

# STANISLAUS COUNTY PLANNING COMMISSION

June 16, 2016

## STAFF REPORT

USE PERMIT APPLICATION NO. PLN 2012-0017  
AVILA AND SONS WASHINGTON ROAD WAREHOUSE  
(STATE CLEARINGHOUSE NO. 2013082091)

**REQUEST: TO CONSTRUCT AN 180,000 SQUARE-FOOT WAREHOUSE AND ASSOCIATED FACILITIES FOR THE RECEIVING, STORING, PACKING, AND SHIPPING OF AGRICULTURAL PRODUCE ON 26 ACRES. THIS PROJECT INCLUDES CERTIFICATION OF A FINAL ENVIRONMENTAL IMPACT REPORT.**

### APPLICATION INFORMATION

Applicant / Property Owner:	Dan and Lori Avila
Environmental Consultant:	Desmond Johnston, Quad Knopf
Location:	1301 N. Washington Road, between Fulkerth Road and West Main Street, in the Turlock area
Section, Township, Range:	18-5-10
Supervisorial District:	Two (Supervisor Chiesa)
Assessor's Parcel:	023-039-017 & 023-039-018
Referrals:	See Exhibit G Environmental Review Referrals
Area of Project Site:	62.7± acres
Water Supply:	On-site private well
Sewage Disposal:	On-site private septic system
Existing Zoning:	A-2-40 (General Agriculture)
General Plan Designation:	Agriculture
Community Plan Designation:	Not Applicable
Williamson Act Contract No.:	1971-0309
Environmental Review:	Environmental Impact Report (EIR)
Present Land Use:	Various structures (two dwellings, barn (redwood barn), pole barn and storage building) with the balance of site in agricultural production.
Surrounding Land Use:	A single-family home and row crops to the north; scattered single-family homes and orchards to the west and south, Blue Diamond Almond processing facility to the east, across N. Washington Road.

## **RECOMMENDATION**

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

## **PROJECT DESCRIPTION**

This is a request to construct an 180,000 square-foot warehouse and associated facilities in order to conduct receiving, storing, packaging and shipping of agricultural produce. An office, driveways and two parking lots will also be developed, and together will occupy approximately 26 +/- acres of the two-parcel, 61.7-acre site. (See Exhibit B – *Maps and Project Site Plan.*)

Agricultural produce to be processed at the facility will consists of: watermelons, sweet potatoes, beans, wheat, pumpkins and squash, grown on the project site and from other property farmed by the applicant. Evaporative coolers and refrigerators, located inside the warehouse, would be used maintain produce freshness.

The proposed warehouse, measuring 300 feet by 600 feet and 32 feet high, is planned to be constructed in three phases consisting of 60,000 square feet per phase. The first phase is scheduled to commence in 2017, with phase two projected to commence in 2019 and phase three commencing in 2022. Full build-out will be based on market demand.

The proposed warehouse facility will incorporate truck shipping docks on the north and south side of the warehouse. The warehouse would also include areas for sorting, packing, storing and shipping of produce. A paved access driveway will be installed around the warehouse building to facilitate on-site access and minimize the generation of dust from on-site activity.

The project proposes to convert an existing 8,424 square-foot barn into a packing shed and an existing 1,200 square-foot single-family dwelling into an office, and to utilize an existing 144 square-foot milk barn for storage, and a 5,500 square-foot pole barn for storage, repair and maintenance of farm equipment used on-site. The existing 64 square-foot produce stand is proposed to remain and to be utilized for sales of seasonal produce grown on property owned and/or leased by the applicant.

A maximum of 75 employees would on-site at any time. The proposed operation includes a maximum of 60 warehouse employees, 4 office employees, 10-35 (includes multiple shifts) packing shed employees, and 2 equipment repair/maintenance employees. The hours of operation will generally be 6:00 a.m. to 6:00 p.m., but could operate 24 hours during the harvest seasons. The warehouse is expected to generate up to 817 daily trips, but will generate a lower volume initially during the first two phases. Seventy truck deliveries/loads per day are anticipated daily between June and October.

All traffic associated with the project will take access from N. Washington Road. The current access from Fulkerth Road will no longer be used to serve the project site. Visitor and truck traffic will access the warehouse through a new entrance driveway at

the signalized entrance to the Blue Diamond Almond facility on N. Washington Road. Additional traffic signalization improvements will be installed to accommodate access to and from the site. The existing access for the produce stand and office, located approximately 230 feet north of the proposed signalized entrance, will be maintained to provide access for employee parking. The existing access for the residence, located at 1113 N. Washington Road., approximately 350 feet south of the proposed signalized access, will remain, but will be conditioned for residential use only. After improvements to N. Washington Road are completed, both the employee and residential access will be right-in, right-out access only. In addition to the 26 truck docking bays at the warehouse, parking will consist of 86 employee parking spaces, 19 visitor and additional employee spaces located at the eastern end of the proposed warehouse, and 12 large truck parking spaces.

The applicant will provide dedication and street improvements along N. Washington Road per City of Turlock development standards. Required improvements include curb, gutter, street re-striping, a left turn lane, and road widening to accommodate acceleration and deceleration lanes onto N. Washington Road. The property's North Washington Road street frontage will be landscaped in front of the project's development area and around the employee parking lot.

No public water or wastewater services are proposed. Water for the site will be provided from two on-site private wells. A private septic leach field system will be used to dispose of wastewater. Storm water collected on-site would be conveyed by a combination of surface scales, culverts, and sheet flow which will be conveyed to a .25 acre storm water retention basin, located west of the proposed warehouse building.

### **SITE DESCRIPTION**

The project site is comprised of two parcels, a 26.49 acre parcel and 3.6 acres of a 35.2 acre parcel, located on the west side of N. Washington Road, south of Fulkerth Road, at the western boundary of the City of Turlock city limits. North Washington Road is also the western boundary of the Westside Industrial Specific Plan (WISP), a City of Turlock adopted Specific Plan. While the project site is not within the WISP, the entire N. Washington Road right-of-way is within the WISP. According to the County's and City's Circulation Element, Washington Road is classified as a four lane expressway with a 110-foot right-of-way.

The project site includes several existing structures, including two single-family dwellings, a barn, a pole barn, a number of storage structures, a produce stand, and a truck scale. In addition, the site includes a small ponding basin, numerous vehicles, irrigation equipment, and packing crates. The majority of the site is used for growing seasonal agricultural crops. Presently, there are two driveway access points onto N. Washington Road. The topography of the project site is essentially flat. Several trees of various sizes grow at various locations within and along the site perimeter, including on the N. Washington Road frontage, all in the vicinity of the structures on the site.

The property and the adjacent parcels to the north, west and south are all designated in the General Plan as Agriculture and are zoned A-2-40 (General Agriculture). Adjacent existing land uses to the project site are currently dominated by agricultural, industrial, and residential uses. Land to the north is planted in row crops, while orchards are

located on lands to the south and west. To the east, across N. Washington Road, within the Turlock City limits, is the Westside Industrial Specific Plan (WISP). The Blue Diamond almond processing facility is located directly east of the project site, and is within the boundaries of the WISP. Turlock Irrigation District Canal #4 forms the south boundary of the project site along an east-west axis. The western limits of the City of Turlock's Local Agency Formation Commission adopted Sphere of Influence follow the City limits west of Highway 99.

## **ISSUES**

The following section is a discussion of issues identified by County staff. Staff has evaluated these issues and provides the following comments:

### **A. Requirement for a Use Permit**

On September 27, 2012, the subject property went through a Nuisance Abatement Hearing for operating a non-permitted land use, for non-permitted construction and for non-permitted grading activities. Based on conditions observed at the property and reviewing County files, it was found that the property owner violated the following provisions of the County Code:

- 1. Section 21.20.020 of the Stanislaus County Code. Non-permitted land use (the processing, including receiving, sorting, packaging and shipping of produce).*
- 2. Section 16.05.020 of the Stanislaus County Code. Construction of new agriculture structure, remodel, addition and change of occupancy to an existing agricultural structure, the existing barn (redwood barn) as shown in the project site plane, and change of occupancy of a single-family dwelling to an office and sales establishment.*
- 3. Section 14.14.120 of Stanislaus County Code. Non-permitted grading activities.*

The property owner was ordered to abate non-permitted activities, proceed forward with a Tier One Use Permit application and complete an appropriate environmental assessment for conducting proposed activities.

### **B. Williamson Act Findings**

The two parcels comprising the project site are enrolled in Williamson Act Contract No. 71-309. Section 21.20.045(A) of the County Zoning Ordinance specifies that uses requiring use permits that are approved on lands enrolled in Williamson Act Contracts shall be consistent with the following Principles of Compatibility:

- 1. The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district;*

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

In accordance with County land use policy, facilities for receiving, storing, packaging and shipping of agricultural produce are considered to be uses closely related to agriculture and may be located within the agricultural zone as a means of strengthening the agricultural sector of our economy. While such uses may displace agricultural operations on contracted parcels, they relate directly to the production of commercial agricultural products. This request is being processed as a Tier 1 use, which in accordance with Section 21.20.045(B)(3) of the County Zoning Ordinance is consistent with the Williamson Act Principles of Compatibility, provided the Planning Commission does not make a finding to the contrary. Staff believes that all compatibility findings can be made.

This project has been referred to the California State Department of Conservation at various times throughout the project review period and, at the time of this report being prepared, no comment have been received.

C. Public and Agency Participation

The project was subject to a comprehensive environmental assessment and an Environmental Impact Report (EIR) was prepared. The environmental review process and findings are discussed further under the Environmental Review section of this report. The environmental review process provides three opportunities for public and responsible agency input:

1. During the Notice of Preparation (NOP);
2. During the circulation of the Draft EIR; and
3. After the circulation of the Final EIR when the public and agencies can evaluate the lead agency's responses to comments submitted on the Draft EIR.

Public notice requirements for the consideration of the Final EIR are combined with those used for the Planning Commission's consideration and action of the Use Permit. Proper notice was provided through land owner notification and publication in local newspapers serving the area (Modesto Bee).

D. City of Turlock Comments

The project site is located outside of the City of Turlock's Sphere of Influence. The County's General Plan Sphere of Influence Policy requires that any

development taking place within a City's Sphere of Influence must be consistent with that City's General Plan. Since North Washington Road is located within the City's Sphere of Influence, the City's Development Standards and Specification shall be applied to the development of the street frontage. The City provided comments during the Notice of Preparation and during the public review period of the Draft EIR. The applicant has worked with the City to modify the project in terms of dedication of street right-of-way and street improvements to conform to the City's standards.

### **GENERAL PLAN CONSISTENCY**

The site is currently designated as "Agriculture" in the Stanislaus County General Plan and this designation is consistent with its A-2-40 (General Agriculture) zoning district. The agricultural designation recognizes the value and importance of agriculture by acting to preclude incompatible urban development within agricultural areas. The following goals, objectives, and policies of the County General Plan reflect the County's commitment to a strong agricultural economy:

#### **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 Two - Land designated Agriculture shall be restricted to uses that are compatible with agricultural practices, including natural resources management, open space, outdoor recreation, and enjoyment of scenic beauty.*

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

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

#### **Agricultural Element**

*Goal One - Strengthen the agricultural sector of our economy.*

*Objective No. 1.3 - Minimizing Agricultural Conflicts.*

*Policy 1.9 – The County shall continue to protect agricultural resources by limiting the circumstances under which agricultural operations may be deemed to constitute a nuisance.*

*Goal Two – Conserve our agricultural lands for agricultural uses.*

Staff believes this project is consistent with the General Plan. The findings necessary for approval are included (See Exhibit A – *Findings and Actions Required for Project Approval*).

## **ZONING CONFORMANCE**

It is the intent of the A-2 (General Agriculture) zoning district to support and enhance agriculture as the predominant land use in the unincorporated areas of the county. The procedures contained within the A-2 zoning district are specifically established to ensure that all land uses are compatible with agriculture and open space, including natural resource management, outdoor recreation, and enjoyment of scenic beauty.

The proposed use is considered a Tier One use, which are those uses closely related to agriculture and are necessary for a healthy agricultural economy. Tier One uses may be allowed when the Planning Commission finds that:

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

In addition to these two findings, the project located on Williamson Act Contracted lands must meet the Williamson Act Principles of Compatibility as discussed in the Issues section above.

Staff believes the necessary findings for approval of this project can be made. With conditions of approval in place, there is no indication that, under the circumstances of this particular case, the proposed project will be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use or that it will be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county. Tier One uses are an important component of the agricultural economy in Stanislaus County. There is no indication this project will interfere or conflict with other agricultural uses in the area

## **ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA), the proposed project has been circulated to interested parties and responsible agencies for review and comment. (See Exhibit G – *Environmental Review Referrals*.) Based on the analysis and findings of the Initial Study completed for this project, an Environmental Impact Report (EIR) focused on aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, public services and utilities, transportation and traffic, and cumulative impacts has been prepared. The Notice of Preparation and Initial Study and comments on the Notice of Preparation are included as Appendix A to the Draft EIR (See Exhibit F – *Environmental Impact Report (Draft & Final) – Avila & Sons Washington Road Warehouse*).

The Draft EIR was circulated for a 45-day public review and comment period from August 29, 2014, through October 13, 2014. The Draft EIR provides a detailed overview of the project description, settings, a review of potential impacts and mitigation measures, evaluation of alternatives, cumulative impacts, and mitigation reporting/monitoring program. The Findings of Fact and Statement of Overriding Considerations provides a discussion of identified significant effects and mitigation measures.

Environmental documentation for this project consists of the following: 1) Draft EIR and appendices (Initial Study and Notice of Preparation and special studies); 2) Final EIR (comments received concerning the Draft EIR; responses to those comments; and an Errata reflecting changes to the Draft EIR); 5) Mitigation Monitoring and Reporting Plan and 6) Final CEQA Findings and Statement of Overriding Considerations.

Goals and Objectives of the Project Proponents:

The project objectives are outlined in Chapter Three, "Project Description – Goals and Objectives of the Project Proponent," page 3-2 of the Draft EIR and can be summarized as follows:

- Positively contribute to the local economy by creating new job opportunities for local residents.
- Promote increased economic growth and economic development that is consistent with the policies of the Stanislaus County General Plan.
- Combine all aspects of the operation - including growing, storage, packing, and shipping – at one location.
- Attain financial success by selecting a facility location that has reasonable land prices, site development costs, and operating costs.
- Minimize travel distance to Highway 99.
- Develop a packing, storage, and shipping facility located in an area served by adequate roads.
- Achieve an architectural and site design that are compatible with the surrounding agricultural areas.
- Provide a development that will result in a net fiscal benefit to the County by generating increased property tax revenue.

Comments on the Draft EIR:

Comments on the Draft EIR were received from the following agencies: (1) Governor's Office of Planning and Research; (2) U.S. Army Corps of Engineers; (3) Central Valley Regional Water Quality Control Board; (4) Stanislaus County Department of Environmental Resources (5) Turlock Rural Fire Department; (6) California Department of Transportation, District 10; (7) City of Turlock; (8) Turlock Irrigation District; and the (9)



San Joaquin Valley Air Pollution Control District (SJVAPCD). The responses to the written comments are included on pages 3-1 to 3-23 of the Final EIR for the Avila & Sons Washington Road Warehouse Project.

Summary of Significant Environmental Impacts:

The following is an overview of the levels of significance for the identified potential impacts after mitigation: (*Please note: This overview does not include less than significant impacts with no identified mitigation measures.*)

Less than Significant (with mitigation measures identified):

- **Aesthetics**
  - *Impact #3.1-3* - Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (Mitigation Measure #3.1-3)
- **Air Quality**
  - *Impact #3.3-2* - Violate any air quality standard or contribute substantially to an existing or projected air quality violation (Mitigation Measure #3.3-2)
- **Biological Resources**
  - *Impact #3.4-1* - Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service (Mitigation Measures #3.4-1a, #3.4-1b, #3.4-1c, #3.4-d)

**Cultural Resources**

- *Impact #3.5-1 and #3.5-2* - Cause a substantial adverse change in the significance of a historical or archeological resource as defined in Section 15064.5 (Mitigation Measures #3.5-1a, #3.5-1b)
- *Impact #3.5-3* – Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature of paleontological or cultural value (Mitigation Measures #3.5-1a, #3.5-1b)
- *Impact #3.5-4* – Disturb any human remains, including those interred outside of formal cemeteries (Mitigation Measures #3.5-1a, #3.5-1b)

**Hazards and Hazardous Material**

- *Impact #3.8-1* – Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials transport, use or disposal of hazardous materials (Mitigation Measures #3.8-2a, and #3.8-2b)
- *Impact #3.8-2* – Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment (Mitigation Measures #3.8-2a, and #3.8-2b)
- *Impact #3.8-7* - Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan (Mitigation Measure #3.8-7)
- **Hydrology and Water Quality**
  - *Impact #3.9-3* - Substantially alter the existing drainage pattern of the site or area, including through alteration of the course of a stream or river, in a

- manner which would result in substantial erosion or siltation on or off-site (Mitigation Measure #3.9-5)
- *Impact #3.9-4* - Substantially alter the existing drainage pattern of the site or area, including through alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site (Mitigation Measure #3.9-5)
  - *Impact #3.9-5* – Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff (Mitigation Measure #3.9-5)
- **Public Services and Utilities**
    - *Impact #3.12-1* - Increased demand for fire protection services and personnel (Mitigation Measure #3.12-1)
  - **Transportation/Traffic**
    - *Impact #3.13-1* – Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit (Mitigation Measures #3.13-1a, #3.13-1b, #3.13-1c)
    - *Impact #3.13-2* – Conflict with an applicable congestion management program, including but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways (Mitigation Measures #3.13-1a, #3.13-1b, #3.13-1c)
    - *Impact #3.13-5* – Result in inadequate emergency access (Mitigation Measure #3.13-5)
    - *Impact #3.13-6* – Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities (Mitigation Measure #3.13-1c)
    - *Impact #3.13-7* – Conflict with adopted policies, plans, or programs supporting alternative transportation (Mitigation Measure #3.13-1c)

Significant and Unavoidable (with Mitigation Measures identified):

- **Cumulative Impacts**
  - Air Quality (Mitigation Measures #3.7-1, #5.3.3-1, #5.3.3-2, #5.3.3-3, and #5.3.3-4)
  - Biological Resources (Mitigation Measure #5.3.4-1)
  - *Impact #3.7-1 and #3.7-2* - Greenhouse Gases (Mitigation Measure #3.7-1)
  - Noise Impacts (Mitigation Measure #3.3.3-1)

CEQA Findings for Project Approval:

In order to approve the subject Use Permit, the County, acting as Lead Agency, must certify that the Final EIR was prepared in compliance with CEQA, was reviewed and considered by the decision-making body, and represents the independent judgment and

analysis of the Lead Agency. County CEQA guidelines allow for the Planning Commission to certify the EIR for discretionary projects not requiring a determination by the Board of Supervisors. As with the Use Permit determination, the EIR certification is appealable to the Board of Supervisors.

When taking an action on a project for which an EIR was prepared, the lead agency may disapprove a project because it has significant environmental effects or require changes in a project to reduce or avoid a significant environmental effect. The Lead Agency may approve a project despite its significant environmental effects, if the proper findings and statements of overriding consideration are adopted. The Lead Agency is not required to select the most environmentally superior alternative.

In order to support its decision to approve a project for which an EIR was prepared, the Lead Agency must provide written findings of fact for each significant environmental impact identified in the EIR. Each finding must contain an ultimate conclusion regarding each significant impact, substantial evidence supporting the conclusion, and an explanation of how the substantial evidence supports the conclusion. For each finding, the Lead Agency must find that the project has been changed (including adoption of mitigation measures) to avoid or substantially reduce the magnitude of the impact. If the Lead Agency cannot make these findings, it must make the finding either that changes to the project are within another agency's jurisdiction and have been or should be adopted or that specific economic, social, legal, technical, or other considerations make mitigation measures or alternatives infeasible

Specific reasons must be provided if the Lead Agency is to find a mitigation measure or an alternative to be infeasible. A mitigation measure or alternative is considered feasible if it is capable of being accomplished, in a successful manner, within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors. When a Lead Agency makes a finding that changes or alterations have been required in, or incorporated into, the project to mitigate impacts, the agency shall adopt a Mitigation Monitoring Program designed to insure compliance.

A Statement of Overriding Considerations is necessary if the Lead Agency is to approve a project which will have a significant effect on the environment after imposition of feasible mitigation or alternatives. The statement of overriding consideration must explain why the benefits of the proposed project outweigh the unavoidable adverse environmental effects.

Chapter Four – *Evaluation of Alternatives* of the Draft EIR provides an extensive comparison of environmental impacts of the project and project alternatives. The project alternatives include: a “No Project Alternative”; “WISP Site Alternative”; and “Reduced Greenhouse Gas Alternative”. A summary of the comparisons can be found in Table 4.7-1 of the Draft EIR. The “No Project Alternative” was found to result in the greatest reduction in environmental impacts, and could be considered superior from an environmental standpoint. The “Reduced Greenhouse Gas Alternative” was found to have impacts that are the most similar to the proposed project and results in the fewest reductions in impacts. The “WISP Site Alternative” was found to be marginally superior in terms of environmental impacts. However, neither the “No Project Alternative” nor the “WISP Alternative Site” meets the project objectives.

Exhibit D consists of the Findings of Fact and the Statement of Overriding Considerations needed for certification of the EIR and ultimate approval of the subject Use Permit. Both the findings and statement were prepared by the environmental consultant firm which prepared the EIR documents. The Mitigation Monitoring and Reporting Plan is included as Exhibit E of this staff report. All mitigation measures identified on the Mitigation Monitoring and Reporting Plan have been included as conditions of approval for this project.

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**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 **\$3,127.00** for the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

Contact Person: Miguel A. Galvez, Deputy Director, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps and Project Site Plan
- Exhibit C- Conditions of Approval/Mitigation Measures
- Exhibit D - Final CEQA Findings of Fact and Statement of Overriding Considerations
- Exhibit E - Mitigation Monitoring and Reporting Plan
- Exhibit F - Environmental Impact Report (Draft & Final) – Avila & Sons Washington Road Warehouse
- Exhibit G - Environmental Review Referrals

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(Note: The Planning Commission was provided with all attached Exhibits. The staff report, together with the Exhibits, is available on the County's website at: <http://www.stancounty.com/planning/pl/act-proj/Avila.shtm>)

**Exhibit A**  
**Findings and Actions Required for Project Approval**

Based on the above report and the entire project record, staff recommends that the Planning Commission take the following actions:

1. Certify that the Final Environmental Impact Report (EIR) (*SCH# 2013082091*) for this project has been prepared and circulated for public review and comment as required by the California Environmental Quality Act (CEQA), Public Resource Code Section 21000et seq., and the CEQA Guidelines, California Code of Regulations, Title 14, Section 15000et seq.
2. Find that the Final EIR responded to the Public Comments submitted during the review period pursuant to CEQA, the CEQA Guidelines, and the County's Rules and Procedures for the implementation of CEQA.
3. Find that the Planning Commission has reviewed and considered the information contained in the Draft and Final EIR for the Avila and Sons Washington Road Warehouse project and that the EIR reflects the independent judgment of the County.
4. Adopt the attached Findings of Fact, including the Statement of Overriding Considerations concerning unmitigated significant impacts (See Exhibit F)
5. Adopt the Mitigation Monitoring and Reporting Plan with which all future development associated with the Avila and Sons Washington Road Warehouse project shall comply. (See Exhibit E)
6. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15094.
7. Find that the project is consistent with the overall goals and policies of the general plan as discussed in this staff report.
8. Find that:
  - (a) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
  - (b) The use as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity.
  - (c) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in the A-2 zoning district.

(d) While the use does significantly displace agricultural operations on the subject contracted parcel, it is compatible as it relates directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands.

(e) The use will not result in the significant removal of adjacent contracted land from agricultural or open space use.

9. Find that in accordance with CEQA Guidelines Section 15091 EIR findings:

(1) Changes or alternatives have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. **This finding is made for the majority of impacts identified in the Final EIR (as further described in Exhibit D - *Final CEQA Findings of Fact and Statement of Overriding Considerations*).**

(2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR. **This finding is made for (4) four of the impacts identified in the final EIR (as further described in Exhibit D - *Final CEQA Findings of Fact and Statement of Overriding Considerations*).**

10. Approve Use Permit Application No. 2012-0017 – Avila and Sons Washington Road Warehouse Project subject to the attached Conditions of Approval.

**UP PLN 2012-0017  
DAN AVILA & SONS  
AREA MAP**

**SITE**

FULKERTH RD

W MAIN ST

S WASHINGTON RD

N GOLDEN STATE BLVD




**CITY OF  
TURLOCK**

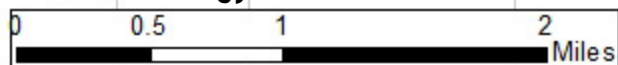
99

165

165

**Legend**

-  Sphere of Influence
-  COUNTY
-  CITY OF TURLOCK



**UP PLN 2012-0017  
DAN AVILA & SONS  
GENERAL PLAN MAP**

**AG**

**AG**

**FULKERTH RD**

**SITE**




**N WASHINGTON RD**

**CITY OF  
TURLOCK**

**AG**

**W MAIN ST**

**Legend**

-  SPHERE OF INFLUENCE
-  AG= AGRICULTURE
-  CITY OF TURLOCK

**N**



**AG**



**UP PLN 2012-0017  
DAN AVILA & SONS  
ZONING MAP**

**A-2-40**

**FULKERTH RD**

**A-2-40**




**SITE**

**N WASHINGTON RD**

**CITY OF  
TURLOCK**

**W MAIN ST**

**Legend**

-  SPHERE OF INFLUENCE
-  A-2-40= AGRICULTURE
-  CITY OF TURLOCK

**A-2-40**



**UP PLN 2012-0017  
DAN AVILA & SONS  
ACREAGE MAP**

13.08

**FULKERTH RD**

1.41

19.8

25.69




**N WASHINGTON RD**

86.65

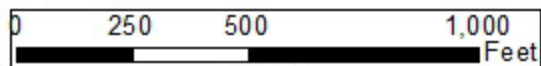
35.47

35.46

**Legend**

-  SPHERE OF INFLUENCE
-  COUNTY
-  CITY OF TURLOCK

N



43.98

43.64

25.6


20.7

**UP PLN 2012-0017  
DAN AVILA & SONS  
2015 COUNTY AERIAL**

**FULKERTH RD**

**N WASHINGTON RD**

**Legend**

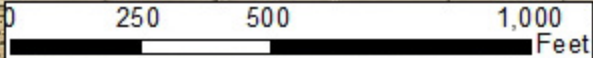
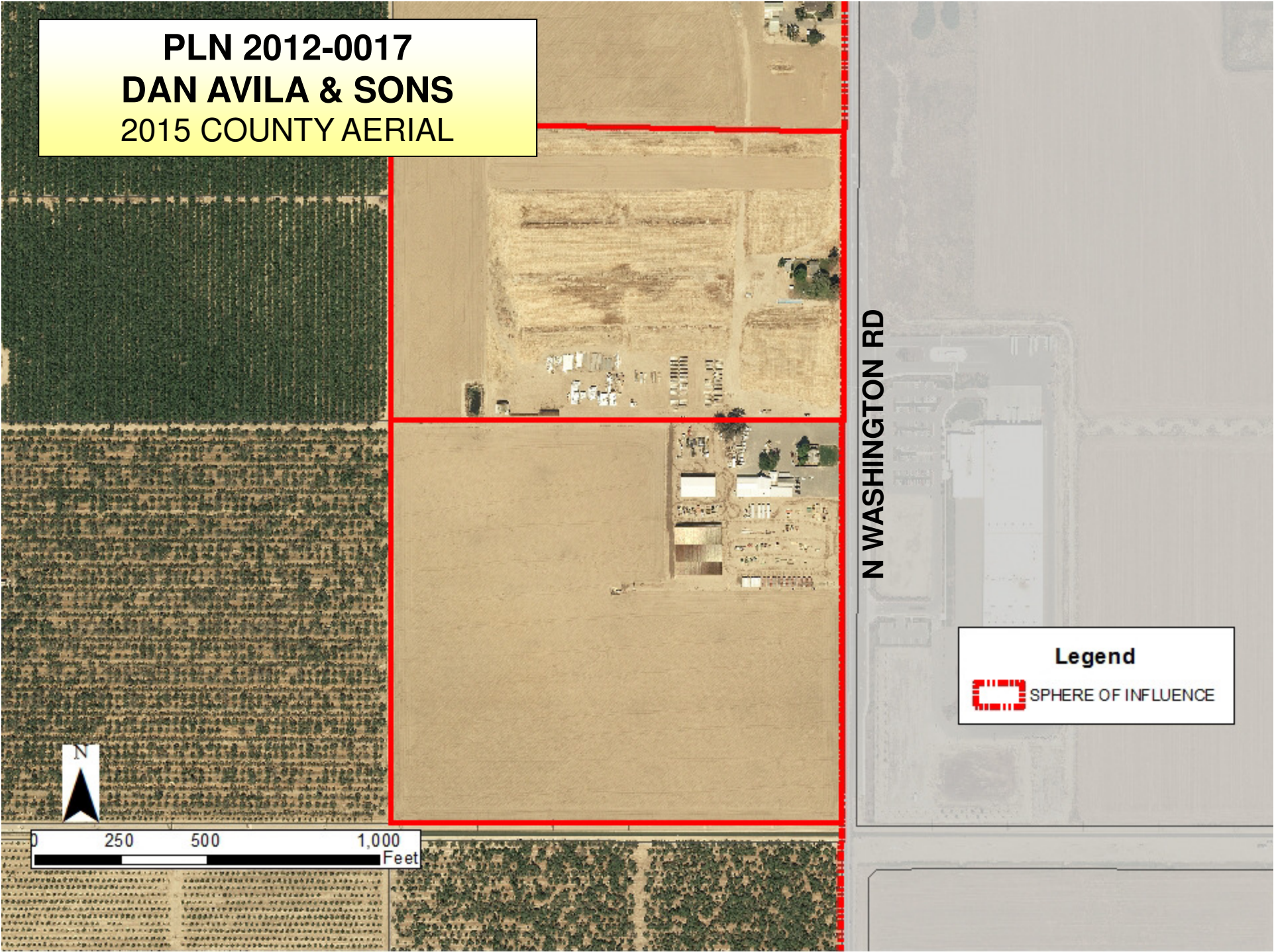
 **SPHERE OF INFLUENCE**



0 375 750 1,500 Feet




**PLN 2012-0017**  
**DAN AVILA & SONS**  
**2015 COUNTY AERIAL**

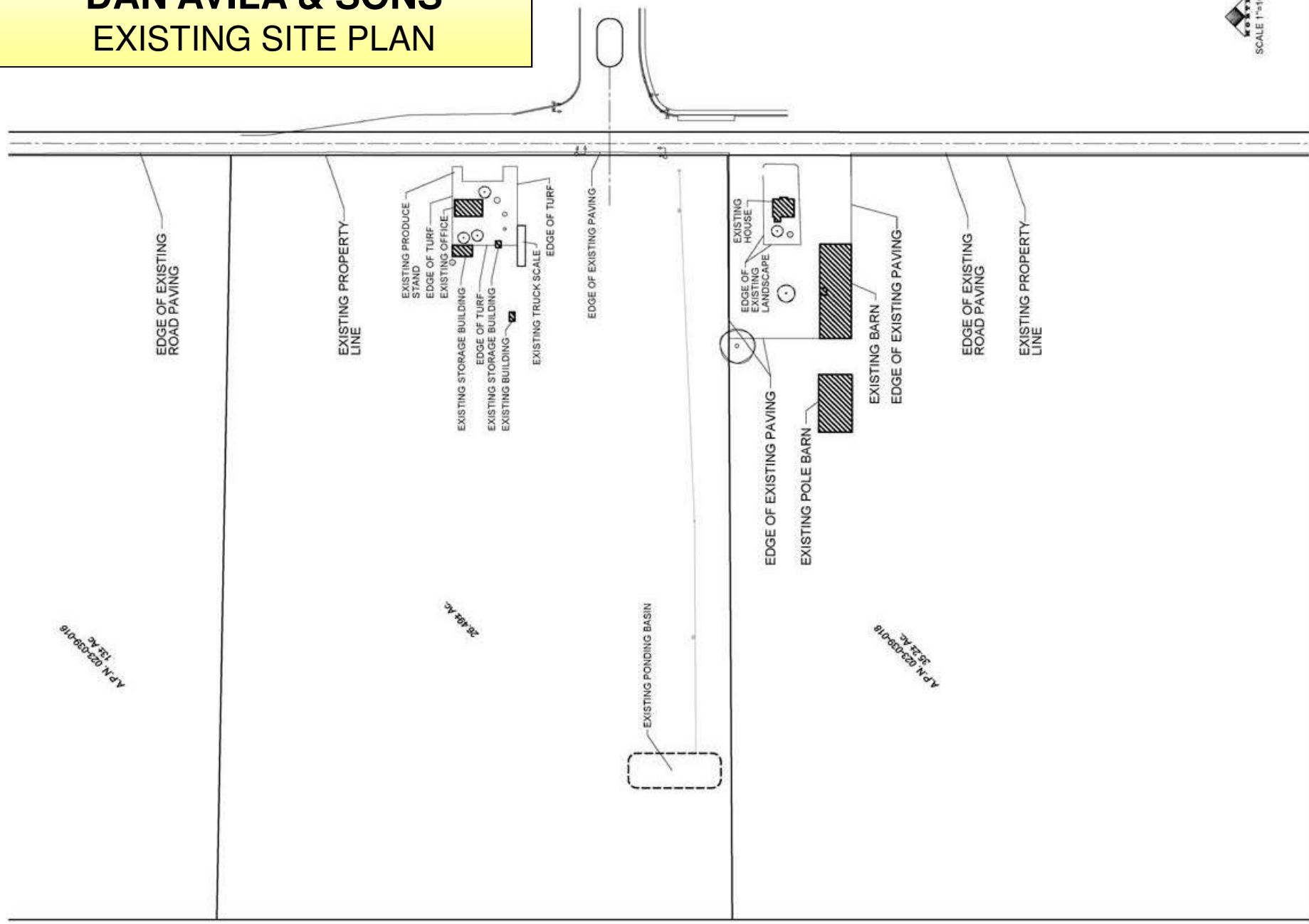


**N WASHINGTON RD**

**Legend**

 **SPHERE OF INFLUENCE**

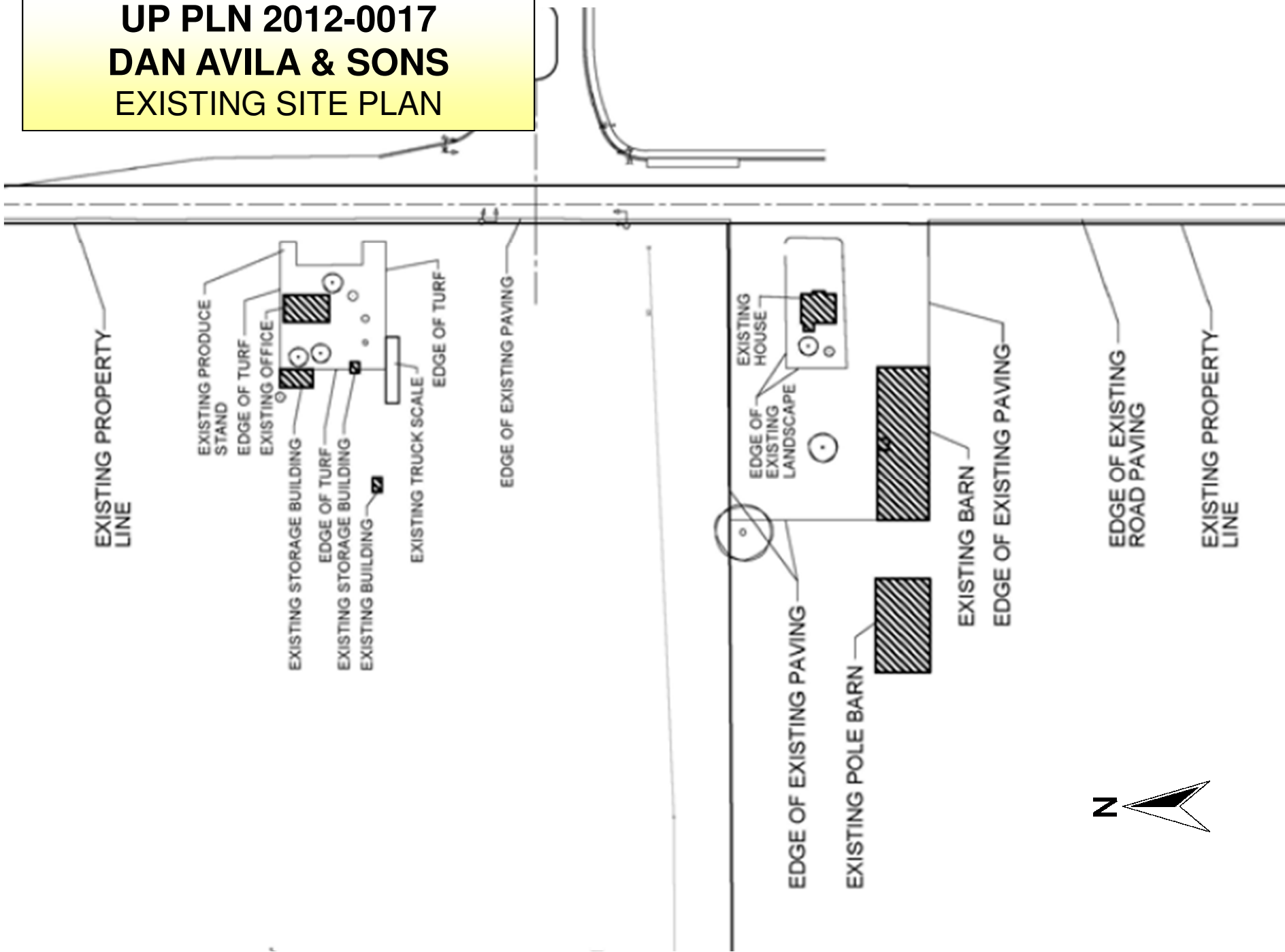
# UP PLN 2012-0017 DAN AVILA & SONS EXISTING SITE PLAN



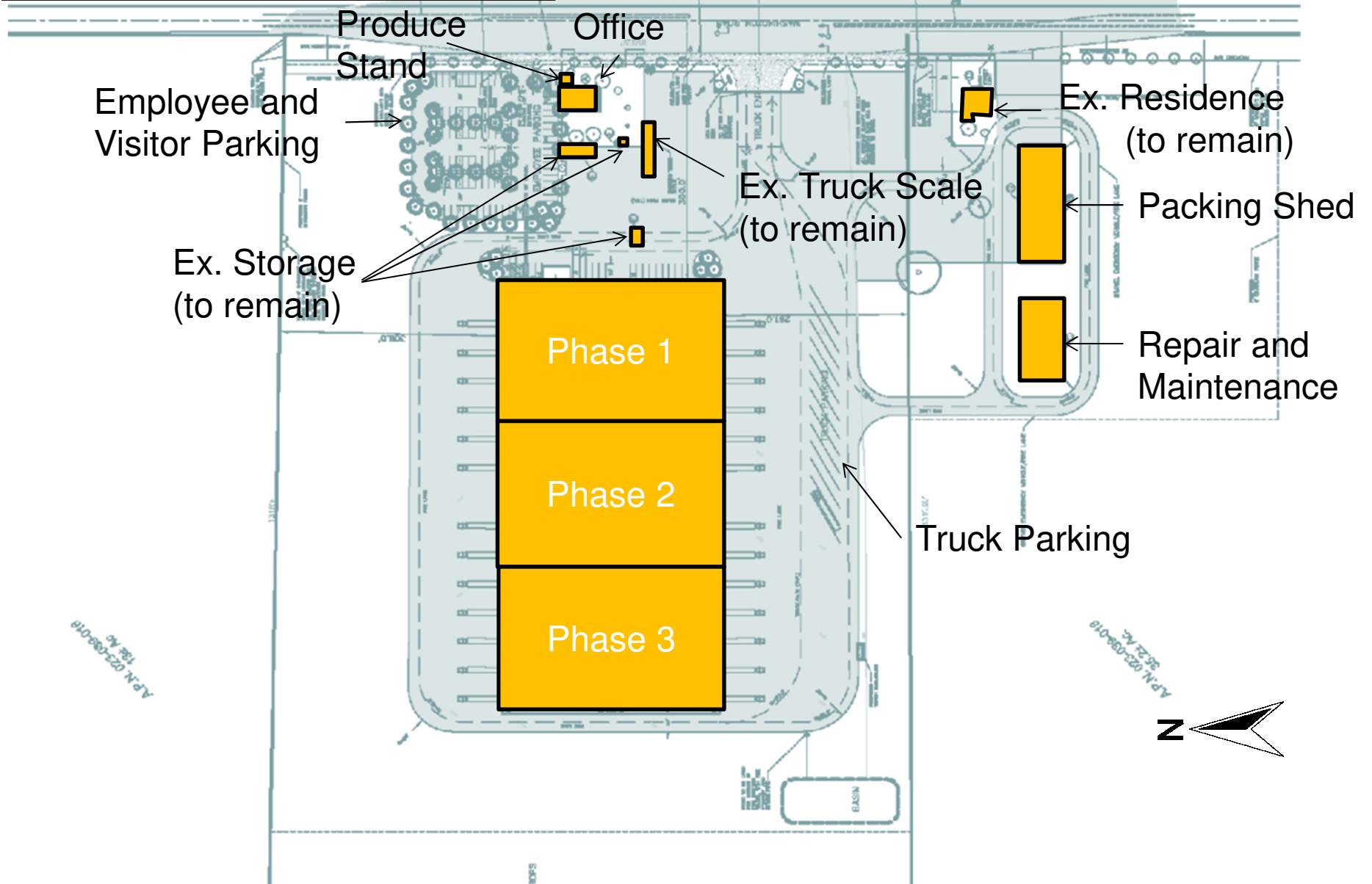
SCALE 1"=100'-0"



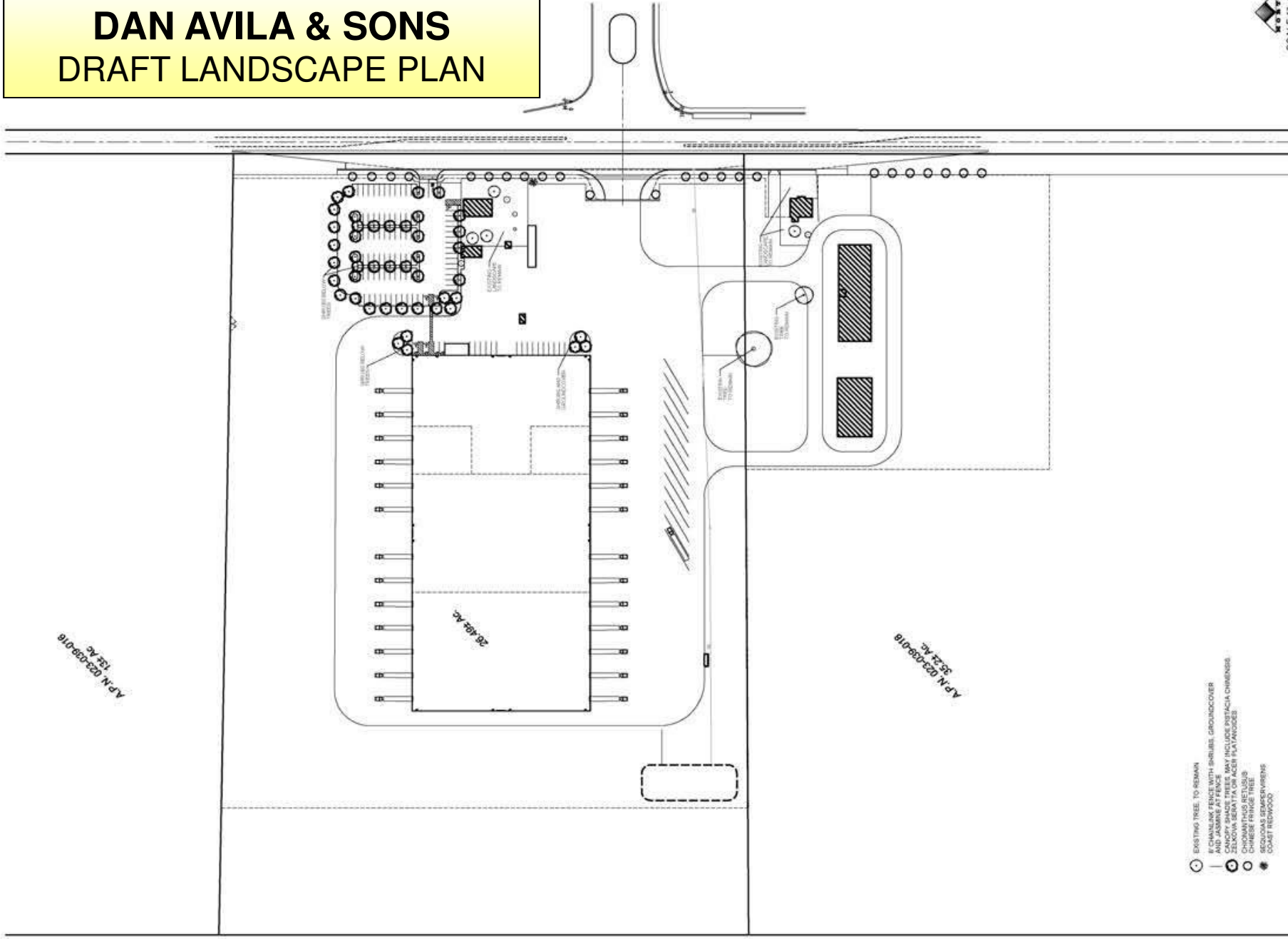
**UP PLN 2012-0017  
DAN AVILA & SONS  
EXISTING SITE PLAN**



**PLN 2012-0017  
DAN AVILA & SONS  
PROPOSED SITE PLAN**



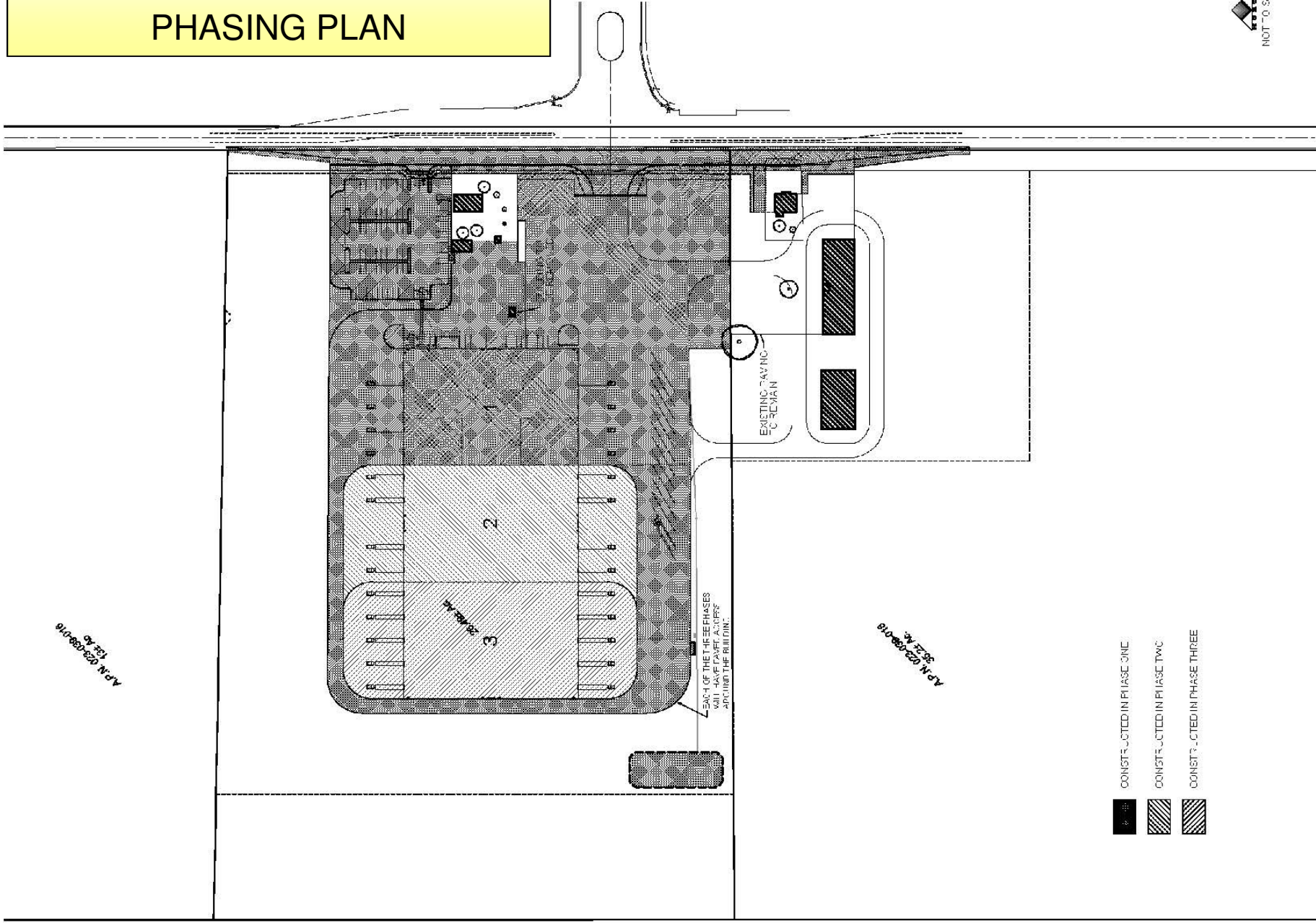
**UP PLN 2012-0017  
DAN AVILA & SONS  
DRAFT LANDSCAPE PLAN**



- EXISTING TREE TO REMAIN
- CHAINLINK FENCE WITH SHRUBS GROUNDCOVER
- CANOPY SHADE TREES MAY INCLUDE PISTACIA CHINENSIS
- ZELKOVA SERATA OR ACER PLATANOIDES
- CHIONODOXA RETUSA
- SHRUBS: LANTANA, SIBYRICA, SERRAVALLEI, SERRAVALLEI
- REGIONAL SPANISH YEW
- COAST REDWOOD



# UP PLN 2012-0017 DAN AVILA & SONS PHASING PLAN



-  CONSTRUCTED IN PHASE ONE
-  CONSTRUCTED IN PHASE TWO
-  CONSTRUCTED IN PHASE THREE

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

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## **CONDITIONS OF APPROVAL/MITIGATION MEASURES**

### **USE PERMIT APPLICATION NO. 2012-0017 Avila and Sons Washington Road Warehouse**

#### **Stanislaus County Department of Planning and Community Development**

1. This use shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. The applicant/property owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
3. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2014), the applicant/property owner is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$3,127.00**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.  
  
Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
4. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits as determined by the SJVAPCD.
5. A sign plan for all proposed on-site signs indicating the location, height, and area of the sign(s) shall be approved by the Stanislaus County Planning Director, or an appointed designee, prior to installation of any sign. Building permits for all sign(s) shall be obtained through the County Planning Department.
6. The Stanislaus County Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of

Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.

7. The property owner/developer shall comply with all applicable Stanislaus County noise control standards. In the event that documented noise complaints are received by the County, the property owner shall be responsible for the preparation of a noise study, to be prepared by a County approved noise consultant and in accordance with a County approved scope of work, and implementing any resulting mitigation measures required to reduce the noise to acceptable levels. The scope of work shall be submitted to the County within 30 days of notice to the property/owner/developer that a noise study is required. The noise study shall be submitted to the County within 30 days of the date the scope of work is approved by County staff. Implementation of resulting mitigation measures shall occur within 60-days of the noise study being completed.
8. The property owner/developer of the project shall be responsible for taking all actions necessary to: (a) implement the mitigation measures according to the specifications provided for each measure, and (b) demonstrate to the agency or individual responsible for monitoring that the action required by mitigation measure has been successfully completed.
9. The property owner/developer shall work directly with all monitoring agencies and shall be responsible for all costs associated with the monitoring of mitigation measures for the life of the project. Such costs shall include all sums expended to implement the mitigation measures, and costs incurred to monitor and verify implementation of the Mitigation Monitoring and Reporting Plan.
10. Within 30-days of project approval, the property owner/developer shall deposit **\$5,000.00** with the Stanislaus County Department of Planning and Community Development to cover staff time and material costs needed for the review, inspection, and monitoring of all permitting activities associated with project implementation. Staff costs and expenses will be billed at fully burdened weighted labor rates as provided by the County Auditor's Office at the time services are rendered. If the deposit reaches a balance of 20% of the initial deposit or less, the property owner/developer shall make a subsequent deposit, an amount to total \$5,000.00 on deposit. The entire balance of remaining deposit shall be returned when the project is fully implemented.
11. The property owner/developer shall be responsible for verifying that the required actions for mitigation monitoring have been successfully completed. Verification shall typically be accomplished by the acceptance and approval of documents or plans demonstrating compliance with the mitigation measure by the responsible monitoring governmental agency. Both the applicant and the monitoring governmental agency share the responsibility for preparing and maintaining the document stream (paper trail). Reports shall be submitted to all responsible monitoring governmental agencies as determined necessary by each individual governmental agency.
12. The property owner/developer shall be responsible for notifying the Stanislaus County Department of Planning and Community Development and the responsible monitoring governmental agency immediately in the event that:
  - A. Any mitigation measure is not being implemented in accordance with all mitigation specifications and consistent with the implementation timing. In this

case, the County may impose those sanctions available under its County Code, and/or may grant a time extension, if warranted.

- B. If it reasonably appears a mitigation measure will not be effective in either avoiding or substantially lessening the significant effect toward which it is directed, a replacement mitigation measure shall be developed to the approval of the County and implemented by the property owner/developer. Any proposed change to a mitigation measure or its enforcement which the Planning Director determines to be significant shall be subject to California Environmental Quality Act (CEQA) Guidelines and the approval of the Planning Commission following a public hearing. Fees and processing for such modification shall be actual cost with a deposit, in the amount to be determined by the Planning Director, required before the change may be considered.
13. The project shall be reviewed by the Stanislaus County Planning Commission for compliance with all approved Conditions of Approval/Mitigation Measures prior to issuance of any building permit, or any other permit, required for development of Phase 2, and again prior issuance of any permit(s) for development of Phase 3 of the proposed project. As part of the review, the Planning Commission may amend Conditions of Approval/Mitigation Measures, as needed, and in accordance with CEQA, to address issues of concern. Notice of all Planning Commission reviews shall be provided to the City of Turlock and the Planning Commission shall take into consideration the City's comments.
14. At the discretion of the Stanislaus County Planning Director, this Use Permit shall be brought back to the Planning Commission for review, to consider amendments to operational limits to address nuisance concerns.

**Stanislaus County Department of Public Works**

15. The access proposed to be maintained for the single-family dwelling, existing south of the proposed signalized entrance, shall be utilized for residential use only. Access shall be right-in, right-out access only, upon completion of the median along N. Washington Rd.
16. No parking, loading, or unloading of vehicles shall be permitted within any public right-of-way. This condition shall apply to right-of-way within the jurisdiction of Stanislaus County and City of Turlock.
17. All access shall be taken from N. Washington Road, per the City of Turlock's requirements.
18. The project shall pay all applicable Stanislaus County Public Facilities Fees.
19. A grading, drainage, and erosion/sediment plan for the project site shall be submitted before any building permit for the site is issued. Stanislaus County will review and approve the drainage calculations. The grading and drainage plan shall include the following information:

- A. The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and City of Turlock road right-of-way.
- B. The grading, drainage, and erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit. A Waste Discharger Identification Number and a copy of the Notice of Intent and the project's Stormwater Pollution Prevention Plan shall be provided prior to the approval of the grading plan, if applicable.
- C. The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.
- D. Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.
- E. The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building, grading, drainage, and/or erosion/sediment control plan.
- F. The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.

**Stanislaus County Building Permits Division**

- 20. Development shall comply with California Code of Regulations, Title 24.
- 21. Prior to issuance of any building or grading permit for construction of any buildings, structures, or improvements permitted as part of the use permit, a Change of Use/Occupancy building permit shall be issued for the existing single-family dwelling to be used as an office and sales establishment. The building permit for the Change of Use shall be submitted, and determined to be complete by the County's Chief Building Official, within 60-days of use permit approval.
- 22. A building permit shall be issued for the structural alterations made to the existing barn (the redwood barn) or a building permit for the demolition of the exiting barn shall be obtained prior to issuance of any building or grading permit for construction of any buildings, structures, or improvements permitted as part of the use permit. The building permit for the structural alterations or demolition shall be submitted, and determined to be complete by the County's Chief Building Official, within 60-days of use permit approval.
- 23. No building or grading permits shall be issued until a Certificate of Occupancy is issued for the Change of Use of the existing single-family dwelling and the existing barn or the structures are returned to their original permitted use, in compliance with the California Code of Regulations, Title 24, or demolished.

**Stanislaus County Department of Environmental Resources**

24. The project shall comply with California Health and Safety Code, California Retail Food Code Part 7, Effective January 1, 2014, and as may be amended thereafter.
25. Prior to issuance of a grading permit, the applicant shall determine that a site containing (or formerly containing) residences or farm buildings or structures, has been fully investigated (via Phase I, and if necessary, Phase II study). Research should be conducted to determine if pesticides were used on the proposed development site. If confirmed, suspect site areas should be tested for organic pesticides and metals. 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 the Department of Environmental Resources.
26. In accordance with Section 116275(h) of the California Health and Safety Code, a public water supply permit application shall be submitted to the Department of Environmental Resources (DER) ([CA HSC] 116525), accompanied by a public water system technical report ([CA HSC] 116530), financial, managerial, and technical information ([CA HSC] 116540), and obtain a public water supply permit to operate the public water system ([CA HSC] Sections 116525, 116530, 116540, 116550). The water supply permit shall be submitted to and approved by DER prior to the issuance of any building and/or grading permit.
27. 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: (Calif. H&S, Division 20)
  - A. Permits for the underground storage of hazardous substances at a new facility or the modification of existing tank facilities.
  - B. Requirements for registering as a handler of hazardous materials in the County.
  - C. Submittal of hazardous materials Business Plans by handlers of materials in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic feet of compressed gas. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program, which must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section 302.
  - D. Generators of hazardous waste must notify the Department of Environmental Resources relative to the: (1) quantities of waste generated; (2) plans for reducing wastes generated; and (3) proposed waste disposal practices.
  - E. Permits for the treatment of hazardous waste on-site will be required from the hazardous materials division.
  - F. Medical waste generators must complete and submit a questionnaire to the Department of Environmental Resources for determination if they are regulated under the Medical Waste Management Act.

**Stanislaus Consolidated Fire**

28. All buildings constructed shall comply with all applicable codes, ordinances, and standards, including fire apparatus access to the actual structure and water for fire protection.
29. Fire hydrants and fire access roads must be installed and maintained serviceable prior to, and during construction.
30. An approved fire access road must be provided so that all portions of the building are within 150 feet (walking distance) of the fire access road (CFC 503.1.1). Access road shall be all-weather surface, 20 feet in width with an inside turning radii of 30 feet and an outside radii of 50 feet. An approved truck turn-around, if applicable, shall be provided.
31. The location, number, and type of fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises or both to be protected as required and approved. The required fire flow for this project is yet to be determined.
32. Plans and specifications for fire hydrant systems shall be in compliance with CFC 501.3 and NFPA 24.
33. Based on the size and use of the proposed building, fire sprinklers shall be required.
34. Onsite water supply will be required with the volume to be determined at building permit application.

**City of Turlock**

35. N. Washington Road is classified as a 110 foot expressway in the City of Turlock's General Plan and Westside Industrial Specific Plan. The required ½ width of N. Washington Road is 55 feet west of the centerline of the roadway. Currently there is an existing right-of-way of 20 feet. This means that 35 feet of the road right-of-way shall be dedicated with Irrevocable Offer of Dedication for the parcel frontage along Washington Road prior to issuance of a building or grading permit.
36. Prior to issuance of a building or grading permit, driveways (truck and employee) shall be built to commercial standards, in accordance with City of Turlock standards. Encroachment permits shall be obtained, as applicable.
37. The employee entrance may have left turn movements in the short term. A raised concrete median is planned for N. Washington Road that will restrict left turn movements in the future.
38. Prior to issuance of a building permit, a landscape plan shall be submitted to the City of Turlock for approval, and shall be installed in accordance with the approved landscape plans in conjunction with the building permit.
39. All N. Washington Road stormwater runoff shall be conveyed and stored on-site.
40. No access from Fulkerth Road shall be permitted.

**Turlock Irrigation District**

41. Prior to issuance of a building or grading permit, the developer shall submit plans detailing the existing irrigation facilities, relative to the proposed site improvements, in order for the Turlock Irrigation District to determine specific impacts and requirements. Requirements may include, but are not limited to, replacing the irrigation pipe, located along the Thornburg Ditch, with Reinforced Concrete Pipe (RCP), and providing unrestricted access through a 50 x 50 easement to the McCauley Pump.
42. Prior to issuance of a building or grading permit, the Turlock Irrigation District shall review and approve project plans. Any improvements to the property which may impact irrigation facilities shall be subject to the District's approval and meet all District standards and specifications. If it is determined that irrigation facilities will be impacted, the applicant shall provide the District with irrigation improvement plans and enter into an Irrigation Improvement Agreement for the required irrigation facility modifications. There is a District Board approved time and material fee associated with this review.
43. Work on irrigation facilities shall only be performed during non-irrigation season, which typically runs from November 1, thru March 1, but can vary.
44. District electric utility maps show existing overhead facilities along N. Washington Road right-of-way, within the boundaries of the project and along Lateral 4. If any of these facilities need relocation, the owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at the developer's expense.

**Central Valley Regional Water Quality Control Board**

45. Prior to ground disturbance or issuance of a building permit, the Central Valley Regional Quality Control Board shall be consulted to obtain any necessary permits and to implement any necessary measures, including but not limited to Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Section 404 Permit, Clean Water Act Section 401 Permit (Water Quality Certification), Waste Discharge Requirements, Low or Limited Threat General NPDES Permit, and any other applicable Regional Water Quality Control Board permit.
46. 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 (RWQCB) to determine if a Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Section 404 Permit, Clean Water Act Section 401 Permit – Water Quality Certification, or Waste Discharge Requirements are required. Written verification insuring compliance with the conditions shall be submitted to the Stanislaus County Department of Planning and Community Development prior to issuance of a building permit for the requested structures or any grading activity. If a "Notice of Intent" is deemed necessary by the RWQCB, the developer 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.



### **Mitigation Measures**

**All mitigation measures identified in the Mitigation Monitoring and Reporting Plan (MMPR) (Exhibit G of the June 16, 2016 Stanislaus County Planning Commission Staff Report for UP PLN2012-0017) are included as conditions of approval of the project.**

**Pursuant to the California Environmental Quality Act Guidelines Section 15074.1: Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:**

- 1) Hold a public hearing to consider the matter; 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.**

### **Aesthetics**

47. (Mitigation Measure No. 3.1-3)

- Lighting shall employ shielding that would direct light in a downward direction.
- Lighting shall generally occur at intersections, areas of pedestrian activity, and building entrances, and be minimized elsewhere.
- Lighting shall be designed and located to minimize glare and the direct view of light sources.
- Metal halide, incandescent, or color-balanced fluorescent fixtures shall be employed. Low pressure sodium fixtures are prohibited.

### **Air Quality**

48. (Mitigation Measure No. 3.3-2)

In compliance with District Rule 9510, prior to issuance of the first grading/building permit the applicant shall submit an Indirect Source Review (ISR) – Air Impact Assessment (AIA) Application Form including payment of all applicable fees.

### **Biological Resources**

49. (Mitigation Measure No. 3.4-1a)

1. In accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFW 2012), pre-construction surveys shall be conducted to determine the presence of occupied burrows if ground clearing or construction activities will be initiated during the nesting season or during the non-breeding season. The portion of the project site on which construction is to take place and potential nesting areas within 500 feet of the proposed construction area shall be surveyed no more than 30 days prior to the initiation of construction. Surveys shall be performed by a qualified biologist or ornithologist to verify the presence or absence of nesting birds. Construction shall not occur within a 500-foot buffer surrounding active nests of raptors or a 250-foot buffer surrounding active nests of migratory birds.

If construction within these buffer areas is required or if nests must be removed to allow continuation of construction, then approval and specific removal methodologies shall be obtained from CDFW.

2. If during pre-construction nest surveys, burrowing owls are found to be present, the following measures shall be implemented:
  - a. Compensation for the loss of burrowing owl habitat will be negotiated with the responsible wildlife agencies. Appropriate mitigation may include participation in an approved mitigation bank, establishing a conservation easement, or other means acceptable to the responsible agency;
  - b. Exclusion areas will be established around occupied burrows in which no construction activities would occur. During the non-breeding season (September 1 through January 31), the exclusion area would extend 160 feet around any occupied burrows. During the breeding season of burrowing owls (February 1 through August 31), exclusion areas of 250 feet surrounding occupied burrows would be installed; and
  - c. If construction must occur within these exclusion areas, passive relocation of burrowing owls may be implemented as an alternative, but only during the non-breeding season and only with the concurrence of the CDFW. Passive relocation of burrowing owls would be implemented by a qualified biologist using accepted techniques. Burrows from which owls had been relocated shall be excavated using hand tools and under direct supervision of a qualified biologist.

50. (Mitigation Measure No. 3.4-1b)

A Swainson's hawk survey shall be completed within 0.5 mile of the project site. If potential nests are located within this search radius, those nests must be monitored for activity on a routine and repeating basis throughout the breeding season or until a Swainson's hawk or other raptor species is verified to be using each nest. A total of up to 10 visits shall be made to each nest: one between January and April to identify nests, three in April, three in May, and three between June 1 and July 15. To meet the minimum level of protection for the species, surveys shall be completed for at least two survey periods immediately prior to a project's initiation. All surveys shall be conducted in accordance with the *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks in the Central Valley of California* (CDFG 1994), which includes the following guidelines:

1. A pre-construction survey shall be conducted to determine the presence of nesting birds if ground clearing or construction activities will be initiated during the breeding season (February 15 through September 15). The project site and potential nesting areas within 500 feet of the site shall be surveyed 14 to 30 days prior to the initiation of construction. Surveys will be performed by a qualified biologist or ornithologist to verify the presence or absence of nesting birds. Construction shall not occur within a 500-foot buffer surrounding nests of raptors or a 250-foot buffer surrounding nests of migratory birds. If construction within

these buffer areas is required or if nests must be removed to allow continuation of construction, then approval will be obtained from California Department of Fish and Wildlife (CDFW);

2. All trees which are suitable for Swainson’s hawk nesting that are within 2,640 feet of construction activities shall be inspected for nests by a qualified biologist;
3. If potential Swainson’s hawk nests are located, surveys to determine whether Swainson’s hawks use those nests will be determined by conducting surveys at the following intensities, depending upon dates of initiation of construction:

<b>Construction Start</b>	<b>Survey Period</b>	<b>Number of Surveys</b>
1 January to 20 March	1 January to 20 March	1
21 March to 24 March	1 January to 20 March	1
	21 March to 24 March	Up to 3
24 March to 5 April	1 January to 20 March	1
	21 March to 5 April	3
	21 March to 5 April	3
6 April to 9 April	6 April to 9 April	Up to 3
	1 January to 20 March	1 (if all 3 surveys are performed Between 6 and 9 April, then this survey need not be conducted)
10 April to 30 July	21 March to 5 April	3
	6 April to 20 April	3
31 July to 15 September	6 to 20 April	3
	10 to 30 July	3

4. If Swainson’s hawks are detected to be nesting in trees within 600 feet of the construction area, construction will not occur within this zone until after young Swainson’s hawks have fledged (this usually occurs by early June). The nest will be monitored by a qualified biologist to determine fledging date. If Swainson’s hawks are found within the project area, the project site would be considered foraging habitat and compensation for foraging habitat would be required by CDFW at a ratio of 0.75 to 1 (0.75 acre for every 1.0 acre adversely affected).

51. (Mitigation Measure No. 3.4-1c)

A pre-construction survey shall be performed on the project site in areas where there is a potential for nesting raptors and nesting migratory birds to occur if construction occurs during the breeding season (loosely defined as February 15 to August 15). These include all areas of the project site that contain or are within 500 feet of power poles or trees that are suitable for the establishment of raptor nests. These areas should also include non-native annual grassland habitat and unharvested alfalfa and grain crops, which provide potential breeding habitat for ground-nesting birds such as northern harriers, horned larks, and other migratory ground-nesting birds. The pre-construction survey shall be performed within 14 days of construction to identify active nests and mark those nests for avoidance. During the nesting period, raptor nests should be avoided by 500 feet and all other migratory bird nests should be avoided by 250 feet.

52. (Mitigation Measure No. 3.4-1d)

To preclude potential project-related impacts to the San Joaquin kit fox, a series of avoidance and minimization measures shall be implemented in accordance with the *Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS 2011). The measures that are listed below have been excerpted from these guidelines and will protect the San Joaquin kit fox from direct mortality or den destruction.

1. Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities, or any project activity likely to impact the San Joaquin kit fox. Exclusion zones shall be placed around dens in accordance with USFWS recommendations using the following:

<b>Potential Den</b>	<b>50 foot radius</b>
Known Den	100 foot radius
Natal/Pupping Den (Occupied and Unoccupied)	Contact U.S. Fish and Wildlife Service for guidance
Atypical Den	50 foot radius

If dens must be removed, they shall be appropriately monitored and excavated by a trained wildlife biologist. Replacement dens would be required. Destruction of natal dens and other "known" kit fox dens shall not occur until authorized by USFWS.

2. Project-related vehicles shall observe a 20-mph speed limit in all project areas, except on County roads and State and federal highways; this is particularly important at night when kit foxes are most active. Nighttime construction shall be avoided, unless the construction area is appropriately fenced to exclude kit foxes. The area within any such fence shall be determined to be uninhabited by San Joaquin kit foxes prior to initiation of construction. Off-road traffic outside of designated project areas shall be prohibited.
3. To prevent inadvertent entrapment of kit foxes or other animals during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2 feet deep shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they shall be thoroughly inspected for trapped animals.
4. Kit foxes are attracted to den-like structures such as pipes and may enter stored pipe, becoming trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in anyway. If a kit fox is discovered inside a pipe, that section of pipe shall not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved once to remove it from the path of construction activity, until the fox has escaped.

5. All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers and removed at least once a week from a construction or project Site.
6. No firearms shall be allowed on the project site during the construction phase.
7. To prevent harassment, mortality of kit foxes or destruction of dens by dogs or cats, no pets shall be permitted on the project site.
8. Use of rodenticides and herbicides in project areas shall be restricted. This is necessary to prevent primary or secondary poisoning of kit foxes and the depletion of prey populations on which they depend. All uses of such compounds shall observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and federal legislation, as well as additional project-related restriction deemed necessary by the USFWS. If rodent control must be conducted, zinc phosphide shall be used because of a proven lower risk to kit fox.
9. A representative shall be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a kit fox or who finds a dead, injured, or entrapped kit fox. The representative will be identified during the employee education program and their name and telephone number shall be provided to the USFWS.
10. An employee education program shall be conducted for any project that has anticipated impacts to kit fox or other endangered species. The program shall consist of a brief presentation by persons knowledgeable in kit fox biology and legislative protection to explain endangered species concerns to contractors, their employees, and military and/or agency personnel involved in the project. The program shall include the following: A description of the San Joaquin kit fox and its habitat needs; a report of the occurrence of kit fox in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of measures being taken to reduce impacts to the species during project construction and implementation. A fact sheet conveying this information shall be prepared for distribution to the previously referenced people and anyone else who may enter the project site.
11. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc. shall be re-contoured if necessary, and revegetated to promote restoration of the area to pre-project conditions. An area subject to "temporary" disturbance means any area that is disturbed during the project, but after project completion will not be subject to further disturbance and has the potential to be revegetated. Appropriate methods and plant species used to revegetate such areas shall be determined on a site-specific basis in consultation with the USFWS, California Department of Fish and Wildlife (CDFW), and revegetation experts.
12. In the case of trapped animals, escape ramps or structures shall be installed immediately to allow the animal(s) to escape, or the USFWS shall be contacted for guidance.

13. Any contractor, employee, or military or agency personnel who are responsible for inadvertently killing or injuring a San Joaquin kit fox shall immediately report the incident to their representative. This representative shall contact the CDFW immediately in the case of a dead, injured, or entrapped kit fox. The CDFW contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or Mr. Paul Hofmann, the wildlife biologist, at (530) 934-9309. The USFWS shall be contacted at the numbers below.
14. The Sacramento USFWS and CDFW shall be notified in writing within three working days of the accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below. The CDFW contact is Mr. Paul Hofmann at 1701 Nimbus Road, Suite A, Rancho Cordova, California 95670, (530) 934-9309.
15. New sightings of kit foxes shall be reported to the California Natural Diversity Database (CNDDDB). A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed shall also be provided to the USFWS at the address below.

Any project-related information required by the USFWS or questions concerning the above conditions or their implementation may be directed in writing to the U.S. Fish and Wildlife USFWS at:

Endangered Species Division  
2800 Cottage Way, Suite W2605  
Sacramento, California 95825-1846  
(916) 414-66200 or (916) 414-6600

### **Cultural Resources**

#### 53. (Mitigation Measure No. 3.5-1a)

In accordance with State law, if any historical resources are discovered during project-related 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) is to be notified immediately for recommended procedures.

#### 54. (Mitigation Measure No. 3.5-1b)

In the event that a historical resources consultant is retained, the firm or individual shall be responsible for submitting any report of findings prepared for the proposed project to the Central California Information Center, including one copy of the narrative report and two

**Hazards and Hazardous Materials**

55. (Mitigation Measure No. 3.8-2a)

During construction of the proposed project, work areas and areas with heavy foot traffic inside the eastern, unpaved portion of the barn/packing shed shall be surfaced to reduce worker exposure to dust in this area, where concentrations of 4,4'-DDT (2,600 micrograms per kilogram [ug/kg]) and 4,4'-DDD (240 ug/kg) were detected in soil.

56. (Mitigation Measure No. 3.8-2b)

Before building permit issuance, the owner shall hire a biologist to complete a Pest Management Plan which will make recommendations for addressing both pest-birds and rodents inside and around the warehouse. The plan shall be submitted to the Stanislaus County Environmental Health Department and made available to employees at the warehouse.

57. (Mitigation Measure No. 3.8-7)

The applicant shall notify the City of Turlock's fire, sheriff, and ambulance service which serve the proposed project site, as well as the Office of Emergency Services (OES) Division (Modesto Regional Fire Authority) of the proposed project and construction dates. This notification shall occur two weeks prior to the start of construction.

**Hydrology and Water Quality**

58. (Mitigation Measure No. 3.9-5)

Prior to issuance of grading and building permits, the applicant shall meet with the Stanislaus County Public Works Department to determine the appropriate BMPs for filtration of storm water and to determine the best method of treatment and required size of retention basin.

**Public Services and Utilities**

59. (Mitigation Measure No. 3.12-1)

The access to the site from N. Washington Road shall be provided with radio frequency gate opening devices (i.e. "Click-to-enter") in addition to the standard police/fire bypass keyway. Manually operated gates across required fire access roadways are prohibited. (Note: The current site plan calls for no gate. This mitigation measure is not applicable of a gate is not constructed.)

**Transportation and Traffic**

60. (Mitigation Measure No. 3.13-1a)

The project shall pay the Traffic Impact Fees as set forth by Stanislaus County.

61. (Mitigation Measure No. 3.13-1b)

The applicant shall pay the City of Turlock Capital Facility Development Fees which provides for the construction of Public Facilities and to purchase capital items to allow for City services. The City's fees change quarterly, therefore the amount will be determined with approval of the project.

62. (Mitigation Measure No. 3.13-1c)

The applicant shall install half street improvements along the project frontage to meet the future lane configurations along Washington Road. This will also include addition of a northbound left turn lane at the Washington Road/Blue Diamond/Project Access intersection. These improvements shall also include traffic signal modifications to the existing signal. A residential driveway should also be constructed on Washington Road to provide access for the single-family residence that will remain. This residence is located about 350 feet south of the Blue Diamond/project driveway

63. (Mitigation Measure No. 3.13-5)

Proposed project site plans shall be reviewed by the City fire and police departments to ensure adequate emergency access.

**Cumulative Air Quality and Greenhouse Gases**

64. (Mitigation Measure No. 3.7-1)

The applicant shall implement an employer-based trip reduction program in compliance with SJVAPCD Rule 9410. The trip reduction program may include ride-sharing information, carpools, and vanpools.

**Cumulative Air Quality and Noise**

65. (Mitigation Measure No. 5.3.3-1)

Tractor-trailer trucks shall not be permitted to run their engines on idle while parked or staging. Signs shall be posted in designated queuing areas and job sites to remind drivers and operators of the No-Idling rule. This shall be noted on improvement plans.

**Cumulative Air Quality**

66. (Mitigation Measure No. 5.3.3-2)

The proponent has agreed to incorporate frontage landscaping for aesthetic purposes, and this will be made a required mitigation measure to aid in particulate reduction. Though not in the City of Turlock, the project shall incorporate frontage landscaping consistent with the Westside Industrial Specific Plan. A final landscape plan shall be included with improvement plans.

67. (Mitigation Measure No. 5.3.3-3)

The site shall be sprinkled by watering trucks for dust control during grading and construction. A note to this effect shall appear on improvement plans.



68. (Mitigation Measure No. 5.3.3-4)

The "Pre-phase" (dirt surface) project activity shall be eliminated from the development plan. All parking and shipping and receiving areas shall be paved. The proposed access way around the north, west and south sides of the proposed warehouse, which were to remain unpaved until completion of Phase 3, shall be paved during each of the three phases of development. This shall be noted on improvement plans.

**Cumulative Biological Resources**

69. (Mitigation Measure No. 5.3.4-1)

A minimum of two permanent and durable bird nest boxes shall be installed and maintained on the project site in locations that will encourage their use. Nest boxes may be designed for common songbirds or birds of prey compatible with farms such as owls.

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