

STANISLAUS COUNTY PLANNING COMMISSION

August 20, 2015

STAFF REPORT

USE PERMIT APPLICATION NO. PLN2015-0034
WESTSIDE HULLING ASSOCIATION

REQUEST: REQUEST TO EXPAND AN EXISTING ALMOND AND WALNUT HULLING OPERATION BY CONSTRUCTING A 6,000 SQUARE FOOT AGRICULTURAL SHOP AND FOUR 10,000 SQUARE FOOT AGRICULTURAL STORAGE BUILDINGS.

APPLICATION INFORMATION

| | |
|------------------------------|--|
| Applicant/Owner: | Westside Hulling Association |
| Agent: | Robert Braden Consulting |
| Location: | 206 Frank Cox Road, in the Patterson area |
| Section, Township, Range: | 34-4-7 |
| Supervisorial District: | Five (Supervisor DeMartini) |
| Assessor's Parcel: | 016-031-014 |
| Referrals: | See Exhibit G Environmental Review Referrals |
| Area of Parcel(s): | 20± acres |
| Water Supply: | Private well |
| Sewage Disposal: | Septic/leach system |
| Existing Zoning: | A-2-40 (General Agriculture) |
| General Plan Designation: | Agriculture |
| Sphere of Influence: | Not Applicable |
| Community Plan Designation: | Not Applicable |
| Williamson Act Contract No.: | 2007-09 |
| Environmental Review: | Negative Declaration |
| Present Land Use: | Almond and walnut hulling operation |
| Surrounding Land Use: | Almond orchards are located to the north, south, and west, with open land located to the east of the project site. Scattered single-family dwellings are located on surrounding parcels. |

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 use permit findings.

PROJECT DESCRIPTION

The project is a request to expand an existing almond and walnut hulling operation by constructing a 6,000 square foot agricultural shop and four 10,000 square foot agricultural storage buildings. The closed metal structures will be a maximum of 24± feet in height. In 1978, Use Permit (UP 78-36) was approved for an existing nut huller/dehydrator by adding a truck scale, scale house, and office. This proposed expansion will be phased over time, and is a conceptual build out plan for the site.

The nut hulling operation will operate 24 hours a day, seven days a week, 120 days per year during harvest season (August through November). The proposed use estimates 30-35 truck deliveries per day between 6am and 6pm. The proposed nut hulling expansion anticipates an increase of 7-15 employees, totalling 12-21 employees on-site during harvest season, and five to six during the off season. The project proposes four additional parking spaces to the 17 existing spaces, which will be paved with concrete or asphalt.

The site currently has access to and from Frank Cox Road, and no additional access points will be created with this expansion. Currently, the project site has a drainage ditch which runs to a drainage basin on the adjacent parcel to the southeast (APN 016-031-015), which is owned and maintained by Westside Hulling Association. All drainage created from this proposed expansion will need to be maintained on the project site.

SITE DESCRIPTION

The 20± acre site is located on the southeast side of Frank Cox Road, which is designated as a 60 foot wide local road, at the intersection of State Highway 33. The project site is located southeast of the community of Westley, in the Patterson area.

The site currently is developed with 60,950 square feet of structures that support the on-site almond and walnut hulling operation, which account for 7± percent of the entire 20 acre site, with the remainder of the parcel consisting of open land. The site is served with a private well and a septic/leach system. The project site is enrolled in a Williamson Act Contract No. 2007-09, but currently no crops are grown on site. The Williamson Act Contract covers both the project parcel and the adjacent parcel to the southeast (APN 016-031-015).

The project site is entirely located within a Federal Emergency Management Agency (FEMA) Special Flood Hazard Areas (SFHA), specifically Zone AO, Flood Panel 520/1075, No. 06099C0520E. SFHA's are subject to inundation by the 1% annual chance of flood. The project site is located in Zone AO, is defined by FEMA as land with: "flood depths of 1-3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined."

The adjacent surrounding land uses consist of a mixture of agriculture and scattered single-family dwellings. Almond orchards are located north, south, and west of the project site, with open land located to the east. The California Northern Railroad line is located just off of the southwestern property line. Grayson Charter School is located ¾ of a mile northwest of the project site, on Howard Road. The project site is located 2± miles southwest from the San Joaquin River. All surrounding parcels are zoned A-2-40 (General Agriculture, 40 acre minimum), with a General Plan Designation of Agriculture.

ISSUES

Staff has evaluated this project and identified the following two issues and provides the subsequent comments:

Development within FEMA designated Flood Zone AO (Flood Depth 1-3 feet). The project proposes the development of new “non-habitable/non-urban” buildings within the Federal Emergency Management Agency (FEMA) designated floodway, Zone AO.

The project will be in compliance with Chapter 16.50 (Flood Damage Protection) of the County Code as required in the Implementation Measures in the Stanislaus County General Plan Safety Element. Compliance with the code is ensured through the building permit process. The requirements mentioned have been included in the project’s conditions of approval (See Exhibit C – *Conditions of Approval*).

The Implementation Measures mentioned above also require any development within a floodway obtain approval from the Reclamation Board. The Reclamation Board is now known as the Central Valley Flood Protection Board (CVFPB). The project was referred to CVFPB for review and no comments were received.

Williamson Act Principles of Compatibility. During the Early Consultation referral process, the Department of Conservation (DOC) commented that the proposed expansion of the nut hulling operation, which relies upon almonds and walnuts purchased from outside growers, would typically not constitute a compatible use. The DOC also commented that due to a lack of a primary agricultural use, the buildings located on the property may be in breach of the Williamson Act Contract. (See Exhibit D – *Department of Conservation letter*).

While the project site is not in agricultural production, the site serves as an ancillary storage site for Westside Hulling Association (the owners of the property). The property owners farm the nuts at other locations within Stanislaus County, which are then brought on site to the existing nut hulling operation. The nuts are not purchased from outside growers.

Hullers, a Tier One zoning use in the A-2 zoning district, are determined to be consistent with the Principles of Compatibility and may be approved on contracted land unless a finding to the contrary is made. While the County understands the DOC’s concern, it is a policy concern, not an environmental concern, provided all necessary findings for approval of the project (including the Williamson Act Principles of Compatibility) can be made by the local agency. The Government Code does not establish a standard for balancing the size of an ancillary non-agricultural use with sufficient primary agricultural use of land enrolled in a contract. The Principles of Compatibility allow for uses that significantly displace agricultural operations if they relate directly to the production of commercial agricultural products. While the proposed facility will establish new buildings, those buildings may only be used for agricultural product, and are deemed necessary for a healthy agricultural economy, and will not compromise the long-term productive agricultural capabilities of the subject parcel or other contracted lands in the A-2 zoning district. Based on the existing commercial agricultural development of the site, and similar projects, there is no indication this project will conflict with any agricultural activities in the area and/or surrounding lands enrolled in the Williamson Act.

GENERAL PLAN CONSISTENCY

The site is currently designated “Agriculture” in the Stanislaus County General Plan. The agricultural designation recognizes the value and importance of agriculture by acting to preclude incompatible urban development within agricultural areas.

The proposed project is supported by the goal, objectives, and policies of the various elements of the General Plan. Specifically, the Agricultural Element encourages vertical integration of agriculture by organizing uses requiring use permits into three tiers based on the type of uses and their relationship to agriculture. Tier One includes uses closely related to agriculture such as nut hulling and drying, wholesale nurseries, and warehouses for storage of grain and other farm produce grown on-site or in proximity to the site. The proposed expansion is considered a Tier One use supporting the on-site nut hulling operation.

To minimize conflicts between agriculture operations and non-agricultural operations Buffer and Setback Guidelines (Appendix A of the Agricultural Element) have been adopted and are applicable to new or expanding uses approved in or adjacent to the A-2 (General Agriculture) zoning district. Appendix A states that “low people intensive” Tier One and Tier Two uses (such as nut hulling, shelling, dehydrating, grain warehousing, and agricultural processing facilities) which do not serve the general public, shall not be subject to compliance with these guidelines; however, conditions of approval consistent with these guidelines may be required as part of the project approval. The decision making body (Planning Commission) shall have the ultimate authority to determine if a use is “low people intensive”.

The applicant lists the maximum number of employees at 21, which could be considered people intensive. However, maximum number of employees will be seasonal as well as market driven and does not represent the day-to-day operational amount of employees on-site. Operational activities will largely take place within the proposed steel building and further limit employees to exposure from neighboring agricultural activities. As for the proposed parking lot location; buffer guidelines allow for placement within the setback. Based on the proposed activities of the project, staff believes that the proposed project is consistent with Tier One uses and does not require an agricultural buffer.

The project will be in compliance with Chapter 16.50 (Flood Damage Protection) of the County Code as required in the following Implementation Measures of the Safety Element described in the below discussion. Compliance is ensured through the building permit process. The proposed project will not place any new housing within the flood zone. The requirements mentioned have been included in the project’s conditions of approval (See Exhibit C – *Conditions of Approval*).

Implementation Measure No. 1 - Development within the 100-year flood boundary shall meet the requirements of Chapter 16.50 (Flood Damage Protection) of the County Code and within the designated floodway shall obtain Reclamation Board approval.

Implementation Measure No. 2 – The County shall utilize the California Environmental Quality Act (CEQA) process to ensure that development does not occur that would be especially susceptible to flooding. Most discretionary projects require review for compliance with CEQA. As part of this review, potential impacts must be identified and mitigated.

The Implementation Measures listed above also require any development within a floodway obtain approval from the Reclamation Board. The Reclamation Board is now known as the Central Valley

Flood Protection Board (CVFPB). The project was referred to CVFPB for review and no comments were received.

Staff believes this project is consistent with the General Plan. The proposed nut hulling operation is an agricultural use located and surrounded by other agricultural uses. Development within the Federal Emergency Management Act (FEMA) Special Flood Hazard Area (SFHA) will be conditioned for review and approval by both the County's Chief Building Official and the CVFPB. The findings necessary for approval are discussed in the following Zoning Ordinance Consistency section.

ZONING ORDINANCE CONSISTENCY

The site is zoned A-2-40 (General Agriculture, 40 acre minimum). Section 21.20.030(B)(3) of the Stanislaus County Zoning Ordinance allows nut hulling, shelling, and drying as a Tier One Use Permit. Tier One uses are uses closely related to agriculture, considered to be necessary for a healthy agricultural economy, and may be allowed when the Planning Commission makes the following findings:

- 1.) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County; and
- 2.) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity.

Staff believes based on the activities proposed by the owner/operator, the application meets the required findings for a Tier One Use Permit.

This site is enrolled in Williamson Act Contract No. 2007-09. Section 21.20.045(B)(3) of the A-2 zoning district identifies Tier One uses as consistent with the Principles of Compatibility unless the Planning Commission makes a finding to the contrary. The Williamson Act principles of compatibility are:

- 1.) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district;
- 2.) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping; and
- 3.) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

The specific findings required for approval of this use permit are outlined in Exhibit A of this report. Staff believes that all of the findings necessary for approval of this request can be made. There is no indication that, under the circumstances of this particular case, the proposed use will be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use or that it will be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County. The use supports agriculture and will not be substantially detrimental to or in conflict with agricultural use of property in the area.

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. (See Exhibit G - *Environmental Review Referrals*.) A Negative Declaration has been prepared for approval prior to action on the use permit itself as the project will not have a significant effect on the environment. (See Exhibit F - *Negative Declaration*.) Conditions of approval reflecting referral responses have been placed on the project. (See Exhibit C- *Conditions of Approval*.)

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay **\$2,267.00** for the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

Contact Person: Timothy Vertino, Assistant Planner, (209) 525-6330

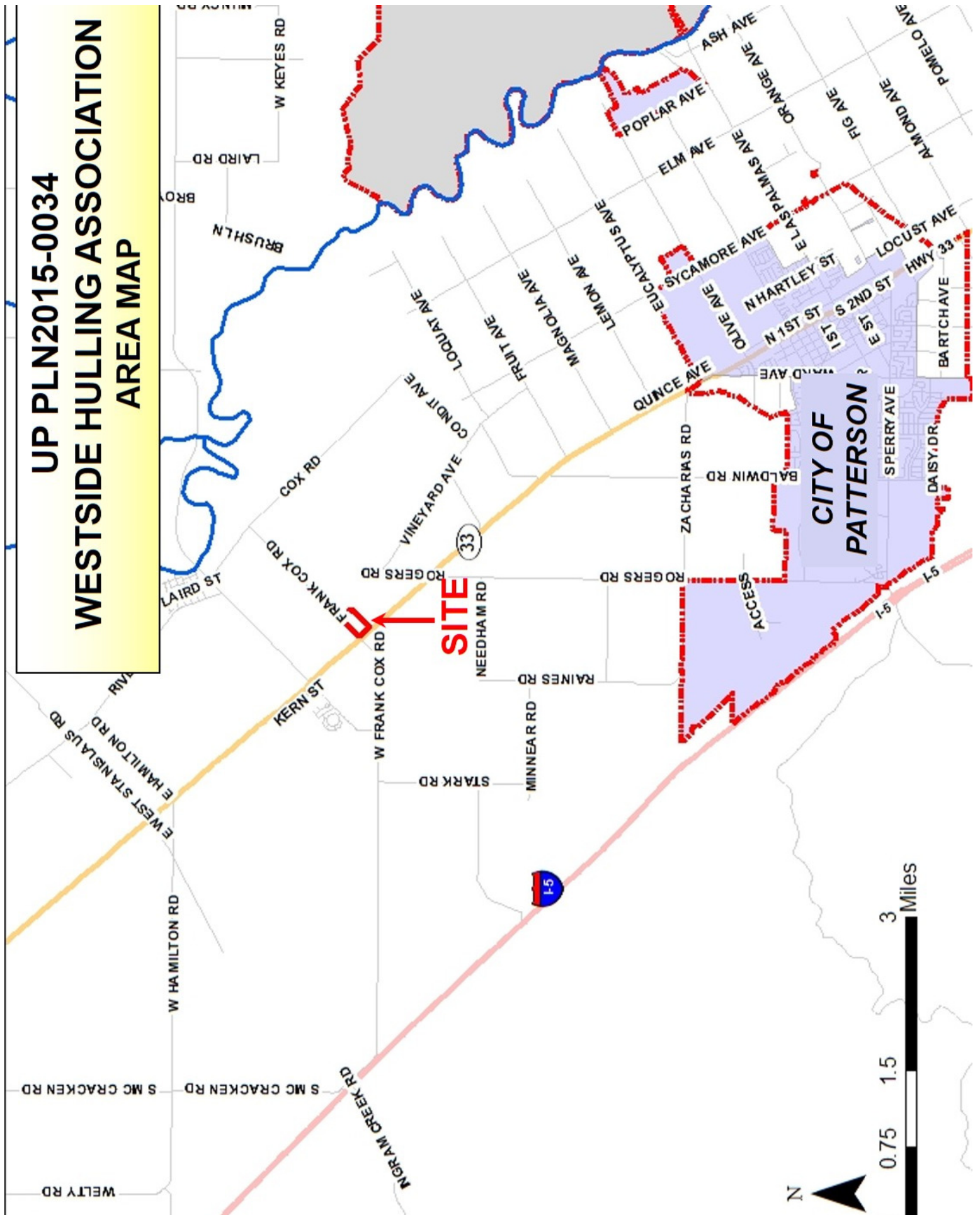
Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps, Site Plan, Elevations
- Exhibit C - Conditions of Approval
- Exhibit D - Department of Conservation Letter dated May 4, 2015
- Exhibit E - Initial Study
- Exhibit F - Negative Declaration
- Exhibit G - Environmental Review Referrals and Comments

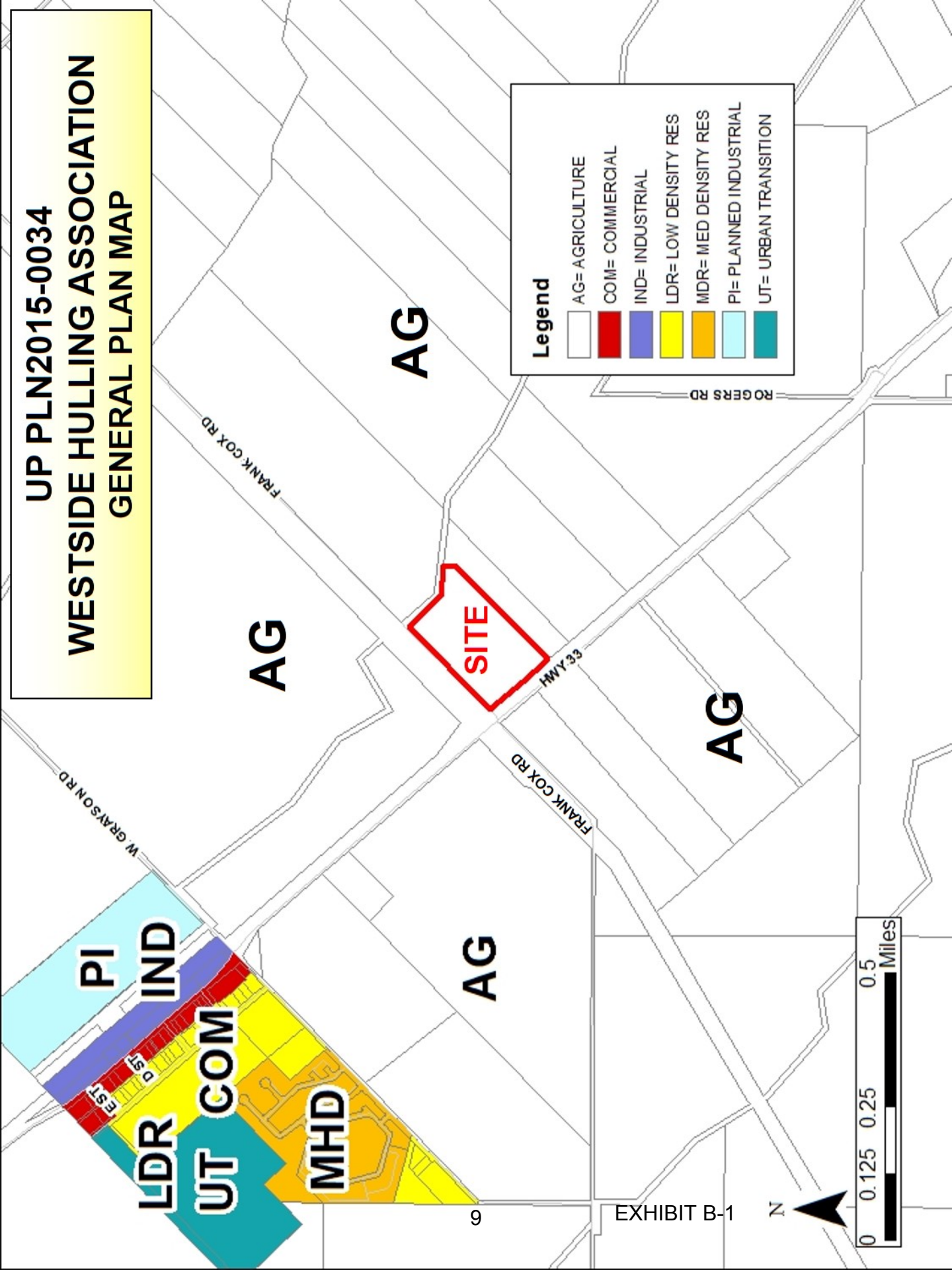
Exhibit A
Findings and Actions Required for Project Approval

1. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Find that:
 - (a) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County;
 - (b) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity;
 - (c) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district;
 - (d) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping;
 - (e) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use; and
 - (f) The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements.
4. Approve Use Permit Application No. PLN2015-0034 – Westside Hulling Association subject to the attached Conditions of Approval.

**UP PLN2015-0034
WESTSIDE HULLING ASSOCIATION
AREA MAP**



**UP PLN2015-0034
WESTSIDE HULLING ASSOCIATION
GENERAL PLAN MAP**



Legend

- AG= AGRICULTURE
- COM= COMMERCIAL
- IND= INDUSTRIAL
- LDR= LOW DENSITY RES
- MDR= MED DENSITY RES
- PI= PLANNED INDUSTRIAL
- UT= URBAN TRANSITION



UP PLN2015-0034

**WESTSIDE HULLING ASSOCIATION
ZONING DESIGNATION MAP**

Legend

-  A-2-10= AGRICULTURE
-  A-2-20= AGRICULTURE
-  A-2-40= AGRICULTURE
-  H-1= HIGHWAY FRONTAGE
-  M= INDUSTRIAL
-  P-I= PLANNED INDUSTRIAL
-  R-1= SINGLE FAMILY RES
-  R-2= MEDIUM DENSITY RES
-  R-A= RURAL RES



A-2-40

A-2-40

A-2-40

A-2-40

A-2-20

10

EXHIBIT B-2



**UP PLN2015-0034
WESTSIDE HULLING ASSOCIATION
ACREAGE MAP**

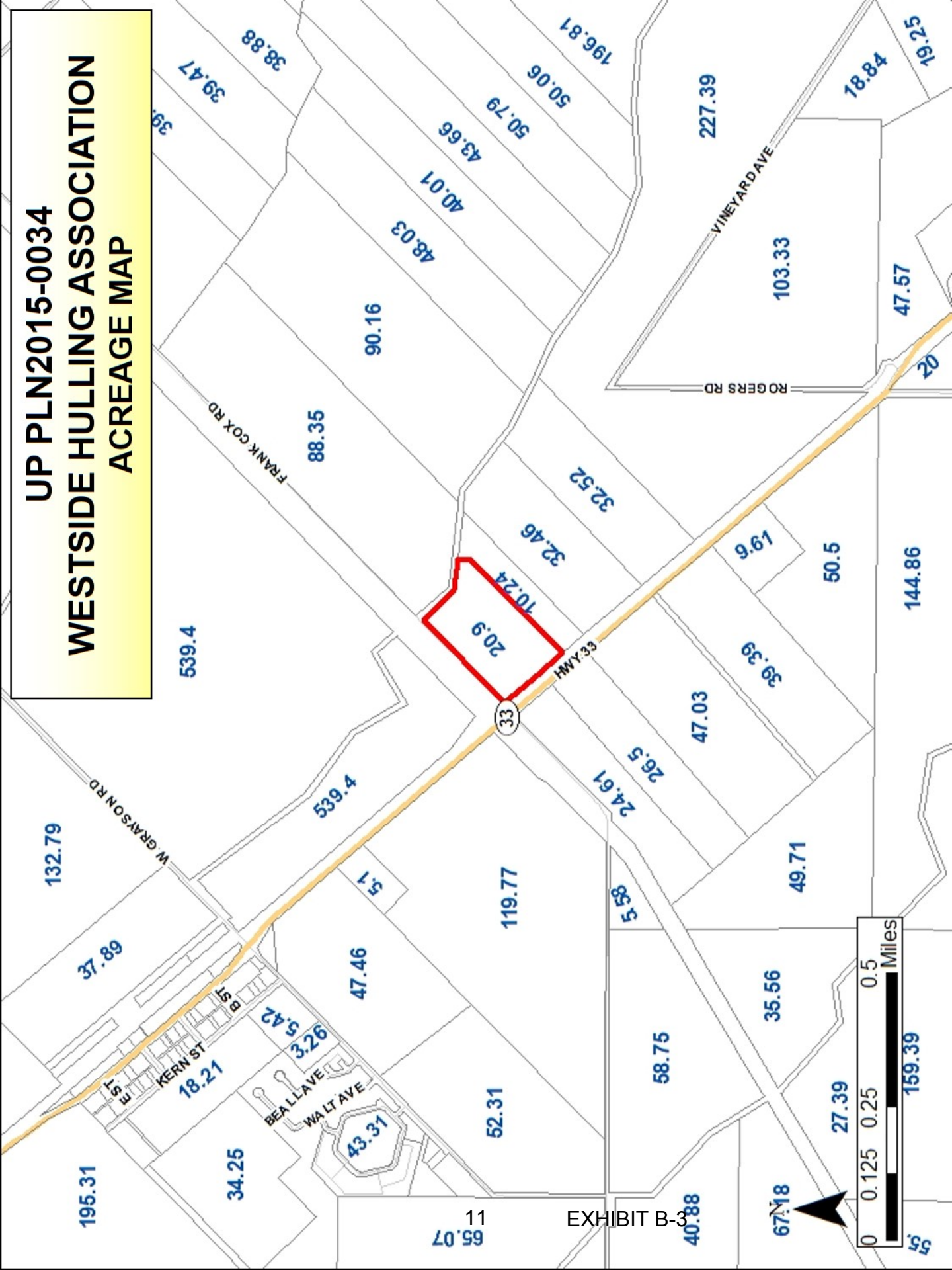
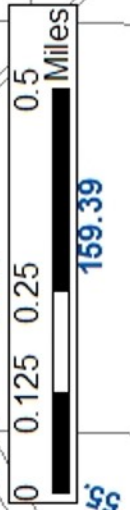
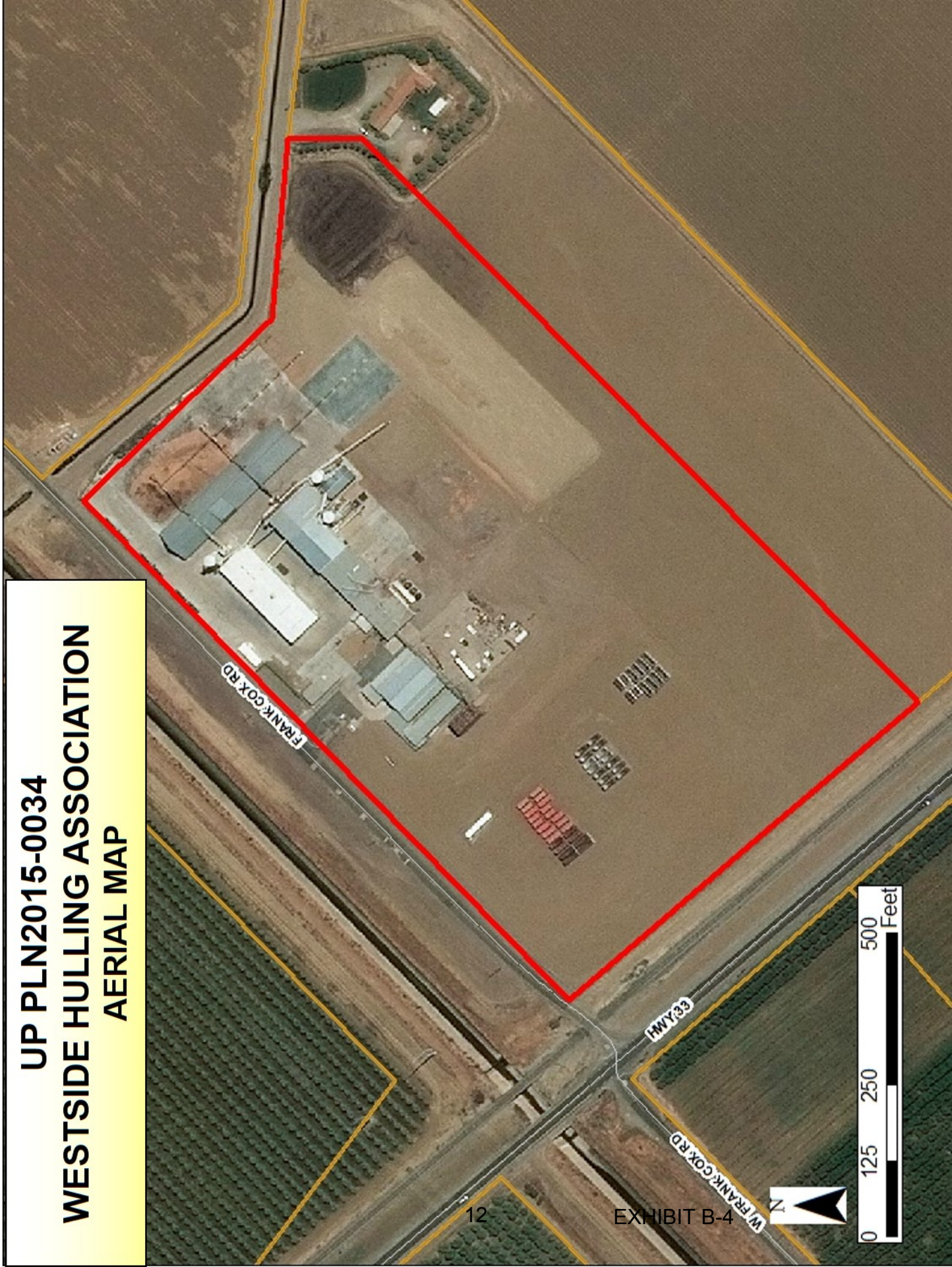


EXHIBIT B-3



**UP PLN2015-0034
WESTSIDE HULLING ASSOCIATION
AERIAL MAP**



FRANK COX RD

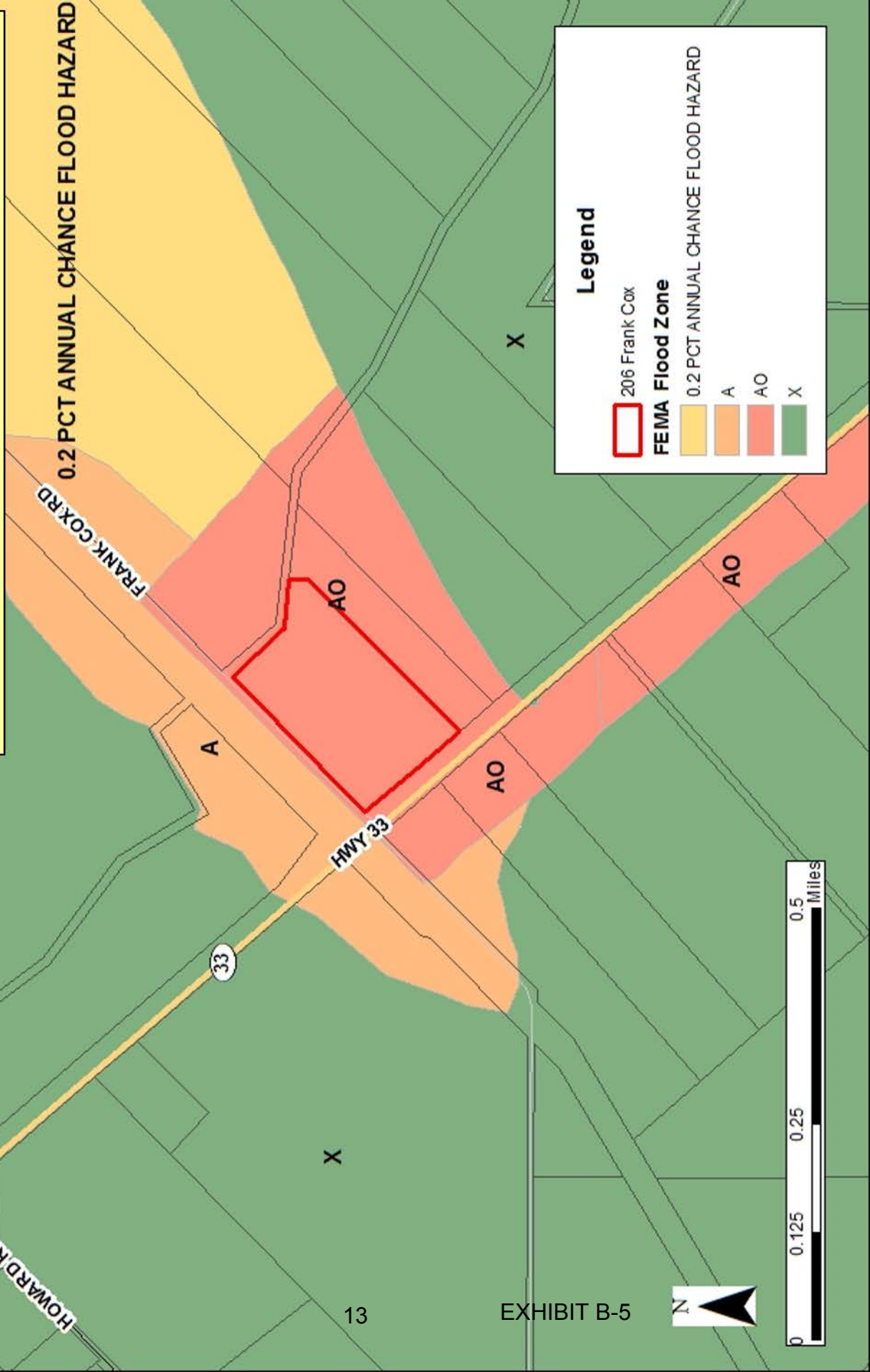
HWY 33

FRANK COX RD



UP PLN2015-0034

WESTSIDE HULLING ASSOCIATION FEMA FLOOD ZONE MAP



0.2 PCT ANNUAL CHANCE FLOOD HAZARD

FRANK COX RD

A

X

13

HWY 33

X

AO

AO

Legend

206 Frank Cox

FEMA Flood Zone

0.2 PCT ANNUAL CHANCE FLOOD HAZARD

A

AO

X

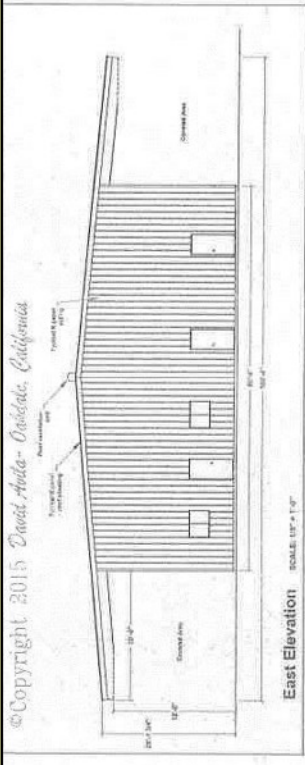
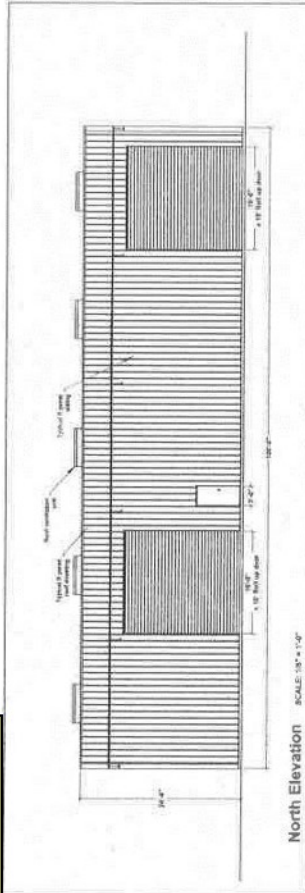
EXHIBIT B-5



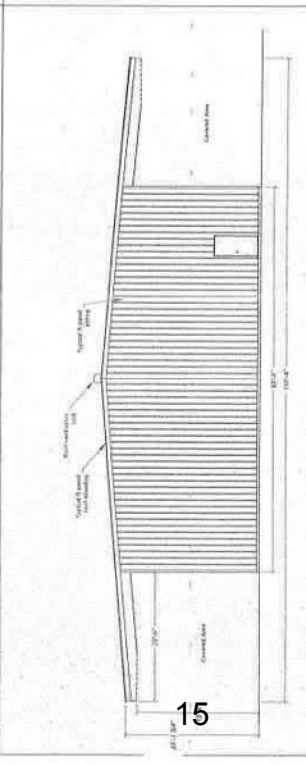
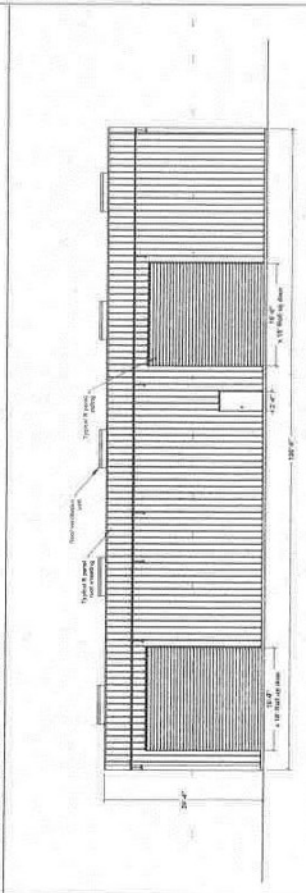
KERN ST
HOWARD RD

UP PLN2015-0034 WESTSIDE HULLING ASSOCIATION ELEVATIONS

PRINT DATE: 4 Feb 2015
BY: DA



**Westside Hulling
Proposed Shop Building**
60' x 100'

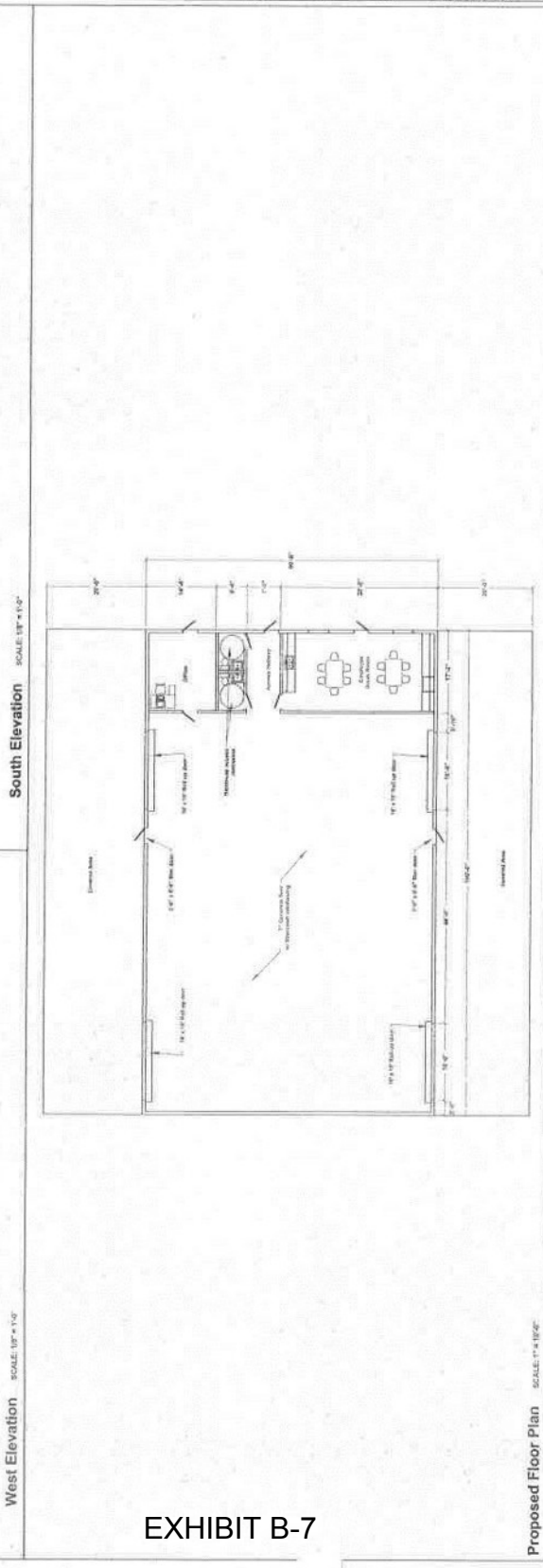


SITE:
206 FRANK COX RD.
WESTSIDE, CA 94397
APN# 075-03-102

OWNER:
WESTSIDE HULLING
206 FRANK COX RD.
WESTSIDE, CA 94397
PHONE# (925) 94-3321

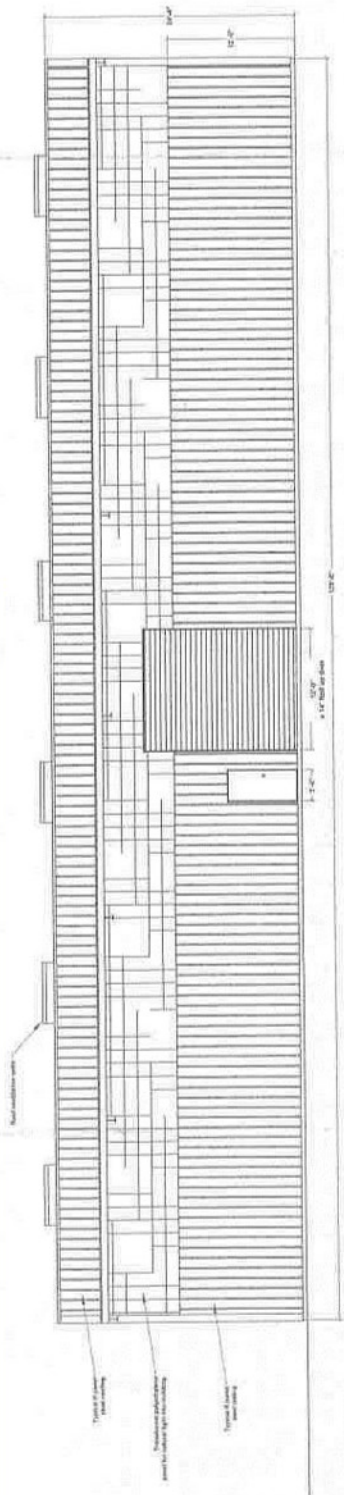
CONTACT:
DAVID A. BROWN
PHON# (925) 844-2222

Drawn: David A. Brown
Job#: 213-10
Sheet # 1
of 1 304443



UP PLN2015-0034 WESTSIDE HULLING ASSOCIATION ELEVATIONS

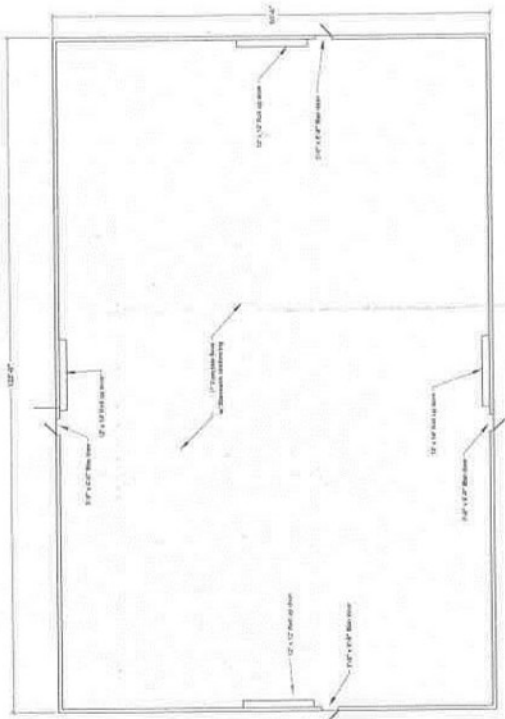
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| 4 Feb 2015 | Da |



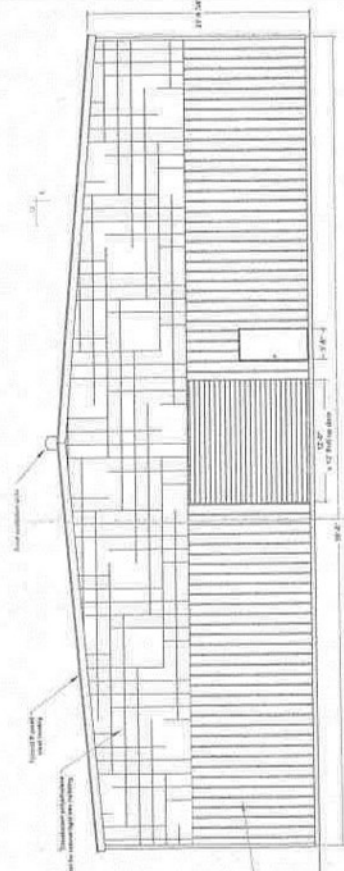
Side Wall Elevation- Typical SCALE: 3/16" = 1'-0"

Westside Hulling
Future Ware House Facility
80' x 125'

EXHIBIT B-8



Floor Plan SCALE: 1" = 10'-0"



End Wall Elevation- Typical SCALE: 3/16" = 1'-0"

SITE:
 205 FRANK COX RD.
 WESTLEY, CA 95277
 APN# 914-011602

 OWNER:
 WESTSIDE HULLING
 ASSOCIATION
 205 FRANK COX RD.
 WESTLEY, CA 95277
 PHONE (209) 844-3971

 CONTRACTOR:
 LOUIE DUMBSER
 PHONE (209) 644-4223

 Draw. Date: 04/23/2015
 Scale: AS SHOWN
 Drawn: David Avila
 Job: 373-09
 Sheet #: 1
 of 1 Sheets

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

USE PERMIT APPLICATION NO. PLN2015-0034 WESTSIDE HULLING ASSOCIATION

Department of Planning and Community Development

1. The use 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. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2015), the applicant is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$2,267.00**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
3. 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.
4. 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.
5. 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).

6. 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.
7. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the Planning Director or appointed designee(s) prior to installation.
8. 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.
9. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Wildlife to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
10. 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.

Department of Public Works

11. An encroachment permit shall be taken out for any new driveway or before any work is to be done in the Frank Cox Road right-of-way.
12. Frank Cox Road is classified as 60 foot local road. The required ½ width of Frank Cox Road is 30 feet west of the centerline of the roadway. If 30 feet of the road right-of-way does not exist, then the remainder 30 feet shall be dedicated with an Irrevocable Offer of Dedication for the parcel frontage.
13. No parking, loading or unloading of vehicles will be permitted within the County Road right-of-way.
14. Prior to the final of any building or grading permit, the applicant shall make road frontage improvements on Frank Cox Road. These improvements shall include asphalt road widening, bringing the existing road up to 12' wide paved vehicle lane and a 4' wide paved asphalt shoulder southeast of the centerline of Frank Cox Road. The length of the improvements will be from the west property line to the existing driveway. Before a second building is finalized, the widening shall take place from the driveway to the east property line. Improvement plans will be submitted to Stanislaus County Public Works for approval prior to the issuance of a building or grading permit.
15. The structural section and cross slopes of the road improvement shall meet Stanislaus County Public Works Standards and Specifications.

16. An acceptable financial guarantee for the phased road improvements shall be provided to the Department of Public Works prior to the issuance of any building or grading permit. The financial guarantee will be phased to the required improvements. This may be deferred if the work in the right-of-way is done prior to the issuance of any building or grading permit.
17. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined. This shall be deferred if the improvements are installed and accepted prior to the issuance of the building permit.
18. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted before any building permit for the site is issued that creates a new or bigger building footprint on this parcel. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
 - The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
 - The grading drainage and erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit.
 - The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.
 - The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan.
 - The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.

Building Permits Division

19. Building permits are required and the project shall conform with the California Code of Regulations, Title 24.
20. Construction shall be in accordance to 16.50.170 of the Stanislaus County Code for non-residential buildings, prior to issuance of a building permit.

San Joaquin Valley Air Pollution Control District (SJVAPCD)

21. The proposed project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and will require District permits. Prior to the start of construction the project proponent shall submit to the District an application for an Authority to Construct (ATC). If SJVAPCD determines that an ATC is not required, the applicant shall provide verification in writing to the Stanislaus County Department of Planning and Community Development.

Department of Environmental Resources – Hazardous Materials

22. The applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER), that a site containing (or formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I study, and Phase II study if

necessary) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.

California Regional Water Quality Control Board (RWQCB)

23. Prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if any of the following are required: a Construction Storm Water General Permit; a Storm Water Pollution Prevention Plan (SWPPP); a Phase I and II Municipal Separate Storm Sewer System (MS4) Permit; an Industrial Storm Water General Permit; a Clean Water Act Section 404 Permit; a Clean Water Act Section 401 Permit-Water Quality Certification; or Waste Discharge Requirements (WDR). If a SWPPP is required, it shall be completed prior to construction and a copy shall be submitted to the Stanislaus County Department of Public Works.

*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~~.*



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

May 4, 2015

VIA EMAIL: vertinot@stancounty.com

Timothy Vertino, Assistant Planner

Stanislaus County

1010 10th Street, Suite 3400

Modesto, CA 95354

SUBJECT: WESTSIDE HULLING ASSOCIATION, USE PERMIT APPLICATION NO.
PLN2015-0034

Dear Mr. Vertino:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Early Consultation for the above referenced project. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's impacts on agricultural land and resources.

Project Description

The parcel, APN 016-031-014, is located at 206 Frank Cox Road, at the intersection of Frank Cox Road and Highway 33, in the Patterson area.

The current proposal includes modifying the existing use permit to expand the business on the 20.9-acre site. The parcel is currently under a Williamson Act contract and the existing use permit (UP 78-36) includes a truck scale, a scale house, and office. The new use would expand an existing almond and walnut hulling operation by constructing a 6,000 square foot agricultural shop and four (4) 10,000 square foot agricultural storage buildings. There is no primary agricultural commodity being grown on the contracted parcel.

Project Impacts on Land under a Williamson Act Contract

Based on a review of current satellite imagery, the Department has found no evidence of agriculture on the parcel. The proponents might argue that an almond hulling operation should qualify as an agricultural or compatible use since the primary input is almonds and walnuts. However, these factors do not outweigh the basic industrial nature of the facility. The provisions for compatible uses allows the Department and local agencies to interpret the Act to allow harvesting, processing, and shipping¹, however the interpretation is not open-ended. The interpretation is dependent upon recognition that a processing facility and a primary agricultural use of the contracted parcel(s) are naturally integrated. Therefore a hulling operation which

¹ Government Code § 51238.1

relies upon almonds and walnuts purchased from outside growers would typically not constitute a compatible use.

The proposed modification to the use permit would authorize an expanded use, allowing the applicant to obtain building permits for additional structures that are not directly related to the agricultural use of the land in producing an agricultural commodity.

Material Breach

The Williamson Act requires that every contract shall provide uses only related to agriculture and those compatible with agriculture². Based on satellite imagery it appears that there is no agricultural use or agricultural commodity being produced on the property for which the business is compatible. Due to the lack of a primary agricultural use, the buildings located on the property may be in breach of the contract.

Construction of buildings not related to an agricultural use on parcels of contracted land could potentially be subject to breach of contract penalties. Government Code §51250 provides an enhanced penalty for a material breach of contract. A breach of contract is defined as material if a commercial, industrial or residential building is all of the following: 1) not related to an agricultural or compatible use; 2) greater than 2,500 square feet; and 3) permitted or constructed after January 1, 2004. While it is the County's responsibility to enforce the sanctions contained in Government Code §51250, the Department is also empowered to take actions against breaches of contract.

Conclusion

Information in the Government Code instructs counties on what constitutes a compatible use -- that counties and cities are given latitude to determine other uses that can be deemed compatible within the intent of the Williamson Act; and that these uses must be associated with agricultural operations on the property. It is suggested that the County determine if the parcel under contract is engaged in on-site commercial agriculture which would support this compatible use, and in turn, bring the parcel into compliance with the Williamson Act.

Thank you for giving us the opportunity to comment on this proposed modification to the existing use permit for this property. Please provide this Department with the decision of the Board for this particular action and any documents pertaining to it. If you have questions regarding these comments, or require technical assistance or information on agricultural land conservation, please contact Farl Grundy, Environmental Planner, 801 K Street, MS 18-01, Sacramento, California 95814, at (916) 324-7347 or via email at Farl.Grundy@conservation.ca.gov.

Sincerely,



Molly A Penberth, Manager
Division of Land Resource Protection
Conservation Support Unit

² Government Code § 51243 (a)



Stanislaus County

Planning and Community Development

1010 10th Street, Suite 3400
Modesto, California 95354

Phone: (209) 525-6330
Fax: (209) 525-5911

CEQA INITIAL STUDY

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, December 30, 2009

1. **Project title:** Use Permit Application No. PLN2015-0034 - Westside Hulling Association (SCH No. 2015042053)
2. **Lead agency name and address:** Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354
3. **Contact person and phone number:** Timothy Vertino, Assistant Planner
(209) 525-6330
4. **Project location:** 206 Frank Cox Road, at the intersection of Frank Cox Road and Highway 33, in the Patterson area.
APN: 016-031-014
5. **Project sponsor's name and address:** Robert Braden Consulting
2900 Standiford Ave Suite 16-B
Modesto, CA 95350
6. **General Plan designation:** Agriculture
7. **Zoning:** A-2-40 (General Agriculture)
8. **Description of project:**

Request to expand an existing almond and walnut hulling operation by constructing a 6,000 square foot agricultural shop and four (4) 10,000 square foot agricultural storage buildings. The request will expand the existing use permit (UP 78-36) which included a truck scale, scale house, and office. The proposed nut hulling expansion anticipates 12-21 employees on-site during harvest season (August through November).
9. **Surrounding land uses and setting:** Almond orchards are located to the north, south, and west. Open irrigated land is located to the east. Scattered single family dwellings are located on surrounding parcels.
10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):** Building Permits Division
CA Department of Conservation
Department of Environmental Resources
Department of Public Works
Regional Water Quality Control Board
San Joaquin Valley Air Pollution Control District

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture & Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology /Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Timothy Vertino, Assistant Planner

June 16, 2015
Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration.

Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

- a) **Earlier Analysis Used.** Identify and state where they are available for review.
 - b) **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) **Mitigation Measures.** For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
 - 7) **Supporting Information Sources:** A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
 - 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
 - 9) The explanation of each issue should identify:
 - a) the significant criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significant.

ISSUES

| I. AESTHETICS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Have a substantial adverse effect on a scenic vista? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | | X |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | | | X | |
| <p>Discussion: The site itself is not considered to be a scenic resource or a unique scenic vista. The proposed structures are comprised of steel, with a maximum height of 24± feet. Community standards generally do not dictate the need or desire for architectural review of agriculture. Standard conditions of approval will be added to this project to address glare from any proposed on-site lighting. Any development resulting from this project will be consistent with existing area developments.</p> | | | | |
| <p>Mitigation: None.</p> | | | | |
| <p>References: Application information; and the Stanislaus County General Plan and Support Documentation¹.</p> | | | | |
| | | | | |
| II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | | | X | |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | | | X | |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | | | | X |

| | | | | |
|--|--|--|---|---|
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | | | | X |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use? | | | X | |

Discussion: The project site is currently enrolled in Williamson Act Contract No. 2007-09 and has soils classified by the Farmland Mapping and Monitoring Program as being primarily Semi-Agricultural and Rural Commercial Farmland. This project will have no impact to forest land or timberland. Crops are not currently being grown on the project site, which is currently developed with 61,000 square feet of an almond and walnut hulling operation. This request is to expand the existing on site use of a nut huller and sheller by constructing a 6,000 square foot agriculture shop and four 10,000 square foot agricultural storage buildings.

Located within the A-2 (General Agricultural) zoning district, this parcel and its almond and walnut hulling operation have been determined by the County to be compatible with the Williamson Act. Within the A-2 zoning district, the County has determined that certain uses related to agricultural production, such as Tier One uses, are “necessary for a healthy agricultural economy,” provided it is found that the proposed use “will not be substantially detrimental to or in conflict with the agricultural use of other property in the vicinity.”

Under the Williamson Act, government code §51238.1 provides direction to local governments for determining a compatible use based on established Williamson Act Principles of Compatibility. Section 21.20.045(A) of the Stanislaus County Zoning Ordinance requires that all uses approved on Williamson Act contracted lands be consistent with three principles of compatibility:

1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district;
2. The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping;
3. The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use.

Pursuant to Section 21.20.045(B)(3) of the Stanislaus County Zoning Ordinance, Tier One uses are determined to be consistent with the Principles of Compatibility and may be approved on contracted land unless a finding to the contrary is made. This project was referred to the State of California Department of Conservation (DOC). The DOC has raised a concern regarding the proposed project that the contract parcel shows no agricultural use, which may be a breach of contract. The DOC believes that almonds and walnuts purchased from outside growers would typically not constitute a compatible use, and the expansion of an existing operation is not directly related to the agricultural use of the land in producing an agricultural commodity.

While the County understands the DOC’s concern, it is a policy concern, not an environmental concern, provided all necessary findings for approval of the project (including the Williamson Act Principles of Compatibility) can be made by the local agency. The Government Code does not establish a standard for balancing the size of an ancillary non-agricultural use with sufficient primary agricultural use of land enrolled in a contract. As reflected in Section 21.20.045(A)(2) above, the Principles of Compatibility allow for uses that significantly displace agricultural operations if they relate directly to the production of commercial agricultural products. While the proposed facility will establish buildings, those buildings are necessary for a healthy agricultural economy and will not compromise the long-term productive agricultural capabilities of the subject parcel or other contracted lands in the A-2 zoning district. Based on the existing commercial agricultural development of the site, and similar projects, there is no indication this project will conflict with any agricultural activities in the area and/or surrounding lands enrolled in the Williamson Act.

General Plan Amendment No. 2011-01 - Revised Agricultural Buffers was approved by the Board of Supervisors on December 20, 2011, to modify County requirements for buffers on agricultural projects. As this is a Tier One use, and not considered people intensive, agricultural buffers will not be required.

Mitigation: None.

References: Referral Response from the State of California Department of Conservation dated May 4, 2015; the State of California Department of Conservation Farmland Mapping and Monitoring Program-Stanislaus County Farmland 2010; California Government Code; Stanislaus County Zoning Ordinance; and the Stanislaus County General Plan and Support Documentation¹.

| III. AIR QUALITY -- Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | | | X | |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | | | X | |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | | | X | |
| d) Expose sensitive receptors to substantial pollutant concentrations? | | | X | |
| e) Create objectionable odors affecting a substantial number of people? | | | | X |

Discussion: The project site is within the San Joaquin Valley Air Basin, which has been classified as "severe non-attainment" for ozone and respirable particulate matter (PM-10) as defined by the Federal Clean Air Act. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has been established by the State in an effort to control and minimize air pollution. As such, the District maintains permit authority over stationary sources of pollutants.

The primary source of air pollutants generated by this project would be classified as being generated from "mobile" sources. Mobile sources would generally include dust from roads, farming, and automobile exhausts. Mobile sources are generally regulated by the Air Resources Board of the California EPA which sets emissions for vehicles and acts on issues regarding cleaner burning fuels and alternative fuel technologies. As such, the District has addressed most criteria air pollutants through basin wide programs and policies to prevent cumulative deterioration of air quality within the Basin.

This project has been referred to SJVAPCD, which commented that the proposed project would have no significant adverse impact on air quality, and is not subject to District Rule 9510 (Indirect Source Review). The proposed project may be subject to appropriate district rules and regulations including District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review). Since this facility is currently permitted with the Air District, any modification that would result in a change in emissions or change in method of operation/equipment requires the submittal of an Authority to Construct Permit application, a condition of approval will be added to the project for the applicant to contact the Air District prior to the issuance of a Building Permit.

The proposed project may also be subject to District Rules and Regulations, including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

Mitigation: None.

References: Referral Response from the San Joaquin Valley Air Pollution Control District, dated April 27, 2015; San Joaquin Valley Air Pollution Control District - Regulation VIII Fugitive Dust/PM-10 Synopsis; and the Stanislaus County General Plan and Support Documentation¹.

| IV. BIOLOGICAL RESOURCES -- Would the project: | | | | |
|---|--------------------------------|--|------------------------------|-----------|
| | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | | | X | |
| b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? | | | | X |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | | X | |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | | | X | |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | | X |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? | | | | X |
| <p>Discussion: It does not appear this project will result in impacts to endangered species or habitats, locally designated species, or wildlife dispersal or mitigation corridors. The project is also not within any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.</p> <p>This project was referred to the State of California Department of Fish and Wildlife, and the US Department of Fish and Wildlife, but no referral responses have been received to date.</p> | | | | |
| <p>Mitigation: None.</p> | | | | |
| <p>References: Stanislaus County General Plan and Support Documentation¹, and California Department of Fish and Game California Natural Diversity Database.</p> | | | | |
| V. CULTURAL RESOURCES -- Would the project: | | | | |
| | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
| a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5? | | | X | |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? | | | | X |

| | | | | |
|---|--|--|--|---|
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | | | | X |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | | | | X |

Discussion: It does not appear this project will result in significant impacts to any archaeological or cultural resources. A condition of approval will be added to this project to address any discovery of cultural resources during the construction phases of the project.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation¹.

| VI. GEOLOGY AND SOILS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | X | |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | | | X | |
| ii) Strong seismic ground shaking? | | | X | |
| iii) Seismic-related ground failure, including liquefaction? | | | | X |
| iv) Landslides? | | | | X |
| b) Result in substantial soil erosion or the loss of topsoil? | | | X | |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? | | | X | |
| d) Be located on expansive soil creating substantial risks to life or property? | | | X | |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water? | | | X | |

Discussion: As contained in Chapter Five of the General Plan Support Documentation, the areas of the County subject to significant geologic hazard are located in the Diablo Range, west of Interstate 5; however, as per the California Building Code, all of Stanislaus County is located within a geologic hazard zone (Seismic Design Category D, E, or F) and a soils test may be required as part of the building permit process. Results from the soils test will determine if unstable or expansive soils are present. If such soils are present, special engineering of the structure will be required to compensate for the soil deficiency. Any structures resulting from this project will be designed and built according to building standards appropriate to withstand shaking for the area in which they are constructed. Any earth moving is subject to Public Works

Standards and Specifications which consider the potential for erosion and run-off prior to permit approval. Likewise, any addition of a septic tank or alternative waste water disposal system would require the approval of the Department of Environmental Resources (DER) through the building permit process, which also takes soil type into consideration within the specific design requirements.

Mitigation: None.

References: California Building Code, Stanislaus County General Plan and Support Documentation - Safety Element¹.

| VII. GREENHOUSE GAS EMISSIONS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | | | X | |

Discussion: As no greenhouse gas thresholds have been established for the region, staff is unable to quantify the potential impact this project would have on greenhouse gases. The project has been referred to the SJVACPD, but no concerns of greenhouse gas emission have been addressed.

The applicant estimates 12-21 employees on site during harvest season (August through November). In the off season, the applicant estimates five (5) to six (6) employees on site. The applicant estimated 30-35 truck deliveries/loading per day, generating 80 percent of traffic on site.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation¹.

| VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | | | X | |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? | | | X | |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | | | | X |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? | | | | X |

| | | | | |
|--|--|--|---|---|
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? | | | X | |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | | | X | |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | | | | X |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? | | | | X |

Discussion: No known hazardous materials are on site. Pesticide exposure is a risk in agricultural areas. Sources of exposure include contaminated groundwater which is consumed and drift from spray applications. Application of sprays is strictly controlled by the Agricultural Commissioner and can only be accomplished after first obtaining permits. The County Department of Environmental Resources (DER) is responsible for overseeing hazardous materials in this area. The project site is 1.4 miles west of the existing Maring Airport.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation¹.

| IX. HYDROLOGY AND WATER QUALITY -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Violate any water quality standards or waste discharge requirements? | | | X | |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | | | X | |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | | | X | |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? | | | X | |

| | | | | |
|--|--|--|---|---|
| f) Otherwise substantially degrade water quality? | | | X | |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | | | X | |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | | | X | |
| l) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | | | X | |
| j) Inundation by seiche, tsunami, or mudflow? | | | | X |

Discussion: Areas subject to flooding have been identified in accordance with the Federal Emergency Management Act (FEMA). The project site is located in FEMA Flood Zone AO, which includes areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. All measures required to be taken in regard to the Floodzone designation will be addressed by the Building Permits Division's Flood Plain Administrator during the building permit process. The Central Valley Regional Water Quality Control Board (RWQCB) provided an early consultation referral response requesting that the applicant coordinate with their agency to determine if any permits or Water Board requirements must be obtained/met prior to operation. A condition of approval will be added to the project requiring the applicant comply with this request prior to issuance of a building permit.

Mitigation: None.

References: Referral response from the Stanislaus County Building Permits Division dated April 28, 2015; Referral Response from Regional Water Quality Control Board dated April 28, 2015; Stanislaus County General Plan and Support Documentation¹.



| X. LAND USE AND PLANNING -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Physically divide an established community? | | | X | |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | | | X | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | | | | X |

Discussion: This project is consistent with the Agricultural designation and A-2-40 (General Agriculture) zoning of the site. This application is for a "use" that is considered a Tier One use which is permitted by securing a Use Permit. The features of this project will not physically divide an established community and/or conflict with any habitat conservation plan or natural community conservation plan. This project is not known to conflict with any applicable land use plan, policy, or regulation of any agency with jurisdiction over the project.

Mitigation: None.

References: Stanislaus County General Plan and Support Documentation¹.

| XI. MINERAL RESOURCES -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? | | | | X |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? | | | | X |
| Discussion: The location of all commercially viable mineral resources in Stanislaus County has been mapped by the State Division of Mines and Geology in Special Report 173. There are no known significant resources on the site. | | | | |
| Mitigation: None. | | | | |
| References: Stanislaus County General Plan and Support Documentation ¹ . | | | | |
| | | | | |
| XII. NOISE -- Would the project result in: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | | | X | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | | | X | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | | | X | |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? | | | X | |
| Discussion: Noise impacts associated with project activities and traffic are not anticipated to exceed the normally acceptable level of noise. The project will increase ambient noise levels. The nearest sensitive noise receptor is a residential home on an adjacent parcel, which is owned by the same property owner. The project site is 1.4 miles west of the existing Maring Airport. | | | | |
| Mitigation: None. | | | | |
| References: Stanislaus County General Plan and Support Documentation ¹ . | | | | |

| XIII. POPULATION AND HOUSING -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | | | | X |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | | | | X |
| <p>Discussion: The proposed use of the site will not create service extensions or new infrastructure which could be considered as growth inducing. No housing or persons will be displaced by this project. This project is adjacent to agricultural operations and the nature of the use is considered consistent with the A-2 zoning district.</p> | | | | |
| <p>Mitigation: None.</p> | | | | |
| <p>References: Stanislaus County General Plan and Support Documentation¹.</p> | | | | |
| | | | | |
| XIV. PUBLIC SERVICES -- | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
| a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: | | | | |
| Fire protection? | | | X | |
| Police protection? | | | | X |
| Schools? | | | | X |
| Parks? | | | | X |
| Other public facilities? | | | X | |
| <p>Discussion: The County has adopted Public Facilities Fees, as well as one for the Fire Facility Fees on behalf of the appropriate fire district, to address impacts to public services. Such fees are required to be paid at the time of building permit issuance. The project was referred to the Patterson Unified School District, West Stanislaus Fire Department, and the Stanislaus County Environmental Review Committee (ERC) which includes the Sheriff's Department. Conditions of approval will be added to this project to insure that the nut storage buildings will comply with all applicable fire department standards with respect to access and water for fire protection.</p> | | | | |
| <p>Mitigation: None.</p> | | | | |
| <p>References: Stanislaus County General Plan and Support Documentation¹.</p> | | | | |

| XV. RECREATION -- | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | | | | X |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | | | | X |
| Discussion: This project is not anticipated to result in significant demands for recreational facilities as such impacts typically are associated with residential development. | | | | |
| Mitigation: None. | | | | |
| References: Stanislaus County General Plan and Support Documentation ¹ . | | | | |
| XVI. TRANSPORTATION/TRAFFIC -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | | | X | |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | | | X | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | | | X | |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | | | X | |
| e) Result in inadequate emergency access? | | | X | |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | | | | X |
| Discussion: Significant impacts to traffic and transportation were not identified by reviewing agencies. The existing facility has access via County-maintained Frank Cox Road which abuts the north-western portion of the project site. The applicant estimates 12-21 employees on site during harvest season (August through November). In the off season, the applicant estimates five (5) to six (6) employees on site. The applicant estimated 30-35 truck deliveries/loading per day, during peak season, generating 80 percent of traffic on site. Currently there are 21 regular, and one (1) handicap parking spaces on site. The applicant has proposed to add four (4) new parking spaces west of the existing driveway. | | | | |

A referral response was received from the State of California Public Utilities Commission, which requested that the Genesee Wyoming Railroad (GWRR), install a crossbuck assembly with a yield sign on both approaches to the railroad crossing of Frank Cox and Highway 33, as soon as possible. The Rail Crossing Engineering Branch (RCEB) has recommended that Stanislaus County Public Works Department paint a single transverse yield line in advance of both crossbucks, and that the Public Works Department should repaint the faded pavement markings (RXR) on both approaches to the crossing. A conversation with Public Works staff determined that the Pubic Works Department would accept the recommendation from the Public Utilities Commission.

The project was referred to Public Works and CalTrans for review. CalTrans did not comment on the project. Public Works has requested conditions of approval requiring an encroachment permit prior to any work done in the County right-of-way for Frank Cox Road and the need for a grading and drainage plan prior to building permit issuance.

Mitigation: None.

References: Referral response from the State of California Public Utilities Commission dated May 20, 2015; Referral Response from Stanislaus County Public Works Department dated May 19, 2015; Application Information; and the Stanislaus County General Plan and Support Documentation¹.

| XVII. UTILITIES AND SERVICE SYSTEMS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | | | X | |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | | | X | |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | | | | X |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | | | | X |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | | | X | |

Discussion: Limitations on providing services have not been identified. The site is served by a private well, and a septic system. A referral response from Public Works requires that they review and approve a grading and drainage plan prior to issuance of any building permit. Impacts to the existing utility and service systems are anticipated to be minimal as a result of this project. Less than significant impacts associated with public utility and irrigation easement(s) will be reflected in the project's conditions of approval.

A referral was sent to the West Stanislaus Irrigation District on April 17, 2015 but no comments have been received to date.

Mitigation: None.

References: Referral response from Stanislaus County Public Works Department dated May 19, 2015; and the Stanislaus County General Plan and Support Documentation¹.

| XVIII. MANDATORY FINDINGS OF SIGNIFICANCE -- | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | | | | X |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? | | | | X |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | | | X | |
| <p>Discussion: Review of this project has not indicated any features which might significantly impact the environmental quality of the site and/or the surrounding area.</p> | | | | |

I:\Planning\Staff Reports\UP\2015\UP PLN2015-0034 - Westside Hulling Association\CEQA-30-Day-Referral\IS.wpd

¹Stanislaus County General Plan and Support Documentation adopted in October 1994, as amended. Optional and updated elements of the General Plan and Support Documentation: **Agricultural Element** adopted on December 18, 2007; **Housing Element** adopted on August 28, 2012; **Circulation Element** and **Noise Element** adopted on April 18, 2006.

NEGATIVE DECLARATION

NAME OF PROJECT: Use Permit Application No. PLN2015-0034 - Westside Hulling Association

LOCATION OF PROJECT: 206 Frank Cox Road, at the intersection of Frank Cox Road and Highway 33, in the Patterson area. APN: 016-031-014

PROJECT DEVELOPERS: Robert Braden Consulting
2900 Standiford Ave Suite 16-B
Modesto, CA 95350

DESCRIPTION OF PROJECT: Request to expand an existing almond and walnut hulling operation by constructing a 6,000 square foot agricultural shop and four 10,000 square foot agricultural storage buildings. The request will expand the existing use permit (UP 78-36) which included a truck scale, scale house, and office. The proposed nut hulling expansion anticipates 12-21 employees on-site during harvest season (August through November).

Based upon the Initial Study, dated **June 16, 2015** the Environmental Coordinator finds as follows:

1. This project does not have the potential to degrade the quality of the environment, nor to curtail the diversity of the environment.
2. This project will not have a detrimental effect upon either short-term or long-term environmental goals.
3. This project will not have impacts which are individually limited but cumulatively considerable.
4. This project will not have environmental impacts which will cause substantial adverse effects upon human beings, either directly or indirectly.

The Initial Study and other environmental documents are available for public review at the Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, California.

Initial Study prepared by: Timothy Vertino, Assistant Planner

Submit comments to: Stanislaus County
Planning and Community Development Department
1010 10th Street, Suite 3400
Modesto, California 95354

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: USE PERMIT APPLICATION NO. PLN2015-0034 - WESTSIDE HULLING ASSOCIATION

| 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 |
| CA DEPT OF CONSERVATION: Land Resources | X | X | X | X | | | | X | | X | | X |
| CA DEPT OF FISH & WILDLIFE | X | X | X | | X | | | | | | | |
| CA DEPT OF TRANSPORTATION DIST 10 | X | X | X | | X | | | | | | | |
| CA DEPT OF WATER RESOURCES | X | X | X | | X | | | | | | | |
| CA OPR STATE CLEARINGHOUSE | X | X | X | | X | | | | | | | |
| CA RWQCB CENTRAL VALLEY REGION | X | X | X | X | | | | X | | X | X | |
| CA STATE LANDS COMMISSION | X | X | X | | X | | | | | | | |
| CEMETERY DISTRICT | X | X | X | | X | | | | | | | |
| CENTRAL VALLEY FLOOD PROTECTION | X | X | X | | X | | | | | | | |
| COOPERATIVE EXTENSION | X | X | X | | X | | | | | | | |
| FIRE PROTECTION DIST: WEST STAN | X | X | X | | X | | | | | | | |
| HOSPITAL DISTRICT: DEL PUERTO | X | X | X | | X | | | | | | | |
| IRRIGATION DISTRICT: W STAN | X | X | X | | X | | | | | | | |
| MOSQUITO DISTRICT: TURLOCK | X | X | X | | X | | | | | | | |
| MT VALLEY EMERGENCY MEDICAL | X | X | X | | X | | | | | | | |
| PACIFIC GAS & ELECTRIC | X | X | X | | X | | | | | | | |
| PUBLIC UTILITIES COMMISSION | X | X | X | X | | | | X | | X | | X |
| RAILROAD: CA NORTHERN | X | X | X | | X | | | | | | | |
| SAN JOAQUIN VALLEY APCD | X | X | X | X | | X | | | | X | X | |
| SCHOOL DISTRICT 1: PATTERSON | X | X | X | | X | | | | | | | |
| STAN ALLIANCE | X | X | X | | X | | | | | | | |
| STAN CO AG COMMISSIONER | X | X | X | | X | | | | | | | |
| STAN CO BUILDING PERMITS DIVISION | X | X | X | X | | | X | | | X | X | |
| STAN CO CEO | X | X | X | | X | | | | | | | |
| STAN CO DER | X | X | X | X | | X | | | | | | |
| STAN CO ERC | X | X | X | X | | | | X | | X | | X |
| STAN CO FARM BUREAU | X | X | X | | X | | | | | | | |
| STAN CO HAZARDOUS MATERIALS | X | X | X | X | | | | X | | X | X | |
| STAN CO PUBLIC WORKS | X | X | X | X | | | | X | | X | X | |
| STAN CO SHERIFF | X | X | X | | X | | | | | | | |
| STAN CO SUPERVISOR DIST 5: DeMARTINI | X | X | X | | X | | | | | | | |
| STAN COUNTY COUNSEL | X | X | X | | X | | | | | | | |
| STANISLAUS FIRE PREVENTION BUREAU | X | X | X | | X | | | | | | | |
| STANISLAUS LAFCO | X | X | X | | X | | | | | | | |
| SURROUNDING LAND OWNERS | | X | X | | X | | | | | | | |
| TELEPHONE COMPANY: FRONTIER | X | X | X | | X | | | | | | | |
| US FISH & WILDLIFE | X | X | X | | X | | | | | | | |



July 20, 2015

Timothy Vertino
County of Stanislaus
Planning & Community Development Dept.
1010 10th Street, Suite 3400
Modesto, CA 95354

Agency Project: Use Permit Application No. PLN20150034 for Westside Hulling Association

District CEQA Reference No: 20150572

Dear Mr. Vertino:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above consisting of the construction of a 6,000 square foot agricultural shop and four (4) 10,000 square foot agricultural storage buildings, located at 206 Frank Cox Road, Westley, CA. (APN: 016-031-014) The District has previously commented on this project (District CEQA reference # 20150334).

1. The proposed project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review). Since this facility is currently permitted with the Air District (Facility N-2294, Westside Hulling), any modification that would result in a change in emissions or change in method of operation/equipment requires the submittal of an Authority to Construct Permit application. As such, the District recommends the applicant contact the District's Small Business Assistance (SBA) office to determine whether an Authority to Construct (ATC) and Permit to Operate (PTO) are required, and to identify other District rules and regulations that apply to this project. SBA staff can be reached at (209) 557-6446.

In addition, please note that starting construction before receiving an ATC may result in a violation of District regulations and be subject to enforcement action.

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4600 Enterprise Way
Modesto, CA 95356-8710
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1900 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34046 Flyover Court
Bakersfield, CA 93308-9725
Tel: 661-392-5500 FAX: 661-392-5585

2. The District recommends that a copy of the District's comments be provided to the project proponent.

If you have any questions or require further information, please contact Georgia Stewart at (559) 230-5937.

Sincerely,

Arnaud Marjollet
Director of Permit Services

A handwritten signature in cursive script that reads "Georgia Stewart".

For: Chay Thao
Program Manager

AM: gs

T ✓



DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 Cornucopia Way, Suite C Modesto, CA 95358-9494
Phone: 209.525.6700 Fax: 209.525.6774



STANISLAUS COUNTY CEQA REFERRAL RESPOND FORM

TO: Stanislaus County Planning & Community Development
FROM: Department of Environmental Resources
SUBJECT: **ENVIROMENTAL REFERRAL- USE PERMIT APPLICATION NO.
PLN2015-0034 – WESTSIDE HULLING ASSOCIATE**

Based on this agencies particular field(s) of expertise, it is our position the above-described project:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):*

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

1. "The Water System may now be or may become a public water system as defined by California Health and Safety Code (CA HSC) Section 116275 and Title 22 California Code of Regulations (CCR) Sections 64400.10, 64400.80, 64401.85. Prior to issuance of building permits or licenses to conduct business identified in "Use Permit Application PLN2015-0034", the property owner shall

certify to Stanislaus County Department of Environmental Resources (Department) that: the property use does not or will not constitute a public water system, or submit a public water supply permit application [(CA HSC) 116525] to the Department accompanied by a public water system technical report [(CA HSC) 116530], financial and managerial and technical information [(CA HSC) 116540], and obtain a public water supply permit to operate the public water system [(CA HSC) Sections 116525, 116530, 116540, 116550].”

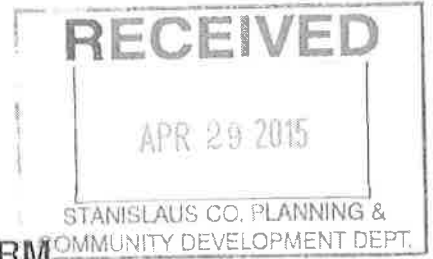
The applicant needs to have the attached form completed and submitted to the Department of Resources (DER)

Response prepared by:

Date: July 23, 2015

Bella Badal

BELLA BADAL, PhD, REHS
SENIOR REGISTERED ENVIRONMENTAL HEALTH SPECIALIST
Department of Environmental Resources



STANISLAUS COUNTY
CEQA REFERRAL RESPONSE FORM

TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: _____

SUBJECT: USE PERMIT APPLICATION NO. PLN2015-0034 - WESTSIDE HULLING ASSOCIATION

Based on this agencies particular field(s) of expertise, it is our position the above described project:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

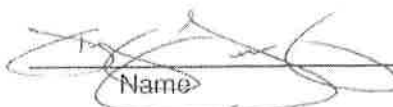
1. AO-A1+ FLOOD ZONE (DEPTH 1-3 FEET)
- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):

1. CONSTRUCTION SHALL BE IN ACCORDANCE TO 16-50.170 AS STATE
2. STANISLAUS COUNTY CODE FOR JUD-RESIDENTIAL BLDG.
3. PRIOR TO ISSUANCE OF A PERMIT.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

Response prepared by:


Name
Dany Frenkel


Title
B/O

04/29/2015
Date

PUBLIC UTILITIES COMMISSION

180 Promenade Circle, Suite 115
Sacramento, CA 95834
(916) 928-3809



May 20, 2015

Timothy Vertino
Assistant Planner
Stanislaus County
Planning and Community Development
1010 10th Street, Suite 3400
Modesto, California 95354

Dear Mr. Vertino:

SUBJECT: SCH 2015042053 Stanislaus County, Westside Hulling Association – Early Cons

The California Public Utilities Commission (Commission) has jurisdiction over the safety of highway-rail crossings (crossings) in California. The California Public Utilities Code requires Commission approval for the construction or alteration of crossings and grants the Commission exclusive power on the design, alteration, and closure of crossings in California. The Commission's Rail Crossings and Engineering Branch (RCEB) has received from the State Clearinghouse, the Early Consultation Notice (*Early Cons*) environmental documentation, submitted by the Stanislaus County (County) Planning and Community Development, for the proposed expansion of the nut hulling facility located near the intersection of Frank Cox Road and State Route 33, and the adjacent Frank Cox Road crossing (DOT #752509K) of the California Northern Railroad (CFNR).

The proposed project consists of expanding an existing almond and walnut hulling operation by constructing a 6,000 square foot agricultural shop and four (4) 10,000 square agricultural storage buildings. The adjacent Frank Cox Road crossing is a public passive crossing, that is, it is equipped with crossbucks assemblies only and has no active warning (automatic gate arm with flashing signals assembly) devices. There are also no sidewalks across the track.

The California Manual on Uniform Traffic Control Devices (CAMUTCD), 2012 Edition mandates that at all passive grade crossings, a crossbucks assembly shall consist of a crossbucks sign (R15-1) a Number of Tracks (R15-2P) plaque, if two or more tracks are present, and either a YIELD (R1-2) or STOP (R1-1) sign. A YIELD or STOP sign shall be installed in compliance with the provisions of CAMUTCD, 2012 Edition, Part 2, Section 2B.10 and Figures 8B-2 and 8B-3. A YIELD sign shall be the default traffic control device for crossbuck assemblies on all highway approaches to passive grade crossings. RCEB staff's review of the crossing revealed that there is neither a YIELD nor a STOP sign presently part of the crossbucks assemblies. RCEB staff believes that a YIELD sign is the appropriate sign for the crossbucks assembly on both Frank Cox Road crossing approaches. RCEB staff has contacted personnel representing Genesee Wyoming Railroad (GWRR), the parent company for CFNR, and they have agreed to install a crossbucks assembly with a YIELD sign on both approaches to the crossing as soon as possible.

If the County or GWRR/CFNR personnel decide in the future that crossbucks assemblies with a STOP sign should replace those with a YIELD sign, either the County and/or the noted Railroads will be required to: perform an engineering study justifying the new STOP control, request a diagnostic meeting at the crossing, and submit a General Order (GO) 88-B request to the CPUC for this

Timothy Vertino
Page 2 of 2
May 20, 2015

modification. A diagnostic meeting and the submittal of a GO 88-B request to the CPUC will also be required for any other modification proposed for this crossing.

In addition, RCEB makes the following recommendations:

1. The County's Public Works Department should paint a single transverse yield line in advance of both crossbucks assemblies as required by CAMUTCD, 2012 Edition, Section 8B.28 and Figure 8B-6(CA).
2. The County's Public Works Department should repaint the faded pavement markings (RXR) on both approaches to the crossing as required by CAMUTCD, 2012 Edition, Section 8B.27 and Figure 8B-7(CA).

The County's Planning and Community Development Department should contact the County's Public Works Department so that they may be aware of this letter and the recommendations noted above.

Please be advised that any construction near a railroad track within a project area shall comply with the Commission's General Orders (GOs), including GO 26-D (Clearances on railroads and street railroads as to side and overhead structures, parallel tracks, and crossings); GO 72-B (Construction & Maintenance - Standard types of pavement construction at railroad grade crossings); GO 75-D (Warning Devices for at-grade railroad crossings); GO 88-B (Alterations of existing railroad crossings); and GO 118 (Construction, reconstruction, and maintenance of walkways adjacent to railroad trackage, and the control of vegetation adjacent to railroad tracks). Details on the Commission's General Orders are located here <http://www.cpuc.ca.gov/crossings>.

If you have any questions in this matter, please contact me at (916) 928-3809 or send an email to me at marvin.kennix@cpuc.ca.gov.

Sincerely,



Marvin Kennix
Utilities Engineer
Rail Crossings Engineering Branch
Safety and Enforcement Division

Cc: State Clearinghouse
John Mollart, GWRR
Kirk Bedford, GWRR
Matt Machado, Stanislaus County Public Works Department



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE, LS
Director, County Surveyor

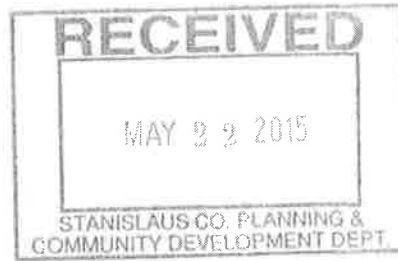
Chris Brady, PE
Deputy Director - Construction/Roads/Bridges

Colt Esenwein, PE
Deputy Director - Engineering/Survey/Fleet


David Leamon, PE
Deputy Director - Development/Traffic

Kathy Johnson
Assistant Director - Finance/GIS/HR/Transit

www.stancounty.com/publicworks



May 19, 2015

To: Timothy Vertino, Assistant Planner, Planning and Community Development
From:  Angie Halverson, Senior Land Development Coordinator
Subject: PLN2015-0034 Use Permit for the Westside Hulling Association

This is a request to expand an existing almond and walnut hulling operation. This expansion will require the construction of a 6,000 square foot shop and 4 10,000 square foot storage buildings. This is an expansion of Use Permit 78-36. Public Works recommends the following conditions of approval:

1. An encroachment permit shall be taken out for any new driveway or before any work is to be done in the Frank Cox Road right-of-way.
2. Frank Cox Road is classified as 60 foot Local Road. The required 1/2 width of Frank Cox Road is 30 feet west of the centerline of the roadway. If 30 feet of the road right-of-way does not exist, then the remainder 30 feet shall be dedicated with an Irrevocable Offer of Dedication for the parcel frontage.
3. No parking, loading or unloading of vehicles will be permitted within the County Road right-of-way.
4. Prior to the final of any building or grading permit, the applicant shall make road frontage improvements on Frank Cox Road. These improvements shall include asphalt road widening, bringing the existing road up to 12' wide paved vehicle lane and a 4' wide paved asphalt shoulder southeast of the centerline of Frank Cox Road. The length of the improvements will be from the west property line to the existing driveway. Before a second building is finished, the widening shall take place from the driveway to the east property line. Improvement plans will be submitted to Stanislaus County Public Works for approval prior to the issuance of a building or grading permit.
5. The structural section and cross slopes of the road improvements shall meet Stanislaus County Public Works Standards and Specifications.

PLN2015-0034
Use Permit
Westside Hulling Association

6. An acceptable financial guarantee for the phased road improvements shall be provided to the Department of Public Works prior to the issuance of any building or grading permit. The financial guarantee will be phased to the required improvements. This may be deferred if the work in the right-of-way is done prior to the issuance of any building or grading permit.
7. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined. This shall be deferred if the improvements are installed and accepted prior to the issuance of the building permit.
8. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted before any building permit for the site is issued that creates a new or bigger building footprint on this parcel. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
 - The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
 - The grading drainage and erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit.
 - The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.
 - The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan.
 - The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.



RECEIVED
MAY 01 2015
STANISLAUS COUNTY DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT



Central Valley Regional Water Quality Control Board

28 April 2015

Timothy Vertino
Stanislaus County
Department of Planning and Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

CERTIFIED MAIL
7014 2870 0000 7535 8805

COMMENTS TO REQUEST FOR REVIEW FOR THE EARLY CONSULTATION, USE PERMIT APPLICATION NO. PLN2015-0034 – WESTSIDE HULLING ASSOCIATION PROJECT, SCH# 2015042053, STANISLAUS COUNTY

Pursuant to the State Clearinghouse’s 20 April 2015 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Request for Review for the Early Consultation* for the Use Permit Application No. PLN2015 – 0034 – Westside Hulling Association Project, located in Stanislaus County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/.

For more information on the Phase II MS4 permit and who it applies to, visit the State Water Resources Control Board at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/phase_ii_municipal.shtml

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed from the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit (e.g., Non-Reporting Nationwide Permit, Nationwide Permit, Letter of Permission, Individual Permit, Regional General Permit, Programmatic General Permit), or any other federal permit (e.g., Section 9 from the United States Coast Guard), is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/help/business_help/permit2.shtml.

Regulatory Compliance for Commercially Irrigated Agriculture

If the property will be used for commercial irrigated agricultural, the discharger will be required to obtain regulatory coverage under the Irrigated Lands Regulatory Program.

There are two options to comply:

1. **Obtain Coverage Under a Coalition Group.** Join the local Coalition Group that supports land owners with the implementation of the Irrigated Lands Regulatory Program. The Coalition Group conducts water quality monitoring and reporting to the Central Valley Water Board on behalf of its growers. The Coalition Groups charge an annual membership fee, which varies by Coalition Group. To find the Coalition Group in your area, visit the Central Valley Water Board's website at: http://www.waterboards.ca.gov/centralvalley/water_issues/irrigated_lands/app_approval/index.shtml; or contact water board staff at (916) 464-4611 or via email at IrrLands@waterboards.ca.gov.
2. **Obtain Coverage Under the General Waste Discharge Requirements for Individual Growers, General Order R5-2013-0100.** Dischargers not participating in a third-party group (Coalition) are regulated individually. Depending on the specific site conditions, growers may be required to monitor runoff from their property, install monitoring wells, and submit a notice of intent, farm plan, and other action plans regarding their actions to comply with their General Order. Yearly costs would include State administrative fees (for example, annual fees for farm sizes from 10-100 acres are currently \$1,084 + \$6.70/Acre); the cost to prepare annual monitoring reports; and water quality monitoring costs. To enroll as an Individual Discharger under the Irrigated Lands Regulatory

Use Permit Application No. PLN2015 – 0034
– Westside Hulling Association Project - 4 -
Stanislaus County

28 April 2015

Program, call the Central Valley Water Board phone line at (916) 464-4611 or e-mail board staff at IrrLands@waterboards.ca.gov.

Low or Limited Threat General NPDES Permit

If the proposed project includes construction dewatering and it is necessary to discharge the groundwater to waters of the United States, the proposed project will require coverage under a National Pollutant Discharge Elimination System (NPDES) permit. Dewatering discharges are typically considered a low or limited threat to water quality and may be covered under the General Order for *Dewatering and Other Low Threat Discharges to Surface Waters* (Low Threat General Order) or the General Order for *Limited Threat Discharges of Treated/Untreated Groundwater from Cleanup Sites, Wastewater from Superchlorination Projects, and Other Limited Threat Wastewaters to Surface Water* (Limited Threat General Order). A complete application must be submitted to the Central Valley Water Board to obtain coverage under these General NPDES permits.

For more information regarding the Low Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0074.pdf

For more information regarding the Limited Threat General Order and the application process, visit the Central Valley Water Board website at:
http://www.waterboards.ca.gov/centralvalley/board_decisions/adopted_orders/general_orders/r5-2013-0073.pdf

If you have questions regarding these comments, please contact me at (916) 464-4684 or tcleak@waterboards.ca.gov.



Trevor Cleak
Environmental Scientist

Cc: State Clearinghouse unit, Governor's Office of Planning and Research, Sacramento



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

May 4, 2015

VIA EMAIL: vertinot@stancounty.com

Timothy Vertino, Assistant Planner
Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354

SUBJECT: WESTSIDE HULLING ASSOCIATION, USE PERMIT APPLICATION NO.
PLN2015-0034

Dear Mr. Vertino:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) has reviewed the Early Consultation for the above referenced project. The Division monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. We offer the following comments and recommendations with respect to the project's impacts on agricultural land and resources.

Project Description

The parcel, APN 016-031-014, is located at 206 Frank Cox Road, at the intersection of Frank Cox Road and Highway 33, in the Patterson area.

The current proposal includes modifying the existing use permit to expand the business on the 20.9-acre site. The parcel is currently under a Williamson Act contract and the existing use permit (UP 78-36) includes a truck scale, a scale house, and office. The new use would expand an existing almond and walnut hulling operation by constructing a 6,000 square foot agricultural shop and four (4) 10,000 square foot agricultural storage buildings. There is no primary agricultural commodity being grown on the contracted parcel.

Project Impacts on Land under a Williamson Act Contract

Based on a review of current satellite imagery, the Department has found no evidence of agriculture on the parcel. The proponents might argue that an almond hulling operation should qualify as an agricultural or compatible use since the primary input is almonds and walnuts. However, these factors do not outweigh the basic industrial nature of the facility. The provisions for compatible uses allows the Department and local agencies to interpret the Act to allow harvesting, processing, and shipping¹, however the interpretation is not open-ended. The interpretation is dependent upon recognition that a processing facility and a primary agricultural use of the contracted parcel(s) are naturally integrated. Therefore a hulling operation which

¹ Government Code § 51238.1

relies upon almonds and walnuts purchased from outside growers would typically not constitute a compatible use.

The proposed modification to the use permit would authorize an expanded use, allowing the applicant to obtain building permits for additional structures that are not directly related to the agricultural use of the land in producing an agricultural commodity.

Material Breach

The Williamson Act requires that every contract shall provide uses only related to agriculture and those compatible with agriculture². Based on satellite imagery it appears that there is no agricultural use or agricultural commodity being produced on the property for which the business is compatible. Due to the lack of a primary agricultural use, the buildings located on the property may be in breach of the contract.

Construction of buildings not related to an agricultural use on parcels of contracted land could potentially be subject to breach of contract penalties. Government Code §51250 provides an enhanced penalty for a material breach of contract. A breach of contract is defined as material if a commercial, industrial or residential building is all of the following: 1) not related to an agricultural or compatible use; 2) greater than 2,500 square feet; and 3) permitted or constructed after January 1, 2004. While it is the County's responsibility to enforce the sanctions contained in Government Code §51250, the Department is also empowered to take actions against breaches of contract.

Conclusion

Information in the Government Code instructs counties on what constitutes a compatible use -- that counties and cities are given latitude to determine other uses that can be deemed compatible within the intent of the Williamson Act; and that these uses must be associated with agricultural operations on the property. It is suggested that the County determine if the parcel under contract is engaged in on-site commercial agriculture which would support this compatible use, and in turn, bring the parcel into compliance with the Williamson Act.

Thank you for giving us the opportunity to comment on this proposed modification to the existing use permit for this property. Please provide this Department with the decision of the Board for this particular action and any documents pertaining to it. If you have questions regarding these comments, or require technical assistance or information on agricultural land conservation, please contact Farl Grundy, Environmental Planner, 801 K Street, MS 18-01, Sacramento, California 95814, at (916) 324-7347 or via email at Farl.Grundy@conservation.ca.gov.

Sincerely,



Molly A Penberth, Manager
Division of Land Resource Protection
Conservation Support Unit

² Government Code § 51243 (a)



July 28, 2015

TO: MIGUEL GALVEZ, STANISLAUS COUNTY PLANNING AND
COMMUNITY DEVELOPMENT

FROM: AMBER MINAMI, STANISLAUS COUNTY HAZARDOUS MATERIALS
DIVISION

SUBJECT: ENVIRONMENTAL REFERRAL - USE PERMIT APPLICATION NO.
PLN2015-0034 - WESTSIDE HULLING ASSOCIATION

The Stanislaus County Hazardous Materials Division has reviewed the information available on the subject project. The Department provides the following conditions of approval to be implemented:

The applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER), that a site containing (or formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I study, and Phase II study if necessary) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.