

TO: BOARD OF DIRECTORS

FROM: MARIO E. IGLESIAS
GENERAL MANAGER

DATE: FEBRUARY 16, 2017

AGENDA ITEM

E-1

FEBRUARY 22, 2017

**REVIEW SERVICE REQUEST FOR
697 WEST TEFFT STREET, APN 092-577-008**

ITEM

Board update: Verification of water and wastewater service for 697 West Tefft Street, APN 092-577-008 [RECOMMEND RECEIVE REPORT AND DIRECT STAFF]

BACKGROUND

Mr. Ahmad Mashayekan ("Owner") is the property owner of APN 092-577-008 hereafter referenced as "Parcel". The Parcel is a single lot of record located on West Tefft Street in Nipomo, California. There are two buildings constructed on the Parcel and Owner proposes to construct a third building. In order to secure the necessary permits from the County of San Luis Obispo ("County") to construct a third build, Owner must prove to the County that there is sufficient water and wastewater utility services available. Owner can accomplish this by providing the County with a Nipomo Community Services District ("NCSD") Intent-to-Serve ("ITS") Letter and subsequently a Will Serve/Verification letter once all project related improvements are completed. However, ITS Letters have not been issued since May 21, 2015, when NCSD entered Stage III of its Water Shortage Response and Management Plan and does not intend to issue ITS Letters until Stage II of this plan is reached.

Your Board held a public hearing on November 9, 2016, to hear Owner's request for a variance to NCSD's restrictions on issuing ITS Letters. At that hearing your Board directed Owner to provide NCSD staff with additional, verifiable information regarding the water demand of the third building. On February 9, 2017, NCSD staff received the water demand calculations certified by the appropriate credentialed professional.

There is an existing 1.5-inch domestic water service and an 8-inch fire service currently meeting the domestic and fire requirements of the structures on the Parcel. The data received by NCSD staff on February 9, 2017, demonstrates to staff's satisfaction that the added water demand of the additional building being proposed on the Parcel is within American Water Works Association (AWWA) capacity and flow specifications of a 1.5-inch water meter. Therefore, the existing water meter serving the Parcel has capacity and will meet the additional water service demands of the proposed building. Additionally, the 8-inch fire service currently installed to serve the existing structures on the Parcel will meet the fire demand of the existing buildings as well as the fire demand of the proposed structure.

Owner paid the connection fees to support water demands of a 1.5-inch water meter and service. Owner pays the monthly fees for an 8-inch fire service and a 1.5-inch domestic water service. Paying these fees provides Owner with the assurance that, under non-emergency conditions, Owner can expect the full value of services to the extent they are equally provided to those customers in NCSD with like sized services.

Based on the information Owner has provided, issuing an ITS Letter may not be the appropriate response to Owner's service request for the Parcel. Issuing a Verification of Service letter from

NCSD to Owner would permit Owner to construct the third building on the Parcel as proposed. This would be an appropriate action by NCSD because the change in water demand on the Parcel is within the capacity of the existing 1.5-inch water meter.

Issuing a Verification of Service letter in this situation is similar to actions taken by NCSD to provide for the change in tenants of multi-tenant strip malls served by a single water meter. In both cases, NCSD requires applicants to provide calculations that demonstrate the change in water demand does not exceed the capacity of the existing water meter serving the parcel. If the proposed change results in additional water demand that exceeds the existing water meter capacity, then an ITS Letter issued by NCSD would first be necessary followed by a Verification of Service letter once all project related improvements are completed.

FISCAL IMPACT

There is no foreseeable fiscal impact to NCSD as the infrastructure is in place to serve the Parcel.

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 receive and discuss this report, and if your Board sees fit, direct staff to proceed with issuing a Verification of Service letter to Owner of Parcel.

ATTACHMENTS

- A. November 9, 2016, NCSD Staff Letter: Conduct Public Hearing for Variance Request to Provide Additional Water and Sewer Service at APN 092-577-008

February 22, 2017

ITEM E-1

ATTACHMENT A

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 subdivide 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