



December 3, 2015

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

**SUBJECT: TIME EXTENSION FOR GENERAL PLAN APPLICATION NO. GPA2007-03
AND REZONE APPLICATION NO. REZ2007-03 - FRUIT YARD**

PROJECT DESCRIPTION

This is a request to amend the Development Schedule for Planned Development (P-D) No. 317 by extending the development time frame from August 19, 2015, to August 19, 2030, with approved uses allowed to move from one phase to another to react to market conditions (see Attachment 1.)

Planned Development (317) was approved on August 19, 2008, to allow for the development of a 44+/- acre parcel over three phases. The project included development of a 9,000 square-foot banquet facility, a new convenience market and relocation of an existing gas station, relocation of the existing “card lock” fueling facility, and construction of a 3,000 square-foot retail shell building, which includes a drive-through establishment of unknown type. The applicant/property owner was also permitted a 322-space boat/RV mini storage (both covered and uncovered spaces) and a 66 space travel trailer park for short term (overnight) stays and a 2.0 acre site for retail tractor (large agricultural equipment) sales. The request included a new facility for fruit packing and warehousing. All substantially modified or new uses would include on-site vehicle parking, landscaping, and other accessory uses. Finally, occasional outdoor special events would be held on-site, near and on the 9-acre park area, including fund raising activities to private parties. Below is an overview of the three approved development phases for P-D 317. The overview includes the development schedule, as originally proposed, and the current development status is provided in [brackets]:

Phase 1 (to be completed 1 to 3 years from date of approval)

- Construction of a 9,000 square-foot Banquet Building/Facility, [not started]
- Upgrades to park area, corresponding landscaping, and on-site parking for new or substantially modified uses [partially completed]
- Conduct occasional outdoor events, including fund raising and activities to private parties [conducted, some events were conducted with amplified noise before an acoustical analysis was prepared.]

Phase 2 (to be completed 2-5 years from date of approval)

- 322-space Mini Storage with Boat & RV storage, [not started]
- 66-space, short term, RV Park, [not started]
- Tractor Sales Facility, [not started, Use Permit required] and
- Fruit Packing Facility [not started, Use Permit required]

Phase 3 (to be completed 3 to 7 years from date approval)

- Relocation of Existing Gas Station and Convenience Market, [not started]
- Relocation Card Lock Fueling Station, [not started] and
- 3,000 square-foot Retail Building with drive-thru [not started]

The approved site plan, reflecting development phases, is provided on page 21 of Attachment 2 – August 19, 2008 Board of Supervisors Report. Based on the Planning Commission's recommendation, the Board of Supervisors approved the project with an amended Development Schedule allowing that "uses may be moved from one phase to another to react to market conditions" (See Attachment 3 August 19, 2008, Approved P-D 317 Development Standards and Development Schedule.) Consequently, the development schedule for the project was scheduled to expire on August 19, 2015. The applicant, Joe Traina and his agent Dave Romano submitted a request for a project time extension on August 14, 2015.

As part of the time extension request, the applicant has identified the updated project phasing as follows:

Backbone Infrastructure 2014-2018

- Master storm drainage facility (basin and trunk line) 2014-2015 [work started]
- Fire water trunk line (tank and booster pumps) 2015-2016
- Sewer system (if needed) 2016-2018
- Water system (if needed) 2016-2018

Phase 1 (pursuant to approved site plan) 2016-2021

- Park site improvements and upgrades
- Banquet Building/Facility
- Mini-Storage with RV/Boat storage facility

Phase 2 (pursuant to approved site plan) 2020-2025

- RV Park
- Fruit Packing Facility
- Truck Sales Facility

Phase 3 (pursuant to approved site plan) 2025-2030

- RV/Truck fueling
- Gas Station Relocation
- Retail Building

As with the current approval, the applicant's is proposing that the updated project phasing may be moved from one phase to another to react to market conditions.

On January 21, 2010, the Planning Commission approved Vesting Tentative Parcel Map Application No. 2009-08 – The Fruit Yard, allowing the creation of twelve parcels ranging in size from 0.60 +/- to 12.70 acres in conformance with uses allowed under P-D No. 317. The Fruit Yard Parcel Map (56PM83) was recorded on October 31, 2012, (see Attachment 4 Parcel Map 56PM83). The applicant has made improvements to the site in compliance with the Parcel Map conditions of approval.

If approved as requested, the new development schedule would give the applicant until August 19, 2030, to start construction of any one of the project phases.

DISCUSSION

Applicant's Demonstration of Good Cause

The application cites reasons for the extension, highlighted by the following statement as included in the applicant's written support.

"During the processing of the project, in 2007/2008, the economy, both locally and nationally, was subject to a substantial downturn, and this downturn slowed the development of the project after approval. Over the last few years, as the economy has started to recover, The Fruit yard owner has been able to commence development of the project. A Parcel Map has been recorded creating all the proposed development parcels for the PD. As part of road widening projects in the area, road dedications have been made, and improvements constructed to further the development of the site. The central nine (9) acre park is under construction and includes a storm drainage basin and amphitheater. Sections of the ring road around the perimeter of the park are being constructed. Utilities are being constructed to provide service to all of the PD parcels proposed for development."

Section 21.40.090(B) of the Stanislaus County Zoning Ordinance speaks to the allowance of modifying a Planned Development's Development Schedule. This section states:

Upon request by the property owner and for good cause shown, the planning commission may extend the time limits of the development schedule; provided that any request for an extension of time limits shall be on file in the office of the director of planning prior to the expiration of any time limit required by the development schedule.

The project time extension is a discretionary act in that it does grant approval of continued life for the Planned Development which otherwise would expire. A large reason why Development Schedules (for Planned Developments) do not last indefinitely is that the need to recognize the passage of time may have caused agencies to look at the project differently.

In order to approve the time extension, the Planning Commission will need to find that the request is both consistent with the County General Plan (as a whole) and that "good cause" has been shown by the applicant for the time extension request.

Compliance with Approved Site Plan and Performance Standards

In 2013, the applicant applied for a grading permit to develop the storm drainage basin. The approved grading plan included the grading for an amphitheater. The grading permit was issued on January 29, 2015, and the grading has occurred; however, the grading permit did not provide authorization for use of the amphitheater. The grading permit has received one inspection to date and has not been finalized.

On November 23, 2015, the applicant applied for a Use Permit application to develop and use the amphitheater on part of the park site. This time extension request does not involve or include the development of the amphitheater, as it was not approved as part of the original Planned Development.

As approved, P-D 317 allows the park site to be open to the general public during normal business hours and for public and private special events to be conducted, without the need of obtaining a license issued by the Sheriff's Department in accordance with Stanislaus County Code – Section 6.40 – Outdoor Entertainment Activities in the Unincorporated Area, provided an acoustical analysis be conducted prior to any outdoor use of amplified sound or blasting devices to insure noise levels do not exceed the maximum allowable noise levels as allowed by the County's General Plan Noise Element. The number of private and public events was not limited.

Residents in the vicinity have complained about traffic and the use of amplified noise emanating from the site from private parties and special events since the 2008 approval. Outdoor events with amplified noise at the park site and outside of the restaurant have been held without an approved acoustical analysis; however, if issued an Outdoor Entertainment permit by the Sheriff, an acoustical analysis would not necessarily be required. An Outdoor Entertainment permit would; however, restrict the number of events permitted and would still require compliance with County noise standards.

An acoustical analysis was recently drafted for use of amplified noise from the proposed amphitheater. Staff reviewed and evaluated the analysis and requested an amended scope of work to include events located outside of the proposed amphitheater. The noise is one of the issues that will be evaluated as part of the subsequent Use Permit application.

California Environmental Quality Act (CEQA) Compliance

In reviewing this request, it was circulated to various agencies including those agencies with Development Standards placed on the approved P-D (317), (*see Attachment 6 Environmental Review Referrals*). No referral responses identifying significant comment or objection to the subject request have been received from various agencies/departments and no additional Development Standards have been requested.

Under California law, a request for time extension of a project that previously was subject to CEQA review may be exempt from CEQA or may be evaluated under the standard, triggering subsequent or supplemental CEQA review (under Public Resources Code Section 21166 and CEQA Guidelines Section 15162). In order to trigger additional review when the project was previously approved with a Negative Declaration, a significant environmental effect must be identified. No significant environmental effects were identified by responding agencies and parties.

Neighborhood Comments

Staff has been contacted by neighboring residents, expressing concern about the development and use of the amphitheater, along with past noise complaints associated with amplified noise heard from events held at The Fruit Yard.

A staff approval permit application was submitted and circulated to neighbors proposing limited use of the amphitheater (limited to a maximum of six events per year with no use of amplified sound and not to be used independent of other events conducted at the park site). Due to the limited use that would be allowed by staff approval permit; the applicant is proposing a Use Permit to request extended use as a stand-alone event center. The use permit application will be processed through the normal process requiring a new environmental assessment,

landowner notifications, and a public hearing for consideration of the request by the Planning Commission.

The applicant conducted a neighborhood on meeting on September 21, 2015, at The Fruit Yard Restaurant, to discuss the status and process of constructing the amphitheater.

A letter from Tom Douglas was submitted on November 3, 2015, expressing concern with the proposed amphitheater, (*see Attachment 5 Letter from Tom Douglas, dated November 3, 2015*). Mr. Douglas has been informed that a Use Permit Application has been submitted for the development of the amphitheater and he desires to have his comments apply to that application. He has since voiced that he is not in opposition to the time extension request.

PLANNING COMMISSION OPTIONS

Staff recommends that the Planning Commission approve the time extension application as requested. If the Planning Commission decides to approve this request, Staff recommends that the following findings must be made:

1. Find that the time extension request is consistent with the County's General Plan; and
2. Find that the applicant has shown good cause for being granted a time extension.

The Planning Commission may also decide to approve this request with a lesser number of years than the applicant is requesting. If this is the course of action the Commission wishes to take, the same findings as listed above for the approval will have to be made.

If the Planning Commission decides to deny this request, Staff recommends that the following findings must be made:

1. Find that the findings required for approval cannot be made, and deny the time extension request for General Plan Amendment No. 2007-03 and Rezone Application No. 2007-03 – The Fruit Yard.

Contact Person: Miguel Galvez, Senior Planner, (209) 525-6330

Attachments:

- Attachment 1 - Applicant's August 14, 2015 Time Extension Request, including updated project phasing.
- Attachment 2 - Board of Supervisors Report for GPA No. 2007-03 and REZ Application No. 2007-03 – The Fruit Yard, dated August 19, 2008 with partial attachments – the complete attachments are available on-line.
- Attachment 3 - August 19, 2008 Approved P-D 317 Development Standards and Development Schedule
- Attachment 4 - Parcel Map 56PM83.
- Attachment 5 - Letter from Tom Douglas, dated November 3, 2015
- Attachment 6 - Environmental Review Referrals.

Fruit Yard Extension – Written Support

The Fruit Yard project is located at the intersection of Geer/Albers Road and Yosemite Blvd/State Route 132. This is a key intersection in the County, and provides services to residents from Waterford to Modesto, and from Oakdale to Turlock. The Crossroads Feed Store and Masellis Well Drilling are also located at this intersection, in addition to the Fruit Yard development which is made up of a gas station, a restaurant, bar and banquet facility, a fruit market, a card lock fueling facility, and a developed park that has a long history of use for local and community events.

In March of 2007, the Fruit Yard submitted an application for a Planned Development (PD) identifying the long term plans for the site and its development. Such development plans included the completion of the central park, the relocation of the gas and card lock fueling facilities, a new small retail building, a new, larger banquet room, a RV/Boat storage facility, a small RV park, and future tractor sales and dry & fresh fruit packing facilities. This plan was approved by the County Board of Supervisors on August 19, 2008.

During the processing of the project, in 2007/2008, the economy, both locally and nationally, was subject to a substantial downturn, and this downturn slowed the development of the project after approval. Over the last few years, as the economy has started to recover, the Fruit Yard owner has been able to commence development of the project. A Parcel Map has been recorded creating all the proposed development parcels for the PD. As part of road widening projects in the area, roadway dedications have been made, and improvements constructed to further the development of the site. The central nine (9) acre park is under construction and includes a storm drainage basin and amphitheater. Sections of the ring road around the perimeter of the park are being constructed. Utilities are being constructed to provide service to all of the PD parcels proposed for development.

The Fruit Yard is requesting an extension of the PD as: (i) the Fruit Yard still intends to develop the PD as approved by the Board of Supervisors, (ii) the economy has recovered enough to allow the developer to commence with development of the site, (iii) all of the parcels associated with the future development of the PD have been created, and (iv) improvements (at substantial cost) have been constructed to serve the parcels and development of the PD. Based on the foregoing, the extension of the PD as requested is appropriate and necessary.

August, 2015

Updated Project Phasing

The Fruit Yard (P-D 317)
7948 Yosemite Blvd.
Modesto, California

Backbone Infrastructure 2014-2018

- Master Storm Drainage Facility (basin and trunk line) 2014-2015
- Fire Water Trunk Line (tank and booster pumps) 2015-2016
- Sewer system (If needed) 2016-2018
- Water system (if needed) 2016-2018

Phase 1 (pursuant to approved site plan) 2016-2021

- Park site improvements & upgrades, including amphitheater. Portions of the park site improvements (roads) will be developed in conjunction with the adjacent future development.
- Banquet Building/Facility.
- Mini-Storage with RV/Boat storage facility (frontage improvement plans and required improvements pursuant to condition no. 17 (PM 2009-08).

Phase 2 (pursuant to approved site plan) 2020-2025

- RV Park
- Fruit Packing Facility
- Tractor Sales Facility

Phase 3 (pursuant to approved site plan) 2025-2030

- RV/Truck fueling
- Gas station relocation
- Retail building

Uses may be moved from one phase to another to react to market conditions.

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

DEPT: Planning and Community Development

BOARD AGENDA # 6:40 p.m.

Urgent

Routine

AGENDA DATE August 19, 2008

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Public Hearing to Consider Planning Commission's Recommendation for Approval of General Plan Amendment Application No. 2007-03 and Rezone Application No. 2007-03, The Fruit Yard, a Request to Amend the General Plan Designation from Agriculture to Planned Development and to Rezone the
(Continued on page 2)

PLANNING COMMISSION RECOMMENDATIONS:

After conducting a duly advertised public hearing at its regular meeting of July 17th, 2008, the Planning Commission, on a 4-2 (Navarro, Shores) vote, recommended the Board approve the project as follows:

1. Adopt the Mitigated Negative Declaration pursuant to California Code of Regulations 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 Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis.

(Continued on page 2)

FISCAL IMPACT:

There are no fiscal impacts associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2008-600

On motion of Supervisor O'Brien, Seconded by Supervisor DeMartini

and approved by the following vote,

Ayes: Supervisors: O'Brien, Grover, Monteith and DeMartini

Noes: Supervisors: Chairman Mayfield

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION: Amended Development Standard No. 55 to read as follows: "Concurrent with the development of either the RV/Boat Storage or the RV Park parcels, a six-foot high masonry wall, or an MID approved equal, is required along the south line of applicant's property adjacent to MID Lateral 1. This fence shall extend from Geer Road to a point 10 feet west of the proposed "E" Drive right-of-way . If "F" Way is



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

MOTION CONTINUED ON PAGE 1-A

ATTACHMENT 2

MOTION CONTINUED FROM PAGE 1

constructed from "E" Street to Triangle Ranch Road or the Agricultural parcel is developed, then the wall must be extended the full length of that development."; amended the Development Standards to add Development Standard No. 69 to read as follows: "No individual "RV Park" space shall be occupied by the same individual, trailer, recreational vehicle, or movable sleeping quarter of any kind for a period exceeding (14) fourteen consecutive days within a one month period. This applies to owner/operator of the RV/camper/trailer, all occupants, and the RV/camper/trailer itself."; and, introduced and waived the reading and adopted Ordinance C.S. 1033 for the approved Rezone Application #2007-03

SUBJECT: (Continued)

Property from A-2-40 (General Agriculture) to PD (Planned Development) on a 45+/- Acre Site. This Would Authorize a Development Plan for the Fruit Yard Which Would Include a 9,000 Square Foot Banquet Facility, Relocation of the Existing Fueling Facilities, Construction of a 3,000 Square Foot Retail Shell Building, a 322 Space RV/Boat Storage, a 66 Space Travel Trailer Park, a New Facility for Fruit Packing, and a 2.00 Acre Site for Retail Tractor Sales. Outdoor Events and Entertainment Are Proposed to Be Held on the Park Site. The Project Is Located at 7948 Yosemite Boulevard/Highway 132 East of the Community of Empire and West of the City of Waterford. APN: 009-027-004.

PLANNING COMMISSION RECOMMENDATION: (Continued)

2. Find That:
 - A. The substitute language for Mitigation Measure No. 3 identified as Development Standard No. 71 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
3. Adopt the Mitigation Monitoring Plan, with the substitute language for Mitigation Measure No. 3, pursuant to CEQA Guidelines Section 15074(d).
4. 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.
5. Find That:
 - A. The General Plan amendment will maintain a logical land use pattern without detriment to existing and planned land uses,
 - B. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service,
 - C. The amendment is consistent with the General Plan goals and policies,
 - D. Overall, the proposal is consistent with the goals and policies of the General Plan,
 - E. There is evidence on the record to show a demonstrated need for the proposed project based on population projections, past growth rates, and other pertinent data,
 - F. No feasible alternative site exists in areas already designated or planned for the proposed uses,
 - G. Approval of the proposal will not constitute part of, or encourage piecemeal conversion of a larger agricultural area to non-agricultural uses, and will not be growth-inducing (as used in the California Environmental Quality Act),

- H. The proposed project is designed to minimize conflict and will not interfere with agricultural operations on surrounding agricultural lands or adversely affect agricultural water supplies,
 - I. Adequate and necessary public services and facilities are available or will be made available as a result of the development,
 - J. The design of the proposed project has incorporated all reasonable measures, as determined during the CEQA review process, to mitigate impacts to fish and wildlife resources, air quality, water quality and quantity, or other natural resources,
 - K. The proposed Planned Development zoning is consistent with the proposed Planned Development General Plan designation,
 - L. The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements, and
 - M. Development Standard No. 71 is more effective than the noise mitigation measure circulated with the initial study and mitigation monitoring plan.
6. Find that the proposed Planned Development zoning is consistent with the Planned Development General Plan designation.
7. Approve General Plan Amendment No. 2007-03 and Rezone Application No. 2007-03, including Phases 1, 2, and 3, subject to the modifications to the Development Standards and Development Schedule as recommended by the Planning Commission.

DISCUSSION:

This is a request to authorize a development plan for The Fruit Yard to facilitate the development of a 9,000 square foot banquet facility, relocation of the existing gas station and a new convenience market, relocation of the existing "card lock" fueling facility, and construction of a 3,000 square foot retail shell building which includes a drive through establishment of unknown type. The applicant/property owner has also requested authorization for a 322 space boat/RV storage (both covered and uncovered spaces) and a 66 space travel trailer park for short term (overnight) stays and a 2.0 acre site for retail tractor (large agricultural equipment) sales. Finally, the request includes a new facility for fruit packing and warehousing, although these uses are consistent with the current zoning of the property which allows such uses with a Use Permit. All substantially modified or new uses will include on-site vehicle parking, landscaping, and other accessory uses. As part of the applicant's statement, occasional outdoor special events are held on site, near the 9 acre park area, including fund raising activities to private parties. The project will have its own well and septic system. Currently, thirty nine (39) acres of the 45 acre site are planted in a variety of stone fruit (cherries, peaches, apricots, and nectarines). Please see the attachments for a more detailed project description and phasing time-frame (see Attachment No. "1").

The Fruit Yard site development, by definition, is considered a legal non-conforming use which dates back many years ago when an Old Foamy Drive-In was located on the site. The project site is already developed with a small park site which has been used in the past for both private and public events. There is a great deal of additional background information available about the history of the Fruit Yard site, including the discretionary permit approvals, discussed in the Planning Commission Staff Report (see Attachment No. "1").

Approvals

This project has two approvals that are required:

- Amend the Land Use Element Map of the County General Plan from Agricultural (AG) to Planned Development (PD).
- Rezone the property from Agricultural (A-2-40) to Planned Development (PD).

To evaluate a General Plan Amendment, the goals and policies of the General Plan must be reviewed. In addition, County policy, adopted by the Board of Supervisors, sets forth additional findings, listed above, necessary for approval of a request to amend the General Plan. The goals and policies of the General Plan listed in the Planning Commission Staff Report are focused on those goals and policies which staff believes are most relevant to making the findings necessary for determining the subject project's consistency with the overall General Plan. A complete discussion on General Plan consistency can be found in the attached Planning Commission Staff Report (see Attachment No. "1"). To approve a Rezone, the Board must find that it is consistent with the General Plan. In this case, Planned Development zoning would indeed be consistent with the proposed Planned Development designation.

Planning Commission Hearing

The Planning Commission held a public hearing on this project at its regular meeting of July 17th, 2008. Staff believed that this current request was inconsistent with the Goals and Policies of the General Plan. Staff's recommendation was to allow only Phase 1 of the proposed development. Staff felt that the Phase One portion of this project was a logical extension of the already established legal nonconforming uses. Staff was concerned If all phases of this proposed project were approved, a precedence would be set for allowing general plan amendments and rezones on neighboring agricultural properties for the development of commercial uses. Unlike phase one of the proposed project, phases two and three have no real relationship to the existing on-site legal nonconforming uses or agriculture in general. A detailed discussion of Staff's recommendation can be found in the attached Planning Commission Staff Report.

Following staff's recommendation for approval, Chair Assali opened the public hearing. Mr. Tim Douglas, an adjacent homeowner, spoke in opposition to the project expressing a general concern regarding noise levels in conjunction with the past and proposed outdoor events. Prior to the Planning Commission meeting, Mr. Douglas had also provided Planning Staff with a letter of opposition. The context of this letter mainly focused on the need to control noise levels after 10pm. The applicant and Mr. Douglas have since come to an agreement of the noise concerns that were raised at the meeting. The applicant's representative, Dave Romano (Newman-Romano, LLC) spoke in favor of the project.

Following the closing of the hearing, the Commission discussed the project indicating positions both against and in favor of the project. The Commission discussion focused primarily on the topic related to the general plan and preserving it from approval of non-agricultural uses. Commissioner Navarro and Shores felt that the scale of the entire project was too large and would result in the removal of land in agricultural production. As discussed above, Staff's recommendation was to approve only Phase 1 of the project. The Commission's recommendation, on a motion by Commissioner Layman, seconded by Commissioner Poore, voted 4-2 (Shores, Navarro) to support the project in its entirety and recommend the Board approve Phases 1, 2, and 3 subject to the modifications to the Development Standards and Development Schedule as modified by the Planning Commission.

Modified Development Standards

As a part of this action, Staff is recommending that the Board modify Development Standard No. 55 to reflect the following language:

- Concurrent with the development of either the RV/Boat Storage or the RV Park parcels, a six-foot high masonry wall, or an MID approved equal, is required along the south line of applicant's property adjacent to MID Lateral 1. This fence shall extend from Geer Road to a point 10 feet west of the proposed "E" Drive right-of-way. If "F" Way is constructed from "E" Street to Triangle Ranch Road or the Agricultural parcel is developed, then the wall must be extended the full length of that development.

If the Board decides to approve the "RV Park" portion of this project, Staff is asking that the following Development Standard be added to address the length of time one could stay at the proposed RV Park. Due to Staff oversight, this development standard was not recommended to the Planning Commission.

- No individual "RV Park" space shall be occupied by the same individual, trailer, recreational vehicle, or movable sleeping quarter of any kind for a period exceeding (14) fourteen consecutive days within a one month period. This applies to owner/operator of the RV/camper/trailer, all occupants, and the RV/camper/trailer itself.

POLICY ISSUES:

The entire project can be considered to be a policy issue. Staff and Commission recommendations are based on Boards established policies, as found in the County General Plan in particular, to maintain the agricultural viability of the project area. The Board should consider the potential conformance of this project with the priorities of maintaining a strong local economy and a strong agricultural economy/heritage.

STAFFING IMPACT:

None.

ATTACHMENTS:

1. Planning Commission Staff Report, July 17th, 2008
2. Planning Commission Minutes, July 17th, 2008

- E. **GENERAL PLAN AMENDMENT APPLICATION NO. 2007-03 AND REZONE APPLICATION NO. 2007-03 - THE FRUIT YARD** - This is a request to amend the General Plan Designation from Agriculture to Planned Development and to rezone the property from A-2-40 (General Agriculture) to P-D (Planned Development). This would authorize a development plan for The Fruit Yard which would include a 9,000 square foot banquet facility, relocation of the existing gas station and convenience market, relocation of the existing "card lock" fueling facility, and construction of a 3,000 square foot retail shell building. Also included is a 322 space vehicle/RV storage, a 66 space travel trailer park for short term stays, and a 2.0 acre site for retail tractor sales. A new facility for fruit packing and warehousing is also included, although these uses are consistent with the current zoning of the property. Occasional outdoor special events, from fund raising activities to private parties, will be held on site. The 45± acre site is located at 7948 Yosemite Blvd, at the intersection of Geer Road and Yosemite Blvd (Hwy 132), in the Modesto / Waterford area. A CEQA Mitigated Negative Declaration will be considered on this project.

APN: 009-027-004

Staff Report: Joshua Mann Recommends **FORWARD TO BOARD OF SUPERVISORS FOR APPROVAL OF DEVELOPMENT OF PHASE 1 ONLY.**

Public hearing opened.

OPPOSITION: Tom Douglas, 548 Hopper Road

FAVOR: Dave Romano

Public hearing closed.

Poore/Layman, 4-2 (Navarro, Shores), **MODIFY THE DEVELOPMENT SCHEDULE AS PRESENTED BY THE APPLICANT WITH CLARIFICATION THAT MOVING USES BETWEEN PHASES REQUIRES PRIOR CONCURRENCE OF THE PLANNING DIRECTOR OR DESIGNEE, AND ADOPT THE PROPOSED REVISIONS TO CONDITIONS OF APPROVAL NOS. 2, 3, 29, 38, 39 AND 55 AS PRESENTED BY THE APPLICANT.**

Layman/Poore, 4-2 (Navarro, Shores), **RECOMMEND APPROVAL OF GENERAL PLAN AMENDMENT APPLICATION NO. 2007-03, REZONE APPLICATION NO. 2007-03, INCLUDING PHASES 1, 2, AND 3, AND ADOPT ALL OF THE STAFF RECOMMENDATIONS AND MAKE ALL OF THE FINDINGS SET FORTH IN THE STAFF REPORT AT PAGES 13 THROUGH 15, EXCEPT THAT PHASES 1, 2, AND 3 ARE RECOMMENDED FOR APPROVAL, SUBJECT TO THE MODIFICATIONS TO THE CONDITIONS OF APPROVAL AND DEVELOPMENT SCHEDULE AS PREVIOUSLY APPROVED.**

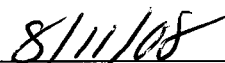
EXCERPT

PLANNING COMMISSION

MINUTES



Secretary, Planning Commission



Date

STANISLAUS COUNTY PLANNING COMMISSION

July 17, 2008

STAFF REPORT

GENERAL PLAN AMENDMENT APPLICATION NO. 2007-03
REZONE APPLICATION NO. 2007-03
THE FRUIT YARD

REQUEST: TO AMEND THE GENERAL PLAN DESIGNATION FROM AGRICULTURE TO PLANNED DEVELOPMENT AND TO REZONE THE PROPERTY FROM A-2-40 (GENERAL AGRICULTURE) TO P-D (PLANNED DEVELOPMENT) ON A 45± ACRE SITE. THIS WOULD AUTHORIZE A DEVELOPMENT PLAN FOR THE FRUIT YARD WHICH WOULD INCLUDE A 9,000 SQUARE FOOT BANQUET FACILITY, RELOCATION OF THE EXISTING FUELING FACILITIES, CONSTRUCTION OF A 3,000 SQUARE FOOT RETAIL SHELL BUILDING, A 322 SPACE RV/BOAT STORAGE, A 66 SPACE TRAVEL TRAILER PARK, A NEW FACILITY FOR FRUIT PACKING, AND A 2.00 ACRE SITE FOR RETAIL TRACTOR SALES. OUTDOOR EVENTS AND ENTERTAINMENT ARE PROPOSED TO BE HELD ON THE PARK SITE.

APPLICATION INFORMATION

Applicant:	Dave Romano, P.E., AICP
Owners:	The Fruit Yard Partnership - Joe Traina
Location:	7948 Yosemite Boulevard/Highway 132, east of the Community of Empire and west of the City of Waterford
Section, Township, Range:	34-3-10
Supervisorial District:	One (Supervisor O'Brien)
Assessor's Parcel:	009-027-004
Referrals:	See Exhibit "I" Environmental Review Referrals
Area of Parcel:	45.00± acres
Water Supply:	Private well
Sewage Disposal:	Septic
Existing Zoning:	A-2-40 (General Agriculture)
General Plan Designation:	Agriculture
Williamson Act:	Not applicable
Environmental Review:	Mitigated Negative Declaration
Present Land Use:	Small portion of site is developed as The Fruit Yard produce market, restaurant, and two gas stations
Surrounding Land Use:	Agriculture to the west, south, and east. To the north is an animal feed and supply store (P-D 268), a drilling company, fire station, and church

PROJECT DESCRIPTION

This is a request to authorize a development plan for The Fruit Yard to facilitate the development of a 9,000 square foot banquet facility, relocation of the existing gas station and a new convenience market, relocation of the existing "card lock" fueling facility, and construction of a 3,000 square foot retail shell building which includes a drive through establishment of unknown type. The applicant/property owner has also requested authorization for a 322 space boat/RV storage (both covered and uncovered spaces) and a 66 space travel trailer park for short term (overnight) stays and a 2.0 acre site for retail tractor (large agricultural equipment) sales. Finally, the request includes a new facility for fruit packing and warehousing, although these uses are consistent with the current zoning of the property which allows such uses with a Use Permit. All substantially modified or new uses will include on-site vehicle parking, landscaping, and other accessory uses. As part of the applicant's statement, occasional outdoor special events are held on site, near the 9 acre park area, including fund raising activities to private parties. The project will have its own well and septic system. Currently, thirty nine (39) acres of the 45 acre site are planted in a variety of stone fruit (cherries, peaches, apricots, and nectarines). Please see the attachments for a more detailed project description and phasing time-frame (see Exhibit "B").

SITE DESCRIPTION

The project is located on the southwest corner of Geer Road and Yosemite Boulevard/State Highway 132 (7948 Yosemite Boulevard), east of the Community of Empire and west of the City of Waterford. The project site is adjacent to an animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection, a drilling company (Masellis Drilling) on the northwest corner, a fire station and church are located to the north. Production Agricultural parcels are to the west, south, and east of the project site. The 45.00± acre parcel currently supports the existing Fruit Yard produce market, the Fruit Yard restaurant, and two separate Gas Fueling facilities, all of which currently have paved parking and landscaping. The remaining part of the property is currently planted as an orchard.

BACKGROUND

The Fruit Yard site development, by definition, is considered a legal non-conforming use which dates back many years ago when an Old Foamy Drive-In was located on the site. The exact year is unclear due to lack of county records that are available. Between the years 1976 & 1977, there appears to have been some sort of approval to install a fueling facility, a relocation of the Old Foamy restaurant to the location of the present day restaurant, and the construction of a fruit stand. Again, the records with specific information on these actions appear to be unclear and lacking. The first of many discretionary permits appear to start in 1977 with the application and approval of a Use Permit (ZUPA 77-71) to allow the fruit stand to sell fruit that is not grown or produced on-site. In 1978, a Use Permit (78-19) allowed The Fruit Yard site to add additional fueling pumps, a fruit drying yard, truck parking, and the ability to sell additional types of products at the fruit stand. Then, in 1980, a Use Permit (ZUPA 80-06) allowed the restaurant to expand by adding a banquet facility and lounge. This permit was granted a time extension in 1981 by the Planning Commission, but it was never constructed. In 1986, the approval to add the banquet facility and lounge was

again granted through a Use Permit (UP 86-16) which also included the consolidation of the fruit stand and fueling facility. The following are the remaining discretionary permit approvals that have been issued to The Fruit Yard:

- Use Permit No. 88-36:** *Approval to modernize and enlarge the fueling facility including a 48'x54' canopy, paved access, and one additional fueling pump.*
- Staff Approval Permit No. 88-10:** *Approval to expand the restaurant building by adding an additional 1,054 of square feet.*
- Staff Approval Permit No. 92-43:** *Approval to relocate the fruit stand/store sign and gas facility (pumps).*
- Staff Approval Permit No. 93-27:** *Approval to install a "Gas Card" sign for the existing fueling island.*
- Staff Approval Permit No. 2000-28:** *Approval for a minor expansion to the existing fruit stand/store by 25% or less (based off the square footage).*

The project site is already developed with a small park site which has been used in the past for both private and public events. The public events have been conducted in accordance with Stanislaus County Code Section 6.40 - Outdoor Entertainment Activities in Unincorporated Areas, which supersedes the current A-2 (General Agriculture) zoning regulations applicable to the site. Section 6.40 does not, however, authorize private events, such as weddings, which are not permitted uses in the A-2 zoning district. Up to six (6) public events within a calendar year may be held at any one given site in accordance with Section 6.40.

DISCUSSION

As stated above, the applicant has requested to relocate and expand the business on the majority of the remaining portion of the 45.00± acre parcel. In total, the applicant has requested to develop/use approximately 34.00± acres of the project site. The remaining 11± acres of the parcel would remain in agricultural production and/or be used for overflow parking when special events occur. The plans call for a 9,000 square foot banquet building, the relocation of the fueling facilities, a 3,000 square foot retail building, a storage facility, a tractor sales site, a fruit packing facility, and a travel trailer park with 66 spaces. The project requires rezoning and an amendment to the County's General Plan to change the agricultural designation on the property. The project site is not within an adopted Sphere of Influence or within any Community Plan areas, nor is it restricted by a Williamson Act contract.

The applicant has submitted the proposed phasing for the project:

- Phase 1. Construction of the Banquet Building/Facility, upgrades to park area, corresponding landscaping, and On-Site Parking to be completed 1 to 3 years from the date of approval.

- Phase 2. Mini-Storage with Boat & RV storage, RV Park, Tractor Sales Facility, and the Fruit Packing Facility to be completed 2 to 5 years from the date of approval.
- Phase 3. Gas Station Relocation, Card Lock (Gas Station) Relocation, and Retail Buildings to be completed 3 to 7 years from the date of approval.

As a part of Phase One, the park site area will be expanded to accommodate the special events that are a part of this application. The undeveloped portion of the property (approximately 11 acres) will remain vacant and be used as parking for special events or for agricultural production.

Special Events

The proposal includes a slight modification to the existing site to an area referred to as a park. The applicant currently holds a limited number of special events at the park site that are authorized under a license issued by the Sheriff's Department in accordance with Stanislaus County Code - Section 6.40 - Outdoor Entertainment Activities in the Unincorporated Area. As discussed earlier in the background section of this report, the existing park site has been used for both permitted and non-permitted events in the past. If this project is approved, the park site would be open to the general public during normal business hours and would host both public and private special events, without the need of obtaining a license from the Sheriff's Department in accordance with Section 6.40. These special events would include fund raising activities, private parties, weddings, and other outdoor events such as "Graffiti Weekend" or small scale concerts. Although the applicant would not be restricted on the number of events held at the location, many of the events are seasonal in nature and currently the applicant holds between 5-6 annual public events.

Although the applicant is proposing these special events to be included as a permitted use of the proposed planned development, the ability to host events with a license issued by the Sheriff's Department would still be available. The Sheriff's Department has the authority to condition licenses issued for outdoor entertainment, however, the license is not subject to compliance with the development standards/mitigation measures applied to a planned development. If this project is approved, the adopted development standards/mitigation measures will be forwarded to the Sheriff's Department in hope they will be incorporated as conditions of any future license request.

Noise impacts associated with on-site activities and special events have the potential to exceed the normally acceptable levels of noise. In fact, there have been complaints of noise from previous events held on-site. Many of the on-site events include the use of amplified music, which if operated in a respectful manner, could be under the threshold established by the General Plan. As part of this Planned Development approval, events that do not use amplified music or sound would be permitted outright. Because of the previous complaints associated with the events, amplified music and explosive devices, such as canons used during civil war re-enactments, a development standard has been added to address this concern. As required by Goal Two/Policy Two/Implementation Measure Two of the Noise Element of the County General Plan, noise generating land uses are required to show through an acoustical analysis that the noise level is/would be at or below the 60 dB Ldn (or CNEL) level when measured at the nearest sensitive noise receptor (see Exhibit C, No. 8). A mitigation measure addressing noise has also been incorporated as a development standard and discussed in the environmental review section of this report.

FINDINGS

General Plan Amendment

With environmental impacts mitigated to a level of insignificance, the keys to approval or denial of the General Plan Amendment and Rezone requests are land use matters. General Plan Amendments affect the entire County and any evaluation must give primary concern to the County as a whole; therefore, a fundamental question must be asked in each case: "Will this amendment, if adopted, generally improve the economic, physical and social well-being of the County in general?" Additionally, the County in reviewing General Plan Amendments shall consider the additional costs to the County that might be anticipated (economic, environmental, social) and how levels of public and private service might be affected. In order to approve a General Plan Amendment, three findings must be made:

1. *The General Plan Amendment will maintain a logical land use pattern without detriment to existing and planned land uses.*
2. *The County and other affected government agencies will be able to maintain levels of service consistent with the ability of the government agencies to provide a reasonable level of service.*
3. *The amendment is consistent with the General Plan goals and policies.*

Any impacts to County services will be mitigated through the payment of impact mitigation fees and compliance with development standards.

To evaluate a General Plan Amendment, the goals and policies of the General Plan must be reviewed. In addition, County policy, adopted by the Board of Supervisors, sets forth additional findings, listed above, necessary for approval of a request to amend the General Plan. The goals and policies of the General Plan listed below are focused on those goals and policies which staff believes are most relevant to making the findings necessary for determining the subject project's consistency with the overall General Plan. Goals and policies which can be found consistent with the proposed project with incorporation of development standards/mitigation measures have not been included in the list below. A copy of the General Plan may be obtained by contacting the Planning Department directly or on-line at <http://www.stancounty.com/planning/index.shtm>. Exhibit H consists of the applicant's findings statement and a General Plan evaluation. Due to the length of the evaluation, hard copies have only been provided to the Planning Commission and copies for the general public are available by contacting the Planning Department directly or on-line.

The following are the relevant goals and policies of the General Plan that apply to this project:

Land Use Element

- Goal One - Provide for diverse land use needs by designating patterns which are responsive to the physical characteristics of the land as well as to environmental, economic and social concerns of the residents of Stanislaus County.

Policy 3 - Land use designations shall be consistent with the criteria established in this element.

Policy 10 - New areas of urban development (as opposed to expansion of existing areas) shall be limited to less productive agricultural areas.

Implementation Measure No. 1 - Requests for designation of new urban areas shall be reviewed by the County to determine whether the land is located in a less productive agricultural area based on considerations identified in the Agricultural Element. (See Agricultural Element goals/policies/implementation measures listed below.)

Implementation Measure No. 3 - Proposed amendments to the General Plan map that would allow the conversion of agricultural land to non-agricultural uses shall be approved only if they are consistent with the conversion criteria stated in the Agricultural Element. (See Agricultural Element goals/policies/implementation measures listed below.)

Goal Two - Ensure compatibility between land uses.

Policy 14 - Uses shall not be permitted to intrude into an agricultural area if they are detrimental to continued agricultural usage of the surrounding area.

Goal Three - Foster stable economic growth through appropriate land use policies.

Policy 16 - Agriculture, as the primary industry of the County, shall be promoted and protected.

Policy 18 - Accommodate the siting of industries with unique requirements.

Policy 19 - Nonconforming uses are an integral part of the County's economy and, as such, should be allowed to continue.

Implementation Measure No. 1 - Maintain current Zoning Ordinance provisions which permit replacement or expansion of nonconforming uses.

Conservation Element

Goal Three - Provide for the long-term conservation and use of agricultural lands.

Policy 11 - In areas designated "Agriculture" on the Land Use Element, discourage land uses which are incompatible with agriculture.

Agricultural Element (Adopted April, 1992)

(Because this project was received and deemed complete prior to the Board of Supervisors adopting the Agricultural Element Update of the General Plan in December of 2007, this project is required to be in conformance with the previously adopted Agricultural Element. Differences between the 1992 and 2007 version are noted)

Goal Two - Conserve our agricultural lands for agricultural uses.

Policy 2.4 - To the greatest extent possible, development shall be directed away from the County's most productive agricultural areas.
(Policy 2.4 of the 1992 Agricultural Element is reflected as Policy 2.5 of the 2007 Agricultural Element Update.)

Implementation "A" - Until the term "Most Productive Agricultural Areas" is defined on a countywide basis, the term will be determined on a case-by-case basis when a proposal is made for the conversion of agricultural land. Factors to be considered include but are not limited to soil types and potential for agricultural production; the availability of irrigation water; ownership and parcelization patterns; uniqueness and flexibility of use; the existence of Williamson Act contracts; existing uses and their contributions to the agricultural sector of the local economy. As an example, some grazing lands, dairy regions and poultry-producing areas as well as farmlands can be considered "Most Productive Agricultural Areas." Failure to farm specific parcels will not eliminate them from being considered "Most Productive Agricultural Areas." Areas considered to be "Most Productive Agricultural Areas" will not include any land within LAFCO-approved Spheres of Influence of cities or community services districts and sanitary districts serving unincorporated communities. Agricultural lands outside these boundaries and not considered to be "Most Productive Agricultural Areas" will be considered "Less Productive Agricultural Areas."
(Implementation "A" of the 1992 Agricultural Element is reflected as Implementation Measure No. 1 of Policy 2.5 of the 2007 Agricultural Element Update. The 2007 update eliminated the last sentence of the above factors to be considered in defining "Most Productive Agricultural Areas".)

Policy 2.5 - New areas for urban development (as opposed to expansion of existing areas) shall be limited to less productive agricultural areas.

Policy 2.7 - Proposed amendments to the General Plan Diagram (map) that would allow the conversion of agricultural land to non-agricultural uses shall be approved only if they are consistent with the County's conversion criteria.

Implementation "D" - Current procedures for processing General Plan amendments will be changed to include the following requirements for evaluating proposed amendments to the General Plan Diagram (map) that would allow the conversion of agricultural land to urban uses:

Conversion Consequences: The direct and indirect effects, as well as the cumulative effects, of the proposed conversion of agricultural land shall be fully evaluated.

Conversion Considerations: In evaluating the consequences of a proposed amendment, the following factors shall be considered: Plan designation; soil type; adjacent uses; proposed method of sewage treatment; availability of water, transportation, public utilities, fire and police protection, and other public services;

proximity to existing airports and airstrips; impacts on air and water quality, wildlife habitat, endangered species and sensitive lands; and any other factors that may aid the evaluation process.

Conversion Criteria: Proposed amendments to the General Plan Diagram (map) that would allow the conversion of agricultural land to urban uses shall be approved only if the Board of Supervisors makes the following findings:

- A. Overall, the proposal is consistent with the goals and policies of the General Plan, and specifically is consistent with Policies 2.4 and 2.5 of this Agricultural Element.
- B. There is evidence on the record to show a demonstrated need for the proposed project based on population projections, past growth rates, and other pertinent data.
- C. No feasible alternative site exists in areas already designated or planned for the proposed uses.
- D. Approval of the proposal will not constitute part of, or encourage, piecemeal conversion of a larger agricultural area to non-agricultural uses, and will not be growth-inducing (as used in the California Environmental Quality Act).
- E. The proposed project is designed to minimize conflict and will not interfere with agricultural operations on surrounding agricultural lands or adversely affect agricultural water supplies.
- F. Adequate and necessary public services and facilities are available or will be made available as a result of the development.
- G. The design of the proposed project has incorporated all reasonable measures, as determined during the CEQA review process, to mitigate impacts to fish and wildlife resources, air quality, water quality and quantity, or other natural resources.

(Implementation Measure "D" of the 1992 Agricultural Element is reflected as Implementation Measure No. 1 of Policy 2.7 of the 2007 Agricultural Element Update. The 2007 updated eliminated reference to policies 2.4 and 2.5 in Conversion Criteria "A".)

Based on the above goals and policies of the General Plan, the following is a summary and analysis of the proposed project and its consistency to those goals and policies.

The Planned Development designation (PD) is intended for land that, because of demonstrably unique characteristics, may be suitable for a variety of uses without detrimental effects to surrounding properties. Staff believes that the proposed Planned Development for the Fruit Yard has some issues which must be addressed before all proposed phases can be approved. The

current uses on-site are considered legal non-conforming uses. Although these current uses are not entirely consistent with the current A-2 zoning district, the uses have been in business at this location for many years and have shown that they can be compatible and consistent with the surrounding land uses in the area.

However, this proposed Planned Development is much larger than what Staff believes would be compatible with the surrounding area. As discussed earlier, the properties to the north are somewhat of a commercial nature, including a feed and ranch supply business (Crossroads Feed and Ranch), a drilling business (Masellis Drilling), church (Old German Baptist Brethren Church), and a Stanislaus Consolidated Fire Station. The property to the south, west, and east is zoned Agricultural. The following is a brief history and/or zoning ordinance consistency discussion regarding the uses north of the project site:

- Crossroads Feed and Ranch - This business was authorized in 1985 in accordance with Planned Development 116, which allowed for various agricultural related businesses to be established on the former site of an agricultural chemical supply business. The PD 116 approved the following uses on the site: agriculture management companies, irrigation company, chemical company, maintenance shop to repair and service farm equipment, warehouse storage, light farm equipment manufacturing, and the continued use of a public scale. In 2001, the PD 116 was amended to a new PD (PD 268) to allow for the expansion of the existing feed and ranch supply business on the 9.97 acre parcel located on the northeast corner of Geer Road/Hwy 132 (Yosemite Blvd.). PD 268 authorized expansion of the new business by allowing construction of a new main office/sales building, hay barns, and storage buildings. The expansion never occurred and PD 268 has expired.
- Masellis Drilling - This business provides well drilling services and is considered a legally established use on the 4.04 acres located on the northwest corner of the Geer Road/Hwy132 (Yosemite Blvd.) intersection. The property is zoned A-2-40 (General Agriculture). The drilling business is considered a legal nonconforming use.
- Old German Baptist Brethren - This church is located on a 3.38 acre parcel and is located in the A-2-40 (General Agriculture) zoning district. Churches may be permitted in the A-2 zoning district with approval of a Use Permit.
- Stanislaus Consolidated Fire Station - This station is located on a 1.06 acre parcel and is located in the A-2-40 (General Agriculture) zoning district. Fire stations may be permitted in the A-2 zoning district with approval of a Use Permit.

If all phases of this proposed project are approved, staff is concerned a precedence will be set for allowing general plan amendments and rezones on neighboring agricultural properties for the development of commercial uses. Unlike phase one of the proposed project, phases two and three have no real relationship to the existing on-site legal nonconforming uses or agriculture in general. The existing commercial uses in the area, including the project site, either established as nonconforming uses, are permitted by use permit in the A-2 zoning district, or were approved as an agriculturally related business. While the County General Plan recognizes the value of nonconforming uses by promoting the continuance, expansion, and replacement of uses, Zoning Ordinance provisions restrict the approval of new uses exceeding the number of existing legal nonconforming uses.

Staff believes that the Phase One portion of this project is a logical extension of the already established legal nonconforming uses. The banquet facility is a natural extension of the restaurants existing food service and private banquet facilities. The park area allows for an outdoor banquet facility and more efficient operation of public events already allowed by separate Outdoor Entertainment License issued by the Sheriff's Department. While the Outdoor Entertainment License is not subject to the development standards/mitigation measures of this proposed PD, the improvements required as part of this PD will enhance the traffic circulation associated with the public events.

The special events to be held in the park area proposed as part of Phase One, require a unique location that provides both a tranquil setting and a large parcel size to help reduce the impacts to the neighboring parcels. Typically, such a site requirement would not be able to be found in an urbanized area. In this case, the proposed park area's central location within a large parcel provides for a buffer from surrounding agricultural uses and neighboring residential uses. The project's site location, adjacent to two Expressways (Hwy 132 (Yosemite Blvd) and Geer Road) helps to lessen the traffic impacts on neighboring residential uses, since the residential uses are already impacted. The buffered location of the park area and the existing noise generated by the roadways in the area also help to lessen the noise impacts on neighboring residential uses. Development standards/mitigation measures addressing both traffic and noise have been incorporated into this project.

Because this application was received and deemed complete prior to the Board of Supervisors adopting the Agricultural Element Update of the General Plan in December of 2007, this project is required to be in conformance with the previously adopted Agricultural Element. With the exception of Buffer and Setback Guidelines adopted as part of the 2007 Agricultural Element Update, the policies and goals of the Agricultural Element relating to this project remain relatively the same. Although not required, the applicant has designed the proposed development with some buffering. The site itself is buffered by the MID Lateral on the southern property line and the approval for just Phase One of the proposal would, once developed, provide buffers that closely resemble the requirements set forth in the newly adopted Ag Element. This buffered area would also include the land that is marked on the site plan as being "for agricultural use". If all three Phases were to be allowed, these buffers would be drastically reduced as the development during these Phases (Two & Three) would expand towards the western and southern property lines (see color site plan - Exhibit "A-5") thus reducing the "buffer" area. The current buffer requirements contained in the Agricultural Element, although not required with this application, may be required should the Fruit Yard choose to expand in the future.

By the definition provided in the Agricultural Element, the project site is located in a 'most productive agricultural area', however, the site itself has been commercially developed and is in proximity to other commercial developments. The project site is not enrolled under a Williamson Act contract and is not adjoining any parcels enrolled under the Williamson Act. The Fruit Yard's "commercial" uses have existed on this site for many years and, to the best of staff's knowledge, agricultural conflicts have been non-existent to date. Phase One removes a total of 11.03 acres from agricultural production (2.32 acres for the banquet facility and 8.71 acres for the park site), but keeps the relatively compact design with an on-site buffer provided west and south. The existing developed park site consists of roughly 3.3 acres. If Phases Two and Three were to be approved, the applicant would have to remove a total of 14.32 acres currently in production agriculture (orchards) and an on-site buffer would be greatly diminished.

With respect to meeting the required conversion criteria outlined above, staff is concerned the project as a whole, specifically phases two and three, may not meet the necessary criteria for conversion of an agricultural land to urban uses. The project site is located at a crossroads connecting the cities of Modesto, Waterford, Oakdale, and Hughson. It is likely that an alternative site already designated or planned for Boat & RV storage, RV Parking, tractor sales, gas stations, and retail uses can be found within one of these incorporated communities. As discussed above, the uses proposed in Phase One are natural extensions of the existing on-site uses. The introduction of new commercial uses may set a precedence for encouraging piecemeal conversion of a larger agricultural area to non-agricultural uses.

In summary, the proposed Phase One associated with this General Plan Amendment is consistent with the goals and policies of the County General Plan. Staff believes all these findings can be met for Phase One only, of the three phase proposal. During Phase One, the applicant is proposing to add a banquet facility component to their existing restaurant business and permit special events to occur at their park site. It does not add any residential or new commercial uses in an agricultural area.

In evaluating Phases Two and Three, Goal Two, Policy 14 which states, "Uses shall not be permitted to intrude into or be located adjacent to an agricultural area if they are detrimental to continued agricultural usage of the surrounding area," must be given serious consideration. By allowing Phase Two and Three, it is effectively establishing new uses, which may conflict with the surrounding agricultural community. The uses in these Phases (2 & 3) are located near the property lines, which would reduce the buffer and heighten the possibility of conflicts on adjoining agricultural operations. County policy has been very consistent in discouraging "new" commercial type uses in the middle of the Agricultural zone, such as those proposed in Phases Two and Three, which would seem to be at odds with that policy.

This general plan amendment is a policy decision to be approved by the Board of Supervisors. If this property's general plan designation is to be changed and ultimately rezoned, the Board needs to determine that this project will be a logical land use pattern that would not be detrimental to existing and planned land uses.

Staff is recommending approval of this project be limited to development of Phase One only. The draft Development Standards provided for this project are written to apply to all proposed phases of the project unless specifically noted (see Exhibit "C"). If all phases of the project are approved, a Use Permit will be required for Tractor Sales and the Packing Facility due to the lack of a site plan at this stage of project consideration. If the Planning Commission recommends approval for Phase One only, the Development Standards specify elimination of all interior roads except those identified as "A" Drive, "B" Drive, "C" Circle, and "D" Drive. The remaining interior roads and driveways are deemed to be unnecessary and the project proposal for Phase One would still be able to meet all requirements to function properly.

Rezone

To approve a Rezone, the Planning Commission must find that it is consistent with the General Plan. In this case, Planned Development zoning would indeed be consistent with the proposed Planned Development designation.

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 (see Exhibit "I"). Based on the comments received and the Initial Study discussion, a Mitigated Negative Declaration is being recommended for adoption (see Exhibits "E" and "F"). Staff conducted this environmental assessment for the project as a whole (all 3 Phases) and the mitigation measures have been incorporated for the entire proposal. Development Standards have been added to this project (see Exhibit "C"). Because no exemption has been provided by California Department of Fish and Game, this project is not exempt from payment of Fish and Game Fees.

General Plan Amendments currently are required to be referred to the local Native American tribes. The Native American tribes have 90 days to ask local governments if they want to "consult" on these applications. This General Plan application was referred to the local tribes, none of which requested a consultation.

The initial study and mitigation monitoring plan circulated for the subject project identified the following mitigation measure addressing noise:

- In accordance with the Noise Element of the County General Plan, noise levels associated with outdoor and indoor events shall not exceed the established threshold of 75 dB Ldn (or CNEL).

Staff is proposing the original mitigation measure be substituted with the following language which is reflected as proposed Development Standard No. 71:

71. In accordance with the Noise Element of the Stanislaus County General Plan, noise levels associated with all on-site activities shall not exceed the maximum allowable noise levels as allowed by the Noise Element. The property owner shall be responsible for verifying compliance and for any costs associated with verification.

The substitution is needed in order to correct an error with the number cited as the established threshold in the original mitigation measure. The Noise Element requires new industrial, commercial or other noise generating land uses not exceed 60 Ldn (or CNEL) in noise sensitive areas. The 75dB cited in the original mitigation measure reflects the maximum threshold for normally acceptable exterior noise levels for industrial, manufacturing, utilities, and agricultural land uses. In order to substitute the original mitigation measure, the new mitigation measure must be found to be 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. Staff believes the proposed substitution is more effective in addressing potential noise impacts associated with the proposed project.

Traffic Study

This project was referred to the Stanislaus County Public Works Department and the California Department of Transportation (CalTrans) as part of an early consultation review. In an initial response, the Department of Public Works requested that a Traffic Impact Analysis be completed to identify any possible impacts caused by this project.

The applicant hired KD Anderson & Associates to complete this task (see Exhibit "G"). The existing traffic level of the Yosemite Blvd (Hwy 132)/Geer Road intersection currently operates at LOS C or better. Signalization of this intersection was completed by CalTrans in August of 2007. With signalization and the proposed project in place, the intersection would continue to operate at LOS C, which is acceptable under Caltrans and Stanislaus County. The analysis looked at the road impacts to Geer Road and Yosemite Blvd (Hwy 132) for each of the three phases of construction. Phases 1-3 showed both of these roads will continue to operate at or below the acceptable LOS with the proposed mitigation measures in place.

After reviewing the Traffic Analysis, the Department of Public Works determined that their Development Standards would adequately address any traffic related impacts associated with this project. Therefore, the mitigation measures that are listed in the KD Anderson Traffic Study, in relation to the road widening, have not been added. The Department of Public Works believes that the Development Standards they have proposed, will enable both Geer Road and Yosemite Blvd to be below the LOS threshold established in the Circulation Element of the Stanislaus County General Plan. Several mitigation measures have been placed as Development Standards to insure that all impacts, related to the LOS thresholds/road widening, have been properly addressed.

This project is located on State Highway 132 (Yosemite Blvd) and as such, CalTrans is responsible for issuance of encroachment permits for any access/driveways located along Hwy 132. The comments provided by CalTrans deal with issues that will be addressed at the time of construction and have been incorporated as part of the Development Standards.

RECOMMENDATION

Based on all evidence on the record, and on the ongoing discussion, staff recommends that the Planning Commission recommend that the Board of Supervisors approve General Plan Amendment Application No. 2007-03 and Rezone Application No. 2007-03 - The Fruit Yard, allowing only for development of Phase One, subject to the following actions:

1. Adopt the Mitigated Negative Declaration pursuant to California Code of Regulations 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 Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis.
2. Find That:
 - A. The substitute language for Mitigation Measure No. 3 identified as Development Standard No. 71 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
3. Adopt the Mitigation Monitoring Plan, with the substitute language for Mitigation Measure No. 3, pursuant to CEQA Guidelines Section 15074(d).

4. 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.
5. Find That:
 - A. The General Plan amendment will maintain a logical land use pattern without detriment to existing and planned land uses,
 - B. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service,
 - C. The amendment is consistent with the General Plan goals and policies,
 - D. Overall, the proposal is consistent with the goals and policies of the General Plan,
 - E. There is evidence on the record to show a demonstrated need for the proposed project based on population projections, past growth rates, and other pertinent data,
 - F. No feasible alternative site exists in areas already designated or planned for the proposed uses,
 - G. Approval of the proposal will not constitute part of, or encourage piecemeal conversion of a larger agricultural area to non-agricultural uses, and will not be growth-inducing (as used in the California Environmental Quality Act),
 - H. The proposed project is designed to minimize conflict and will not interfere with agricultural operations on surrounding agricultural lands or adversely affect agricultural water supplies,
 - I. Adequate and necessary public services and facilities are available or will be made available as a result of the development,
 - J. The design of the proposed project has incorporated all reasonable measures, as determined during the CEQA review process, to mitigate impacts to fish and wildlife resources, air quality, water quality and quantity, or other natural resources,
 - K. The proposed Planned Development zoning is consistent with the proposed Planned Development General Plan designation,
 - L. The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements, and
 - M. Development Standard No. 71 is more effective than the noise mitigation measure circulated with the initial study and mitigation monitoring plan.

6. Approve General Plan Amendment No. 2007-03.
7. Find that the proposed Planned Development zoning is consistent with the Planned Development General Plan designation.
8. Approve Rezone Application No. 2007-03, subject to the attached Development Standards and Development Schedule.

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 \$1,933.75 to the Department of Fish and Game. The attached Development Standards ensure that this will occur.

Report written by: Joshua Mann, Associate Planner, July 3, 2008

Attachments:

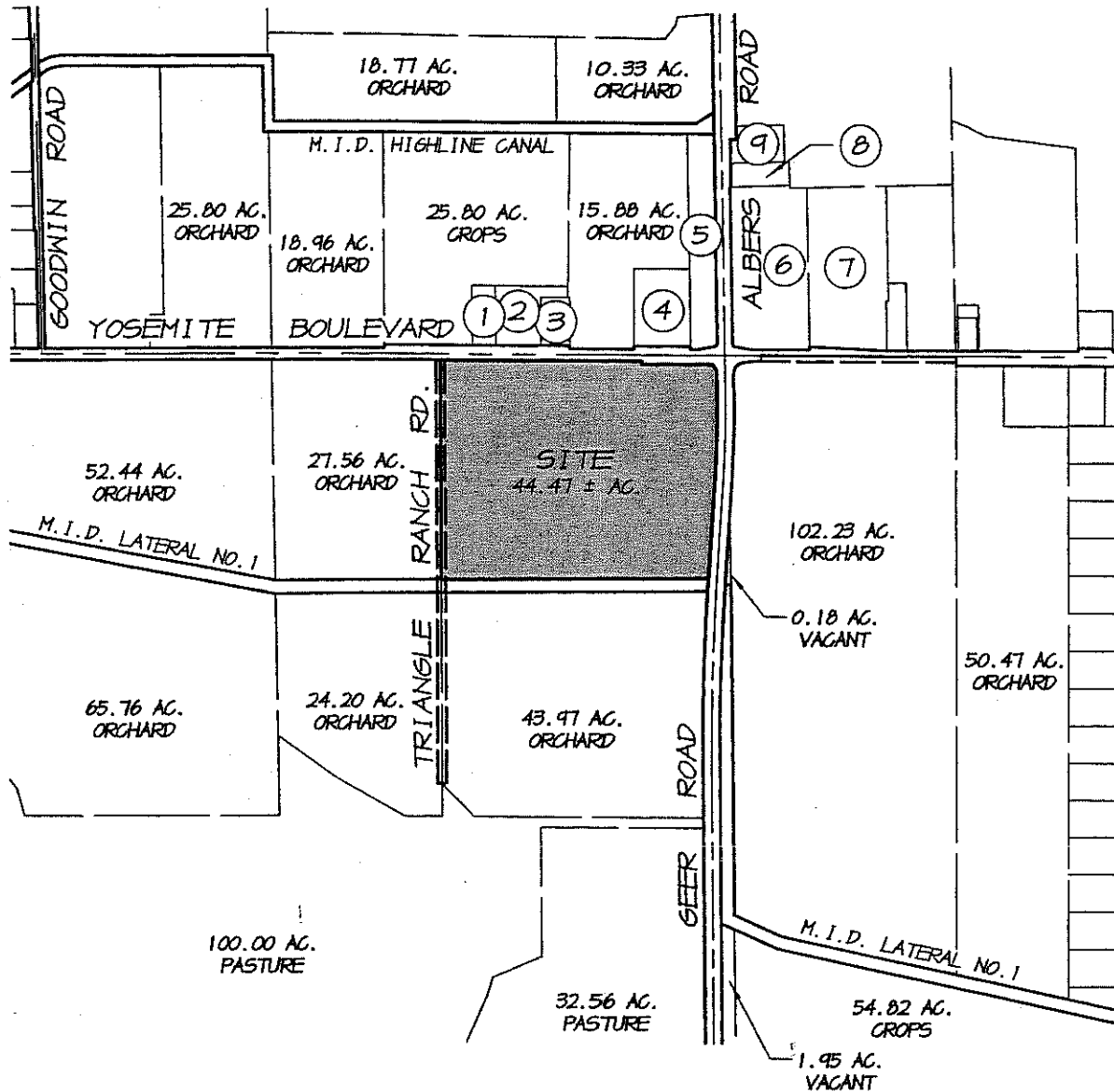
- Exhibit A - Maps, Site Plans and Conceptual Landscape Plans
- Exhibit B - Applicant's Project Description & Application
- Exhibit C - Development Standards
- Exhibit D - Development Schedule
- Exhibit E - Initial Study and Mitigation Monitoring Plan
- Exhibit F - Mitigated Negative Declaration
- Exhibit G - KD Anderson & Associates, Inc. Traffic Study, dated December 6, 2007
- Exhibit H* - Applicant's Findings Statement & General Plan Evaluation as submitted by the applicant
- Exhibit I - Environmental Review Referrals

* Copies of the Applicant's General Plan Evaluation may be obtained by contacting the Planning Department directly or on-line at <http://www.stancounty.com/planning/index.shtm>.

Reviewed By:



Angela Freitas, Senior Planner



NO.	ACRES	USE
1	1.06	HOUSE
2	2.28	HOUSE
3	1.06	HOUSE
4	3.37	CHURCH
5	4.22	SHOP
6	9.97	FEED
7	9.80	HOUSE
8	1.10	HOUSE
9	1.50	HOUSE

PROJECT SITE

A.P.N. 09-27-04
7954 YOSEMITE BLVD.
MODESTO, CA



DRAWN R.M.U.
DATE 1/12/07 11:05
SCALE 1"=1000'
JOB # 496-06
DWG. AREA-MAP

AREA MAP THE FRUIT YARD

MODESTO

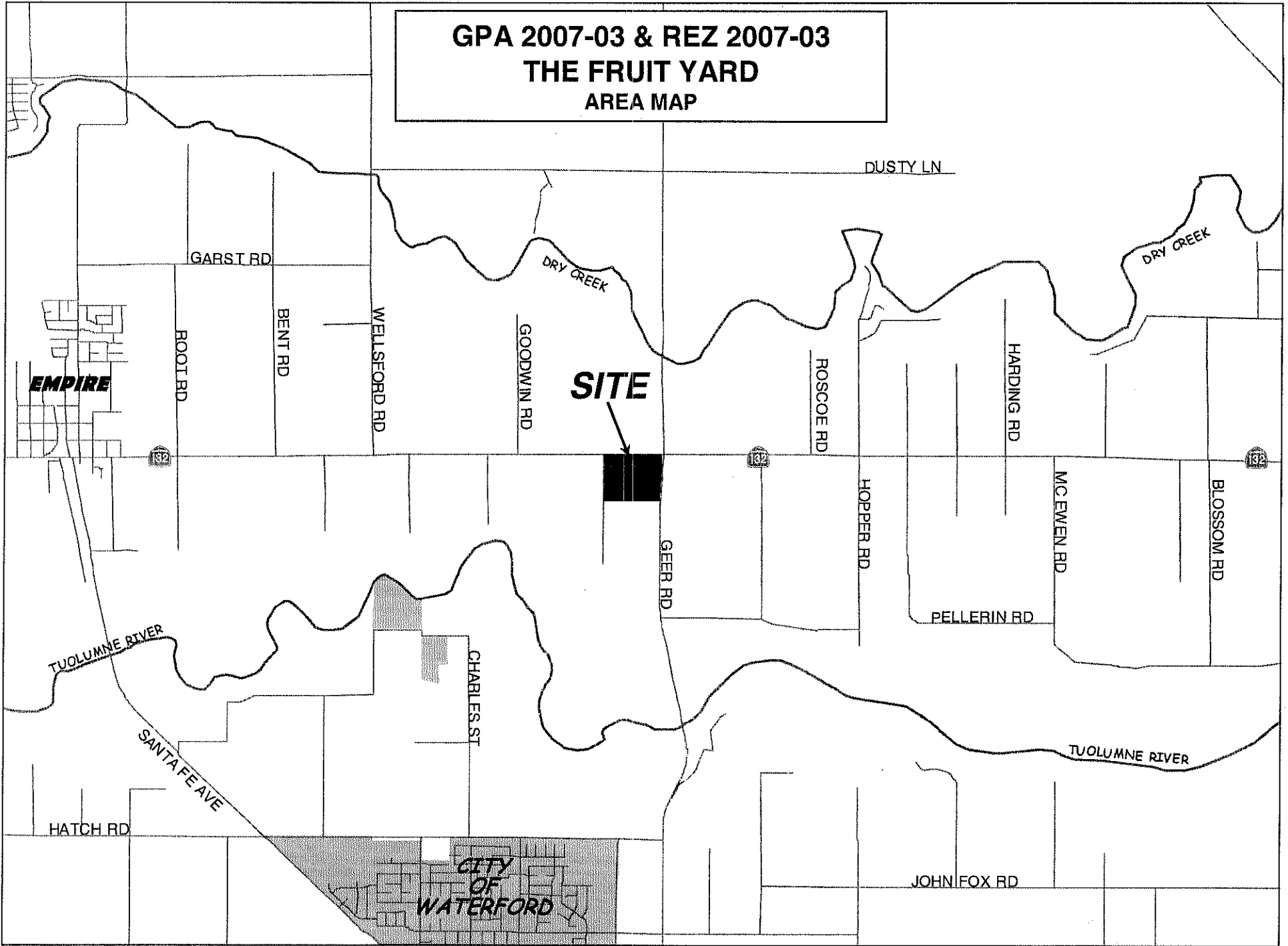
CALIFORNIA



**ASSOCIATED
ENGINEERING, INC.**
Surveying · Design · Planning
4206 TECHNOLOGY DRIVE
MODESTO, CALIFORNIA 95356
PH: (209) 545-3390 FAX: (209) 545-3875

EXHIBIT A

**GPA 2007-03 & REZ 2007-03
THE FRUIT YARD
AREA MAP**

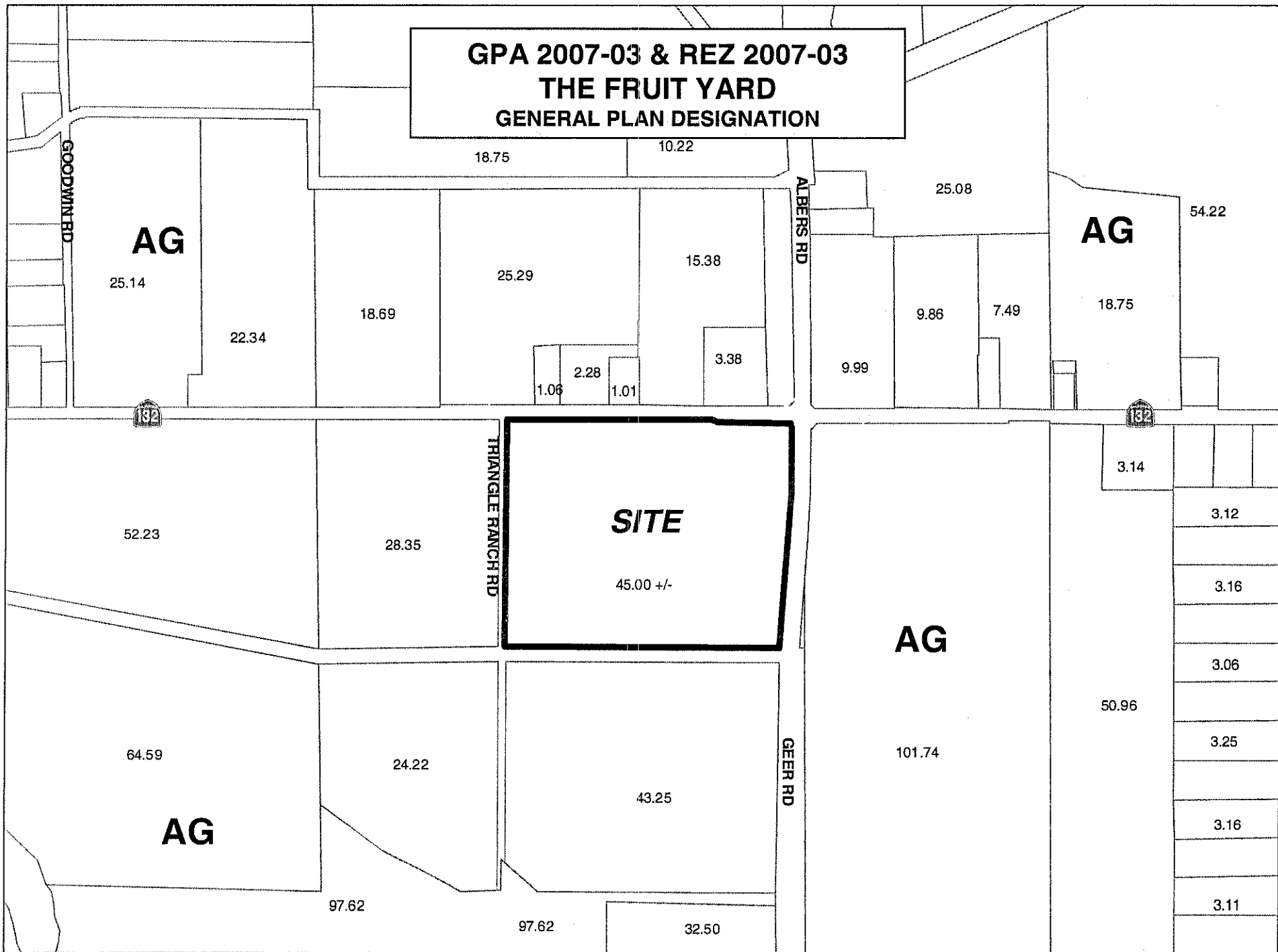


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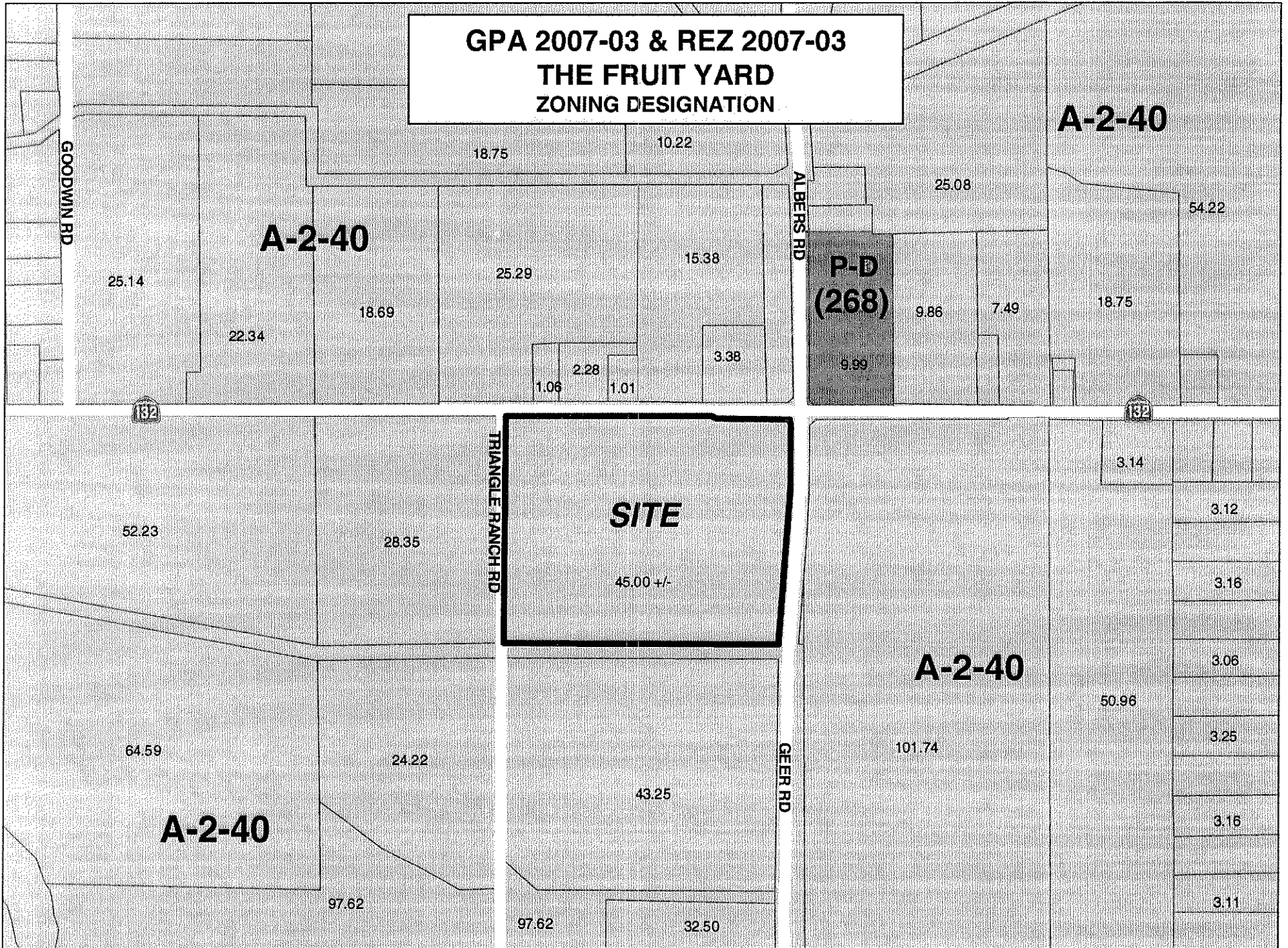
17

EXHIBIT A-1

**GPA 2007-03 & REZ 2007-03
THE FRUIT YARD
GENERAL PLAN DESIGNATION**



**GPA 2007-03 & REZ 2007-03
THE FRUIT YARD
ZONING DESIGNATION**

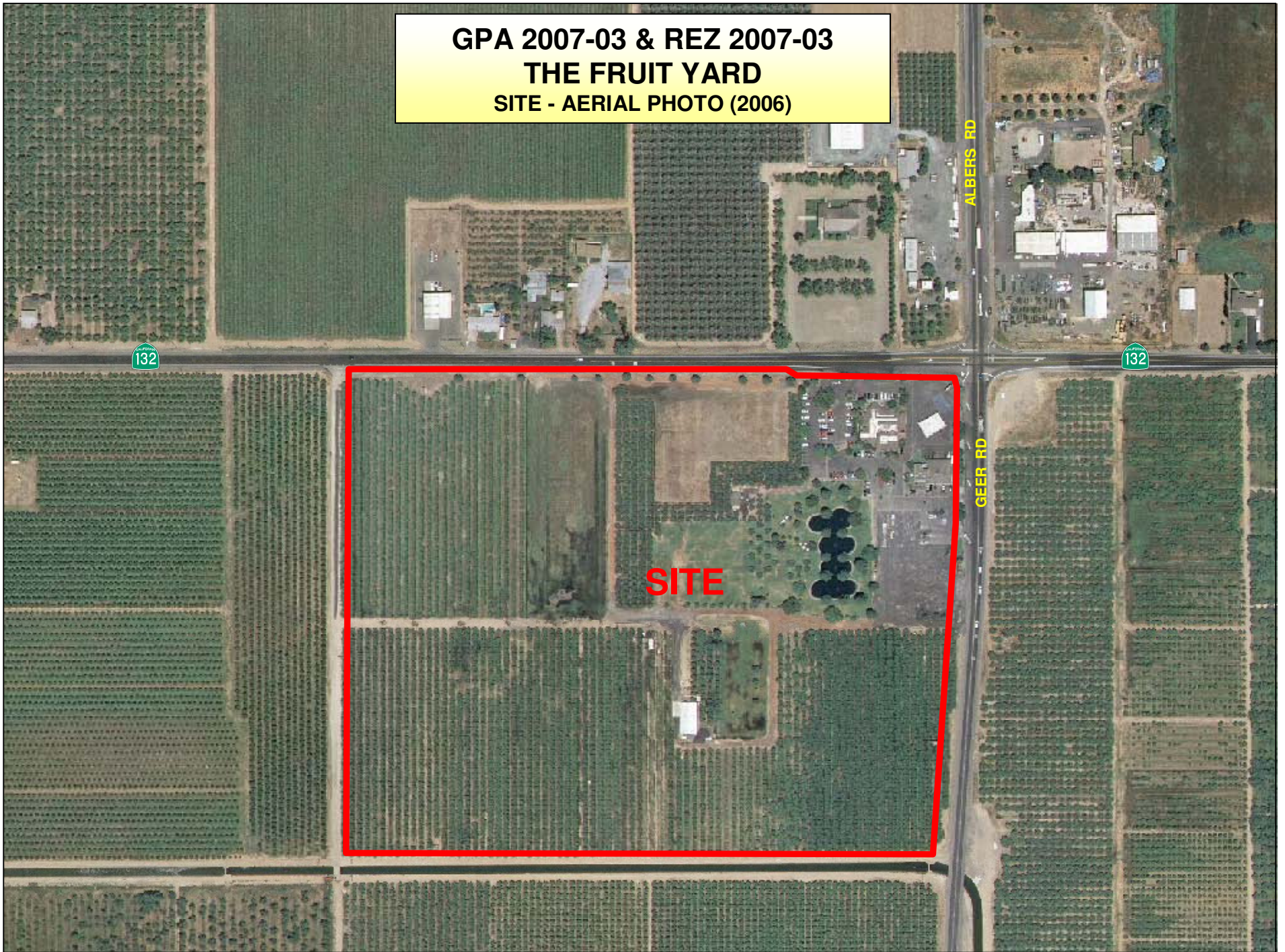


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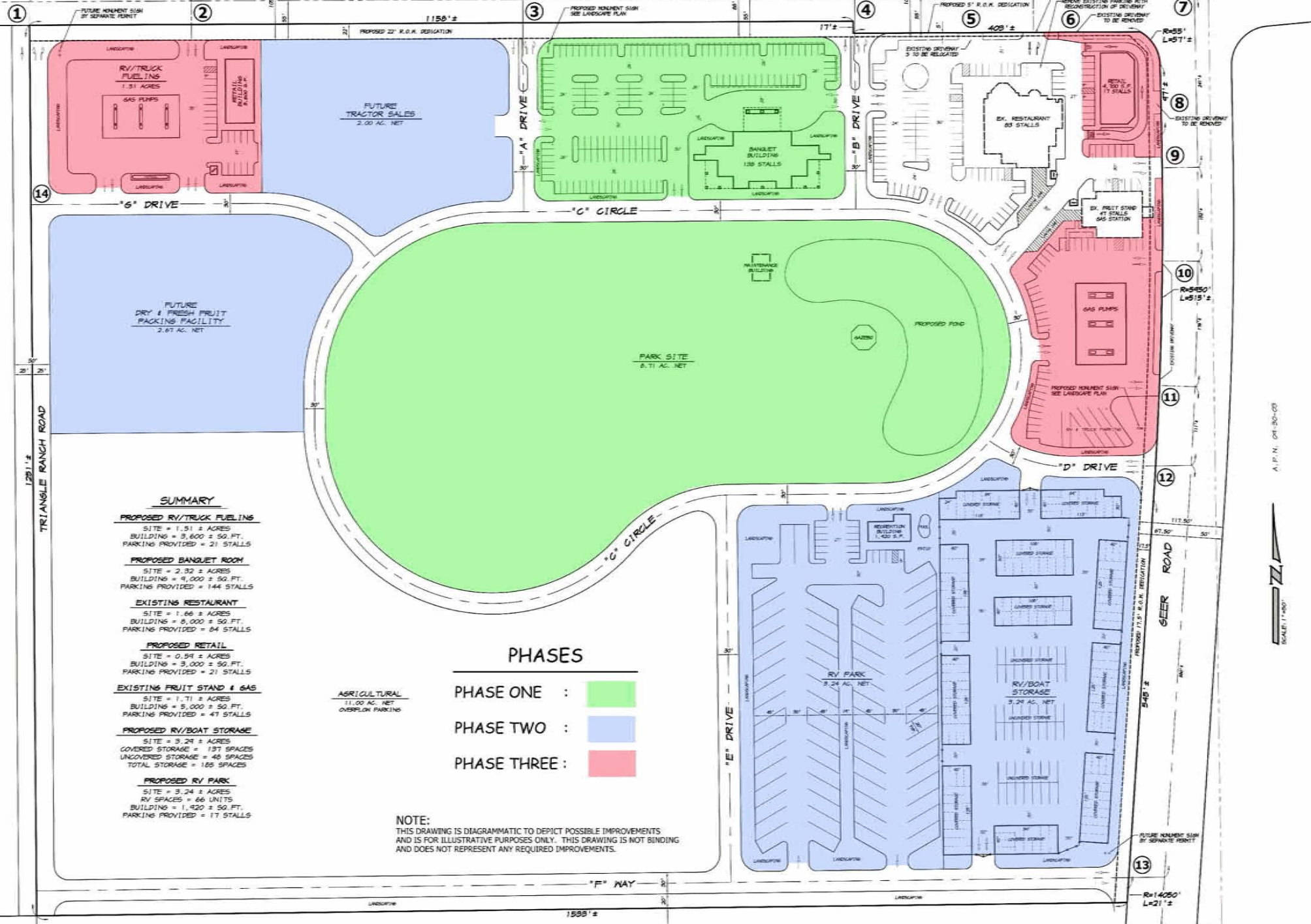
19

EXHIBIT A-3

**GPA 2007-03 & REZ 2007-03
THE FRUIT YARD
SITE - AERIAL PHOTO (2006)**



YOSEMITE BOULEVARD



SUMMARY

- PROPOSED RV/TRUCK FUELING**
 SITE = 1.51 ± ACRES
 BUILDING = 3,600 ± SQ. FT.
 PARKING PROVIDED = 21 STALLS
- PROPOSED BANQUET ROOM**
 SITE = 2.32 ± ACRES
 BUILDING = 4,000 ± SQ. FT.
 PARKING PROVIDED = 144 STALLS
- EXISTING RESTAURANT**
 SITE = 1.66 ± ACRES
 BUILDING = 8,000 ± SQ. FT.
 PARKING PROVIDED = 84 STALLS
- PROPOSED RETAIL**
 SITE = 0.91 ± ACRES
 BUILDING = 3,000 ± SQ. FT.
 PARKING PROVIDED = 21 STALLS
- EXISTING FRUIT STAND & GAS**
 SITE = 1.71 ± ACRES
 BUILDING = 5,000 ± SQ. FT.
 PARKING PROVIDED = 41 STALLS
- PROPOSED RV/BOAT STORAGE**
 SITE = 3.24 ± ACRES
 COVERED STORAGE = 137 SPACES
 UNCOVERED STORAGE = 48 SPACES
 TOTAL STORAGE = 185 SPACES
- PROPOSED RV PARK**
 SITE = 3.24 ± ACRES
 RV SPACES = 66 UNITS
 BUILDING = 1,420 ± SQ. FT.
 PARKING PROVIDED = 11 STALLS

AGRICULTURAL
 11.00 AC. NET
 OVERSLOW PARKING

PHASES

- PHASE ONE : ■
- PHASE TWO : ■
- PHASE THREE : ■

NOTE:
 THIS DRAWING IS DIAGRAMMATIC TO DEPICT POSSIBLE IMPROVEMENTS AND IS FOR ILLUSTRATIVE PURPOSES ONLY. THIS DRAWING IS NOT BINDING AND DOES NOT REPRESENT ANY REQUIRED IMPROVEMENTS.

35-2-01
 A.P.N. 09-13-21

EXHIBIT A-5

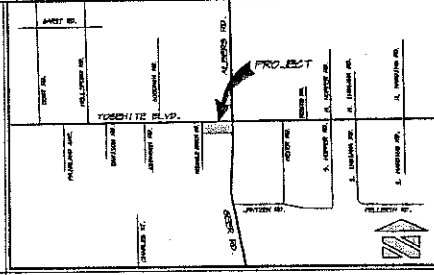
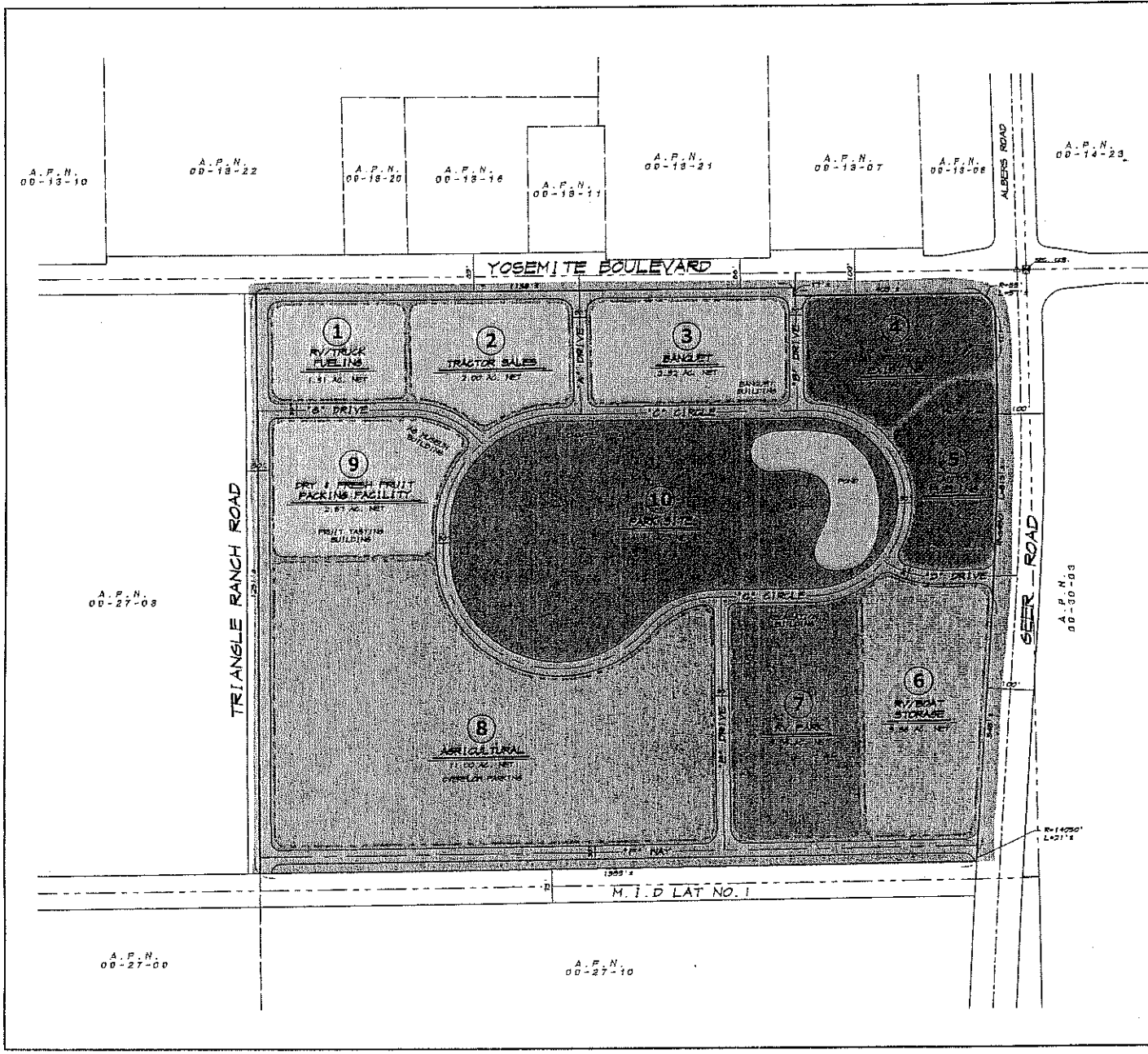
M. I. D. LAT. NO. 1

ASSOCIATED
 ENGINEERING, INC.
 Surveying • Design • Planning
 10000 CALIFORNIA AVENUE
 SUITE 100
 SAN DIEGO, CALIFORNIA 92121
 PH: (619) 545-3300 FAX: (619) 545-3375

FUTURE
 CONCEPTUAL DEVELOPMENT SKETCH
 THE FRUIT YARD
 STANTLAUB COUNTY CALIFORNIA

WETA CAROL K.C.C. 8000
 ONE MICHAEL L.L. 100

DRAWN BY: S.W.J.J.F.
 DATE: 4/9/08 4:22
 SCALE: 1"=50'
 SHEET OVERALL-SITE
 CHECKED: J.S.
 DATE: 4-28-08
 SHEET: 1



VICINITY MAP
1/4" = 100'

SUMMARY

- ① RV/TRUCK FUELING AREA
PROPOSED AREA = 1.51 ± AC.
PROPOSED BUILDING AREA = 7,200 ± SQ. FT.
- ② TRACTOR SALES
PROPOSED AREA = 2.00 ± AC.
PROPOSED BUILDING AREA = 10,000 ± SQ. FT.
- ③ BANQUET AREA
PROPOSED AREA = 2.32 ± AC.
PROPOSED BUILDING AREA = 32,000 ± SQ. FT.
PROPOSED PARKING = 120 ±
- ④ EXISTING AREA
EXISTING AREA = 2.14 ± AC.
EXISTING USES = RESTAURANT AND GAS STATION
- ⑤ AUTO FUELING AREA
PROPOSED AREA = 1.71 ± AC.
EXISTING USE = FRUIT STAND
PROPOSED BUILDING AREA = 1,200 ± SQ. FT.
- ⑥ RV/BOAT STORAGE
PROPOSED AREA = 2.26 ± AC.
- ⑦ RV PARK
PROPOSED AREA = 3.26 ± AC.
PROPOSED BUILDING AREA = 10,000 ± SQ. FT.
PROPOSED PARKING = 40 ±
PROPOSED RV SITES = 72 UNITS
- ⑧ AGRICULTURAL AREA
EXISTING AREA = 11.00 ± AC.
EXISTING PARKING = 154 ±
- ⑨ DRY & FRESH FRUIT PACKING FACILITY
PROPOSED AREA = 2.67 ± AC.
PROPOSED BUILDING AREA = 29,000 ± SQ. FT.
PROPOSED PARKING = 140 ±
- ⑩ PARK SITE
PROPOSED AREA = 0.71 ± AC.
PROPOSED BUILDING AREA = 10,000 ± SQ. FT.

PROJECT NO.	
SHEET NO.	
DATE	
DESCRIPTION	

ASSOCIATED ENGINEERING, INC.
 Survey, Planning, Engineering
 10000 Wilshire Blvd., Suite 1000
 Culver City, California 90230
 PH: (310) 541-3200 FAX: (310) 545-0125

THE FRUIT YARD
 STANISLAUS COUNTY
 CALIFORNIA

DATE: 1/12/07 10:54
 SCALE: 1" = 100'
 DRAWN BY: MORTON
 CHECKED BY: JAMES
 SHEET: 1 OF 1

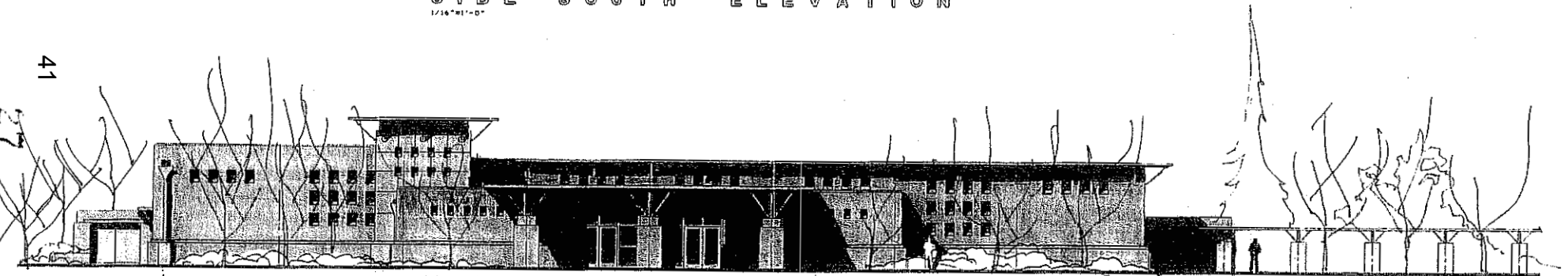
BANQUET FACILITY



SIDE SOUTH ELEVATION

1/16"=1'-0"

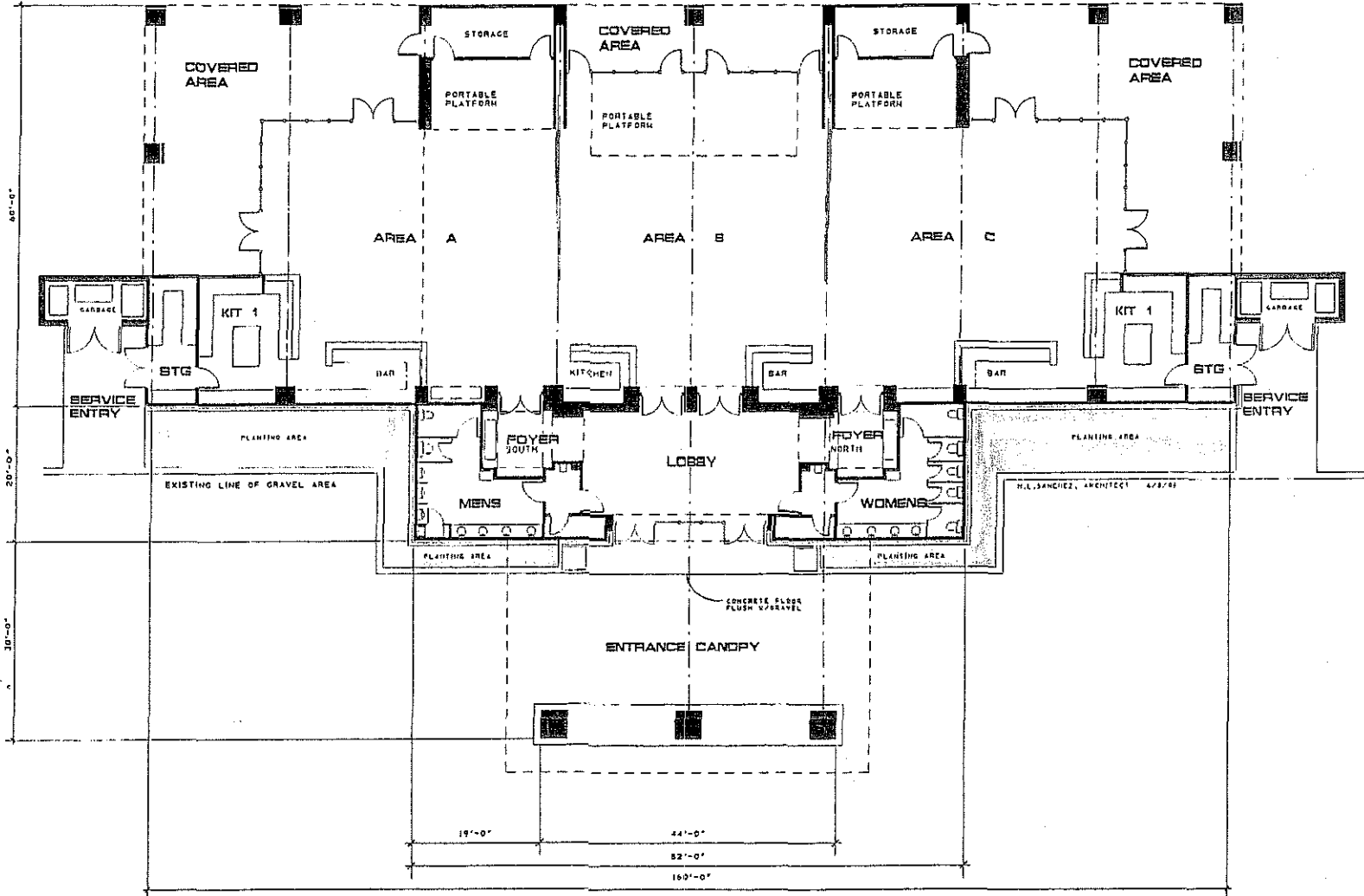
41



FRONT ELEVATION

1/16"=1'-0"

THE FRUITYARD BANQUET ROOM PLAN

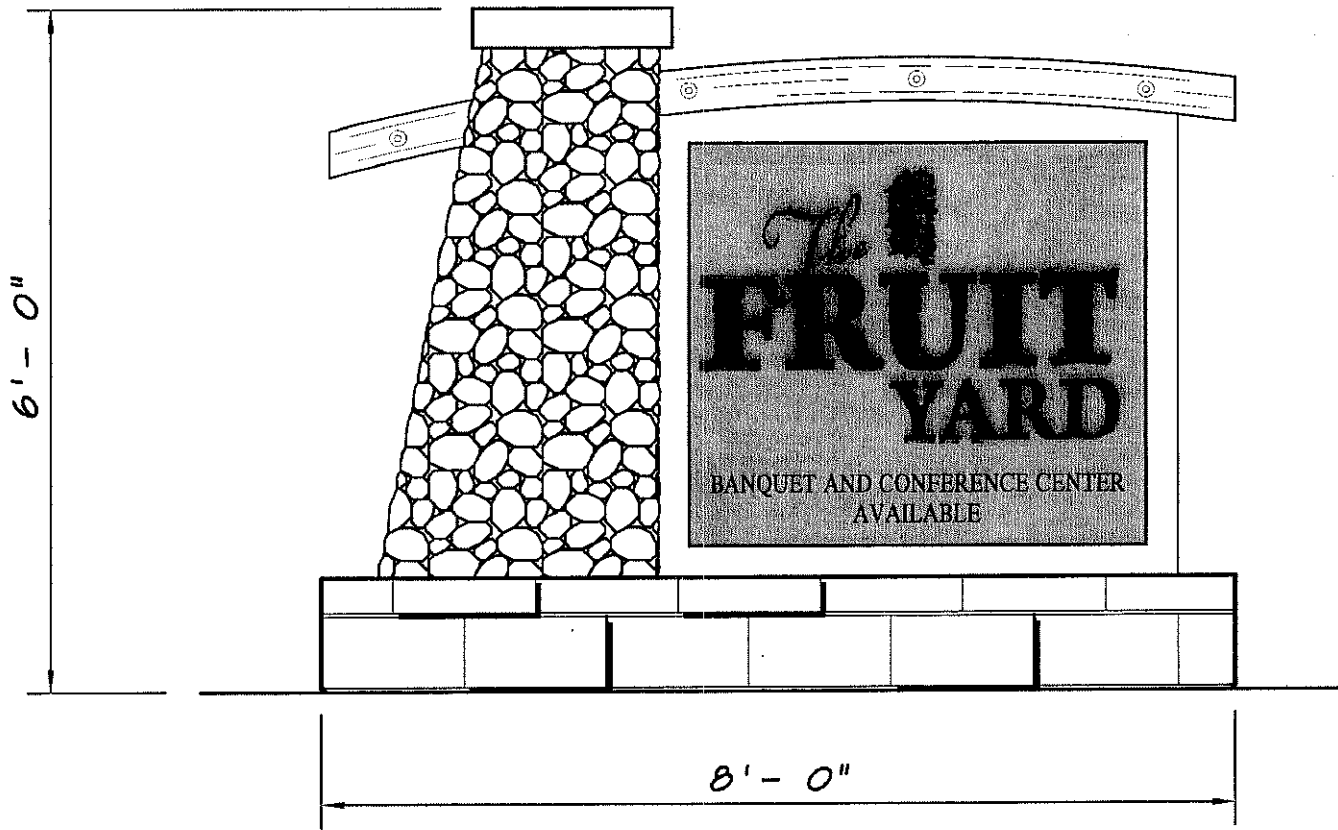


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EXHIBIT A-12

GPA 2007-03 & REZ 2007-03
THE FRUIT YARD
PROPOSED SIGN



MONUMENT SIGN DETAIL

NO SCALE

Fruit Yard Project Description

The Fruit Yard facility exists at the southwest corner of Geer Road and Yosemite Blvd. (State Hwy. 132). It started as an Old Foamy Drive-In in the late 1950s, and has expanded through the years. The Trainas, the current owner, purchased the property in 1977. The current site contains the Fruit Yard Restaurant, a service station with six (6) pumps, a produce market, and a cardlock facility with six (6) pumps. The site has ancillary parking and a lake and park used by Fruit Yard customers with the lake providing the storm drainage for the site. The current development covers approximately six (6) acres, with the remaining approximately thirty-nine (39) acres of the property in open land and fruit trees including apricots, peaches, nectarines and cherries. The site hosts large public gatherings three or four times a year, including the Passport to Paradise event for the American Cancer Society, a Graffiti Night event, and a musical event or two. These events have occurred over the last fourteen (14) plus years, and are run with public assembly permits from the Stanislaus County Sheriff's Department.

The existing Fruit Yard Restaurant provides banqueting facilities and meeting rooms for a number of different clubs and groups. Over the years, requests have been made for weddings at the site, and the Fruit Yard has hosted these as well. Weddings are not currently identified as permissible under the current permits for the site.

As part of the process of adding weddings as a permissible use at the site, it was determined that an overall master plan should be prepared for the Fruit Yard facility. Simultaneously, conversations were underway with Caltrans and Stanislaus County for a right-of-way purchase for the State Highway 132/Geer Road intersection project. These discussions necessitated locating driveways and the best location for existing and future facilities. Based upon the near-term, mid-term, and long-term goals for the Fruit Yard, and its expected growth, the attached master plan has been prepared.

With this application it is intended that the entire Fruit Yard site be amended from a general plan designation of Agriculture to Planned Development, and that a Planned Development zone be placed over the entire forty-five (45) acre property. The development plan for the property includes the existing facilities as well as (i) additional banqueting facilities to be constructed west of the existing Fruit Yard Restaurant, (ii) the movement of the existing service station from north of the produce market to south of the produce market, (iii) relocation of the cardlock facility, and (iv) some additional retail space at the site of the existing service station.

In addition, since the Fruit Yard is located at such a busy intersection, it provides service to recreational travelers, and so the project also proposes to add a small storage facility for the storage of boats, motor homes, recreational vehicles and equipment as well as a small overnight trailer park facility to allow people to camp at the site over weekend, and to use adjacent facilities such as Fox Grove, Modesto Reservoir, Turlock Lake and other recreational amenities in the area. Finally, in the master planning of the site, Traina Dried Fruit is looking at locating some fruit packing and warehousing facilities at the site which are typical agricultural uses and would be permitted with a Use Permit, even without this application. Lastly, a tractor sales facility is also being considered as a future use at the site. The attached Master Development Plan provides square footages for the proposed uses.

As shown on the attached development plans, Phase 1 of the project would allow the construction of the banqueting facilities, and bring the site to approximately 8.3 acres of developed area, with about 36.4 acres remaining undeveloped or in agricultural uses. With Phase 2, the overnight trailer park and RV and boat storage would be constructed, and the park expanded, so that the developed area would be expanded to approximately 18.4 acres, and the remainder of the approximately 26.3 acres would remain in undeveloped or agricultural use. Finally, with Phase 3, the cardlock facility and service station would be relocated, and retail added at the old service station site. Phase 3 would complete the project and result in approximately twenty-nine (29) developed acres, with about sixteen (16) acres remaining in agriculture or agriculture related uses. At full development, approximately nine (9) acres of the developed twenty-nine (29) acres will be park so will not be irretrievably committed to urban uses. The balance of the site development acres would remain in agricultural use, and the permissible land uses in this area would be agricultural, and includes farming, or any other uses which would be permitted in the A-2 zone with a use permit.

The purpose of this project is to create a destination which gathers most of its support from the traveling public, recreational travelers, the adjacent agricultural properties and neighboring communities. The project will allow the existing travel, agricultural, and recreational oriented uses to continue to grow and expand. The site currently employs about 75 full and part time employees. At full build-out, this is expected to increase to about 150 to 200 employees. Most uses will operate from 6 a.m. in the morning until 10 p.m. in the evening, with the cardlock facility and service station being open 24 hours a day. Special events and Weddings may occur until midnight.

Fruit Yard Planned Development Development Schedule

The total term of the Planned Development will be seven (7) years. It is expected that the phases will generally be constructed within the following timeframes:

- | | | |
|----|--|--------------|
| 1. | Banquet Facility | 1 to 3 years |
| 2. | Mini-Storage, RV Parking, Tractor Sales and Packing Facility | 2 to 5 years |
| 3. | Gas Station Relocation, Card Lock Relocation and Retail | 3 to 7 years |

The construction windows offered in this Development Schedule are the current best estimate for construction. It is possible that some uses may occur sooner than expected while others may move back in time. Prior to the conclusion of the seventh (7th) year, extension request may be made. Time extension requests can be from a minimum of one (1) to a maximum of three (3) years and may be granted by the County, at its discretion. The number of time extensions that may be granted are at the discretion of the County.



APPLICATION QUESTIONNAIRE

<p><u>Please Check all applicable boxes</u> APPLICATION FOR: Staff is available to assist you with determining which applications are necessary</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/> General Plan Amendment</td> <td><input type="checkbox"/> Subdivision Map</td> </tr> <tr> <td><input checked="" type="checkbox"/> Rezone</td> <td><input type="checkbox"/> Parcel Map</td> </tr> <tr> <td><input type="checkbox"/> Use Permit</td> <td><input type="checkbox"/> Exception</td> </tr> <tr> <td><input type="checkbox"/> Variance</td> <td><input type="checkbox"/> Williamson Act Cancellation</td> </tr> <tr> <td><input type="checkbox"/> Historic Site Permit</td> <td><input type="checkbox"/> Other _____</td> </tr> </table>	<input checked="" type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Subdivision Map	<input checked="" type="checkbox"/> Rezone	<input type="checkbox"/> Parcel Map	<input type="checkbox"/> Use Permit	<input type="checkbox"/> Exception	<input type="checkbox"/> Variance	<input type="checkbox"/> Williamson Act Cancellation	<input type="checkbox"/> Historic Site Permit	<input type="checkbox"/> Other _____	<p>PLANNING STAFF USE ONLY: Application No(s): <u>GPA2007-03 REZ2007-03</u> Date: <u>3/26/07</u> S <u>34</u> T <u>3</u> R <u>10</u> GP Designation: <u>AG</u> Zoning: <u>A-240</u> Fee: <u>ACTUAL COST (\$3600 DEP.)</u> Receipt No. <u>PAID CK</u> Received By: <u>KF 3/26/07</u> Notes: _____</p>
<input checked="" type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Subdivision Map										
<input checked="" type="checkbox"/> Rezone	<input type="checkbox"/> Parcel Map										
<input type="checkbox"/> Use Permit	<input type="checkbox"/> Exception										
<input type="checkbox"/> Variance	<input type="checkbox"/> Williamson Act Cancellation										
<input type="checkbox"/> Historic Site Permit	<input type="checkbox"/> Other _____										

In order for your application to be considered COMPLETE, please answer all applicable questions on the following pages, and provide all applicable information listed on the checklist on pages i – v. Under State law, upon receipt of this application, staff has 30 days to determine if the application is complete. We typically do not take the full 30 days. It may be necessary for you to provide additional information and/or meet with staff to discuss the application. Pre-application meetings are not required, but are highly recommended. An incomplete application will be placed on hold until all the necessary information is provided to the satisfaction of the requesting agency. An application will not be accepted without all the information identified on the checklist.

Please contact staff at (209) 525-6330 to discuss any questions you may have. Staff will attempt to help you in any way we can.

PROJECT INFORMATION

PROJECT NAME: Fruit Yard PD Amendment
 (Desired name for project, if any)

CONTACT PERSON: Who is the primary contact person for information regarding this project?

Name: David O. Romano, P.E., AICP Telephone: (209) 521-9521

Address: 1020 Tenth Street, Suite 310, Modesto, CA 95354

Fax Number: (209) 521-4968 email address: dromano@ranplc.com

(Attach additional sheets as necessary)
PROPERTY OWNER'S NAME: The Fruit Yard

Mailing Address 7948 Yosemite Blvd.

Modesto, CA 95357

Telephone: (209) 577-3093 Fax: (209) 577-0600

PROJECT SITE INFORMATION

Complete and accurate information saves time and is vital to project review and assessment. Please complete each section entirely. If a question is not applicable to your project, please indicated this to show that each question has been carefully considered. Contact the Planning & Community Development Department Staff, 1010 10th Street – 3rd Floor, (209) 525-6330, if you have any questions. Pre-application meetings are highly recommended.

ASSESSOR'S PARCEL NUMBER(S): Book 009 Page 027 Parcel 004

Additional parcel numbers: _____

Project Site Address
or Physical Location:

7948 Yosemite Blvd., Modesto, CA 95357

Property Area: Acres: 43.86 (net) or Square feet: _____

Current and Previous Land Use: (Explain existing and previous land use(s) of site for the last ten years)

Restaurant, Service Station, Produce Market, Cardlock Facility, Banquet/Meeting Facility

List any known previous projects approved for this site, such as a Use Permit, Parcel Map, etc.: (Please identify project name, type of project, and date of approval)

Use Permits for existing facilities

Existing General Plan & Zoning: Agriculture (Ag)

Proposed General Plan & Zoning: Planned Development (P-D)
(if applicable)

ADJACENT LAND USE: (Describe adjacent land uses within 1,320 feet (1/4 mile) and/or two parcels in each direction of the project site)

East: Agriculture

West: Agriculture

North: Agriculture, Church, Urban Development

South: Agriculture, old Landfill

WILLIAMSON ACT CONTRACT:

Yes No

Is the property currently under a Williamson Act Contract?

Contract Number: _____

If yes, has a Notice of Non-Renewal been filed?

Date Filed: _____

Yes No

Do you propose to cancel any portion of the Contract?

Yes No

Are there any agriculture, conservation, open space or similar easements affecting the use of the project site. (Such easements do not include Williamson Act Contracts)

If yes, please list and provide a recorded copy: _____

SITE CHARACTERISTICS: (Check one or more)

Flat

Rolling

Steep

VEGETATION: What kind of plants are growing on your property? (Check one or more)

Field crops

Orchard

Pasture/Grassland

Scattered trees

Shrubs

Woodland

River/Riparian

Other

Explain Other: _____

Yes No

Do you plan to remove any trees? (If yes, please show location of trees planned for removal on plot plan and provide information regarding transplanting or replanting.)

GRADING:

Yes No

Do you plan to do any grading? (If yes, please indicate how many cubic yards and acres to be disturbed. Please show areas to be graded on plot plan.) _____

Minimal amount, site is flat.

STREAMS, LAKES, & PONDS:

Yes No

Are there any streams, lakes, ponds or other watercourses on the property? (If yes, please show on plot plan)

Yes No

Will the project change any drainage patterns? (If yes, please explain – provide additional sheet if needed) _____

Yes No

Are there any gullies or areas of soil erosion? (If yes, please show on plot plan)

Yes No

Do you plan to grade, disturb, or in any way change swales, drainages, ditches, gullies, ponds, low lying areas, seeps, springs, streams, creeks, river banks, or other area on the site that carries or holds water for any amount of time during the year? (If yes, please show areas to be graded on plot plan)

Please note: If the answer above is yes, you may be required to obtain authorization from other agencies such as the Corps of Engineers or California Department of Fish and Game.

STRUCTURES:

Yes No Are there structures on the site? (If yes, please show on plot plan. Show a relationship to property lines and other features of the site.)

Yes No Will structures be moved or demolished? (If yes, indicate on plot plan.)

Yes No Do you plan to build new structures? (If yes, show location and size on plot plan.)

Yes No Are there buildings of possible Historical significance? (If yes, please explain and show location and size on plot plan.) _____

PROJECT SITE COVERAGE: (See attached Plans)

Existing Building Coverage: _____ Sq. Ft. Landscaped Area: _____ Sq. Ft.

Proposed Building Coverage: _____ Sq. Ft. Paved Surface Area: _____ Sq. Ft.

BUILDING CHARACTERISTICS:

Size of new structure(s) or building addition(s) in gross sq. ft.: (Provide additional sheets if necessary) _____

See attached Plans.

Number of floors for each building: **Two for the existing Fruit Yard restaurant, one for all other buildings.**

Building height in feet (measured from ground to highest point): (Provide additional sheets if necessary) **35 feet.**

Height of other appurtenances, excluding buildings, measured from ground to highest point (i.e., antennas, mechanical equipment, light poles, etc.): (Provide additional sheets if necessary) **Existing Charter Communications Tower near the southwest corner of the site is approximately 100 feet high.**

Proposed surface material for parking area: (Provide information addressing dust control measures if non-asphalt/concrete material to be used) _____
Pavement

UTILITIES AND IRRIGATION FACILITIES:

Yes No Are there existing public or private utilities on the site? Includes telephone, power, water, etc. (If yes, show location and size on plot plan)

Who provides, or will provide the following services to the property?

Electrical: **MID** Sewer*: **Septic**
Telephone: **AT&T** Gas/Propane: **PG&E**
Water**: **On-Site** Irrigation: **MID**

*Please Note: A "will serve" letter is required if the sewer service will be provided by City, Sanitary District, Community Services District, etc.

**Please Note: A "will serve" letter is required if the water source is a City, Irrigation District, Water District, etc., and the water purveyor may be required to provide verification through an Urban Water Management Plan that an adequate water supply exists to service your proposed development.

Will any special or unique sewage wastes be generated by this development other than that normally associated with resident or employee restrooms? Industrial, chemical, manufacturing, animal wastes? (Please describe:)

Please Note: Should any waste be generated by the proposed project other than that normally associated with a single family residence, it is likely that Waste Discharge Requirements will be required by the Regional Water Quality Control Board. Detailed descriptions of quantities, quality, treatment, and disposal may be required.

Yes No Are there existing irrigation, telephone, or power company easements on the property? (If yes, show location and size on plot plan.)

Yes No Do the existing utilities, including irrigation facilities, need to be moved? (If yes, show location and size on plot plan.)

Yes No Does the project require extension of utilities? (If yes, show location and size on plot plan.)

AFFORDABLE HOUSING/SENIOR:

Yes No Will the project include affordable or senior housing provisions? (If yes, please explain)

RESIDENTIAL PROJECTS: (Please complete if applicable – Attach additional sheets if necessary)

Total No. Lots: _____ Total Dwelling Units: _____ Total Acreage: _____

Net Density per Acre: _____ Gross Density per Acre: _____

(complete if applicable)	Single Family	Two Family Duplex	Multi-Family Apartments	Multi-Family Condominium/Townhouse
Number of Units:	_____	_____	_____	_____
Acreage:	_____	_____	_____	_____

COMMERCIAL, INDUSTRIAL, MANUFACTURING, RETAIL, USE PERMIT, OR OTHER PROJECTS: (Please complete if applicable – Attach additional sheets if necessary)

Square footage of each existing or proposed building(s): **See attached Site Plan.**

Type of use(s): **Restaurant, Retail, Produce Market, Service Station and Card Lock Facility, Storage and RV Park, Tractor Sales.**

Days and hours of operation: 6 a.m. to 10 p.m. typical.

Up to midnight for special events and weddings.

Seasonal operation (i.e., packing shed, huller, etc.) months and hours of operation: n/a

Occupancy/capacity of building: Fruit Yard (10,000 sq. ft.) (approx. 300 person capacity); Market (4,500 sq. ft.);

Banquet (10,000 sq. ft.) (approx. 500 person capacity); New Retail (2,000 sq. ft.); Tractor Sales (5,000 sq. ft.)

Number of employees: (Maximum Shift): Fruit Yard (30-40) (Minimum Shift): _____

Banquet (10-30); Market (5)

Estimated number of daily customers/visitors on site at peak time: Fruit Yard (500 total per day / 300 at peak)

Banquet (500 at peak); Market (20)

Other occupants: _____

Estimated number of truck deliveries/loadings per day: Fruit Yard 3-5 per day, 3 days per week

Banquet 4 per week total

Estimated hours of truck deliveries/loadings per day: _____ 6:00 a.m. to 6:00 p.m.

Estimated percentage of traffic to be generated by trucks: Less than 5%

Estimated number of railroad deliveries/loadings per day: N/A

Square footage of:

Office area: _____

Warehouse area: _____

Sales area: _____

Storage area: _____

Loading area: _____

Manufacturing area: _____

Other: (explain type of area) _____

Yes No Will the proposed use involve toxic or hazardous materials or waste? (Please explain)

ROAD AND ACCESS INFORMATION:

What County road(s) will provide the project's main access? (Please show all existing and proposed driveways on the plot plan)

Yosemite Blvd. / Geer Road

Yes No Are there private or public road or access easements on the property now? (If yes, show location and size on plot plan)

Yes No Do you require a private road or easement to access the property? (If yes, show location and size on plot plan)

Yes No Do you require security gates and fencing on the access? (If yes, show location and size on plot plan)

Please Note: Parcels that do not front on a County-maintained road or require special access may require approval of an Exception to the Subdivision Ordinance. Please contact staff to determine if an exception is needed and to discuss the necessary Findings.

STORM DRAINAGE:

How will your project handle storm water runoff? (Check one) Drainage Basin Direct Discharge Overland

Other: (please explain) **Captured on-site and applied to project lands to percolate.**

If direct discharge is proposed, what specific waterway are you proposing to discharge to? _____

Please Note: If direct discharge is proposed, you will be required to obtain a NPDES permit from the Regional Water Quality Control Board, and must provide evidence that you have contacted them regarding this proposal with your application.

EROSION CONTROL:

If you plan on grading any portion of the site, please provide a description of erosion control measures you propose to implement.

Will prepare SWPPP for Grading.

Please note: You may be required to obtain an NPDES Storm Water Permit from the Regional Water Quality Control Board and prepare a Storm Water Pollution Prevention Plan.

ADDITIONAL INFORMATION:

Please use this space to provide any other information you feel is appropriate for the County to consider during review of your application. (Attach extra sheets if necessary)

None provided.

You need to obtain General Permit coverage if storm water discharges from your site and either of the following apply:

- Construction activities result in one or more acres of land disturbance, including clearing, grading, excavating, staging areas, and stockpiles or;
- The project is part of a larger common plan of development or sale (e.g., subdivisions, group of lots with or without a homeowner's association, some lot line adjustments) that result in one or more acres of land disturbance.

It is the applicant's responsibility to obtain any necessary permit directly from the California Regional Water Quality Control Board. The applicant(s) signature on this application form signifies an acknowledgment that this statement has been read and understood.

STATE OF CALIFORNIA HAZARDOUS WASTE AND SUBSTANCES SITES LIST
(C.G.C. § 65962.5)

Pursuant to California Government Code Section 65962.5(e), before a local agency accepts as complete an application for any development project, the applicant shall consult the latest State of California Hazardous Waste and Substances Sites List on file with the Planning Department and submit a signed statement indicating whether the project is located on a site which is included on the List. The List may be obtained on the California State Department of Toxic Substances Control web site (<http://www.envirostor.dtsc.ca.gov/public>).

The applicant(s) signature on this application form signifies that they have consulted the latest State of California Hazardous Waste and Substances List on file with the Planning Department, and have determined that the project site is or is not included on the List.

Date of List consulted: March 9, 2007

Source of the listing: _____
(To be completed only if the site is included on the List)

ASSESSOR'S INFORMATION WAIVER

The property owner(s) signature on this application authorizes the Stanislaus County Assessor's Office to make information relating to the current owners assessed value and pursuant to R&T Code Sec. 408, available to the Stanislaus County Department of Planning and Community Development.



CENTRAL CALIFORNIA INFORMATION CENTER

California Historical Resources Information System
Department of Anthropology – California State University, Stanislaus
801 W. Monte Vista Avenue, Turlock, California 95382
(209) 667-3307 - FAX (209) 667-3324

Alpine, Calaveras, Mariposa, Merced, San Joaquin, Stanislaus & Tuolumne Counties

Date: January 23, 2007

CCIC File #: 6581N

Project: The Fruit Yard,
7948 Yosemite Blvd., Modesto,
APN #59-005/009-27-04-595

Dave Romano
C/o Russell A. Newman, PLC
1020 10th Street, Suite 310
Modesto, CA 95354

Dear Mr. Romano,

We have conducted a records search as per your request for the above-referenced project area located on the Waterford USGS 7.5-minute quadrangle map in Stanislaus County.

Search of our files includes review of our maps for the specific project area and the immediate vicinity of the project area, and review of the National Register of Historic Places, the California Register of Historical Resources, *the California Inventory of Historic Resources* (1976), *the California Historical Landmarks* (1990), and the *California Points of Historical Interest* listing (May 1992 and updates), the Historic Property Data File (HPDF) and the Archaeological Determinations of Eligibility (ADOE) (Office of Historic Preservation current computer lists dated 12/11/2006 and 12/07/2006, respectively), the CALTRANS State and Local Bridge Survey (1989 and updates), the *Survey of Surveys* (1989), GLO Plats, and other pertinent historic data available at the CCIC for each specific county.

The following details the results of the records search:

Prehistoric or historic resources within the project area:

No prehistoric or historic archaeological resources or historic properties have been reported to the CCIC.

Prehistoric or historic resources within the immediate vicinity of the project area:

No prehistoric or historic archaeological resources or historic properties have been reported to the CCIC.

The MID Lateral Canal No. 1 is over 50 years old and can be considered a potential cultural resource (it has not yet been formally recorded or evaluated); however, it is not likely that it will be impacted.

Resources that are known to have value to local cultural groups:

None have been formally reported to the CCIC.

Previous investigations within the project:

Two linear cultural resource surveys have been reported that may be in or only immediately adjacent to the project area as follows:

CCIC #	Author/Date	Project
ST-3656	Jurich (1999)	Archaeological Survey Report for the Proposed AC Overlay and Shoulder Backing of SR 132 between Modesto and Waterford (PM 16.8/28.0)
5733	Carpenter (2004)	Negative Archaeological Survey Report for the Albers Road/SR 132 Intersection Signalization Project

Previous investigations within the immediate vicinity of the project area:

One reported to the CCIC as follows:

CCIC #	Author/Date	Project
ST-890	Napton (1982)	Cultural Resource Reconnaissance of the Geer Road Landfill Expansion, Geer Road Project Site and Bonzi Alternative Site

Recommendations/Comments: Please be advised that a historical resource is defined as a building, structure, object, prehistoric or historic archaeological site, or district possessing physical evidence of human activities over 45 years old. There may be unidentified features involved in your project that are 45 years or older and considered as historical resources requiring further study and evaluation by a qualified professional of the appropriate discipline.

Based on existing data in our files:

- (1) The parcel has a low-to-moderate sensitivity for the possible discovery of the fragmentary remains of prehistoric sites, under the surface—as the parcel is within ¼-mile of the former northern terraces of the Tuolumne River and within ½-mile of the former southern terraces of Dry Creek. Prehistoric occupation sites, “kitchen midden” soils, human burials, groundstone tools, baked clay, and lithic debitage have been previously recorded in association with one or the other of these rivers; to date, two prehistoric sites have been recorded within 1 mile of this particular parcel—one midden/possible occupation site, and one site with milling implements; both of these have subsurface contexts.
- (2) Our records are not complete as to whether there exists on this parcel standing or remnant buildings, structures or objects over 45 years old, but it is a possibility, given the history and land use of the surrounding area.


If the proposed “project” that is the subject of this record search (we were not given details) will involve further development of this parcel, we recommend survey by a qualified archaeologist, of any undeveloped areas. If the project will involve the demolition, alteration, or relocation of any buildings, structures or objects over 45 years old, we recommend that they first be evaluated by a professional architectural historian. A copy of the Referral List for Historical Resources Consultants is attached for your use.

We advise you that in accordance with State law, if any historical resources are discovered during project-related construction activities, all work is to stop and the lead agency and a qualified professional are to be consulted to determine the importance and appropriate treatment of the find. If Native American remains are found the County Coroner and the Native American Heritage Commission, Sacramento (916-653-4082) are to be notified immediately for recommended procedures.

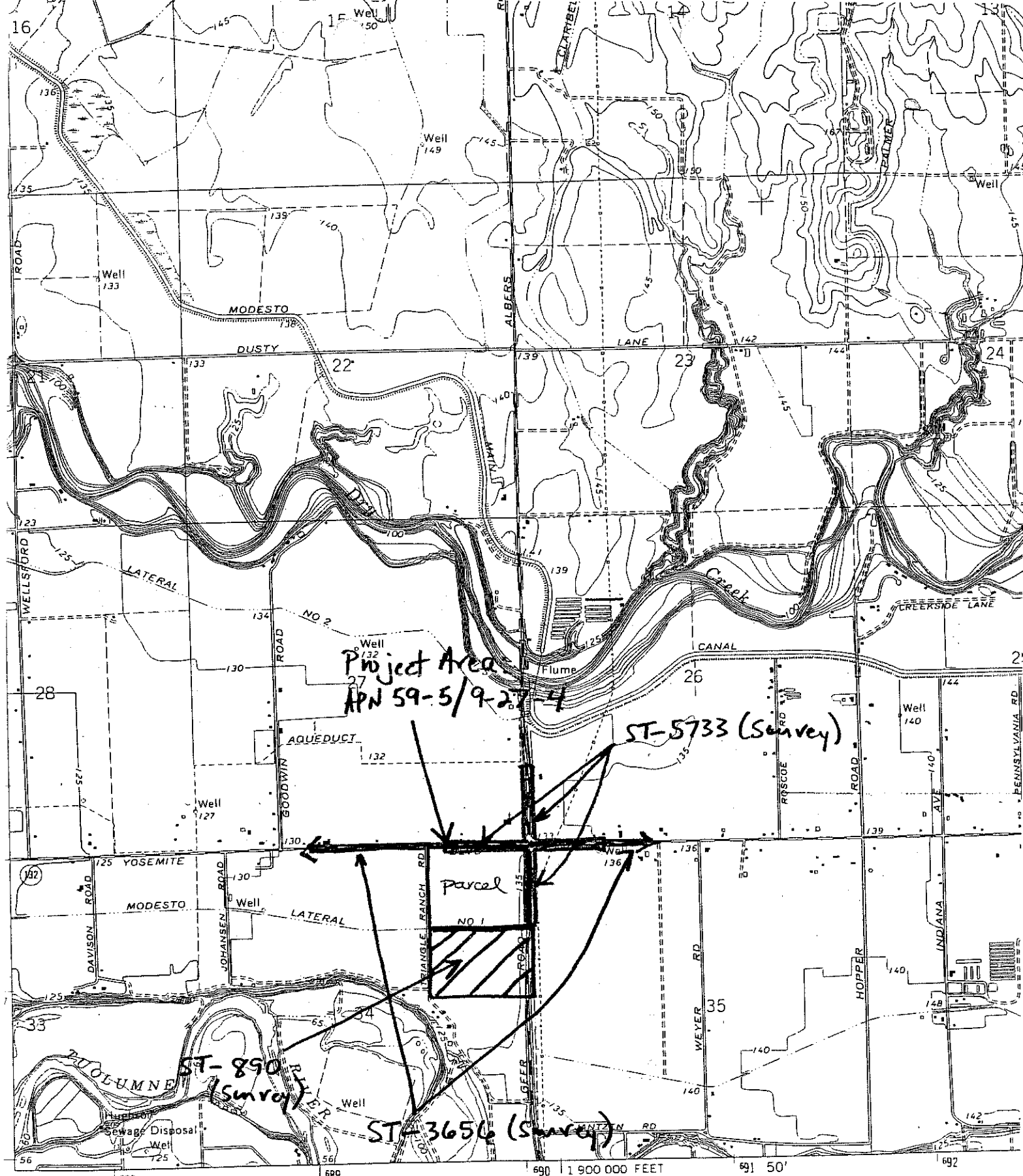
We further advise you that if you retain the services of a historical resources consultant, the firm or individual you retain is responsible for submitting any report of findings prepared for you to the Central California Information Center, including one copy of the narrative report and two copies of any records that document historical resources found as a result of field work.

We thank you for contacting this office regarding historical resource preservation. Please let us know when we can be of further service. Billing is attached, payable within 60 days of receipt of the invoice.

Sincerely,



Robin Hards, Assistant Research Technician
Central California Information Center
California Historical Resources Information System



Mapped, edited, and published by the Geological Survey

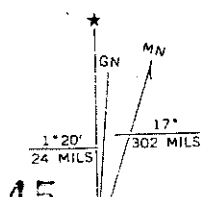
Control by USGS and USC&GS

Topography by photogrammetric methods from aerial photographs taken 1967. Field checked 1969
Supersedes map surveyed 1914, revised 1953

Polyconic projection. 1927 North American datum
10,000-foot grid based on California coordinate system, zone 3

CCIC# 6581 N

59



Waterford, CA
USGS 7.5'
(1969)

45

As Amended by the Board of Supervisors
August 19, 2008
As Amended by the Planning Commission
July 17, 2008

DEVELOPMENT STANDARDS

GENERAL PLAN AMENDMENT APPLICATION NO. 2007-03 REZONE APPLICATION NO. 2007-03 THE FRUIT YARD

****** All adopted Development Standards shall apply to all phases of the project unless specifically noted.**

Stanislaus County - Department of Planning & Community Development

1. The approved uses (phases) shall be conducted as described in the application and supporting information (including the plot plan/site plan) by the Stanislaus County Board of Supervisors and in accordance with other laws and ordinances.
2. If only Phase One is approved, interior roads identified as "E" Drive, "F" Way, "G" Drive and Triangle Ranch Road shall not be developed and only "A" Drive, "B" Drive, "C" Circle, and "D" Drive shall be developed for use. Triangle Ranch Road may continue to be used, and developed, for permitted agricultural purposes only. **If all phases are approved, roadway construction for all on-site roadways will be determined as necessary to provide proper circulation for each use proposed and in place prior to occupancy of each use. If all phases are approved, F Way shall be constructed as shown on the approved site plan unless both Public Works and the "fire authority" agree to a modification.**
3. ~~Before any approved use~~ **Prior to occupancy of the Banquet Facility, or expansion** of the park site, interior roads identified as "A" Drive, "B" Drive, "C" Circle, and "D" Drive shall be installed as approved by Stanislaus County Public Works. **The length of construction will coincide with how much of the park site is proposed for construction.**
4. If all phases of the project are approved, Triangle Ranch Road shall be shifted east to allow complete development of the road to occur on the project site. A revised site plan reflecting the shift, and in substantial compliance with the approved site plan, shall be approved by the Planning Department prior to any construction activity.
5. Agricultural uses not requiring a staff approval or a use permit pursuant to Sections 21.20.030 and 21.20.040 shall be permitted on all areas of the project site. A Use Permit to conduct activities described as Tier One and Tier Two uses under the A-2 zoning district, in effect at time of project approval, may be granted in areas of the project site which do not develop in accordance with the adopted site plan.
6. If Phase Two is approved, Use Permits for both the Tractor Sales Facility and the Fruit Packing Facility shall be approved prior to development of either use.

7. Prior to issuance of any building permit or construction of any building or structure associated with Phase Two or Phase Three, elevations shall be reviewed and approved by the Planning Director or his appointed designee. Building and structure designs shall be consistent with existing buildings and structures and with the elevations approved for Phase One.
8. An acoustical analysis shall be prepared in accordance with the Noise Element of the Stanislaus County General Plan prior to any outdoor use of amplified sound or blasting devices to insure noise levels do not exceed the maximum allowable noise levels as allowed by the Noise Element.
9. Hours of exterior construction on the site shall be limited to 7:00 a.m. to 6:00 p.m. , Monday through Saturday.
10. Roof-mounted equipment, including but not limited to air conditioners, fans, vents, antennas, and dishes shall be set back from the roof edge, placed behind a parapet wall, or in a wall, so they are not visible to motorists or pedestrians on the adjacent roads or streets. Screening for equipment shall be integrated into the building and roof design by the use of compatible materials, colors, and forms. Wood lattice and fence-like coverings shall not be used as screening materials.
11. All outside storage and mechanical equipment shall be screened from the view of any public right-of-way by a screen fence of uniform construction as approved by the Planning Director or his appointed designee. Any required water tanks for fire suppression shall be painted to blend with the surrounding landscape or screened with landscaping and shall not be used as a sign unless approved by the Planning Director or his appointed designee.
12. A plan for any proposed signs indicating the location, height, area of the sign, and message must be approved by the Planning Director or his appointed designee prior to installation.
13. All exterior trash enclosures shall be screened from public view by a minimum six-foot masonry wall constructed of materials compatible with the architecture of the development. Trash enclosures shall be placed in locations as approved by the refuse collecting agency and the Planning Director or his appointed designee. All trash bins shall be kept in trash enclosures.
14. A final landscape plan prepared in accordance with Section 21.102 of the Stanislaus County Zoning Ordinance shall be submitted prior to issuance of any building permit or approved use of the park site. Final plans shall be approved by the Planning Director or his appointed designee prior to the issuance of any building permit or approved use of the park site.
15. Any required landscaping plan shall be reviewed by the Stanislaus County Agricultural Commissioner's Office prior to installation of any landscaping and include plant species and identification of the plants origin. Said review is necessary to help stop the spread of the Glassy-winged Sharpshooter, an injurious insect to agriculture, which can enter our County on the leaves of landscape plants.

16. The applicant, or subsequent property owner, 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. Any dead trees shall be replaced with a similar variety of a 15-gallon size or larger.
17. All businesses (current & future) operating on-site shall obtain and maintain a valid business license. Application may be made with the Planning Department. (Section 6.04 of the Stanislaus County Ordinance Code)
18. 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.
19. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2007), the applicant is required to pay a Department of Fish and Game filing fee at the time of recording 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 **\$1,933.75**, made payable to Stanislaus County, for the payment of Fish and Game, 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.
20. The applicant 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.
21. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.
22. Pursuant to Section 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate stream-bed alteration agreements, permits or authorizations, if necessary.
23. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.

24. 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 Game 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.
25. 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.

Stanislaus County - Department of Public Works

26. The developer's engineer shall prepare the Irrevocable Offer of Dedication document for Geer Road prior to the issuance of a building or grading permit or approved use of the park site. Geer Road is classified as a six-lane expressway, so the ultimate right of way is 135 feet. An Irrevocable Offer of Dedication of 67.5 feet west of the centerline of Geer Road is required. The intersection of Geer Road and Yosemite Boulevard will require a dedication of a 35-foot chord. All proposed buildings or fences will have to allow for the current ultimate right-of-way set backs, not existing.
27. The developer's engineer shall prepare the Irrevocable Offer of Dedication document for Yosemite Boulevard prior to the issuance of a building or grading permit or approved use of the park site. Yosemite Boulevard is currently classified as a two lane conventional highway. CalTran's ultimate right-of-way is 110 feet. An Irrevocable Offer of Dedication of 55 feet south of the centerline of Yosemite Boulevard is required.
28. An encroachment permit must be obtained for the off site improvements.
29. This Department shall approve all driveway locations and widths on Geer Road. The northern most driveway on Geer Road (driveway 8 on the site plan) is too close to Yosemite Boulevard per County Standards and Specifications (Section 3.17 - Commercial Approaches on Major Roads) and shall be removed **concurrent with the relocation of the gas station.** ~~prior to the issuance of any building or grading permit or approved use of the park site.~~ **At the same time, The the** second driveway (driveway 9) will be **converted to** a right-in/right-out only driveway, with a pork chop installed. The driveway for "F" Way (driveway 13) will be located in such a way as to account for site distances of turning trucks, topography, and nearby structures **when its construction is warranted.** This department will approve the final location.
30. The installation of the street improvements may be phased with the development on-site. In areas being developed, the road frontages will need to be installed at current right-of-way. The improvements will include, but not be limited to, curb and gutter, drainage, pavement, associated striping, and streetlights. The improvements shall be in prior to occupancy of any associated building.
31. Off-site improvement plans for the entire frontage of the parcel shall be submitted and approved prior to the issuance of any building or grading permit.

32. An Engineer's Estimates shall be provided so the amount of the financial guarantees can be determined. This will be based on the County and State approved street improvement plans. This shall be submitted prior to issuance of a building permit and once the improvement plans have been approved by the County. Please note that there should be two Engineer's Estimates. One for CalTran's right-of-way and one for Stanislaus County's right-of-way. CalTran's improvements shall include any additional work needed to the improvements in the right of way on Yosemite Boulevard.
33. Financial guarantees in a form acceptable to the Department of Public Works shall be deposited for the street improvement installation along the frontage of the parcel at both Geer Road and Yosemite Road with the Department prior to the issuance of the first building permit. The guarantees will be separated out for County and State right-of-ways.
34. Prior to final and/or occupancy of any building or approved use of the park site, streetlights per County Standards shall be installed along the developed portions of the parcel along the right-of-way Geer Road.
35. Prior to the issuance of a building or grading/drainage permit or approved use of the park site, a lighting district shall be formed to provide a funding mechanism to pay for operations and maintenance of the streetlights. The developer shall provide all necessary documentation and pay all the costs associated with the formation of the lighting district. The formation requires a ballot procedure in compliance with State Proposition 218. This formation can take approximately three to four months. Please contact Denny Ferriera at 525-7618.
36. Prior to issuance of a Grading Permit or Building Permit or approved use of the park site, whichever is done first, the developer shall pay the first year's operating and maintenance cost of the streetlights with the Department of Public Works.
37. Prior to the issuance of any building permit or approved use of the park site, a Grading and Drainage Plan shall be approved that provides sufficient information to verify all runoff will be kept from going onto adjacent properties and into the County or State road right-of-way. After the plan is determined to be acceptable to the Department of Public Works, the plan shall be implemented prior to final and/or occupancy of any new building.
38. All **on-site** roadways within the project (**A through F**) shall be built to a **minimum 24 foot width**. ~~County Standards. This includes County Standard dimensions and cross sections for the roads on-site. This~~ **The Public Works** Department shall approve the on-site roadway plans prior to construction of the roadways, **or** issuance of a building or grading permit. ~~, or approved use of the park site.~~
39. ~~Prior to the approval of the on-site roadway plans, the developer shall enter into an inspection agreement with Stanislaus County Public Works for the inspection of the on-site roadway improvements.~~
40. Prior to the approval of the site improvement plans, the developer shall file a Notice of Intention (NOI) with the California Regional Water Quality Control Board and a Waste Discharge Identification Number must be obtained and provided to the Department of Public Works.

41. No parking, loading or unloading of vehicles will be permitted within the right-of-way of Geer Road.
42. The developer will be required to install or pay for the installation of any signs and/or markings, if warranted.
43. All employee and customer parking areas shall be paved and striped per county standards.

Stanislaus County - Building Permits Division

44. All development shall comply with the current adopted Title 24 and other Building Codes.

Stanislaus County - Department of Environmental Resources (DER)

45. Applicant must submit 3 sets of food facility construction plans to the Department of Environmental Resources for review and approval for compliance with the California Uniform Retail Food Facility Law (Section 27550).
46. Water supply for the project is defined by the State regulations as a public water system. Water system owner must submit plans for the water system construction or addition; and obtain approval from this Department of Environmental Resources (DER), prior to construction. Prior to final approval of the project, the owner must apply for and obtain a Water Supply Permit from DER. The Water Supply Permit Application must include a technical report that demonstrates compliance with State regulations and include the technical, managerial and financial capabilities of the owner to operate a public water system. The Water Supply Permit issuance is contingent upon the water system meeting construction standards, and providing water, which is of acceptable quantity and quality.
47. On-Site wastewater disposal system (OSWDS) shall be by individual Primary and Secondary wastewater treatment units, operated under conditions and guidelines by Measure X. The engineered OSWDS design shall be designed for the maximum occupancy of the buildings. The OSWDS designed system shall provide 100% expansion area.
48. 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 and II studies) 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.
49. The applicant should contact the Department of Environmental Resources regarding appropriate permitting requirements for hazardous materials and/or wastes. Applicant and/or occupants handling hazardous materials or generating hazardous wastes must notify the Department of Environmental Resources relative to the following:
 - A. Permits for the underground storage of hazardous substances at new or the modification of an existing tank facilities.
 - B. Requirements for registering as a handler of hazardous materials in the County.

- C. Submittal of hazardous materials Business Plan by handlers of materials 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 that 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 DER relative to the: (1) quantities of waste generated; (2) plans for reducing wastes generated; (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 generated must complete and submit a questionnaire to the department for determination if they are regulated under the Medical Waste Management Act.

Stanislaus Consolidated Fire Protection District

- 50. All proposed projects shall comply with all applicable codes, ordinances, and standards. Proposed structures in excess of 5,000 square feet shall be equipped with an automatic fire sprinkler system. Fire hydrants with an approved spacing and complying with minimum required fire flow shall be provided.
- 51. Approved fire apparatus access roads meeting fire code requirements shall also be provided. Per the 2007 California Fire Code, fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches. The turning radius of a fire apparatus access road shall be as approved (50-foot outside, 30-foot inside). Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

Stanislaus County - Fire Prevention Bureau

- 52. The project must comply with all applicable County and State codes, ordinances, and regulations (including the demolishing and over night parking area). Fire protection water supply and access will be required at the time of building permit application. The water supply and access will be to all parts of the proposed project including the vehicle/RV storage and travel park area.
- 53. An approved fire apparatus access road shall be provided. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet and an unobstructed vertical clearance of not less than 13 feet 6 inches. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved turn-around.
- 54. All buildings 5,000 square feet and greater and/or containing five or more dwelling units shall be provided with an automatic fire sprinkler system.

Modesto Irrigation District (MID)

- ~~55. Prior to development of the land adjacent to the MID Canal, in Phase 2 or Phase 3 a six-foot tall masonry wall, or MID approved equal, is required adjacent to the MID Lateral No. 1 canal right-of-way at the south line of the applicant's property.~~
55. **Concurrent with the development of either the RV/Boat Storage or the RV Park parcels, a six-foot high masonry wall, or an MID approved equal, is required along the south line of applicant's property adjacent to MID Lateral 1. This fence shall extend from Geer Road to a point 10 feet west of the proposed "E" Drive right-of-way. If "F" Way is constructed from "E" Street to Triangle Ranch Road or the Agricultural parcel is developed, then the wall must be extended the full length of that development.**
56. In conjunction with related site/road improvement requirements, existing overhead and underground electric facilities within or adjacent to the proposed development shall be protected, relocated or removed as required by the District's Electric Engineering Department. Appropriate easements for electric facilities shall be granted as required.
57. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.
58. Costs for relocation and/or under grounding the District's facilities at the request of others will be borne by the requesting party. Estimates for relocating or under grounding existing facilities will be supplied upon request.
59. A 15' easement is required adjacent to the existing 12kv overhead lines along the Geer Road street frontage. The Geer Road easement is required in order to protect the existing electrical facilities and maintain necessary safety clearances.
60. A 10' public utility easement is required along all existing street frontages.
61. The Modesto Irrigation District reserves its future right to utilize its property, including its canal and electrical easements and rights-of-way in a manner it deems necessary for the installation and maintenance of electric, irrigation, agricultural, and urban drainage, domestic water and telecommunication facilities. These needs, which have not yet been determined, may consist of poles, cross arms, wires, cables, braces, insulators, transformers, service lines, open channels, pipelines, pumps, control structures and any necessary appurtenances, as may, in the District's opinion, be necessary or desirable.
62. Existing electric service to the proposed project may not be adequate to serve any future load additions. The customer should contact the District's Electric Engineering Department to arrange for electric service to the proposed project. Additional easements may be required with development of this property.

Modesto City Schools

63. The appropriate school impact fees will be assessed on all construction.

San Joaquin Valley Air Pollution Control District (SJVAPCD)

64. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District.
65. Project to comply with the following rules from the SJVAPCD:
- Regulation VIII (Fugitive PM10 Prohibitions)
 - Rule 2010 (Permits Required)
 - Rule 4002 (National Emission Standards for Hazardous Air Pollutants)

 - Rule 4102 (Nuisance)
 - Rule 4103 (Open Burning)
 - Rule 4601 (Architectural Coatings)
 - Rule 4622 (Gasoline Transfer into Motor Vehicles)
 - Rule 4623 (Storage of Organic Liquids)
 - Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving, & Maintenance operations)
 - Rule 9510 (Indirect Source Review)

California Department of Transportation (CalTrans)

66. The functional area of the intersection of SR 132 and Geer Road will require the closure of the existing driveways closest to the intersection (numbers 6 and 8 as shown on the Study Intersection Index). While the other existing driveway (5) along SR 132 will need to be right in/right out. Spacing between driveways 4 and 5 are too close and need to be modified. Please provide an analysis with these driveway closures and modification for our review.
67. Please provide truck-turning templates for all driveways along SR 132 which will be accessed by trucks. Please identify whether or not the trucks will be STAA or California Legal in length.
68. An encroachment permit will be required for any work within the State right-of-way.

Board of Supervisors

69. **No individual "RV Park" space shall be occupied by the same individual, trailer, recreational vehicle, or movable sleeping quarter of any kind for a period exceeding (14) fourteen consecutive days within a one month period. This applies to owner/operator of the RV/camper/trailer, all occupants, and the RV/camper/trailer itself.**

Mitigation Measures

(Pursuant to California Public Resources Codes 15074.1: Prior to deleting and substituting for a mitigation measures, 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.)*

70. 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).
71. If any historical resources are discovered during project-related construction activities, all work is to stop and the lead agency and a qualified professional are to be consulted to determine the importance and appropriate treatment of the find. If Native American remains are found the county coroner and the Native American Heritage Commission, Sacramento (916-653-4082) are to be notified immediately for recommended procedures.
72. In accordance with the Noise Element of the Stanislaus County General Plan, noise levels associated with all on-site activities shall not exceed the maximum allowable noise levels as allowed by the Noise Element. The property owner shall be responsible for verifying compliance and for any costs associated with verification. *
73. Geer Road is classified as a six-lane expressway, so the ultimate right-of-way is 135 feet. An Irrevocable Offer of Dedication of 67.5 feet west of the centerline of Geer Road is required. The intersection of Geer Road and Yosemite Boulevard will require a dedication of a 35-foot chord. The developer's engineer shall prepare the Irrevocable Offer of Dedication document prior to the issuance of a building permit. All proposed buildings or fences will have to allow for the current ultimate right-of-way set backs, not existing.
74. Yosemite Boulevard is currently classified as a two lane conventional highway. CalTran's ultimate right-of-way is 110 feet. An Irrevocable Offer of Dedication of 55 feet south of the centerline of Yosemite Boulevard is required. The developer's engineer shall prepare the Irrevocable Offer of Dedication document prior to the issuance of a building permit or grading permit.

*** This Mitigation Measure has been modified from that which was circulated in the Initial Study (as discussed in the Staff Report / Recommendation)**

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

DEVELOPMENT SCHEDULE

GENERAL PLAN AMENDMENT APPLICATION NO. 2007-03 REZONE APPLICATION NO. 2007-03 THE FRUIT YARD

- Phase 1. Construction of the Banquet Building/Facility, upgrades to park area, corresponding landscaping, and On-Site Parking to be completed 1 to 3 years from the date of approval.
- Phase 2. Mini-Storage with Boat & RV storage, RV Park, Tractor Sales Facility, and the Fruit Packing Facility to be completed 2 to 5 years from the date of approval.
- Phase 3. Gas Station Relocation, Card Lock (Gas Station) Relocation, and Retail Buildings to be completed 3 to 7 years from the date of approval.

Uses may be moved from one phase to another to react to market conditions.

56 PM 83

OWNER'S STATEMENT:

WE, THE UNDERSIGNED OWNER(S), HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF, OR HAVE SOME RIGHT, TITLE OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS PARCEL MAP, AND WE CONSENT TO THE MAKING AND FILING OF THIS MAP IN THE OFFICE OF THE COUNTY RECORDER.
WE HEREBY OFFER FOR DEDICATION TO THE PUBLIC, FOR PUBLIC USE, THE PUBLIC UTILITY EASEMENTS AS SHOWN ON THIS MAP.
WE ALSO HEREBY OFFER FOR DEDICATION FOR THE MUTUAL BENEFIT OF THE PARCELS SHOWN HEREON, THE 30.00 FOOT WIDE PRIVATE INGRESS AND EGRESS EASEMENT AS SHOWN ON THIS MAP.

OWNER: FRUITYARD PROPERTY, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BY: Joseph Traina 10/8/12
JOSEPH TRAINA, MEMBER DATE
BY: William Traina 10/8/12
WILLIAM TRAINA, MEMBER DATE

BENEFICIARY: WELLS FARGO BANK, NATIONAL ASSOCIATION
BY DOCUMENT RECORDED JUNE 25 2008 AS DOCUMENT. NO. 2008-0068530, S.C.R.

Donny L. Rocha 10/25/12
DONNY L. ROCHA, VICE PRESIDENT DATE
PRINT NAME & TITLE

ACKNOWLEDGMENT:

STATE OF CALIFORNIA:

COUNTY OF Stanislaus:

ON 10/8/12 BEFORE ME, Rachel Correia, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED, Joseph Traina & William Traina

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/HEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

Rachel Correia, NOTARY PUBLIC
PRINT NAME: Rachel Correia
COMMISSION NUMBER: 1951769
COMMISSION EXPIRES: Oct. 8, 2015
PRINCIPAL OFFICE LOCATION (COUNTY): Stanislaus

ACKNOWLEDGMENT:

STATE OF CALIFORNIA:

COUNTY OF Stanislaus:

ON 10-25-12 BEFORE ME, ANNA FILEPPI, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED, DONNY L. ROCHA

WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/HEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND.

Anna Fileppi, NOTARY PUBLIC
PRINT NAME: ANNA FILEPPI
COMMISSION NUMBER: 1848157
COMMISSION EXPIRES: MAY 8, 2013
PRINCIPAL OFFICE LOCATION (COUNTY): Stanislaus

NOTE:

"ALL PERSONS PURCHASING LOTS WITHIN THE BOUNDARIES OF THIS APPROVED MAP SHOULD BE PREPARED TO ACCEPT THE INCONVENIENCES ASSOCIATED WITH THE AGRICULTURAL OPERATIONS, SUCH AS NOISE, ODORS, FLIES, DUST OR FUMES. STANISLAUS COUNTY HAS DETERMINED THAT SUCH INCONVENIENCES SHALL NOT BE CONSIDERED TO BE A NUISANCE IF AGRICULTURAL OPERATIONS ARE CONSISTENT WITH ACCEPTED CUSTOMS AND STANDARDS."

CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE:

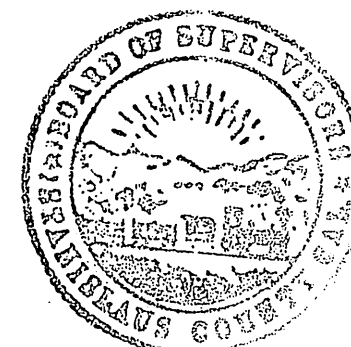
THIS IS TO CERTIFY THAT THE OWNERS OF THE PROPERTY SHOWN ON THE ACCOMPANYING MAP HAVE FILED WITH THE BOARD OF SUPERVISORS: (CHECK ONE)

- A. A BOND OR DEPOSIT APPROVED BY SAID BOARD TO SECURE THE PAYMENT OF TAXES AND SPECIAL ASSESSMENTS COLLECTED AS TAXES, WHICH ARE AT THE TIME OF FILING THIS MAP, A LIEN AGAINST SAID PROPERTY OR ANY PART THEREOF.
- B. RECEIPTED TAX BILL OR BILLS OR SUCH OTHER EVIDENCE AS MAY BE REQUIRED BY SAID BOARD SHOWING FULL PAYMENT OF ALL APPLICABLE TAXES.

DATED THIS 23 DAY OF October 2012.

CHRISTINE FERRARO TALLMAN
CLERK OF THE BOARD OF SUPERVISORS.

BY: Pam Villarreal, DEPUTY
Pam Villarreal
PRINT NAME



TAX COLLECTOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT THERE ARE NO LIENS FOR ANY UNPAID STATE, COUNTY, SCHOOLS, MUNICIPAL, OR SPECIAL ASSESSMENTS, EXCEPT SPECIAL ASSESSMENTS OR TAXES NOT YET PAYABLE AGAINST THE LAND SHOWN ON THIS MAP.

ASSESSOR'S PARCEL NO. 009-027-004.

DATED THIS 23rd DAY OF October 2012.

GORDON B. FORD
COUNTY TAX COLLECTOR.

BY: Jegan L. Raja, DEPUTY
JEGAN L. RAJA
PRINT NAME

OMITTED SIGNATURE:

PURSUANT TO SECTION 66436 OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING EASEMENT HOLDER'S OF RECORD HAVE BEEN OMITTED:

MODESTO IRRIGATION DISTRICT, CANAL AND INCIDENTAL PRUPOSES, RECORDED MAR. 13, 1925, IN BK. 105 OF OFFICIAL RECORDS, PG. 331, S.C.R.
MODESTO IRRIGATION DISTRICT, PUBLIC UTILITY PRUPOSES, RECORDED JUNE 6, 2007, AS DOCUMENT NO. 2007-00757115, S.C.R.

PARCEL MAP

BEING A DIVISION OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN STANISLAUS COUNTY, CALIFORNIA

PREPARED FOR: THE FRUITYARD
OCTOBER, 2012



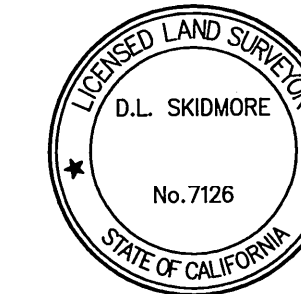
4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356
PHONE: (209) 545-3390 FAX: (209) 545-3875 www.assoceng.com

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF JOE TRAINA ON OCTOBER 1, 2012. I HEREBY STATE THAT THIS PARCEL MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY. ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED AND ARE SUFFICIENT TO ENABLE THIS SURVEY TO BE RETRACED.

DATED THIS 8th DAY OF OCTOBER 2012.

Dave L. Skidmore
DAVE L. SKIDMORE, L.S. 7126



COUNTY SURVEYOR'S STATEMENT:

THIS IS TO CERTIFY THAT THE ACCOMPANYING MAP HAS BEEN EXAMINED AND THAT IT SUBSTANTIALLY CONFORMS TO THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF. ALSO, CHAPTER 2, AND TITLE 20, OF THE STANISLAUS COUNTY SUBDIVISION CODE HAVE BEEN COMPLIED WITH AND THE MAP IS TECHNICALLY CORRECT.

I HEREBY ACCEPT ON BEHALF OF THE PUBLIC FOR PUBLIC USE, THE OFFER OF DEDICATION OF THE PUBLIC UTILITY EASEMENTS AS SHOWN ON THIS MAP.

DATED THIS 29th DAY OF OCTOBER 2012.

WAYNE G. SUTTON
COUNTY SURVEYOR

Wayne G. Sutton
L.S. 3863



RECORDER'S CERTIFICATE:

FILED THIS 31st DAY OF October, 2012 AT 15.04.23 O'CLOCK P.M.

IN BOOK 56 OF PARCEL MAPS, AT PAGE 83, STANISLAUS COUNTY RECORDS, AT THE REQUEST OF ASSOCIATED ENGINEERING GROUP, INC.

INSTRUMENT NO. 2012-97688

FEE \$15.00 PAID

LEE LUNDRIGAN
CLERK RECORDER

BY: Manjit Kahlon, DEPUTY
Manjit Kahlon
PRINT NAME

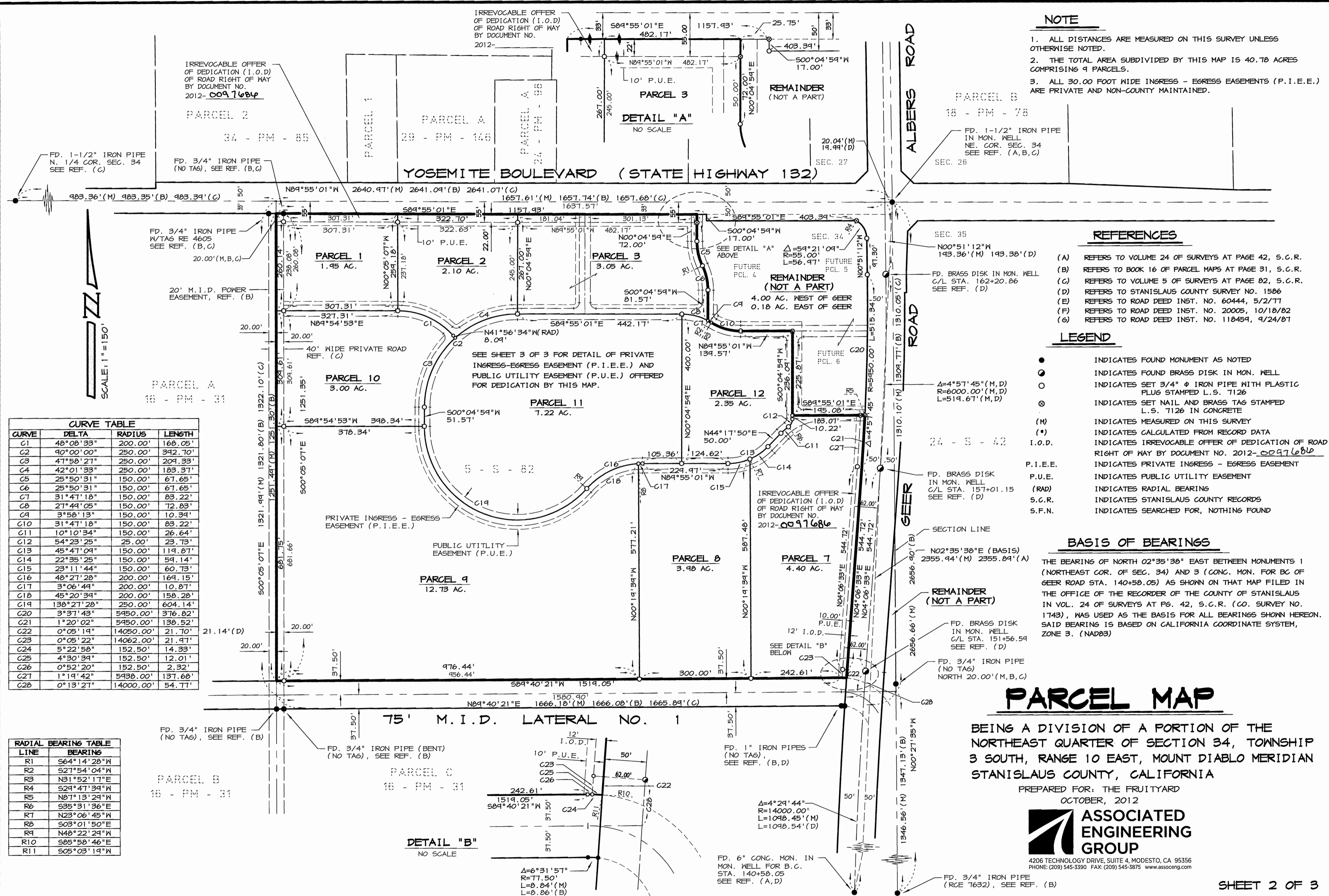
STANISLAUS COUNTY PM APP. NO. 2009-08
ASSOCIATED ENGINEERING JOB NO. 496C-12

ATTACHMENT 4
SHEET 1 OF 3

56 PM 83

56 PM 83

56 PM 83



NOTE

1. ALL DISTANCES ARE MEASURED ON THIS SURVEY UNLESS OTHERWISE NOTED.
2. THE TOTAL AREA SUBDIVIDED BY THIS MAP IS 40.78 ACRES COMPRISING 9 PARCELS.
3. ALL 30.00 FOOT WIDE INGRESS - EGRESS EASEMENTS (P.I.E.E.) ARE PRIVATE AND NON-COUNTY MAINTAINED.

REFERENCES

- (A) REFERS TO VOLUME 24 OF SURVEYS AT PAGE 42, S.C.R.
- (B) REFERS TO BOOK 16 OF PARCEL MAPS AT PAGE 31, S.C.R.
- (C) REFERS TO VOLUME 5 OF SURVEYS AT PAGE 82, S.C.R.
- (D) REFERS TO STANISLAUS COUNTY SURVEY NO. 1586
- (E) REFERS TO ROAD DEED INST. NO. 60444, 5/2/77
- (F) REFERS TO ROAD DEED INST. NO. 20005, 10/18/82
- (G) REFERS TO ROAD DEED INST. NO. 118459, 9/24/87

LEGEND

- INDICATES FOUND MONUMENT AS NOTED
- INDICATES FOUND BRASS DISK IN MON. WELL
- INDICATES SET 3/4" φ IRON PIPE WITH PLASTIC PLUG STAMPED L.S. 7126
- ⊗ INDICATES SET NAIL AND BRASS TAG STAMPED L.S. 7126 IN CONCRETE
- (M) INDICATES MEASURED ON THIS SURVEY
- (*) INDICATES CALCULATED FROM RECORD DATA
- I.O.D. INDICATES IRREVOCABLE OFFER OF DEDICATION OF ROAD RIGHT OF WAY BY DOCUMENT NO. 2012-0097686
- P.I.E.E. INDICATES PRIVATE INGRESS - EGRESS EASEMENT
- P.U.E. INDICATES PUBLIC UTILITY EASEMENT
- (RAD) INDICATES RADIAL BEARING
- S.C.R. INDICATES STANISLAUS COUNTY RECORDS
- S.F.N. INDICATES SEARCHED FOR, NOTHING FOUND

BASIS OF BEARINGS

THE BEARING OF NORTH 02°35'38" EAST BETWEEN MONUMENTS 1 (NORTHEAST COR. OF SEC. 34) AND 3 (CONC. MON. FOR BC OF GEER ROAD STA. 140+58.05) AS SHOWN ON THAT MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF STANISLAUS IN VOL. 24 OF SURVEYS AT Pg. 42, S.C.R. (CO. SURVEY NO. 1743), WAS USED AS THE BASIS FOR ALL BEARINGS SHOWN HEREON. SAID BEARING IS BASED ON CALIFORNIA COORDINATE SYSTEM, ZONE 3. (NAD83)

PARCEL MAP

BEING A DIVISION OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN STANISLAUS COUNTY, CALIFORNIA

PREPARED FOR: THE FRUITYARD
OCTOBER, 2012

ASSOCIATED ENGINEERING GROUP
4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356
PHONE: (209) 545-3390 FAX: (209) 545-3875 www.assoceng.com

SHEET 2 OF 3

CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH
C1	48°08'33"	200.00'	168.05'
C2	90°00'00"	250.00'	342.70'
C3	47°58'27"	250.00'	209.33'
C4	42°01'33"	250.00'	183.37'
C5	25°50'31"	150.00'	67.65'
C6	25°50'31"	150.00'	67.65'
C7	31°47'18"	150.00'	83.22'
C8	27°44'05"	150.00'	72.83'
C9	3°58'13"	150.00'	10.39'
C10	31°47'18"	150.00'	83.22'
C11	10°10'34"	150.00'	26.64'
C12	54°23'25"	25.00'	23.73'
C13	45°47'04"	150.00'	119.87'
C14	22°35'25"	150.00'	59.14'
C15	23°11'44"	150.00'	60.73'
C16	48°27'28"	200.00'	169.15'
C17	3°06'44"	200.00'	10.87'
C18	45°20'39"	200.00'	158.28'
C19	138°27'28"	250.00'	604.14'
C20	3°37'43"	5450.00'	376.82'
C21	1°20'02"	5450.00'	138.52'
C22	0°05'19"	14050.00'	21.70'
C23	0°05'22"	14062.00'	21.47'
C24	5°22'58"	152.50'	14.33'
C25	4°30'39"	152.50'	12.01'
C26	0°52'20"	152.50'	2.32'
C27	1°19'42"	5938.00'	137.68'
C28	0°13'27"	14000.00'	54.77'

RADIAL BEARING TABLE

LINE	BEARING
R1	S64°14'28"W
R2	S27°54'04"W
R3	N31°52'17"E
R4	S29°47'39"W
R5	N87°13'29"W
R6	S35°31'36"E
R7	N23°06'45"W
R8	S03°01'50"E
R9	N48°22'29"W
R10	S85°58'46"E
R11	S05°03'19"W

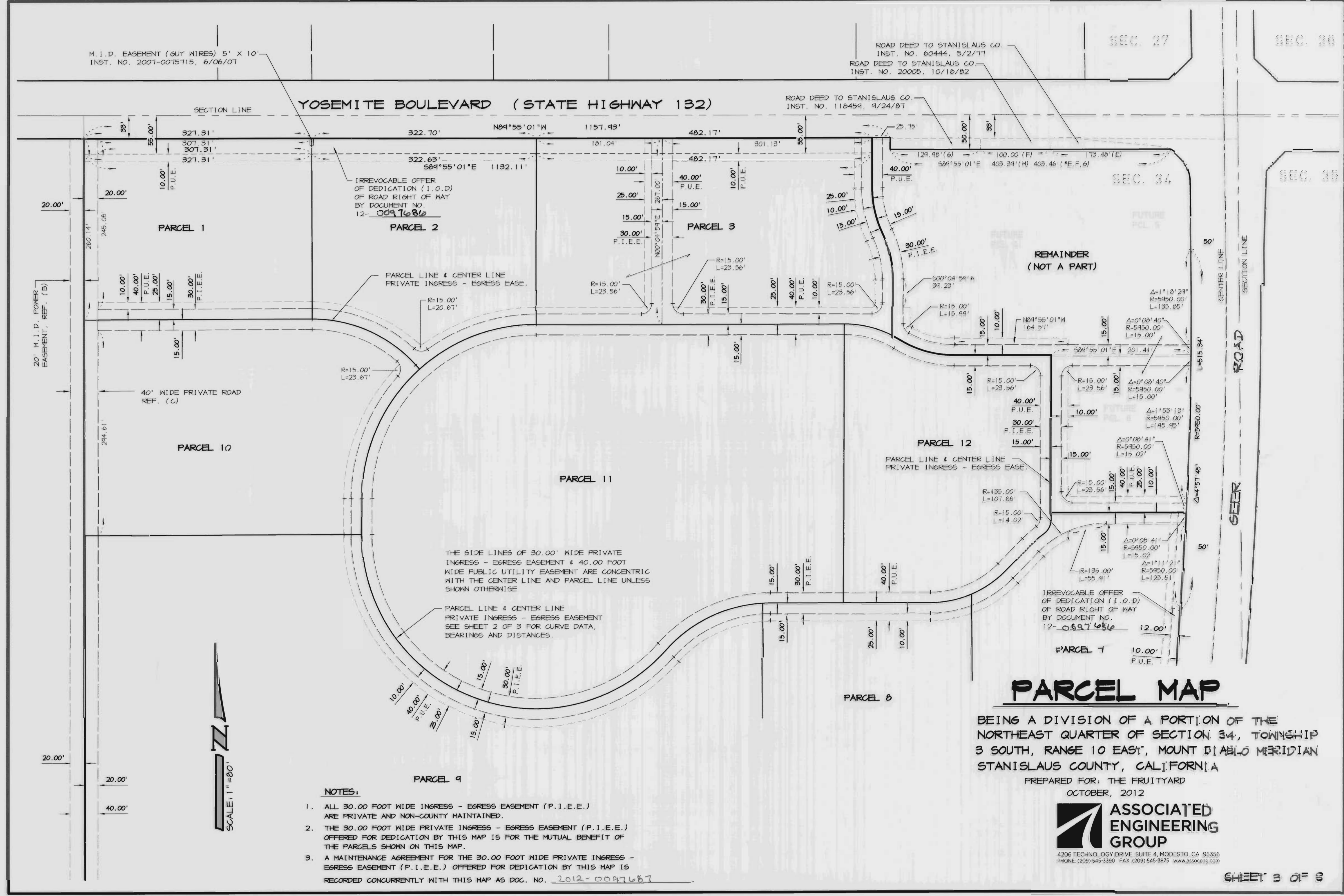
72

56 PM 83

56 PM 83

56 PM 83

56 PM 83



M.I.D. EASEMENT (GUY WIRES) 5' X 10'
INST. NO. 2007-00757115, 6/06/07

ROAD DEED TO STANISLAUS CO.
INST. NO. 60444, 5/2/77
ROAD DEED TO STANISLAUS CO.
INST. NO. 20005, 10/18/82

ROAD DEED TO STANISLAUS CO.
INST. NO. 118459, 9/24/87

YOSEMITE BOULEVARD (STATE HIGHWAY 132)

SEC. 27

SEC. 28

SEC. 34

SEC. 35

IRREVOCABLE OFFER OF DEDICATION (I.O.D.) OF ROAD RIGHT OF WAY BY DOCUMENT NO. 12-00976816

PARCEL LINE & CENTER LINE PRIVATE INGRESS - EGRESS EASE.

REMAINDER (NOT A PART)

20' M.I.D. POWER EASEMENT, REF. (B)

40' WIDE PRIVATE ROAD REF. (C)

THE SIDE LINES OF 30.00' WIDE PRIVATE INGRESS - EGRESS EASEMENT & 40.00 FOOT WIDE PUBLIC UTILITY EASEMENT ARE CONCENTRIC WITH THE CENTER LINE AND PARCEL LINE UNLESS SHOWN OTHERWISE

PARCEL LINE & CENTER LINE PRIVATE INGRESS - EGRESS EASEMENT SEE SHEET 2 OF 3 FOR CURVE DATA, BEARINGS AND DISTANCES.

IRREVOCABLE OFFER OF DEDICATION (I.O.D.) OF ROAD RIGHT OF WAY BY DOCUMENT NO. 12-00976816

PARCEL MAP

BEING A DIVISION OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN STANISLAUS COUNTY, CALIFORNIA

PREPARED FOR: THE FRUITYARD
OCTOBER, 2012



4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356
PHONE: (209) 545-3390 FAX: (209) 545-3875 www.assoceng.com

NOTES:

1. ALL 30.00 FOOT WIDE INGRESS - EGRESS EASEMENT (P.I.E.E.) ARE PRIVATE AND NON-COUNTY MAINTAINED.
2. THE 30.00 FOOT WIDE PRIVATE INGRESS - EGRESS EASEMENT (P.I.E.E.) OFFERED FOR DEDICATION BY THIS MAP IS FOR THE MUTUAL BENEFIT OF THE PARCELS SHOWN ON THIS MAP.
3. A MAINTENANCE AGREEMENT FOR THE 30.00 FOOT WIDE PRIVATE INGRESS - EGRESS EASEMENT (P.I.E.E.) OFFERED FOR DEDICATION BY THIS MAP IS RECORDED CONCURRENTLY WITH THIS MAP AS DOC. NO. 2012-00976816

56 PM 83

56 PM 83

73

Tom Douglas
548 North Hopper Road
Modesto, CA 95357-1818

Miguel A. Galvez, Senior Planner
Planning and Community Development

Mr. Galvez:

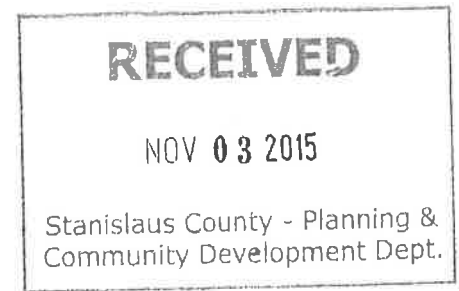
I would like to thank you for the opportunity to comment on the TIME EXTENSION APPLICATION NO. PLN2015-0075 – THE FRUIT YARD for the public hearing scheduled for December 3, 2015.

Having participated in the approval of the original General Plan Amendment and Planned Development, it is my understanding that the Planned Development expired in 2011 and that the currently proposed amphitheater that is being processed under a separate Staff Approval Application is a significant change in the scope of the projects that had been approved as part of the General Plan Amendment.

In the original approval, Phase One of the project would have resulted in the construction of banquet facility, upgrades to the park, landscaping and parking for the operation of the banquet facility. That phase of the project was to have been completed within 1 to 3 years of the approval of the Planned Development (July 17, 2008). This phase expired in July 2011 and an extension should have been required prior to the authorization of any permits for improvements related to Phase One of the existing Planned Development schedule. Furthermore, the last phase of the project for the relocation and expansion of the fueling facilities, which was given a 3 to 7 year development schedule, expired July 17, 2015.

In my opinion, the proposed amphitheater is not the same as “park improvements” and contains no element of the original Phase One project which was primarily about the construction of a banquet facility and the associated parking, landscaping and park improvements requested to hold special events and weddings. When I provided my testimony at the original hearing, I already had significant concerns about noise for a banquet facility due to the fact that I had been disturbed by noise from significantly smaller events. I am located roughly 1.5 miles away from the Fruit Yard. At that time, the applicant assured me that events would occur within the building with some events occurring in the park during normal business hours. Typically that means that events end around 10 PM on weekdays and 11 PM on weekends.

The prospect of a 5,000 person amphitheater is a pretty significant change in scope, in my mind. The originally approved banquet building would not have come close to accommodating that many people. Furthermore, the type of music events that are attracted to an amphitheater will be primarily conducted outside of a building, the music will be substantially more amplified than any of the current events being held at the Fruit Yard, the traffic generated by an amphitheater is concentrated during specific times where current events are spread out over a day or two, the type of parking demand and traffic



management required to accommodate the traffic is very different than the smaller banquet facility would have been, and a much higher level of security is required to manage crowds of this size. These are all environmental impacts that were never addressed in the original approval because a facility of this magnitude was not included in the project description and could not have possibly been analyzed properly for CEQA purposes. Prior to the approval of the amphitheater or this extension of the schedule, the County should prepare the environmental studies to ensure that these impacts are analyzed and that proper mitigation measures are put in place to reduce the impacts to a less than significant level or prepare an environmental impact report if the impacts cannot be adequately mitigated.

The applicant argues that the amphitheater construction that is currently occurring on the site under a grading permit was to create a drainage basin for the parking lot that was to have accompanied the banquet facility and that the construction of the amphitheater was intended to reduce the impacts of the activities that are currently occurring in the park area.

I DISAGREE. The construction of the amphitheater is not equivalent to having a park-like setting for holding weddings and events like Graffiti Days. Weddings are much smaller and the other events held at the Fruit Yard occur over the course of an entire day. These events already create significant noise and traffic impacts, but don't come close to the level of traffic, noise, parking and security concerns of a large amphitheater that brings 5,000 people together at the same time over the course of a few hours and then releases them again. Not to mention the fact that these types of facilities attract performances that generate much louder noise. I also understand that the applicant wishes to change the original banquet building into a tent that has far less noise attenuating features. This change runs counter to the assurances that were made to me at the original hearing.

Although the December 3, 2015 hearing is on the extension of the project, I believe that the extension is tied to the future proposed changes in the development plan. I attended the original 2008 planning commission meeting that approved the general plan amendment and rezone. I also had the opportunity to comment on the original development plan. Due to the changes in the scope of the project as well as the potential environmental impacts of the proposed changes in both the scope of the Planned Development and its development schedule, I respectfully request that the extension be denied and that the County require that the proper environmental impact studies be prepared to provide the public with a better understanding of the potential impacts of the proposed changes in the scope and schedule of the project.

I am concerned that the proposed development plan is substantially different than the original proposal. I believe that these changes require additional CEQA considerations. I can identify six specific areas that need to be addressed through either additional CEQA mitigation or operation restrictions.

NOISE. Although the developers have agreed to abide by all of the County Noise Ordinances as part of their development proposal and have conducted a noise study to assess the impact of the amphitheater, the study looked at noise generated by a special event at the floor of the amphitheater but it did not

consider crowd noise as part of the analysis or what impact a concrete stage may have on the analysis. Measurements made at the top of the amphitheater may provide a more accurate assessment. The noise study proposed that the developer employ a professional acoustic firm to measure the sound levels at the first year of operation to evaluate the noise mitigation measures. I believe that a condition of the extension and the amendment should include this noise monitoring as a permanent requirement. The results should be provided to county planning on a continual basis. The continued maintenance of these noise levels should a requirement of the continued operation of the facility.

The applicant also proposes to have weddings at this facility, any event should be regulated by the County Noise Ordinance and a noise study should be conducted for the tented wedding facility. Noise levels and time period constraints should be recognized and monitored through regular reports available to the public for review. Lower noise levels after 10 PM should be maintained.

TIME LIMITS TO WEDDINGS AND SPECIAL EVENTS. Originally the developer proposed to allow special events or weddings to go to midnight. At a community meeting recently held by the developer he proposed to limit events to no later than 10:00 p.m. In any case, the timing of events and weddings should recognize the timing and noise restrictions noted in the County Noise Ordinance.

A review of most of the major amphitheaters suggest that these operations all have a firm shut down time as a consideration to neighboring community. Not one reviewed extended their operation to midnight at any time.

TRAFFIC CONTROL. The orderly egress and exit of 5,000 attendants at a special event is no small endeavor. This operation may have considerable impacts on traffic on State Route 132 and county roads. This issue has not been considered in the plan. A traffic plan should be a requirement of the extension or rezone.

PARKING. In past special events held at the Fruit Yard parking has been at a premium. People attending parked on the sides of State Route 132 and Geer Road. Both SR 132 and Geer/Albers are busy traffic corridors. This parking has created a traffic and public safety problem with people jaywalking with limited visibility across traffic. Although Caltrans has installed a pedestrian crossing at this intersection, this will probably not solve the jaywalking problem.

The plan needs a parking analysis and mitigating measures to assure the continued free flow of traffic on the two major streets. Are there sufficient parking spaces for a 5,000 customer venue? Any deficit could be addressed through a shuttle program from nearby parking lots. A no parking posting program on SR 132 and Geer may be necessary to assure pedestrian safety.

NEIGHBORHOOD COMPLAINT PROCESS. I understand that the applicant has argued that he has not received any complaints about noise from the community. Personally I know that I have complained several times both to the Fruit Yard staff and to the sheriff department about noise levels past 10 PM.

In the past when I have complained to Fruit Yard Staff about noise from weddings, I was either told that they were exempt from the noise ordinance or had special permission to continue until midnight. In short no one was registering the complaints or even addressing them. I had contacted the sheriff department a number of times and have been told that it would be addressed on a non-emergency basis when staff was available. This was true even when events were permitted under a sheriff's permit.

To the applicant's credit there have not been any issues during the last year. I believe that weddings were conducted inside. The addition of a tent space for weddings could create another noise issue that should be monitored.

At the very least a responsible staff member should be available at all times during any event or wedding. The contact telephone number to address issues should be available at all times to the members of the surrounding community. Any event exceeding the noise standard should be terminated.

SECURITY. The applicant should have a detailed security plan in place. Any event that has 5,000 attendees should have identifiable security program for crowd control. This requirement should be defined for both weddings and special events where the number of attendees should set the number of security staff.

In the past, when I was going to the Fruit Yard Restaurant for a late dinner, I was accosted by a drunken individual from a wedding. When I asked the Fruit Yard employee I was told that there was no security at the wedding and that there was no employee responsible for monitoring the wedding. I was also told that staff left at 10:00 p.m. and the wedding could continue as long as it wanted. The wedding was essentially left to run on its own. This is clearly unacceptable, particularly for the substantial changes to the property proposed by the applicant.

IN SUMMARY, the County has allowed and even encouraged neighborhoods to develop near the Fruit Yard. People who live in these neighborhoods have an expectation that, while not the same as in an urban environment, is also not the same as in a farming area with 40-acre parcels. Development and activities at the Fruit Yard have caused problems in the past for the neighbors. Should the extension be granted—and I request that it be denied—I ask that the County consider the compatibility of this potential development as if it were in any other neighborhood. Any mitigation measures that are applied should be fully enforceable and enforced and penalties for failure to comply should be adequate to ensure compliance.

If you have any questions regarding these comments please do not hesitate to contact me at 209-409-4912

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: Time Extension No. PLN2015-0075 - The Fruit Yard

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 / Mine Reclamation	X				X							
CA DEPT OF FISH & WILDLIFE	X				X							
CA DEPT OF TRANSPORTATION DIST 10	X			X								
CA OPR STATE CLEARINGHOUSE	X				X							
CA RWQCB CENTRAL VALLEY REGION	X			X				X		X		X
CA STATE LANDS COMMISSION	X				X							
COOPERATIVE EXTENSION	X				X							
FIRE PROTECTION DIST: Consolidated	X			X				X		X		X
IRRIGATION DISTRICT: Turlock	X			X				X		X		X
IRRIGATION DISTRICT: Modesto	X			X				X		X		X
MOSQUITO DISTRICT: Eastside	X				X							
MT VALLEY EMERGENCY MEDICAL	X				X							
PACIFIC GAS & ELECTRIC	X				X							
SAN JOAQUIN VALLEY APCD	X				X							
SCHOOL DISTRICT 1: Empire	X				X							
SCHOOL DISTRICT 2: Modesto	X				X							
STAN CO AG COMMISSIONER	X				X							
STAN CO BUILDING PERMITS DIVISION	X				X							
STAN CO CEO	X				X							
STAN CO DER	X				X							
STAN CO ERC	X			X				X		X		X
STAN CO FARM BUREAU	X				X							
STAN CO HAZARDOUS MATERIALS	X				X							
STAN CO PARKS & RECREATION	X				X							
STAN CO PUBLIC WORKS	X				X							
STAN CO SHERIFF	X				X							
STAN CO SUPERVISOR DIST #1: O'Brien	X				X							
STAN COUNTY COUNSEL	X				X							
StanCOG	X				X							
STANISLAUS FIRE PREVENTION BUREAU	X				X							
STANISLAUS LAFCO	X				X							
SURROUNDING LAND OWNERS	X		X	1				X		X		X
TELEPHONE COMPANY: AtT &T	X				X							
TRIBAL CONTACTS (CA Government Code §65352.3)	X				X							
TUOLUMNE RIVER TRUST	X				X							
US ARMY CORPS OF ENGINEERS	X				X							
US FISH & WILDLIFE	X				X							
US MILITARY AGENCIES (SB 1462) (5 agencies)	X				X							
USDA NRCS	X				X							
WATER DISTRICT: Del Este	X				X							