

COUNCIL AGENDA: OCTOBER 1, 2013

CONSENT CALENDAR

SUBJECT: CONSIDERATION OF TEMPORARY CARGO CONTAINER
REQUEST


SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: In 2005, the City Council approved Resolution 29-2005 (Attachment 1), interpreting ambiguity regarding temporary, mobile, and permanent development. Many factors were considered with this resolution, and one specifically pertained to the use of cargo/shipping containers (commonly known as sea trains) for temporary use. At that time, the Council determined that shipping containers are not a permanent commercial building, and that approval of a temporary building would require Council approval.

Consistent with this resolution, a few businesses have requested Council approval to use cargo containers during the holiday season, typically October into January to allow for removal, to accommodate additional storage needs associated with increased sales. The Council has approved these requests as they are received when warranted. Other stores are using them without City approval but the City has not proactively pursued compliance due to the short term of use and the timeline to secure approval. One such request has been submitted so far this year, from Walmart Store # 1877 at 1250 W. Henderson Avenue (Attachment 2). Walmart is requesting approval in compliance with City policy.

In this particular case, 24 storage containers are requested for the period beginning October 1, 2013, to January 1, 2014, (93 days). While the request is until January 1, 2014, staff suggests extending the period until January 31 to accommodate time needed to remove the containers after the holiday season ends. Staff can support this temporary use for this timeframe, consistent with past precedent. The sea trains are situated in the most remote portion of the parking lot and will not obstruct access to parking for Walmart or other businesses. They are also located to minimize views from the public right of way. Further, of the 961 parking spaces on the Walmart parking lot, 72 spaces would be lost during this timeframe to accommodate the temporary placement of storage containers. Because the store only requires 419 spaces, the store would continue to be over-parked even with the temporary structures. Staff recommends the following conditions of approval:

1. The number and location of sea trains shall conform to Exhibit 2.
2. The sea trains shall be permitted to be maintained on the site from October 1, 2013 to January 31, 2014.

DD  Appropriated/Funded HLA CM J

Item No. 8

3. The proposed temporary structures shall comply with all applicable local, state, and federal laws.

RECOMMENDATION: That the City Council approve the request for a temporary structure permit as outlined above and subject to the site plan and conditions of approval.

ATTACHMENTS:

1. Resolution 29-2005
2. Request from Wal-Mart

RESOLUTION NO. 29-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADOPTING INTERPRETATIONS OF AMBIGUITY AND
STATEMENTS OF CITY COUNCIL INTENT WITH REGARD TO
TEMPORARY, MOBILE AND PERMANENT DEVELOPMENT

WHEREAS: On October 12, 2004, and March 1, 2005, the City Council considered the status of a variety of non-standard building types including temporary buildings, long-term street vending, drive-through restaurant kiosks, etc.; and

WHEREAS: The City Council has determined that the City Code and the Zoning Ordinance allow for potential ambiguity in the interpretation of such issues as the appropriate application of the City Code provisions for Temporary Building Permits, the Zoning Ordinance provisions for a Conditional Use Permit for Street Vending for more than five days at a single location, and the appropriate development standards to apply to each; and

WHEREAS: The City Council intends to provide guidance to City Staff and the development community with regard to the approved interpretation of such ambiguity in the City Code and Zoning Ordinance and to give an indication as to the likely standards of review and intent of City Council in considering future development proposals.

NOW THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby adopt statements of interpretation of ambiguity and statements of City Council intent as follows:

- 1) **Permanent Commercial Buildings:** In order to be considered a "permanent" commercial building, subject only to securing a building permit, a structure must be affixed to the ground through a foundation, foundation system or other similar means, except as described below. By this standard, shipping containers, catering trucks, and trailers would not be considered "permanent" commercial buildings. Modular buildings, sheds, pre-fabricated buildings, etc., may be considered to be permanent buildings provided they are affixed to foundations. Full development standards as required by City Code would apply in such cases.
- 2) **Permanent Commercial Buildings – Exception for Food Vending Booths:** Food vending booths, food or coffee kiosks, "hot-dog" stands etc. without a foundation may be considered to be "permanent" provided the following conditions are met.
 - a) The type and location of the use is permitted by the Zoning Ordinance.

**ATTACHMENT
ITEM NO. |**

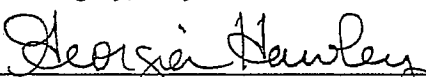
- b) The type, location, and intensity of the use are included in all calculations of site improvement requirements, including parking calculations, etc.
 - c) The development is clearly accessory to the primary use of the site, and its hours of operation are limited to those of the primary use.
 - d) The development fully complies with adopted building codes, including fire protection and the requirements of State and Local Public Health authorities.
- 3) **Permanent Commercial Buildings – Exception for Approved Temporary Buildings:** Modular and similar buildings, whether on permanent foundations or not, may be approved by the City Council as temporary buildings. Site development standards for such cases shall be determined as described below.
- 4) **Non-Standard Development as Accessory Use:** Except for on-farm produce stands, non-standard development will only be approved as an accessory to standard, permanent development on the same site, or on an adjacent related site. This will help to ensure that minimum site improvements are provided for commercial uses.
- 5) **Time Limits Required for Non-Standard Development:** Non-standard development may be approved by the City Council as either a “Temporary Building” or a “Street Vendor” as appropriate. In all such cases, approval will be for a limited period of time. The approval period will not typically exceed the reasonable period of time necessary to secure a permanent replacement. In some cases, a reasonable period of time may be granted to allow for market testing, “proof-of-concept”, etc. Site improvement standards for such development shall be determined by the City Council on a case-by-case basis using guidelines as established below.
- 6) **Development Standards – Non-Standard Development:** All non-standard development requires approval by the City Council with appropriate Conditions of Approval. Such development may require site improvements that differ from those required for permanent development. Staff reports for such proposals should identify both the proposed site improvements and the improvements that would be required for similar, permanent development.

- 7) **Temporary Building Permits – Effect on Standards for Existing Conforming Development:** Temporary buildings may be approved only with clear time limits, and with a finding by City Council that the development is to accommodate a time of business stress or emergency or a construction project. For this reason, the City Council may authorize such uses in circumstances that would cause an existing, conforming development to become non-conforming for the duration of the use. For example, a temporary modular building could be authorized to occupy required parking spaces in a commercial development. It is the intent of City Council to weigh such modifications against both the need and duration of the temporary building. Except in extra-ordinary cases, the City Council would not expect to authorize a permit that creates a non-conforming circumstance for a period longer than 90 days.
- 8) **Conditional Use Permits for “Street Vending” – Effect on Standards for Existing Conforming Development -** Conditional Use Permits for “Street Vending” for periods longer than five days do not require a finding of business stress or emergency. For that reason, such uses will not be permitted to cause an existing conforming development to become non-conforming.
- 9) **Standards of Review – Non-standard Development:** It is the intent of City Council to consider the impact that proposed Temporary Building Permits and Conditional Use Permits for longer term street vending will have on other similar businesses. Such uses are intended to offer flexibility under unusual circumstances and will not be encouraged as a means to compete with businesses in permanent buildings by avoiding development standards that would otherwise apply.
- 10) **Compliance with Zoning Ordinance and City Code – Non-Standard Development:** None of the above shall be construed to permit non-standard development to violate the Zoning Ordinance or other provisions of City Code. No use may be authorized by a Temporary Building Permit or as a Conditional Use Permit for street vending that is not permitted by the underlying Zoning Classification. Such restriction includes limitations on outdoor sales where applicable.


Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By 
Georgia Hawley, Chief Deputy City Clerk

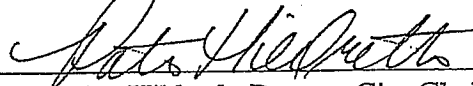
STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

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 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 1st day of March, 2005.

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

Council:	WEST	IRISH	HAMILTON	STADTHERR	MARTINEZ
AYES:	X	X	X		X
NOES:					
ABSTAIN:					
ABSENT:				X	

JOHN LONGLEY, City Clerk


by Patrice Hildreth, Deputy City Clerk

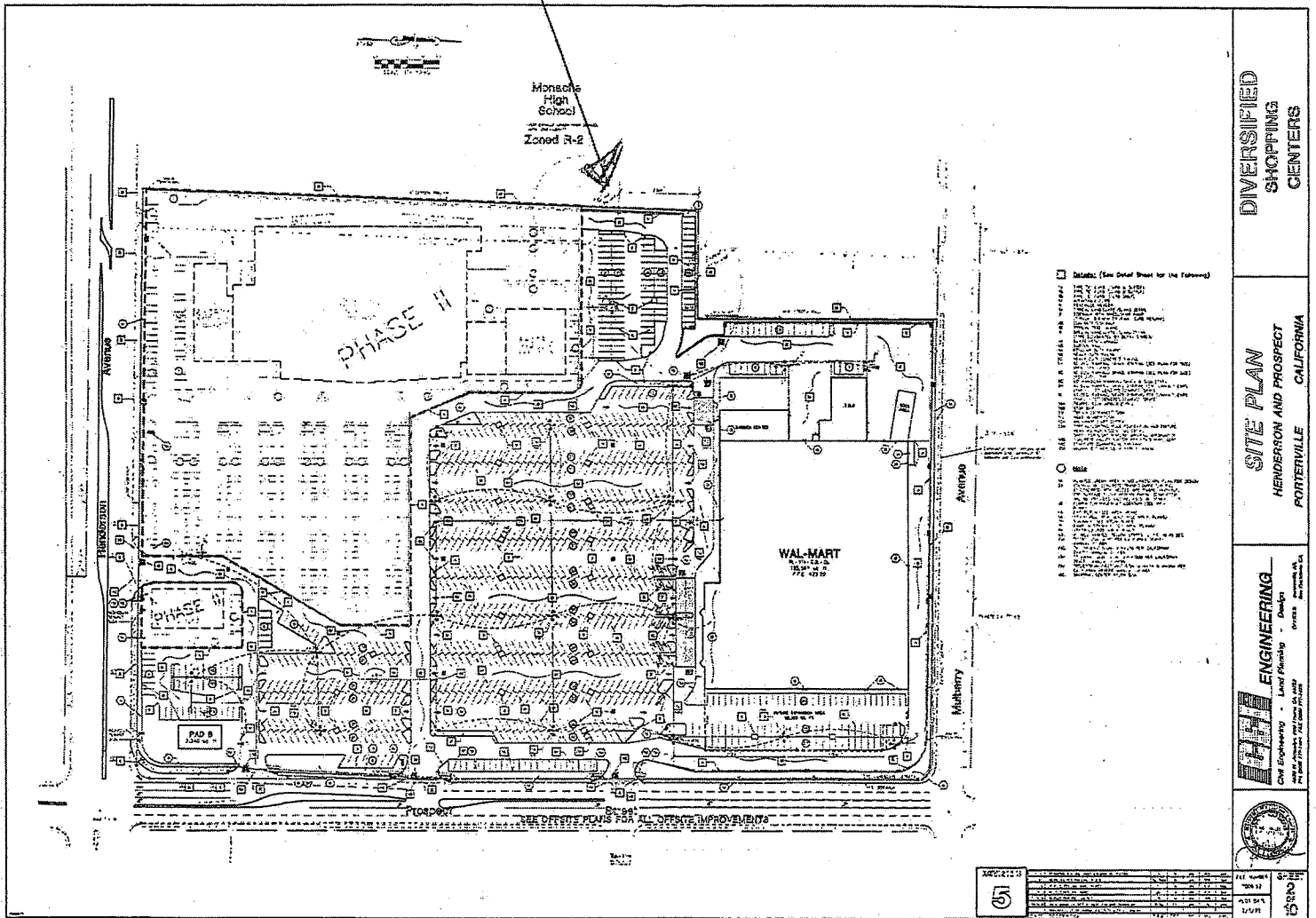
Brian Crabbe
 Shift Manager
 Wal-Mart #1877
 559-783-8195
 or
 559-623-6379

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23	17
22	16
21	15
20	14
19	13

12
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8
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5
4
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2
1

24 Total Storage
 Containers for
 Holiday 2013
 Oct 1 2013 - Jan 1 201

21



ATTACHMENT
 ITEM NO. 2



Holiday Storage Plan

1250 W. Henderson Ave

