

DRAFT

DEVELOPMENT STANDARDS

**REZONE APPLICATION NO. PLN2015-0032
BELKORP AG**

Department of Planning and Community Development

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2014), 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. The Nunes Road driveway shall not be utilized for non-emergency purposes after dusk. All traffic shall utilize the North Golden State Boulevard for entrance and exit.
6. Signs: Free-standing pylon signage shall be restricted to one 20-foot tall sign located towards the North Golden State Boulevard entrance, in the equipment display area, and one 60-foot tall sign located at the northwestern corner of the site along SR 99. Signage on the vacant portions of the project site plan shall be limited to one monument sign, not to exceed 6-feet in height, on either side of North Golden State Boulevard.

Wall signs shall be permitted for the agricultural equipment dealership as reflected in the applicants sign plans. Wall signs on other buildings shall be consistent to the signage permitted for the dealership with respect to placement, scale, and design. A sign plan for all proposed on-site signs, pylons and wall signs, indicating the location, height, and area of the sign(s), shall be approved by the Planning Department prior to issuance of a building permit and/or installation of any signage.

7. Parking: As required by Chapter 21.76 for off street parking requirements.

8. Building height limits, building site area required, and yards required shall be as required by Section 21.48.040 of the County Zoning Ordinance.
9. Nuisance: No operations shall be conducted on any premises in such a manner as to cause an unreasonable amount of noise, odor, dust, smoke, vibration or electrical interference detectable off the site.
10. Landscaping: A landscaping plan indicating plan species, initial size, location and method of irrigation shall be approved by the planning director, or designee, prior to issuance of any building permit. All landscaping shall be in compliance with County Code and California Model Water Efficiency Landscape Ordinance and utilize "gateway treatments" in areas visible from State Route 99, Keyes Road, and Golden State Boulevard. Landscaping shall be used to "blend" the storm water facilities into the site.

The applicant, or subsequent property owner(s), shall be responsible for maintaining landscape plants in a healthy and attractive condition. Dead or dying plants shall be replaced with materials of equal size and similar variety.

11. Any buildings constructed as a result of this rezone shall utilize "Gateway" treatments and positive, high quality landscaped edges along SR 99 and major roads, consistent with the Keyes Community Plan, for this project, with design attention paid to the appearance of the rear of the buildings facing SR 99 and the Keyes Road Interchange, signage, and "Gateway" and landscape treatments. Stormwater facilities shall be softened and blended into the site via landscape treatments. Any required building or grading permits shall be reviewed by the Planning Director or designee to insure that the proposed development is consistent with area developments and the Keyes Community Plan.
12. Construction shall occur between the hours of 7 a.m. and 7 p.m. and no person shall operate any construction equipment so as to cause at or beyond the property line of any property upon which a dwelling unit is located an average should level greater than 74 decibels between the hours of 7 p.m. and 7 a.m.
13. 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.
14. 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.
15. A valid Stanislaus County business license shall be maintained for any business operating on the project site.
16. Prior to issuance of a building permit a lot line adjustment or merger shall be submitted, rearranging the underlying lot lines in such a way as to allow buildings to comply with setbacks as determined by the Title 24, Uniform Building Code.
17. Evidence of human burial or scattered human remains related to prehistoric occupation of the area could be inadvertently encountered anywhere within the project area during future

construction activity or other actions involving disturbance to the ground surface and subsurface components. In the event of such an inadvertent discovery, the County Coroner shall be informed and consulted, per State law. Ultimately, the goal of consultations to establish an agreement between the most likely lineal descendant designated by the Native American Heritage Commission and the project proponent(s) with regard to a plan for treatment and disposition of any human remains and artifacts which might be found in association. Such treatment and disposition may require reburial of any identified human remains/burials within a "preserve" or other designated portion of the development property not subject to ground disturbing impacts.

18. The archaeological survey evaluation and recommendations are based on the finding of an inventory-level surface survey only. There is always the possibility that significant unidentified cultural materials could be encountered on or below the surface during the course of future development or construction activities. This caveat is particularly relevant considering the constraints generally to archaeological field survey, and particularly where past ground disturbance has occurred, as in the present case. In the event of an inadvertent discovery of previously unidentified cultural material, archaeological consultation should be sought immediately.

Department of Public Works

19. A grading and drainage plan for the project site shall be submitted with the grading or building permit. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
 - A. Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.
 - B. 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.
 - C. The grading and drainage plan shall comply with the National Pollutant Discharge Elimination System (NPDES) General Permit and Stanislaus County storm water treatment and quality standards.
 - D. 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.
 - E. The applicant of the grading/building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan and all inspection fees. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site. The plans shall not be released until such time that all plan check and inspection fees have been paid.
20. No parking, loading, or unloading of vehicles shall be permitted within the county road right-of-way.
21. The developer will be required to install or pay for the installation of any signs and/or markings, if warranted.

22. An Encroachment Permit shall be obtained for any work done in Stanislaus County road right-of-way. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.
23. Off-site improvement plans (four copies) shall be submitted and approved by Stanislaus County Public Works prior to the issuance of any building permit associated with this project.
24. The streetlights shall be annexed into the Keyes Community Services Area. The applicant shall provide all necessary documents and pay all the costs associated with the annexation process. Please be aware that this process may take approximately 4 to 6 months. The annexation of the parcel in to the Keyes Community Services Area shall be completed before the final/occupancy of any building permit associated with this project. Please contact Public Works at 525-4130.
25. Prior to the final of any grading permit, the applicant shall make road frontage improvements along the entire road frontage of the parcel(s) on Nunes Road and N. Golden State Boulevard. The improvements shall include but not be limited to street light(s), curb, gutter and sidewalk, storm drainage, matching pavement, and handicap ramps. Improvement plans shall be submitted to the Public Works Department for review and approval.
26. An acceptable financial guarantee for the road improvements shall be provided to the Department of Public Works prior to the issuance of any grading or encroachment permit. This may be deferred if the work in the right-of-way is done prior to the issuance of any grading or building permit.
27. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined.
28. Nunes Road is classified as 60-foot collector roadway. The required ½ width of Nunes Road is 30 feet south 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 entire parcel/project frontage on Nunes Road. This includes the parcel on the southeast side of the Golden State Boulevard and Nunes Road intersection.
29. The southeast parcel that is located on the east side of N. Golden State Boulevard and Nunes Road intersection shall utilize shared driveways for access in the following locations:
 - a. The access to Golden State Boulevard shall be shared with the parcel to the east (A.P.N. 045-050-010 at 4924 E Nunes Road) and shall be located at the south property line, lining up with the proposed driveway across Golden State Boulevard.
 - b. The access to Nunes Road shall be considered temporary until the parcel to the east (A.P.N. 045-050-010 at 4924 E Nunes Road) develops and a new shared access driveway shall be developed.

Public Works shall approve all driveway/access locations.

Department of Environmental Resources (DER)

30. The applicant must identify the location of any existing on-site well and/or septic tank on the parcel and shall destroy them under permits from DER and in accordance with all laws and policies (Stanislaus County and California State Model Well Standards).

31. The applicant shall determine 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.
32. The applicant should contact DER regarding appropriate permitting requirements for hazardous materials and/or wastes. Applicant and/or occupants handling hazardous materials or generating hazardous wastes must notify DER relative to the following: (Calif. H&S, Division 20)
 - A. Permits for the underground storage of hazardous substances at new locations or the modification of existing tank facilities.
 - B. Requirements for registering as a handler of hazardous materials in the County.
 - C. Submittal of hazardous materials Business Plans by handlers in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic-feet of compressed gas.
 - D. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program which must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section §302.
 - E. Generators of hazardous waste must notify the Department relative to the (1) quantities of waste generated; (2) plans for reducing wastes generated; and (3) proposed waste disposal practices.
 - F. Permits for the treatment of hazardous waste on-site will be required from the hazardous materials division.
 - G. Medical waste generators must complete and submit a questionnaire to the department for determination if they are regulated under the Medical Waste Management Act.

Building Permits Division

33. Building permits are required and the project shall comply with the CA Code of Regulations, Title 24. The site and structures shall comply with handicap accessibility requirements.
34. The "Will-Serve Letter" shall be provided to the Building Permits Division when applying for a building permit associated with this project.

Turlock Irrigation District

35. An abandoned 30-inch diameter cast in place concrete pipeline is located along the eastern side of APN 045-050-012 as evidenced by the concrete control box located at about the mid-point of the east line. Records indicate that this pipe continued in a northwesterly direction somewhat parallel with N. Golden State Blvd before ending near the west line of APN 045-050-001. The irrigation system is still active at the aforementioned control box and back upstream to the east beyond the subject properties. Facilities no longer needed must be removed and remaining active facilities must meet current standards.

36. It will be necessary for the developer to submit plans detailing the existing irrigation facilities, relative to the proposed site improvements, in order for TID to determine specific impacts and requirements.
37. TID shall review and approve all maps and plans of the project. Any improvements to this property which impact irrigation facilities shall be subject to the District's approval and meet all TID standards and specifications. If it is determined that irrigation facilities will be impacted, the applicant will need to provide irrigation improvement plans and enter into an Irrigation Improvements Agreement for the required irrigation facility modifications. There is a TID Board approved time and material fee associated with this review.
38. Developed property adjoining irrigated ground must be graded so that finished grading elevations are at least six inches higher than irrigated ground. A protective berm must be installed to prevent irrigation water from reaching non-irrigated properties.
39. If the pipeline is to be relocated in a new alignment, then irrigation improvement plans and an Irrigation Improvements Agreement for the impacted irrigation facility modifications must be executed before TID approves a final map.
40. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.

Keyes Community Services District (KCSD)

41. All water service lines and sewer connections must be installed to KCSD standards and according to plans approved by the KCSD, at the expense of the owner.
42. All applicable KCSD connections, facilities, and inspection fees must be paid upon application for connections.
43. The owner must comply with all District rules and regulations.
44. This will-serve commitment will expire on March 31, 2016 unless construction has commenced by that date.
45. The "Will-Serve Letter" is valid only upon approval by the Stanislaus County Local Agency Formation Commission (LAFCO).

Stanislaus County Local Agency Formation Commission (LAFCO)

46. The project proposes to connect to the Keyes Community Services District (KCSD) for water and sewer services. The easterly half of the project site is currently outside the KCSD's boundaries. Therefore, in order for KCSD to provide water and sewer services to the proposed project, it will be necessary for the developer to seek LAFCO approval for annexation of the site into the KCSD.

Central Valley Regional Water Quality Control Board (RWQCB)

47. Dischargers whose projects 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, and 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).

48. This project may require Phase I and II MS4 permits which 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.
49. If the United States Army Corps of Engineers 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 may require a Waste Discharge Requirement (WDR) permit to be issued by the 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.
50. 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.

San Joaquin Valley Air Pollution Control District (SJVAPCD)

51. The proposed project shall comply with District Rule 9510 (Indirect Source Review). Prior to building permit issuance, the applicant shall submit an Air Impact Assessment (AIA) application and pay any applicable off-site mitigation fees.
52. The proposed project may 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). The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance office. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm.

MITIGATION MEASURES

(Pursuant to California Public Resources Code 15074.1: Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:

1) Hold a public hearing to consider the project; and 2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.)

53. New multi-story development shall minimize the use of reflective surface and have those reflective surfaces which are used to be oriented in such a manner so as to reduce glare impacts along roadways.
54. New development shall include cut-off luminaries and/or shields. All exterior lighting shall be designed (aimed down and towards the site) to provide adequate illumination without a glare effect. Low intensity lights shall be used to minimize the visibility of the lighting from nearby areas, and to prevent “spill over” of light onto adjacent residential properties.
55. Although considered unlikely, valley elderberry longhorn beetle could potentially occur in the small blue elderberry shrubs in the northeast part of the site. These small shrubs show no evidence of occupancy by valley elderberry longhorn beetle and removal of the shrubs is expected to have no effect on this species. Prior to removing the shrubs, the applicant shall obtain concurrence from U.S. Fish and Wildlife Service regarding removing the shrubs.
56. Prior to securing concurrence to remove the blue elderberry shrubs, the shrubs should be protect with a no-disturbance buffer extending 10 feet from the driplines of the shrubs. Construction in the vicinity of the blue elderberry shrubs should occur between June 15 and April 15. During this time period, valley elder berry longhorn beetle (if present) would be within the interior portion of the stems of the shrubs and would not move (i.e., fly or walk) into the construction area.
57. Pre-construction surveys for nesting Swainson’s hawks within 0.25 miles of the project site are recommended if construction commences between March 1 and September 1. If active nests are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determination shall utilize criteria set forth by CDFW (CDFG, 1994).
58. Pre-construction surveys for burrowing owls in the site should be conducted if construction commences between February 1 and August 31. If occupied burrows are found, a qualified biologist should determine the need (if any) for temporal restrictions on construction. The determinations shall be pursuant to criteria set forth by CDFW (CDFG, 2012).
59. Trees, shrubs, and grasslands in the site could be used by other birds protected by the Migratory Bird Treaty Act of 1918. Should vegetation removal or construction commence during the general avian nesting season (March 1 through July 31), a pre-construction survey for nesting birds shall be completed. If active nests are found, work in the vicinity of the nest shall be delayed until the young fledge.
60. The applicant shall pay the Keyes Community Plan Mitigation Funding Program fees for Highway Commercial per the Keyes community Plan adopted on April 18, 2000. The fees were calculated in 2003 at \$751.47 per 1,000 square-feet of floor space. With the fees adjusted for inflation using the Engineering News-Record index, the July 2015 fees are \$1137 per 1,000 square feet. These fees will be paid prior to building permit issuance.

*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.*

DEVELOPMENT SCHEDULE

REZONE APPLICATION NO. PLN2015-0032 BELKORP AG

- Construction shall begin by October 2019.
- Issuance of any building permit after October 2019 for construction of a building shall be subject to a staff approval permit to allow modification to development standards as determined necessary by the Planning Director.

Permitted Uses

Permitted with the approval of a Business License

- A. Vehicle and equipment sales with service;
- B. Clinics (medical; small animal when entirely enclosed by a building);
- C. Christmas tree and firework sales (subject to Section 21.48.020 of the County Zoning Ordinance);
- D. Crop farming;
- E. Office (administrative, business and professional) and financial institution;
- F. Restaurant without bar services;
- G. Retail and wholesale store when conducted entirely within a building and less than 65,000 square feet of building and sales area;
- H. School (commercial, technical, trade, academic)
- I. Service station; and
- J. Other uses which the planning director may deem to be similar in character and purpose to uses enumerated in this section.

Uses Requiring a Use Permit

- A. Hotel;
- B. Restaurant with bar service;
- C. Truck terminal;
- D. Warehouse; and
- E. Other uses which the planning director may deem to be similar in character and purpose to uses enumerated in this section.

**KEYES COMMUNITY SERVICES DISTRICT
5601 7TH STREET
P O BOX 699
KEYES, CA 95328**

March 19, 2015

Rod Hawking
Hawkins & Associates Engineering, Inc.
436 Mitchell Road
Modesto, Ca 95354

Re: Will Serve Letter Request For Proposed Commercial Project
4618 Nunes Road, Keyes, Ca.

Dear Mr. Hawkins:

The Keyes Community Services District is willing to provide the requested water and sewer service on the following conditions:

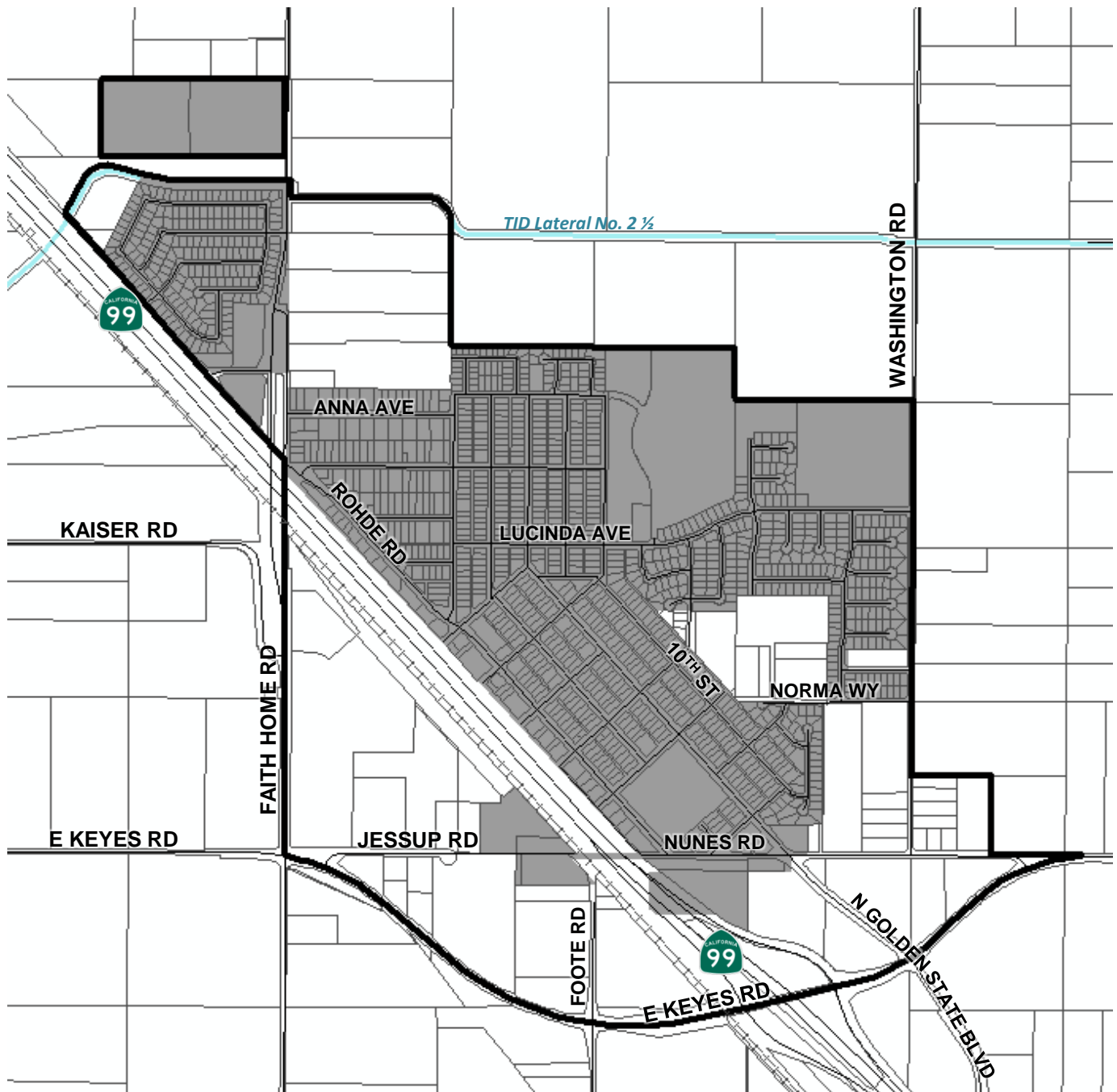
1. All water service lines and sewer connections must be installed to District standards and according to plans approved by the District, at the expense of the owner.
2. All applicable District connection, facilities and inspection fees must be paid upon application for connections.
3. The owner must comply with all District rules and regulations.
4. This will-serve commitment will expire on March 31, 2016 unless construction has commenced by that date.
5. This Will Service Letter is valid only upon approval by Stanislaus County Local Agency Formation Commission (LAFCO).



Sincerely,



Ernie Garza
General Manager
By: Michelle Harris

Keyes Community Services District Boundary & Sphere of Influence



	District Boundary (444+/- acres)
	District Sphere of Influence (793 +/- acres)

Source: LAFCO Files, July 2014



**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
EIR Mitigation Measures				
4.1 Land Use				
Conversion of additional Prime Farmland to non-agricultural use	4.1-1 Replace Important Farmland at a 1:1 ratio with agricultural land of equal quality and protect the land for agricultural use through long-term land use restrictions, such as agricultural conservation easements.	Developers of new projects in the Community Plan area shall set aside in a long-term conservation or agricultural easement an equal amount of land equivalent to agricultural land proposed for conversion to non-agricultural use. The land shall be of equal quality of that being proposed for development, to the satisfaction of the County.	Planning Department; Agriculture Department	Prior to project approval.
Important Farmland would continue to be converted to non-agricultural uses	4.1-4 Implement Mitigation Measure 4.1-1.	See Mitigation Measure 4.1-1.		

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These mitigation measures are taken verbatim from the DEIR, except where revised by the Final EIR. Initial Study mitigation measures incorporated in the DEIR are not included in the Initial Study portion of this Mitigation Monitoring Program.


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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
4.2 Biological Resources				
Loss of wetlands and other waters of the U.S.	<p>4.2-1(a) Prior to approval of development projects in portions of the Community Plan Area that could support wetlands, the project proponent shall conduct a wetland analysis/delineation to determine whether jurisdiction wetlands or waters of the U.S. are present or absent in the proposed development area. If there are no wetlands or waters of the U.S. present no further mitigation is required. If wetlands or waters of the U. S. are present then;</p> <p>(b) Direct or indirect losses of wetlands shall be compensated by replacement, rehabilitation, contribution to a mitigation bank, or purchase of wetlands habitat at a ratio that ensures no net loss of wetlands. A wetlands mitigation monitoring program shall be submitted to the Corps and CDFG for review prior to permit approval.</p> <p>(c) The project applicant shall obtain applicable permit(s)/agreements(s) and implement all the terms and conditions required by the Corps, USFWS and the CDFG for impacts to wetlands.</p>	<p>Developers of new projects in the Community Plan area shall conduct a wetland analysis/delineation, in consultation with the US Army Corps of Engineers (Corps) to determine whether jurisdiction wetlands or waters of the U.S. are present in the proposed development area.</p> <p>If wetlands are present, loss of wetlands shall be compensated ensuring no net loss of wetlands. Prior to grading permit approval, a wetlands mitigation monitoring program shall be submitted to the Corps and CDFG for review.</p> <p>If wetlands are present, the project applicant shall obtain all applicable permits required by the Corps, USFWS, and CDFG.</p>	<p>Corps; Planning Department</p> <p>Corps; CDFG; Planning Department</p> <p>Corps; CDFG; USFWS</p>	<p>Prior to any construction or grading activity.</p> <p>Prior to any construction or grading activity.</p> <p>Prior to any construction or grading activity.</p>
Loss of potential habitat for the valley elderberry longhorn beetle (VELB).	<p>4.2-2(a) Prior to the approval of development projects in portions of the Community Plan Area that contain natural or artificial drainages, the project proponent shall conduct a project-specific survey for potential VELB habitat (elderberry shrubs).</p>	<p>The project proponent shall conduct a project-specific survey for elderberry shrubs in areas that could contain VELB habitat, consistent with USFWS guidelines.</p>	<p>USFWS</p>	<p>Prior to any construction or grading activity.</p>

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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
	<p>(b) The project proponent shall avoid and protect all potential identified VELB habitat where feasible. Where avoidance is infeasible and elderberry shrubs are subject to removal or potential damage from the proposed development, the project proponent shall develop and implement a VELB mitigation plan in accordance with the most current USFWS mitigation guidelines for unavoidable take of VELB habitat, pursuant to either Section 7 or Section 10(a) of the Federal Endangered Species Act. The mitigation plan shall provide for no net loss of VELB habitat and shall include, but might not be limited to, relocation of elderberry shrubs, planting of elderberry shrubs, and monitoring of relocated and planted elderberry shrubs.</p>	<p>If VELB habitat is present, the project proponent shall implement mitigation for the protection of elderberry shrubs, ensuring no net loss of habitat, consistent with USFWS mitigation guidelines.</p>	<p>USFWS</p>	<p>Prior to any construction or grading activity.</p>
<p>Take of Swainson's hawk individuals (eggs, nestlings or juveniles) and other raptors (birds-of-prey).</p>	<p>4.2-3(a)  Prior to approval of development in portions of the Community Plan Area that contain trees, the project proponent, in consultation with the DFG, shall conduct a pre-construction survey of trees in the proposed development area for raptor nests. The surveys shall occur during the raptor breeding-season (approximately March 1 through August 31). The survey shall be conducted by a qualified raptor biologist during the same calendar year that the proposed activity is planned.</p>	<p>The project proponent, in consultation with the DFG, shall conduct a pre-construction survey of trees in any proposed development area for raptor nests. The survey shall be conducted by a qualified raptor biologist during the same calendar year that the proposed activity is planned.</p>	<p>CDFG</p>	<p>In the breeding season prior to any construction or grading activity.</p>

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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
	<p>(b) If an active raptor nest is identified within one half mile of the plan area then a buffer zone shall be implemented within a (0.5 or 0.10) mile radius (depending upon raptor species) of the nest tree or nest burrow, in the case of ground nesting burrowing owls.</p> <p>If an active Swainson's hawk nest is involved then no construction activities shall be initiated during the Swainson's hawk nesting period (IE., March 1 - August 1) within .25 mile without the approval by DFG. Construction shall be permitted at such time that juvenile Swainson's hawks are no longer dependant upon the nest tree.</p>	<p>A buffer zone around nest trees or burrows shall be implemented in consultation with CDFG.</p> <p>There shall be no construction activities initiated during the Swainson's hawk nesting period within .25 miles of an active Swainson's hawk nest without prior approval by CDFG.</p>	<p>CDFG</p> <p>CDFG</p>	<p>Prior to construction or grading activity.</p> <p>During construction or grading activity.</p>
Removal of native oak trees.	<p>4.2-4(a) All oak trees over four inches (dbh) on proposed development sites shall be preserved to the maximum extent practical. Final development plans shall depict all trees proposed for removal. Any trees that are removed shall be replaced at a two to one tree replacement ratio. Prior to issuance of a grading permit, the applicant shall submit a tree preservation plan to the Stanislaus County planning division for review and approval. The tree preservation plan shall include the location, number, species, and size of proposed replacement plantings. In addition, the plan shall include monitoring provisions for watering and landscaping to ensure survival and health of planted oak trees. During the monitoring period, dead trees shall be replaced.</p>	<p>Project proponents shall submit a tree preservation plan to the Stanislaus County planning division for review and approval that ensures that any oak trees over four inches (dbh) that are to be removed shall be replaced at a two to one tree replacement ratio. The plan shall include provisions for watering and landscaping and a monitoring period during which time dead trees shall be replaced</p>	<p>Planning Department; Agriculture Department</p>	<p>Prior to issuance of a grading permit.</p>

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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
Cumulative loss and degradation of valley grassland and agricultural habitat supporting native plants and wildlife.	4.2-5 Implement Mitigation Measures 4.2-1 through 4.2-4.	See Mitigation Measures 4.2-1 through 4.2-4.		
4.3 Transportation and Circulation				
Roadway segments in the area could operate at unacceptable levels of service.	4.3-1 (a) Faith Home Road shall be widened to a four-lane major road between Keyes Road and Redwood Road. (b) Keyes Road shall be widened to a four-lane major road from Faith Home Road to State Route 99 southbound on- and off- ramps, and from Golden State Boulevard and State Route 99 northbound on- and off- ramps. (c) Golden State Boulevard shall be widened to a four-lane major road between Keyes Road and Taylor Road. (d) Washington Road shall be widened from a two-lane collector to an access-restricted two-lane, 60-foot wide collector south of the TID canal to Keyes Road at such time that widening is justified, as determined by the Director of Public Works.	The County shall establish a funding mechanism for required roadway improvements identified in the Community Plan. Individual projects within the Community Plan Area shall pay their fair share for roadway improvements based upon a project-specific traffic study. The County shall construct individual roadway projects.	Public Works Department and Board of Supervisors Developer Public Works Department	Prior to first approval of new development in the Plan Area. Prior to project approval. As warranted.

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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
Circulation in the Community Plan Area and the surrounding roadways.	<p>4.3-2 (a) Faith Home Road shall be widened to six lanes between Keyes Road and Redwood Road.</p> <p>(b) Keyes Road shall be widened to six through lanes from Faith Home Road to Golden State Boulevard.</p> <p>(c) Washington Road shall be widened to an access-restricted, two-lane, 60-foot wide collector south of the TID canal to Keyes Road, at such time that widening is justified, as determined by the Director of Public Works.</p>	<p>The County shall establish a funding mechanism for required roadway improvements identified in the Community Plan.</p> <p>Individual projects within the Community Plan Area shall pay their fair share for roadway improvements based upon a project-specific traffic study.</p> <p>The County shall construct individual roadway projects.</p>	<p>Public Works Department and Board of Supervisors</p> <p>Developer</p> <p>Public Works Department</p>	<p>Prior to first approval of new development in the Plan Area.</p> <p>Prior to project approval</p> <p>As warranted.</p>
Reduced levels of service at area intersections to unacceptable levels	<p>4.3-3 (a) Keyes Road / SR 99 NB and SB Ramps</p> <p>Keyes Road shall be widened to six lanes from Faith Home Road to Golden State Boulevard. When a need for signalization is demonstrated through traffic signal warrants analysis, traffic signals shall be provided at the two ramp intersections. In addition to signalization, the following measures are necessary to operate the intersections at LOS C conditions or better during the PM peak hour:</p>	<p>The County shall establish a funding mechanism for required roadway improvements identified in the Community Plan.</p> <p>Individual projects within the Community Plan Area shall pay their fair share for roadway improvements based upon a project-specific traffic study.</p> <p>The County shall construct individual roadway projects.</p>	<p>Public Works Department and Board of Supervisors</p> <p>Developer</p> <p>Public Works Department</p>	<p>Prior to first approval of new development in the Plan Area.</p> <p>Prior to project approval.</p> <p>As warranted.</p>

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**MITIGATION MONITORING PLAN
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Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
	<p><u>SB Ramps</u> Provide dual left-turn lanes and a separate right-turn lane on the southbound approach.</p> <p>Provide dual westbound left-turn lanes on Keyes Road to southbound SR99.</p> <p>Provide three eastbound and three westbound through lanes.</p> <p>Provide a free eastbound right-turn lane from Keyes Road to southbound SR99.</p> <p><u>NB Ramps</u> Provide dual left-turn lanes and a separate right-turn lane on the northbound approach.</p> <p>Provide an eastbound left-turn lane from Keyes Road to northbound SR99.</p> <p>Provide three eastbound and three westbound through lanes.</p> <p>Provide a free westbound right-turn lane from Keyes Road to northbound SR99.</p>			

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**MITIGATION MONITORING PLAN
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Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
	<p>(b) Keyes Road / Golden State Boulevard Provide single westbound and dual eastbound left-turn lanes.</p> <p>Provide separate eastbound and westbound right-turn lanes.</p> <p>Provide two northbound and two southbound through lanes.</p> <p>Provide a separate right-turn lane on the northbound approach.</p> <p>Provide a separate southbound left-turn lane.</p> <p>Provide a free southbound right-turn lane.</p>			
4.4 Air Quality				
<p>Generation of CO, PM₁₀, NO_x and ROG emissions could exceed SJVUAPCD thresholds.</p>	<p>4.4-1(a) (Initial Study Mitigation Measure 7)</p> <p>To reduce PM₁₀ emissions associated with construction the following strategies shall be included as part in all construction contracts for future development.</p> <p>1. All clearing, grading, earth moving, or excavation activities shall cease when wind speeds are consistently equal to or greater than 20 mph.</p>	<p>The San Joaquin Valley Air Pollution Control District (SJVAPCD) shall confirm that all construction contracts in the Community Plan include emissions reduction strategies included in Mitigation Measure 4.4-1.</p>	<p>SJVAPCD</p>	<p>Prior to issuance of grading or building permits.</p> <p>Ongoing during construction.</p>

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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
	<p>2. All excavated material, graded or otherwise disturbed shall be watered sufficiently to prevent excessive amounts of dust. Watering shall occur twice daily with complete coverage, preferably in late morning and after work is done for the day.</p> <p>3. All material transported and vehicle speeds shall be limited to 15 mph on unpaved roadways.</p> <p>4. Street sweeping and/or washing shall be undertaken to reduce dust emissions on paved roads, shoulders and access ways adjacent to the construction site. Wetting of the pavement shall occur either prior to or in conjunction with rotary sweeping.</p> <p>5. All internal combustion equipment shall be properly maintained and tuned according to manufacturer's specifications.</p> <p>6. Idling of all internal combustion equipment shall be limited to ten minutes at any given time.</p> <p>7. The use of building materials that do not require the use of paints/solvents shall be encouraged.</p> <p>(b) All diesel-fueled construction equipment shall implement the following measures:</p> <p>(i) Retard injection timing 2 degrees.</p>			

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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
	<ul style="list-style-type: none"> (ii) Install high pressure injectors. (iii) Use reformulated diesel fuel. (iv) Limit diesel warm-up times (normally, a properly tuned diesel engine can be warmed up in 5 to 10 minutes). 			
<p>ROG, NO_x, CO, and PM₁₀ emissions generated by motor vehicles and on-site sources associated with project operation would exceed established thresholds.</p>	<p>4.4-2(a) (Initial Study Mitigation Measure 8)</p> <p>To ensure the SJVAPCD standards are achieved, all new development within the plan area shall implement the following measures:</p> <ol style="list-style-type: none"> 1. Lighting controls and energy-efficient lighting in buildings. 2. Light colored roof materials to reflect heat. 3. Provide low nitrogen oxide (NO_x) emitting and/or high efficiency water heaters. 4. If fireplaces are proposed, natural gas fireplaces or EPA-certified wood burning fireplaces/stoves should be installed in every unit that has a fireplace. 5. Include exterior electrical outlets on all residential units to encourage the use of electric powered yard maintenance equipment.. 	<p>The County and SJVAPCD shall require that all new development in the Community Plan includes design measures, included in Mitigation Measure 4.4-2(a) and (c), to reduce project emissions.</p>	<p>Planning Department; SJVAPCD</p>	<p>Prior to project approval.</p>

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**MITIGATION MONITORING PLAN
KEYES COMMUNITY PLAN UPDATE**

Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
	<p>(b) (Initial Study Mitigation Measure 9)</p> <p>All new development shall prepare an analysis to determine if project emissions would exceed SJVAPCD standards. If the project is found to exceed these standards, mitigation shall be incorporated into the project to reduce the emissions to a level below District standards. If no mitigation is available to reduce emissions below the standards, the project applicant shall participate in the District's offset program, by purchasing new equipment or other measures that would reduce emissions in the district by an amount equivalent to the amount of project emissions in excess of District standards.</p> <p>(c) Increase insulation beyond Title 24 requirements.</p>	<p>All new development in the Community Plan shall prepare a project-specific air quality analysis. If development would exceed SJVAPCD standards after implementation of the measures in Mitigation Measure 4.4-2(a), the project applicant shall participate in the District's offset program, as described in Mitigation Measure 4.4-2(b).</p> <p>See Mitigation Measure 4.4-2(a).</p>	<p>Developer; SJVAPCD</p>	<p>Prior to project approval.</p>
<p>Ozone in the air basin.</p>	<p>4.4-3 Implement Mitigation Measures 4.4-1(a) and (b) and 4.4-2(a), (b), and (c).</p>	<p>See Mitigation Measures 4.4-1(a) and (b) and 4.4-2(a), (b), and (c).</p>		
FIS Mitigation Measures				
<p>Unstable soils</p>	<p>1 Design guidelines for individual projects shall include requirements for the preparation of site-specific geotechnical reports and shall require that project design incorporates additional or special construction technique and/or features, if any, to account for potentially unstable soil conditions.</p>	<p>The developer for any new project in the Community Plan shall prepare site-specific geotechnical reports and shall demonstrate that the project design incorporates techniques or features to account for potentially unstable soil conditions.</p>	<p>Public Works; Building Department; Department of Environmental Resources</p>	<p>Prior to issuance of grading permit.</p>

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**MITIGATION MONITORING PLAN
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Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
Soils are capable of supporting septic systems or will require connection to the Keyes CSD lines.	2. If the use of septic tanks is proposed for new development, a study shall be conducted by a qualified hydrologist to determine if the soil is capable of supporting a septic system. If the study determines that the soil is inadequate, the development shall be required to be annexed into the Keyes Community Service District for the provision of wastewater services.	The developer for any new project in the Community Plan shall conduct a study to determine if the soil is capable of supporting a septic system. If the soil is inadequate, the development shall be required to be annexed into the Keyes Community Service District.	Building Department; Department of Environmental Resources	Prior to project approval.
Adequate water would be available to serve future development prior to the approval of any development projects.	3. New development shall not be approved until it has demonstrated that adequate water supplies exist to serve the project.	The developer for any new project in the Community Plan shall provide to the City "will serve" letters from the appropriate water purveyor.	Department of Environmental Resources	Prior to project approval.
Discharge into surface waters.	4. During project construction, all new development shall implement appropriate stormwater runoff BMPs and design features to protect receiving water quality during construction and occupancy, consistent with Stanislaus County standards.	The developer of any new project in the Community Plan area shall incorporate design features to protect receiving water quality during construction and occupancy of the project. The contractor shall implement appropriate stormwater runoff BMPs during construction. The County shall inspect the project site to verify that stormwater runoff measures are being implemented	Public Works	During project construction.
Discharge into surface waters.	5. BMPs shall be incorporated into project design to reduce urban contaminant levels in stormwater runoff, consistent with Stanislaus County standards.	The developer of any new project in the Community Plan area shall incorporate BMPs into project design to reduce urban contaminant levels in stormwater runoff.	Public Works; Department of Environmental Resources	Prior to issuance of building permit.

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**MITIGATION MONITORING PLAN
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Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
Change of absorption rates, drainage patterns and the rate and amount of surface runoff.	6. All new projects within the plan area shall demonstrate through a drainage study or hydrological report, in accordance with the Stanislaus County Public Works standards, that new development would not increase peak storm flows and that adequate capacity exists downstream to accommodate increased flood volume.	The developer of any new project in the Community Plan area shall prepare a drainage study or hydrological report, to demonstrate that new development would not increase peak storm flows and that adequate capacity exists downstream to accommodate increased flood volume.	Public Works; Department of Environmental Resources	Prior to project approval.
Odor	10. To address potential land use incompatibilities related to odor, new residential areas shall not be located immediately adjacent to odor producing land uses. If this is infeasible, adequate setbacks shall be provided as part of the project.	The County shall review new residential development to determine potential odor incompatibilities. If such potential exists, the County shall require adequate setbacks at the residential property to reduce odor impacts to acceptable levels.	Department of Environmental Resources; SJVAPCD	Prior to project approval.
Potential hazardous materials	11. Prior to development at locations suspected or known to have used hazardous materials, a Phase 1 Environmental Site Assessment shall be prepared in accordance with ASTM Standard to identify whether past or existing uses of the site have adversely affected soil or groundwater, or would otherwise pose a health hazard during site development. Results of the Phase 1 investigation shall be used to determine whether additional investigation or site management is needed.	A Phase 1 Environmental Site Assessment shall be prepared by the developer of any new project in the Community Plan area prior to development at locations suspected or known to have used hazardous materials. Based on results of the Phase 1 investigation, additional investigation or site management shall be required.	Planning Department; Department of Environmental Resources	Prior to grading or construction activities.
Potential hazardous materials	12. Construction contracts shall include a stop-work provision in the event previously unidentified contamination is discovered during construction so that appropriate actions can be taken to reduce potential human health and environmental hazards.	The developer of any new project in the Community Plan area shall include in all construction contracts a stop-work provision in the event unidentified contamination is discovered during construction.	Planning Department; Department of Environmental Resources	Prior to construction.

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**MITIGATION MONITORING PLAN
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Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
Increase in noise levels.	13. New residential development located within areas subject to noise levels in excess of 60 L_{dn} shall demonstrate through an acoustical study that project design would reduce noise impacts to acceptable levels (per the County General Plan). Measures to reduce noise could include, sound-rated windows, sound walls, barriers, increased setbacks or other modifications to project design, or noise attenuation of proposed or existing buildings.	An acoustical study shall be prepared by the developer of any new project in the Community Plan area which demonstrates that project design would reduce noise impacts to acceptable levels in areas of new residential development subject to noise levels in excess of 60 L_{dn} .	Planning Department; Department of Environmental Resources	Prior to project approval.
Increase in noise levels.	14. New development shall implement the following measures during construction: a. Construction shall be allowed only during the day, during hours designated by the County. b. All construction equipment shall be fitted with properly functioning mufflers. c. Any noisy construction equipment shall be located away from sensitive receptors, and, if necessary, temporary noise barriers shall be constructed between noise sources and sensitive receptors.	All construction contracts shall include the measures identified in Mitigation Measure 14. The County shall inspect the project site to verify that noise reduction measures are implemented.	Planning Department Building Department	Prior to issuance of grading and construction permits. During construction.
Fire protection	15. All new development in the Community Plan Area shall be required to pay all applicable program fees, as defined by the Keyes Fire Protection District, which shall be used to prevent fire protection service from dropping below its current level. Fees may be used towards the purchase of new or replacement vehicles or substation space.	All new development in the Community Plan Area shall pay all applicable program fees, as defined by the Keyes Fire Protection District.	Planning Department; Keyes Fire Protection District	Prior to project approval.

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**MITIGATION MONITORING PLAN
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Significant or Potentially Significant Impact	Mitigation Measure	Implementation, Monitoring and Reporting Actions	Monitoring and Reporting Responsibilities	Implementation, Monitoring and Reporting Schedule
Light and glare	16. New multistory development in Highway Commercial, Industrial and Planned Industrial areas shall minimize the use of reflective surfaces and have those reflective surfaces which are used to be oriented in such a manner to reduce glare impacts along roadways.	The County shall review new multistory development in Highway Commercial, Industrial, and Planned Industrial areas to ensure that reflective surfaces would not result in glare along roadways.	Planning Department	Prior to project approval.
Light and glare	17. In Highway Commercial areas, cut-off luminaries, and/or shield, low-intensity lights shall be used to minimize the visibility of the lighting from nearby areas, and to prevent "spill over" of light onto adjacent residential properties.	New development in Highway Commercial areas shall include cut-off luminaries, and/or shield, low-intensity lights to prevent spillover.	Planning Department	Prior to project approval.
Park facilities	18. New development shall be required to contribute its fair share, as determined by the County of Stanislaus, toward provision of the parks proposed by this plan.	The developer of any new project in the Community Plan area shall to contribute its fair share toward provision of the parks proposed by the Community Plan.	Planning Department; Parks Department	Prior to project approval.

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State of California – Natural Resources Agency
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EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



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STANISLAUS CO. PLANNING & COMMUNITY DEVELOPMENT DEPT.

April 27, 2015

Rachel Wyse, Associate Planner
 Stanislaus County
 Department of Planning and Community Development
 1010 10th Street, Suite 3400
 Modesto, California 95354

Subject: **Early Consultation**
Rezone Application No. PLN2015-0032 – Belkorp AG
SCH#: 2015042044

Dear Ms. Wyse:

The California Department of Fish and Wildlife (CDFW) has reviewed the Rezone Application No. PLN2015-0032 – Belkorp AG (Project) submitted by the Stanislaus County Department of Planning and Community Development. The Project proposes to rezone a 16.7 acre parcel to establish a new John Deere dealership and construct a 57,000 square foot building for service maintenance, retail sales, parts, and administrative offices. Outdoor display areas will be utilized to display new equipment. The Project site is located at 4618 Nunes Road, in Keyes.

The Department has reviewed the early consultation and has the following comments.

Department Jurisdiction

Trustee Agency Authority: CDFW is a Trustee Agency with the responsibility under CEQA for commenting on projects that could impact plant and wildlife resources. Pursuant to Fish and Game Code Section 1802, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. As a Trustee Agency for fish and wildlife resources, CDFW is responsible for providing, as available, biological expertise to review and comment on environmental documents and impacts arising from project activities, as those terms are used under CEQA.

Responsible Agency Authority: The Department has regulatory authority over projects that could result in the “take” of any species listed by the State as threatened or endangered, pursuant to Fish and Game Code Section 2081. If the Project could result in the take of any species listed as threatened or endangered under the California Endangered Species Act (CESA), the Department may need to issue an Incidental Take Permit (ITP) for the Project. CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (sections 21001{c}),

21083, Guidelines sections 15380, 15064, 15065). Impacts must be avoided or mitigated to less than significant levels unless the CEQA Lead Agency makes and supports Statement of Overriding Consideration (SOC). The CEQA Lead Agency's SOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code Section 2080.

Bird Protection: CDFW has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Sections of the Fish and Game Code that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Project Recommendations

Nesting Birds: The trees, shrubs, and grasses within and in the vicinity of the Project sites likely provide nesting habitat for songbirds and raptors. The Department encourages Project activities to occur during the non-nesting bird season. However, if ground-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in any violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes as referenced above. Prior to work commencing, the Department recommends surveys for active nests be conducted by a qualified wildlife biologist no more than 10 days prior to the start of the of the Project and that the surveys be conducted in a sufficient area around the work site to identify any nests that are present and to determine their status. A sufficient area means any nest within an area that could potentially be affected by the Project. In addition to direct impacts, such as nest destruction, nests might be affected by noise, vibration, odors, and movement of workers or equipment. The Department recommends identified nests are continuously surveyed for the first 24 hours prior to any construction related activities to establish a behavioral baseline. Once work commences, continuously monitoring all nests to detect any behavioral changes is advised. If behavioral changes are observed, the work causing that change may cease and the Department consulted for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, the Department recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500 foot no-disturbance buffer around the nests of unlisted raptors until the breeding season has ended, or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival. Variance from these no disturbance buffers may be implemented when there is compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography. Any variance from these buffers is advised to be supported by a qualified wildlife biologist and it is recommended the Department be notified in advance of implementation of a no disturbance buffer variance.

Swainson's Hawk (SWHA): The State threatened Swainson's hawk (*Buteo swainsoni*) is known to occur near the Project site. To evaluate potential Project-related impacts, the Department recommends that a qualified wildlife biologist conduct surveys for nesting

raptors following the survey methodology developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC, 2000) prior to any ground disturbance.

If ground-disturbing Project activities are to take place during the normal bird breeding season (February 1 through September 15), the Department recommends that additional pre-construction surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of construction. If an active Swainson's hawk nest is detected within 0.5 miles of the Project site, and work will occur during the avian nesting season, consultation with the Department is advised to occur well in advance of ground-disturbing activities to determine if take of SWHA can be avoided. If take cannot be avoided then acquisition of an ITP pursuant to Fish and Game Code Section 2081(b) is warranted to comply with CESA. The Department advises that these recommendations be included as required mitigation measures in the environmental document prepared for this Project.

Compensation for the loss of Swainson's hawk foraging habitat is advised and should be included in the finalized CEQA document. The Department's Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (DFG, 1994) recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. The Department has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of one acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of 0.75 acres of HM land for each acre of urban development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of 0.5 acres of HM land for each acre of urban development is advised.

Burrowing Owl: Burrowing owl (*Athene cunicularia*) have the potential to occur within the Project area. To avoid impacts to the species, the Department recommends pre-construction surveys for burrowing owl regardless of when construction will occur to identify any burrowing owl that may occur on the Project site. In the event that burrowing owls are found, we recommend that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by the Department verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival. The below table can be found from the Burrowing Owl Staff Report (CDFG 2012).

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Rachel Wyse
April 27, 2015
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The Staff Report recommends that foraging habitat be acquired and permanently protected to offset the loss of foraging and burrow habitat. The Department also recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting a burrowing owl if a biologist knowledgeable with the biology and natural history of the species determines that suitable burrows are a potential limiting factor for burrowing owl.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (www.dfg.ca.gov/wildlife/nongame/survey_monitor.html). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 243-4014, extension 254, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Julie Vance".

Julie Vance
Acting Regional Manager

Literature Cited

CDFG, 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo Swainsoni*) in the Central Valley of California. California Department of Fish and Game.

CDFG, 2012. Staff Report on Burrowing Owl Mitigation. California Department of Fish and Game.

SWHA TAC, 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, May 31, 2000.