



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 4 December 6, 2018

SUBJECT: Variance Application No. 4062

Allow a building height of 66 feet (35-foot maximum height permitted) for the construction of two baghouses on a 39.60-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the west side of Madera Avenue approximately 0.5 miles north of its intersection with Manning Avenue, approximately 6.2 miles east of the nearest city limits of the City of San Joaquin (8325 S. Madera Avenue) (SUP. DIST. 1) (APN 030-070-67S).

**OWNER/
APPLICANT:** Central California Almond Growers Association/Michael Kelley

STAFF CONTACT: Danielle Crider, Planner
(559) 600-9669

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Approve Variance No. 4062; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Proposed Parcel Configuration (Site Plan)
6. Applicant's Statement of Variance Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agricultural	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	39.60 acres	No change
Structural Improvements	Almond processing facility, stockpile yard, and association office	Two 66-foot-tall baghouses, which will replace existing baghouses and will control the amount of dust produced by the facility
Nearest Residence	Over one quarter-mile north of the proposed improvements	No change
Surrounding Development	Agricultural	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15301(f), *Existing Facilities*, of the California Environmental Quality Act (CEQA) guidelines, that the proposed project will not have a significant effect on the environment and is not subject to CEQA. The existing facility's environmental impacts were evaluated by Initial Study No. 5076 in 2004, which resulted in a Mitigated Negative Declaration.

PUBLIC NOTICE:

Notices were sent to 7 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A Variance (VA) may be approved only if the four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

The decision of the Planning Commission on a Variance Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

BACKGROUND INFORMATION:

The 39.60-acre subject parcel, situated in an agricultural area of the County, currently hosts a fully-operational almond processing facility, which was originally built in 1984, and expanded with the approval of Conditional Use Permit (CUP) No. 3075 in 2004. This operation contains

40-foot-tall, 43-foot-tall, and 67-foot-tall above-ground almond storage tanks. It also includes two 43-foot-tall steel structures for hull storage. A variance was not required for these structures because prior to December 5, 2006, non-dwelling structures and other accessory farm buildings were excepted from the 35-foot maximum building height in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. Additionally, baghouses were explicitly included as a part of the proposed use in CUP No. 3075. Baghouses are used to filter dust out of the air, and dust was cited as a “major nuisance in the hulling operation” in staff’s analysis of CUP No. 3075. The County of Fresno is a non-attainment area for PM-2.5 and PM-10, so reduction of particulate matter in the air is especially important in this region.

There have been no height-related variance applications within five miles of the subject property.

ANALYSIS/DISCUSSION:

Findings 1 and 2: *There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and*

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

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (east): 75 feet Side (north): 77 feet Side (south): 615 feet Rear (west): 34 feet	Yes (no change)
Parking	Current parking standards were established based on the number of visitors, employees, and the nature of the operation through the Site Plan Review (SPR) process.	No additional parking will be required because the number of visitors and/or employees, and the nature of the operation will not change as a result of the proposed variance.	Yes (no change)
Lot Coverage	No Requirement	No Requirement	N/A
Separation Between Buildings	No Requirement	No Requirement	N/A
Wall Requirements	No Requirement	No Requirement	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No Change	Yes

Reviewing Agencies/Department Comments Regarding Site Adequacy:

Development Engineering Section of the Fresno County Department of Public Works and Planning: According to FEMA, FIRM Panel 2575H, the parcel is not subject to flooding from the 100-year storm.

According to USGS Quad Maps, there are no existing natural drainage channels adjacent to or running through the parcel.

Any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.

A grading permit or voucher shall be required for any grading that has been done without a permit and any grading proposed with this application. **These comments shall be included as Project Notes.**

Zoning Section of the Fresno County Department of Public Works and Planning: Site Plan Review No. 7362 was required to ensure that the facility approved by CUP No. 3075 adhered to all requirements and standards. A Site Plan Review Revision is required for the proposed improvements. **This comment shall be included as a Condition of Approval.**

Analysis:

In support of Findings 1 and 2, the Applicant states that the existing operation already has structures on site which exceed 35 feet in height. Their operation is unique because it is the only operation in the area that requires structures over 35 feet to operate. It would negatively impact their operation if they were not able to build the proposed baghouses.

With regard to Finding 1 and Finding 2, staff notes that when the existing operation was approved, the proposed baghouses could have been constructed without a variance because no height standards would have applied to these structures. Additionally, the proposed baghouses will only be 9 inches taller than an existing ground shell tank on site, which will remain on the property. The Conditional Use Permit approved in 2004 for the current operation also explicitly mentions that baghouses are a part of the project's scope, and explains how important they are for minimizing the amount of particulate matter produced by the operation.

Due to the factors cited above, staff finds that Findings 1 and 2 can be made.

Recommended Condition of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Findings 1 and 2 can be made.

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North:	30.05 acres	Industrial/Single-Family Residence	AE-20	0.25 miles away
West:	120.00 acres	Field Crop	AE-20	N/A
	40.00 acres	Commercial	AE-20	N/A
South:	313.63 acres	Orchard/Single-Family Residence	AE-20	0.65 miles away
East:	411.62 acres	Orchard	AE-20	N/A

Reviewing Agencies/Department Comments:

Environmental Health Division of the Fresno County Department of Public Health: Within 30 days of the occurrence of any of the following events, the Applicant/operators shall update their online Hazardous Materials Business Plan and site map (<https://www.fresnocupa.com/> or <http://cers.calepa.ca.gov/>):

- There is a 100% or more increase in the quantities of a previously-disclosed material;
- The facility begins handling a previously-undisclosed material at or above the HMBP threshold amounts;
- Change in site map.

The business shall certify that a review of the business plan has been conducted at least once a year, and that any necessary changes were made and that the changes were submitted to the local agency. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.

All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes. **These comments shall be included as a Project Note.**

Fresno County Fire Protection District: Plan approval from the Fresno County Fire Protection District will be required prior to the acquisition of permits. Additionally, the operation must be annexed into the Consolidated Fire District (CFD). **This comment shall be included as a Project Note.**

Analysis:

In support of Finding 3, the Applicant states that the facility has been in operation since 1984, and it has not had a negative impact on the area due to its remote location. Staff notes that the scope and nature of the operation will not change as a result of the proposed baghouses. Building height restrictions often aim to prevent aesthetic incongruity, negative impacts to neighbors, and aircraft hazards. The area already contains undeveloped land, structures under 35 feet in height, and the subject operation, which contains structures approximately equal in height to the proposed structures. Therefore, any aesthetic incongruity, which could result from structures of different heights being present in the same area, already exists, and it would not be a new impact of the proposed project. Additionally, the proposed 66-foot-tall structures will be approximately 300 feet from the nearest property line, so they will not tower over adjacent properties, block sunlight, or present privacy concerns. Finally, due to the existing structures of

similar height and the low elevation of 190 feet (above sea level), it is not anticipated that a 66-foot-tall baghouse would pose any dangers to aircraft or air passengers. In conclusion, staff does not anticipate that the proposed project will create any new nuisances, or be injurious to the people and property of the surrounding area.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 3 can be made.

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

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: There are no General Plan or Williamson Act Issues.

Analysis:

In regard to Finding 4, the Applicant states that the granting of this Variance would be in accordance with the General Plan. Staff notes that there are no General Plan policies specifically pertaining to the proposed project. However, one goal set forth by the General Plan is “to promote the long-term conservation of productive and potentially-productive agricultural lands and to accommodate agricultural-support services and agriculturally-related activities that support the viability of agriculture and further the County’s economic development goals” (LU-A). The project proposes to improve an existing value-added agriculturally-related activity, which is in line with this General Plan goal. Another goal listed in the General Plan is “to improve air quality and minimize the adverse effects of air pollution in Fresno County” (OS-G). Baghouses filter dust out of the air and are one way for operations to minimize the particulate matter they are contributing to the environment.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

None.

CONCLUSION:

Staff believes the required Findings for granting the Variance can be made based on the factors cited in the analysis. Staff therefore recommends approval of Variance No. 4062, subject to the Conditions of Approval.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine that the required Findings can be made and move to approve Variance No. 4062; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to determine the required Findings cannot be made (state basis for not making the Findings) and move to deny Variance No. 4062; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

DTC:ksn

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**Variance Application No. 4062
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development shall be in substantial compliance with the site plan, as approved by the Planning Commission.
2.	Site Plan Review No. 7362 was required to ensure that the facility approved by CUP No. 3075 adhered to all requirements and standards. A Site Plan Review Revision is required for the proposed improvements.

Conditions of Approval reference recommended Conditions for the project.

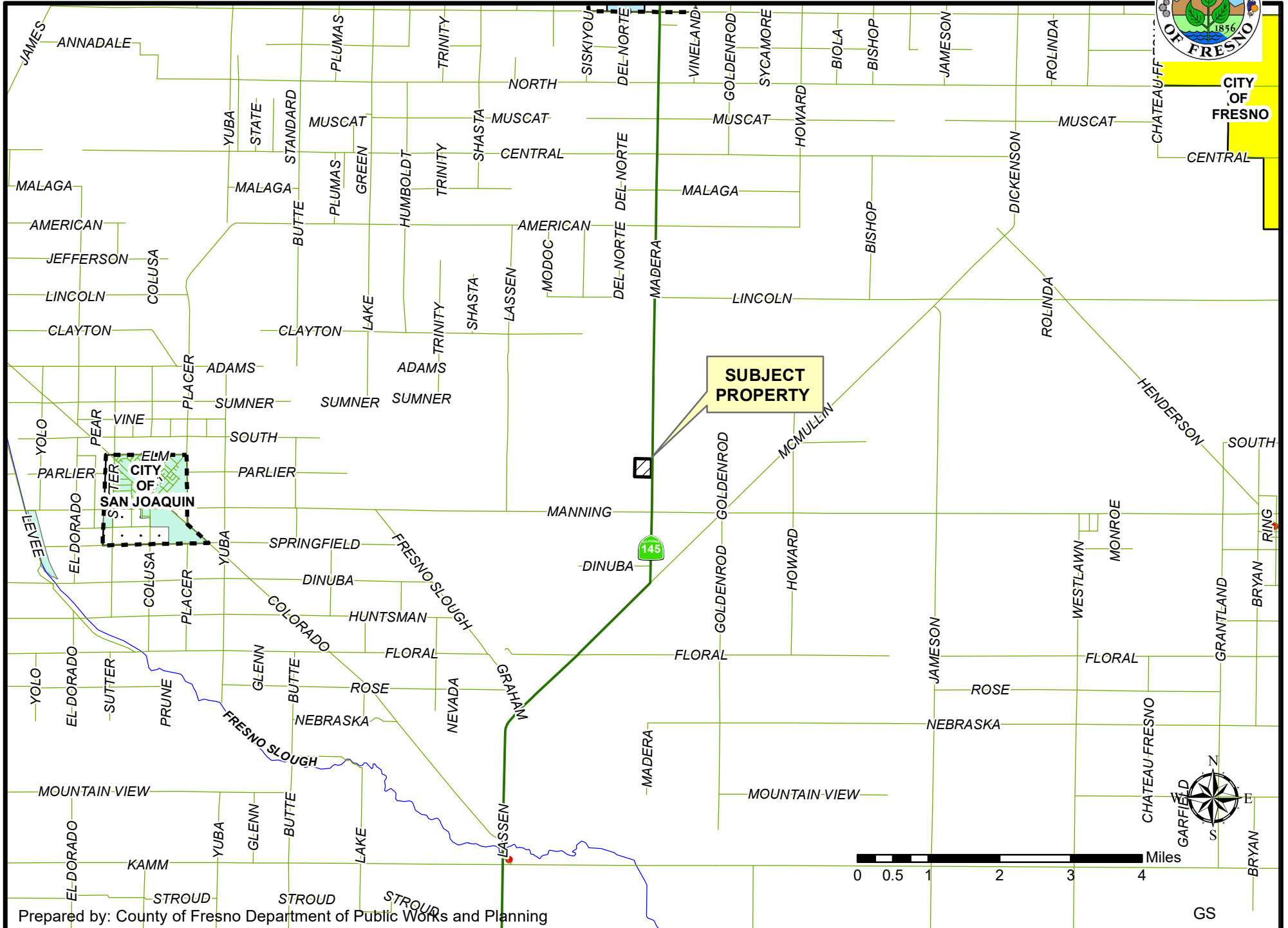
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.
2.	A grading permit or voucher shall be required for any grading that has been done without a permit and any grading proposed with this application.
3.	<p>Within 30 days of the occurrence of any of the following events, the Applicant/operators shall update their online Hazardous Materials Business Plan and site map (https://www.fresnocupa.com/ or http://cers.calepa.ca.gov/):</p> <ul style="list-style-type: none"> • There is a 100% or more increase in the quantities of a previously-disclosed material; • The facility begins handling a previously-undisclosed material at or above the HMBP threshold amounts; • Change in site map. <p>The business shall certify that a review of the business plan has been conducted at least once a year, and that any necessary changes were made and that the changes were submitted to the local agency. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.</p> <p>All hazardous waste shall be handled in accordance with requirements set forth in the California Code of Regulations (CCR), Title 22, Division 4.5. This Division discusses proper labeling, storage and handling of hazardous wastes.</p>
4.	Plan approval from the Fresno County Fire Protection District will be required prior to the acquisition of permits. Additionally, the property must be annexed into the Community Facilities District (CFD).

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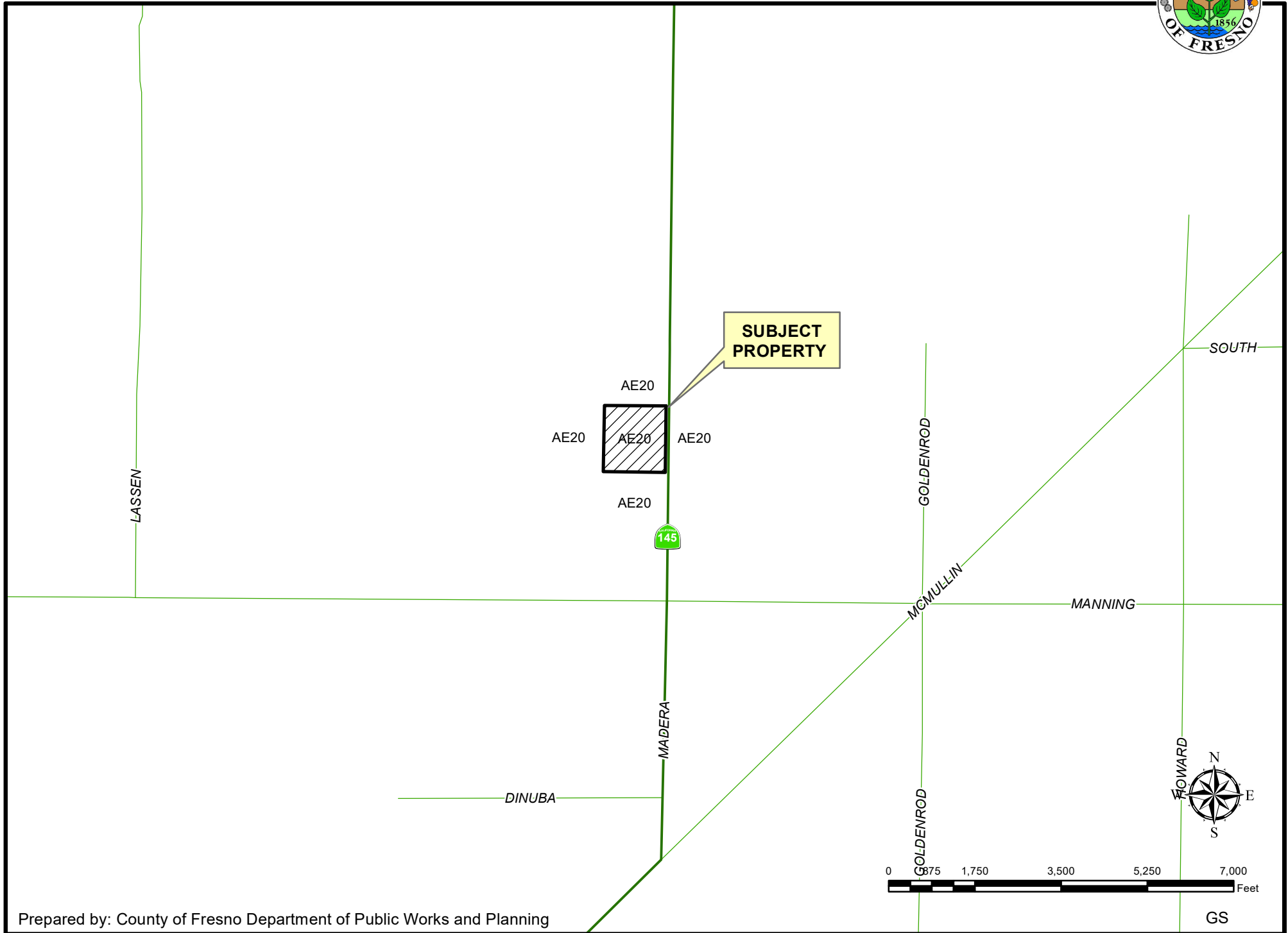
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EXHIBIT 1

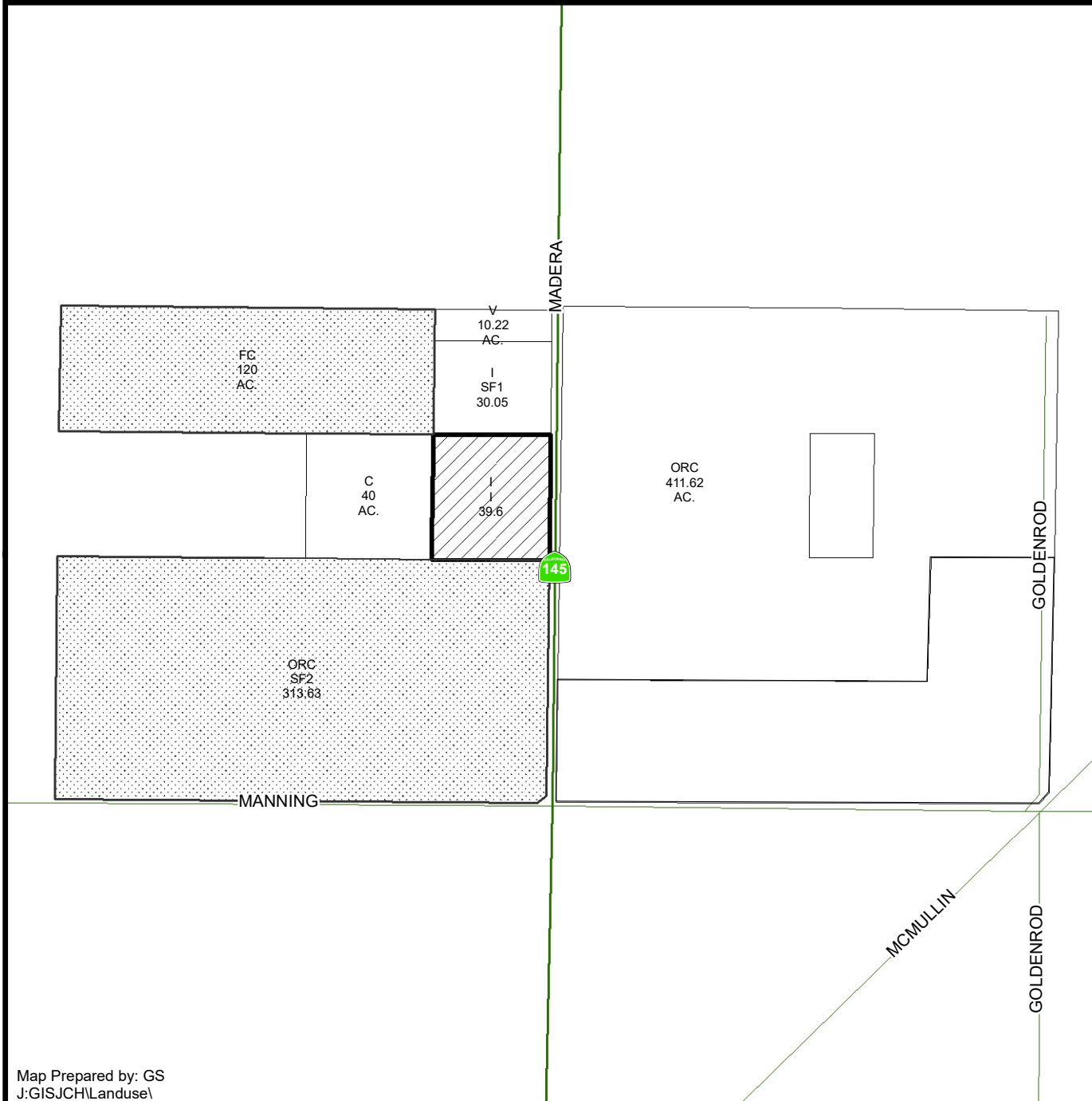
LOCATION MAP



EXISTING ZONING MAP





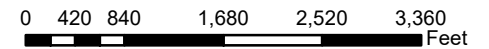
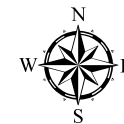
EXISTING LAND USE MAP



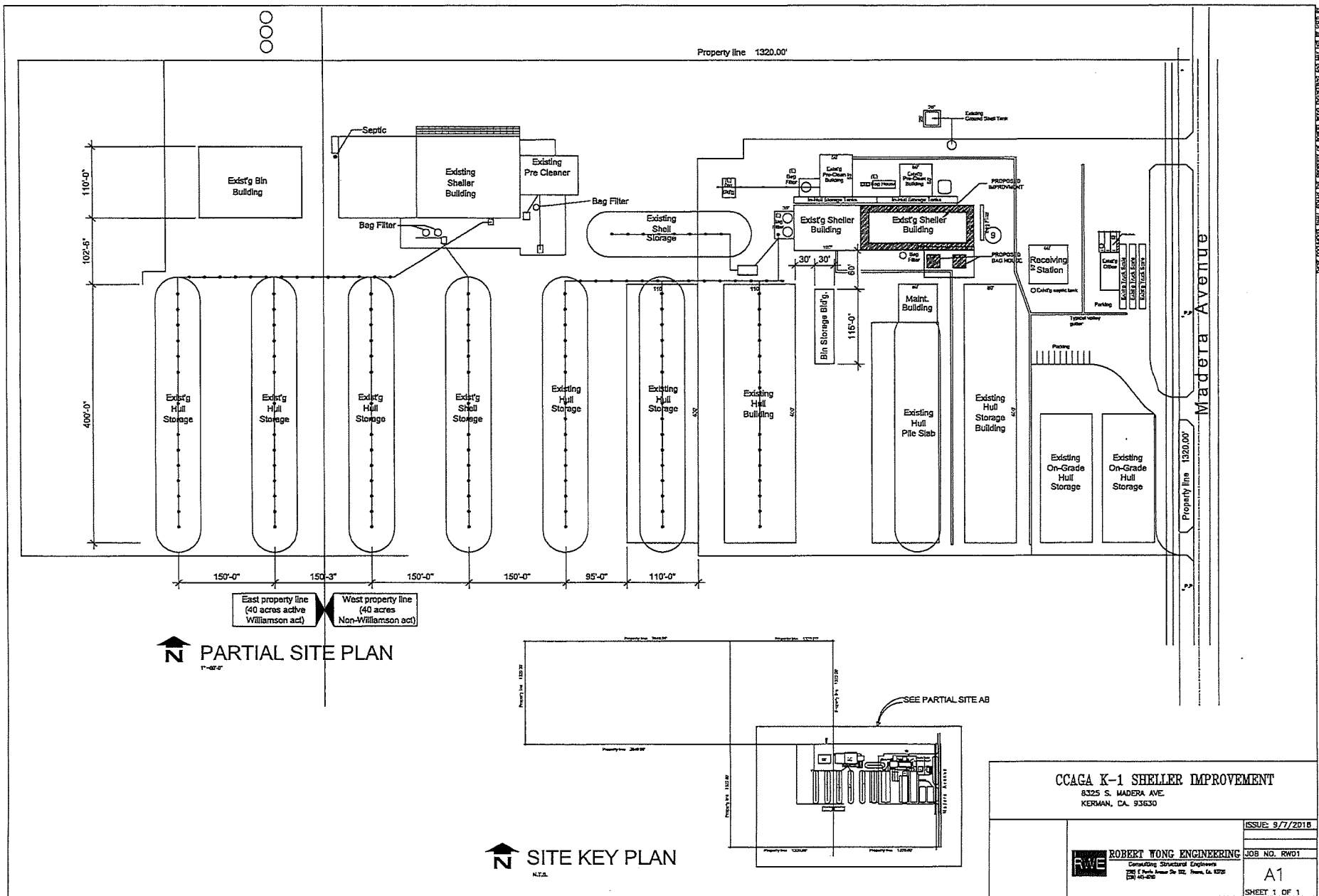
LEGEND	
C	COMMERCIAL
FC	FIELD CROP
I	INDUSTRIAL
ORC	ORCHARD
SF#	SINGLE FAMILY RESIDENCE
V	VACANT

LEGEND:

-  Subject Property
-  Ag Contract Land



Department of Public Works and Planning
Development Services Division



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CCAGA K-1 SHELLER IMPROVEMENT
 8325 S. MADERA AVE.
 KERMAN, CA. 93630

ISSUE: 9/7/2018
 JOB NO. RWD1
 A1
 SHEET 1 OF 1

RWE ROBERT WONG ENGINEERING
 Consulting Structural Engineers
 2001 E. Foothill, Suite 200, Fresno, CA 93727
 (559) 435-2000

EXHIBIT 5



October 18, 2018

Tawanda Mtunga
Senior Planner
Department of Public Works and Planning
2220 Tulare Street 6th Floor
Fresno, CA 93721

RE: Request for Variance

CCAGA is a non-profit grower-owned cooperative. It's service area is Valley-wide and generally from Merced to Tulare counties. The Association was organized as an Agricultural Service Cooperative under Chapter 4 of Division VI of the Agricultural Code of the State of California in 1963 for the purpose of hulling and shelling almonds delivered by its patrons. CCAGA is the largest Cooperative Huller and Sheller of Almonds in the world with nearly 371 members that deliver 56,658 acres of bearing almonds.

The Association maintains two plant sites. The Kerman site consists of three huller/sheller plants, a stockpile yard and the Association office. The Sanger site consists of one huller/sheller plant, a stockpile yard and a satellite office. The operating office hours of the Association are 8:00 a.m.-4:30 p.m. throughout the year, however, seasonal operations at harvest time run 24 hours a day and 7 days a week.

Generally, starting in early August, field-run almonds are delivered to the plant sites in truck/trailer loads. Running twenty-four/seven, the plants are capable of processing about 4,800,000 lbs. of field run and over 1,200,000 meat pounds (raw almond kernels) per 24-hour period. Seasonal processing of each year's crop concludes in late November.

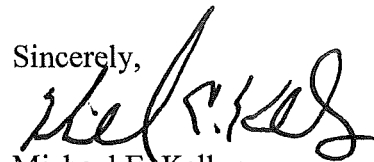
A variance is requested from a county ordinance mandating the height of structures. The reason we seek relief from the ordinance is due to the following factors:

1. The site where our almond huller is located is surrounded by production agriculture to the south and east, a turkey ranch to the west and a hay compressing facility to the north. Other businesses in the area are oil fields and natural gas locations. Our facility is unique in that it is the only facility that requires tall buildings for commodity storage. We have these types of buildings already on site. Thus an exceptional circumstance.
2. This variance is necessary for the preservation of our expansion plans in the future. If we were not granted the variance it would drastically change our plans and add unwarranted costs to the project. The existing buildings of the type in question have never caused a problem for our neighbors.

3. We have been operating the almond hulling plant at this location since 1984. The almond industry has gone through several growth periods since then. We have grown with the industry. We purchased 160 acres of adjacent property in 1999 for future expansion. The location is in a remote location and has not been a nuisance to the surrounding area, nor will it be in the future.
4. The variance will be in line with our general plan. In fact it is essential to our general plan.

Central California Almond Growers Association (CCAGA) is planning to modernize our oldest almond sheller. This improvement requires two large baghouses that are needed to comply with emission standards imposed by the California Air Resources Board and the San Joaquin Air Pollution Control District. The baghouses by themselves are not part of the normal almond shelling process. In fact, I have been told that most almond shellers in Australia do not have baghouses and no hullers or shellers have baghouses in Spain or Portugal. We humbly request that the County of Fresno deem that the Baghouses are separate from the existing building that is 35' high and the Baghouses that will be 66'. It does not seem logical to have a building that would need to be 66' high to comply with Section 803.4 dealing with "Height of Building."

Sincerely,



Michael E. Kelley
President & CEO

MEK/am