CITY OF WHEATLAND

CITY COUNCIL MEETING
STAFF REPORT

September 27, 2016

SUBJECT: Request for Reduction of Development Impact Fees made by Applicant AKT Investments, Inc. for a new Walnut Huller at 2493 Spenceville Road, Wheatland

PREPARED BY: Greg Greeson, City Manager

Recommendation

Staff recommends Council consider and approve, based on information provided by AKT Investments, Inc. ("AKT") and analyses provided by staff, a reduction of AKT's development impact fees for its new walnut hulling facility located at 2493 Spenceville Road from $178,812 to $15,622.81 (Attachment #1).

Background

In October of 2015, AKT submitted plans to the City for a 9,000 square foot walnut hulling facility to be constructed on its property located at 2493 Spenceville Road. Pursuant to Chapter 3.26 of the City's Municipal Code (Ordinance 400, adopted in April 2007), development impact fees of $178,812 were assessed.

In mid-October of 2015, staff met with representatives from AKT regarding the assessment of those fees and discussed what appeared to both staff and AKT to be inordinately high fees for a project of such as theirs, which contemplates an agricultural operation and a limited time of use. Unfortunately, the City's 2007 nexus study, which is the basis for the setting of development impact fees for the construction of new or additional square footage for retail and employment uses within the City and which predates the annexation of AKT's property upon which the walnut hulling facility is proposed to be constructed, does not contemplate agricultural uses within the City. We discussed how AKT's hulling operation would function with the new facility and the process available to them to appeal the assessment of the current applicable development impact fees. We explained that staff did not have the authority to adjust fees that have been established by ordinance and that only Council could consider a waiver, reduction, or deferral of development impact fees based on an appeal request by AKT.

On October 27, 2015, AKT submitted the attached Request for Reduction of Fees, along with its analysis of what AKT representatives believed to be an equitable assessment of fees (Attachment #2).

Discussion/Analysis:

Section 3.26.070 of the City's Municipal Code details how deferrals, waivers and reductions in the payment of development impact fees can be requested, to whom, and the criteria by which the City Council must use to grant those requests. It provides, in relevant part:

> *Upon written request filed by a property owner prior to the due date for payment of any development impact fee, the city council may grant deferral, waiver or reduction of any development impact fee. A deferral, waiver or reduction may be granted only after notice and hearing if, in the opinion of the city council, properly supported by specific findings and evidence, deferral would provide for a more fair and equitable financing arrangement to be developed and imposed, or a waiver or reduction is necessary or appropriate because imposition of the fee or fee in full would be unlawful or would result in substantial inequities. Findings must be based on written and other evidence submitted by the property owner substantiating the owner's contention that the fee should be deferred, waived or reduced. The owner shall bear the burden of proof to demonstrate that a deferral, waiver or reduction is necessary or appropriate. For a deferral, findings must include facts supporting the deferral including, without limitation, findings that: (1) alternative financing methods involving more than one owner will be implemented and justify the fee deferral; or (2) deferral of the fee will result in a more fair and equitable funding arrangement. In the case of waiver or reduction, findings must include facts supporting the waiver or reduction including, without limitation, findings that: (1) the owner will receive insufficient or no benefit from the fee imposed and would therefore be required, if the fee were imposed in full, to pay more than its fair share for the benefit received; or (2) imposition of the fee or full fee would be unlawful in the particular circumstances. The city by resolution of the city council may adopt a fee for the processing of an owner request for a fee deferral, waiver or reduction. (Ord. 400 § 5, 2007)*

Staff conducted an analysis on the impacts of AKT's project to City services and facilities, taking into consideration the following factors:

1. As mentioned, the nexus study upon which the City's development impact fee program is based did not consider agricultural uses within City limits. Consequently, proposed agricultural uses such as the walnut hulling operation proposed by AKT were not analyzed for the purpose of establishing the appropriate fees to account for their public service impacts.

2. AKT plans to provide some of the services for which the City normally collects development impact fees pursuant to the City's development impact fee program. These services include storm drainage, water distribution, sewer collection and wastewater treatment. Because the City will not be providing these services to the proposed walnut hulling facility, there will be no impacts to City infrastructure for said services.

3. The season for walnut hulling is limited each year to about 60 days, leaving the facility non-operational 10 months out of the year. The development impact fees established by the City's ordinances do not take into account such limitations in time of use.

4. AKT's operation is an internal operation; the facility will be used only to hull walnuts that are grown on its property. To expand beyond AKT's own hulling would require additions and/or revisions to its physical plant. As it is for AKT operations alone, all of which

already take place on that property, the new facility will not result in additional truck traffic on City streets than currently exists.

In consideration of these factors, staff re-calculated the development impact fees that would be applicable to AKT to adjust for AKT providing its own storm drainage, water distribution, sewer collection and wastewater treatment and account for AKT's limited annual operation of the facility of 60 days. Based on staff's review and analysis (Attachment #3), and keeping in mind the Council's obligation to make a finding, as required by Section 3.26.070 of the Municipal Code that AKT will receive insufficient or no benefit from the fee imposed and would therefore be required, if a fee of $178,812 were imposed in full, to pay more than its fair share for the benefits received from the City, staff recommends a reduction in the development impact fees on AKT's project from $178,812 to $15,622.81.

Staff met with AKT representatives on July 13, 2016, and discussed staff's analysis and recommended reduction. AKT was agreeable to staff's recommendation and submitted a letter dated August 11, 2016 to that effect (Attachment #4).

Staff thereafter was made aware of some concerns from the community regarding the propriety of reducing the development impact fees to be paid by AKT in light of the possibility that AKT could, in the future, expand its hulling operations or otherwise change the uses on its property such that there could be more public service and facility impacts than what was accounted for in the reduced fee amount recommended by the City. To address this concern, and as previously discussed with AKT, staff has included language in the proposed resolution adopting the recommended reduction stating that any proposed change in use of the existing uses of the new facility on AKT's property beyond the annual 60-day walnut harvest season that would give rise to greater public service and facility impacts would require AKT to inform City staff and, if deemed necessary, pay additional development impact fees in the amount of the differential between the agricultural use fees calculated by staff (Attachment #3) and the fees attributable to the new land use. This language closely tracks the language in Section 3.26.020(D) of the Municipal Code. AKT has provided the City with assurances to this effect (Attachment #5).

Alternatives:

As an alternative to staff's recommendation that the development impact fees for the walnut huller be reduced, Council could choose to deny AKT's reduction request and impose the full fee amount of $178,812. In addition, it also could decide to grant a deferral (instead of a reduction) of the imposition and payment of such fees until a new development impact fee report and nexus study is completed to provide a more comprehensive analysis of the appropriate fees to be charged for agricultural and other uses not addressed in the 2007 nexus study upon which the City's current development impact fee program is based. Staff anticipates that such a study can be completed sometime next year. Staff believes that such a deferral also could be appropriate because it will result in a more fair and equitable funding arrangement than imposing the full fee amount of $178,812 would. Staff has provided an alternative resolution supporting such a deferral for Council's consideration (Attachment #6).

Attachments

1. Resolution of the City Council of the City of Wheatland Approving Reduction of Development Impact Fee Amount for AKT Investment, Inc.'s Walnut Huller Facility Located at 2493 Spenceville Road
2. Correspondence from AKT dated October 27, 2015 requesting a reduction of development impact fees
3. City of Wheatland Proposed development impact fee calculation sheet dated July 6, 2016
4. Correspondence from AKT dated August 11, 2016 stating their agreement to the reduction of the development impact fees to $15,622.81
5. Correspondence from AKT providing statement of use
6. (Alternative) Resolution of the City Council of the City of Wheatland Approving Deferral of Development Impact Fee Payment by AKT Investment, Inc. for Walnut Huller Facility Located at 2493 Spenceville Road

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND APPROVING REDUCTION OF DEVELOPMENT IMPACT FEE AMOUNT FOR AKT INVESTMENT, INC.'S WALNUT HULLER FACILITY AT 2493 SPENCEVILLE ROAD

BE IT RESOLVED by the City Council of the City of Wheatland as follows:

1. **Authority.** This resolution is adopted pursuant to California Constitution, article 11, section 7, Government Code sections 66000 to 66008, Wheatland Municipal Code section 3.26.070, and other applicable law.

2. **Findings.** The City Council hereby finds and determines as follows:

(a) The City has adopted a development impact fee program, codified in chapter 3.26 of the Wheatland Municipal Code ("Code"), to mitigate impacts on public services and facilities that arise from development within the City and which services and facilities are necessary to protect the health, safety, and welfare of the City's residents and businesses.

(b) AKT Investments, Inc. ("AKT") is the owner of the property located at 2493 Spenceville Road, Wheatland, California and oversees a walnut hulling operation at that location ("Property").

(c) Following the submission by AKT of building plans for a new 9,000 square-foot walnut huller to be constructed on the Property and after reviewing such plans, City staff informed AKT that it would be required to pay $178,812 in development impact fees for such construction pursuant to the City's development impact fee program (codified as chapter 3.26 of the Code).

(d) On October 27, 2015, AKT submitted a request to reduce such development impact fee amount for the walnut huller in compliance with section 3.26.070 of the Code, which sets forth the procedures for requesting a deferral, waiver, or reduction of development impact fees.

(e) On September 27, 2016, the City Council held a publicly noticed hearing to consider AKT's reduction request as required by section 3.26.070 of the Code and considered the staff report dated September 27, 2016 concerning this matter as well as all written and oral testimony for and against AKT's request.

(f) The City Council finds that imposition of the $178,812 development impact fee amount would be unfair because the benefits to be received by AKT from the new walnut huller would not be proportional to the amount imposed, and would require AKT to pay more than its fair share of the costs of City services attributable to the Property.

(g) The City Council further finds that a reduction of the development impact fee amount from $$178,812 to $15,622.81 is fair, necessary, and appropriate for the reasons stated in the staff report.

3. **Reduction of Development Impact Fee Amount.** The City Council hereby approves AKT's request for a reduction of development impact fees applicable to the new walnut huller facility, and approves a reduction of this fee in the amount recommended by City staff. The City Council hereby directs AKT to pay to the City the amount of $15,622.81 to fulfill its development impact fee payment obligations for the new walnut huller in compliance with chapter 3.26 of the Code.

4. **No Change in Use.** The City Council recognizes that the reduced development impact fee amount is based in part on AKT's reassurances that the walnut huller will be used only for walnuts grown on the Property for an annual 60-day period of walnut harvest. Consequently, any future expansion or change by AKT in the limited use of its walnut huller beyond the annual walnut harvest season that would give rise to additional public service and facility impacts shall be subject to additional development impact fees in the amount of the differential between $15,622.81 and the fees attributable to the expanded land use, as calculated by the City.

5. **CEQA Exemption.** The City Council finds that this reduction in development impact fees for AKT's new walnut huller facility does not have the potential to cause a significant impact on the environment and therefore is exempt from the California Environmental Quality Act ("CEQA") and section 15061(b)(3) of the CEQA Guidelines.

6. **Enforcement.** The City Manager, or his designee, is authorized and directed to process AKT's reduced development impact fee payment consistent with the City's laws and regulations.

PASSED AND ADOPTED by the City Council of the City of Wheatland on the 27th day of September 2016 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

By: _____
James Pendergraph, Mayor

Attest:

_____
Lisa J. Thomason, City Clerk

RECEIVED
OCT 30 2015
CITY OF WHEATLAND

AKT INVESTMENTS, INC.

7700 College Town Drive Suite 101
Sacramento, CA 95826-2303
(916) 383-2500 FAX (916) 383-0552

October 27, 2015

City of Wheatland
Attn.: Greg Greeson
111 C Street
Wheatland, Ca 95692

Re: AKT Huller Project Impact Fee Request for Reduction
Permit # 3484-15
2493 Spenceville Road, Wheatland, CA

Dear Greg,

Upon application of our new walnut huller project, we were informed that the project would be subjected to substantial impact fees now that our agricultural parcel lies within the city limits. As you are aware, the general city fee determination does not account for agricultural operations conducted within city limits. Given the remoteness of our facility in regards to the typically provided municipal services, which the fees are assessed, and the time-of-use of our facility, we are requesting an impact fee reduction as allowed by Section 3.26.070 of City Ordinance. We recognize the need for impact fees for the municipality however; we must provide some of those services ourselves, others are not applicable, and the balance should be pro-rated as the structure will be unoccupied for 10 months out of the year. We understand that the granting of this request is a standard practice of similar conditions in nearby municipalities, and feel that our request is warranted.

Reviewing the City of Wheatland's Development Impact Fee, as Adjusted January 1, 2015, which you and your staff were kind enough to provide, we have calculated the proposed applicable impact fees for our project. The attached calculations are based upon the municipal services that would still be provided to our distant project, pro-rated for the time-of-use.

If you would like to discuss the validity of our proposed impact fee determination, I'd be happy to meet with you or discuss it greater over the phone. I can be reached at (916) 383-2500.

Thank you for your consideration,

Chris Donnelly

AKT Wheatland Ranch, LLC CFO

Permit # 3484-15

AKT Walnut Hulling
Fee Reduction Calculation

10/21/15

Applicable Fee Description	per 1/1/15 Employ. Uses	
Law Enforcement	$ 0.203	$/sf.
Fire Protection Facilities (*Light Load*)	$ 1.120	$/sf.
Bridges, Signals, Thoroughfares	$ 5.479	$/sf.
Highway 65 Expressway Acquis. And Construct	$ 2.655	$/sf.
General Government Facilities	$ 0.486	$/sf.
Bear River North Levee Rehab. Project	$ 0.369	$/sf.
	$ 10.312	$/sf.

Building Size	9,000	sq.ft.
Impact Fee per above for Continual Yearly Occupancy	$ 92,808.00	for year
Impact Fee per above per Single Day of Occupancy	$ 254.27	per day
AKT's Occupation of Building per Original Letter of Intent	60	days

Pro-Rated Impact fee for for Time-of-Use, sub-total	$ 15,256.11	
Administration Fee	$ 152.56	1%

Total Pro-Rated Impact Fees **$ 15,408.67**

CITY OF WHEATLAND
PROPOSED DIF CALCULATION
AKT WALNUT HULLER - 2015

	2015 Rates Employment Uses Per Sq. Ft.	Proposed Calculation Per Sq. Ft.
Police	0.203	0.203
Bridges, Signals, Thoroughfares	5.479	5.479
Hiway 65 Expressway	2.655	2.655
Storm Drainage	2.511	0.000
Water Distribution	1.520	0.000
Sewer Collection	0.778	0.000
Wastewater Treatment	4.550	0.000
General Government	0.486	0.486
Bear River North Levee	0.369	0.369
Sub-Total	18.551	9.192
Fire	1.120	1.120
Sub-Total	19.671	10.312
Administration Fee	0.197	0.103
TOTAL	19.868	10.415
	9000 Sq. Ft.	9000 Sq. Ft.
TOTAL	178,812.00	93,735.00
Prorated to 60 day annual use		15,622.81

Proposed Fees Exclude: Storm Drainage, Water Distribution, Sewer Collection, Waste Water Treatment

7/6/2016

AKT
INVESTMENTS, INC.

7700 College Town Drive Suite 101
Sacramento, CA 95826-2303
(916) 383-2500 FAX (916) 383-0552

August 11, 2016

City of Wheatland
111 C Street
Wheatland, Ca 95692

Attn: Greg Greeson

Re: AKT Huller Cover Project Impact Fee Reduction
Permit # 3484-15
2493 Spenceville Road, Wheatland, CA

Dear Greg,

We have reviewed the fee schedule dated 7/6/2016 and agree with the proposed calculation. We understand that proposed fees for storm drainage, water distribution, sewer collection and waste water treatment are not included at this time.

We appreciate you taking the time to review and reduce the impact fees for this project. If you have any questions or need additional information please feel free to contact me.

Respectfully,

Chris Donnelly
AKT Wheatland Ranch, LLC CFO

CITY OF WHEATLAND
PROPOSED DIF CALCULATION
AKT WALNUT HULLER - 2015

	2015 Rates Employment Uses Per Sq. Ft.	Proposed Calculation Per Sq. Ft.
Police	0.203	0.203
Bridges, Signals, Thoroughfares	5.479	5.479
Hiway 65 Expressway	2.655	2.655
Storm Drainage	2.511	0.000
Water Distribution	1.520	0.000
Sewer Collection	0.778	0.000
Wastewater Treatment	4.550	0.000
General Government	0.486	0.486
Bear River North Levee	0.369	0.369
Sub-Total	18.551	9.192
Fire	1.120	1.120
Sub-Total	19.671	10.312
Administration Fee	0.197	0.103
TOTAL	19.868	10.415
	9000 Sq. Ft.	9000 Sq. Ft.
TOTAL	178,812.00	93,735.00
Prorated to 60 day annual use		15,622.81

Proposed Fees Exclude: Storm Drainage, Water Distribution, Sewer Collection, Waste Water Treatment

7/6/2016

INVESTMENTS, INC.

7700 College Town Drive Suite 101
Sacramento, CA 95826-2303
(916) 383-2500 FAX (916) 383-0552

September 22, 2016

City of Wheatland
111 C Street
Wheatland, Ca 95692

Attn: Greg Greeson
City Manager

Re: AKT Walnut Huller - Statement of Use
Permit #3484-15

Dear Greg,

Thank you for taking the time to review our request for an impact fee reduction as allowed by section 3.26.070 of the city ordinance. As we stated in our original letter of intent that was submitted, this building will only be in use for the annual 60-day period of walnut harvest. The maturity of the walnuts are dependent on weather and harvest time can vary from year to year but normally begins in the first week in September and ends the last week in October.

Also documented in our original letter of intent this facility is for the sole use of AKT Wheatland Ranch. We have no interest in taking in outside walnuts nor is the facility set up to do so. If at some point in the future we choose to explore that possibility, we are aware of the steps that must be taken with the City prior to accepting any outside grower's walnuts.

Please feel free to contact me at (916) 383-2500 with any questions or concerns or my authorized agent Bret Wood at (530) 345-7296.

Respectfully,

Chris Donnelly
CFO

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND APPROVING DEFERRAL OF DEVELOPMENT IMPACT FEE PAYMENT FOR AKT INVESTMENT, INC.'S WALNUT HULLER FACILITY AT 2493 SPENCEVILLE ROAD

BE IT RESOLVED by the City Council of the City of Wheatland as follows:

1. **Authority.** This resolution is adopted pursuant to California Constitution, article 11, section 7, Government Code sections 66000 to 66008, Wheatland Municipal Code section 3.26.070, and other applicable law.

2. **Findings.** The City Council hereby finds and determines as follows:

(a) The City has adopted a development impact fee program, codified in chapter 3.26 of the Wheatland Municipal Code ("Code"), to mitigate impacts on public services and facilities that arise from development within the City and which services and facilities are necessary to protect the health, safety, and welfare of the City's residents and businesses.

(b) AKT Investments, Inc. ("AKT") is the owner of the property located at 2493 Spenceville Road, Wheatland, California and oversees a walnut hulling operation at that location ("Property").

(c) Following the submission by AKT of building plans for a new 9,000 square-foot walnut huller to be constructed on the Property and after reviewing such plans, City staff informed AKT that it would be required to pay $178,812 in development impact fees for such construction pursuant to the City's development impact fee program (codified as chapter 3.26 of the Code).

(d) On October 27, 2015, AKT submitted a request to reduce such development impact fee amount for the walnut huller in compliance with section 3.26.070 of the Code, which sets forth the procedures for requesting a deferral, waiver, or reduction of development impact fees.

(e) On September 27, 2016, the City Council held a publicly noticed hearing to consider AKT's reduction request as required by section 3.26.070 of the Code and considered the staff report dated September 27, 2016 concerning this matter as well as all written and oral testimony for and against AKT's request.

(f) The City Council finds that imposition of the $178,812 development impact fee amount would be unfair because the benefits to be received by AKT from the new walnut huller would not be proportional to the amount imposed, and would require AKT to pay more than its fair share of the costs of City services attributable to the Property. The City Council further finds, however, that deferral of the payment of development impact fees until the City completes an updated development impact fee study ("Updated Study") addressing agricultural uses within the City is preferable to a reduction of fees because

such deferral would allow the City to comprehensively analyze the various fee levels appropriate for new or additional agricultural uses within the City.

(g) The City finds that allowing AKT to defer payment of development impact fees until such time as the City completes an Updated Study will result in a more fair and equitable funding arrangement and is necessary and appropriate for the reasons stated in the staff report.

3. **Deferral of Development Impact Fee Payment.** The City Council hereby denies AKT's request for a reduction of development impact fees applicable to the new walnut huller facility and, in lieu of such reduction, directs AKT to defer the payment of such fees until after City staff completes, and the City Council approves and adopts, an Updated Study. The development impact fee amount to be paid by AKT shall be based on the formulas, calculations, and considerations discussed in the Updated Study. City staff shall provide AKT with a timeline for paying such amount as soon as practicable following its commencement of the Updated Study.

4. **CEQA Exemption.** The City Council finds that this deferral of development impact fee payment for AKT's new walnut huller facility does not have the potential to cause a significant impact on the environment and therefore is exempt from the California Environmental Quality Act ("CEQA") and section 15061(b)(3) of the CEQA Guidelines.

5. **Enforcement.** The City Manager, or his designee, is authorized and directed to process AKT's deferred development impact fee payment consistent with the City's laws and regulations.

PASSED AND ADOPTED by the City Council of the City of Wheatland on the 27th day of September 2016 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

By: _____
James Pendergraph, Mayor

Attest:

_____
Lisa J. Thomason, City Clerk