

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BEB*
DATE: NOV. 23, 2007



RECEIVE DRAFT WATER & SEWER MASTER PLAN

ITEM

Receive Draft Water and Sewer Master Plan and set hearing to consider tentative adoption [RECOMMEND ADOPTION].

BACKGROUND

Staff distributed the Draft Plan to your Honorable Board at the 11/14/07 Board Meeting. A review copy of the Draft is available at the office and a review copy has been posted on NCSD's Website (www.NCSD.CA.GOV)

Larry Kraemer and Jeff Spannbauer from Cannon will present these materials to your Honorable Board and answer questions.


RECOMMENDATION

The intent of this item is to provide sufficient information to your Honorable Board so that you can edit the Draft Plan and set a hearing to consider tentative adoption. Staff requests that the Board set such a hearing for the 1/9/08 Meeting.

ATTACHMENT – NONE

NOTE: PLEASE BRING YOUR COPY OF THE PLAN TO THE BOARD MEETING.

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2007\W&S Master Plan Proposals 4.DOC

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL 
DATE: NOVEMBER 23, 2007

AGENDA ITEM
E-2
NOV. 28, 2007

DISCUSS SOLID WASTE EXEMPTION POLICY

ITEM

Discuss draft staff proposal re solid waste fee exemptions and set hearing to consider adoption [RECOMMEND APPROVAL].

BACKGROUND

District Code Section 7.01.070 (A) enables the General Manager to grant exemptions from paying the mandatory solid waste fee where the strict application of the section are deemed unjust or inequitable (See attached excerpt). Since the adoption of this provision in 2005, various General Manager's have granted a total of 18 such exemptions and approximately 10 requests have been denied, however, the criteria for granting or denying exemptions has not been consistent. In the interim, our franchisee has created various programs for reducing charges where the house is vacant or being used as a second home. Staff has developed the attached draft policy text, which establishes that property owners whose residence is either vacant or used as a secondary unit should interact directly with the franchisee, leaving the 7.01.070 process for situations that raise equity and justice issues.

RECOMMENDATION

Staff recommends that your Honorable Board review and edit the draft policy and then set a hearing at the December 12, 2007 Board Meeting to consider adoption of the final policy.

ATTACHMENTS

- Excerpt from District Code
- Draft Exemption Policy Text (without Resolution)

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NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2005-104

AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
IMPLEMENTING MANDATORY SOLID WASTE COLLECTION, ADOPTING DISTRICT WIDE FEES FOR SOLID WASTE
SERVICE AND AMENDING CHAPTER 7.01 OF THE DISTRICT CODE TO
REQUIRE WASTEWHEELER SERVICE FOR GARBAGE, RECYCLING AND GREENWASTE COLLECTION

“Developed Properties” means real property within the District that is developed with a building or structure, that when used is capable of generating solid waste. Developed Properties include but are not limited to occupied residential property, multi-family property and commercial property.

“Property Owner” means the person owning the fee, or the person in whose name the legal title to the property appears, by deed duly recorded in the County Recorder’s office, or the person in possession of the property or buildings under claim of, or exercising acts of ownership over same for himself, or as executor, administrator, guardian or trustee of the owner.

“Waste Wheeler” means a covered plastic bin provided by Franchisee, varying in size and capacity equipped with wheels or casters. Such bins may be used for collection, storage and removal of solid waste.

Section 3.

District Code Section 7.01.070 (A), Appeals Process, is amended to read as follows:

- A. When any party, by reason of special circumstances, believes that the rules and regulations prescribed here are unjust or inequitable as applied to a particular person, place or business within the District boundaries, the applicant may make written application to the general manager stating the special circumstances, citing the provisions complained of and requesting suspension or modification of such provision or charges as applied to his or her place of business and/or premises. The general manager shall then forthwith consult with the collection service provider and cause an investigation of the conditions upon which the application is based. If after consultation with the collection service provider, the general manager finds that such provisions or charges are unjust or inequitable as applied to the applicant’s place or premises within the specified area, the general manager may suspend or modify the provision or charge complained of as applied to such place or premises, so long as the modification does not materially affect the franchise agreement, to be effective as of a date specified and to continue during the period of the special circumstances so found.

Section 4.

District Code Section 7.04.030, Solid Waste Disposal Frequency, is amended to read as follows:

7.04.030 Solid Waste Disposal Frequency

- A. Except as provided in subsection B of this section, all solid waste created, produced or accumulated on Developed Properties shall be removed from the property on a weekly basis.
- B. All solid waste created, produced or accumulated at or about any restaurant, retail or wholesale market, food processing facility, hotel, motel or other business establishment where food is sold, prepared or served,

NCS D POLICY REGARDING
PROCESSING OF SOLID WASTE APPEAL APPLICATIONS

Xxxxx, Yy, 200z

Subject to Board action directing otherwise, this policy shall apply to all Solid Waste Appeal Applications submitted pursuant to Section 7.01.070 (A) of the NCS D Code:

1. All applications based on vacancy of the service address will be processed directly with the solid waste franchisee.
2. All other applications shall be in writing, filed with the District General Manager, stating the name of the applicant, the service address, applicant's residence address if different than the service address, applicant's phone number and an explanation of the grounds or special circumstances for the appeal, (including the applicable NCS D Code Section).

All applications must be signed, including a verification of the facts therein stated.

3. General principals of consideration:
 - A. All applications based on exemptions from the mandatory provisions (other than vacancies) will require the applicant to include with the application the following:
 1. \$50 dollar application fee; and
 2. Proof that the applicant will haul and deposit solid waste generated at the service address to a recognized landfill every other week (24 times per year). If the District approves the exemption, then receipts from the landfill shall be filed with the General Manager monthly, on or before the 10th day of the succeeding month.

- B. All applications based on the service address exceeding 2.5 acres shall include proof of the acreage area, to the satisfaction of the General Manager.
 - C. All approved exemptions shall be in writing and may include conditions. Failure to comply with conditions constitutes a revocation of the exemption and restoration of service, and all further applications for exemptions to the service address shall be suspended, for a one (1) year period.
 - D. Each service address is limited to one (1) application for exemption per twelve (12) month period.
4. Applicants may appeal the decision of the General Manager to the District Board of Directors, by written application filed with the General Manager within fifteen (15) days of the General Manager's written decision. The appeal will be heard within a reasonable period of time, not to exceed forty-five (45) days. Failure to comply with conditions of an exemption cannot be appealed to the Board of Directors.

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *B&B*
DATE: NOVEMBER 23, 2007

AGENDA ITEM
E-3
NOV. 28, 2007

DISCUSS ARBORIST RECOMMENDATIONS FOR OFFICE LANDSCAPE

ITEM

Acceptance of *Site Assessment* by Arborist Dave Ragan (International Society of Arboriculture Certified #WC-0345A) and discussion of recommendations [RECOMMEND ADOPTION].

BACKGROUND

Attached is the *Site Assessment* of the District Wilson Street facility's trees prepared by Dave Ragan, Certified Arborist, performed at the request of Celeste Whitlow, District Conservation and Public Outreach Specialist. The purpose of the assessment was to evaluate the health of the trees, and to assess for safety issues related to the trees. The assessment's report lists several recommendations for tree/shrub removal for safety reasons, threat to facility structural integrity, and inappropriate placement in a planned drought-tolerant landscape.

In addition, attached is the *Staff Recommendations for Arborist's Work on District Office Trees*, in which Ms. Whitlow offers recommendations and prioritizes the work to be done.

Celeste Whitlow is schedule to present her recommendations and to answer questions at the Board Meeting.

RECOMMENDATION

Staff recommends that your Honorable Board discuss the recommendations set forth in the *Staff Recommendations* attachment and authorize staff to secure quotes for work identified for presentation at a subsequent Board Meeting.

ATTACHMENTS

- *Site Assessment* by Dave Ragan, Certified Arborist.
- *Staff Recommendations* by Celeste Whitlow

T:\BOARD MATTERS\BOARD MEETINGS\BOARD LETTER\BOARD LETTER 2007\ARBORIST TREE WORK 2.DOC

Site Assessment

FOR

Nipomo Community Services District
148 S Wilson St., Nipomo, CA 93444

July 25, 2007

BY

DAVE RAGAN, ISA CERTIFIED ARBORIST # WC-0345A

DAVE'S TREE SERVICE
625 JAMESON CT
ARROYO GRANDE, CA 93420
(805)481-1038

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Summary

The landscape around the Nipomo Community Service District office could be used as a display garden using plants adapted to our dry summers and wet winters. The current landscape has many plants that are high water users. Several of the trees will eventually damage hardscape such as curbs, sidewalks and the parking lot.

The plant palate could be improved. There is a wide variety of aesthetically pleasing drought tolerant plant material that could be incorporated into this landscape

Several of the existing trees and shrubs will need to be removed and replaced if the Board decides this is a viable option.

Introduction

Dave's Tree Service was hired by Celeste Whitlow representing the Nipomo Community Service District.

The Community Services District is working on ways to conserve water. A drought tolerant landscape is one of the options. Celeste is concerned some of the landscape material around the District building could be better adapted to our Mediterranean climate.

We walked the site on Monday, June 25.

Assignment

The condition of the existing trees at 148 South Wilson in Nipomo will be evaluated. Current and potential problems will be assessed along with drought tolerance. A written report will be provided.

This report can be used to determine which plants should be left and those which can or should be replaced.

Observations

Directions for the report are: north – toward Tefft, south – toward West Dana, east – toward Wilson and west – toward 101.

There are 37 large shrubs and trees on this site.

East side of building. There trees on the east side of the building are: 2 Birch, *Betula pendula*, planted on the on either side of the sidewalk to the main entry, and 5 *Arbutus* 'Marina', 1 to the south of the main entry and 4 to the north.

North side of building. The trees planted on the north side of the building are all planted in a bed that runs along the northern edge of the property. They are: an Ornamental Pear, *Pyrus kawakami*, planted at the entry to the parking lot off Wilson; the next tree is a

sweet gum, *Liquidambar styraciflua*, followed by 6 *Dodonaea* bushes, *Dodonaea viscosa*, and 6 *Myoporum*, *Myoporum laetum*. There is a Blue Gum Eucalyptus, *Eucalyptus globulus*, in the northwest corner.

West side of building. The trees planted on the west side of the building are: 3 Alders, *Alnus rhombifolia*, and one *Arbutus* 'Marina', planted on the east side of the parking lot entry off West Dana. The trees planted along the western edge of the parking lot, from north to south are: a small Red Iron Bark Eucalyptus, *Eucalyptus sideroxylon*, Alders, another larger Red Iron Bark Eucalyptus, a Cassia, *Cassia spp.*, a Birch (located in a parking island), 3 *Dodonaea*, an alder, a *Dodonaea* and a Sycamore, *Platanus racemosa*.

There are no trees planted on the south side of the building.

There is no irrigation for the 5 *Arbutus* along Wilson. It does not appear that the drip irrigation along the north side of the building is functioning.

- Alnus rhombifolia*** Moisture-loving deciduous tree growing along streams; 50' – 90' in height with a 40' spread. Surface roots can be a problem. Susceptible to aphids.
- Arbutus 'Marina'*** Fairly drought-tolerant evergreen once established; up to 40' in height with an equal spread. Susceptible to aphids.
- Betula pendula*** Deciduous tree requiring ample water and nutrients; 30' – 40' in height with a spread of 15' – 20'+. Very susceptible to aphids.
- Cassia spp.*** This tree is too small to determine the species.
- Dodonaea viscosa*** Drought tolerant-shrub. 10' – 15' in height + It seems to die back in our area at a young age (perhaps due to lack of supplemental irrigation).
- Eucalyptus globulus*** Drought-tolerant evergreen, 45' - 165' with a spread of 30' -75' very messy, subject to summer branch drop. Asian longhorn borers can be a problem with stressed trees
- Eucalyptus sideroxylon.*** Drought-tolerant evergreen; *sideoxylon*; 30' – 90' with a spread of 30' – 60'. Nectar can be a sticky mess for items beneath the canopy, limbs are extremely brittle.
- Liquidambar styraciflua*** Deciduous tree requiring regular supply of moisture; to 60' + in height with a spread of 40' -50'; extremely surface rooted, can shed limbs.

Golf ball sized fruit can be a problem

Myoporum laetum Fast-growing large shrub/small tree requiring some supplemental irrigation, to 25' – 30' with a spread of 20'. Small fruit are messy. Temperatures below 24°F can cause severe damage. Thrips have been observed deforming the new growth (this is a new problem in our area)

Platanus racemosa Deciduous tree requiring regular irrigation; 30' – 80' with a spread of 20' -50'. Susceptible to anthracnose ((will defoliate the tree in wet springs).

Pyrus kawakami Semi-deciduous tree requiring supplemental irrigation; to 30' with an equal spread. Very susceptible to Fireblight (kills the branch tips and eventually whole branches). Very susceptible to Entomosporium Leaf Spot (will defoliate the tree in wet springs)

Discussion

The **Alders** are in good condition. They require a moist environment and are not a suitable tree for a drought tolerant landscape. There is a high probability that the roots will damage hardscape on all 4 trees. They are planted adjacent to a retaining wall, slab, curb, and/or irrigation boxes. The southern tree has a circular cement water valve cover. It is possible a water line runs beneath this tree. Roots will grow in the direction of least resistance such as an area trenched for utilities. The middle **Alder** has small roots and a dripline which could girdle the larger roots.

The ***Arbutus 'Marina'*** are all in good condition. The back one should be pruned. The 5 trees planted in front of the building do not have any irrigation and the cut outs in the sidewalk are too small. The soil level in these cut outs is to the top of the sidewalk on several of the trees. All the trees along Wilson still have the stake from the nursery container against the trunk.

The **Birch** trees are in good condition, except for sooty mold, a problem with this species in this area . They are not a tree that is suitable for a drought-tolerant landscape. The 2 front trees have ivy (*Hedera helix*, invasive plant in Calif.)as a groundcover. Both trees have multiple trunks. The roots from the **Birch** located in the parking island on the west side of the building may eventually damage the curb and asphalt.

The **Cassia** looks like *Cassia leptophylla* but is too small for identification. *Cassia leptophylla* is a nearly evergreen that is fairly drought tolerant. It can grow to 20'-25' in height with a spread of 30'.

The **Dodonaea** are in fair condition. Three have died along the northern property line and the shrub closest to Wilson is dying.

The **Blue Gum Eucalyptus** is in good condition. It is planted in the wrong location for a tree with such a large size at maturity. The roots can damage the neighbor's building and the leaves will need to be constantly cleaned from the flat roof.

The **Red Iron Bark Eucalyptus** are in fair condition. They have both lost several limbs. These trees are brittle and will continue to lose limbs.

The **Liquidambar** is in fair condition. It is not growing vigorously. I believe this is due to lack of water. There is included bark between the 2 primary leaders. It is planted in the wrong location. The roots will eventually damage the asphalt if and when it starts to grow.

The **Myoporum** are in fair condition. They are a little dry. **Myoporum** is a small tree or a large shrub. The *Myoporum* do a good job of screening the neighboring building. Three of the **Myoporum** are within 1' of the curb and one is within 3' of the curb. The tree closest to Wilson is overhanging the parking lot.

The **Sycamore** is in fair condition. It has several problems. They are a riparian plant but will take some drought once established. It is planted beneath the power lines. It will never grow into a specimen tree because it must be continually topped to clear these lines. It is currently too wide. **Sycamores** are very susceptible to anthracnose. This fungus nearly defoliated the sycamore this year. Anthracnose is generally not fatal and the trees usually push their second flush of growth in June/July.

The **Ornamental Pear** is in fair condition. It is within 1'-3' of the curb, an irrigation box and 1" waterline. The skirt is too low over the entry. **Entomosporium leaf spot** is evident on the majority of leaves. This fungus is similar to anthracnose because it is usually not fatal, is spread by splashing water, affects the new leaves and will defoliate the tree during wet springs.

Recommendations

The **Alders** will need to be removed if the goal is to establish a drought tolerant garden. At the least they will require root pruning. Depending on the extent required to save some of the hardscape, the stability of the tree may be jeopardized.

The **Arbutus 'Marina'** in front of the building will require regular irrigation. They are currently being hand watered. This is probably the best option because the sidewalk would probably need to be cut to install irrigation lines. Soil should be removed to a depth of 1"-2" below the top of the sidewalk. This basin can be filled twice when these trees are watered. The cut outs in the sidewalk will eventually need to be enlarged. The area around the trunks can be covered with grates to protect pedestrian traffic. The middle stakes on these 5 trees need to be removed.

The **Birch** trees will need to be removed if the goal is to establish a drought-tolerant garden. The **ivy** should be cleared away from the base of these trees by 4'-5'. There is a failure potential with the multiple trunks. These 2 trees will require regular pruning and

cabling if they are kept in the landscape. The smaller trunk on the southern birch and the birch in the parking lot should be removed.

The potential root problem with the **Birch** in the parking island on the west side of the building should be addressed if these trees are kept. Deep root panels should be installed around this Birch.

The **Dodonea** stumps and dying **Dodonea** (leave the small volunteer) along the northern property line should be removed. A suitable replacement should be considered since three of these have already died. Supplemental irrigation may help.

The **Blue Gum Eucalyptus** should be removed. It will damage the neighboring building.

The **Red Iron Bark Eucalyptus** should be removed. They are a hazard due to limb failure. The wounds created by the failed limbs may eventually weaken the trunks.

The **Liquidambar** will probably require eventual removal due to its size at maturity and large surface roots. It is not drought tolerant. Deep root panels can be installed to lengthen its life in this location. The back limb should eventually be removed or reduced.

The **Myoporum** are planted too close to the parking lot. Deep root panels should be installed to reduce the chances of damage to the asphalt. The front side of the bush closest to Wilson should be hedged back inside the planted bed. The height can be increased to completely screen the neighboring building.

The **Sycamore** could be replaced with a tree that will not grow into the power lines. However it is a fairly significant member of the landscape. Therefore it could be side trimmed on a regular basis to keep the sides in scale with the height. PG&E will keep the lines cleared. Spraying for anthracnose is not an economically viable option. The tree would require applications every 1-2 weeks during the spring from leaf out until the rains stop.

The **Ornamental Pear** is not drought tolerant. It should be removed and replaced with a small shrub that will not block the view of traffic for cars exiting the parking lot onto Wilson. Should the tree be left it must be monitored to prevent damage from the roots. The skirt should be raised for vehicle clearance. Spraying for *Entomosporium* leaf spot for is not an economically viable option. The tree would require applications every 1-2 weeks during the spring from leaf out until the rains stop.

There are no trees planted on the south side of the building. Some deciduous trees could be planted. They would provide shade during the summer and allow sunlight to hit the building during the winter.

The irrigation for the planter bed along the north side of the building should be repaired.

Literature Cited

Brenzel, K.A. 2001. Sunset Western Garden Book, 179-180,197,223,318-319,339-341,437,474-475,531-532,558.

Pierce, L. and A McCain. 1983. Entomosporium Leaf Spot. University of California Cooperative Extension. Leaflet 21369.

Dave Ragan
ISA Certified Arborist #WC 0345

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NIPOMO COMMUNITY



SERVICES DISTRICT

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Celebrating 42-Years of Service 1965-2007

148 SOUTH WILSON STREET POST OFFICE BOX 326 NIPOMO, CA 93444 - 0326
(805) 929-1133 FAX (805) 929-1932 Website: ncsd.ca.gov

STAFF RECOMMENDATIONS FOR ARBORIST WORK ON DISTRICT OFFICE TREES

Review of Mr. Ragan's *Site Assessment* was performed, and further clarification sought and received. Additional research has been accomplished. The following recommendations, prioritizing the work to be done, are made.

There are two groups of projects:

- Group I:** Tree work that should be done soon (usually for safety and potential-damage reasons).
- Group II:** Tree work that will need to be done before the landscape refurbishment begins, but which may be chosen to be performed sooner.

GROUP I:

1. Extending existing irrigation underneath the front sidewalk to provide water to the *Arbutus* 'Marina' street trees. Providing regular, consistent irrigation will greatly benefit these trees.
2. Enlargement of the sidewalk openings around the *Arbutus* trees and placement of grates. Enlarging the sidewalk openings will provide for better health of the trees due to the increased surface area for soil air exchange. Placing metal grates over the openings will eliminate a current safety hazard (sidewalk pedestrians stepping into sidewalk openings and suffering injury).
3. Removal of alders (*Alnus rhombifolia*) and replacement. The three large alders next to the back of the District office building pose a threat of structural damage to the building and surrounding hardscape. Alders will reach a diameter of 2', and they form very large, aggressive roots near the surface. In addition to potential damage to the District's office building, the roots will buckle the sidewalk, creating a safety hazard. The only way the trees could remain would be if root guards were placed. However, very large prop roots would have to be severed to place the root guards, which would destabilize the tree(s), putting them at great risk for falling over. The trees are also not drought-tolerant.

The middle and right alders can be replaced with Golden Rain Trees (*Koelreuteria paniculata*), and root guards placed at the time of installation of the trees. These trees line the road leading to the Arboretum at CalPoly, and have done very well with limited supplemental water and attention. They are deciduous trees which will provide shade in the summer, but allow sun to warm the building in the winter. They produce beautiful 8"-14" clusters of yellow flowers in early to mid-summer. The alder next to the Board Room patio should not be replaced with another tree because the space is not sufficient for a tree without risking damage to the patio as the tree grows larger.

4. Removal of the Ornamental Pear (*Pyrus kawakamii*). The Ornamental Pear at the front driveway entrance blocks view of the driveway from traffic traveling down S. Wilson towards Dana, and is too

large for the space. It is also located near the meter box and valve, which provides a seductive draw to the aggressive, water-seeking roots of this tree. It is in close proximity to the driveway which risks damage to the driveway surface. The narrowness of the bed makes that area unsuitable for most trees.

The Ornamental Pear should not be replaced, pending the landscape re-design, thus allowing the landscape designer to make an appropriate selection that will fit with the rest of the proposed landscape design.

5. Removal of the Liquidambar (*Liquidambar styraciflua*). The Liquidambar bordering the front of the entrance driveway represents problems similar to the Ornamental Pear. The bed space is too narrow to accommodate a tree, and roots can cause damage to both meter box/valve and driveway surface.

Like the Ornamental Pear, replacement of the Liquidambar is not recommended at this time, pending the recommendations of the landscape designer who will provide the design for the District's landscape refurbishment.

6. Removal of the Birch in the island of the back parking lot. Again, the birch presents problems due to a small space for what will be a very large tree, and the propensity for aggressive, water-seeking roots damaging surrounding driveway structures. Birches in California also serve as disease vectors (sooty mold) and insect vector (aphids), providing ample opportunity for these problems to be spread in the landscape. Birches heavily infested with aphids and sooty molds, once they reach the size where they will hang over parked vehicles, provide a very sticky, sooty cascade on the vehicles parked underneath them.

Like the other trees, replacement of the Birch is not recommended at this time, to allow the landscape designer to incorporate this into the proposed landscape design.

7. Removal of the Blue Gum Eucalyptus (*Eucalyptus globulus*) tree. This eucalyptus is extremely large and placed perilously close to a neighboring building. The roots may already be causing unseen problems to the foundation of the building, and certainly are a threat for future problems. The dropping of leaves and litter onto the neighboring building's roof can lead to leaking problems if not kept clear. Eucalyptus trees are notorious for falling, without warning, in high winds, producing a safety and building hazard for both the neighboring building and the District's driveway and parked cars. Finally, eucalyptus trees are not water efficient.

This tree should not be replaced.

8. Removal of Red Ironbark Eucalyptus (*Eucalyptus sideroxylon*) trees. This species of eucalyptus is beautiful but not water efficient. They also are capable of toppling over in winds, putting the District's driveway and parked vehicles at risk for damage. The limbs are very brittle and easily break and fall, with and without wind. They also exude a sticky substance which falls onto whatever is underneath.

Like the other trees, replacement of this tree is not recommended at this time, to allow the landscape designer to incorporate this area into the proposed landscape design.

9. Removal of the *Cassia* spp. tree. This small tree is placed in an inappropriate location. This tree will grow to 30' wide/20-25' tall, and will be crowded by, and cause crowding to, the neighboring large *Dodonea*. The *Cassia* tree should be removed soon before it grows larger.

10. Pruning and shaping of Sycamore (*Platanus racemosa*) tree.

GROUP II:

The removal and replacement of the Dodonea, Myoporum, birch trees in front, and smaller Alders on the back side of the parking lot are all projects that need to be done soon, but could wait until before the landscape refurbishment project is started. The Myoporum should be considered a priority in this second group because it is considered a moderately invasive plant in California.

Thank you for the opportunity of participating in this project.

Celeste Whitlow, Conservation Specialist

TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL
DATE: NOVEMBER 21, 2007

AGENDA ITEM
E-4
NOV. 28, 2007

**INITIATE BY-LAWS REVISION TO INCREASE AD HOC AND STANDING
COMMITTEE COMPENSATION AND SET HEARING TO CONSIDER ADOPTION**

ITEM

Initiate By-Laws revision to increase Ad Hoc and Standing Committee compensation and set hearing to consider adoption
[RECOMMEND ADOPTION].

BACKGROUND

On February 28, 2007, the Board of Directors adopted Resolution 2007-1006 adopting amended By-Laws. Section 16 stated that the Board By-Laws Policy shall be reviewed annually at the first regular meeting in February. Director Trotter has requested the Board of Directors review and consider revision to Section 9 of the By-Laws that addresses Director Compensation prior to the annual review. Specifically, Director Trotter would like the Board to review Section 9.2.

Section 9 states the following:

9.1 Each Director is authorized to receive one hundred dollars (\$100.00) as compensation for each regular, adjourned or special meeting of the Board of Directors attended by him/her.

9.2 Each Director is authorized to receive fifty dollars (\$50.00) as a compensation for each standing committee or ad hoc committee meeting of the District attended by him/her.

9.3 Each Director is authorized to receive one hundred dollars (\$100.00) per day as compensation for representation of the district at a public meeting or public hearing conducted by another public agency and/or participation in a training program on a topic that is directly related to the District, provided that the Board of Directors has previously approved the member's participation at a Board of Director's meeting and the member delivers a written report to the Board of Directors at the District's next regular meeting regarding the member's participation.

9.4 In no event shall Director compensation exceed \$100.00 per day.

9.5 Director compensation shall not exceed six full days in any one calendar month.

RECOMMENDATION

Staff recommends that your Honorable Board continue this item for further legal review by District Legal Counsel.

ATTACHMENTS

None

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TO: BOARD OF DIRECTORS
FROM: BRUCE BUEL *BB*
DATE: NOVEMBER 23, 2007

AGENDA ITEM
E-5
NOV. 28, 2007

CONSIDER TRACT 2611 VARIANCE APPLICATION

ITEM

Consider Shapiro Tract 2611(South Frontage at Hill Mixed Use Project) Variance Application to Extend Intent-To-Serve Approval Term [APPROVE OR DENY APPLICATION].

BACKGROUND

Attached is a request from EDA on behalf of Ed Shapiro for your Honorable Board to extend the Nipomo Commons Tract 2611 ITS Letter term by four months from November 19, 2007 to March 19, 2008, pursuant to NCS Code Section 1.04.030.

Your Honorable Board approved the issuance of an Intent-To-Serve letter to this project in November 2004 for an initial term of two years and staff, in 2006, extended the term of the Letter for one year. The project involves the subdivision of the underlying property into nine lots in two phases and construction of approximately 120,000 square feet of commercial, residential improvements, and approximately 20,000 square feet of open space.

According to EDA, development of the complex has been delayed by the discussions between the County and Caltrans regarding the alignment of South Frontage Road and the location of the southbound on-ramp onto US 101.

Attached is a draft resolution prepared by staff, should the Board wish to grant this application. Should your Honorable Board wish to deny the application, all that is needed is a motion. Should your Honorable Board deny the extension, the applicant would have standing to re-apply for a new Intent-To-Serve Letter but 100% of the multi-family allocation has been committed for this allocation year.

RECOMMENDATION

Staff recommends that your Honorable Board hear from the applicant and then the public. Following closure of public input, staff requests that your Honorable Board either adopt the attached resolution approving the extension or deny the application, by motion. As set forth in the draft resolution, staff does believe that there are unusual circumstances in this case that justify the requested time extension.

ATTACHMENTS

- 11/13/2007 Application Letter
- Draft Resolution prepared by staff

November 13, 2007

Nipomo Community Services District
Bruce Buel, General Manager
148 South Wilson Street
Nipomo, CA 93444

Re: Nipomo Commons, Tract 2611
County File No. SUB2004-00169
[eda Job #2-2989-000]

Dear Mr. Buel,

In accordance with Nipomo Community Service District policies, the proponents of the above-referenced project would like to proceed with a Variance Request for the purpose of achieving a time extension to meet the identified "Intent to Serve" requirements, made necessary by circumstances out of their control.

Attached please find the following:

- Variance Request
- Fee Analysis
- Check #34575 in the amount of \$900.00
- Vesting Tentative Tract Map 2611

Please do not hesitate to contact me should something further be required.

Sincerely,



Paul Reichardt
President

Attachments: As identified above

RECEIVED
NOV 13 2007
NIPOMO COMMUNITY
SERVICES DISTRICT

Nipomo Commons (SUB2004-00169)

Vesting Tentative Tract Map 2611

Variance Request

References:

Nipomo Community Service District Code

Title 3 - Water Service System

3.05.060 Application for intent-to-serve letters, will-serve letters and termination.

The following procedures are in addition to other district rules and regulations relating to intent-to-serve letters and will-serve letters, and shall apply to all applications for intent-to-serve letters and will-serve letters approved by the district:

- A. Application shall be made on district's application for intent-to-serve letter or will-serve letter form. In order to be considered for an intent-to-serve letter or will-serve letter, applications shall contain a verification that applicant has submitted the proposed project for initial review to the county planning and building department.
- B. Intent-to-serve letters shall automatically terminate on the first to occur:
 - 1. Failure of the applicant to provide district with written verification that county application for the project has been deemed complete within two hundred forty calendar days of the date the intent-to-serve letter is issued; or
 - 2. Two Years. However, applicant shall be entitled to a one-year *extension* upon proof of reasonable due diligence in processing the project. (Ord. 2004-100 § 1 Exh. A (part), 2004).

Chapter 1.04 – General Provision

1.04.030 Appeals.

Variances may be granted only when, because of special circumstances applicable to the property including its size, shape, topography, location or surroundings, the strict application of the provisions referenced in subsection A of this section would create practical difficulties or unnecessary hardship.

RECEIVED

NOV 13 2007

NIPOMO COMMUNITY
SERVICES DISTRICT

Project Description

The Nipomo Commons development, Vesting Tentative Tract Map 2611, was accepted for processing by San Luis Obispo Planning and Building Department on April 5, 2005 and subsequently approved on September 8, 2005. The project is situated within the Commercial Retail Land Use category and is located at 170 South Frontage Road at the southwest corner of Hill Street and South Frontage Road. Sewer and water service are provided by the Nipomo Community Service District.

In accordance with District requirements, the applicant prepared and submitted a Will Serve Application, paid associated processing fees, entered into a Plan Check and Inspection Agreement, and proceeded through the Design Review process to achieve acceptance of the proposed improvement plans. It is our understanding that the District is now satisfied with the improvements plans as revised, and that upon payment of the associated fees will perfect the Will Serve and issue the Notice to Proceed.

This prime retail location is critically impacted by the ongoing discussions related to the Hill Street on ramp improvements. The applicant has provided representation at numerous public hearings, as well as meetings with various advisory agencies, to assist stakeholders in understanding the implications of the interchange design options. In addition, coordination with adjacent developments has necessitated additional engineering and coordination relative to access, utility and easement locations. This resulted in a significantly higher cost for design and longer time periods for administration than originally anticipated.

Subsequent to project approval, the District adopted supplemental water fees, as well as multiple fee increases. The end result was an overall fee increase of almost 5 times, or \$647,069 being applied to this project.

The magnitude of these changes was only conveyed to the project proponents on November 9, 2007, six days before these fees are due. Nipomo Commons understands the necessity of these fees, but will need additional time to secure the financing required to pay these significant and unanticipated costs, as they will be tied to construction activities.

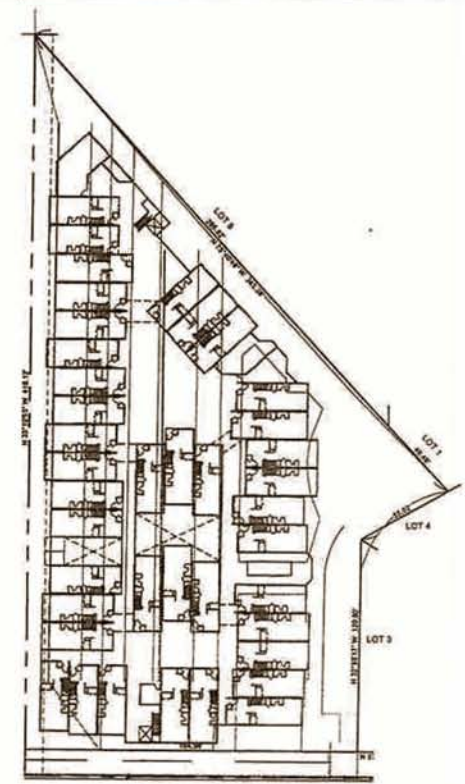
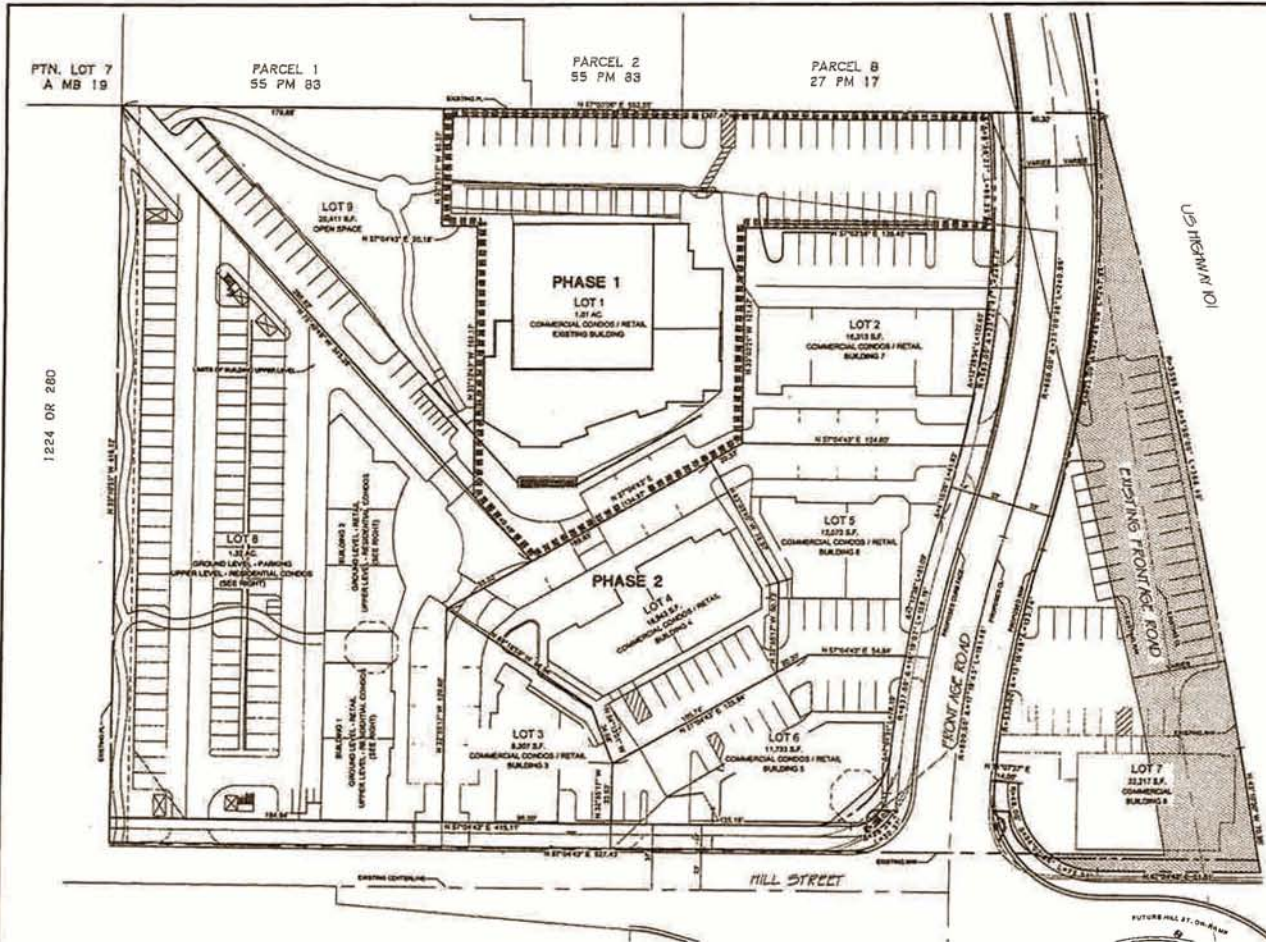
While significant progress has been made, there remain critical components to be resolved in order to satisfy the conditions of the final map, which will also impact funding. The applicant has obtained County approval extending the Vesting Tentative Tract Map to September 8, 2008.

The Nipomo Community Services District Code allows the applicant a single one year extension, an option previously exercised. The applicant respectfully requests a variance to Title 3, Section 3.05.060, B(2) be granted, based upon special circumstances related to the Hill Street circulation and additional fees, which have made it impractical and a hardship to meet the entitlement and funding requirements within the time provided. An extension of not less than 120 days is also requested in order to satisfy these requirements.

Nipomo Commons, Tract 2611
Fee Analysis

Description	Qty	Fee	7/1/2005 Total Prior to Supplemental	Fee	7/1/2007 Current Fees
1" Water	7	\$ 2,501.00	\$ 17,507.00	\$ 2,713.00	\$ 18,991.00
4" Water	1	\$ 37,519.00	\$ 37,519.00	\$ 40,694.00	\$ 40,694.00
1" Supplemental	7			\$ 12,062.00	\$ 84,484.00
4" Supplemental	1			\$ 180,973.00	\$ 180,973.00
1" Irrigation	8	\$ 2,501.00	\$ 20,008.00	\$ 2,713.00	\$ 21,704.00
1" Supplemental	8			\$ 12,062.00	\$ 96,496.00
6" Fire System	3	\$ 18,754.00	\$ 56,262.00	\$ 20,340.75	\$ 61,022.25
6" Supplemental	3			\$ 90,459.50	\$ 271,378.50
1" Sewer	7	\$ 3,977.00	\$ 27,839.00	\$ 4,314.00	\$ 30,198.00
4" Sewer	1	\$ 59,669.00	\$ 59,669.00	\$ 64,718.00	\$ 64,718.00
1" Meter	7	\$ 285.00	\$ 1,995.00	\$ 285.00	\$ 1,995.00
4" Meter	1	\$ 7,510.00	\$ 7,510.00	\$ 7,510.00	\$ 7,510.00
			\$ 228,309.00		\$ 880,113.75
Credits					
1.5" Water Capacity			\$ (7,479.00)	\$ (8,129.00)	\$ (8,129.00)
1.5" Supplemental Water			\$ (35,099.00)	\$ (38,151.00)	\$ (38,151.00)
1.5" Sewer Capacity			\$ (11,893.00)	\$ (12,927.00)	\$ (12,927.00)
			\$ (54,471.00)		\$ (59,207.00)
		Total	\$ 173,838.00	Total	\$ 820,906.75

Variance	\$ 647,068.75
Increase	472%



LOT 8 - BUILDING UPPER LEVEL DETAIL

VESTING TENTATIVE TRACT 2611
FOR
NIPOMO COMMONS
RESIDENTIAL AND COMMERCIAL CONDOS / RETAIL / OFFICE SPACE
IN THE UNINCORPORATED TERRITORY OF THE
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA
BEING A SUBDIVISION OF A PORTION OF LOT 10 OF THE OF THE RESUBDIVISION OF
THE WESTERLY PART OF LOT 25 OF H.C. WARD'S SUBDIVISION OF THE NIPOMO
RANCHO, ACCORDING TO MAP RECORDED NOVEMBER 12, 1987 IN BOOK A OF MAPS AT
PAGE 18, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY



PROJECT DATA

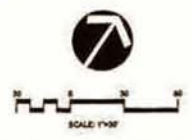
- | | |
|---------------------------|---|
| 1. PROJECT ADDRESS: | 170 SOUTH FRONTAGE ROAD
NIPOMO, CA 93444 |
| 2. PROJECT SIZE: | 3.2 ACRES (GROSS) |
| 3. ADJACENT LOT NO.: | 081-131623 |
| 4. ZONING: | CR COMMERCIAL RETAIL |
| 5. COMBINING DESIGNATION: | NONE |
| 6. AREA PLAN: | SOUTH COUNTY |
| 7. WATER SUPPLY: | NIPOMO COMMUNITY SERVICES DISTRICT |
| 8. SEWER DISPOSAL: | NIPOMO COMMUNITY SERVICES DISTRICT |
| 9. GAS: | SOUTHERN CALIFORNIA GAS CO |
| 10. ELECTRICITY: | PG&E |
| 11. TELEPHONE: | SBC COMMUNICATIONS |
| 12. FLOOD HAZARD: | NONE |

LEGEND

- | | |
|-----|----------------------------|
| --- | BOUNDARY |
| --- | PROPOSED INTERIOR LOT LINE |
| --- | EXISTING RIGHT OF WAY |
| --- | AREA OF ROAD ABANDONMENT |
| | PHASE 1 BOUNDARY |

PHASE AND AREA DATA

PHASE	LOT #	AREA	USE
PHASE 1	1	1,817 AC.	EXISTING - COMMERCIAL / RETAIL
	2	14,202 S.F.	COMMERCIAL CONDOS / RETAIL / OFFICE
PHASE 2	3	8,367 S.F.	COMMERCIAL CONDOS / RETAIL / OFFICE
	4	14,943 S.F.	COMMERCIAL CONDOS / RETAIL / OFFICE
	5	11,733 S.F.	COMMERCIAL CONDOS / RETAIL / OFFICE
	6	12,023 S.F.	COMMERCIAL CONDOS / RETAIL / OFFICE
	7	22,127 S.F.	COMMERCIAL / RETAIL
	8	30,411 S.F.	RESIDENTIAL CONDOS / RETAIL / OPEN SPACE



Prepared For:
Owner/Applicant
Ed Shapiro
570 Chorro Way
Nipomo, CA 93444
Contact Person:
Robert Richmond
PZL Architects
(805) 541-6264

PREPARED BY:
eda
architectural professionals
2000 Engineering • Land Development • Land Planning
1000 Santa Barbara St • Suite 100 • Nipomo, CA 93444
PH: 805-541-6264 • email: eda@eda.com

RESOLUTION NO. 2007-xxxx

**A RESOLUTION OF THE
BOARD OF DIRECTORS OF THE
NIPOMO COMMUNITY SERVICES DISTRICT
EXTENDING THE TERM OF THE TRACT 2611 INTENT-TO-SERVE LETTER TO MARCH 19, 2008**

WHEREAS, Ed Shapiro has applied to extend the term of the Tract 2611 Intent-To-Serve Letter through March 19, 2008 pursuant to Section 1.04 of the District Code;

WHEREAS, development of Tract 2611 has been delayed by difficulties experienced by the County of San Luis Obispo in defining the alignment of South Frontage Road;

WHEREAS, the allocation fund for multi-family housing has been exhausted for AF07-08;

WHEREAS, the Board of Directors of the Nipomo Community Services District ("District") held a noticed public hearing on Wednesday November 28, 2007 to receive feedback on the proposed variance as required by Section 1.04 of the District Code, and

WHEREAS, the Board has conditioned approval of the variance with the requirement that no additional extensions of this Intent-To-Serve Letter will be granted; and

WHEREAS, The Board finds that:

- It is not practical for the applicant to re-apply for a new intent-to-serve letter since the allocation fund for multi-family housing has been exhausted for AF07-08; and
- Granting of this Variance will not tend to defeat the purpose of the time limit requirement because of the unusual circumstances that have delayed this project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Nipomo Community Services District as follows:

1. The District hereby approves the requested variance with the following conditions:
 - A. This Intent-To-Serve Letter can not be extended beyond March 19, 2008.

PASSED AND ADOPTED by the Board of Directors of the Nipomo Community Services District this 28th day of November, 2008 on the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Michael Winn, President
Nipomo Community Services District

ATTEST:

APPROVED AS TO FORM:

Donna K. Johnson
Secretary to the Board

Jon S. Seitz
District Legal Counsel