



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 July 20, 2017

SUBJECT: Variance Application No. 4028

Allow construction of a 67-foot-tall dust collector (35-foot maximum building height allowed) for an existing nut hulling operation on a 40.13-acre parcel in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the west side of Brannon Avenue (private road), between Panoche Road and Manning Avenue, approximately 14 miles southwest of the nearest city limits of the City of Mendota (45475 Panoche Road) (SUP. DIST. 1) (APN 027-110-38s).

OWNER: West Valley Hulling Company
APPLICANT: GMA Engineering

STAFF CONTACT: Derek Chambers, Planner
(559) 600-4205

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Approve Variance No. 4028; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Applicant's Submitted Findings
6. Site Plan
7. Elevation Drawing

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture/Westside Freeway Corridor Overlay	No change
Zoning	AE-40 (Exclusive Agricultural, 40-acre minimum parcel size)	No change
Parcel Size	40.13 acres	No change
Project Site	40.13-acre parcel; nut hulling operation (authorized by Conditional Use Permit [CUP] No. 2857); 27,600 square-foot nut processing building with 180 square-foot office	No change other than new 67-foot-tall dust collector for existing nut hulling operation
Structural Improvements	27,600 square-foot nut processing building with 180 square-foot office	No change other than new 67-foot-tall dust collector for existing nut hulling operation
Nearest Residence	Approximately one and one quarter-mile west of the subject parcel	No change
Surrounding Development	Highway commercial center approximately three quarter-miles northwest of the subject parcel; Interstate Highway 5 (I-5) approximately three quarter-miles northwest of the subject parcel; California Aqueduct approximately four and a half miles northeast of the subject parcel	No change

Criteria	Existing	Proposed
Operational Features	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change
Employees	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change
Customers	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change
Traffic Trips	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change
Lighting	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change
Hours of Operation	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change

EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: No

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15303 of the California Environmental Quality Act (CEQA) guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

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

PROCEDURAL CONSIDERATIONS:

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

Specifically related to a VA, in order to make Findings 1 and 2, a determination must be made that the property is subject to an exceptional or extraordinary physical circumstance that does not apply to other properties in the same Zone District, and a substantial property right held by other property owners of like-zoned parcels in the area must be identified.

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

BACKGROUND INFORMATION:

This proposal entails a request to allow construction of a 67-foot-tall dust collector, also referred to as a “bag house”, for an existing nut hulling operation located on a 40.13-acre parcel in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District. Per Zoning Ordinance Section 816.5-D, no building or structure erected in an AE Zone District shall exceed 35 feet in height. According to the Variance Findings provided for this request, the proposed dust collector will replace an existing dust collector which was destroyed in a fire that occurred at the subject property in October 2015.

On February 23, 1965, the subject property and surrounding area were rezoned from A-1 (Agricultural) to AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) by means of Amendment Application No. 1246, which was initiated by the County.

On April 23, 1998, Classified Conditional Use Permit (CUP) No. 2857 was approved by the Planning Commission, which authorized the existing nut hulling operation located on the subject property. Further, the approval of CUP No. 2857 authorized construction of three 30-foot-tall dust collectors, one of which was destroyed in the fire that occurred at the subject property in October 2015.

There have been no other Variance applications filed within a mile of the subject property.

DISCUSSION:

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

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

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (east property line): 1,434 feet Side (north property line): 147 feet Side (south property line): 571 feet Rear (west property line): 207 feet	Yes
Parking	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change	N/A
Lot Coverage	No Requirement	No Requirement	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Separation Between Buildings	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change	N/A
Wall Requirements	No Requirement	No Requirement	N/A
Septic Replacement Area	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change	N/A
Water Well Separation	N/A (existing nut hulling operation was previously authorized by CUP No. 2857)	No change	N/A

Reviewing Agencies/Department Comments Regarding Site Adequacy:

Zoning Section of the Fresno County Department of Public Works and Planning: The AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District permits a maximum 35-foot building height. Therefore, a Variance is required to waive the maximum building height restriction in order to authorize construction of the proposed 67-foot-tall dust collector.

Analysis:

According to the Variance Findings provided for this proposal, Finding 1 is supported by the fact that the proposed dust collector will replace a previously-authorized dust collector that was destroyed in a fire that occurred at the subject property in October 2015. Additionally, the 67-foot building height proposed for the replacement dust collector is made necessary by current air pollution regulations. Further, the project site was previously developed in accordance with County development standards.

In support of Finding 2, the Variance Findings provided for this proposal assert that the proposed replacement dust collector is needed for the continued use of the existing nut hulling operation located on the subject property.

With regard to Findings 1 and 2, staff acknowledges that the approval of Classified Conditional Use Permit (CUP) No. 2857 authorized development of the existing nut hulling operation located on the subject property, which included construction of three 30-foot-tall dust collectors. Staff further acknowledges that the proposed dust collector would replace a previously-authorized dust collector that was destroyed in a fire at the subject property.

Although the AE-40 Zone District restricts permitted building height to 35 feet, considering the proposed 67-foot-tall dust collector would replace a previously-authorized 30-foot-tall dust collector that was inadvertently destroyed, the excessive height of the proposed dust collector is made necessary by contemporary operational requirements concerning dust, and the continued use of the existing nut hulling operation is dependent on the proposed dust collector, staff

believes that a substantial property right will be preserved by the approval of this Variance request.

Recommended Conditions of Approval:

None.

Conclusion:

Findings 1 and 2 can be made.

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North/West/South:	179.72 acres	Nut hulling operation (separate owner)	AE-40	None
East:	160.86 acres	Vineyard	AE-40	None

Reviewing Agencies/Department Comments:

Building and Safety Section of the Fresno County Department of Public Works and Planning: If approved, plans related to construction and development of the project prepared by a licensed design professional shall be submitted to the Development Services Division of the Fresno County Department of Public Works and Planning for review and approval in order to acquire building and installation permits, and necessary inspections. This mandatory requirement has been included as a Project Note.

California Department of Transportation (Caltrans): No concerns with the proposal.

Design Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Brannon Avenue is a private road and is not maintained by the County. According to FEMA FIRM Panel 1975H, portions of the project site are located within FEMA Flood Zone A, which is subject to flooding from the 1%-chance storm (100-year storm). Any work within designated Flood Zones shall conform to provisions established in Chapter 15.48 of the Fresno County Ordinance Code (Flood Hazard Areas). Any additional runoff generated by development cannot be drained across property lines, and must be retained on site per County Standards. A Grading Permit or Voucher shall be required for any grading activity associated with this proposal. These mandatory requirements have been included as Project Notes.

Fresno County Department of Agriculture (Agricultural Commissioner's Office): No concerns with the proposal.

Fresno County Department of Public Health, Environmental Health Division: No concerns with the proposal.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning: No concerns with the proposal. The subject parcel is not located in a designated Water-Short Area.

Analysis:

In support of Finding 3, the Variance Findings provided for this proposal assert that the requested Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity, as the majority of surrounding properties are utilized for farming. Further, the proposed 67-foot-tall dust collector will reduce dust emissions generated by the existing nut hulling operation, which would help protect surrounding properties from adverse impacts related to dust.

With regard to Finding 3, if approved, the granting of this Variance request will authorize construction of a 67-foot-tall dust collector to be utilized by an existing nut hulling operation. Further, the proposed dust collector will replace a previously-authorized dust collector that was inadvertently destroyed in a fire, albeit the replacement dust collector will be 37 feet taller than its predecessor. However, as stated in the Variance Findings provided for this proposal, the proposed dust collector is keeping with contemporary air pollution requirements, thereby reducing particulate emissions generated by the existing nut hulling operation.

The primary purpose of Zoning height restrictions is to protect the aesthetic character of a neighborhood. Without building height standards, extreme height variations can occur between buildings on adjacent properties, which can negatively affect the viewshed along roads. In this case, the subject property is located in a predominately agricultural area characterized by relatively large parcel sizes and sparse residential development. Considering the lack of development in the area surrounding the subject property, and the existing nature of the nut hulling operation to be served by the proposed dust collector, this proposal is not anticipated to have a negative aesthetic impact on the surrounding area.

Based on the above discussion, staff does not believe that the 67-foot building height proposed by the Applicant will create a negative impact on the neighborhood or be detrimental to the public welfare.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 3 can be made.

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

Reviewing Agencies/Department Comments:

No comments regarding the General Plan were provided by reviewing Agencies or Departments.

Analysis:

In support of Finding 4, the Variance Findings provided for this proposal assert that the granting of this Variance will not be contrary to the General Plan as the existing nut hulling operation is allowed in areas designated Agriculture by means of a discretionary use permit, per Table LU-3 of the General Plan (Typical Uses Allowed in Areas Designated Agriculture).

With regard to Finding 4, the subject property is designated Agriculture in the General Plan, and is currently enrolled under Agricultural Land Conservation Contract (Williamson Act Contract) No. 740. Staff acknowledges that nut hulling operations may be allowed on lands designated Agriculture in the General Plan by means of a discretionary use permit (*i.e.*, Conditional Use Permit), per General Plan Policy LU-A.3. As previously discussed in this Staff Report, the existing nut hulling operation was authorized by Classified Conditional Use Permit (CUP) No. 2857, the approval of which included authorization for three 30-foot-tall dust collectors. With regard to Williamson Act Contract No. 740, this proposal is a compatible use under said Contract, as the project entails replacement of an improvement previously authorized under the Contract by means of CUP No. 2857. Further, the General Plan does not have Policies addressing building height. As such, this Variance request is consistent with the General Plan.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

None.

CONCLUSION:

Staff believes the required Findings for granting the Variance can be made based on the factors cited in the analysis. Staff therefore recommends approval of Variance No. 4028.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine that the required Findings can be made and move to approve Variance No. 4028, subject to the Conditions and Project Notes attached as Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

Alternative Motion (Denial Action)

- Move to determine the required Findings cannot be made (state basis for not making the findings) and move to deny Variance No. 4028; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

DC:ksn

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**Variance Application No. 4028
Conditions of Approval and Project Notes**

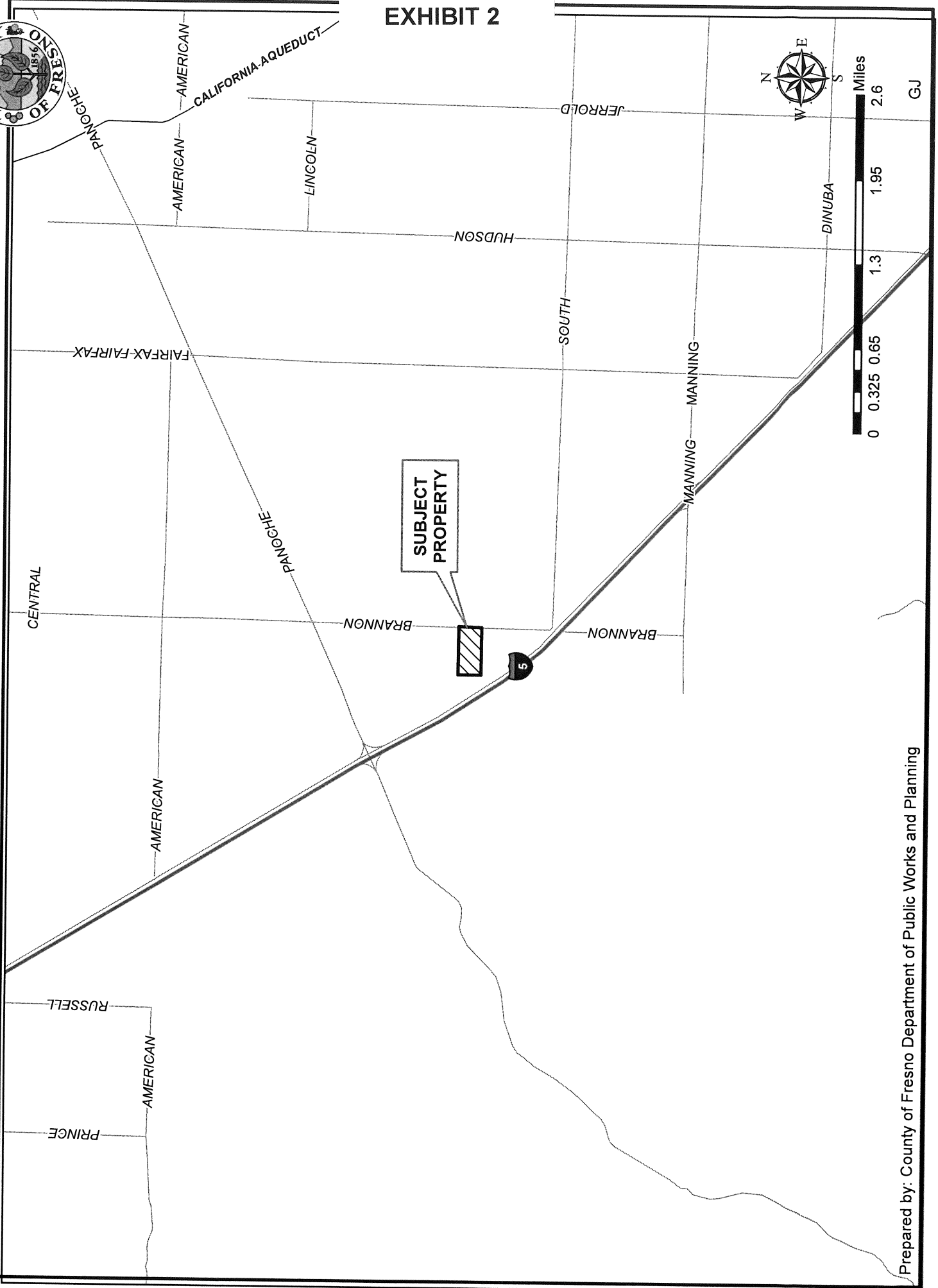
Conditions of Approval	
1.	Development shall be in accordance with the Site Plan and Elevation Drawing as approved by the Planning Commission.

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 related to construction and development of the project prepared by a licensed design professional shall be submitted to the Development Services Division of the Fresno County Department of Public Works and Planning for review and approval in order to acquire building and installation permits, and necessary inspections.
2.	According to FEMA FIRM Panel 1975H, portions of the project site are located within FEMA Flood Zone A, which is subject to flooding from the 1%-chance storm (100-year storm). Any work within designated Flood Zones shall conform to provisions established in Chapter 15.48 of the Fresno County Ordinance Code (Flood Hazard Areas).
3.	Any additional runoff generated by development cannot be drained across property lines, and must be retained on site per County Standards.
4.	A Grading Permit or Voucher shall be required for any grading activity associated with this proposal.

LOCATION MAP

EXHIBIT 2

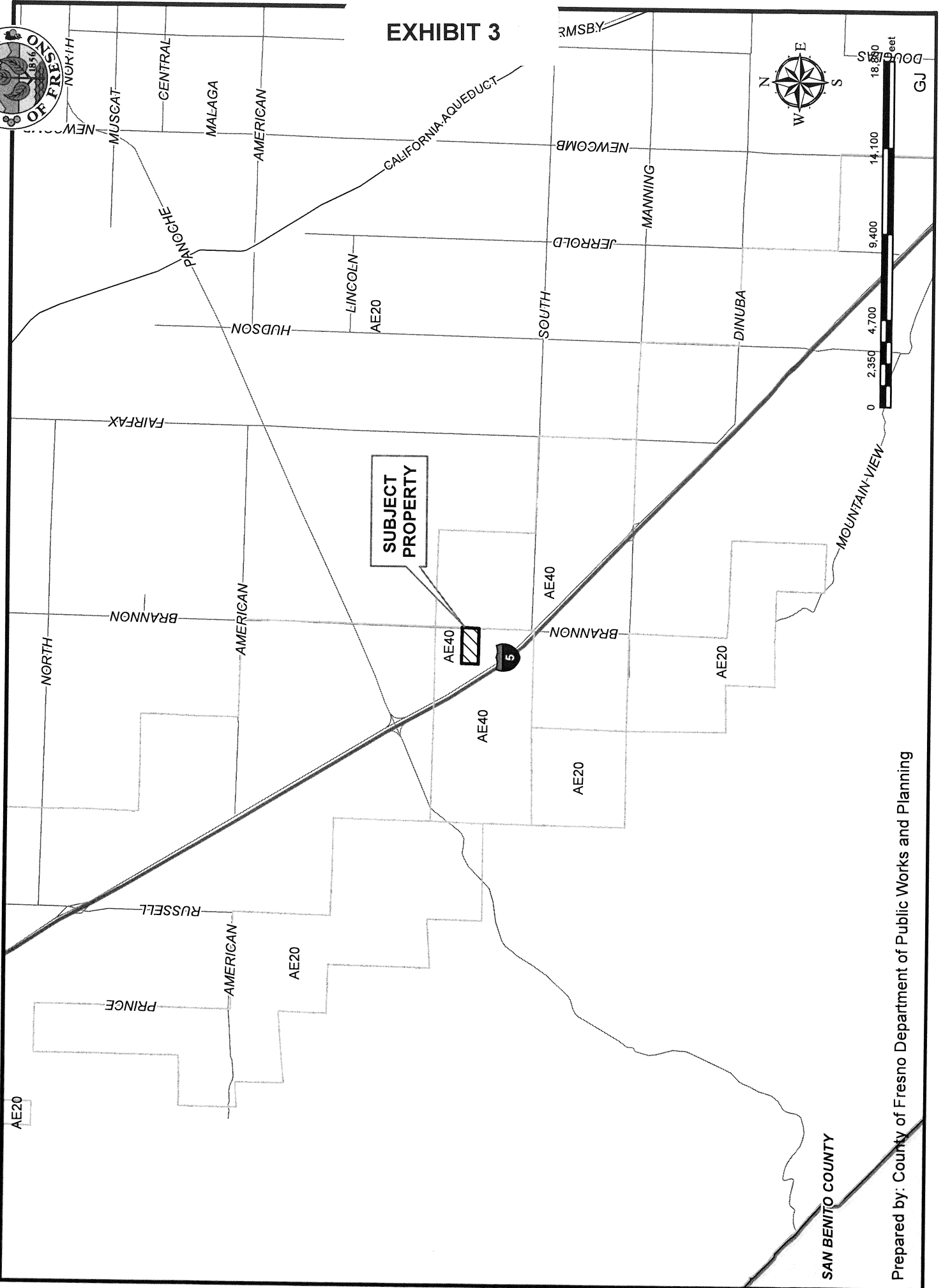


VA 4028
STR 027 - 110/38

EXISTING ZONING MAP



EXHIBIT 3



SAN BENITO COUNTY

Prepared by: County of Fresno Department of Public Works and Planning

EXHIBIT 4



EXISTING LAND USE MAP

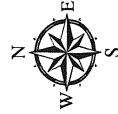
VA 4028



LEGEND	
EXO	EXOTIC CROP
FC	FIELD CROP
ORC	ORCHARD
V	VACANT
VIN	VINEYARD

LEGEND:

-  Subject Property
-  Ag Contract Land



Department of Public Works and Planning
Development Services Division

Map Prepared by: GJ
J:GISJCH(Landuse)

EXHIBIT 5

GMA Gerald Mele & Associates, Inc.

Consulting Engineers
Gerald A. Mele, PE, SE
Martin R. Iness, PE, SE

7337 N. First St., Suite 110 Fresno, CA 93720 (559) 435-1411 Fax (559) 435-1169

County of Fresno
Planning Department
2220 Tulare St.
Fresno, CA 93721

West Valley Hulling
Variance Four Findings

To whom it may concern,

The required four findings for the Variance being requested by West Valley Hulling, which would allow the installation of a new 66'-0" tall bag house as a replacement for a previously approved bag house that burned down in October 2015, are as follows:

Finding #1 - The site has a established nut hulling operation. The facility experienced a fire and must replace the existing dust collector. To meet current air pollution standards the replacement baghouse must be taller than the previous baghouse. Since the site was previously developed in accordance with County of Fresno ordinances, finding one can be met.

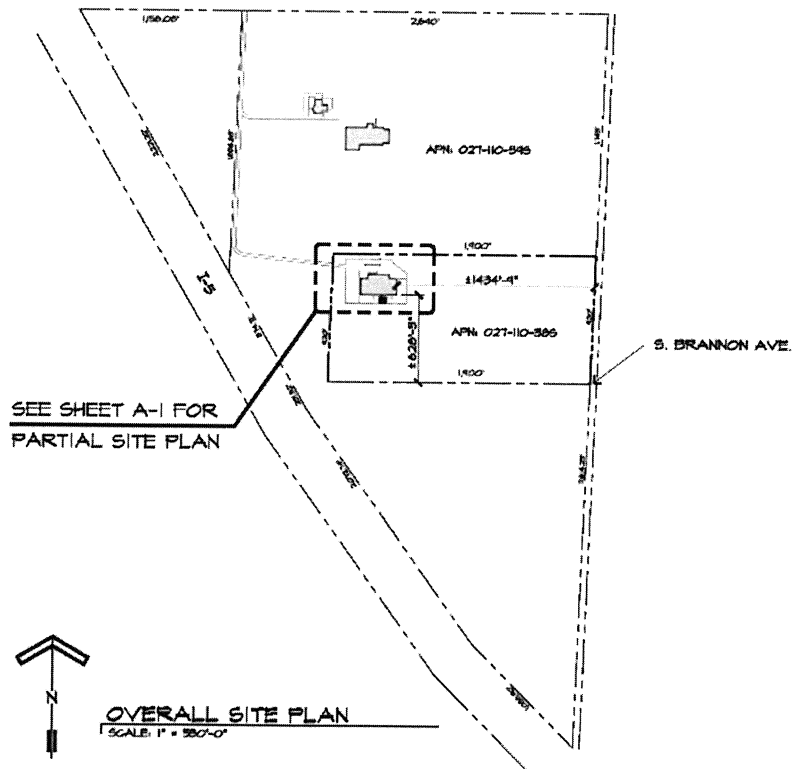
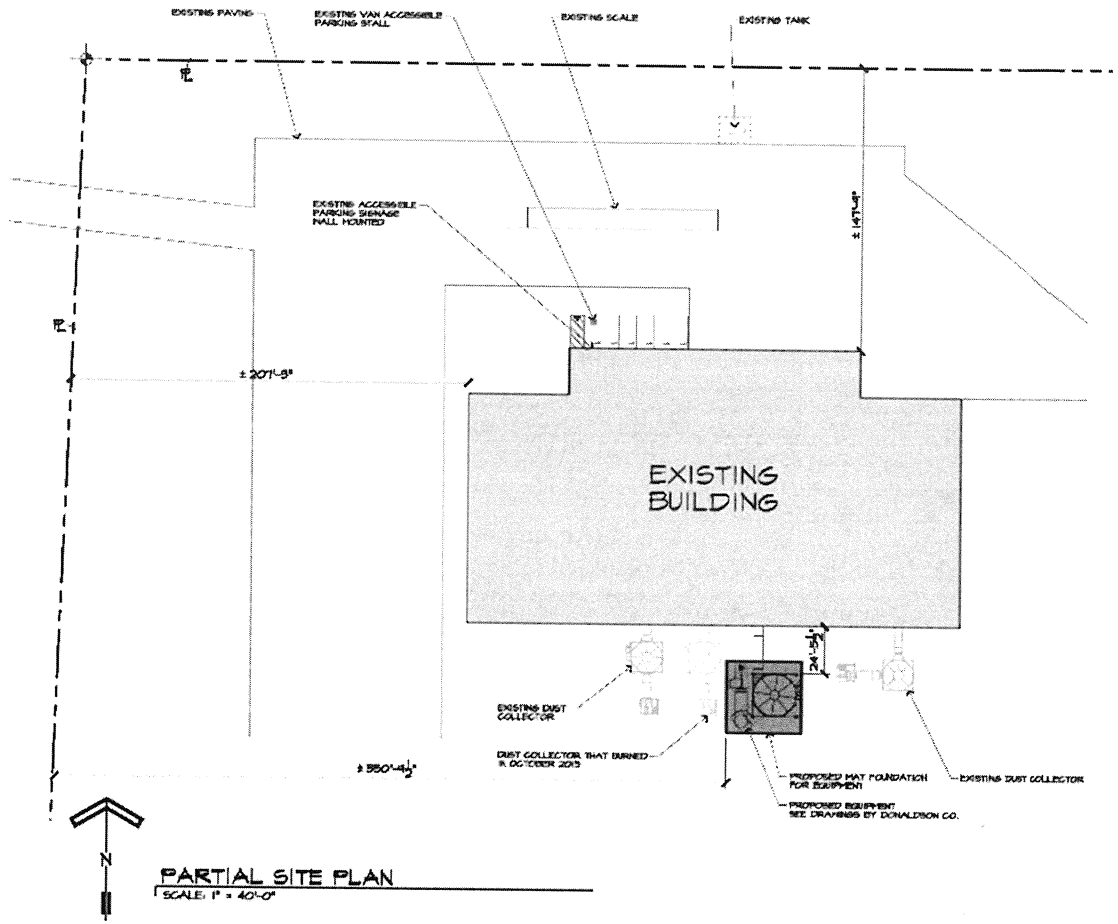
Finding #2 - The replacement baghouse is needed for the continued approved use for the site; therefore finding #2 can be met.

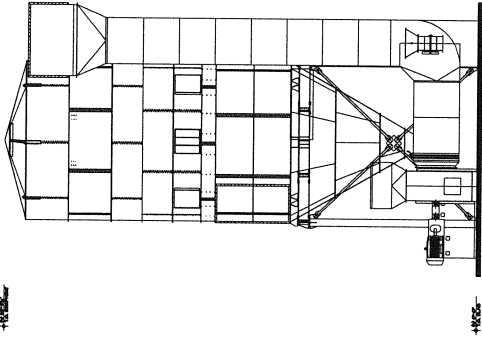
Finding #3 - The granting of this variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity of the property as the majority of the surrounding parcels are farmland. Also the bag house serves to reduce the dust emissions generated by the hulling process, which would help protect the surrounding parcels for the dust produced by the huller.

Finding #4 - The granting of the variance will not be contrary to the general plan as the Huller facility is allowed by special permit per table LU-3 of the general plan.

Respectfully submitted,

Sean Odom
Gerald Mele & Associates, Inc.





EAST ELEVATION

DESIGNED BY
GMA
 GERALD MIELLE & ASSOCIATES, INC.
 CONSULTING ENGINEERS AND ARCHITECTS
 GERALD A. MIELLE, P.E.
 ROBERT A. MIELLE, P.E.
 7477 K. FERRIS BLVD. SUITE 110 TIRRELL, CA 94593-1111 FAX (925) 438-1118
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EXHIBIT 7

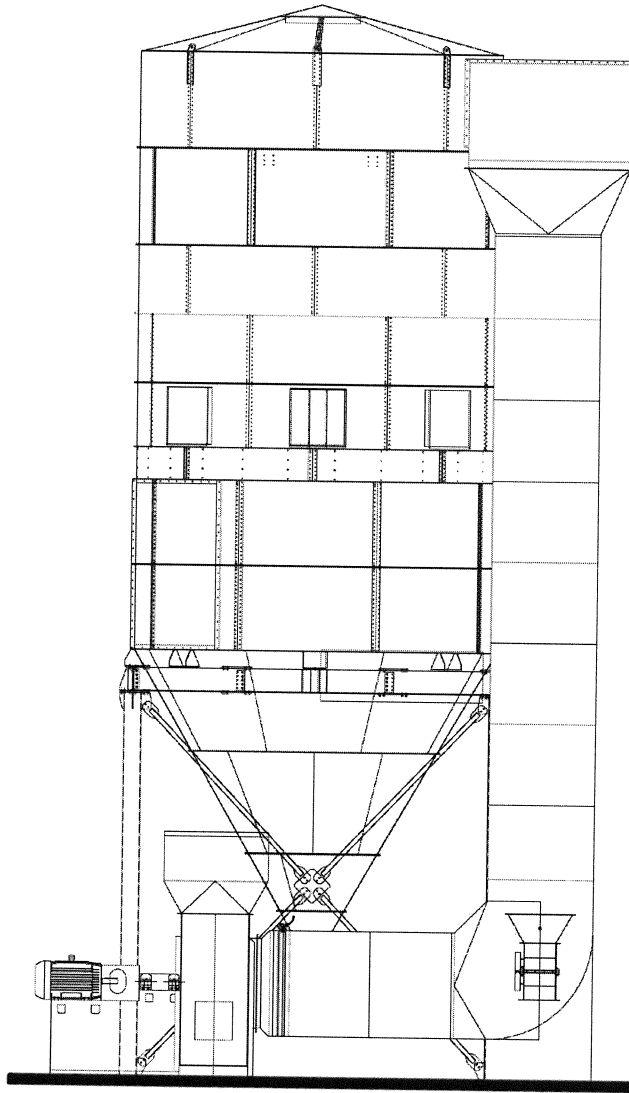
PROJECT FOR
 WEST VALLEY HILL
 15175 N. FALCONER RD.
 PLEASANTON, CA 94522
 PHONE: (925) 694-7799

No.	Issue/Revision	Date/By

Date	04/04/17
Scale	1/4"=1'-0"
Drawn By	S. Cooper
Job No.	2016-026
Drawn No.	100000047
Sheet	A-3
Revision No.	

EXTERIOR ELEVATIONS

↑ N 2-2
1/2 SLAB



↑ N 2-2
1/2 SLAB

EAST ELEVATION