



County of Fresno

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

Planning Commission Staff Report Consent Agenda Item No. 2 October 14, 2021

SUBJECT: Vesting Tentative Tract Map No. 5239 - Time Extension

Grant a third one-year time extension for Tentative Tract Map No. 5239 and Classified Conditional Use Permit No. 3157, which authorized a Planned Residential Development, consisting of 41 lots on two APN's totaling 164.53-acres, in the R-R (Rural Residential, two-acre minimum parcel size) Zone District.

LOCATION: The subject property is located on the east side of Auberry Road between Caballero Road and Green Meadow Road, approximately 9 miles northeast of the City of Clovis (APN's 138-021-75, 76) (Sup. Dist. 5).

**OWNER/
APPLICANT:** Jaime Bratton

STAFF CONTACT: Jeremy Shaw, Planner
(559) 600-4207

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Approve a third one-year time extension request for Tentative Tract Map No. 5239; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Location Map
2. Land Use Map
3. Zoning Map

4. Planning Commission Resolution No. 11983 with Board Action, dated August 15, 2006
5. Applicant's letter requesting the time extension

ENVIRONMENTAL DETERMINATION:

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

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

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

PUBLIC NOTICE:

Notices were sent to 56 property owners within 1,320 feet of the subject property, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

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

Starting in 2008, the State of California passed five separate Bills to give subdividers time extensions for Tentative Tract Maps that met certain criteria. These Bills are:

- a) Senate Bill (SB) 1185 (approved 2008; Map Act Section 66452.21) which granted an automatic one-year time extension;
- b) Assembly Bill (AB) 333 (approved 2009; Map Act Section 66452.22) which granted an automatic two-year time extension;
- c) Assembly Bill (AB) 208 (approved 2011; Map Act Section 66452.23) which granted an automatic two-year time extension;

- d) Assembly Bill (AB) 116 (approved 2013; Map Act Section 66452.24) which granted an automatic two-year time extension; and,
- e) Assembly Bill (AB) 1303 (approved 2015; Map Act Section 66452.25) which granted a discretionary two-year time extension provided the project meets the requirements related to project approval date and time extension filing date.

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

BACKGROUND INFORMATION:

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

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

	Basis for Extensions	Approved on	Expires on
PC	2 years original Approval	8/15/2006	8/15/2008
PC	1st 1 year Ext.	7/17/2008	8/15/2009
PC	2nd 1 year Ext. I	8/23/2018	8/15/2019
SB 1185	1-year extension	Automatic	8/15/2010
AB 333	2-year extension	Automatic	8/15/2012
AB 208	2-year extension	Automatic	8/15/2014
AB 116	2-year extension	Automatic	8/15/2016
AB 1303	2-year extension	Automatic	8/15/2018
AB 2973	2-year extension	Discretionary	8/15/2021

Since all automatic time extensions have been exhausted for the project, the subject request is to allow the third discretionary one-year time extension through the consideration of the Planning Commission. The Applicant filed the request for a time extension on May 20, 2021.

ANALYSIS/DISCUSSION:

Tentative Tract Map No. 5239 was approved August 15, 2006 concurrently with Classified Conditional Use Permit (CUP) No. 3157, based on a determination that the required CUP findings and required Tentative Tract Map findings could be made. A copy of the Planning

Commission Resolution and Board Action is attached as Exhibit 4. According to the Applicant, the subject request is necessary to allow additional time due to market conditions affecting residential development, and a failure to coordinate the joint development of infrastructure with surrounding properties.

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

PUBLIC COMMENT:

None

CONCLUSION:

Staff believes the third one-year time extension for Vesting Tentative Tract Map No. 5239 and Classified CUP No. 3157 could be approved, based on the factors cited in the analysis above. Approval of this time extension will extend the expiration date of said tract map and CUP to August 15, 2022.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to approve the third one-year time extension for Vesting Tentative Tract Map No. 5239 and Classified CUP No. 3157; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to deny the third one-year time extension request for Vesting Tentative Tract Map No. 5239 and Classified CUP No. 3157 and state the basis for the denial; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

JS:jp
G:\4360Devs&PIn\PROJSEC\PROJDOCS\TT\5200-5299\5239\EXT 3\SR\TT5239 Ext 3 SR.docx

EXHIBIT 1

LOCATION MAP



TT 5239 EXT 3

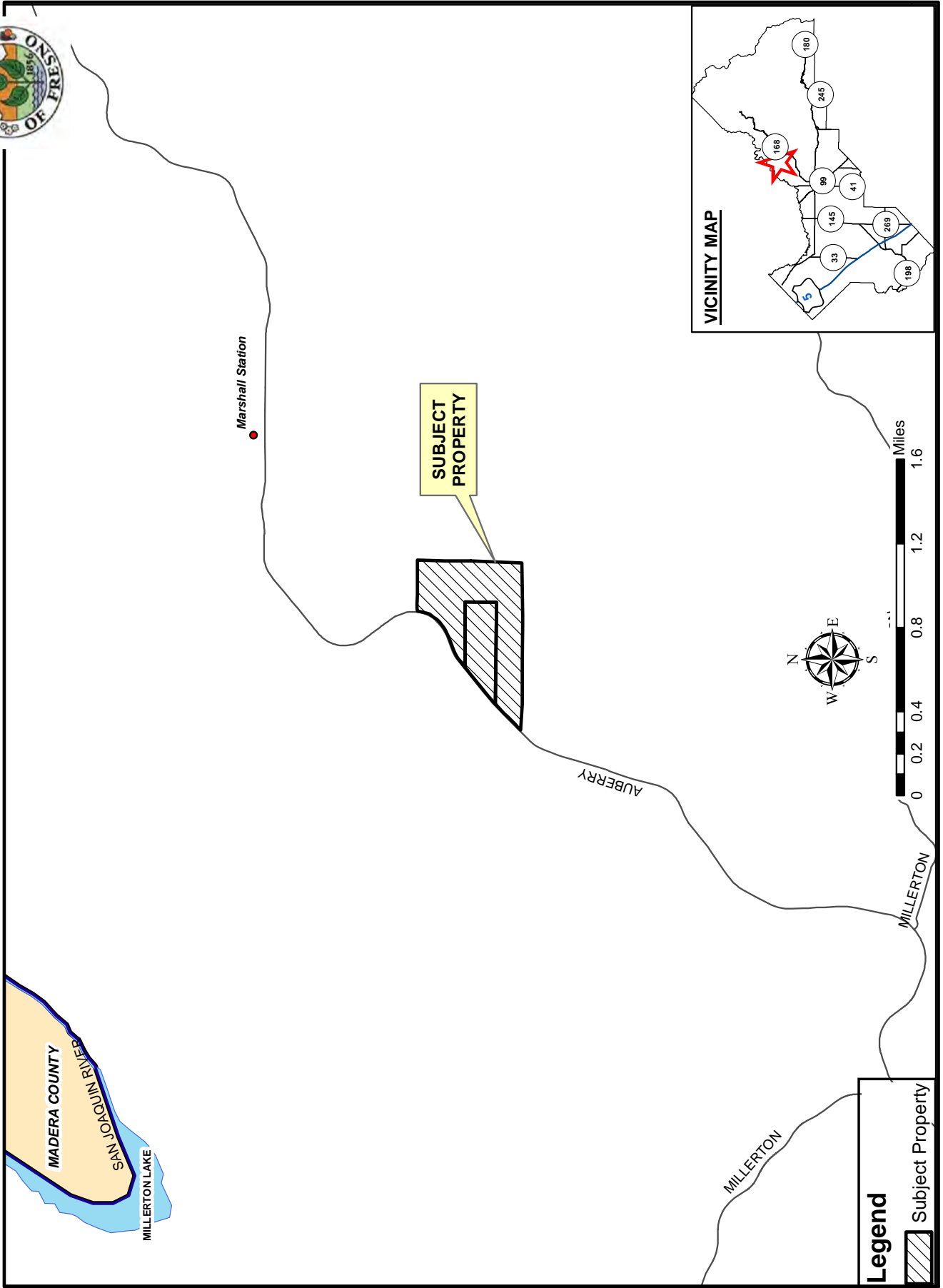
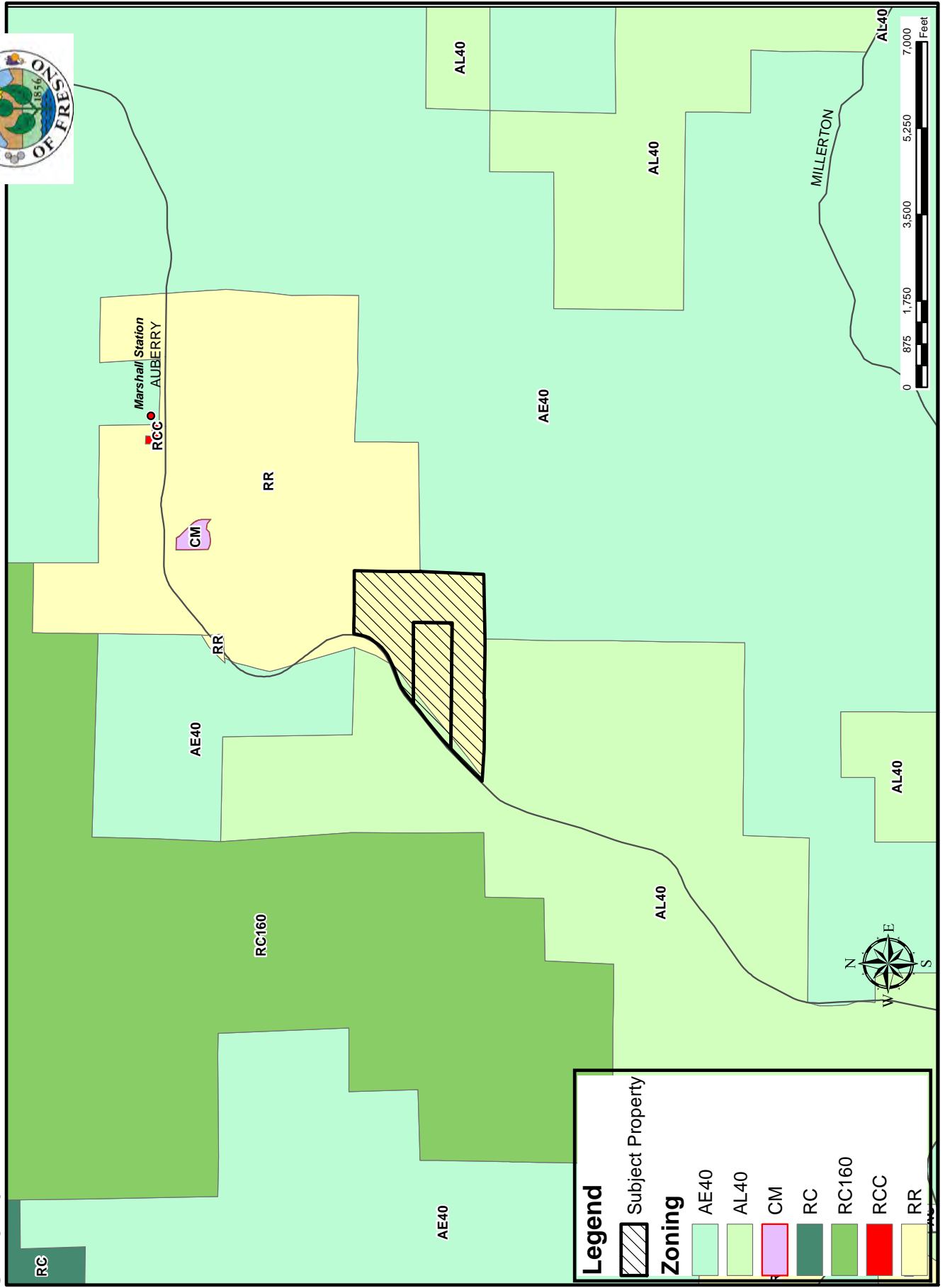


EXHIBIT 3

EXISTING ZONING MAP

TT 5239 EXT 3
STR 5-11/22



Legend

- Subject Property

Zoning

- AE40
- AL40
- CM
- RC
- RC160
- RCC
- RR

CAJ
LP
PD

Handwritten notes: *Stop-214*



Agenda Item

DATE: August 15, 2006

TO: Board of Supervisors

FROM: Planning Commission

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

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

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

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

PLANNING COMMISSION ACTION:

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

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

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

MINISTRATIVE OFFICE REVIEW _____ Page 1 of 2
 BOARD ACTION: DATE AUG 15 2006 APPROVED AS RECOMMENDED _____ OTHER _____



SEE PAGE 3 FOR BOARD ACTION.

Official Action of Board of Supervisors

ANIMOSI _____ ANDERSON _____ CASE _____ LARSON _____ PEREA _____ WATERSTON _____

Board of Supervisors
August 15, 2006
Page 2

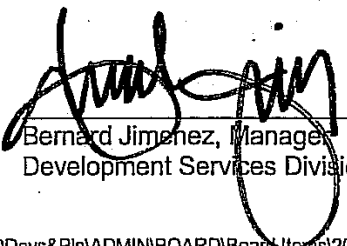
- Adopt the recommended findings of fact and approve Tentative Tract Map Application No. 5239, subject to the conditions listed in Exhibit "B" with modifications to require notification to surrounding property owners if a new well site is located within 1,500 feet of the tract's southern boundary.

This motion passed on the following vote:

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

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

By:



Bernard Jimenez, Manager
Development Services Division

BJ:lb
G:\4360Devs&Pln\ADMIN\BOARD\Board\Items\2006\08-15-06\TT 5239_AI.doc

- NOTES:
1. The approval of Classified Conditional Use Permit No. 3157 is tied to Tentative Tract No. 5239 and will expire upon expiration of the Tentative Tract Map. Provision is made that the Conditional Use Permit may be extended in conjunction with an extension request of the tentative tract map.
 2. The approval of this project will expire two years from the date of approval unless a final map is recorded. When circumstances beyond the control of the applicant do not permit compliance with this time limit, the Commission may grant an extension. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Tentative Tract Map.

Attachments

DENIED APPEAL; AND UPHELD THE PLANNING COMMISSION'S ACTION TO ADOPT THE MITIGATED NEGATIVE DECLARATION PREPARED FOR THE PROJECT AND APPROVE TENTATIVE TRACT MAP APPLICATION NO. 5239 AND CLASSIFIED CONDITIONAL USE PERMIT NO. 3157 WITH THE FOLLOWING ADDITIONAL CONDITIONS: 1) MAJOR WATER FEATURES SHALL BE PROHIBITED WITHIN THE DEVELOPMENT; 2) WELL NO. 3 SHALL BE CAPPED, BUT CAN BE USED FOR MONITORING AS DEEMED NECESSARY, AND 3) NO STRUCTURES SHALL BE PERMITTED WITHIN THE 200-FOOT SCENIC HIGHWAY SETBACK ADJACENT TO AUBERRY ROAD; AND FURTHER DIRECTED STAFF TO RETURN TO THE BOARD AT A LATER DATE WITH A PROPOSAL FOR A GROUNDWATER MANAGEMENT PLAN FOR THE REGION TO BE IMPLEMENTED BY THE COUNTY SERVICE AREA.

ADOPTED by the following vote, to-wit:

AYES: Supervisors Perea, Waterston, Anderson, Case

NOES: Supervisor Larson

ABSENT: None

EXHIBIT "A"

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

- Staff: The Fresno County Planning Commission considered the Staff Report dated June 29, 2006, and heard a summary presentation by staff.
- Applicant: The applicant's representative concurred with the Staff Report and the recommended condition(s). He offered the following information to clarify the intended use:
- The hydrological test shows project feasibility even though the testing was done when wells were being pumped simultaneously, which would not occur once the project is developed.
 - Oak trees will not be removed unless required for access drives and building pads.
 - The proposed community water system will facilitate fire protection.
 - All residents who currently use the private road through the site were contacted by the applicant, and we don't believe there will be any objection to the private gate.
 - The applicant is willing to provide notification to surrounding property owners if a new well site is located within 1,500 feet of the subdivision's southern boundary.
-
- Others: One individual located south of the project site spoke in support of the application.
- Six individuals presented information in opposition to the application, indicating concerns with the adequacy of hydrological study performed for the project, that the use will impact the groundwater yields of off-site wells, and that the use does not comply with the County's Scenic Highway standards and will cause negative aesthetic impacts.
- Correspondence: Three letters in opposition to the project and one letter in support were presented to the Planning Commission. Ten letters were presented to the Planning Commission from owners of adjacent properties who currently use the private road through the site indicating no concern with the installation of a gate across the road as proposed by the applicant.

EXHIBIT "B"

Conditions of Approval

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

CONDITIONAL USE PERMIT NO. 3157

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

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

TENTATIVE TRACT MAP APPLICATION NO. 5239

A. AUBERRY ROAD

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

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

2. Auberry Road is classified as an arterial and as such, the direct access point from the proposed subdivision shall be relinquished except at the locations of the 60-foot wide entrance road and an emergency access road.
3. Adequate sight distance shall be provided at the intersection of the entrance road and Auberry Road.
4. A 30-foot by 30-foot cutoff shall be provided at the entrance road and Auberry Road.
- *5. A natural open space area extending 200 feet from the easterly right-of way line of Auberry Road, widened in accordance with Condition A.1, shall be maintained parallel to Auberry Road, as follows:

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

B. GATED ENTRY

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

from Auberry Drive, unless a greater setback is required by other conditions of this subsection.

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

C. INTERIOR ROADS AND CUL-DE-SACS

1. The entrance road (Granite Creek Road) shall be constructed to minimum 30 MPH design speed and in accordance with County Improvement Standard A-2b, but with 60 feet of right-of-way as shown on the tentative map (28 feet of pavement and base). The interior roads serving the lots shall be constructed to a 25 MPH. public road standard in accordance with County Improvement Standard A-1b (24-foot minimum width of pavement and base).
- *2. To mitigate a potentially significant traffic hazard as well as provide visual screening, the frontage road along the Auberry Road right-of-way shall be separated from Auberry Road by a berm. Landscaping of natural materials shall be planted on the berm and maintained by the Homeowner's Association until the plantings are self-sustaining. The applicant shall provide a landscaping plan to the County for review and approval.
3. Twenty-foot-by-twenty-foot corner cutoffs shall be provided at the intersection of all interior roads. Adequate sight distance shall be provided at all intersections based upon a 25 MPH. design speed for the interior streets. Roads shall intersect at approximately 90-degree angles.
4. Street and regulatory signs and markings shall be included in the design in accordance with County Standards.
5. Interior roads and cul-de-sacs shall provide public utility easements outside of the roadway where needed.
6. A County Standard B-2 cul-de-sac shall be provided at the end of all cul-de-sac roads.
7. The 25 MPH design speed requires the interior roads to have a minimum curve radius of 230 feet.
8. The improvement plans shall clearly demonstrate how the 60-foot entrance road shall connect to the access road serving parcel maps east of the subject site. (Parcel Maps 7599, 7279, etc.).

9. Engineered plans for the road improvements shall be submitted to the County of Fresno for review and approval. The initial submittal shall include a soils report which shall identify a recommended traffic index, R-value and pavement section. If significant cuts and fills are involved, subsequent R-values shall be obtained for subgrade after completion of earthwork operations.

D. DRAINAGE AND EROSION CONTROL

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

E. MAINTENANCE

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

F. UTILITIES

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

G. STREET NAMES

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

H. FIRE PROTECTION:

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

I. EMERGENCY ACCESS ROADS:

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

J. WATER AND SEWER

- *1. The proposed community water system shall be owned, operated and maintained by a County Service Area (CSA). Prior to the issuance of any building permits for any single family dwellings within the subject tract, the CSA shall submit an application and receive approval for a permit to operate a Public Water System. The permit application shall include supporting information, in the form of a technical report, and be submitted to the Fresno County Department of Community Health, Environmental Health Division for review. Approval for the permit will require demonstration of Technical, Managerial, and Financial (TMF) Capacity as well as documentation of the services of a State-Certified Water Distribution Operator. Contact Ed Yamamoto at (559) 445-3357 for more information. The subdivider shall assist the CSA staff in preparing the necessary documentation for submission to the Environmental Health Division in order to secure a water purveyor permit for the community system. Well sites shall be designated as outlots, and shall be provided with easement access for maintenance purposes.

- *2. All service connections shall be metered. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map. Each lot shall be required to have two (2) water meters. One meter will serve the residence and the second meter will serve the landscape irrigation needs. All such meters shall be equipped with remote read sensors so that homeowners may monitor their water usage. The irrigation meter shall not be installed until a copy of the proposed landscaping plans for the lot is reviewed and approved by the Architectural Review Committee and submitted to the County Service Area for review and forwarding to the County Geologist for approval to ensure that the proposed landscaping will not require more water than is available for the lot. Upon recordation of the final map, this requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet.
- *3. Only drip irrigation shall be allowed. This requirement shall be recorded as a covenant running with the land and shall be noted on an attached map sheet of the Final Map.
- *4. Prior to recordation of the final map, a tiered rate schedule for the irrigation service for both domestic and landscaping use shall be adopted by the Board of Supervisors as the Governing Board of the County Service Area serving the project. The rate for irrigation services shall be significantly tiered to discourage the over-use of irrigation water. The tiered rate structure shall include procedures indicating when water meters will be read, payment of fees, notification of overuse, criteria for the disconnection of irrigation service due to overuse, an appeal process, and criteria for the reconnection of the water supply for irrigation services.
- *5. Prior to recordation of the final map, the applicant shall develop and submit to the County Geologist and the Resources Division of Public Works & Development Services Department a groundwater monitoring program for the proposed community water system. The cost of ongoing monitoring shall be included in the rate schedule established by the County Service Area. Approval and acceptance of the groundwater monitoring program shall be made by the County Geologist.
- *6. Wells 4 and 5 shall be used for the community water system. Well No. 3 shall be limited to use only as a monitoring well. Well No. 6 shall be used as a backup well, but only after additional testing to quantify impact on wells to the south and only to the extent that no significant impacts occur. Well 2 cannot be used unless and until arsenic levels are reduced to a level meeting established water quality standards.
- *7. All onsite wells shall be equipped with dedicated pressure transducers and a data logger is to be provided.
8. All rights to ground water beneath the tract shall be dedicated to the County of Fresno. Private property owners shall be prohibited from digging any wells.
- *9. Individual engineered sewage disposal systems shall be installed in accordance with the Geology and Sewage Feasibility Study prepared by Norbert W. Larsen, Ph.D., dated November 28, 2003 and numbered NWL 21053. Such a system, following an on-site investigation, must be designed and installation certified by a California registered civil engineer or registered geologist. It is the responsibility

of the property owner, the property buyer, the engineer, and/or the sewage disposal system contractor to confirm required setbacks, separations, and other special requirements or conditions which may affect the placement, location, and construction of the sewage disposal system.

10. Should the CSA propose to add additional well(s) as a water source for the community system serving the project and such well(s) are proposed to be located within 1,500 feet of the southern boundary of the tract, notification of such proposal shall be provided by the CSA to surrounding property owners within 1,500 feet south of the proposed well site.

K. SOILS REPORT

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

L. BIOLOGICAL RESOURCES

***1. OUTLOTS FOR ENVIRONMENTALLY SENSITIVE AREAS**

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

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

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

*2. OAK MANAGEMENT

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

*3. RAPTOR PROTECTION

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

*4. ANNUAL REPORT

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

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

*M. TRAFFIC

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

- a) Signalization improvements at the intersections of:
 - Auberry and Millerton Roads
The project maximum share is 2.54%
 - Auberry Road and Copper Avenue
The project maximum share is 0.95%

- Auberry Road and Marina Avenue
The project maximum share is 1.16%
 - Copper and Willow Avenues
The project maximum share is 0.45%
- b) Improvements to the road segment:
- Auberry Road from Copper Avenue to Millerton Road
The project maximum share is 1.12%
- c) Improvements to the road segment:
- Copper Avenue from Auberry Road to Willow Avenue
The project maximum share is 0.85%

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

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

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

N. OUTLOTS

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

O. OTHER CONDITIONS

- *1. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, the Department of Fish and Game shall be provided with appropriate streambed alteration notification pursuant to Fish and Game code sections 1600-1603 et. Seq.
 - *2. Prior to the start of any construction involving dredging or filling of material into the approximately 4.30 acres of identified and verified wetlands, a Clean Water Act Section 404 Permit shall be obtained from the United States Department of the Army, Army Corps of Engineers and a Clean Water Act Section 401 Water Quality Certificate permit shall be obtained from the California Regional Water Quality Control Board.
 - *3. Prior to recordation of the final map, Open Space Easement Indenture Agreements shall be executed between the County and the property owner to protect several significant archaeological sites found on the subject property and identified in A Cultural Resources Resource Study of the Everton Property- Granite Creek Road Fresno County dated August, 2003, prepared by Don Wren, consulting Archaeologist. Prior to recordation of the final map, this requirement shall be recorded as a covenant running the land and shall be noted on an attached map sheet.
 - *4. Prior to recordation of a final map, a funding mechanism shall be established through a community facilities district or districts under the Mello-Roos Community Facilities Act of 1982, or other appropriate funding mechanism to be determined by the County, to support cost for Sheriff's protection services to achieve a ratio of 2.0 sworn officers per 1,000 residents for the affected properties. In addition, the project proponents shall pay for any cost associated with the establishment of the referenced funding mechanism.
 5. Prior to recording a final map, an agreement incorporating the provisions of the "Right-to-Farm" notice (Ordinance Code Section 17.01.100) shall be entered into with Fresno County.
 6. All conditions of concurrent Classified Conditional Use Permit Application No. 3157 shall be complied with.
- * MITIGATION MEASURE – Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

G:\4360Devs&Pin\ADMIN\BOARD\Board Items\2006\08-15-06\TT 5239_AI.doc

EXHIBIT 5

May 01, 2021

County of Fresno
Department of Public Works and Planning
Department Services Division
2220 Tulare Street, 6th Floor
Fresno, CA 93721

SUBJECT: Tentative Tract 5239 Table Mountain Creek/ Auberry Road

To Whom it may concern,

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

Market conditions over which Mr. Bratton has no control necessitates the subject extension. Also, the pandemic has created hard times, and put a hold on many projects due to restrictions. Should you need additional information or to discuss this request please contact me at (559)-974-2377

Sincerely,



Jaime Bratton

Jaime@brattonre.com

2562 Austin Ave

Clovis CA 93611