



April 5, 2018

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

SUBJECT: APPEAL OF DENIAL OF LOT LINE ADJUSTMENT APPLICATION NO. PLN2017-0104 – OTT & BYLSMA

PROJECT DESCRIPTION

This is a request to appeal Staff's decision to deny an application to adjust two parcels from 2.17± (APN: 022-008-028) and 14.03± (APN: 022-008-029) acres to 3.0± and 13.2± acres respectively, in the A-2-40 (General Agriculture) zoning district. The parcels are located on the west side of Crows Landing Road, south of Taylor Road and north of East Monte Vista Avenue, in the Ceres area.

DISCUSSION

Lot Line Adjustment Application No. PLN2017-0104 was requested by the applicants to eliminate an 80 foot-wide strip belonging to Parcel 022-008-029 by adding it to Parcel 022-008-028 (See Attachment 1 - *Lot Line Adjustment Application*). Staff denied the request after determining it did not conform to the County's Zoning Ordinance standards for parcels created by lot line adjustment for the following reasons (See Attachment 3 – *Planning Department's Denial Letter, dated February 12, 2018*):

- The applicant did not provide an agricultural justification for the lot line adjustment.
- Approval of the lot line adjustment would expand the site area of a business operating under a use permit without Planning Commission approval.

The applicants and their representative were notified of the project denial by e-mail and certified mail, in accordance with County policy, on February 12, 2018. Section 21.112.020 of the County Zoning Ordinance allows the appeal of a staff decision to the Planning Commission if an appeal is filed to the Secretary of the Commission within ten days of the postmark date on the envelope containing the staff decision. The letter was postmarked on February 13, 2018, and an appeal letter was received by Staff from the applicant's representative, Robert Braden, on February 21, 2018, within the required 10-day appeal period. The applicant subsequently sent a revised appeal letter received on March 19, 2018, as a replacement for the original. (See Attachment 4 - *Applicant's Appeal Letter, dated March 19, 2018*.)

The applicant's appeal letter states that a previously approved use permit and parcel map approved on the project site incorrectly identified a seven-foot privacy fence as the property boundary. On October 4, 2012, the Planning Commission approved a conditional use permit on

a 2.17 acre portion (now APN 022-008-028 included in the lot line adjustment) of a 16.2± acre parcel, to legalize an existing Agriculture Service Business, allowing the repair and customizing of agricultural equipment as well as a parts warehouse that sells new and used parts (See Attachment 5 - *Use Permit Application No. 2012-02 Planning Commission Staff Report, dated October 4, 2012*). On September 1, 2016, the Planning Commission then approved a request to subdivide the 2.17± acre use permit site and to create a 14± acre remainder (Attachment 7 - *Parcel Map Application No. 2016-0023, Planning Commission Staff Report, dated September 1, 2016*). The applicant is contending the .83± acre strip requested to be adjusted, currently planted in almond trees, has traditionally been a part of the 2.17± acre parcel and serves as a buffer between parcels. Furthermore, the applicant states the intent of the parcel map was sale of farmable acreage to the adjacent property while maintaining the .83± acre strip as a buffer. Lastly, the applicant believes that without the lot line adjustment the almond trees will be removed and the current property owner will not be able to farm the .83 acre strip as part of the entire 14.03± acre parcel.

The parcel map was approved in conformance with Zoning Ordinance Section 21.20.060(D), which allows for an exemption to the 40-acre minimum parcel size when a use permitted by use permit exists. When approving the parcel map, the Planning Commission determined that the proposed 2.17± acre parcel, exhibited size, location, and orientation characteristics, which was supportive to the use permitted by use permit without detriment to other agriculture usage in the vicinity. Staff supported the fence line as the parcel boundary because it encompassed the developed area of the agricultural service business, operating under the use permit, and would not disturb the adjacent agricultural usage. The proposed lot line adjustment would expand the parcel boundary set by the Planning Commission without any further deliberation of these required findings. Further, the applicant raised no objections to the boundaries of the parcel map to the Planning Commission. (See Attachment 8 - *Excerpt Planning Commission Minutes, dated September 1, 2016*.)

Additionally, the parcel map was approved in conformance with Section 20.52.170 of the County's Subdivision Ordinance, which requires any newly created parcel to front a County-maintained road when under 20 acres in size. The Subdivision Ordinance allows the Planning Commission to approve an exception for access of a parcel under 20 acres, to allow for a private easement in substitute of frontage of a County-maintained road, as outlined in Section 20.64.030. Creation of the 14.03± acre parcel (APN: 022-008-029) could not be approved without access to a County-maintained road unless the Planning Commission made the following exception findings:

- A. That there are special circumstances or conditions applying to the property being divided;
- B. That the exception is necessary for the preservation and enjoyment of a substantial property right of the owner;
- C. That the granting of the exception will not be detrimental to the public welfare, injurious to other property in the neighborhood of the subdivision, and that it will not constitute a special privilege not enjoyed by others under similar circumstances;
- D. The granting of the exception will not be in conflict with the purposes and objectives of the general plan or any element thereof or any specific plan.

Finally, agriculture related lot line adjustments are supported under the Agriculture Element of the Stanislaus County's General Plan and further administered under the A-2 Zoning Ordinance (Chapter 21.20). Specifically, Section 21.20.060 (E) of the ordinance requires lot line adjustments to maintain the integrity and purpose of the A-2 district by enhancing and supporting agriculture as the predominate land use. The proposed lot line adjustment request would remove .83± acres from the adjacent almond orchard and would add the same acreage to the business operating under the use permit, which is not currently being farmed. Accordingly, the lot line adjustment request does not appear to be for agricultural reasons.

Staff believes that the proposed lot line adjustment does not meet the County's Zoning Ordinance standards and that approval of the lot line adjustment would be in conflict with the intent of the Subdivision Ordinance's access section, which the current parcel configurations conform to. Accordingly, Staff recommends the Planning Commission deny the appeal request and uphold Staff's denial of the lot line adjustment. However, should the Commission decide to approve the appeal, access to the proposed 13.2± acre parcel is proposed to be from a 30-foot wide private easement, supplied by the adjacent parcel to the north, as reflected on the lot line adjustment map included in Attachment 2.

ENVIRONMENTAL REVIEW

Lot line adjustments are considered categorically exempt under the California Environmental Quality Act (CEQA) as stipulated under Section 15305 of the California Code of Regulations: *Minor Alterations in Land Use Limitations*. An appeal of a Staff decision of a ministerial action would continue to be exempt from CEQA.

RECOMMENDATION

1. Find the lot line adjustment and appeal to be exempt from CEQA.
2. Find that Lot Line Adjustment Application No. PLN2017-0104 does not conform to Sections 21.020.060(D)&(E) of the Stanislaus County Zoning Ordinance and uphold Staff's denial as outlined in Attachment 3 – *Planning Department's Denial Letter, dated February 12, 2018*.

Contact Person: Jeremy Ballard, Associate Planner, (209) 525-6330

Attachments:

- Attachment 1 - Lot Line Adjustment Application
- Attachment 2 - Maps
- Attachment 3- Planning Department's Denial Letter, dated February 12, 2018
- Attachment 4 - Applicant's Appeal Letter, dated March 19, 2018
- Attachment 5 - Use Permit Application No. 2012-02 Planning Commission Staff Report dated October 4, 2012, to include the following Exhibits*:
 - Exhibit A – Findings
 - Exhibit B-5 – Site Plan
 - Exhibit C – Conditions of Approval
- Attachment 6 - Excerpt Planning Commission Minutes, dated October 4, 2012

Appeal of Denial of LLA APP No. PLN2017-0104
Planning Commission Memo
April 5, 2018
Page 4

- Attachment 7 - Parcel Map Application No. 2016-0023 Planning Commission Staff Report, dated September 1, 2016, to include the following Exhibits*:
- Exhibit A – Findings
 - Exhibit C - Conditions of Approval
- Attachment 8 - Excerpt Planning Commission Minutes, dated September 1, 2016

***COMPLETE ATTACHMENTS ARE AVAILABLE ONLINE AT:**
<http://www.stancounty.com/planning/agenda/index.shtm>.



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10TH Street, Suite 3400, Modesto, CA 95354

Phone: 209.525.6330 Fax: 209.525.5911

Form Available Online: <http://www.stancounty.com/planning/applications.shtm>

S	5	T	8	R	9
ZONE	A-2-10				
RECEIVED	9/19/17				
APPLICATION NO.	2017-0104				
RECEIPT NO.	540214				

LOT LINE ADJUSTMENT APPLICATION

1. Property Owner(s):

Parcel 1

Name Ernest and Susan Ott 2010 Trust
 Address, City, Zip 7831 Crows Landing Road
Ceres, Ca. 95307
 Phone (209) 602-0441
 Fax Number _____

Parcel 2

Name Som and Sherri Bylsma Family Trust
 Address, City, Zip 5870 Crows Landing Road
Modesto, Ca. 95358
 Phone _____
 Fax Number _____

Parcel 3

Name _____
 Address, City, Zip _____
 Phone _____
 Fax Number _____

Parcel 4

Name _____
 Address, City, Zip _____
 Phone _____
 Fax Number _____

2. Name and address of person(s) preparing map: Robert Broden Consulting
P.M.B. #185 ~ 2900 Standiford Ave. ~ Suite 16-B ~ Modesto, Ca. 95350

3. Assessor's Parcel No. of parcels adjusted:

Parcel 1: Book 022 Page 008 No. 028 Parcel 2: Book 022 Page 008 No. 029
 Parcel 3: Book _____ Page _____ No. _____ Parcel 4: Book _____ Page _____ No. _____

4. Size of all adjusted parcels:

	<u>Before</u>	<u>After</u>
Parcel 1:	<u>2.17 Acres</u>	<u>3.0 Acres</u>
Parcel 2:	<u>14.03 Acres</u>	<u>13.2 Acres</u>
Parcel 3:	_____	_____
Parcel 4:	_____	_____

5. Why are the lot lines being changed? BE SPECIFIC This Lot Line Adjustment is
to eliminate the 80'± strip of land (as shown on the map)
and combine it with Parcel 1 (57 PM 49) and return it to the
original size (3.0 Acres)

6. How are these parcels currently utilized? Please check appropriate uses

<input type="checkbox"/> Residential <input type="checkbox"/> Single Family <input type="checkbox"/> Duplex <input type="checkbox"/> Multiple <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Other (Specify) _____ _____ _____	<input type="checkbox"/> Agriculture <input type="checkbox"/> Row Crop – type _____ <input checked="" type="checkbox"/> Trees – type <u>Almonds</u> <input type="checkbox"/> Vines – type _____ <input type="checkbox"/> Range (unirrigated) _____ <input type="checkbox"/> Pasture (irrigated) _____ <input type="checkbox"/> Poultry _____ <input type="checkbox"/> Dairy _____ <input type="checkbox"/> Other (Specify) <u>CUP 2012-02</u>
--	---

7. List all structures on properties: Office (Mobile Unit) ~ Storage Building

8. How have these parcels been utilized in the past, if different than current use? Ag.

9. When did current owner(s) acquire the parcel(s)?

Parcel 1: _____	Parcel 2: _____
Parcel 3: _____	Parcel 4: _____

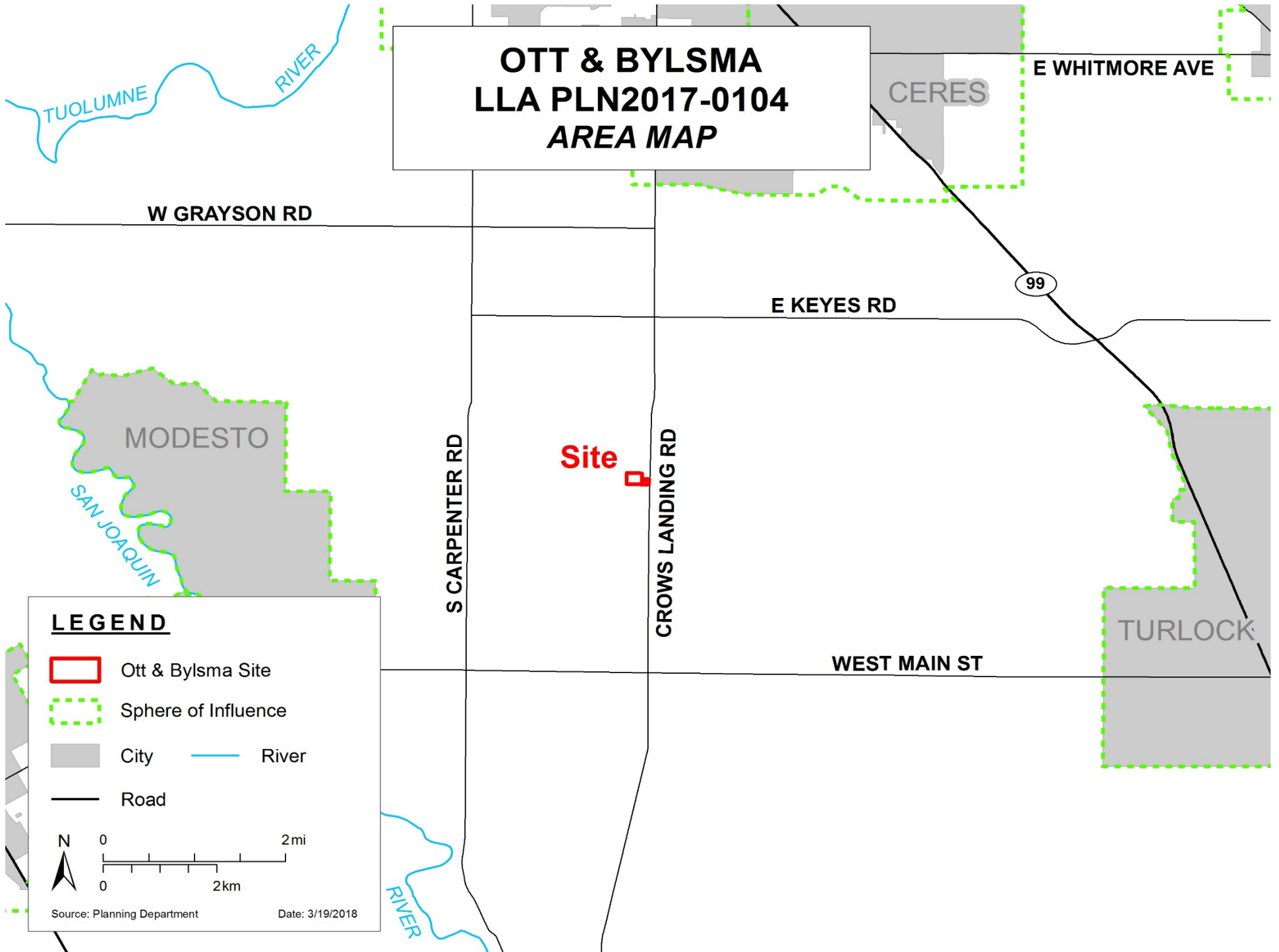
10. Is the property under Williamson Act Contract? ! Yes ! No If yes, contract number? _____

11. Do the parcels irrigate? ! Yes ! No If yes, how? Sprinklers and from existing brig. Line





12. Will these parcels continue to irrigate? ! Yes ! No If yes, describe any physical changes in the irrigation system. No change

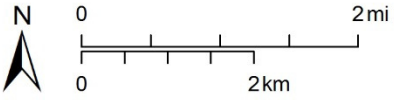
13. Signature of property owner(s) _____ _____ _____ _____	<u>Ernie OTT</u> Owner's Name Printed <u>SAM BUSHMA</u> Owner's Name Printed <u>SHARON BUSHMA</u> Owner's Name Printed _____ Owner's Name Printed
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OTT & BYLSMA LLA PLN2017-0104 AREA MAP



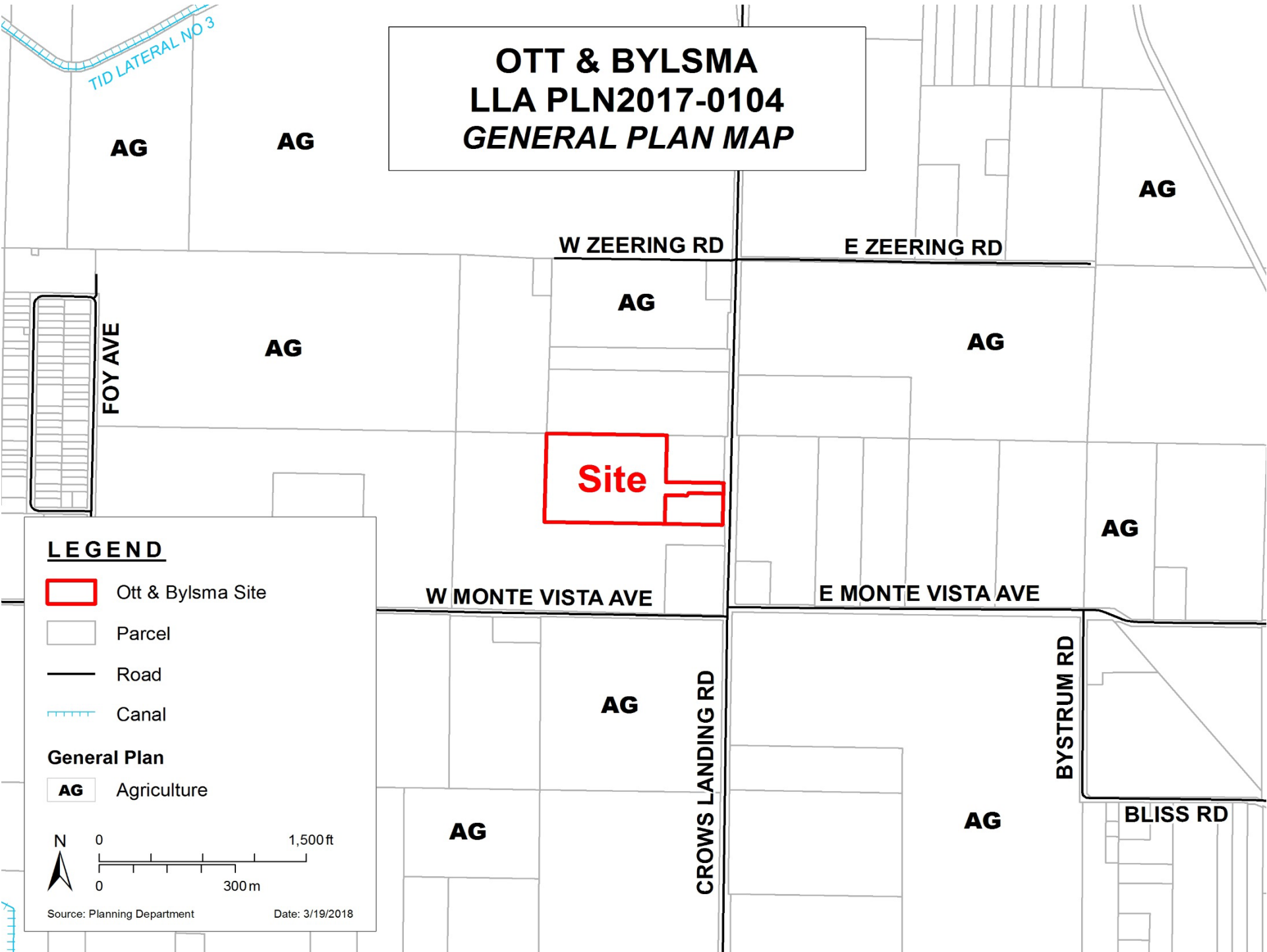
LEGEND

-  Ott & Bylsma Site
-  Sphere of Influence
-  City
-  River
-  Road







Source: Planning Department Date: 3/19/2018

OTT & BYLSMA LLA PLN2017-0104 GENERAL PLAN MAP

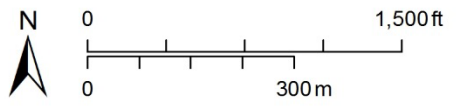


LEGEND

-  Ott & Bylsma Site
-  Parcel
-  Road
-  Canal

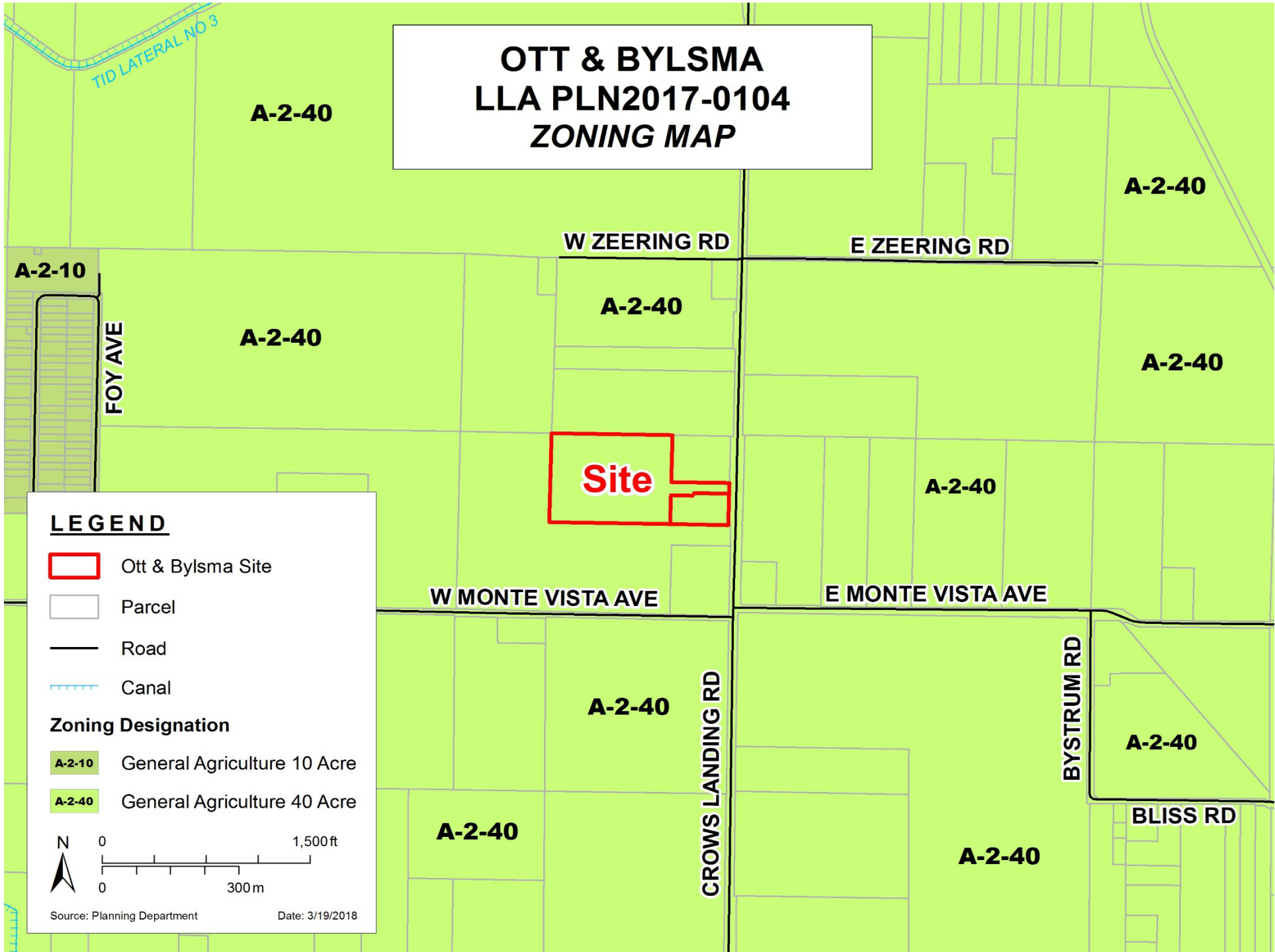
General Plan

-  Agriculture



Source: Planning Department Date: 3/19/2018

OTT & BYLSMA LLA PLN2017-0104 ZONING MAP



LEGEND

Ott & Bylsma Site

Parcel

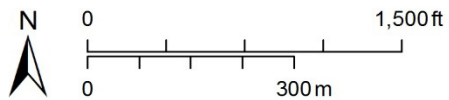
Road

Canal

Zoning Designation

A-2-10 General Agriculture 10 Acre

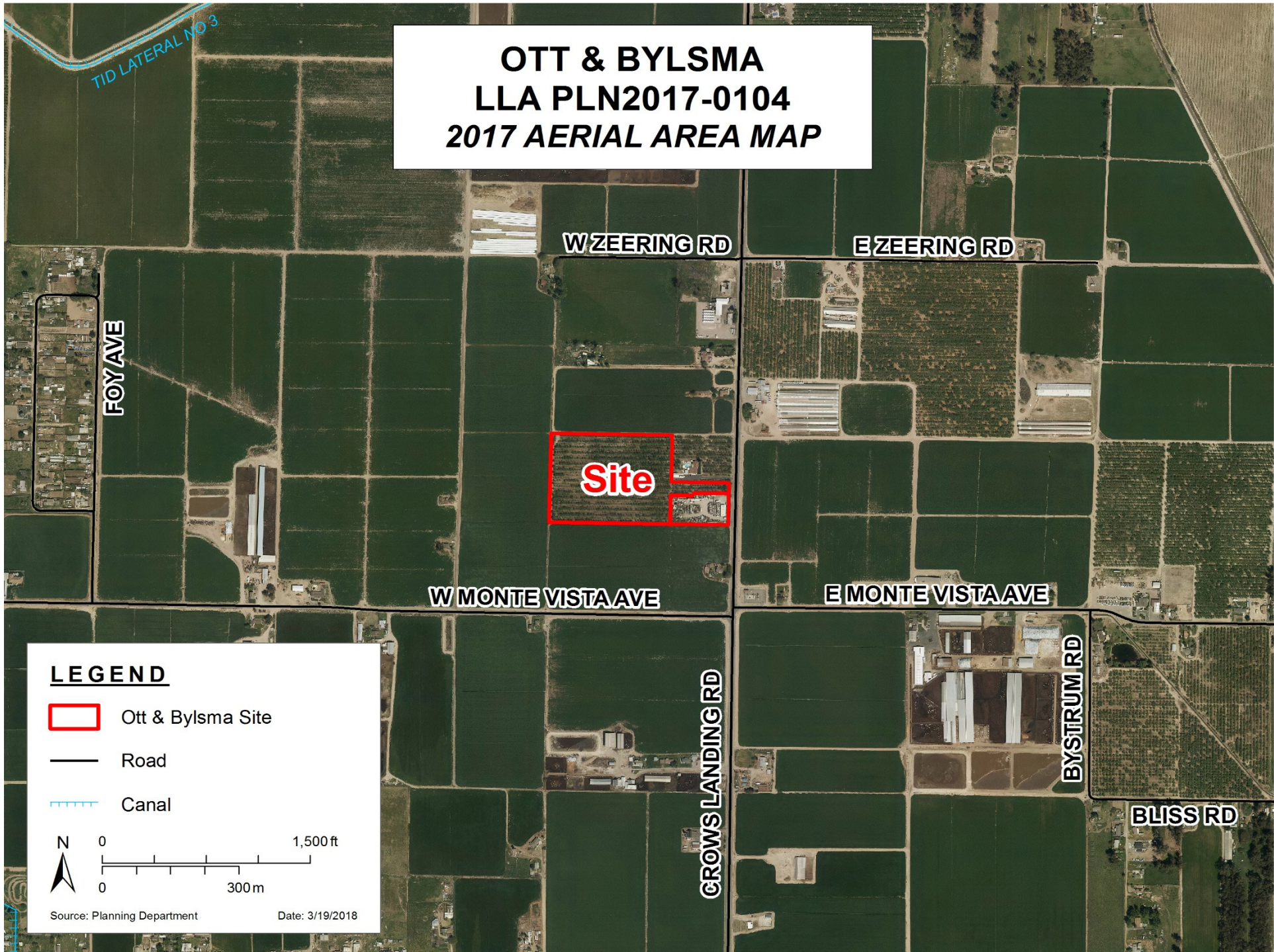
A-2-40 General Agriculture 40 Acre



Source: Planning Department

Date: 3/19/2018

**OTT & BYLSMA
LLA PLN2017-0104
2017 AERIAL AREA MAP**



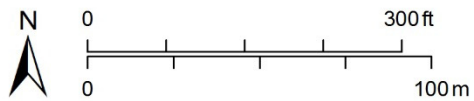
**OTT & BYLSMA
LLA PLN2017-0104
2017 AERIAL SITE MAP**



LEGEND

 Ott & Bylsma Site

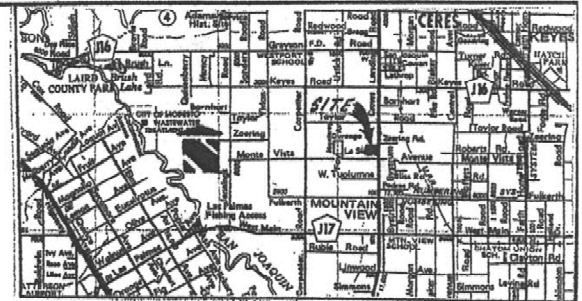
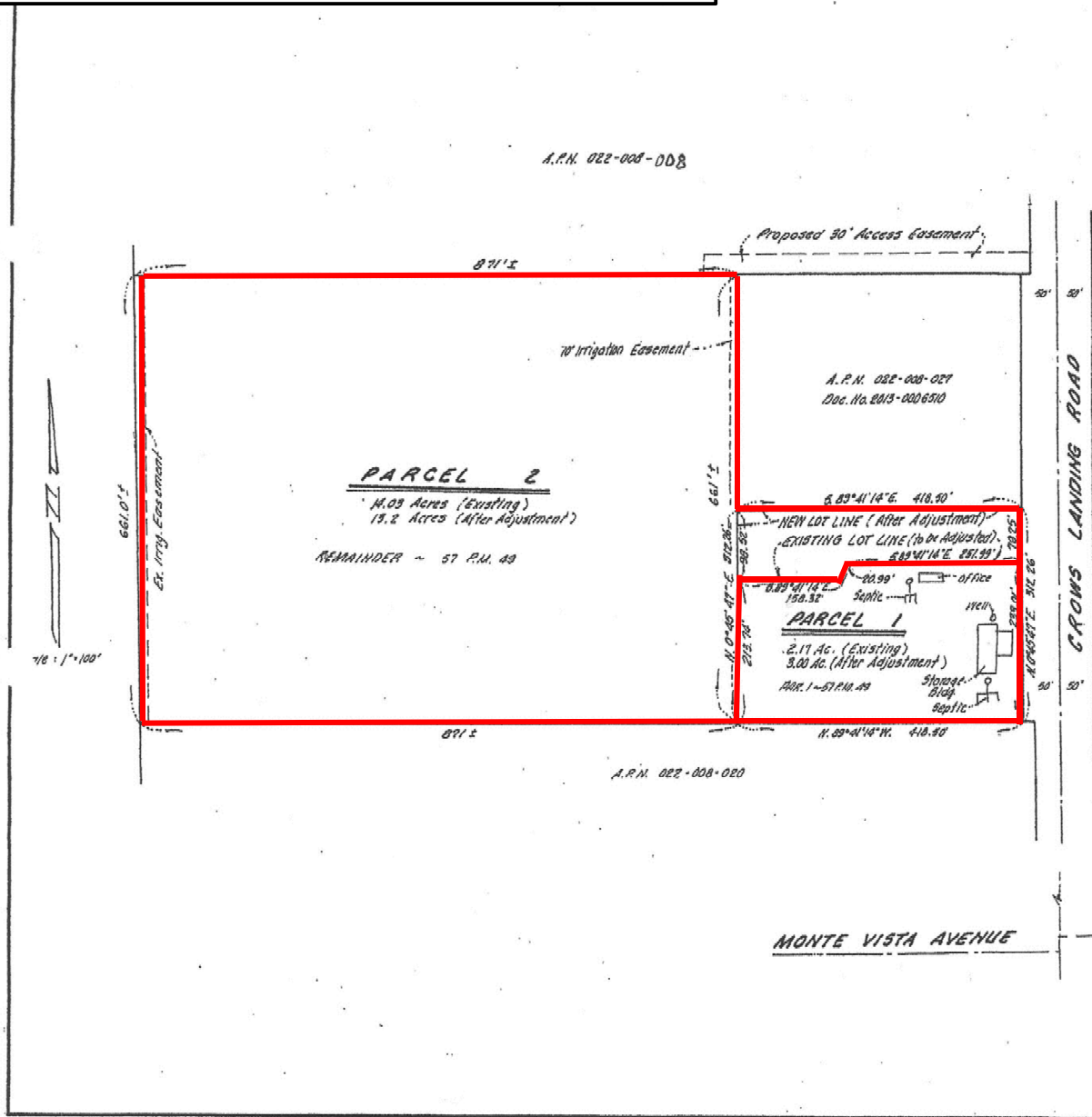
 Road



Source: Planning Department

Date: 3/19/2018

OTT & BYLSMA LLA PLN2017-0104 Before Lot Line Adjustment Map



VICINITY MAP
NO SCALE

LOT LINE ADJUSTMENT
BEING PARCEL 1 AND REMAINDER AS PER VOL. 57 PARCEL MAPS PG. 49, STAN. CO. REC.'S LYING IN THE SOUTHEAST QUARTER OF SECTION 5 T. 5 S., R. 9 E., M.D.B. AND M. STANISLAUS COUNTY, CALIFORNIA SCALE: 1" = 100' AUGUST, 2017

OWNERS:

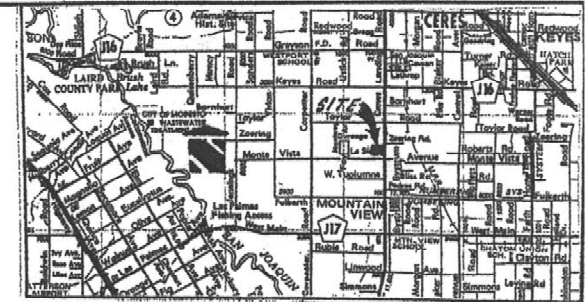
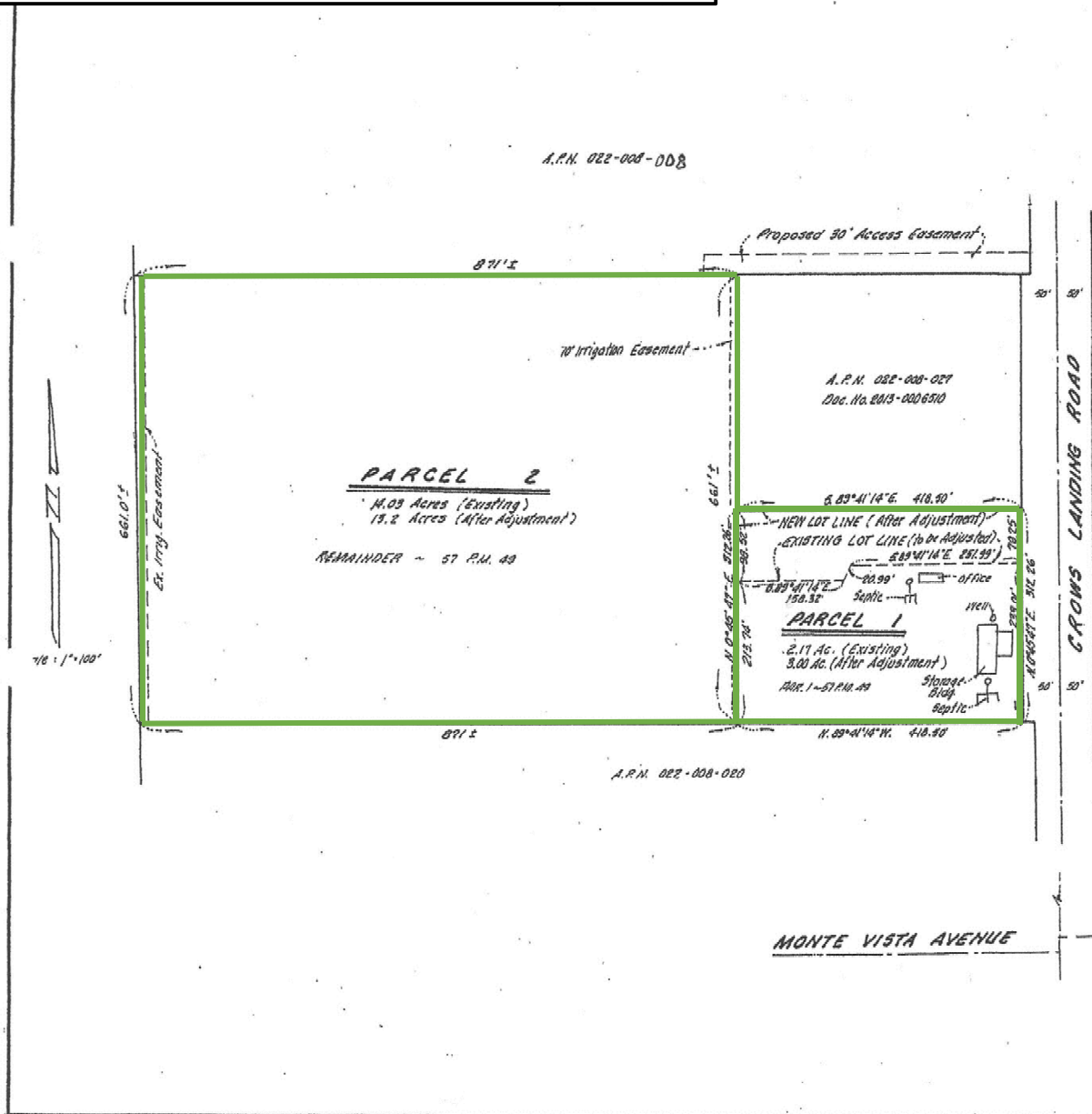
PARCEL 2
50m Bylsma and Sherri Bylsma Family Trust
5670 Crows Landing Road
Modesto, CA 95358

PARCEL 1
Ernest and Susan Ott 2010 Trust
7891 Crows Landing Road
Ceres, CA 95307

- NOTES:**
1. Assessor's Parcel No. ~ 022-008-028 and 029
 2. Current Zoning: A-2-40
 3. Current Land Use:
Almonds on Remainder
Land Use as per C.U.R. Application 2012-02 on Parcel 1
 4. Water Supply by Private Well
 5. Sewer Disposal by Septic Tank
 6. All structures are to remain
 7. Irrigation from existing pipeline and sprinklers
 8. Slope of the land is relatively flat
 9. Water Table depth = 20ft.
 10. Soil Type = Sandy loam.

ROBERT BRADEN CONSULTING LAND USE PLANNING AND ZONING P.M. B. # 188 2500 STANFORD AVE. - SUITE 16-0 MODESTO, CALIFORNIA 95350 (209) 528-6558	Drawn By: RDB	REVISIONS	SHEET
	Scale: 1" = 100'	Date: July 17	1 OF 1
Job No.			

OTT & BYLSMA LLA PLN2017-0104 After Lot Line Adjustment Map



VICINITY MAP
NO SCALE

LOT LINE ADJUSTMENT

BEING PARCEL 1 AND REMAINDER AS PER
VOL. 57 PARCEL MAPS PG. 49, STAN. CO. REC.'S
LYING IN THE SOUTHEAST QUARTER OF SECTION 5
T. 5 S., R. 9 E., M.D.B. and M.
STANISLAUS COUNTY, CALIFORNIA
SCALE: 1" = 100' AUGUST, 2017

OWNERS:

PARCEL 2
50m Bylsma and Sherri Bylsma Family Trust
5870 Crows Landing Road
Modesto, CA 95358

PARCEL 1

Ernest and Susan Ott 2010 Trust
7891 Crows Landing Road
Ceres, CA 95307

NOTES:

1. Assessor's Parcel No. ~ 022-008-028 and 029
2. Current Zoning: A-2-40
3. Current Land Use:
Almonds on Remainder
Land Use as per C.U.R. Application 2012-02 on Parcel 1
4. Water Supply by Private Well
5. Sewer Disposal by Septic Tank
6. All structures are to remain
7. Irrigation from existing pipeline and sprinklers
8. Slope of the land is relatively flat
9. Water Table depth = 20ft.
10. Soil Type = Sandy loam.

ROBERT BRADEN CONSULTING LAND USE PLANNING AND ZONING P.M.B. # 188 2500 STANFORD AVE. - SUITE 16-0 MODESTO, CALIFORNIA 95350 (209) 528-6558	Drawn By: RDB	REVISIONS	SHEET
	Scale: 1" = 100'	Date: July 17	1
Job No.			1

OTT & BYLSMA
LLA PLN2017-0104
Recorded Map

57 PM 49

PLN 2016-0023

PARCEL MAP
FOR
EO TRUCK & TRAILER

NOVEMBER 2016
 PAGE 2 OF 2

BEING A PORTION OF THE NORTH HALF OF LOT 4,
 AS SHOWN ON THE MAP OF PRESTON TRACT, FILED
 IN BOOK 4 OF MAPS AT PAGE 28, STANISLAUS
 COUNTY RECORDS, AND LYING IN THE SOUTHEAST
 QUARTER OF SECTION 5, TOWNSHIP 5 SOUTH,
 RANGE 9 EAST, MOUNT DIABLO MERIDIAN,
 COUNTY OF STANISLAUS, STATE OF CALIFORNIA

HAWKINS & ASSOCIATES ENGINEERING, INC.
 436 MITCHELL ROAD
 MODESTO, CALIFORNIA 95354

REFERENCES

NOTE: ALL REFERENCES PER STANISLAUS COUNTY RECORDS.
 (A) BOOK 45 OF PARCEL MAPS, AT PAGE 39.

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS
 N89°41'14"W AS MEASURED ALONG THE SOUTH
 LINE OF PARCEL "A", AS SHOWN ON THAT MAP
 RECORDED IN BOOK 45 OF PARCEL MAPS, AT
 PAGE 39, STANISLAUS COUNTY RECORDS.

CONDITIONAL USE PERMIT NOTE:

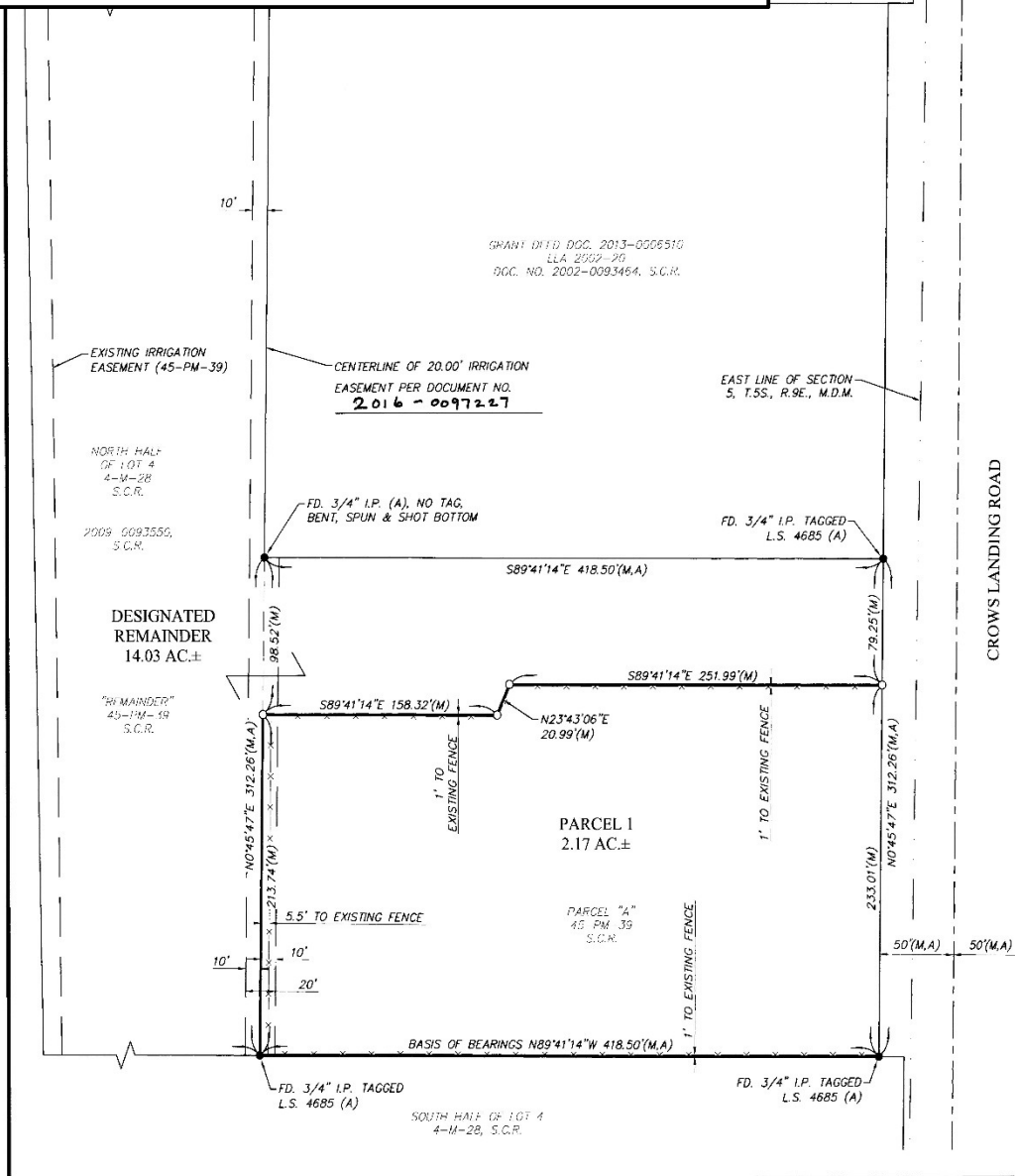
THE LIMITS OF THE CONDITIONAL USE PERMIT NO. 2012-02
 ARE TO REMAIN AS THE FENCED AREA INSIDE PARCEL 1.
 THIS PARCEL MAP DOES NOT MODIFY OR EXPAND THE
 AREA SUBJECT TO THE CONDITIONAL USE PERMIT.

LEGEND

- FOUND MONUMENT AS NOTED
- INDICATES SET 3/4" I.P. TAGGED L.S. 8660
- I.P. INDICATES IRON PIPE
- (M) MEASURED AS NOTED ON THIS MAP
- (A) RECORD PER REFERENCE
- S.C.R. STANISLAUS COUNTY RECORDS



57 PM 49





Delivered via E-mail and Certified Mail

February 12, 2018

Ernest and Susan Ott
7831 Crows Landing Road
Ceres, CA 95307

**SUBJECT: LOT LINE ADJUSTMENT APPLICATION NO. PLN 2017-0104 – OTT/BYLSMA
– ASSESSOR'S PARCEL NO'S (APN'S) 022-008-028 AND 029**

Dear Mr. & Mrs. Ott,

The subject application requests to adjust two parcels from 2.17± acres (APN: 022-008-028) and 14.03± acres (APN: 022-008-029) to 3.0± and 13.2± acres respectively. The parcels are located at 7831 Crows Landing Road, south of Taylor Road and north of East Monte Vista Avenue, in the Ceres area; and located within the A-2-40 (General Agriculture, 40-acre minimum) zoning district. The reason for a lot line adjustment, stated on the application, is to eliminate an 80 foot-wide strip belonging to Parcel 029 by adding it to Parcel 028 (see Attachment 1 – Proposed Lot Line Adjustment Map).

Existing Parcel 028 was approved on September 1, 2016, in accordance with Zoning Ordinance Section 21.20.060(D) which allows for an exemption to the 40-acre minimum parcel size when there exists a nonresidential legal nonconforming use or use permitted by use permit. Specifically, Section 21.20.060(D) which states;

“Parcels created and used pursuant to Sections 21.20.030 and 21.20.040, or where there exists a nonresidential legal nonconforming use, approved by the Planning Commission based upon findings that such parcel exhibits size, location and orientation characteristics which are supportive of the use without detriment to other agricultural usage in the vicinity”

The Planning Commission approved the current boundaries of exiting Parcel 028 in accordance with Use Permit No. 2012-02 – EO Trucking & Trailer, which was approved on October 4, 2012, to legalize an existing agricultural service business. The proposed lot line adjustment would expand the parcel boundaries without further approval from the Planning Commission, thereby enlarging the area determined by the Planning Commission to exhibit size, location, and orientation characteristics supportive of the use of the parcel without detriment to other agricultural usage in the vicinity. Additionally, the proposed removal of .83 acres of almond orchard from existing Parcel 029 does not support the intent of the A-2 zoning district, which is to support and enhance agriculture as the predominant land use. Moreover, approval of the lot line would eliminate the road frontage for existing Parcel 029.

LLA PLN 2017-0104
Ott-Bylsma
February 12, 2018
Page 2

Based on the subject lot line adjustment not being in conformance with the County Zoning Ordinance standards for parcels created by lot line adjustment, the subject lot line adjustment is denied.

Staff's decision may be appealed to the Planning Commission, in writing, within **ten (10) days** from the date of this notification. The appeal letter addressed to the Planning Commission, must state reasons why the appeal should be granted. If you wish to appeal this decision, a filing fee of \$717.00, payable to the Planning and Community Development Department, along with a copy of the letter must be delivered to this office within **ten days** of the postmark of this letter.

Please do not hesitate to contact myself or Rachel Wyse at (209) 525-6330 if you have any questions regarding this letter.

Sincerely,



Jeremy Ballard
Associate Planner

Attachment: Proposed Lot Line Adjustment Map

Cc: Property Owner/Applicant –Bylsma (Certified Mail)
Robert Braden Consulting (E-mail and Certified Mail)



APPEAL LETTER – Lot Line adjustment No. PLN 2017-0104

We are appealing the denial of our recent lot line adjustment believing that all the relevant facts were not taken into consideration. The Planning Department's decision removed approx .8 of an acre and added it to our neighbor's parcel. That is the heart of this appeal. In 2012, a conditional use permit (CUP) was granted for our Agricultural Services business. At that time a 7 foot privacy fence encircled the entire business site and had been purposefully placed approximately 80 feet (.8 of an acre) from our property line with our neighbor to act as a BUFFER between our two properties. Our business site consists of approx. 2.2 acres plus .8 of an acre for the BUFFER totaling 3 acres which had existed as a 3 acre parcel for many years. The BUFFER has almond trees on it as does our adjacent neighbor's 3 acre parcel.

According to the Ordinances used by the Planning Department, the CUP granted in 2012 had in effect, moved our property line from where it had been for years to the arbitrary placement of our fence. We had no idea in 2012 or until recently that had occurred! It was the Planning Department that told us our original submitted application in March 2016 that followed our property lines that we had thought existed for years, was unacceptable and we must now resubmit our application showing our property line as being the fence line. We followed their May 2016 directions and resubmitted.

The original intent of this application for a lot line adjustment was to allow our other neighbor (the Blysmas family that own and operate a large dairy) to combine our 13 acres (adjacent and to the west of our 3 acre Ag business site) with the Blysmas's 15 acres adjacent to it. Their intent is to farm a larger site for the production of corn and oats to feed a large dairy herd (they own significant acreage nearby). The Blysmas wanted to purchase the 13 acres, add it to the 15 and close the deal in 2016. The Planning Department would not act on this lot line request until we resubmitted it using the arbitrary fence line as our property line. Knowing our buyer wanted to close this year we assumed common sense would prevail in this request not thinking that the 80 foot strip of the trees (our BUFFER) would be taken from our original 3 acres and given to the 13 acre parcel that the Blysmas were purchasing. What has resulted now, is an 80 foot strip of almond trees (BUFFER) that the Blysmas don't want nor can they farm this narrow strip of land with today's large equipment. They'd have to remove the almond trees eliminating our BUFFER with our adjacent neighbor and neither are happy about that. All three property owners, to what should have been a relatively easy and common sense lot line adjustment, are now quite unhappy with the resulting outcome.

Considerable time (now over 2 years) and money have been spent to address this. As the owner of the Ag business site we have NO INTENTION to expand our business on this site nor do we want to move a very expensive privacy fence that extends over 225 feet. We feel there is NOT a "detriment to the other agricultural usage in the vicinity" if this BUFFER remains with our 2.2 business site it will continue to

exist in almond trees and be farmed by my neighbor along with his trees. All 3 property owners involved ask for your consideration to remedy this situation. Thank You!

STANISLAUS COUNTY PLANNING COMMISSION

October 4, 2012

STAFF REPORT

USE PERMIT APPLICATION NO. 2012-02 EO TRUCK & TRAILER

REQUEST: TO LEGALIZE AN EXISTING AGRICULTURAL SERVICE BUSINESS WHICH REBUILDS AND CUSTOMIZES LARGE TRUCKS, SILAGE BOXES, AND OTHER AGRICULTURAL EQUIPMENT. A SMALL PARTS WAREHOUSE, THAT SELLS NEW AND USED PARTS, IS BEING REQUESTED AS AN ACCESSORY USE.

APPLICATION INFORMATION

Applicant/Owner:	Ernest G. Ott/Ott 2010 Trust
Agent:	David O. Romano, Newman-Romano, LLC
Location:	7831 Crows Landing Road, south of W. Zeering Road and north of E. Monte Vista Avenue, in the Ceres area
Section, Township, Range:	5-5-9
Supervisorial District:	Five (Supervisor DeMartini)
Assessor's Parcel:	022-008-026
Referrals:	See Exhibit G Environmental Review Referrals
Area of Parcel(s):	16.2 acres
Water Supply:	Private Well
Sewage Disposal:	Septic System
Existing Zoning:	A-2-40 (General Agriculture)
General Plan Designation:	Agriculture
Sphere of Influence:	Not Applicable
Community Plan Designation:	Not Applicable
Williamson Act Contract No.:	Not Applicable
Environmental Review:	Negative Declaration
Present Land Use:	EO Truck and Trailer, storage yard, and orchard
Surrounding Land Use:	Agricultural uses, single-family dwellings, and confined animal facilities

RECOMMENDATION

Should the Planning Commission decide to approve this request based on the discussion below and on the whole of the record provided to us, Exhibit A provides an overview of all of the findings required for project approval.

BACKGROUND/PROJECT DESCRIPTION

Historically, the project site housed a custom harvesting business. In 1982, the Planning Commission approved UP 82-50 – Werner Ott, which allowed the construction of a 30' x 80' metal

building to house the custom harvesting equipment. According to Mr. Ott, various other related services were undertaken on the site such as truck, silage box, and other agricultural equipment customizing and rebuilding for various agricultural needs. He further states that the customizing and rebuilding business grew more viable over time and by the 2000s had eclipsed the harvesting business. By 2004, the business was primarily providing the customizing and rebuilding service to other agricultural businesses. In 2004, Mr. Ott obtained a Stanislaus County business license for agricultural services for the business of EO Truck and Trailer which, by that time, had become the successor company to the custom harvesting business known as Werner Ott, Inc.

In May of 2011, the Stanislaus County Code Enforcement Division received an anonymous complaint regarding vehicle dismantling taking place at the EO Truck and Trailer site. Mr. Ott was contacted by Code Enforcement staff and informed that the business was not permitted and that a Code Enforcement Case (CE 11-0252) had been initiated. Mr. Ott met with Planning staff in August of 2011 and submitted the subject application in February of 2012.

This project is a request to operate an agricultural service business which provides the following services to the agricultural area:

- Rebuild and customize large trucks, silage boxes, and other agricultural equipment
- Resale rebuilt items to the farming community
- Operate a small parts warehouse that sells new parts
- Store reclaimed parts on-site for resale and rebuilding/customizing of used equipment
- Haul dirt, manure, equipment, shells, etc., for area farmers and dairies with EO's trucks

Mr. Ott would also like to construct a pole barn type structure to replace the existing area covered by netting.

The proposed hours of operation are Monday through Friday, 8:00 a.m. to 5:00 p.m., and Saturday, 8:00 a.m. to 12:00 p.m. Two (2) truck deliveries/loadings will occur between 8:00 a.m. and 5:00 p.m. The maximum number of employees is 12. (See Exhibit D – *Applicant's Project Description*.)

SITE DESCRIPTION

The 16.2 acre site, zoned A-2 (General Agriculture), is currently improved with an orchard to the south and north, a 2± acre storage yard which includes equipment and parts storage, a customer and employee parking lot, and the previously approved metal building which houses the parts operation. Surrounding uses include row crops, home sites or farm dwellings, and confined animal facilities.

ISSUES

The primary issues associated with this project include determining whether or not the proposal meets the definition of an "agricultural service establishment" and whether or not it is "necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned for commercial or industrial uses".

Based on the nature of the current use and past determinations for similar uses made by the Planning Commission and Board of Supervisors, staff believes the project meets the broadest definition of an agricultural service establishment as discussed in the General Plan and Zoning Consistency sections of this report.

GENERAL PLAN CONSISTENCY

The site is currently designated “Agriculture” in the Stanislaus County General Plan and this designation is consistent with an A-2 (General Agriculture) zoning district.

Agricultural service establishments are defined in the Agricultural Element of the Stanislaus County General Plan, and the County Zoning Ordinance, as meaning:

“A business engaging in activities designed to aid production agriculture. Service does not include the provision of tangible goods except those sold directly to farmers and used specifically to aid in production of farm animals or crops. Nor does service industry include any business which has the primary function of manufacturing products.”

The proposed project is addressed by the following goal, objectives, and policies of the Agricultural Element of the General Plan:

Goal One: Strengthen the agricultural sector of our economy.

Objective No. 1.2: Support the development of agriculture-related uses.

The discussion section of Objective No. 1.2 states: “The A-2 (General Agriculture) zoning district of the County Zoning Ordinance encourages vertical integration of agriculture by organizing uses requiring use permits into three tiers based on the type of uses and their relationship to agriculture...Agricultural service establishments designed to serve the immediate area...are allowed when the Planning Commission finds that (1) they will not be substantially detrimental to or in conflict with the agricultural use of other property in the vicinity; (2) the establishment as proposed will not create a concentration of commercial and industrial uses in the vicinity; and (3) it is necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned commercial or industrial.

In general, agricultural service establishments can be difficult to evaluate due to their wide diversity of service types and service areas. This diversity often leads to requests for uses which provide both agricultural and non-agricultural services and/or have a wide-spread service area. Maintaining a focus on production agriculture is key to evaluating agricultural service establishments in the agricultural area. In order to control the scale and intensity of these facilities, the County requires such facilities in the agricultural area to show a direct connection to production agriculture in Stanislaus County and applies limitations on the number of employees.”

This objective is further supported through the following additional policies:

Policy 1.5: Agricultural service establishments shall be permissible in agricultural areas if they are designed to serve production agriculture in the immediately surrounding area as opposed to having a widespread service area, and if they will not be detrimental to agricultural use of other property in the vicinity.

Policy 1.7: Concentrations of commercial and industrial uses, even if related to surrounding agricultural activities, are detrimental to the primary use of the land for agriculture and shall not be allowed.

Policy 1.8: To encourage vertical integration of agriculture, the County shall allow research production, processing, distribution, marketing, and wholesale, and limited retail sales of

agricultural products in agricultural areas, provided such uses do not interfere with surrounding agricultural operations.

Furthermore, the Land Use Element of the General Plan states that the Agriculture designation recognizes the value and importance of agriculture by acting to preclude incompatible urban development within agricultural areas. This designation establishes agriculture as the primary use in land so designated, but allows limited agriculturally related commercial services and agriculturally related light industrial uses, and other uses which by their unique nature are not compatible with urban uses, provided they do not conflict with the primary use.

Objective No. 1.3: Minimizing agricultural conflicts.

Policy 1.10: The County shall protect agricultural operations from conflicts with non-agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.

In response to Policy 1.10, Buffer and Setback Guidelines (Appendix A of the Agricultural Element) applicable to new or expanding uses approved in or adjacent to the A-2 (General Agriculture) zoning district have been adopted. Appendix A states that low people intensive Tier One and Tier Two uses (such as nut hulling, shelling, dehydrating, grain warehousing, and agricultural processing facilities) which do not serve the general public shall not be subject to compliance with these guidelines; however, conditions of approval consistent with these guidelines may be required as part of the project approval. The decision making body (Planning Commission) shall have the ultimate authority to determine if a use is “low people intensive”.

Staff believes this project can be found to be consistent with the General Plan.

ZONING CONFORMANCE

The proposed request to operate an agricultural service establishment is classified by Section 21.20.030 of the Stanislaus County Zoning Ordinance as a Tier Two use. Tier Two uses are agriculture related commercial and industrial uses that may be allowed when the Planning Commission finds that:

1. The establishment as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity; and
2. The establishment as proposed will not create a concentration of commercial and industrial uses in the vicinity; and
3. It is necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned for commercial or industrial usage.

Section 21.20.030((B)(3)(a)) recognizes agricultural service establishments as a Tier Two use when primarily engaging in the provision of agricultural service to farmers and when such establishments are designed to serve the immediately surrounding area as opposed to having a widespread service area.

Staff requested documentation outlining the service area for EO Truck and Trailer. The applicant's representative chose not to submit this information due to confidentiality reasons; however, he did state that when he and Mr. Ott went through the list of customers, it was clear that over 50% of them were “agricultural” (mainly dairies and farmers) and that when they added “agricultural related”

customers (such as manure haulers and custom harvesters) the agricultural customer base increased to between 70-80%. The non-agricultural related customers operating in the vicinity tend to be large equipment operators (big rigs) and use EO Truck and Trailer instead of driving into town for replacement parts.

ASSESSMENT OF SIMILAR PROJECTS

Historically, Planning Commission decisions regarding agricultural service establishments have varied depending on the characteristics of the proposed use; consequently, agricultural service establishments are evaluated on a case-by-case basis as illustrated in the following projects.

Use Permit 2002-14 - Jerry Applegate was approved by the Planning Commission in December of 2002. The project, located at 7501 E. Grayson Road in the Hughson area, requested an office, equipment storage, daily operation, and 10 employees for a backhoe service business that provided the following agricultural services: digging out trees; clearing orchards; cleaning out ponds; digging ponds; trenching; cleaning dairy lagoons; and digging tree and fence post holes. Non-agricultural services included drilling holes for septic systems, sign poles, and drain wells. Over a three (3) year period, roughly 69% of the business was agricultural and 31% was non-agricultural.

Use Permit 2002-32 - Five J's Trucking was denied by the Planning Commission in March of 2003. The project requested to park 10 trucks (hay and milk) on one (1) acre of a 31-acre parcel for a dairy business located at 23937 Villa Manucha Road in the Newman area. The main reasons for denial were: 1) the business was already existing in an industrial zone within the city limits of Newman; and 2) the business was making deliveries as far as Humboldt County, well outside the local area.

Use Permit 2006-38 - ALP Custom Spreading was approved by the Planning Commission in March of 2008. This agricultural service establishment, located at 2324 Villa Manucha Road in the Newman area, specialized in manure spreading on properties in the southern part of Stanislaus County and the northern part of Merced County. Staff recommended approval arguing that, given the nature of the business, there was a need for flexibility in determining the immediate surrounding area.

Zoning Use Permit 78-21 - Amerine Irrigation Systems (a sprinkler irrigation business located at 10866 Cleveland Avenue in the Oakdale area) was approved by the Board of Supervisors in 1978 after being denied by the Planning Commission. In 1987, a second use permit was obtained to expand the business. Use Permit 87-14 was denied by the Planning Commission because the Commissioners were not convinced that the use was "designed to serve the immediate surrounding area as opposed to having a widespread area." The applicant appealed and the Board of Supervisors approved the application. By 2009, 10% of the Amerine Systems business was with cities in Stanislaus and San Joaquin Counties. The business owner was required to apply for a third land use permit (Use Permit 2009-08) to construct additional facilities and add a non-agricultural component to the business. Planning staff was unable to make finding number three (3) for Tier Two uses and recommended denial. The Planning Commission approved the project in December of 2009.

Use Permit 99-11 - Central Valley Ag Grinding, located at 5507 Langworth Road in the Oakdale area, was approved by the Planning Commission in October of 1999 to establish a Tier One agricultural product storage and grinding facility to process agricultural waste/products (orchard prunings, almond hulls, etc.). Use Permit 2010-06 - Central Valley Ag Grinding, Inc. was approved by the Planning Commission in December of 2010 to expand their business by adding acreage for additional material storage and a cogeneration unit and to clarify the uses for the green waste.

Central Valley Ag Grinding ground, dehydrated, and reused organic material for animal bedding, soil amendments, and raw material for DuraFlame fireplace logs. Planning staff recommended approval for both Use Permits.

Use Permit 2011-09 - T & L Partnership (an agricultural service establishment specializing in contract harvesting, located at 3312 S. Blaker Road in the Turlock area) was approved by the Planning Commission in September of 2011. T & L's customer base was 100% agricultural with 70% of customers within a 10 mile radius of the project site and the remaining 30% within a 30 mile radius of the project site. Planning staff was able to make all findings and recommend approval.

Use Permit 2011-01 – Hennings Brothers Ag Drilling, a request to relocate from 3525 Pelandale Road to 1920 Ladd Road, was approved by the Planning Commission on November 3, 2011. Hennings Brothers had a 65% agricultural base and a 35% municipal base. Counties served by this operation included Stanislaus, San Joaquin, Merced, Madera, Contra Costa, Sacramento, Solano, Glenn, Alameda, Yolo, Butte, and Calaveras. Planning staff was unable to make the finding that the project would be necessary and desirable in the agricultural zone as opposed to a commercially or industrially zoned property.

Staff believes that all of the findings necessary for approval of this request can be made if the Planning Commission determines that it is necessary and desirable to have the subject business located in the agricultural zoning district as opposed to a commercial or industrial zoning district. The specific findings required for approval of this use permit are outlined in Exhibit A of this report.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment and no significant issues were raised. (See Exhibit G - *Environmental Review Referrals*.) A Negative Declaration has been prepared for approval as the project will not have a significant effect on the environment. (See Exhibit F - *Negative Declaration*.) Conditions of approval reflecting referral responses have been placed on the project. (See Exhibit C - *Conditions of Approval*.)

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay \$2,158.50 for the Department of Fish and Game and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

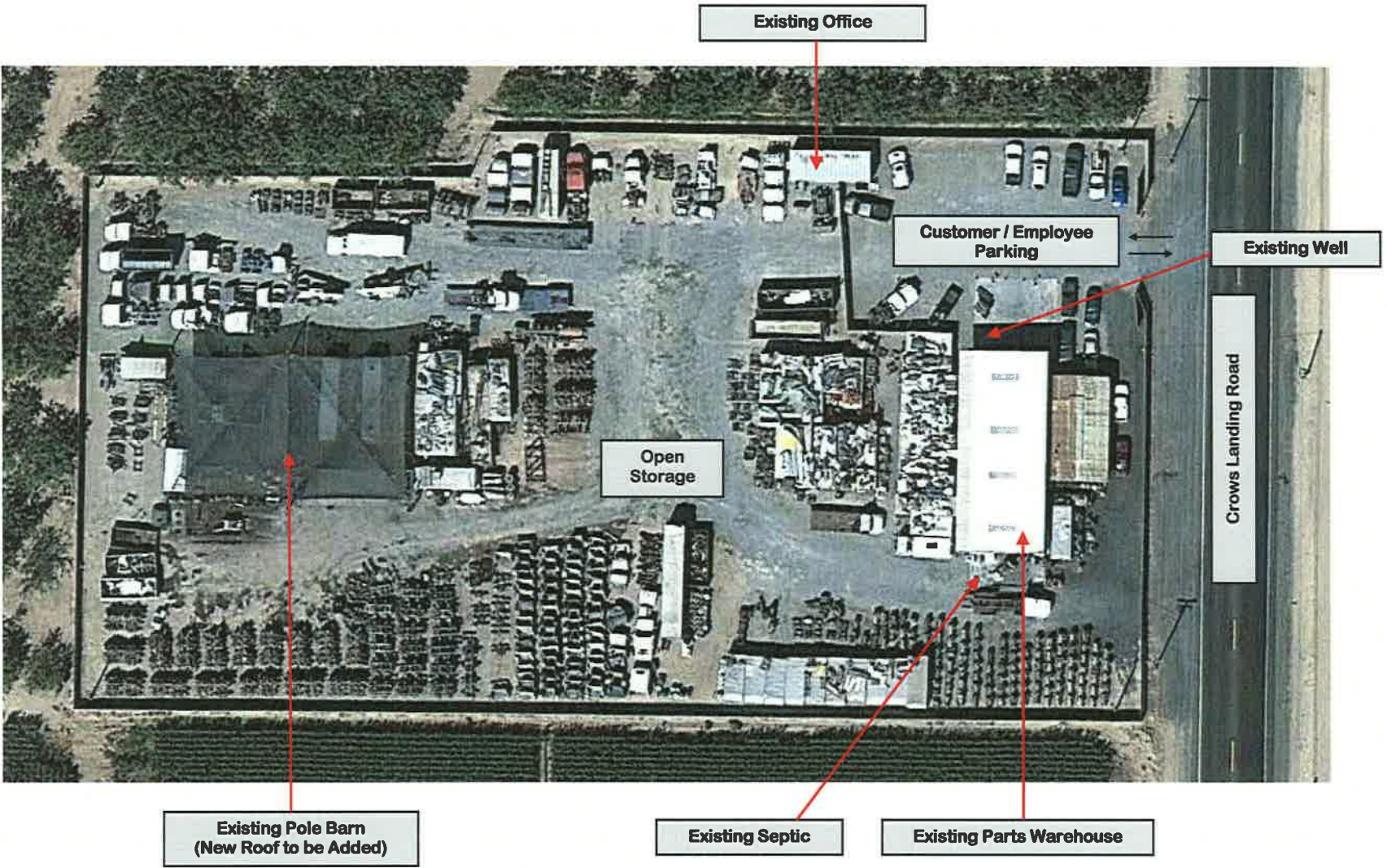
Contact Person: Rachel Wyse, Assistant Planner, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps
- Exhibit C - Conditions of Approval
- Exhibit D - Applicant's Project Description
- Exhibit E - Initial Study
- Exhibit F - Negative Declaration
- Exhibit G - Environmental Review Referrals

Exhibit A
Findings and Actions Required for Project Approval

1. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b) by finding on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Find that:
 - (a) The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan designation of "Agriculture" and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County; and
 - (b) The establishment as proposed will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity; and
 - (c) The establishment as proposed will not create a concentration of commercial and industrial uses in the vicinity; and
 - (d) It is necessary and desirable for such establishment to be located within the agricultural area as opposed to areas zoned for commercial or industrial usage; and
 - (e) The project will increase activities in and around the project area and increase demands for roads and services thereby requiring dedication and improvements.
4. Approve Use Permit Application No. 2012-02 – EO Truck & Trailer, subject to the attached Conditions of Approval.



As Amended by the Planning Commission
October 4, 2012

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

CONDITIONS OF APPROVAL

**USE PERMIT APPLICATION NO. 2012-02
EO TRUCK & TRAILER**

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, 2012), the applicant is required to pay a Department of Fish and Game filing fee at the time of recording a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for \$2,158.50, made payable to Stanislaus County, for the payment of Fish and Game and Clerk Recorder filing fees.~~

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

Prior to filing the 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 \$57.00 made payable to Stanislaus County, for the payment of Clerk Recorder filing fees.
3. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.

5. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
6. 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.
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 (RWQCB) to determine if a Construction Storm Water General Permit, Phase I and II Municipal Separate Storm Sewer System (MS4) Permits, Industrial Storm Water General Permit, Clean Water Act Section 404 Permit, Clean Water Act Section 401 Permit – Water Quality Certification, or Waste Discharge Requirements are required. Written verification insuring compliance with the conditions shall be submitted to the Planning Department prior to issuance of a building permit for the requested structures. If a "Notice of Intent" is deemed necessary by the RWQCB, the developer shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.

13. Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

Department of Public Works

14. Crows Landing Road is classified as a 4-lane 110-foot Major roadway. The required ½ width is 55-feet west of the roadway centerline of Crows Landing Road. If 55-feet of the road right-of-way west of the roadway centerline has not been dedicated, then the remainder of the 55-feet shall be dedicated with an Irrevocable Offer of Dedication.
15. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.
16. A grading and drainage plan for the project site shall be submitted before any building permit for the site is issued. This does not include the required building permit for the new roof on the existing pole barn. 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; and
 - B. The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and the Stanislaus County road right-of-way; and
 - C. The grading and drainage plan shall comply with the current Stanislaus County National Pollutant Discharge Elimination System (NPDES) General Permit and the Quality Control standards for New Development and Redevelopment contained therein; and
 - D. An Engineer's Estimate shall be submitted for the grading and drainage work; and
 - 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.

The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan.

17. The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. A preliminary Engineer's Estimate for the grading and drainage work shall be submitted to determine the amount of deposit for the inspection of the grading. The deposit shall be made prior to the issuance of the building permit. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site. The Public Works inspector will not sign on the grading or building permit until such time that all inspection fees have been paid. Any fees left over from the deposit shall be returned to the applicant at the completion and acceptance of the grading and drainage construction by Stanislaus County Public Works.

Building Permits Division

18. Building permits are required for all structures, including the pole barn structure, and the project must conform with California Code of Regulations, Title 24.

Modesto Regional Fire Authority

19. The proposed project shall meet all applicable codes, standards, ordinances, etc. This includes fire apparatus access roads, water for fire suppression, fire sprinkler systems, etc.

Turlock Irrigation District

20. The owner/developer shall apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.

San Joaquin Valley Air Pollution Control District

21. This project may be subject to District Rules and Regulations, including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished, or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants). The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements the applicant is strongly encouraged to contact the District's Small Business Assistance office.

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

- B. USE PERMIT APPLICATION NO. 2012-02 - EO TRUCK & TRAILER** - Request to legalize an existing agricultural service business which rebuilds and customizes large trucks, silage boxes, and other agricultural equipment. A small parts warehouse, that sells new and used parts, is being requested as an accessory use on a 16.2 acre parcel in the A-2-40 (General Agriculture) zoning district. The property is located at 7831 Crows Landing Road, south of Taylor Road and north of E. Monte Vista Avenue, in the Ceres area. The Planning Commission will consider a CEQA Negative Declaration on this project.

APN: 022-008-026

Staff Report: Rachel Wyse

Public hearing opened.

OPPOSITION: None

FAVOR: Dave Romano, Ernest Ott

Public hearing closed.

Ramos/Gammon, 8-0 (Unanimous) **APPROVED THE STAFF RECOMMENDATIONS AS OUTLINED IN THE STAFF REPORT INCLUDING AMENDED CONDITION OF APPROVAL NO. 2 AS FOLLOWS:**

2. Pursuant to ~~Section 711.4 of the California Fish and Game Code (effective January 1, 2012), the applicant is required to pay a Department of Fish and Game filing fee at the time of recording a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for \$2,158.50, made payable to Stanislaus County, for the payment of Fish and Game, and Clerk Recorder filing fees.~~

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

Prior to filing the 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 \$57.00 made payable to Stanislaus County, for the payment of Clerk Recorder filing fees.

EXCERPT

PLANNING COMMISSION MINUTES

Signature on file.

Secretary, Planning Commission

October 6, 2016

Date

STANISLAUS COUNTY PLANNING COMMISSION

September 1, 2016

STAFF REPORT

PARCEL MAP APPLICATION NO. PLN2016-0023 EO TRUCK & TRAILER

REQUEST: TO CREATE A 2.2± ACRE PARCEL AND A 14 ACRE REMAINDER PARCEL FROM A 16.2 ACRE PARCEL IN THE A-2-40 (GENERAL AGRICULTURE) ZONING DISTRICT

APPLICATION INFORMATION

Applicant/Property owners:	Ernest G. and Susan L. Ott
Agent:	Robert Braden, Robert Braden Consulting
Location:	7831 Crows Landing Road, south of W. Zeering Road and north of E. Monte Vista Avenue, in the Ceres area.
Section, Township, Range:	5-5-9
Supervisorial District:	Five (Supervisor DeMartini)
Assessor's Parcel:	022-008-026
Referrals:	See Exhibit F Environmental Review Referrals
Area of Parcel(s):	Parcel 1: 2.2± acres Remainder: 14 acres
Water Supply:	Private well
Sewage Disposal:	Septic system
Existing Zoning:	A-2-40 (General Agriculture)
General Plan Designation:	Agriculture
Sphere of Influence:	Not Applicable
Community Plan Designation:	Not Applicable
Williamson Act Contract No.:	Not Applicable
Environmental Review:	Negative Declaration
Present Land Use:	EO Truck and Trailer, storage yard, and orchard.
Surrounding Land Use:	Oats, alfalfa, a dairy, and single-family dwellings to the north; alfalfa, oats, single-family dwellings, and Westport sub-station to the east; alfalfa, single-family dwellings, and a dairy to the south; and oats, alfalfa, Monterey Park Tract, and single-family dwellings to the west.

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 chooses to approve the project, Exhibit A provides an overview of all of the findings required for project approval which include parcel map findings.

BACKGROUND/PROJECT DESCRIPTION

This is a request to create a 2.2± acre parcel and a 14 acre Remainder parcel from a 16.2 acre parcel in the A-2-40 (General Agriculture) zoning district. The 2.2± acre parcel will continue to house an agricultural service business approved under Use Permit Application No. 2012-02 – EO Truck and Trailer. The proposed 14 acre Remainder parcel will continue to be utilized as an almond orchard. No construction is proposed as a part of this project.

Use Permit Application No. 2012-02 was approved by the Planning Commission on October 4, 2012; establishing an agricultural service business that rebuilds and customizes large trucks, silage boxes, and other agricultural equipment and resells them to the farming community; operates a small parts warehouse selling new parts; hauls dirt, manure, equipment, shells, etc., for area farmers and dairies with EO trucks; and employees up to 12 people. The Use Permit included a request to construct a pole barn type structure over the existing equipment storage area. This structure has not been constructed to date. Hours of operation are Monday through Friday, 8:00 a.m. to 5:00 p.m., and Saturday, 8:00 a.m. to 12:00 p.m. All Conditions of Approval associated with Use Permit Application No. 2012-02 shall remain in effect.

Typically, parcels in the General Agriculture, 40 acre minimum zoning district can only be subdivided if the proposed parcels are a minimum of 40 gross acres in size; however, Zoning Ordinance section 21.20.060(D) allows for an exemption of the minimum parcel size requirement as discussed in the Zoning and Subdivision Ordinance section of this staff report.

SITE DESCRIPTION

The proposed 14 acre Remainder parcel is currently improved with an almond orchard. The proposed 2.2± acre parcel includes a storage yard containing equipment and parts storage, a customer and employee parking lot, and a metal building which houses the parts operation. An irrigation pipeline, within an easement, runs north-south along the proposed Remainder parcel's western property line. A second irrigation pipeline runs north-south, along the shared eastern property line of a home site (not a part of this project) located to the northeast. Surrounding land uses include oats, alfalfa, a dairy, and single-family dwellings to the north; alfalfa, oats, single-family dwellings, and Westport sub-station to the east; alfalfa, single-family dwellings, and a dairy to the south; and oats, alfalfa, Monterey Park Tract, and single-family dwellings to the west.

ISSUES

No issues have been identified as a part of this request. Standard conditions of approval, along with those discussed in the "Environmental Review" section of this report, have been added to the project.

GENERAL PLAN CONSISTENCY

The site is currently designated "Agriculture" in the Stanislaus County General Plan and this designation is consistent with an A-2 (General Agriculture) zoning district. The Agricultural designation recognizes the value and importance of agriculture by acting to preclude incompatible urban development within agricultural areas and, as such, should generally be zoned with 40 to 160 acre minimum parcel sizes. The project site's A-2-40 zoning requires a minimum parcel size of 40 acres for the creation of new parcels; however, Section 21.20.060(D) of the Stanislaus County Code allows for an exemption from the minimum parcel size requirement as discussed in the next section.

ZONING ORDINANCE & SUBDIVISION ORDINANCE CONSISTENCY

Section 21.20.060(D) of the Stanislaus County Code allows for an exemption of the minimum parcel size requirement for parcels operating under a Use Permit given that such parcel exhibits size, location, and orientation characteristics which are supportive of the use without detriment to other agricultural usage in the vicinity. If approved, the proposed 2.2± acre project site will meet this requirement as it will be operating under a Use Permit and utilizing the existing structures and fenced area approved under Use Permit 2012-02. Besides the eventual construction of the pole barn structure over the storage yard, the characteristics of the proposed 2.2± acre parcel will not change and, as such, the size, location, and orientation of the 2.2± acre project site will not be detrimental to other agricultural usage in the vicinity. The proposed Remainder parcel will continue to be used for agricultural production.

Typically, the lot to depth ratio shall not exceed the road frontage by more than three times where the total frontage is less than 300 feet; however, Subdivision Ordinance section 20.52.160 allows the Planning Department to make an exception to the lot to depth ratio provided the parcel(s) can be used for their intended purpose, will not be detrimental to the agricultural use of said parcels, are consistent with the potential subdivision of the whole parcel, and will not be detrimental to the public welfare nor injurious to other proper in the neighborhood of the proposed subdivision. Planning staff has determined that the proposed parcels meet the aforementioned requirements.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment and no significant issues were raised. (See Exhibit F - *Environmental Review Referrals*.) A Negative Declaration has been prepared for approval prior to action on the map itself, as the project will not have a significant effect on the environment. (See Exhibit E - *Negative Declaration*.) Conditions of approval reflecting referral responses have been placed on the project. (See Exhibit C - *Conditions of Approval*.)

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project; therefore, the applicant will further be required to pay **\$2,267.25** for the Department of Fish and Game and the Clerk Recorder filing fees. The attached Conditions of Approval ensure that this will occur.

Contact Person: Rachel Wyse, Associate Planner, (209) 525-6330

Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps
- Exhibit C - Conditions of Approval
- Exhibit D - Initial Study
- Exhibit E - Negative Declaration
- Exhibit F - Environmental Review Referrals

Exhibit A
Findings and Actions Required for Project Approval

1. Adopt the Negative Declaration pursuant to CEQA Guidelines Section 15074(b) by finding on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Negative Declaration reflects Stanislaus County's independent judgment and analysis.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Find that:
 - (a) The proposed map is consistent with applicable general and specific plans as specified in Section 65451.
 - (b) The design or improvement of the proposed subdivision is consistent with applicable general and specific plans.
 - (c) The site is physically suitable for the type of development.
 - (d) The site is physically suitable for the proposed density of development.
 - (e) The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - (f) The design of the subdivision or type of improvements are not likely to cause serious public health problems.
 - (g) The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public; and
 - (h) Proposed Parcel 1 exhibits size, location, and orientation characteristics which are supportive of the use without detriment to other agricultural usage in the vicinity.
4. Approve Vesting Tentative Parcel Map Application No. PLN2016-0023 – EO Truck & Trailer, subject to the attached Conditions of Approval.

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

CONDITIONS OF APPROVAL

PARCEL MAP APPLICATION NO. PLN2016-0023 EO TRUCK & TRAILER

Department of Public Works

1. The recorded parcel map shall be prepared by a licensed land surveyor or a registered civil engineer licensed to practice land surveying.
2. All structures not shown on the tentative parcel map shall be removed prior to the parcel map being recorded.
3. The new parcel shall be surveyed and fully monumented prior to the recording of the final map.

Department of Planning and Community Development

4. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2015), the applicant is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$2,267.25**, 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.

5. 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.
6. Prior to the issuance of building permits for a dwelling, the owner/developer shall pay a fee of \$339.00 per dwelling to the County Sheriff's Department.
7. 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.

8. The recorded parcel map shall contain the following statement:

“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.”

Turlock Irrigation District

9. There is an existing private irrigation pipeline located along the eastern side of the proposed Remainder parcel and adjacent to the western property lines of proposed Parcel 1 and a home site parcel located at 7761 Crows Landing Road. A 20-foot wide, on center, irrigation, access, and maintenance easement, benefitting all three parcels shall be recorded on the final map.

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

- B. PARCEL MAP APPLICATION NO. PLN2016-0023 – EO TRUCK AND TRAILER**
– Request to create a 2.2± acre parcel and a 14 acre remainder parcel from a 16.2 acre parcel in the A-2-40 (General Agriculture) zoning district. The property is located at 7831 Crows Landing Road, between Zeering Road and Monte Vista Avenue, in the Ceres area. The Planning Commission will consider adoption of a CEQA Negative Declaration for this project. APN: 022-008-026
Staff Report: Rachel Wyse, Associate Planner, Recommends **APPROVAL**.
Public hearing opened.
OPPOSITION: None.
FAVOR: Robert Braden, Engineer, Robert Braden Consulting, P.M.B. 185 – 2900 Standiford Ave, Suite 16-B, Modesto, CA
Public hearing closed.
Orvis/Gibson (8/0) **APPROVED THE STAFF RECOMMENDATION AS OUTLINED IN THE STAFF REPORT.**

EXCERPT

PLANNING COMMISSION MINUTES

Signature on file.

Secretary, Planning Commission

September 15, 2016

Date