

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

DEPT: Planning and Community Development BOARD AGENDA #: 9:20 a.m.

AGENDA DATE: May 23, 2017

SUBJECT:

Public Hearing to Consider an Appeal of the Planning Commission's Approval of Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater, Located at 7924 & 7948 Yosemite Boulevard (Hwy 132), at the Southwest Corner of Yosemite Boulevard and Geer Road, and Adoption of a Mitigated Negative Declaration

BOARD ACTION AS FOLLOWS:

No. 2017-285

On motion of Supervisor Withrow , Seconded by Supervisor Monteith
and approved by the following vote,

Ayes: Supervisors: Olsen, Withrow, Monteith and Chairman Chiesa

Noes: Supervisors: DeMartini

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) X Other:

MOTION: Conducted the public hearing; the Board denied the appeal of the Planning Commission's 04/20/2017 approval of Use Permit PLN2015-0130 – The Fruit Yard; approved Staff Recommendations Nos. 1-6, and **amended** Development Standard No. 15 (Attachment 2) to read as follows, "No alcohol consumption or tail gating is permitted in the parking areas designated for on-site events. Any sale of alcohol on-site must obtain and comply with all of the necessary Alcohol Beverage Control (ABC) Licensing. No alcohol sales shall be permitted at the amphitheater site after 10 p.m."

ATTEST: Elizabeth A. King
ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM

DEPT: Planning and Community Development

BOARD AGENDA #: 9:20 a.m.

Urgent Routine

AF

AGENDA DATE: May 23, 2017

CEO CONCURRENCE:

4/5 Vote Required: Yes No

SUBJECT:

Public Hearing to Consider an Appeal of the Planning Commission's Approval of Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater, Located at 7924 & 7948 Yosemite Boulevard (Hwy 132), at the Southwest Corner of Yosemite Boulevard and Geer Road, and Adoption of a Mitigated Negative Declaration

STAFF RECOMMENDATIONS:

1. Deny the appeal of the Planning Commission's April 20, 2017, approval of Use Permit PLN2015-0130 – The Fruit Yard.
2. Find that the Amended Mitigation Measures presented in this report are equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.
3. Adopt the Amended Mitigated Negative Declaration and Amended Mitigation Monitoring Plan pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgment and analysis.
4. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
5. Find that the establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use, and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
6. Approve Use Permit PLN2015-0130 – The Fruit Yard, subject to the Amended Development Standards included as Attachment 2 of this report.

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DISCUSSION:

This is an appeal of the Planning Commission's approval of Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater, which is a request to amend an existing planned development to allow a 3,500 person capacity amphitheater, with a 5,000 square foot covered stage, a 4,000 square foot storage building and parking lot to the rear of the stage, and an additional 1,302-space temporary parking area, for a maximum of 12 amphitheater events per year. The Use Permit also included a request for a covered seating area of approximately 4,800 square feet and a 1,600 square foot gazebo to be developed in the existing park area and replacement of the existing pylon freestanding pole sign with an electronic reader board sign.

The project is located at the southwest corner of Geer Road and Yosemite Boulevard/State Highway 132 (7948 Yosemite Boulevard), east of the Community of Empire and west of the City of Waterford. The project site is made up of nine parcels and a remainder parcel ranging in size from 0.60+/- to 12.70 acres.

The project site is adjacent to an animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection, a drilling company (Masellis Drilling) on the northwest corner, and a fire station and church located to the north. Production agricultural parcels are located to the west, south, and east of the project site. A concentration of one to four acre ranchettes exists, approximately one half mile east and one mile northeast of the project site.

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

Background

The project site's current zoning designation is Planned Development P-D (317), which was approved by the Board of Supervisors on August 19, 2008, under General Plan Amendment No. 2007-03 and Rezone No. 2007-03. The site's P-D (317) zoning allows for the development of a 9,000 square foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing "card lock" fueling facility and construction of a 3,000 square foot retail shell building, which includes a drive-through establishment of unknown type. The Planned Development also permitted a 322-space boat/RV mini storage (both covered and uncovered spaces), and a 66 space travel trailer park for short term (overnight) stays. The Planned Development also included a two acre site for retail tractor (large agricultural equipment) sales and a new facility for fruit packing and warehousing, which are required to obtain a Use Permit prior to development. The approved Planned Development also permitted occasional outdoor special events to be held on-site, near and on the developed nine acre park area, including fund raising activities, weddings, and private parties.

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A complete background of the project site, including its legal non-conforming status prior to the 1970's and land use entitlement history is provided in Attachment 7 – *Planning Commission Staff Report, April 20, 2017*.

The area where the amphitheater is proposed was identified on the P-D (317) site plan as an extension of the existing park site, including a maintenance building, gazebo, pond, and storm drainage basin. The amphitheater was not identified as part of the approved Planned Development and is considered to be a new and separate use in addition to the approved park-site. In 2013, the applicant applied for a Grading Permit (GRA2013-0002), which was issued on January 29, 2015, for development of the park site and storm drain basin approved with the P-D (317). The 2013 grading permit was a request for “grading and drainage basin for amphitheater”; however, the issuance of the grading permit did not authorize the necessary land use entitlement needed for use of the graded area as an amphitheater. The requested Use Permit is needed to amend the development plan for the approved Planned Development and for the amphitheater to be incorporated into the uses approved for P-D (317) and be used independent of the park site for events.

A Planning Commission hearing was held on Thursday, April 20, 2017, to consider The Fruit Yard Amphitheater's Use Permit request. Planning staff recommended that the Planning Commission approve the request, with the exception of the requested electronic reader board sign, which staff recommended be denied. During the Planning Commission hearing seven surrounding neighbors spoke in opposition to the project, stating that they had concerns about impacts to their neighborhood in terms of traffic, noise, safety, and quality of life. The Planning Commission approved the project request, including the electronic reader board sign, on a vote of 4-1.

An appeal of the Planning Commission's approval was submitted on May 1, 2017, by the following residents: Richard and Barbara Heckendorf; Robert Boulet and Michelle Bell; Judy Crisp; Robert Wolfley; Matthew and Tina Smith; Tim Douglas; and, Kent Johnson. The appeal letter states that they believe the project's CEQA document did not adequately address: noise impacts, enforcement of the mitigation measures, physical impacts and enjoyment of their property, and light pollution specific to the proposed electronic reader board sign. The appeal letter concludes by requesting that the Board of Supervisors rescind the Planning Commission's action, deny the application, and reject the proposed CEQA document (see Attachment 1 – *Appeal Letter dated May 1, 2017*).

Appeal Letter Summary and Response

The majority of the appeal letter focused on noise, including issues the appellants believe exists with the Noise Study prepared for the project, with the Mitigation Measures applied to the project, and meeting County noise standards. The appeal letter stated that the mitigation measures proposed for the project are “non-specific and fail to have an enforcement mechanism to avoid impacts,” rely on “after the fact adjustments,” and have “no clear steps” to avoid impacts, which does not meet the requirements of CEQA to be specific, enforceable, and designed to eliminate or reduce impacts to the greatest extent feasible. Specifically, the appeal letter states that the Noise Study is based on modeling which does not take into

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consideration local conditions, different types of music, crowd noise, or other sounds that cannot be anticipated, and proposes additional study of noise and subsequent identification of mitigation.

The Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc. (BAC), dated February 3, 2016, was peer reviewed by J.C. Brennan and Associates, a third party whose contract was procured by County's Planning Department. J.C. Brennan and Associates provided a review response on November 15, 2016, which indicated the Noise Analysis was evaluated in terms of applicable noise level standards, methodology, assessment of noise impacts (including cumulative impact assessment), and compliance with CEQA and County's noise requirements. The review identified a need to amend the study to address the County's noise standards, methods for verifying compliance with the allowable noise standards, measuring crowd noise, a need to define "small" vs. "large" concerts, consideration of noise environment changes if orchard trees are removed, definition of the sound wall, and on the preference of measuring C-weighted sounds, rather than A-weighted sound which is the standard included in the County's Noise Element and Noise Control Ordinance, to provide additional protection to the community:

As recognized by BAC, A-weighted (dBA) sound levels do not adequately protect the community from low-frequency noise, such as that from amplified music. The City of Roseville C-weighted (dBC) standards referenced by BAC are reasonable standards that go a long way to reducing the potential for annoyance due to bass from music.

The environmental Noise Analysis was subsequently amended on December 28, 2016, to incorporate the peer review comments into the document, inclusive of the addition of C-weighted allowable noise levels. J.C. Brennan and Associates reviewed the amended document and determined that it adequately covered all of the concerns they had included in their original peer review response. (See Attachment 6 - *Noise Study Peer Review Letters, dated November 15, 2016, and December 30, 2016.*) The purpose of the third party review and subsequent amendments to the Noise Study was to ensure that potential impacts to the surrounding neighborhood, as identified by CEQA, were adequately addressed.

The amended Environmental Noise Analysis, which provides an overview of Planning staff and J.C. Brennan and Associates comments is provided as Exhibit H, pages 295-359, of the April 20, 2017, Planning Commission Staff Report (see Attachment 7).

Other comments in the appeal letter specific to the mitigation measures applied to the project included a statement that the mitigation measures need to go through an independent evaluation; are flawed because they require that the applicant comply and self-monitor (rather than each individual event operator); and a suggestion "that an independent sound engineer needs to be employed for all future events to control the equipment that is being used to ensure compliance with the noise studies."

The mitigation measures applied to the project covers the following: lighting, noise berm, sound proofing of the banquet hall, A-weighted and C-weighted noise level standards for noise

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sensitive receptors, A-weighted and C-weighted noise level standards for on-site, on-going sound monitoring, measuring compliance for the first two events, hours of operation, good neighbor policy, complaint protocol, orchard removal, future noise analysis protocol, security plan, traffic impact fees, and event traffic management.

As described above, the mitigation measures regarding noise were developed with the input of a third party review. The traffic study prepared for the project and associated mitigation were reviewed by both the Stanislaus County Public Works Department and by the California Department of Transportation (CALTRANS), who both found the study and mitigation measures to adequately address potential traffic impacts. The project and proposed mitigation was also reviewed by outside agencies. Responsible agency comments received, including from Stanislaus Consolidated Fire District and the California Highway Patrol, were included in the Development Standards/Mitigation Measures applied to the project.

The Mitigation Measures are required to be met by each individual operator who may host an event on-site; however, the property owner is ultimately responsible for any non-compliance issues.

On-going sound monitoring is required to be conducted for each event by a sound technician who has been trained by a noise consultant. Training logs and noise measurements for each event are required to be kept on record for up to 30 days and are subject to Planning Department review upon request. All monitoring records procured by Planning are subject to public records requests.

The appeal letter also stated that any event occurring after 10:00 p.m. is in contrast with Section 10.46.060(D) of the County's Noise Control Ordinance. Appellants maintain that "if a resident's sleep or lifestyle is disrupted by any sound within their home that that is a significant impact." Section 10.46.060 Specific Noise Source Standards of the County Noise control Ordinance includes the following two sections:

C. Audio Equipment. No person shall operate any audio equipment, whether portable or not, between the hours of ten p.m. and seven a.m. such that the equipment is audible to the human ear inside an inhabited dwelling other than a dwelling in which the equipment may be located. No person shall operate any audio equipment, whether portable or not, at any other time such that the equipment is audible to the human ear at a distance greater than fifty feet from the equipment.

D. Sound-Amplifying Equipment and Live Music. No person shall install, use or operate sound-amplifying equipment, or perform, or allow to be performed, live music unless the sound emanating from the sound-amplifying equipment or live music shall not be audible to the human ear at a distance greater than two hundred feet. To the extent that these requirements conflict with any conditions of approval attached to an underlying land use permit, these requirements shall control.

In response to the comments regarding Section 10.46.060, BAC has provided input to clarify that because audibility can vary significantly from person to person, making it difficult to prove if one person claimed a noise source was audible whereas to another the source was

inaudible, these two sections are very difficult, if not impossible, to enforce. Furthermore, CEQA states that for an impact to be significant, the increase in noise levels resulting from the project must be substantial, not merely audible. As a result, audibility is not used as a test of significance for CEQA purposes, but rather specific noise levels are used to measure significance, as contained with the County's Noise Element and Noise Control Ordinance. The Use Permit application review process provides a mechanism for the project to be evaluated in terms of compliance with the County's noise standards by professionals with noise expertise. The two noise consultants concur that the identified noise impacts can be reduced through the incorporation of mitigation measures to a less than significant level.

Post Planning Commission – Recommended Development Standard/Mitigation Measure Amendments

The appeal letter also stated that the appellants have offered alternatives which neither the Planning Commission nor staff has chosen to incorporate. Development Standards/Mitigation Measures incorporated into the April 20, 2017, staff recommendation to Planning Commission in response to letters received from the neighbors prior to the public hearing included: requiring on-going sound monitoring throughout each event, referral of the Good Neighbor Policy, restricting street parking, and requiring a public hearing for any extension of hours of operation. Comments received, requesting the sound measurements be subject to public record were included in the discussion of the Planning Commission Staff Report; which clarified that all noise measurements, reports, and other documentation developed and or received as part of compliance with project Development Standards/Mitigation Measures are public record and may be viewed by any member of the public upon request.

In addition to the amendments listed above, which were integrated into the project to address public comments, staff is recommending a number of additional changes to address public comments received during the Planning Commission hearing and to address the appeal letter. A discussion of those additional proposed amendments to the Development Standards/Mitigation Measures is provided below and reflected in the Amended Development Standards included as Attachment 2 of this report.

The table in Mitigation Measure No. 4 has been removed and replaced with a general reference to the County's General Plan Noise Element standards, to provide flexibility in meeting the most current Noise Element standards, should the document be updated. Specific ambient level adjustments are no longer referenced in Mitigation Measure No. 4. However, as described in the Noise Element, adjusting to account for existing ambient noise levels when measuring off-site is allowed.

In terms of enforcement of the mitigation measures, the appeal letter took issue with the enforcement actions outlined in the Planning Commission Staff Report. The appellants expressed a history of neighbor complaints that they feel have been dismissed and ignored which causes them concern and doubt in terms of enforcement should the operation not meet the requirements included in the Development Standards/Mitigation Measures.

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Clarification regarding the enforcement procedures has been incorporated into Mitigation Measures Nos. 7, 8, and 12, including clarification that if the measurement results indicate that the music levels exceed the allowable noise standards, no further events shall occur until the Planning Department is able to verify that all controls necessary for compliance have been fully implemented. Additionally, references to where off-site measurements should occur, have been changed from “at the nearest residences” to more specific locations. Specific locations of where on-site measurements for each venue should be taken have also been added.

The following provides a summary of the process for verifying the events do not exceed the allowable noise standards as reflected in the projects mitigation measures:

- I. **First Two Events:** For each venue (amphitheater, banquet hall, and park), conduct sound monitoring, both on-site and off-site, at designated locations. Amphitheater must complete this step again for the first two events with 500 or more in attendance, if the prior events were smaller in size.
- II. **After First Two Events:**
 - a. **Noise Consultant Report:** A report, including monitoring results, conclusions, and if necessary, additional measures needing to be implemented for compliance, will be prepared by a noise consultant and provided to the Planning Department within 10-days after the second event.
 - b. **If Standards Are Met:**
 - i. Noise consultant to train sound technician on how to conduct continual on-site sound monitoring for each event.
 - ii. Hold subsequent events: On-site noise levels are recorded continuously throughout each event and kept for 30-days.
 1. Complaints Received:
 - a. County conducts review of noise monitoring records
 - i. If noise standards violated – Proceed to step II(c)
 - ii. If noise standards not violated – No further action
 - c. **If Standards Are Not Met:**
 - i. Cease operation of events (specific to venue)
 1. Noise consultant shall develop additional sound controls
 2. Implement additional sound controls
 - ii. Re-measure sound at subsequent event
 1. Standards not met – Return to Planning Commission for direction
 2. Standards met – Proceed with step II(b)

The appeal letter states, “The study [Environmental Noise Analysis] notes that if mitigation measures fail, the Planning Director can take actions to remedy the situation but fails to identify the specific actions or limitations that will occur.” The direction that the Planning Commission may provide if standards are not being met include, amending the projects development standards and/or mitigation measures or recommending revocation of the Use

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Permit to the Board of Supervisors. Section 21.104.015 Amendments of the Stanislaus County Zoning Ordinance also allows the Planning Director to amend Development Standards to address nuisance concerns, subject to appeal by the property owner.

The appeal letter takes issue with the fact that the “good neighbor policy” has not yet been defined. The Good Neighbor Policy (required per Mitigation Measure No. 11) is intended to be a dynamic document which identifies a procedure for notifying neighbors when events are to be held, provides a contact for neighbors to call if they have complaints, and to outline the steps that management will take to address complaints after they’re received. In response to the concerns raised by the neighbors prior to the Planning Commission’s hearing, Development Standard No. 20 was incorporated into the project requiring a two-week referral to the surrounding neighbors for review and comment on the draft Good Neighbor Policy. In response to this appeal, amendments are proposed to Development Standard No. 20 to clarify the approval process. Additionally, to allow the neighbors more time to review the draft document, a draft Good Neighbor Policy, submitted by the applicant, has been included with this report (see Attachment 5 – *Draft Good Neighbor Policy*). This document is intended to provide an overview of general content, not to be considered for adoption, and will still be referred to the surrounding neighborhood for a two-week comment period prior to acceptance by County Planning.

The appeal letter also pointed to the Noise Analysis which recommended that events of 2,000 people or more should be limited to daytime hours, which was not reflected in the mitigation applied to the project. Mitigation Measure No. 10 allows amphitheater events to end at 11:00 p.m. on Fridays and Saturdays, regardless of event size, provided the first two large events (of 500 persons or more) are found to meet the allowable A-weighted and C-weighted noise standards. The Noise Study recommendation (No. 11) states (see page 328 of Attachment 7 – *Planning Commission Staff Report, April 20, 2017*):

To maintain crowd noise at acceptable levels, amphitheater events exceeding 2,000 attendees should be concluded by 10 p.m. Noise monitoring of crowd noise during the first two events can be utilized to determine if this measure will be necessary long-term.

The last sentence in the recommendation allows events with 2,000 or more in attendance to go past 10:00 p.m., provided the first two events can determine crowd noise will meet the applicable noise standards. The noise consultant identified crowds of 500 persons to be adequate to measure crowd noise. The measurements taken for a crowd of 500 may be adjusted upwards to account for larger crowd noise levels. This was the reasoning behind the development of Mitigation Measure No. 10, which allows concerts in the amphitheater to go until 11:00 p.m. on Fridays and Saturdays provided it can be demonstrated that the required noise levels can be maintained based on the monitoring of the first two events with 500 or more in attendance. “Daytime” standards are identified in the Noise Element as applying between 7:00 a.m. to 10:00 p.m. If events are permitted to go to 11:00 p.m. on Fridays and Saturdays the lower “Nighttime” standard, which applies between 10:00 p.m. and 7:00 a.m., must be met for any event occurring between 10:00 p.m. and 11:00 p.m.

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Neighbor objections were also previously raised in opposition to the use of fireworks on the project site. Development Standard No. 13 requires that all Development Standards from P-D (317) remain applicable to the project site. This includes Development Standard No. 8 which requires that an acoustical analysis be prepared in accordance with the Noise Element of the Stanislaus County General Plan prior to the use of any outdoor blasting devices to ensure noise levels do not exceed the maximum allowable noise levels as allowed by the Noise Element. Planning staff considers fireworks to be covered under the category of “blasting devices.” Accordingly, any use of fireworks on the premises could be permitted provided an acoustical analysis is prepared which shows the fireworks can meet the standards set forth within the County Noise Element (see page 105 of Attachment 7 – *Planning Commission Staff Report, April 20, 2017*).

The appeal letter also recommends that the Board of Supervisors overturn the Planning Commission’s approval of the electronic reader board sign, as no mitigation, or identification of light impacts were considered in the Planning Commission’s action. As part of the Use Permit approval, the Planning Commission amended Development Standard No. 8 to allow for flashing, animated, or electronic reader board signs. The County has typically prohibited flashing, animated, or electronic reader board signs in the unincorporated areas of the County. The only exception has been in urbanized commercial areas, typically within a sphere of influence of a city, where that city supports the electronic sign. The proposed electronic sign is reflected on page 28 of the Planning Commission Staff Report (see Attachment 7).

The appeal letter takes issue with giving permission for The Fruit Yard to use the amphitheater when it was built without County approval, through a grading permit, when it was not a use permitted by their zoning. As discussed earlier, a grading permit allowing for the development of the amphitheater was issued, the land use entitlement necessary for use of the amphitheater was not issued and this Use Permit is required for use of the amphitheater. At the Planning Commission hearing, the applicant’s representative provided the copy of the grading permit issuance letter to verify that his client had obtained a permit for development of the amphitheater (see Attachment 9).

The appeal letter expresses concerns about safety and feels that the Sheriff does not have the capacity to enforce noise issues. Mitigation Measure No. 15 has been applied to the project to require a Security Plan be submitted to the Sheriff for review and approval. However, as stated in the Planning Commission Staff Report, the Use Permit is a land use permit and is subject to enforcement through the land use process, which includes amendment or revocation of the Use Permit through the Planning Department, Planning Commission, or Board of Supervisors.

The appeal letter also expressed concern with a lack of defining what an “event” means in terms on duration. In response, staff has provided the following clarification within Development Standard No. 18:

- a. *Amphitheater Events: A maximum of 12 events per calendar year. Each day an event is held counts towards the maximum number of events allowed. If an event takes place on multiple days, each day counts as a separate event.*

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Events are restricted to the operating hours described in Mitigation Measures Nos. 9 and 10.

- b. Banquet Hall Events: Unlimited number of events per year. Events are restricted to the operating hours described in Mitigation Measure No. 9.*
- c. Park Events: Unlimited number of events per year. Events are restricted to the operating hours described in Mitigation Measure No. 9.*

The applicant has objected to the limitation on amphitheater events claiming that the intent of the Use Permit was only to address large amplified concerts referred to as advance ticket concerts. The applicant contends that special events and weddings are already permitted as part of the original P-D (317) and that smaller uses that do not bring in “big banks of speakers” should not be subject to a limitation, as these uses would have been permitted in the park area prior to development of the amphitheater. Staff agrees that an unlimited number of events, varying in type and size, are permitted under P-D (317) in the park-site. The issue that has triggered this Use Permit is the establishment of a concentrated (in terms of people and facilities) and permanent event venue which was never contemplated as part of P-D (317) and is in function independent of the park. The Planning Commission Staff Report clearly identified the amphitheater as not part of the approved Planned Development and considered it to be a new and separate use in addition to the approved park-site with a maximum of 12 events per year.

Further, the Planning Commission Staff Report identified the following uses for the project site, should the Use Permit be denied:

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

While the applicant made no objection to the description of the amphitheater provided in the Planning Commission Staff Report, there has been correspondence provided by the applicant's representative to staff trying to make a distinction between the scale of an event that should count towards the 12 event maximum and those that should be in an unlimited quantity under P-D (317). The distinctions involve, number of attendees (a couple of hundred vs. 3,500), association with other events occurring on-site (such as Graffiti weekend), private events (weddings), and events that are “small in sound” (such as Sunday morning Easter services, travelling speakers, movie night, Red Hat Society gatherings, fundraisers and the like).

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If the Board of Supervisors concurs with the applicant, the following is one option for amending section (a) of Development Standard No. 18:

- a. *Amphitheater Events: A maximum of 12 amplified concert events conducted independent of any park event or having tickets available for advance purchase. Each day an amplified concert event is held counts towards the maximum number of events allowed. If an amplified concert event takes place on multiple days, each day counts as a separate event. An unlimited number of other events, with less than 500 in attendance, shall be allowed per year. Events are restricted to the operating hours described in Mitigation Measure No. 9.*

Lastly, the appeal letter stated that the appellants do not agree with the findings that Planning Commission made, specifically that the project will not be detrimental to the health, safety, and general welfare of the persons residing or working in the neighborhood, or detrimental to property and improvements in the neighborhood. If the Board of Supervisors denies the appeal and acts to approve the Use Permit as recommended, staff believes that all necessary findings can be made and that the project will not be detrimental to persons or property in the neighborhood.

Amended Mitigation Monitoring Plan

Changes may be made to the Development Standards/Mitigation Measures provided the changes involve issues previously considered by the Planning Commission. Additionally, changes may be made to Mitigation Measures without the requirement for recirculation, provided the changes are found to be equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment. The table below provides a summary and evaluation of each mitigation measure in terms of this finding:

| Mitigation Measure | Summary | No Change | Less Restrictive | As Restrictive | More Restrictive |
|--------------------|--|-----------|------------------|----------------|------------------|
| <i>Aesthetics</i> | | | | | |
| 1 | Lighting | X | | | |
| <i>Noise</i> | | | | | |
| 2 | Noise Berm | | | X | |
| 3 | Sound proofing of banquet hall | | | X | |
| 4 | A-weighted and C-weighted noise level standards off-site | | | X | |
| 5 | A-weighted noise level standards on-site | | | X | |
| 6 | C-weighted noise level standards on-site | | | X | |
| 7 | On-going sound monitoring | | | | X |
| 8 | Measuring compliance for first two events | | | | X |
| 9 | Hours of Operation | X | | | |
| 10 | Hours of Operation – Amphitheater Friday and Saturday | | | X | |
| 11 | Good Neighbor Policy | X | | | |

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|-------------------------------|---|---|--|---|---|
| 12 | Complaint Protocol | | | | X |
| 13 | Orchard Removal | | | X | |
| 14 | Future Noise Analysis Protocol | X | | | |
| <i>Public Services</i> | | | | | |
| 15 | Sheriff approved Security Plan | X | | | |
| <i>Transportation/Traffic</i> | | | | | |
| 16 | Traffic Impact Fees | X | | | |
| 17 | Event Traffic Management Plan (to be approved by Planning, Public Works, Fire, and CHP) | X | | | |

Based on the table above staff believes that the Board of Supervisors can make the finding that all proposed changes are equivalent or more effective in mitigating or avoiding potential significant effects and that in themselves will not cause any potentially significant effect on the environment.

POLICY ISSUE:

In accordance with Stanislaus County Code Section 21.112.060, an appeal of the Stanislaus County Planning Commission's Decision must be considered not later than forty-five days from the date of which the appeal is filed. The proposed Use Permit is required as an amendment to P-D (317) to allow use of the amphitheater not originally contemplated in the P-D's adopted development plan.

FISCAL IMPACT:

The fiscal impact associated with this item (including setting this public hearing, publishing legal notices, mailing public hearing notices to surrounding property owners, and preparing reports) are covered by the \$622 Planning Commission appeal fee paid by the Appellant.

BOARD OF SUPERVISORS' PRIORITY:

Conducting a public hearing to consider an appeal of the Planning Commission's decision is consistent with the Board of Supervisors' priority of A Well-Planned Infrastructure System.

STAFFING IMPACT:

There are no staffing impacts associated with this item.

CONTACT PERSON:

Angela Freitas, Planning and Community Development Director Telephone: (209) 525-6330

ATTACHMENT(S):

1. Appeal Letter dated May 1, 2017

Public Hearing to Consider an Appeal of the Planning Commission's Approval of Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater, Located at 7924 & 7948 Yosemite Boulevard (Hwy 132), at the Southwest Corner of Yosemite Boulevard and Geer Road, and Adoption of a Mitigated Negative Declaration

2. Amended Development Standards and Mitigation Measures
3. Amended Mitigation Monitoring Plan
4. Amended Mitigated Negative Declaration
5. Draft Good Neighbor Policy
6. Noise Study Peer Review Letters, dated November 15, 2016, and December 30, 2016
7. Planning Commission Staff Report, April 20, 2017
8. Planning Commission Minutes, April 20, 2017 (Excerpt)
9. Correspondence and Handouts received by the Planning Commission at the April 20, 2017, Public Hearing:
 - Exhibit A - E-mail dated April 18, 2017, from Janice Musso regarding Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater
 - Exhibit B - Handout of Use Permit Development Standards, submitted by Thomas Douglas
 - Exhibit C - Grading Permit (BLD2013-0002) Issuance Letter, submitted by Dave Romano

Attachment 1

May 1, 2017

Board of Supervisors
Stanislaus County
1010 10th Street
Modesto, Ca 95354

Dear Board of Supervisors:

This letter is submitted as an appeal to the April 20, 2017 Stanislaus County Planning Commission Action to approve USE PERMIT APPLICATION NO PLN2015-0130 THE FRUIT YARD APMPHITHEATER APN: 009-017-004. The action included the adoption of a Mitigated Declaration and Mitigation Monitoring Plan pursuant to CEQA Guidelines Section 15074(b) by finding that on the basis of the whole record, including the Initial Study, and any comments received that there is no substantial evidence that the project will have a significant effect on the environment. The action maintains that the project will not, under these circumstances, be detrimental to the health, safety and general welfare of the persons residing or working in the neighborhood of use, and that it would not be detrimental or injurious to property and the improvements in the neighborhood.

We respectfully disagree with this finding. In making this finding, the Planning Commission relied on mitigation measures that are nonspecific and fail to have an enforcement mechanism to avoid impacts. The measures rely on "after the fact" adjustments with no clear steps to avoid the identified impacts until the adjustments are made. This is not only detrimental to the health and safety of the nearby residents, but fails to meet the requirements of the California Environmental Quality Act. Mitigation measures must be designed to be specific, enforceable, and designed to eliminate or reduce impacts to the greatest extent feasible. We have offered alternatives that we feel accomplish this goal; however, neither staff nor the Planning Commission chose to incorporate these strategies into the project. As such, the undersigned appeal the Planning Commission decision approving the project.

This appeal is consistent with a petition signed by 140 residents in the effected neighborhood. We believe that the CEQA document did not adequately address:

1. Noise impacts of the proposed project;
2. The physical impacts of this project on the residents' use and enjoyment of their property;
3. Community recourse and the consequential enforcement of the proposed mitigation measures;
4. Light pollution and the environmental impacts of an electronic sign with motion elements.

The environmental mitigation study identifies several types of noise and identifies a "model" to provide a mitigation plan to address the impacts of the noise. The consultants acknowledge that such models fail to take into consideration local conditions and rely on testing and verification in the field. The mitigation measure requires testing for two "large" events, greater than 500 in attendance, but fails to take into account difference in music types, crowd noise, or other sounds that cannot be anticipated at

this time. It does not distinguish between the qualities or genre of the music (country versus rap versus pop versus rock). Different types of music have different music sound mixes and as a consequence different noise carrying characteristics. The noise study states that events of 2,000 or more attendees should only be held during the "day", presumably ending by 7 p.m.; however, no such limitation or mitigation measure was identified in the Initial Study.

The study identifies crowd noise and C level sound (the booming sound of base). The study proposes to study the noise and then to identify how the impact may be mitigated. The assumption that this type of noise can be mitigated is speculative. These are the most disruptive sounds to our sleep and concentration. The property owner has held unpermitted musical events that are far smaller (roughly 50 attendees) that have disrupted residents' sleep patterns and can be heard a long distance (over 1.5 miles).

Even the consideration of the approval of amplified music beyond 10 p.m. is in contrast with the Stanislaus County Ordinance No. C.S. 1070, specifically Section 10.46.060 Item D. which states "Sound-Amplifying Equipment and Live Music. No person shall install, use or operate sound-amplifying equipment, or perform, or allow to be performed, live music unless the sound emanating from the sound amplifying equipment or live music shall not be audible to the human ear at a distance greater than 200 feet. To the extent that these requirements conflict with any conditions of approval attached to an underlying land use permit, these requirements shall control." Staff has indicated this ordinance is unenforceable; however, this is the standard adopted by the Board of Supervisors to ensure consistency with its General Plan. We have never gotten a clear explanation as to why this ordinance is not enforceable; however, we suspect it is due to a lack of Sheriff Department resources. This is the very reason why we feel the project should not be approved. If the applicant fails to comply, the County has no resources to ensure that the operator complies.

The noise study looks at an "average" environmental condition. It ignores the reality of the real world where humidity, wind and air pressure may affect how noise carries. The noises envelop, the area that the projects activity may impact, will vary from performance to performance. The Fruit Yard's neighbors do not live in an average world. But some of the recommendations of the study are also ignored by the staff recommendations.

We maintain that if a resident's sleep or life style is disrupted by any sound within their home that that is a significant physical impact. In the past, neighbors have heard the Fruit Yard's music, crowd noise and C-level bass sounds in their homes and their bedrooms. This has made it difficult for the residents and their children just to go to sleep. The neighborhood residents have suggested night time limits of 9:00 p.m. to be assured that their home life would not be disrupted. The sound study suggests that events with 2,000 or more attendees should only be held during the day (we believe this means end at 7 p.m.). This testimony has been dismissed or just ignored. Perhaps all amplified events should have been limited to afternoon hours. The impact of activities at the Fruit Yard have been documented and continuously observed by residents for over twenty years. Their experience has documented very real impacts and these impacts have not been necessarily addressed or mitigated in this report.

Perhaps the most concerning aspect of the study is the lack of recourse or clear definition of corrective actions. If a mitigation measure is not enforced, or enforceable, it is not an allowable CEQA mitigation measure.

For example, the very definition of event is even questionable. An event can be defined as covering a one day, a weekend, or even a week long performance. We are uncertain whether this limit includes weddings, events in the park and events outside of the restaurant. The report does not give clear guidance on this issue.

The study notes that if the mitigation measures fail, the Planning Director can take actions to remedy the situation but fails to identify the specific actions or limitations that will occur. Those affected by the impacts are left to guess what measures will be taken, when they will be taken, how long it will take to correct the situation, and whether events will continue in light of the impacts. This issue is particularly important since activities at the Fruit Yard have not been neighborhood friendly.

The enforcement mechanisms will not ensure compliance with the standards because they rely on the applicant to self-monitor. However, in the past, noise complaints directed to Fruit Yard staff have been dismissed and ignored. In fact, in at least one specific case, the Fruit Yard staff told a neighbor they were afraid to tell the operator or the DJ to turn down their amplifiers. This simply is not a viable mitigation measure. Furthermore, the County acknowledges in the staff report that the County Sheriff does not enforce the County's noise ordinance or the requirements of permits like these. So even if monitoring of the two "large" events does show compliance, any particular operator could violate the standard and no one would be in a position to enforce the standards. We have argued that an independent sound engineer needs to be employed for all future (concerts, weddings...) events to control the equipment that is being used and to ensure compliance with the noise studies. These measures have been rejected by staff and the Planning Commission.

The recourse of neighbors' complaints of noise, traffic, security and other supposedly mitigated impacts is to be addressed in a yet to be defined "good neighborhood policy." This document has "put the cart before the horse." It is logical to assume that an issue is not mitigated until the mitigation is complete, not to be named at a later date. Again any policy will need to have an enforceable mechanism to ensure that the promoters holding the event are monitored and adjustments are made in "real time", not by "after the fact" analysis under theoretical conditions.

It has been noted several times in Planning Commission meetings that Stanislaus County does not presently have an enforceable noise ordinance. Enforcement of the noise ordinance is the responsibility of the Sheriff Department but noise concerns do not even show on the department's website. Quite frankly we agree that crime prevention should be the highest priority of the Sheriff Department. The Sheriff Department patrols over 1600 square miles of land and it is not surprising that if one calls the Sheriff's administrative office responsible for nuisance reports at 10:00 p.m. you may get a recorded message. The lack of policing resources in the County is a major reason why the Board of Supervisors

should deny this application in its entirety. These uses do not belong in areas where there are no resources to enforce the provisions of the permit.

We also have concerns about safety. Large events like these require a significant security plan. Even with a comprehensive security plan in place, the Sheriff Department is likely to be called upon if an event gets out of hand. With all of the existing public safety issues in the County, particularly during evening hours, why create a new and remote site that requires back up resources from the Sheriff Department?

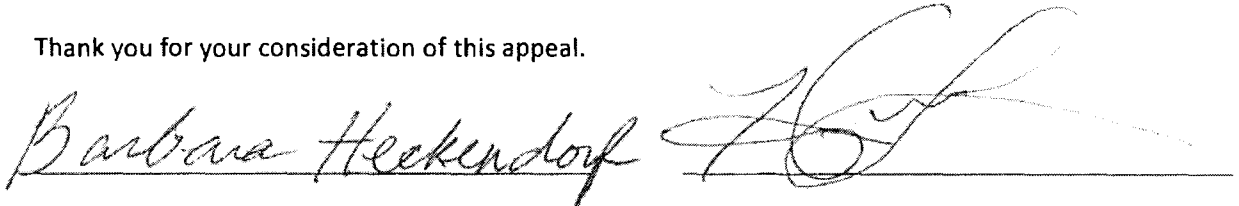
Finally, the Planning Commission overrode staff's recommendation denying an electronic message board for the property. The property currently has a static non-electric billboard that is available to advertise events at the amphitheater. The client had suggested that the moving element of the sign might be used to advertise the restaurant specials. There is no need to approve an electronic message board that will add flashing light and glare into an agricultural area. No mitigation, or identification, of light impacts was considered in the Planning Commission action.

As we noted above there are impacts that are not adequately addressed in the environmental document. They have been ignored, defined as insignificant or just not mitigated. As an illustration, the applicant argues the County has already authorized the construction of the amphitheater through the issuance of a grading permit that indicated the movement of dirt for an amphitheater. They believe, and apparently the Planning Commission concurred, they can pull a Sheriff special event permit and use the amphitheater despite the fact it was never permitted in the original General Plan Amendment and this conditional use permit has not yet been approved. It is clear from this application the County did not permit an amphitheater in the original General Plan Amendment and that the grading permit wording was issued in error. The idea that, even if this Conditional Use Permit is not granted, the County would issue a permit for a special event to use the amphitheater is infuriating and we believe illegal. This is the kind of thing we constantly hear from the County. The applicant knew the amphitheater was not approved, they were notified at the time dirt was being moved, they continued to improve it by adding grass, concrete, fencing and landscaping, and the County did nothing to stop them. Now that it's there, the response from the County staff and Planning Commission is there is nothing they can do about it now so we might as well try to figure out how to make it work. Seeking forgiveness seems to be the rule in the County and it only begets more seeking forgiveness. Why comply with any County law when the County takes this approach to the enforcement of those laws?

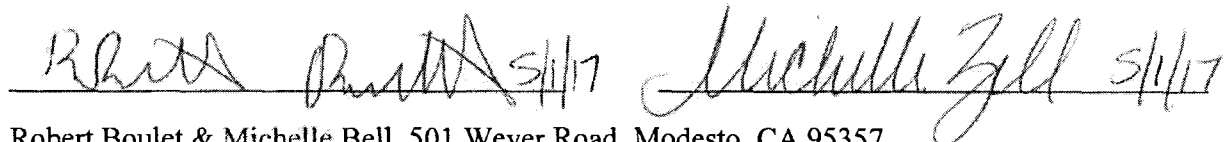
We have tried to work with the applicant but our suggestions have been dismissed and ignored. Because of the problem these kinds of uses have created in other parts of the County, County staff has gone as far as the applicant has been willing to take the mitigation measures. We have asked for greater limitations on the days and times of operation but the response has been that the applicant would be unwilling to have these measures incorporated into the project. From our perspective, this tells us there has been no independent evaluation of either the impacts or the identification of mitigation measures by the County as the lead agency for the project. It appears the applicant has undue influence over the County's determination which has eroded its independence in identifying feasible mitigation measures for the project.

We propose that the Board of Supervisors rescind the Planning Commission's action, deny the application, and reject the proposed CEQA document as the impacts are not fully mitigated to a level of insignificance. Measures that could accomplish this goal can and should be identified and we are willing to work with the County to develop mitigation measures that will properly meet these goals.

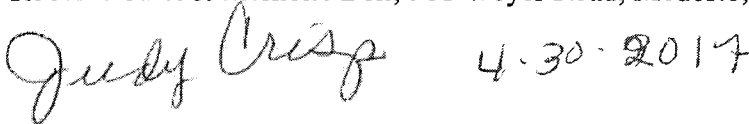
Thank you for your consideration of this appeal.


Barbara Heckendorf

Richard & Barbara Heckendorf, 679 Weyer Road, Modesto, CA 95357


Robert Boulet & Michelle Bell 5/1/17

Robert Boulet & Michelle Bell, 501 Weyer Road, Modesto, CA 95357


Judy Crisp 4-30-2017

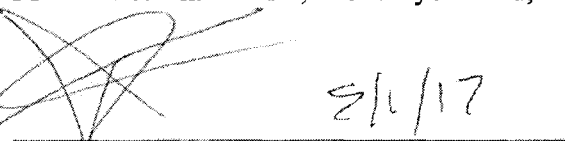
Judy Crisp, 601 Weyer Road, Modesto, CA 95357


Robert Wolfley 5/1/17

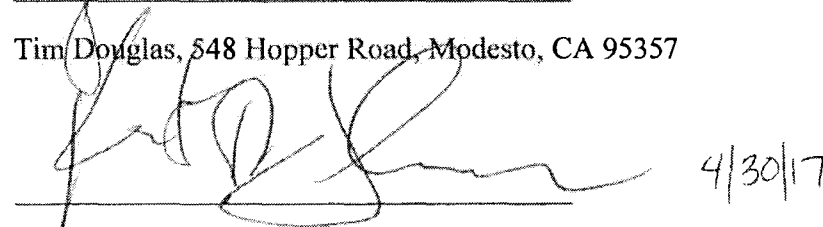
Robert Wolfley, 9536 Yosemite Blvd., Modesto, CA 95357


Matthew & Tina Smith 4/30/17

Matthew & Tina Smith, 655 Weyer Road, Modesto, CA 95357


Tim Douglas 5/1/17

Tim Douglas, 548 Hopper Road, Modesto, CA 95357


Kent Johnson 4/30/17

Kent Johnson, 566 Wellsford Road, Modesto, CA 95357

Attachment 2

**AMENDED FOR BOARD OF SUPERVISORS CONSIDERATION, INCLUDING AMENDMENT
TO DEVELOPMENT STANDARD NO. 8 APPROVED BY THE PLANNING COMMISSION ON
APRIL 20, 2017**

**PROPOSED AMENDMENTS IN BOLD RED
PROPOSED DELETIONS IN RED STRIKEOUT**

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

DEVELOPMENT STANDARDS

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

Department of Planning and Community Development

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

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

- mitigation program has been approved by a qualified archeologist. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.
6. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.
 7. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
 8. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the Planning Director or appointed designee(s) prior to installation. ~~Flashing, animated, or electronic reader board signs are not permitted.~~
 9. Pursuant to Sections 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate stream-bed alteration agreements, permits, or authorizations, if necessary.
 10. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
 11. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
 12. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.
 13. All Development Standards from Planned Development (317) shall remain in effect. The Development Standards set forth in this Staff Report are considered to be an amendment to the Development Standards from Planned Development (317), and apply in addition to the Development Standards from Planned Development (317). **Specifically, as required by Development Standards No. 8 and 72 of Planned Development 317, all noise generated on the 43.86 acre project site shall be subject to the following:**

- a. In accordance with the Noise Element of the Stanislaus County General Plan, noise levels associated with all on-site activities shall not exceed the maximum allowable noise levels as allowed by the Noise Element. The property owner shall be responsible for verifying compliance and for any costs associated with verification.
 - b. Any outdoor use of amplified sound at the park, banquet hall or amphitheater shall comply with the development standards of this Permit addressing noise levels, as analyzed in the December 30, 2016 Environmental Noise Analysis prepared by Bollard Acoustical Consultants, Inc., unless otherwise amended by the County.
14. No street parking associated with the site is permitted. Customers and event attendees shall be made aware via signage that parking is limited to on-site parking only.
 15. No alcohol consumption or tail gating is permitted in the parking areas designated for on-site events. Any sale of alcohol on-site must obtain and comply with all of the necessary Alcohol Beverage Control (ABC) Licensing.
 16. Prior to final of any new building permit all outstanding building and grading permits shall be finalized.
 17. Parcels 2, 3, 8, 9, and the remainder parcel of Parcel Map 56-PM-83 may not be independently sold until permanent parking is developed. Prior to development of permanent parking facilities, all applicable permits shall be obtained, including but not limited to a Staff Approval or Use Permit, and Building and/or Grading Permit. Proposed permanent parking facilities shall be reviewed and approved by both the Planning and Public Works Departments prior to development.
 18. **Events are limited to what are allowed under the Planned Development, including the amendments included in this Use Permit. No Outdoor Entertainment Activity Permit may be obtained. shall be limited, in number and duration, as specified in this condition, with no additional events to be permitted by issuance of a separate Outdoor Entertainment Activity Permit:**
 - a. **Amphitheater Events: A maximum of 12 events per calendar year. Each day an event is held counts towards the maximum number of events allowed. If an event takes place on multiple days, each day counts as a separate event. Events are restricted to the operating hours described in Mitigation Measures Nos. 9 and 10.**
 - b. **Banquet Hall Events: Unlimited number of events per year. Events are restricted to the operating hours described in Mitigation Measure No. 9.**
 - c. **Park Events: Unlimited number of events per year. Events are restricted to the operating hours described in Mitigation Measure No. 9.**
 19. Hours of operation may not be extended beyond those included in Mitigation Measure No. 9 for the banquet hall and park, and Mitigation Measures Nos. 9 and 10 for the amphitheater, without a public hearing.
 20. Prior to approval acceptance of the "Good Neighbor Policy" required by Mitigation Measure No. 11, and any subsequent amendment, the Planning Department shall will

refer the draft document to ~~all surrounding residents~~, for a two week comment period. The referral will be sent to the **current property owners of record** for all surrounding ~~properties residents~~ included on the project referral "Landowner Notice" list from Use Permit No. PLN2015-0130 – The Fruit Yard. Any comments received ~~shall~~ **will** be taken into consideration. However, the Planning Department maintains the ultimate approval authority.

Department of Public Works

21. No parking, loading or unloading of vehicles will be permitted within the Geer Road and Albers Road rights-of-way. The applicant will be required to install or pay for the installation of any signs and/or markings, coordinating the installation of the signs with Public Works Traffic Section.
22. The applicant shall obtain an encroachment permit prior to any work being done in the Stanislaus County road right-of-way.
23. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.
24. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted before any grading occurs or building permit for the site is issued which creates a new or larger footprint on the parcel. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
 - A. Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.
 - B. The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
 - C. The grading, drainage, erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit.
 - D. An Engineer's Estimate shall be submitted for the grading and drainage work.
 - E. The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.
 - F. The permit applicant shall pay the current Stanislaus County Public Works weighted labor rate for the plan review and all on-site inspections required for the grading, drainage, erosion/sediment control, or building permit plan. The Public Works inspector shall be contacted 48 hours prior to the onset of any grading or drainage work on-site.

Department of Environmental Resources

25. Prior to onset of amphitheater events, and prior the installation of any water infrastructure for the amphitheater, the property owner shall provide to the Department of Environmental Resources an application for amended water supply permit along with a full technical report

demonstrating that the water system will meet all requirements of a Non-transient Non-community water system: capacity, source water, drinking water source assessment, water works standards, and the California Environmental Quality Act (CEQA).

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

Building Permits Division

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

Stanislaus Consolidated Fire District

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

Modesto Irrigation District

33. In conjunction with related site/road improvement requirements, existing overhead and underground electric facilities within or adjacent to the proposed site shall be protected, relocated, or removed as required by the District's Electric Engineering Department.

- Appropriate easements for electric facilities shall be granted as required.
34. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.
 35. Costs for relocation or installation of MID electrical facilities at the request of others will be borne by the requesting party. Estimates for relocating or installing MID electrical facilities will be supplied upon request.
 36. A 15-foot Public Utility Easement (PUE) is required adjacent to the existing 12,000 volt overhead lines along Geer Road street frontage. The PUE is required in order to protect the existing overhead electric facilities and to maintain necessary safety clearances.
 37. A 10-foot Public Utility Easement (PUE) is required adjacent to existing street frontages, proposed streets and private ingress/egress easements as already shown on Parcel Map 56-PM-83. The PUE's are required in order to protect the future electrical facilities and to maintain necessary safety clearances.
 38. Prior to onset of any construction, contractor shall verify actual depth and location of all underground utilities. Notify "Underground Service Alert" (USA) (Toll Free 1-800-227-2600) before trenching, grading, excavating, drilling, pipe pushing, tree planting, post-hole digging, etc. USA will mark the location of the MID underground electrical facilities.
 39. The Modesto Irrigation District (MID) reserves its future right to utilize its property along the MID canal in a manner it deems necessary for the installation and maintenance of electric and telecommunication facilities. These needs, which have not yet been determined, may consist of new poles, cross arms, wires, cables, braces, insulators, transformers, service lines, control structures, and any necessary appurtenances, as may, in the District's opinion, be necessary or desirable.
 40. A 10 foot OSHA minimum approach distance is required adjacent to the existing 12,000 volt overhead high voltage lines.
 41. An eight foot minimum vertical approach distance is required adjacent to the existing overhead 200 volt secondary lines.
 42. Use extreme caution when operating heavy equipment, backhoes, using a crane, ladders, or any other type of equipment near overhead or underground MID electric lines and cables.
 43. Electric service to the proposed parcels is not available at this time. The Electric Engineering Department has no objections to the proposed amphitheater at this time. However, specific requirements regarding construction issues will be addressed when the amphitheater construction plans are submitted for review to the District's Electric Engineering Department. Contact Linh Nguyen at (209) 526-7438.
 44. Prior to construction, a pre-consultation meeting a pre-consultation meeting to discuss MID irrigation requirements is recommended.

California Department of Transportation

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

Department of California Highway Patrol

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

MITIGATION MEASURES

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

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

1. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to: the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and to prevent light trespass (glare and spill light that shines onto neighboring properties). Amphitheater lighting shall be shut off by 11:00 p.m. on Sunday – Thursday, and by midnight on Friday and Saturday evenings.
2. Prior to onset of any amplified music events at the amphitheater, a noise berm shall be constructed. Specifically, the noise berm shall consist of a 100 foot long by 40 foot wide and 20 foot tall building, labeled on the project site plan, the Planning Commission approved as a “storage building” to be located directly behind (northwest) of the stage, as identified as shown on the project site plan included as Exhibit B-6 of the April 20, 2017 Planning Commission Staff Report. A certificate of occupancy shall be obtained for the noise berm prior to the onset of any amphitheater activity. If the storage building changes in size or shape, or is proposed to be replaced with a backstage sound-wall or other construction to create an adequate noise berm, the modified facility will need to be reviewed and approved by an acoustical consultant, in accordance with Mitigation Measure No. 14, and a determination made that it has adequate sound dampening characteristics so that sound will fall within allowable noise levels, set forth in Mitigation Measure Nos. 4, 5, and 6 described within this Mitigation Monitoring Plan.
3. Prior to issuance of a building permit for the banquet hall, and prior to the onset of any amplified music event held at the banquet hall, the banquet hall shall be designed and constructed with sound proofing (including sound proofing for the roof, windows, and walls). Sound proofing plans shall be reviewed for full compliance with the allowable noise levels approved plans, set forth in Mitigation Measure Nos. 4, 5, and 6, by a noise consultant, as described in Mitigation Measure No. 14.
4. All amphitheater, park, and banquet hall events shall maintain compliance with the noise levels limits established by the Noise Element of the Stanislaus County General Plan, as described in Table IV-2 – Maximum Allowable Noise Exposure – Stationary Noise Sources, and any subsequent amendments. 1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc., and the C-weighted standards described below. In addition, low-frequency noise shall be limited to:

**Table 1
 Stanislaus County Noise Standards Applied to this Project
 After Adjustment for Elevated Ambient and Noise Source Consisting of
 Music**

| Receptor (See Figure 1) | Noise Metric | Adjusted Daytime | Adjusted Nighttime |
|--|---|------------------------------|------------------------------|
| | | Standard (7 a.m.-10 p.m.) | Standard (10 p.m.-7 a.m.) |
| A, B, D, F (near busy roadways) | Hourly Leq, dBA | 60 | 55 |
| | Maximum Level (L _{max}), dBA | 80 | 70 |
| C, E (setback from roadways 250-350 feet) | Hourly Leq, dBA | 55 | 50 |
| | Maximum Level (L _{max}), dBA | 75 | 65 |
| G, H, I (isolated from busy roads) | Hourly Leq, dBA | 50 | 40 |
| | Maximum Level (L _{max}), dBA | 65 | 55 |

Source: Stanislaus County Noise Element of the General Plan adjusted for ambient conditions.

In addition to the Table 1 standards, low frequency noise shall be limited to

- a. **Daytime and nighttime C-weighted noise level limits of 80 dBC Leq and 70 dBC Leq shall be applied at the nearest residences, existing at the time of the event for all amphitheater, park, and banquet hall events.** These standards may be adjusted upwards or downwards as appropriate following collection of C-weighted ambient noise level data collected during noise monitoring, as described in mitigation **Measure No. 8** near the existing residences immediately before and after the first two large amphitheater events (with 500 or more in attendance). Before any adjustments are made, a report documenting existing C-weighted ambient noise levels shall be reviewed by a noise consultant, as described in Mitigation Measure No. 14, and approved by the Planning Department. **Should the Noise Element be amended to include C-weighted standards which are more restrictive than the standards above, the Noise Element standards shall be met.**
5. To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 90 dBA Leq averaged over a five minute period and a maximum of 100 dBA L_{max} at a position located 100 feet from the front of the amphitheater stage.

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

Noise measurements during the first two amplified music events for each event space (banquet hall, park and amphitheater) shall be conducted by a qualified Noise Consultant to

~~be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.~~

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

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

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

7. Prior to any amplified music event at the park, banquet hall, or amphitheater, **not required to be monitored by a qualified Noise Consultant**, the operator/property owner shall obtain a **portable sound monitoring system to be used onsite**; which shall be reviewed and approved by a Noise Consultant, as described in Mitigation Measure No. 14, prior to first use. Sound levels shall be monitored during sound check and **continuously** during each amplified music event occurring at the park, banquet hall and amphitheater. ~~Measurement microphones should be placed 100 feet from the midpoint of the main speaker array. The monitoring shall be conducted 100-feet from the front of the stage for the amphitheater, and 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall.~~

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

A Type/Class 1 or 2 (per ANSI S1.43) measurement microphone system shall be used and laboratory calibrated prior to first use and field-calibrated at regular intervals (a minimum of 4 times a year). The system shall be laboratory calibrated at intervals not exceeding two years. The system shall be capable of measuring and logging Leq statistics over consecutive five minute intervals in both A and C weighted levels. The system shall also be

capable of capturing and logging 1/3-octave band data. For simplification and to minimize equipment costs, sound level limit triggers shall be set to Leq, C-weighting. The sound technician shall locally check both C-weighted and 1/3-octave band results during sound check prior to an event to establish system gain limits and to ensure compliance with the specified limits, **set forth in Mitigation Measure Nos. 4, 5, and 6. Noise level measurement data, including the time and location of the measurement, shall be maintained for 30 days and made available to the County upon request.**

The amphitheater operator/property owner shall make it very clear to event producers what the sound level limits are at the sound stage and the time at which music is required to cease. Suitable measures shall be implemented to both ensure the limits are maintained and penalties established if producers fail to comply with the noise level limits. **If at any time the measurement results indicate that the music levels exceed the allowable noise standards set forth in Mitigation Measure Nos. 4, 5, and 6, additional sound controls shall be implemented until compliance is met. The amphitheater operator/property owner shall be responsible to ensure that event producers comply with all project conditions.**

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

8. **During the first two large concerts (with 500 or more in attendance) held at the amphitheater and any of the first two events held at the amphitheater (if less than 500 in attendance), park, or banquet hall, on-site and off-site noise levels shall be monitored by a qualified noise consultant, to be procured by the operator/property owner. The on-site monitoring shall be conducted continuously, from the sound stage (100-feet from the front of the stage) for the amphitheater, 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall. with pPeriodic off-site noise monitoring shall be conducted at the Long-Term Ambient Noise Measurement Locations and Noise-Sensitive Receptor Sites (A-I) identified on Figure 1 of the of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc. near the closest residences, existing at the time of the event, in all directions surrounding the amphitheater. The noise measurements shall include the sound check prior to the concert so the event promoters understand the noise thresholds to be satisfied during the concert event. The purpose of the measurements is to verify compliance with the project's noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6.**

A report prepared by the noise consultant shall be provided to the Planning Department within 10-days of the second event. The Noise Consultant's report shall provide a conclusion regarding compliance with the projects allowed noise levels and, if necessary, additional measures needing to be implemented for compliance. If the measurement results indicate that the music levels exceed allowablethe noise standards described in this Mitigation Monitoring Plan, additional sound controls shall be developed by a noise consultant in accordance with Mitigation Measure No. 14 and no further events shall occur until the Planning Department is able to verify that all

controls necessary for compliance have been fully implemented. Upon verification, the third event shall be subject to the same noise monitoring requirements as the first two events. If the third event fails to comply with the projects allowed noise levels, a report for the three events shall be presented to the Planning Commission for direction to staff and public notice of the presentation shall be provided to the surrounding property owners. ~~Implementation of additional sound controls shall be implemented and verified prior to the following concert.~~ **Additional sound control** Such measures ~~shall~~ could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas, and limiting amplified music to before 10:00 p.m.

9. All amplified music events (including the amphitheater, park, and banquet hall events), occurring Sunday through Thursday shall end at or before 10 p.m. All patrons shall be off the premises (including the amphitheater, park, and banquet hall events) as of 11:00 p.m. Employees and contract staff, associated with the amplified music events, shall be off the premises (including the amphitheater, park, and banquet hall events) by 12:00 a.m.
10. The first two large amplified music events (with 500 or more in attendance) held at the amphitheater Friday and Saturday, shall end at or before 10:00 p.m., as described in Mitigation Measure No. 9. If monitoring results of the first two large amphitheater events show that such events are able to maintain levels at or lower than those required, **as set forth in Mitigation Measure Nos. 4, 5, and 6** ~~in this Mitigation Monitoring Plan~~, then amphitheater events on Friday and Saturday may be extended to 11:00 p.m. All patrons shall be off the premises (including the amphitheater, park and banquet hall events) by 12:00 a.m. Employees and contract staff, associated with the amplified music events, shall be off the premises by 1:00 a.m.
11. Operator/property owner shall establish a written "Good Neighbor Policy" to be approved by the Planning Department, which shall establish the permittee's plan to mitigate any ancillary impacts from amplified music events (park, banquet hall or amphitheater) on surrounding properties. The Policy shall include means for neighbors to contact management regarding complaints and steps management will take upon receiving a complaint. The Policy shall be submitted and approved 30 days prior to the first amplified music event. No changes to the Policy shall be made without prior review and approval by the Planning Department.
12. In the event that documented noise complaints are received **by the County** for bass thumping, microphones/public address systems, etc., associated with any use of the property (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83), such complaints shall be investigated to determine if the **allowable noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6**, ~~in this mitigation monitoring program~~ were exceeded. In the event that the complaint investigation reveals that the noise standards were exceeded ~~at the location where the complaint was received~~, additional sound controls shall be developed by a noise consultant, in accordance with Mitigation Measure No. 14. Implementation of additional sound controls shall be ~~implemented~~ **approved** and verified **by the Planning Department** prior to any further amplified sound event being held at the venue (amphitheater, banquet hall, or park) **determined to have exceeded allowable noise standards** ~~the following concert~~. **Additional sound control** Such measures could include reducing the overall output of the amplified sound system, relocating and/or

reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas and limiting amplified music to before 10:00 p.m.

13. Following removal of orchard trees located on the **western and southern portions of the** project site (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83) potential changes in noise impacts shall be evaluated by a noise consultant, as described in Mitigation Measure No. 14, and additional noise Mitigation Measures shall be implemented, if determined to be necessary, to ensure compliance with the applicable County noise standards.
14. Any future additional noise analysis required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation, shall be conducted by a noise consultant, whose contract shall be procured by the Planning Department, and paid for by the operator/property owner. A deposit based on actual cost shall be made with the Planning Department, by the operator/property owner, prior to any work being conducted. The applicant may choose to procure the noise consultant provided they pay the costs for the County to have all work peer reviewed by a third party. If future noise analysis is required, amplified music events will be limited, as determined by the Planning Department, until the noise consultant verifies to the Planning Department that all recommended noise control measures have been completely implemented.
15. Within sixty (60) days of project Use Permit approval, the operator/property owner shall submit for approval a security plan for amplified music events (park, banquet hall or amphitheater) to the Sheriff's Department. The plan shall be approved prior to any use of the amphitheater. Any changes to the security plan shall be approved by the Sheriff's Department.
16. Prior to issuance of a building permit, all applicable traffic impact fees shall be paid to the Department of Public Works.
17. An Event Traffic Management Plan shall be submitted and approved four (4) weeks prior to holding the first event at the amphitheater. Both County Planning and Public Works shall review and approve the plan.
 - a. The Event Traffic Management Plan shall include a westbound left turn lane from Highway 132 to the fourth driveway from the intersection (at Geer and Highway 132);
 - b. This plan shall include all event traffic circulation into and out of the site, including a description of how the different on-site parking areas will be filled;
 - c. Event Staff and signs shall not be in the State or Stanislaus County Right-of-way without an encroachment permit. This shall be addressed as part of the Event Traffic Management Plan. Each individual event shall have an encroachment permit from both the State and Stanislaus County, if applicable;
 - d. If the Event Traffic Management Plan requires updating, the updates shall be accepted both by County Planning and by Public Works, six weeks prior to the next event being held at the amphitheater. This update can be triggered either by the applicant or by Stanislaus County;
 - e. Fees may be collected for amphitheater event parking, provided no queuing of vehicles occurs. Parking fees may be collected as part of the fee collected for the price of the ticket for the event, or may be collected at a stationary electronic

- machine, installed in the parking area. Parking fees may not be collected while vehicles are waiting to enter the parking lot;
- f. Prior to the implementation or construction of any additional phases of the approved Plan Development (317), a revised Event Traffic Management Plan shall be submitted to and approved by County Planning and Public Works;
 - g. A left turn lane shall be installed on Geer Road for the driveway into the project labeled as D Drive. The plans shall be completed prior to the approval of the Event Traffic Management Plan. This driveway is roughly 575 feet south of the intersection of Geer Road and Yosemite Blvd;
 - i. Improvement plans are to be submitted to County Public Works for approval. These improvement plans shall meet standards set forth within the Stanislaus County Standards and Specifications and the Caltrans Highway Design Manual;
 - ii. An acceptable financial guarantee for the road improvements shall be provided to County Public Works prior to the approval of the Event Traffic Management Plan;
 - iii. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined;
 - iv. The left turn lane shall be installed before the first event is held at the amphitheater.

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

Attachment 3

Stanislaus County

Planning and Community Development

1010 10th Street, Suite 3400
Modesto, CA 95354

Phone: (209) 525-6330
Fax: (209) 525-5911

Amended Mitigation Monitoring Plan

Adapted from CEQA Guidelines sec. 15097 Final Text, October 26, 1998

May 16, 2017

- | | |
|--|--|
| 1. Project title and location: | Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater |
| | 7924 & 7948 Yosemite Blvd. (Hwy 132), at the southwest corner of Yosemite Blvd. and Geer Road, between the cities of Modesto, Waterford, and Hughson. (APN: 009-027-004) |
| 2. Project Applicant name and address: | The Fruit Yard - Joe Traina 7948 Yosemite Blvd. Modesto, CA 95357 |
| 3. Contact person at County: | Kristin Doud, Senior Planner (209) 525-6330 |

MITIGATION MEASURES AND MONITORING PROGRAM:

List all Mitigation Measures by topic as identified in the Mitigated Negative Declaration and complete the form for each measure.

I. AESTHETICS

- | | |
|---------------------------|---|
| No. 1 Mitigation Measure: | All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to: the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and to prevent light trespass (glare and spill light that shines onto neighboring properties). Amphitheater lighting shall be shut off by 11:00 p.m. on Sunday – Thursday, and by midnight on Friday and Saturday evenings. |
|---------------------------|---|

- | | |
|---|--|
| Who Implements the Measure: | Operator/property owner. |
| When should the measure be implemented: | Ongoing. |
| When should it be completed: | Ongoing. |
| Who verifies compliance: | Stanislaus County Planning and Community Development Department. |
| Other Responsible Agencies: | None. |

XII. NOISE

- | | |
|---------------------------|---|
| No. 2 Mitigation Measure: | Prior to onset of any amplified music events at the amphitheater, a noise berm shall be constructed. Specifically, the noise berm shall consist of a 100 foot long by 40 foot wide and 20 foot tall "storage building" as shown |
|---------------------------|---|

on the project site plan included as Exhibit B-6 of the April 20, 2017 Planning Commission Staff Report. A certificate of occupancy shall be obtained for the noise berm prior to the onset of any amphitheater activity. If the storage building changes in size or shape, or is proposed to be replaced with a backstage sound-wall or other construction to create an adequate noise berm, the modified facility will need to be reviewed and approved by an acoustical consultant, in accordance with Mitigation Measure No. 14, and a determination made that it has adequate sound dampening characteristics so that sound will fall within allowable noise levels, set forth in Mitigation Measure Nos. 4, 5, and 6.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: Prior to onset of any amplified music event held at the amphitheater.
When should it be completed: Prior to onset of any amplified music event held at the amphitheater.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 3 Mitigation Measure: Prior to issuance of a building permit for the banquet hall, and prior to the onset of any amplified music event held at the banquet hall, the banquet hall shall be designed and constructed with sound proofing (including sound proofing for the roof, windows, and walls). Sound proofing plans shall be reviewed for full compliance with the allowable noise levels, set forth in Mitigation Measure Nos. 4, 5, and 6, by a noise consultant, as described in Mitigation Measure No. 14.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: Prior to issuance of a building permit for the banquet hall.
When should it be completed: Prior to onset of any amplified music event held at the banquet hall.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 4 Mitigation Measure: All amphitheater, park, and banquet hall events shall maintain compliance with the noise level limits established by the Noise Element of the Stanislaus County General Plan, as described in Table IV-2 – Maximum Allowable Noise Exposure – Stationary Noise Sources, and

any subsequent amendments. In addition, low-frequency noise shall be limited to:

- a. Daytime and nighttime C-weighted noise level limits of 80 dBC Leq and 70 dBC Leq shall be applied for all amphitheater, park, and banquet hall events. These standards may be adjusted upwards or downwards following C-weighted ambient noise level data collected during noise monitoring, as described in mitigation Measure No. 8. Before any adjustments are made, a report documenting existing C-weighted ambient noise levels shall be reviewed by a noise consultant, as described in Mitigation Measure No. 14, and approved by the Planning Department. Should the Noise Element be amended to include C-weighted standards which are more restrictive than the standards above, the Noise Element standards shall be met.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: On an on-going basis, when events are held.
When should it be completed: On an on-going basis, when events are held.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 5 Mitigation Measure: To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 90 dBA Leq averaged over a five minute period and a maximum of 100 dBA Lmax at a position located 100 feet from the front of the amphitheater stage.

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

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: On an on-going basis, when events are held.
When should it be completed: On an on-going basis, when events are held.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No.6 Mitigation Measure: To control low-frequency sound in the surrounding neighborhood during amphitheater events, C-weighted sounds levels shall be limited to 100 dBC Leq averaged over a five minute period and a maximum of 110 dBC Lmax at a position located 100 feet from the front of the Amphitheater stage.

To control low-frequency sound in the surrounding neighborhood during park events, C-weighted sound levels shall be limited to 85 dBC Leq averaged over a five minute period and a maximum of 95 dBC Lmax at a position located 100 feet from the front of the speakers for the park, and 100 feet from outside of the banquet hall.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: On an on-going basis, when events are held.
When should it be completed: On an on-going basis, when events are held.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 7 Mitigation Measure: Prior to any amplified music event at the park, banquet hall, or amphitheater, not required to be monitored by a qualified Noise Consultant, the operator/property owner shall obtain a portable sound monitoring system to be used onsite; which shall be reviewed and approved by a Noise Consultant, as described in Mitigation Measure No. 14, prior to first use. Sound levels shall be monitored during sound check and continuously during each amplified music event occurring at the park, banquet hall and amphitheater. The monitoring shall be conducted 100-feet from the front of the stage for the amphitheater, and 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall.

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

A Type/Class 1 or 2 (per ANSI S1.43) measurement microphone system shall be used and laboratory calibrated prior to first use and field-calibrated at regular intervals (a minimum of 4 times a year). The system shall be laboratory calibrated at intervals not exceeding two years. The

system shall be capable of measuring and logging Leq statistics over consecutive five minute intervals in both A and C weighted levels. The system shall also be capable of capturing and logging 1/3-octave band data. For simplification and to minimize equipment costs, sound level limit triggers shall be set to Leq, C-weighting. The sound technician shall locally check both C-weighted and 1/3-octave band results during sound check prior to an event to establish system gain limits and to ensure compliance with the specified limits, set forth in Mitigation Measure Nos. 4, 5, and 6. Noise level measurement data, including the time and location of the measurement, shall be maintained for 30 days and made available to the County upon request.

The amphitheater operator/property owner shall make it very clear to event producers what the sound level limits are at the sound stage and the time at which music is required to cease. Suitable measures shall be implemented to both ensure the limits are maintained and penalties established if producers fail to comply with the noise level limits. If at any time the measurement results indicate that the music levels exceed the allowable noise standards set forth in Mitigation Measure Nos. 4, 5, and 6, additional sound controls shall be implemented until compliance is met. The amphitheater operator/property owner shall be responsible to ensure that event producers comply with all project conditions.

| | |
|---|---|
| Who Implements the Measure: | Operator/property owner. |
| When should the measure be implemented: | Prior to any amplified music event at the park, banquet hall, or amphitheater. |
| When should it be completed: | On an on-going basis, when events are held. |
| Who verifies compliance: | Stanislaus County Planning and Community Development Department. |
| Other Responsible Agencies: | Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department. |

No. 8 Mitigation Measure: During the first two large concerts (with 500 or more in attendance) held at the amphitheater and any of the first two events held at the amphitheater (if less than 500 in attendance), park, or banquet hall, on-site and off-site noise levels shall be monitored by a qualified noise consultant, to be procured by the operator/property owner. The on-site monitoring shall be conducted continuously, 100-feet from the front of the stage) for the amphitheater, 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall. Periodic off-site noise monitoring shall be conducted at the Long-Term Ambient Noise Measurement Locations and Noise-Sensitive Receptor Sites (A-1) identified on Figure 1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc. The noise measurements shall include the sound check prior to the concert so the event promoters understand the noise thresholds to be satisfied during

the event. The purpose of the measurements is to verify compliance with the project's noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6.

A report prepared by the noise consultant shall be provided to the Planning Department within 10-days of the second event. The Noise Consultant's report shall provide a conclusion regarding compliance with the projects allowed noise levels and, if necessary, additional measures needing to be implemented for compliance. If the measurement results indicate that the music levels exceed allowable noise standards, additional sound controls shall be developed by a noise consultant in accordance with Mitigation Measure No. 14 and no further events shall occur until the Planning Department is able to verify that all controls necessary for compliance have been fully implemented. Upon verification, the third event shall be subject to the same noise monitoring requirements as the first two events. If the third event fails to comply with the projects allowed noise levels, a report for the three events shall be presented to the Planning Commission for direction to staff and public notice of the presentation shall be provided to the surrounding property owners. Additional sound control measures shall include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas, and limiting amplified music to before 10:00 p.m.

| | |
|---|---|
| Who Implements the Measure: | Operator/property owner. |
| When should the measure be implemented: | Prior to the first two large events (with 500 or more in attendance). |
| When should it be completed: | Following the second large event (with 500 or more in attendance) |
| Who verifies compliance: | Stanislaus County Planning and Community Development Department. |
| Other Responsible Agencies: | Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department. |
| No. 9 Mitigation Measure: | All amplified music events (including the amphitheater, park, and banquet hall events), occurring Sunday through Thursday shall end at or before 10 p.m. All patrons shall be off the premises (including the amphitheater, park, and banquet hall events) as of 11:00 p.m. Employees and contract staff, associated with the amplified music events, shall be off the premises (including the amphitheater, park, and banquet hall events) by 12:00 a.m. |
| Who Implements the Measure: | Operator/property owner. |
| When should the measure be implemented: | On an on-going basis, when events are held. |
| When should it be completed: | On an on-going basis, when events are held. |
| Who verifies compliance: | Stanislaus County Planning and Community |

Other Responsible Agencies: Development Department.
Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 10 Mitigation Measure: The first two large amplified music events (with 500 or more in attendance) held at the amphitheater Friday and Saturday, shall end at or before 10:00 p.m., as described in Mitigation Measure No. 9. If monitoring results of the first two large amphitheater events show that such events are able to maintain levels at or lower than those required, as set forth in Mitigation Measure Nos. 4, 5, and 6, then amphitheater events on Friday and Saturday may be extended to 11:00 p.m. All patrons shall be off the premises (including the amphitheater, park and banquet hall events) by 12:00 a.m. Employees and contract staff, associated with the amplified music events, shall be off the premises by 1:00 a.m.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: On an on-going basis, when events are held
When should it be completed: On an on-going basis, when events are held. After it is demonstrated through noise level measurements of concert events that nighttime operations will not result in adverse nighttime noise impacts.

Who verifies compliance: Stanislaus County Planning and Community Development Department.

Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 11 Mitigation Measure: Operator/property owner shall establish a written "Good Neighbor Policy" to be approved by the Planning Department, which shall establish the permittee's plan to mitigate any ancillary impacts from amplified music events (park, banquet hall or amphitheater) on surrounding properties. The plan shall include means for neighbors to contact management regarding complaints and steps management will take upon receiving a complaint. The policy shall be submitted and approved 30 days prior to the first amplified music event. No changes to the policy shall be made without prior review and approval by the Planning Department.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: Prior to amplified music events (park, banquet hall, or amphitheater).
When should it be completed: On an on-going basis, when events are held.

Who verifies compliance: Stanislaus County Planning and Community Development Department.

Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 12 Mitigation Measure: In the event that documented noise complaints are received by the County for bass thumping, microphones/public address systems, etc., associated with any use of the property (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83), such complaints shall be investigated to determine if the allowable noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6, were exceeded. In the event that the complaint investigation reveals that the noise standards were exceeded, additional sound controls shall be developed by a noise consultant, in accordance with Mitigation Measure No. 14. Implementation of additional sound controls shall be approved and verified by the Planning Department prior to any further amplified sound event being held at the venue (amphitheater, banquet hall, or park) determined to have exceeded allowable noise standards. Additional sound control measures could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas and limiting amplified music to before 10:00 p.m.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: Upon onset of amplified music events. Work shall begin within 30 days of notification by the County.
When should it be completed: Prior to holding an amplified music event, after notification by the County.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 13 Mitigation Measure: Following removal of orchard trees located on the western and southern portions of the project site (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-083) potential changes in noise impacts shall be evaluated by a noise consultant, as described in Mitigation Measure No. 14, and additional noise mitigation measures shall be implemented, if determined to be necessary, to ensure compliance with the applicable County noise standards.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: Following removal of orchard trees located on the project site
When should it be completed: Prior to any amplified music event, after orchard trees have been removed.
Who verifies compliance: Stanislaus County Planning and Community Development Department.

Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 14 Mitigation Measure: Any future additional noise analysis required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation, shall be conducted by a noise consultant, whose contract shall be procured by the Planning Department, and paid for by the operator/property owner. A deposit based on actual cost shall be made with the Planning Department, by the operator/property owner, prior to any work being conducted. The applicant may choose to procure the noise consultant provided they pay the costs for the County to have all work peer reviewed by a third party. If future noise analysis is required, amplified music events will be limited, as determined by the Planning Department, until the noise consultant verifies to the Planning Department that all recommended noise control measures have been completely implemented.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: When a noise consultant is specified within this Mitigation Monitoring Plan.
When should it be completed: Prior to any amplified music event, as specified within this Mitigation monitoring Plan.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: None.

XIV. PUBLIC SERVICES

No. 15 Mitigation Measure: Within sixty (60) days of project Use Permit approval, the operator/property owner shall submit for approval a security plan for amplified music events (park, banquet hall or amphitheater) to the Sheriff's Department. The plan shall be approved prior to any use of the amphitheater. Any changes to the security plan shall be approved by the Sheriff's Department.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: Sixty (60) days after Use Permit approval.
When should it be completed: On an on-going basis, when events are held.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

XVI. TRANSPORTATION/TRAFFIC

No. 16 Mitigation Measure: Prior to issuance of a building permit, all applicable traffic impact fees shall be paid to the Department of Public Works.

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|---|---|
| Who Implements the Measure: | Operator/property owner. |
| When should the measure be implemented: | Prior to issuance of a building permit |
| When should it be completed: | Prior to issuance of a building permit |
| Who verifies compliance: | Stanislaus County Department of Public Works |
| Other Responsible Agencies: | Stanislaus County Planning and Community Development Department |

No. 17 Mitigation Measure: An Event Traffic Management Plan shall be submitted and approved four (4) weeks prior to holding the first event at the amphitheater. Both County Planning and Public Works shall review and approve the plan.

- a. The Event Traffic Management Plan shall include a westbound left turn lane from Highway 132 to the fourth driveway from the intersection (at Geer and Highway 132);
- b. This plan shall include all event traffic circulation into and out of the site, including a description of how the different on-site parking areas will be filled;
- c. Event Staff and signs shall not be in the State or Stanislaus County Right-of-way without an encroachment permit. This shall be addressed as part of the Event Traffic Management Plan. Each individual event shall have an encroachment permit from both the State and Stanislaus County, if applicable;
- d. If the Event Traffic Management Plan requires updating, the updates shall be accepted both by County Planning and by Public Works, six (6) weeks prior to the next event being held at the amphitheater. This update can be triggered either by the applicant or by Stanislaus County;
- e. Fees may be collected for amphitheater event parking, provided no queuing of vehicles occurs. Parking fees may be collected as part of the fee collected for the price of the ticket for the event, or may be collected at a stationary electronic machine, installed in the parking area. Parking fees may not be collected while vehicles are waiting to enter the parking lot;
- f. Prior to the implementation or construction of any additional phases of the approved Plan Development No. 317, a revised Event Traffic Management Plan shall be submitted to and approved by County Planning and Public Works;

- g. A left turn lane shall be installed on Geer Road for the driveway into the project labeled as D Drive. The plans shall be completed prior to the approval of the Event Traffic Management Plan. This driveway is roughly 575 feet south of the intersection of Geer Road and Yosemite Blvd;
 - i. Improvement plans are to be submitted to County Public Works for approval. These improvement plans shall meet standards set forth within the Stanislaus County Standards and Specifications and the Caltrans Highway Design Manual;
 - ii. An acceptable financial guarantee for the road improvements shall be provided to County Public Works prior to the approval of the Event Traffic Management Plan;
 - iii. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined;
 - iv. The left turn lane shall be installed before the first event is held at the amphitheater.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: Four (4) weeks prior to any amphitheater event.
When should it be completed: Prior to amphitheater event, as specified in the mitigation measure.
Who verifies compliance: Stanislaus County Department of Public Works and Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: CalTrans.

I, the undersigned, do hereby certify that I understand and agree to be responsible for implementing the Mitigation Program for the above listed project.

Signature on file

Person Responsible for Implementing Mitigation Program

Date

Attachment 4

AMENDED MITIGATED NEGATIVE DECLARATION

NAME OF PROJECT: Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater

LOCATION OF PROJECT: 7924 & 7948 Yosemite Blvd. (Hwy 132), at the southwest corner of Yosemite Blvd. and Geer Road, between the cities of Modesto, Waterford and Hughson. Stanislaus County. APN: 009-027-004

PROJECT DEVELOPER: The Fruit Yard – Joe Traina
7948 Yosemite Blvd
Modesto, CA 95356

DESCRIPTION OF PROJECT: Request to expand an existing Planned Development with an outdoor, fenced, 3,500 person capacity amphitheater event center, a 5,000 square-foot stage, a 5,000 square-foot roof structure, a 4,000 square-foot storage building, a parking lot to the rear of the stage, and an additional 1,302-space temporary parking area. A maximum of 12 amphitheater events are proposed to take place per year. This use permit also includes a covered seating area of approximately 4,800 square-foot and a 1,600 square-foot gazebo in the eastern half of the park area, east of the outdoor amphitheater, and replacement of the existing pylon freestanding pole sign with an electronic reader board sign.

Based upon the Initial Study, dated **March 1, 2017**, the Environmental Coordinator finds as follows:

1. This project does not have the potential to degrade the quality of the environment, nor to curtail the diversity of the environment.
2. This project will not have a detrimental effect upon either short-term or long-term environmental goals.
3. This project will not have impacts which are individually limited but cumulatively considerable.
4. This project will not have environmental impacts which will cause substantial adverse effects upon human beings, either directly or indirectly.

The aforementioned findings are contingent upon the following mitigation measures (if indicated) which shall be incorporated into this project:

1. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to: the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and to prevent light trespass (glare and spill light that shines onto neighboring properties). Amphitheater lighting shall be shut off by 11:00 p.m. on Sunday – Thursday, and by midnight on Friday and Saturday evenings.
2. Prior to onset of any amplified music events at the amphitheater, a noise berm shall be constructed. Specifically, the noise berm shall consist of a 100 foot long by 40 foot wide and 20 foot tall “storage building” as shown on the project site plan included as Exhibit B-6 of the April 20, 2017 Planning Commission Staff Report. A certificate of occupancy shall be obtained for the noise berm prior to the

onset of any amphitheater activity. If the storage building changes in size or shape, or is proposed to be replaced with a backstage sound-wall or other construction to create an adequate noise berm, the modified facility will need to be reviewed and approved by an acoustical consultant, in accordance with Mitigation Measure No. 14, and a determination made that it has adequate sound dampening characteristics so that sound will fall within allowable noise levels, set forth in Mitigation Measure Nos. 4, 5, and 6.

3. Prior to issuance of a building permit for the banquet hall, and prior to the onset of any amplified music event held at the banquet hall, the banquet hall shall be designed and constructed with sound proofing (including sound proofing for the roof, windows, and walls). Sound proofing plans shall be reviewed for full compliance with the allowable noise levels, set forth in Mitigation Measure Nos. 4, 5, and 6, by a noise consultant, as described in Mitigation Measure No. 14.
4. All amphitheater, park, and banquet hall events shall maintain compliance with the noise level limits established by the Noise Element of the Stanislaus County General Plan, as described in Table IV-2 – Maximum Allowable Noise Exposure – Stationary Noise Sources, and any subsequent amendments. In addition, low-frequency noise shall be limited to:
 - a. Daytime and nighttime C-weighted noise level limits of 80 dBC Leq and 70 dBC Leq shall be applied for all amphitheater, park, and banquet hall events. These standards may be adjusted upwards or downwards following C-weighted ambient noise level data collected during noise monitoring, as described in mitigation Measure No. 8. Before any adjustments are made, a report documenting existing C-weighted ambient noise levels shall be reviewed by a noise consultant, as described in Mitigation Measure No. 14, and approved by the Planning Department. Should the Noise Element be amended to include C-weighted standards which are more restrictive than the standards above, the Noise Element standards shall be met.
5. To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 90 dBA Leq averaged over a five minute period and a maximum of 100 dBA Lmax at a position located 100 feet from the front of the amphitheater stage.

Park and banquet hall sound system output shall be limited to an average of 75 dBA Leq averaged over a 5-minute period and a maximum of 85 dBA Lmax at a position located 100-feet from the front of the sound system speakers for the park, and 100-feet from outside of the banquet hall. Sound levels up to 80 dBA Leq at the 100 foot reference distance would be acceptable provided the sound system speakers are oriented south or southwest.
6. To control low-frequency sound in the surrounding neighborhood during amphitheater events, C-weighted sounds levels shall be limited to 100 dBC Leq averaged over a five minute period and a maximum of 110 dBC Lmax at a position located 100 feet from the front of the Amphitheater stage.

To control low-frequency sound in the surrounding neighborhood during park events, C-weighted sound levels shall be limited to 85 dBC Leq averaged over a five minute period and a maximum of 95 dBC Lmax at a position located 100 feet from the front of the speakers for the park, and 100 feet from outside of the banquet hall.
7. Prior to any amplified music event at the park, banquet hall, or amphitheater, not required to be monitored by a qualified Noise Consultant, the operator/property owner shall obtain a portable sound

monitoring system to be used onsite; which shall be reviewed and approved by a Noise Consultant, as described in Mitigation Measure No. 14, prior to first use. Sound levels shall be monitored during sound check and continuously during each amplified music event occurring at the park, banquet hall and amphitheater. The monitoring shall be conducted 100-feet from the front of the stage for the amphitheater, and 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall.

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

A Type/Class 1 or 2 (per ANSI S1.43) measurement microphone system shall be used and laboratory calibrated prior to first use and field-calibrated at regular intervals (a minimum of 4 times a year). The system shall be laboratory calibrated at intervals not exceeding two years. The system shall be capable of measuring and logging Leq statistics over consecutive five minute intervals in both A and C weighted levels. The system shall also be capable of capturing and logging 1/3-octave band data. For simplification and to minimize equipment costs, sound level limit triggers shall be set to Leq, C-weighting. The sound technician shall locally check both C-weighted and 1/3-octave band results during sound check prior to an event to establish system gain limits and to ensure compliance with the specified limits, set forth in Mitigation Measure Nos. 4, 5, and 6. Noise level measurement data, including the time and location of the measurement, shall be maintained for 30 days and made available to the County upon request.

The amphitheater operator/property owner shall make it very clear to event producers what the sound level limits are at the sound stage and the time at which music is required to cease. Suitable measures shall be implemented to both ensure the limits are maintained and penalties established if producers fail to comply with the noise level limits. If at any time the measurement results indicate that the music levels exceed the allowable noise standards set forth in Mitigation Measure Nos. 4, 5, and 6, additional sound controls shall be implemented until compliance is met. The amphitheater operator/property owner shall be responsible to ensure that event producers comply with all project conditions.

8. During the first two large concerts (with 500 or more in attendance) held at the amphitheater and any of the first two events held at the amphitheater (if less than 500 in attendance), park, or banquet hall, on-site and off-site noise levels shall be monitored by a qualified noise consultant, to be procured by the operator/property owner. The on-site monitoring shall be conducted continuously, 100-feet from the front of the stage for the amphitheater, 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall. Periodic off-site noise monitoring shall be conducted at the Long-Term Ambient Noise Measurement Locations and Noise-Sensitive Receptor Sites (A-I) identified on Figure 1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc. The noise measurements shall include the sound check prior to the concert so the event promoters understand the noise thresholds to be satisfied during the event. The purpose of the measurements is to verify compliance with the project's noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6.

A report prepared by the noise consultant shall be provided to the Planning Department within 10-days of the second event. The Noise Consultant's report shall provide a conclusion regarding compliance with the projects allowed noise levels and, if necessary, additional measures needing to be implemented for compliance. If the measurement results indicate that the music levels exceed allowable noise standards, additional sound controls shall be developed by a noise consultant in accordance with Mitigation Measure No. 14 and no further events shall occur until the Planning Department is able to verify that all controls necessary for compliance have been fully implemented. Upon verification, the third event shall be subject to the same noise monitoring requirements as the first two events. If the third event fails to comply with the projects allowed noise levels, a report for the three events shall be presented to the Planning Commission for direction to staff and public notice of the presentation shall be provided to the surrounding property owners. Additional sound control measures shall include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas, and limiting amplified music to before 10:00 p.m.

9. All amplified music events (including the amphitheater, park, and banquet hall events), occurring Sunday through Thursday shall end at or before 10 p.m. All patrons shall be off the premises (including the amphitheater, park, and banquet hall events) as of 11:00 p.m. Employees and contract staff, associated with the amplified music events, shall be off the premises (including the amphitheater, park, and banquet hall events) by 12:00 a.m.
10. The first two large amplified music events (with 500 or more in attendance) held at the amphitheater Friday and Saturday, shall end at or before 10:00 p.m., as described in Mitigation Measure No. 9. If monitoring results of the first two large amphitheater events show that such events are able to maintain levels at or lower than those required, as set forth in Mitigation Measure Nos. 4, 5, and 6, then amphitheater events on Friday and Saturday may be extended to 11:00 p.m. All patrons shall be off the premises (including the amphitheater, park and banquet hall events) by 12:00 a.m. Employees and contract staff, associated with the amplified music events, shall be off the premises by 1:00 a.m.
11. Operator/property owner shall establish a written "Good Neighbor Policy" to be approved by the Planning Department, which shall establish the permittee's plan to mitigate any ancillary impacts from amplified music events (park, banquet hall or amphitheater) on surrounding properties. The plan shall include means for neighbors to contact management regarding complaints and steps management will take upon receiving a complaint. The policy shall be submitted and approved 30 days prior to the first amplified music event. No changes to the policy shall be made without prior review and approval by the Planning Department.
12. In the event that documented noise complaints are received by the County for bass thumping, microphones/public address systems, etc., associated with any use of the property (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83), such complaints shall be investigated to determine if the allowable noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6, were exceeded. In the event that the complaint investigation reveals that the noise standards were exceeded, additional sound controls shall be developed by a noise consultant, in accordance with Mitigation Measure No. 14. Implementation of additional sound controls shall be approved and verified by the Planning Department prior to any further amplified sound event being held at the venue (amphitheater, banquet hall, or park) determined to have exceeded allowable noise standards.

Additional sound control measures could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas and limiting amplified music to before 10:00 p.m.

13. Following removal of orchard trees located on the western and southern portions of the project site (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-083) potential changes in noise impacts shall be evaluated by a noise consultant, as described in Mitigation Measure No. 14, and additional noise mitigation measures shall be implemented, if determined to be necessary, to ensure compliance with the applicable County noise standards.
14. Any future additional noise analysis required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation, shall be conducted by a noise consultant, whose contract shall be procured by the Planning Department, and paid for by the operator/property owner. A deposit based on actual cost shall be made with the Planning Department, by the operator/property owner, prior to any work being conducted. The applicant may choose to procure the noise consultant provided they pay the costs for the County to have all work peer reviewed by a third party. If future noise analysis is required, amplified music events will be limited, as determined by the Planning Department, until the noise consultant verifies to the Planning Department that all recommended noise control measures have been completely implemented.
15. Within sixty (60) days of project Use Permit approval, the operator/property owner shall submit for approval a security plan for amplified music events (park, banquet hall or amphitheater) to the Sheriff's Department. The plan shall be approved prior to any use of the amphitheater. Any changes to the security plan shall be approved by the Sheriff's Department.
16. Prior to issuance of a building permit, all applicable traffic impact fees shall be paid to the Department of Public Works.
17. An Event Traffic Management Plan shall be submitted and approved four weeks prior to holding the first event at the amphitheater. Both County Planning and Public Works shall review and approve the plan.
 - a. The Event Traffic Management Plan shall include a westbound left turn lane from Highway 132 to the fourth driveway from the intersection (at Geer and Highway 132);
 - b. This plan shall include all event traffic circulation into and out of the site, including a description of how the different on-site parking areas will be filled;
 - c. Event Staff and signs shall not be in the State or Stanislaus County Right-of-way without an encroachment permit. This shall be addressed as part of the Event Traffic Management Plan. Each individual event shall have an encroachment permit from both the State and Stanislaus County, if applicable;
 - d. If the Event Traffic Management Plan requires updating, the updates shall be accepted both by County Planning and by Public Works, six weeks prior to the next event being held at the amphitheater. This update can be triggered either by the applicant or by Stanislaus County;
 - e. Fees may be collected for amphitheater event parking, provided no queuing of vehicles occurs. Parking fees may be collected as part of the fee collected for the price of the ticket

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

The Initial Study and other environmental documents are available for public review at the Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, California.

Initial Study prepared by: Kristin Doud, Senior Planner

Submit comments to: Stanislaus County
Planning and Community Development Department
1010 10th Street, Suite 3400
Modesto, California 95354

Attachment 5

THE FRUIT YARD AMPHITHEATER

DRAFT GOOD NEIGHBOR POLICY

In an effort to conduct The Fruit Yard's Amphitheater events in a manner that promotes harmonious relationships with their neighbors and to fully and faithfully comply with the Conditions of Approval for Use Permit 2015-0130 – The Fruit Yard Amphitheater, The Fruit Yard hereby implements the following "Good Neighbor Policy."

I. Pre-Event Procedures

Steps to insure compliance begins at the time of the initial contact with the prospective client.

1. From the point of the first meeting, it shall be made clear to clients who propose to use amplified music that the band must abide by the decibel and bass Hz level standards in order to ensure compliance with the limits adopted by the Stanislaus County Board of Supervisors and incorporated into Use Permit (UP).
2. All bands will be given a copy of the new UP decibel (dB) and hertz (Hz) limits set by the County in the UP. Signed contracts will include an agreement to abide by these noise limitations.
3. Prior to each amplified event in the amphitheater, arrangements should be made to monitor decibel and other sound levels throughout the event.
4. Amplified events in the park will be monitored by The Fruit Yard staff.

II. Mid-Event Policies

1. During the set-up for a concert at the amphitheater, the band's equipment must be hooked into the sound board and other related equipment. This connection provides the ability to set the levels for dB and/or Hz, and ensure compliance with the maximum levels set by the County. This control point is most effective because the band is unable to bypass the sound board's equipment.
2. On-Site Manager. The Fruit Yard will identify a Site Manager to be present through the event. The Site Manager will interact with the band's sound engineer throughout the evening to ensure that noise falls within the allowed decibel and other sound levels.
3. Dedicated Phone Line. The Fruit Yard will identify a phone number that will be monitored during amphitheater events. This number is for use in the event neighbors experience noise which they believe is coming from The Fruit Yard, and could be exceeding the maximum noise levels approved by the County. This direct line of communication will allow the Site Manager to quickly investigate the source of the noise and determine if the noise is coming from The Fruit Yard, if it exceeds the limits established by Stanislaus County, and if so, to immediately take corrective action. The Site Manager overseeing the event shall be available both in advance of, and when, events are occurring, to discuss issues of immediate concern.

III. POST-EVENT PROCEDURES

At the conclusion of an event, security staff will continue to monitor the parking lot to make certain departing guests and the band, while in the process of loading their equipment, do not generate excessive noise.

IV. COMPLAINT PROCEDURES

The Fruit Yard Site Manager overseeing the event is responsible for ensuring that no excessive noise generating activity is conducted at the site. Should a neighboring resident, however, be affected by either undetected parking lot noise, or believe that a band is exceeding the noise limits outlined in the Use Permit, the complainant can initiate the following complaint procedure:

1. Contact information (including: name, title, phone number, and e-mail address) for where to direct complaints shall be posted on the Fruit Yard's website.
2. Initial calls shall be made to The Fruit Yard at the provided number. The Site Manager overseeing the event will endeavor to answer any calls immediately, but if a message is left, the call should be returned within 15 minutes.
3. After ascertaining the nature of the complaint, the Site Manager shall:
 - a. Check the noise monitoring system to determine if a noise violation has occurred.
 - b. Consult with the band and verify if sound levels are within the allowed range. If permissible sound levels are being exceeded, the Site Manager shall take immediate action to bring sound levels into compliance.
 - c. The Site Manager overseeing the event will follow up with the complaining party as soon as practicable, inform them of the steps taken, and determine if the issue has been resolved.

V. GENERAL PROVISIONS

1. Operating Hours. Operating hours for amplified music events in the amphitheater are: weekdays (Sunday-Thursday) 8:00 a.m. to 10:00 p.m.; weekends (Friday and Saturday) 8:00 a.m. to 11:00 p.m. Patrons shall be off the premises no later than 11:00 p.m. on weekdays and 12:00 a.m. on weekends.
2. Noise Limits. Noise limits shall be consistent with those limits set forth in the Use Permit, a copy of which is attached hereto.
3. The Fruit Yard management shall be available to meet with representatives of the County and/or the community as necessary to discuss concerns.
4. A monthly activity schedule for the amphitheater shall be posted to the Fruit Yard's website detailing the planned events. The schedule shall include a synopsis of the type of event and expected attendance and shall, if practicable, be delivered at least 30 days prior to the date of the event.
5. The Fruit Yard ownership commits to be responsive to concerns in implementing this Good Neighbor Policy and addressing the concerns of neighbors if they arise.

Attachment 6



November 15, 2016

Charlie Simpson
BaseCamp Environmental, Inc.
115 South School Street, Suite 14
Lodi, California 95240

Subject: Peer Review of the Environmental Noise Analysis Technical Report for the Fruit Yard Project – Stanislaus County, California

Dear Mr. Simpson:

j.c. brennan & associates, Inc. has completed our peer review of the above-referenced document prepared by Bollard Acoustical Consultant (BAC).¹ The intent of the review was to determine if the document met the technical requirements for evaluating potential noise impacts and determining if the analysis met the requirements of CEQA and Stanislaus County.

Specifically, we reviewed the report for accuracy and thoroughness with special attention to the following areas:

- < Applicable noise level standards;
- < Methodology;
- < Assessment of noise impacts, including cumulative impact assessment;
- < Compliance with CEQA requirements and Stanislaus County noise requirements.

1. General Comment.

The technical noise study prepared by BAC does not appear to be intended to be used for a CEQA level review. In order to complete CEQA review additional impact discussions would be required. This would primarily include analysis of off-site traffic noise, ambient noise increases due to the proposed on-site noise sources, and construction noise/vibration. These items would be required in order to evaluate the CEQA noise checklist.

- 2. Page 7. Stanislaus County Criteria for Acceptable Noise Exposure.** A discussion of the relevant CEQA noise criteria and the Stanislaus County Code, *Section 10.46 Noise Control* should be included in this section. Based upon our review of the County Code, it is likely that application of the County code would result in a set of noise standards which are stricter than those used in the BAC study. Please see discussion below.

¹ *Environmental Noise Analysis, The Fruit Yard Project*. Bollard Acoustical Consultants, Inc. February 3, 2016.

Relevance of County Code to Proposed Project

It is our interpretation that Table A of section 10.46.050 is intended to indicate performance standards as contained in the State of California Model Community Noise Control Ordinance.² It should be noted that Table A in Section 10.46.050 appears to include an erroneous reference to Lmax noise standards. Our interpretation of these standards is as follows with the erroneous reference to Lmax in red strikeout.

10.46.050 Exterior noise level standards.

A. It is unlawful for any person at any location within the unincorporated area of the county to create any noise or to allow the creation of any noise which causes the exterior noise level when measured at any property situated in either the incorporated or unincorporated area of the county to exceed the noise level standards as set forth below:

1. Unless otherwise provided herein, the following exterior noise level standards shall apply to all properties within the designated noise zone:

**Table A
EXTERIOR NOISE LEVEL STANDARDS**

| Designated Noise Zone | Maximum A-Weighted Sound Level as Measured on a Sound Level Meter (LMAX) | |
|-----------------------|--|--------------------------|
| | 7:00 a.m.— 9:59 p.m. | 10:00 p.m.— 6:59 a.m. |
| Noise Sensitive | 45 | 45 |
| Residential | 50 | 45 |
| Commercial | 60 | 55 |
| Industrial | 75 | 75 |

2. Exterior noise levels shall not exceed the following cumulative duration allowance standards:

² *Model Community Noise Control Ordinance*. Office of Noise Control. California Department of Health. April 1971.

**Table B
CUMULATIVE DURATION
ALLOWANCE STANDARDS**

| Cumulative Duration | Allowance Decibels |
|--|--------------------|
| Equal to or greater than 30 minutes per hour | Table A plus 0 dB |
| Equal to or greater than 15 minutes per hour | Table A plus 5 dB |
| Equal to or greater than 5 minutes per hour | Table A plus 10 dB |
| Equal to or greater than 1 minute per hour | Table A plus 15 dB |
| Less than 1 minute per hour | Table A plus 20 dB |

3. Pure Tone Noise, Speech and Music. The exterior noise level standards set forth in Table A shall be reduced by five dB(A) for pure tone noises, noises consisting primarily of speech or music, or reoccurring impulsive noise.

4. In the event the measured ambient noise level exceeds the applicable noise level standard above, the ambient noise level shall become the applicable exterior noise level standard.

B. Noise Zones Defined.

1. Noise Sensitive. Any public or private school, hospital, church, convalescent home, cemetery, sensitive wildlife habitat, or public library regardless of its location within any land use zoning district.

2. Residential. All parcels located within a residential land use zoning district.

3. Commercial. All parcels located within a commercial or highway frontage land use zoning district.

4. Industrial. All parcels located within an industrial land use zoning district.

5. The noise zone definition of any parcel not located within a residential, commercial, highway frontage, or industrial land use zoning district shall be determined by the director of Stanislaus County planning and community development department, or designee, based on the permitted uses of the land use zoning district in which the parcel is located. (Ord. CS 1070 §2, 2010).

Based upon the ordinance standards shown above, the BAC noise study should be revised to address these standards. One critical component to note is that the County's noise ordinance standard noise which occurs for 30 minutes, or more, per hour would be subject to a noise level standard of 50 dBA L₅₀ during daytime hours and 45 dBA L₅₀ for nighttime hours. Like the General Plan standards, these limits may be adjusted upward to reflect ambient noise exceeding the limits outlined in Table A and Table B. They must also be adjusted downward by 5 dBA for noises consisting primarily of speech or music.

3. Page 8, Discussion of Alternative Noise Standards for Amplified Sound.

As recognized by BAC, A-weighted (dBA) sound levels do not adequately protect the community from low-frequency noise, such as that from amplified music. The City of Roseville C-weighted (dBC) standards referenced by BAC are reasonable standards that go a long way to reducing the potential for annoyance due to bass from music. As noted by BAC, typical C-weighted limits are 25 dB higher than A-weighted standards. Therefore, it is recommended that the project be conditioned to comply with a C-weighted average (L_{eq}) noise level standard of 80 dBC during daytime hours and 70 dBC during nighttime hours at each receptor location. Measurement of the C-weighted standard should be conducted using "fast" sound meter response over a 5-minute duration.

4. Page 9, Existing Ambient Noise Environment.

It is not clear how far each noise monitoring location was located from the nearest roadway centerline. Based on the BAC Figure 1 locations, it would appear that Sites 1-2 were located approximately 50 feet from the centerline of SR 132 and Site 3 was located approximately 40 feet from the centerline of Geer Road. However, this information is not provided. More information should be provided to show how these noise monitoring locations were representative of the various noise sensitive receptors analyzed in the study.

For example, the BAC study shows that Receptor B is a sensitive receptor located on the north side of SR 132, immediately north of the project site. This particular receptor is located in the approximate range of 50 feet from the SR 132 centerline and the ambient noise measurement collected at Site 1 is probably representative of this receptor. However, northeast of Receptor B there are several residences which appear from aerial photography to be located in the range of 150 to 265 feet from the SR 132 centerline. Noise levels at distances of 150 to 265 feet from the centerline of SR 132 would likely be 7 dBA to 11 dBA less than those measured at Site 1 and would likely not warrant an increase to the County's noise level standards.

Since BAC is recommending that the County standards be increased to reflect ambient conditions at receptors close to the project site, it is critical that the ambient noise measurement data be as representative as possible of the noise environment at the actual receptor locations. Unless noise monitoring can be conducted at every receptor location, adjustments should be made to the ambient noise level data to correct for distance to centerline.

An even more conservative approach would be to make no upward adjustment to the County noise level standards, especially past 10:00 p.m.

5. Page 9, Table 2: Summary of Ambient Noise Measurement Results

The Table 2 noise measurement data should include measured median (L_{50}) noise levels for comparison to the standards of the County noise ordinance.

Figure 1 Receptor Locations

6. Page 10, Table 3: Stanislaus County Noise Standards Applied to this Project After Adjustment for Elevated Ambient and Noise Source Consisting of Music.

Table 3 should be adjusted to include the County's noise ordinance standards which may be more restrictive than those shown in Table 3, especially when considered the effect of ambient noise at existing sensitive receptors.

For example, noise measurement data collected at Site 1 show a three day average ambient L_{50} noise level of 47 dBA during nighttime hours (Appendices B-1 through B-3). This value is 11 dBA less than the measured L_{eq} value during nighttime hours. When considering the County's nighttime noise ordinance standard of 45 dBA L_{50} , the standard could be adjusted up to 47 dBA L_{50} under County policy to account for the existing noise environment, then reduced by 5 dBA (music penalty) to 42 dBA L_{50} as the applicable nighttime noise level standard.

7. Page 11, Amplified Music Originating in Amphitheater.

This section should be revised to include evaluation of the County's noise ordinance standards.

8. Page 11, Paragraphs 4-5.

The analysis should detail the exact noise level predictions at each of the identified sensitive receptor locations (A through G). It would also be helpful to include more evaluated receptor locations near Receptor B and Receptor C, as shown on Figure 1 of this letter.

9. Page 11, Paragraph 7.

It is not clear why BAC concludes that the SoundPlan model "did not account for the considerable sound absorption of intervening orchards." Were the orchards included as foliage in the model?

10. Figures 4 and 5. Concert Noise Level Contours

It would be helpful if the predicted noise level were shown for each of the modeled receptors with a comparison to the applicable County standards also shown for each receptor.

11. Page 14. Paragraph 3. Amphitheater Event Simulation

It appears that the simulated concert generated a noise level at 100 feet of "85-90 dBA." This is up to 5 dBA less than that assumed in the noise contour modeling. It is not clear how BAC reached a conclusion that a -10 dBA adjustment to the model was warranted when the simulated concert appears to have been up to 5 dBA less than that assumed in the sound prediction model.

12. Page 15. Paragraphs 3-5. Amphitheater Event Simulation

There is very limited data presented to support the BAC conclusion that a -10 dBA offset is warranted for Receptor G. Appendix E-2 presents only one minute of data to support the -10 dBA conclusion. The report concludes that because measured levels were 10 dBA less than modeled levels that the difference must be due to shielding from intervening orchards.

However, as noted in comment 10 it appears that simulated noise levels were up to 5 dBA less than the modeled value of 90 dBA. This could explain up to a 5 dBA difference between measured and modeled noise levels at Receptor G.

Another factor not discussed in the BAC study is that atmospheric conditions can have a dramatic impact on sound propagation during daytime hours versus evening or nighttime hours. As many people can attest, the sound of a freeway or a power plant located a fair distance away is often very audible during evening and nighttime hours but may be completely inaudible during warm daytime hours. Atmospheric effects are well documented and have been shown to result in 10-15 dBA swings in noise levels between daytime and nighttime hours.³

According to wunderground.com, outdoor temperatures during the June 18, 2015 concert simulation were in the range of 90-91F degrees between 12:00 p.m. and 1:00 p.m. During these hot daytime periods sound waves bend up and away from the ground. During cooler evening and nighttime hours, sound waves bend down towards the ground. Therefore, it is very likely that the -10 dBA offset applied would not be present during evening or nighttime hours.

The SoundPlan model used by BAC calculates acoustic propagation through International Organization for Standardization (ISO) 9613 which establishes appropriate methods for calculating sound attenuation due to foliage and typical atmospheric conditions. However, it is very likely that the surrounding orchards do not meet the requirement for providing substantial acoustical shielding. According to ISO 9613, "foliage of trees and shrubs provides a small amount of attenuation, but only if it is sufficiently dense to completely block the view along the propagation path, i.e. when it is impossible to see a short distance through the foliage." It is our recommendation that the concert simulation results from June 18, 2015 not be used in the analysis as atmospheric conditions were not representative of cooler temperatures often experienced during evening hours. Instead, the results of the SoundPlan model should be used to determine whether the project is likely to meet County standards at the nearest receptors. The intervening orchards should not be included in the SoundPlan model unless it can be verified that the foliage is dense enough to make it "impossible to see a short distance through the foliage."

13. Page 15. Amphitheater Crowd Noise Evaluation

The BAC analysis looks at crowd noise and amplified music as separate items. However, the two noise sources would occur concurrently and may result in higher total noise levels when combined together. It is recommended that the SoundPlan model be updated to include crowd noise modeled as an area source located over the seating area of the venue. This source of noise would combine with the modeled amplified sound to give one set of noise contours which reflects music noise and crowd noise together during a concert event.

³ *Technical Noise Supplement, Traffic Noise Analysis Protocol*. CalTrans. September 2013.

14. Pages 16-21. Amplified Music Originating in the Park Area

The following changes are recommended for the noise analysis of park area events, similar to comments for the amphitheater portion of the project:

- The analysis of park area events should be updated to reflect the County noise ordinance standards;
- The analysis should include the additional receptor locations recommended earlier and shown on Figure 1 of this letter;
- Noise contour graphics should include predicted noise levels at the nearest receptor locations compared to the applicable standards, or a table providing a summary of predicted noise levels at each receptor;
- Crowd noise for 500 people should be included in the SoundPlan noise contour modeling.

15. Page 21. Conclusions, Amphitheater Event Recommendations

- The noise study conclusions will need to be updated based upon further updates to the noise analysis. However, the bulleted points are not enforceable measures for the County. The measures listed are good measures for the applicant to implement as internal measures for controlling sound. However, they do not ensure compliance with County standards unless they are followed vigilantly. It is our recommendation that a deposit be collected by the County to pay for a qualified noise consultant to be hired directly by Stanislaus County to conduct event noise monitoring if noise complaints are received by the County. As noted by Mr. Bollard in the noise study prepared by BAC for the City of San Jose for the Saint James Park Outdoor Music Events, "it is very difficult to enforce sound level limits on concert promoters."
- It is recommended that the project be conditioned to comply with a C-weighted average (L_{eq}) noise level standard of 80 dBC during daytime hours and 70 dBC during nighttime hours at each receptor location. Measurement of the C-weighted standard should be conducted using "fast" sound meter response over a 5-minute duration.
- It is recommended that the applicant should install a permanent sound monitor to continuously monitor events at the amphitheater. Events should be limited to low-frequency noise at 100 feet from the speakers to 90 dBA L_{eq} / 100 dBC L_{eq} using "fast" sound meter response over a 5-minute duration, as recommended by BAC. The sound level meter should be maintained by an acoustical consultant hired by the County to receive a daily upload from the sound meter and provide to the County upon request.

16. Page 23 Conclusions, Amphitheater Event Recommendations

- It is recommended that the project be conditioned to only face speakers towards the south or southwest to minimize the risk of disturbance to the closest receptors to the north and northeast.
- It is recommended that a deposit be collected by the County to pay for a qualified noise consultant to be hired directly by Stanislaus County to conduct event noise monitoring if noise complaints are received by the County specifically related to park events.
- It is recommended that the project be conditioned to comply with a C-weighted average (L_{eq}) noise level standard of 80 dBC during daytime hours and 70 dBC during nighttime hours at each receptor location. Measurement of the C-weighted standard should be conducted using "fast" sound meter response over a 5-minute duration.
- It is recommended that the applicant should install a permanent sound monitor to continuously monitor events at the park area. It is possible that one sound meter could be configured to monitor both amphitheater and park events. Events should be limited to low-frequency noise at 100 feet from the speakers to 75 dBA L_{eq} / 85 dBC L_{eq} using "fast" sound meter response over a 5-minute duration, as recommended by BAC. The sound level meter should be maintained by an acoustical consultant hired by the County to receive a daily upload from the sound meter and provide to the County upon request.

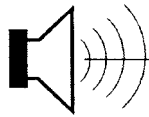
If you or the County staff have any questions, please contact me at (530) 823-0960 or LSaxelby@jcbrennanassoc.com.

Respectfully submitted,

j.c. brennan & associates, Inc.



Luke Saxelby, INCE Bd. Cert.
Vice President
Board Certified, Institute of Noise Control Engineering (INCE)



December 30, 2016

Associated Engineering Group
Mr. Jim Freitas
4206 Technology Drive, Suite 4
Modesto, CA 95356

Transmitted via email: Jim@assoceng.com

Subject: Responses to comments on j.c. brennan Inc. (JCB) peer review of Bollard Acoustical Consultants, Inc. (BAC) noise study prepared for the Fruit Yard Amphitheater project located in Stanislaus County, California.

Dear Mr. Freitas:

Pursuant to your request, BAC has evaluated the JCB peer review letter dated November 15, 2016, containing comments on the noise analysis Bollard Acoustical Consultants, Inc. (BAC) prepared for the Fruit Yard Project (BAC job# 2015-129, report dated February 3, 2016). This letter contains the JCB comments and BAC's responses to those comments. In addition, the February 3, 2016 report is being revised to include additional information and revisions as appropriate based on the JCB comments. The specific comments and BAC's responses follow:

JCB Comment #1. General Comment.

The technical noise study prepared by BAC does not appear to be intended to be used for a CEQA level review. In order to complete CEQA review additional impact discussions would be required. This would primarily include analysis of off-site traffic noise, ambient noise increases due to the proposed on-site noise sources, and construction noise/vibration. These items would be required in order to evaluate the CEQA noise checklist.

BAC Response to Comment #1.

As noted in the Introduction Section of the BAC report, the project's Conditions of Approval #8 and #72 specifically required analysis of amphitheater events and other on-site activities. As a result, the BAC analysis focused on those specific on-site noise sources. Upon receipt of comments from the County, the analysis was revised to include evaluation and discussion of 9 additional items (see pages 1 and 2 of BAC noise study report), but those items did not include a request for an evaluation of off-site traffic noise impacts or impacts associated with project construction noise or construction-related vibration. As a result, such an analysis was not included in the February 2016 report. In response to the comments provided in the JCB peer review letter, however, BAC has conducted an analysis of off-site traffic noise impacts and has concluded that the project would not result in such impacts relative to either peak hour (Leq) or daily (Ldn) noise levels. The updated noise study report contains the evaluation of off-site traffic noise impacts.

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An evaluation of project noise generation relative to measured ambient noise levels was included in the BAC study, but the revised report includes additional discussion of changes in ambient noise levels in response to the JCB comment.

As with off-site traffic, there was no project condition of approval or County comment specifically requesting an evaluation of construction noise and vibration impacts for this project. As a result, no such evaluation was included in the BAC noise study. However, in response to the JCB comment, such an analysis was prepared and included in the revised noise study.

JCB Comment #2. Page 7. Stanislaus County Criteria for Acceptable Noise Exposure.

A discussion of the relevant CEQA noise criteria and the Stanislaus County Code, Section 10.46 Noise Control should be included in this section. Based upon our review of the County Code, it is likely that application of the County code would result in a set of noise standards which are stricter than those used in the BAC study. Please see discussion below.

Relevance of County Code to Proposed Project It is our interpretation that Table A of section 10.46.050 is intended to indicate performance standards as contained in the State of California Model Community Noise Control Ordinance.² It should be noted that Table A in Section 10.46.050 appears to include an erroneous reference to Lmax noise standards. Our interpretation of these standards is as follows with the erroneous reference to Lmax in red strikeout.

(Note: The JCB letter contained the text from the Stanislaus County Code Section 10.46.050 in this location. That section of the code is not reproduced here but is incorporated by reference).

Based upon the ordinance standards shown above, the BAC noise study should be revised to address these standards. One critical component to note is that the County's noise ordinance standard noise which occurs for 30 minutes, or more, per hour would be subject to a noise level standard of 50 dBA L50 during daytime hours and 45 dBA L50 for nighttime hours. Like the General Plan standards, these limits may be adjusted upward to reflect ambient noise exceeding the limits outlined in Table A and Table B. They must also be adjusted downward by 5 dBA for noises consisting primarily of speech or music.

BAC Response to Comment #2.

Because this is a new project, and still in the planning stages, BAC cited the County's General Plan noise standards. County Code noise standards are commonly utilized to resolve conflicts between existing uses. Ideally, noise standards contained within City and County General Plans are consistent with the standards contained within the Noise Ordinances of those same jurisdictions.

The County General Plan daytime and nighttime noise standards of 55 dB daytime and 45 dB nighttime are clearly specified relative to Leq, or average noise levels. Due to the exponential nature of the decibel scale, noise levels reported in terms of average noise levels (Leq) are always higher than median (L50) noise levels. The difference in noise levels described using the Leq and L50 metrics will depend on the nature of the noise source, but it is not uncommon for the difference to be at least 5 dB for sources of sound which vary with time (such as a concert event). As a result, analysis of project noise exposure using the County General Plan Leq noise standards and the County Code L50 standards is believed to be comparable. As a

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result, revisions to the noise analysis to assess impacts relative to the County Code noise standards, rather than relative to the County General Plan noise standards, is not believed to be warranted, as such an evaluation would result in similar results and conclusions.

JCB Comment #3. Page 8, Discussion of Alternative Noise Standards for Amplified Sound.

As recognized by BAC, A-weighted (dBA) sound levels do not adequately protect the community from low-frequency noise, such as that from amplified music. The City of Roseville C-weighted (dBC) standards referenced by BAC are reasonable standards that go a long way to reducing the potential for annoyance due to bass from music. As noted by BAC, typical C-weighted limits are 25 dB higher than A-weighted standards. Therefore, it is recommended that the project be conditioned to comply with a C-weighted average (L_{eq}) noise level standard of 80 dBC during daytime hours and 70 dBC during nighttime hours at each receptor location. Measurement of the C-weighted standard should be conducted using "fast" sound meter response over a 5-minute duration.

BAC Response to Comment #3.

BAC concurs with the JCB recommendation that C-weighted noise level standards should be developed and applied at the individual noise-sensitive receptor locations. But as with the A-weighted noise standards, any C-weighted noise standards applied at the residential locations should be adjusted upwards or downwards to account for pre-project ambient conditions to ensure protection at the nearest residences. Additional discussion of ambient conditions was raised in JCB Comment #4. In addition to the response provided to that comment shown below, the revised noise study report includes recommendations for C-weighted noise level standards to be applied at individual residences.

JCB Comment #4. Page 9, Existing Ambient Noise Environment.

It is not clear how far each noise monitoring location was located from the nearest roadway centerline. Based on the BAC Figure 1 locations, it would appear that Sites 1-2 were located approximately 50 feet from the centerline of SR 132 and Site 3 was located approximately 40 feet from the centerline of Geer Road. However, this information is not provided. More information should be provided to show how these noise monitoring locations were representative of the various noise sensitive receptors analyzed in the study.

For example, the BAC study shows that Receptor B is a sensitive receptor located on the north side of SR 132, immediately north of the project site. This particular receptor is located in the approximate range of 50 feet from the SR 132 centerline and the ambient noise measurement collected at Site 1 is probably representative of this receptor. However, northeast of Receptor B there are several residences which appear from aerial photography to be located in the range of 150 to 265 feet from the SR 132 centerline. Noise levels at distances of 150 to 265 feet from the centerline of SR 132 would likely be 7 dBA to 11 dBA less than those measured at Site 1 and would likely not warrant an increase to the County's noise level standards.

Since BAC is recommending that the County standards be increased to reflect ambient conditions at receptors close to the project site, it is critical that the ambient noise measurement data be as representative as possible of the noise environment at the actual receptor locations. Unless noise monitoring can be conducted at every receptor location, adjustments should be made to the ambient noise level data to correct for distance to centerline.

An even more conservative approach would be to make no upward adjustment to the County noise level standards, especially past 10:00 p.m.

BAC Response to Comment 4.

The JCB comment is correct that the BAC report did not include the distances from the roadway centerlines to the noise monitoring locations. The distances are provided below and this oversight has been corrected in the revised noise study report.

- Noise measurement Site 1 was located 100 feet from the centerline of SR-132.
- Noise measurement Site 2 was located 125 feet from the centerline of SR-132 and 200 feet from the Geer Road centerline.
- Noise measurement Site 3 was located 95 feet from the centerline of Geer Road.

The JCB approximations of the noise monitoring sites being located between 40 and 50 feet from the roadway centerlines are understated, as the actual distances ranged from 95 to 200 feet from the local roadway centerlines. As a result, the noise measurement data are considered to be representative of existing noise exposure at residences located within approximately 100 feet from the roadway centerlines, which includes the nearest receptor to the proposed amphitheater (Receptor B).

The JCB comment that there are residences to the immediate northeast of Receptor B is correct. A total of 4 residences are identified in the vicinity of Receptor B. Two of the residences are 80 feet from the SR-132 roadway centerline. A third residence on the same property as one of the residences located 80 feet from the roadway centerline is located 150 feet from the SR-132 centerline, and is substantially shielded from view of SR-132 (and the proposed amphitheater stage) by the closer residence on the same property. The fourth residence is located approximately 250 feet from the SR-132 centerline. Relative to the 100 foot distance to noise measurement Site B, the residence located 250 feet from the roadway centerline would theoretically experience traffic noise levels 6 dB lower than the data reported for noise monitoring Site 1. As a result, the JCB statement that ambient noise levels at that residence would be 7 to 11 dB lower than the data collected at Site 1 is overstated.

As reported in Table 2 of the BAC study, the daytime ambient noise levels at ambient noise measurement Site 1 averaged 66 dB. Assuming a 6 dB reduction in traffic noise levels at the residence set back 250 feet from the SR-132 centerline, daytime ambient conditions at that residence would be approximately 60 dB Leq. After increasing the County daytime ambient noise standard to reflect the fact that ambient conditions are 5 dB over the standard currently, then subtracting 5 dB from the standards to account for the fact that the amphitheater noise source consists of speech and music, the noise standard applicable to the residence to the northeast of Receptor B (250 feet from the roadway centerline), would be 55 dBA Leq. As

noted in Figure 4 of the BAC study, the predicted average noise level resulting from music at the amphitheater is below 45 dBA Leq at all of the residences in the immediate vicinity of Residence B, including the residence located 250 feet from the SR-132 centerline. So even after adjusting the noise standard applicable to the residence set back 250 feet from the SR-132 centerline downwards by 5 dB, predicted music sound levels from the amphitheater would still be well below that standard.

In response to the JCB comment, the revised noise study report includes a discussion of the lower ambient conditions at the residence located northeast of Receptor B, but conclusions regarding noise impacts at that residence did not change.

JCB Comment #5. Page 9, Table 2: Summary of Ambient Noise Measurement Results

The Table 2 noise measurement data should include measured median (L₅₀) noise levels for comparison to the standards of the County noise ordinance.

BAC Response to Comment #5.

Although the measured median noise levels were not included in Table 2 of the BAC report, Appendices B-1 through B-12 of the BAC report provide the median (L₅₀) noise levels measured at each of the four monitoring sites for a duration of 3 days at each location. That data indicates that the measured daytime median noise levels were 5 dB lower than measured average (Leq) daytime noise levels reported in Table 2 over the duration of the ambient noise survey.

As noted in the response to Comment #2, BAC applied the County's General Plan Noise Element standards to this project rather than the County Code (Noise Ordinance) standards. However, it should be noted that the County's General Plan and County Code maximum noise level standards are nearly identical (and are identical after adjustment for ambient conditions). In addition, the County Code *median* noise level standard is 5 dB lower than the County General Plan *average* noise level standard. But as described in the paragraph above, the measured median noise levels were 5 dB lower than measured average noise levels. Therefore, the analysis of noise impacts using the County Code *median* noise level standard is comparable to the analysis of noise impacts using the County General Plan Noise Element *average* noise level standards. As a result, additional analysis of median noise levels would not result in appreciable differences in conclusions of the noise study.

JCB Comment #6. Page 10, Table 3: Stanislaus County Noise Standards Applied to this Project after Adjustment for Elevated Ambient and Noise Source Consisting of Music.

Table 3 should be adjusted to include the County's noise ordinance standards which may be more restrictive than those shown in Table 3, especially when considered the effect of ambient noise at existing sensitive receptors.

For example, noise measurement data collected at Site 1 show a three day average ambient L₅₀ noise level of 47 dBA during nighttime hours (Appendices B-1 through B-3). This value is 11 dBA less than the measured Leq value during nighttime hours. When considering the County's nighttime noise ordinance standard of 45 dBA L₅₀, the standard could be adjusted up to 47 dBA L₅₀ under County policy to account for the existing noise environment, then reduced by 5 dBA

(music penalty) to 42 dBA L50 as the applicable nighttime noise level standard.

BAC Response to Comment #6.

The only nighttime hours of critical importance to this evaluation are likely the 10 and 11 pm hours, as amphitheater events would not likely ever be proposed to extend beyond midnight. The median noise level at Measurement Site 1 for the period between 10 pm and midnight is 50 dB L50. This level is currently 5 dB above the County Code median nighttime noise level standard of 45 dB L50. If the impact analysis was based on the median noise level descriptor, rather than the General Plan average noise descriptor, then lower thresholds would have been appropriate at the nearest sensitive receptors. However, because median noise levels are lower than average noise levels for concert events, the reference noise levels used to model the concert noise emissions would also need to be reduced to represent L50 noise levels. So if median noise levels were used to model the concert and crowd noise emissions, they would have been at least 5 dB lower than the average (Leq) noise levels used to model the concert events in the BAC analysis. So if a 5 dB more restrictive standard was used, a 5 dB lower source level would also have been used, and the net difference in the analysis would be zero. The net effects of the changes recommended by JCB would offset and the conclusions of the noise analysis would remain unchanged.

Recommendation #3 in the BAC analysis states the following:

3. BAC recommends that the first two large concerts held at the amphitheater be limited to daytime hours (music ending at or before 10 pm) to provide an opportunity to evaluate facility noise generation, including crowd noise, at the nearest residences during the less sensitive daytime hours.

As is evident from this recommendation, no nighttime amphitheater events would be conducted until the noise generation of daytime events has been evaluated and a determination can be made that nighttime events could be held without resulting in exceedance of the County's noise standards at the nearest residences.

JCB Comment #7. Page 11, Amplified Music Originating in Amphitheater.

This section should be revised to include evaluation of the County's noise ordinance standards.

BAC Response to Comment #7.

Please see BAC's responses to Comments #2, #5, #6 and #7 regarding the use of median, rather than average, noise level metrics.

JCB Comment #8. Page 11, Paragraphs 4-5.

The analysis should detail the exact noise level predictions at each of the identified sensitive receptor locations (A through G). It would also be helpful to include more evaluated receptor locations near Receptor B and Receptor C, as shown on Figure 1 of this letter.

BAC Response to Comment #8.

The revised report includes new tables showing predicted noise levels associated with

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amphitheater music and crowd noise at the nearest representative receptor locations, including new receptors near Receptors B and C.

JCB Comment #9. Page 11, Paragraph 7.

It is not clear why BAC concludes that the SoundPlan model “did not account for the considerable sound absorption of intervening orchards.” Were the orchards included as foliage in the model?

BAC Response to Comment #9.

Comment #7 on page 1 of the BAC analysis indicates that the County is interested in determining what the effects of removed orchards would be on the predicted noise levels. Because orchards exist in some areas, and not in others, the SoundPlan model was run without introducing orchards into the computations. As a result, the SoundPlan noise contours are considered to be conservative. The only location where the effects of orchards are significant is at Receptor G, where there are considerable intervening orchards between the proposed amphitheater stage and this receptor. At that location, an offset to the noise levels predicted by the SoundPlan model was applied to account for the orchards. If the orchards between that receptor and the stage were removed, additional noise mitigation measures would likely be required to avoid noise impacts at that residence. BAC recognizes this in the last paragraph on page 11 of the BAC noise study report.

JCB Comment #10. Figures 4 and 5. Concert Noise Level Contours

It would be helpful if the predicted noise level were shown for each of the modeled receptors with a comparison to the applicable County standards also shown for each receptor.

BAC Response to Comment #10.

The revised report includes new tables showing predicted noise levels associated with amphitheater music and crowd noise at the nearest representative receptor locations, and a comparison of those levels to the recommended noise standards.

JCB Comment #11. Page 14. Paragraph 3. Amphitheater Event Simulation

It appears that the simulated concert generated a noise level at 100 feet of “85-90 dBA.” This is up to 5 dBA less than that assumed in the noise contour modeling. It is not clear how BAC reached a conclusion that a -10 dBA adjustment to the model was warranted when the simulated concert appears to have been up to 5 dBA less than that assumed in the sound prediction model.

BAC Response to Comment #11.

The primary purpose of the concert simulation was to determine the propagation of sound from the proposed stage into the surrounding community, and to determine the level of shielding which can be anticipated from the amphitheater berm itself. As noted on page 14 of the BAC report, music was played at levels ranging from 85 to 90 dBA. To provide a conservative estimate of noise exposure using the SoundPlan model, the upper end of the simulation sound levels were used to evaluate impacts at the nearest residences. The -10 dB adjustment to the

model at receptor G was based on the fact that levels measured during the simulation at Receptor G were approximately 10 dB lower than expected. This difference was believed to be due to the presence of the intervening orchard, which covers approximately 1,000 feet of ground between the proposed stage and Receptor G.

JCB Comment #12. Page 15. Paragraphs 3-5. Amphitheater Event Simulation

There is very limited data presented to support the BAC conclusion that a -10 dBA offset is warranted for Receptor G. Appendix E-2 presents only one minute of data to support the -10 dBA conclusion. The report concludes that because measured levels were 10 dBA less than modeled levels that the difference must be due to shielding from intervening orchards.

However, as noted in comment 10 it appears that simulated noise levels were up to 5 dBA less than the modeled value of 90 dBA. This could explain up to a 5 dBA difference between measured and modeled noise levels at Receptor G.

Another factor not discussed in the BAC study is that atmospheric conditions can have a dramatic impact on sound propagation during daytime hours versus evening or nighttime hours. As many people can attest, the sound of a freeway or a power plant located a fair distance away is often very audible during evening and nighttime hours but may be completely inaudible during warm daytime hours. Atmospheric effects are well documented and have been shown to result in 10-15 dBA swings in noise levels between daytime and nighttime hours.

According to wunderground.com, outdoor temperatures during the June 18, 2015 concert simulation were in the range of 90-91F degrees between 12:00 p.m. and 1:00 p.m. During these hot daytime periods sound waves bend up and away from the ground. During cooler evening and nighttime hours, sound waves bend down towards the ground. Therefore, it is very likely that the -10 dBA offset applied would not be present during evening or nighttime hours.

The SoundPlan model used by BAC calculates acoustic propagation through International Organization for Standardization (ISO) 9613 which establishes appropriate methods for calculating sound attenuation due to foliage and typical atmospheric conditions. However, it is very likely that the surrounding orchards do not meet the requirement for providing substantial acoustical shielding. According to ISO 9613, "foliage of trees and shrubs provides a small amount of attenuation, but only if it is sufficiently dense to completely block the view along the propagation path, i.e. when it is impossible to see a short distance through the foliage." It is our recommendation that the concert simulation results from June 18, 2015 not be used in the analysis as atmospheric conditions were not representative of cooler temperatures often experienced during evening hours. Instead, the results of the SoundPlan model should be used to determine whether the project is likely to meet County standards at the nearest receptors.

The intervening orchards should not be included in the SoundPlan model unless it can be verified that the foliage is dense enough to make it "impossible to see a short distance through the foliage."

BAC Response to Comment #12.

The part of this comment pertaining to the intervening orchard is very similar to JCB Comment #11. It is clear from this comment and the previous comment that JCB disagrees with the use of *any* offset to account for shielding and absorption of sound by the intervening orchards. The

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fact remains, however, that the orchard is currently present for a distance of approximately 1,000 feet between the proposed amphitheater stage and the residence represented by Receptor G, and that the orchard is heavily vegetated such that no line of sight exists between this residence and the stage. The photograph below, which was taken from the top of the amphitheater berm, clearly indicates the extent of the shielding provided by the intervening orchard.

Regarding atmospheric conditions, JCB is correct in that weather conditions present during the simulation consisted of warm temperatures. However, the SoundPlan model runs assumed atmospheric conditions of 60 degrees Fahrenheit and 70% relative humidity. These conditions would be characteristic of late night temperatures during the outdoor concert season.

View of Receptor G from top of Amphitheater Berm



JCB Comment #13. Page 15. Amphitheater Crowd Noise Evaluation

The BAC analysis looks at crowd noise and amplified music as separate items. However, the two noise sources would occur concurrently and may result in higher total noise levels when combined together. It is recommended that the SoundPlan model be updated to include crowd noise modeled as an area source located over the seating area of the venue. This source of

noise would combine with the modeled amplified sound to give one set of noise contours which reflects music noise and crowd noise together during a concert event.

BAC Response to Comment #13.

As noted on Page 16 of the BAC report, the predicted worst-case crowd noise generation at the nearest residence to the north (Receptor B), would be approximately 55 dB Leq. Figure 4 on page 12 of the BAC analysis indicates that the concert noise level contours at this receptor are below 45 dB Leq. When two noise sources differ by 10 dB or more, the sum of the two noise levels is equal to the higher noise level. This is because the exponential nature of the decibel scale is such that there is considerably more sound energy at the higher level than at the lower level, so the two noise sources are effectively not additive. As a result, combined crowd and music noise levels at the nearest residences to the north are predicted to be approximately 55 dB Leq during a large amphitheater event. Nonetheless, in response to the JCB request, the noise contours were recreated to include crowd noise. Figure 4b in the updated noise study report contains the noise contours for music plus crowd noise.

JCB Comment #14. Pages 16-21. Amplified Music Originating in the Park Area

The following changes are recommended for the noise analysis of park area events, similar to comments provided for the amphitheater portion of the project:

- The analysis of park area events should be updated to reflect the County noise ordinance standards;
- The analysis should include the additional receptor locations recommended earlier and shown on Figure 1 of this letter;
- Noise contour graphics should include predicted noise levels at the nearest receptor locations compared to the applicable standards, or a table providing a summary of predicted noise levels at each receptor;
- Crowd noise for 500 people should be included in the SoundPlan noise contour modeling.

BAC Response to Comment #14.

Please refer to previous comments regarding the County's Noise Ordinance standards.

In response to the JCB request, additional receptors north of SR-132 have been included in the analysis of noise generation within the park.

Additional discussion of noise levels at the nearest receptor locations have been included in the revised noise study report.

The noise contours for the park area events have been revised to include the noise generated by a crowd of 500 people.

JCB Comment #15. Page 21. Conclusions, Amphitheater Event Recommendations

- The noise study conclusions will need to be updated based upon further updates to the noise analysis. However, the bulleted points are not enforceable measures for the County. The measures listed are good measures for the applicant to implement as internal measures for controlling sound. However, they do not ensure compliance with County standards unless they are followed vigilantly. It is our recommendation that a deposit be collected by the County to pay for a qualified noise consultant to be hired directly by Stanislaus County to conduct event noise monitoring if noise complaints are received by the County. As noted by Mr. Bollard in the noise study prepared by BAC for the City of San Jose for the Saint James Park Outdoor Music Events, "it is very difficult to enforce sound level limits on concert promoters."
- It is recommended that the project be conditioned to comply with a C-weighted average (Leq) noise level standard of 80 dBC during daytime hours and 70 dBC during nighttime hours at each receptor location. Measurement of the C-weighted standard should be conducted using "fast" sound meter response over a 5-minute duration.
- It is recommended that the applicant should install a permanent sound monitor to continuously monitor events at the amphitheater. Events should be limited to low frequency noise at 100 feet from the speakers to 90 dBA Leq / 100 dBC Leq using "fast" sound meter response over a 5-minute duration, as recommended by BAC. The sound level meter should be maintained by an acoustical consultant hired by the County to receive a daily upload from the sound meter and provide to the County upon request.

BAC Response to Comment #15.

In bullet point 1, BAC disagrees with the JCB assertion that the recommendations are not enforceable by the County. Compliance with the County's noise standards is not optional and the purpose of the noise monitoring program recommended in the BAC study is to ensure such compliance. BAC also disagrees with the JCB recommendation that a qualified noise consultant be hired by the County only if noise complaints are received. Irrespective of receipt of complaints, recommendations 4, 5 and 6 of the BAC study specifically require that noise monitoring be conducted during the initial concerts to verify compliance with County noise standards and to allow implementation of additional noise control measures if such monitoring identifies exceedances of the County standards.

In bullet point 2, BAC agrees with the JCB recommendation that C-weighted noise level limits be utilized at the nearest residences. However, based on the assumption that C-weighted levels would be approximately 25 dB higher than A-weighted sound levels, the appropriate thresholds at the residences located adjacent to SR-132 appears to be at least 85 dBC Leq during daytime hours and 75 dBC during nighttime hours. Because the C-weighting network applies greater emphasis on low-frequency noise, additional reduction in noise standards to account for the fact that the noise source in question consists of music would be redundant. Following monitoring of the first two events at the amphitheater, including the days immediate prior to and after those events, the specific C-weighted noise level limits should be set.

BAC and JCB agree with regards to the recommendation of limiting the sound levels at a point 100 feet from the speakers to 90 dBA Leq / 100 dBC Leq. Regarding the installation of a

permanent sound monitor at the amphitheater site, such a system may ultimately be determined to be necessary. However, given the cost of procuring, maintaining and operating such a system, BAC recommends that a determination be made regarding this issue following the monitoring of the first two major amphitheater concerts with temporary (non-permanent) noise monitoring systems.

JCB Comment #16. Page 23 Conclusions, Amphitheater Event Recommendations

- It is recommended that the project be conditioned to only face speakers towards the south or southwest to minimize the risk of disturbance to the closest receptors to the north and northeast.
- It is recommended that a deposit be collected by the County to pay for a qualified noise consultant to be hired directly by Stanislaus County to conduct event noise monitoring if noise complaints are received by the County specifically related to park events.
- It is recommended that the project be conditioned to comply with a C-weighted average (Leq) noise level standard of 80 dBC during daytime hours and 70 dBC during nighttime hours at each receptor location. Measurement of the C-weighted standard should be conducted using "fast" sound meter response over a 5-minute duration.
- It is recommended that the applicant should install a permanent sound monitor to continuously monitor events at the park area. It is possible that one sound meter could be configured to monitor both amphitheater and park events. Events should be limited to low-frequency noise at 100 feet from the speakers to 75 dBA Leq / 85 dBC Leq using "fast" sound meter response over a 5-minute duration, as recommended by BAC. The sound level meter should be maintained by an acoustical consultant hired by the County to receive a daily upload from the sound meter and provide to the County upon request.

BAC Response to Comment #16.

It appears that "Amphitheater Event Recommendations" in the title of this series of comments was intended to read "Park Event Recommendations".

In bullet point 1, BAC agrees that orienting speakers to the south or southwest would minimize the risk of disturbance to the closest receptors to the north and northeast, and that speaker orientation should be utilized to the maximum extent possible. However, for smaller amplified music events held at the park location, recommendation #1 on page 23 of the BAC analysis would ensure compliance with the County's noise standards and this additional requirement may unnecessarily limit the ability of the applicant to best utilize the park space for smaller functions.

In bullet point 2, the County should implement procedures as determined appropriate to retain qualified noise consultants to investigate complaints.

In bullet point 3, BAC agrees with the JCB recommendation that C-weighted noise level limits be utilized at the nearest residences. As with the recommendations for amphitheater events, C-weighted noise level limits should be adjusted as appropriate to account for local ambient conditions at the nearest residences.

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Regarding JCB bullet point #4, the sound system limits recommended by JCB are consistent with those recommended by BAC for amplified events to be held in the park.

Regarding the installation of a permanent sound monitor at the park site, given the variable location, size and nature of events to be held at the park site, the installation of a permanent noise monitoring system would be unworkable. BAC recommends that monitoring of two typical park events be conducted to determine if on-going noise monitoring of the smaller events held within the park is necessary.

Conclusions

Both BAC and JCB agree that, with a project of this nature, care should be taken to ensure that significant noise impacts are fully mitigated at all residences in the project vicinity even if there are minor technical disagreements between JCB and BAC as to how such impacts be analyzed. Given a project of this size, there will undoubtedly need to be adjustments to the noise monitoring procedures, noise standards, and noise mitigation measures as more information is gained through monitoring, observation, and evaluation of public feedback on the initial events held at the new amphitheater as well as ongoing events held within the park area. BAC recommends flexibility in fine-tuning the noise mitigation monitoring program as such information is collected. While some theoretical disagreements in how sound from these events should be modelled or analyzed exist between the two consultants, ultimately it will be the actual noise measurement results collected at the nearest potentially-affected receiver locations that determine whether the noise mitigation and monitoring program is either unnecessarily restrictive or if additional noise control measures need to be implemented for this project. Until such time as that data is available, the comprehensive analysis prepared by BAC indicates that reasonable and feasible noise mitigation measures can be implemented to reduce noise impacts of the project to a less than significant level.

Please contact me at (916) 663-0500 or paulb@bacnoise.com if you have any comments or questions regarding this letter, and thank you for inviting our feedback on the JCB peer review.

Sincerely,

Bollard Acoustical Consultants, Inc.

A handwritten signature in black ink that reads "Paul Bollard". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Paul Bollard
President

Board Certified, Institute of Noise Control Engineering (INCE)

Attachment 7

STANISLAUS COUNTY PLANNING COMMISSION

April 20, 2017

STAFF REPORT

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

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

APPLICATION INFORMATION

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

RECOMMENDATION

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

SITE DESCRIPTION

The project is located at the southwest corner of Geer Road and Yosemite Boulevard/State Highway 132 (7948 Yosemite Boulevard), east of the Community of Empire and west of the City of Waterford. The project site is adjacent to an animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection, a drilling company (Masellis Drilling) on the northwest corner, and a fire station and church located to the north. Production agricultural parcels are located to the west, south, and east of the project site. A concentration of one to four acre ranchettes exists, approximately one half mile east and one mile northeast of the project site.

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

BACKGROUND

The Fruit Yard site was a legal non-conforming use which dated back many years ago when an Old Foamy Drive-In was located on the site. The exact year is unclear due to a lack of County records that are available. Between the years 1976 and 1977, there appears to have been some sort of approval to install a fueling facility, a relocation of the Old Foamy restaurant to the location of the present day restaurant, and the construction of a fruit stand. Again, the records with specific information on these actions appear to be unclear and lacking. The first of many discretionary permits appear to start in 1977 with the application and approval of a Use Permit (ZUPA 77-71) to allow the fruit stand to sell fruit that is not grown or produced on-site. In 1978, a Use Permit (78-19) allowed The Fruit Yard site to add additional fueling pumps, a fruit drying yard, truck parking, and the ability to sell additional types of products at the fruit stand. Then, in 1980, a Use Permit (ZUPA 80-06) allowed the restaurant to expand by adding a banquet facility and lounge. This Use Permit was granted a time extension in 1981 by the Planning Commission, but was never constructed. In 1986, the approval to add the banquet facility and lounge was again granted through a Use Permit (UP 86-16) which also included the consolidation of the fruit stand and fueling facility. The following is an overview of the remaining discretionary permit approvals that have been issued to The Fruit Yard prior to this current request and a summary of The Fruit Yard's history with holding private and public events:

Use Permit No. 88-36 – Approved by the Planning Commission to modernize and enlarge the fueling facility including a 48'x54' canopy, paved access, and one additional fueling pump.

Staff Approval Permit No. 88-10 – Approved to expand the restaurant building with an additional 1,054 square feet.

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

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

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

General Plan Amendment No. 2007-03 and Rezone No. 2007-03 – Approved on August 19, 2008, by the Board of Supervisors, to amend the General Plan designation from Agriculture to Planned Development and to rezone the property from A-2-40 (General Agriculture) to P-D (Planned Development) on a 43.86± acre site. The approved Planned Development (317) allowed for the development of a 9,000 square foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing “card lock” fueling facility and construction of a 3,000 square foot retail shell building, which includes a drive-through establishment of unknown type. The Planned Development also permitted a 322-space boat/RV mini storage (both covered and uncovered spaces), and a 66 space travel trailer park for short term (overnight) stays. The Planned Development also included a two acre site for retail tractor (large agricultural equipment) sales and a new facility for fruit packing and warehousing. However, the retail tractor sales and fruit packing and warehousing phases of the Planned Development are required to obtain a Use Permit prior to development. The approved Planned Development also permitted occasional outdoor special events to be held on-site, near and on the developed nine acre park area, including fund raising activities, weddings, and private parties. For more information see Exhibit D - *Planning Commission Memo for Time Extension Request for General Plan Amendment Application No. 2007-03 and Rezone Application No. REZ 2007-03 – The Fruit Yard, dated December 3, 2015.*

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

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

Time Extension for GPA 2007-03 and REZ 2007-03 – Approved on December 3, 2015, by the Planning Commission, for an amended Development Schedule for Planned Development (317) by extending the development time frame from August 19, 2015, to August 19, 2030, with approved uses allowed to move from one phase to another to react to market conditions. (See Exhibit D - *Planning Commission Memo for Time Extension Request for General Plan Amendment Application No. 2007-03 and Rezone Application No. REZ 2007-03 – The Fruit Yard, dated December 3, 2015.*)

Public and Private Events

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

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

PROJECT DESCRIPTION

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

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

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

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

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

ISSUES

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

Neighborhood Opposition

Residents in the vicinity have complained about traffic and the use of amplified noise emanating from the site from private parties and special events since the 2008 approval; stating that outdoor events with amplified noise at the park site and outside of the restaurant have been held without an approved acoustical analysis. Comments received from neighbors indicated that there was a history of Mr. Traina operating without expedient responses to neighbor complaints and a general distrust that he will not implement the required mitigation. In response to these complaints, the applicant conducted a neighborhood meeting on September 21, 2015, at The Fruit Yard Restaurant, to discuss the status and process of constructing the amphitheater.

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

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

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

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

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

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

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

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

Security

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

Traffic and Parking

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

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

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

Noise and Light Pollution

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

The previous General Plan Amendment and Rezone for the project Planned Development (317) included a Development Standard which required that, *“An acoustical analysis shall be prepared in accordance with the Noise Element of the Stanislaus County General Plan prior to any outdoor use of amplified sound or blasting devices to insure noise levels do not exceed the maximum allowable noise levels as allowed by the Noise Element”*. To address this Development Standard, the use of amplified sound at the park and banquet hall has been incorporated into the Mitigation Monitoring Plan.

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

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

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

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

Air and Water Resources

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

Level of Environmental Review & Mitigation Monitoring Plan

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

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

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

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

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

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

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

Project Scope

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

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

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

Enforcement

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

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

Permitted Event Uses with Use Permit Denial

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

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

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

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

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

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

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

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

Summary

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

GENERAL PLAN CONSISTENCY

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

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

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

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

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

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

ZONING ORDINANCE CONSISTENCY

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

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

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

- The establishment, maintenance, and operation of the proposed use or building applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of the use, and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

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

ENVIRONMENTAL REVIEW

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

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

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

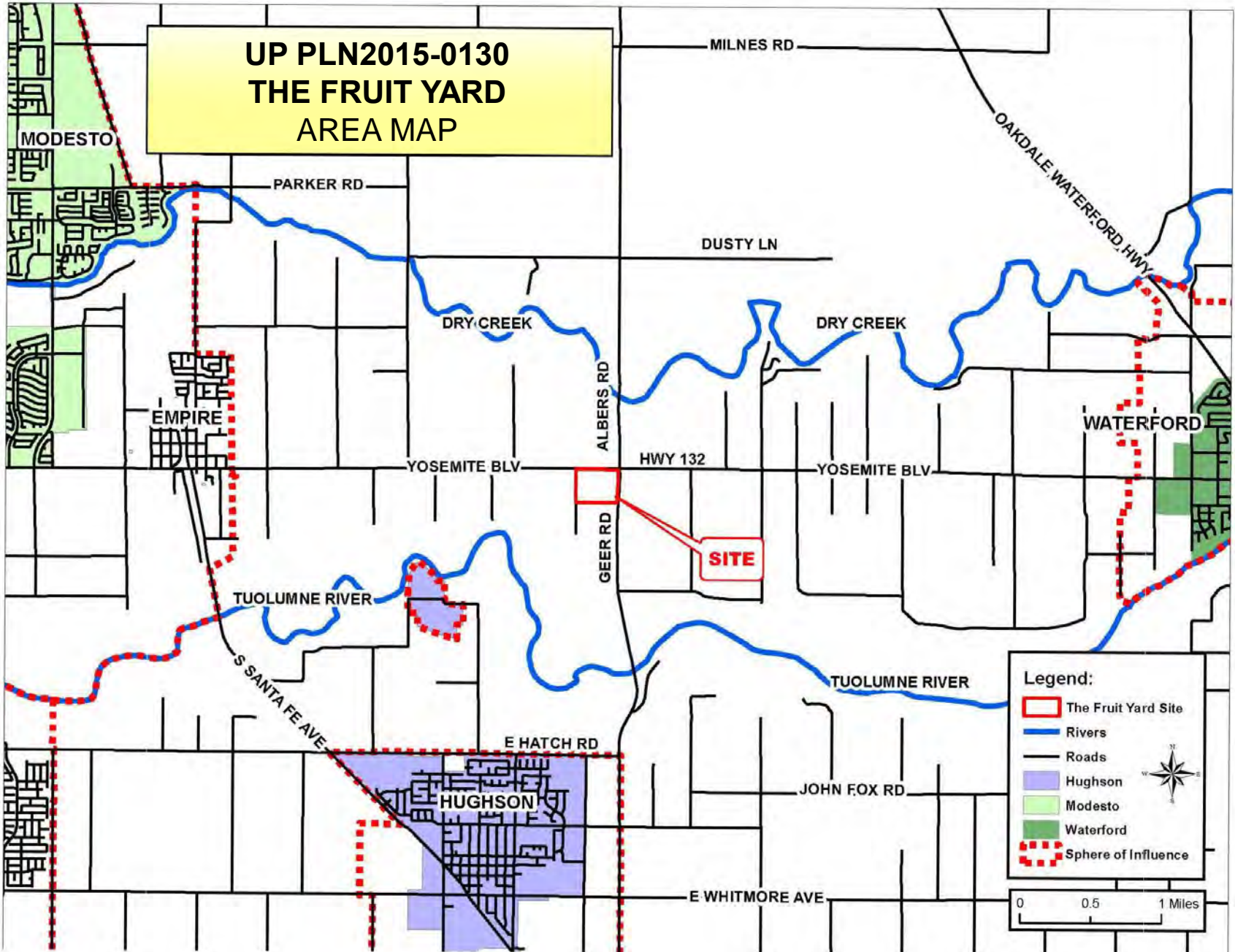
Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps
- Exhibit C - Development Standards and Mitigation Measures
- Exhibit D - Planning Commission Memo for Time Extension Request for General Plan Amendment Application No. 2007-03 and Rezone Application No. REZ 2007-03 – The Fruit Yard, dated December 3, 2015
 - Attachment 1 - Applicant's August 14, 2015 Time Extension Request, including updated project phasing
 - Attachment 2 - Board of Supervisors Report for GPA No. 2007-03 and REZ Application No. 2007-03 – The Fruit Yard, dated August 19, 2008 with partial attachments – the complete attachments are available on-line
 - Attachment 3 - August 19, 2008 Approved P-D 317 Development Standards and Development Schedule
 - Attachment 4 - Parcel Map 56-PM-83
 - Attachment 5 - Letter from Tom Douglas, dated November 3, 2015
 - Attachment 6 - Environmental Review Referrals
- Exhibit E - Initial Study and Referral Responses
- Exhibit F - Traffic Impact Analysis, prepared by KD Anderson & Associates, Inc., dated December 6, 2007 (*part of GPA2007-03 & REZ 2007-03 – The Fruit Yard*)
- Exhibit G - Supplemental Traffic Impact Analysis, prepared by Pinnacle Traffic Engineering, dated February 5, 2016
- Exhibit H - Environmental Noise Analysis, prepared by Bollard Acoustical Consultants, Inc., dated December 30, 2016
- Exhibit I - Neighborhood Comments Received
- Exhibit J - Mitigation Monitoring Plan
- Exhibit K - Mitigated Negative Declaration
- Exhibit L - Environmental Review Referral

Exhibit A
Findings and Actions Required for Project Approval


1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan pursuant to CEQA Guidelines Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgment and analysis.
2. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
3. Find that the establishment, maintenance and operation of the proposed use or building applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety and general welfare of persons residing or working in the neighborhood of the use, and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
4. Approve Use Permit PLN2015-0130 – The Fruit Yard, subject to the attached Development Standards and Mitigation Measures.

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



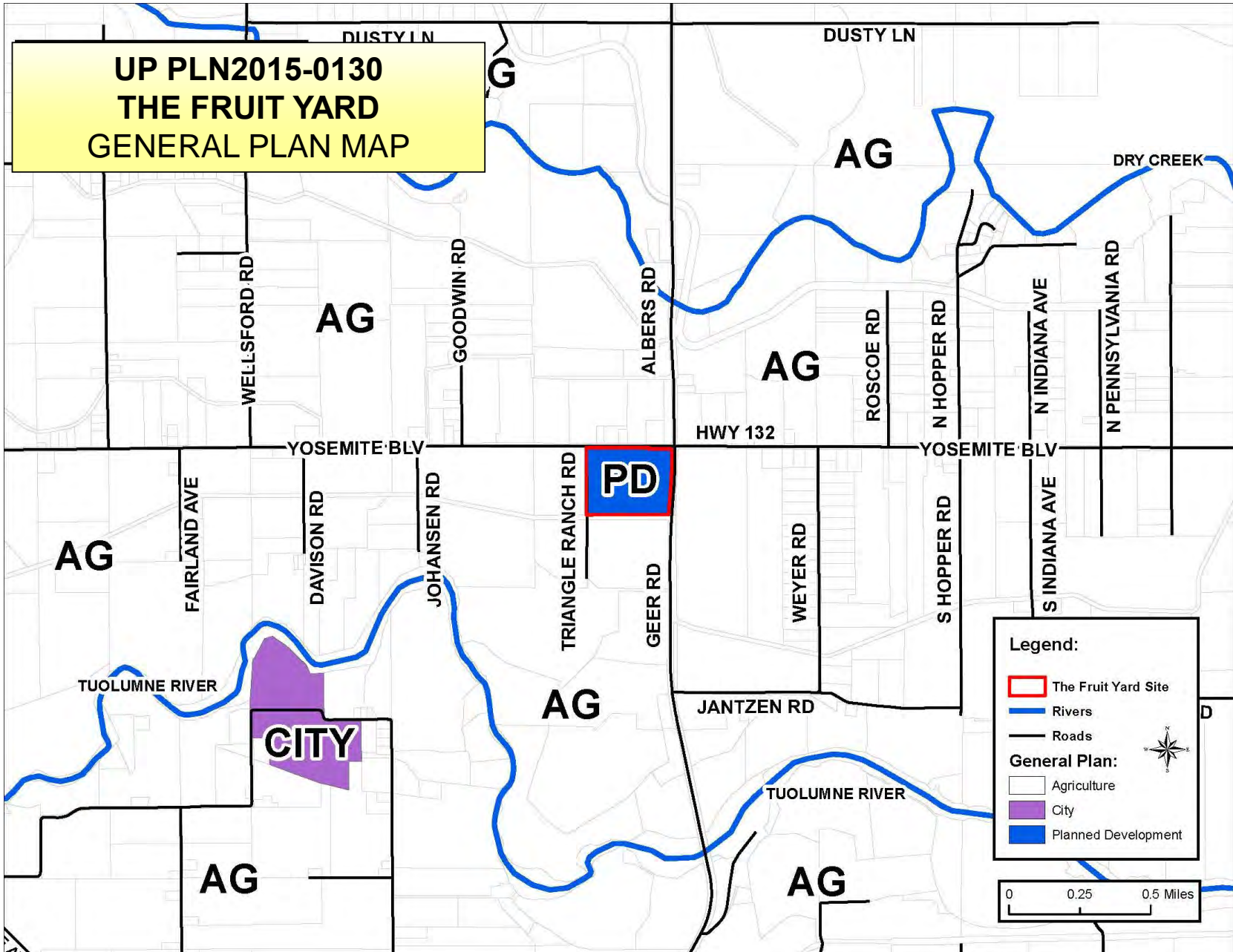
Legend:

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

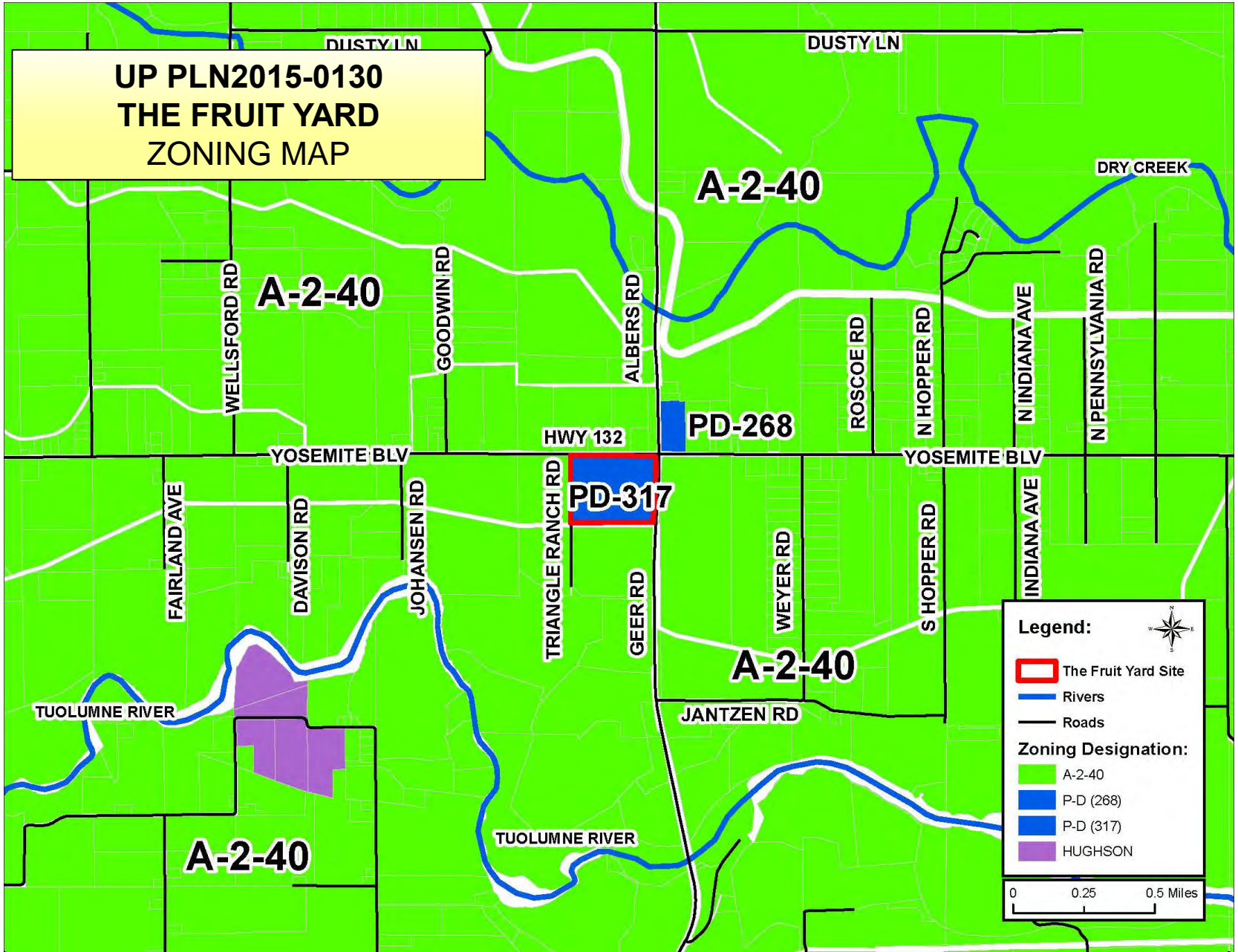




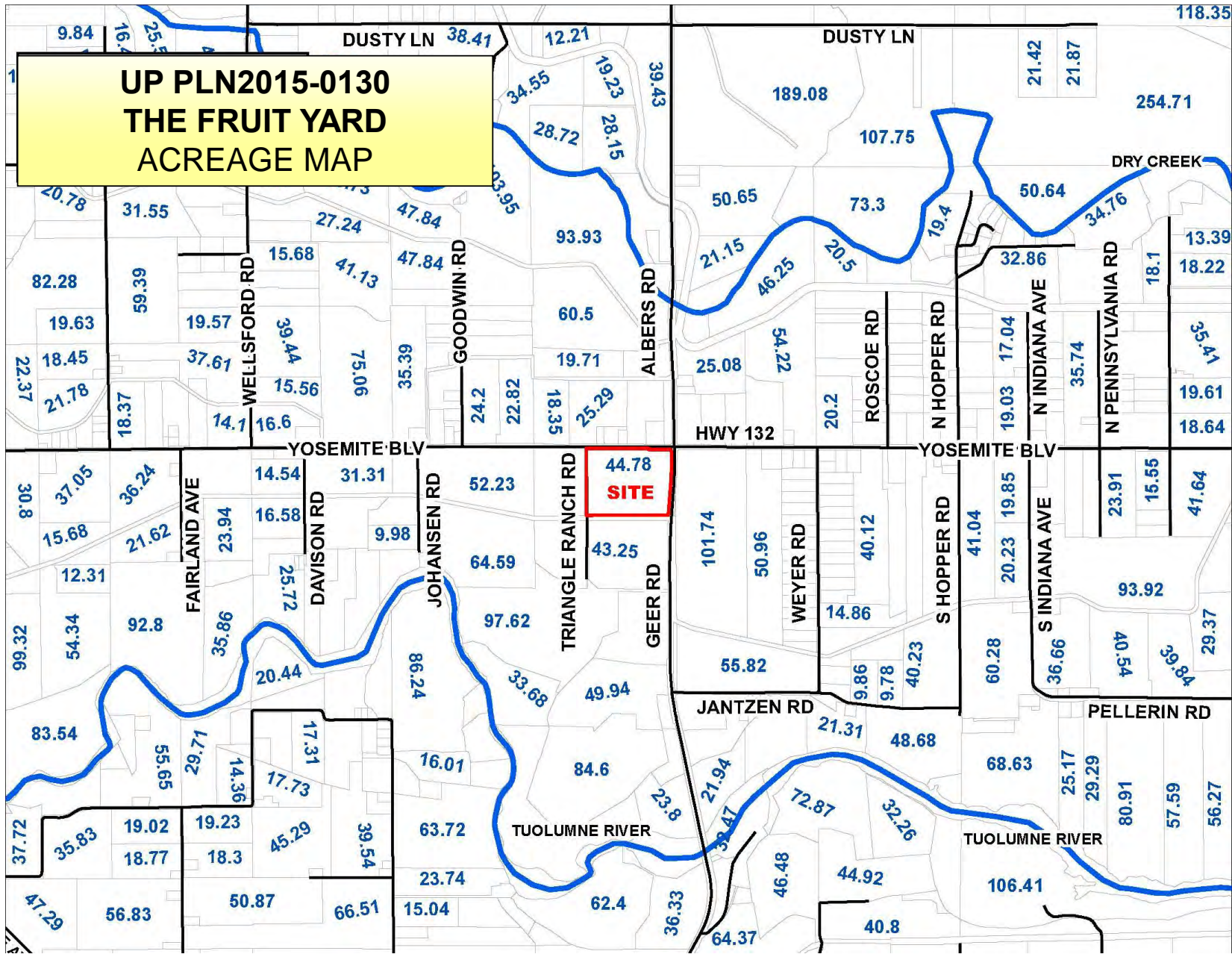
**UP PLN2015-0130
THE FRUIT YARD
GENERAL PLAN MAP**



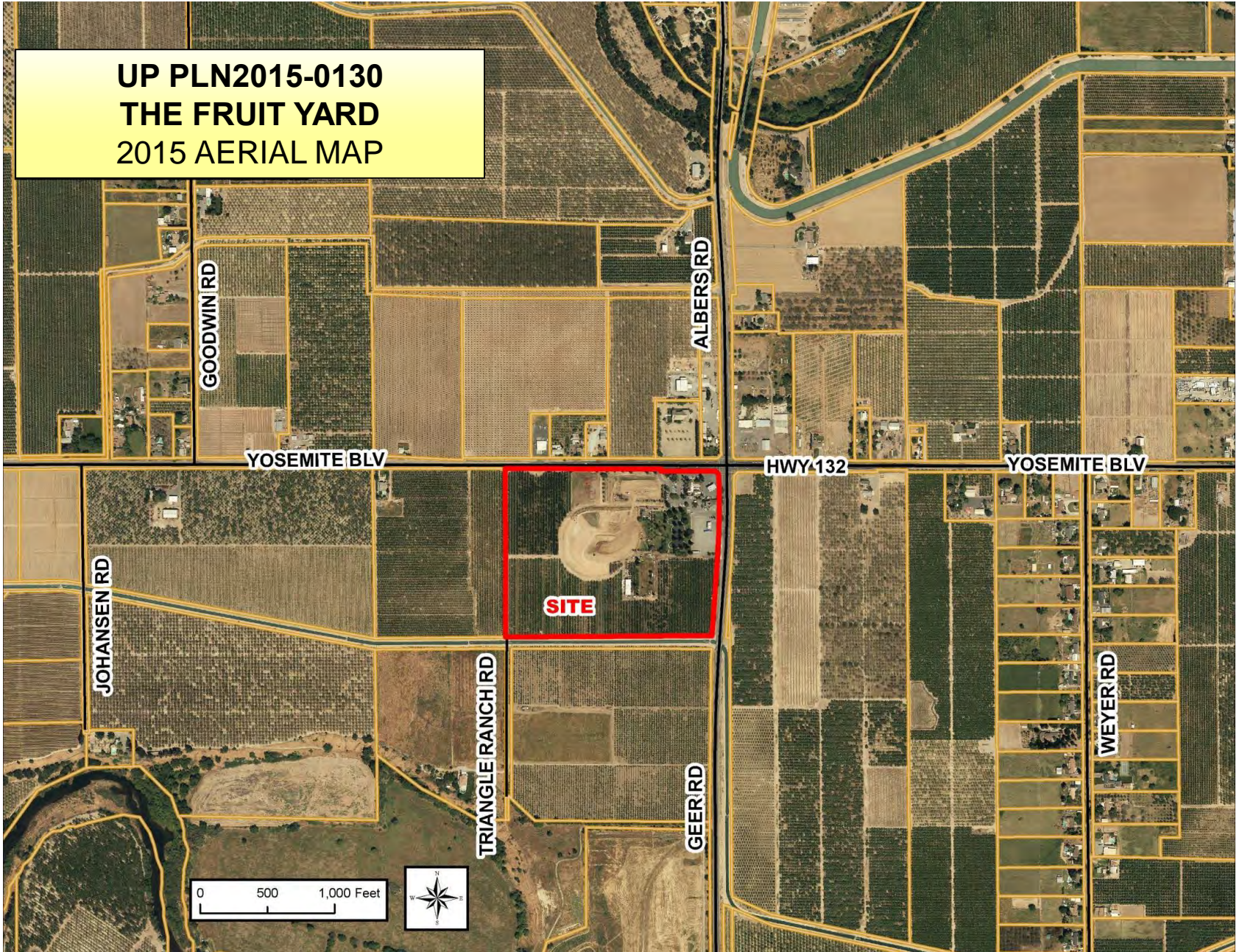
**UP PLN2015-0130
THE FRUIT YARD
ZONING MAP**



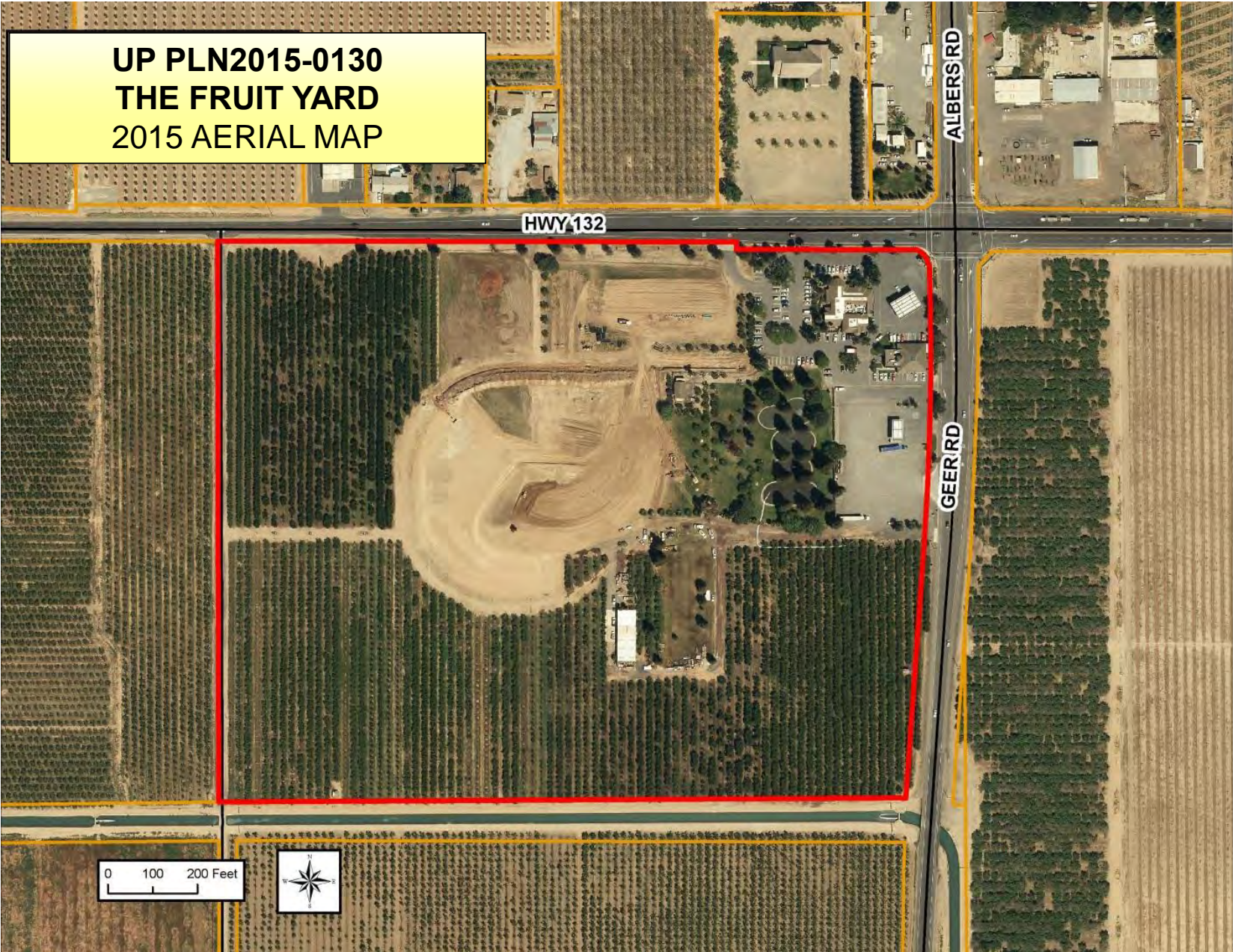
**UP PLN2015-0130
THE FRUIT YARD
ACREAGE MAP**



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



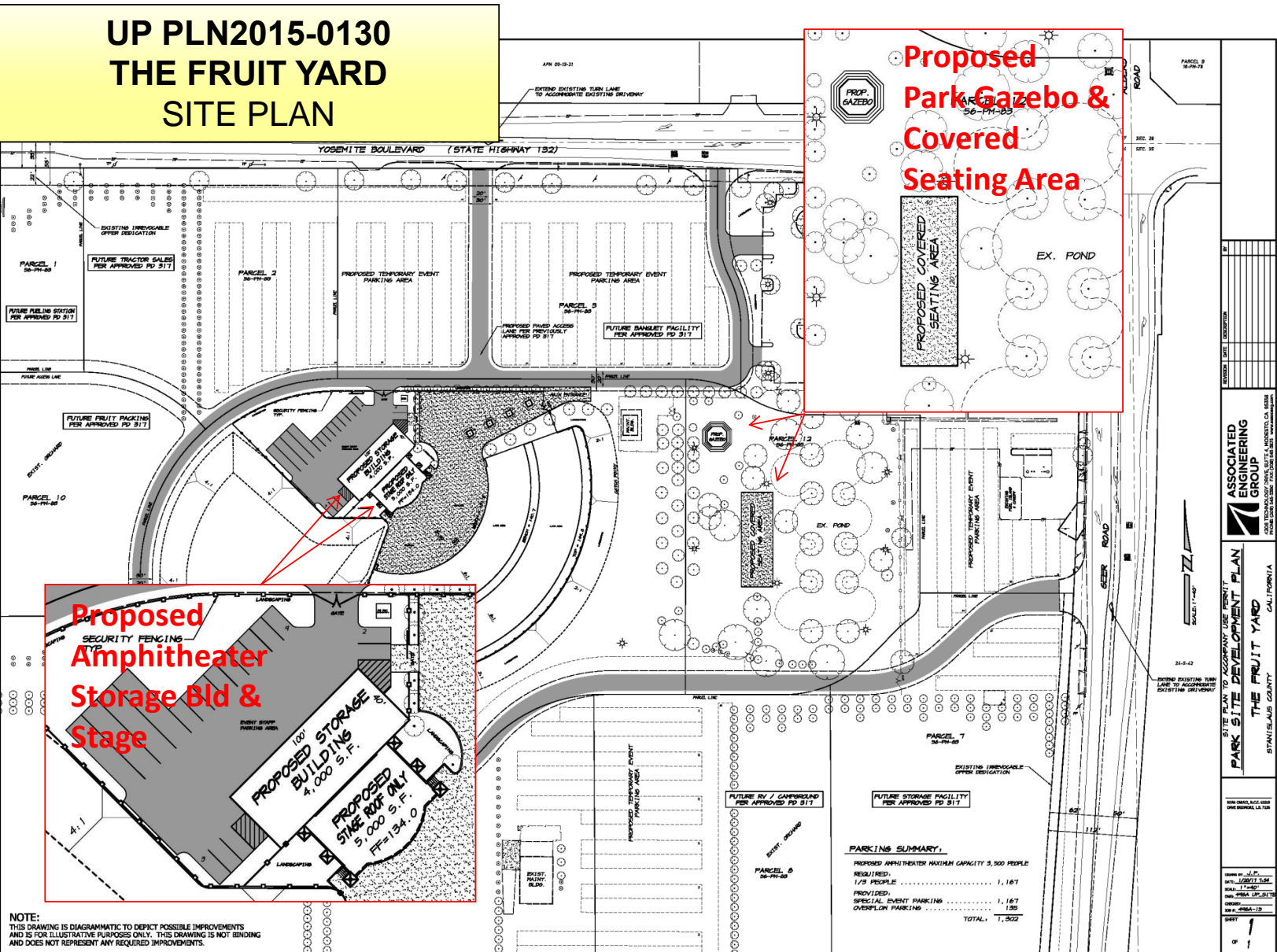
**UP PLN2015-0130
THE FRUIT YARD
2015 AERIAL MAP**



**UP PLN2015-0130
THE FRUIT YARD
SITE PLAN**

**Proposed
Park Gazebo &
Covered
Seating Area**

**Proposed
Amphitheater
Storage Bld &
Stage**



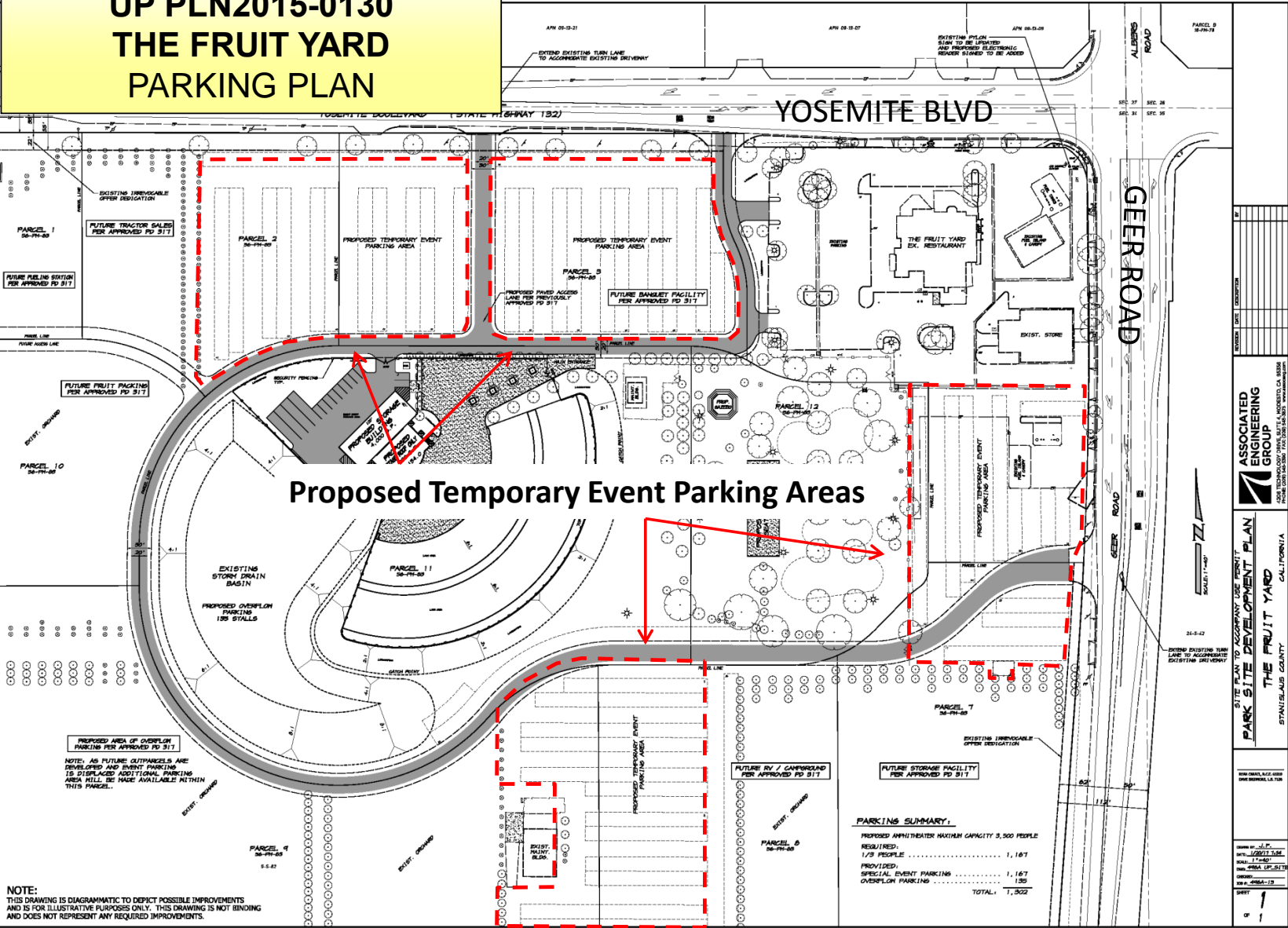
PARKING SUMMARY:

| | |
|--|--------------|
| PROPOSED AMPHITHEATER MAXIMUM CAPACITY | 3,500 PEOPLE |
| REQUIRED: | |
| 1/3 PEOPLE | 1,167 |
| PROVIDED: | |
| SPECIAL EVENT PARKING | 1,167 |
| OVERLAP PARKING | 1,350 |
| TOTAL: | 1,350 |

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

ASSOCIATED ENGINEERING GROUP
 THE FRUIT YARD
 CALIFORNIA
 STATE LICENSE NO. 25106
 ENGINEER
 24

UP PLN2015-0130 THE FRUIT YARD PARKING PLAN



Proposed Temporary Event Parking Areas

PARKING SUMMARY:

PROPOSED AMPHITHEATER MAXIMUM CAPACITY 3,500 PEOPLE

| | |
|-----------------------|--------------|
| REQUIRED: | 1,167 |
| PROVIDED: | 1,167 |
| SPECIAL EVENT PARKING | 1,185 |
| OVERFLOW PARKING | 1,352 |
| TOTAL: | 1,352 |

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

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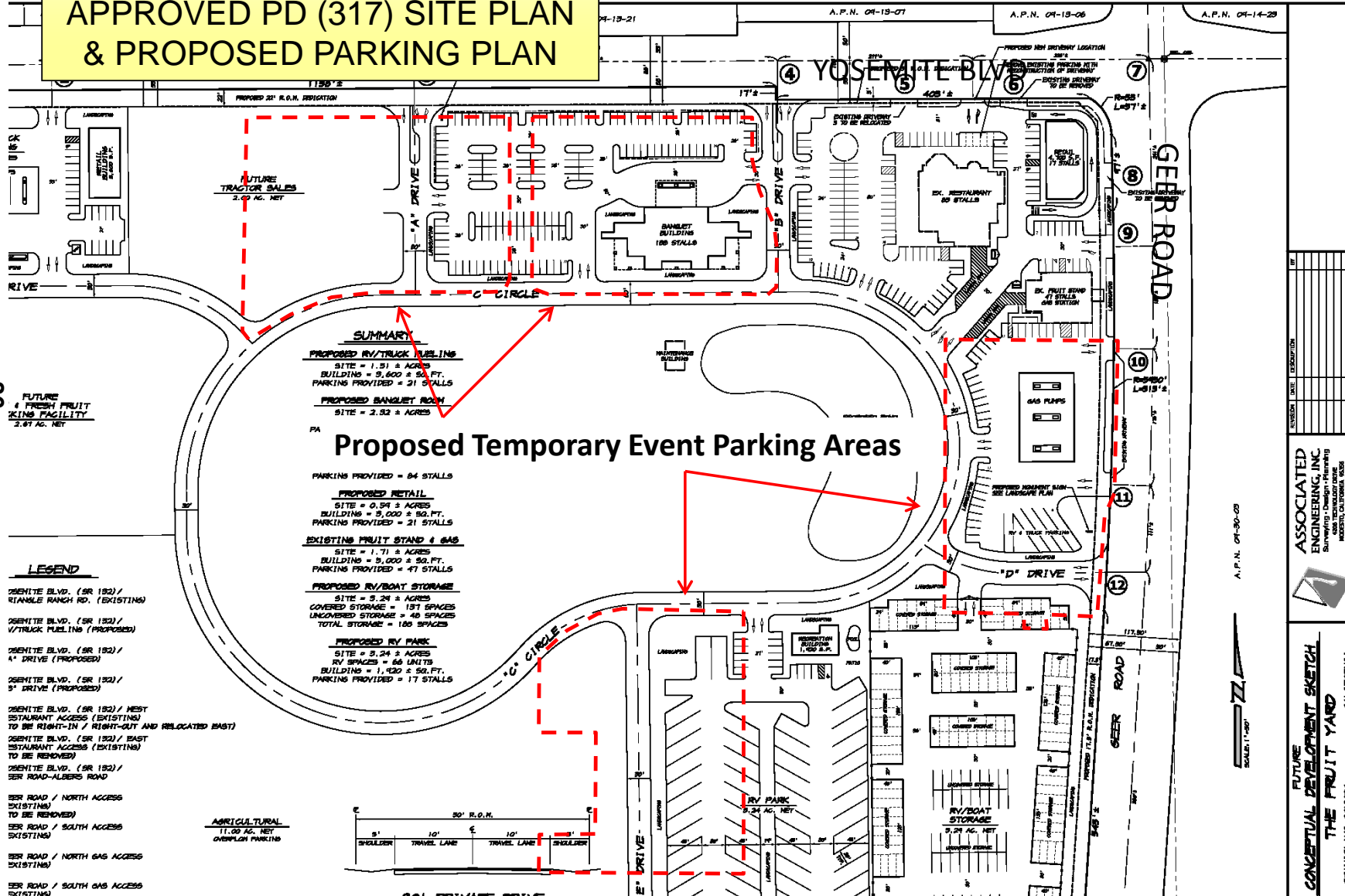
**ASSOCIATED
ENGINEERING
GROUP**
11000 DOWNSBORO DRIVE SUITE 100 WEST VALLEY PARK, GA 30086
PH 404.428.0022 FAX 404.428.0023

PARK SITE DEVELOPMENT PLAN
THE FRUIT YARD
STANISLAUS COUNTY
CALIFORNIA

DATE: 04.11.2017
BY: J. L. JONES
CHECKED: J. L. JONES
SCALE: 1"=40'

DATE: 04.11.2017
BY: J. L. JONES
CHECKED: J. L. JONES
SCALE: 1"=40'

**UP PLN2015-0130
THE FRUIT YARD
APPROVED PD (317) SITE PLAN
& PROPOSED PARKING PLAN**



SUMMARY
PROPOSED RV/TRUCK FUELING
SITE = 1.51 ± ACRES
BUILDING = 5,600 ± SQ. FT.
PARKING PROVIDED = 21 STALLS

PROPOSED BANQUET ROOM
SITE = 2.32 ± ACRES

Proposed Temporary Event Parking Areas

PARKING PROVIDED = 84 STALLS

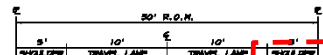
PROPOSED RETAIL
SITE = 0.54 ± ACRES
BUILDING = 5,000 ± SQ. FT.
PARKING PROVIDED = 21 STALLS

EXISTING FRUIT STAND & GAS
SITE = 1.71 ± ACRES
BUILDING = 5,000 ± SQ. FT.
PARKING PROVIDED = 47 STALLS

PROPOSED RV/BOAT STORAGE
SITE = 5.24 ± ACRES
COVERED STORAGE = 197 SPACES
UNCOVERED STORAGE = 40 SPACES
TOTAL STORAGE = 180 SPACES

PROPOSED RV PARK
SITE = 5.24 ± ACRES
RV SPACES = 66 UNITS
BUILDING = 1,420 ± SQ. FT.
PARKING PROVIDED = 17 STALLS

AGRICULTURAL
11.00 AC. NET
OVERLAP PARKING



26
FUTURE
FRESH FRUIT
KINGS FACILITY
2.61 AC. NET

LEGEND

- YOSEMITE BLVD. (SR 152) / RAINBOW RANCH RD. (EXISTING)
- YOSEMITE BLVD. (SR 152) / W/ TRUCK FUELING (PROPOSED)
- YOSEMITE BLVD. (SR 152) / 4" DRIVE (PROPOSED)
- YOSEMITE BLVD. (SR 152) / 5" DRIVE (PROPOSED)
- YOSEMITE BLVD. (SR 152) / WEST RESTAURANT ACCESS (EXISTING) TO BE RIGHT-IN / RIGHT-OUT AND RELOCATED (EAST)
- YOSEMITE BLVD. (SR 152) / EAST RESTAURANT ACCESS (EXISTING) TO BE REMOVED
- YOSEMITE BLVD. (SR 152) / GEAR ROAD-ALBERS ROAD
- GEAR ROAD / NORTH ACCESS (EXISTING) TO BE REMOVED
- GEAR ROAD / SOUTH ACCESS (EXISTING)
- GEAR ROAD / NORTH GAS ACCESS (EXISTING)
- GEAR ROAD / SOUTH GAS ACCESS (EXISTING)

| NO. | REVISION | DATE |
|-----|----------|------|
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ASSOCIATED ENGINEERING, INC.
Surveying • Design • Planning
10001 CALIFORNIA, SUITE 200



FUTURE
CONCEPTUAL DEVELOPMENT SKETCH
THE FRUIT YARD

EXHIBIT B-9

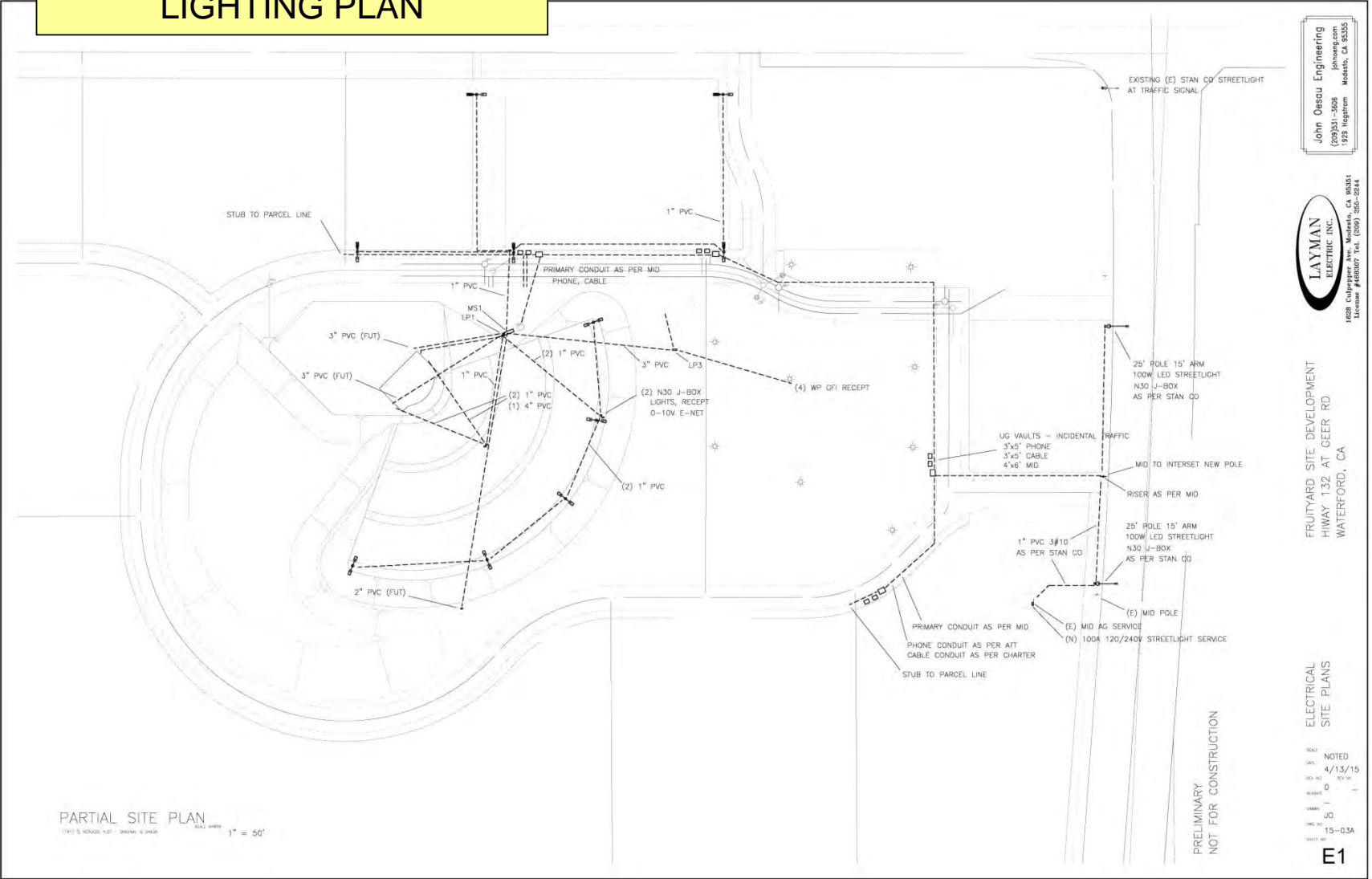
A.P.N. 04-00-005

SCALE: 1"=50'

UP PLN2015-0130 THE FRUIT YARD LIGHTING PLAN

27

EXHIBIT B-10



PARTIAL SITE PLAN
SCALE: AS SHOWN 1" = 50'

PRELIMINARY
NOT FOR CONSTRUCTION

John Desou Engineering
John Desou
(951) 331-3606
1929 Hesperom
Modesto, CA 95354

LAYMAN
ELECTRIC, INC.
1828 Coltrane Ave., Modesto, CA 95354
License #488807 Tel: (209) 255-2544

FRUITYARD SITE DEVELOPMENT
HIGHWAY 132 AT GEER RD
WATERFORD, CA

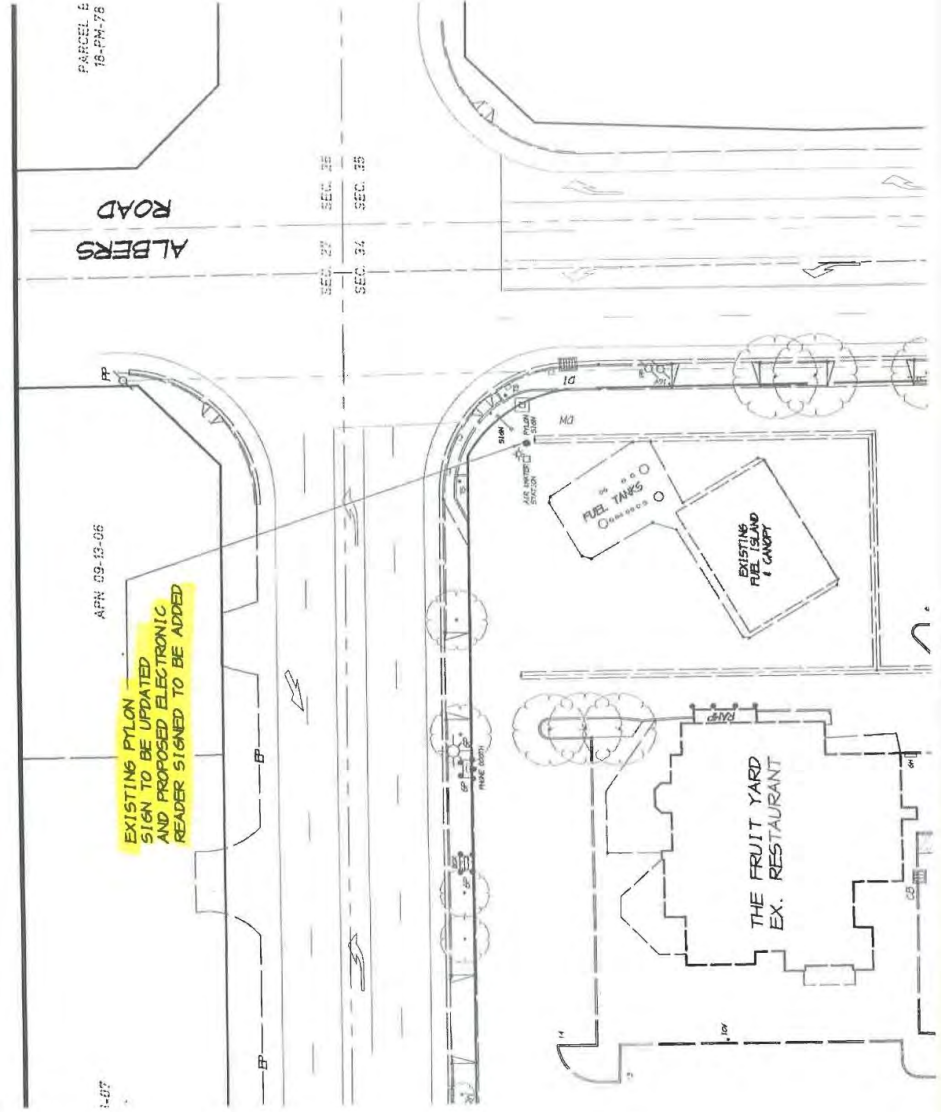
ELECTRICAL
SITE PLANS
NOTED
DATE 4/13/15
BY JDD
15-03A
E1

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

Existing Sign



Proposed Sign



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



56 PM 83

OWNER'S STATEMENT:

WE, THE UNDERSIGNED OWNER(S), HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF, OR HAVE SOME RIGHT, TITLE OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS PARCEL MAP, AND WE CONSENT TO THE MAKING AND FILING OF THIS MAP IN THE OFFICE OF THE COUNTY RECORDER.
WE HEREBY OFFER FOR DEDICATION TO THE PUBLIC, FOR PUBLIC USE, THE PUBLIC UTILITY EASEMENTS AS SHOWN ON THIS MAP.

WE ALSO HEREBY OFFER FOR DEDICATION FOR THE MUTUAL BENEFIT OF THE PARCELS SHOWN HEREON, THE 30.00 FOOT WIDE PRIVATE INGRESS AND EGRESS EASEMENT AS SHOWN ON THIS MAP.

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

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

BENEFICIARY: WELLS FARGO BANK, NATIONAL ASSOCIATION
BY DOCUMENT RECORDED JUNE 25 2008 AS DOCUMENT. NO. 2008-0060530, S.C.R.

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

ACKNOWLEDGMENT:

STATE OF CALIFORNIA:

COUNTY OF Stanislaus:

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

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

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

WITNESS MY HAND.

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

ACKNOWLEDGMENT:

STATE OF CALIFORNIA:

COUNTY OF Stanislaus:

ON 10-25-12 BEFORE ME, ANNA FILIPPI, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED, Donny L. Rocha

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

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

WITNESS MY HAND.

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

NOTE:

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

CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE:

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

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

DATED THIS 23 DAY OF October 2012.

CHRISTINE FERRARO TALLMAN
CLERK OF THE BOARD OF SUPERVISORS.

BY: Pam Villarreal, DEPUTY
Pam Villarreal
PRINT NAME



TAX COLLECTOR'S CERTIFICATE:

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

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

DATED THIS 23rd DAY OF October 2012.

GORDON B. FORD
COUNTY TAX COLLECTOR.

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

OMITTED SIGNATURE:

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

MODESTO IRRIGATION DISTRICT, CANAL AND INCIDENTAL PRUPOSES, RECORDED MAR. 13, 1925, IN BK. 105 OF OFFICIAL RECORDS, PG. 331, S.C.R.
MODESTO IRRIGATION DISTRICT, PUBLIC UTILITY PRUPOSES, RECORDED JUNE 6, 2007, AS DOCUMENT NO. 2007-0075715, S.C.R.

PARCEL MAP

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

PREPARED FOR: THE FRUITYARD
OCTOBER, 2012



SURVEYOR'S STATEMENT:

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

DATED THIS 8th DAY OF OCTOBER 2012.

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



COUNTY SURVEYOR'S STATEMENT:

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

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

DATED THIS 29th DAY OF OCTOBER 2012.

WAYNE G. SUTTON
COUNTY SURVEYOR

Wayne G. Sutton
L.S. 3863



RECORDER'S CERTIFICATE:

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

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

INSTRUMENT NO. 2012-97688

FEE \$15.00 PAID

LEE LUNDRIGAN
CLERK RECORDER

BY: Manjit Kahlon, DEPUTY
Manjit Kahlon
PRINT NAME

STANISLAUS COUNTY FM APP. NO. 2009-08
ASSOCIATED ENGINEERING JOB NO. 446C-12

SHEET 1 OF 3

56 PM 83

56 PM 83

56 PM 83

NOTE

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

REFERENCES

- (A) REFERS TO VOLUME 24 OF SURVEYS AT PAGE 42, S.C.R.
- (B) REFERS TO BOOK 16 OF PARCEL MAPS AT PAGE 31, S.C.R.
- (C) REFERS TO VOLUME 5 OF SURVEYS AT PAGE 82, S.C.R.
- (D) REFERS TO STANISLAUS COUNTY SURVEY NO. 1506
- (E) REFERS TO ROAD DEED INST. NO. 60444, 5/2/77
- (F) REFERS TO ROAD DEED INST. NO. 20005, 10/18/82
- (G) REFERS TO ROAD DEED INST. NO. 118459, 4/24/87

LEGEND

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

BASIS OF BEARINGS

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

PARCEL MAP

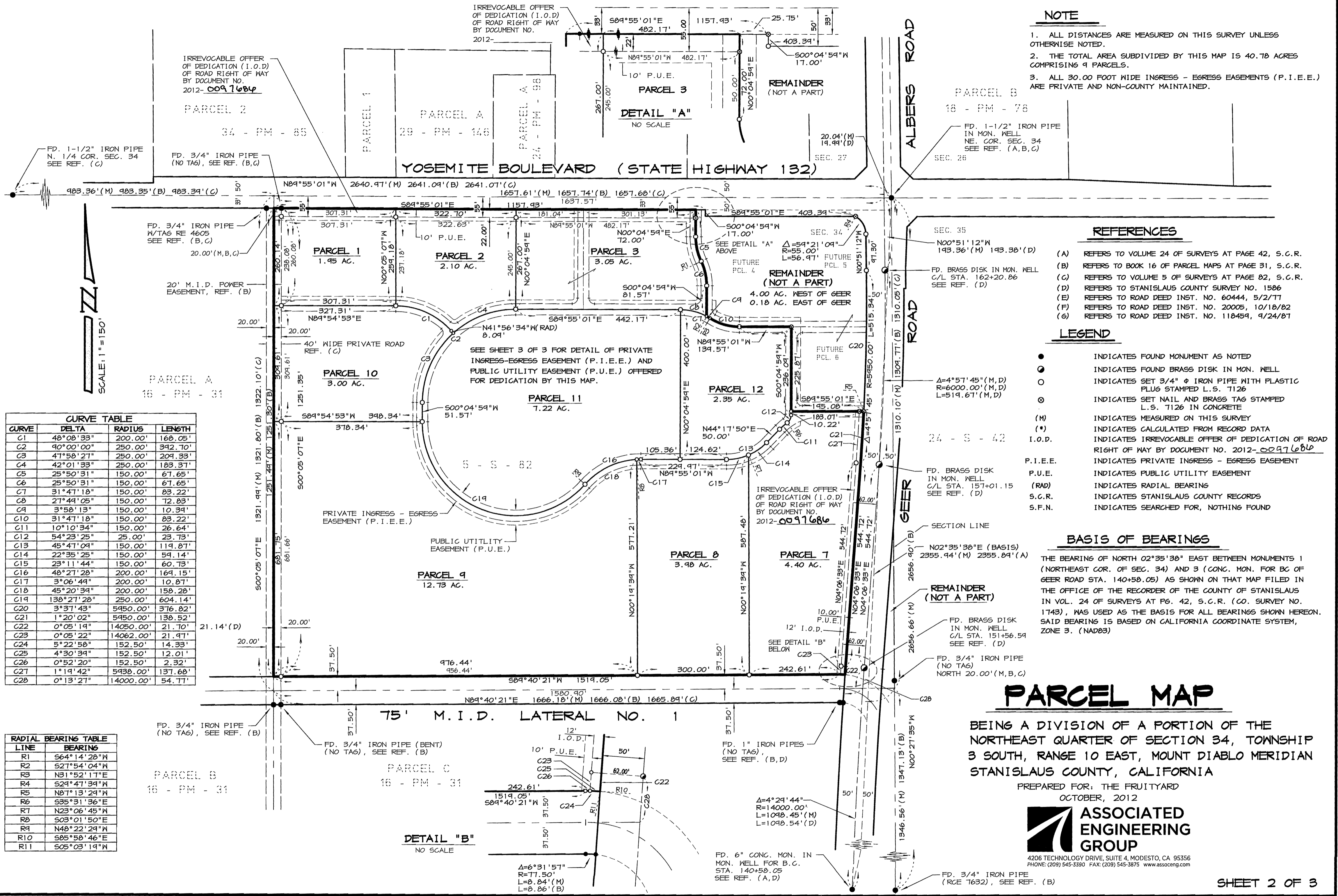
BEING A DIVISION OF A PORTION OF THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 3 SOUTH, RANGE 10 EAST, MOUNT DIABLO MERIDIAN STANISLAUS COUNTY, CALIFORNIA

PREPARED FOR: THE FRUITYARD
OCTOBER, 2012

ASSOCIATED ENGINEERING GROUP

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

SHEET 2 OF 3



| CURVE | DELTA | RADIUS | LENGTH |
|-------|------------|-----------|---------|
| C1 | 48°08'33" | 200.00' | 168.05' |
| C2 | 40°00'00" | 250.00' | 342.70' |
| C3 | 47°58'27" | 250.00' | 204.33' |
| C4 | 42°01'33" | 250.00' | 183.37' |
| C5 | 25°50'31" | 150.00' | 67.65' |
| C6 | 25°50'31" | 150.00' | 67.65' |
| C7 | 31°47'18" | 150.00' | 83.22' |
| C8 | 27°44'05" | 150.00' | 72.83' |
| C9 | 3°58'13" | 150.00' | 10.39' |
| C10 | 31°47'18" | 150.00' | 83.22' |
| C11 | 10°10'34" | 150.00' | 26.64' |
| C12 | 54°23'25" | 25.00' | 23.73' |
| C13 | 45°47'04" | 150.00' | 119.87' |
| C14 | 22°35'25" | 150.00' | 59.14' |
| C15 | 23°11'44" | 150.00' | 60.73' |
| C16 | 48°27'28" | 200.00' | 169.15' |
| C17 | 3°06'49" | 200.00' | 10.87' |
| C18 | 45°20'34" | 200.00' | 158.28' |
| C19 | 138°27'28" | 250.00' | 604.14' |
| C20 | 3°37'43" | 5450.00' | 376.82' |
| C21 | 1°20'02" | 5450.00' | 138.52' |
| C22 | 0°05'14" | 14050.00' | 21.70' |
| C23 | 0°05'22" | 14062.00' | 21.97' |
| C24 | 5°22'58" | 152.50' | 14.33' |
| C25 | 4°30'34" | 152.50' | 12.01' |
| C26 | 0°52'20" | 152.50' | 2.32' |
| C27 | 1°14'42" | 5438.00' | 137.68' |
| C28 | 0°13'27" | 14000.00' | 54.77' |

| LINE | BEARING |
|------|-------------|
| R1 | S64°14'28"W |
| R2 | S27°54'04"W |
| R3 | N31°52'17"E |
| R4 | S29°47'39"W |
| R5 | N87°13'29"W |
| R6 | S35°31'36"E |
| R7 | N23°06'45"W |
| R8 | S03°01'50"E |
| R9 | N48°22'24"W |
| R10 | S85°58'46"E |
| R11 | S05°03'19"W |

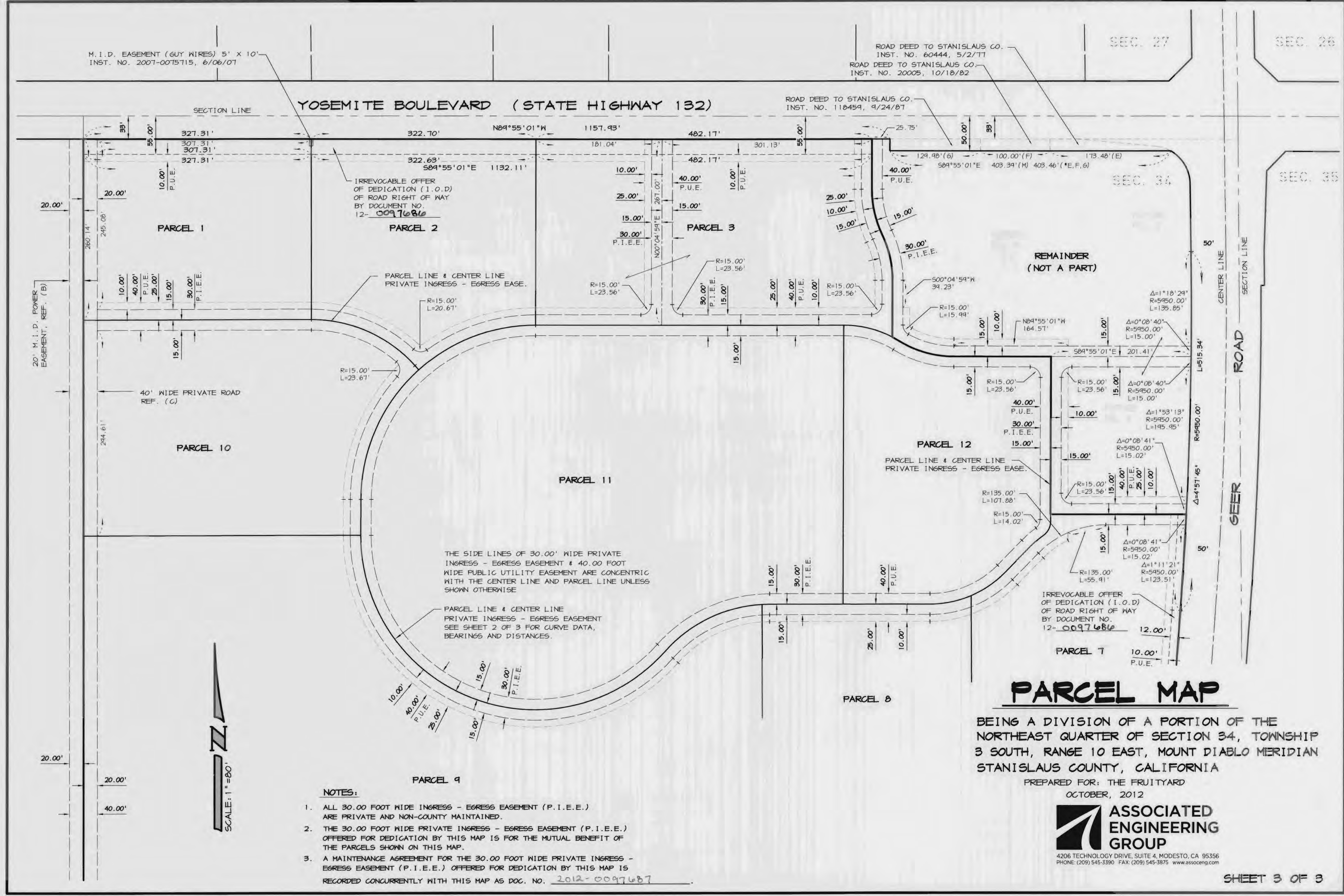
31

56 PM 83

56 PM 83

56 PM 83

56 PM 83



NOTES:

1. ALL 30.00 FOOT WIDE INGRESS - EGRESS EASEMENT (P.I.E.E.) ARE PRIVATE AND NON-COUNTY MAINTAINED.
2. THE 30.00 FOOT WIDE PRIVATE INGRESS - EGRESS EASEMENT (P.I.E.E.) OFFERED FOR DEDICATION BY THIS MAP IS FOR THE MUTUAL BENEFIT OF THE PARCELS SHOWN ON THIS MAP.
3. A MAINTENANCE AGREEMENT FOR THE 30.00 FOOT WIDE PRIVATE INGRESS - EGRESS EASEMENT (P.I.E.E.) OFFERED FOR DEDICATION BY THIS MAP IS RECORDED CONCURRENTLY WITH THIS MAP AS DOC. NO. 2012-0097687.

PARCEL MAP

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

PREPARED FOR: THE FRUITYARD
 OCTOBER, 2012



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

32

56 PM 83

56 PM 83

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

DEVELOPMENT STANDARDS

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

Department of Planning and Community Development

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

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

6. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.
7. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
8. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the Planning Director or appointed designee(s) prior to installation. ~~Flashing, animated, or electronic reader board signs are not permitted.~~
9. Pursuant to Sections 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate stream-bed alteration agreements, permits, or authorizations, if necessary.
10. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
11. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
12. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.
13. All Development Standards from Planned Development (317) shall remain in effect. The Development Standards set forth in this Staff Report are considered to be an amendment to the Development Standards from Planned Development (317), and apply in addition to the Development Standards from Planned Development (317).
14. No street parking associated with the site is permitted. Customers and event attendees shall be made aware via signage that parking is limited to on-site parking only.
15. No alcohol consumption or tail gating is permitted in the parking areas designated for on-site events. Any sale of alcohol on-site must obtain and comply with all of the necessary Alcohol Beverage Control (ABC) Licensing.

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

Department of Public Works

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

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

Department of Environmental Resources

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

Building Permits Division

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

Stanislaus Consolidated Fire District

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

Modesto Irrigation District

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

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

California Department of Transportation

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

Department of California Highway Patrol

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

MITIGATION MEASURES

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

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

1. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to: the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and to prevent light trespass (glare and spill light that shines onto neighboring properties). Amphitheater lighting shall be shut off by 11:00 p.m. on Sunday – Thursday, and by midnight on Friday and Saturday evenings.
2. Prior to onset of any amplified music events at the amphitheater, a noise berm shall be constructed. Specifically, the noise berm shall consist of a 100 foot long by 40 foot wide and 20 foot tall building, labeled on the Planning Commission approved project site plan as a “storage building” to be located directly behind (northwest) of the stage, as identified on the project site plan. A certificate of occupancy shall be obtained for the noise berm prior to the onset of any amphitheater activity. If the storage building changes in size or shape, or is proposed to be replaced with a backstage sound-wall or other construction to create an adequate noise berm, the modified facility will need to be reviewed and approved by an acoustical consultant, in accordance with Mitigation Measure No. 14, and a determination made that it has adequate sound dampening characteristics so that sound will fall within the noise levels described within this Mitigation Monitoring Plan.
3. Prior to issuance of a building permit for the banquet hall, and prior to the onset of any amplified music event held at the banquet hall, the banquet hall shall be designed and constructed with sound proofing (including sound proofing for the roof, windows, and walls). Sound proofing plans shall be reviewed for full compliance with the approved plans by a noise consultant, as described in Mitigation Measure No. 14.
4. All amphitheater, park, and banquet hall events shall maintain the noise levels described in Table 1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc., and the C-weighted standards described below:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



December 3, 2015

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

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

PROJECT DESCRIPTION

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

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

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

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

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

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

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

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

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

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

Backbone Infrastructure 2014-2018

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

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

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

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

- RV Park
- Fruit Packing Facility
- Truck Sales Facility

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

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

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

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

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

DISCUSSION

Applicant's Demonstration of Good Cause

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

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

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

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

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

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

Compliance with Approved Site Plan and Performance Standards

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

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

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

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

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

California Environmental Quality Act (CEQA) Compliance

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

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

Neighborhood Comments

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

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

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

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

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

PLANNING COMMISSION OPTIONS

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

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

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

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

1. Find that the findings required for approval cannot be made, and deny the time extension request for General Plan Amendment N0. 2007-03 and Rezone Application No. 2007-03 – The Fruit Yard.

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

Attachments:

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

Fruit Yard Extension – Written Support

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

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

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

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

August, 2015

Updated Project Phasing

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

Backbone Infrastructure 2014-2018

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

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

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

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

- RV Park
- Fruit Packing Facility
- Tractor Sales Facility

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

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

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

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

DEPT: Planning and Community Development

BOARD AGENDA # 6:40 p.m.

Urgent Routine

AGENDA DATE August 19, 2008

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

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

PLANNING COMMISSION RECOMMENDATIONS:

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

1. Adopt the Mitigated Negative Declaration pursuant to California Code of Regulations Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis.

(Continued on page 2)

FISCAL IMPACT:

There are no fiscal impacts associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2008-600

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

and approved by the following vote,

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

Noes: Supervisors: Chairman Mayfield

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

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

Christine Ferraro
62

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

MOTION CONTINUED ON PAGE 1-A
ATTACHMENT 2
File No. ORD-55-H-8

MOTION CONTINUED FROM PAGE 1

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

SUBJECT: (Continued)

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

PLANNING COMMISSION RECOMMENDATION: (Continued)

2. Find That:
 - A. The substitute language for Mitigation Measure No. 3 identified as Development Standard No. 71 is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment
3. Adopt the Mitigation Monitoring Plan, with the substitute language for Mitigation Measure No. 3, pursuant to CEQA Guidelines Section 15074(d).
4. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
5. Find That:
 - A. The General Plan amendment will maintain a logical land use pattern without detriment to existing and planned land uses,
 - B. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service,
 - C. The amendment is consistent with the General Plan goals and policies,
 - D. Overall, the proposal is consistent with the goals and policies of the General Plan,
 - E. There is evidence on the record to show a demonstrated need for the proposed project based on population projections, past growth rates, and other pertinent data,
 - F. No feasible alternative site exists in areas already designated or planned for the proposed uses,
 - G. Approval of the proposal will not constitute part of, or encourage piecemeal conversion of a larger agricultural area to non-agricultural uses, and will not be growth-inducing (as used in the California Environmental Quality Act),

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

DISCUSSION:

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

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

Approvals

This project has two approvals that are required:

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

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

Planning Commission Hearing

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

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

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

Modified Development Standards

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

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

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

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

POLICY ISSUES:

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

STAFFING IMPACT:

None.

ATTACHMENTS:

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

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

APN: 009-027-004

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

Public hearing opened.

OPPOSITION: Tom Douglas, 548 Hopper Road

FAVOR: Dave Romano

Public hearing closed.

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

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

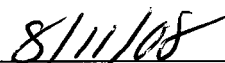
EXCERPT

PLANNING COMMISSION

MINUTES



Secretary, Planning Commission



Date

STANISLAUS COUNTY PLANNING COMMISSION

July 17, 2008

STAFF REPORT

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

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

APPLICATION INFORMATION

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

PROJECT DESCRIPTION

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

SITE DESCRIPTION

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

BACKGROUND

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

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

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

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

DISCUSSION

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

The applicant has submitted the proposed phasing for the project:

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

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

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

Special Events

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

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

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

FINDINGS

General Plan Amendment

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

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

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

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

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

Land Use Element

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

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

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

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

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

Goal Two - Ensure compatibility between land uses.

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

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

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

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

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

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

Conservation Element

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

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

Agricultural Element (Adopted April, 1992)

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

Goal Two - Conserve our agricultural lands for agricultural uses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Rezone

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

ENVIRONMENTAL REVIEW

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

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

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

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

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

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

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

Traffic Study

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

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

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

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

RECOMMENDATION

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

1. Adopt the Mitigated Negative Declaration pursuant to California Code of Regulations Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County's independent judgement and analysis.
2. Find That:
 - A. The substitute language for Mitigation Measure No. 3 identified as Development Standard No. 71 is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment
3. Adopt the Mitigation Monitoring Plan, with the substitute language for Mitigation Measure No. 3, pursuant to CEQA Guidelines Section 15074(d).

4. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorder's Office pursuant to Public Resources Code Section 21152 and CEQA Guidelines Section 15075.
5. Find That:
 - A. The General Plan amendment will maintain a logical land use pattern without detriment to existing and planned land uses,
 - B. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service,
 - C. The amendment is consistent with the General Plan goals and policies,
 - D. Overall, the proposal is consistent with the goals and policies of the General Plan,
 - E. There is evidence on the record to show a demonstrated need for the proposed project based on population projections, past growth rates, and other pertinent data,
 - F. No feasible alternative site exists in areas already designated or planned for the proposed uses,
 - G. Approval of the proposal will not constitute part of, or encourage piecemeal conversion of a larger agricultural area to non-agricultural uses, and will not be growth-inducing (as used in the California Environmental Quality Act),
 - H. The proposed project is designed to minimize conflict and will not interfere with agricultural operations on surrounding agricultural lands or adversely affect agricultural water supplies,
 - I. Adequate and necessary public services and facilities are available or will be made available as a result of the development,
 - J. The design of the proposed project has incorporated all reasonable measures, as determined during the CEQA review process, to mitigate impacts to fish and wildlife resources, air quality, water quality and quantity, or other natural resources,
 - K. The proposed Planned Development zoning is consistent with the proposed Planned Development General Plan designation,
 - L. The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements, and
 - M. Development Standard No. 71 is more effective than the noise mitigation measure circulated with the initial study and mitigation monitoring plan.

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

Note: Pursuant to California Fish and Game Code Section 711.4, all project applicants subject to the California Environmental Quality Act (CEQA) shall pay a filing fee for each project. Therefore, the applicant will further be required to pay \$1,933.75 to the Department of Fish and Game. The attached Development Standards ensure that this will occur.

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

Attachments:

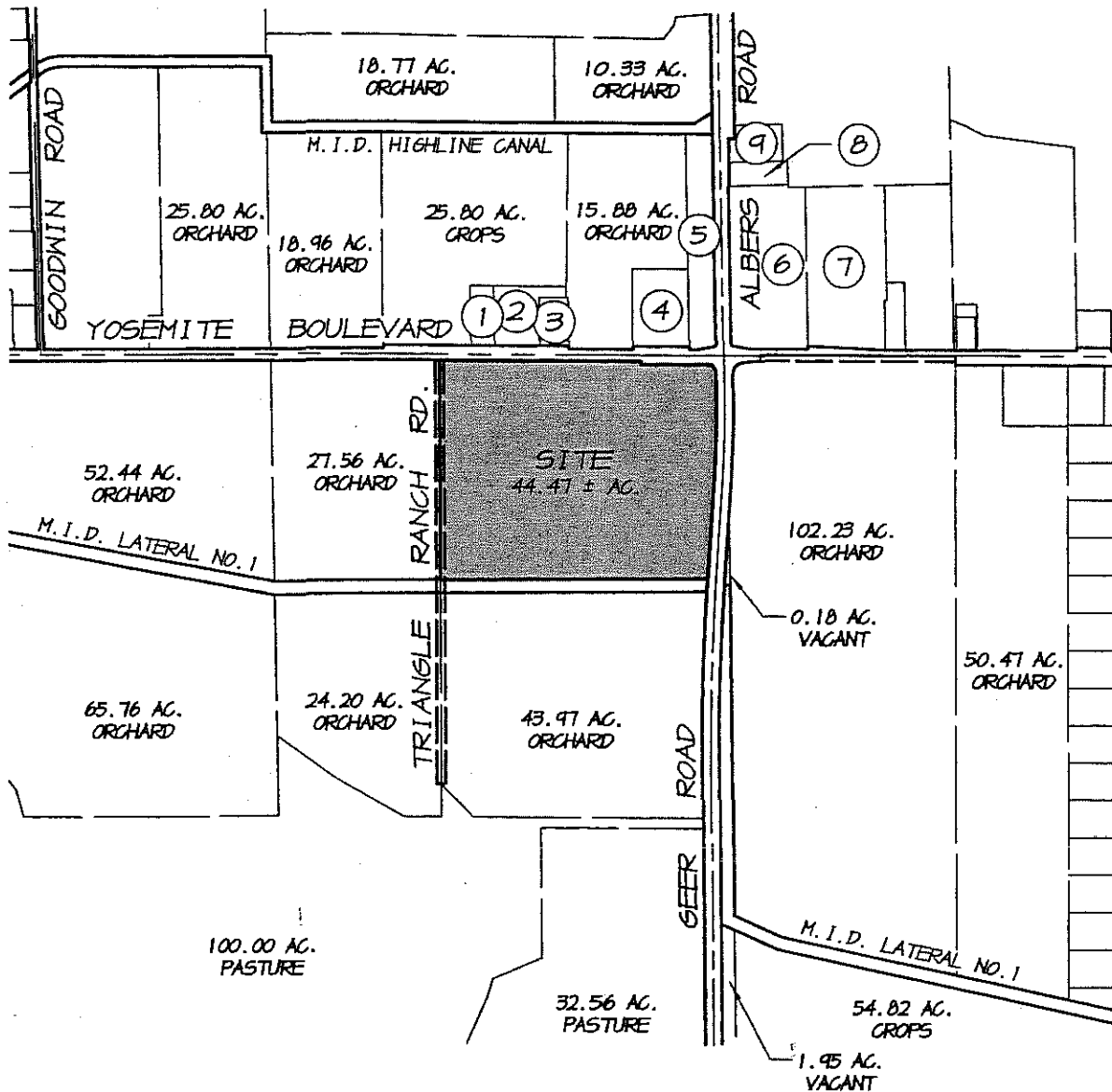
- Exhibit A - Maps, Site Plans and Conceptual Landscape Plans
- Exhibit B - Applicant's Project Description & Application
- Exhibit C - Development Standards
- Exhibit D - Development Schedule
- Exhibit E - Initial Study and Mitigation Monitoring Plan
- Exhibit F - Mitigated Negative Declaration
- Exhibit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

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

Reviewed By:



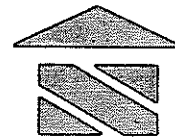
Angela Freitas, Senior Planner



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

PROJECT SITE

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



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

AREA MAP THE FRUIT YARD

MODESTO

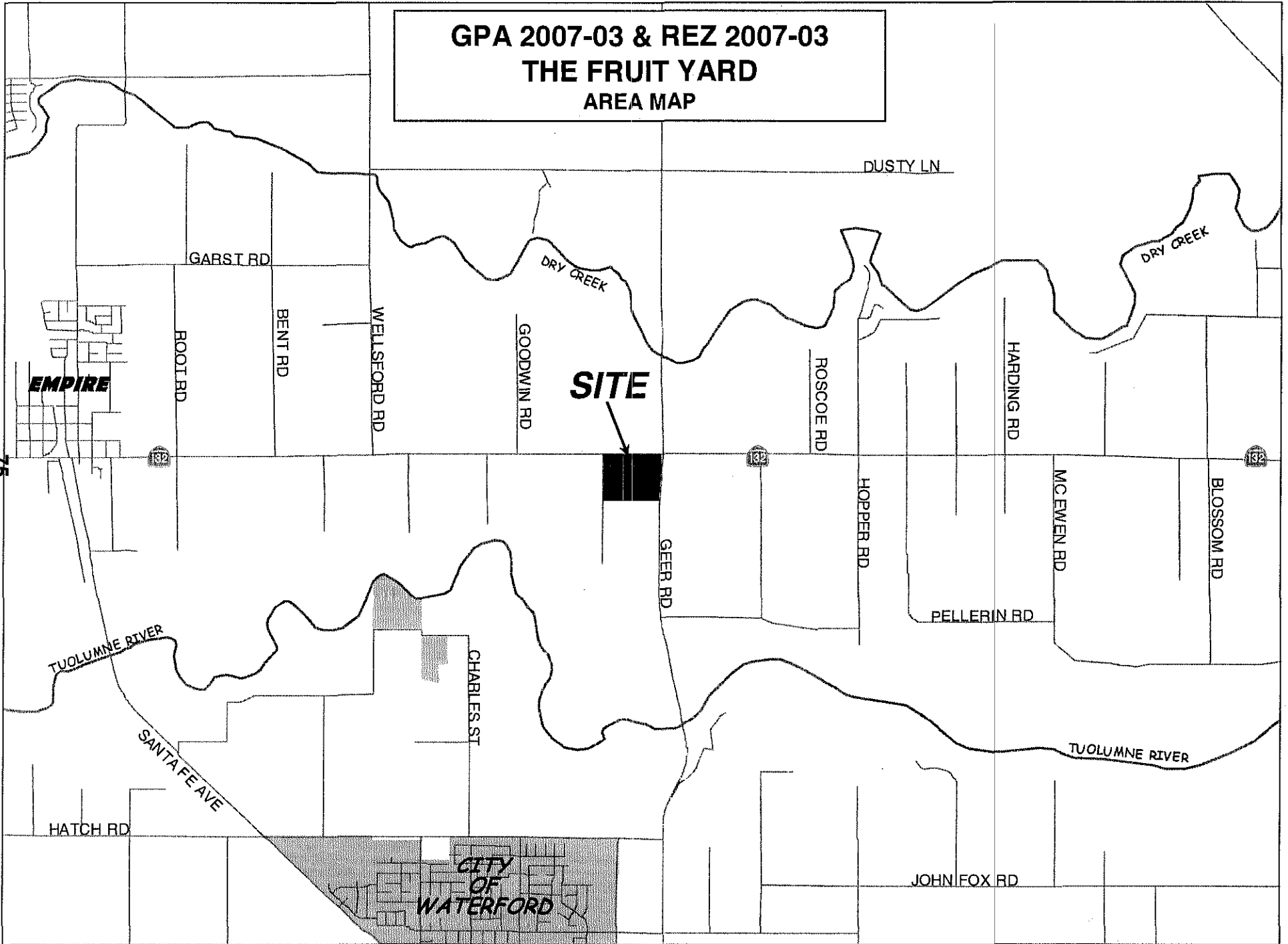
CALIFORNIA



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

EXHIBIT A

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

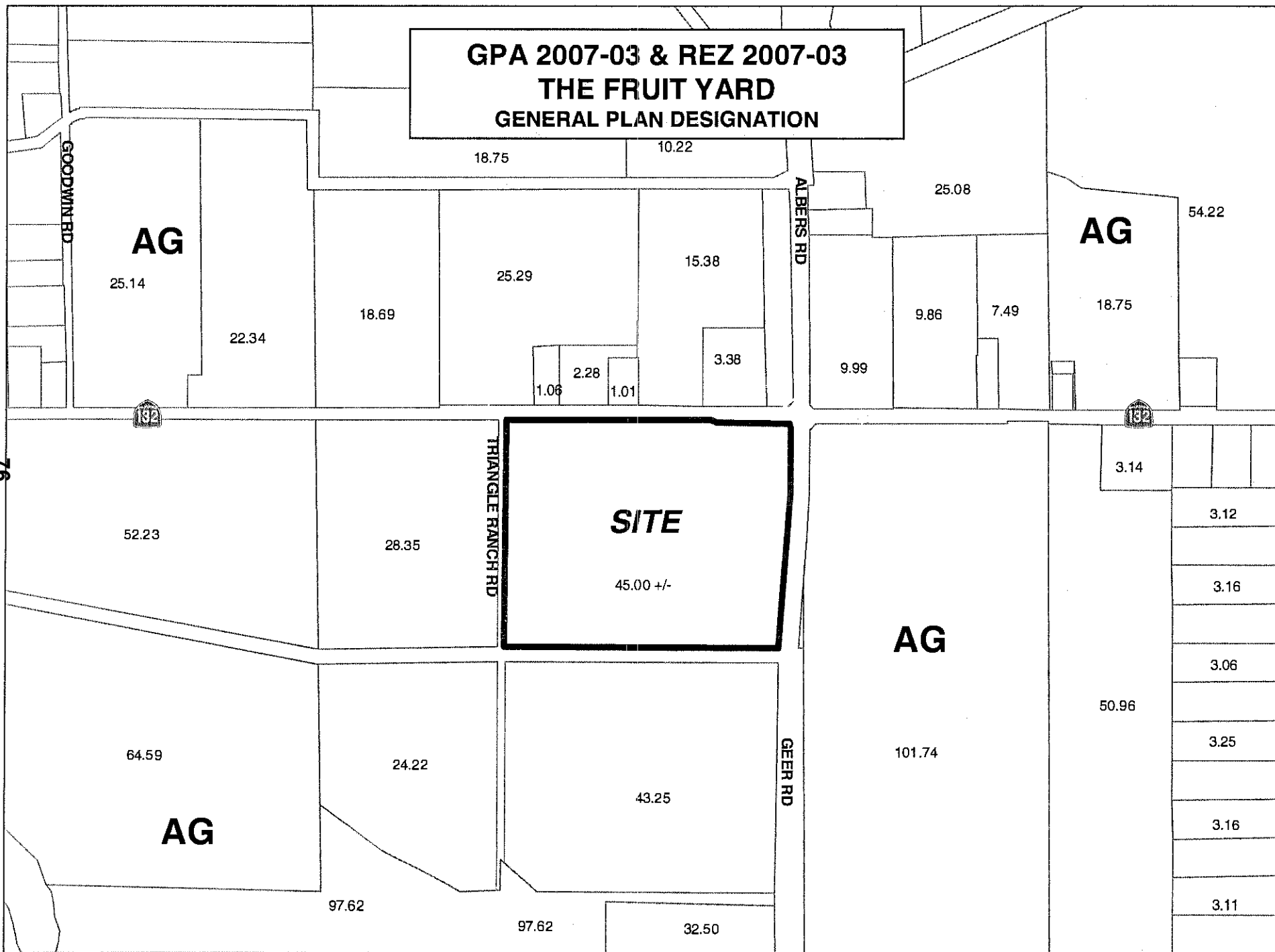


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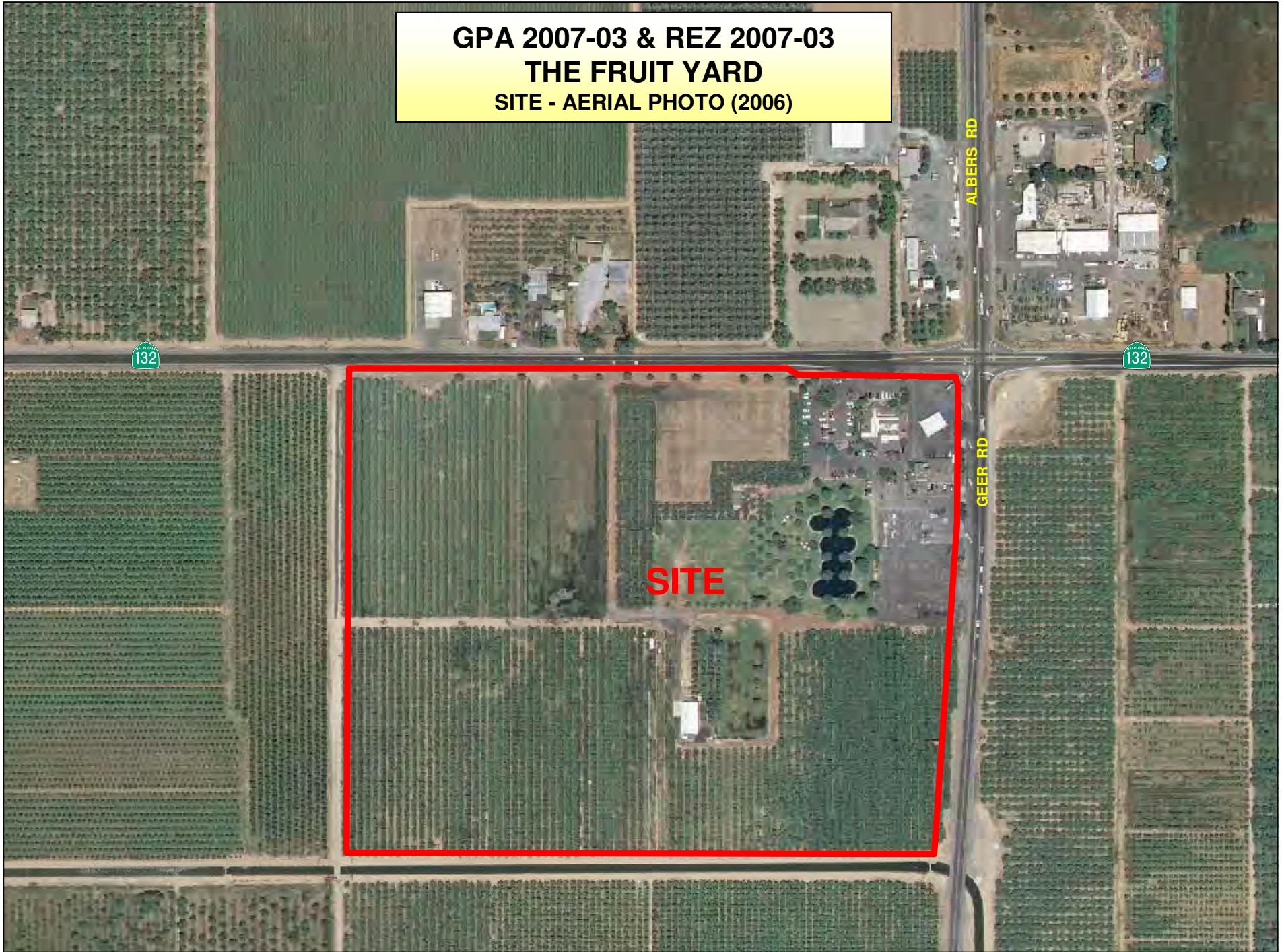
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**GPA 2007-03 & REZ 2007-03
THE FRUIT YARD
GENERAL PLAN DESIGNATION**

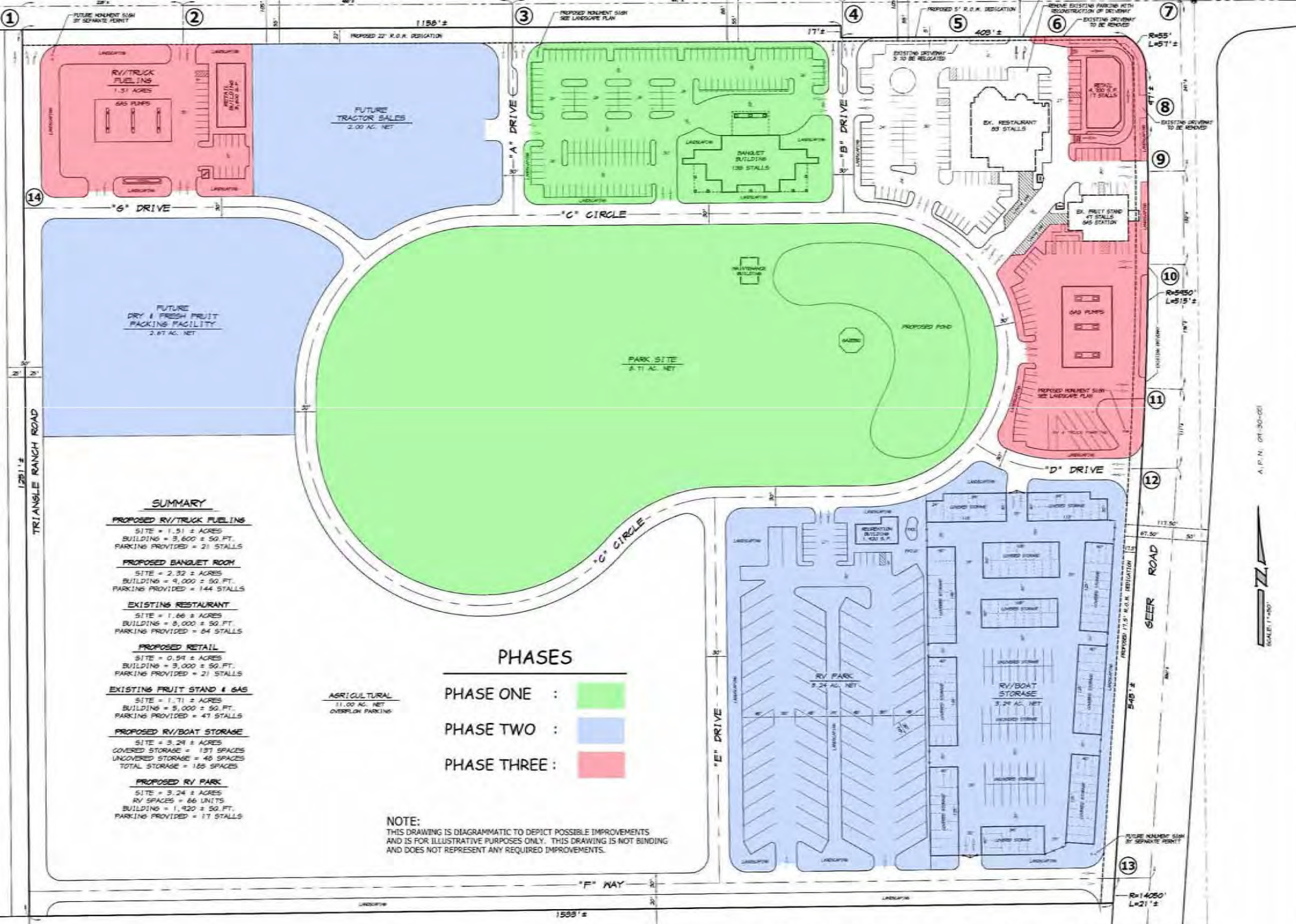


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EXHIBIT A-2

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



YOSEMITE BOULEVARD



- SUMMARY**
- PROPOSED RV/TRUCK FUELING**
SITE = 1.31 ± ACRES
BUILDING = 3,600 ± SQ. FT.
PARKING PROVIDED = 21 STALLS
 - PROPOSED BANQUET ROOM**
SITE = 2.32 ± ACRES
BUILDING = 4,000 ± SQ. FT.
PARKING PROVIDED = 144 STALLS
 - EXISTING RESTAURANT**
SITE = 1.66 ± ACRES
BUILDING = 8,000 ± SQ. FT.
PARKING PROVIDED = 84 STALLS
 - PROPOSED RETAIL**
SITE = 0.91 ± ACRES
BUILDING = 3,000 ± SQ. FT.
PARKING PROVIDED = 21 STALLS
 - EXISTING FRUIT STAND & GAS**
SITE = 1.71 ± ACRES
BUILDING = 5,000 ± SQ. FT.
PARKING PROVIDED = 47 STALLS
 - PROPOSED RV/BOAT STORAGE**
SITE = 3.24 ± ACRES
COVERED STORAGE = 137 SPACES
UNCOVERED STORAGE = 48 SPACES
TOTAL STORAGE = 185 SPACES
 - PROPOSED RV PARK**
SITE = 3.24 ± ACRES
RV SPACES = 66 UNITS
BUILDING = 1,920 ± SQ. FT.
PARKING PROVIDED = 17 STALLS

AGRICULTURAL
11.00 AC. NET
OVERLAP PARKING



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

M. I. D. LAT NO. 1

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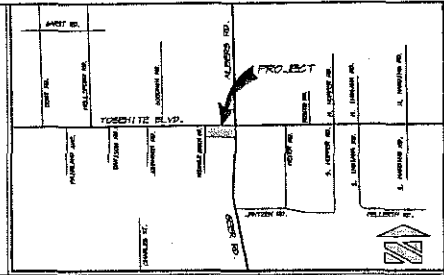
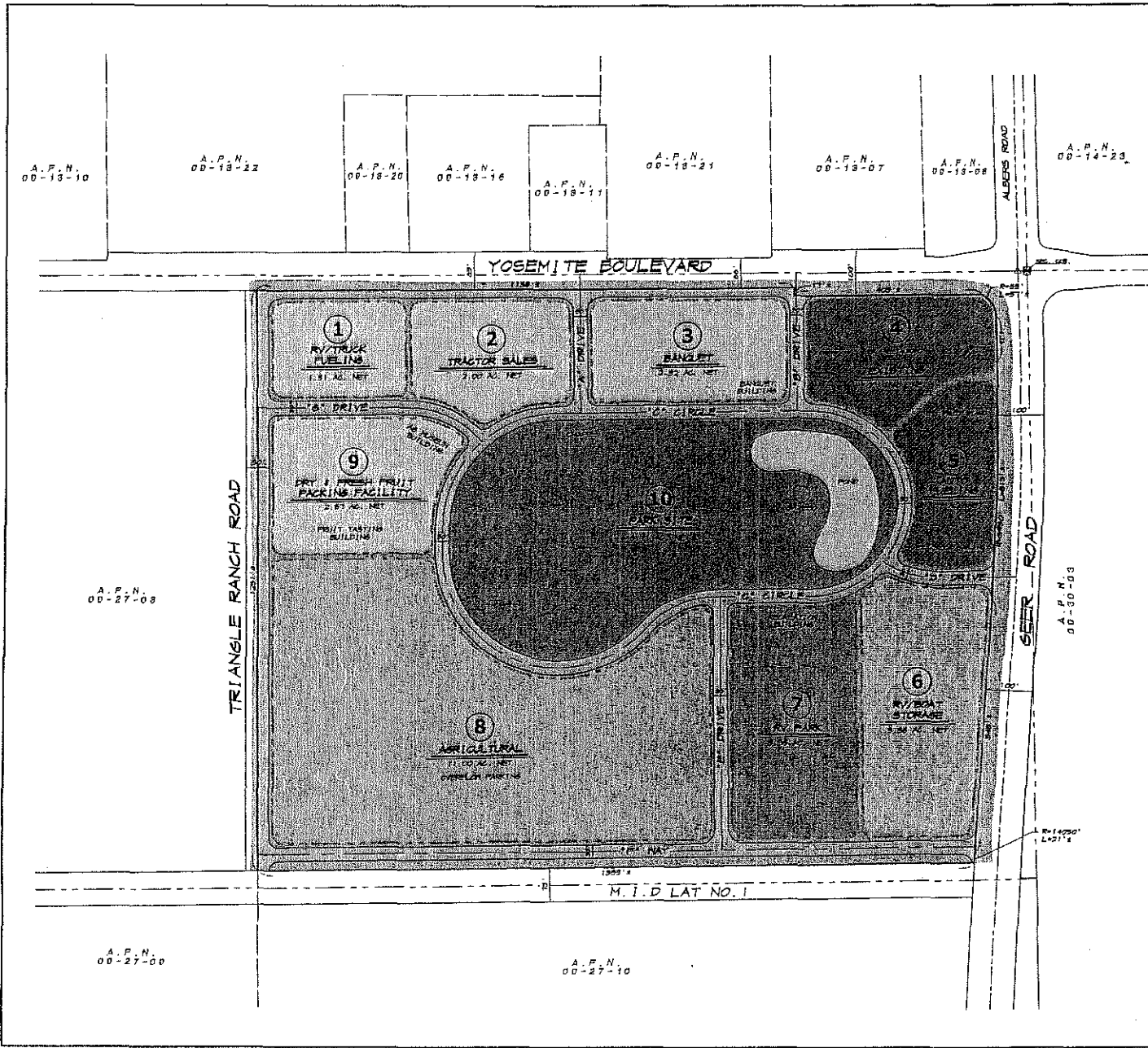
EXHIBIT A-5

ASSOCIATED
ENGINEERING, INC.
Surveying • Design • Planning
1000 TECHNOLOGY BLVD.
SAN JOSE, CA 95128
PH: (408) 251-3300 FAX: (408) 251-3875

FUTURE
CONCEPTUAL DEVELOPMENT SKETCH
THE FRUIT YARD
STANISLAUS COUNTY CALIFORNIA

1/10/2010 1:00 PM
SHE: BORGES, L. G.

DATE: 4/10/10 4:22
DRAWN BY: J. WOOD
CHECKED BY: G. B. ALL-STEIN
DATE: 4/10/10
SHEET: 1



- ### SUMMARY
- ① RV/TRUCK FUELING AREA
PROPOSED AREA = 1.51 ± AC.
PROPOSED BUILDING AREA = 1,200 ± SQ. FT.
 - ② TRACTOR SALES
PROPOSED AREA = 2.00 ± AC.
PROPOSED BUILDING AREA = 10,000 ± SQ. FT.
 - ③ BANQUET AREA
PROPOSED AREA = 2.92 ± AC.
PROPOSED BUILDING AREA = 32,000 ± SQ. FT.
PROPOSED PARKING = 150 ±
 - ④ EXISTING AREA
EXISTING AREA = 2.14 ± AC.
EXISTING USES = RESTAURANT AND GAS STATION
 - ⑤ AUTO FUELING AREA
PROPOSED AREA = 1.71 ± AC.
EXISTING USE = FRUIT STAND
PROPOSED BUILDING AREA = 1,200 ± SQ. FT.
 - ⑥ RV/BOAT STORAGE
PROPOSED AREA = 3.26 ± AC.
 - ⑦ RV PARK
PROPOSED AREA = 3.36 ± AC.
PROPOSED BUILDING AREA = 10,000 ± SQ. FT.
PROPOSED PARKING = 40 ±
PROPOSED RV SITES = 12 UNITS
 - ⑧ AGRICULTURAL AREA
EXISTING AREA = 11.00 ± AC.
OVERLAP PARKING = 1544 ±
 - ⑨ DRY & FRESH FRUIT PACKING FACILITY
PROPOSED AREA = 2.67 ± AC.
PROPOSED BUILDING AREA = 22,000 ± SQ. FT.
PROPOSED PARKING = 140 ±
 - ⑩ PARK SITE
PROPOSED AREA = 6.71 ± AC.
PROPOSED BUILDING AREA = 10,000 ± SQ. FT.

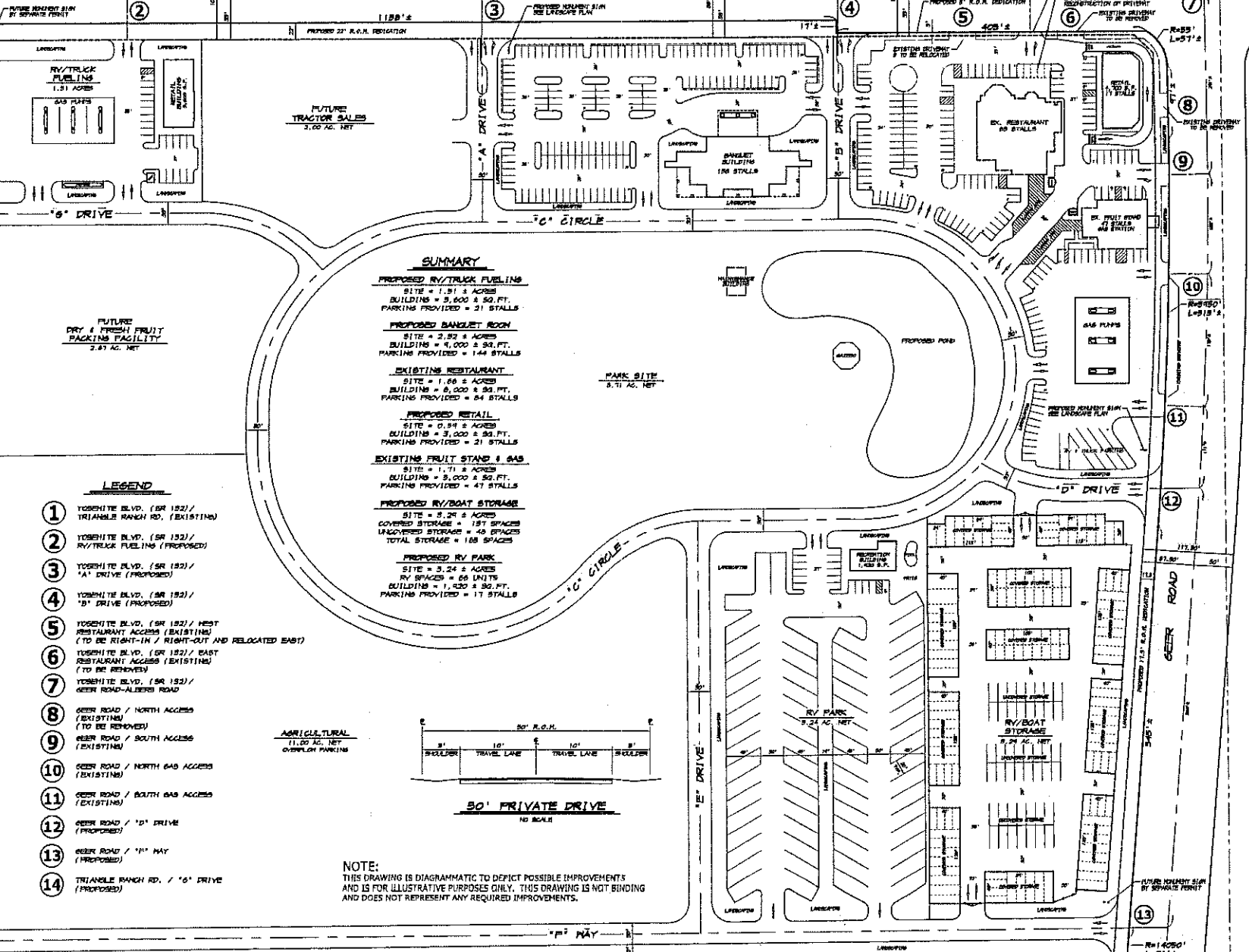
| | | | |
|----------|------|-------------|----|
| PROPOSED | DATE | DESCRIPTION | BY |
| | | | |

ASSOCIATED ENGINEERING, INC.
Design - Planning
Survey
HAYWARD, CALIFORNIA 94542
PH: (925) 945-2300 FAX: (925) 945-8785

VIRTUAL DEVELOPMENT SKETCH
THE FRUIT YARD
STANISLAUS COUNTY CALIFORNIA

DRAWN BY: M.E.J.F.
DATE: 11/20/10
SCALE: 1" = 100'
TYPE: SKETCH
CHECKED: JCB
DATE: 11/20-10
SHEET: 1
OF: 1

YOSEMITE BOULEVARD



SUMMARY

PROPOSED RV/TRUCK FUELING
 SITE = 1.51 ± ACRES
 BUILDING = 3,600 ± SQ. FT.
 PARKING PROVIDED = 21 STALLS

PROPOSED BANGLET ROON
 SITE = 2.52 ± ACRES
 BUILDING = 4,000 ± SQ. FT.
 PARKING PROVIDED = 144 STALLS

EXISTING RESTAURANT
 SITE = 1.66 ± ACRES
 BUILDING = 3,000 ± SQ. FT.
 PARKING PROVIDED = 64 STALLS

PROPOSED RETAIL
 SITE = 0.94 ± ACRES
 BUILDING = 3,200 ± SQ. FT.
 PARKING PROVIDED = 21 STALLS

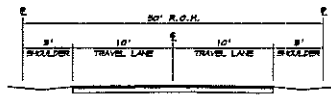
EXISTING FRUIT STAND & GAS
 SITE = 1.71 ± ACRES
 BUILDING = 3,000 ± SQ. FT.
 PARKING PROVIDED = 47 STALLS

PROPOSED RV/BOAT STORAGE
 SITE = 5.24 ± ACRES
 COVERED STORAGE = 187 SPACES
 UNCOVERED STORAGE = 49 SPACES
 TOTAL STORAGE = 188 SPACES

PROPOSED RV PARK
 SITE = 5.24 ± ACRES
 RV SPACES = 66 UNITS
 BUILDING = 1,400 ± SQ. FT.
 PARKING PROVIDED = 17 STALLS

LEGEND

- ① YOSEMITE BLVD. (SR 152) / TRIANGLE RANCH RD. (EXISTING)
- ② YOSEMITE BLVD. (SR 152) / RV/TRUCK FUELING (PROPOSED)
- ③ YOSEMITE BLVD. (SR 152) / 'A' DRIVE (PROPOSED)
- ④ YOSEMITE BLVD. (SR 152) / 'B' DRIVE (PROPOSED)
- ⑤ YOSEMITE BLVD. (SR 152) / REST. RESTAURANT ACCESS (EXISTING) (TO BE RIGHT-IN / RIGHT-OUT AND RELOCATED EAST)
- ⑥ YOSEMITE BLVD. (SR 152) / EAST RESTAURANT ACCESS (EXISTING) (TO BE REMOVED)
- ⑦ YOSEMITE BLVD. (SR 152) / GEER ROAD-ALBERS ROAD
- ⑧ GEER ROAD / NORTH ACCESS (EXISTING) (TO BE REMOVED)
- ⑨ GEER ROAD / SOUTH ACCESS (EXISTING)
- ⑩ GEER ROAD / NORTH GAS ACCESS (EXISTING)
- ⑪ GEER ROAD / SOUTH GAS ACCESS (EXISTING)
- ⑫ GEER ROAD / 'D' DRIVE (PROPOSED)
- ⑬ GEER ROAD / 'E' WAY (PROPOSED)
- ⑭ TRIANGLE RANCH RD. / 'G' DRIVE (PROPOSED)



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

ASSOCIATED ENGINEERS INC.
 1000 S. GARDEN ST. SUITE 100
 ANAHEIM, CALIFORNIA 92805
 TEL: (714) 771-1111
 FAX: (714) 771-1112

FUTURE CONCEPTUAL ELEMENT SKETCH THE "JIT YARD" STANISLAUS COUNTY CALIFORNIA

SYNOPSIS, E.A. 1517
 DATE: MARCH 14, 1998

DESIGNER: J. B. LITTLE
 DATE: 02/25/98
 SCALE: 1"=20'
 SHEET: 1 OF 1
 CHECKED: J. B. LITTLE
 DATE: 02/25/98
 SHEET: 1 OF 1

84-15-00-N.V.

EXHIBIT A7

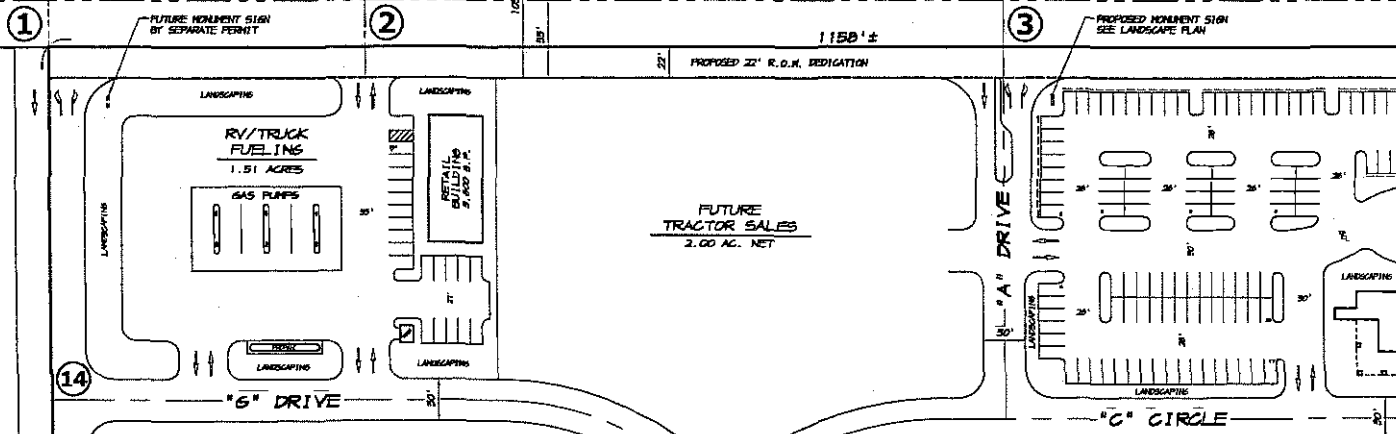
M. I. D. LAT NO. 1

A.P.N. 04-27-10

A.P.N. 04-30-09



YOSEMITE BOULEVARD



SUMMARY

PROPOSED RV/TRUCK FUELING
 SITE = 1.51 ± ACRES
 BUILDING = 3,600 ± SQ.FT.
 PARKING PROVIDED = 21 STALLS

PROPOSED BANQUET ROOM
 SITE = 2.32 ± ACRES
 BUILDING = 9,000 ± SQ.FT.
 PARKING PROVIDED = 144 STALLS

EXISTING RESTAURANT
 SITE = 1.66 ± ACRES
 BUILDING = 8,000 ± SQ.FT.
 PARKING PROVIDED = 84 STALLS

PROPOSED RETAIL
 SITE = 0.59 ± ACRES
 BUILDING = 3,000 ± SQ.FT.
 PARKING PROVIDED = 21 STALLS

EXISTING FRUIT STAND & GAS
 SITE = 1.71 ± ACRES
 BUILDING = 5,000 ± SQ.FT.
 PARKING PROVIDED = 47 STALLS

PROPOSED RV/BOAT STORAGE
 SITE = 3.29 ± ACRES
 COVERED STORAGE = 137 SPACES
 UNCOVERED STORAGE = 40 SPACES
 TOTAL STORAGE = 185 SPACES

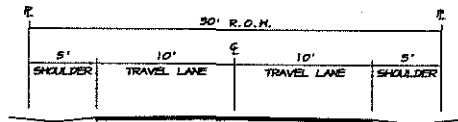
PROPOSED RV PARK
 SITE = 3.24 ± ACRES
 RV SPACES = 66 UNITS
 BUILDING = 1,920 ± SQ.FT.
 PARKING PROVIDED = 17 STALLS

PARK SITE
 8.71 AC. NET

LEGEND

- ① YOSEMITE BLVD. (SR 132) / TRIANGLE RANCH RD. (EXISTING)
- ② YOSEMITE BLVD. (SR 132) / RV/TRUCK FUELING (PROPOSED)
- ③ YOSEMITE BLVD. (SR 132) / "A" DRIVE (PROPOSED)
- ④ YOSEMITE BLVD. (SR 132) / "B" DRIVE (PROPOSED)
- ⑤ YOSEMITE BLVD. (SR 132) / WEST RESTAURANT ACCESS (EXISTING) (TO BE RIGHT-IN / RIGHT-OUT AND RELOCATED EAST)
- ⑥ YOSEMITE BLVD. (SR 132) / EAST RESTAURANT ACCESS (EXISTING) (TO BE REMOVED)
- ⑦ YOSEMITE BLVD. (SR 132) / BEER ROAD-ALBERS ROAD
- ⑧ BEER ROAD / NORTH ACCESS (EXISTING) (TO BE REMOVED)
- ⑨ BEER ROAD / SOUTH ACCESS (EXISTING)
- ⑩ BEER ROAD / NORTH GAS ACCESS (EXISTING)
- ⑪ BEER ROAD / SOUTH GAS ACCESS (EXISTING)
- ⑫ BEER ROAD / "D" DRIVE (PROPOSED)
- ⑬ BEER ROAD / "F" WAY (PROPOSED)
- ⑭ TRIANGLE RANCH RD. / "G" DRIVE (PROPOSED)

AGRICULTURAL
 11.00 AC. NET
 OVERFLOW PARKING



30' PRIVATE DRIVE

NO SCALE

NOTE:

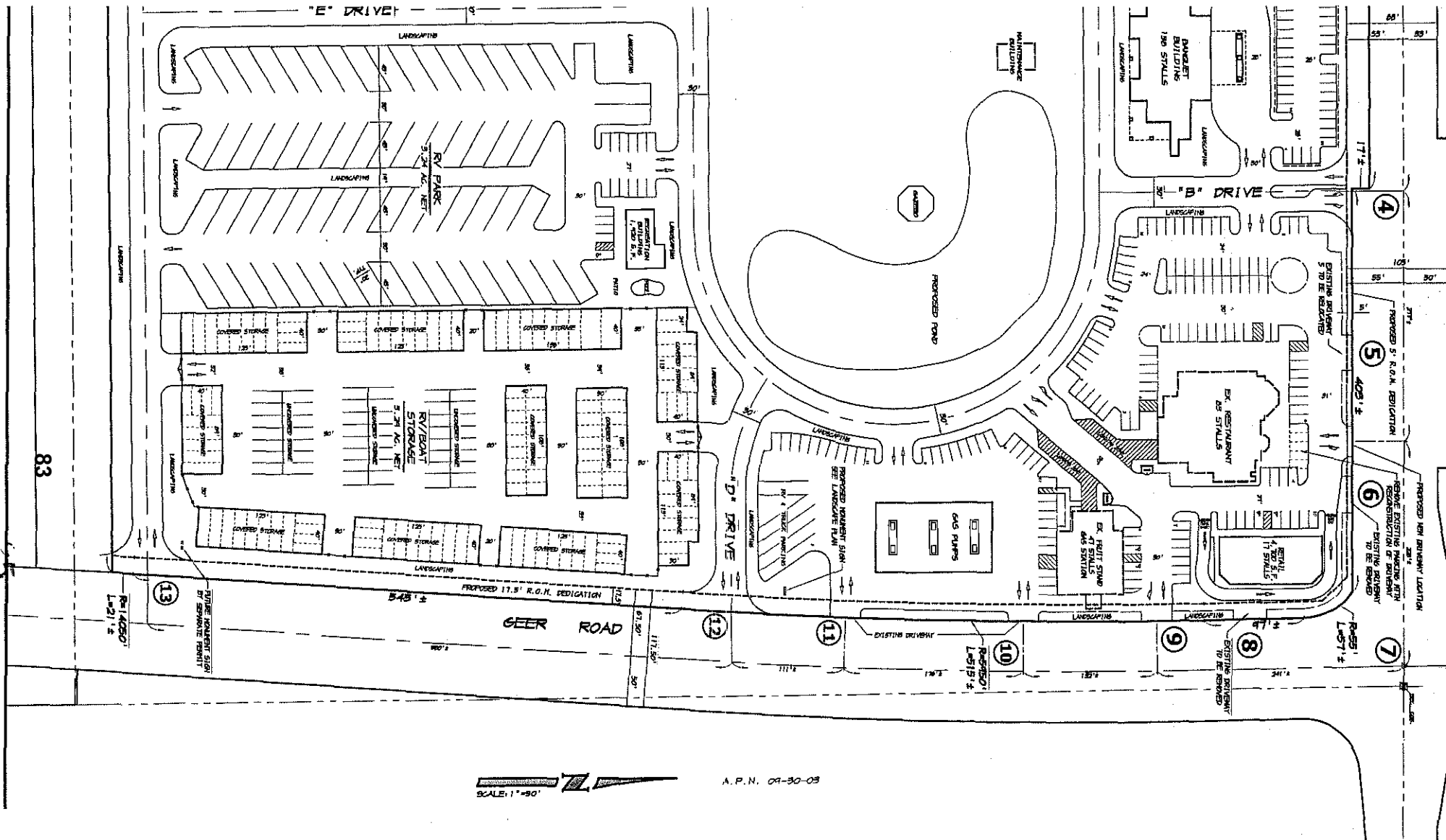
THIS DRAWING IS DIAGRAMMATIC TO DEPICT POSSIBLE IMPROVEMENTS AND IS FOR ILLUSTRATIVE PURPOSES ONLY. THIS DRAWING IS NOT BINDING AND DOES NOT REPRESENT ANY REQUIRED IMPROVEMENTS.

A.P.N. 09-13-09

1251' ±

TRIANGLE RANCH ROAD

24



SCALE: 1" = 80'

A.P.N. 09-30-05

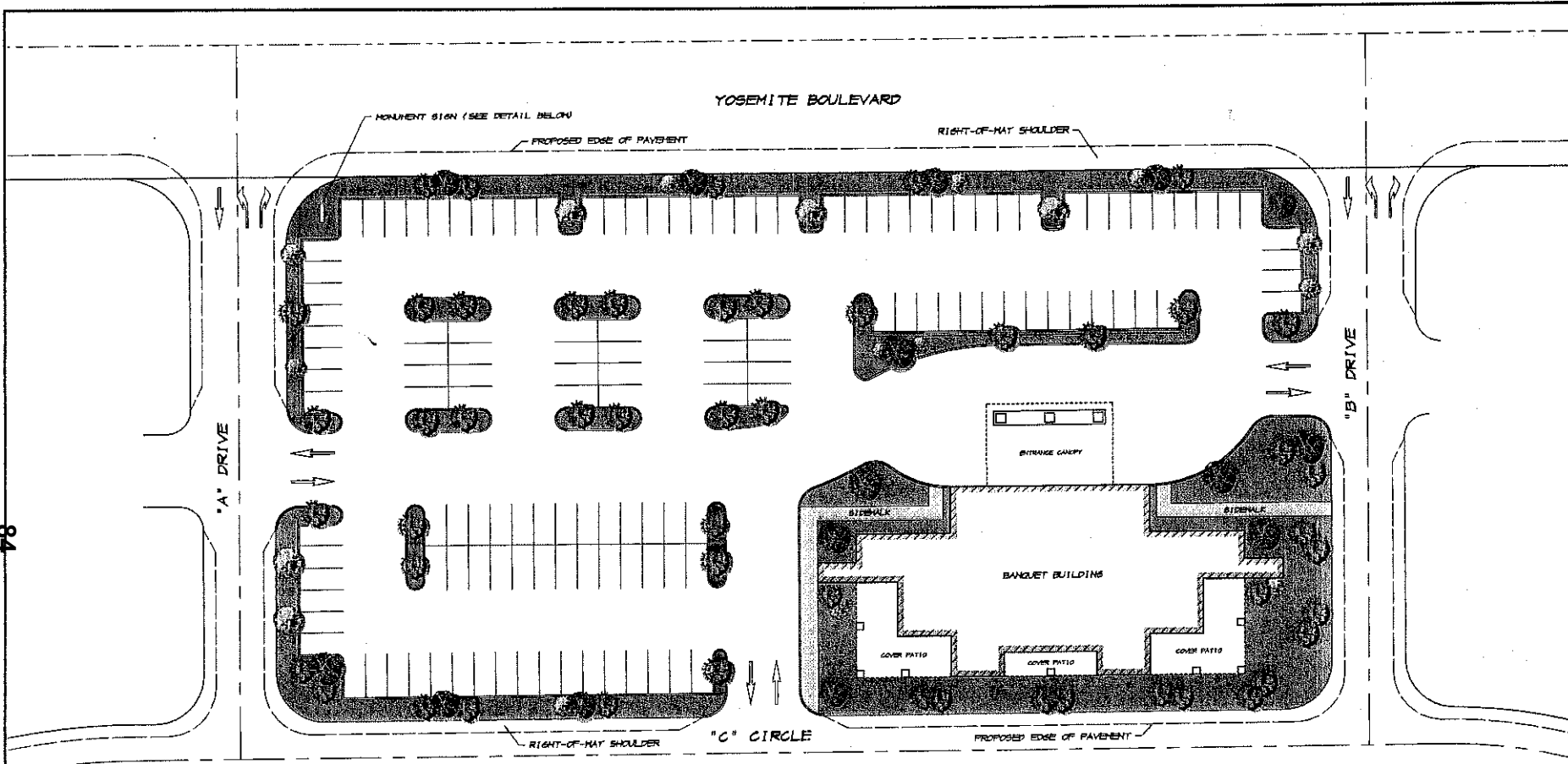
| REVISION | DATE | DESCRIPTION | BY |
|----------|------|-------------|----|
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ASSOCIATED ENGINEERING, INC.
 Surveying • Design • Planning
 4206 TECHNOLOGY DRIVE
 MOORESTEAD, CALIFORNIA 95556
 PH: (209) 545-3390 FAX: (209) 545-3875

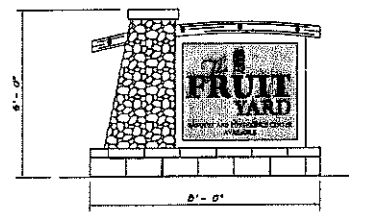
FUTURE CONCEPTUAL DEVELOPMENT SKETCH
THE FRUIT YARD
 STANISLAUS COUNTY CALIFORNIA

PREPARED BY: R. SULLIVAN
 DATE: 4/20/05 8:27
 SCALE: 1" = 80'
 DRAWN BY: R. SULLIVAN
 CHECKED BY: J. HARRIS
 DATE: 4/26/05



LEGEND

- LAWN AREA
- LOW LEVEL SHRUBS AND FLOWERING GROUND COVER
- SIDEWALK
- SMALL CANOPY SHADE TREES
 NANNIAS BOARIA / HAYDEN TREE
 PYRUS KANAWANI / EVERGREEN PEAR
- LARGE CANOPY SHADE TREES
 PINUS GAMBELII / CHINESE PINNACLE
 PLATANUS ACERIFOLIA / LONDON PLANE TREE
 BALTIX BABYLONICA / KEEPING HILLTOP
- ACCENT COLOR TREES
 CORALIS FLORIDA / EASTERN DOGWOOD
 COTYLEDON FRANKFURTIA / NORTHERN THORN
 LARODENDRON PAUNIEI / GRAPE HYDRILE



MONUMENT SIGN DETAIL
NO SCALE

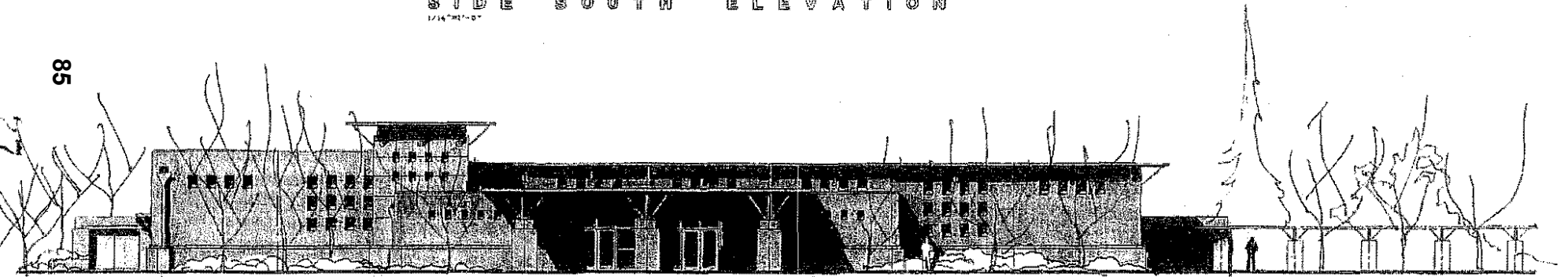
| | | |
|---|------|-------------|
| REV | DATE | DESCRIPTION |
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| | | |
| ASSOCIATED ENGINEERING INC. 2100 S. DUNDON / DUNDON 500 S. CALIFORNIA STREET SACRAMENTO, CALIFORNIA 95825 PH: 916.486.2525 FAX: 916.486.2526 | | |
| BANQUET BUILDING CONCEPTUAL LANDSCAPE PLAN THE FRUIT YARD TAIKLEBAUS COUNTY CALIFORNIA | | |
| <small>BY: JOHN COOPER, A.C.A., E.I.T. DATE: 08/26/2008, L.A. 7118</small> | | |
| <small>DRAWN BY: M.H.V. DATE: 4/10/08 7:15 SCALE: 1/8"=1'-0" DESIGNED BY: LANDSCAPE CHECKED BY: J.P.F. 4/10/08 SHEET NO. 1</small> | | |

BANQUET FACILITY



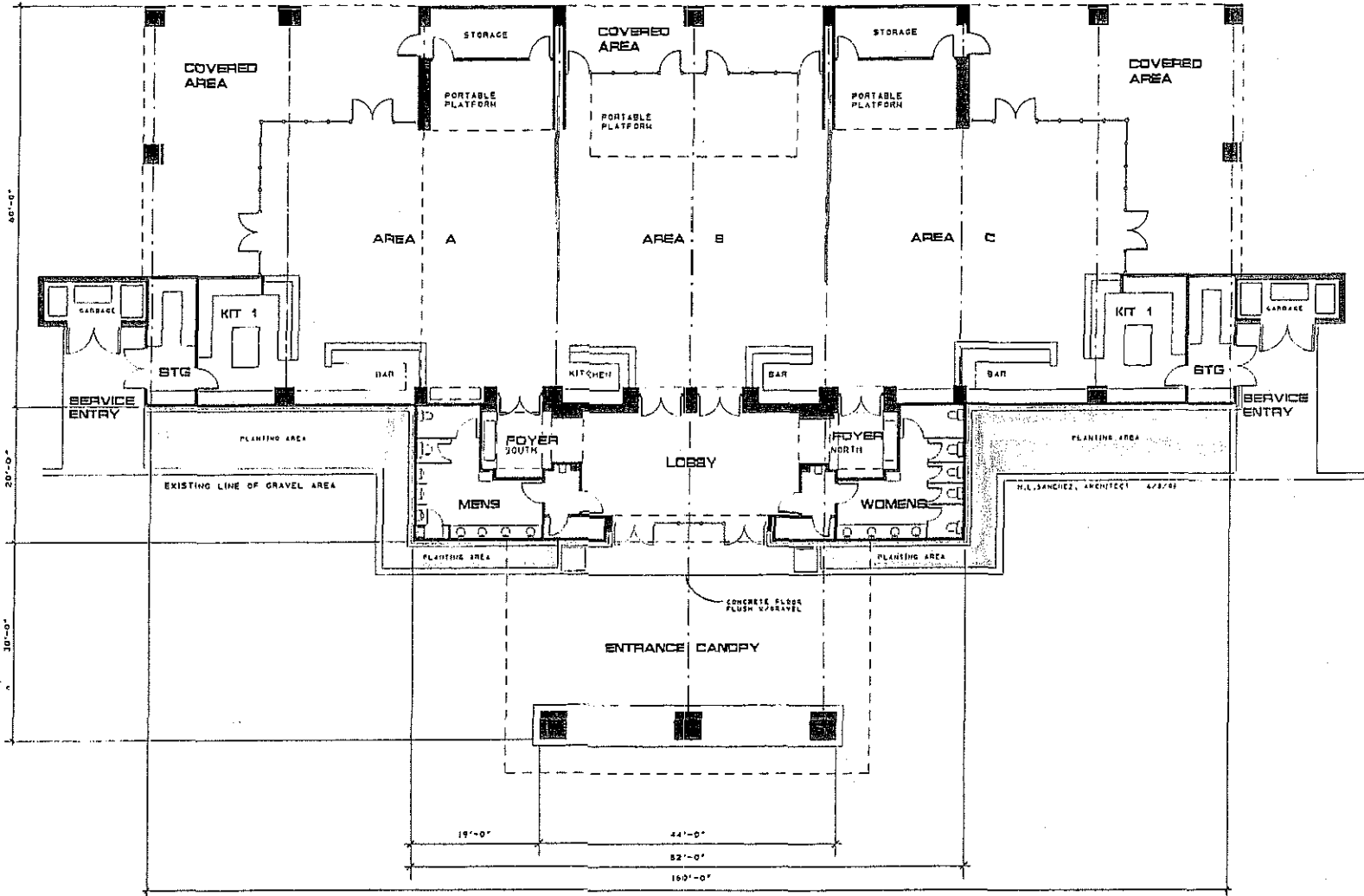
SIDE SOUTH ELEVATION
1/16" = 1'-0"

85



FRONT ELEVATION
1/16" = 1'-0"

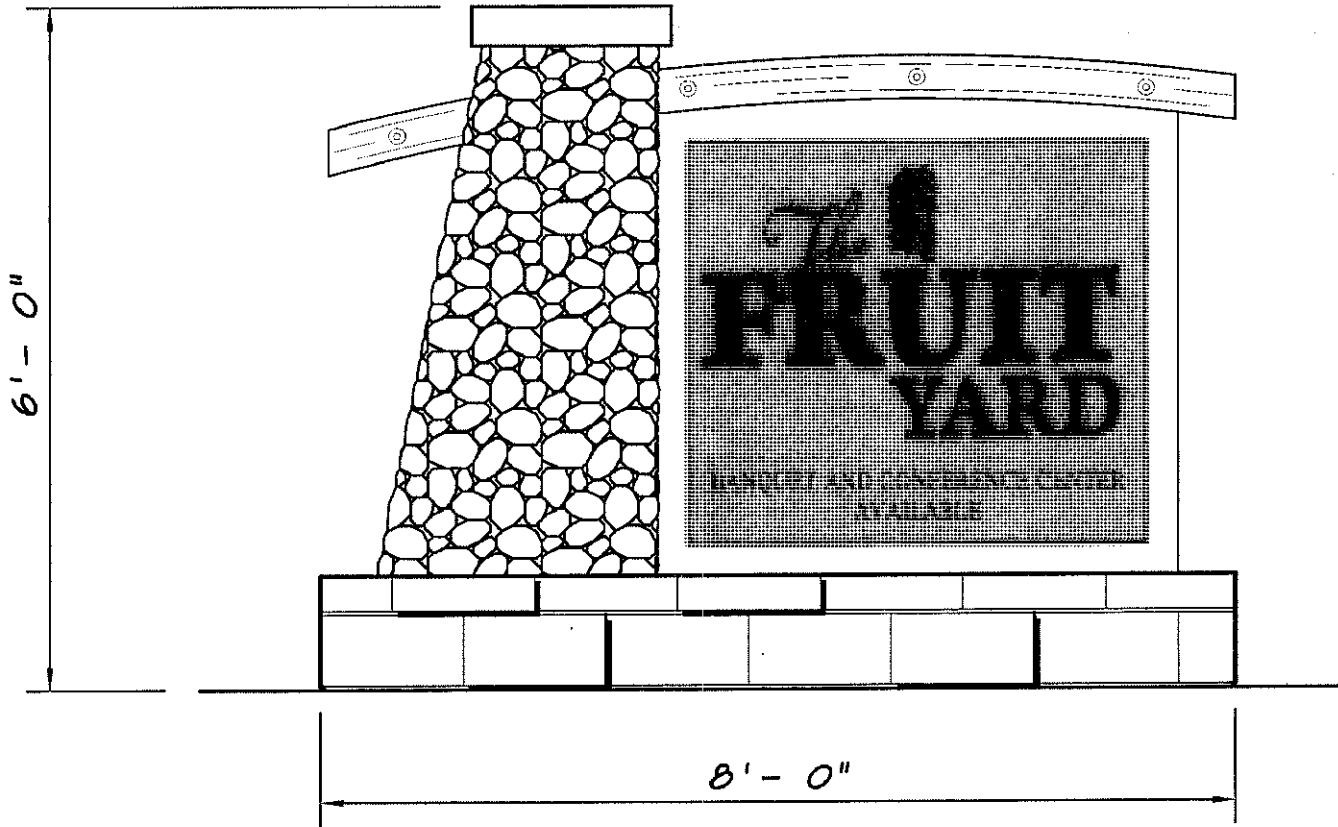
THE FRUITYARD BANQUET ROOM PLAN



86

28

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



MONUMENT SIGN DETAIL

NO SCALE

Fruit Yard Project Description

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

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

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

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

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

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

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

Fruit Yard Planned Development Development Schedule

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

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

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



APPLICATION QUESTIONNAIRE

Please Check all applicable boxes

APPLICATION FOR:

Staff is available to assist you with determining which applications are necessary

- | | |
|--|--|
| <input checked="" type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Subdivision Map |
| <input checked="" type="checkbox"/> Rezone | <input type="checkbox"/> Parcel Map |
| <input type="checkbox"/> Use Permit | <input type="checkbox"/> Exception |
| <input type="checkbox"/> Variance | <input type="checkbox"/> Williamson Act Cancellation |
| <input type="checkbox"/> Historic Site Permit | <input type="checkbox"/> Other _____ |

PLANNING STAFF USE ONLY:

Application No(s): GPA2007-03 REZ2007-03

Date: 3/26/07

S 34 T 3 R 10

GP Designation: AG

Zoning: A-240

Fee: ACTUAL COST (\$3600 DEP.)

Receipt No. PAID CK

Received By: KF 3/26/07

Notes: _____

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

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

PROJECT INFORMATION

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

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

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

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

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

(Attach additional sheets as necessary)

PROPERTY OWNER'S NAME: The Fruit Yard

Mailing Address 7948 Yosemite Blvd.

Modesto, CA 95357

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

PROJECT SITE INFORMATION

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

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

Additional parcel numbers:

Project Site Address
or Physical Location:

7948 Yosemite Blvd., Modesto, CA 95357

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

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

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

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

Use Permits for existing facilities

Existing General Plan & Zoning: Agriculture (Ag)

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

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

East: Agriculture

West: Agriculture

North: Agriculture, Church, Urban Development

South: Agriculture, old Landfill

WILLIAMSON ACT CONTRACT:

Yes No

Is the property currently under a Williamson Act Contract?

Contract Number: _____

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

Date Filed: _____

Yes No

Do you propose to cancel any portion of the Contract?

Yes No

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

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

SITE CHARACTERISTICS: (Check one or more)

Flat

Rolling

Steep

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

Field crops

Orchard

Pasture/Grassland

Scattered trees

Shrubs

Woodland

River/Riparian

Other

Explain Other: _____

Yes No

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

GRADING:

Yes No

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

Minimal amount, site is flat.

STREAMS, LAKES, & PONDS:

Yes No

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

Yes No

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

Yes No

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

Yes No

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

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

STRUCTURES:

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

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

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

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

PROJECT SITE COVERAGE: (See attached Plans)

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

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

BUILDING CHARACTERISTICS:

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

See attached Plans.

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

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

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

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

UTILITIES AND IRRIGATION FACILITIES:

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

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

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

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

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

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

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

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

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

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

AFFORDABLE HOUSING/SENIOR:

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

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

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

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

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

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

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

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

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

Up to midnight for special events and weddings.

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

Occupancy/capacity of building: Fruit Yard (10,000 sq. ft.) (approx. 300 person capacity); Market (4,500 sq. ft.); Banquet (10,000 sq. ft.) (approx. 500 person capacity); New Retail (2,000 sq. ft.); Tractor Sales (5,000 sq. ft.)

Number of employees: (Maximum Shift): Fruit Yard (30-40) (Minimum Shift): _____
Banquet (10-30); Market (5)

Estimated number of daily customers/visitors on site at peak time: Fruit Yard (500 total per day / 300 at peak)
Banquet (500 at peak); Market (20)

Other occupants: _____

Estimated number of truck deliveries/loadings per day: Fruit Yard 3-5 per day, 3 days per week
Banquet 4 per week total

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

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

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

Square footage of:

Office area: _____ Warehouse area: _____

Sales area: _____ Storage area: _____

Loading area: _____ Manufacturing area: _____

Other: (explain type of area) _____

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

ROAD AND ACCESS INFORMATION:

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

Yosemite Blvd. / Geer Road

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

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

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

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

STORM DRAINAGE:

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

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

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

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

EROSION CONTROL:

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

Will prepare SWPPP for Grading.

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

ADDITIONAL INFORMATION:

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

None provided.

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

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

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

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

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

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

Date of List consulted: March 9, 2007

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

ASSESSOR'S INFORMATION WAIVER

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



CENTRAL CALIFORNIA INFORMATION CENTER

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

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

Date: January 23, 2007

CCIC File #: 6581N

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

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

Dear Mr. Romano,

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

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

The following details the results of the records search:

Prehistoric or historic resources within the project area:

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

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

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

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

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

None have been formally reported to the CCIC.

Previous investigations within the project:

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

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

Previous investigations within the immediate vicinity of the project area:

One reported to the CCIC as follows:

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

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

Based on existing data in our files:

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

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

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

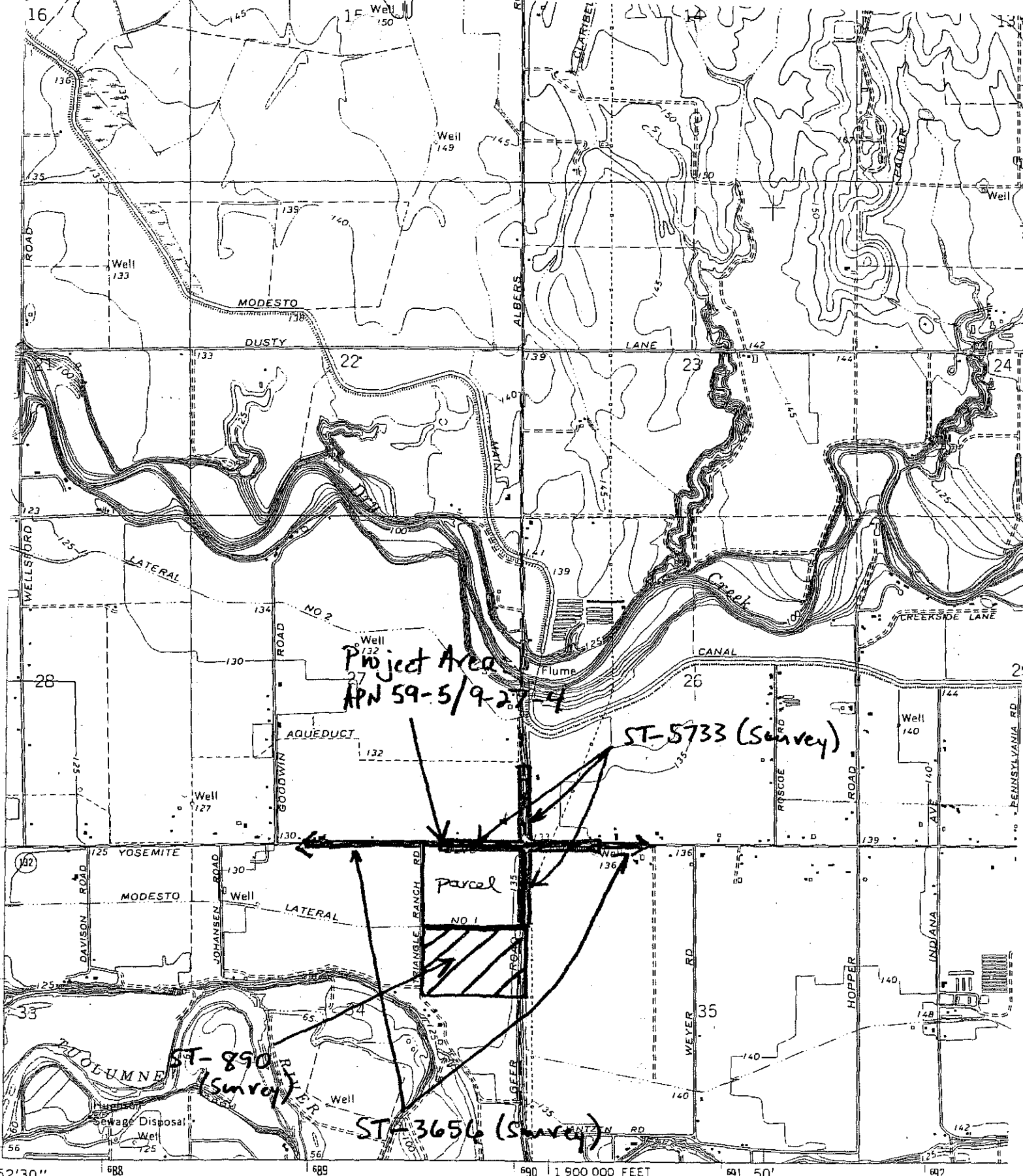
We further advise you that if you retain the services of a historical resources consultant, the firm or individual you retain is responsible for submitting any report of findings prepared for you to the Central California Information Center, including one copy of the narrative report and two copies of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

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

Sincerely,



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



Mapped, edited, and published by the Geological Survey

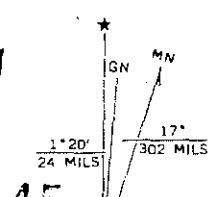
Control by USGS and USC&GS

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

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

CCIC # 6581 N

103



Waterford, CA
 USGS 7.5'
 (1969)

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

DEVELOPMENT STANDARDS

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

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

Stanislaus County - Department of Planning & Community Development

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

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

16. The applicant, or subsequent property owner, shall be responsible for maintaining landscape plants in a healthy and attractive condition. Dead or dying plants shall be replaced with materials of equal size and similar variety. Any dead trees shall be replaced with a similar variety of a 15-gallon size or larger.
17. All businesses (current & future) operating on-site shall obtain and maintain a valid business license. Application may be made with the Planning Department. (Section 6.04 of the Stanislaus County Ordinance Code)
18. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
19. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2007), the applicant is required to pay a Department of Fish and Game filing fee at the time of recording a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$1,933.75**, made payable to Stanislaus County, for the payment of Fish and Game, and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e)(3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
20. The applicant is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
21. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.
22. Pursuant to Section 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate stream-bed alteration agreements, permits or authorizations, if necessary.
23. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.

24. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
25. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.

Stanislaus County - Department of Public Works

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

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

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

Stanislaus County - Building Permits Division

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

Stanislaus County - Department of Environmental Resources (DER)

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

- C. Submittal of hazardous materials Business Plan by handlers of materials in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic feet of compressed gas.
- D. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program that must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section 302.
- E. Generators of hazardous waste must notify DER relative to the: (1) quantities of waste generated; (2) plans for reducing wastes generated; (3) proposed waste disposal practices.
- F. Permits for the treatment of hazardous waste on-site will be required from the hazardous materials division.
- G. Medical waste generated must complete and submit a questionnaire to the department for determination if they are regulated under the Medical Waste Management Act.

Stanislaus Consolidated Fire Protection District

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

Stanislaus County - Fire Prevention Bureau

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

Modesto Irrigation District (MID)

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

Modesto City Schools

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

San Joaquin Valley Air Pollution Control District (SJVAPCD)

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

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

California Department of Transportation (CalTrans)

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

Board of Supervisors

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

Mitigation Measures

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

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

70. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to: the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
71. If any historical resources are discovered during project-related construction activities, all work is to stop and the lead agency and a qualified professional are to be consulted to determine the importance and appropriate treatment of the find. If Native American remains are found the county coroner and the Native American Heritage Commission, Sacramento (916-653-4082) are to be notified immediately for recommended procedures.
72. In accordance with the Noise Element of the Stanislaus County General Plan, noise levels associated with all on-site activities shall not exceed the maximum allowable noise levels as allowed by the Noise Element. The property owner shall be responsible for verifying compliance and for any costs associated with verification. *
73. Geer Road is classified as a six-lane expressway, so the ultimate right-of-way is 135 feet. An Irrevocable Offer of Dedication of 67.5 feet west of the centerline of Geer Road is required. The intersection of Geer Road and Yosemite Boulevard will require a dedication of a 35-foot chord. The developer's engineer shall prepare the Irrevocable Offer of Dedication document prior to the issuance of a building permit. All proposed buildings or fences will have to allow for the current ultimate right-of-way set backs, not existing.
74. Yosemite Boulevard is currently classified as a two lane conventional highway. CalTran's ultimate right-of-way is 110 feet. An Irrevocable Offer of Dedication of 55 feet south of the centerline of Yosemite Boulevard is required. The developer's engineer shall prepare the Irrevocable Offer of Dedication document prior to the issuance of a building permit or grading permit.

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

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

DEVELOPMENT SCHEDULE

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

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

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

(I:\Staffrpt\GPA\2007\GPA 2007-03 - The Fruit Yard\Staff Report.wpd)

56 PM 83

OWNER'S STATEMENT:

WE, THE UNDERSIGNED OWNER(S), HEREBY CERTIFY THAT WE ARE THE OWNER(S) OF, OR HAVE SOME RIGHT, TITLE OR INTEREST OF RECORD IN THE LAND SHOWN ON THIS PARCEL MAP, AND WE CONSENT TO THE MAKING AND FILING OF THIS MAP IN THE OFFICE OF THE COUNTY RECORDER.
WE HEREBY OFFER FOR DEDICATION TO THE PUBLIC, FOR PUBLIC USE, THE PUBLIC UTILITY EASEMENTS AS SHOWN ON THIS MAP.

WE ALSO HEREBY OFFER FOR DEDICATION FOR THE MUTUAL BENEFIT OF THE PARCELS SHOWN HEREON, THE 30.00 FOOT WIDE PRIVATE INGRESS AND EGRESS EASEMENT AS SHOWN ON THIS MAP.

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

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

BENEFICIARY: WELLS FARGO BANK, NATIONAL ASSOCIATION
BY DOCUMENT RECORDED JUNE 25 2008 AS DOCUMENT NO. 2008-0060530, S.C.R.

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

ACKNOWLEDGMENT:

STATE OF CALIFORNIA:

COUNTY OF Stanislaus:

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

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

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

WITNESS MY HAND.

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

ACKNOWLEDGMENT:

STATE OF CALIFORNIA:

COUNTY OF Stanislaus:

ON 10-25-12 BEFORE ME, ANNA FILIPPI, A NOTARY PUBLIC IN AND FOR SAID STATE, PERSONALLY APPEARED, Donny L. Rocha

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

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

WITNESS MY HAND.

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

NOTE:

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

CLERK OF THE BOARD OF SUPERVISOR'S CERTIFICATE:

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

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

DATED THIS 23 DAY OF October 2012.

CHRISTINE FERRARO TALLMAN
CLERK OF THE BOARD OF SUPERVISORS.

BY: Pam Villarreal, DEPUTY
Pam Villarreal
PRINT NAME



TAX COLLECTOR'S CERTIFICATE:

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

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

DATED THIS 23rd DAY OF October 2012.

GORDON D. FORD
COUNTY TAX COLLECTOR.

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

OMITTED SIGNATURE:

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

MODESTO IRRIGATION DISTRICT, CANAL AND INCIDENTAL PURPOSES, RECORDED MAR. 13, 1925, IN BK. 105 OF OFFICIAL RECORDS, PG. 331, S.C.R.
MODESTO IRRIGATION DISTRICT, PUBLIC UTILITY PURPOSES, RECORDED JUNE 6, 2007, AS DOCUMENT NO. 2007-0075715, S.C.R.

PARCEL MAP

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

PREPARED FOR: THE FRUITYARD
OCTOBER, 2012



SURVEYOR'S STATEMENT:

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

DATED THIS 8th DAY OF OCTOBER 2012.

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



COUNTY SURVEYOR'S STATEMENT:

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

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

DATED THIS 29th DAY OF OCTOBER 2012.

WAYNE G. SUTTON
COUNTY SURVEYOR

Wayne G. Sutton
L.S. 3863



RECORDER'S CERTIFICATE:

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

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

INSTRUMENT NO. 2012-97688

FEE \$15.00 PAID

LEE LUNDRIGAN
CLERK RECORDER

BY: Manjit Kahlon, DEPUTY
Manjit Kahlon
PRINT NAME

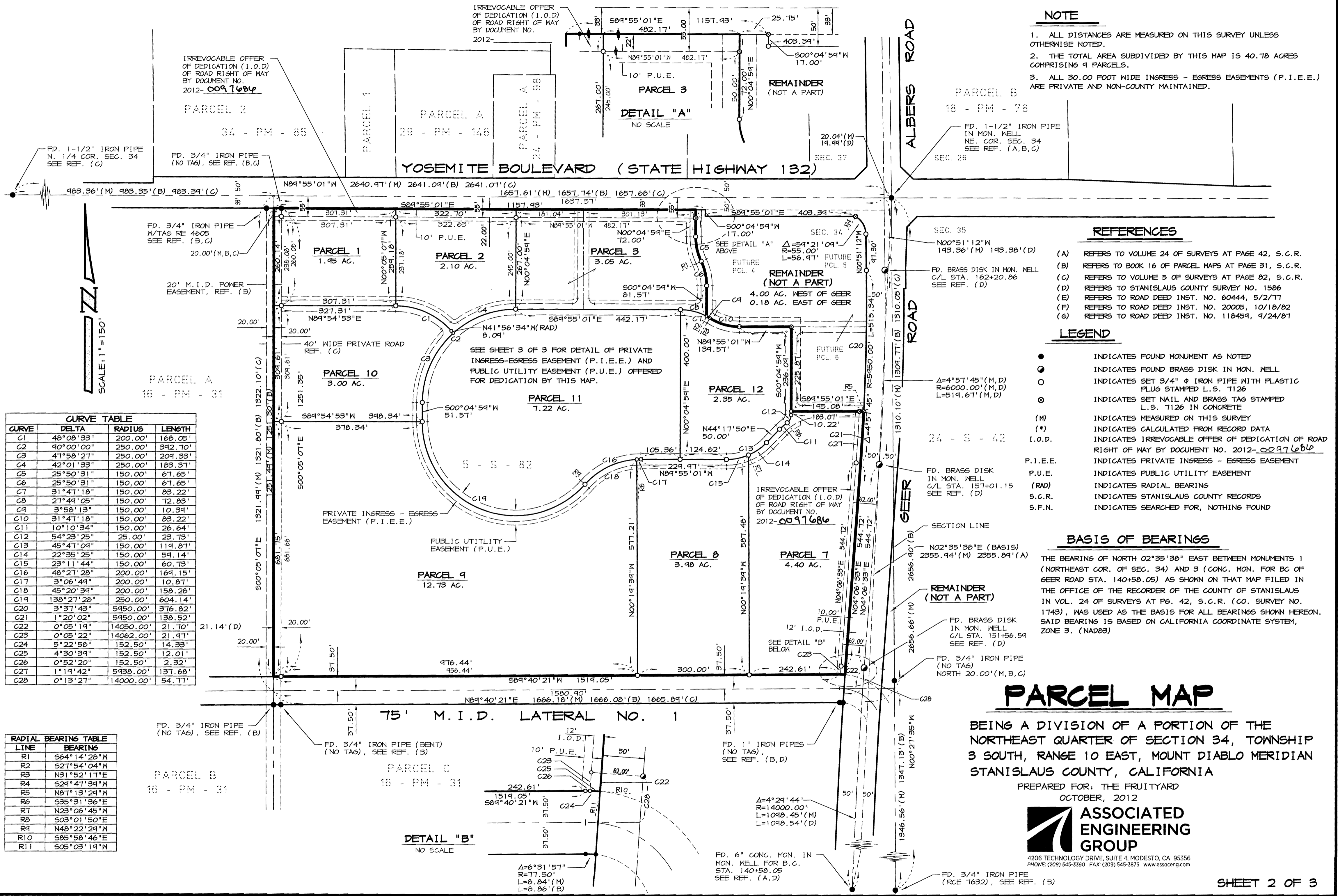
STANISLAUS COUNTY FM APP. NO. 2009-08
ASSOCIATED ENGINEERING JOB NO. 446C-12

ATTACHMENT 4
SHEET 1 OF 3

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NOTE

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

REFERENCES

- (A) REFERS TO VOLUME 24 OF SURVEYS AT PAGE 42, S.C.R.
- (B) REFERS TO BOOK 16 OF PARCEL MAPS AT PAGE 31, S.C.R.
- (C) REFERS TO VOLUME 5 OF SURVEYS AT PAGE 82, S.C.R.
- (D) REFERS TO STANISLAUS COUNTY SURVEY NO. 1506
- (E) REFERS TO ROAD DEED INST. NO. 60444, 5/2/77
- (F) REFERS TO ROAD DEED INST. NO. 20005, 10/18/82
- (G) REFERS TO ROAD DEED INST. NO. 118459, 9/24/87

LEGEND

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

BASIS OF BEARINGS

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

PARCEL MAP

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

PREPARED FOR: THE FRUITYARD
OCTOBER, 2012



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

CURVE TABLE

| CURVE | DELTA | RADIUS | LENGTH |
|-------|------------|-----------|---------|
| C1 | 48°08'33" | 200.00' | 168.05' |
| C2 | 40°00'00" | 250.00' | 342.70' |
| C3 | 47°58'27" | 250.00' | 204.33' |
| C4 | 42°01'33" | 250.00' | 183.37' |
| C5 | 25°50'31" | 150.00' | 67.65' |
| C6 | 25°50'31" | 150.00' | 67.65' |
| C7 | 31°47'18" | 150.00' | 83.22' |
| C8 | 27°44'05" | 150.00' | 72.83' |
| C9 | 3°58'13" | 150.00' | 10.39' |
| C10 | 31°47'18" | 150.00' | 83.22' |
| C11 | 10°10'34" | 150.00' | 26.64' |
| C12 | 54°23'25" | 25.00' | 23.73' |
| C13 | 45°47'04" | 150.00' | 119.87' |
| C14 | 22°35'25" | 150.00' | 59.14' |
| C15 | 23°11'44" | 150.00' | 60.73' |
| C16 | 48°27'28" | 200.00' | 169.15' |
| C17 | 3°06'49" | 200.00' | 10.87' |
| C18 | 45°20'34" | 200.00' | 158.28' |
| C19 | 138°27'28" | 250.00' | 604.14' |
| C20 | 3°37'43" | 5450.00' | 376.82' |
| C21 | 1°20'02" | 5450.00' | 138.52' |
| C22 | 0°05'14" | 14050.00' | 21.70' |
| C23 | 0°05'22" | 14062.00' | 21.97' |
| C24 | 5°22'58" | 152.50' | 14.33' |
| C25 | 4°30'34" | 152.50' | 12.01' |
| C26 | 0°52'20" | 152.50' | 2.32' |
| C27 | 1°14'42" | 5438.00' | 137.68' |
| C28 | 0°13'27" | 14000.00' | 54.77' |

RADIAL BEARING TABLE

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

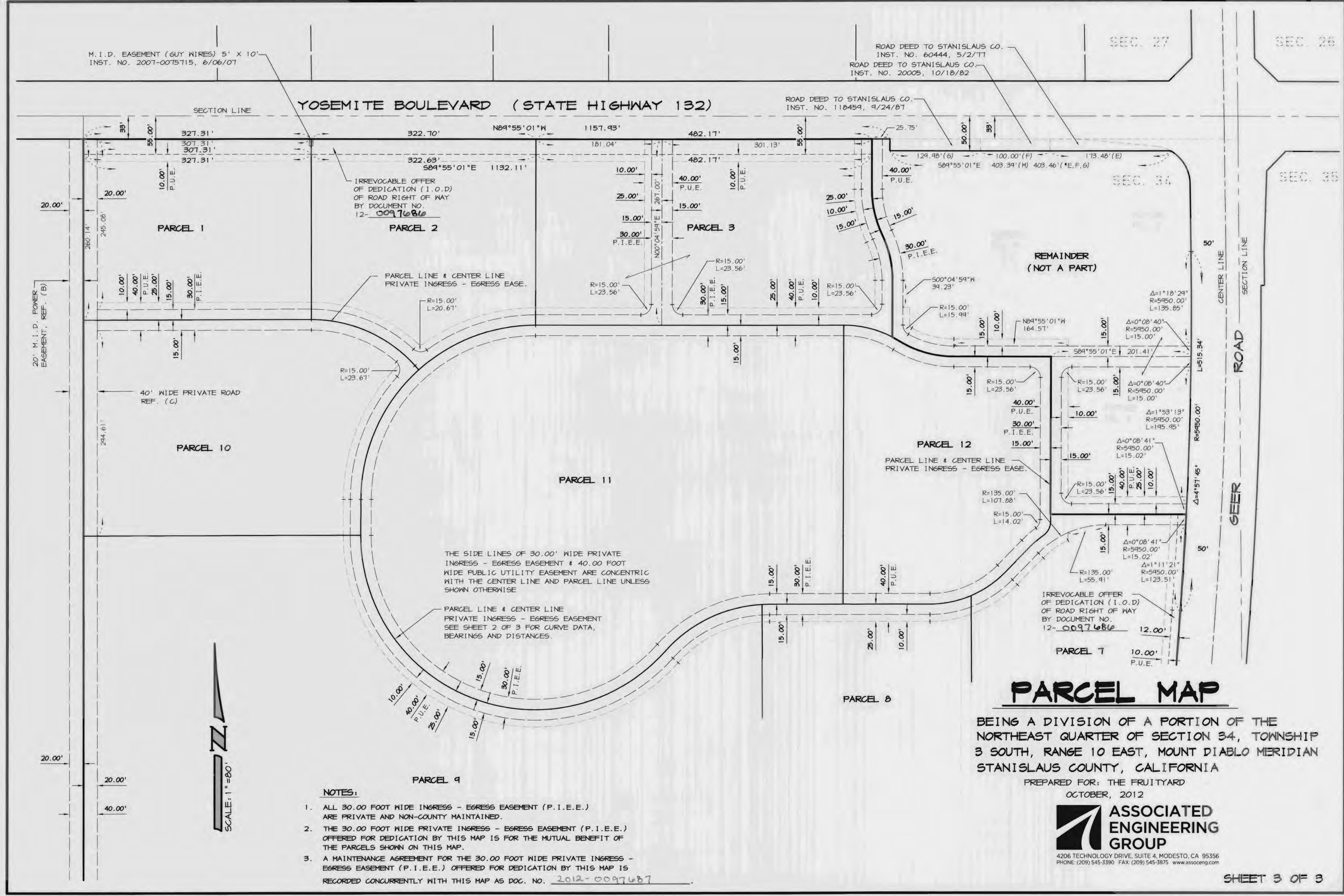
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PARCEL MAP

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

PREPARED FOR: THE FRUITYARD
 OCTOBER, 2012



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

NOTES:

1. ALL 30.00 FOOT WIDE INGRESS - EGRESS EASEMENT (P.I.E.E.) ARE PRIVATE AND NON-COUNTY MAINTAINED.
2. THE 30.00 FOOT WIDE PRIVATE INGRESS - EGRESS EASEMENT (P.I.E.E.) OFFERED FOR DEDICATION BY THIS MAP IS FOR THE MUTUAL BENEFIT OF THE PARCELS SHOWN ON THIS MAP.
3. A MAINTENANCE AGREEMENT FOR THE 30.00 FOOT WIDE PRIVATE INGRESS - EGRESS EASEMENT (P.I.E.E.) OFFERED FOR DEDICATION BY THIS MAP IS RECORDED CONCURRENTLY WITH THIS MAP AS DOC. NO. 2012-0097687.

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56 PM 83

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

Miguel A. Galvez, Senior Planner
Planning and Community Development

Mr. Galvez:

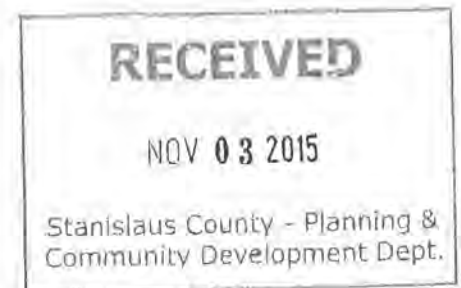
I would like to thank you for the opportunity to comment on the TIME EXTENSION APPLICATION NO. PLN2015-0075 – THE FRUIT YARD for the public hearing scheduled for December 3, 2015.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

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

| REFERRED TO: | RESPONDED | | | RESPONSE | | | MITIGATION MEASURES | | CONDITIONS | | | |
|---|-----------|--------|-----------------------|----------|----|----------------------------------|-----------------------------|---------------------|------------|----|-----|----|
| | 2 WK | 30 DAY | PUBLIC HEARING NOTICE | YES | NO | WILL NOT HAVE SIGNIFICANT IMPACT | MAY HAVE SIGNIFICANT IMPACT | NO COMMENT NON CEQA | YES | NO | YES | NO |
| CA DEPT OF CONSERVATION: Land Resources / Mine Reclamation | X | | | | X | | | | | | | |
| CA DEPT OF FISH & WILDLIFE | X | | | | X | | | | | | | |
| CA DEPT OF TRANSPORTATION DIST 10 | X | | | X | | | | | | | | |
| CA OPR STATE CLEARINGHOUSE | X | | | | X | | | | | | | |
| CA RWQCB CENTRAL VALLEY REGION | X | | | X | | | | X | | X | | X |
| CA STATE LANDS COMMISSION | X | | | | X | | | | | | | |
| COOPERATIVE EXTENSION | X | | | | X | | | | | | | |
| FIRE PROTECTION DIST: Consolidated | X | | | X | | | | X | | X | | X |
| IRRIGATION DISTRICT: Turlock | X | | | X | | | | X | | X | | X |
| IRRIGATION DISTRICT: Modesto | X | | | X | | | | X | | X | | X |
| MOSQUITO DISTRICT: Eastside | X | | | | X | | | | | | | |
| MT VALLEY EMERGENCY MEDICAL | X | | | | X | | | | | | | |
| PACIFIC GAS & ELECTRIC | X | | | | X | | | | | | | |
| SAN JOAQUIN VALLEY APCD | X | | | | X | | | | | | | |
| SCHOOL DISTRICT 1: Empire | X | | | | X | | | | | | | |
| SCHOOL DISTRICT 2: Modesto | X | | | | X | | | | | | | |
| STAN CO AG COMMISSIONER | X | | | | X | | | | | | | |
| STAN CO BUILDING PERMITS DIVISION | X | | | | X | | | | | | | |
| STAN CO CEO | X | | | | X | | | | | | | |
| STAN CO DER | X | | | | X | | | | | | | |
| STAN CO ERC | X | | | X | | | | X | | X | | X |
| STAN CO FARM BUREAU | X | | | | X | | | | | | | |
| STAN CO HAZARDOUS MATERIALS | X | | | | X | | | | | | | |
| STAN CO PARKS & RECREATION | X | | | | X | | | | | | | |
| STAN CO PUBLIC WORKS | X | | | | X | | | | | | | |
| STAN CO SHERIFF | X | | | | X | | | | | | | |
| STAN CO SUPERVISOR DIST #1: O'Brien | X | | | | X | | | | | | | |
| STAN COUNTY COUNSEL | X | | | | X | | | | | | | |
| StanCOG | X | | | | X | | | | | | | |
| STANISLAUS FIRE PREVENTION BUREAU | X | | | | X | | | | | | | |
| STANISLAUS LAFCO | X | | | | X | | | | | | | |
| SURROUNDING LAND OWNERS | X | | X | 1 | | | | X | | X | | X |
| TELEPHONE COMPANY: AtT &T | X | | | | X | | | | | | | |
| TRIBAL CONTACTS (CA Government Code §65352.3) | X | | | | X | | | | | | | |
| TUOLUMNE RIVER TRUST | X | | | | X | | | | | | | |
| US ARMY CORPS OF ENGINEERS | X | | | | X | | | | | | | |
| US FISH & WILDLIFE | X | | | | X | | | | | | | |
| US MILITARY AGENCIES (SB 1462) (5 agencies) | X | | | | X | | | | | | | |
| USDA NRCS | X | | | | X | | | | | | | |
| WATER DISTRICT: Del Este | X | | | | X | | | | | | | |



CEQA INITIAL STUDY

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, December 30, 2009

1. **Project title:** Use Permit Application No. PLN2015-0130 – The Fruit Yard. SCH No.2016072019
2. **Lead agency name and address:** Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354
3. **Contact person and phone number:** Kristin Doud, Associate Planner
(209) 525-6330
4. **Project location:** 7924 & 7948 Yosemite Blvd. (Hwy 132), at the southwest corner of Yosemite Blvd. and Geer Road, between the cities of Modesto, Waterford and Hughson. (APN: 009-027-004)
5. **Project sponsor's name and address:** The Fruit Yard – Joe Traina
7948 Yosemite Blvd
Modesto, CA 95356
6. **General Plan designation:** PD (Planned Development)
7. **Zoning:** PD (317)
8. **Description of project:**

This is a request to expand an existing Planned Development (PD-317) with an outdoor, fenced, 3,500 person capacity amphitheater event center, a 5,000 square-foot amphitheater concrete stage with a 5,000 square-foot roof structure, a 4,000 square-foot storage building and parking lot adjacent and to the rear of the stage, and an additional 1,302-space temporary parking area, north and south of the amphitheater and east of the park. Vehicular access to the temporary parking lots will be provided by two additional paved access driveways off of Yosemite Boulevard (State Highway 132) and one additional driveway off of Geer Road. The on-site access driveways are proposed to be paved, lighted, and will provide on-site circulation access around the amphitheater. A traffic management plan is proposed to address ingress and egress to the site during special events. A maximum of 12 amphitheater events are proposed to take place per year, ending at 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday.

The Planned Development approved for this project, by the Board of Supervisors on August 19, 2008, allowed for the development of a 9,000 square-foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing "card lock" fueling facility and construction of a 3,000 square-foot retail shell building, which includes a drive-through establishment of unknown type. The Planned Development also permitted a 322-space boat/RV mini storage (both covered and uncovered spaces), a 66 space travel trailer park for short term (overnight) stays, a two acre site for retail tractor (large agricultural equipment) sales and a new facility for fruit packing and warehousing. A time extension approved by the Planning Commission on December 3, 2015, allowed the planned development schedule to extend out to August 19, 2030, to start construction of any one of the project phases.

The approved Planned Development also permitted occasional outdoor special events to be held on-site, near and on the nine acre park area, including fund raising activities to private parties. This Use Permit also includes a request to construct a covered seating area of approximately 4,800 square-feet and a 1,600 square-foot gazebo in the eastern half of the existing park area, east of the outdoor amphitheater.

Although the approved Planned Development included events to be held both in the park and in the future banquet hall, the Planned Development included a condition of approval which required that prior to the use of amplified music for these events, a Noise Analysis must be completed. Accordingly, the Noise Analysis and associated mitigation measures prepared for this project, cover amplified music events in the amphitheater, banquet hall and park.

Lastly, this Use Permit request also includes replacement of the existing pylon identification freestanding pole sign to an electronic reader board sign.

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

9. Surrounding land uses and setting:

North: church, fire station, agriculture - East:
PD for Agricultural Businesses - South:
agriculture, mobile home park - West:
agriculture.

10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):

Stanislaus County Public Works Department
CALTRANS, District 10
Stanislaus Fire Prevention Bureau
Department of Environmental Resources
Sheriff's Department

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture & Forestry Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology / Soils
- Greenhouse Gas Emissions
- Hazards & Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation / Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)
 On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Kristin Doud, Associate Planner
 Signature _____

March 1, 2017
 Date _____

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, than the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration.

Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

- a) **Earlier Analysis Used.** Identify and state where they are available for review.
 - b) **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) **Mitigation Measures.** For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). References to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
 - 7) **Supporting Information Sources:** A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
 - 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
 - 9) The explanation of each issue should identify:
 - a) the significant criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significant.

ISSUES

| I. AESTHETICS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Have a substantial adverse effect on a scenic vista? | | | X | |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? | | | X | |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings? | | | X | |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? | | X | | |

Discussion: The site is located at the southwest corner of Geer Road and Yosemite Boulevard (Hwy 132). Aesthetic impacts from the approved Planned Development were addressed as part of the previous approved project, General Plan Amendment Application No. 2007-03 and Rezone Application No. 2007-03. This included landscaping plans, building elevations and a sign plan.

This project proposes the following additional lighting: two street lights along Geer Road, proposed to be 28 feet tall with 15 foot wide arms, in accordance with Public Works Standards and Specifications; five additional pole lights, proposed to be located at the back of the amphitheater, each 27 feet in height; five pole lights to be located in the driveway and parking area, each 27 feet in height; and stage lighting which is either mounted on the roof of the stage or placed at ground level.

A Mitigation Measure has been applied to the project to ensure that all proposed lighting will be aimed down to prevent any glaring impacts onto adjacent properties or roadways. With this mitigation measure in place, aesthetic impacts are considered to be less than significant with mitigation included.

Mitigation Measure No. 1: *All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to: the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and to prevent light trespass (glare and spill light that shines onto neighboring properties). Amphitheater lighting shall be shut off by 11:00 p.m. on Sunday – Thursday, and by midnight on Friday and Saturday evenings.*

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; and the Stanislaus County General Plan and Support Documentation¹.

| II. AGRICULTURE AND FOREST 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 provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| | | | | |

| | | | | |
|--|--|--|---|---|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | | | X | |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? | | | X | |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))? | | | X | |
| d) Result in the loss of forest land or conversion of forest land to non-forest use? | | | | X |
| 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? | | | X | |

Discussion: The property is not currently restricted by a Williamson Act Contract. The project site is classified as Prime Farmland and Urban and Built-Up Land by the Farmland Mapping and Monitoring Program. The soils on site are listed as Hanford fine sandy loams (0-1% and 0-3% slopes, Index Rating of 90-100, Grade 1) and Greenfield sandy loams (0-3% slopes, Index Rating of 68, Grade 2).

The project site is adjacent to an animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection, a drilling company (Masellis Drilling) on the northwest corner, a fire station and church are located to the north. Production Agricultural parcels are to the west, south, and east of the project site. The 45± acre parcel currently supports the existing Fruit Yard produce market, the Fruit Yard restaurant, two separate Gas Fueling facilities, all of which currently have paved parking and landscaping; a concave grass outdoor amphitheater and a park site, where special events are currently held. The remaining part of the property is currently planted in orchard. The Planned Development approved for this project, by the Board of Supervisors on August 19, 2008, allowed for the additional development of a 9,000 square-foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing “card lock” fueling facility and construction of a 3,000 square-foot retail shell building, which includes a drive-through establishment of unknown type. The planned development also permitted a 322 space boat/RV mini storage (both covered and uncovered spaces), a 66 space travel trailer park for short term (overnight) stays, a two acre site for retail tractor (large agricultural equipment) sales, and a new facility for fruit packing and warehousing. This project is addressing the outdoor amphitheater, which proposes a maximum capacity of 3,500 persons and to hold up to 12 events per year, and the use of amplified music events at the amphitheater, park and banquet hall.

Although the approved development described above was approved by the Board of Supervisors, which requires finding the project to be compatible with surrounding land uses, including agriculture, and to meet the criteria for ag land conversion, the staff report written for the project identified some of the proposed uses included in phase 2 of the project as needing further analysis in terms of potential impacts to surrounding agriculture and whether or not they meet the criteria for ag land conversion. Consequently, the project was conditioned to require a Use Permit be obtained prior to implementation of the tractor sales facility and the fruit packing facility identified in phase 2 of the Planned Development.

In December of 2007, Stanislaus County adopted an updated Agricultural Element which incorporated guidelines for the implementation of agricultural buffers applicable to new and expanding non-agricultural uses within or adjacent to the A-2 Zoning District. The purpose of these guidelines is to protect the long-term health of agriculture by minimizing conflicts such as spray drift and trespassing resulting from the interaction of agricultural and non-agricultural uses. Prior to project approval, the applicant may present an alternative to the buffer requirements to the Agricultural Advisory Board for support. Alternatives may be approved provided the Planning Commission finds that the alternative provides equal or greater protection than the existing buffer standards. The proposed project does meet the recommended 300 feet buffer for people intensive uses from the use to all property lines.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Stanislaus County General Plan and Support Documentation¹; Stanislaus County General Plan and Support Documentation¹; Stanislaus County Agricultural Element¹; Stanislaus County Zoning Ordinance; California State Department of Conservation Farmland Mapping and Monitoring Program - Stanislaus County Farmland 2004; United States Department of Agriculture Soil Survey 1964 - Eastern Stanislaus Area, California.

| III. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Conflict with or obstruct implementation of the applicable air quality plan? | | | X | |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | | | X | |
| c) 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 (including releasing emissions which exceed quantitative thresholds for ozone precursors)? | | | X | |
| d) Expose sensitive receptors to substantial pollutant concentrations? | | | X | |
| e) Create objectionable odors affecting a substantial number of people? | | | X | |

Discussion: The project site is within the San Joaquin Valley Air Basin, which has been classified as "non-attainment" for ozone and respirable particulate matter (PM-10 and PM-2.5) as defined by the Federal Clean Air Act. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has been established by the State in an effort to control and minimize air pollution. As such, the District maintains permit authority over stationary sources of pollutants.

Any pollutants generated by this project would be classified as being generated from "mobile" sources. Mobile sources would generally include dust from roads, farming, and automobile exhausts. Mobile sources are generally regulated by the Air Resources Board of the California EPA which sets emissions standards for vehicles, and acts on issues regarding cleaner burning fuels and alternative fuel technologies. As such, the SJVAPCD has addressed most criteria air pollutants through basin wide programs and policies to prevent cumulative deterioration of air quality within the basin. The project will be subject to compliance with all applicable district rules including, but not limited to fugitive PM-10 prohibitions, nuisance, and architectural coatings, and cutback, and slow cure and emulsified asphalt. This project was referred to the SJVAPCD for early comments. At maximum capacity the amphitheater can hold 3,500 attendees. At a rate of three attendees per vehicle, the project is estimated to include a total of 1,167 additional car trips per event. There are a maximum of 12 events per year proposed as a part of this project. A referral response received from SJVAPCD indicated that this proposed project may be subject to District Rule 9510 and subject to obtaining an Air Impact Assessment (AIA) Application. The project will be conditioned to require that the applicant obtain this permit and any other applicable permits from the Air District prior to onset of amphitheater events. With these permits in place, and considering that the events are temporary in nature and limited in number, no significant impacts to air quality are anticipated.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Referral response received from the San Joaquin Valley Air Pollution Control District on July 19, 2016; Stanislaus County General Plan and Support Documentation¹.

| IV. BIOLOGICAL RESOURCES -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| 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 Game or U.S. Fish and Wildlife Service? | | | X | |
| 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 Game or U.S. Fish and Wildlife Service? | | | X | |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? | | | X | |
| 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? | | | X | |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? | | | X | |
| 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? | | | X | |

Discussion: The project is located within the Waterford Quad of the California Natural Diversity Database. There are 15 plants and animals which are state or federally listed, threatened, or identified as species of special concern within the Waterford California Natural Diversity Database Quad. These species include the Swainson’s hawk, Tricolored Blackbird, Burrowing Owl, Riffle Sculpin, Sacramento Hitch, Hardhead, Sacramento-San Joaquin Tule Perch, Steelhead, Chinook Salmon, Valley Elderberry Longhorn Beetle, Stinkbells, Beaked Clarkia, Colusa Grass, San Joaquin Valley Orcutt Grass, and Greene’s Tuctoria. However, the project site is already developed or planted in orchard making the likelihood for existence of these species on the project site very low.

The project will not conflict with a Habitat Conservation Plan, a Natural Community Conservation Plan, or other locally approved conservation plans. Impacts to endangered species or habitats, locally designated species, or wildlife dispersal or mitigation corridors are considered to be less than significant.

An early consultation was referred to the California Department of Fish and Wildlife (formerly the Department of Fish and Game) and no response was received.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; California Department of Fish and Wildlife (formerly the Department of Fish and Game); California Natural Diversity Database; and the Stanislaus County General Plan and Support Documentation¹.

| V. CULTURAL RESOURCES -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5? | | | X | |

| | | | | |
|--|--|--|---|--|
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? | | | X | |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | | | X | |
| d) Disturb any human remains, including those interred outside of formal cemeteries? | | | X | |

Discussion: It does not appear this project will result in significant impacts to any archaeological or cultural resources. The applicant submitted a records search from the Central California Information Center (CCIC) with the previous 2007 Planned Development project request. The records search indicated that the project area has a low sensitivity for the possible discovery of prehistoric resources, due to the distance from a natural water source, as well as a low sensitivity for historic archaeological resources. A Sacred Lands File Check, completed by the Native American Heritage Commission during the processing of the 2007 Planned Development, indicated that no sacred sites were present within the project site. Conditions of approval will be placed on the project requiring that construction activities will be halted if any resources are found, until appropriate agencies are contacted and an archaeological survey is completed.

It does not appear this project will result in significant impacts to any archaeological or cultural resources. Cultural resources are not known to exist on the project site. However, a standardized condition of approval will be added to this project to address any discovery of cultural resources during the construction phases.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03; Rezone No. 2007-03 – The Fruit Yard; Stanislaus County General Plan and Support Documentation¹; Records search dated May 27, 2009, from the Central California Information Center; Referral response from the Native American Heritage Commission dated November 17, 2009.

| VI. GEOLOGY AND SOILS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving: | | | X | |
| i) 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? Refer to Division of Mines and Geology Special Publication 42. | | | X | |
| ii) Strong seismic ground shaking? | | | X | |
| iii) Seismic-related ground failure, including liquefaction? | | | X | |
| iv) Landslides? | | | X | |
| b) Result in substantial soil erosion or the loss of topsoil? | | | X | |
| 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? | | | X | |
| d) Be located on expansive soil creating substantial risks to life or property? | | | X | |

| | | | | |
|---|--|--|---|--|
| 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? | | | X | |
|---|--|--|---|--|

Discussion: The soils on site are listed as Hanford fine sandy loams (0-1% and 0-3% slopes, Index Rating of 90-100, Grade 1) and Greenfield sandy loams (0-3% slopes, Index Rating of 68, Grade 2). As contained in Chapter 5 of the General Plan, the areas of the County subject to significant geologic hazard are located in the Diablo Range, west of Interstate 5. However, as per the California Building Code, all of Stanislaus County is located within a geologic hazard zone (Seismic Design Category D, E, or F) and a soils test may be required at building permit application. Results from the soils test will determine if unstable or expansive soils are present. If such soils are present, special engineering of the structure will be required to compensate for the soil deficiency. Any structures resulting from this project will be designed and built according to building standards appropriate to withstand shaking for the area in which they are constructed. Any earth moving is subject to Public Works Standards and Specifications, which considers the potential for erosion and run-off prior to permit approval. Likewise, any addition of a septic tank or alternative waste water disposal system would require the approval of the Department of Environmental Resources (DER) through the building permit process, which also takes soil type into consideration within the specific design requirements.

Stanislaus County Department of Public Works has already reviewed and approved a grading and drainage plan for the amphitheater. Additional grading and drainage plans are required to be submitted to the Department of Public Works for review and approval for any additional grading activities, which will be reflected as a Condition of Approval for the project.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03; Rezone No. 2007-03 – The Fruit Yard; California Building Code (2016); Stanislaus County General Plan and Support Documentation - Safety Element¹.

| VII. GREENHOUSE GAS EMISSIONS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|---------------------------------------|---|-------------------------------------|------------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment? | | | X | |
| b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases? | | | X | |

Discussion: The principal Greenhouse Gasses (GHGs) are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and tropospheric Ozone (O₃). CO₂ is the reference gas for climate change because it is the predominant greenhouse gas emitted. To account for the varying warming potential of different GHGs, GHG emissions are often quantified and reported as CO₂ equivalents (CO₂e). In 2006, California passed the California Global Warming Solutions Act of 2006 (Assembly Bill [AB] No. 32), which requires the California Air Resources Board (ARB) design and implement emission limits, regulations and other measures, such that feasible and cost-effective statewide GHG emissions are reduced to 1990 levels by 2020.

The proposed structures are subject to the mandatory planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency and environmental quality measures of the California Green Building Standards (CALGreen) Code (California Code of Regulations, Title 24, Part 11). Minimal greenhouse gas emissions will occur during construction. Construction activities are considered to be less than significant as they are temporary in nature and are subject to meeting SJVAPCD standards for air quality control. Minimal greenhouse gas emissions will also be generated from additional vehicle and truck trips. At maximum capacity the amphitheater can hold 3,500 attendees. At a rate of three attendees per vehicle, the project is estimated to include a total of 1,167 additional car trips per event. There are a maximum of 12 events per year proposed as a part of this project. A referral response

received from SJVAPCD indicated that this proposed project may be subject to District Rule 9510 and subject to obtaining an AIA Application. The project will be conditioned to require that the applicant obtain this permit and any other applicable permits from the Air District prior to onset of amphitheater events. With these permits in place, and considering that the events are temporary in nature and limited in number, no significant impacts to greenhouse gas emissions occurring as a result of this project are anticipated.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03; Rezone No. 2007-03 – The Fruit Yard; Referral response received from the San Joaquin Valley Air Pollution Control District on July 19, 2016; Stanislaus County General Plan and Support Documentation¹

| VIII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? | | | X | |
| 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? | | | X | |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? | | | X | |
| 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? | | | X | |
| 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 for people residing or working in the project area? | | | | X |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? | | | | X |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? | | | X | |
| 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? | | | X | |

Discussion: DER is responsible for overseeing hazardous materials and has not indicated any particular concerns in this area. Pesticide exposure is a risk in areas located in the vicinity of agriculture. Sources of exposure include contaminated groundwater, which is consumed and drift from spray applications. Application of sprays is strictly controlled by the Agricultural Commissioner and can only be accomplished after first obtaining permits. Spraying activities on adjacent properties will be conditioned by the Agricultural Commissioner’s Office. The project site is not located within an airport land use plan or a wildlands area. The project site is not located in a very high or high fire severity zone and is located within the Stanislaus Consolidated Fire District. Standard conditions of approval regarding fire protection will be incorporated into the project.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Stanislaus County General Plan and Support Documentation¹.

| IX. HYDROLOGY AND WATER QUALITY -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Violate any water quality standards or waste discharge requirements? | | | X | |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? | | | X | |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? | | | X | |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? | | | X | |
| e) 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? | | | X | |
| f) Otherwise substantially degrade water quality? | | | X | |
| g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | | | X | |
| h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | | | X | |
| i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | | | X | |
| j) Inundation by seiche, tsunami, or mudflow? | | | X | |

Discussion: Areas subject to flooding have been identified in accordance with the Federal Emergency Management Act (FEMA). The project site is located in FEMA Flood Zone X, which includes areas determined to be outside the 0.2% annual chance floodplains. All flood zone requirements will be addressed by the Building Permits Division during the building permit process. The Central Valley Regional Water Quality Control Board (RWQCB) provided an early consultation referral response requesting that the applicant coordinate with their agency to determine if any permits or Water Board requirements must be obtained/met prior to operation. Conditions of approval will be added to the project requiring the applicant comply with this request prior to issuance of a building permit.

A Grading and Drainage Plan for the amphitheater has already been reviewed and approved by the Public Works Department.

The California Safe Drinking Water Act (CA Health and Safety Code Section 116275(h)) defines a Public Water System as a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. A public water system includes the following:

- (1) Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.
- (2) Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.
- (3) Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

This project is subject to the public water system permit and will be required to work with DER to ensure these permit requirements are met. This will be applied to the project as a condition of approval.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03; Rezone No. 2007-03 – The Fruit Yard; Referral response from Stanislaus County Department of Public Works dated November 12, 2009; Stanislaus County General Plan and Support Documentation¹.

| X. LAND USE AND PLANNING -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Physically divide an established community? | | | X | |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | | | X | |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan? | | | X | |

Discussion: This is a request to expand an existing Planned Development (PD-317) with an outdoor, fenced, 3,500 person capacity amphitheater event center; a 5,000 square-foot amphitheater concrete stage with a 5,000 square-foot roof structure; a 4,000 square-foot storage building and parking lot adjacent and to the rear of the stage, and an additional 1,302-space temporary parking area, north and south of the amphitheater and east of the park. A maximum of 12 amphitheater events are proposed to take place per year, ending at 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday. This Use Permit also includes a request to construct a covered seating area of approximately 4,800 square-feet and a 1,600 square-foot gazebo in the eastern half of the existing park area, east of the outdoor amphitheater and replacement of the existing pylon identification freestanding pole sign to an electronic reader board sign.

The Planned Development approved for this project, by the Board of Supervisors on August 19, 2008, allowed for the development of a 9,000 square-foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing “card lock” fueling facility and construction of a 3,000 square-foot retail shell building, which includes a drive-through establishment of unknown type. The planned development also permitted a 322 space boat/RV mini storage (both covered and uncovered spaces), a 66 space travel trailer park for short term (overnight) stays, a two acre site for retail tractor (large agricultural equipment) sales, and a new facility for fruit packing and warehousing. A time

extension approved by the Planning Commission on December 3, 2015, allowed the Planned Development schedule to extend out to August 19, 2030, to start construction of any one of the project phases. The Planned Development also permitted occasional outdoor special events to be held on-site, near and on the nine acre park area, including fund raising activities to private parties.

Although the approved Planned Development already included events to be held both in the park and in the future banquet hall, the Planned Development included a condition of approval which required that prior to the use of amplified music for these events, a Noise Analysis must be completed. Accordingly, the Noise Analysis and associated mitigation measures prepared for this project, cover amplified music events in the amphitheater, banquet hall, and park.

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

This request will not physically divide an existing community, nor does it conflict with any applicable land use plan, policy, or regulation, or any habitat or natural community conservation plan. The project must be consistent with the county's general plan, zoning ordinance, and noise ordinance in order to be approved. Through the application of mitigation measures, the project will be consistent will these policies.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03; Rezone No. 2007-03 – The Fruit Yard; Stanislaus County General Plan and Support Documentation¹.

| XI. MINERAL RESOURCES -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|---------------------------------------|---|-------------------------------------|------------------|
| 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? | | | X | |
| 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? | | | X | |

Discussion: The location of all commercially viable mineral resources in Stanislaus County has been mapped by the State Division of Mines and Geology in Special Report 173. There are no known significant resources on the site.

Mitigation: None.

References: State Division of Mining & Geology - Special Report 173 (1993); Stanislaus County General Plan and Support Documentation¹.

| XII. NOISE -- Would the project result in: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|---------------------------------------|---|-------------------------------------|------------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? | | X | | |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? | | X | | |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? | | | X | |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? | | X | | |
| 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 expose people residing or working in the project area to excessive noise levels? | | | | X |

| | | | | |
|--|--|--|--|---|
| 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? | | | | x |
|--|--|--|--|---|

Discussion: This project proposes to hold a maximum of 12 amphitheater events per year, ending at 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday. The Stanislaus County General Plan¹ identifies noise levels up to 75 dB L_{dn} (or CNEL) as the normally acceptable level of noise for industrial, manufacturing, utility and agricultural uses; and up to 70 dB L_{dn} (or CNEL) as the normally acceptable level of noise for auditoriums, concert halls, and amphitheaters. Without mitigation in place, noise impacts associated with the use of amplified sound during the amphitheater events have the potential to exceed the normally acceptable levels of noise.

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

The previous general plan amendment and rezone for the project (P-D 317) included a condition of approval which required that, *“An acoustical analysis shall be prepared in accordance with the Noise Element of the Stanislaus County General Plan prior to any outdoor use of amplified sound or blasting devices to insure noise levels do not exceed the maximum allowable noise levels as allowed by the Noise Element”*. To address this condition of approval, the use of amplified sound at the park and banquet hall have been incorporated into the mitigation monitoring plan.

With mitigation measures in place, this project’s noise impacts are considered to be less than significant with mitigation included. (see Mitigation Measures 2-14 below.)

The site is not located within an airport land use plan.

No. 2 Mitigation Measure: *Prior to onset of any amplified music events at the amphitheater, a noise berm shall be constructed. Specifically, the noise berm shall consist of a 100 foot long by 40 foot wide and 20 foot tall building, labeled on the Planning Commission approved project site plan as a “storage building” to be located directly behind (northwest) of the stage, as identified on the project site plan. A certificate of occupancy shall be obtained for the noise berm prior to the onset of any amphitheater activity. If the storage building changes in size or shape, or is proposed to be replaced with a backstage soundwall or other construction to create an adequate noise berm, the modified facility will need to be reviewed and approved by an acoustical consultant, in accordance with Mitigation Measure No. 14, and a determination made that it has adequate sound dampening characteristics so that sound will fall within the noise levels described within this Mitigation Monitoring Plan.*

No. 3 Mitigation Measure: *Prior to issuance of a building permit for the banquet hall, and prior to onset of any amplified music event held at the banquet hall, the banquet hall shall be designed and constructed with sound proofing (including sound proofing for the roof, windows, and walls). Sound proofing plans shall be reviewed for full compliance with the approved plans by a noise consultant, as described in Mitigation Measure No. 14.*

No. 4 Mitigation Measure: *All amphitheater, park, and banquet hall events shall maintain the noise levels described in Table 1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc., and the C-weighted standards described below:*

Table 1
Stanislaus County Noise Standards Applied to this Project
After Adjustment for Elevated Ambient and Noise Source Consisting of Music

| Receptor (See Figure 1) | Noise Metric | Adjusted Daytime Standard (7 a.m.-10 p.m.) | Adjusted Nighttime Standard (10 p.m.-7 a.m.) |
|--|---|---|---|
| A, B, D, F (near busy roadways) | Hourly Leq, dBA | 60 | 55 |
| | Maximum Level (L _{max}), dBA | 80 | 70 |
| C, E (setback from roadways 250-350 feet) | Hourly Leq, dBA | 55 | 50 |
| | Maximum Level (L _{max}), dBA | 75 | 65 |
| G, H, I (isolated from busy roads) | Hourly Leq, dBA | 50 | 40 |
| | Maximum Level (L _{max}), dBA | 65 | 55 |

Source: Stanislaus County Noise Element of the General Plan adjusted for ambient conditions and music noise source.

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

No. 5 Mitigation Measure: *To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 90 dBA Leq averaged over a five minute period and a maximum of 100 dBA L_{max} at a position located 100 feet from the amphitheater stage.*

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

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

No.6 Mitigation Measure:

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

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

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

No. 7 Mitigation Measure:

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

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

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

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

Noise measurements during the first two amplified music events for each event space (banquet hall, park and amphitheater) shall be conducted by a qualified Noise Consultant to be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation

Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.

- No. 8 Mitigation Measure:** *During the first two large concerts (with 500 or more in attendance) held at the amphitheater, noise levels shall be monitored by a qualified noise consultant, to be procured by the operator/property owner. The monitoring shall be conducted continuously from the sound stage (100-feet from stage), with periodic noise monitoring near the closest residences, existing at the time of the event, in all directions surrounding the amphitheater. The noise measurements shall include the sound check prior to the concert so the event promoters understand the noise thresholds to be satisfied during the concert event. The purpose of the measurements is to verify compliance with the project's noise standards. If the measurement results indicate that the music levels exceed the noise standards described in this Mitigation Monitoring Plan, additional sound controls shall be developed by a noise consultant in accordance with Mitigation Measure No. 14. Implementation of additional sound controls shall be implemented and verified prior to the following concert. Such measures could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas, and limiting amplified music to before 10:00 p.m.*
- No. 9 Mitigation Measure:** *All amplified music events (including the amphitheater, park, and banquet hall events), occurring Sunday through Thursday shall end at or before 10 p.m. All patrons shall be off the premises (including the amphitheater, park, and banquet hall events) as of 11:00 p.m. Employees and contract staff, associated with the amplified music events, shall be off the premises (including the amphitheater, park, and banquet hall events) by 12:00 a.m.*
- No. 10 Mitigation Measure:** *The first two large amplified music events (with 500 or more in attendance) held at the amphitheater Friday and Saturday, shall end at or before 10:00 p.m., as described in Mitigation Measure No. 9. If monitoring results of the first two large amphitheater events show that such events are able to maintain levels at or lower than those required in this Mitigation Monitoring Plan, then amphitheater events on Friday and Saturday may be extended to 11:00 p.m. All patrons shall be off the premises (including the amphitheater, park and banquet hall events) by 12:00 a.m. Employees and contract staff, associated with the amplified music events, shall be off the premises by 1:00 a.m.*
- No. 11 Mitigation Measure:** *Operator/ property owner shall establish a written "Good Neighbor Policy" to be approved by the Planning Department, which shall establish the permittee's plan to mitigate any ancillary impacts from amplified music events (park, banquet hall or amphitheater) on surrounding properties. The plan shall include means for neighbors to contact management regarding complaints and steps management will take upon receiving a complaint. The policy shall be submitted and approved 30 days prior to the first amplified music event. No changes to the policy shall be made without prior review and approval by the Planning Department.*
- No. 12 Mitigation Measure:** *In the event that documented noise complaints are received for bass thumping, microphones/public address systems, etc., associated with any use of the property (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-083), such complaints shall be investigated to determine if the noise standards contained in this mitigation monitoring program were exceeded. In the event that the complaint investigation reveals that the noise standards were exceeded at the location where the complaint was received, additional sound controls shall be developed by a noise consultant, in accordance with Mitigation Measure No. 14. Implementation of additional*

sound controls shall be implemented and verified prior to the following concert. Such measures could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas and limiting amplified music to before 10:00 p.m.

No. 13 Mitigation Measure: *Following removal of orchard trees located on the project site (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-083) potential changes in noise impacts shall be evaluated by a noise consultant, as described in Mitigation Measure No. 14, and additional noise mitigation measures shall be implemented, if determined to be necessary, to ensure compliance with the applicable County noise standards.*

No. 14 Mitigation Measure: *Any future additional noise analysis required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation, shall be conducted by a noise consultant, whose contract shall be procured by the Planning Department, and paid for by the operator/property owner. A deposit based on actual cost shall be made with the Planning Department, by the operator/property owner, prior to any work being conducted. The applicant may choose to procure the noise consultant provided they pay the costs for the County to have all work peer reviewed by a third party. If future noise analysis is required, amplified music events will be limited, as determined by the Planning Department, until the noise consultant verifies to the Planning Department that all recommended noise control measures have been completely implemented.*

References: Application information; General Plan Amendment No. 2007-03; Rezone No. 2007-03 – The Fruit Yard; Environmental Noise Analysis, prepared by Bollard Acoustical Consultants, Inc., dated February 3, 2016, revised December 30, 2016; Peer review response, prepared by J.C. Brennan & Associates, dated November 15, 2016; An e-mail dated January 10, 2017; Stanislaus County General Plan and Support Documentation¹.

| XIII. POPULATION AND HOUSING -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Induce substantial 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)? | | | X | |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | | | X | |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | | | X | |

Discussion: The proposed use of the site will not create significant service extensions or new infrastructure which could be considered as growth inducing. No housing or persons will be displaced by this project. As the project site is surrounded by agricultural land, it is unlikely that residential development will occur due to the fact that County voters passed the Measure E vote in February of 2008. Measure E, which was incorporated into Zoning Ordinance Chapter 21.118 (the 30-Year Land Use Restriction), requires that redesignation or rezoning of land from agricultural/open space to residential use shall require approval by a majority vote of the County voters at a general or special local election.

Mitigation: None.

References: Stanislaus County Zoning Ordinance; Stanislaus County General Plan and Support Documentation¹.

| XIV. PUBLIC SERVICES -- | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Would the project result in the substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, 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: | | | X | |
| Fire protection? | | | X | |
| Police protection? | | X | | |
| Schools? | | | X | |
| Parks? | | | X | |
| Other public facilities? | | | X | |

Discussion: The County has adopted Public Facilities Fees, as well as one for the Fire Facility Fees on behalf of the appropriate fire district, to address impacts to public services. Such fees are required to be paid at the time of building permit issuance. Conditions of approval will be added to this project to insure that the proposed development complies with all applicable fire department standards with respect to access and water for fire protection. The types of Conditions of approval will be for adequate turning around for a fire apparatus and on-site water supply for fire suppression may also be needed. The applicant will construct all buildings in accordance with the current adopted building and fire codes.

To address potential impacts to police protection services a mitigation measure has been incorporated into the project, which requires that the operator submit a security plan for amplified music events to the Sheriff for review and approval, prior to onset of the events. With mitigation in place impacts from the project on public services is considered to be less than significant with mitigation included.

No. 15 Mitigation Measure: *Within sixty (60) days of project Use Permit approval, the operator/property owner shall submit for approval a security plan for amplified music events (park, banquet hall or amphitheater) to the Sheriff’s Department. The plan shall be approved prior to any use of the amphitheater. Any changes to the security plan shall be approved by the Sheriff’s Department.*

References: Application information; Stanislaus County General Plan and Support Documentation¹

| XV. RECREATION -- | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| a) Would the project 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? | | | X | |
| b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? | | | X | |

Discussion: The proposed project is not anticipated to significantly increase demand on recreational facilities or to have an adverse physical effect on the environment. Although not a part of this project request, the existing gas stations, produce market, restaurant and park are open to the public during specified hours. The amphitheater, park and banquet hall all hold special events which are for ticket holders or invitees only. Land use permission for the amphitheater only, is part of this Use Permit request.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03; Rezone No. 2007-03 – The Fruit Yard; Stanislaus County General Plan and Support Documentation¹.

| XVI. TRANSPORTATION/TRAFFIC -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|--------------------------------|--|------------------------------|-----------|
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? | | X | | |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways? | | X | | |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks? | | X | | |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? | | X | | |
| e) Result in inadequate emergency access? | | X | | |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities? | | X | | |

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

No. 16 Mitigation Measure: *Prior to issuance of a building permit, all applicable traffic impact fees shall be paid to the Department of Public Works.*

No. 17 Mitigation Measure: *An Event Traffic Management Plan shall be submitted and approved four weeks prior to holding the first event at the amphitheater. Both County Planning and Public Works shall review and approve the plan.*

- a. *The Event Traffic Management Plan shall include a westbound left turn lane from Highway 132 to the fourth driveway from the intersection (at Geer and Highway 132);*
- b. *This plan shall include all event traffic circulation into and out of the site, including a description of how the different on-site parking areas will be filled;*
- c. *Event Staff and signs shall not be in the State or Stanislaus County Right-of-way without an encroachment permit. This shall be addressed as part of the Event Traffic Management Plan. Each individual event shall have an encroachment permit from both the State and Stanislaus County, if applicable;*
- d. *If the Event Traffic Management Plan requires updating, the updates shall be accepted both by County Planning and by Public Works, six weeks prior to the next event being held at the amphitheater. This update can be triggered either by the applicant or by Stanislaus County;*
- e. *Fees may be collected for amphitheater event parking, provided no queuing of vehicles occurs. Parking fees may be collected as part of the fee collected for the price of the ticket for the event, or may be collected at a stationary electronic machine, installed in the parking area. Parking fees may not be collected while vehicles are waiting to enter the parking lot;*
- f. *Prior to the implementation or construction of any additional phases of the approved Plan Development No. 317, a revised Event Traffic Management Plan shall be submitted to and approved by County Planning and Public Works;*
- g. *A left turn lane shall be installed on Geer Road for the driveway into the project labeled as D Drive. The plans shall be completed prior to the approval of the Event Traffic Management Plan. This driveway is roughly 575 feet south of the intersection of Geer Road and Yosemite Blvd;*
 - i. *Improvement plans are to be submitted to County Public Works for approval. These improvement plans shall meet standards set forth within the Stanislaus County Standards and Specifications and the Caltrans Highway Design Manual;*
 - ii. *An acceptable financial guarantee for the road improvements shall be provided to County Public Works prior to the approval of the Event Traffic Management Plan;*
 - iii. *An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined;*
 - iv. *The left turn lane shall be installed before the first event is held at the amphitheater.*

References: Traffic Impact Analysis prepared by KD Anderson & Associates, Inc., dated November 23, 2016; Supplemental Traffic Impact Analysis, prepared by Pinnacle Traffic Engineering, dated February 5, 2016; Referral response from California Department of Transportation (CalTrans) dated September 14, 2016, and an email dated November 29, 2016; Stanislaus County General Plan and Support Documentation¹.

| XVII. UTILITIES AND SERVICE SYSTEMS -- Would the project: | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|---|---------------------------------------|---|-------------------------------------|------------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? | | | X | |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |

| | | | | |
|---|--|--|---|--|
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? | | | X | |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? | | | X | |
| e) 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? | | | X | |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? | | | X | |
| g) Comply with federal, state, and local statutes and regulations related to solid waste? | | | X | |

Discussion: Limitations on providing services have not been identified. Conditions of approval will be added to the project to address necessary permits from DER. On-site services will be provided by an approved septic system and water well as determined by DER. A public water system permit will be required to be obtained through DER.

Mitigation: None.

References: Application information; Stanislaus County General Plan and Support Documentation¹.

| XVIII. MANDATORY FINDINGS OF SIGNIFICANCE -- | Potentially Significant Impact | Less Than Significant With Mitigation Included | Less Than Significant Impact | No Impact |
|--|--------------------------------|--|------------------------------|-----------|
| 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 history or prehistory? | | | X | |
| b) Does the project 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.) | | | X | |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | | X | | |

Discussion: Review of this project has not indicated any features which might significantly impact the environmental quality of the site and/or the surrounding area. Any potential impacts from this project have been mitigated to a level of less than significant.

¹Stanislaus County General Plan and Support Documentation adopted on August 23, 2016. **Housing Element** adopted on April 5, 2016.



DEPARTMENT OF ENVIRONMENTAL RESOURCES
3800 Cornucopia Way, Suite C, Modesto, 95358-9494
Phone: (209) 525-6700 Fax: (209) 525-6773

STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE REFERRAL RESPONSE FORM

TO: Stanislaus County Planning & Community Development
FROM: Department of Environmental Resources
SUBJECT: **ENVIRONMENTAL REFERRAL- USE PERMIT APPLICATION NO. PLN2015-0130 – THE FRUIT YARD AMPHITHEATER**

Based on this agency’s particular field(s) of expertise, it is our position the project described above:

- Will not have a significant effect on the environment.
- May have a significant effect on the environment.
- No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

1. The onsite water system’s nitrate level is currently showing an upward trend.

Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):*

- 1- Onsite Wastewater Disposal System (O.W.T.S.)
Due to the level of the nitrates in the existing water system being higher than half of the maximum MCL, any expansion of the onsite waste water system (OWTS) can contribute to groundwater nitrate levels especially with individual OWTS.

Wastewater management plan of this project must be reviewed and approved by the Department of Environmental Resources.
Any flow of 5,000 gallons per day, or greater, must be submitted to the Central Valley Regional Water Quality Control Board (CVRWQCB) for review and approval. Any flow less than 5,000 gallon per day, must submit to this Department. A centralized OWTS will be highly recommended with proper treatment of the discharged effluent. The quality of the discharged effluent shall meet EPA Secondary Treatment Guidelines. The focus will be on the ability to reduce nitrate, salt, and organic chemical levels, minimizing the impact upon the area’s groundwater

In addition, our agency has the following comments (attach additional sheets if necessary).

2- Public Water System

- Prior to modification or installation of any water infrastructure for the Amphitheater, the property owner shall provide to the Department of Environmental Resources an application for amended water supply permit along with a full technical report demonstrating that the water system will meet all requirements of a Nontransient Noncommunity Water System: capacity, source water, drinking water source assessment, water works standards, and the California Environmental Quality Act (CEQA).

3- Retail Food Facility

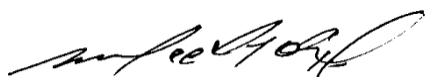
- All food service offered at the Fruit Yard Complex including but not limited to the Amphitheater events area, Banquet Hall, Restaurant and Convenience stores shall be conducted in compliance with the requirements of California Retail Food Code.

- Each retail food facility must operate under a health permit issued by the Department of Environmental Resources.

- Prior to issuance of any building permit for the construction of the preparation and serving kitchen in the banquet hall, the owner/operator shall provide construction plans to the Department of Environmental Resources for review and approval as required in accordance with California Health and Safety Code: Retail Food Code.

Response prepared by:

Date: April 6, 2017



Waleed Yosif Sr. REHS
SENIOR REGISTERED ENVIRONMENTAL HEALTH SPECIALIST Department of
Environmental Resources

April 5, 2017

RECEIVED

APR 10 2017

STANISLAUS CO. PLANNING &
COMMUNITY DEVELOPMENT DEPT.

Stanislaus County
Attention: Kristin Doud, Associate Planner
1010 10th St Ste 3400
Modesto, CA 95354-0868

**RE: Use Permit Application No. PLN2015-0130
APN: 009-027-004 (7924 & 7948 Yosemite Blvd)**

Thank you for allowing the District to comment on this referral. Following are the recommendations from our Electrical, Irrigation and Domestic Water Divisions:

Irrigation

- Modesto Irrigation District's Irrigation Operations staff has no objection to the proposed expansion of The Fruit Yard. Irrigation Operations staff comments dated August 20, 2015 regarding the development were:
- According to the Stanislaus County Staff Approval Application No. PLN2005-0064, the proposed project is subject to the original approved conditions of approval for P-D 317 (GPA 2007-03). MID's Irrigation Operations staff comments dated May 31, 2007 regarding the development of the above noted parcel were:
 - Prior to development of Phase 2 or Phase 3, a six (6) foot tall solid masonry wall or MID pre-approved equivalent, is required along the south property line of the Applicant's property adjacent to MID Lateral No. 1.
 - There is an existing private pipeline that lies within the above noted parcel. Should the proposed project impact or otherwise alter the existing private infrastructure, MID recommends the Applicant consult with those who are served by the existing private pipeline.
- Irrigation Operations staff recommends a pre-consultation meeting to discuss MID irrigation requirements.

Domestic Water

- No Comments at this time.

Electrical

- The attached map shows the approximate location of the District's existing electrical facilities.
- In conjunction with related site/road improvement requirements, existing overhead and underground electric facilities within or adjacent to the proposed site shall be protected, relocated or removed as required by the District's Electric Engineering Department. Appropriate easements for electric facilities shall be granted as required.
- Relocation or Installation of electric facilities shall conform to the District's Electric Service Rules.
- Costs for relocation or installation of MID electrical facilities at the request of others will be borne by the requesting party. Estimates for relocating or installing MID electrical facilities will be supplied upon request.
- A 15' PUE is required adjacent to the existing 12,000 volt overhead lines along the Geer street frontage. The easement is required in order to protect the existing overhead electric facilities and maintain necessary safety clearances.
- A 10' PUE is required adjacent to existing street frontages, proposed streets and private ingress/egress easements as already shown on the attached Parcel Map. The Public Utility easements are required in order to protect the future electrical facilities and maintain necessary safety clearances.
- Contractor shall verify actual depth and location of all underground utilities prior to start of construction. Notify "Underground Service Alert" (USA) (Toll Free 800-227-2600) before trenching, grading, excavating, drilling, pipe pushing, tree planting, post-hole digging, etc. USA will mark the location of the MID underground electrical facilities.
- The Modesto Irrigation District reserves its future right to utilize its property along the MID canal in a manner it deems necessary for the installation and maintenance of electric and telecommunication facilities. These needs, which have not yet been determined, may consist of new poles, cross arms, wires, cables, braces, insulators, transformers, service lines, control structures and any necessary appurtenances, as may, in the District's opinion, be necessary or desirable.
- A 10 ft. OSHA minimum approach distance is required adjacent to the existing 12,000 volt overhead high voltage lines.
- A 8 ft. minimum vertical approach distance is required adjacent to the existing overhead 220 volt secondary lines.
- Use extreme caution when operating heavy equipment, backhoes, using a crane, ladders or any other type of equipment near overhead or underground MID electric lines and cables.

- Electric service to the proposed parcels is not available at this time. The Electric Engineering Department has no objections to the proposed amphitheater at this time. Specific requirements regarding construction issues will be addressed when the amphitheater construction plans are submitted for review to the District's Electric Engineering Design Department. Contact Linh Nguyen at (209) 526-7438.

The Modesto Irrigation District reserves its future rights to utilize its property, including its canal and electrical easements and rights-of-way, in a manner it deems necessary for the installation and maintenance of electric, irrigation, agricultural and urban drainage, domestic water and telecommunication facilities. These needs, which have not yet been determined, may consist of poles, crossarms, wires, cables, braces, insulators, transformers, service lines, open channels, pipelines, control structures and any necessary appurtenances, as may, in District's opinion, be necessary or desirable.

If you have any questions, please contact me at 526-7447.

Sincerely,



Lien Campbell
Risk & Property Analyst

Copy: Associated Engineering Group
4206 Technology Dr Ste 4
Modesto, CA 95356-8769

File

Kristin Doud - RE: The Fruit Yard

From: Tim Spears <tspears@scfpd.us>
To: Kristin Doud <doudk@stancounty.com>
Date: 4/6/2017 11:02 AM
Subject: RE: The Fruit Yard
CC: Michael Wapnowski <mwapnowski@scfpd.us>

Hi Kristin,

The Fire District would request to review the traffic management plan to see how the traffic may impact our response in an out of this area and what mitigation measures they will be implementing. Also all proposed structures must meet all applicable building and fire codes and be submitted for review.

Please let me know if you have any further questions.

Tim Spears
Fire Marshal
Stanislaus Consolidated
Fire Protection District
3324 Topeka Street
Riverbank, CA 95367
[\(209\)869-7470](tel:(209)869-7470)
www.scfpd.us
"Accepting the Challenge"

From: Kristin Doud [doudk@stancounty.com]
Sent: Tuesday, April 04, 2017 11:11 AM
To: Tim Spears <tspears@scfpd.us>
Subject: RE: The Fruit Yard

Yes, they scheduled it for 4/20 and my staff report was due last Monday. So I am definitely in a bit of a time crunch.

Kristin C. Doud
Senior Planner
Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

Phone: 209.525.6330
FAX: 209.525.5911
email: doudk@stancounty.com

-- -- -- Let Us Know How We Are Doing -- -- --

Please take a moment and complete the Customer Satisfaction Survey by clicking on the following link:
<http://www.stancounty.com/customercenter/index.shtm>

>>> Tim Spears <tspears@scfpd.us> 4/4/2017 11:06 AM >>>

Hi Kristin,

We will likely have comments to add. According to the CEQA letter we had until 4/10. Did you need it sooner?

Tim

From: Kristin Doud [<mailto:doudk@stancounty.com>]
Sent: Tuesday, April 04, 2017 11:04 AM
To: Tim Spears
Subject: The Fruit Yard

Tim - Does Fire have any comments for the Fruit Yard project? See the project referral at the following link:
http://www.stancounty.com/planning/pl/documents/PLN2015-0130_30Day.pdf

The Staff Report is almost completed so if you have any conditions please send them ASAP. It is within the Stanislaus Consolidated Fire District. APN: [009-027-004](#).

Thank you!

Kristin C. Doud
Senior Planner
Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354
Phone: 209.525.6330
FAX: 209.525.5911
email: doudk@stancounty.com

-- -- -- Let Us Know How We Are Doing -- -- --

Please take a moment and complete the Customer Satisfaction Survey by clicking on the following link:
<http://www.stancounty.com/customercenter/index.shtm>



CHIEF EXECUTIVE OFFICE

*Stan Risen
Chief Executive Officer*

*Patricia Hill Thomas
Chief Operations Officer/
Assistant Executive Officer*

*Keith D. Boggs
Assistant Executive Officer*

*Jody Hayes
Assistant Executive Officer*

1010 10th Street, Suite 6800, Modesto, CA 95354
Post Office Box 3404, Modesto, CA 95353-3404

Phone: 209.525.6333 Fax 209.544.6226

STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

April 10, 2017

Kristin Doud, Associate Planner
Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

SUBJECT: ENVIRONMENTAL REFERRAL – THE FRUIT YARD AMPHITHEATER – USE PERMIT APPLICATION NO. PLN2015-0130 – INITIAL STUDY AND NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

Ms. Doud:

Thank you for the opportunity to review the above-referenced project.

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has no comments at this time.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

Patrick Cavanah
Management Consultant
Environmental Review Committee

PC:ss

cc: ERC Members



DEPARTMENT OF PUBLIC WORKS

Matt Machado, PE, LS
Director, County Surveyor

Chris Brady, PE
Deputy Director - Design/Survey/Fleet Maintenance

Frederic Clark, PE
Deputy Director - Development/Traffic

David Leamon, PE
Deputy Director - Construction Administration/Operations


Kathy Johnson
Assistant Director - Finance/HR/Transit

www.stancounty.com/publicworks



February 10, 2017

To: Miguel Galvez, Deputy Director, Planning and Community Development

From:  Angie Halverson, Senior Land Development Coordinator

Subject: PLN2015-0130 Fruit Yard Amphitheater Use Permit

This is a request to amend an approved Planned Development (P-D 137) that authorized the development plan and schedule for the Fruit Yard. This includes the development of a banquet facility, relocation of the gas station and convenience market, relocation of the existing card lock fueling facility, a retain shell building, 322 space RV and vehicle storage, a 66 space travel trailer park, a two acre retail truck sales site, a new facility for fruit packing, and occasional outdoor special events. This use permit is proposing establishing a 3,500 person capacity amphitheater with a 5,000 square foot stage, a 4,000 square foot storage structure, 1,302 additional parking spaces, and vehicular access to temporary parking lots, covered seating area and a gazebo in the existing park area, and a new pole sign for the site. Public Works applies the following conditions:

1. No parking, loading or unloading of vehicles will be permitted within the Geer Road right-of-way. The applicant will be required to install or pay for the installation of any signs and/or markings, coordinating the installation of the signs with Public Works Traffic Section.
2. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted before any grading or building permit for the site is issued that creates a new or bigger building footprint on this parcel. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
 - The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
 - The grading drainage and erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit.
 - The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.
 - The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for the plan review of the building and/or grading plan.
 -

- The applicant of the building permit shall pay the current Stanislaus County Public Works weighted labor rate for all on-site inspections. The Public Works inspector shall be contacted 48 hours prior to the commencement of any grading or drainage work on-site.

MITIGATION MEASURE

To facilitate the safety of the traveling public attending an event at the amphitheater, the following mitigation measures shall be in place:

1. An approved Event Traffic Management Plan shall be submitted and approved 6 weeks prior to holding the first event at the amphitheater. Both Stanislaus County Planning and Community Development and Public Works Departments shall review and approve the plan.
 - a. The Event Traffic Management Plan shall include a westbound left turn lane from Highway 132 to the fourth driveway from the intersection (at Geer and Highway 132.)
 - b. This plan shall include all event traffic circulation into and out of the site, including a description of how the different on-site parking areas will be filled.
 - c. Event Staff and signs shall not be in the State or Stanislaus County Right of Way without an encroachment permit. This shall be addressed as part of the Event Traffic Management Plan. Each individual event shall have an encroachment permit from both the State and Stanislaus County, if applicable.
 - d. If the Event Traffic Management Plan requires updating, the updates shall be accepted both the State and the County six weeks prior to the next event being held at the Amphitheater. This update can be triggered either by the applicant or Stanislaus County.
 - e. Fee may be collected for event parking if vehicular queuing does not occur. If queuing does occur, electronic stationary parking fee collection machines shall be installed in the parking area or parking fees shall cease to be collected.
 - f. Prior to the implementation or construction of any additional phases of the approved Plan Development No. 317, a revised Event Traffic Management Plan shall be submitted to and approved by Stanislaus County Planning and Community Development Departments and Public Works.
 - g. A left turn lane shall be installed on Geer for the driveway into the project labeled as D Drive. The plans shall be completed prior to the approval of the Event Traffic Management Plan. This driveway is roughly 575 feet south of the intersection of Geer Road and Yosemite Boulevard.
 - i. Improvement plans are to be submitted to this department for approval. These improvements plans shall meet Stanislaus County Standards and Specifications and the Caltrans Highway Design Manual.
 - ii. An acceptable financial guarantee for the road improvements shall be provided to the Department of Public Works prior to the approval of the Event Traffic Management Plan.

PLN2015-0130
The Fruit Yard Amphitheater
Use Permit

- iii. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined.
 - iv. The left turn lane shall be installed before the first event is held at the amphitheater site.
2. Prior to issuance of a building permit, all applicable traffic impact fees shall be paid to the Department of Public Works.



Edmund G. Brown Jr
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Ken Alex
Director

April 10, 2017

RECEIVED

APR 13 2017

STANISLAUS CO. PLANNING &
COMMUNITY DEVELOPMENT DEPT.

Kristin Doud
Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354

Subject: Use Permit Application No. PLN2015-0130 - The Fruit Yard Amphitheater
SCH#: 2016072019

Dear Kristin Doud:

The State Clearinghouse submitted the above named Mitigated Negative Declaration to selected state agencies for review. On the enclosed Document Details Report please note that the Clearinghouse has listed the state agencies that reviewed your document. The review period closed on April 7, 2017, and the comments from the responding agency (ies) is (are) enclosed. If this comment package is not in order, please notify the State Clearinghouse immediately. Please refer to the project's ten-digit State Clearinghouse number in future correspondence so that we may respond promptly.

Please note that Section 21104(c) of the California Public Resources Code states that:

"A responsible or other public agency shall only make substantive comments regarding those activities involved in a project which are within an area of expertise of the agency or which are required to be carried out or approved by the agency. Those comments shall be supported by specific documentation."

These comments are forwarded for use in preparing your final environmental document. Should you need more information or clarification of the enclosed comments, we recommend that you contact the commenting agency directly.

This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act. Please contact the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

**Document Details Report
State Clearinghouse Data Base**

SCH# :2016072019
Project Title Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater
Lead Agency Stanislaus County

Type **MND** Mitigated Negative Declaration
Description Request to amend P-D (317) to establish a 3,500 capacity outdoor amphitheater facility along with an additional 1,302-space temporary parking lot on 45 acre parcel. The request also includes development for a 4,800 sq. ft. covered seating area, a 1,600 sq. ft. gazebo, replacement of an existing freestanding pole sign with a reader board sign. Special events, weddings and outdoor concerts are proposed on-site until 11:00 P.M.

Lead Agency Contact

Name Kristin Doud
Agency Stanislaus County
Phone 209-525-6330
email
Address 1010 10th Street, Suite 3400
City Modesto
Fax
State CA **.Zip** 95354

Project Location

County Stanislaus
City Modesto
Region
Lat / Long
Cross Streets South-west-corner of Geer Rd. and Yosemite Blvd.
Parcel No. 009-027-004
Township 3S **Range** 10E **Section** 34 **Base** MDB&M

Proximity to:

Highways 132
Airports
Railways
Waterways Tuolumne
Schools Empire
Land Use PLU: Restaurant, produce market, gasoline station, private park and storm drain basin Zoning: Planned Development (317) OPD; Planned Development

Project Issues Aesthetic/Visual; Noise; Public Services; Traffic/Circulation

Reviewing Agencies Resources Agency; Department of Fish and Wildlife, Region 4; Department of Parks and Recreation; Department of Water Resources; California Highway Patrol; Caltrans, District 10; Native American Heritage Commission; Regional Water Quality Control Bd., Region 5 (Sacramento)

Date Received 03/09/2017 **Start of Review** 03/09/2017 **End of Review** 04/07/2017

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4/7/17
E*

M e m o r a n d u m

Date: April 3, 2017

Governor's Office of Planning & Research

To: State Clearinghouse
1400 Tenth Street, Room 121
Sacramento, CA 95814

APR 05 2017
STATE CLEARINGHOUSE

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Modesto Area

File No.: 465.15473.18430.E17-034

Subject: **THE FRUIT YARD AMPHITHEATER PROJECT STATE CLEARINGHOUSE**
#2016072019

Thank you for the opportunity to be able to express any potential impact regarding the Fruit Yard Amphitheater Project, State Clearinghouse (SCH) #2016072019. The California Highway Patrol (CHP) is the primary agency that provides traffic law enforcement, safety, and traffic management on State Route 132, which is located in the area of where the Fruit Yard Amphitheater Project will be taking place. The Modesto Area is responsible for these functions and will be affected by the implementation of this project in the following ways:

Our primary concerns focus on the safety of the motoring public. During planned events, there may be delays to emergency responses, congestion, and traffic safety. Furthermore, State Route 132 is a major artery leading into the east part of Stanislaus County. As such, emergency responses could be greatly affected due to a potential increase in traffic through the area of this project. We recommend these concerns are taken into consideration prior to the implementation of this project.

If you have any questions regarding these concerns, please contact Lieutenant David Wharry at (209) 545-7440.

Sincerely,


J. IRIGOYEN, Captain
Commander

cc: Central Division
Special Projects Section



M e m o r a n d u m

Date: March 20, 2017

To: Modesto Area (465)

From: **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**
Special Projects Section

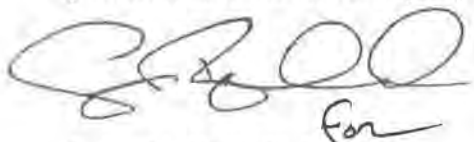
File No.: 063.A09293.A16728.Noc.Doc

Subject: ENVIRONMENTAL DOCUMENT REVIEW AND RESPONSE
SCH# 2016072019

Special Projects Section (SPS) recently received the referenced "Notice of Completion" environmental impact document from the State Clearinghouse.

Due to the project's geographical proximity to the Modesto Area, please use the attached checklist to assess its potential impact to local Area operations and public safety. If it is determined that departmental input is advisable, your written comments referencing the above State Clearinghouse (SCH) number must be mailed to the State Clearinghouse at 1400 Tenth Street, Room 121, Sacramento, CA 95814. Your written comments must be received by SCH no later than **4/7/2017**. If the due date to SCH cannot be met, please send comments directly to the lead agency (refer to the Notice of Completion) no later than three working days after the original due date – by **4/12/2017**. For reference, additional information can be found in Highway Patrol Manual 41.1, Transportation Planning Manual, Chapter 6, Environmental Impact Documents.

For project tracking purposes, SPS must be notified of Modesto Area's assessment of the project (including negative reports). Via electronic mail (e-mail), please forward a copy of Area's response to Associate Governmental Analyst Rebecca Breen at rebecca.breen@chp.ca.gov. For questions or concerns, please contact Ms. Breen at (916) 843-3382.



S. F. BARSANTI, SSM III
Commander

Attachments: Checklist
Project File

cc: Central Division





2016072019

CEQA Referral Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration

Date: March 6, 2017

To: Distribution List (See Attachment A)

From: Kristin Doud, Associate Planner, Planning and Community Development

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

Comment Period: March 6, 2017 – April 10, 2017

Respond By: April 10, 2017

Public Hearing Date: April 20, 2017

You may have previously received an Early Consultation Notice regarding this project, and your comments, if provided, were incorporated into the Initial Study. Based on all comments received, Stanislaus County anticipates adopting a Mitigated Negative Declaration for this project. This referral provides notice of a 30-day comment period during which Responsible and Trustee Agencies and other interested parties may provide comments to this Department regarding our proposal to adopt the Mitigated Negative Declaration.

All applicable project documents are available for review at: Stanislaus County Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, CA 95354. Please provide any additional comments to the above address or call us at (209) 525-6330 if you have any questions. Thank you.

Applicant: Joe Traina

Project Location: 7924 & 7948 Yosemite Blvd. (Hwy 132), at the southwest corner of Yosemite Blvd. and Geer Road, between the cities of Modesto, Waterford, and Hughson.

APN: 009-027-004

Williamson Act Contract: N/A

General Plan: Planned Development (PD)

Current Zoning: Planned Development – P-D (317)

Project Description: Request to expand an existing Planned Development with an outdoor, fenced, 3,500 person capacity amphitheater event center, a 5,000 square-foot stage, a 5,000 square-foot roof structure, a 4,000 square-foot storage building, a parking lot to the rear of the stage, and an additional 1,302-space temporary parking area. A maximum of 12 amphitheater events are proposed to take place per year. This use permit also includes a covered seating area of approximately 4,800 square-foot and a 1,600 square-foot gazebo in the eastern half of the park area, east of the outdoor amphitheater, and replacement of the existing pylon freestanding pole sign with an electronic reader board sign.

Full document with attachments available for viewing at:
<http://www.stancounty.com/planning/pl/act-projects.shtm>



**Notice of Completion and
Environmental Document Transmittal**
California Environmental Quality Act

SCH # 2016072019

TO: STATE CLEARINGHOUSE
1400 Tenth Street
Sacramento, CA 95814
(916) 445-0613

FROM: STANISLAUS COUNTY
Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354
PHONE: (209) 525-6330
FAX: (209) 525-5911

Project Title Use Permit Application No. PLN2015-0130 - The Fruit Yard Amphitheater
Lead Agency Stanislaus County Planning and Community Development **Contact Person** Kristin Doud **Government's Office of Planning & Research**
Street Address 1010 10th Street, Suite 3400 **Phone** (209) 525-6330
City Modesto, CA **Zip** 95354 **County** Stanislaus **MAR 09 2017**

STATE CLEARINGHOUSE

Present Land Use/Zoning/General Plan Designation:

PLU: Restaurant, produce market, gasoline station, private park and storm drain basin Zoning: Planned Development (317) GPD: Planned Development

Project Description:

Request to expand an existing Planned Development with an outdoor, fenced, 3,500 person capacity amphitheater event center, a 5,000 square-foot stage, a 5,000 square-foot roof structure, a 4,000 square-foot storage building, a parking lot to the rear of the stage, and an additional 1,302-space temporary parking area. A maximum of 12 amphitheater events are proposed to take place per year. This use permit also includes a covered seating area of approximately 4,800 square-foot and a 1,600 square-foot gazebo in the eastern half of the park area, east of the outdoor amphitheater, and replacement of the existing pylon freestanding pole sign with an electronic reader board sign.

Project Issues: Aesthetic, Noise, Public Traffic

Project Location

County Stanislaus County **City/Nearest Community** Modesto, Empire, Hughson and Waterford
Cross Streets South-west corner of Geer Rd. and Yosemite Boulevard **Zip Code** 95357 **Total Acres** 45+/-
Longitude/Latitude (degrees, minutes and seconds): * N / * W
Assessor's Parcel Number 009-027-004 **Section** 34 **Twp** 3S **Range** 10E **Base** MDB&M
Within 2 Miles: **State Hwy #** 132 **Waterways** Tuolumne River, Dry Creek
Airports _____ **Railways** _____ **Schools** Empire

Local Public Review Period (to be filled in by lead agency)

Starting Date March 7, 2017 **Ending Date** April 10, 2017

Signature [Signature] **Date** March 7, 2017

Document Type

| | | | |
|---|--|------------------------------------|---|
| <input type="checkbox"/> CEQA | <input type="checkbox"/> Supplement/Subsequent EIR | <input type="checkbox"/> NEPA | <input type="checkbox"/> OTHER |
| <input type="checkbox"/> NOP | <input type="checkbox"/> (Prior SCH No.) | <input type="checkbox"/> NOI | <input type="checkbox"/> Joint Document |
| <input type="checkbox"/> Early Cons | <input type="checkbox"/> Other (NOE, NOC, NOD, etc.) | <input type="checkbox"/> EA | <input type="checkbox"/> Final Document |
| <input type="checkbox"/> Neg Dec | | <input type="checkbox"/> Draft EIS | <input type="checkbox"/> Other |
| <input checked="" type="checkbox"/> Mil Neg Dec | | <input type="checkbox"/> FONSI | |
| <input type="checkbox"/> Draft EIR | | | |

Dev. Type: Other - Outdoor Event Center/Venue

Local Action Type

| | | | |
|---|---|--|---|
| <input type="checkbox"/> General Plan Update | <input type="checkbox"/> Specific Plan | <input type="checkbox"/> Rezone | <input type="checkbox"/> Annexation |
| <input type="checkbox"/> General Plan Amendment | <input type="checkbox"/> Master Plan | <input type="checkbox"/> Prezone | <input type="checkbox"/> Redevelopment |
| <input type="checkbox"/> General Plan Element | <input type="checkbox"/> Planned Unit Development | <input checked="" type="checkbox"/> Use Permit | <input type="checkbox"/> Cancel Ag Preserve |

State Clearinghouse Contact:

(916) 445-0613

State Review Began: 3-09-2017

SCH COMPLIANCE 4-07-2017

Project Sent to the following State Agencies

| | |
|--|--|
| <input checked="" type="checkbox"/> Resources | <input type="checkbox"/> State/Consumer Svcs |
| <input type="checkbox"/> Boating & Waterways | <input type="checkbox"/> General Services |
| <input type="checkbox"/> Coastal Comm | <input type="checkbox"/> Cal EPA |
| <input type="checkbox"/> Colorado Rvr Bd | <input type="checkbox"/> ARB: Airport & Freight |
| <input type="checkbox"/> Conservation | <input type="checkbox"/> ARB: Transportation Projects |
| <input checked="" type="checkbox"/> CDFW # <u>4</u> | <input type="checkbox"/> ARB: Major Industrial/Energy |
| <input type="checkbox"/> Delta Protection Comm | <input type="checkbox"/> SWRCB: Div. of Drinking Water |
| <input type="checkbox"/> Cal Fire | <input type="checkbox"/> SWRCB: Div. Drinking Wtr # |
| <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> SWRCB: Div. Financial Assist. |
| <input checked="" type="checkbox"/> Parks & Rec | <input type="checkbox"/> SWRCB: Wtr Quality |
| <input type="checkbox"/> Central Valley Flood Prot. | <input type="checkbox"/> SWRCB: Wtr Rights |
| <input type="checkbox"/> Bay Cons & Dev Comm | <input checked="" type="checkbox"/> Reg. WQCB # |
| <input checked="" type="checkbox"/> DWR | <input type="checkbox"/> Toxic Sub Ctrl-CTC |
| <input type="checkbox"/> OES | <input type="checkbox"/> Yth/Adlt Corrections |
| <input type="checkbox"/> Resources, Recycl & Recovery | <input type="checkbox"/> Corrections |
| <input type="checkbox"/> CalSTA | |
| <input type="checkbox"/> Aeronautics | <input type="checkbox"/> Independent Comm |
| <input checked="" type="checkbox"/> CHP | <input type="checkbox"/> Energy Commission |
| <input checked="" type="checkbox"/> Caltrans # <u>10</u> | <input checked="" type="checkbox"/> NAHC |
| <input type="checkbox"/> Trans Planning | <input type="checkbox"/> Public Utilities Comm |
| | <input type="checkbox"/> State Lands Comm |
| <input type="checkbox"/> Other | <input type="checkbox"/> Tahoe Rgl Plan Agency |
| <input type="checkbox"/> HCD | |
| <input type="checkbox"/> Food & Agriculture | <input type="checkbox"/> Conservancy |
| | <input type="checkbox"/> Other: |

Please note State Clearinghouse Number (SCH#) on all Comments

SCH#: 2016072019

Please forward late comments directly to the Lead Agency

AQMD/APCD 34

(Resources: 3, 11)