



County of Fresno

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

ADDENDUM

Planning Commission Staff Report Agenda Item No. 8 November 19, 2020

SUBJECT: Initial Study Application No. 7556 and Unclassified Conditional Use Permit Application No. 3626

Allow a solid waste processing facility consisting of an asphalt and concrete crushing operation that will produce recycled baserock, and have the subject materials stored onsite until it is delivered offsite on a 22.44-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the north side of East Kings Canyon Road approximately 1,980 feet west of its nearest intersection with North Del Rey Avenue and is approximately 1.57 miles northwest of the nearest city limits of the City of Sanger (APN: 314-120-35S) (SUP. DIST.: 5).

**OWNER/
APPLICANT:** John Emmett

STAFF CONTACT: Thomas Kobayashi, Planner
(559) 600-4224

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Unclassified Conditional Use Permit Application No, 3626; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Staff Report and Exhibits Dated October 22, 2020
2. Correspondence from the California Department of Fish and Wildlife

ENVIRONMENTAL ANALYSIS:

Initial Study Application No. 7556 was prepared for the subject application 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 and is attached as Exhibit 1.9.

Notice of Intent to Adopt a Mitigated Negative Declaration publication date: September 18, 2020.

PUBLIC NOTICE:

Notices were sent to 22 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.

A motion made by the Planning Commission at the October 22, 2020, Planning Commission hearing requested that notices be resent to the 22 property owners on the continuance of the subject application to the November 19, 2020, Planning Commission hearing.

PROCEDURAL CONSIDERATIONS:

An Unclassified Conditional Use Permit Application may only be approved only if five Findings specified in the Fresno County Zoning Ordinance Section 873-F are made by the Planning Commission.

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

BACKGROUND INFORMATION:

This item was originally heard at the October 22, 2020, Planning Commission meeting and was continued at the request of the Applicant. Per the Applicant, they requested to continue the item due to concern about staff's recommendation and conduct research to improve their project. The Staff Report and Exhibits, dated October 24, 2019, are included as Exhibit 1.

PUBLIC COMMENT:

At the October 22, 2020, Planning Commission hearing, two members of the public spoke in opposition of the application. Concerns brought up by the speakers questioned the reasoning for continuing the item, the presence of the operation without the proper use permit, and the re-noticing of surrounding property owners if the item is continued.

Since the drafting of the Staff Report dated October 22, 2020, staff has received correspondence from the California Department of Fish and Wildlife (CDFW) dated October 28, 2020, and has been included as Exhibit 2. The subject correspondence is in response to the

Initial Study review with the State Clearinghouse. Staff notes that the Initial Study was posted to the State Clearinghouse on September 18, 2020, and the review period ended on October 19, 2020, under the provisions of California Environmental Quality Act (CEQA) Guidelines. Therefore, the comments received from CDFW are considered late and the Planning Commission has discretion on addressing these comments. If your Commission believes that these comments need to be addressed, revision of the Initial Study would need to occur and require recirculation of the Initial Study documents for state and public review.

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Unclassified Conditional Use Permit Application cannot be made. Staff therefore recommends denial of Unclassified Conditional Use Permit Application No. 3626.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Unclassified Conditional Use Permit Application No. 3626; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 7556; and
- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Unclassified Conditional Use Permit Application No. 3626, subject to the Mitigation Measures, Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Mitigation Measures, Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1 October 22, 2020, Staff Report Exhibit 9.

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County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 October 22, 2020

SUBJECT: Initial Study Application No. 7556 and Unclassified Conditional Use Permit Application No. 3626

Allow a solid waste processing facility consisting of an asphalt and concrete crushing operation that will produce recycled baserock, and have the subject materials stored onsite until it is delivered offsite on a 22.44-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the north side of East Kings Canyon Road approximately 1,980 feet west of its nearest intersection with North Del Rey Avenue and is approximately 1.57 miles northwest of the nearest city limits of the City of Sanger (APN: 314-120-35S) (SUP. DIST. 5).

OWNER:
APPLICANT: John Emmett

STAFF CONTACT: Thomas Kobayashi, Planner
(559) 600-4224

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Unclassified Conditional Use Permit Application No. 3626; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Mitigation Monitoring, Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plans and Detail Drawings
6. Applicant's Operational Statement
7. Summary of Initial Study Application No. 7556
8. Public Correspondence
9. Draft Mitigated Negative Declaration

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	22.44-acre parcel	No change
Project Site	N/A	Grinding operation on approximately 2.77-acre portion of 22.44-acre parcel
Structural Improvements	57-foot by 156-foot building	10,125 square-foot building and grinding operation equipment
Nearest Residence	Approximately 20 feet east of subject parcel	No change
Surrounding Development	Agricultural and Single-Family Residential	No change
Operational Features	<u>N/A</u>	Processing operation to operate Monday-Friday 7:00 AM to 5:00 PM, not more than ten (10) days per month. See Operational Statement for specific equipment usage
Employees	N/A	Two employees for

Criteria	Existing	Proposed
		processing operation and one employee for office
Customers	N/A	No customers visiting site
Traffic Trips	N/A	26 trips a day, 6 vehicle trips associated with employees and 20 truck trips associated with material delivery (onsite and offsite)
Lighting	N/A	Outdoor lighting
Hours of Operation	N/A	Processing operation to operate Monday-Friday 7:00 AM to 5:00 PM, not more than ten (10) days per month.

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

Violation File 19-102776 has been opened on the subject parcel for operation of a contractor's storage yard where expressly prohibited. The Violation file was also updated to indicate that placement of equipment and improvements related to the proposed use has occurred without authorization under the subject Unclassified Conditional Use Permit. A recorded Notice of Violation has been placed on the property as of August 26, 2019. The Applicant is required to abate the violation through approval of the subject CUP and meet all conditions of approval and other requirements to satisfy Code Enforcement. If the CUP is denied, the Applicant will be required to remove all equipment and improvements related to the proposal and meet requirements established by the Code Enforcement Section to abate the violation.

ENVIRONMENTAL ANALYSIS:

Initial Study Application No. 7556 was prepared for the subject application 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 (Exhibit 9) is appropriate.

Notice of Intent to Adopt a Mitigated Negative Declaration publication date: September 18, 2020

PUBLIC NOTICE:

Notices were sent to 22 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:

An Unclassified Conditional Use Permit Application may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

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

BACKGROUND INFORMATION:

Building permit records of the subject property reflect the current built status of the site.

A Violation file is open on the subject property for the operation of a contractors storage yard where expressly prohibited and also noted under the violation is the placement of equipment and improvements made to the property for the use that is allowed under the proposed Conditional Use Permit. If the subject CUP is approved, the Applicant will need to complete all conditions of approval associated with the CUP and satisfy requirements from the Code Enforcement Section. If the subject CUP is denied, the Applicant will be required to remove all equipment and related improvements from the property to satisfy the Code Enforcement Section.

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

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	AE-20 Front yard: 35 feet Side yard: 20 feet Rear yard: 20 feet	Structures Front yard: Approximately 35 feet Side yard: Approximately 121 feet Rear yard: Approximately 745 feet Processing Operation Front yard: Approximately 176 feet Side yard: Approximately 150 Rear yard: Approximately 740 feet	Y
Parking	One (1) parking spot for every two (2) employees	12 parking stalls that include two (2) ADA compliant and van accessible stalls	Y
Lot Coverage	No requirement	N/A	Y

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Space Between Buildings	No animal or fowl pen, coop, stable, barn, or corral shall be located within forty (40) feet of any dwelling or other building used for human habitation	N/A	Y
Wall Requirements	No requirement	N/A	Y
Septic Replacement Area	100 percent replacement	No change	Y
Water Well Separation	Septic Tank: 100 feet Disposal Field: 100 feet Seepage Pit: 100 feet	No change	Y

Reviewing Agency/Department Comments Regarding Site Adequacy:

Building and Safety Section of the Department of Public Works and Planning: Plans, permits, and inspections will be required for all onsite improvements.

Site Plan Review Section of the Department of Public Works and Planning: A four (4) foot path of travel for disabled persons shall be constructed and stripped in accordance with state standards.

Any proposed driveway should be a minimum of 24 feet and a maximum of 35 feet in width as approved by the Road Maintenance and Operations Division. If only the driveway is to be paved, the first 100 feet off of the edge of the ultimate right-of-way shall be concrete or asphalt.

An encroachment permit shall be required from the Road Maintenance and Operations Division for any work in the County right-of-way.

Internal access roads shall comply with required widths by the Fire District for emergency apparatus.

A dust palliative should be required on all parking and circulation areas.

Outdoor lighting should be hooded and directed away from adjoining streets and properties.

All proposed signs require submittal to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance. Off-site advertising for commercial uses are prohibited in the AE (Exclusive Agricultural) Zone District.

The above comments provided by reviewing Agencies and Departments will be included as project notes. No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

Analysis Finding 1:

Based on the submitted site plan, the proposed office structure will be located outside of the required yard setbacks as established by the underlying zone district. The portion of the parcel that will be dedicated to the processing operation, per the submitted site plan, will be located in excess of 100 feet from the public right-of-way. A 12-foot barrier will be erected to reduce noise impacts between the closest residence and the processing operation. Development of the site will be subject to a Site Plan Review application and approval to ensure that the operation and proposed improvements comply with applicable standards and regulations.

Recommended Conditions of Approval:

None

Conclusion Finding 1:

Staff has determined that the proposed use is adequate in size and shape to accommodate the proposed use. Finding 1 can be made.

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

		Existing Conditions	Proposed Operation
Private Road	No	No private road	No change
Public Road Frontage	Yes	East Kings Canyon Frontage Road	No change
Direct Access to Public Road	Yes	One access driveway to East Kings Canyon Frontage Road	Two access driveways to East Kings Canyon Frontage Road
Road ADT		N/A	N/A
Road Classification		Local	No change
Road Width		Sixty (60) feet of right-of-way	No change
Road Surface		Paved	No change
Traffic Trips		N/A	Approximately 26 trips produced from project
Traffic Impact Study (TIS) Prepared	No	N/A	N/A
Road Improvements Required		N/A	No improvements required

Reviewing Agency/Department Comments Regarding Adequacy of Streets and Highways:

Development Engineering Section of the Department of Public Works and Planning: Kings Canyon Frontage Road is classified as a local road with an existing 30-foot right-of-way north of the center line along the parcel frontage. The minimum width for a local road right-of-way north of the center line is 30 feet.

Typically, any access driveway should be set back a minimum of 10 feet from the property line. On-site roads are to be gravel or pavement to prevent dust.

Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an encroachment permit from the Road Maintenance and Operations Division.

The above comments provided by reviewing Agencies and Departments will be included as project notes. No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

Analysis Finding 2:

Review of the estimated trip generations resulting from the project proposal indicate that the proposed use would not exceed thresholds to require a traffic impact study. Any work done to County-maintained right-of-way will require an encroachment permit. No concerns were received from responsible agencies to indicate that roads utilized by the project proposal would be inadequate in servicing the proposal.

Recommended Conditions of Approval:

None

Conclusion Finding 2:

Staff has determined that the East Kings Canyon Frontage Road is adequate to service the project proposal. Finding 2 can be made.

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North	19.70 acres	Single-Family Residence	AE-20	Approximately 810 feet
	34.68 acres	Field Crops	AE-20	
South	2.83 acres	Single-Family Residence	AE-20	Approximately 65 feet
East	15.62 acres	Field Crops and Single-Family Residence	AE-20	Approximately 330 feet
West	21.51 acres	Plant Nursery	AE-20	Approximately 30 feet

Reviewing Agency/Department Comments:

Department of Agriculture: The parcel is surrounded by agricultural operations. The applicant should acknowledge the Fresno County Right-to-Farm Notice. Fresno County Right-to-Farm Notice: "It is the declared policy of Fresno County to preserve, protect, and encourage development of its agricultural land and industries for the production of food and other

agricultural products. Residents of property in or near agricultural district should be prepared to accept the inconveniences and discomfort associated with normal farm activities. Consistent with the policy, California Civil Code 3482.5 (right-to-farm law) provides that an agricultural pursuit, as defined, maintained for commercial uses shall not become a nuisance due to a changed condition in a locality after such agricultural pursuit has been in operation for three years.”

Development Engineering Section of the Department of Public Works and Planning: According to FEMA FIRM Panel 2155H, the parcel is not subject to flooding from the 100-year storm.

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

Typically, 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.

An engineered grading and drainage plan and a grading permit may be required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties or the environment.

Department of Public Health, Environmental Health Division: The proposed construction project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the Fresno County Noise Ordinance.

In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately licensed contractor (permits required). Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be sampled for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The “oily water” removed from the well must be handled in accordance with federal, state, and local government requirements.

In the case of this application, it appears that the parcel can accommodate the sewage disposal system and expansion area meeting the mandatory setbacks and policy requirements as established with the implementation of the Fresno County Tier II Local Area Management Plan (LAMP), onsite wastewater treatment system (OWTS) policy and California Plumbing Code. The onsite sewage disposal system shall be installed under permit and inspection by the Department of Public Works and Planning, Building and Safety Section. 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.

The location of the onsite sewage disposal area should be identified and cordoned off to prevent truck trailer traffic from driving over, causing damage and possible failure of the septic system.

Fresno County Fire Protection District: The application shall comply with California Code of Regulations Title 24 – Fire Code. Prior to receiving Fresno County Fire Protection District (FCFPD) Conditions of Approval for the project, the applicant must submit construction plans to the County of Fresno Public Works and Planning for review. It is the applicant’s responsibility to deliver a minimum of three sets of plans to the FCFPD.

Project/Development including: Single-Family Residential (SFR) property of three or more lots, Multi-Family Residential (MFR) property, Commercial property, Industrial property, and/or Office property shall annex into Community Facilities District No. 2010-01 of the Fresno County Fire Protection District.

Project/Development will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

No other comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

Analysis Finding 3:

In reviewing the proposed use and surrounding parcels, there are sensitive receptors in the vicinity of the project site that could be adversely impacted.

The project proposal will result in increased noise generation, which could have an adverse impact on receptors in close proximity of the processing operation. An Acoustical Analysis was produced to address noise impacts related to the processing equipment utilized for the operation. The analysis was reviewed by the Fresno County Department of Public Health and based on the measurements and estimates provided in the study concluded that with compliance of mitigation measures for noise reduction, the project is not expected to exceed thresholds established under the Fresno County Noise Ordinance. The processing operation is located east of a single-family residence approximately 260 feet. As this is the closest sensitive receptor to the processing operation, mitigation in the establishment of a 12-foot berm is proposed to reduce noise impacts on the single-family residence to the west of the operation.

Dust generation resulting from the processing operation is another concern to take into consideration. A mitigation measure associated with the prepared Initial Study will require that the operation apply water to the ground, raw materials, processing operation and processed materials to control dust. With compliance of mitigation measures dust generation should be reduced to a less than significant impact. Although there is mitigation involved with this project that will reduce noise and air quality impacts, the processing operation is still in close proximity of sensitive receptors that have the potential to adversely effect said receptors. The closest sensitive receptor is a single-family residence located approximately 260 feet west of the proposed processing operation. The next closest receptor, a single-family residence, is approximately 340 feet east of the proposed processing area. Although there is mitigation involved to reduce the potential impacts resulting from the project, staff is still concerned about the compatibility of the proposed use with the surrounding agricultural and residential uses. The impacts associated with this project would be more agreeable if located in a more industrial setting where large volumes of noise and dust generation from the use of the processing equipment is expected. Therefore, staff believes that the proposed use could have an adverse impact on the surrounding neighborhood and abutting property.

Recommended Conditions of Approval:

None

Conclusion Finding 3:

Finding 3 cannot be made.

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

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy LU-A.3: The County may allow be discretionary permit in areas designated as Agricultural, special agricultural uses and agriculturally-related activities, including value-added processing facilities, and certain non-agricultural uses. Approval of these and similar uses in areas designated as Agricultural shall be subject to the following criteria:</p> <p>Criteria “a”: The use shall provide a needed service to the surrounding agricultural area which cannot be provided more efficiently within urban areas or which requires location in a non-urban area because of unusual site requirements or operational characteristics.</p> <p>Criteria “b”: The use should not be sited on productive agricultural lands is less productive land is available in the vicinity.</p> <p>Criteria “c”: The operational or physical characteristics of the use shall not have a detrimental impact on water resources or the use or management of surrounding properties within at least one-quarter (1/4) mile radius.</p> <p>Criteria “d”: A probable workforce should be located nearby or be readily available.</p> <p>Criteria “e”; For proposed agricultural commercial center uses the following additional criteria shall apply:</p> <p>Criteria “e.1”: Commercial uses should be clustered in centers instead of single uses.</p> <p>Criteria “e.2”: To minimum proliferation of commercial centers and overlapping of trade areas, commercial centers should be located a minimum of four miles from any existing or approved agricultural or rural residential commercial center or designated commercial area of any city or unincorporated community.</p>	<p>The proposed use is allowed under the Fresno County Zoning Ordinance subject to an Unclassified Conditional Use Permit Application.</p> <p>Criteria “a”: The proposed use would allow diversion of certain types of solid waste to be routed to the subject operation for processing of the waste and delivered for repurposing of the processed product. While the main customer base of the proposed operation would not come from the surrounding agricultural area, the project would still be capable of servicing the area in certain circumstances. The proposed operation would be better suited in a more industrial setting as there are potential impacts to the surrounding agricultural area and incidental residential uses present in their current proposed project site.</p> <p>Criteria “b”: Recent aerial photographs of the subject site indicate that the site may not be presently farmed. However, according to the 2016 Fresno County Important Farmland Map, portions of the site appear to be designated Prime Farmland and Unique Farmland suggesting that the parcel was actively farmed previously. Although the land may have been in agricultural production in the past, recent imagery of the site indicate that the land is not currently being farmed. Review of surrounding land in the vicinity of the project site show that the majority of parcels are in active agricultural production. Therefore, there does not seem to be less productive agricultural land in the vicinity that could accommodate that proposed use.</p> <p>Criteria “c”: Per the Applicant’s Operational Statement and review of the proposed water usage resulting form the project proposal, the water usage would not result in a detrimental impact on water resources on surrounding properties within at least one-quarter mile of the site.</p>

Relevant Policies:	Consistency/Considerations:
<p>Criteria “e.3”: New commercial uses should be located within or adjacent to existing centers.</p> <p>Criteria “e.4”: Sites should be located on a major road serving the surrounding area.</p> <p>Criteria “e.5”: Commercial centers should not encompass more than one-quarter (1/4) miles of road frontage, or one-eighth (1/8) mile if both sides of the road are involved, and should not provide potential for developments exceeding ten (10) separate business activities, exclusive of caretakers’ residences.</p> <p>Criteria “f”: for proposed value-added agricultural processing facilities, the evaluation under criteria “a” above, shall consider the service requirements of the use and the capability and capacity of cities and unincorporated communities to provide the required services.</p> <p>Criteria “h”: When approving a discretionary permit for an existing commercial use, the criteria listed shall apply except for LU-A.3b, e.2, e.4, and e.5.</p>	<p>Criteria “d”: The proposed use is located in between the city limits of the City of Fresno and the City of Sanger. Efficient thoroughfares in the form of State Route 180 allows access of the site to the urban centers where a probably workforce is located nearby and is readily available.</p> <p>Criteria “e”: The proposed use is not being considered under an agricultural commercial center.</p> <p>Criteria “f”: The use is not being considered under a value-added agricultural processing facility.</p> <p>Criteria “h”: The proposed use is not established on the parcel as an existing use and must be authorized under the subject CUP.</p>
<p>General Plan Policy LU-A.12: In adopting land uses policies, regulations, and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.</p>	<p>The proposed use is expected to be confined to the subject parcel. The proposal would not proliferate development of additional incompatible land uses from encroaching into agricultural land. The proposed use can be seen as being inconsistent with General Plan Policy LU-A.12 as the use is not agricultural in nature and is encroaching on land designated for agricultural activities. It should be noted that the use is allowed in the Fresno County Zoning Ordinance subject to an Unclassified Conditional Use Permit.</p>
<p>General Plan Policy LU-A.13: The County shall protect agricultural operations from conflicts with nonagricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.</p>	<p>The proposed use and processing are subject to the current setbacks established by the underlying zone district. Per the operational statement, the Applicant intends to plant orchards on the northern portion of the parcel and will have fencing around the perimeter of the subject parcel. There appears to be enough buffering with implementation of proposed improvements and compliance with setbacks established under the zone district.</p>

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy LU-A.14: The County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate.</p>	<p>Recent aerial imagery of the site suggest that the parcel is not currently being actively farmed. Per the Applicant’s operational statement, the northern portion of the site could be utilized for agricultural cultivation thereby reducing the impact of lost agricultural land. An assessment of conversion of productive agricultural land was determined to have a less than significant impact on agricultural resources in the prepared Initial Study.</p>
<p>General Plan Policy PF-C.17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following:</p> <p>Criteria “a”: A determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question. If surface water is proposed, it must come from a reliable source and the supply must be made “firm” by water banking or other suitable arrangement. If groundwater is proposed, a hydrogeologic investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required.</p> <p>Criteria “b”: A determination of the impact that use of the proposed water supply will have on other water users in Fresno County. If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other water users within Fresno County. If use of groundwater is proposed, a hydrogeologic investigation may be required. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required. Should the investigation determine that significant pumping-related physical impacts will extend beyond the boundary of the property in question, those impacts shall be mitigated.</p>	<p>The Water and Natural Resources Division and the State Water Resources Control Board did not express concerns with the proposed water usage of the project to indicate the use would have a significant effect on water supplies and did not require a water supply evaluation.</p>

Reviewing Agency Comments:

Policy Planning Section of the Department of Public Works and Planning: The subject parcel is designated as Agricultural in the Fresno County General Plan and is not enrolled in the Williamson Act Program.

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

Analysis Finding 4:

Based on the review of applicable General Plan Policies listed in the table above, staff believes that the project is not an agriculturally compatible use. Although there are buffers in place to reduce the impacts on abutting agricultural operations, the use would be converting agricultural land to an industrial use and potentially impact the surrounding agricultural areas.

Recommended Conditions of Approval:

None

Conclusion Finding 4:

Staff does not believe that the proposed use is an agricultural use and is not consistent with the Fresno County General Plan. Finding 4 cannot be made.

Finding 5: That the conditions stated in the resolution are deemed necessary to protect the public health, safety and general welfare.

The Conditions of Approval for this project, included as Exhibit 1 are based upon comments and recommendations received from reviewing agencies and departments. Finding 1 addresses the adequacy of the subject parcel and determines whether or not the parcel is of sufficient size to accommodate the proposed use. Potential impacts to adjacent roadways were analyzed under Finding 2, impacts to surrounding property under Finding 3. Finding 4 addresses the project's consistency with the General Plan, which guides the development of the County through conformance with the applicable goals and policies contained in the individual elements. The recommended Mitigation Measures under CEQA, Conditions of Approval and Project Notes are all considered mandatory conditions of approval upon adoption of the Mitigated Negative Declaration and approval of the Classified Conditional Use Permit for this project.

Conclusion Finding 5:

Based on staff's analysis, the conditions stated in the resolution are deemed necessary to protect the public health, safety and general welfare. Finding 5 can be made.

PUBLIC COMMENT:

Staff has currently received two letters of opposition regarding the subject application. The letters suggest that the proposed use would be a hazard to the surrounding area. The letter additionally states that the intended use property as described in the subject application is currently in operation.

The operation if approved, is expected to meet all state and local health standards and air quality emission standards. The project was reviewed by the San Joaquin Valley Air Pollution

Control District and the Fresno County Department of Public Health for comment on the proposal. Their comments are addressed in this staff report and in the prepared Initial Study. The produced studies along with implementation of mitigation measures will have a less than significant impact on surrounding properties. However, based on the findings made in this Staff Report, there are concerns about the effects the proposed use can have on the surrounding area and is unable to make Finding 3.

A violation has been issued by the Fresno County Code Enforcement Section for operation of the subject use without proper permitting. The subject land-use permit application and approval is required to allow the use and satisfy requirements of the Code Enforcement Section to close out the violation file on the property. If the use is denied, the Applicant will need to satisfy requirements of the Code Enforcement Section to ensure that the use is not in operation on the subject site prior to closure of the violation file.

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Unclassified Conditional Use Application cannot be made. Staff therefore recommends denial of Unclassified Conditional Use Permit Application No. 3626.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Unclassified Conditional Use Permit Application No. 3626; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study Application No. 7556; and
- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Unclassified Conditional Use Permit Application No. 3626, subject to the Mitigation Measures, Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Mitigation Measures, recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

TK:
G:\4360Devs&Pln\PROJSEC\PROJDOCS\CUP\3600-3699\3626\SR\CUP 3626 SR.docx

EXHIBIT 1

Mitigation Monitoring and Reporting Program Initial Study Application No. 7556 Unclassified Conditional Use Permit Application No. 3626 (Including Conditions of Approval and Project Notes)

Mitigation Measures					
Mitigation Measure No.*	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span
1.	Aesthetics	Six-foot high fencing with privacy slats or dense vegetative screening shall be installed and maintained along the southern property line closest to the processing/crushing facility.	Applicant	Applicant/PW&P	Ongoing
2.	Aesthetics	The stockpiles of processed and unprocessed materials shall be limited to 25 feet in height.	Applicant	Applicant/PW&P	Ongoing
3.	Aesthetics	All outdoor lighting shall be hooded and directed downward so as not to shine on public roads or surrounding property.	Applicant	Applicant/PW&P	Ongoing
4.	Air Quality	The applicant shall apply water to the ground, raw materials, processing operation and processed materials to control dust. The operator of the use shall operate in such a manner as to reduce fugitive dust from the operation impacting adjacent properties. If regulations by the SJVAPCD and the use's operator's practices do not reduce the impact of dust on adjacent properties to a level less than other common farming activities in the area, the operator of the use may be required by the code enforcement section of the Fresno County Public Works and Planning Department and/or Department of Public Health to provide additional dust control measures so as to reduce the generation of dust and the potential drifting of dust on to neighboring parcels.	Applicant	Applicant/PW&P	Ongoing
5.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	During ground-disturbing activities.
6.	Energy	The idling of running equipment and vehicles related to the operation shall be avoided to the most possible extent to	Applicant	Applicant/PW&P	Ongoing

		reduce wasteful, inefficient, or unnecessary consumption of energy resources.			
7.	Noise	A twelve-foot high berm shall be established between the closest sensitive receptor and the proposed processing facility.	Applicant	Applicant/PW&P	Ongoing
8.	Noise	Grinder and hammer operations should not occur during the nighttime hours between 10:00 PM and 7:00 AM, when applicable standards are more restrictive. Operation of the grinder and hammer operations should only occur during the listed hours of operation as established under the Operational Statement between 7:00 AM and 5:00 PM.	Applicant	Applicant/PW&P	Ongoing

Conditions of Approval

1.	Development of the property shall be in accordance with the Site Plans, Floor Plans, Elevations, and Operational Statement as approved by the Planning Commission.
2.	A Site Plan Review application and approval will be required for all proposed improvements.

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

Notes

The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.

1.	Plans, permits and inspections will be required for all onsite improvements.
2.	The Site Plan Review Section of the Department of Public Works and Planning provide the following comments: <ul style="list-style-type: none"> a. A four (4) foot path of travel for disabled persons shall be constructed and striped in accordance with state standards. b. Any proposed driveway should be a minimum of 24 feet and a maximum of 35 feet in width as approved by the Road Maintenance and Operations Division. If only the driveway is to be paved, the first 100 feet off of the edge of the ultimate right-of-way shall be concrete or asphalt. c. An encroachment permit shall be required from the Road Maintenance and Operations Division for any work in the County right-of-way. d. Internal access roads shall comply with required widths by the Fire District for emergency apparatus. e. A dust palliative should be required on all parking and circulation areas. f. Outdoor lighting should be hooded and directed away from adjoining streets and properties. g. All proposed signs require submittal to the Department of Public Works and Planning permits counter to verify compliance with the Zoning Ordinance. Off-site advertising for commercial uses are prohibited in the AE (Exclusive Agricultural) Zone District.
3.	The Development Engineering Section of the Department of Public Works and Planning provide the following comments: <ul style="list-style-type: none"> a. Kings Canyon Frontage Road is classified as a local road with an existing 30-foot right-of-way north of the center line along the parcel frontage. The minimum width for a local road right-of-way north of the center line is 30 feet. b. Typically, any access driveway should be set back a minimum of 10 feet from the property line. On-site roads are to be gravel or pavement to prevent dust.

Notes

	<ul style="list-style-type: none"> c. Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an encroachment permit from the Road Maintenance and Operations Division. d. According to FEMA FIRM Panel 2155H, the parcel is not subject to flooding from the 100-year storm. e. According to U.S.G.S Quad Maps, there are no existing natural drainage channels adjacent or running through the parcel. f. Typically, 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. g. An engineered grading and drainage plan and a grading permit may be required to show how additional storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties or the environment.
4.	<p>The parcel is surrounded by agricultural operations. The applicant should acknowledge the Fresno County Right-to-Farm Notice. Fresno County Right-to-Farm Notice: "It is the declared policy of Fresno County to preserve, protect, and encourage development of its agricultural land and industries for the production of food and other agricultural products. Residents of property in or near agricultural district should be prepared to accept the inconveniences and discomfort associated with normal farm activities. Consistent with the policy, California Civil Code 3482.5 (right-to-farm law) provides that an agricultural pursuit, as defined, maintained for commercial uses shall not become a nuisance due to a changed condition in a locality after such agricultural pursuit has been in operation for three years."</p>
5.	<p>The Department of Public Health, Environmental Health Division provide the following comments:</p> <ul style="list-style-type: none"> a. The proposed construction project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the Fresno County Noise Ordinance. b. In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately licensed contractor (permits required). Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be sampled for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state, and local government requirements. c. In the case of this application, it appears that the parcel can accommodate the sewage disposal system and expansion area meeting the mandatory setbacks and policy requirements as established with the implementation of the Fresno County Tier II Local Area Management Plan (LAMP, onsite wastewater treatment system (OWTS) policy and California Plumbing Code. The onsite sewage disposal system shall be installed under permit and inspection by the Department of Public Works and Planning, Building and Safety Section. 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. d. The location of the onsite sewage disposal area should be identified and cordoned off to prevent truck trailer traffic from driving over, causing damage and possible failure of the septic system.
6.	<p>The Fresno County Fire Protection District provide the following comments:</p> <ul style="list-style-type: none"> a. The application shall comply with California Code of Regulations Title 24 – Fire Code. Prior to receiving Fresno County Fire Protection District (FCFPD) Conditions of Approval for the project, the applicant must submit construction plans to the County of Fresno Public Works and Planning for review. It is the applicant's responsibility to deliver a minimum of three sets of plans to the FCFPD. b. Project/Development including: Single-Family Residential (SFR) property of three or more lots, Multi-Family Residential (MFR) property, Commercial property, Industrial property, and/or Office property shall annex into Community Facilities District No. 2010-01 of the Fresno County Fire Protection District.

Notes

- c. Project/Development will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

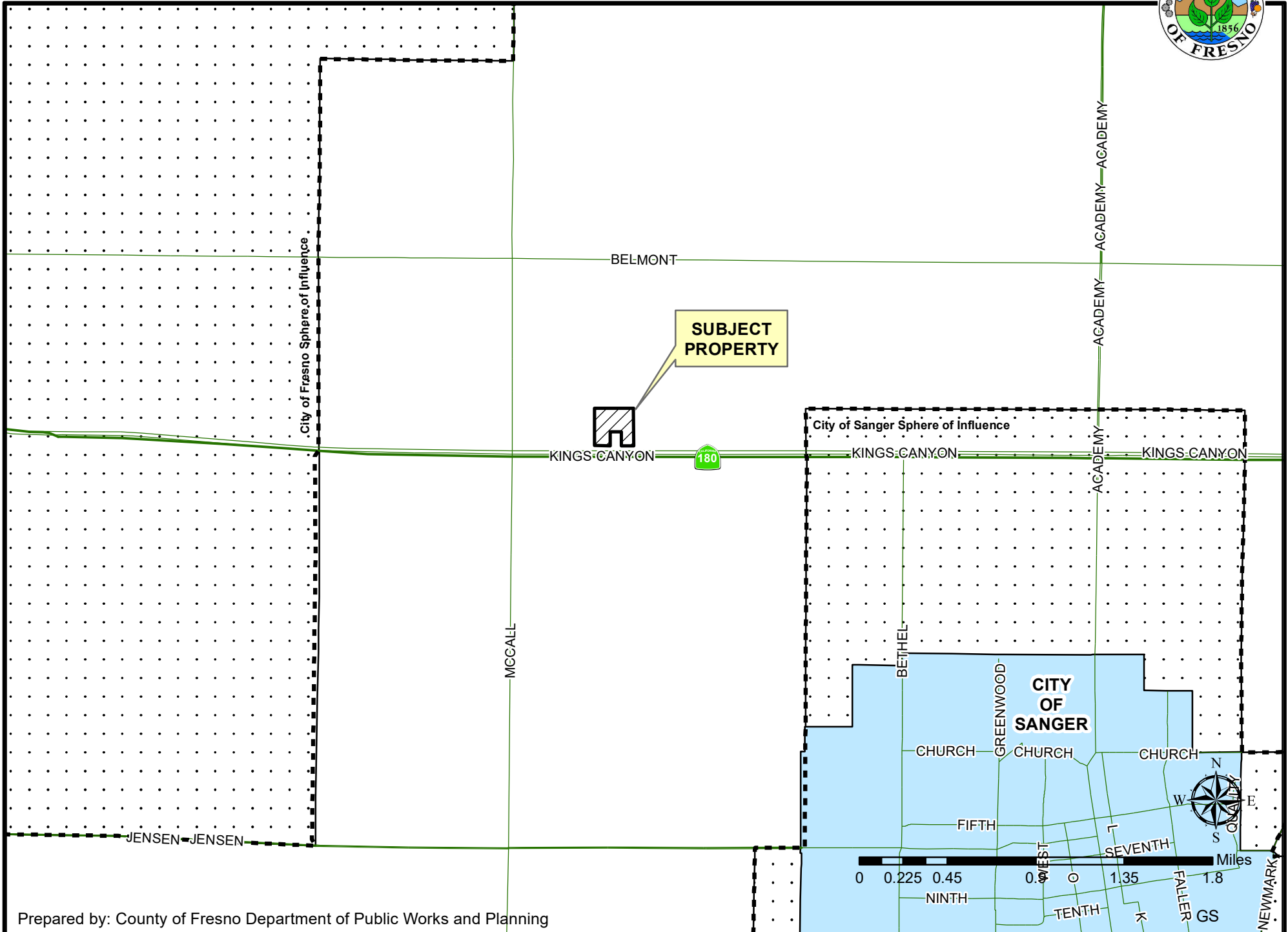
TK

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LOCATION MAP



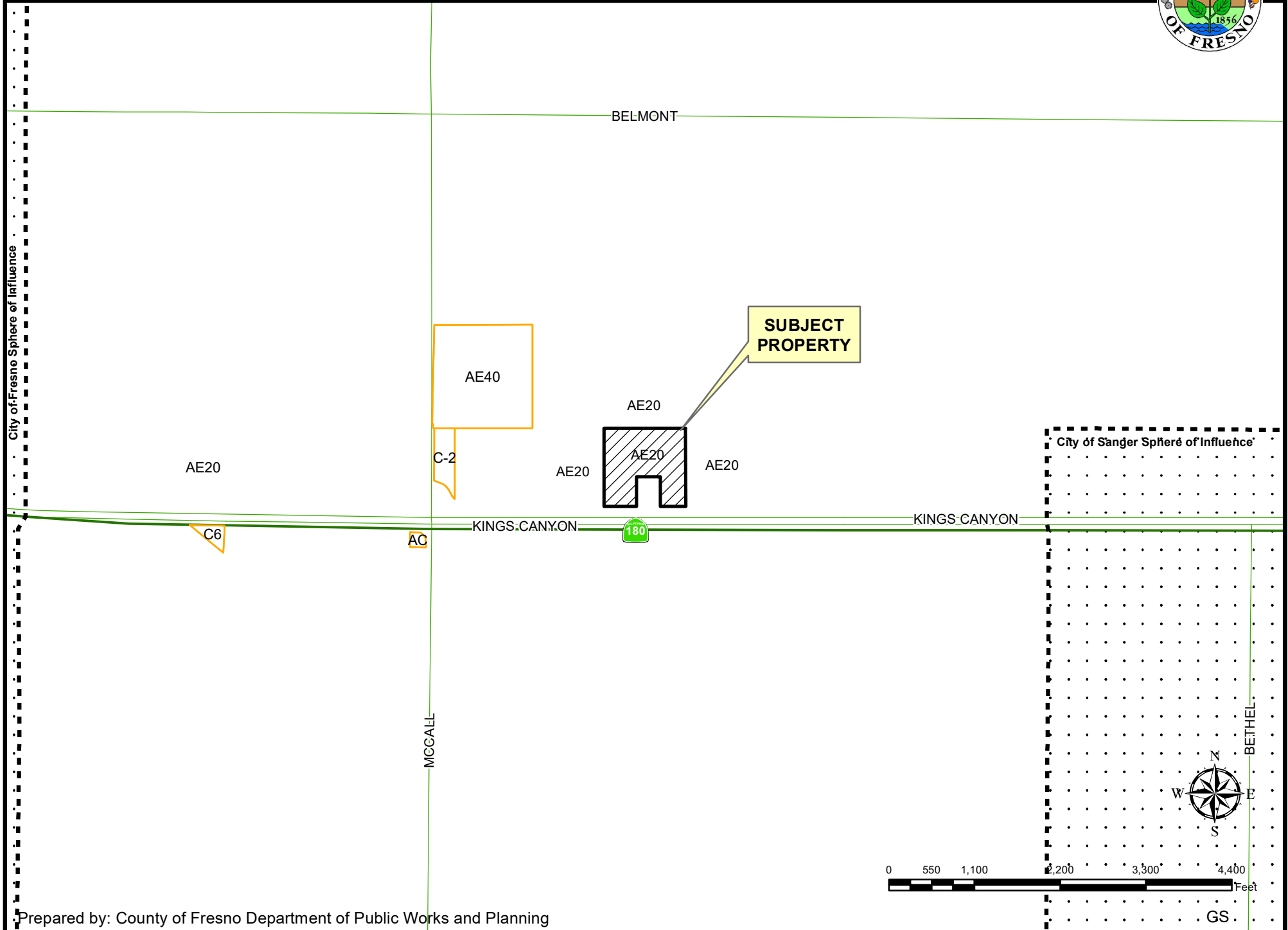
EXHIBIT 2



EXISTING ZONING MAP



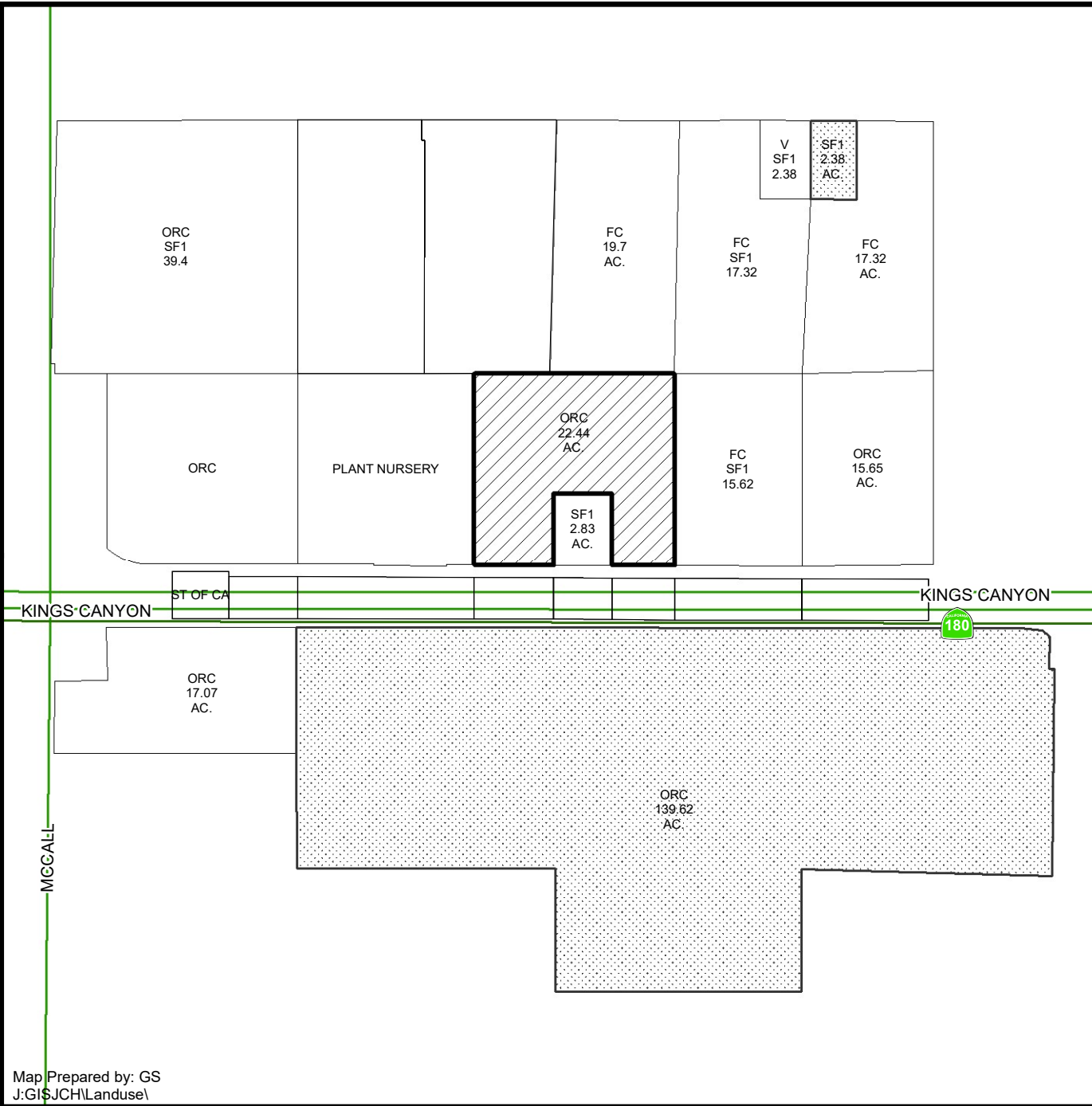
EXHIBIT 3



EXISTING LAND USE MAP



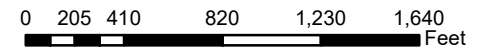
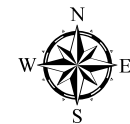
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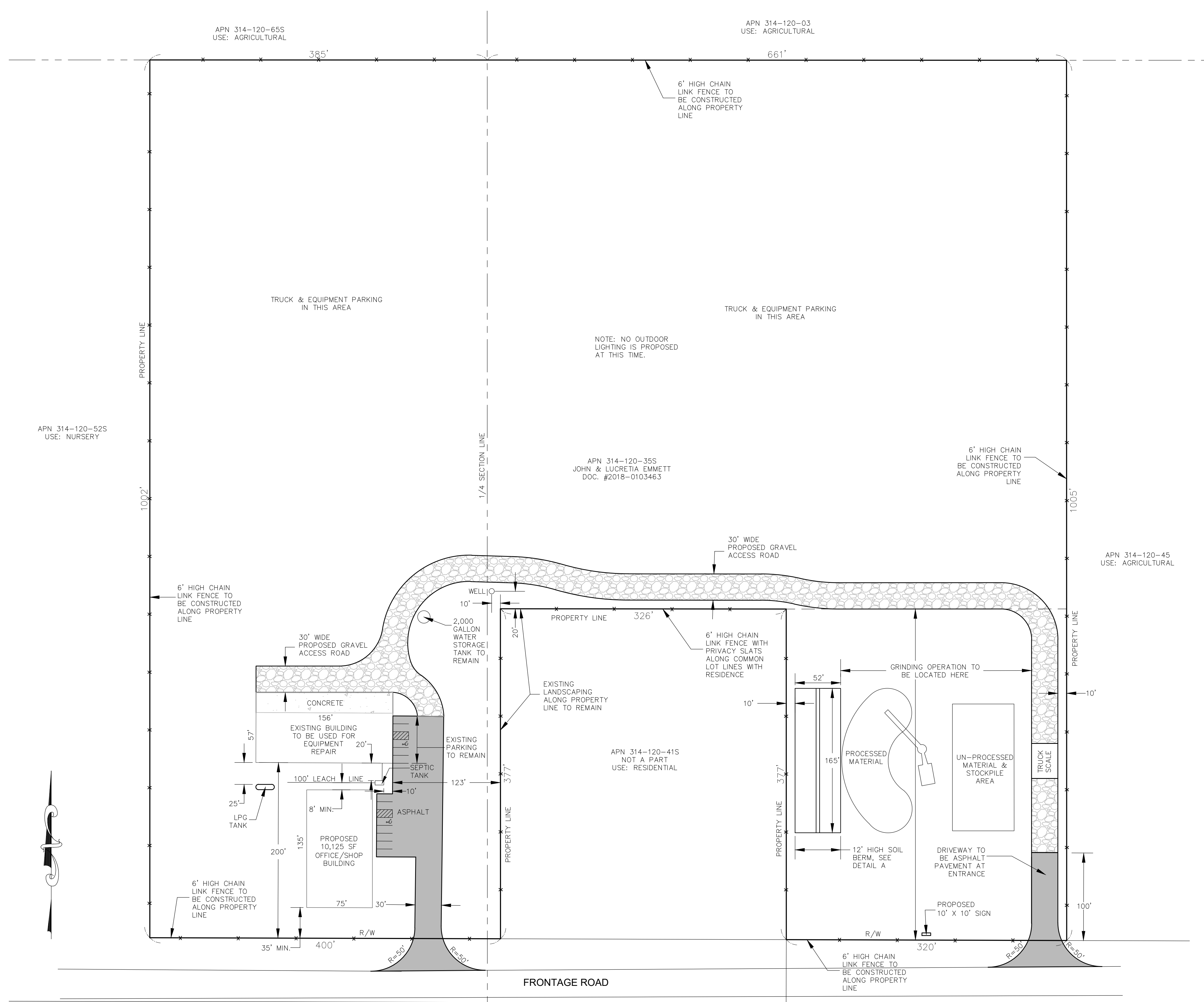


LEGEND	
FC	FIELD CROP
ORC	ORCHARD
SF#	SINGLE FAMILY RESIDENCE
V	VACANT

LEGEND:

- Subject Property
- Ag Contract Land





SITE INFORMATION

APN: 314-120-355
 ADDRESS: 10452 E. KINGS CANYON ROAD, FRESNO, CA
 SITE AREA: 21.3 ACRES
 ZONING: AE-20

LEGAL DESCRIPTION

THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER AND THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 22 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLAT THEREOF.

EXCEPTING THE EAST 326.19 FEET OF THE WEST 341.19 FEET OF THE NORTH 667.70 FEET OF THE SOUTH 697.70 FEET OF THE WEST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 5.

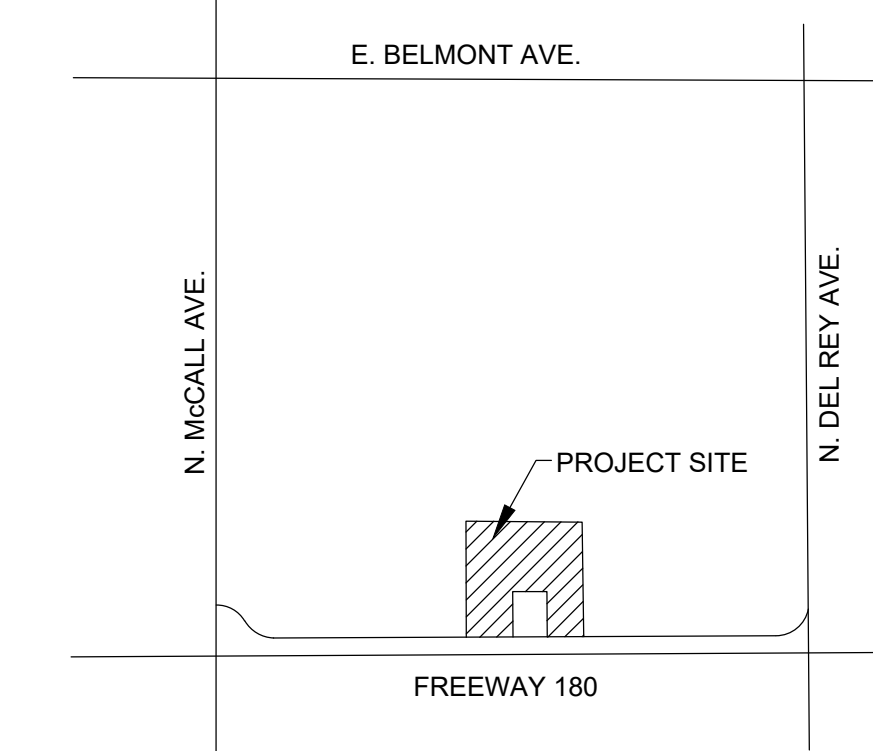
ALSO EXCEPTING THEREFROM THE WEST 936.96 FEET OF THE SOUTH HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 5, TOWNSHIP 14 SOUTH, RANGE 22 EAST, MOUNT DIABLO BASE AND MERIDIAN, FRESNO COUNTY CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT THEREOF.

AND ALSO EXCEPTING THEREFROM THAT PORTION GRANTED TO THE COUNTY OF FRESNO BY DEED RECORDED FEBRUARY 14, 2003, AS DOCUMENT NO. 2003-0037582, OFFICIAL RECORDS.

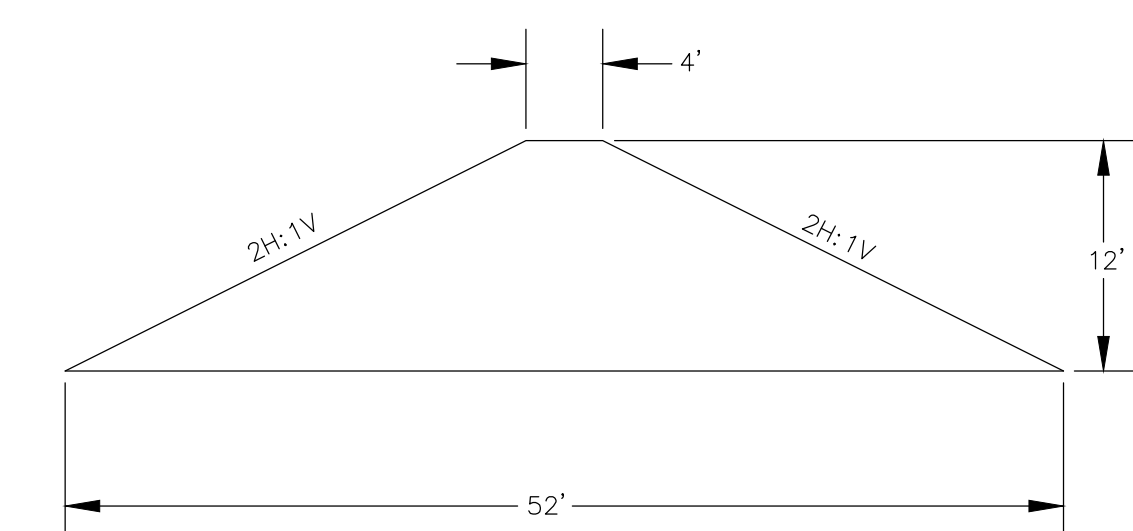
ALSO EXCEPTING AN UNDIVIDED ONE-FOURTH INTEREST IN AND TO ALL OIL, GAS AND MINERAL RIGHTS, TOGETHER WITH ALL EASEMENTS AND RIGHTS OF INGRESS AND EGRESS REASONABLY NECESSARY OR CONVENIENT FOR THE FULL EXERCISE OF SUCH RESERVED RIGHTS, AS RESERVED IN THE DEED FROM LEONARD P. LEBLANC, H.E. LEONARD AND MARIO PAGLIASSO, THE DULY APPOINTED, QUALIFIED AND ACTING EXECUTORS AND EXECUTRIX, RESPECTIVELY, OF THE ESTATE OF H.B. LEONARD, ALSO KNOWN AS HUBERT B. LEONARD, ALSO KNOWN AS HUBERT BENJAMIN LEONARD, DECEASED, TO CHESLIE D. SAROYAN, ET AL, DATED APRIL 27, 1954, IN BOOK 3444, PAGE 640, OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM AN UNDIVIDED ONE-FOURTH INTEREST IN AND TO ALL OIL, GAS AND MINERAL RIGHTS, TOGETHER WITH ALL EASEMENTS AND RIGHTS OF INGRESS AND EGRESS REASONABLY NECESSARY OR CONVENIENT FOR THE FULL EXERCISE OF SUCH RESERVED RIGHTS, AS RESERVED IN THE DEED FROM ENA DEYO LEONARD TO CHESLIE D. SAROYAN AND ANNIE SAROYAN, HUSBAND AND WIFE, AS TO AN UNDIVIDED ONE-HALF INTEREST, AND NICKLOS ALLEN DRAKLICH AND BETTY DRAKLICH, HUSBAND AND WIFE, AS TO AN UNDIVIDED ONE-HALF INTEREST, DATED APRIL 26, 1954, RECORDED MAY 12, 1954, IN BOOK 3444, PAGE 644, OFFICIAL RECORDS.

VICINITY MAP

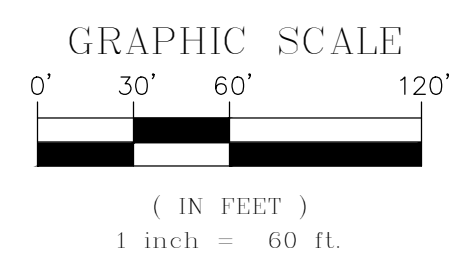


DETAIL A-SOIL BERM CROSS SECTION



SITE PLAN

SITE ADDRESS: 10452 E. KINGS CANYON ROAD
 FRESNO, CA
 APN: 314-120-355



REVISIONS

SITE PLAN
 EMMETT'S EXCAVATION
 10452 E. KINGS CANYON ROAD
 FRESNO, CA

JOHN MINNEY ENGINEERING
 17137 ROAD 37
 MADERA, CA 93636
 (559) 275-5937

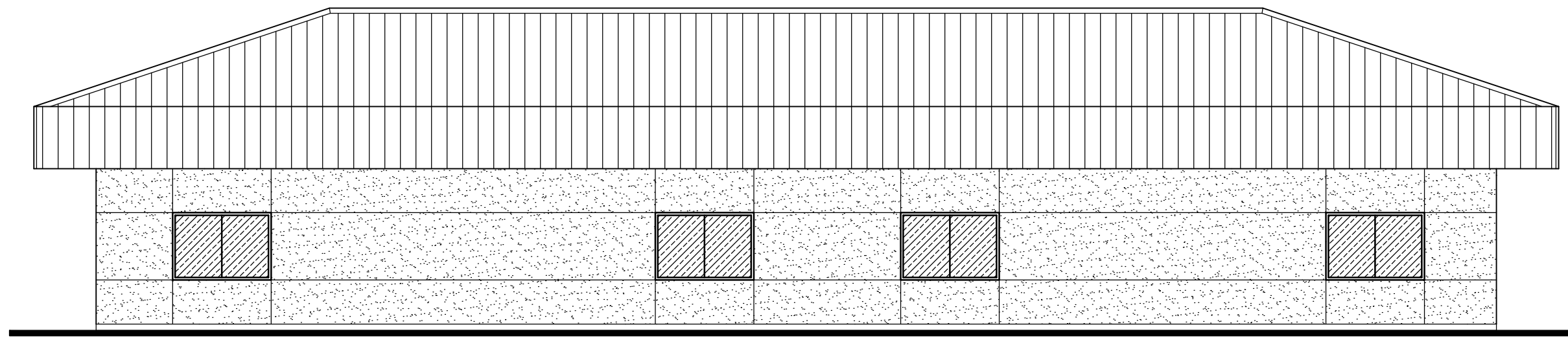
JOB NO. 18-0007

DATE: 2-1-19

DRAWN BY: A. SMOKE

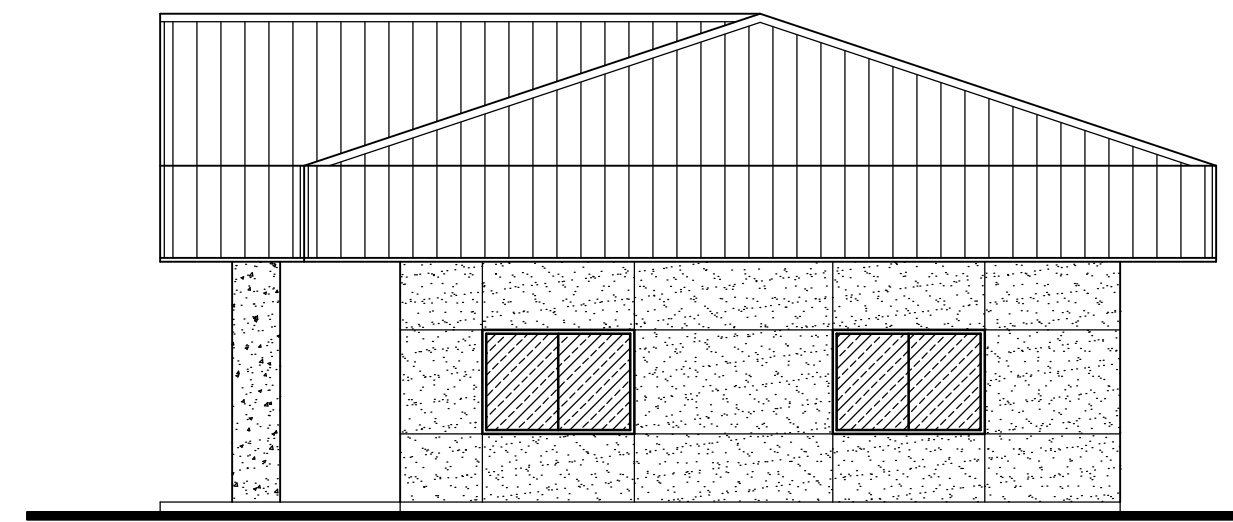
SHEET

SP



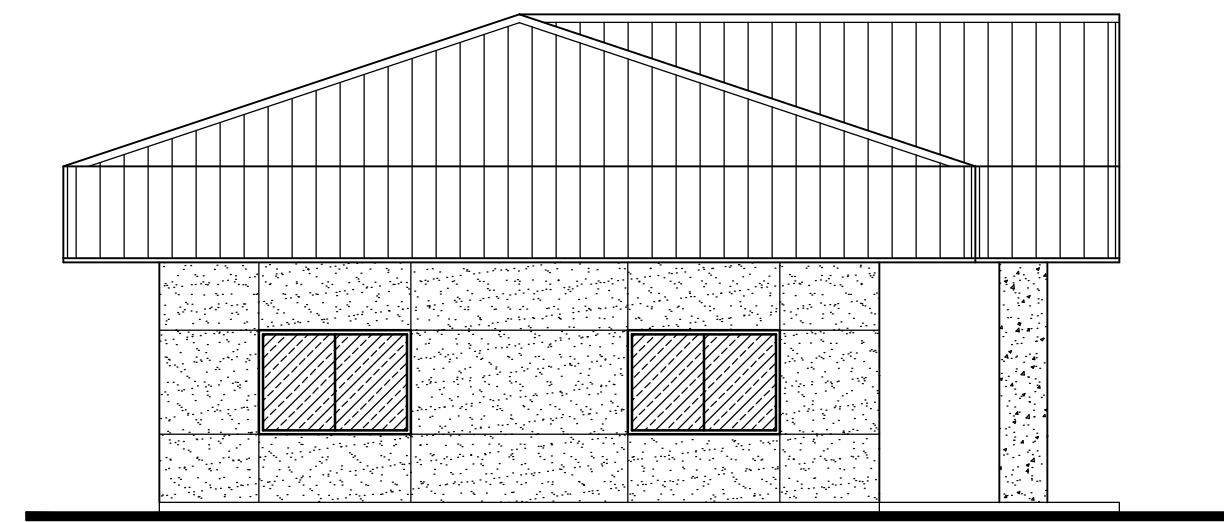
NORTH ELEVATION

SCALE: 1/8" = 1'-0"



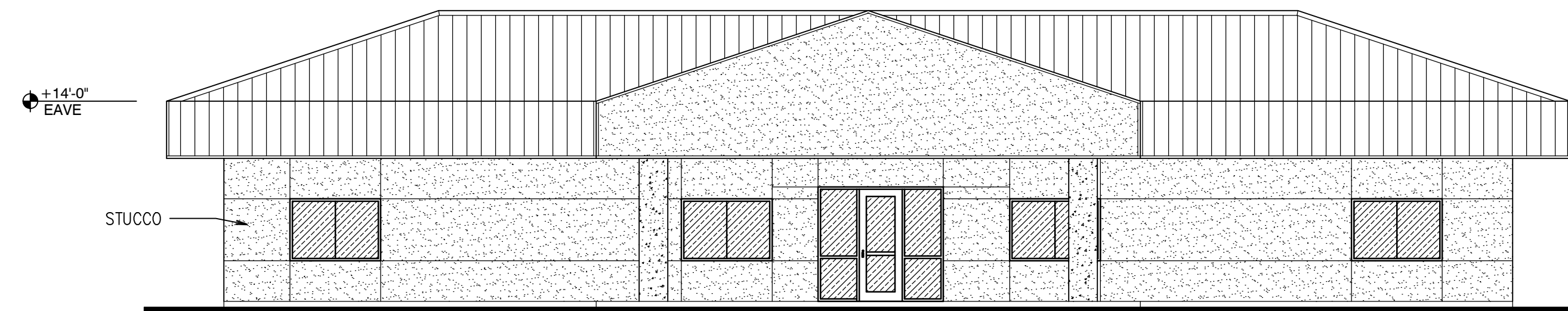
EAST ELEVATION

SCALE: 1/8" = 1'-0"



WEST ELEVATION

SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"

REV	REVISION	DATE



project
Emmett's Excavation
New Office

client
Emmett Family

content
ELEVATION PLAN



VALLEY STEEL CONSTRUCTION FRESNO, INC.

THE DESIGN AND INFORMATION CONTAINED ON THIS DRAWING(S) ARE THE EXCLUSIVE PROPERTY OF VALLEY STEEL CONSTRUCTION FRESNO, INC. AND THEY CANNOT BE USED FOR INFORMATION PURPOSES OR DUPLICATED WITHOUT THE CONSENT OF VALLEY STEEL CONSTRUCTION FRESNO, INC. ANY UNAUTHORIZED USES WILL BE PROSECUTED UNDER ALL LAWS INCLUDING BUT NOT LIMITED TO 17 USC SEC. 101 ET. SEQ. AND CALIFORNIA CIVIL CODE SECTION 980.

drawn by; ASH

checked by;

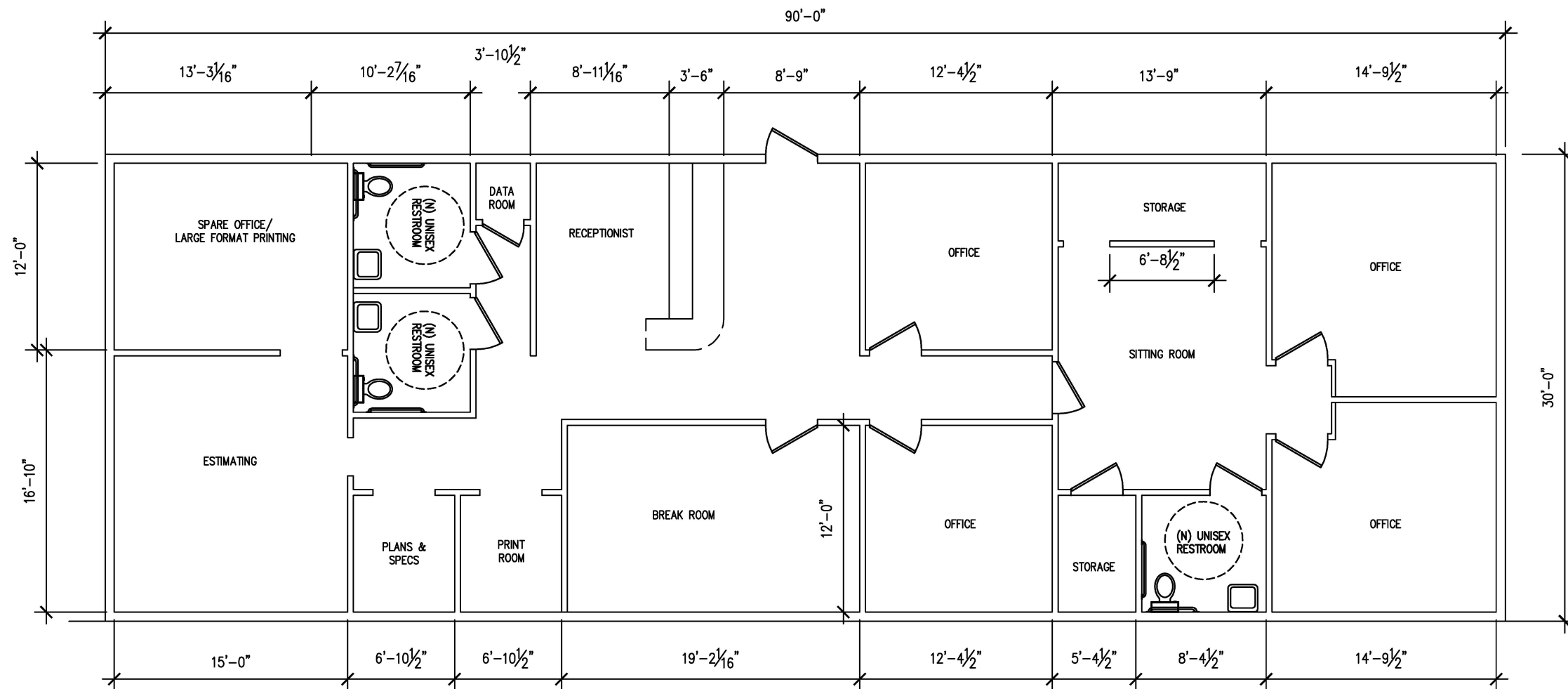
date; 9/25/2018

drawing no.

EL

ELEVATION PLAN

SCALE 1/8" = 1'-0"



REV	REVISION	DATE

VALLEY STEEL CONSTRUCTION
FRESNO, INC.
 www.valsteelinc.com 3197 S. Parkway Dr. Fresno, CA 93725
 T. 559/266.8133 F. 559/266.8172

project
Emmett's Excavation
New Office

client
Emmett Family

content
FLOOR PLAN



(E) FLOOR PLAN
 SCALE 1/4"=1'-0"

VALLEY STEEL CONSTRUCTION
FRESNO, INC.

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drawn by: ASH
 checked by:
 date: 9/25/2018
 drawing no.
SD 01

EXHIBIT 6

**REVISED OPERATIONAL STATEMENT
PROPOSED ASPHALT AND CONCRETE RECYCLING
10452 E. KINGS CANYON
APN 314-120-35S
McCALL/DEL REY/HIGHWAY 180
FRESNO COUNTY, CALIFORNIA**

Introduction

This Project is the relocation of an existing asphalt and concrete recycling facility within the boundaries of Fresno County. The facility is moving from its current location to 10452 Kings Canyon Road near the intersection of McCall and Del Rey near Highway 180. The Project is located on a remote 21.3-acre parcel that is currently zoned AE-20. This project will further the goals of California's Integrated Waste Management Act of 1989 and amended in 2017, that requires counties to reduce the amount of waste disposed in landfills by at least 65% and Fresno County's related construction and demolition debris disposal ban (Fresno County Code 8.25.010), and California Green Building Standards Code (CAL Green, Section 4.408.1-50). The benefits of the Project include the ability to recycle and reuse asphalt and concrete construction debris that otherwise is banned from disposal in landfills and will assist the county in avoiding fines if this material is not diverted from a landfill.

As mentioned above, Fresno County, as with other counties and municipalities, is under a mandate to reduce the deposition of waste into landfills. In 2017, the State of California amended the California code to require that a minimum of 65% of waste be diverted from landfills. Furthermore, in 2011 the State of California set a recycling goal of 75% of commercial waste with AB 341, to be achieved by 2020. Because of the reuse of existing materials, the Project is a more efficient use of energy, and does not require the use of natural resources that a typical sand and gravel operation requires. The comparison to the impacts at a standard facility for the creation of the same volume of materials would indicate this project has a significantly lesser impact. The use of recycled materials also provides less of a burden on the dwindling supply of rock and sand in the Central Valley. The location of this product within Fresno County will also eliminate the need for materials to be trucked in from out of county suppliers, reducing air emissions and the wear and tear on roadway resources.

All equipment operated on the site is in compliance with the requirements of, and permitted by, the San Joaquin Valley Air Pollution Control District and the California Air Resources Control Board. All of the engines on site will be "Tier 4," the highest off-road emissions standard compliance. The design of the project is such that any impacts of the operations on the neighboring properties are minimal. Structures and vegetation will be designed to minimize any potential noise impacts. All equipment to be stored on the site is used in the collection, transportation and processing of the recycled materials.

Operations

The facility will receive asphalt and concrete from various local construction projects, including some of those at which applicant is the contractor. Arriving asphalt and concrete will be stored on the southeastern-most 3 acres of the 21.3 acre parcel. The asphalt and concrete will then be processed on-site by equipment that is designed to minimize noise and will reduce the materials to various sizes suitable for use as base rock or select structural fill. Various conveyors and loaders would be used to move the materials on the site.

The project will have three employees running the processing operation, which would generate approximately 6 vehicle trips per day. The project will generate approximately an average of 20 truck trips per day associated with the grinding operation. The proposed project will require the operation of the following equipment associated with the processing operation: grinder (average 4 hours per day operation); front loader (average 4 hours per day operation); water truck (average of 2 miles per day on-site travel); 5-cubic yard front loader (average 2 hours per day operation); excavator with thumb (average 3 hours per day); excavator with hammer (average 2 hours per day); truck (average 2 hours per day); and loader (average 2 hours per day). It is anticipated that the operation will use a total of six (7) vehicles in addition to the grinder.

The incoming asphalt and concrete will be deposited on the ground and moved into the stockpile by front end loaders. Any material other than asphalt or concrete will be removed by hand and placed in a 30-yard roll-off bin. The roll-off bin material will be transported by the local trash hauler to the county landfill. The roll-off bin will have a moveable roof cover to prevent material from escaping during transportation. The 30-cubic yard roll-off bin will be taken to a landfill about once every two weeks.

The incoming asphalt and concrete stockpile is sized to store incoming material for a maximum of two (2) months before processing. Normally, the asphalt and concrete is processed within days of arrival.

The stockpiled asphalt and concrete is expected to be 10-15 feet high. The maximum volume of the incoming stockpile would be 22,000 cubic yards (approximately 78,000 tons).

After processing, the material stockpile will be transferred by conveyors and periodically shaped by front end loaders to a square mound with a maximum dimension of 290 square feet. The pile is expected to be no more than a maximum of 25 feet high.

The processing equipment is only run when necessary and it is anticipated no more than ten (10) days per month. The timing of the processing is determined by market demand for the sale of processed material. The total annual output is expected to be approximately 78,000 tons per year. No asphalt and concrete will be kept unprocessed on the site for more than two months.

Trucks will enter from the Highway 180 north access road and proceed northerly along the paved access road to be built by the applicant for both the incoming asphalt and concrete stockpile or processed material stockpile, depending on whether they are delivering or picking up. The trucks will then turn around and exit on the access road where they came in. The current access width is sufficient for trucks entering and exiting simultaneously.

Proposed hours of operation for processing are 7:00 a.m. to 5:00 p.m., Monday-Friday. All of the work would be performed outdoors. It is expected that two workers would run the grinding operation. The third worker would be an office employee. Parking for employees will be available on-site. The parking is paved. Four cars and one handicapped space would be provided.

Noise

An acoustical study was done of the site by WJV Acoustics dated October 30, 2018 and additional testing on March 4, 2020. The study, revised on March 19, 2020 concluded that the project will comply with applicable Fresno County noise level requirements when properly mitigated. The nearest residence is approximately 250-300 feet away from the location of the grinding and hammer operation.¹ In order to minimize noise impacts on any nearby residences, the applicant proposes to provide at least 15 feet of sound shielding by locating soil or base rock material piles between the grinder and hammer operation and residences, to build a permanent 12-foot concrete wall or earthen berm, also between the equipment and the residences and not to operate the grinding and hammer equipment at night from 5:00 p.m. to 7:00 a.m.

The applicant currently utilizes a Pegson Model 428 grinder, Rockrammer RBH778 and a Hyundai HL960 loader. The equipment currently used is newer technology which produces lower noise levels than the equipment measured for project reference.

Structures

The applicant will utilize the existing equipment maintenance and office structure (7300 sq.ft.) for their operations. The southeastern 3 acres of the existing parcel would remain free of structures for processing operations. One 10' x 10' facility identification sign for the processing operation is proposed on the southeast corner. No outdoor lighting will be used. No outdoor sound amplification is proposed. No pedestrian access or walkways are proposed.

A six-foot high chain link fence will be installed along the entire boundary. A sold concrete wall or earthen berm will be constructed to a minimum height of 12-feet above project site grade on western project boundary. No other new fencing or

¹ The applicant has been in discussions with the nearest residents and they are currently supportive of the project. The applicant expects to provide a letter of support from these homeowners.

landscaping is proposed at this time. Some of the current vegetation will be left and applicant will plant trees along the northern perimeter of the property to act as a buffer between existing houses and the grinding operation.

The applicant will utilize gravel for the entire area site plan as required in the CUP. There is an existing gravel driveway running along the south side of the parcel, which connects to the grinding area. That gravel surface will then be maintained as part of this project with addition of more base rock as necessary. Water will be applied to the site as necessary to control dust. There is a fully functional agricultural well on the parcel. The water truck will use water from the agricultural well. A maximum water usage of 12,000 gallons per day is anticipated.

Fruit or nut trees will be planted on the northern portion of the property. Farm equipment associated with the cultivation of those trees may also be on the property.

Materials

Much of the incoming asphalt and concrete will come from the applicant's own construction projects and much of the processed material will be used on the applicant's own construction projects. However, asphalt and concrete will be accepted from and processed material will be sold to other contractors. Material could be delivered to the site or purchased from the site by employees of the applicant or other contractors. This sales operation is included in the previously estimated average of 20 truck trips per day. No material would be accepted from or delivered to the general public. The operation would use the existing north access road alongside Highway 180. No additional street improvements or dedications are proposed.



County of Fresno

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

EVALUATION OF ENVIRONMENTAL IMPACTS

APPLICANT: John Emmett

APPLICATION NOS.: Initial Study Application No. 7556 and Unclassified Conditional Use Permit Application No. 3626

DESCRIPTION: Allow a solid waste processing facility consisting of an asphalt and concrete crushing operation that will produce recycled baserock, and have the subject materials stored onsite until it is delivered offsite on a 22.44-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the north side of East Kings Canyon Road approximately 1,980 feet west of its nearest intersection with North Del Rey Avenue and is approximately 1.57 miles northwest of the nearest city limits of the City of Sanger (APN: 314-120-35S) (SUP. DIST. 5).

I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- A. Have a substantial adverse effect on a scenic vista; or
- B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

FINDING: NO IMPACT:

The subject site is located in a mainly agricultural region with single-family residences located throughout area. According to Figure OS-2 of the Fresno County General Plan, the subject site is not located on or near a scenic roadway. There were no scenic resources or vistas were identified on the subject parcel, or being affected by the project proposal.

- C. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The main processing operation will be located in an approximately 3-acre portion located in the southeastern section of the parcel. The operation is proposed to have public road frontage along East Kings Canyon Road at the southeastern portion and will be visible from State Route 180. The applicant proposes 6-foot high chain link fence along the entire property boundary. Additionally, the residential parcel located in the middle of the subject parcel will have further screening with the installation of a 6-foot high chain link fence with privacy slats. The project proposal has the potential to substantially degrade the existing visual character or quality of public views of the site and its surroundings by not providing a visual buffer of the operation from State Route 180, the area with the most potential for public views of the site. Therefore, mitigation shall be implemented to further screen the site of the crushing operation from public view. Additional screening via privacy slats is not necessary as there appears to be agricultural and landscaping buffers located to the east and approximately 1,530 feet between the residence to the north and the processing area. Per the applicant's operational statement, the applicant will plant trees along the northern perimeter of the property to act as a buffer between the existing houses and the grinding operation. To further reduce the visual impact the proposed operation will have on the surrounding area, a height limit shall be established on processed and unprocessed material. This will allow reduction of public views of the operation.

* **Mitigation Measure(s)**

1. *Six-foot high fencing with privacy slats or dense vegetative screening shall be installed and maintained along the southern property line closest to the processing/crushing facility.*
2. *The stockpiles of processed and unprocessed materials shall be limited to 25 feet in height.*

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

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Per the applicant's operational statement, there is no proposed outdoor lighting. A mitigation measure will be implemented in the case the outdoor lighting is utilized at a later date to reduce impacts on adjacent properties and public right-of-way.

* **Mitigation Measure(s)**

3. *All outdoor lighting shall be hooded and directed downward so as not to shine on public roads or surrounding property.*

II. AGRICULTURAL AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology in Forest Protocols adopted by the California Air Resources Board. Would the project:

- A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use; or
- B. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the Fresno County Important Farmland 2016 Map. Portions of the project site appear to be designated Prime Farmland and Unique Farmland. Aerial photographs of the project site suggest that the site has been utilized for agricultural cultivation in the past. More recent aerial photographs of the site indicate that the parcel is not utilized towards agricultural cultivation. The subject parcel is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and is not subject to a Williamson Act Contract. The proposed use is allowed subject to a discretionary land-use permit per the Fresno County Zoning Ordinance. Per the Applicant's Operational Statement, the northern portion of the parcel would be planted with fruit or nut trees. The majority of the subject site would be utilized towards the proposed operation. Although a loss of productive agricultural land may occur, the loss is not considered significant as recent aerial imagery of the site suggest that the site is not in agricultural production.

- C. Conflict with existing zoning for forest land, timberland or timberland zoned Timberland Production; or
- D. Result in the loss of forest land or conversion of forest land to non-forest use; or
- E. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

The subject site is not zoned for forest land, timberland, or timberland zoned Timberland Production and will not result in the loss of forest land. The project will not result in the conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use as the surrounding uses and underlying zone district will not change.

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

- A. Conflict with or obstruct implementation of the applicable Air Quality Plan; or
- B. 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?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject application was reviewed by the San Joaquin Valley Air Pollution Control District (SJVAPCD). SJVAPCD did not express concern with the subject application. Although concerns were not expressed by the Air District, it should be noted that the project proposal would be subject to all criteria pollutant thresholds and regulations established under the SJVAPCD. Therefore the project is not in conflict with the applicable Air Quality Plan. As the proposal is a relocation of an existing operation, the criteria pollutants for the air may increase, but would not exceed conditions from the existing operation. Therefore, the increase in the immediate vicinity is less than significant.

- C. Expose sensitive receptors to substantial pollutant concentrations; or
- D. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The project proposal will involve the crushing and grinding of asphalt concrete, concrete and other inert materials, which has the potential to create dust. The use does have the ability to negatively impact surrounding properties and agricultural operations due to dust and could impact the public health and crop health/quality. A mitigation measure will be implemented to require the use of dust control measures to ensure limited dust creation from the proposed use.

* **Mitigation Measure(s)**

1. *The applicant shall apply water to the ground, raw materials, processing operation and processed materials to control dust. The operator of the use shall operate in such a manor as to reduce fugitive dust from the operation impacting adjacent properties. If regulations by the SJVAPCD and the use's operator's practices do not reduce the impact of dust on adjacent properties to a level less than other common farming activities in the area, the operator of the use may be required by the code enforcement section of the Fresno County Public Works and Planning Department and/or Department of Public Health to provide*

additional dust control measures so as to reduce the generation of dust and the potential drifting of dust on to neighboring parcels.

IV. BIOLOGICAL RESOURCES

Would the project:

- A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

FINDING: NO IMPACT:

According to the California Natural Diversity Database (CNDDDB), there are no reported occurrences of a special status species on or near the project site. Review of aerial images of the project site, the site has historically been utilized for agricultural cultivation and more recently has been cleared of vegetation and is utilized for equipment storage. Surrounding properties appear to be utilized for agricultural cultivation. Additionally, the project site is in close proximity of a State Route 180. In considering the project site's ground disturbance from its past and present use, surrounding ground disturbance from agricultural operations in the vicinity of the project site, the sites proximity to a major road in the form of State Route 180, and no reported occurrence of a special status species, the project appears to not have an adverse effect on any candidate or special status species.

- B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- C. Have a substantial adverse effect on state or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

FINDING: NO IMPACT:

According to the National Wetlands Inventory, the project site is not located on or near any identified wetlands. There are no riparian habitat or identified sensitive natural community. The project will not have an adverse effect on riparian habitats or wetlands.

- D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

FINDING: NO IMPACT:

There were no native resident or migratory wildlife corridor or native wildlife nursery site identified on or near the project site. The project will not interfere substantially with the movement of any native resident or migratory fish.

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

FINDING: NO IMPACT:

There are no local policies or ordinances, or an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan that was identified from this analysis.

V. CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or
- B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- C. Disturb any human remains, including those interred outside of formal cemeteries?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Per County records, the subject site is not located in area designated as being archeologically sensitive. Historically the project site has been utilized for agricultural cultivation and recently has been utilized for equipment storage. Existing improvements of the site include a building in the southwestern portion of the parcel. The Applicant is also proposing to construct a 10,125 square-foot office/shop building. In considering the past use of the site for agricultural purposes, the site has experienced ground disturbance and would have disturbed any historical, archaeological, or cultural resources. The site is not believed to contain any cultural resource, but a mitigation measure will be implemented in the event that cultural resources are unearthed during any ground disturbing activity related to project construction and operation.

* **Mitigation Measure(s)**

1. *In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing*

activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.

VI. ENERGY

Would the project:

- A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or
- B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Per the Applicant's Operational Statement, the grinder and front loader would operate an average of four hours per operation day with other equipment related to the operation operating an average of two to three hours per operation day up to a maximum of ten days a month, with the proposed operation for processing to run between 7:00 AM and 5:00 PM. As the processing equipment is not anticipated to run during the entire hours of operation, significant environmental impacts related to energy consumption is not anticipated to occur as a result of the project. Due to the amount of running equipment and vehicles involved with the operation, a mitigation measure will be implemented to avoid idling of equipment related to the operation to the most possible extent to reduce wasteful, inefficient, or unnecessary consumption of energy resources.

There is a shop building existing on the property and a proposed office/shop building that will be utilized with the operation. The proposed office/shop building will be constructed to the most current building code which would take into account regulations and standards for energy efficiency.

Reviewing agencies and departments did not express concern with the proposal to indicate that the project would result in conflicts or obstruction of a state or local plan for renewable energy or energy efficiency.

* **Mitigation Measure(s)**

1. *The idling of running equipment and vehicles related to the operation shall be avoided to the most possible extent to reduce wasteful, inefficient, or unnecessary consumption of energy resources.*

VII. GEOLOGY AND SOILS

Would the project:

A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

FINDING: NO IMPACT:

According to the California Earthquake Hazards Zone Application and Figure 9-3 of the Fresno County General Plan Background Report, the subject parcel is not located on or near any identified earthquake hazard zone.

2. Strong seismic ground shaking?
3. Seismic-related ground failure, including liquefaction?

FINDING: NO IMPACT:

According to Figure 9-5 of the Fresno County General Plan Background Report (FCGPBR), the subject site is not located in area designated as having a probabilistic seismic hazard. The project site is not expected to be subject to strong seismic ground shaking or seismic-related ground failure.

4. Landslides?

FINDING: NO IMPACT:

Per Figure 9-6 of the FCGPBR, the subject site is not subject to landslide hazards. Aerial images and photographs of the site suggest that the general terrain of the area is flat land utilized for agricultural purposes with little to no extreme changes in elevation to suggest the area would subject to landslides.

B. Result in substantial soil erosion or loss of topsoil?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Per the submitted site plan, the project site will be improved with a 10,125 square-foot office/shop building which will result in the loss of topsoil equal to the square-footage of the building. Also, to be noted, there will be two distinct areas that will experience change from the proposal. A 12-foot high earthen berm will be developed to dampen noise between the crushing operation and the single-family residence located west and a stockpile area for unprocessed material. These two highlighted areas can potentially change the drainage patterns of the project site and result in soil erosion and ground coverage. In considering these changes, per County standards, an Engineered Grading and Drainage Plan may be required to address the proposed changes in environment

thereby reducing impacts to soil erosion and loss of topsoil to a less than significant impact.

- C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

FINDING: NO IMPACT:

Reviewing agencies and departments did not identify any geologic unit or soil that would become unstable as a result of the project or potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.

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

FINDING: NO IMPACT:

According to Figure 7-1 of the Fresno County General Plan Background Report, the project site is not located near areas where soils exhibit moderately high to high expansion potential.

- E. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The Department of Public Health, Environmental Health Division has reviewed the subject application, and determined that the subject parcel can accommodate the sewage disposal system and expansion area meeting the mandatory setbacks and policy requirements as established with the implementation of the Fresno County Tier 2 Local Area Management Plan (LAMP), onsite wastewater treatment system (OWTS) policy and California Plumbing Code. The onsite sewage disposal system shall be installed under permit and inspection by the Department of Public Works and Planning, Building and Safety Section. No other reviewing agency or department expressed concern with the application to indicate that soils of the subject parcel would be incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems.

- F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

FINDING: NO IMPACT:

There were no paleontological resource or unique geologic feature identified on the subject parcel.

VIII. GREENHOUSE GAS EMISSIONS

Would the project:

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

FINDING: LESS THAN SIGNIFICANT IMPACT:

A Greenhouse Gas Emissions Analysis dated December 4, 2019 was prepared by LSA for the project proposal. Greenhouse Gas (GHG) emissions were estimated utilizing the California Emissions Estimator Model (CalEEMod). Estimated construction GHG emissions resulting from the project are 60.77 metric tons of CO₂e. Operational GHG emissions are estimated to be 451.6 CO₂e metric tons per year. The Study references suggested thresholds from the San Joaquin Valley Air Pollution Control District (SJVAPCD) *Guidance for Valley Land-Use Agencies in Addressing GHG Emission Impacts for New Projects Under CEQA* (Guide), a project would be considered less than significant if a project meets any of the following criteria: is exempt from CEQA requirements; complies with an approved GHG emissions reduction plan or GHG mitigation program or implements Best Performance Standards (BPS). Additionally, projects that demonstrate the GHG emissions would be reduced or mitigated by at least 29 percent compared to Business-as-Usual (BAU), including GHG emission reductions achieved since the 2002-2004 baseline period, would be considered less than significant. The study determined that the project proposal is not subject to the criteria established under SJVAPCD's Guide as the project is not exempt from CEQA, specific BPS from the Guide would not be applicable for the project, and based on project specifics would generate limited employee and vendor vehicle trips and would have a small building construction footprint where a BAU analysis would not be applicable. The analysis states that due to the absence of other local or regional Climate Action Plans, the proposed project was analyzed for consistency with the goals of Assembly Bill 32 (AB 32) and the AB 32 Scoping Plan. The study identifies additional regulations including Senate Bill 32 (SB 32) and Assembly Bill 197 (AB 197) which provides additional reduction standards and regulations. Additional identified State regulations and standards which require compliance for GHG reductions include California Model Water Efficient Landscape Ordinance and Pavley II (LEV III) Advanced Clean Cars Program. The study concludes that the proposed project would comply with existing State regulations adopted to achieve the overall GHG emissions reduction goals identified in AB 32 and would be consistent with applicable plans and programs designed to reduce GHG emissions. Therefore, based on the estimated emissions and conclusions drawn in the analysis, the project will have a less than significant impact on greenhouse gas emissions.

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or
- B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

FINDING: NO IMPACT:

Reviewing agencies and departments of the subject application and did not indicate that the project proposal would result in transportation, use, or disposal of hazardous materials or waste. No concerns were expressed to indicate that the project would create a significant hazard to the public or the environment through an upset or accidental condition involving the release of hazardous materials into the environment. Specifically, the Department of Public Health, Environmental Health Division and the San Joaquin Valley Air Pollution Control District reviewed the project and did not express concerns with the proposal to indicate that the project would be handling hazardous materials or waste that would negatively impact the surrounding area.

- C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

FINDING: NO IMPACT:

The project proposal is not located within one-quarter mile of an existing or proposed school.

- D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

FINDING: NO IMPACT:

According to the NEPA Assist Web Application, the project site is not located on or near any listed hazardous materials site and would not create a significant hazard to the public or environment.

- E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

FINDING: NO IMPACT:

The project site is not located within an airport land use plan and not within two miles of a public airport or public use airport.

- F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- G. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concern that the project proposal would result in impairing implementation of or physically interfering with an adopted emergency response plan or emergency evacuation plan.

According to the 2007 Fire Hazard Severity Zones in LRA Map for Fresno County, the project site is not located on or near any moderate to very high fire hazard severity zones. Therefore the project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.

X. HYDROLOGY AND WATER QUALITY

Would the project:

- A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality; or
- B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Per the Applicant's Operational Statement, an estimated 12,000 gallons per day of water is the anticipated maximum usage for the proposed operation. The Applicant has indicated that the site will utilize a water truck for dust control measures. Water will be supplied for the water truck from the existing onsite agricultural well. The Water and Natural Resources Division reviewed the project proposal and did not indicate that the project would violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. The Water and Natural Resources Division also determined that based on the estimated water usage, the project would not substantially decrease groundwater supplies or interfere with groundwater recharge. Therefore, a less than significant impact is seen based on the determination that the proposed water usage will not have an adverse impact on groundwater supplies.

- C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on or off site?
 - 1. Result in substantial erosion or siltation on- or off-site;

2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to Figure 7-3 of the Fresno County General Plan Background Report (FCGPRBR), the subject site is not located on or near identified erosion hazard areas. According to the National Wetlands Inventory (NWI), the subject site is not located on any identified wetlands. The project proposal would result in changes to the terrain of the parcel, which could result in additional erosion of the site or increase the rate or amount of surface runoff. Although an increase in the instances could occur, the Development Engineering Section of the Fresno County Department of Public Works and Planning would require an Engineered Grading and Drainage Plan and grading permit to show how storm water runoff generated by the proposed development will be handled without adversely impacting adjacent properties or the environment. With compliance of County standards, a less than significant impact is seen on the possible erosion and increased rate or amount of surface runoff that could be generated by the proposed project.

3. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project proposal has the potential to contribute additional runoff water that could become polluted from the processed materials. As there are no existing or planned stormwater drainage systems that service the parcel, the runoff per County standards should be confined to the subject parcel and not cross any adjacent property lines. Therefore, a less than significant impact is seen with compliance with County standards.

4. Impede or redirect flood flows?

FINDING: NO IMPACT:

According to FEMA FIRM Panel 2155H, the parcel is not subject to flooding from the 100-year storm. Therefore, the project would not impede or redirect flood flows.

- D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Per FEMA FIRM Panel 2155H, the project parcel is not subject to flooding from the 100-year storm, therefore the project would have little to no impact regarding the risk of release of pollutants due to project inundation from a flood hazard. However, according to Figure 9-8 of the Fresno County General Plan Background Report (FCGPBR), the

subject site could be subject to flood inundation from dam failure. Although there is the risk release of pollutants in the event that a dam failure were to occur, the event is unlikely to occur. The project site is not located on or near any body of water to indicate increased risk from a tsunami or seiche.

- E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concern with the project proposal to indicate that the project would conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

XI. LAND USE AND PLANNING

Would the project:

- A. Physically divide an established community?

FINDING: NO IMPACT:

The project site is located in a mainly agricultural area north of State Route 180. The project does not physically divide an established community.

- B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject parcel is designated as Agricultural in the Fresno County General Plan. The Policy Planning Section of the Department of Public Works and Planning has identified policies related to proposed uses in the Agricultural land use designation.

General Plan Policy LU-A.3 states that the County may allow by discretionary permit in areas designated as Agricultural, special agricultural uses and agriculturally-related activities, including value-added processing facilities, and certain non-agricultural uses listed in Table LU-3. Approval of these and similar uses in areas designated as Agricultural shall be subject to the following criteria:

Criteria "a" states that the use shall provide a needed service to the surrounding agricultural area which cannot be provided more efficiently within urban areas or which requires location in a non-urban area because of unusual site requirements or operational characteristics.

- The proposed use requires location in either non-urban areas or in industrial designated area due to the operational characteristics involved which could possible noise and air quality impacts that would negatively impact residential

uses that could be located in close proximity of the site if it were situated towards the more densely populated areas.

Criteria “b” states that the use should not be sited on productive agricultural lands if less productive land is available in the vicinity.

- Per the 2016 Important Farmlands Map, portions of the project site are designated for Prime Farmland or Unique Farmland. Recent aerial images of the project site indicate that the site is not utilized for agricultural cultivation. As the site has not been recently farmed, the land could be considered as being less productive agricultural land. Surrounding properties are mostly utilized for agricultural production, therefore there is likely no less productive land in the vicinity of the project site.

Criteria “c” states that the operational or physical characteristics of the use shall not have a detrimental impact on water resources or the use or management of surrounding properties within at least one-quarter (1/4) mile radius.

- Based on the Applicant’s Operational Statement, the project proposal will utilize a maximum usage of 12,000 gallons per day. Agency and departmental review of the proposed water usage did not return concerns about the estimated water usage to indicate that the project will have a detrimental impact on water resources.

Criteria “d” states that a probable workforce should be located nearby or be readily available.

- The project site is located in close proximity to State Route 180 and has access to the City of Fresno and the City of Sanger. Both are population centers that would provide a probable workforce for the proposed use.

Criteria “e” states that for proposed agricultural commercial center uses the following additional criteria shall apply:

1. Commercial uses should be clustered in centers instead of single uses.
2. To minimize proliferation of commercial centers and overlapping of trade areas, commercial centers should be located a minimum of four (4) miles from any existing or approved agricultural or rural residential commercial center of designated commercial area of any city or unincorporated community.
3. New commercial uses should be located within or adjacent to existing centers.
4. Sites should be located on a major road serving the surrounding area.
5. Commercial centers should not encompass more than one-quarter (1/4) mile of road frontage, or one eighth (1/8) mile if both sides of the road are involved, and should not provide potential for developments exceeding ten (10) separate business activities, exclusive of caretakers’ residences.

In regard to Criteria “e”, the project proposal is not being considered under an agricultural commercial center, therefore the additional criteria would not apply to the application.

Criteria “f” states for proposed value-added agricultural processing facilities, the evaluation under criteria “a”, shall consider the service requirements of the use and the

capability and capacity of cities and unincorporated communities to provide the required services.

- The project proposal is not for a value-added agricultural processing facility.

Criteria “h” states that when approving a discretionary permit for an existing commercial use, the criteria listed shall apply except for LU-A.3b, e2, e4, and e5.

General Plan Policy LU-A.12 states that in adopting land use policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.

- The proposal is not to approve an existing commercial use.

General Plan Policy LU-A.13 states that the County shall protect agricultural operations from conflicts with nonagricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations.

- Per the Applicant’s submitted site plan, the unprocessed material stockpile will be located approximately 60 feet west from the nearest property line that is utilized for agricultural production. The grinding equipment is proposed to be approximately 150 feet west of the property line. The Applicant also proposes to have a 6-foot high chain-link fence along the property line to further establish the boundary between the subject property and neighboring property. In considering the amount of space between the stockpile area and the neighboring property line, there appears to be enough buffer between the proposed use and adjacent agricultural operation.

General Plan Policy LU-A.14 states that the County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate.

- The subject parcel is designated Agricultural in the Fresno County General Plan and is not enrolled in the Williamson Act Program. The Fresno County Department of Agriculture has reviewed the application and requires that the Applicant acknowledge the County’s “Right to Farm” Ordinance. No further assessment of the conversion of agricultural land was required from reviewing agencies and departments.

General Plan Policy PF-C.17 states that the County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following:

- a. A determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in questions. If surface water is proposed, it must come from a reliable source and the supply must be made “firm” by water banking or other suitable arrangement. If groundwater is proposed, a hydrogeologic investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required.
- b. A determination of the impact that use of the proposed water supply will have on other water users in Fresno County. If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other water users within Fresno County. If use of groundwater is proposed, a hydrogeologic

investigation may be required. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required. Should the investigation determine that significant pumping-related physical impacts will extend beyond the boundary of the property in question, those impacts shall be mitigated.

In regard to General Plan Policy PF-C.17, reviewing agencies and departments did not require the need for a water supply evaluation. The Applicant, per their Operational Statement, estimates a maximum of 12,000 gallons of water per day supplied by an agricultural well to serve the proposed use. The Water and Natural Resources Division did not express concern with the estimated water usage, nor indicate that need for a water supply evaluation.

XII. MINERAL RESOURCES

Would the project:

- A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, Specific Plan or other land use plan?

FINDING: NO IMPACT:

Per Figure 7-7 and 7-8 of the Fresno County General Plan Background Report, the subject site is not located on or near any identified mineral resource locations or principal mineral producing locations. Therefore, the project will not result in the loss of availability of a known mineral resources or mineral resource recovery site.

XIII. NOISE

Would the project result in:

- A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- B. Generation of excessive ground-borne vibration or ground-borne noise levels?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

The proposed operation has the potential to increase noise levels in excess of Fresno County Noise Ordinance. An Acoustical Analysis dated October 30, 2018 (Revised March 19, 2020) was prepared by WJV Acoustics (WJVA) for the project proposal. The Fresno County Noise Ordinance establishes maximum permissible noise levels and was utilized by the Acoustical Analysis as a threshold for noise level measurements. The analysis measured noise levels produced from the grinder equipment and hammer

equipment as those uses would produce the majority of sound from the project proposal. Estimated noise levels of the grinder equipment from various distances were provided and the data revealed that the operation of the grinder equipment would not exceed County Noise Ordinance standards with the loudest estimated noise level being 69 dBA with the County standard being 70 dBA. The hammer equipment noise levels were measure 100 feet away from the operating equipment. Unmitigated noise levels of the hammer equipment at 100 feet away exceeded the noise thresholds of the Fresno County Noise Ordinance. The analysis then measured noise levels at 100 feet away with implementation of a ten-foot high berm which provided shielded noise levels. The presence of the ten-foot high berm reduced noise levels at an average of approximately 9 dB, which reduces the noise levels under the maximum thresholds of the Fresno County Noise Ordinance. The analysis identifies the closest noise-sensitive receptor as being approximately 300 feet away from the hammer equipment, therefore noise levels would be further reduced. The analysis recommends the installation of a twelve-foot high berm instead of a ten-foot high berm, therefore mitigation will be implemented based on recommendations from WJVA. Additional mitigation recommended by the consultant are listed below.

* **Mitigation Measure(s)**

1. *A twelve-foot high berm shall be established between the closest sensitive receptor and the proposed processing facility.*
 2. *Grinder and hammer operations should not occur during the nighttime hours between 10:00 PM and 7:00 AM, when applicable noise standards are more restrictive. Operation of the grinder and hammer operations should only occur during the listed hours of operation as established under the Operational Statement between 7:00 AM and 5:00 PM.*
- C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

FINDING: NO IMPACT:

The project site is not located in the vicinity of a private airstrip or airport land use plan and not within two miles of a public airport or public use airport, which would expose people residing or working in the project area to excessive noise levels.

XIV. POPULATION AND HOUSING

Would the project:

- A. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?; or

- B. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

FINDING: NO IMPACT:

The project proposal per the Applicant's Operational Statement is for a grinding operation that requires a low employee count to operate. The project is proposed to be situated in a mainly agricultural region with single-family residence pocketed throughout the area. The project is not expected to induce substantial unplanned population growth and will not displace people or housing.

XV. PUBLIC SERVICES

Would the project:

- A. Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities, or the need for new or physically-altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

1. Fire protection;
2. Police protection;
3. Schools;
4. Parks; or
5. Other public facilities?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concern with the project proposal to indicate that the proposed operation will require the provision of new or physically-altered governmental facilities or negatively impact service ratios, response times, or other performance objectives.

XVI. RECREATION

Would the project:

- A. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- B. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

FINDING: NO IMPACT:

The project proposal will not result in the increased use of existing neighborhood or regional parks, or other recreational facilities and will not require the construction or expansion of recreational facilities which could have an adverse physical effect on the environment.

XVI. TRANSPORTATION

Would the project:

- A. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities; or
- B. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)??

FINDING: LESS THAN SIGNIFICANT IMPACT:

Per the Applicant, the project proposal would generate approximately six (6) employee trips per day and twenty (20) truck trips per day during project operation. Based on the estimated trip generation, the project would not exceed County thresholds to require a Traffic Impact Study. Reviewing agencies and departments did not express concern with the subject application to indicate that the project would conflict with a program, plan, ordinance or policy addressing the circulation system.

Although the project was not considered under Vehicle Miles Traveled (VMT), the project site is located along State Route 180 between the City of Fresno and the City of Sanger. The previous site of the operation was located closer to the City of Fresno, approximately 5,540 feet north of State Route 180. Per the Applicant's Operational Statement, the use would receive deliveries from construction sites throughout the area. Possible construction projects that the proposed facility can service will likely originate from development in urban areas. The proposed site could reduce VMT from urban centers by being located in between urban centers than favoring one.

- C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?; or
- D. Result in inadequate emergency access?

FINDING: NO IMPACT:

Reviewing agencies and departments did not identify any hazards or inadequate emergency access designs for vehicular traffic from the project proposal and submitted plans.

XVIII. TRIBAL CULTURAL RESOURCES

Would the project:

- A. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Per Assembly Bill 52 (AB 52), participating California Native American Tribes were notified of the subject application given the opportunity to enter into consultation with the County of Fresno on the project proposal. No notified California Native American Tribe requested consultation. The project site is not listed on any local register or historical resource. Although historical use of the site suggests that resources would not exist on the parcel, a mitigation measure will be implemented to address cultural resources in the event that a resource is unearthed during ground disturbing activity.

* **Mitigation Measure(s)**

1. *See Section V. Cultural Resources, Mitigation Measure #1*

XIX. UTILITIES AND SERVICE SYSTEMS

Would the project:

- A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

FINDING: NO IMPACT:

The project will not require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural

gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental impacts.

- B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the Applicant, the proposed operation will utilize approximately a maximum of 12,000 gallons a day of water. The Water and Natural Resources Division reviewed the subject application and did not express concerns with the proposed water usage resulting from the project. County records indicate that the subject parcel is not located in low water designated areas. Therefore, the project will result in a less than significant impact on water supplies.

- C. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The Department of Public Health, Environmental Health Division has reviewed the subject application and determined that the subject parcel can accommodate the sewage disposal system and expansion area meeting the mandatory setbacks and policy requirements as established with the implementation of the Fresno County Tier 2 Local Area Management Plan (LAMP), onsite wastewater treatment system (OWTS) policy and California Plumbing Code. If a new septic system is proposed to be constructed on the subject parcel, the septic system is subject to permit and inspections by the County of Fresno Department of Public Works and Planning.

- D. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or
- E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

FINDING: NO IMPACT:

Per the Applicant's Operational Statement, the proposed operation will allow the County to further meet State and Federal standards and regulations for solid waste reduction goals. The project will not generate solid waste in excess of State and local standards and will divert solid waste to the proposed crushing facility for processing of materials for reuse.

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- A. Substantially impair an adopted emergency response plan or emergency evacuation plan, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; or
- C. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- D. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

FINDING: NO IMPACT:

According to the 2007 County of Fresno Fire Hazard Severity Zones in LRA Map provided by the California Department of Forestry and Fire Protection, the project site is not located in a State Responsibility Area (SRA) and is not located in lands classified as very high fire hazard severity zones.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

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

FINDING: NO IMPACT:

The project site has historically been farmed and has been disturbed with human activity to deter the occupation of wildlife species. The project will not cause wildlife population to drop below self-sustaining levels or threaten to eliminate a plant or animal community.

- B. Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Cumulative impacts identified in the analysis were associated with Aesthetics, Air Quality, Cultural Resources, Energy, Noise, and Tribal Cultural Resources. These impacts will be reduced to a less than significant impact with incorporation of recommended Mitigation Measures discussed in Section I.C and D, Section III.C and D, Section V.A, B, C, and D, Section VI.A and B, Section XIII.A and B, and Section XVIII.A.1 and 2.

- C. Have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Environmental effects that can cause substantial adverse effect on human beings identified in Aesthetics, Air Quality, and Noise has been reduced to a less than significant impact with implementation of recommended Mitigation Measures discussed in Section I.C and D, Section III.C and D, and Section XIII.A and B.

CONCLUSION/SUMMARY

Based upon the Initial Study prepared for Unclassified Conditional Use Permit Application No. 3626, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Biological Resources, Hazards and Hazardous Materials, Mineral Resources, Population and Housing, Public Services, Recreation, and Wildfire.

Potential impacts related to Agricultural and Forestry Resources, Geology and Soils, Greenhouse Gas Emissions, Hydrology and Water Quality, Land Use Planning, Transportation, and Utilities and Service Systems have been determined to be less than significant. Potential impacts relating to Aesthetics, Air Quality, Cultural Resources, Energy, Noise and Tribal Cultural Resources have determined to be less than significant with compliance with recommended Mitigation Measures.

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

TK

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EXHIBIT 8

TELEPHONE
(559) 255-3700

LAW OFFICES OF
LEON E. TIRAPELLE
1795 NORTH FINE AVENUE
FRESNO, CALIFORNIA 93727-1616

FACSIMILE
(559) 255-3785

May 3, 2019

Fresno County Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, California 93721

RECEIVED
MAY 06 2019

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Dear Planning Department:

Attached please find a copy of an Application Numbered: CUP 3626
IS 7556

The undersigned attended your offices to obtain a copy of same after observing what we believe to be an unauthorized use of a neighboring Agricultural property.

My wife and I own two 15 acre parcels, APN 314-120-45 and 314-120-54, immediately east of the parcel numbered 314-120-35 for which the Condition Use Permit is sought.

This letter is written to note our opposition to this Application. The property is zoned AE-20 and we oppose the granting of said requested Conditional Use Permit.

I am going to speak only on behalf of myself and my wife with regard to this position, but I will confirm that I have spoken with other neighboring property owners and there is additional opposition as of this time to the use proposed.

Is it permissible to use the property in the manner proposed while this application is being processed for the use intended? It appears that this is what is taking place.

Fresno County Department of Public Works and Planning
May 3, 2019
Page 2

Please advise by giving the undersigned a telephone call in this respect at 559/240-8242.

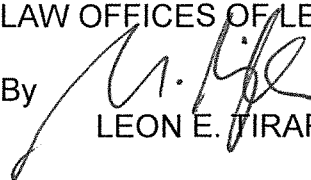
This will also serve as a request to keep the undersigned Noticed on all Hearings relative to this Application.

Thank you.

Very truly yours,

LAW OFFICES OF LEON E. TIRAPELLE

By



LEON E. TIRAPELLE

LET/kkm

Enclosure

CUP 3626

RECEIVED
MAY 14 2019
VI # 19-102776

5-12-19

Suzie Nevick

It has come to our attention that a Rock
Crushing plant is proposed to be at
10420 East Kemp Canyon Rd. Danzer, Ca 93657.
We were never notified of any conditionall
use permits were ever issued. Surrounding
this address we have Organic fruit growers,
Almonds, Oranges, Pistachios etc. We have lived
on Tulare Ave over 33 yrs, I have lived
in this area 80 yrs. It has always been
used for generations as Agriculture use. The
grinding plant would expose humans as well
as crops + animals to poisonous air.

The international Agency for Research on Cancer
has determined that Coal Tar is Carcinogenic
to humans. The EPA also determined that
Coal Tar creosote is a probable human Carcinogen
Scientist studying, the Commission is much
more hazardous than originally thought 3/12/2003
Long term exposure is a respiratory risk 9/26/2017
With the Rock crushing plant the farming would
cease in surrounding area due to the contaminants
in the air that would cover the crops. And
could not be harvested for human consumption.
We totally oppose this operation and strongly
urge the Board of Supervisors to deny any use
permits now or in the future.

Sincerely
M/M Arnold Dadian

EXHIBIT 9

File original and one copy with: Fresno County Clerk 2221 Kern Street Fresno, California 93721		Space Below For County Clerk Only. CLK-2046.00 E04-73 R00-00	
Agency File No: IS 7556	LOCAL AGENCY PROPOSED MITIGATED NEGATIVE DECLARATION	County Clerk File No: E-	
Responsible Agency (Name): Fresno County	Address (Street and P.O. Box): 2220 Tulare St. Sixth Floor	City: Fresno	Zip Code: 93721
Agency Contact Person (Name and Title): Thomas Kobayashi Planner	Area Code: 559	Telephone Number: 600-4224	Extension: N/A
Project Applicant/Sponsor (Name): John Emmett	Project Title: Unclassified Conditional Use Permit Application No. 3626		
Project Description: Allow a solid waste processing facility consisting of an asphalt and concrete crushing operation that will produce recycled baserock and have the subject materials stored onsite until it is delivered offsite on a 22.44-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.			
Justification for Negative Declaration: Based upon the Initial Study prepared for Unclassified Conditional Use Permit Application No. 3626, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Biological Resources, Hazards and Hazardous Materials, Mineral Resources, Population and Housing, Public Services, Recreation, and Wildfire. Potential impacts related to Agricultural and Forestry Resources, Geology and Soils, Greenhouse Gas Emissions, Hydrology and Water Quality, Land Use Planning, Transportation, and Utilities and Service Systems have been determined to be less than significant. Potential impacts relating to Aesthetics, Air Quality, Cultural Resources, Energy, Noise and Tribal Cultural Resources have determined to be less than significant with compliance with recommended Mitigation Measures. A Mitigated Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.			
FINDING: The proposed project will not have a significant impact on the environment.			
Newspaper and Date of Publication: Fresno Business Journal – September 18, 2020		Review Date Deadline: Planning Commission – October 22, 2020	
Date:	Type or Print Signature: David Randall Senior Planner	Submitted by (Signature): Thomas Kobayashi Planner	

State 15083, 15085

County Clerk File No.: _____

LOCAL AGENCY MITIGATED NEGATIVE DECLARATION



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 28, 2020

Thomas Kobayashi, Planner
County of Fresno, Department of Public Works and Planning
2220 Tulare St. 6th Floor
Fresno, California 93721

Subject: Initial Study Application No. 7556 and Unclassified CUP Application No. 3626 – Solid Waste Processing Facility Project (Project) Mitigated Negative Declaration State Clearinghouse No.: 2020090369

Dear Mr. Kobayashi:

The California Department of Fish and Wildlife (CDFW) received a Mitigated Negative Declaration (MND) from the County of Fresno, Department of Public Works and Planning for the above-referenced Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under Fish and Game Code.

While the comment period may have ended, CDFW would appreciate if you will still consider our comments and recommendations.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish and G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Thomas Kobayashi
County of Fresno
October 2, 2020
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purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include, sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

In this role, CDFW is responsible for providing, as available, biological expertise during public agency environmental review efforts (e.g., CEQA), focusing specifically on project activities that have the potential to adversely affect fish and wildlife resources. CDFW provides recommendations to identify potential impacts and possible measures to avoid or reduce those impacts.

PROJECT DESCRIPTION SUMMARY

Proponent: John Emmett

Objective:

The project proposes to allow a solid waste processing facility consisting of an asphalt and concrete crushing operation that will produce recycled baserock, and have the subject materials stored onsite until it is delivered offsite on a 22.44-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

Location:

The project site is located on the north side of East Kings Canyon Road approximately 1,980-feet west of its nearest intersection with North Del Rey Avenue and is

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approximately 1.57-miles north of the nearest city limits of the City of Sanger. It is located in a mainly agricultural region with single-family residences pocketed through the area. (APN No: 314-120-35S. T14S, R22E, Sec 5.)

Timeframe:

None specified.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Fresno County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

There are several special-status resources that may utilize the Project site, and these resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities. CDFW is concerned regarding potential impacts to special-status species including, but not limited to, the State threatened Swainson's hawk (*Buteo swainsoni*), the State species of special concern burrowing owl (*Athene cunicularia*), and the State species of special concern American badger (*Taxidea taxus*).

I. Environmental Setting and Related Impact

Would the Project 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 CDFW or the United States Fish and Wildlife Service (USFWS)?

COMMENT 1: Swainson's Hawk (SWHA)

Issue: SWHA have the potential to nest within or near the Project site. The proposed Project will involve activities near large trees that may serve as potential nest sites.

Specific impacts: Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include nest abandonment, loss of nest trees, loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality. Any take of SWHA without appropriate incidental take authorization would be a violation of Fish and Game Code.

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Evidence impact is potentially significant: SWHA exhibit high nest-site fidelity year after year and lack of suitable nesting habitat in the San Joaquin Valley limits their local distribution and abundance (CDFW 2016). The Project as proposed will involve noise, groundwork, and movement of workers that could affect nests and has the potential to result in nest abandonment, significantly impacting local nesting SWHA.

Recommended Potentially Feasible Mitigation Measure(s)

Because suitable habitat for SWHA is present within and near the Project site, CDFW recommends conducting the following evaluation of the Project site and that the following mitigation measures be made conditions of approval for the Project.

Recommended Mitigation Measure 1: Focused SWHA Surveys

To evaluate potential impacts, CDFW recommends that a qualified wildlife biologist conduct surveys for nesting SWHA following the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC, 2000) prior to project implementation. The survey protocol includes early season surveys to assist the project proponent in implementing necessary avoidance and minimization measures, and in identifying active nest sites prior to initiating ground-disturbing activities.

Recommended Mitigation Measure 2: SWHA Avoidance/No-disturbance Buffer

If ground-disturbing Project activities are to take place during the normal bird breeding season (March 1 through September 15), CDFW recommends that additional pre-activity surveys for active nests be conducted by a qualified biologist no more than 10 days prior to the start of Project implementation. CDFW recommends a minimum no-disturbance buffer of ½-mile be delineated around active nests until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Recommended Mitigation Measure 3: SWHA Take Authorization

CDFW recommends that in the event an active SWHA nest is detected during surveys and the ½-mile no-disturbance buffer around the nest cannot feasibly be implemented, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an Incidental Take Permit (ITP), pursuant to Fish and Game Code section 2081 subdivision (b) is warranted to comply with CESA

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COMMENT 2: Burrowing Owl (BUOW)

Issue: BUOW may occur near the Project site (CDFW 2020). BUOW inhabit open grassland or adjacent canal banks, ROWs, vacant lots, etc. containing small mammal burrows, a requisite habitat feature used by BUOW for nesting and cover. Review of aerial imagery indicates that some of the Project site contains and is bordered by annual grassland and potentially fallow agricultural fields and may be present within the Project site and surrounding areas.

Specific impact: Potentially significant direct impacts associated with subsequent activities include burrow collapse, inadvertent entrapment, nest abandonment, reduced reproductive success, reduction in health and vigor of eggs and/or young, and direct mortality of individuals.

Evidence impact is potentially significant: BUOW rely on burrow habitat year-round for their survival and reproduction. Habitat loss and degradation are considered the greatest threats to BUOW in California's Central Valley (Gervais et al. 2008). The Project site is bordered by some of the only remaining undeveloped land in the vicinity, which is otherwise intensively managed for agriculture. Therefore, subsequent ground-disturbing activities associated with the Project have the potential to significantly impact local BUOW populations. In addition, and as described in CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), excluding and/or evicting BUOW from their burrows is considered a potentially significant impact under CEQA.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Environmental Setting and Related Impact)

To evaluate potential impacts to BUOW, CDFW recommends conducting the following evaluation of the Project site, and that the following mitigation measures be made conditions of approval for the Project.

Recommended Mitigation Measure 4: BUOW Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its vicinity contains suitable habitat for BUOW.

Recommended Mitigation Measure 5: BUOW Surveys

CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Specifically,

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CBOC and CDFW's Staff Report suggest three or more surveillance surveys conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable.

Recommended Mitigation Measure 6: BUOW Avoidance

CDFW recommends no-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012), be implemented prior to and during any ground-disturbing activities. Specifically, CDFW's Staff Report recommends that impacts to occupied burrows be avoided in accordance with the following table unless a qualified biologist approved by CDFW verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance		
		Low	Med	High
Nesting sites	April 1-Aug 15	200 m*	500 m	500 m
Nesting sites	Aug 16-Oct 15	200 m	200 m	500 m
Nesting sites	Oct 16-Mar 31	50 m	100 m	500 m

* meters (m)

Recommended Mitigation Measure 7: BUOW Passive Relocation and Mitigation

If BUOW are found within these recommended buffers and avoidance is not possible, it is important to note that according to the Staff Report (CDFG 2012), exclusion is not a take avoidance, minimization, or mitigation method and is considered a potentially significant impact under CEQA. However, if necessary, CDFW recommends that burrow exclusion be conducted by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. CDFW recommends replacement of occupied burrows with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially significant impact of evicting BUOW. BUOW may attempt to colonize or re-colonize an area that will be impacted; thus, CDFW recommends ongoing surveillance, at a rate that is sufficient to detect BUOW if they return.

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Comment 3: American Badger (AMBA)

Issue: American badgers could utilize the habitat that occurs on the Project site (CDFW 2020). Badgers occupy sparsely vegetated land cover with dry, friable soils to excavate dens, which they use for cover, and that support fossorial rodent prey populations (i.e. ground squirrels, pocket gophers, etc.) (Zeiner et. al 1990). The Project site may support these requisite habitat features. Therefore, the Project has the potential to impact American badger.

Specific impact: Without appropriate avoidance and minimization measures for American badgers, potentially significant impacts associated with ground disturbance could include direct mortality or natal den abandonment, which may result in reduced health or vigor of young.

Evidence impact is potentially significant: Habitat loss is a primary threat to American badgers (Gittleman et al. 2001). The Project includes ground-disturbing activities that have the potential to impact local populations of American badger.

Recommended Potentially Feasible Mitigation Measure(s)

To evaluate potential impacts to any American badgers associated with the Project, CDFW recommends conducting the following evaluation of the Project site, and that the following mitigation measures be made conditions of approval for the Project.

Recommended Mitigation Measure 8: Habitat Assessment

CDFW recommends that a qualified biologist conduct a habitat assessment well in advance of Project implementation, to determine if the Project area or its immediate vicinity contain suitable habitat for the American badger.

Recommended Mitigation Measure 9: American Badger Surveys

If suitable habitat is present, CDFW recommends that a qualified biologist conduct focused surveys for American badgers and their requisite habitat features (dens) to evaluate potential impacts resulting from ground- and vegetation-disturbance.

Recommended Mitigation Measure 10: American Badger Avoidance

Avoidance whenever possible is encouraged via delineation and observation of a 50-foot no-disturbance buffer around dens until it is determined through non-invasive means that individuals occupying the den have dispersed.

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II. Editorial Comments and/or Suggestions

Nesting Birds: The Project contains and is adjacent to habitat that provides nesting habitat for birds. CDFW encourages that Project implementation occur during the bird non-nesting season. However, if ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through mid-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act or relevant Fish and Game Codes sections referenced above.

To evaluate Project-related impacts on nesting birds, CDFW recommends that a qualified wildlife biologist conduct pre-activity surveys for active nests no more than 10 days prior to the start of ground or vegetation disturbance to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of Project activities, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begins, CDFW recommends having a qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends halting the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified wildlife biologist advise and support any variance from these buffers and notify CDFW in advance of implementing a variance.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting->

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[Data](#). The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

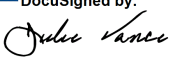
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CDFW appreciates the opportunity to comment on the Project to assist Fresno County Department of Public Works and Planning in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Kelley Nelson, Environmental Scientist, at the address provided on this letterhead, or by electronic mail at Kelley.Nelson@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Attachment

ec: Patricia Cole (patricia_cole@fws.gov)
United States Fish and Wildlife Service

Linda Connolly
California Department of Fish and Wildlife

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- California Burrowing Owl Consortium. 1993. Burrowing owl survey protocol and mitigation guidelines. April 1993.
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- CDFW. 2020. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed October 13, 2020.
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- Gittleman, J. L., S. M. Funk, D. MacDonald, and R. K. Wayne, 2001. Carnivore conservation. Cambridge University Press, Cambridge, United Kingdom.
- Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley. Swainson's Hawk Technical Advisory Committee, May 31, 2000.
- Zeiner, D. C., W. F. Laudenslayer, Jr, K. E. Mayer, and M. White. 1990. California's Wildlife Volume I-III. California Department of Fish and Game, editor. Sacramento, CA, USA.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

**PROJECT: Initial Study Application No. 7556 – Solid Waste
Processing Facility Project – Mitigated Negative
Declaration**

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Focused SWHA Surveys	
Mitigation Measure 4: BUOW Habitat Assessment	
Mitigation Measure 5: BUOW Surveys	
Mitigation Measure 7: BUOW Passive Relocation and Mitigation	
Mitigation Measure 8: AMBA Habitat Assessment	
Mitigation Measure 9: AMBA Surveys	
<i>During Construction</i>	
Mitigation Measure 2: SWHA Avoidance/No-disturbance Buffer	
Mitigation Measure 3: SWHA Take Authorization	
Mitigation Measure 6: BUOW Avoidance	
Mitigation Measure 10: AMBA Avoidance	