

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY**

DEPT: Planning and Community Development

BOARD AGENDA: 9:15 A.M.
AGENDA DATE: December 12, 2017

SUBJECT:

Public Hearing to Consider an Appeal of the Planning Commission's Denial of Variance Application No. PLN2017-0064, Hickman Market, Located at 13135 Lake Road, East of Hickman Road, Northwest of Montpelier Road, in the Hickman Area

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2017-701

On motion of Supervisor Olsen , Seconded by Supervisor Withdraw
and approved by the following vote,

Ayes: Supervisors: Olsen, Withdraw, Monteith, DeMartini, and Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

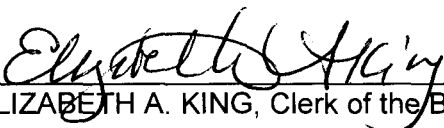
2) Denied

3) X Approved as amended

4) Other:

MOTION: Approved Staff Recommendations 1-5; **amended** Condition of Approval No. 10 to read as follows:
"The construction of an 8-foot high masonry wall along the portion of the eastern property line adjoining the parcel under the same ownership as the project site shall be deferred until title to the project site or the adjoining parcel to the east (both owned by the applicants) is changed through sale or transfer.", and; approved the variance application subject to the Conditions of Approval as amended

ATTEST:


ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Planning and Community Development

BOARD AGENDA: 9:15 A.M.

AGENDA DATE: December 12, 2017

CEO CONCURRENCE:

4/5 Vote Required: No

SUBJECT:

Public Hearing to Consider an Appeal of the Planning Commission's Denial of Variance Application No. PLN2017-0064, Hickman Market, Located at 13135 Lake Road, East of Hickman Road, Northwest of Montpelier Road, in the Hickman Area

STAFF RECOMMENDATION:

1. Conduct a public hearing to consider an appeal of the Planning Commission's denial of Variance Application No. PLN2017-0064 – Hickman Market, located at 13135 Lake Road, east of Hickman Road, northwest of Montpelier Road, in the Hickman area.
2. Find that there is no substantial evidence the project will have a significant effect on the environment and that the Exemption reflects Stanislaus County's independent judgment and analysis.
3. Find the project is generally exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15035 and order the filing of a Notice of Exemption.
4. Find:
 - (a) That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this title will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.
 - (b) That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.
 - (c) That the granting of the application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially

detrimental to the public welfare or injurious to property or improvements in the neighborhood.

5. Approve the appeal of the Planning Commission's denial of Variance Application No. PLN2017-0064 – Hickman Market and approve the variance application subject to the Conditions of Approval attached to the October 19, 2017, Planning Commission Staff Report.

DISCUSSION:

This is an appeal of the Planning Commission's denial of Variance Application No. PLN2017-0064 – Hickman Market, which is a request for a Variance from the Stanislaus County Zoning Ordinance Section 21.52.040(E), which requires construction of an 8-foot high masonry wall along property lines where the commercially zoned property abuts residentially zoned properties to the north and east. The subject property is located in the C-1 (Neighborhood Commercial) zoning district and the requirement for the masonry wall is being triggered by a building permit requesting to reconstruct the existing market. The applicants are requesting a variance to defer the construction of the masonry wall along the eastern property line, abutting the Rural Residential (R-A) zoning district, until: 1) the existing 6-foot high wood fence is replaced; or 2) either the project site or the adjoining parcel along the eastern property line (which the applicants also own) is either sold or title is transferred. The applicants were originally requesting a variance for the construction of the masonry wall along both the north and eastern property lines. However, in response to a letter submitted by Mrs. King, owner of the R-A zoned property to the north, the variance request has been amended to exclude deferral of the masonry wall along the northern property line.

The project site is located at 13135 Lake Road, east of Hickman Road and northwest of Montpelier Road, in the Hickman area; and consists of a 0.4 acre parcel improved with a 2,504 square-foot market and a single-family dwelling (rental property). The southwest corner of the parcel is used daily as the site of a mobile food truck. The applicants own three adjoining parcels fronting onto Lake Road. These parcels are: the 0.4 acre project site and the 0.24 acre vacant parcel to the west both located in the C-1 zoning district; and the 0.27 acre parcel to the east located in the R-A zoning district. The R-A zoned parcel is improved with a single-family dwelling. Wood fencing exists along the eastern and western property lines of the project site.

As reflected in the October 19, 2017, Planning Commission staff report, reconstruction of the existing market as opposed to remodel has been triggered by right-of-way dedication requirements. (See Attachment 2 – Planning Commission Staff Report, October 19, 2017.) In order to meet building and parking setback requirements, the market is being moved northeast of its current location. During the site plan development process, a survey prepared for the roadway dedication revealed that the northern property line is actually five feet south of what has historically been understood to be the property line, as marked by the placement of an existing barbed wire cattle fence. The single-family dwelling located on the northern part of project site encroaches onto the adjoining parcel to the north.

The adjoining property to the north is located within the R-A (Rural Residential) zoning district. The applicants have approached the property owners of the adjoining parcel to the north, Mr. and Mrs. King, seeking to purchase the five feet. The purchase of the property would allow the applicant to correct the property line encroachment issue with the single-family dwelling and provide greater space for the market. Because the boundaries of the zoning districts follow the legal boundaries of the property and not the existing fence line, a general plan amendment (from low density residential to commercial), rezone (from R-A to C-1) and lot line adjustment would be needed to construct the masonry wall along the existing fence line. Due to the cost associated with the rezone and lot line adjustment, the applicants have decided to go ahead and construct the masonry wall along the properties legal northern boundary.

Surrounding land uses include pasture and orchard to the north; single-family dwellings to the east; single-family dwellings, a vacant lot, and a mining equipment manufacturer to the south; and single-family dwellings and wholesale nursery stock to the west.

Planning Commission Hearing

On October 19, 2017, the Planning Commission held a public hearing to consider the application. A referral response from the Hickman Municipal Advisory Council (MAC), received on October 16, 2017, was presented to the Planning Commissioners on October 19, 2017, as correspondence too late for the agenda. (See Attachment 4 - Hickman MAC Referral Response.) The MAC response stated that the masonry wall was inconsistent with community development and unneeded. The MAC recommended that the project be exempted from the masonry wall requirement. Speaking in opposition to the project were Mr. and Mrs. King.

Mrs. King requested that the property line issue be brought into compliance as a part of building permit or Variance permit issuance. She stated they had been paying taxes on a portion of the property utilized by the applicant and were willing to sell a portion of their property to the applicant. Mrs. King also stated that the applicants had offered to buy that portion of the property but withdrew the offer the day of the Planning Commission hearing. Mrs. King further stated that her reasoning for wanting the masonry wall to be built between the applicant's two properties was due to a lack of upkeep of the shared wood fence on the eastern property line of the applicant's rental property, east of the project site.

Speaking in favor of the project were John Price, the applicants' agent, and Saranjit Kaur, a family member. Mr. Price informed the Planning Commission that the applicants were the ones who had been paying taxes on the five feet in question as the Assessor records show the five feet as belonging to the applicant. As per legal descriptions for the applicants' property, the error in property boundaries occurred in the 1920's when one deed reflected the property boundaries as being from the edge of Lake Road instead of the centerline of the road. This resulted in the five foot discrepancy along the northern property line. Saranjit Kaur, who spoke in favor of the project, stated that the applicant could have just built the fence on the King property, but instead he notified the Kings of the property line issue.

On a 7-0 vote, the Planning Commission denied the variance application request based on the inability to make the necessary findings to approve the variance. (See Attachment 3 – Planning Commission Minutes, October 19, 2017 – Excerpt.)

Appeal Letter Summary and Response

John Price submitted an appeal letter on the applicants' behalf which outlines the project history and alternative fencing proposal being requested by the applicant. (See Attachment 1 – October 30, 2017 - Applicant Appeal Letter.) The appeal letter cites the cost of constructing the masonry wall along the eastern property line as expensive and requests a deferral to allow use of the existing wooden fence. The appeal letter identifies the cost of the masonry wall to be \$35,000 to \$40,000. As the applicant had not anticipated the need to construct the masonry wall, construction of the wall could make replacement of the market infeasible. The applicants identify in the appeal letter an awareness that the current market, structure and location, is a possible hazard for employees and customers to the market.

Staff recommended approval of the Variance based on: 1) the applicant's ownership of the adjoining eastern parcel and the presence of a 6-foot fence in good repair; and 2) the applicants requesting a deferral and not an exemption from the construction of the 8-foot masonry wall. Staff's recommendation was based on Condition of Approval No. 10 providing for a deferral of up to ten years from Variance approval or until one of the following occurs, prior to the ten year period: 1) the existing wood fence is either replaced, or 2) title to the project site or the adjoining parcel to the east (both owned by the applicants) is changed through sale or transfer. Staff support of the Variance was contingent on a defined timeline for the deferral and no opposition to the request from the adjoining property owner. In this case, the applicants own the adjoining property impacted by the Variance. The County's Zoning Ordinance does not provide for an alternative method for deferral of a development standard, except to rezone the project site to a Planned Development with its own independent development standards.

POLICY ISSUE:

In accordance with Stanislaus County Code Section 21.112.060, an appeal of the Stanislaus County Planning Commission's Decision must be considered not later than forty-five days from the date of which the appeal is filed. The proposed Variance is required to defer construction of the masonry wall as required by the Stanislaus County Zoning Ordinance Section 21.52.040(E).

FISCAL IMPACT:

The fiscal impact associated with this item (including setting this public hearing, publishing legal notices, mailing public hearing notices to surrounding property owners, and preparing reports) are covered by the \$673 Planning Commission appeal fee paid by the Appellant.

BOARD OF SUPERVISORS' PRIORITY:

Conducting a public hearing to consider an appeal of the Planning Commission's decision is consistent with the Board of Supervisors' priority of A Well-Planned Infrastructure System.

STAFFING IMPACT:

Planning and Community Development Department staff is responsible for preparing all reports and attending meetings associated with the proposed variance application.

CONTACT PERSON:

Angela Freitas, Planning and Community Development Director,
Telephone: (209) 525-6330

ATTACHMENT(S):

1. October 30, 2017 - Applicant Appeal Letter
2. Planning Commission Staff Report, October 19, 2017
3. Planning Commission Minutes, October 19, 2017 - Excerpt
4. Hickman MAC Referral Response

Stanislaus County Board of Supervisors:

I am writing this document on behalf of Mr. and Mrs. Jarnail Singh Mahlli, owners and operators of the Hickman Market in Hickman. The applied to the Planning Commission for a variance to defer the construction of an eight-foot-tall masonry wall, which is a requirement in the project of replacing the current market with a new one. The appeal is to allow the project to be built while allowing the block wall to be deferred.

Project History and Alternative Fencing Proposal:

This project has been a long time in development. Allow me to elaborate on the circuitous route we have been on.

Originally Mr. Jarnail Mallhi had contracted with a civil engineer to draw some plans to update and remodel the existing Hickman Market. He did so and took them in to the county building department. He was then informed that the amount of work needed to be done would trigger Road Dedication and a property line adjustment. The amount of roadway space would then actually cross into the existing building.

Additionally, Mr. Mallhi was informed that a portion of the building, in the rear of the store, was constructed illegally by someone prior to Mr. and Mrs. Mallhis ownership, and that the structure would need to be removed. Removing the back of the store, and removing the front of the store to allow for roadway and setback, would eliminate the entire building!

Mr. Mallhi then was placed in contact with me, (John Price) and Artisan Construction & Design. As we discussed the options, it was decided that the best course of action was to build a new Store towards the rear of the lot, and then remove the old store to make way for the required parking lot and encroachment improvements. This seemed the best course of action and plans were set in motion.

I had a draft concept done and asked for a pre-development meeting with County Staff to make sure we would be following each department's requirements. Mr. Mallhi and I were surprised that a masonry wall was required to replace the old store building, since this is not a new use for the property or a new business, but merely a replacement, and the actual replacement is due to no fault of the Mahillis. The store is closer to the northern property line but its better construction and location will work better than a masonry wall to block the pasture and orchard behind the store from noise and car lights. There are no homes directly behind the store just pasture and orchard. After a good meeting, a plan and direction was decided.

I secured the services of Benchmark Engineering in Modesto to begin the Civil Engineering and Plot Plan. When they began their initial work, they learned that there were lot line issues with the property due to language differences in the property descriptions. This required going back in the records all the way to the original Hickman Property in 1893. Each transaction was studied and new surveying from section points. This process took one whole year. At the end of that work, it was learned that the property line on the north side of the property was five feet to far to the north. When it is adjusted on the maps, the existing house on the property now sits over the new property line.

The issue there really doesn't impact the project that much, because the new store will be setback 17'6" from the newly legally established northern property line. There is a challenge with any fence that would

be built because of just where the property line is. It runs into the home on Mr. and Mrs. Mallhi's Property. The map, in its existing form, dates to the 1920's and the house been there since the 1950's or early 1960's. At a minimum, a discussion on the principle of Adverse Possession will be necessary to adequately address the house on the newly discovered property line, and only gives additional importance to our request for a deferral of the block wall.

Mr. Mallhi did contact the property owners to the north and offer to buy a strip of the property to adequately allow for a definitive property line and a setback for the existing house. Even though not required to do so, he did make the gesture to have them give him a price at which they would sell a few feet. Mr. Mallhi was willing to pay a reasonable sum for property, given that in its current state, it is worth less than the market for Agricultural Residential property. The property will never be rezoned to Commercial by Mr. and Mrs. Mallhi because of the cost to rezone and the fact that the additional property is not necessary to construct the store. The two parties were not able to agree on the value. The property owners were trying to sell the land at Commercial property market rates, not Agricultural Residential rates and it made the prospective deal infeasible. However, to preserve a positive relationship with the Kings, Mr. Mallhi offered to purchase the property and to install a chain link fence per their request. After speaking with the Planning department, we learned that we could not just purchase five feet to utilize. Instead we would have to rezone it and the site to a Planned Development and complete a lot line adjustment. This would cost more than purchasing the property and installing the chain link fence. Consequently, since Mr. and Mrs. Mallhi will not be purchasing the property, as a show of good faith they are offering to install the eight-foot masonry wall along the northern property line between the single-family dwelling and the northeastern corner of the store property.

Additional expenses were discovered during the design of the civil plans. We learned that Storm water runoff from the property, which historically drained onto the northern pasture and Lake Road right of way, would need to be stored onsite and not run off the property. The process for that is to dig a giant trench and fill it with rocks, with drains and valley gutter in the parking lot. This is a very expensive and unanticipated surprise to say the least. This requirement was unexpected since Hickman has no existing drainage system to contaminate. This will be a very expensive additional cost.

Mr. and Mrs. Mallhi own the lots on either side of the store property. They own the property to the west, which is commercial property and the east, which is residential. They have an existing wooden fence, in good repair, between the project site and their residential property on the east and are asking for a variance to allow them to continue to utilize the wood fence instead of constructing a very expensive masonry wall to separate their commercial property from their residential property. The current estimate for the masonry wall is 35 to 40 thousand dollars, and when compared to the fact that a perfectly good wooden fence is existing this request seems reasonable. Consequently, we are proposing a variance to defer construction of the 8' high masonry wall along the eastern property line. Mr. and Mrs. Mallhi have offered to record, on their deed, a requirement to build the 8' high masonry wall should they ever sell the property to the east side of the store. Once again, the appeal is not to exempt them from building the masonry wall on the east property line, but to defer it, and if the property is ever sold, the block wall will need to be built.

Because of the unforeseen additional requirements and costs to Mr. and Mrs. Mallhi and this project, it is possible that the cost of the wall might make replacement of the building infeasible. This causes great concern since it has become obvious to us that the current structure and present location of the store, in the Lake Road right of way, is possibly a hazard for employees and customers of the store. We ask that construction of the eastern block wall be deferred. That Mr. and Mrs. Mallhi could continue to use the

existing wooden fence between his commercial and residential properties on Lake Road until the fence needs to be replaced or the property is sold.

RECEIVED

OCT 30 2017

Stanislaus County - Planning &
Community Development Dept.

STANISLAUS COUNTY PLANNING COMMISSION

October 19, 2017

STAFF REPORT

VARIANCE APPLICATION NO. PLN2017-0064 HICKMAN MARKET

REQUEST: A VARIANCE FROM THE STANISLAUS COUNTY ZONING ORDINANCE §21.52.040(E), WHICH REQUIRES CONSTRUCTION OF AN 8-FOOT HIGH MASONRY WALL, AS REQUIRED FOR RECONSTRUCTION OF THE EXISTING NEIGHBORHOOD MARKET, ALONG PROPERTY LINES WHERE THE COMMERCIAL ZONED PROJECT SITE ABUTS RESIDENTIALLY ZONED PROPERTIES TO THE NORTH AND EAST.

APPLICATION INFORMATION

Property Owner & Applicants:	Jarnail & Surinder Mallhi
Agent:	John E. Price, Artisan Construction
Location:	13135 Lake Road, east of Hickman Road, northwest of Montpelier Road, in the Hickman area.
Section, Township, Range:	34-3-11
Supervisorial District:	Two (Supervisor Chiesa)
APN:	080-046-010
Referrals:	See Exhibit G Environmental Review Referrals
Area of Parcel(s):	0.4 acres
Water Supply:	Hickman Water District
Sewage Disposal:	Septic system
Existing Zoning:	C-1 (Neighborhood Commercial)
General Plan Designation:	COM (Commercial)
Sphere of Influence:	N/A
Community Plan Designation:	N/A
Williamson Act Contract No.:	N/A
Environmental Review:	Exempt (CEQA Guidelines Section 15305)
Present Land Use:	Single-family dwelling, neighborhood market
Surrounding Land Use:	Pasture and orchard to the north, single-family dwellings to the east, vacant lot and mining machinery manufacturer to the south, and a nursery to the west.

RECOMMENDATION

Staff recommends the Planning Commission approve this request based on the discussion below and on the whole of the record provided to the County. If the Planning Commission decides to approve the project, Exhibit A provides an overview of all of the findings required for project approval, which includes Variance findings.

PROJECT DESCRIPTION AND BACKGROUND

This is a request for a Variance from the Stanislaus County Zoning Ordinance Section 21.52.040(E), which requires construction of an 8-foot high masonry wall along property lines where the commercially zoned property abuts residentially zoned properties. The subject property is located in the C-1 (Neighborhood Commercial) zoning district and the requirement for the masonry wall is being triggered by a building permit requesting to reconstruct the existing market. The applicants are requesting a variance to defer the construction of the masonry wall along the eastern property line, abutting the Rural Residential (R-A) zoning district, until: 1) the existing 6-foot high wood fence is replaced; or 2) either the project site or the adjoining parcel along the eastern property line (which the applicants also own) are either sold or title is transferred. (See Exhibit C – *Maps*.) The applicants were originally requesting a variance for the construction of the masonry wall along both the north and eastern property lines; however, the variance request has been amended to exclude deferral of the masonry wall along the northern property line.

SITE DESCRIPTION

The project site is located at 13135 Lake Road, east of Hickman Road and northwest of Montpelier Road, in the Hickman area; and consists of a 0.4 acre parcel improved with a 2,504 square-foot market and a single-family dwelling (rental property). The southwest corner of the parcel is used daily as the site of a mobile food truck. The applicants own three adjoining parcels fronting onto Lake Road. These parcels are: the 0.4 acre project site and the 0.24 acre vacant parcel to the west both located in the C-1 zoning district; and the 0.27 acre parcel to the east located in the R-A zoning district. The R-A zoned parcel is improved with a single-family dwelling. Wood fencing exists along the eastern and western property lines of the project site.

Reconstruction of the existing market as opposed to remodel has been triggered by right-of-way dedication requirements. In order to meet building and parking setback requirements, the market is being moved northeast of its current location. During the site plan development process, a survey prepared for the roadway dedication revealed that the northern property line is actually five feet south of what has historically been understood to be the property line, as marked by the placement of an existing barbed wire cattle fence. The single-family dwelling located on the northern part of project site encroaches onto the adjoining parcel to the north. (See Exhibit D – *Applicant's Project History and Findings*.)

The adjoining property to the north is located within the A-2 (General Agriculture) zoning district. The applicants have approached the property owners of the adjoining parcel to the north, Mr. and Mrs. King, seeking to purchase the five feet. The purchase of the property would allow the applicant to correct the property line encroachment issue with the single-family dwelling and provide greater space for the market. Because the boundaries of the zoning districts follow the legal boundaries of the property and not the existing fence line, a rezone (from R-A to C-1) and lot line adjustment would be needed to construct the masonry wall along the existing fence line. Due to the cost associated with the rezone and lot line adjustment, the applicants have decided to go ahead and construct the masonry wall along the properties legal northern boundary.

Surrounding land uses include pasture and orchard to the north; single-family dwellings to the east; single-family dwellings, a vacant lot, and a mining equipment manufacturer to the south; and single-family dwellings and wholesale nursery stock to the west.

ISSUES

The Planning Department has received the following correspondence and a petition in response to this request:

- Letter dated September 20, 2017, from Mr. and Mrs. King, residents of 13215 Lake Road. The King's own the 1.51 acre parcel adjoining both the project site and the adjoining parcel to the east of the project site. The King's want the 8-foot high masonry wall installed, along the northern property line to screen their property from the commercial use in order to address concerns with noise and light impacts, and trash from the store blowing onto their parcel. (See Exhibit E – *Correspondence*.) The applicants are proposing to construct the masonry wall along the project site's northern property line. Conditions of Approval have been added to the project to address litter control. (See Exhibit C – *Conditions of Approval*.)
- Email dated September 23, 2017, in support for the variance request.
- Response to public hearing notice dated September 27, 2017, from Ramon Rodriguez stating that a firewall is not needed around the Hickman Market. The author of this letter lives at 13218 Lake Road, a residential parcel southeast of the project site.
- Petition received on October 12, 2017, containing 146 names, addresses, and phone numbers of residents who live in the Hickman area. Signatories of the petition oppose the building of the 8-foot high masonry wall. The petition was provided to Staff by the applicants.

With the applicant's decision to construct the masonry wall along the northern property boundary and conditions in place to address the concerns raised in correspondence, the only issue with request is the need to meet the variance findings. A discussion of the variance findings is provided below in the "Zoning Ordinance Consistency" section of this report.

GENERAL PLAN CONSISTENCY

The site is currently designated COM (Commercial) in the Stanislaus County General Plan and the Hickman Community Plan. The intent of this designation is to indicate areas for various forms of light or heavy commercial uses, including retail, service, and wholesaling operations. This designation also allows for residential development in limited situations or when connected to both public sewer and water service.

ZONING ORDINANCE CONSISTENCY

The site is currently zoned C-1 (Neighborhood Commercial). Retail markets are permitted uses in the C-1 zoning district provided they can comply with all development standards, such as the requirement for a masonry wall.

Stanislaus County Zoning Ordinance Section 21.52.040(E) requires an 8-foot high masonry wall be constructed along the property line adjacent to any residential or agricultural zone or any P-D zoning for residential use, except where a building abuts an alley in which case no wall shall be required.

With the exception of the requested deferral of the masonry wall requirement along the eastern property line, the proposed reconstruction of the existing market meets all other C-1 zoning district development standards. A Variance may be approved in situations where property site physical characteristics exist that limit the enjoyment of development rights experienced by other properties within the same zoning designation, resulting in unnecessary hardships, from the strict application of provisions of the Zoning Ordinance. In order to grant a variance, the Planning Commission must make the following findings:

- (a) That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this title will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.
- (b) That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.
- (c) That the granting of the application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

The special circumstances applicable to this project are the applicant's ownership of the adjoining eastern parcel and the presence of a six-foot wood fence in good repair. The applicants are not requesting to be exempt from the masonry wall requirement, but to defer construction of the 8-foot high masonry wall along the project site's eastern property line. The existing market is currently encroaching into the County's ultimate right-of-way for Lake Road. Reconstruction of the market, which includes relocation of the parking lot, will improve traffic safety along Lake Road. While Staff is in support of allowing deferral of the masonry wall, provided the adjoining property owners do not oppose the request, there is a need to establish a defined timeline for the deferral. Condition of approval No. 10 provides for a deferral of up to ten years from Variance approval or until one of the following occurs prior to the ten year period: 1) the existing wood fence is either replaced, or 2) title to the project site or the adjoining parcel to the east (both owned by the applicants) is changed through sale or transfer. (See Exhibit C – *Conditions of Approval*.)

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment and no significant issues were raised. Staff is considering the project Exempt under Section 15305 "Minor Alterations in Land Use Limitations" of the California Code of Regulations (CEQA Guidelines) and no mitigation measures can be imposed on the project. A Notice of Exemption has been prepared for approval as the project meets the criteria for a CEQA categorical exemption. (See Exhibit D – *Notice of Exemption*.) Standard Conditions of Approval have been incorporated into the project. (See Exhibit C - *Conditions of Approval*.)

Contact Person: Rachel Wyse, Senior Planner, (209) 525-6330

Attachments:

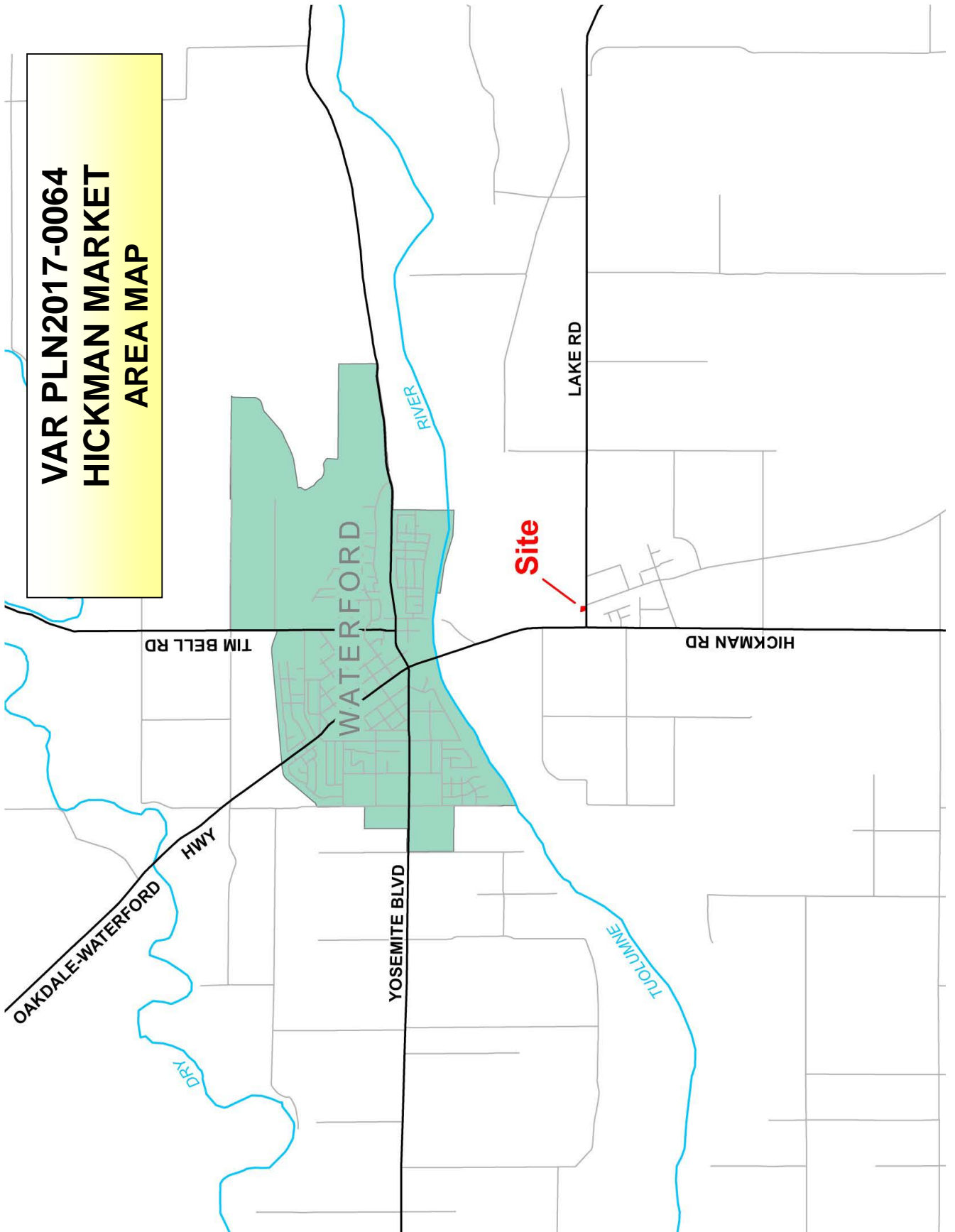
- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps
- Exhibit C - Conditions of Approval
- Exhibit D - Applicant's Project History and Findings
- Exhibit E - Correspondence
- Exhibit F - Notice of Exemption
- Exhibit G - Environmental Review Referral

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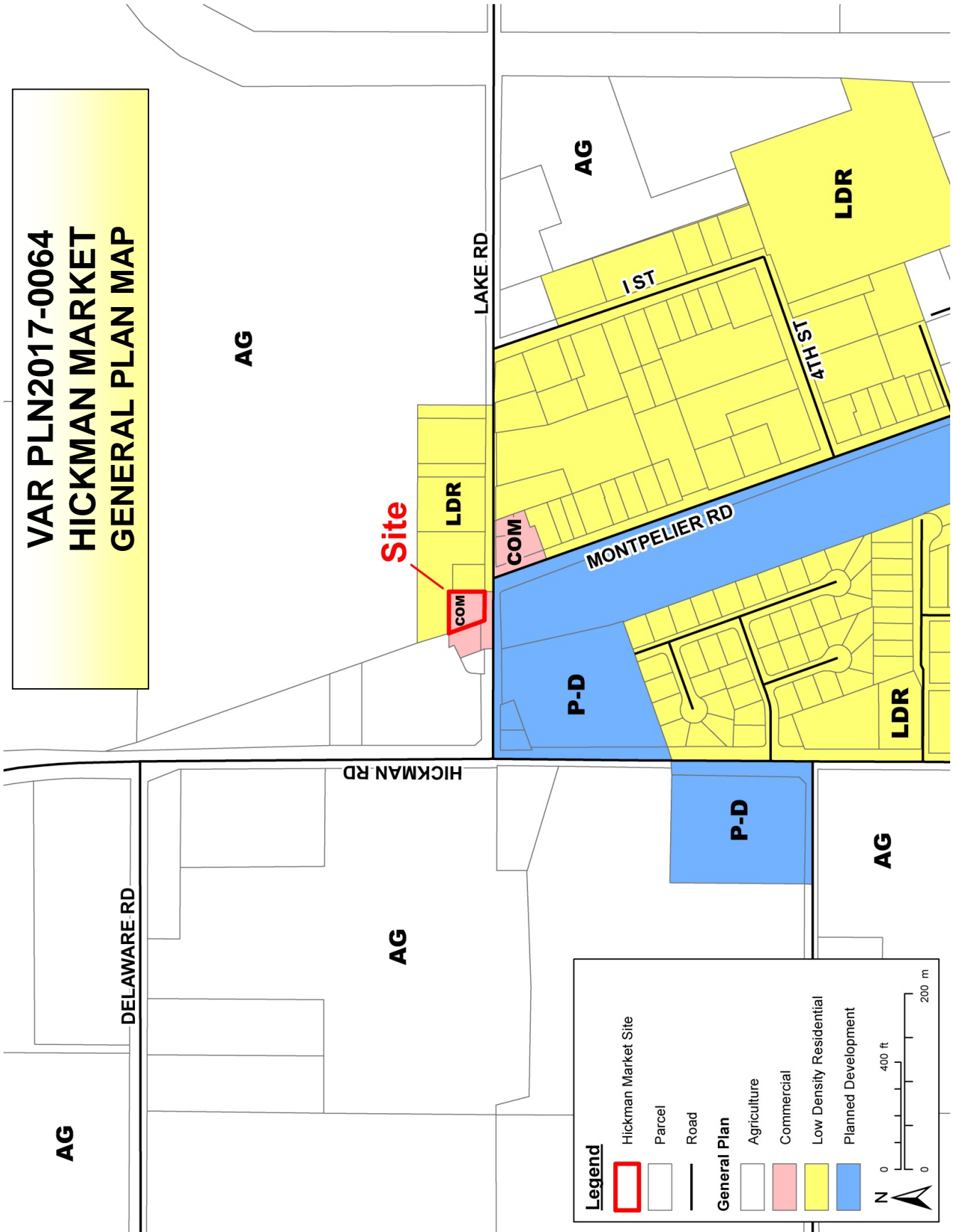
Exhibit A
Findings and Actions Required for Project Approval

1. Find that there is no substantial evidence the project will have a significant effect on the environment and that the Exemption reflects Stanislaus County's independent judgment and analysis.
2. Find the project is generally exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15035 and order the filing of a Notice of Exemption.
3. Find that:
 - (a) That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this title will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.
 - (b) That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.
 - (c) That the granting of the application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
4. Approve Variance Application No. PLN2016-0074 – Hickman Market, subject to the attached Conditions of Approval.

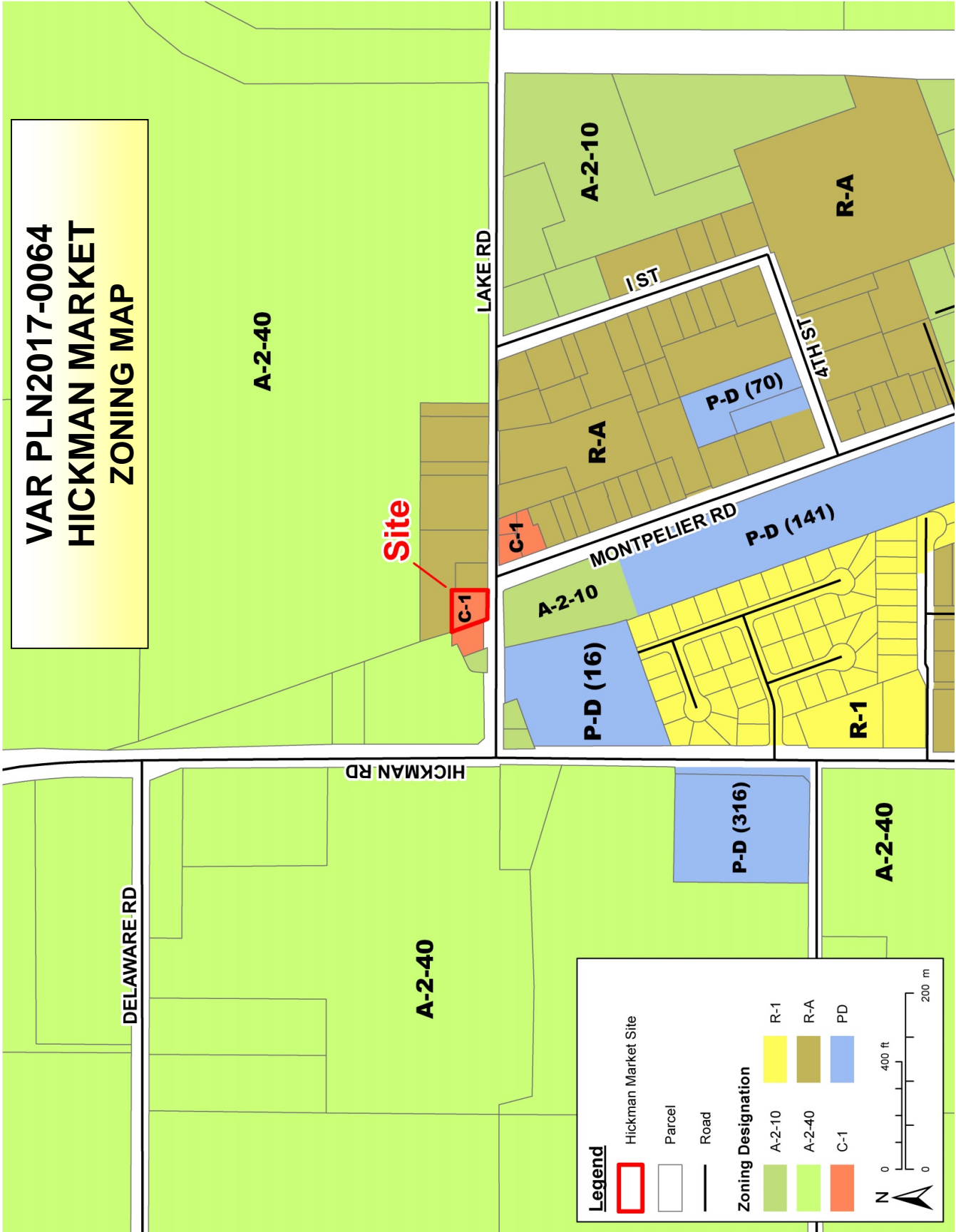
**VAR PLN2017-0064
HICKMAN MARKET
AREA MAP**



**VAR PLN2017-0064
HICKMAN MARKET
GENERAL PLAN MAP**



**VAR PLN2017-0064
HICKMAN MARKET
ZONING MAP**



Legend

- Hickman Market Site
- Parcel
- Road

Zoning Designation

- A-2-10
- A-2-40
- C-1
- R-1
- R-A
- PD

Scale: 0, 400 ft, 200 m

North Arrow: N

**VAR PLN2017-0064
HICKMAN MARKET
2015 COUNTY AERIAL**

Site

LAKE RD

HICKMAN RD

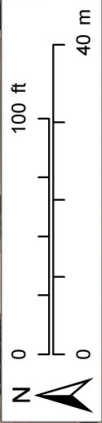


**VAR PLN2017-0064
HICKMAN MARKET
2015 COUNTY AERIAL**



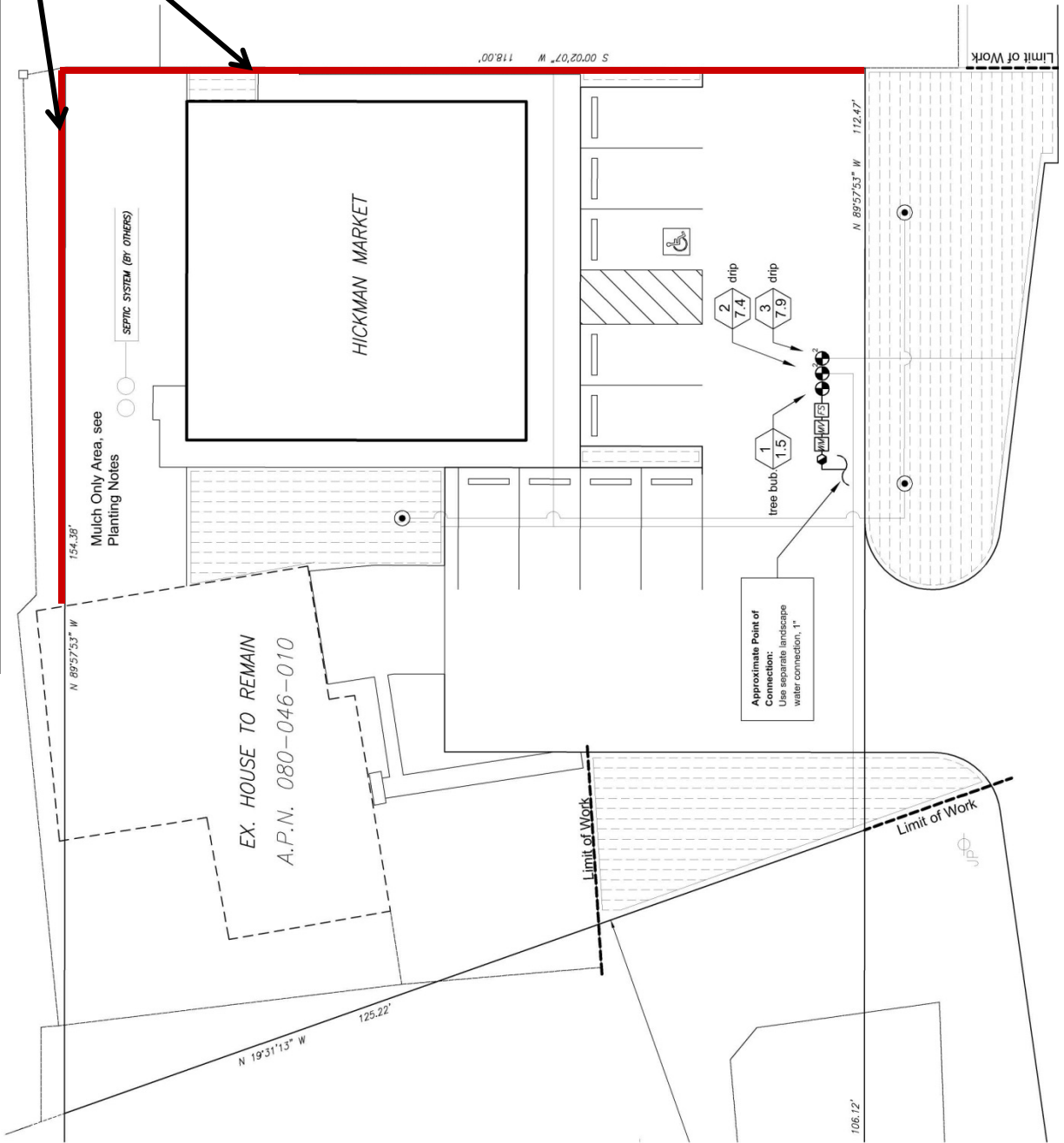
LAKEIRD

Site



**VAR PLN2017-0064
HICKMAN MARKET
MASONRY WALL EXHIBIT**

Required Location of Wall
As Per Zoning Ordinance

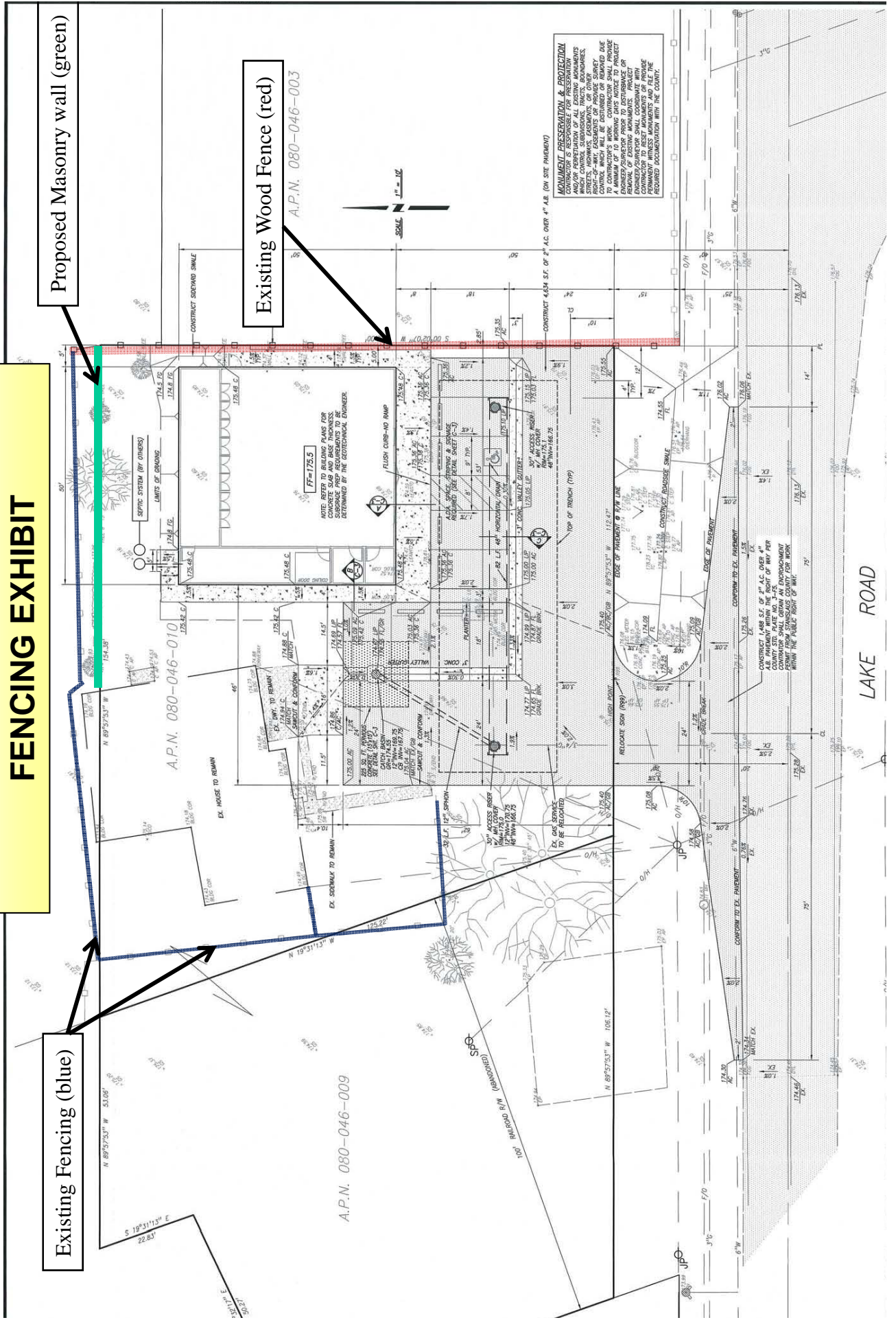


**VAR PLN2017-0064
HICKMAN MARKET
FENCING EXHIBIT**

Existing Fencing (blue)

Proposed Masonry wall (green)

Existing Wood Fence (red)



NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or, (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.030)

CONDITIONS OF APPROVAL

VARIANCE APPLICATION NO. PLN2017-0064 HICKMAN MARKET

Department of Planning and Community Development

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
3. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
4. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
5. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
6. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
7. Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate

mitigation measures to protect and preserve the resource shall be formulated and implemented. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

8. A trash enclosure shall be constructed, screened from the public right-of-way shall be constructed and ready for use prior to occupancy of the reconstructed market. The design and location of the trash enclosure shall be approved by the Planning Director, or a designee, prior to issuance of the building permit for the market reconstruction.

The store waste receptacle shall be kept within a trash enclosure constructed to Stanislaus County Standards and screened from the public right-of-way. Smaller trash receptacles shall be provided outside of the store and the food truck and emptied regularly.

9. The applicant shall submit a litter management plan for review and approval by the Planning Director, or a designee, prior to occupancy of the reconstructed market. The litter management plan shall reflect the number and location of trash receptacles to be placed on the property and the schedule for on-site litter pick-up. A revised litter plan shall be submitted to the Planning Department within 30 days of receipt of written notification by the Planning Department that the existing litter management plan is insufficient and on-site litter is an issue.

10. The construction of an 8-foot high masonry wall along the entire length of the eastern property line, excluding the front yard setback area, shall be deferred for up to ten years from Variance approval or until one of the following occurs prior to the ten year period: 1) the existing wood fence is either replaced, or 2) title to the project site or the adjoining parcel to the east (both owned by the applicants) is changed through sale or transfer. The existing wood fence shall be considered in need of replacement when there are visible signs of sag, lean, disrepair, and/or or material decay that cannot be addressed through normal maintenance to replace lose or fallen fence boards. Prior to issuance of a building permit, the applicant shall submit photos of the entire length of fence for purposes of documenting the condition of the fence at time of deferral.

*Please note: If Conditions of Approval/Development Standards are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Conditions of Approval/Development Standards; new wording is in **bold**, and deleted wording will have a ~~line through it~~.*

Project History and Alternative Fencing Proposal

This project has been a long time in development. Allow me to elaborate on the circuitous route we have been on.

Originally Mr. Jarnail Mallhi had contracted with a civil engineer to draw some plans to update and remodel the existing Hickman Market. He did so and took them in to the county building department. He was then informed that the amount of work needed to be done would trigger Road Dedication and a property line adjustment. The amount of roadway space would then actually cross into the existing building.

Additionally, Mr. Mallhi was informed that a portion of the building, in the rear of the store, was constructed illegally by someone prior to Mr. Mallhi's ownership, and that the structure would need to be removed. Removing the back of the store, and removing the front of the store to allow for roadway and setback, would eliminate the entire building!

Mr. Mallhi then was placed in contact with me, (John Price) and Artisan Construction & Design. As we discussed the options, it was decided that the best course of action was to build a new Store towards the rear of the lot, and then remove the old store to make way for the required parking lot and encroachment improvements. This seemed the best course of action and plans were set in motion.

I had a draft concept done and asked for a pre-development meeting with County Staff to make sure we would be following each department's requirements. Mr. Mallhi and I were surprised that a masonry wall was required to replace the old store. The store is closer to the northern property line but its better construction and location will work better than a masonry wall to block the pasture and orchard behind the store from noise and car lights. There are no homes directly behind the store just pasture and orchard. After a good meeting, a plan and direction was decided.

I secured the services of Benchmark Engineering in Modesto to begin the Civil Engineering and Plot Plan. When they began their initial work, they learned that there were lot line issues with the property due to language differences in the property descriptions. This required going back in the records all the way to the original Hickman Property in 1893. Each transaction was studied and new surveying from section points. This process took one whole year. At the end of that work, it was learned that the property line on the north side of the property was five feet to far to the north. When it is adjusted on the maps, the existing house on the property now sits over the new property line. The issue there really doesn't impact the project that much, because the new store will be setback 17'6" from the legally established northern property line. There is a challenge with any fence that would be built because of just where the property line is. It runs into the home on Mr. Mallhi's Property. At a minimum, a discussion on the concept of Adverse Possession will be necessary to adequately address the house on the newly discovered property line.

Mr. Mallhi did contact the property owners to the north and offer to buy a strip of the property to adequately allow for a definitive property line and a setback for the existing house. Even though not required to do so, he did make the gesture to have them give him a price at which they would sell a few feet. Mr. Mallhi was willing to pay a reasonable sum for property, given that in its current state, it is worth less than the market for Agricultural Residential property. The property will never be rezoned to Commercial by Mr. Mallhi because of the cost to rezone and the fact that the additional property is not necessary to construct the store. The two parties were not able to agree on the value. The property

owners were trying to sell the land at commercial property market rates and it made the prospective deal infeasible. However, in order to preserve a positive relationship with the Kings Mr. Mallhi offered to purchase the five feet and to install a chain link fence per their request. After speaking with Planning we learned that we could not just purchase five feet to utilize. Instead we would have to rezone it and the site to a Planned Development and complete a lot line adjustment. This would cost more than purchasing the property and installing the chain link fence. Consequently, since Mr. Mallhi will not be purchasing the property, as a show of good faith he is offering to install the eight foot masonry wall along the northern property line between the single family dwelling and the northeastern corner of the store property.

Additional expenses were discovered during the design of the civil plans. We learned that Storm water runoff from the property, which historically drained onto the northern pasture and Lake Road right of way, would need to be stored onsite and not run off the property. The process for that is to dig a giant trench and fill it with rocks, with drains and valley gutter in the parking lot. This is a very expensive and unexpected surprise to say the least. This requirement was unexpected since Hickman has no existing drainage system to contaminate. This will be a very expensive additional cost.

Mr. Mallhi owns the lots on either side of the store property. He owns the property to the west, which is commercial property and the east, which is residential. He has an existing wooden fence, in good repair, between the project site and his residential property on the east and is asking for a variance to allow him to continue to utilize the wood fence instead of constructing a very expensive masonry wall to separate his commercial property from his residential property. The current estimate for the masonry wall is roughly four to five times more than a new wooden fence, and when compared to the fact that a perfectly good wooden fence is existing this request seems reasonable. Consequently, we are proposing a variance to defer construction of the 8' high masonry wall along the eastern property line. Mr. Mallhi has offered to record, on his deed, a requirement to build the 8' high masonry wall should he ever sell the property to the east side of the store.

Because of the unforeseen additional requirements and costs to Mr. Mallhi and his project, it is likely that the cost of the wall will make replacement of the building infeasible. This causes great concern since it has become obvious to us that the current structure and present location of the store, in the Lake Road right of way, is possibly a hazard for employees and customers of the store. We ask that construction of the eastern block wall be deferred. That Mr. Mallhi could continue to use the existing wooden fence between his commercial and residential properties on Lake Road until the fence needs to be replaced or the property is sold.

Variance Findings:

1. **That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this Chapter will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.**

The subject property is unique in that it is currently a Neighborhood Market that has been found, through the course of attempting to improve the existing structure, to be in the revised public right of way. It also has unique property lines and neighboring zoning. The property to the West is zoned Commercial and owned by the same owner, (Mr. Mallhi) as the subject property. The property to the East is zoned Residential and is also owned by the same owner (Mr. Mahllhi). The subject property is flanked on either side by the same owner, and one could argue that they could be treated as one property and, as such, a masonry wall would not be needed to separate the parcels.

While the property to the North, has a different owner, and is zoned Agricultural-Residential (R-A zoning) and is used as a pasture. This land can never be developed for several houses, because of the size of the property, and the rules that would preclude development; such as vehicle access, lot size and other such requirements.

The Neighborhood Market that needs to be built is to replace one that can't be remodeled. The existing Store, if remodeled, would have required mandatory relinquishment of property for the public right-of way. Since that is triggered, a substantial amount of the existing building would be lost and a replacement is the method that makes the most sense and would add to the neighborhood.

2. **That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.**

A requirement of the Concrete Block wall would keep Mr. Mallhi from enjoying substantial property rights, and should not be viewed as a grant of special privilege. This project is actually an existing store that must be replaced to be out of the public right of way and the front yard setback. The wall shouldn't be required because there are no new impacts associated with the replacement of the store. For example, one could assume that the purpose of the wall is to keep down noise, reduce light spillage from vehicles, and to prevent trespassing on to neighboring parcels. However, this is an existing store and its replacement will not result in any new impacts.

A wood fence to the east is existing and will be replaced and will continue to reduce impacts. The fence to the north is not on the property line but on the northern parcel. It is a barbed wire cattle fence. The store is in front of the fence and will prevent light spillage onto the northern parcel as will existing and proposed landscaping. Moreover, the new store will in itself be a higher standard of construction that will reduce noise impacts. Consequently, this is not a grant of special privilege only a request to replace the existing structure and utilize the same type of fencing that is in place.

3. **That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in**

the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

Once again, the store exists now. Replacing the old building with a new one will actually benefit the neighborhood and increase safety because the building and the new parking will be out of the public right of way. Additionally, since it is a replacement of an existing store, there are no new impacts associated with the store, a wall is not needed, because a wood fence will serve the same basic purpose to keep lights from vehicles off neighboring properties, and both sides of the property are owned by Mr. Mallhi, and there are no structures or residences to the north that would be directly impacted. Construction of the replacement store will actually improve the health and safety of the neighborhood, properties and improvements.

September 20th, 2017

Stanislaus County Planning Department
C/O: Rachel Wyse, Senior Planner, Planning and Community Development
1010 10th Street
Modesto, CA. 95354

Re: Variance Application No. PLN2017-0064- Hickman Market

Dear Ms. Wyse; Stanislaus County Planning Commission-

My name is Melinda King and myself, alongside my husband, are the property owners of 13215 Lake Road in Hickman. Our property is immediately north of the Hickman Market, placing us with a direct, shared property line with Mr. Jarnail Singh and the Hickman Market.

We recently received a Notice of Public Hearing and Notice of Exemption regarding parcel number: 080-046-010, stating that the Hickman Market owner, Jarnail Singh, has submitted a Variance Application: No. PLN2017-0064, on behalf of his proposed store expansion project. While my husband and I agree that major work is needed at the Hickman Market, we decline the suggestion that the expansion of the Hickman Market be exempt from building the required masonry wall that will separate our residential-agricultural property from Mr. Singh's commercial property.

As stated in the Development Standards Code- 21.52.040 (E), An eight foot masonry wall shall be constructed along the property line adjacent to any residential or agriculture zone or any P-D zoning for residential use, except where a building abuts an ally in which no wall shall be required.

We believe it is within the best interest of Stanislaus County to enforce the placement of the required masonry wall for both residential and agricultural screening protection to the north and east sides of the Hickman Market. While Mr. Singh currently owns the property to the east and west of his store, he uses these homes as rental properties. The desired curb appeal of these rental homes is lack-luster; producing trash, tall weeds, and neglect, stemming from the stores foot traffic, clientele, and commercial trash production. Lake Road is a gateway for farmworkers to get to their jobs year round when harvesting various types of agricultural crops. On any given afternoon, you will find a plethora of farm hands congregating on all sides of the Hickman Market, retreating for a snack or cold drink, after a long day's work. Unfortunately, once the dust has settled, you will also find an abundance of trash left behind. Mr. Singh also allows a taco truck to park to the west of his store, again producing an abundance of traffic, noise, and trash that carries over to neighboring properties, including our back pasture. Requiring a masonry wall will help to serve as a sound barrier and trash collector, not only to our pasture, but to all neighboring residence affected. No one can foresee ownership changes in the future and this is the one time the county can enforce the rights of whomever may acquire property around the Hickman Market in the future. We would ask that you please allow all current and possible future Hickman residents to continue to enjoy rural Hickman, with a proper masonry screening wall, as protection from the busy commercial business the Hickman Market provides.

In our case, our property at 13215 Lake Road is zoned R-A (Rural-Residential). Being that we are both a residential and agricultural property, we believe that it is vital for the county to protect not only our residential right, but our agricultural rights as well. We have only owned our home for 4 years and still debate what we will do with our pasture land. Trash is already an issue with the current store location and with the new plans putting the store even closer to our property line, one can only imagine an increase in trash on our property. We believe it is only right to respect our farm land, alongside our residential rights, and enforce the placement of a masonry screening wall that will block noise, trash, and the obvious commercial property, that will abut to our desired farm land we purchased to enjoy.

While trash, noise, foot traffic, and the protection of our legal rights are of the greatest concerns of this requested variance, we believe it should be noted that there is a distinct property line issue between our property and the Hickman Store that should be considered. While Mr. Singh does include in his letter to the county that “a block wall on the back of our property will require some additional legal work to resolve a property line issue”, Mr. Singh does not disclose that we have tried to resolve this issue, but cannot come to an agreement.

In April, 2016 Mr. Singh, alongside his Construction Engineer, approached my husband and I regarding a fence line issue discovered through their surveying process for the store expansion plan. The land survey revealed that the current fence placed to separate our two properties was incorrect, portraying an inaccurate property line, and that Mr. Singh has been occupying part of our land. To top it off, part of his rental property to the west of his store encroaches onto our property, extending across property lines. Mr. Singh then proceeded to ask us if we were interested in selling this part of the land to him, in order for him to proceed with his store expansion project. We agreed. But, Mr. Singh would not make us an offer, instead, insisted that we provide him an asking price, even though he was the one asking to purchase the property. We met with our realtor and after running commercial comps of empty lots around our area, we drew up an offer and on May 8th, 2016 we provided it to Mr. Singh (See attached proposal).

After a couple of weeks, Mr. Singh came back suggesting that we had overpriced the land he wished to buy and rather than counter offering, asked us again to reconsider and propose another offer to him. So, we did. And again, Mr. Singh was unsatisfied. At that point we explained that we would not create another proposal and he would need to make us an offer if he wanted to proceed. He offered us less than ¼ of our original asking price and noted that if we agreed to his offer we would also need to pay for half of a new fence on the adjusted back property line. He closed this meeting by stating, “If you do not accept this offer, I will just stop pursuing my store remodel and remove the part of my rental house that is on your property”. After great deliberation, we declined his offer mid-June 2016 and have not spoken of the property line since.

After all of the above noted correspondences ending without a solution, we took it upon ourselves to reach out to several local and county departments, seeking help with fixing our fence line issue. We spoke with a Tim at the Stanislaus County Planning Department, Melissa Ling at the tax-assessor’s office, Larry Fontana in the surveying department, William Lee with our Title Company, as well as the Engineering Contractor of store project, Tom Price. Short of hiring an attorney, we have done our due diligence in attempting to correct the fence line/property line issue between our property and the Hickman Market. It seems, Mr. Singh on the other hand, focuses on finding loopholes, trying to avoid rules and regulations to simply get what he wants, rather than trying to fix the issue at hand.

In closing, we would ask the Stanislaus County Planning Commission to consider the rights of those who are affected by this variance request. It is the residents who have to deal with the trash produced from the Hickman Market. It is the residents who have to deal with the noise produced by the Hickman Market. It is the residents who have to deal with the foot traffic produced by the Hickman Market. While Mr. Singh will gain property value, increased store income, and enhanced curb appeal with his store remodel, neighboring residence gain nothing. Please do not let him bypass the laws put into place to help protect those who are directly affected around him. An improved Hickman Market, great. Let’s make sure it is done in the proper and required manner. A wall is a must!

Respectfully-

Shaun and Melinda King
13215 Lake Road
Hickman, CA 95323

May 8th, 2016

Mallhi Jarnial S and Mallhi Surinder
3125 Lake Road
Hickman CA 95323

RE: Shaun and Melinda King
13215 Lake Road
Hickman, CA 95326

Upon being approached by Mr. Singh, Mr. and Mrs. Shaun King made several phone calls and inquiries regarding the sale of their property at 13215 Lake Road, in Hickman CA. In hopes to come up with a fair selling price of the property, property comps were ran, to help determine the asking sale price. Since the property being sold is labeled AG/Residential, but is being purchased for the purpose of Commercial, finding comps became difficult within the Hickman/ Waterford area. That beings said, 1 property was found in Waterford and 1 property was found in Modesto that posed a reasonable price in comparison to the property being sold/purchased.

1.) 12716 Bentley Street, Waterford

[REDACTED]

2.) 2110 College Avenue, Modesto

[REDACTED]

With taking into account the above listed property comps, as well as the knowledge that the seller will be losing property value, while the buyer will be gaining long term property value and income, Mr. and Mrs. King believe that a fair selling price for their property is [REDACTED] a square foot (the median price of the above two comps). With the total proposed property purchase square footage of 1973 square feet and the offered square footage sale price of [REDACTED] per square foot, this would be a total sale/purchase price of [REDACTED]

It is to be understood that Mr. and Mrs. King will not attach a deed to their home and all changes made to the property must be handled appropriately through Stanislaus County.

Respectfully-

Shaun and Melinda King

From: Russ
To: <planning@co.stanislaus.ca.us>
Date: 9/23/2017 7:48 AM
Subject: 09-23-17 @ 07:41

Public hearing on October 19, 2017. Assessor Parcel Number: 080-046-010. Variance application number PLN2017-0064 - Hickman Market. I voice agreement with the application.

Sent from my iPhone



RECEIVED
SEP 27 2017
STANISLAUS CO. PLANNING & COMMUNITY DEVELOPMENT DEPT.

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10th Street, Suite 3400, Modesto, CA 95354
Phone: 209 525 6330 Fax: 209.525.5911

September 11, 2017

NOTICE OF PUBLIC HEARING AND NOTICE OF EXEMPTION

NOTICE IS HEREBY GIVEN THAT the Stanislaus County Planning Commission will hold a public hearing on **Thursday, October 19, 2017**, at a meeting starting at **6:00 P.M.** in the Joint Chambers, 1010 10th Street, Basement Level, Modesto, California, to consider the following:

VARIANCE APPLICATION NO. PLN2017-0064 – HICKMAN MARKET – Request for a Variance from the Stanislaus County Zoning Ordinance §21.52.040(E), which requires construction of an 8-foot high masonry wall, as required for reconstruction of the existing neighborhood market, along property lines where the commercially zoned property abuts residential zoned properties to the north and east. The property is located at 13135 Lake Road, east of Montpelier Road, east of Hickman Road, in the Hickman area.

The property is further identified as Assessor Parcel Number: 080-046-010

This Project is considered **EXEMPT** from the California Environmental Quality Act.

At the above noticed time and place, all interested persons will be given an opportunity to speak.

Any written material, photographs, or other new information which you intend to present regarding this application should be submitted to this office ten days prior to the meeting. Presenting such information for the first time at the public hearing may lead to a continuance because the Planning Commission and other concerned parties may not be able to adequately review such new information during a meeting.

Materials submitted to the Planning Commission for consideration (i.e., photos, slides, petitions, letters, etc.) will be retained by the County and cannot be returned. Comments may be submitted by U.S. mail, email: planning@co.stanislaus.ca.us or fax: (209) 525-5911.

If you challenge the above item in court, you may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

All Documents related to this project are available for review at the Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto California or on-line at www.stanco-planning.org. For further information, please call (209) 525-6330 or email: planning@co.stanislaus.ca.us.

STRIVING TO BE THE BEST COUNTY IN AMERICA

*We no need Firewall
around the Hickman Mkt*

*Ramon Rodriguez
13218 LAKE Rd HICKMAN 95323*

60

September 27, 2017

Re: Variance Application No PLN2017-0064 – Hickman Market /APN 080-046-010

To Whom It May Concern:

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

NAME	ADDRESS
1) Donald Yearq	930 Montpelier Rd. Hickman
2) Saul Rodriguez	842 Montpelier Rd. Hickman
3) Dixie Haysborn	855 I Street Hickman
4) Camille Bewley	13001 6th St. Hickman
5) Joel Acosta	<u>1001 Wren Rd Oakdale</u>
6) Rocky Whitfield	1872 6th St Hickman
7) Trace Thomas	3242 Montpelier Rd Hickman
8) Gage Herrin	812 Montpelier rd Hickman
9) Daniel Ellos	1018 Hickman rd Hickman
10) Wilma Landes	<u>10381 Star Ave, Wren</u>
11) Todd Knight	449 ALBERG RD, Hickman
12) Amy McGinnis	13131 LAKE RD Hickman
13) Gurpreet Samra	13006 Lake rd Hickman
14) Jose Ortiz Flores	936 Montpelier Rd Hickman
15) Michael Frantz	12161 Delaware Hickman CA 95323

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market / APN 080-046-010

To Whom It May Concern:

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

- | | |
|---------------------------|--|
| 16.) Keith Frucht | 12161 Delamare Rd
Hickman Ca, 95327 |
| 17) ROBERT STINE | 15673 Lake Red.
HICKMAN |
| 18) Billie Mojeda | 13131 Lake rd Hickm |
| 19) Chase Harris | 812 montpelier Hick |
| 20) Kenneth Hoach | 1030 Montpelier Hic |
| 21) Ernesto Acosta Jr. | 3246 Montpelier rd Hick |
| 22) Edgar Gomez | 506 N. Western Ave W |
| 23) Ivan Gomez | 506 N. Western Ave W |
| 24) Ivan Garibaldi | 12143 Hernandez Ave W |
| 25) Charles Shepard IV | 1050 Kylie Pl. Hick |
| 26) Rick Kendrick | 3401 montpelier rd Hick |
| 27) April Votaw | 3242 Montpellier Rd |
| 28) Mitchell B. [unclear] | 15401 Lampford rd Hickman
95323 |
| 29) ESTEVAN NAVARRO | 936 Montellor road
HICKMAN |
| 30) Lois Little-Aguina | 13230 Lake Rd
Hickman Ca 95323 |
| 31) Stephen Henstee | 957 1st HICKMAN. |

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market / API# 080-046-010

To Whom It May Concern: |

Please consider this our petition in opposing the building of an 8-foot high masonry wall.

- | | |
|-----------------------|-----------------------------------|
| 32) _____ | 15401 Longview Rd Hickman |
| 33) _____ | 13800 Yosemite waterfall |
| 34) John A. Arde | 820 Montpelier Rd. Hickman |
| 35) Elizabeth Bruders | 820 Montpelier Rd Hickman |
| 36) Dave Wallace | 572 Lamplow Rd. Hickman |
| 37) Hogofausto | 806 Montpelier Rd Hickman |
| 38) Maner Palafin | 13431 Lake Rd Hickman |
| 39) Hector OITR | 868 Kim Ct. Hickman |
| 40) Jihin Gatala | 13431 Lake Rd Hickman |
| 41) Arturo Acosta | 860 Montpelier Rd Hickman |
| 42) Susan de la Torre | 19701 Lakes Rd Hickman |
| 43) Jay Willis | 491 DENTON Rd Hickman CA |
| 44) Carla Baskins | 13118 6 th St. Hickman |
| 45) Tom Weimer | 15200 Lake Rd Hickman |
| 46) Arturo | 860 MONTPELIER RD Hickman |
| 47) Keith Sanders | 820 Montpelier Rd Hickman |

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market /APL 080-046-010

To Whom It May Concern:

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

- | | |
|----------------------|--------------------------------------|
| 48) Sandy Stafford | 873 I Street
Hickman |
| 49) Jack Stafford | 873 I St. Hickman |
| 50) Stan Dravell | 500 Oakberg Rd Hickman |
| 51) Evan Hollaway | 873 I street
Hickman |
| 52) Dirk Hirt | 13037 Davis St. Hickman |
| 53) Renita Bassett | 13326 Lake Road
Hickman |
| 54) Karen Brown | 13143 6th Hickman |
| 55) Tony Mendonca | 15206 Lake Rd, Hickman |
| 56) David Crawford | 13112 6th Hickman |
| 57) Debra Yeary | 930 montpelier Rd.
Hickman, Ca. |
| 58) Don Yeary | 930 montpelier Rd.
Hickman |
| 59) merrilynn Harder | 12424 oden dr. |
| 60) Patricia Acosta | 13210 1/2 4th St
Hickman |
| 61) John A. Anderson | 820 montpelier St
Hickman |
| 62) EARL GUINES | 13230 LAKE RD |
| 63) Antonio Toledo | 13201 LAKE ROAD Hickman |
| 64) Jimmie Hensley | 13313 4th Street Hickman
CA 95323 |

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market /APW 080-046-010

To Whom It May Concern: |

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

- | | |
|---------------------|-------------------------|
| 65) Fred Rodriguez | 1042 madyway hickman ct |
| 66) CONRADO VILQUEZ | 13431 LAKE RD HICK CA |
| 67) PAUL CLEMENCE | 1042 KYLE PL. Hickman |
| 68) Jim Ramont | 24749 Lake Rd Hickman |
| 69) Josh Davis | 877 Lorenzo St Hickman |
| 70) Donna Walker | 13012 Lake Hickman |
| 71) Sharayt Koun | 13006 Lake Rd Hickman |
| 72) PAUL WILKINSON | 812 Montpelier Hickman |
| 73) Armando Sush | 13006 Lake Hick |
| 74) Lidra Martinez | 13201 Lake Rd Hickman |
| 75) Eric | 954 Montpelier Hickman |
| 76) Hector castillo | 954 Montpelier |
| 77) Randy Burnett | PO Box 70 |
| 78) Tibie Bodeau | 820 Montpelier |
| 79) Mike Edwards | 15501 Lampley Rd |
| 80) Cathy Sanchez | 13001 Lake Rd |

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market /APL 080-046-010

To Whom It May Concern: |

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

- | | |
|-------------------------|--|
| 81) Kern Clark | PO Box 377 Hickman 95323 |
| 82) Memo Granillo | PO Box 335 HICKMAN 95323 |
| 83) Jim Clark | 824 MONTPELIER HICKMAN |
| 84) DALE HAGGARDEN | 855 I ST Hickman |
| 85) Sean Wingo | 930 Montpelier Rd. Hickman |
| 86) Justin Silver | 15206 LAKE RD
Hickman Rd. |
| 87) Leslie Loveall | 13500 Lake Rd ^{HICKMAN} HICKMAN |
| 88) MATT Silveira | 12401 RiverView Rd. |
| 89) Margarita Sifuentes | 13643 Cogswell Rd. Hickman |
| 90) RICHARD Tucker | 13824 LAKE RD. |
| 91) CORNA Evovich | 4400 CANAL BANK |
| 92) Humberto Acosta | 860 Montpelier Rd |
| 93) Alicia Castillo | 954 Montpelier RD |
| 94) Jason Herrin | 812 Montpelier Rd. |
| 95) Mynab. Meshew | 13017 Kim St Hickman Ct |
| 96) Amelia Dragon | 819 I St Hickman Ca |
| 97) Kim Lambert | 391 Arlberg Rd Hickman |
| 98) Melissa Jones | 13037 DAVIS ST Hickman |

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market / API# 080-046-010

To Whom It May Concern:

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

NAME	ADDRESS	CONTACT NO.
99) Greg Erickson	812 Montpelier	
100) Kay MAMM	821 "	
101) Michel [unclear]	" "	
102) Terri Wilson	826 MONTPELLIER	209-
103) Aaron Johnson	820 MONTPELLIER	209-
104) Dawnie Stewart	820 MONTPELLIER RD	209-
105) [unclear]	354 Hickman	209-
106) Bill Walker	1302 Lake Rd Hickman	
107) James Fielder	1302 Lake Hickman	
108) MELCHOR RAMIREZ	872 MONTPELLIER RD.	
109) Genaro Romero	13135 LAKE R HICKMAN	
110) Genaro Fausto	806 Montpelier Hickman	
111) Roberto Lopez	806 Montpelier Hickman	
112) Jorge Barajas	3076 Davis St Hickman	
113) Jose Ortiz	936 Montpelier Rd. Hickman, CA	

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market / APN 080-046-010

To Whom It May Concern: |

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

CONTRACT NUMBER

NAME	ADDRESS
114) Patsy Hester	966 Hickman Rd
115) Tomi Mcmann	960 Hickman Rd
116) Marlene Gardner	830 Montpelier Hickman
117) Guy Gardner	830 Montpelier
118) Linda Smith	13019 Lake Rd.
119) Tom Noll	754 Hickman
120) Selia Rodriguez	13218 LAKE RD
121) Ramon Rodriguez	13218 LAKE RD
122) Jessica Reilly	13218 Lake Rd
123) Luis Reilly	13218 Lake rd
124) Darly Bensen	13218 lake rd
125) Ken Thornberry	13248 Lake Rd
126) Brooke Miranda	13637 Dallas Rd

September 27, 2017

Re: Variance Application No PLN2017-0064 - Hickman Market /APW 080-046-010

To Whom It May Concern: |

Please consider this our petition in our opposing the building of an 8-foot high masonry wall.

NAME	ADDRESS
127) Mandap Kaur	800 Hickman Rd Hickman
128) Shagma Stevenson	500 Hickman Rd.
129) [Signature]	865 Kim Ct Hickman Co.
130) Theresa Poot	13000 Hickman Ct
131) Amy Poot	13000 HICKMAN CT
132) Whitley Poot	13000 HICKMAN CT
133) Emilee Buck	13000 Hickman Ct
134) Betsy Cusert	13001 Kim
135) Stefany Garcia	13004 Kim St.
136) Maria Belgado	13004 Kim St.
137) Jish Mosey	869 Kim St
138) Corrine Lamere	13008 Kim St.
139) Stacey Greene	864 Kim Ct.
140) [Signature]	868 Kim Ct
141) Debra Judd	880 Kim Ct
142) [Signature]	877 Kim Ct

STANISLAUS COUNTY
DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT
1010 10th Street, Suite 3400
Modesto, California 95354

NOTICE OF EXEMPTION

Project Title: VAR APPLICATION NO. PLN2017-0064 – HICKMAN MARKET

Applicant Information: Jarnail & Surinder Mallhi, 13135 Lake Road, Hickman, 95323

Project Location: 13135 Lake Road, east of Hickman Road, northwest of Montpelier Road, in the Hickman area (Stanislaus County; 080-046-010).

Description of Project: A Variance from the Stanislaus County Zoning Ordinance Section 21.52.040(E), which requires construction of an 8-foot high masonry wall, as required for reconstruction of the existing neighborhood market, along property lines where the commercially zoned project site abuts residentially zoned properties to the north and east.

Name of Agency Approving Project: Stanislaus County Planning Commission

Lead Agency Contact Person: Rachel Wyse, Senior Planner

Telephone: (209) 525-6330

Exempt Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Minor Alteration in Land Use Limitations. 15305.
- Statutory Exemptions. State code number: _____
- General Exemption.

Reasons why project is exempt: The proposed variance is in regards to local zoning ordinance screening requirements where a commercially zoned property abuts residentially zoned properties. The proposed infill development is consistent with the surrounding commercial/residential character of the area, and will not change any land use, or density.

October 19, 2017 _____
Dated

Signature on File _____
Rachel Wyse
Senior Planner

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: VARIANCE APPLICATION NO. PLN2017-0064 - HICKMAN MARKET

REFERRED TO:				RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS	
	2 WK	30 DAY	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
COOPERATIVE EXTENSION	X		X		X							
FIRE PROTECTION DIST: Stanikslaus Consolidated	X		X		X							
IRRIGATION DISTRICT: Turlock	X		X		X							
MOSQUITO DISTRICT: Turlock	X		X		X							
MT VALLEY EMERGENCY MEDICAL	X		X		X							
MUNICIPAL ADVISORY COUNCIL: Hickman	X		X	X				X				
PACIFIC GAS & ELECTRIC	X		X		X							
SCHOOL DISTRICT 1: Hickman Elementary	X		X		X							
SCHOOL DISTRICT 2: Hughson Unified	X		X		X							
STAN CO AG COMMISSIONER	X		X		X							
STAN CO BUILDING PERMITS DIVISION	X		X		X							
STAN CO CEO	X		X		X							
STAN CO DER	X		X	X				X		X		X
STAN CO ERC	X		X		X							
STAN CO HAZARDOUS MATERIALS	X		X		X							
STAN CO PUBLIC WORKS	X		X		X							
STAN CO SHERIFF	X		X		X							
STAN CO SUPERVISOR DIST 2: Chiesa	X		X		X							
STAN COUNTY COUNSEL	X		X		X							
STANISLAUS FIRE PREVENTION BUREAU	X		X		X							
STANISLAUS LAFCO	X		X		X							
SURROUNDING LAND OWNERS			X									
TELEPHONE COMPANY: AT&T	X		X		X							

C. VARIANCE APPLICATION NO. PLN2017-0064 – HICKMAN MARKET –

Request for a Variance from the Stanislaus County Zoning Ordinance Section 21.52.040(E), which requires construction of an 8-foot high masonry wall, as required for reconstruction of the existing neighborhood market, along property lines where the commercially zoned property abuts residential zoned properties to the north and east. The property is located at 13135 Lake Road, east of Montpelier Road, east of Hickman Road, in the Hickman area. This project is considered EXEMPT from the California Environmental Quality Act (CEQA). APN: 080-046-010.

Staff Report: Rachel Wyse, Senior Planner, Recommends **APPROVAL**.
 Public hearing opened.

OPPOSITION: Melinda King, neighbor; Sean King, neighbor

FAVOR: John Price, applicant's representative; Saranjit Kaur, family member

Public hearing closed.

Buehner/Orvis (7/0) **BASED ON THE INABILITY TO MAKE THE NECESSARY FINDINGS TO APPROVE THE VARIANCE, VARIANCE DENIED.**

EXCERPT

PLANNING COMMISSION

MINUTES

Signature on file.
 Angela Freitas, Secretary

December 1, 2017
 Date



ATTACHMENT 4
HICKMAN MUNICIPAL ADVISORY COUNCIL

P.O. Box 92, Hickman CA 95323

TO: Stanislaus County Planning and Community Development,

RE: VARIANCE Application number PLN2017-0064 Hickman Mkt

This letter is to certify that the Hickman Municipal Advisory Committee does not oppose the above referenced variance application concerning the masonry wall the county is requiring of Mr. Singh, owner of the Hickman Market.

We, as a committee, recommend the county planning department to allow Mr. Singh to proceed forward with the construction of the new building including a new parking lot on his existing property without requiring him to build an 8-foot masonry wall. We feel the wall is unnecessary and we oppose the requirement for him to build it. Furthermore, it is an added expense for Mr. Singh, that the MAC committee finds to be unnecessary. Our few businesses in this community do not have masonry walls surrounding them, therefore we do not want this to be an added requirement for Mr. Singh.

Mr. Singh and his store have been a wonderful asset to our small community of Hickman. We feel his plans to improve his store including a parking lot will create added safety to the consumers that frequent his business, as the current parking situation is very dangerous.

Mr. Singh currently maintains the appearance of his property very with very limited disturbance to the surrounding neighbors. He keeps the property very clean and free of outside litter or debris. Therefore, we feel the request of the property owner to the north of his property is unfounded as it is an orchard. If the owner of that property insists on the 8-foot masonry wall to be built, he should be required to pay for half of its construction as with any common shared fence and/or wall.

In closing, we recommend the county planning department to allow Mr. Singh to proceed forward with his improvements to his property without the requirement of the masonry wall. It will be a huge improvement to our community with a new store with a new parking lot.

Sincerely,

A handwritten signature in black ink that reads 'Lynn G. Meshew'.

Lynn G. Meshew- President of the Hickman MAC

VAR PLN2017-0064
HICKMAN MARKET

Board of Supervisors
December 12, 2017

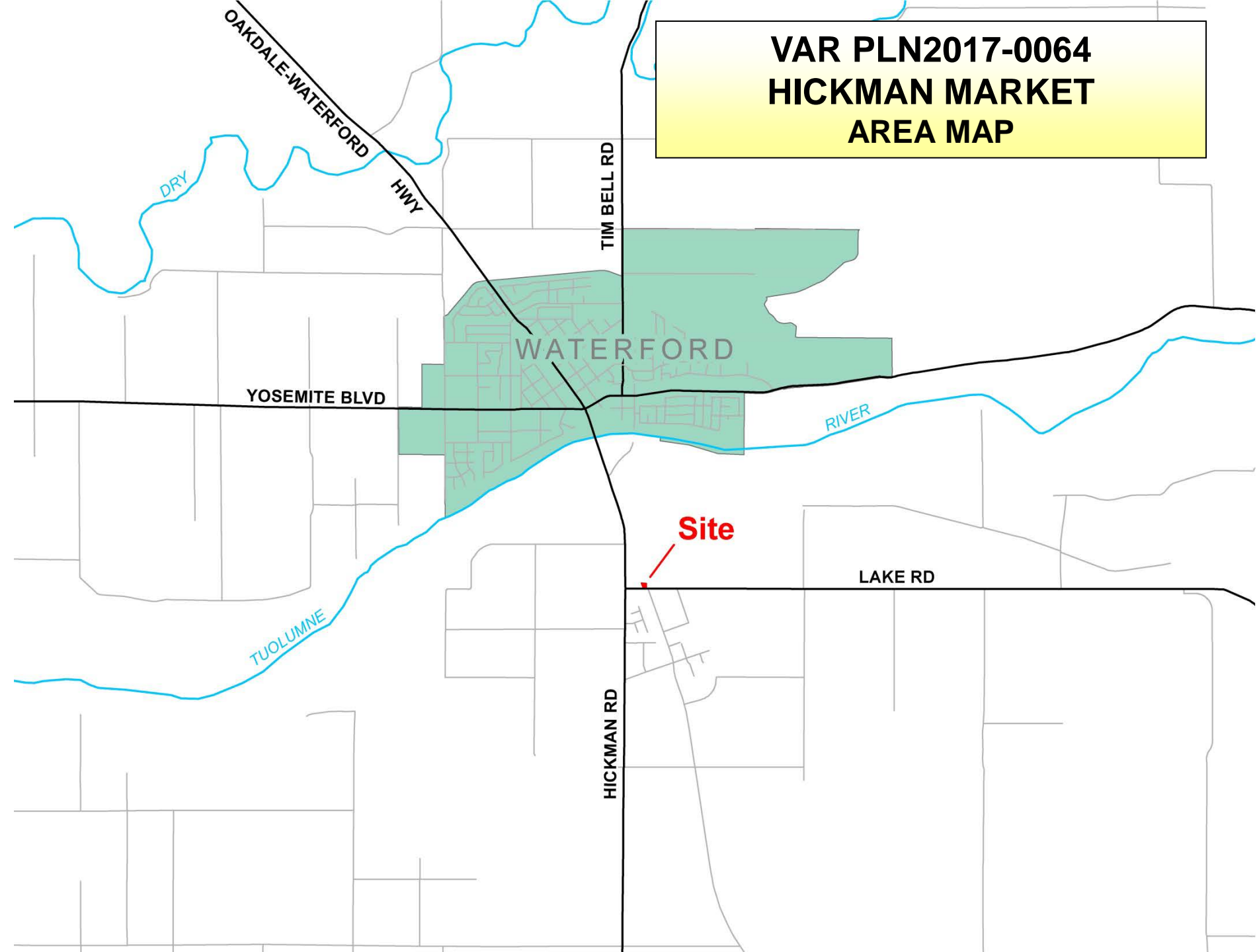


Overview

- Request to appeal the Planning Commission's denial.
- Request a variance
- Masonry wall on eastern property line



**VAR PLN2017-0064
HICKMAN MARKET
AREA MAP**



VAR PLN2017-0064 HICKMAN MARKET GENERAL PLAN MAP

AG

DELAWARE RD

AG

AG

HICKMAN RD


Site

COM


LDR

LAKE RD

Legend


 Hickman Market Site


 Parcel


 Road

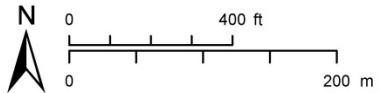
General Plan

 Agriculture

 Commercial

 Low Density Residential

 Planned Development



P-D

COM

MONTPELIER RD

AG

1ST

P-D

4TH ST

LDR

AG

LDR

VAR PLN2017-0064 HICKMAN MARKET ZONING MAP

DELAWARE RD

HICKMAN RD

A-2-40

A-2-40

Site


C-1

LAKE RD







Legend

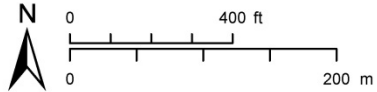
 Hickman Market Site

 Parcel

 Road

Zoning Designation

- | | |
|---|---|
|  A-2-10 |  R-1 |
|  A-2-40 |  R-A |
|  C-1 |  PD |



P-D (316)

P-D (16)

A-2-10

MONTPELLIER RD

P-D (141)

R-A

P-D (70)

4TH ST

11 ST

A-2-10

R-A

A-2-40

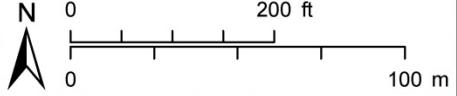
R-1

**VAR PLN2017-0064
HICKMAN MARKET
2015 COUNTY AERIAL**

HICKMAN RD

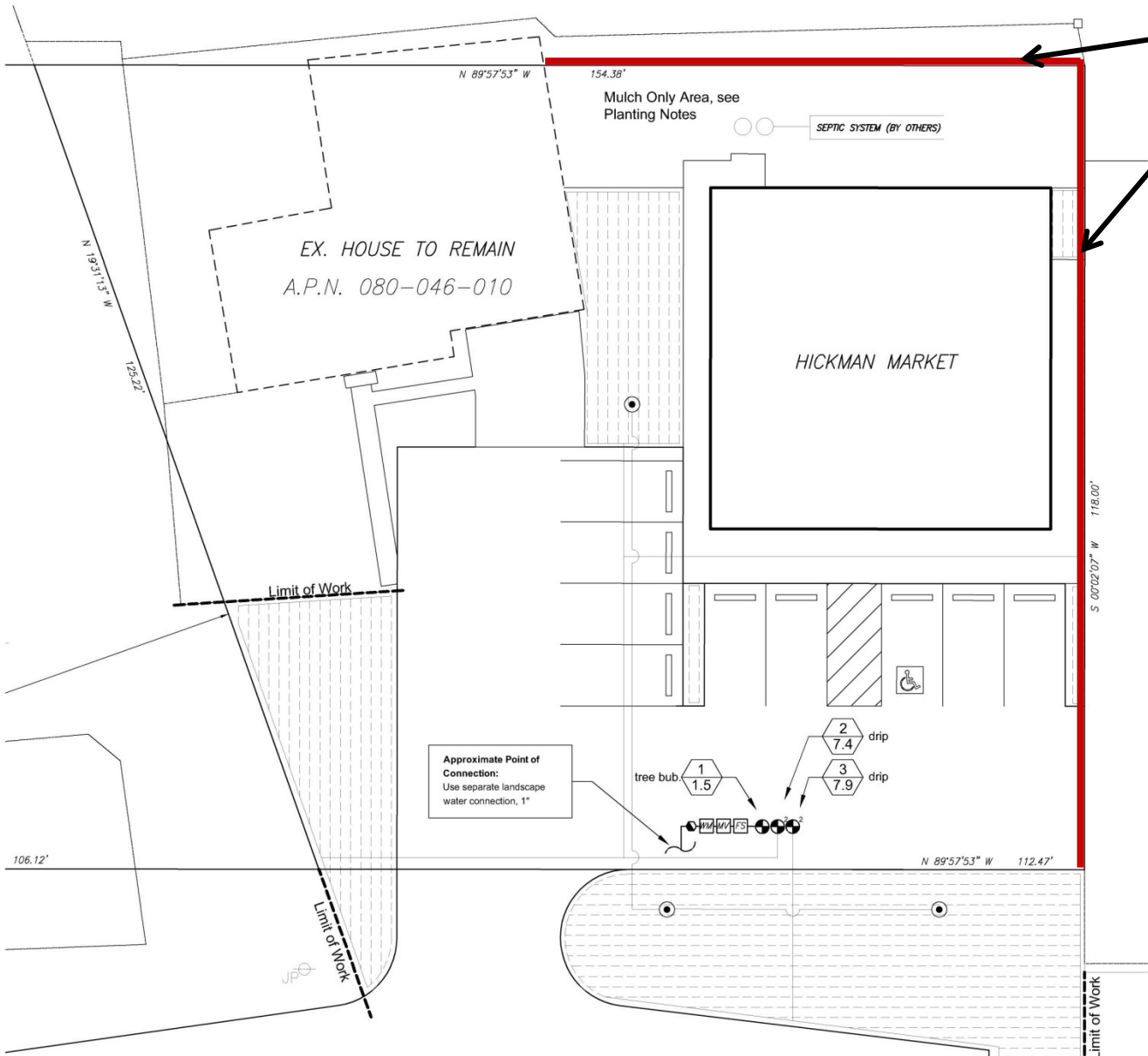
Site

LAKE RD



VAR PLN2017-0064 HICKMAN MARKET MASONRY WALL EXHIBIT

Required Location of Wall
As Per Zoning Ordinance



Original Proposal

- No fence to the north
- Replace existing wood fence (east)



Revised Proposal

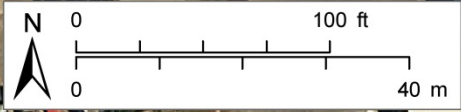
- Deferral of masonry wall along the east property line only. Both project site and the eastern adjacent property are owned by the applicants.



**VAR PLN2017-0064
HICKMAN MARKET
2015 COUNTY AERIAL**

Site

LAKE RD

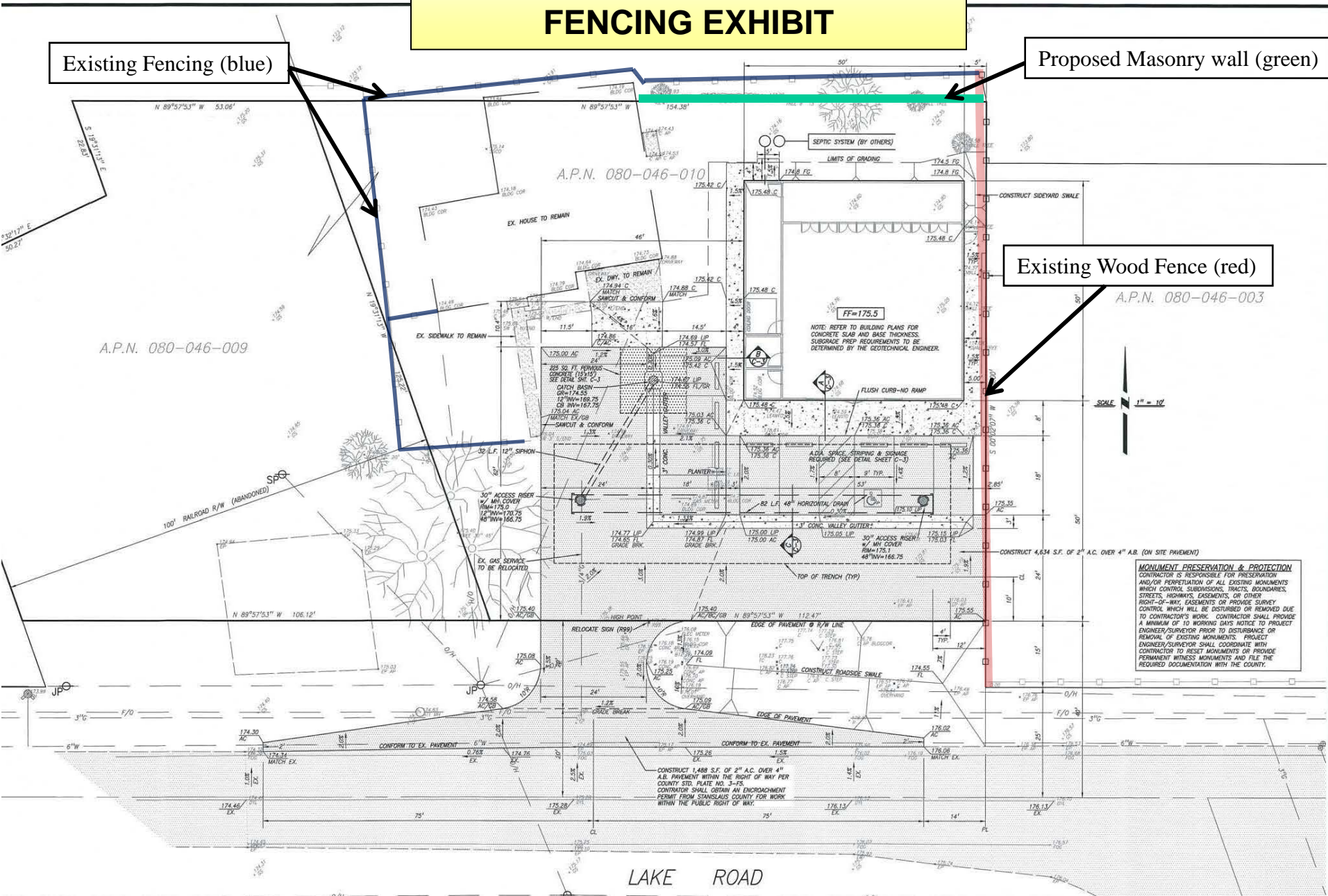


VAR PLN2017-0064 HICKMAN MARKET FENCING EXHIBIT

Existing Fencing (blue)

Proposed Masonry wall (green)

Existing Wood Fence (red)



MONUMENT PRESERVATION & PROTECTION
CONTRACTOR IS RESPONSIBLE FOR PRESERVATION AND/OR REPERATION OF ALL EXISTING MONUMENTS WHICH CONTROL SUBDIVISIONS, TRACTS, BOUNDARIES, STREETS, HIGHWAYS, EASEMENTS, OR OTHER RIGHT-OF-WAY, EASEMENTS OR PROVIDE SURVEY CONTROL WHICH WILL BE DISTURBED OR REMOVED DUE TO CONTRACTOR'S WORK. CONTRACTOR SHALL PROVIDE A MINIMUM OF 10 WORKING DAYS NOTICE TO PROJECT ENGINEER/SURVEYOR PRIOR TO DISTURBANCE OR REMOVAL OF EXISTING MONUMENTS. PROJECT ENGINEER/SURVEYOR SHALL COORDINATE WITH CONTRACTOR TO RESET MONUMENTS OR PROVIDE PERMANENT WITNESS MONUMENTS AND FILE THE REQUIRED DOCUMENTATION WITH THE COUNTY.

LAKE ROAD

**VAR PLN2017-0064
HICKMAN MARKET
SITE VISIT LOOKING NORTH**



**VAR PLN2017-0064
HICKMAN MARKET
SITE VISIT LOOKING NORTHEAST**



**VAR PLN2017-0064
HICKMAN MARKET
SITE VISIT LOOKING SOUTHEAST**



Variance Findings

- Special circumstances
- Preservation of property rights; will not constitute a grant of special privilege
- Health and safety



Environmental Review

- Exempt
- Conditions of Approval



Planning Commission

- 7-0 Deny application
- Kings spoke in opposition
- Agent and family member spoke in support



Recommendation

- Findings – Exhibit A
- Staff recommendation



Recommendation

- Questions

