



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

May 31, 2016

SUBJECT: Request for Waiver of Development Impact Fees by Applicant Wayne Bishop for Proposed Addition to Existing Cider Mill at Bishop's Pumpkin Farm

PREPARED BY: Greg Greeson, City Manager
Katrina Gonzales, City Attorney

Recommendation

Staff recommends that, following the hearing to consider the information and testimony provided by Applicant and staff, Council deny Applicant's requested waiver of all applicable development impact fees for the proposed construction of the Cider Mill addition at Bishop's Pumpkin Farm and, in lieu of such waiver, approve staff's recommended reduction in the development impact fee amount (from \$43,072.98 to \$9,562.62) to be paid by Applicant.

Background

On May 16, 2014, Wayne Bishop ("Applicant") submitted plans to the City for an 1880 square foot addition to a Cider Mill, an existing structure on his property located at 1415 Pumpkin Lane and commonly known as Bishop's Pumpkin Farm.

In February 2016, following several re-submittals of information related to this addition and after staff's review of the submitted information, development impact fees totaling \$43,072.98 were assessed by the City pursuant to the Chapter 3.26 of the City's Municipal Code (Ordinance 400, adopted in April 2007).

In March 2016, City staff met with the Applicant at his request and explained how the development impact fees were assessed, why the City imposes such fees, and for what purposes the fees are utilized. Also discussed were the Development Agreement entered into by the City and the Applicant on January 11, 2011 concerning development at Bishop's Pumpkin Farm ("2011 Agreement"); the amounts of property taxes, sales taxes and admissions taxes that have been paid by the Applicant to the City since annexation of Bishop's Pumpkin Farm to the City; and the differences among the various fees charged by the City for construction within City limits (specifically, the distinction between building permit fees and development impact fees). In addition, City staff explained to Applicant the process for requesting, from the City Council, a deferral, waiver, or reduction of development impact fees.

At a subsequent meeting with the Applicant on March 22, 2016, the Applicant presented City staff a "Formal Request for Waiver of City Development Impact Fees" for the Cider Mill addition, attached hereto as Exhibit A.

Discussion/Analysis:

I. Overview of Development Impact Fee Appeal Procedures

Section 3.26.070 of the City's Municipal Code details the procedures for requesting deferrals, waivers and reductions in the City's imposition of development impact fees. It provides:

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. . . . 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)

Therefore, as Council considers the Applicant's request for a waiver of all applicable development impact fees and the staff's recommendation of a reduction in lieu of a waiver, the Council must determine that: (1) imposition of \$43,072.98 would be unfair to Applicant because the benefits to be received by Applicant from the Cider Mill addition would not be proportional to the development impact fee imposed; or (2) imposition of the full \$43,072.98 amount would be unlawful under the circumstances. As discussed below, because imposition of this amount on Applicant meets the first condition, Council has the requisite justification for reducing the development impact fee amount charged to Applicant for the Cider Mill addition.

II. Arguments Raised by Applicant for Waiver and City Staff's Responses

City staff met with the Applicant several times to discuss and evaluate the Applicant's reasons for requesting a waiver of all development impact fees applicable to the Cider Mill addition. Each of the points raised by Applicant in his letter and City staff's response to each point are described in the following paragraphs.

- *The Applicant requests a waiver of development impact fees "for our proposed Cider Mill Addition, Engineered Wagon Barn, and future building projects over the life of the Development Agreement we have in place with the [C]ity." beyond the Cider Mill addition to*

include a "blanket waiver" of ALL "future building projects over the life of the Development Agreement".

Staff response: As a preliminary matter, because development impact fees are assessed by the City for each specific construction project as a condition for approval of that project, City staff has accepted only Applicant's appeal of the development impact fees imposed for the Cider Mill addition. City staff has informed the Applicant that future construction projects at his property will be subject to development impact fees, and thus subject to negotiations for potential reductions, waivers or deferrals, at the time that an application for a specific construction project is submitted to the City.

- *The Applicant asserts that the "imposition of Development Impact Fees would result in substantial inequities" because the "Admissions Fee" collected by the City already is adequate to pay for all impacts arising from the operation of Bishop's Pumpkin Farm. The Applicant further contends that collecting development impact fees, in addition to the Admissions Fee, constitutes "double billing."*

Staff response: The 2011 Agreement outlines the two types of fees that Applicant must pay to the City in its Section 4: City fees (which include (1) processing, inspection, checking, and monitoring fees; and (2) development impact fees); and the Admissions Fee.

Section 4.1.2 of the 2011 Agreement provides that, "for any future development and building on the Property, Property Owner agrees to pay . . . the City development impact fees in accordance with Wheatland Municipal Code chapter 2.27 . . . in the applicable fee types and amounts in effect at the time of building permit issuance . . . and the excise tax on new development in accordance with Wheatland Municipal Code chapter 3.30."

In contrast, the Admissions Fee is described in section 4.2.1 of the 2011 Agreement as the fee required to pay for the City's provision of police, street maintenance, and other municipal services to Bishop's Pumpkin Farm and its patrons because both the City and the property owner (i.e., the Applicant) recognize that the property tax, sales tax, and other revenue that the City stands to receive from the property will be inadequate to pay for these services.

Contrary to Applicant's assertions in his letter, the City and the Applicant both acknowledged that other fees and charges to be paid for by the Applicant, including the development impact fees (which falls within the phrase "other revenue" in section 4.2.1 of the 2011 Agreement), will be insufficient to pay for all of the City services required by the operation of Bishop's Pumpkin Farm. The fact that the 2011 Agreement clearly spells out the requirement that Applicant must pay the Admissions Fee and the development impact fees is sufficient to demonstrate that the Applicant is subject to both types of fees.

Moreover, the Applicant has informed staff that inclusion of the Admissions Fee in the 2011 Agreement resulted from his rejection of an earlier proposal by the City, at the time that the 2011 Agreement was being negotiated, that the Applicant remit to the City a portion of the revenues received by Bishop's Pumpkin Farm from parking fees imposed on patrons who visit the property. Further negotiations between City staff and the Applicant following this proposal yielded a compromise: payment of an Admissions Fee

to the City in an amount equal to 5 percent of any admission charge collected by the Applicant from patrons for the right or privilege to participate in the events held at the property, in addition to all of the other fees to be collected by the City concerning operations at Bishop's Pumpkin Farm.

The City and the Applicant negotiated the 2011 Agreement in good faith, and the terms of that agreement reflect the intentions of both parties at the time that it was executed. Because future revenues from Bishop's Pumpkin Farm were deemed to be inadequate, the Applicant agreed to an imposition of the Admissions Fee. Applicant's contention that collecting both the development impact fee and the Admissions Fee results in "double billing" therefore is without merit; the Admissions Fee is intended to pay for City services that other revenues, including development impact fee revenues charged by the City against future development on Applicant's property, are insufficient to cover.

- *The Applicant contends that the City somehow misled him during negotiations of the 2011 Agreement because, in response to his request that the City provide him "all costs for issuance of building permits," the information provided to him by the City did not include the development impact fees. As evidence, the Applicant enclosed with his letter a copy of a "fee estimate" that supposedly was provided by the City during that time (see the document attached to the Applicant's letter as "Exhibit B").*

Staff Response: The "Wheatland Fee Estimate" provided by the City to the Applicant in 2011 clearly is an estimate of total building fees to be charged by the City for the construction projects contemplated by the Applicant at that time. The bottom of that page states "Total Permit and Plan Review Fees." Nowhere in the document did the City ever state that the amounts in the estimate covered all fees that the City would impose on the Applicant for development on the Property.

In meetings with the Applicant, City staff explained the distinction between building permit fees and development impact fees. While building permit fees are fees imposed for the issuance of a building permit in accordance with the City's then-existing fee schedule (see Municipal Code, section 15.02.010) to pay for the costs of processing the permit and related administrative costs, development impact fees are fees imposed by the City in connection with approving a development project to defray the costs of public facilities or services necessitated by the development project, such as the provision of police and fire services (see Gov. Code § 66000(b)). These fees therefore are fundamentally different, and are intended to pay for different City expenditures.

- *Finally, the Applicant asserts that "City Development Impact Fees were not negotiated prior to the Development Agreement, and we have an opportunity to that now."*

Staff Response: This statement is not accurate. As noted above, section 4.1.2 of the 2011 Agreement contains the requirement that the Applicant pay development impact fees for any future development and building on the property and therefore reflects the negotiations between the City and the Applicant of this precise point.

Section 4.1.4 of the 2011 Agreement further underscores the fact that discussions concerning development impact fees were an important part of the 2011 Agreement's negotiations. That section provides that "Property Owner agrees not to oppose, protest or challenge City Development Fees to be imposed and collected pursuant to this Agreement." Such a provision likely would not have been included (and approved by

both the City and the Applicant) had development impact fees not been the subject of negotiations and compromise.

For the reasons described in the City staff responses above, staff recommends that Council deny the Applicant's request for a waiver of development impact fees for the Cider Mill addition. Although City staff recognizes that the Applicant makes important contributions to the City through the payment of property taxes, sales taxes, and Admission Fees, these payments do not take the place of development impact fee payments and apply to all businesses wishing to locate within the City.

It is important to note that property tax and sales tax revenues are placed in the City's General fund to pay for the day-to-day operations of the City. In Wheatland, this means that those revenues pay for employee salaries and benefits, streets and parks maintenance, operational costs for the Police Department, the upkeep of City Hall, and the City's contribution to Wheatland Fire Authority. In contrast, development impact fees charged by the City may only be used for specified purposes, must bear a reasonable relationship to the specific projects for which they are imposed, and must bear a reasonable relationship to the purposes for which they are charged. (See Gov. Code § 66001.) Because operations at Bishop's Pumpkin Farm continue to require City services, a waiver of development impact fees on construction and additional development at the property cannot be justified at this time.

III. Justification for Reduction of Development Impact Fee Amount

In lieu of Applicant's request for a waiver and keeping in mind the Council's obligation to make the findings required by Section 3.26.070 of the City's Municipal Code, staff recommends that the development impact fees for the Cider Mill addition be reduced to \$9,562.62.

This recommended amount takes into consideration the fact that the Cider Mill addition will be operated by the Applicant primarily as part of the Applicant's annual Pumpkin Farm event, which runs for approximately six weeks each year, and is described in greater detail in the calculation sheet attached hereto as Exhibit B. While there are other events held at the Pumpkin Farm throughout the year, the Applicant has informed City staff that the Cider Mill addition is not intended to be used for those events. This reduced fee reflects the appropriate share of the costs to the City of providing additional services to Bishop's Pumpkin Farm that arise from the Cider Mill addition, and meets Municipal Code section 3.26.070's requirement that imposition of the full development impact fee amount applicable to the Cider Mill addition pursuant to the City's existing fee schedule — \$43,072.98 — would result in the Applicant paying more than his fair share of the benefits received from the fee imposition.

It is unusual for cities to apply development impact fees based on peak business times because businesses can, and often do, change owners, schedules, or the types of operations conducted or services offered. Certainly, staff expects the Applicant to look for new and different ways to expand his business in the future. This may, or may not, include other uses (and therefore additional impacts of) of the Cider Mill addition. However, Bishop's Pumpkin Farm has a forty-plus year history of conducting their annual Pumpkin Farm event, which establishes a strong record of use. Moreover, any additional construction or development at the property will be subject to the imposition of development impact fees at the time that the Applicant requests a new building permit. City staff therefore believes that its recommended reduction is fair, necessary, and appropriate.

CONCLUSION

In consideration of the analysis presented above, staff is recommending that Council make the findings required by Wheatland Municipal Code section 3.26.070 for a reduction of development impact fees and adopt the resolution approving such a reduction for the Cider Mill addition from \$43,072.98 to \$9,562.62.

Attachments:

- Exhibit A: Mr. Bishop's letter dated March 22, 2016 and attachments
- Exhibit B: Calculation of Proposed Development Impact Fee Amount
- Exhibit C: Resolution Approving Reduction of Development Impact Fee Amount for Cider Mill Addition at Bishop's Pumpkin Farm

To: Greg Greeson
City Manager
City of Wheatland

March 22, 2016

From: Wayne Bishop
President
Bishop's Pumpkin Farm

Subject: Formal Request for Waiver of City Development Impact Fees

Mr. Greeson;

I am writing to formally request a waiver of City Development Impact Fees for our proposed Cider Mill Addition, Engineered Wagon Barn, and future building projects over the life of the Development Agreement we have in place with the city.

The basis for this request is that the imposition of Development Impact Fees would result in substantial inequities (please see highlighted language in Exhibit A on page 2.) I contend that the inequities would result because of the unique "Admissions Fee" being collected by the City of Wheatland as an outcome of negotiations leading up to Development Agreement. I believe the Admissions Fee was intended to and has proven adequate to pay for any and all impacts Bishop's Pumpkin Farm has on the City of Wheatland. Imposition of City Development Impact Fees would in my view constitute a double billing for the same impacts; in other words "more than our fair share for the benefit received" - Exhibit A.

I further contend that this issue would have been solved during the negotiations for the Development Agreement had accurate information regarding Development Impact Fees been presented by the city when it was requested. It was well understood at the time by all parties that there would be future building projects on the Bishop's Pumpkin Farm property. During negotiations, I requested information regarding all costs for issuance of building permits. The information given to me omitted anything regarding City Development Impact Fees - see Exhibit B. This omission, while I believe unintentional, left me satisfied that our impacts were being mitigated through the Admissions Fee.

Since City Development Impact Fees were not negotiated prior to the Development Agreement, we have the opportunity to do that now. We also have the benefit of knowing exactly how much revenue has been generated by the Admissions Fee over the past five years - see Exhibit C.

Please let me know if you would like any further information in regards to this request.

Sincerely;

Wayne Bishop

Exhibit A: Clause in City Ordinance Dealing with waiver of City Development Impact Fees

2.27.070 Deferrals, Waivers and Reductions

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.

Exhibit B: Fee estimate provided by City of Wheatland during negotiations for Development Agreement

Wheatland Fee Estimate

(Based on current 2009 fees schedule and bldg criteria supplied on Yuba County fee estimate)

Date: 4-9-09

Address: 1415 Pumpkin Lane, Wheatland

Bldg #1 Fees:

Description of Work:

- Demolish and Replace (E) Snack Bar Building

Valuation Detail:

Occupancy: Offices
Type of Const: VB
SQ Feet: 2480
Valuation: 2480 sq ft x (\$68.10 2002 ICC Valuation Table) = \$168,888.00

Permit Fees:

* Building Permit: \$2,415.00 (Schedule A-B)
* Plan Review Fee: \$1,570.00 (bldg, plumb, elec, mech)
* Energy Plan review: \$157.00 (10% of plan check fee)
* Accessibility: \$392.00 (24% Imp plan check fee)

Total Permit and Plan Review Fees for Bldg #1: \$4,534.00

Bldg #2 Fees:

Description of work:

- Construction of Barn/s

Valuation Detail:

Occupancy: Barn
Type of Const: V-Wood
SQ Feet: 2800
Valuation: 2800 sq ft x (\$19.44 2002 ICC Valuation Table) = \$ 54,432.00
(note: used garage minus 20% for barns shell only figure)

Permit Fees:

* Building Permit: \$1,053.00(Schedule A-B)
* Plan Review Fee: \$684.00 (bldg, plumb, elec, mech)
* Accessibility assumes use by public: \$171.00 (24% Imp plan check)

Total Permit and Plan Review Fees Bldg #2: \$1,908.00

Total Fees Bldg #1 & #2: \$6,442.00

Exhibit C: Admissions Fee, Sales Tax, and Property Tax history

1. Our 5% admissions fee, which we believed would be paying for our “impacts,” has generated a much larger sum of funds than was estimated.

2011 estimate given to city:	\$19,398	
2011 actual:	\$21,733	12% over estimate
2012 actual:	\$28,963	up 33%
2013 actual:	\$31,481	up 9%
2014 actual:	\$42,963	up 36%
2015 actual:	\$49,822	up 16%
Total to date:	\$174,962	

If over the next 15 years, we estimate a modest 10% growth rate per year; the fee will net **\$1.9 million** for the city over the 20 year life of the agreement.

2. Property and sales taxes, traditionally considered to be the funding source for government, have also grown tremendously:

Property Tax		
2011	\$10,888	
2015	\$44,752	up 311%
Sales Tax		
2011	\$65,278	
2015	\$111,314	up 71%

How we got here:

November, 2009

The Bishops have never been very good at long range planning. Our normal operating procedure to this point would be to start thinking about next year's improvements in October, draw them up in November, and get them permitted and built prior to reopening the following September. In the fall of 2009, we dreamt up plans for a barn that would be used for our pumpkin sales. It would also give us an opportunity to retail some additional items as visitors were leaving the farm.

January, 2010

After an initial review of plans for the barn, Yuba County determined it did not fit under our Conditional Use Permit, which had been issued in 1991, and asked that we start a process to update the permit. They also indicated we would need to provide fire hydrants. Unrelated to the barn but also received January 2010 was a request from Yuba County Environmental Health that we drill a new well which would meet current design standards for the small public water system we were operating.

Talks with city regarding annexation, which had been ongoing for some time, took on more importance. Water and use permit problems would be solved by annexation. We also could access city sewer service, allowing the construction of public restrooms and other facilities.

April, 2010

After reading a draft of the development agreement which would govern us once annexed; we were alarmed at the mention of the impact fees which we would need to pay on future building projects. We asked the city for an estimate of fees they would charge for the barn we had planned as well as the commercial kitchen we had built in 2007. We received estimates of \$1908.00 and \$4534.00 respectively, which were very much in line with what the county was charging. For some reason, impact fees were not mentioned in that estimate and we were left with the impression that the fees we were shown were the total of all fees that would be collected on those or similar projects. "Impact Fees" would not be discussed again for the next 6 years

Also in the spring of 2010, the concept of a special fee, paid by visitors to the farm to offset impacts in the city, was introduced. After initial strong opposition, we eventually agreed to a fee described generally as follows:

- 5% fee on any ticket sold for an attraction, show, or admission on the farm.
- Half of fee would go to the city general fund to repay costs of annexation and to fund police, fire, and public works wages for time spent dealing with visitors to the farm.
- The other half would go into a special fund to be used for equipment or infrastructure needed by the city to accommodate traffic or other impacts. The city agreed to have Bishop's consent before spending any of the money from this account.

During the process, the city asked for an estimate of the fees that could be expected. We provided an estimate of \$19,238 annually. We all expected that would grow at a modest rate - no additional attractions were being contemplated at that time.

August, 2010	Due to an imminent change to flood hazard maps, the city agrees to allow the county to issue permits for the barn and restrooms even though they will likely not be built until after the annexation.
January 11, 2011	Development agreement is signed and soon thereafter, Bishop's Pumpkin Farm is annexed into the city of Wheatland.
November, 2013	Planning and engineering begin for an addition to Bishop's Cider Mill. Processing, Storage, and Retail Space will all be expanded by a total of 1880 square feet.
April, 2014	Plans submitted to city for Cider Mill addition.
February 25, 2016	After two years and multiple resubmittals, the Cider Mill addition is approved by the city. The building permit will be issued once fees of \$52,251 are paid. It is explained that \$44,695 will go toward "Impact Fees."
	After educating ourselves on impact fees and our development agreement, we decide to pursue a waiver of the impact fees for the Cider Mill addition as well as future projects. Meanwhile, we attempt to move forward with plans of building the barn, for which we had been paying fees with the county, keeping the permit current since 2010.
March 4, 2016	After reviewing their file on the barn permit, the county lets us know that the city had asked them back in 2010 to collect impact fees at 2010 levels on the project.
March 9, 2016	Bishops meet with City Manager and City Engineer to present reasons we will be asking for a waiver of Impact Fees.

CITY OF WHEATLAND
 PROPOSED DIF CALCULATION
 FOR
BISHOP'S CIDER BARN EXPANSION
 3/29/2016

2016 Rates
 Employment
 Uses
 Per Sq. Ft.

Police	0.208
Bridges, Signals, Thoroughfares	5.610
Hiway 65 Expressway	2.718
Storm Drainage	2.571
Water Distrib.	1.556
Sewer Collection	0.797
Wastewater Treatment	4.659
Genl Govt.	0.498
Bear River North Levee	0.378
Sub-Total	18.995
Fire	1.150
Subtotal	20.145
Admin.	0.201
TOTAL	20.346

1880 sf

As Quoted- Split Use	43,072.98
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PROPOSED FEE @ 25%

9,562.62

(Operating Facility Open to the Public for up to 90 days
 per Calender Year)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF WHEATLAND
APPROVING REDUCTION OF DEVELOPMENT IMPACT FEE AMOUNT
FOR CIDER MILL ADDITION AT BISHOP'S PUMPKIN FARM

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) The Bishops are the owners of approximately 43.57 acres located at 1415 Pumpkin Lane, having Yuba County Assessor's Parcel No. 015-180-109-000, and operates a recreational and amusement facility at that location commonly known as Bishop's Pumpkin Farm ("Property").

(c) On January 11, 2011, William Bishop entered into a development agreement with the City concerning the annexation to the City, use, and development of the Property ("2011 Agreement"). Section 4.1. of the 2011 Agreement describes the various City fees that Mr. Bishop must pay in relation to the Property, and specifically states, in section 4.1.2, that Mr. Bishop must pay development impact fees in the applicable fee types and amounts in effect at the time of building permit issuance for any future development and building on the Property, pursuant to applicable Code provisions.

(d) On May 16, 2014, Wayne Bishop, William Bishop's son, submitted plans to the City proposing to build a 1,880 square-foot addition to an existing structure on the Property known as the Cider Mill ("Cider Mill Addition").

(e) Following several meetings with Mr. Bishop and after reviewing the building plans, City staff informed Mr. Bishop that, pursuant to chapter 3.26 of the Code, he would have to pay \$43,072.48 in development impact fees for the Cider Mill Addition, which amount is based on the applicable fee type and amounts currently in effect.

(f) On March 22, 2016, Mr. Bishop submitted a request to waive all applicable development impact fees on the Property pursuant to section 3.26.070 of the Code, which sets forth the procedures for requesting a deferral, waiver, or reduction of development impact fees.

(g) On May 31, 2016, the City Council held a publicly noticed hearing to consider Mr. Bishop's waiver request as required by section 3.26.070 of the Code and considered the

staff report dated May 31, 2016 concerning this matter as well as all written and oral testimony for and against Mr. Bishop's request.

(h) The City Council finds that imposition of the \$43,072.48 development impact fee amount would be unfair because the benefits received by Mr. Bishop from the Cider Mill Addition would not be proportional to the amount imposed, and would require Mr. Bishop to pay more than his fair share of the costs of City services attributable to his Property. The City Council further finds, however, that waiver of this entire amount would be unfair and inappropriate because the Cider Mill Addition will result in additional City services that would need to be provided to the Property.

(i) The City Council finds that a reduction of the development impact fee amount from \$43,072.48 to \$9,562.62 is fair, necessary, and appropriate for the reasons stated in the staff report.

3. Reduction of Development Impact Fee Amount. The City Council hereby denies Mr. Bishop's request for a waiver of development impact fees applicable to the Cider Mill Addition, and approves a reduction of this fee in the amount recommended by City staff. The City Council hereby directs Mr. Bishop to pay to the City the amount of \$9,562.62 to fulfill his development impact fee payment obligations for the Cider Mill Addition in compliance with the 2011 Agreement and chapter 3.26 of the Code.

4. CEQA Exemption. The City Council finds that this reduction in development impact fees for the Cider Mill Addition 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 Mr. Bishop'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 31st day of May 2016 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

By: _____
James Pendergraph, Mayor

Attest:

Lisa J. Thomason, City Clerk