



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

September 27, 2016

SUBJECT: Request for Reduction of Development Impact Fees made by Applicant Bear River Walnut Ranch, LLC for a new Walnut Huller at 2301 Spenceville Road, Wheatland

PREPARED BY: Greg Greeson, City Manager

Recommendation

Staff recommends Council consider and approve, based on information provided by Bear River Walnut Ranch, LLC ("Bear River") and analyses provided by staff, a reduction of Bear River's development impact fees for its new walnut hulling facility located at 2493 Spenceville Road from \$372,298.08,812 to \$32,857.80 (Attachment #1).

Background

On June 22, 2016, Bear River submitted plans to the City for an 18,480 square foot walnut hulling facility to be constructed on its property located at 2301 Spenceville Road. Pursuant to Chapter 3.26 of the City's Municipal Code (Ordinance 400, adopted in April 2007), development impact fees of \$372,298.08 were assessed.

On July 13, 2016, staff met with Bear River representatives regarding the assessment of those fees and discussed what appeared to both staff and Bear River 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, does not contemplate agricultural uses within the City. We discussed how Bear River'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 Bear River. On or around July 18, 2016, Bear River submitted the attached Request for Reduction of Fees, along (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 Bear River'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 Bear River were not analyzed for the purpose of establishing the appropriate fees to account for their public service impacts.
2. Bear River 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. Bear River's operation is an internal operation; the facility will be used only to hull walnuts that are grown on its property. To expand beyond Bear River's own hulling would require additions and/or revisions to its physical plant. As it is for Bear River

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 and utilizing the same rationale that was used to calculate staff's recommended reduction for AKT's proposed walnut hulling facility, staff re-calculated the development impact fees that would be applicable to Bear River to adjust for Bear River providing its own storm drainage, water distribution, sewer collection and wastewater treatment and account for Bear River'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 Bear River will receive insufficient or no benefit from the fee imposed and would therefore be required, if a fee of \$372,298.08 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 Bear River's proposed project from \$372,298 to \$32,857.80.

On July 13, 2016, staff met with Bear River representatives to discuss staff's recommended reduction. Bear River was agreeable to staff's recommendation and submitted a letter dated August 5, 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 Bear River in light of the possibility that Bear River 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, 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 Bear River's property beyond the annual 60-day walnut harvest season that would give rise to greater public service and facility impacts would require Bear River 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. Bear River 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 Bear River's reduction request and impose the full fee amount of \$372,298.08. 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 *[or provide a more specific date]*. 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 \$372,298.08 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 Bear River Walnut Ranch, LLC's Walnut Huller Facility Located at 2301 Spenceville Road
2. Correspondence from Bear River received on or around July 18, 2016 requesting a reduction of development impact fees
3. City of Wheatland Proposed development impact fee calculation sheet dated July 6, 2016
4. Correspondence from Bear River dated August 5, 2016 stating its agreement to the reduction of the development impact fees to \$32,857.80
5. Correspondence from Bear River dated providing statement of use.
6. (Alternative) Resolution of the City Council of the City of Wheatland Approving Deferral of Development Impact Fee Payment by Bear River Walnut Ranch, LLC for Walnut Huller Facility Located at 2301 Spenceville Road

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF WHEATLAND
APPROVING REDUCTION OF DEVELOPMENT IMPACT FEE AMOUNT
FOR BEAR RIVER WALNUT RANCH, LLC'S WALNUT HULLER FACILITY
AT 2301 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) Bear River Walnut Ranch, LLC ("Bear River") is the owner of the property located at 2301 Spenceville Road, Wheatland, California and oversees a walnut hulling operation at that location ("Property").

(c) Following the submission by Bear River of building plans for a new 18,480 square-foot walnut huller to be constructed on the Property and after reviewing such plans, City staff informed Bear River that it would be required to pay \$372,298.08 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 or around July 18, 2016, Bear River 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 Bear River'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 Bear River's request.

(f) The City Council finds that imposition of the \$372,298.08 development impact fee amount would be unfair because the benefits to be received by Bear River from the new walnut huller would not be proportional to the amount imposed, and would require Bear River 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 \$372,298.08 to \$32,857.80 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 Bear River'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 Bear River to pay to the City the amount of \$32,857.80 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 Bear River'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 Bear River 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 \$32,857.80 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 Bear River'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 Bear River'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

Bear River Walnut Ranch, LLC
One Embarcadero Center, Suite 1350
San Francisco, CA 94111
(415) 352-4410 / Fax (415) 352-4420

City of Wheatland
111 C Street
Wheatland, Ca 95692

Attn: Greg Greeson

Re: Bear River Walnut huller Project Impact Fee Request for Reduction
Permit # 3640-16
2301 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 reduction request is warranted.

If you would like to discuss this further, please feel free to contact me or my authorized agent with any questions.

Jack Gilbert (530) 701-8873

Bret Wood (530) 345-7296 (authorized agent)

Thank you for your consideration,

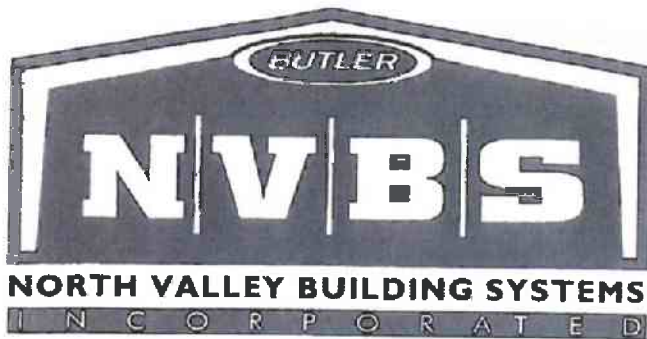

Jack Gilbert, Manager

CITY OF WHEATLAND
PROPOSED DIF CALCULATION
HOP FARM (GILBERT) HULLER

	2016 Rates Employment Uses Per Sq. Ft.	Proposed Calculation Per Sq. Ft.
Police	0.208	0.208
Bridges, Signals, Thoroughfares	5.610	5.610
Hiway 65 Expressway	2.718	2.718
Storm Drainage	2.571	0.000
Water Distribution	1.556	0.000
Sewer Collection	0.797	0.000
Wastewater Treatment	4.659	0.000
General Government	0.498	0.498
Bear River North Levee	0.378	0.378
Sub-Total	<u>18.995</u>	<u>9.412</u>
Fire	<u>1.150</u>	<u>1.150</u>
Sub-Total	<u>20.145</u>	<u>10.562</u>
Administration Fee	<u>0.201</u>	<u>0.106</u>
TOTAL	<u>20.146</u>	<u>10.668</u>
	18480 Sq. Ft.	18480 Sq. Ft.
TOTAL	372,298.08	197,144.64
Prorated to 60 day annual use		<u>32,857.80</u>

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

7/6/2016



North Valley Building Systems, Inc.

COMPLETE CONCRETE & BUILDING SERVICE

30 Seville Court

Chico, CA 95928

www.northvalleybuilding.com

August 5, 2016

City of Wheatland
111 C Street
Wheatland, Ca 95692

Attn: Greg Greeson

Re: Bear River Walnut Huller Project Impact Fee Reduction
Permit # 3640-16
2301 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,

Bret J. Wood
BJW: jh

CITY OF WHEATLAND
PROPOSED DIF CALCULATION
HOP FARM (GILBERT) HULLER

	2016 Rates Employment Uses Per Sq. Ft.	Proposed Calculation Per Sq. Ft.
Police	0.208	0.208
Bridges, Signals, Thoroughfares	5.610	5.610
Hiway 65 Expressway	2.718	2.718
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Water Distribution	1.556	0.000
Sewer Collection	0.797	0.000
Wastewater Treatment	4.659	0.000
General Government	0.498	0.498
Bear River North Levee	0.378	0.378
Sub-Total	<u>18.995</u>	<u>9.412</u>
Fire	1.150	1.150
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Administration Fee	0.201	0.106
TOTAL	<u>20.146</u>	<u>10.668</u>

18480 Sq. Ft. 18480 Sq. Ft.

TOTAL 372,298.08 197,144.64

Prorated to 60 day annual use

32,857.80

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

7/6/2016

**Ok per Bret Wood and
Jack Gilbert. 7/18/2016**

BEAR RIVER WALNUT RANCH, LLC
ONE EMBARCADERO CENTER, SUITE 1350
SAN FRANCISCO, CA 94111
(415) 352-4410 / FAX (415) 352-4420

September 22, 2016

City of Wheatland
111 C Street
Wheatland, Ca 95692

Attn: Greg Greeson
City Manager

Re: Bear River Walnut Huller - Statement of Use
Permit #3640-16

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 Bear River Walnut 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 (415) 352-2591 or my authorized agent Bret Wood at (530) 345-7296 with any questions or concerns.

Respectfully,



Taylor Nagle
CFO, Bear River Walnut Ranch, LLC

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF WHEATLAND
APPROVING DEFERRAL OF DEVELOPMENT IMPACT FEE PAYMENT
FOR BEAR RIVER WALNUT RANCH, LLC'S WALNUT HULLER FACILITY
AT 2301 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) Bear River Walnut Ranch, LLC ("Bear River") is the owner of the property located at 2301 Spenceville Road, Wheatland, California and oversees a walnut hulling operation at that location ("Property").

(c) Following the submission by Bear River of building plans for a new 18,480 square-foot walnut huller to be constructed on the Property and after reviewing such plans, City staff informed Bear River 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 or around July 18, 2016, Bear River 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 Bear River'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 Bear River's request.

(f) The City Council finds that imposition of the \$372,298.08 development impact fee amount would be unfair because the benefits to be received by Bear River from the new walnut huller would not be proportional to the amount imposed, and would require Bear River 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 Bear River 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 Bear River's request for a reduction of development impact fees applicable to the new walnut huller facility and, in lieu of such reduction, directs Bear River 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 Bear River shall be based on the formulas, calculations, and considerations discussed in the Updated Study. City staff shall provide Bear River 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 Bear River'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 Bear River'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