



# PLANNING COMMISSION AGENDA

Room 301, Hall of Records  
2281 Tulare Street  
Northwest Corner of Tulare & M  
Fresno, CA 93721-2198

Contact: Planning Commission Clerk  
Phone: (559) 600-4497  
Email: [knovak@fresnocountyca.gov](mailto:knovak@fresnocountyca.gov)  
Call Toll Free: 1-800-742-1011 – Ext. 04497

Web Site: <http://www.co.fresno.ca.us/PlanningCommission>

## AGENDA August 8, 2019

### 8:45 a.m. - CALL TO ORDER

#### INTRODUCTION

Explanation of the REGULAR AGENDA process and mandatory procedural requirements. Staff Reports are available on the table near the room entrance.

#### PLEDGE OF ALLEGIANCE

#### ROLL CALL

#### CONSENT AGENDA

Items listed under the Consent Agenda are considered to be routine in nature and not likely to require discussion. Prior to action by the Commission, the public will be given an opportunity to comment on any consent item. The Commission may remove any item from the Consent Agenda for discussion.

1. **CLASSIFIED CONDITIONAL USE PERMIT NO. 3546 and VARIANCE NO. 4018 – FIRST ONE-YEAR TIME EXTENSION** filed by **MARK E. MYLES**, proposing to grant the first one-year time extension to exercise Classified Conditional Use Permit No. 3546 and Variance No. 4018, which authorize a personal/recreational vehicle storage facility with an office and a caretaker's residence on a 2.28-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District, with a zero-foot rear-yard setback for a storage building. The project site is located on the north side of State Route (SR) 168 (Auberry Road) approximately 470 feet west of the intersection of SR 168 and Lodge Road in the unincorporated community of Prather (SUP. DIST. 5) (APN 128-430-68).

**NOTE: The sole purpose of the public hearing is to address the time extension request.**

-Contact person, Ejaz Ahmad (559) 600-4204, email: [eahmad@fresnocountyca.gov](mailto:eahmad@fresnocountyca.gov)

-Staff Report Included

-Individual Noticing

2. **TENTATIVE TRACT MAP NO. 5050 – TIME EXTENSION** filed by **BILLY WELLS**, proposing to grant a fourth one-year time extension to exercise Tentative Tract Map No. 5050, which authorizes the division of a 22.84-acre parcel into 50 single-family residential lots with a minimum lot size of 2,262 square feet in the R-1-B(c) (Single-Family Residential, 12,500 square-foot minimum parcel size, Conditional) Zone District. The subject property is located on the west side of State Route 168 (Tollhouse Road) between Hillcrest Road and Sunset Vista Lane, within the unincorporated community of Shaver Lake (SUP. DIST. 5) (APN 130-031-46).

**NOTE: The sole purpose of the public hearing is to address the time extension request.**

-Contact person, Jeremy Shaw (559) 600-4204, email: [jshaw@fresnocountyca.gov](mailto:jshaw@fresnocountyca.gov)

-Staff Report Included

-Individual Noticing

## **REGULAR AGENDA**

1. **PUBLIC PRESENTATIONS** (This portion of the meeting is reserved for persons desiring to address the Planning Commission on any matter within the Commission's jurisdiction and not on this Agenda.)
2. **VARIANCE APPLICATION NO. 4074** filed by **SPINO, INC.**, proposing to allow the creation of a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from an existing 4.9-acre parcel (gross) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The subject parcel is located on the south side of W. McKinley Avenue, approximately 420 feet west of its intersection with N. Garfield Avenue, and one mile south of the nearest city limits of the City of Fresno (7605 W. McKinley Avenue, Fresno, CA) (Sup. Dist. 1) (APN 312-290-39).

-Contact person, Ejaz Ahmad (559) 600-4204, email: [eahmad@fresnocountyca.gov](mailto:eahmad@fresnocountyca.gov)

-Staff Report Included

-Individual Noticing

3. **INITIAL STUDY APPLICATION NO. 7608** and **UNCLASSIFIED CONDITIONAL USE PERMIT NOS. 3642-47** filed by **FIVE POINTS PIPELINE, LLC, L&J VANDERHAM DAIRY, VAN DER HOEK DAIRY BIOGAS LLC, VAN DER KOOI DAIRY POWER LLC, and WILSON DAIRY BIOGAS LLC**, proposing to allow the installation of four new covered lagoon anaerobic dairy digesters with related biogas conditioning equipment and biogas generators to produce electricity on four existing dairies; the installation of biogas conditioning equipment at a fifth dairy with an existing digester and generator; and the construction of an approximately 10.5-mile underground pipeline to connect the participating dairies and allow produced biomethane to be transported to a centralized hub, where a biogas upgrading facility will be constructed to clean and condense the biogas before it is injected into the PG&E natural gas transmission line. The project is bounded by the unincorporated communities of Five Points to the southwest, Helm to the north, Burrell to the northeast, and Lanare to the east and southeast; State Route 145 (Madera Avenue) on the west; Mount Whitney Avenue on the south; Jameson Avenue on the east; and Kamm Avenue on the north; within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts (SUP. DIST. 1 and 4) (Dairies: APN Nos. 040-130-51S, 050-160-16S, 050-270-56S, 050-170-41S, 050-260-12S, 040-130-35S) (Pipeline APN Nos. 040-130-35S, 49, 44S, 48S, 51S; 041-100-17, 45S; 050-160-13S, 16S; 050-170-41S; 050-200-38S; 050-230-20S, 23S; 050-260-10S, 11S, 12S; 050-270-56S). Adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 7608, and take action on Unclassified Conditional Use Permit Application Nos. 3642-3647 with Findings and Conditions.

-Contact person, Jeremy Shaw (559) 600-4207, email: [jshaw@fresnocountyca.gov](mailto:jshaw@fresnocountyca.gov)

-Staff Report Included

-Individual Noticing

4. **INITIAL STUDY APPLICATION NO. 7385** and **VARIANCE NO. 4038** filed by the **DUANE AND KAREN SOARES LIVING TRUST**, proposing to allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-

acre minimum parcel size) Zone District where a minimum of 20 acres is required. The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues, addressed as 3637 S. Valentine Avenue, Fresno, CA 93706 (Sup. Dist. 4) (APNs 327-061-47 and -46; Previously: 327-061-27S). Adopt the Negative Declaration prepared for Initial Study Application No. 7385 and take action on Variance Application No. 4038 with Findings and Conditions.

-Contact person, Chrissy Monfette (559) 600-4245, email: [cmonfette@fresnocountyca.gov](mailto:cmonfette@fresnocountyca.gov)

-Staff Report Included

-Individual Noticing

5. **INFORMATION/DISCUSSION ITEM:**

Report from staff on prior Agenda Items, status of upcoming Agenda, and miscellaneous matters.

-Contact person, Marianne Mollring (559) 600-4569, email: [mmollring@fresnocountyca.gov](mailto:mmollring@fresnocountyca.gov)

**PROGRAM ACCESSIBILITY AND ACCOMMODATIONS:** The Americans with Disabilities Act (ADA) Title II covers the programs, services, activities and facilities owned or operated by state and local governments like the County of Fresno ("County"). Further, the County promotes equality of opportunity and full participation by all persons, including persons with disabilities. Towards this end, the County works to ensure that it provides meaningful access to people with disabilities to every program, service, benefit, and activity, when viewed in its entirety. Similarly, the County also works to ensure that its operated or owned facilities that are open to the public provide meaningful access to people with disabilities.

To help ensure this meaningful access, the County will reasonably modify policies/ procedures and provide auxiliary aids/services to persons with disabilities. If, as an attendee or participant at the meeting, you need additional accommodations such as an American Sign Language (ASL) interpreter, an assistive listening device, large print material, electronic materials, Braille materials, or taped materials, please contact the Current Planning staff as soon as possible during office hours at (559) 600-4497 or at [knovak@fresnocountyca.gov](mailto:knovak@fresnocountyca.gov). Reasonable requests made at least 48 hours in advance of the meeting will help to ensure accessibility to this meeting. Later requests will be accommodated to the extent reasonably feasible.

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# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Consent Agenda Item No. 1 August 8, 2019

**SUBJECT:** Classified Conditional Use Permit No. 3546 and Variance No. 4018  
– First One-Year Time Extension

Grant the first one-year time extension to exercise Classified Conditional Use Permit No. 3546 and Variance No. 4018, which authorize a personal/recreational vehicle storage facility with an office and a caretaker's residence on a 2.28-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District, with a zero-foot rear-yard setback for a storage building.

**LOCATION:** The project site is located on the north side of State Route (SR) 168 (Auberry Road) approximately 470 feet west of the intersection of SR 168 and Lodge Road in the unincorporated community of Prather (SUP. DIST. 5) (APN 128-430-68).

**OWNER/  
APPLICANT:** Mark E. Myles

**STAFF CONTACT:** Ejaz Ahmad, Planner  
(559) 600-4204

Marianne Mollring, Senior Planner  
(559) 600-4569

### RECOMMENDATION:

- Approve the first one-year Time Extension for Classified Conditional Use Permit No. 3546 and Variance No. 4018; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Board of Supervisors Minute Order/Planning Commission Resolution and Staff Report dated March 16, 2017
5. Applicant's correspondence requesting a first one-year Time Extension

**ENVIRONMENTAL DETERMINATION:**

A Mitigated Negative Declaration (MND) prepared for Initial Study No. 7206 was adopted by the Fresno County Board of Supervisors in accordance with the California Environmental Quality Act (CEQA) with approval of Classified Conditional Use Permit (CUP) No. 3546 and Variance (VA) No. 4018 on May 16, 2017.

According to Section 15162(a) of the CEQA Guidelines, when an MND is adopted for a project, no subsequent MND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following: 1) substantial changes are proposed in the project which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; 2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; and 3) new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted, shows either of the following: (A) the project will have one or more significant effects not discussed in the previous MND; or (B) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.

This Time Extension request does not propose changes to the approved project, nor is there evidence of the circumstances noted in Conditions 1, 2 or 3 above. Therefore, a subsequent/supplemental environmental document is not required.

**PUBLIC NOTICE:**

Notices were sent to 58 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

The Fresno County Zoning Ordinance requires that a Conditional Use Permit shall become void when substantial development has not occurred within two (2) years after approval of the Permit. The Zoning Ordinance authorizes the Planning Commission to grant a maximum of four (4) one (1)-year Time Extensions when it can be demonstrated that circumstances beyond the

control of the Applicant have caused delays which do not permit compliance with the original time limitation. The request for extension must be filed prior to the expiration of the Conditional Use Permit.

### **BACKGROUND INFORMATION:**

On March 16, 2017, the Planning Commission considered the subject applications. After receiving staff's presentation and considering public testimony from the Applicant's representative, the Commission voted 7 to 1 (one vacancy) in favor of forwarding to the Board a recommendation to adopt the Mitigated Negative Declaration prepared for the requests and recommending approval of the proposed Conditional Use Permit and Variance subject to the Conditions of Approval and mandatory Project Notes listed in the Planning Commission Staff Report.

At the Planning Commission hearing, six individuals spoke in opposition to the project citing traffic and fire hazards, increased storm water runoff from the property, impact on the integrity of area watersheds, change in rural residential character of the area, and policies related to no new commercial development within two miles of existing commercial developments. Four letters were submitted in support of the proposal, citing that the project site is ideal for the use, and the proposed facility is needed in the area and will benefit the community and nearby businesses. Eight letters were submitted in opposition to the project, citing various reasons: the project will increase traffic hazards, does not meet the 50-foot setback from State Route 168, will contribute toward additional accidents in the vicinity, and that existing similar facilities are present in the area. Furthermore, the project site should be investigated for archeological resources, the proposed zero-foot setback will impact neighboring properties, and the project will set a precedent for future developments along the highway.

The County Board of Supervisors considered the project on May 16, 2017 and voted 5 to zero to approve the project, with a condition requiring an indemnification agreement. Classified Conditional Use Permit (CUP) No. 3546 became effective 15 days after May 16, 2019, as prescribed by law.

The Applicant filed the subject time extension request on May 15, 2019, within the time limit noted above. If this first time extension is granted approval, the Applicant will have until May 16, 2020 to achieve substantial development of the facility.

### **ANALYSIS/DISCUSSION:**

Classified Conditional Use Permit (CUP) No. 3546 and Variance (VA) No. 4018 were approved by the County Board of Supervisors on May 16, 2017, based on a determination that the required Findings could be made. A copy of the original Staff Report and the Board of Supervisor's Approval dated May 16, 2017 (Exhibit 4) is attached.

According to the Applicant's letter describing the Time Extension request (Exhibit 5), a Site Plan Review and site grading plan has been approved for the project, however, additional time is needed prior to pulling building permits for construction.

Approval of a time extension request for a Classified Conditional Use Permit/Variance is appropriate if circumstances beyond the control of the Applicant have caused delays which do not permit compliance with the two-year time limit established by the Zoning Ordinance. The Planning Commission's jurisdiction in evaluating this request is limited to determining whether

the Applicant should be granted an additional year to exercise the Classified Conditional Use Permit/Variance as approved.

This Time Extension application was routed to all the agencies who reviewed the original project in 2016. None of those agencies identified any change in circumstances or the need for additional conditions, and did not express any concerns with the proposed extension of time. Based on the comments received from the Fresno County Fire Protection District, the project development shall comply with the California Code of Regulations, Title 14 Natural Resources 12720 Maintenance of Defensible Space Measures and the builder shall refer to the California Building Code Table 602 for fire wall requirements based off zero setback for exterior walls. The Applicant has been notified of these requirements.

**PUBLIC COMMENT:**

*None.*

**CONCLUSION:**

Staff believes the first one-year Time Extension for Classified Conditional Use Permit No. 3546 and Variance No. 4018 should be approved, based on factors cited in the analysis above. Approval of this Time Extension will extend the expiration date to May 16, 2020.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to approve the first one-year Time Extension for Classified Conditional Use Permit No. 3546 and Variance No. 4018; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

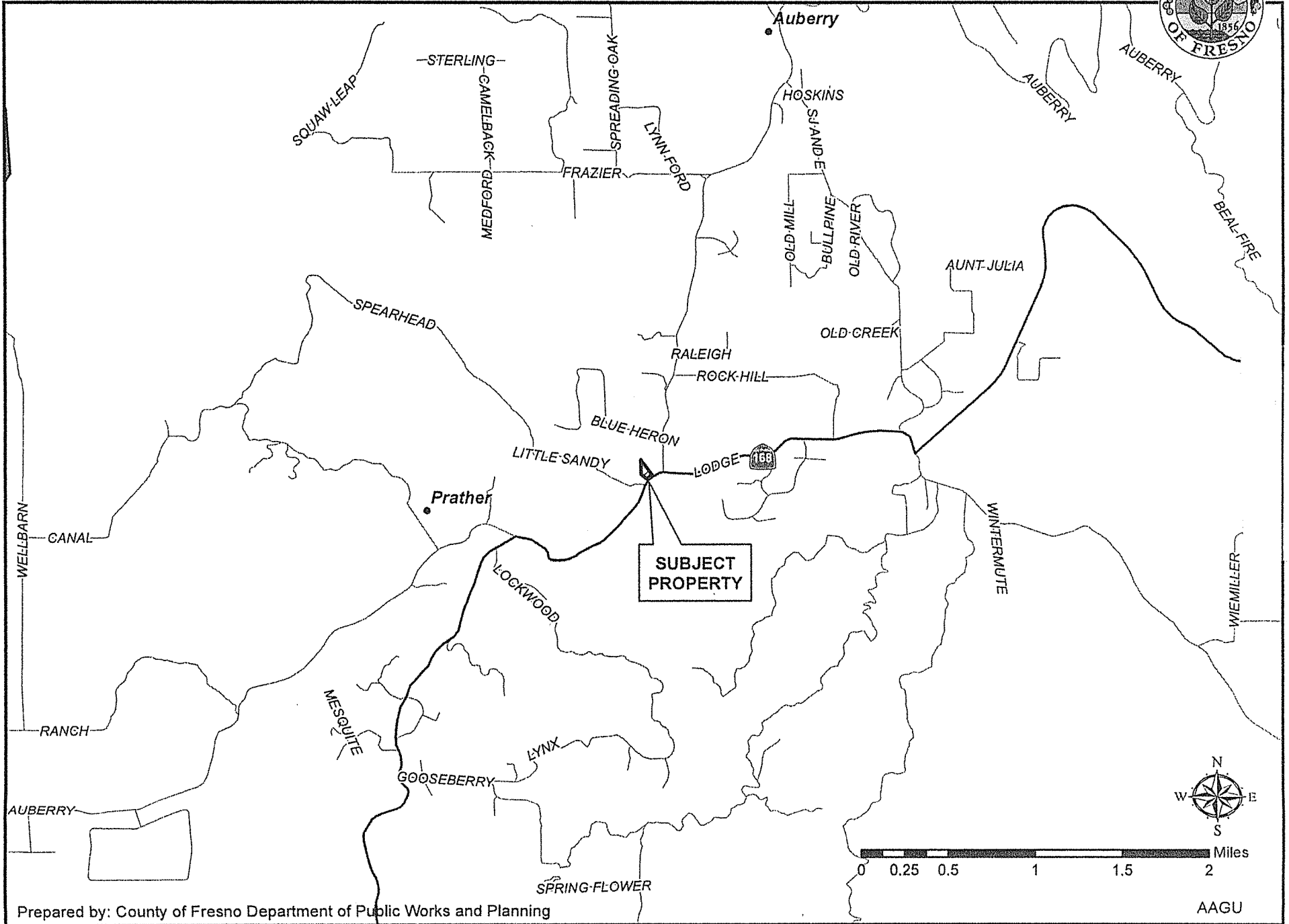
- Move to deny the first one-year Time Extension request for Classified Conditional Use Permit No. 3546 and Variance No. 4018 (state reasons for denial); and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**NOTES:**

**The following Notes reference mandatory requirements of Fresno County or other agencies, and are provided as information to the project Applicant:**

1. The project development shall comply with the California Code of Regulations, Title 14 Natural Resources 12720 Maintenance of Defensible Space Measures.
2. The builder shall refer to the California Building Code Table 602 for fire wall requirements based off zero setback for exterior walls.

# LOCATION MAP

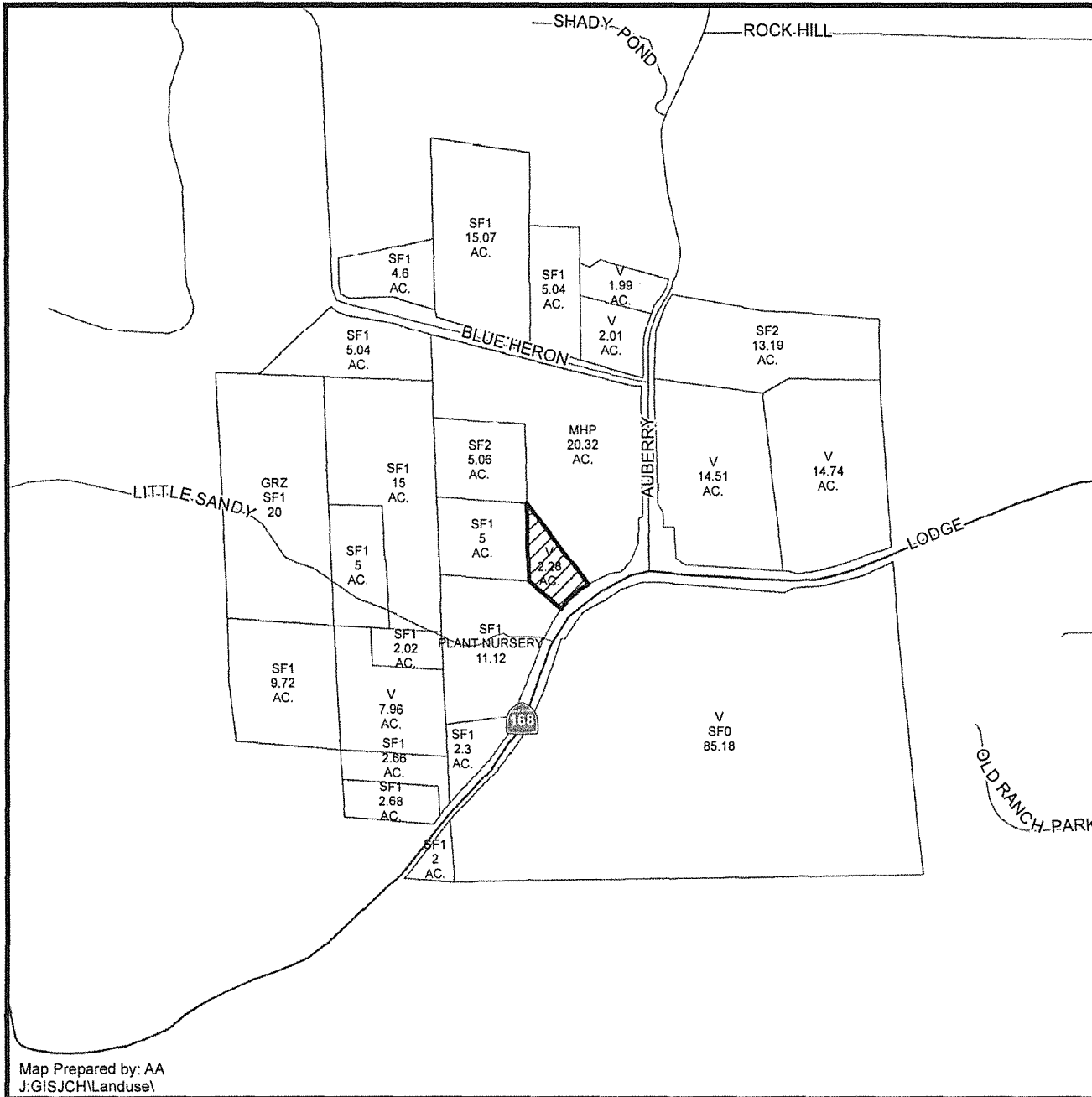


## EXHIBIT 1





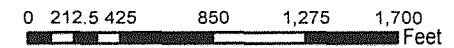
# EXISTING LAND USE MAP



LEGEND	
GRZ - GRAZING	
MHP - MOBILE HOME PARK	
SF# - SINGLE FAMILY RESIDENCE	
V - VACANT	

### LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning  
Development Services Division

Map Prepared by: AA  
J:GISJCH\Landuse\



**County of Fresno**  
**Board of Supervisors**  
**Minute Order**

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**May 16, 2017**

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**Present:** 5 - Supervisor Andreas Borgeas, Supervisor Nathan Magsig, Supervisor Buddy Mendes, Chairman Brian Pacheco, and Vice Chairman Sal Quintero

Agenda No. 16.

Public Works & Planning

File ID: 17-0416

**Re:** Consider and adopt Mitigated Negative Declaration prepared for Initial Study Application No. 7206; and determine that required Findings specified in Fresno County Zoning Ordinance Section 873-F and Section 877-A can be made and approve Classified Conditional Use Permit Application No. 3546 to allow a personal/recreational vehicle storage facility with office and a caretaker's residence, and Variance Application No. 4018 to allow a zero-foot rear-yard setback for a storage building, project site is within AE-20 Zone District located on north side of State Route 168 approximately 470 feet west of intersection of SR 168/Lodge Road in unincorporated community of Prather

**CONDUCTED HEARING. RECEIVED PUBLIC TESTIMONY. CLOSED HEARING. A MOTION WAS MADE BY SUPERVISOR MAGSIG, SECONDED BY VICE CHAIRMAN QUINTERO, TO APPROVE THE RECOMMENDED ACTION, SUBJECT TO AN ADDITIONAL CONDITION THAT THE APPLICANT SHALL ENTER INTO AN AGREEMENT INDEMNIFYING THE COUNTY FOR ALL LEGAL COSTS ASSOCIATED WITH ITS ADOPTION OF THE MITIGATED NEGATIVE DECLARATION, AND THE APPROVAL OF THE CLASSIFIED CONDITIONAL USE PERMIT NO. 3546 AND VARIANCE APPLICATION NO. 4018. THE MOTION CARRIED BY THE FOLLOWING VOTE:**

**Ayes:** 5 - Borgeas, Magsig, Mendes, Pacheco, and Quintero



## EXHIBIT 1

# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

ATTENTION: FOR FINAL ACTION OR  
MODIFICATION TO OR ADDITION OF  
CONDITIONS, SEE FINAL BOARD OF  
SUPERVISORS' ACTION SUMMARY  
MINUTES.

DATE: March 16, 2017

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12634 – INITIAL STUDY APPLICATION NO. 7206,  
CLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3546 AND  
VARIANCE APPLICATION NO. 4018

APPLICANT: Mark Myles

OWNER: Mark Myles

REQUEST: Allow a personal/recreational vehicle storage facility  
with office and a caretaker's residence on a 2.28-  
acre parcel in the RR (Rural Residential, two-acre  
minimum parcel size) Zone District. The request  
also includes a zero-foot rear-yard setback for a  
storage building.

LOCATION: The project site is located on the north side of State  
Route (SR) 168 (Auberry Road) approximately 470  
feet west of the intersection of SR 168/Lodge Road  
in the unincorporated community of Prather (SUP.  
DIST. 5) (APN 128-430-68).

### PLANNING COMMISSION ACTION:

At its hearing of March 16, 2017, the Commission considered the Staff Report and testimony (summarized in Exhibit "A").

A motion was made by Commissioner Woolf and seconded by Commissioner Borba to deny Classified Conditional Use Permit No. 3546 and Variance Application No. 4018 on the basis that Finding 3 could not be made due to concerns raised by the opposition, including, but not limited to, General Plan policy restrictions on new commercial developments within two miles of existing commercial uses; use of the subject residentially-zoned property for commercial uses, additional storm water runoff generated by the proposal, and potential impacts on scenic viewsheds.



EXHIBIT "A"

Initial Study Application No. 7206  
Classified Conditional Use Permit Application No. 3546  
Variance Application No. 4018

- Staff: The Fresno County Planning Commission considered the Staff Report dated March 16, 2017 and heard a summary presentation by staff.
- Applicant: The Applicant's representative concurred with the Staff Report and the recommended Conditions. He described the project and offered the following information to clarify the intended use:
- The project is an allowed use in the Rural Residential (RR) Zone District; the project site has been zoned Rural Residential (RR) for the past 40 years.
  - The project will consume less water, produce low volumes of sewage and generate less noise than prior approvals; additionally, the proposed on-site landscaping will improve the view of the site from State Route 168 (Auberry Road).
  - A 30-foot-wide recorded access easement exists between the subject property and the adjacent nursery site and extends to the north to serve two residences.
  - The project site has been used by the nursery for overflow parking, which is no longer allowed.
  - The proposed 10,000-gallon on-site water storage tank will be used for fire suppression.
  - Per the Institute of Transportation (ITE) Trip Generation Manual, the project will generate approximately three peak-hour PM trips versus the plant nursery use, which generates 15.2 peak-hour PM trips.
  - The project will generate traffic five times less than a 2009-approved (but not constructed) 12,000 square-foot professional office/retail use proposed for the property; more recently, a 8,000 square-foot Dollar General building was also considered.
  - The site distance and traffic speed analysis by the California Department of Transportation (Caltrans) indicates no adverse traffic impacts to State Route 168 (Auberry Road).
  - Per Caltrans, reported accidents in the vicinity of the proposal are unrelated to the site distance or traffic speed.

RESOLUTION NO. 12634

- We have dedicated the southerly eight (8) feet of the property to Caltrans for the future widening of SR 168.
- We are unable to maintain a 20-foot rear yard setback for the project.
- The wall for the proposed eight-foot, four inch-tall storage building along the north property line will be one-hour fire rated; the wall footing will set back six inches from the property line to avoid encroachment into 30-foot-wide access easement.

Others:

No other individuals presented information in support of the application. However, a staff member from the California Department of Transportation presented information in regard to traffic, indicating that based on the latest traffic counts for State Route 168 (Auberry Road), no acceleration or deceleration lane is warranted for the project.

Six individuals presented information in opposition to the application, indicating:

- The project will compromise the integrity of the area watersheds, increase traffic flow and accidents on State Route 168 (Auberry Road), promote leap-frog development, and change the rural residential character of the area.
- The County has previously determined that no new commercial development should be allowed within two miles of Prather, Auberry and Tollhouse.
- Increase in groundwater runoff due to site improvements will impact the neighborhood.
- The project will add additional storage facilities to the area that are unnecessary.
- The proposed zero-foot setback will create a fire hazard and reduce mobility of vehicles delivering products to neighboring businesses.
- The project will increase traffic hazards due to relatively large-sized vehicles visiting the site.
- A solid wall around the property will impact the scenic nature of the Wildflower Trail.

RESOLUTION NO. 12634

Correspondence: Four letters were presented to the Planning Commission in support of the application, indicating that the project site is ideal for the use, the proposed facility is needed in the area, and will benefit the community and businesses.

Eight letters were presented to the Planning Commission in opposition to the application, indicating that the project will increase traffic hazards on State Route (SR) 168, does not meet the 50-foot setback from SR 168, will contribute towards additional accidents in the vicinity of the proposal, and that there are existing, similar facilities in the area. Furthermore, the project site should be investigated for archeological resources, the proposed zero-foot setback will impact neighboring properties, and will set a precedent for future developments along SR 168.



## EXHIBIT B

### Mitigation Monitoring and Reporting Program Initial Study Application No. 7206/Conditional Use Permit Application No. 3546/Variance Application No. 4018 (Including Conditions of Approval and Project Notes)

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Aesthetics	All outdoor lighting shall be hooded and directed downward so as not to shine toward adjacent properties and public streets or roadways.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	As long as the project lasts
*2.	Cultural Resources	In the event that cultural resources are unearthed during grading or construction activity, all work shall be halted in the area of the find, and an archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are Native American, the Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	As noted
Conditions of Approval					
1.	Development of the property shall be in accordance with the Site Plan, Floor Plans, Elevations and Operational Statement approved by the Commission.				
2.	Prior to the issuance of building permits, the Applicant shall irrevocably offer dedication of eight (8) feet of right-of-way to the California Department of Transportation to accommodate 55 feet from the centerline of State Route 168 (Auberry Road).				
3.	Drought-tolerant landscaping shall be planted and maintained within the 50-foot setback area along the southern property line of the subject parcel parallel to the proposed parking lot, caretaker's residence and office in order to enhance the appearance of the property. A landscaping and irrigation plan, designed by a Landscape Architect, licensed landscaping contractor, or other licensed/certified professional, shall be submitted to the Department of Public Works and Planning, Development Services Division for review and approval at the time the mandatory Site Plan Review is submitted. Said landscaping shall be no less than ten feet in width, shall be maintained in a healthy condition and shall consist of evergreen trees and shrubs of adequate size and density to provide reasonable visual screening and buffer of the commercial facility from State Route 168 (Auberry Road). If the amount of landscaping provided to satisfy this requirement is equal to or greater than 500 square feet, the developer shall comply with California Code of Regulations Title 23, Division 2, Chapter 2.7 Model Water Efficient Landscape Ordinance (MWELO). The balance of the 50-foot setback area between the roadway and the landscaped area shall be maintained as an area of natural open space to provide for transition between the development and the roadway.				

4.	Prior to the issuance of building permits, the Applicant/owners shall submit an updated engineered sewage disposal system design to this Department for review and approval. The report shall take into account the location of existing water wells on the parcel and adjacent parcels, and proposed septic system to serve the proposed project. All structures on the parcel shall be considered in the analysis. Primary and reserve sewage disposal areas shall be included in the analysis and on the site plan.
5.	Prior to the issuance of building permits, the Applicant shall complete a well yield test for review and approval by the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning.
6.	All structures on the property shall be painted in a neutral and/or earth-tone color; a color palette and building elevations shall be submitted at the time of Site Plan Review.
7.	All on-site parking and circulation area shall be concrete or asphalt concrete paved in order to meet handicap accessibility requirements.

\*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference recommended Conditions for the project.

<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	This Use Permit will become void unless there has been substantial development within two years of the effective date of approval.
2.	Plans, permits and inspections are required for all proposed structures, including, but not limited to, accessible elements and site development based upon the codes in effect at the time of plan check submittal. Contact the Building and Safety Section of the Fresno County Department of Public Works and Planning at (559) 600-4540 for permits and inspections.
3.	A Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, right-of-way, landscaping, signage and lighting.
4.	Prior to occupancy, a solid masonry wall 5 to 6 feet in height shall be constructed along the north property line excepting a 30-foot-wide access easement and the storage building (Unit F) approved by VA No. 4018.
5.	Per Site Plan Review Section of the Fresno County Department of Public Works and Planning: <ul style="list-style-type: none"> <li>• An asphalt concrete driveway approach 24 to 35 feet in width shall be provided where the access road ties into the public road serving the project site.</li> <li>• The gate(s) that provide(s) initial access to the site shall be set back a minimum of 20 feet (or the length of the longest vehicle to initially enter the site, whichever is greater) from the edge of the ultimate right-of-way.</li> <li>• Should landscape area(s) total 500 square feet or more, Landscaping plans shall be designed by a Landscape Architect, or licensed landscaping contractor. Irrigation systems shall be designed by a certified irrigation designer, or other licensed or certified professional in a related field in accordance with Fresno County Standards.</li> <li>• All proposed signs on the property shall be submitted to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance.</li> </ul>

Notes	
6.	<p>Per the Development Engineering Section of the Fresno County Department of Public Works and Planning:</p> <ul style="list-style-type: none"> <li>• An Engineered Grading and Drainage Plan shall be required to show how additional storm water runoff generated by the proposal will be handled without adversely impacting adjacent properties.</li> <li>• A Grading Permit or Voucher shall be required for the proposed development.</li> <li>• Any additional runoff generated by the proposed development shall be retained on site per County Standards.</li> <li>• The subject parcel is located within the SRA (State Responsibility Area) boundary. Any future development shall be in accordance with the applicable SRA Fire Safe regulations as they apply to driveway construction and access.</li> </ul>
7.	<p>Per the California Department of Transportation (Caltrans), an encroachment permit shall be required for all proposed activities for placement of encroachments within, under, or over the State highway right-of-way.</p>
8.	<p>The proposal shall comply with California Code of Regulations Title 24 - Fire Code after County approval of the project and prior to issuance of any Building Permits. The Applicant shall submit three Site Plans stamped "reviewed" or "approved" from the Fresno County Department of Public Works and Planning to the Fresno County Fire Protection District for review and approval. The Applicant shall submit evidence that their Plans were approved by the Fresno County Fire Protection District, and all fire protection improvements shall be installed prior to occupancy being granted for the use. The project may also be subject to joining the Community Facilities District (CFD).</p>



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 2 March 16, 2017

**SUBJECT:** Initial Study Application No. 7206, Classified Conditional Use Permit Application No. 3546, Variance Application No. 4018

Allow a personal/recreational vehicle storage facility with office and a caretaker's residence on a 2.28-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District. The request also includes a zero-foot rear-yard setback for a storage building.

**LOCATION:** The project site is located on the north side of State Route (SR) 168 (Auberry Road) approximately 470 feet west of the intersection of SR 168/Lodge Road in the unincorporated community of Prather (SUP. DIST. 5) (APN 128-430-68).

**OWNER/  
APPLICANT:** Mark Myles

**STAFF CONTACT:** Ejaz Ahmad, Planner  
(559) 600-4204

Chris Motta, Principal Planner  
(559) 600-4227

**RECOMMENDATION:**

- Recommend that the Board of Supervisors adopt the Mitigated Negative Declaration prepared for Initial Study (IS) Application No. 7206; and
- Recommend that the Board of Supervisors approve Conditional Use Permit (CUP) No. 3546 with recommended Findings and Conditions to permit a personal/recreational vehicle storage facility with office and a caretaker's residence; and
- Recommend that the Board of Supervisors approve Variance (VA) No. 4018 to permit a zero-foot rear-yard setback for a storage building; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action and forwarding the recommendation for approval to the Board of Supervisors.

**EXHIBITS:**

1. Mitigation Measures, Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plans
6. Floor Plans/Elevations
7. Applicant's Operational Statement
8. Applicant's Statement of Variance Findings
9. Summary of Initial Study (IS) Application No. 7206
10. Draft Mitigated Negative Declaration

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Foothill Rural Residential in the Sierra-North Regional Plan	No change
Zoning	RR (Rural Residential; two-acre minimum parcel size)	No change
Parcel Size	2.28 acres	No change
Project Site	Vacant	Allow a personal/recreational vehicle storage facility with an office and a caretaker residence on a 2.28-acre parcel in the RR Zone District.
Structural Improvements	None	Phase I: <ul style="list-style-type: none"> <li>• 1,500 square-foot caretaker's residence with 500 square-foot office, individual septic system, parking</li> <li>• 4,950 square-foot storage building (Unit-A)</li> <li>• 4,650 square-foot storage building (Unit-F) with a zero-foot rear-yard setback</li> </ul>

Criteria	Existing	Proposed
		Phase 2: <ul style="list-style-type: none"> <li>• 4,950 square-foot storage building (Unit-B)</li> </ul> Phase 3: <ul style="list-style-type: none"> <li>• 4,950 square-foot storage building (Unit-C)</li> </ul> Phase 4: <ul style="list-style-type: none"> <li>• 1,600 square-foot storage building (Unit-D)</li> <li>• 2,000 square-foot storage building (Unit-E)</li> </ul>
Nearest Residence	28 feet from the east property line	No change
Surrounding Development	Mobile home park, plant nursery, single-family residences	No change
Operational Features	N/A	<ul style="list-style-type: none"> <li>• Four-phase project</li> <li>• Storage units rented on month-to-month basis</li> <li>• Caretaker's residence and office used for business operation</li> </ul>
Employees	N/A	One on-site caretaker
Customers/Visitors	N/A	10 to 15 visitors per day
Traffic Trips	N/A	Up to 30 one-way vehicle trips (15 round trips) per day
Lighting	N/A	Outdoor lighting on building exteriors and parking lot
Hours of Operation	N/A	Customers: 6:00 a.m. to sunset  Office: 9 am to 5 pm Monday - Saturday

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N**

**ENVIRONMENTAL ANALYSIS:**

An Initial Study (IS) was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the IS, staff has

determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study is included as Exhibit 9.

Notice of Intent to Adopt a Mitigated Negative Declaration publication date: February 10, 2017.

**PUBLIC NOTICE:**

Notices were sent to 58 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

Per Section 820.3.K of the Zoning Ordinance, a Classified Conditional Use Permit is required to allow a personal/recreational vehicle storage facility in the RR (Rural Residential, two-acre minimum parcel size) District subject to the provisions of Section 867 (Rural Commercial Center Development). The Zoning Ordinance was modified in 2016 to permit this use as a Rural Commercial Center.

A Conditional Use Permit for Rural Commercial Centers may be approved only if four Findings specified in Zoning Ordinance Section 873-F are made by the Board of Supervisors. Per Section 873.E.2 of the Fresno County Zoning Ordinance, the Planning Commission's action on Rural Commercial Centers is advisory to the Board. If recommended for approval, the land use item will be forwarded to the Board of Supervisors for final action. A Planning Commission decision to deny a Rural Commercial Center is final unless appealed to the Board.

A Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

Both Applications (CUP and VA) are being brought before the Commission for consideration, as they represent an interrelated request for a single project. However, the subject CUP Application and the concurrent VA Application shall be considered separately. Denial of the CUP will also deny the VA; the denial of the VA will not automatically deny the CUP but would require modifications to the project's Site Plan. The CUP may still be approved subject to meeting four Findings.

**BACKGROUND INFORMATION:**

The subject is a two-part proposal. First is to allow a personal/recreational vehicle storage facility with office and a caretaker residence; second is to allow a zero-foot rear-yard setback to accommodate the proposed storage building (Unit F, Exhibit 5). The proposal is subject to the approval of two discretionary land use applications.

The project site is designated Foothill Rural Residential in the Sierra-North Regional Plan. An Amendment to Text (AT) No. 372 was approved on July 12, 2016 which amended Section 867 of the Fresno County Zoning Ordinance (Rural Commercial Centers) to permit personal/recreational vehicle (RV) storage facilities for those properties located within the Sierra-North Regional Plan and located proximate to two major roadways as so classified in the Circulation Element of the Fresno County General Plan. The subject property meets the location requirements of AT No. 372.

The following analysis addresses each of the required Findings for Conditional Use Permit (CUP) No. 3546 and for Variance Application (VA) No. 4018:

**CONDITIONAL USE PERMIT APPLICATION NO. 3546**

**ANALYSIS/DISCUSSION:**

*Finding 1: That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (Y/N)</b>
Setbacks	Per the Ordinance Section 840.5-E (Rural Commercial Center District)  Front: 35 feet Side: 20 feet Rear: 20 feet	Front (south): 50 feet Side (east): 47 feet Side (west): 24 feet Rear (north): Zero feet	Yes for the front- and side-yard setbacks; Approval of VA No. 4018 required to allow zero-foot rear-yard setback
Parking	Per the Ordinance Section 840.5 I.3 & 855-I.2.n, off-street parking requirements of RR Zone District shall apply: One parking space for every dwelling unit	<ul style="list-style-type: none"> <li>• Four parking spaces</li> <li>• Two parking spaces within garage for caretaker's residence</li> </ul>	Yes
Lot Coverage	Per the Ordinance Section 840.5-G, 30 percent of the total lot area	25.2 percent of the total lot area	Yes
Separation Between Buildings	No requirement	N/A	N/A
Wall Requirements	Per the Ordinance Section 840.5-H.2, a 5- to 6-foot-tall solid masonry wall shall be erected along the district boundary between a commercial and a residential district	A nine-foot-tall storage building (Unit F) along north property line to separate the proposed facility from the adjacent RR (Rural Residential)-zoned property	Yes, the storage building will be constructed in lieu of required solid masonry wall subject to approval of VA No. 4018 (See analysis under VA No. 4018)



	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (Y/N)</b>
Septic Replacement Area	100 percent for the existing system	Individual sewage disposal system	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	Building sewer/septic tank: 85 feet; disposal field: 103 feet	Yes

**Reviewing Agency/Department Comments Regarding Site Adequacy:**

Zoning Section of the Department of Public Works and Planning: The proposed improvements meet the setback requirements of the RCC (Rural Commercial Center) District. Completion of a Site Plan Review is required for the project.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

**Analysis:**

Staff review of the Site Plan demonstrates that the proposed improvements exceed the minimum building setback requirements of the RCC (Rural Commercial Center) District for the front- and side-yard setback. The improvements will be set back approximately 50 feet from the south property line (35 feet required), 47 feet from the east property line (20 feet required), 24 feet from the south property line (20 feet required), and zero feet from the north property line (20 feet required). The proposed zero-foot rear-yard setback (20 feet required) is subject to the approval of Variance No. 4018.

In regard to off-street parking for the proposed personal/recreational vehicle storage facility, the Zoning Ordinance requires parking standards of the RR Zone District which is one parking space for every dwelling unit. The project provides for four parking spaces on the property and two parking spaces in the garage for caretaker's residence, which meets the requirement.

Based on the above information, staff believes the project site is adequate in size and shape to accommodate the proposed use.

**Recommended Conditions of Approval:**

*None*

**Conclusion:**

Finding 1 can be made.

*Finding 2: That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*

		<b>Existing Conditions</b>	<b>Proposed Operation</b>
Private Road	No	N/A	N/A

		Existing Conditions	Proposed Operation
Public Road Frontage	Yes	State Route 168 (Auberry Road); good condition	No change
Direct Access to Public Road	Yes	State Route 168 (Auberry Road); good condition	No change
Road ADT		N/A	N/A
Road Classification		State Route 168	No change
Road Width		94 feet road right-of-way (Per Caltrans standard)	An additional eight (8) feet of right-of-way is required to accommodate 55 feet from centerline of State Route 168 (Auberry Road)
Road Surface		Paved	No change
Traffic Trips		N/A	20-30 daily one-way vehicle trips (10-15 round trips) by visitors
Traffic Impact Study (TIS) Prepared	No	N/A	No Traffic Impact Study required by the California Department of Transportation or Design Division of the Fresno County Department of Public Works and Planning
Road Improvements Required		State Route 168 (Auberry Road); good condition	No change

**Reviewing Agency/Department Comments:**

California Department of Transportation (Caltrans): The site is planned for an ultimate road right-of-way of 110 feet (the existing right-of-way is 94 feet). An additional eight (8) feet of right-of-way shall be required to accommodate 55 feet from the centerline of the road. This requirement has been included as a Condition of Approval. An encroachment permit shall be required for all proposed activities for placement of encroachments within, under, or over the State Highway right-of-way. This requirement has been included as a Project Note.

Development Services Division of the Department of Public Works and Planning: The subject parcel is located within the SRA (State Responsibility Area) boundary. Any future development shall be in accordance with the applicable SRA Fire Safe regulations as they apply to driveway construction and access. This requirement has been included as a Project Note.

Design Division of the Fresno County Department of Public Works and Planning: No concerns.

Road Maintenance and Operations (RMO) Division of the Fresno County Department of Public Works and Planning: No concerns.

**Analysis:**

The project site gains access from State Route 168 (Auberry Road). The California Department of Transportation reviewed the proposal and requires additional right-of-way to meet the ultimate right-of-way width for State Route 168. Included as a Condition of Approval, this requirement will be met at the time of Site Plan Review. Other requirements such as an encroachment permit for any work within the State right-of-way and access drive to the site meeting SRA standards have been included as Project Notes.

A 30-foot-wide private access easement starting at State Route 168 and running along the west and north property lines of the subject property provides access to the neighboring properties to the west and the north of the subject proposal. This easement carries limited traffic volume; dead ends at the fourth parcel to the north; and will not be obstructed by the improvements proposed by the subject proposal.

Based on the above information and adherence to the Conditions of Approval and Project Notes, staff believes that State Route 168 (Auberry Road) at the project site can accommodate the proposed use.

**Recommended Conditions of Approval:**

*See Recommended Conditions of Approval attached as Exhibit 1.*

**Conclusion:**

Finding 2 can be made.

*Finding 3: That the proposed use will not be detrimental to the character of the development in the immediate neighborhood or the public health, safety, and general welfare.*

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
East	20.36 acres	Mobile Home Park	RE	28 feet
West	11.12 acres	Plant nursery with field growing area, greenhouse, single-family residence, barn, parking	AE-40 (c)	78 feet
South	85.18 acres	Single-Family Residence	RR	133 feet
North	5 acres	Single-Family Residence, greenhouses, retail shop	RR	30 feet

**Reviewing Agency/Department Comments:**

Fresno County Department of Public Health, Environmental Health Division: Prior to the issuance of building permits, the Applicant/owners shall submit an updated engineered sewage disposal system design to this Department for review and approval. The report shall take into account the location of existing water wells on the parcel and adjacent parcels, and proposed septic system to serve the proposed project. All structures on the

parcel shall be considered in the analysis. Primary and reserve sewage disposal areas shall be included in the analysis and on the site plan.

Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning: A well yield test shall be required prior to issuance of building permits for the use.

Site Plan Review Section of the Fresno County Department of Public Works and Planning: All on-site parking and circulation areas shall be concrete or asphalt concrete paved in order to meet handicap accessibility requirements.

The aforementioned requirements have been included as Conditions of Approval.

Development Engineering Section of the Fresno County Department of Public Works and Planning: An Engineered Grading and Drainage Plan shall be required to show how additional storm water runoff generated by the proposal will be handled without adversely impacting adjacent properties. A Grading Permit or Voucher shall be required for the proposed development. Any additional runoff generated by the proposed development shall be retained on site per County Standards.

Building and Safety Section of the Fresno County Department of Public Works and Planning: Plans, permits and inspections shall be required for the proposed development.

Fresno County Fire Protection District: The project shall comply with California Code of Regulations Title 24 – Fire Code, County-approved site plans shall be approved by the Fire District prior to issuance of building permits by the County, and the project shall annex to Community Facilities District (CFD) No. 2010-01.

Site Plan Review Section of the Fresno County Department of Public Works and Planning: An asphalt concrete driveway approach 24 to 35 feet in width shall be provided where the access road ties into the public road serving the project site. The gate(s) that provide(s) initial access to the site shall be set back a minimum of 20 feet (or the length of the longest vehicle to initially enter the site, whichever is greater) from the edge of the ultimate right-of-way. Should landscape area(s) total 500 square feet or more, landscaping plans shall be designed by a Landscape Architect, or licensed landscaping contractor. Irrigation system shall be designed by a certified irrigation designer or other licensed or certified professional in a related field in accordance with Fresno County Standards. All proposed signs on the property shall be submitted to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance.

The aforementioned requirements have been included as Project Notes.

San Joaquin Valley Air Pollution Control District; California Regional Water Quality Control Board; State Water Resources Control Board, Office of Drinking Water; Table Mountain Rancheria; Fresno County Department of Agriculture; California Department of Fish or Wildlife; U.S. Fish and Wildlife Service: No concerns.

**Analysis:**

The project entails establishment of a personal/recreational vehicle storage facility with office and a caretaker residence on a 2.28-acre parcel. Related improvements include landscaping along property frontage, paved parking and circulation areas and paved access drive off of State Route 168 (Auberry Road).

The surrounding land uses include a single-family residence, greenhouses and a retail shop to the north; a plant nursery with field growing area, greenhouse, single-family residence, barn and parking to the west; a mobile home park to the east; and a single-family residence to the south across State Route 168 (Auberry Road). The proposed storage buildings and caretaker's residence will range from 9 feet to 20 feet in height so as not to exceed the 35-foot maximum building height allowed in the RCC District. The building height is compatible with other structures in the vicinity of the proposal. With low building height and new landscaping along the property frontage, the project will have less than significant visual impacts on the surrounding area.

An Initial Study prepared for the project identified potential impacts to aesthetics and cultural resources. Regarding aesthetic impacts, all outdoor lighting will be required to be hooded and directed downward to avoid glare on adjoining properties. In regard to cultural resources, any cultural resources or human remains discovered during ground-disturbance activities will require all work to be stopped and findings be evaluated by an archeologist.

Regarding potential impacts related to geology and soils, hazards and hazardous materials, hydrology and water quality, public services, and transportation/traffic, the project will: require a grading and drainage plan, grading permit/voucher and an engineered sewage disposal system; comply with applicable SRA Fire Safe Regulations as they apply to driveway construction and access; require a well yield test prior to issuance of building permits; obtain Fresno County Fire Protection District's approval prior to issuance of building permits and occupancy; and dedicate additional right-of-way for State Route 168 (Auberry Road). These requirements will be addressed through mandatory Site Plan Review prior to issuance of building permits.

Based on the above information, and with adherence to the Mitigation Measures, Conditions of Approval, and mandatory Project Notes, staff believes that the proposal will not have adverse effects upon surrounding properties.

**Recommended Conditions of Approval:**

*See Mitigation Measures, recommended Conditions of Approval, and Project Notes attached as Exhibit 1.*

**Conclusion:**

Finding 3 can be made.

*Finding 4: That the proposed development be consistent with the General Plan.*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>General Plan Policy LU-E.1 (Agriculture and Land Use): allows rural commercial centers by discretionary permit provided that they meet criteria a-h of the said Policy.</p>	<p>This Policy is met in that Amendment to Text (AT) No. 372 was approved on July 12, 2016 which amended Section 867 of the Fresno County Zoning Ordinance (Rural Commercial Centers) to permit a personal/recreational vehicle (RV) storage facility for properties meeting certain criteria such as the subject property. The project is consistent with this policy.</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
General Plan Policy OS-L.3.d (Open Space and Conservation): requires maintenance of a natural open space 200 feet in depth parallel to the right-of-way with the exception as identified in item 1-4 of the said Policy.	The irregular shape and configuration of the property precludes easily meeting a 200-foot setback to accommodate the proposed development without encroaching into the required setback. The setback is also impacted by additional right-of-way required for State Route 168 (Auberry Road). As such, the proposed 50-foot setback is consistent with the flexibility identified in General Plan Policy OS-L.3 and required by the Sierra-North Regional Plan. The project is consistent with this policy.
General Plan Policy PF-C.17: County shall undertake a water supply evaluation, including determinations of water supply adequacy, impact on other water users in the County, and water sustainability.	The project will utilize an on-site water well. Per the Water/Geology/Natural Resources Section of Fresno County Department of Public Works and Planning, a well yield test is required prior to issuance of building permits for the use. The project is consistent with this policy.

**Reviewing Agency/Department Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: Policy LU-E.1 allows rural commercial centers by discretionary permit provided that they meet criteria a-h of the said Policy. Policy OS-L.3.d requires maintenance of a natural open space 200 feet in depth parallel to the right-of-way. Policy PF-C.17 requires evaluation of adequacy and sustainability of the water supply for the project.

**Analysis:**

The project is consistent with all the applicable General Plan policies as discussed above. In regard to consistency with Policy LU-E.1, modifications to Section 867 of the Fresno County Zoning Ordinance (Rural Commercial Centers) allow the proposed personal/recreational vehicle (RV) storage facility on the property through a discretionary land use approval. In regard to consistency with Policy OS-L.3.d, the proposed 50-foot setback is consistent with the flexibility identified in General Plan Policy OS-L.3. Staff notes that a prior development proposal for this site that was not constructed proposed a similar setback in November 4, 2009. In regard to consistency with Policy PF-C.17, a well yield test will be required prior to issuance of building permits for the use.

Based on the above information, staff believes the proposal is consistent with the Fresno County General Plan.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval attached as Exhibit 1.*

**Conclusion:**

Finding 4 can be made.

**VARIANCE APPLICATION NO. 4018**

**ANALYSIS/DISCUSSION**

Staff research indicates that no other setback-related Variance Applications were filed within one mile of the subject property.

*Finding 1: There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and*

*Finding 2: Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.*

**Reviewing Agencies/Department Comments:**

Zoning Section of the Fresno County Department of Public Works and Planning: Per Ordinance Section 840.5-E (Rural Commercial Center District), a 20-foot rear-yard setback is required. A Variance is required to waive this requirement to allow a zero-foot rear-yard setback to accommodate the proposal.

**Analysis:**

In support of Finding 1, the Applicant states that the project site is a somewhat irregular trapezoid; construction of a storage building on the rear property line (cannot be seen by travelers on the public street) would essentially act identical in form and function as a wall that is allowed by the RR zoning; and the existing 30-foot-wide access easement along west and north property lines separates the project site from the adjacent land uses.

In support of Finding 2, the Applicant states that: 1) construction of a storage building on near (north) the property line will provide protection from potential annoyances to adjacent properties; 2) the height, location, and physical characteristics of the building are identical to a solid masonry wall; 3) total building height will be 2.5 feet more than the typical six-foot-high wall; and 4) granting of the Variance would not constitute a special privilege, as he has a right to build a wall on the property line.

The subject 2.28-acre parcel is located in a predominantly rural residential area (with some recreational, agricultural and commercial uses in proximity) and is surrounded by developed parcels in excess of five acres. Adjoining parcels to the north and west contain single-family residences with a plant nursery and related improvements, and the parcel to the east contains a mobile home park. The parcel to the south across State Route 168 contains a single-family residence.

Staff notes that the subject parcel is an irregular-shaped parcel different in size and shape from surrounding parcels. The parcel's east and west property lines are somewhat parallel to each other; however, the north and south property lines are not. The north property line runs at an

acute 60-degree angle. The shape of the parcel limits the optimum use of the land within the northerly most portion of the property. The Site Plan submitted by the Applicant (Exhibit 5), shows that perhaps the most logical use of the land is to arrange storage buildings (comprised of multiple individual units) along the rear (north) property line.

Staff notes that Section 840.5-H.2 of the RCC District requires a five- to six-foot-tall solid masonry wall on a zoning boundary between a commercial and a residential use. In this case, a masonry wall is required along the north property line to separate the proposed personal/recreational vehicle storage facility (commercial use) from the adjoining RR (Rural Residential)-Zoned property. The proposed storage building to be constructed along north property line within the rear-yard setback is approximately 4,650 square feet in size and approximately 8.5 feet in height. Staff concurs with the Applicant that although a wall could be built on the rear property line, construction of an 8.5-foot-tall, 15-foot-wide, and 310-foot-long storage building could also function much like a wall to protect and screen adjoining residential uses from on-site activities and vehicular light and glare.

Staff also notes that a 30-foot-wide private access easement that starts at State Route 168 and runs along the west and north property lines provides access to the neighboring properties. This easement acts as a buffer between the proposed storage building (Unit F, Exhibit 5) and adjoining properties and is required to remain unobstructed and unoccupied at all times.

A consideration in addressing Findings 1 and 2 is whether there are alternatives that would avoid the need for the Variance. In this case, an alternative would be to redesign the site for the proposed development so as not to have the storage building encroach into the rear-yard setback. It could be argued that redesign could eliminate the need for this Variance; however, this option would not be acceptable by the Applicant and has been the basis of filing this Variance Application based on the analysis provided above and in the Applicant's Findings (Exhibit 8).

Based on the above analysis, and considering the lack of alternatives available that would avoid the need for a Variance, staff believes Findings 1 and 2 can be made.

**Recommended Conditions of Approval:**

None

**Conclusion:**

Findings 1 and 2 can be made.

*Finding 3: The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.*

**Reviewing Agencies/Department Comments:**

Fresno County Department of Public Health, Environmental Health Division; Fresno County Fire Protection District: No comments.



**Analysis:**

In support of Finding 3, the Applicant states that the project will not be detrimental to surrounding properties in that construction of the proposed storage building on the rear (north) property line with a decorative exterior: is identical in nature to a block wall that would be allowed on the property line; will protect property from vandalism and burglary; will reduce noise levels to adjoining properties; and will be consistent with applicable fire and building codes.

The primary purpose of the setback standards is to protect the aesthetic character of the neighborhood by providing an offset of structures from the adjacent properties. Without these standards, extreme setback variations can occur between buildings on adjacent properties which can negatively affect the appearance along streets. Likewise, the primary purpose of wall is to protect and screen adjoining residential uses from various adverse effects commonly associated with commercial uses.

As previously discussed, the subject property is located in a predominantly rural residential area. Adjacent parcels are developed with a nursery, single-family residences and a mobile home park. Other parcels in the vicinity are developed with single-family residences. The area is surrounded by mostly flat terrain with scenic views of the Sierra Mountains to the east.

The proposed storage building is approximately 8.5 feet in height. The nine-foot-tall building compare to a six-foot-tall solid masonry wall required on the north property line would not present an imposing appearance to the surrounding properties. It is reasonably expected that the building will block vehicular headlights from shinning onto to adjacent properties and reduce noise level the same as a solid masonry wall would. The visual impact on the neighboring property would be reduced by the stucco building façade visible to the neighboring property with a decorative design and a 30-foot separation provided by the easement between the building and the neighboring property. This easement carries limited traffic volume, as it serves a limited number of parcels and dead ends to the north.

The Fresno County Fire Protection District reviewed the proposal and expressed no concerns in regard to allowing a zero-foot setback to the neighboring property. The District concurred with staff that the easement will provide essential separation between the properties needed for firefighting purposes.

Based on a lack of detrimental aesthetic impacts, limited building height and limited vehicular traffic on the dead end easement, and a lack of concerns expressed by the Fire Department, staff believes the proposed storage building with a zero-foot rear-yard setback will not create a negative impact on the neighborhood or be detrimental to the public safety. Finding 3 can be made.

**Recommended Conditions of Approval:**

See Conditions of Approval and Project Notes attached as Exhibit 1.

**Conclusion:**

Finding 3 can be made.

*Finding 4: The granting of such a Variance will not be contrary to the objectives of the General Plan.*

**Analysis:**

In support of Finding 4, the Applicant states that there are no General Plan policies that apply to the proposed Variance.

The subject property is designated Foot-Hill Rural Residential in the Sierra-North Regional Plan of Fresno County. The policies in the General Plan do not specifically address building setbacks. Therefore, approval of the Variance will not be in conflict with the Foothill Rural Residential Policies of the General Plan.

**Recommended Conditions of Approval:**

None

**Conclusion:**

Finding 4 can be made.

**CONCLUSION:**

Staff believes the required findings for granting the Conditional Use Permit can be made based on the factors cited in the analysis. Staff also believes the required findings for granting the Variance can be made based on the factors cited in the analysis. Therefore, staff recommends adoption of the Mitigated Negative Declaration prepared for this project, and approval of Conditional Use Permit No. 3546 and Variance No. 4018, subject to the recommended conditions.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Recommend that the Board of Supervisors adopt the Mitigated Negative declaration prepared for Initial Study (IS) Application No. 7206; and
- Recommend that the Board of Supervisors determine the required Findings can be made and move to approve Conditional Use Permit No. 3546 to permit a personal/recreational vehicle storage facility with office and a caretaker's residence subject to Conditions and Project Notes attached as Exhibit 1; and
- Recommend that the Board of Supervisors determine that the required Findings can be made and move to approve Variance No. 4018 to permit a zero-foot rear-yard setback for a storage building subject to Conditions and Project Notes attached as Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action and forward the above recommendation to the Board of Supervisors.

**Alternative Motion** (Denial Action)

- Move to determine the required Findings cannot be made (state basis for not making the Findings) and move to deny Conditional Use Permit No. 3546; and
- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Variance No. 4018; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Mitigation Measures, recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

EA  
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**Mitigation Monitoring and Reporting Program**  
**Initial Study Application No. 7206/Conditional Use Permit Application No. 3546/Variance Application No. 4018**  
**(Including Conditions of Approval and Project Notes)**

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
*1.	Aesthetics	All outdoor lighting shall be hooded and directed downward so as not to shine toward adjacent properties and public streets or roadways.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	As long as the project lasts
*2.	Cultural Resources	In the event that cultural resources are unearthed during grading or construction activity, all work shall be halted in the area of the find, and an archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are Native American, the Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	As noted
Conditions of Approval					
1.	Development of the property shall be in accordance with the Site Plan, Floor Plans, Elevations and Operational Statement approved by the Commission.				
2.	Prior to the issuance of building permits, the Applicant shall irrevocably offer dedication of eight (8) feet of right-of-way to the California Department of Transportation to accommodate 55 feet from the centerline of State Route 168 (Auberry Road).				
3.	Drought-tolerant landscaping shall be planted and maintained within the 50-foot setback area along the southern property line of the subject parcel parallel to the proposed parking lot, caretaker's residence and office in order to enhance the appearance of the property. A landscaping and irrigation plan, designed by a Landscape Architect, licensed landscaping contractor, or other licensed/certified professional, shall be submitted to the Department of Public Works and Planning, Development Services Division for review and approval at the time the mandatory Site Plan Review is submitted. Said landscaping shall be no less than ten feet in width, shall be maintained in a healthy condition and shall consist of evergreen trees and shrubs of adequate size and density to provide reasonable visual screening and buffer of the commercial facility from State Route 168 (Auberry Road). If the amount of landscaping provided to satisfy this requirement is equal to or greater than 500 square feet, the developer shall comply with California Code of Regulations Title 23, Division 2, Chapter 2.7 Model Water Efficient Landscape Ordinance (MWELO). The balance of the 50-foot setback area between the roadway and the landscaped area shall be maintained as an area of natural open space to provide for transition between the development and the roadway.				

4.	Prior to the issuance of building permits, the Applicant/owners shall submit an updated engineered sewage disposal system design to this Department for review and approval. The report shall take into account the location of existing water wells on the parcel and adjacent parcels, and proposed septic system to serve the proposed project. All structures on the parcel shall be considered in the analysis. Primary and reserve sewage disposal areas shall be included in the analysis and on the site plan.
5.	Prior to the issuance of building permits, the Applicant shall complete a well yield test for review and approval by the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning.
6.	All structures on the property shall be painted in a neutral and/or earth-tone color; a color palette and building elevations shall be submitted at the time of Site Plan Review.
7.	All on-site parking and circulation area shall be concrete or asphalt concrete paved in order to meet handicap accessibility requirements.

\*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference recommended Conditions for the project.

Notes	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	This Use Permit will become void unless there has been substantial development within two years of the effective date of approval.
2.	Plans, permits and inspections are required for all proposed structures, including, but not limited to, accessible elements and site development based upon the codes in effect at the time of plan check submittal. Contact the Building and Safety Section of the Fresno County Department of Public Works and Planning at (559) 600-4540 for permits and inspections.
3.	A Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, right-of-way, landscaping, signage and lighting.
4.	Prior to occupancy, a solid masonry wall 5 to 6 feet in height shall be constructed along the north property line excepting a 30-foot-wide access easement and the storage building (Unit F) approved by VA No. 4018.
5.	Per Site Plan Review Section of the Fresno County Department of Public Works and Planning: <ul style="list-style-type: none"> <li>• An asphalt concrete driveway approach 24 to 35 feet in width shall be provided where the access road ties into the public road serving the project site.</li> <li>• The gate(s) that provide(s) initial access to the site shall be set back a minimum of 20 feet (or the length of the longest vehicle to initially enter the site, whichever is greater) from the edge of the ultimate right-of-way.</li> <li>• Should landscape area(s) total 500 square feet or more, Landscaping plans shall be designed by a Landscape Architect, or licensed landscaping contractor. Irrigation systems shall be designed by a certified irrigation designer, or other licensed or certified professional in a related field in accordance with Fresno County Standards.</li> <li>• All proposed signs on the property shall be submitted to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance.</li> </ul>

Notes

6.	<p>Per the Development Engineering Section of the Fresno County Department of Public Works and Planning:</p> <ul style="list-style-type: none"><li>• An Engineered Grading and Drainage Plan shall be required to show how additional storm water runoff generated by the proposal will be handled without adversely impacting adjacent properties.</li><li>• A Grading Permit or Voucher shall be required for the proposed development.</li><li>• Any additional runoff generated by the proposed development shall be retained on site per County Standards.</li><li>• The subject parcel is located within the SRA (State Responsibility Area) boundary. Any future development shall be in accordance with the applicable SRA Fire Safe regulations as they apply to driveway construction and access.</li></ul>
7.	<p>Per the California Department of Transportation (Caltrans), an encroachment permit shall be required for all proposed activities for placement of encroachments within, under, or over the State highway right-of-way.</p>
8.	<p>The proposal shall comply with California Code of Regulations Title 24 - Fire Code after County approval of the project and prior to issuance of any Building Permits. The Applicant shall submit three Site Plans stamped "reviewed" or "approved" from the Fresno County Department of Public Works and Planning to the Fresno County Fire Protection District for review and approval. The Applicant shall submit evidence that their Plans were approved by the Fresno County Fire Protection District, and all fire protection improvements shall be installed prior to occupancy being granted for the use. The project may also be subject to joining the Community Facilities District (CFD).</p>

EA:  
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# LOCATION MAP

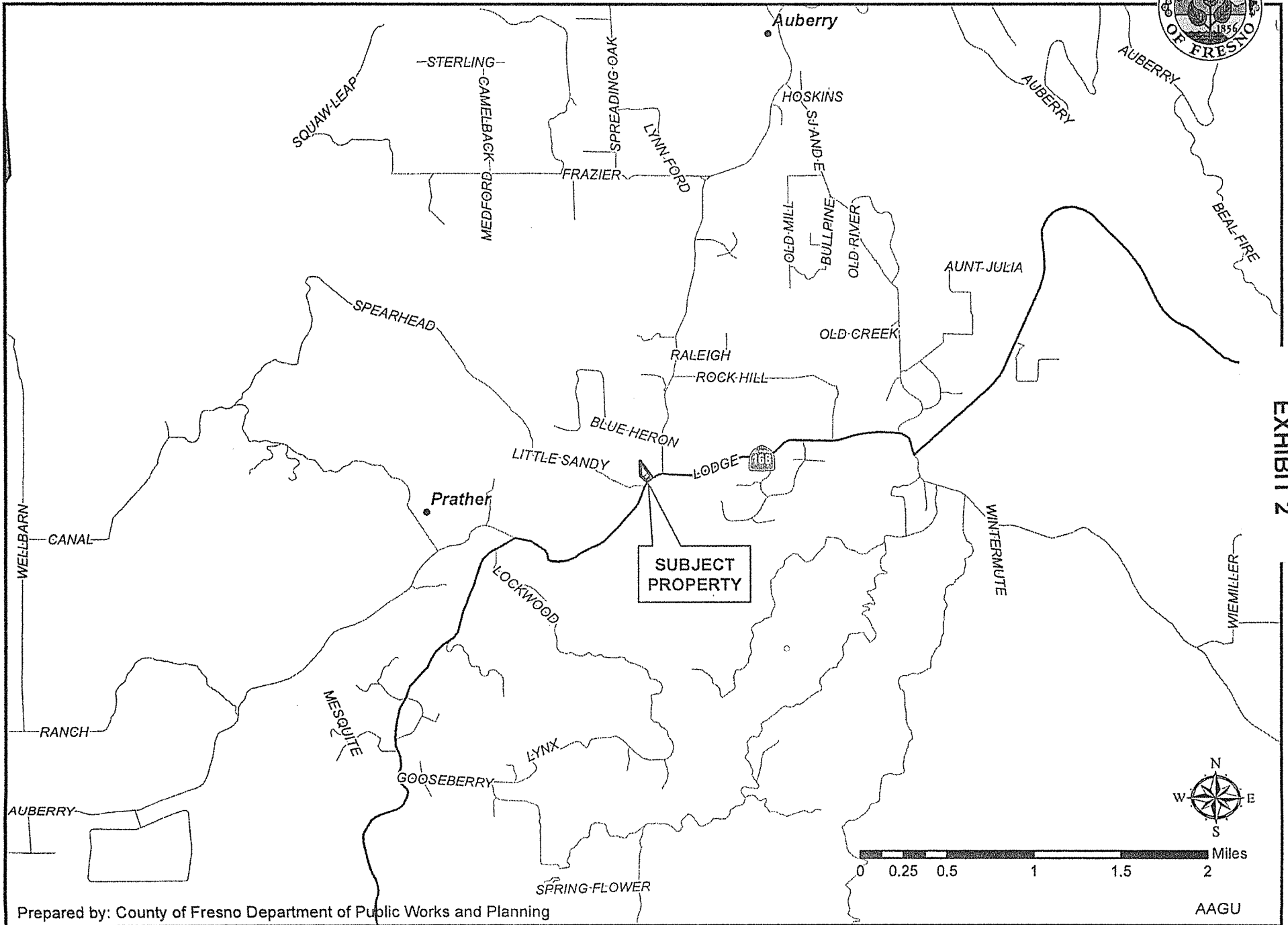
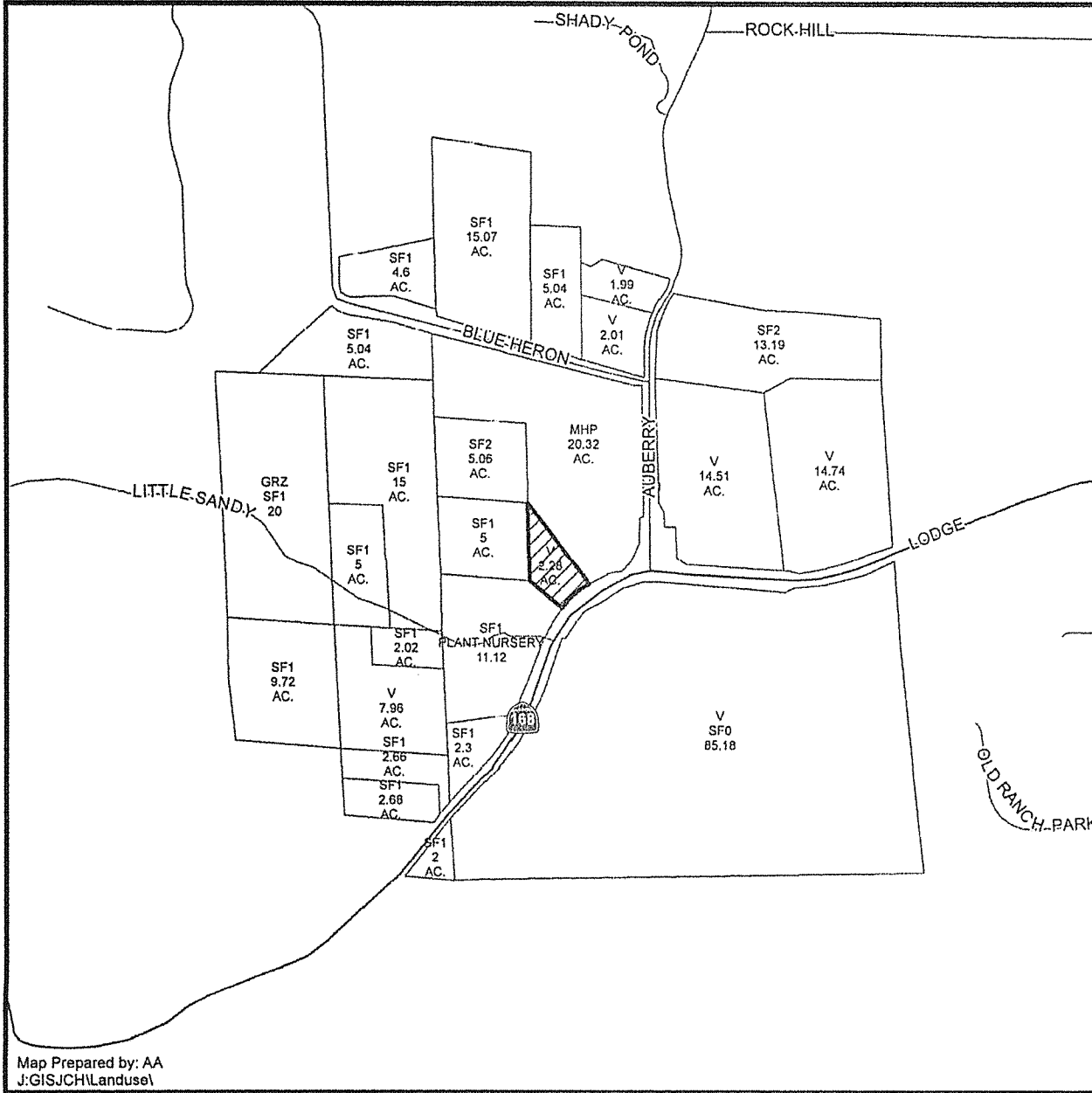


EXHIBIT 2





VA 4018

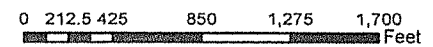
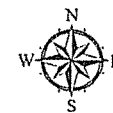
# EXISTING LAND USE MAP



LEGEND	
GRZ - GRAZING	
MHP - MOBILE HOME PARK	
SF#- SINGLE FAMILY RESIDENCE	
V - VACANT	

### LEGEND:

-  Subject Property
-  Ag Contract Land



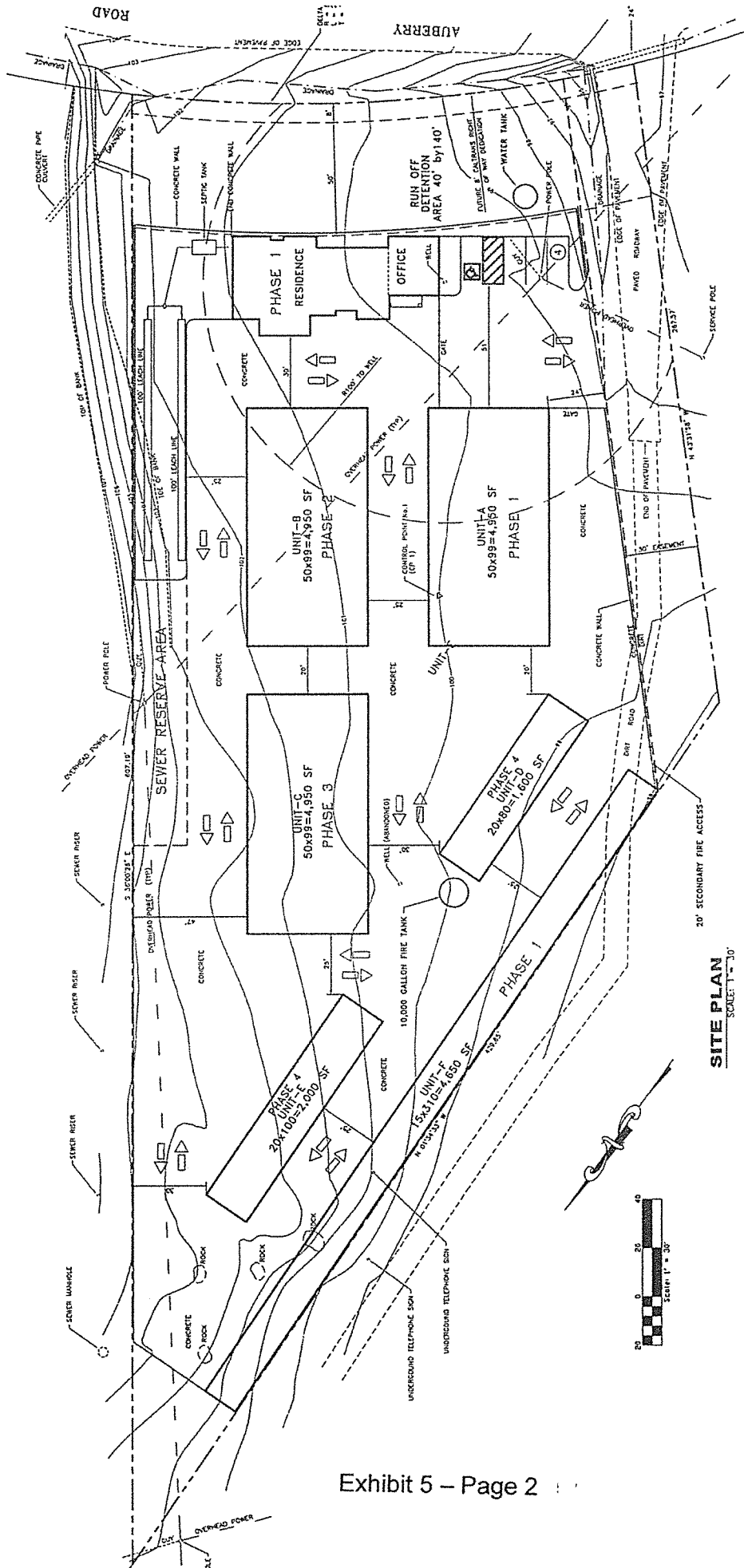
Department of Public Works and Planning  
Development Services Division

Map Prepared by: AA  
J.GISJCH\Landuse1

EXHIBIT 4

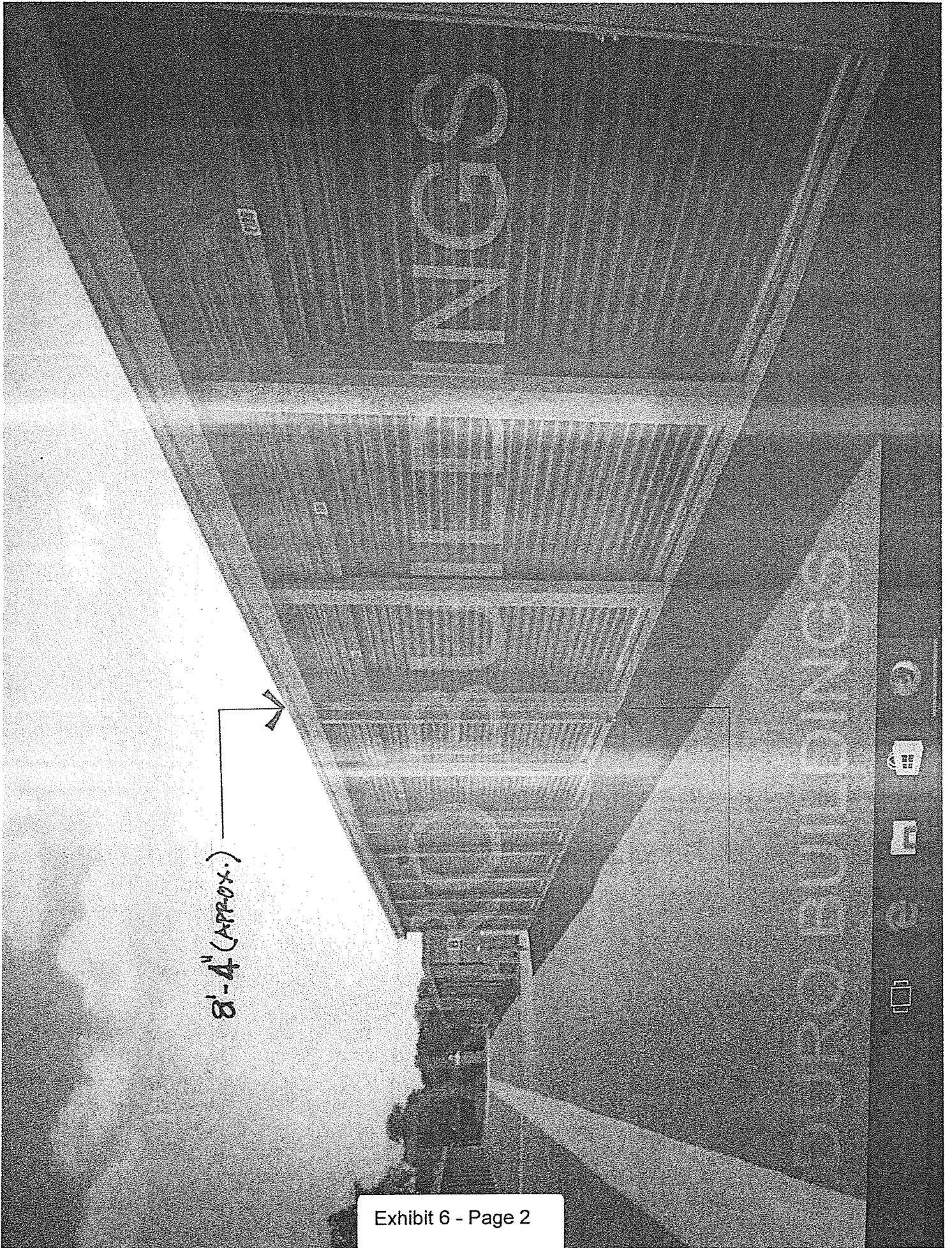






**SITE PLAN**  
SCALE: 1" = 30'









# EXHIBIT 7

Mark E. Myles  
P O Box 235, Prather, CA 93651  
(805) 526-2382

## Storage Facility CUP

September 5, 2016

### Operational Statement

CUP 3546

RECEIVED  
COUNTY OF FRESNO

SEP 12 2016

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

#### Site Data

APN 128-430-68

Size 2.28 acres

Location- North side of SR 168 (Auberry Rd) approximately 's 470 ft. west of thee intersection of SR168 and Lodge road

#### 1. Nature of Operation.

What we are proposing is a Personal/Recreational Vehicle (RV) Storage Facilities with an office and on-site caretaker's residence.

#### 2. Operational Time Limits

The nature of Recreational Vehicle (RV) Storage Facilities is typically the office is open from 9:00 am to 5:pm Monday - Saturday.

Existing customers typically have access to their belongings from sun up (6:00am) to sunset (Varies) via a gate code.

#### 3. Number of Customers or visitors

The number of visitors or trips per day would be 10 to 15 per day.

#### 4. Number of Employees

One on-site caretaker.

#### 5. Service and delivery vehicles

None

**6. Access to the site**

The access to the center will be along Auberry Road (State Hwy 168) with a standard 30' driveway. The driveway will be shared with a nursery to the left side of the center. The driveway and all the parking spaces will be an asphalt surface.

**7. Number of parking spaces for employees & customers**

There are 4 customer parking spaces proposed 3 regular and 1 handicap. Employee/caretaker to park personal vehicle in garage.

**8. Are any goods to be sold on-site**

Yes, typical packaging boxes and similar packaging supplies will be sold on-site.

**9. What equipment is used**

None

**10. What supplies or material are used and how are they stored**

None

**11. Does the use cause an unsightly appearance**

No. Please see the attached project site plan and elevations. The site will be nicely landscaped complementary to the project design.

**12. List any solid or liquid wastes to be produced**

None other than typical waste from the caretaker's residence. Cardboard paper and other packaging materials may also be generated by the proposed use

**13. Estimate volume of water to be used (gallons per day)**

This project has an approved onsite well. This type of use basically uses no water except for the on-site caretaker and occasional customer restroom. Water usage based on the county standard for the Mountain & Foothill Community is 100 gallons per day per person. Using an occupancy of 2.5 persons X 100 gal. per day would have consume 250 gallons of water per day.

Drought tolerant landscaping will be used at the facility. It is assumed total water consumption including landscape irrigation and domestic use is approximately 500 gallons per day.

**14. Describe any proposed advertising including size, appearance and placement**

There will be and sign place out front of the project with the name on it.



The size and location will be determined with the designed landscaping.

**15. Will existing buildings be used or will new buildings be constructed?**

A new office/caretaker's residence will consist of a single story 500 sf office with an attached 1500 sf caretaker's residence. The building is designed to look like a historic train depot. The construction will be slab on grade with wood framing.

The proposed personal storage units to be either metal buildings or wood framed with elevations to match the theme of the office/caretaker's residence. The units to be built in phases as unit are filled.

The boats and RV's to be stored on a minimum of 3" crushed rock or an all-weather asphalt or concrete surface.

**16. Explain which buildings or what portion of buildings will be used in the operation.**

All buildings except for the caretaker's residence will be used to store personal property rented on a month-to-month basis.

**17. Will any outdoor lighting or a sound amplification system be used?**

Outdoor lighting will be standard parking lot light's that are hooded with florescent bulbs. No sound amplification system will be used.

**18. Landscaping or fencing proposed?**

Landscaping will be limited to the 40 feet frontage and will designed with artificial turf, rocks, native trees, and other low maintenance landscaping features.

Fencing will be a combination of concrete and wrought iron to secure the self storage area.

**19. Any other information that will provide a clear understanding of the project?**

No

**20. Identify all owners, Officers or Board Members for each application submitted.**

Mr. Mark E. Myles  
PO Box 235  
Prather CA, 93651  
(805) 526-2382

## EXHIBIT 8

### VARIANCE APPLICATION FINDINGS

Mr. Mark Myles  
December 27, 2016  
Revised March 6, 2017

**Applicant/Owner:**

Mr. Mark Myles  
PO Box 235  
Prather, CA 93651

**Representative:**

Dirk Poeschel Land Development Services, Inc.  
923 Van Ness Ave., Suite 200  
Fresno, CA 93721  
559-445-0374

**Site Data**

APN            128-430-68

Size            2.28 acres

Location-      North side of SR 168 (Auberry Rd) approximately 's 470 ft. west of the  
intersection of SR168 and Lodge Road.

**Existing General Plan Land Use Designation:**

Rural Residential (R-R)

**Site Zoning**

Rural Residential (R-R)

**Request:**

Grant a Variance to allow a zero-foot rear yard setback where a 20-foot setback is required. The actual setback will be 6" to allow for footings to be built on the applicant's property without encroachment onto adjacent properties.

VA 4018

RECEIVED  
COUNTY OF FRESNO

MAR 06 2017

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

**Background:**

The applicant intends to construct a personal goods mini storage facility on the subject site. Please see the attached notated aerial. The Rural Residential zone in which the subject site is located requires a 20-foot rear yard setback.

A 30-ft. wide recorded permanent ingress/egress easement exists along the 267 ft. long south property line on the applicant's south property line. Said recorded easement then transitions at the same 30 ft. width onto the Intermountain Nursery property and provides a permanent physical separation from the subject site and the Intermountain Nursery property and uses immediately to the south and east *effectively* creating a 30 ft. setback.

The applicant proposes to construct the proposed storage facility with the exterior wall of the storage units of a decorative nature to provide substantial buffers from the activities that could occur with the proposed use and provide greater protection to the storage units. Please see the attached illustration. Said rear storage wall is estimated to be 8 1/2 ft. tall from the base to the top of the roof at the property line.

As proposed, construction of the proposed storage buildings would reduce potential noise and light impacts and provide an aesthetically pleasing wall treatment. It is noted that nothing in the zoning ordinance prohibits the project applicant from constructing a wall on the rear property line. It is also noted that the design and construction option proposed by the applicant is used in various localities due to its obvious advantages of protecting the storage use from impacts and reducing the potential for the storage use to impact adjacent properties.

The applicant has consulted with appropriate fire and building safety officials and will construct the exterior of the proposed storage units in accordance with all building and safety requirements.

Please see the attached aerial photograph of the proposed site and surrounding properties and the attached photograph of a storage unit placed on the property line and its estimated height. The wall of the proposed storage unit will be very similar in height and materials as depicted on the photograph.

The proposed wall would provide additional protection from adverse impacts to the storage facility such as vandalism and burglary as the site rear property line is not visible from the public street.

Adjacent structures on the parcel immediately to the south of the subject site appear to be located on or near the property line.

**Finding 1:**

*Does the strict application of the Zoning Ordinance deprive this property of privileges enjoyed by other properties in the vicinity and in an identical zoning district due to special*

***circumstances applicable to the property, including its size, shape, topography, location or surroundings?***

The subject site is a somewhat irregular trapezoid. Although it is zoned Rural Residential it is adjacent to a commercial nursery to the south and a mobile home park on the north. The rear property line where the Variance is proposed is over 300 ft. from the public street and cannot be seen from travelers on the public street nor seen from the mobile home residents.

The applicant desires to construct storage units back wall approximately 6 in. from the rear property line essentially performing as a wall in form and function.

The property's irregular shape and proximity to the commercial and residential use supports the applicant's intent to provide a supplemental protection to adjacent properties that is also aesthetically pleasing. The proposed wall would provide additional protection from adverse impacts to the storage facility such as vandalism and burglary as the site rear property line is not visible from the public street.

Adjacent structures on the commercial nursery parcel immediately to the south of the subject site appear to be located on or very near the shared property line between the nursery and the applicant's rear property line where the storage units would be located.

It should be noted a 30-ft. wide recorded ingress/egress easement exists that provides a permanent physical separation from the subject site and the commercial nursery property immediately to the south and provides ingress/egress rights to the public roadway. Therefore, an atypical setback of 30 ft. exists to provide visual, operational and fire protection/building code separation. The rear yard setback of the Rural Residential zone is 20 ft. therefore, *functionally* a 30 ft. setback remains.

Other opportunities exist for construction of a wall or other improvements on the subject rear property line. Per Section 820.5. E. 3. c. (3) *if* the storage unit building was considered an accessory building, it could be constructed on the property line if it was located a minimum of 100 ft. from the front property line. Also, per Section 820.5. H. 2. c. fences or walls over 6' in height may be allowed to enclose tennis courts or other game areas shall be permitted in the rear yard subject to a Directors Review & Approval.

**Finding 2:**

***Would this variance grant a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is located?***

The applicant desires to provide additional protection from potential annoyances to adjacent properties by constructing the proposed storage units on the north and property line. Granting of the proposed Variance would not constitute a special privilege in that the applicant has a right to construct a wall on the subject property line. Essentially, the proposed Variance would allow a wall of approximately 2 ½ ft. taller than a typical wall that could be built *by right*.

Variances granted for security purposes have allowed walls higher than 7 ft. Generally, site grading or topographic features could allow for a wall to be functionally of the height proposed.

The limited height, location, density and other physical characteristics are almost identical to a solid masonry wall that is commonly constructed on property lines. As proposed, the back side of the storage units will act as a wall but have a more attractive design than a wall. Further, the 30-ft. wide recorded ingress/egress easement exists that provides a permanent physical separation from the subject site and the site immediately to the south and allows access to and from the public roadway. Said atypical 30 ft. easement provides visual, operational and fire protection/building code separation unlike other properties where a wall or similar structure is built on a property line. As mentioned above, the rear yard setback of the Rural Residential zone is 20 ft. therefore, *functionally* a 30 ft. setback remains.

As mentioned above, various circumstances would allow a wall of the proposed height or greater. For these reasons, the proposed Variance does not constitute a special privilege inconsistent with the limitations of other properties.

**Finding 3:**

***If granted, would the requested variance be detrimental to the public welfare or injurious to property or improvements in the area to which the property is located?***

Granting the proposed Variance will not be detrimental to surrounding properties for various reasons. For the reasons stated previously, the proposed construction of storage units on the rear property line (6 in. off set) with a decorative exterior is identical in nature to a block wall that could be allowed *by right*. In addition, constructing the facility as proposed will substantially reduce noise levels as parking would not be allowed adjacent to the property line.

The location of the proposed facilities will not adversely affect circulation or site distance in or out of the proposed use. As noted above, a 30-ft. wide recorded ingress/egress easement exists that provides a permanent physical separation from the subject site and the site immediately to the south and provides access to the public roadway.

The proposed wall would provide additional protection from adverse impacts to the storage facility such as vandalism and burglary as the site rear property line is not visible from the public street. The proposed design will incorporate a *train depot* theme and will be tastefully landscaped. Note the attractive nature of the proposed use compared to other such facilities in the area.

Adjacent structures on the parcel immediately to the south of the subject site appear to be located on or near the property line.

The applicant has consulted with fire and building and safety officials and acknowledges the necessity to construct the units consistent with applicable fire and building and safety requirements.

The applicant has consulted with Caltrans and has made all necessary dedications of *right-of-way* for future roadway purposes. The proposed Variance will have no effect on sight distance on or out of the subject site. Project conditions will assure lighting, drainage and maintenance occur in an appropriate manner.

The applicant is aware of no information that would suggest that the proposed Variance would adversely affect adjacent properties. In fact, the proposed Variance should act as a very effective noise, light and dust buffer to activities that occur on the subject site.

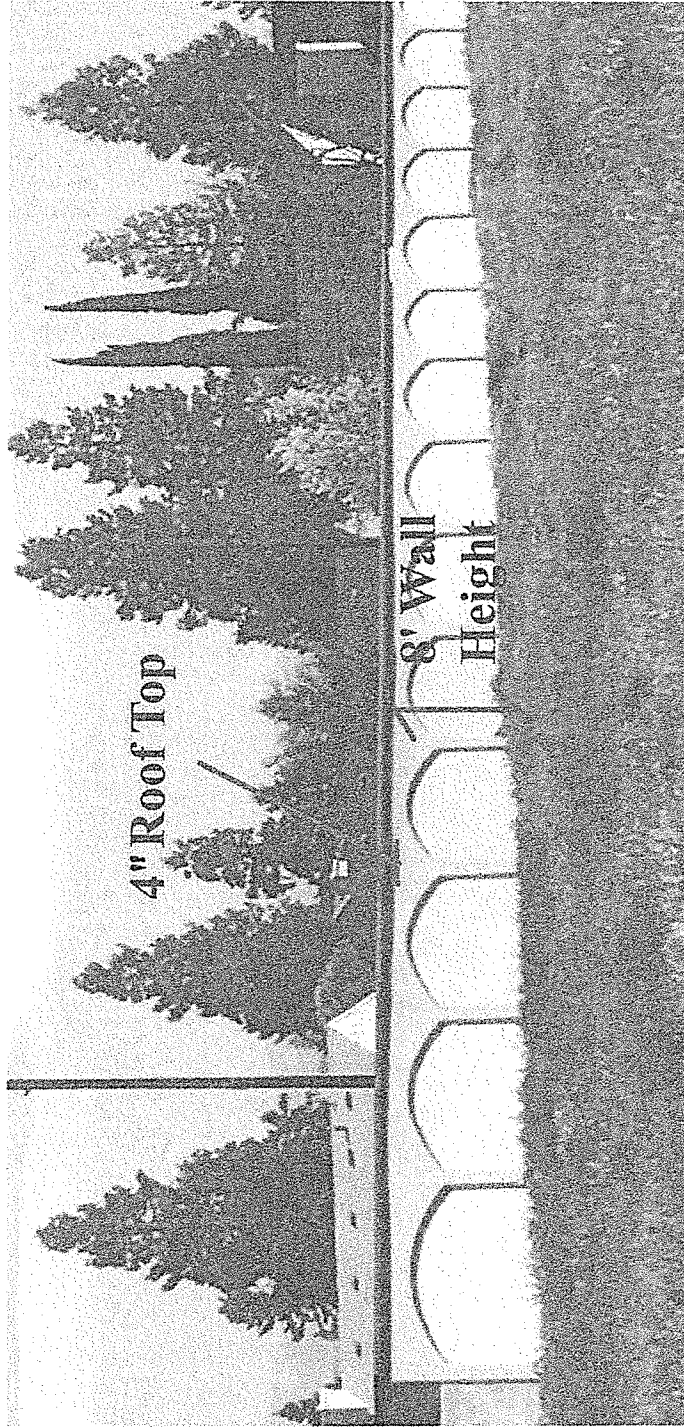
**Finding 4:**

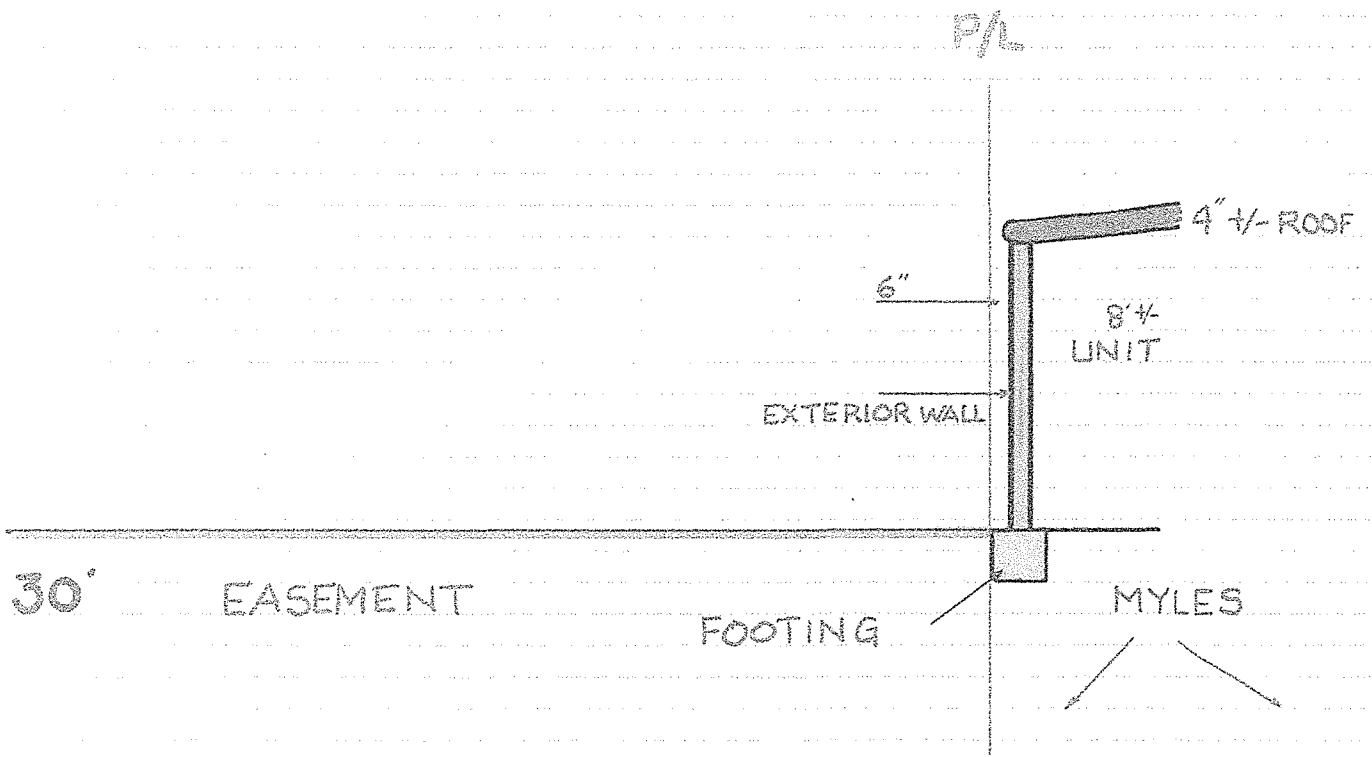
*If granted, would the requested variance conflict with established general and specific plans and policies of the county?*

No general plan policies apply to the proposed Variance. Approval of the proposed facility would assist in providing options for storage in the foothill area and indirectly reduce unsightly clutter often found on rural parcels in the area.

**Applicant Proposed Conditions**

- 1 All drainage shall be directed to and contained on the applicant's property.
- 2 All exterior lighting shall be attached to the buildings and shall be hooded and directed downward so to not annoy nearby property owners. No lighting fixtures shall be allowed on the rear or back side of any structure facing the project ingress/egress easement.
- 3 The exterior rear or back side of any structure shall be properly maintained free of graffiti. Any damage to said wall shall be repaired in a timely manner to assure it remains reasonably attractive and well maintained.





SECTION (WALL)



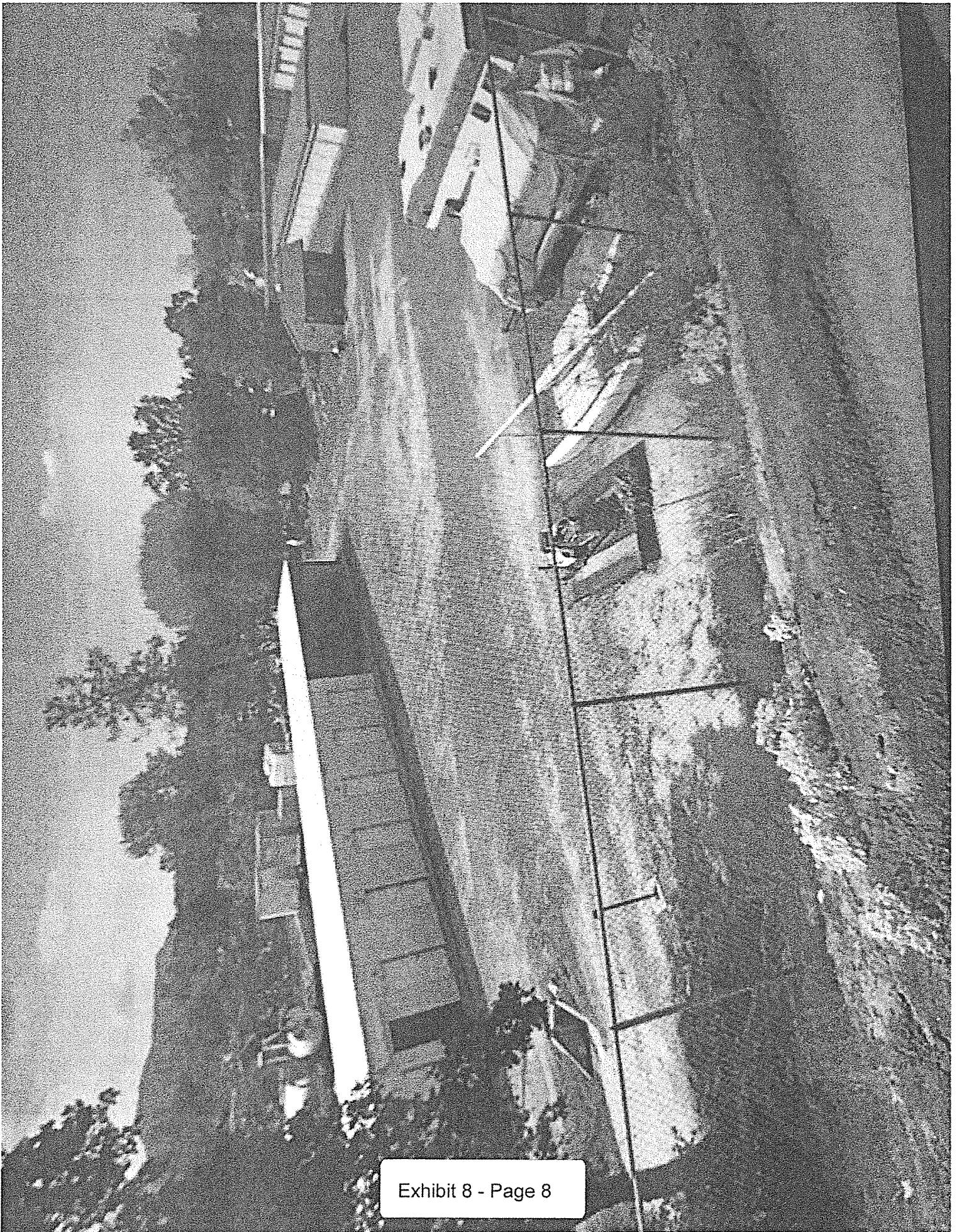


Exhibit 8 - Page 8

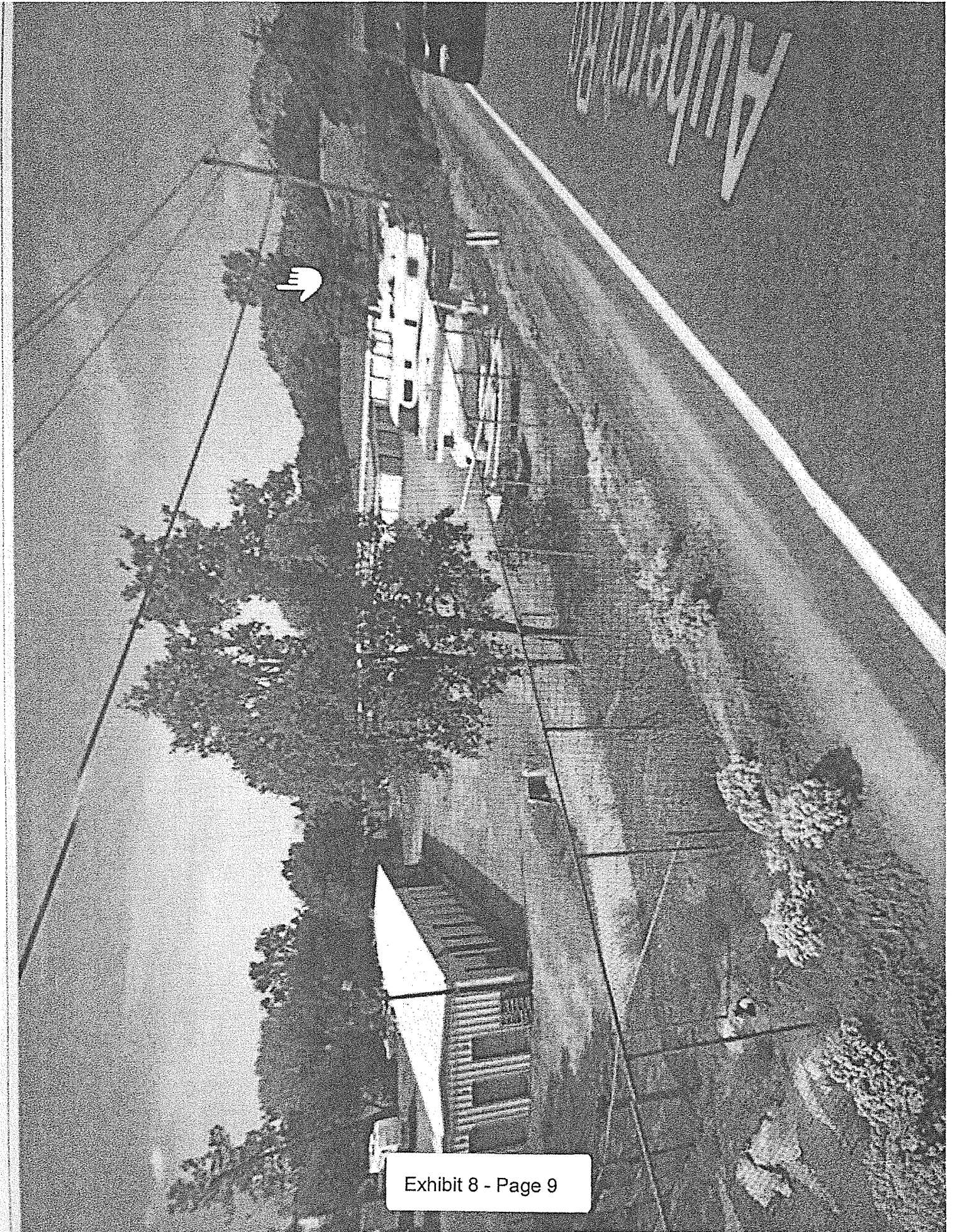
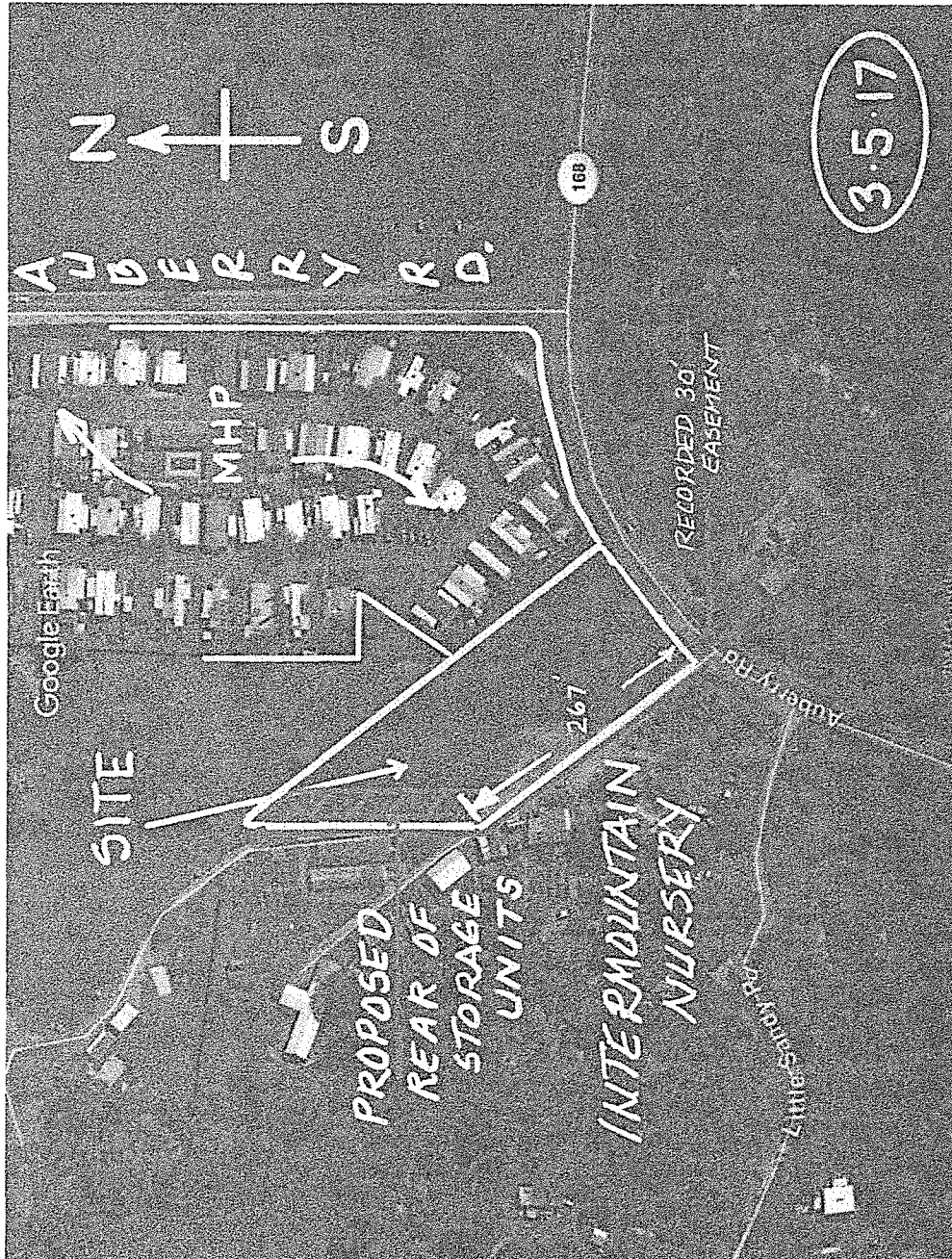


Exhibit 8 - Page 9





## EXHIBIT 9

# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

### EVALUATION OF ENVIRONMENTAL IMPACTS

- APPLICANT: Mark Myles
- APPLICATION NOS.: Initial Study Application No. 7206, Classified Conditional Use Permit Application No. 3546, Variance Application No. 4018
- DESCRIPTION: Allow a personal/recreational vehicle storage facility with an office and a caretaker residence on a 2.28-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District. The request also includes a zero-foot rear yard setback for a storage building.
- LOCATION: The project site is located on the north side of State Route (SR) 168 (Auberry Road) approximately 470 feet west of the intersection of SR 168/Lodge Road in the unincorporated community of Prather (SUP. DIST. 5) (APN 128-430-68).

#### I. AESTHETICS

- A. Would the project have a substantial adverse effect on a scenic vista?

FINDING: NO IMPACT:

Surrounding uses include a mobile home park, nursery, single-family residential units and vacant lands. The area is surrounded by mostly flat terrain with scenic views of the Sierra Mountains to the east. The proposed development is located on the north side of Auberry Road and will not interfere with the view of the mountains for travelers along Auberry Road.

- B. Would the project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Auberry Road (State Route 168) is identified as a Scenic Roadway in the Fresno County General Plan (Open Space Element). Aesthetic impacts could occur from the sight of the proposed buildings and parking area. Therefore, as a Condition of Approval, staff is requiring the Applicant provide native, drought-tolerant, low-water landscaping within the 50-foot setback from the roadway. This landscaping provision would include evergreen trees and shrubs for a depth of 10 feet provided and

maintained along the southern property line abutting State Route 168 (Auberry Road). Said landscaping will help reduce the project's visual impact on highway traffic.

Under General Plan Policy OS-L.3, development on a Scenic Roadway shall adhere to a 200-foot setback of natural open space. However, the policy provides for flexibility if the project dimensions preclude such setback. In this case, the parcel size and configuration prohibits reasonable application of the 200-foot setback. The subject property is limited in size (2.28 acres) and irregular in shape, and would be difficult to accommodate the proposed development without encroaching into the required 200-foot natural open space setback. The said setback will also be impacted by additional eight-foot right-of-way along State Route 168 (Auberry Road) as required by the California Department of Transportation. Therefore, the 50-foot setback being proposed not only meets Sierra-North Regional Plan policy but is also consistent with the flexibility identified in the General Plan Policy OS-L.3.

- C. Would the project substantially degrade the existing visual character or quality of the site and its surroundings?

FINDING: LESS THAN SIGNIFICANT IMPACT:

While the project area contains some scenic qualities, the project site does not contain any qualitative scenic resources. The site is unimproved, relatively flat in nature, and not located at a high point. Given the low building height (maximum 20 feet) for the proposed development and additional landscaping as identified in Section I.B, the project will have less than significant impact on the existing visual quality of its surroundings.

- D. Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project will include installation of outdoor lighting on the buildings and in the parking area. To minimize any light and glare impacts resulting from this proposal, a mitigation measure would require that all lighting shall be hooded and directed as to not shine toward adjacent property and public streets.

\* **Mitigation Measure**

1. *All outdoor lighting shall be hooded and directed downward so as not to shine toward adjacent properties and public streets or roadways.*

## II. AGRICULTURAL AND FORESTRY RESOURCES

- A. Would the project convert prime or unique farmlands or farmland of state-wide importance to non-agricultural use; or

- B. Would the project conflict with existing agricultural zoning or Williamson Act Contracts; or
- C. Would the project conflict with existing zoning for or cause rezoning of forest land, timberland, or timberland zoned Timberland Production; or
- D. Would the project result in the loss of forest land or conversion of forest land to non-forest use; or
- E. Would the project involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural uses or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

The project site is not located on prime farmland or forest land. The site is designated as Rural Residential Land on the 2014 Fresno County Important Farmland Map and is not subject to a Williamson Act Land Conservation Contract. Furthermore, the proposal does not conflict with the site's zoning designation of Rural Residential and General Plan designation of Foothill Rural Residential in the Sierra-North Regional Plan.

### III. AIR QUALITY

- A. Would the project conflict with or obstruct implementation of the applicable Air Quality Plan; or
- B. Would the project violate any air quality standard or contribute to an existing or projected air quality violation; or
- C. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a Federal or State ambient air quality standard; or
- D. Would the project expose sensitive receptors to substantial pollutant concentrations?

FINDING: NO IMPACT:

The San Joaquin Valley Air Pollution Control District reviewed the proposal and expressed no concerns with the project. The project will have no impact on air quality.

- E. Would the project create objectionable odors affecting a substantial number of people?

FINDING: NO IMPACT:

The project will not create objectionable odors to affect people on or around the proposed facility. As such, no impacts were identified by the San Joaquin Valley Air Pollution Control District.

#### IV. BIOLOGICAL RESOURCES

- A. Would the project have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special-status species; or
- B. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife (CDFW) or U.S. Fish and Wildlife Service (USFWS); or
- C. Would the project have a substantial adverse effect on federally-protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means; or
- D. Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

FINDING: NO IMPACT:

The subject property is currently vacant with no trees or vegetation. Also, it does not contain riparian features or wetlands or waters under the jurisdiction of United States.

The project was routed to the California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS) for review and comments. No concerns were expressed by either agency.

- E. Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Would the project Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local regional, or state habitat conservation plan?

FINDING: NO IMPACT:

The project will not conflict with any local policies or ordinances protecting biological resources or any provisions of an adopted habitat conservation plan. No comments were received from the California Department of Fish or Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS).

#### V. CULTURAL RESOURCES

- A. Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5; or
- B. Would the project cause of substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5; or

- C. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- D. Would the project disturb any human remains, including those interred outside of formal cemeteries?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project site is located in an area of high archeological sensitivity and was routed to the Southern San Joaquin Valley Information Center (SSJVIC) for review and comments. No concerns were expressed by SSJVIC. Given the archeological sensitivity of the area to cultural resources, a mitigation measure has been included in the project approval requiring that in case of an archeological find during ground disturbance, all work shall be halted until the proper authorities have been notified for further action.

\* **Mitigation Measure**

1. *In the event that cultural resources are unearthed during grading or construction activity, all work shall be halted in the area of the find, and an archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are Native American, the Coroner must notify the Native American Commission within 24 hours.*

- E. Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project was routed to the Table Mountain Rancheria (TMR), Tribal Government Office per AB (Assembly Bill) 52. No consultation was requested by the TMR. With the implementation of the aforementioned mitigation measure, the project will have a less than significant impact on tribal cultural resources as defined in Public Resources Code Section 21074.

## VI. GEOLOGY AND SOILS

- A. Would the project expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:
  1. Rupture of a known earthquake; or
  2. Strong seismic ground shaking; or
  3. Seismic-related ground failure, including liquefaction; or



4. Landslides?

FINDING: NO IMPACT:

The project site does not contain any active earthquake faults. The project area is designated as Seismic Design Category C in the California Geological Survey and the project construction will be subject to the Seismic Zone 3 Standards. The project will not expose people or structures to seismic or landslide hazards.

B. Would the project result in substantial erosion or loss of topsoil?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed development will result in compaction and over covering of soil due to the construction of buildings (storage building, caretaker residence/office) and parking and circulation areas. Changes in topography and erosion could also result from grading for the project.

According to the Development Engineering Section of the Fresno County Department of Public Works and Planning: 1) an Engineered Grading and Drainage Plan shall be required to show how additional storm water runoff generated by the proposal will be handled without adversely impacting adjacent properties; 2) a Grading Permit or Voucher shall be required for any grading proposed with this application; and 3) any additional runoff generated by the proposed development shall be retained on site per County Standards. Included as Project Notes, these requirements will be addressed through Site Plan Review recommended as a Condition of Approval.

C. Would the project result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse; or

D. Would the project be located on expansive soils, creating substantial risks to life or property?

FINDING: NO IMPACT:

The development of the project would implement all applicable requirements of the most recent California Building Standards Code and as such would not expose persons to hazards associated with seismic design of buildings and shrinking and swelling of expansive soils.

E. Would the project have soils incapable of adequately supporting the use of septic tanks or alternative disposal systems where sewers are not available for wastewater disposal?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project will require construction of an on-site sewage disposal system for the caretaker residence/office under permits and inspections from the Building and Safety Section of the Department of Public Works and Planning.

The Fresno County Department of Public Health, Environmental Health Division reviewed the proposal and stated that prior to the issuance of building permits, the Applicant/Owners shall submit an updated engineered sewage disposal system design to this Department for review and approval. The report shall take into account the location of existing water wells on the parcel and adjacent parcels, and proposed septic system to serve the proposed project. All structures on the parcel shall be considered in the analysis, and primary and reserve sewage disposal areas shall be included in the analysis and on the site plan. This requirement will be included as a Condition of Approval.

## VII. GREENHOUSE GAS EMISSIONS

- A. Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- B. Would the project conflict with any applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

FINDING: NO IMPACT:

The San Joaquin Valley Air Pollution Control District reviewed the project and expresses no concerns related to Greenhouse Gas Emissions.

## VIII. HAZARDS AND HAZARDOUS MATERIALS

- A. Would the project create a significant public hazard through routine transport, use or disposal of hazardous materials; or
- B. Would the project create a significant public hazard involving accidental release of hazardous materials into the environment; or
- C. Would the project create hazardous emissions or utilize hazardous materials, substances or waste within one quarter-mile of a school?

FINDING: NO IMPACT:

The project does not involve transport, use, or disposal of hazardous materials, and is not located within one quarter-mile of a school. The nearest school, Foothill Elementary School, is approximately 1.3 miles west of the subject proposal.

- D. Would the project be located on a hazardous materials site?

FINDING: NO IMPACT:

The project is not located on a hazardous materials site. No concerns were expressed by the Fresno County Department of Public Health, Environmental Health Division.

- E. Would a project located within an airport land use plan or, absent such a plan, within two miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area; or
- F. Would a project located within the vicinity of a private airstrip result in a safety hazard for people residing or working in the project area?

FINDING: NO IMPACT:

The project site is not located within an Airport Land Use Plan area, two miles of a public use airport, or in the vicinity of a private airstrip. The nearest airport, Tophan Ranch Auberry Airport, is approximately 3.5 miles north of the site.

- G. Would the project impair implementation of or physically interfere with an adopted Emergency Response Plan or Emergency Evacuation Plan?

FINDING: NO IMPACT:

The project does not include any characteristics (e.g., permanent road closures) that would physically impair or otherwise interfere with emergency response or evacuation in the project vicinity. The project will not conflict with an emergency response or evacuation plan.

- H. Would the project expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project is located within the SRA (State Responsibility Area) boundary. The proposed development will be subject to applicable SRA Fire Safe Regulations, as they apply to driveway construction and access.

The subject proposal also includes a zero-foot side yard setback for storage the proposed buildings.

The Fresno County Fire Protection District reviewed the proposal, and given a 30-foot wide access easement that runs along north and west property lines providing buffer between the buildings and the improvements on the adjacent property, expressed no concerns with the request for a zero-foot side yard setback.

## IX. HYDROLOGY AND WATER QUALITY

- A. Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion above in Section VI. E. Geology and Soils regarding waste discharge requirements for the project.

The project will utilize an on-site domestic water well and was routed to the State Water Resources Control Board (SWRCB) – Division of Drinking Water (DDW) for comments on water quality requirements for the proposal. According to SWRCB – DDW, the proposed facility will not meet the definition of a public water system, with only 2 EE and 10 to 15 daily visitors estimated and therefore, they expressed no concerns with the project.

The Regional Water Quality Control Board also reviewed the proposal and identified no impact on groundwater quality.

- B. Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge so that there would be a net deficit in aquifer volume or a lowering of the local groundwater table?

FINDING: LESS THAN SIGNIFICATION IMPACT:

According to the Applicant's Operational Statement, the proposed facility will use an estimated 250 gallons of water per day. Water will be provided from an existing on-site well.

The subject property is located in a water-short area within Fresno County. Per the comments provided by the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning, a well yield test shall be required prior to issuance of building permits for the use. Included as a Condition of Approval, this requirement will be addressed through subsequent mandatory Site Plan Review.

- C. Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site; or
- D. Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in flooding on or off site; or
- E. Would the project create or contribute run-off which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted run-off?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the U.S.G.S. Quad map, there are no existing natural drainage channels adjacent to or running through the subject property.

As noted above in Section VI. B. Geology and Soils, any additional runoff generated by the proposed development will be retained on site per County Standards. an

Engineered Grading and Drainage Plan will be required to show how additional storm water runoff generated by the proposal will be handled without adversely impacting adjacent properties, and a Grading Permit or Voucher may be required for any grading proposed with this application.

- F. Would the project otherwise substantially degrade water quality?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion in IX. A.

- G. Would the project place housing within a 100-year floodplain?

FINDING: NO IMPACT:

The proposed caretaker residence will not be located within a 100-year floodplain.

- H. Would the project place structures within a 100-year flood hazard area that would impede or redirect flood flows?

FINDING: NO IMPACT:

According to Federal Emergency Management Agency (FEMA) FIRM Panel 0675 H, the parcel is not subject to flooding from the one-percent-chance rain.

- I. Would the project expose persons or structures to levee or dam failure; or

- J. Would the project cause inundation by seiche, tsunami or mudflow?

FINDING: NO IMPACT:

The project is not prone to a seiche, tsunami or mudflow, nor is the project exposed to potential levee or dam failure. No such hazards are present in the vicinity of the project.

## X. LAND USE AND PLANNING

- A. Will the project physically divide an established community?

FINDING: NO IMPACT:

The project will not physically divide an established community. The nearest unincorporated community of Prather is approximately 3,838 feet west of the project site.

- B. Will the project conflict with any Land Use Plan, policy or regulation of an agency with jurisdiction over the project?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project will not conflict with any land use plan, policy, or regulation of an agency with jurisdiction over the project. The project site is designated for Foothill Rural Residential in the Sierra-North Regional Plan. An Amendment to Text (AT) No. 372 was approved on July 12, 2016 which amended Section 867 of the Fresno County Zoning Ordinance (Rural Commercial Centers) to permit personal/recreational vehicle (RV) storage facilities for those properties located within the Sierra-North Regional Plan located proximate to two major roadways as so classified in the Circulation Element of the Fresno County General Plan. The subject property is one of those properties authorized for a personal/recreational vehicle (RV) storage facility by AT 372.

Policy LU-E.1 of the General Plan allows rural commercial centers by discretionary approval provided that they meet certain criteria a – h of the said policy. This Policy is met based on the approval of AT 372 as described above. The project also meets General Plan Policy OS-L.3, which requires that development on scenic highways adhere to a 200-foot setback of natural open space. However, the policy provides for flexibility if the project dimensions preclude such setback. In this case, the parcel size and configuration prohibits a 200-foot setback to accommodate the proposed development without encroaching into the required setback. Therefore, the 50-foot setback being proposed is consistent with the flexibility identified in General Plan Policy OS-L.3 as well as required by the Sierra-North Regional Plan.

- C. Will the project conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?

FINDING: NO IMPACT:

The project will not conflict with any Habitat Conservation or Natural Community Conservation Plans.

## XI. MINERAL RESOURCES

- A. Would the project result in the loss of availability of a known mineral resource; or
- B. Would the project result in the loss of availability of a locally-important mineral resource recovery site designated on a General Plan?

FINDING: NO IMPACT:

The project site is not located in an identified mineral resource area as identified in Policy OS-C.2 of the General Plan.

## XII. NOISE

- A. Would the project result in exposure of people to severe noise levels; or

- B. Would the project result in exposure of people to or generate excessive ground-borne vibration or ground-borne noise levels; or
- C. Would the project cause a substantial permanent increase in ambient noise levels in the project vicinity; or
- D. Would the project result in a substantial temporary or periodic increase in ambient noise levels; or

FINDING: NO IMPACT:

The Fresno County Department of Public Health, Environmental Health Division reviewed the project and expressed no concerns related to noise. Noise impacts associated with construction are expected to be short-term. Construction noise is considered exempt from compliance with the Fresno County Noise Ordinance provided that noise-generating construction activity should be limited to the hours of 6:00 a.m. to 9:00 p.m. Monday through Friday and 7:00 a.m. to 5:00 p.m. Saturday and Sunday.

- E. Would the project expose people to excessive noise levels associated with a location near an airport or a private airstrip; or
- F. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

FINDING: NO IMPACT:

The project site is not located near an airport. The nearest airport, Tophan Ranch Auberry Airport, is approximately 3.5 miles north of the site.

### XIII. POPULATION AND HOUSING

- A. Would the project induce substantial population growth either directly or indirectly?

FINDING: NO IMPACT:

The proposed caretaker residence will not significantly increase population growth in the area.

- B. Would the project displace substantial numbers of existing housing; or
- C. Would the project displace substantial numbers of people, necessitating the construction of housing elsewhere?

FINDING: NO IMPACT:

The project will not displace housing or necessitate the construction of housing elsewhere.

#### XIV. PUBLIC SERVICES

A. Would the project result in substantial adverse physical impacts associated with the provision of new or physically-altered public facilities in the following areas:

1. Fire protection?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project as reviewed by the Fresno County Fire Protection District (CalFire) will require compliance with the California Code of Regulations Title 24 – Fire Code, and approval of County-approved site plans by the Fire District prior to issuance of building permits by the County. The project may also be subject to joining the Community Facilities District (CFD) before plans are submitted to the Fresno County Fire Protection District. Included as Project Notes, these requirements will be addressed through Site Plan Review recommended as a Condition of Approval.

2. Police protection; or

3. Schools; or

4. Parks; or

5. Other public facilities?

FINDING: NO IMPACT:

The project will have no impact on police services, schools, parks or other public facilities.

#### XV. RECREATION

A. Would the project increase the use of existing neighborhood and regional parks; or

B. Would the project require the construction of or expansion of recreational facilities?

FINDING: NO IMPACT:

The project would not result in the need for new or expanded recreational facilities.

#### XVI. TRANSPORTATION/TRAFFIC

A. Would the project conflict with any applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation; or

B. Would the project conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demands measures?



FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the Applicant's Operational Statement, the project is expected to generate approximately 20 to 30 one-way visitor trips (20 to 30 round trips) per day.

The project site fronts State Route 168 (Auberry Road). According to the California Department of Transportation (Caltrans) the site is planned for an ultimate road right-of-way of 110 feet (the existing right-of-way is 94 feet). Caltrans requires an irrevocable offer of dedication of right-of-way of eight (8) feet to accommodate 55 feet from the dedicate centerline of the road. This requirement will be included as a Condition of Approval.

The Design Division of the Fresno County Department of Public Works and Planning also reviewed the proposal and expressed no concerns regarding traffic impact on county roadways.

C. Would the project result in a change in air traffic patterns?

FINDING: NO IMPACT:

The project will not result in a change in air traffic patterns.

D. Would the project substantially increase traffic hazards due to design features; or

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project site currently gains access from Auberry Road (State Route 168) via an existing paved driveway.

The California Department of Transportation (Caltrans) reviewed the project and requires an encroachment permit for all proposed activities for placement of encroachments within, under or over the State highway right-of-way. This requirement will be included as a Project Note.

No concerns regarding traffic hazards were expressed by the Design or Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning.

E. Would the project result in inadequate emergency access?

FINDING: NO IMPACT:

The Fresno County Fire Protection District's review of the project did not identify any concerns regarding inadequate emergency access. The District will further analyze emergency access requirements for the project prior to issuance of building permits by the County.

- F. Would the project conflict with adopted plans, policies or programs regarding public transit, bicycle or pedestrian facilities or otherwise decrease the performance or safety of such facilities?

FINDING: NO IMPACT:

The project will not conflict with any adopted transportation plans.

## XVII. UTILITIES AND SERVICE SYSTEMS

- A. Would the project exceed wastewater treatment requirements?

FINDING: NO IMPACT:

See discussion in Section VI.E. Geology and Soils.

- B. Would the project require construction of or the expansion of new water or wastewater treatment facilities?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion in Section IX. A. Hydrology and Water Quality.

- C. Would the project require or result in the construction or expansion of new storm water drainage facilities?

FINDING: LESS THAN SIGNIFICATION IMPACT:

See discussion in Section IX.E. Hydrology and Water Quality.

- D. Would the project have sufficient water supplies available from existing entitlements and resources, or are new or expanded entitlements needed?

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion in Section IX. B. Hydrology and Water Quality.

- E. Would the project result in a determination of inadequate wastewater treatment capacity to serve project demand?

FINDING: NO IMPACT:

See discussion in Section VI. E. Geology and Soils.

- F. Would the project be served by a landfill with sufficient permitted capacity; or

- G. Would the project comply with federal, state and local statutes and regulations related to solid waste?

FINDING: NO IMPACT:

The small amounts of solid waste from the caretaker's residence/office will be sent to the landfill through regular trash collection service. The solid waste generated by the proposal will not impact local landfill.

#### XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

- A. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California prehistory or history?

FINDING: LESS THAN SIGNIFICANT IMPACT:

No impacts on biological resources were identified in the project analysis. Impacts on cultural resources have been reduced to a less than significant level with the Mitigation Measure discussed above in Section V. A. B. C. D.

- B. Does the project have impacts that are individually limited, but cumulatively considerable?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project will adhere to permitting requirements and rules and regulations set forth by the Fresno County Grading and Drainage Ordinance, San Joaquin Valley Air Pollution Control District, and the California Code of Regulations Fire Code. The only cumulatively considerable impacts identified in the analysis were Aesthetics and Cultural Resources. Those impacts have been reduced to a less than significant level with the Mitigation Measures discussed above in Section I. D. and Section V. A. B. C. D.

- C. Does the project have environmental impacts which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: NO IMPACT:

No substantial adverse impacts on human beings were identified in the analysis.

#### CONCLUSION/SUMMARY

Based upon the Initial Study (IS No. 7206) prepared for Classified Conditional Use Permit Application No. 3546, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to agricultural and forestry resources, air quality, biological resources, greenhouse gas emissions, mineral resources, noise, population and housing, and recreation.

Potential impacts related to geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, public services, transportation/traffic, and utilities and service systems have been determined to be less than significant.

Potential impacts to aesthetics and cultural resources have been determined to be less than significant with the identified Mitigation Measures.

A Mitigated Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, Street Level, located on the southwest corner of Tulare and "M" Streets, Fresno, California.

EJ:ksn

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## EXHIBIT 10

File original and one copy with:  <b>Fresno County Clerk</b> <b>2221 Kern Street</b> <b>Fresno, California 93721</b>		Space Below For County Clerk Only.    <div style="text-align: center; font-size: small;">CLK-2046.00 E04-73 R00-00</div>		
Agency File No: IS 7206	<b>LOCAL AGENCY PROPOSED MITIGATED NEGATIVE DECLARATION</b>		County Clerk File No: <b>E-</b>	
Responsible Agency (Name): Fresno County	Address (Street and P.O. Box): 2220 Tulare St. Sixth Floor	City: Fresno	Zip Code: 93721	
Agency Contact Person (Name and Title): Ejaz Ahmad, Planner		Area Code: 559	Telephone Number: 600-4204	Extension: N/A
Applicant (Name): Mark Myles		Project Title: Classified Conditional Use Permit Application No. 3546, Variance Application No. 4018		
Project Description:  Allow a personal/recreational vehicle storage facility with office and a caretaker residence on a 2.28-acre parcel in the RR (Rural Residential, two-acre minimum parcel size) Zone District. The request also includes a zero-foot side yard setback for storage buildings. The project site is located on the north side of State Route (SR) 168 (Auberry Road) approximately 470 feet west of the intersection of SR 168/Lodge Road in the unincorporated community of Prather (SUP. DIST. 5) (APN 128-430-68).				
Justification for Mitigated Negative Declaration:  Based upon the Initial Study (IS 7206) prepared for Classified Conditional Use Permit Application No. 3546, Variance Application No. 4018, staff has concluded that the project will not have a significant effect on the environment.  No impacts were identified related agricultural and forestry resources, air quality, biological resources, greenhouse gas emissions, mineral resources, noise, population and housing, and recreation.  Potential impacts related to geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, public services, transportation/traffic, and utilities and service systems have been determined to be less than significant.  Potential impacts related to aesthetics and cultural resources have been determined to be less than significant with the identified mitigation measures.  The Initial Study and MND is available for review at 2220 Tulare Street, Suite A, Street Level, located on the southeast corner of Tulare and "M" Street, Fresno, California.				
FINDING:  The proposed project will not have a significant impact on the environment.				
Newspaper and Date of Publication: Fresno Business Journal – February 10 , 2017			Review Date Deadline: Planning Commission – March 16, 2017	
Date: February 8, 2017	Type or Print Name: Chris Motta, Principal Planner		Submitted by (Signature):	

State 15083, 15085

County Clerk File No.: \_\_\_\_\_

### LOCAL AGENCY MITIGATED NEGATIVE DECLARATION

Mark E. Myles  
P.O. Box 235, Prather, CA 93651  
(805) 526-2382

May 15, 2019

The County of Fresno  
2220 Tulare Street  
Fresno, CA 93721

RE; CUP 3546 Time Extension

To whom it my concern,

Please use this letter as my formal request for a Time Extension for the above  
Conditional Use Permit 3546

The reason for the request is that. Just time.

The Applicant has Submitted for Site plan Review on January 10, 2019  
(SPR 8128) for a sum of \$ 8,070.00

Site Plan Review was approved on March 8, 2019

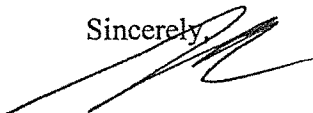
On January 31, 2019 Applicant submitted a Site Grading plan.

Currently Applicant has a Grading/Site Development Permit.  
\$ 2,768.00

Applicant ready to start grading.

Thank you for your consideration in this request.

Sincerely,



Mark E. Myles



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Consent Agenda Item No. 2 August 8, 2019

**SUBJECT:** Vesting Tentative Tract Map No. 5050 - Time Extension

Grant a fourth one-year time extension to exercise Tentative Tract Map No. 5050, which authorizes the division of a 22.84-acre parcel into 50 single-family residential lots with a minimum lot size of 2,262 square feet, in the R-1-B(c) (Single-Family Residential, 12,500 square-foot minimum parcel size, Conditional) Zone District.

**LOCATION:** The subject property is located on the west side of State Route 168 (Tollhouse Road) between Hillcrest Road and Sunset Vista Lane, within the unincorporated community of Shaver Lake (Sup. Dist. 5) (APN 130-031-46).

**OWNER/APPLICANT:** Billy Wells

**STAFF CONTACT:** Jeremy Shaw, Planner  
(559) 600-4207

Marianne Mollring, Senior Planner  
(559) 600-4569

**RECOMMENDATION:**

- Approve the fourth one-year time extension request for Tentative Tract Map No. 5050; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Location Map
2. Existing Land Use Map
3. Existing Zoning Map
4. Resolution No. 12725, dated August 13, 2018 (Time Extension No. 3)
5. Subdivision Review Committee Report, Staff Report and Planning Commission Resolution dated May 26, 2005
6. Applicant's letter requesting the fourth one-year time extension

**ENVIRONMENTAL DETERMINATION:**

The subject property is located within the boundaries of the Sierra North Regional Plan, the Shaver Community Plan, and the Lake Shaver Lake Forest Specific Plan. An Environmental Impact Report (EIR) and Mitigation Measures & Monitoring Program Matrix was certified as having been prepared and considered by the decision-making body in accordance with the California Environmental Quality Act (CEQA) when the Specific Plan was adopted in 1984. Several additional environmental studies have been prepared in the interim.

An Environmental Assessment (Initial Study No. 5124) was prepared for Tentative Tract Map Application No. 5050 under the provisions of CEQA, resulting in the determination that the Mitigated Negative Declaration was appropriate.

Section 15162(b) of the CEQA Guidelines states that once an EIR and/or Mitigated Negative Declaration has been certified for a project, no subsequent EIR or Mitigated Negative Declaration shall be prepared unless: 1) substantial changes are proposed to the project; 2) substantial changes occur with respect to the circumstances under which the project is undertaken; or 3) new information of substantial importance is presented which was not known and could not have been known at the time the previous Mitigated Negative Declaration was adopted.

Staff has not received any comments or information that the circumstances noted in the above Conditions are present. Therefore, it has been determined that no further CEQA documentation is required for the subject proposal.

**PUBLIC NOTICE:**

Notices were sent to 81 property owners within 600 feet of the subject property, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

The State Subdivision Map Act provides that prior to the expiration of a Tentative Map, a subdivider is entitled to file a "Final Map" for recording with the County if it conforms to the approved Tentative Map and certain mandatory requirements. Except for special circumstances



specified in the Map Act, a Tentative Map expires two years after its approval unless extensions are granted by the local agency. Such extensions may not exceed a total of six years. Under the terms of the Fresno County Subdivision Ordinance, time extensions may be granted by the Planning Commission upon application by the subdivider prior to the expiration date.

Starting in 2008, the State of California passed five separate Bills to give subdividers time extensions for Tentative Maps that met certain criteria. These Bills are: a) Senate Bill (SB) 1185 (approved 2008; Map Act Section 66452.21) which granted an automatic one-year time extension; b) Assembly Bill (AB) 333 (approved 2009; Map Act Section 66452.22) which granted an automatic two-year time extension; c) Assembly Bill (AB) 208 (approved 2011; Map Act Section 66452.23) which granted an automatic two-year time extension; d) Assembly Bill (AB) 116 (approved 2013; Map Act Section 66452.24) which granted an automatic two-year time extension; and, e) Assembly Bill (AB) 1303 (approved 2015; Map Act Section 66452.25) which granted a discretionary two-year time extension provided the project meets the requirements related to project approval date and time extension filing date.

Granting an extension of a Tentative Map is discretionary, although the Planning Commission's discretion is limited to questions of time. The Commission cannot Condition the grant of extension unless the Applicant agrees to such additional Conditions. If the Applicant does not agree to such additional Conditions, the Commission may deny the extension if it finds, based on the evidence, that the project will be injurious to public health, safety or general welfare if the additional Conditions are not imposed.

#### **BACKGROUND INFORMATION:**

On May 26, 2005, the Planning Commission approved Vesting Tentative Tract Map No. 5050, Classified Conditional Use Permit No. 3084, and Initial Study Application No. 5124, authorizing the development of a 22.84-acre parcel consisting of a 50-unit Planned Residential Development, in the R-1-B(c) (Single-Family Residential, 12,500 square-foot minimum parcel size, Conditional) Zone District.

The Planning Commission granted a first one-year time extension on August 9, 2007, which extended the life of Tentative Tract Map No. 5050 to May 26, 2008. On October 2, 2008, the Planning Commission approved a second one-year time extension, extending the life of the map to May 26, 2009. Subsequently, SB 1185 granted an automatic one-year time extension for the Tentative Map, resulting in a new expiration date of May 26, 2010. Two subsequent, two-year legislative time extensions extended the map life until May 26, 2014. Assembly Bill (AB) 116, effective July 11, 2013, and AB 1303, effective October 10, 2015 granted two additional automatic two-year time extensions for the Tentative Map extending the expiration date to May 26, 2018. On August 13, 2018, the Planning Commission granted a third one-year discretionary time extension, which extended the life of the map to May 26, 2019.

The current request is to allow the fourth discretionary one-year time extension through the consideration of the Planning Commission. The Applicant filed the subject request on May 7, 2019, prior to the expiration of the map.

#### **ANALYSIS/DISCUSSION:**

Tentative Tract Map No. 5050 was approved May 26, 2005 concurrently with Initial Study Application No. 5124 and Classified Conditional Use Permit (CUP) No. 3084, based on a determination that the required CUP findings could be made. A copy of the original Subdivision

Review Committee Report, Staff Report, and Planning Commission Resolution is attached as Exhibit 5. According to the Applicant, the subject request is necessary to allow additional time due to an economic downturn affecting residential development, and a reduction in demand for, and a surplus of, housing in the Shaver Lake area.

The current time extension request was routed to the same agencies that reviewed the original project. None of those agencies identified any change in circumstances or the need for additional conditions, and did not express any concerns with the proposed extension of time.

**PUBLIC COMMENT:**

None.

**CONCLUSION:**

Staff believes the fourth one-year time extension for Vesting Tentative Tract Map No. 5050 should be approved, based on the factors cited in the analysis. Approval of this time extension will extend the expiration date to May 26, 2020.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

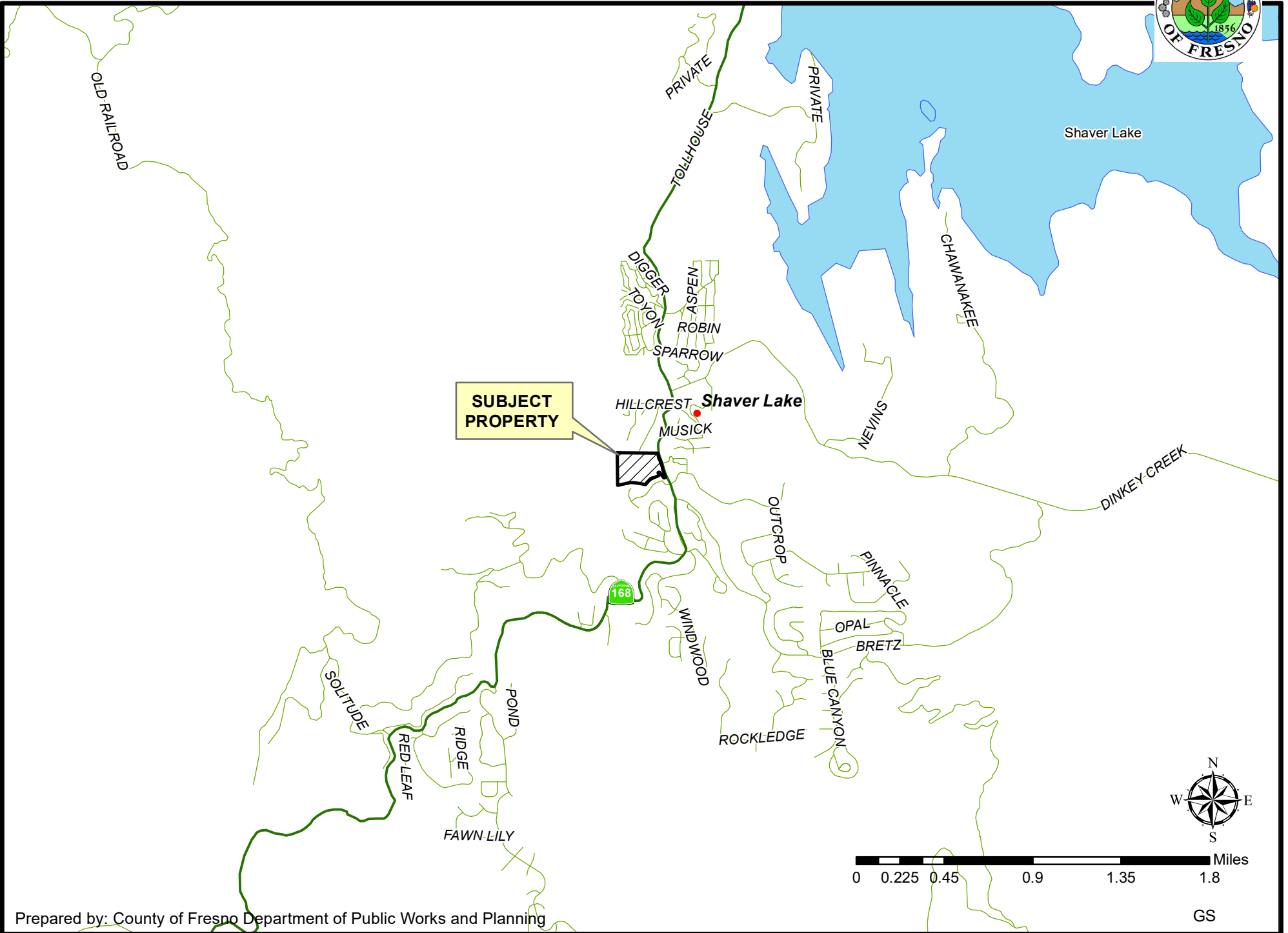
- Move to approve the fourth one-year time extension for Vesting Tentative Tract Map No. 5050; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

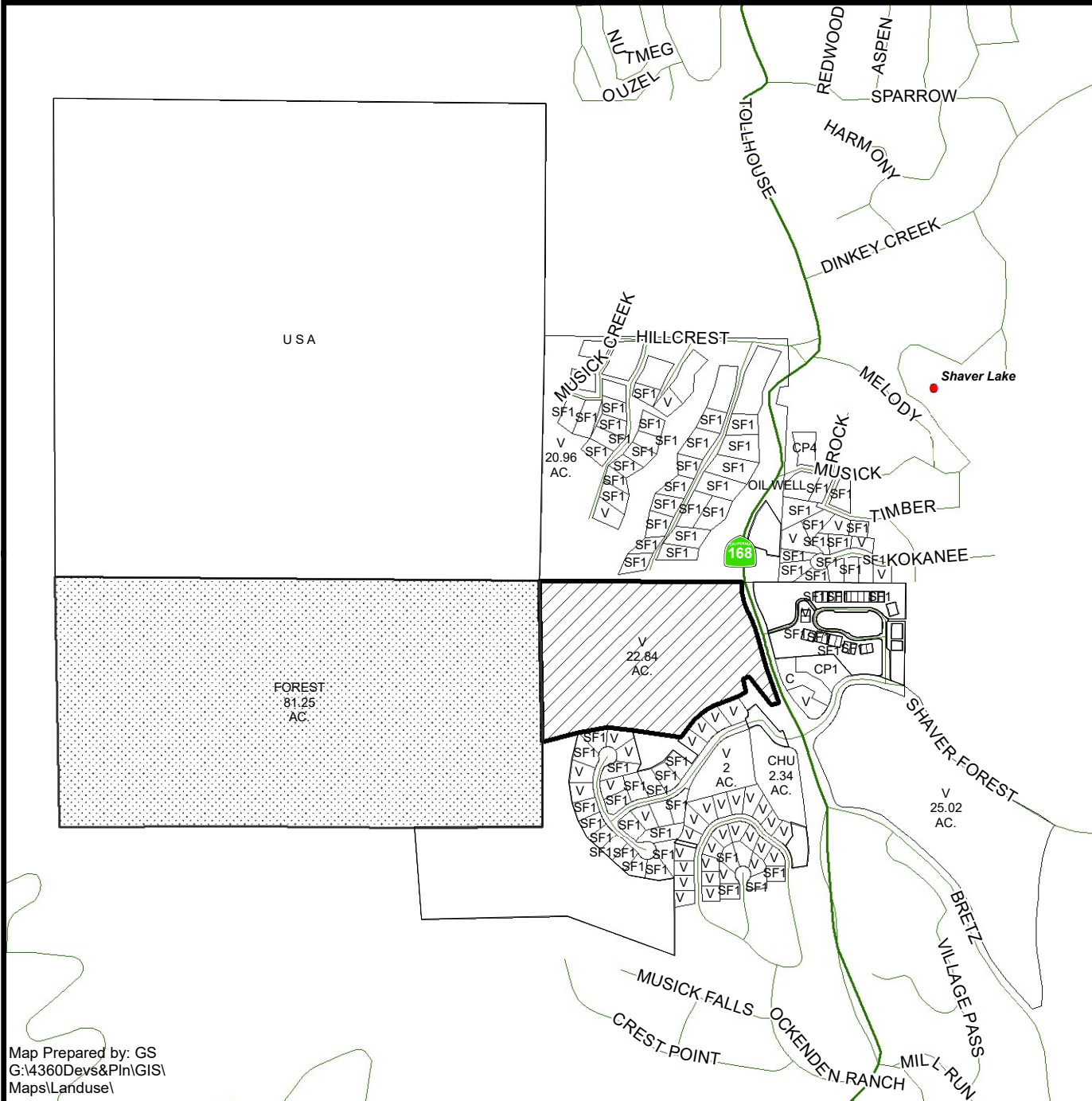
- Move to deny the fourth one-year time extension request for Vesting Tentative Tract Map No. 5050 (state reasons how approval of the time extension request would pose a health and safety issue to the residents of the subdivision or the immediate community, or both; or state how denial of the time extension request is required in order to comply with State or Federal law); and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

JS:ksn  
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
# LOCATION MAP





# EXISTING LAND USE MAP



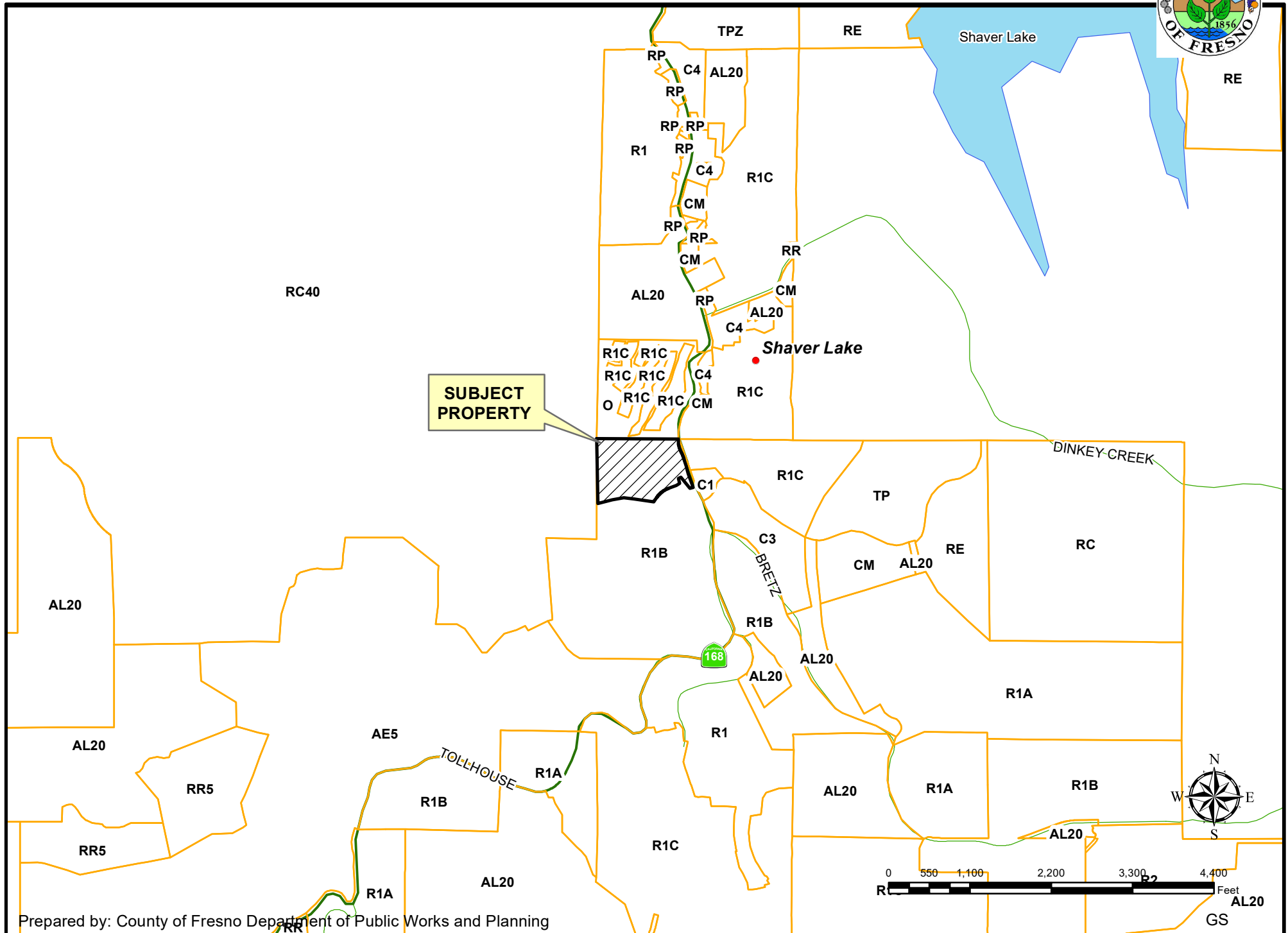
LEGEND
C - COMMERCIAL
CHU - CHURCH
CP# - OFFICE COMM./PROF
SF# - SINGLE FAMILY RESIDENCE
V - VACANT

- LEGEND:**
-  Subject Property
  -  Ag Contract Land

Map Prepared by: GS  
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 0 212.5 425 850 1,275 1,700 Feet  
  
 Department of Public Works and Planning  
 Development Services Division

# EXISTING ZONING MAP





## Inter Office Memo

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DATE: July 26, 2018  
TO: Board of Supervisors  
FROM: Planning Commission  
SUBJECT: RESOLUTION NO. 12725 – THIRD ONE-YEAR TIME EXTENSION FOR TENTATIVE TRACT NO. 5050

APPLICANT/  
OWNER: Billy Wells

REQUEST: Grant the third one-year time extension to exercise Tentative Tract Map No. 5050, which authorizes the division of a 22.84-acre parcel into 50 single-family residential lots with a minimum lot size of 2,262 square feet, in the R-1-B(c) (Single-Family Residential, 12,500 square-foot minimum parcel size, Conditional) Zone District.

LOCATION: The subject property is located on the west side of State Route 168 (Tollhouse Road) between Hillcrest Road and Sunset Vista Lane, within the unincorporated community of Shaver Lake (Sup. Dist. 5) (APN 130-031-46).

### PLANNING COMMISSION ACTION:

At its hearing of July 26, 2018, the Commission, after pulling this item from its Consent Agenda, considered the Staff Report and testimony (summarized in Exhibit A) . The item was pulled from the Consent Agenda for discussion by Chairman Abrahamian after reviewing a letter of opposition, and following discussion regarding one letter in opposition to the request, response from County Staff, and testimony from the Applicant's representative, a motion was made by Commissioner Lawson and seconded by Commissioner Eubanks to approve the requested one-year time extension for Tentative Tract No. 5050.



EXHIBIT "A"

Tentative Tract Map Application No. 5050  
Third One-Year Time Extension

Staff: After pulling the item from the Consent Agenda, the Fresno County Planning Commission received clarification from staff regarding sewer and water system availability for the tentative tract.

Applicant: The Applicant's representative provided the following information regarding the time extension:

- The economy has turned around; however, it is not at a point where the Applicant can complete the final map.
- The concerns related to water, sewer, and road access which will be addressed during the final map review.

Others: No other individuals presented information in support of or in opposition to the application.

Correspondence: One letter was presented to the Planning Commission in opposition to the time extension request expressing concern with sewer system capacity.

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## Inter Office Memo

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DATE: May 26, 2005

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 11907 - INITIAL STUDY APPLICATION NO. 5124, TENTATIVE TRACT MAP APPLICATION NO. 5050, AND CLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3084

APPLICANT: James Bratton  
OWNER: James Bratton

REQUEST: Allow a 50-unit Planned Residential Development in the R-1-B (c) (Single-Family Residential, 12,500 square-foot minimum lot size, Classified Conditional) District.

Allow division of a 22.84-acre parcel into fifty single-family residential lots with a minimum lot size of 2,262 square feet, in the R-1-B (c) (Single-Family Residential, 12,500 square-foot minimum lot size, Conditional) District.

LOCATION: The subject property is located on the west side of SR 168 (Tollhouse Road), between Hillcrest Road and Sunset Vista Lane, within the unincorporated community of Shaver Lake (SUP. DIST.: 5) (APN: 130-031-46).

### PLANNING COMMISSION ACTION:

At its hearing of May 26, 2005, the Commission considered the Staff Report and testimony (summarized on Exhibit "A").



- NOTES:
1. The Planning Commission action is final unless appealed to the Board of Supervisors within 15 days of the Commission's action.
  2. The approval of the Tentative Tract Map will expire two years from the date of approval unless a final map is recorded in accordance with the Fresno County Subdivision Ordinance. When circumstances beyond the control of the applicant do not permit compliance with this time limit, the Commission may grant a time extension request. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Tentative Tract Map.

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Attachments

EXHIBIT "A"

Initial Study Application No. 5124  
Tentative Tract Map Application No. 5050  
Classified Conditional Use Permit Application No. 3084

- Staff: The Fresno County Planning Commission accepted the Staff Report dated May 26, 2005, and a summary staff presentation.
- Applicant: The applicant's representative concurred with the Staff Report and the recommended conditions. He described the project and offered the following information to clarify the intended use:
- Clustering of development is proposed in order to avoid wetlands, orange lupine, and damaging natural forest land.
  - A trail system and two tot lots for BBQ areas are provided for recreational use.
  - Snow will be stored in the areas between the parcels and on the tot lots.
  - All the issues identified in the two letters of concern that were received by the Department of Public Works and Planning have been taken into consideration when addressing the project.
  - Provided additional conditions to address landscaping, irrigation, dual water meters, and funding for water study. This will minimize inefficient water usage.
- Others: Two individuals presented information in support of the application and one individual requested clarification on the location of the wells for this application.
- Correspondence: Two letters were presented in opposition of the application.

EXHIBIT "B"

Conditions of Approval

Initial Study Application No. 5124  
Tentative Tract Map Application No. 5050  
Classified Conditional Use Permit Application No. 3084

CLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3084:

1. Development and operation shall be in substantial conformance with the approved site plans, floor plans, elevations, landscape plan, and operational statement.
2. All conditions in the Subdivision Review Committee Report for Tentative Tract Map No. 5050 shall be complied with.
3. This permit shall be tied to Tentative Tract Map No. 5050. If the tract expires, this Classified Conditional Use Permit shall also expire.
- \*4. To address potential impacts related to aesthetics and lighting the following shall be required.
  - a. Natural building materials and colors compatible with the surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. The materials shall be denoted on the building plans and the structures shall be painted prior to occupancy.
  - b. All lighting shall be hooded and directed as to not shine towards adjacent property and public streets
- \*5. Potential noise impact shall be addressed by limiting construction related activities to the hours between 7:00 a.m. and 6:00 p.m.

TENTATIVE TRACT APPLICATION NO. 5050:

A. SHAVER LAKE FOREST ROAD

NOTE: The subdivider received approval of an exception to the Subdivision Ordinance Improvement Standards be granted to permit the segment of road from State Route 168 to the entrance gate be reduced to 28 feet in pavement width.

- \*1. Prior to recordation of the Final Map, the applicant shall enter into a pro-rata share agreement with California Department of Transportation for the specified amount as follows:

State Route 168/Bretz Mill Road Intersection: (17 trips) (\$457.00 per trip)  
= \$7,769.00

State Route 168/Ockenden Road Intersection: (18 trips) (\$794.00 per trip)  
= \$14,292.00

## B. INTERIOR ROADS AND CUL-DE-DACS

NOTE: The subdivider received approval of an exception to the above Subdivision Ordinance Improvement Standard that permits the interior roads to have a pavement width of 22 feet built to a 10 mile per hour design speed.

1. Interior roads shall terminate in Improvement Standard B-2 for rural residential cul-de-sacs or a turnaround acceptable to the Fire District having jurisdiction over the area.
2. The gated entry shall be designed so that vehicles denied access are able to exit the entrance in a continuous forward motion.
3. The location of the call box or the setback from Sunset Vista Lane intersection shall be determined by statistical analysis using the "queuing theory" to ensure that there is a 1% chance or less of a vehicle waiting to be granted access to the development of encroaching into the road right-of-way. Each vehicle shall be given a 25-foot envelope in determining the setback.
4. All roads shall intersect as near to right angle as practicable.
5. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.
6. Interior roads and cul-de-sacs shall provide public utility easements outside of the roadway where needed.

NOTE: The subdivider received a request that a exception to the above Subdivision Ordinance Improvement Standards be granted to limit the length of cul-de-sacs to less than 500 feet unless an emergency access is provided.

7. Engineered plans for the road improvements shall be submitted to the County of Fresno for review and approval. The initial submittal shall

include a soils report which shall identify a recommended traffic index, R-value and pavement section. If significant cuts and fills are involved, subsequent R-values shall be obtained for subgrade after completion of earthwork operations.

8. As a gated community, all interior street maintenance shall be provided by a homeowners association. A Zone of Benefit in CSA 35, or other method acceptable to the Director of Public Works and Planning, shall be formed to provide the proportionate share of maintenance of Shaver Lake Forest Road.
9. Slope easements outside of the road right-of-way shall be provided where needed.
10. Asphalt concrete dikes shall be provided for erosion control and to direct road runoff into appropriate drainage facilities.
11. The subdivider will be required to provide for maintenance of the new roads for a period of two years after their acceptance by the County.

#### C. WATER

1. The parcel lies within Waterworks District 41 Zone S, and shall be provided service through this community system.
2. All water facility improvements shall be constructed in accordance with Fresno County Improvement Standards.
3. The water system shall be provided with minimum size mains of 8 inches.
4. A County Standard water sample station with freeze protection shall be provided within the tract.
5. Water mains at the ends of cul-de-sacs shall be looped together to eliminate any dead-end mains.
6. All rights to groundwater beneath the subdivision shall be dedicated to Fresno County Waterworks District No. 41, subject to development by the subdivider or his designee.
7. Prior to issuance of any building permit, the wastewater and water facilities shall be completed and accepted by the Resources Division of the Planning & Resource Management Department. If such improvements have not been completed prior to issuance of a building permit, the property owner shall sign an acknowledgement recognizing

that occupancy will not be authorized until such time that said improvements have been accepted by the Resources Division.

NOTE: The subdivider received approval of an exception to County Improvement Standard II H.7.e.5 requiring that only wells with a yield of 10 gallons per minute or more will be considered sufficient for a community well.

8. Water capacity equivalent to 0.3 gpm per residence shall be developed for service to the tract. Capacity shall be provided for the entire subdivision with the development of the first phase. If existing wells are utilized from "reserved capacity," adequate documentation shall be submitted to verify compliance with this condition.

\*10. Prior to recordation of the final map an additional well shall be constructed for the benefit of Water Works District 41. This well shall serve as an additional water source should the wells dedicated to the project not maintain their pump tested yields. The additional well shall have a 50-foot seal. When the subject well is pump tested in compliance with County standards, surrounding wells within a 1,000 foot radius shall be monitored to determine if there is any influence/draw down on the surrounding wells. After two years, the developer will receive credit for future development for any excess capacity from the additional well as well as any excess capacity that may exist from the dedicated wells. Final allocation of any excess capacity will be subject to the Board's approval of a reservation agreement. The available reserve amount shall be determined two years after the dedicated project wells are connected to County Water Works District 41.

#### D. SEWER

1. The development shall be served by the community sewer system.
2. All sewer facility improvements shall be constructed in accordance with Fresno County Improvement Standards. If a sewer lift station is required, a backup power supply shall be provided for automatic transfer of power in the event of a disruption in electrical service.
3. The sewer system shall be provided with minimum size mains of 8 inches.

#### E. DRAINAGE AND EROSION CONTROL

1. If retention facilities are proposed as a mitigation measure to control runoff, the drainage analysis shall examine downstream effects for culvert crossings and swale capacities.



2. Ponds in excess of 18 inches shall be fenced.
3. A Notice of Intent shall be filed with the Regional Water Quality Control Board prior to the start of grading activities.
4. A copy of the Storm Water Pollution Protection Plan shall be provided to the County prior to the start of grading activities. Erosion control measures included in the SWPPP shall be set forth on the grading plan.
- \*5. To address potential impacts related to storm water drainage all storm water shall go through a settling pond located on-site before being discharged off-site.

#### F. COMMUNITY FACILITIES DISTRICTS

1. The property is within the boundaries of Community Facilities District No. 1. Payment of CFD fees shall be required at the time of sale of each lot in the tract, or at the time that building permits are pulled, whichever occurs first.
2. Prior to recordation of a final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism.

#### G. FIRE PROTECTION AND OPEN SPACE

1. The location and number of fire hydrants shall be approved by the Director of Public Works and Planning after consideration of the recommendations of the fire district.
2. The parcel lies adjacent to County Service Area 31 Zone B. The parcel will be required to annex to the existing CSA 31 Zone of Benefit or create a new Zone of benefit in CSA 31 for maintenance of fuel modification and open space areas.

#### H. EMERGENCY ACCESS ROADS

1. All emergency access roads shall be contained within easements and shall connect to public roads.

2. Shall be improved to a standard to provide traversability for emergency equipment as determined by the Director of the Public Works and Planning Department after consideration of the recommendations of the fire district having jurisdiction of the area.
3. Crash gates shall be provided at both ends of the easements.

I. BIOLOGICAL AND CULTURAL RESOURCE CONDITIONS:

- \*1 In order to protect wildlife resources identified in the Biological and Wetlands Resources Report prepared by John C. Stebbins dated December 10, 2002 the following measures shall be required:
- a. The wetland areas including the two identified drainages and Orange Lupine areas shall be identified as outlots and listed as "No-Construction / No Ground Disturbance Environmentally Sensitive Area" on the final map and shall remain in their natural state. The final map shall state that ground disturbance activities, (e.g. grading, fencing, construction, clearing landscaping or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map No. 5050, or the cutting or removal of any natural vegetation, is prohibitive unless otherwise approved in advance of the ground disturbance activity by the California Department of Fish and Game. This requirement shall be recorded as a covenant running with land as part of the Final Map process.
  - b. Prior to the start of ground disturbance activities associated with the project, the wetland areas shall be bounded by a wildlife friendly design delineation fence as approved by the California Department of Fish and Game.
  - c. The Orange Lupine areas shall be fenced with a permanent fence forty two inches in height to further prevent disturbance with the outlot area. The type of fence and location boundaries of the "Orange Lupine" area shall be identified by both the California Department of Fish & Game and a qualified biologist in order to ensure that wildlife will be able to traverse the area.
  - d. Prior to the start of any construction, which includes grading, or filling of a jurisdictional wetland for purposes of developing the existing dirt road identified in the Biological and Wetland Report prepared by John c. Stebbins, if required a Clean Water Act Section 404 Permit shall be obtained from the United States Department of the Army Corp of Engineers and a Clean Water Act

Section 401 Water Quality Certificate Permit shall be obtained for the project by the California Regional Water Quality Control Board.

- e. Prior to any authorized project-related disturbance to the streams or stream crossing for access purpose, the Department of Fish and Game shall be provided with an appropriate Streambed Alteration Notification pursuant to Fish and Game code sections 1600-16003 et. Seq.
- f. To address potential impacts related to erosion, prior to recordation of the final map, an "Erosion Control Plan" shall be prepared by a qualified engineer or erosion control specialist. The Erosion Control Plan shall address all gutters and storm drains associated within the project to prevent erosion at all runoff outfalls and shall be approved by the County's Grading Inspector.
- g. The "Indian Rock Interpretive Trail System shall be designed to achieve a minimum 50-foot separation from both of the outlots, consisting of the "Wetlands" and the "Orange Lupine" areas. Portions of the trail system will include "Interpretive Trail Signage" to educate residents of the value of the wetlands and the Orange Lupine on the project site. Minor encroachments into the 50-foot fencing setback will be allowed on a case by case basis in order to allow the Interpretive Trail System" to interact with the protected areas.
- h. Prior to recordation of the Final Map, the subdivider shall prepare for the County's and Department of Fish and Game's review and approval, a brochure or other educational materials that discusses human and wildlife interactions, with special emphasis on mammal and avian species within the project area, and environmentally responsible landscape choices. The brochure shall be provided to all homeowners and it shall contain as a minimum:
  - i.) Information on living with local wildlife including (but not limited to) deer, bear, and mountain lion.
  - ii.) A discussion of the importance of pet restrictions.
  - iii.) A discussion of the value to wildlife of minimizing outdoor lighting.
  - iv.) A discussion of the value to wildlife of minimizing the removal of native vegetation (and snags) and the value of using native plants for landscaping.

- v.) A discussion on the prohibition of hunting and the use of firearm anywhere in the project area.
  - vi.) A discuss on the prohibition of feeding wildlife anywhere on the project area.
  - vii.) A discussion on avoiding the use of pesticides and other chemicals in or near to the wetland, particularly during the herding and nesting season of May through August.
2. Prior to recordation of the final map, the subdivider shall prepare "Covenants, Conditions and Restrictions" (CC&Rs) for review and approval by the California Department of Fish and Game for the "Interpretive Trail System" location", "Wetlands Area", "Orange Lupine Area", streams and tributaries, stream and tributary setbacks, and common areas such as gazebo locations and children play areas. Enforcement of the CC&Rs shall be the responsibility of the Homeowners' Association.
- \*3. The Homeowners Association shall retain a qualified professional biologist to evaluate the site on an annual basis including;
- a. Compliance with the state and federal wetland permit requirements.
  - b. Possible degradation of wetland areas from erosion and sedimentation.
  - c. Compliance with the wetland area "NO BUILD, NO DISTURB".
  - d. Compliance with the "Orange Lupine" area "NO BUILD, NO DISTURB".
  - e. A description of the environmental conditions at the time of the evaluation.

The subdivider, and the qualified professional biologist on the project's first review, shall establish an ongoing Homeowners' Association committee to work with the biologist in the preparation of the annual report. The goal of this committee shall be to achieve ongoing education for both the committee members and the Homeowners' Association.

- \*4. The qualified professional biologist, retained by the Homeowners' Association, shall submit the biologist's evaluation to both the Fresno County Planning Department and the California Department of Fish & Game for a period of ten years. After ten years of reporting by the biologist, the Homeowners Association committee shall then assume the

responsibilities of the biologist for both the reporting and compliance issues of these mitigation measures. It will be the sole responsibility of the biologist to ensure to the California Department of Fish & Game that the Homeowners' Association committee is responsible to assume this duty in perpetuity.

- \*5. The subdivider with the qualified professional biologist through the CC&R's will be empowered to correct and immediately bring into compliance any issues that the biologist or the California Department of Fish & Game identify as being in violation of the intent of these mitigation measures at the sole expense to the applicant, for a period not to exceed two years, after the recording final map. Thereafter it will be the responsibility of the biologist and subsequent Homeowners' Association committee to ensure that any non-compliance issue is corrected, with the CC&R's reflecting that the Homeowners' Association is empowered to take such action.
- \*6 In the event that cultural resources are unearthed during grading or construction, all work shall be halted in the area of the find, and an archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are Native American, the Coroner must notify the Native American Commission within 24 hours.

J. OTHER CONDITIONS:

- \*1. To address potential impacts related to aesthetics and lighting the following shall be required.
  - a. Natural building materials and colors compatible with the surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. The materials shall be denoted on the building plans and the structures shall be painted prior to occupancy.
  - b. All lighting shall be hooded and directed as to not shine towards adjacent property and public streets
- \*2. The project shall comply with San Joaquin Valley Air Pollution Control District's Regulation VIII (Fugitive PM 10 Prohibitions) as amended, Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt), Rules 4901 (Wood Burning Fireplaces and Wood Burning Heaters), District Rule 4902 (Residential

Water Heaters). This requirement shall be noted on the design plans and specifications.

- \*3. Potential noise impact shall be addressed by limiting construction related activities to the hours between 7:00 a.m. and 6:00 p.m.

K. ADDITIONAL CONDITIONS SUPPLIED BY THE APPLICANT

1. Prior to recordation of the project's final map, a list of landscaping materials that may be used within Tentative Tract Map No. 5050 shall be approved by Fresno County.
2. Only drip irrigation shall be allowed within the project. A covenant running with the land shall be recorded providing notice to all buyers regarding these restrictions.
3. The applicant proposes to pay Fresno County a water fee of \$500.00 per lot for 50 lots for a total of \$25,000.00. Said funds shall be used for the research and development of supplemental water sources for eastern Fresno County of other areas as determined by Fresno County. This fee will be paid at the time of recording the final map for Tentative Tract Map No. 5050.
4. The applicant shall install dual water meters for each lot within Tentative Tract Map No. 5050. One meter will be for domestic water supply and the other meter will be for landscape irrigation purposes. All such meters shall be equipped with remove read sensors. The homeowner will be able to remotely sense and monitor their water use as will the county if it so chooses.

\* MITIGATION MEASURE – Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
**SEVERO ESQUIVEL**  
INTERIM DIRECTOR

June 13, 2005

James A. Bratton  
55 Shaw Avenue, Suite 205  
Clovis, CA 93612-3819

Dear Mr. Bratton:

**SUBJECT: RESOLUTION NO. 11907 - INITIAL STUDY APPLICATION NO. 5124,  
TENTATIVE TRACT MAP APPLICATION NO. 5050, AND CLASSIFIED  
CONDITIONAL USE PERMIT APPLICATION NO. 3084**

On May 26, 2005, the Fresno County Planning Commission approved with conditions the subject application. A copy of the Planning Commission resolution is enclosed.

Since no appeal was filed with the Clerk of the Board of Supervisors within 15 days the Planning Commission's decision is final.

The approval of the Tentative Tract Map will expire two years from the date of approval unless a final map is recorded in accordance with the Fresno County Subdivision Ordinance. When circumstances beyond the control of the applicant do not permit compliance with this time limit, the Commission may grant a time extension request. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Tentative Tract Map.

Sincerely

Brian Ross, Planning & Resource Analyst  
Development Services Division

G:\4360Devs&Pln\PROJSEC\PROJDOCS\TT\5050\reso.doc

Enclosure

C: Charlie Maxwell  
Strahm Family LP  
Joe Guagliardo

**DEVELOPMENT SERVICES DIVISION**



# County of Fresno

Department of Public Works and Planning  
**CECIL LEONARDO**  
Interim Director

## **Planning Commission Staff Report Agenda Item No. 5 May 26, 2005**

**SUBJECT: Initial Study/Environmental Assessment No. 5124  
Classified Conditional Use Permit Application No. 3084**

Allow a 50-unit Planned Residential Development in the R-1-B (c) (Single-Family Residential, 12,500 square-foot minimum lot size, Conditional) District.

**LOCATION:** The subject property is located on the west side of SR 168 (Tollhouse Road), between Hillcrest Road and Sunset Vista Lane, within the unincorporated community of Shaver Lake (SUP. DIST.: 5) (APN: 130-031-46).

Applicant: James Bratton  
Owner: James Bratton

**STAFF CONTACT: Brian Ross, Planning & Resource Analyst  
(559) 262-4324**

**Will Kettler, Principal Staff Analyst  
(559) 262-4242**

### **RECOMMENDATION:**

Adopt Mitigated Negative Declaration prepared for Initial Study Application No. 5124, and approve Classified Conditional Use Permit Application No. 3084 with recommended findings and conditions, and direct the secretary to prepare a resolution documenting the Commission's action.



## **REGIONAL JOBS INITIATIVE:**

On December 3, 2003, the Board of Supervisors adopted a joint resolution of the Fresno City Council, the Clovis City Council, and the Board of Supervisors declaring their commitment to work collaboratively towards the goals of the Regional Jobs Initiative (RJI).

The mission of the RJI is to develop short and long-term comprehensive strategies aimed at creating 25,000 to 30,000 net new jobs within five years at an average salary of \$29,500, to diversify the Fresno regional economy and establish a foundation for sustainable growth to combat chronic double-digit unemployment.

If approved, this proposal should not impact the long-term objectives of the RJI for the creation of jobs in Fresno County. There may be substantial short-term job opportunities for activities associated with construction of the residential property.

## **EXHIBITS:**

1. Location Map
2. Zoning Map
3. Land Use Map
4. Site Plan (Tract Map)
5. Operational Statement
6. Required Findings for the Granting of a Conditional Use Permit
7. Correspondence

## **PROJECT DESCRIPTION / OPERATIONAL STATEMENT SUMMARY:**

Listed below are key features of the project based on information contained in the applicant's site plan (tract map) and Operational Statement (Exhibits 4 and 5).

### **Proposed Use:**

- 50 single-family residences to be placed on individual "foot-print" lots.

### **Project Site:**

- 22.84-acres

### **Existing Improvements:**

- None

**Proposed Improvements:**

- 50 single-family lots
- Interior road system
- Recreational trail and gazebo
- Community water and sewer improvements
- Drainage facilities
- Fire protection improvements

**ENVIRONMENTAL DETERMINATION:**

Initial Study No. Application 5124 was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on Initial Study, staff has determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study and Mitigation Measures are included as Exhibit 5 of the staff report for Tentative Tract Map Application No. 5050.

Notice of Intent to adopt a Mitigated Negative Declaration publication date: May 6, 2005

**PUBLIC NOTICE:**

Notices were sent to 83 property owners within one-quarter mile of the subject property exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

A Classified Conditional Use Permit Application may be approved only if four findings specified in Zoning Ordinance Section 873-F are made by the Planning Commission (Exhibit 6).

The decision of the Planning Commission on a Classified Conditional Use Permit is final unless appealed to the Board of Supervisors within 15 days of the Commission's action.

**KEY INFORMATION PERTINENT TO STAFF ANALYSIS:**

- Use of Subject Property: Vacant
- Surrounding Land Uses: Single Family Residential, Condominiums, Vacant Land, Open Space

- Surrounding Parcel Sizes: 20,000 square feet to 150.00 acres
- Nearest Residence: Adjacent property to the south.
- General Plan Land Use Designation: Condominiums in the Shaver Lake Forest Specific Plan
- Zoning: R-1-B(c) (Single Family Residential, 12,500 square-foot minimum lot size, Conditional) District
- Development Standards: Minimum building setbacks to property lines (35' front, 10' side, 20' rear)
- Public Road Frontage: Tollhouse Road (State Route 168)
- Public Road Access: Shaver Forest Road via State Route 168

Proposal:

Classified Conditional Use Permit Application No. 3084 and Tentative Tract Map Application No. 5050 are being considered concurrently to allow a 50-unit Planned Residential Development. Development will take place on a 22.84 acre parcel. Overall project densities yield one dwelling per 19,898 square feet. This results in development that is lower density than the R-1-B(c) density standard of one dwelling per each 12,500 square feet of lot area. The property, as well as parcels to the immediate south, are conditional zoned, which limits the use of the subject properties to planned residential developments that will not to exceed a total of 157 single family residential units. Currently, 90 single family residential units are approved on the parcels to the south of the subject property, making the proposal conform to zoning.

The Planned Residential Development concept allows deviation of property development standards (i.e. setbacks, lot coverage, etc.) where development results in a unified, integrated whole that incorporates outstanding design features and amenities. The project will result in the following reduced standards in order to provide greater open space amenities to benefit property owners:

- Reducing lot sizes to 2,262 (designated as "foot print" lots).
- Reducing lot widths to 26 feet (80 feet required)
- Reducing lot depths to 87 feet (100 feet required)

- Reducing the front yard (35 feet required), side yard (10 feet required), and rear yard (20 feet required) setbacks to allow no setback requirements.

The applicant has also requested an exception to subdivision standards as it relates to road requirements. Those exception requests have been addressed in the Subdivision Review Committee Report.

**STAFF ANALYSIS/REQUIRED FINDINGS OF FACT:**

A Conditional Use Permit Application may be approved only if four findings specified in Zoning Ordinance Section 873-F are made by the Planning Commission. The following analysis addresses each of the required findings:

Finding 1: *That the site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by the Zoning Ordinance to adjust said use with land and uses in the neighborhood.*

The subject property is located within a mountain forested area in the Shaver Lake Community. The subject property is sloped. The central portion where residential development is proposed maintains 0-15% grades. The eastern portion of the property maintains grades between 15-30% and the western portion, consisting primarily of rock outcroppings, has grades in excess of 30%. Development Engineering Section staff have reviewed the location of the building pads and roadways in relationship to the existing slopes as shown on the tract map and find that development will not exceed permitted slopes for building and road development.

The subject property is traversed by natural drainage courses. To ensure that these channels are preserved and maintained, the Development Engineering Section of the Public Works and Planning Department is recommending that provisions be made to maintain the natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of parcels adjacent to the development. The concurrent tentative tract map application addresses this concern.

The subject parcel is 22.84 acres in size. Under this request, the applicant is proposing to create 50 residential lots at approximately 2,600 square feet. The applicant's development plan avoids impacts to Wetlands, Orange Lupine, rock outcroppings, and steep slopes by preserving these areas in open space. The open space provides buffers between the houses and the overall density of the subdivision does not exceed the requirements of the R-1-B zoning. The applicant's map provides for necessary setbacks from the Wetlands and Orange Lupine areas. Analysis of the tentative tract map submitted by the applicant indicates that the

subject 22.84 acres is adequate in size and shape to accommodate the proposed 50-lot planned residential development, the interior road system, the pedestrian paths, gazebos, and small recreation area (i.e. tot lot and barbeque area).

The proposed "footprint" residential building lots are a minimum of 2,262 square feet in size. The R-1-B District requires a minimum of 12,500 square feet per lot area under normal circumstances. The Planned Development concept, however, allows departure from standard property development standards when development is planned as a unified, integrated whole and incorporates outstanding design features and amenities.

In this case, the applicant's development proposes to group residential development around a centrally located Wetland area. The proposed development provides for recreational amenities including a pedestrian pathway and look-out gazebos located within the northwest and southwest portions of the property. Additionally, the development proposes attached garages providing for two parking spaces for each unit, which exceeds the one covered parking space requirement of the R-1-B District.

Development proposes a zero yard setbacks and smaller "foot print" lot sizes in order to cluster residential units in a manner that provides for the preservation of greater amounts of open space area including: the centrally located Wetland and smaller Orange Lupine areas, rock outcroppings, and steep slopes. Staff believes that the provisions of the planned residential development concept are achieved in this proposal.

Based upon the above findings, staff believes that Finding 1 can be made.

Finding 2: *That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*

Access to the project site will be from Shaver Forest Road via State Route 168. Shaver Forest Road is classified as a local road and State Route 168 is classified as a Collector Road/Proposed Freeway in the Shaver Lake Community Plan.

The policies of the Transportation and Circulation Element of the General Plan state that the County will, as conditions of development, require dedication of right-of-way and road improvements as necessary to ensure that roads will safely serve expanding development. Access to the subject property is from Shaver Forest Road via Tollhouse Road (State Highway 168).

The California Department of Transportation (Caltrans) and the Fresno County Public Works Department, Design Division determined potential impacts to the local road system through the Initial Study prepared for this project. A Traffic Impact

Study (TIS) was prepared by TPG Consulting, Inc. that determined the extent of road improvements to be required based upon the cumulative effect of this project on the local road system and based upon projected development into the year 2025. These improvements include the signalization at the State Route 168 and Ockenden Ranch Road intersection; the signalization at the State Route 168 and Bretz Mill Road intersection; and the installation of a left-turn pocket on the southbound leg of State Route 168 at the Bretz Mill Road intersection.

The Design Division and Caltrans reviewed the TIS and determined it was acceptable. The applicant has agreed as mitigation to pay the project's pro-rata share of the cost of all required traffic improvements. Further discussion of traffic impacts can be found in the Initial Study discussion (Exhibit 5 of the staff report for Tentative Tract Map Application No. 5050).

The interior road system is being developed to serve the 50-lot residential development. The concurrent Tentative Tract Map Application No. 5050 requests exceptions to the Subdivision Ordinance that would reduce the width of proposed roads from 32 feet to 22 feet and the design for a 10 mile per hour speed. If the exceptions are granted as recommended by the Development Engineering Section, staff believes that the interior road system would be adequate to accommodate proposed traffic.

Based upon the above information, and staff's recommendation in the Subdivision Review Committee Report, staff believes that Finding 2 can be made.

Finding 3: *That the proposed use will have no adverse impact on the abutting property and surrounding neighborhood or permitted use thereof*

The subject property is designated as Condominiums in the Shaver lake Forest Specific Plan and located within a mountainous residential area. The subject site is surrounded by single-family residential development to the immediate north and south, and condominium development to the west (on the west side of SR 168). The proposal is compatible with the existing surroundings. Open space and grazing land, designated as public lands and open space in the Sierra North Regional Plan, is located to the west of the parcel.

An Initial Study was prepared for this project. The Initial Study identified a number of potential environmental impacts associated with this project. Potential impacts related to soil compaction, air, noise, biological impacts, population density, and light/glare were determined to be less than significant with mitigation measures applied. The Initial Study has recommended appropriate mitigation measures that are being incorporated as conditions of project approval. Potential impacts related to soil erosion changes in absorption rates, drainage patterns and the rate and amount of surface runoff were determined to be less than significant since they are addressed by the County Grading and Drainage Ordinance.

The project was reviewed by the San Joaquin Valley Unified Air Pollution Control District. The District indicates that the project will contribute to the overall decline in air quality due to an increase in traffic, the operation of lawn and garden equipment, and space and water heating if gas-fired appliances are used. The District indicates that the project will be subject to District rules and regulations pertaining to wood burning, residential water heaters and fugitive dust. Suggested mitigation measures have been applied as conditions of approval and have been agreed upon by the developer.

The California Department of Fish and Game has reviewed the project and has identified several potential impacts to biological resources that exist on-site. Mitigation measures have been recommended and agreed upon by the applicant to protect the centrally located Wetland and the Orange Lupine areas. Additionally, mitigation measures require continuous monitoring by a certified biologist of endangered habitat by and an educational program for homeowners to insure the preservation of animals and plant life on-site.

Fire protection services for the proposed development will be provided by the Shaver Lake Community Fire Protection District. The subject parcel is located within the California Department of Forestry "State Responsibility Area" and therefore, is subject to standards relating to building setbacks, driveway construction and gating, display of street address, disposal of flammable vegetation, water supply facilities for fire protection, and roofing materials. The California Department of Forestry did not issue any comments of concern, but has stated that development will be required in accordance with CDF requirements.

Staff has received two letters of opposition from neighboring residents. One letter states concerns about the proposed density, removal of natural resources, traffic impacts, noise impacts, and aesthetic impacts. The Initial Study prepared for this project addresses these concerns. Mitigation measures addressing these issues have been included as conditions of approval.

The second letter indicates concerns related to potential odor impacts associated with wastewater treatment. Staff has been advised by the Resources Division of the Public Works and Planning Department that the Waterworks District No. 41 wastewater treatment plant is scheduled to be expanded and renovated this summer in order to accommodate the new development and address odor problems. Both letters address concerns with water quantity, which has been addressed in the Initial Study with a mitigation measure included.

Based on the information above and with the conditions, mitigation measures, and notes imposed on the project, staff believes the proposed development will not have an adverse effect on surrounding properties and that Finding 3 can be made.

Finding 4: *That the proposed development is consistent with the General Plan.*

The subject 22.84-acre project site is designated Condominiums in the Shaver Lake Forest Specific Plan and is zoned R-1-B (Single-family residential, minimum 12,500 square foot lot size) District. Given 50 proposed units, this proposal would allow a gross density of one unit per 19,898 square feet of lot area, which is a lower density than if described at the minimum 12,500 square-foot standard.

The Open Space policies of the Specific Plan require that Condominium projects set aside sufficient open space areas for the enjoyment of the property owners and that this common open space be retained in its natural state. The Policies indicate that the open space areas should be held in common as an undivided interest and shown as "outlots" or "easements" within the subdivision.

This project proposes approximately 50%, or 11.3-acres to be preserved for open space and recreation use. This recreation space includes a designated pedestrian trail that provides for hiking around the perimeter of the development and two gazebos located within the southwest and northwest corners of the tract adjacent the trail. The open space being preserved includes a large centrally located wetlands area and an orange lupine area located in the northwest portion of the tract. The project also contains a small tot lot and barbeque area located near the development entrance.

One of the provisions in the Shaver Lake Forest Specific Plan is that subdivision shall provide an integrated pathway system. The tentative map shows that a pedestrian trail looping around the residential units. The pedestrian trail provides access to the gazebos, located on the northwestern and southwestern corners of the parcel. There are no pedestrian trails located on the adjacent subject properties. However, a condition is included requiring the trails system be continuous and that this be accessible to residents of adjoining subdivision within the area covered by the Specific Plan. This condition is consistent with requirements imposed on other approved tract maps within the Specific Plan area.

The Water Resources Policy of the Shaver Lake Forest Specific Plan requires that community sewer and water services be provided for this density of development. The applicant proposes connection to Waterworks District No. 41(WWD 41) for community water and sewer services. The applicant will utilize four water wells. A hydro-geologic report was conducted, which demonstrated that the projected yield for the above mentioned wells was 31.55 gallons per minute over a 120-day cumulative test.

The State Department of Health Services, Office of Drinking Water, which regulates the Fresno County Water Works District No. 41, reviewed the report and identified water source capacity limitations and potential impacts to groundwater quantity as potential impacts. This concern was also raised by the County Geologist who



requested the above mentioned additional information be submitted with respect to groundwater supply.

After review by the Fresno County Resources Division and the State Department of Health Services, it was determined that prior to recordation of a final map, that an additional water well be required to be connected to WWD 41. The additional well is required to have a 50-foot seal. When the subject well is pump tested in compliance with County standards, surrounding wells within a 1,000 foot radius are required to be monitored to determine if there is any influence/draw down on the surrounding wells.

The Resources Division also determined that the cumulative well yield for the four wells located on two subject sites (which includes this project as well as an unrelated adjacent 118 space mobile home park) are required to be reduced from 31.55 gallons per minute to 23.7gallons per minute. Therefore, only 78 water equivalent dwelling units (EDUs) are credited to the developers for both subject sites. As verified from the applicant, 50 of those 78 water EDUs will be used for TT 5050. A mitigation measure requiring construction of an additional well for the benefit of Water Works District 41 prior to recordation of the Final Map was accepted by the applicant and incorporated into the project. An exception request was filed by the applicant to except wells that produce less than 10 gpm. That exception request has been evaluated and approved by the Department of Public Works and Planning.

Policies related to public services and facilities in the Specific Plan are implemented through the Master Implementation Agreement. This agreement was executed in conjunction with the formation of the Shaver Lake Community Facilities District. The Implementation Agreement requires that the development of this property be subject to providing all required public facilities including community water and sewer systems, road improvements, fire protection facilities, underground utilities, school facilities, and snow removal equipment. Payment of the development fees or provision of the facilities will be required in accordance with the Implementation Agreement.

The Specific Plan identifies fuelbreaks on the western portion of the site, which are rock outcroppings, and on the eastern portion of the site, along State Route 168. The nearest residential unit to the designated fuelbrakes are approximately 40 feet. The California Department of Forestry and Fire did not express any concerns.

The Board of Supervisors has recently directed that a finding mechanism be established to provide for a minimum level of Sheriff services in areas experiencing new residential growth. This is consistent with General Plan Policy PF-G.2, which states that the County shall strive to maintain a staffing ratio of two sworn officers per 1,000 residents served. A condition has, therefore, has been included in the Staff Review Committee Report requiring creation of a community facilities district or

other appropriate funding mechanism to provide for police protection at a ratio of two sworn officers per 1,000 residents.

The policies of the Transportation and Circulation Element of the General Plan state that the County will, as conditions of development, require dedication of right-of-way and road improvements as necessary to ensure that roads will safely serve expanding development. Access to the subject property is from Shaver Forest Road via Tollhouse Road (State Highway 168).

The California Department of Transportation (Caltrans) and the Fresno County Public Works Department, Design Division determined potential impacts to the local road system through the Initial Study prepared for this project. A Traffic Impact Study (TIS) was prepared by TPG Consulting, Inc. that determined the extent of road improvements to be required based upon the cumulative effect of this project on the local road system and based upon projected development into the year 2025. These improvements include the signalization at the State Route 168 and Ockenden Ranch Road intersection; the signalization at the State Route 168 and Bretz Mill Road intersection; and the installation of a left-turn pocket on the southbound leg of State Route 168 at the Bretz Mill Road intersection.

The Design Division and Caltrans reviewed the TIS and determined it was acceptable. The applicant has agreed as mitigation to pay the project's pro-rata share of the cost of all required traffic improvements. Further discussion of traffic impacts can be found in the Initial Study discussion (Exhibit 5).

Fresno County General Plan Policy OS-D.4 recommends that the County require protection zones and buffers around natural watercourses such as wetland areas in order protect this highly valuable wildlife habitat. The subject property contains a creek and wetland area approximately 1.52-acres in size. The project has been designed to avoid the wetland area as well as provide a continuous buffer around the wetland area approximately 25 feet wide. The project proposal was reviewed by the California Department of Fish and Game. The Department has approved the applicant's design and the recommended mitigation measures that have been included to require the protection of the wetlands and the lupine.

Policy PF-1.7 of the School and Library Facilities Policies of the General Plan state that the "County shall include schools among those public facilities and services that are considered an essential part of the development service facilities that should be in place as development occurs and shall work with residential developers and school districts to ensure that needed school facilities are available to serve new residential development."

The subject property is located within the Pine Ridge Elementary and Sierra Unified School Districts. These Districts have adopted a resolution requiring the payment of a construction fee. The County, in accordance with the State law that authorizes the

fee, may not issue a building permit without certification from the school district that the fee has been paid. While this project was routed to the school districts for review and comment, no comments were received.

Based on information and findings provided above, staff believes that Finding 1 can be made.

**CONCLUSION:**

Staff believes the required findings can be made based on the factors cited in the analysis, the recommended conditions, and the notes regarding mandatory requirements. Staff, therefore, recommends that Classified Conditional Use Permit Application No. 3084 be approved.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (approval action):

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study No. 5124;
- Move to determine the required Classified Conditional Use Permit findings can be made and move to approve Classified Conditional Use Permit Application No. 3084 subject to recommended conditions.
- Direct the Secretary to prepare a resolution documenting the Commission's action.

**Alternative Motion** (denial action):

- Move to determine one or more of the required findings can not be made for the following reasons [state which finding(s) and reason(s)] and move to deny the project.
- Direct the Secretary to prepare a resolution documenting the Commission's action.

**Recommended Conditions of Approval**

1. Development and operation shall be in substantial conformance with the approved site plans, floor plans, elevations, landscape plan, and operational statement.
2. All conditions in the Subdivision Review Committee Report for Tentative Tract Map No. 5050 shall be complied with.

3. This permit shall be tied to Tentative Tract Map No. 5050. If the tract expires, this Conditional Use Permit shall also expire.
- \*4. To address potential impacts related to aesthetics and lighting the following shall be required.
  - a. Natural building materials and colors compatible with the surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. The materials shall be denoted on the building plans and the structures shall be painted prior to occupancy.
  - b. All lighting shall be hooded and directed as to not shine towards adjacent property and public streets
- \*5. Potential noise impact shall be addressed by limiting construction related activities to the hours between 7:00 a.m. and 6:00 p.m.

\* MITIGATION MEASURE – Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

**NOTES:**

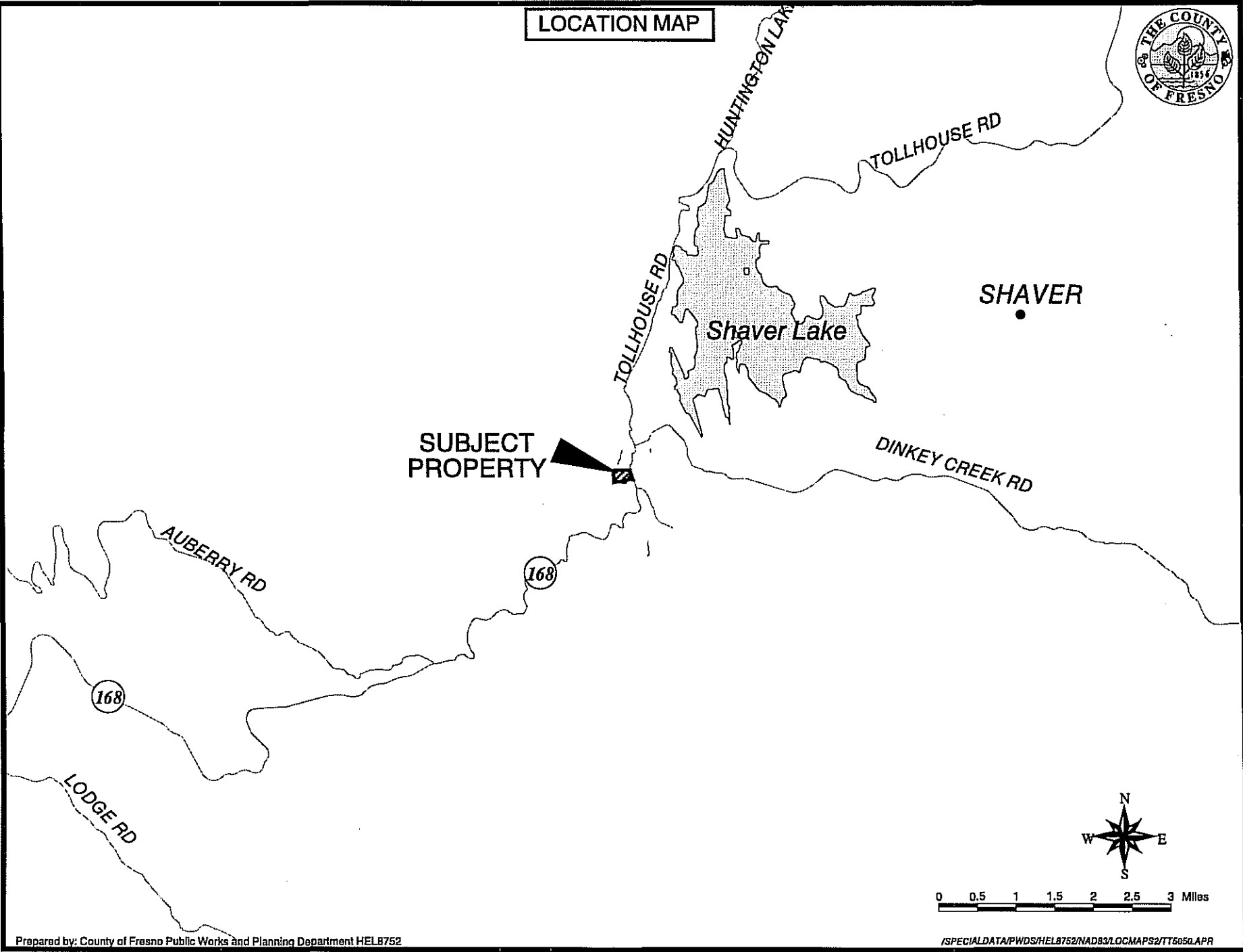
**The following note(s) reference various mandatory requirements of Fresno County or other agencies and is provided as information to the project applicant if approved.**

1. The Pine Ridge Elementary and Sierra Unified School District in which you are proposing construction has adopted a resolution requiring the payment of a construction fee. The County, in accordance with State law that authorizes the fee, may not issue a building permit without certification from the school district that the fee has been paid. An official certification form will be provided by the County when application is made for a building permit.
2. Construction activity including grading, clearing, grubbing, filing, excavation, development or redevelopment of land that results in a disturbance of five acres or more (or less than five acres if part of a larger common plan of development or sale) must secure a construction storm water discharge permit in compliance with U.S.E.P.A.'s NPDES regulations (CFR Parts 122-124, November, 1990).

3. The proposed development shall implement all applicable Best Management Practices (BMPs) presented in the Construction Site and Post-Construction Storm Water Quality Management Guidelines, to reduce the release of pollutants in storm water runoff to the maximum extent practicable.

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LOCATION MAP



SUBJECT PROPERTY

Shaver Lake

SHAVER

168

168

0 0.5 1 1.5 2 2.5 3 Miles

# EXISTING ZONING MAP

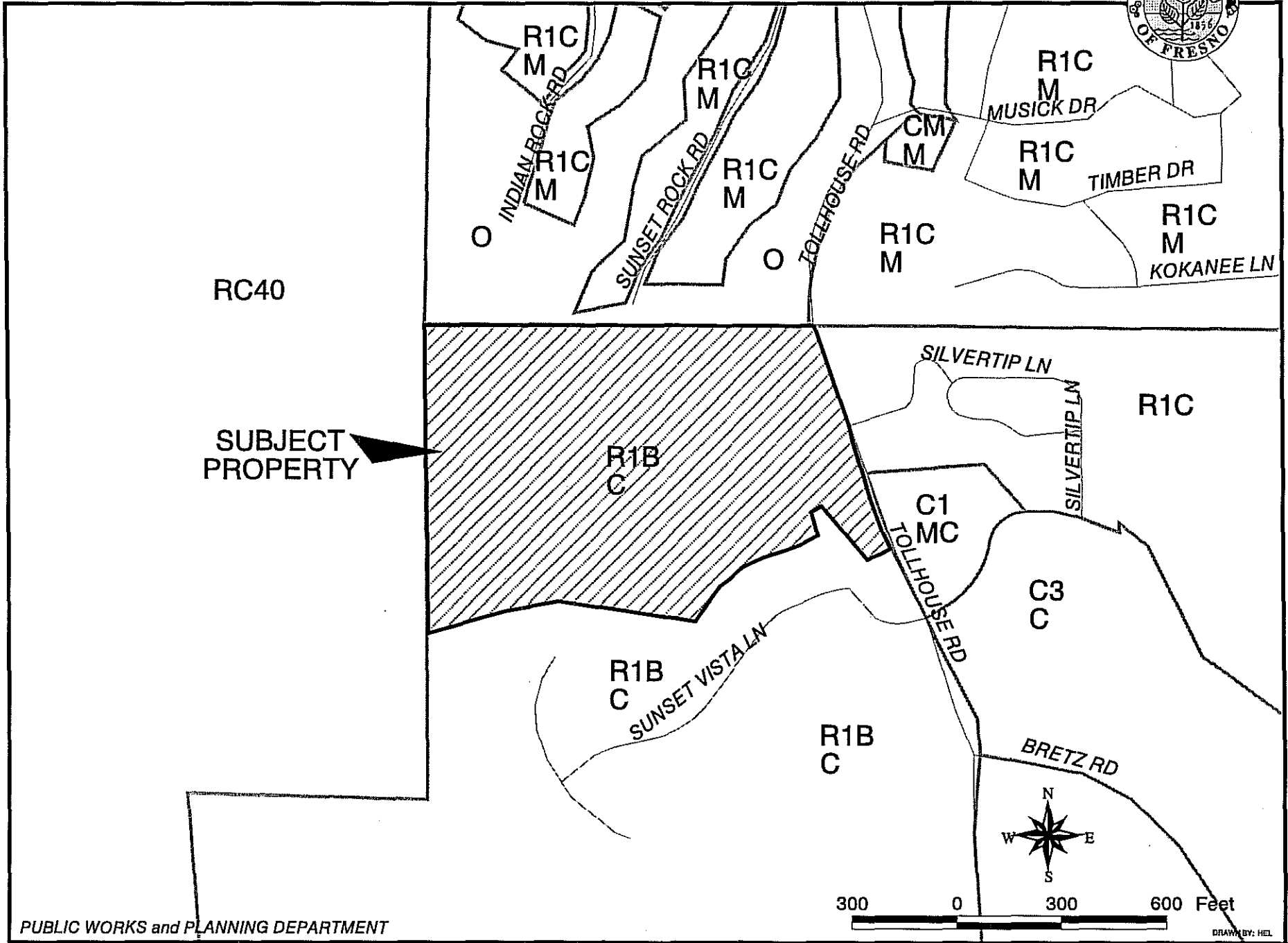
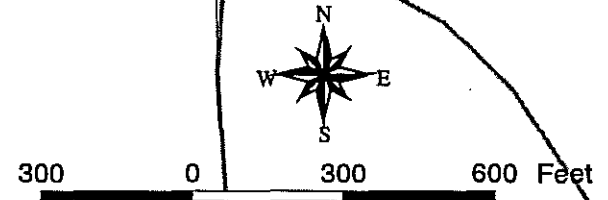


Exhibit 2 - Page 1



EXHIBIT 2



# EXISTING LAND USE MAP



Legend	
C -	COMMERCIAL
CHU -	CHURCH
CP# -	OFFICE COMM. / PROF
SF# -	SINGLE FAMILY RESIDENCE
V -	VACANT

 Subject Property  
 Ag Contract Land

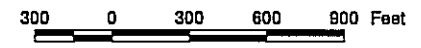
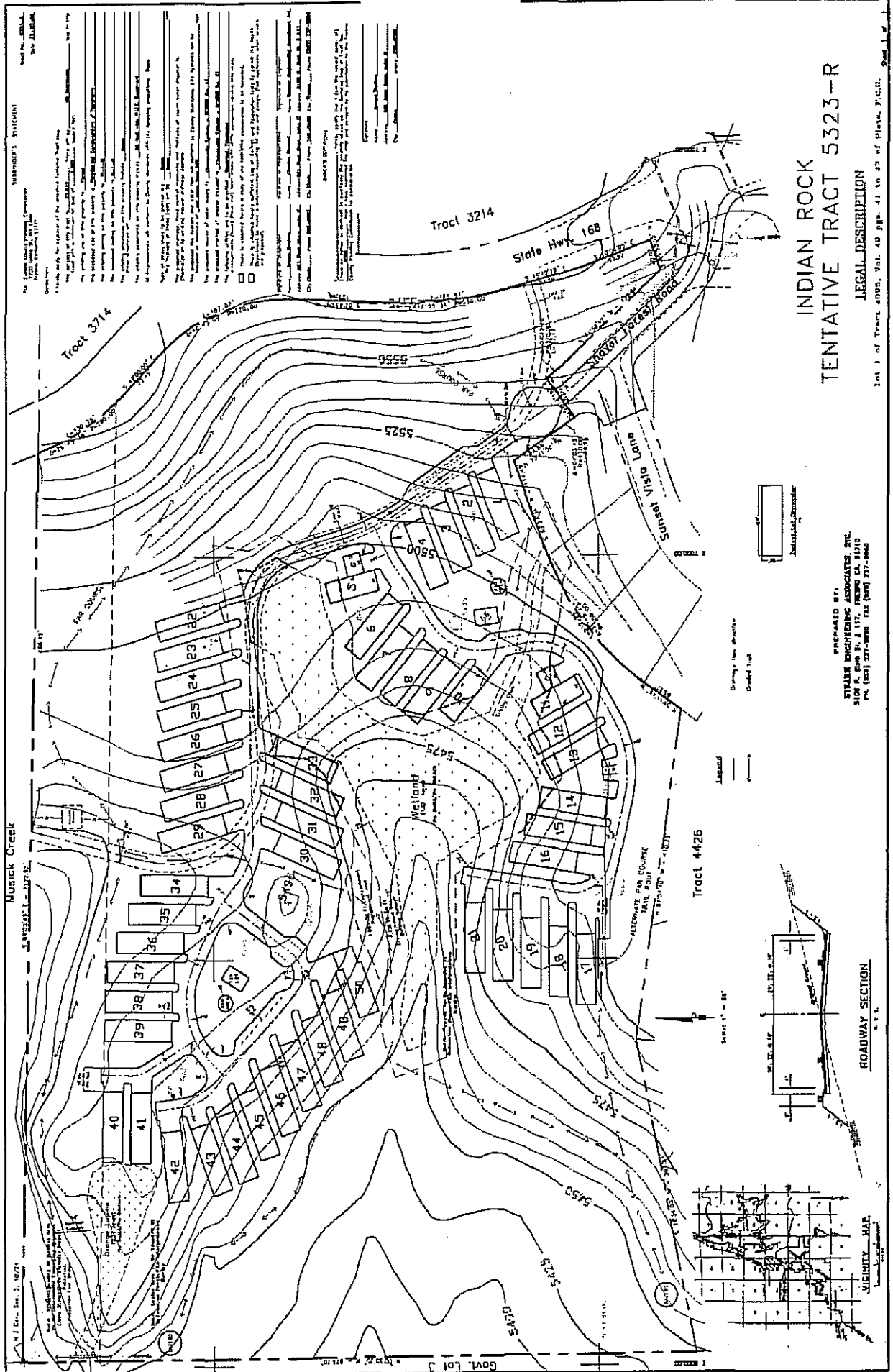


Exhibit 3 - Page 1

EXHIBIT 3





INDIAN ROCK  
TENTATIVE TRACT 5323-R  
LEGAL DESCRIPTION

Lot 1 of Tract 4050, Vol. 40 pgs. 41 to 43 of Plat. P.C.R.

PREPARED BY:  
STALEY ENGINEERING ASSOCIATES, INC.  
1000 N. W. 10th St., Ft. Lauderdale, Fla. 33304  
P.O. Box 237-0000 Ft. Lauderdale, Fla. 33301-0000

10. From the Surveying Commission, dated 11/27/79, the following conditions apply to the proposed subdivision:

1. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

2. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

3. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

4. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

5. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

6. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

7. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

8. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

9. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

10. The proposed subdivision shall conform to the provisions of the Florida Subdivision Law, Chapter 349, F.S., and the rules and regulations promulgated thereunder.

## EXHIBIT 5

### INDIAN ROCK TOWNHOMES AT SHAVER LAKE PROJECT DESCRIPTION

March 22, 2005

Applications are for a tentative tract and conditional use permit for a 50 unit, planned residential development townhome project in the R-1-B District employing private gated roads. The land use type and density is pursuant to the Shaver Lake Forest Specific Plan. Community sewer and water service is by Fresno County Waterworks District No. 41.

This project within Community Facility District No. 1 and is subject to the Interdeveloper Agreement and the Developer-County Fees Agreement for public infrastructure costs reimbursement.

Extension of Shaver Forest Road beyond Sunset Vista Lane would be as a gated entrance private road. Road width from that intersection to the first interior intersection would be 24 feet with roads beyond that point being of 20-foot width for two-way traffic and 18-foot width for one-way traffic. Common driveways (access to a building cluster) would be of 16-foot width.

The project area consists of approximately 22.8 acres, has a substantial elevation change (125 feet +/-), scenic views and a wetland area of approximately 1.52 acres. In light of these unique site opportunities, Tentative Tract 5050 is proposed to be developed as a "Planned Residential Development". As explained in §855-N.20 of the Fresno County Zoning Ordinance, "Planned Developments are intended to promote the efficient use of land through increased design flexibility and quality site planning.

In order to protect the wetlands and create a site design that takes into account the elevation changes, the following development standards are requested to be modified:

1. Lot Size

- a. The minimum lot size in the R-1-B zone district is 12,500 square feet.
- b. Because the proposed development is a planned development, the minimum lot size is the footprint of the building. All other areas are held as a common interest by the Homeowner's Association. Therefore, the minimum lot size being requested is 2,262 square feet.

2. Lot Width

- a. Interior lots
  - i. The minimum lot width in the R-1-B zone district is 80 feet.
  - ii. Because the proposed development is a planned development, the minimum lot size is the footprint of the building. All other areas are held as a common interest by the Homeowner's Association. Therefore, the minimum lot width being requested is 26 feet.



- B. Two Bar-B-Que areas
  - a. One Bar-B-Que area located in the southeast quadrant of the project area.
  - b. One Bar-B-Que area located in the northwest quadrant of the project area.
- C. Protection of approximately 1.52 +/- acres of wetland areas.
- D. Creation of 25 +/- foot setback along perimeter of wetland areas.
- E. Two scenic overlook gazebos.
  - a. One gazebo to be located at the southwest quadrant of the project.
  - b. One gazebo to be located at the northwest quadrant of the project.
- F. An interpretative nature trail that circulates around and through the project.
- G. An exercise "par course" that runs around the perimeter of the project.

Significant open space is realized through clustering of the units. Each unit would be provided a two-car garage with additional parking at locations throughout the project for overflow/guest parking. Common area, roadways and building exterior maintenance would be by a properly constituted homeowners association that would be subjected to County and Department of Real Estate approvals.

Development of the project would be in phases. Site improvements would be constructed in two phases with the southerly area being Phase 1 and the northerly area being Phase 2. Building construction would be building-by-building.

Varying elevations and floor plan modifications may be employed for best site fit (split-level, living area over, living area under configurations) as warranted and as dictated by market conditions.

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## EXHIBIT 6

### REQUIRED FINDINGS NECESSARY FOR GRANTING A CONDITIONAL USE PERMIT APPLICATION

1. That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Division, to adjust said use with land and uses in the neighborhood.
2. That the site for proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof.
4. That the proposed development is consistent with the General Plan.

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**RECEIVED**  
MAR 21 2005

FRESNO COUNTY  
DEPT. OF  
PUBLIC WORKS & PLANNING

March 17, 2005

Fresno County Planning Commission  
Mr. Brian Ross  
2220 Tulare Street  
Fresno, CA 93721

Re: Initial study application 5124  
Tentative Tract Application No. 5050  
Use Permit application no. 3084 by James Bratton

Dear Sirs;

This letter is to state that we are strongly opposed to the above referenced application to re-zone this parcel in order develop 50 residential lots of 2262 sf on 22.84 acres verses the currently allowable R-1-B 12,500 sf minimum lot size. Additionally, we are also opposed to allowing the construction of a 50 unit planned residential development in this area as well. Unfortunately we will be out of state for the hearing or we would attend. The following are my brief feelings regarding this manner.

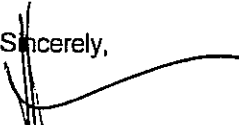
Our lot, purchased two years ago is adjacent to the subject property. We purchased this lot due to the amazing views of the Fresno Valley, the view of Indian Rock, and the beautiful natural granite outcroppings and trees in this area. I feel that ~~increasing~~ **increasing the density more than FIVE TIMES** what is currently allowable would A) not fit with the surrounding developments, (we bought our property in an area of nice homes and spacious lots, next to an equally beautiful property with the same zoning, assuming the forthcoming development would be similar to our area) and B) would not capitalize on the amazing natural resources found in this area. Generally, condos and/or tract housing is not designed to be site adapted in order to fit the geological intricacies of a specific property. Rather the property is destroyed to fit the maximum number of units in an area to make the most money. In general building 50 units with 2-3 specific floor plans/models would cause a lot of trees to be removed, and just building the infrastructure would be detrimental to this parcel of land. The view of Indian rock might now be through the obscure bathroom window of an end unit. And we might be looking at asphalt shingle roofs, T111 siding, and a parking lot full of cars vs. beautiful custom homes designed to fit and optimize the existing landscape and natural resources of this area. I feel this property was zoned as it was to protect the property and the serene beauty of this area.

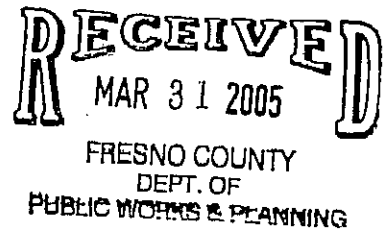
Additionally, developing this many units in the area would cause traffic impacts, noise impacts, tree removal, and view shed issues, which would all be required to be mitigated by the applicant.

I am aware that the Shaver Lake area needs some more affordable housing/rental units, but the developer should find a parcel of land zoned for this purpose in order to maintain the quaint, serene nature of Shaver Lake and the surrounding areas. Developing this parcel according to it's existing zoning will still be profitable to the owner. To go from cabins, and mountain homes to a bunch of condos just doesn't seem right, especially on this parcel of land.

Thank you for your time, and please keep us informed of any further development issues on this parcel.

Sincerely,

  
Katherine L. Murray  
1411 Sierra Drive  
Arroyo Grande, CA 9342



March 29, 2005

Re: Application No. 5124  
Tentative Tract Application No. 5050  
Classified Conditional Use Permit Application No. 3084  
Filed by James Bratton

Dear Sir or Madam:

1. We have a cabin at 41571 Sunset Rock Road, Shaver Lake. The above tract will require water for the houses and landscaping that we have a deep concern. We have water concerns for ourselves so do not want to be experiencing additional difficulties.
2. We were told that the existing sewage system would not be added on. It was full. The exhaust fan on the current system can not keep up with the odor produced now during peak property use.

Thank you for taking our letter into consideration.

Yours truly,

A handwritten signature in cursive script that reads "Donald E. Crawford".

Donald E. Crawford  
2655 W. Robinwood  
Fresno, CA 93711  
559-432-3838



# County of Fresno

Department of Public Works and Planning  
**CECIL LEONARDO**  
Interim Director

## Subdivision Review Committee Report Agenda Item No. 5 May 26, 2005

**SUBJECT:** Initial Study/Environmental Assessment No. 5124  
Tentative Tract Application No. 5050

Allow division of a 22.84-acre parcel into fifty single-family residential lots with a minimum lot size of 2,262 square feet, in the R-1-B (c) (Single-Family Residential, 12,500 square-foot minimum lot size, Conditional) District.

**LOCATION:** The subject property is located on the west side of SR 168 (Tollhouse Road), between Hillcrest Road and Sunset Vista Lane, within the unincorporated community of Shaver Lake (SUP. DIST.: 5) (APN: 130-031-46).

Applicant: James Bratton  
Owner: James Bratton

**STAFF CONTACT:** Brian Ross, Planning & Resource Analyst  
(559) 262-4324

Will Kettler, Principal Staff Analyst  
(559) 262-4242

### RECOMMENDATION:

Approve the Mitigated Negative Declaration prepared for Initial Study Application No. 5124 and approve Tentative Tract Application No. 5050 with recommended findings and conditions, and direct the secretary to prepare a resolution documenting the Commission's action.



**EXHIBITS:**

1. Location Map
2. Existing Land Use Map
3. Surrounding Zoning
4. Tentative Tract Map
5. Summary of Initial Study Application No. 5124 and Mitigation Measures
6. Exception Requests

**PROJECT DESCRIPTION SUMMARY:**

Listed below are key features of the project based on information contained in the application and tentative tract map (Exhibit 4).

**Proposed Use:**

- 50 single-family residences to be placed on individual "foot-print" lots.

**Project Site:**

- 22.84-acres

**Existing Improvements:**

- None

**Proposed Improvements:**

- 50 single-family lots
- Interior road system
- Recreational trail and gazebo
- Community water and sewer improvements
- Drainage facilities
- Fire protection improvements

**ENVIRONMENTAL ANALYSIS:**

Initial Study No. 5124 was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the Initial Study, staff has determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study and Mitigation Measures are included within Exhibit 5.

Notice of Intent to adopt a Mitigated Negative Declaration publication date: March 4, 2005.

**PUBLIC NOTICE:**

Notices were sent to 83 property owners within 1,250 feet of the subject property exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS / BACKGROUND INFORMATION:**

A Tentative Tract Map application may be approved only if five findings specified in the Subdivision Map Act are made. These findings are included in the body of the staff report.

Conditional Use Permit Application No. 3084 proposing to allow a 50-unit planned residential development on this site has been submitted concurrently with the Tract Map. The Tentative Tract Map application cannot be approved without approval of the Conditional Use Permit. The Planning Commission's decision is final unless appealed to the Board of Supervisors.

**KEY INFORMATION PERTINENT TO STAFF ANALYSIS:**

Date of Subdivision Review Committee Meeting:	December 16, 2005
Subdivider:	James Bratton
Engineer:	Strahm Engineering Associates, Inc.
Location:	The subject property is located on the west side of SR 168 (Tollhouse Road), between Hillcrest Road and Sunset Vista Lane.
Nearest City Limits:	The site is located within the unincorporated community of Shaver Lake.
Number of Acres:	22.84
Number of Residential Lots:	50
Minimum Lot Size:	2,262 square feet

Proposed Source of Water:	Community Water System – Fresno County Waterworks District No. 41
Proposed Means of Sewage Disposal:	Community Sewer System – Fresno County Waterworks District No. 41
Drainage:	Channeling to existing natural drainage courses off site.
General Plan Designation:	Mountain Residential
Zoning on Subject Property:	R-1-B (See Existing Zone Map, Exhibit 3)
Surrounding Zoning:	R-1-B(c), R-1-C, C-1-M(c), RC-40, and O Districts.
Proposed Use:	Single-family residential
Land Use on Subject Property:	Vacant
Surrounding Land Use:	Single-family residences, condominiums, and Open Space

**ANALYSIS / DISCUSSION:**

Finding 1: General Plan Consistency

The subject 22.84-acre project site is designated Condominiums in the Shaver Lake Forest Specific Plan and is zoned R-1-B (Single-family residential, minimum 12,500 square foot lot size) District. Given 50 proposed units, this proposal would allow a gross density of one unit per 19,898 square feet of lot area, which is a lower density than if described at the minimum 12,500 square-foot standard.

The Open Space policies of the Specific Plan require that Condominium projects set aside sufficient open space areas for the enjoyment of the property owners and that this common open space be retained in its natural state. The Policies indicate that the open space areas should be held in common as an undivided interest and shown as "outlots" or "easements" within the subdivision.

This project proposes approximately 50%, or 11.3-acres to be preserved for open space and recreation use. This recreation space includes a designated pedestrian trail that provides for hiking around the perimeter of the development and two gazebos located within the southwest and northwest corners of the tract adjacent the trail. The open space being preserved includes a large centrally located wetlands area and an orange lupine area located in the northwest portion of the

tract. The project also contains a small tot lot and barbeque area located near the development entrance.

One of the provisions in the Shaver Lake Forest Specific Plan is that subdivision shall provide an integrated pathway system. The tentative map shows that a pedestrian trail looping around the residential units. The pedestrian trail provides access to the gazebos, located on the northwestern and southwestern corners of the parcel. At this time, there are no pedestrian trails located on the adjacent subject properties. However, a condition is included requiring the trails system be open to the public. This condition is consistent with requirements imposed on other approved tract maps within the Specific Plan area.

The Water Resources Policy of the Shaver Lake Forest Specific Plan requires that community sewer and water services be provided for this density of development. The applicant proposes connection to Waterworks District No. 41(WWD 41) for community water and sewer services. The applicant will utilize four water wells. A hydro-geologic report was conducted, which demonstrated that the projected yield for the above mentioned wells was 31.55 gallons per minute over a 120-day cumulative test.

The State Department of Health Services, Office of Drinking Water, which regulates the Fresno County Water Works District No. 41, reviewed the report and identified water source capacity limitations to groundwater quantity as potential impacts. This concern was also raised by the County Geologist who requested the above mentioned additional information be submitted with respect to groundwater supply.

After review by the Fresno County Resources Division and the State Department of Health Services, it was determined that prior to recordation of a final map, that an additional water well be required to be connected to WWD 41. The additional well is required to have a 50-foot seal. When the subject well is pump tested in compliance with County standards, surrounding wells within a 1,000 foot radius are required to be monitored to determine if there is any influence/draw down on the surrounding wells.

The Resources Division also determined that the cumulative well yield for the four wells located on two subject sites (which includes this project as well as an unrelated adjacent 118 space mobile home park) are required to be reduced from 31.55 gallons per minute to 23.7gallons per minute. Therefore, only 78 water equivalent dwelling units (EDUs) are credited to the developers for both subject sites. As verified from the applicant, 50 of those 78 water EDUs will be used for TT 5050. A mitigation measure requiring construction of an additional well for the benefit of Water Works District 41 prior to recordation of the Final Map was accepted by the applicant and incorporated into the project.

An exception request was filed by the applicant to except wells that produce less than 10 gpm. The exception request has been evaluated and approved by the Department of Public Works and Planning.

Policies related to public services and facilities in the Specific Plan are implemented through the Master Implementation Agreement. This agreement was executed in conjunction with the formation of the Shaver Lake Community Facilities District. The Implementation Agreement requires that the development of this property be subject to providing all required public facilities including community water and sewer systems, road improvements, fire protection facilities, underground utilities, school facilities, and snow removal equipment. Payment of the development fees or provision of the facilities will be required in accordance with the Implementation Agreement.

The Specific Plan identifies fuelbreaks on the western portion of the site, which are rock outcroppings, and on the eastern portion of the site, along State Route 168. The nearest residential unit to the designated fuelbreaks are approximately 40 feet. The California Department of Forestry and Fire did not express any concerns.

The Board of Supervisors has recently directed that a finding mechanism be established to provide for a minimum level of Sheriff services in areas experiencing new residential growth. This is consistent with General Plan Policy PF-G.2, which states that the County shall strive to maintain a staffing ratio of two sworn officers per 1,000 residents served. A condition has, therefore, been included requiring creation of a community facilities district or other appropriate funding mechanism to provide for police protection at a ratio of two sworn officers per 1,000 residents.

The policies of the Transportation and Circulation Element of the General Plan state that the County will, as conditions of development, require dedication of right-of-way and road improvements as necessary to ensure that roads will safely serve expanding development. Access to the subject property is from Shaver Forest Road via Tollhouse Road (State Highway 168).

The California Department of Transportation (Caltrans) and the Fresno County Public Works Department, Design Division determined potential impacts to the local road system through the Initial Study prepared for this project. A Traffic Impact Study (TIS) was prepared by TPG Consulting, Inc. that determined the extent of road improvements to be required based upon the cumulative effect of this project on the local road system and based upon projected development into the year 2025. These improvements include the signalization at the State Route 168 and Ockenden Ranch Road intersection; the signalization at the State Route 168 and Bretz Mill Road intersection; and the installation of a left-turn pocket on the southbound leg of State Route 168 at the Bretz Mill Road intersection.

The Design Division and Caltrans reviewed the TIS and determined it was acceptable. The applicant has agreed as mitigation to pay the project's pro-rata share of the cost of all required traffic improvements. Further discussion of traffic impacts can be found in the Initial Study discussion (Exhibit 5).

Fresno County General Plan Policy OS-D.4 recommends that the County require protection zones and buffers around natural watercourses such as wetland areas in order protect this highly valuable wildlife habitat. The subject property contains a creek and wetland area approximately 1.52-acres in size. The project has been designed to avoid the wetland area as well as provide a continuous buffer around the wetland area approximately 25 feet wide. The project proposal was reviewed by the California Department of Fish and Game. The Department has approved the applicant's design and the recommended mitigation measures that have been included to require the protection of the wetlands and the lupine.

Policy PF-1.7 of the School and Library Facilities Policies of the General Plan state that the "County shall include schools among those public facilities and services that are considered an essential part of the development service facilities that should be in place as development occurs and shall work with residential developers and school districts to ensure that needed school facilities are available to serve new residential development."

The subject property is located within the Pine Ridge Elementary and Sierra Unified School Districts. These Districts have adopted a resolution requiring the payment of a construction fee. The County, in accordance with the State law that authorizes the fee, may not issue a building permit without certification from the school district that the fee has been paid. While this project was routed to the school districts for review and comment, no comments were received.

Based on information and findings provided above, staff believes that Finding 1 can be made.

#### Finding 2: Suitability of Site

The subject property is located within a mountain forested area in the Shaver Lake Community. The subject property is sloped. The central portion where residential development is proposed maintains 0-15% grades. The eastern portion of the property maintains grades between 15-30% and the western portion, consisting primarily of rock outcroppings, has grades in excess of 30%. Development Engineering Section staff have reviewed the location of the building pads and roadways in relationship to the existing slopes as shown on the tract map and find that development will not exceed the 15% grade, which is permitted for building and road development.

Surrounding parcels range in size from less than one acre to 150 acres. Several of the larger parcels to the east are vacant. Residential properties to the north and south consist one to three acre parcels.

The subject property is traversed by natural drainage courses. To ensure that these channels are preserved and maintained, the Development Engineering Section of the Department of Public Works and Planning Department is recommending that provisions be made to maintain the natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of parcels adjacent to the development.

The parcels are 2,262 square feet. However, the proposal meets the density in the R-1-B district as the significant portion of the project is reserved as open space. There are also open space buffers between the residential units

Provision must also be made to detain additional runoff generated from this tract within facilities acceptable to the Director of the Public Works and Planning Department in order to insure that peak flows in natural drainage channels are not increased. Conditions have been recommended to require a grading and drainage plan be submitted to address these issues. In addition, Development Engineering has requested a mitigation measure to require storm water to go through a settling pond located on-site before being discharged off-site.

Based on information and findings provided above, staff believes that Finding 2 can be made.

### Finding 3: Environmental Effects

The County Subdivision Ordinance requires that the design of the subdivision or proposed improvements not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

An Initial Study (Exhibit 5) identified a number of potential environmental impacts associated with this project. Potential impacts related to soil compaction, air, noise, biological impacts, population density, and light/glare were determined to be less than significant with mitigation measures applied. Impacts related to soil compaction, air, and noise impacts were identified as potential impacts related to construction activity. Mitigation measures have been recommended by the air district and included in the initial study that puts limitations of construction equipment. Impacts related to biological impacts and the wetlands located on the site have been addressed through mitigation measures and conditions. Potential impacts related to soil erosion changes in absorption rates, drainage patterns and the rate and amount of surface runoff were determined to be less than significant since they are addressed by the County Grading and Drainage Ordinance.

The project was reviewed by the San Joaquin Valley Unified Air Pollution Control District. The District indicates that the project will contribute to the overall decline in air quality due to an increase in traffic, the operation of lawn and garden equipment, and space and water heating if gas-fired appliances are used. The District indicates that the project will be subject to District rules and regulations pertaining to wood burning, residential water heaters and fugitive dust. Suggested mitigation measures have been applied as conditions of approval and have been agreed upon by the developer.

The California Department of Fish and Game has reviewed the project and has identified several potential impacts to biological resources that exist on site. Mitigation measures have been recommended and agreed upon by the applicant to protect the centrally located Wetland and the Orange Lupine areas. Additionally, mitigation measures require continuous monitoring by a certified biologist of endangered habitat by and an educational program for homeowners to insure the preservation of animals and plant life on site.

Based upon the above, staff believes Finding 3 can be made and that this subdivision will not cause substantial environmental damage or substantially injure fish or wildlife .

#### Finding 4: Public Utilities and Easements

The subdivision design is required to accommodate any easements acquired by the public at large for access through or use of the property. Water Works District No. 41 has an existing 150-foot wide public utilities easement that runs north and south through the western portion of the property. The easement also contains electrical transmission lines. Water Works District No. 41 indicates that the proposed subdivision and development of the property will not interfere with this easement.

All proposed utilities be placed underground in accordance with County requirements. Easements for these utilities will be required as conditions of this map approval. County standards require that any existing overhead utilities within the tract, or within the street right-of-way adjacent to the tract, be removed and placed underground. Conditions have been recommended that all new and existing utilities in the tract, or within the street right-of-way adjacent to the tract, be placed underground in accordance with the provisions of the Subdivision Ordinance.

Neither the design nor the type of improvements will conflict with easements acquired by the public at-large for access through or use of the property. Therefore, staff believes that Finding 4 can be made.



Finding 5: Public Health

The proposed subdivision will be served by Water Works District No. 41. The District will provide water and sewer services and facilities for the proposed subdivision. A "will serve" letter has been provided to the applicant subject to the mitigation measures as recommended in the Initial Study. One of these measures is that an additional well be provided by the applicant with a 50-foot seal. When the subject well is pump tested in compliance with County standards, surrounding wells within a 1,000 foot radius shall be monitored to determine if there is any influence/draw down on the surrounding wells. The tested well shall not have a significant impact on existing wells.

The Fresno County Fire Protection District has reviewed the proposed project and indicates that the project site is located within the California Department of Forestry "State Responsibility Area" and is subject to special fire protection measures. These mandatory standards relate to building setbacks, driveway construction, gating, display of street addresses, disposal of flammable vegetation, water supply facilities for fire protection, and roof materials. These requirements will be addressed through the final map process and at the time of building permit issuance. The California Department of Forestry had no concerns related to the project.

The applicant is required to enter into an implementation agreement, that will require public facilities including community water and sewer systems, road improvements, fire protection facilities, underground utilities, school facilities, and snow removal equipment.

Based upon the fact that an adequate level of public services and facilities are available to serve this tract, staff believes Finding 5 can be made.

**CONCLUSION:**

Staff believes that all of the required findings can be made and recommends approval of the project subject to the recommended conditions of approval:

**PLANNING COMMISSION MOTIONS:**

**RECOMMENDED MOTION (Approval Action)**

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 5124.
- Adopt findings noted in the Subdivision Review Committee Report and approval Tentative Tract Map Application No. 5050, subject to conditions and notes as stated below.

- Direct the secretary to prepare a resolution documenting the Commission's action.

### **ALTERNATIVE MOTION (Denial Action)**

- Deny Tentative Tract Map Application No. 5050 as proposed.
- Direct the secretary to prepare a resolution documenting the Commission's action.

### **CONDITIONS AND NOTES**

#### **A. SHAVER LAKE FOREST ROAD**

1. The segment of the road from State Route 168 to the entrance gate shall be reconstructed to Case A-2a standard with 36 feet of base and pavement.

NOTE: The subdivider requests that an exception to the above Subdivision Ordinance Improvement Standards be granted to permit the segment of road from State Route 168 to the entrance gate be reduced to 28 feet in pavement width.

#### **Analysis of Required Findings:**

Finding 1: *That there are exceptional circumstances or conditions that affect said property or the reasonable use thereof.*

Finding 2: *That the exception is necessary to preserve a substantial property right and permit the enjoyment thereof.*

In response to Findings 1 and 2, the applicant states that the existing Shaver Forest Road was constructed to a width of 28 feet. This road width was constructed to not only serve the Musick Ridge Subdivision, but to also serve the subject 50 unit tract. The applicant points out that the subdivision to the south of the project was previously granted an exception that allowed a 28-foot wide road.

The Development Engineering Section has reviewed the exception request. They have indicated that based upon the fact that this subdivision is a gated community (no public access) that does not provide for additional road extensions to serve development on adjacent properties

and that the road was previously allowed with the 28-foot width as a part of the construction of Tract No. 4426, Development Engineering has no objection to this exception. Therefore, staff believes Findings 1 and 2 can be made.

Finding 3: *That the granting of the exception will not be detrimental to the public health and welfare.*

Finding 4: *That the granting of the exception will not be injurious to prevent the logical development of other property in the immediate area.*

In reference to Findings 3 and 4, the applicant states that similar requests have been granted for other residential projects in the Shaver Lake area and that findings made that the requests would not be injurious to or prevent the logical development of property in the immediate area.”

The Fresno County Development Engineering Section has reviewed the exception request and has no objection if a condition is applied that addresses safety concerns to restrict parking along the primary access road from State Route 168 to the access gate.

Staff believes the required findings can be made for the exception to allow the access road from SR 168 to the entrance gate to remain as a 28 foot wide access road. The condition related to this exception shall read as follows:

a) *Parking along the primary access road from the connection of SR 168 to the gate shall be prohibited.*

\*2. Prior to recordation of the Final Map, the applicant shall enter into a pro-rata share agreement with California Department of Transportation for the specified amount as follows:

State Route 168/Bretz Mill Road Intersection: (17 trips) (\$457.00 per trip) = \$7,769.00

State Route 168/Ockenden Road Intersection: (18 trips) (\$794.00 per trip) = \$14,292.00

B. INTERIOR ROADS AND CUL-DE-DACS

1. All interior roads shall be constructed to a 25 MPH public road standard in accordance with County Improvement Standards Case A-1a with 32 feet of base and pavement.

NOTE: The subdivider requests that exceptions to the above Subdivision Ordinance Improvement Standards be granted to permit the interior roads to have a pavement width of 22 feet built to a 10 mile per hour design speed.

Analysis of Required Findings:

Finding 1: *That there are exceptional circumstances or conditions that affect said property or the reasonable use thereof.*

Finding 2: *That the exception is necessary to preserve a substantial property right and permit the enjoyment thereof.*

In reference to Findings 1 and 2, the applicant states that due to the relatively large wetland area, rock outcroppings, and some slope limitations, building the interior roads to County Standards would not be feasible given these road development constraints.

The Development Engineering Section has reviewed this exception request and has commented that since the subdivision will be a private gated community with no public access, it would be appropriate to permit construction of the road to meet the County's private road (A-15) and SRA standards. Generally, to meet SRA standards, the County has allowed gated communities to construct to the County's private road standards for those subdivisions located east of the Friant Kern Canal.

Per the County's private road standard, a pavement width of 22 feet can accommodate up to 60 units. Development Engineering is requesting that a condition be included to improve the private road to a public road structural section for design purposes.

While the County's private road standard requires a centerline radius of 75 feet minimum, SRA regulations allow a centerline radius of 59 feet minimum. A condition shall be included to require the 59 foot minimum

centerline radius for all roads within the tract.

With the limitation in the road width to private road standards, the applicant needs to provide adequate backing space from the garage area of each unit. The County's parking lot standards require a minimum of 29 feet from the edge of the structure to the edge of pavement. While the applicant's site plan generally meets this requirement, a condition shall be included to require a modification of the proposed AC dike curbing extending from the garage unit.

The Development Engineering Section has recommended two acceptable alternatives. One is to construct the dike away from the corner of the garage at a 45-degree angle back to the travel way. The other is to provide a 5-foot offset from the edge of the garage to provide a backing space width in excess of the garage width.

Since the outlot width is generally limited to the width of the travel way, there is not sufficient pavement width to permit parking on the interior roads, except at those locations shown on the site plan where the roadway is proposed to be widened to permit parking. All other areas along the roadway shall be signed for "no parking."

After analysis, staff concurs with the applicant and believes that the mountainous terrain, in addition to the wetlands, creates a unique physical situation that is unique circumstance not common among other parcels. Therefore, staff believes Findings 1 and 2 can be made subject to conditions.

Finding 3: *That the granting of the exception will not be detrimental to the public health and welfare.*

Finding 4: *That the granting of the exception will not be injurious to prevent the logical development of other property in the immediate area.*

In reference to Findings 3 and 4, the applicant stated that "similar requests have been granted for other projects in the Shaver Lake area with an apparent determination that the requests would not be injurious to or prevent the

logical development of property in the immediate area.”

Staff concurs with the applicant and does not believe that the reduced width of the interior roads will be detrimental to public health and welfare and contrary to the General plan.

Staff believes the required findings can be made for the exceptions to allow the interior roads to be 22 feet in width and built to a 10 mile per hour design speed. Conditions related to this exception shall read as follows:

- a) The private road shall be improved to a public road structural section for design purposes
  - b) All roads must have a centerline radius of a minimum of 59 feet.
  - c) The proposed AC dike curbing extending from the garage unit shall be modified. The Development Engineering Section has recommended two acceptable alternatives. One is to construct the dike away from the corner of the garage at a 45-degree angle back to the travel way. The other is to provide a five-foot offset from the edge of the garage to provide a backing space width in excess of the garage width.
2. Interior roads shall terminate in Improvement Standard B-2 for rural residential cul-de-sacs or a turnaround acceptable to the Fire District having jurisdiction over the area.
  3. The gated entry shall be designed so that vehicles denied access are able to exit the entrance in a continuous forward motion.
  4. The location of the call box or the setback from Sunset Vista Lane intersection shall be determined by statistical analysis using the “queuing theory” to ensure that there is a 1% chance or less of a vehicle waiting to be granted access to the development of encroaching into the road right-of-way. Each vehicle shall be given a 25-foot envelope in determining the setback.
  5. All roads shall intersect as near to right angle as practicable.
  6. Street and regulatory signs and markings shall be included in the

design in accordance with County Standards.

7. Interior roads and cul-de-sacs shall provide public utility easements outside of the roadway where needed.
8. All cul-de-sac streets longer than 500 feet shall have an additional fire hydrant installed at the end of the street. Cul-de-sac roads longer than 500 feet are not allowed without a design exception approved by the Director of Public Works and Planning. The cul-de-sac lengths also exceed SRA requirements. An exception to SRA standards requires that emergency access easements be provided to connect the cul-de-sac to a public road.

NOTE: The subdivider requests that a exception to the above Subdivision Ordinance Improvement Standards be granted to limit the length of cul-de-sacs to less than 500 feet unless an emergency access is provided.

Analysis of Required Findings:

Finding 1: *That there are exceptional circumstances or conditions that affect said property or the reasonable use thereof.*

Finding 2: *That the exception is necessary to preserve a substantial property right and permit the enjoyment thereof.*

In reference to Findings 1 and 2, the applicant states that "roads will not be constructed across the wetlands. In addition there are also rock outcroppings that impinge on the project area. Therefore, in order to develop the property it is necessary that one of the cul-de-sacs exceed the length provided. However, additional fire hydrants will be provided and there will be a turn-around to accommodate fire trucks.

The requested exception is consistent with the exception requests that were made for, and granted to, TTM 3825-Cedar Ridge, TTM 4426 Musick Ridge, and TTM4175 Musick Falls.

Under the SRA standards, cul-de-sac lengths of up to 800 feet are permitted for parcels less than one acre without the need to construct an emergency access. The two cul-de-sacs do not appear to exceed this SRA standard. However, SRA regulations require that a turnaround be

constructed at the end of the cul-de-sac. A condition shall be included to require the construction of these turnarounds at the cul-de-sac ends.

Consistent with the County's ordinance code for cul-de-sac lengths in excess of 300 feet, a condition shall be included to require the construction of a fire hydrant at the end of the cul-de-sac.

Due to the limited construction space, staff believes Findings 1 and 2 can be made subject to the condition mentioned above.

Finding 3: *That the granting of the exception will not be detrimental to the public health and welfare.*

Finding 4: *That the granting of the exception will not be injurious to prevent the logical development of other property in the immediate area.*

Staff believes that if the condition mentioned above is applied, then the exception request will not be contrary to the General Plan nor be detrimental to public health and welfare. The condition related to this exception shall read as follows:

a) The applicant is required to construct a turnaround at the end of the cul-de-sacs

9. Engineered plans for the road improvements shall be submitted to the County of Fresno for review and approval. The initial submittal shall include a soils report which shall identify a recommended traffic index, R-value and pavement section. If significant cuts and fills are involved, subsequent R-values shall be obtained for subgrade after completion of earthwork operations.
10. As a gated community, all interior street maintenance shall be provided by a homeowners association. A Zone of Benefit in CSA 35, or other method acceptable to the Director of the Department of Public Works and Planning, shall be formed to provide the proportionate share of maintenance of Shaver Lake Forest Road.
11. Slope easements outside of the road right-of-way shall be provided where needed.



12. Asphalt concrete dikes shall be provided for erosion control and to direct road runoff into appropriate drainage facilities.
13. The subdivider will be required to provide for maintenance of the new roads for a period of two years after their acceptance by the County.

C. WATER

1. The parcel lies within Waterworks District 41 Zone S, and shall be provided service through this community system.
2. All water facility improvements shall be constructed in accordance with Fresno County Improvement Standards.
3. The water system shall be provided with minimum size mains of 8 inches.
4. A County Standard water sample station with freeze protection shall be provided within the tract.
5. Water mains at the ends of cul-de-sacs shall be looped together to eliminate any dead-end mains.
6. All rights to groundwater beneath the subdivision shall be dedicated to Fresno County Waterworks District No. 41, subject to development by the subdivider or his designee.
7. Prior to issuance of any building permit, the wastewater and water facilities shall be completed and accepted by the Resources Division of the Planning & Resource Management Department. If such improvements have not been completed prior to issuance of a building permit, the property owner shall sign an acknowledgement recognizing that occupancy will not be authorized until such time that said improvements have been accepted by the Resources Division.
8. County Improvement Standard II H.7.e.5 requires that only wells with a yield of 10 gallons per minute or more will be considered sufficient for a community well.

NOTE: The subdivider requests an exception to this standard to permit three wells that produce less than 10 gallons per minute to be included for a community water system.

Analysis of Required Findings:

Finding 1: *That there are exceptional circumstances or conditions that affect said property or the reasonable use thereof.*

Finding 2: *That the exception is necessary to preserve a substantial property right and permit the enjoyment thereof.*

The applicant has provided the following information in support of Findings 1 and 2:

"The wells in question were analyzed using the Fresno County II-H criteria. This criteria requires a well to be pumped for a minimum of 30 days and then extrapolating the well yield out 120 days. This stringent test provides a "worst case" well yield scenario and pumping capacities. All wells analyzed in the aforementioned Larsen reports were pumped for more than 100 days and found to be sustainable.

The long-term benefit to the CSA if the above wells are accepted into the system will be approximately 7.7 gpm with a short-term benefit of 31.55 gpm of what is considered to be the current "shortfall" for the CSA.

The developer of Tentative Tract 5050 is developing in a manner that is consistent with the Shaver Lake Specific Plan and the Shaver Lake Forest Plan. To that end, the developer has conducted the requisite studies and has provided evidence to the county regarding the sustainability of the water supply for the project. The imposition of the policy not accepting wells that produce less than 10 gpm was adopted well after the subject project was submitted. The Schmidt studies indicate said wells can provide for the long-term water demand of the area. Moreover, other wells with yields less than 10 gpm have been accepted for use by other CSAs in Fresno County."

As a point of correction, the reports furnished to the County Geologist were prepared by Ken Schmidt & Associates and Strahm Engineering. However, the numbers presented in the applicant's statement regarding well yield of 31.5 gpm are correct. The 7.7 gpm represents the 25% reduction factor that was applied to the well yields in accordance with County practice.

The Resources Division of the Department of Public Works and Planning and the County Geologist have reviewed this exception request. As indicated by the applicant, the Shaver Lake area has

been experiencing low production for new community wells. In response to this, the Office of Drinking Water of the State Department of Health has recently evaluated Waterworks District 41. Based on this evaluation, the agency has established a minimum flow of 0.3 gallons per minute per dwelling unit for new lots in the District that are less than 36,000 square feet in size, and 0.5 gallons per minute for lots larger than 36,000 square feet. The subject application proposes a subdivision of 50 parcels, all of which will be smaller than 36,000 square feet. This results in a total requirement of 15.0 gallons per minute for the tract.

The yield from four wells will be dedicated to Fresno County Waterworks District 41 to meet the needs of the proposed tract. Pump test data for these wells was provided to the County Geologist. The four wells are located in the Kings River watershed and produce a yield of 31.5 gpm. Based upon the County Geologist's most recent analysis, yield from these wells has proven to be sustainable over multiple years of testing, with the presented data reflecting the worst case for each well over the testing periods. The Resources Division has therefore indicated that the Division has no objection to the granting of this exception.

Finding 3: *That the granting of the exception will not be detrimental to the public health and welfare:*

Finding 4: *That the granting of the exception will not be injurious to prevent the logical development of other property in the immediate area.*

The applicant has provided the following information in support of Findings 3 and 4:

"Granting the proposed exception request will result in the short-term provision of approximately 31.55 gallons of water per minute to the meet the needs of the CSA and the provision of approximately 7.7 gallons of water over the long term. Providing the additional water will benefit the CSA and, as a result, should be considered a benefit to the public safety, health and welfare.

The proposed development is consistent with both the Shaver Lake Specific Plan and the Shaver Lake Forest Plan which has been in place for over 25 years. Not granting the exception request will actually be counter to the logical development of the property in the immediate area."

The County Geologist has reviewed the subject application for compliance with the water policies of the General Plan and has considered this exception request.

The General Plan policies include requirements that the water supply for a discretionary project is adequate and sustainable. The General Plan further provides that if the use of groundwater will have physical impacts beyond the boundary of the project in question, these impacts shall be mitigated. The Geologist comments that the pump test data and the location of the four wells proposed to serve the project provide evidence that the water policies of the General Plan can be met. The Geologist indicates that the data shows that the wells are capable of producing a consistent yield, and he therefore has no objection to the requested variance from the community well standard.

Staff believes the required findings can be made for this exception request.

9. Water capacity equivalent to 0.3 gpm per residence shall be developed for service to the tract. Capacity shall be provided for the entire subdivision with the development of the first phase. If existing wells are utilized from "reserved capacity," adequate documentation shall be submitted to verify compliance with this condition.
- \*10. Prior to recordation of the final map an additional well shall be constructed for the benefit of Water Works District 41. This well shall serve as an additional water source should the wells dedicated to the project not maintain their pump tested yields. The additional well shall have a 50-foot seal. When the subject well is pump tested in compliance with County standards, surrounding wells within a 1,000 foot radius shall be monitored to determine if there is any influence/draw down on the surrounding wells. After two years, the developer will receive credit for future development for any excess capacity from the additional well as well as any excess capacity that may exist from the dedicated wells. Final allocation of any excess capacity will be subject to the Board's approval of a reservation agreement. The available reserve amount shall be determined two years after the dedicated project wells are connected to County Water Works District 41.

D. SEWER

1. The development shall be served by the community sewer system.

2. All sewer facility improvements shall be constructed in accordance with Fresno County Improvement Standards. If a sewer lift station is required, a backup power supply shall be provided for automatic transfer of power in the event of a disruption in electrical service.
3. The sewer system shall be provided with minimum size mains of 8 inches.

#### E. DRAINAGE AND EROSION CONTROL

1. If retention facilities are proposed as a mitigation measure to control runoff, the drainage analysis shall examine downstream effects for culvert crossings and swale capacities.
2. Ponds in excess of 18 inches shall be fenced.
3. A Notice of Intent shall be filed with the Regional Water Quality Control Board prior to the start of grading activities.
4. A copy of the Storm Water Pollution Protection Plan shall be provided to the County prior to the start of grading activities. Erosion control measures included in the SWPPP shall be set forth on the grading plan.
- \*5. To address potential impacts related to storm water drainage all storm water shall go through a settling pond located on-site before being discharged off-site.

#### F. COMMUNITY FACILITIES DISTRICTS

1. The property is within the boundaries of Community Facilities District No. 1. Payment of CFD fees shall be required at the time of sale of each lot in the tract, or at the time that building permits are pulled, whichever occurs first.
2. Prior to recordation of a final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism.

G. FIRE PROTECTION AND OPEN SPACE

1. The location and number of fire hydrants shall be approved by the Director of Public Works and Planning after consideration of the recommendations of the fire district.
2. The parcel lies adjacent to County Service Area 31 Zone B. The parcel will be required to annex to the existing CSA 31 Zone of Benefit or create a new Zone of benefit in CSA 31 for maintenance of fuel modification and open space areas.

H. EMERGENCY ACCESS ROADS

1. All emergency access roads shall be contained within easements and shall connect to public roads.
2. Shall be improved to a standard to provide traversability for emergency equipment as determined by the Director of the Public Works and Planning Department after consideration of the recommendations of the fire district having jurisdiction of the area.
3. Crash gates shall be provided at both ends of the easements.

I. BIOLOGICAL AND CULTURAL RESOURCE CONDITIONS:

- \*1. In order to protect wildlife resources identified in the Biological and Wetlands Resources Report prepared by John C. Stebbins dated December 10, 2002 the following measures shall be required:
  - a) The wetland areas including the two identified drainages and Orange Lupine areas shall be identified as outlots and listed as "No-Construction / No Ground Disturbance Environmentally Sensitive Area" on the final map and shall remain in their natural state. The final map shall state that ground disturbance activities, (e.g. grading, fencing, construction, clearing landscaping or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map Application No. 5050, or the cutting or removal of any natural vegetation, is prohibitive unless otherwise approved in advance of the ground disturbance activity by the California Department of Fish and Game. This requirement shall be recorded as a covenant running with land as part of the Final Map process.
  - b) Prior to the start of ground disturbance activities associated with

the project, the wetland areas shall be bounded by a wildlife friendly design delineation fence as approved by the California Department of Fish and Game.

- c) The Orange Lupine areas shall be fenced with a permanent fence forty two inches in height to further prevent disturbance with the outlot area. The type of fence and location boundaries of the "Orange Lupine" area shall be identified by both the California Department of Fish & Game and a qualified biologist in order to ensure that wildlife will be able to traverse the area.
- d) Prior to the start of any construction, which includes grading, or filling of a jurisdictional wetland for purposes of developing the existing dirt road identified in the Biological and Wetland Report prepared by John c. Stebbins, if required a Clean Water Act Section 404 Permit shall be obtained from the United States Department of the Army Corp of Engineers and a Clean Water Act Section 401 Water Quality Certificate Permit shall be obtained for the project by the California Regional Water Quality Control Board.
- d) Prior to any authorized project-related disturbance to the streams or stream crossing for access purpose, the Department of Fish and Game shall be provided with an appropriate Streambed Alteration Notification pursuant to Fish and Game code sections 1600-16003 et. Seq.
- f) To address potential impacts related to erosion, prior to recordation of the final map, an "Erosion Control Plan" shall be prepared by a qualified engineer or erosion control specialist. The Erosion Control Plan shall address all gutters and storm drains associated within the project to prevent erosion at all runoff outfalls and shall be approved by the County's Grading Inspector.
- g) The "Indian Rock Interpretive Trail System shall be designed to achieve a minimum 50-foot separation from both of the outlots, consisting of the "Wetlands" and the "Orange Lupine" areas. Portions of the trail system will include "Interpretive Trail Signage" to educate residents of the value of the wetlands and the Orange Lupine on the project site. Minor encroachments into the 50-foot fencing setback will be allowed on a case by case basis in order to allow the Interpretive Trail System" to interact with the protected areas.

- h) Prior to recordation of the Final Map, the subdivider shall prepare for the County's and Department of Fish and Game's review and approval, a brochure or other educational materials that discusses human and wildlife interactions, with special emphasis on mammal and avian species within the project area, and environmentally responsible landscape choices. The brochure shall be provided to all homeowners and it shall contain as a minimum:
  - i.) Information on living with local wildlife including (but not limited to) deer, bear, and mountain lion.
  - ii.) A discussion of the importance of pet restrictions.
  - iii.) A discussion of the value to wildlife of minimizing outdoor lighting.
  - iv.) A discussion of the value to wildlife of minimizing the removal of native vegetation (and snags) and the value of using native plants for landscaping.
  - v.) A discussion on the prohibition of hunting and the use of firearm anywhere in the project area.
  - vi.) A discuss on the prohibition of feeding wildlife anywhere on the project area.
  - vii.) A discussion on avoiding the use of pesticides and other chemicals in or near to the wetland, particularly during the herding and nesting season of May through August.
- 2. Prior to recordation of the final map, the subdivider shall prepare "Covenants, Conditions and Restrictions" (CC&Rs) for review and approval by the California Department of Fish and Game for the "Interpretive Trail System" location", "Wetlands Area", "Orange Lupine Area", streams and tributaries, stream and tributary setbacks, and common areas such as gazebo locations and children play areas. Enforcement of the CC&Rs shall be the responsibility of the Homeowners' Association.
- \*3. The Homeowners Association shall retain a qualified professional biologist to evaluate the site on an annual basis including;
  - a) Compliance with the state and federal wetland permit requirements.



- b) Possible degradation of wetland areas from erosion and sedimentation.
- c) Compliance with the wetland area "NO BUILD, NO DISTURB".
- d) Compliance with the "Orange Lupine" area "NO BUILD, NO DISTURB".
- e) A description of the environmental conditions at the time of the evaluation.

The subdivider, and the qualified professional biologist on the project's first review, shall establish an ongoing Homeowners' Association committee to work with the biologist in the preparation of the annual report. The goal of this committee shall be to achieve ongoing education for both the committee members and the Homeowners' Association.

- \*4. The qualified professional biologist, retained by the Homeowners' Association, shall submit the biologist's evaluation to both the Fresno County Planning Department and the California Department of Fish & Game for a period of ten years. After ten years of reporting by the biologist, the Homeowners Association committee shall then assume the responsibilities of the biologist for both the reporting and compliance issues of these mitigation measures. It will be the sole responsibility of the biologist to ensure to the California Department of Fish & Game that the Homeowners' Association committee is responsible to assume this duty in perpetuity.
- \*5. The subdivider with the qualified professional biologist through the CC&R's will be empowered to correct and immediately bring into compliance any issues that the biologist or the California Department of Fish & Game identify as being in violation of the intent of these mitigation measures at the sole expense to the applicant, for a period not to exceed two years, after the recording final map. Thereafter it will be the responsibility of the biologist and subsequent Homeowners' Association committee to ensure that any non-compliance issue is corrected, with the CC&R's reflecting that the Homeowners' Association is empowered to take such action.
- \*6 In the event that cultural resources are unearthed during grading or construction, all work shall be halted in the area of the find, and an archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are

unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are Native American, the Coroner must notify the Native American Commission within 24 hours.

J. OTHER CONDITIONS:

- \*1. To address potential impacts related to aesthetics and lighting the following shall be required.
  - a) Natural building materials and colors compatible with the surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. The materials shall be denoted on the building plans and the structures shall be painted prior to occupancy.
  - b) All lighting shall be hooded and directed as to not shine towards adjacent property and public streets
- \*2. The project shall comply with San Joaquin Valley Air Pollution Control District's Regulation VIII (Fugitive PM 10 Prohibitions) as amended, Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt), Rules 4901 (Wood Burning Fireplaces and Wood Burning Heaters), District Rule 4902 (Residential Water Heaters). This requirement shall be noted on the design plans and specifications.
- \*3. Potential noise impact shall be addressed by limiting construction related activities to the hours between 7:00 a.m. and 6:00 p.m.
4. The proposed pedestrian trail shall be open to the public.

\* MITIGATION MEASURE – Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

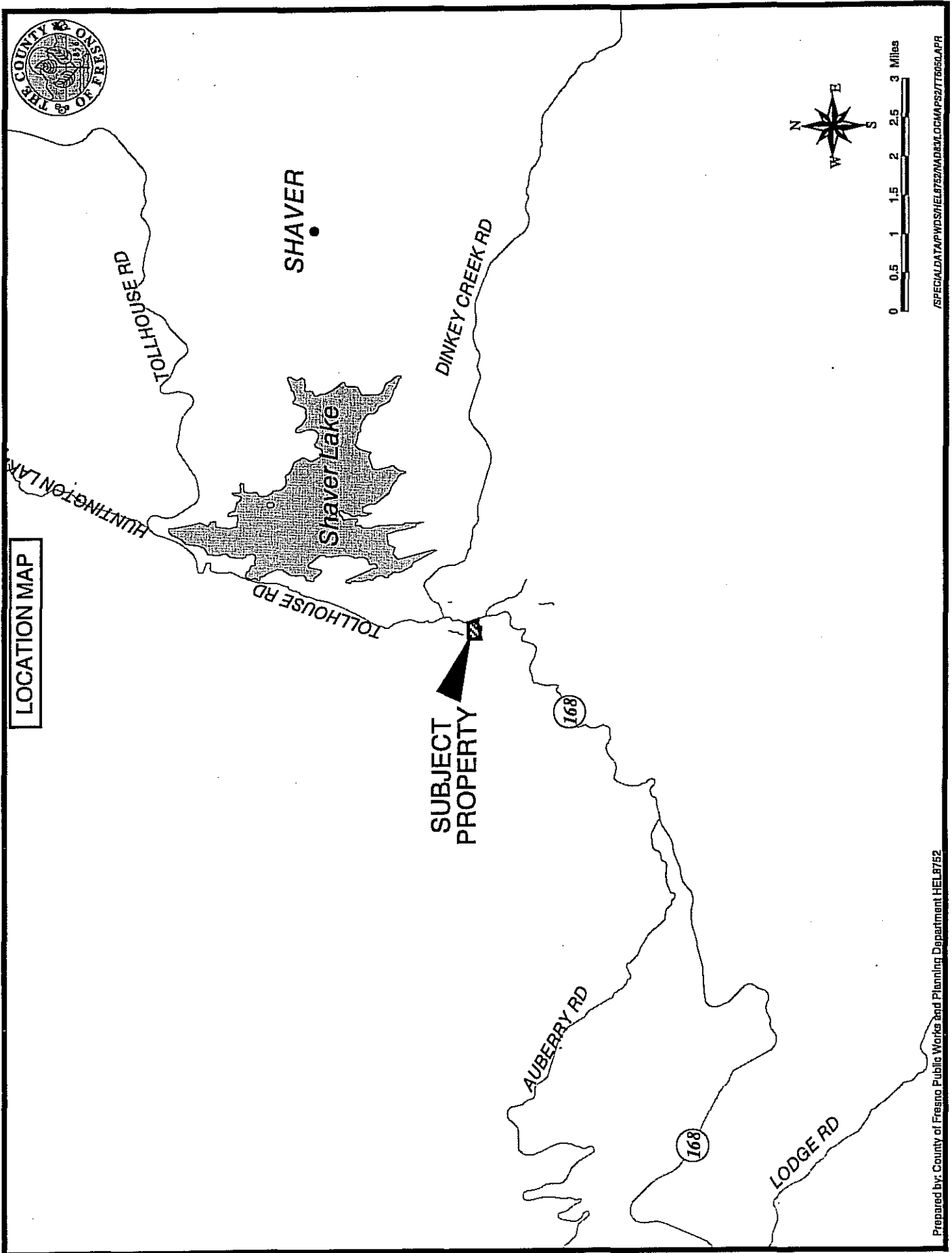
**NOTES:**

**The following note(s) reference various mandatory requirements of Fresno County or other agencies and is provided as information to the project applicant if approved.**

1. The Pine Ridge Elementary and Sierra Unified School District in which you are proposing construction has adopted a resolution requiring the payment of a construction fee. The County, in accordance with State law that authorizes the fee, may not issue a building permit without certification from the school district that the fee has been paid. An official certification form will be provided by the County when application is made for a building permit.
2. Construction activity including grading, clearing, grubbing, filling, excavation, development or redevelopment of land that results in a disturbance of five acres or more (or less than five acres if part of a larger common plan of development or sale) must secure a construction storm water discharge permit in compliance with U.S.E.P.A.'s NPDES regulations (CFR Parts 122-124, November, 1990).
3. The proposed development shall implement all applicable Best Management Practices (BMPs) presented in the Construction Site and Post-Construction Storm Water Quality Management Guidelines, to reduce the release of pollutants in storm water runoff to the maximum extent practicable.

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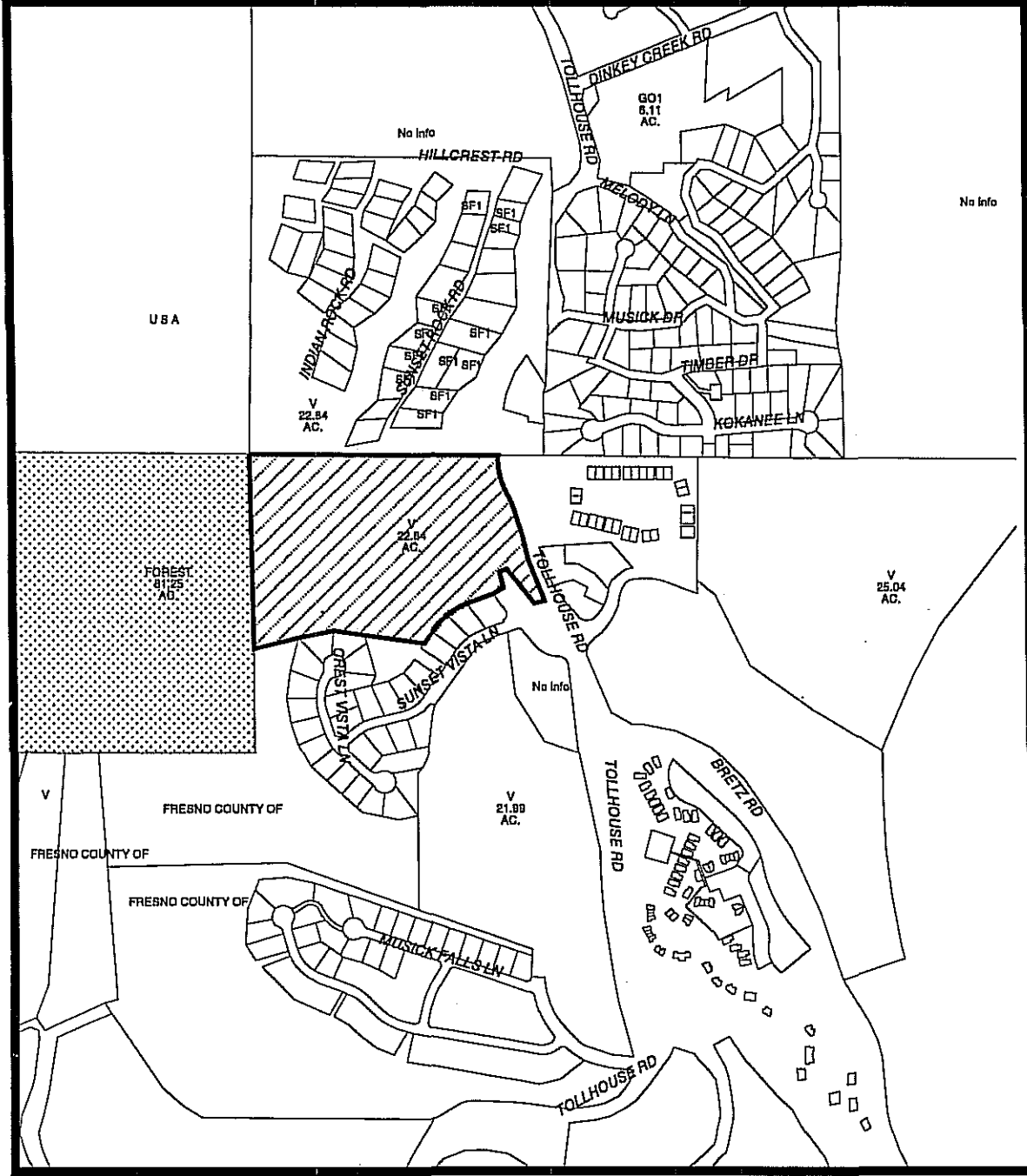
EXHIBIT 1




Prepared by: County of Fresno Public Works and Planning Department HEL8752


/SPECIALDATA/P/W/S/FIELD/752/NA/DEM.LOC/MAPS/27/T6650.APR

# EXISTING LAND USE MAP



Legend
C - COMMERCIAL
CHU - CHURCH
CP# - OFFICE COMM. / PROF
SF# - SINGLE FAMILY RESIDENCE
V - VACANT

 Subject Property

 Ag Contract Land

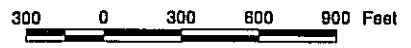


Exhibit 2 - Page 1

EXHIBIT 2

# EXISTING ZONING MAP

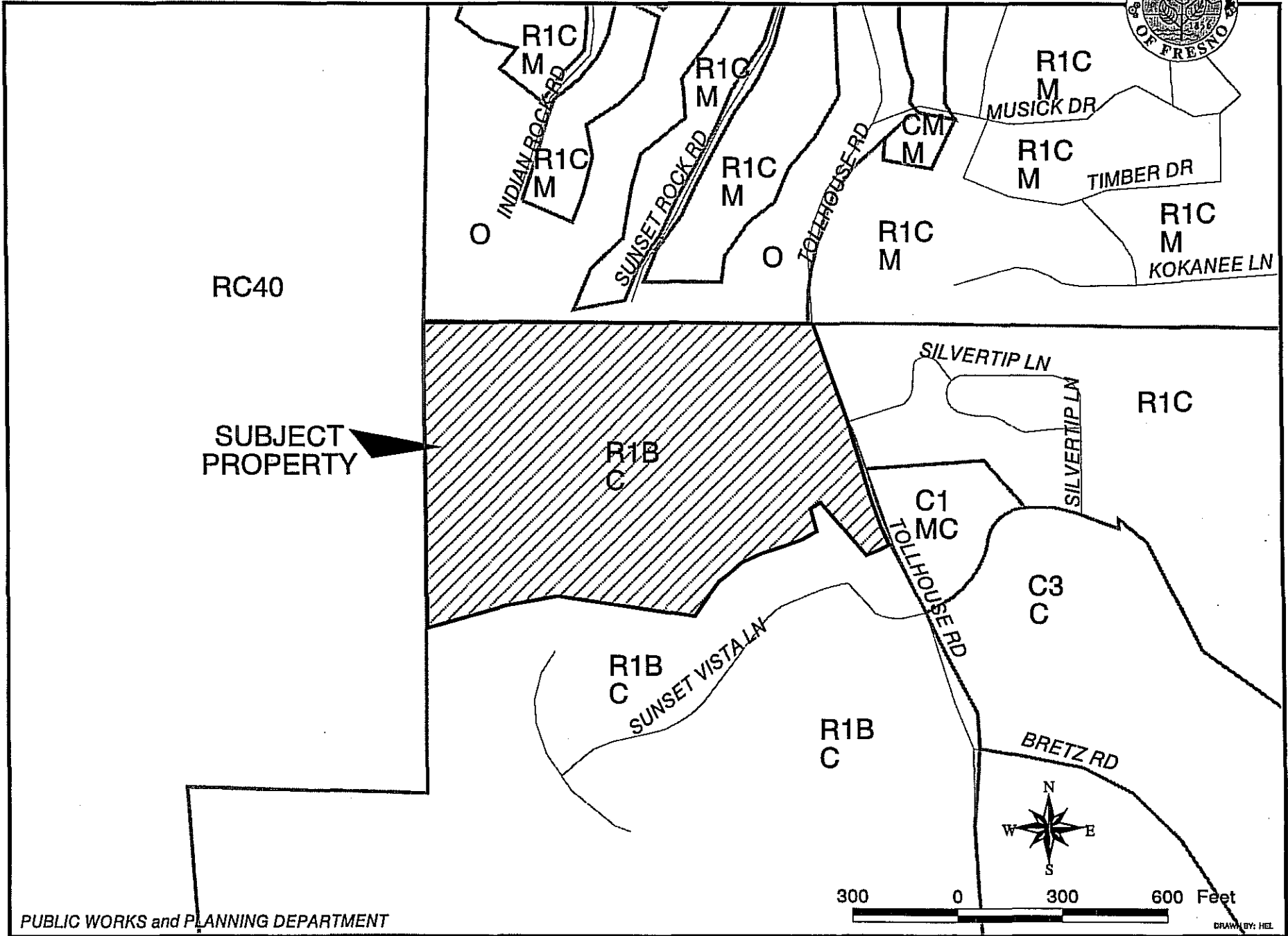


Exhibit 3 - Page 1

EXHIBIT 3



# EXHIBIT 5

## EVALUATION OF ENVIRONMENTAL IMPACTS

**Initial Study Application No. 5124  
Tentative Tract No. 5050  
Conditional Use Permit No. 3084  
(James Bratton)**

### PROJECT DESCRIPTION

To allow division of a 22.84-acre parcel into fifty single-family residential lots with a minimum lot size of 2,262 square feet, in the R-1-B (c) (Single-Family Residential, 12,500 square-foot minimum lot size, Conditional) District.

To allow a 50-unit Planned Residential Development in the R-1-B (c) (Single-Family Residential, 12,500 square-foot minimum lot size, Conditional) District.

### LOCATION

The subject property is located on the west side of SR 168 (Tollhouse Road), between Hillcrest Road and Sunset Vista Lane, within the unincorporated community of Shaver Lake (APN: 130-031-46) (SUP. DIST.: 5).

### I. AESTHETICS

- a) **Would the project have a substantial adverse effect on a scenic vista;**
- b) **Would the project substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway;**
- c) **Would the project substantially degrade the existing visual character or quality of the site and its surroundings; or**

**FINDING – Less than Significant Impact with Mitigation Incorporated: *The project proposes to create 50 single-family residential lots in the Shaver Lake region. Surrounding the subject property are the following: residential development to the north and south; Highway 168 and commercial development to the east; and rock outcroppings and the Sierra Natural Forest to the west, where there are views and vistas of the mountainous surroundings. The development, however, will not terminate any views and vistas as there are open space buffers between the residential development and the parcel's borders. There are also open space buffers surrounding the wetlands, streams, rock outcroppings, and Highway 168.***



*There are no historic buildings or scenic highways located on the site. In order to mitigate impacts related to the aesthetic appeal of the residential development, natural building materials and colors compatible with the surrounding terrain (earth tones and non-reflective paints) shall be used on the exterior surfaces of all structures, including water tanks and fences. The materials shall be denoted on the building plans and the structures shall be painted prior to occupancy. This requirement was accepted by the applicant and incorporated into the project as a mitigation measure. Compliance with the measure will reduce potential impact to less than significant level*

- d) Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**

*FINDING – Less than Significant Impacts with Mitigation Incorporation: The project will result in the creation of new sources of light and glare in the area by the addition of 50 new homesites. The impact is not expected to be significant because the surrounding area is developed with similar uses and lighting. Potential light and glare impacts were mitigated to a less than significant impact by requiring all lighting to be hooded and directed as to not shine towards adjacent property and public streets.*

## **II. AGRICULTURAL RESOURCES**

- a) Would the project convert prime or unique farmlands or farmland of statewide importance to non-agricultural use;**
- b) Would the project conflict with existing agricultural zoning or Williamson Act contracts; or**
- c) Would the project involve other environmental changes which, due to their location or nature, could result in conversion of farmland to non-agricultural use?**

*FINDING – No Impact: The proposed project is located on a parcel in the R-1-B Zone District, and is designated as Condominiums in the Shaver Lake Forest Specific Plan. According to the Fresno County Important Farmland Map, the parcel is not located on prime agriculture land. In addition, the land, as well as the surrounding parcels, are currently not used for farmland. Therefore, there are no impacts related to agriculture land.*

## **III. AIR QUALITY**

- a) Would the project conflict with or obstruct implementation of the applicable air quality plan?**
- b) Would the project isolate any air quality standard or contribute to an existing or projected air quality violation;**

- c) **Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a federal or state ambient air quality standard; or**
- d) **Would the project expose sensitive receptors to substantial pollutant concentrations?**
- e) **Would the project create objectionable odors affecting a substantial number of people?**

**FINDING – Less than significant Impact with Mitigation Incorporation:** *The entire San Joaquin Valley is classified non-attainment for ozone and fine particulate matter (PM10). This project would contribute to the overall decline in air quality due to increased traffic and ongoing operational emissions. Although this project alone would not generate significant air emissions, the increase in emissions from this project, and others like it, cumulatively reduce the air quality in the San Joaquin Valley. A concerted effort shall be made to reduce project-related emissions and mitigate potential impacts. The San Joaquin Valley Air Pollution District indicated the project is subject to the regulations and rules noted below. These rules have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. These requirements were incorporated into the project as mitigation measures and were accepted by the applicant:*

*Regulation VIII (Fugitive PM10 Prohibitions)- Regulation VIII (Rules 8011-8081) is a series of rules designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction, road construction, bulk materials storage, landfill operations, etc. If a residential project is 10.0 or more acres in area, a Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021. If a residential site is 1.0 to less than 10.0 acres, an owner/operator must provide written notification to the District at least 48 hours prior to his/her intent to begin any earthmoving activities (see section 6.4.1). A compliance assistance bulletin has been enclosed for the applicant. A template of the District's Dust Control Plan is available at:*

*<http://www.valleyair.org/busind/comply/PM10/forms/DCP-Form%20-%2010-14-2004.pdf>*

*Rule 4102 (Nuisance) applies to any source operation that emits or may emit air contaminants or other materials. In the event that the project or construction of the project creates a public nuisance, it could be in violation and be subject to District enforcement action.*

*Rule 4601 (Architectural Coatings) limits volatile organic compounds from architectural coatings. This rule specifies architectural coatings storage, clean up and labeling requirements.*

Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). If asphalt paving will be used, then paving operations of this project will be subject to Rule 4641. This rule applies to the manufacture and use of cutback asphalt, slow cure asphalt and emulsified asphalt for paving and maintenance operations.

Rule 4901 (Wood Burning Fireplaces and Wood Burning Heaters) limits PM10 and PM2.5 emissions from residential development. Construction plans for residential developments may be affected by section 5.3, specifically:

*§5.3 Limitations on Wood Burning Fireplaces or Wood Burning Heaters in New Residential Developments. Beginning January 1, 2004,*

*5.3.1 No person shall install a wood burning fireplace in a new residential development with a density greater than two (2) dwelling units per acre.*

*5.3.2 No person shall install more than two (2) EPA Phase II Certified wood burning heaters per acre in any new residential development with a density equal to or greater than three (3) dwelling units per acre.*

*5.3.3 No person shall install more than one (1) wood burning fireplace or wood burning heater per dwelling unit in any new residential development with a density equal to or less than two (2) dwelling units per acre.*

*More information about Rule 4901 can be found at our website- [www.valleyair.org](http://www.valleyair.org). For compliance assistance, please contact Mr. Wayne Clarke, Air Quality Compliance Manager, at 230-5968.*

Rule 4902 (Residential Water Heaters) limits emission of NOx from residential developments.

*The Air District has also suggested additional energy-conserving measures to assist in further reducing air quality impacts. These suggestions – which include landscaping, pedestrian and cycling infrastructure, construction activity measures, and reduction of vehicular traffic – were provided to the applicant and are included as project notes.*

## **VI. BIOLOGICAL RESOURCES**

- a) **Would the project have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special-status species?**
- b) **Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFG or USFWS?**

**FINDING - Less than Significant Impact with Mitigation Incorporated:** *The proposed 22.84-acre site is located in an area of wildlife and wetlands. The Department of Fish & Game indicated the project could result in the following impacts:*

1. *Loss and/or degradation of streams and associated wildlife resources.*
2. *Loss and/or degradation of wetland.*
3. *Loss and/or degradation of riparian habitat.*
4. *Interference with daily and seasonal animal movement and migration patterns.*
5. *Disturbance to native wildlife from people and domestic pets.*
6. *Introduction of non-native invasive species.*
7. *Interference with night-active species from project related light.*
8. *The "take" of State and/or habitat of federally listed threatened species and/or habitat upon which they depend.*

*A comprehensive biological resources survey and wetlands determination report was prepared for the project by John C. Stebbins, Biological Consultant, on December 10<sup>th</sup>, 2002 entitled "Biological and Wetlands Resources Report for Proposed Indian Rock Project Area". The Report was routed and reviewed by the Department of the Army - Corps of Engineers, the California Department of Fish & Game (CDFG) and the U.S. Department of Interior, Fish & Wildlife Services (USFWS).*

*The Department of Army – Corps of Engineers concurred with the Biological and Wetlands Report and issued an Approved Jurisdictional Determination. The CDFG and USFWS reviewed the report and the following mitigation measures are required:*

1. *The wetland areas including the two identified drainages and Orange Lupine areas shall be identified as outlots and listed as "No-Construction / No Ground Disturbance Environmentally Sensitive Area" on the Final Map and shall remain in their natural state. The Final Map shall state that ground disturbance activities, (e.g. trading, fencing, construction, clearing landscaping or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map Application No. 5050, or cutting or removal of any natural vegetation, is prohibitive unless otherwise approved in advance of the ground disturbance activity by the California Department of Fish and Game. This requirement*

*shall be recorded as a covenant running with the land as part of the Final Map process.*

- 2. Prior to the start of ground disturbance activities associated with the project, the wetland areas shall be bounded by a wildlife friendly design delineation fence as approved by the California Department of Fish and Game.*
- 3. The Orange Lupine areas shall be fenced with a permanent fence 42 inches in height to further prevent disturbance within the outlot area. The type of fence design and location boundaries of the "Orange Lupine" area shall be identified by both the California Department of Fish and Game and a qualified biologist in order to ensure that wildlife will be able to traverse the area.*
- 4. Prior to the start of any construction, which includes grading or filling of a jurisdictional wetland for purposes of developing the existing dirt road identified in the Biological and Wetland Report prepared by John C. Stebbins, a Clean Water Act Section 404 Permit if required, shall be obtained from the United States Department of the Army Corp of Engineers and a Clean Water Act Section 401 Water Quality Certificate Permit shall be obtained for the project by the California Regional Water Quality Control Board.*
- 5. Prior to any authorized project-related disturbance to the streams or stream crossing for access purposes, the Department of Fish and Game shall be provided with an appropriate Streambed Alteration Notification pursuant to Fish and Game code sections 1600-1603 et. Seq.*
- 6. To address potential impacts related to erosion, prior to recordation of the Final map, an "Erosion Control Plan" shall be prepared by a qualified engineer or erosion control specialist. The Erosion Control Plan shall address all gutters and storm drains associated within the project to prevent erosion at all runoff outfalls and shall be approved by the County's Grading Inspector.*
- 7. The "Indian Rock Interpretive Trail System" shall maintain a minimum 50-foot separate from both of the outlots containing the Wetlands and Orange Lupine areas. Portions of the trail system shall include an "Interpretive Trail Signage" to educate residents of the value of the wetlands and the orange Lupine on the project site. Minor encroachments into the 50-foot fencing setback will be allowed on a case by case basis, to allow the "Interpretive Trail System" to interact with the protected areas.*

8. *Prior to recordation of the Final Map, the subdivider shall prepare for the County's and Department of Fish and Game's review and approval a brochure or other educational materials that discuss human and wildlife interactions, with special emphasis on mammal and avian species within the project area, and environmentally responsible landscape choices. The brochure shall be provided to all homeowners and it shall contain at a minimum:*
  - i.) *Information on living with local wildlife including (but not limited to) deer, bear, and mountain lion.*
  - ii.) *A discussion of the importance of pet restrictions.*
  - iii.) *A discussion of the value to wildlife of minimizing outdoor lighting.*
  - iv.) *A discussion of the value to wildlife of minimizing the removal of native vegetation (and snags) and the value of using native plants for landscaping.*
  - v.) *A discussion on the prohibition of hunting and the use of firearms anywhere in the project area.*
  - vi.) *A discussion on the prohibition of feeding wildlife anywhere in the project area.*
  - vii.) *A discussion on avoiding the use of pesticides and other chemicals in or near to the wetland, particularly during the breeding and nesting season of May through August.*
9. *Prior to recordation of the Final Map, the subdivider shall prepare "Covenants, Conditions and Restrictions" (CC&R) for review and approval Association.*
10. *The Homeowners' Association shall retain a qualified professional biologist to evaluate the site on an annual basis including:*
  - i.) *Compliance with the state and federal wetland permit requirements*
  - ii.) *Possible degradation or wetland areas from erosion and sedimentation.*
  - iii.) *Compliance with the wetland area "NO BUILD, NO DISTURB".*

iv.) *Compliance with the "Orange Lupine" area "NO BUILD, NO DISTURB".*

v.) *A description of the environmental conditions at the time of the evaluation.*

*The subdivider, and the qualified professional biologist on the project's first review, shall establish an ongoing Homeowner's Association committee to work with the biologist in the preparation of the annual report. The goal of this committee shall be to achieve ongoing education for both the committee members and the Homeowners' Association.*

11. *The qualified professional biologist, retained by the Homeowners' Association, shall submit the biologist's evaluation to both the Fresno County Department of Public Works and Planning and the California Department of Fish and Game for a period of 10 years. After 10 years of reporting by the biologist, the Homeowners' Association committee shall then assume the responsibilities of the biologist for both the reporting and compliance issues of these mitigation measures. It will be the sole responsibility of the biologist to ensure to the California Department of Fish and Game that the Homeowners' Association committee is responsible to assume this duty for perpetuity.*

12.. *The subdivder with the qualified professional biologist through the CC&R's shall be empowered to correct and immediately bring into compliance any issues that the biologist or the California Department of Fish and Game identify as being in violation of the intent of these mitigation measures at the sole expense to the applicant, for a period not to exceed two years, after the recording of the final map. There after it will be the responsibility of the biologist and subsequent Homeowners' Association committee to ensure that any noncompliance issue is corrected, with the CC&R's reflecting that the Homeowners' Association is empowered to take such action.*

*In addition to the mitigation measures, the design of the tract includes a 25-foot building setback area around the perimeter of the designated wetland area. A few of the proposed building lots will encroach upon the building setback area however the applicant included an encroachment replacement area. The CDFG reviewed the tract design and approved the design as presented for the project. Implementation of the measures will reduce potential impacts to a less then significant level.*

c) **Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act**

**through direct removal, filling, hydrological interruption or other means?**

**FINDING – Less than Significant Impact with Mitigation Incorporated:** *The U.S. Army Corp of Engineers verified the wetlands identified in the Biological and Wetlands Resources Report prepared by John Stebbins dated December 10, 2002. According to the Wetland Delineation, the subject property has approximately 1.52-acres of waters of the United States, which includes the wetland area and the existing creek located in the middle of the subject property. Several mitigation measures design to protect the wetland areas were incorporated into the project. The measures require establishing a no construction / no ground disturbance environmental sensitive area, compliance with Section 404 of the Clean Water Act as required and compliance with the California Department of Fish and Game Code 1600-1603. Compliance with the mitigation measures will reduce potential impacts to a less than significant level.*

- d) Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**
- e) Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

**FINDING – Less than Significant Impact with Mitigation Incorporation:** *The subject property has 1.52-acres of wetlands, which includes an existing creek. General Plan Policy OS-D.4 states that the county shall require riparian protection zones around natural watercourses and shall recognize that these areas provide highly valuable wildlife habitat. Riparian protection zones shall include the bed and bank of both low- and high- flow channels and associated riparian vegetation, the band of riparian vegetation outside the high-flow channel, and buffers of 100 feet in width as measured from the top of the bank of un-vegetated channels and 50 feet in width as measured from the outer edge of the drip line of riparian vegetation.*

*The project has been designed to avoid the wetland area as well as provide a continuous buffer around the wetland area approximately 25 feet wide. The project proposal was reviewed by the CDFG, who as a Trustee Agency under the California Environmental Quality Act approved the applicant's design provided that the additional mitigation measures, addressing the protection of the wetlands and the lupine are adhered to.*

- f) Would the project Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local regional, or state habitat conservation plan?**



**FINDING – Less than Significant Impact with Mitigation Incorporation:** *There are no adopted Habitat Conservation Plan in the project area. Please see above regarding the County's General Plan Policies related to wildlife resources.*

**V. CULTURAL RESOURCES**

- a) **Would the project cause a substantial adverse change in the significant of a historical resource as defined in Section 15064.5?**
- b) **Would the project cause of substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5?**
- c) **Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**
- d) **Would the project disturb any human remains, including those interred outside of formal cemeteries?**

**FINDING – Less than Significant Impact with Mitigation Incorporated:** *According to County records, the community surrounding Shaver Lake is located in a high-level sensitive archeological area. In addition, rock outcroppings are located on the subject parcel, however, development will not occur within 100 feet of the rock outcropping. The Southern San Joaquin Valley Information Center did not require a Cultural Resource Study. An archeological survey was conduction in 1992 for the area surrounding Tentative Tract No. 4551 (Granite Ridge II), which concluded that no cultural resources were located on the site.*

*A mitigation measure was included in the project stating that in the event that cultural resources are unearthed during grading or construction, all work shall be halted in the area of the find, and an archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and disposition. If such remains are Native American, the Coroner must notify the Native American Commission within 24 hours.*

**VI. GEOLOGY AND SOILS**

- a) **Would the project expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:**
  - i) **Rupture of a known earthquake?**
  - ii) **Strong seismic ground shaking?**

iii) **Seismic-related ground failure, including liquefaction?**

iv) **Landslides?**

*FINDING – No Impact: According to the California Geological Survey website, there are no known earthquake fault zones located within the Shaver Lake area. No agency expressed concerns or complaints related to ground shaking, ground failure, liquefaction or landslides.*

b) **Would the project result in substantial erosion or loss of topsoil?**

*FINDING – Less than Significant Impact with Mitigation Incorporation: The CDFG and the Development Engineering Section of the Fresno County Department of Public Works and Planning identified potential impacts related to erosion. A mitigation measure that was accepted by the applicant requiring the preparation of an erosion plan prior to recording the final map was incorporated into the project. Implementation of the mitigation measure will reduce potential erosion impact to a less than significant level.*

c) **Would the project result on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

d) **Would the project be located on expansive soils creating substantial risks to life or property?**

*FINDING – No Impact: During the analysis, it has been determined that the soils are suitable for residential development, and that landslides, lateral spreading, subsidence, liquefaction, collapse, and loss of life will not occur. The Shaver Lake Forest Specific Plan and the Fresno County Important Farmland Map did not identify potential soil problems.*

e) **Would the project have soils incapable of adequately supporting the use of septic tanks or alternative disposal systems where sewers are not available for wastewater disposal?**

*FINDING – No Impact: The proposal will hook up to community sewer and water services by Fresno County Waterworks District No. 41.*

## **VII. HAZARDS AND HAZARDOUS MATERIALS**

a) **Would the project create a significant public hazard through routine transport, use or disposal of hazardous materials?**

b) **Would the project create a significant hazard involving accidental release of hazardous materials into the environment?**

- c) **Would the project emit hazardous materials within ¼ mile of a school?**

FINDING - No Impact: *The project will not result in the production, usage or transportation of hazardous materials. The proposal is not located within ¼ mile of a public or private school.*

- d) **Would the project be located on a hazardous materials site?**

FINDING - No Impact: *The project is not located on a hazardous materials site.*

- e) **Would a project located within an airport land use plan or, absent such a plan, within two miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area?**

- f) **Would a project located within the vicinity of a private airstrip result in a safety hazard for people residing or working in the project area?**

FINDING - No Impact: *The project is not located with an airport land use plan or within two miles of a public use airport or in the vicinity of a private airstrip.*

- g) **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

FINDING - No Impact: *The project will not impair implementation or physically interfere with an adopted emergency response plan.*

- (h) **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

FINDING – Less than Significant Impact: *The proposal will create 50 residential lots in a designated “State Responsibility Area”. The California Department of Forestry indicated that the subject parcel is located within the California Department of Forestry “State Responsibility Area” and therefore, is subject to design standards relating to building setbacks, driveway construction and gating, display of street address, disposal of flammable vegetation, water supply facilities for fire protection, and roofing materials. These standards are design to reduce potential impacts related to wildland fires and are mandatory.*

## VIII. HYDROLOGY AND WATER QUALITY

- a) **Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality?**

**FINDING – Less than Significant Impact with Mitigation Incorporation:** *The project proposed discharging stormwater into existing natural channels. A drainage report was submitted by the applicant and reviewed by Development Engineering Section of the County’s Department of Public Works and Planning, Road Maintenance and Operation Division. Development Engineering is requiring that all storm water go through a settling pond located on-site before being discharged off-site. This requirement was accepted by the applicant and incorporated into the project as a mitigation measure.*

- b.) Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge so that there would be a net deficit in aquifer volume or a lowering of the local groundwater table?**

**FINDING – Less than Significant with Mitigation Incorporated:** *The applicant proposes connection to Waterworks District No. 41 (WWD 41) for community water and sewer services. The applicant will utilize well numbers 15, 16, 19, and 33. A hydro report was conducted, labeled “Results of 1997 Pump Tests on Shaver Lake Forest Wells”, demonstrated that the projection yield for the above mentioned wells was 31.55 gpm over a 120-day cumulative test.*

*The State Department of Health Services, Office of Drinking Water, who regulates the WWD 41 system, reviewed the report and identified water source capacity limitations and potential impacts to groundwater quantity as potential impacts. This concern was also raised by the County Geologist who requested the above mentioned additional information be submitted with respect to groundwater supply.*

*After careful review between the Fresno County Resources Division, who were collaboratively working with the State, determined that, prior to recordation of final map, an additional well is required to be connected to WWD 41. The additional well is required to have a 50-foot seal. When the subject well is pump tested in compliance with County standards, surrounding wells within a 1,000 foot radius are required to be monitored to determine if there is any influence/draw down on the surrounding wells.*

*The Resources Division also determined that the cumulative well yield for the four wells located on two subject sites (which includes this project as well as an un-related adjacent 118 space mobile home park) are required to be reduced from 31.55gpm to 23.7gpm. Therefore, only 78 water equivalent dwelling units (EDUs) are credited to the developers for both subject sites. As verified from the applicant, 50 of those 78 water EDUs will be used for TT 5050. A mitigation measure requiring construction of an additional well for the benefit of Water Works District 41 prior to recordation of the Final Map was accepted by the applicant and incorporated into the project, thus reducing potential groundwater quantity impacts to a less than significant level.*

- c) **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in substantial erosion or situation on or off site?**
- d) **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in flooding on or off-site?**
- e) **Would the project create or contribute runoff which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

**FINDING – Less than Significant with Mitigation Incorporated:** *A drainage report was provided to Fresno County Development Engineering indicated that storm water from this tract will drain to the existing natural channels. After reviewing the report, Development Engineering required that all storm water go through a settling pond located on-site before being discharged off-site. This requirement was included as a mitigation measure into the project and will reduce potential stormwater impacts to less than significant.*

- f) **Would the project otherwise substantially degrade water quality?**

**FINDING – No Impact:** *The proposal will connect to Waterworks District 41. The Health Department issued no concerns related to water quality.*

- g) **Would the project place housing within a 100-year floodplain?**
- h) **Would the project place structures within a 100-year flood hazard area that would impede or redirect flood flows?**
- i) **Would the project expose persons or structures to levee or dam failure?**
- j) **Would the project inundation by seiche, tsunami or mudflow?**

**FINDING - No Impact:** *The project is not located in a 100-year flood zone nor threatened by a seiche, tsunami or mudflow.*

## **IX. LAND USE AND PLANNING**

- a) **Will the project physically divide an established community?**
- b) **Will the project conflict with any land use plan, policy or regulation of an agency with jurisdiction over the project?**

- c) **Will the project conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?**

*FINDING – No Impact: The proposal is in the R-1-B district and is designated Condominiums in the Shaver Lake Forest Specific Plan. Creating a planned residential development of 50 single family residential homes is consistent with the present zoning and land use designation. The proposal will not physically divide a community or conflict with any land use policy. The proposal is not located in a habitat conservation plan or natural community conservation plan.*

#### **X. MINERAL RESOURCES**

- a) **Would the project result in the loss of availability of a known mineral resource?**
- b) **Would the project result in the loss of availability of a locally-important mineral resource recovery site designated on a general plan?**

*FINDING - No Impact: No mineral resource impacts were identified in the analysis.*

#### **XI. NOISE**

- a) **Would the project result in exposure of people to severe noise levels?**

*FINDING – Less than Significant Impact with Mitigation Incorporated: The proposal has the potential to generate additional noise from the construction activity associated with the development of 50 residential units. Potential noise impacts resulting from the construction of the proposed development would be short-term and not considered significant. A mitigation measure limiting construction related activities to the hours of 7a.m. to 6 p.m. was accepted by the applicant and incorporated into the project. Compliance with the mitigation measures will reduce potential impacts to less than significant.*

- b) **Would the project result in ground borne vibration?**

*FINDING - No Impact: The project will not subject persons to ground vibration.*

- c) **Would the project cause a substantial permanent increase in ambient noise levels in the project vicinity?**
- d) **Would the project result in a substantial temporary or periodic increase in ambient noise levels?**

FINDING – Less Than Significant Impact with Mitigation Incorporated: *As indicated above the project will result in a temporary increase in noise level due to construction. To mitigate potential noise impact a mitigation measure was included in the project restricting construction activity from 7 a.m. to 6 p.m.*

- e) **Would the project expose people to excessive noise levels associated with a location near an airport, or a private airstrip?**
- f) **For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

FINDING – No impact. *The project site is not near an airport or private airstrip.*

## **XII. POPULATION AND HOUSING**

- a) **Would the project induce substantial population growth either directly or indirectly?**
- b) **Would the project displace substantial numbers of existing housing?**
- c) **Would the project displace substantial numbers of people, necessitating the construction of housing elsewhere?**

FINDING – Less than Significant: *The project will create 50 additional residential units that is estimated to bring an addition 100-200 people into the Shaver Lake Community. The proposal, however, will not trigger a need for residential communities in other parts of the community.*

## **XIII. PUBLIC SERVICES**

- a. **Would the project result in physical impacts associated with the provision of new public services in the following areas:**
  - (i.) **fire protection**
  - ii.) **police protection**
  - (iii) **schools**
  - (iv) **parks**
  - (v) **other public facilities?**

FINDING – Less than Significant: *The project has the potential to physically impact public services with the creation of 50 new residential homes. The applicant is required*

*to follow all the emergency access guidelines set by the Fresno County Sheriff's office and the Shaver Lake Volunteer Fire Department in order to adequately provide public services, emergency access, and community facilities.*

*The Sierra Unified School District and the Pineridge Elementary School District did not issue any comments of concerns related to the project. The payment of school development fees will be required prior to the issuance of building permits.*

*The proposal is not located in or adjacent to a public park or recreation facility. Impacts related to public facilities are not considered significant.*

#### **XIV. RECREATION**

- a) Would the project increase the use of existing neighborhood and regional parks?**
- b) Would the project require expansion of recreational facilities?**

*FINDING - No Impact: No impact on recreational resources were identified in the analysis. Furthermore, the proposal includes a pedestrian trail that will be utilized by the residents.*

#### **XV. TRANSPORTATION / CIRCULATION**

- a) Would the project result in increased vehicle or traffic congestion?**
- b) Would the project exceed the established level of service standards?**

*FINDING – Less than Significant with Mitigation Incorporated: The project has the potential to significantly increase traffic along SR 168 with the addition of residential units. A Traffic Impact Study was prepared by TPG Consulting, Inc. The study indicated that the State Route (SR) 168 at Bretz Mill Road intersection and the SR 168 at Ockenden Road Intersection will require a left-turn channel. Caltrans and the County's Design Division reviewed the requested traffic study and commented that the applicant will need to enter into a pro-rata share agreement for the two left turn pockets on SR 168. Caltrans has specified the amount and requires that the agreement be executed prior to the final approval of the map. This requirement was accepted by the applicant and incorporated into the project as a mitigation measure. The pro-rata share is as follows:*

*SR 168/Bretz Mill Road Intersection: (17 trips) (\$457.00 per trip) = \$7,769.00*

*SR 168/Ockenden Road Intersection: (18 trips) (\$794.00 per trip) = \$22,061.00*

- c) Would the project result in a change in air traffic patterns?**



FINDING - No Impact: *The project will not change or alter air traffic patterns.*

- d) **Would the project substantially increase traffic hazards due to design features?**

FINDING – Less than Significant: *With the above mentioned mitigation measure (pro-rata share with Caltrans), impacts related to traffic hazards due to design features are considered less than significant.*

- e) **Would the project result in inadequate emergency access?**

FINDING - No Impact: *Existing emergency access will be maintained and is required to follow the guidelines of the Shave Lake Community Fire Department and the Fresno County Sheriff's Department.*

- f) **Would the project result in inadequate parking capacity?**

FINDING - No Impact: *Parking on the project site will be provided on each residential lot. No additional parking is required.*

- g) **Would the project conflict with adopted plans, policies or programs supporting alternative transportation?**

FINDING - No Impact: *Caltrans did not express any complaint or concern with programs and policies related to alternative transportation plans.*

## **XVI. UTILITIES AND SERVICE SYSTEMS**

- a) **Would the project exceed wastewater treatment requirements?**

FINDING – No Impact: *The project is located in Waterworks District No. 41. The Resources Division issued the applicant a will serve letter requiring connection to District 41 services. The Resources Division further stated the proposed project would not generate any significant environmental impacts related to its wastewater treatment facility.*

- b) **Would the project require construction of new water or wastewater treatment facilities?**

FINDING – Less than Significant Impact: *With the above mentioned mitigation measure (additional well connection to Waterworks District 41, see section VIII B), impacts related to new water or wastewater treatment facilities are less than significant.*

- c) **Would the project require construction of new storm water drainage facilities?**

FINDING - Less than Significant Impact with Mitigation Incorporated: The project will not require the construction of a new storm water drainage system however, as indicated above in VIII Hydrology and Water Quality c), d), and e), storm water will need to be diverted to an on-site settling pond before being discharged off-site.

- d) **Would the project result in a determination of inadequate wastewater treatment capacity to serve project demand?**
- e) **Would the project be served by a landfill with sufficient permitted capacity?**
- f) **Would the project comply with federal, state and local statutes and regulations related to solid waste?**

FINDING - No Impact: The project was reviewed by the Resources Division, who indicates that the project will not result in significant solid waste related impacts.

## **XVII. MANDATORY FINDINGS OF SIGNIFICANCE**

- a) **Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California prehistory or history?**

FINDING – Less Than Significant with Mitigation Incorporated : *As indicated in Section IV. Biological Resource and Section V. Cultural Resources noted above, potential impacts to these resources were addressed by incorporating mitigation measures into the project design to reduce the potential to a less than significant level.*

- b) **Does the project have impacts that are individually limited, but cumulatively considerable?**

FINDING – Less than Significant Impacts: *The San Joaquin Valley Air Pollution Control District (Air District) has reviewed the project and has commented that the entire San Joaquin Valley Air Basin is classified non-attainment for ozone and fine particulate matter (PM10). The project would contribute to the overall decline in air quality due to increase traffic and ongoing operational emissions. The Air District indicated that the project is subject to several of its adopted mandatory rules and regulations design to reduce emissions throughout the San Joaquin.*

- c) **Does the project have environmental impacts which will cause substantial adverse effects on human beings, either directly or indirectly?**

FINDING - No Impact: *No substantial impacts on human beings were identified in the analysis.*

## **CONCLUSION/SUMMARY**

Based upon the Initial Study prepared for Initial Study 5124, Tentative Tract Map No. 5050, and Conditional Use Permit 3084, staff has concluded that the project will not have a significant effect on the environment with the proposed mitigation measures and conditions of approval. It has been determined that there would be no impacts to agricultural resources, hazards and hazardous materials, land use and planning, mineral resources, and recreation. Potential impacts related to housing and public services were determined to be less than significant. Potential impacts related to aesthetics, air quality, biological resources, cultural resources, geology and soils, public services, transportation and utilities were determined to be less than significant with incorporation of mitigation measures that were accepted by the applicant and incorporated into the project.

A Mitigated Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Ste. "A", Fresno, CA.

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Mitigation Measures  
Initial Study Application No. 5124  
Tentative Tract Map Application No. 5050  
Conditional Use Permit Application No. 3084  
(James Bratton)

The following mitigation measures have been specifically applied to mitigate potential adverse environmental effects identified in the above environmental document. A change in these provisions may affect the validity of the current environmental document, and a new or amended environmental document may be required. These mitigation measures must be included as project conditions and be identified with an asterisk (\*) so they can be readily identified as mandatory mitigation measures for this project.

- \*1. To address potential impacts related to aesthetics and lighting the following shall be required:
  - a. Natural building materials and colors compatible with the surrounding terrain (earth tones and non-reflective paints) shall be used on exterior surfaces of all structures, including water tanks and fences. The materials shall be denoted on the building plans and the structures shall be painted prior to occupancy.
  - b. All lighting shall be hooded and directed so as to not illuminate adjacent properties and public streets.
- \*2. The project shall comply with San Joaquin Valley Air Pollution Control District's Regulation VIII (Fugitive PM 10 Prohibitions) as amended, Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt), Rules 4901 (Wood Burning Fireplaces and Wood Burning Heaters), District Rule 4902 (Residential Water Heaters). This requirement shall be noted on the designed plans and specifications.
- \*3. In order to protect wildlife resources identified in the Biological and Wetlands Resources Report prepared by John C. Stebbins, dated December 10, 2002, the following measures shall be required:
  - a. The wetland areas including the two identified drainages and Orange Lupine areas shall be identified as outlots and listed as "No-Construction / No Ground Disturbance Environmentally Sensitive Area" on the Final Map and shall remain in their natural state. The Final Map shall state that ground disturbance activities, (e.g. grading, fencing, construction, clearing landscaping or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map Application No. 5050,

or cutting or removal of any natural vegetation, is prohibitive unless otherwise approved in advance of the ground disturbance activity by the California Department of Fish and Game. This requirement shall be recorded as a covenant running with the land as part of the Final Map process.

- b. Prior to the start of ground disturbance activities associated with the project, the wetland areas shall be bounded by a wildlife friendly design delineation fence as approved by the California Department of Fish and Game.
- c. The Orange lupine areas shall be fenced with a permanent fence 42 inches in height to further prevent disturbance within the outlot area. The type of fence design and location boundaries of the "Orange Lupine" area shall be identified by both the California Department of Fish and Game and a qualified biologist in order to ensure that wildlife will be able to traverse the area.
- d. Prior to the start of any construction, which includes grading or filling of a jurisdictional wetland for purposes of developing the existing dirt road identified in the Biological and Wetland Report prepared by John C. Stebbins, a Clean Water Act Section 404 Permit shall be obtained if required, from the United States Department of the Army Corp of Engineers and if required, a Clean Water Act Section 401 Water Quality Certificate Permit shall be obtained for the project by the California Regional Water Quality Control Board.
- e. Prior to any authorized project-related disturbance to the streams or stream crossing for access purposes, the Department of Fish and Game shall be provided with an appropriate Streambed Alteration Notification pursuant to Fish and Game code sections 1600-1603 et. Seq.
- f. To address potential impacts related to erosion, prior to recordation of the Final map, an "Erosion Control Plan" shall be prepared by a qualified engineer or erosion control specialist. The Erosion Control Plan shall address all gutters and storm drains associated within the project to prevent erosion at all runoff outfalls and shall be approved by the County's Grading Inspector.
- g. The "Indian Rock Interpretive Trail System" shall maintain a minimum 50-foot separate from both of the outlots containing the Wetlands and Orange Lupine areas. Portions of the trail system shall include an "Interpretive Trail Signage" to educate residents of the value of the wetlands and the orange Lupine on the project site.

Minor encroachments into the 50-foot fencing setback will be allowed on a case by case basis, to allow the "Interpretive Trail System" to interact with the protected areas.

- h. Prior to recordation of the Final Map, the subdivider shall prepare for the County's and Department of Fish and Game's review and approval a brochure or other educational materials that discuss human and wildlife interactions, with special emphasis on mammal and avian species within the project area, and environmentally responsible landscape choices. The brochure shall be provided to all homeowners and it shall contain at a minimum:
  - i.) Information on living with local wildlife including (but not limited to) deer, bear, and mountain lion.
  - ii.) A discussion of the importance of pet restrictions.
  - iii.) A discussion of the value to wildlife of minimizing outdoor lighting.
  - iv.) A discussion of the value to wildlife of minimizing the removal of native vegetation (and snags) and the value of using native plants for landscaping.
  - v.) A discussion on the prohibition of hunting and the use of firearms anywhere in the project area.
  - vi.) A discussion on the prohibition of feeding wildlife anywhere in the project area.
  - vii.) A discussion on avoiding the use of pesticides and other chemicals in or near to the wetland, particularly during the breeding and nesting season of May through August.
- 4. Prior to recordation of the Final Map, the subdivider shall prepare "Covenants, Conditions and Restrictions" (CC&R) for review and approval by the California Department of Fish and Game for the "Interpretive Trail System" location, Wetlands Area", "Orange Lupine Area", streams and tributaries, streams and tributary setbacks, and common areas such as gazebo locations and children play areas. Enforcement of the CC&R shall be the responsibility of the Homeowners' Association.
- \*5 The Homeowners' Association shall retain a qualified professional biologist to evaluate the site on an annual basis including:
  - a. Compliance with the state and federal wetland permit requirements.

- b. Possible degradation or wetland areas from erosion and sedimentation.
- c. Compliance with the wetland area "NO BUILD, NO DISTURB".
- d. Compliance with the "Orange Lupine" area "NO BUILD, NO DISTURB".
- e. A description of the environmental conditions at the time of the evaluation.

The subdivider, and the qualified professional biologist on the project's first review, shall establish an ongoing Homeowner's Association committee to work with the biologist in the preparation of the annual report. The goal of this committee shall be to achieve ongoing education for both the committee members and the Homeowners' Association.

- \*6. The qualified professional biologist, retained by the Homeowners' Association, shall submit the biologist's evaluation to both the Fresno County Department of Public Works and Planning and the California Department of Fish and Game for a period of 10 years. After 10 years of reporting by the biologist, the Homeowners' Association committee shall then assume the responsibilities of the biologist for both the reporting and compliance issues of these mitigation measures. It will be the sole responsibility of the biologist to ensure to the California Department of Fish and Game that the Homeowners' Association committee is responsible to assume this duty for perpetuity.
- \*7. The subdivider with the qualified professional biologist through the CC&R's shall be empowered to correct and immediately bring into compliance any issues that the biologist or the California Department of Fish and Game identifies as being in violation of the intent of these mitigation measures at the sole expense to the applicant, for a period not to exceed two years, after the recording of the final map. There after it will be the responsibility of the biologist and subsequent Homeowners' Association committee to ensure that any noncompliance issue is corrected, with the CC&R's reflecting that the Homeowners' Association is empowered to take such action.
- \*8. In the event that cultural resources are unearthed during grading or construction, all work shall be halted in the area of the find, and any archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during construction, no further disturbance is to occur until the Fresno County Coroner has made the necessary findings as to origin and

disposition. If such remains are Native America, the Coroner must notify the Native American Commission within 24 hours.

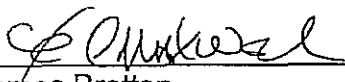
- \*9. Prior to recordation of the Final Map on an additional well shall be constructed for the benefit of Water Works District 41. This well shall serve as an additional water source should the wells dedicated to the project not maintain their pump tested yields. The additional well shall have a 50-foot seal. When the subject well is pump tested in compliance with County standards, surrounding wells within a 1,000 foot radius shall be monitored to determine if there is any influence/draw down on the surrounding wells. After two years, the developer will receive credit for future development for any excess capacity from the additional well as well as any excess capacity that may exist from the dedicated wells. Final allocation of any excess capacity will be subject to the Board's approval of a reservation agreement. The available reserve amount shall be determined two years after the dedicated project wells are connected to County Water Works District 41.
- \*10. To address potential impacts related to storm water drainage, all storm water shall go through a settling pond located on-site before being discharged off-site.
- \*11. Potential noise impacts shall be addressed by limiting construction related activities to the hours of 7:00 a.m. and 6:00 p.m.
- \*12. Prior to recordation of the Final Map, the applicant shall enter into a pro-rata share agreement with the California Department of Transportation for the specified amount as follows:

State Route 168 / Bretz Mill Road Intersection:

17 trips - \$456.00 per trip = \$7,769.00 / pro-rata share

State Route 168 / Ockenden Road Intersection:

18 trips - \$794.00 per trip = \$14,292.00/ pro-rata share

  
\_\_\_\_\_  
James Bratton  
CBB Construction  
c/o Charles Maxwell

4-15-05  
\_\_\_\_\_  
Date



## EXHIBIT 6

Tentative Tract 5050  
Indian Rock  
Exception Request  
March 16, 2005

### Applicant

Mr. James Bratton  
CBB Construction

### Representative

Dirk Poeschel Land Development Services, Inc.  
923 Van Ness Avenue, Suite 200  
Fresno, California 93721  
559-445-0374

### Property Location

Tentative Tract No. 5050

### Background/Request

The subject property consists of approximately 22.837 +/- acres of property located in the Shaver Lake Forest (Timberwine) Specific Plan area and is located approximately 2 miles south of Shaver Lake. The property is situated in an area that is heavily forested and has significant changes of grade. The proposed project will be a planned residential development consisting of 50 units. As such, the streets within the project will be privately maintained. Access to the site is from Shaver Forest Road which is 26' wide. Due to the elevation of the subject property, approximately 5,500 feet above sea level, the property experiences snowfall. Therefore, in order to provide for the plowing of the roads, it is necessary to provide snow storage areas.

The roadway system under consideration will serve Tentative Tract No. 5050 and consists of a private road system that will serve two different portions of the project. A gated entrance will be provided to the property. One road segment will travel in a northerly direction and then to the west and serve approximately 29 units and is approximately 1,060 feet in length. The second road segment will travel to the west and serve 21 units and is approximately 720 feet in length. The proposed street width is 22'. These streets are designed to meet the needs of the 50 housing units proposed within this subdivision.

### Exception Request

The applicant requests exceptions to the following design standards that were identified in a memo from Frank Daniele to Brian Ross dated April 22, 2004:

#### A.1

Construction of Shaver Forest Road from State Highway 168 to the project entrance at a County Improvement Standard Case A-2a with 36 of base and pavement.

B.1

Requirement to construct interior roads to a public road standard (County Improvement Standards Case A-1a) with 32 feet of base and pavement.

B.8

Limiting the length of cul-de-sacs to less than 500 feet unless an emergency access is provided.

**Exception Findings**

- 1. There are exceptional or extraordinary circumstances or conditions that affect said property or the reasonable use thereof;*

A.1

The existing Shaver Forest Road was constructed to a width of 28'. This road was constructed to not only serve the Musick Ridge Subdivision which is immediately to the south of the subject property, but the proposed 50 unit tract proposed in TTM 5050. The design requirements for the road should have taken into account the proposed development. Requiring the developer of this property to have to go in and acquire additional right of way and construct additional road width is unreasonable.

B.1

The project area has a relatively large wetlands area, as well as area of biobotanical significance that must not only be protected, but also require significant development setbacks for construction. Protecting these areas, together with the extraordinary setbacks that are required, greatly constrain the ability to develop a road system per the county's standards. Moreover, the roads in question are proposed to be privately owned and maintained. The traffic on the roads will be limited to the residents and guests of the proposed development. The project is generally isolated in that other projects will not share the proposed project's circulation system.

Due to the elevation of the project, rain and snow will materially impact the daily use of project roads. In addition, the project's mountainous location, road grades and design constraints will also impact safe vehicular travel. These environmental circumstances necessitate slower vehicular speeds for safety purposes which can be achieved with the proposed changes in development standards.

The requested exception will minimize the amount of cut needed to accommodate the road, as well minimize the number of trees that must be removed.

The requested exception is consistent with the exception requests that were made for, and granted to, TTM 3714-Silver Tip and TTM 2599-Bretz Condominiums.

B.8

Roads will not be constructed across the aforementioned wetlands. In addition there are also rock outcroppings that impinge on the project area. Therefore, in order to develop the property it is necessary that one of the cul-de-sacs exceed the length provided. However, additional fire hydrants will be provided and there will be a turn-around to accommodate fire trucks.

The requested exception is consistent with the exception requests that were made for, and granted to, TTM 3825-Cedar Ridge, TTM 4426 Musick Ridge, and TTM 4175 Musick Falls.

2. *That the exception is necessary for the preservation of a substantial property right and permit the enjoyment thereof:*

A.1

The existing subdivision to the south of the project area was allowed to be developed with Shaver Forest Road designed as a 28' road. At the time this road was designed and accepted by the county it was known that the proposed project would take access from this road. The property owners to the south have been allowed to develop their property with the current road design. Requiring the applicant for TTM 5050 to widen the road is unreasonable.

B.1

The project area has a relatively large wetlands area, as well as an area of biobotanical significance that must not only be protected, but also require significant development setbacks for construction. Protecting these areas, together with the extraordinary setbacks that are required, greatly constrain the ability to develop a road system per the county's standards. Moreover, the roads in question are proposed to be privately owned and maintained. The traffic on the roads will be limited to the residents and guests of the proposed development. The project is generally isolated in that other projects will not share the proposed project's circulation system.

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The requested exception is consistent with the exception requests that were made for, and granted to, TTM 3825-Cedar Ridge, TTM 4426 Musick Ridge, and TTM 4175 Musick Falls.

3. *That the granting of the exception will not be materially detrimental to the public safety, health and welfare:*

See #1 above.

4. *That the granting of the exception will not be injurious to or prevent the logical development of property in the immediate area.*

Similar requests have been granted for other projects in the Shaver Lake area with an apparent determination that the requests would not be injurious to or prevent the logical development of property in the immediate area of those requests. Similarly, these requested exceptions will only impact the residents within TTM 5050. Therefore, no impacts will occur on adjoining properties.

May 7, 2019

County of Fresno  
Department of Public Works and Planning  
Development Services Division  
2220 Tulare Street, 6<sup>th</sup> Floor  
Fresno, CA 93721

Subject: Extension of Life of TT 5050 Indian Rock, Shaver Lake CA 93664

To whom it may concern,

Please consider this letter as a request to extend the life of TT 5050 Indian Rock. This extension is being requested for the following reasons:

- The past economic downturn has impacted residential development throughout the mountain communities. Although the economy is showing improvement, the recovery is slow and the area continues to be impacted.
- Currently there is a glut of available lots in the Shave Lake area.
- We are process of allowing the Highway 168 Fire Safe Council (168FSC) to complete the Shaver West Shaded Fuel Break on tract 5050 Indian Rock. This government grant work could take most of the summer and/or up to the end of the year to complete. Please see the attached.

Should you need additional information or to discuss this request, please contact me at (559) 974-9515.

Sincerely,

Billy Wells



**Property Owner and Applicant**

Billy Wells

10072 N. Ponderosa Drive

Fresno, CA

(559) 974-9515

**EXHIBIT 6**



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 2 August 8, 2019

**SUBJECT:** Variance Application No. 4074

Allow the creation of a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from an existing 4.9-acre parcel (gross) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The subject parcel is located on the south side of W. McKinley Avenue, approximately 420 feet east of its intersection with N. Garfield Avenue, and one-mile south of the nearest city limits of the City of Fresno (7605 W. McKinley Avenue, Fresno, CA) (Sup. Dist. 1) (APN 312-290-39).

**OWNER/  
APPLICANT:** Spino, Inc.

**STAFF CONTACT:** Ejaz Ahmad, Planner  
(559) 600-4224

Marianne Mollring, Senior Planner  
(559) 600-4569

### RECOMMENDATION:

- Deny Variance Application No. 4074; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plan
6. Applicant's Submitted Findings
7. Map of Variances Approved within One Mile

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agriculture	No Change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No Change
Parcel Size	4.9 acres (gross)	2.5 acres (Parcel 1)  2.4 acres (Parcel 2) with a 160-foot road frontage
Project Site	Vacant	Allow the creation of a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from an existing 4.9-acre parcel (gross) in the AE-20 Zone District.
Structural Improvements	None	None
Nearest Residence	30 feet to the west	None
Surrounding Development	Single-family residences; vineyard	N/A
Operational Features	N/A	N/A
Employees	N/A	N/A

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
Customers	N/A	N/A
Traffic Trips	N/A	N/A
Lighting	N/A	N/A
Hours of Operation	N/A	N/A

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N**

**ENVIRONMENTAL ANALYSIS:**

It has been determined pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

**PUBLIC NOTICE:**

Notices were sent to 17 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

A Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

The decision of the Planning Commission on a Variance Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission’s action.

**BACKGROUND INFORMATION:**

County records indicate that the subject 4.9-acre parcel and all parcels in the area were zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) on June 20, 1961. The current zoning on the property is AE-20.

A Variance Application is required to allow the creation of a 2.5-acre parcel (Parcel 1) and a 2.4-acre parcel (Parcel 2) having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from a 4.9-acre parcel. Should this Variance be approved, a subsequent Parcel Map Application would be required to create the proposed parcels as separate legal parcels for sale, lease or financing. The Applicant has submitted construction plans for the construction of a single-family residence on Parcel 1. The plans are in plan check process with the Building and Safety Section of the Fresno County Department of Public Works and Planning. Approval or denial of this Variance Application would have no bearing on the issuance of building permits for this by-right use on the property.

County records indicate that three Variance Applications pertaining to lot size were filed within a one-mile radius of the subject property (Exhibit 7). The following table provides a brief summary of those Variance requests, staff recommendations, and final action by the Planning Commission:



<b>Application/Request</b>	<b>Staff Recommendation</b>	<b>Final Action</b>	<b>Date of Action</b>
VA No. 3599 – Allow the creation of two five-acre parcels, each having a lot depth to width ratio of 8:1 (4:1 maximum allowed) and a lot width/frontage of 161.5 feet (165 feet required) in the RR Zone District.	Denial. Findings 1 and 2 cannot be made	Planning Commission Approved	December 18, 1997
VA No. 2881 – Allow the creation of two 2.44-acre parcels and a side-yard setback of 13.6 feet (20 feet required) from a 4.89-acre parcel in the AE-20 Zone District.	Denial or approval per the Planning Commission discretion	Planning Commission Approved	Dec. 20, 1984
VA No. 2797 - Allow the creation of a 9.32-acre parcel and a 0.64-acre parcel (20 acres required) without public road frontage (165 feet required) from a 9.96-acre parcel in the AE-20 Zone District.	Denial. Findings 1 and 2 cannot be made	Planning Commission Approved	Sept. 22, 1983

**Finding 1:** *There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties in the vicinity having the identical zoning classification.*

**Finding 2:** *Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	Front: 35 feet Sides: 20 feet Rear: 20 feet	N/A; no development proposed by this application	N/A
Parking	Two parking spaces for residential use	N/A	N/A
Lot Coverage	No requirement	N/A	N/A

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Separation Between Buildings	Six feet	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent of the existing system	N/A	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet Seepage pit: 150 feet	N/A	N/A

**Reviewing Agency/Department Comments:**

Zoning Section of the Fresno County Department of Public Works and Planning: The AE-20 Zone District requires a minimum parcel size of 20 acres, lot width of 165 feet and a lot depth to width ratio of four (4) to one (1). A Variance is required to create a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet and a lot depth to width ratio of 4.12:1.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments, including the Fresno County Department of Agriculture.

**Analysis:**

In support of Finding 1, the Applicant states that the project site is a non-prime agricultural land. The Applicant also states that within a one-mile radius, 29 percent of the lots are equal to or under 2 acres, 37 percent of the lots are over 2 acres but under 5 acres, 17 percent of the lots are over 5 acres but under 20 acres, and the remaining 17 percent of parcels are greater than 20 acres.

With regard to Finding 1, staff notes that the 2014 Fresno County Important Farmland map designates the project site as Farmland of Local Importance, which is less than Prime Farmland. Although farming activities do exist on the surrounding land, uncultivated land adjacent to the subject parcel are developed with single-family residences and related improvements.

Staff also notes that the Applicant has cited approximately 83 percent of parcels within the project area are less than 20 acres, while approximately 29 percent of the parcels are equal to or under 2 acres. However, no information was provided regarding exceptional or extraordinary circumstances or conditions that apply to the subject parcel and that do not apply to other parcels under the same zoning classification, as required by Finding 1. Upon analyzing the Applicant's findings, site aerial photos, the proposed parcelization (Site Plan) and comments from reviewing agencies, staff was unable to identify any unique physical circumstances that apply to the subject parcel and do not apply to other properties in the area. Staff notes there are no physical circumstances or constraints such as elevation changes, rock outcroppings, or wetlands that create significant hardships for the Applicant that are applicable to the property itself to justify the need for this Variance. The Applicant's justification (Exhibit 6) in reference to the project site being a non-prime farmland and comparable in size to other parcels in the area

is not a physical characteristics demonstrating circumstances which merit the requested parcel configuration proposed by the Variance request, and as such does not support meeting Finding 1.

In support of Finding 2, the Applicant states that adjoining development to the east, west, and south are residential uses with no farming or cultivation and that the property owner desires to create 2.5-acre homesites conforming to development in the general area.

With regard to Finding 2, staff concurs with the Applicant that adjacent parcels are not in farming operation and the proposed parcels are comparable in size to other parcels in the area. However, those parcels in the area that are substandard to lot size required in the AE Zone District were not created through a Variance process. With the exception of three parcels noted in the "Background Information" of this report, all other substandard parcels within a one-mile radius of the subject property were created prior to June 20, 1961 when the prevailing zoning would have allowed smaller parcels. Staff believes the proposal does not give validity to the loss of a substantial property right to support meeting Finding 2, in that denial of this Variance request would not necessarily deprive the Applicant of any right enjoyed by other property owners in the AE-20 Zone District since all property owners in said District are subject to the same development standards.

In reference to the above discussion, the following facts should also be considered:

The subject 4.9-acre parcel is currently zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) in the County Zoning Ordinance. It is a small, uncultivated parcel, similar in size to other AE-zoned parcels near the proposal. The adjoining parcel to the west and several other parcels located 640 feet to the west of the subject parcel range in size from 1.23 acres to 2.31 acres and are developed with single-family residences. Likewise, a 2.25-acre parcel located approximately 40 feet to the north of the subject parcel is developed with a single-family residence. Other parcels ranging in size from one acre to 2.39 acres are located approximately 1,330 feet to the north and 1,615 feet to the south of the subject parcel and are developed with single-family residences. The proposed parcels are comparable in size and use to those parcels in the area.

This application also proposes reduced lot width/frontage for the proposed Parcel 2 in the AE-20 Zone District, which requires a minimum of 165 feet. Parcel 2 proposes a 160-foot lot width, which will increase the lot depth to width ratio by 4.12:1 (4:1 maximum allowed). Staff believes that a five-foot reduction in lot width and 0.12 percent increase (or 20 feet) in lot depth to width ratio will not affect the functionality of Parcel 2 for future residential development.

A consideration in addressing Findings 1 and 2 is whether there are alternatives available that would avoid the need for the Variance. Given the circumstances described by the Applicant in "Applicant's Findings" (Exhibit 6), there appears to be no other alternative that would meet the Applicant's desire to create a 2.5-acre parcel and a 2.4-acre parcel from an existing 4.9-acre (gross) parcel and meet the lot size required in the AE-20 Zone District.

Based on the above analysis and considering the lack of a physical circumstance warranting the proposed parcel configuration and loss of a substantial property right, staff believes Findings 1 and 2 cannot be made.

**Recommended Condition of Approval:**

*See recommended Conditions of Approval and Project Notes attached as Exhibit 1.*

**Conclusion:**

Findings 1 and 2 cannot be made.

*Finding 3: The granting of the Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.*

<b>Surrounding Parcels</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	2.25 acres & 20.8 acres	Single-Family Residences and Vineyard	AE-20	145 feet
South	10 acres	Single-Family Residence	AE-20	202 feet
East	4.19 acres	Single-Family Residence	AE-20	65 feet
West	1.26 acres & 8.3 acres	Single-Family Residence	AE-20	30 feet

**Reviewing Agency/Department Comments:**

Development Engineering Section of the Fresno County Department of Public Works and Planning: McKinley Avenue is classified as a Collector road with an existing 30-foot right-of-way width south of the section line per Plat Book. The minimum width for a Collector road south of the section line is 40 feet. (Note: A Condition of Approval would require that the northerly 10 feet of the parcel shall be dedicated for additional right-of-way for McKinley Avenue.)

Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning. If not already present, ten-foot by ten-foot corner cutoffs shall be improved for sight distance purposes at the exiting/proposed driveways onto McKinley Avenue. Any additional runoff generated by the proposed development of this site must be retained or disposed of per County Standards. A grading permit shall be required for any grading completed without a permit and any grading proposed with this application. These requirements will be included as Project Notes.

Fresno County Department of Public Health, Environmental Health Division (Health Dept.): If any underground storage tank(s) are found during construction, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Health Department. In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately-licensed contractor (permits required). Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be checked for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements.

Zoning Section of the Fresno County Department of Public Works and Planning: A mapping procedure (Parcel Map Application) shall be required for the proposed parcels if the Variance is approved.

Fresno Irrigation District (FID): FID's Little Houghton Canal No. 84 runs northwesterly and crosses Garfield Avenue approximately 3,200 feet southeast of the subject property. Any street and/or utility improvements along Garfield Avenue and in the vicinity of the canal crossing shall require FID's review and approval of all plans. FID's Silvia runs southwesterly and crosses McKinley Avenue approximately 2,700 feet west of the subject property. Any street and/or utility improvements along McKinley Avenue and near this canal shall require FID's review and approval of all plans.

The above-mentioned requirements have been included as Project Notes.

Fresno County Department of Agriculture; North Central Fire District; Design, Road Maintenance and Operations, and Water and Natural Resources Divisions and the Building and Safety Section of the Fresno County Department of Public Works and Planning: No concerns regarding the proposal.

**Analysis:**

In support of Finding 3, the Applicant states that creation of one additional parcel will have no effect on the public welfare, property or improvements due to the following: 1) the parcels are fronting on McKinley Avenue, currently developed and in good condition for rural traffic loads and providing safe access; 2) the site is not located within a water shortage area; and 3) the site has good drainage for septic systems.

With regard to Finding 3, staff concurs with the Applicant's assessment that the Variance would not be detrimental to surrounding properties. McKinley Avenue serving the subject property is in good condition, the property is not in a low-water area, and it can accommodate individual septic systems for future residential uses. Although, the subject proposal involves no physical changes to the site, the granting of this Variance may result in the establishment of one by-right single-family residence and one additional residence through discretionary land use approval (Director Review and Approval) on each of the proposed parcels. Such uses would not be incompatible with the existing residential uses that currently exist in the area on both cultivated and non-cultivated land. Given that the potential future residential uses on the subject parcels will match with the existing residential uses in the area, staff believes that the proposal would not have an adverse effect upon surrounding properties. Staff also believes that minor reduction in lot width (160 feet proposed verses 165 feet required) and the slight increase (20 feet) in lot depth to lot width ratio (4.12:1 proposed verses 4:1 maximum allowed) would not affect the optimal use of the property for future residential development.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval and Project Notes attached as Exhibit 1.*

**Conclusion:**

Finding 3 can be made.

*Finding 4: The granting of such Variance will not be contrary to the objectives of the Fresno County General Plan.*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>Policy LU-A.6: The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policy LU-A.9, LU-A.10 and LU-A.11.</p>	<p>The subject proposal is inconsistent with Policy LU-A.6 due to the creation of two parcels less than 20 acres in the AE-20 Zone District. The proposal does not qualify for an exception under Policies LU-A.9, in that the lot is not for a financing parcel, gift lot, or owned by the property owner prior to the date the policies were implemented. The proposal also does not qualify for exemptions provided in Policy LU-A.10 (entails development of an agricultural commercial center) and Policy LU-A. 11 (entails recovery of mineral resources).</p>
<p>Policy LU-A. 7: The County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units, and that the resultant increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels. Evidence that the affected parcel may be an uneconomic farming unit due to its current size, soil conditions, or other factors shall not alone be considered a sufficient basis to grant an exception. The decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.</p>	<p>This Variance request proposes to create a 2.5-acre and a 2.4-acre parcel where the zone district requires a minimum parcel size of 20 acres. The subject proposal is likely to set a precedent for parcelization of farmland into smaller size parcels, which are economically less viable farming units. Staff recommends denial of the subject Variance based on the inability to make Findings 1, 2, and 4.</p>
<p>General Plan Policy PF-C.17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following: a determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question. If surface water is proposed, it must come from a reliable source. If groundwater is proposed, a hydrological investigation may be required. If the land in question lies in an area of limited groundwater, a hydrologic investigation shall be required.</p>	<p>The project site is not in a water-short area of Fresno County and no development is proposed by this application. The Water and Natural Resources Division of the Fresno County Department of Public Works and Planning reviewed the proposal and expressed no concerns related to water usage or sustainability.</p>

**Reviewing Agencies/Department Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is not enrolled in the Williamson Act Program. The Agriculture and Land Use Element of the General Plan maintains 20 acres as the minimum parcel size in areas designated for Agriculture. Policies LU-A.6 and LU-A.7 state that the County shall generally deny requests to create parcels less than the minimum size specified in areas designated Agriculture and Policy PF-C.17 requires adequate water supply for the proposal.

**Analysis:**

In support of Finding 4, the Applicant states that the objectives of the General Plan considered residential uses within the rural setting; the property has been fallow for considerable time. The use of non-prime farmland for residential purposes as proposed by this application preserves prime farmland for agricultural purposes.

With regard to Finding 4, staff notes that the subject parcel is not a prime farmland (the property is designated as Farmland of Local Importance on the 2014 Fresno County Important Farmland map) and is not in farming operation.

The subject parcel is designated 'Agriculture' in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) in the County Zoning Ordinance. As the AE-20 Zone District focuses more on lot size required by that zone district than any other criteria, the subject proposal is inconsistent with General Plan Policies LU-A.6 and LU-A.7, which require a minimum parcel size of 20 acres as a means of encouraging continued agricultural production and minimizing the amount of land converted to non-agricultural uses. The subject 4.9-acre parcel is currently non-conforming to the lot size required in the AE Zone District, and this Variance will allow further parcelization (one 2.5-acre parcel and one 2.4-acre parcel) in the AE-20 Zone District. The increased parcelization in the area will create additional inventory of parcels under three acres in size, which could be viewed as *de facto* rural residential parcelization, and is generally not supported by General Plan policy.

In reference to the above discussion, the following facts shall also be considered:

The current parcelization in the project area (refer to the discussion in Finding 1 and 2) and the size of the subject parcel (4.9 acres) have effectively eliminated the possibility of the property to be used for agricultural purposes. Considering the property location in the area, the creation of a 2.5-acre parcel and a 2.4-acre parcel are less likely to have adverse effect on those agricultural uses that exist in the area. The Fresno County Department of Agriculture raised no concerns about the effect of the proposed parcelization to agriculture. Likewise, the County General Plan does not address lot width or lot depth to width ratio. As such, any deviation from these standards is not inconsistent with General Plan.

**Recommended Conditions of Approval:**

*None.*

**Conclusion:**

Finding 4 cannot be made.

## **CONCLUSION:**

Based on the factors cited in the analysis, staff believes that required Findings 1, 2 and 4 for granting the Variance cannot be made. Staff therefore recommends denial of Variance No. 4074.

## **PLANNING COMMISSION MOTIONS:**

### **Recommended Motion** (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 4074; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### **Alternative Motion** (Approval Action)

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4074, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### **Recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

EA:ksn

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**Variance Application No. 4074  
Conditions of Approval and Project Notes**

<b>Conditions of Approval</b>	
1.	Division of the property shall be in conformance with the Site Plan (Exhibit 5) approved by the Commission.
2.	<p>McKinley Avenue is classified as a Collector road with an existing 30-foot right-of-way width south of the section line. The minimum width for a Collector road south of the section line is 40 feet. The owner of the subject property shall record a document irrevocably offering the northerly 10 feet of the subject property to the County of Fresno as future right-of-way for McKinley Avenue.</p> <p>Note: A preliminary title report or lot book guarantee is required before the irrevocable offer of dedication can be processed. The owner is advised that where deeds of trust or any other type of monetary liens exist on the property, the cost of obtaining a partial re-conveyance, or any other document required to clear title to the property, shall be borne by the owner or developer.</p>

Conditions of Approval reference recommended Conditions for the project.

<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	This Variance will become void unless there has been substantial development within one year of the effective date of approval.
2.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A mapping procedure shall be required for the proposed parcels. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
3.	<p>The following requirements from the Development Engineering Section of the Fresno County Department of Public Works and Planning shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.</li> <li>• If not already present, ten-foot by ten-foot corner cutoffs shall be improved for sight distance purposes at the exiting/proposed driveways onto McKinley Avenue.</li> <li>• Any additional runoff generated by the proposed development of this site must be retained or disposed of per County Standards.</li> <li>• A grading permit shall be required for any grading that has been done without a permit and any grading proposed with this application.</li> </ul>
4.	<p>The following requirements from the Fresno County Department of Public Health, Environmental Health Division shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• If any underground storage tank(s) are found during construction, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Health Department.</li> </ul>

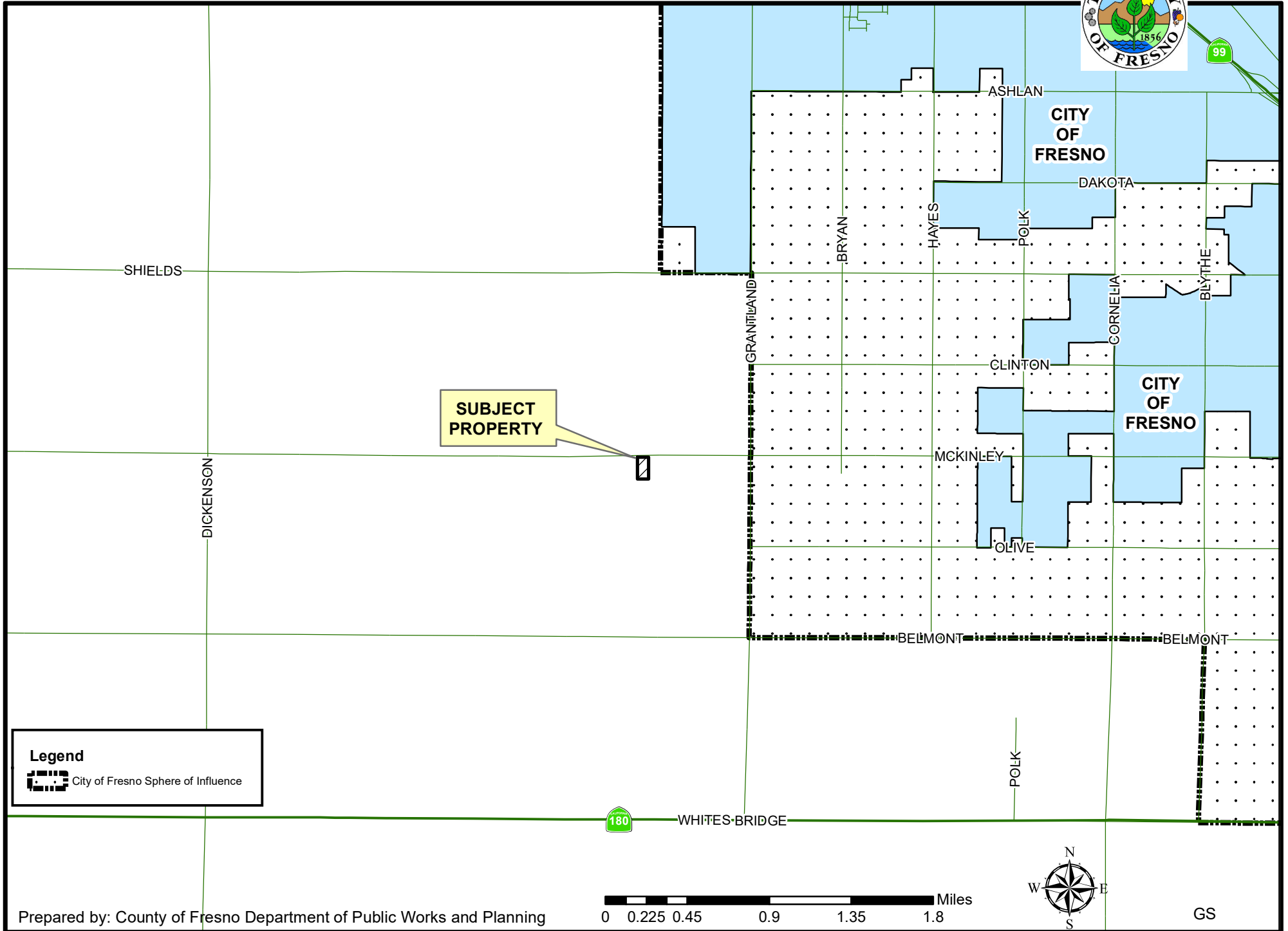
**EXHIBIT 1**

<b>Notes</b>	
	<ul style="list-style-type: none"> <li>• In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately-licensed contractor (permits required).</li> <li>• Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be checked for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements.</li> </ul>
5.	<p>The following requirements from Fresno Irrigation District (FID) shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• FID's Little Houghton Canal No. 84 runs northwesterly and crosses Garfield Avenue approximately 3,200 feet southeast of the subject property. Any street and/or utility improvements along Garfield Avenue and in the vicinity of the canal crossing shall require FID's review and approval of all plans.</li> <li>• FID's Silvia runs southwesterly and crosses McKinley Avenue approximately 2,700 feet west of the subject property. Any street and/or utility improvements along McKinley Avenue and in the vicinity of this canal shall require FID's review and approval of all plans.</li> </ul>

EA:ksn


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# LOCATION MAP



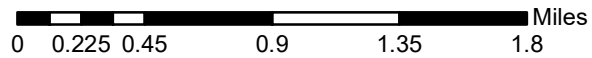
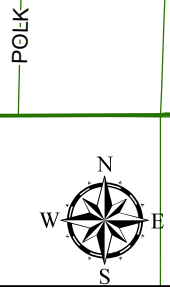
**SUBJECT  
PROPERTY**

### Legend

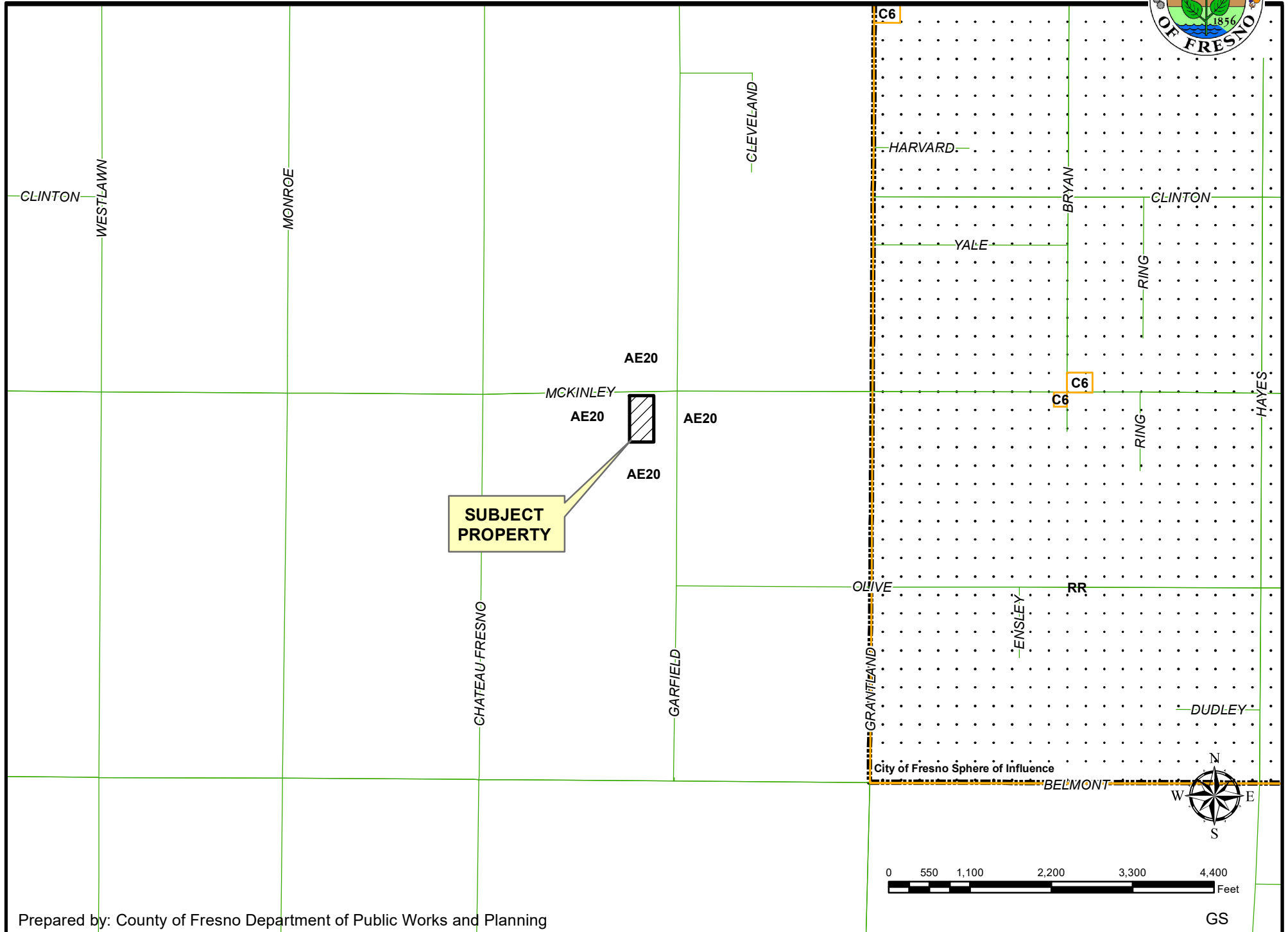
 City of Fresno Sphere of Influence



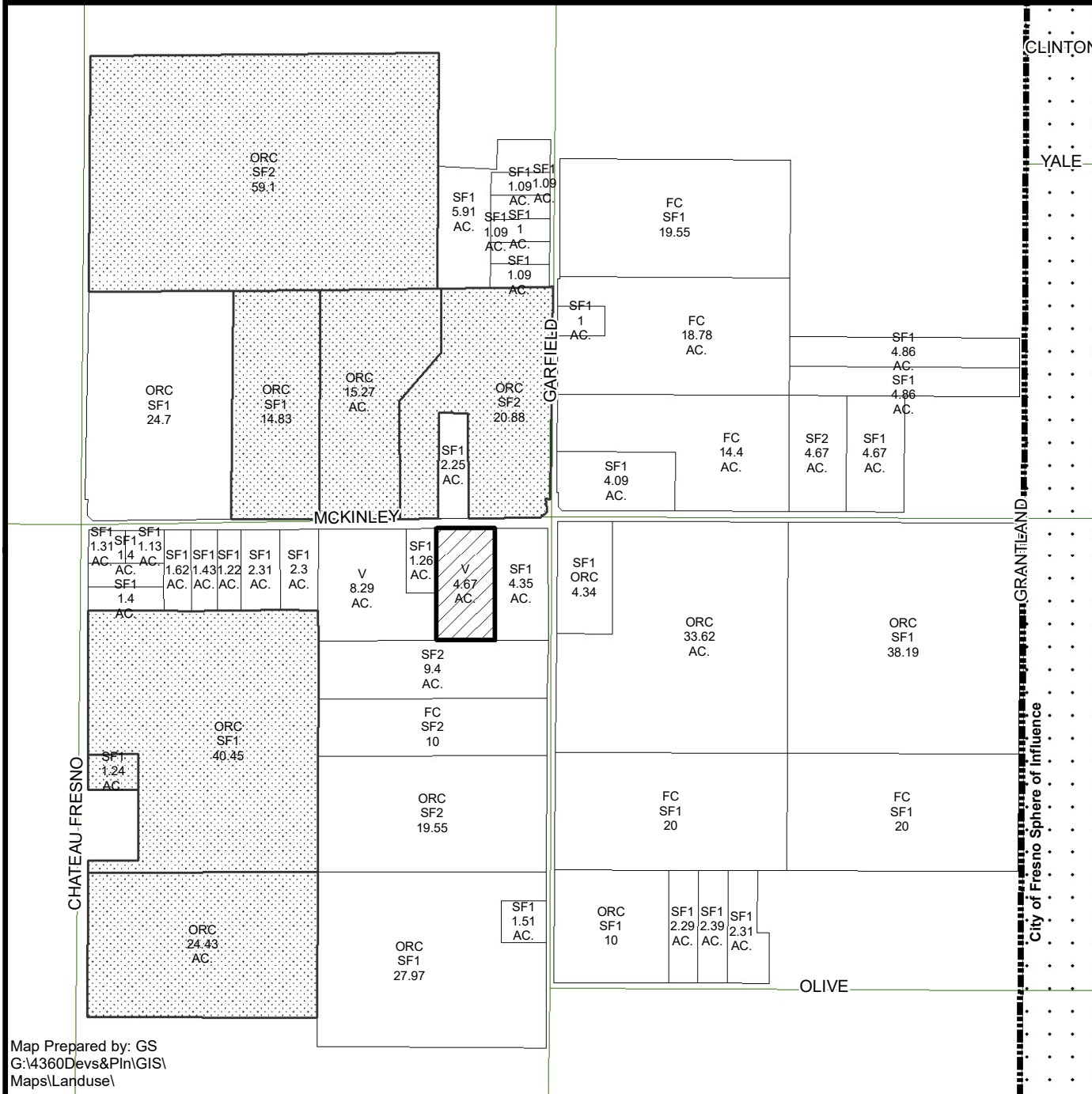
WHITES-BRIDGE



# EXISTING ZONING MAP



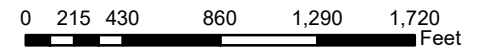
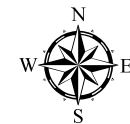
# EXISTING LAND USE MAP



LEGEND	
FC - FIELD CROP	
ORC - ORCHARD	
SF# - SINGLE FAMILY RESIDENCE	
V - VACANT	

**LEGEND:**

- Subject Property
- Ag Contract Land



Department of Public Works and Planning  
Development Services Division

Map Prepared by: GS  
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Maps\Landuse\

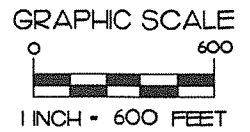
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COUNTY OF FRESNO

JUN 28 2019

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION



PREPARED BY:



**DALE G. MELL  
& ASSOCIATES**

**ENGINEERING & SURVEYING SERVICES**

2090 NORTH WINERY AVENUE, FRESNO, CALIFORNIA 93703  
(559) 292-4046 • FAX 251-9220 • EMAIL: STAFF@DALEMELL.COM

# VARIANCE DIAGRAM

FOR

**SPINO INC.**

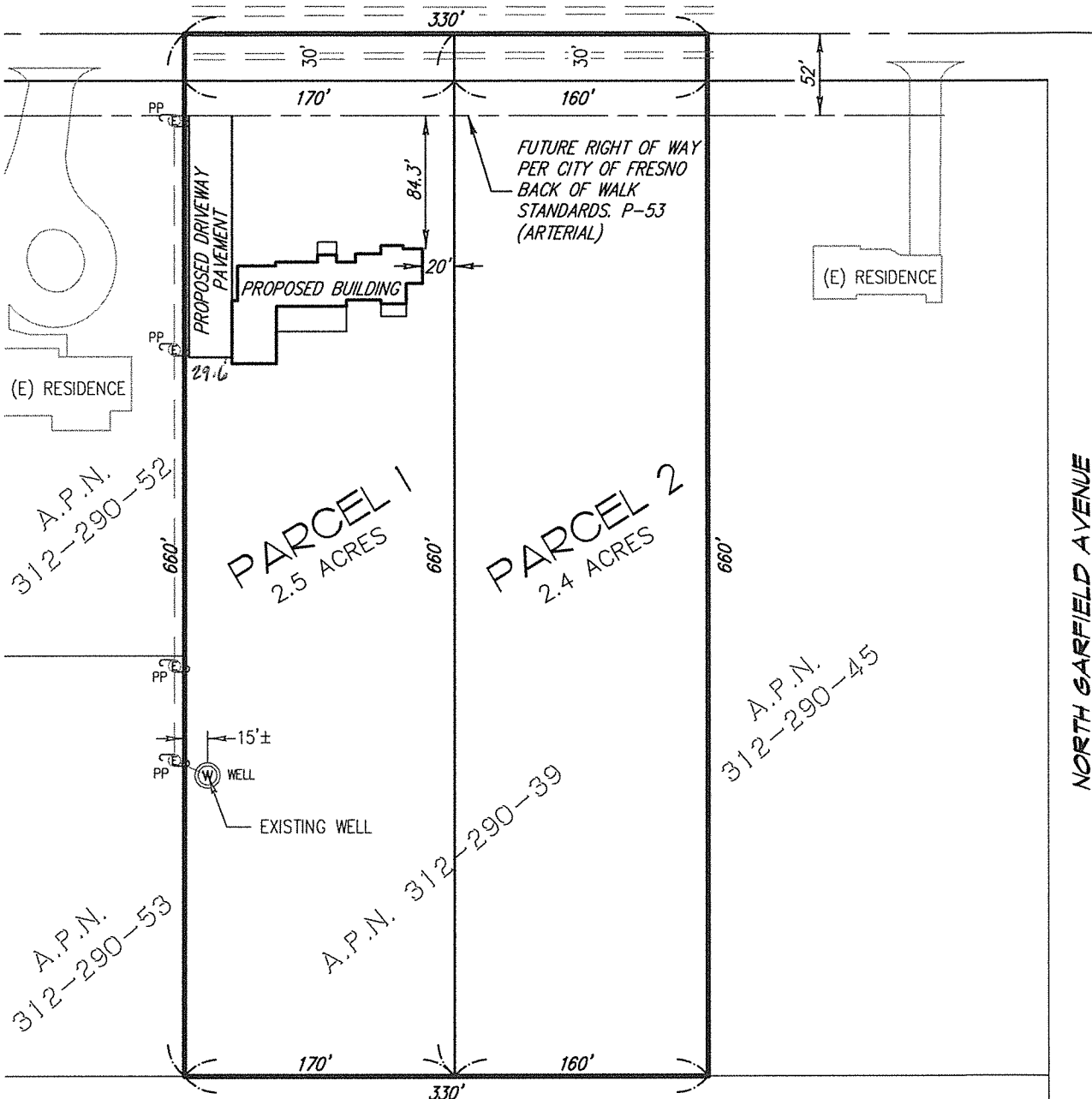
2271 N. GRANTLAND AVENUE  
FRESNO, CA 93723

BY: E.DELARA - 05/15/19

DMA CADFILE: 19-019EX01

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WEST MCKINLEY AVENUE



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COUNTY OF FRESNO

JUN 28 2019

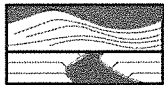
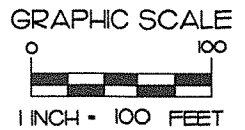
DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION  
PREPARED BY:

### VARIANCE DIAGRAM

FOR

### SPINO INC.

2271 N. GRANTLAND AVENUE  
FRESNO, CA 93723



**DALE G. MELL**  
& ASSOCIATES

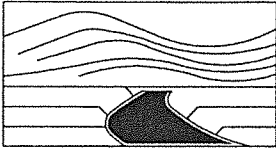
**ENGINEERING & SURVEYING SERVICES**

2090 NORTH WINERY AVENUE, FRESNO, CALIFORNIA 93703  
(559) 292-4046 • FAX 251-9220 • EMAIL: STAFF@DALEMELL.COM

BY: E.DELARA - 06/28/19  
DMA CADFILE: 19-019EX01

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# DALE G. MELL & ASSOCIATES

## ENGINEERING & SURVEYING SERVICES

2090 N. WINERY AVENUE · FRESNO, CALIFORNIA 93703 · PH (559) 292-4046 · FAX (559) 251-9220

### Supplemental Application Findings for Variance

1. **There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties in the vicinity having the identical zoning classification;**

Site parcel size of 4.67 acres of non-prime ag classification in the AE 20 zone district, Within a one mile radius: 29% of the lots are equal to or under 2 ac, 37% of the lots are over 2 ac and under 5 ac., 17% of the lots are over 5 ac but under 20 ac and the remaining 17% of parcels are greater than 20 acres

2. **Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification;**

Adjoining development west, south and east are residential uses, no farming or cultivation. Owner desires to create two estate size home sites of 2.5 acres more or less conforming to development in the general area.

3. **The granting of a variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located;**

We consider the creation of one additional parcel will have no effect on the public welfare, property or improvements due to the following: 1) the parcels are fronting on McKinley Avenue, currently developed and in good repair for rural traffic loads and providing safe access 2) site is not located within a water shortage area 3) the site has good drainage soil for septic systems.

4. **The granting of such variance will not be contrary to the objectives of the Fresno County General Plan.**

The objectives of the General Plan considered residential uses within the rural setting, the property has been fallow for considerable time.. our proposed residential/ag use of this parcel with a soils classification of "non-prime soil" for residential use preserves the prime production ground for the agricultural purposes as intended by the general plan.

DMA #19-019- Variance Findings  
06/21/19

VA 4074

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COUNTY OF FRESNO

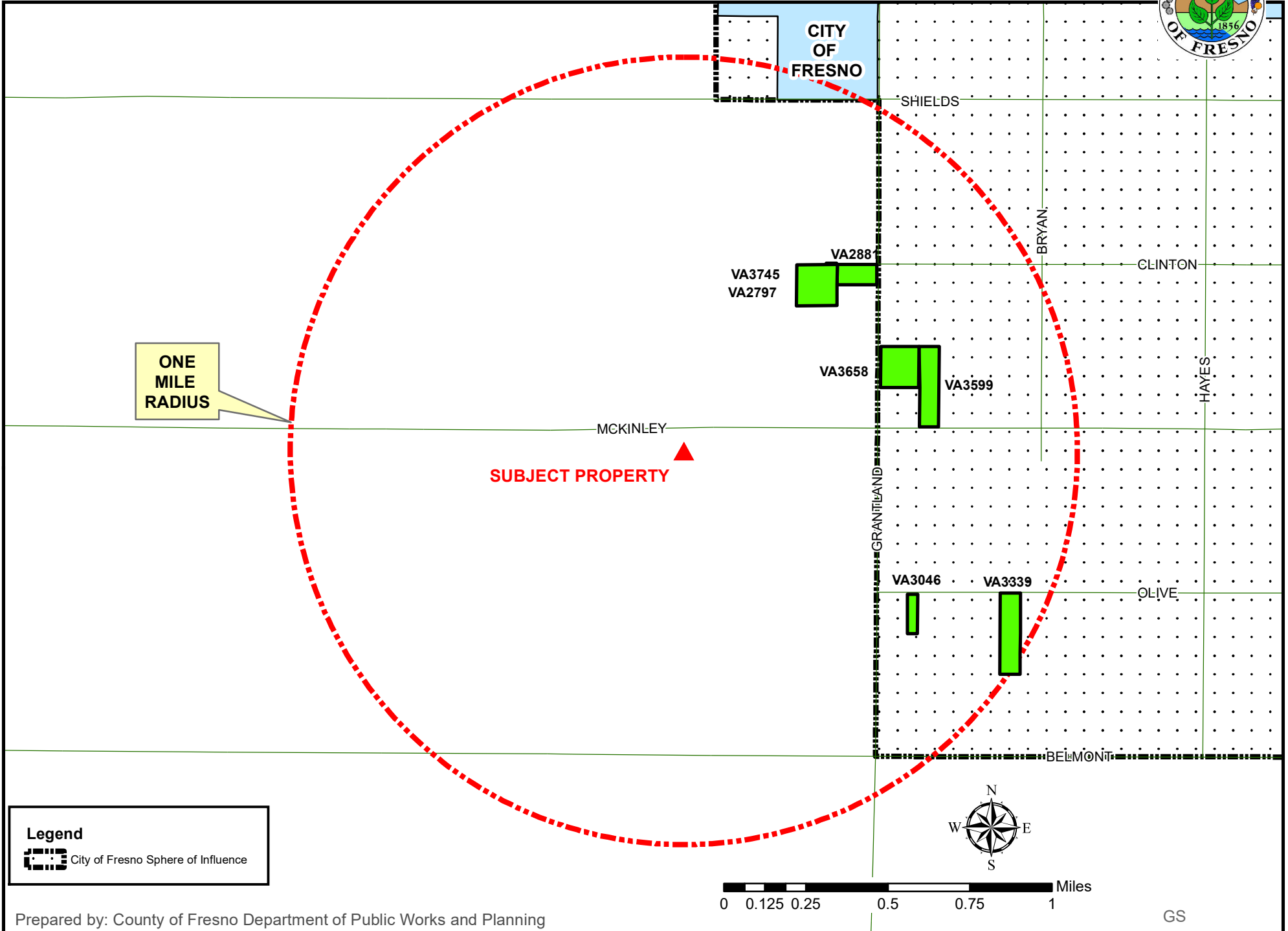
JUL 25 2019

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

EXHIBIT 6



# VARIANCES WITHIN A ONE MILE RADIUS





# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 3 August 8, 2019

**SUBJECT:** Initial Study Application No. 7608; Unclassified Conditional Use Permit Application Nos. 3642, 3644, 3645, 3646 and 3647; and Unclassified Conditional Use Permit No. 3643 (amending Conditional Use Permit No. 3590)

Allow the installation of four new covered lagoon anaerobic dairy digesters with related biogas conditioning equipment and biogas generators to produce electricity on four existing dairies; the installation of biogas conditioning equipment at a fifth dairy with an existing digester and generator; the construction of an approximately 10.5-mile underground pipeline to connect the participating dairies; and allow produced biomethane to be transported to a centralized hub where a biogas upgrading facility will be constructed to clean and condense the biogas before it is injected into the PG&E natural gas transmission line.

**LOCATION:** The project is bounded by the unincorporated communities of Five Points to the southwest, Helm to the north, Burrell to the northeast, and Lanare to the east and southeast; State Route 145 (Madera Avenue) on the west; Mount Whitney Avenue on the south; Jameson Avenue on the east; and Kamm Avenue on the north; within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts (SUP. DIST. 1 and 4) (Dairies: APN Nos. 040-130-51S, 050-160-16S, 050-270-56S, 050-170-41S, 050-260-12S, 040-130-35S) (Pipeline APN Nos. 040-130-35S, 49, 44S, 48S, 51S; 041-100-17, 45S; 050-160-13S, 16S; 050-170-41S; 050-200-38S; 050-230-20S, 23S; 050-260-10S, 11S, 12S; 050-270-56S).

**OWNERS:** Eric A. and Katelyn te Velde Revocable Family Trust  
L&J Vanderham Dairy  
Van Der Hoek Family Revocable Trust  
Van der Kooi Family Trust  
Dry Creek Holdings, LLC

**APPLICANTS:** Five Points Pipeline, LLC; Wilson Dairy Biogas LLC; Van der Kooi Dairy Power LLC; L&J Vanderham Dairy; and Van der Hoek Dairy Biogas LLC

**STAFF CONTACT:**     **Jeremy Shaw, Planner**  
                                  **(559) 600-4207**

**Marianne Mollring, Senior Planner**  
**(559) 600-4569**

**RECOMMENDATION:**

- Adopt the Mitigated Negative Declaration prepared for Initial Study (IS) Application No. 7608; and
- Approve Unclassified Conditional Use Permit (CUP) Application Nos. 3642, 3644, 3645, 3646 and 3647; and Unclassified Conditional Use Permit No. 3643 (amending CUP No. 3590) with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

**EXHIBITS:**

1. Mitigation Monitoring, Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plans and Detail Drawings
6. Elevation drawings
7. Applicant’s Operational Statements
8. Summary of Initial Study Application No. 7608
9. Draft Mitigated Negative Declaration

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agricultural	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District	No change
Parcel Sizes (participating dairies)	Open Sky Ranch - APN 050-170-41S – 518.45 acres	No change

Criteria	Existing	Proposed
Pipeline route (Excluding participating dairies)	<p>L&amp;J Vanderham Dairy - APN 050-270-56S – 320.40 acres</p> <p>Van der Hoek Dairy – APN's 040-130-51S – 625.50 acres and 040-130-35S – 203.37 acres</p> <p>Van der Kooi Dairy - APN 050-160-16S – 470.10 acres</p> <p>J&amp;D Wilson Dairy - APN 050-260-12S – 160.00 acres</p> <p>APN 040-130-49 – 554.65 acres  APN 040-130-44S – 18.68 acres  APN 040-130-48S – 20.00 acres  APN 041-100-17 – 424.69 acres  APN 041-100-45S – 316.45 acres  APN 050-160-13S – 320.00 acres  APN 050-200-38S – 576.21 acres  APN 050-230-20S – 136.77 acres  APN 050-260-10S – 314.57 acres  APN 050-230-23S – 18.00 acres  APN 050-260-11S – 480.22 acres</p>	
Project Site(s)	<ol style="list-style-type: none"> <li>1. APN 040-130-51S and 040-130-35S/Van der Hoek Dairy/CUP No. 3645: Approximately 190 acres dedicated to dairy operations</li> <li>2. APN 050-160-16S/Van der Kooi Dairy/CUP No. 3646: Approximately 130 acres dedicated to dairy operations</li> <li>3. APN 050-170-41S/Open Sky Dairy/CUP No. 3642, 43: Approximately 190 acres dedicated to dairy operations</li> <li>4. APN 050-270-56S/Vanderham Dairy/CUP No. 3644: Approximately 107-acres dedicated to dairy operation</li> </ol>	<p>Approximately 3.7 acres including proposed digester facility and biogas conditioning/electrical generation facility</p> <p>Approximately 4.76 acres, including the proposed digester facility and biogas conditioning/electrical generation facility</p> <p>Approximately 0.5 acre, including proposed Hub/ biogas upgrade facility and injection point, and electrical generation facility</p> <p>Approximately 4.73 acres including proposed digester facility and biogas conditioning/electrical generation facility</p>

Criteria	Existing	Proposed
	<p>5. APN 050-260-12S/J&amp;D Wilson Dairy/CUP No. 3647: Approximately 120 acres dedicated to dairy operation</p>	<p>Approximately 4.73 acres including proposed digester facility and biogas conditioning/electrical generation facility</p>
<p>Structural Improvements</p>	<p>Van der Hoek Dairy – APN 040-130-51S: Two wastewater/manure storage lagoons, shade structures, free-stall barns, approximately 6.5-acre ground-mount solar panel array, milk parlor, storage barns, three settling ponds, separator, two additional manure storage ponds, three single-family dwellings</p> <p>APN 040-130-35S: 400-foot by 400-foot lined storage pond</p> <p>APN 050-160-16S/Van der Kooi Dairy: Six free-stall barns, one milking parlor, four wastewater/manure storage lagoons, approximately 5.8-acre ground-mount solar array, one single-family dwelling</p> <p>APN 050-170-41S/Open Sky Dairy/Biogas Hub: Free-stall barns/exercise pens, mechanical separation/manure drying area, biogas scrubbing facility, anaerobic digester, calf pens, shop, open-lot corral and sheds, hay barns, commodity barn, feed storage area, wastewater retention ponds, five single-family dwellings (mobile homes)</p>	<p>Installation of a 200-foot by 20-foot sand lane; and drain, dual screen separator, emergency overflow pipe, process pit, manure pipeline to digester, and effluent line connecting digester to existing storage pond on APN 040-130-35S</p> <p>Convert existing pond to a 400-foot by 400-foot covered lagoon digester, and install a new 2,400 square-foot prefabricated metal building to house a biogas generator, blower and chilling equipment and moisture trap on a concrete pad</p> <p>Convert existing storage pond to a 1,080-foot by 190-foot covered lagoon digester, and install a new 2,400 square-foot prefabricated metal building to house a biogas generator, blower and chilling equipment and moisture trap on a concrete pad</p> <p>Addition of an approximately 3,150 square-foot biogas electrical generation facility, with three biogas generators, biogas conditioning equipment, within a 20-foot-tall, 3,150 square-foot metal building,</p>

Criteria	Existing	Proposed
	<p>APN 050-270-56S/Vanderham Dairy: free-stall barns/exercise pens, mechanical separation and manure drying area, one wastewater/manure storage pond, two settling ponds, shade structures, separator, storage barns, milk parlor, process pit, one single-family dwelling</p> <p>APN 050-260-12S/Wilson Dairy: free-stall barns/exercise pens, mechanical separation/manure drying area, biogas scrubbing facility, anaerobic digester, calf pens, shop, open-lot corral and sheds, hay barns, commodity barn, feed storage area, and wastewater retention ponds</p>	<p>and an electrical switch gear and a 20,800 square-foot biogas upgrading facility including the following improvements: a sulfur dioxide (H<sub>2</sub>S) scrubber with a 67-foot-tall exhaust stack, and 15-foot-tall secondary H<sub>2</sub>S scrubber, CO<sub>2</sub> stripper, and moisture remover, a 20-foot-tall bioreactor, a ten-foot-tall chiller/re-heater, blower skid, pump house, 15-foot-tall Motor Control Center (MCC) building, 8-foot-tall chiller fans, three ten-foot-tall biogas feed compressors, and a ten-foot-tall CO<sub>2</sub> membrane skid, input pipeline to and PG&amp;E point of injection and reception</p> <p>Convert two existing settling ponds to one 1,630-foot by 125-foot covered lagoon digester, and install a new 2,400 square-foot prefabricated metal building to house a biogas generator, blower and chilling equipment and moisture trap on a concrete pad</p> <p>Convert two existing settling ponds to one 1,630-foot by 125-foot covered lagoon digester, a 200-foot by 20-foot raised sand lane, and a new 2,400 square-foot prefabricated metal building to house a biogas generator, blower and chilling equipment and moisture trap on a concrete pad</p>

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
Nearest Residence	<p>Open Sky Dairy/Hub (CUP Nos. 3642 and 3643): There are five residential dwellings located in the northeast corner of the subject property approximately 2,000 feet northeast of the digester and 2,300 feet north of the upgrading facility, electrical generation facility and pipeline interconnection</p> <p>L&amp;J Vanderham Dairy (CUP No. 3644): There is one residential dwelling located approximately 1,700 feet southwest of the proposed digester and related improvements</p> <p>Van der Hoek Dairy (CUP No. 3645): There are three residential dwellings located on the subject property, one located on APN 040-130-51S approximately one half-mile northwest and two located approximately 2,100 feet west-northwest of the proposed digester and related improvements</p> <p>Van Der Kooi Dairy (CUP No. 3646): There is one residential dwelling located approximately 1,400 feet north of the proposed digester and related improvements</p> <p>J&amp;D Wilson Dairy (CUP No. 3647): There is one dwelling unit located on an adjacent parcel approximately 0.63 miles southeast of the proposed digester and related improvements</p>	No change
Surrounding Development	Farmland consisting of scattered residential development, large parcels containing various agricultural operations, including active dairy operations, orchards and field crops, and an agricultural aviation operation	No change
Operational Features	Open Sky Ranch - APN 050-170-41S – 518.45 acres: Milk is produced and trucked off site for processing into dairy products. The dairy has an approximate herd size of 6,767 cows, and produces approximately 176,000 gallons per day total process wastewater, per the Waste	Addition and operation of biogas conditioning equipment (CUP No. 3643), a biogas upgrade facility, electrical generation facility, biogas injection point and meter set to connect with PG&E

Criteria	Existing	Proposed
	<p>Management Plan dated October 18, 2012.</p> <p>L&amp;J Vanderham Dairy - APN 050-270-56S – 320.40 acres: Milk is produced and trucked off site for processing into dairy products. The dairy has an approximate herd size of 6,767 cows, and produces approximately 176,000 gallons per day total process wastewater, per the Waste Management Plan dated October 18, 2012.</p> <p>Van der Hoek Dairy - APN 040-130-51S – 625.50 acres, and APN 040-130-35S – 203.37 acres: Milk is produced and trucked off site for processing into dairy products. The dairy has an approximate herd size of 4,140 cows, and produces approximately 251,763 gallons per day total process wastewater, per the Waste Management Plan dated June 6, 2010.</p> <p>Van der Kooi Dairy - APN 050-160-16S – 470.10 acres: Milk is produced and trucked off site for processing into dairy products. The dairy has an approximate herd size of 3,680 cows, and produces approximately 147,000 gallons per day total process wastewater, per the Applicant.</p> <p>J&amp;D Wilson Dairy - APN 050-260-12S – 160.00 acres: Milk is produced and trucked off site for processing into dairy products. The dairy has an approximate herd size of 4,232 cows, and produces approximately 178,104 gallons per day total process wastewater, per the Waste Management Plan dated June 26, 2009.</p>	<p>main gas line, and a portion of a biogas pipeline traversing the parcel and connected to an existing digester (CUP No. 3642)</p> <p>Addition of covered lagoon digester, biogas conditioning equipment and a biogas generator to produce electricity for the grid</p> <p>Addition of covered lagoon digester, biogas conditioning equipment and a biogas generator to produce electricity for the grid</p> <p>Addition of covered lagoon digester, biogas conditioning equipment and a biogas generator to produce electricity for the grid</p> <p>Addition of covered lagoon digester, biogas conditioning equipment and a biogas generator to produce electricity for the grid</p>
Employees	Open Sky Ranch - 38	CUP No. 3642: additional 10-20 employees during construction of the upgrade facility and 10 employees during construction of the pipeline



Criteria	Existing	Proposed
	<p>Vanderham Dairy – 28</p> <p>Van der Hoek – 26</p> <p>Van Der Kooi – 27</p> <p>Wilson Dairy - 25</p>	<p>CUP No. 3643: 5-10 employees during construction/installation of equipment</p> <p>CUP No. 3644: additional 10-20 employees during construction</p> <p>CUP No. 3645: additional 10-20 employees during construction</p> <p>CUP No. 3646: additional 10-20 employees during construction</p> <p>CUP No. 3647: additional 10-20 employees during construction</p> <p>All dairy sites including the Hub: one employee will make daily site inspections; no permanent employees will live on site</p>
Customers	None	No change
Traffic Trips	<p>Open Sky Ranch Dairy: Estimated 61 round trips per day</p> <p>Van der Hoek Dairy: Estimated 38 round trips per day</p> <p>Vanderham Dairy: Estimated 50 round trips per day</p> <p>Van der Kooi Dairy: Estimated 39 round trips per day</p> <p>Wilson Dairy: Estimated 40 round trips per day</p> <p>*Estimated traffic trips include milk trucks, feed trucks, breeder trucks, service vehicles, and personal/employee vehicles.</p>	<p>Construction: An additional 20-27 daily round trips by employees during construction of the pipeline and for each dairy site</p> <p>Operation: An additional once daily round trip service truck for each site, and an additional two monthly round trips for delivery and disposal</p>
Lighting	Outdoor lighting associated with existing dairy operations	Additional security lighting at Hub site for scrubber

Criteria	Existing	Proposed
		equipment area and electrical generator area
Hours of Operation	24 hours per day, seven days per week	No change

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N**

**ENVIRONMENTAL ANALYSIS:**

An Initial Study (IS) was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the Initial Study, staff has determined that the proposed project will not have a significant effect on the environment and a Mitigated Negative Declaration is appropriate. A summary of the Initial Study is included as Exhibit No. 8.

Notice of Intent to adopt a Mitigated Negative Declaration publication date: June 26, 2019.

During the review of the Initial Study, the California Department of Fish and Wildlife requested additional mitigation measures for potential impacts to fish and wildlife. These additional mitigation measures have been added to the Mitigation Monitoring and Reporting matrix and are shown in bold type in the attached Initial Study.

**PUBLIC NOTICE:**

Notices were sent to 38 property owners within 1,320 feet of the subject parcels, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

Unclassified Conditional Use Permit Applications may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

The decision of the Planning Commission on Classified and Unclassified CUP Applications is final, unless appealed to the Board of Supervisors within 15 days of the Commission’s action.

**BACKGROUND INFORMATION:**

The project proposes to install and operate a series of covered lagoon digesters, along with biogas conditioning equipment and biogas generator(s) at four of the five dairy sites, a low-pressure underground gas pipeline to connect the five digesters, and allow each dairy to export biogas produced on the dairy to a central location via the pipeline. The proposed biogas generators will allow each dairy to produce electrical power to be exported to the PG&E grid directly from each individual dairy site.

The project area encompasses five separate existing dairies, and a number of contiguous and non-contiguous parcels adjacent to the dairies for the installation of the gas pipeline. All of the participating dairies are located on land which is restricted under Williamson Act Contract, and

as such, notices of non-renewal were recorded for the portions of the respective parcels involved in this project, including the parcels to be traversed by the proposed pipeline. The existing dairies are described as follows:

Unclassified Conditional Use Permit (CUP) Nos. 3642 and 3643: The Open Sky Ranch (Dairy) (APN 050-170-41S) is an existing dairy operation on a 518.45-acre parcel located southwest of the intersection of West Elkhorn Avenue and Elkhorn Grade, and southerly and westerly adjacent to the Fresno Slough. The Open Sky Dairy has a current total herd size of approximately 6,767 cows, including milking cows, dry cows, heifers and calves. The dairy is authorized for a maximum herd size of 10,411 animals per its Waste Management Plan dated October 18, 2012. The dairy contains an approximately 29-million-gallon covered lagoon digester and a biogas generator. The use of the generator to produce electrical power for sale to the grid was authorized by previously-approved Conditional Use Permit No. 3590, approved January 25, 2018, which also included an increase of approximately 700 mature milk cows to the herd size.

CUP No. 3642 proposes the installation of a biogas pipeline connecting five existing dairies, the installation of a biogas upgrading facility to clean the gas and remove hydrogen sulfide, an electrical generation facility to generate renewable electrical power to be sold to the grid, metering equipment to monitor gas quality, and an injection point (Hub) to allow the biogas collected from each of the five connected dairies to be injected into the PG&E main gas transmission line.

CUP No. 3643 will amend CUP No. 3590, and proposes to allow the addition of biogas conditioning equipment to chill, condense, and remove moisture from the collected biogas before it is added to the pipeline.

CUP No. 3644, L&J Vanderham Dairy, is an existing dairy operation located on a 320.40-acre parcel (APN 050-270-56S). The dairy is authorized for up to 5,300 cows, per Director Review and Approval No. 4514, and is located on a 320.40-acre parcel. The dairy has an approximate herd size of 3,335 cows and contains two uncovered lagoons which will be combined and converted in a larger single covered lagoon digester with an approximate 21-million-gallon holding capacity. The current application involves the modification of the existing commercial dairy operation to include the conversion of an existing wastewater retention pond to a covered lagoon digester, the addition of biogas conditioning equipment, and a biogas engine to produce electrical power to be sold to the PG&E grid and for use in the dairy operation.

CUP No. 3645, Van der Hoek Dairy, is an existing dairy operation located on a 625.50-acre parcel (APN 040-130-51S), and has an authorized herd size of 4,140 mature milk cows. The dairy contains a storage pond which will be converted into a covered lagoon digester with an approximate 22-million-gallon holding capacity. The current application involves the modification of the existing commercial dairy operation to include the conversion of an existing wastewater retention pond to a covered lagoon digester, the addition of biogas conditioning equipment, and a biogas engine to produce electrical power to be sold to the PG&E grid and for use in the dairy operation.

CUP No. 3646, Van der Kooi Dairy, is an existing dairy operation located on a 470.10-acre parcel (APN 050-160-16S), and has an authorized herd size of 3,680 mature milk cows. The dairy contains a storage pond which will be converted into a covered lagoon digester with an approximate 22-million-gallon holding capacity. The current application involves the modification of the existing commercial dairy operation to include the conversion of an existing wastewater retention pond to a covered lagoon digester, the addition of biogas conditioning

equipment, and a biogas engine to produce electrical power to be sold to the PG&E grid and for use in the dairy operation.

CUP No. 3647, J&D Wilson and Sons Dairy/Dry Creek Holdings, LLC, is an existing dairy operation located on a 160-acre parcel (APN 050-260-12S), and has an authorized herd size of 4,232 mature milk cows. The dairy contains a storage pond with an approximate 21-million-gallon storage capacity. The current application involves the modification of the existing commercial dairy operation to include the conversion of an existing wastewater retention pond to a covered lagoon digester, the addition of biogas conditioning equipment, and a biogas engine to produce electrical power to be sold to the PG&E grid, and for use in the dairy operation.

The overall project (CUP Nos. 3642-3647) proposes to allow the construction of a 10.5-mile-long underground pipeline to collect and convey biogas generated from on-site anaerobic digestion of manure at the participating dairies, where existing wastewater retention ponds will be modified, in some cases increased in capacity, and converted into four new covered lagoon anaerobic digesters. Each digester site will include the addition of biogas conditioning equipment, and a biogas generator, which will burn the conditioned biogas to produce electricity for the dairy operation, the balance of which will be sold to PG&E through a net-metering agreement, and distributed to the electrical grid through new on-site utility connections. The underground biogas pipeline will be comprised of a collection of gathering pipelines, and will utilize four-inch- to six-inch-diameter high-density polyethylene (HDPE) low-pressure lines connecting the five participating dairies to the pipeline and Central Hub facility.

The project also proposes the installation of a biogas upgrading facility and injection point, so that the cleaned and conditioned biogas can be injected into the PG&E main gas transmission line which traverses a portion of the Open Sky Ranch dairy site. Before the biogas is injected into the main transmission line, it will be treated (upgraded) to remove hydrogen sulfide, carbon dioxide (CO<sub>2</sub>), and moisture, and will then be compressed before being injected. The Hub facility will also include the installation of a Meter Set Assembly (MSA) which will measure, odorize and control the flow of biogas to the PG&E pipeline.

Additionally proposed is an electrical generation facility at the Open Sky Ranch dairy, which entails the installation of up to three additional biogas generators and ancillary equipment, similar to the upgrading facility, to condition the biogas by removing moisture and reducing hydrogen sulfide before it is utilized in the generators. The electrical generation facility will require new or upgraded service and connection equipment from PG&E, including the installation of new utility poles, and an electrical switchgear. The biogas generators are internal combustion engines which will burn the conditioned biogas to create electricity to be sold to PG&E through the Bioenergy Market Adjusting Tariff (Bio Mat) via a net energy metering agreement. The engines will operate continuously except for during routine maintenance. The biogas generators will employ catalytic converters to treat the exhaust emissions from combustion.

Each digester will utilize a blower to force the biogas into the gathering lines. The gathering lines will be remotely monitored to detect leaks or changes in pressure. The pipeline will be required to register with Underground Service Alert (USA) prior to excavation. The pipeline will have marker posts installed every 700 feet, tracer wire will be installed with the pipeline so that it can be more easily located, and marker tape will be installed one foot above the pipeline in order to notify excavation workers of its location. The pipeline will be buried at a minimum depth of four feet, except where greater depth is necessary, such as under County road right-of-way crossings and canal crossings.

The pipeline route will traverse a total of 17 parcels, including those containing the five participating dairies, make approximately five (5) County road right-of-way crossings, and approximately eight (8) irrigation canal crossings.

Construction of the Hub/Upgrading facility, electrical generation facilities, pipeline and participating digesters is anticipated to take approximately 10 months to complete, and once complete, will operate 24 hours per day, seven days per week.

**Finding 1:** *That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Division, to adjust said use with land and uses in the neighborhood*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	<p>Van der Hoek Dairy: Front (north): 120 feet +/-, Side (west): 2,050 feet, Side (east): 60 feet, Rear (south): 0.75 miles +/-</p> <p>Van Der Kooi Dairy: Front (north): 2,000 feet +/-, Side (west): 850 feet +/-, Side (east): 1,800 feet +/-, Rear (south): 0.60 miles</p> <p>Open Sky Dairy: Front (north): 0.55 miles, Side (west): 1.00 mile, Side (east): 42 feet +/-, Rear (south): 1,000 feet +/-</p> <p>J&amp;D Wilson Dairy: Front (south): 0.45 miles, Side (west): 615 feet +/-, Side (east): 1,960 feet +/-, Rear (north): 395 feet +/-</p> <p>Vanderham Dairy: Front (south): 0.43 miles +/-, Side (west): 702 feet +/-, Side (east): 297 feet +/-, Rear (north): 0.55 miles</p>	Yes
Parking	One parking space for every two permanent employees and one parking space for each company-owned vehicle	No change	Yes

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Lot Coverage	No requirement	N/A	N/A
Space Between Buildings	Separation between animal shelter and structures used for human habitation: minimum of 40 feet	No change	Yes
Wall Requirements	No requirement	N/A	N/A
Septic Replacement Area	100 percent of the existing system	No change	Yes
Water Well Separation	Septic tank: 50 feet Disposal field: 100 feet Seepage pit: 150 feet	No changes proposed to water wells or septic systems	Yes

**Reviewing Agency/Department Comments Regarding Site Adequacy:**

Building and Safety Plan Check Section of the Fresno County Department of Public Works and Planning: Plans, permits, and inspections will be required for all on-site improvements on each property.

Development Engineering Section of the Fresno County Department of Public Works and Planning: CUP No. 3642 and CUP No. 3643 (APN 050-170-41S): According to FEMA, FIRM Panel 2850J, effective date January 20, 2016, portions of the subject parcel are shown as being in flood hazard Zone A, which is subject to flooding from the 100-year storm. Any work taking place within the flood hazard zone must comply with the provisions of the Fresno County Flood Hazard Ordinance, Fresno County Ordinance Code Section 15.48. Any structure, tank, electrical panels or other equipment placed within the flood hazard area will require an elevation certificate (1988 Datum) prepared by a licensed land surveyor.

According to USGS Quad Maps, there are natural drainage channels adjacent to or traversing some of the parcels to be traversed by the pipeline.

CUP No. 3644 (APN 050-270-56S), CUP No. 3646 (APN 050-160-16S), and CUP No. 3647 (APN 050-260-12S): According to FEMA, FIRM Panel 2850J, portions of the subject parcel are within Flood Zone A, which is subject to flooding from the 100-year storm event, and must comply with the provisions of the Fresno County Flood Hazard Ordinance, Fresno County Ordinance Code Section 15.48. The following parcels, to be traversed by the proposed pipeline, are also subject to flooding from the 100-year storm: APNs 050-260-11S and 050-200-38S.

CUP No. 3645 (APN 040-130-51S): According to FEMA, FIRM Panel 2575H, the subject parcel is not subject to flooding from the 100-year storm event. According to USGS Quad Maps, there are natural drainage channels adjacent to or traversing some of the subject parcels.

According to FEMA, FIRM Panel 2850J, effective date January 20, 2016, the following parcels are shown as being in Flood Zone A, which is subject to flooding from the 100-year storm event:

APNs 050-260-11S, 050-270-56S, and 050-200-38S. Any work proposed within the Flood Zone must comply with the provisions for flood hazard reduction, Chapter 15.48.080 of the Fresno County Ordinance Code. Any construction placed in the flood hazard area will require pre- and post-construction elevation certificates (1988 Datum) prepared by a registered civil engineer or licensed surveyor.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

**Analysis:**

CUP No. 3642/Open Sky Dairy

CUP No. 3642 entails the addition of a biogas upgrade facility and electrical generation facility to be located on APN No. 050-170-41S, and an approximately 10.5-mile-long underground biogas pipeline traversing the site, which will be constructed of four-inch- to six-inch-diameter high-density polyethylene (HDPE) low-pressure lines connecting the five participating dairies to the Central Hub facility on APN 050-170-41S, thereby allowing each dairy to contribute conditioned biogas to the gathering lines on each site and be transmitted via the pipeline to the Central Hub. The pipeline will be buried at a minimum depth of four feet, except where greater depth is necessary.

The biogas upgrading facility will occupy approximately 20,800 square feet, and be located in the southeastern quadrant of the subject parcel, situated approximately 50 feet from the property line, adjacent to Elkhorn Grade which runs along the eastern boundary of the parcel, meeting the setback requirements of the AE-20 Zone District. The existing lagoon digester is located near the southwest quadrant of the subject parcel, approximately, 1,780 feet northwest of the proposed biogas upgrade facility and PG&E pipeline injection point.

CUP No. 3643/Open Sky Dairy

CUP No. 3643 will amend previously-approved CUP No. 3590, and entail the installation of biogas conditioning equipment consisting of a blower and chiller which will be housed in an existing 25-foot by 25-foot 625 square-foot prefabricated steel mechanical building containing an existing biogas generator. Other exterior supporting equipment will include a moisture trap and concrete pad. The moisture trap will reduce the amount of water in the biogas. The chiller and condenser will condense the water in the biogas before the gas is pushed into the biogas gathering line via the blower. The Open Sky Dairy contains a covered lagoon digester with a holding capacity of approximately 28,970,120 gallons.

According to the Applicant's Operational Statement, the Open Sky site previously operated as a dairy biogas injection facility, and will be recommissioned as part of this project. The Open Sky Dairy has a current total herd size of approximately 3,786 animals.

For each of the four dairies where new digesters are proposed (CUP Nos. 3644, 3645, 3646, and 3647), the follow improvements will be common to all of the four dairies:

The digesters will be created by installing a double lining made of High-Density Polyethylene (HDPE) with leak-detection sensors and a sealed cover, also made of HDPE, to capture the biogas. All digester ponds are subject to California Regional Water Quality Control Board (RWQCB) Tier 1 standards and approval from RWQCB.

The biogas conditioning equipment proposed to be installed at each dairy includes a biogas pipe, moisture trap and pad, biogas blower and chiller/condenser to be housed in an approximately 60-foot by 40-foot 2,400 square-foot prefabricated steel building. Site improvements will entail a modification of the existing liquid manure handling system, including a manure sand lane, various 8-inch to 24-inch manure pipes, and an 8-inch biogas pipe. The manure sand lanes, which are gravity flow channels designed to separate manure from the sand bedding utilized for the herd, will be approximately 200 feet long by 20 feet wide, and include a six-inch-thick concrete slab and four-foot-tall push wall. The concrete slabs will be installed on a slope of 1 to 3 % to allow the manure to flow at a consistent speed. The sand lanes are designed to slow the flow of flushed manure and capture inorganic material.

Additionally, biogas generator engines will be installed to produce electricity from the biogas, which will then be delivered to the PG&E grid under the Bioenergy Market Adjusting Tariff (Bio Mat) net energy metering with aggregation or other exporting tariff.

The biogas generators will be capable of producing approximately 800-1,000 kilowatts of electrical power. Exhaust from the generators will be treated through the use of a Selective Catalytic Reduction (SCR) system. In addition, there is supporting equipment for the electrical power generation, including, but not limited to, a transformer, utility poles per PG&E requirements, and any other essential equipment. Construction of this digester and power generation operation is expected to take approximately 7 months and employ 5-10 people. Remote sensing and monitoring of the equipment will be provided, and at least one employee will conduct regular daily inspections during business hours.

The following paragraphs describe the characteristics and proposed improvements specific to each individual dairy site:

#### CUP No. 3644/L&J Vanderham Dairy

CUP No. 3644 involves an existing operation located on a 320.40-acre parcel (APN 050-270-56S). The dairy has a herd size of approximately 3,335 mature milk cows. The project proposes the conversion of two existing manure storage ponds to a 1,630-foot by 125-foot by 25-foot-deep covered lagoon digester with a holding capacity of approximately 21 million gallons, and the installation of a sand lane, 8-inch to 24-inch manure pipes, biogas pipes, moisture trap and pad, biogas blower and chilling equipment, along with a biogas generator and supporting equipment to be housed in a new 2,400 square-foot prefabricated steel mechanical building.

The proposed digester involves the conversion of two existing storage ponds to a 1,630-foot by 125-foot by 25-foot covered lagoon digester with a liquid volume capacity of approximately 21,027,058 gallons, and an energy output capacity of 65,882 MMBtu annually.

#### CUP No. 3645/Van der Hoek Dairy

CUP No. 3645 involves an existing commercial dairy operation located on a 625.50-acre parcel (APN 040-130-51S) and a 203.37-acre parcel (APN 040-130-350), and has an approximate herd size of 4,140 mature milk cows. The project proposes the conversion of an existing 400-foot by 400-foot by 20-foot-deep manure storage pond to a covered lagoon digester with a holding capacity of approximately 21 million gallons, the installation of 8-inch to 24-inch manure pipes, biogas pipes, moisture trap and pad, biogas blower and chilling equipment, along with a biogas generator and supporting equipment to be housed in a new 2,400 square-foot steel prefabricated mechanical building and located on APN 040-130-35S. A raised sand lane and



dual screen separator are proposed to be located on APN 040-130-51S. Some of the manure pipes will traverse the boundary between the two parcels, as will the primary biogas pipeline.

CUP No. 3646/Van der Kooi Dairy

CUP No. 3646 proposes the modification of an existing commercial dairy operation located on a 470.10-acre parcel (APN 050-160-16S) which has an authorized herd size of 3,680 mature milk cows. This proposal entails the conversion of an existing 1,080-foot by 190-foot by 20-foot-deep manure storage pond to a covered lagoon digester with a holding capacity of approximately 22 million gallons, the installation of a sand lane, 8-inch to 24-inch manure pipes, biogas pipes, moisture trap and pad, biogas blower and chilling equipment, along with a biogas generator and supporting equipment to be housed in a new 2,400 square-foot prefabricated steel mechanical building.

CUP No. 3647

CUP No. 3647, J&D Wilson and Sons Dairy/Dry Creek Holdings, LLC, is an existing commercial dairy operation located on a 160-acre parcel (APN 050-260-12S), and has an approximate herd size of 4,232 mature milk cows. This proposal entails conversion of an existing 1,630-foot by 125-foot by 25-foot-deep manure storage pond to a covered lagoon digester with holding capacity of approximately 21 million gallons, the installation of a sand lane, 8-inch to 24-inch manure pipes, biogas pipes, moisture trap and pad, biogas blower and chilling equipment to be housed in a new 2,400 square-foot steel prefabricated mechanical building along with the biogas powered generator and supporting equipment.

Staff review of the site plans demonstrates that all of the proposed improvements at each participating dairy will satisfy the minimum setback requirements from adjacent property boundaries and County road rights-of-way. The subject parcels are adequate in size and shape to accommodate the proposed addition/conversion of existing ponds to lagoon digesters, and installation of appurtenant structures, including electrical generation facilities, biogas conditioning equipment and pipeline interconnections.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval attached as Exhibit 1.*

**Conclusion:**

Finding 1 can be made.

Finding 2: *That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use*

		<b>Existing Conditions</b>	<b>Proposed Operation</b>
Private Road	No	N/A	N/A
Public Road Frontage	Yes	See description of road segments (below)	No change

		<b>Existing Conditions</b>	<b>Proposed Operation</b>
Direct Access to Public Road	Yes	See description of road segments (below)	No change
Road ADT		See description of road segments (below)	No change
Road Classification		See description of road segments (below)	No change
Road Width		See description of road segments (below)	No change
Road Surface		See description of road segments (below)	No change
Traffic Trips		N/A	Estimated 10-12 one-way (20-24 two-way) employee trips and up to 27 round trip truck trips during construction
Traffic Impact Study (TIS) Prepared	No	No TIS required at this time	N/A
Road Improvements Required		Not required	N/A

**Reviewing Agency/Department Comments Regarding Adequacy of Streets and Highways:**

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: An encroachment permit shall be required from this Division for any portion of the proposed pipeline that crosses the County road right-of-way.

For all County-maintained road crossings, the Applicant shall be required to:

- 1) Execute an agreement with the County, assuming financial responsibility for and repair of any impacts to the County-maintained roadways resulting from the installation or operation of underground infrastructure and/or signage within the County right-of-way.
- 2) Acquire valid encroachment permits prior to construction of any crossings.
- 3) Provide both hard-copy and digital, stamped As-Built engineering drawings detailing all infrastructure within the County right-of-way.

At any road crossings, the proposed pipeline shall be encased in a steel sleeve (diameter and wall thickness as appropriate for the size of the carrier pipe).

The Applicants and or entities shall register with Underground Service Alert (USA) North, and pay annual fees to ensure that USA is notified any time there is a proposed excavation in proximity to the pipeline.

No longitudinal encroachments of the proposed pipeline shall be allowed in the County road right-of-way.

Any electrical interconnects shall be located outside of the County right-of-way unless the facilities are deeded to Pacific Gas and Electric (PG&E) for maintenance purposes.

Design Division of the Fresno County Department of Public Works and Planning: No comment.

Development Engineering Section of the Fresno County Department of Public Works and Planning: All County road crossings of the proposed pipeline shall be bored and sleeved in a steel casing which shall extend from right-of-way line to right-of-way line of the road. All such road crossings shall be designed by a registered civil engineer and reviewed by and permitted through the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning.

CUP Nos. 3642 and 3643/Open Sky Dairy: West Elkhorn Avenue is classified as a Local road with a 30-foot right-of-way south of the centerline along the subject parcel frontage, per the Plat Book. The minimum width for a Local road right-of-way south of the centerline is 30 feet. West Elkhorn Avenue is a County-maintained road, and records indicate that this section of West Elkhorn Avenue, from Howard Avenue to 0.11 mile west of Elkhorn Grade, has an Average Daily Traffic (ADT) count of 300, a paved width of 24 feet, a structural section 0.2 feet AC/0.5 AB/0.95 AS, and is in very good condition.

Elkhorn Grade is classified as a Local road with an existing 40-foot right-of-way west of the centerline along the parcel frontage, and is a County-maintained road. Records indicate this section of Elkhorn Grade, from Elkhorn Avenue to Cerini, has an ADT of less than 100, pavement width ranging from 15 to 17 feet, structural section of 0.25 RMS, and is in very poor condition.

South Howard Avenue is classified as a Local road with a 30-foot right-of-way west of the section line along the parcel frontage, per the Plat Book. The minimum width for a Local road right-of-way west of the section line is 30 feet. South Howard Avenue is a County-maintained road, and records indicate that this section of South Howard, from West Elkhorn to Cerini Avenue, has an Average Daily Traffic (ADT) count of 200, a paved width of 20 feet, a structural section of 0.5 feet AC, and is in poor condition.

CUP No. 3644/Vanderham Dairy: West Mount Whitney Avenue is classified as an Expressway, with a 30-foot right-of-way north of the section line along the parcel frontage, per the Plat Book. The minimum width for an Expressway right-of-way north of the section line is a minimum of 53 feet (106 feet total) and a maximum of 63 feet (126 feet total). West Mount Whitney is a County-maintained road, and records indicate that this section of West Mount Whitney, from South Bishop Avenue to South Dickerson Avenue, has an Average Daily Traffic (ADT) count of 2,100, a paved width of 31.80 feet, a structural section of .35 feet AC/.35 feet CTB/1.2 feet IB, and is in excellent condition.

West Harlan Avenue between Dower and South Bishop Avenue is not a County-maintained Road.

CUP No. 3645/Van der Hoek Dairy: South Lassen Avenue/SR 145 is classified as a State Highway, and is not County-maintained.

Clarkson Avenue east of South Lassen Avenue/SR 145 is an alignment and not a County-maintained road.

CUP No. 3646/Van der Kooi Dairy: West Elkhorn Avenue is classified as a Local road with a 30-foot right-of-way south of the centerline along the subject parcel frontage, per the Plat Book. The minimum width for a Local road right-of-way south of the centerline is 30 feet. West Elkhorn Avenue is a County-maintained road, and records indicate that this section of West Elkhorn Avenue, from South Howard Avenue to 0.8 miles east of South Lassen Avenue/SR 145, has an Average Daily Traffic (ADT) count of 300, a paved width of 24 feet, a structural section of 0.2 feet AC, 0.5 AB/0.95 AS, and is in very good condition.

South Howard is classified as a Local road with a 30-foot right-of-way west of the section line along the parcel frontage, per the Plat Book. The minimum width for a Local road right-of-way west of the section line is 30 feet. South Howard Avenue is a County-maintained road, and records indicate that this section of South Howard, from West Elkhorn to Cerini Avenue, has an Average Daily Traffic (ADT) count of 200, a paved width of 20 feet, a structural section of 0.5 feet AC, and is in poor condition.

CUP No. 3647/J&D Wilson and Sons Dairy: West Mount Whitney Avenue is classified as an Expressway with a 30-foot right-of-way north of the section line along the parcel frontage, per the Plat Book. The minimum width for an Expressway right-of-way north of the section line is a minimum of 53 feet (106 feet total) and a maximum of 63 feet (126 feet total). West Mount Whitney is a County-maintained road, and records indicate that this section of West Mount Whitney, from South Bishop Avenue to South Dickerson Avenue, has an Average Daily Traffic (ADT) count of 2,100, a paved width of 31.80 feet, a structural section of .35 feet AC/.35 feet CTB/1.2 feet IB, and is in excellent condition.

South Bishop Avenue is classified as a Local road with a 30-foot right-of-way north of the section line along the parcel frontage, per the Plat Book. The minimum width for a Local road north of the section line is 30 feet. South Bishop Avenue is a County-maintained road, and records indicate that this section of South Bishop, from West Mount Whitney to West Harlan Avenue, has an Average Daily Traffic (ADT) count of 400, a paved width of 20 feet, a structural section of 0.254 RMS/0.5 LTB, and is in very poor condition.

California Department of Transportation (Caltrans): No comment.

No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

### **Analysis:**

The proposed construction and operation of the pipeline is anticipated to add approximately 27 round trip traffic trips per day. No concerns with the condition of existing roads were expressed by reviewing agencies. As all of the dairy operations are existing, the only increased impacts to surrounding roads is expected to result from construction activities and from additional truck trips associated with operation of the digesters, including, but not limited to, material and equipment delivery and solid waste pick up.

The proposed pipeline will traverse County road rights-of-way at several locations, however, it will not be allowed any longitudinal encroachments. Where the pipeline is proposed to cross a County right-of-way, it is required that the pipeline be encased in a steel sleeve, and that crossings be designed by a licensed civil engineer and also be reviewed and permitted by the Fresno County Department of Public Works and Planning, Road Maintenance and Operations Division.

CUP Nos. 3642/3643

Access to the Open Sky Dairy site is provided via West Elkhorn Avenue on the north and Elkhorn Grade on the southeast, nearest the proposed upgrading facility, which will be approximately 50 feet from the property boundary.

Based on the above information, and with implementation of requirements, the streets and highways providing access to the subject parcels are adequate to accommodate the proposed use.

CUP No. 3644

Access to the L&J Vanderham Dairy site is from Mount Whitney Avenue along the southern property boundary.

CUP No. 3645

Access to the Van der Hoek Dairy site is via a private access easement, roughly aligned with West Clarkson Avenue, from South Lassen Avenue/SR 145.

CUP No. 3646

Access to the Van der Kooi Dairy is via a private access easement from West Elkhorn Avenue.

CUP No. 3647

Access to the J&D Wilson and Sons Dairy is via a private access easement from West Mount Whitney Avenue.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval attached as Exhibit 1.*

**Conclusion:**

Finding 2 can be made.

*Finding 3:* *That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof*

<b>Surrounding Parcels - Open Sky Dairy CUP Nos. 3642 and 3643 (APN 050-170-41S)</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	139 acres	Pistachio orchard/open space	AE-20	None

<b>Surrounding Parcels - Open Sky Dairy CUP Nos. 3642 and 3643 (APN 050-170-41S)</b>				
	24.15 acres			
South	576.21 acres 398.59 acres	Field crops/open space	AE-20	None
East	128.00 acres	Field crops/open space	AE-20	None
West	606.22 acres	Dairy	AE-20	0.87 miles

<b>Surrounding Parcels - JD Wilson Dairy CUP No. 3647 (APN 050-260-12S)</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	480.22 acres	Field crops	AE-20	None
South	596.58 acres	Field crops	AE-40	None
East	480.22 acres	Field crops	AE-40	0.41 miles
West	314.57 acres	Field crops	AE-40	0.75

<b>Surrounding Parcels - L&amp;J Vanderham Dairy UCUP 3644 (APN: 050-260-11S)</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	95.64 acres	Vineyard	AE-20	None
South	38.18 acres	Field crops	AE-40	225 feet
East	66.05 acres	Field crops	AE-20	0.48 miles
	59.09 acres	Field crops	AE-20	
West	480.22 acres	Field crops	AE-20/AE-40	300 feet

<b>Surrounding Parcels - Van Der Kooi Dairy UCUP 3646 (APN: 050-160-16S)</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	388.91 acres	Pistachio orchard	AE-20	None
	75.10 acres			
	320.78 acres			
South	429.99 acres	Orchard	AE-20	None
East	518.45 acres	Dairy	AE-20	1.04 miles
West	320.00 acres	Field crops	AE-20	None

<b>Surrounding Parcels - Van der Hoek Dairy UCUP 3645 (APN: 040-130-51S)</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	216.98 acres	Pistachio orchard	AE-20	None
	203.17 acres	Field crops		
South	426.96 acres	Pistachio orchard	AE-20	1.00 mile
East	554.65 acres	Pistachio orchard	AE-20	None
	18.68 acres			
	18.68 acres			
West	194.73 acres	Field crops	AE-20	None
	101.88 acres			

**Reviewing Agency/Department Comments:**

Fresno County Department of Public Health, Environmental Health Division: The proposed project shall comply with the Health and Safety Element of the Fresno County General Plan and the provisions of Chapter 8.40 - Noise Control, of the Fresno County Ordinance Code.

Within 30 days of the occurrence of any of the following events, the applicant/operators shall update their online Hazardous Materials Business Plan (HMBP) and Site Map:

1. There is a 100 percent or more increase in the quantities of a previously undisclosed material; or
2. The facility begins handling a previously undisclosed material at or above the HMBP threshold levels.

The proposed operation shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency.

All hazardous waste shall be handled in accordance the requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5, which discusses proper labeling, storage and handling of hazardous wastes.

If the anaerobic digester process requires accepting manure or other feedstock from off site, the facility will be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations (CCR), Division 7, Chapter 3, Articles 6.0-6.35.

According to the applicant's submitted operational statement, the proposed operation entails that separated solids from the anaerobic digesters will be disposed of at an appropriate solid waste facility. If the facilities change operations to use the separated solids for composting; the applicants/operators shall, prior to the production of compost from digester operations, apply for an obtain a permit to operate a Solid Waste Facility, from the County of Fresno Department of Public Health, Environmental Health Division (Local Enforcement Agency).

San Joaquin Valley Air Pollution Control District (Air District): The District has reviewed this proposal and determined that the primary functions of this project are subject to District Rule 2201 (New and Modified Stationary Source Review) or District Rule 2010 (Permits Required). Accordingly, District Rule 9510 requirements and fees do not apply. The District also indicated that estimates of potential construction, mobile and stationary emission sources, and proximity to sensitive receptors and existing emission sources should be included in the review, with consideration of the District thresholds of significance for criteria pollutants. The District recommend that short-term construction emissions be evaluated separately from operational emissions. Based on the Air District recommendations and CEQA requirements, the applicant was required to submit an Air Quality and Greenhouse Gas Analysis. The applicant provided an Air Quality Impact Analysis included a Greenhouse gas assessment, performed by Insight and Trinity Environmental Consultants, dated May 2, 2019.

The analysis found that short-term construction emissions would not exceed Air District significance thresholds during a given year and would therefore be less than significant. The project will be subject to all applicable District Rules, Under Regulation VIII – Fugitive PM10 Prohibitions, relating to construction related activities and Rule 4102 – Nuisance.

Evaluation of long-term operational emissions, including both mobile and stationary sources, determined that operations are not expected to generate a substantial source of fugitive dust (PM10) emissions, which comes primarily from vehicle emissions. Exhaust Emissions would generate mobile source criteria pollutants, however, they are not expected to generate substantial emissions. Stationary Source emissions would be generated during the biogas upgrade process and from combustion of biogas for electrical power generation. The conclusions of the Air Quality Analysis found that the project is expected to have long-term air quality impacts, however impacts are not anticipated to exceed significance thresholds, after mitigation, of mobile source emissions, stationary source fugitive gas emissions, or electrical generation emissions.

Impacts to sensitive receptors, elderly or chronically ill persons, or locations such as daycare centers, schools, hospitals, and residences, were evaluated as part of the Air Quality Assessment, however the report did not provide any specific conclusions, only that the nearest on site residence is 0.45 miles north of the project area, the nearest off site residence is 1.15 miles northeast of the project area and that there is an elementary school located approximately 2 miles northeast of the project area.

UCUP 3642/UCUP 3643 Open Sky Dairy: Staff review of the project area indicates that Burrell Elementary School is located approximately 1.3 miles northeast of the site, and the unincorporated community of Burrell, which contains a small but unknown number of residences, approximately 1.6 miles northeast of the project site, on which the biogas upgrade facility and pipeline injection point are located; additionally there is a cluster of five residences at the northeast corner of the same site, located approximately one half-mile north of the biogas Hub facility; the nearest off site residence is located approximately 0.8 miles northeast.

UCUP 3644 L& J Vanderham Dairy: review of aerial imagery shows one on site residence located approximately 1,700 feet southwest of the proposed digester pipeline connection point (project site). Additionally, there are three off-site residences located southerly and westerly adjacent to the subject parcel, with all three located approximately 0.44 miles from the project site.

UCUP 3645 Van der Hoek Dairy: Helm Elementary School is located approximately 1.6 miles northwest of the dairy site, and the nearest residence is located approximately 2,000 feet



northwest of the proposed digester and pipeline connection point. The nearest off site residences are located approximately one-mile southeast and one mile southwest respectively.

UCUP 3646 Van Der Kooi Dairy: The nearest on site residence is located approximately 1,500 feet north of the project site, and the nearest off site residence is located approximately 1.35 miles northwest of the project site.

UCUP 3647 J&D Wilson and Sons Dairy: There are no residences on site, however there are three residences located approximately three quarter-miles southeast of the dairy.

The project proponents/applicants are required to obtain a District Authority to Construct (ATC) prior to installation of an equipment that controls or emits air contaminants, including but not limited to digester systems, lagoons, herd expansions, emergency internal combustion engines, boilers, and baghouses.

This project may be subject to the following District Rules: 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).

Development Engineering Section of the Fresno County Department of Public Works and Planning: An engineered grading plan and grading permit will be required for all project site improvements on all subject parcels.

This project proposes to install a low-pressure gas pipeline that will cross several County maintained and unmaintained road rights-of-way. Encroachment permits will be required for each crossing. The applicant and property owner of each parcel, to be traversed by or contain any portion of the proposed pipeline, shall create and record pipeline easement(s) with exhibit maps with the County of Fresno for the entire pipeline.

All County road right-of-way crossings shall be bored and sleeved in a steel casing, and shall extend from right-of-way line to right-of-way line. All road crossings shall be designed by a civil engineer and reviewed and permitted through the Fresno County Department of Public Works and Planning, Road Maintenance and Operations Division.

The applicant and/or property owners shall register with Underground Service Alert (USA) North, and pay annual dues to ensure they are notified any time there is excavation proposed near the pipeline.

Engineered grading plans will be required for an work exceeding 1,000 cubic yards. Grading permits are required.

State Water Resources Control Board Division of Drinking Water: The project will not result in the formation of a new public water system. The Division currently regulates the Open Sky Dairy.

California Regional Water Quality Control Board: All of the participating dairies are regulated by the Regional Water Quality Control Board, under the Dairy General Order, and are required to have a Waste Management Plan, and Certificate of Waste Discharge.

California Department of Conservation, Division of Oil, Gas and Geothermal Resources (the Division): Department records indicate there are 92 known oil or gas wells located within the project boundary, 16 of which have not been abandoned in accordance with current division requirements as prescribed by Law, and 9 that have been abandoned in accordance with current division requirements, and which are projected to be build over or have future access impeded by this project.

The Division categorically advises against building over, or in way impeding access to oil, gas, or geothermal wells, as doing so could result in the need to remove any structure or other obstacle that prevents or impedes access to any such wells.

United States Fish and Wildlife Service (USFW): No comment

California Department of Fish and Wildlife (CDFW): Review of the California Natural Diversity Database (CNDDDB) reveals records for several special-status species both on and within the broader pipeline project area, including the State threatened and federally endangered San Joaquin Kit Fox, the State threatened Swainson's Hawk, the State candidate for listing as endangered Tricolored Blackbird, and the State species of special concern, Burrowing Owl. Review of aerial imagery indicates that much of the project area is comprised of or surrounded by active agriculture, including dairy silage fields which is suitable nesting substrate for certain bird species.

Southern San Joaquin Valley Information Center: Portions of the project area have been surveyed by a qualified cultural resource consultant and cultural resources were not found. The project area was last surveyed in 1977, and the archaeological sensitivity of the project area is unknown. A record search was conducted and a letter with recommendations was completed on March 29, 2019. According to the assessment, the odds of uncovering cultural material resource deposits are unlikely and a field survey is unwarranted. This office concurs with the findings. No cultural resources work is recommended prior to approval of project plans, however, customary caution and halt work conditions should be in place for all ground disturbing activities. If cultural resources are unearthed during project activities, all work must halt in the area of the find and a qualified professional archaeologist should be called to the site, to assess the findings and make the appropriate mitigation recommendations. Project personnel should not attempt to excavate any finds.

A mitigation measure has been included with this project to ensure that in the unlikely event that any cultural resources are encountered during the project construction, that they are treated in a way to prevent significant impacts to those resources.

No other comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

**Analysis:**

The project area is characterized by large farming parcels, which contain a variety of agricultural operations including orchards, field crops, vineyards, dairies, and other related support operations, including one agricultural aviation operation. Residential development is sparse throughout the project area, however there are residential dwellings in the vicinity of each of participating dairies contain a single family dwelling, and there are other residential dwellings in the vicinity of the dairy parcels and the pipeline route. Impacts from the dairy operations on surrounding properties are already existing, and as there is no intensification of the existing dairy operations, those impacts typically associated with dairy operations, or any confined animal operations, like odors would likewise not be increased by this proposal.

The current applications propose to add four new anaerobic lagoon digesters to four of the existing dairies. Digesters will utilize some of the biogas (methane) produced on the dairy sites, and thus reduce the adverse odor associated with dairy operations on any sensitive receptors in the vicinity. In addition to the digesters, the project proposes to install biogas generator engines that will utilize some of the biogas produced to create renewable electrical power, which will be sold to the PG&E grid. The project also proposes the installation of an underground pipeline to connect the participating dairy sites allowing them to contribute biogas to the pipeline to be transported to a central site (hub) for undergo the scrubbing/upgrading process before being injected into the PG&E main natural gas transmission line. The project will allow the biogas produced by the participating dairies to be converted into renewable energy sources, instead of being released into the atmosphere as methane, thereby reducing or minimizing project impacts to air quality.

The biogas scrubbing/upgrading process will result in the creation of elemental sulfur (sulfur sludge) as a by product. It is estimated that the facility will produce approximately 450 pounds per day or 82 tons of elemental sulfur per year. The elemental sulfur will either be stored in a covered vessel and used on site as a soil amendment, or transported to be used off site at participating dairies, or taken to an appropriate handling and disposal facility. The biogas scrubber is expected to create approximately 1,670 gallons of wastewater per day, generated by the scrubbing process.

The wastewater will contain sodium, carbonates, and sulfur compounds. The wastewater discharge will be directed to on site temporary storage tanks. Approximately once per week, the wastewater will be transported and disposed of at an appropriately permitted facility. Additionally, the drying of the biogas will produce approximately 500 gallons per day of condensation. The condensation will be returned to the digester at the Open Sky site, via a buried drain pipe. The biogas scrubbing facility will also produce approximately 10 gallons of waste compressor oil per week. The waste oil will be stored on site in sealed containers until it is picked up by a licensed oil recycler once per quarter.

The project was reviewed by the San Joaquin Valley Air Pollution Control District (Air District). The Air District recommended that the project be evaluated based on both its construction emissions (mobile) and operation (stationary source) emissions. The applicant provided an air quality impact and greenhouse gas analysis for the project. Based on the conclusions of the analysis, project construction would not exceed Air District significance thresholds for criterial pollutants, nor would operation contribute a substantial amount of criteria pollutants. The project would be subject to all applicable District Rules.

This project was routed to both the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) for comments. USFWS did not comment on the project. The applicant was required by the County to provide a habitat assessment done by a qualified biologist in order to determine if any sensitive habitats or protected, threatened, endangered or special status species were present in the project area. A reconnaissance level, site survey was conducted on April 6, 2019 by Quad Knopf (QK) Environmental Consultants. The results of the survey were that the following species have potential to occur in the project area: the Tricolored Blackbird, the Burrowing Owl, Swainson's Hawk, Loggerhead Shrike, Long-Billed Curlew, Yellow-Headed Blackbird, American Badger, and San Joaquin Kit Fox. The Kit Fox is listed as Federally endangered and State threatened. A search of the National Wetlands Inventory indicates that there are no aquatic features under federal or state jurisdiction on any of the projects sites or within the Biological Study Area (BSA).

In response to the circulation of the Initial Study prepared for this project, the California Department of Fish and Wildlife(CDFW), had some concerns about the sufficiency of the included Mitigation Measures, regarding certain wildlife species know to have a probability of occurring in the project area. Specifically, CDFW was concerned with impacts to San Joaquin Kit Fox, Swainson’s Hawk, Giant Garter Snake, Tricolored Blackbird, Burrowing Owl, and Lake and Streambed alteration. Accordingly, the recommended mitigation measures provided by the CDFW will be added to the Initial Study and Mitigation Monitoring and Reporting Program. A summary of the Initial Study is included as Exhibit 8 of the Staff Report. Per CEQA Section 15073.5(c), and 15074.1, recirculation of the Initial Study was not required.

Each participating dairy operation is regulated by the California Regional Water Quality Control Board, with regard waste discharge.

Based on the above information, and with implementation of the required Mitigation Measures, Conditions of Approval and Project Notes, staff believes the proposal will not have an adverse effect upon surrounding properties.

**Recommended Conditions of Approval:**

*See recommended Mitigation Measures and Conditions of Approval attached as Exhibit 1.*

**Conclusion:**

Finding 3 can be made.

*Finding 4:* *That the proposed development is consistent with the General Plan*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>General Plan Policy LU-A.13: The County shall protect agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.</p>	<p>The surrounding area predominately contains agricultural operations. The pipeline will be buried underground and contained within an easement, which will create a buffer between the pipeline and surrounding agricultural uses. The biogas electrical generation facilities will meet the minimum setbacks required for the Exclusive Agricultural Zone District.</p>
<p>General Plan Policy LU-A.14: The County shall ensure that the review of discretionary permits include an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate.</p>	<p>The project was evaluated by the Fresno County Agricultural Commissioner’s office, which did not express any concerns about the loss of productive agricultural land. The project proposes to utilize a comparatively small portion of land, within each affected parcel, for the development of the digesters, electrical generation facilities and ancillary equipment. The project was also reviewed by the Policy Planning Unit, which determined that all of the parcels involved were subject to a Williamson Act Contract and as such, subject to specific criteria therein. Because the proposed anaerobic</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
	<p>digesters and biogas generators would exporting renewable energy off site, the use was not considered compatible on Williamson Act restricted land. Accordingly, the portions of the subject parcels to be utilized in the operation, were required to record a partial nonrenewal of their respective Williamson Act contracts.</p>
<p>General Plan Policy LU-A.17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following:</p> <ul style="list-style-type: none"> <li>a. A determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question. If surface water is proposed it must come from a reliable source and the supply must be made “firm” by water banking or other suitable arrangement. If groundwater is proposed, a hydrogeological investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrogeological investigation shall be required.</li> <li>b. A determination of the impact that use of the proposed water supply will have on other water users in Fresno County. If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other water users within Fresno County. If use of ground water is proposed, a hydrogeological investigation may be required. If the lands in question lie in an area of limited ground water, a hydrogeological investigation shall be required. Should the investigation determine that significant pumping related physical impacts will extend beyond the boundary of the property in question, those impacts shall be mitigated.</li> </ul>	<p>The project, not including the existing dairy operations, proposes to use approximately 5,000 gallons of water per day for the construction phase of the pipeline, and approximately 2,500 gallons per day or 2,8 acre feet per day during operation. Water for this project will be supplied by onsite wells at each participating dairy, and also delivered by truck from off site when necessary during construction. This proposal was reviewed by the Water and Natural Resources Division of the Fresno County Department of Public Works and Planning, which did not express any concerns with water supply.</p> <p>An additional 5,000 gallons of water per day will be used at each of the participating dairy sites during construction of the digester and electrical generation facilities. During subsequent operation of the facilities, approximately 2,500 gallons per day is anticipated to be used at each dairy site.</p> <p>The project was reviewed by the Water and Natural Resources Division, of the Fresno County Department of Public Works and Planning, which did not express any concerns related to water supply. The project is not in an area of the County designated as being water short. No hydrogeological investigation was required.</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>c. A determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability. The plan must be structured such that it is economically, environmentally, and technically feasible. In addition, its implementation must occur prior to long-term and/or irreversible physical impacts, or significant economic hardship, to surrounding water users.</p>	
<p>General Plan Policy HS-B.1: The County shall review project proposals to identify potential fire hazards and to evaluate the effectiveness of preventive measures to reduce the risk to life and property.</p>	<p>The Fresno County Fire Protection District did not state any concerns that the project would create any new fire hazards.</p>
<p>General Plan Policy HS-F.1: The County shall require that facilities that handle hazardous materials or hazardous wastes, be designed, constructed and operated in accordance with applicable hazardous materials and waste management laws and regulations.</p>	<p>All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5.</p>
<p>General Plan HS-F.2: The County shall require that applications for discretionary development projects that will use hazardous materials or generate hazardous waste in large quantities, include detailed information concerning hazardous waste reduction, recycling, and storage.</p>	<p>The proposed biogas cleanup operation will generate approximately 450 pounds of elemental sulfur, as a byproduct of the hydrogen sulfide scrubber, which will be utilized as soil amendment off site, or hauled to an appropriate disposal facility.</p>

## **Reviewing Agency Comments:**

Fresno County Department of Agriculture: The project will not result in the loss of any agricultural production

Policy Planning Section of the Fresno County Department of Public Works and Planning, Development Services and Capital Projects Division: The 518.45-acre parcel identified as APN 050-170-41S, the 554.65-acre parcel identified as APN 040-130-49S, the 424.69-acre parcel identified as APN 041-100-17, the 316.45-acre parcel identified as APN 041-100-45S, the 320.00-acre parcel identified as APN 050-160-13S, the 606.22-acre parcel identified as APN 050-160-16S, and the 576.21-acre parcel identified as APN 050-200-38S are enrolled in the Williamson Act Program under Contract No. 1521.

The 136.77-acre parcel identified as APN 050-230-20S, the 314.57-acre parcel identified as APN 050-260-10S, the 18.00-acre parcel identified as APN 050-230-23S, the 156.36-acre parcel identified as APN 050-260-12S, the 480.22-acre parcel identified as APN 050-260-11S, and the 320.00-acre parcel identified as APN 050-270-56S are enrolled in the Williamson Act Program under Contract No. 7117.

The 203.37-acre parcel identified as APN 040-130-35S is enrolled in the Williamson Act Program under Contract No. 5722.

The 627.92-acre parcel identified as APN 040-130-51S is enrolled in the Williamson Act Program under Contract No. 263.

The 18.68-acre parcel identified as APN 040-130-44S is enrolled in the Williamson Act Program under Contract No. 1515.

The 20.00-acre parcel identified as APN 040-130-48S is enrolled in the Williamson Act Program under Contract No. 1517.

Pursuant to Agricultural Land Conservation Act (Williamson Act) Program Guidelines, the use of land enrolled in the Program is limited to commercial agricultural operations and other compatible uses adopted by the Board of Supervisors. The areas proposed for anaerobic digesters, biogas generators, and the interconnected biogas pipeline are not considered compatible uses on land enrolled in the Program. Therefore, the areas proposed for anaerobic digesters, biogas generators, and the interconnected biogas pipeline must be removed from the Program through the Nonrenewal process.

Also pursuant to the Fresno County Program Guidelines, parcels that are enrolled in the Program are required to have a minimum of 20 acres of Prime soil and an active agricultural operation, to be eligible to remain in the Program. Therefore, the 18.00-acre parcel identified as APN 050-230-23S enrolled under Contract No. 7117 must be removed from the Program through the Nonrenewal process.

No discretionary action shall be taken on UCUP Application No. 3643, or UCUP Application Nos. 3642, 3644, 3645, 3646, or 3647 until Nonrenewal of the contracted project areas and the 18.00-acre parcel identified as APN 050-230-23S are recorded.

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

## **Analysis:**

The 17 parcels associated with the proposed project are restricted under Williamson Act (ALCC) Contract, and because of the commercial nature of the project, involving the exportation of renewable energy resources, gas and electric, to the grid, the proposed uses are not considered to be compatible with ALCC contracted land. Accordingly, the portions of the subject parcels being improved with the supporting digester equipment, and/or being traversed by the pipeline easement, will be non-renewed from their respective Williamson Act Contracts, however, this process will not remove a substantial amount of land from agricultural uses, in fact the proposed improvements will support the existing dairy operations. The following is a summary of the Williamson Act Contract partial non-renewals required for, each parcel associated with this project:

### UCUP 3642/UCUP 3643

APN 050-170-41S (Open Sky Dairy), was required to complete a partial non-renewal, on the approximately 2.40-acre portion of land containing the proposed upgrading facility and the adjacent electrical generation facility.

### UCUP 3644

APN 050-270-56S (L&J Vanderham Dairy), was required to complete a partial non-renewal, on an approximately 7.46 acre portion of land, containing the proposed 203,750 square-foot (4.68 acre) digester facility, and the 2,400 square-foot electrical generation facility.

### UCUP 3645

APN No. 040-130-35S (Van der Hoek Dairy) were required to complete a partial non-renewal, on an approximately 7.32 acre portion of land, on APN (040-130-35S), containing the proposed 160,000 square-foot (3.67 acre) digester, and the 2,400 square-foot electrical generation facility.

### UCUP 3646

APN 050-160-16S (Van Der Kooi Dairy) was required to complete a partial non-renewal, on an approximately 7.32 acre portion of land containing the 205,200 square-foot (4.68 acre) digester facility and the 2,400 square-foot electrical generation facility.

### UCUP 3647

APN 050-260-12S (Dry Creek Holdings, LLC/Wilson Dairy), was required to complete a partial non-renewal on an approximately 7.46-acre portion of land containing the proposed 203,750 square-foot (4.68-acre) digester facility and the 2,400 square-foot electrical generation facility.

The applicants filed for non-renewal of the above noted land on May 7, 2019.

No other General Plan conflicts were identified in the analysis.

Based on these factors, the proposal to install four new dairy digesters, and appurtenant equipment and construct an approximately 10.5 mile long underground pipeline connecting the dairy digesters, and related biogas upgrading and electrical generation facilities, is consistent with the General Plan.



**Recommended Conditions of Approval:**

*None*

**Conclusion:**

Finding 4 can be made.

**PUBLIC COMMENT:**

None

**CONCLUSION:**

Based on the factors cited in the analysis, staff believes the required Findings for granting Unclassified Conditional Use Permit Nos. 3642-3647 can be made. Staff therefore recommends approval of Unclassified Conditional Use Permit Nos. 3642, 3643, 3644, 3645, 3646, and 3647, subject to the recommended Conditions of Approval.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 7608; and
- Move to determine the required Findings can be made and move to approve Unclassified Conditional Use Permit Nos. 3642, 3643 3644, 3645, 3646, and 3647, subject to the Mitigation Measures, Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Unclassified Conditional Use Permit Nos. 3642, 3643 3644, 3645, 3646, and 3647; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Mitigation Measures, Recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

JS:  
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**Mitigation Monitoring and Reporting Program  
Initial Study Application No. 7608/Unclassified Conditional Use Permit Application Nos. 3642-3647  
(Including Conditions of Approval and Project Notes)**

<b>Mitigation Measures</b>					
<b>Mitigation Measure No.*</b>	<b>Impact</b>	<b>Mitigation Measure Language</b>	<b>Implementation Responsibility</b>	<b>Monitoring Responsibility</b>	<b>Time Span</b>
1.	Biological Resources	<p>To mitigate impacts to the tricolored blackbird (TRBL), the following measures shall be implemented:</p> <p>Construction shall be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL, within a minimum 500-foot buffer from the Project site, no more than 10-days prior to the start of implementation to evaluate presence/absence of TRB nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.</p> <p>If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason the colony should be reassessed to determine the extent of the breeding colony before conducting construction activities.</p> <p>In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code Section 2081 (b), prior to any ground-disturbing activities.</p>	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P) in consultation with CDFW	February 1 through September 15

**EXHIBIT 1**

2.	Biological Resources	<p>To mitigate impacts to the San Joaquin Kit Fox (SJKF) and American Badger, the following measures shall be implemented:</p> <p>Avoidance of Burrows for San Joaquin Kit Fox, and American Badger. If dens/burrows that could support any of these species are discovered during the pre-activity clearance surveys conducted under BIO-1, the avoidance buffers outlined below should be established. No work would occur within these buffers unless the biologist approves and monitors the activity. Dens or burrows of these species shall not be destroyed unless it is determined that the den/burrow is not occupied. In no case shall a San Joaquin kit fox natal den or known den be destroyed without the concurrence of the USFWS and CDFW and appropriate artificial den replacements are provided.</p> <ul style="list-style-type: none"> <li>• San Joaquin Kit Fox</li> <li>• Potential Den – 50-feet</li> <li>• Atypical Den – 50-feet (includes pipes and other man-made structures)</li> <li>• Known Den – 100-feet</li> <li>• Natal/Pupping Den – 500-feet</li> </ul> <p>American Badger</p> <ul style="list-style-type: none"> <li>• Known Den — 100-feet</li> </ul> <p>The applicants shall assess presence/absence of SJKF by conducting surveys following the USFWS (2011) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance." Specifically, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14-days and no more than 30-days prior to beginning of ground disturbing activities.</p> <p>SJKF detection warrants consultation with CDFW to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081(b).</p> <p>Standard Avoidance and Minimization Measures for the San Joaquin kit fox and American badger. The following standard avoidance and minimization measures are recommended to be implemented:</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction
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		<ul style="list-style-type: none"><li>• Construction-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on County and City roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However, if night construction activities do occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.</li><li>• To prevent inadvertent entrapment of kit foxes or other wildlife during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks should be installed. Before such holes or trenches are filled, they should be thoroughly examined for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the CDFW should be contacted as noted below.</li><li>• Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.</li><li>• All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site.</li></ul>			
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		<ul style="list-style-type: none"><li>• No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens.</li><li>• Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of special-status species and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and federal legislation, as well as additional project-related restrictions deemed necessary by the USFWS. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.</li><li>• A representative should be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a special-status species or who finds a dead, injured, or entrapped special-status species. The representative will be identified during the employee education program and their name and telephone number should be provided to the USFWS.</li><li>• In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the USFWS should be contacted for guidance.</li><li>• Any person who is responsible for inadvertently killing or injuring a special-status animal species should immediately report the incident to their representative. This representative should contact the CDFW immediately in the case of a dead, injured, or entrapped special-status species. The CDFW contact for immediate assistance is State Dispatch at 916-445-0045. They will contact the local warden or wildlife biologist. The USFWS should be contacted at the number below.</li><li>• The region 8 Sacramento Fish and Wildlife Office and Region 4 CDFW should be notified in writing within three working days of the accidental death or injury to</li></ul>			
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		<p>a kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below.</p> <p>U.S. Fish and Wildlife Service  Region 8 – California and Nevada  2800 Cottage Way  Sacramento, CA 95825  Contact: Tim Ludwick  Phone: 916-414-6464</p> <ul style="list-style-type: none"> <li>• New sightings of kit fox should be reported to the CNDDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the appropriate wildlife agencies.</li> </ul> <p>Den Avoidance. In the event that a potential den that may be suitable for American badger, San Joaquin, or burrowing owl is detected during pre-activity clearance surveys, the biologist should monitor the den using cameras and tracking medium for five days to determine if the den is occupied by a special-status species. If after five (5) days no activity is detected, then the den can be backfilled. Construction personnel may collapse the den only under the direct supervision of the biologist. If a special-status species is detected using the den, the den must be avoided until the animal leaves on its own. A minimum 100-foot buffer should be constructed using orange construction fencing around the den during the nonbreeding season (April to November). During the breeding season (December to March), the buffer should be extended to 250 feet. Consultation with the USFWS and/or CDFW will be required prior to collapsing dens known to be occupied by kit foxes. If authorized by the CDFW, passive relocation of wildlife may be accomplished using one-way doors to exclude wildlife from dens. An exclusion plan approved by CDFW would be required prior to the installation of one-way doors.</p>			
3.	Biological Resources	To mitigate impacts to the Swainson's Hawk (SWHA), the following measures shall be implemented:	Applicant	Applicant/PW&P in consultation with CDFW	February 1 through

		<p>Construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to project initiation. In addition, CDFW recommends that a qualified biologist conduct additional pre-construction surveys for active nests no more than 10-days prior to the start of construction.</p> <p>If an active SWHA nest is found during pre-construction surveys, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.</p> <p>If the ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of an ITP for SWHA is necessary prior to project implementation, pursuant to Fish and Game Code Section 2081(b) to comply with CESA.</p>			September 15
4.	Biological Resources	<p>If project activities are planned to start during the migratory bird nesting season, February 1 to September 15, a pre-activity nesting bird survey should be conducted within seven (7) days of the start of these activities. These surveys should be phased with construction of the project. If active nests are detected during the survey, or at any time during construction of the project, an avoidance buffer will be established by a qualified biologist based on the species and the activities that are underway. For raptor species (except Swainson's hawk), the avoidance will typically be 500 feet. For non-raptor species, the buffer will be 250-feet. Note that some bird species are known to nest on human structures, including construction equipment. Construction personnel should be educated about this possibility as part of the employee education program.</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction
5.	Biological Resources	<p>To mitigate impacts to the Giant Garter Snake (GGS), the following measures shall be implemented:</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction

		<p>A qualified biologist shall conduct a habitat assessment well in advance of project implementation, to determine if the Project area or its vicinity contains suitable habitat for GGS.</p> <p>No more than 30-days prior to ground-disturbing activities, a qualified biologist with GGS experience and knowledge of its ecology survey the work area and a minimum 50-foot radius of the work area for burrows and crevices in which GGS could be present. It is advised that all potentially suitable burrows and cervices be flagged and avoided by a minimum 50-foot no disturbance buffer. If a 50-foot radius buffer isn't feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take.</p> <p>If take cannot be avoided, acquisition of an ITP would be required prior to Project implementation to comply with CESA. Capture and relocation of any species listed under CESA would require an ITP from CDFW, as capture (or attempt to do so) is defined as take under Fish and Game Code Section 86.</p>			
6.	Biological Resources	<p>To mitigate impacts to the Burrowing Owl (BUOW), the following measures shall be implemented:</p> <p>The applicant shall assess presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). In addition, CDFW advises that surveys include a 500-foot buffer around the Project area.</p> <p>Since BUOW occupy burrow habitat year-round, CDFW recommends seasonal no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities associated with Project implementation. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>If BUOW are found to occupy the Project site and avoidance is not possible, it is important to note that according to the</p>	Applicant	Applicant/PW&P in consultation with CDFW	Before and during construction



		<p>Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1 :1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities, at a rate that is sufficient to detect BUOW if they return.</p>			
7.	Biological Resources	<p>To mitigate impacts to sensitive habitat, the following measures shall be implemented:</p> <p>A formal stream mapping and wetland delineation shall be conducted by a qualified biologist to determine the location and extent of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that, while there is overlap, State and Federal definitions of wetlands as well as what activities require Notification pursuant to Fish and Game Code Section 1602 differ.</p> <p>Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as what activities may require Notification to comply with Fish and Game Code. Fish and Game Code Section 2785 (g) defines wetlands; further, Section 1600 et seq. applies to any area within the bed, channel, or bank of any river, stream, or lake. It is important-to note that while accurate wetland delineations by qualified individuals have resulted in more rapid review and response from USACE and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for applicants due to insufficient, incomplete, or conflicting data. CDFW advises that site map(s) designating wetlands as well as the location of any activities that may affect a lake or stream be included with any Project site evaluations.</p> <p>Fish and Game Code Section 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may: (a)</p>	Applicant	Applicant/PW&P in consultation with CDFW	Prior to Permits

		substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information on Notification requirements, please contact our staff in the LSA Program at (559) 243-4593.			
8.	Biological Resources	Prior to the issuance of building permits, if Stinson Canal cannot be avoided, specific impacts on the features shall be quantified by an aquatic resources delineation prepared by a qualified biologist. A Central Valley Regional Water Quality Control Board Section 401 Water Quality Certification, a Section 404 ACOE permit and Section 1602 California Department of Fish and Wildlife Streambed Alteration Agreement shall be obtained, or confirmation received from these agencies that regulatory permits are not required.	Applicant	Applicant/PW&P in consultation with CDFW	Prior to Permits
9.	Biological Resources	<p>Worker Environmental Awareness Training. Prior to the initiation of construction and for the duration of project construction and maintenance activities that could affect natural habitat, all new personnel should attend a Construction Personnel Environmental Awareness Training and Education Program. The program should be developed by a qualified biologist. Any employee responsible for the operation and maintenance (O&amp;M) of the completed facilities should also attend the Construction Personnel Environmental Awareness Training and Education Program.</p> <p>a) The program should include information on the life history of the burrowing owl, American badger, San Joaquin kit fox, Swainson's hawk, migratory birds and raptors, and special-status plant species that may be encountered during construction and operations and maintenance activities.</p> <p>b) The program should discuss each species' legal protection, status, the definition of "take" under the Endangered Species Act, measures the project operator must implement to protect the species, reporting requirements, specific measures that each worker should employ to avoid take of wildlife species,</p>	Applicant	Applicant/PW&P in consultation with CDFW	Prior to construction

		<p>and penalties for violation of the State and federal ESAs.</p> <p>c) The program should provide information on how and where to bring injured animals for treatment in the case any animals are injured on the project site, and how to document animal mortalities and injuries.</p> <p>d) An attendance form signed by each worker indicating that environmental training has been completed will be kept on record.</p>			
10.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	During ground-disturbing activities
11.	Aesthetics	All outdoor lighting shall be hooded and directed so as not to shine toward adjacent properties and public streets.	Applicant	Applicant/PW&P	During construction and operation
<b>Conditions of Approval</b>					
1.	Development of the property shall be in accordance with the Site Plan, Elevations and Operational Statement approved by the Planning Commission.				
2.	The Applicant shall prepare an Over and Across Agreement to permit access, equipment, conduit, pipeline, etc. crossing from one parcel to another from APN 041-030-20S to APN 041-030-48S. The agreement shall be reviewed and approved by the Development Services and Capital Projects Division of the Department of Public Works and Planning prior to the issuance of building permits.				
3.	Prior to occupancy, a Site Plan Review shall be submitted to and approved by the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance for UCUP Nos. 3642-3647. Conditions of the Site Plan Review may include: design of parking and circulation areas, access, on-site grading and drainage, fire protection, landscaping, signage and lighting.				

\*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document.  
Conditions of Approval reference recommended Conditions for the project.

**Notes**

**The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.**

1.	Unclassified Conditional Use Permit (CUP) Nos. 3642-3647 shall become void unless there has been substantial development within two years of the effective date of approval.
2.	Plans, permits, and inspections are required for the proposed improvements. Contact the Building and Safety Section of the Fresno County Department of Public Works and Planning at (559) 600-4540 for permits and inspections.
3.	All survey monumentation – property corners, section corners, County benchmarks, Federal benchmarks and triangulation stations, etc. – within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
4.	The proposed Project may be subject to the following Air District Rules and Regulations: <ul style="list-style-type: none"> <li>– Regulation VIII (Fugitive PM 10 Prohibitions),</li> <li>– Rule 4102 (Nuisance)</li> <li>– Rule 4601 (Architectural Coatings)</li> <li>– Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt Paving and Maintenance Operations)</li> <li>– Rule 4002 (National Emission Standards for Hazardous Air Pollutants)</li> <li>– Rule 4550 (Conservation and Management Practices)</li> <li>– Rule 4570 (Confined Animal Facilities)</li> <li>– District Rule 2201 (New and Modified Stationary Source Review) or District Rule 2010 (Permits Required).</li> </ul>
5.	Engineered grading plans will be required for an work exceeding 1,000 cubic yards. An engineered grading plan and grading permit will be required for all project site improvements on all subject parcels
6.	To satisfy Best Practicable Treatment or Control requirements of the Digester Order, the proposed new pond should meet the Tier 1 liner design specifications cited in Pond Specification C.5 of the Reissued Waste Discharge Requirements General Order for Existing Milk Cow Dairies, Order No. R5-2013-0122.
7.	Any additional runoff generated by the proposed developed of this site should be retained on site.
8.	An encroachment permit from the Road Maintenance and Operations division of the Fresno County Department of Public Works and Planning will be required for any work done in the County right-of-way.
9.	All proposed improvements shall be located outside of the County road right-of-way. Setbacks to proposed structures shall be measured from the ultimate County road right of way.
10.	This application shall comply with California Code of Regulation Title 24 – Fire Code. Prior to receiving Fresno County Fire Protection District (FCFPD) conditions of approval for this project, the Applicant shall submit construction plans to the County of Fresno Department Public Works and Planning for review. It is the Applicant’s responsibility to deliver three sets of plans to FCFPD. This project shall annex to Community Facilities District No. 2010-01 and will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought. FCFPD requirements may include, but are not limited to:

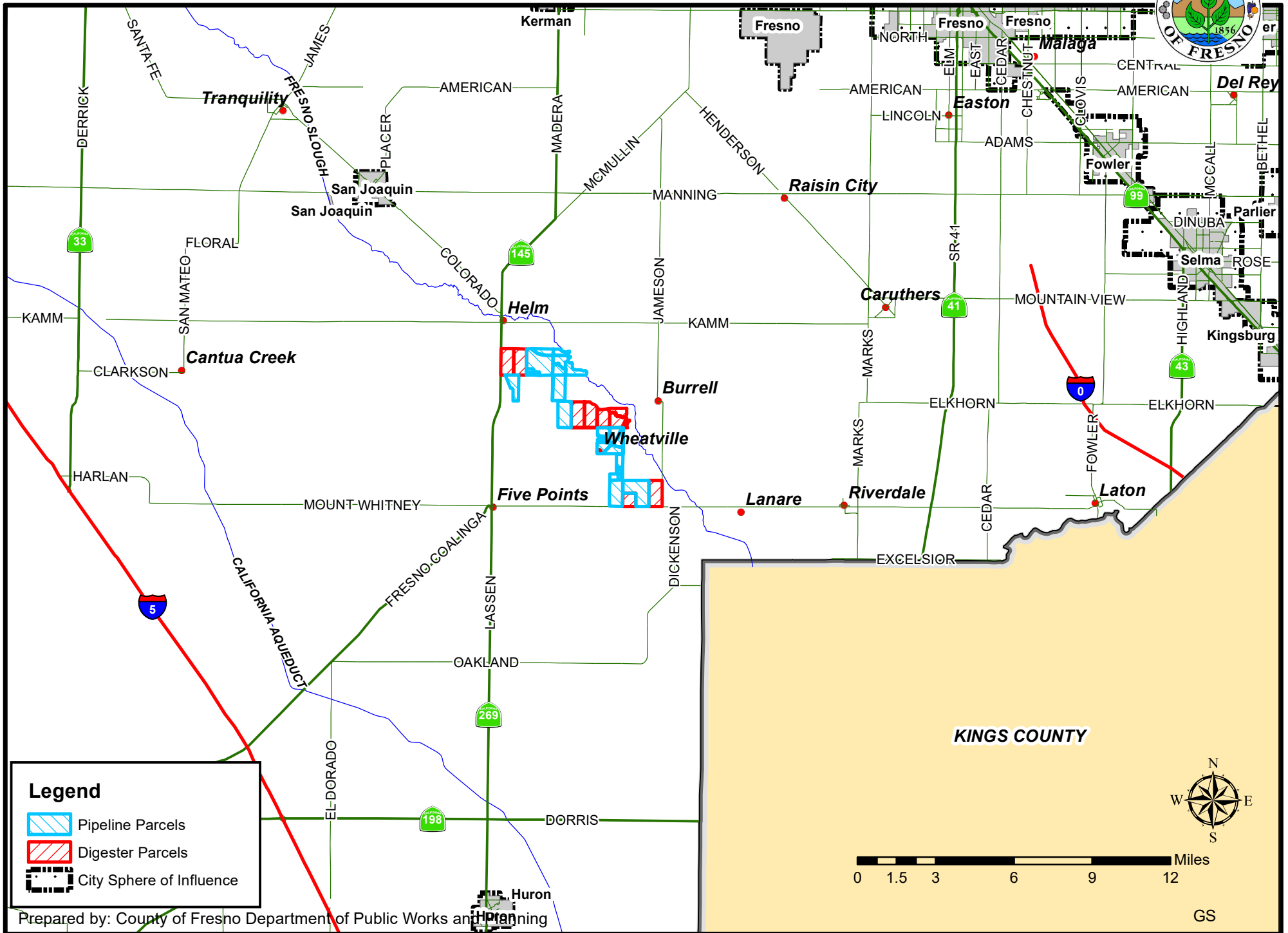
Notes	
	water flow requirements, water storage requirements, fire pumps, road access, Public Resources Code 4290, fire hydrants, fire sprinkler systems, fire alarm systems, premises identification and Title 15.60 County Ordinance.
11.	Prior to the production of compost from operations of the digester, the facility shall apply for and obtain a permit to operate a solid waste facility from the County of Fresno Department of Public Health, Environmental Health Division acting as the Local Enforcement Agency. Please contract Solid Waste staff at (559) 600-3271 for more information.
12.	The projects shall comply with the provisions of the Fresno County Flood Hazard Ordinance, Fresno County Ordinance Code Section 15.48. Any structure, tank, electrical panels or other equipment placed within the flood hazard area, will require an elevation certificate (1988 Datum) prepared by a licensed land surveyor.
13	<p>For all County-maintained road crossings the applicant shall be required to:</p> <ul style="list-style-type: none"> <li>• Execute an agreement with the County, assuming financial responsibility for and repair of any impacts to the County maintained roadways, resulting from the installation or operation of underground infrastructure and/or signage within the County right-of-way.</li> <li>• Acquire valid encroachment permits prior to construction of any crossings.</li> <li>• Provide both hard-copy and digital, stamped As-Built engineering drawings detailing all infrastructure within the County right-of-way.</li> </ul>
14	<p>At any road crossings, the proposed pipeline shall be encased in a steel sleeve (diameter and wall thickness as appropriate for the size of the carrier pipe).</p> <p>All County road crossings, of the proposed pipeline, shall be bored and sleeved in a steel casing, which shall extend from right-of-way line to right-of-way line of the road. All such road crossings shall be designed by a registered civil engineer and reviewed by and permitted through the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning.</p> <p>No longitudinal encroachments of the proposed pipeline, shall be allowed in the County road right-of-way.</p> <p>Any electrical interconnects shall be located outside of the County right-of-way unless the facilities are deeded to Pacific Gas and Electric (PG&amp;E) for maintenance purposes.</p>
15.	The applicants and or entities, shall register with Underground Service Alert (USA) North, and pay annual fees to ensure that USA is notified any time there is a proposed excavation in proximity to the pipeline.
16.	The project shall comply with the Health and Safety Element of the Fresno County General Plan and the provisions of Chapter 8.40 - Noise Control, of the Fresno County Ordinance Code.
17.	<p>Within 30 days of the occurrence of any of the following events, the applicant/operators shall update their online Hazardous Materials Business Plan (HMBP) and Site Map:</p> <ol style="list-style-type: none"> <li>1. There is a 100 percent or more increase in the quantities of a previously undisclosed material; or</li> </ol>

<b>Notes</b>	
	<p>2. The facility begins handling a previously undisclosed material at or above the HMBP threshold levels.</p> <p>The proposed operation shall certify that a review of the business plan has been conducted at least once every year and that any necessary changes were made and that the changes were submitted to the local agency.</p>
18,	<p>All hazardous waste shall be handled in accordance the requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5, which discusses proper labeling, storage and handling of hazardous wastes.</p> <p>If the anaerobic digester process requires accepting manure or other feedstock from off site, the facility will be subject to the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations (CCR), Division 7, Chapter 3, Articles 6.0-6.35.</p>
19.	<p>According to the applicant's submitted operational statement, the proposed operation entails that separated solids from the anaerobic digesters will be disposed of at an appropriate solid waste facility. If the facilities change operations to use the separated solids for composting; the applicants/operators shall, prior to the production of compost from digester operations, apply for an obtain a permit to operate a Solid Waste Facility, from the County of Fresno Department of Public Health, Environmental Health Division (Local Enforcement Agency).</p>
20.	<p>The applicant and property owner of each parcel, to be traversed by or contain any portion of the proposed pipeline, shall create and record pipeline easement(s) with exhibit maps with the County of Fresno for the entire pipeline.</p>
21.	<p>All of the participating dairies are regulated by the Regional Water Quality Control Board, under the Dairy General Order, and are required to have a Waste Management Plan, and Certificate of Waste Discharge.</p>




JS:

G:\4360Devs&PIn\PROJSEC\PROJDOCS\CUP\3600-3699\3642\SR\CUP 3642-3647 MMRP (Ex 1).docx

# LOCATION MAP



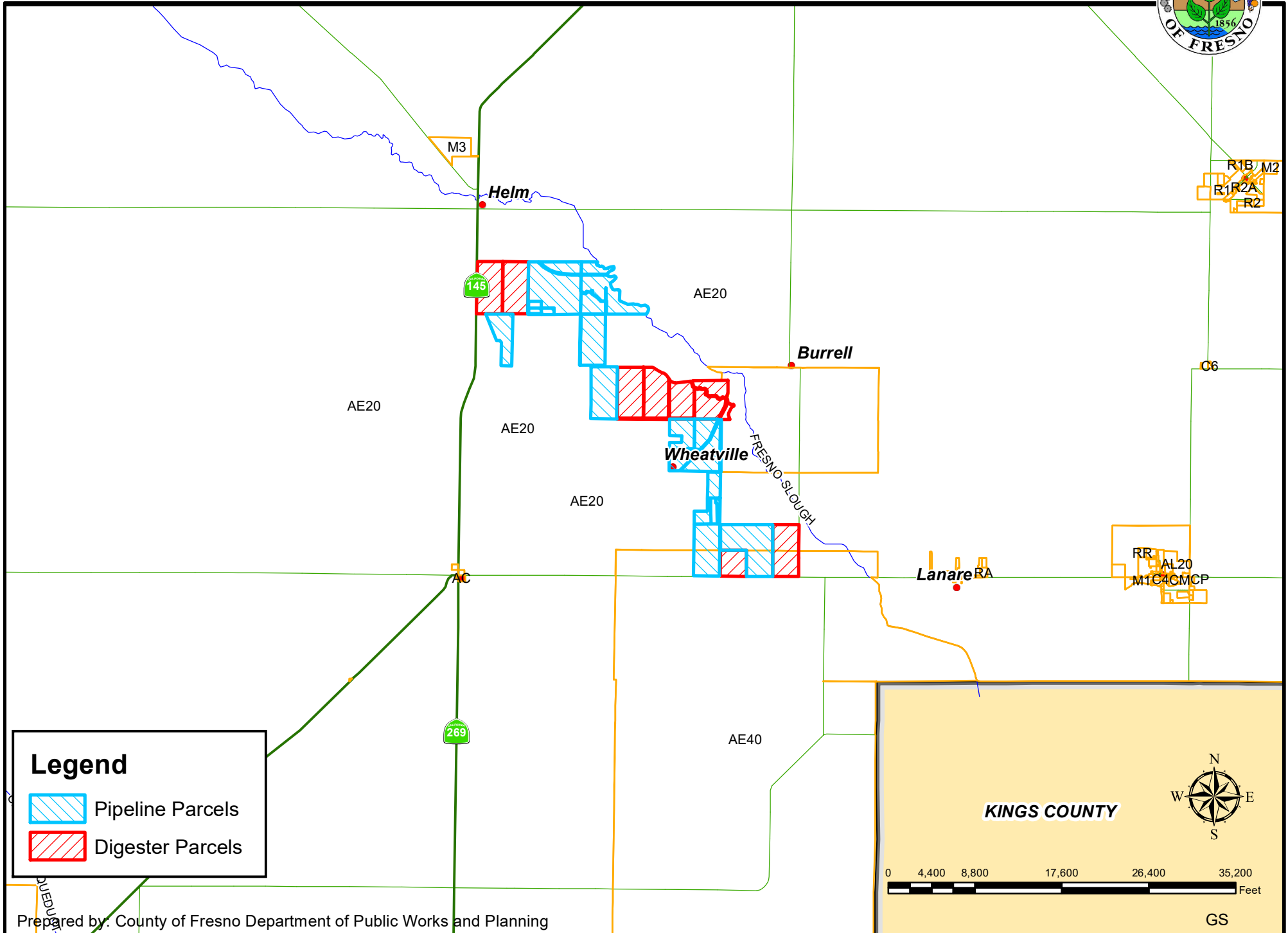
**Legend**

-  Pipeline Parcels
-  Digester Parcels
-  City Sphere of Influence

Prepared by: County of Fresno Department of Public Works and Planning

GS

# EXISTING ZONING MAP



**Legend**

- Pipeline Parcels
- Digester Parcels

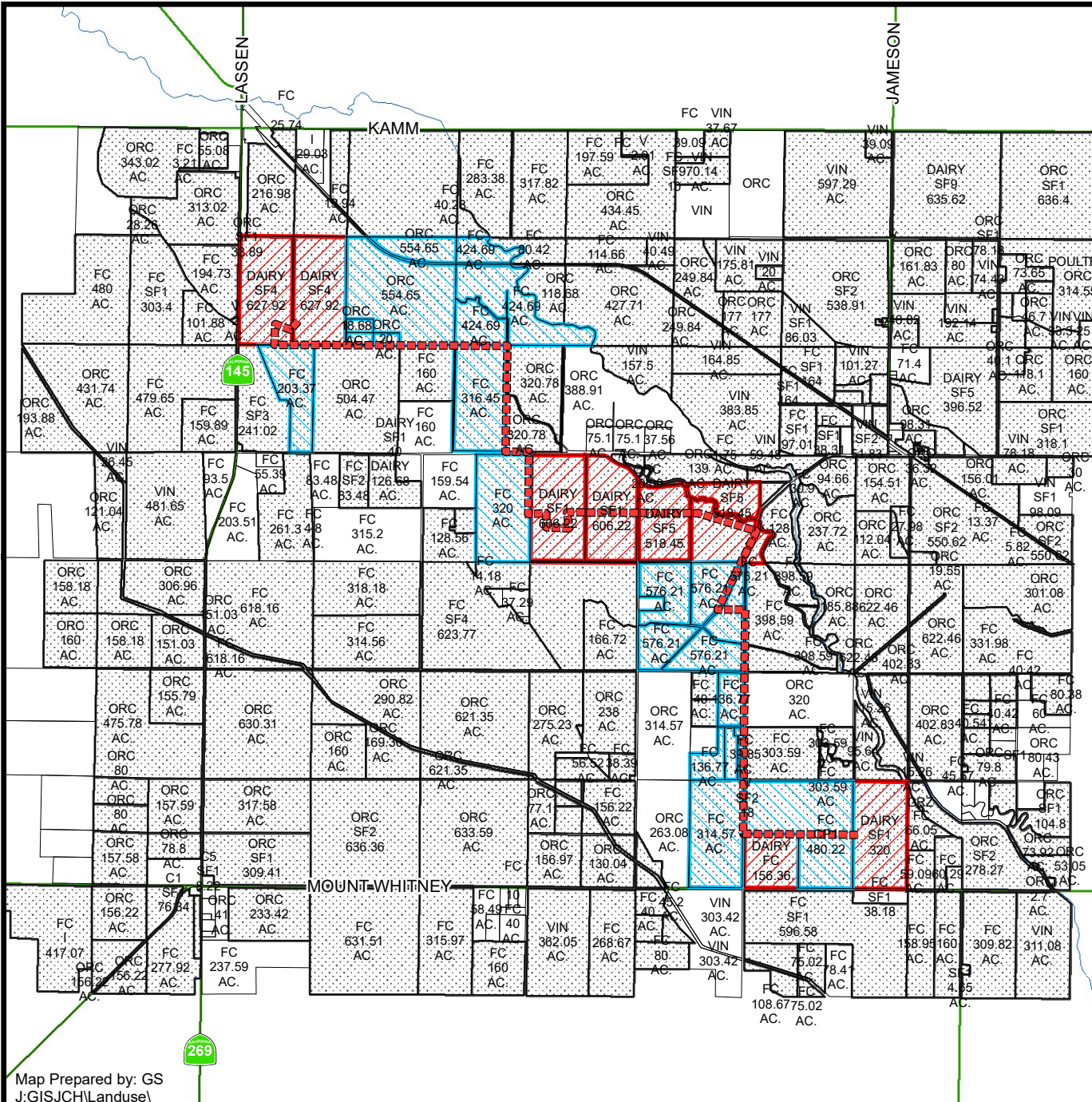
**KINGS COUNTY**

0 4,400 8,800 17,600 26,400 35,200 Feet

GS

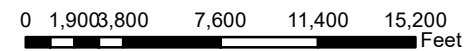
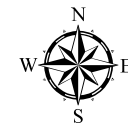


# EXISTING LAND USE MAP



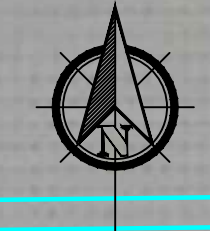
LEGEND	
CP# -	OFFICE COMM./PROF
C -	COMMERCIAL
C# -	COMMERCIAL
DAIRY	
FC -	FIELD CROP
FEE -	FEED LOT
GRZ -	GRAZING
I -	INDUSTRIAL
ORC -	ORCHARD
SF# -	SINGLE FAMILY RESIDENCE
V -	VACANT
VIN -	VINEYARD

Legend	
	Proposed Pipeline
	Pipeline Parcels
	Digester Parcels
	Ag Contract Land



Department of Public Works and Planning  
Development Services Division

Map Prepared by: GS  
J:GISJCHLanduse1



General Notes

Confidential and Not for Construction

- (E) Existing
- (P) Proposed
- Proposed Fencing
- No improvements to streets have been propose.
- Off-street dirt parking and loading areas exist throughout the property. No new parking/loading areas have been proposed.
- 4" Biogas Gathering Lines
- 6" Biogas Gathering Lines
- Manure Piping
- PG&E Transmission Line
- APN Boundaries
- Nearest Water Courses to Dairy Parcel
- Williamson Act
- 20' Pipeline Easement
- Property Access

All pipes are in private easement W Clarkson Ave, no County Public Right of Way.

\*040-130-50S and 040-130-35S property boundary lines updated for accuracy, 06/05/2019

**MAAS ENERGY WORKS**

Firm Address  
3711 Meadow View Dr.  
Suite 100  
Redding, CA, 96002

Project Name and Address  
Vander Hoek Dairy  
15886 S Lassen Avenue  
Helm, California 93627

Date: 7/31/19  
Version: 1.2

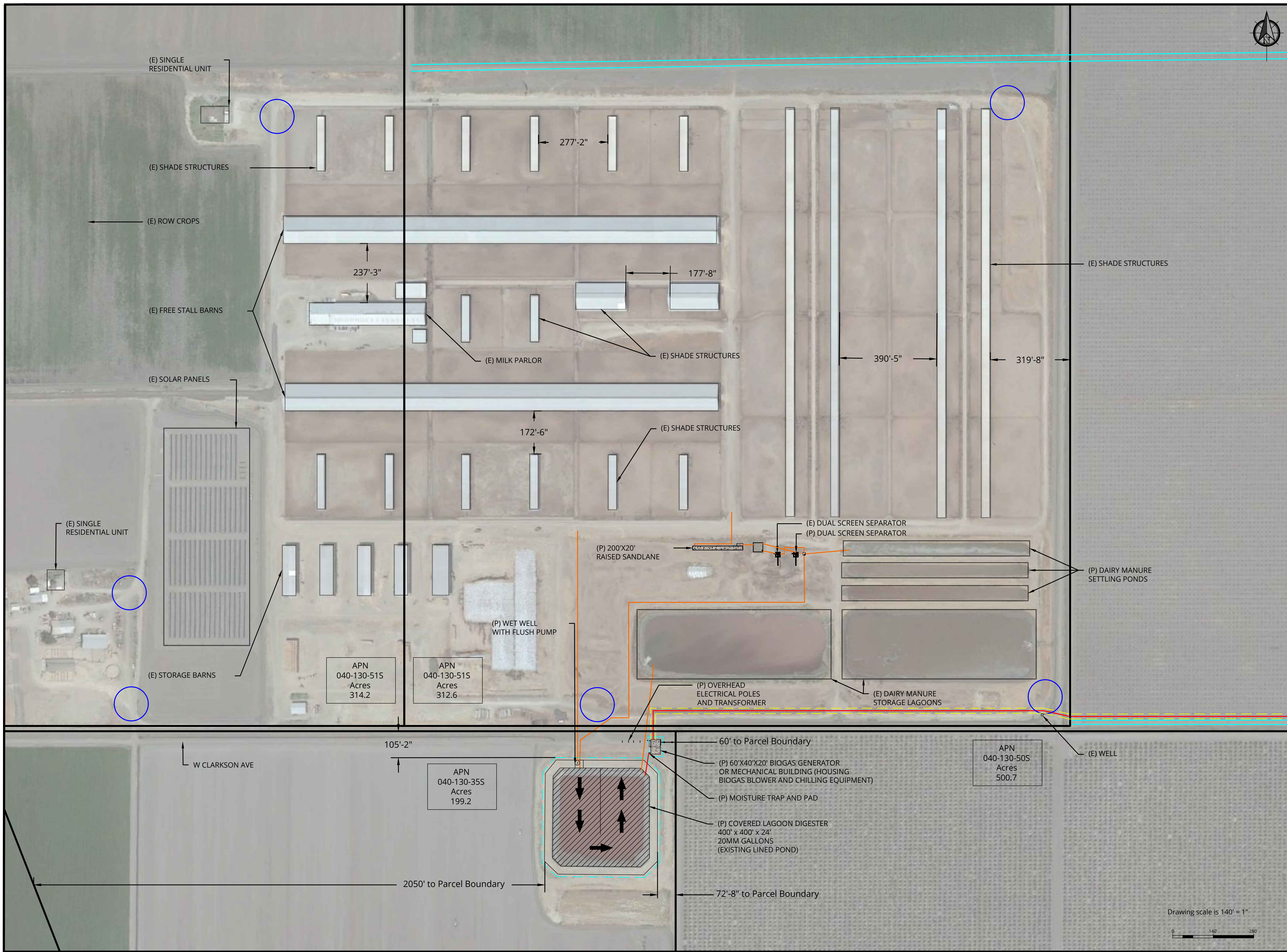
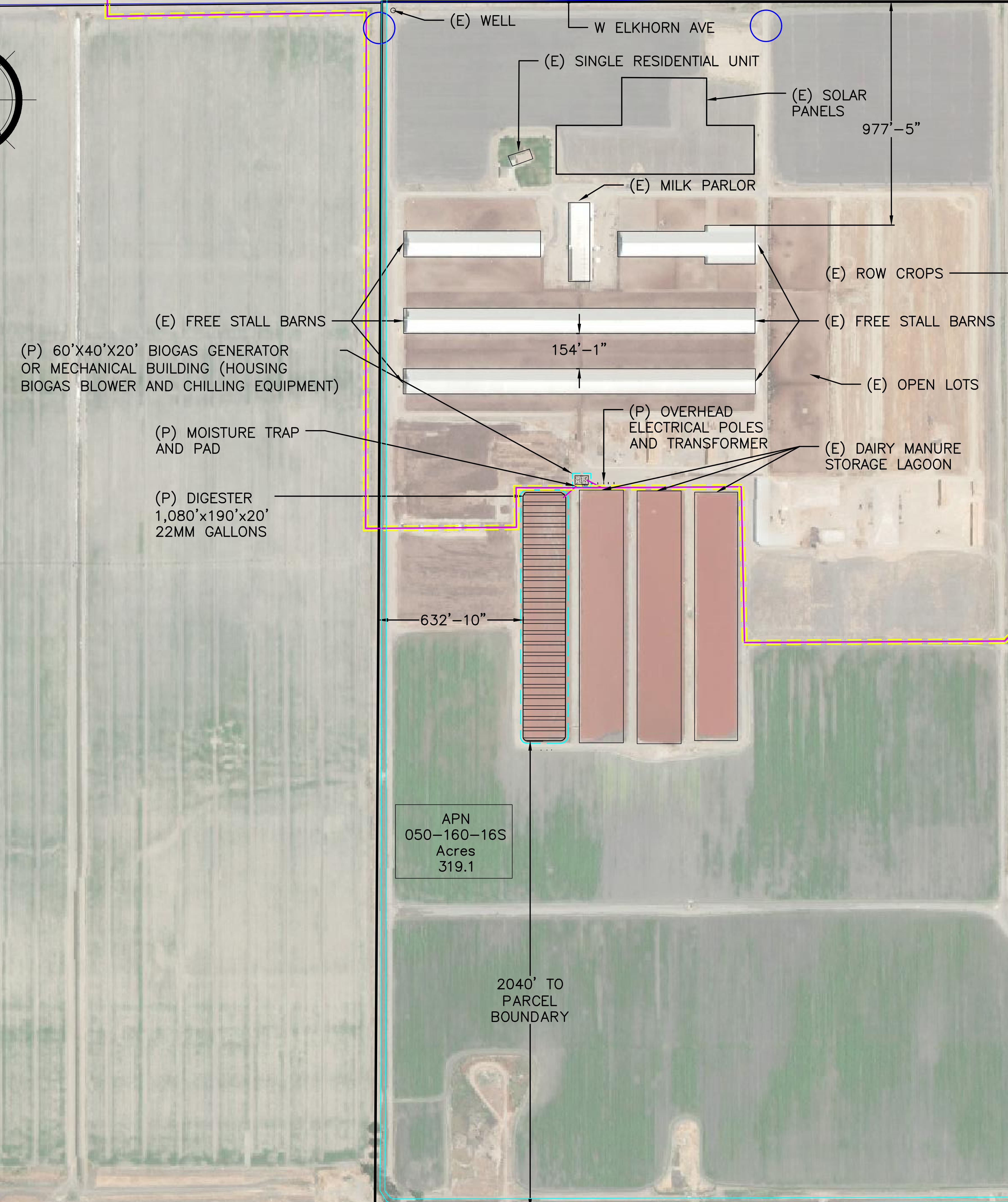
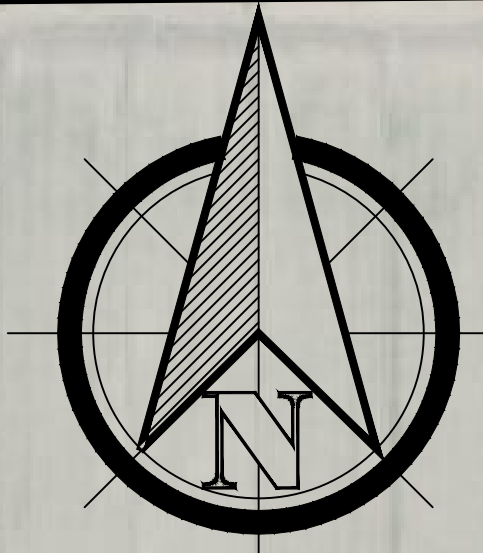


EXHIBIT 5

Drawing scale is 140' = 1"



General Notes

**CONFIDENTIAL**

- (E) – Existing
- (P) – Proposed
- Access to the Property
- Proposed Fencing
- No improvements to streets have been propose.
- Off-street dirt parking and loading areas exist throughout the property. No new parking/loading areas have been proposed.
- 4" Biogas Gathering Lines
- 6" Biogas Gathering Lines
- Manure Piping
- PG&E Transmission Line
- APN Boundaries
- Nearest water courses to Dairy Parcel
- Williamson Act
- County Right of Way
- 20' Pipeline Easement
- Property Access

All pipes are in private easement with the exception of crossings shown.  
 Proposed pipeline is 20' or more from ROW.  
 Elkhorn Ave, 60' County Right of Way.

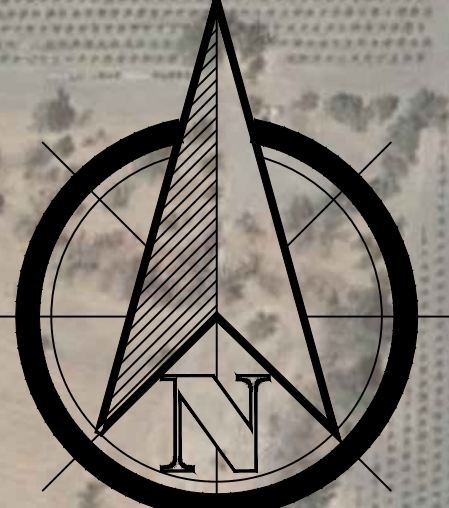
**MAAS ENERGY WORKS**

3711 Meadow View Dr.  
 Suite 100  
 Redding, CA, 96002

Van Der Kooi Dairy Digester  
 13695 W. Elkhorn Ave  
 Riverdale, CA 93656

Date	1/24/19	Version	1.0
Drawn By	BO, SG		

Drawing scale is 235' = 1"



General Notes

CONFIDENTIAL Not for Construction

Cleanup Hub and Interconnection Property Detail Map

- (E) - Existing
- (P) - Proposed
- Access to the Property
- Proposed Fencing
- No improvements to streets have been propose.
- Off-street dirt parking and loading areas exist throughout the property. No new parking/loading areas have been proposed.
- 4" Biogas Gathering Lines
- 6" Biogas Gathering Lines
- PG&E Transmission Line
- APN Boundaries
- 10" Biogas Gathering Lines
- Approximate County Right of Way
- Property Access

-All pipes are in private easement with the exception of crossings shown.  
 -Proposed pipeline is 20' or more from ROW.  
 -Bishop Ave, 60' County Right of Way.  
 -W Harlan Ave, 60' County Right of Way.

**MAAS ENERGY WORKS**

3711 Meadow View Dr.  
 Suite 100  
 Redding, CA, 96002

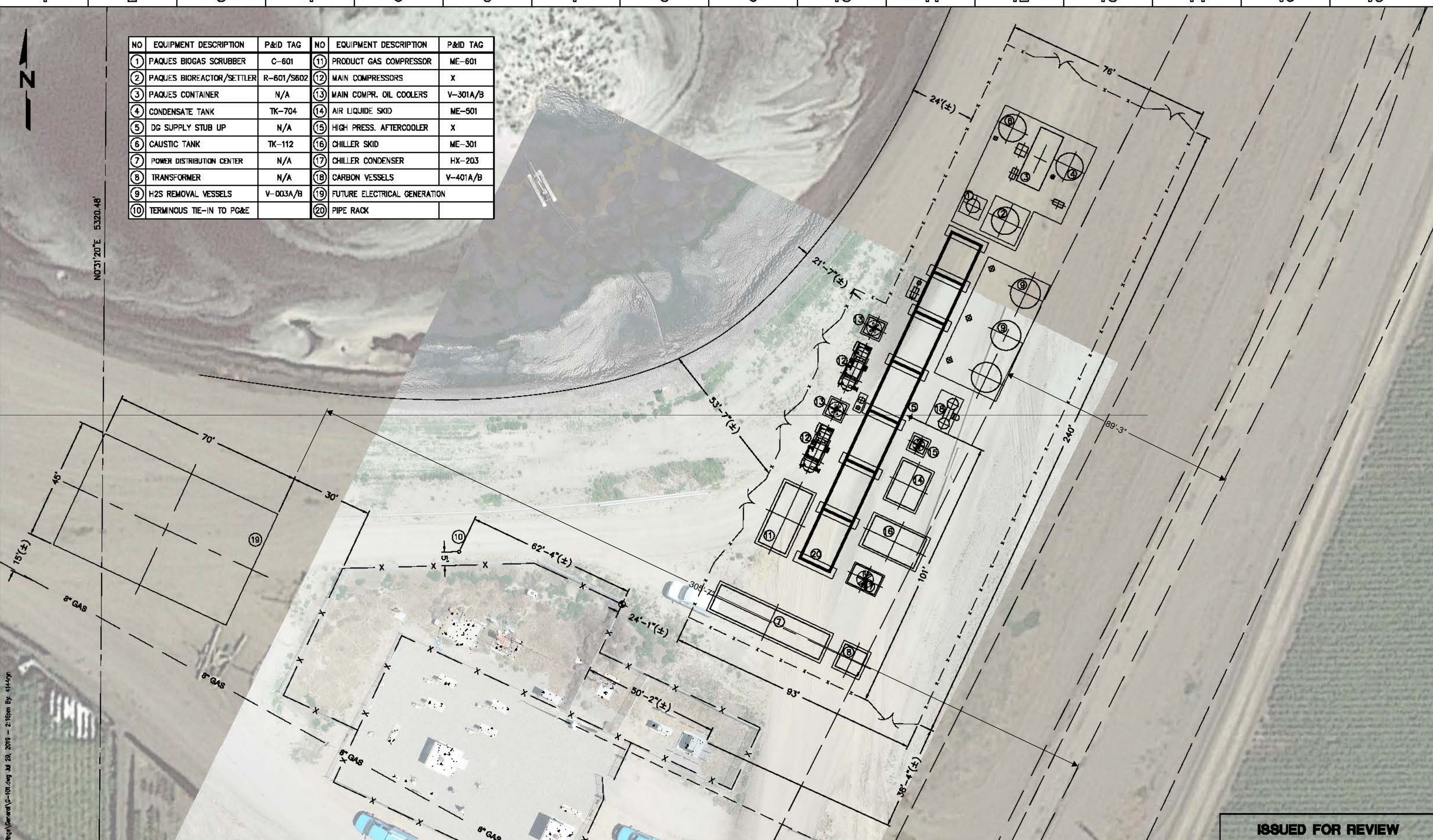
Five Points Cluster  
 Cleanup Hub & Injection Point  
 12103 Elkhorn Ave,  
 Riverdale, CA 93656

Date: 3/21/19  
 Drawn By: SG, BO

Version: 2.2

Drawing scale is 250' = 1"

NO	EQUIPMENT DESCRIPTION	P&ID TAG	NO	EQUIPMENT DESCRIPTION	P&ID TAG
1	PAQUES BIOGAS SCRUBBER	C-601	11	PRODUCT GAS COMPRESSOR	ME-601
2	PAQUES BIOREACTOR/SETTLER	R-601/9602	12	MAIN COMPRESSORS	X
3	PAQUES CONTAINER	N/A	13	MAIN COMPR. OIL COOLERS	V-301A/B
4	CONDENSATE TANK	TK-704	14	AIR LIQUIDE SKID	ME-501
5	DG SUPPLY STUB UP	N/A	15	HIGH PRESS. AFTERCOOLER	X
6	CAUSTIC TANK	TK-112	16	CHILLER SKID	ME-301
7	POWER DISTRIBUTION CENTER	N/A	17	CHILLER CONDENSER	HX-203
8	TRANSFORMER	N/A	18	CARBON VESSELS	V-401A/B
9	H2S REMOVAL VESSELS	V-003A/B	19	FUTURE ELECTRICAL GENERATION	
10	TERMINOUS TIE-IN TO PG&E		20	PIPE RACK	



**ISSUED FOR REVIEW**

**EXHIBIT 5.3**

N:\PROJECTS\08218005\00\Drawings\General\G-101.dwg, Jul 23, 2019 - 2:16pm By: 414rpp

**SCS ENERGY**  
 3800 KILROY AIRPORT WAY  
 LONG BEACH, CA 90806  
 (562) 426-8844

PROJ. NO. 08218005.00  
 DWN. BY: DL  
 DWN. BY: DL

CLIENT: **MASS ENERGY**  
 12103 ELKHORN AVE.  
 RIVERDALE, CA 93066

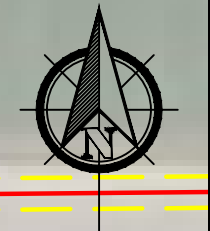
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 12103 ELKHORN AVE.  
 RIVERDALE, CA 93066

ACAD FILE:  
 APP. BY: RV

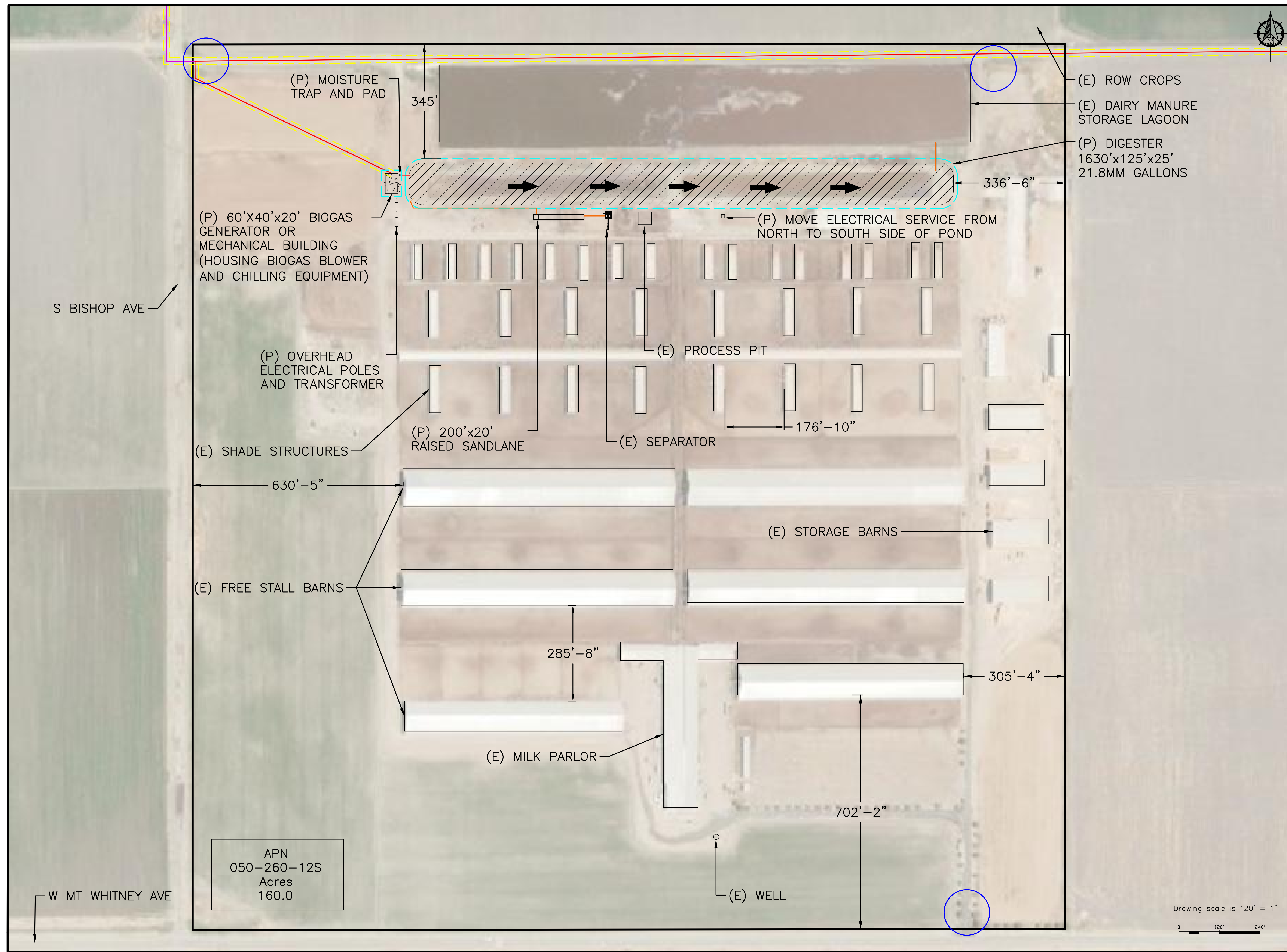
SHEET TITLE  
**SITE LAYOUT**

PROJECT TITLE  
**FIVE POINT CLUSTER  
 RENEWABLE NATURAL GAS PLANT**

NO.	REVISION	DATE	PROJECT DATE:
A1	ISSUED FOR REVIEW	07/02/19	05/01/19
A2	ISSUED FOR REVIEW	07/18/19	SCALE: AS SHOWN
A3	ISSUED FOR REVIEW	07/19/19	DRAWING NO. <b>G-101</b>
A4	ISSUED FOR REVIEW	07/24/19	
A5	ISSUED FOR REVIEW	07/26/19	
A6	ISSUED FOR REVIEW	07/29/19	

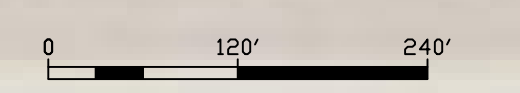


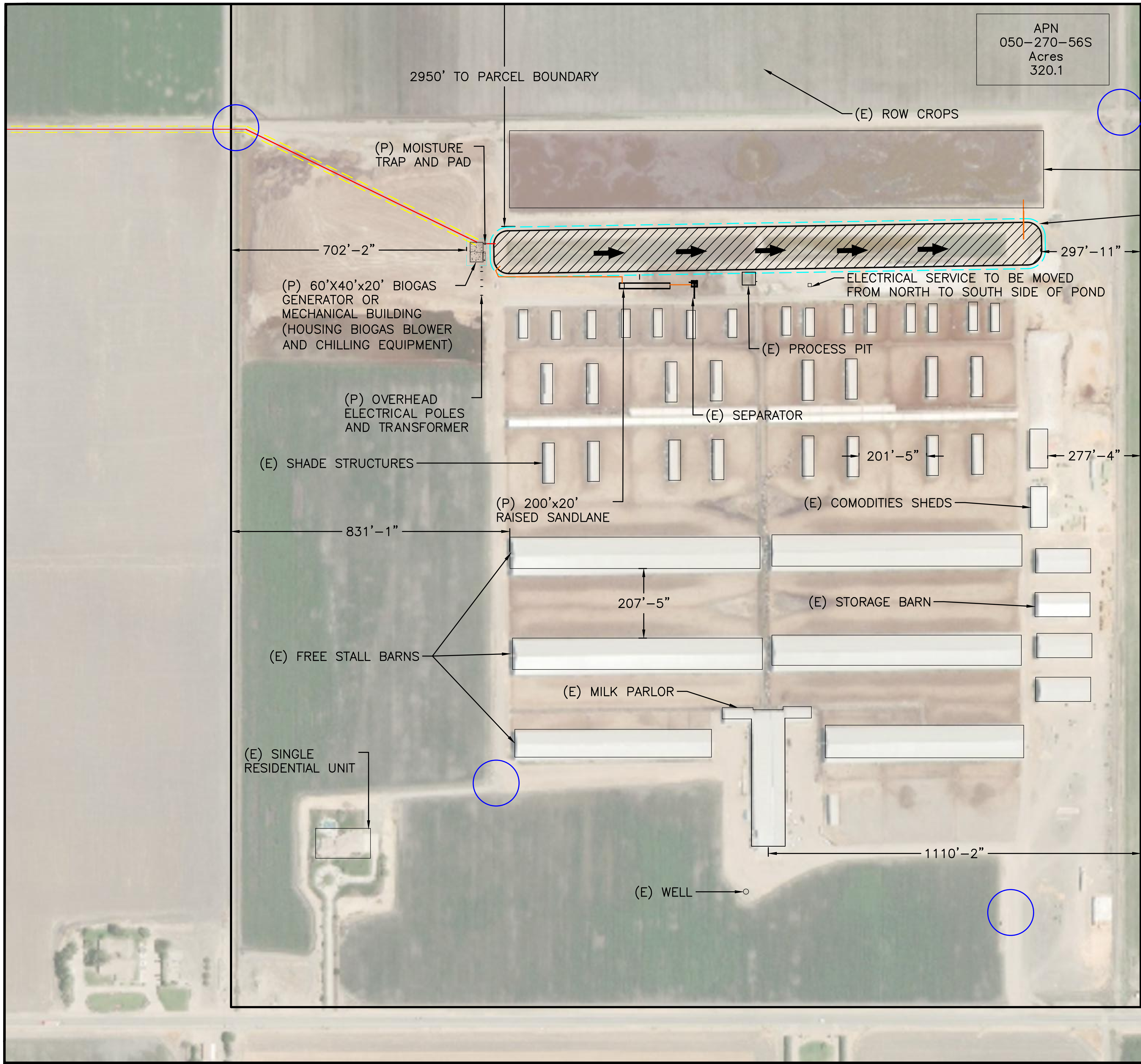
General Notes	
Confidential and Not for Construction	
• Existing Structures (E)	
• Proposed Structures (P)	
• Access to the Property	
• Proposed Fencing	
-----	
• No improvements to streets have been proposed	
• Off-street dirt parking and loading areas exist throughout the property. No new parking/loading areas have been proposed.	
• 4" Biogas Gathering Lines	
• 6" Biogas Gathering Lines	
• Manure Piping	
• PG&E Transmission Line	
• APN Boundaries	
• Williamson Act	
• County Right of Way	
• 20' Pipeline Easement	
	Property Access
All pipes are in private easement with the exception of crossings shown.	
Proposed pipeline is 20' or more from ROW.	
Bishop Ave, 60' County Right of Way.	
	<b>MAAS ENERGY WORKS</b>
Firm Address 3711 Meadow View Dr. Suite 100 Redding, CA, 96002	
Project Name and Address Wilson Dairy 11720 West Mount Whitney Ave Riverdale, California 93656	
Date 3/21/19	Version 1.0
Drawn By Byron Oja	



APN  
050-260-12S  
Acres  
160.0

Drawing scale is 120' = 1"





- General Notes
- Confidential and Not for Construction
- (E) – Existing
  - (P) – Proposed
  - Access to the Property
  - Proposed Fencing
  - No improvements to streets have been propose.
  - Off-street dirt parking and loading areas exist throughout the property. No new parking/loading areas have been proposed.
  - 4" Biogas Gathering Lines
  - 6" Biogas Gathering Lines
  - Manure Piping
  - PG&E Transmission Line
  - APN Boundaries
  - Williamson Act
  - 20' Pipeline Easement
  - Property Access

All pipes are in private easement

**MAAS ENERGY WORKS**

Firm Address  
3711 Meadow View Dr.  
Suite 100  
Redding, CA, 96002

Project Name and Address  
L & J Vander Ham Dairy  
10846 W Mt Whitney Ave,  
Riverdale, 93656

Date: 3/21/19  
Version: 1.0

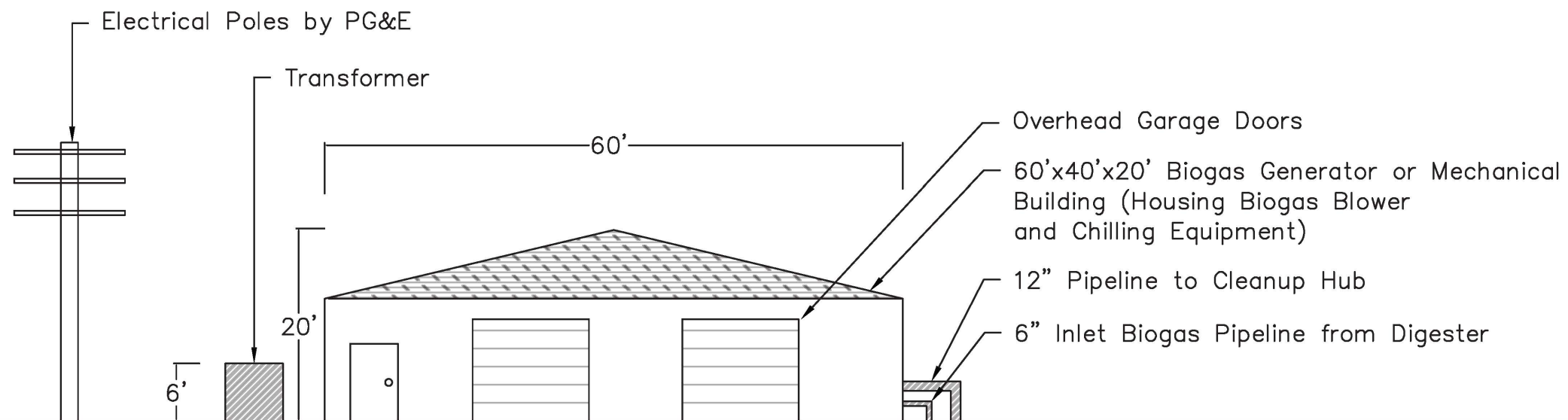
Drawn By: Byron Ojo

Drawing scale is 120' = 1"



General Notes

Not for Construction



Firm Address

3711 Meadow View Dr.  
Suite 100  
Redding, CA, 96002

Project Name and Address

Five Points Cluster  
Cleanup Hub & Injection Point  
12103 Elkhorn Ave,  
Riverdale, CA 93656

Date

3/22/19

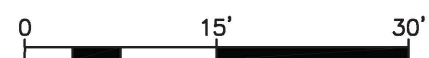
Version

1.0

Drawn By

Byron Oja

Drawing scale is 15' = 1"

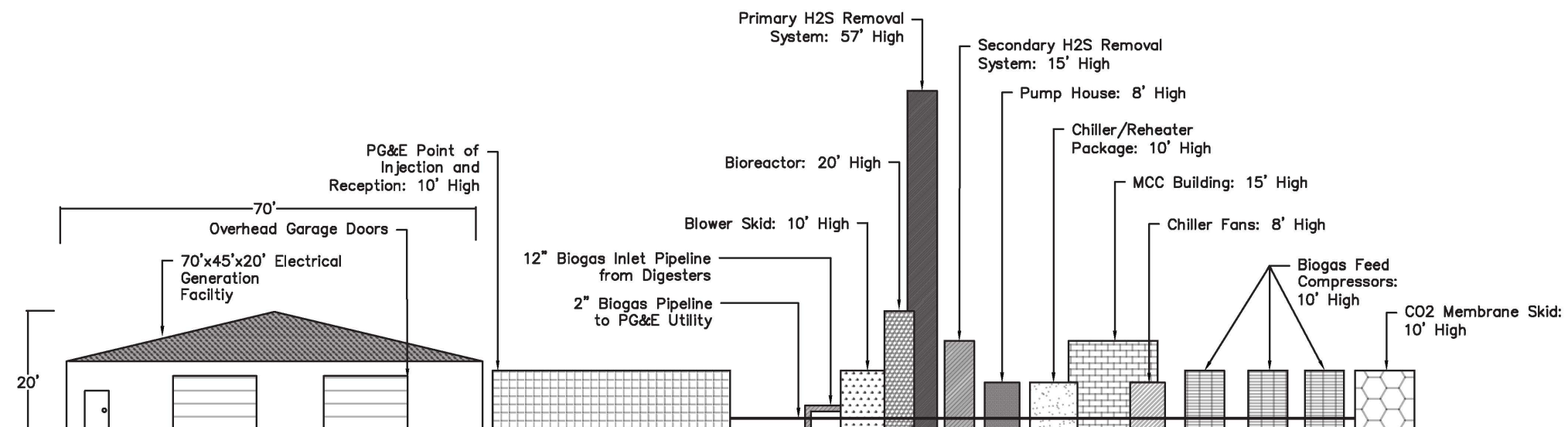






General Notes

Not for Construction



Drawing scale is 25' = 1"



Firm Address

3711 Meadow View Dr.  
Suite 100  
Redding, CA, 96002

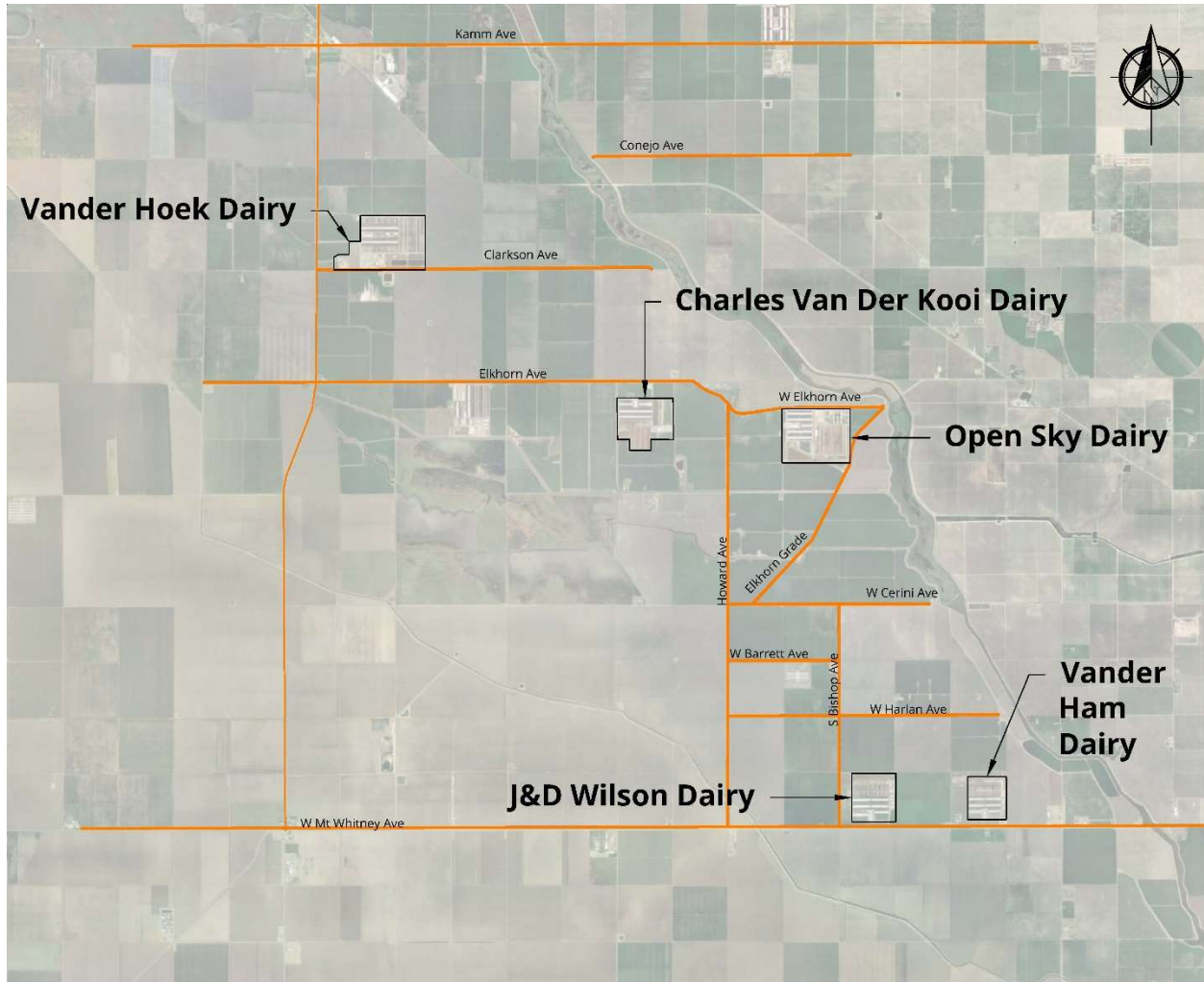
Project Name and Address

Five Points Cluster  
Cleanup Hub & Injection Point  
12103 Elkhorn Ave,  
Riverdale, CA 93656

Date	3/22/19	Version	1.0
Drawn By	Byron Oja		



**Five Points Pipeline Dairy Digester Cluster Project**  
*Five Points Pipeline LLC*



Prepared by Maas Energy Works, Inc

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## Project Overview

### Introduction

The Five Points Pipeline Dairy Digester Cluster project (project) is being developed by Maas Energy Works Inc., California's largest and most reliable dairy digester developer. The project is a renewable gas production project that has the potential of expanding into a power generation project.

The biogas upgrading hub and common pipeline infrastructure will be owned by a new entity, Five Points Pipeline LLC, which is owned by Maas Energy Works Inc. Land owned by Open Sky Ranch will host the biogas upgrading facility and Pacific Gas & Electric (PG&E) natural gas transmission line and electrical interconnection points.

A total of 5 dairies have signed agreements with Five Points Pipeline LLC and Maas Energy Works to participate in this cluster as shown in Figure 1. The project hub location at Open Sky Ranch is the only previous dairy biomethane pipeline injection facility in the State, which will be recommissioned as part of this project. The particulars of the proposed upgrades of each participating dairy is discussed in detail throughout. The goals of the project are as follows:

- 1) Build covered lagoon anaerobic digesters on four of the five participating dairies to capture biomethane;
- 2) Transport the captured biomethane: via a newly constructed underground, fusion welded high-density polyethylene low-pressure pipeline, with easements from landowners to the biogas upgrading hub and interconnection point and/or via underground biogas pipe to individual biogas generators on site at each dairy;
- 3) Construct a state-of-the-art biogas conditioning facility that will clean the biomethane and convert it to renewable natural gas and/or construct a biogas generator at each dairy site to generate electricity;
- 4) Compress and then inject the resulting renewable natural gas into the PG&E distribution line and/or deliver electricity to the PG&E grid under the Bioenergy Market Adjusting Tariff (BioMAT), net energy metering with aggregation (NEM-A) or other applicable exporting tariff.

The project will utilize covered lagoon digester technology. Nearly all successful digesters in California utilize this technology since it is ideal for the State's high ambient temperatures and flush manure management systems. A total of 5 digesters are included in the project as listed in Table 1 below. The Open Sky Digester has already been designed, permitted (amendments needed) and constructed, while the other four digesters have thus far completed the design phase. All 5 participating dairy property owners have signed an agreement consenting their property's involvement in the project (see Five Points Pipeline Attachments Table and corresponding documentation: A-3, OS-3, B-3, C-3, D-3 and E-3). Two of the dairies whose projects will be built and owned by 3<sup>rd</sup> parties have signed a "Lease Agreement" consenting their property's involvement in the project (including the installation of the proposed pipeline and manure digesters). For the remaining three digester projects that are being built and owned by the dairy owners, a "Grant of Easement and Agreement" consenting their property's involvement in the project (for the installation of the proposed pipeline only) has been obtained. **For Private Land Owners whose land needs to be traversed in order to connect the various gathering lines to the Hub we have also obtained a "Acknowledgement of and Consent to Application" or "Grant of Easement and Agreement" consenting their property's involvement in the project application.** (for the installation of the proposed pipeline only) (see Attachment A-3.1 and A-3.2).



## Project Owner and Developer

- Project Owner:  
Five Points Pipeline, LLC  
3711 Meadow View Dr,  
Ste. 100, Redding, CA 96002
- Project Developer:  
Maas Energy Works, Inc.  
3711 Meadow View Dr,  
Ste. 100 Redding, CA 96002

## Project Locations and Property Owners

The Five Points Pipeline Dairy Digester Cluster project is located in the western portion of unincorporated Fresno County, approximately 3 miles west of the community of Riverdale and approximately 21.5 miles south of the City of Fresno (Figure 1).

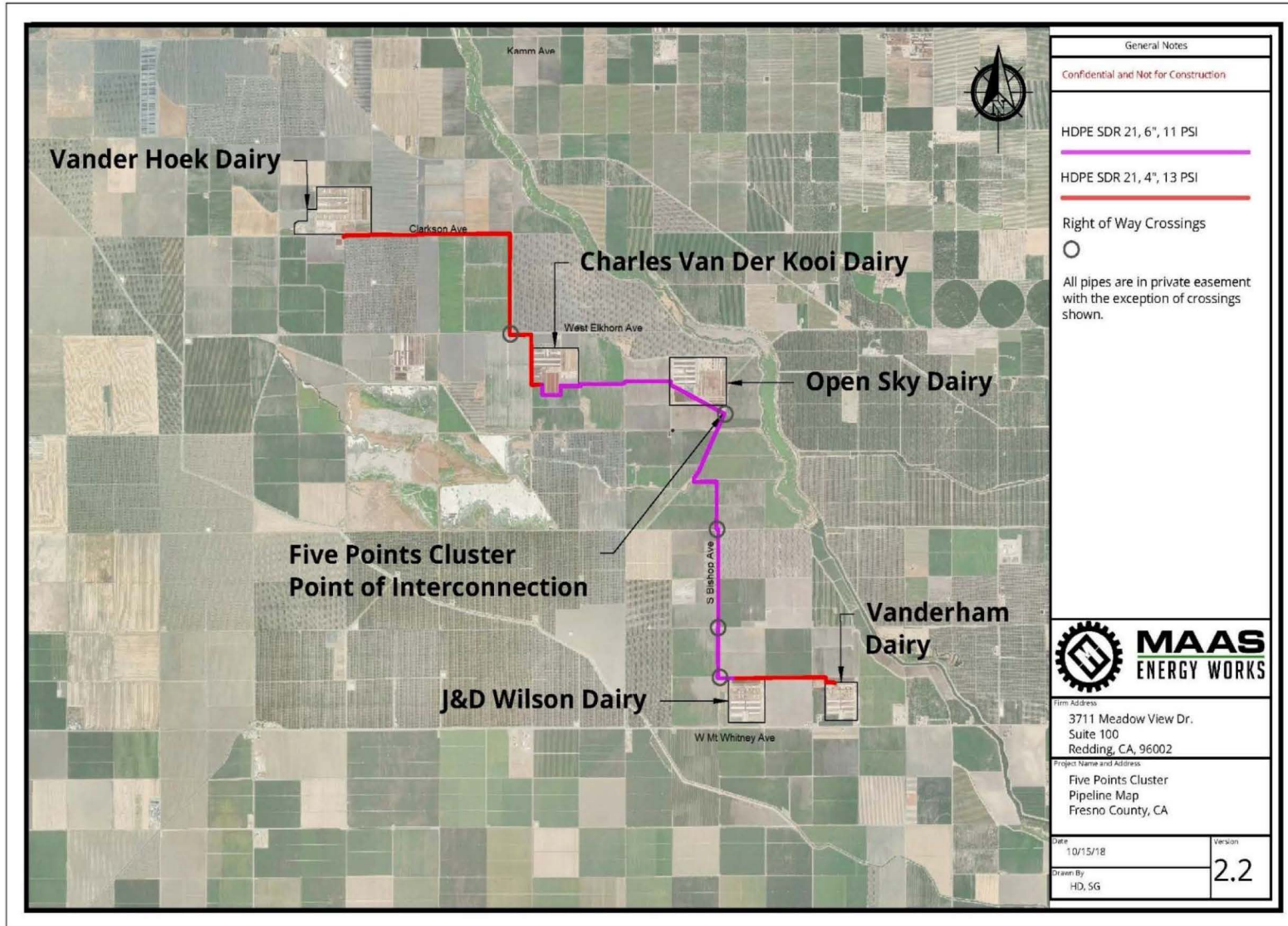


Figure 1- Project location



The project facility is located within Helm and Five Points, California USGS 7.5-minute topographic quadrangle maps, Township (T) 16 South, Range (R) 17 East, T 16S R 18E, and T 17S R 18E of the Mount Diablo Base and Meridian (MDB&M).

Table 1 lists the project components, property owners, addresses and associated Assessor’s Parcel Numbers (APNs).

**Table 1**  
**List of Project Locations**

<b>Description</b>	<b>Property Owner</b>	<b>Address</b>	<b>APNs</b>
Biogas Upgrading Hub	Eric and Katelyn te Velde	12103 W Elkhorn Ave Riverdale, CA 93656	050-170-41S
PG&E Point of Interconnection	Eric and Katelyn te Velde	12103 W Elkhorn Ave Riverdale, CA 93656	050-170-41S
Digester #1 – Open Sky	Eric and Katelyn te Velde	12103 W Elkhorn Ave Riverdale, CA 93656	050-170-41S
Digester #2 – Vanderham	L&J Vanderham Dairy	10846 W Mt Whitney Ave, Riverdale, CA 93656	050-270-56S
Digester #3 – Van der Hoek	Pier and Darlene Van der Hoek	15886 S Lassen Avenue, Helm, CA 93627	040-130-51S
Digester #4 – Van der Kooi	Charles and Lynette Van der Kooi	13695 West Elkhorn Avenue, Riverdale, CA 93656	050-160-16S
Digester #5 – Wilson	Dry Creek Holdings, LLC	11720 West Mount Whitney Avenue, Riverdale, CA 93656	050-260-12S
Biogas Pipeline Route	Van Der Hoek		040-130-35S, 040-130-51S
	Steven Maddox		040-130-49, 040-130-44S, 040-130-48S, 041-100-17
	Van Der Kooi Family Trust		041-100-45S, 050-160-13S, 050-160-16S,
	E. te Velde		050-170-41S, 050-200-38S
	Dry Creek Holdings		050-230-20S, 050-260-10S
	American AG Aviation Inc		050-230-23S
	J&D Wilson		050-260-12S
	L&J Vanderham		050-260-11S, 050-270-56S

## Entitlement Request

The project proponent is requesting approval of five Conditional Use Permits (CUPs) (See Table 2 Below and Attachments A-1, B-1, C-1, D-1 and E-1) and one amended CUP (see Table 2 below and Attachment OS-1) from the County of Fresno to allow for the construction and operation of a series of biogas collection facilities (digesters), gathering pipelines, and one upgrading facility. Initial Study Applications have been included to supplement CUP applications per the County’s request (See Attachments A-2, OS-2, B-2, C-2, D-2, E-2). The upgrading facility will consist of moisture removal, H<sub>2</sub>S scrubbing, CO<sub>2</sub> stripping, and biomethane compressors. Approximately 10.5 miles of underground high-density polyethylene (HDPE) biogas gathering lines will also be installed to connect with up to four new dairy digesters and one existing digester (see Table 2, below and Attachment OS-5). The Five Points Cluster project will interconnect to the Pacific Gas and Electric (PG&E) Gas Transmission Line 138. An MSA will monitor gas quality, odorization and control equipment per the relevant Tariffs and Rules including but not limited to PG&E Gas Rule 21. All the equipment will be designed specifically for this use.

### Project Permit Applications

**Table 2 - List of CUPs Requested by Fresno County**

Description	Applications
Biogas Upgrading Hub - Open Sky	CUP “A” – Name to be assigned by Fresno County
PG&E Point of Interconnection	
Pipeline Route	
Digester #1 – Open Sky	Amendment to CUP 3590
Digester #2 – Vanderham	CUP “B” – Name to be assigned by Fresno County
Digester #3 – Van der Hoek	CUP “C” – Name to be assigned by Fresno County
Digester #4 – Van der Kooi	CUP “D” – Name to be assigned by Fresno County
Digester #5 – Wilson	CUP “E” – Name to be assigned by Fresno County

The dairies participating in the Five Points Pipeline Dairy Cluster project include entitlements for four new CUPs and an amendment to CUP 3590. A list of the items to be installed and detailed explanations of each project component is included for every application under “CUP Application Project Details”, which is listed throughout. Each of the dairy sites (CUP “B” through CUP “E”) has similar components. However, CUP “A” includes several key components that will only be associated with this site. This information is presented below.

## **CUP “A” Application Project Details (PG&E Interconnection, Hub & Gathering Lines)**

Lists the proposed project components to be installed at the participating project site for CUP “A”.

- PG&E Point of Interconnection and Injection Point
  - Meter Set Assembly
- Biogas Upgrading and Electrical Generation Facility (Hub)
- Biogas Gathering Lines

### **PG&E Point of Interconnection and Injection Point**

- Meter Set Assembly (MSA)

The project proposes to install an interconnection and injection point with PG&E. The MSA includes equipment which measures, odorizes, and controls the biomethane gas flow into the PG&E pipeline. This equipment will be controlled by PG&E via SCADA. PG&E will monitor gas quality 24/7 through this equipment. If at any point, the biomethane is not within the PG&E Rule 30 standards, the equipment automatically closes the injection valve and the biomethane is not injected into the pipeline. The interconnection point is shown in the attached facility layout.

All portions of the project will comply with Pipeline and Hazardous Materials Safety Administration (PHMSA) guidelines, 49 CFR Part 192, and with the CPUC’s Safety Enforcement Division (SED) General Order 112-F.

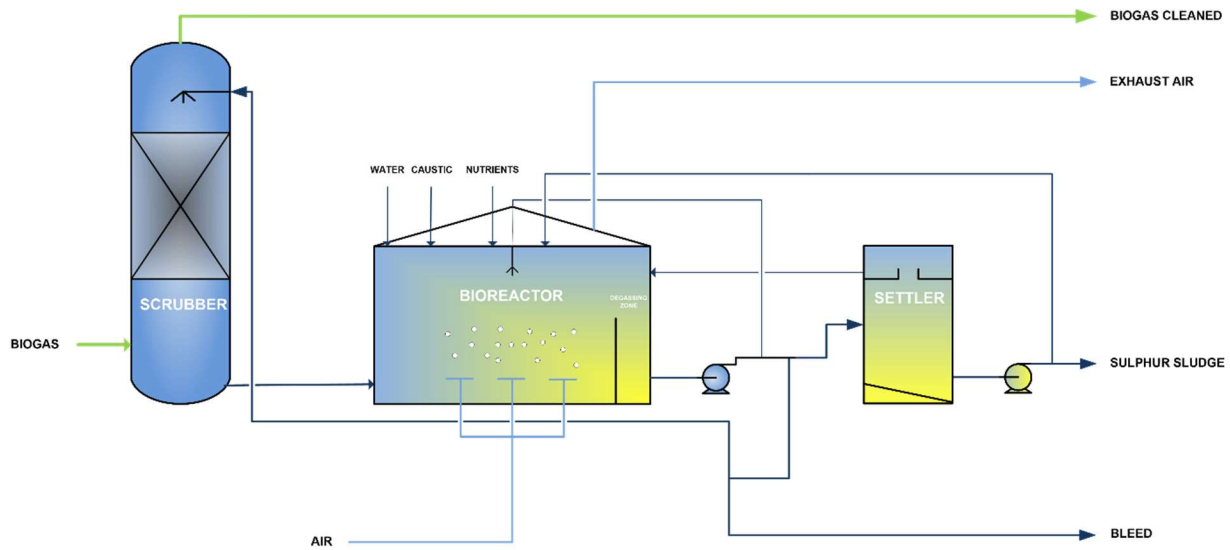
### **Biogas Upgrading and Electrical Generation Facility (Hub)**

- Blower Skid
- Primary H<sub>2</sub>S Removal System
- Chiller/Re-Heater Package
- Biogas Feed Compressor
- Secondary H<sub>2</sub>S Removal System
- CO<sub>2</sub> Membrane Skid
- Product Gas Compression
- Biogas Generator

The project proposes to install the biogas upgrading facility APN 050-170-41S. The upgrading facility will consist of moisture removal, H<sub>2</sub>S scrubbing, CO<sub>2</sub> stripping, and biomethane compressors. The facility will require upgraded or new electrical service from Pacific Gas and Electric (PG&E) to power the equipment. All the equipment will be designed specifically for this use and sourced from experienced vendors. The proposed footprint is approximately 160 feet x 130 feet. (See facility site plan found in Attachment A-5.)

The upgrading facility removes impurities, moisture, and gas constituents that are not suitable for injection into the PG&E pipeline. After the incoming gas is metered, it enters the hydrogen sulfide removal system. The project will use a Sulfurex (or equivalent) Caustic Scrubber with biological media regeneration to remove Hydrogen Sulfide (H<sub>2</sub>S). Sulfurex is a desulfurization process that combines chemical desulfurization, at medium to high pH, with biological regeneration of the solvent (caustic). The system consists of a packed column, a biological reactor and a settler. The Figure below shows a basic process flow diagram of the Sulfurex process.

Figure 2 – Caustic Scrubber Flow Diagram



The biogas enters the scrubber at the bottom of the tower and flows upwards through a packed column that is 57 feet in height. A caustic solution is distributed on top of the column over the packing media and falls through the packing material in a counter-current direction of the gas. The packing material inside the column ensures good contact between hydrogen sulfide and the process liquid for maximum efficiency. While the biogas flows through the packed column, H<sub>2</sub>S is absorbed in the caustic solvent. The biogas leaves the column free of hydrogen sulfide at the top. The saturated process liquid is collected in the sump at the bottom of the scrubber and flows under gravity to the bioreactor. In the bioreactor, the hydrogen sulfide present in the liquid is biologically oxidized into elemental sulfur by Thiobacillus bacteria. The oxygen required for this biological process is supplied by an aeration system installed at the bottom of the bioreactor. During oxidation, the caustic solution is regenerated before being reused for another washing step in the scrubber. In the bioreactor water, nutrients and caustic are automatically refreshed for cellular growth and guarantee good operating conditions. The elemental sulfur is separated from the process liquid in the settler, which can be integrated inside the bioreactor. The settler is fed with a small part of the effluent coming from the bioreactor. The overflowing process liquid (low TSS) flows from the settler to the bioreactor. Sulfur sludge is removed from the bottom of the settler with a high dry matter content of 5-10% mass, which can then be used as high-quality fertilizer.

The Sulfurex system is an extremely flexible desulfurization technology that achieves low hydrogen sulfide outlet concentrations with low operational expenses. Since the air injection takes place in the bioreactor, no oxygen mixes with the product biogas making it suitable for biogas upgrading. This technology is also able to operate efficiently under very high loads of sulfur as is common with dairy biogas.

After passing through the hydrogen sulfide (H<sub>2</sub>S) removal system at the hub, the gas runs through one more chilling and reheating system to ensure any remaining moisture is captured and the gas is dry enough to meet pipeline quality standards. Thereafter, the gas is drawn via a compressor to provide operating pressure for the CO<sub>2</sub> removal membranes. To remove CO<sub>2</sub>, the project will use an CO<sub>2</sub> membrane removal system. After passing through the membranes, the purified gas is monitored in a project-owned gas chromatograph for gas quality. If the gas does not meet pipeline quality standards, it is recirculated through the gas

conditioning process and new deliveries of raw gas from the digesters are reduced or paused. Once the biogas meets pipeline quality standards and pressure, the biogas will be delivered to the MSA.

A byproduct of the biogas cleaning and conditioning process includes elemental sulfur. Elemental sulfur is considered a non-hazardous material that can be used as an organic soil additive that can be used to safely correct soil pH levels and as a plant nutrient (PubMed, 2018). Currently elemental sulfur is added to some of the surrounding farmland as a soil amendment. It is anticipated that this additive will be allowable as determined by each dairy's nutrient management plan. This material will only be generated at the project hub site.

The amount of elemental sulfur generated during the biogas cleaning process depends upon the quantity and H<sub>2</sub>S content of the biogas. In a worst-case scenario, at 2,500 standard cubic feet per minute (scfm) and 3,000 parts per million (ppm), the combined project would generate approximately 450 lbs of sulfur per day or approximately 82 tons per year. In the unlikely event that the sulfur is not used as a soil amendment, it is anticipated that the material would be transported to a landfill by a qualified disposal firm. Based on the worst-case scenario, one truck every four weeks would transport the material to an appropriate disposal site.

### Electrical Generation Facility

The project proposes to install the biogas generation facility adjacent the biogas upgrading facility on APN 050-170-41S, with a footprint of approximately 70' x 45'. This facility houses the generator(s) and any ancillary equipment (including but not limited to Carbon H<sub>2</sub>S Scrubbers, Chillers, Condensers and Blower Equipment). (Please reference Attachment A-5 for a depiction of the facility's location and dimensions in relation to surrounding equipment).

### Biogas Generators

The project's internal combustion engine's emissions will be regulated by the SJVACPD under the latest Best Available Control Technology (BACT) standards. This power generation project will consume biogas in an onsite generator, to create electricity for delivery to the PG&E grid under the Bioenergy Market Adjusting Tariff (BioMAT), net energy metering with aggregation or other exporting tariff. When the engine is off for maintenance, the biogas will be stored in the covered lagoon, which has capacity for approximately 2 days of biogas storage. An emergency vent will also be installed per San Joaquin Valley Air Pollution Control District permit requirements.

The engine(s) are Guascor SFGLD-560 or similar, 16-cylinder lean-burn, turbo-charged reciprocating internal combustion engine mated with a synchronous generator. The combined rated electrical power of the system is 800-1,000 kW. The biogas from this project will be conditioned to remove moisture and reduce hydrogen sulfide below 40 ppm. Moisture from the biogas will be removed using a Bell & Gosset (or equivalent) plate and frame heat exchanger cooled by a Cold Shots (or equivalent) 240,000 BTU/hr industrial air-cooled chiller. H<sub>2</sub>S reduction will be achieved in two stages. First a built-in air injection system under the digester's cover will encourage biological fixation of sulfur molecules. Secondly, the project will employ a media-based scrubber using non-toxic media (Sulfatreat or similar). CO<sub>2</sub> does not need to be removed prior to combustion under this design. The project engine generator(s) is oversized to increase reliability and to allow the project to generate during the time of day when the power prices are most profitable. The project will signed a final interconnection agreement with PG&E.

Emissions Reduction Plan: The project will treat exhaust emissions using a Selective Catalytic Reduction (SCR) system with Oxidation Catalyst from HUG Engineering (or similar manufacturer) that comes with a guarantee of performance.

## Biogas Gathering Lines

The project will install HDPE biogas collection lines between the hub and the individual digesters. All of the necessary land is controlled by dairy farms and so no third party or public easements are required to complete the pipeline, except where crossing county roads. The pipeline will be constructed of SDR 17 and SDR 21 HDPE, which does not corrode when exposed to biogas (even if wet) and has excellent wall strength for this application. The pipeline will be operated at between 3 and 20 pounds per square inch. This very low pressure has several advantages. First, it requires much less electricity than higher pressure gas lines. Second, the biogas compression equipment installed at the farms is limited to single stage rotary lobe blowers, which are easy to repair and maintain in a farm environment. Finally, the safety risks of all equipment and pipelines are greatly attenuated by operating them at lower pressures.

The project pipelines will maintain minimum vertical and horizontal utility clearances during installation. Since the project is not building in public rights of way except where the pipeline crosses county roads, there is very little interaction with existing buried utilities. The pipeline minimum depth will be 48 inches although in nearly all locations it will be significantly deeper due to engineering requirements such as channel crossings and line sloping. The line will be sloped toward designed low points with moisture removal traps to enable draining, testing, and maintenance. No High-Speed Rail crossings are required for any initial or future digesters.

The project's design and operation will comply with all county code requirements and any applicable portions of the federal Pipeline and Hazardous Materials Safety Administration. The project will install tracer wires and marker tapes on all gas gathering pipelines.

The pipeline will be hydrotested prior to first use. Isolation valves will be installed at each dairy, and at the hub, to allow disconnection of biogas for equipment repair and maintenance.

### *Biogas Gathering Lines in Relation to Dairies and Blowers*

The gathering lines will move biogas from each participating dairy to the central upgrading facility. A blower will be installed at each digester to move the biogas into the gathering lines at pressure of less than 20 psi. Each blower will be controlled by a central SCADA system that is overseen by operators on a 24/7 basis. When a blower increases in speed, more biogas is pushed to the upgrading facility, and when it decreases, less biogas is sent. The gathering lines will be pressure monitored via SCADA equipment in real time to detect leaks or major failures. Additionally, flow meters will be installed at each digester site and at the upgrading facility to monitor biogas flows.

Biogas condensate in the pipeline will be primarily managed via moisture removal at each dairy, and further checked by relative humidity sensors at the outlet of each dairy's gas handling equipment. However, the gas gathering pipelines are further protected from moisture using moisture condensate traps at the outlet of each dairy, and at low points along the pipeline route. These moisture traps include a visual indicator when they are approximately half full. These traps will be checked weekly as part of standard operating procedures, and more often whenever the project's control system indicates high moisture gas may have been delivered by one or more dairy digesters.

Pipeline integrity will be monitored via several methods. First, the project's control system monitors outgoing and incoming pressures at various points along the line. The system automatically generates alarms and shuts down when extreme failures are indicated by rapid loss of pressure/increase of flow. Additionally, the total gas volume delivered and received is metered and will be tracked over time via trend analysis. This analysis can indicate any gradual loss of integrity due to mismatched delivery/receipts indicating missing gas or other anomalies. Finally, the pipeline will be walked at least once per year with



handheld gas detection equipment to search for very small methane leaks. Remote sensing of such leaks via drone-mounted sensors may also be employed if such techniques are approved by regulatory authorities.

## Operation Details

### Safety Plan

The project will include an Operations and Maintenance manual. The O&M manual will outline safety protocols and procedures which will be utilized in the unlikely event of a pipeline or liner failure, or gas leakage. Though it is excluded from their regulatory scope, the O&M manual is built to the standards of DOT's Pipeline and Hazardous Materials Safety Administration. The project will also be monitored using a computerized SCADA remote control system and monitoring equipment.

The pipeline utilizes fusion-welded joints and will be pressure tested during construction to ensure it was installed without leaks. The blowers are equipped with a SCADA system and are designed to inject biogas into the pipeline at a maximum working pressure of 20 psi, so the likelihood of over-pressurization is minimal.

The possibility of accidental breach of the pipeline by either unauthorized excavation or farming activities has been accounted for. The following measures will be implemented in the design process to minimize accidental breaches of the pipeline:

- The pipeline will be registered with the Utility Services Alert (USA) system. There are legal requirements for contacting USA prior to any excavation, and the pipeline operator will mark the location of the pipeline in the area of the proposed excavation.
- Marker posts are installed at maximum 700-foot intervals warning of the presence of the pipeline and providing contact information of the pipeline operator.
- Copper clad steel tracer will be installed with the pipeline to aid in the future location of the pipeline by the pipeline operator.
- Marker tape will be installed 1-foot above the pipeline to warn excavators that the pipeline is located below the marker tape.
- The pipe will be installed with a minimum of 4-feet of cover, which is below the depth of normal farming activities.

Additionally, the pipeline operator will develop an education program to inform landowners and farm operators of the existence of the pipeline, along with its location and restrictions regarding farm operations in the area of the pipeline.

In the unlikely event of an accidental breach of the pipeline, the following procedures will minimize risk to the public:

- The blowers that pressurize the pipeline are controlled by the central SCADA system, which can remotely turn off all of the system blowers. All the blowers should then be turned off, which would stop the flow of biogas into the pipeline.
- High performance butterfly valves are located throughout the pipeline network. The valves near the breached section of pipeline should be closed to isolate the breach from the rest of the system.

If such an event were to occur, local emergency personnel must be notified to restrict access to the area adjacent to the breach and assist with any required evacuations.

### Operational Times and Visitors

The facility will be operational 24/7, but not open to public visitors without prior permission.

### Number of Employees

#### **Construction:**

Hub: a maximum of 20 people for short periods of time, with an average of 10 people on site during the 10 months of construction.

Pipeline: a maximum 10 people for the 7 months of construction.

#### **Operations:**

Remote sensor and computer monitoring of the equipment will be operated permanently. One employee will make a daily inspection of the facility. That work will be conducted during regular business hours, 8am-5pm, and on-call 24/7. No permanent facility employees will work or live on-site.

The number of dairy employees will not increase.

### Service and Delivery Vehicles

A service truck will visit once per day, two delivery trucks and one disposal truck will be on site approximately once per month.

### Access to the Site

The closest access to the project hub is via a private driveway off Elkhorn Grade. However, there are several other private driveways on the dairy's property that will provide additional routes if needed, to the proposed equipment for any initial construction or future maintenance. Other surrounding public streets that may be used for access to the hub equipment include: West Elkhorn Avenue, South Howard Avenue; as well as nearby unnamed farm roads. In projects such as this, pipeline is always located adjacent to public or private roads.

### Parking

Construction crews and equipment will use the existing dairy for parking and staging. The primary parking location will be on the southeast side of the property as this is closest to the proposed construction. This area already exists as a flat dirt parking area for farm equipment and vehicles as necessary.

### Goods

No goods will be sold on site.

### Equipment

Equipment used on site will include but is not limited to chillers, valves, condensers and electrical distribution and automation.

## Supplies or Materials

The facility will use and store small quantities of materials such as fuels, lubricants, and hydraulic fluids. Handling of hazardous materials are regulated by federal and State laws, which minimizes worker safety risks from both physical and chemical hazards in the workplace.

## Appearance/Noise/Dust

The project facility is similar in nature to the existing dairy infrastructure and fits into its surroundings. The pipeline will run underground and will not be seen. Noise generated by the project equipment will not be above typical agriculture facility levels. The facility does not include any lights or other sources of glare beyond what is currently used for security reasons at the dairy. Once operational, the project will not generate fugitive dust. The project will not emit or concentrate any odors.

## Solid or Liquid Wastes to be Produced

The facility will produce up to 500 gallons per day of condensation from drying the biogas in preparation for injection into the natural gas pipeline. This condensation will be drained into the adjacent dairy manure storage lagoon or a leachate field.

Facility will produce less than 10 gallons per week of waste compressor oil. Oil will be stored in marked and sealed containers onsite until picked up by oil recycling company about once per quarter. In addition, facility will produce minimal amounts of other varied solid wastes. This will be stored in marked containers and picked up once per month by a solid waste disposal company for disposal at an appropriate landfill.

The elemental sulfur will be removed from the site on a monthly basis for use as a soil amendment or it will be disposed of at an appropriate disposal site.

## Construction and Operational Water Usage

Construction of the hub will take approximately 10 months (200 working days) and pipeline is anticipated to take approximately 7 months (140 working days). Water for construction and operations would be supplied by an existing on-site agricultural well.

**Construction (Hub and Pipeline):** An estimated 5,000 gallons/day is anticipated during up to 10 months of construction activities. Based on an average 20 work days a month, approximately 3.0 AF would be required (5,000 gallons x 200 days = 1,00,000 gallons).

**Operations:** Water usage is anticipated to be approximately 2,500 gallons per day or 2.8 AF annually during operation.

## Advertising

There will be no advertisements at the project site.

## Buildings

The project will not construct any new buildings, but 2-3 small containers may be installed for electrical controls and other equipment. These will be steel and unobtrusive colors. No office or Operations and Maintenance building is proposed.

### Lighting and Outdoor Sound Amplification

No outdoor sound amplification systems will be installed for the project. The facility will function 24 hours a day and will include the same standard security lighting as found on the surrounding parcels. All lighting would be directed downward and shielded to focus illumination on the desired work areas only and prevent light spillage onto adjacent properties.

### Landscaping and Fencing

There will be chain link fencing installed around the perimeter of the facility. No landscaping is proposed for the project.

### Restrooms

There is no on-site permanent staff. Maintenance staff will use the existing dairy restroom facilities.

## Amendment to CUP 3590 Application Project Details (Open Sky)

The existing digester at the Open Sky Ranch is permitted by CUP 3590. The additional proposed components to be installed at the participating project site for the amendment to CUP 3590 are listed below.

### Digester #1 – Open Sky Ranch:

- Biogas Blower and Chilling Equipment
- Mechanical Building
- Supporting Equipment

### Biogas Blower and Chilling Equipment

A chiller and condenser will be installed to condense most of the water in the biogas before blowing into the gathering pipeline. The chiller is a typical commercial unit for cooling glycol. The condenser is a commercially available unit for condensing moisture from biogas. A blower will be installed at the existing digester to move the biogas into the gathering lines at pressure of less than 20 psi. Each blower will be controlled by a central SCADA system that is overseen by operators on a 24/7 basis. When a blower increases in speed, more biogas is pushed to the upgrading facility, and when it decreases, less biogas is sent. The gathering lines will be pressure monitored via SCADA equipment in real time to detect leaks or major failures. Additionally, flow meters will be installed at each digester site and at the upgrading facility to monitor biogas flows.

### Mechanical Building

The mechanical building will be a prefabricated steel building no larger than 25' x 25' and placed on a new concrete pad. This building will house the blower and chilling equipment.

### Supporting Equipment

Supporting equipment is any equipment which is essential for the function of the aforementioned equipment and completion of the project ambitions. Such equipment may include small pumps, electrical controls, and other minor equipment which is deemed necessary.

### Operational Times and Visitors

The facility will be operational 24/7, but not open to public visitors without prior permission.

### Number of Employees

#### **Construction:**

A maximum of 10 people on site during the 2 months (40 work days) of construction.

#### **Operations:**

Remote sensor and computer monitoring of the equipment will be operated permanently. One employee will make a daily inspection of the facility. That work will be conducted during regular business hours, 8am-5pm, and on-call 24/7. No permanent facility employees will work or live on-site.

The number of dairy employees will not increase.

### Service and Delivery Vehicles

There will be one service truck visit per day and a disposal truck once a month. No delivery trucks will be required.

### Access

Access would be taken from South Howard Avenue onto a private driveway to the facility.

### Parking

Parking will be accessible directly at the project facility. This area already exists as a flat dirt parking area for farm equipment. Construction crews and equipment will use the existing dairy for parking and staging.

### Goods

No goods will be sold on site.

### Supplies or Materials

The facility will use and store small quantities of materials such as fuels, lubricants, and hydraulic fluids. Handling of hazardous materials are regulated by federal and State laws, which minimizes worker safety risks from both physical and chemical hazards in the workplace.

### Appearance/Noise/Dust

The project facility is similar in nature to the existing dairy infrastructure and fits into its surroundings. The pipeline will run underground and will not be seen. Noise generated by the project equipment will not be above typical agriculture facility levels. The facility does not include any lights or other sources of glare beyond what is currently used for security reasons at the dairy. Once operational, the project will not generate fugitive dust. The project will not emit or concentrate any odors.

### Solid or Liquid Wastes to be Produced

Facility will produce minimal amounts of solid waste. Waste will be picked up once per month by a solid waste disposal company and taken to an appropriate landfill.

Facility will produce less than 10 gallons per month of waste blower oil. This oil will be stored on site in containers less than 45 gallons and picked up by a disposal company whenever the container is full.

### Construction and Operational Water Usage

Construction of the mechanical building and the installation of the equipment is anticipated to take approximately 2 months (40 working days).

Water for construction and operations would be supplied by an existing on-site agricultural well.

**Construction:** An estimated 5,000 gallons/day is anticipated during up to 2 months of construction activities. Based on an average 20 work days a month, approximately 0.6 AF would be required (5,000 gallons x 40 days = 200,000 gallons).

**Operations:** Water usage is anticipated to be approximately 2,500 gallons per day or 2.8 AF annually during operation.

## Advertising

There will be no advertisements at the project sites.

## Buildings

The project will not construct any new buildings, but 2-3 small containers may be installed for electrical controls and other equipment. These will be steel and unobtrusive colors.

## Lighting and Outdoor Sound Amplification

No outdoor sound amplification systems will be installed for the project. The facility will function 24 hours a day and will include the same standard security lighting as found on the surrounding parcels. All lighting would be directed downward and shielded to focus illumination on the desired work areas only and prevent light spillage onto adjacent properties.

## Landscaping and Fencing

There will be chain link fencing installed around the perimeter of the facility. No landscaping is proposed for the project.

## Restrooms

There is no on-site permanent staff. Maintenance staff will use the existing dairy restroom facilities.

## CUP “B” Application Project Details (Vanderham)

Lists the proposed project components to be installed at the participating project site for CUP “B”.

### Digester #2 – L&J Vanderham Dairy:

- Sandlane
- Various 8”-24” Manure Pipes
- Digester
- 8” Biogas Pipe
- Moisture Trap and Pad
- Biogas Blower and Chilling Equipment
- Mechanical Building
- Biogas Generator
- Supporting Equipment

### Dairy Liquid Manure Handling System

*(Sandlane and Manure Pipes)*

To prepare the dairy for the digester installation, the project will modify the existing liquid manure handling system on the dairy to accommodate the digester. This modification will include the installation of various liquid manure pipes between 8” and 24” in diameter. These pipes are installed via standard open trenching practices in compliance with all OSHA standards.

Additionally, the project will include the installation of a manure sandlane. This sandlane will be no longer than 400’ and no wider than 16’. The final design is in process, but the preliminary design is a flat, 300’ long, 14’ wide, 6” thick, concrete slab with a 4’ high push wall. The preliminary design indicates that the slab will be installed on a slope of 1-3% to allow the manure to flow at a consistent speed. The sandlane is designed to slow the flow of flushed manure down in order to capture sand and other inorganics.

### Digester Technology

The anaerobic covered lagoon digesters are a passive addition to the dairy and require minimal oversight. Cameras and automation equipment will be installed at each digester sight to enable remote monitoring. The digester will be suited with an emergency vent as required by the San Joaquin Valley Air District (SJVAPCD). A small mechanical building will be constructed on-site that will house a biogas chiller to remove condensate prior to entering the biogas gathering lines and a biogas blower to move the gas from the digester system to the biogas gathering lines as discussed in more detail below.

The digester will be created by first double-lining a new or existing storage pond. All digester ponds will meet the Central Valley Regional Water Quality Control Board (CRWQCB) Tier 1 standards, which include the installation of double-layered liners of welded 60 ml HDPE with leak detection to ensure water quality. All digester pond designs must be pre-approved by the CRWQCB and their installation is monitored by professional engineers. Once constructed and prior to actual operation of the ponds to treat wastewater, an installation report will be submitted to CRWQCB for their review and approval.

The project will then cover the newly lined pond(s) with 80 ml flexible HDPE material to create the project’s biogas collection system. The lagoon cover will be welded to the liner ensuring a complete seal.



A perforated pipe runs above the water line around the entire perimeter of the covered lagoon to ensure uninterrupted gas flow to the outlet. The cover will also include submersible mixers to agitate the manure which will minimize settling, reduce sludge in the digester, and increase biogas production. An HDPE baffle creates a pathway for manure to slowly flow through the digester, ensuring hydraulic retention time and eliminating dead spots. Finally, sludge draw-off pipes are commonly added as a final protection against sludge buildup. This type of covered lagoon technology is highly commercialized and represents 100% of the successful digester installations in California since 2014. Engineered site plan and design drawings for the proposed digester are found in Attachment B-5. A summary of digester type, digester dimensions, digester volume, and estimated gas output is also summarized in the table below.

**Table 3 - Vanderham Dairy Digester**

Digester	Participating Dairy	Digester Dimensions (ft)	Digester Volume (gal)	Gas Output (mmBTU/yr)
Digester #2	L&J Vanderham Dairy	1,630' x 125' x 25'	21,027,058	65,882

### Biogas Pipe

The biogas pipe is responsible for the delivery of the biogas from the digester to the moisture trap.

### Moisture Trap and Pad

After leaving the digester but before entering the mechanical building, the biogas is processed through a moisture trap to reduce the amount of H<sub>2</sub>O in the biogas. The trap is supported by a new concrete pad which will also accommodate the blower, chilling equipment and mechanical building.

### Biogas Blower and Chilling Equipment

Once it has passed through the moisture trap, the biogas will be pulled through the blower and sent to chilling equipment and then the gathering lines.

A chiller and condenser will be installed to condense most of the water in the biogas before blowing into the gathering pipeline. The chiller is a typical commercial unit for cooling glycol. The condenser is a commercially available unit for condensing moisture from biogas.

A blower will be installed near the digester to move the biogas into the gathering lines at pressure of less than 20 psi. Each blower will be controlled by a central SCADA system that is overseen by operators on a 24/7 basis. When a blower increases in speed, more biogas is pushed to the upgrading facility, and when it decreases, less biogas is sent. The gathering lines will be pressure monitored via SCADA equipment in real time to detect leaks or major failures. Additionally, flow meters will be installed at each digester site and at the upgrading facility to monitor biogas flows.

### Mechanical Building

The mechanical building will be a prefabricated steel building no larger than 60' x 40'. This building will house chilling equipment and the blower and the biogas generator.

## Biogas Generator

The project's internal combustion engine's emissions will be regulated by the SJVACPD under the latest Best Available Control Technology (BACT) standards. This power generation project will consume biogas in an onsite generator, to create electricity for delivery to the PG&E grid under the Bioenergy Market Adjusting Tariff (BioMAT), net energy metering with aggregation or other exporting tariff. When the engine is off for maintenance, the biogas will be stored in the covered lagoon, which has capacity for approximately 2 days of biogas storage. An emergency vent will also be installed per San Joaquin Valley Air Pollution Control District permit requirements.

The engine is a Guascor SFGLD-560 or similar, 16-cylinder lean-burn, turbo-charged reciprocating internal combustion engine mated with a synchronous generator. The combined rated electrical power of the system is 800-1,000 kW. The biogas from this project will be conditioned to remove moisture and reduce hydrogen sulfide below 40 ppm. Moisture from the biogas will be removed using a Bell & Gosset (or equivalent) plate and frame heat exchanger cooled by a Cold Shots (or equivalent) 240,000 BTU/hr industrial air-cooled chiller. H<sub>2</sub>S reduction will be achieved in two stages. First a built-in air injection system under the digester's cover will encourage biological fixation of sulfur molecules. Secondly, the project will employ a media-based scrubber using non-toxic media (Sulfatreat or similar). CO<sub>2</sub> does not need to be removed prior to combustion under this design. The project engine generator is oversized to increase reliability and to allow the project to generate during the time of day when the power prices are most profitable. The project will sign a final interconnection agreement with PG&E.

**Emissions Reduction Plan:** The project will treat exhaust emissions using a Selective Catalytic Reduction (SCR) system with Oxidation Catalyst from HUG Engineering (or similar manufacturer) that comes with a guarantee of performance.

## Supporting Equipment

Supporting equipment is including but not limited to a transformer and electrical poles which will be installed per PG&E requirements in order to support the biogas generator. Furthermore, supporting equipment is any equipment which is essential for the function of the aforementioned equipment and completion of the project ambitions. Such equipment may include small pumps, electrical controls, and other minor equipment which is deemed necessary.

## Operational Times and Visitors

The facility will be operational 24/7, but not open to public visitors without prior permission.

## Number of Employees

### **Construction:**

Digester: a maximum of 10 people for short periods of time, with an average of 5 people on site during the 7 months of construction.

### **Operations:**

Remote sensor and computer monitoring of the equipment will be operated permanently. One employee will make a daily inspection of the facility. That work will be conducted during regular business hours, 8am-5pm, and on-call 24/7. No permanent facility employees will work or live on-site.

## Service and Delivery Vehicles

A service truck will visit once per day. No delivery trucks will be on site.

## Access

Access to the site would be from South Bishop Avenue to a private driveway to the dairy and facility.

## Parking

Construction crews and equipment will use the existing dairy for parking and staging. This area already exists as a flat dirt parking area for farm equipment.

## Goods

No goods will be sold on site.

## Supplies or Materials

The facility will use and store small quantities of materials such as lubricants, and hydraulic fluids. Handling of hazardous materials are regulated by federal and State laws, which minimizes worker safety risks from both physical and chemical hazards in the workplace.

## Appearance/Noise/Dust

The project facility is similar in nature to the existing dairy infrastructure and fits into its surroundings. The pipeline will run underground and will not be seen. Noise generated by the project equipment will not be above typical agriculture facility levels. The facility does not include any lights or other sources of glare beyond what is currently used for security reasons at the dairy. Once operational, the project will not generate fugitive dust. The project will not emit or concentrate any odors, and in fact will reduce odors with the installation of the covered manure lagoons.

## Solid or Liquid Wastes to be Produced

Facility will produce minimal amounts of solid waste. Waste will be picked up once per month by a solid waste disposal company and taken to an appropriate landfill.

Facility will produce less than 10 gallons per month of waste blower oil. This oil will be stored on site in containers less than 45 gallons and picked up by a disposal company whenever the container is full.

## Water

Construction of the digester and ancillary equipment is anticipated to take approximately 140 working days.

Water for construction and operations would be supplied by an existing on-site agricultural well.

**Construction:** An estimated 20,000 gallons/day is anticipated during the first 20 working days of construction activities, and 2,000 gallons/day is anticipated during the remaining 6 months of construction activities. Based on an average 20 work days a month, approximately 2 AF would be required (20,000 gallons x 20 days + 2,000 gallons x 120 days = 640,000 gallons).

**Operations:** Water usage is anticipated to be approximately 500 gallons per day or 0.5 AF annually during operation.

## Advertising

There will be no advertisements at the project sites.

## Buildings

The project will not construct any new buildings, but 2-3 small containers may be installed for electrical controls and other equipment. These will be steel and unobtrusive colors.

## Lighting and Outdoor Sound Amplification

No outdoor lighting or sound amplification systems will be installed for the project.

## Landscaping and Fencing

There will be chain link fencing installed around the perimeter of the facility. No landscaping is proposed for the project.

## Restrooms

There is no on-site permanent staff. Maintenance staff will use the existing dairy restroom facilities.

## CUP “C” Application Project Details (Van der Hoek)

Lists the proposed project components to be installed at the participating project site for CUP “C”.

### Digester #3 – Van der Hoek Dairy:

- Sandlane
- Various 8”-24” Manure Pipes
- Digester
- 8” Biogas Pipe
- Moisture Trap and Pad
- Biogas Blower and Chilling Equipment
- Mechanical Building
- Biogas Generator
- Supporting Equipment

### Dairy Liquid Manure Handling System

*(Sandlane and Manure Pipes)*

To prepare the dairy for the digester installation, the project will modify the existing liquid manure handling system on the dairy to accommodate the digester. This modification will include the installation of various liquid manure pipes between 8” and 24” in diameter. These pipes are installed via standard open trenching practices in compliance with all OSHA standards.

Additionally, the project will include the installation of a manure sandlane. This sandlane will be no longer than 400’ and no wider than 16’. The final design is in process, but the preliminary design is a flat, 300’ long, 14’ wide, 6” thick, concrete slab with a 4’ high push wall. The preliminary design indicates that the slab will be installed on a slope of 1-3% to allow the manure to flow at a consistent speed. The sandlane is designed to slow the flow of flushed manure down in order to capture sand and other inorganics.

### Digester Technology

The anaerobic covered lagoon digesters are a passive addition to the dairy and require minimal oversight. Cameras and automation equipment will be installed at each digester sight to enable remote monitoring. The digester will be suited with an emergency vent as required by the San Joaquin Valley Air District (SJVAPCD). A small mechanical building will be constructed on-site that will house a biogas chiller to remove condensate prior to entering the biogas gathering lines and a biogas blower to move the gas from the digester system to the biogas gathering lines as discussed in more detail below.

The digester will be created by first double-lining a new or existing storage pond. All digester ponds will meet the Central Valley Regional Water Quality Control Board (CRWQCB) Tier 1 standards, which include the installation of double-layered liners of welded 60 ml HDPE with leak detection to ensure water quality. All digester pond designs must be pre-approved by the CRWQCB and their installation is monitored by professional engineers. Once constructed and prior to actual operation of the ponds to treat wastewater, an installation report will be submitted to CRWQCB for their review and approval.

The project will then cover the newly lined pond(s) with 80 ml flexible HDPE material to create the project’s biogas collection system. The lagoon cover will be welded to the liner ensuring a complete seal.

A perforated pipe runs above the water line around the entire perimeter of the covered lagoon to ensure uninterrupted gas flow to the outlet. The cover will also include submersible mixers to agitate the manure which will minimize settling, reduce sludge in the digester, and increase biogas production. An HDPE baffle creates a pathway for manure to slowly flow through the digester, ensuring hydraulic retention time and eliminating dead spots. Finally, sludge draw-off pipes are commonly added as a final protection against sludge buildup. This type of covered lagoon technology is highly commercialized and represents 100% of the successful digester installations in California since 2014. Engineered site plan and design drawings for the proposed digester are found in Attachment C-5. A summary of digester type, digester dimensions, digester volume, and estimated gas output is also summarized in the table below.

**Table 4 - Van der Hoek Dairy Digester**

Digester	Participating Dairy	Digester Dimensions (ft)	Digester Volume (gal)	Gas Output (mmBTU/yr)
Digester #3	Van der Hoek Dairy	400' x 400' x 24'	21,287,541	67,222

### Biogas Pipe

The biogas pipe is responsible for the delivery of the biogas from the digester to the moisture trap.

### Moisture Trap and Pad

After leaving the digester but before entering the mechanical building, the biogas is processed through a moisture trap to reduce the amount of H<sub>2</sub>O in the biogas. The trap is supported by a new concrete pad which will also accommodate the blower, chilling equipment and mechanical building.

### Biogas Blower and Chilling Equipment

Once it has passed through the moisture trap, the biogas will be pulled through the blower and sent to chilling equipment and then the gathering lines.

A chiller and condenser will be installed to condense most of the water in the biogas before blowing into the gathering pipeline. The chiller is a typical commercial unit for cooling glycol. The condenser is a commercially available unit for condensing moisture from biogas.

A blower will be installed near the digester to move the biogas into the gathering lines at pressure of less than 20 psi. Each blower will be controlled by a central SCADA system that is overseen by operators on a 24/7 basis. When a blower increases in speed, more biogas is pushed to the upgrading facility, and when it decreases, less biogas is sent. The gathering lines will be pressure monitored via SCADA equipment in real time to detect leaks or major failures. Additionally, flow meters will be installed at each digester site and at the upgrading facility to monitor biogas flows.

### Mechanical Building

The mechanical building will be a prefabricated steel building no larger than 60' x 40'. This building will house chilling equipment and the blower and the biogas generator.

## Biogas Generator

The project's internal combustion engine's emissions will be regulated by the SJVACPD under the latest Best Available Control Technology (BACT) standards. This power generation project will consume biogas in an onsite generator, to create electricity for delivery to the PG&E grid under the Bioenergy Market Adjusting Tariff (BioMAT), net energy metering with aggregation or other exporting tariff. When the engine is off for maintenance, the biogas will be stored in the covered lagoon, which has capacity for approximately 2 days of biogas storage. An emergency vent will also be installed per San Joaquin Valley Air Pollution Control District permit requirements.

The engine is a Guascor SFGLD-560 or similar, 16-cylinder lean-burn, turbo-charged reciprocating internal combustion engine mated with a synchronous generator. The combined rated electrical power of the system is 800-1,000 kW. The biogas from this project will be conditioned to remove moisture and reduce hydrogen sulfide below 40 ppm. Moisture from the biogas will be removed using a Bell & Gosset (or equivalent) plate and frame heat exchanger cooled by a Cold Shots (or equivalent) 240,000 BTU/hr industrial air-cooled chiller. H<sub>2</sub>S reduction will be achieved in two stages. First a built-in air injection system under the digester's cover will encourage biological fixation of sulfur molecules. Secondly, the project will employ a media-based scrubber using non-toxic media (Sulfatreat or similar). CO<sub>2</sub> does not need to be removed prior to combustion under this design. The project engine generator is oversized to increase reliability and to allow the project to generate during the time of day when the power prices are most profitable. The project will sign a final interconnection agreement with PG&E.

Emissions Reduction Plan: The project will treat exhaust emissions using a Selective Catalytic Reduction (SCR) system with Oxidation Catalyst from HUG Engineering (or similar manufacturer) that comes with a guarantee of performance.

## Supporting Equipment

Supporting equipment is including but not limited to a transformer and electrical poles which will be installed per PG&E requirements in order to support the biogas generator. Additionally, a wet well with a flush pump and a second primary dual screen separator are proposed as upgrades to the liquid manure handling system. This upgrade better supports the functionality of the digester. Furthermore, supporting equipment is any equipment which is essential for the function of the aforementioned equipment and completion of the project ambitions. Such equipment may include small pumps, electrical controls, and other minor equipment which is deemed necessary.

## Operational Times and Visitors

The facility will be operational 24/7, but not open to public visitors without prior permission.

## Number of Employees

### **Construction:**

Digester and ancillary equipment: a maximum of 10 people for short periods of time, with an average of 5 people on site during the 7 months of construction.

### **Operations:**

Remote sensor and computer monitoring of the equipment will be operated permanently. One employee will make a daily inspection of the facility. That work will be conducted during regular business hours, 8am-5pm, and on-call 24/7. No permanent facility employees will work or live on-site.

### Service and Delivery Vehicles

There will be one service truck which will visit once per day. No delivery trucks will be on site pertaining to the digester on site.

### Access to the Site

Access to the site would be from West Elkhorn Avenue to a private driveway.

### Parking

There is existing parking at the dairy. The construction crew will utilize this parking during construction activities.

### Goods

No goods will be sold on site.

### Supplies or Materials

The facility will use and store small quantities of materials such as lubricants, and hydraulic fluids. Handling of hazardous materials are regulated by federal and State laws, which minimizes worker safety risks from both physical and chemical hazards in the workplace.

### Appearance/Noise/Dust

The project facility is similar in nature to the existing dairy infrastructure and fits into its surroundings. The pipeline will run underground and will not be seen. Noise generated by the project equipment will not be above typical agriculture facility levels. The facility does not include any lights or other sources of glare beyond what is currently used for security reasons at the dairy. Once operational, the project will not generate fugitive dust. The project will not emit or concentrate any odors, and in fact will reduce odors with the installation of the covered manure lagoons.

### Solid or Liquid Wastes to be Produced

Facility will produce minimal amounts of solid waste. Waste will be picked up once per month by a solid waste disposal company and taken to an appropriate landfill.

Facility will produce less than 10 gallons per month of waste blower oil. This oil will be stored on site in containers less than 45 gallons and picked up by a disposal company whenever the container is full.

### Construction and Operational Water Usage

Construction of the digester and ancillary equipment is anticipated to take approximately 140 working days.

Water for construction and operations would be supplied by an existing on-site agricultural well.

**Construction:** An estimated 20,000 gallons/day is anticipated during the first 20 working days of construction activities, and 2,000 gallons/day is anticipated during the remaining 6 months of construction



activities. Based on an average 20 work days a month, approximately 2 AF would be required (20,000 gallons x 20 days + 2,000 gallons x 120 days = 640,000 gallons).

**Operations:** Water usage is anticipated to be approximately 500 gallons per day or 0.5 AF annually during operation.

### Advertising

There will be no advertisements at the project sites.

### Buildings

The project will not construct any new buildings, but 2-3 small containers may be installed for electrical controls and other equipment. These will be steel and unobtrusive colors.

### Lighting and Outdoor Sound Amplification

No outdoor sound amplification systems will be installed for the project. The facility will function 24 hours a day and will include the same standard security lighting as found on the surrounding parcels. All lighting would be directed downward and shielded to focus illumination on the desired work areas only and prevent light spillage onto adjacent properties.

### Landscaping and Fencing

There will be chain link fencing installed around the perimeter of the facility. No landscaping is proposed for the project.

### Restrooms

There is no on-site permanent staff. Maintenance staff will use the existing dairy restroom facilities.

## CUP “D” Application Project Details (Van der Kooi)

Lists the proposed project components to be installed at the participating project site for CUP “D”.

### Digester #4 – Charles Van der Kooi Dairy:

- Various 8”-24” Manure Pipes
- Digester
- 8” Biogas Pipe
- Moisture Trap and Pad
- Biogas Blower and Chilling Equipment
- Mechanical Building
- Biogas Generator
- Supporting Equipment

### Dairy Liquid Manure Handling System

*(Manure Pipes)*

To prepare the dairy for the digester installation, the project will modify the existing liquid manure handling system on the dairy to accommodate the digester. This modification will include the installation of various liquid manure pipes between 8” and 24” in diameter. These pipes are installed via standard open trenching practices in compliance with all OSHA standards.

### Digester Technology

The anaerobic covered lagoon digesters are a passive addition to the dairy and require minimal oversight. Cameras and automation equipment will be installed at each digester sight to enable remote monitoring. The digester will be suited with an emergency vent as required by the San Joaquin Valley Air District (SJVAPCD). A small mechanical building will be constructed on-site that will house a biogas chiller to remove condensate prior to entering the biogas gathering lines and a biogas blower to move the gas from the digester system to the biogas gathering lines as discussed in more detail below.

The digester will be created by first double-lining a new or existing storage pond. All digester ponds will meet the Central Valley Regional Water Quality Control Board (CRWQCB) Tier 1 standards, which include the installation of double-layered liners of welded 60 ml HDPE with leak detection to ensure water quality. All digester pond designs must be pre-approved by the CRWQCB and their installation is monitored by professional engineers. Once constructed and prior to actual operation of the ponds to treat wastewater, an installation report will be submitted to CRWQCB for their review and approval.

The project will then cover the newly lined pond(s) with 80 ml flexible HDPE material to create the project’s biogas collection system. The lagoon cover will be welded to the liner ensuring a complete seal. A perforated pipe runs above the water line around the entire perimeter of the covered lagoon to ensure uninterrupted gas flow to the outlet. The cover will also include submersible mixers to agitate the manure which will minimize settling, reduce sludge in the digester, and increase biogas production. An HDPE baffle creates a pathway for manure to slowly flow through the digester, ensuring hydraulic retention time and eliminating dead spots. Finally, sludge draw-off pipes are commonly added as a final protection against sludge buildup. This type of covered lagoon technology is highly commercialized and represents 100% of the successful digester installations in California since 2014. Engineered site plan and design drawings for

the proposed digester are found in Attachment D-5. A summary of digester type, digester dimensions, digester volume, and estimated gas output is also summarized in the table below.

**Table 5 - Van der Kooi Dairy Digester**

Digester	Participating Dairy	Digester Dimensions (ft)	Digester Volume (gal)	Gas Output (mmBTU/yr)
Digester #4	Charles Van der Kooi Dairy	1,080' x 190' x 20'	22,021,399	55,216

### Biogas Pipe

The biogas pipe is responsible for the delivery of the biogas from the digester to the moisture trap.

### Moisture Trap and Pad

After leaving the digester but before entering the mechanical building, the biogas is processed through a moisture trap to reduce the amount of H<sub>2</sub>O in the biogas. The trap is supported by a new concrete pad which will also accommodate the blower, chilling equipment and mechanical building.

### Biogas Blower and Chilling Equipment

Once it has passed through the moisture trap, the biogas will be pulled through the blower and sent to chilling equipment and then the gathering lines.

A chiller and condenser will be installed to condense most of the water in the biogas before blowing into the gathering pipeline. The chiller is a typical commercial unit for cooling glycol. The condenser is a commercially available unit for condensing moisture from biogas.

A blower will be installed near the digester to move the biogas into the gathering lines at pressure of less than 20 psi. Each blower will be controlled by a central SCADA system that is overseen by operators on a 24/7 basis. When a blower increases in speed, more biogas is pushed to the upgrading facility, and when it decreases, less biogas is sent. The gathering lines will be pressure monitored via SCADA equipment in real time to detect leaks or major failures. Additionally, flow meters will be installed at each digester site and at the upgrading facility to monitor biogas flows.

### Mechanical Building

The mechanical building will be a prefabricated steel building no larger than 60' x 40'. This building will house chilling equipment and the blower and the biogas generator.

### Biogas Generator

The project's internal combustion engine's emissions will be regulated by the SJVACPD under the latest Best Available Control Technology (BACT) standards. This power generation project will consume biogas in an onsite generator, to create electricity for delivery to the PG&E grid under the Bioenergy Market Adjusting Tariff (BioMAT), net energy metering with aggregation or other exporting tariff. When the engine is off for maintenance, the biogas will be stored in the covered lagoon, which has capacity for approximately 2 days of biogas storage. An emergency vent will also be installed per San Joaquin Valley Air Pollution Control District permit requirements.

The engine is a Guascor SFGLD-560 or similar, 16-cylinder lean-burn, turbo-charged reciprocating internal combustion engine mated with a synchronous generator. The combined rated electrical power of the system is 800-1,000 kW. The biogas from this project will be conditioned to remove moisture and reduce hydrogen sulfide below 40 ppm. Moisture from the biogas will be removed using a Bell & Gosset (or equivalent) plate and frame heat exchanger cooled by a Cold Shots (or equivalent) 240,000 BTU/hr industrial air-cooled chiller. H<sub>2</sub>S reduction will be achieved in two stages. First a built-in air injection system under the digester's cover will encourage biological fixation of sulfur molecules. Secondly, the project will employ a media-based scrubber using non-toxic media (Sulfatreat or similar). CO<sub>2</sub> does not need to be removed prior to combustion under this design. The project engine generator is oversized to increase reliability and to allow the project to generate during the time of day when the power prices are most profitable. The project will have signed a final interconnection agreement with PG&E.

**Emissions Reduction Plan:** The project will treat exhaust emissions using a Selective Catalytic Reduction (SCR) system with Oxidation Catalyst from HUG Engineering (or similar manufacturer) that comes with a guarantee of performance.

### Supporting Equipment

Supporting equipment is including but not limited to a transformer and electrical poles which will be installed per PG&E requirements in order to support the biogas generator. Furthermore, supporting equipment is any equipment which is essential for the function of the aforementioned equipment and completion of the project ambitions. Such equipment may include small pumps, electrical controls, and other minor equipment which is deemed necessary.

### Operational Times and Visitors

The facility will be operational 24/7, but not open to public visitors without prior permission.

### Number of Employees

#### **Construction:**

Digester and ancillary equipment: a maximum of 10 people for short periods of time, with an average of 5 people on site during the 7 months of construction.

#### **Operations:**

Remote sensor and computer monitoring of the equipment will be operated permanently. One employee will make a daily inspection of the facility. That work will be conducted during regular business hours, 8am-5pm, and on-call 24/7. No permanent facility employees will work or live on-site.

### Service and Delivery Vehicles

There will be one service truck which will visit once per day. No delivery trucks will be on site pertaining to the digester on site.

### Access to the Site

Access to the site would be from West Elkhorn Avenue to a private driveway.

### Parking

There is existing parking at the dairy. The construction crew will utilize this parking during construction activities.

## Goods

No goods will be sold on site.

## Supplies or Materials

The facility will use and store small quantities of materials such as lubricants, and hydraulic fluids. Handling of hazardous materials are regulated by federal and State laws, which minimizes worker safety risks from both physical and chemical hazards in the workplace.

## Appearance/Noise/Dust

The project facility is similar in nature to the existing dairy infrastructure and fits into its surroundings. The pipeline will run underground and will not be seen. Noise generated by the project equipment will not be above typical agriculture facility levels. The facility does not include any lights or other sources of glare beyond what is currently used for security reasons at the dairy. Once operational, the project will not generate fugitive dust. The project will not emit or concentrate any odors, and in fact will reduce odors with the installation of the covered manure lagoons.

## Solid or Liquid Wastes to be Produced

Facility will produce minimal amounts of solid waste. Waste will be picked up once per month by a solid waste disposal company and taken to an appropriate landfill.

Facility will produce less than 10 gallons per month of waste blower oil. This oil will be stored on site in containers less than 45 gallons and picked up by a disposal company whenever the container is full.

## Construction and Operational Water Usage

Construction of the digester and ancillary equipment is anticipated to take approximately 140 working days.

Water for construction and operations would be supplied by an existing on-site agricultural well.

**Construction:** An estimated 20,000 gallons/day is anticipated during the first 20 working days of construction activities, and 2,000 gallons/day is anticipated during the remaining 6 months of construction activities. Based on an average 20 work days a month, approximately 2 AF would be required (20,000 gallons x 20 days + 2,000 gallons x 120 days = 640,000 gallons).

**Operations:** Water usage is anticipated to be approximately 500 gallons per day or 0.5 AF annually during operation.

## Advertising

There will be no advertisements at the project sites.

## Buildings

The project will not construct any new buildings, but 2-3 small containers may be installed for electrical controls and other equipment. These will be steel and unobtrusive colors.

### Lighting and Outdoor Sound Amplification

No outdoor lighting or sound amplification systems will be installed for the project.

### Landscaping and Fencing

There will be chain link fencing installed around the perimeter of the facility. No landscaping is proposed for the project.

### Restrooms

There is no on-site permanent staff. Maintenance staff will use the existing dairy restroom facilities.

## CUP “E” Application Project Details (Wilson)

Lists the proposed project components to be installed at the participating project site for CUP “E”.

### Digester #5 – J&D Wilson & Sons Dairy:

- Sandlane
- Various 8”-24” Manure Pipes
- Digester
- 12” Biogas Pipe
- Moisture Trap and Pad
- Biogas Blower and Chilling Equipment
- Mechanical Building
- Biogas Generator
- Supporting Equipment

### Dairy Liquid Manure Handling System

*(Sandlane and Manure Pipes)*

To prepare the dairy for the digester installation, the project will modify the existing liquid manure handling system on the dairy to accommodate the digester. This modification will include the installation of various liquid manure pipes between 8” and 24” in diameter. These pipes are installed via standard open trenching practices in compliance with all OSHA standards.

Additionally, the project will include the installation of a manure sandlane. This sandlane will be no longer than 400’ and no wider than 16’. The final design is in process, but the preliminary design is a flat, 300’ long, 14’ wide, 6” thick, concrete slab with a 4’ high push wall. The preliminary design indicates that the slab will be installed on a slope of 1-3% to allow the manure to flow at a consistent speed. The sandlane is designed to slow the flow of flushed manure down in order to capture sand and other inorganics.

### Digester Technology

The anaerobic covered lagoon digesters are a passive addition to the dairy and require minimal oversight. Cameras and automation equipment will be installed at each digester sight to enable remote monitoring. The digester will be suited with an emergency vent as required by the San Joaquin Valley Air District (SJVAPCD). A small mechanical building will be constructed on-site that will house a biogas chiller to remove condensate prior to entering the biogas gathering lines and a biogas blower to move the gas from the digester system to the biogas gathering lines as discussed in more detail below.

The digester will be created by first double-lining a new or existing storage pond at each dairy. All digester ponds will meet the Central Valley Regional Water Quality Control Board (CRWQCB) Tier 1 standards, which include the installation of double-layered liners of welded 60 ml HDPE with leak detection to ensure water quality. All digester pond designs must be pre-approved by the CRWQCB and their installation is monitored by professional engineers. Once constructed and prior to actual operation of the ponds to treat wastewater, an installation report will be submitted to CRWQCB for their review and approval.

The project will then cover the newly lined ponds with 80 ml flexible HDPE material to create the project’s biogas collection system. The lagoon cover will be welded to the liner ensuring a complete seal. A perforated pipe runs above the water line around the entire perimeter of the covered lagoon to ensure

uninterrupted gas flow to the outlet. The cover will also include submersible mixers to agitate the manure which will minimize settling, reduce sludge in the digester, and increase biogas production. An HDPE baffle creates a pathway for manure to slowly flow through the digester, ensuring hydraulic retention time and eliminating dead spots. Finally, sludge draw-off pipes are commonly added as a final protection against sludge buildup. This type of covered lagoon technology is highly commercialized and represents 100% of the successful digester installations in California since 2014. Engineered site plan and design drawings for the proposed digester are found in Attachment E-5. A summary of digester type, digester dimensions, digester volume, and estimated gas output is also summarized in the table below.

**Table 5 - J&D Wilson & Sons Dairy Digester**

Digester	Participating Dairy	Digester Dimensions (ft)	Digester Volume (gal)	Gas Output (mmBTU/yr)
Digester #5	J&D Wilson & Sons Dairy	1,630' x 125' x 25'	21,027,058	66,423

### Biogas Pipe

The biogas pipe is responsible for the delivery of the biogas from the digester to the moisture trap.

### Moisture Trap and Pad

After leaving the digester but before entering the mechanical building, the biogas is processed through a moisture trap to reduce the amount of H<sub>2</sub>O in the biogas. The trap is supported by a new concrete pad which will also accommodate the blower, chilling equipment and mechanical building.

### Biogas Blower and Chilling Equipment

Once it has passed through the moisture trap, the biogas will be pulled through the blower and sent to chilling equipment and then the gathering lines.

A chiller and condenser will be installed to condense most of the water in the biogas before blowing into the gathering pipeline. The chiller is a typical commercial unit for cooling glycol. The condenser is a commercially available unit for condensing moisture from biogas.

A blower will be installed near the digester to move the biogas into the gathering lines at pressure of less than 20 psi. Each blower will be controlled by a central SCADA system that is overseen by operators on a 24/7 basis. When a blower increases in speed, more biogas is pushed to the upgrading facility, and when it decreases, less biogas is sent. The gathering lines will be pressure monitored via SCADA equipment in real time to detect leaks or major failures. Additionally, flow meters will be installed at each digester site and at the upgrading facility to monitor biogas flows.

### Mechanical Building

The mechanical building will be a prefabricated steel building no larger than 60' x 40'. This building will house chilling equipment and the blower and the biogas generator.



## Biogas Generator

The project's internal combustion engine's emissions will be regulated by the SJVACPD under the latest Best Available Control Technology (BACT) standards. This power generation project will consume biogas in an onsite generator, to create electricity for delivery to the PG&E grid under the Bioenergy Market Adjusting Tariff (BioMAT), net energy metering with aggregation or other exporting tariff. When the engine is off for maintenance, the biogas will be stored in the covered lagoon, which has capacity for approximately 2 days of biogas storage. An emergency vent will also be installed per San Joaquin Valley Air Pollution Control District permit requirements.

The engine is a Guascor SFGLD-560 or similar, 16-cylinder lean-burn, turbo-charged reciprocating internal combustion engine mated with a synchronous generator. The combined rated electrical power of the system is 800-1,000 kW. The biogas from this project will be conditioned to remove moisture and reduce hydrogen sulfide below 40 ppm. Moisture from the biogas will be removed using a Bell & Gosset (or equivalent) plate and frame heat exchanger cooled by a Cold Shots (or equivalent) 240,000 BTU/hr industrial air-cooled chiller. H<sub>2</sub>S reduction will be achieved in two stages. First a built-in air injection system under the digester's cover will encourage biological fixation of sulfur molecules. Secondly, the project will employ a media-based scrubber using non-toxic media (Sulfatreat or similar). CO<sub>2</sub> does not need to be removed prior to combustion under this design. The project engine generator is oversized to increase reliability and to allow the project to generate during the time of day when the power prices are most profitable. The project will sign a final interconnection agreement with PG&E.

Emissions Reduction Plan: The project will treat exhaust emissions using a Selective Catalytic Reduction (SCR) system with Oxidation Catalyst from HUG Engineering (or similar manufacturer) that comes with a guarantee of performance.

## Supporting Equipment

Supporting equipment is including but not limited to a transformer and electrical poles which will be installed per PG&E requirements in order to support the biogas generator. Furthermore, supporting equipment is any equipment which is essential for the function of the aforementioned equipment and completion of the project ambitions. Such equipment may include small pumps, electrical controls, and other minor equipment which is deemed necessary.

## Operational Times and Visitors

The facility will be operational 24/7, but not open to public visitors without prior permission.

## Number of Employees

### **Construction:**

Digester and ancillary equipment: a maximum of 10 people for short periods of time, with an average of 5 people on site during the 7 months of construction.

### **Operations:**

Remote sensor and computer monitoring of the equipment will be operated permanently. One employee will make a daily inspection of the facility. That work will be conducted during regular business hours, 8am-5pm, and on-call 24/7. No permanent facility employees will work or live on-site.

### Service and Delivery Vehicles

There will be one service truck which will visit once per day. No delivery trucks will be on site pertaining to the digester on site.

### Access

Access to the site would be taken from West Mt Whitney Avenue.

### Parking

There is existing parking at the dairy. The construction crew will utilize this parking during construction activities.

### Goods

No goods will be sold on site.

### Supplies or Materials

The facility will use and store small quantities of materials such as lubricants, and hydraulic fluids. Handling of hazardous materials are regulated by federal and State laws, which minimizes worker safety risks from both physical and chemical hazards in the workplace.

### Appearance/Noise/Dust

The project facility is similar in nature to the existing dairy infrastructure and fits into its surroundings. The pipeline will run underground and will not be seen. Noise generated by the project equipment will not be above typical agriculture facility levels. The facility does not include any lights or other sources of glare beyond what is currently used for security reasons at the dairy. Once operational, the project will not generate fugitive dust. The project will not emit or concentrate any odors, and in fact will reduce odors with the installation of the covered manure lagoons.

### Solid or Liquid Wastes to be Produced

Facility will produce minimal amounts of solid waste. Waste will be picked up once per month by a solid waste disposal company and taken to an appropriate landfill.

Facility will produce less than 10 gallons per month of waste blower oil. This oil will be stored on site in containers less than 45 gallons and picked up by a disposal company whenever the container is full.

### Construction and Operational Water Usage

Construction of the digester and ancillary equipment is anticipated to take approximately 140 working days.

Water for construction and operations would be supplied by an existing on-site agricultural well.

**Construction:** An estimated 20,000 gallons/day is anticipated during the first 20 working days of construction activities, and 2,000 gallons/day is anticipated during the remaining 6 months of construction activities. Based on an average 20 work days a month, approximately 2 AF would be required (20,000 gallons x 20 days + 2,000 gallons x 120 days = 640,000 gallons).

**Operations:** Water usage is anticipated to be approximately 500 gallons per day or 0.5 AF annually during operation.

### Advertising

There will be no advertisements at the project sites.

### Buildings

The project will not construct any new buildings, but 2-3 small containers may be installed for electrical controls and other equipment. These will be steel and unobtrusive colors.

### Lighting and Outdoor Sound Amplification

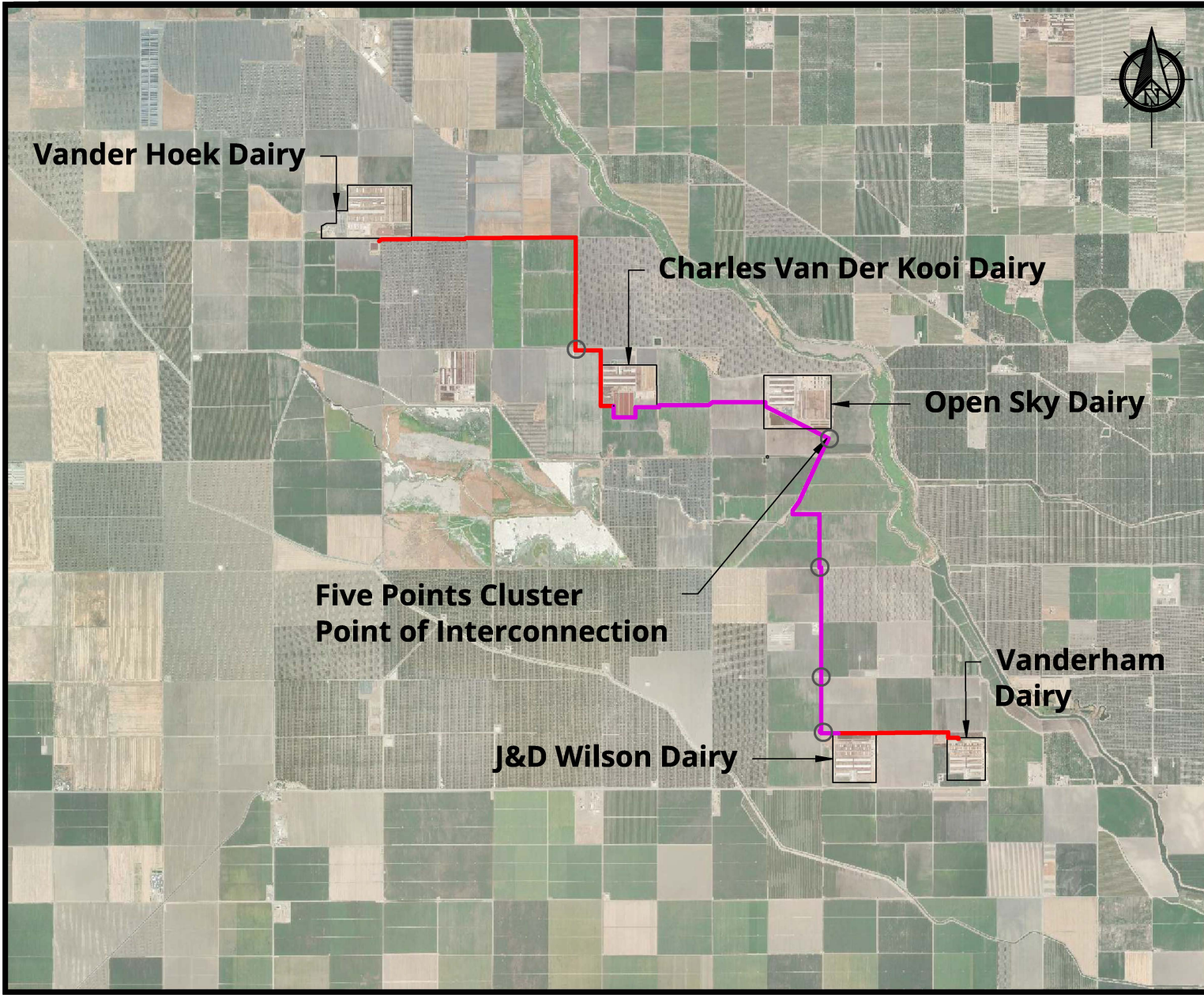
No outdoor lighting or sound amplification systems will be installed for the project.

### Landscaping and Fencing

There will be chain link fencing installed around the perimeter of the facility. No landscaping is proposed for the project.

### Restrooms

There is no on-site permanent staff. Maintenance staff will use the existing dairy restroom facilities.



General Notes

Confidential and Not for Construction

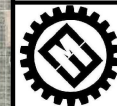
HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Right of Way Crossings



All pipes are in private easement with the exception of crossings shown.



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Firm Address

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Redding, CA, 96002

Project Name and Address

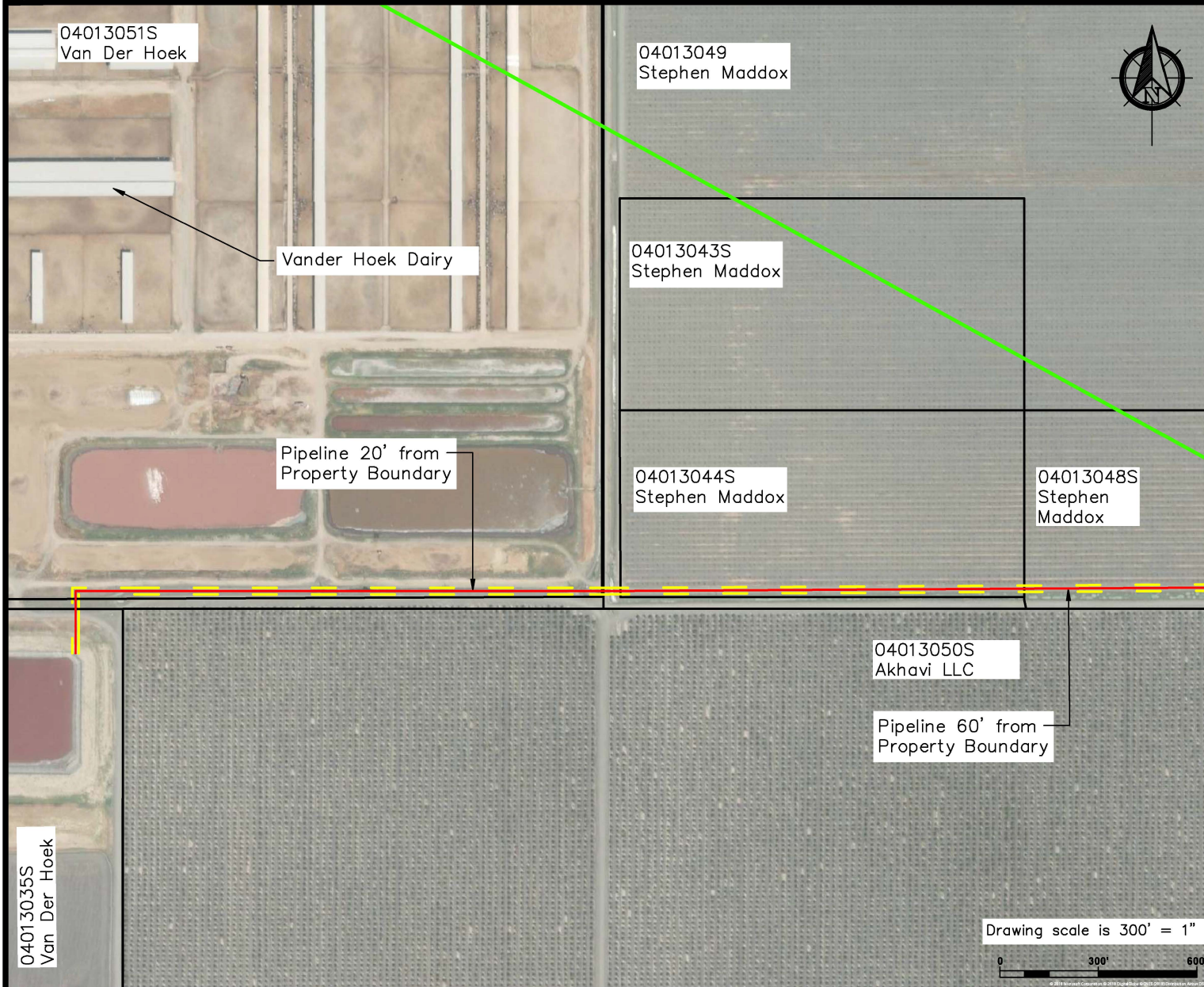
Five Points Cluster  
Pipeline Map  
Fresno County, CA

Date  
10/15/18

Version

Drawn By  
HD, SG

2.2



General Notes

**Confidential and Not for Construction**

Drawing #1

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way



All pipes are in private easement with the exception of crossings shown.

W Clarkson Ave, no County Public Right of Way.



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Suite 100  
Redding, CA, 96002

Project Name and Address

Five Points Cluster Pipeline Map  
Fresno County, CA

Date

1/23/19

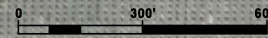
Version

2.2

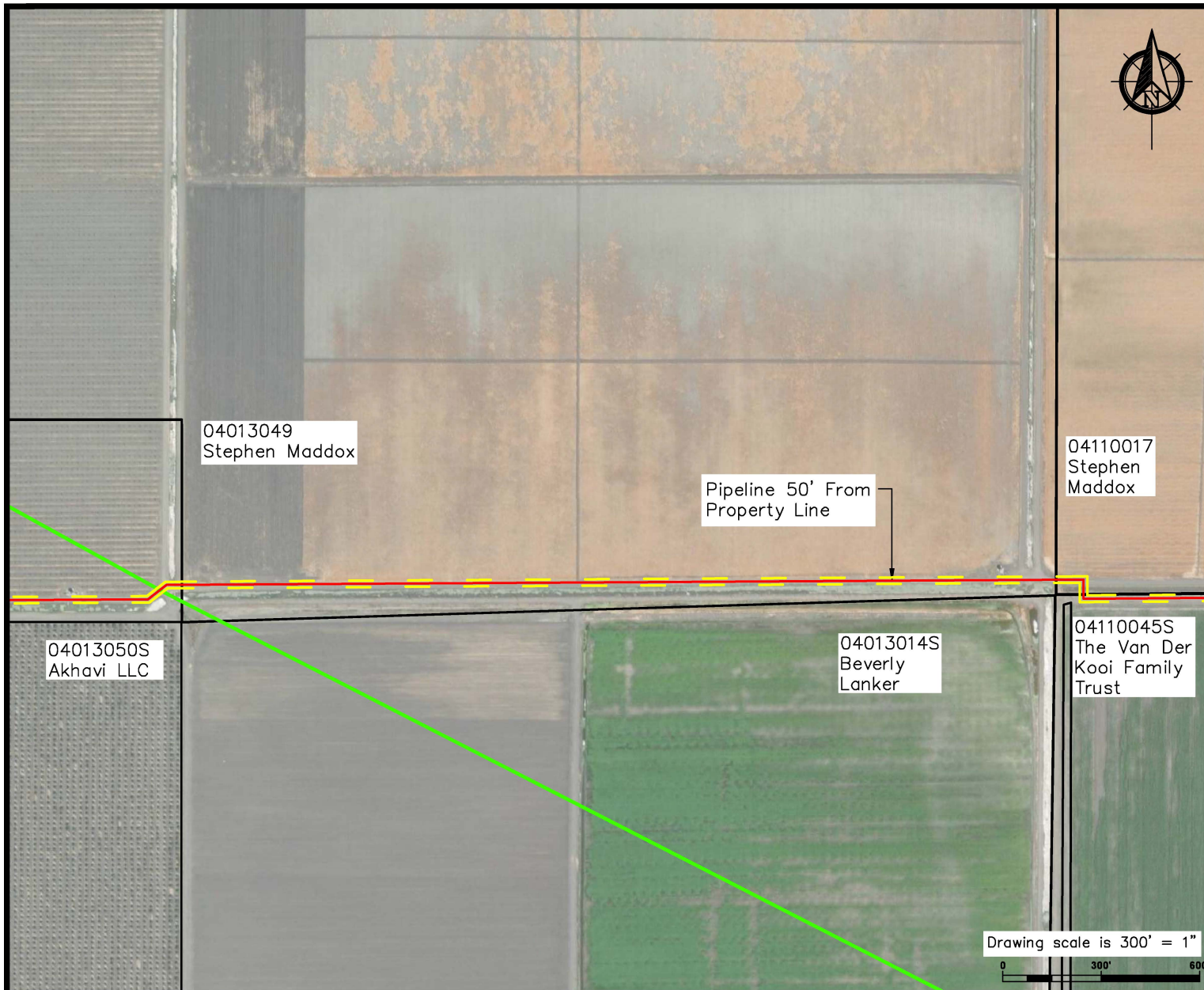
Drawn By

HD, SR, SG

Drawing scale is 300' = 1"



Pipeline Detail Map - Attachment FP-2



04013049  
Stephen Maddox

04110017  
Stephen  
Maddox

Pipeline 50' From  
Property Line

04013050S  
Akhavi LLC

04013014S  
Beverly  
Lanker

04110045S  
The Van Der  
Kooi Family  
Trust



General Notes

Confidential and Not for Construction

Drawing #2

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way



All pipes are in private easement with the exception of crossings shown.

W Clarkson Ave, no County Public Right of Way.



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Project Name and Address

Five Points Cluster Pipeline Map  
Fresno County, CA

Date  
1/23/19

Version  
2.2

Drawn By  
HD, SR, SG

Drawing scale is 300' = 1"



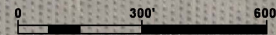
Pipeline Detail Map - Attachment FP-2



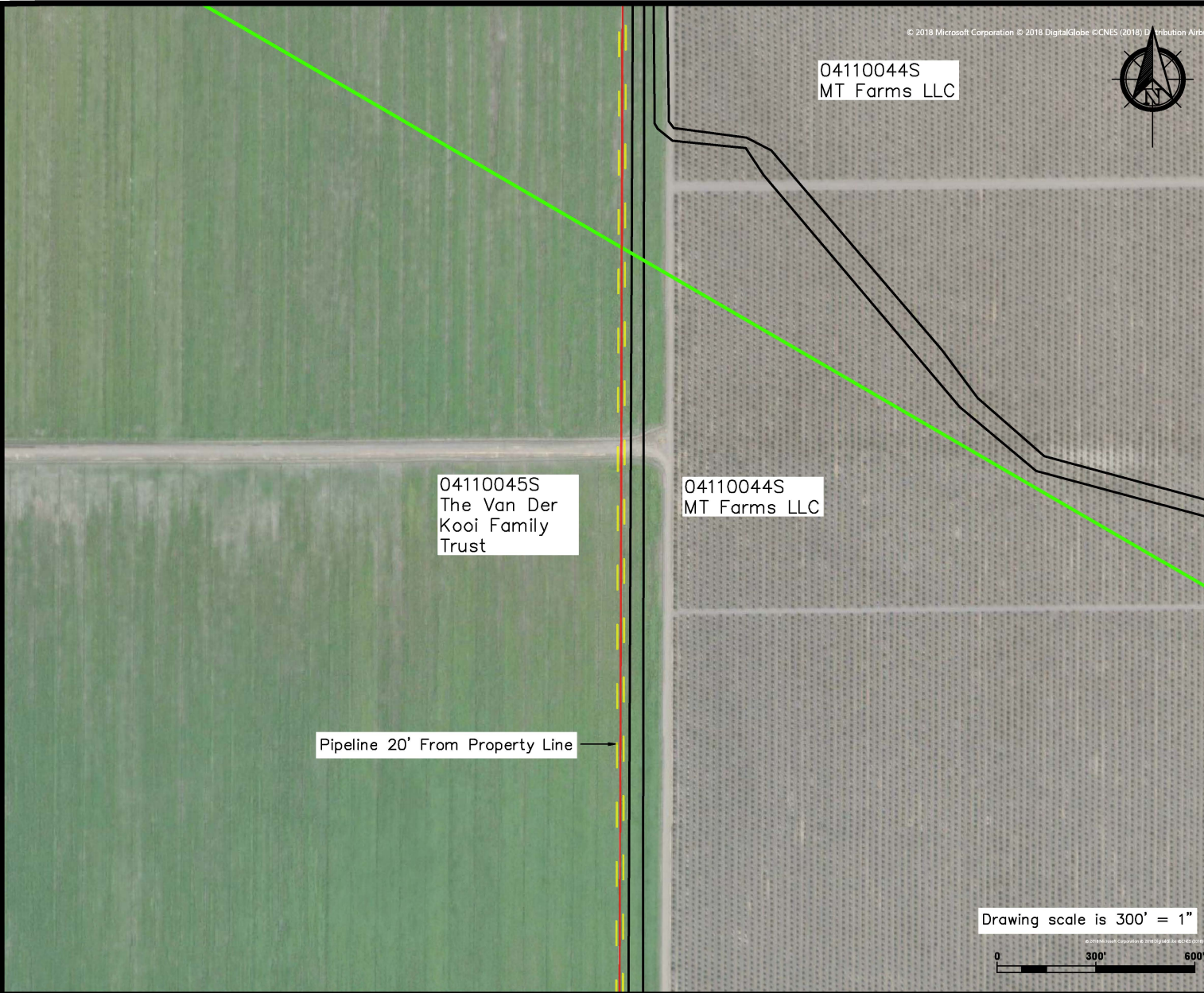
General Notes	
Confidential and Not for Construction	
Drawing #3	
Parcel Boundaries	
HDPE SDR 21, 6", 11 PSI	
HDPE SDR 21, 4", 13 PSI	
Approximate County Right of Way	
PG&E Transmission Line	
20' Pipeline Easement	
Pipeline Crosses Right of Way	
All pipes are in private easement with the exception of crossings shown.	
W Clarkson Ave, no County Public Right of Way.	
<b>MAAS</b> ENERGY WORKS	
Firm Address	
3711 Meadow View Dr. Suite 100 Redding, CA, 96002	
Project Name and Address	
Five Points Cluster Pipeline Map Fresno County, CA	
Date	Version
1/23/19	2.2
Drawn By	
HD, SR, SG	

Pipeline 20' From Property Line

Drawing scale is 300' = 1"



Pipeline Detail Map - Attachment FP-2



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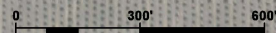
04110044S  
MT Farms LLC









04110045S  
The Van Der  
Kooi Family  
Trust

04110044S  
MT Farms LLC

Pipeline 20' From Property Line

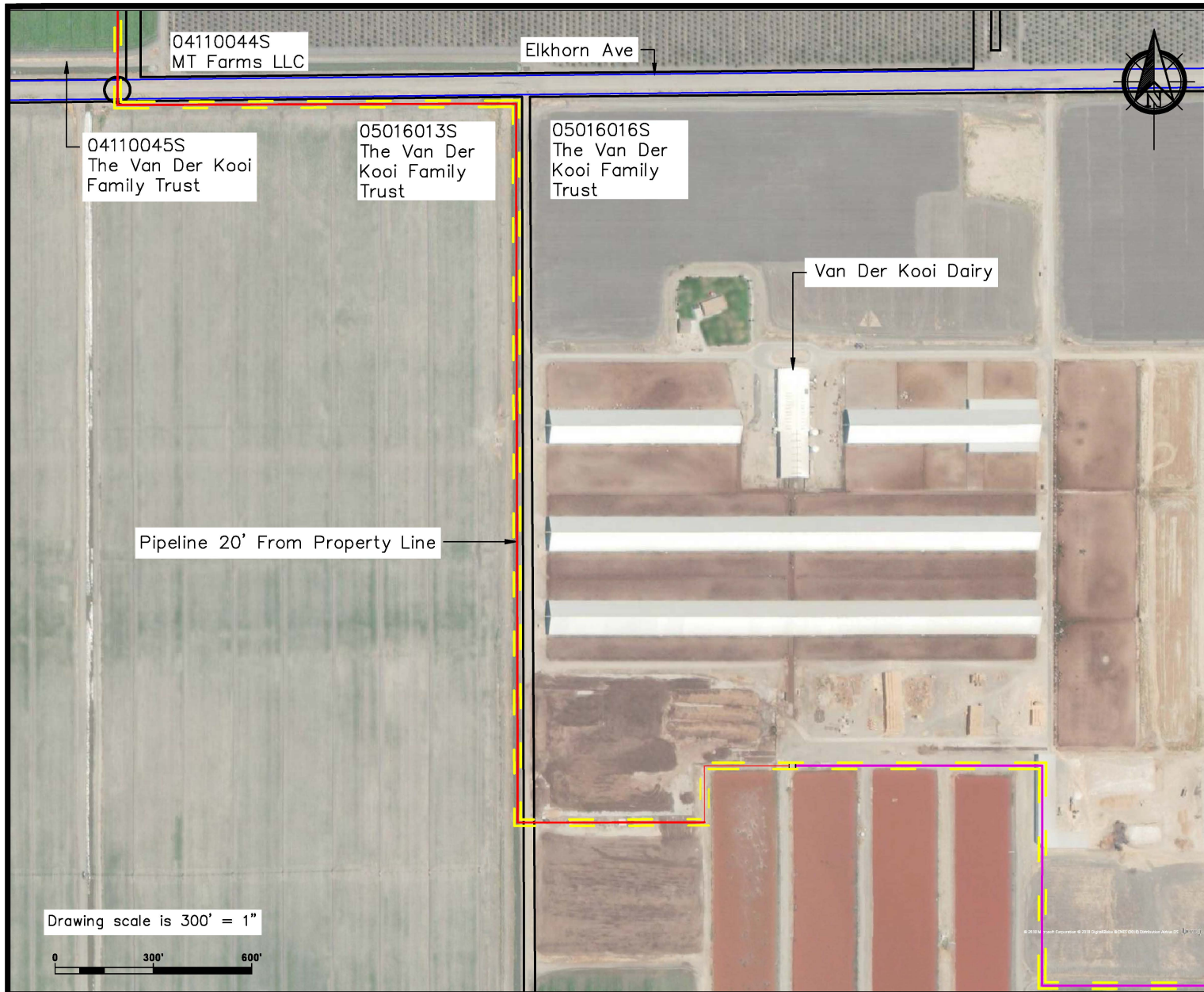
Drawing scale is 300' = 1"











General Notes	
<b>Confidential and Not for Construction</b>	
Drawing #4	
Parcel Boundaries	
	
	
	
	
	
	
	
Pipeline Crosses Right of Way All pipes are in private easement with the exception of crossings shown. W Clarkson Ave, no County Public Right of Way.	
 <b>MAAS ENERGY WORKS</b>	
<b>Firm Address</b> 3711 Meadow View Dr. Suite 100 Redding, CA, 96002	
<b>Project Name and Address</b> Five Points Cluster Pipeline Map Fresno County, CA	
<b>Date</b> 1/16/19	<b>Version</b> 2.2
<b>Drawn By</b> HD, SR, SG	

Pipeline Detail Map - Attachment FP-2





General Notes	
Confidential and Not for Construction	
Drawing #5	
Parcel Boundaries	
	
	
	
	
	
	
Pipeline Crosses Right of Way 	
All pipes are in private easement with the exception of crossings shown.	
Proposed pipeline is 20' or more from ROW.	
Elkhorn Ave, 60' County Right of Way.	
	
<b>Firm Address</b> 3711 Meadow View Dr. Suite 100 Redding, CA, 96002	
<b>Project Name and Address</b> Five Points Cluster Pipeline Map Fresno County, CA	
<b>Date</b> 1/23/19	<b>Version</b> 2.2
<b>Drawn By</b> HD, SR, SG	

Pipeline Detail Map - Attachment FP-2



General Notes

**Confidential and Not for Construction**

Drawing #6

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way

○  
All pipes are in private easement with the exception of crossings shown.

Proposed pipeline is 20' or more from ROW.

Elkhorn Ave, 60' County Right of Way.

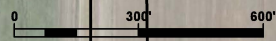


Firm Address  
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Suite 100  
Redding, CA, 96002

Project Name and Address  
Five Points Cluster Pipeline Map  
Fresno County, CA

Date	Version
1/16/19	2.2
Drawn By	
HD, SR, SG	

Drawing scale is 300' = 1"



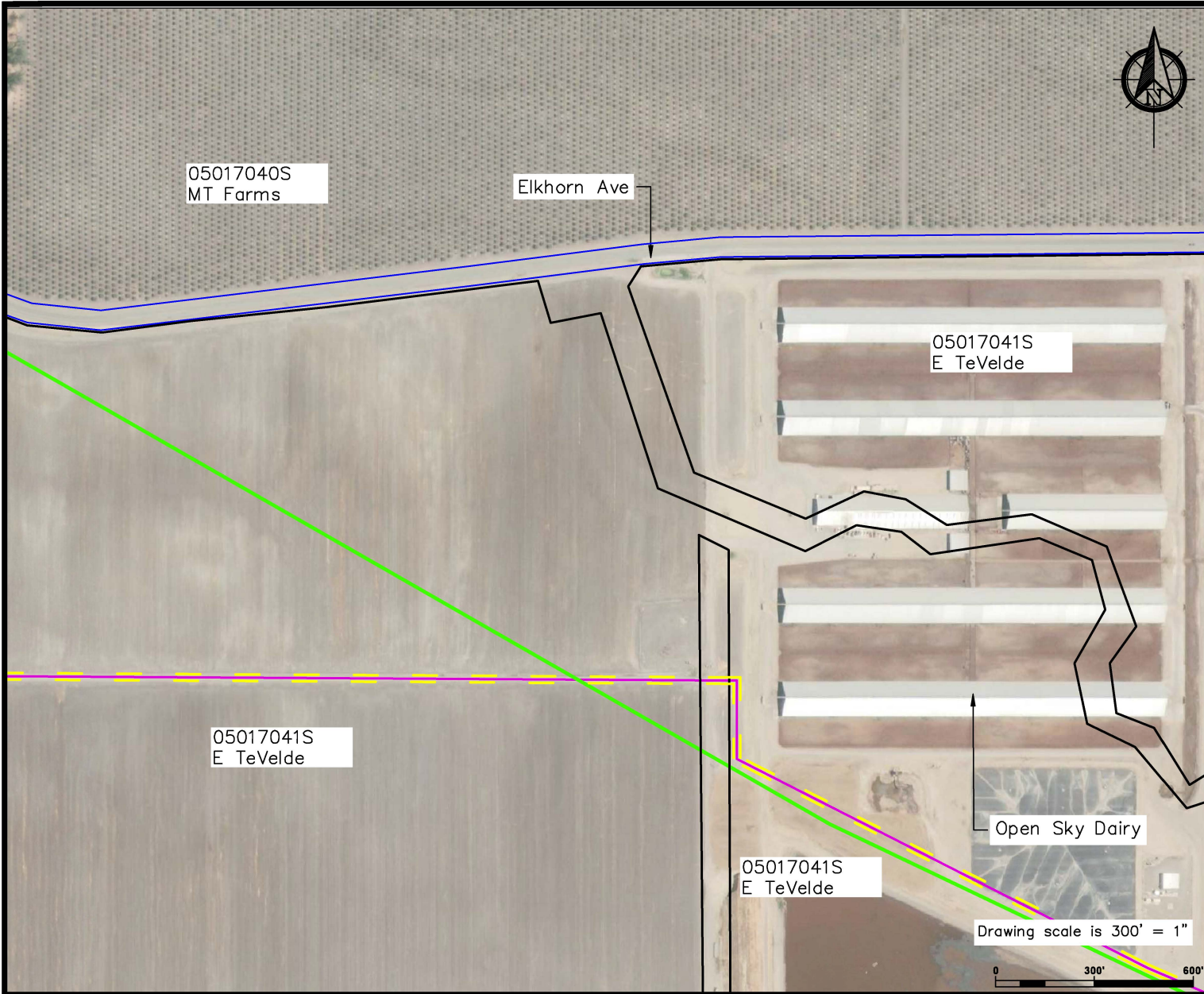
05016016S  
The Van Der  
Kooi Family  
Trust

05016016S  
The Van Der  
Kooi Family  
Trust

05017041S  
E Tevelde

Elkhorn Ave

Pipeline Detail Map - Attachment FP-2



General Notes

Confidential and Not for Construction

Drawing #7

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way



All pipes are in private easement with the exception of crossings shown.

Proposed pipeline is 20' or more from ROW.

Elkhorn Ave, 60' County Right of Way.



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Project Name and Address

Five Points Cluster Pipeline Map  
Fresno County, CA

Date

1/23/19

Version

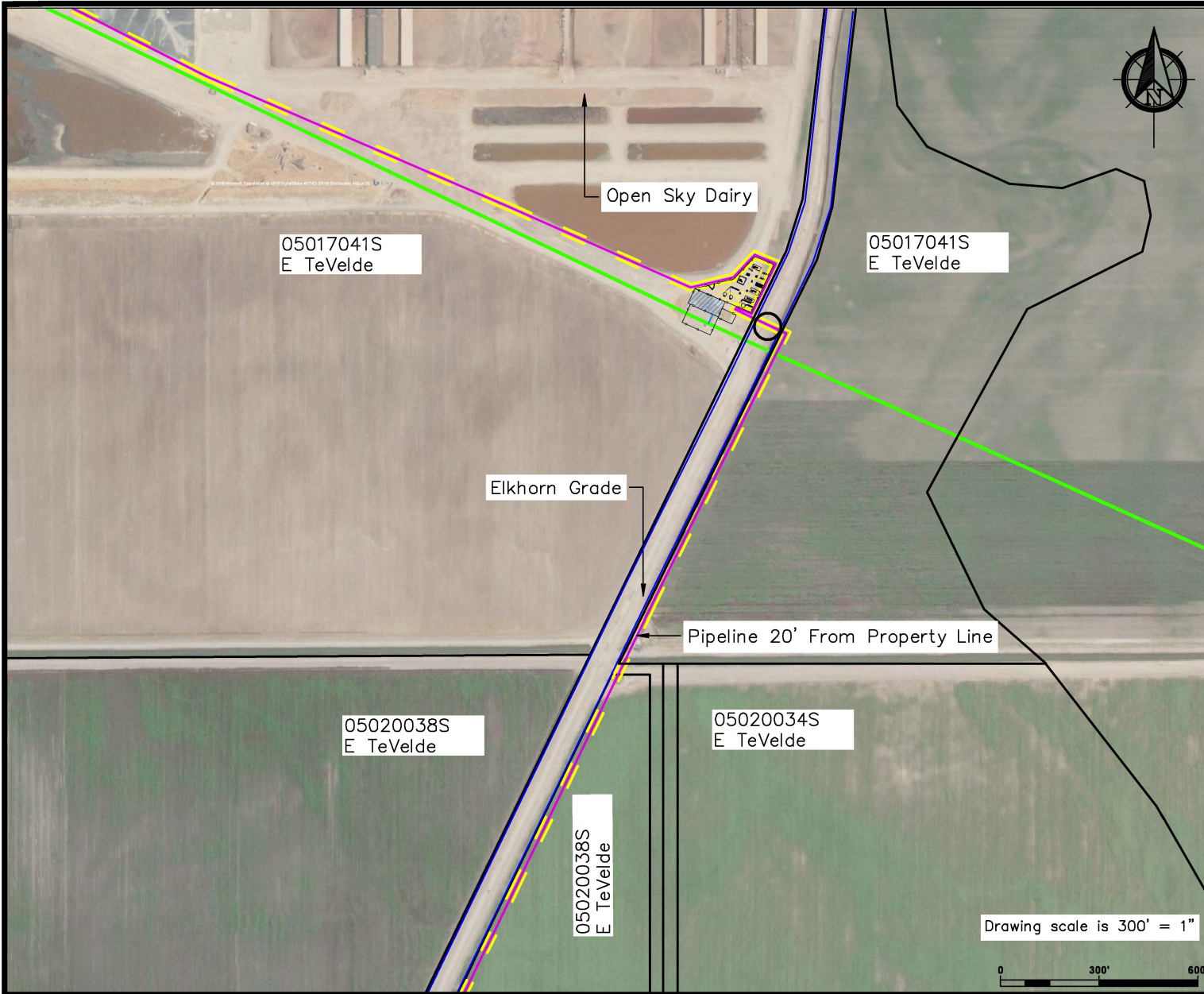
2.2

Drawn By

HD, SR, SG

Drawing scale is 300' = 1"

Pipeline Detail Map - Attachment FP-2



General Notes

**Confidential and Not for Construction**

Drawing #8  
See Attachment 6.2 and 6.3 for Cleanup and Injection details.

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way

All pipes are in private easement with the exception of crossings shown.

Proposed pipeline is 20' or more from ROW.

Elkhorn Grade, 80' County Right of Way.

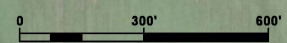
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Redding, CA, 96002

Project Name and Address  
Five Points Cluster Pipeline Map  
Fresno County, CA

Date	1/23/19	Version	2.2
Drawn By	HD, SR, SG		

Drawing scale is 300' = 1"



Pipeline Detail Map - Attachment FP-2



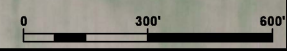
General Notes	
Confidential and Not for Construction	
Drawing #9	
Parcel Boundaries	
HDPE SDR 21, 6", 11 PSI	
HDPE SDR 21, 4", 13 PSI	
Approximate County Right of Way	
PG&E Transmission Line	
20' Pipeline Easement	
Pipeline Crosses Right of Way	
All pipes are in private easement with the exception of crossings shown.	
Proposed pipeline is 20' or more from ROW.	
Elkhorn Grade, 80' County Right of Way.	



**Firm Address**  
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 Redding, CA, 96002

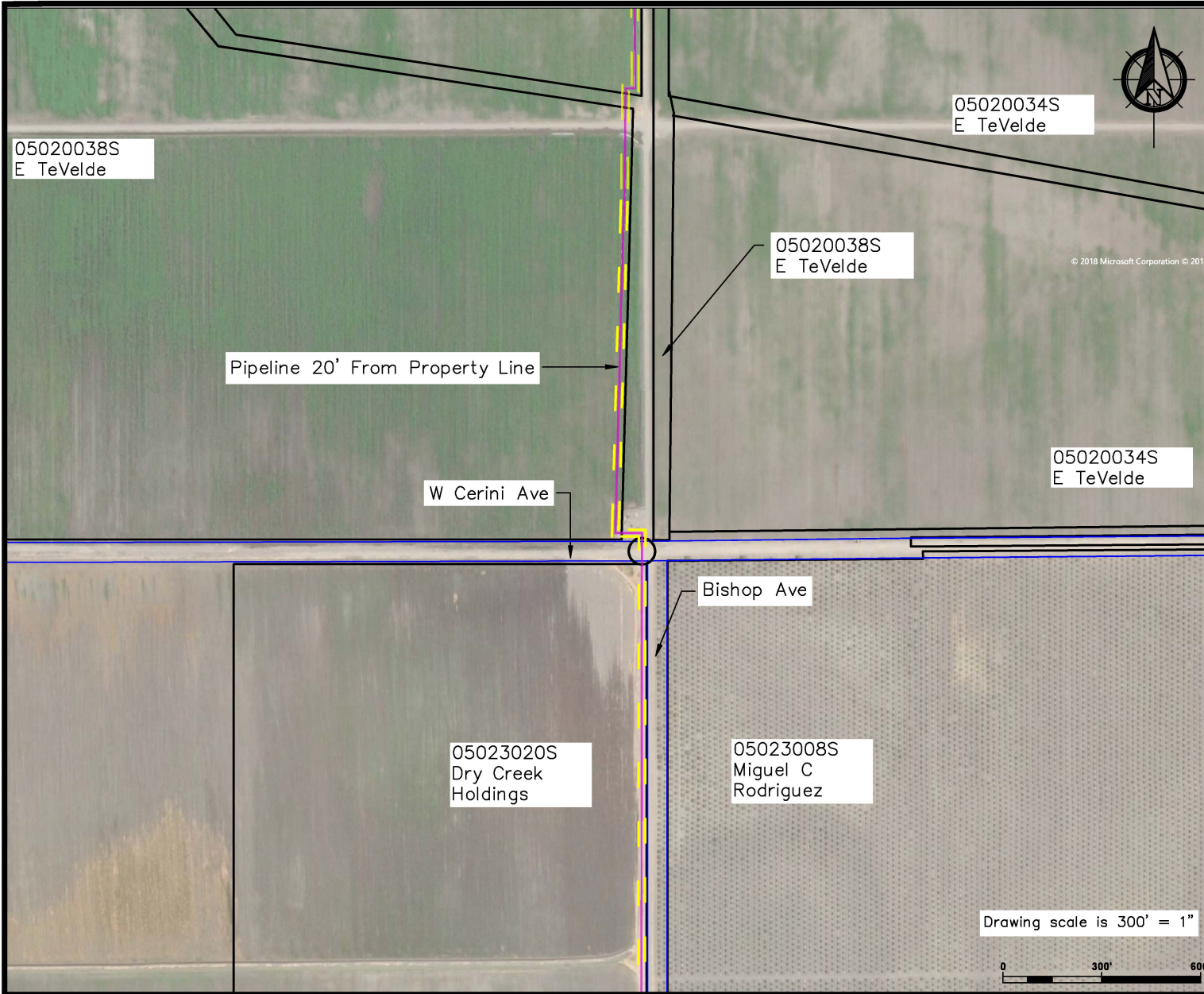
**Project Name and Address**  
 Five Points Cluster Pipeline Map  
 Fresno County, CA

Drawing scale is 300' = 1"



Date	1/16/19	Version	2.2
Drawn By	HD, SR, SG		

Pipeline Detail Map - Attachment FP-2



General Notes

Confidential and Not for Construction

Drawing #10

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way

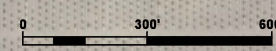
- 
- All pipes are in private easement with the exception of crossings shown.
- Proposed pipeline is 20' or more from ROW.
- Bishop Ave, 60' County Right of Way.
- W Cerini Ave, 60' County Right of Way.



Firm Address  
3711 Meadow View Dr.  
Suite 100  
Redding, CA, 96002

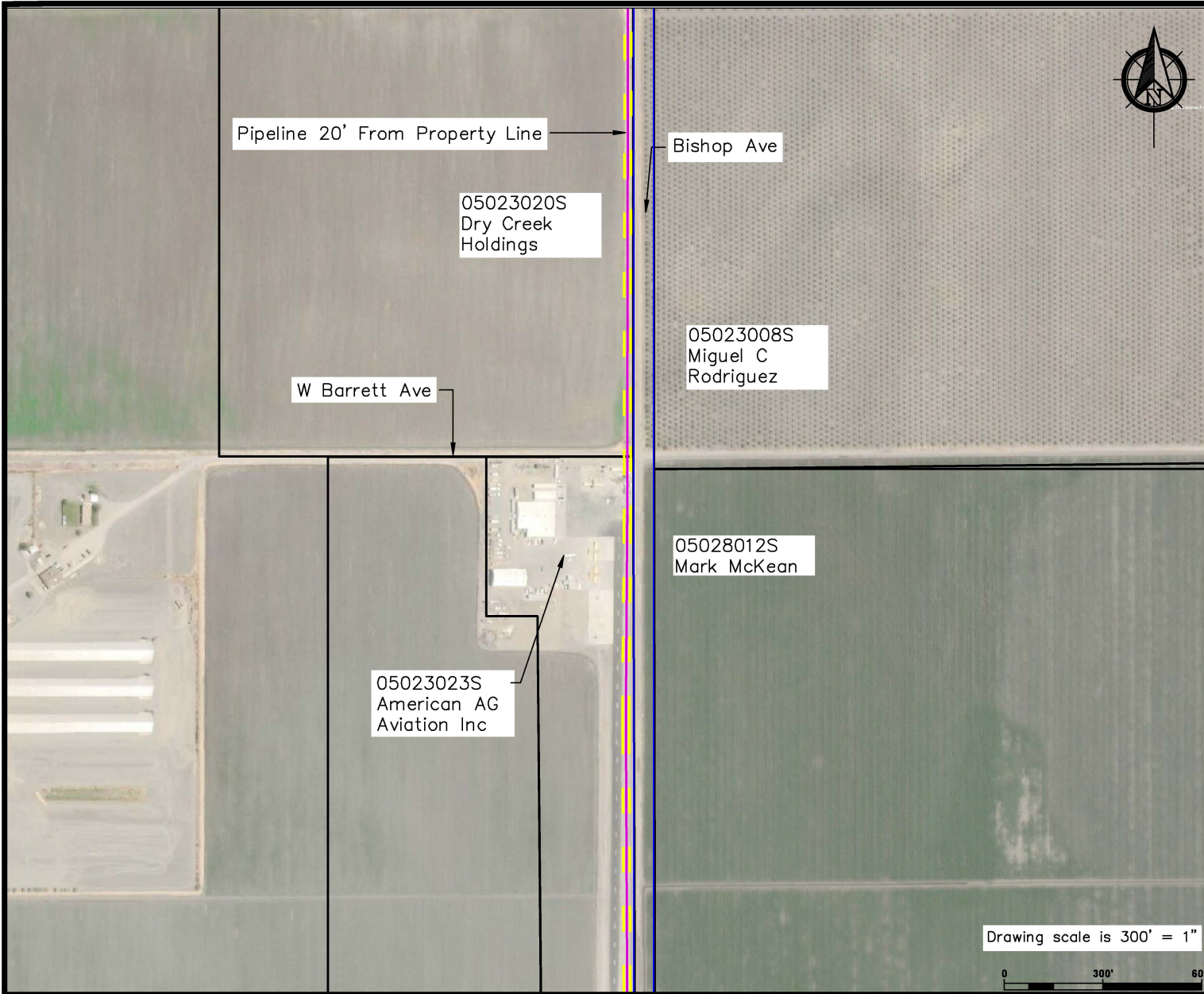
Project Name and Address  
Five Points Cluster Pipeline Map  
Fresno County, CA

Drawing scale is 300' = 1"



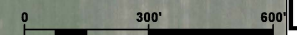
Date 1/16/19	Version 2.2
Drawn By HD, SR, SG	

Pipeline Detail Map - Attachment FP-2











General Notes	
Confidential and Not for Construction	
Drawing #11	
Parcel Boundaries	
HDPE SDR 21, 6", 11 PSI	
HDPE SDR 21, 4", 13 PSI	
Approximate County Right of Way	
PG&E Transmission Line	
20' Pipeline Easement	
Pipeline Crosses Right of Way	
○	
All pipes are in private easement with the exception of crossings shown.	
Proposed pipeline is 20' or more from ROW.	
Bishop Ave, 60' County Right of Way.	
<b>Firm Address</b> 3711 Meadow View Dr. Suite 100 Redding, CA, 96002	
<b>Project Name and Address</b> Five Points Cluster Pipeline Map Fresno County, CA	
Date	Version
1/16/19	2.2
Drawn By	HD, SR, SG

Drawing scale is 300' = 1"

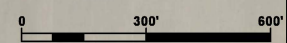


Pipeline Detail Map - Attachment FP-2



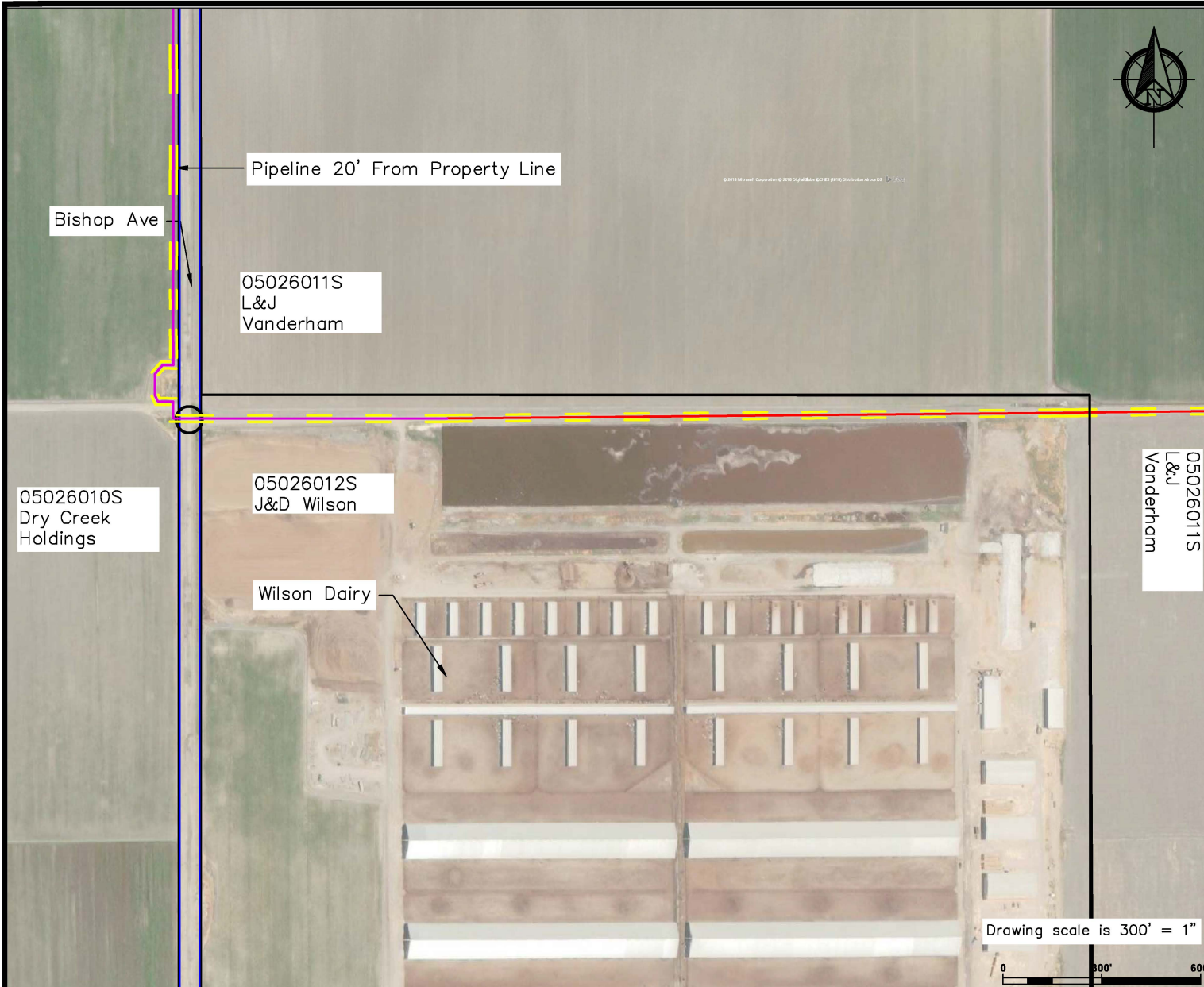
General Notes	
Confidential and Not for Construction	
Drawing #12	
Parcel Boundaries	
	
HDPE SDR 21, 6", 11 PSI	
	
HDPE SDR 21, 4", 13 PSI	
	
Approximate County Right of Way	
	
PG&E Transmission Line	
	
20' Pipeline Easement	
	
Pipeline Crosses Right of Way	
	
<ul style="list-style-type: none"> <li>-All pipes are in private easement with the exception of crossings shown.</li> <li>-Proposed pipeline is 20' or more from ROW.</li> <li>-Bishop Ave, 60' County Right of Way.</li> <li>-W Harlan Ave, 60' County Right of Way.</li> </ul>	
	
Firm Address	
3711 Meadow View Dr. Suite 100 Redding, CA, 96002	
Project Name and Address	
Five Points Cluster Pipeline Map Fresno County, CA	
Date	Version
1/16/19	2.2
Drawn By	
HD, SR, SG	

Drawing scale is 300' = 1"



Pipeline Detail Map - Attachment FP-2





General Notes

Confidential and Not for Construction

Drawing #13

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way

All pipes are in private easement with the exception of crossings shown.

Proposed pipeline is 20' or more from ROW.

Bishop Ave, 60' County Right of Way.

05026011S  
L&J  
Vanderham

05026012S  
J&D  
Wilson

05026010S  
Dry Creek  
Holdings

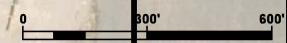


Firm Address  
3711 Meadow View Dr.  
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Redding, CA, 96002

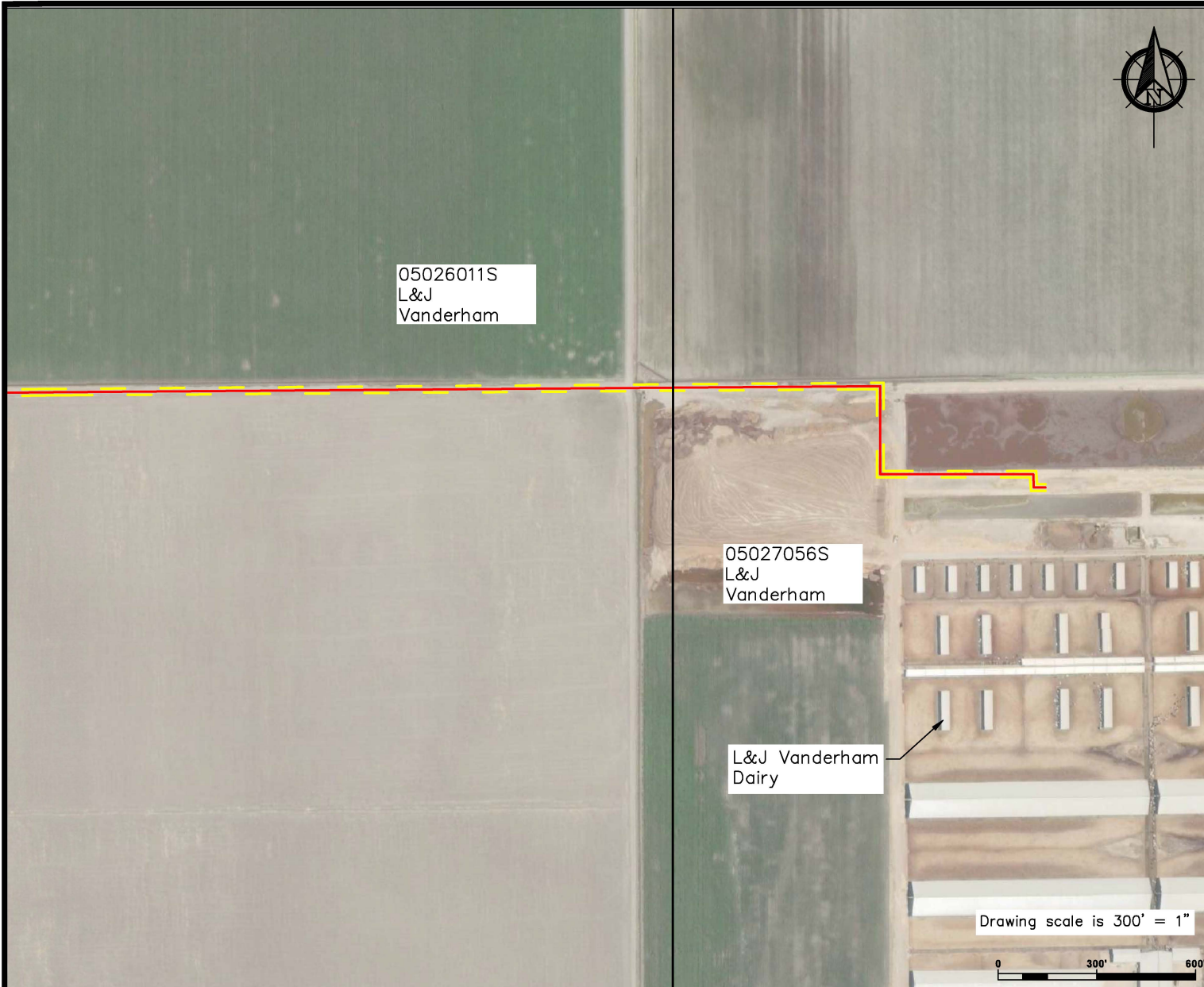
Project Name and Address  
Five Points Cluster Pipeline Map  
Fresno County, CA

Date	1/23/19	Version	2.2
Drawn By	HD, SR, SG		

Drawing scale is 300' = 1"



Pipeline Detail Map - Attachment FP-2

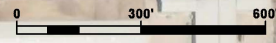


05026011S  
L&J  
Vanderham

05027056S  
L&J  
Vanderham

L&J Vanderham  
Dairy

Drawing scale is 300' = 1"



General Notes

Confidential and Not for Construction

Drawing #14

Parcel Boundaries

HDPE SDR 21, 6", 11 PSI

HDPE SDR 21, 4", 13 PSI

Approximate County Right of Way

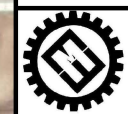
PG&E Transmission Line

20' Pipeline Easement

Pipeline Crosses Right of Way



All pipes are in private easement with the exception of crossings shown.



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ENERGY WORKS

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Project Name and Address

Five Points Cluster Pipeline Map  
Fresno County, CA

Date

1/23/19

Version

2.2

Drawn By

HD, SR, SG



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## EVALUATION OF ENVIRONMENTAL IMPACTS

- APPLICANT:** Five Points Pipeline, LLC
- APPLICATION NOS.:** Initial Study Application No. 7608 and Unclassified Conditional Use Permit Application Nos. 3642, 3643, 3644, 3645, 3646, and 3647.
- DESCRIPTION:** This project proposes to allow the installation of four new covered lagoon, anaerobic dairy digesters with related biogas conditioning equipment and biogas generators to produce electricity on four existing dairies; the installation of biogas conditioning equipment at a fifth dairy with an existing digester and generator; the construction of an approximately 10.5 mile underground pipeline to connect the participating dairies and allow produced biomethane to be transported to a centralized hub, where a biogas upgrading facility will be constructed to clean and condense the biogas before it is injected into the PG&E natural gas transmission line.
- LOCATION:** The project is bounded by the unincorporated communities of Five Points to the southwest, Helm to the north, Burrell to the northeast, and Lanare to the east and southeast; State Route 145 (Madera Avenue) on the west, Mount Whitney Avenue on the south, Jameson Avenue on the east, and Kamm Avenue on the north within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts. (SUP. DIST. 1 and 4 ) (Dairies: APN Nos. 040-130-51S; 050-160-16S; 050-270-56S; 050-170-41S; 050-260-12S; 040-130-35S) (Pipeline APN Nos. 040-130-51S, 49, 44S, 48S; 041-100-17, 45S; 050-160-13S, 16S; 050-200-38S; 050-230-20; 050-260-10S; 050-230-23S; 050-260-12S, 11S; 050-270-56S; 040-130-35S).

### I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- A. Have a substantial adverse effect on a scenic vista?

FINDING: NO IMPACT:

The project is located in an agricultural area and is not near any scenic vistas. The proposed project involves the installation of a 10.5 mile underground gas pipeline to connect 5 existing dairies, which will introduce biomethane to the pipeline, to be collected at a central hub where the biogas will be conditioned to meet commercial standards before it is injected into Pacific Gas and Electric's (PG&E) main natural gas line, which traverses the central hub site. The project area encompasses portions of 17 parcels, consisting of the five participating dairies, and an additional 12 parcels to be traversed by the proposed pipeline. This area is characterized by large farming parcels and open space. The project will not add any structures that would obstruct any views from neighboring properties or from adjacent roadways. Project construction will be limited to the proposed underground pipeline and the installation of new gas conditioning equipment at the existing dairy sites. Therefore, the project will have no impact on scenic vistas.

- B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

FINDING: NO IMPACT:

No scenic resources, including trees, rock outcroppings, or historic buildings were identified in the analysis or by any reviewing agencies. One of the dairy sites is located approximately one third-mile east of State Route 145 (South Lassen Avenue), which is not a Scenic Highway per the Fresno County General Plan, Figure OS-2.

- C. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage points.) If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

FINDING: NO IMPACT:

The project area is entirely located in a rural area characterized by large-scale agricultural operations. As previously stated, the project does not entail the addition of any structures that would negatively impact viewsheds from surrounding properties or public roadways, or substantially degrade the visual character or quality of public views of any of the project sites. The proposed improvements are consistent with the existing dairy operations.

- D. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The proposed project will not introduce substantial, new sources of light or glare. The proposed facilities will utilize outdoor security lighting and all lighting will be required to be hooded and directed downward so as not to shine on adjacent properties or roadways.

\* **Mitigation Measure(s)**

1. *All outdoor lighting shall be hooded and directed so as not to shine toward adjacent properties and public streets.*

## II. AGRICULTURAL AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology in Forest Protocols adopted by the California Air Resources Board. Would the project:

- A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Farmland on the subject parcels has been classified as a mixture of farmland of statewide importance and confined animal agriculture. The confined animal designation is limited to the area where the dairy cows are housed and the new improvements will be located in the area of the existing dairies where the land has been designated for confined animal agriculture. The proposed pipeline will transverse farmland of statewide importance, but will be located at least four feet below the surface of the farming operation, and will not hinder agricultural operations. The new improvements will be supportive of dairy operations.

- B. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The parcels involved with the proposed project are restricted by Williamson Act Contracts, and due the commercial nature of gas and electrical exportation to gas pipelines and the electrical grid, the areas of each dairy where the digesters and supporting equipment are located will be required to non-renew the existing contracts on those portions of the property. The amount of land that will be non-renewed does

not represent a significant reduction in land restricted by Williamson Act Contracts and will not result in the reduction of agricultural products.

- C. Conflict with existing zoning for forest land, timberland or timberland zoned Timberland Production; or
- D. Result in the loss of forest land or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

The project is not located near any land that is used or zoned for Timberland Production. Therefore, there are no conflicts with, or loss of, timberland or forest land as a result of this project. All of the land involved is zoned Agricultural and limited to uses allowed in such zone districts.

- E. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use or conversion of forest land to non-forest use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project entails the installation of new dairy digesters at four existing dairy sites along with ancillary equipment; the addition of ancillary equipment at a fifth dairy site with an existing digester; construction of an approximately 10.5 mile underground pipeline connecting the five dairies to one central hub; and allowing biomethane produced at each participating dairy to be collected and transported via the pipeline, to the central hub, located on the Open Sky Dairy which is centrally located to the other dairies. From the central hub, the collected biogas will be conditioned to commercial natural gas standards before being injected into the adjacent PG&E main natural gas pipeline.

The portions of the parcels where the digesters and ancillary equipment will be located have been submitted for non-renewal of the associated Williamson Act Contracts. The conflict with the Williamson Act is primarily due to the commercial nature of the operation, which proposes to generate gas and electricity for sale to PG&E. The continued dairy operations on these parcels is necessary to feed the digesters. Therefore, approval of this project will not result in the conversion of farmland to non-agricultural uses.

As noted above, the project is not located in the vicinity of forestland and therefore, will have no impacts on the conversion of forestland to non-forest uses.

### III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

A. Conflict with or obstruct implementation of the applicable Air Quality Plan?

FINDING: LESS THAN SIGNIFICANT IMPACT:

This project proposal was reviewed by the San Joaquin Valley Air Pollution Control District (SJVAPCD). The District recommended that the evaluation of this proposal include estimates of construction, operation, mobile and stationary emissions sources, and the project's proximity to sensitive receptors and other existing emission sources, and that District established thresholds of significance for criteria pollutants be considered in the evaluation. The District also recommended that Operational Emissions (stationary sources) and non-permitted (mobile sources) be evaluated separately, and that project related criteria pollutant emissions from construction and operation should be identified and quantified.

The applicant provided an air quality impact and greenhouse gas analysis, completed by Insight Environmental/Trinity Consultants, dated May 2019. According to the analysis, the proposed project's construction and operations would contribute the following criteria pollutant emissions: reactive organic gases (ROG), carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), and suspended particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>). Project operations would generate air pollutant emissions from mobile sources (automobile activity from employees) and area sources (incidental activities related to facility maintenance). Criteria and GHG emissions were estimated using the California Emissions Estimator Model (CalEEMod) version 2016.3.2 (California Air Pollution Control Officers Association (CAPCOA) 2017), which is the most current version of the model approved for use by the San Joaquin Valley Air Pollution Control District (SJVAPCD).

Based on the air quality impact analysis, the short-term construction emissions would not exceed Air District significance thresholds for criteria pollutant levels during a given year and impacts would therefore, be less than significant. Project operational emissions are not anticipated to be a substantial source of PM<sub>10</sub> emissions, but rather the main sources of PM<sub>10</sub> would be vehicular traffic associated with the project. Transportation related activities from employees and maintenance would generate mobile source ROG, NO<sub>x</sub>, SO<sub>x</sub>, CO, PM<sub>10</sub>, PM<sub>2.5</sub> from vehicle exhaust.

Stationary source emissions from the project are anticipated to consist of VOC emissions from the biogas upgrade process and ROG, No<sub>x</sub>, SO<sub>x</sub>, CO, PM<sub>10</sub> and PM<sub>2.5</sub> exhaust emissions from the combustion of the biogas to generate electrical power.

Air pollution associated with stationary sources is regulated through the permitting authority of the SJVAPCD under the New and Modified Stationary Source Review Rule (SJVAPCD Rule 2201). Owners of any new or modified equipment that emits, reduces, or controls air contaminants, except those specifically exempted by the SJVAPCD, are required to apply for an Authority to Construct and Permit to Operate (SJVAPCD Rule 2010). Additionally, best available control technology (BACT) is required on specific

types of stationary equipment and are required to offset both stationary source emission increases along with increases in cargo carrier emissions if the specified threshold levels are exceeded (SJVAPCD Rule 2201, 4.7.1). Through this mechanism, the SJVAPCD would require that all stationary sources within the project area would be subject to the standards of the SJVAPCD to ensure that new developments do not result in net increases in stationary sources of criteria air pollutants.

With adherence to the rules and requirements of the SJVAPCD, the estimated construction and operational emissions from the proposed project will be less than significant.

- B. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project area is located in the San Joaquin Valley Air Basin (SJVAB), which is included among the eight counties that comprise the SJVAPCD. Under the provisions of the U.S. Clean Air Act, the Fresno County portion of the SJVAB has been classified as nonattainment/extreme, nonattainment/severe, nonattainment, attainment/unclassified, attainment for various criteria pollutants. As shown in the analysis by Insight Environmental Consultants, the project does not pose a substantial increase to basin emissions. Because the proposed project would generate less than significant project-related operational impacts to criteria air pollutants, the project's contribution to cumulative air quality impacts would not be cumulatively considerable.

- C. Expose sensitive receptors to substantial pollutant concentrations; or
- D. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Dairies are known to release objectionable odors, primarily due to animal waste from the milking cows. The project proposes to install covered digesters, which will process manure. The manure will be anaerobically activated to release methane, which will then be piped through a gas collection system to a central hub to generate renewable energy. The capture of methane gas is anticipated to remove adverse odors from the air as compared to the baseline.

Lead Agencies should consider situations wherein a new or modified source of hazardous air pollutants (HAPs) is proposed for a location near an existing residential area or other sensitive receptor when evaluating potential impacts related to HAPs. Typical sources of HAPs include diesel trucks or permitted sources such as engines, boilers, or storage tanks. The project will be located near scattered rural residences on large agricultural parcels. Since there will be HAPs emitted from the project and



occasional diesel truck travel on-site, a prioritization score was determined for the facility to determine if a health risk assessment (HRA) would be required. A Health Risk Assessment (HRA) is not required for a project with a total facility prioritization score of less than or equal to one. The project's prioritization score was 0.04, which is less than one. Therefore, no further analysis is required to determine the HAPs impacts from this project and potential risk to the population attributable to emissions of HAPs from the proposed project would be less than significant.

According to the analysis, the proposed project would not exceed any screening trigger levels to be considered a source of objectionable odors or odorous compounds. Furthermore, there does not appear to be any significant source of objectionable odors in close proximity that may adversely impact the project site when it is in operation. The project emission estimates indicate that the proposed project would not be expected to adversely impact surrounding receptors. As such, the project would not be a source of any odorous compounds nor would it likely be impacted by any odorous source.

Development in this area is dominated by large parcels of agricultural production with very limited residential development. Due to the anticipated reduction in objectionable odors and the distance between the closest residences and the project site, this project will not expose sensitive receptors to substantial pollutant concentrations and will not create objectionable odors affecting a substantial number of people.

#### IV. BIOLOGICAL RESOURCES

Would the project:

- A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

**FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:**

A Biological Analysis Report (BAR), dated April 2019, was prepared for the project by the applicant's consultant, Quad Knopf, Inc. (QK). Reviews of agency-maintained databases were conducted to determine the potential presence of sensitive biological resources and special-status species. The results of the database and literature review indicate that eight (8) special-status species have the potential to occur within the vicinity of the project. Those species are the Swainson's hawk (*Buteo swainsoni*), western burrowing owl (*Athene cunicularia*), yellow-headed blackbird (*Xanthocephalus xanthocephalus*), loggerhead shrike (*Lanus ludovicianus*), tricolored blackbird (*Agelaius tricolor*), American badger (*Taxidea taxus*), San Joaquin kit fox (*Vulpes macrotis mutica*), and long-billed curlew (*Numenius americanus*).

A reconnaissance level field survey was conducted to identify sensitive biological resources on site and to document the suitability of the habitat on the project to support special-status species. No sensitive natural plant communities occur on the project sites. No special-status plant species were observed on the project sites. Swainson's hawk, loggerhead shrike, and long-billed curlew were observed near the site. No other special-status animal species were observed on site.

The project sites are highly disturbed and currently mostly cleared of vegetation. The pipeline route will run through private agricultural land. The presence of special-status species on these sites prior to ground disturbance cannot be positively determined. Reviews of the databases and on-site field examinations indicated that there are five defined waters or wetlands on or near the project sites. There are no designated migratory corridors or linkages, significant nursery sites, or designated Critical Habitat that occur on the project site.

A reconnaissance-level site survey was conducted on April 6, 2019 by QK. The survey consisted of meandering pedestrian transects with supplemental windshield survey of the Biological Study Area (BSA). Adjacent parcels were visually scanned for potential special-status resources and habitat conditions that could support special-status resources. The BSA supports a variety of bird, and mammal species. Various wildlife sign (i.e. scat, tracks, burrows etc.) were detected on all five sites. Wildlife sign detected included common bird species, two stick nests that could potentially be used by raptors, and numerous small mammal burrows. Twelve animal species or their sign were observed within the BSA. The project contained a few small mammal burrows scattered throughout the BSA.

Within the BSA, suitable San Joaquin kit fox habitat is not present; however, the pipeline route, specifically along the agriculture irrigation canals, may be used by the species while foraging or traveling through the area. The surrounding area near the pipeline route and dairy digester sites may provide suitable habitat for the species. There are multiple records of this species occurring near the BSA, but there is no positive evidence that the San Joaquin kit fox is present in the BSA.

Suitable foraging Swainson's hawk habitat is present in the agricultural fields surrounding the site. A Swainson's hawk was observed approximately 0.2-miles north, outside of the project area and east of the Van der Kooi Dairy. Suitable nesting habitat is found near the intersection of W. Elkhorn Avenue and S. Howard Avenue and along the Fresno Slough, but no nesting Swainson's hawks were found in the BSA during the reconnaissance survey.

Within the BSA, suitable foraging habitat for tricolored blackbird is present, but no nesting habitat is present. Suitable foraging loggerhead shrike habitat is present in the agricultural fields. Suitable nesting habitat is unlikely to be present within the BSA, but it may be present in the surrounding area. Trees with dense foliage that have the potential to house nests for this species occur in areas surrounding the BSA. Also, suitable foraging habitat for yellow-headed blackbird is present, but no nesting habitat is

present within the BSA. Suitable foraging and nesting long-billed curlew habitat is present. They typically nest in areas that are relatively dry and exposed. The nests are built near conspicuous objects such as livestock dung piles, rocks, or dirt mounds.

Within the project area, suitable badger habitat is not present, but the pipeline route, specifically along the irrigation canals, may be used by this species while foraging or traveling through the area.

Due to the high level of disturbance within the project footprint, lack of potential suitable areas for special-status plant species on the project site, and lack of potential for special status plants to exist on the site, no avoidance or minimization measures for special-status plant species are warranted.

~~The lack of special-status species within the localized project impact area and the short duration of activities, coupled with implementation of avoidance and minimization mitigation measures will be sufficient to reduce impacts of the projects to special-status wildlife species to level that would be less than significant.~~

**The California Department of Fish and Wildlife (CDFW) commented that Tricolored Blackbird (TRBL) are known to occur in the Project area. Flood-irrigated agricultural land, including silage fields associated with ~airies, is an increasingly important nesting habitat type for TRBL, particularly in the San Joaquin Valley (Meese et al. 2014 ). This potential nesting substrate is distributed throughout the Project area. TRBL aggregate and nest colonially, forming colonies of up to 100,000 nests (Meese et al. 2014 ). Approximately 86% of the global population of the species is found in the San Joaquin Valley (Kelsey 2008, Weintraub et al. 2016). Increasingly, TRBL are forming larger colonies that contain progressively larger proportions of the species' total population (Kelsey 2008). In 2008, for example, 55% of the species' global population nested in only two colonies, which were located in silage fields (Kelsey 2008). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961 ). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Meese et al. 2014 ). CDFW recommends the following mitigation measures to ensure that the TRBL is not impacted by the project.**

\* **Mitigation Measure(s)**

1. ***To mitigate impacts to the tricolored blackbird (TRBL), the following measures shall be implemented:***

***Construction shall be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting TRBL, within a minimum 500-foot buffer from the Project site, no more than 10-days prior to the start of implementation***

**to evaluate presence/absence of TRB nesting colonies in proximity to Project activities and to evaluate potential Project-related impacts.**

**If an active TRBL nesting colony is found during preconstruction surveys, CDFW recommends implementation of a minimum 300-foot no-disturbance buffer in accordance with CDFW's "Staff Guidance Regarding Avoidance of Impacts to Tricolored Blackbird Breeding Colonies on Agricultural Fields in 2015" (CDFW 2015). CDFW advises that this buffer remain in place until the breeding season has ended or until a qualified biologist has determined that nesting has ceased, the birds have fledged, and are no longer reliant upon the colony or parental care for survival. It is important to note that TRBL colonies can expand over time and for this reason the colony should be reassessed to determine the extent of the breeding colony before conducting construction activities.**

**In the event that a TRBL nesting colony is detected during surveys, consultation with CDFW is warranted to discuss how to implement the project and avoid take, or if avoidance is not feasible, to acquire an ITP, pursuant to Fish and Game Code Section 2081 (b), prior to any ground-disturbing activities**

~~—Pre-activity Surveys for Special Status Species. No less than 14 days prior to the start of project ground disturbance activities in any specific area, a pre-activity clearance survey should be conducted by a qualified biologist knowledgeable in the identification of listed species. The surveys should cover the project site plus a 250-foot buffer. Pedestrian surveys achieving 100% visual coverage should be conducted. Multiple surveys are anticipated to be needed as each project site and the pipeline route is initiated. If no evidence of these species is detected, no further action is required.~~

**San Joaquin Kit Fox (SJKF) have the potential to occur on the Project site. Without appropriate avoidance and minimization measures for SJKF, potential significant impacts associated with the Project's construction include den collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, and direct mortality of individuals.**

- 2. Avoidance of Burrows for San Joaquin Kit Fox, and American Badger. If dens/burrows that could support any of these species are discovered during the pre-activity clearance surveys conducted under BIO-1, the avoidance buffers outlined below should be established. No work would occur within these buffers unless the biologist approves and monitors the activity. Dens or burrows of these species shall not be destroyed unless it is determined that the den/burrow is not occupied. In no case shall a San Joaquin kit fox natal den or known den be destroyed without the concurrence of the USFWS and CDFW and appropriate artificial den replacements are provided.*

*San Joaquin Kit Fox*

- *Potential Den – 50-feet*
- *Atypical Den – 50-feet (includes pipes and other man-made structures)*
- *Known Den – 100-feet*
- *Natal/Pupping Den – 500-feet*

*American Badger*

- *Known Den — 100-feet*

***The applicants shall assess presence/absence of SJKF by conducting surveys following the USFWS (2011) "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance." Specifically, CDFW advises conducting these surveys in all areas of potentially suitable habitat no less than 14-days and no more than 30-days prior to beginning of ground disturbing activities.***

***SJKF detection warrants consultation with CDFW to discuss how to implement the Project and avoid take, or if avoidance is not feasible, to acquire an Incidental Take Permit (ITP), pursuant to Fish and Game Code Section 2081(b).***

3. *Standard Avoidance and Minimization Measures for the San Joaquin kit fox and American badger. The following standard avoidance and minimization measures are recommended to be implemented:*
  - *Construction-related vehicles should observe a daytime speed limit of 20-mph throughout the site in all project areas, except on County and City roads and State and Federal highways; this is particularly important at night when kit foxes are most active. Night-time construction should be minimized to the extent possible. However, if night construction activities do occur, then the speed limit should be reduced to 10-mph. Off-road traffic outside of designated project areas should be prohibited.*
  - *To prevent inadvertent entrapment of kit foxes or other wildlife during the construction phase of the project, all excavated, steep-walled holes or trenches more than 2-feet deep should be covered at the close of each working day by plywood or similar materials. If the trenches cannot be closed, one or more escape ramps constructed of earthen-fill or wooden planks should be installed. Before such holes or trenches are filled, they should be thoroughly examined for trapped animals. If at any time a trapped or injured kit fox is discovered, the USFWS and the CDFW should be contacted as noted below.*
  - *Kit foxes are attracted to den-like structures such as pipes and may enter stored pipes and become trapped or injured. All construction pipes, culverts, or similar structures with a diameter of 4-inches or greater that are stored at a construction site for one or more overnight periods should be thoroughly inspected for kit foxes before the pipe is subsequently*

*buried, capped, or otherwise used or moved in any way. If a kit fox is discovered inside a pipe, that section of pipe should not be moved until the USFWS has been consulted. If necessary, and under the direct supervision of the biologist, the pipe may be moved only once to remove it from the path of construction activity, until the fox has escaped.*

- *All food-related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in securely closed containers and removed at least once a week from a construction or project site.*
- *No pets, such as dogs or cats, should be permitted on the project site to prevent harassment, mortality of kit foxes, or destruction of dens.*
- *Use of rodenticides and herbicides in project areas should be restricted. This is necessary to prevent primary or secondary poisoning of special-status species and the depletion of prey populations on which they depend. All uses of such compounds should observe label and other restrictions mandated by the U.S. Environmental Protection Agency, California Department of Food and Agriculture, and other State and federal legislation, as well as additional project-related restrictions deemed necessary by the USFWS. If rodent control must be conducted, zinc phosphide should be used because of a proven lower risk to kit fox.*
- *A representative should be appointed by the project proponent who will be the contact source for any employee or contractor who might inadvertently kill or injure a special-status species or who finds a dead, injured, or entrapped special-status species. The representative will be identified during the employee education program and their name and telephone number should be provided to the USFWS.*
- *In the case of trapped animals, escape ramps or structures should be installed immediately to allow the animal(s) to escape, or the USFWS should be contacted for guidance.*
- *Any person who is responsible for inadvertently killing or injuring a special-status animal species should immediately report the incident to their representative. This representative should contact the CDFW immediately in the case of a dead, injured, or entrapped special-status species. The CDFW contact for immediate assistance is State Dispatch at 916-445-0045. They will contact the local warden or wildlife biologist. The USFWS should be contacted at the number below.*
- *The region 8 Sacramento Fish and Wildlife Office and Region 4 CDFW should be notified in writing within three working days of the accidental death or injury to a kit fox during project related activities. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal and any other pertinent information. The USFWS*

*contact is the Chief of the Division of Endangered Species, at the addresses and telephone numbers below.*

*U.S. Fish and Wildlife Service  
Region 8 – California and Nevada  
2800 Cottage Way  
Sacramento, CA 95825  
Contact: Tim Ludwick  
Phone: 916-414-6464*

- *New sightings of kit fox should be reported to the CNDDDB. A copy of the reporting form and a topographic map clearly marked with the location of where the kit fox was observed should also be provided to the appropriate wildlife agencies.*
4. *Den Avoidance. In the event that a potential den that may be suitable for American badger, San Joaquin, or burrowing owl is detected during pre-activity clearance surveys, the biologist should monitor the den using cameras and tracking medium for five days to determine if the den is occupied by a special-status species. If after five (5) days no activity is detected, then the den can be backfilled. Construction personnel may collapse the den only under the direct supervision of the biologist. If a special-status species is detected using the den, the den must be avoided until the animal leaves on its own. A minimum 100-foot buffer should be constructed using orange construction fencing around the den during the nonbreeding season (April to November). During the breeding season (December to March), the buffer should be extended to 250 feet. Consultation with the USFWS and/or CDFW will be required prior to collapsing dens known to be occupied by kit foxes. If authorized by the CDFW, passive relocation of wildlife may be accomplished using one-way doors to exclude wildlife from dens. An exclusion plan approved by CDFW would be required prior to the installation of one-way doors.*
  5. *If project activities are planned to start during the migratory bird nesting season, February 1 to September 15, a pre-activity nesting bird survey should be conducted within seven (7) days of the start of these activities. These surveys should be phased with construction of the project. If active nests are detected during the survey, or at any time during construction of the project, an avoidance buffer will be established by a qualified biologist based on the species and the activities that are underway. For raptor species (except Swainson's hawk), the avoidance will typically be 500 feet. For non-raptor species, the buffer will be 250-feet. Note that some bird species are known to nest on human structures, including construction equipment. Construction personnel should be educated about this possibility as part of the employee education program. ~~included under measure BIO-7~~*

**Without appropriate avoidance and minimization measures for. SWHA, potential significant impacts associated with the Project's construction include: nest**

abandonment, reduced reproductive success, and reduced health and vigor of eggs and/or young.

Trees within ½-mile of the Project area represent some of the only remaining suitable nesting habitat in the vicinity, which is otherwise intensively managed for agriculture. In addition, the Project area includes low growing crops, which may provide foraging habitat for SWHA. The presence of these two requisite habitat features increases the likelihood of occurrence of SWHA. The primary threat to SWHA in California is loss of foraging and nesting habitat resulting from urban development and incompatible agriculture (CDFW 2016). Depending on timing, ground-disturbing activities that have the potential to result from the Project including noise, vibration, and movement of workers or equipment, could affect SWHA nests and have the potential to result in nest abandonment, potentially significantly impacting local nesting SWHA.

**6. *To mitigate impacts to the Swainson's Hawk (SWHA), the following measures shall be implemented:***

***Construction be timed to avoid the normal bird breeding season (February 1 through September 15). However, if construction must take place during that time, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting raptors following the survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) prior to project initiation. In addition, CDFW recommends that a qualified biologist conduct additional pre-construction surveys for active nests no more than 10-days prior to the start of construction.***

***If an active SWHA nest is found during pre-construction surveys, CDFW recommends implementation of a minimum ½-mile no-disturbance buffer until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.***

***If the ½-mile no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of an ITP for SWHA is necessary prior to project implementation, pursuant to Fish and Game Code Section 2081(b) to comply with CESASwainson's Hawk Avoidance and Minimization.***

~~*If project activities are planned to start during the Swainson's hawk nesting season, March 20 to July 30, a pre-activity nesting bird survey should be conducted within seven (7) days of the start of these activities. These surveys should be phased with construction of the project site. A report of survey findings should be provided to the County to confirm compliance with this measure. If an active Swainson's hawk nest is present on-site, no work may occur within 0.5 mile of the nest without consultation with the CDFW.*~~



The Giant Garter Snake (GGS) has the potential to be present in or near Project sites. As documented in CNDDDB, GGS are known to occur in the Fresno Slough (CDFW 2019) and the species is known to occupy managed waterways, including those managed for agricultural irrigation (USFWS 2017). Potential significant impacts associated with Project construction include burrow excavation and collapse, inadvertent entrapment, and direct mortality of individuals.

***7. To mitigate impacts to the Giant Garter Snake (GGS), the following measures shall be implemented:***

***A qualified biologist shall conduct a habitat assessment well in advance of project implementation, to determine if the Project area or its vicinity contains suitable habitat for GGS.***

***No more than 30-days prior to ground-disturbing activities, a qualified biologist with GGS experience and knowledge of its ecology survey the work area and a minimum 50-foot radius of the work area for burrows and crevices in which GGS could be present. It is advised that all potentially suitable burrows and cervices be flagged and avoided by a minimum 50-foot no disturbance buffer. If a 50-foot radius buffer isn't feasible, consultation with CDFW is warranted to discuss how to implement the Project and avoid take.***

***If take cannot be avoided, acquisition of an ITP would be required prior to Project implementation to comply with CESA. Capture and relocation of any species listed under CESA would require an ITP from CDFW, as capture (or attempt to do so) is defined as take under Fish and Game Code Section 86.***

Burrowing Owl (BUOW) have been documented within the vicinity of the Project area. BUOW occupy treeless open areas that contain small mammal burrows (Zeiner et al. 1990). BUOW can also occupy burrows within the banks of earthen canals (Coulombe 1971 ). Review of aerial imagery indicates that the Project area contains both of these land cover types. The Project area likely also provides suitable foraging habitat for BUOW. The presence of these land cover types increases the likelihood of BUOW occurrence both on and within the vicinity of the Project area. Potentially significant direct impacts associated with the Project's construction include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

***8. To mitigate impacts to the Burrowing Owl (BUOW), the following measures shall be implemented:***

***The applicant shall assess presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl***

**Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). In addition, CDFW advises that surveys include a 500-foot buffer around the Project area.**

**Since BUOW occupy burrow habitat year-round, CDFW recommends seasonal no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities associated with Project implementation. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.**

**If BUOW are found to occupy the Project site and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1 :1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance of the Project site during Project activities, at a rate that is sufficient to detect BUOW if they return.**

9. *Worker Environmental Awareness Training.* Prior to the initiation of construction and for the duration of project construction and maintenance activities that could affect natural habitat, all new personnel should attend a Construction Personnel Environmental Awareness Training and Education Program. The program should be developed by a qualified biologist. Any employee responsible for the operation and maintenance (O&M) of the completed facilities should also attend the Construction Personnel Environmental Awareness Training and Education Program.
  - a. The program should include information on the life history of the burrowing owl, American badger, San Joaquin kit fox, Swainson's hawk, migratory birds and raptors, and special-status plant species that may be encountered during construction and operations and maintenance activities.
  - b. The program should discuss each species' legal protection, status, the definition of "take" under the Endangered Species Act, measures the project

*operator must implement to protect the species, reporting requirements, specific measures that each worker should employ to avoid take of wildlife species, and penalties for violation of the State and federal ESAs.*

*c. The program should provide information on how and where to bring injured animals for treatment in the case any animals are injured on the project site, and how to document animal mortalities and injuries.*

*d. An attendance form signed by each worker indicating that environmental training has been completed will be kept on record.*

- C. Have a substantial adverse effect on state or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Reviews of the National Wetlands Inventory (NWI; USFWS 2019b) and National Hydrography Dataset (USGS 2019) were completed to identify whether wetlands had previously been documented on or adjacent to the project site. There are five defined waters or wetlands on or near the project site.

The United States Army Corps of Engineers (USACE) has regulatory authority over the Clean Water Act (CWA), as provided for by the EPA. The USACE has established specific criteria for the determination of wetlands based upon the presence of wetland hydrology, hydric soils, and hydrophilic vegetation. There are no federally-protected wetlands or vernal pools that occur within the project site.

Wetlands, streams, reservoirs, sloughs, and ponds typically meet the criteria for federal jurisdiction under Section 404 of the CWA and State jurisdiction under the Porter-Cologne Water Quality Control Act. Streams and ponds typically meet the criteria for State jurisdiction under Section 1602 of the California Fish and Game Code. There are no features on the project site that would meet the criteria for either federal or State jurisdiction. No waters of the U.S., including wetlands, or waters of the State were observed on the project site. Therefore, the project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA. Accordingly, there are no wetlands or Waters of the U.S. occurring on the project site. There would be no impact to federally protected wetlands or waterways as a result of the proposed project. Therefore, impacts would be considered less than significant.

However, the gathering lines will cross several existing irrigation drainages or canals, as well as the Stinson Canal. Stinson Canal may be considered Waters of the US or Waters of the State. As proposed, the pipeline will be installed using either a jack and bore method or an open cut method to traverse the Stinson Canal. If the jack and bore method is used, there would be no disturbance of the drainage bed and bank, and therefore impacts would be considered less than significant. If the open cut method is used, as required by BIO-8, prior to the commencement of gathering pipeline

construction, a jurisdictional delineation of the Stinson Canal would be conducted by a qualified biologist to determine if the drainage was considered Waters of the US or Waters of the State, identify the bed and bank, and determine the amount of disturbance area that would be required. Applications for the appropriate permits such as a 401 water quality certification, a Section 404 permit or a Section 1602 permit would be obtained prior to any construction activities. Implementation of BIO-8 would reduce impacts to less than significant.

\* **Mitigation Measure(s)**

8. *Prior to the issuance of building permits, if Stinson Canal cannot be avoided, specific impacts on the features shall be quantified by an aquatic resources delineation prepared by a qualified biologist. A Central Valley Regional Water Quality Control Board Section 401 Water Quality Certification, a Section 404 ACOE permit and Section 1602 California Department of Fish and Wildlife Streambed Alteration Agreement shall be obtained, or confirmation received from these agencies that regulatory permits are not required.*
9. ***A formal stream mapping and wetland delineation shall be conducted by a qualified biologist to determine the location and extent of streams (including any floodplain) and wetlands within and adjacent to the Project area. Please note that, while there is overlap, State and Federal definitions of wetlands as well as what activities require Notification pursuant to Fish and Game Code Section 1602 differ.***

***Therefore, it is advised that the wetland delineation identify both State and Federal wetlands in the Project area as well as what activities may require Notification to comply with Fish and Game Code. Fish and Game Code Section 2785 (g) defines wetlands; further, Section 1600 et seq. applies to any area within the bed, channel, or bank of any river, stream, or lake. It is important to note that while accurate wetland delineations by qualified individuals have resulted in more rapid review and response from USACE and CDFW, substandard or inaccurate delineations have resulted in unnecessary time delays for applicants due to insufficient, incomplete, or conflicting data. CDFW advises that site map(s) designating wetlands as well as the location of any activities that may affect a lake or stream be included with any Project site evaluations.***

***Fish and Game Code Section 1600 et seq. requires an entity to notify CDFW prior to commencing any activity that may: (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information on Notification requirements, please contact our staff in the LSA Program at (559) 243-4593.***

- D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

FINDING: NO IMPACT:

The project would have no impacts to wildlife movement corridors or wildlife nursery sites and no mitigation measures are required. No fisheries resources that would be impacted by the project and no mitigation measures are warranted.

- E. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?

FINDING: NO IMPACT:

The project will not conflict with local policies or ordinances protecting biological resources or a tree preservation policy. The project is within the PG&E Habitat Conservation Plan (HCP) covered areas; however, the HCP is limited to PG&E maintenance activities. The project will not impact or conflict with the PG&E HCP and will not conflict with any Natural Conservation Community Plans or other approved conservation plans in the project area. Therefore, the project will not conflict with adopted or approved plans.

## V. CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or
- B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- C. Disturb any human remains, including those interred outside of formal cemeteries?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project is located in an area of moderate archeological sensitivity. The applicant's consultant, QK, evaluated the project site and conducted a Cultural Resources Records Search. The purpose of the search was to determine whether any known cultural resources or previously conducted cultural resource surveys were located on or near the subject property, and whether construction of the project would impact any known or

potential cultural resources. The records search covered an area within one-half mile of the project and included a review of the *National Register of Historic Places, California Points of Historical Interest, California Registry of Historic Resources, California Historical Landmarks, California State Historic Resources Inventory*, and a review of cultural resource reports on file.

The records search indicated that one previous linear cultural resource survey had intersected with the project route near the center of Section 5, T.17S, R.18E (MDB&M). No other studies have been done along the route. One additional cultural resource study was conducted within a half mile of the project. No cultural resources have been recorded along the project route and it is not known if any exist there. One cultural resource has been recorded within a half mile of the project. This is the historic Stinson Canal that was built between 1891 and 1900.

Based on the results of cultural records search findings and the lack of historical or archaeological resources previously identified within a 0.5-mile radius of the proposed project, the potential to encounter subsurface cultural resources is minimal. However, there is still a possibility that historical or archaeological materials may be exposed during construction or trenching for underground pipes. Grading and trenching, as well as other ground-disturbing actions have the potential to damage or destroy these previously unidentified and potentially significant cultural resources within the project area, including historical or archaeological resources. Implementation of Mitigation Measure 1 would reduce the potential impacts on cultural resources, including historical resources associated with the proposed project to less than significant levels.

\* **Mitigation Measure(s)**

1. *In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.*

VI. ENERGY

Would the project:

- A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation;  
or
- B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project will produce renewable energy in the form of gas and electricity. Some energy will be expended during construction, but it is not expected to be wasteful or unnecessary with adherence to standard construction practices. The project will not conflict with or obstruct a state or local plan for renewable energy.

VII. GEOLOGY AND SOILS

Would the project:

- A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
  - 1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?
  - 2. Strong seismic ground shaking?
  - 3. Seismic-related ground failure, including liquefaction?
  - 4. Landslides?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The topography of the site is relatively flat with little topographic variation. The project area is located geographically east of the San Andres Fault and is to the east of the Coast Range. Figure 9-5 of the Fresno County General Plan Background Report (FCGPBR) indicates that the project site is located in an area where ground acceleration due to seismic hazards has only a 10% chance to exceed 20%g (speed of gravity) within the next 50 years. The structures associated with this project will be subject to building standards at the time of development, which include specific regulations to protect against damage caused by earthquake and/or ground acceleration.

Figure 9-6 (FCGPBR) shows that the project site is not in an area of moderate or high landslide hazards and the project site is generally flat, precluding site-specific risk factors. The site is however, in an area of deep subsidence. With required compliance to the Fresno County Building code, development of this project will have a less than significant impact on the risk of adverse effects due to rupture of a known earthquake, strong seismic ground shaking or ground-related failure, and landslides.

- B. Result in substantial soil erosion or loss of topsoil?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed improvements to the existing dairies will not represent a significant expansion of graded area. Any grading that is performed will require a grading permit or voucher and ministerial review of those permits will ensure that substantial erosion or loss of topsoil does not occur.

- C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse; or
- D. Be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The area is underlain by three soil types, Tachi Clay, Armona Loam, and Gepford Clay. Tachi Clay is a very deep and very poorly drained soils that formed in alluvium derived from igneous and/or sedimentary rocks. It is typically found on flood plains on basin floors. These soils are used for irrigation crops such as cotton, fruits, and wheat. It is not a hydric soil. Armona Loam is very deep and poorly drained soil that formed in alluvium from igneous and/or sedimentary rock. It is typically found on flood plains on basin floors and basin rims. This soil is used for irrigated crops. Gepford Clay is a very deep and poorly drained soil that is formed in mixed alluvium derived predominately from granitic rocks, influenced by lacustrine sediments. It is typically found flood plains, basin floors, and basin rims. This soil is used as irrigated cropland including barley, grain, sorghum, and sugar beets. The soil can also be used for dairy and cattle production and building site development. It is not a hydric soil.

The project site is not located in an area that is at risk of on-site or offsite landslide, lateral spreading, liquefaction, or collapse, according to Figure 7-1 (FCGPBR), and will not be located on expansive soils. The project is located in an area of deep subsidence, however, the Fresno County Department of Public Works and Planning, Water and Natural Resources Division, had no concerns with the operation of this project as planned.

- E. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

FINDING: NO IMPACT:

The project currently operates with the use of the existing permitted septic systems. No new septic is proposed as part of this application.

- F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?



**FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:**

The subject parcel is located in an area which has been designated as moderately to archaeological or paleontological finds, however there are no known paleontological resources in the area. On March 29, 2019, the applicant provided a Cultural Resources Records Search Result, prepared by QK. No evidence of unique paleontological resources was noted in the report. However, there is still a possibility that paleontological or archaeological materials may be exposed during construction or trenching for underground pipes. Disturbance of any deposits of paleontological material that have the potential to provide significant scientific data would be considered a significant impact under CEQA. Implementation of the mitigation measure 1 (Cultural Resources, Section V, would reduce potential impacts on paleontological resources to less than significant.

\* **Mitigation Measure(s)**

1. See Mitigation Measure 1, Section V, above.

**VIII. GREENHOUSE GAS EMISSIONS**

Would the project:

- A. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- B. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

**FINDING: LESS THAN SIGNIFICANT IMPACT:**

Human activities, including fossil fuel combustion and land use changes, release carbon dioxide (CO<sub>2</sub>) and other compounds cumulatively termed greenhouse gases. GHGs are effective at trapping radiation that would otherwise escape the atmosphere. The SJVAPCD, a CEQA Trustee Agency for this project, has developed thresholds to determine significance of a proposed project – either implement Best Performance Standards or achieve a 29% reduction from Business as Usual (BAU) (a specific numerical threshold). On December 17, 2009, SJVAPCD adopted *Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA* (SJVAPCD 2009), which outlined the SJVAPCD's methodology for assessing a project's significance for GHGs under CEQA.

Project construction and operational activities would generate greenhouse gas (GHG) emissions. In the Air Quality Impact Analysis, GHG emissions were estimated using the California Emissions Estimator Model (CalEEMod) version 2016.3.2 (California Air Pollution Control Officers Association (CAPCOA) 2017), which is the most current version of the model approved for use by the San Joaquin Valley Air Pollution Control District (SJVAPCD).

The proposed project will be subject to any regulations developed under AB 32 as determined by CARB. In order for the project to be considered less than significant, it would need to conform with the goals of AB32. The proposed project is designed to capture methane gas, that would otherwise be emitted to the air from dairy operations, and convert it to renewable power. With the incorporation of electrical generation from a renewable resource the project would decrease overall GHG emissions. Therefore, the GHG emissions increases associated with this project would have a less than significant individual and cumulative impact on global climate change.

## IX. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or
- B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Methane will be produced in anaerobic digesters by natural biological processes (the decomposition of manure waste). The digesters will be created by first double-lining a new or existing storage pond. All digester ponds will meet the Central Valley Regional Water Quality Control Board (CRWQCB) Tier 1 standards, which include the installation of double-layered liners of welded 60 ml High-density polyethylene (HDPE) with leak detection to ensure water quality. Once produced, the methane is transferred by pipe to a biogas generator and subsequently by the Five Points pipeline to the meter set assembly hub and then to the PG&E gas line injection point. All portions of the project will comply with Pipeline and Hazardous Materials Safety Administration (PHMSA) guidelines, 49 CFR Part 192, and with the CPUC's Safety Enforcement Division (SED) General Order 112-F.

Therefore, while the routine use of the hazardous methane gas will occur, risk to the public as a result of its transport or accidental release is less than significant. The operator is required to maintain an emergency response plan. With compliance to the existing regulations and the operation of the digester system distant from nearby residences, there will be a less than significant impact on public hazards as a result of the transport or use of hazardous materials.

- C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

FINDING: NO IMPACT:

The project is not located within one quarter-mile of an existing or proposed school.

- D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

FINDING: NO IMPACT:

Review of the US EPA's NEPAAssist report indicates that there are no hazardous or contaminated sites within one mile of the project site. The following lists were consulted: Resource Conservation and Recovery Act (RCRA), Toxic Releases Inventory (TRI), Superfund/National Priorities List, Brownfields Assessment Cleanup and Redevelopment Exchange System (ACRES), RADInfo, and Toxic Substances Control Act.

- E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project is not located within an airport land use plan or within two miles of a public airport or public use airport. The project is located adjacent to a private use airport (crop dusting) at the intersection of W. Barrett and S. Bishop Avenues, however, based on land use, and limited residences and workforce needed for the operation of project, the airport safety risk and noise will be minimal.

- F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
- G. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

FINDING: NO IMPACT:

Approval of this project will not impair the implementation of an Emergency Response Plan or Emergency Evacuation Plan. Following construction, there will be a negligible increase in the amount of traffic generated by this project for maintenance and operation of the system. The project site is located in an area of local responsibility for fire protection and is not at significant risk of damage due to wildfire.

## X. HYDROLOGY AND WATER QUALITY

Would the project:

- A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality; or
- B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project area is adjacent to several riverine or canal features. There are four unnamed blue line streams (irrigation canals) and the Stinson Canal that are intersected or traversed by the project area. Two of the canal features are present along the north side of the project approximately 0.5-miles east of the Vander Hoek Dairy. Another canal is located northwest of the Van Der Kooi Dairy along W. Elkhorn Avenue. Another unnamed canal and the Stinson Canal are located along north of W. Cerini Avenue and S. Bishop Avenue, northwest of the J&D Wilson and Sons Dairy. The Fresno Slough is approximately 0.4 miles east of the project, which will not be impacted. Portions of the project are located within the 1% annual chance of flood (500-year flood zone) or an area of minimal flood hazard zone

No concerns related to groundwater supplies were expressed by any of the reviewing agencies or departments.

The subject dairies are required to enroll under Waste Discharge Requirements, which is associated with a monitoring and reporting program. The Central Valley Regional Water Quality Control Board is responsible for monitoring the quality of water produced by this dairy. With the technical reports required by the Digester Order and associated operational requirements, this project will be in compliance with the Water Boards' standards and will not violate any water quality standards

- C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:
  - 1. Result in substantial erosion or siltation on or off site?
  - 2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on or off site?
  - 3. Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff; or
  - 4. Impede or redirect flood flows?

FINDING: NO IMPACT:

The project will not result in the alteration of an existing drainage pattern of any of the individual sites or the larger project area. The project site is not located in an area of special flood hazard; however, all development in the County of Fresno that involves grading is required to obtain a grading permit or voucher. Compliance to the provisions in the permit or voucher will ensure that excessive flooding and erosion do not occur.

- D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

FINDING: NO IMPACT:

The proposed project is not located in an area prone to flood hazard, tsunami, or seiche.

- E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

FINDING: NO IMPACT:

The project will not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

## XI. LAND USE AND PLANNING

Would the project:

- A. Physically divide an established community; or
- B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

FINDING: NO IMPACT:

The community of Burrell is 1.3 miles east of the project; the community of Lanare is 2.8 miles east, the community of Five Points is four miles west; and the community of Helm is 1.5 miles north. Therefore, approval of this project does not have the potential to divide an established community. The proposed use is allowed in the County of Fresno with the approval of an Unclassified Conditional Use Permit, which will be reviewed by the Planning Commission concurrently with this Initial Study.

## XII. MINERAL RESOURCES

Would the project:

- A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or

- B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, Specific Plan or other land use plan?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed project is located in an identified oil production zone, per the Fresno County General Plan Background Report (FCGPBR). This proposal was reviewed by the California Department of Conservation, Division of Oil Gas and Geothermal Resources (DOGGR). DOGGR comments and map exhibits indicate the presence of a number of abandoned oil and gas wells in the vicinity of the project and located on some of the parcels directly involved with this project, however the Division expressed no further concerns with this proposal, provided that construction does not build over or impede access to the abandoned well sites.

### XIII. NOISE

Would the project result in:

- A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- B. Generation of excessive ground-borne vibration or ground-borne noise levels; or
- C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project is not located within an airport land use plan or within two miles of a public airport or public use airport. The project is located adjacent to a private use airport (crop dusting) at the intersection of W. Barrett and S. Bishop Avenues, however, that use is not expected to expose people in the project area to excessive noise levels. Noise generated by the project equipment will not be above typical agriculture facility levels and the project is distant to sensitive receptors. Therefore, due to the project's distance from sensitive receptors, there will be no increase in the exposure of persons to severe or adverse noise levels or ground borne noise or vibration.

### XIV. POPULATION AND HOUSING

Would the project:

- A. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?; or
- B. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

FINDING: NO IMPACT:

Approval of this project would allow methane produced by the manure of cows to produce renewable energy, which would be sold to PG&E. This will not induce substantial population growth because it will not create a significant number of new job opportunities or otherwise increase the desirability of living in this area. No housing will be displaced as a result of this project. This project similarly will not displace substantial numbers of people. It will be developed on areas of farmland that were previously dedicated to agricultural production.

#### XV. PUBLIC SERVICES

Would the project:

- A. Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities, or the need for new or physically-altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services:
  - 1. Fire protection;
  - 2. Police protection;
  - 3. Schools;
  - 4. Parks; or
  - 5. Other public facilities?

FINDING: NO IMPACT:

This project will not increase the need for public facilities associated with fire or police protection. As this project will not lead to population growth, there will be no impacts on schools or parks. Any structures associated with this project will be reviewed by the Fresno County Fire Protection District to ensure compliance with California Code of Regulations Title 24 – Fire Code.

#### XVI. RECREATION

Would the project:

- A. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- B. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

FINDING: NO IMPACT:

This project will not increase the use of existing neighborhood and regional parks. There are no such facilities in the vicinity of the project and the request to add anaerobic digesters and a pipeline to convey methane gas will not result in population expansion.

## XVII. TRANSPORTATION

Would the project:

- A. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities; or
- B. Be in conflict or be inconsistent with the California Environmental Quality Act (CEQA) Guidelines Section 15064.3, subdivision (b); or
- C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment); or
- D. Result in inadequate emergency access?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Operation of this facility will require less than 10 round trips per day by service and delivery vehicles. The addition of 1-2 trips per month for maintenance of the digesters and related facilities will not conflict with any circulation plans or contribute to existing congestion of nearby County streets. Streets in the area are rectilinear, crossing at 90 degree angles and do not have sharp curves. There are no plans, policies, or programs that relate to public transit, bicycle, or pedestrian facilities in this area. The surrounding development consists of large parcels, which have been planted with row crops or support dairies similar to the project site.

## XVIII. TRIBAL CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place,



cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k); or
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? (In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.)

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Under the provisions of Assembly Bill 52, the County of Fresno was required to provide notice that this Initial Study was being prepared to Native American Tribes who had previously indicated interest in reviewing CEQA projects. Notices were sent on April 19, 2019, to Robert Ledger of the Dumna Wo Wah, Robert Pennell of Table Mountain Rancheria, Ruben Barrios of Santa Rosa Rancheria and to Tara Estes-Harter of the Picayune Rancheria of Chukchansi Indians. None of the Tribal Governments responded to the notice.

The project is located in an area of moderate archeological sensitivity. The applicant's consultant, QK, evaluated the project site and conducted a Cultural Resources Records Search. The purpose of the search was to determine whether any known cultural resources or previously conducted cultural resource surveys were located on or near the subject property, and whether construction of the project would impact any known or potential cultural resources. See the discussion in Section V, above.

Despite the failure of the tribes and historical databases to identify known tribal cultural resources, the potential exists for significant artifacts to be excavated during construction. Therefore, the following mitigation measure is proposed to ensure that impacts to previously unknown tribal cultural resources can be reduced to less than significant.

\* **Mitigation Measure(s)**

1. See Mitigation Measure 1, Section V, above.

XIX. UTILITIES AND SERVICE SYSTEMS

Would the project:

- A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

FINDING: NO IMPACT:

The project will not require construction or expansion of new water or wastewater treatment facilities. Approximately 5,000 gallons/day will be used during the 40-day construction period and will be provided by on-site wells. Operational water is anticipated to be 2,500 gallons/day or 2.8 AF annually.

The inclusion of the digesters will add an additional step between collection of manure from the herd and application of the wastewater to the surrounding fields. Wastewater is not exported to any offsite system for processing. It is retained on site and used for irrigation, typically after being diluted with fresh water. The project site is not in an area that is known to be short of water, so there are no concerns that the limited increase in use will result in the need to obtain additional water entitlements.

- B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

FINDING: NO IMPACT:

The project is not in a water short area and is served by on-site wells. The Water and Natural Resources Division had no concerns with the project.

- C. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or
- D. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or
- E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Upon completion of construction, the applicants will be required to submit technical reports to the Central Valley Regional Water Quality Control Board. These submissions are required by Provisions in Section E of the Digester Order. The operation will also be required to obtain a permit to operate a Solid Waste Facility from the County of Fresno, Environmental Health Division, acting as the Local Enforcement Agency. The need to comply with the Digester Order and other regulations enforced by the Water Quality Control Board will ensure that there is no adverse impact regarding noncompliance with statutes and regulations related to solid waste.

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- A. Substantially impair an adopted emergency response plan or emergency evacuation plan, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; or
- C. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- D. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

FINDING: NO IMPACT:

The project is not located in or near a state responsibility area or land classified as very high fire hazard severity zones, and will not impair an adopted emergency response or evacuation plan. The project will adhere to the site development and operational requirements of the Fresno County Fire Protection District.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

- A. Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The pipeline route will run through private agricultural land. The presence of special-status species on these sites prior to ground disturbance cannot be positively determined. Based upon habitat conditions surrounding the site and the assumption that the site contain similar habitat characteristics, it is possible that the Swainson's hawk, western burrowing owl, tricolored blackbird, loggerhead shrike, American badger, San

Joaquin kit fox, long-billed curlew, and yellow-headed blackbird may have been present prior to site disturbances. Therefore, the Mitigation Measures noted in Section IV. will be implemented, requiring preconstruction surveys and avoidance measures if construction occurs during the nesting season.

In addition, it is unlikely but possible that previously undiscovered subsurface paleontological, cultural or tribal resources are present in the proposed area of development. Implementation of the mitigation measure in Section V, which describes avoidance and reporting requirements, will ensure that impacts are less than significant.

\* **Mitigation Measures**

1. See Section IV.

2. See Section V.

- B. Have impacts that are individually limited, but cumulatively considerable (“cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Emissions of criteria pollutants from this project will be consistent with the State Implementation Plan administered by the San Joaquin Valley Air Pollution Control District. The proposed improvements do not represent a substantial increase in the size of the dairy and will not result in adverse cumulative aesthetic or odor impacts. The proposed digester will capture some of the methane that is currently released into the air by the natural decomposition of manure and will convert it into electricity. Said power will be sold to PG&E, providing a source of renewable energy.

- C. Have environmental effects which will cause substantial adverse effects on human beings either directly or indirectly?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed improvements will generally decrease the odor in the area of the project site and will contribute renewable energy to be transferred to PG&E operations.

## **CONCLUSION/SUMMARY**

Based upon the Initial Study prepared for Unclassified Conditional Use Permit Application Nos. 3642-3647, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Land Use and Planning, Population and Housing, Public Services and Wildfire.

Potential impacts related to Agriculture, Air Quality, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Utilities and Service Systems, and Transportation have been determined to be less than significant. Potential impacts relating to Aesthetics, Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources have determined to be less than significant with compliance with noted Mitigation Measures.

A Mitigated Negative Declaration/Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.

JS

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File original and one copy with: <b>Fresno County Clerk 2221 Kern Street Fresno, California 93721</b>		Space Below For County Clerk Only.  CLK-2046.00 E04-73 R00-00	
Agency File No: <b>IS 7608</b>	<b>LOCAL AGENCY PROPOSED MITIGATED NEGATIVE DECLARATION</b>		County Clerk File No: <b>E-</b>
Responsible Agency (Name): Fresno County	Address (Street and P.O. Box): 2220 Tulare St. Sixth Floor	City: Fresno	Zip Code: 93721
Agency Contact Person (Name and Title): Jeremy Shaw, Planner	Area Code: 559	Telephone Number: 600-4207	Extension: N/A
Project Applicant/Sponsor (Name): MAAS Energy Works, Inc.	Project Title: Unclassified Conditional Use Permit Application Nos. 3642-3647		
<p>Project Description:</p> <p>Allow the installation of four new covered lagoon anaerobic dairy digesters with related biogas conditioning equipment and biogas generators to produce electricity on four existing dairies; the installation of biogas conditioning equipment at a fifth dairy with an existing digester and generator; the construction of an approximately 10.5 mile underground pipeline to connect the participating dairies; and allow produced biomethane to be transported to a centralized hub where a biogas upgrading facility will be constructed to clean and condense the biogas before it is injected into the PG&amp;E natural gas transmission line. The project is bounded by the unincorporated communities of Five Points to the southwest, Helm to the north, Burrell to the northeast, and Lanare to the east and southeast; State Route 145 (Madera Avenue) on the west; Mount Whitney Avenue on the south; Jameson Avenue on the east; and Kamm Avenue on the north; within the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone Districts (SUP. DIST. 1 and 4) (Dairies: APN Nos. 040-130-51S, 050-160-16S, 050-270-56S, 050-170-41S, 050-260-12S, 040-130-35S) (Pipeline APN Nos. 040-130-35S, 49, 44S, 48S, 51S; 041-100-17, 45S; 050-160-13S, 16S; 050-170-41S; 050-200-38S; 050-230-20S, 23S; 050-260-10S, 11S, 12S; 050-270-56S).</p>			
<p>Justification for Negative Declaration:</p> <p>Based upon the Initial Study prepared for Unclassified Conditional Use Permit Application Nos. 3642-3647, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Aesthetics, Land Use and Planning, Mineral Resources, Population and Housing, and Recreation.</p> <p>Potential impacts related to Air Quality, Geology and Soils, Greenhouse Gases, Hazard and Hazardous Materials, Hydrology and Water Quality, Noise, Public Services, Transportation/Traffic, and Utilities and Service Systems have been determined to be less than significant.</p> <p>Potential impacts relating to Biological Resources and Cultural Resources have determined to be less than significant with compliance with noted Mitigation Measures</p>			
<p>FINDING:</p> <p>With the Mitigation Measures incorporated, the proposed project will not have a significant impact on the environment.</p>			
Newspaper and Date of Publication: Fresno Business Journal – June 26, 2019		Review Date Deadline: Planning Commission – August 8, 2019	
Date:	Type or Print Signature: Marianne Mollring Senior Planner	Submitted by (Signature): Jeremy Shaw, Planner	

State 15083, 15085

County Clerk File No.: \_\_\_\_\_

**LOCAL AGENCY  
MITIGATED NEGATIVE DECLARATION**



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 4 August 8, 2019

**SUBJECT:** Initial Study Application No. 7385 and Variance Application No. 4038

Allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.

**LOCATION:** The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues, addressed as 3637 S. Valentine Avenue, Fresno, CA 93706 (APNs: 327-061-47 and -46; Previously: 327-061-27S) (Sup. Dist. 4).

**OWNER/  
APPLICANT:** Duane and Karen Soares Living Trust

**STAFF CONTACT:** Chrissy Monfette, Planner  
(559) 600-4245

Marianne Mollring, Senior Planner  
(559) 600-4569

**RECOMMENDATION:**

- Deny Variance No. 4038; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plans and Detail Drawings
6. Applicant's Findings
7. Summary of Initial Study Application No. 7385
8. Public Comment

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	39.1 acres	Parcel A: 2.5 acres Parcel B: 36.6 acres
Project Site	N/A	N/A
Structural Improvements	Single-family residence and sheds/shade structures	Structures to remain on Parcel A with no proposed improvements on Parcel B
Nearest Residence	141 feet east of eastern property line	No change
Surrounding Development	Large parcels improved with orchards and field crops; scattered residential development	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	N/A	N/A
Lighting	N/A	N/A



**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N**

**ENVIRONMENTAL ANALYSIS:**

An Initial Study was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the Initial Study, staff has determined that a Negative Declaration is appropriate. A summary of the Initial Study is included as Exhibit 7.

**PUBLIC NOTICE:**

Notices were sent to 44 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

A Variance (VA) Application may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

A request to cancel an existing Williamson Act Contract requires that the Applicant first submit a Notice of Non-renewal, which starts a nine-year period during which the tax rate on the area of non-renewal will steadily increase to standard rates. The Applicant has applied for non-renewal on the 2.5-acre area where the residence has been developed, and their Cancellation request was recommended for approval. A final decision on the Cancellation request must be made by the Board of Supervisors. Because the remainder of the parcel is proposed to remain under contract, it will continue to receive the tax benefits associated with the Williamson Act. The Assessor's Parcel Numbers (APNs) are prepared by the Assessor's Office and revised when necessary to facilitate the accurate collection of property taxes. As a result, the proposed Parcel A has a separate APN because it is subject to a different tax rate, but would not be considered a separate legal parcel until and unless a parcel map application has been completed. Such application is contingent upon the Planning Commission's ability to make the four Findings associated with this Variance Application to allow a parcel map application which includes a parcel of substandard size.

The decision of the Planning Commission on a Variance Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

**BACKGROUND INFORMATION:**

In 1938, the project site and all parcels in the area were zoned Intermediate A-2, a temporary zoning designation for agricultural parcels which establishes two acres as the minimum parcel size. This zone district was removed and replaced with A-1 (Agricultural) in 1962, which provided more stringent development standards, including required road frontage. With the adoption of the Fresno General Plan in 1958, the County was required to zone parcels appropriately. On November 30, 1965, this parcel was rezoned to its current AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

On September 14, 2017, the subject application was submitted to the County requesting a variance from the 20-acre minimum parcel size required by the Zone District. After review of the project by the Policy Planning Section, it was determined that the proposed 2.5-acre parcel

would not meet the 20-acre minimum parcel size requirements for the Williamson Act and that a cancellation would be necessary. The remainder parcel continues to meet the 20-acre minimum parcel size, and therefore was not subject to cancellation.

There are two variances within one mile of the project site, one of which related to the request to create a parcel of substandard size.

While there may be a history of variances in the area, each application must be considered on its own merits.

<b>Project</b>	<b>Description</b>	<b>Recommendation</b>	<b>Action</b>
VA No. 2912	Allow the installation of a six-foot fence on the property line of a house which is in construction, where three feet is the maximum permitted height for a fence within the front-yard setbacks	Denial	PC Denied BOS Approved
VA No. 3027	Divide an 8.31-acre parcel into two 4.15-acre parcels in the AE-20 Zone District where 20 acres is the minimum parcel size	Denial	PC Approved

**Findings 1 & 2:** *There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification.*

*Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	Front: 35 feet Rear: 20 feet Side: 20 feet	Front (east): 88 feet Rear (west): 150 feet North side: 145 feet South side: 116 feet	Y Y Y Y
Parking	At least two spaces for residential use	No change	Y
Lot Coverage	N/A	N/A	N/A
Space Between Buildings	No animal or fowl pen, coop, stable, barn, or corral shall be located within 40 feet of any dwelling.	No change	Y
Wall Requirements	N/A	N/A	N/A

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Septic Replacement Area	100%	No change	Y
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Y

**Reviewing Agency/Department Comments Regarding Site Adequacy:**

Building and Safety Section of the Fresno County Department of Public Works and Planning: Prior to approval, permits must be obtained for shade structures shown on application photos.

Development Engineering Section of the Fresno County Department of Public Works and Planning: South Valentine Avenue is a County-maintained road classified as a Local road with an existing 30-foot right-of-way west of the section line. The minimum width for a Local road right-of-way west of the section line is 30 feet. South Valentine Avenue has a structural section of .26 feet asphalt concrete and an average daily traffic (ADT) of 700 vehicles per day. It is in fair condition.

South Brawley Avenue is a County-maintained road classified as a Local road with an existing 30-foot right-of-way east of the section line along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way east of the section line is 30 feet. South Brawley Avenue has a structural section of .29 feet road mix surfacing and an ADT of 900. It is in good condition.

Typically, any access driveway should be set back a minimum of ten feet from the property line. If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto South Valentine Avenue.

According to FEMA, FIRM Panel No. 06019C2125H, the parcel is not subject to flooding from the 100-year storm, and according to U.S.G.S. quad maps, there are no existing natural drainage channels adjacent to or running through the parcel.

A grading permit or voucher may be required for any grading that has been done without a permit and any grading proposed with this application.

Fresno Irrigation District (FID): FID's Valentine Avenue No. 555 Pipeline runs southerly and crosses Muscat Avenue approximately 1,300 feet north of the subject property and terminates at the northeast corner of the subject property, and may be impacted by future development of the parcel. FID's records do not indicate a recorded easement, but an easement does exist, as shown on FID maps. The plans for this portion of the Valentine Avenue No. 555 Pipeline indicate this section of the pipeline was installed in 1949 as 18-inch inside diameter ASTM C-118 non-reinforced concrete pipe with mortar joints. NRCP-M is a non-reinforced concrete pipe that is easily damaged, extremely prone to leakage, and does not meet FID's minimum standards for developed parcels or rural uses. Because the exact location of the property line is not known at this time, it is possible that part of the Valentine Avenue No. 555 Pipeline is located on the subject parcel. If it is determined that FID structures or equipment is on the subject parcel, the Applicant shall grant an easement to FID in the underlying area.

FID identified several other canals which are located within 1,000 feet of the subject parcel. Development near those pipelines would require additional FID review; however, no development is proposed with this application.

Fresno County Fire Protection District: Fresno County Fire Protection District (FCFPD) has received notice of this project and has not identified any significant concerns. FCFPD has no comment for this project at this time. If future development is sought, the project shall annex to Community Facilities District No. 2010-01 of the Fresno County Fire Protection District. The project/development will also be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

### **Analysis:**

In support of Finding 1, the Applicants state that the property has been in their family since 1948, when it was purchased by their grandmother. The Applicants purchased the property from her in 1997. The Applicants also state that they have entered into a lease agreement with neighboring property owners to farm the south half of the subject quarter section, keeping the active farmland in production.

With regard to Finding 1, staff notes that the parcel must show exceptional or extraordinary circumstances or conditions which do not apply to other parcels under the same zoning classification. In the case of this application, there are no physical circumstances on the property which do not apply to other properties in the vicinity. The development of a homesite alongside agriculture is typical of development in the AE-20 Zone District and this area specifically. The Zoning Ordinance requires that an Applicant must have owned the property at the time that the AE-20 designation was applied to the parcel in order for the Applicant to retain the right to create a separate homesite parcel from the existing farming operation. The AE-20 Zoning was adopted on November 30, 1965, which was before the property was purchased by the Applicants in 1997. This restriction applies to all properties which are zoned AE-20 and does not present an exceptional circumstance on this parcel.

In support of Finding 2, the Applicants state that there are several rural residential lots of various sizes within a one-mile radius of the project site. They state that some of these rural residential lots are occupied by property owners of the adjacent property, similar to what is proposed by this application.

With regard to Finding 2, staff notes that the granting of a variance must preserve a substantial property right which the Applicants would otherwise be denied if the variance were not to be granted. In this case, it is not a right of property owners to own a homesite parcel and adjacent farmland. In regard to the claim that there are other parcels in the area which have a legally separate homesite, staff would like to note that (with the exception of Beran's Tract) the majority of homesite parcels in this area do not exist as separate legal parcels, despite the separate APNs. It is likely, based on the existing Williamson Act Contracts on the larger parcels, that the separate APNs were assigned to facilitate the collection of taxes at a different rate (see Procedural Considerations for additional detail).

There is one area of rural residential development in the vicinity of this parcel. This development is known as Beran's Tract and was established in October 1945, prior to the adoption of the AE-20 zoning in this area. When the agricultural zoning was proposed, the County recognized the

residential density of this area and applied residential zoning consistent with the use. Due to the dissimilar zoning of Beran’s Tract with the subject application, it does not qualify for consideration regarding the denial of similar property rights under Finding 2.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval and Project Notes attached as Exhibit 1.*

**Conclusion:**

Findings 1 and 2 cannot be made.

*Finding 3:* *The granting of the Variance will not be materially detrimental to the public welfare or injurious to property and improvements in the vicinity in which the property is located.*

<b>Surrounding Parcels</b>				
	Size:	Use:	Zoning:	Nearest Residence*:
North	38.2 acres 36.49 acres	Orchard Orchard	AE-20	None 1,080 feet north
South	4.33 acres 32.98 acres	Residential Field Crops	AE-20	445 feet south None
East	1.25 acres 18.3 acres	Residential Field Crops/Residential	AE-20	145 feet east 115 feet east
West	38.85 acres	Field Crops	AE-20	None

\*As measured from the edge of the nearest property line of the subject parcel to the nearest point of the residence

**Reviewing Agency/Department Comments:**

Fresno County Department of Public Health, Environmental Health Division: No building permit records were available for the existing sewage disposal system. It is recommended that the Applicant consider having the existing septic tank pumped and have the tank and leach field/seepage pits evaluated by an appropriately-licensed contractor if they have not been serviced and/or maintained within the last five years. The evaluation may indicate possible repairs, additions, or require the proper destruction of the system.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Valentine Avenue is classified as a Local road with 60 feet of road right-of-way. No additional right-of-way is required from this parcel. If any work is done in the road right-of-way to improve the drive approaches for the existing residence, an encroachment permit will be required.

Zoning Section of the Fresno County Department of Public Works and Planning: An aerial review of structures on the parcel indicates that several were constructed without permits. Permits are required for all structures built after March 1, 1958.

No other comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

**Analysis:**

In support of Finding 3, the Applicants state that the northeastern corner of the property has always been a homesite and there will be no physical changes to the site. The addition of another 2.5-acre parcel will have minimal impact on surrounding property owners, as there are several existing residential lots in the area.

In regard to Finding 3, staff concurs with the Applicants that there will be no adverse impact on surrounding properties due to the fact that there are not any physical changes associated with this application. In addition, the proposal will not increase the residential density of this area because the size of the original parcel already permits two residences to be developed. However, staff would also like to clarify that there are only two residentially-sized lots within one mile which are zoned AE-20; as previously discussed, some homesites are given separate APNs to facilitate the collection of taxes, but are not considered to be separate legal parcels.

Based on the above information, staff believes the proposal would not have an adverse effect upon surrounding properties.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval and Project Notes attached as Exhibit 1.*

**Conclusion:**

Finding 3 can be made.

*Finding 4:* *The granting of such a Variance will not be contrary to the objectives of the General Plan.*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p><b>Policy LU-A.6:</b> <i>The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10 and LU-A.11. The County may require parcel sizes larger than twenty (20) acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</i></p>	<p><b>Not Consistent:</b> The project does not qualify for any of the exemptions identified in policies LU-A.9, LU-A.10, or LU-A.11, and therefore, the proposed 2.5-acre parcel is not consistent with this policy.</p>
<p><b>Policy LU-A.7:</b> <i>The County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units, and that the resultant increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels. Evidence that the affected parcel may be an</i></p>	<p>This application proposes to allow the creation of a 2.5-acre parcel where the zone district requires a minimum parcel size of 20 acres. County staff recommends denial of this application, consistent with the direction of this policy, and based on an inability to make Findings 1, 2, and 4. Because this policy relates to actions taken by the Planning Commission, there is no</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<i>uneconomic farming unit due to its current size, soil conditions, or other factors shall not alone be considered a sufficient basis to grant an exception. The decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.</i>	preliminary consistency finding.
<b>Policy PF-C.17:</b> <i>The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation.</i>	<b>Consistent:</b> The project site is not in a water-short area and no development is proposed by this application. The Water and Natural Resources Division of the Fresno County Department of Public Works and Planning reviewed the proposal and expressed no concerns related to water usage or sustainability.

**Reviewing Agency Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is restricted by Williamson Act Contract No. AP-6142 and contains soil designated as Prime farmland. The minimum parcel size to be enrolled in the Williamson Act program is 20 acres for prime soil and 40 acres for non-prime soil. It appears that the Variance proposes to create a substandard size approximately 2.5-acre homesite parcel that must be removed from contract restrictions by the cancellation process per the County’s Interim Guidelines.

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

**Analysis:**

In support of Finding 4, the Applicants state that the north half of this quarter section is planted in walnuts and the south half will be planted with almonds within the next two years. The Applicants estimate that 94% of this quarter section will be in agricultural production for the next twenty to thirty years, and that this quarter section has a higher percentage of production than surrounding sections, showing consistency with the General Plan’s goals to preserve productive agricultural farmland.

In regard to Finding 4, staff recognizes that this proposal will not remove any farmland from active production and that the retention of the existing farmland in active production is consistent with the goals of the General Plan. However, General Plan Policies LU-A.6 and LU-A.7 focus on minimum parcel size for a given zone district rather than percentages of agricultural production for a section or quarter section. Policy LU-A.7 establishes that even when a proposed parcel is not considered to be a viable economic farming unit, the minimum parcel size must be observed. The concerns raised by LU-A.7 relate to the potential for conflicts between the agricultural production on adjacent parcels and typical residential use, usually due to the farmers’ need to perform activities which could conflict with common residential uses, such as operation of loud equipment during early morning hours or the application of pesticides near their property lines. Therefore, the proposal to create a stand-alone residentially sized

parcel in the AE-20 Zone District is not consistent with the General Plan, regardless of the percentage of agricultural land which remains active in this section.

Based on these factors, the project is not consistent with the General Plan.

**Recommended Conditions of Approval:**

*None.*

**Conclusion:**

Finding 4 cannot be made.

**PUBLIC COMMENT:**

Two letters were provided in support of this application. They are attached as Exhibit 8. In general, the letters indicate that the neighboring property owners are in support of this application because it will not be detrimental to agriculture and it would allow the Applicants to retain their family home.

**CONCLUSION:**

Based on the factors cited in the analysis, staff believes the required Findings for granting the Variance cannot be made. Staff therefore recommends denial of Variance No. 4038.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 4038; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Approval Action)

- Move to adopt the Negative Declaration prepared for Initial Study Application No. 7385; and
- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4038, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

CMM:ksn  
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**Initial Study Application No. 7385 and Variance Application No. 4038  
Conditions of Approval and Project Notes**

<b>Conditions of Approval</b>	
1.	Division of the property shall be in conformance with the Site Plan (Exhibit 5) approved by the Commission.
2.	Prior to the approval of the mapping application, the Applicant shall remove or obtain permits for all structures which were built after March 1, 1958, including the shade structures shown on application photos.
3.	Prior to approval of the mapping application, if it is determined that a Fresno Irrigation District-owned stand and/or structure is located on the subject parcel, the Applicant shall provide an easement to the Fresno Irrigation District in the underlying area.

Conditions of Approval reference recommended Conditions for the project.

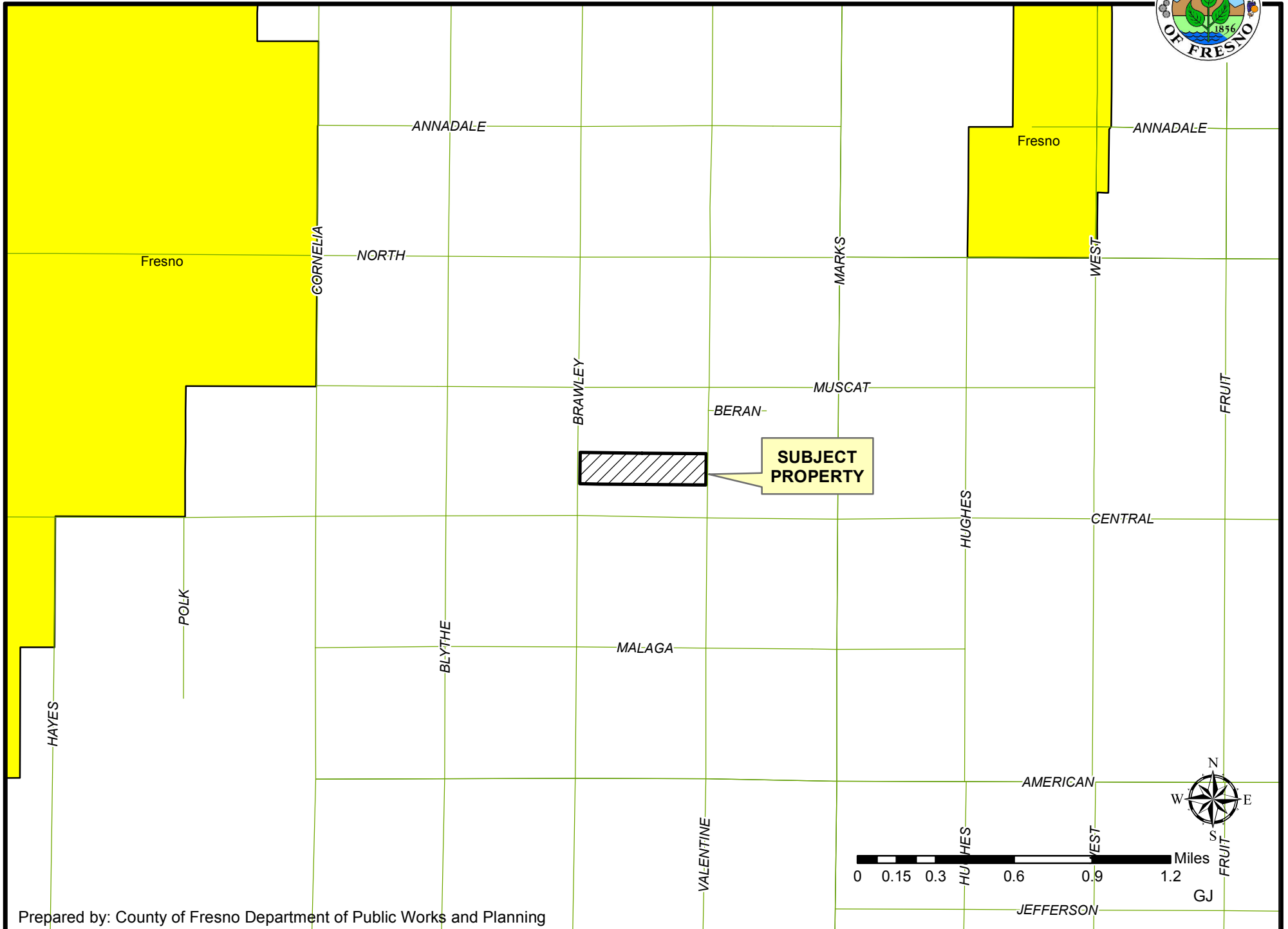
<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
2.	This Variance will become void unless there has been substantial development within one year of the effective date of approval.
3.	No records are available for the existing septic systems. It is recommended that the property owner consider having the septic tanks pumped and leach fields evaluated by an appropriately-licensed contractor if they have not been serviced and/or maintained within the last five years. Such inspection may indicate possible repairs or additions, or require the proper destruction of the systems.
4.	If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto South Valentine Avenue.

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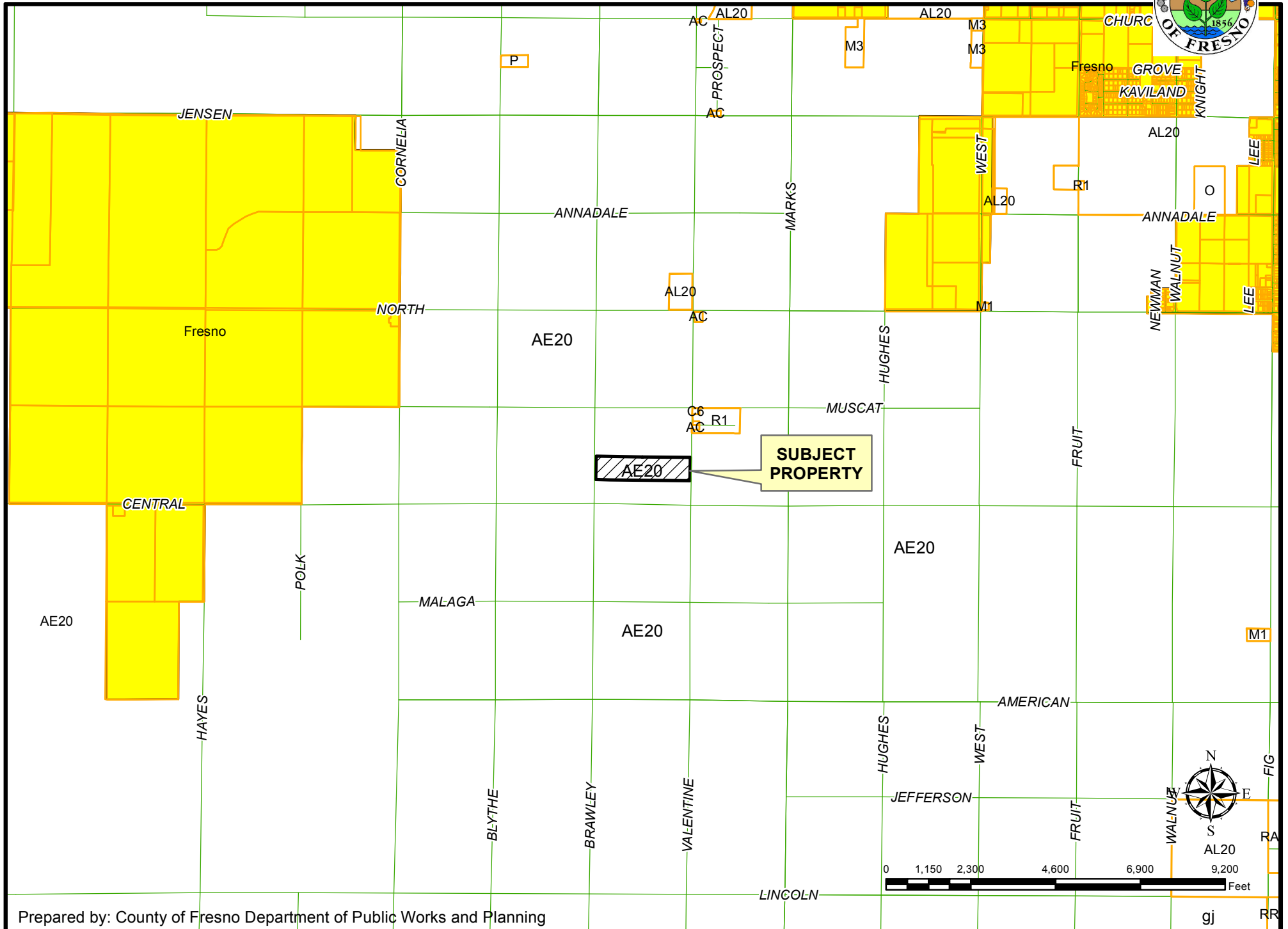
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**EXHIBIT 1**

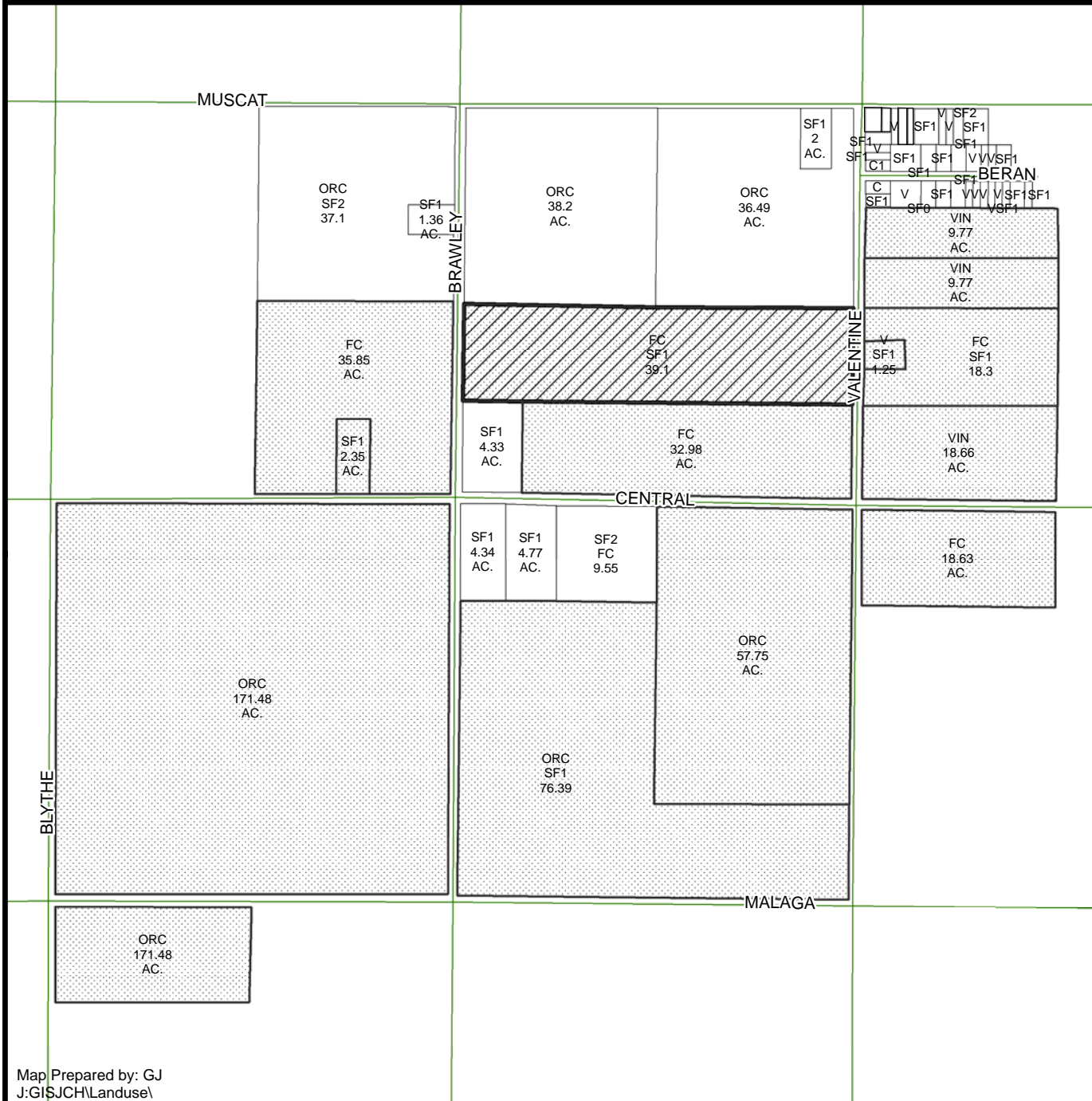
# LOCATION MAP



# EXISTING ZONING MAP



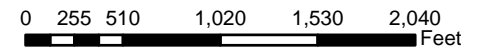
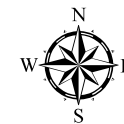
# EXISTING LAND USE MAP



LEGEND	
C	COMMERCIAL
C#	COMMERCIAL
FC	FIELD CROP
ORC	ORCHARD
SF#	SINGLE FAMILY RESIDENCE
V	VACANT
VIN	VINEYARD

**LEGEND:**

- Subject Property
- Ag Contract Land



Department of Public Works and Planning  
Development Services Division

SITE PLAN

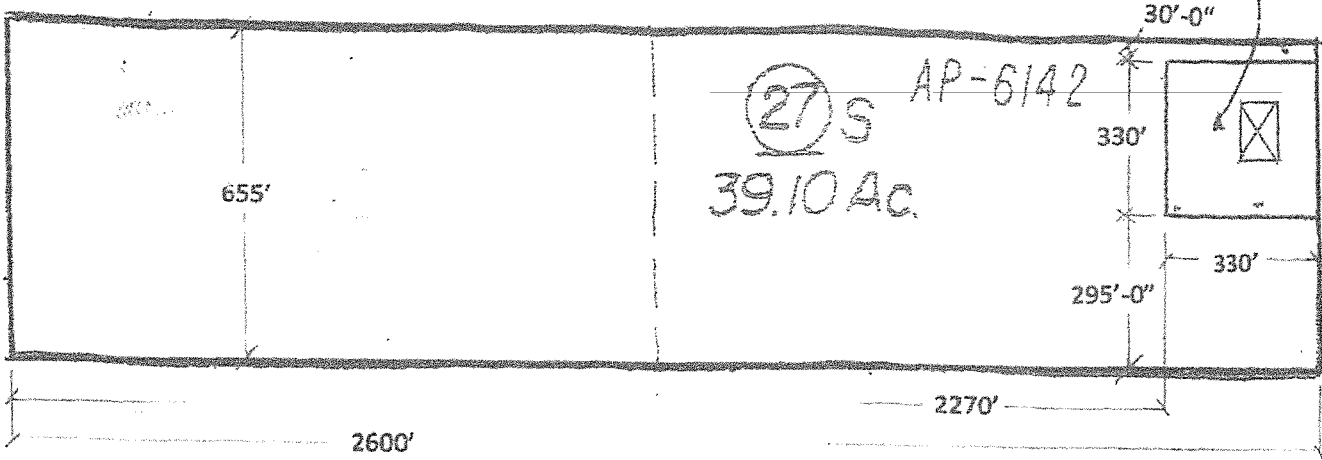
RECEIVED  
COUNTY OF FRESNO

SEP 21 2017

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

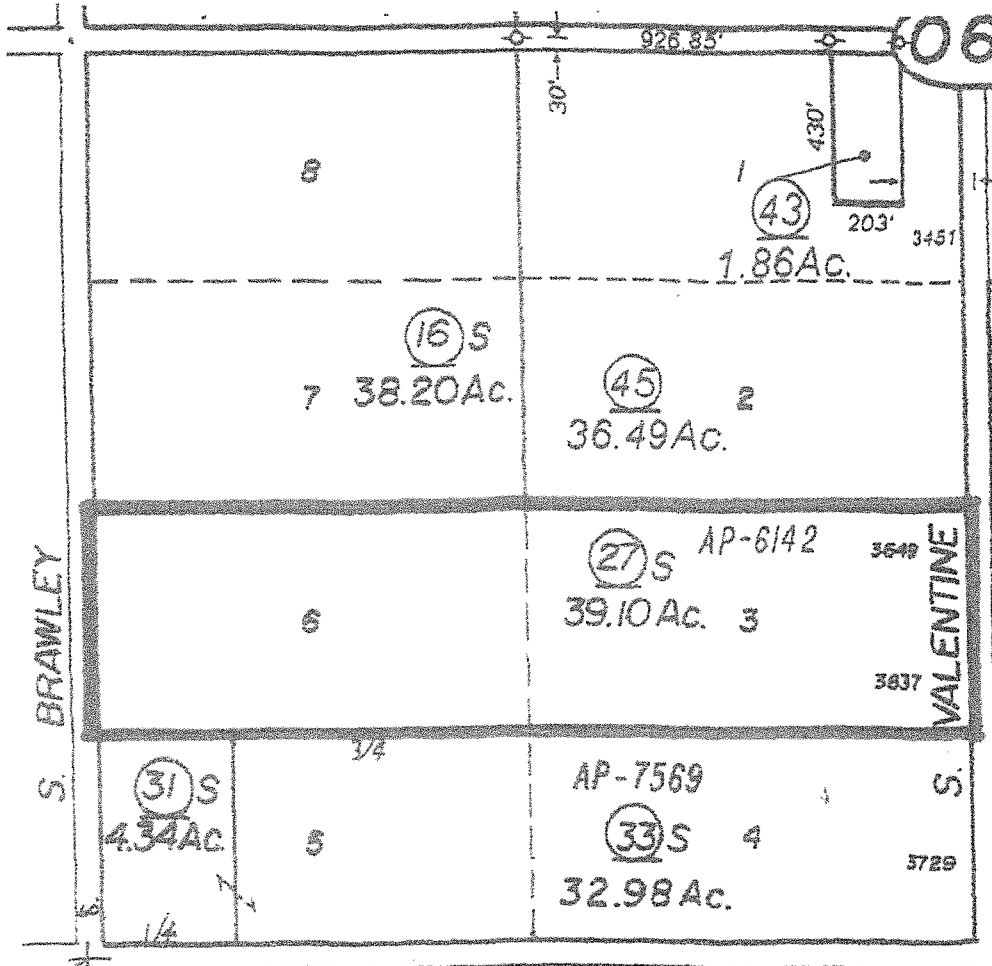
VA 4036  
See Detail A

Brawley



VALENTINE Ave.

W. MUSCAT



W. CENTRAL

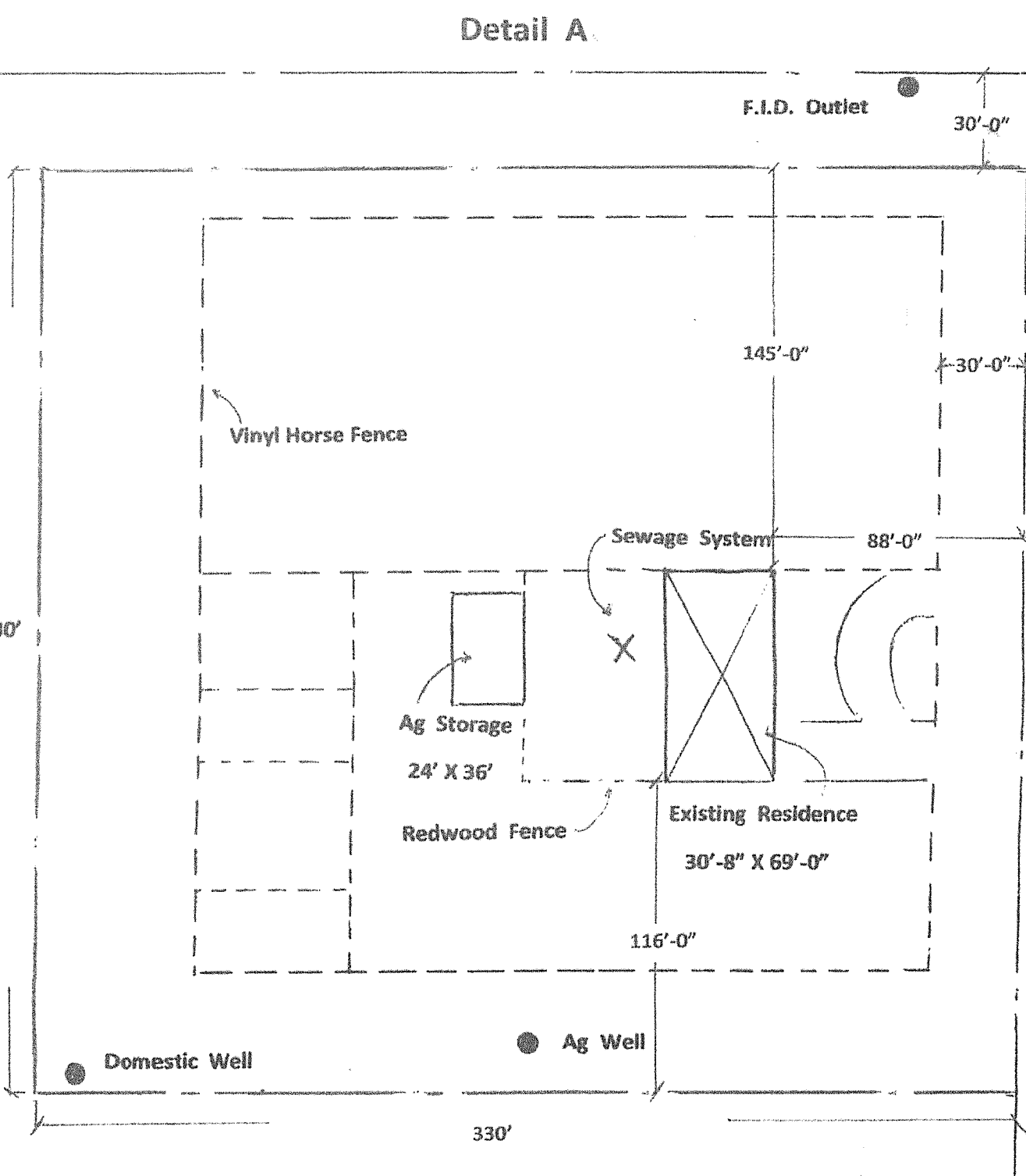
Detail A

N

1" = 50'

Scale

330'



Existing Property Lines

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DEVELOPMENT SERVICES DIVISION

VA 4038

Valentine Ave

330'

## VARIANCE APPLICATION FINDINGS

Duane and Karen Soares

**OWNER:**

Duane Lee and Karen Lee Soares Revocable Living Trust

**PROPERTY LOCATION:**

3637 South Valentine Ave.

**APN:** 327-061-27S

**EXISTING ZONE DESIGNATION:** AE-20

**REQUEST:** Grant a Variance to allow the creation of a 2.50 acre home site from a 39.1 acre parcel in a AE-20 Zone.

#1 This property has been our families primary residence since 1997 and we purchased the property from Deloris Coito, my maternal grandmother in 2004. My grandparents Fred and Deloris Coito purchased this property around 1948. We have entered a lease/purchase agreement with the property owners too our north and south. The south half of this quarter section will be planted in almonds within the next two years. This property has been in my family for almost 70 years and we would like to kept the home site in our family for many more years.

#2 There are several Rural Residential lots of various sizes within a one mile radius of this property on Valentine Ave., Central Ave. and on Muscat. Some of these Rural Residential lots are occupied by property owners of the adjacent property and share the same conditions as this variance application.

#3 The north-east corner of this property has always been a home site and there will be no physical changes to the site. The addition of another 2.5 acers of Rural Residential lot will have a very minimal impact on the surrounding property owners since there are several existing residential lots in the area.

#4 The north half of this quarter section is planted in Walnuts and the south half will be planted in Almonds within the next two years. There is a total of 152.83 acers in this quarter section. There will be a total of 8.70 acers of Rural Residential if this Variance is approved. There will be 94% of this quarter section in agricultural production for the next 20 to 30 years. In addition, there will be no loss of agricultural producing acreage. The percentage of acers in agricultural production for this quarter section is higher than some of the surrounding sections. Therefore, this quarter section is consistent with the County General Plan to preserve productive farm land.

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DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

VA 4038



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## EVALUATION OF ENVIRONMENTAL IMPACTS

APPLICANT: Duane and Karen Soares Living Trust

APPLICATION NOS.: Initial Study Application No. 7385 and  
Variance Application No. 4038

DESCRIPTION: Allow the creation of a 2.50-acre parcel from an existing  
39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-  
acre minimum parcel size) Zone District where a minimum of  
20 acres is required.

LOCATION: The project site is located on the east side of S. Valentine  
Avenue, between W. Muscat and W. Central Avenues,  
addressed as 3637 S. Valentine Avenue, Fresno, CA 93706  
(APNs: 327-061-47 and -46; Previously: 327-061-27S).  
(Sup. Dist. 4)

### I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- A. Have a substantial adverse effect on a scenic vista; or
- B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway; or
- C. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality; or
- D. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

FINDING: NO IMPACT:

This application proposes to allow the creation of a 2.5-acre parcel in the AE-20 Zone District where 20 acres is the minimum parcel size. The proposed 2.5-acre parcel is currently developed with a single family residence. No immediate changes would occur to the aesthetic properties of the area as a result of this variance request.

DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION  
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200  
The County of Fresno is an Equal Employment Opportunity Employer



Due to the size of the original parcel, a second residence could be developed without the need for additional discretionary review; this is allowed by Zoning Ordinance Section 816.5 subsection B.2 which allows that “not more than one (1) additional residence may be constructed or placed upon a parcel of land for ... each twenty (20) acres in excess of twenty (20) acres in the AE-20 District...”. The subject parcel was considered to have 40 acres (gross) prior to this variance request and therefore was permitted to develop up to two residences. Therefore, there is no change in the number of permitted residences and no potential impact to aesthetic resources as a result of additional residential development.

## II. AGRICULTURAL AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology in Forest Protocols adopted by the California Air Resources Board. Would the project:

- A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use; or
- B. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The entirety of the subject parcel was restricted by Williamson Act Contract at the time this application was submitted. The County’s Policy Planning Division determined that the proposed 2.5-acre parcel would not be consistent with the usage limitations or minimum acreage and the Contract was therefore required be cancelled in the area of the proposed 2.5-acre parcel. The remainder/farming parcel continues to meet usage and acreage requirements. The property owner filed a notice of non-renewable for the 2.5-acre parcel and received a favorable recommendation from the Agricultural Land Use Committee at its March 6, 2019 hearing. Such recommendation will be carried forth to the Board of Supervisors for a final decision if the Planning Commission acts to approve this variance request.

This does not present a significant impact to Prime Farmland, Unique Farmland, or Farmland of Statewide Importance because all of the active farmland on the subject parcel remains under contract. It is only the area which was developed as 2.5 acres of residential use which had to be removed. Therefore, no farmland would be converted to

non-agricultural uses and there are no conflicts with agricultural use or Williamson Act Contracts.

The potential for additional farmland to be removed from the parcel to accommodate an additional residence on the remainder parcel also presents no impact to existing agricultural zoning because, as discussed above, this site currently has the right to develop a second residence without discretionary approval.

- C. Conflict with existing zoning for forest land, timberland or timberland zoned Timberland Production; or
- D. Result in the loss of forest land or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

This project is not located in an area of timberland production or forestland and therefore will have no impacts on potential losses thereof.

- E. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The applicant indicates that his family has farmed the subject parcel for almost 70 years; however if this project is approved, the residential development will separate from the farming operation due to the creation of a 2.5-acre parcel. Future landowners may purchase the home unaware of the fact that farming operations can occur early in the morning or at other times that are not convenient to typical residential use. Such complaints have the potential to interfere with agricultural operations; therefore, in order to prevent a conflict of uses between residential and agricultural, the Applicant will be required to sign an acknowledgement of the "Right to Farm", which informs the property owner that noise and dust may occur as a result of the adjacent operations. The Right to Farm notice will be presented to any future property owners prior to finalization of the land purchase agreement. No other changes will occur as a result of this application which could result in the conversion of farmland to a non-agricultural use.

There is no impact on the conversion of forestland to a non-forest use because the project site is not located in the vicinity of any forestland or timberland.

### III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

- A. Conflict with or obstruct implementation of the applicable Air Quality Plan; or

- B. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard; or
- C. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a Federal or State ambient air quality standard; or
- D. Expose sensitive receptors to substantial pollutant concentrations; or
- E. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

FINDING: NO IMPACT:

Approval of this variance request would allow the applicant to file a mapping application to allow the developed residential portion of this parcel to function a legally separate parcel from the remaining agricultural area. No new development is authorized by the variance, directly or indirectly, and therefore no change in the baseline of the release of criteria pollutants will occur.

#### IV. BIOLOGICAL RESOURCES

Would the project:

- A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- C. Have a substantial adverse effect on state or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means; or
- D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; or
- E. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?

FINDING: NO IMPACT:

There are no physical effects associated with the actions taken on this project and therefore no potential to cause adverse impacts to special-status species. Further, the project site does not contain riparian habitat and the use of the parcel for agricultural purposes generally limits use by animals to foraging only. No nesting or denning sites are available due to the disturbed ground and lack of trees in and around the project site. The project site is not subject to a local, regional, or state Conservation Plan.

## V. CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or
- B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- C. Disturb any human remains, including those interred outside of formal cemeteries?

FINDING: NO IMPACT:

No development or earthmoving is proposed as part of this application. As discussed in further detail in Section XVIII *Tribal Cultural Resources*, the County engaged in Tribal Consultation under the provisions of Assembly Bill 52 to determine if known resources were located on the site. No such resources were identified and therefore, no impacts to Cultural Resources will occur as a result of this project. No cultural resources which were not associated with local Native American Tribes, such as residences of historical figures, were identified on the subject parcel. Further, the site has been subject to farming practices for more than 50 years, reducing the probability that surficial resources would be present.

## VI. ENERGY

Would the project:

- A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or
- B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

FINDING: NO IMPACT:

Following approval of this application, there will be no change in the baseline energy usage at the project site. The applicant indicates that the remainder parcel may be leased to an adjacent farmer, which could result in a minor increase in energy efficiency

by allowing for greater economies of scale if the parcel is farmed in coordination with neighboring fields. If the property is not leased, or is continued to be farmed separately, then there would be no change from the baseline because the 2.5 acres proposed for residential use are already developed with a single family residence, storage building, fence, and lawn prior to the filing of this application.

## VII. GEOLOGY AND SOILS

Would the project:

- A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
  - 1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?
  - 2. Strong seismic ground shaking?
  - 3. Seismic-related ground failure, including liquefaction?
  - 4. Landslides?
- B. Result in substantial soil erosion or loss of topsoil; or
- C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

FINDING: NO IMPACT:

The project would not directly or indirectly cause adverse effects associated with the rupture of a known fault, strong groundshaking, seismic-related ground failure or landslides because there is no change in the baseline usage of the parcel. Following the variance request, the Applicant will continue to reside in the onsite residence and farming operations will continue on the remainder of the subject parcel.

- D. Be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property; or
- E. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

FINDING: NO IMPACT:

A septic system has been installed to serve the existing single-family residence on the proposed 2.5-acre parcel. No new development is proposed and there is no need for

additional or expanded septic systems. Therefore, there is no concern that new construction could occur on expansive soils.

- F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

FINDING: NO IMPACT:

No ground-disturbing activities are proposed as part of this application and no paleontological resources are present on site. No physical changes will occur which could cause damage to a paleontological resource, site, or geologic feature.

### VIII. GREENHOUSE GAS EMISSIONS

Would the project:

- A. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- B. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

FINDING: NO IMPACT:

Approval of this Variance request would allow the applicant to file a mapping application to separate the existing residential use on the project site from the acreage which is used as farmland. There are no physical changes associated with this request and therefore no increase to the amount of greenhouse gas produced at the project site. As a result, the project will have no impact on the generation of greenhouse gas emissions and will not conflict with plans, policies, or regulations adopted for the purpose of reducing the emissions of greenhouse gases.

### VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or
- B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; or
- C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school; or

- D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment; or
- E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area; or
- F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- G. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

FINDING: NO IMPACT:

There will be no increase in the use of hazardous materials at the project site as a result of this application. The parcel is currently used to cultivate alfalfa, silage corn, and winter forage and includes a 2.5-acre residential area. Approval of this proposal would allow that residential unit to function as a separate legal parcel. There will be no increase to the risk of persons on site or in the vicinity due to use of hazardous materials on site or at a nearby location. Similarly, there is no change from the baseline regarding airport noise, compliance with an emergency evacuation plan, or risk of wildfire. Therefore, this project will have no impacts on Hazards and Hazardous Materials.

X. HYDROLOGY AND WATER QUALITY

Would the project:

- A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality; or
- B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin; or
- C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on or off site?
  - 1. Result in substantial erosion or siltation on- or off-site;
  - 2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?

3. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
  4. Impede or redirect flood flows?
- D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation; or
- E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

FINDING: NO IMPACT:

No increase in the amount of waste water produced by the project site is anticipated as a result of this application. Approval of the variance will permit the property owner to file a mapping application which will allow the residential development to function as a separate legal parcel. No new structures are proposed that could affect run-off direction or quality and therefore will not expose additional persons or hazardous materials to risk of inundation due to flood hazard, tsunami, or seiche.

## XI. LAND USE AND PLANNING

Would the project:

- A. Physically divide an established community?

FINDING: NO IMPACT:

The project site is not located in an established community and does not propose any physical changes. Therefore, the project will have no impact on the physical division of established communities.

- B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Development in Fresno County is required to be consistent with the Fresno County General Plan. Goal LU-A reads “To promote the long-term conservation of productive and potentially productive agricultural lands and to accommodate agricultural-support services and agriculturally-related activities that support the viability of agriculture and further the County’s economic development goals.” This goal relates to the environmental impacts of the loss of farmland and is supported by the following policies:

- LU-A.6: The County shall maintain twenty acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-



A.9, LU-A.10, and LU-A.11. The County may require parcel sizes larger than twenty (20) acres, based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.

- LU-A.7: The County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units and that the resultant increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels...the decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.

The above-mentioned policies are intended to address the environmental concern that an increase in the number of homesite parcels and general decrease in parcel size in Fresno County could lead to a conversion of productive agricultural land (see Section II: Agricultural and Forestry Resources).

This application is not consistent with the above policies because the proposed 2.5-acre parcel does not qualify for any of the exemptions at LU-A.9 (financing parcel; gift to family to assist with farming; or ownership prior to adoption of AE-20 Zoning), LU-A.10 (agricultural commercial center), or LU-A.11 (resource recovery location). However, these policies are codified in Zoning Ordinance Section 8.16.A, where this variance application is requesting relief from the 20-acre minimum parcel size. The applicant's findings indicate that his family has owned the subject parcel since before implementation of the AE-20 zoning; however LU-A.9 does not extend to family members who inherited or purchased the property after the zoning had been established.

While this application is not consistent with this policy, its noncompliance will not result in a significant adverse environmental effect. The original parcel size (prior to road dedication, i.e. gross) was 40 acres and due to its location in the AE-20 Zone district, one residence is allowed (by right) for each 20 complete acres (Zoning Ordinance Section 816.C subsection 1). Typical residential development in Fresno County covers an area up to 2.5 acres; this leaves approximately 17.5 acres of a typical 20-acre Agricultural Parcel for farming purposes and road dedication. In this case, the remainder parcel will have 36.6 acres remaining for farming purposes. The Applicant's findings indicate that a lease agreement is in place for a neighbor to farm this acreage; however, even if it were sold to someone who developed a 2.5-acre residential area on the parcel, approximately 34.1 acres would remain in agricultural production. Considering that 0.9 acres of the subject parcel have been dedicated to the County as right-of-way, the percentage of farmland that would remain in agricultural production would be consistent with typical usage in the AE-20 district on typical 20-acre parcels. Further division of this parcel would increase the residential density in this area; however, such requests would be subject to a new variance application and additional CEQA review.

Therefore, the project would not lead to an increase in residential densities or a reduction in the amount of available farmland, despite lack of consistency with General Plan Policies. This project will have less than significant impacts on conflicts with plans,

policies, and regulations adopted for the purpose of mitigating or avoiding environmental impacts.

## XII. MINERAL RESOURCES

Would the project:

- A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, Specific Plan or other land use plan?

FINDING: NO IMPACT:

No physical changes are proposed by this application and therefore no impacts will occur regarding the availability of known mineral resources or the loss in availability of a locally-important mineral resource.

## XIII. NOISE

Would the project result in:

- A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- B. Generation of excessive ground-borne vibration or ground-borne noise levels; or
- C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

FINDING: NO IMPACT:

There is no proposed increase in activities as a result of this application. There is the chance that new farming practices on the remainder parcel will create a variation from the existing baseline; however, no uses which would produce ground-borne vibration or noise levels are proposed. New farming practices would be restricted to the by-right uses of the AE-20 Zone District, which is the current level of restriction on the parcel. The project will have no impacts on the generation of temporary or permanent noise levels.

## XIV. POPULATION AND HOUSING

Would the project:

- A. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

FINDING: NO IMPACT:

Approval of this variance request would not directly induce substantial unplanned population growth. However, the incremental contribution of residentially-sized parcels in an area designated by the General Plan for Agricultural uses could lead to an increase in population growth in an area that was previously not contemplated. There is one existing homesite parcel across from the proposed 2.5-acre and approximately 45 parcels less than one acre in size located at the corner of Muscat and Valentine, approximately 660 feet north of the project site. This collection of parcels is known as Beran's Tract. A lack of recent records relating to these parcels suggests that they were created during the time that these parcels were zoned residential (1965 to 1985), when no variance would have been required to create small parcels. A number of these parcels have been developed with single-family residences and two have commercial uses: Clem's Hall which is an event center, and the West Park Market, a convenience store.

The approval of this variance would allow a new 2.5-acre lot to be created more than 600 feet south of Beran's Tract and adjacent to existing agricultural uses. Due to the availability of space within Beran's Tract, the proximity of West Park Market to the residentially-sized parcels, and the discussion in Section XI regarding the failure of this project to increase residential densities, there will be no impact on increases to unplanned population growth in the area.

- B. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

FINDING: NO IMPACT:

This project proposes to create a separate legal parcel for an existing residence, separate from the existing farming operation. The applicant currently lives in the subject residence. No other homes are impacted and no persons will be displaced.

## XV. PUBLIC SERVICES

Would the project:

- A. Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities, or the need for new or physically-altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

- 1. Fire protection;

2. Police protection;
3. Schools;
4. Parks; or
5. Other public facilities?

FINDING: NO IMPACT:

Approval of this application does not authorize any increase to use at the project site and therefore would not result in adverse physical impacts associated with new or altered government facilities. The 2.5-acre parcel will continue to function as a single-family residence and the farming operation will continue to produce agricultural products. No increase in numbers of persons at the site will occur, precluding the need for additional police and fire protection services. Similarly, no new homes will be built which could result in an increase in school-age children in the area. As a result, no new schools or parks would be required by this project. Other public facilities, such as light and power will continue to serve the existing residence.

#### XVI. RECREATION

Would the project:

- A. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- B. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

FINDING: NO IMPACT:

The project site is located in an area dedicated to agricultural production. There are no parks or recreational facilities in the vicinity of the project.

#### XVI. TRANSPORTATION

Would the project:

- A. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities; or
- B. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?; or
- C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?; or

D. Result in inadequate emergency access?

FINDING: NO IMPACT:

No increase to traffic is anticipated as a result of this application. There are no road improvements or expansions proposed to support this application and no new equipment is proposed to be used or transported over any existing roads. Therefore, the project will have no impacts to programs, plans, or policies regarding the circulation system. The project is consistent with CEQA Guidelines section 15064.3, subdivision (b), which discusses the need to quantify the amount of vehicle miles traveled (VMT); there is no increase to the baseline of vehicles that will arrive and depart the project site and therefore no impact to VMT.

XVIII. TRIBAL CULTURAL RESOURCES

Would the project:

- A. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
  - 1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
  - 2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

FINDING: NO IMPACT:

There is no development proposed as part of this application and therefore no opportunity to excavate previously unknown resources. Continuous use of this parcel for farming purposes for at least the past 70 years precludes the possibility that above-ground or surficial resources are present at the site.

On October 12, 2017, under the Provisions of Assembly Bill 52 (AB 52), the County provided notice regarding this project to the following Tribal Governments: Santa Rosa Rancheria Tachi Yokut Tribe, Table Mountain Rancheria, and the Dumna Wo Wah. Notification was sent to the Picayune Rancheria of Chukchansi Indians on November 2, 2017. The separate timing for that notice was due to the fact that the Picayune Rancheria requested notification under AB 52 after the original notices had been sent. Table Mountain Rancheria declined consultation in a letter dated October 23, 2017 and

Dumna Wo Wah requested consultation in a letter dated October 25, 2017. The other two Tribal Governments did not respond within 30 days of receipt of the notice and were therefore presumed to have declined consultation. Staff engaged with the Dumna Wo Wah by email on March 21, 2018, requesting information relating to any known resources at the site and inviting the Tribe to an in-person meeting to discuss the project. Additional emails were sent with no answer from the representative. Due to a lack of responsiveness from the Dumna Wo Wah, the County concluded consultation on June 11, 2018. With such conclusion, the County completed its requirements under Assembly Bill 52 and determined that mitigation would not be necessary to avoid impacts to Tribal Cultural Resources as a result of this project.

## XIX. UTILITIES AND SERVICE SYSTEMS

Would the project:

- A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years; or
- C. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or
- D. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or
- E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

FINDING: NO IMPACT:

No changes are proposed to the function of either proposed parcel. The 2.5-acre parcel will continue to operate as a residence for the applicant and the remainder parcel will continue to be farmed. The agricultural well shown on the site plans on the 2.5-acre parcel has been decommissioned and will not serve either proposed parcel.

It is possible that a new well installed on the remainder parcel; however, this would not impact the amount of water used onsite and therefore there will be no impacts on water quality or availability. Similarly, there will be no increase in the production of solid waste and therefore no impacts associated with federal, state, or local management and reduction statutes.

## XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- A. Substantially impair an adopted emergency response plan or emergency evacuation plan, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; or
- C. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- D. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

FINDING: NO IMPACT:

The project site is not in an area that is at high risk of damage from wildfire and the lack of development on the parcel would preclude offsite impacts to areas determined to be within a very high fire hazard severity zone.

## XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

- A. Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

FINDING: NO IMPACT:

There are no physical changes associated with this project, which is located in an area of active agricultural production. The opportunity for special-status species to be present at the project site is low and there will be no increase in the level of ground disturbance and farming activities. Therefore, no impacts to special status species or the habitats of special status species will occur as a result of this variance application.

- B. Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are

considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

**FINDING: LESS THAN SIGNIFICANT IMPACT:**

In accordance with the Fresno County General Plan, cumulative impacts of the loss of farmland and the conversion of large agricultural parcels to single-family residential usage, must be considered on a project-by-project case. As discussed in Section XI, homesites on farming parcels are typically developed up to 2.5 acres. Further, this parcel would have been allowed to develop two residences prior to the mapping application which would be authorized by this Variance request. Therefore, this project contributes no increase in the potential density in this area. The remainder parcel would be allowed to develop only the one homesite by right following the mapping application.

- C. Have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

**FINDING: NO IMPACT:**

Approval of this application would allow the property owner to file request to create a parcel with less than the required acreage for the zone district. No environmental effects which would cause substantial adverse impacts to human beings were identified as part of this application; primarily due to the fact that there is no change in the baseline operations at the project site, with the exception of the removal of the 2.5-acre from the Williamson Act Contract. That action will have no impact on the baseline at the project site because the area of residential development was not considered agricultural land; the usage was considered to be a compatible use because the residence was occupied by farmers.

## **CONCLUSION/SUMMARY**

Based upon the Initial Study prepared for Variance Application No. 4038, staff has concluded that the project will not have a significant effect on the environment.

It has been determined that there would be no impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire. Potential impacts related to Agricultural and Forestry Resources; and Land Use and Planning have been determined to be less than significant. Mitigation Measures were not necessary to reduce any impact to less than significant.

A Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.





# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

## NOTICE OF DETERMINATION

To:  Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

County Clerk, County of Fresno  
2221 Kern Street  
Fresno, CA 93721

From: Fresno County Department of Public Works and Planning, Development Services and Capital Projects  
2220 Tulare Street (corner of Tulare and "M") Suite "A", Fresno, CA 93721

Subject: Filing of Notice of Determination in compliance with Section 21152 of the Public Resource Code

Project: Initial Study Application No. 7385 and Variance No. 4038

Location: The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues, addressed as 3637 S. Valentine Avenue, Fresno, CA 93706 (APNs: 327-061-47 and -46; Previously: 327-061-27S). (Sup. Dist. 4)

Sponsor: Duane and Karen Soares Living Trust

Description: Allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.

This is to advise that the County of Fresno ( Lead Agency  Responsible Agency) has approved the above described project on August 8, 2019, and has made the following determination:

1. The project  **will**  **will not** have a significant effect on the environment.
2.  An Environmental Impact Report (EIR) **was not** prepared for this project pursuant to the provisions of CEQA. /  A Negative Declaration **was** prepared for this project pursuant to the provisions of CEQA.
3. Mitigation Measures  **were**  **were not** made a condition of approval for the project.
4. A statement of Overriding Consideration  **was**  **was not** adopted for this project.

This is to certify that the Initial Study with comments and responses and record of project approval is available to the General Public at Fresno County Department of Public Works and Planning, 2220 Tulare Street, Suite A, Corner of Tulare and "M" Streets, Fresno, California.

Christina Monfette, Planner  
(559) 600-4245 / EMAIL [cmonfette@fresnocountyca.gov](mailto:cmonfette@fresnocountyca.gov)

Date

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DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION  
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200  
The County of Fresno is an Equal Employment Opportunity Employer

File original and one copy with: <b>Fresno County Clerk 2221 Kern Street Fresno, California 93721</b>		Space Below For County Clerk Only.  CLK-2046.00 E04-73 R00-00	
Agency File No: <b>IS 7385</b>	<b>LOCAL AGENCY PROPOSED NEGATIVE DECLARATION</b>		County Clerk File No: <b>E-</b>
Responsible Agency (Name): Fresno County	Address (Street and P.O. Box): 2220 Tulare St. Sixth Floor	City: Fresno	Zip Code: 93721
Agency Contact Person (Name and Title): Christina Monfette, Planner	Area Code: 559	Telephone Number: 600-4245	Extension: N/A
Project Applicant/Sponsor (Name): Duane and Karen Soares Living Trust	Project Title: Variance Application No. 4038		
Project Description: Allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.			
Justification for Negative Declaration:  It has been determined that there would be no impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire.  Potential impacts related to Agricultural and Forestry Resources; and Land Use and Planning have been determined to be less than significant. Mitigation Measures were not necessary to reduce any impact to less than significant.			
FINDING: The proposed project will not have a significant impact on the environment.			
Newspaper and Date of Publication: Fresno Business Journal – June 14, 2019		Review Date Deadline: Planning Commission – August 8, 2019	
Date:	Type or Print Signature: Marianne Mollring, Senior Planner	Submitted by (Signature): Christina Monfette, Planner	

State 15083, 15085

County Clerk File No.: \_\_\_\_\_

**LOCAL AGENCY  
NEGATIVE DECLARATION**

RECEIVED  
COUNTY OF FRESNO

OCT 26 2017

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION  
VA 4038

To: Fresno County Planning Commission

SUBJECT: Duane and Karen Soares Variance Application #VA4038

Dear Commissioners,

I am a neighbor to Duane and Karen Soares and have discussed their Variance Proposal to allow a home site on the property Duane's family has owned for 70 years. I fully support the Soares Variance Application request because it is not detrimental to agricultural preservation and allows them to keep their hereditary home site.

Sincerely,



Address: 3451 Valentine  
Fresno, Ca.

RECEIVED  
COUNTY OF FRESNO

OCT 26 2017

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION  
VA 4038

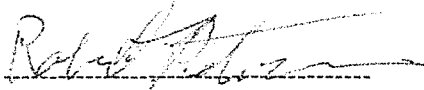
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Sincerely,

  
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Address: 3664 S. Valentina

Fresno, Ca. 93706