

TO: BOARD OF DIRECTORS

FROM: MARIO E. IGLESIAS
GENERAL MANAGER



DATE: NOVEMBER 3, 2016

AGENDA ITEM E-3

NOVEMBER 9, 2016

CONDUCT PUBLIC HEARING FOR VARIANCE REQUEST TO PROVIDE ADDITIONAL WATER AND SEWER SERVICE AT APN 092-577-008

ITEM

Conduct a public hearing to review applicant's request for a variance of the District's Water Shortage Response and Management Plan in order to provide additional water services to APN 092-577-008. [RECOMMEND CONDUCT PUBLIC HEARING, CONSIDER INFORMATION PRESENTED, AND MAKE A DETERMINATION BASED ON THE FINDINGS TO EITHER GRANT OR DENY THE APPLICANT A VARIANCE FROM THE NIPOMO COMMUNITY SERVICES DISTRICT'S WATER SHORTAGE RESPONSE AND MANAGEMENT PLAN THAT, CURRENTLY UNDER STAGE IV CONDITIONS DISALLOWS NEW WATER SERVICE CONNECTIONS]

BACKGROUND

Mr. Ahmad Mashayekan is currently the property owner of APN 092-577-008 (Parcel). The Parcel is a single lot of record located on West Tefft St. There are two buildings constructed on the Parcel each with a unique address, 697 W. Tefft St. and 699 W. Tefft. Mr. Mashayekan has submitted a variance application to Nipomo Community Services District ("NCSD") in an effort to acquire additional water service to the Parcel. A complete application package has been submitted in accordance with Ordinance 2002-92, along with a variance application fee as specified in NCSD's Resolution 2015-1364.

NCSD Ordinance 2002-92, "An Ordinance of the Board of Directors of the Nipomo Community Services District Adopting Variance Procedures" ("Variance Ordinance") establishes limited variance procedures that apply to NCSD infrastructure requirements for water and sewer services. In accordance with the Variance Ordinance, property owners affected by District requirement or regulation to construct water and/or sewer improvements as a condition to receiving NCSD service may appeal to the Board of Directors for a variance from District requirements and/or regulations. Mr. Mashayekan is making such an appeal for the Parcel.

There is an existing 1.5-inch domestic service and an 8-inch fire service currently meeting the domestic and fire requirements of the Parcel. There is a 1-inch irrigation service sufficient to meet the landscape needs of the Parcel. Mr. Mashayekan has plans to build an additional structure on the Parcel, but, under Stage IV of NCSD's Water Shortage Response and Management Plan ("WSRMP") NCSD cannot accept new applications for service.

On January 11, 2012, then property owner Mr. Terrance Flatley was issued an Intent-to-Serve Letter by the Nipomo Community Services District ("NCSD") for the Parcel. Mr. Mashayekan purchased the property from Mr. Flatley and, as a condition of an Intent-to-Serve Letter issued to Mr. Mashayekan on July 10, 2013, the Intent-to-Serve Letter issued to Mr. Flatley was rescinded. Mr. Mashayekan met the conditions of the Intent-to-Serve Letter issued to him and built a 2,900 square foot medical office building. NCSD met its service obligation by installing the service connections for the Parcel.

On December 10, 2014, Mr. Mashayekan requested a second Intent-to-Serve Letter from NCSD for the Parcel. Under the conditions outlined in this second letter, Mr. Mashayekan built a 1,700 square foot mixed use building. Mr. Mashayekan paid a capacity charge to upgrade the 1-inch domestic meter to a 1.5-inch meter. Because Mr. Mashayekan was not able to sub-divide the property at the time, NCSD was not able to set a second meter, but instead upsized the existing domestic meter after receiving verification that the upsized meter was sufficient to accommodate the second build's water demand.

With this third request for service, Mr. Mashayekan is seeking to build a third building on the Parcel. It is unlikely – but not verified – that the additional water demand from a third building could not be met with the existing 1.5-inch water meter.

FISCAL IMPACT

Should your Board make findings to support the variance, NCSD would collect fees and a capacity charge associated with the calculated meter size as determined by the property owner's engineer or architect and confirmed by NCSD staff. In the absence of your Board's ability to make such findings, NCSD would not collect fees and charges.

STRATEGIC PLAN

Strategic Plan Item 6 – GOVERNANCE AND ADMINISTRATION. Conduct District activities in an efficient, equitable and cost-effective manner.

RECOMMENDATION

It is recommended that the Board of Directors deny Mr. Mashayekan's variance request in the absence of making the necessary findings during the course of the Public Hearing as specified in the Variance Ordinance.

Your Board could find that because of special circumstances as defined in the Variance Ordinance, Section F. Findings Required for Approval, the NCSD requirement or regulation being enforced could create practical difficulties or unnecessary hardship, or that granting of said variance would not tend to defeat the purpose of the particular rule or regulation. If your Board makes such a finding, staff recommends your Board adopt a resolution by a majority of Directors setting forth the written findings of fact as required by the Variance Ordinance at your Board's next regularly scheduled Board Meeting.

ATTACHMENTS

- A. NCSD Ordinance 2002-92 (Variance Ordinance)
- B. NCSD Resolution 2015-1364
- C. NCSD Board Letter "Service Request – 697 West Tefft Street" July 10, 2013
- D. NCSD Intent-to-Serve Letter July 10, 2013
- E. NCSD Board Letter "Service Request – 699 West Tefft Street" December 10, 2014
- F. Mashayekan Application for Variance

November 9, 2016

ITEM E-3

ATTACHMENT A

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2002-92**

**AN ORDINANCE OF THE BOARD OF DIRECTORS
OF THE NIPOMO COMMUNITY SERVICES DISTRICT
ADOPTING VARIANCE PROCEDURES**

WHEREAS, the Nipomo Community Services District ("District") Board of Directors held a public hearing on February 20, 2002 to consider establishing a limited variance policy; and

WHEREAS, as a result of the February 20, 2002 hearing, the District Board of Directors directed staff to return an ordinance that would establish limited variance procedures that would apply to District infrastructure requirements for water and sewer service.

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

Section 1. Authority.

This Ordinance is enacted pursuant to Government Code §§61600 (a) and (b) and §61621.5.

Section 2.

Section 1.04.030 is added to Chapter 1.04 of the District Code as follows:

1.04.030 Appeals

A. Applicability.

A property owner affected by a District requirement or regulation to construct water and/or sewer improvements as a condition to receiving District service may appeal to the District Board of Directors for a variance from the District requirement or regulation as provided herein.

B. When Permitted.

1. 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 Section A, above would create practical difficulties or unnecessary hardship.
2. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not expressly authorized or "permissible" by the provisions of the San Luis Obispo County Code or the District Code.
3. A variance shall not be granted to waive a District rate or charge that is directly related to District services.

C. Application.

1. Application for a variance shall be filed in writing with the District General Manager by the owner, or his authorized agent such as the owner's engineer or architect. Applications shall set forth and state fully the name and address of the person to receive notice of the hearing referenced in Section E, below, acknowledge receipt of these procedures, the reasons

**NIPOMO COMMUNITY SERVICES DISTRICT
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ADOPTING VARIANCE PROCEDURES**

and grounds for the variance and shall contain such information as the General Manager or his/her designee shall prescribe.

2. Every application for a variance shall be accompanied by a drawing or a plot plan, in duplicate, drawn to scale and showing the lot, the proposed location of building or buildings, the location of District water mains and sewer mains, proposed water and sewer laterals to provide District services to the building or buildings, and such other information as may be necessary to provide for the intelligent consideration of the variance request.

D. Filing Fee.

Before accepting an application for a variance the General Manager shall charge and collect a filing fee. Such fee shall be as established by resolution of the District Board of Directors.

E. Hearing.

1. Upon receipt of the application in proper form, the General Manager shall place the item on the Board of Directors Agenda for public hearing within a reasonable period of time.
2. Notice of such hearing shall be given through the U.S. Mail with postage prepaid using the address identified in the application.
3. The Board of Directors shall, on the date set, hold a public hearing upon the application for the variance.

F. Finding Required for Approval.

The Board of Directors may grant a variance based on information shown in the application and verified by staff report or upon further information brought forth during the course of the hearing, the Board of Directors must find that because of special circumstances applicable to the property including size, shape, topography, location or surroundings, the strict application of the provisions referenced in Section A above:

1. Could create practical difficulties or unnecessary hardship.
2. That granting of said variance would not tend to defeat the purpose of the particular rule or regulation.

G. Grant or Denial.

1. From the facts presented with the application at the public hearing the Board of Directors may grant the requested variance in whole or in part and with or without conditions. If the findings referenced in Section F above cannot be made such application shall be denied.
2. Every action or decision of the Board of Directors authorizing a variance shall be by resolution adopted by a majority of the Directors setting forth the written findings of fact required by Section F above.

**NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2002-92**

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3. The General Manager shall within ten (10) days of the Board of Directors' decision, mail a notice of the District's decision to the person designated in the application and any other person who has requested notice.

H. Conditions.

1. The Board of Directors in approving a variance, may set forth in its decision conditions which it deems necessary. The Board of Directors may also require such security and guarantees as the Board may deem necessary to insure that such terms and conditions are being or will be complied with.

2. Every variance granted by the Board of Directors shall contain as a condition thereof the following:

"The variance allowed is hereby conditioned upon the privileges granted herein being utilized within one hundred eighty (180) days after the effective date hereof, and should the privilege authorized hereby fail to be executed or utilized or where some form of construction work is involved, such construction has not actually commenced within such one hundred eighty (180) days, and is not diligently prosecuted to completion, the authority shall become null and void and any privilege or variance granted hereby shall lapse.

The Board of Directors may in its discretion and upon the written request of the applicant, for good cause, grant a reasonable extension of time in addition to the one hundred eighty (180) days herein provided. Such requests for extension shall be made to the General Manager and within twenty (20) days prior to the expiration of the one hundred eighty (180) day period."

Section 3. Severability

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Ordinance. The Governing Board of the District hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 4. Effect of headings

Title, division, part, chapter, article, and section headings contained herein do not in any manner affect the scope, meaning, or intent of the provisions of this Ordinance.

NIPOMO COMMUNITY SERVICES DISTRICT
ORDINANCE 2002-92

AN ORDINANCE OF THE BOARD OF DIRECTORS
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Section 5. Inconsistency

To the extent that the terms or provision of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior District Ordinance(s), Motions, Resolutions, Rules, or Regulations or any County Ordinance(s), Motions, Resolutions, Rules, or Regulations adopted by the District, governing the same subject matter thereof, then such inconsistent and conflicting provisions of prior Ordinances, including §408.190 of the District Code, Motions, Resolutions, Rules, and Regulations are hereby repealed.

Section 6. Effective Date

This ordinance shall take effect and be in full force and effect thirty (30) days after its passage. Before the expiration of fifteen (15) days after passage it shall be posted in three (3) public places with the names of the members voting for and against the ordinance and shall remain posted thereafter for at least one (1) week. The ordinance shall be published once with the names of the members of the Board of Directors voting for and against the ordinance in a newspaper of general circulation within the District.

Introduced at a regular meeting of the District Board of Directors held on March 20, 2002, and passed and adopted by the District Board of Directors on the 3rd day of April, 2002, by the following roll call vote, to wit:

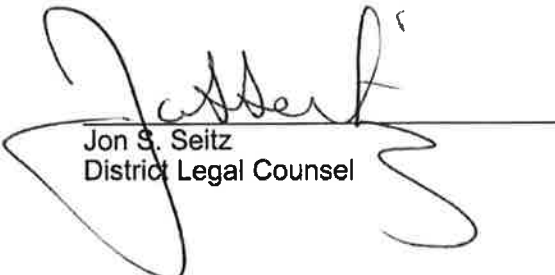
AYES: Directors Mobraaten, Wirsing, and Trotter
NOES: Director Winn
ABSENT: None
ABSTAIN: Director Blair


Richard Mobraaten,
President of the Board
Nipomo Community Services District

ATTEST:


Donna K. Johnson
Secretary to the Board

APPROVED AS TO FORM:


Jon S. Seitz
District Legal Counsel

November 9, 2016

ITEM E-3

ATTACHMENT B

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION 2015-1364

A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE NIPOMO COMMUNITY SERVICES DISTRICT
TO RESTATE, AMEND AND/OR ESTABLISH MISCELLANEOUS FEES

WHEREAS, it is a major responsibility of the Nipomo Community Services District ("District") to maintain adequate levels of revenue, equitably collected from all classes of utility customers, to meet the District's financial commitments; and

WHEREAS the District retained Tuckfield & Associates to perform a Water Rate and Capacity Charge Study (herein "Study"). The Study included an analysis of existing miscellaneous fees and charges. The fees were reviewed based on estimates of District labor, materials and equipment used to perform the service to ensure the District is charging the appropriate fee for the costs incurred. In addition, the Study recommended adding new miscellaneous fees that would recover District costs where services are being provided but are not currently being charged.

WHEREAS, Government Code §61115 authorized the District to adopt rates and charges by Resolution; and

WHEREAS, the Study was received, approved, and filed on September 24, 2014, and has been available for public inspection at the District office and on the District website since that date.

WHEREAS, based upon facts and analysis presented by Tuckfield & Associates, the Study, the Staff Report, and public testimony received, the Board of Directors finds:

- A. The miscellaneous fees and charges that are the subject of this Resolution do not exceed the estimated reasonable cost of providing the services for which the fees and/or charge or charges are imposed;
- B. The District should recover the full cost of providing services from those whom the services are provided.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED, by the Board of Directors of the District as follows:

Section 1. Incorporation of Recitals

The Recitals are true and correct and incorporated herein by this reference. The Recitals and referenced reports and studies contained therein constitute and support the findings of the District in support of this Resolution.

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION 2015-1364

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Section 2. Miscellaneous Fee Schedule

Chapter 2.07 – Miscellaneous Fee Schedule shall be added to the District Code and amended from time to time by Resolution. Any and all District fees and chargers that are not specifically amended by this Resolution shall remain in effect unless and until expressly amended or repealed by the District.

Section 3. Effect of Repeal on Past Actions and Obligations

This Resolution does not affect prosecutions for violations committed prior to the effective date of this Resolution, does not waive any fee or penalty due and unpaid on the effective date of this Resolution, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any prior Resolution or Ordinance.

Section 4. CEQA Findings

The Board of Directors of the District finds that the rates and charges adopted by this Resolution exempt from the California Environmental Quality Act pursuant to Public Resources Code § 21080(b)(8) and CEQA Guidelines Section 15273. The District General Manager is directed to prepare and file appropriate notices.

Section 5. Severance Clause

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be unconstitutional, ineffective or in any manner in conflict with the laws of the United States, or the State of California, such decision shall not affect the validity of the remaining portions of this Resolution. The Governing Board of the District hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, ineffective, or in any manner in conflict with the laws of the United States or the State of California.

Section 6. Effective Date

This Resolution shall take effect immediately. The rates and charges adopted by this Resolution shall take effect July 1, 2015.

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION 2015-1364

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Upon the motion of Director Armstrong, seconded by Director Woodson, and on the following roll call vote, to wit:

AYES: Directors Armstrong, Woodson, and Eby
NOES: None
ABSENT: Directors Gaddis and Blair
CONFLICTS: None

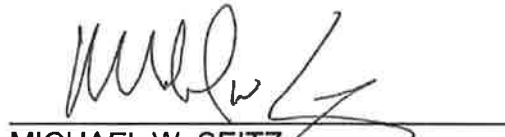
the foregoing resolution is hereby adopted this 11th day of February, 2015.


CRAIG ARMSTRONG
President of the Board

ATTEST:

APPROVED AS TO FORM:


MICHAEL S. LEBRUN
General Manager and Secretary to the Board


MICHAEL W. SEITZ
District Legal Counsel

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION 2015-1364

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THE NIPOMO COMMUNITY SERVICES DISTRICT
TO RESTATE, AMEND AND/OR ESTABLISH MISCELLANEOUS FEES
EXHIBIT A

NIPOMO COMMUNITY SERVICES DISTRICT
SCHEDULE OF MISCELLANEOUS FEES

FEE	CODE SECTION	AS OF July 1, 2015
Account Set Up Fee	3.03.020(A)	\$42.00
Duplicate Billing	3.03.030(E)	\$1.50
Late Fee	3.03.050	Greater of \$10.00 or 10% of unpaid balance
Shut Off Notice (Door Hanger)	3.030.070(A)(1)	\$20.00
Non-Payment Fee	3.03.070(7)(B)	\$50.00
Returned Check	3.03.150	\$28.00
Tampering Fee	3.03.170(B)	\$137.00
Turn On/Off after hours	3.03.100 (B)	\$147.00
Repair Authorization	3.03.170(C)	Actual cost with \$75.00 minimum
Meter Read Surcharge	3.03.030(C)(2)	\$36.00
Backflow Administration	3.04.070(A)(1)	\$1.00 per month
Meter Remove/Re-install	3.030.060(C) and 3.04.090(A) and (B)	Actual cost plus \$118.00 minimum plus capacity charge, if applicable
Outside Water Sales	3.16.020	Double inside rates
Outside Sewer Sales	4.08.220	Double inside rates
Water Meter Calibration Check	3.03.160(A)	\$118.00 plus cost of calibration
Fire Flow Letter	3.20.010(D)	\$50.00
Verification of Water and/or Sewer Service Letter	3.28.010 and 4.16.010	\$50.00
Application fees for Intent-to-Serve Letter	2.09.020	See 2.09.020
Renewal Fee for Intent-to-Serve	3.28.030(A)(1) and 4.16.030(A)(1)	\$50.00
Water or Sewer Lateral Inspection	2.14.010	\$115.00 per lateral
Annexation Fee	3.04.310(B)	\$500.00 per acre or parcel, if less than one acre
Variance Fee	1.04.030(D)	Actual cost with \$900.00 deposit
District Hydrant Access	3.20.030	\$39.00 plus account set up fee plus cost of water
Fire Hydrant Meter	3.20.030	\$2,000.00 deposit, \$30.00 per month equipment rental with one month minimum; \$39.00 month flat charge plus

NIPOMO COMMUNITY SERVICES DISTRICT
RESOLUTION 2015-1364

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EXHIBIT A

FEE	CODE SECTION	AS OF July 1, 2015
		cost of water and applicable Supplemental Water Charges
Fire Hydrant Meter Relocation Charge	3.20.030	\$150.00
Fire Hydrant Flow Test	3.20.010(E)	\$175.00 per hour with 1.5 hour minimum
In-house copy charge, Black and White	2.11.010	\$1.50 for first page and \$0.20 each page thereafter
In-house copy charge, Color	2.11.010	\$1.50 for first page and \$0.40 each page thereafter
Outside Copy Charge	2.11.010	\$25.00 plus actual cost
CD Copy Charge	2.11.010	\$15.00
Board Room Use	2.13.010	See Resolution No. 2007-1035

November 9, 2016

ITEM E-3

ATTACHMENT C

TO: MICHAEL S. LEBRUN
GENERAL MANAGER

FROM: PETER V. SEVCIK, P.E.
DIRECTOR OF ENGINEERING
AND OPERATIONS

DATE: JULY 5, 2013

AGENDA ITEM
E-1
JULY 10, 2013

SERVICE REQUEST
697 WEST TEFFT STREET, APN 092-577-008
SINGLE PARCEL COMMERCIAL DEVELOPMENT

ITEM

Consider request for water, sewer and solid waste service (Intent-to-Serve Letter) for 697 West Tefft Street, APN 092-577-008, a single parcel commercial development [RECOMMEND CONSIDER INTENT TO SERVE LETTER AND APPROVE, DENY OR CONTINUE].

BACKGROUND

The District received an application for water, sewer and solid waste service for a single commercial parcel located at 697 West Tefft Street (APN 092-577-008) on June 26, 2013. The application was submitted by the property owner, Ahmad Mashayekan. The application is for a commercial business (2900 square foot medical office building) on the referenced 2.83 acre parcel. The parcel is not currently served with District water, sewer or solid waste services.

The District issued an Intent-to-Letter to the previous owner, Terrence Flatley, dated January 11, 2012, for a mixed use project. The current property owner plans to only build a single commercial building at this time and not subdivide the property. In accordance with District code, the existing Intent-to-Serve letter for the property will be rescinded if the Board approves the applicant's request for the new Intent-to-Serve letter for the single commercial building.

The project will be required to obtain water, sewer and solid waste service in compliance with current District standards. Any existing well(s) on the property will not be utilized to provide domestic water service to any part of the project. In addition, any water and sewer improvements installed by the previous property owner as part of the abandoned project that will not be utilized for the current project will need to be disconnected or otherwise isolated from the improvements that will be dedicated to the District. Isolation of installed but not utilized infrastructure is necessary to protect water quality in the water distribution system and prevent overflows in the sewer collection system as well as reduce potential for illegal connections to the District's infrastructure.

Water and sewer demand for the project was estimated by the applicant's architect to be 9400 gallons per year, not including landscape irrigation. Commercial projects that submit a landscape plan consistent with best management practices are exempt from District Code Chapter 3.05, Water Service Limitations (annual allocation limits). The District accounts for increased water demand resulting from commercial growth by reducing the water allocation reservation for residential projects by 5%. The applicant will be required to submit an irrigation plan, a plant material layout plan, a plant material list, and a hardscape plan, if there are any water features (such as fountains and swimming pools) included in the project, to the District for review and approval prior to issuance of the Will-Serve letter for the project.

FISCAL IMPACT

Water and sewer capacity fees will be based on the domestic meter size and irrigation meter size as shown on the District approved improvement plans for the final County approved project as well as CAL FIRE's fire service requirements. Assuming one (1) 1-inch domestic meter, one (1) 1-inch irrigation meter, and one (1) 6-inch fire connection, as well as one (1) sewer connection based on the domestic water meter size, the estimated fee deposit for the project is \$117,228 based on the current District fee schedule.

RECOMMENDATION

Staff requests the Board provide staff with direction to approve, deny or continue the application. If the Board desires to approve the project, then staff should be directed to issue an Intent-to-Serve letter for the project with the following conditions:

- The Intent-to-Serve Letter issued to the previous property owner, Terrence Flatley, dated January 11, 2012, is rescinded.
- The project shall obtain solid waste, sewer and water service.
- The project shall be served by a single 1 inch meter and backflow assembly for indoor use. Water meter capacity charges will be applicable.
- The project shall be served by a single 1 inch meter and backflow assembly for outdoor use. Irrigation meter capacity charges will be applicable.
- The project shall be served by a single 6 inch fire service and backflow assembly as required by CAL FIRE of SLO County. CAL FIRE of SLO County must approve the development plans prior to District approval. Fire service capacity charges will be applicable.
- Record a restriction, subject to District approval, on the property prohibiting the use of well(s) to provide water service to any parcel within the Project.
- Properly abandon any existing groundwater wells and provide documentation to District.
- Record a restriction, subject to District approval, on the property prohibiting use of self-regenerating water softeners.
- Comply with District water conservation program.
- Pay all appropriate District fees associated with this development.
- Applicant shall provide the District with a copy of County application approval and County project conditions of approval.
- Enter into a Plan Check and Inspection Agreement and provide a deposit.
- Submit improvement plans in accordance with the District Standards and Specifications for review and approval. Applicant shall provide plans consistent with current District Standards and based on the proposed project configuration. Any water and sewer improvements installed by the previous property owner as part of the abandoned project that will not be utilized for the current project will need to be disconnected or otherwise isolated from the improvements that will be dedicated to the District.
- Discharge of fats, oils and grease to the sanitary sewer system shall be prohibited.
- Any easements required for water and sewer improvements that will be dedicated to the District shall be offered to the District prior to final improvement plan approval.
- Any easements required for private water and sewer laterals shall be recorded prior to final improvement plan approval and shall be subject to District approval.
- All water and sewer improvements to be dedicated to the District shall be bonded for or otherwise secured in the District's name prior to issuance of Will-Serve letter.

- An irrigation plan, a plant material layout plan, a plant material list (if not included in the plant material layout plan), and a hardscape plan, if there are any water features (such as fountains and swimming pools) included in the project, shall be submitted for review and approval prior to issuance of Will-Serve letter.
- A Will-Serve letter for the Project will be issued after improvement plans are approved and signed by the District.
- Applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will Serve Letter in an amount equal to the then calculated Fees for Connection.
- Fees for Connection shall be calculated and owing as of the date the District sets the water meter(s) to serve the affected property from which the amount of the Deposit shall be deducted.
- Construct the improvements required and submit the following:
 - Reproducible "As Builts" - A mylar copy and digital format disk (AutoCAD) which includes engineer, developer, tract number and water and sewer improvements
 - Offer of Dedication
 - Engineer's Certification
 - Summary of all water and sewer improvement costs
- The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo, the District's acceptance of improvements to be dedicated to the District, if applicable, and the final payment of all charges and fees owed to the District.
- This letter is void if land use is other than commercial use as defined by the District.
- Intent-to-Serve letters shall automatically terminate on the first to occur:
 - Failure of the Applicant to provide District with written verification that County application for the Project has been deemed complete within two hundred forty (240) calendar days of the date the Intent-to-Serve Letter is issued; or
 - Three (3) years, from date of issuance. However, Applicant shall be entitled to a one-year extension upon the following conditions:
 - Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve Letter.
 - Applicant provides proof of reasonable due diligence in processing the Project.
 - Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies.
- This Intent-to-Serve letter shall be subject to the current and future rules, agreements, regulations, fees, resolutions and ordinances of the District.
- This Intent-to-Serve letter may be revoked, or amended, as a result of conditions imposed upon the District by a court or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the Board of Directors.
- The District reserves the right to revoke this "Intent-to-Serve letter at any time.
- The Applicant shall provide a signed copy of the Intent-to-Serve letter within thirty (30) days of issuance.

ATTACHMENTS

- A. Application
- B. Proposed Site Plan
- C. Estimated Water Demand
- D. County Building Permit Application Summary

November 9, 2016

ITEM E-3

ATTACHMENT D

NIPOMO COMMUNITY**BOARD MEMBERS**

JAMES HARRISON, PRESIDENT
 LARRY VIERHEILIG, VICE PRESIDENT
 DAN GADDIS, DIRECTOR
 BOB BLAIR, DIRECTOR
 CRAIG ARMSTRONG, DIRECTOR

*Serving the Community Since 1965***SERVICES DISTRICT****STAFF**

MICHAEL S. LEBRUN, GENERAL MANAGER
 LISA BOGNUDA, FINANCE DIRECTOR
 PETER SEVCIK, P.E., DIRECTOR OF ENG. & OPS.
 MIKE SEITZ, GENERAL COUNSEL

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

July 10, 2013

Ahmad Mashayekan
 9850 Genesee Ave. #160
 La Jolla, CA 92037

This is not a Will Serve letter

**SUBJECT: INTENT-TO-SERVE WATER, SEWER AND SOLID WASTE SERVICE
 697 WEST TEFFT ST, NIPOMO APN 092-577-008
 2900 SQUARE FOOT MEDICAL OFFICE BUILDING LOCATED ON SINGLE
 COMMERCIAL PARCEL.**

An Intent-to-Serve letter for District services including water, sewer and solid waste service for 697 West Tefft St, APN 092-577-008, a 2900 square foot medical office building located on a single commercial parcel (the "Project"), is approved with conditions.

This Intent-to-Serve letter is limited to the Project as described above.

This Intent-to-Serve Letter shall be effective upon Owner's signature below. The Applicant must return a signed copy of the Intent-to-Serve Letter within thirty (30) days of issuance.

The following conditions must be satisfied prior to the Nipomo Community Services District (District) issuing a Project Will Serve Letter:

GENERAL CONDITIONS

- The Intent-to-Serve Letter issued to the previous property owner, Terrence Flatley, dated January 11, 2012, is rescinded.
- The project shall obtain solid waste, sewer and water service.
- The project shall be served by a single 1 inch meter and backflow assembly for indoor use. Water meter capacity charges will be applicable.
- The project shall be served by a single 1 inch meter and backflow assembly for outdoor use. Irrigation meter capacity charges will be applicable.
- The project shall be served by a single 6 inch fire service and backflow assembly as required by CAL FIRE of SLO County. CAL FIRE of SLO County must approve the development plans prior to District approval. Fire service capacity charges will be applicable.
- Record a restriction, subject to District approval, on the property prohibiting the use of well(s) to provide water service to any parcel within the Project.
- Properly abandon any existing groundwater wells and provide documentation to District.

Intent-To-Serve Letter Page 2 of 3

697 West Tefft Street

APN 092-577-008

July 10 2013

- Record a restriction, subject to District approval, on the property prohibiting use of self-regenerating water softeners.
- Comply with District water conservation program.
- Pay all appropriate District fees associated with this development. The capacity charges for the Project are currently estimated at \$117,228 based on the current District fee schedule assuming one (1) 1-inch domestic meter, one (1) 1-inch irrigation meter, and one (1) 6-inch fire connection, as well as one (1) sewer connection based on the domestic meter size.
- Fees are subject to change by Board of Directors and will be based on actual meter sizes required to serve the project in accordance with District standards.
- Applicant shall provide the District with a copy of County application approval and County project conditions of approval.
- Enter into a Plan Check and Inspection Agreement and provide a deposit.
- Submit improvement plans in accordance with the District Standards and Specifications for review and approval. Applicant shall provide plans consistent with current District Standards and based on the proposed project configuration. Any water and sewer improvements installed by the previous property owner as part of the abandoned project that will not be utilized for the current project will need to be disconnected or otherwise isolated from the improvements that will be dedicated to the District.
- Discharge of fats, oils and grease to the sanitary sewer system shall be prohibited.
- Any easements required for water and sewer improvements that will be dedicated to the District shall be offered to the District prior to final improvement plan approval.
- Any easements required for private water and sewer laterals shall be recorded prior to final improvement plan approval and shall be subject to District approval.
- All water and sewer improvements to be dedicated to the District shall be bonded for or otherwise secured in the District's name prior to issuance of Will-Serve letter.
- An irrigation plan, a plant material layout plan, a plant material list (if not included in the plant material layout plan), and a hardscape plan, if there are any water features (such as fountains and swimming pools) included in the project, shall be submitted for review and approval prior to issuance of Will-Serve letter.
- A Will-Serve letter for the Project will be issued after improvement plans are approved and signed by the District.
- Applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will Serve Letter in an amount equal to the then calculated Fees for Connection.
- Fees for Connection shall be calculated and owing as of the date the District sets the water meter(s) to serve the affected property from which the amount of the Deposit shall be deducted.

CONDITIONS TO SETTING WATER METERS

- Construct the improvements required and submit the following:
 - Reproducible "As Bulits" - A mylar copy and digital format disk (AutoCAD) which includes engineer, developer, tract number and water and sewer improvements
 - Offer of Dedication
 - Engineer's Certification
 - Summary of all water and sewer improvement costs
- The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo, the District's acceptance of improvements to be dedicated to the District, if applicable, and the final payment of all charges and fees owed to the District.

AUTOMATIC TERMINATION

- This letter is void if land use is other than commercial use as defined by the District.

Rm

Intent-To-Serve Letter
697 West Tefft Street
APN 092-577-008

Page 3 of 3

JULY 10 2013

- Intent-to-Serve letters shall automatically terminate on the first to occur:
 - Failure of the Applicant to provide District with written verification that County application for the Project has been deemed complete within two hundred forty (240) calendar days of the date the Intent-to-Serve Letter is issued; or
 - Three (3) years, from date of issuance. However, Applicant shall be entitled to a one-year extension upon the following conditions:
 - Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve Letter.
 - Applicant provides proof of reasonable due diligence in processing the Project.
 - Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies.
- This Intent-to-Serve letter shall be subject to the current and future rules, agreements, regulations, fees, resolutions and ordinances of the District.
- This Intent-to-Serve letter may be revoked, or amended, as a result of conditions imposed upon the District by a court or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the Board of Directors.
- The District reserves the right to revoke this "Intent-to-Serve" letter at any time.
- The Applicant shall provide a signed copy of the Intent-to-Serve letter within thirty (30) days of issuance.

This "Intent-to-Serve" letter shall be subject to the current and future rules, regulations, fees, resolutions and ordinances of the Nipomo Community Services District. This "Intent-to-Serve" letter may be revoked as a result of conditions imposed upon the District by a Court or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the Board of Directors for the protection of the health, safety, and welfare of the District. The District reserves the right to revoke this "Intent-to-Serve" letter at any time.

Please be aware, all building(s) in your development will be required to be connected to District water and sewer service. Water and sewer laterals serving one parcel and crossing subsequent parcel(s) prior to joining mainlines are not allowed unless they are within dedicated easements acceptable to the District.

If you have any questions, please call.

Very truly yours,

NIPOMO COMMUNITY SERVICES DISTRICT

Michael S. LeBrun

Michael S. LeBrun, P.E.
General Manager

I, _____, have read the foregoing Intent-to-Serve Letter for solid waste, sewer and water service for 697 West Tefft Street, APN 092-577-008, and by my signature below, agree to the conditions contained herein.

Date: 7/22/13

Owner *Mashayekhan*

AMMAS MASHAYEKHAN
Print Name (Owner)

November 9, 2016

ITEM E-3

ATTACHMENT E

TO: MICHAEL S. LEBRUN
GENERAL MANAGER

FROM: PETER V. SEVCIK, P.E.
DIRECTOR OF ENGINEERING
AND OPERATIONS

DATE: DECEMBER 5, 2014

AGENDA ITEM
E-1
DECEMBER 10, 2014

SERVICE REQUEST – 699 WEST TEFFT STREET
APN 092-577-008
MIXED USE DEVELOPMENT

ITEM

Consider request for water, sewer and solid waste service (Intent-to-Serve Letter) for mixed use building on APN 092-577-008, 699 West Tefft Street [RECOMMEND CONSIDER INTENT TO SERVE LETTER AND APPROVE WITH CONDITIONS].

BACKGROUND

The District received an application for water, sewer and solid waste service for an additional building on APN 092-577-008, a commercial parcel on the corner of West Tefft Street and Blume Street. The application was submitted by the property owner, Ahmad Mashayekan. The application is for a two story mixed use building (699 Tefft Street) with 2 residential units (1,770 square feet) upstairs and a medical office (2271 square feet) downstairs on the referenced 2.83 acre parcel. District water, sewer and solid waste service is currently provided to the existing 2900 square foot medical building (697 Tefft Street) located on the parcel.

Total water demand for the parcel including the existing building and the new building is estimated to be 1.44 acre-feet per year (AFY). Water demand for the project will be tracked against the 500 AFY supplemental water project allocation that is reserved for new development within the District's existing boundary.

All buildings on the parcel, existing and planned, will be required to obtain District water, sewer and solid waste service in compliance with current District standards.

FISCAL IMPACT

Water and sewer capacity fees will be based on the domestic meter size and irrigation meter size requested for the final County approved project as well as CAL FIRE's fire service requirements. Assuming the existing 1 inch domestic water service needs to be upgraded to a 1.5-inch water service, assuming no change is required for the existing 1-inch irrigation water service, and assuming no change is required for the existing 8-inch fire service as well as taking into account the capacity credit for the existing 1-inch domestic water service and associated sewer capacity credit, the estimated fee deposit for the project is \$38,589 based on the District capacity charge schedule that goes into effect on January 1, 2015.

RECOMMENDATION

Staff recommends that the Board approve the Applicant's request for an Intent-to-Serve letter for the project with the following conditions:

- Project shall obtain solid waste, sewer and water service for all buildings on the parcel.
- The parcel shall be served by a single 1.5-inch meter and backflow assembly for indoor use. Meter capacity charges will be applicable to upgrade the existing 1-inch meter to a 1.5-inch meter.
- The parcel shall be served by a separate single appropriately sized meter and backflow assembly for irrigation use. Meter capacity charges will be applicable if upgrade of existing 1-inch meter is required.
- A single separate appropriately sized fire service and backflow assembly as required by CAL FIRE of SLO County shall be provided for the parcel. CAL FIRE of SLO County must approve the development plans prior to District approval. Fire service capacity charges will be applicable if upgrade of the existing 8-inch fire service is required.
- Record a restriction, subject to District approval, on all parcels prohibiting use of self-regenerating water softeners.
- Comply with District water conservation program.
- Pay all appropriate District fees associated with this development.
- Applicant shall provide the District with a copy of County application approval and County project conditions of approval.
- Enter into a Plan Check and Inspection Agreement and provide a deposit.
- Submit improvement plans in accordance with the District Standards and Specifications for review and approval. A water and sewer master plan review of project impacts may be required by the District.
- Project landscape plan shall incorporate best management water conservation measures and be approved by the District General Manager.
- Any easements required for water and sewer improvements that will be dedicated to the District shall be offered to the District prior to final improvement plan approval.
- Any easements required for private water and sewer laterals shall be recorded prior to final improvement plan approval and shall be subject to District approval.
- All water and sewer improvements to be dedicated to the District shall be bonded for or otherwise secured in the District's name.
- A Will-Serve letter for the Project will be issued after improvement plans are approved and signed by the District.
- Applicant shall make a non-refundable deposit ("Deposit") at the time the District issues a Will Serve Letter in an amount equal to the then calculated Fees for Connection.
- Fees for Connection shall be calculated and owing as of the date the District sets the water meter(s) to serve the affected property from which the amount of the Deposit shall be deducted.
- Construct the improvements required and submit the following:
 - Reproducible "As Builts" - A mylar copy and digital format disk (AutoCAD) which includes engineer, developer, tract number and water and sewer improvements
 - Offer of Dedication
 - Engineer's Certification
 - Summary of all water and sewer improvement costs

- Solid waste collection services are mandatory. Applicant shall provide proof that the Project is provided with solid waste removal services in accordance with District regulations.
- The District will set water meter(s) upon proof of a building permit from the County of San Luis Obispo, the District's acceptance of improvements to be dedicated to the District, if applicable, and the final payment of all charges and fees owed to the District.
- This letter is void if land use is other than mixed use as defined by the District.
- Intent-to-Serve letters shall automatically terminate on the first to occur:
 - Failure of the Applicant to provide District with written verification that County application for the Project has been deemed complete within two hundred forty (240) calendar days of the date the Intent-to-Serve Letter is issued; or
 - Three (3) years, from date of issuance. However, Applicant shall be entitled to a one-year extension upon the following conditions:
 - Applicant makes written application for the extension prior to the expiration of the Intent-to-Serve Letter.
 - Applicant provides proof of reasonable due diligence in processing the Project.
 - Applicant agrees to revisions of the conditions contained in the Intent-to-Serve letter consistent with then existing District policies.
- This Intent-to-Serve letter shall be subject to the current and future rules, agreements, regulations, fees, resolutions and ordinances of the District.
- This Intent-to-Serve letter may be revoked, or amended, as a result of conditions imposed upon the District by a court or availability of resources, or by a change in ordinance, resolution, rules, fees or regulations adopted by the Board of Directors.
- The District reserves the right to revoke this "Intent-to-Serve" letter at any time.
- The Applicant shall provide a signed copy of the Intent-to-Serve letter within thirty (30) days of issuance.

ATTACHMENTS

A. Application

November 9, 2016

ITEM E-3

ATTACHMENT F

David Mashayekan
Nipomo Rexall Drugs
330 W. Tefft St. #E
Nipomo, CA 93444

RECEIVED
NOV 03 2016
NIPOMO COMMUNITY
SERVICES DISTRICT

To whom it may concern:

I am the co-owner and operator of Nipomo Rexall Drugs located at 330 W. Tefft Street in Nipomo. This pharmacy is the only independent pharmacy within a ten mile radius of Nipomo that offers compounding and free delivery. We are facing a number of issues at our current location. At the core of these issues lies the California State Board of Pharmacy, which has cited us for not being in compliance with new rules going into effect in Jan. of 2017 and for lacking pharmacist supervision of the staff. The new USP 800 goes into effect in January, and our compounding area needs to be retrofitted to meet the new guidelines. In addition, the current layout of this pharmacy makes it very difficult, if not impossible, for the pharmacist to oversee the staff.

Remodeling the existing pharmacy will cost over \$200,000.00 and will force me to shut down the pharmacy for two months. Because I do not own the physical building, I cannot secure financing for the remodeling. To be honest with you, the building is too old and worn to be remodeled even with these logistic issues aside. A year ago some overnight rain caused the entire front roof of the pharmacy to collapse and the debris almost hit one of the employees. We were forced to close down the pharmacy for a week as a result. Furthermore, this building lies in an unsecure area, exemplified by a break-in a year and a half ago, followed by two subsequent break-ins about two months ago and two weeks ago.

Due to the above reasons, I bought a parcel on Tefft Street across from the post office and constructed two medical buildings. I intended to construct a third building and relocate my pharmacy there. This parcel came with an approved set of plans for some commercial buildings and townhouses. The most exciting feature of this lot is an intent-to-serve letter by the NCSD. My ultimate goal for this lot was and still is to create a medical park with all the physicians, dentists, lab and pharmacy in one location in Nipomo. This plan offers a new level of

convenience for the patients, 90% of whom currently live on the west side of the freeway. The west side of the freeway also hosts numerous existing medical buildings, but we cannot get NCSD support there due to stage 4 drought conditions.

The new lot already has two water meters- one servicing the landscaping and another servicing two medical buildings and two apartments. My last 2-month water bill for the two medical buildings and two apartments was \$392.00 (\$96 per month for all four units). Most of this water usage is from the two apartments and very little of it is from the medical buildings. The new pharmacy will have one bathroom and a sink with minimal water usage. In addition, the landscaping is already finished so no additional water usage will occur there.

We are relocating the pharmacy rather than opening an additional one, so the total water usage will remain unchanged. I sympathize with the challenges that the NCSD is facing in regards to the water shortage in Nipomo. It is for this reason that I am delaying the construction of the townhouses and the rest of the medical buildings until the drought conditions improve. However, the pharmacy at the current location is in violation of pharmacy law and it is neither safe nor secure.

Sincerely,

David Mashayekan

Oct. 30th 2016

