

# **Appendix A: Resolution 21-2008**

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RESOLUTION NO. 21-2008

A RESOLUTION OF THE CITY COUNCIL CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (EIR) AS BEING IN COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; ADOPTING FINDINGS OF FACT; AND ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS; FOR THE PORTERVILLE 2030 GENERAL PLAN

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of March 4, 2008, conducted a public hearing to consider certification of the Final Environmental Impact Report (EIR) for the Porterville 2030 General Plan; and

WHEREAS: This resolution of the City Council constitutes the certification of the Final EIR for the Porterville 2030 General Plan as being in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City's Environmental Policy; and

WHEREAS: This resolution adopts Findings of Fact for the project, and a Statement of Overriding Considerations attached hereto as Exhibit A and incorporated herein by reference and certifies the Final EIR for the Porterville 2030 General Plan; and

WHEREAS: The plan proposes to accommodate an ultimate build-out population of 107,300 with 34,250 total housing units, 5,080,000 square feet of retail uses, 4,310,000 square feet of office uses, 6,830,000 square feet of service uses, 13,690,000 square feet of industrial uses and 590,000 square feet of other uses; and

WHEREAS: The City of Porterville retained the firm of Dyett and Bhatia Urban and Regional Planners. as the consultant to assist in preparation of the environmental impact report for the project, and the document was reviewed and approved for public review by the City's Environmental Coordinator; submitted for public review, comment and response, and public hearings; approved and certified by the Council; and

WHEREAS: Staff of the City of Porterville has conducted the necessary investigations (including environmental review of this matter); and, based on substantial evidence, submitted the matter for consideration of and action by the Council; and

WHEREAS: The EIR evaluates the potential impacts of the proposed plan. Technical studies were completed, as part of the initial study; and

WHEREAS: Commencing in December 2006, the Notice of Preparation for the project was circulated for a thirty (30) day review period; and

WHEREAS: In November 2007, a Notice of Completion for a Draft Environmental Impact Report for the Porterville 2030 General Plan was filed with the State Clearinghouse; and

WHEREAS: In November 2007, a Notice of Availability of Draft Environmental Impact Report was duly circulated for a forty-five (45) day review period; and

WHEREAS: In November 2007, a Notice of Availability of Draft Environmental Impact Report and Notice of Public Hearing was duly published in the Porterville Recorder, a newspaper of general circulation, and the Public Hearing was announced by the Porterville Recorder in a news article prior to the meeting, and on KTIP radio, and Notice was mailed to agencies and all interested individuals requesting notice; and

WHEREAS: In November 2007, the Draft EIR was duly distributed to the State Clearinghouse and to other federal, state and local public agencies; and

WHEREAS: In December 2007, a Notice of Public Hearing informed the public of a public hearing set for December 18, 2007, and was mailed to agencies and all interested individuals requesting notice; and

WHEREAS: In January 2008, a Notice of Public Hearing informed the public of a public hearing set for January 12, 2008, and was mailed to agencies and all interested individuals requesting notice; and

WHEREAS: In February 2008, a Notice of Public Hearing informed the public of a public hearing set for March 4, 2008, and was mailed to agencies and all interested individuals requesting notice; and

WHEREAS: Written comments were submitted during the public comment period by various public agencies and responses were made to said comments; and

WHEREAS: A public hearing was held for this matter at an adjourned meeting of the Porterville City Council on December 18, 2007, January 12, 2008 and March 4, 2008; and

WHEREAS: Oral testimony relating to this proposal was received from City Staff and an opportunity for comment was provided to the public and such testimony was duly noted by the City Council; and

WHEREAS: A copy of the proposed Final EIR was sent by U.S. Postal Service by the City at least ten (10) days before the City Council meeting to the affected public agencies; and

WHEREAS: The plan is considered “self mitigating” (a term of art) and has the potential to have a significant effect on the environment; project findings of fact and a statement of overriding considerations are proposed for adoption.

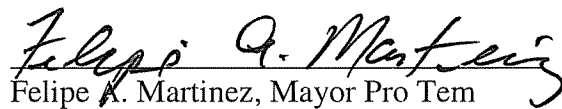
NOW, THEREFORE, BE IT RESOLVED as follows:

1. The City Council hereby incorporates by reference the Final EIR (which includes the Draft EIR and related appendices), the Staff Report prepared by City Staff, and such other oral testimony and documentary evidence submitted to the City Council during the public hearings affecting this application.
2. The City Council finds and declares that on March 4, 2008, the Council duly conducted a public hearing relating to the Final EIR; and during said meeting, evidence was submitted by City Staff and an opportunity for comment was provided to all other interested parties, and said evidence was independently considered by the Council.
3. The City Council certifies and finds that it has considered the information presented in the Final EIR and other relevant evidence to determine compliance with CEQA, the State CEQA Guidelines and the City's policies regarding compliance with CEQA. The Council further certifies and finds that prior to taking action on the plan, it independently reviewed and considered the information contained in the Final EIR and other relevant evidence. Accordingly, based on the Council's exercise of its independent judgment when reviewing and considering the information in the Final EIR and other relevant evidence presented thereto, the Council further certifies and finds that the Final EIR required for this plan is adequate and has been prepared and completed in compliance with CEQA, the State CEQA Guidelines and the City's policies regarding compliance with CEQA.
4. The City Council, after considering all of the evidence presented and based on substantial evidence, further finds and declares that the foregoing recitals (made a part hereof) are true, and makes further findings concerning the environmental impacts relating to the plan as described in the Final EIR. These findings are set forth more specifically in attached Exhibit "A" which is incorporated herein by reference. These findings, which are based on substantial evidence, are hereby adopted by the City Council. These findings reflect that (except for significant effects relating to long term agricultural land conversion, noise, biology, and air quality), all potentially significant and adverse environmental effects will be substantially lessened, reduced to a level of insignificance, or avoided with the adoption and implementation of general plan policies. These findings also reflect that (a) changes or alterations have been required in, or incorporated into, the plan which feasibly mitigate, substantially lessen or avoid the significant and adverse effects on the environment specified in the Final EIR, or (b) such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the findings, and such changes can be and should be adopted by such other agency.
5. The City Council, after considering all of the evidence presented and based on substantial evidence, further finds and declares in accordance with Public

Resources Code Section 21092.1 and State CEQA Guidelines Section 15088.5 that it is not necessary to re-circulate either the Draft or Final EIR for this project because significant new information was not added to the Draft or Final EIR (a) which identified a significant new environmental impact resulting from the plan; (b) which showed a substantial increase in the severity of an environmental impact; (c) which showed a feasible alternative or mitigation measure considerably different from others previously analyzed in the Draft EIR that clearly would have lessened the environmental impacts of the plan and which was not adopted; or (c) which showed that the Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. Similarly, the Council, after considering all of the evidence presented and based on substantial evidence, further finds and declares that the information presented in the Final EIR merely clarified or amplified information in the Draft EIR, or made minor modifications to an adequate EIR. These findings are set forth more specifically in attached Exhibit "A" which is incorporated by reference.

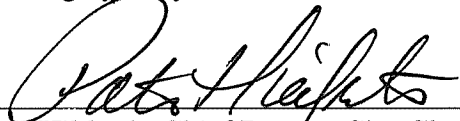
6. The City Council further finds and declares that the significant and adverse environmental effects relating to long term agricultural land conversion, noise, biology and air quality cannot be mitigated fully or substantially lessened; and that specific economic, legal, social, technological or other considerations make infeasible certain mitigation measures or project alternatives discussed in the Final EIR. The Council further finds and declares that changes or alterations have been required in, or incorporated into, the plan, which feasibly mitigate, substantially lessen or avoid substantially all of the significant effects on the environment. However, despite these mitigation measures, there still are significant and unavoidably adverse environmental effects from this project. Accordingly, after balancing these interests, the Council hereby adopts the Statement of Overriding Considerations, which is based on substantial evidence, which is set forth in attached Exhibit "A", and which is incorporated herein by reference.
7. The City Council further finds and declares that written responses have been prepared to the comments submitted by the members of the public during the hearings held for this matter; that a copy of the written responses to the public hearing comments was sent to the interested parties; and, after due consideration of said responses, the Council finds and declares that said responses are adequate. A true and correct copy of these responses is included within the Final EIR and is incorporated herein by reference.
8. Accordingly, the City Council, after considering all of the evidence presented and based on substantial evidence, hereby approves the Final EIR for the project as described and delineated in said EIR;

9. The City Council further finds and declares that this resolution (which also contains exhibits delineating project findings and a statement of overriding considerations) provides adequate support for the plan as proposed.
10. That implementation of the plan may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department's consideration of a "de minimis impact" pursuant to Section 711.2 et. Seq. of the Fish and Game Code.
11. The City Council confirms that the documents and other materials that constitute the record of proceedings (which supports this decision, resolution, findings and statement of overriding considerations) are located at the City of Porterville, Community Development Department, 291 N. Main Street, Porterville, California, 93257 (Telephone No. (559) 782-7460). The custodian(s) for these documents and other related materials are Bradley D. Dunlap, AICP, Community Development Director and Benjamin A. Kimball, City Planner.

  
Felipe A. Martinez, Mayor Pro Tem

ATTEST:

John Longley, City Clerk

By   
Patrice Hildreth, Chief Deputy City Clerk

## FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS

### Porterville 2030 General Plan Final Environmental Impact Report SCH #2006011033

FINDING NUMBER 1: The decision to prepare this EIR was based upon significant impacts found in the initial study checklist, after applying standards described in sections 15065 and 15070, 14 Cal. Code Reg.

EVIDENCE: In the Summer of 2005, the Environmental Coordinator considered the findings of an Initial Study Environmental Review and determined to prepare an EIR.

FINDING NUMBER 2: A Notice of Preparation of the EIR was sent to all organizations and individuals requesting notice and was sent by certified mail, return receipt requested to:

- The State Clearinghouse; and
- To each responsible trustee agency.

The notice was published in the Porterville Recorder on January 4, 2006.

The notice of preparation describes the project, its location, and its impacts sufficiently to permit a meaningful response.

The notice specified:

- The period during which comments would be received;
- Date, time, and place of hearings on project;
- A brief description of the proposed project and its location; and
- Address where a copy of the draft EIR was available for review.

EVIDENCE: Draft EIR

FINDING NUMBER 3: Prior to completing the Draft EIR, the staff contacted the interested agencies, individuals, and jurisdictions to secure their input.

EVIDENCE: Draft EIR

FINDING NUMBER 4: A Notice of Completion of the Draft EIR was filed with the California Secretary for Resources and the County Clerk, briefly describing the project and its location and indicating that the draft EIR was available, where it was available, how long it was available for review, together with the deadline for review.

EVIDENCE: Draft EIR

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FINDING NUMBER 5: Public notice of the availability of the Draft EIR was provided by mailing notice to:

- Organizations and individuals who previously requested such notice.

Notice was also given by the following procedures:

- Publication in a newspaper of general circulation in the affected area;
- Posting on the City's Website; and
- Posting advertisements on City buses and in strategic locations throughout the community.

EVIDENCE: Draft EIR, Public Notices

FINDING NUMBER 6: Copies of the Draft EIR were sent to the following for review for the indicated periods:

- City Hall (Front Counter);
- Nonstate Responsible Agencies;
- State Clearinghouse for state agencies 45-day review period; and
- Local library.

EVIDENCE: Final EIR

FINDING NUMBER 7: The City Staff reviewed the comments to the draft EIR.

EVIDENCE: The project case file contains correspondence between the city, consultant and other agencies along with correspondence received from agencies together with written responses in the Final EIR.

FINDING NUMBER 8: The City has prepared a final EIR consisting of:

- Clarifications of the Draft EIR;
- Comments and recommendations received on the Draft EIR. The comments are found in Chapter Two of the Final EIR;
- A list of persons, organizations, and public agencies commenting on the Draft EIR; and
- The responses of the City as lead agency to significant environmental points and to the review and consultation process are set forth in Chapter Two of the Final EIR.

EVIDENCE: Final EIR No. 2006011033 available at the City's Community Development Department.

FINDING NUMBER 9: The EIR focuses on the significant effects of the project on the environment. The scope of the discussion of the significant effects is in proportion to their severity and probability of occurrence. The significant effects on which the EIR focuses are:

- Agricultural Land Conversion

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- Noise
- Special Status Species and Habitats
- Air Quality and Emmissions

EVIDENCE: EIR No. 2006011033

FINDING NUMBER 10: This EIR focuses on the significant effects on the environment associated with implementation of the proposed General Plan and not on speculative impacts and not on speculative projects.

EVIDENCE: EIR No. 2006011033

FINDING NUMBER 11: The degree of specificity in the EIR corresponds to the specificity involved in the underlying activity in that the EIR covers the impacts of full build-out provided for in the General Plan.

EVIDENCE: EIR No. 2006011033

FINDING NUMBER 12: Notice of the public meeting of March 4, 2008 at which the Council was to certify the Final EIR was given by mail to:

- Organizations and individuals who previously requested such notice.
- Publication in the Porterville Recorder
- Posting on the City's Website

EVIDENCE: Project case file at the City.

FINDING NUMBER 13: A Public Hearing was held on March 4, 2008 before the City Council to certify the Final EIR.

EVIDENCE: Council minutes (project file).

FINDING NUMBER 14: The record will identify the persons who spoke or had presented letters before the Council at its meetings on the adoption of the environmental determination or submitted letters during the review period:

EVIDENCE: Council Minutes (project file).

FINDING NUMBER 15: The record will identify the issues that were raised at the hearing before the Council:

EVIDENCE: Council minutes (project file).

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## Statement of Overriding Considerations

### SUMMARY OF OVERRIDING CONSIDERATIONS

Section 15093 of the CEQA Guidelines establishes the following requirements for a Statement of Overriding Considerations:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological or other benefits of a Proposed Project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological or other benefits of a Proposed Project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered “acceptable”.

(b) Where the decision of the public agency allows the occurrence of significant effects, which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. This statement may be necessary if the agency also makes a finding under Section 15091(a)(2) or (a)(3).

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the Notice of Determination. Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15093, the City Council adopts and makes the following Statement of Overriding Considerations regarding the remaining unavoidable impacts of the Porterville 2030 General Plan (Project) and the anticipated economic, legal, social, technological, environmental, and other benefits of the Project.

In approving the Project, the City Council has weighed the benefits of the Project against the adverse impacts identified in the Certified EIR as significant and potentially significant that have not been avoided or substantially lessened through mitigation to a level of less than significant. The City Council hereby determines that the benefits of the Project outweigh the unmitigated adverse impacts and the Project should be approved. The City Council finds that to the extent that the identified significant or potential significant adverse impacts have not been avoided or substantially lessened, there are specific economic, legal, social, technological or other considerations which support approval of the project.

### UNAVOIDABLE SIGNIFICANT ADVERSE IMPACTS

FINDING NUMBER 17: The City Council has determined that the Project would cause significant unavoidable impacts through cumulative long-term impacts to the following:

- Agricultural Land Conversion
- Noise
- Special Status Species and Habitats
- Air Quality and Emissions

### AGRICULTURAL LAND CONVERSION

Approximately 3,050 acres of Prime Farmland soils (of which 2,880 acres are on unincorporated lands) would be converted to urban uses as a result of full buildout of the proposed General Plan. Substantial amounts of Farmland of Statewide Importance and Unique Farmland soils (approximately 4,200 acres) would also be converted. Of these lands, 3,200 of these converted acres are in Williamson Act contracts (agricultural preserves); however, these lands can only be annexed after the contracts expire, or are

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cancelled by the land owner. Though the proposed General Plan provides policies to minimize the extent of growth/sprawl associated with future development, this agricultural land conversion is considered a significant and unavoidable impact.

## NOISE

Future development within the Planning Area will result in the development of new roads near existing neighborhoods and overall increased traffic volumes, thus increasing noise levels in some areas. The proposed General Plan requires the construction of approximately 65 miles (140 lane miles) of new arterial and collector roads and about 25 miles (45 lane miles) of widening of existing roads to serve new development. This does not include the new residential roads which serve local neighborhoods. Though the proposed General Plan provides policies to minimize the extent of noise associated with future development, this impact is considered a significant and unavoidable impact.

## SPECIAL STATUS SPECIES AND HABITATS

With build-out of the proposed General Plan and associated implementation programs, the resulting agricultural land conversion will also impact known special status species in the Planning Area because it will cause the conversion of or encroachment on their habitats. While the proposed Plan specifically avoids physical encroachment on much of the grassland area in the eastern foothills, the additional noise, light, glare, storm water runoff, and general human activity associated with population growth elsewhere in Porterville has the potential to reduce the suitability and attractiveness of nearby wildlife environments for habitat uses. The substantial agricultural land conversion and resulting impact on species and habitats constitute a significant and unavoidable impact.

## AIR QUALITY AND EMISSIONS

Build-out of the proposed General Plan will result in an unavoidable and significant increase in emissions associated with vehicle miles traveled (VMT) and electricity use, directly related to population growth. While the proposed General Plan commits the City to support federal, State, and SJVAPCD efforts to reduce emissions through its policies to reduce automobile use, promote walkability, support transit, and increase energy conservation in new buildings and energy management in public buildings, public infrastructure (e.g. street lighting), and publicly-owned vehicles, any plan designed to accommodate population growth as this plan is designed to do would result in this unavoidable significant impact. The significant impacts related to the proposed General Plan and associated implementation programs would not be considerably different under any other likely growth scenario for Porterville that accommodates planned approved residential and non-residential development proposed for the city.

## ADOPTION OF OVERRIDING CONSIDERATIONS

The City Council adopts this Statement of Overriding Considerations and finds that: a) as part of the approval provisions, the Project has eliminated or substantially lessened all significant effects on the environment where feasible; and b) the remaining unavoidable impacts of the Project are acceptable in light of the environmental, economic, legal, social, technological, and other considerations set forth herein, because the benefits of the Project outweigh the significant and adverse impacts of the Project, as noted below.

The City Council finds that each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant adverse environmental impacts and is an overriding consideration warranting approval of the Project. These matters are supported by substantial evidence in the record that includes, but is not limited to, the

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Certified EIR, staff reports and analyses, oral and written testimony, and other documents referenced in this Statement of Overriding Considerations and its adopting Resolution.

## BENEFITS OF PROPOSED PROJECT

### *PROJECT BENEFITS OUTWEIGH DIRECT ENVIRONMENTAL IMPACTS*

FINDING NUMBER 18: The Project cannot be implemented in a way that accomplishes the basic project objectives without development as illustrated in the proposed alternatives. The City Council finds that the overall benefit of the Project outweighs unavoidable environmental impacts identified above. The Project would provide the following benefits:

#### **Social**

1. Plan in a manner that improves the quality of life for the whole community and meets future land needs based on the projected population and job growth
2. Create new parks and bring existing and future residents into greater proximity to open space amenities.
3. Create an efficient and sustainable agricultural buffer, protecting the areas around the periphery of the city from untimely development.
4. Plan for new and efficient public safety facilities to better serve the growing population.
5. Improve public linkages and better integrate the city and neighborhoods.
6. Encourage infill development and a reduction of blighted areas.

#### **Economic**

1. Maximize the use of existing and future infrastructure to provide an economically efficient program for commercial, industrial, public and residential uses.
2. Provide facilities needed for business and job growth.
3. Encourage industrial development in focused areas targeted for supporting infrastructure.

#### **Environmental**

1. Direct substantial amount of future growth into foothill areas, thus preserving more of the prime farmland areas from bearing the brunt of future development.
2. Hold to the Friant Kern Canal on the West Side of the City to protect against development from further encroaching into prime farmland.
3. Encourage infill development and higher densities in key areas, lessening the demand for sprawl.
4. Encourage the development of a compact urban form.

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5. Bring diverse uses into greater proximity to each other in order to reduce vehicle trips.

## CONCLUSION

The City Council has considered the public record of proceedings on the Project, and has weighed the above benefits of the Project against the unavoidable and adverse environmental impacts identified in the Certified EIR. The City Council hereby determines that these benefits outweigh the environmental impacts, and further determines that these environmental impacts are acceptable. Therefore, the City Council hereby approves the Project.

FINDING NUMBER 19: A Notice of Determination was filed stating that the Council certified the EIR.

EVIDENCE: Project File EIR #2006011033

## **Certification of EIR Reflects the Independent Judgment of the Lead Agency**

FINDING NUMBER 20: The certification of the EIR for this project reflects the exercise of the independent judgment of City Council.

### SUBSIDIARY FINDINGS:

1. The City had its consultant prepare the initial study which was adopted, after due consideration, as part of the EIR for this project.
2. The City independently reviewed and analyzed all reports and declarations which became part of the record of this decision.
3. The draft documents which this agency circulated reflected its independent judgment and were critically analyzed by its staff.
4. This agency made its decision in the light of the whole record as set forth in Finding 1 on the project.
5. The members of the agency who voted for the decision of which these findings are a part, through the exercise of their independent judgment, found substantial evidence in the light of the whole record for the adoption of the EIR.
6. This agency made its decision in the light of all the testimony at the noticed public hearings as set forth in the record and procedural findings on this project.
7. This agency made its decision in the light of the written record, letters, reports, including the report of its Environmental Coordinator and its independently drafted EIR which the agency itself critically reviewed, corrected, and had augmented where necessary.

### EVIDENCE:

1. The record as evidenced by the findings on the environmental determination, Findings 1 through 20 on the project.
2. The procedural record as evidenced by the procedural findings on the project.
3. The file on the EIR, City of Porterville, 2030 General Plan SCH#2006011033.

**EXHIBIT**

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STATE OF CALIFORNIA )  
 CITY OF PORTERVILLE ) SS  
 COUNTY OF TULARE )

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 4<sup>th</sup> day of March, 2008.

THAT said resolution was duly passed adopted by the following vote:

Council:	McCRACKEN	P. MARTINEZ	F. MARTINEZ	HERNANDEZ	HAMILTON
AYES:	X	X	X	X	
NOES:					
ABSTAIN:					
ABSENT:					X

JOHN LONGLEY, CITY CLERK

By *Luisa Herrera*  
 Luisa Herrera, Deputy City Clerk

