



Referral Early Consultation

Date: April 17, 2023

To: Distribution List (See Attachment A)

From: Kristen Anaya, Associate Planner
Planning and Community Development

Subject: STAFF APPROVAL PERMIT APPLICATION NO. PLN2023-0017 – THE FRUIT YARD

Respond By: May 2, 2023

******PLEASE REVIEW REFERRAL PROCESS POLICY******

The Stanislaus County Department of Planning and Community Development is soliciting comments from responsible agencies under the Early Consultation process to determine: a) whether or not the project is subject to CEQA and b) if specific conditions should be placed upon project approval.

Therefore, please contact this office by the response date if you have any comments pertaining to the proposal. Comments made identifying potential impacts should be as specific as possible and should be based on supporting data (e.g., traffic counts, expected pollutant levels, etc.). Your comments should emphasize potential impacts in areas which your agency has expertise and/or jurisdictional responsibilities.

These comments will assist our Department in preparing the conditions for a Staff Approval. Therefore, please list any conditions that you wish to have included as well as any other comments you may have. Please return all comments and/or conditions as soon as possible or no later than the response date referenced above.

Thank you for your cooperation. Please call (209) 525-6330 if you have any questions.

Applicant: Joe Traina, The Fruit Yard

Project Location: 7948 Yosemite Boulevard (Highway 132), at the southwest corner of Yosemite Boulevard and Geer Road, east of the Community of Empire, between the Cities of Modesto, Waterford, and Hughson

APN: 009-027-011 & 009-027-012

Williamson Act Contract: N/A

General Plan: Planned Development

Current Zoning: Planned Development (P-D) (317)

Project Description: Request to amend the development plan of Planned Development (P-D) (317), by allowing a Christmas tree sales lot, ice-skating rink, and mobile food facility (food trailer) within an existing amphitheater at The Fruit Yard, on a 31.12± acre parcel in the P-D 317 zoning district. P-D 317 was approved by the Stanislaus County Board of Supervisors on August 19, 2008, to allow development of various uses such as: a restaurant, gas station, market, park, banquet facility, tractor sales, fruit packing facility, RV Boat Storage, and RV Park. A subsequent Use Permit (No. PLN2015-0130) was approved on May 23, 2017, to allow for a 3,500-person amphitheater, 4,000 square-foot storage building and ticket booth, and a 1,302 temporary and special event parking spaces. On May 5, 2022, the Planning Commission approved an amendment to the Use Permit to amend the noise mitigation measures by increasing the noise monitoring time increments from five-

minute increments to a 60-minute average and increasing the C-weighted and A-weighted standards by 5 dB.

Up to 12 live concerts and similar events are currently permitted to take place within the existing amphitheater, subject to hours of operation and noise restrictions through the approved Mitigation Monitoring and Reporting Program. Existing hours of operation are 6 a.m. to 10:00 p.m., Sunday through Thursday, with lighting shutoff and patrons off premises by 11:00 p.m., and all employee and contract staff off premises by 12:00 a.m. On Friday and Saturday, hours are extended to 11:00 p.m. for events, 12:00 a.m. for all patrons, and 1:00 a.m. for employees and contract staff. Events currently occur during Spring through Fall, with no activities taking place during winter months.

Pursuant to Stanislaus County Zoning Ordinance Section 21.100.050(E), seasonal activities may be approved with a Staff Approval Permit when accessory to an approved produce market. The Fruit Yard has a produce market on the project site, which was first established as a legal non-conforming use and later expanded under subsequent land use entitlements. This request will permit seasonal activities consisting of a 10,000 square-foot ice skating rink and a Christmas Tree sale lot within the bowl of the existing amphitheater, not to exceed a 45-day period. Annual setup is proposed to occur after Thanksgiving and removed shortly after New Year's Day. Hours of operation for both the ice rink and Christmas Tree lot would not deviate from the previously adopted hours of operation for events. The ice rink will accommodate up to 200 skaters during one-hour sessions. Sandwiches, snacks, and non-alcoholic drinks will be prepared on-site and will be available for purchase from the existing Fruit Yard food trailer which is currently utilized in conjunction for concerts. The food trailer will be setup inside the amphitheater. Tickets and skate rentals will be available from the existing ticket sales booth. On-site security will be provided on an as-needed basis. Conditions of approval requiring both the existing security plan and parking and traffic management plan to be updated and circulated to the applicable agencies for review will be added to the project. Traffic and parking for the ice-skating rink and Christmas tree lot is proposed to be directed to the existing lot between the amphitheater and Yosemite Boulevard and Highway 132; however, access may be taken off the existing driveways along both Yosemite Boulevard and Geer Road frontages.

Pre-recorded amplified music will occur during skating sessions. The existing operating and sound restrictions and noise monitoring requirements established under the May 5th, 2022, amended Mitigation Measures of the 2015 Use Permit will apply to the ice rink, including continuous noise monitoring by an existing calibrated sound monitoring system placed at least 100 feet from the amphitheater. The approved development standards and mitigation measures have been included as an attachment.

Attachments:

- A. Project Description
- B. May 5, 2022, Amended Development Standards and Mitigation Measures

Full document with attachments available for viewing at:
<http://www.stancounty.com/planning/pl/act-projects.shtm>



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10TH Street, Suite 3400, Modesto, CA 95354
Planning Phone: (209) 525-6330 Fax: (209) 525-5911
Building Phone: (209) 525-6557 Fax: (209) 525-7759

STAFF APPROVAL PERMIT APPLICATION NO. PLN2023-0017 – THE FRUIT YARD

Attachment A

Distribution List

X	CA DEPT OF TRANSPORTATION DIST 10	X	STAN CO BUILDING PERMITS DIVISION
X	CITY OF: MODESTO AND WATERFORD	X	STAN CO DER
X	DER GROUNDWATER RESOURCES DIVISION	X	STAN CO HAZARDOUS MATERIALS
X	FIRE PROTECTION DIST: CONSOLIDATED	X	STAN CO PUBLIC WORKS
X	IRRIGATION DIST: MODESTO	X	STAN CO SHERIFF
X	SAN JOAQUIN VALLEY APCD	X	STANISLAUS FIRE PREVENTION BUREAU
X	SCHOOL DIST 2: MODESTO CITY SCH.	X	SURROUNDING LANDOWNERS



STANISLAUS COUNTY CEQA REFERRAL RESPONSE FORM

TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: _____

SUBJECT: STAFF APPROVAL PERMIT APPLICATION NO. PLN2023-0017 – THE FRUIT YARD

Based on this agency’s particular field(s) of expertise, it is our position the above described project:

- _____ 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.
- 2.
- 3.
- 4.

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.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

Response prepared by:






Name	Title	Date
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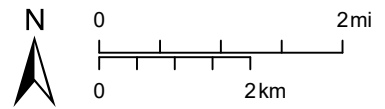
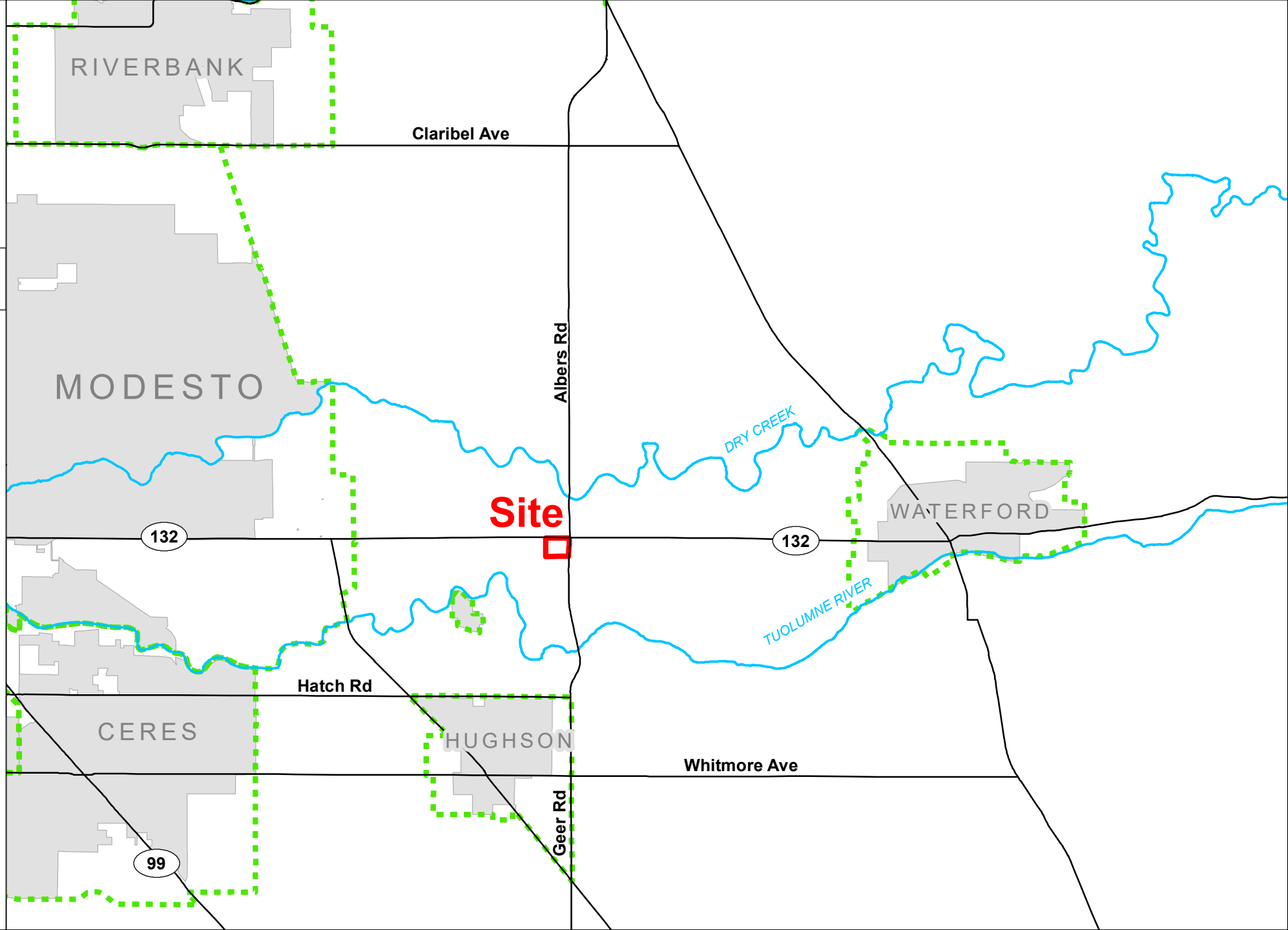
THE FRUIT YARD

SAA PLN2023-0017

AREA MAP

LEGEND

-  Project Site
-  Sphere of Influence
-  City
-  Road
-  River












THE FRUIT YARD

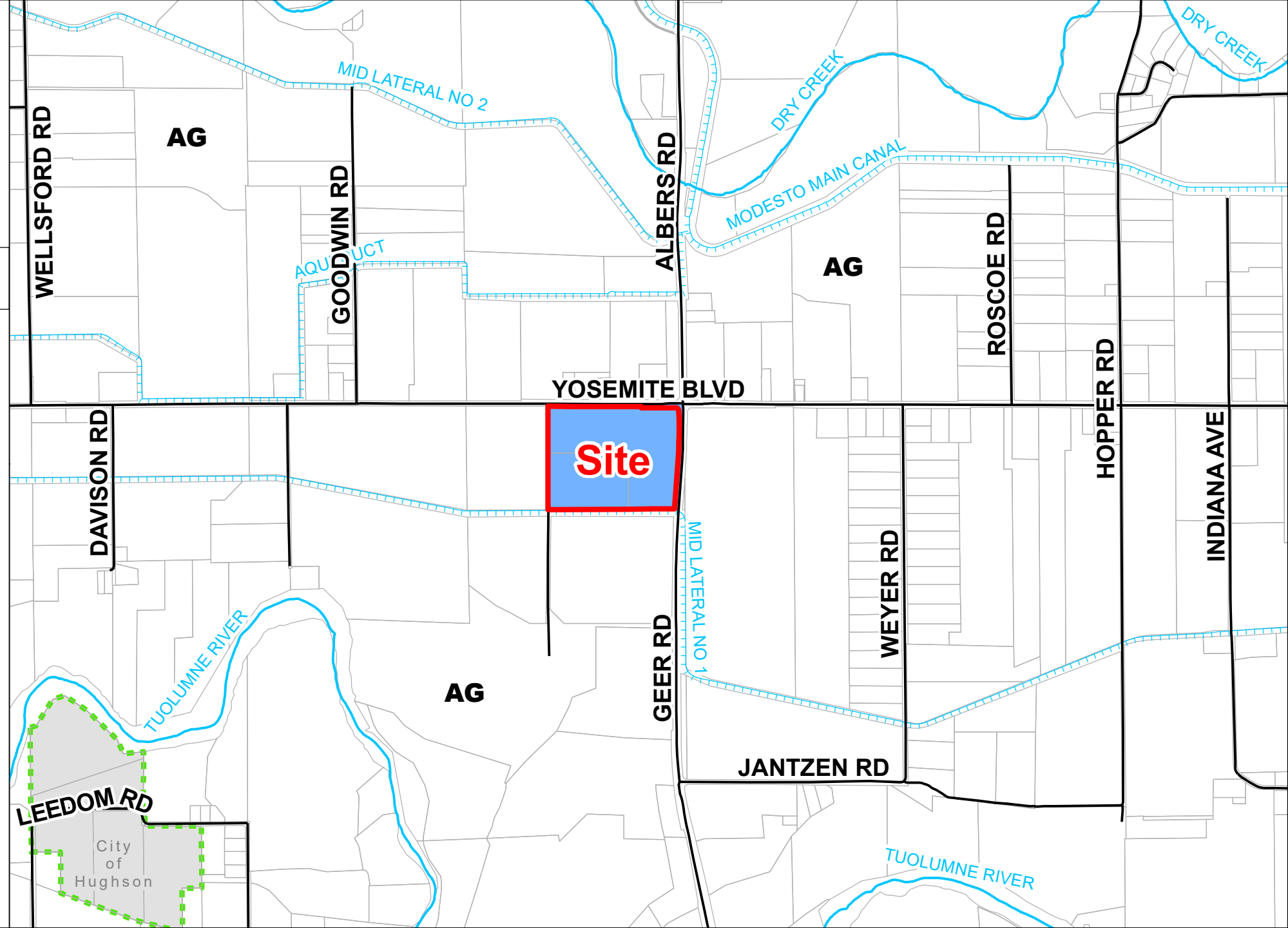
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PLN2023-0017

GENERAL PLAN MAP

LEGEND

-  Project Site
 -  Sphere of Influence
 -  City of
 -  Parcel
 -  River
 -  Canal
 -  Road
- General Plan**
-  Agriculture
 -  Planned Development












THE FRUIT YARD

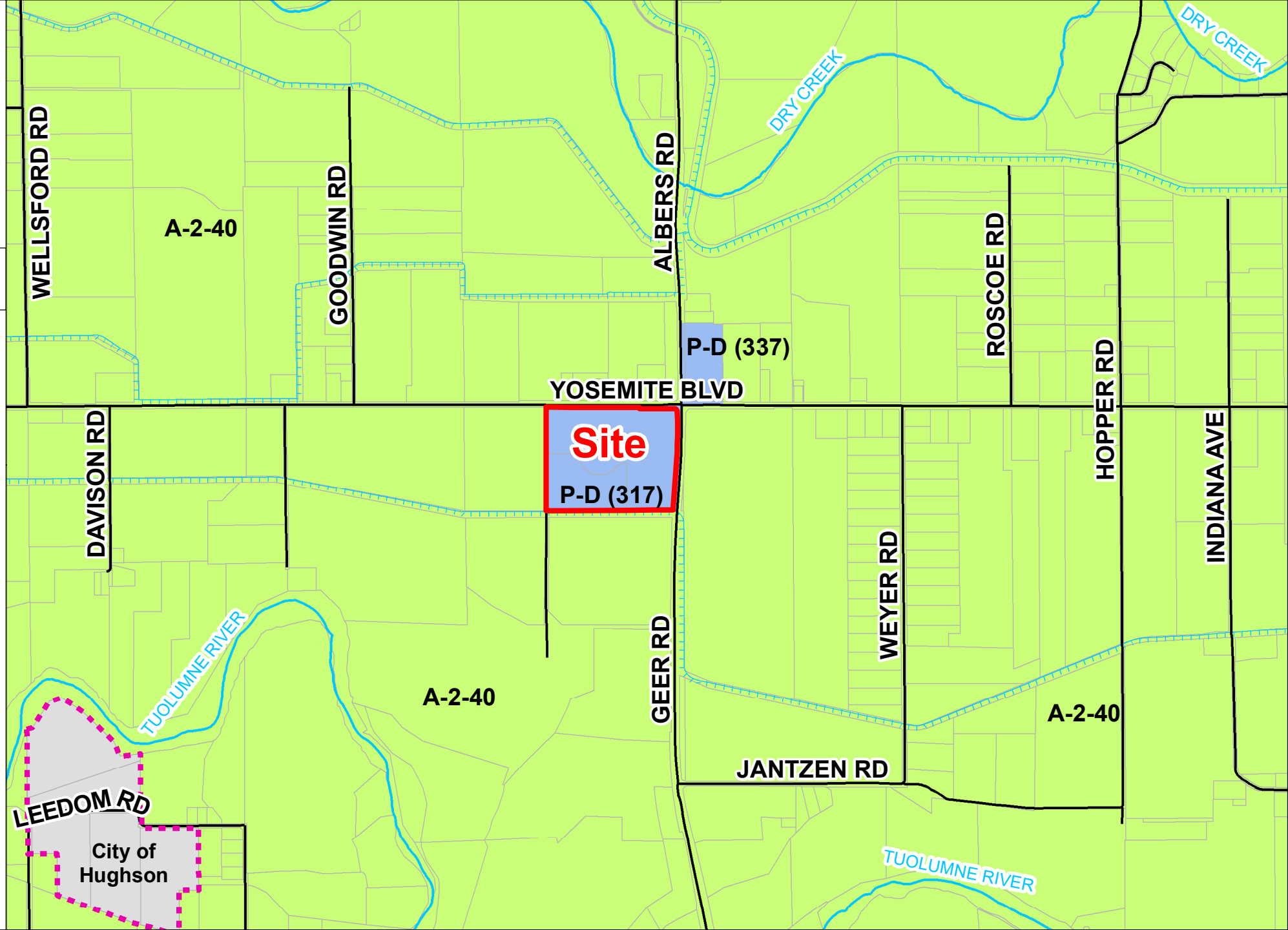
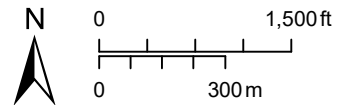
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PLN2023-0017

ZONING MAP

LEGEND

-  Project Site
 -  Sphere of Influence
 -  City of
 -  Parcel
 -  River
 -  Road
 -  Canal
- Zoning Designation**
-  Planned Development
 -  General Agriculture 40 Acre








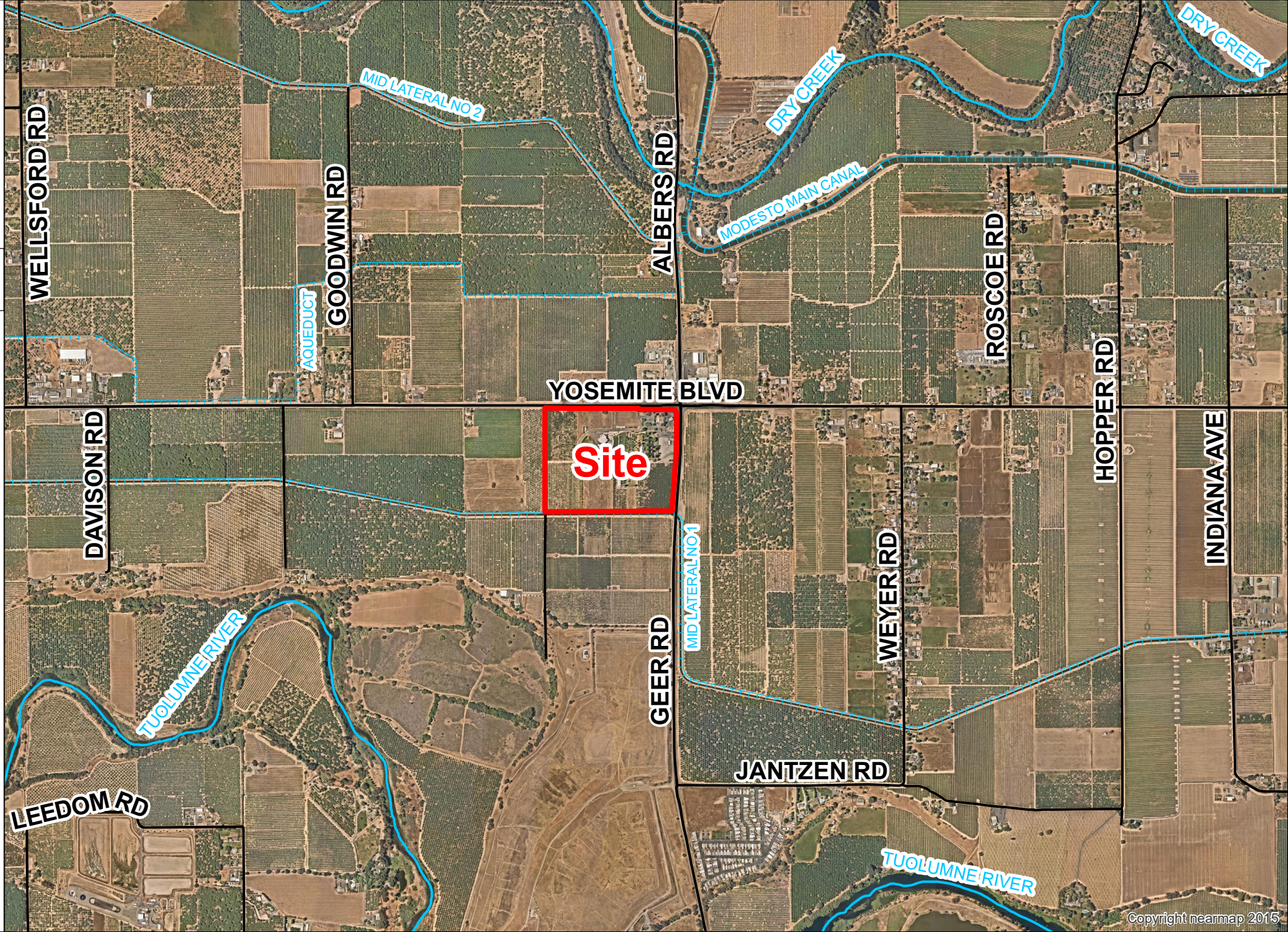
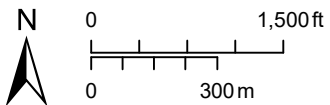
THE FRUIT YARD

SAA PLN2023-0017

2022 AERIAL AREA MAP

LEGEND

-  Project Site
-  Sphere of Influence
-  Road
-  River
-  Canal






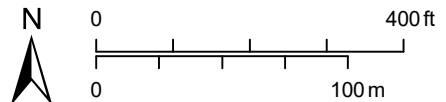
THE FRUIT YARD

SAA PLN2023-0017

2022 AERIAL SITE MAP

LEGEND

-  Project Site
-  Road
-  Canal










THE FRUIT YARD

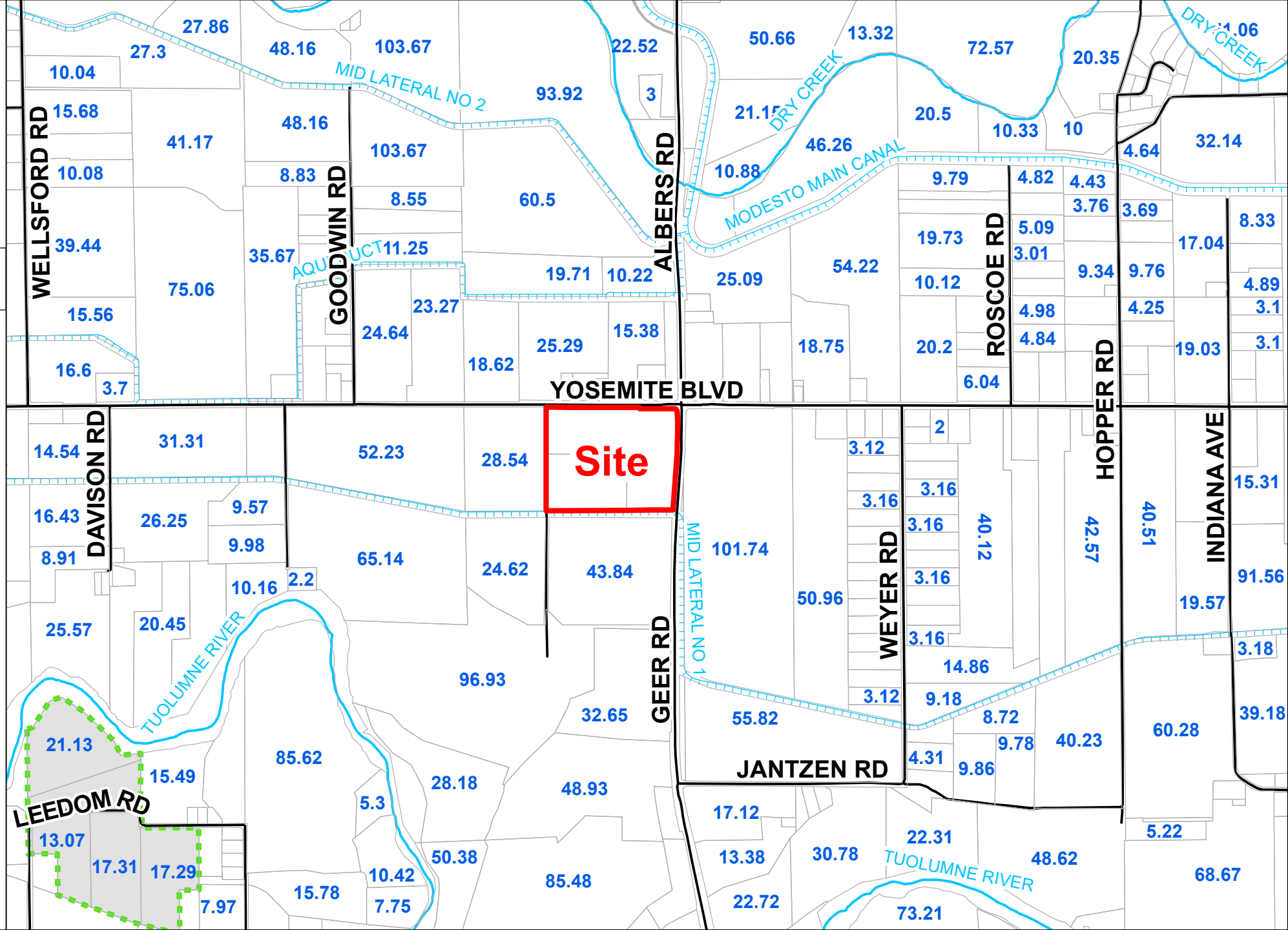
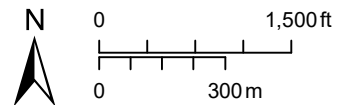
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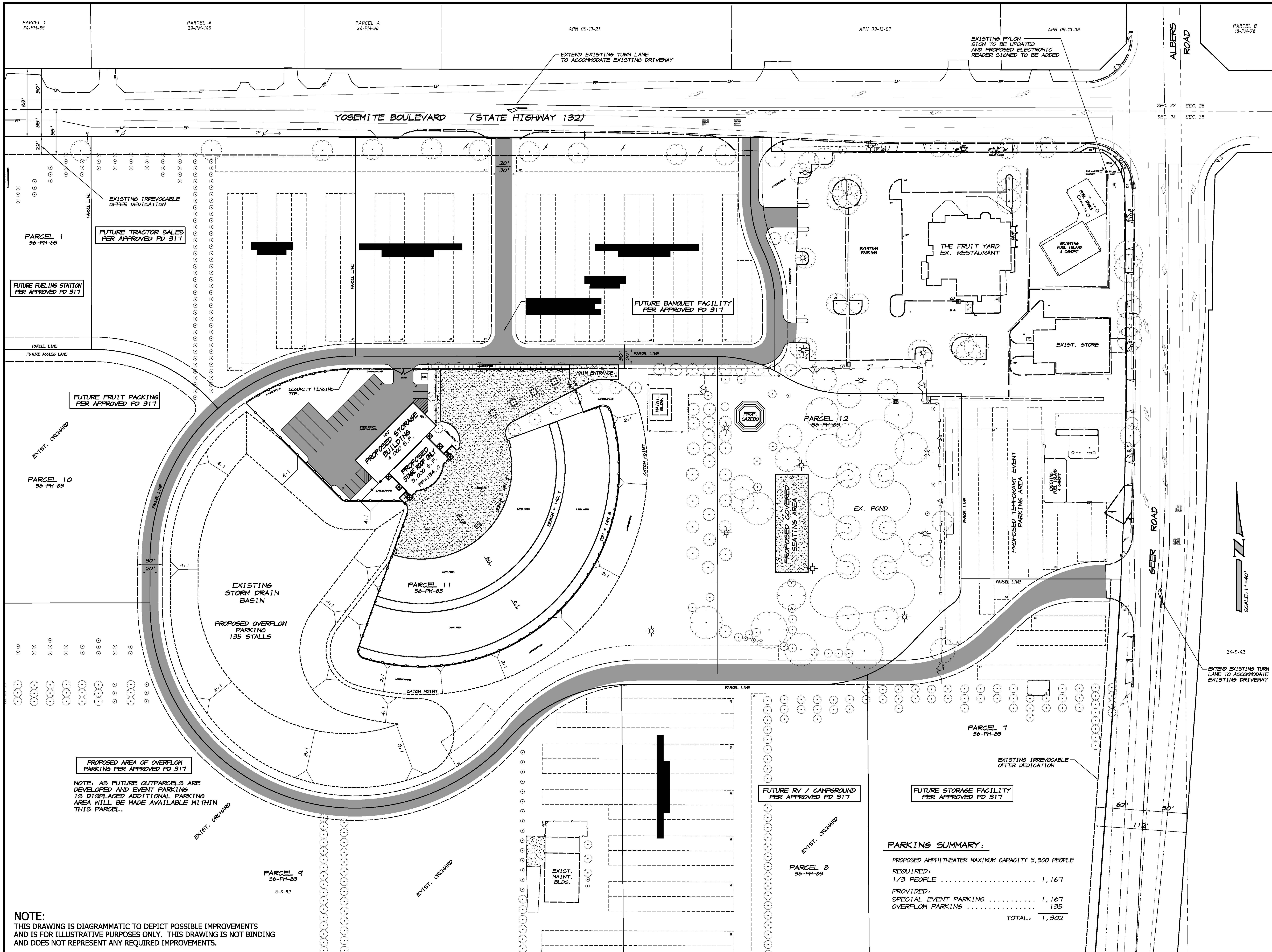
PLN2023-0017

ACREAGE MAP

LEGEND

-  Project Site
-  Sphere of Influence
-  City of
-  Parcel/Acres
-  Road
-  River
-  Canal





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.

PARKING SUMMARY:

PROPOSED AMPHITHEATER MAXIMUM CAPACITY	3,500 PEOPLE
REQUIRED:	
1/3 PEOPLE	1,167
PROVIDED:	
SPECIAL EVENT PARKING	1,167
OVERFLOW PARKING	135
TOTAL:	1,302

REVISION	DATE	DESCRIPTION

ASSOCIATED ENGINEERING GROUP
 4208 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356
 PHONE (209) 945-3380 FAX (209) 945-3975 www.aesgroup.com

PARK SITE DEVELOPMENT PLAN
THE FRUIT YARD
 CALIFORNIA
 STANISLAUS COUNTY

RYAN CARREL, R.C.E. 61619
 DAVE SKIDMORE, L.S. 7126

DRAWN BY: J.F.
 DATE: 1/20/11 7:54
 SCALE: 1"=40'
 DWS: 496A UP SITE
 CHECKED:
 JOB #: 496A-15
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The Fruit Yard
Addition of Seasonal Ice Rink by Staff Approval
Project Description

Background:

Within The Fruit Yard Park, an unlimited number of events are allowed (Development Standard 18 (C)). Events within the park must limit sound output to 75 dBA over an hourly period, with a maximum of 85 dBA at a position 100 feet from the sound speakers. Amplified events in the park must end by 10:00 p.m. Sunday through Thursday.

Within The Fruit Yard Amphitheater, twelve (12) events are allowed per year. The amphitheater has a capacity of about 3,500 attendees. Events within the amphitheater must limit sound output to 95 dBA and 105 dBC measured over an hourly period. Amplified events in the amphitheater must end by 10:00 p.m. Sunday through Thursday. Amphitheater lighting must be shut off by 11:00 p.m. Sunday through Thursday and by 12:00 midnight on Friday and Saturday.

Project:

The Fruit Yard desires to operate a seasonal Ice Skating Rink at the site. Such a use is currently permitted within the park, subject to the aforementioned park sound and event limitations. The seasonal Ice Skating Rink would be put in place around Thanksgiving and be removed right after New Year's Day (about 45 days). The Ice Rink would be up to 10,000 sf in size and may be partially or fully covered.

The Fruit Yard desires to operate the Ice Rink in the bowl of the amphitheater, rather than in the park. Such an adjustment will move the Ice Rink further away from sensitive receptors to the east of the site, and place it in the amphitheater bowl. The current sound and hours limitations that would apply if the Ice Rink was placed in the park would apply to the Ice Rink in the amphitheater.

The Ice Rink would operate during the day and into the evening, closing at or before 10:00 p.m. on weekdays and 11:00 p.m. on weekends. The Ice Rink is projected to operate with one hour sessions, and a full session would be around 150 to 200 individuals. Amplified music would play during the sessions and would meet the park sound limitations. Since the Ice Rink will be in the bottom of the amphitheater bowl, the sound board can be used to calibrate and, if needed, intermittently monitor sound within 100 feet of the Ice Rink. Parking would be provided at the nearest parking lot in front of (to the north of) the amphitheater. Light food (sandwiches and snacks) and non-alcoholic drinks will be available for purchase near the rink from The Fruit Yard's mobile food truck. On-site security will be provided on an as needed basis. In addition, a small Christmas tree lot may be located near the Ice Rink.

Staff Approval (Authority):

Stanislaus County has the authority to permit seasonal uses such as ice rinks through Stanislaus County Code Section 21.100.050(E), which provides:

Corn mazes, hay mazes and similar seasonal activities when accessory to an approved produce stand or produce market and not conducted in excess of three occasions, nor more than a combined total of forty-five days, within any one calendar year and where the site is returned to its previous condition within seven days of the ending of each activity. The activities shall comply with the required setbacks and provide off-street parking as determined necessary by the planning director. Conditions of approval shall be imposed as necessary to insure compliance with all applicable fire, building, and health codes.

The proposed Ice Rink is reasonably connected to The Fruit Yard and the existing Produce Market, and could be constructed and operated as part of any themed Christmas/Winter site festivities near the Produce Market, after acquisition of a Staff Approval, if the current land use entitlements did not exist. But, in this case, The Fruit Yard has already obtained all the necessary land use entitlements to operate the Ice Rink in the park and it can be constructed and operated without any additional land use permits. All parcels at The Fruit Yard are under one ownership and create an integrated destination, with the park and amphitheater sites linked to the restaurant and produce market.

As such, the only request is to move the already permitted seasonal Ice Rink a few hundred feet to the west, so a Staff Approval remains the appropriate method of making such a minor adjustment. The Ice Rink is not intended to count against the twelve (12) currently permitted events for the amphitheater since, as previously stated, the use could operate in the park without limitation.

Based on the foregoing, The Fruit Yard requests that the County Planning Department grant the requested Staff Approval so the Ice Rink can be put in place and operated starting in the fall of 2023.

AMENDED 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 (CDFW) (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~~**\$2,605**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees, **or \$57 made payable to Stanislaus County, for the payment of Clerk Recorder filing fees if the CDFW approves a "No Effect Determination"**.

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.
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 **and May 21, 2021 Noise Impact Assessment** 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. No alcohol sales shall be permitted at the amphitheater site after 10 p.m.
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 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 of the "Good Neighbor Policy" required by Mitigation Measure No. 11, and any subsequent amendment, the Planning Department shall refer the draft document for a two-week comment period. The referral will be sent to the current property owners of record for all surrounding properties included on the project referral "Landowner Notice" list from Use Permit No. PLN2015-0130 – The Fruit Yard. Any comments received shall be taken into consideration.

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 on-site 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.

AMENDED 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 “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 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. 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 ~~95~~**90** dBA Leq averaged over ~~a five-minute~~ **an hourly** period and a maximum of ~~105~~**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 five-minute~~ **an hourly** 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 ~~105~~**100** dBC Leq averaged over ~~a five-minute~~ **an hourly** period and a maximum of ~~115~~**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~~ **an hourly** 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 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 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, 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-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: New wording is in **bold**, and deleted wording will have a ~~line through it~~.*