



County of Fresno

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

Planning Commission Staff Report Consent Agenda Item No. 1 August 23, 2018

- SUBJECT:** Vesting Tentative Tract Map No. 5239 - Time Extension
- Grant the second one-year time extension for Tentative Tract Map No. 5239, originally approved in 2008, which authorizes the creation of 41 single-family residential parcels in the R-R (Rural Residential, 2-acre minimum parcel size) Zone District.
- LOCATION:** The subject property is located on the east side of Auberry Road between Caballero Road and Green Meadow Road, approximately 9 miles northeast of the city limits of the City of Clovis (SUP. DIST. 5) (APN's 138-021-75, -76).
- OWNER/
APPLICANT:** Bratton Investments
- STAFF CONTACT:** Danielle Crider, Planner
(559) 600-9669
- Marianne Mollring, Senior Planner
(559) 600-4569
- RECOMMENDATION:**
- Approve the second one-year time extension request for Tentative Tract Map No. 5239; and
 - Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Location Map
2. Existing Land Use Map
3. Existing Zoning Map
4. Resolution No. 12109, dated July 17, 2008 (Time Extension No. 1)
5. Subdivision Review Committee Report, Staff Report and Planning Commission Resolution dated June 29, 2006
6. Applicant's letter requesting the second one-year time extension

ENVIRONMENTAL DETERMINATION:

On August 15, 2006, the Fresno County Board of Supervisors adopted the Mitigated Negative Declaration for Initial Study No. 4993, prepared for Tentative Tract Map No. 5239, and Conditional Use Permit No. 3157, authorizing a planned residential development consisting of 41 lots with private roads on 164.53 acres in the R-R (Rural Residential, two-acre minimum parcel size) Zone District.

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

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

PUBLIC NOTICE:

Notices were sent to 48 property owners within 1,320 feet of the subject property, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

The State Subdivision Map Act provides that prior to the expiration of a Tentative Tract Map, a subdivider is entitled to file a "Final Map" for recording with the County if it conforms to the approved Tentative Tract Map and certain mandatory requirements. Except for special circumstances specified in the Map Act, a Tentative Tract Map expires two years after its approval unless extensions are granted by the local agency. Such extensions may not exceed a total of six years. Under the terms of the Fresno County Subdivision Ordinance, time extensions may be granted by the Planning Commission upon application by the subdivider prior to the expiration date.

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

Granting the proposed extension of Vesting Tentative Tract Map No. 5239 is discretionary, although the Planning Commission's discretion is limited to questions of time. The Commission cannot Condition the granting of the requested extension unless the Applicant agrees to such additional Conditions. If the Applicant does not agree to such additional Conditions, the Commission may deny the extension if it finds, based on the evidence, that the project will be injurious to public health, safety or general welfare if the additional Conditions are not imposed.

BACKGROUND INFORMATION:

On June 29, 2006, the Planning Commission approved Vesting Tentative Tract Map No. 5239, Classified Conditional Use Permit No. 3157, and Initial Study Application No. 4993, authorizing a planned residential development consisting of 41 lots with private roads on 164.53-acres in the R-R (Rural Residential, two-acre minimum parcel size) Zone District.

The Planning Commission granted a first one-year time extension on July 17, 2008, which extended the life of Tentative Tract Map No. 5239 to August 15, 2009. Subsequently, SB 1185 granted an automatic one-year time extension for the Tentative Map, resulting in a new expiration date of August 15, 2010. Two subsequent two-year legislative time extensions extended the map life until August 15, 2014. Assembly Bill (AB) 116, effective July 11, 2013, and AB 1303, effective October 10, 2015 granted two additional automatic two-year time extensions for the Tentative Map extending the expiration date to August 15, 2018.

Since all automatic time extensions have been exhausted for the project, the subject request is to allow the second discretionary one-year time extension through the consideration of the Planning Commission. The Applicant filed the request for a second time extension on July 2, 2018.

ANALYSIS/DISCUSSION:

Tentative Tract Map No. 5239 was approved August 15, 2006 concurrently with Initial Study Application No. 4993 and Classified Conditional Use Permit (CUP) No. 3157, based on a determination that the required CUP findings could be made. A copy of the original Subdivision Review Committee Report, Staff Report and Planning Commission Resolution is attached as Exhibit 5. According to the Applicant, the subject request is necessary to allow additional time due to market conditions affecting residential development, and a failure to coordinate the joint development of infrastructure with surrounding properties.

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

PUBLIC COMMENT:

None

CONCLUSION:

Staff believes the second one-year time extension for Vesting Tentative Tract Map No. 5239 should be approved, based on the factors cited in the analysis above. Approval of this time extension will extend the expiration date to August 15, 2019.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

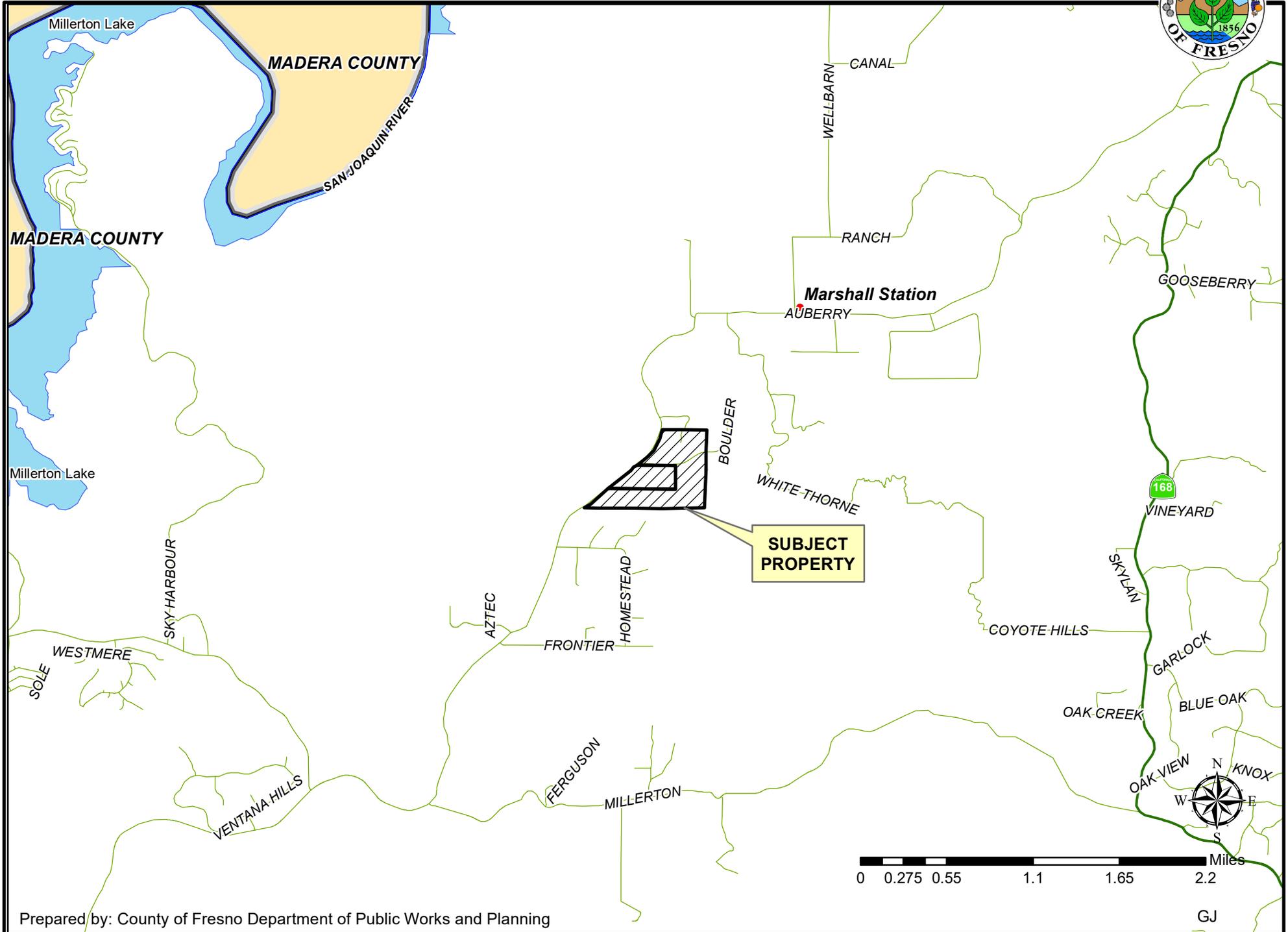
- Move to approve the second one-year time extension for Vesting Tentative Tract Map No. 5239; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

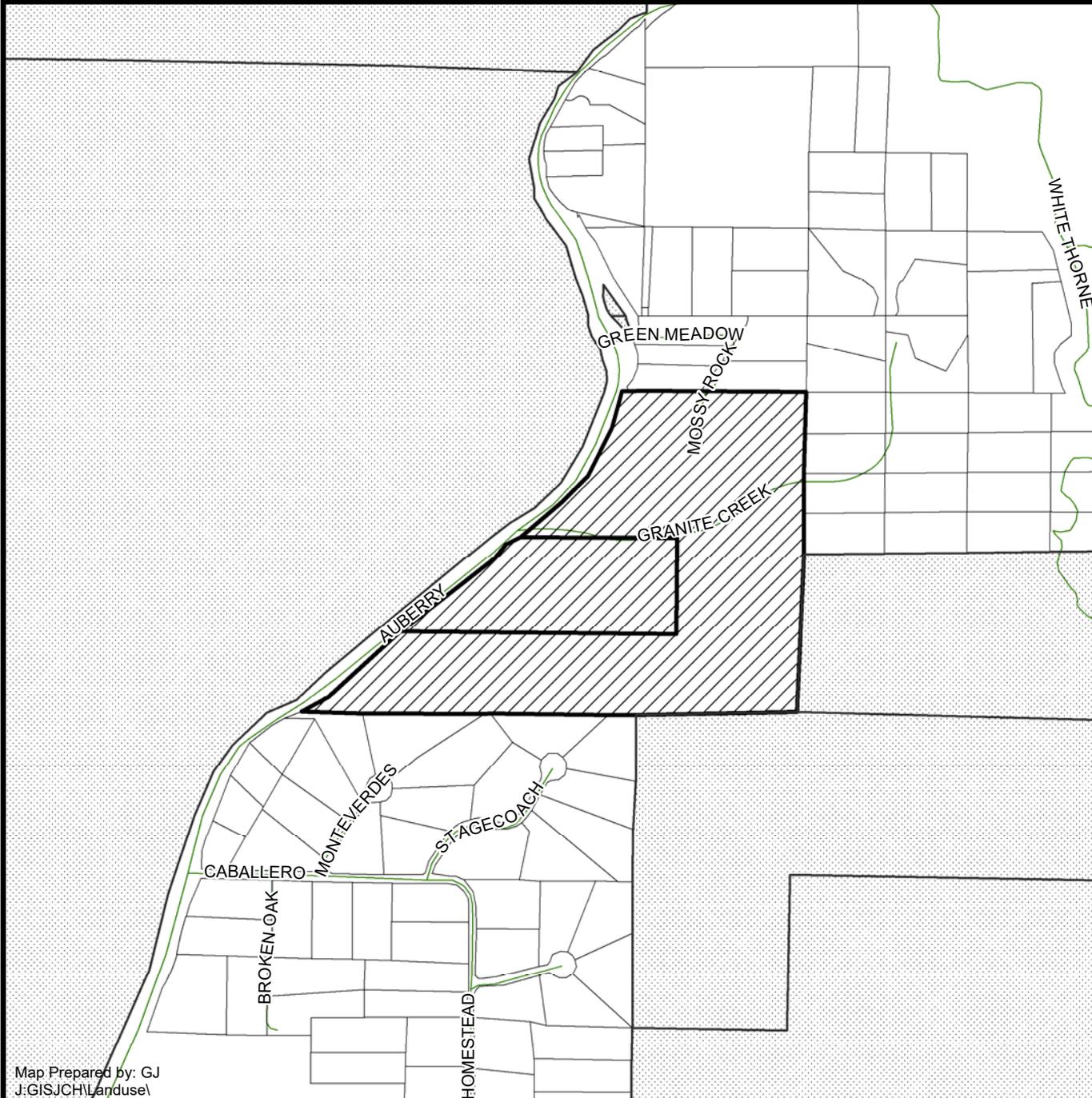
- Move to deny the second one-year time extension request for Vesting Tentative Tract Map No. 5239 (state reasons how approval of the time extension request would pose a health and safety issue to the residents of the subdivision or the immediate community, or both; or state how denial of the time extension request is required in order to comply with State or Federal law); and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

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LOCATION MAP

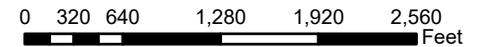


EXISTING LAND USE MAP



LEGEND
GRZ - GRAZING
SF# - SINGLE FAMILY RESIDENCE
V - VACANT

- LEGEND:
-  Subject Property
 -  Ag Contract Land



Department of Public Works and Planning
Development Services Division



Inter Office Memo

DATE: July 17, 2008

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12109 - TENTATIVE TRACT MAP
APPLICATION NO. 5239 (TIME EXTENSION)

APPLICANT: James Bratton, Bratton Investments

REQUEST: Grant a one-year time extension for Tentative Tract Map Application No. 5239, which authorizes a planned residential development consisting of 41 lots with a minimum parcel size of two acres with private roads on a 164.53-acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) District.

LOCATION: The project is located on the east side of Auberry Road between Caballero and White Thorne Roads, approximately four miles west of the unincorporated community of Prather (SUP. DIST.: 5) (APN: 138-021-75, 76).

PLANNING COMMISSION ACTION:

At its hearing of July 17, 2008, the Commission considered the Staff Report and testimony (summarized on Exhibit "A").

A motion was then made by Commissioner Niswander and seconded by Commissioner Gill to approve the requested one-year time extension for Tentative Tract Map Application No. 5239.

This motion passed on the following vote:

VOTING: Yes: Commissioners Niswander, Gill Abrahamian, Acree,
Goodman, Milligan, Woolf, Yancey

No: None

Absent: None

Abstain: None

ALAN WEAVER, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By:



Bernard Jimenez, Division Manager
Development Services Division

EXHIBIT "A"

Staff: The Fresno County Planning Commission accepted the Staff Report dated July 17, 2008.

Applicant: The applicant's representative expressed agreement with staff's recommendation, and provided the following points of information:

- The extension is requested due to economic considerations, as well as the finalization of all CSA agreements and requirements.

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



County of Fresno

Department of Public Works and Planning
ALAN WEAVER
Director

Subdivision Review Committee Report Agenda Item No. 2 June 29, 2006

SUBJECT: Initial Study Application No. 4993 and
Tentative Tract Application No. 5239

Allow a planned residential development consisting of 41 lots with a minimum parcel size of two acres with private roads on a 164.53-acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) District.

LOCATION: On the on the east side of Auberry Road between Caballero and Wellbarn Roads, approximately four miles west of the unincorporated community of Prather (SUP. DIST.: 5) (APN: 138-021-75, 76).

Applicant: James Bratton
Owner: B.W.I.

STAFF CONTACT: Lew Pond, Planning & Resource Analyst
(559) 262-4321

Chris Motta, Senior Staff Analyst
(559) 262-4241

RECOMMENDATION:

Adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 4993 and approve Tentative Tract Map Application No. 5239 with recommended findings and conditions, and direct the Secretary to prepare a Resolution documenting the Commission's action.

REGIONAL JOBS INITIATIVE

If approved, this proposal should not impact the short and long-term objectives of the Regional Jobs Initiative (RJI) for the creation of jobs in Fresno County. There will be short-term job opportunities for activities associated with construction of the subdivision and housing improvements.

EXHIBITS:

1. Location Map
2. Existing Land Use Map
3. Surrounding Zoning
4. Tentative Tract Map
5. Elevations of Entrance Gate and Boundary Fence
6. Summary of Initial Study Application No. 4993
7. Project correspondence

PROJECT DESCRIPTION SUMMARY:

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

Proposed Use:

- Allow a planned residential development consisting of 41 lots with private roads, gated entry and community water system in the RR (Rural Residential, two-acre minimum parcel size) District.

Project Site:

- 164.53 acres

Existing Improvements:

- Three wells, unimproved private road, overhead high voltage power lines

Proposed Improvements:

- Subdivision infrastructure (private gate at the project entrance on Auberry Road, paved private interior roads, community water system, fire protection systems, underground utilities, etc.)

ENVIRONMENTAL ANALYSIS:

An Initial Study (Initial Study Application No. 4993) was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the Initial Study, staff has determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study is included as Exhibit 6.

Notice of Intent of Mitigated Negative Declaration publication date: May 26, 2006.

PUBLIC NOTICE:

Notices were sent to 48 property owners within one-quarter mile of the subject property exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

BACKGROUND INFORMATION:

The subject application was originally submitted as a tentative tract consisting of 41 Rural Residential lots, with water to be provided by individual wells, and with each lot having public road access. During the scheduled May 26, 2005 Planning Commission hearing on the project, the applicant requested that the application be continued to allow the applicant to revise the proposal to include a community water system and private roads with a private gate to be installed at the site's Auberry Road access. Section 10.02c of the Sierra North Regional Plan and Policy LU-E.10 of the General Plan allow Planned Residential Developments utilizing community water and sewer systems in areas designated Foothill Rural Residential. Pursuant to Section 855.N.22 of the Zoning Ordinance, the applicant submitted Classified Conditional Use Permit Application No. 3157 on December 12, 2005 requesting that the subject project be allowed as a Planned Residential Development of 41 Rural Residential lots with a gated entrance and private roads. This application is being processed concurrently with Tentative Tract Map Application No. 5239 and is the subject of a separate staff report.

PROCEDURAL CONSIDERATIONS:

A Tentative Tract Map Application may be approved only if five findings specified in the Subdivision Map Act are made. These findings are included in the body of the Subdivision Review Committee Report. Classified Conditional Use Permit Application No. 3157, proposing to allow planned

residential development of the property, has been submitted concurrently with this Tentative Tract Map Application proposal. Tentative Tract Map Application No. 5239 as proposed with a gated entry and private roads cannot be approved without approval of the Conditional Use Permit Application. Approval of both applications is final unless appealed to the Board of Supervisors within 15 (fifteen days) of the approval action.

KEY INFORMATION PERTINENT TO STAFF ANALYSIS:

Date of Subdivision Review Committee Meeting:	May 13, 2005
Subdivider:	James Bratton
Engineer:	Yamabe & Horn
Location:	On the on the east side of Auberry Road between Caballero and Wellbarn Roads.
Nearest City Limits:	Approximately nine and one-half miles northeast of the City of Clovis and four miles southwest of the unincorporated community of Prather.
Number of Acres:	164.53 acres
Number of Lots:	41 lots
Minimum Lot Size:	2.3 acres
Proposed Source of Water:	Community system
Proposed Means of Sewage Disposal:	Individual sewage disposal system
Drainage:	To natural channels, with additional drainage generated by the development to be retained on-site.
General Plan Designation:	Foothill Rural Residential (Sierra North Regional Plan)
Zoning on Subject Property:	RR (See Surrounding Zone Map, Exhibit 3)
Surrounding Zoning:	RR, AE-40, AL-40, RC-160

Proposed Use:	Rural Residential
Land Use on Subject Property:	Vacant
Surrounding Land Use:	Grazing, Rural Residential Development, Single Family Residences

ANALYSIS / DISCUSSION:

Finding 1: *General Plan Consistency*

The subject 164.53-acre project site is designated Foothill Rural Residential in the Sierra North Regional Plan and is zoned RR. The property is located on the east side of Auberry Road between Caballero and Wellbarn Roads. Surrounding parcels are used for grazing or for single-family residences.

Policy PF-C.17, which applies countywide, states that the County shall, prior to any discretionary project related to land use, undertake a water supply evaluation that determines (a) whether the proposed water supply is adequate to meet the needs of the development, (b) the impact of the use of the proposed water supply will have on other water users, and (c) that the proposed water supply is sustainable. The applicant proposes a community water system with the water supplied by three on-site wells. The applicant was requested by the County Geologist to submit a hydrogeologic report per Section II-H of County Improvement Standards to demonstrate that underground water supplies will be adequate to serve the proposed use and that required General Plan water determinations can be made. The County, through a formal request for proposal process, selected the consulting geologist. The hydrogeologic report, dated March 1, 2006, prepared by Norbert Larsen, Consulting Geologist, was subsequently filed with the County which included pump tests of three five wells and monitoring of 12 nearby off-site wells located within an adjacent subdivision during the pumping phase of the testing. These pumping and monitoring wells are shown on Exhibit 5, Map of Well Sites and Observation Wells. Based upon the report, the Geologist has determined that the determinations as required by Policy PF-C.17 can be made for the project. These determinations have been made subject to the inclusion of mitigation measures requiring that: 1.) The proposed community water system be owned, operated and maintained by a County Service Area (CSA), 2.) Each lot shall be required to have two (2) water meters, one for the residence and the second for landscape irrigation needs, 3.) Only drip irrigation be allowed, 4.) A tiered rate schedule be adopted, 5.) The applicant develop and submit a groundwater monitoring program, 6.) Well No. 3 shall be limited to use only as a monitoring well, 7.) Well No. 6 shall be used only after additional testing to quantify impact on wells to the south of the project site and only to the extent that no significant impacts occur, and 8.) Onsite wells be equipped with dedicated pressure transducers and a data logger is to be provided to allow for groundwater monitoring.

Policy LU-E.17 of the General Plan states as follows:

The County shall consider the current inventory of undeveloped parcels when reviewing rezoning and subdivision proposals involving lands currently designated Rural Residential or Foothill Rural Residential. Such proposals shall generally not be considered appropriate until such time as at least sixty (60) percent of the available lots in the area have been developed.

This policy was added to the General Plan with approval of the General Plan Update in 2000.

Other than stating that the inventory required by Policy LU-E.17 be of "available lots in the area", no specific information is provided by the General Plan as to the size of the area to be surveyed. Subsequent to the 2000 General Plan Update, only one Foothill Rural Residential tract has been considered, Tentative Tract Map Application No. 5100. This tract, which was approved by the Board of Supervisors on appeal in January 2004, allowed division of eight parcels of land totaling 302.83 acres into 91 parcels with a minimum size of two acres. In that instance, the inventory was made of all lots designated Rural Residential or Foothill Rural Residential within a five mile radius of the project site, in which case, it was determined that 64% of the inventory of Rural Residential parcels were developed. The same methodology was utilized for the subject tract, based upon the best readily available data. The analysis relied on County Assessor's records, supplemented by building permit records and aerial photographs. This resulted in a determination that 58% of Rural Residential and Foothill Rural Residential designated properties within a five-mile radius of the site have been developed. The calculation included 91 lots authorized with approval of Tentative Tract Map Application No. 5100 in January 2004. The Final Map for these lots was recorded in March 2005. Prior to the recording of these parcels, the proportion of developed Rural Residential parcels within five miles of the subject site was 71%. The Plan Check Section of the Department of Public Works and Planning indicates that plan check activity for new residences on lots within the tract has been heavy. Based upon these considerations, including the language that includes the term "generally" in Policy LU-E.17, staff believes that the subject project is consistent with the policy.

Auberry Road is designated as a Scenic Drive in the General Plan. General Plan Policy OS-L.3 states that intensive land development proposals along a Scenic Drive, including subdivisions of more than four lots, shall be designed to blend into the natural landscape and minimize visual scarring of vegetation and terrain. The policy further provides that the design of said development proposals shall provide for maintenance for a natural open space area two hundred (200) feet in depth parallel to the right-of-way. The policy does allow for modification of the setback when topographic or vegetative characteristics preclude such a setback and when topographic or vegetative characteristics provide screening of building and parking areas from the right-of-way. The entrance gate proposed for the project in concurrent Conditional Use Permit Application (CUP) No. 3157 will be located

approximately 90 feet from the Auberry Road right-of-way. Conformance of the gate with GP Policy OS.L-3 is addressed in the staff report for CUP No. 3157.

With respect to the remainder of the project, portions of 11 of the proposed 41 lots are located within this 200-foot setback. In addition, an interior road approximately 1,600-foot in length is proposed to be constructed parallel to Auberry Road within the 200-foot setback. Based upon the following considerations, staff believes that a modification of the setback standard is warranted in the case of this project. The interior road in question serves a corridor of six proposed parcels lying between Auberry Road and Little Dry Creek as it meanders through the southwest portion of the tract. Requiring the road to be set back 200 feet would either reduce the lots to be served by the road to sizes less than the minimum two acres or result in potential impacts to the stream and its designated buffer area. The applicant has also requested to be allowed to construct improvements within the 200-foot setback on three of the 11 lots within this setback area. The area outside the setback on Lots 40 and 41 is either quite steep for housing construction or is heavily wooded. Because of the proximity of these lots to a designated wildlife movement corridor, no feasible parcel reconfiguration is possible. Staff believes that these considerations support a condition allowing improvements on these parcels (Lots 40 and 41) to be located within the 200-foot setback but no closer than 100 feet from the Auberry Road right-of-way. The applicant has also requested that improvements on Lot 37 be allowed as close as 150 feet from Auberry Road because the portion of this parcel lying outside the 200-foot setback is not large enough for a single-family residence. Staff believes that topographic features and vegetation in this area will effectively screen the improvements from Auberry Road and has included a condition allowing improvements on Parcel 37 as requested.

The owners of lots along the western boundary of the project may wish to erect fences that would be located within the 200-foot scenic setback area. To reduce potential visual impacts caused by such fences, the applicant proposes to construct a tract boundary fence along the eastern right-of-way line of Auberry Road, as described in the Operational Statement for concurrent CUP No. 3157 and depicted in Exhibit 5 of this report. The fence is proposed to be a white split rail wood fence. A condition is included allowing this fence and stipulating that no other fencing will be allowed within the 200-foot natural open space area except lot line fencing that may be constructed by private owners, which shall be consistent with the design of the boundary fence.

Based upon these considerations, staff believes that the project conforms to General Plan Policy OS.L-3 if the development and operation of the project is in substantial compliance with the tentative tract map (Exhibit 4), entrance gate and fence elevation (Exhibit 5) and the Operational Statement associated with CUP No. 3157. Compliance with the latter document is a recommended condition of approval of CUP No. 3157.

The 1,600-foot interior road referred to above is proposed to be constructed immediately adjacent to Auberry Road. This may result in a traffic hazard in that motorists on Auberry Road may mistake the interior road for Auberry Road, particularly during night time hours. To address this concern, a condition is included at the request of the Development Engineering Division requiring that a berm be constructed to provide visual separation between the highway and the interior road. To enhance the appearance of the berm in keeping with the Scenic Drive objectives, the condition requires the berm to be landscaped with natural materials.

The policies of the Transportation and Circulation Element of the General Plan state that the County will, as conditions of development, require dedication of right-of-way and road improvements as necessary to ensure that roads will safely serve expanding development.

Access into the proposed subdivision will be provided via Auberry Road, which is classified as an Arterial in the General Plan. A condition of approval is included requiring additional road right-of-way to the Arterial standard of 53 feet of half right-of-way on the applicant's side of the road, plus additional area as needed for cuts and fills. In addition, direct access rights shall be relinquished along the Auberry Road frontage with the exception of one access point into the subdivision and one emergency access road.

Conditions recommended for this subdivision by the Development Engineering Division of the Department of Public Works and Planning require that the proposed interior roads be constructed to a County public road standard and that provisions be made for their maintenance.

The proposed development will result in an increase in vehicle traffic in the area. The Design Division of the Fresno County Department of Public Works and Planning, which is responsible for determining the adequacy of County roads and necessary improvements, reviewed the subject application and requested a traffic impact study which identified potential traffic impacts to county roads and one State highway. Mitigation measures are included requiring pro-rata shares for future signalization of various intersections and improvements to segments of Auberry Road and Copper Avenue, to reduce impacts to County roadways to a level of less than significant. A mitigation measure is also included requiring a pro-rata share of the cost of improvements to the SR 168/Auberry Road intersection, reducing impacts to State highways.

Policy PF-1.8 of the General Plan states that the County and school districts should work closely to secure adequate funding for new school facilities. The policy also states that the County shall support the school district's efforts to obtain appropriate funding methods such as school impact fees. The proposed project is located within the Sierra Unified School District and as the project develops, school impact fees will be paid to the District.

Policy PF-H.2 of the General Plan states that new development in unincorporated areas of the County shall not be approved unless adequate fire protection facilities are provided. The property is located with State Responsibility Area for fire protection purposes. The applicant will be required to comply with rules and regulations pertaining to water, emergency access, roads, and fuels mitigation established by the California Department of Forestry and the County's Ordinance Code as specified in Chapter 15.60.

Policy PF-G.2 of the General Plan states that the County shall strive to maintain a staffing ratio of two sworn Sheriff's officers per 1,000 residents served. The Board of Supervisors has recently directed that a funding mechanism be established to provide for this minimum level of staffing in areas experiencing new residential growth. This Initial Study prepared for the project also identified the need for enhanced police services. A condition has, therefore, been included as a mitigation reducing public service impacts to a level of less than significance by requiring creation of a Community Facilities District or other appropriate funding mechanism for this purpose.

The subject property is traversed by a seasonal stream and is located in a mixed oak woodland. The Open Space and Conservation element of the General Plan includes a number of policies which seek to protect oak woodlands and wetlands, as well as encouraging preservation of existing terrain and natural vegetation in visually sensitive areas. Staff has included a condition of approval requiring preparation of an Oak Management Plan for the property for review and approval prior to recordation of the Final Map. As discussed in the Environmental Effects Section below, several mitigation measures have been included related to protection of biological resources.

Based upon the above considerations, staff believes that the project can be found to be consistent with the General Plan.

Finding 2: Suitability of Site

The subject property is located in a foothill area at elevations ranging from about 750 feet to 1,100 feet above sea level. Some of the lots have grades in excess of 30%. In accordance with County Subdivision Improvement Standards, a soils report is required for the subdivision as a condition of the final map. The soils report needs to address any limitations on building in these excessive slopes.

Individual sewage disposal systems are proposed to serve the development. A sewage feasibility analysis was prepared for the project at the request of the Fresno County Department of Community Health, Environmental Health System (Health Department). The sewage feasibility analysis indicated that soils on the project site are adequate to accommodate individual sewage disposal systems with full replacement area. Per the feasibility analysis, a condition has been included which requires engineered sewage disposal systems for each lot.

The parcel is zoned Rural Residential, allowing parcel sizes no smaller than two acres. Lot sizes in the proposed tentative tract range from 2.30 to 5.17 acres. As indicated in the Finding 1 section above, the area allowed for building improvements will be limited on several lots to allow for scenic setbacks from Auberry Road. Also included is a condition requiring that stormwater runoff generated by new roads and buildings must be retained or detained in on-site basins. Notwithstanding these constraints and conditions, staff believes that the site is adequate for the use as proposed and that Finding 2 can be made.

Finding 3: Environmental Effects

The Subdivision Ordinance requires that a tentative tract map be denied if a finding is made that the design of the subdivision or proposed improvements are likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat.

The Initial Study, attached as Exhibit 5, identified a number of potential environmental impacts. Potential impacts related to compaction, overcovering of the soil, and wind and water erosion will be addressed by mandatory adherence to the County's Grading and Drainage Ordinance and County Building Code.

The San Joaquin Valley Unified Air Pollution Control District (Air District) reviewed the project and stated the project will contribute to the overall decline in air quality due to increased traffic and ongoing operational emissions. Although the project itself may not generate significant air emissions, the Air District indicated that the project and others like it may make it more difficult to meet mandated emission reductions and air quality standards. The Air District indicated that the project will be subject to District Rules 4901 and 4902, which regulate the sale, installation and transfer of both wood-burning devices and natural gas-fired water heaters to limit the emissions of PM-10 and oxides of nitrogen. Regarding temporary impacts during construction, the District also noted that the construction phase of the project will be subject to certain aspects of District Regulation VIII, a series of rules designed to reduce PM-10 emissions generated by human activity. Adherence to these mandatory measures will adequately address the potential air impacts identified by the Air District. Therefore, no significant impacts to air quality are anticipated.

The Air District encourages other measures to reduce the project's overall level of emissions. These include careful selection and location of trees, installation of sidewalks and bikeways, and energy conserving features such as energy efficient appliances, natural gas or EPA-certified wood burning fireplaces, and natural gas and electrical outlets in outdoor areas to encourage use of clean-burning outdoor cooking appliances and landscape maintenance equipment. Information on these measures has been provided to the applicant.

A Biological Evaluation of the site was performed by Live Oak Associates dated September 16, 2003. Mixed oak woodland and button willow scrub associated with the natural drainage on the site were the only two habitats observed. The report concludes that the project will result in a less than significant impact to regional populations of special status animal species, and a less than significant impact on riparian habitat and regional wildlife movements. The report states that three special status plant species could be present on the site, the Madera Linanthus, Orange Lupine, and Mariposa Pussypaws. The State Department of Fish and Game (F&G) reviewed the evaluation and indicated that a Federally-listed species, the Valley Elderberry Beetle, could also be impacted by the project. Follow up surveys by Live Oak Associates, reported in letters dated April 27 and May 17, 2004, concluded that Mariposa Pussypaws, Orange Lupine, and Madera Linanthus were not observed on the site. Also, no Blue Elderberry shrubs providing habitat for the VELB were found. The report concludes that there would be no potential impacts to special status plant species.

As indicated in the Biologic Evaluation Report for the project, the project area contains Army Corps of Engineers (ACOE) jurisdictional "Waters of the United States". A report entitled "Waters of the United States, Table Mountain Creek Subdivision" was prepared by LOA dated March 26, 2004, and forwarded to the ACOE. By letter dated August 5, 2004, ACOE verified that the site contains 4.30 acres of waters of the United States, including wetlands.

The California Department of Fish and Game commented on the Biological Evaluation by letter dated April 13, 2004. Notwithstanding the conclusions of the evaluation that impacts to riparian habitat and wildlife movement would be less than significant, F&G requested that mitigation measures be adopted establishing stream setbacks and a wildlife movement corridor. Mitigation measures are included requiring two "no build, no disturb" outlots to be established. Outlot "A", consisting of 12.6 acres, is to be established as a wildlife movement corridor 180 feet wide. This corridor is coterminous with an easement held by PG&E for two sets of high voltage transmission lines that traverse the property. Outlot "B", consisting of 19.43 acres, includes the 4.30-acre Little Dry Creek together with a minimum 50-foot buffer from the upper edges of the creek or from the outer edge of the dripline of riparian vegetation, whichever is greater. It also includes a minimum 30-foot buffer from the upper edges of two tributaries of the creek. The designation of the outlots together with a "no build, no disturb" note on the Final Map will assure that these areas will remain in their natural state.

A Section 404 Permit from ACOE and a Section 1600-1603 Stream Bed Alteration Permit will be required for the proposed modification of the existing crossing of the stream by the private road traversing the site. This will reduce any potential erosion or siltation impacts to a less than significant level.

Pursuant to Section 21083.4 of the Public Resources Code, the County has determined that the project will result in a conversion of oak woodlands that will

have a significant effect on the environment. Mitigations are included as required by this code section, along with the preparation of an Oak Management Plan in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan).

A Cultural Resources Study of the site, dated August, 2003 and prepared by Donald G. Wren, Consulting Archeologist, identified four archeological sites. This study was reviewed by the Southern San Joaquin Valley Information Center, who requested that the identified sites be avoided. The project will be subject to a mitigation measure requiring an open space indenture agreement to protect the sites that will be attached as a covenant running with the land and noted on the final map.

As indicated in the Initial Study, Exhibit 5, potentially significant aesthetic impacts were identified in the environmental analysis. The existing 164.53-acre site is located in the foothills of the Sierra between the elevations of 750 and 1,100 feet. Typical of the foothill area, the site is classified as mixed oak woodland, with blue oaks, live oaks and foothill pines as the dominant species. The North Fork of Little Dry Creek traverses the site in a northeast to southwest direction, and a number of rock outcroppings are found on the parcel, mostly in the proximity of the stream. These factors enhance the aesthetic character of the site, although this quality is compromised to an extent by the presence of two high voltage transmissions line and towers that cross the property, also in a northeast to southwest direction.

As indicated in the Finding 1 discussion above, Auberry Road in this location is designated as a Scenic Highway in the General Plan, and mitigation measures are included to reduce aesthetic impacts as viewed from the highway. The mitigation measures included in the project to protect biological resources will also have the effect of significantly reducing aesthetic impacts. Under these measures, 32 acres of the 164.53-acre site are designated as open space outlots for the protection of riparian habitat along the stream and for wildlife movement. Site visits by staff and aerial photos confirm that almost all rock outcroppings are located along the stream and will, therefore, be protected within an outlot. Impacts on oak woodlands will be addressed in the Oak Management Plan that will incorporate the provisions of Section 21083.4 of the Public Resources Code. The provisions require replacement at a 5:1 ratio of all oak trees more than five inches in diameter at breast height that are removed by the project.

Based upon the above considerations, staff believes that this subdivision and related improvements are not likely to cause substantial environmental damage or substantially injure fish or wildlife in their environment provided the development complies with the recommended conditions of approval.

Finding 4: Public Utilities and Easements

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

The two overhead electrical transmission lines that traverse the tract are exempted from the County undergrounding requirement by the Design and Improvement Standards. These lines are owned by the Pacific Gas & Electric Company and are within a 180-foot access and maintenance easement. As indicated in Finding 3 above, this 180-foot corridor is also designated for wildlife movement and is noted as an outlot on the site plan.

Based upon these factors, staff believes that Finding 4 can be made.

Finding 5: Public Health

Neither the design of the subdivision, nor the type of improvements that are proposed are likely to negatively impact the health of future residents or the general public. Water will be provided by a community water system in accordance with mitigation measures, as discussed in Finding 1.

The Fresno County Fire Protection District (District) reviewed the project, including the proposed private gate access to the site. They reviewed the applicant's plans, which indicated the pressurized water system, location and size of water tanks, and location of fire hydrants. The Department determined that the project would meet the District's requirements with provision made for Knox Box gate access and subject to conformance with State SRA requirements and subject to provision of emergency access.

A condition is included requiring establishment of a funding mechanism to provide for maintenance of a staffing ratio of two sworn Sheriff's officers per 1,000 residents served. The Sheriff's Department reviewed the project and indicated no concern with their ability to provide service subject to provision that their office be provided the access code for the private gate.

As stated in Finding 2, each lot of the subdivision will be served by an individual septic system. As recommended by the sewage feasibility analysis prepared by the applicant's consultant and accepted by the Health Department, each individual septic system will be required to be engineered.

The Health Department has determined through review of water quality information provided by the applicant that all constituents or chemicals analyzed meet the standards adopted by the California Department of Health Services for community public water systems with the exception of coliform bacteria at well # 4. A note will be included stating that prior to the use of Well #4, additional bacteriological testing will be required.

Based on the above considerations, the design of the subdivision and the type of improvements are not likely to cause serious health problems provided that the development complies with the conditions of approval.

STAFF RECOMMENDATION

Staff recommends adoption of the Mitigated Negative Declaration prepared for this project.

Staff believes the required findings can be made based upon the factors cited in the analysis, the recommended conditions, and the notes regarding mandatory requirements. Staff therefore recommends that the project be approved.

PLANNING COMMISSION MOTIONS:

RECOMMENDED MOTION (Approval Action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 4993; and
- Adopt findings noted in the staff report and approve Tentative Tract Map Application No. 5239, subject to the conditions listed below; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

ALTERNATIVE MOTION (Denial Action)

- Move to determine one or more of the required Tentative Tract Map findings cannot be made for the following reasons [state which finding(s) and reasons], and move to deny the project; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

CONDITIONS:

A. AUBERRY ROAD

1. Additional road right-of-way shall be provided to the Arterial standard of 53 feet of half right-of-way on the applicant's side of the road, plus additional area as needed for cuts and fills.

Note: Limits of cuts and fills will be identified by the Subdivider through submission of a conceptual design for Auberry Road widening along the frontage of the subdivision, including supporting topographic survey features outside of the current road right-of-way.

2. Auberry Road is classified as an arterial and as such, the direct access point from the proposed subdivision shall be relinquished except at the locations of the 60-foot wide entrance road and an emergency access road.
3. Adequate sight distance shall be provided at the intersection of the entrance road and Auberry Road.
4. A 30-foot by 30-foot cutoff shall be provided at the entrance road and Auberry Road.
- *5. A natural open space area extending 200 feet from the easterly right-of-way line of Auberry Road, widened in accordance with Condition A.1, shall be maintained parallel to Auberry Road, as follows:
 - a) General Plan Policy OS-L.3.d provides that the open space area be 200 feet in width, but allows modification of the setback requirement when topographic or vegetative conditions preclude such a setback or provide screening of buildings and parking areas from the right-of-way. Accordingly, the interior road providing access to Lots No. 31 through 36 may be located within the 200-foot setback area, structures may be allowed within the 200-foot natural open space area for Lot 37, but no closer than 150 feet from the right-of-way line, and structures may be allowed within the 200-foot natural open space area for Lots No. 40 and 41, but no closer than 100 feet from the right-of-way line.
 - b) No structures shall be allowed within the 200-foot natural open area on Lots No. 31 through 36, 38 and 39.
 - c) The subdivider may construct a tract boundary fence within the

natural open space area and described as a white split rail wood fence in the Operational Statement for the concurrent Conditional Use Permit Application No. 3157. Said fence shall conform to this description and to the design depicted in Exhibit 5 of this report. No other fencing shall be allowed within the 200-foot natural open space area except lot line fencing that may be constructed by private owners, and which shall be consistent with the design of the boundary fence.

d) The natural open space area shall be shown on the Final Map.

B. GATED ENTRY

1. Shall be constructed to a public road standard in accordance with County Improvement Standard A-2-b (28 feet of base and pavement plus transitions as needed). Applicant has proposed a median island within an 84-foot right-of-way at the entrance.
2. Vehicles denied access shall be able to exit the entrance in a continuous forward motion.
3. The call box or actuator setback from the public right-of-way shall be determined by statistical analysis using the "queuing theory" to insure that there is a 1% chance or less of a vehicle stopping in the public right-of-way due to a vehicle waiting to be granted access to the development. The analysis shall use a five-minute delay for the peak hour volume entering the development at the gate.
4. If a bypass lane with a separate call box or actuator is provided for the residents, their vehicles may be deducted from the analysis. This is assumed to be 90% of the peak hour traffic.
5. Each vehicle shall be given a 25-foot envelope in determining the setback from the public road.
6. The call box shall be located a minimum of 25 feet from the public right-of-way.
7. To address potential visual impacts from Auberry Road, a County Scenic Drive, the entrance gate structure shall be set back a minimum of 200 feet from Auberry Drive, unless a greater setback is required by other conditions of this subsection.
8. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.

9. Access through the subject site shall continue to be provided to those properties and parcels to the north and east of the proposed tract that had previously utilized Granite Creek Road for ingress and egress. Since the extent of such previous access easement rights is unknown and could affect additional parcels that could be divided in the future, a telephone call box shall be placed at the entrance to allow for calls to be received at parcels outside of the tract boundary in order to permit access through the gate. Since the gate is within a potential wildfire area, the exit gate shall open outwardly and/or permit exit via a crash gate construction feature in the event of a power failure.

C. INTERIOR ROADS AND CUL-DE-SACS

1. The entrance road (Granite Creek Road) shall be constructed to minimum 30 MPH design speed and in accordance with County Improvement Standard A-2b, but with 60 feet of right-of-way as shown on the tentative map (28 feet of pavement and base). The interior roads serving the lots shall be constructed to a 25 MPH. public road standard in accordance with County Improvement Standard A-1b (24-foot minimum width of pavement and base).
- *2. To mitigate a potentially significant traffic hazard as well as provide visual screening, the frontage road along the Auberry Road right-of-way shall be separated from Auberry Road by a berm. Landscaping of natural materials shall be planted on the berm and maintained by the Homeowner's Association until the plantings are self-sustaining. The applicant shall provide a landscaping plan to the County for review and approval.
3. Twenty-foot by twenty-foot corner cutoffs shall be provided at the intersection of all interior roads. Adequate sight distance shall be provided at all intersections based upon a 25 MPH. design speed for the interior streets. Roads shall intersect at approximately 90-degree angles.
4. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.
5. Interior roads and cul-de-sacs shall provide public utility easements outside of the roadway where needed.
6. A County Standard B-2 cul-de-sac shall be provided at the end of all cul-de-sac roads.
7. The 25 MPH design speed requires the interior roads to have a minimum curve radius of 230 feet.

8. The improvement plans shall clearly demonstrate how the 60-foot entrance road shall connect to the access road serving parcel maps east of the subject site. (Parcel Maps 7599, 7279, etc.).
9. Engineered plans for the road improvements shall be submitted to the County of Fresno for review and approval. The initial submittal shall include a soils report which shall identify a recommended traffic index, R-value and pavement section. If significant cuts and fills are involved, subsequent R-values shall be obtained for subgrade after completion of earthwork operations.

D. DRAINAGE AND EROSION CONTROL

1. Provisions shall be made to maintain natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of those parcels adjacent to the development. Any additional runoff generated from this tract shall be retained or detained on-site or by other facilities acceptable to the Director of Public Works and Planning.
2. A Hydraulics and Hydrology report shall be prepared for the stream traversing the property. The report shall establish the limits of inundation from a 100 year storm, base flood elevations for the parcels fronting on the stream, and shall establish a high water level at the proposed bridge and flow rate at the bridge for design purposes.
3. The applicant shall obtain an NPDES permit prior to construction or grading activities. A Notice of Intent shall be filed with the Regional Water Quality Control Board. A copy of the Notice shall be provided to the County.
4. The applicant shall develop a Storm Water Pollution Prevention Plan (SWPPP) and incorporate the plan into the construction improvement plans.

E. MAINTENANCE

1. A Zone of Benefit in County Service Area 35 or other method acceptable to the Director of Public Works and Planning shall be provided for the Maintenance of new roads and outlots. If the entrance road is gated, maintenance shall be by the Homeowner's Association or other entity acceptable to the Director.
2. The subdivider shall be required to secure the maintenance of the new roads for a period of two years after acceptance thereof.

3. Common facilities, including open space, private roads, and entrance gate, shall be maintained by a homeowners association.

F. UTILITIES

1. All utilities with the exception of the PG&E overhead transmission lines traversing the site shall be placed underground in accordance with the provisions of the Subdivision Ordinance.
2. Any existing utilities within or adjacent to this tract not in conformance with these requirements shall be removed or placed underground.
3. A ten-foot wide public utility easement shall be dedicated along all lot boundaries located adjacent to any street located within the tract.

G. STREET NAMES

1. The internal roads within the subdivision shall be named. The subdivider shall obtain approval from the Street Names Committee prior to final map approval.

H. FIRE PROTECTION:

1. The design of the fire protection water system with location and number of fire hydrants together with the size of the water mains shall conform to County Standards and shall be approved by the Director of the Department of Public Works & Planning after consideration of the recommendations of the fire district having jurisdiction of the area.
2. The property is located with State Responsibility Area for fire protection purposes. The applicant shall be required to comply with rules and regulations pertaining to water, emergency access, roads, and fuels mitigation established by the California Department of Forestry and the County's Ordinance Code as specified in Chapter 15.60.
3. Engineered plans for the fire protection system shall be reviewed and approved by the fire protection district having jurisdiction for the area in addition to the County.

I. EMERGENCY ACCESS ROADS:

1. Shall be contained within easements (minimum 20' wide) and shall connect to public roads.
2. Shall be improved to a standard to provide traversability for emergency equipment as determined by the Director of the Department of Public

Works and Planning after consideration of the recommendations of the fire district having jurisdiction of the area.

3. Crash gates shall be provided at both ends of the easements.

J. WATER AND SEWER

- *1. The proposed community water system shall be owned, operated and maintained by a County Service Area (CSA). Prior to the issuance of any building permits for any single family dwellings within the subject tract, the CSA shall submit an application and receive approval for a permit to operate a Public Water System. The permit application shall include supporting information, in the form of a technical report, and be submitted to the Fresno County Department of Community Health, Environmental Health Division for review. Approval for the permit will require demonstration of Technical, Managerial, and Financial (TMF) Capacity as well as documentation of the services of a State-Certified Water Distribution Operator. Contact Ed Yamamoto at (559) 445-3357 for more information. The subdivider shall assist the CSA staff in preparing the necessary documentation for submission to the Environmental Health Division in order to secure a water purveyor permit for the community system. Well sites shall be designated as outlots, and shall be provided with easement access for maintenance purposes.
- *2. All service connections shall be metered. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map. Each lot shall be required to have two (2) water meters. One meter will serve the residence and the second meter will serve the landscape irrigation needs. All such meters shall be equipped with remote read sensors so that homeowners may monitor their water usage. The irrigation meter shall not be installed until a copy of the proposed landscaping plans for the lot is reviewed and approved by the Architectural Review Committee and submitted to the County Service Area for review and forwarding to the County Geologist for approval to ensure that the proposed landscaping will not require more water than is available for the lot. Upon recordation of the final map, this requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet.
- *3. Only drip irrigation shall be allowed. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map.

- *4. Prior to recordation of the final map, a tiered rate schedule for the irrigation service for both domestic and landscaping use shall be adopted by the Board of Supervisors as the Governing Board of the County Service Area serving the project. The rate for irrigation services shall be significantly tiered to discourage the over-use of irrigation water. The tiered rate structure shall include procedures indicating when water meters will be read, payment of fees, notification of overuse, criteria for the disconnection of irrigation service due to overuse, an appeal process, and criteria for the reconnection of the water supply for irrigation services.
- *5. Prior to recordation of the final map, the applicant shall develop and submit to the County Geologist and the Resources Division of Public Works & Development Services Department a groundwater monitoring program for the proposed community water system. The cost of ongoing monitoring shall be included in the rate schedule established by the County Service Area. Approval and acceptance of the groundwater monitoring program shall be made by the County Geologist.
- *6. Wells 2, 4 and 5 shall be used for the community water system. Well No. 3 shall be limited to use only as a monitoring well. Well No. 6 shall be used as a backup well, but only after additional testing to quantify impact on wells to the south and only to the extent that no significant impacts occur.
- *7. All onsite wells shall be equipped with dedicated pressure transducers and a data logger is to be provided.
- 8. All rights to ground water beneath the tract shall be dedicated to the County of Fresno. Private property owners shall be prohibited from digging any wells.
- *9. Individual engineered sewage disposal systems shall be installed in accordance with the Geology and Sewage Feasibility Study prepared by Norbert W. Larsen, Ph.D., dated November 28, 2003 and numbered NWL 21053. Such a system, following an on-site investigation, must be designed and installation certified by a California registered civil engineer or registered geologist. It is the responsibility of the property owner, the property buyer, the engineer, and/or the sewage disposal system contractor to confirm required setbacks, separations, and other special requirements or conditions which may affect the placement, location, and construction of the sewage disposal system.

K. SOILS REPORT

1. A soils report is required for the subdivision as a condition of the final map. The soils report needs to address the feasibility of the site for the type of development as proposed.
2. Some lots have grades in excess of 30%. The soils report needs to address limitations on building in these excessive slopes.

L. BIOLOGICAL RESOURCES

*1. OUTLOTS FOR ENVIRONMENTALLY SENSITIVE AREAS

In order to protect wildlife resources, outlots as listed below shall be identified as no-construction/no-disturbance environmentally sensitive areas on the final map and shall remain in their natural state. The final map and the private Covenants, Conditions and Restrictions (C.C. & R's) shall state that ground disturbing activities, (e.g., grading, fencing, construction, clearing, landscaping, or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map Application No. 5239, or the cutting or removal of any natural vegetation, is prohibited unless otherwise approved by the Director of Public Works and Planning after consideration of the recommendations of the California Department of Fish and Game.

- a) Outlot "A", consisting of 12.6 acres, shall be established as a wildlife movement corridor and for public utility purposes. Said corridor shall have a minimum width of 180 feet.
- b) Outlot "B", consisting of 19.43 acres, shall be established for creek riparian purposes and shall include the 4.30 acres depicted as "Tributary Waters of the United States meeting the Technical Criteria of Jurisdictional Wetlands" on the Yamabe & Horn Engineering, Inc. map dated 6/27/2003, and verified by the Army Corps of Engineers by letter dated August 5, 2004, together with a minimum 50-foot buffer from the upper edges of the North Fork of Little Dry Creek or from the outer edge of the dripline of riparian vegetation, whichever is greater, and a minimum 30 feet buffer from the upper edges of Tributaries 3 and 5.
- c) Outlots "A" and "B" shall be managed and maintained by the Homeowners Association for the benefit of wildlife resources. Input on the management and maintenance shall be provided by a resource management professional(s) approved by the Department of Fish and Game.

- d) Only downward directed lighting shall be used in proximity to open space areas.

***2. OAK MANAGEMENT**

- a) The subdivider shall prepare an Oak Management Plan for review and approval by the County prior to recordation of the Final Map. The Plan shall be prepared in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan).

- b) Pursuant to Section 21083.4 of the Public Resources Code, the County has determined that the project will result in a conversion of oak woodlands that will have a significant effect on the environment. Accordingly, the Oak Management Plan prepared under Condition *2.a.) above shall incorporate the following measures to mitigate the significant effect:

- (1) The subdivider shall pay a one time mitigation fee of \$175.00 per lot to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, and further agrees to establish a covenant that requires the payment by the seller of an additional \$1,000.00 to the Conservation Fund upon the subsequent sale or transfer of ownership for each parcel within the project.
- (2) The subdivider shall establish a monitoring protocol that identifies all oak trees at least five inches in diameter at breast height that are to be removed at the time the roadway system and individual lots are developed. The Plan shall include a map showing all trees proposed for removal.
- (3) Any trees that are removed shall be replaced within the boundary of the tract at a ratio of 5:1. Trees removed for road construction shall be replaced within the 200-foot natural open space area parallel to the right-of-way for Auberry Road (see Condition No. 8). Trees removed for development on residential lots shall be replaced elsewhere on the lot. Replacement trees shall be a minimum of five gallons in planting size.
- (4) Replacement trees shall be maintained by the Homeowner's Association for a period of seven years

after planting. Maintenance shall include replacing dead or diseased trees.

- (5) Each lot purchaser shall review and understand the information contained in "Living Among the Oaks" and 'Wildlife Among the Oaks' publications prior to applying for a construction permit. These publications shall be provided by the applicant to each lot purchaser.

***3. RAPTOR PROTECTION**

The subdivider shall have a qualified biologist survey the Project site for tree nesting raptors 30 days prior to the onset of construction if construction is to begin during the raptor nesting season (February through August). No construction or ground disturbance shall take place during nesting seasons within 300 feet of any active raptor nest identified on the site until after the young have dispersed. Biological monitoring shall occur until the young have dispersed. A report shall be submitted to the County and to the Department of Fish and Game summarizing the results of each survey and subsequent biological monitoring.

***4. ANNUAL REPORT**

The Homeowner's Association shall retain a qualified professional biologist to prepare and submit a report to the County and the State Department of Fish and Game for review and approval, on an annual basis, for a period of ten years following recordation of the final map. The subdivider and subsequent homeowner's association shall provide funds necessary to implement this condition, including any necessary corrective action. The report shall address the following:

- a) Compliance with state and federal wetland permit requirements.
- b) Possible degradation of wetland areas from erosion and sedimentation.
- c) Compliance with the Condition No. L1 relating to the environmentally sensitive areas within the tract.
- d) Compliance with the approved Oak Management Plan, including mitigation measures.
- e) Compliance with the mitigation relating to tree-nesting raptors.
- f) List of mitigation measures not in compliance, with

recommended corrective action.

***M. TRAFFIC**

1. Prior to issuance of a building permit, the applicant shall enter into an agreement with the County agreeing to participate on a pro-rata share basis in the funding of future off-site traffic improvements for the year 2025 for the improvements defined in items (a) through (c) below. The traffic improvements and the project's maximum pro-rata share of the associated costs are as follows:

a) Signalization improvements at the intersections of:

- Auberry and Millerton Roads
The project maximum share is 2.54%
- Auberry Road and Copper Avenue
The project maximum share is 0.95%
- Auberry Road and Marina Avenue
The project maximum share is 1.16%
- Copper and Willow Avenues
The project maximum share is 0.45%

b) Improvements to the road segment:

- Auberry Road from Copper Avenue to Millerton Road
The project maximum share is 1.12%

c) Improvements to the road segment:

- Copper Avenue from Auberry Road to Willow Avenue
The project maximum share is 0.85%

(The current total estimated pro-rata cost of these improvements is \$197,962.)

NOTE: The County shall update cost estimates for the above-specified improvements prior to execution of the agreement. The Board of Supervisors pursuant to Ordinance Code Section 17.88 shall adopt a Public Facilities Fee addressing the updated pro-rata costs. The fee shall be paid prior to issuance of building permits based on the traffic generated by a specific use authorized by a Site Plan Review that substantially increases traffic generation. The Public Facilities

Fee shall be related to off-site road improvements, plus costs required for inflation based on the Engineering New Record (ENR) 20 Cities Construction Cost Index.

2. Prior to issuance of a building permit the applicant shall enter into an agreement with Caltrans agreeing to pay \$1,410 to Caltrans as the project's pro rata share of the estimated cost for funding improvements to the State Route 168/ Auberry Road intersection.

N. OUTLOTS

1. The use of all Outlots shall be designated on the recorded map.
2. Ownership of all Outlots (except for Outlots conveyed to the CSA) shall be by the homeowners association for the benefit of all owners, as an undivided interest by all the lot owners, or by other method approved by the Director. No Outlot shall be developed, except as allowed by the Fresno County Zoning Ordinance, nor shall any Outlot be divided or be encumbered by a mortgage or other lien as security for a debt without the prior written consent of the Board of Supervisors, and 66-2/3 percent of the owners and mortgagees. The County is the intended beneficiary of this provision and shall have the right to enforce this provision by all available remedies, legal and equitable. This condition shall be included in a recorded covenant to run with the land.

O. OTHER CONDITIONS

- *1. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, the Department of Fish and Game shall be provided with appropriate streambed alteration notification pursuant to Fish and Game code sections 1600-1603 et. Seq.
- *2. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, a Clean Water Act Section 404 Permit shall be obtained from the United States Department of the Army, Army Corps of Engineers and a Clean Water Act Section 401 Water Quality Certificate permit shall be obtained from the California Regional Water Quality Control Board.
- *3. Prior to recordation of the final map, Open Space Easement Indenture Agreements shall be executed between the County and the property owner to protect several significant archaeological sites found on the

subject property and identified in A Cultural Resources Resource Study of the Everton Property-Granite Creek Road Fresno County dated August, 2003, prepared by Don Wren, consulting Archaeologist. Prior to recordation of the final map, this requirement shall be recorded as a covenant running the land and shall be noted on an attached map sheet.

- *4. Prior to recordation of a final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for Sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism.
5. Prior to recording a final map, an agreement incorporating the provisions of the "Right-to-Farm" notice (Ordinance Code Section 17.01.100) shall be entered into with Fresno County.
6. All conditions of concurrent Classified Conditional Use Permit Application No. 3157 shall be complied with.

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

NOTES:

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

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

124, November, 1990).

3. The proposed development shall implement all applicable Best Management Practices presented in the Construction Site and Post-Construction Storm Water Quality Management Guidelines, to reduce the release of pollutants in storm water runoff to the maximum extent practicable.
4. Prior to the use of Well #4, additional bacteriological testing will be required.

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MADERA COUNTY

LOCATION MAP



AUBERRY

PRATHER

168



Millerton Lake

AUBERRY RD

SUBJECT PROPERTY

MILLERTON RD

MILLERTON RD

TOLLHOUSE RD

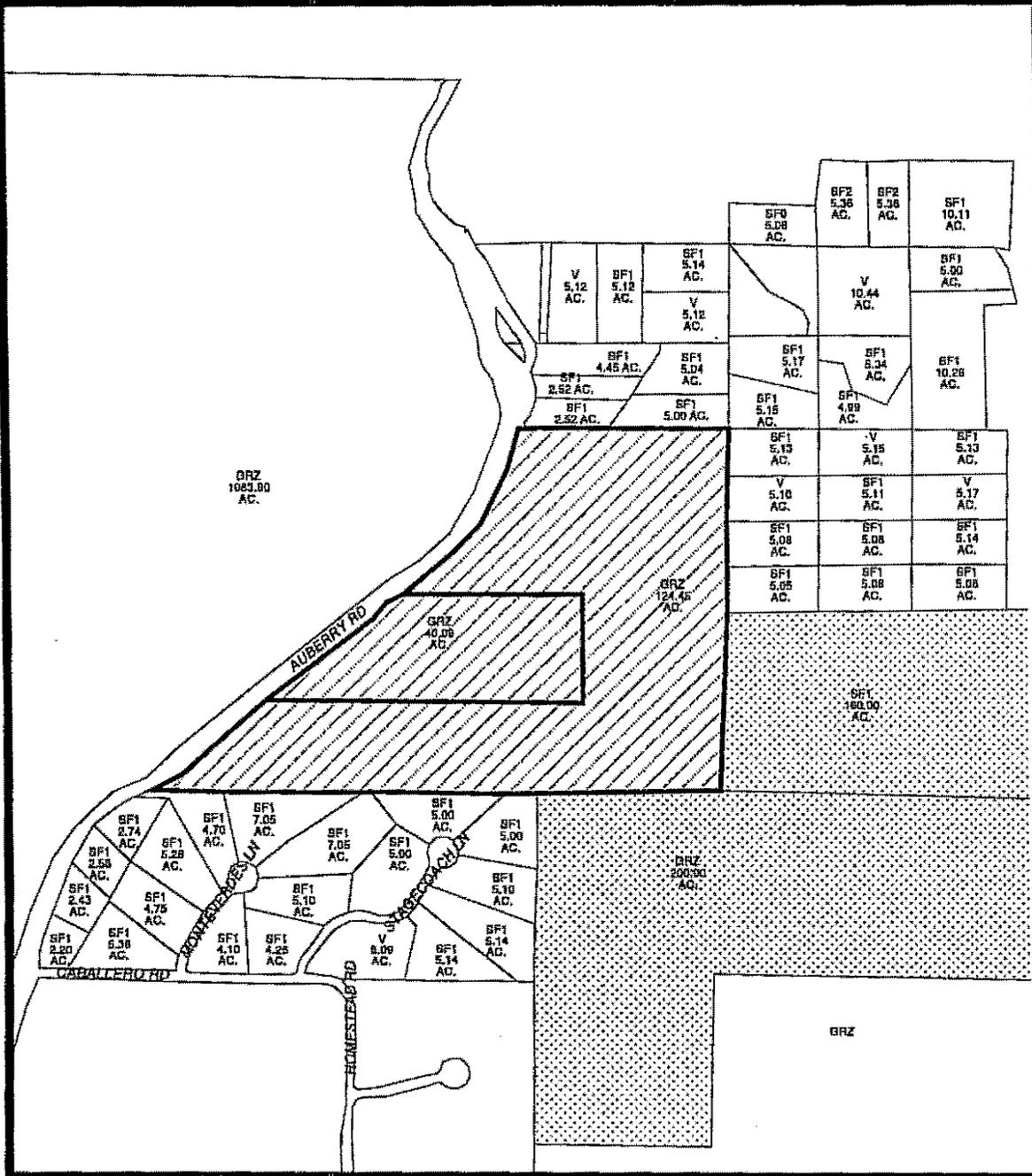
AUBERRY RD

TOLLHOUSE RD



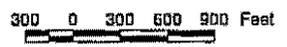
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EXISTING LAND USE MAP

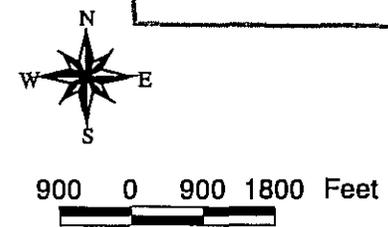
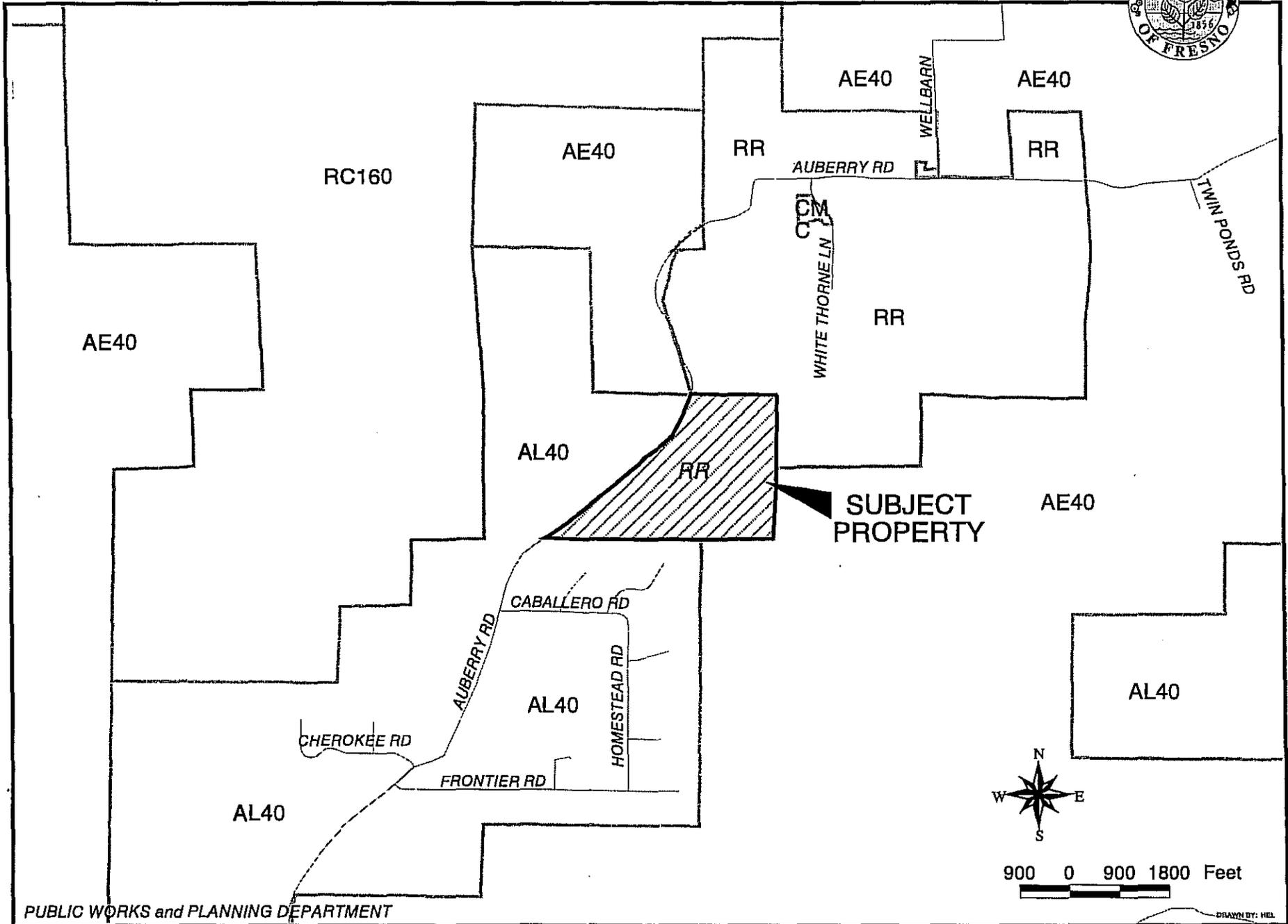


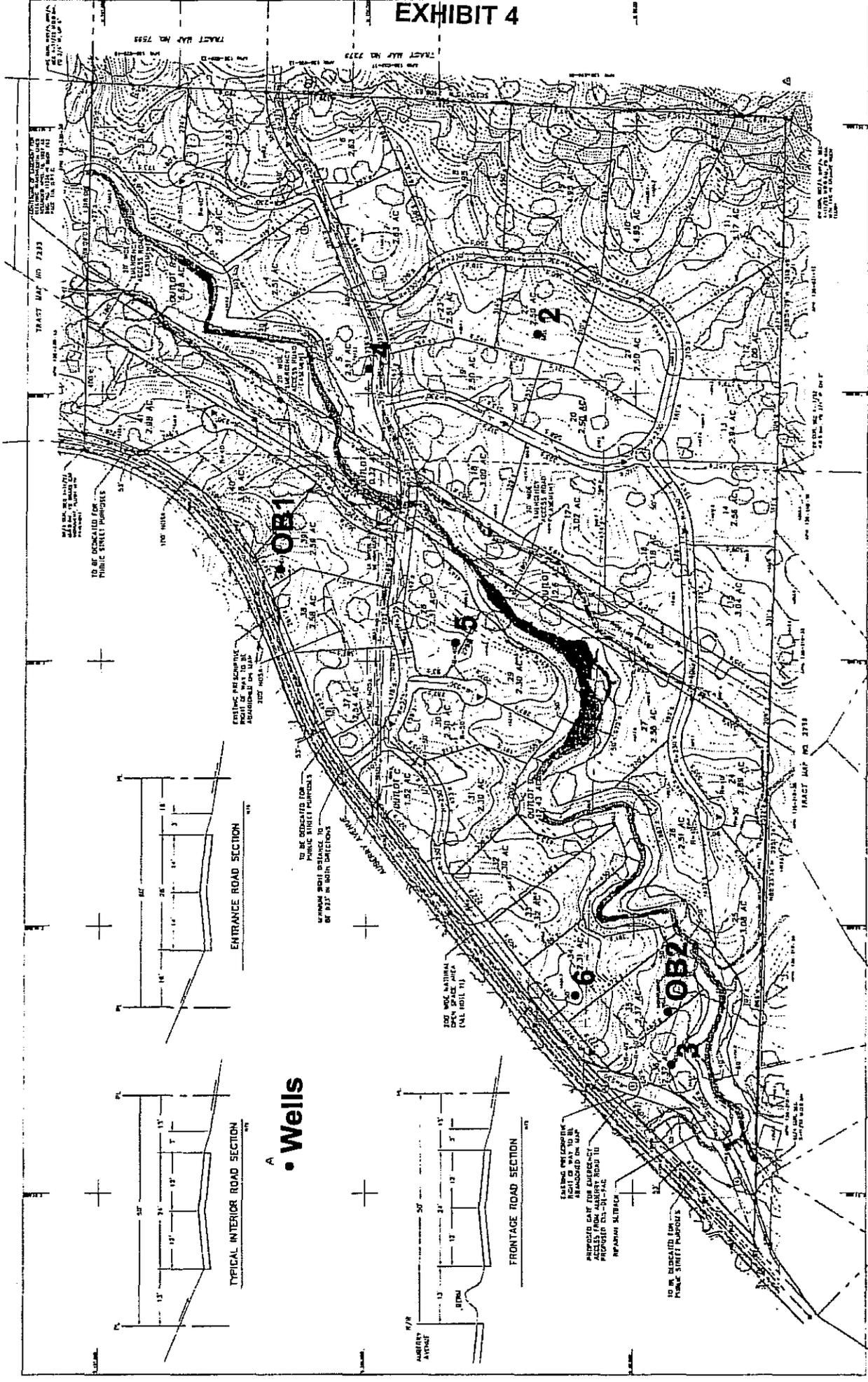
Legend
GRZ - GRAZING
SF# - SINGLE FAMILY RESIDENCE
V - VACANT

- Subject Property
- Ag Contract Land



EXISTING ZONING MAP





• Wells

TRACT MAP NO. 7233

TRACT MAP NO. 7233

TRACT MAP NO. 3751

TRACT MAP NO. 3751

TRACT MAP NO. 7555

TO BE DEDICATED FOR PUBLIC STREET PURPOSES

EXISTING FIRE SERVICE CONNECTIONS ON THIS TRACT

EXISTING POWER LINES

EXISTING TELEPHONE LINES

EXISTING WATER LINES

EXISTING SEWER LINES

EXISTING GAS LINES

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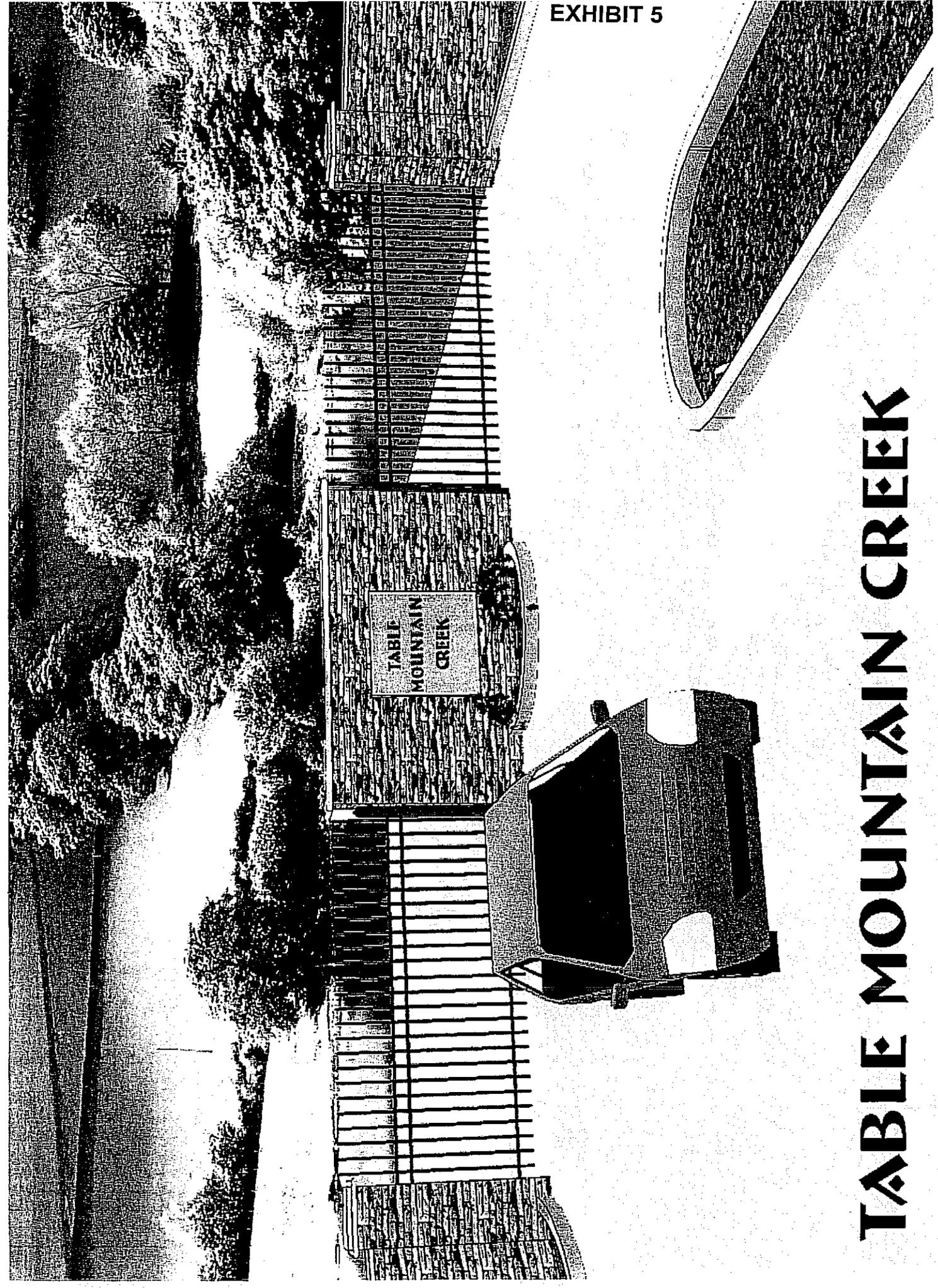
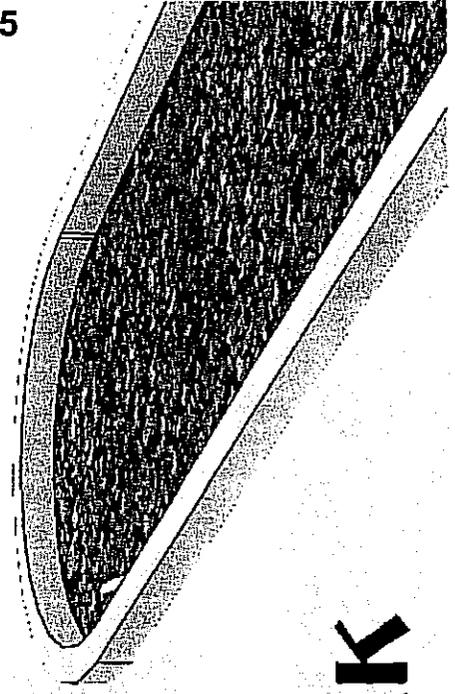


TABLE MOUNTAIN CREEK



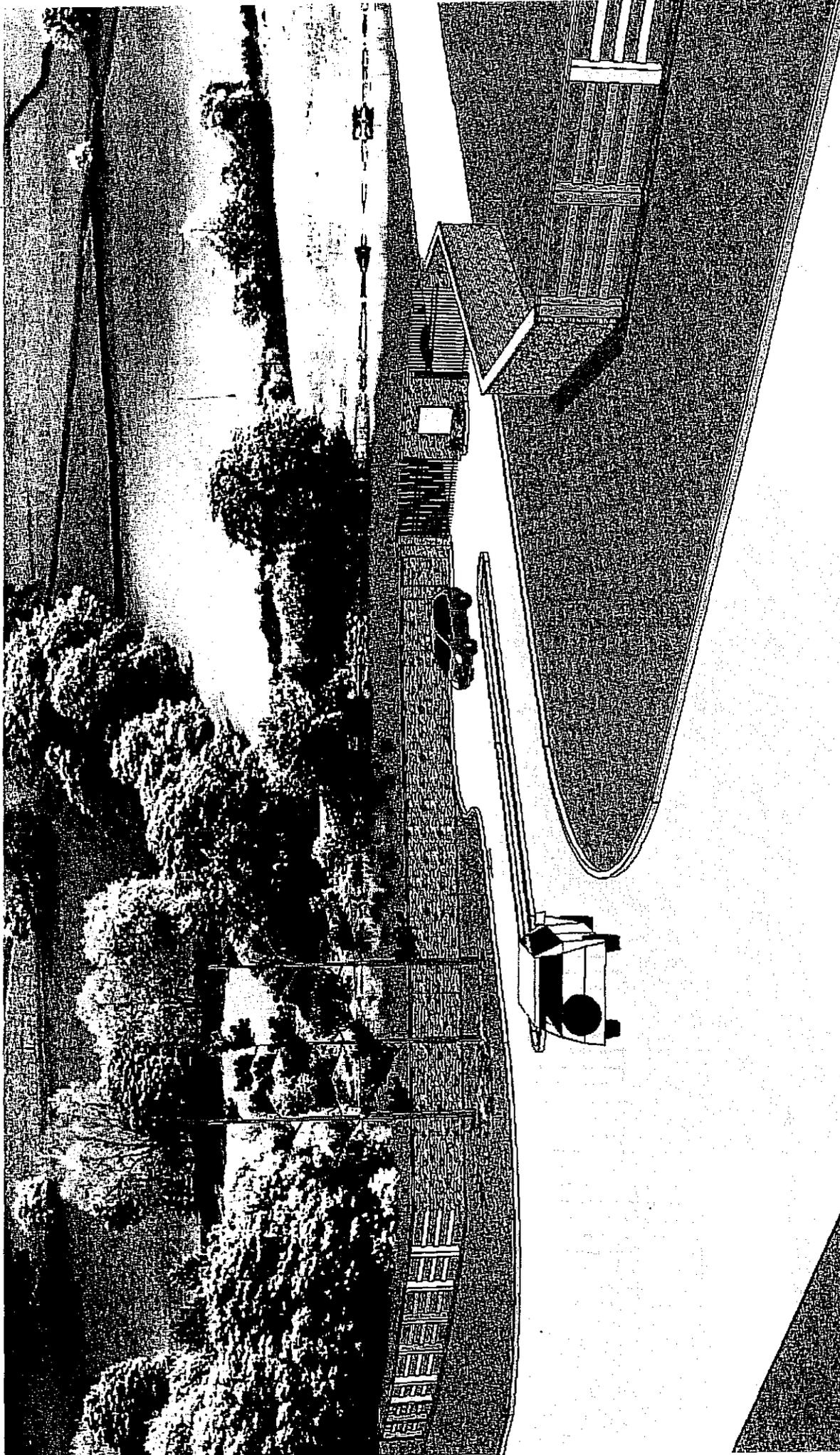


TABLE MOUNTAIN CREEK



DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

**INITIAL STUDY
ENVIRONMENTAL CHECKLIST FORM**

A. INTRODUCTION

1. **Project title:**
Tentative Tract Application No. 5239; Classified Conditional Use Permit Application No. 3157; Initial Study Application No. 4993
2. **Lead agency name and address:**
*Fresno County Department of Public Works and Planning
Development Services – 6th Floor
2220 Tulare Street, Fresno, CA 93721-2104*
3. **Contact person and phone number:**
Lew Pond, Planning & Resource Analyst (559) 262-4321
4. **Project location:**
The subject property is located on the east side of Auberry Road between Caballero and Wellbarn Roads, approximately four miles west of the unincorporated community of Prather (SUP. DIST.: 5) (APN: 138-021-75, 76).
5. **Project sponsor's name and address:**
James Bratton, 2763 N. Argyle Avenue, Fresno, CA 93727
6. **General plan designation:**
Rural Residential, Sierra North Regional Plan
7. **Zoning:**
RR (Rural Residential)
8. **Description of project:**
Allow a planned residential development consisting of 41 lots with a minimum parcel size of two acres with private roads on a 164.53-acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) District. The project proposes a community water system and individual septic systems for each lot. Outlots are proposed for a utility easement through the site and to protect identified biological habitats. The project is proposed as a gated community with private roads.
9. **Surrounding land uses and setting: Briefly describe the project's surroundings:**
The subject property is located on the east side of Auberry Road between Caballero and Wellbarn Roads, approximately four miles west of the unincorporated community of Prather. The site is located in the foothills of the Sierra approximately four miles west of the unincorporated community of Prather. Single-family residential uses are located on two to five acre parcels north and south of the site on the east side of Auberry Road. The land east of the site and to the west across Auberry Road is used for grazing.

DEVELOPMENT SERVICES DIVISION

2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 262-4055 / 262-4029 / 262-4022 FAX 262-4893
Equal Employment Opportunity • Affirmative Action • Disabled Employer

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 Initial Study Environmental Checklist on the following pages.

- Aesthetics
- Air Quality
- Cultural Resources
- Hazards & Hazardous Materials
- Land Use/Planning
- Noise
- Public Services
- Transportation/Traffic
- Mandatory Findings of Significance

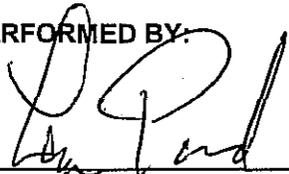
- Agriculture Resources
- Biological Resources
- Geology/Soils
- Hydrology/Water Quality
- Mineral Resources
- Population/Housing
- Recreation
- Utilities/Service Systems

DETERMINATION OF REQUIRED ENVIRONMENTAL DOCUMENT:

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment. **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 the mitigation measures described on the attached sheet have been added to the project. **A MITIGATED NEGATIVE DECLARATION WILL BE PREPARED.**
- I find the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required
- I find that as a result of the proposed project no new effects could occur, or new mitigation measures would be required, that have not been addressed within the scope of a previous Environmental Impact Report.

PERFORMED BY:

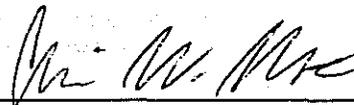


Lew Pond, Planning and Resource Analyst

Date:

4/20/06

REVIEWED BY:



Chris Motta, Senior Staff Analyst

Date:

4/20/06

INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM

Initial Study Application No. 4993

Tentative Tract Map Application No. 5239

The following checklist is used to determine if the proposed project could potentially have a significant effect on the environment. Explanations and information regarding each question follow the checklist.

1-No Impact

2-Less Than Significant Impact

3-Less Than Significant Impact with Mitigation Incorporated

4-Potentially Significant Impact

1. AESTHETICS

Would the project:

- 2 a) Have a substantial adverse effect on a scenic vista?
- 3 b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?
- 2 c) Substantially degrade the existing visual character or quality of the site and its surroundings?
- 2 d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

2. AGRICULTURAL RESOURCES

Would the project:

- 1 a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency to non-agricultural use?
- 1 b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?
- 1 c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to nonagricultural use?

3. AIR QUALITY

Would the project:

- 2 a) Conflict with or obstruct implementation of the applicable air quality plan?
- 2 b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?
- 2 c) Result in a cumulatively considerable net increase of any

criteria pollutant for which the project region is non-attainment under applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?

- 2 d) Expose sensitive receptors to substantial pollutant concentrations?
- 1 e) Create objectionable odors affecting a substantial number of people?

4. BIOLOGICAL RESOURCES

Would the project:

- 3 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?
- 3 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?
- 3 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?
- 3 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?
- 3 e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?
- 1 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?

5. CULTURAL RESOURCES

Would the project:

- 3 a) Cause a substantial adverse change in the significance of a historical resource as defined in Public Resources Code Section 15064.5?
- 3 b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Public Resources Code Section 15064.5?
- 1 c) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?

Would the project:

- 1 d) Disturb any human remains, including those interred outside of formal cemeteries?

6. GEOLOGY AND SOILS

Would the project:

- a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - 1 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?
 - 1 ii) Strong seismic ground shaking?
 - 1 iii) Seismic-related ground failure, including liquefaction?
 - 1 iv) Landslides?
- 2 b) Result in substantial soil erosion or loss of topsoil?
- 1 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?

- 1 d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?
- 3 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?

7. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- 1 a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?
- 1 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?
- 1 c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?
- 1 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?
- 1 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?
- 1 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?
- 1 g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?
- 1 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?

8. HYDROLOGY AND WATER QUALITY

Would the project:

- 2 a) Violate any water quality standards of waste discharge requirements?
- 3 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)?
- 2 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?
- 1 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?
- 2 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?
- 2 f) Otherwise substantially degrade water quality?
- 1 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?
- 1 h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?
- 1 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?

- 1 j) Inundation by seiche, tsunami, or mudflow?

9. LAND USE AND PLANNING

Would the project:

- 1 a) Physically divide an established community?
- 1 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?
- 1 c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

10. MINERAL RESOURCES

Would the project:

- 1 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?
- 1 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?

11. NOISE

Would the project:

- 2 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?
- 2 b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?
- 2 c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
- 2 d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?
- 1 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?

- 1 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?

12. POPULATION AND HOUSING

Would the project:

- 1 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)?
- 1 b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?
- 1 c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

13. PUBLIC SERVICES

Would the project:

- a) Would the project result in 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:
- 2 i) Fire protection?
- 3 ii) Police protection?
- 1 iii) Schools?
- 1 iv) Parks?
- 1 v) Other public facilities?

14. RECREATION

Would the project:

- 1 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?

- 1 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?

15. TRANSPORTATION / TRAFFIC

Would the project:

- 3 a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?
- 3 b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?
- 1 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?
- 3 d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?
- 1 e) Result in inadequate emergency access?
- 1 f) Result in inadequate parking capacity?
- 1 g) Conflict with adopted policies, plans or programs supporting alternative transportation (e.g. bus turnouts, bicycle racks)?

16. UTILITIES AND SERVICE SYSTEMS

Would the project:

- 3 a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?
- 3 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?
- 2 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?
- 2 d) Have sufficient water supplies available to service the project from existing entitlements and resources, or are new or expanded entitlements needed?
- 3 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?
- 1 f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?
- 1 g) Comply with federal, state, and local statutes and regulations related to solid waste?

17. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

- 2 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?

- 1 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)?
- 1 c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly.

Documents Referenced:

This Initial Study references the documents listed below. These documents are available for public review at the County of Fresno, Department of Public Works and Planning, Development Services Division, 2220 Tulare Street, Fresno, California (corner of M & Tulare Streets).

- a. Fresno County General Plan, Policy Document
- b. Final EIR for the Fresno County General Plan, Policy Document
- c. Fresno County Zoning Ordinance
- d. Biological Evaluation Report; Live Oak Associates, Sept. 16, 2003
- e. Waters of the United States, Vesting Tentative Tract Map 5239, Live Oak Associates, March 26, 2004
- f. Traffic Impact Study, Peters Engineering Group, November 10, 2003
- g. Geology and Sewage Feasibility Study, Norbert Larsen, Ph.D.



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

EVALUATION OF ENVIRONMENTAL IMPACTS

APPLICANT: James Bratton

APPLICATION NOS: Initial Study Application No. 4993, Tentative Tract Map Application No. 5239, and Classified Conditional Use Permit Application No. 3157

DESCRIPTION: Allow a planned residential development consisting of 41 lots with a minimum parcel size of two acres with private roads on a 164.53-acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) District. The subject property is located on the east side of Auberry Road between Caballero and Wellbarn Roads, approximately four miles west of the unincorporated community of Prather (SUP. DIST.: 5) (APN: 138-021-75, 76).

1. AESTHETICS

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

FINDING – Less Than Significant Impact With Mitigation Incorporated:

The subject site lies in the foothills of the Sierra Nevada Mountains between the elevations of 750 and 1,100 feet. The site is located just east of Auberry Road, which is designated as an Arterial in the Transportation and Circulation Element of the General Plan, and is also designated as a Scenic Highway within the Open Space and Conservation Element of the General Plan.

DEVELOPMENT SERVICES DIVISION

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Auberry Road's designation as a Scenic Highway in the General Plan requires that the project be reviewed for conformance with the Scenic Roadway provisions of the Plan, including Goal OS-L, which is "To preserve, protect and maintain the scenic quality of land and landscape adjacent to scenic roads in Fresno County."

Approval of the project would result in the construction of a private gate at the project entrance, approximately two miles of interior roadways and allow construction of 41 single-family residences and related improvements, including a community water system and individual septic systems.

The north fork of Little Dry Creek, a seasonal stream that traverses the site in a northeast to southwest direction. The stream bed is parallel to Auberry Road, at a distance ranging from 200 to 800 feet. The creek is visible to passersby only at the very southwest corner of the site. This area is designated as an outlot for biological conservation purposes, and no improvements will be allowed that would alter the existing view of the creek from the road. There are no existing improvements on the site with the exception of a high voltage power line that traverses the site generally in a northeast to southwest direction. The transmission towers are constructed of lattice design of heavy steel materials. This line is within a 180-foot easement owned by PG&E.

As indicated by the tentative map, all but five or six of the proposed lots lie between the elevations of 800 and 950 feet. The remaining lots would allow homes to be constructed against a steep hillside rising from 950 to 1,100 feet at the southeastern corner of the site. The hillside terminates at an elevation of 1,275 feet, at a distance of approximately 700 feet off-site. No improvements are proposed on any ridge lines.

The Biological Evaluation prepared for the project classifies the site as mixed oak woodland, with blue oaks, live oaks and foothill pines as the dominant woodlands. Rock outcroppings are found on the site, particularly in the lower portions along Little Dry Creek.

In summary, the existing aesthetic quality of the site is considerable, but it is marred to some extent by the high voltage transmission line and its towers.

A number of mitigation measures included in the project to protect biological resources will also significantly reduce aesthetic impacts. An additional mitigation measure is included so that the resulting impact on aesthetic resources is at a less than significant level.

32 acres of the 164.53-acre site are designated as outlots for the protection of wildlife habitat and for wildlife movement. This includes all of Little Dry Creek, with a 50-foot buffer from the upper edges of the creek and two tributaries of the creek with a 30-foot buffer. No ground disturbance will be allowed within these outlots. On-site visits by staff and aerial photos show that almost all rock outcroppings are located along the stream and will, therefore, be protected within an outlot.

The applicant will also be required to prepare an Oak Management Plan for review and approval by the County prior to recordation of the Final Map. The Plan shall be prepared in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan) and must include mitigation measures required pursuant to Section 21083.4 of the Public Resources Code, relating to conversion of oak woodlands. Any trees larger than five inches in diameter at breast height must be replaced within the boundary of the tract at a ratio of 5:1. Trees removed for road construction shall be replaced within the 200-foot natural open space area parallel to the right-of-way for Auberry Road. Trees removed for development on residential lots shall be replaced elsewhere on the lot. Replacement trees shall be a minimum of five gallons in planting size.

To further reduce aesthetic impacts so that the resulting impact is less than significant, the following mitigation measure is included:

- (1) A natural open space area extending 200 feet from the southerly right-of way line of Auberry Road, widened in accordance with Condition A.1, shall be maintained parallel to Auberry Road, as follows:
 - (a) General Plan Policy OS-L.3.d provides that the open space area be 200 feet in width, but allows modification of the setback requirement when topographic or vegetative conditions preclude such a setback or provide screening of buildings and parking areas from the right-of-way. Accordingly, the interior road providing access to Lots No. 31 through 36 may be located within the 200-foot setback area, structures may be allowed within the 200-foot natural open space area for Lot 37, but no closer than 150 feet from the right-of-way line, and structures may be allowed within the 200-foot natural open space area for Lots No. 40 and 41, but no closer than 100 feet from the right-of-way line.
 - (b) No structures shall be allowed within the 200-foot natural open area on Lots No. 31 through 36, 38 and 39.

- (c) *A covenant shall be recorded with the Final Map requiring that any fences located within the established natural open space area be uniform in appearance and be designed to minimize visual impacts from the right-of-way.*
- (d) *The natural open space area shall be shown on the Final Map.*

Based upon these considerations and upon the adoption of the above described mitigation measures, aesthetic impacts of the project will be less than significant.

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

FINDING – Less Than Significant Impact:

Outside lighting would be allowed by the project in the form of lighting for new single-family residences and nighttime movement of vehicles. This impact is not considered to be significant. As a mitigation measure to reduce impacts to wildlife, a condition is included requiring only downward directed lighting in proximity to open space areas.

2. AGRICULTURAL RESOURCES

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

FINDING - No Impact:

The project site is designated as Grazing Land on the Map of Farmlands of Statewide Importance. The project is located on a site designated Rural Residential in the General Plan and is zoned RR. The site is not subject to a Williamson Act contract.

3. AIR QUALITY

- a) **Would the project conflict with or obstruct implementation of the applicable air quality plan?**

- b) **Would the project isolate any air quality standard or contribute to an existing or projected air quality violation;**
- c) **Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a federal or state ambient air quality standard; or**
- d) **Would the project expose sensitive receptors to substantial pollutant concentrations?**

FINDING – Less Than Significant Impact:

The San Joaquin Valley Pollution Control District (Air District) reviewed this project and indicated that the entire San Joaquin Valley is non-attainment for ozone and fine particulate matter (PM-10) and that the subject project would contribute to the overall decline in air quality due to increased traffic and ongoing operational emissions. The Air District indicated that although the project alone would not generate significant air emissions, the increase in emissions from the project and others like it, cumulatively reduce the air quality in the San Joaquin Valley. The Air District indicated that a concerted effort should be made to reduce project-related emissions.

The Air District states that the project will be subject to mandatory rules and regulations including District Rules 4901 and 4902 which regulate the sale, installation of wood burning devices and natural gas-fired water heaters to limit emissions of PM10 and Nox in residential developments; District Regulation VIII – Fugitive Dust Rules, a series of rules designed to reduce PM10 emissions generated by human activity; and District Rule 4641 relating to paving operations.

Adherence to the mandatory regulations would reduce air related impacts to a less than significant level.

The Air District further stated that there are a number of recommended, but non-mandatory, measures that can be incorporated into the design of the project to reduce the project's overall level of emissions. A list of these measures has been provided to the applicant.

- e) **Would the project create objectionable odors affecting a substantial number of people?**

FINDING – No Impact:

No such impacts were identified in the project analysis.

4. BIOLOGICAL RESOURCES

- a) **Would the project have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special-status species?**
- b) **Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFG or USFWS?**
- c) **Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means?**
- d) **Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?**
- e) **Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

FINDING – Less Than Significant Impact With Mitigation Incorporated

A Biological Evaluation of the site was performed by Live Oak Associates (LOA) dated September 16, 2003. In relationship to plant life, mixed oak woodland and Button Willow Scrub associated with the natural drainage of the site were the only two habitats observed on the site. The report concludes that the project will result in a less than significant impact to regional populations of special status animal species, a less than significant impact on riparian habitat, and less than significant impact on regional wildlife movements. The report states that three special status plant species could be present on the site, the Madera Linanthus, Orange Lupine, and Mariposa Pussypaws. The State Department of Fish and Game (F&G) reviewed the evaluation and indicated that a Federally-listed species, the Valley Elderberry Beetle could also be impacted by the project. Follow up surveys by Live Oak Associates, reported in letters dated April 27 and May 17, 2004, concluded that the blue elderberry, a shrub providing habitat for the VELB, and that the Mariposa Pussypaws were not observed on the site.

As indicated in the Biologic Evaluation Report for the project, the project area contains Army Corps of Engineers (ACOE) jurisdictional "Waters of the United States". A report entitled "Waters of the United States, Table

Mountain Creek Subdivision” was prepared by LOA dated March 26, 2004, and forwarded to the ACOE. By letter dated August 5, 2004, ACOE verified that the site contains 4.30 acres of waters of the United States, including wetlands.

The State Department of Fish and Game commented on the Biological Evaluation by letter dated April 13, 2004. Notwithstanding the conclusions of the evaluation that impacts to riparian habitat and wildlife movement would be less than significant, F&G requested that mitigation measures be adopted establishing stream setbacks and a wildlife movement corridor.

Pursuant to Section 21083.4 of the Public Resources Code, the County has determined that the project will result in a conversion of oak woodlands that will have a significant effect on the environment. Mitigations are included as required by this code section, along with the preparation of an Oak Management Plan in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan).

The following mitigation measures are included to reduce potential impacts to biological resources to a less than significant level:

***Mitigation Measure**

1. OUTLOTS FOR ENVIRONMENTALLY SENSITIVE AREAS

In order to protect wildlife resources, outlots as listed below shall be identified as no-construction/no-disturbance environmentally sensitive areas on the final map and shall remain in their natural state. The final map and the private Covenants, Conditions and Restrictions (C.C. & R's) shall state that ground disturbing activities, (e.g., grading, fencing, construction, clearing, landscaping, or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map No. 5239, or the cutting or removal of any natural vegetation, is prohibited unless otherwise approved by the Director of Public Works and Planning after consideration of the recommendations of the California Department of Fish and Game.

- (a) *Outlot “A” shall be established as a wildlife movement corridor. Said corridor shall have a minimum width of 180 feet.*
- (b) *Outlot “B” shall include the 4.30 acres depicted as “Tributary Waters of the United States meeting the Technical Criteria of Jurisdictional Wetlands” on the Yamabe & Horn Engineering,*

Inc. map dated 6/27/2003, and verified by the Army Corps of Engineers by letter dated August 5, 2004, together with a minimum 50-foot buffer from the upper edges of the North Fork of Little Dry Creek or from the outer edge of the dripline of riparian vegetation, whichever is greater, and a minimum 30 foot buffer from the upper edges of Tributaries 3 and 5.

2. OAK MANAGEMENT

- (a) *The subdivider shall prepare an Oak Management Plan for review and approval by the County prior to recordation of the Final Map. The Plan shall be prepared in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan).*
- (b) *Pursuant to Section 21083.4 of the Public Resources Code, the County has determined that the project will result in a conversion of oak woodlands that will have a significant effect on the environment. Accordingly, the Oak Management Plan prepared under Condition *2 above shall incorporate the following measures to mitigate the significant effect:*
 - i. *The subdivider shall pay a one time mitigation fee of \$175.00 per lot to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, and further agrees to establish a covenant that requires the payment by the seller of an additional \$1,000.00 to the Conservation Fund upon the subsequent sale or transfer of ownership for each parcel within the project.*
 - ii. *The subdivider shall establish a monitoring protocol that identifies all oak trees at least five inches in diameter at breast height that are to be removed at the time the roadway system and individual lots are developed. The Plan shall include a map showing all trees proposed for removal.*
 - iii. *Any trees that are removed shall be replaced within the boundary of the tract at a ratio of 5:1. Trees removed for road construction shall be replaced within the 200-foot natural open space area parallel to the right-of-way for Auberry Road (see Condition No. 8). Trees removed for development on residential lots*

shall be replaced elsewhere on the lot. Replacement trees shall be a minimum of five gallons in planting size.

- iv. Replacement trees shall be maintained by the Homeowner's Association for a period of seven years after planting. Maintenance shall include replacing dead or diseased trees.
- v. Each lot purchaser shall review and understand the information contained in "Living Among the Oaks" and "Wildlife Among the Oaks" publications prior to applying for a construction permit. The Homeowner's Association shall be responsible for providing a copy of these publications to each lot purchaser.

3. RAPTOR PROTECTION

- (a) The subdivider shall have a qualified biologist survey the Project site for tree nesting raptors 30 days prior to the onset of construction if construction is to begin during the raptor nesting season (February through August). No construction or ground disturbance shall take place during nesting seasons within 300 feet of any active raptor nest identified on the site until after the young have dispersed. Biological monitoring shall occur until the young have dispersed. A report shall be submitted to the County and to the Department of Fish and Game summarizing the results of each survey and subsequent biological monitoring.

4. ANNUAL REPORT

- (a) The Homeowner's Association shall retain a qualified professional biologist to prepare and submit the following report to the County for review and approval, on an annual basis, for a period of ten years following recordation of the final map:
 - (i) Compliance with state and federal wetland permit requirements.
 - (ii) Possible degradation of wetland areas from erosion and sedimentation.
 - (iii) Compliance with the Condition No. 1 relating to the environmentally sensitive areas within the tract.

- (iv) *Compliance with the approved Oak Management Plan, including mitigation measures.*
- (v) *Compliance with the mitigation relating to tree-nesting raptors.*
- (vi) *List of mitigation measures not in compliance, with recommended corrective action.*

The subdivider and subsequent homeowner's association shall provide funds necessary to implement this condition, including any necessary corrective action.

- f) **Would the project Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local regional, or state habitat conservation plan?**

FINDING – No Impact:

There are no adopted Habitat Conservation Plans, Natural Conservation plans or other approved local, regional, or state habitat conservation plans in the area of the project.

5. CULTURAL RESOURCES

- a) **Would the project cause a substantial adverse change in the significant of a historical resource as defined in Section 15064.5?**
- b) **Would the project cause of substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5?**

FINDING – Less Than Significant Impact with Mitigation Incorporated:

A Cultural Resources Study of the site, dated August, 2003 and prepared by Donald G. Wren, Consulting Archeologist, identified four archeological sites. This study was reviewed by the Southern San Joaquin Valley Information Center, who requested that the identified sites be avoided. The project will be subject to the following mitigation measure, which will reduce potential impacts to archeological resources to a less than significant level.

***Mitigation Measure**

Prior to recordation of the final map, Open Space Easement Indenture Agreements shall be executed between the County and the property owner to protect several significant archaeological sites found on the subject property and identified in A Cultural Resources Resource Study of the Everton Property-Granite Creek Road Fresno County dated August, 2003, prepared by Don Wren, consulting Archaeologist. Prior to recordation of the final map, this requirement shall be recorded as a covenant running the land and shall be noted on an attached map sheet.

- c) **Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**
- d) **Would the project disturb any human remains, including those interred outside of formal cemeteries?**

FINDING: - No Impact

No paleontological resource or human remains impacts were identified in the Cultural Resources Study.

6. GEOLOGY AND SOILS

- a) **Would the project expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:**
 - i) **Rupture of a known earthquake?**
 - ii) **Strong seismic ground shaking?**
 - iii) **Seismic-related ground failure, including liquefaction?**
 - iv) **Landslides?**

FINDING – No Impact:

The site is not located within a fault zone or area of known landslides.

- b) **Would the project result in substantial erosion or loss of topsoil?**

FINDING – Less Than Significant Impact:

The project could result in changes in absorption rates, drainage patterns and the rate and amount of surface run-off, in the form of drainage from new buildings and from new paved parking and circulation areas. These

effects are not considered significant because the applicant will be required to adhere to the Grading and Drainage Sections of the County Ordinance Code. The applicant will also be required to obtain an NPDES permit prior to construction or grading activities and to develop a Storm Water Pollution Prevention Plan (SWPPP) and incorporate the plan into the construction improvement plans.

- c) **Would the project result on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**
- d) **Would the project be located on expansive soils creating substantial risks to life or property?**

FINDING – No Impact:

No such soils were identified in the Geology and Sewage Disposal Feasibility Study prepared for the project.

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

FINDING - Less Than Significant Impact with Mitigation Incorporated:

Based upon the soil conditions of the site, the Department of Environmental Health (Health Department) requested that a sewage feasibility study be prepared to the potential for the site to support septic systems for the development. After review of the report, the Health Department recommended that the following mitigation measure be included:

***Mitigation Measure**

Individual engineered sewage disposal systems shall be installed in accordance with the Geology and Sewage Feasibility Study prepared by Norbert W. Larsen, Ph.D., dated November 28, 2003 and numbered NWL 21053. Such a system, following an on-site investigation, must be designed and installation certified by a California registered civil engineer or registered geologist. It is the responsibility of the property owner, the property buyer, the engineer, and/or the sewage disposal system contractor to confirm required setbacks, separations, and other special requirements or conditions which may affect the placement, location, and construction of the sewage disposal system.

7. HAZARDS AND HAZARDOUS MATERIALS

- a) **Would the project create a significant public hazard through routine transport, use or disposal of hazardous materials?**
- b) **Would the project create a significant hazard involving accidental release of hazardous materials into the environment?**

FINDING – No Impact

No hazardous materials impacts were identified in the analysis.

- c) **Would the project emit hazardous materials within ¼ mile of a school?**

FINDING - No Impact:

No school is located within 1/4 mile of the project site.

- d) **Would the project be located on a hazardous materials site?**

FINDING - No Impact:

The project is not located on an active or historic hazardous materials site.

- e) **Would a project located within an airport land use plan or, absent such a plan, within two miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area?**

- f) **Would a project located within the vicinity of a private airstrip result in a safety hazard for people residing or working in the project area?**

FINDING – No Impact:

The project is not in the vicinity of an airport.

- g) **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

FINDING - No Impact:

The project will not impair implementation or physically interfere with an adopted emergency response plan.

- (h) **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are**

adjacent to urbanized areas or where residences are intermixed with wildlands?

FINDING - No Impact:

The project is not located within a wildland area.

8. HYDROLOGY AND WATER QUALITY

- a) **Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality?**

FINDING – Less Than Significant Impact:

The applicant will be required to submit a Notice of Intent and a Storm Water Pollution Prevention Plan regarding storm water runoff from the site under National Pollutant Discharge Elimination System (NPDES) permit requirements.

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

FINDING – Less Than Significant Impact With Mitigation Incorporated:

The applicant proposes a community water system with the water supplied by on-site wells. The applicant was requested by the County Geologist to submit a hydrogeologic report per Section II-H of County Improvement Standards to demonstrate that underground water supplies will be adequate to serve the proposed use and that required General Plan water determinations can be made. The County, through a formal request for proposal process, selected the consulting geologist. The hydrogeologic report, dated March 1, 2006 prepared by Norbert Larsen, Consulting Geologist, was subsequently filed with the County which included pump tests of three wells and monitoring of 12 nearby off-site wells located within an adjacent subdivision during the pumping phase of the testing. Based upon the report, the Geologist has determined that the following determinations can be made by the project, as required by Policy PF-C.17 of the General Plan: a.) the water supply is adequate to meet the highest demand that could be permitted on the lands in question, b.) that pumping-related physical impacts beyond the boundary of the property in question will not be significant, and c.) the proposed water supply is sustainable. The following mitigation measures are included to reduce water quantity impacts to a less than significant level:

***Mitigation Measures**

- *1. *The proposed community water system shall be owned operated and maintained by a CSA. All service connections shall be metered. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map.*
- *2. *Each lot shall be required to have two (2) water meters. One meter shall serve the residence and the second meter shall serve the landscape irrigation needs.*
- *3. *Prior to recordation of the final map, the Governing Board of the CSA serving the project shall adopt a tiered rate schedule for domestic and for irrigation service for the annexed area. The rate for irrigation services shall be tiered to discourage the over-use of irrigation water. The tiered rate structure shall include procedures indicating when water meters will be read, payment of fees, and notification of over-use.*

Also, the Department of Environmental Health has determined through review of water quality information provided by the applicant that well waters on the site meets community water system standards.

- c) **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site?**

FINDING – Less Than Significant Impact

The Army Corps of Engineers has verified that the North Fork of Little Dry Creek and tributaries are “Waters of the United States” as defined by Section 404 of the Clean Water Act. As indicated in the Biological Resources Section above, mitigation measures are included prohibiting ground disturbance in this wetland area, except that a Section 404 Permit will be required for one proposed crossing of the stream. This will reduce any potential erosion or siltation impacts to a less than significant level.

- d) **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in flooding on or off-site?**

FINDING: No Impact

The stream crossing discussed in the Biological Resources Section will not result in flooding on or off-site.

- e) **Would the project create or contribute runoff which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

FINDING – Less Than Significant Impact:

The applicant will be required to maintain natural drainage in a manner that will not significantly change the existing drainage characteristics of parcels adjacent to the development. Any additional runoff generated from the tract must be retained on site or by other facilities acceptable to the Director of Public Works and Planning.

- f) **Would the project otherwise substantially degrade water quality?**

FINDING – Less Than Significant Impact:

See 8 a) Site Hydrology and Water Quality above.

- g) **Would the project place housing within a 100-year floodplain?**
- h) **Would the project place structures within a 100-year flood hazard area that would impede or redirect flood flows?**
- i) **Would the project expose persons or structures to levee or dam failure?**
- j) **Would the project inundation by seiche, tsunami or mudflow?**

FINDING - No Impact:

The site is not within a 100-year flood plain or hazard area, no levee or dam is upstream of the site and no inundation hazards were identified in the analysis.

9. LAND USE AND PLANNING

- a) **Will the project physically divide an established community?**

FINDING - No Impact:

The site will not physically divide a community.

- b) **Will the project conflict with any land use plan, policy or regulation of an agency with jurisdiction over the project?**

FINDING – No Impact:

The project will not conflict with any land use plan, policy, or regulation of an agency with jurisdiction over the project. The project is consistent with the County General Plan.

- c) **Will the project conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?**

FINDING - No Impact:

The site will not conflict with any habitat or natural community conservation plan.

10. MINERAL RESOURCES

- a) **Would the project result in the loss of availability of a known mineral resource?**
- b) **Would the project result in the loss of availability of a locally-important mineral resource recovery site designated on a general plan?**

FINDING - No Impact:

No mineral resource impacts were identified in the analysis.

11. NOISE

- a) **Would the project result in exposure of people to severe noise levels?**
- b) **Would the project result in ground borne vibration?**
- c) **Would the project cause a substantial permanent increase in ambient noise levels in the project vicinity?**

- d) **Would the project result in a substantial temporary or periodic increase in ambient noise levels?**

FINDING – Less Than Significant Impact:

Noise impacts associated with construction will be subject to the County Noise Ordinance, which is enforced by the County Department of Community Health. Based upon these considerations, noise impacts from the project will be less than significant.

- e) **Would the project expose people to excessive noise levels associated with a location near an airport, or a private airstrip?**
- f) **For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

FINDING – No impact:

The project site is not in the vicinity of an airport or airstrip.

12. POPULATION AND HOUSING

- a) **Would the project induce substantial population growth either directly or indirectly?**

FINDING – Less Than Significant Impact:

The project would result in the construction of a maximum of 41 single-family residences on a 163-acre site in an area planned for Rural Residential development. The population growth resulting from the project is not considered significant based upon the County's adopted plans and policies.

- b) **Would the project displace substantial numbers of existing housing?**
- c) **Would the project displace substantial numbers of people, necessitating the construction of housing elsewhere?**

FINDING – No Impact

The project site consists of vacant land.

13. PUBLIC SERVICES

a) **Would the project result in physical impacts associated with the provision of new public services in the following areas:**

(i) **Fire protection**

FINDING – Less Than Significant Impact:

The Fresno County Fire Protection District (District) reviewed the project, including the proposed private gate access to the site. They reviewed the applicant's plans, which indicated location and size of water tanks and location of fire hydrants. The Department determined that the project would meet the District's requirements with provision made for KnoxBox gate access and subject to conformance with State SRA requirements and subject to provision of emergency access.

(ii) **Police protection**

FINDING – Less Than Significant Impact With Mitigation Incorporated

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

- *Prior to recordation of a final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for Sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism.*

The Sheriff's office reviewed the project and indicated no concern with their ability to provide service subject to provision of the access code for the private gate and subject to approval of the mitigation measure above.

(iii) Schools

FINDING – No Impact

The project was routed to the Sierra Unified School District, who did not indicate concern.

(iv) Parks

(v) Other public facilities?

FINDING - No Impact:

The project will not result in any physical impacts associated with the provision of parks, or other new public facilities or services.

14. RECREATION

- a) **Would the project increase the use of existing neighborhood and regional parks?**
- b) **Would the project require expansion of recreational facilities?**

FINDING - No Impact:

No impacts on recreational resources were identified in the analysis due to the non-residential uses proposed.

15. TRANSPORTATION/CIRCULATION

- a) **Would the project result in increased vehicle or traffic congestion?**
- b) **Would the project exceed the established level of service standards?**

FINDING – Less Than Significant With Mitigation Incorporated:

The Design Division of the Fresno County Department of Public Works and Planning identified potential impacts to the existing transportation system from traffic generated by the proposed project. A Traffic Impact Study (TIS) was required in order to determine the full extent of traffic

impacts. The applicant provided a TIS, prepared by Peters Engineering and dated November 10, 2003.

The TIS was reviewed by the Design Division, who concurred with the conclusions of the study, which identified that the project should include a mitigation requiring the applicant to contribute a pro-rata share of the cost of improvements to certain identified intersections to achieve acceptable levels of service. This mitigation will reduce potential transportation and circulation impacts to a less than significant level.

This project has been modified to incorporate the following provisions to mitigate potential adverse environmental effects identified to County roadways in order to mitigate potential future year 2025 traffic impacts.

1. Prior to issuance of a building permit, the applicant shall enter into an agreement with the County agreeing to participate on a pro-rata share basis in the funding of future off-site traffic improvements for the year 2025 for the improvements defined in items (a) through (c) below. The traffic improvements and the project's maximum pro-rata share of the associated costs are as follows:

(a) Signalization improvements at the intersections of:

- Auberry and Millerton Roads
The project maximum share is 2.54%
- Auberry Road and Copper Avenue
The project maximum share is 0.95%
- Auberry Road and Marina Avenue
The project maximum share is 1.16%
- Copper and Willow Avenues
The project maximum share is 0.45%

(b) Improvements to the road segment of Auberry Road from Copper Avenue to Millerton Road

- The project maximum share is 1.12%

(c) Improvements to the road segment of Copper Avenue from Auberry Road to Willow Avenue

- The project maximum share is 0.85%

(The current total estimated pro-rata cost of these improvements is \$197,962)

2. *The County shall update cost estimates for the above-specified improvements prior to execution of the agreement. The Board of Supervisors pursuant to Ordinance Code Section 17.88 shall adopt a Public Facilities Fee addressing the updated pro-rata costs. The fee shall be paid prior to issuance of building permits based on the traffic generated by a specific use authorized by a Site Plan Review that substantially increases traffic generation. The Public Facilities Fee shall be related to off-site road improvements, plus costs required for inflation based on the Engineering New Record (ENR) 20 Cities Construction Cost Index.*

The State Department of Transportation (Caltrans) identified impacts to the intersection of SR 168 and Auberry Road. These impacts will be mitigated to a less than significant level with the adoption of the following mitigation measure:

3. *Prior to issuance of a building permit the applicant shall enter into an agreement with Caltrans agreeing to pay \$1,410 to Caltrans as the project's pro rata share of the estimated cost for funding improvements to the State Route 168/ Auberry Road intersection.*

c) Would the project result in a change in air traffic patterns?

FINDING - No Impact:

The project will not change air traffic patterns.

d) Would the project substantially increase traffic hazards due to design features?

FINDING – Less Than Significant Impact With Mitigation Incorporated:

One of the interior roads in the tentative tract will be constructed as a frontage road directly adjacent to the south right-of-way line of Auberry Road, creating a potential traffic hazard for northbound Auberry Road traffic. To reduce this potential traffic hazard to a less than significant level, the following mitigation measure has been included:

- (1) *To mitigate a potentially significant traffic hazard as well as provide visual screening, the frontage road along the Auberry Road right-of-way shall be separated from Auberry Road by a berm or other physical barrier acceptable to the Director of Public Works and Planning. Landscaping of natural materials shall be planted on the*

berm and maintained by the Homeowner's Association until the plantings are self-sustaining.

- e) **Would the project result in inadequate emergency access?**

FINDING - No Impact:

The project proposed to include private gate access, will be conditioned on the provision of adequate emergency access, which will be feasible based upon the interior road network, which allows for alternate points of emergency access to public roadways.

- f) **Would the project result in inadequate parking capacity?**

FINDING - No Impact:

The project will provide adequate off-street parking for the proposed use.

- g) **Would the project conflict with adopted plans, policies or programs supporting alternative transportation?**

FINDING - No Impact:

The project will not conflict with any adopted transportation plans.

16. UTILITIES AND SERVICE SYSTEMS

- a) **Would the project exceed wastewater treatment requirements?**

- b) **Would the project require construction of new water or wastewater treatment facilities?**

FINDING – Less Than Significant Impacts With Mitigation Incorporated:

Wastewater will consist of domestic discharge that will be adequately treated with an on-site septic systems provided in accordance with the mitigation measure discussed in Section 6.e, Geology and Soils.

- c) **Would the project require construction of new storm water drainage facilities?**

FINDING – Less Than Significant Impact:

See discussion in Section 8.c above, Hydrology and Water Quality

- d) **Have sufficient water supplies available to service the project from existing entitlements and resources, or are new or expanded entitlements needed?**

FINDING – Less Than Significant Impact:

See discussion in Section 8(b) Hydrology and Water Quality.

- e) **Would the project result in a determination of inadequate wastewater treatment capacity to serve project demand?**

FINDING – Less Than Significant Impact With Mitigation Incorporated:

See discussion in Section 6(e) Geology and Soils.

- f) **Would the project be served by a landfill with sufficient permitted capacity?**

- g) **Would the project comply with federal, state and local statutes and regulations related to solid waste?**

FINDING – No Impact:

No solid waste impacts were identified in the analysis.

17. MANDATORY FINDINGS OF SIGNIFICANCE

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

FINDING – Less Than Significant Impact:

See Section 4. Biological Resources

- b) **Does the project have impacts that are individually limited, but cumulatively considerable?**

FINDING – No Impact:

No cumulatively considerable impacts were identified in the analysis.

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

FINDING - No Impact:

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

ENVIRONMENTAL RECOMMENDATION

Based upon the Initial Study prepared for Tentative Tract Map Application No. 5239, staff has concluded that the project will not have a significant effect on the environment. No impacts were identified with respect to noise, hazards and hazardous materials, agricultural resources, land use and planning, mineral resources, noise, population and housing, and recreation. Potential impacts related to aesthetics will be addressed with mitigation measures relating to building and road setbacks from Auberry Road. Potential impacts related to air quality will be addressed by compliance with permit requirements and public nuisance rules of the San Joaquin Valley Air Pollution Control District. Potential impacts related to geology, soils and storm water runoff, noise, and utilities and service systems will not be significant with adherence to the Grading, Drainage and Building Sections of the County Ordinance Code, County permit requirements, and the County Noise Ordinance, or will be reduced to a level of less than significance with inclusion of a mitigation requiring installation of septic systems in accordance with the sewage feasibility study prepared for the project. Potential construction water quality impacts will be addressed with adherence to a Storm Water Pollution Control Prevention Plan to be approved by the Regional Water Quality Control Board. Potential water quantity impacts will be addressed with mitigation measures requiring provision of water from a community water service and upon conservation measures. Potential impacts to biological and cultural resources will be addressed with mitigation measures reducing such impacts to a less than significant level. Potential traffic and transportation impacts will be reduced to a less than significant level with payment by the applicant of a pro-rata share of the cost of intersection improvements identified by the Traffic Impact Study prepared for the project. Potential police related impacts will be addressed with a mitigation requiring a funding mechanism to maintain minimum staffing levels for the Sheriff's department.

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June 17, 2006

TO: Fresno County Planning Commission
 Fresno County Department of Public Works and Planning
 Development Services Division
 Attn: Lew Pond
 2220 Tulare St., Suite "A"
 Fresno, CA 93721

FROM: Holly A. King
 22460 Homestead Rd., Clovis – Valerie Meadows Subdivision
 559-269-3310
 Representing Approximately 40 Neighboring Landowners

RE: Written Comments for Subject
 INITIAL STUDY APPLICATION NO. 4993
 TENTATIVE TRACT APPLICATION NO. 5239
 CLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3157
 JAMES BRATTON – APPLICANT
 NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE
 DECLARATION

Comments on the Initial Study – Environmental Checklist Form and Evaluation of Environmental Impacts

Hydrology and Water Quality

Mitigation #7 - As neighboring landowners, our main concern is the impact of an additional 41 lots (water users and septic systems) on our water quality and supply. The II-H Standards require that a water supply adequate to serve the needs of the proposed development be proven, the water supply is sustainable, AND that pumping-related physical impacts beyond the boundary of the property in question will not be significant.

- Norbert Larsen clearly has a conflict of interest related to this project and therefore was handicapped in the preparation of truly independent recommendation. The background that leads us to this conclusion is as follows:
 - Mr. Larsen has been engaged by the applicant and affiliated parties on numerous other projects in the past.
 - Mr. Larsen had an advantage over other respondents to the RFP in that he was engaged directly by the applicant to prepare the hydrogeologic report associated with this same project when it was proposed as an individual well project.

- When the County sent out the original RFP for the work on the Community Water System proposal, they sent it to a limited number of hydrology firms. The RFP had very high liability coverage requirements – a significant factor resulting in only two responses. The County later lowered the liability coverage requirements and did not notify those who were originally sent the RFP. This limited the number of potential “bidders”.
- Norbert W. Larsen, Ph.D. and Associates, Inc. submitted a Section II-H Report – Hydrogeology to Fresno County Development Services dated March 1, 2006. The narrative in the report did not indicate any impact from Well #6 on the neighboring landowners. (See page 18, bottom of the page – “Of the pumped wells, Well 6-2005 is clearly the most productive, and seems the logical choice for consideration. This well produces more than 120 gpm, it has exhibited no negative influence on any surrounding well) Yet when we reviewed the report and the data supporting the narrative, it was clear to us that the testing performed indicated there was an influence on the neighboring wells. We confirmed this conclusion with a geologist we engaged using private/individual funds. Only after we brought this to the County Geologist’s attention did he ask Mr. Larsen to review this point. A revision to the original report was issued by Mr. Larsen dated May 9, 2006. That revision reads, “Of the pumped wells, Well 6-2005 is clearly the most productive, and seems the logical choice for consideration. This well produces more than 120 gpm, has exhibited minimal influence on surrounding wells,” In addition, at the bottom of page 26, paragraph 9) in the original report, Larsen writes, “and that three wells were affected, but minimally to moderately.” In his revision, same page and paragraph, it reads, “and that three wells were affected, but minimally.” How does Mr. Larsen substantiate his change of opinion without any further testing? It appears he arbitrarily changed his mind without additional data to support that change. Inquiries to the County Geologist on two occasions have not been answered. As a mitigation, the staff report suggests Well #6 shall be used only after additional testing to quantify impact on wells to the south, and Well #6 will only be used to the extent that no significant impacts occur. There are several problems with this situation:
 - Well #6, as part of a thorough and complete II-H Standard Study **SHOULD HAVE BEEN** and **SHOULD BE** adequately tested **PRIOR** to approval of this application. An alternative would be to destroy this well such that it can not be used in the future since it has not been proven to not impact neighboring wells.
 - Who is going to determine the definition of significant? If you are one of the three neighboring wells that is impacted, the impact **IS** significant.
 - The “possible influence” should have been exposed by Mr. Larsen or the County Geologist. It should not have required individuals to use their own funds to do the work of trained geologists and representatives whose job it is to protect and work for the public good. Our bill was \$1,045.00 to

engage a geologist to review the hydrogeologic report, an expense that would not have needed to be incurred if Mr. Larsen had done a thorough review of the data initially, did not have a conflict of interest and/or the County Geologist had thoroughly reviewed the data.

Testing of Well #6 does not qualify as a mitigation measure as it should have been done prior to this hearing as part of a complete Section II-H report.

Mitigation #2 - A landscaping plan is to be submitted by each lot owner prior to installation of an irrigation meter. This plan is to be forwarded to the County Geologist "for approval to ensure that the proposed landscaping will not require more water than is available for the lot." Who is determining how much water is available for the lot? The hydrogeologic report did not determine how much is specifically available for individual lots without impacting neighboring lots. Nor did it address water availability fluctuations in drought and wet years for individual lots. Without this determination, this does not qualify as a mitigation.

Mitigation #3 – "Only drip irrigation shall be allowed." Who is going to monitor and enforce this? The County – NO – they are understaffed as it is. The Homeowner's Association – NO – they do not have effective regulatory or enforcement power. Therefore, since this can not be monitored or enforced, it does not qualify as a mitigation.

Mitigation # 5 – A groundwater monitoring program for the proposed community water system will be developed. There is no discussion as to what this will accomplish. Will it be to gather data? What will be done with the data? If this is an early warning system to indicate impacts on neighbors, what will be the action taken to discontinue the impact? Just having a monitoring system is NOT a mitigation. What is done with the data gathered and how impacts to neighbors will be addressed IS a mitigation measure. Without a purpose, outcome, and method for addressing impacts, this does not qualify as a mitigation.

Mitigation #6 – Well #3 shall be limited to use only as a monitoring well. This well needs to be capped and use prohibited. Otherwise there are no guarantees that in a water short year that this well will not be used. This well clearly had an impact on the neighbors. Limiting this well to a monitoring well is not a mitigation. Capping the well and/or destroying it is a mitigation as it ensures that it will not be used for water supply in the future.

Arsenic Levels – Earlier this year, the standards for arsenic levels were lowered from 50 to 10. This is proposed to be a community water system.

- Well #2 had an arsenic level of 17; Well #3 had a level of 16; Well #6 had a level of 11.8. Wells #2, 4, 5 and 6 are proposed to be used in this application, yet there is no discussion about this particular issue.

Discussion should be included as arsenic is not known to be particularly good for human health.

Water Supply for Fire System – No mention was made of the adequacy of the water supply for the fire suppression system in the hydrogeologic report.

Aesthetics

Auberry Road is designated as a Scenic Highway within the Open Space and Conservation Element of the General Plan. A natural open space area extending 200 feet from the southerly right-of-way line of Auberry Road is to be maintained according to this policy.

- Mitigation measures identified are not mitigations!!!! Allowing roads and structures in the 200 foot setback on 9 lots is not a mitigation measure. The required setback is being reduced. ***Allowing roads and structures in an area in which they are not allowed per the General Plan is the opposite of mitigation and therefore can not be considered a mitigation measure.*** It is just allowing them to legally violate the General Plan.
- The staff report indicates that only a small portion of Little Dry Creek can be seen from Auberry Road and this area will not be disturbed. Therefore, the outlot created around this small portion of Little Dry Creek IS a mitigation measure as it protects the scenic quality for this portion. But ironically, the staff report goes on to say that the outlot for the entire Creek AND the two tributary streams is a mitigation for the infraction on the scenic quality when YOU CAN'T EVEN SEE THEM. ***Therefore, this mitigation measure is broadly overstated.***
- A covenant recorded with the Final map that any fences located within the established natural open space (required anyway) be uniform in appearance and be designed to minimize visual impacts from the right-of-way. Who defines what uniform and minimize are? Who enforces this? And who monitors it? ***Allowing fences in an area where fences are restricted in the General Plan is not a mitigation measure.***

At a minimum, mitigation of the destruction of the Open Space along the Scenic Highway should be \$1,000 per acre paid as part of the approval of the application, AND an additional \$1,000 assessed upon the subsequent sale or transfer of ownership for each parcel within the project. These fees would be paid to the Sierra Foothill Conservancy or the California Rangeland Trust. These two organizations work to preserve Open Space, Habitat and Scenic areas. Similar mitigation was required with the approval of the Ventana Hills Development, also along Auberry Road.

Biological Resources

- Dept. of Fish and Game has requested that mitigation measures be adopted establishing stream setbacks and a wildlife movement corridor. On May 23, 2005, in the Superior Court of California, County of Fresno, Case Number 05CECG01571AMS was filed by the People of the State of CA vs CBB Construction. James Bratton, applicant, is a principal in CBB Construction. The case is related to a subdivision commonly known as Mallard Meadows. A Mitigation Agreement with Dept. of Fish and Game was entered into on or about June 14, 2002 to ensure compliance with the DFG rules and regulations during the construction and subsequent residential population of Mallard Meadows. The plaintiff alleges that the Defendants (applicant) failed to perform properly the terms of the Mitigation Agreement, and the terms of Streambed Alteration Agreements R4-2001-0065 and R4-2002-0080. This precedence does not give us a high level of confidence that mitigations as proposed in the subject application will be adhered to.
- Designating Outlot "A" as a wildlife movement corridor is not a mitigation. This outlot has a power line running down the middle of it and it could not be built on in the first place!!! ***This does not qualify as a mitigation – nothing is changed to offset the loss.***
- Oak Management – Who is going to monitor the ratio of trees replaced, whether they die and need to be replaced, whether homeowners "illegally" remove the oak trees? County Staff, Homeowner's Association? ***Without a feasible monitoring and enforcement system, this is an ineffective mitigation.***

Homeowner's Association Responsibilities

The following are to be the responsibilities of the Homeowner's Association:

- Page 8 & 9 – Replacement trees (oaks) shall be maintained by the Homeowner's Association for a period of seven years after planting. Maintenance shall include replacing dead or diseased trees.
- Page 9 – The Homeowner's Association will be responsible for providing a copy of the Oak Publications to each lot purchaser.
- Page 9 – Homeowner's Association shall retain a qualified professional biologist to prepare and submit a report (six components) and submit it to the County for review and approval, on an annual basis for a period of ten years.
- Page 10 – Provide funds necessary to implement the above condition, including any necessary corrective action.
- Page 16 – Architectural Review Committee will review landscaping plans and forward to the County Geologist for approval before an irrigation meter can be installed.
- Page 24 – Landscaping of natural materials shall be planted on the berm and maintained by the Homeowner's Association until the plantings are self-sustaining.

The challenge will be that basically, the Homeowner's Association does not have influential regulatory or enforcement power. This has been proven over and over again – Architectural Review Committees, Oak Management Committees, etc. are not consulted, homeowners do as they please and the Homeowner's Association does not have the resources or enforcement will to enforce the 5:1 ratio of replacing trees, or replacing dead trees, or approving and enforcing landscaping plans. It is not going to happen. Homeowner's Associations are volunteer organizations that place neighbors in the position of taking action against neighbors. This has been proven to ultimately be ineffective.

Summary

Several of the Mitigations identified do not qualify as mitigations as shown above. Therefore, this application does not qualify as a "mitigated" negative declaration as the mitigations are there are inadequate and ineffective mitigations.

Recommended Solutions

- Mitigations should be thought out and truly mitigate.
- Well #6 should be tested and the impact on neighboring wells should be determined BEFORE approval of this project.
- Well #3 – capped and destroyed so it can not be used in the future, especially in drought situations.
- \$1,000 per acre and \$1,000 upon the sale and transfer of the lots should be assessed and paid to either the Sierra Foothill Conservancy or the California Rangeland Trust. Those two organizations are in the business of protecting open space, scenic assets and natural resources – all of which are being diminished by this project.
- Private individuals be reimbursed for doing Larsen's and the County Geologist's work regarding the potential impacts of Well #6. This should have been considered by the professionals charged with the responsibility and the professional background to assess this.
- Groundwater monitoring program be long term, include thresholds for action and what action should be taken to safeguard neighboring wells. The proposed project should cover the water shortfalls indicated by the ground water monitoring program.
- Ground water from the wells supplying the proposed development will not be used to fill surface ponds.

- No retention/obstruction or diversion of the flows of Little Dry Creek for use in the project.
- Determination of adequate water supply for fire suppression system.
- No buildings or roads in the 200 foot setback as it diminishes scenic qualities.

Fresno County Department of Public Works and Planning
Development Services Division
Attn: Lew Pond
2220 Tulare St. Suite "A"
Corner of Tulare and "M" Streets
Fresno, CA 93721

June 23, 2006

Lew,

Please consider the following comments relative to the Initial Study Application No. 4993, Tentative Tract Application No. 5239 and Classified Conditional Use Permit Application No. 3157. Also known as the Table Mountain Creek Project. I will be urging the Fresno County Planning Commissioners to not accept the findings in the Notice of Intent to Adopt a Mitigated Negative Declaration for the Table Mountain Creek Project (TTM 5239) as currently proposed.

There are serious concerns about several of the Findings. The greatest is in the area of Hydrology and Water Quality. There are also concerns about the scenic destruction that is contrary with the County General Plan, the responsibilities placed upon the Homeowner's Association that are not realistic, and a number of detrimental activities to the environment that are not addressed in a manner that ensures compliance and/or provides a method for enforcement. Each of these areas of concern will be described in more detail.

Thanks you for the opportunity to provide feedback on this proposed development. Please feel free to contact me to discuss any of these issues further. I am more than happy to work with any interested party. You can reach me at 559-779-6677.

Todd Babarovich
22435 Monteverdes Lane
Clovis, CA 93619

Summary of Requirements to be Met Prior to Approval of Project TTM5239

Please require a plan to be developed that addresses the issue of interconnected wells. The data are very clear. That is not disputable. The statistical correlation is too strong to be discarded as it is in the Section II-H Report. Too many people are at serious risk if the Project Wells 3 and 6 are utilized.

This groundwater recharge model must be revisited. The amount of rainfall used in the model is greatly overstated. It is likely that this project will regularly drawdown on the groundwater supply. The number of homes is in excess of the availability of groundwater recharge.

There should be specific restrictions on how ground water is used and/or contained on the Project. Please prohibit the use of ground water for any water feature use. Also, please prohibit the use or the damming of any existing waterway for any purpose other than that for erosion control.

Please require a contingency plan be developed for below average rainfall years. There will be years of sustained below average rainfall. We can plan for this.

Please maintain Auberry Road as a Scenic Drive. Reduce the impact of this proposed Development by maintaining the 200' no development boundary. Reconfigure the lots along Auberry Road.

Please require that the outlot areas are placed off-limits during and after construction, including, but not limited to, the prohibition of vehicle traffic.

Maintenance of Mitigations need be performed by a third-party with sufficient funding established by the developer. Please make this a requirement for this development.

Please require identification of the surface runoff storage areas prior to the Final Map approval.

Section 8 Hydrology and Water Quality (page 14)

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

Introduction

In meeting this condition, three factors must be met. The Project must prove adequate water, sustainable water, and no impact on neighboring properties. This Project has not met these three criteria using the mitigations as designed. There is not substantive documentation to prove that neighboring wells will not be negatively impacted.

The mitigations must provide as close to 100% assurance that everything possible will be done to protect the Wells and ultimately the value of the property. The proposed mitigations (including monitoring as proposed) come nowhere close to providing these assurances.

Supervisor Waterston has counseled the property owners in the foothill and mountain communities that we are to be "buyers beware". That is exactly what we are doing. We have spent many hours getting educated by the local experts and the County staff. It has been a very valuable education. It has shown that it is possible to provide a much greater level of mitigation without unreasonable effort or expense.

Background

As noted in the Section II-H Report – Hydrogeology as submitted by Norbert W. Larsen, Ph.D. and Associates, Inc., a number of homeowners participated in the pump tests of the Project Wells. The homeowners volunteered their wells for water level monitoring. Each had a sounding tube inserted into the well where a water level measurement could be taken. During the Project pump testing the Hydrogeologist monitored these wells in addition to the monitoring required for the Project Wells.

I applaud the County and the Developer for participating in this initiative. It should be noted as a significant move forward in attempting to better understand the nature of the water supply in the Foothills.

Results

This effort produced a very valuable and useful set of data that revealed that two of the Project Wells, 3 and 6, are interconnected with at least three homeowner wells in the neighboring sub-division. The data also showed that Project Wells 3 and 6 are also connected.

There were 12 wells monitored of which three showed an impact (referred to as Impacted Wells), all of which showed a statistically significant impact at the 99%+ level of confidence. And, although the Section II-H report shows that three of twelve wells were impacted it must be noted that those wells were in a tight cluster where three of five wells showed an impact (60%).

It is also noted in the Section II-H report that the wells impacted were "deeper" wells and that the shallow well homeowners have no impact (page 21). This is not necessarily true as most wells have a life span at the end of which a new well must be drilled. And the recent County Water study cited that newly drilled well depths are increasing. And, the Section II-H report cites that one of the Impacted Wells is a "deeper well", despite it being only 250' deep. A depth considered shallow in the industry.

Results continued

Therefore it is very likely that all homeowners in the area and those along the Lineaments will be impacted at some point.

Error! Objects cannot be created from editing field codes.

The map above shows that there are many more wells in the same area. If the 60% ratio of impacted to monitored wells holds for the other homes in the area, then there are many more homes impacted than the Section II-H Report identifies. These homes, as well as those proposed in the development, are expected to last many lifetimes.

We should be taking action today to ensure that we do not need to raise water as a significant issue at any point in the future with the County.

Please require a plan to be developed that addresses the issue of interconnected wells. The data are very clear. That is not disputable. The statistical correlation is too strong to be discarded as "minimal", as described in the Section II-H Report. Too many people are at serious risk if the Project Wells 3 and 6 are utilized.

Also it should be noted that the clear relationship between Project Wells 3 and 6 was not addressed in the first publication of the Section II-H Report. The report has been modified based upon the analysis performed by the homeowners. The second version of the Section II-H Report contained changes to reflect the relationship but there was no attempt to address the issue.

Statistical Analysis Details

The analysis was performed using the well depth data from the Section II-H Report. The depth of the water level in each individual well was compared to the time of the start and end of pumping on the each of the Project Wells 3 and 6.

The results indicate there is a statistically significant relationship between the pumping of Project Wells 3 and 6 and the change in the water depth in Impacted Wells One, Two, and Three. The start and end of the Project Well pumping accounted for a statistically significant amount of the change in the depth of the water in these Impacted Wells.

This relationship is very strong. So strong it is termed statistically significant at the 99% level of confidence (see T-Test results below). In other words, if we replicated the pumping tests over and over again, we would get the same results with a variance of less than 2.5%. The chance that we would get a different test result is less than .1% (one tenth of one percent).

Statistical Correlation

	Project Well 3	Project Well 6
Impacted Well One	68%	51%
Impacted Well Two	74%	58%
Impacted Well Three	56%	54%

The above table lists the level of correlation between each Impacted Well and the Project Wells 3 and 6. The percentages indicate the amount of change in the depth that can be directly attributed to the pumping wells. For example, 68% of the decline in the depth and subsequent rise in Impacted Well One is explained by the pumping of Project Well 3.

It is clear that there is a very strong relationship between Both Project Wells 3 and 6 and the Impacted Wells. The complete impact cannot be known until the Project Wells 3 and 6 are tested independent of each other. The proposed mitigation does state this but the fact is that there is a statistically significant impact and no additional testing will change that. These Project Wells should be taken 100% out of service on a permanent basis.

T-Test Level of Significance

	Project Well 3	Project Well 6
Impacted Well One	99.99%+	99.99%+
Impacted Well Two	99.99%+	99.99%+
Impacted Well Three	99.99%+	99.99%+

All levels of significance are greater than 99.99999999%.

Detailed Analysis on Impacted Wells

The Section II-H Report cites a relationship between Project Well 3 and the three Impacted Wells. This relationship is significant by any measure as evidenced by the following graphs.

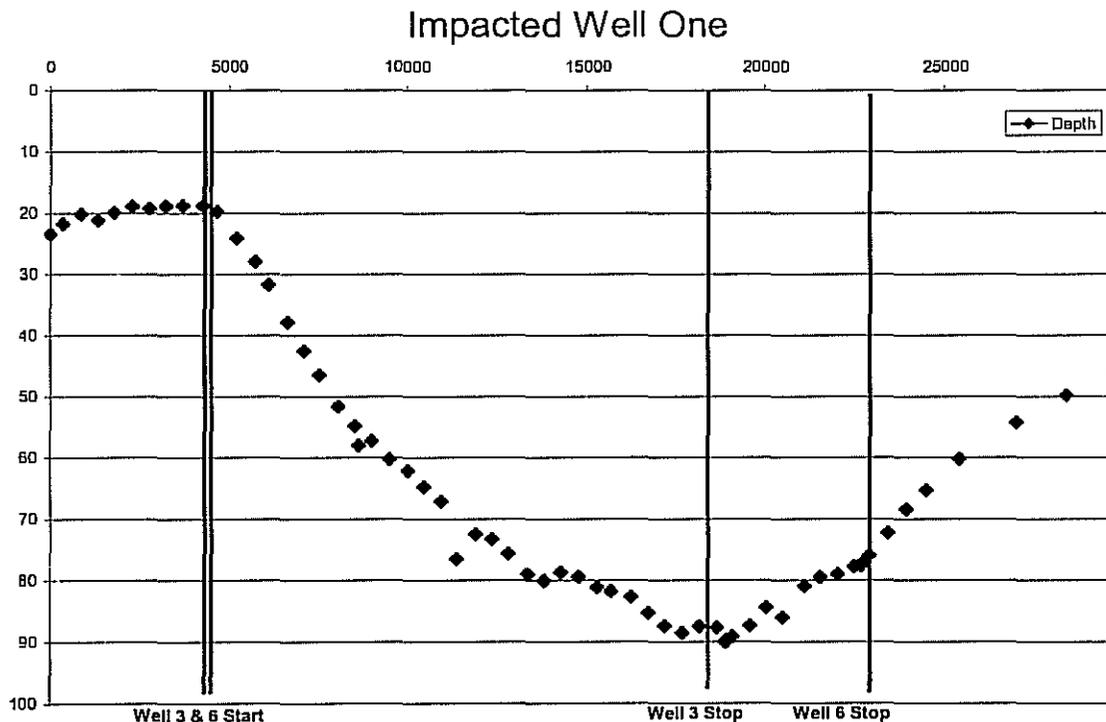
Impacted Well One

The graph below is for Impacted Well One. The X-Axis measurements along the top are number of minutes from the beginning of the monitoring period and the Y-Axis is depth to water. The vertical lines on the left side indicate the start of the pump testing and the lines on the right side indicate the end of the pump testing for Project Wells 3 and 6.

Notice how the water level remains fairly constant around 20 feet until the pumping on both Project Wells 3 and 6 begin. This drawdown continued to nearly 90 feet until Project Well 3 was shut down.

Then recovery began, quickly at first and then trailing off over time. Once Project Well 6 was shut down, the recovery increased once again and followed a pattern similar to that from the Project Well 3 shutdown.

This is a statistically significant relationship between both Project Wells 3 and 6 and the Impacted Well One. Also note that the well did not recover to the beginning static water level prior to ending the depth measurements.



Detailed Analysis on Impacted Wells continued

Impacted Well Two

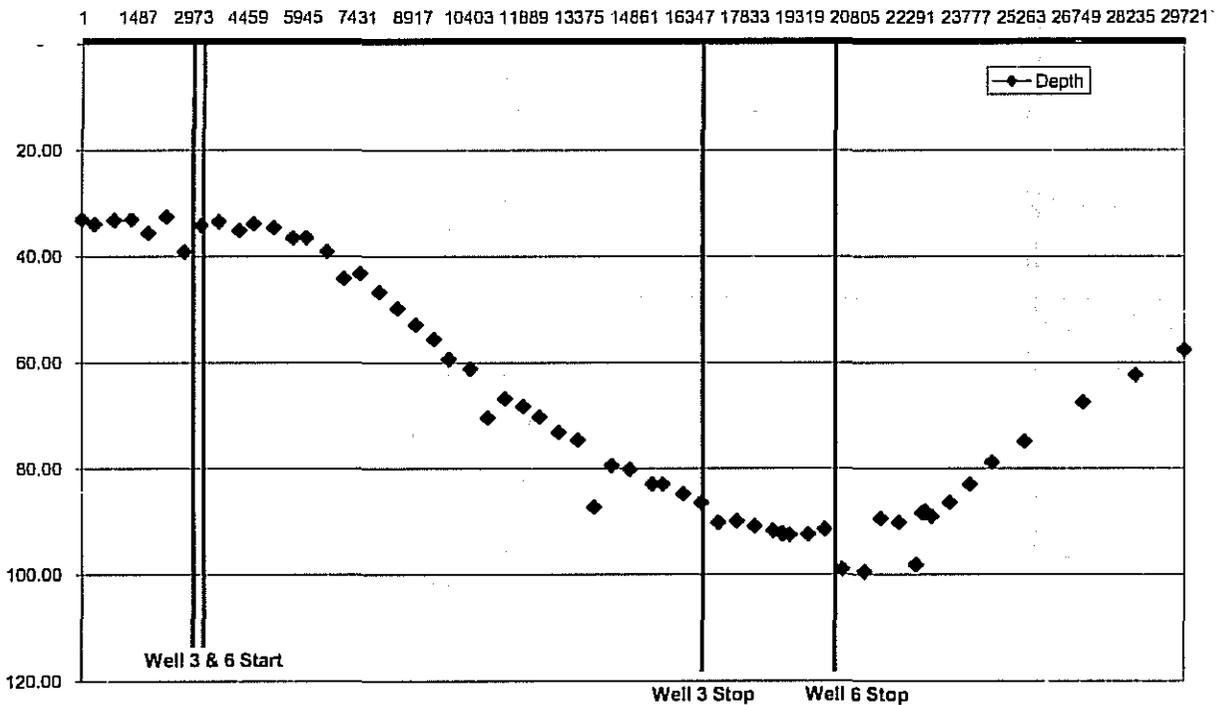
The graph below is for Impacted Well Two. This well displayed a similar response to Impacted Well One with the exception of the recovery rate. It increased at a much greater rate when Project Well 6 was shut down versus the rate associated with the Project Well 3 shut down.

Here the beginning water level remained fairly constant around 34 feet until the pumping on both Project Wells 3 and 6 began. This drawdown continued to over 90 feet.

Recovery began when Project Well 3 was shut down. Once Project Well 6 was shut down, the recovery increased and followed a pattern where recovery trailed off over time.

This is a statistically significant relationship between both Project Wells 3 and 6 and the Impacted Well Two. Also note that the well did not recover to the beginning static water level prior to ending the measurements.

Impacted Well Two



Detailed Analysis on Impacted Wells continued

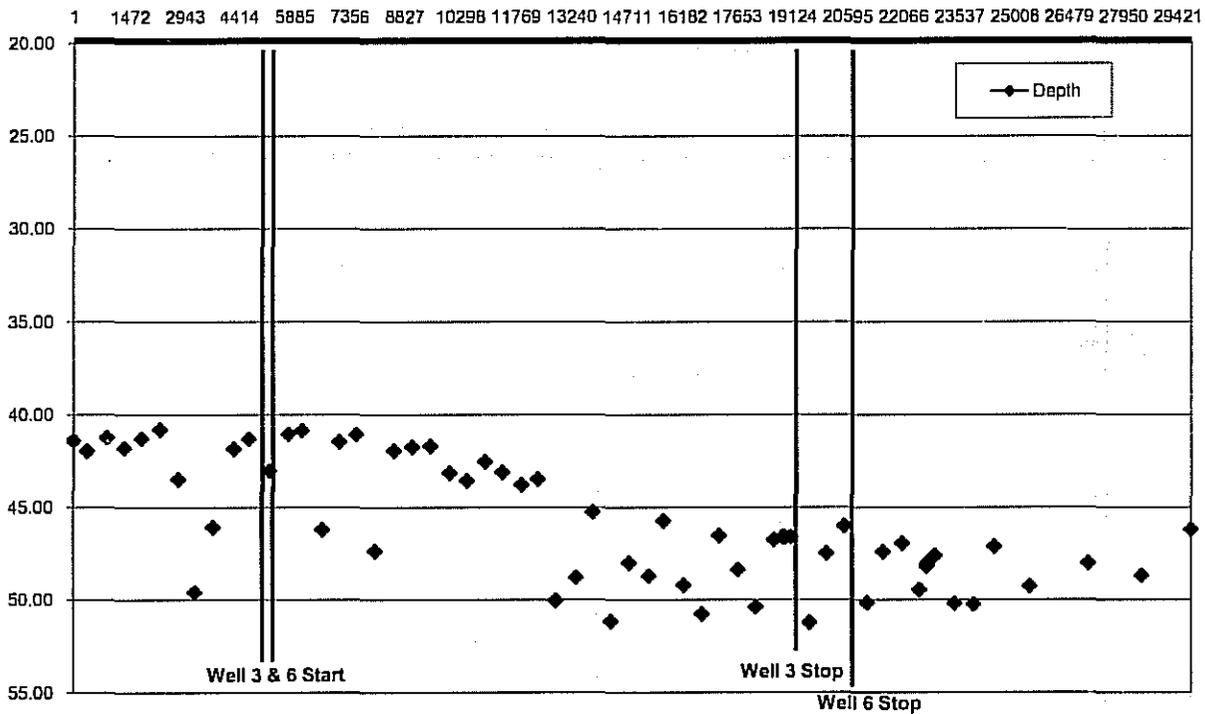
Impacted Well Three

The graph below is for Impacted Well Three. Notice how the water level remains fairly constant around 42 feet until the pumping on both Project Wells 3 and 6 began. This drawdown continued to nearly 50 feet until Project Well 3 was shut down.

Recovery is hard to pin point due to excessive variation. The data does indicate that the drawdown did cease at that point and there are several measurements that indicate recovery was underway.

This is a statistically significant relationship between both Project Wells 3 and 6 and the Impacted Well Three. Also note that the well did not recover to the beginning static water level prior to ending the measurements.

Impacted Well Three



Additional Points Relative to the Findings on Hydrology and Water Quality

Sensitivity to Rainfall Levels for the Recharge Model

In the Section II-H Report section titled “Recharge by Modified Water Budget” (pages 8-11) there is a model proposed that identifies the water that will be available to “recharge” the wells and provide a sustainable water supply. Without recharge of the wells, they would quickly dry up. The model takes into account Rainfall, Surface Water flow in Little Dry Creek and Septic System leaching as the sources for the recharge.

Using an annual average rainfall of 25.18 inches, the Project uses 87.9% of the annual amount of recharged water available for extraction. This displays the necessary recharge to determine Sustainability.

Further analysis of annual rainfall amounts in the area raise the issue of true sustainability. The average rainfall used for the model came from the Auberry Weather Station. This Station is located at an elevation much higher than the Project site.

There is a Station in Friant that is just as close to the Project site and only shows an average annual rainfall amount of 14.65 inches. This comes from measurements gathered since 1935.

Using the Piedra amount of 14.65 inches in the model results in an annual drawdown of over -124 acre feet. This raises serious questions as to the true sustainability of the recharge to the groundwater.

What if there is a similar rainfall pattern to that we experienced from the years 1997 to 2004? During this period, the average annual rainfall was met only 3 of 8 years. We can infer that the Project Wells would have a severe impact on the neighboring wells in this situation.

Using the same exact model and altering the amount of rainfall and runoff in proportion we find that the “break-even point”, where the recharge is exactly the same as the amount of water used, is only 22.1 inches. This is just 3 inches less than the annual average.

The Table below displays the results of the Recharge Model at varying annual rainfall amounts. The first column displays the values used in the Section II-H Report. Subsequent columns display various rainfall values and the corresponding impact on recharge.

	Auberry Station	Auberry Low Readings	Friant Station		Break Even
Annual Rainfall (inches)	25.18	12.5	14.65	16	22.1
Domestic Water Use	371.8	371.8	371.8	371.8	371.8
Rain % of Normal	100%	50%	58%	64%	91%
Recharge in Acre Feet	423	210	246	269	386
Septic Recharge	1.07	1.07	1.07	1.07	1.07
Total Recharge	424.07	211.0	247.1	269.8	387.3
Extracted by Domestic Use	8.79%	18%	15%	14%	10%
Excess or Drawdown %	1.21%	-8%	-5%	-4%	0%
Excess or Drawdown - Acre Feet	52.27	-161	-125	-102	0

Sensitivity to Rainfall Levels for the Recharge Model continued

One of the key elements of predicting rainfall amount is elevation above sea level. The graph below lists the annual rainfall amounts for various local weather stations. The relationship between elevation and rainfall is clear. The average rainfall amounts from Auberry that are used for these calculations represent an amount of rain that is greater than that falling on the Project and surrounding water basin. The actual average rainfall in this area is less than 25.18.

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The vast majority of the Project property lies below 1,000 feet and the entire basin is much less than 2,000 feet. The elevation of Auberry is at 2,000 feet. This is not a reasonable choice for the annual rainfall amount.

This groundwater recharge model must be revisited and corrected. It is likely that this project will regularly drawdown on the groundwater supply. This must be addressed.

The number of homes proposed for this project clearly exceed the number supported by the groundwater recharge model. The number of parcels must be lowered to meet the actual recharge.

Inconsistent Descriptions of the Impact in the Section II-H Report

The following are all the variations in the description of the impact of the Project Wells and the Impacted Wells. The Section II-H Report is very vague as to the actual level of impact between the Project Wells and the Impacted Wells. These vary from “negative impact” to “significant water level decline”.

The terms below seem to indicate an impact but the magnitude is not clear. It has a large range. This language is quite confusing.

“minor” (letter to P Desatoff dated 11, 15, 2005

“minimal influence” p 12

“measurable response” p 14

“small influence” p14

“negative impact” p18

“influenced by the pumping” p21

“significant water level decline” p22

“direct affect” p22

“very little recordable impact” p26

“minimal to moderate influence” p 26 changed to “minimal” in revised report.

“Well 6 showed no negative influence on any surrounding well” p 18 report v1

“three deeper wells revealed a steady decline in water depth during the pumping period” p21

Needed Restrictions

There should be specific restrictions on how ground water is used and/or contained on the Project. Please prohibit the use of ground water for any water feature use. This is to include but not be limited to ponds, lakes, and any other use that leads to excessive loss of water by evaporation.

Also, please prohibit the use or the damming of any existing waterway for any purpose other than that for erosion control. And the definition of erosion control must be set by the County, not the Developer. These requests are based on the current actions of the Developer of this Project.

Summary of Hydrology

The proposed mitigations are not mitigations at all, they are nothing more than monitoring. There needs to be steady fast regulations that protect the homeowners. Both Project Wells 3 and 6 should be taken permanently out of service and destroyed. Further drilling in the area should be prohibited.

There needs to be an independent review of the level of sustainability of the water supply. The pump testing was conducted when we have had significantly large amounts of rain. That will improve the production of the Project Wells. These test results could not have had better timing to ensure a high production of water.

Please require a contingency plan be developed for below average rainfall years. There will be years of sustained below average rainfall. We can plan for this. Our wells in this area are on interconnected fractures, so interconnected that it behooves us to act.

Section 1 Aesthetics (page 1)

Scenic Considerations (page 1)

Finding 1 – General Plan Consistency is not followed. According to Fresno County General Plan Policy OS-L.3, Auberry Road is designated as a Scenic Drive to preserve, protect and maintain the scenic quality in land and landscape adjacent to scenic roads in Fresno County. This designation comes with a restriction stating that there shall be no development within 200' of the road unless specific conditions are met. The conditions, which the County did not specify, indicate that this condition is applied very loosely, contrary to the reason the designation was added to the General Plan.

The proposed site plan places the highest density of homes will be along Auberry Road (see Map below). And, based on the natural flow of Little Dry Creek, there is little usable land for home site placement along Auberry Road. The Project is given unsubstantiated mitigations in this area. There are only economic reasons to allow for this type of mitigation. Why is the County Staff so concerned about increasing the Developer's profits at the expense of the residents of the County? This land was acquired less than five years ago by the Developer. It was known at that time that the area along Auberry Road was off-limits. There is no basis for any argument that this land should be exempt.

The view will be permanently damaged by the mitigations proposed by County Staff. A berm or fence, as proposed by the County, will not be sufficient given the topography. The other current construction in the area given this same mitigation is clear proof of its failure. Homes, walls and/or fences will be readily visible from all sections of Auberry Road.

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Scenic Considerations continued

Please maintain Auberry Road as a Scenic Drive. Reduce the impact of this proposed Development by maintaining the 200' no development boundary. It is not a Scenic Drive if one is looking at close proximity home construction. This may require parcel reduction but it should be viewed as removing parcels that had no right to be allowed by the County in the first place.

Biological Resources (page 6)

Overall Concerns

The Department of Fish and Game Study on the Project identified "a number of potential impacts", yet all have been mitigated away. The mitigations proposed are not proven to be effective and are weighted to allow the Project to move forward with too little regard to potential detrimental impacts. The requirement of a Biological annual report to be produced is great yet there is no mechanism to ensure compliance.

Also, compliance with these types of mitigations is questionable in this situation. Mitigation violations on a nearby existing Project (Mallard Meadows) have led to the County filing a lawsuit against this same Developer. This is currently scheduled to go to trial on August 7, 2006.

Outlots for Environmentally Sensitive Areas (page 7)

There will be the Establishment of 32 acres of outlots for “protection”. Sounds good but the reality is that this land is really PG&E high power line right-of-way and Little Dry Creek stream protection requirements. The mitigations state that “No ground disturbance will be allowed within these outlots.” And “...outlots as listed below shall be identified as no-construction/no-disturbance environmentally sensitive areas...” referring to outlots A and B.

Yet the Project documentation indicates planned use of the existing PG&E dirt road within the “protected outlet” for emergency access. And this access will require major tree and vegetation clearing and road improvements in both outlots A and B. How can you propose that these two things can happen? The outlet land will be bulldozed. That is the most likely outcome.

Outlots should remain “as a wildlife movement corridor” during and long after construction. There are currently many species that utilize this land for habitat. The high density of this Project as compared to the surrounding parcels places increased importance on keeping these areas available. Please require that these areas are placed off-limit during and after construction, including, but not limited to, the prohibition of vehicle traffic.

Homeowner Association Responsibilities

The Homeowner’s Association is charged with unrealistic responsibility to ensure the mitigations are maintained. Following are items charged to the Homeowner’s Association:

Report to be produced annually for 10 years by a professional biologist to ensure Conditions are implemented and corrective action is taken,

Compliance with State and Federal wetland permit requirements,

Homeowner Association Responsibilities continued

Corrections to degradation of wetland areas from erosion and sedimentation,

Auberry Road berm landscaping and maintenance,

Outlots A and B maintained “for the benefit of wildlife resources”, with approval from Dept. of Fish and Game,

Replacement trees (5:1) ratio to those removed for seven years after planting,

Each buyer is required to read and understand two oak tree protection publications.

A report is to be submitted to the “County for review”. No specifics are offered as to who in the County will review this report and no guidelines are set for the County to ensure that this condition is followed.

Maintenance of Mitigations need be performed by a third-party with sufficient funding established by the developer. Please make this a requirement for this development.

Geology and Soils (page 11)

Area b) Erosion and Runoff (page 12)

The site is noted as having slopes ranging from 8% to 48% (Section II-H Report page 3). The mitigation for this states that “Excess runoff from improvements will be captured and detained on-site”. The potential for the problem was clearly identified yet nothing specific is noted on any documentation. The road construction alone will lead to a dramatic change in the runoff patterns for the land.

No evidence of this can be found on the proposed map, yet the need exists given the topography. All land where excess water capture is necessary is already taken up by home sites. How are the surrounding homeowners assured that this provision will be upheld? Significant damage could occur to neighboring properties.

Please require identification of the storage areas prior to the Final Map approval.



County of Fresno

Department of Public Works and Planning
ALAN WEAVER
Director

Subdivision Review Committee Report Agenda Item No. 2 June 29, 2006

SUBJECT: Initial Study Application No. 4993 and
Tentative Tract Application No. 5239

Allow a planned residential development consisting of 41 lots with a minimum parcel size of two acres with private roads on a 164.53-acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) District.

LOCATION: On the on the east side of Auberry Road between Caballero and Wellbarn Roads, approximately four miles west of the unincorporated community of Prather (SUP. DIST.: 5) (APN: 138-021-75, 76).

Applicant: James Bratton
Owner: B.W.I.

STAFF CONTACT: Lew Pond, Planning & Resource Analyst
(559) 262-4321

**Chris Motta, Senior Staff Analyst
(559) 262-4241**

RECOMMENDATION:

Adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 4993 and approve Tentative Tract Map Application No. 5239 with recommended findings and conditions, and direct the Secretary to prepare a Resolution documenting the Commission's action.

DEVELOPMENT SERVICES DIVISION

2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 262-4055 / 262-4029 / 262-4302 / 262-4022 FAX 262-4893
Equal Employment Opportunity • Affirmative Action • Disabled Employer

REGIONAL JOBS INITIATIVE

If approved, this proposal should not impact the short and long-term objectives of the Regional Jobs Initiative (RJI) for the creation of jobs in Fresno County. There will be short-term job opportunities for activities associated with construction of the subdivision and housing improvements.

EXHIBITS:

1. Location Map
2. Existing Land Use Map
3. Surrounding Zoning
4. Tentative Tract Map
5. Elevations of Entrance Gate and Boundary Fence
6. Summary of Initial Study Application No. 4993
7. Project correspondence

PROJECT DESCRIPTION SUMMARY:

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

Proposed Use:

- Allow a planned residential development consisting of 41 lots with private roads, gated entry and community water system in the RR (Rural Residential, two-acre minimum parcel size) District.

Project Site:

- 164.53 acres

Existing Improvements:

- Three wells, unimproved private road, overhead high voltage power lines

Proposed Improvements:

- Subdivision infrastructure (private gate at the project entrance on Auberry Road, paved private interior roads, community water system, fire protection systems, underground utilities, etc.)

ENVIRONMENTAL ANALYSIS:

An Initial Study (Initial Study Application No. 4993) was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the Initial Study, staff has determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study is included as Exhibit 6.

Notice of Intent of Mitigated Negative Declaration publication date: May 26, 2006.

PUBLIC NOTICE:

Notices were sent to 48 property owners within one-quarter mile of the subject property exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

BACKGROUND INFORMATION:

The subject application was originally submitted as a tentative tract consisting of 41 Rural Residential lots, with water to be provided by individual wells, and with each lot having public road access. During the scheduled May 26, 2005 Planning Commission hearing on the project, the applicant requested that the application be continued to allow the applicant to revise the proposal to include a community water system and private roads with a private gate to be installed at the site's Auberry Road access. Section 10.02c of the Sierra North Regional Plan and Policy LU-E.10 of the General Plan allow Planned Residential Developments utilizing community water and sewer systems in areas designated Foothill Rural Residential. Pursuant to Section 855.N.22 of the Zoning Ordinance, the applicant submitted Classified Conditional Use Permit Application No. 3157 on December 12, 2005 requesting that the subject project be allowed as a Planned Residential Development of 41 Rural Residential lots with a gated entrance and private roads. This application is being processed concurrently with Tentative Tract Map Application No. 5239 and is the subject of a separate staff report.

PROCEDURAL CONSIDERATIONS:

A Tentative Tract Map Application may be approved only if five findings specified in the Subdivision Map Act are made. These findings are included in the body of the Subdivision Review Committee Report. Classified Conditional Use Permit Application No. 3157, proposing to allow planned

residential development of the property, has been submitted concurrently with this Tentative Tract Map Application proposal. Tentative Tract Map Application No. 5239 as proposed with a gated entry and private roads cannot be approved without approval of the Conditional Use Permit Application. Approval of both applications is final unless appealed to the Board of Supervisors within 15 (fifteen days) of the approval action.

KEY INFORMATION PERTINENT TO STAFF ANALYSIS:

Date of Subdivision Review Committee Meeting:	May 13, 2005
Subdivider:	James Bratton
Engineer:	Yamabe & Horn
Location:	On the on the east side of Auberry Road between Caballero and Wellbarn Roads.
Nearest City Limits:	Approximately nine and one-half miles northeast of the City of Clovis and four miles southwest of the unincorporated community of Prather.
Number of Acres:	164.53 acres
Number of Lots:	41 lots
Minimum Lot Size:	2.3 acres
Proposed Source of Water:	Community system
Proposed Means of Sewage Disposal:	Individual sewage disposal system
Drainage:	To natural channels, with additional drainage generated by the development to be retained on-site.
General Plan Designation:	Foothill Rural Residential (Sierra North Regional Plan)
Zoning on Subject Property:	RR (See Surrounding Zone Map, Exhibit 3)
Surrounding Zoning:	RR, AE-40, AL-40, RC-160

Proposed Use:	Rural Residential
Land Use on Subject Property:	Vacant
Surrounding Land Use:	Grazing, Rural Residential Development, Single Family Residences

ANALYSIS / DISCUSSION:

Finding 1: *General Plan Consistency*

The subject 164.53-acre project site is designated Foothill Rural Residential in the Sierra North Regional Plan and is zoned RR. The property is located on the east side of Auberry Road between Caballero and Wellbarn Roads. Surrounding parcels are used for grazing or for single-family residences.

Policy PF-C.17, which applies countywide, states that the County shall, prior to any discretionary project related to land use, undertake a water supply evaluation that determines (a) whether the proposed water supply is adequate to meet the needs of the development, (b) the impact of the use of the proposed water supply will have on other water users, and (c) that the proposed water supply is sustainable. The applicant proposes a community water system with the water supplied by three on-site wells. The applicant was requested by the County Geologist to submit a hydrogeologic report per Section II-H of County Improvement Standards to demonstrate that underground water supplies will be adequate to serve the proposed use and that required General Plan water determinations can be made. The County, through a formal request for proposal process, selected the consulting geologist. The hydrogeologic report, dated March 1, 2006, prepared by Norbert Larsen, Consulting Geologist, was subsequently filed with the County which included pump tests of three five wells and monitoring of 12 nearby off-site wells located within an adjacent subdivision during the pumping phase of the testing. These pumping and monitoring wells are shown on Exhibit 5, Map of Well Sites and Observation Wells. Based upon the report, the Geologist has determined that the determinations as required by Policy PF-C.17 can be made for the project. These determinations have been made subject to the inclusion of mitigation measures requiring that: 1.) The proposed community water system be owned, operated and maintained by a County Service Area (CSA), 2.) Each lot shall be required to have two (2) water meters, one for the residence and the second for landscape irrigation needs, 3.) Only drip irrigation be allowed, 4.) A tiered rate schedule be adopted, 5.) The applicant develop and submit a groundwater monitoring program, 6.) Well No. 3 shall be limited to use only as a monitoring well, 7.) Well No. 6 shall be used only after additional testing to quantify impact on wells to the south of the project site and only to the extent that no significant impacts occur, and 8.) Onsite wells be equipped with dedicated pressure transducers and a data logger is to be provided to allow for groundwater monitoring.

Policy LU-E.17 of the General Plan states as follows:

The County shall consider the current inventory of undeveloped parcels when reviewing rezoning and subdivision proposals involving lands currently designated Rural Residential or Foothill Rural Residential. Such proposals shall generally not be considered appropriate until such time as at least sixty (60) percent of the available lots in the area have been developed.

This policy was added to the General Plan with approval of the General Plan Update in 2000.

Other than stating that the inventory required by Policy LU-E.17 be of “available lots in the area”, no specific information is provided by the General Plan as to the size of the area to be surveyed. Subsequent to the 2000 General Plan Update, only one Foothill Rural Residential tract has been considered, Tentative Tract Map Application No. 5100. This tract, which was approved by the Board of Supervisors on appeal in January 2004, allowed division of eight parcels of land totaling 302.83 acres into 91 parcels with a minimum size of two acres. In that instance, the inventory was made of all lots designated Rural Residential or Foothill Rural Residential within a five mile radius of the project site, in which case, it was determined that 64% of the inventory of Rural Residential parcels were developed. The same methodology was utilized for the subject tract, based upon the best readily available data. The analysis relied on County Assessor’s records, supplemented by building permit records and aerial photographs. This resulted in a determination that 58% of Rural Residential and Foothill Rural Residential designated properties within a five-mile radius of the site have been developed. The calculation included 91 lots authorized with approval of Tentative Tract Map Application No. 5100 in January 2004. The Final Map for these lots was recorded in March 2005. Prior to the recording of these parcels, the proportion of developed Rural Residential parcels within five miles of the subject site was 71%. The Plan Check Section of the Department of Public Works and Planning indicates that plan check activity for new residences on lots within the tract has been heavy. Based upon these considerations, including the language that includes the term “generally” in Policy LU-E.17, staff believes that the subject project is consistent with the policy.

Auberry Road is designated as a Scenic Drive in the General Plan. General Plan Policy OS-L.3 states that intensive land development proposals along a Scenic Drive, including subdivisions of more than four lots, shall be designed to blend into the natural landscape and minimize visual scarring of vegetation and terrain. The policy further provides that the design of said development proposals shall provide for maintenance for a natural open space area two hundred (200) feet in depth parallel to the right-of-way. The policy does allow for modification of the setback when topographic or vegetative characteristics preclude such a setback and when topographic or vegetative characteristics provide screening of building and parking areas from the right-of-way. The entrance gate proposed for the project in concurrent Conditional Use Permit Application (CUP) No. 3157 will be located

approximately 90 feet from the Auberry Road right-of-way. Conformance of the gate with GP Policy OS.L-3 is addressed in the staff report for CUP No. 3157.

With respect to the remainder of the project, portions of 11 of the proposed 41 lots are located within this 200-foot setback. In addition, an interior road approximately 1,600-foot in length is proposed to be constructed parallel to Auberry Road within the 200-foot setback. Based upon the following considerations, staff believes that a modification of the setback standard is warranted in the case of this project. The interior road in question serves a corridor of six proposed parcels lying between Auberry Road and Little Dry Creek as it meanders through the southwest portion of the tract. Requiring the road to be set back 200 feet would either reduce the lots to be served by the road to sizes less than the minimum two acres or result in potential impacts to the stream and its designated buffer area. The applicant has also requested to be allowed to construct improvements within the 200-foot setback on three of the 11 lots within this setback area. The area outside the setback on Lots 40 and 41 is either quite steep for housing construction or is heavily wooded. Because of the proximity of these lots to a designated wildlife movement corridor, no feasible parcel reconfiguration is possible. Staff believes that these considerations support a condition allowing improvements on these parcels (Lots 40 and 41) to be located within the 200-foot setback but no closer than 100 feet from the Auberry Road right-of-way. The applicant has also requested that improvements on Lot 37 be allowed as close as 150 feet from Auberry Road because the portion of this parcel lying outside the 200-foot setback is not large enough for a single-family residence. Staff believes that topographic features and vegetation in this area will effectively screen the improvements from Auberry Road and has included a condition allowing improvements on Parcel 37 as requested.

The owners of lots along the western boundary of the project may wish to erect fences that would be located within the 200-foot scenic setback area. To reduce potential visual impacts caused by such fences, the applicant proposes to construct a tract boundary fence along the eastern right-of-way line of Auberry Road, as described in the Operational Statement for concurrent CUP No. 3157 and depicted in Exhibit 5 of this report. The fence is proposed to be a white split rail wood fence. A condition is included allowing this fence and stipulating that no other fencing will be allowed within the 200-foot natural open space area except lot line fencing that may be constructed by private owners, which shall be consistent with the design of the boundary fence.

Based upon these considerations, staff believes that the project conforms to General Plan Policy OS.L-3 if the development and operation of the project is in substantial compliance with the tentative tract map (Exhibit 4), entrance gate and fence elevation (Exhibit 5) and the Operational Statement associated with CUP No. 3157. Compliance with the latter document is a recommended condition of approval of CUP No. 3157.

The 1,600-foot interior road referred to above is proposed to be constructed immediately adjacent to Auberry Road. This may result in a traffic hazard in that motorists on Auberry Road may mistake the interior road for Auberry Road, particularly during night time hours. To address this concern, a condition is included at the request of the Development Engineering Division requiring that a berm be constructed to provide visual separation between the highway and the interior road. To enhance the appearance of the berm in keeping with the Scenic Drive objectives, the condition requires the berm to be landscaped with natural materials.

The policies of the Transportation and Circulation Element of the General Plan state that the County will, as conditions of development, require dedication of right-of-way and road improvements as necessary to ensure that roads will safely serve expanding development.

Access into the proposed subdivision will be provided via Auberry Road, which is classified as an Arterial in the General Plan. A condition of approval is included requiring additional road right-of-way to the Arterial standard of 53 feet of half right-of-way on the applicant's side of the road, plus additional area as needed for cuts and fills. In addition, direct access rights shall be relinquished along the Auberry Road frontage with the exception of one access point into the subdivision and one emergency access road.

Conditions recommended for this subdivision by the Development Engineering Division of the Department of Public Works and Planning require that the proposed interior roads be constructed to a County public road standard and that provisions be made for their maintenance.

The proposed development will result in an increase in vehicle traffic in the area. The Design Division of the Fresno County Department of Public Works and Planning, which is responsible for determining the adequacy of County roads and necessary improvements, reviewed the subject application and requested a traffic impact study which identified potential traffic impacts to county roads and one State highway. Mitigation measures are included requiring pro-rata shares for future signalization of various intersections and improvements to segments of Auberry Road and Copper Avenue, to reduce impacts to County roadways to a level of less than significant. A mitigation measure is also included requiring a pro-rata share of the cost of improvements to the SR 168/Auberry Road intersection, reducing impacts to State highways.

Policy PF-I.8 of the General Plan states that the County and school districts should work closely to secure adequate funding for new school facilities. The policy also states that the County shall support the school district's efforts to obtain appropriate funding methods such as school impact fees. The proposed project is located within the Sierra Unified School District and as the project develops, school impact fees will be paid to the District.

Policy PF-H.2 of the General Plan states that new development in unincorporated areas of the County shall not be approved unless adequate fire protection facilities are provided. The property is located with State Responsibility Area for fire protection purposes. The applicant will be required to comply with rules and regulations pertaining to water, emergency access, roads, and fuels mitigation established by the California Department of Forestry and the County's Ordinance Code as specified in Chapter 15.60.

Policy PF-G.2 of the General Plan states that the County shall strive to maintain a staffing ratio of two sworn Sheriff's officers per 1,000 residents served. The Board of Supervisors has recently directed that a funding mechanism be established to provide for this minimum level of staffing in areas experiencing new residential growth. This Initial Study prepared for the project also identified the need for enhanced police services. A condition has, therefore, been included as a mitigation reducing public service impacts to a level of less than significance by requiring creation of a Community Facilities District or other appropriate funding mechanism for this purpose.

The subject property is traversed by a seasonal stream and is located in a mixed oak woodland. The Open Space and Conservation element of the General Plan includes a number of policies which seek to protect oak woodlands and wetlands, as well as encouraging preservation of existing terrain and natural vegetation in visually sensitive areas. Staff has included a condition of approval requiring preparation of an Oak Management Plan for the property for review and approval prior to recordation of the Final Map. As discussed in the Environmental Effects Section below, several mitigation measures have been included related to protection of biological resources.

Based upon the above considerations, staff believes that the project can be found to be consistent with the General Plan.

Finding 2: Suitability of Site

The subject property is located in a foothill area at elevations ranging from about 750 feet to 1,100 feet above sea level. Some of the lots have grades in excess of 30%. In accordance with County Subdivision Improvement Standards, a soils report is required for the subdivision as a condition of the final map. The soils report needs to address any limitations on building in these excessive slopes.

Individual sewage disposal systems are proposed to serve the development. A sewage feasibility analysis was prepared for the project at the request of the Fresno County Department of Community Health, Environmental Health System (Health Department). The sewage feasibility analysis indicated that soils on the project site are adequate to accommodate individual sewage disposal systems with full replacement area. Per the feasibility analysis, a condition has been included which requires engineered sewage disposal systems for each lot.

The parcel is zoned Rural Residential, allowing parcel sizes no smaller than two acres. Lot sizes in the proposed tentative tract range from 2.30 to 5.17 acres. As indicated in the Finding 1 section above, the area allowed for building improvements will be limited on several lots to allow for scenic setbacks from Auberry Road. Also included is a condition requiring that stormwater runoff generated by new roads and buildings must be retained or detained in on-site basins. Notwithstanding these constraints and conditions, staff believes that the site is adequate for the use as proposed and that Finding 2 can be made.

Finding 3: Environmental Effects

The Subdivision Ordinance requires that a tentative tract map be denied if a finding is made that the design of the subdivision or proposed improvements are likely to cause substantial environmental damage or substantially and unavoidably injure fish or wildlife or their habitat.

The Initial Study, attached as Exhibit 5, identified a number of potential environmental impacts. Potential impacts related to compaction, overcovering of the soil, and wind and water erosion will be addressed by mandatory adherence to the County's Grading and Drainage Ordinance and County Building Code.

The San Joaquin Valley Unified Air Pollution Control District (Air District) reviewed the project and stated the project will contribute to the overall decline in air quality due to increased traffic and ongoing operational emissions. Although the project itself may not generate significant air emissions, the Air District indicated that the project and others like it may make it more difficult to meet mandated emission reductions and air quality standards. The Air District indicated that the project will be subject to District Rules 4901 and 4902, which regulate the sale, installation and transfer of both wood-burning devices and natural gas-fired water heaters to limit the emissions of PM-10 and oxides of nitrogen. Regarding temporary impacts during construction, the District also noted that the construction phase of the project will be subject to certain aspects of District Regulation VIII, a series of rules designed to reduce PM-10 emissions generated by human activity. Adherence to these mandatory measures will adequately address the potential air impacts identified by the Air District. Therefore, no significant impacts to air quality are anticipated.

The Air District encourages other measures to reduce the project's overall level of emissions. These include careful selection and location of trees, installation of sidewalks and bikeways, and energy conserving features such as energy efficient appliances, natural gas or EPA-certified wood burning fireplaces, and natural gas and electrical outlets in outdoor areas to encourage use of clean-burning outdoor cooking appliances and landscape maintenance equipment. Information on these measures has been provided to the applicant.

A Biological Evaluation of the site was performed by Live Oak Associates dated September 16, 2003. Mixed oak woodland and button willow scrub associated with the natural drainage on the site were the only two habitats observed. The report concludes that the project will result in a less than significant impact to regional populations of special status animal species, and a less than significant impact on riparian habitat and regional wildlife movements. The report states that three special status plant species could be present on the site, the Madera Linanthus, Orange Lupine, and Mariposa Pussypaws. The State Department of Fish and Game (F&G) reviewed the evaluation and indicated that a Federally-listed species, the Valley Elderberry Beetle, could also be impacted by the project. Follow up surveys by Live Oak Associates, reported in letters dated April 27 and May 17, 2004, concluded that and Mariposa Pussypaws, Orange Lupine, and Madera Linanthus were not observed on the site. Also, no Blue Elderberry shrubs providing habitat for the VELB were found. The report concludes that there would be no potential impacts to special status plant species.

As indicated in the Biologic Evaluation Report for the project, the project area contains Army Corps of Engineers (ACOE) jurisdictional "Waters of the United States". A report entitled "Waters of the United States, Table Mountain Creek Subdivision" was prepared by LOA dated March 26, 2004, and forwarded to the ACOE. By letter dated August 5, 2004, ACOE verified that the site contains 4.30 acres of waters of the United States, including wetlands.

The California Department of Fish and Game commented on the Biological Evaluation by letter dated April 13, 2004. Notwithstanding the conclusions of the evaluation that impacts to riparian habitat and wildlife movement would be less than significant, F&G requested that mitigation measures be adopted establishing stream setbacks and a wildlife movement corridor. Mitigation measures are included requiring two "no build, no disturb" outlots to be established. Outlot "A", consisting of 12.6 acres, is to be established as a wildlife movement corridor 180 feet wide. This corridor is coterminous with an easement held by PG&E for two sets of high voltage transmission lines that traverse the property. Outlot "B", consisting of 19.43 acres, includes the 4.30-acre Little Dry Creek together with a minimum 50-foot buffer from the upper edges of the creek or from the outer edge of the dripline of riparian vegetation, whichever is greater. It also includes a minimum 30-foot buffer from the upper edges of two tributaries of the creek. The designation of the outlots together with a "no build, no disturb" note on the Final Map will assure that these areas will remain in their natural state.

A Section 404 Permit from ACOE and a Section 1600-1603 Stream Bed Alteration Permit will be required for the proposed modification of the existing crossing of the stream by the private road traversing the site. This will reduce any potential erosion or siltation impacts to a less than significant level.

Pursuant to Section 21083.4 of the Public Resources Code, the County has determined that the project will result in a conversion of oak woodlands that will

have a significant effect on the environment. Mitigations are included as required by this code section, along with the preparation of an Oak Management Plan in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan).

A Cultural Resources Study of the site, dated August, 2003 and prepared by Donald G. Wren, Consulting Archeologist, identified four archeological sites. This study was reviewed by the Southern San Joaquin Valley Information Center, who requested that the identified sites be avoided. The project will be subject to a mitigation measure requiring an open space indenture agreement to protect the sites that will be attached as a covenant running with the land and noted on the final map.

As indicated in the Initial Study, Exhibit 5, potentially significant aesthetic impacts were identified in the environmental analysis. The existing 164.53-acre site is located in the foothills of the Sierra between the elevations of 750 and 1,100 feet. Typical of the foothill area, the site is classified as mixed oak woodland, with blue oaks, live oaks and foothill pines as the dominant species. The North Fork of Little Dry Creek traverses the site in a northeast to southwest direction, and a number of rock outcroppings are found on the parcel, mostly in the proximity of the stream. These factors enhance the aesthetic character of the site, although this quality is compromised to an extent by the presence of two high voltage transmissions line and towers that cross the property, also in a northeast to southwest direction.

As indicated in the Finding 1 discussion above, Auberry Road in this location is designated as a Scenic Highway in the General Plan, and mitigation measures are included to reduce aesthetic impacts as viewed from the highway. The mitigation measures included in the project to protect biological resources will also have the effect of significantly reducing aesthetic impacts. Under these measures, 32 acres of the 164.53-acre site are designated as open space outlots for the protection of riparian habitat along the stream and for wildlife movement. Site visits by staff and aerial photos confirm that almost all rock outcroppings are located along the stream and will, therefore, be protected within an outlot. Impacts on oak woodlands will be addressed in the Oak Management Plan that will incorporate the provisions of Section 21083.4 of the Public Resources Code. The provisions require replacement at a 5:1 ratio of all oak trees more than five inches in diameter at breast height that are removed by the project.

Based upon the above considerations, staff believes that this subdivision and related improvements are not likely to cause substantial environmental damage or substantially injure fish or wildlife in their environment provided the development complies with the recommended conditions of approval.

Finding 4: Public Utilities and Easements

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

The two overhead electrical transmission lines that traverse the tract are exempted from the County undergrounding requirement by the Design and Improvement Standards. These lines are owned by the Pacific Gas & Electric Company and are within a 180-foot access and maintenance easement. As indicated in Finding 3 above, this 180-foot corridor is also designated for wildlife movement and is noted as an outlot on the site plan.

Based upon these factors, staff believes that Finding 4 can be made.

Finding 5: Public Health

Neither the design of the subdivision, nor the type of improvements that are proposed are likely to negatively impact the health of future residents or the general public. Water will be provided by a community water system in accordance with mitigation measures, as discussed in Finding 1.

The Fresno County Fire Protection District (District) reviewed the project, including the proposed private gate access to the site. They reviewed the applicant's plans, which indicated the pressurized water system, location and size of water tanks, and location of fire hydrants. The Department determined that the project would meet the District's requirements with provision made for Knox Box gate access and subject to conformance with State SRA requirements and subject to provision of emergency access.

A condition is included requiring establishment of a funding mechanism to provide for maintenance of a staffing ratio of two sworn Sheriff's officers per 1,000 residents served. The Sheriff's Department reviewed the project and indicated no concern with their ability to provide service subject to provision that their office be provided the access code for the private gate.

As stated in Finding 2, each lot of the subdivision will be served by an individual septic system. As recommended by the sewage feasibility analysis prepared by the applicant's consultant and accepted by the Health Department, each individual septic system will be required to be engineered.

The Health Department has determined through review of water quality information provided by the applicant that all constituents or chemicals analyzed meet the standards adopted by the California Department of Health Services for community public water systems with the exception of coliform bacteria at well # 4. A note will be included stating that prior to the use of Well #4, additional bacteriological testing will be required.

Based on the above considerations, the design of the subdivision and the type of improvements are not likely to cause serious health problems provided that the development complies with the conditions of approval.

STAFF RECOMMENDATION

Staff recommends adoption of the Mitigated Negative Declaration prepared for this project.

Staff believes the required findings can be made based upon the factors cited in the analysis, the recommended conditions, and the notes regarding mandatory requirements. Staff therefore recommends that the project be approved.

PLANNING COMMISSION MOTIONS:

RECOMMENDED MOTION (Approval Action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 4993; and
- Adopt findings noted in the staff report and approve Tentative Tract Map Application No. 5239, subject to the conditions listed below; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

ALTERNATIVE MOTION (Denial Action)

- Move to determine one or more of the required Tentative Tract Map findings cannot be made for the following reasons [state which finding(s) and reasons], and move to deny the project; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

CONDITIONS:

A. AUBERRY ROAD

1. Additional road right-of-way shall be provided to the Arterial standard of 53 feet of half right-of-way on the applicant's side of the road, plus additional area as needed for cuts and fills.

Note: Limits of cuts and fills will be identified by the Subdivider through submission of a conceptual design for Auberry Road widening along the frontage of the subdivision, including supporting topographic survey features outside of the current road right-of-way.

2. Auberry Road is classified as an arterial and as such, the direct access point from the proposed subdivision shall be relinquished except at the locations of the 60-foot wide entrance road and an emergency access road.
3. Adequate sight distance shall be provided at the intersection of the entrance road and Auberry Road.
4. A 30-foot by 30-foot cutoff shall be provided at the entrance road and Auberry Road.
- *5. A natural open space area extending 200 feet from the easterly right-of-way line of Auberry Road, widened in accordance with Condition A.1, shall be maintained parallel to Auberry Road, as follows:
 - a) General Plan Policy OS-L.3.d provides that the open space area be 200 feet in width, but allows modification of the setback requirement when topographic or vegetative conditions preclude such a setback or provide screening of buildings and parking areas from the right-of-way. Accordingly, the interior road providing access to Lots No. 31 through 36 may be located within the 200-foot setback area, structures may be allowed within the 200-foot natural open space area for Lot 37, but no closer than 150 feet from the right-of-way line, and structures may be allowed within the 200-foot natural open space area for Lots No. 40 and 41, but no closer than 100 feet from the right-of-way line.
 - b) No structures shall be allowed within the 200-foot natural open area on Lots No. 31 through 36, 38 and 39.
 - c) The subdivider may construct a tract boundary fence within the

natural open space area and described as a white split rail wood fence in the Operational Statement for the concurrent Conditional Use Permit Application No. 3157. Said fence shall conform to this description and to the design depicted in Exhibit 5 of this report. No other fencing shall be allowed within the 200-foot natural open space area except lot line fencing that may be constructed by private owners, and which shall be consistent with the design of the boundary fence.

d) The natural open space area shall be shown on the Final Map.

B. GATED ENTRY

1. Shall be constructed to a public road standard in accordance with County Improvement Standard A-2-b (28 feet of base and pavement plus transitions as needed). Applicant has proposed a median island within an 84-foot right-of-way at the entrance.
2. Vehicles denied access shall be able to exit the entrance in a continuous forward motion.
3. The call box or actuator setback from the public right-of-way shall be determined by statistical analysis using the “queuing theory” to insure that there is a 1% chance or less of a vehicle stopping in the public right-of-way due to a vehicle waiting to be granted access to the development. The analysis shall use a five-minute delay for the peak hour volume entering the development at the gate.
4. If a bypass lane with a separate call box or actuator is provided for the residents, their vehicles may be deducted from the analysis. This is assumed to be 90% of the peak hour traffic.
5. Each vehicle shall be given a 25-foot envelope in determining the setback from the public road.
6. The call box shall be located a minimum of 25 feet from the public right-of-way.
7. To address potential visual impacts from Auberry Road, a County Scenic Drive, the entrance gate structure shall be set back a minimum of 200 feet from Auberry Drive, unless a greater setback is required by other conditions of this subsection.
8. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.

9. Access through the subject site shall continue to be provided to those properties and parcels to the north and east of the proposed tract that had previously utilized Granite Creek Road for ingress and egress. Since the extent of such previous access easement rights is unknown and could affect additional parcels that could be divided in the future, a telephone call box shall be placed at the entrance to allow for calls to be received at parcels outside of the tract boundary in order to permit access through the gate. Since the gate is within a potential wildfire area, the exit gate shall open outwardly and/or permit exit via a crash gate construction feature in the event of a power failure.

C. INTERIOR ROADS AND CUL-DE-SACS

1. The entrance road (Granite Creek Road) shall be constructed to minimum 30 MPH design speed and in accordance with County Improvement Standard A-2b, but with 60 feet of right-of-way as shown on the tentative map (28 feet of pavement and base). The interior roads serving the lots shall be constructed to a 25 MPH. public road standard in accordance with County Improvement Standard A-1b (24-foot minimum width of pavement and base).
- *2. To mitigate a potentially significant traffic hazard as well as provide visual screening, the frontage road along the Auberry Road right-of-way shall be separated from Auberry Road by a berm. Landscaping of natural materials shall be planted on the berm and maintained by the Homeowner's Association until the plantings are self-sustaining. The applicant shall provide a landscaping plan to the County for review and approval.
3. Twenty-foot by twenty-foot corner cutoffs shall be provided at the intersection of all interior roads. Adequate sight distance shall be provided at all intersections based upon a 25 MPH. design speed for the interior streets. Roads shall intersect at approximately 90-degree angles.
4. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.
5. Interior roads and cul-de-sacs shall provide public utility easements outside of the roadway where needed.
6. A County Standard B-2 cul-de-sac shall be provided at the end of all cul-de-sac roads.
7. The 25 MPH design speed requires the interior roads to have a minimum curve radius of 230 feet.

8. The improvement plans shall clearly demonstrate how the 60-foot entrance road shall connect to the access road serving parcel maps east of the subject site. (Parcel Maps 7599, 7279, etc.).
9. Engineered plans for the road improvements shall be submitted to the County of Fresno for review and approval. The initial submittal shall include a soils report which shall identify a recommended traffic index, R-value and pavement section. If significant cuts and fills are involved, subsequent R-values shall be obtained for subgrade after completion of earthwork operations.

D. DRAINAGE AND EROSION CONTROL

1. Provisions shall be made to maintain natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of those parcels adjacent to the development. Any additional runoff generated from this tract shall be retained or detained on-site or by other facilities acceptable to the Director of Public Works and Planning.
2. A Hydraulics and Hydrology report shall be prepared for the stream traversing the property. The report shall establish the limits of inundation from a 100 year storm, base flood elevations for the parcels fronting on the stream, and shall establish a high water level at the proposed bridge and flow rate at the bridge for design purposes.
3. The applicant shall obtain an NPDES permit prior to construction or grading activities. A Notice of Intent shall be filed with the Regional Water Quality Control Board. A copy of the Notice shall be provided to the County.
4. The applicant shall develop a Storm Water Pollution Prevention Plan (SWPPP) and incorporate the plan into the construction improvement plans.

E. MAINTENANCE

1. A Zone of Benefit in County Service Area 35 or other method acceptable to the Director of Public Works and Planning shall be provided for the Maintenance of new roads and outlots. If the entrance road is gated, maintenance shall be by the Homeowner's Association or other entity acceptable to the Director.
2. The subdivider shall be required to secure the maintenance of the new roads for a period of two years after acceptance thereof.

3. Common facilities, including open space, private roads, and entrance gate, shall be maintained by a homeowners association.

F. UTILITIES

1. All utilities with the exception of the PG&E overhead transmission lines traversing the site shall be placed underground in accordance with the provisions of the Subdivision Ordinance.
2. Any existing utilities within or adjacent to this tract not in conformance with these requirements shall be removed or placed underground.
3. A ten-foot wide public utility easement shall be dedicated along all lot boundaries located adjacent to any street located within the tract.

G. STREET NAMES

1. The internal roads within the subdivision shall be named. The subdivider shall obtain approval from the Street Names Committee prior to final map approval.

H. FIRE PROTECTION:

1. The design of the fire protection water system with location and number of fire hydrants together with the size of the water mains shall conform to County Standards and shall be approved by the Director of the Department of Public Works & Planning after consideration of the recommendations of the fire district having jurisdiction of the area.
2. The property is located with State Responsibility Area for fire protection purposes. The applicant shall be required to comply with rules and regulations pertaining to water, emergency access, roads, and fuels mitigation established by the California Department of Forestry and the County's Ordinance Code as specified in Chapter 15.60.
3. Engineered plans for the fire protection system shall be reviewed and approved by the fire protection district having jurisdiction for the area in addition to the County.

I. EMERGENCY ACCESS ROADS:

1. Shall be contained within easements (minimum 20' wide) and shall connect to public roads.
2. Shall be improved to a standard to provide traversability for emergency equipment as determined by the Director of the Department of Public

Works and Planning after consideration of the recommendations of the fire district having jurisdiction of the area.

3. Crash gates shall be provided at both ends of the easements.

J. WATER AND SEWER

- *1. The proposed community water system shall be owned, operated and maintained by a County Service Area (CSA). Prior to the issuance of any building permits for any single family dwellings within the subject tract, the CSA shall submit an application and receive approval for a permit to operate a Public Water System. The permit application shall include supporting information, in the form of a technical report, and be submitted to the Fresno County Department of Community Health, Environmental Health Division for review. Approval for the permit will require demonstration of Technical, Managerial, and Financial (TMF) Capacity as well as documentation of the services of a State-Certified Water Distribution Operator. Contact Ed Yamamoto at (559) 445-3357 for more information. The subdivider shall assist the CSA staff in preparing the necessary documentation for submission to the Environmental Health Division in order to secure a water purveyor permit for the community system. Well sites shall be designated as outlots, and shall be provided with easement access for maintenance purposes.
- *2. All service connections shall be metered. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map. Each lot shall be required to have two (2) water meters. One meter will serve the residence and the second meter will serve the landscape irrigation needs. All such meters shall be equipped with remote read sensors so that homeowners may monitor their water usage. The irrigation meter shall not be installed until a copy of the proposed landscaping plans for the lot is reviewed and approved by the Architectural Review Committee and submitted to the County Service Area for review and forwarding to the County Geologist for approval to ensure that the proposed landscaping will not require more water than is available for the lot. Upon recordation of the final map, this requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet.
- *3. Only drip irrigation shall be allowed. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map.

- *4. Prior to recordation of the final map, a tiered rate schedule for the irrigation service for both domestic and landscaping use shall be adopted by the Board of Supervisors as the Governing Board of the County Service Area serving the project. The rate for irrigation services shall be significantly tiered to discourage the over-use of irrigation water. The tiered rate structure shall include procedures indicating when water meters will be read, payment of fees, notification of overuse, criteria for the disconnection of irrigation service due to overuse, an appeal process, and criteria for the reconnection of the water supply for irrigation services.
- *5. Prior to recordation of the final map, the applicant shall develop and submit to the County Geologist and the Resources Division of Public Works & Development Services Department a groundwater monitoring program for the proposed community water system. The cost of ongoing monitoring shall be included in the rate schedule established by the County Service Area. Approval and acceptance of the groundwater monitoring program shall be made by the County Geologist.
- *6. Wells 2, 4 and 5 shall be used for the community water system. Well No. 3 shall be limited to use only as a monitoring well. Well No. 6 shall be used as a backup well, but only after additional testing to quantify impact on wells to the south and only to the extent that no significant impacts occur.
- *7. All onsite wells shall be equipped with dedicated pressure transducers and a data logger is to be provided.
- 8. All rights to ground water beneath the tract shall be dedicated to the County of Fresno. Private property owners shall be prohibited from digging any wells.
- *9. Individual engineered sewage disposal systems shall be installed in accordance with the Geology and Sewage Feasibility Study prepared by Norbert W. Larsen, Ph.D., dated November 28, 2003 and numbered NWL 21053. Such a system, following an on-site investigation, must be designed and installation certified by a California registered civil engineer or registered geologist. It is the responsibility of the property owner, the property buyer, the engineer, and/or the sewage disposal system contractor to confirm required setbacks, separations, and other special requirements or conditions which may affect the placement, location, and construction of the sewage disposal system.

K. SOILS REPORT

1. A soils report is required for the subdivision as a condition of the final map. The soils report needs to address the feasibility of the site for the type of development as proposed.
2. Some lots have grades in excess of 30%. The soils report needs to address limitations on building in these excessive slopes.

L. BIOLOGICAL RESOURCES

*1. OUTLOTS FOR ENVIRONMENTALLY SENSITIVE AREAS

In order to protect wildlife resources, outlots as listed below shall be identified as no-construction/no-disturbance environmentally sensitive areas on the final map and shall remain in their natural state. The final map and the private Covenants, Conditions and Restrictions (C.C. & R's) shall state that ground disturbing activities, (e.g., grading, fencing, construction, clearing, landscaping, or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map Application No. 5239, or the cutting or removal of any natural vegetation, is prohibited unless otherwise approved by the Director of Public Works and Planning after consideration of the recommendations of the California Department of Fish and Game.

- a) Outlot "A", consisting of 12.6 acres, shall be established as a wildlife movement corridor and for public utility purposes. Said corridor shall have a minimum width of 180 feet.
- b) Outlot "B", consisting of 19.43 acres, shall be established for creek riparian purposes and shall include the 4.30 acres depicted as "Tributary Waters of the United States meeting the Technical Criteria of Jurisdictional Wetlands" on the Yamabe & Horn Engineering, Inc. map dated 6/27/2003, and verified by the Army Corps of Engineers by letter dated August 5, 2004, together with a minimum 50-foot buffer from the upper edges of the North Fork of Little Dry Creek or from the outer edge of the dripline of riparian vegetation, whichever is greater, and a minimum 30 feet buffer from the upper edges of Tributaries 3 and 5.
- c) Outlots "A" and "B" shall be managed and maintained by the Homeowners Association for the benefit of wildlife resources. Input on the management and maintenance shall be provided by a resource management professional(s) approved by the Department of Fish and Game.

- d) Only downward directed lighting shall be used in proximity to open space areas.

*2. OAK MANAGEMENT

- a) The subdivider shall prepare an Oak Management Plan for review and approval by the County prior to recordation of the Final Map. The Plan shall be prepared in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan).
- b) Pursuant to Section 21083.4 of the Public Resources Code, the County has determined that the project will result in a conversion of oak woodlands that will have a significant effect on the environment. Accordingly, the Oak Management Plan prepared under Condition *2.a.) above shall incorporate the following measures to mitigate the significant effect:
 - (1) The subdivider shall pay a one time mitigation fee of \$175.00 per lot to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, and further agrees to establish a covenant that requires the payment by the seller of an additional \$1,000.00 to the Conservation Fund upon the subsequent sale or transfer of ownership for each parcel within the project.
 - (2) The subdivider shall establish a monitoring protocol that identifies all oak trees at least five inches in diameter at breast height that are to be removed at the time the roadway system and individual lots are developed. The Plan shall include a map showing all trees proposed for removal.
 - (3) Any trees that are removed shall be replaced within the boundary of the tract at a ratio of 5:1. Trees removed for road construction shall be replaced within the 200-foot natural open space area parallel to the right-of-way for Auberry Road (see Condition No. 8). Trees removed for development on residential lots shall be replaced elsewhere on the lot. Replacement trees shall be a minimum of five gallons in planting size.
 - (4) Replacement trees shall be maintained by the Homeowner's Association for a period of seven years

after planting. Maintenance shall include replacing dead or diseased trees.

- (5) Each lot purchaser shall review and understand the information contained in “Living Among the Oaks” and ‘Wildlife Among the Oaks’ publications prior to applying for a construction permit. These publications shall be provided by the applicant to each lot purchaser.

*3. RAPTOR PROTECTION

The subdivider shall have a qualified biologist survey the Project site for tree nesting raptors 30 days prior to the onset of construction if construction is to begin during the raptor nesting season (February through August). No construction or ground disturbance shall take place during nesting seasons within 300 feet of any active raptor nest identified on the site until after the young have dispersed. Biological monitoring shall occur until the young have dispersed. A report shall be submitted to the County and to the Department of Fish and Game summarizing the results of each survey and subsequent biological monitoring.

*4. ANNUAL REPORT

The Homeowner’s Association shall retain a qualified professional biologist to prepare and submit a report to the County and the State Department of Fish and Game for review and approval, on an annual basis, for a period of ten years following recordation of the final map. The subdivider and subsequent homeowner’s association shall provide funds necessary to implement this condition, including any necessary corrective action. The report shall address the following:

- a) Compliance with state and federal wetland permit requirements.
- b) Possible degradation of wetland areas from erosion and sedimentation.
- c) Compliance with the Condition No. L1 relating to the environmentally sensitive areas within the tract.
- d) Compliance with the approved Oak Management Plan, including mitigation measures.
- e) Compliance with the mitigation relating to tree-nesting raptors.
- f) List of mitigation measures not in compliance, with

recommended corrective action.

*M. TRAFFIC

1. Prior to issuance of a building permit, the applicant shall enter into an agreement with the County agreeing to participate on a pro-rata share basis in the funding of future off-site traffic improvements for the year 2025 for the improvements defined in items (a) through (c) below. The traffic improvements and the project's maximum pro-rata share of the associated costs are as follows:

a) Signalization improvements at the intersections of:

- Auberry and Millerton Roads
The project maximum share is 2.54%
- Auberry Road and Copper Avenue
The project maximum share is 0.95%
- Auberry Road and Marina Avenue
The project maximum share is 1.16%
- Copper and Willow Avenues
The project maximum share is 0.45%

b) Improvements to the road segment:

- Auberry Road from Copper Avenue to Millerton Road
The project maximum share is 1.12%

c) Improvements to the road segment:

- Copper Avenue from Auberry Road to Willow Avenue
The project maximum share is 0.85%

(The current total estimated pro-rata cost of these improvements is \$197,962.)

NOTE: The County shall update cost estimates for the above-specified improvements prior to execution of the agreement. The Board of Supervisors pursuant to Ordinance Code Section 17.88 shall adopt a Public Facilities Fee addressing the updated pro-rata costs. The fee shall be paid prior to issuance of building permits based on the traffic generated by a specific use authorized by a Site Plan Review that substantially increases traffic generation. The Public Facilities

Fee shall be related to off-site road improvements, plus costs required for inflation based on the Engineering New Record (ENR) 20 Cities Construction Cost Index.

2. Prior to issuance of a building permit the applicant shall enter into an agreement with Caltrans agreeing to pay \$1,410 to Caltrans as the project's pro rata share of the estimated cost for funding improvements to the State Route 168/ Auberry Road intersection.

N. OUTLOTS

1. The use of all Outlots shall be designated on the recorded map.
2. Ownership of all Outlots (except for Outlots conveyed to the CSA) shall be by the homeowners association for the benefit of all owners, as an undivided interest by all the lot owners, or by other method approved by the Director. No Outlot shall be developed, except as allowed by the Fresno County Zoning Ordinance, nor shall any Outlot be divided or be encumbered by a mortgage or other lien as security for a debt without the prior written consent of the Board of Supervisors, and 66-2/3 percent of the owners and mortgagees. The County is the intended beneficiary of this provision and shall have the right to enforce this provision by all available remedies, legal and equitable. This condition shall be included in a recorded covenant to run with the land.

O. OTHER CONDITIONS

- *1. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, the Department of Fish and Game shall be provided with appropriate streambed alteration notification pursuant to Fish and Game code sections 1600-1603 et. Seq.
- *2. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, a Clean Water Act Section 404 Permit shall be obtained from the United States Department of the Army, Army Corps of Engineers and a Clean Water Act Section 401 Water Quality Certificate permit shall be obtained from the California Regional Water Quality Control Board.
- *3. Prior to recordation of the final map, Open Space Easement Indenture Agreements shall be executed between the County and the property owner to protect several significant archaeological sites found on the

subject property and identified in A Cultural Resources Resource Study of the Everton Property-Granite Creek Road Fresno County dated August, 2003, prepared by Don Wren, consulting Archaeologist. Prior to recordation of the final map, this requirement shall be recorded as a covenant running the land and shall be noted on an attached map sheet.

- *4. Prior to recordation of a final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for Sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism.
5. Prior to recording a final map, an agreement incorporating the provisions of the "Right-to-Farm" notice (Ordinance Code Section 17.01.100) shall be entered into with Fresno County.
6. All conditions of concurrent Classified Conditional Use Permit Application No. 3157 shall be complied with.

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

NOTES:

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

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

124, November, 1990).

3. The proposed development shall implement all applicable Best Management Practices presented in the Construction Site and Post-Construction Storm Water Quality Management Guidelines, to reduce the release of pollutants in storm water runoff to the maximum extent practicable.
4. Prior to the use of Well #4, additional bacteriological testing will be required.

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Inter Office Memo

DATE: August 15, 2006

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: Resolution No. 11983 - Initial Study Application No. 4993, Tentative Tract Map Application No. 5239, and Classified Conditional Use Permit Application No. 3157

APPLICANT: James Bratton
OWNER: B.W.I.

REQUEST: Allow a planned residential development consisting of 41 lots with private roads on a 164.53-acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) District.

LOCATION: The east side of Auberry Road between Caballero and Wellbarn Roads, approximately four miles west of the unincorporated community of Prather (SUP. DIST.: 5) (APN: 138-021-75, 76)

PLANNING COMMISSION ACTION:

At its hearing of June 29, 2006, the Commission considered the Staff Report and testimony (summarized in Exhibit "A").

A motion was made by Commissioner Milligan and seconded by Commissioner Laub to adopt the Mitigated Negative Declaration prepared for the project; and

- Adopt the recommended findings of fact and approve Classified Conditional Use Permit Application No. 3157 subject to the conditions listed in Exhibit "B"; and

- Adopt the recommended findings of fact and approve Tentative Tract Map Application No. 5239 subject to the conditions listed in Exhibit "B".

This motion passed on the following vote:

VOTING: Yes: Commissioners Milligan, Laub, Hammerstrom, Phillips
 No: Commissioners Abrahamian, Yancey
 Absent: Commissioners Goodman, Woolf
 Abstain: None

ALAN WEAVER, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By: _____
Bernard Jimenez, Manager
Development Services Division

BJ:lb
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- NOTES:
1. The Planning Commission action is final unless appealed to the Board of Supervisors within 15 days of the Commission's action.
 2. The approval of Classified Conditional Use Permit No. 3157 is tied to Tentative Tract No. 5239 and will expire upon expiration of the Tentative Tract Map. Provision is made that the Conditional Use Permit may be extended in conjunction with an extension request of the tentative tract map.

Attachments

EXHIBIT "A"

Initial Study Application No. 4993
Vesting Tentative Tract Map Application No. 5239
Classified Conditional Use Permit Application No. 3157
Site Plan Review No. 7603

Staff: The Fresno County Planning Commission considered the Staff Report dated June 29, 2006, and heard a summary presentation by staff.

Applicant: The applicant's representative concurred with the Staff Report and the recommended condition(s). He offered the following information to clarify the intended use:

- The hydrological test shows project feasibility even though the testing was done when wells were being pumped simultaneously, which would never occur after the project is completed.
- Oak trees should not be removed unless required for access drives and building pads.
- The requested community water system will facilitate fire protection.
- All residents who currently use the private road through the site were contacted by the applicant, and we don't believe there will be any objection to the private gate.

Others: One individual who said he resides just south of the project site spoke in support of the application.

Six individuals presented information in opposition to the application, indicating concerns with the adequacy of hydrological study performed for the project, that the use will impact on the yields of off-site wells, and that the use does not comply with the County's Scenic Highway standards and will cause negative aesthetic impacts.

Correspondence: Three letters in opposition to the project and one letter in support were presented to the Planning Commission. Ten

letters were presented to the Planning Commission from owners of adjacent properties who currently use the private road through the site indicating no concern with the installation of a gate across the road as proposed by the applicant.

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EXHIBIT "B"

Conditions of Approval

Initial Study Application No. 4993
Tentative Tract Map Application No. 5239
Classified Conditional Use Permit Application No. 3157

CONDITIONAL USE PERMIT NO. 3157

- 1. Development and operation of the facility shall be in substantial compliance with the site plan and operational statement.
- 2. All conditions in the Subdivision Review Committee Report for Tentative Tract Map Application No. 5239 shall be complied with.
- 3. This permit shall be tied to Tentative Tract Map Application No. 5239. If that tract expires, the conditional use permit shall also expire.

Note: In accordance with Section 873-I of the Zoning Ordinance, expiration of a conditional use permit authorizing a tentative tract map shall be concurrent with the expiration date of the tentative map and may be extended in the same manner as said map.

TENTATIVE TRACT MAP APPLICATION NO. 5239

A. AUBERRY ROAD

- 1. Additional road right-of-way shall be provided to the Arterial standard of 53 feet of half right-of-way on the applicant's side of the road, plus additional area as needed for cuts and fills.

Note: Limits of cuts and fills will be identified by the Subdivider through submission of a conceptual design for Auberry Road widening along the frontage of the subdivision, including supporting topographic survey features outside of the current road right-of-way.

- 2. Auberry Road is classified as an arterial and as such, the direct access point from the proposed subdivision shall be relinquished except at the locations of the 60-foot wide entrance road and an emergency access road.

3. Adequate sight distance shall be provided at the intersection of the entrance road and Auberry Road.
4. A 30-foot by 30-foot cutoff shall be provided at the entrance road and Auberry Road.
- *5. A natural open space area extending 200 feet from the easterly right-of-way line of Auberry Road, widened in accordance with Condition A.1, shall be maintained parallel to Auberry Road, as follows:
 - a) General Plan Policy OS-L.3.d provides that the open space area be 200 feet in width, but allows modification of the setback requirement when topographic or vegetative conditions preclude such a setback or provide screening of buildings and parking areas from the right-of-way. Accordingly, the interior road providing access to Lots No. 31 through 36 may be located within the 200-foot setback area, structures may be allowed within the 200-foot natural open space area for Lot 37, but no closer than 150 feet from the right-of-way line, and structures may be allowed within the 200-foot natural open space area for Lots No. 40 and 41, but no closer than 100 feet from the right-of-way line.
 - b) No structures shall be allowed within the 200-foot natural open area on Lots No. 31 through 36, 38 and 39.
 - c) The subdivider may construct a tract boundary fence within the natural open space area and described as a white split rail wood fence in the Operational Statement for the concurrent Conditional Use Permit Application No. 3157. Said fence shall conform to this description and to the design depicted in Exhibit 5 of this report. No other fencing shall be allowed within the 200-foot natural open space area except lot line fencing that may be constructed by private owners, and which shall be consistent with the design of the boundary fence.
 - d) The natural open space area shall be shown on the Final Map.

B. GATED ENTRY

1. Shall be constructed to a public road standard in accordance with County Improvement Standard A-2-b (28 feet of base and pavement plus transitions as needed). Applicant has proposed a median island within an 84-foot right-of-way at the entrance.

2. Vehicles denied access shall be able to exit the entrance in a continuous forward motion.
3. The call box or actuator setback from the public right-of-way shall be determined by statistical analysis using the “queuing theory” to insure that there is a 1% chance or less of a vehicle stopping in the public right-of-way due to a vehicle waiting to be granted access to the development. The analysis shall use a five-minute delay for the peak hour volume entering the development at the gate.
4. If a bypass lane with a separate call box or actuator is provided for the residents, their vehicles may be deducted from the analysis. This is assumed to be 90% of the peak hour traffic.
5. Each vehicle shall be given a 25-foot envelope in determining the setback from the public road.
6. The call box shall be located a minimum of 25 feet from the public right-of-way.
7. To address potential visual impacts from Auberry Road, a County Scenic Drive, the entrance gate structure shall be set back a minimum of 200 feet from Auberry Drive, unless a greater setback is required by other conditions of this subsection.
8. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.
9. Access through the subject site shall continue to be provided to those properties and parcels to the north and east of the proposed tract that had previously utilized Granite Creek Road for ingress and egress. Since the extent of such previous access easement rights is unknown and could affect additional parcels that could be divided in the future, a telephone call box shall be placed at the entrance to allow for calls to be received at parcels outside of the tract boundary in order to permit access through the gate. Since the gate is within a potential wildfire area, the exit gate shall open outwardly and/or permit exit via a crash gate construction feature in the event of a power failure.

C. INTERIOR ROADS AND CUL-DE-SACS

1. The entrance road (Granite Creek Road) shall be constructed to minimum 30 MPH design speed and in accordance with County Improvement Standard A-2b, but with 60 feet of right-of-way as shown on the tentative map (28 feet of pavement and base). The interior

roads serving the lots shall be constructed to a 25 MPH. public road standard in accordance with County Improvement Standard A-1b (24-foot minimum width of pavement and base).

- *2. To mitigate a potentially significant traffic hazard as well as provide visual screening, the frontage road along the Auberry Road right-of-way shall be separated from Auberry Road by a berm. Landscaping of natural materials shall be planted on the berm and maintained by the Homeowner's Association until the plantings are self-sustaining. The applicant shall provide a landscaping plan to the County for review and approval.
3. Twenty-foot by twenty-foot corner cutoffs shall be provided at the intersection of all interior roads. Adequate sight distance shall be provided at all intersections based upon a 25 MPH. design speed for the interior streets. Roads shall intersect at approximately 90-degree angles.
4. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.
5. Interior roads and cul-de-sacs shall provide public utility easements outside of the roadway where needed.
6. A County Standard B-2 cul-de-sac shall be provided at the end of all cul-de-sac roads.
7. The 25 MPH design speed requires the interior roads to have a minimum curve radius of 230 feet.
8. The improvement plans shall clearly demonstrate how the 60-foot entrance road shall connect to the access road serving parcel maps east of the subject site. (Parcel Maps 7599, 7279, etc.).
9. Engineered plans for the road improvements shall be submitted to the County of Fresno for review and approval. The initial submittal shall include a soils report which shall identify a recommended traffic index, R-value and pavement section. If significant cuts and fills are involved, subsequent R-values shall be obtained for subgrade after completion of earthwork operations.

D. DRAINAGE AND EROSION CONTROL

1. Provisions shall be made to maintain natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of those parcels adjacent to the development.

Any additional runoff generated from this tract shall be retained or detained on-site or by other facilities acceptable to the Director of Public Works and Planning.

2. A Hydraulics and Hydrology report shall be prepared for the stream traversing the property. The report shall establish the limits of inundation from a 100 year storm, base flood elevations for the parcels fronting on the stream, and shall establish a high water level at the proposed bridge and flow rate at the bridge for design purposes.
3. The applicant shall obtain an NPDES permit prior to construction or grading activities. A Notice of Intent shall be filed with the Regional Water Quality Control Board. A copy of the Notice shall be provided to the County.
4. The applicant shall develop a Storm Water Pollution Prevention Plan (SWPPP) and incorporate the plan into the construction improvement plans.

E. MAINTENANCE

1. A Zone of Benefit in County Service Area 35 or other method acceptable to the Director of Public Works and Planning shall be provided for the Maintenance of new roads and outlots. If the entrance road is gated, maintenance shall be by the Homeowner's Association or other entity acceptable to the Director.
2. The subdivider shall be required to secure the maintenance of the new roads for a period of two years after acceptance thereof.
3. Common facilities, including open space, private roads, and entrance gate, shall be maintained by a homeowners association.

F. UTILITIES

1. All utilities with the exception of the PG&E overhead transmission lines traversing the site shall be placed underground in accordance with the provisions of the Subdivision Ordinance.
2. Any existing utilities within or adjacent to this tract not in conformance with these requirements shall be removed or placed underground.
3. A ten-foot wide public utility easement shall be dedicated along all lot boundaries located adjacent to any street located within the tract.

G. STREET NAMES

1. The internal roads within the subdivision shall be named. The subdivider shall obtain approval from the Street Names Committee prior to final map approval.

H. FIRE PROTECTION:

1. The design of the fire protection water system with location and number of fire hydrants together with the size of the water mains shall conform to County Standards and shall be approved by the Director of the Department of Public Works & Planning after consideration of the recommendations of the fire district having jurisdiction of the area.
2. The property is located with State Responsibility Area for fire protection purposes. The applicant shall be required to comply with rules and regulations pertaining to water, emergency access, roads, and fuels mitigation established by the California Department of Forestry and the County's Ordinance Code as specified in Chapter 15.60.
3. Engineered plans for the fire protection system shall be reviewed and approved by the fire protection district having jurisdiction for the area in addition to the County.

I. EMERGENCY ACCESS ROADS:

1. Shall be contained within easements (minimum 20' wide) and shall connect to public roads.
2. Shall be improved to a standard to provide traversability for emergency equipment as determined by the Director of the Department of Public Works and Planning after consideration of the recommendations of the fire district having jurisdiction of the area.
3. Crash gates shall be provided at both ends of the easements.

J. WATER AND SEWER

- *1. The proposed community water system shall be owned, operated and maintained by a County Service Area (CSA). Prior to the issuance of any building permits for any single family dwellings within the subject tract, the CSA shall submit an application and receive approval for a permit to operate a Public Water System. The permit application shall include supporting information, in the form of a technical report, and be submitted to the Fresno County Department of Community Health,

Environmental Health Division for review. Approval for the permit will require demonstration of Technical, Managerial, and Financial (TMF) Capacity as well as documentation of the services of a State-Certified Water Distribution Operator. Contact Ed Yamamoto at (559) 445-3357 for more information. The subdivider shall assist the CSA staff in preparing the necessary documentation for submission to the Environmental Health Division in order to secure a water purveyor permit for the community system. Well sites shall be designated as outlots, and shall be provided with easement access for maintenance purposes.

- *2. All service connections shall be metered. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map. Each lot shall be required to have two (2) water meters. One meter will serve the residence and the second meter will serve the landscape irrigation needs. All such meters shall be equipped with remote read sensors so that homeowners may monitor their water usage. The irrigation meter shall not be installed until a copy of the proposed landscaping plans for the lot is reviewed and approved by the Architectural Review Committee and submitted to the County Service Area for review and forwarding to the County Geologist for approval to ensure that the proposed landscaping will not require more water than is available for the lot. Upon recordation of the final map, this requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet.
- *3. Only drip irrigation shall be allowed. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map.
- *4. Prior to recordation of the final map, a tiered rate schedule for the irrigation service for both domestic and landscaping use shall be adopted by the Board of Supervisors as the Governing Board of the County Service Area serving the project. The rate for irrigation services shall be significantly tiered to discourage the over-use of irrigation water. The tiered rate structure shall include procedures indicating when water meters will be read, payment of fees, notification of overuse, criteria for the disconnection of irrigation service due to overuse, an appeal process, and criteria for the reconnection of the water supply for irrigation services.
- *5. Prior to recordation of the final map, the applicant shall develop and submit to the County Geologist and the Resources Division of Public Works & Development Services Department a groundwater monitoring

program for the proposed community water system. The cost of ongoing monitoring shall be included in the rate schedule established by the County Service Area. Approval and acceptance of the groundwater monitoring program shall be made by the County Geologist.

- *6. Wells 4 and 5 shall be used for the community water system. Well No. 3 shall be limited to use only as a monitoring well. Well No. 6 shall be used as a backup well, but only after additional testing to quantify impact on wells to the south and only to the extent that no significant impacts occur. Well 2 cannot be used unless and until arsenic levels are reduced to a level meeting established water quality standards.
- *7. All onsite wells shall be equipped with dedicated pressure transducers and a data logger is to be provided.
8. All rights to ground water beneath the tract shall be dedicated to the County of Fresno. Private property owners shall be prohibited from digging any wells.
- *9. Individual engineered sewage disposal systems shall be installed in accordance with the Geology and Sewage Feasibility Study prepared by Norbert W. Larsen, Ph.D., dated November 28, 2003 and numbered NWL 21053. Such a system, following an on-site investigation, must be designed and installation certified by a California registered civil engineer or registered geologist. It is the responsibility of the property owner, the property buyer, the engineer, and/or the sewage disposal system contractor to confirm required setbacks, separations, and other special requirements or conditions which may affect the placement, location, and construction of the sewage disposal system.
10. Should the CSA proposed to add additional well(s) as water source for the community system serving the project and such well(s) are proposed to be located within 1,500 feet of the southern boundary of the site, notification of such proposal shall be provided by the CSA to surrounding property owners.

K. SOILS REPORT

1. A soils report is required for the subdivision as a condition of the final map. The soils report needs to address the feasibility of the site for the type of development as proposed.
2. Some lots have grades in excess of 30%. The soils report needs to address limitations on building in these excessive slopes.

L. BIOLOGICAL RESOURCES

*1. OUTLOTS FOR ENVIRONMENTALLY SENSITIVE AREAS

In order to protect wildlife resources, outlots as listed below shall be identified as no-construction/no-disturbance environmentally sensitive areas on the final map and shall remain in their natural state. The final map and the private Covenants, Conditions and Restrictions (C.C. & R's) shall state that ground disturbing activities, (e.g., grading, fencing, construction, clearing, landscaping, or irrigation), except as required for road construction and creek crossing as identified in Tentative Tract Map Application No. 5239, or the cutting or removal of any natural vegetation, is prohibited unless otherwise approved by the Director of Public Works and Planning after consideration of the recommendations of the California Department of Fish and Game.

- a) Outlot "A", consisting of 12.6 acres, shall be established as a wildlife movement corridor and for public utility purposes. Said corridor shall have a minimum width of 180 feet.
- b) Outlot "B", consisting of 19.43 acres, shall be established for creek riparian purposes and shall include the 4.30 acres depicted as "Tributary Waters of the United States meeting the Technical Criteria of Jurisdictional Wetlands" on the Yamabe & Horn Engineering, Inc. map dated 6/27/2003, and verified by the Army Corps of Engineers by letter dated August 5, 2004, together with a minimum 50-foot buffer from the upper edges of the North Fork of Little Dry Creek or from the outer edge of the dripline of riparian vegetation, whichever is greater, and a minimum 30 feet buffer from the upper edges of Tributaries 3 and 5.
- c) Outlots "A" and "B" shall be managed and maintained by the Homeowners Association for the benefit of wildlife resources. Input on the management and maintenance shall be provided by a resource management professional(s) approved by the Department of Fish and Game.
- d) Only downward directed lighting shall be used in proximity to open space areas.

*2. OAK MANAGEMENT

- a) The subdivider shall prepare an Oak Management Plan for review and approval by the County prior to recordation of the Final Map. The Plan shall be prepared in accordance with the Fresno County Oak Woodlands Management Guidelines (Policy OS-F.11 of the General Plan).
- b) Pursuant to Section 21083.4 of the Public Resources Code, the County has determined that the project will result in a conversion of oak woodlands that will have a significant effect on the environment. Accordingly, the Oak Management Plan prepared under Condition *2.a.) above shall incorporate the following measures to mitigate the significant effect:
 - (1) The subdivider shall pay a one time mitigation fee of \$175.00 per lot to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, and further agrees to establish a covenant that requires the payment by the seller of an additional \$1,000.00 to the Conservation Fund upon the subsequent sale or transfer of ownership for each parcel within the project.
 - (2) The subdivider shall establish a monitoring protocol that identifies all oak trees at least five inches in diameter at breast height that are to be removed at the time the roadway system and individual lots are developed. The Plan shall include a map showing all trees proposed for removal.
 - (3) Any trees that are removed shall be replaced within the boundary of the tract at a ratio of 5:1. Trees removed for road construction shall be replaced within the 200-foot natural open space area parallel to the right-of-way for Auberry Road (see Condition No. 8). Trees removed for development on residential lots shall be replaced elsewhere on the lot. Replacement trees shall be a minimum of five gallons in planting size.
 - (4) Replacement trees shall be maintained by the Homeowner's Association for a period of seven years after planting. Maintenance shall include replacing dead or diseased trees.

- (5) Each lot purchaser shall review and understand the information contained in "Living Among the Oaks" and 'Wildlife Among the Oaks' publications prior to applying for a construction permit. These publications shall be provided by the applicant to each lot purchaser.

*3. RAPTOR PROTECTION

The subdivider shall have a qualified biologist survey the Project site for tree nesting raptors 30 days prior to the onset of construction if construction is to begin during the raptor nesting season (February through August). No construction or ground disturbance shall take place during nesting seasons within 300 feet of any active raptor nest identified on the site until after the young have dispersed. Biological monitoring shall occur until the young have dispersed. A report shall be submitted to the County and to the Department of Fish and Game summarizing the results of each survey and subsequent biological monitoring.

*4. ANNUAL REPORT

The Homeowner's Association shall retain a qualified professional biologist to prepare and submit a report to the County and the State Department of Fish and Game for review and approval, on an annual basis, for a period of ten years following recordation of the final map. The subdivider and subsequent homeowner's association shall provide funds necessary to implement this condition, including any necessary corrective action. The report shall address the following:

- a) Compliance with state and federal wetland permit requirements.
- b) Possible degradation of wetland areas from erosion and sedimentation.
- c) Compliance with the Condition No. L1 relating to the environmentally sensitive areas within the tract.
- d) Compliance with the approved Oak Management Plan, including mitigation measures.
- e) Compliance with the mitigation relating to tree-nesting raptors.
- f) List of mitigation measures not in compliance, with recommended corrective action.

*M. TRAFFIC

1. Prior to issuance of a building permit, the applicant shall enter into an agreement with the County agreeing to participate on a pro-rata share basis in the funding of future off-site traffic improvements for the year 2025 for the improvements defined in items (a) through (c) below. The traffic improvements and the project's maximum pro-rata share of the associated costs are as follows:

a) Signalization improvements at the intersections of:

- Auberry and Millerton Roads
The project maximum share is 2.54%
- Auberry Road and Copper Avenue
The project maximum share is 0.95%
- Auberry Road and Marina Avenue
The project maximum share is 1.16%
- Copper and Willow Avenues
The project maximum share is 0.45%

b) Improvements to the road segment:

- Auberry Road from Copper Avenue to Millerton Road
The project maximum share is 1.12%

c) Improvements to the road segment:

- Copper Avenue from Auberry Road to Willow Avenue
The project maximum share is 0.85%

(The current total estimated pro-rata cost of these improvements is \$197,962.)

NOTE: The County shall update cost estimates for the above-specified improvements prior to execution of the agreement. The Board of Supervisors pursuant to Ordinance Code Section 17.88 shall adopt a Public Facilities Fee addressing the updated pro-rata costs. The fee shall be paid prior to issuance of building permits based on the traffic generated by a specific use authorized by a Site Plan Review that substantially increases traffic generation. The Public Facilities Fee shall be related to off-site road improvements, plus costs

required for inflation based on the Engineering New Record (ENR) 20 Cities Construction Cost Index.

2. Prior to issuance of a building permit the applicant shall enter into an agreement with Caltrans agreeing to pay \$1,410 to Caltrans as the project's pro rata share of the estimated cost for funding improvements to the State Route 168/ Auberry Road intersection.

N. OUTLOTS

1. The use of all Outlots shall be designated on the recorded map.
2. Ownership of all Outlots (except for Outlots conveyed to the CSA) shall be by the homeowners association for the benefit of all owners, as an undivided interest by all the lot owners, or by other method approved by the Director. No Outlot shall be developed, except as allowed by the Fresno County Zoning Ordinance, nor shall any Outlot be divided or be encumbered by a mortgage or other lien as security for a debt without the prior written consent of the Board of Supervisors, and 66-2/3 percent of the owners and mortgagees. The County is the intended beneficiary of this provision and shall have the right to enforce this provision by all available remedies, legal and equitable. This condition shall be included in a recorded covenant to run with the land.

O. OTHER CONDITIONS

- *1. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, the Department of Fish and Game shall be provided with appropriate streambed alteration notification pursuant to Fish and Game code sections 1600-1603 et. Seq.
- *2. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, a Clean Water Act Section 404 Permit shall be obtained from the United States Department of the Army, Army Corps of Engineers and a Clean Water Act Section 401 Water Quality Certificate permit shall be obtained from the California Regional Water Quality Control Board.
- *3. Prior to recordation of the final map, Open Space Easement Indenture Agreements shall be executed between the County and the property owner to protect several significant archaeological sites found on the

subject property and identified in A Cultural Resources Resource Study of the Everton Property-Granite Creek Road Fresno County dated August, 2003, prepared by Don Wren, consulting Archaeologist. Prior to recordation of the final map, this requirement shall be recorded as a covenant running the land and shall be noted on an attached map sheet.

- *4. Prior to recordation of a final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for Sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism.
5. Prior to recording a final map, an agreement incorporating the provisions of the "Right-to-Farm" notice (Ordinance Code Section 17.01.100) shall be entered into with Fresno County.
6. All conditions of concurrent Classified Conditional Use Permit Application No. 3157 shall be complied with.

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

EXHIBIT "C"

ATTACHMENT
TO
AGENDA ITEM

FISCAL IMPACT STATEMENT

Initial Study Application No. 4993
Classified Conditional Use Permit Application No. 3157
Tentative Tract Application No. 5239

Listed below are the fees collected for the land use applications involved in this Agenda Item:

Initial Study Application:	\$2,687.00
Conditional Use Permit Application:	\$3,390.00
Tentative Tract Application	\$15,680.00
Health Department Review:	\$1,515.00
Total Fees Collected	\$23,272.00

DIRK POESCHEL

Land Development Services, Inc.

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

July 2, 2018

Marianne Mollring, Senior Planner
Department of Public Works and Planning
2220 Tulare Street
Fresno, CA 93721

SUBJECT: Tentative Tract 5239 Table Mountain Creek/Auberry Road

Dear Marianne:

Reference is made to Tentative Tract No. 5239. On behalf of my client, Mr. James Bratton and Bratton Investments, I respectfully request that a time extension of the subject map be granted. Enclosed is a check for the required extension request submittal fee.

Market conditions over which my client has no control necessitate the subject extension. Efforts to coordinate a joint development of infrastructure with nearby properties have not been successful.

I trust that this information is of assistance to you. If you have any questions, please feel free to contact me.

Sincerely,



Dirk Poeschel, AICP

RECEIVED
COUNTY OF FRESNO

JUL 02 2018

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

cc: Mr. James Bratton
Ms. Christi Fleming