

STANISLAUS COUNTY PLANNING COMMISSION

April 20, 2017

STAFF REPORT

USE PERMIT APPLICATION NO. PLN2015-0130 THE FRUIT YARD AMPHITHEATER

REQUEST: REQUEST TO AMEND AN EXISTING PLANNED DEVELOPMENT TO ALLOW A 3,500 PERSON CAPACITY AMPHITHEATER, WITH A 5,000 SQUARE FOOT COVERED STAGE, A 4,000 SQUARE FOOT STORAGE BUILDING AND PARKING LOT TO THE REAR OF THE STAGE, AND AN ADDITIONAL 1,302-SPACE TEMPORARY PARKING AREA, FOR A MAXIMUM OF 12 AMPHITHEATER EVENTS PER YEAR. THE USE PERMIT ALSO INCLUDES A REQUEST FOR A COVERED SEATING AREA OF APPROXIMATELY 4,800 SQUARE FEET AND A 1,600 SQUARE FOOT GAZEBO TO BE DEVELOPED IN THE EXISTING PARK AREA AND REPLACEMENT OF THE EXISTING PYLON FREESTANDING POLE SIGN WITH AN ELECTRONIC READER BOARD SIGN.

APPLICATION INFORMATION

Applicant/Property owner:	Joe Traina/The Fruit Yard Properties, LLC
Agent:	Dave Romano, P.E., AICP
Location:	7924 & 7948 Yosemite Boulevard (Hwy 132), at the southwest corner of Yosemite Boulevard and Geer Road, between the Cities of Modesto, Waterford, and Hughson.
Section, Township, Range:	34-3-10
Supervisorial District:	One (Supervisor Olsen)
Assessor's Parcel:	009-027-004
Referrals:	See Exhibit L Environmental Review Referrals
Area of Parcel(s):	43.86 acres (parcels 1-3, 7-12 of 56-PM-83)
Water Supply:	Private well
Sewage Disposal:	Private septic system
Existing Zoning:	Planned Development (317) [P-D (317)]
General Plan Designation:	Planned Development (PD)
Sphere of Influence:	N/A
Community Plan Designation:	N/A
Williamson Act Contract No.:	N/A
Environmental Review:	Mitigated Negative Declaration
Present Land Use:	The Fruit Yard produce market, restaurant, two gas stations, park-site, concave amphitheater, and orchard.
Surrounding Land Use:	To the north, church, fire station, agriculture; to the east, PD for Agricultural Businesses; to the south agriculture, mobile home park; and to the west, agriculture.

RECOMMENDATION

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

SITE DESCRIPTION

The project is located at 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, and a fire station and church located to the north. Production agricultural parcels are located to the west, south, and east of the project site. A concentration of one to four acre ranchettes exists, approximately one half mile east and one mile northeast of the project site.

The 43.86± acre parcel currently supports the existing Fruit Yard produce market, The Fruit Yard Restaurant, two separate gas fueling facilities, all of which currently have paved parking and landscaping, the graded amphitheater, and the park-site. The remaining part of the property is currently planted in orchard.

BACKGROUND

The Fruit Yard site was a legal non-conforming use which dated back many years ago when an Old Foamy Drive-In was located on the site. The exact year is unclear due to a lack of County records that are available. Between the years 1976 and 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 Use Permit was granted a time extension in 1981 by the Planning Commission, but 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 is an overview of the remaining discretionary permit approvals that have been issued to The Fruit Yard prior to this current request and a summary of The Fruit Yard's history with holding private and public events:

Use Permit No. 88-36 – Approved by the Planning Commission 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 – Approved to expand the restaurant building with an additional 1,054 square feet.

Staff Approval Permit No. 92-43 – Approved to relocate the fruit stand/store sign and gas facility (pumps).

Staff Approval Permit No. 93-27 – Approved to install a “Gas Card” sign for the existing fueling island.

Staff Approval Permit No. 2000-28 – Approved for a minor expansion to the existing fruit stand/store by 25% or less (based off the square footage).

General Plan Amendment No. 2007-03 and Rezone No. 2007-03 – Approved on August 19, 2008, by the Board of Supervisors, 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 43.86± acre site. The approved Planned Development (317) allowed for the development of a 9,000 square foot banquet facility, a new convenience market, 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 Planned Development 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. The Planned Development also included a two acre site for retail tractor (large agricultural equipment) sales and a new facility for fruit packing and warehousing. However, the retail tractor sales and fruit packing and warehousing phases of the Planned Development are required to obtain a Use Permit prior to development. The approved Planned Development also permitted occasional outdoor special events to be held on-site, near and on the developed nine acre park area, including fund raising activities, weddings, and private parties. For more information see Exhibit D - *Planning Commission Memo for Time Extension Request for General Plan Amendment Application No. 2007-03 and Rezone Application No. REZ 2007-03 – The Fruit Yard, dated December 3, 2015.*

Vesting Tentative Parcel Map Application No. 2009-08 – Approved on January 21, 2010, by the Planning Commission, to create nine parcels and a remainder ranging in size from 0.60+/- to 12.70 acres in conformance with uses allowed under P-D (317). The Fruit Yard Parcel Map (56-PM-83) was recorded on October 31, 2012.

Staff Approval PLN2013-0104 – Approved for a minor expansion of a patio to the existing restaurant.

Time Extension for GPA 2007-03 and REZ 2007-03 – Approved on December 3, 2015, by the Planning Commission, for an amended Development Schedule for Planned Development (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 Exhibit D - *Planning Commission Memo for Time Extension Request for General Plan Amendment Application No. 2007-03 and Rezone Application No. REZ 2007-03 – The Fruit Yard, dated December 3, 2015.*)

Public and Private Events

Prior to approval of the planned development, the Fruit Yard had historically held both permitted and non-permitted events in the park. Some of these events were permitted 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. The Planned Development approval allowed the park site to be open to the general public during normal business hours and to host both public and private special events, such as fund raising activities, private parties, weddings, and other outdoor events such as “Graffiti Weekend” or small scale concerts, without the need of obtaining a license from the Sheriff’s Department in accordance with Section 6.40. The approved Planned Development did not restrict the applicant to the number of events held at the location, but stated

that public events are seasonal in nature and typically occur between 5-6 times annually. The approved Planned Development also included a Development Standard which required that prior to the use of amplified music for park or banquet hall events, a Noise Analysis must be completed. Although the Planned Development approved special events as a permitted use, the ability to host events with a license issued by the Sheriff's Department is still available. A further discussion of this is included under the "Issues" section of this staff report.

PROJECT DESCRIPTION

The current project is a request to amend Planned Development (317) to allow a 3,500 person capacity amphitheater, including a 5,000 square foot covered stage, a 4,000 square foot storage building and parking lot located behind the stage, an additional 1,302-space temporary event parking area, and additional on-site and amphitheater lighting. A maximum of 12 amphitheater events are proposed to take place per year, ending at 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday.

The area where the amphitheater is proposed was identified on the Planned Development (317) site plan as an extension of the existing park site, including a maintenance building, gazebo, pond, and storm drainage basin. The amphitheater was not identified as part of the approved Planned Development and is considered to be a new and separate use in addition to the approved park-site. In 2013, the applicant applied for a grading permit (GRA2013-0002), which was issued on January 29, 2015, for development of the park site and storm drain basin approved with the Planned Development (317). Although authorization for the use of the amphitheater has not yet been permitted, the grading completed as part of this grading permit included grading for the amphitheater. This Use Permit request must be approved by the Planning Commission for the amphitheater to be incorporated into the uses approved for Planned Development (317).

The approved Planned Development (317) included approval for overflow parking, located on Parcel 9. The temporary parking lots proposed as part of this request, include parking to be located on Parcels 2, 3, 8, 9 and the remainder of Parcel Map 56-PM-83, which would require an amendment to the currently approved planned development. The relocated temporary parking areas included with this project request are proposed to be located where other uses were approved as part of Planned Development (317), which will be built at a later date. These include the future tractor sales area, banquet building and parking area, and a portion of the areas approved for the expanded gas station, the RV/Campground, and RV Park. To view the temporary parking areas proposed to be utilized for amphitheater events see Exhibit B-8 – *Parking Plan*, and Exhibit B-9 – *Approved P-D (317) Site Plan & Proposed Parking Plan*, of this Staff Report's attachments. As these approved uses are developed, alternative event parking will be required to be developed. Access to the temporary parcels will be provided by two additional paved access driveways off of Yosemite Boulevard (State Highway 132) and one additional driveway off of Geer Road. The on-site access driveways are proposed to be paved, lighted, and will provide on-site circulation access around the amphitheater. A Traffic Management Plan is proposed to address ingress and egress to the site during special events.

Food sales will be contracted through The Fruit Yard, and will acquire all necessary County permits, including any off-site vendor who may be contracted. No alcohol or food will be permitted to be brought in; however, food and alcohol sales may occur at the amphitheater site. Alcohol sales will be subject to Alcohol Beverage Control (ABC) Regulations.

This project also includes a request for a covered seating area of approximately 4,800 square feet and a 1,600 square foot gazebo to be developed in the existing park area and a request to replace the existing pylon freestanding pole sign with an electronic reader board sign. In accordance with the Development Standard applied to Planned Development (317) which requires a Noise Analysis to be completed prior to use of amplified music for on-site events, the Noise Analysis and associated Mitigation Measures prepared for this project, cover amplified music events in the amphitheater, banquet hall, and park.

ISSUES

As discussed in the “Background” section of this report, The Fruit Yard has historically held concerts and other private events on-site. Approved Planned Development (317) does allow for public and private special events to take place at the park-site, and in the banquet hall. However, the necessary land use permission must be obtained prior to use of the amphitheater. Additionally, neighbors have raised concerns with The Fruit Yard operations with regard to noise, security, traffic, and lighting, both with previous project requests and with this current Use Permit request. The processing of this Use Permit request, including the environmental analysis completed for the project, has considered each of these and additional issues to assist in evaluating the potential land use approval for the amphitheater. The following is a summary of comments received on the project and responses to those comments, including a summary of those issues which have been identified as part of the review of the project:

Neighborhood Opposition

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; stating that outdoor events with amplified noise at the park site and outside of the restaurant have been held without an approved acoustical analysis. Comments received from neighbors indicated that there was a history of Mr. Traina operating without expedient responses to neighbor complaints and a general distrust that he will not implement the required mitigation. In response to these complaints, the applicant conducted a neighborhood meeting on September 21, 2015, at The Fruit Yard Restaurant, to discuss the status and process of constructing the amphitheater.

Staff has also been contacted by neighboring residents, expressing concern about the current project request to hold events at the amphitheater.

Staff received eleven letters from residents who live near the project site in July of 2016. The letters raised concerns with security, traffic, and noise impacts resulting from the project. The letters state that the neighboring residents met with Mr. Traina, who operates The Fruit Yard facility, and do not feel that their concerns, specifically with regard to traffic, noise, and security were adequately addressed. Further, the letters state that they were aware that the amphitheater was constructed without proper Planning Commission approval and that they do not believe that Mr. Traina, of The Fruit Yard has any intentions of complying with the County’s Planning process. Additionally, the letters state that, “If approved, these event facilities will drastically effect the daily lives, property values and traffic in our immediate and surrounding areas.”

Another letter dated July 25, 2016, from, Richard and Barbara Heckendorf, Michelle Boulet, and Thomas Douglas, also nearby residents, similarly raised concerns with the proposed amphitheater with regard to security, traffic, and noise impacts resulting from the project. The letter requested additional project details and analysis of the impact of the full project which includes an RV Park, banquet facility, tractor sales yard, and expanded gasoline facilities. The letter reiterated that

although they met with Mr. Traina, they do not feel that their concerns were adequately addressed. The letter also touched on concerns regarding impacts from the project to water availability and water quality, air quality and air pollution. A suggestion was included that any 2,000 person or more amphitheater events be limited to daytime hours, that any concert be monitored by an independent expert acoustic engineer so real-time adjustments to music amplification can be made, and that the permit should be renewed annually. The letter also suggested that the studies prepared for the project were not adequate, that the results of the studies were directed by the applicant, and that a full Environmental Impact Report (EIR) should be required. Finally, the letter states that enforcement of noise limits should not be dependent on the neighbors having to file complaints with either The Fruit Yard or the County Sheriff but rather, should be monitored and controlled by the operator to ensure that impacts do not occur. The letter requested a definitive system for shutting events down should they be unable to comply with required noise limits, and a complaint procedure to be established by the County.

Staff also received a comment letter from Mr. and Mrs. Heckendorf, on April 10, 2017, stating that they felt an EIR should be completed for the project, that the County's Noise Ordinance should be updated, and that The Fruit Yard should be limited to six non-amplified concerts per year, between May and September, on weekends only, which should conclude by 10 p.m. The letter also raised concerns with parking, traffic, the proposed electronic reader board sign, fireworks, noise, and light pollution.

A letter received from Thomas Douglas on November 3, 2015, during the processing of the Time Extension request, expressed concern with the proposed amphitheater, (see Exhibit D, Attachment 5 - *Letter from Tom Douglas, dated November 3, 2015*). Upon being informed that a Use Permit Application was required for the development of the amphitheater, Mr. Douglas responded with a request to have his comments apply to this current Use Permit Application. Mr. Douglas' letter expressed concerns with the project's compatibility with the surrounding neighborhood; specifically, in regard to noise, time limits for weddings and special events, traffic control, parking, the neighborhood complaint process, and security. Another comment letter, responding to this Use Permit request, was received from Mr. Douglas on April 10, 2017. This letter more specifically commented on the Mitigation Monitoring Plan prepared for this project in terms of the allowance for adjustments to be made to C-weighted noise standards, crowd noise measurements, availability of noise measurements to be available for public review, additional limits on hours of operation, opportunities for resident input on development of the "Good Neighbor Policy", and regarding clarification on the process for dealing with complaints, particularly in terms of who is responsible for implementation or for consequences for failure to meet the development standards and mitigation measures.

The letters received from surrounding residents were reviewed by staff. Responses to the comment letters are provided below, by category: (See *Exhibit I - Neighborhood Comments Received*.)

- Security
- Traffic and Parking
- Noise and Light Pollution
- Air and Water Resources
- Level of Environmental Review & Mitigation Monitoring Plan
- Project Scope
- Enforcement

Security

To address security concerns and to ensure that events are run in an orderly manner, a mitigation measure (Mitigation Measure No. 15) has been incorporated into the project, which requires that the operator submit a Security Plan for amplified music events to the Sheriff for review and approval, prior to onset of any amphitheater events. (See Exhibit J - *Mitigation Monitoring Plan*.)

Traffic and Parking

A Traffic Impact Analysis for the 2007 Planned Development project (317) was prepared by KD Anderson & Associates, Inc., dated December 6, 2007. A Supplemental Traffic Impact Analysis, prepared by Pinnacle Traffic Engineering, dated February 5, 2016, was prepared for this current project and was circulated as part of an early consultation to the Stanislaus County Public Works Department and the California Department of Transportation (Caltrans) for review. The analysis evaluated traffic impacts from the amphitheater events with worse-case scenario factors, which included the site at full planned development build out and traffic impacts to the intersection of Geer Road and Yosemite Boulevard (Hwy 132). Caltrans provided a response requesting that the Traffic Impact Analysis be amended. The applicant then worked with Caltrans to address their comments, and provided clarification that although the existing and approved uses for the Planned Development were considered in the Traffic Impact Analysis, that the other uses listed in the study were already approved and that amphitheater events were the only traffic generating use included in this project request. Ultimately, Caltrans agreed with the assessment of the project's traffic impacts provided in the report and requested the addition of a left turn lane extension in front of the project site on Highway 132 to the second main driveway accessing the amphitheater to increase traffic safety during amphitheater events. This has been incorporated into the project as a mitigation measure.

Additionally, mitigation has been applied to the project to require that the payment of traffic impacts fees and that a traffic management plan for amphitheater events is submitted to the Department of Public Works for review and approval. The Traffic Management Plan also addresses parking by restricting queuing of vehicles when parking. Fees may be collected for amphitheater event parking, provided no queuing of vehicles occurs. Parking fees may be collected as part of the fee collected for the price of the ticket for the event, or may be collected at a stationary electronic machine, installed in the parking area. Parking fees may not be collected while vehicles are waiting to enter the parking lot. To ensure the parking plan remains applicable after additional phases of the planned development are built out, a revised Event Traffic Management Plan is required prior to the implementation or construction of any additional phases of the approved Plan Development (317). A Development Standard requires the Traffic Management Plan to be reviewed and approved by the Department of California Highway Patrol and by the Stanislaus Consolidated Fire District to ensure the plan meets their standards for safety and emergency access. Additionally, Mitigation Measures require The Fruit Yard to notify vehicles entering the site, that no off-site parking or tail-gating is permitted.

(See Exhibit C – *Development Standards and Mitigation Measures*, Exhibit F - *Traffic Impact Analysis*, prepared by KD Anderson & Associates, Inc., dated December 6, 2007, Exhibit G - *Supplemental Traffic Impact Analysis*, prepared by Pinnacle Traffic Engineering, dated February 5, 2016, and Exhibit J - *Mitigation Monitoring Plan*.)

Noise and Light Pollution

An Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc., dated February 3, 2016, was conducted for the project. This study was peer reviewed by J.C. Brennan and Associates and was subsequently amended on December 28, 2016, based on peer review comments. J.C. Brennan and Associates reviewed the amended document and determined that it adequately covered all of the concerns they had included in their original peer review response. The revised Environmental Noise Analysis provided a number of recommendations for Mitigation Measures to be incorporated into the project to ensure the project meets the noise limits identified both in the Stanislaus County Noise Element of the General Plan and the Noise Ordinance.

The previous General Plan Amendment and Rezone for the project Planned Development (317) included a Development Standard which required that, *“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”*. To address this Development Standard, the use of amplified sound at the park and banquet hall has been incorporated into the Mitigation Monitoring Plan.

The mitigation incorporated into this project addresses noise level standards, noise level monitoring, reporting, and training, hours of operation, development of a “Good Neighbor Policy” to ensure complaints are addressed expediently, and measures for enforcement should complaints be received. (See Exhibit H - *Environmental Noise Analysis, prepared by Bollard Acoustical Consultants, Inc., dated December 30, 2016*, and Exhibit J - *Mitigation Monitoring Plan*.)

This project proposes to add the following additional lighting: two street lights along Geer Road, proposed to be 28 feet tall with 15 foot wide arms, in accordance with Public Works Standards and Specifications; five additional pole lights, proposed to be located at the back of the amphitheater, each 27 feet in height; five pole lights to be located in the driveway and parking area, each 27 feet in height; and stage lighting which is either mounted on the roof of the stage or placed at ground level. A Mitigation Measure has been applied to the project to ensure that all proposed lighting will be aimed down to prevent any glaring impacts onto adjacent properties or roadways. (See Exhibit J - *Mitigation Monitoring Plan*.)

The project also proposes to replace an existing pylon sign, located on the southwest corner of Yosemite Boulevard (Hwy 132) and Geer Road, with an electronic reader board sign. The County has typically prohibited flashing, animated, or electronic reader board signs in the unincorporated areas of the County. The only exception has been in urbanized commercial areas, typically within a sphere of influence of a city, where that city supports the electronic sign. Considering that The Fruit Yard is not located in a highly urbanized area, Planning does not feel that locating an electronic reader board sign will be compatible with the surrounding area. A Development Standard has been incorporated into the project regarding signs, which specifically prohibits electronic reader board signs. If the Planning Commission wishes to approve an electric reader board sign a part of this project request, the second sentence of Development Standard Number 8 would need to be struck. (See Exhibit C – *Development Standards and Mitigation Measures*.)

The use of fireworks is not a land use related issue and is regulated by the Stanislaus Consolidated Fire District.

Air and Water Resources

Air and water quality are regulated by the Stanislaus County Department of Environmental Resources (DER), the Central Valley Regional Water Quality Control Board (CVRWQCB), and the San Joaquin Valley Air Pollution Control District (SJVAPCD). Groundwater use will be subject to the requirements of the Groundwater Sustainability Management Plan developed by the Groundwater Sustainability Management Agency established for the Modesto Basin. However, these plans are not required to be implemented until 2020. Development Standards regarding water availability and water quality, air quality and air pollution have been incorporated into this project, which require permits from DER, CVRWQCB, and the SJVAPCD to be obtained prior to onset of amphitheater activities. This project is subject to the public water system permit and will be required to work with DER to ensure these permit requirements are met, including but not limited to water quality restrictions for public use. With these development standards in place, the environmental review prepared for this project identified the project as having a less than significant impact, with mitigation incorporated. (See Exhibit C – *Development Standards and Mitigation Measures*.)

Level of Environmental Review & Mitigation Monitoring Plan

The resident letters expressed a need for an Environmental Impact Report (EIR) to be completed for this project. In accordance with the California Environmental Quality Act, an Initial Study was prepared for this project. Potential impacts to aesthetics, noise, public services, and transportation/traffic were identified as less than significant with mitigation included. All other categories were identified as less than significant. As a result, staff is recommending that the Planning Commission adopt a Mitigated Negative Declaration.

Further, the neighborhood letters state that the analysis should consider the full project, including all approved uses from Planned Development (317) which have not been developed yet and that all studies should be reviewed by a third party to ensure they are adequate. Both the studies for this project, regarding noise and traffic, and the Initial Study prepared for this project analyzed the project at full build-out and were reviewed by third parties for adequacy.

The letter received from Mr. Douglas provided specific suggestions for amendments to the Mitigation Monitoring Plan that was circulated for the project, including clarifying the allowance for adjustments to be made to C-weighted noise standards, and ensuring crowd noise is properly measured. Staff and the Noise Consultant that prepared the Environmental Noise Analysis for the project evaluated these comments and recommend no modifications to the Mitigation Monitoring Plan. The County's Noise Control Ordinance allows adjustments in cases where ambient conditions already exceed the standards provided in the Noise Control Ordinance. Mitigation Measure No. 4 provides a mechanism for this adjustment in the case that the C-weighted ambient data collected before and after the first two large amphitheater events exceeds the standards provided in the Noise Control Ordinance. Regarding Mitigation Measure No. 5, a crowd size of at least 500 attendees is considered to be adequate to statistically extrapolate crowd noise levels associated with even larger crowds. (See Exhibit J – *Mitigation Monitoring Plan*.)

Response letters received in the earlier stages of the project review indicated a desire for on-going sound monitoring, by an expert acoustic engineer so real-time adjustments to music amplification can be made. The Mitigation Measure included with this project does incorporate that suggestion. Each event must provide on-going sound measurements and sound engineers are required to be trained in how to monitor the sound levels in compliance with the noise level thresholds provided in the Mitigation Monitoring Plan. Additionally, if the required sound levels are unable to be maintained, the mitigation requires additional noise analysis. Any future additional noise analysis

required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation, shall be conducted by a noise consultant, whose contract shall be procured by the Planning Department, and paid for by the operator/property owner. The applicant may choose to procure the noise consultant; however, in order to verify all work has been conducted in an unbiased way, that work must be peer reviewed by a third party. If future noise analysis is required, amplified music events will be limited, as determined by the Planning Department, until the noise consultant verifies to the Planning Department that all recommended noise control measures have been completely implemented.

Additionally, Mr. Douglas' response requested that noise measurements, required to be recorded and kept on record by Mitigation Measures Nos. 5, 6, & 7, be available for public review. Mitigation Measures Nos. 5, 6, & 7 require that the operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. For clarification purposes, any noise measurements or training records provided to the Planning Department would be considered public record and could be reviewed by the public upon request to the Planning Department.

Mitigation Measure No. 11 requires the operator/property owner to establish a written "Good Neighbor Policy" to be approved by the Planning Department, which shall establish a plan to mitigate any ancillary impacts from amplified music events, at the park, banquet hall or amphitheater, on surrounding properties. The plan is required to include a means for the neighbors to contact management regarding complaints and to identify steps that management will take upon receiving a complaint. Mr. Douglas' letter requested that surrounding residents be allowed a chance to comment on this policy before it is finalized. In response to this comment, the Planning Department will refer the "Good Neighbor Policy" to all surrounding residents, as required by Development Standard No. 20, for a two week comment period. The referral will be sent to all surrounding residents included on the project referral "Landowner Notice" list from Use Permit No. PLN2015-0130 – The Fruit Yard. Any comments received will be taken into consideration. However, the Planning Department maintains the ultimate approval authority. (See Exhibit C – *Development Standards and Mitigation Measures*, and Exhibit J - *Mitigation Monitoring Plan*.)

Project Scope

A number of the letters suggested amendments to the proposed hours and days of operation, and number of allowed events, and that, if approved, that the Use Permit be renewed annually. Chapter 21.104 Amendment and Revocation of Permits, allows the Planning Director to initiate amendments to the development standards for the operation to address nuisance concerns at any time. With this in place, a need to condition the Use Permit to be renewed annually is not necessary, as the Use Permit may be amended to address nuisance concerns at any time.

Mitigation Measure No. 9 limits the hours of operation for any amplified noise event. All amplified music events (including the amphitheater, park, and banquet hall events), occurring Sunday through Thursday shall end at or before 10 p.m. All patrons shall be off the premises (including the amphitheater, park, and banquet hall events) as of 11:00 p.m. Employees and contract staff, associated with the amplified music events, shall be off the premises (including the amphitheater, park, and banquet hall events) by 12:00 a.m. A Development Standard has also been applied to the project which states that hours of operation may not be extended beyond those included in Mitigation Measure No. 9, without a public hearing. The Planning Commission may choose to restrict the hours or days of operation, or the allowed number of events, beyond what is included in this Staff Report and the Mitigation Monitoring Plan. However, staff recommends the hours stay as

proposed and be restricted further only if recommended by a Noise Consultant as a result of implementing Mitigation Measure No. 14. (See Exhibit C – *Development Standards and Mitigation Measures*, and Exhibit J - *Mitigation Monitoring Plan*.)

Enforcement

Lastly, the comment letters received raised concerns with the complaint and enforcement process, particularly in terms of who is responsible for implementation or for consequences for failure to meet the Development Standards and Mitigation Measures.

While the Sheriff can take action against criminal offenses which take place on the property, the Development Standards and Mitigation Measures applied to this Use Permit request are land use regulations which can only be enforced through land use policy. The typical process for enforcement actions would include: 1. Complaint received; 2. Sheriff verifies complaint is valid (e.g. loud noise was coming from The Fruit Yard site); 3. Planning requests sound measurement records 4. Noise Consultant verifies and improvements are implemented in accordance with Mitigation Measure No. 14; and 4. If steps are not taken to put a stop to the nuisance, then enforcement actions may be taken. The enforcement tools that Planning has available include amending the development standards or to recommend that the Planning Commission revoke the Use Permit, in accordance with Chapter 21.104 of the Stanislaus County Code. Additionally, through code enforcement actions the operation may also be processed through the Nuisance Abatement Hearing Board, which is responsible for making nuisance determinations based on investigations conducted by the Code Enforcement Unit at the Department of Environmental Resources. All violations of the County Zoning Ordinance are nuisances, which includes not meeting Development Standards applied to a Planned Development. If it is determined that a nuisance exists, the Board of Supervisors can be asked for authorization to conduct clean-ups or to issue fines until activities are ceased. In terms of who is responsible for enforcement (property owner/vendor), all land use actions taken on The Fruit Yard property will be tied to the Use Permit, which is tied to the property. Accordingly, the property owner will be required to enforce the restrictions of this Use Permit with each individual vendor.

Permitted Event Uses with Use Permit Denial

The section below describes in more detail how the Fruit Yard may operate, provided this Use Permit Application is **not** approved.

As described within the “Background” section of this report, Stanislaus County Code Section 6.40 - Outdoor Entertainment Activities in Unincorporated Areas, allows the Sheriff’s Department to issue Outdoor Entertainment Permits for events open to the public which do not exceed seven (7) consecutive days in duration and are not held at the same location more than six (6) times within a calendar year. No private events, including weddings, are permitted under the Outdoor Entertainment Permit program. Although the applicant was approved for special events as part of the previously approved Planned Development (317), the ability to host up to six public events with a license issued by the Sheriff’s Department is still 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. Accordingly, if this Use Permit is not approved, The Fruit Yard may still hold events up to six times per year under the Sheriff’s Outdoor Events Permit. The Sheriff’s Event Permits are referred to the Planning Department for comment, which will allow the Mitigation Measures included in this Use Permit to be requested to be applied to the Event Permit. However, the Planning Department has no

authority to require that the Mitigation Measures included with this Use Permit request be applied to any event permit issued by the Sheriff. Section 6.40.050 of the County Code defines Outdoor Entertainment Activity as:

“Any musical, theatrical, or other entertainment activity to which members of the public are invited or admitted and which is held at any place other than a facility for which a valid Use Permit has been issued which authorizes the activity to take place at said location.”

If this project is approved, a valid Use Permit will be in place and the operation will no longer meet the definition for an “Outdoor Entertainment Activity”. Accordingly, if this Use Permit request is approved The Fruit Yard will no longer be able to hold events under the Sheriff’s event permit and will be limited to what is allowed under the Planned Development, including the amendments included in this request.

Private and fundraising events in the park and banquet hall events were permitted with the 2007 General Plan Amendment and Rezone, with no limit to the number of private and public events. However, a Development Standard applied to the project requires that a Noise Study be completed prior to any events in the park which involve amplified noise.

If the Planning Commission decides to recommend **denial**, of this Use Permit, The Fruit Yard will be held to the following in regard to on-site events:

- Park events with amplified noise will be required to adhere to the Mitigation Measures identified in the Noise Study.
- The banquet hall may still be built and hold events with or without amplified noise, as there were no development standards specific to amplified noise and the banquet hall included in the 2007 General Plan Amendment and Rezone.
- No activities (including any amplified noise events) may take place in the amphitheater, with the exception of the 6 public events permitted by the Sheriff’s Outdoor Event Permit.

Summary

Staff believes that the neighbor concerns have been addressed through the development standards and mitigation measures applied to this project. The environmental analysis prepared for the project, evaluated potential project impacts, including impacts to water availability and water quality, air quality and air pollution, security, and from lighting, noise, and traffic. As a result of the environmental analysis, impacts to lighting, noise, security, and traffic were mitigated, as described in the Mitigation Monitoring Plan included with this project. Hours of operation are addressed within the mitigation measures applied to this project regarding lighting and noise. If this project is approved and fails to meet their Development Standards and Mitigation Measures, the Use Permit may be amended or revoked in accordance with Chapter 21.104 Amendment and Revocation of Permits, or through the Nuisance Abatement process.

GENERAL PLAN CONSISTENCY

Consistency with the goals, objectives, and policies of the various elements of the General Plan must be evaluated when processing all discretionary project requests. The site is currently designated “Planned Development” in the Stanislaus County General Plan. Goal Two and Three of the Land Use Element of the Stanislaus County General Plan aim to ensure compatibility between

land uses; and, to promote diversification and growth of the local economy by accommodating the siting of industries with unique requirements, as described in the Land Use Designations section of the Land Use Element.

The Land Use Designations of the Land Use Element describes the Planned Development designation as a designation intended for land which, because of demonstrably unique characteristics, may be suitable for a variety of uses without detrimental effects on other property. The Board of Supervisors approved a general plan designation and zoning designation of Planned Development for the project site on August 19, 2008, which required finding the project to be compatible with surrounding land uses.

In December of 2007, Stanislaus County adopted an updated Agricultural Element which incorporated guidelines for the implementation of agricultural buffers applicable to new and expanding non-agricultural uses within or adjacent to the A-2 zoning district. The purpose of these guidelines is to protect the long-term health of agriculture by minimizing conflicts such as spray drift and trespassing resulting from the interaction of agricultural and non-agricultural uses. Alternatives may be approved provided the Planning Commission finds that the alternative provides equal or greater protection than the existing buffer standards. The proposed project does meet the recommended 300 feet buffer for people intensive uses from the use to all property lines and includes scattered trees to be planted along Yosemite Boulevard and Geer Road. However, the project does not propose to fence off the entire site.

This project must comply with both the Noise Element and Chapter 10.46 Noise Control Ordinance of the Stanislaus County Code. As required by Goal Two/Policy Two/Implementation Measure Three of the Noise Element of the County General Plan, noise generating land uses are required to show through an acoustical analysis that the noise levels can meet the standards set forth within the Noise Element of the General Plan. A Noise Study was prepared, and has been peer reviewed by a third party, and mitigation measures have been applied to the project to ensure that the project meets the County's Noise standards.

With mitigation and amended development standards in place, staff believes the project is consistent with the County's General Plan.

ZONING ORDINANCE CONSISTENCY

The site is currently zoned Planned Development (317) which includes a Development Plan which outlines specific development regulations and design standards applicable to the project's approved uses.

In accordance with Section 21.40.080 amendments to the development plan may be permitted in accordance with the procedure set forth with the processing of a Use Permit, provided they are not of such a size or nature as to change the character of the development plan.

A Use Permit may be allowed when the Planning Commission makes the following finding:

- The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan 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.

This project is a request to amend both the approved uses and the Development Standards associated with the P-D (317) Planned Development zoning designation. This project will maintain zoning consistency by adhering to the uses and Development Standards approved with both the original Planned Development zoning and the amended Planned Development Standards incorporated into this project.

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. Section I – Aesthetics, discusses potential impacts to aesthetics due to additional lighting proposed for the project and includes mitigation to bring potential impacts to a less than significant impact. As discussed in Section XII – Noise, and Section XVI – Transportation/Traffic, of the Initial Study prepared for this project, and in the *Issues* Section of this Staff Report, an Environmental Noise Analysis and a Supplemental Traffic Impact Analysis were prepared and Mitigation Measures were applied as recommended by the studies to reduce potential impacts from noise and transportation/traffic to a less than significant level. (See Exhibit E -*Initial Study and Referral Comments*, Exhibit G -*Supplemental Traffic Impact Analysis, prepared by Pinnacle Traffic Engineering, dated February 5, 2016*, and Exhibit H -*Environmental Noise Analysis, prepared by Bollard Acoustical Consultants, Inc., dated December 30, 2016*.) A Mitigated Negative Declaration has been prepared for approval prior to action on the Use Permit as the project will not have a significant effect on the environment. (See Exhibit K -*Mitigated Negative Declaration*.) Development Standards reflecting referral responses have also been placed on the project. (See Exhibit C – *Development Standards and Mitigation Measures*.)

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay **\$2,273.25** for the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and the Clerk Recorder filing fees. The attached Development Standards and Mitigation Measures ensure that this will occur.

Contact Person: Kristin Doud, Senior Planner, (209) 525-6330

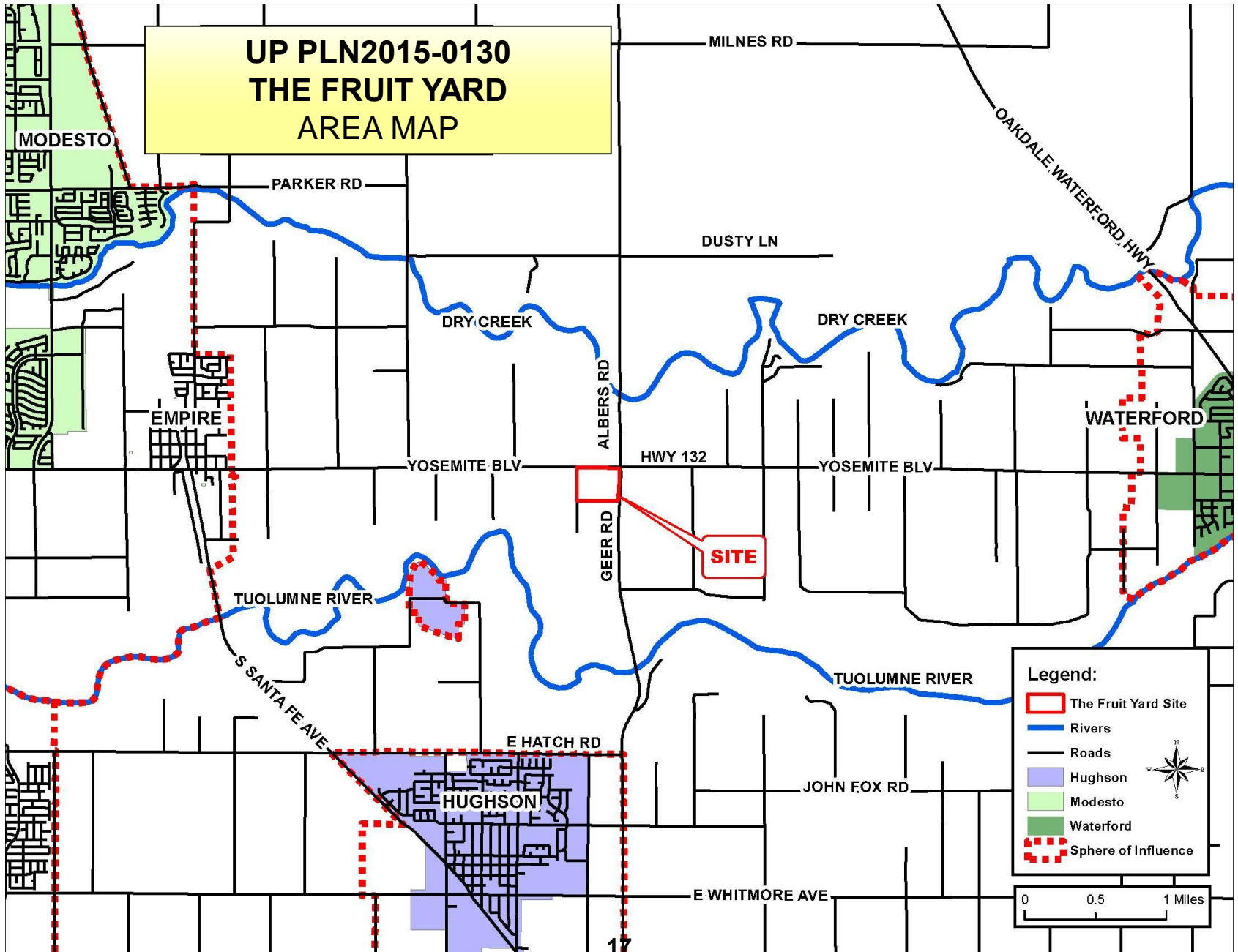
Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps
- Exhibit C - Development Standards and Mitigation Measures
- Exhibit D - Planning Commission Memo for Time Extension Request for General Plan Amendment Application No. 2007-03 and Rezone Application No. REZ 2007-03 – The Fruit Yard, dated December 3, 2015
 - 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 56-PM-83
 - Attachment 5 - Letter from Tom Douglas, dated November 3, 2015
 - Attachment 6 - Environmental Review Referrals
- Exhibit E - Initial Study and Referral Responses
- Exhibit F - Traffic Impact Analysis, prepared by KD Anderson & Associates, Inc., dated December 6, 2007 (*part of GPA2007-03 & REZ 2007-03 – The Fruit Yard*)
- Exhibit G - Supplemental Traffic Impact Analysis, prepared by Pinnacle Traffic Engineering, dated February 5, 2016
- Exhibit H - Environmental Noise Analysis, prepared by Bollard Acoustical Consultants, Inc., dated December 30, 2016
- Exhibit I - Neighborhood Comments Received
- Exhibit J - Mitigation Monitoring Plan
- Exhibit K - Mitigated Negative Declaration
- Exhibit L - Environmental Review Referral

Exhibit A
Findings and Actions Required for Project Approval

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgment and analysis.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Find that the establishment, maintenance and operation of the proposed use or building applied for is consistent with the General Plan 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.
4. Approve Use Permit PLN2015-0130 – The Fruit Yard, subject to the attached Development Standards and Mitigation Measures.

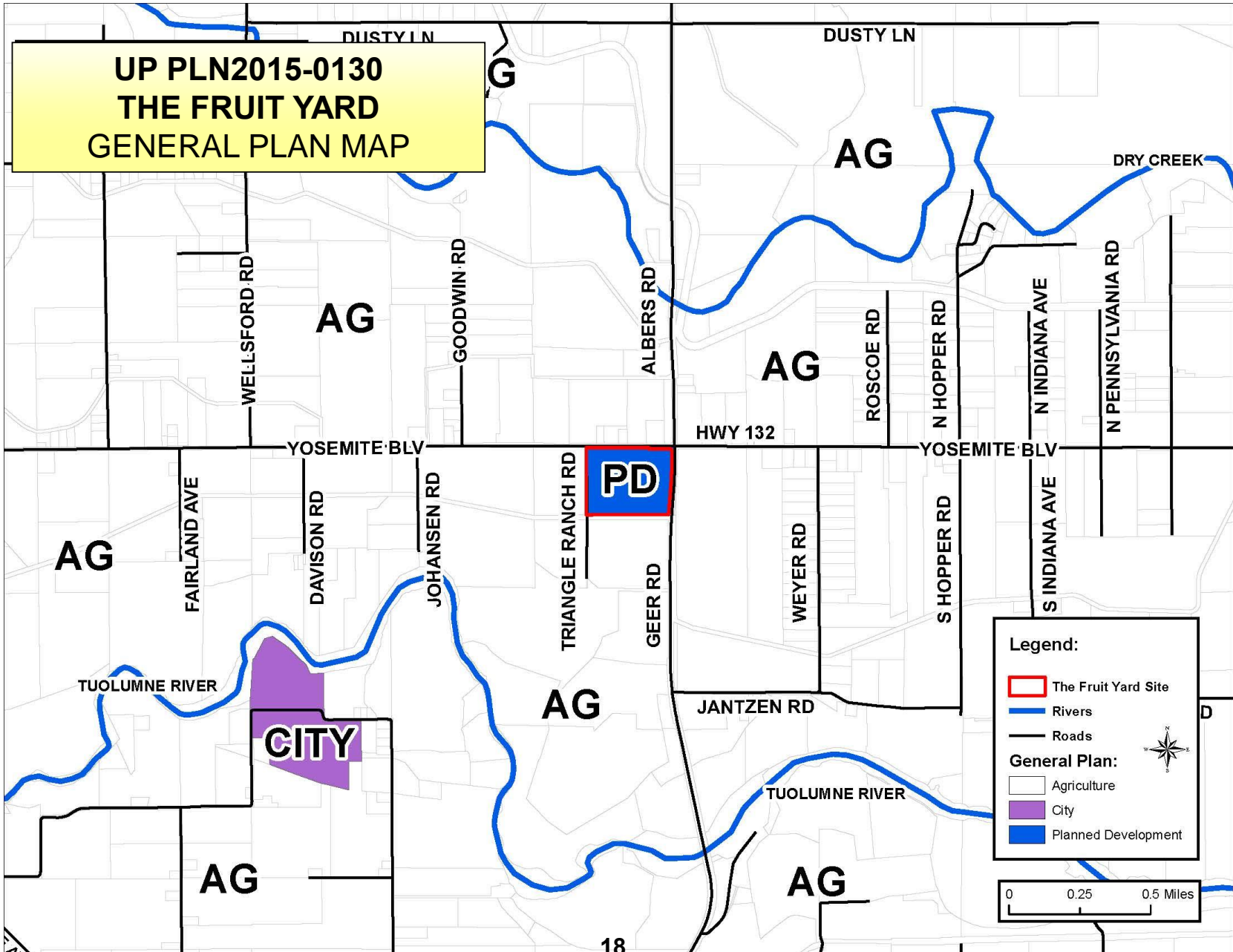
**UP PLN2015-0130
THE FRUIT YARD
AREA MAP**



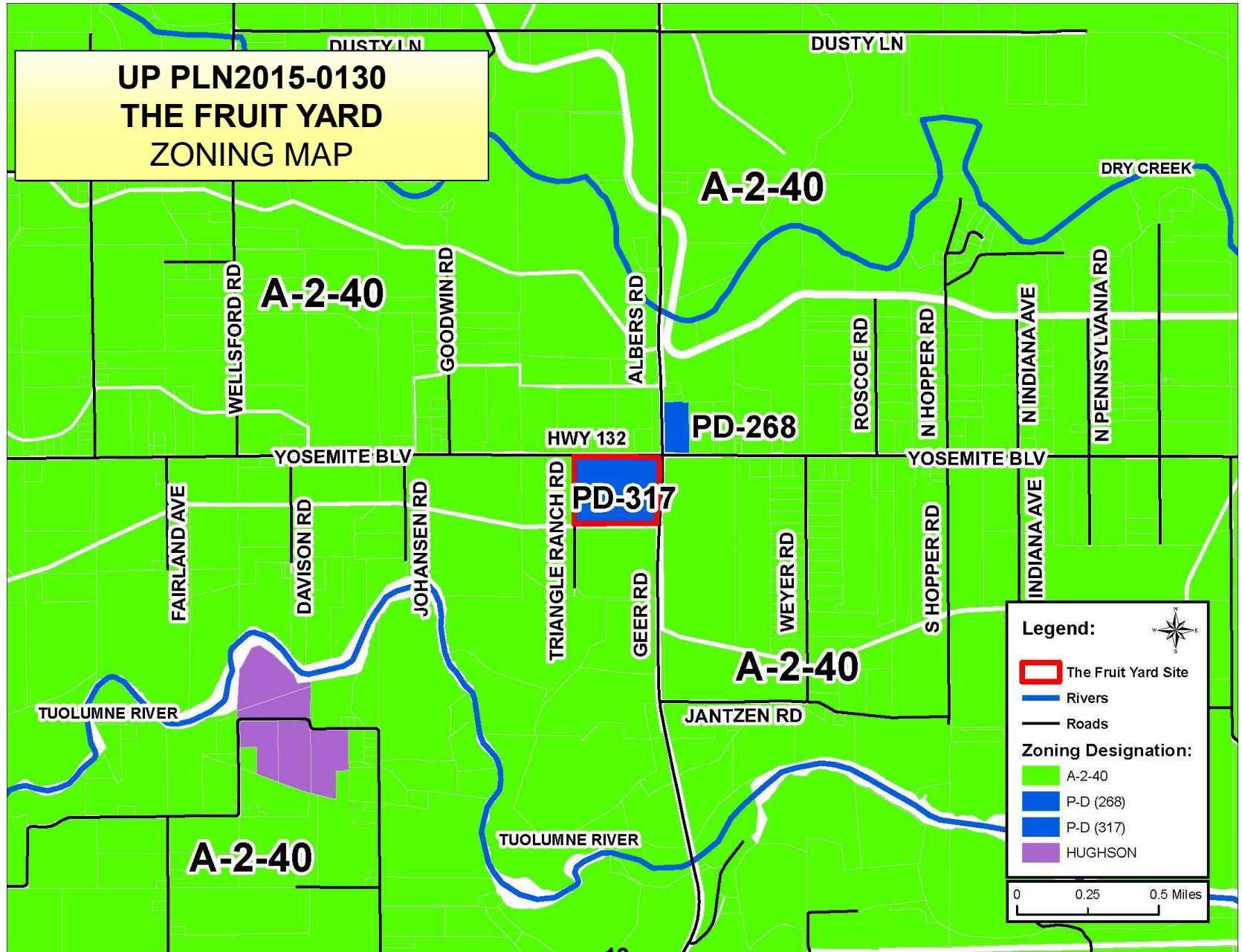
Legend:

- The Fruit Yard Site
- Rivers
- Roads
- Hughson
- Modesto
- Waterford
- Sphere of Influence

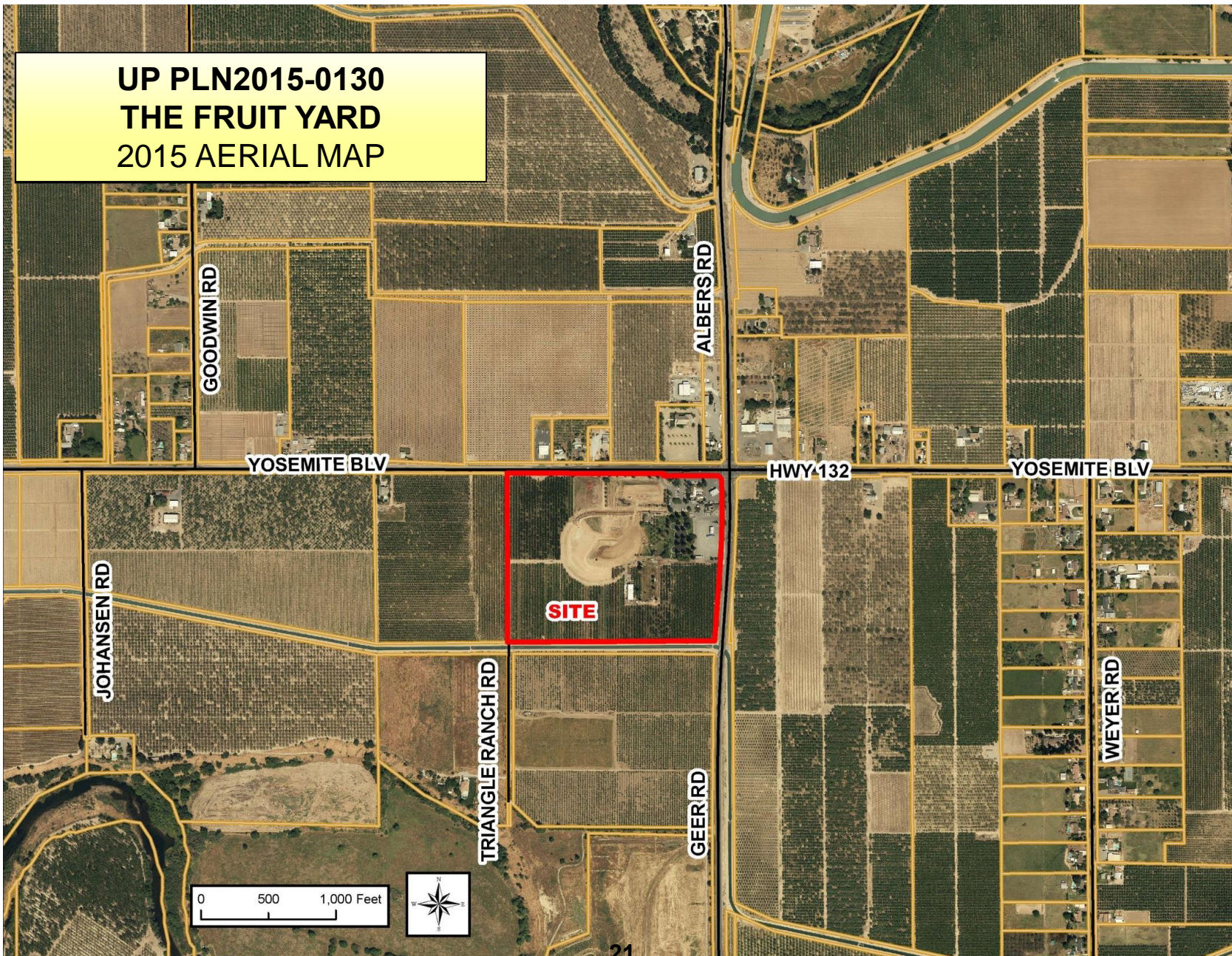
**UP PLN2015-0130
THE FRUIT YARD
GENERAL PLAN MAP**



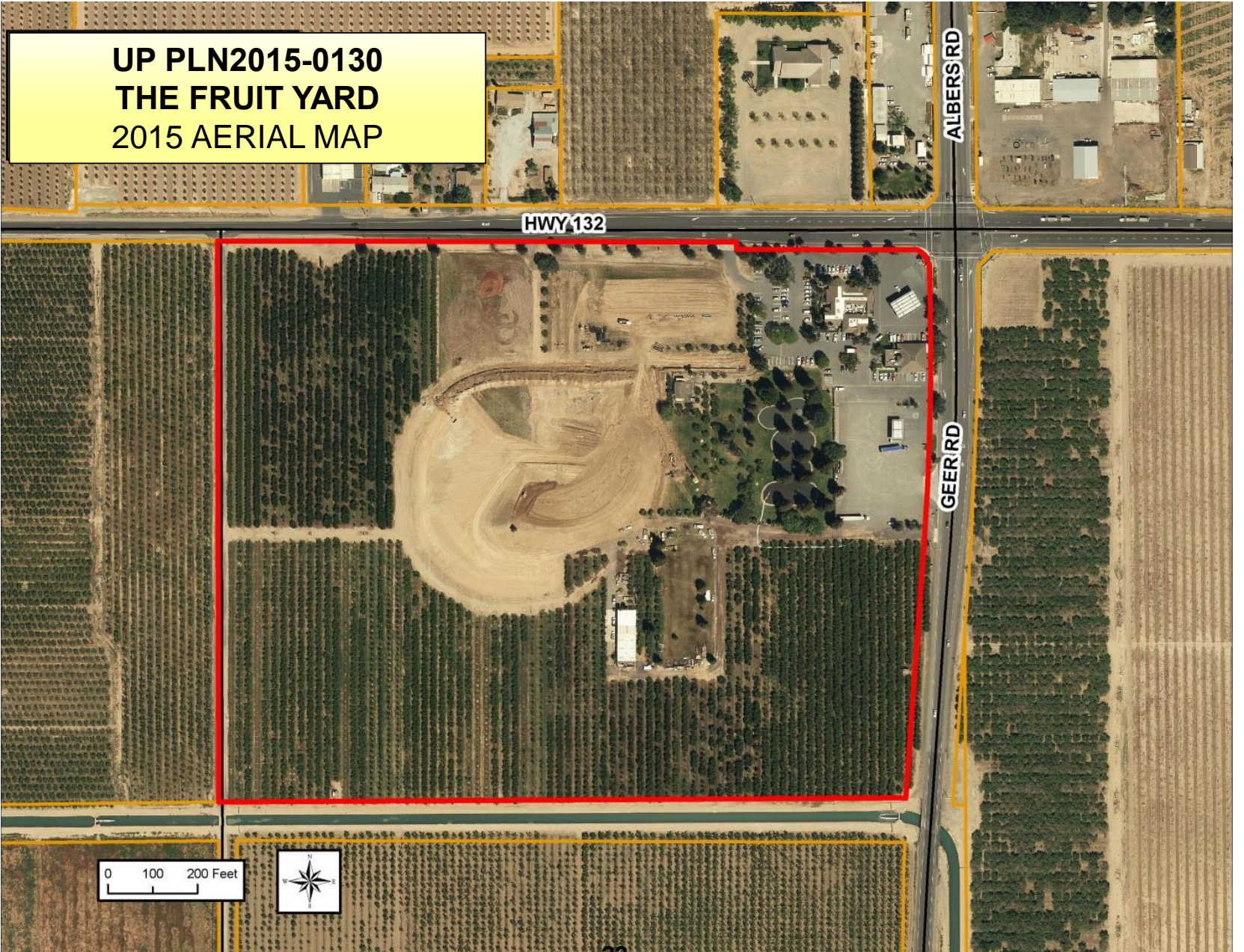
**UP PLN2015-0130
THE FRUIT YARD
ZONING MAP**



**UP PLN2015-0130
THE FRUIT YARD
2015 AERIAL MAP**



**UP PLN2015-0130
THE FRUIT YARD
2015 AERIAL MAP**



UP PLN2015-0130 THE FRUIT YARD SITE PLAN

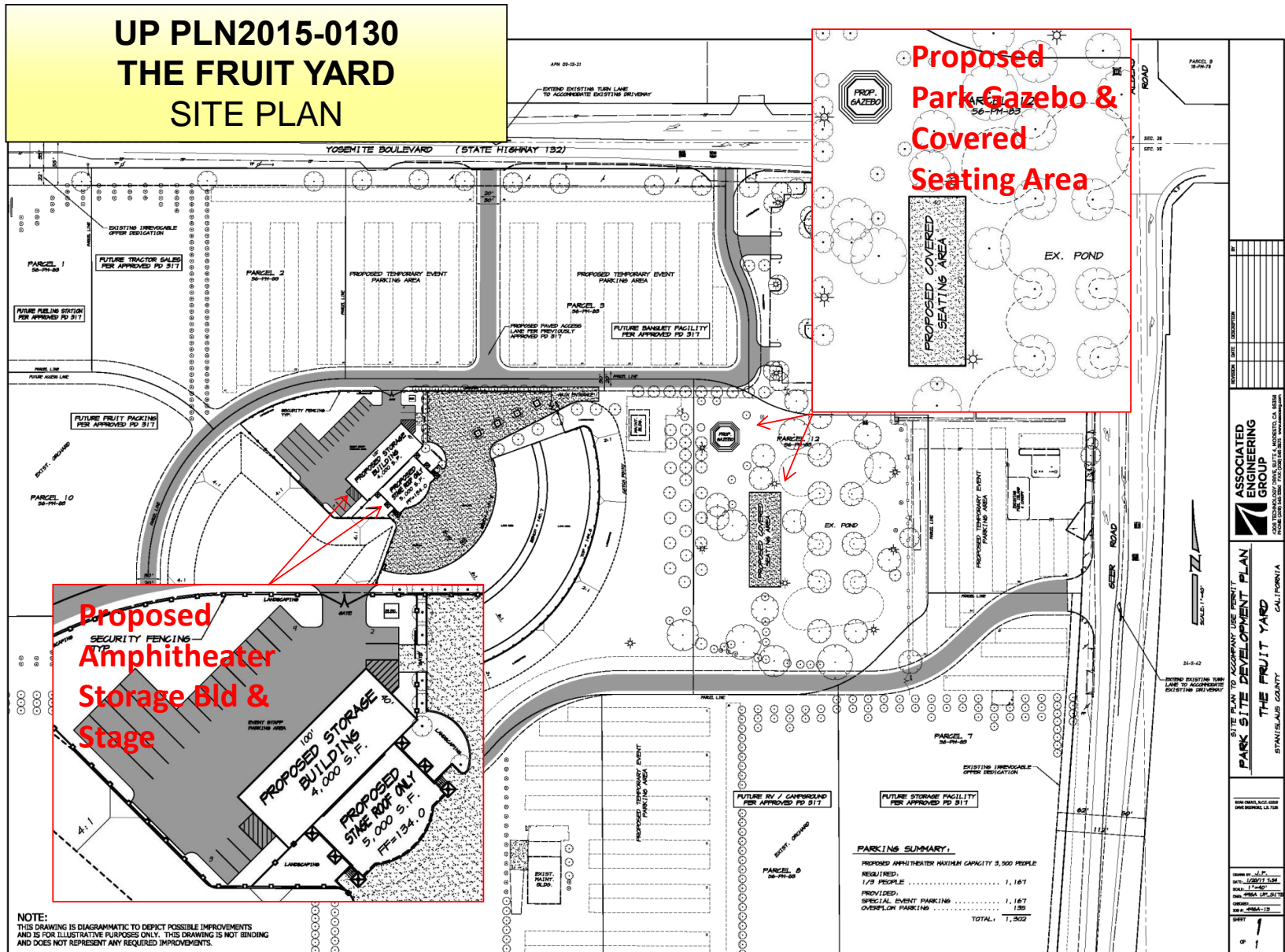
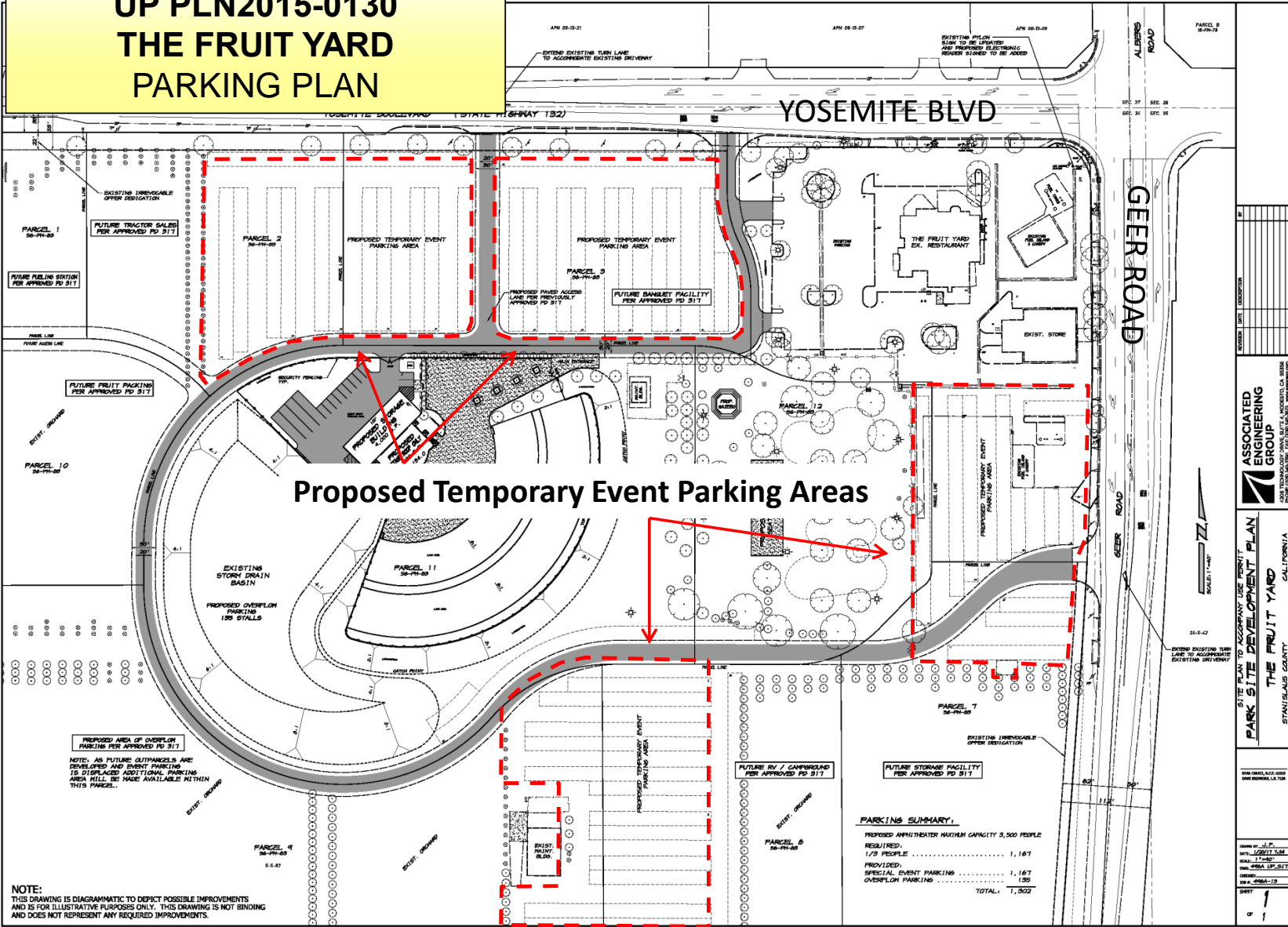


EXHIBIT B-7

ASSOCIATED ENGINEERING GROUP
THE FRUIT YARD
CALIFORNIA

UP PLN2015-0130 THE FRUIT YARD PARKING PLAN



Proposed Temporary Event Parking Areas

NOTE: AS FUTURE OUTPARCELS ARE DEVELOPED AND EVENT PARKING IS DISPLACED ADDITIONAL PARKING AREA WILL BE MADE AVAILABLE WITHIN THIS PARCEL.

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.

PARKINGS SUMMARY:

PROPOSED AMPHITHEATER MAXIMUM CAPACITY	3,500 PEOPLE
REQUIRED:	
1/3 PEOPLE	1,167
PROVIDED:	
SPECIAL EVENT PARKING	1,167
OVERLAP PARKING	1,185
TOTAL:	1,522

NO.	DESCRIPTION
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
29	
30	
31	
32	
33	
34	
35	
36	
37	
38	
39	
40	
41	
42	
43	
44	
45	
46	
47	
48	
49	
50	
51	
52	
53	
54	
55	
56	
57	
58	
59	
60	
61	
62	
63	
64	
65	
66	
67	
68	
69	
70	
71	
72	
73	
74	
75	
76	
77	
78	
79	
80	
81	
82	
83	
84	
85	
86	
87	
88	
89	
90	
91	
92	
93	
94	
95	
96	
97	
98	
99	
100	

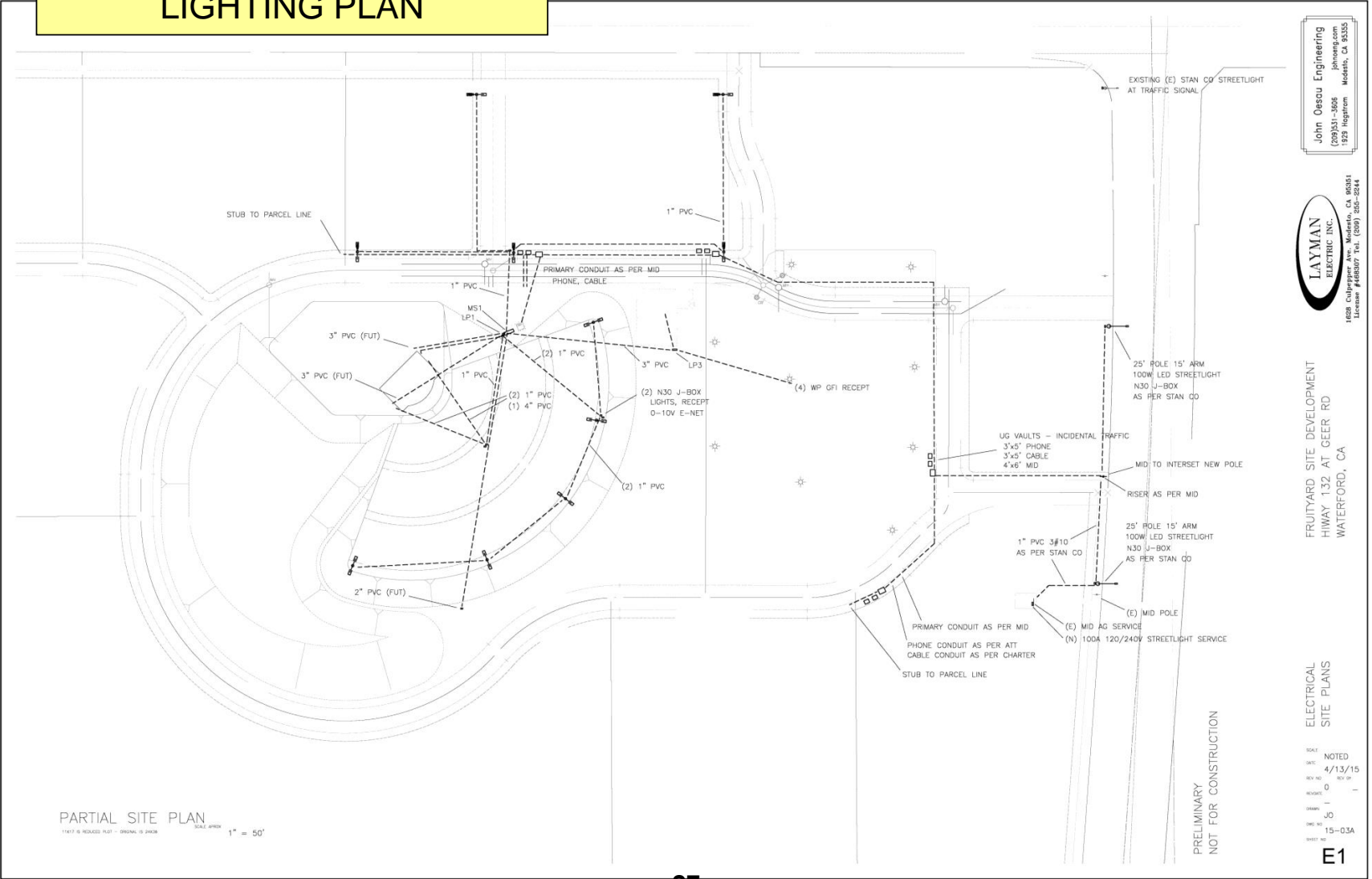
ASSOCIATED ENGINEERING GROUP
10000 DOWNSBORO DRIVE SUITE 100 WASHINGTON, CA 94996
TEL: (415) 452-1000 FAX: (415) 452-1001
WWW.AEG-USA.COM

SITE PLAN TO ACCOMPANY USE PERMIT
PARK SITE DEVELOPMENT PLAN
THE FRUIT YARD
STANISLAUS COUNTY CALIFORNIA

DATE: 01/21/15
DRAWN: J. L. LEE
SCALE: 1"=40'
SHEET NO. 1 OF 15
PROJECT NO. 2014-13

EXHIBIT B-8

UP PLN2015-0130 THE FRUIT YARD LIGHTING PLAN



John Desou Engineering
 (909)531-3606
 1929 Hogstrom
 Modesto, CA 95355

LAYMAN
 ELECTRIC, INC.
 1828 Cullipiper Ave. Modesto, CA 95354
 License #488807 Tel: (909) 255-2544

FRUITYARD SITE DEVELOPMENT
 HWY 132 AT GEER RD
 WATERFORD, CA

ELECTRICAL
 SITE PLANS
 SCALE NOTED
 DATE 4/13/15
 DRAWN BY 6
 CHECKED BY 15-03A
 SHEET NO. E1

PRELIMINARY
 NOT FOR CONSTRUCTION

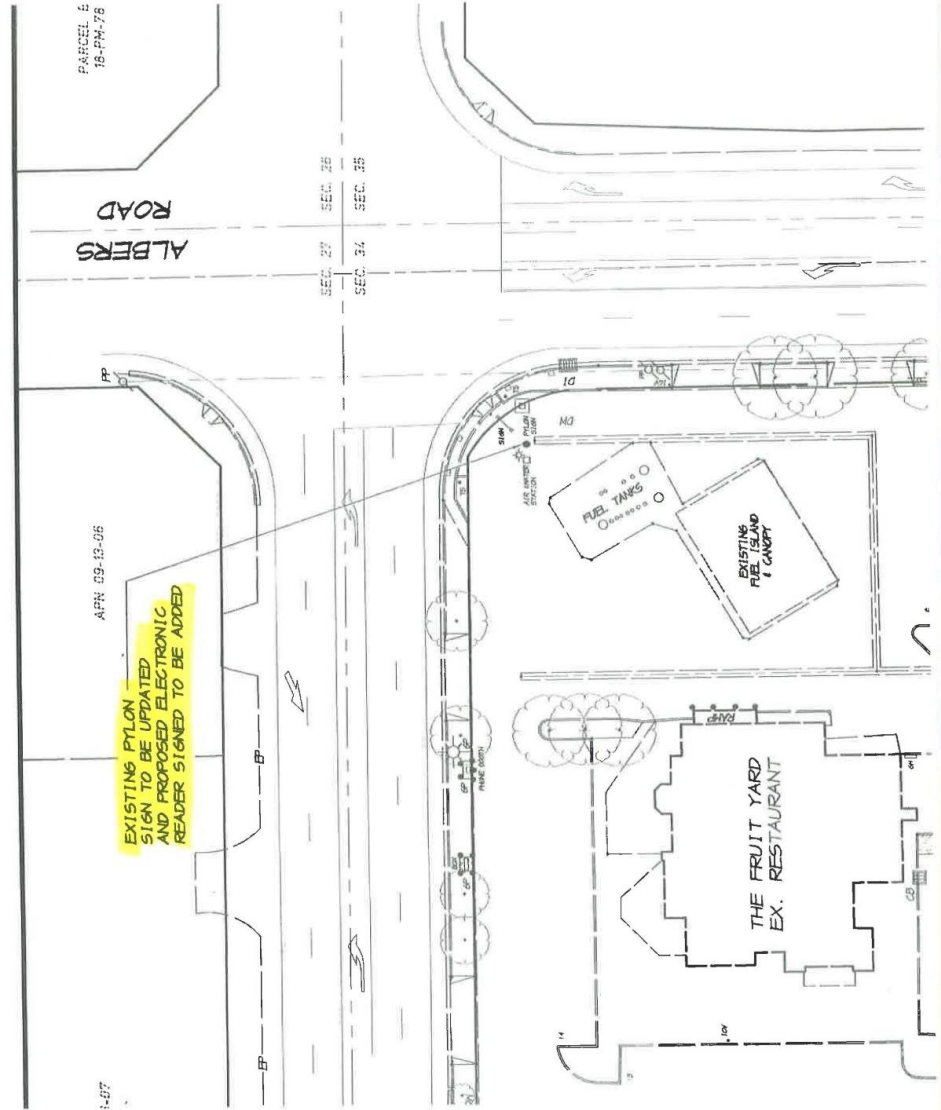
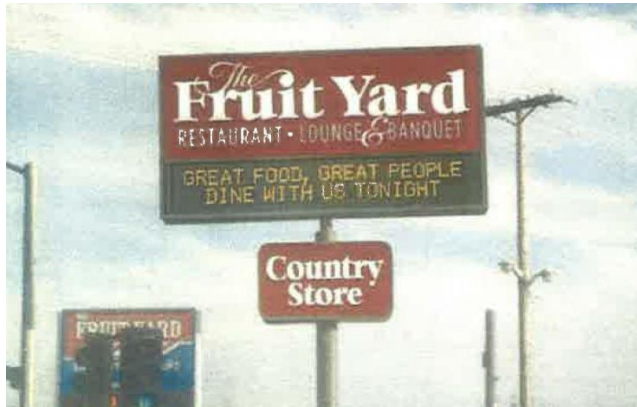
EXHIBIT B-10

**UP PLN2015-0130
THE FRUIT YARD
PROPOSED SIGN**

Existing Sign



Proposed Sign



**UP PLN2015-0130
THE FRUIT YARD
2016 SITE PHOTOS**



EXHIBIT B-12

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."

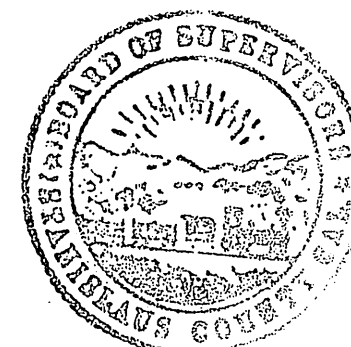
CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE:

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



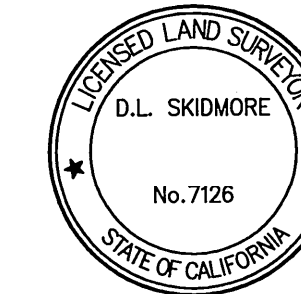
4206 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356
PHONE: (209) 545-3390 FAX: (209) 545-3875 www.assoceng.com

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

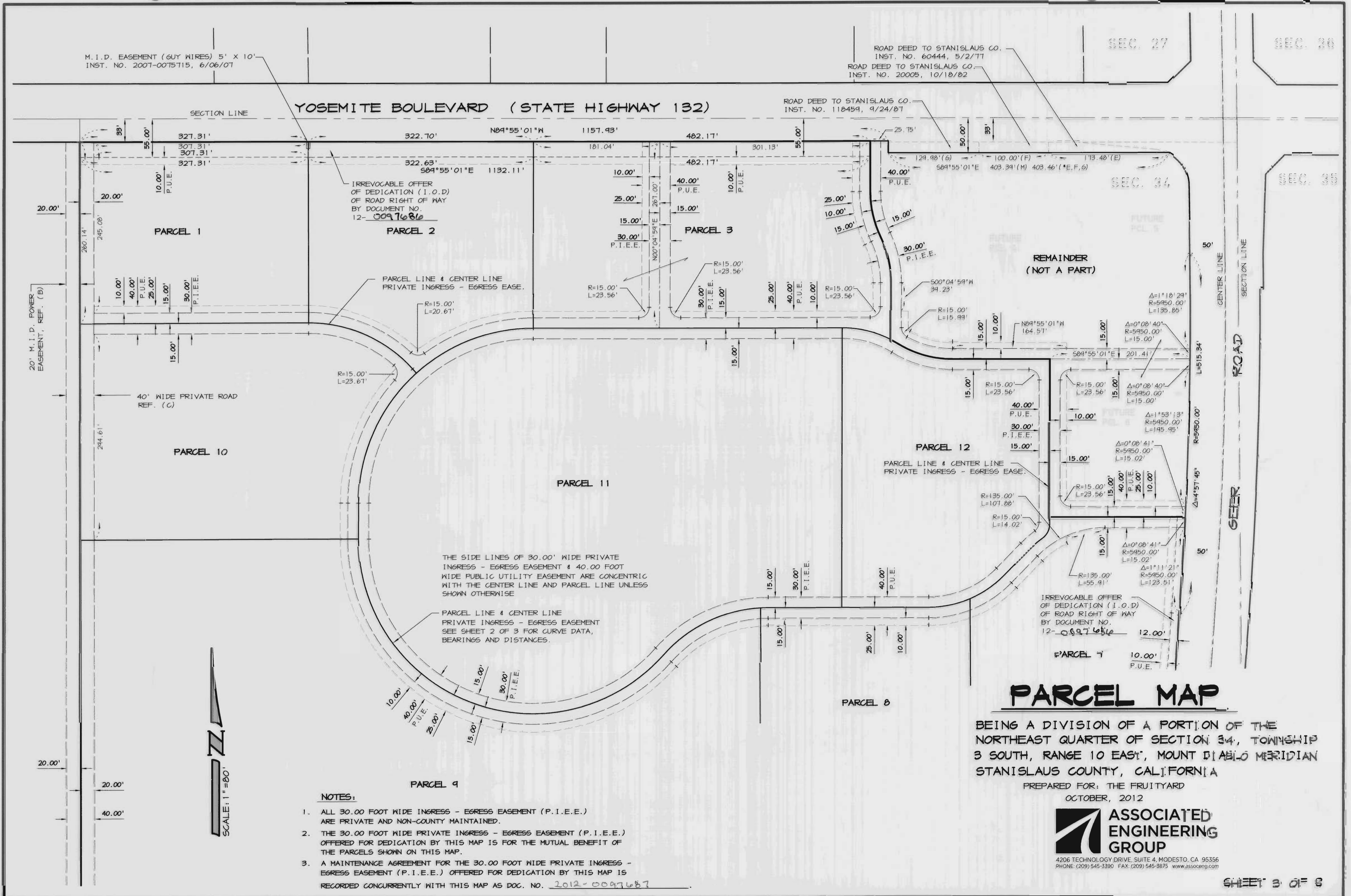
STANISLAUS COUNTY PM APP. NO. 2009-08
ASSOCIATED ENGINEERING JOB NO. 496C-12

SHEET 1 OF 3

56 PM 83

56 PM 83

56 PM 83



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. 2012-0097687.

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

56 PM 83

56 PM 83

AS AMENDED BY THE PLANNING COMMISSION
APRIL 20, 2017

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)

DEVELOPMENT STANDARDS

**USE PERMIT APPLICATION NO. PLN2015-0130
THE FRUIT YARD AMPHITHEATER**

Department of Planning and Community Development

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2017), the applicant is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$2,273.25**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
3. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
5. During any future construction, if any human remains, significant or potentially unique, are found, all construction activities in the area shall cease until a qualified archeologist can be consulted. Construction activities shall not resume in the area until an on-site archeological mitigation program has been approved by a qualified archeologist. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

6. 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.
7. 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.
8. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the Planning Director or appointed designee(s) prior to installation. ~~Flashing, animated, or electronic reader board signs are not permitted.~~
9. Pursuant to Sections 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.
10. 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.
11. 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.
12. 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.
13. All Development Standards from Planned Development (317) shall remain in effect. The Development Standards set forth in this Staff Report are considered to be an amendment to the Development Standards from Planned Development (317), and apply in addition to the Development Standards from Planned Development (317).
14. No street parking associated with the site is permitted. Customers and event attendees shall be made aware via signage that parking is limited to on-site parking only.
15. No alcohol consumption or tail gating is permitted in the parking areas designated for on-site events. Any sale of alcohol on-site must obtain and comply with all of the necessary Alcohol Beverage Control (ABC) Licensing.

16. Prior to final of any new building permit all outstanding building and grading permits shall be finalized.
17. Parcels 2, 3, 8, 9, and the remainder parcel of Parcel Map 56-PM-83 may not be independently sold until permanent parking is developed. Prior to development of permanent parking facilities, all applicable permits shall be obtained, including but not limited to a Staff Approval or Use Permit, and Building and/or Grading Permit. Proposed permanent parking facilities shall be reviewed and approved by both the Planning and Public Works Departments prior to development.
18. Events are limited to what are allowed under the Planned Development, including the amendments included in this Use Permit. No Outdoor Entertainment Activity Permit may be obtained.
19. Hours of operation may not be extended beyond those included in Mitigation Measure No. 9, without a public hearing.
20. Prior to acceptance of the "Good Neighbor Policy", the Planning Department will refer the draft document to all surrounding residents, for a two week comment period. The referral will be sent to all surrounding residents included on the project referral "Landowner Notice" list from Use Permit No. PLN2015-0130 – The Fruit Yard. Any comments received will be taken into consideration. However, the Planning Department maintains the ultimate approval authority.

Department of Public Works

21. No parking, loading or unloading of vehicles will be permitted within the Geer Road and Albers Road rights-of-way. The applicant will be required to install or pay for the installation of any signs and/or markings, coordinating the installation of the signs with Public Works Traffic Section.
22. The applicant shall obtain an encroachment permit prior to any work being done in the Stanislaus County road right-of-way.
23. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.
24. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted before any grading occurs or building permit for the site is issued which creates a new or larger footprint on the parcel. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
 - A. Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.
 - B. The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
 - C. The grading, drainage, erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit.

- D. An Engineer's Estimate shall be submitted for the grading and drainage work.
- E. 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.
- F. The permit applicant shall pay the current Stanislaus County Public Works weighted labor rate for the plan review and all on-site inspections required for the grading, drainage, erosion/sediment control, or building permit plan. The Public Works inspector shall be contacted 48 hours prior to the onset of any grading or drainage work on-site.

Department of Environmental Resources

- 25. Prior to onset of amphitheater events, and prior the installation of any water infrastructure for the amphitheater, the property owner shall provide to the Department of Environmental Resources an application for amended water supply permit along with a full technical report demonstrating that the water system will meet all requirements of a Non-transient Non-community water system: capacity, source water, drinking water source assessment, water works standards, and the California Environmental Quality Act (CEQA).
- 26. All food facilities must operate under a Health Permit, issued by the Department of Environmental Resources.
- 27. Prior to issuance of any building permit for the construction of the preparation and serving kitchen in the banquet hall, the owner/operator shall provide construction plans to the Department of Environmental Resources for review and approval as required in accordance with California Health and Safety Retail Food Code.
- 28. All food service offered at The Fruit Yard complex, including but not limited to the amphitheater events area, banquet hall, restaurant, and convenience stores, shall be conducted in compliance with the requirements of California Health and Safety Retail Food Code and shall obtain and comply with all applicable permits through the Department of Environmental Resources.
- 29. Prior to onset of amphitheater events, On-site Wastewater Disposal System (O.W.T.S.) for amphitheater events must be reviewed and approved by the Department of Environmental Resources. Due to the levels of the nitrates in the existing water system being higher than half of the maximum MCL, any expansion of the onsite waste water system (OWTS) can contribute to groundwater nitrate levels especially with individual OWTS. A wastewater management plan of any flow of 5,000 gallons per day, or greater, must be submitted to the Central Valley Regional Water Quality Control Board (CVRWQCB) for review and approval. A Wastewater Management Plan of any flow of 5,000 gallons per day, or less, must be submitted to the Department of Environmental Resources for review and approval. A centralized O.W.T.S. is highly recommended with proper treatment of the discharge effluent. The quality of the discharge effluent shall meet EPA Secondary Treatment levels. The focus will be on the ability to reduce nitrate, salt, and organic chemical levels, minimizing the impact upon the area's groundwater supply.

Building Permits Division

30. Building permits are required and the project must conform to the California Code of Regulations, Title 24.

Stanislaus Consolidated Fire District

31. Prior to onset of events at the amphitheater, an Event Traffic Management Plan shall be reviewed and approved by the Stanislaus Consolidated Fire District.
32. All proposed structures shall obtain building permits, and shall meet all applicable Building and Fire codes, and shall be reviewed and approved by the Stanislaus Consolidated Fire District.

Modesto Irrigation District

33. In conjunction with related site/road improvement requirements, existing overhead and underground electric facilities within or adjacent to the proposed site 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.
34. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.
35. Costs for relocation or installation of MID electrical facilities at the request of others will be borne by the requesting party. Estimates for relocating or installing MID electrical facilities will be supplied upon request.
36. A 15-foot Public Utility Easement (PUE) is required adjacent to the existing 12,000 volt overhead lines along Geer Road street frontage. The PUE is required in order to protect the existing overhead electric facilities and to maintain necessary safety clearances.
37. A 10-foot Public Utility Easement (PUE) is required adjacent to existing street frontages, proposed streets and private ingress/egress easements as already shown on Parcel Map 56-PM-83. The PUE's are required in order to protect the future electrical facilities and to maintain necessary safety clearances.
38. Prior to onset of any construction, contractor shall verify actual depth and location of all underground utilities. Notify "Underground Service Alert" (USA) (Toll Free 1-800-227-2600) before trenching, grading, excavating, drilling, pipe pushing, tree planting, post-hole digging, etc. USA will mark the location of the MID underground electrical facilities.
39. The Modesto Irrigation District (MID) reserves its future right to utilize its property along the MID canal in a manner it deems necessary for the installation and maintenance of electric and telecommunication facilities. These needs, which have not yet been determined, may consist of new poles, cross arms, wires, cables, braces, insulators, transformers, service lines, control structures, and any necessary appurtenances, as may, in the District's opinion, be necessary or desirable.
40. A 10 foot OSHA minimum approach distance is required adjacent to the existing 12,000 volt overhead high voltage lines.

41. An eight foot minimum vertical approach distance is required adjacent to the existing overhead 200 volt secondary lines.
42. Use extreme caution when operating heavy equipment, backhoes, using a crane, ladders, or any other type of equipment near overhead or underground MID electric lines and cables.
43. Electric service to the proposed parcels is not available at this time. The Electric Engineering Department has no objections to the proposed amphitheater at this time. However, specific requirements regarding construction issues will be addressed when the amphitheater construction plans are submitted for review to the District's Electric Engineering Department. Contact Linh Nguyen at (209) 526-7438.
44. Prior to construction, a pre-consultation meeting a pre-consultation meeting to discuss MID irrigation requirements is recommended.

California Department of Transportation

45. An encroachment permit shall be obtained prior to any work within the State right-of-way.

Department of California Highway Patrol

46. Prior to onset of events at the amphitheater, an Event Traffic Management Plan shall be reviewed and approved by the Department of California Highway Patrol.

MITIGATION MEASURES

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

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

1. 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 to prevent light trespass (glare and spill light that shines onto neighboring properties). Amphitheater lighting shall be shut off by 11:00 p.m. on Sunday – Thursday, and by midnight on Friday and Saturday evenings.
2. Prior to onset of any amplified music events at the amphitheater, a noise berm shall be constructed. Specifically, the noise berm shall consist of a 100 foot long by 40 foot wide and 20 foot tall building, labeled on the Planning Commission approved project site plan as a “storage building” to be located directly behind (northwest) of the stage, as identified on the project site plan. A certificate of occupancy shall be obtained for the noise berm prior to the onset of any amphitheater activity. If the storage building changes in size or shape, or is proposed to be replaced with a backstage sound-wall or other construction to create an adequate noise berm, the modified facility will need to be reviewed and approved by an acoustical consultant, in accordance with Mitigation Measure No. 14, and a determination made that it has adequate sound dampening characteristics so that sound will fall within the noise levels described within this Mitigation Monitoring Plan.
3. Prior to issuance of a building permit for the banquet hall, and prior to the onset of any amplified music event held at the banquet hall, the banquet hall shall be designed and constructed with sound proofing (including sound proofing for the roof, windows, and walls). Sound proofing plans shall be reviewed for full compliance with the approved plans by a noise consultant, as described in Mitigation Measure No. 14.
4. All amphitheater, park, and banquet hall events shall maintain the noise levels described in Table 1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc., and the C-weighted standards described below:

Table 1 Stanislaus County Noise Standards Applied to this Project After Adjustment for Elevated Ambient and Noise Source Consisting of Music			
		Adjusted Daytime Nighttime	Adjusted Standard
A, B, D, F (near busy roadways)	Hourly Leq, dBA	60	5
	Maximum Level (Lmax), dBA	80	7 0
C, E (setback from roadways 250-350 feet)	Hourly Leq, dBA	55	5
	Maximum Level (Lmax), dBA	75	6 5
G, H, I (isolated from busy roads)	Hourly Leq, dBA	50	4
	Maximum Level (Lmax), dBA	65	5 5
Source: Stanislaus County Noise Element of the General Plan adjusted for ambient			

In addition to the Table 1 standards, low-frequency noise shall be limited to daytime and nighttime C-weighted noise level limits of 80 dBC Leq and 70 dBC Leq shall be applied at the nearest residences, existing at the time of the event. These standards may be adjusted upwards or downwards as appropriate following collection of C-weighted ambient noise level data near the existing residences immediately before and after the first two large amphitheater events (with 500 or more in attendance). Before any adjustments are made, a report documenting existing C-weighted ambient noise levels shall be reviewed by a noise consultant, as described in Mitigation Measure No. 14, and approved by the Planning Department.

- To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 90 dBA Leq averaged over a five minute period and a maximum of 100 dBA Lmax at a position located 100 feet from the amphitheater stage.

Park and banquet hall sound system output shall be limited to an average of 75 dBA Leq averaged over a 5-minute period and a maximum of 85 dBA Lmax at a position located 100 feet from the sound system speakers. Sound levels up to 80 dBA Leq at the 100 foot reference distance would be acceptable provided the sound system speakers are oriented south or southwest.

Noise measurements during the first two amplified music events for each event space (banquet hall, park and amphitheater) shall be conducted by a qualified Noise Consultant to be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.

6. To control low-frequency sound in the surrounding neighborhood during amphitheater events, C-weighted sounds levels shall be limited to 100 dBC Leq averaged over a five minute period and a maximum of 110 dBC Lmax at a position located 100 feet from the Amphitheater stage. In addition, amplified music shall be limited to an average of 85 dB (Linear) in each of the 1/3 octave band center frequencies from 31.5 to 80 Hertz.

To control low-frequency sound in the surrounding neighborhood during park events, C-weighted sound levels shall be limited to 85 dBC Leq averaged over a five minute period and a maximum of 95 dBC Lmax at a position located 100 feet from the speakers. In addition, amplified music shall be limited to an average of 75 dB (Linear) in each of the 1/3 octave band center frequencies from 31.5 to 80 Hertz.

Noise measurements during the first two amplified music events for each event space (banquet hall, park, and amphitheater) shall be conducted by a qualified Noise Consultant to be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.

7. Prior to any amplified music event at the park, banquet hall, or amphitheater the operator/property owner shall obtain a sound monitoring system; which shall be reviewed and approved by a Noise Consultant, as described in Mitigation Measure No. 14, prior to first use. Sound levels shall be monitored during sound check and during each amplified music event occurring at the park, banquet hall and amphitheater. Measurement microphones should be placed 100 feet from the midpoint of the main speaker array.

Monitoring equipment options include 1) an iOS option available in combination with an iPad/iPhone using microphone and acquisition hardware from AudioControl and software from Studio Six Digital (SSD). SSD software would include the AudioTools and several in-app purchases including SPL Graph and SPL Traffic Light; or 2) an alternative system recommended by noise consultant, in accordance with Mitigation Measure No. 14.

A Type/Class 1 or 2 (per ANSI S1.43) measurement microphone system shall be used and laboratory calibrated prior to first use and field-calibrated at regular intervals (a minimum of 4 times a year). The system shall be laboratory calibrated at intervals not exceeding two years. The system shall be capable of measuring and logging Leq statistics over consecutive five minute intervals in both A and C weighted levels. The system shall also be capable of capturing and logging 1/3-octave band data. For simplification and to minimize equipment costs, sound level limit triggers shall be set to Leq, C-weighting. The sound technician shall locally check both C-weighted and 1/3-octave band results during sound check prior to an event to establish system gain limits and to ensure compliance with the specified limits. Data shall be maintained for 30 days and made available to the County upon request.

The amphitheater operator/property owner shall make it very clear to event producers what the sound level limits are at the sound stage and the time at which music is required to cease. Suitable measures shall be implemented to both ensure the limits are maintained and penalties established if producers fail to comply with the noise level limits.

- Noise measurements during the first two amplified music events for each event space (banquet hall, park and amphitheater) shall be conducted by a qualified Noise Consultant to be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.
8. During the first two large concerts (with 500 or more in attendance) held at the amphitheater, noise levels shall be monitored by a qualified noise consultant, to be procured by the operator/property owner. The monitoring shall be conducted continuously from the sound stage (100-feet from stage), with periodic noise monitoring near the closest residences, existing at the time of the event, in all directions surrounding the amphitheater. The noise measurements shall include the sound check prior to the concert so the event promoters understand the noise thresholds to be satisfied during the concert event. The purpose of the measurements is to verify compliance with the project's noise standards. If the measurement results indicate that the music levels exceed the noise standards described in this Mitigation Monitoring Plan, additional sound controls shall be developed by a noise consultant in accordance with Mitigation Measure No. 14. Implementation of additional sound controls shall be implemented and verified prior to the following concert. Such measures could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas, and limiting amplified music to before 10:00 p.m.
 9. All amplified music events (including the amphitheater, park, and banquet hall events), occurring Sunday through Thursday shall end at or before 10 p.m. All patrons shall be off the premises (including the amphitheater, park, and banquet hall events) as of 11:00 p.m. Employees and contract staff, associated with the amplified music events, shall be off the premises (including the amphitheater, park, and banquet hall events) by 12:00 a.m.
 10. The first two large amplified music events (with 500 or more in attendance) held at the amphitheater Friday and Saturday, shall end at or before 10:00 p.m., as described in Mitigation Measure No. 9. If monitoring results of the first two large amphitheater events show that such events are able to maintain levels at or lower than those required in this Mitigation Monitoring Plan, then amphitheater events on Friday and Saturday may be extended to 11:00 p.m. All patrons shall be off the premises (including the amphitheater, park and banquet hall events) by 12:00 a.m. Employees and contract staff, associated with the amplified music events, shall be off the premises by 1:00 a.m.
 11. Operator/property owner shall establish a written "Good Neighbor Policy" to be approved by the Planning Department, which shall establish the permittee's plan to mitigate any ancillary impacts from amplified music events (park, banquet hall or amphitheater) on surrounding properties. The Policy shall include means for neighbors to contact management regarding complaints and steps management will take upon receiving a complaint. The Policy shall be submitted and approved 30 days prior to the first amplified music event. No changes to the Policy shall be made without prior review and approval by the Planning Department.

12. In the event that documented noise complaints are received for bass thumping, microphones/public address systems, etc., associated with any use of the property (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83), such complaints shall be investigated to determine if the noise standards contained in this mitigation monitoring program were exceeded. In the event that the complaint investigation reveals that the noise standards were exceeded at the location where the complaint was received, additional sound controls shall be developed by a noise consultant, in accordance with Mitigation Measure No. 14. Implementation of additional sound controls shall be implemented and verified prior to the following concert. Such measures could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas and limiting amplified music to before 10:00 p.m.
13. Following removal of orchard trees located on the project site (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83) potential changes in noise impacts shall be evaluated by a noise consultant, as described in Mitigation Measure No. 14, and additional noise Mitigation Measures shall be implemented, if determined to be necessary, to ensure compliance with the applicable County noise standards.
14. Any future additional noise analysis required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation, shall be conducted by a noise consultant, whose contract shall be procured by the Planning Department, and paid for by the operator/property owner. A deposit based on actual cost shall be made with the Planning Department, by the operator/property owner, prior to any work being conducted. The applicant may choose to procure the noise consultant provided they pay the costs for the County to have all work peer reviewed by a third party. If future noise analysis is required, amplified music events will be limited, as determined by the Planning Department, until the noise consultant verifies to the Planning Department that all recommended noise control measures have been completely implemented.
15. Within sixty (60) days of project Use Permit approval, the operator/property owner shall submit for approval a security plan for amplified music events (park, banquet hall or amphitheater) to the Sheriff's Department. The plan shall be approved prior to any use of the amphitheater. Any changes to the security plan shall be approved by the Sheriff's Department.
16. Prior to issuance of a building permit, all applicable traffic impact fees shall be paid to the Department of Public Works.
17. An Event Traffic Management Plan shall be submitted and approved four (4) weeks prior to holding the first event at the amphitheater. Both County Planning and Public Works shall review and approve the plan.
 - a. The Event Traffic Management Plan shall include a westbound left turn lane from Highway 132 to the fourth driveway from the intersection (at Geer and Highway 132);
 - b. This plan shall include all event traffic circulation into and out of the site, including a description of how the different on-site parking areas will be filled;
 - c. Event Staff and signs shall not be in the State or Stanislaus County Right-of-way without an encroachment permit. This shall be addressed as part of the Event Traffic Management Plan. Each individual event shall have an encroachment permit from both the State and Stanislaus County, if applicable;

- d. If the Event Traffic Management Plan requires updating, the updates shall be accepted both by County Planning and by Public Works, six weeks prior to the next event being held at the amphitheater. This update can be triggered either by the applicant or by Stanislaus County;
- e. Fees may be collected for amphitheater event parking, provided no queuing of vehicles occurs. Parking fees may be collected as part of the fee collected for the price of the ticket for the event, or may be collected at a stationary electronic machine, installed in the parking area. Parking fees may not be collected while vehicles are waiting to enter the parking lot;
- f. Prior to the implementation or construction of any additional phases of the approved Plan Development (317), a revised Event Traffic Management Plan shall be submitted to and approved by County Planning and Public Works;
- g. A left turn lane shall be installed on Geer Road for the driveway into the project labeled as D Drive. The plans shall be completed prior to the approval of the Event Traffic Management Plan. This driveway is roughly 575 feet south of the intersection of Geer Road and Yosemite Blvd;
- h. Improvement plans are to be submitted to County Public Works for approval. These improvement plans shall meet standards set forth within the Stanislaus County Standards and Specifications and the Caltrans Highway Design Manual;
 - i. An acceptable financial guarantee for the road improvements shall be provided to County Public Works prior to the approval of the Event Traffic Management Plan;
 - ii. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined;
 - iii. The left turn lane shall be installed before the first event is held at the amphitheater.

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