner to substitute a new nonconforming use for an existing nonconforming use. In the *Stegner* case,⁵⁵ the court upheld such a regulation even though that ordinance prohibited the substitution of a use of greater conformity than the prior nonconforming use.⁵⁶

In view of the above decisions, it would seem to be logically clear that if a property owner substitutes one nonconforming use for another, he has terminated his right to claim *any* nonconforming use.⁵⁷ Such a position is also supported by the general policy relating to nonconforming uses — only uses existing on the effective date of the ordinance are protected, and even these uses are to be terminated as rapidly as possible. In effect, then, the substitution of nonconforming uses is actually a termination of the prior nonconforming use through abandonment.⁵⁸

Protection of Nonconforming Uses

Although disfavored by the law, nonconforming users are not completely without protection. Thus, it is clear that the property and build-

51. *Baird v. Bradley*, 109 Cal. App. 2d 365, 240 P.2d 1016 (1952).

52. 166 Ohio St. 509, 144 N.E.2d 177 (1957).

53. *Id.* at syllabus 1.

54. 124 Ohio St. 399, 178 N.E. 837 (1931).

55. 120 Ohio St. 418, 166 N.E. 226 (1929).

56. The ordinance under consideration in the *Stegner* case did permit the property owner of a nonconforming use to appeal to the zoning board of appeals for an extension or a substitution of his nonconforming use, but not both.

57. Other jurisdictions have so held. See *Dorman v. Baltimore*, 187 Md. 678, 51 A.2d 658 (1947); see also *Town of Darien v. Webb*, 115 Conn. 581, 162 Atl. 690 (1932) (when nonconforming use replaced by other uses, some conforming and others nonconforming, it was held to be an abandonment of the nonconforming use); and *Branch v. Powers*, 210 Ark. 836, 197 S.W.2d 928 (1946) (court would not permit a nonconforming use to be substituted for a conforming use).

58. See note 42 *supra* and accompanying text.

ATTACHMENT 13

13

Understanding nonconformity: Are you 'grandfathered' in?

Properties that qualify as nonconforming often have particular regulations that affect how an owner can make changes to the property. Understanding these regulations is important in order to avoid potential conflict with local government.

Posted on **April 4, 2013** by **Ryan Coffey** (http://msue.anr.msu.edu/experts/ryan_coffey), Michigan State University Extension

A nonconforming use, building or parcel is a use of land, a structure, or a parcel that was lawfully in existence prior to the adoption or amendment of the zoning ordinance that made it nonconforming. These are often referred to as *grandfathered in* or *grandparented in*.

In communities across Michigan, there are many homes, businesses, and parcels that have been grandfathered in under nonconforming status, since they were built or established prior to zoning taking effect. If you own a nonconforming use, structure or parcel, there are a few things you should know and consider before planning or making any changes.

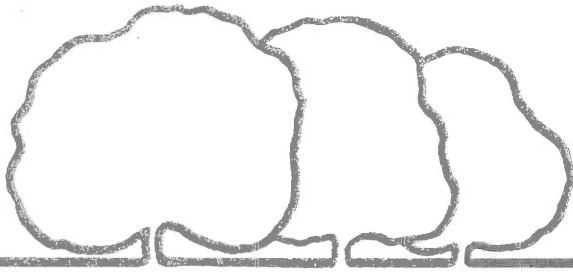
Nonconformities are allowed to continue into the future in the same manner and same extent as they existed at the time they became nonconforming. A nonconforming property can be sold and the new owner is permitted to continue its use in the same fashion as the previous owner without any new zoning approvals. However, if a change in a nonconforming use, building, or parcel is proposed, it must conform to ordinance requirements. The ordinance should have established standards and procedures for treatment of nonconformities (the basic objective is gradual elimination of nonconformities). The three most basic types of regulation address enlargement, reconstruction and substitution.

Enlargement, expansion or extension of nonconforming uses is generally restricted because each is usually contrary to the intent of the ordinance. Many communities prohibit any enlargement or expansion of nonconforming uses because that usually entrenches the use, when the ordinance objective is for nonconforming uses to either go away, or even better, changed to conform to the ordinance.

Reconstruction of a nonconforming building is usually prohibited if it is damaged greater than 50 percent. There are various ways of measuring damage and the method selected should be clearly spelled out in the zoning ordinance. This method provides a great opportunity for reconstruction in a manner that conforms to the ordinance and therefore replaces a nonconforming building with a conforming one.

Substitution of one nonconforming use for another is usually allowed if the change is *more conforming* or *no less conforming*, allowing for the property to move closer to conformity over time with district requirements.

Most nonconforming provisions are administered by your local zoning administrator. Ordinances, however, vary dramatically with regard to nonconforming requirements. Consequently, it is important to become familiar with the unique requirements in your zoning



City of Woodland

COMMUNITY DEVELOPMENT DEPARTMENT
(530) 661-5820

520 COURT STREET
(530) 406-0832 FAX

WOODLAND, CA 95695
<http://www.cityofwoodland.org>

October 4, 2012

Randy Eyraud
4 Z Welding Services Inc.
P.O. Box 8193
Woodland CA 95776

RE: 4 Z Welding Services and Reuse of 352 & 360 West Kentucky Avenue

Dear Mr. Eyraud,

The City of Woodland has reviewed your proposal (See attached letter dated October 2, 2012) for the reuse of 352 & 360 West Kentucky Avenue. As staff explained, the site is zoned Single Family Residential (R-1) and any reuse of the building(s) would need to be similar to the use in existences that the time the property was rezoned to R-1. Uses can be "Grandfather In" provided the Zoning Administrator can find that the use is the same or of a more restrictive nature (Sec. 25-21-55).

Based on your description of 4 Z Welding Services and the proposed reuse of the site, the Zoning Administrator can allow this change of use provide the following conditions are adhere to in order to minimize impacts on the surrounding residential neighborhood.

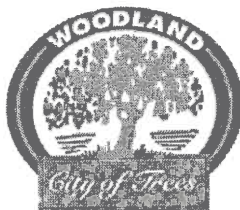
- No outside storage of materials will be allowed beyond the second building closet to the residential neighborhood (360 W. Kentucky Ave.).
- A layer of gravel shall be applied to vehicle travel and parking surfaces and exposed dirt areas.
- Vehicles shall not be allowed to idle in the back half of the property beyond the second building closet to the residential neighborhood (360 W. Kentucky Ave.).
- Vehicles shall be not storage or parked within 10 feet of the masonry wall.
- *4 Z Welding Services* will need to update the current business license with the new addresses.
- You will need to contact the Building and Fire Departments prior to using the buildings for code compliances and possible inspections:
- Failure to comply with these requirements and/or complaints from the neighborhood can be grounds to terminate your use of this property.

If I can be of further assistance, please don't hesitate to contact me at (530) 661-5814 or by e-mail at paul.hanson@cityofwoodland.org.

Respectfully,

Paul L. Hanson, AICP, Senior Planner

H:\PAUL\LETTERS\2012\4 Z welding.docx



City of Woodland
Community Development Dept.
300 First St, Woodland CA 95695
(530) 661-5820 www.cityofwoodland.org

FORM TO EXPRESS OPPOSITION OR SUPPORT

FORM TO EXPRESS OPPOSITION OR SUPPORT

Project Name: APPEAL OF ZONING INTERPRETATION
Project Address: 352 AND 360 WEST KENTUCKY AVE
Planner: JEFF BALLANTINE
Hearing Date: DEC. 15 ☒ Oppose ☐ Support
Today's Date: _____
Name: Jane Plocher
Address: 324 MT. Whitney Drive, Woodland, CA.
Phone Number: 530 668 6244
Comments: _____

I am disappointed and opposed the City's actions to allow the industrial businesses located at/in a residential zone to expand or increase in any way. The city's decision to do so — goes against the current plan which we as a family choose the location of our home(s) to be. This decision and action will have negative effects on our family(ies) and our property values. Please Keep to the original intent and plan for this to be a residential zone and area. Thank You

Please mail comments to:
City of Woodland
Planning Development Dept
300 First Street
Woodland CA 95695

N:\ComShare\DEPARTMENTS\DEPARTMENTS\PLANNING DEPT\FORMS\New Forms\FORM TO EXPRESS OPPOSITION OR SUPPORT.doc

Page 1

for your sincere consideration to
Keep Woodland true to its word,
Jane



City of Woodland
Community Development Dept.
300 First St, Woodland CA 95695
(530) 661-5820 www.cityofwoodland.org

FORM TO EXPRESS OPPOSITION OR SUPPORT

FORM TO EXPRESS OPPOSITION OR SUPPORT

Project Name: APPEAL OF ZONING INTERPRETATION
Project Address: 352/360 WEST KENTUCKY AVE
Planner: JEFF BALANTINE
Hearing Date: 11/17/10 12/15/10 ☒ Oppose ☐ Support
Today's Date: 11/11/10 (CITY ACTION)
Name: Gilbert, Annette & Ayssa Hernandez
Address: 341 Pinnacles Drive
Phone Number: 530-383-8054
Comments: _____

Please mail comments to:
City of Woodland
Planning Development Dept
300 First Street
Woodland CA 95695

Dear Neighbor,

We had no idea about this!

We are still fairly new to the
neighborhood! Thanks for being
on the Lookout!

You have our support! ☺

With many thanks,

The Hernandez Family



City of Woodland
Community Development Dept.
300 First St, Woodland CA 95695
(530) 661-5820 www.cityofwoodland.org

FORM TO EXPRESS OPPOSITION OR SUPPORT

FORM TO EXPRESS OPPOSITION OR SUPPORT

Project Name: APPEAL OF ZONING INTERPRETATION
Project Address: 352/360 WEST KENTUCKY AVE
Planner: JEFF BALLANTINE
Hearing Date: Dec. 1, 2016 ☒ Oppose ☐ Support
Today's Date: Dec. 1, 2016 (CITY ACTION)
Name: Dennis Dornan
Address: 301 Mt. Whitney Dr. Woodland Ca. 95695
Phone Number: 530-419-5100
Comments: _____

Please mail comments to:
City of Woodland
Planning Development Dept
300 First Street
Woodland CA 95695



City of Woodland
Community Development Dept.
300 First St, Woodland CA 95695
(530) 661-5820 www.cityofwoodland.org

FORM TO EXPRESS OPPOSITION OR SUPPORT

FORM TO EXPRESS OPPOSITION OR SUPPORT

Project Name: APPEAL OF ZONING INTERPRETATION
Project Address: 352/360 WEST KENTUCKY AVE
Planner: JEFF BALLANTINE
Hearing Date: DEC. 15, 2016 ☐ Oppose ☒ Support (APPEAL)
Today's Date: 11/14/2016
Name: MANUEL AND LUZ GUERRERO
Address: 309 MOUNT WHITNEY DR. WOODLAND, CA. 95695
Phone Number: (530) 554-0444
Comments: _____

Please mail comments to:
City of Woodland
Planning Development Dept
300 First Street
Woodland CA 95695



City of Woodland
Community Development Dept.
300 First St, Woodland CA 95695
(530) 661-5820 www.cityofwoodland.org

FORM TO EXPRESS OPPOSITION OR SUPPORT

FORM TO EXPRESS OPPOSITION OR SUPPORT

Project Name: APPEAL OF ZONING INTERPRETATION
Project Address: 352/360 WEST KENTUCKY AVE
Planner: JEFF BALANTINE
Hearing Date: DEC. 15, 2016 ☐ Oppose ☒ Support (APPEAL)
Today's Date: _____
Name: SUE BALL
Address: 313 MT WHITNEY DR.
Phone Number: 560-661-6576
Comments: _____

Please mail comments to:
City of Woodland
Planning Development Dept
300 First Street
Woodland CA 95695

Cindy Brock
17940 County Rd. 85B
Esparto, CA 95627

October 27, 2016

Randy Eyraud
4 Z Welding Services Inc.
PO Box 8193
Woodland, CA 95776

Dear Cindy,

We won't be renewing our lease for 352 and 360 W. Kentucky Ave. after October 31st. It has been difficult to operate and have a viable business here. My employees have been harassed by the neighbors at the back-end of the property with continued stalking and video taping. My employees informed me that they will not work in the back area of the property.

We're unable to operate the equipment necessary to run our business during normal business hours, store the materials we need for our fabrication, or essentially do anything to continue our normal business operations. We have tried to be accommodating by only working 10:00 a.m. to 4:00 p.m. Monday – Friday, yet the tension with the neighbors continues.

It's unfortunate but we feel we have no other choice then to move our business elsewhere.

Thank you,


Randy Eyraud

OWNER:
JAMES E. TRICK, TRUSTEE OF THE OLGA M. WALK TRUST
745 LEX WALK
1400 WEST 10TH AVENUE
SACRAMENTO, CA 95813

SUBDIVIDER:
STANLEY M. DAVIS COMPANY
1700 BOX 1320
1800 COURT STREET
DAVIS, CA 95617
PHONE: (916) 756-3830

ENGINEER & SURVEYOR:
LAUGHEAR AND MOORE CIVIL ENGINEERS
608 COURT STREET
DAVIS, CA 95617
PHONE: (916) 842-7755

NOTES:
ASSESSOR'S PARCEL NUMBER: 64-010-04
FLOOD ZONE DESIGNATION: "ZONE 1" PER 10/13/81 REVISED FEMA FLOOD INS.
RATE MAP, COMMUNITY PANEL NO. 060-28 0005 B.

*ONE-FOOT DEEP SHALLOW FLOODING (100 YR.) PER
FEDERAL FLOOD INSURANCE PROGRAM (FIP) DRAFT RECONNAISSANCE
REPORT OF NESTLE ENGINEERS TO YOUR OFFICE.

EXISTING LAND USE:	BASE 1	BASE 2
INDUSTRIAL	INDUSTRIAL	VACANT/INDUSTRIAL
PROPOSED LAND USE:	INDUSTRIAL	RESIDENTIAL (LDR)
EXISTING LAND USE ZONE:	R-1	R-1
PROPOSED LAND USE ZONE:	R-1	R-1
EXISTING WATER SERVICE:	PRIVATE	NONE
PROPOSED WATER SERVICE:	CITY	NONE
EXISTING SEWER SERVICE:	PRIVATE	NONE
PROPOSED SEWER SERVICE:	PRIVATE	NONE
EXISTING STORM DRAINAGE:	CITY	CITY
PROPOSED STORM DRAINAGE:	CITY	CITY
EXISTING ELECTRICAL SERVICE:	P.G.&E.	NONE
PROPOSED ELECTRICAL SERVICE:	P.G.&E.	P.G.&E.
EXISTING GAS SERVICE:	P.G.&E.	NONE
PROPOSED GAS SERVICE:	P.G.&E.	P.G.&E.
EXISTING TELEPHONE SERVICE:	PACIFIC BELL	NONE
PROPOSED TELEPHONE SERVICE:	PACIFIC BELL	PACIFIC BELL
PROPOSED NUMBER OF LOTS:	1	37 PLUS LOT "X"
GROSS ACRES:	2.28	6.82

LOT "X" FOR DRAINAGE DETENTION BASIN TO BE DEDICATED TO THE CITY.
THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE STATE SUBDIVISION
MAP ACT AND THE CITY SUBDIVISION ORDINANCE.

TENTATIVE SUBDIVISION MAP NO. 4332

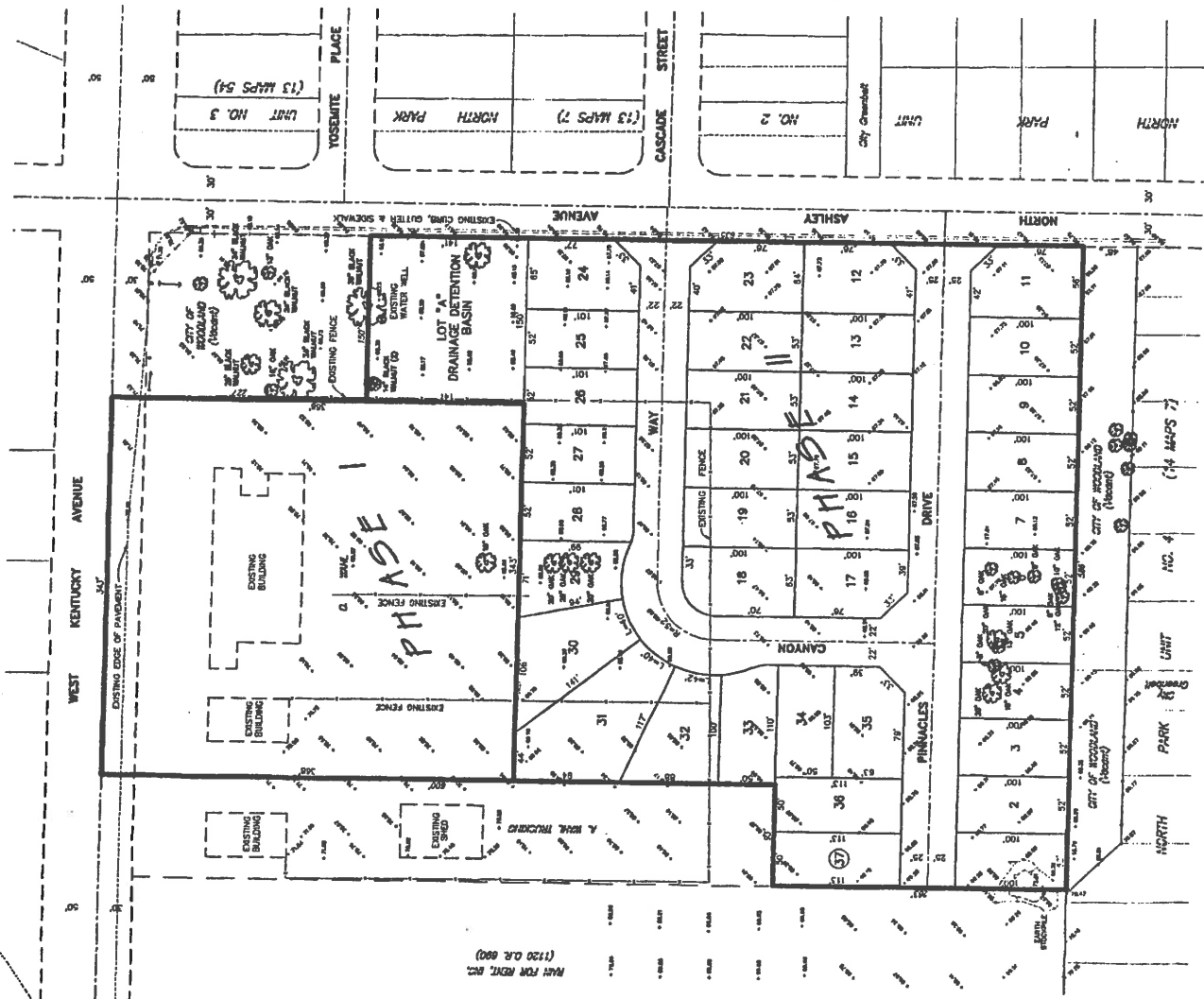
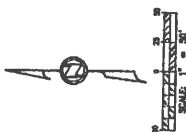
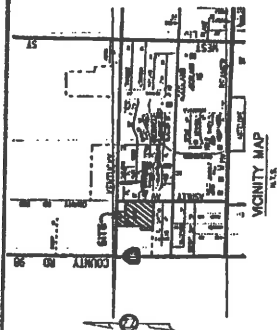
FOR
NORTH PARK UNIT NO. 6

A portion of the Northwest Quarter
of the Northwest Quarter of
Section 30, Township 10 North, Range 2 East, M.D.M.,
City of Woodland, Yolo County, California



SEE CITY ENGINEERING DEPT. FOR
RECORDING AND FILING
FILING NO. 87-002

Sheet 1 of 1 March 13, 1997



MAP FOR RECD. REC.
(1120 O.R. 880)

STAFF REVIEW: RON PINEGAR

AGENDA ITEM 2

PROJECT TITLE: North Park Unit No. 6 (Tentative Subdivision Map No. 4332)

REPORT FOR: Planning Commission Public Hearing - May 1, 1997

STAFF RECOMMENDATION: Conditional Approval

APPLICANT: Stanley M. Davis Company

OWNER: O. Wahl Trust

LOCATION: Southwest corner of N. Ashley Avenue and W. Kentucky Avenue (see attached vicinity map)

PARCEL SIZE: Approximately 9.5 acres

CURRENT ZONING: R-1 Single Family

GENERAL PLAN DESIGNATION: Low Density Residential

EXISTING LAND USES: Vacant (Phase I 6.6 acre parcel)
2 Industrial Buildings (Phase I 2.9 acre Designated Remainder)

ADJACENT LAND USES & ZONING:

NORTH	-	Light Industrial (2 Bldg. & Storage Yds)	R-1
SOUTH	-	Park Strip, Single family/duplex	R-1
EAST	-	Single family/duplex	R-1
WEST	-	Vacant	I/PD

STREET ACCESS: N. Ashley Avenue

PREVIOUS ACTION TAKEN: On April 17, 1997 the Planning Commission held a public hearing on the proposed project which included only alternative a). At the public hearing the Commission agreed to continue the item until the May 1, 1997 Planning Commission meeting in order to allow time for the Parks and Recreation & Community Services Commission to meet, consider the possible alternatives for dealing with the remnant linear park strip and develop some recommendations for the Planning Commission and the developer. Tim Barry, the Parks and Recreation & Community Services Director had recommended this action since the alternatives that evolved out of staff level discussions involved policy issues that needed to be considered by the Parks and Recreation & Community Services Commission. They had previously agreed that they did not want to have any more tot lots/mini parks because of their limited utility, potential for inappropriate user behaviors and the relatively high cost of maintenance of them. Since the estimated costs for improving the proposed park did not

match the projected park funds that would be generated from the sales of the homes Director Barry indicated that he would prefer to take the proposal to the Commission for their input. The Parks and Recreation & Community Services Commission will be considering the proposed park strip alternatives on Wednesday April 30, 1997 at 7:00 PM at the Parks Building at 1122 Main Street.

PENDING/POTENTIAL ACTION: Planning Commission action on a tentative map, Partial abandonment/reconfiguration of Park Strip and NDEIR.

PROJECT PROPOSAL: The applicant is proposing a tentative subdivision map which will divide a 9.5 acre parcel into 38 lots plus a designated remainder. Phase I (a final parcel map) will split the 9.5 acre parcel into a 6.6 acre parcel and a 2.9 acre designated remainder and Phase II (a final subdivision map) will split the 6.6 acre parcel into 35 or 36 lots for single family homes and one lot (Lot A) for a storm water drainage detention basin. Consideration of Tentative Subdivision Map No. 4332 involves the possible abandonment of most of an existing City owned greenbelt park strip (that is undeveloped) located immediately south of the project which is a remnant of the City's old linear park system in the area. The City is now considering two alternatives for dealing with the abandonment of the park strip: Alternative A; the creation of a tot lot/mini park using remnants of the park strip and two of the 37 residential lots (see preliminary Map of North Park Unit No. 6) or Alternative B; extending the existing 32 foot wide walking path north of El Capitan Drive north to create a connection to Pinnacles Drive using one of the 37 residential lots. Both alternatives involve the City abandoning most of the park strip by deeding 24 feet to the existing home owners to the south and using the north 24 feet as part of the 116 foot deep lots in the proposed subdivision (see lots 1-9 of Preliminary Map of North Park No. 6). The final subdivision map also proposes a 7.5 foot wide parkway planter strip along the south side of Pinnacles Drive extending east to north Ashley and a 20 foot wide landscaped pathway extending north along the west side of North Ashley Avenue from Pinnacles Drive to Kentucky Avenue (in order to connect the city parks in the subdivisions north of Kentucky Avenue to the existing linear park system to the south). Both alternatives involve the City and the developer negotiating the sale price of the north 24 feet of the park strip to be used as lots in the proposed subdivision. A portion of the City owned park strip would be used for the Alternative A tot lot/mini park and the Alternative B walking path. The developer is proposing to install the improvements for either alternative in exchange for the park fund fees that would be generated from the sale of the homes. He is also proposing to put in a new six foot wood fence along the new property line that would be created by the abandonment of the park strip. A meeting was held with the adjoining home owners on April 8, 1997 to discuss the abandonment of the park strip and creation of a new tot lot. The neighbors were generally in favor of the proposal but disagreed on the amount of land to be deeded to them.

APPLICABLE CODES/ORDINANCES: City of Woodland Zoning and Subdivision Ordinance, the California Environmental Quality Act.

ENVIRONMENTAL ASSESSMENT STATUS: A Negative Declaration has been prepared which indicated this project will not have a significant effect on the environment. The project

will not have an impact on fish and wildlife resources and a finding of “de minimis” is recommended.

REVIEW AGENCY COMMENTS:

Police Department: The Police Department has comments favoring the abandonment of the greenbelt park strip and converting a portion of it to a mini park/tot lot. The small park would allow for police department and neighborhood monitoring of activities. See memo dated April 7, 1997.

Public Works Department: The Public Works Department has comments regarding public improvements - see memo dated April 1, 1997.

Pacific Bell: Pacific Bell has requested public utility easements along Pinnacles Drive, Canyon Way and along the west side of N. Ashley Avenue and the W. Kentucky Avenue frontages of the tentative subdivision map.

Yolo County Environmental Health Department:

1. Earth stockpile noted at SW corner of Subdivision Map No. 4332 to be properly removed or disposed of prior to actual development.
2. The back portion of Wahl Trucking to be evaluated for petro-chemical contamination. Mitigation measures to be taken if warranted.
3. On-site existing well to be properly abandoned under permits from the County Environmental Health and the City of Woodland.

Parks, Recreation & Community Services Department: Their comments will be forthcoming regarding the proposed alternatives and related improvements after their Commission meeting of April 30, 1997. A copy of Tim Barry's comments received on April 15, 1997 are attached. His memorandum indicates that due to an anticipated shortfall of \$43,774 in development fees needed to pay for landscape or park improvements that they have reservations about the original proposal for the tot lot/mini park that would use two of the lots in the proposed subdivision and 48 feet of the linear park strip adjacent to the proposed park. This in turn has led to their decision to go back to their Commission with two specific alternatives in order to develop a formal recommendation to the Planning Commission.

Woodland Joint Unified School District: On April 15, 1997 the City received a letter from the School District requesting that the school mitigation fees for the subdivision be set at \$10,509 per single family unit. A copy of the letter is attached.

Note: Upon advise from the City Attorney Staff is recommending that the requested school mitigation fee not be made a condition of approval and that the current fee schedule in effect be used until a new agreement between the School District and the City can be adopted.

The Building Department, Fire Department and Sheriff's Department had "no comment" on this project. The following reviewing agencies did not respond to our referral on the project: Pacific Gas and Electric and Sonic Cable.

STAFF COMMENTS: Staff supports this in-fill project. It will provide affordable for-sale units on a piece of property that has remained vacant for many years despite being surrounded by development. We have the following comments on the project:

1. Abandonment of Park Strip: The General Plan no longer shows a continuation of the linear park system west of N. Ashley Avenue which reflects a change in philosophy on the part of the City due to security and policing concerns and a desire for larger more recreation oriented public parks versus linear parks which have use limitations but still have fixed costs to maintain. The Parks, Recreation & Community Services Department would rather see their park funds used to develop parks that offer the most park for the money. The developer and the neighbors are generally supportive of the proposal although it appears that most of the property owners would like to have all or most of the 48 foot wide linear park strip deeded to them instead of split down the middle. David Villescaz, the homeowner at 324 El Capitan Drive, who is adjacent to the proposed lot (who would not receive any of the strip as it is now configured on the Preliminary Map of North Park Unit No. 6) has submitted a letter expressing his desire to receive a 40 foot wide piece of the strip with the developer receiving the remaining 8 feet (see copy of letter and 4 alternative configurations attached). Letters requesting the full 48 foot strip were also received from Steven Lampman and LaMar Price (see copies attached). Staff is hesitant to support any specific requests until comments are received from the Parks and Recreation & Community Services Commission. Some of the neighbors have also requested that the new homes that would be going in on the proposed lots to the north be one story homes only. Other homeowners have requested that the common fence be 7 feet in height to offer more privacy.
2. Existing trees. There are a number of existing trees on the property (their locations are shown on the attached tentative map). The applicant has expressed some interest in keeping the trees shown on lot 27 of the Preliminary Map of north Park Unit No. 6. The City Park Superintendent, George Ahlgren, has inspected the trees shown on the tentative map and has concluded that all should be removed and replacement trees provided to the City as mitigation. A copy of his April 22, 1997 memo summarizing his findings and recommended mitigation formula is attached. Staff recommends that tree mitigation (young replacement trees be provided to the City by the developer) as required by the Park Superintendent.

SUMMARY OF RECOMMENDATIONS: Staff recommends certification of the NDEIR and approval of the tentative map (without the condition from the City Attorney regarding indemnification).

PLANNING COMMISSION ACTION: The Planning Commission will be taking action regarding the Negative Declaration and Tentative Subdivision Map.

MOTION NO. 1: MOVE TO CERTIFY THAT THE NDEIR IS COMPLETE AND ADEQUATE, THAT THE PROJECT IS NOT EXPECTED TO GENERATE ANY SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS, THAT NO FURTHER ENVIRONMENTAL ASSESSMENT IS REQUIRED, AND THAT THE PROJECT WILL NOT HAVE AN IMPACT ON FISH AND WILDLIFE RESOURCES AND THEREFORE A FINDING OF "DE MINIMIS" CAN BE MADE FOR THIS PROJECT.

MOTION NO. 2: MOVE TO RECOMMEND THAT THE CITY COUNCIL INITIATE ACTION TO ABANDON THE LINEAR PARK STRIP ALONG THE SOUTH ROW OF LOTS IN TENTATIVE SUBDIVISION MAP # 4332.

MOTION NO. 3: MOVE TO APPROVE TENTATIVE MAP #4332 FOR THE PROPERTY LOCATED AT THE SOUTHWEST CORNER OF N. ASHLEY AVENUE AND W. KENTUCKY AVENUE WHICH WOULD DIVIDE A 9.5 ACRE PARCEL INTO 38 LOTS PLUS A DESIGNATED REMAINDER AS SHOWN ON THE ATTACHED MAP WITH THE FOLLOWING FINDINGS AND CONDITIONS OF APPROVAL:

FINDINGS:

- A NDEIR HAS BEEN REVIEWED AND APPROVED AND NO FURTHER ENVIRONMENTAL REVIEW IS NEEDED.
- THE DESIGN OF THE PROJECT WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT.
- THE PROPOSED MAP IS CONSISTENT WITH THE GENERAL PLAN IN THAT THE PROPERTY IS DESIGNATED LOW DENSITY RESIDENTIAL WHICH ALLOWS FOR SINGLE FAMILY HOMES AND SPLIT LOT DUPLEXES
- THE DESIGN AND IMPROVEMENT OF THE PROPOSED SUBDIVISION IS CONSISTENT WITH THE GENERAL PLAN WHICH REQUIRES THE INSTALLATION OF PUBLIC SERVICES AND IMPROVEMENTS.
- THE PARCELS ARE PHYSICALLY SUITABLE FOR DEVELOPMENT AS THEY HAVE ACCESS TO NORTH ASHLEY AVENUE.
- THE PARCELS ARE PHYSICALLY SUITABLE FOR THIS TYPE OF DEVELOPMENT AS THE PROJECT MEETS THE REQUIREMENTS OF THE ZONING ORDINANCE.
- THE DESIGN OF THE PROJECT AND IMPROVEMENTS WILL NOT CAUSE SERIOUS PUBLIC HEALTH PROBLEMS AND UTILITIES ARE AVAILABLE TO THE SITE.

-----THE ABANDONMENT OF THE LINEAR PARK STRIP IS
CONSISTENT WITH THE GENERAL PLAN

CONDITIONS OF APPROVAL:

COMMUNITY DEVELOPMENT DEPARTMENT

1. SECURE APPROVAL AND SATISFY REQUIREMENTS OF ALL AGENCIES OF JURISDICTION.
2. PROVIDE 48 FIFTEEN GALLON TREES AS MITIGATION FOR OAK TREE REMOVALS AS RECOMMENDED BY THE PARK SUPERINTENDENT.
3. PROVIDE ONE STORY HOMES FOR LOTS 1-9 AS SHOWN ON THE PRELIMINARY MAP OF NORTH PARK UNIT NO. 6
4. MAP APPROVAL SUBJECT TO CITY COUNCIL ABANDONMENT OF LINEAR PARK STRIP AND CREATION OF (TOT LOT PARK OR CONTINUE WALKING PATH), PARKWAY PLANTER STRIP AND LANDSCAPED PATHWAY.
5. MAP APPROVED SUBJECT TO CREATION OF (TOT LOT PARK OR WALKING PATH).
6. MAP APPROVED SUBJECT TO CREATION OF PARKWAY PLANTER STRIP AND LANDSCAPED PATHWAY.
7. DEED 24 FOOT WIDE SEGMENT OF LINEAR PARK STRIP TO HOMEOWNERS TO SOUTH OF SUBDIVISION # 4332. DEVELOPER AND CITY TO NEGOTIATE THE PRICE OF 24 FOOT PLANTER STRIP MADE AVAILABLE TO DEVELOPER.
8. RECOMMEND CONSTRUCTION OF SEVEN FOOT HIGH GOOD NEIGHBOR FENCE ALONG COMMON PROPERTY LINE ALONG LOTS 1-9.
9. REQUIRE MASONRY WALL ALONG LOTS ADJACENT TO INDUSTRIAL PROPERTY TO NORTH AND WEST.

PUBLIC WORKS DEPARTMENT

10. ENTER INTO A SUBDIVISION IMPROVEMENT AGREEMENT FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS.
11. PREPARE, AND SUBMIT FOR APPROVAL, A UTILITY SITE PLAN PRIOR TO PREPARATION OF FULL IMPROVEMENT PLANS.

12. ALL PUBLIC IMPROVEMENTS SHALL CONFORM TO THE CURRENT CITY OF WOODLAND STANDARD SPECIFICATIONS.
13. IN ADDITION TO INSTALLING DRIVEWAYS, REMOVE AND REPLACE ANY DAMAGED SIDEWALK, CURB, AND GUTTER ALONG THE PROJECT FRONTAGE.
14. CONFORM TO ALL COUNTY HEALTH REGULATIONS AND REQUIREMENTS FOR THE ABANDONMENT OF ANY SEPTIC TANKS AND OR WATER WELLS ON THE PROPERTY.
15. PUBLIC IMPROVEMENTS IN ADDITION TO ROADWAY CONSTRUCTION SHALL INCLUDE WATER, SEWER AND STORM DRAIN MAINS, FIRE HYDRANTS AND STREET LIGHTS.
16. DEDICATE A 1 FOOT STRIP OF LAND AT THE WEST END OF PINNACLES DRIVE, TO THE CITY OF WOODLAND.
17. IF CONSTRUCTION ACTIVITY WILL OVERLAP ONTO ADJACENT PRIVATE PROPERTY, TEMPORARY CONSTRUCTION EASEMENT FROM THOSE OWNERS WILL BE NEEDED. PROVIDE COPIES TO THE CITY PRIOR TO APPROVAL OF THE IMPROVEMENT PLANS.
18. THE GRADING PLAN SHALL INCLUDE ELEVATIONS ON ADJACENT PROPERTY WITHIN 20 FEET OF THE PROJECT BOUNDARY. A LIGHTING AND LANDSCAPE DISTRICT SHALL BE FORMED FOR THIS SUBDIVISION PRIOR TO RECORDING OF THE FINAL MAP.
19. THE STORM DRAINAGE DETENTIONS FACILITY SHALL BE DEDICATED TO THE CITY OF WOODLAND AND MAINTAINED THROUGH THE LIGHTING AND A LANDSCAPE DISTRICT.

WOODLAND JOINT UNIFIED SCHOOL DISTRICT

20. PAY APPLICABLE SCHOOL DEVELOPMENT FEES AT THE RATE OF PER UNIT.

CITY ATTORNEY

- (OPTIONAL - NOT REC.)
21. THE APPLICANT SHALL HOLD HARMLESS THE CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES FROM LIABILITY FOR ANY AWARD, DAMAGES, COSTS, AND FEES INCURRED BY THE CITY AND/OR AWARDED TO ANY PLAINTIFF IN AN ACTION CHALLENGING THE VALIDITY OF THIS PERMIT OR ANY

ENVIRONMENTAL OR OTHER DOCUMENTATION RELATED TO APPROVAL OF THIS PERMIT. APPLICANT FURTHER AGREES TO PROVIDE A DEFENSE FOR THE CITY IN ANY SUCH ACTION.

OR MOTION NO. 4:

MOVE TO DENY THE PROPOSED TENTATIVE MAP FOR THE FOLLOWING REASONS:.....(SPECIFY).

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Sec. 25-21-55. - Nonconforming uses.

- (a) Continuing Existing Buildings and Uses. Except as hereinafter provided, any use of land, building or structure, lawfully existing at the time of the adoption of this chapter may be continued, even though such use, building or structure may not conform to the provisions of this chapter or the zone in which it is located. Nonconforming signs are subject to the provisions of Article 25.
- (b) Nonconforming Buildings and Structures.
 - (1) Maintenance and Repair. A conforming building or structure may be maintained or repaired as required to keep the building or structure in sound condition, provided however that no structural alterations shall be made except those required by the building inspector.
 - (2) Additions and Enlargements. No building or structure nonconforming as to use, lot area, or yard width or depth regulations, may be added to or enlarged unless such nonconforming building or structure and the additions and enlargements thereto and the use thereof are all made to conform to the regulations of the zone in which it is located.
 - (3) Relocation. A nonconforming building shall not be moved to any other lot or to any other portion of the lot on which it is presently located unless as a result of the move the building shall conform to the regulations of the zone in which it will be located after the move.
 - (4) Restoration—Damaged Buildings. A nonconforming building or structure, which is damaged or partially destroyed by any reason to an extent of not more than fifty percent of its market value at that time, may be restored and the occupancy or use of such building or structure may be continued or resumed, provided such restoration is started within a period of one year and is diligently prosecuted to completion. In the event such damage or destruction exceeds fifty percent of the market value of the building or structure, no repairs or reconstruction shall be made unless every portion of such building or structure is made to conform to all regulations for new buildings in the zone in which it is located.
- (c) Nonconforming Use of Buildings.
 - (1) Extension of Use. A nonconforming use may not be extended to other parts of a building unless authorized by the zoning administrator.
 - (2)

Change of Use. The nonconforming use of a building may be changed to another nonconforming use, which, in the opinion of the zoning administrator, is of the same or of a more restrictive nature.

- (d) Vacancy. Any nonconforming use of land and/or building or structure which becomes vacant and remains unoccupied for a continuous period of one year shall not thereafter be occupied except by a use which conforms to the use regulations of the zone in which it is located.

(Amended during the March 2009 supplement.)

RESOLUTION NO. PC 16 -

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
WOODLAND DENYING THE APPEAL OF THE ZONING
ADMINISTRATOR'S INTERPRETATION FOR THE LEGAL
NONCONFORMING INDUSTRIAL USE ON 1.213 ACRES AT 352 AND
360 WEST KENTUCKY AVENUE IN THE SINGLE FAMILY
RESIDENTIAL ZONE.**

WHEREAS, the Woodland Planning Commission held a duly noticed public hearing on December 15, 2016, to review and consider an appeal filed by Lewis and Nicole Dennis of a Zoning Administrator interpretation for the legal nonconforming industrial use on 1.213 acres at 352 and 360 West Kentucky Avenue ("Property") in the Single Family Residential Zone; and

WHEREAS, the Property was annexed into the City on April 16, 1991, and was rezoned as Single Family Residential, causing the existing industrial use of the Property to be a legal nonconforming use; and

WHEREAS, several industrial businesses have utilized the Property since it was annexed into the City; and

WHEREAS, since its annexation into the City, the City's Community Development Department placed conditions on some of the business licenses for some of the businesses that operated at the Property; and

WHEREAS, the City does not have land use authority to place conditions on a business license, and the Zoning Code does have performance standards or other requirements that would authorize some of the uses placed on the business licenses; and

WHEREAS, any new or modified use of the Property will require review by the Zoning Administrator to decide whether the new use is of the same or of a more restrictive manner than historical industrial uses of the Property; and

WHEREAS, on September 20, 2016, the Zoning Administrator made a zoning interpretation that the existing buildings and land at the Property can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all City requirements and policies, including all Industrial Performance Standards and nonconforming use requirements; and

WHEREAS, on September 26, 2016, Lewis and Nicole Dennis filed an appeal of the Zoning Administrator interpretation, pursuant to Section 25-31-40 of the City's Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), the proposed modified use is categorically exempt from further environmental review pursuant to

CEQA Section 15321 which exempts enforcement actions by regulatory agencies including the adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, the Planning Commission has reviewed all written evidence and oral testimony presented to date.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission of the City of Woodland, based on substantial evidence in the administrative record of proceedings and pursuant to its independent review and consideration, does hereby:

1. Affirm the Zoning Administrator interpretation that the existing buildings and land at 352 and 360 West Kentucky Avenue can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all City requirements and polices, including all Industrial Performance Standards and nonconforming use requirements.
2. Deny the appeal of the Zoning Administrator interpretation mentioned above.

PASSED AND ADOPTED by the Planning Commission of the City of Woodland at a regular meeting on the 15th day of December, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Kirby Wells, Chairperson

ATTEST:

Cindy Norris, Principal Planner

Appeal Of The Zoning Interpretation For 352-360 West Kentucky Avenue

Background History

Our home was purchased in 1999, we are the original owners and when purchased we were aware of the existing non-conforming industrial use which was behind our property. We were also made aware that according to the General Plan land use designation this area is residential and zoned R-1 and is to eventually become a residential use. Through the years our neighborhood has put up with issues of noise, dust and nuisances, which was to be expected from living near or adjacent to an industrial use, we did so without complaining. As time went by the use of the property changed and became less intense as it did, most of the noise, dust and nuisance issues went away. About a year and a half ago (2015) the use, noise and dust on this nonconforming property intensified again. We would often be awoken by the back-up beeper of a forklift, 20 feet from our bedroom sliding glass door (sometimes as early as 6:30 am, even on weekends). We would constantly be disturbed by the loud noises created by the throwing of heavy metal objects into a metal dumpster in the rear of the property, the hooking up of trailers, idling of vehicles and the constant use of the rear of the property to turn around semi-trucks and trailers (these issues happened throughout the day and sometimes as late as 10:30 in the evening). With the increase in intensity of the use of this site and increase of noise, dust and nuisance issues, we began to file complaints with the City's Code Enforcement officers in 2015.

The Property went up for sale approximately one year ago and a zoning interpretation was requested by the current and prospective owner's of the property. The zoning interpretation was done by City staff per their request at no charge (there should have been an application and payment submitted by them in the amount of \$651 dollars). There was no outreach or notification of this zoning interpretation done by city staff to the adjacent residential neighbors of this property who might be directly affected by this interpretation and who also have firsthand knowledge (by living near the property) of the historic uses and prior issues of the property. However, there were multiple meetings with the owners and perspective owners of the property in question. We discovered via the Freedom of Information Act request that even the perspective buyer's real estate agent had actually requested from City Staff to contact us to meet to discuss our concerns prior to the zoning interpretation being completed, but that was never done by City Staff (See Attachment 1). The residential neighbors were not notified until after the zoning interpretation had been completed on September 20, 2016 and then our only recourse pertaining to the zoning interpretation was in filing an appeal in order to have our voice heard on this matter.

The Appeal

In the Zoning Interpretation dated September 20, 2016 - it was determined by the Community Development Director and City staff that the existing buildings and land, can be used for industrial uses in their entirety and the reuse of the building(s) must be similar to the use in existence at the time the property was rezoned R-1 and the yard area may be used in its entirety as long as only the required industrial performance standards are met.

Two items from the zoning interpretation in which we are disputing:

- The reuse of the building(s) must be similar to the use in existence at the time the property was rezoned R-1 in 1991 (and not the last legally established, less intensive use of the property)
- Determining that the both the buildings and land can be used for industrial uses in their entirety (Allowing a more intensive use of the property to expand to the entire property without restrictions) –See the Woodland Municipal Code definition of a “nonconforming use” below which clearly mentions the use of the land.

Under zoning code 25-3-10 - Definitions a “Nonconforming use” means, a use which lawfully occupies a building or land at the time of the adoption of this chapter. Includes any use which lawfully occupies any building or land in an area annexed to the city at the time of such annexation, and which does not conform to the applicable regulations of this chapter”

The Use

There are many different uses within the Industrial Zoning designation, which have different intensities. (For example, an office is a less intensive use then a tomato cannery, but both are allowed within an industrial zone.)

In this case, the use that was annexed in 1991 and became an existing non-conforming use was a trucking company (Wahl Trucking).

Nonconforming properties are allowed to change a nonconforming use to one that is the same or of less intensity under Pleasanton Municipal Code;

Section 25-21-55 (C)(2) -Change of Use. The nonconforming use of a building may be changed to another nonconforming use, which, in the opinion of the zoning administrator, is of the same or of a more restrictive nature.

But, if a non-conforming use is legally changed to a use that is less intensive and a gradual step towards bringing the property into compliance with the existent general plan and current

zoning for the property (Residential R-1), then the newly established (less intensive) use becomes the new existing non-conforming use for the property that future uses are judged by and any future uses are again able to change the uses on the property that is the same or of a less intensity than the last legally established use.

The property is not able to be converted back to the original non-conforming use which is of a more intensive nature than what has been currently operating on the property (bouncing back and forth from more intensive to less intensive uses).

This is taking a step backwards into bringing the property into compliance with the general plan and current zoning designation and giving the non-conforming use permanency.

That is exactly what the wording of this zoning interpretation by city staff is allowing. They are allowing all the years of uses on the property since annexation and which have been decreased in intensity to then turn around and allow the use of the property to increase in intensity back to the original use of the property in 1991 (trucking or equivalent).

When the use of the property was established as a warehousing use in 2006 and conducted only within the building, that use should have been the new nonconforming threshold. However in the current Zoning Interpretation or "opinion of city staff" the property now can be used in its entirety up to the intensity of the original non-conforming use of a trucking company again, even though that property has not been used on that level of intensity since 2003, when Wahl Trucking stopped operating at this location.

Although I have worked as a Code Enforcement Officer for the last 15 years (12 years with the City of Woodland and the last 3 years with the City of Pleasanton) enforcing zoning issues such as these, this is not just my interpretation, it was also the opinion past Community Development Directors, prior City staff and other planners and attorneys of which I have consulted as well. It is also the opinions of the following:

The American Planning Association (APA) (See Attachment 2)

"Others (jurisdictions) allow changes to a less intensive nonconforming use or one that would be less detrimental to the neighborhood's character than the existing nonconforming use (McLaughlin v. City of Brockton)"

"These ordinances are designed to achieve eventual eradication of nonconforming uses through gradual change to uses that are more appropriate to the district" (Kopietz v. Zoning Board of Appeals for the city of the Village of Clarkston)

"Other restrictions include refusing to allow a nonconforming use to be reestablished once a more highly restricted use has been substituted"

Touro Law Center (See Attachment 3)

“Typically zoning ordinances provide that abandoned use may resume or be converted to a less intensive nonconforming use. Courts prohibit the conversion back to the more intensive use” (Taylor v. Zoning Board of Appeals of City of Evanston)

“Likewise, courts have not allowed the reversion to a previously abandoned more expansive nonconforming use once it has been abandoned” (Town of Orange v. Shay)

Cornell University Law School (See Attachment 4)

“The prior nonconforming use (PNU) will generally end when the use of the land is changed.”

Clifford H. Bloom Law, Weather & Richardson, P.C. (See Attachment 5)

“Such ordinances will normally allow a change to use that is more appropriate to the district in which it is located than the existing nonconforming use...Such permission is usually freely given on the basis that the “New Use” is a move toward the eventual elimination of a non-conformity.”

William and Mary Law Review (See Attachment 6)

“Zoning ordinances would commonly forbid a property owner to substitute one nonconforming use for another. Sometimes an exception would be made to permit a change to a use more restrictive in nature.”

Pace Law School – Land Use Center (See Attachment 7)

Changing to another Nonconforming use “The consequence of finding that a material change in use has occurred, is to deem the prior nonconforming use abandoned and therefore terminated”

Missouri Law Review (See Attachment 8)

“It also has been held that the change from one nonconforming use to another evidences an intent to abandon the former, which thereafter may not again be resumed.”

Case Western Reserve Law Review (See Attachment 9)

“The substitution of nonconforming uses is actually a termination of the prior nonconforming use through abandonment.”

Michigan State University Extension (See Attachment 10)

“Substitution of one nonconforming use for another is usually allowed if the change is more conforming or no less conforming, allowing for the property to move closer to conformity over time with district requirements.”

The Yard

The Woodland Municipal Code applies to the not only the use of the building, but also the use of the land as well and can be regulated as demonstrated in the following code sections;

Section 25-2-40 – Compliance with laws and zoning regulations required

(a) No building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structure or premises be used, designated or intended to be use for any purpose, or in any manner other than is included among uses hereinafter listed as permitted in the zone in which such buildings, land or premises is located.

Section 25-3-10 – Definitions

“Nonconforming use” means a use which lawfully occupies a building or land at the time of the adoption of this chapter, and which does not conform to the applicable regulations of this chapter. Includes any use which lawfully occupies any building or land in an area annexed to the city at the time of such annexation, and which does not conform to the applicable regulations of this chapter.

It is clear from the two above code sections as well as code sections 25-21-55 (a), 25-21-55 (b)(2) and 25-21-55 (d), that the nonconforming use of the land is intended to be regulated under code section 25-21-55 just as well as the building.

The yard area of 352-360 W. Kentucky has not been used for material and truck storage since 2003, prior to any business license restrictions being placed by the City.

Jeff Ballantine, Associate Planner, stated as much in an email, dated 10/18/16, “The 1993 image definitely shows that the rear half of the site was being used for what looks like trucks and various materials. The next image is from 2003 and from 2003 until now it looks like the rear portion of the property has not been used for any sort of material/truck storage” (See Attachment 11). Cindy Norris, Principal Planner, stated in an email dated 10/16/2015, that “According to our records there has been no active or “legitimate” us on the site in question since 2009” and “We (The City) would not allow any new industrial use that would create a nuisance or utilize significant outdoor activity or storage.” (See Attachment 12)

Why it Matters

Multiple homes (12) within just our small subdivision back up to existing non-conforming industrial uses, there are more homes in other areas of town (i.e. Community Lane, Armfield Avenue, Kentucky Avenue etc.) This zoning interpretation will affect all of our property values in a negative way and more importantly deprive us the right to live peacefully in the comfort of our own homes, as we will have to put up again with excess noise, dust and nuisances from these nonconforming properties.

We have small children and a terminally ill family member that are currently living with us and need their rest. The increase of intensity of this property will negatively affect our family and possibly their health.

Industrial uses and residential uses are clearly incompatible. The general plan states;

"Separation of Industrial Development – By separating industrial activities from residential areas, Woodland has avoided many land use conflicts. Most industrial development is located in the northeastern part of the city, much of it north and east of I-5. The General Plan expands this area as the primary location for industrial development but also allows for additional industrial development North of Kentucky Avenue. In those areas where industrial areas abut residential areas, the Plan provides for buffering and limits on the types of industrial uses permitted."

The city is not pro-actively monitoring these non-conforming uses that exist in the City. Staff in the past had relied on business licenses activity and applications as a determining factor on whether or not a use is the same or of less intensity than the previous use, or if there had been a vacancy for more than 12 months. But it has come to light in this process that the use of business license history is not sufficient in the enforcement of the zoning code pertaining nonconforming uses and therefore the language of the code needs to be amended to allow for City staff to track these properties as the uses change, so that eventually compliance with the General Plan and existing zoning for the area are met.

There needs to be consistency in the interpretation and enforcement of the City of Woodland municipal code. The new zoning interpretation is not consistent with prior staff's zoning interpretations of existing non-conforming uses, by now allowing the use to be brought back to the level of intensity of the very first use upon annexation as opposed to the last use of the property.

The parking of any commercial truck in excess of 10,000 lbs. on any private property zoned residential is considered a nuisance under WMC section 14A-1-3 (b) (15) and by allowing a trucking company or equivalent to be brought back to this property, places a nuisance twenty feet from ours and our neighbor's homes.

Conclusion

It is not, nor has ever been our intent to keep a business from operating on this property. It is however our intention to make sure the uses that are feet away from our back door are of a same or less intensity than the previous use. This ensures that the property gradually moves towards compliance with the general plan and zoning code. This should be the City's intent as well. The property was gradually moving towards compliance starting in 2006. With the change of use from a trucking operation to a lesser intensive use of warehousing and then restrictions being placed on the property, the uses could not then be expanded or reverted back to a more intensive use in the future.

Over the course of twelve years between 2003 until 2015, there were only occasional issues involving excess noise, dust or nuisances. This changed in mid -2015 as the back area of the property began to be utilized more often in a more intensive manner, this created more disturbances to the adjacent residential neighbors.

By allowing this zoning interpretation to stand as written and the building and yard to once again be used for a more intensive industrial uses than has existed on this property since 2003, goes against general planning policies, guidelines and case law by giving this nonconforming use a permanency that will never be made to conform with the current zoning of the general plan.

We are requesting that the City Council please direct staff to amend the language of the zoning interpretation for this property to clarify that the non-conforming use of property can be changed to another nonconforming use, which in the opinion of the zoning administrator, is of the same or of a more restrictive nature "than the last legally established use of the property". Therefore not allowing the property to be converted back to more intensive industrial use, which was originally established in back in 1991.

We are also requesting City Council please direct staff to clear up and amend the language of the municipal code pertaining to nonconforming uses to avoid any further confusion in the enforcement of these properties, allowing staff to track the uses through a conditional use permit.

But most importantly we are requesting that the City Council please do what is right not just for us, or for our neighbors but for all of the residents of Woodland who reside adjacent to an existing nonconforming use by adhering to the General Plan of the City of Woodland and the General Plan Policy 1.D.1 below by upholding our appeal request.

1.D.1 - The City shall attempt to ensure that the decisions concerning land use and development are not detrimental to the positive character and identity of Woodland's existing residential neighborhoods.

Thank you for your time and consideration on this matter.

Respectfully,

The Dennis Family
332 Mt. Whitney Drive

Attachments:

- Attachment 1 – Email dated 8/17/16
- Attachment 2 – American Planning Association (APA)
- Attachment 3 - Touro Law Center
- Attachment 4 - Cornell University Law School
- Attachment 5 - Clifford H. Bloom Law, Weather & Richardson, P.C.
- Attachment 6 - William and Mary Law Review
- Attachment 7 - Pace Law School – Land Use Center
- Attachment 8 - Missouri Law Review
- Attachment 9 - Case Western Reserve Law Review
- Attachment 10 - Michigan State University Extension
- Attachment 11 – Email dated 10/18/16
- Attachment 12 – Email dated 10/16/15

ATTACHMENT 1

From: [Cindy Norris](#)
To: [Jeff Ballantine](#)
Date: 8/17/2016 10:29:02 AM
Subject: Re: Jeff- May I have the name and address of the homeowner that is lodging the complaints regarding 352 West Kentucky?

Jeff, I think the city should maintain the control on contact. We can offer to set something up if the homeowners are willing. Let's discuss.

Sent from my iPhone

On 17 Aug 2016, at 10:17 am, Jeff Ballantine <Jeff.Ballantine@cityofwoodland.org> wrote:

Everyone,

I received this request from Kathy Aukes, the realtor representing Spencer who is looking to purchase 352 W. Kentucky. She wants to have the contact information of the Dennis' to try to come to an amicable resolution for both parties regarding this property. I'm guessing we want to wait to see what Kara has to say so that we have a better idea of what the City's position would be, before trying to facilitate some negotiation between the two parties, but let me know your thoughts on this.

Jeff

Jeff Ballantine, Associate Planner
City of Woodland, Community Development Department
300 First Street, Woodland, CA 95695
(530) 661-5820; (530) 661-5814 (direct)
jeff.ballantine@cityofwoodland.org

From: Kathy Aukes (<mailto:keaukes@yahoo.com>)
Sent: Wednesday, August 17, 2016 9:13 AM
To: Jeff Ballantine
Subject: Jeff- May I have the name and address of the homeowner that is lodging the complaints regarding 352 West Kentucky?

Many thanks-

<~WRD000.jpg>

Kathy E. Aukes
Broker-Owner
National- Town & Valley Properties, Inc.
CalBRE Lic.#01015509
(530) 304-4682
<~WRD000.jpg>

ATTACHMENT 2

Changing or Expanding Nonconforming Uses

By Mark S. Dennison

The ultimate purpose of zoning ordinances is to confine certain classes of uses and structures to certain areas. The law generally frowns on nonconforming uses because they undermine that goal. The general rule is this: If prior to the adoption of an original zoning ordinance—or a subsequent amendment or revision—property was being used for a then-lawful purpose that the ordinance prohibits and renders nonconforming, the property owner acquires a vested right to continue the nonconforming use.

Thus, the policy of zoning ordinances is to secure the gradual or eventual elimination of nonconforming uses. To further this goal, state zoning enabling acts confer powers on local zoning bodies to impose restrictions on the expansion or change of nonconforming uses. This issue of *Zoning News* evaluates the circumstances under which a change or expansion of a nonconforming use is considered illegal under most zoning ordinances. (Where case citations are missing in the text, they appear in the accompanying sidebar.)

Establishment of Nonconforming Use

What is required to establish a nonconforming use as lawful?

The land use must meet two basic requirements:

- It must have existed before the prohibitory regulation was enacted. [See, for example, *Heyman v. Zoning Hearing Board of Abington Township*, 601 A.2d 414 (Pa. Commw. 1991).]
- It must have been lawful when commenced. [See, for example, *Oceanview Homeowners Association, Inc. v. Quadrant Construction & Engineering*, 680 P.2d 793 (Alaska 1984); *Hooper v. City of St. Paul*, 353 N.W.2d 138 (Minn. 1984).]

The burden of proving the extent or existence of a nonconforming use rests on the landowner, who must establish both of the above points. [See, for example, *R.K. Kibblehouse Quarries v. Marlborough Township Zoning Hearing Board*, 630 A.2d 937 (Pa. Commw. 1993); *City of Peoria v. Danz*, 585 N.E.2d 1207 (Ill. App. 1992); *Town of Ithaca v. Hill*, 571 N.Y.S.2d 609 (App. Div. 1991).]

A use that was begun in violation of the ordinance in effect at the time cannot gain status as a preexisting and lawful nonconforming use. [See, for example, *Lantos v. Zoning Hearing Board of Haverford Township*, 621 A.2d 1208 (Pa. Commw. 1993).] The use in question must have been in full conformance with all applicable land-use regulations in effect when the activity began. [See, for example, *City of Dublin v. Jinks*, 615 N.E.2d 690 (Ohio App. 1992).] In a few cases, the landowner's failure to obtain a certificate of occupancy when the use was established under a former zoning ordinance has prevented the property from acquiring nonconforming use status under subsequent amendments to the ordinance that prohibited the

use. [See, e.g., *Bernstein v. District of Columbia Board of Zoning Adjustment*, 376 A.2d 816 (D.C. App. 1977).]

However, where the invalidity of a use lies in the fact that the landowner failed to obtain a business license or to comply with requirements imposed by an ordinance other than the one regulating land use, such invalidity generally will not preclude the property from acquiring nonconforming use status. [See, for example, *Carroll v. Hurst*, 431 N.E.2d 1344 (Ill. App. 1982) (failure to obtain license for operation of automobile junkyard as required by state motor vehicle code did not defeat nonconforming use status under zoning ordinance).]

Limitations on Change

A zoning ordinance can proscribe a new nonconforming use or one of a different character. The questioned use may not

CASES ON CHANGE OR EXPANSION OF NONCONFORMING USE

❖ Permissible Changes

Types of changes that the courts have deemed permissible:

- DiBlasi v. Zoning Board of Appeals of the Town of Litchfield*, 624 A.2d 372 (Conn. 1993) (change in use from a construction office to an adult probation office).
- Hall v. Brazzale*, 624 A.2d 916 (Conn. App. 1993) (change from a secondary storage site to the sole storage site for construction business).
- Limley v. Zoning Hearing Board of Port Vue Borough*, 625 A.2d 54 (Pa. 1993) (change from private club to public restaurant and bar).
- Appeal of Schneider*, 521 A.2d 528 (Pa. 1987) (change of use of property from storage and repair of general hauling trucks to storage and repair of empty trash trucks).
- Aboud v. Wallace*, 463 N.Y.S.2d 572 (App. Div. 1983) (change from doctor's office to professional lobbying group's office).
- Kastendike v. Baltimore Association for Retarded Children*, 297 A.2d 745 (Md. App. 1972) (change from nursing home for treatment of elderly and alcoholics to home for treatment of retarded children).

❖ Impermissible Changes

Types of changes that the courts have deemed impermissible:

- Gilmore v. County of DuPage*, 597 N.E.2d 1111 (Ill. App. 1991) (change from chiropractor's office to dentist's office).
- Boivin v. Town of Sanford*, 588 A.2d 1197 (Me. 1991) (change from auction barn to antique business).
- Tier Oil Corp. v. Egan*, 472 N.Y.S.2d 505 (App. Div. 1984) (change from gasoline service station to combination gas station and convenience store).
- Stevens v. Town of Rye*, 448 A.2d 426 (N.H. 1983) (change from automobile garage to bath shop and plumbing supplies showroom).
- Board of Zoning Appeals v. McCalley*, 300 S.E.2d 790 (Va. 1983) (change from auto body shop to metal forge and machine shop).

(continued on page 3)

be grandfathered from the operation of new zoning restrictions if it:

- fails to reflect the nature and purpose of the preexisting nonconforming use
- is different in quality or character as well as in degree
- is different in kind in its effect on the neighborhood where it is located. [See, for example, *Keith v. Saco River Corridor Commission*, 464 A.2d 150 (Me. 1983).]

To qualify as a continuation of an existing nonconforming use, a proposed use must be similar to the original use. (See, for example, *Boivin v. Town of Sanford*.) However, it need not be identical. [See, for example, *Pappas v. Zoning Board of Adjustment of the City of Philadelphia*, 589 A.2d 675 (Pa. 1991) (pizza restaurant with seating for 40 customers was similar to preexisting nonconforming use as sandwich shop that had very limited customer seating and sold primarily take-out food).]

In determining whether a new use bears adequate similarity to an existing nonconforming use, courts evaluate various factors, including:

- the extent to which the current use reflects the nature and purpose of the original use;
- whether the use is different in character, nature, and kind;
- whether the current use has a substantially different effect on the neighborhood.

[See *Zachs v. Zoning Board of Appeals*; *Knowlton v. Browning-Ferris Industries*, 260 S.E.2d 232 (Va. 1979); *Town of Bridgewater v. Chuckran*, 217 N.E.2d 726 (Mass. 1966).]

Determining whether a questioned use meets this test necessarily involves consideration of the specific facts of each case. [See, for example, *Mason v. Crooker-Mulligan*, 570 A.2d 1217 (Me. 1990).] For instance, in *Ka-Hur Enterprises, Inc. v. Zoning Board of Appeals of Provincetown*, 661 N.E.2d 120 (Mass. App. 1996), the court evaluated whether a nonconforming use as a fuel oil storage and distribution depot was terminated by a change in use. The property at issue was used as a fuel oil storage and distribution facility before the city enacted a 1951 zoning ordinance that zoned it for residential use. This use continued until 1979, when the Nauset Trawling Company acquired the property and operated a fishing business and truck repair shop on the premises that lasted until August 1987. The evidence showed that Nauset used the property primarily to operate its fishing business and to garage and repair trucks used for hauling fish.

While there was evidence that Nauset continued to store fuel in the two tanks on the premises and to make deliveries to its fishing vessels, out-of-town fishing boats, and a few homes of its employees, neighboring property owners testified that they never saw any fuel oil trucks enter or leave the premises. The town's building inspector also testified that, on his numerous visits to the property from 1985 to 1987, he never saw any evidence that the property was being used as a fuel storage and distribution facility. The court was unpersuaded by the fact that the property continued to be used for incidental storage of fuel oil. It concluded that a substantial change in use had occurred during Nauset's ownership, and the property lost its nonconforming use status.

Mark Dennison is an attorney and author who practices environmental, land-use, and zoning law in Westwood, New Jersey.

On the other hand, some courts have held that incidental storage activities that were part of the preexisting nonconforming use may be continued despite a change or discontinuance of the property's primary nonconforming business use. [See, for example, *Toys R Us v. Silva*, 639 N.Y.S.2d 881 (Sup. Ct. 1996); *Hendgen v. Clackamas County*, 849 P.2d 1135 (Ore. App. 1993).]

Some zoning ordinances allow a change in use provided that the new use would have been permitted in the most restrictively zoned district in which the original use was allowed. [See, for example, *Prudence v. Town of Ithaca Zoning Board of Appeals*, 599 N.Y.S.2d 749 (App. Div. 1993).] Others allow changes to a less intensive nonconforming use or one that would be less detrimental to the neighborhood's character than the existing nonconforming use. [See, for example, *McLaughlin v. City of Brockton*, 587 N.E.2d 251 (Mass. App. 1992).] These ordinances are designed to achieve eventual eradication of nonconforming uses through gradual change to uses that are "more appropriate" to the district. [See, for example, *Kopietz v. Zoning Board of Appeals for the City of the Village of Clarkston*, 535 N.W.2d 910 (Mich. App. 1995).]

Zoning ordinances seldom contain an absolute prohibition against all expansions of nonconforming uses, and some courts, most notably in Pennsylvania, have ruled that local ordinances cannot impose such an absolute prohibition.

Limitations on Expansion

The rationale for prohibiting a change from one nonconforming use to another applies also to expansions of preexisting nonconforming uses. The only nonconforming use entitled to protection is the one that existed when passage of the zoning ordinance made it nonconforming. Allowing the nonconforming use of land and buildings to be expanded or enlarged would further exacerbate the offense to the general community and undermine the public policy that nonconforming uses should eventually be eliminated and made to conform to the zoning laws. [See, for example, *SLS Partnership v. City of Apple Valley*.]

Zoning ordinances seldom contain an absolute prohibition against all expansions of nonconforming uses, and some courts, most notably in Pennsylvania, have ruled that local ordinances cannot impose such an absolute prohibition. [See, for example, *Gatti v. Zoning Hearing Board of Salisbury Township*, 543 A.2d 622 (Pa. Commw. 1988).] Most zoning ordinances permit some expansion. Permissible expansions typically include an increase in business volume that does not include an enlargement of the size of a nonconforming building or an extension of the nonconforming use within the confines of the same nonconforming lot or building. Impermissible expansions commonly include structural alterations that increase the size of a nonconforming building or its expansion onto additional land that was not formerly used for that purpose. The applicable zoning ordinance determines which expansions are deemed either lawful or illegal.

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Elimination of Non-Conforming Uses

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buildings and uses. The most commonly accepted restriction is that no non-conforming use may be extended. A non-conforming use usually may be extended throughout a building, but additions may not be made to the building, or the non-conforming use may not extend to another building. Other restrictions include those of limiting the alterations or repairs that may be made in a non-conforming building; prohibiting rebuilding or reconstruction of buildings damaged to a specified extent in cases of fire, flood, or similar cause; refusing to allow a non-conforming use to be reestablished once a more highly restricted use has been substituted, and refusing to permit a re-establishment of a use if the use or building has been discontinued or abandoned for a specified period of time.

Some localities provide that no structural changes or alterations may be made other than to maintain the building in safe repair. Enid, Oklahoma is one such community. The more usual provision is that the structural changes or alterations will not be permitted to exceed a specified percentage of the assessed valuation of the building. Springfield, Oregon permits alterations totaling up to 50% of the value of the building in a ten year period. La Crosse, Wisconsin permits alterations up to 50% of assessed valuation for the life of the building. The percentages and the time in which they may be made vary with localities; many communities do not specify a time in which the cost of alterations aggregate.

If there are limitations on the rebuilding of structures following damage by fire, flood or similar cause, the regulations usually provide that if a specified percentage of the value of a building (ranging typically from 50 to 75%) has been destroyed, the building shall not be reconstructed. Some ordinances specify a time limit (generally no more than 2 years, and usually one year or less) in which reconstruction must be started if it is to be started at all.

If a non-conforming use is abandoned for a specified period of time, the use usually may not be re-established. Regulations vary from an unqualified statement that if discontinued, a non-conforming use may not be re-established, as in Schenectady, New York, to a statement that a period of 5 years constitutes abandonment as in Bergenfield, New Jersey. One year is the most frequently specified time period. Examples of shorter specified periods are the Brainerd, Minnesota ordinance which provides that 30 days constitutes abandonment and the Fairfax County, Virginia ordinance which specified 90 days. If it is not explicit in the ordinance, the zoning agency and the courts hold that the period of abandonment must exceed a "reasonable" time interval between tenants. Also, discontinuance of use caused by war service of the proprietor, or accident, or unpropitious circumstances does not constitute abandonment.

ATTACHMENT 3

2010

Abandonment, Discontinuance and Amortization of Nonconforming Uses: Lessons for Drafters of Zoning Regulations

Patricia E. Salkin

Touro Law Center, psalkin@tourolaw.edu

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any sales. The defendant did not advertise the business or do anything that would put the public on notice that a food establishment had opened. A month later, the defendant threw the items out. The Court did not find the defendant's actions to be a sufficient showing of operation of his business to reverse the trial court's determination that the nonconforming use was abandoned. As a result, the lower court's decision to vacate the zoning board's decision to grant a special permit to NEBC was affirmed.³⁷

8. Can an abandoned use be converted to a less intensive nonconforming use?

Typically zoning ordinances provide that abandoned uses may resume or be converted to a less intensive nonconforming use. Courts prohibit the conversion back to the more intensive use.³⁸ Likewise, courts have not allowed the reversion to a previously abandoned more expansive nonconforming use once it has been abandoned.³⁹ Where the owner of a prior nonconforming use billboard improperly added lights to the sign, he did not abandon the original nonconforming use. The court ruled that an improper expansion of a nonconforming use does not equate to an overt act of abandonment as the original use was not abandoned.⁴⁰ On the other hand, where a nonconforming use deli was converted into a take-out Chinese restaurant which operated beyond the authorization the zoning board granted to the deli, the original nonconforming use was deemed abandoned.⁴¹ The subsequent reversion of the property to a deli use was not possible as the court ruled the nonconforming use was abandoned by the prolonged improper use as a Chinese restaurant.⁴² The sale of alcohol by a restaurant has been considered an accessory use and not an expansion nor a separate and distinct use to a nonconforming restaurant.⁴³ As such the decision of a previous owner of a nonconforming use to stop serving alcohol for several years did not affect the restaurant's ability to serve alcohol in a restaurant setting.⁴⁴

IV. Amortization

A more active or aggressive method of eliminating nonconforming uses is amortization. This concept has its roots in the early 1915 case of *Hadacheck v Sebastian*, 239 U.S. 395 where the Court confirmed that the City could eliminate the brickyard use on the property in question without such action necessitating compensation. Amortization has always been a controversial tool, gaining most notoriety perhaps in

Zoning Appeals of the Town of Harrison, 57 A.D.2d 627 (N.Y. App. Div. 1977).

²⁰City of Red Bank v. Phillips, 2007 WL 4460223 (Tenn. Ct. App. 2007).

²¹Ghindia v. Buckeye Land Development, LLC., 2007 Ohio App. LEXIS 694, **12 (Ohio Ct. App., 2007).

²²Karas v. Foss, 2008 WL 859504 (N.J. Super. A.D., April 2, 2008).

²³S&S Auto Sales, Inc. v. Zoning Board of Adjustment for the Borough of Stratford, 373 N.J. Super. 603, 624. (N.J. Super. Ct. App. Div. 2004).

²⁴Ghindia v. Buckeye Land Development, LLC., 2007 Ohio App. LEXIS 694, **12 (Ohio Ct. App., 2007).

²⁵Ghindia v. Buckeye Land Development, LLC., 2007 Ohio App. LEXIS 694, **12 (Ohio Ct. App., 2007).

²⁶Pezzullo v. Ure, 2008 R.I. Super. LEXIS 167, *18 (R.I. 2008).

²⁷Face Value, LLC v. Zoning Board of Appeals of Town of East Hartford, 2008 Conn. Super. LEXIS 2931 (Conn. Super. Ct. 2008), Karas v. Foss, 2008 WL 859504 (N.J. Super. A.D., April 2, 2008), Gem City Metal Spinning Co. v. City of Dayton Board of Zoning Appeals, 2008 WL 185535 (Ohio Ct. App. 2008), Palmieri Cove Associates v. City of New Haven Board of Zoning Appeals, 2006 Conn. Super. LEXIS 848 (Conn. Super. Ct. 2006).

²⁸Custom Land Development, Inc. v. Coopertown Board of Zoning Appeals, 168 S.W.3d 764, 775 (Tenn. Ct. App. 2004).

²⁹Purich v. Draper Properties, Inc., 395 Md. 694 (2006).

³⁰Smith Bros. Woodland Management, LLC v. Zoning Board of Appeal of Town of Brookfield, 108 Conn. App. 621 (Conn. App. Ct. 2008), Purich v. Draper Properties, Inc., 395 Md. 694 (2006).

³¹Greer v. Washougal Motorcross, LLC., 2007 Wash. App. LEXIS 497, *11 (Wash. Ct. App. 2007).

³²Toys R Us v. Silva, 89 N.Y.2d 411, 676 N.E.2d 862, 654 N.Y.S.2d 100 (1996).

³³Schweizer v. Board of Adjustment of City of Newark, 2009 WL 597630 (Del. 2009).

³⁴Bialik v. Stambaugh Township, 2008 WL 1885772 (Mich. Ct. App. 2008), and Finn v. Zoning Hearing Board of Beaver Borough, 869 A.2d 1124 (Pa. Commw. Ct. 2005).

³⁵Zall v. Zoning Board of Appeals of Salisbury, 73 Mass. App. Ct. 1103 (Mass. App. Ct. 2008).

³⁶Zall v. Zoning Board of Appeals of Salisbury, 73 Mass. App. Ct. 1103 (Mass. App. Ct. 2008).

³⁷Zall v. Zoning Board of Appeals of Salisbury, 73 Mass. App. Ct. 1103 (Mass. App. Ct. 2008).

³⁸Taylor v. Zoning Board of Appeals of City of Evanston, 375 Ill. App. 3d 585 (Ill. App. Ct. 2007).

³⁹Town of Orange v. Shay, 68 Mass. App. Ct. 358 (Mass. App. Ct. 2007).

ATTACHMENT 4



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nonconforming use

Also known as a prior nonconforming use (PNU), this exists when a zoning code is changed, but a parcel of land that is already being used for something disallowed by the new zoning code is "grandfathered in" (is allowed to continue). For example, if a neighborhood zoning is changed to residential, a corner grocery store may be allowed to continue to operate. The PNU will generally end when the use of the land is changed (so if the grocery store closes, the new zoning code will bar a new store from moving in).

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Wex Toolbox

ATTACHMENT 5

THE LAW OF NONCONFORMING USES

By Clifford H. Bloom
Law, Weathers & Richardson, P.C.
Bridgewater Place
333 Bridge Street NW, Suite 800
Grand Rapids, Michigan 49504
May, 2001

the use which existed at the time of passage of a valid zoning ordinance or amendment thereto. Deardon v Detroit, 70 Mich App 163 (1976); Norton Shores v Carr, 81 Mich App 715 (1978). Even extending a roof over an existing patio to allow year-round use has been found to constitute an expansion of a nonconforming use. Jobert v Morant, 192 A2d 553 (Conn 1963).

3. What Constitutes a “Change of Use”. Related to the issue of expansion of a nonconforming use is the issue of a change of use. The Michigan Zoning and Enabling Acts permit municipalities to adopt regulations regarding the substitution of nonconforming uses. Such ordinances will normally allow a change to use that is more appropriate to the district in which it is located than the existing nonconforming use. An example would be a change of use from an office use that generated significant traffic, such as a doctor’s office, to an office use which generated very little traffic, such as an insurance broker that did not deal with the general public. While the ordinance will normally require that the permission of the municipality be obtained to change the use, such permission is usually freely given on the basis that the “new use” is a move toward the eventual elimination of a nonconformity.

Many changes of use are prohibited by local ordinances as they would be treated as establishing a new nonconforming use. It is not always easy to determine whether a change of use has occurred, though. For example, if a restaurant is operating as a nonconforming use, would it be a change of use for that restaurant to obtain a liquor license? No Michigan case has addressed this question, but the courts in New York, Connecticut, and Massachusetts have all found that obtaining a liquor license was a change in use which

ATTACHMENT 6

William & Mary Law Review

Volume 6 | Issue 1

Article 2

The Termination of NonConforming Uses

Marvin M. Moore

Repository Citation

Marvin M. Moore, *The Termination of NonConforming Uses*, 6 Wm. & Mary L. Rev. 1 (1965),
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William and Mary Law Review

VOLUME 6

JANUARY 1965

NUMBER 1

ARTICLES

THE TERMINATION OF NONCONFORMING USES

MARVIN M. MOORE*

A major problem confronting city planners and zoning authorities today is that posed by nonconforming uses.¹ Such uses reduce the effectiveness of zoning ordinances, depress property values, and directly contribute to urban blight. They are "an admitted cause of residential and commercial slums, traffic congestion, and other indicia of urban obsolescence. . ."² The purpose of this article is to examine and evaluate the various measures that have been devised for terminating the nonconforming use.

The early zoning laws were, for three reasons, strictly prospective in operation: First, a municipality's zoning powers are limited by the state enabling act authorizing the zoning,³ and in a number of jurisdictions the enabling act expressly prohibited the abatement of uses existing on the effective date of the zoning ordinance.⁴ Secondly, in those jurisdictions lacking such an express prohibition it was feared that the courts—traditionally hostile to retroactive laws—would view any attempt

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1. A nonconforming use may be defined as a use of property in existence on the effective date of a zoning ordinance, which use does not comply with the ordinance. Young, *The Regulation and Removal of Nonconforming Uses*, 12 W. RES. L. REV. 685 (1961).

2. Norton, *Elimination of Incompatible Uses and Structures*, 20 LAW & CONTEMP. PROB. 305 (1955).

3. "The basis for zoning rests ultimately in the exercise of the police power, but the cities derive their zoning powers from the state enabling acts. . ." *Id.* at 354.

4. Although this prohibition is less common than it used to be, as of 1959 the enabling acts of nearly half the states forbade all or certain municipal corporations from abruptly terminating uses in existence on the effective date of a zoning ordinance. Anderson, *The Nonconforming Use—A Product of Euclidian Zoning*, 10 SYRACUSE L. REV. 215 (1959).

to eliminate existing uses as an abuse of the police power. At first even prospective zoning rested on a tenuous constitutional basis, and there was reason to fear that the addition of a retrospective effect might cause the whole structure of zoning to crumble under the fourteenth amendment's due process clause.⁵ In 1926 the case of *Euclid v. Ambler Realty Company*⁶ settled doubts concerning the constitutionality of *prospective* zoning, but most authorities continued to assume, as before, that the owner's interest in an *existing* use was in the nature of a "vested right", which could not be constitutionally impaired without the payment of compensation.⁷ Subsequent developments have shown that this assumption was not groundless, for in most of the instances where zoning ordinances have provided for the immediate cessation of existing uses the ordinances have, when tested, been held unconstitutional.⁸

Thirdly, it was originally believed that a well-ordered community could be achieved without resorting to retroactive measures. "Zoning," it was said, "looks to the future and seeks to stabilize and protect, not to destroy."⁹ It was thought that a zoned area could endure its nonconforming uses for a few years without suffering any material disruption of orderly development and that such uses could be expected to gradually dwindle and disappear if the municipality employed certain nonretroactive measures. These measures—which are still extensively used—consisted of restrictions on: change of use, expansion, alteration, resumption following abandonment, and restoration following destruction.

Zoning ordinances would commonly forbid a property owner to substitute one nonconforming use for another.¹⁰ Sometimes an exception would be made to permit a change to a use more restrictive in nature. However, the exception was usually conditioned on there being no structural alteration.

The owner of the building housing the nonconforming use was typically prohibited from expanding the structure or from making alterations except for specified purposes or to a specified extent.¹¹

5. Comment, 57 NW. U. L. REV. 323 (1962).

6. 272 U.S. 365 (1926).

7. *Id.* at 326.

8. Note, 44 CORNELL L. Q. 453 (1959). Such ordinances have been rare.

9. *Id.* at 452.

10. Young, *supra* note 1, at 692.

11. Van Ausdall, *Regulation of Nonconforming Uses in Arkansas: Limitation and Termination*, 16 ARK. L. REV. 275 (1962). Sometimes a nonconforming use exists in a conforming structure. In this situation the ordinance would normally allow structural alterations of a kind that did not render the building nonconforming.

ATTACHMENT 7



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BEGINNER'S GUIDE TO LAND USE LAW

**Land Use Law Center
Pace University School of Law
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Enlargement, Alteration, or Extension

Similarly, local laws often prohibit the enlargement, alteration, or extension of a nonconforming use. To allow the expansion of nonconforming uses, which the zoning law wishes to eliminate over time, would defeat that underlying policy. Normally, the law allows the owners of nonconforming land uses to perform property repairs, conduct normal maintenance, and complete internal alterations that do not increase the degree of, or create any new, noncompliance with the locality's zoning regulations.

Courts have upheld prohibitions on the construction of an awning over a courtyard outside a restaurant, on the theory that it would create additional space for patrons to congregate and, in this sense, increase the degree of the nonconforming use. Similarly, the prohibition of the conversion of seasonal bungalows to year-round residences has been upheld as an acceptable method of preventing the enlargement of a nonconforming use.

Where nonconforming business operations are proposed to be expanded, the case law is somewhat less clear. Where roads and structures built on a parcel used as a gravel mining operation exhibited the owner's intention to use the entire parcel, the court held that expanding the mining operation to another location on the property was permitted. The addition of a body-toning operation to the premises containing a nonconforming beauty parlor, however, was considered a prohibited extension of the prior nonconforming use. The court's interest in protecting the owner's demonstrated investment in the gravel mining operation could explain the difference between these cases.

Nonconforming use provisions in zoning laws vary considerably from one locality to another. A municipality particularly intent on eliminating nonconforming uses may prohibit any physical expansion of a building; another may favor property use by allowing, for example, the construction of an additional story because it does not increase the footprint, or lot coverage, of the structure.

Changing to Another Nonconforming Use

The property owner's right to continue a nonconforming use does not allow the owner to change to a materially different use. The important question here is what constitutes a material change. The consequence of a finding that a material change in use has occurred, is to deem the prior nonconforming use abandoned and, therefore, terminated. The property owner could argue that the change of a nonconforming use from one commercial use to another, for example, should not be prohibited by the zoning law. The assertion is that to change a building's occupancy from a dairy plant to a business that rents machinery simply shifts the type of nonconformance from one commercial category to another. It has been held, however, that it is not only a change in the volume of business conducted but in the character of that business that determines whether one business use is a continuation of another. This is true despite the generic similarity between the old and new proposed use.

Occasionally, courts hold that changes from one use to another within the same category of use are permitted. In one case, for example, the owner was allowed to establish a storage business in a building that had been occupied as a nursery and florist enterprise. Determinations in these cases depend on the particular facts involved, the court's interpretation of how material the change will be and the specific language of the local ordinance that regulates changes in nonconforming uses.

Abandonment

A property owner's right to continue a nonconforming use may be lost by abandonment. Local zoning laws frequently stipulate that any discontinuance of the nonconforming use for a specified period constitutes

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Zoning-Abatement of Prior Nonconforming Uses: Nuisance Regulations and Amortization Provisions

David M. Roberts

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David M. Roberts, *Zoning-Abatement of Prior Nonconforming Uses: Nuisance Regulations and Amortization Provisions*, 31 MO. L. REV. (1966)

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erty owner will suffer no material hardship by prohibition of such use.¹⁸ Though the question of when a lawful nonconforming use arises may be difficult in a given set of circumstances, conceptually it comes into being when the property owner has made a substantial use of the property in a nonconforming manner. If the property owner has abandoned or discontinued his nonconforming use,¹⁹ it is within the power of the municipality to forbid a resumption of that use, again on the theory that no financial hardship will be caused beyond that which he already has inflicted on himself. It also has been held that the change from one nonconforming use to another evidences an intent to abandon the former, which thereafter may not again be resumed.²⁰

(2) *Prohibiting or limiting repairs and extensions.* If zoning ordinances are ever to be effective, nonconformities must not be allowed to enlarge or expand. All that is taken away by these regulations is the landowner's ability to make his noncompliance with the zoning laws more flagrant than it already is. On the theory that the property owner already has lost the value of his investment if his nonconforming structure has been destroyed, as by fire, his right to rebuild and repair can validly be denied.²¹ Similarly, substantial structural alterations may be prohibited.²² However, the property owner may make such repairs as are necessary to continue the nonconforming use, as long as they do not tend to enlarge it.²³

The great shortcoming of the restrictions discussed thus far is that they assume the validity of the existence of nonconformities and attempt to deal with them "after the fact." The practical effectiveness of these restrictions is questionable in most cases. Recognizing that it is necessary to devise principles which cut to the heart of the problem instead of merely chipping away at the periph-

18. Young, *supra* note 12, at 686-88.

19. Strictly speaking, the terms "abandonment" and "discontinuance" are not synonymous. The former is held to require an intent specifically to abandon the use, while no such intent is a condition precedent to the operation of an ordinance terminating the nonconforming use after non-use for a specified period of time. Auditorium, Inc. v. Wilmington, 47 Del. (8 Terry) 373, 386, 91 A.2d 528, 534-35 (1952). See 1 ANTIEAU, MUNICIPAL CORPORATION LAW § 7.07 (1956). But a few courts require intent to abandon as an element of even the discontinuation ordinances. 2 RATHKOPF, *op. cit. supra* note 11, §§ 61-14, 61-15.

20. 1 ANTIEAU, *op. cit. supra* note 19, § 7.07; 2 RATHKOPF, *op. cit. supra* note 11, § 61-13. Most zoning ordinances are "cumulative," and the landowner is given the power to change to a lesser nonconforming use. This is a very practical provision, since it tends to bring the nonconformity more into harmony with its surroundings. See Reno, *Non-Euclidian Zoning: The Use of the Floating Zone*, 23 MD. L. REV. 105 (1963).

21. D'Agostino v. Jaguar Realty Co., 22 N.J. Super. 74, 91 A.2d 500 (1952). The complexity of the problem increases when the nonconforming structure is not totally destroyed. Commonly, the applicable ordinance specifies a percentage of destruction, above which repair will not be permitted. 2 RATHKOPF, *op. cit. supra* note 11, §§ 61-14, 61-15.

22. 1 ANTIEAU, *op. cit. supra* note 19, § 7.07.

23. *Ibid.*

ATTACHMENT 9



SCHOOL OF LAW
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Case Western Reserve Law Review

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1961

The Regulation and Removal of Nonconforming Uses

James A. Young

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Recommended Citation

James A. Young, *The Regulation and Removal of Nonconforming Uses*, 12 Cas. W. Res. L. Rev. 681 (1961)
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been destroyed in excess of fifty per cent of value and sixty per cent of physical proportion.⁵¹ Also, the first *Curtiss v. City of Cleveland* case⁵² said that an ordinance which provided that:

. . . Repairs to building . . . after damage thereto shall not exceed 50 per cent of the valuation of such building unless it is changed to a conforming use, constitutes a valid exercise of the police power of the municipality.⁵³

By clear implication, an ordinance which prohibited the restoration of a nonconforming building after less than total destruction would be valid.

Substitution of Nonconforming Uses

Another method of regulating a nonconforming use is by refusing to allow a property owner to substitute one nonconforming use for another. In *State ex rel. Clifton-Highland Company v. City of Lakewood*,⁵⁴ the Ohio Supreme Court held that the city could refuse to permit the property owner to substitute a new nonconforming use for an existing nonconforming use. In the *Stegner* case,⁵⁵ the court upheld such a regulation even though that ordinance prohibited the substitution of a use of greater conformity than the prior nonconforming use.⁵⁶

In view of the above decisions, it would seem to be logically clear that if a property owner substitutes one nonconforming use for another, he has terminated his right to claim *any* nonconforming use.⁵⁷ Such a position is also supported by the general policy relating to nonconforming uses — only uses existing on the effective date of the ordinance are protected, and even these uses are to be terminated as rapidly as possible. In effect, then, the substitution of nonconforming uses is actually a termination of the prior nonconforming use through abandonment.⁵⁸

Protection of Nonconforming Uses

Although disfavored by the law, nonconforming users are not completely without protection. Thus, it is clear that the property and build-

51. *Baird v. Bradley*, 109 Cal. App. 2d 365, 240 P.2d 1016 (1952).

52. 166 Ohio St. 509, 144 N.E.2d 177 (1957).

53. *Id.* at syllabus 1.

54. 124 Ohio St. 399, 178 N.E. 837 (1931).

55. 120 Ohio St. 418, 166 N.E. 226 (1929).

56. The ordinance under consideration in the *Stegner* case did permit the property owner of a nonconforming use to appeal to the zoning board of appeals for an extension or a substitution of his nonconforming use, but not both.

57. Other jurisdictions have so held. See *Dorman v. Baltimore*, 187 Md. 678, 51 A.2d 658 (1947); see also *Town of Darien v. Webb*, 115 Conn. 581, 162 Atl. 690 (1932) (when nonconforming use replaced by other uses, some conforming and others nonconforming, it was held to be an abandonment of the nonconforming use); and *Branch v. Powers*, 210 Ark. 836, 197 S.W.2d 928 (1946) (court would not permit a nonconforming use to be substituted for a conforming use).

58. See note 42 *supra* and accompanying text.

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Understanding nonconformity: Are you 'grandfathered' in?

Properties that qualify as nonconforming often have particular regulations that affect how an owner can make changes to the property. Understanding these regulations is important in order to avoid potential conflict with local government.

Posted on **April 4, 2013** by Ryan Coffey (http://msue.anr.msu.edu/experts/ryan_coffey/), Michigan State University Extension

A nonconforming use, building or parcel is a use of land, a structure, or a parcel that was lawfully in existence prior to the adoption or amendment of the zoning ordinance that made it nonconforming. These are often referred to as *grandfathered in* or *grandparented in*.

In communities across Michigan, there are many homes, businesses, and parcels that have been grandfathered in under nonconforming status, since they were built or established prior to zoning taking effect. If you own a nonconforming use, structure or parcel, there are a few things you should know and consider before planning or making any changes.

Nonconformities are allowed to continue into the future in the same manner and same extent as they existed at the time they became nonconforming. A nonconforming property can be sold and the new owner is permitted to continue its use in the same fashion as the previous owner without any new zoning approvals. However, if a change in a nonconforming use, building, or parcel is proposed, it must conform to ordinance requirements. The ordinance should have established standards and procedures for treatment of nonconformities (the basic objective is gradual elimination of nonconformities). The three most basic types of regulation address enlargement, reconstruction and substitution.

Enlargement, expansion or extension of nonconforming uses is generally restricted because each is usually contrary to the intent of the ordinance. Many communities prohibit any enlargement or expansion of nonconforming uses because that usually entrenches the use, when the ordinance objective is for nonconforming uses to either go away, or even better, changed to conform to the ordinance.

Reconstruction of a nonconforming building is usually prohibited if it is damaged greater than 50 percent. There are various ways of measuring damage and the method selected should be clearly spelled out in the zoning ordinance. This method provides a great opportunity for reconstruction in a manner that conforms to the ordinance and therefore replaces a nonconforming building with a conforming one.

Substitution of one nonconforming use for another is usually allowed if the change is *more conforming* or *no less conforming*, allowing for the property to move closer to conformity over time with district requirements.

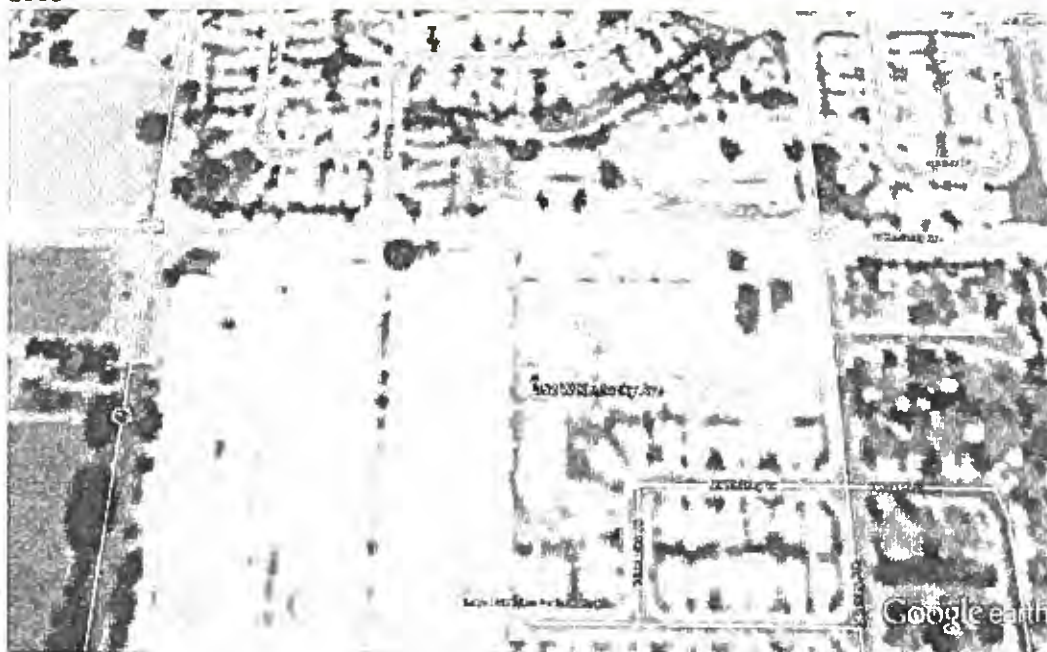
Most nonconforming provisions are administered by your local zoning administrator. Ordinances, however, vary dramatically with regard to nonconforming requirements. Consequently, it is important to become familiar with the unique requirements in your zoning

ATTACHMENT 11

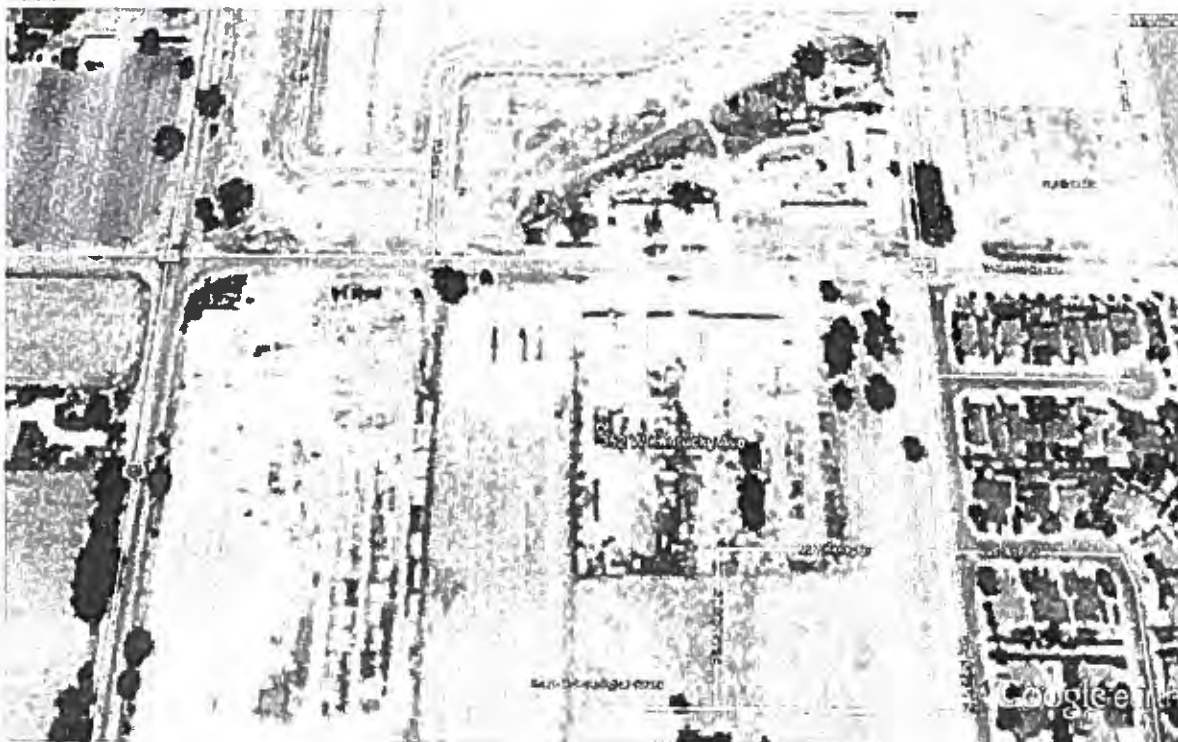
From: Discovery Search Mailbox
 To: Discovery Search Mailbox
 Date: 10/18/2016 3:45:49 PM
 Subject: FW: 352 and 360 W. Kentucky

I couldn't find any historical photos but I did find the images below. The 1993 image definitely shows that the rear half of the site was being used for what looks like trucks and various materials. The next latest image is from 2003 and from 2003 until now it looks like the rear portion of the property has not been used for any sort of material/truck storage.

2003



1993



Jeff Ballantine, Associate Planner
 City of Woodland, Community Development Department
 300 First Street, Woodland, CA 95695
 (530) 661-5820; (530) 661-5814 (direct)
jeff.ballantine@cityofwoodland.org

ATTACHMENT 12

Linda Schaupp

From: Cindy Norris
Sent: Friday, October 16, 2015 4:56 PM
To: Paul Siegel; Linda Schaupp
Cc: James Carr; Pam Lial; Erika Bumgardner
Subject: RE: 352 and 360 Kentucky

I did not find any files in the basement for 352-360 W. Kentucky. I have files for 350-342 W. Kentucky which appears to be a different owner, but a similar situation.

The site is zoned R-1

The industrial uses are non-conforming.

According to our records there has been no active or "legitimate" use on the site in question since 2009.

We would not allow any new industrial use that would create a nuisance or utilize significant outdoor activity or storage.

This is a tough site because it was originally occupied by industrial uses in the county. In the past on other sites we have been willing to work with adjacent property owners as long as they did not create hazard or nuisance situations for the adjacent residential.

So it seems that the first step is to find out what is going on and if a new business has recently occupied the site. According to the code, if it has been vacant for a year, they cannot re-occupy with a non-conforming use. We need to evaluate what types of activities they have going on. Based on a nuisance complaint it seems that an incompatible use has occupied the site.

I will be happy to talk with you about this further
Cindy

From: Paul Siegel
Sent: Wednesday, October 14, 2015 1:50 PM
To: Cindy Norris
Cc: James Carr; Pam Lial
Subject: 352 and 360 Kentucky

Cindy,

Code Enforcement needs assistance with this issue. Please read the email from Mark Dennis. Mark lives on Mr. Whitney and his house backs onto the vacant lot in question. Please provide guidance and let us know how we can assist you.

Paul Siegel
Chief Building Official
City of Woodland
300 First Street
Woodland, CA 95695
530.661.5819

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WOODLAND DENYING THE APPEAL OF THE PLANNING
COMMISSION'S DECEMBER 15, 2016 DECISION UPHOLDING THE
CITY OF WOODLAND ZONING ADMINISTRATOR'S
INTERPRETATION REGARDING THE LEGAL NONCONFORMING
INDUSTRIAL USE ON 1.213 ACRES AT 352 AND 360 WEST
KENTUCKY AVENUE IN THE SINGLE FAMILY RESIDENTIAL ZONE**

WHEREAS, on December 15, 2016, the Planning Commission of the City of Woodland ("Planning Commission") held a duly noticed public hearing to review and consider an appeal filed by Lewis and Nicole Dennis of a Zoning Administrator interpretation regarding the legal nonconforming industrial use on 1.213 acres located at 352 and 360 West Kentucky Avenue, with an Assessor's Parcel Number of APN 064-010-002 (the "Property") in the Single Family Residential Zone of the City of Woodland; and

WHEREAS, all persons wishing to testify in connection with the appeal of the Zoning Administrator interpretation were heard at the December 15, 2016 Planning Commission meeting, and the Planning Commission comprehensively reviewed all relevant information contained in the record; and

WHEREAS, at the conclusion of the Planning Commission's public hearing, the Planning Commission voted, by a vote of five to one, to deny the appeal of Mr. and Mrs. Dennis; and

WHEREAS, the Zoning Interpretation involves the permissible uses on the Property due to its history of having industrial uses on it, its zoning as Single Family Residential, and the conflicts that have arisen from being located adjacent to residential units; and

WHEREAS, the City annexed the Property on April 16, 1991, and pre-zoned the Property as Single Family Residential, causing the then existing industrial use of the Property to become a legal nonconforming use, which means that the industrial use could continue but that the use did not conform to the City's Zoning Code; and

WHEREAS, several industrial businesses have used the Property since it was annexed to the City in 1991, and the Property has never been used for a residential use; and

WHEREAS, since its annexation to the City, the City's Community Development Department from time to time placed conditions on some of the business licenses for some of the businesses that operated on the Property; and

WHEREAS, the City does not have land use authority to place conditions on a business license, but the Zoning Code does have performance standards or other requirements that would authorize some of the uses placed on the business licenses; and

WHEREAS, the Property is currently vacant, and the City cannot at this time make a specific determination regarding any new or modified use of the Property as none has yet been proposed; and

WHEREAS, on September 20, 2016, the Zoning Administrator issued a zoning interpretation that the existing buildings and land at the Property can be used for industrial uses in their entirety as long as such use is consistent with or less intense than the existing industrial use and such use complies with all City requirements and polices, including all Industrial Performance Standards and nonconforming use requirements; and

WHEREAS, the City provided the Zoning Interpretation to the Property owner as well as the adjacent property owners, including Lewis and Nicole Dennis; and

WHEREAS, on September 26, 2016, Lewis and Nicole Dennis filed an appeal of the Zoning Administrator interpretation, pursuant to Section 25-31-40 of the City's Municipal Code, which led to the Planning Commission public hearing on December 15, 2016; and

WHEREAS, the Planning Commission denied the appeal, and Lewis and Nicole Dennis subsequently timely appealed the Planning Commission decision; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA"), the Zoning Interpretation is categorically exempt from further environmental review pursuant to CEQA Regulation 15378; and

WHEREAS, proper notice of this public hearing was given in all respects as required by law; and

WHEREAS, on February 21, 2017, the City Council of the City of Woodland ("City Council") held a duly noticed public hearing at which all persons wishing to testify in connection with the appeal of the Planning Commission decision had the opportunity to be, and were heard, and the Zoning Administrator interpretation and all other relevant information contained in the record were comprehensively reviewed by the City Council; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Woodland:

1. After a review of the record, including consideration of all written and oral evidence presented to the City Council and following the holding of a public hearing on the appeal from the Planning Commission's decision by Lewis and Nicole Dennis, the City Council

hereby concludes that the Zoning Administrator's Interpretation correctly interprets the City of Woodland Zoning Code in light of the past history of the Property and uses of the Property but does not render any opinion regarding any future use of the Property.

2. The appeal of Lewis and Nicole Dennis of the Planning Commission decision upholding the Zoning Administrator's interpretation regarding the legal nonconforming use on 1.213 acres at 352 and 360 West Kentucky Avenue in the Single Family Residential Zone is denied.

PASSED AND ADOPTED by the City Council on February 21, 2017, by the following vote

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Angel Barajas, Mayor

ATTEST:

APPROVED AS TO FORM:

Ana B. Gonzalez, City Clerk

Kara K. Ueda, City Attorney

Legislation Text

10.

File #: 17-0313, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Approve Resolution for Exception to the CalPERS 180-day Wait Period for Retired Annuitant -Police Chief.

Recommendation for Action: Staff recommends that the City approve the Resolution No. _____, for exception to the CalPERS 180-day Wait Period for Retired Annuitant -Police Chief.

Staff Contact

Sheila McShane, Human Resources Manager, Sheila.mcshane@cityofwoodland.org 530 661 5807

Background

Public Safety Chief, Daniel A. Bellini is retiring effective February 28, 2017 following 30 years of service with the City, having been appointed as Police Chief in 2010 and Public Safety Chief in 2012. The City is currently recruiting for a new Police Chief, with an anticipated start date of no later than June 1, 2017. Chief Bellini has agreed to continue to serve as Police Chief, on an interim basis, pending completion of the recruitment process for a new Police Chief.

CalPERS rules provide that a contracting public agency may request a waiver of its 180-day waiting period for retired annuitants, limited to specific executive management positions, including public safety. This report seeks Council action on a resolution, and attachments, as required by CalPERS in order to allow the City to employ Chief Bellini as a retired annuitant for this specific purpose. Upon completion of the current recruitment process and the hiring of a new Police Chief, the agreement with Chief Bellini will automatically terminate.

In addition to the required resolution seeking a waiver of the 180-day waiting period for retired annuitants, this report also includes, via attachments, the job description for the Police Chief position as well as a copy of the executed employment agreement between Daniel A. Bellini and the City of Woodland.

Conclusion

Approve the Resolution Number _____ requesting an exception to the 180- day wait period for retired annuitant to serve as Police Chief, pursuant to CalPERS requirements.

Prepared by: Sheila McShane
Human Resources Manager

A handwritten signature in black ink, appearing to read "Paul Navazio". The signature is fluid and cursive, with the first name "Paul" and last name "Navazio" clearly distinguishable.

Paul Navazio, City Manager

Attachments:
Employment Agreement
Job Description Police Chief
Resolution

AGREEMENT FOR TEMPORARY EMPLOYMENT

THIS AGREEMENT is between the CITY OF WOODLAND, State of California, a municipal corporation ("City"), and Daniel A. Bellini, an individual ("Employee") (collectively, the "Parties") and is effective at 12:00 a.m. on March 1, 2017.

Recitals

WHEREAS, as of 12:00am on March 1, 2017, the City will have a vacancy at the position of Police Chief, a regular position for which the City is conducting a recruitment for a permanent appointment; of a Police Chief and

WHEREAS, the City has an immediate need for an employee to temporarily perform the position of Chief of Police, a position involving specialized skills and training and which is critically necessary to the on-going duties and functions of the City's Police Department;

WHEREAS, Employee is competent and qualified to perform the services required by this Agreement, and City wishes to have Employee perform the Chief of Police duties on an interim basis; and

WHEREAS, Employee's employment is authorized by Government Code section 21221(h), which permits the City to appoint a CalPERS retired annuitant to a vacant position requiring specialized skills during recruitment for a permanent replacement.

NOW, THEREFORE, the parties do mutually agree as follows:

Agreement

1. Appointment and Scope of Services: Pursuant to this Agreement, Employee is appointed as interim Chief of Police, and shall temporarily perform the functions of this position, which is a position involving highly-specialized and critically-needed skills set forth in the attached job description, in the Woodland Municipal Code and as provided by law. Such employment is "at will," subject to the terms of this Agreement, and Employee shall perform said duties at the pleasure of and under the direct supervision of the City Manager.

2. Compensation and Work Schedule:

Rate of Pay: Employee shall be paid at the rate of \$89.37 per hour. The City has confirmed that this rate is not less than the minimum, nor in excess of the maximum, paid by the City to other employees performing comparable duties (divided by 173.333 to equal an hourly rate) as listed on the City's publicly-available pay schedule and publicly-available employment agreements. Payments will be made on regularly scheduled City payroll dates, and shall be subject to all applicable payroll taxes and withholdings. Such compensation shall be the sole compensation for Employee's services under this Agreement.

Work Schedule and 960-hour Limitation: Employee is expected to devote necessary time, within and outside normal business hours, to the business of the City. Pursuant to Government Code section 21221(h) and section 7522.56(d), however, Employee is allowed to work a maximum of 960 hours per fiscal year for all public employers that contract with CalPERS for retirement benefits. The City retains the right to designate, reduce, change, or amend the number of hours assigned to Employee consistent with the City's workload and other needs. If Employee's annual hours are approaching 960, then the City retains the right to summarily suspend Employee's duties under this Agreement and to reassign any scheduled hours, as needed, to ensure that Employee does not exceed the maximum hours allowed by this Agreement. Employee will be responsible for keeping track of the number of hours worked on a daily time sheet form provided by the City and submitting them at least every month.

The position is a temporary, hourly assignment which is generally not expected to exceed 40 hours per week. The City, through the City Manager, will assign Employee hours to work. Due to the nature of the position, it is understood that the work day and work week hours may vary, however Employee shall not work overtime (i.e. in excess of 40 hours per week) without express permission from the City Manager.

3. Employment Status:

A. Benefits: Other than the compensation described above in Section 2, Employee will receive no other benefits, incentives, compensation in lieu of benefits, or any other form of compensation. Employee understands and agrees that he is not, and will not be, eligible to receive any benefits from the City, including any City group plan for hospital, surgical, or medical insurance, any City retirement program, or any paid holidays, vacation, sick leave, or other leave, with or without pay, or any other job benefits available to an employee in the regular service of the City, except for Worker's Compensation Insurance coverage or similar benefits required by law.

B. No Membership in Bargaining Unit: Employee understands that he is not a member of any bargaining unit and is not covered by the terms of any Memorandum of Understanding with any represented or unrepresented group of City employees.

C. No Property Right in Employment: Employee understands and agrees that the terms of his employment are governed only by this Agreement and that no right of regular employment for any specific term is created by this Agreement. Employee further understands that he acquires no property interest in his employment by virtue of this agreement, that the employment is "at will" as defined by the laws of the State of California (meaning that he can be terminated at any time for any reason or for no reason), and that he is not entitled to any pre- or post-deprivation administrative hearing or other due process upon termination or any disciplinary action except as otherwise provided by law.

D. Employment of a Retiree: Employee understands that CalPERS retired annuitants may be employed by a CalPERS public agency employer, by temporary appointment to a position not to exceed 960 hours in any fiscal year for all such employers; either (1) during an emergency to prevent stoppage of public business or (2) because the retired

employee has skills needed in performing the work of limited duration. As of the time of entering this Agreement, Employee represents that he is not performing services for any other CalPERS public agency employer. In the event Employee begins providing service to any other CalPERS public agency employer during the term of this Agreement, Employee must immediately notify the City of accepting such employment and disclose on a periodic basis (at a frequency determined by the City) the number of hours Employee is performing for that other public agency to ensure that the maximum number of hours is not exceeded.

4. Representation of Employee: Employee represents that he is properly trained and certified to perform the duties required of the position and this Agreement.
5. Effective Date and Term of Agreement: This Agreement shall be effective on March 1, 2017 ("Effective Date"), and unless terminated earlier, shall terminate automatically at midnight on June 1, 2017. Employment is temporary, at-will and may be terminated with or without cause and with or without notice at any time by the Employee or the City. Employee is not eligible for any severance payment or benefit relating to or arising out of the termination of this Agreement.
6. Non-Assignment of Agreement: This Agreement is intended to secure the individual services of the Employee and is not assignable or transferable by employee to any third party.
7. Governing Law/Venue: This Agreement shall be interpreted according to the laws of the State of California. Venue for any action or proceeding regarding this contract shall be in Yolo County.
8. Enforceability: If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
9. Conflict of Interest: Employee agrees that during the term of this Agreement, he will not maintain any financial interest or engage in any other contract employment, occupation, work, endeavor or association, whether compensated or not, that would in any way conflict with, or impair Employee's ability to perform the duties described in this Agreement. Any work performed for the City outside the terms of this Agreement must be approved in advance in writing by the City Manager. Employee agrees to disclose whether he is performing work for any other CalPERS public agency employer as required by section 3.D. of this Agreement.
10. Entire Agreement and Modification: This Agreement constitutes the entire understanding of the parties hereto. This Agreement supersedes any previous contracts, agreements, negotiations or understandings, whether written or oral, between the parties. Employee shall be entitled to no other compensation or benefits than those specified herein, and Employee acknowledges that no representation, inducements or promises not contained in this Agreement have been made to Employee to induce Employee to enter into this Agreement.

No changes, amendments, or alterations hereto shall be effective unless in writing and signed by both parties. Employee understands that no oral modification of this Agreement made by any officer, agent, or employee of the City is effective. Employee specifically acknowledges that in entering into and executing this Agreement, he relies solely upon the provisions contained herein and no others.

11. Support Services and Equipment: Employee shall be provided office space and the equipment needed to perform his duties and sufficient to fulfill obligations under this Agreement, as determined by the City Manager, at no cost to employee. Such equipment shall include a City-owned duty weapon, City police-equipped vehicle, City issued ballistic vest, and City issued technology. In accordance with Government Code Section 21221(h), personal use of such equipment is not permitted.
12. Reimbursement for Expenses: Employee shall be reimbursed by City in accordance with standard City travel policy (as well as federal and state law) for all authorized and necessary travel undertaken by Employee in performance of services pursuant to this Agreement. Employee shall document and claim said reimbursement for such travel in the manner and forms required by the City. Other than as specifically provided herein, Employee shall receive no other compensation or reimbursements for expenses incurred by him in performance of this Agreement.
13. Notices: All notices permitted or required under this Agreement shall be given to the respective parties by hand-delivery or by mail at the following address, or at such other address as the respective parties may provide in writing for this purpose, by deposit in the U.S. Mail, postage pre-paid, addressed as follows:

CITY: City of Woodland 300 First Street Woodland, CA 95695 Attn: City Manager	EMPLOYEE: Daniel A. Bellini 17085 County Road 96B Woodland, CA 95695
--	--
14. Indemnification: In accordance with and subject to the limitations of the California Government Claims Act and California Labor Code, the City shall defend, save harmless and indemnify Employee against any tort, professional liability, claim or demand or other legal action, arising out of an alleged act or omission occurring in the performance of Employee's services as Police Chief, except that this provision shall not apply with respect to any intentional tort or crime committed by Employee, or any actions outside the course and scope of his employment as Police Chief.
15. No Presumption of Drafter: The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the Parties, and this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any Party to be the drafter of this Agreement and, therefore, no

presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

16. Assistance of Counsel: Each party to this Agreement warrants to the other party that the party has either had the assistance of counsel in negotiation for, and preparation of, this Agreement or could have had such assistance and voluntarily declined to obtain such assistance.

Dated: 2/16/17

EMPLOYEE:



Dated: 2/16/17

CITY:


_____, CITY MANAGER



POLICE CHIEF

DEFINITION

To plan, organize and direct the activities of the Police Department-

SUPERVISION RECEIVED AND EXERCISED

General direction is provided by the City Manager. Exercises direct and indirect supervision over sworn and non-sworn staff.

EXAMPLES OF DUTIES

The following are typical illustrations of duties encompassed by the job class, not an all inclusive or limiting list:

ESSENTIAL JOB FUNCTIONS

Plan, organize and direct the activities of Police Department in the maintenance of law and order within city limits.

In consultation with the City Manager and City Council, assure that the department has adequate resources to fulfill its mission through proper budget planning and execution, personnel selection, and training and development.

Ensure compliance with legislative, regulatory and judicial mandates, regulations and professional standards.

Prepare and present reports to Council; provide technical and professional advice and recommendations related to levels of service and other related matters; coordinates special studies on a variety of complex problems which require a high degree of technical competence and political awareness.

Assure that positive public relations and effective working relationships are maintained by the Department with the general public, other governmental agencies, the City Council, City departments, and the media.

Review work methods and interdepartmental procedures to ensure effective work flow and compliance with established policies and procedures.

Promote and maintain safety in the work place.

Confer with citizens and City officials on law enforcement issues and problems, and assist in the development of lawful and responsive processes, procedures and action steps.

Represent the department before the City Council, community, outside agencies and at professional meetings.

Maintains a confidential system of police communications, reports and recordkeeping.

Serve as Acting City Manager as assigned.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Comprehensive knowledge of police administration, including budgeting, investigations, juvenile delinquency, record keeping, crime prevention, and information systems.

Organizational and management practices as applied to the analysis and evaluation of programs, policies, and operational needs.

Laws, ordinances, and regulations affecting the work of the Department, including laws affecting apprehension, arrest, and prosecution of persons committing misdemeanors and felonies, rules of evidence pertaining to search and seizure and the preservation and presentation of evidence in criminal cases.

Operation and programs of a personal computer.

Skills to:

Analyze feasibility of projects and proposed programs; prepare complete and accurate reports.

Persuade and motivate individuals and groups toward the successful accomplishment of shared goals and objectives.

Delegate responsibility; schedule and program work on a long-term basis.

Communicate clearly and concisely, both orally and in writing.

Efficiently operate a personal computer.

Establish and maintain effective work relationships with those contacted in the performance of required duties.

Ability to:

Develop and implement police services which will meet the changing needs of the community; use financial, technological and staff resources effectively for the planning, programming and promoting of services; set priorities, work well under pressure and meet deadlines.

Deal patiently and tactfully with other department directors, elected officials, outside agencies, citizens, and the press.

Act calmly and quickly in emergency situations and make effective decisions in such cases.

Interpret, analyze, apply and articulate relevant laws, rules, contracts, ordinances, regulations and guidelines.

Meet the physical requirements necessary to safely and effectively perform the assigned duties.

Education and Experience

Any combination of education and experience that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Education:

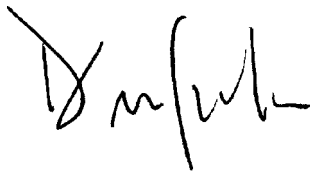
Equivalent to a Bachelor's Degree from an accredited college or university with major work in public/business administration, criminal justice or related field is required. A Master's Degree in business administration, criminal justice or related field is preferred.

Experience:

Ten years of increasingly responsible experience in all major phases of municipal police work; at least three years of responsible administrative/management experience in a municipal police department.

License or Certificate

Possession of a valid California Driver's License; possession of a POST Management Certificate.



Human Resources

Council Action: April 7, 1998

Resolution No. _____

**RESOLUTION FOR EXCEPTION TO THE 180-DAY WAIT PERIOD
GC sections 7522.56 & 21221(h)**

WHEREAS, in compliance with Government Code section 7522.56 the City Council must provide CalPERS this certification resolution when hiring a retiree before 180 days has passed since his or her retirement date; and

WHEREAS, Dan Bellini retired from the City of Woodland in the position Public Safety Chief effective February 28, 2017; and

WHEREAS, section 7522.56 requires that post-retirement employment commence no earlier than 180 days after the retirement date, which is July 31, 2017 without this certification resolution; and

WHEREAS, section 7522.56 provides that this exception to the 180-day wait period shall not apply if the retiree accepts any retirement-related incentive; and

WHEREAS, the City Council of the City of Woodland certify that Dan Bellini has not and will not receive a Golden Hand shake or any other retirement-related incentive; and

WHEREAS, the City Council hereby appoints Dan Bellini as an interim appointment retired annuitant to the vacant position of Police Chief for the City of Woodland under Government Code section 21221(h), effective March 1, 2017; and

WHEREAS, an appointment under Government Code section 21221(h) requires an active, publicly posted recruitment for a permanent replacement; and

WHEREAS, the current status of this recruitment is ongoing and should be completed by April 30, 2017. The Public Safety Chief's position is being split into two positions, a Fire Chief and a Police Chief. The Fire Chief has been selected, and the City is currently recruiting for a Police Chief with an anticipated start date of June 1, 2017; and

WHEREAS, this section 21221(h) appointment shall only be made once and therefore will end on the actual date appointment of the Police Chief; and

WHEREAS, the entire employment agreement, contract or appointment document between Dan Bellini and the City of Woodland has been reviewed by this body and is attached herein; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the employment shall be limited to 960 hours per fiscal year; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum base salary for this position is \$15,490.75 and the hourly equivalent is \$89.37 and the minimum base salary for this position is \$11,874.40 and the hourly equivalent is \$68.51; and

WHEREAS, the hourly rate paid to Dan Bellini will be \$89.37; and

WHEREAS, Dan Bellini has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to this hourly pay rate.

THEREFORE, BE IT RESOLVED THAT the City Council hereby certifies the nature of the appointment of Dan Bellini as described herein and detailed in the attached employment agreement and that this appointment is necessary to fill the critically needed position of Public Safety Chief for the City of Woodland by March 1, 2017 because the City of Woodland is actively engaged in the process to replace the Public Safety Chief with a Fire Chief and a Police Chief. These are critical positions and require input from various stakeholders. The City is has finalized its selection of a new Fire Chief, and is currently in the process of recruiting for a Police Chief with an anticipated start date of June 1, 2017, and;

The City is seeking to have the retiring Public Safety Chief continue to oversee the Police Department until such time as a new Police Chief is hired.

PASSED AND ADOPTED by the City Council this 17th day of February, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Angel Barajas, Mayor

ATTEST:

APPROVED AS TO FORM:

Ana B. Gonzalez, City Clerk

Kara K. Ueda, City Attorney

Legislation Text

11.

File #: 17-195, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Award Construction Contract for Kentucky Avenue Widening and Complete Streets Project, CIP 04-07

Recommendation for Action: Staff recommends that the City Council:

1. Adopt Resolution No. _____, to award the construction contract to A. Teichert & Son, Inc. in the amount of \$8,763,102.00 for the base bid plus Deductive Alternates C, D, E, and I for the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07, authorize a contract contingency up to 15%, and authorize the City Manager to execute the construction contract and change orders; and
2. Authorize the reallocation of \$415,000 of Water Enterprise Funds from the FY18 Budget for the Water System Leak Detection and Repairs Project, CIP 09-23, to the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07, to fund costs associated with water utility improvements that are not federally reimbursable; and
3. Appropriate \$530,000 of additional Measure E Funds to the Project; and
4. Approve a consultant services agreement for construction management, inspection, and testing services with Unico Engineering, Inc., in the amount of \$1,337,320.12 for the Project and authorize the City Manager to execute the agreement and amendments as necessary up to 15% of the agreement amount.

Staff ContactDiana Ayón, Senior Associate Civil Engineer, (530) 661-5967, diana.ayon@cityofwoodland.org**Fiscal Impact**

The approved Capital Budget includes \$16 million in funding for the Kentucky Avenue Project consisting of \$13 million SACOG grant funding, \$2.1 million Measure E, \$560,000 Water Enterprise and \$300,000 Sewer Enterprise funding.

With the recommended actions to reallocate \$415,000 of Water Enterprise Funds and appropriate \$530,000 of additional Measure E Funds, the total project budget will increase to \$16.95 million. The additional funding for water is included in the 5-year Capital Improvement Program. A portion of the funding for CIP 09-23 (the annual repair and replacement project) will be reallocated to the Kentucky project. Staff has reviewed the current Measure E Spending Plan including updated revenue projections, actual project expenditures, and un-programmed fund balance to determine availability of the additional MSE appropriation. There is sufficient revenue available to allocate the additional \$530,000 of MSE funding.

The difference between the total project budget and the amounts for the construction contract and consultant services contract is the amount budgeted for design, right-of-way, railroad crossing construction, and

construction contingency.

Background

The Kentucky Avenue project will reconstruct the pavement and widen Kentucky Avenue to 4-lanes from East to College streets. The project will also reconstruct the roadway and make operational improvements from College to West streets resulting in a 2-lane roadway with a center turn lane. The project will transform this section of Kentucky Avenue into a complete street providing improved bicycle, pedestrian and vehicle facilities to ensure the corridor meets the needs of all modes of travel.

The project's design contract was authorized by the City Council on February 5, 2013 to PSOMAS. Council approved the Mitigated Negative Declaration on October 21, 2014 and Caltrans approved the NEPA on January 21, 2015.

Discussion

Construction Contract

The notice inviting bids was published in late December 2016, with an Engineer's estimate of probable construction cost of \$7.5 - 9 million.

On February 9, 2017, the City received 3 bids for construction of the project. Staff has performed due diligence in reviewing the bids and verifying that bids comply with the technical submittal requirements. The City received the following bids:

Bidder's Name	Base Bid Amount	Deductive Alternates A - J
A Teichert & Son, Inc.	\$8,928,000.00	\$8,681,727.75
Lamon Construction Co., Inc.	\$8,989,608.33	\$8,761,614.14
Martin Brothers Construction	\$13,838,315.90	\$13,557,424.20

A Teichert & Son, Inc. has been determined to be the lowest responsible, responsive bidder, which per the bidding documents, was determined by the base bid amount.

The project was bid with the following ten deductive alternates (listed with the low bidder's price for the alternate):

- Deductive Alternate A: Omit Microsurfacing & Striping Near West Street (-\$6,806.25)
- Deductive Alternate B: Omit Sidewalk Adjacent 1000 Kentucky (-\$21,268.00)
- Deductive Alternate C: Reduce Landscape Planting Density (-\$15,035.00)
- Deductive Alternate D: Mulch Alternative (-\$9,901.00)
- Deductive Alternate E: Tree Size (-\$87,280.00)
- Deductive Alternate F: Omit Green Bike Lane System (-\$36,500.00)
- Deductive Alternate G: Kentucky/East Signal Modification - Pole C (-\$6,500.00)
- Deductive Alternate H: Copper SIC in Lieu of Fiber Optic at Signals (-\$4,500.00)
- Deductive Alternate I: Omit Springlake Pole (-\$52,682.00)

- Deductive Alternate J: Omit Spare 2" Conduit (-\$5,800.00)

Deductive alternates were created to allow flexibility in award of the project to ensure best use of available funding. Staff recommends awarding deductive alternates C, D, E and I.

Awarding alternatives C, D and E results in changes to landscape work, plant size and planting density. This will decrease the construction contract by \$164,898, without degrading the quality of the project.

Awarding alternative I means the pedestrian lighting on the south side between College and East streets will not be installed. This lighting was originally included in the project, in addition to street lighting, where sidewalk was separated by a large planter. When evaluating the bid price for this lighting and the potentially negative impact on the residences who will have these lights directly in front of their homes, it was determined to omit the lights from the contract award.

Kentucky Avenue between West and College currently has lights on the south side of the road every 300-400 feet. The project will install lights on the south side of the road with an approximate spacing of 150 feet. Between College and East streets, there are currently only two City owned streetlights near Palm Avenue; the project will install streetlights on both sides of the street with an approximate spacing of 200 feet. Based upon this significant increase in overall street lighting, the added pedestrian lighting was deemed an unnecessary expense.

Staff is requesting that Council approve the construction contract with A Teichert & Son, Inc. with contingency up to 15% to account for unforeseen conditions due to the age and prior history of the roadway.

Consultant Contract

For construction management, specialized inspection and material testing services for the project, staff completed a quality based selection process and selected Unico Engineering to provide these services based upon their experience and qualifications. As part of the standard procedure for federally funded projects, Caltrans is currently performing an audit on the consultant contract with Unico, the expected audit clearance date is February 27.

Staff is requesting that Council approve a consultant services agreement with Unico pending Caltrans' audit review and approval a contingency up to 15% for management of additional construction contract contingency work.

Staff anticipates construction starting in April beginning with utility relocation through summer 2017 followed by active roadway construction until project completion in winter 2018.

Conclusion

Staff recommends that the City Council:

1. Adopt Resolution No. _____, to award the construction contract to A. Teichert & Son, Inc. in the amount of \$8,763,102.00 for the base bid plus Deductive Alternates C, D, E, and I for the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07, authorize a contract contingency up to 15%, and authorize the City Manager to execute the construction contract and change orders; and
2. Authorize the reallocation of \$415,000 of Water Enterprise Funds from the FY18 Budget for the Water

System Leak Detection and Repairs Project, CIP 09-23, to the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07, to fund costs associated with water utility improvements that are not federally reimbursable; and

3. Appropriate \$530,000 of additional Measure E Funds to the Project; and
4. Approve a consultant services agreement for construction management, inspection, and testing services with Unico Engineering, Inc., in the amount of \$1,337,320.12 for the Project and authorize the City Manager to execute the agreement and amendments as necessary up to 15% of the agreement amount.

Prepared by: Diana Ayón, Senior Associate Civil Engineer

Reviewed by: Brent Meyer, City Engineer
Ken Hiatt, Assistant City Manager - Community and Economic Development



Paul Navazio, City Manager

ATTACHMENTS:

Attachment A - Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND
REALLOCATING \$415,000 OF WATER ENTERPRISE FUNDING, APPROPRIATING
\$530,000 OF ADDITIONAL MEASURE E FUNDING AND APPROVING A
CONSTRUCTION CONTRACT AND CONSULTANT AGREEMENT FOR THE
KENTUCKY AVENUE WIDENING AND COMPLETE STREETS PROJECT, CIP 04-07**

WHEREAS, the City of Woodland has funding in the Capital Budget for the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07 (the “Project”), to improve the Kentucky Avenue corridor between East and West streets; and

WHEREAS, the City Council wishes to reallocate to the Project, \$415,000 of Water Enterprise Funds from the Water System Leak Detection and Repairs, CIP 09-23, to fund costs associated with water improvements that are not federally reimbursable; and

WHEREAS, the City Council wishes to appropriate \$530,000 of additional Measure E funding to the Project and bring the total project budget to \$16.95 million; and

WHEREAS, the City opened bids on February 9, 2017, and of the 3 received bids, the lowest responsive, responsible bidder was A. Teichert & Son, Inc. determined by their base bid amount of \$8,928,000.00; and

WHEREAS, the City wishes to award the construction contract to A Teichert & Son, Inc. for the base bid plus Deductive Alternates C, D, E, and I in the amount of \$8,763,102.00 and authorize a contingency up to 15%; and

WHEREAS, the City desires to have the construction management, inspection and testing performed by an experienced consultant that was selected by a qualifications based selection process; and

WHEREAS, the City wishes to approve the consultant services agreement for construction management, inspection and testing services with Unico Engineering, Inc. in the amount of \$1,337,320.12 and authorize a contingency up to 15%; and

WHEREAS, the City Council wishes to approve the above mentioned contracts and authorize their execution through the adoption of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND AS FOLLOWS:

Section 1. The City Council hereby approves the construction contract with A. Teichert & Son, Inc. in the amount of \$8,763,102.00. The City Manager is hereby authorized and directed to execute the contract and change orders up to 15% of the original contract amount, subject to City Attorney approval. The City Attorney is hereby authorized to make clarifying and conforming changes so long as the total dollar amount authorized herein does not change.

Section 2. The City Council hereby authorizes the reallocation of \$415,000 of Water Enterprise Funds from the Fiscal Year 2018 budget of the Water System Leak Detection and Repairs, CIP 09-23, to the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07.

Section 3. The City Council hereby authorizes the appropriation of \$530,000 of additional Measure E funding to the Kentucky Avenue Widening and Complete Streets Project, CIP 04-07.

Section 4. The City Council hereby approves the consultant services agreement with Unico Engineering, Inc. in the amount of \$1,337,320.12. The City Manager is hereby authorized and directed to execute the agreement and amendments up to 15% of the original agreement amount, subject to City Attorney approval. The City Attorney is hereby authorized to make clarifying and confirming changes so long as the total dollar amount authorized in the Agreement does not change.

Section 5. Copies of the above mentioned contracts are available and on file in the City Clerk's office, and are incorporated herein by reference and made a part of this Resolution.

PASSED AND ADOPTED this _____ day of _____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Angel Barajas, Mayor

ATTEST:

Ana B. Gonzalez, City Clerk

Legislation Text

12.

File #: 17-315, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Fiscal Year 2016/17 Mid-Year Budget Update

Recommendation for Action: Information purposes only; no action required.**Staff Contact**

Evis Morales, Senior Management Analyst - (530) 661-5923

Fiscal Impact

This informational item presents the City-wide revenue and expenditure results through the first six (6) months of fiscal year 2016/17, as well as updated General Fund projections through the end of the fiscal year.

Report in Brief

The following represents selected highlights from the attached mid-year budget report:

- All Funds revenues through the second quarter of 2016/17 are \$44.95 million, or 26% of the amended budget. General Fund revenues are \$10.08 million or 22% of the amended budget, with many of the City's major tax revenues yet to be collected.
- Through the second quarter of FY2016/17, All Funds expenditures (not including encumbrances) totaled \$67.16 million, or 32% of the amended budget. General Fund expenditures totaled \$20.26 million, or 42% of the amended budget.
- General Fund year-to-date actuals show \$10.07 million of \$46.36 in revenues received; however, staff is projecting that revenues exceed the amended budget by \$105,249 by fiscal year end.
- Through the second quarter of FY2016/17, General Fund expenditures total \$20.26 million, or 42% of the adjusted budget and staff is projecting that overall expenditures will be under-budget by \$175,709.
- General Fund expenditures by Department for the first six months of operations are \$20.26 million, or 42% of the amended budget. Although year-to-date actuals show all departments are spending in line with their General Fund budgets through the first six months of operations, FY2016/17 end-of-year projections indicate expected savings in most department budgets.
- Based on the information presented herein, the General Fund is projected to be \$13.22 million or 31.7% of revenue. This compares favorably with the City Council's reserve policy of 20% and exceeds the \$10.66

million (25.9%) fund balance expected with the adoption of the FY2016/17 budget.

Discussion

This report summarizes the All Funds revenue and expenditure results for the first half of fiscal year 2016/17. In addition, the report highlights revenues and expenditures in the General Fund and updated projections in the General Fund results through the end of the fiscal year.

Based on revenue results through the first six months of fiscal year 2016/17, the City's General Fund revenue estimates indicate an increase over amended budget by \$105,249. This variance is primarily due to better than expected Property Tax, Other Taxes, Licenses and Permits, Motor Vehicle In Lieu, Intergovernmental, and Miscellaneous revenue. Sales Tax, however, is expected to have an unfavorable decrease in estimated revenue of \$600,665, thereby netting increased revenue in all other categories to \$105,249.

During the FY2016/17 budget preparation, staff assumed a 3% increase in assessed value and related property tax revenue over the FY2015/16 mid-year projected revenue. The City received its first installment of property taxes in January 2016, which indicates a 4.11% (secured and unsecured) increase over actual FY2015/16 results. Motor Vehicle In Lieu revenues follows property tax changes and it is therefore projected to come in \$41,072 over budget. The positive variance in the Miscellaneous category is primarily a result Federal/State reimbursement for Strike Team operations costs.

Based on the information provided herein, the General Fund is expected to end this fiscal year with a fund balance of be \$13.22 million, which at 31.7% of revenues compare favorably to the City Council's reserve policy of 20%.

The updated five-year forecast for the General Fund, which will serve as the basis for the development of the FY17/18 budget, will be discussed in more detail at the Council's budget workshop scheduled in March 2017.

Conclusion

This report represents an informational item and as such no Council action is required.

Prepared by: Evis Morales, Senior Management Analyst

Reviewed by: Kimberly McKinney, Finance Officer



Paul Navazio, City Manager

Attachment: Attachment A - FY 16/17 All Funds Revenue and Expenditure Summaries
Attachment B - FY16/17 General Fund Revenue and Expenditure Summaries

ATTACHMENT A

ALL FUNDS REVENUES AND EXPENDITURES

Table 1 – All Funds FY2016/17 Revenues

FY2016/17 Revenues					
	Original Budget		Amended Budget		Year-to Date
				Actuals	%
General Fund	\$	46,361,160	\$	46,361,160	\$10,078,937 22%
Special Revenue	\$	18,104,224	\$	18,104,224	\$ 1,706,505 9%
Debt Service	\$	2,599,265	\$	2,599,265	\$ - 0%
Development/Capital	\$	16,295,511	\$	16,295,511	\$ 7,648,288 47%
Enterprise Funds	\$	68,139,977	\$	68,139,977	\$22,052,020 32%
Internal Service	\$	16,133,332	\$	16,133,332	\$ 2,176,706 13%
Successor Agency	\$	956,161	\$	956,161	\$ 159,492 17%
Agency	\$	5,520,680	\$	4,233,708	\$ 1,123,463 27%
Total All Funds	\$	174,110,310	\$	172,823,338	\$44,945,410 26%

- All Funds revenues through the second quarter of 2016/17 are \$44.95 million, or 26% of the amended budget. General Fund revenues are \$10.08 million or 22% of the amended budget, with many of the City's major tax revenues yet to be collected.
- Special Revenue fund revenues include many special assessment districts (i.e. lighting and landscaping districts) that receive revenue disbursements with the property taxes received by the City in January and May each year.
- Revenues in the Development/Capital funds include anticipated internal transfers to cover deficits within certain capital funds; these internal transfers will occur toward the end of the fiscal year, as actual results become known. The Measure E funds is also included in this category, and only a portion of the sales tax revenues associated with Measure E have been received to date.
- Enterprise Fund budgets assumed \$26.08 million in revenues from loan reimbursements due to the Surface Water Project and the Aeration Project, however, the reimbursements will be accounted differently and not as revenue per accounting rules therefore revenues will be lower than budgeted this fiscal year.
- Successor Agency revenues are \$159,493 or 17% of amended budget with large part of expected revenue to be received in January.
- Agency funds are primarily pass-through special assessment funds with revenues received with property taxes in January and May. The revenues collected year-to-date are related to the Spring Lake bond refunding.

Table 2 – All Funds Expenditures by Fund

FY2016/17 Expenditures				
	Original Budget	Amended Budget	Year-to Date Actuals	%
Internal Service	\$17,104,654	\$17,549,827	\$7,805,593	44%
General Fund	\$47,349,160	\$48,300,459	\$20,264,619	42%
Enterprise Funds	\$50,088,558	\$79,218,738	\$24,036,926	30%
Special Revenue	\$19,510,433	\$25,160,906	\$5,113,092	20%
Development/Capital	\$8,525,765	\$23,676,063	\$3,278,059	14%
Successor Agency	\$1,002,279	\$1,002,279	\$689,569	69%
Springlake	\$4,118,786	\$7,546,661	\$271,264	3.59%
Debt Service	\$2,599,593	\$2,599,593	\$1,298,913	50%
Agency	\$5,535,323	\$4,558,129	\$4,400,959	97%
Total All Funds	\$155,834,551	\$209,612,655	\$67,158,993	32%

- Through the second quarter of FY2016/17, All Funds expenditures (not including encumbrances) totaled \$67.16 million, or 32% of the amended budget. General Fund expenditures totaled \$20.26 million, or 42% of the amended budget.
- Enterprise funds totaled \$24.03 million, or 30% of the amended budget. Major Capital Improvement Projects are contributing to the low expenditures through the second quarter of FY2016/17 and include: Water System Maintenance Repairs with \$7.29 million remaining, Water Pollution Asset Replacement with \$2.48 million remaining, New ASR Well Projects with \$7.03 million remaining, Annual Sewer Repair and Replacement with \$1.58 million remaining, and West Street Water Main Upgrade with \$1.95 million remaining.
- Special Revenue funds totaled \$5.11 million, or 20% of the amended budget due to number of programs and projects incurring little to no expenses. A major Capital Improvement Project that is largely contributing to the funds showing underspent is the Kentucky Avenue Widening and Reconstruction Project. This project alone is funded at \$11 million (grant funds) in FY2017, however it has only incurred \$867,265 in expenses through December 31, 2016.
- Development/Capital represent funds where the majority of our Capital Improvement Projects are funded. Through the second quarter of FY2016/17, expenditures (not including encumbrances) totaled \$3.28 million, or 14% of the amended budget. Contributing to the low expenditures through the second quarter of FY2016/17 is \$8.79 million in Spring Lake reimbursements to developers that has yet to be refunded. These are reimbursements due to first release developers for oversizing of infrastructure built in

Spring Lake and will be refunded through proceeds received from bond sales once the fee program has been updated. Also, major projects that are underspent this fiscal year include: Kentucky Widening and Reconstruction with \$2.0 million remaining, and North Gibson Detention Ponds with \$1.3 million remaining.

- Successor Agency fund totaled \$689,569, or 69% of amended budget.
- Debt Service expenditures occur in large payments at various times of the year, with the bulk of the payments occurring in September and March each year. Through the second quarter of FY2016/17 Debt Service totaled \$1.3 million or 50% of amended budget.

Table 3 – All Funds Expenditures by Department

FY2016/17 Expenditures					
	Original Budget	Amended Budget	Year-to Date Actuals	%	
Administrative Services	\$ 16,106,748	\$ 16,425,000	\$ 8,373,001	51%	
Community Development	\$ 6,788,130	\$ 7,286,125	\$ 3,452,519	47%	
Community Services	\$ 10,103,339	\$ 10,721,079	\$ 4,197,432	39%	
Public Safety	\$ 28,417,302	\$ 28,688,868	\$ 14,032,656	49%	
Library	\$ 1,862,032	\$ 1,875,604	\$ 902,209	48%	
Public Works	\$ 26,491,883	\$ 28,071,057	\$ 10,183,028	36%	
Capital Improvements	\$ 31,106,518	\$ 73,770,896	\$ 12,607,454	17%	
Non-Departmental	\$ 34,958,599	\$ 42,774,026	\$ 13,410,693	31%	
Total All Departments	\$ 155,834,551	\$ 209,612,655	\$ 67,158,993	32%	

- At the end of the second quarter of fiscal year 2016/17, most departments appear to be tracking closely to budget.
- Compared to other departments, Community Services appears to be slightly underspent in the first six month of activity largely attributed to CDBG projects incurring very few expenses during the first six months of activity (current budget of \$602,798 with only \$42,976 of expenses); additionally \$469,468 in First Time Housing Buyer funds (HOME Grant) have been appropriated but were not loaned within the first six months of the fiscal year.
- Public Works also appears to be trending to be underspent in the first six months of activity primarily attributed two factors: Depreciation and Capital Programs. Depreciation for Public Works programs is budgeted at \$4.98 million, however, depreciation is typically recorded at the end of the fiscal year which contributing to the low expenditures. There are a few Capital Projects that have also had minimal activity and those include: the Storm Drain Maintenance Program not incurring much in expenses in the first six months of activity (current budget of \$1,299,737 with only \$363,499 of expenses); also contributing is the Recycled Water Operations program not incurring much in expenses in the first six months of activity (current budget of \$202,300 with only \$1,462 of expenses).
- Capital Improvements totaled \$12.6 million, or 17% of the amended budget. This is attributed to projects in the Enterprise and Special Revenue funds that have large budgets but minimal expenditures. See explanation for Enterprise and Special Revenue funds under Table 2.
- Non-Departmental –Due to scheduled transfers to among various funds that have yet to be transferred, this category appears underspent year to date. These transfers include a General Fund transfer of \$5.11 million to the Measure E fund, OPEB pre-funding at \$986,901, \$442,000 to Storm Drain and Cemetery funds, \$268,418 General Fund transfer

for the COPS grant, and \$150,000 to the Facilities fund. Transfers are typically recorded towards the end of the fiscal year.

ATTACHMENT B

GENERAL FUND REVENUES AND EXPENDITURES

Table 1 – General Fund Revenues

FY2016/17 General Fund Revenues						
	Original Budget	Amended Budget	Year-to Date Actuals	FY2016/17 Projection	Difference Favorable (Unfavorable)	
Property Tax	\$ 10,602,494	\$ 10,602,494	\$ -	\$ 10,700,826	\$	98,332
Sales Tax	\$ 19,315,368	\$ 19,315,368	\$ 4,794,400	\$ 18,712,703	\$	(602,665)
Other Taxes	\$ 1,521,903	\$ 1,521,903	\$ 655,805	\$ 1,622,123	\$	100,220
Franchise Fees	\$ 2,342,468	\$ 2,342,468	\$ 689,052	\$ 2,342,468	\$	-
Licenses/Permits	\$ 2,037,920	\$ 2,037,920	\$ 1,280,355	\$ 2,152,361	\$	114,441
Fines/Forfeitures	\$ 348,513	\$ 348,513	\$ 75,023	\$ 278,306	\$	(70,207)
Service Charges	\$ 656,738	\$ 656,738	\$ 272,276	\$ 663,244	\$	6,506
Motor Vehicle In Lieu	\$ 4,560,602	\$ 4,560,602	\$ -	\$ 4,601,674	\$	41,072
Intergovernmental	\$ 406,829	\$ 406,829	\$ 10,053	\$ 431,930	\$	25,101
Lease/Interest Income	\$ 87,139	\$ 87,139	\$ 396,291	\$ 87,139	\$	-
Miscellaneous	\$ 4,481,186	\$ 4,481,186	\$ 1,905,255	\$ 4,873,635	\$	392,449
Transfers	\$ -	\$ -	\$ 429		\$	-
Total General Fund	\$ 46,361,160	\$ 46,361,160	\$ 10,078,937	\$ 46,466,409	\$	105,249

- General Fund year-to-date actuals show \$10.07 million of \$46.36 in revenues received; however, staff is projecting that revenues exceed the amended budget by \$105,249 by fiscal year end.
- The City expects its first installment of property taxes in January 2016, which is projected to have a 4.11% increase from the prior year (includes secured and unsecured); the FY2016/17 adopted budget assumed a 3% increase.
- Included in the projected Sales Tax revenues for FY2016/17 is a positive variance of \$36,563 in Bradley Burns (1% local portion of uniform statewide rate), an unfavorable variances of \$466,798 in Measure E, and \$172,430 in Measures J. Measure E revenues do not remain in the General Fund, but are transferred out to a separate fund (506) throughout the year.
- Other Taxes are projected to end the year with \$100,220 over amended budget. This is solely due to Document Stamp Tax. This tax is collected by the County on behalf of the City every time real property exchanges hands or is sold through public records; a fee based on a percentage of sales price.
- The favorable variance of \$114,441 in projected revenues from License/Permit fees is due to more development activity than originally anticipated, including some non-residential development as well as permits issued for single family homes.
- Fines and Forfeitures revenues are expected to result in a total of \$278,306 for the fiscal year; \$70,207 less than the amended budget. This is largely due to Parking Violations fines

projected to come in under budget as a result of the hiring delay of two additional Parking Enforcement Officers in FY2016/17.

- Motor Vehicle In Lieu follows property tax increases and it is projected to come in \$41,072 over budget.
- The positive variance in Miscellaneous revenues is primarily a result Federal/State reimbursement for Strike Team operations costs.

Table 2 – General Fund Expenditures by Category

FY2016/17 General Fund Expenditures							
	Original Budget	Amended Budget	Year-to Date Actuals	%	FY2016/17 Projections	Variance Favorable/ (Unfavorable)	
Personnel	\$ 26,756,023	\$ 26,980,024	\$ 13,974,996	52%	\$ 27,171,151	\$ (191,127)	
Supplies & Services	\$ 7,359,994	\$ 8,037,376	\$ 3,034,254	38%	\$ 8,141,565	\$ (104,189)	
Education & Training	\$ 259,188	\$ 305,026	\$ 111,656	37%	\$ 305,026	\$ -	
Debt Service	\$ -	\$ -	\$ -	0%		\$ -	
Capital Expenditures	\$ -	\$ -	\$ 8,470	0%	\$ 8,470	\$ (8,470)	
Non-Discretionary	\$ 5,988,042	\$ 6,015,756	\$ 3,113,388	52%	\$ 6,013,480	\$ 2,276	
Operating Transfers	\$ 6,985,913	\$ 6,962,277	\$ 21,856	0.31%	\$ 6,485,058	\$ 477,219	
Total All Categories	\$ 47,349,160	\$ 48,300,459	\$ 20,264,619	42%	\$ 48,124,750	\$ 175,709	

- Through the second quarter of FY2016/17, General Fund expenditures total \$20.26 million, or 42% of the adjusted budget and staff is projecting that overall expenditures will be under-budget by \$175,709.
- Personnel costs are trending slightly over budget, with 52% of the budget spent through the second quarter. The unfavorable projection in this category is a result of several factors:
 - Because budgets have historically not been fully spent due to savings that result from vacancies as well as savings in discretionary costs, the adopted budget assumed a Vacancy/Supplies & Services savings of \$839,040, which was classified in the personnel category in the budget. Due to unforeseen items such as personnel over-time and fewer vacancies, the City is projecting a Vacancy/Supplies & Services saving of only \$419,520.
 - Personnel Overtime –Public Safety is expected to go over budget in the following areas for Overtime: Police \$238,000 due to staff vacancies/long-term injuries that has required existing staff to fill shifts where needed, Fire \$500,495 (\$357,000 of this over-time cost as a result of Strike-Team Operations that are fully reimbursable by the Federal & State governments); the City is expecting reimbursement this fiscal year which has been included as revenue in the projected revenue assumptions.
 - Leave Buyout – this item is a benefit that can be used as time-off/vacation and a portion can also be cashed-out by city staff. Staff budgets for this item based on historical trends; however, for this fiscal year it is expected to be over-budget by \$54,766.
 - Lastly, there are some areas in Personnel where staff is projecting some savings to offset the costs which include Salaries savings of \$640,491 due to vacancies and

Health Insurance savings of \$251,882 due to lower than expected health premiums.

- Supplies & Services costs are projected to be over budget by \$104,189. The overage is mostly due to the following:
 - Police successfully applied for two Walmart grants (\$2,500) for use this fiscal year in purchasing bulletproof vests for the CSI team and additional supplies for the GREAT program.
 - Building Inspection Contract Services is projected to need an additional \$50,000 in appropriations due to increased development. Offsetting revenue is also projected.
 - The State has mandated that their share of AB109 reimbursement in the amount of \$43,000 be used in a new initiative and cannot be used to supplant current programs and positions. Police is considering a collaborative C.I.T. training with the county and allied agencies.
- Non-discretionary expenses are currently at 52% of amended budget or \$3.11 million. This expense category is projected to be to end close to budget with minimal savings of \$2,276. Examples of budgeted items included in this category are utilities, vehicle replacement and maintenance costs, technology services support, and indirect costs (City overhead).
- Operating Transfers consist primarily of the transfer of Measure E sales tax received to the capital projects fund, as well as the subsidy for the Storm Drain and Cemetery operations. Because only a small portion of Measure E revenues have been received in the first six months of this fiscal year, the transfers have not yet been recorded. Other fund subsidies are typically recorded toward the end of the fiscal year, when more accurate information is available regarding the subsidies actually required.
 - Operating Transfers are chiefly projected to be under budget as a result of unfavorable revenue projections for Measure E funds in the amount of \$466,798. Measure E funds are normally received as revenue into the General Fund and then transferred out to a separate fund.

Table 3 – General Fund Expenditures by Department

	FY2016/17 General Fund Expenditures					FY2016/17 Projections	Variance Favorable/ (Unfavorable)
	Original Budget	Amended Budget	Year-to Date Actuals		%		
Administrative Services	\$ 2,730,679	\$ 2,920,414	\$ 1,544,110		53%	\$ 2,910,037	\$ 10,377
Community Development	\$ 3,028,083	\$ 3,307,967	\$ 1,414,635		43%	\$ 3,171,097	\$ 136,870
Community Services	\$ 5,723,567	\$ 5,771,693	\$ 2,628,352		46%	\$ 5,754,921	\$ 16,772
Public Safety	\$ 27,323,455	\$ 27,595,021	\$ 13,516,460		49%	\$ 27,700,753	\$ (105,732)
Library	\$ 1,754,863	\$ 1,766,217	\$ 850,581		48%	\$ 1,757,813	\$ 8,404
Public Works	\$ 725,169	\$ 845,176	\$ 273,249		32%	\$ 787,811	\$ 57,365
Capital Improvements	\$ 50,000	\$ 53,392	\$ 17,473		33%	\$ 50,000	\$ 3,392
Non-Departmental	\$ 6,013,344	\$ 6,040,579	\$ 19,759		0.33%	\$ 5,992,318	\$ 48,261
Total All Departments	\$ 47,349,160	\$ 48,300,459	\$ 20,264,619		42%	\$ 48,124,750	\$ 175,709

- General Fund expenditures by Department for the first six months of operations are \$20.26 million, or 42% of the amended budget. Although year-to-date actuals show all departments are spending in line with their General Fund budgets through the first six months of operations, FY2016/17 end-of-year projections indicate expected savings in most department budgets:
 - Administration is expected to be under budget mostly due to personnel savings.
 - Community Development is expected to be under budget mostly due to personnel savings. These savings will help offset the expected increase of \$50,000 in contract services for building inspection, resulting from increased development activity.
 - Anticipated savings in Community Services relate primarily to personnel savings.
 - Public Safety overages are expected from costs exceeding budget in overtime (Police Operations, Fire Operations and Strike Team Operations); however, due to other personnel savings the net impact is only an unfavorable \$105,732. Non-personnel additional expenses include increased cost for a new program, \$43,000, using AB109 funds per state mandate and \$5,000 in grant funds for bullet proof vests.
 - Library is expected to be under budget by \$8,404 attributed mostly to personnel costs savings.
 - Anticipated savings in Public Works are attributed primarily to personnel savings.

Table 4

General Fund	Unaudited Actuals	Adopted	Amended	Mid-Year Projection	Difference
	FY2015/16	FY2016/17	FY2016/17	FY2016/17	
Beginning Balances	\$ 13,107,362	\$ 11,651,079	\$ 14,232,761	\$ 14,232,761	\$ -
Revenues	\$ 48,051,472	\$ 46,361,160	\$ 46,361,160	\$ 46,466,409	\$ 105,249
Expenditures (Includes Measure J)	\$ 45,717,628	\$ 46,361,160	\$ 47,304,067	\$ 47,136,749 4.85%	\$ (167,318)
Annual Surplus/Deficit	2,333,844	0	(942,908)	(670,341)	272,567
General Fund One-Time Expenses		(988,000)	(988,000)	(988,000)	0
Measure J Unspent Fund Balance	(555,105)				
General Fund Loan Repayments					
Unreserved Fund Balance	\$ 14,886,101	\$ 10,663,079	\$ 12,301,853	\$ 12,574,420	\$ 272,567
FY16 Encumbered/Uncumbered Carry-Over to FY17	(653,340)		653,340	653,340	-
Ending Unreserved Fund Balance	\$ 14,232,761	\$ 10,663,079	\$ 12,955,193	\$ 13,227,760	\$ 272,567
Percentage (E.U.F.B./Revenues)	33.1%	25.9%	31.4%	31.7%	
Reserve Policy \$	\$ 8,606,925	\$ 8,249,159	\$ 8,249,159	\$ 8,353,568	\$ 104,409
Reserve Policy %	20.00%	20.00%	20.00%	20.00%	
"Excess" Fund Balance (over Reserve Target)	\$ 5,625,835	\$ 2,413,921	\$ 4,706,034	\$ 4,874,192	\$ 168,157

During development of the FY2016/17 adopted budget and currently reflected in the amended budget, revenues were assumed to be \$46.36 million; staff is projecting that actual results will come in over that target by \$105,249. This variance is due primarily to better than anticipated property taxes, development permit fees, and miscellaneous revenues.

Currently reflected in the FY2016/17 amended budget, expenditures are assumed to be \$48.29 million (ongoing operating budget of \$47.30 million plus \$988,000 in one-time expenses). Staff is projecting that year end expenditures of \$48.12 million (\$47.13 million ongoing operating expenses plus \$988,000 in one-time expenses). Year-end projections will result in favorable savings of \$272,567 to the General Fund.

Total ending Unreserved Fund Balance in the General Fund is projected to be \$13.22 million or 31.7% of revenue for FY2016/17 after factoring in Council approved FY2016/17 budget amendments and prior year budget carry-over.

Legislation Text

13.

File #: 17-316, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: Fiscal Year 2016/17 Mid-Year Budget Amendments

Recommendation for Action: Staff recommends that the City Council adopt Resolution No. _____, authorizing the amendments to the Fiscal Year 2016/17 Budget totaling \$391,910.

Staff ContactEvis Morales, Finance Analyst - (530) 661-5923, evis.morales@cityofwoodland.org**Fiscal Impact**

The proposed action will authorize recommended supplemental budget appropriations of \$391,910 necessary in support of operational expenditure adjustments, across a variety of city funds including the Vehicle Maintenance (\$17,677), General Fund (\$98,000), Water Enterprise (\$12,000), Spring Lake Capital (\$179,233), and Spring Lake Administration (\$25,000).

Background

On June 21, 2016, the City Council adopted a budget totaling \$155,834,551 in annual appropriations in support of City-wide operations, Capital Improvement Projects, including expenses related to the Woodland Finance Authority and the Successor Agency of the former Redevelopment Agency. During the first six months of the fiscal year, the City Council has also approved \$53,893,595 in budget amendments which include prior fiscal year carryovers (operations and capital projects), Capital Improvement project additional appropriations, and other staff requested budget augmentations and corrections.

Included on this evening's agenda, the City Council is receiving the FY2016/17 Mid-Year Budget Report presenting revenues and expenditure results through the first six months of the fiscal year along with updated projections for the remainder of the fiscal year.

In conjunction with the Mid-Year update, staff is requesting that the City Council authorize, by resolution, amendments to the FY2016/17 budget across various funds, including amendments to conform to previously-approved City Council actions.

Discussion

Staff is requesting formal Council action for supplemental FY15/16 budget appropriations totaling \$391,910 summarized, by fund, as follows:

Vehicle Maintenance Fund: Vehicles #787,788, and 789 are in need of headlight upgrades as well as some other operations and maintenance expenses. Cost for these expenses are expected to total \$17,677 and are expected to be fully offset by revenue received from the sale of vehicle #665.

General Fund:

1. Police successfully applied for two Walmart grants (\$2,500) for use this fiscal year in purchasing bulletproof vests for the CSI team and additional supplies for the GREAT program. The additional \$5,000 in requested appropriations will be fully offset by grant revenue.
2. The state has mandated that a share of AB109 reimbursement in the amount of \$43,000 be used in a new initiative and cannot be used to supplant current programs and positions. The department is considering a collaborative C.I.T. training with the county and allied agencies. The requested \$43,000 will be a new appropriation. Revenues associated with the new program have already been assumed in the FY2016/17 budget.
3. The city uses Interwest Consulting Group for as-needed building plan checking services. There is \$50,000 in the current budget. As of mid-January 2017, all budgeted plan check dollars will have been paid or are encumbered for consultant work. There are currently 25 plans being reviewed by Interwest. Additional funds are being requested to continue contract plan check for the remainder of the fiscal year. The additional \$50,000 in requested appropriations will be fully offset by better than expected development revenue.

Water Enterprise Fund: Adds \$12,000 for Multi-Family large water audits. All expenditure consultant costs will be reimbursed and offset by a grant from the Water Resources Association.

Spring Lake Capital Fund:

1. This item is a one-time correction where appropriations for a Greenbelt is needed in this fund in the amount of \$129,310 to correspond with revenues received in this fund.
2. \$49,923 is required in additional appropriations to cover greenbelt improvements as agreed to with Lennar per the Reimbursement Agreement.

Spring Lake Administration Fund: Staff is requesting \$25,000 in additional appropriations to carry-out an update to the Spring Lake Infrastructure Fees (SLIF).

Library Trust Fund: As the Makerspace Project in the Library is now progressing, the City has been receiving donations and grants towards the purchase of equipment. Staff is requesting an additional appropriation of \$60,000 that will give staff the needed budget to purchase items and equipment.

Conclusion

Staff recommends that the City Council adopt Resolution No. _____, authorizing the amendments to the Fiscal Year 2016/17 Budget totaling \$391,910.

Prepared by: Evis Morales, Senior Management Analyst

Reviewed by: Kimberly McKinney, Finance Officer

A handwritten signature in cursive script, appearing to read "Paul Navazio".

Paul Navazio, City Manager

Attachments: Exhibit 1 - Mid-Year Adjustments Table
Budget Resolution
Attachment 1 - Appropriations by Fund

EXHIBIT 1

MID-YEAR ADJUSTMENT LISTING BY FUND

Fund	Dept	Justification	Mid-Year Adjustment
010	PW	\$17,677 needed for O&M expenses and LED Headlight upgrades on #787, #788 and #789 (Funding will come from proceeds from #665 sale)	17,677
101	CDD	Interwest Consulting Group is used for as-needed plan checking services. There is \$50,000 in the current budget. As of mid-January 2017, all budgeted plan check dollars will have been paid or are encumbered for consultant work. There are currently 25 plans being reviewed by Interwest. Additional funds are being requested to continue contract plan check for the remainder of the fiscal year.	50,000
101	PD	The state has mandated that their share of AB109 reimbursement in the amount of \$43,000 be used in a new initiative and cannot be used to supplant current programs and positions. Police is considering a collaborative C.I.T. training with the county and allied agencies.	43,000
101	PD	Police successfully applied for two Walmart grants (\$2,500) for use this fiscal year in purchasing bulletproof vests for the CSI team and additional supplies for the GREAT program.	5,000
210	PW	Adds \$12,000 for Multi-Family Large Water Audits grant from WRA - Expenditure costs for consultant will be reimbursed by Granting Agency	12,000
594	CDD	Greenbelt Revenue deposited into 594- need corresponding appropriation	129,310
594	CDD	To cover greenbelt improvements for Lennar Reimbursement Agreement.	49,923
601	Finance	Spring Lake Infrastructure Fee (SLIF) Update	25,000
917	Library	Makerspace Equipment - Donations	60,000
Total Requested			391,910

RESOLUTION NO: _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND
APPROVING AMENDMENTS TO THE FISCAL YEAR 2016-2017 ANNUAL BUDGET**

WHEREAS, a balanced annual budget for the City of Woodland was prepared for fiscal year 2016-2017 and adopted by the City Council on June 21, 2016; and

WHEREAS, the adopted budget also included the fiscal year 2016-2017 budgets for the Woodland Finance Authority and the Successor Agency to the former Woodland Redevelopment Agency; and

WHEREAS, the budget for Capital Improvement Plan for fiscal year 2016-2017 was also prepared; and

WHEREAS, a revised annual budget has been prepared for fiscal year 2016-2017; and

WHEREAS, all appropriations for the prior fiscal year shall lapse at the end of fiscal year 2016-2017 and any remaining amounts shall be credited against their respective fund balances, except for:

- a. Any unexpended but encumbered amounts for specific orders outstanding at the end of the Fiscal Year, and
- b. Any appropriations for incomplete capital projects at the end of fiscal year 2016-2017; and

WHEREAS, for these exceptions, such carry-overs may be made without further City Council action,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODLAND HEREBY RESOLVES:

Section 1. The 2016-2017 Annual Revised Budget is hereby amended to include supplemental appropriations totaling \$391,910 shown in Attachment 1.

Section 2. Appropriations are hereby made at the individual fund level. The City Manager and Finance Officer are authorized to make budgetary transfers within an individual fund, so long as total appropriations for such fund remain unchanged. Interfund loans and/or transfers necessary to support fund level appropriations are hereby approved and authorized. Any changes to total fund level appropriations require further Council action.

Section 4. The City Manager and Finance Officer are hereby authorized to implement this resolution, including issuing the 2016-2017 Revised Budget, together with any non-substantive corrections to the preliminary budget adopted by this Council.

RESOLUTION NO: _____

PASSED, APPROVED, AND ADOPTED THIS _____ DAY OF _____, 2017.

STATE OF CALIFORNIA
COUNTY OF YOLO
CITY OF WOODLAND

ss.

I, _____, City Clerk of the City of Woodland, County of Yolo, State of California do hereby certify that the foregoing Resolution No. _____ was regularly adopted by the City Council of said City of Woodland at a regular meeting of said council held on the _____ day of _____, 2017, by the following vote:

AYES:	Council members:	_____
NOES:	Council members:	_____
ABSENT:	Council members:	_____
ABSTAIN:	Council members:	_____

Mayor, Angel Barajas

Attest:

_____,
City Clerk, Ana B. Gonzalez

CITY OF WOODLAND FISCAL YEAR 2016/17 TOTAL APPROPRIATIONS BY FUND					
Fund	Title	Adopted FY 2016/17	*Council Approved Appropriations	Recommended Mid-Year Adjustments	Amended FY2016/17
010	EQUIP SERVICES	2,961,766	0	17,677	2,979,443
011	FACILITIES REPLACEMENT	390,000	1,815		391,815
012	EQUIPMENT REPLACEMENT	1,461,128	136,414		1,597,542
013	BENEFITS FUND	8,636,614	0		8,636,614
015	INFORMATION SYSTEMS FUND	2,014,357	109,004		2,123,361
091	SELF INSURANCE	1,640,789	13,431		1,654,220
101	GENERAL FUND	47,349,160	1,041,299	98,000	48,488,459
210	WATER ENTERPRISE FUND	27,352,077	24,214,637	12,000	51,578,714
220	SEWER ENTERPRISE FUND	18,196,722	4,565,962		22,762,684
221	STRM DR ENTERPRISE FUND	1,357,253	2,100		1,359,353
222	WASTEWATER PRE-TREATMENT	517,240	0		517,240
240	CEMETERY	434,831	0		434,831
250	RECYCLING	255,759	333,091		588,850
252	CONST/DEMO DEBRIS RECYCLE	38,512	0		38,512
253	RECREATION ENTERPRISE	362,422	14,391		376,813
280	TRANSIT SYSTEM	1,573,742	0		1,573,742
301	LITERACY GRANT	70,375	0		70,375
320	COMMUNITY DEV. BLOCK GRNT	659,187	582,967		1,242,154
321	OFF-SITE AFFORD HOUSING	0	6,668		6,668
322	SUPPORT HOUSING PROGR	201,188	47,319		248,507
323	HOME GRANT	469,468	4,400		473,868
324	HOUSING ASSISTANCE GRANTS	73,412	0		73,412
325	WORFORCE HOUSING GRANT	0	172,677		172,677
326	HOUSING ASSISTANCE	21,100	17,300		38,400
340	POLICE GRANTS	393,418	0		393,418
351	TRANSPORTATION GRANT	11,100,000	3,992,783		15,092,783
352	SLESF	126,084	0		126,084
353	PROPISTION 172	563,297	0		563,297
354	TRANS DVLP (SB325)	1,651,993	1,303		1,653,296
355	GAS TAX-2106 (SELECT)	1,362,522	6,636		1,369,158
357	ASSET FORFEITURE FUND	25,000	0		25,000
358	HOUSING MONITORING FUND	87	0		87
359	FIRE SUPPRESSION DISTRICT	3,500	178		3,678
365	ENVIRONMENTAL COMPLIANCE	190,782	937,018		1,127,800
381	GIBSON RANCH L&L	832,920	30,589		863,509
383	N PARK L&L DISTRICT	32,306	57		32,363
384	SP ASSESS STRENG PD LAND	33,897	89		33,986
386	USED OIL RECYCLING GRANT	16,000	0		16,000
387	WOODLAND WEST L&L	24,404	240		24,644
389	SPRINGLAKE L&L	1,073,395	36,587		1,109,982
391	SPORTS PARK O&M CFD	402,765	0		402,765
392	GATEWAY L&L	146,539	1,443		147,982
501	CAPITAL PROJECTS	54,416	237,479		291,895
506	MEASURE E	4,922,762	3,399,025		8,321,787
508	CAPITAL PROJECT MGMT	0	7,817		7,817
510	GENERAL CITY DEVELOPMENT	6,779	552,655		559,434
522	RECOGNIZED OBLIGATION RETIREMENT	1,002,279	0		1,002,279
540	PARK & RECREATION DVLP	1,859,321	0		1,859,321
550	POLICE DEVELOPMENT FUND	70,364	0		70,364
560	FIRE DEVELOPMENT	181,121	0		181,121
570	LIBRARY DEVELOPMENT FUND	87,587	0		87,587
580	SURFACE WATER DEVELOPMENT	20,000	0		20,000
581	STORM DRAIN DEVELOPMENT	203,981	1,452,017		1,655,998
582	ROAD DEVELOPMENT	642,351	722,906		1,365,257
583	TREE RESERVE	0	2,400		2,400
584	WATER DEVELOPMENT FUND	269,799	0		269,799
585	SEWER DEVELOPMENT FUND	67,441	0		67,441
593	GIBSON RANCH INFRA-STRUC	990	0		990
594	SPRING LAKE CAPITAL	138,853	8,796,000	179,233	9,114,086
601	SPRINGLAKE ADMINISTRATION	125,159	97,241	25,000	247,400
640	SLIF PARKS & RECREATION	3,446,627	160,202		3,606,829
681	SLIF STORM DRAIN FUND	0	3,070,432		3,070,432
682	SLIF STREET IMPROVEMENT	547,000	100,000		647,000
821	RDA 2007 TAB	0	28,585		28,585
830	SOUTHEAST AREA DEBT SERV	1,674,120	0		1,674,120
850	EAST MAIN ASSESS DIST 90	1,245,779	1,245,779-		0

ATTACHMENT I

870	CFD#2 SPRINGLAKE DEBT SRV	2,615,424	240,000		2,855,424
882	2012 LEASE REFUNDING	1,058,504	0		1,058,504
883	2014 REFUNDING LEASE REV BONDS	1,541,089	0		1,541,089
917	LIBRARY TRUST FUND	36,794	2,218	60,000	99,012
Totals		\$155,834,551	\$53,893,595	\$391,910	\$210,120,056

Legislation Text

14.

File #: 16-855, Version: 1

TO: THE HONORABLE MAYOR AND CITY COUNCIL

DATE: February 21, 2017

SUBJECT: YMCA Fitness and Wellness Center Use Agreement Amendment

Recommendation for Action: Staff recommends that the City Council receive an update on the YMCA Fitness and Wellness Center and authorize the City Manager to execute a contract amendment to the existing use agreement to include a monthly subsidy of \$1,500 (or \$18,000 per year).

Staff Contact

Christine Engel, Community Services Director - 530-661-2000, christine.engel@cityofwoodland.org

Fiscal Impact

The YMCA currently pays the City approximately \$36,000 annually for the use of the Fitness and Wellness Center and small gymnasium at the Community & Senior Center. The YMCA has requested a monthly subsidy from the City of \$1,500 to continue their current operations, thus resulting in a decrease in revenue to the general fund of \$18,000 annually.

Over the term of the current agreement, the City has provided over \$40,000 in subsidies to the YMCA (\$18,000 in 2012; \$8250 in 2013, and \$6000 each year for 2014, 2015, and 2016).

Background

The City of Woodland entered into a five- year lease agreement with the YMCA of Superior California for the YMCA to operate a Fitness and Wellness Center at the Community & Senior Center on March 1, 2010. The agreement includes the ability to extend the lease term for five additional one-year terms. Two one-year contract extensions have been executed for the terms of March 1, 2015 through February 29, 2016 and March 1, 2016 through February 28, 2017. The revised fee schedule, to include the recommended subsidy would apply through the remaining three years covered under the current agreement (through February, 2020).

The original five-year agreement included a lease payment of \$2,000 per month in addition to a monthly utility payment. In October 2011, the YMCA submitted a 60-day notice to terminate the lease due to the inability to generate sufficient revenue to cover monthly expenses. The City met with YMCA representatives to explore possible alternatives to the termination of the lease. The City learned that, at that time, approximately 65% of the Fitness and Wellness Center members were seniors and the City wanted to continue to provide an exercise opportunity for them at the Community & Senior Center. The YMCA requested a temporary reduction in the monthly lease payment in order to increase membership, reduce operating expenses, and generate additional

revenue. In a letter agreement with the YMCA, the City agreed to reduce the lease amount for the 2012 calendar year (no lease payment from January 2012 through June 2012 and a 50% reduction from July 2012 through December 2012 with the \$2000/month payment resuming in January 2013).

In January 2013, the YMCA, still unable to generate enough revenue to cover their expenses, requested additional lease reductions from the City. At this time, the YMCA had been able to demonstrate the ability to increase revenue and decrease expenses; however, not yet to a break-even level. The YMCA requested a modified payment schedule that was approved by the City Council on July 2, 2013. Amendment 1 to the original use agreement includes the following payment schedule: January through March 2013: \$1000/month; April through June 2013: \$1250/month; and July through the remainder of the agreement: \$1500/month.

Discussion

In September 2016, the City and the YMCA met to discuss the continued operation of the YMCA Fitness and Wellness Center. At the time the City was exploring options for relocating the City's boxing program (including the potential relocation to the space used by the YMCA at the Community & Senior Center), the YMCA was evaluating their ability to continue to operate the Fitness and Wellness Center. The YMCA's revenue is unable to cover operating expenses for the facility. There is also a concern for rising expenses related to the aging exercise equipment at the facility and the continued increases in minimum wage in January 2017 and beyond.

An advisory board for the YMCA was tasked with examining the current operations of the Fitness and Wellness Center and whether (and how) the Fitness and Wellness Center could continue operations. The YMCA also received input from their members on the future operation of the facility. Members of the YMCA reached out to members of the City Council to express their desire for the YMCA to continue operations as well as YMCA members attending Commission on Aging meetings to express their desire for the YMCA to continue operations at the Community & Senior Center (this information was shared during public comment as the item was not on the agenda).

The Fitness and Wellness Center has approximately 425 members, of which approximately 72% are seniors. While the Fitness and Wellness Center includes standard cardio equipment (treadmills, elliptical machines, etc.) that can be found at other health clubs, group exercise classes tailored to the needs of seniors are offered in a magnitude that is not available at other health clubs in the community. The YMCA offers over 20 group exercise classes each week that are suitable for seniors including beginning fitness, Glocofit/Beginning Cross Fitness, Zumba, chair balance, and silver cycle. It should be noted that the City also offers over 15 group exercise classes each week at the Community & Senior Center that are suitable for seniors including low impact aerobics, Woodland Stompers, "ship shape", line dancing, and senior ping pong.

The YMCA has requested a subsidy from the City in the amount of \$1,500 per month in order to continue operating the Fitness and Wellness Center through February 2020. In addition, the YMCA has committed to implement a fee increase structure and increase the number of volunteer hours to keep the wellness center in a positive or break-even financial situation for the next four years. In 2017, they also plan to implement new programming, including a Diabetes Prevention Program for people that are considered pre-diabetic. This program is expected to generate additional resources to support the operation of the wellness center.

Conclusion

Staff recommends that the City Council receive an update on the YMCA Fitness and Wellness Center and

authorize the City Manager to execute a contract amendment to the existing use agreement to include a monthly subsidy of \$1,500.

Prepared by: Christine Engel, Community Services Director

A handwritten signature in black ink, appearing to read "Paul Navazio". The signature is fluid and cursive, with the first name "Paul" and last name "Navazio" clearly distinguishable.

Paul Navazio, City Manager

Attachment: Resolution

CITY OF WOODLAND

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WOODLAND AMENDING
THE YMCA FITNESS AND WELLNESS CENTER USE AGREEMENT

WHEREAS, the YMCA operates a Fitness and Wellness Center under a use agreement with the City of Woodland at the Community & Senior Center; and

WHEREAS, the YMCA provides opportunities for residents to improve the quality of their life through using the Fitness and Wellness Center and attending group exercise classes; and

WHEREAS, the YMCA has requested a subsidy from the City of Woodland in order to continue to operate the Fitness and Wellness Center; and

WHEREAS, the City of Woodland values the benefits and opportunities provided by the Fitness and Wellness Center for residents.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Woodland authorizes the City Manager to execute a contract amendment to the existing use agreement to include an annual subsidy of \$18,000.

PASSED AND ADOPTED this 21st day of February, 2017, by the following vote:

AYES: Council Members:
NOES: Council Members:
ABSENT: Council Members:
ABSTAIN: Council Members

Angel Barajas, Mayor

ATTEST:

Ana Gonzalez, City Clerk