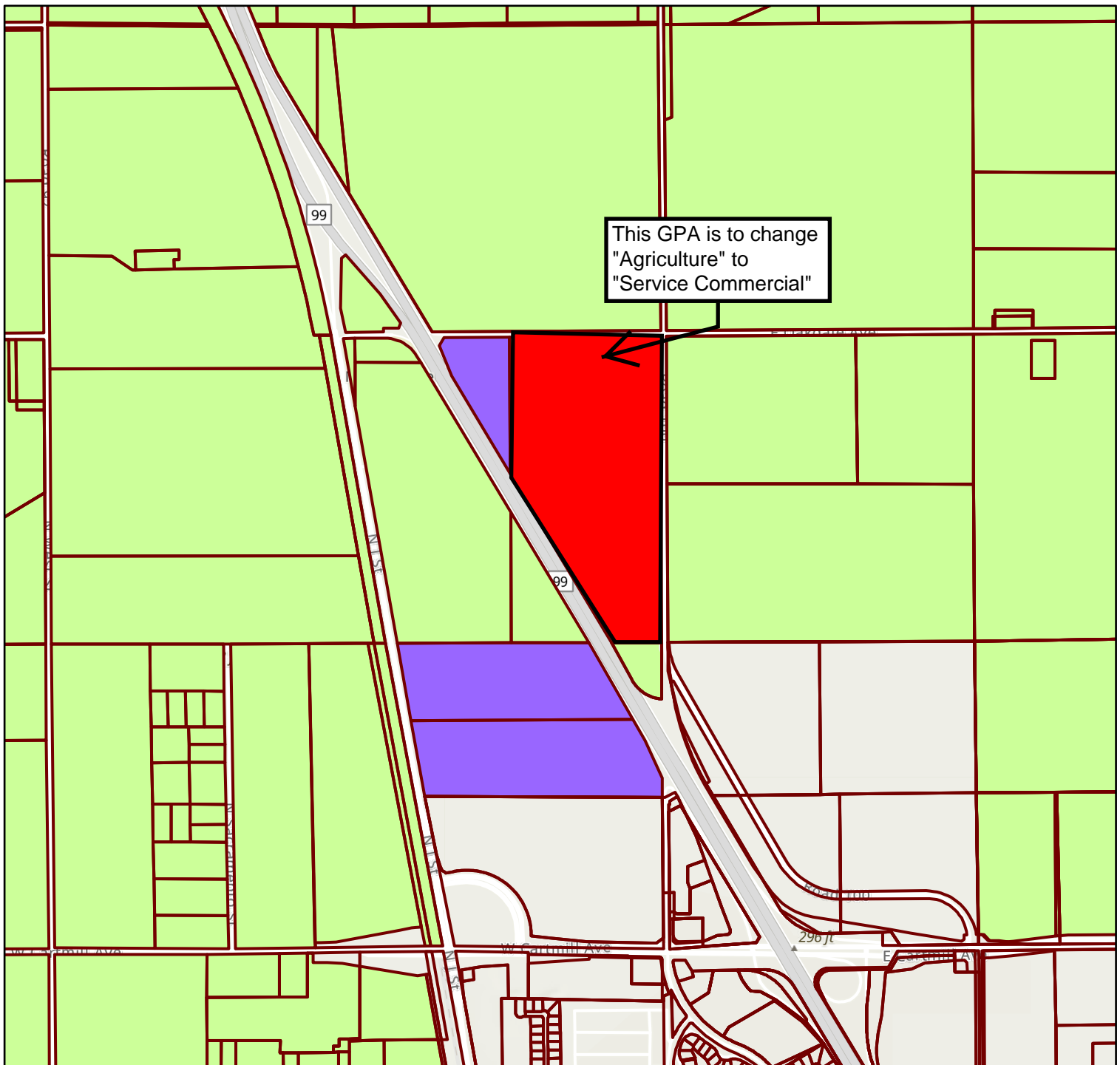


Attachment “1”
General Plan Amendment Map






General Plan Designation For

Case Number: GPA 22-003



Owner: Michael Thomas
Address: 715 E. Oakdale Ave
City, State, ZIP: Tulare, CA 93274
Applicant: NFDI LLC
Agent:
Supervisory District: 2
Assessors Parcel: 149-090-006

 Agriculture
 Light Industrial
 Tulare City Limits



Attachment “2”
Zoning Ordinance and Zoning Map

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 352, THE ZONING ORDINANCE OF TULARE COUNTY, BEING AN ORDINANCE ESTABLISHING AND REGULATING LAND USES WITHIN CERTAIN ZONES IN THE COUNTY OF TULARE.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE DO ORDAIN AS FOLLOWS:

Section 1. Paragraph B of Section 3 of Ordinance No. 352 of the County of Tulare is hereby amended by the adoption of an amended map of a portion of Section 27, Township 19 South, Range 24 East, Mount Diablo Base and Meridian, being a subdivision of Part 179 of the Official Zoning Maps. A map showing Zone Change No. PZC 22-010 approved for approximately 65.45 acres is attached hereto and incorporated herein by reference. The new zoning will be C-3-MU (Service Commercial with a Mixed-Use Overlay Combining Zone).

Section 2. The property affected by the zoning reclassification from AE-20 (Exclusive Agriculture – 20 Acre Minimum), filed as is briefly described as follows: Being a 65.45-acre site, located on Tulare County Assessor Parcel Number (APN) 149-090-006. The subject property is located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, north of Tulare, CA.

Section 3. This Ordinance shall take effect thirty (30) days from the date of the passage hereof, or if published more than 15 days after the date of passage, then 30 days after publication, whichever is later, and, shall be published once in the Sun-Gazette, a newspaper printed and published in the County of Tulare, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the _____ day of _____, 2023, at a regular meeting of said Board, duly and regularly convened on said day, by the following roll call vote:

AYES:
NOES:
ABSENT:

Chair, Board of Supervisors

ATTEST: Jason T. Britt
County Administrative Officer/Clerk
Board of Supervisors

By: _____
Deputy

Approved as to Form:

Matthew Pierce
Deputy County Counsel
Matter No. RMA-General

149-010-040

AE-40

22

AE-40

23

149-210-001

OAKDALE

149-090-007
M-1

149-220-001

149-090-006

AE-20

27

OAKS

AE-20

26

149-090-010

AE-20

149-220-003

STATE HWY 99

149-090-008

149-080-008

M-1

C-3

149-230-021

APN: 149-090-006

APROX. 0.5 ac

Zone Change from AE-20 (Exclusive Agricultural -
20 Acre Minimum) to C-3-MU (Service Commercial
with a Mixed-Use Overlay Combining Zone)

(PZC 22-010)

0 110 220 330 440 550 660 Feet



ORDINANCE NO. _____
AMENDING A PORTION OF MAP PART 179,
PART OF SEC. 27, T 19 S, R 24 E, M.D.B. & M.

OF

OFFICIAL ZONING MAP COUNTY OF TULARE, CA.

TULARE COUNTY BOARD OF SUPERVISORS

ADOPTED: ____ / ____ / ____

Attachment “3”

Copy of Planning Commission Resolutions No. 10068, 10069, 10070 and 10071

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF RECOMMENDING THAT THE)
BOARD OF SUPERVISORS CERTIFY AND ADOPT THE)
MITIGATED NEGATIVE DECLARATION AND)
MITIGATION MONITORING AND REPORTING) RESOLUTION NO. 10068
PROGRAM FOR GENERAL PLAN AMENDMENT NO.)
GPA 22-003, ZONE CHANGE NO. PZC 22-010, AND)
TENTATIVE PARCEL MAP NO. PPM 23-007 FOR THE)
AKERS BUSINESS PARK PROJECT (NFDI, LLC))

Resolution of the Tulare County Planning Commission (“Commission”) recommending that the Board of Supervisors certify and adopt the Mitigated Negative Declaration (“MND”) and Mitigation Monitoring and Reporting Program (“MMRP”) for the Akers Business Park Project (“Project”), General Plan Amendment No. 22-003 (“GPA 22-003”) to change the County’s land use designation on approximately 65.45-acres from “Valley Agriculture” to “Mixed Use,” Zone Change No. 22-010 (“PZC 22-010”) to change the zone district on one 65.45-acre parcel from AE-20 (Exclusive Agriculture – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone), as requested by NFDI, LLC, 1878 N. Mooney Blvd., Suite J, Tulare, CA 93274. The Project site is located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006.

WHEREAS, on July 13, 2022, the Applicant filed with Tulare County Resource Management Agency (“RMA”) applications for GPA 22-003 and PZC 22-010 and on February 8, 2023, the Applicant filed PPM 23-007, pursuant to Section 65905 of Government Code and regulations contained in Section 16 of Tulare County Ordinance No. 352, the Zoning Ordinance; and

WHEREAS, the Board of Supervisors is the decision-making body of the lead agency for the consideration of the MND and the MMRP, prepared for the proposed Project; and

WHEREAS, the Planning Commission advises the Board of Supervisors and makes a recommendation to the Board concerning legislative actions; and

WHEREAS, a Project Review Committee Consultation and Fact Sheet for Project Review Committee No. PRC 22-014 for the Project was referred to various public agencies and pertinent County departments for review and recommendations; and

WHEREAS, the RMA determined that the preparation of an MND was appropriate due to potentially significant environmental impacts that could be caused by implementing the Project; and

WHEREAS, the MND, including the MMRP, for the Project was prepared by the Tulare County RMA Staff, reviewed and approved for public review by the County’s Environmental Assessment Officer; and

WHEREAS, information about the environmental determination for the Project was provided in a Notice of Intent (“NOI”) to Adopt a Mitigated Negative Declaration (“MND”) that was duly published in the Sun-Gazette (a newspaper of general circulation in Tulare County), made available for public review at the Tulare County Resource Management Agency, 5961 South Mooney Blvd., Visalia, CA, on February 15, 2023, for a 30-day public review period scheduled to begin on February 15, 2023, and end on March 17, 2023; and

WHEREAS, the MND, including the MMRP, for the Project is hereby incorporated by reference and was posted on the Tulare County RMA website on February 15, 2023, and is available at the following link:

<https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/mitigated-negative-declaration-for-the-akers-business-park-22-003-pzc-22-010-ppm-23-007/>; and

WHEREAS, on February 15, 2023, pursuant to the Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) Section 15072, the RMA submitted the Summary Form for Electronic Document Submittal, the Notice of Completion & Environmental Document Transmittal, NOI to Adopt an MND, and the MND, including the MMRP, to the State Clearinghouse for circulation to relevant State Agencies (SCH# 2023020373), requesting the 30-day public review period to begin on February 15, 2023, and end on March 17, 2023; the State Clearinghouse published the aforementioned documents on February 15, 2023, establishing a 30-day public review period beginning on February 15, 2023, and ending on March 17, 2023; and

WHEREAS, this resolution of the Commission recommends that the Board of Supervisors certify the MND, including the MMRP, for the Project, as being in compliance with the California Environmental Quality Act (“CEQA”) and the CEQA Guidelines; and

WHEREAS, the site for the proposed Project consists of one parcel totaling approximately 65.45 acres in the Visalia Quadrangle USGS 7.5 Minute Series in Tulare County, California. The Project site is on the southwest corner of Road 100 (Akers/Oaks Street) and Avenue 256 (Oakdale Avenue), east of State Route 99, Tulare, CA 93274. It lies within Section 27, Township 19 South, Range 24 East, Mount Diablo Meridian within APN: 149-090-006; and

WHEREAS, the existing conditions described in the MND reflect the physical environmental conditions in existence at the time the NOI was distributed; and

WHEREAS, the MND included an evaluation of existing resources and potential Project impacts, and the proposed mitigation measures to reduce any impacts to a less than significant level; and

WHEREAS, through a good faith and substantial analysis of environmental impacts from the proposed Project in the MND, RMA staff found, and the Commission recommends that the Board of Supervisors agree, that the proposed Project, without mitigation, could have a significant effect on five (5) environmental resources: Agriculture / Forestry Resources; Biological Resources; Cultural Resources and Geology / Soils (Paleontological Resources); Transportation / Traffic; and Tribal Cultural Resources. The Mitigation Measures identified in the MND, and included in the MMRP, reduces these potential impacts to these resources to less than significant; and therefore, the MND and MMRP were the appropriate level of environmental review under CEQA for the Project; and

WHEREAS, the Commission recommends that the Board of Supervisors find that the RMA has conducted the necessary investigations (including environmental review of this matter); prepared a written staff report; provided additional information affecting the MND, including the MMRP; and based on substantial evidence, submitted the MND and MMRP for the consideration of, and action by, the Board; and

WHEREAS, on March 29, 2023, a Notice of Public Hearing was duly published in the Sun Gazette, a newspaper of general circulation in Tulare County, for the Tulare County Planning Commission to consider the proposed Project at their regularly scheduled meeting on the April 12, 2023; and

WHEREAS, on April 12, 2023, the Planning Commission held a duly noticed public hearing on the proposed Akers Business Park Project (GPA 22-003, PZC 22-010, and PPM 23-070) at the Tulare County Board of Supervisors Chambers (located at 2800 W. Burrel Avenue, Visalia, CA 93291) where there was opportunity for public testimony to be received on the Project; and

WHEREAS, at the April 12, 2023, public hearing the Commission received a report presented by RMA staff that included recommendations and a report from the Environmental Planning Division of the RMA concerning the MND for the proposed Project; and

WHEREAS, at the meeting of the Commission public testimony was received and recorded from Darlene Mata and Jayson Parsons in support of the proposal, and nobody spoke in opposition to the proposal; and

WHEREAS, on April 12, 2023, after the conclusion of public testimony the Commission closed the public hearing; deliberated; and adopted Resolution No. 10068 recommending that the Board of Supervisors certify and adopt the MND and MMRP (see Exhibit "A" of this resolution) for the proposed Akers Business Park Project (GPA 22-003, PZC 22-010, and PPM 23-007); and

WHEREAS, this Commission has reviewed the MND in its entirety, including the MMRP, and recommends that the Board of Supervisors determine that the document reflects the independent judgment of the County; and

WHEREAS, the MND identified certain significant effects on the environment that, absent the adoption of mitigation measures, would be caused by the construction and operation of the Project; and

WHEREAS, the Board of Supervisors is required, pursuant to CEQA, to adopt all feasible mitigation measures or feasible project alternatives that can substantially lessen or avoid any significant project-related environmental effects; and

WHEREAS, all Project-related significant environmental effects can be either substantially lessened or avoided through the adoption of feasible mitigation measures; and

WHEREAS, the Board of Supervisors is required by Public Resources Code Section 21081.6, subdivision (a), to adopt a mitigation monitoring and reporting program to ensure that the mitigation measures adopted by the County are actually carried out; and

WHEREAS, a Mitigation Monitoring and Reporting Program has been prepared, which is attached as Attachment “F” of Exhibit “A” of this resolution; and

WHEREAS, because the adopted mitigation measures have fully mitigated or avoided all identified significant environmental effects associated with the Project, CEQA does not require the Board of Supervisors to adopt a Statement of Overriding Considerations; and

WHEREAS, this Commission determines it appropriate to recommend that the Board of Supervisors certify and adopt the MND (State Clearinghouse No. 2023020373) and the Mitigation Monitoring and Reporting Program; and

WHEREAS, this Commission recommends that the Board of Supervisors certify that based on the substantial evidence in the record as presented by staff and documented in the MND that the Project, as mitigated, will not result in any significant adverse environmental impacts.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. The Commission recommends that the Board of Supervisors find that the public review period for the MND for the proposed Akers Business Park Project (GPA 22-003, PZC 22-010, and PPM 23-007) closed on March 17, 2023, and that a properly noticed public hearing to consider the proposed Project, MND, and MMRP was scheduled for a regular meeting of the Commission held on April 12, 2023.

B. The Commission further finds and declares that on April 12, 2023, the Commission duly opened and conducted a public hearing. During said hearing, all individuals, groups, and agencies desiring to comment on the proposed Akers Business Park Project (GPA 22-003, PZC 22-010, and PPM 23-007), MND, and MMRP were given the opportunity to address the Tulare County Planning Commission and all comments were considered by the Commission.

C. The Commission further recommends that the Board of Supervisors find that the MND and MMRP reflect the independent judgment and analysis of the County of Tulare and prior to taking action on the proposed Akers Business Park Project (GPA 22-003, PZC 22-010, and PPM 23-007), the Board has independently reviewed and considered the information contained in the MND and MMRP, and other relevant evidence presented.

D. The Commission further recommends that the Board of Supervisors find that after considering all of the evidence presented, the establishment, maintenance, and operation of the proposed Akers Business Park Project (GPA 22-003, PZC 22-010, and PPM 23-007), as mitigated, will not be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

AND, BE IT FURTHER RESOLVED as follows:

E. The Commission, after considering all of the evidence presented and based on substantial evidence, hereby recommends that the Board of Supervisors certify and adopt the MND and MMRP for the Akers Business Park Project (GPA 22- 001, PZC 22-010, and PPM 23-007) in compliance with CEQA, the CEQA Guidelines, and Tulare County’s procedures for implementing CEQA; and direct the Environmental Assessment Officer, or designee, to file the Notice of Determination for the Project within five (5) days.

The foregoing resolution was adopted upon motion of Commissioner Aleman, seconded by Commissioner Millies, at a regular meeting of the Planning Commission on April 12, 2023, by the following roll call vote:

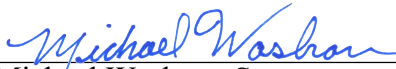
AYES: Aleman; Millies; Dias; Brown; Lehman

NOES: None

ABSTAIN: Whitlatch

ABSENT: Aguilar, McElroy

TULARE COUNTY PLANNING COMMISSION



Michael Washam, Secretary

Exhibits:

Exhibit “A” – Mitigated Negative Declaration, including the Mitigation Monitoring and Reporting Program (as Attachment “F” of the MND) for the proposed Akers Business Park Project (GPA 22-003, PZC 22-010, and PPM 23-007), is incorporated by reference and available on the Resource Management Agency website at <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/mitigated-negative-declaration-for-the-akers-business-park-gpa-22-003-pzc-22-010-ppm-23-007/>

Exhibit “B” – Responses to Comments and Comments Received on the MND

Exhibit “A”

**Mitigated Negative Declaration, including the
Mitigation Monitoring and Reporting Program
(as Attachment “F” of the MND) for the Akers Business
Park Project, GPA 22-003, PZC 22-010, & PPM 23-007**

**(incorporated by reference and available on the Tulare
County RMA website at:**

**[https://tularecounty.ca.gov/rma/planning-building/
environmental-planning/mitigated-negative-declarations/
akers-business-park/mitigated-negative-declaration-for-
the-akers-business-park-gpa-22-003-pzc-22-010-
ppm-23-007/](https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/mitigated-negative-declaration-for-the-akers-business-park-gpa-22-003-pzc-22-010-ppm-23-007/)**)

RESPONSE TO COMMENTS

INTRODUCTION

The Draft Mitigated Negative Declaration (MND) for the Akers Business Park (Project) was made available for public review and comment for a period of 30 days starting on February 15, 2023 and ending on March 17, 2023. The purpose of this document is to present public comments and responses to comments received on the Project's Draft MND (SCH # 2023020373).

COMMENT LETTERS RECEIVED ON THE DRAFT MND

The County of Tulare received five (5) written comments on the MND (see Attachments 1 through 5). In addition, any correspondence or conversations regarding comments from the public are also provided in this document. The following is a list of persons, organizations, and public agencies that submitted comments regarding the MND received as of close of the public review period on March 17, 2023.

Oral comments were received from or conversations occurred with the following individuals:

None were received.

Comments from Federal, State, or County Agencies:

- | | |
|-------------------------|--|
| <i>Comment Letter 1</i> | <i>California Department of Conservation, Geologic Energy Management Division (CalGEM), March 1, 2023 (See Attachment 1)</i> |
| <i>Comment Letter 2</i> | <i>State Water Resources Control Board (Water Boards), March 7, 2023 (See Attachment 2)</i> |
| <i>Comment Letter 3</i> | <i>Tulare Irrigation District (TID), March 8, 2023 (See Attachment 3)</i> |
| <i>Comment Letter 4</i> | <i>San Joaquin Valley Unified Air Pollution Control District (Air District), March 17, 2023 (See Attachment 4)</i> |
| <i>Comment Letter 5</i> | <i>California Department of Transportation (Caltrans), March 24, 2023 (See Attachment 5)</i> |

Comments from adjacent property owners or other interested parties:

- | | |
|-------------------------|--|
| <i>Comment Letter 6</i> | <i>Blum, Collins & Ho LLP, March 13, 2023 (See Attachment 6)</i> |
| <i>Comment Letter 7</i> | <i>Adam Salcido, March 20, 2023 (See Attachment 7)</i> |

In addition to RMA staff responses, responses provided by expert consultants are included in Attachments 8 and 9.

COMPREHENSIVE LIST OF RESPONSES

Comment Letter 1: California Department of Conservation, Geologic Energy Management Division (CalGEM), March 1, 2023

Comment Subject 1: In addition to citation to the Public Resources Code (PRC) § 3106; § 3208.1; §3224; §3236, §3236.5, and §3359, CalGEM commented that their records indicate there are no known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

Response: No response necessary. As determined by CalGEMS, the proposed Project is not located in areas with known oil or gas wells. In the event any oil or gas well is discovered, applicable CalGEM requirements will be implemented.

Comment Letter 2: State Water Resources Control Board (Water Boards), March 7, 2023

Comment Subject 1: In addition to citing various codes and regulations such as Title 22 CCR chapter 16 et. seq.; Senate Bill 1263; and providing a link to State Water Board's, DDW Tulare District Office (at DWPDIST24@waterboards.ca.gov), the comment letter noted that the Proposed Project is less than a quarter mile from the City of Tulare's municipal water system and should consider connecting to that water system in the environmental document.

***Response:** The applicant approached the City of Tulare (City) regarding water service; however, the City declined to provide water service at the time. As such, the applicant and/or developer will construct and operate/maintain a standalone water service system pursuant to Regional Water Control Board and Tulare County Health and Human Services Agency rules, regulations, standards, requirements, etc. (collectively referred to as "requirements"). If the City, at some point in time in the future is receptive to providing water, the matter will be between the City and the applicant and/or developer to address connection through an appropriate/applicable agreement.*

Comment Subject 2: The Water Boards also commented that a public water system requires a domestic water supply permit to operate and requested that if a new public water system is created that the County provide:

- Copy of the draft and final MND with any comment letters received and the lead agency responses as appropriate.
- Copy of the Resolution or Board Minutes adopting the MND, and
- Copy of the date stamped Notice of Determination filed at the Tulare County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

***Response:** As noted above, the applicant (or successor) will be required to construct/operate/maintain a standalone domestic water system until such time that the proposed Project is able to receive water service from the City. Also as noted earlier, the applicant and/or developer will be required to comply with all applicable requirements set forth by the Regional Water Control Board and Tulare County Health and Human Services Agency, in addition to compliance with SB 1263. Lastly, the County will be available to provide requested items to the Water Boards as specified above.*

Comment Letter 3: Tulare Irrigation District (TID), March 8, 2023 (via e-mail)

Comment Subject 1: With respect to the Akers Business Park project, Tulare Irrigation District would like to note that there is a canal running along the west side of the parcel. They must preserve access to the canal and not place any structures, fences, signs or landscaping within 16 ft of the canal top of bank. TID would also like the canal to be piped in which case we would require a 20 ft pipeline easement.

Response: *If development were to occur that would affect a TID facility, the applicant and/or developer must comply with TID requirements, standards, setbacks, easements, etc., as applicable via Project Design Features, Conditions of Approval, Development Agreement, or other enforceable instrument suitable to TID and the applicant and/or developer.*

Comment Letter 4: San Joaquin Valley Unified Air Pollution Control District (Air District), March 17, 2023

Comment Subject 1: Project Related Emissions. Based on information provided to the District, Project specific annual criteria pollutant emissions from construction and operation are not expected to exceed any of the significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI):

<https://www.valleyair.org/transportation/GAMAQI.pdf>.

Response: *Comment noted. The County agrees with the Air District's determination.*

Comment Subject 2: Health Risk Screening/Assessment. To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Response: *As development occurs and specific uses are identified that could potentially result in air contaminants, the County will require the applicant and/or developer to perform a Prioritization and/or a Health Risk Assessment (HRA) consistent with Air District protocols.*

Comment Subject 3: Truck Routing. The District recommends the County evaluate HHD truck routing patterns for the Project, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

Response: *Truck routes, and for that matter other vehicle types, will use Avenue 256/Oakdale Avenue, Thomas Street, and Road 100/Akers Road for access/egress. As specific uses remain unknown at this time, accurate information on the type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, and traffic volume cannot be identified. However; regardless of vehicle type, the entirety of the proposed Project site can only be accessed/egressed from Avenue 256/Oakdale Avenue, Thomas Street, and Road 100/Akers Road. The nearest potential sensitive receptor (a single rural residence) is located approximately 2,500 feet east of the proposed Project's southernmost boundary. The next nearest potential sensitive receptors (a mobile home park) are approximately 2,600 feet south of proposed Project's southernmost boundary. HD trucks would likely use Road 100/Akers Road via E. Cartmill Avenue (which is south of the proposed Project site) and has on-/off-ramps to/from SR 99. HD trucks may also use Avenue 256/Oakdale Avenue to access northbound SR 99 via an on-ramp (there is no off-ramp at*

this intersection). As toxic air contaminants (TACs) generally reduce (dissipate) concentrations by approximately 80% after 1,000 feet from their origin, it is unlikely that the nearest sensitive receptors would be adversely exposed to TAC levels that would exceed Air District thresholds. Regarding VMT for HD trucks, VMT from HD trucks used for Goods Movements are exempt from counting against VMT as indicated in the County's SB 743 Guidelines (available at: <https://tularecounty.ca.gov/rma/rma-documents/planning-documents/tulare-county-sb-743-guidelines-final/> or [Microsoft Word - Tulare County Draft SB 743 Guidelines 6-8-20.docx \(ca.gov\)](#)). As such, VMT will predominantly result from delivery vehicles, employees, and/or patrons of the proposed Project's eventual uses.

Comment Subject 4: Cleanest Available Heavy-Duty Trucks. To meet federal air quality attainment standards, the District's Plan relies on a significant and immediate transition of HHD fleets to zero or near-zero emissions technologies, including the near-zero truck standard of 0.02 g/bhp-hr NOx established by CARB. Since the Project consists of the construction of a commercial business park that could include allowed uses identified under a C-3-MU zone, the Project has the potential to have project types that could generate HHD truck trips. The District recommends that the following measures be considered by the County to reduce Project-related operational emissions:

- *Recommended Measure:* Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero (0.02 g/bhp-hr NOx) technologies.
- *Recommended Measure:* All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.

Response: *The County will include the Air District's recommendations as Conditions of Approval and/or into the Development Agreement between the applicant and the County.*

Comment Subject 5: Reduce Idling of Heavy-Duty Trucks. Since the Project could be expected to result in HHD truck trips, the District recommends the IS/MND include measures to ensure compliance of the state anti-idling regulation (13 CCR § 2485 and 13 CCR § 2480) and discuss the importance of limiting the amount of idling, especially near sensitive receptors.

Response: *The County's Ordinance Code at Chapter 4. Limitation on Diesel-fueled Commercial Motor Vehicle Engine Idling includes both 13 CCR § 2480 and § 2485. This Ordinance Code section would apply to the proposed Project. This Chapter of the Ordinance Code can be accessed at: [3-4. LIMITATION ON DIESEL-FUELED COMMERCIAL MOTOR VEHICLE ENGINE IDLING \(codepublishing.com\)](#)*

Comments Subject 6 and 7: On-Site Solar Deployment and Electric Vehicle Charges. It is the policy of the State of California that renewable energy resources and zero carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the County consider incorporating solar power systems as an emission reduction strategy for the Project. Regarding electric vehicle chargers, the District commented to support and accelerate the

installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the County and project proponents install electric vehicle chargers at project sites, and at strategic locations. Please visit www.valleyair.org/grants/chargeup.htm for more information.

Response: *The County requires currently dedicated circuitry for installation of electric chargers for commercial uses (per an update to the State's Building Code and effective January 1, 2023), and also includes requirements for installation of solar panels for commercial uses.*

Comment Subject 8a) through 8g): District Rules and Regulations; District Rules 2010 and 2201-Air Quality permitting for Stationary Sources; District Rule 9510 (ISR); Rule 9410 (Employer Based Trip Reduction); District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants); District Rule 4601 (Architectural Coatings); District Regulation VIII (Fugitive PM10 Prohibitions; Other District Rules and Regulations; respectively. The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

Response: *As indicated in the MND, many applicable Air District Rules/Regulations are included in the MND; this list is not all inclusive. A Condition of Approval for the proposed Project will require the applicant and/or developer to comply with all applicable Air District Rules/Regulations as determined by the Air District.*

Comment Subject 9: District Comment Letter. The District recommends that a copy of the District's comments be provided to the Project proponent.

Response: *The County has provided the Air District's comment letter to the applicant's agent (Mata Consulting) as recommended.*

Comment Letter 5: California Department of Transportation (Caltrans), March 24, 2023

Following their introductory statement, Caltrans provided the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

Comment Subject 1: Caltrans comment letter dated May 9, 2022, for PRC 22-014 continues to remain valid.

***Response:** The County acknowledges the continued validity of the above-noted letter.*

Comment Subject 2: As a point of information, Caltrans has a project to improve SR 99 from 4-lanes to 6-lanes, that is currently in construction and is expected to be complete by Fall 2023. Construction of the new lanes will be located within the SR median area.

***Response:** The County appreciates Caltrans' update of this segment of SR.*

Comment Subject 3: The proposed Akers Business Park will be developed as a mixed-use commercial project that expands the existing Magic Touch Recreational Vehicle Sales facility at the south end of the project site, contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

***Response:** No response need; Caltrans is correct in its understanding of the proposed Project.*

Comment Subject 4: The site plan shows three, 100,000 square foot (sf) buildings, an 84,925-sf building, a 23,000-sf building, and six lots for future development. Land uses for these proposed buildings are not indicated.

***Response:** Caltrans is correct. As specific uses and future uses are unknown, the applicant is unable to provide this information. As development is proposed, the applicant and/or developer will be required to provide land use information through a Development Agreement that will allow the County, City of Tulare, and/or Caltrans evaluate and determine how such development would impact their specific facilities and what, if any, mitigation would be required.*

Comment Subject 5: Caltrans requests that the Project provide the proposed land uses for all buildings and trip generation rate to determine the Project-related vehicle trips.

***Response:** See Response to Comment 4.*

Comment Subject 6: Caltrans requests that the Project provide a trip distribution map that estimates the percentage of Project vehicle trips that will potentially use the SR 99 interchanges.

Response: *The following was prepared by expert consultants C2 Consult (C2) and have been summarized; the complete response provided by C2 is contained in Attachment “8”*

The full profile of the project is not defined at this stage of development. The Project Description was included in Table 2 of the Traffic Study and that information was as follows [see Table 2 in C2 response]. The Project Description was used to estimate additional trips that would be generated by completion of the Akers Business Park Project. New trips generated by the Akers Business Park Project were estimated using the Institute of Transportation Engineer’s Trip General Manual and we included in Table 3 of the Traffic Study. The information contained in Table 2 and 3 [in C2 response] represents the best available data at this stage of Project development.”

Response: *The following was prepared by expert consultants C2 Consult (C2) and have been summarized; the complete response provided by C2 is contained in Attachment “8”*

As shown in Figure 7 of the Traffic Study the level of peak hour traffic entering or exiting the Cartmill interchange is provided. For the morning peak hour, 95 trips pass thru the interchange toward the Akers Business Park while 18 trips enter the interchange from the Business Park. In the afternoon, 49 peak hour trips pass thru the interchange toward the Akers Business Park while 61 trips enter the interchange from the Business Park.

Comment Subject 7: Any advertising signs within the immediate area outside the State right-of-way must be cleared through the Caltrans Division of Traffic Operations, Office of Outdoor Advertising. The project proponent must construct and maintain the advertising signs without access to the State Routes. Please contact the Outdoor Advertising Program, P.O. Box 942874, MS-36, Sacramento, CA 94274-0001, Phone (916) 654-6473, FAX (916) 651-9359 for additional information or to obtain a sign permit application. Additional information on Caltrans Outdoor Advertising Permit requirements may be found online at www.dot.ca.gov/hq/oda.

Response: *The County will forward this information to the applicant’s agent.*

Comment Subjects 8 and 9: According to the Caltrans Transportation Concept Report (CTR), segment 15 of SR 99 in the vicinity of the proposed Project is currently a 4-lane conventional highway and ultimately planned to be a 6-lane facility with potential Auxiliary Lanes within a total of 160 to 200 feet of right-of-way (80 - 100 feet from the centerline). Caltrans right-of-way maps show this segment of SR 99 existing at 166 feet with approximately 83 feet from the centerline on the east side of SR 99. The southwest portion of the Project site is directly adjacent to SR 99. The site plan should have provided the distance the proposed buildings are setback from the southwest property line along SR 99. Please update the site plan accordingly.

Response: *The site plan is conceptual and has not been finalized. The County will inform the applicant and/or developer that the site plan must comply with Caltrans’ setback requirements in order for the site plan to be finalized.*

Comment Subject 10: Caltrans request that all Project buildings at a minimum be setback 25 feet from SR 99 to accommodate future improvements for Auxiliary Lanes as indicated in the SR 99 TCR. As a point of information, the setback area can be used for landscaping, parking, or non-permanent structures. The property owner understands that any improvements, upon, over, and across said real property within the setback area shall be removed at owners' expense when the State accepts title of the property for widening and construction of the future Auxiliary Lanes.

Response: *In addition to the Response to Comments 8 and 9, the County will also provide the above-noted comment from Caltrans to the applicant and/or developer that any improvements, upon, over, and across said real property within the setback area shall be removed at owners' expense when the State accepts title of the property for widening and construction of the future Auxiliary Lanes*

Comment Subject 11: Caltrans encroachment permit. activity and work planned in the State right-of-way shall be performed to State standards and specifications at no cost to the State. Engineering plans, calculations, specifications, and reports (documents) shall be stamped and signed by a licensed Engineer or Architect., Caltrans' Permit Department and the Environmental Planning Branch will review and approve, encroachment permits will be issued in accordance with Streets and Highway Codes, Section 671.5, "Time Limitations." Encroachment permits do not run with the land, change of ownership requires a new permit application, and only the legal property owner or their authorized agent can pursue obtaining an encroachment permit. Prior to an encroachment permit application submittal, the project proponent is required to schedule a "Pre-Submittal" meeting with the District 6 Encroachment Permit Office. To schedule this meeting, please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, **at (559) 383-5047 or (559) 383-5235.**

Response: *The County will provide the applicant and/or developer with the above-noted information.*

Comment Subject 12: The City should consider requiring the Project to provide charging stations for alternatively fueled vehicles and for freight trucking as part of the statewide efforts to reduce greenhouse gas emissions, reduce freight parking shortages and maintain the Federal Hours of Service regulations.

Response: *The County, rather than the City (presumably Caltrans is referring to the City of Tulare), has jurisdiction over this proposed Project.*

Comment Subject 13: Due to severe truck parking shortages throughout the state and strict Federal Hours of Service regulations that limit the amount of time a truck driver can spend driving per day, many truck drivers cannot find safe and reliable truck parking spaces, and therefore park in unauthorized and/or unsafe areas. Constructing adequate truck parking on-site can alleviate the unauthorized/ unsafe truck parking demand on existing facilities. On-site freight parking for trucks will also strive to ensure a secure and reliable area for extended or overnight parking to help maintain adherence to the Federal Hours of Service regulations. On-site truck parking is adequate when facilities include, at a minimum: restrooms, lighting,

trash facilities, drinking water, showers, and food sellers (such as, but not limited to a food court, restaurant, food truck) or vending machines.

Response: *As noted earlier, it is unknown what specific uses will be developed over time at this stage of the proposed Project. As such, the County of Tulare is in no position to pre-determine the above-noted truck parking or other on-site facilities noted by Caltrans. Therefore, it would be speculative to burden the applicant with the above-noted truck parking accommodating facilities. However, in the event a future use requiring truck parking and/or truck accommodating facilities is proposed, a provision addressing this issue will be incorporated into the Development Agreement.*

Comment Subject 14: The County or City should consider requiring the Project to implement on-site freight parking areas and/or spaces within the Project boundaries, that truck drivers can utilize for extending parking periods before loading or after unloading (to alleviate freight parking shortages and maintain the Federal Hours of Service regulations).

Response: *See Response to Comments 12 and 13.*

Comment Subject 15: The County/City should consider promoting the leveraging of strategic investments to maintain and modernize a multimodal freight transportation system with innovative approaches, including advanced technology to optimize integrated network efficiency, improve travel time reliability, and achieve sustainable congestion reduction.

Response: *Comment noted. However, as future uses have not been determined, it would be premature and speculative to accomplish the comment noted above. The Tulare County General Plan (General Plan or TCGP) 2030 Update contains numerous policies encouraging development that utilizes the above-noted suggestions; however, it remains the decision of the developer to determine and invest in innovations to increase efficiencies as they deem necessary.*

Comment Subject 16: Alternative transportation policies should be applied to the development. An assessment of multi-modal facilities should be conducted. This assessment should be used to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City of Tulare. The assessment should include the following:

- a. Pedestrian walkways should link this proposal to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.
- b. The consideration of bicycles as an alternative mode of transportation needs more attention. The project should consider bicycles as an alternative mode of transportation and offer internal amenities to encourage bicycle use which should include parking, security, lockers, and showers.) However, internal bicycle paths should be coordinated with local and regional pathways to further encourage the use of bicycles for commuter and recreational purposes.

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- c. The Project might also consider coordinating connections to local and regional bicycle pathways to further encourage the use of bicycles for commuter and recreational purposes.
 - d. If transit is not available within ¼-mile of the site, transit should be extended to provide services to what will be a high activity center.

Response: *Comment noted, see Responses to Comments 10, 11, and 13. Also as noted earlier, the General Plan contains numerous policies encouraging alternative transportation such as pedestrian walkways, bicycles, transit, etc.*

Comment Subject 17: Caltrans recommends the Project implement “smart growth” principles regarding parking solutions, providing alternative transportation choices to residents and employees. Alternative transportation choices may include but are not limited to parking for carpools/vanpools, car-share and/or ride-share programs.

Response: *Comment noted. Also, see Responses to Comments 12, 13, 15, and 16. The location of the proposed Project and its proximity to the City of Tulare’s nearby commercial and residential uses are consistent with smart growth. Also, the Air District commented that Rule 9410 (Employer Based Trip Reduction) may be applicable to the proposed Project. However, to reiterate, as future uses have not been determined, it would be premature and speculative to accomplish the above-noted suggestions.*

Comment Subject 18: Based on Caltrans Vehicle Miles Traveled (VMT-Focused Transportation Impact Study Guide, dated May 20, 2020, and effective as of July 1, 2020, Caltrans seeks to reduce single occupancy vehicle trips, provide a safe transportation system, reduce per capita VMT, increase accessibility to destinations via cycling, walking, carpooling, transit and reduce greenhouse gas (CHG) emissions. Caltrans recommends that the project proponent continue to work with the City to further implement improvements to reduce VMT and offer a variety of transportation modes for its business development.

Response: *The following response was prepared by expert consultants C2 Consult (C2) and have been summarized; the complete response provided by C2 is contained in Attachment “8”*

The Akers Business Project will include the appropriate internal pedestrian pathways that will be developed to integrate buildings, parking areas and the pedestrian facilities that may be located on both Akers and Oakdale.

b. The consideration of bicycles as an alternative mode of transportation needs more attention. The project should consider bicycles as an alternative mode of transportation and offer internal amenities to encourage bicycle use which should include parking, security, lockers, and showers.) However, internal bicycle paths should be coordinated with local and regional pathways to further encourage the use of bicycles for commuter and recreational purposes.

Response: *The following responses were prepared by expert consultants C2 Consult (C2) and have been summarized; the complete response provided by C2 is contained in Attachment “8”*

The Akers Business Park will provide on-site bicycle facilities as required by the County of Tulare.

c. The Project might also consider coordinating connections to local and regional bicycle pathways to further encourage the use of bicycles for commuter and recreational purposes.

Response: *The following was prepared by expert consultants C2 Consult (C2) and have been summarized; the complete response provided by C2 is contained in Attachment “8”*

The Akers Business Park will also provide appropriate bicycle facilities along its frontage with Akers Street and Oakdale Avenue.

d. If transit is not available within ¼-mile of the site, transit should be extended to provide services to what will be a high activity center.

Response: *The following was prepared by expert consultants C2 Consult (C2) and have been summarized; the complete response provided by C2 is contained in Attachment “8”*

As discussed in the Traffic Study, no transit routes currently provide direct service to or near the Project’s site. The closest service is provided via Tulare Regional Transit’s Route 5 which is located approximately 1.5 miles south of the Project. The determination of location and level of transit service is within the purview of Tulare Regional Transit and the City of Tulare. At such time as they determine transit service is feasible in this area, the Akers Business Park will coordinate that service with the land use activities within the Park.

Comment Letter 6: Blum, Collins & Ho LLP, March 13, 2023

In addition to the County's responses below, responses prepared by the applicant's representative Rutan & Tucker, LL are contained in Attachment "9" and are incorporated by reference herein in their entirety.

Comment Subject 1: The commenter requests that Golden State Environmental Justice Alliance (GSEJA) be added to the list of recipients for subsequent environmental documents, public notices, public hearings, and notices of determination for this project.

Response: *The commenter and Golden State Environmental Justice Alliance have been added to the project notification list for this project.*

Comment Subject 2: 1.0 Summary. The commenter provides a summary of the proposed project.

Response: *As the commenter offers no comments regarding the MND, no response is needed.*

Comment Subject 3: 2.0 Project Description. The commenter states that the MND "does not provide any site plan for public review or breakdown of proposed project land use" and that the "only information on the proposed project land use breakdown is located within the technical appendices." The commenter states that an EIR should be prepared to include a "wholly accurate and adequate detailed" project site plan, floor plan, grading plan, elevations, and project narrative for public review.

Response: *CAQA Guidelines § 15002(i) states that" CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure." CEQA Guidelines § 15147 states, "Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR."*

There are multiple steps in the planning process to change a property from an agricultural use to an urban use. This project consists of a General Plan Amendment (GPA) to change the Land Use Designation, a Zone Change (PZC) to rezone the property, and a Tentative Parcel Map (PPM) to subdivide the proper in order to facilitate the development of the proposed Akers Business Park. The MND clearly identifies the project throughout the document as currently proposed, "The proposed Project is a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone." Furthermore, on page5 the MND does present Figure 5, the Commercial Tentative Parcel Map which identifies the conceptual plan for the project site, including parcel sizes (in acres), the proposed internal access road, and the roadway elevations

The project design is not yet finalized and a site plan, floor plan, grading plan, and elevation plans are unavailable. It would be speculative to identify specific uses and provide a detailed site plan in the MND as these are not yet known. As the RV Sales facility is the only development proposed at this time, the land use breakdowns provided in the Technical Memo identify the reasonably foreseeable buildout that could occur under the proposed zoning and land use. As such, the technical appendices provide a good-faith effort in identifying potential future uses within the project boundaries.

Comment Subject 4: III. Air Quality, VI. Energy, VIII. Greenhouse Gas Emissions. The commenter refers to the assessment prepared by SWAPE for the comments regarding the Air Quality, Energy, and Greenhouse Gas Emissions analyses provided in the MND.

Response: *A summary of the review prepared by SWAPE and the County's responses are provided in Comments 4a-4k below. It is also noted that SWAPE states that the proposed Project is "...located in the City of Visalia." This is incorrect as the proposed Project is not located in the City of Visalia, rather it is located approximately 0.5 miles north of the City of Tulare. The proposed Project's postal service address may show Visalia as its location; however, geographically, Visalia's nearest point to the proposed Project is actually approximately 2.25 aerial miles northeast.*

Comment Subject 4a: Adequacy of MND. The commenter concludes that the IS/MND underestimates and inadequately addresses hazards, hazardous materials, air quality, health risk, and greenhouse gas impacts, resulting in an inadequate evaluation of potential health risks to nearby receptors. The commenter states that an EIR should be prepared to address these issues.

Response: *As discussed in detail in the responses below, the County does not agree with the commenter's conclusion that an EIR is required for the proposed Project, and further finds the MND, with incorporation of the following clarifications, to be adequate.*

Comment Subject 4b: Hazards and Hazardous Materials – Inadequate Disclosure and Analysis of Impacts. The commenter indicates that the MND does not include an evaluation of the existing use (walnut orchard) as a potential source for residual pesticides in the soil and that a Phase I Environmental Site Assessment (and potentially a Phase II ESA if recognized environmental conditions (RECs) are identified) is necessary to address this issue.

Response: *ESAs are conducted to identify potential contamination on a property that may present an environmental risk. A Phase I ESA is required as part of the due diligence process during a real estate transaction, such as property purchase, sale, refinancing, or land lease. However, ESAs are not required by CEQA. The County concurs that Phase I ESAs can be a useful tool in the evaluation of a site's impacts from potentially contaminated soils. As such, a Condition of Approval will be placed on the proposed Project requiring the applicant to provide the Tulare County Resource Management Agency (RMA) with a copy of a Phase I ESA prior to the issuance of the first building permit for the proposed Project site. If the Phase I ESA identifies contaminated soils*

within the proposed Project boundary then a Phase II ESA will be required before building permits will be issued.

Comment Subject 4c: Air Quality – Unsubstantiated Input Parameters Used to Estimate Project Emissions. The commenter provides a summary of what CalEEMod is, how it is used, and what information the output files (i.e., the report) provide to the reader. The commenter states that CEQA requires changes to default values in the model be justified by substantial evidence and that several model inputs were not consistent with information disclosed in the IS/MND. The commenter states that the model inputs utilized were unreasonable to apply to the Project and result in underestimated project emissions. The commenter further states that an EIR should be prepared to address these issues.

Response: *As discussed in the responses below (4d – 4j), the County does not agree with the commenter’s conclusion that an EIR is required for the proposed Project, and further finds that with incorporation of the following clarifications, the Air Quality and Greenhouse Gas assessment to be adequate.*

The proposed Project description throughout the MND, including the Technical Memo included in Attachment A, identifies the proposed Project as including a General Plan Amendment to change the Land Use Designation of the property, a Zone Change to rezone the property, and a Tentative Parcel Map to subdivide a 65.45-acre parcel in order to facilitate the development of a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the southern end of the proposed Project site. As previously noted, the only known development within the proposed Project site at this time is the proposed ±3-acre expansion to the existing RV Sales facility immediately south of the proposed Project site. As such, for purposes of full disclosure and good-faith effort in identifying potential air quality and health risk impacts associated with the reasonably foreseeable future buildout of the site, general assumptions regarding future development (such as specific land uses, building footprint, number of parking spaces, etc.), had to be utilized in the emissions modeling. These assumptions were identified in the “Modeling Assumptions” discussion (page 2) and Table 1 (page 3) of the Air Quality and Greenhouse Gas Assessment Technical Memorandum (Technical Memo), as well as Tables 1 and 2 included in Attachment A of the Technical Memo.

As stated on page 2 of the Technical Memo, “CalEEMod does not have a land use specific to mixed-use commercial business parks; rather, commercial is classified by specific commercial uses (e.g., bank, office building, medical office, office park, etc.). Specific uses within the business park are currently unknown; however, the [proposed] Project proposes a zone change to allow C-3-MU (Service Commercial) uses on the entire site.” Because the specific commercial uses of future developments within the proposed Project are unknown at this time, utilizing specific commercial uses in the emissions modeling would be speculative. As such, the land use most closely resembling the proposed Project and available in CalEEMod was identified and utilized in the analysis; that is, of the land uses available in CalEEMod, the industrial park land use is the most similar to the proposed Project’s mixed-used commercial development. As

stated on page 2 of the Technical Memo, “The C-3-MU establishes areas intended for wholesale establishment and establishments engaged in repairing and servicing equipment, materials and products, but which do not involve the manufacturing, assembling, packing or processing of articles of merchandise for distribution and retail sales. Typical uses in the C-3-MU zone include auto body and repair shops, warehouses, contractor storage yards, bakeries, cabinet shops, electrical repair shops, machinery repair shops, etc. The Institute of Transportation Engineers (ITE) describes industrial parks as “contain[ing] a number of industrial or related facilities. They are characterized by a mix of manufacturing, service and warehouse facilities with a wide variation in the proportion of each type of use from one location to another. Many industrial parks contain highly diversified facilities – some with a large number of small businesses and others with one or two dominant industries.”

Again, as final project design (ergo, the Tentative Parcel Map) and specific uses of future development are unknown, the emissions analysis provided in Technical Memo presents a good-faith effort in identifying and presenting potential impacts from the reasonably foreseeable future development of the proposed Project site. Furthermore, the County’s methodology for quantification of emissions resulting from commercial mixed-use (service commercial) developments was developed in coordination with San Joaquin Valley Air Pollution Control District (Air District) CEQA staff. The emissions analysis prepared for the proposed Project is consistent with recent assessments for similar mixed-use (service commercial) development projects.¹ The Air District has reviewed the MND prepared for the proposed Project and their comments did not indicate any inadequacies of the CalEEMod assessment. As the local air quality experts, and a Responsible Agency, the County maintains its position that the MND has adequately addressed the air quality resource.

Comment Subject 4d: Air Quality – Unsubstantiated Land Use Sizes. The commenter concludes that the land uses utilized in the emissions modeling are unjustified and unsubstantiated. The commenter also states that because the MND fails to discuss the sizes of the proposed land uses (other than in the GHG resource discussion), the amount of industrial park assessed in the model may be less than what is actually proposed by the Project, thereby underestimating project related construction and operational emissions and rendering the analysis unusable to determine project significance.

Response: *The land use sizes, as assessed in the Technical Memo and applied to the Air Quality and Greenhouse Gases resources in the MND, are appropriately identified and quantified. While the commenter is correct that CalEEMod does require justification for changes to default values, the commenter’s reasoning behind their conclusion of inadequacy is fundamentally flawed for the following reasons.*

¹ See the MNDs for Derrel’s Mini Storage (GPA 22-001 & PZC 22-002) (SCH#), Derrel’s Mini-/RV– Storage & Business Park (GPA 22-004 & PZC 22-003) (SCH3#), and Morgan Convenience Store (with gas station)/Mini-Storage/Service Commercial Uses (GPA 21-001, PZC 22-007) (SCH#), available on the RMA website at <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/recently-approved-adopted-mitigated-negative-declarations/>.

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- *Figure 5 on page 7 of the MND provides the land use sizes utilized in the analysis. The “Site Data” portion of the map clearly states that the total (gross) area of the proposed Project site is ±65.3 acres, while summing the acreage of each parcel identified on the map indicates that the site’s net acreage is ±59 acres. The information provided on the map is presented in table format in Table 1 of Attachment A to the Technical Memo. Table 1 clearly identifies each parcel and their associated acreages.*
 - *The commenter inappropriately links the size and metric data (644,000 square feet) shown in Section 1.1 of the “Site Preparation” assessment to the land use comments in Section 1.3 of that report. Size and metric data do not change any model defaults, rather, they serve as the basis for quantification of construction related emissions generated from building construction, paving, and architectural coating activities as well as for operational emission calculations. The lot acreage serves as the basis for quantification of construction related emissions generated by site preparation and grading activities. As there is only one comment field in the land use module, any comments made regarding land uses, size, metric, lot acreage, floor surface area, and population would be reflected in the land use comments. All changes made to default values are also identified in table format in Section 1.3. As identified in the table the default value for lot acreage was 14.78 acres and was changed to 59.00 acres consistent with Figure 5 of the MND. Comparison of the comments to the table indicates that the comment made was regarding the lot acreage and not the Project size. As the lot acreage assessed is greater than the default acres and is consistent with the Project, construction related emissions provided in the Technical Memo and presented in the MND are appropriate and adequately addressed.*
 - *The commenter makes reference to only one (1) of the six (6) CalEEMod assessments provided in the Technical Memo. The “Site Preparation” assessment cited was modeled to quantify emission from the construction related activities that will occur in the early stages of development (i.e., orchard removal and initial site preparation). The remaining five (5) assessments were modeled to include construction related activities (i.e., grading, building construction, paving, and architectural coatings) for each development phase of the proposed Project. Careful review of these five (5) reports show that a total of 59.00 acres of land and 650,000 square feet of building space was assessed. As such, the total square footage assessed exceeds the square footage (585,000 square feet) utilized in the Traffic Impact Study (TIS). Therefore, the analysis prepared in the Technical Memo provides a conservative assessment of the Project’s construction and operational related emissions.*

Furthermore, the Air District has reviewed the MND and the Technical Memo prepared for the proposed Project and their comments did not indicate any inadequacies of the CalEEMod assessment. As the local air quality experts, and a Responsible Agency, the County maintains its position that the MND has adequately addressed the air quality resource.

Comment Subject 4e: Air Quality – Failure to Substantiate Material Import or Export. The commenter states that the emissions modeling does not include any amount of material exports, citing the “Akers Business Park - Site Preparation” report as the basis for this claim. The commenter states that because it cannot be verified that soils would not be hauled offsite during site preparation activities, the amount of import/export during construction activities may be underestimated, thereby underestimating construction related emissions and rendering the analysis unusable to determine project significance. The commenter concludes that an EIR should be prepared to provide additional information regarding the grading phase of Project construction, revise the amount of required material import and export in the model, if necessary.

Response: *The commenter is correct that “the “Akers Business Park - Site Preparation” model does not include any amount of material export.” However, Project design is not yet finalized, and the proposed Project will be constructed as market demands. As such, site plans, floor plans, grading plans, and elevation plans are unavailable at this time. However, the applicant has indicated that grading activities will occur with the development of each parcel. The ±3-acre RV Sales facility is the only development proposed at this time, and given that the facility constitutes only 5% of the total Project area it is reasonable to assume that any excess soil generated during grading activities will remain within the Project site. As such, the analysis provided in the Technical Memo and MND provides a good-faith effort in identifying potential air quality impacts resulting from construction related activities. Furthermore, the Air District has reviewed the MND and the Technical Memo prepared for the proposed Project and their comments did not indicate any inadequacies of the CalEEMod assessment. As the local air quality experts, and a Responsible Agency, the County maintains its position that the MND has adequately addressed the air quality resource.*

Comment Subject 4f: Air Quality – Failure to Substantiate Required Amount of Demolition. The commenter reiterates that CalEEMod requires justification for any changes made to default values. The commenter states that because the MND does not discuss the amount of demolition required, the justification for the change to the default number of demolition haulers is unsubstantiated, thereby underestimating the emissions associated with fugitive dust, debris removal, and exhaust from hauling trucks and rendering the analysis unusable to determine project significance.

Response: *The demolition construction phase was used to calculate the equipment and truck emissions resulting from orchard removal. Careful review of Attachment A of the Technical Memo will show that the use of 467 hauling trips for demolition activities is appropriate for this analysis. Specifically, toward the bottom of page 1, a weblink (<https://www.wcngg.com/2020/11/23/whole-orchard-recycling-in-almond/>) is provided that provides the source of the comments provided in the “Site Preparation” assessment. According to West Coast Nut, an almond orchard yields 45-80 tons of wood chips per acre. For a conservative estimate of emissions, the calculations for determining the number of vehicle trips needed to haul 59 acres of wood were based on 80 tons of chips and a haul capacity of only 10 tons per truck, resulting in 472 trucks. The 467 trucks used in the analysis were the default value based on the tons of debris and is only five (5 or approximately 0.0087%) fewer than estimated. As such, the analysis provided in the*

Technical Memo and MND provides a good-faith effort in identifying potential air quality impacts resulting from construction related activities. Furthermore, the Air District has reviewed the MND and the Technical Memo prepared for the proposed Project and their comments did not indicate any inadequacies of the CalEEMod assessment. As the local air quality experts, and a Responsible Agency, the County maintains its position that the MND has adequately addressed the air quality resource.

Comment Subject 4g. Air Quality – Incorrect Number of Operational Daily Vehicle Trips. The commenter states that the number of operational vehicle trips evaluated in the CalEEMod emissions analysis were less than those evaluated in the Traffic Impact Study (TIS), thereby underestimating the operational mobile source emissions and rendering the analysis unusable to determine project significance.

***Response:** The commenter is correct in that the number of vehicles evaluated in the Technical Memo is not consistent with those evaluated in the TIS. However, because the specific commercial uses of future developments within the proposed Project are unknown at this time, utilizing specific commercial uses in the emissions modeling would be speculative. As such, the land use most closely resembling the proposed Project and available in CalEEMod was identified and utilized in the analysis; that is, of the land uses available in CalEEMod, the industrial park land use is the most similar to the proposed Project's mixed-used commercial development. As such, the analysis provided in Technical Memo presents a good-faith effort in identifying and presenting potential impacts from the reasonably foreseeable future development of the proposed Project site. Furthermore, the County's methodology for quantification of emissions resulting from commercial mixed-use developments was developed in coordination with Air District CEQA staff. The emissions analysis prepared for the proposed Project is consistent with recent assessments for similar mixed-use development projects. The Air District has reviewed the MND and their comments did not indicate any inadequacies of the CalEEMod assessment. As the local air quality experts, and a Responsible Agency, the County maintains its position that the MND has adequately addressed the air quality resource.*

Comment Subject 4h. Air Quality – Incorrect Application of Operational Area-Related Mitigation Measures. The commenter states that the use of the electric landscaping mitigation measures in the emissions analysis is inappropriate as their use are not required and not incorporated into the proposed Project as enforceable mitigation measures. They commenter states that the use of these measures underestimate Project related operational emissions, thereby rendering the analysis unusable to determine project significance.

***Response:** As indicated in the comments of the five (5) phase assessments, the use of the electric landscaping mitigation measures is appropriate as they are default values generated by the Air District to account for the statewide use. The Air District has reviewed the MND and their comments did not indicate any inadequacies of the CalEEMod assessment. As the local air quality experts, and a Responsible Agency, the County maintains its position that the MND has adequately addressed the air quality resource.*

Comment Subject 4i. Air Quality – Diesel Particulate Matter Emissions Inadequately Evaluated. The commenter states that the conclusion made in the MND regarding health risks related to diesel particulate matter (DPM) is incorrect. The commenter provides three (3) reasons for their determination: the lack of preparation of a health risk assessment (HRA) is inconsistent with the reasonable effort to connect a project’s air quality impact to likely health consequences; the Office of Environmental Health Hazard Assessment (OEHHA) recommends an HRA for projects of this size and duration; and the lack of an HRA fails to compare the Project’s combined excess cancer risk to the Air District’s threshold of 20 in one million.

Response: *The proposed Project consists of a General Plan amendment, a rezone, and a tentative parcel map. Site plans are not available as the site will be developed as market demands and specific future uses of the proposed Project remain unknown. On page 36 the MND clearly states, “As specific uses within the Project site are unknown and Project design has not yet been finalized, quantification of potential health risks would be speculative. However, it is anticipated the operational related emissions would primarily be the result of vehicle trips associated with the Project. Future development proposals within the Project site would be reviewed on a project-by-project basis and evaluated against the screening criteria presented in Table 4 of the Tech Memo. Furthermore, future project design would site truck loading/idling areas such that exposure to exhaust emissions would be minimized.” The Air District reviewed the MND and Technical Memo and recommended that a Prioritization (Screening Health Risk Assessment) be prepared for the proposed Project, and if the prioritization score is 10 or greater, then a refined Health Risk Analysis (HRA) is recommended. Per the Air District’s comments, a Condition of Approval has been placed on the proposed Project requiring a site plan map and building plans to be submitted to the Tulare County RMA Planning Division prior to issuance of building permits for evaluation of consistency with Air District’s recommendations for evaluation of potential health risks based on Project design, including travel routes, location of loading docks and truck queuing areas.*

Comment Subject 4j. Greenhouse Gas – Failure to Adequately Evaluate Greenhouse Gas Impacts. The commenter states that because compliance with the Tulare County Climate Action Plan (CAP) and inclusion of all sustainability features are not included as a mitigation measures, the County’s determination that future development of the proposed Project will be required to comply with the CAP is unsubstantiated, thereby rendering the analysis unusable to determine project significance. The commenter also states that until onsite renewable energy sources are considered the proposed Project should not be approved.

Response: *Per the State’s Building Code, effective as of January 1, 2023, the County requires currently dedicated circuitry for installation of electric chargers and requires installation of solar panels for new commercial developments. As such, a Condition of Approval has been placed on the proposed Project requiring a site plan map and building plans to be submitted to the Tulare County RMA Planning Division prior to issuance of building permits for evaluation of consistency with the California Green Building Standards Code (CALGreen) and the Tulare Climate Action Plan (CAP).*

Comment Subject 4k. Disclaimer. The commenter indicates that as they received “limited discovery” and their efforts were “limited to information that was reasonably accessible at the time of work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.” As such, the commenter retains the right to revise or amend this report.

Response: *The commenter indicates they received “limited discovery” and their efforts were “limited to information that was reasonably accessible.” The commenter also indicates that their report may be incomplete or flawed due to “uncertainty of information obtained or provided by third parties.” However, in their introductory statement of their report the commenter indicates that they have reviewed the MND, and their comments clearly indicate that they have thoroughly reviewed the Air Quality and Greenhouse Gas Technical Memo that was included in the MND as Attachment “A” as well as the technical appendices of the analogous project. Furthermore, as the MND and the Attachments prepared for this project, as well as the EIR prepared for the analogous project were and continue to be available on the County’s website, it is unclear as to who the commenter is referring to as the third party (i.e., GSEJA, Blum, Collins & Ho LLP, or the County).*

The County made the MND, which includes the technical reports, available at the following locations throughout the 30-day public review and comment period.

- Tulare County RMA, 5961 S. Mooney Blvd., Visalia, CA 93727
- Tulare County RMA website, <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/>
- Visalia Main Branch Library, 200 W. Oak Ave., Visalia, CA 93291
- Tulare Public Library, 475 N. M St., Tulare, CA 93274.

The EIR prepared for the analogous project (Sequoia Drive-In Business Park, SCH# 2017011027) was and is currently available on the County’s website at <https://tularecounty.ca.gov/rma/projects/planning-projects/applicant-projects/sequoia-drive-in-business-park/>

Comment Subject 5: Environmental Justice – Air Pollution. The commenter states that the MND does not include analysis of environmental justice (EJ) issues regarding cumulative impacts, specifically referencing exposure to ozone and particulate matter, resulting from the proposed project. The commenter notes that based on CalEnviroScreen 4.0, the project census tract (project area) ranks high for pollution and socioeconomic vulnerability, specifically, overall pollution burden (95%), ozone burden (85%), and PM2.5 burden (97%),

Response: *The Tulare County General Plan is the guiding document for development within all areas of the County, including those communities identified as disadvantaged, which according to CalEnviroScreen includes the majority of the area within Tulare County jurisdiction. Although the County’s General Plan currently does not include an EJ element,*

it does contain various policies that do address EJ issues, such as those to reduce exposure to hazards and pollution.

Although CEQA does not include a checklist item specifically for environmental justice (EJ) issues, EJ issues can be addressed in the individual assessments of the environmental resources identified in Appendix G of the CEQA Guidelines. Within the MND, the “Regulatory Setting” section of each environmental resource discussion identifies the General Plan policies that may apply to the project. Although each applicable policy is not specifically identified within the “Project Impact Analysis” discussions in the MND, the “Cumulative Impact Analysis” discussions do state that the project would be required to comply with all applicable agency rules and regulations.

The County does not dispute the rankings as provided in CalEnviroScreen and the MND does identify common sources of each of the criteria pollutants and the potential health effects from exposure (see Table 3-1, pages 25-26). Criteria pollutants are considered to have region-wide (i.e., the San Joaquin Valley) affects. The Air District has determined that a project’s regional criteria air pollutants, such as ROG, NOx, PM10, and PM2.5, cannot feasibly be directly related to likely health consequences. Furthermore, in accordance with Air District guidance, project related emissions were quantified for comparison with the Air District’s regional thresholds of significance. Also per Air District guidance, these emissions were compared to the Air District’s screening threshold for Ambient Air Quality Analysis (AAQA) screening. The AAQA screening indicated that the project’s daily criteria pollutant emissions are not expected to exceed any ambient air quality standard (AAQS). As both national standards (NAAQS) and state standards (CAAQS) were established to protect public health and the project would not exceed any AAQS, the project would not pose a significant risk of exposure to criteria pollutants.

As previously noted, the County does not dispute the rankings as provided in CalEnviroScreen. While the project area does have high rankings for ozone and particulate matter (criteria pollutants), it also ranks lower at 44% for toxic releases, 34% for diesel particulate matter (DPM), and 20% for traffic. Future developments within the proposed Project site would be reviewed on a project-by-project basis as identified through the building permit process. This includes evaluation for potential health risks based on specific use of each parcel. DPM was also addressed in the MND (pages 27 and 36). As final design of the proposed Project is not yet known, it would be speculative to identify areas, such as loading dock or staging areas, where DPM emissions would be generated within the proposed Project site. The MND states, “[F]uture project design would site truck loading/idling areas such that exposure to exhaust emissions would be minimized. Stationary sources ... would be subject to Air District permitting requirements and issued permits only if the development could demonstrate that it would pass the Air District’s risk management review.”

The Air District recommended that a Prioritization (Screening Health Risk Assessment) be prepared for the proposed Project, and if the prioritization score is 10 or greater, then a refined Health Risk Analysis (HRA) is recommended. Per the Air District’s comments, a Condition of Approval has been placed on the proposed Project requiring a site plan map and building plans to be submitted to the Tulare County RMA Planning Division prior to

issuance of building permits for evaluation of consistency with Air District recommendations for evaluation of potential health risks based on final project design, including travel routes, location of loading docks and truck queuing areas.

Comment Subject 6: Environmental Justice – Water Pollution. The commenter notes that based on CalEnviroScreen 4.0, the project area ranks with the worst quality drinking water (100%) in the state and high for groundwater threat (98%), which may expose nearby receptors to chemicals moving from the soil into the air inside their homes.

Response: *The information provided is based on census tract information that is both within and without the proposed Project location. However, the commenter fails to substantiate the comment “...which may expose nearby receptors to chemicals moving from the soil into the air inside their homes.” by failing to specify which chemicals “may expose” nearby receptors. The use of “may” is speculative. Further, a careful read of the MND at page 146, at General Policy PFS-2.5 states “New Systems or Individual Wells where connection to a community water system is not feasible per PFS-2.4: Water Connections, service by individual wells or new community systems may be allowed if the water source meets standards for quality and quantity” is applicable to the proposed Project. As such, it will be incumbent upon the developer to satisfy PFS-2.5 to ensure the water source meets water quality standards (and quantity) to prevent water transport of “...chemicals moving from the soil into the air...”*

Comment Subject 7: Environmental Justice – Solid Waste. The commenter notes that based on CalEnviroScreen 4.0, project area ranks high for impacts resulting from solid waste (96%) and hazardous waste facilities (75%), which could expose nearby receptors to hazardous airborne chemicals and leachate in the soil.

Response: *The comment is speculative as it does not specifically identify what “the areas” are, how the proposed Project “could” expose nearby receptors”, and where “hazardous waste facilities” are located. According to Tulare County Solid Waste Department and the Local Enforcement Agency (LEA, of the Tulare County Health and Human Services Agency (HHS)), there are no hazardous waste facilities located within Tulare County. Further, any sources originating from the proposed Project site would be subject to applicable rules, regulations, requirements, etc. regarding solid waste and hazardous materials by HHS and CalRecycle.*

Comment Subject 8: Environmental Justice – Socioeconomics and Disadvantaged Communities. The commenter notes that based on CalEnviroScreen 4.0, the project area is primarily Hispanic (55%), has a high rate of linguistic isolation (41%), and a high rate of poverty (46%), which makes the project area more susceptible to poor health conditions and high levels of pollution, resulting in high ranks for cardiovascular disease (89%) and asthma (77%). The commenter opines that the project’s cumulative development and environmental impacts disproportionately affect the health and quality of life of residents in the area’s Disadvantaged Communities, and that an EIR needs to be prepared to address these issues.

Response: *First, the citations noted at the footnotes are inadequate to guide (that is, navigate) the reader to the specific source(s) where the information was retrieved as the web*

links only lead to a homepage; not the specific location where the percentages can be found. The Notice of Intent to adopt the Mitigated Negative Declarations clearly contains, in Spanish, information that would guide a Spanish language person to contact Spanish speaking Resource Management Agency staff. Also, having any percentage of ethnicity other than Caucasian does not mean that the entire ethnic group is limited to only non-English linguistics (41% as cited by the commenter); the commenter fails to account for the remaining 59% who do speak English. Further, the 41% is based on, as noted by the commenter, "...speaks little to no English..." which is not the equivalent of all 41% being incapable of speaking any English as the percentages are based on households as a whole and does not account for members within that same household who also speak English. As noted earlier, RMA has Spanish speakers that are available to assist Spanish speaking persons. Also, it is noted that susceptibility is not the equivalent of actuality/causation. The commenter fails to specify what components of the proposed Project "could" contribute to the percentages cited. Without substantiation, the comment is speculative.

Comment Subject 9: Energy modeling. The commenter states that California's Building Energy Code Compliance Software (CBECC) is the only approved energy compliance modeling software for non-residential buildings, and CalEEMod is not listed as an approved software. The commenter also states that because CalEEMod-based modeling does not comply with the 2022 Building Energy Efficiency Standards, the analysis provided in the MND underreports the project's significant Energy impacts and fuel consumption and an EIR is needed to address this issue.

Response: CalEEMod is not intended to be used to determine compliance with the State's Building Energy Code. In addition to reducing fuel consumption, the energy reducing measures available in the model have the co-benefit of also reducing criteria pollutant and GHG emissions. The energy mitigation area of CalEEMod is just one component of the model's mitigation module. CalEEMod quantifies a project's energy demands based on land use, size of the project, and the project's construction- and operational-related activities. The model then quantifies the reductions in criteria pollutant and GHG emissions based on the specific reduction measures selected. Although the model itself does not require a justification for each measure chosen, the Air District requires documentation to support the use of these measures in the emissions analysis. As specific land uses, site plan, and building plans are not available at this time, it is inappropriate to include any mitigation measure in the assessment unless the measure is required by regulation. This is made enforceable through adoption of Conditions of Approval or incorporation of mitigation measures in the Mitigation Monitoring and Report Program, or if it is pre-approved by the Air District. Furthermore, contrary to the commenter's statement that the use of CalEEMod underestimates the proposed Project's energy impacts, the analysis presented in the MND and Technical Memo provides a conservative approach and overestimates the Project's criteria pollutant and GHG emissions because reductions that will be achieved through compliance with the Tulare County CAP and the State's Building Energy Efficiency Standards (Title 24) are not included in the assessment.

Comment Subject 10: XI. Land Use and Planning (RVLP Consistency). The commenter states that the Rural Valley Lands Plan (RVLP) Parcel Evaluation Checklist is erroneous and

unsupported by substantial evidence to conclude the project is compliant with General Plan Policy RVLP-1.4.

Response: *The proposed Project site is located within the Tulare Urban Area Boundary (UAB) and is subject to a Memorandum of Understanding (MOU) with the City of Tulare.² The RVLP does not apply within a County Adopted City Urban Development Boundary (CACUDB) and is only advisory within a County Adopted City Urban Area Boundary (CACUAB). However, the County offers the following General Plan RVLP consistency determinations below.*

Policy PF-4.19 of the TCGP states “As an exception to the County policies that the Rural Valley Lands Plan (RVLP) does not apply within CACUDBs and is only advisory within CACUABs, the County may work with an individual city to provide that no General Plan amendments or rezonings will be considered to change the current land use designation or zoning classification of any parcel within a CACUAB unless appropriate under the requirements of the Rural Valley Lands Plan (RVLP) or similar checklist or unless the County has worked with the city to identify and structure an acceptable alternative General Plan land use designation or zoning classification.” Based on Policy PF-4.19, an RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare did not request a RVLP analysis because the proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan shows for the proposed Project site. Therefore, a RVLP analysis is not required.³

Policy PF-4.21 of the TCGP states “As an exception to the County policies that the Rural Valley Lands Plan is only advisory within CACUABs, the County may work with an individual city to provide that the requirements of the RVLP will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUAB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area.”⁴ Based on Policy PF-4.21, an RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare, did not request a RVLP analysis because the proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the proposed Project site. Therefore, an RVLP analysis is not required.

Policy RVLP-1.2 of the Rural Valley Lands Plan (RVLP) requires the County to consider the re-zoning of existing parcels less than the minimum required by agricultural zoning, if found to not be viable for agricultural purposes as per the RVLP checklist and if such re-zoning would not impinge upon current or future agricultural uses in the area. An RVLP Parcel Evaluation was performed for the only parcel included in the zone change at this time. After all the factors were applied to the parcel, the proposed Project received a score of 9 points under the RVLP evaluation. According to the RVLP Development

² Tulare County Agreement No. 25815 was entered into on December 13, 2012, by and between the City of Tulare and the County of Tulare.

³ Tulare County General Plan (Part I) Page 2-3

⁴ Tulare County General Plan Page 54

*Criteria, parcels that accumulate 17 or more points are not allowed to be re-zoned. If the number of points accumulated is 11 or less, the parcel may be considered for non-agricultural zoning. According to Policy **RVLP-1.4** “Determination of Agriculture Land”, if the number of points accumulated is between 12 to 16 points, then it shall be determined to have fallen within a “gray” area in which no clear-cut decision is readily apparent. In such instances, the Planning Commission and Board of Supervisors shall make a decision based on the unique circumstances pertaining to the particular parcel of land, including factors not covered by this system.*

Comment Subject 11: XI. Land Use and Planning (Consistency with the General Plan).

The commenter states that the MND does not state whether the project is within a Community, Hamlet, Regional Corridor or Mountain Sub-Area Plan in which the Mixed-Use designation is allowed and states that an EIR, including a General Plan consistency analysis, is needed to address this issue.

Response: *Section XI. Land Use and Planning, in Items a) and b) of the Project Impact Analysis on page 105, the MND specifically states, “The project is located within the Tulare Urban Area Boundary (“UAB”) and north of the Tulare Urban Development Boundary [UDB].” The proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site.*

CEQA does not require that an MND include a consistency analysis with all land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, such as the County’s General Plan. CEQA Guidelines Section 15071 states that a Negative Declaration shall include: a brief description of the project; the location of the project; a proposed finding that the project will not have a significant effect on the environment; a copy of the Initial Study documenting reasons to support the finding; and mitigation measures, if any, included in the project to avoid potentially significant effects.

However, the County offers the following Tulare County General Plan (TCGP) consistency determinations below.

Policy PF-1.2 of the TCGP states “The County shall ensure that urban development only takes place in the following areas: 1. Within incorporated cities and CACUDBs; 2. Within the UDBs of adjacent cities in other counties, unincorporated communities, planned community areas, and HDBs of hamlets; 3. Within foothill development corridors as determined by procedures set forth in Foothill Growth Management Plan; 4. Within areas set aside for urban use in the Mountain Framework Plan and the mountain sub-area plans; and 5. Within other areas suited for non-agricultural development, as determined by the procedures set forth in the Rural Valley Lands Plan.” Area No. 5 of Policy PF-1.2 is the only Area Number that applies to the proposed Project. RVLP requirements in relation to Policy PF-4.19 and Policy PF-4.21 are discussed in response to Comment 10 above.

Policy LU-1.3 of the TCGP states “The County shall discourage the intrusion into existing urban areas of new incompatible land uses that produce significant noise, odors, or fumes.” The proposed Project is consistent with this policy because it does not result

in a new incompatible land use intruding into existing urban areas. Instead, the proposed Project establishes a mixed-use commercial development in an area that is planned for commercial use. Furthermore, the proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site.

Policy LU-1.4 of the TCGP states “The County shall actively support the development of compact mixed use projects that reduce travel distances.” The applicability to the proposed Project is the potential for a combination of commercial and/or light industrial uses that would be within the vicinity of a market area (i.e., a population) that could patronize this location.

LU-1.8 of the TCGP states “The County shall encourage and provide incentives for infill development to occur in communities and hamlets within or adjacent to existing development in order to maximize the use of land within existing urban areas, minimize the conversion of existing agricultural land, and minimize environmental concerns associated with new development.” The applicability to the proposed Project is not limited to infill; rather, the proximity of the City of Tulare’s northern city limit provides a logical location for the extension of both shopping and employment opportunities in an area where the landowner desires to discontinue his/her agricultural activities.

Policy PF-1.5 of the TCGP states “County policies reflect the unique attributes of the various locations and geographic areas in the County. As such, there are policies applicable to one area of the County that are not applicable to others based on natural setting, topography, habitat, existing development, or other attributes which are unique within the planning context of the County.” Based on Policy PF-1.5, it would not be appropriate to prepare a consistency analysis with all General Plan policies because each project site is unique and a Policy that is appropriate for one area will not be appropriate to apply to all areas due to different conditions at each unique location.

Policy PF-1.6 of the TCGP states “The County shall utilize the Land Use Element and adopted CAC General Plans, Community Plans, Hamlet Plans, Planned Communities, Corridor Areas, or Area Plans to designate land uses and intensities that reflect and maintain the appropriate level of urbanized development in each CAC General Plan, Community Plan, Hamlet Plan, Planned Community, Corridor Area, or Area Plan.” The proposed Project is consistent with Policy PF-1.6 because the County utilized the Land Use Element of the General Plan and adopted CAC General Plan for the City of Tulare.

Policy PF-4A of the TCGP The purpose of this policy is “To provide the means to further manage urban development within CACUDBs and CACUABs of existing incorporated cities while ensuring that the limitation on development is in the best interests of the County and its residents in both the incorporated and unincorporated areas and enhances the County’s ability to provide adequate County facilities and countywide social, health, safety and welfare services impacted by development in the cities and County.” RVL P requirements in relation to Policy PF-4.19 and Policy PF-4.21 are discussed in response to Comment 10 above.

Policy AG-1.1 of the TCGP states “The County shall maintain agriculture as the primary land use in the valley region of the County, not only in recognition of the economic importance of agriculture, but also in terms of agriculture’s real contribution to the conservation of open space and natural resources.” When this policy is examined individually, it provides the impression that maintaining any land that is currently in agricultural production is required. This is not the case. There are additional policies that need to be considered and they can provide situations where maintaining an existing agricultural use is not required as discussed in response to Comment 10 above in relation to Policy PF-4.19 and Policy PF-4.21.

Policy AG-1.7 of the TCGP states “The County shall promote the preservation of its agricultural economic base and open space resources through the implementation of resource management programs such as the Williamson Act, Rural Valley Lands Plan, Foothill Growth Management Plan or similar types of strategies and the identification of growth boundaries for all urban areas located in the County.” The County does promote the preservation of its agricultural economic base and open space implementation of the Williamson Act, RVLP, Foothill Growth Management Plan, etc. In this case the proposed Project site is not restricted by a Williamson Act Contract and RVLP requirements in relation to Policy PF-4.19 and Policy PF-4.21 are discussed in response to Comment 10 above.

Policy LU-4.3 of the TCGP states “The County shall provide for commercial service businesses such as warehouses, repair services, business support services, furniture sales, and building materials sales where they will not adversely affect surrounding properties, typically in areas serving occasional needs rather than day-to-day needs. Criteria to be used in siting commercial service areas are: 1. Provide good access to highways or major collectors, 2. Buffer existing or planned residential areas, 3. Develop in-depth rather than in a strip fashion along the access road to provide adequate room for parking, buffering, etc., and 4. Encourage development as integrated planned areas in conjunction with community commercial areas or with common architectural and site development features.” The proposed Project complies with Policy LU-4.3 as it would provide commercial service businesses at State Route 99, E. Oakdale Avenue, and Akers Street. The proposed Project site would develop in-depth and would provide adequate room for parking, buffering, etc. The proposed Project is a mixed-use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone. The development would serve occasional needs rather than day-to-day needs. The proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site.

Policy LU-4.5 of the TCGP states “The County shall encourage that new commercial development is consistent with the existing design of the surrounding community or neighborhood by encouraging similar façades, proportionate scale, parking, landscaping, and lighting.” As the proposed Project is within the Urban Development Boundary of the City of Tulare (City), the proposed Project will be required to comply with City development standards, designs, features, etc.

Policy LU-4.6 of the TCGP states “The County shall require that commercial storage facilities, including “mini” storage, indoor and outdoor storage facilities, and contractor’s materials storage be screened from view through landscape buffers or other natural landscapes.” The proposed Project is a mixed-use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone. Although allowed in the C-3-MU Zone, the application for the proposed Project does not include “mini” storage, indoor and outdoor storage facilities, or contractor’s materials storage. It also does not include an industrial park use, industrial land use, manufacturing uses, or warehousing uses as noted by the commenter. Therefore, Policy LU-4.6 is not applicable to the proposed Project.

Policy Numbers LU-5.1, LU-5.2, LU-5.3, LU-5.4, LU-5.5, LU-5.6, and LU-5.7 are not applicable to the proposed Project because it is not an Industrial Park Development. Rather, the proposed Project is a mixed-use commercial development.

Policy AQ-1.3 of the TCGP states “The County shall require development to be located, designed, and constructed in a manner that would minimize cumulative air quality impacts. Applicants shall be required to propose alternatives as part of the State CEQA process that reduce air emissions and enhance, rather than harm, the environment.” The proposed Project is a mixed-use commercial development. A Condition of Approval requiring additional evaluation of proposed Project design elements are included in the Project. This condition includes the following requirements: 1) Prior to issuance of building permits, a site plan map and building plans will be submitted to the Tulare County Resource Management Agency (RMA) Planning Division for review; 2) The site map will be evaluated for consistency with Air District recommendations for evaluation of potential health risks based on Project design, including travel routes, location of loading docks and truck queuing areas; and 3) Building plans will be evaluated for consistency with the California Green Building Standards Code (CALGreen) and for consistency with the Tulare Climate Action Plan (CAP).

Policy AQ-1.4 of the TCGP states “The County shall evaluate the compatibility of industrial or other developments which are likely to cause undesirable air pollution with regard to proximity to sensitive land uses, and wind direction and circulation in an effort to alleviate effects upon sensitive receptors.” At the time of submittal of the final site plan map and building plans, Tulare County RMA Planning Division staff will review the project for consistency with Air District recommendations for evaluation of potential health risks based on proposed Project design, including location of travel routes, loading docks and truck queuing areas.

Policy AQ-1.5 of the TCGP states “The County shall ensure that air quality impacts identified during the CEQA review process are consistently and reasonably mitigated when feasible.” Consistent with the Mitigated Negative Declaration prepared for the proposed Project (SCH# 2023020373), the proposed Project does not require mitigation to reduce air quality impacts to a less than significant level. Consistent with Policy AQ-

1.3, a Condition of Approval requiring additional evaluation of proposed Project design elements to ensure development of the proposed Project would be consistent with the Tulare County CAP and will not pose significant health risks is included in the project.

The proposed project is consistent with relevant policies of the Tulare County General Plan, including ED-2.2 Land Requirements; ED-3.1 Diverse Economic Base; ERM-2.9 Compatibility; PF-1.1 Maintain Urban Edges; PF-1.3 Land Uses in UDBs/HDBs; PF-1.4 Available Infrastructure; PF-4.18 Future Land Use Entitlements in a CACUDB; PF-4.19 Future Land Use Entitlements in a CACUAB; PF-4.21 Application of the RVLPChecklist to Control Development in a CACUAB; PF-2.7 Improvement Standards in Communities; LU-1.2 Innovative Development; LU-1.8 Encourage Infill Development; LU-1.10 Roadway Access; LU-4.6 Commercial Storage Facilities; LU-5.1 Industrial Developments; and LU-5.4 Surrounding Land Use.

As a side note, RMA staff Hector Guerra and Jessica Willis are uniquely qualified to evaluate Air District consistency as they have a combined 22 years of experience as Air District staff. Both worked in the Air District's CEQA division (as senior air quality planners) and other experiences including air quality plan writing, rulemaking, Indirect Source Review (Rule 9510), CEQA documents review/commenting specific to the Air District's air quality purview. Ms. Willis was also a contributor and Beta tester in the two previous versions of CalEEMOD and project manager during preparation of the Air District's Guide to Assessing and Mitigating Air Quality Impacts (GAMAQI) while serving as Air District staff.

Comment Subject 12: XIII. Noise. The commenter states that the Noise assessment is inadequate, incorporation by reference is inappropriate, and that an EIR is necessary to address the following issues: 1) the MND does not include project-specific noise data, nor does it include the technical noise study prepared for the analogous project; 2) the MND does not provide the CEQA statute citation permitting the use of assessments by analogy; 3) the analogous project underrepresents this project's impacts due to the lack of an industrial/warehousing component; 4) there is an apparent discrepancy in operational hours as provided in the MND and the Attachments; and 5) the incorporation by reference is inappropriate.

Response: *The proposed Project is a division of land, a zone change, a land use change through a General Plan Amendment, to accommodate a future commercial business park. No specific land use types or specific land uses are part of the proposed Project. The information provided in the GPI and the eventual outcome of the proposed Project will not necessarily be identical as the applicant is unaware of what land use(s) and operational hours will eventually occur on the site. Without a known future use, it would be speculative to quantify potential noise levels (from vehicles and/or uses) and/or impacts to the nearest known sensitive receptor (a rural residence that is approximately 2,500 feet east of the proposed Project's southernmost boundary). We are unaware of the commenter's basis for determining that the proposed Project would include "an industrial/warehousing component" instead of the commercial business park as provided in the proposed Project description. Lastly, as pointed out by the commenter,*

“...the 2017 project did not include any industrial/warehousing component...”; and neither does the proposed Project as its intent is to accommodate a future commercial business park.

Sound, based on distances to the nearest sensitive receptors, even without mitigation, will decrease to levels below County of Tulare thresholds. As noted in the Tulare County General Plan 2030 Update, Background document (General Plan), “Roadways and traffic noise are the dominant source of ambient noise in the county. The noise generated from vehicles using roads within the county is governed primarily by the number of vehicles, type of vehicles (mix of automobiles, trucks, and other large vehicles), and speed” (see page 8-53 at: [Tulare County General Plan Recirculated Draft EIR](#)). Noise reduction is also known as “attenuation.” In this case, speed and noise are just two variables in noise reduction. As noted in the General Plan, “Calculating Attenuation Noise may be generated from a point source, such as a piece of construction equipment, or from a line source, such as a road containing moving vehicles. Because of spreading losses, noise attenuates (decreases) with distance. The typical atmospheric attenuation rate for point source noise is 6 dBA per doubling of the distance.” (see page 8-51). Further, “Soft sites, such as undeveloped areas, open space, and vegetated areas attenuate line-source noise at a rate of 4.5 dBA per doubling of the distance [page 8-52]. Objects such as walls, topography, and buildings, which block the line-of-sight between a source and a receptor, will attenuate the noise source.” (see page 8-52). Also, the EIR for the analogous project (Sequoia Drive-In Business Park, SCH# 2017011027) was and is currently available on the County’s website at <https://tularecounty.ca.gov/rma/projects/planning-projects/applicant-projects/sequoia-drive-in-business-park/>.

Comment Subject 13: XIV. Population and Housing. The commenter states that the language in the MND is unclear and misleading and that an EIR is necessary to address the following issues: 1) accurate estimate of employees generated by construction and operations of the project; 2) demographic and geographic information on the location of qualified workers; 3) an estimate of the number of workers relocating to the County as a result of the project; 4) determination of consistency with TCAG’s RTP/SCS; 5) information and analysis regarding the number of construction jobs generated by the project and their potential to relocate to the County

Response: *The commenter is correct that, “There is no quantification of construction employees needed to construct the project.” It would be speculative to include this information as it is unknown for both specific, ultimate land use types and the timeframe when construction could occur. Further, the applicant anticipates a build-out of 7-10 years; which implies that construction will occur over time (that is, gradually) rather than simultaneously (that is, all at once within a specific time frame, for example, 9-12 months). Also, without knowledge of what specific use(s) would be constructed, the number of construction-related workers remains unknown. In addition, as specific uses are unknown, specific construction-related companies and their labor force (and their laborer’s places/locations/cities where they reside/originate) are unknown. As such, given the unknowns of the proposed Project, it would be speculative to respond to the five issues submitted by the commenter.*

Comment Subject 14: Conclusion. The Golden State Environmental Justice Alliance (GSEJA) believes the MND is flawed and an EIR must be prepared for the proposed project. The GSEJA requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project.

Response: *The commenter and Golden State Environmental Justice Alliance have been added to the project notification list for this project.*

Comment Letter7: Adam Salcido, March 20, 2023

Comment Subject 1: Please provide any updates to the above mentioned project.

I am requesting under Public Resource Code Section 21092.2 to add the email addresses and mailing address below to the notification list, regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project.

t.lucio57@gmail.com

phaninger1@gmail.com

jbourg2271@aol.com

jbourgeois029@gmail.com

asalcido.07@gmail.com

Mailing Address:

P.O. Box 79222

Corona, CA 92877

Please confirm receipt of this email. Thank you for your assistance.

Response: Thank you for your interest in the project. The email and mailing address have been added to the notification list for this project.

Attachment 1

Comments Received

California Department of Conservation, Geologic Energy
Management Division, March 1, 2023



California
Department of Conservation
Geologic Energy Management Division

Gavin Newsom, Governor
David Shabazian, Director
715 P Street, MS 1803
Sacramento, CA. 95814
T: (916) 445-5986

03/01/2023

Hector Guerra
5961 S Mooney Blvd, Visalia, CA 93277, USA
hguerra@tularecounty.ca.gov

Construction Site Well Review (CSWR) ID: 1012722

Assessor Parcel Number(s): 149090006

Property Owner(s): NFDI LLC

Project Location Address: Southwest corner of Road 100 (Akers/Oaks) and Ave 256 (Oakdale Ave),
Tulare, California 93274

Project Title: Akers Business Park - SCH # 2023020373

Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 2/28/2023. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

N/A

Our records indicate there are no known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Should you have any questions, please contact me at (661) 201-8607 or via email at Victor.Medrano@conservation.ca.gov.

Sincerely, *Cristian Garcia*
Cristian Garcia for
Chris Jones
Acting District Deputy

cc: Hector Guerra - Submitter

Attachment 2

Comments Received

State Water Resources Control Board, March 7, 2023



State Water Resources Control Board

March 7, 2023

Tulare County
Attn: Hector Guerra
200 W. Oak Avenue
Visalia, CA 93291

TULARE COUNTY (COUNTY), MITIGATED NEGATIVE DECLARATION (MND), FOR THE AKERS BUSINESS PARK (GPA 22-003 & PZC 22-003 & PPM 23-007) PROJECT (PROJECT); STATE CLEARINGHOUSE # 2023020373

Dear Mr. Hector Guerra:

Thank you for the opportunity to review the MND for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board, DDW) is responsible for issuing water supply permits pursuant to the Safe Drinking Water Act. The Project is within the jurisdiction of the State Water Board DDW's Tulare District. The Tulare District issues a domestic water supply permit to the public water systems serviced with a new or modified source of domestic water supply or new domestic water system components pursuant to Waterworks Standards (Title 22 CCR chapter 16 et. seq.). A public water system requires a new water supply permit if it includes the creation of a new public water system. The Project water system may need to apply for a water supply permit for this Project.

If the above noted project results in the formation of a new public water system or multiple new public water systems, an application must be submitted, and a permit must be obtained from the Division before water can be provided for human consumption.

A public water system, as defined in the California Health and Safety Code, division 104, part 12, chapter 4, article 1, section 116275(h), is "a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year...." (e) "Human consumption" means "the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes."

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

The State Water Board, DDW, as a responsible agency under CEQA, has the following comments on the County's MND:

- The Proposed Project is less than a quarter mile from the City of Tulare's municipal water system and should consider connecting to that water system in the environmental document.
- A public water system requires a domestic water supply permit to operate. Please indicate if the Project could create a new public water system.
 - New public water systems are being limited under Senate Bill 1263, effective January 1, 2017. Senate Bill 1263 requires that any person submitting a permit application for a proposed new public water system must first submit a technical report to the State Water Board, DDW at least six months prior to initiating construction of any drinking water-related improvement. The technical report must include an examination of the possibility of consolidation with an existing public water system.
- If the Project will create a new public water system, please add:
 - A description of all new potable water system components that will be installed or constructed. In addition to the three proposed wells, please also discuss any tank, pump stations, and treatment systems, that may be needed.
 - A map of and/or description of where the components will be located within the Project's defined site (PDF page 3).
 - "The State Water Resources Control Board, Division of Drinking Water" to the list of agencies whose approvals is required for the Project.
 - Clarification on if the Project description will include a convenience store (with gas station) and self-storage (mini-warehouses) (PDF page 101).
 - Clarification on the water budget for the Project, including how much water the development will use and the resulting savings from not growing walnut trees (PDF page 108).

If a DDW Water Supply permit will be required, once the MND is adopted, please forward the following items in support of the public water system's permit application to the State Water Board, DDW Tulare District Office at DWPDIST24@waterboards.ca.gov:

- Copy of the draft and final MND with any comment letters received and the lead agency responses as appropriate.
- Copy of the Resolution or Board Minutes adopting the MND, and
- Copy of the date stamped Notice of Determination filed at the Tulare County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

Please contact Lori Schmitz of the State Water Board at (916) 449-5285 or Lori.Schmitz@waterboards.ca.gov, if you have any questions regarding this comment letter.

Sincerely,

Mr. Hector Guerra

March 7, 2023

Lori Schmitz
Environmental Scientist
Division of Financial Assistance
Special Project Review Unit
1001 I Street, 16th floor
Sacramento, CA 95814

Cc:

Office of Planning and Research, State Clearinghouse

Kristin Willet
District Engineer
Tulare District

Attachment 3

Comments Received

Tulare Irrigation District, March 8, 2023

From: [Hector Guerra](#)
To: [Jorge Munoz](#)
Cc: [Aaron Fukuda](#); [Jeremy Barroll](#); [Marco Crenshaw](#); [Wayne Fox](#); [Sandy Roper](#)
Subject: RE: Akers Business Park
Date: Wednesday, March 8, 2023 4:06:00 PM

Jorge,

Thank you for your Comments; they will be added to the Record accordingly, If intrusion on TIF's facility would occur, we will likely include your comment as Project Design Features, Conditions of Approval, and/or mitigation measures. As an aside, Mr. Sandy Roper is the project manager for this project and can be reached at 624-7101 or at sroper@tularecounty.ca.gov

Best Regards,

Hector

From: Jorge Munoz <jam@tulareid.org>
Sent: Wednesday, March 8, 2023 3:36 PM
To: Hector Guerra <hguerra@tularecounty.ca.gov>
Cc: Aaron Fukuda <akf@tulareid.org>; Jeremy Barroll <jab@tulareid.org>; Marco Crenshaw <mjc@tulareid.org>; Wayne Fox <wrf@tulareid.org>
Subject: Akers Business Park

This Message Is From an External Sender

This message came from outside your organization.

Hi Hector,

My name is Jorge Munoz with the Tulare Irrigation District. With respect to the Akers Business Park project, Tulare Irrigation District would like to note that there is a canal running along the west side of the parcel. They must preserve access to the canal and not place any structures, fences, signs or landscaping within 16 ft of the canal top of bank. TID would also like the canal to be piped in which case we would require a 20 ft pipeline easement.

Attachment 4

Comments Received

San Joaquin Valley Unified Air Pollution Control District,
March 17, 2023

March 17, 2023

Hector Guerra
County of Tulare
Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93277

**Project: Initial Study and Mitigated Negative Declaration for Akers Business Park
(GPA 22-003, PZC 22-010, PPM 23-007)**

District CEQA Reference No: 20230180

Dear Mr. Guerra:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Initial Study and Mitigated Negative Declaration (IS/MND) from the County of Tulare (County) for the above mentioned project. Per the IS/MND, the project consists of a commercial business park on 65.45 acres which includes a land use designation change from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone) (Project). Typical uses in the C-3-MU zone include auto body and repair shops, warehouses, contractor storage yards, bakeries, cabinet shops, electrical repair shops, and machinery repair shops. The Project is located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route 99 in Tulare, CA (APN: 149-090-006)

The District offers the following comments regarding the Project:

1) Project Related Emissions

Based on information provided to the District, Project specific annual criteria pollutant emissions from construction and operation are not expected to exceed any of the significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts (GAMAQI):

<https://www.valleyair.org/transportation/GAMAQI.pdf>.

Samir Sheikh
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-8000 FAX: (559) 230-8081

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

1a) Construction Emissions

The District recommends, to reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment, including the latest tier equipment.

2) Health Risk Screening/Assessment

The County should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

To assist land use agencies and project proponents with Prioritization analyses, the District has created a prioritization calculator based on the aforementioned CAPCOA guidelines, which can be found here:

http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION-CALCULATOR.xls

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/ project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA. This step will ensure all components are addressed when performing the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the project-related health impacts would exceed the District's significance threshold of 20 in a million for carcinogenic risk, or 1.0 for either the Acute or Chronic Hazard Indices.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww3.arb.ca.gov/ch/handbook.pdf>.

3) Truck Routing

Per Attachment "A" (Air Quality, Greenhouse Gas, and Energy technical Memorandum), the C-3-MU zone allows other related uses such as warehouses. Since the Project consists of the construction of a commercial business park that could include allowed uses identified under a C-3-MU zone, the Project has the potential to have project types that could generate HHD truck trips. Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

The District recommends the County evaluate HHD truck routing patterns for the Project, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

4) Cleanest Available Heavy-Duty Trucks

The San Joaquin Valley will not be able to attain stringent health-based federal air quality standards without significant reductions in emissions from HHD trucks, the single largest source of NO_x emissions in the San Joaquin Valley. The District's CARB-approved 2018 PM_{2.5} Plan includes significant new reductions from HHD trucks, including emissions reductions by 2023 through the implementation of CARB's Statewide Truck and Bus Regulation, which requires truck fleets operating in California to meet the 2010 standard of 0.2 g-NO_x/bhp-hr by 2023. Additionally, to meet federal air quality attainment standards, the District's Plan relies on a significant and immediate transition of HHD fleets to zero or near-zero emissions technologies, including the near-zero truck standard of 0.02 g/bhp-hr NO_x established by CARB.

Per Attachment "A" (Air Quality, Greenhouse Gas, and Energy technical Memorandum), the C-3-MU zone allows other related uses such as warehouses. Since the Project consists of the construction of a commercial business park that could include allowed uses identified under a C-3-MU zone, the Project has the potential to have project types that could generate HHD truck trips. The District recommends that the following measures be considered by the County to reduce Project-related operational emissions:

- *Recommended Measure:* Fleets associated with operational activities utilize the cleanest available HHD trucks, including zero and near-zero (0.02 g/bhp-hr NO_x) technologies.
- *Recommended Measure:* All on-site service equipment (cargo handling, yard hostlers, forklifts, pallet jacks, etc.) utilize zero-emissions technologies.

5) Reduce Idling of Heavy-Duty Trucks

Per Attachment "A" (Air Quality, Greenhouse Gas, and Energy technical Memorandum), the C-3-MU zone allows other related uses such as warehouses. Since the Project consists of the construction of a commercial business park that could include allowed uses identified under a C-3-MU zone, the Project has the

potential to have project types that could generate HHD truck trips. The goal of this strategy is to limit the potential for localized PM_{2.5} and toxic air contaminant impacts associated with the idling of Heavy-Duty trucks. The diesel exhaust from idling has the potential to impose significant adverse health and environmental impacts.

Since the Project could be expected to result in HHD truck trips, the District recommends the IS/MND include measures to ensure compliance of the state anti-idling regulation (13 CCR § 2485 and 13 CCR § 2480) and discuss the importance of limiting the amount of idling, especially near sensitive receptors.

6) On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the County consider incorporating solar power systems as an emission reduction strategy for the Project.

7) Electric Vehicle Chargers

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the County and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit www.valleyair.org/grants/chargeup.htm for more information.

8) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (559) 230-5888.

8a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (559) 230-5888.

8b) District Rule 9510 - Indirect Source Review (ISR)

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 2,000 square feet of commercial space.

The purpose of District Rule 9510 is to reduce the growth in both NO_x and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The ISR Rule requires developers to mitigate their NO_x and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency. As of the date of this letter, the District has not received an AIA application for this Project. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510 so

that proper mitigation and clean air design under ISR can be incorporated into the Project's design.

Information about how to comply with District Rule 9510 can be found online at: <http://www.valleyair.org/ISR/ISRHome.htm>.

The AIA application form can be found online at: <http://www.valleyair.org/ISR/ISRFormsAndApplications.htm>.

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

8c) District Rule 9410 (Employer Based Trip Reduction)

The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more "eligible" employees. District Rule 9410 requires employers with 100 or more "eligible" employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about District Rule 9410 can be found online at: www.valleyair.org/tripreduction.htm.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

8d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

The Project will be subject to District Rule 4002 since the Project will include demolition, renovation, and removal of existing structures. To protect the public from uncontrolled emissions of asbestos, this rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Any asbestos present must be handled in accordance with established work practice standards and disposal requirements.

Information on how to comply with District Rule 4002 can be found online at: <http://www.valleyair.org/busind/comply/asbestosbultn.htm>.

8e) District Rule 4601 (Architectural Coatings)

The Project may be subject to District Rule 4601 since it may utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at:
<http://www.valleyair.org/rules/currnrules/r4601.pdf>

8f) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at:

<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:

http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

8g) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

9) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

If you have any questions or require further information, please contact Harout Sagherian by e-mail at Harout.Sagherian@valleyair.org or by phone at (559) 230-5860.

Sincerely,

Brian Clements
Director of Permit Services



For: Mark Montelongo
Program Manager

Attachment 5

Comments Received

California Department of Transportation, March 24, 2023

California Department of Transportation

DISTRICT 6 OFFICE

1352 WEST OLIVE AVENUE | P.O. BOX 12616 | FRESNO, CA 93778-2616
(559) 840-6066 | FAX (559) 488-4195 | TTY 711

www.dot.ca.gov



March 24, 2023

TUL-99-32.89

GPA 22-003, PZC 22-003, PPM 23-007

INITIAL STUDY & MITIGATED NEGATIVE DECLARATION

AKERS BUSINESS PARK

AKERS & OAKDALE AVENUE

[GTS # 02654](#)

Mr. Hector Guerra, Chief Environmental Planner
Tulare County - Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93277

Dear Mr. Guerra:

Caltrans has completed a review of the Notice of Intent to adopt a Mitigated Negative Declaration for the proposed Akers Business Park (GPA 22-003, PZC 22-010 & PPM 23-007), on approximately 65.45 acres (Project). The Project site is located at the southwest corner of the Akers Street and Oakdale Avenue intersection, approximately ¼ mile east of the State Route (SR) 99 and Oakdale Avenue Northbound on-ramp intersection, and approximately ½ mile north of the SR 99/Cartmill Avenue Interchange, north of the City of Tulare.

The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment.

Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. Caltrans comment letter dated May 9, 2022, for PRC 22-014 continues to remain valid.
2. As a point of information, Caltrans has a project to improve SR 99 from 4-lanes to 6-lanes, that is currently in construction and is expected to be complete by Fall 2023. Construction of the new lanes will be located within the SR median area.
3. The proposed Akers Business Park will be developed as a mixed-use commercial

project that expands the existing Magic Touch Recreational Vehicle Sales facility at the south end of the project site, contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

4. The site plan shows three, 100,000 square foot (sf) buildings, an 84,925-sf building, a 23,000-sf building, and six lots for future development. Land uses for these proposed buildings are not indicated.
5. Caltrans **requests** that the Project provide the proposed land uses for all buildings and trip generation rate to determine the Project-related vehicle trips.
6. Caltrans **requests** that the Project provide a trip distribution map that estimates the percentage of Project vehicle trips that will potentially use the SR 99 interchanges.
7. Any advertising signs within the immediate area outside the State right-of-way must be cleared through the Caltrans Division of Traffic Operations, Office of Outdoor Advertising. The project proponent must construct and maintain the advertising signs without access to the State Routes. Please contact the Outdoor Advertising Program, P.O. Box 942874, MS-36, Sacramento, CA 94274-0001, Phone (916) 654-6473, FAX (916) 651-9359 for additional information or to obtain a sign permit application. Additional information on Caltrans Outdoor Advertising Permit requirements may be found online at www.dot.ca.gov/hq/oda.
8. According to the Caltrans Transportation Concept Report (CTR), segment 15 of SR 99 in the vicinity of the proposed Project is currently a 4-lane conventional highway and ultimately planned to be a 6-lane facility with potential Auxiliary Lanes within a total of 160 to 200 feet of right-of-way (80 - 100 feet from the centerline). Caltrans right-of-way maps show this segment of SR 99 existing at 166 feet with approximately 83 feet from the centerline on the east side of SR 99.
9. The southwest portion of the Project site is directly adjacent to SR 99. The site plan should have provided the distance the proposed buildings are setback from the southwest property line along SR 99. Please update the site plan accordingly.
10. Caltrans request that all Project buildings at a minimum be **setback 25 feet from SR 99** to accommodate future improvements for Auxiliary Lanes as indicated in the SR 99 TCR. As a point of information, the setback area can be used for landscaping, parking, or non-permanent structures. The property owner understands that any improvements, upon, over, and across said real property within the setback area shall be removed at owners' expense when the State accepts title of the property for widening and construction of the future Auxiliary Lanes.
11. As a point of information, any work completed in the State's right-of-way will require a Caltrans encroachment permit. An encroachment permit must be

obtained for all proposed activities for placement of encroachments within, under, or over the State highway rights-of-way. Activity and work planned in the State right-of-way shall be performed to State standards and specifications at no cost to the State. Engineering plans, calculations, specifications, and reports (documents) shall be stamped and signed by a licensed Engineer or Architect. Engineering documents for encroachment permit activity and work in the State right-of-way may be submitted using English Units. The Permit Department and the Environmental Planning Branch will review and approve the activity and work in the State right-of-way before an encroachment permit is issued. The Streets and Highways Code Section 670 provides Caltrans discretionary approval authority for projects encroaching on the State Highway System. Encroachment permits will be issued in accordance with Streets and Highway Codes, Section 671.5, "Time Limitations." Encroachment permits do not run with the land. A change of ownership requires a new permit application. Only the legal property owner or their authorized agent can pursue obtaining an encroachment permit.

Prior to an encroachment permit application submittal, the project proponent is required to schedule a "Pre-Submittal" meeting with the District 6 Encroachment Permit Office. To schedule this meeting, please call the Caltrans Encroachment Permit Office - District 6: 1352 W. Olive, Fresno, CA 93778, at **(559) 383-5047 or (559) 383-5235**.

a. Please review the permit application - required document checklist at:

<https://forms.dot.ca.gov/v2Forms/servlet/FormRenderer?frmid=TR0402&distpath=M AOTO&brapath=PERM>.

b. Please also review the permit application - processing checklist at:

<https://dot.ca.gov/-/media/dot-media/programs/traffic-operations/documents/encroachment-permits/tr-0416-applicable-review-process-checklist.pdf>.

12. The City should consider requiring the Project to provide charging stations for alternatively fueled vehicles and for freight trucking as part of the statewide efforts to reduce greenhouse gas emissions, reduce freight parking shortages and maintain the Federal Hours of Service regulations.
13. Due to severe truck parking shortages throughout the state and strict Federal Hours of Service regulations that limit the amount of time a truck driver can spend driving per day, many truck drivers cannot find safe and reliable truck parking spaces, and therefore park in unauthorized and/or unsafe areas. Constructing adequate truck parking on-site can alleviate the unauthorized/ unsafe truck parking demand on existing facilities. On-site freight parking for trucks will also strive to ensure a secure and reliable area for extended or overnight parking to help maintain adherence to the Federal Hours of Service regulations. On-site truck parking is adequate when

facilities include, at a minimum: restrooms, lighting, trash facilities, drinking water, showers, and food sellers (such as, but not limited to a food court, restaurant, food truck) or vending machines.

14. The County or City should consider requiring the Project to implement on-site freight parking areas and/or spaces within the Project boundaries, that truck drivers can utilize for extending parking periods before loading or after unloading (to alleviate freight parking shortages and maintain the Federal Hours of Service regulations).
15. The County/City should consider promoting the leveraging of strategic investments to maintain and modernize a multimodal freight transportation system with innovative approaches, including advanced technology to optimize integrated network efficiency, improve travel time reliability, and achieve sustainable congestion reduction.
16. Alternative transportation policies should be applied to the development. An assessment of multi-modal facilities should be conducted. This assessment should be used to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City of Tulare. The assessment should include the following:
 - a. Pedestrian walkways should link this proposal to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.
 - b. The consideration of bicycles as an alternative mode of transportation needs more attention. The project should consider bicycles as an alternative mode of transportation and offer internal amenities to encourage bicycle use which should include parking, security, lockers, and showers.) However, internal bicycle paths should be coordinated with local and regional pathways to further encourage the use of bicycles for commuter and recreational purposes.
 - c. The Project might also consider coordinating connections to local and regional bicycle pathways to further encourage the use of bicycles for commuter and recreational purposes.
 - d. If transit is not available within ¼-mile of the site, transit should be extended to provide services to what will be a high activity center.
17. Caltrans recommends the Project implement “smart growth” principles regarding parking solutions, providing alternative transportation choices to residents and employees. Alternative transportation choices may include but are not limited to parking for carpools/vanpools, car-share and/or ride-share programs.

18. Based on Caltrans Vehicle Miles Traveled (VMT-Focused Transportation Impact Study Guide, dated May 20, 2020, and effective as of July 1, 2020, Caltrans seeks to reduce single occupancy vehicle trips, provide a safe transportation system, reduce per capita VMT, increase accessibility to destinations via cycling, walking, carpooling, transit and reduce greenhouse gas (CHG) emissions. Caltrans recommends that the project proponent continue to work with the City to further implement improvements to reduce VMT and offer a variety of transportation modes for its business development.

If you have any other questions, please call Andrea Nason, Transportation Planner at (559) 401-9872.

Sincerely,

A handwritten signature in black ink that reads "Lorena Mendibles". The script is cursive and fluid.

Ms. Lorena Mendibles, Branch Chief,
Transportation Planning – South

Enclosure:

(1) Caltrans comment letter, dated May 9, 2022.

California Department of Transportation

DISTRICT 6 OFFICE
1352 WEST OLIVE AVENUE | P.O. BOX 12616 | FRESNO, CA 93778-2616
(559) 981-1041 | FAX (559) 488-4195 | TTY 711
www.dot.ca.gov



May 9, 2022

TUL-99-32.89
PRC 22-014
GPA / ZC / TSM
AKERS BUSINESS PARK
AKERS & OAKDALE AVENUE
GTS #: [#36435](#)

SENT VIA EMAIL

Mr. Sandy Roper, Planner IV
Project Processing Division
Economic Development & Planning Branch
Tulare Co. Resource Management Agency
5961 S. Mooney Blvd.
Visalia CA 93277

Dear Mr. Roper:

Caltrans has completed review of Project Review Committee (PRC) 22-014 for a General Plan Amendment (GPA) to the Mixed-Use designation, a Zone Change (ZC) to the C-3-MU (Service Commercial) and a Tentative Subdivision Map (TSM) to subdivide the 65.45-acre site for the proposed Akers Business Park (Project). The Project site is located at the southwest corner of the Akers Street and Oakdale Avenue intersection, approximately ¼ mile east of the State Route (SR) 99 and Oakdale Avenue Northbound On-ramp intersection, and approximately ½ mile north of the SR 99/Cartmill Avenue Interchange, north of the City of Tulare.

The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. The Project proposes access to Oakdale Avenue (Avenue 256) via 2 driveways and a new road connection which also connects to Akers Street.
2. As a point of information, Oakdale Avenue turns into the Northbound On-ramp for SR 99.
3. In the vicinity of the Project, Caltrans has an improvement project to widening SR 99 from 4-lanes to 6-lanes, that is currently in construction. Construction of the new lanes will be located within the SR 99 *median area*.

4. However, this SR 99 widening project requires the **closure and removal of the Northbound on-ramp for SR 99 at Oakdale Avenue**.
5. Alternatively, access to SR 99 would be available at the recently upgraded SR 99/Cartmill Avenue interchange, south of the Project or at the SR 99/Avenue 264 interchange, north of the Project.
6. The proposed Akers Business Park will be developed as a mixed-use commercial project that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the project site, contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.
7. The site plan shows 3, 100,000 square foot (sf) buildings, an 84,925-sf building, a 23,000-sf building, and 6 lots for future development. Land uses for these proposed buildings are not indicated.
8. Caltrans **requests** the Project provide the proposed land uses for all buildings and trip generation rate to determine the Project-related vehicle trips.
9. Caltrans **requests** that the Project provide a trip distribution map that estimates the percentage of Project vehicle trips that will potentially use the SR 99 interchanges.
10. Any advertising signs within the immediate area outside the State right-of-way need to be cleared through the Caltrans Division of Traffic Operations, Office of Outdoor Advertising. The project proponent must construct and maintain the advertising signs without access to the State Routes. Please contact the Outdoor Advertising Program, P.O. Box 942874, MS-36, Sacramento, CA 94274-0001, Phone (916) 654-6473, FAX (916) 651-9359 for additional information or to obtain a sign permit application. Additional information on Caltrans Outdoor Advertising Permit requirements may also be found on the Internet at www.dot.ca.gov/hq/oda.
11. According to the Caltrans Transportation Concept Report (CTR), segment 15 of SR 99 in the vicinity of the proposed Project is currently a 4-lane conventional highway and ultimately planned to be a 6-lane facility with potential Auxiliary Lanes within a total of 160 to 200 feet of right-of-way (80 - 100 feet from the centerline). Caltrans right-of-way maps shows this segment of SR 99 existing at 166 feet with approximately 83 feet from the centerline on the east side of SR 99.
12. The southwest portion of the Project site is directly adjacent to SR 99. The site plan did not provide the distance the proposed buildings are setback from the southwest property line along SR 99. Please update the site plan accordingly.
13. Caltrans request all Project buildings be **setback 25 feet from SR 99** to accommodate future widening for Auxiliary Lanes as indicated in the SR 99 TCR.
14. As a point of information, the setback area can be used for landscaping, parking or

non-permanent structures. The property owner understands that any improvements, upon, over, and across said real property within the setback area shall be removed at owners' expense when the State accepts title of the property for widening and construction of the future Auxiliary Lanes.

15. Alternative transportation policies should be applied to the development. An assessment of multi-modal facilities should be conducted to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City or County. The assessment should include the following:
 - a. Pedestrian walkways should link this proposal to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.
 - b. The Project might also consider coordinating connections to local and regional bicycle pathways to further encourage the use of bicycles for commuter and recreational purposes.
 - c. If transit is not available within ¼-mile of the site, transit should be extended to provide services to what will be a high activity center.
16. Caltrans recommends the Project implement "smart growth" principles regarding parking solutions, providing alternative transportation choices to residents and employees. Alternative transportation choices may include but are not limited to parking for carpools/vanpools, car-share and/or ride-share programs.
17. Based on Caltrans VMT-Focused Transportation Impact Study Guide, dated May 20, 2020, and effective as of July 1, 2020, Caltrans seeks to reduce single occupancy vehicle trips, provide a safe transportation system, reduce per capita Vehicle Miles Traveled (VMT), increase accessibility to destinations via cycling, walking, carpooling, transit and reduce greenhouse gas (GHG) emissions. Caltrans recommends that the project proponent continue to work with the City or County to further implement improvements to reduce vehicles miles traveled and offer a variety of transportation modes for its employees.
18. Caltrans recommends the project provide charging stations for electric vehicles as part of the statewide efforts to reduce greenhouse gas emissions.

If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 981-1041.

Sincerely,



Ms. Lorena Mandibles, Branch Chief,
Transportation Planning – South

Attachment 6

Comments Received

Blum, Collins & Ho LLP, March 13, 2023

BLUM, COLLINS & HO LLP

ATTORNEYS AT LAW
AON CENTER
707 WILSHIRE BOULEVARD
SUITE 4880
LOS ANGELES, CALIFORNIA 90017
(213) 572-0400

March 13, 2023

Hector Guerra
Chief Environmental Planner
Tulare County Resource Management Agency
5961 South Mooney Blvd.
Visalia, CA 93277

VIA EMAIL TO:
hguerra@tularecounty.ca.gov

Subject: Comments on Akers Business Park MND (SCH NO. 2023020373)

Dear Mr. Guerra,

Thank you for the opportunity to comment on the Mitigated Negative Declaration (MND) for the proposed Akers Business Park Project. Please accept and consider these comments on behalf of Golden State Environmental Justice Alliance (GSEJA). Also, Golden State Environmental Justice Alliance formally requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

1.0 Summary

The project site currently operates as an active walnut farm. The project proposes the cessation of agricultural activity in order to construct and operate approximately 503,000 square foot (sf) of industrial warehouse buildings and 82,000 sf of retail buildings on an approximately 65 acre project site. The Proposed Project is planned to operate 24 hours a day, seven days a week.

The project proposes a General Plan Amendment to change the Land Use Designation from "Valley Agriculture" to "Mixed Use," a Zone Change (PZC) to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone) to facilitate a Tentative Subdivision Map (TSM) to subdivide a 65.45-acre parcel and develop the proposed Akers Business Park as a mixed use commercial project that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

2.0 Project Description

The MND does not include a floor plan, detailed site plan, building elevations, or a conceptual grading plan. The basic components of a Planning Application include a detailed site plan, floor plan, conceptual grading plan, written narrative, and detailed elevations. The MND does not provide any site plan for public review or breakdown of proposed project land uses. The only information on the proposed project land use breakdown is located within the technical appendices, which does not comply with CEQA's requirements for meaningful disclosure. An EIR must be prepared to include wholly accurate and adequate detailed project site plan, floor plan, grading plan, elevations, and project narrative for public review.

III. Air Quality, VI. Energy, VIII. Greenhouse Gas Emissions

Please refer to attachments from SWAPE for a complete technical commentary and analysis.

The MND does not include for analysis relevant environmental justice issues in reviewing potential impacts, including cumulative impacts from the proposed project. This is especially significant as the surrounding community is highly burdened by pollution. According to CalEnviroScreen 4.0¹, CalEPA's screening tool that ranks each census tract in the state for pollution and socioeconomic vulnerability, the proposed project's census tract (6107002400) ranks worse than 95% of the rest of the state overall in overall pollution burden. The surrounding community bears the impact of multiple sources of pollution and is more polluted than other census tracts in many pollution indicators measured by CalEnviroScreen. For example, the project census tract ranks in the 85th percentile for ozone burden and 97th percentile for particulate matter (PM) 2.5 burden. Both of these environmental factors are typically attributed to heavy truck activity in the area. Ozone can cause lung irritation, inflammation, and worsening of existing chronic health conditions, even at low levels of exposure².

The census tract also ranks in the 100th percentile for contaminated drinking water, which indicates that it ranks with the worst quality drinking water in the state. Poor communities and people in rural areas are exposed to contaminants in their drinking water more often than people in other parts of the state³. The census tract also ranks in the 98th percentile for groundwater threats. People who live near contaminated groundwater may be exposed to chemicals moving from the soil into the air inside their homes⁴.

¹ CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

² OEHHA Ozone <https://oehha.ca.gov/calenviroscreen/indicator/air-quality-ozone>

³ OEHHA Drinking Water <https://oehha.ca.gov/calenviroscreen/drinking-water>

⁴ OEHHA Groundwater Threats <https://oehha.ca.gov/calenviroscreen/indicator/groundwater-threats>

The census tract also ranks in the 96th percentile for solid waste facility impacts and 75th percentile for hazardous waste facility impacts. Solid waste facilities can expose people to hazardous chemicals, release toxic gases into the air (even after these facilities are closed), and chemicals can leach into soil around the facility and pose a health risk to nearby populations⁵. Hazardous waste generators and facilities contribute to the contamination of air, water and soil near waste generators and facilities can harm the environment as well as people⁶.

Further, the census tract is a diverse community including 55% Hispanic residents, whom are especially vulnerable to the impacts of pollution. The community also has a high rate of poverty, meaning 46% of the households in the census tract have a total income before taxes that is less than the poverty level. Income can affect health when people cannot afford healthy living and working conditions, nutritious food and necessary medical care⁷. Poor communities are often located in areas with high levels of pollution⁸. Poverty can cause stress that weakens the immune system and causes people to become ill from pollution⁹. Living in poverty is also an indication that residents may lack health insurance or access to medical care. Medical care is vital for this census tract as it ranks in the 89th percentile for incidence of cardiovascular disease and 77th percentile for incidence of asthma. The community also has a high rate of linguistic isolation, meaning 41% of the census tract speaks little to no English and faces further inequities as a result.

Additionally, the proposed project's census tract (6107002400) and the census tracts adjacent to the project site (6107001602 (north) and 6107002100 (west)) are identified as SB 535 Disadvantaged Communities¹⁰. This indicates that cumulative impacts of development and environmental impacts in the County are disproportionately impacting these communities. The negative environmental, health, and quality of life impacts resulting from a saturation of the warehousing and logistics industry in the County have become distinctly inequitable. The severity of significant and unavoidable impacts particularly on these Disadvantaged Communities must be included for analysis as part of an EIR. Each section of the EIR must include the specific analysis of each environmental impact on the Disadvantaged Communities, including cumulative analysis and irreversible environmental effects.

⁵ OEHHA Solid Waste Facilities <https://oehha.ca.gov/calenviroscreen/indicator/solid-waste-sites-and-facilities>

⁶ OEHHA Hazardous Waste Generators and Facilities <https://oehha.ca.gov/calenviroscreen/indicator/hazardous-waste-generators-and-facilities>

⁷ OEHHA Poverty <https://oehha.ca.gov/calenviroscreen/indicator/poverty>

⁸ Ibid.

⁹ Ibid.

¹⁰ OEHHA SB 535 Census Tracts <https://oehha.ca.gov/calenviroscreen/sb535>

California's Building Energy Code Compliance Software (CBECC) is the State's only approved energy compliance modeling software for non-residential buildings in compliance with Title 24¹¹. CalEEMod is not listed as an approved software. The CalEEMod-based modeling in the MND and appendices does not comply with the 2022 Building Energy Efficiency Standards and under-reports the project's significant Energy impacts and fuel consumption to the public and decision makers. Since the MND did not accurately or adequately model the energy impacts in compliance with Title 24, a finding of significance must be made. An EIR with modeling using the approved software (CBECC) must be circulated for public review in order to adequately analyze the project's significant environmental impacts. This is vital as the MND utilizes CalEEMod as a source in its methodology and analysis, which is clearly not the approved software.

XI. Land Use and Planning

The MND relies upon analysis from General Plan Initiation (GPI) No. 22-003 to determine the project has less than significant impacts regarding General Plan agricultural policies, including Policy RVLP-1.4 "Determination of Agriculture Land." The Rural Valley Lands Plan (RVLP) Parcel Evaluation Checklist included in Attachment E as part of the GPI No. 22-003 staff report is erroneous and unsupported by substantial evidence to conclude the project is compliant with Policy RVLP-1.4. The RVLP Checklist concludes that if the number of points accumulated is 11 or less, the parcel may be considered for nonagricultural zoning. The RVLP Checklist for the project site in Attachment E concludes the project generates 9 points. However, this is based on erroneous, flawed, and unsupported claims as noted below:

FOUR POINT VALUES

1. Land Capability: The RVLP Checklist states that "The Soil Conservation Service has rated the agricultural capability of the soil type (Nord Fine Sandy Loam) as Prime Class I soil if irrigated or Class IVc if not irrigated. The owner no longer wishes to farm, and the soil will no longer be irrigated. APN 149-090-006 contains a walnut orchard, so two (2) points are allocated." However, 4 points must be allocated because it is currently irrigated. The MND states throughout the document that the "Project site is currently planted to walnuts and remains actively farmed." The soil is irrigated currently and 4 points must be allocated.
2. Existing Land Use/Suitability for Cultivation: The MND states that "The subject 65-acre site is in agricultural use however, the subject site will no longer be irrigated and would not be suitable to agricultural use. The subject site is located within the Tulare Urban Area Boundary and is abutted on two sides by commercial use and is directly northwest of the city limits of

¹¹ California Energy Commission 2022 Energy Code Compliance Software
<https://www.energy.ca.gov/programs-and-topics/programs/building-energy-efficiency-standards/2022-building-energy-efficiency-1>

Tulare. Therefore zero (0) points are allocated.” However, 4 points must be allocated because it is currently actively farmed for walnuts. The MND states throughout the document that the “Project site is currently planted to walnuts and remains actively farmed.” Additionally, Section 1.3 Rural Valley Lands Plan Criteria and Evaluation Matrix within the General Plan states that the weighting criteria for highest relative suitability for agriculture includes “the land is in agricultural use or has the potential for cultivation. Things to be considered are as follows: Is the site presently being used for commercial agriculture? What is the land’s cropping history? Is the site suitable for cultivation? Have adjacent properties been successfully farmed?” The lowest relative suitability criteria requires determination that the land is not suitable for cultivation to be “determined by a professional agronomist” including “testing by a soil scientist may be required as proof of the existence of any impeding condition” and the MND or RVLP Checklist in Attachment E have not provided this determination.

THREE POINT VALUES

1. Surrounding Land Uses: The MND states that “The purpose of this evaluation is to prevent the close association of agricultural uses and non-agricultural uses which may have the potential to adversely affect one another. As stated before subject site is located within the Tulare Urban Area Boundary and is abutted on two sides by commercial uses and directly northwest of the city limits of Tulare. This factor receives zero (0) points.” However, 3 points must be allocated because none of the standards set for nonagricultural value within the RVLP Checklist are met. The environmental setting section of the MND states that the project site is “surrounded by agricultural lands to the north (currently row crops), agriculture to the east (currently orchard), agricultural land to the south (currently row and orchard), and light manufacturing (Christy Vault Company [burial vault manufacturing]) and SR 99 to the west.” Therefore, the site is surrounded on 3 sides by agricultural uses and only 1 side is a non-agricultural use. The only possible threshold for consideration is threshold 2.2, which states that “The site is abutted on one side with non-agricultural uses and within one quarter mile (1,320 feet) of the perimeter of the site at least 25 percent of the area is devoted to non-agricultural uses.” The MND and RVLP Checklist in Attachment E have not provided the analysis to determine that at least 25 percent of the area within one quarter mile (1,320 feet) of the perimeter of the site is devoted to non-agricultural uses. The project site only meets 1 of the 2 listed criteria so it does not meet the threshold. Therefore, none of the standards set for nonagricultural value within the RVLP Checklist are met and 3 points must be awarded.
2. Proximity to Lands within Agricultural Preserves: The MND states that “The site is abutted on two sides with agricultural preserves, and within one-quarter mile (1,320 feet) of the perimeter of the site only about 30% of the area is land that is in agricultural preserves. Zero (0) points are allocated.” However, 3 points must be allocated because the threshold is 35% of the area within one-quarter mile as agricultural preserves and the MND and RVLP Checklist

in Attachment E have not provided evidence to support that only 30% of the area is agricultural preserves. This is vital as the environmental setting section of the MND states that the project site is “surrounded by agricultural lands to the north (currently row crops), agriculture to the east (currently orchard), agricultural land to the south (currently row and orchard), and light manufacturing (Christy Vault Company [burial vault manufacturing]) and SR 99 to the west.” Therefore, the site is surrounded on 3 sides by agricultural uses and it is easily determined that at least 35% of the land within one-quarter mile of the site is agricultural preserves.

ONE POINT VALUES

1. Proximity to Fire Protection Facilities: The MND states that “The subject site is within the 5 mile response distance area of the County Fire Station located in Tulare, which makes it more suitable for nonagricultural uses. This factor receives zero (0) points.” However, 1 point must be allocated because the project site is approximately 5.2 miles from Tulare County Fire Station #1 located at 25456 Rd 140, Visalia, CA 93292. Therefore the project site is more than 5 miles from a fire station and the threshold for highest relative suitability (site is not within a five-mile response distance from fire protection facilities) is met.
2. Surface Irrigation Water: The MND states that “It is unknown if there are surface irrigation water. Therefore, the site received an allocation of zero (0) point.” However, 1 point must be allocated because the MND and RVLP Checklist in Attachment E have not provided evidence to support that the threshold for lowest relative suitability is met. An unknown status of surface irrigation water does not meet the threshold for lowest relative suitability.

As noted above, 16 points must be added to the project’s RVLP Checklist score of 9 in Attachment E. Therefore, the project’s RVLP Checklist score is 25. Policy RVLP-1.4: Determination of Agriculture Land states that “The County shall not allow re-zoning of parcels that accumulate 17 or more points according to the RVLP Development Criteria.” An EIR must be prepared to include this information in order to provide an adequate and accurate environmental analysis.

The project proposes a General Plan Amendment to change the Land Use Designation from “Valley Agriculture” to “Mixed Use.” Table 4.1 Land Use Designations of the General Plan¹² states that Mixed Use is allowed in the areas titled Community, Hamlet, Regional Corridor, and Mountain Sub-Area Plans. The MND has not stated if the project site is located within one of these areas that the General Plan allows the Mixed Use designation to be applied. An EIR must be prepared to provide this information in order to provide an adequate and accurate environmental analysis.

¹² Tulare County General Plan

<http://generalplan.co.tulare.ca.us/documents/GP/001Adopted%20Tulare%20County%20General%20Plan%20Materials/000General%20Plan%202030%20Part%20I%20and%20Part%20II/GENERAL%20PLAN%202012.pdf>

The MND does not include a consistency analysis with all land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, such as the County General Plan. The MND is inadequate as an informational document and an EIR must be prepared with a consistency analysis with all General Plan policies, including the following:

1. AG-1.1 Primary Land Use The County shall maintain agriculture as the primary land use in the valley region of the County, not only in recognition of the economic importance of agriculture, but also in terms of agriculture's real contribution to the conservation of open space and natural resources.
2. AG-1.7 Preservation of Agricultural Lands The County shall promote the preservation of its agricultural economic base and open space resources through the implementation of resource management programs such as the Williamson Act, Rural Valley Lands Plan, Foothill Growth Management Plan or similar types of strategies and the identification of growth boundaries for all urban areas located in the County.
3. LU-5.2 Industrial Park Developments The County shall encourage the development of visually attractive, well-landscaped, and carefully-planned industrial parks in areas with suitable topography and adequate infrastructure.
4. LU-5.3 Storage Screening The County shall require adequate landscaping and screening of industrial storage areas to minimize visual impacts and enhance the quality of the environment.
5. LU-5.4 Compatibility with Surrounding Land Use The County shall encourage the infill of existing industrial areas and ensure that proposed industrial uses will not result in significant harmful impacts to adjacent land uses.
6. LU-5.5 Access The County shall locate industrial development where there is access from collector or arterial roads, and where industrial/heavy commercial traffic is not routed through residential or other areas with uses not compatible with such traffic.
7. LU-5.6 Industrial Use Buffer Unless mitigated, the County shall prohibit new heavy industrial uses to a minimum of 500 feet from schools, hospitals, or populated residential areas (more than 10 dwelling units within a quarter mile diameter area). The buffer area may be used for activities not creating impacts to adjoining sensitive land uses for uses accessory to the heavy industrial use. The establishment of a buffer may not be required when mitigated or may not apply to industrial uses that do not impact adjoining uses identified herein. The buffer area shall be landscaped and maintained.
8. LU-4.5 Commercial Building Design The County shall encourage that new commercial development is consistent with the existing design of the surrounding community or neighborhood by encouraging similar façades, proportionate scale, parking, landscaping, and lighting.

9. LU-4.6 Commercial Storage Facilities The County shall require that commercial storage facilities, including mini” storage, indoor and outdoor storage facilities, and contractor’s materials storage be screened from view through landscape buffers or other natural landscapes.
10. LU-1.3 Prevent Incompatible Uses The County shall discourage the intrusion into existing urban areas of new incompatible land uses that produce significant noise, odors, or fumes.
11. LU-1.4 Compact Development The County shall actively support the development of compact mixed use projects that reduce travel distances.
12. LU-1.8 Encourage Infill Development The County shall encourage and provide incentives for infill development to occur in communities and hamlets within or adjacent to existing development in order to maximize the use of land within existing urban areas, minimize the conversion of existing agricultural land, and minimize environmental concerns associated with new development.
13. AQ-1.3 Cumulative Air Quality Impacts The County shall require development to be located, designed, and constructed in a manner that would minimize cumulative air quality impacts. Applicants shall be required to propose alternatives as part of the State CEQA process that reduce air emissions and enhance, rather than harm, the environment.
14. AQ-1.4 Air Quality Land Use Compatibility The County shall evaluate the compatibility of industrial or other developments which are likely to cause undesirable air pollution with regard to proximity to sensitive land uses, and wind direction and circulation in an effort to alleviate effects upon sensitive receptors.
15. AQ-1.5 California Environmental Quality Act (CEQA) Compliance The County shall ensure that air quality impacts identified during the CEQA review process are consistently and reasonably mitigated when feasible.

XIII. NOISE

The MND does not provide any project-specific quantified evidence to support its claims that the project will have less than significant Noise impacts. For example, the MND states that “by analogy, an environmental impact report prepared for a *similar project* (that is, Sequoia Drive-In Business Park, SCH No. 2017011027 is used for a comparative analysis of noise- and vibration-related impacts for this proposed Project.” The MND does not provide the CEQA statute citation permitting the use of an analogous project from six years ago to determine the proposed project will have less than significant impacts. Additionally, the use of an “analogous project” for analysis further underrepresents the project’s operational noise impacts. Notably, the 2017 project did not include any industrial/warehousing component, which generates increased vibration and noise due to heavy truck/trailers at the project site. The MND states that “At full buildout, the Akers Business Park site will *likely* be operational during typical business hours, (i.e.; from Monday to Saturday from 8:00 a.m. to 5:00 p.m.)” However, Item #22 on the GPI application (Attachment E) states that the project will operate 24/7. Therefore, the MND has further underreported the

project's potentially significant noise impacts and an EIR must be prepared with a project-specific quantified technical noise analysis of the project's construction and operational noise impacts in order to provide an adequate and accurate environmental analysis.

Further, the MND does not include the technical noise study prepared for Sequoia Drive-In Business Park, SCH No. 2017011027 as an attachment for public review. The technical noise study prepared for Sequoia Drive-In Business Park, SCH No. 2017011027 includes noise measurements, times and days of study, the environmental setting during the technical study, and other items that contribute directly to the analysis of environmental impacts. Incorporation by reference (CEQA § 15150 (f)) is not appropriate as the technical noise study prepared for Sequoia Drive-In Business Park, SCH No. 2017011027 contributes directly to analysis of the problem at hand. An EIR must be prepared to include the technical noise study prepared for Sequoia Drive-In Business Park, SCH No. 2017011027 for public review in order to comply with CEQA's requirements for adequate informational documents and meaningful disclosure (CEQA § 15121 and 21003(b)).

XIV. POPULATION AND HOUSING

The MND utilizes uncertain language and does not provide any meaningful analysis or supporting evidence to substantiate the conclusion that there will be no significant impacts to population and housing. For example, the MND states that construction jobs generated by the proposed project are “*temporary*” and “*are anticipated to be part of the existing workforce in Tulare County,*” and the “proposed Project *likely* will not result in additional construction-related workers.” There is no quantification of the construction employees needed to construct the project. Stating that these workers would already reside in the County is misleading to the public and decision makers. Relying on the entire labor force within the County will increase VMT and emissions during all phases of construction and operations and an EIR must be prepared to account for longer worker trip distances. The VMT analysis only concludes the project will reduce VMT generated Countywide through 2046. An EIR must be prepared to reflect longer trip distances that employees will realistically travel to work at the proposed project, including but not limited to 25 miles from Dinuba to the site, 34 miles from Terra Bella, and 40 miles to Springville. An EIR must also include a construction worker employment trip analysis must also be included to adequately and accurately analyze all potentially significant environmental impacts.

Further, the MND states that the project will generate “an unknown number of permanent employees when the Business Park component is realized.” The MND has not provided any quantified analysis of the project's operational employees. The application provided in General Plan Initiation (GPI) No. 22-003 in Attachment E states that the project will have 400+ operational employees. Table 2 Land Use Profile within the Traffic Evaluation and Vehicle Miles Traveled

Assessment in Attachment D concludes the project will generate 1,171 employees, which is not provided or utilized here for analysis and renders the MND internally inconsistent.

The MND utilizes uncertain and misleading language which does not provide any meaningful analysis of the project's population and employment generation. In order to comply with CEQA's requirements for meaningful disclosure, an EIR must be prepared to provide an accurate estimate of employees generated by construction and operations of the project. It must also provide demographic and geographic information on the location of qualified workers to fill these positions. Additionally, an estimate of the number of workers relocating to the County as a result of the project should be provided utilizing existing housing vacancy rates in the County and the projected County unemployment rate at the time of project year opening. Department of Finance population estimates should also be used to determine whether the project in addition to all projects in the pipeline/under construction will exceed Tulare CAG RTP/SCS projections and Tulare County General Plan projections for employment and residents within the County. An EIR must also include information and analysis regarding the number of construction jobs generated by the project and their potential to relocate to the County.

Conclusion

For the foregoing reasons, GSEJA believes the MND is flawed and an EIR must be prepared for the proposed project and circulated for public review. Golden State Environmental Justice Alliance requests to be added to the public interest list regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project. Send all communications to Golden State Environmental Justice Alliance P.O. Box 79222 Corona, CA 92877.

Sincerely,

A handwritten signature in black ink, appearing to be 'Gary Ho', with a stylized, looping flourish at the end.

Gary Ho
Blum, Collins & Ho LLP

Attachments:

1. SWAPE Analysis



Technical Consultation, Data Analysis and
Litigation Support for the Environment

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March 13, 2023

Gary Ho
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Subject: Comments on the Akers Business Park Project (SCH No. 2023020373)

Dear Mr. Ho,

We have reviewed the February 2023 Initial Study and Mitigated Negative Declaration ("IS/MND") for the Akers Business Park Project ("Project") located in the City of Visalia ("City"). The Project proposes to construct 644,000-square-feet ("SF") of business space on the 65.45 acre-site.

Our review concludes that the IS/MND fails to adequately evaluate the Project's hazards, hazardous materials, air quality, health risk, and greenhouse gas impacts. As a result, emissions and health risk impacts associated with construction and operation of the proposed Project are underestimated and inadequately addressed. An Environmental Impact Report ("EIR") should be prepared to adequately assess and mitigate the potential hazards, hazardous materials, air quality, health risk, and greenhouse gas impacts that the project may have on the environment.

Hazards and Hazardous Materials

Inadequate Disclosure and Analysis of Impacts

The Project site is currently used as a walnut orchard. No evaluation of this land use as a potential source for residual pesticides in soil was made in the IS/MND. A Phase I Environmental Site Assessment (ESA) is necessary to evaluate the potential for agricultural pesticides to be present at the Project site.

Standards for performing a Phase I ESA have been established by the US EPA and the American Society for Testing and Materials Standards (“ASTM”).¹ Phase I ESAs are conducted to identify conditions indicative of releases of hazardous substances and include:

- a review of all known sites in the vicinity of the subject property that are on regulatory agency databases undergoing assessment or cleanup activities;
- an inspection;
- interviews with people knowledgeable about the property; and
- recommendations for further actions to address potential hazards.

Phase I ESAs conclude with the identification of any “recognized environmental conditions” (RECs) and recommendations to address such conditions. A REC is the presence or likely presence of any hazardous substances or petroleum products on a property under conditions that indicate an existing release, a past release, or a material threat of a release of any hazardous substances or petroleum products into structures on the property or into the ground, groundwater, or surface water of the property. If RECs are identified, then a Phase II ESA generally follows, which includes the collection of soil, soil vapor and groundwater samples, as necessary, to identify the extent of contamination and the need for cleanup to reduce exposure potential to the public.

If the Phase I ESA indicates pesticide usage as a REC, a Phase II ESA to investigate residual concentrations of pesticides in soil is justified and the results should be disclosed in an EIR. The sampling should follow guidance published by the DTSC, entitled “Interim Guidance for Sampling Agricultural Properties.”² The results of the sampling should be evaluated for health risks and any mitigation necessary to protect the health of construction workers. Any contamination that is identified above regulatory screening levels, including California Office of Environmental Health Hazard Assessment’s Screening Levels,³ should be further evaluated and cleaned up, if necessary, in coordination with the Regional Water Quality Control Board and the California Department of Toxics Substances Control.

Air Quality

Unsubstantiated Input Parameters Used to Estimate Project Emissions

The IS/MND’s air quality analysis relies on emissions calculated with the California Emissions Estimator Model (“CalEEMod”) Version 2020.4.0 (p. 85).⁴ CalEEMod provides recommended default values based on site-specific information, such as land use type, meteorological data, total lot acreage, project type

¹ “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.” ASTM International, December 2021, *available at*: <http://www.astm.org/Standards/E1527.htm>.

² “Interim Guidance for Sampling Agricultural Properties.” California Department Of Toxic Substances Control (DTSC), August 2008, *available at*: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/09/Ag-Guidance-Rev-3-August-7-2008-2.pdf>.

³ “HERO HHRA Note Number: 3, DTSC-modified Screening Levels (DTSC-SLs).” California Department Of Toxic Substances Control (DTSC) & Human And Ecological Risk Office (HERO), June 2020, *available at*: <https://dtsc.ca.gov/wp-content/uploads/sites/31/2022/02/HHRA-Note-3-June2020-Revised-May2022A.pdf>.

⁴ “CalEEMod Version 2020.4.0.” California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at*: <https://www.aqmd.gov/caleemod/download-model>.

and typical equipment associated with project type. If more specific project information is known, the user can change the default values and input project-specific values, but the California Environmental Quality Act (“CEQA”) requires that such changes be justified by substantial evidence. Once all of the values are inputted into the model, the Project's construction and operational emissions are calculated, and "output files" are generated. These output files disclose to the reader what parameters are utilized in calculating the Project's air pollutant emissions and make known which default values are changed as well as provide justification for the values selected.

When reviewing the Project’s CalEEMod output files, provided in the Air Quality, Greenhouse Gas, and Energy Technical Memorandum (“AQ & GHG Memo”) as Attachment A to the IS/MND, we found that several model inputs were not consistent with information disclosed in the IS/MND. As a result, model inputs were unreasonable to apply to the Project and the Project’s construction and operational emissions are underestimated. An EIR should be prepared to include an updated air quality analysis that adequately evaluates the impacts that construction and operation of the Project will have on local and regional air quality.

Unsubstantiated Land Use Sizes

Review of the CalEEMod output files demonstrates that the “Akers Business Park - Site Preparation” model includes 644,000-SF of industrial park space (see excerpt below) (Attachment A, pp. 193).

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area
Industrial Park	644.00	1000sqft	59.00	644,000.00

As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.⁵ According to the “User Entered Comments and Non-Default Data” table, the justification provided for the proposed land use size is:

“Lot acreage per site plan” (Attachment A, pp. 193).

Furthermore, when discussing the Project’s consistency with the City’s Climate Action Plan (“CAP”), the IS/MND states:

“The proposed Project at full buildout would include 644,000 sf of business park, generating approximately 2,192 ADT, which would allow the use of the consistency checklist to determine consistency with the CAP” (p. 87).

However, apart from this brief discussion regarding consistency with the City’s CAP, the IS/MND fails to discuss the sizes of the proposed land uses whatsoever. As such, the amount of industrial park land use in the model may be less than what is actually proposed by the Project. Until more information regarding the full buildout of the Project is provided by the IS/MND, we cannot verify that the proposed industrial land use size is accurate.

⁵ “CalEEMod User’s Guide.” California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at*: <https://www.aqmd.gov/caleemod/user's-guide>, p. 1.

The potential underestimation presents an issue, as the land use size feature is used throughout CalEEMod to determine default variable and emission factors that go into the model's calculations. The square footage of a land use is used for certain calculations such as determining the wall space to be painted (i.e., VOC emissions from architectural coatings) and volume that is heated or cooled (i.e., energy impacts).⁶ By potentially underestimating the size of the proposed industrial land use, the model may underestimate the Project's construction and operational emissions. As a result, the IS/MND's less-than-significant impact determination should not be relied upon.

Failure to Substantiate Material Import or Export

Review of the CalEEMod output files confirms that the "Akers Business Park - Site Preparation" model does not include any amount of material export (Attachment A, pp. 194). Regarding grading and material export, the IS/MND states:

"The relatively flat nature of the site reduces the need for substantial grading. Any soils removed from these areas would likely be redistributed around and retained elsewhere on the proposed Project site" (p. 100).

As demonstrated above, the IS/MND claims that any soil excavated during the grading phase of Project construction would not be exported. Instead, the soils would be used elsewhere onsite. However, we cannot verify that Project construction would not result in any material export as the IS/MND cannot assume that excavated soil would be retained without providing more detailed information regarding grading of the Project site. As such, the model may underestimate the amount of material import and export required during Project construction.

This potential underestimation presents an issue, as the inclusion of material import and export within the model is necessary to calculate emissions produced from material movement, including truck loading and unloading, and additional hauling truck trips.⁷ As the IS/MND fails to include any amount of material import or export, the model may underestimate the Project's construction-related emissions and should not be relied upon to determine Project significance. An EIR should be prepared to provide additional information regarding the grading phase of Project construction, and revise the amount of required material import and export in the model, if necessary.

Failure to Substantiate Required Amount of Demolition

Review of the CalEEMod output files demonstrates that the "Akers Business Park – Site Preparation" model includes 467 demolition hauling trips (see excerpt below) (Attachment A, pp. 198).

⁶ "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user's-guide>, p. 28.

⁷ "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user's-guide>, p. 34.

Phase Name	Offroad Equipment Count	Worker Trip Number	Vendor Trip Number	Hauling Trip Number
Demolition	5	13.00	0.00	467.00
Site Preparation	7	18.00	0.00	0.00

According to the CalEEMod User's Guide:

"Haul trips are based on the amount of material that is demolished, imported or exported assuming a truck can handle 16 cubic yards of material."⁸

Therefore, CalEEMod calculates a default number of hauling trips based upon the amount of demolition material inputted into the model. As previously mentioned, the CalEEMod User's Guide requires any changes to model defaults be justified.⁹ According to the "User Entered Comments & Non-Default Data" table, the justification provided for the amount of demolition debris included in the model is:

"[A]ssumes 80 tons/acre woodchips" (Attachment A, pp. 193).

However, the amount of demolition included in the model remains unsubstantiated, as the above justification, as well as the IS/MND, fails to discuss the amount of required demolition whatsoever. As such, we cannot verify that 467 demolition hauling trips is accurate, and the amount of demolition hauling material may be underestimated in the model.

This potential underestimation presents an issue, as the total amount of demolition material is used by CalEEMod to determine emissions associated with the demolition phase of construction. The three primary operations that generate dust emission during the demolition phase are mechanical or explosive dismemberment, site removal of debris, and on-site truck traffic on paved and unpaved road.¹⁰ By failing to substantiate the amount of required demolition, the model may underestimate emissions associated with fugitive dust, debris removal, as well as exhaust from hauling trucks traveling to and from the site, and should not be relied upon to determine the significance of the Project's air quality impacts.

Incorrect Number of Operational Daily Vehicle Trips

According to the November 2022 Traffic Evaluation and Vehicle Miles Traveled Assessment ("VMT Analysis"), provided as Attachment D to the IS/MND, the proposed Project is expected to generate approximately 7,135 net new daily vehicle trips during operation (see excerpt below) (Table 3, p. 15).

⁸ "Appendix A - Calculation Details for CalEEMod." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user's-guide>, p. 14

⁹ "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user's-guide>, p. 1, 14.

¹⁰ "CalEEMod User's Guide Version 2020.4.0." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user's-guide>, p. 11.

Table 3 Akers Business Park Project Mixed Use Trip Generation					
Land Use	Daily Trips	AM Peak Hour Trips		PM Peak Hour Trips	
		Enter	Exit	Enter	Exit
Retail (82,000sf)	3,634	0	0	98	125
Industrial (503,000sf)	3,501	347	75	91	342
Total Volume	7,135	347	75	189	467

As such, the Project's model should have included 7,135 net daily vehicle trips. As the IS/MND divides the Project into 5 phases, each phase should generate approximately 1,427 daily operational vehicle trips.¹¹ However, review of the CalEEMod output files demonstrates that the "Akers Business Park - Phase 1," "Akers Business Park - Phase 2," "Akers Business Park - Phase 3," "Akers Business Park - Phase 4," "Akers Business Park - Phase 5," models include only approximately 438.10 weekday, 330.20 Saturday, and 151.20 Sunday vehicle trips (see excerpt below) (Attachment A, pp. 233, 264, 295, 325, 326, 357).

Land Use	Average Daily Trip Rate		
	Weekday	Saturday	Sunday
Industrial Park	438.10	330.20	161.20
Other Asphalt Surfaces	0.00	0.00	0.00
Other Non-Asphalt Surfaces	0.00	0.00	0.00
Parking Lot	0.00	0.00	0.00
Total	438.10	330.20	161.20

As demonstrated in the excerpt above, the weekday, Saturday, and Sunday trips are each underestimated by approximately 989 trips,¹² 1,097 trips,¹³ and 1,266 trips,¹⁴ respectively. As such, the trip rates inputted into the models are underestimated and inconsistent with the information provided by the IS/MND.

These inconsistencies present an issue, as CalEEMod uses the operational vehicle trip rates to calculate the emissions associated with the operational on-road vehicles.¹⁵ By including underestimated weekday, Saturday, and Sunday operational vehicle trips, the models underestimate the Project's mobile-source operational emissions and should not be relied upon to determine Project significance.

¹¹ Calculated: (7,135 Total Operational Vehicle Trips) / (5 Phases) = 1,427 Daily Operational Vehicle Trips.

¹² Calculated: 1,427 proposed vehicle trips – 438.10 modeled vehicle trips = 988.9 underestimated vehicle trips.

¹³ Calculated: 1,427 proposed vehicle trips – 330.20 modeled vehicle trips = 1,096.8 underestimated vehicle trips.

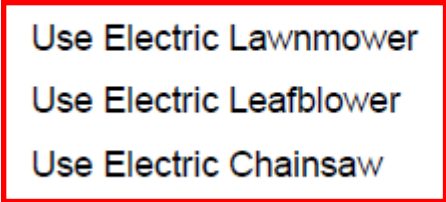
¹⁴ Calculated: 1,427 proposed vehicle trips – 161.20 modeled vehicle trips = 1,265.8 underestimated vehicle trips.

¹⁵ "CalEEMod User's Guide." California Air Pollution Control Officers Association (CAPCOA), May 2021, available at: <https://www.aqmd.gov/caleemod/user's-guide>, p. 36.

Incorrect Application of Operational Area-Related Mitigation Measures

Review of the CalEEMod output files demonstrates that the “Akers Business Park - Phase 1,” “Akers Business Park - Phase 2,” “Akers Business Park - Phase 3,” “Akers Business Park - Phase 4,” “Akers Business Park - Phase 5,” models include the following area-related operational mitigation measures (see excerpt below) (Attachment A, pp. 238, 269, 300, 331, 362):

6.1 Mitigation Measures Area



Use Electric Lawnmower
Use Electric Leafblower
Use Electric Chainsaw

As previously mentioned, the CalEEMod User’s Guide requires any changes to model defaults be justified.¹⁶ According to the “User Entered Comments & Non-Default Data” table, the justification for the inclusion of the above-mentioned operational area-related mitigation measures is: “Air District defaults” (Attachment A, pp. 215, 246, 277, 308, 339). Furthermore, the IS/MND fails to mention or explicitly require the use of electric equipment whatsoever. This is incorrect, as according to the AEP *CEQA Portal Topic Paper* on Mitigation Measures:

“While not ‘mitigation’, a good practice is to include those project design feature(s) that address environmental impacts in the mitigation monitoring and reporting program (MMRP). Often the MMRP is all that accompanies building and construction plans through the permit process. If the design features are not listed as important to addressing an environmental impact, it is easy for someone not involved in the original environmental process to approve a change to the project that could eliminate one or more of the design features without understanding the resulting environmental impact.”¹⁷

As demonstrated above, project design features are not mitigation measures and may be eliminated from the Project’s design. As the use of electric landscaping equipment is not formally included as a mitigation measure, we cannot guarantee that their use would be implemented, monitored, and enforced on the Project site. Therefore, the inclusion of the above-mentioned area-related operational mitigation measures in the models is incorrect. By including operational mitigation measures without properly committing to their implementation, the models may underestimate the Project’s operational emissions and should not be relied upon to determine Project significance.

¹⁶ “CalEEMod User’s Guide.” California Air Pollution Control Officers Association (CAPCOA), May 2021, *available at*: <https://www.aqmd.gov/caleemod/user's-guide>, p. 1, 14.

¹⁷ “CEQA Portal Topic Paper Mitigation Measures.” AEP, February 2020, *available at*: <https://cegaportal.org/tp/CEQA%20Mitigation%202020.pdf>, p. 6.

Diesel Particulate Matter Emissions Inadequately Evaluated

The IS/MND concludes that the Project would have a less-than-significant health risk impact without conducting a quantified construction or operational health risk analysis (“HRA”). Regarding the health risk impacts associated with the Project construction, the IS/MND states:

“Diesel particulate matter (DPM) represents the primary (TAC) of concern associated with the proposed Project. Project construction related DPM emissions would be the result of the operation of internal combustion engines in equipment (e.g., loaders, backhoes and resurfacing equipment, as well as haul trucks) commonly associated with construction-related activities. Construction related DPM emissions would occur over a short period of time and would cease upon completion of the Project. As such, Project construction related activities would not expose nearby sensitive receptors to substantial DPM emissions and would have a Less Than Significant Impact related to this Checklist Item” (p. 36).

As discussed above, the IS/MND states that since the Project is expected to have a short construction duration, the Project’s construction-related emissions would result in a less-than-significant health risk impact. Regarding the health risk impacts associated with the Project operation, the IS/MND states:

“As specific uses within the Project site are unknown and Project design has not yet been finalized, quantification of potential health risks would be speculative. However, it is anticipated the operational related emissions would primarily be the result of vehicle trips associated with the Project. Future development proposals within the Project site would be reviewed on a project-by-project basis and evaluated against the screening criteria presented in Table 4 of the Tech Memo. Furthermore, future project design would site truck loading/idling areas such that exposure to exhaust emissions would be minimized. Stationary sources (such as automobile repair/paint shops) would be subject to Air District permitting requirements and issued permits only if the development could demonstrate that it would pass the Air District’s risk management review. As such, Project operation related activities would not expose nearby sensitive receptors to substantial TAC emissions and would have a Less Than Significant Impact related to this Checklist Item” (p. 36).

As discussed above, the IS/MND claims that as the Project would be subject to Air District permitting requirements, the Project’s operational emissions would result in a less-than-significant health risk impact. However, the IS/MND’s evaluation of the Project’s potential health risk impacts, as well as the subsequent less-than-significant impact conclusion, is incorrect for three reasons.

First, by failing to prepare a quantified construction and operational health risk analysis (“HRA”), the Project is inconsistent with CEQA’s requirement to make “a reasonable effort to substantively connect a project’s air quality impacts to likely health consequences.”¹⁸ This poses a problem, as according to the IS/MND, construction of the proposed Project would produce DPM emissions through exhaust stacks of construction equipment over a duration of up to ten years (Attachment A, p. 2). Furthermore, as

¹⁸ “Sierra Club v. County of Fresno.” Supreme Court of California, December 2018, *available at*: <https://cegaportal.org/decisions/1907/Sierra%20Club%20v.%20County%20of%20Fresno.pdf>.

previously stated, the VMT Analysis estimates that Project operation would generate 7,135 daily vehicle trips, which would produce additional exhaust emissions and continue to expose nearby, existing sensitive receptors to DPM emissions (Attachment D, p. 15, Table 3). However, the IS/MND fails to evaluate the TAC emissions associated with Project construction and operation or indicate the concentrations at which such pollutants would trigger adverse health effects. Thus, without making a reasonable effort to connect the Project's TAC emissions to the potential health risks posed to nearby receptors, the IS/MND is inconsistent with CEQA's requirement to correlate Project-generated emissions with potential adverse impacts on human health.

Second, the Office of Environmental Health Hazard Assessment ("OEHHA"), the organization responsible for providing guidance on conducting HRAs in California, released its most recent *Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments* in February 2015. This guidance document describes the types of projects that warrant the preparation of an HRA. Specifically, OEHHA recommends that all short-term projects lasting at least 2 months assess cancer risks.¹⁹ Furthermore, according to OEHHA:

"Exposure from projects lasting more than 6 months should be evaluated for the duration of the project. In all cases, for assessing risk to residential receptors, the exposure should be assumed to start in the third trimester to allow for the use of the ASFs (OEHHA, 2009)."²⁰

Thus, as the Project's anticipated construction duration of up to 120- -months exceeds the 2-month and 6-month requirements set forth by OEHHA, construction of the Project meets the threshold warranting a quantified HRA under OEHHA guidance and should be evaluated for the entire construction period. Furthermore, OEHHA recommends that an exposure duration of 30 years should be used to estimate the individual cancer risk at the maximally exposed individual resident ("MEIR").²¹ While the IS/MND fails to provide the expected lifetime of the proposed Project, we can reasonably assume that the Project would operate for at least 30 years, if not more. Therefore, operation of the Project also exceeds the 2-month and 6-month requirements set forth by OEHHA and should be evaluated for the entire 30-year residential exposure duration, as indicated by OEHHA guidance. These recommendations reflect the most recent state health risk policies, and as such, an EIR should be prepared to include an analysis of health risk impacts posed to nearby sensitive receptors from Project-generated DPM emissions.

Third, by claiming a less than significant impact without conducting a quantified construction or operational HRA for nearby, existing sensitive receptors, the IS/MND fails to compare the Project's combined excess cancer risk to the applicable SJVAPCD's specific numeric threshold of 20 in one million.²² The IS/MND should require all future projects to conduct an HRA comparing the excess cancer

¹⁹ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

²⁰ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 8-18.

²¹ "Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments." OEHHA, February 2015, available at: <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, p. 2-4.

²² "Recommended Thresholds of Significant Impact." SJVAPCD, available at: <https://www.valleyair.org/transportation/ceqaanalysislevels.htm>.

risk impact to the SJVAPCD's specific numeric threshold of 20 in one million in a formal mitigation measure. Thus, pursuant to CEQA and SJAVPCD guidance, an analysis of the health risk posed to nearby, existing receptors from Project construction and operation should have been conducted.

Greenhouse Gas

Failure to Adequately Evaluate Greenhouse Gas Impacts

The IS/MND estimates that the Project would generate net annual greenhouse gas ("GHG") emissions of 4,688 metric tons of carbon dioxide equivalents per year ("MT CO₂e/year") (see excerpt below) (p. 86, Table 8 - 4).

Table 8-4 Summary of Operational GHG Emissions	
Emission Source	MT CO ₂ e per year
Phase 1 – 2025	979
Phase 2 – 2027	955
Phase 3 – 2029	934
Phase 4 – 2031	917
Phase 5 – 2033	903
Total	4,688
<i>Notes: MT CO₂e = metric tons of carbon dioxide equivalent Source: CalEEMod Output (Attachment B of Attachment "A" of this MND).</i>	

However, the IS/MND relies on the Project's consistency with the Tulare County Climate Action Plan ("CAP") to conclude a less-than-significant GHG impact, stating:

"As specific land uses and square footage of future developments are unknown, as each development is proposed the applicant/developer will be required to evaluate the development using the consistency checklist and implement design features consistent with the CAP and as determined by the County of Tulare and/or the City of Tulare accordingly" (p. 87).

As such, the IS/MND concludes:

"As evaluated in Impact 8-a), the proposed project will be required to comply with the Tulare County CAP and each development within the Project site will be required to evaluate the project for consistency with the CAP. Therefore, the proposed project would not conflict with the GHG reduction goals identified in the Tulare County CAP. In addition to evaluation of consistency with the Tulare County CAP, the discussions below provide evaluation of consistency with CARB's adopted Scoping Plans and the project's potential to conflict with the State's GHG emission reduction goals" (p. 87).

However, the IS/MND's claim that future projects are "required" to comply with the Tulare County CAP is unsubstantiated, as the IS/MND does not include this as a binding requirement in a formal mitigation

measure. In order to be fully consistent with the City's CAP the, IS/MND should include the above-mentioned sustainability features as formal mitigation measures. According to the *AEP CEQA Portal Topic Paper* on Mitigation Measures:

"While not 'mitigation', a good practice is to include those project design feature(s) that address environmental impacts in the mitigation monitoring and reporting program (MMRP). Often the MMRP is all that accompanies building and construction plans through the permit process. If the design features are not listed as important to addressing an environmental impact, it is easy for someone not involved in the original environmental process to approve a change to the project that could eliminate one or more of the design features without understanding the resulting environmental impact."

As such, in order to be consistent with the City's CAP, we recommend the Project include all sustainability features as formal mitigation measures. Until then, the IS/MND's conclusion that the project would be consistent with the City's CAP is unsubstantiated. Therefore, the Project's GHG analysis is insufficient and the IS/MND's less-than-significant impact conclusion should not be relied upon.

Furthermore, as it is policy of the State that eligible renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045, we emphasize the applicability of incorporating solar power system into the Project design. Until the feasibility of incorporating on-site renewable energy production is considered, the Project should not be approved.

Disclaimer

SWAPE has received limited discovery regarding this project. Additional information may become available in the future; thus, we retain the right to revise or amend this report when additional information becomes available. Our professional services have been performed using that degree of care and skill ordinarily exercised, under similar circumstances, by reputable environmental consultants practicing in this or similar localities at the time of service. No other warranty, expressed or implied, is made as to the scope of work, work methodologies and protocols, site conditions, analytical testing results, and findings presented. This report reflects efforts which were limited to information that was reasonably accessible at the time of the work, and may contain informational gaps, inconsistencies, or otherwise be incomplete due to the unavailability or uncertainty of information obtained or provided by third parties.

Sincerely,



Matt Hagemann, P.G., C.Hg.



Paul E. Rosenfeld, Ph.D.

Attachment A: Matt Hagemann CV

Attachment B: Paul Rosenfeld



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**Geologic and Hydrogeologic Characterization
Investigation and Remediation Strategies
Litigation Support and Testifying Expert
Industrial Stormwater Compliance
CEQA Review**

Education:

M.S. Degree, Geology, California State University Los Angeles, Los Angeles, CA, 1984.

B.A. Degree, Geology, Humboldt State University, Arcata, CA, 1982.

Professional Certifications:

California Professional Geologist

California Certified Hydrogeologist

Qualified SWPPP Developer and Practitioner

Professional Experience:

Matt has 30 years of experience in environmental policy, contaminant assessment and remediation, stormwater compliance, and CEQA review. He spent nine years with the U.S. EPA in the RCRA and Superfund programs and served as EPA's Senior Science Policy Advisor in the Western Regional Office where he identified emerging threats to groundwater from perchlorate and MTBE. While with EPA, Matt also served as a Senior Hydrogeologist in the oversight of the assessment of seven major military facilities undergoing base closure. He led numerous enforcement actions under provisions of the Resource Conservation and Recovery Act (RCRA) and directed efforts to improve hydrogeologic characterization and water quality monitoring. For the past 15 years, as a founding partner with SWAPE, Matt has developed extensive client relationships and has managed complex projects that include consultation as an expert witness and a regulatory specialist, and a manager of projects ranging from industrial stormwater compliance to CEQA review of impacts from hazardous waste, air quality and greenhouse gas emissions.

Positions Matt has held include:

- Founding Partner, Soil/Water/Air Protection Enterprise (SWAPE) (2003 – present);
- Geology Instructor, Golden West College, 2010 – 2014, 2017;
- Senior Environmental Analyst, Komex H₂O Science, Inc. (2000 -- 2003);

- Executive Director, Orange Coast Watch (2001 – 2004);
- Senior Science Policy Advisor and Hydrogeologist, U.S. Environmental Protection Agency (1989–1998);
- Hydrogeologist, National Park Service, Water Resources Division (1998 – 2000);
- Adjunct Faculty Member, San Francisco State University, Department of Geosciences (1993 – 1998);
- Instructor, College of Marin, Department of Science (1990 – 1995);
- Geologist, U.S. Forest Service (1986 – 1998); and
- Geologist, Dames & Moore (1984 – 1986).

Senior Regulatory and Litigation Support Analyst:

With SWAPE, Matt’s responsibilities have included:

- Lead analyst and testifying expert in the review of over 300 environmental impact reports and negative declarations since 2003 under CEQA that identify significant issues with regard to hazardous waste, water resources, water quality, air quality, greenhouse gas emissions, and geologic hazards. Make recommendations for additional mitigation measures to lead agencies at the local and county level to include additional characterization of health risks and implementation of protective measures to reduce worker exposure to hazards from toxins and Valley Fever.
- Stormwater analysis, sampling and best management practice evaluation at more than 100 industrial facilities.
- Expert witness on numerous cases including, for example, perfluorooctanoic acid (PFOA) contamination of groundwater, MTBE litigation, air toxins at hazards at a school, CERCLA compliance in assessment and remediation, and industrial stormwater contamination.
- Technical assistance and litigation support for vapor intrusion concerns.
- Lead analyst and testifying expert in the review of environmental issues in license applications for large solar power plants before the California Energy Commission.
- Manager of a project to evaluate numerous formerly used military sites in the western U.S.
- Manager of a comprehensive evaluation of potential sources of perchlorate contamination in Southern California drinking water wells.
- Manager and designated expert for litigation support under provisions of Proposition 65 in the review of releases of gasoline to sources drinking water at major refineries and hundreds of gas stations throughout California.

With Komex H2O Science Inc., Matt’s duties included the following:

- Senior author of a report on the extent of perchlorate contamination that was used in testimony by the former U.S. EPA Administrator and General Counsel.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of MTBE use, research, and regulation.
- Senior researcher in the development of a comprehensive, electronically interactive chronology of perchlorate use, research, and regulation.
- Senior researcher in a study that estimates nationwide costs for MTBE remediation and drinking water treatment, results of which were published in newspapers nationwide and in testimony against provisions of an energy bill that would limit liability for oil companies.
- Research to support litigation to restore drinking water supplies that have been contaminated by MTBE in California and New York.

- Expert witness testimony in a case of oil production-related contamination in Mississippi.
- Lead author for a multi-volume remedial investigation report for an operating school in Los Angeles that met strict regulatory requirements and rigorous deadlines.
- Development of strategic approaches for cleanup of contaminated sites in consultation with clients and regulators.

Executive Director:

As Executive Director with Orange Coast Watch, Matt led efforts to restore water quality at Orange County beaches from multiple sources of contamination including urban runoff and the discharge of wastewater. In reporting to a Board of Directors that included representatives from leading Orange County universities and businesses, Matt prepared issue papers in the areas of treatment and disinfection of wastewater and control of the discharge of grease to sewer systems. Matt actively participated in the development of countywide water quality permits for the control of urban runoff and permits for the discharge of wastewater. Matt worked with other nonprofits to protect and restore water quality, including Surfrider, Natural Resources Defense Council and Orange County CoastKeeper as well as with business institutions including the Orange County Business Council.

Hydrogeology:

As a Senior Hydrogeologist with the U.S. Environmental Protection Agency, Matt led investigations to characterize and cleanup closing military bases, including Mare Island Naval Shipyard, Hunters Point Naval Shipyard, Treasure Island Naval Station, Alameda Naval Station, Moffett Field, Mather Army Airfield, and Sacramento Army Depot. Specific activities were as follows:

- Led efforts to model groundwater flow and contaminant transport, ensured adequacy of monitoring networks, and assessed cleanup alternatives for contaminated sediment, soil, and groundwater.
- Initiated a regional program for evaluation of groundwater sampling practices and laboratory analysis at military bases.
- Identified emerging issues, wrote technical guidance, and assisted in policy and regulation development through work on four national U.S. EPA workgroups, including the Superfund Groundwater Technical Forum and the Federal Facilities Forum.

At the request of the State of Hawaii, Matt developed a methodology to determine the vulnerability of groundwater to contamination on the islands of Maui and Oahu. He used analytical models and a GIS to show zones of vulnerability, and the results were adopted and published by the State of Hawaii and County of Maui.

As a hydrogeologist with the EPA Groundwater Protection Section, Matt worked with provisions of the Safe Drinking Water Act and NEPA to prevent drinking water contamination. Specific activities included the following:

- Received an EPA Bronze Medal for his contribution to the development of national guidance for the protection of drinking water.
- Managed the Sole Source Aquifer Program and protected the drinking water of two communities through designation under the Safe Drinking Water Act. He prepared geologic reports, conducted

public hearings, and responded to public comments from residents who were very concerned about the impact of designation.

- Reviewed a number of Environmental Impact Statements for planned major developments, including large hazardous and solid waste disposal facilities, mine reclamation, and water transfer.

Matt served as a hydrogeologist with the RCRA Hazardous Waste program. Duties were as follows:

- Supervised the hydrogeologic investigation of hazardous waste sites to determine compliance with Subtitle C requirements.
- Reviewed and wrote "part B" permits for the disposal of hazardous waste.
- Conducted RCRA Corrective Action investigations of waste sites and led inspections that formed the basis for significant enforcement actions that were developed in close coordination with U.S. EPA legal counsel.
- Wrote contract specifications and supervised contractor's investigations of waste sites.

With the National Park Service, Matt directed service-wide investigations of contaminant sources to prevent degradation of water quality, including the following tasks:

- Applied pertinent laws and regulations including CERCLA, RCRA, NEPA, NRDA, and the Clean Water Act to control military, mining, and landfill contaminants.
- Conducted watershed-scale investigations of contaminants at parks, including Yellowstone and Olympic National Park.
- Identified high-levels of perchlorate in soil adjacent to a national park in New Mexico and advised park superintendent on appropriate response actions under CERCLA.
- Served as a Park Service representative on the Interagency Perchlorate Steering Committee, a national workgroup.
- Developed a program to conduct environmental compliance audits of all National Parks while serving on a national workgroup.
- Co-authored two papers on the potential for water contamination from the operation of personal watercraft and snowmobiles, these papers serving as the basis for the development of nation-wide policy on the use of these vehicles in National Parks.
- Contributed to the Federal Multi-Agency Source Water Agreement under the Clean Water Action Plan.

Policy:

Served senior management as the Senior Science Policy Advisor with the U.S. Environmental Protection Agency, Region 9.

Activities included the following:

- Advised the Regional Administrator and senior management on emerging issues such as the potential for the gasoline additive MTBE and ammonium perchlorate to contaminate drinking water supplies.
- Shaped EPA's national response to these threats by serving on workgroups and by contributing to guidance, including the Office of Research and Development publication, *Oxygenates in Water: Critical Information and Research Needs*.
- Improved the technical training of EPA's scientific and engineering staff.
- Earned an EPA Bronze Medal for representing the region's 300 scientists and engineers in negotiations with the Administrator and senior management to better integrate scientific

principles into the policy-making process.

- Established national protocol for the peer review of scientific documents.

Geology:

With the U.S. Forest Service, Matt led investigations to determine hillslope stability of areas proposed for timber harvest in the central Oregon Coast Range. Specific activities were as follows:

- Mapped geology in the field, and used aerial photographic interpretation and mathematical models to determine slope stability.
- Coordinated his research with community members who were concerned with natural resource protection.
- Characterized the geology of an aquifer that serves as the sole source of drinking water for the city of Medford, Oregon.

As a consultant with Dames and Moore, Matt led geologic investigations of two contaminated sites (later listed on the Superfund NPL) in the Portland, Oregon, area and a large hazardous waste site in eastern Oregon. Duties included the following:

- Supervised year-long effort for soil and groundwater sampling.
- Conducted aquifer tests.
- Investigated active faults beneath sites proposed for hazardous waste disposal.

Teaching:

From 1990 to 1998, Matt taught at least one course per semester at the community college and university levels:

- At San Francisco State University, held an adjunct faculty position and taught courses in environmental geology, oceanography (lab and lecture), hydrogeology, and groundwater contamination.
- Served as a committee member for graduate and undergraduate students.
- Taught courses in environmental geology and oceanography at the College of Marin.

Matt is currently a part time geology instructor at Golden West College in Huntington Beach, California where he taught from 2010 to 2014 and in 2017.

Invited Testimony, Reports, Papers and Presentations:

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Presentation to the Public Environmental Law Conference, Eugene, Oregon.

Hagemann, M.F., 2008. Disclosure of Hazardous Waste Issues under CEQA. Invited presentation to U.S. EPA Region 9, San Francisco, California.

Hagemann, M.F., 2005. Use of Electronic Databases in Environmental Regulation, Policy Making and Public Participation. Brownfields 2005, Denver, Colorado.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Nevada and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Las Vegas, NV (served on conference organizing committee).

Hagemann, M.F., 2004. Invited testimony to a California Senate committee hearing on air toxins at schools in Southern California, Los Angeles.

Brown, A., Farrow, J., Gray, A. and **Hagemann, M.**, 2004. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to the Ground Water and Environmental Law Conference, National Groundwater Association.

Hagemann, M.F., 2004. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in Arizona and the Southwestern U.S. Presentation to a meeting of the American Groundwater Trust, Phoenix, AZ (served on conference organizing committee).

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River and Impacts to Drinking Water in the Southwestern U.S. Invited presentation to a special committee meeting of the National Academy of Sciences, Irvine, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a tribal EPA meeting, Pechanga, CA.

Hagemann, M.F., 2003. Perchlorate Contamination of the Colorado River. Invited presentation to a meeting of tribal representatives, Parker, AZ.

Hagemann, M.F., 2003. Impact of Perchlorate on the Colorado River and Associated Drinking Water Supplies. Invited presentation to the Inter-Tribal Meeting, Torres Martinez Tribe.

Hagemann, M.F., 2003. The Emergence of Perchlorate as a Widespread Drinking Water Contaminant. Invited presentation to the U.S. EPA Region 9.

Hagemann, M.F., 2003. A Deductive Approach to the Assessment of Perchlorate Contamination. Invited presentation to the California Assembly Natural Resources Committee.

Hagemann, M.F., 2003. Perchlorate: A Cold War Legacy in Drinking Water. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. From Tank to Tap: A Chronology of MTBE in Groundwater. Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. A Chronology of MTBE in Groundwater and an Estimate of Costs to Address Impacts to Groundwater. Presentation to the annual meeting of the Society of Environmental Journalists.

Hagemann, M.F., 2002. An Estimate of the Cost to Address MTBE Contamination in Groundwater (and Who Will Pay). Presentation to a meeting of the National Groundwater Association.

Hagemann, M.F., 2002. An Estimate of Costs to Address MTBE Releases from Underground Storage Tanks and the Resulting Impact to Drinking Water Wells. Presentation to a meeting of the U.S. EPA and State Underground Storage Tank Program managers.

Hagemann, M.F., 2001. From Tank to Tap: A Chronology of MTBE in Groundwater. Unpublished report.

Hagemann, M.F., 2001. Estimated Cleanup Cost for MTBE in Groundwater Used as Drinking Water. Unpublished report.

Hagemann, M.F., 2001. Estimated Costs to Address MTBE Releases from Leaking Underground Storage Tanks. Unpublished report.

Hagemann, M.F., and VanMouwerik, M., 1999. Potential Water Quality Concerns Related to Snowmobile Usage. Water Resources Division, National Park Service, Technical Report.

VanMouwerik, M. and **Hagemann, M.F.** 1999, Water Quality Concerns Related to Personal Watercraft Usage. Water Resources Division, National Park Service, Technical Report.

Hagemann, M.F., 1999, Is Dilution the Solution to Pollution in National Parks? The George Wright Society Biannual Meeting, Asheville, North Carolina.

Hagemann, M.F., 1997, The Potential for MTBE to Contaminate Groundwater. U.S. EPA Superfund Groundwater Technical Forum Annual Meeting, Las Vegas, Nevada.

Hagemann, M.F., and Gill, M., 1996, Impediments to Intrinsic Remediation, Moffett Field Naval Air Station, Conference on Intrinsic Remediation of Chlorinated Hydrocarbons, Salt Lake City.

Hagemann, M.F., Fukunaga, G.L., 1996, The Vulnerability of Groundwater to Anthropogenic Contaminants on the Island of Maui, Hawaii. Hawaii Water Works Association Annual Meeting, Maui, October 1996.

Hagemann, M. F., Fukunaga, G. L., 1996, Ranking Groundwater Vulnerability in Central Oahu, Hawaii. Proceedings, Geographic Information Systems in Environmental Resources Management, Air and Waste Management Association Publication VIP-61.

Hagemann, M.F., 1994. Groundwater Characterization and Cleanup at Closing Military Bases in California. Proceedings, California Groundwater Resources Association Meeting.

Hagemann, M.F. and Sabol, M.A., 1993. Role of the U.S. EPA in the High Plains States Groundwater Recharge Demonstration Program. Proceedings, Sixth Biennial Symposium on the Artificial Recharge of Groundwater.

Hagemann, M.F., 1993. U.S. EPA Policy on the Technical Impracticability of the Cleanup of DNAPL-contaminated Groundwater. California Groundwater Resources Association Meeting.

Hagemann, M.F., 1992. Dense Nonaqueous Phase Liquid Contamination of Groundwater: An Ounce of Prevention... Proceedings, Association of Engineering Geologists Annual Meeting, v. 35.

Other Experience:

Selected as subject matter expert for the California Professional Geologist licensing examinations, 2009-2011.



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Paul Rosenfeld, Ph.D.

Principal Environmental Chemist

Chemical Fate and Transport & Air Dispersion Modeling

Risk Assessment & Remediation Specialist

Education

Ph.D. Soil Chemistry, University of Washington, 1999. Dissertation on volatile organic compound filtration.

M.S. Environmental Science, U.C. Berkeley, 1995. Thesis on organic waste economics.

B.A. Environmental Studies, U.C. Santa Barbara, 1991. Focus on wastewater treatment.

Professional Experience

Dr. Rosenfeld has over 25 years of experience conducting environmental investigations and risk assessments for evaluating impacts to human health, property, and ecological receptors. His expertise focuses on the fate and transport of environmental contaminants, human health risk, exposure assessment, and ecological restoration. Dr. Rosenfeld has evaluated and modeled emissions from oil spills, landfills, boilers and incinerators, process stacks, storage tanks, confined animal feeding operations, industrial, military and agricultural sources, unconventional oil drilling operations, and locomotive and construction engines. His project experience ranges from monitoring and modeling of pollution sources to evaluating impacts of pollution on workers at industrial facilities and residents in surrounding communities. Dr. Rosenfeld has also successfully modeled exposure to contaminants distributed by water systems and via vapor intrusion.

Dr. Rosenfeld has investigated and designed remediation programs and risk assessments for contaminated sites containing lead, heavy metals, mold, bacteria, particulate matter, petroleum hydrocarbons, chlorinated solvents, pesticides, radioactive waste, dioxins and furans, semi- and volatile organic compounds, PCBs, PAHs, creosote, perchlorate, asbestos, per- and poly-fluoroalkyl substances (PFOA/PFOS), unusual polymers, fuel oxygenates (MTBE), among other pollutants. Dr. Rosenfeld also has experience evaluating greenhouse gas emissions from various projects and is an expert on the assessment of odors from industrial and agricultural sites, as well as the evaluation of odor nuisance impacts and technologies for abatement of odorous emissions. As a principal scientist at SWAPE, Dr. Rosenfeld directs air dispersion modeling and exposure assessments. He has served as an expert witness and testified about pollution sources causing nuisance and/or personal injury at sites and has testified as an expert witness on numerous cases involving exposure to soil, water and air contaminants from industrial, railroad, agricultural, and military sources.

Professional History:

Soil Water Air Protection Enterprise (SWAPE); 2003 to present; Principal and Founding Partner
UCLA School of Public Health; 2007 to 2011; Lecturer (Assistant Researcher)
UCLA School of Public Health; 2003 to 2006; Adjunct Professor
UCLA Environmental Science and Engineering Program; 2002-2004; Doctoral Intern Coordinator
UCLA Institute of the Environment, 2001-2002; Research Associate
Komex H₂O Science, 2001 to 2003; Senior Remediation Scientist
National Groundwater Association, 2002-2004; Lecturer
San Diego State University, 1999-2001; Adjunct Professor
Anteon Corp., San Diego, 2000-2001; Remediation Project Manager
Ogden (now Amec), San Diego, 2000-2000; Remediation Project Manager
Bechtel, San Diego, California, 1999 – 2000; Risk Assessor
King County, Seattle, 1996 – 1999; Scientist
James River Corp., Washington, 1995-96; Scientist
Big Creek Lumber, Davenport, California, 1995; Scientist
Plumas Corp., California and USFS, Tahoe 1993-1995; Scientist
Peace Corps and World Wildlife Fund, St. Kitts, West Indies, 1991-1993; Scientist

Publications:

Rosenfeld P. E., Spaeth K., Hallman R., Bressler R., Smith, G., (2022) [Cancer Risk and Diesel Exhaust Exposure Among Railroad Workers](#). *Water Air Soil Pollution*. **233**, 171.

Remy, L.L., Clay T., Byers, V., **Rosenfeld P. E.** (2019) Hospital, Health, and Community Burden After Oil Refinery Fires, Richmond, California 2007 and 2012. *Environmental Health*. 18:48

Simons, R.A., Seo, Y. **Rosenfeld, P.**, (2015) Modeling the Effect of Refinery Emission On Residential Property Value. *Journal of Real Estate Research*. 27(3):321-342

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Rosenfeld, P.E. & Feng, L. (2011). *The Risks of Hazardous Waste*. Amsterdam: Elsevier Publishing.

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Gonzalez, J., Feng, L., Sutherland, A., Waller, C., Sok, H., Hesse, R., **Rosenfeld, P.** (2010). PCBs and Dioxins/Furans in Attic Dust Collected Near Former PCB Production and Secondary Copper Facilities in Sauget, IL. *Procedia Environmental Sciences*. 113–125.

Feng, L., Wu, C., Tam, L., Sutherland, A.J., Clark, J.J., **Rosenfeld, P.E.** (2010). Dioxin and Furan Blood Lipid and Attic Dust Concentrations in Populations Living Near Four Wood Treatment Facilities in the United States. *Journal of Environmental Health*. 73(6), 34-46.

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Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. *WIT Transactions on Ecology and the Environment, Air Pollution*, 123 (17), 319-327.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, 70, 002252-002255.

Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008). Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, 70, 000527-000530.

Hensley, A.R. A. Scott, J. J. J. Clark, **Rosenfeld, P.E.** (2007). Attic Dust and Human Blood Samples Collected near a Former Wood Treatment Facility. *Environmental Research*. 105, 194-197.

Rosenfeld, P.E., J. J. J. Clark, A. R. Hensley, M. Suffet. (2007). The Use of an Odor Wheel Classification for Evaluation of Human Health Risk Criteria for Compost Facilities. *Water Science & Technology* 55(5), 345-357.

Rosenfeld, P. E., M. Suffet. (2007). The Anatomy Of Odour Wheels For Odours Of Drinking Water, Wastewater, Compost And The Urban Environment. *Water Science & Technology* 55(5), 335-344.

Sullivan, P. J. Clark, J.J.J., Agardy, F. J., **Rosenfeld, P.E.** (2007). *Toxic Legacy, Synthetic Toxins in the Food, Water, and Air in American Cities*. Boston Massachusetts: Elsevier Publishing

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Rosenfeld P. E., J.J. Clark, I.H. (Mel) Suffet (2004). The Value of An Odor-Quality-Wheel Classification Scheme For The Urban Environment. *Water Environment Federation's Technical Exhibition and Conference (WEFTEC) 2004*. New Orleans, October 2-6, 2004.

Rosenfeld, P.E., and Suffet, I.H. (2004). Understanding Odorants Associated With Compost, Biomass Facilities, and the Land Application of Biosolids. *Water Science and Technology*. 49(9), 193-199.

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Rosenfeld, P.E., Grey, M and Suffet, M. (2002). Compost Demonstration Project, Sacramento California Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Integrated Waste Management Board Public Affairs Office*, Publications Clearinghouse (MS-6), Sacramento, CA Publication #442-02-008.

Rosenfeld, P.E., and C.L. Henry. (2001). Characterization of odor emissions from three different biosolids. *Water Soil and Air Pollution*. 127(1-4), 173-191.

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Rosenfeld, P.E., and C.L. Henry. (2001). Activated Carbon and Wood Ash Sorption of Wastewater, Compost, and Biosolids Odorants. *Water Environment Research*, 73, 388-393.

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Chollack, T. and **P. Rosenfeld**. (1998). Compost Amendment Handbook For Landscaping. Prepared for and distributed by the City of Redmond, Washington State.

Rosenfeld, P. E. (1992). The Mount Liamuiga Crater Trail. *Heritage Magazine of St. Kitts*, 3(2).

Rosenfeld, P. E. (1993). High School Biogas Project to Prevent Deforestation On St. Kitts. *Biomass Users Network*, 7(1).

Rosenfeld, P. E. (1998). Characterization, Quantification, and Control of Odor Emissions From Biosolids Application To Forest Soil. Doctoral Thesis. University of Washington College of Forest Resources.

Rosenfeld, P. E. (1994). Potential Utilization of Small Diameter Trees on Sierra County Public Land. Masters thesis reprinted by the Sierra County Economic Council. Sierra County, California.

Rosenfeld, P. E. (1991). How to Build a Small Rural Anaerobic Digester & Uses Of Biogas In The First And Third World. Bachelors Thesis. University of California.

Presentations:

Rosenfeld, P.E., "The science for Perfluorinated Chemicals (PFAS): What makes remediation so hard?" Law Seminars International, (May 9-10, 2018) 800 Fifth Avenue, Suite 101 Seattle, WA.

Rosenfeld, P.E., Sutherland, A; Hesse, R.; Zapata, A. (October 3-6, 2013). Air dispersion modeling of volatile organic emissions from multiple natural gas wells in Decatur, TX. *44th Western Regional Meeting, American Chemical Society*. Lecture conducted from Santa Clara, CA.

Sok, H.L.; Waller, C.C.; Feng, L.; Gonzalez, J.; Sutherland, A.J.; Wisdom-Stack, T.; Sahai, R.K.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Atrazine: A Persistent Pesticide in Urban Drinking Water. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Feng, L.; Gonzalez, J.; Sok, H.L.; Sutherland, A.J.; Waller, C.C.; Wisdom-Stack, T.; Sahai, R.K.; La, M.; Hesse, R.C.; **Rosenfeld, P.E.** (June 20-23, 2010). Bringing Environmental Justice to East St. Louis, Illinois. *Urban Environmental Pollution*. Lecture conducted from Boston, MA.

Rosenfeld, P.E. (April 19-23, 2009). Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*, Lecture conducted from Tuscon, AZ.

Rosenfeld, P.E. (April 19-23, 2009). Cost to Filter Atrazine Contamination from Drinking Water in the United States" Contamination in Drinking Water From the Use of Aqueous Film Forming Foams (AFFF) at Airports in the United States. *2009 Ground Water Summit and 2009 Ground Water Protection Council Spring Meeting*. Lecture conducted from Tuscon, AZ.

Wu, C., Tam, L., Clark, J., **Rosenfeld, P.** (20-22 July, 2009). Dioxin and furan blood lipid concentrations in populations living near four wood treatment facilities in the United States. Brebbia, C.A. and Popov, V., eds., *Air Pollution XVII: Proceedings of the Seventeenth International Conference on Modeling, Monitoring and Management of Air Pollution*. Lecture conducted from Tallinn, Estonia.

Rosenfeld, P. E. (October 15-18, 2007). Moss Point Community Exposure To Contaminants From A Releasing Facility. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). The Repeated Trespass of Tritium-Contaminated Water Into A Surrounding Community Form Repeated Waste Spills From A Nuclear Power Plant. *The 23rd Annual International Conferences on Soils Sediment and Water*. Platform lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld, P. E. (October 15-18, 2007). Somerville Community Exposure To Contaminants From Wood Treatment Facility Emissions. *The 23rd Annual International Conferences on Soils Sediment and Water*. Lecture conducted from University of Massachusetts, Amherst MA.

Rosenfeld P. E. (March 2007). Production, Chemical Properties, Toxicology, & Treatment Case Studies of 1,2,3-Trichloropropane (TCP). *The Association for Environmental Health and Sciences (AEHS) Annual Meeting*. Lecture conducted from San Diego, CA.

Rosenfeld P. E. (March 2007). Blood and Attic Sampling for Dioxin/Furan, PAH, and Metal Exposure in Florala, Alabama. *The AEHS Annual Meeting*. Lecture conducted from San Diego, CA.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (August 21 – 25, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006*. Lecture conducted from Radisson SAS Scandinavia Hotel in Oslo Norway.

Hensley A.R., Scott, A., **Rosenfeld P.E.**, Clark, J.J.J. (November 4-8, 2006). Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility. *APHA 134 Annual Meeting & Exposition*. Lecture conducted from Boston Massachusetts.

Paul Rosenfeld Ph.D. (October 24-25, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. Mealey's C8/PFOA. *Science, Risk & Litigation Conference*. Lecture conducted from The Rittenhouse Hotel, Philadelphia, PA.

Paul Rosenfeld Ph.D. (September 19, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel, Irvine California.

Paul Rosenfeld Ph.D. (September 19, 2005). Fate, Transport, Toxicity, And Persistence of 1,2,3-TCP. *PEMA Emerging Contaminant Conference*. Lecture conducted from Hilton Hotel in Irvine, California.

Paul Rosenfeld Ph.D. (September 26-27, 2005). Fate, Transport and Persistence of PDBEs. *Mealey's Groundwater Conference*. Lecture conducted from Ritz Carlton Hotel, Marina Del Ray, California.

Paul Rosenfeld Ph.D. (June 7-8, 2005). Fate, Transport and Persistence of PFOA and Related Chemicals. *International Society of Environmental Forensics: Focus On Emerging Contaminants*. Lecture conducted from Sheraton Oceanfront Hotel, Virginia Beach, Virginia.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Fate Transport, Persistence and Toxicology of PFOA and Related Perfluorochemicals. *2005 National Groundwater Association Ground Water And Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld Ph.D. (July 21-22, 2005). Brominated Flame Retardants in Groundwater: Pathways to Human Ingestion, *Toxicology and Remediation. 2005 National Groundwater Association Ground Water and Environmental Law Conference*. Lecture conducted from Wyndham Baltimore Inner Harbor, Baltimore Maryland.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. and Rob Hesse R.G. (May 5-6, 2004). Tert-butyl Alcohol Liability and Toxicology, A National Problem and Unquantified Liability. *National Groundwater Association. Environmental Law Conference*. Lecture conducted from Congress Plaza Hotel, Chicago Illinois.

Paul Rosenfeld, Ph.D. (March 2004). Perchlorate Toxicology. *Meeting of the American Groundwater Trust*. Lecture conducted from Phoenix Arizona.

Hagemann, M.F., **Paul Rosenfeld, Ph.D.** and Rob Hesse (2004). Perchlorate Contamination of the Colorado River. *Meeting of tribal representatives*. Lecture conducted from Parker, AZ.

Paul Rosenfeld, Ph.D. (April 7, 2004). A National Damage Assessment Model For PCE and Dry Cleaners. *Drycleaner Symposium. California Ground Water Association*. Lecture conducted from Radison Hotel, Sacramento, California.

Rosenfeld, P. E., Grey, M., (June 2003) Two stage biofilter for biosolids composting odor control. *Seventh International In Situ And On Site Bioremediation Symposium Battelle Conference Orlando, FL*.

Paul Rosenfeld, Ph.D. and James Clark Ph.D. (February 20-21, 2003) Understanding Historical Use, Chemical Properties, Toxicity and Regulatory Guidance of 1,4 Dioxane. *National Groundwater Association. Southwest Focus Conference. Water Supply and Emerging Contaminants..* Lecture conducted from Hyatt Regency Phoenix Arizona.

Paul Rosenfeld, Ph.D. (February 6-7, 2003). Underground Storage Tank Litigation and Remediation. *California CUPA Forum*. Lecture conducted from Marriott Hotel, Anaheim California.

Paul Rosenfeld, Ph.D. (October 23, 2002) Underground Storage Tank Litigation and Remediation. *EPA Underground Storage Tank Roundtable*. Lecture conducted from Sacramento California.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Understanding Odor from Compost, *Wastewater and Industrial Processes. Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Suffet, M. (October 7- 10, 2002). Using High Carbon Wood Ash to Control Compost Odor. *Sixth Annual Symposium On Off Flavors in the Aquatic Environment. International Water Association*. Lecture conducted from Barcelona Spain.

Rosenfeld, P.E. and Grey, M. A. (September 22-24, 2002). Biocycle Composting For Coastal Sage Restoration. *Northwest Biosolids Management Association*. Lecture conducted from Vancouver Washington..

Rosenfeld, P.E. and Grey, M. A. (November 11-14, 2002). Using High-Carbon Wood Ash to Control Odor at a Green Materials Composting Facility. *Soil Science Society Annual Conference*. Lecture conducted from Indianapolis, Maryland.

Rosenfeld, P.E. (September 16, 2000). Two stage biofilter for biosolids composting odor control. *Water Environment Federation*. Lecture conducted from Anaheim California.

Rosenfeld, P.E. (October 16, 2000). Wood ash and biofilter control of compost odor. *Biofest*. Lecture conducted from Ocean Shores, California.

Rosenfeld, P.E. (2000). Bioremediation Using Organic Soil Amendments. *California Resource Recovery Association*. Lecture conducted from Sacramento California.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. *Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings*. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., and C.L. Henry. (1999). An evaluation of ash incorporation with biosolids for odor reduction. *Soil Science Society of America*. Lecture conducted from Salt Lake City Utah.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Comparison of Microbial Activity and Odor Emissions from Three Different Biosolids Applied to Forest Soil. *Brown and Caldwell*. Lecture conducted from Seattle Washington.

Rosenfeld, P.E., C.L. Henry. (1998). Characterization, Quantification, and Control of Odor Emissions from Biosolids Application To Forest Soil. *Biofest*. Lecture conducted from Lake Chelan, Washington.

Rosenfeld, P.E., C.L. Henry, R. Harrison. (1998). Oat and Grass Seed Germination and Nitrogen and Sulfur Emissions Following Biosolids Incorporation With High-Carbon Wood-Ash. Water Environment Federation 12th Annual Residuals and Biosolids Management Conference Proceedings. Lecture conducted from Bellevue Washington.

Rosenfeld, P.E., C.L. Henry, R. B. Harrison, and R. Dills. (1997). Comparison of Odor Emissions From Three Different Biosolids Applied to Forest Soil. *Soil Science Society of America*. Lecture conducted from Anaheim California.

Teaching Experience:

UCLA Department of Environmental Health (Summer 2003 through 20010) Taught Environmental Health Science 100 to students, including undergrad, medical doctors, public health professionals and nurses. Course focused on the health effects of environmental contaminants.

National Ground Water Association, Successful Remediation Technologies. Custom Course in Sante Fe, New Mexico. May 21, 2002. Focused on fate and transport of fuel contaminants associated with underground storage tanks.

National Ground Water Association; Successful Remediation Technologies Course in Chicago Illinois. April 1, 2002. Focused on fate and transport of contaminants associated with Superfund and RCRA sites.

California Integrated Waste Management Board, April and May, 2001. Alternative Landfill Caps Seminar in San Diego, Ventura, and San Francisco. Focused on both prescriptive and innovative landfill cover design.

UCLA Department of Environmental Engineering, February 5, 2002. Seminar on Successful Remediation Technologies focusing on Groundwater Remediation.

University Of Washington, Soil Science Program, Teaching Assistant for several courses including: Soil Chemistry, Organic Soil Amendments, and Soil Stability.

U.C. Berkeley, Environmental Science Program Teaching Assistant for Environmental Science 10.

Academic Grants Awarded:

California Integrated Waste Management Board. \$41,000 grant awarded to UCLA Institute of the Environment. Goal: To investigate effect of high carbon wood ash on volatile organic emissions from compost. 2001.

Synagro Technologies, Corona California: \$10,000 grant awarded to San Diego State University. Goal: investigate effect of biosolids for restoration and remediation of degraded coastal sage soils. 2000.

King County, Department of Research and Technology, Washington State. \$100,000 grant awarded to University of Washington: Goal: To investigate odor emissions from biosolids application and the effect of polymers and ash on VOC emissions. 1998.

Northwest Biosolids Management Association, Washington State. \$20,000 grant awarded to investigate effect of polymers and ash on VOC emissions from biosolids. 1997.

James River Corporation, Oregon: \$10,000 grant was awarded to investigate the success of genetically engineered Poplar trees with resistance to round-up. 1996.

United State Forest Service, Tahoe National Forest: \$15,000 grant was awarded to investigating fire ecology of the Tahoe National Forest. 1995.

Kellogg Foundation, Washington D.C. \$500 grant was awarded to construct a large anaerobic digester on St. Kitts in West Indies. 1993

Deposition and/or Trial Testimony:

In the Superior Court of the State of California, County of San Bernardino
Billy Wildrick, Plaintiff vs. BNSF Railway Company
Case No. CIVDS1711810
Rosenfeld Deposition 10-17-2022

In the State Court of Bibb County, State of Georgia
Richard Hutcherson, Plaintiff vs Norfolk Southern Railway Company
Case No. 10-SCCV-092007
Rosenfeld Deposition 10-6-2022

In the Civil District Court of the Parish of Orleans, State of Louisiana
Millard Clark, Plaintiff vs. Dixie Carriers, Inc. et al.
Case No. 2020-03891
Rosenfeld Deposition 9-15-2022

In The Circuit Court of Livingston County, State of Missouri, Circuit Civil Division
Shirley Ralls, Plaintiff vs. Canadian Pacific Railway and Soo Line Railroad
Case No. 18-LV-CC0020
Rosenfeld Deposition 9-7-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jonny C. Daniels, Plaintiff vs. CSX Transportation Inc.
Case No. 20-CA-5502
Rosenfeld Deposition 9-1-2022

In The Circuit Court of St. Louis County, State of Missouri
Kieth Luke et. al. Plaintiff vs. Monsanto Company et. al.
Case No. 19SL-CC03191
Rosenfeld Deposition 8-25-2022

In The Circuit Court of the 13th Judicial Circuit Court, Hillsborough County, Florida Civil Division
Jeffery S. Lamotte, Plaintiff vs. CSX Transportation Inc.
Case No. NO. 20-CA-0049
Rosenfeld Deposition 8-22-2022

In State of Minnesota District Court, County of St. Louis Sixth Judicial District
Greg Bean, Plaintiff vs. Soo Line Railroad Company
Case No. 69-DU-CV-21-760
Rosenfeld Deposition 8-17-2022

In United States District Court Western District of Washington at Tacoma, Washington
John D. Fitzgerald Plaintiff vs. BNSF
Case No. 3:21-cv-05288-RJB
Rosenfeld Deposition 8-11-2022

In Circuit Court of the Sixth Judicial Circuit, Macon Illinois
Rocky Bennyhoff Plaintiff vs. Norfolk Southern
Case No. 20-L-56
Rosenfeld Deposition 8-3-2022

In Court of Common Pleas, Hamilton County Ohio
Joe Briggins Plaintiff vs. CSX
Case No. A2004464
Rosenfeld Deposition 6-17-2022

In the Superior Court of the State of California, County of Kern
George LaFazia vs. BNSF Railway Company.
Case No. BCV-19-103087
Rosenfeld Deposition 5-17-2022

In the Circuit Court of Cook County Illinois
Bobby Earles vs. Penn Central et. al.
Case No. 2020-L-000550
Rosenfeld Deposition 4-16-2022

In United States District Court Easter District of Florida
Albert Hartman Plaintiff vs. Illinois Central
Case No. 2:20-cv-1633
Rosenfeld Deposition 4-4-2022

In the Circuit Court of the 4th Judicial Circuit, in and For Duval County, Florida
Barbara Steele vs. CSX Transportation
Case No.16-219-Ca-008796
Rosenfeld Deposition 3-15-2022

In United States District Court Easter District of New York
Romano et al. vs. Northrup Grumman Corporation
Case No. 16-cv-5760
Rosenfeld Deposition 3-10-2022

In the Circuit Court of Cook County Illinois
Linda Benjamin vs. Illinois Central
Case No. No. 2019 L 007599
Rosenfeld Deposition 1-26-2022

In the Circuit Court of Cook County Illinois
Donald Smith vs. Illinois Central
Case No. No. 2019 L 003426
Rosenfeld Deposition 1-24-2022

In the Circuit Court of Cook County Illinois
Jan Holeman vs. BNSF
Case No. 2019 L 000675
Rosenfeld Deposition 1-18-2022

In the State Court of Bibb County State of Georgia
Dwayne B. Garrett vs. Norfolk Southern
Case No. 20-SCCV-091232
Rosenfeld Deposition 11-10-2021

In the Circuit Court of Cook County Illinois
Joseph Ruepke vs. BNSF
Case No. 2019 L 007730
Rosenfeld Deposition 11-5-2021

In the United States District Court For the District of Nebraska
Steven Gillett vs. BNSF
Case No. 4:20-cv-03120
Rosenfeld Deposition 10-28-2021

In the Montana Thirteenth District Court of Yellowstone County
James Eadus vs. Soo Line Railroad and BNSF
Case No. DV 19-1056
Rosenfeld Deposition 10-21-2021

In the Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al.cvs. Cerro Flow Products, Inc.
Case No. 0i9-L-2295
Rosenfeld Deposition 5-14-2021
Trial October 8-4-2021

In the Circuit Court of Cook County Illinois
Joseph Rafferty vs. Consolidated Rail Corporation and National Railroad Passenger Corporation d/b/a AMTRAK,
Case No. 18-L-6845
Rosenfeld Deposition 6-28-2021

In the United States District Court For the Northern District of Illinois
Theresa Romcoe vs. Northeast Illinois Regional Commuter Railroad Corporation d/b/a METRA Rail
Case No. 17-cv-8517
Rosenfeld Deposition 5-25-2021

In the Superior Court of the State of Arizona In and For the Cuntly of Maricopa
Mary Tryon et al. vs. The City of Pheonix v. Cox Cactus Farm, L.L.C., Utah Shelter Systems, Inc.
Case No. CV20127-094749
Rosenfeld Deposition 5-7-2021

In the United States District Court for the Eastern District of Texas Beaumont Division
Robinson, Jeremy et al vs. CNA Insurance Company et al.
Case No. 1:17-cv-000508
Rosenfeld Deposition 3-25-2021

In the Superior Court of the State of California, County of San Bernardino
Gary Garner, Personal Representative for the Estate of Melvin Garner vs. BNSF Railway Company.
Case No. 1720288
Rosenfeld Deposition 2-23-2021

In the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse
Benny M Rodriguez vs. Union Pacific Railroad, A Corporation, et al.
Case No. 18STCV01162
Rosenfeld Deposition 12-23-2020

In the Circuit Court of Jackson County, Missouri
Karen Cornwell, Plaintiff, vs. Marathon Petroleum, LP, Defendant.
Case No. 1716-CV10006
Rosenfeld Deposition 8-30-2019

In the United States District Court For The District of New Jersey
Duarte et al, Plaintiffs, vs. United States Metals Refining Company et. al. Defendant.
Case No. 2:17-cv-01624-ES-SCM
Rosenfeld Deposition 6-7-2019

In the United States District Court of Southern District of Texas Galveston Division
M/T Carla Maersk vs. Conti 168., Schiffahrts-GMBH & Co. Bulker KG MS “Conti Perdido” Defendant.
Case No. 3:15-CV-00106 consolidated with 3:15-CV-00237
Rosenfeld Deposition 5-9-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
Carole-Taddeo-Bates et al., vs. Ifran Khan et al., Defendants
Case No. BC615636
Rosenfeld Deposition 1-26-2019

In The Superior Court of the State of California In And For The County Of Los Angeles – Santa Monica
The San Gabriel Valley Council of Governments et al. vs El Adobe Apts. Inc. et al., Defendants
Case No. BC646857
Rosenfeld Deposition 10-6-2018; Trial 3-7-19

In United States District Court For The District of Colorado
Bells et al. Plaintiffs vs. The 3M Company et al., Defendants
Case No. 1:16-cv-02531-RBJ
Rosenfeld Deposition 3-15-2018 and 4-3-2018

In The District Court Of Regan County, Texas, 112th Judicial District
Phillip Bales et al., Plaintiff vs. Dow Agrosiences, LLC, et al., Defendants
Cause No. 1923
Rosenfeld Deposition 11-17-2017

In The Superior Court of the State of California In And For The County Of Contra Costa
Simons et al., Plaintiffs vs. Chevron Corporation, et al., Defendants
Cause No. C12-01481
Rosenfeld Deposition 11-20-2017

In The Circuit Court Of The Twentieth Judicial Circuit, St Clair County, Illinois
Martha Custer et al., Plaintiff vs. Cerro Flow Products, Inc., Defendants
Case No.: No. 0i9-L-2295
Rosenfeld Deposition 8-23-2017

In United States District Court For The Southern District of Mississippi
Guy Manuel vs. The BP Exploration et al., Defendants
Case No. 1:19-cv-00315-RHW
Rosenfeld Deposition 4-22-2020

In The Superior Court of the State of California, For The County of Los Angeles
Warrn Gilbert and Penny Gilbert, Plaintiff vs. BMW of North America LLC
Case No. LC102019 (c/w BC582154)
Rosenfeld Deposition 8-16-2017, Trail 8-28-2018

In the Northern District Court of Mississippi, Greenville Division
Brenda J. Cooper, et al., Plaintiffs, vs. Meritor Inc., et al., Defendants
Case No. 4:16-cv-52-DMB-JVM
Rosenfeld Deposition July 2017

In The Superior Court of the State of Washington, County of Snohomish
Michael Davis and Julie Davis et al., Plaintiff vs. Cedar Grove Composting Inc., Defendants
Case No. 13-2-03987-5
Rosenfeld Deposition, February 2017
Trial March 2017

In The Superior Court of the State of California, County of Alameda
Charles Spain., Plaintiff vs. Thermo Fisher Scientific, et al., Defendants
Case No. RG14711115
Rosenfeld Deposition September 2015

In The Iowa District Court In And For Poweshiek County
Russell D. Winburn, et al., Plaintiffs vs. Doug Hoksbergen, et al., Defendants
Case No. LALA002187
Rosenfeld Deposition August 2015

In The Circuit Court of Ohio County, West Virginia
Robert Andrews, et al. v. Antero, et al.
Civil Action No. 14-C-30000
Rosenfeld Deposition June 2015

In The Iowa District Court for Muscatine County
Laurie Freeman et. al. Plaintiffs vs. Grain Processing Corporation, Defendant
Case No. 4980
Rosenfeld Deposition May 2015

In the Circuit Court of the 17th Judicial Circuit, in and For Broward County, Florida
Walter Hinton, et. al. Plaintiff, vs. City of Fort Lauderdale, Florida, a Municipality, Defendant.
Case No. CACE07030358 (26)
Rosenfeld Deposition December 2014

In the County Court of Dallas County Texas
Lisa Parr et al, Plaintiff, vs. Aruba et al, Defendant.
Case No. cc-11-01650-E
Rosenfeld Deposition: March and September 2013
Rosenfeld Trial April 2014

In the Court of Common Pleas of Tuscarawas County Ohio
John Michael Abicht, et al., Plaintiffs, vs. Republic Services, Inc., et al., Defendants
Case No. 2008 CT 10 0741 (Cons. w/ 2009 CV 10 0987)
Rosenfeld Deposition October 2012

In the United States District Court for the Middle District of Alabama, Northern Division
James K. Benefield, et al., Plaintiffs, vs. International Paper Company, Defendant.
Civil Action No. 2:09-cv-232-WHA-TFM
Rosenfeld Deposition July 2010, June 2011

In the Circuit Court of Jefferson County Alabama
Jaeanette Moss Anthony, et al., Plaintiffs, vs. Drummond Company Inc., et al., Defendants
Civil Action No. CV 2008-2076
Rosenfeld Deposition September 2010

In the United States District Court, Western District Lafayette Division
Ackle et al., Plaintiffs, vs. Citgo Petroleum Corporation, et al., Defendants.
Case No. 2:07CV1052
Rosenfeld Deposition July 2009

Attachment 7

Comments Received

Adam Salcido, March 20, 2023

From: [Hector Guerra](#)
To: [Jessica R Willis](#)
Cc: [Danielle Folk](#)
Subject: FW: Akers Business Park (GPA 22-003 & PZC 22-003 & PPM 23-007)
Date: Monday, March 20, 2023 2:33:11 PM

From: A S <asalcido.07@gmail.com>
Sent: Monday, March 20, 2023 2:29 PM
To: Hector Guerra <hguerra@tularecounty.ca.gov>
Cc: Unknown <jbourg2271@aol.com>; jbourgeois029@gmail.com; Terrance Lucio <tlucio57@gmail.com>; PATRICK HANINGER <phaninger1@gmail.com>
Subject: Akers Business Park (GPA 22-003 & PZC 22-003 & PPM 23-007)

This Message Is From an Untrusted Sender

You have not previously corresponded with this sender.

Good Afternoon Mr. Guerra,

Please provide any updates to the above mentioned project.

I am requesting under Public Resource Code Section 21092.2 to add the email addresses and mailing address below to the notification list, regarding any subsequent environmental documents, public notices, public hearings, and notices of determination for this project.

t.lucio57@gmail.com

phaninger1@gmail.com

jbourg2271@aol.com

jbourgeois029@gmail.com

asalcido.07@gmail.com

Mailing Address:

P.O. Box 79222

Corona, CA 92877

Please confirm receipt of this email. Thank you for your assistance.

Thank You,

Adam Salcido

Attachment 8

Response provided by
C2 Consult



April 3, 2023

Mr. Hector Guerra, Chief Environmental Planner
Tulare County - Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93277

Subject: Caltrans comments on GPA 22-003, PZC 22-003, PPM 23-007 Initial Study & Mitigated Negative Declaration for the Akers Business Park

Dear Mr. Guerra

We have been asked to prepare selected response to comments included in the Caltrans letter dated March 24, 2023. The selected comments are listed below and the corresponding response follows.

Comment #5. Caltrans requests that the Project provide the proposed land uses for all buildings and trip generation rate to determine the Project-related vehicle trips.

Response:

The full profile of the project is not defined at this stage of development. The Project Description was included in Table 2 of the Traffic Study and that information was as follows.

Parcel	Land Use Type	Size (Acres)	Floor Area Ratio	Building (sf)	Employ Rate	Employees
Tenant A Boat Dealership	Retail	4.00	0.17	30,000	0.002	60
Tenant B - Industrial	Industrial	12.00	0.25	130,000	0.002	260
Tenant C - Magic Touch Expansion	Retail	3.30	-	0	0.002	1
Tenant D	Industrial	4.00	0.29	50,000	0.002	100
Tenant E	Retail	1.50	0.09	6,000	0.002	12
Tenant F	Retail	1.50	0.09	6,000	0.002	12
Tenant G	Retail	4.00	0.23	40,000	0.002	80
Tenant H	Industrial	8.70	0.26	100,000	0.002	200
Tenant I	Industrial	9.00	0.26	100,000	0.002	200
Tenant J	Industrial	2.80	0.19	23,000	0.002	46
Tenant K	Industrial	1.04	0.44	20,000	0.002	40
Tenant L	Industrial	1.08	0.43	20,000	0.002	40
Tenant M	Industrial	1.08	0.43	20,000	0.002	40
Tenant N	Industrial	1.20	0.38	20,000	0.002	40
Tenant O	Industrial	2.30	0.20	20,000	0.002	40
Total Employees =						1,171
FAR calc'd						

The Project Description was used to estimate additional trips that would be generated by completion of the Akers Business Park Project. New trips generated by the Akers Business Park Project were estimated using the Institute of Transportation Engineer's Trip Generation Manual and were included in Table 3 of the Traffic Study.

Land Use	Daily Trips	AM Peak Hour Trips		PM Peak Hour Trips	
		Enter	Exit	Enter	Exit
Retail (82,000sf)	3,634	0	0	98	125
Industrial (503,000sf)	3,501	347	75	91	342
Total Volume	7,135	347	75	189	467

The information contained in Tables 2 and 3 represents the best available data at this stage of Project development.

FRONT RANGE OFFICE
1401 WEWATTA AVE.
SUITE 516
DENVER, COLO. 80202

CORP PHONE:
559.280.8170

Comment #6. Caltrans requests that the Project provide a trip distribution map that estimates the percentage of Project vehicle trips that will potentially use the SR 99 interchanges

Response:

As shown in Figure 7 of the Traffic Study the level of peak hour traffic entering or exiting the Cartmill interchange is provided. For the morning peak hour, 95 trips pass thru the interchange toward the Akers Business Park while 18 trips enter the interchange from the Business Park. In the afternoon, 49 peak hour trips pass thru the interchange toward the Akers Business Park while 61 trips enter the interchange from the Business Park.

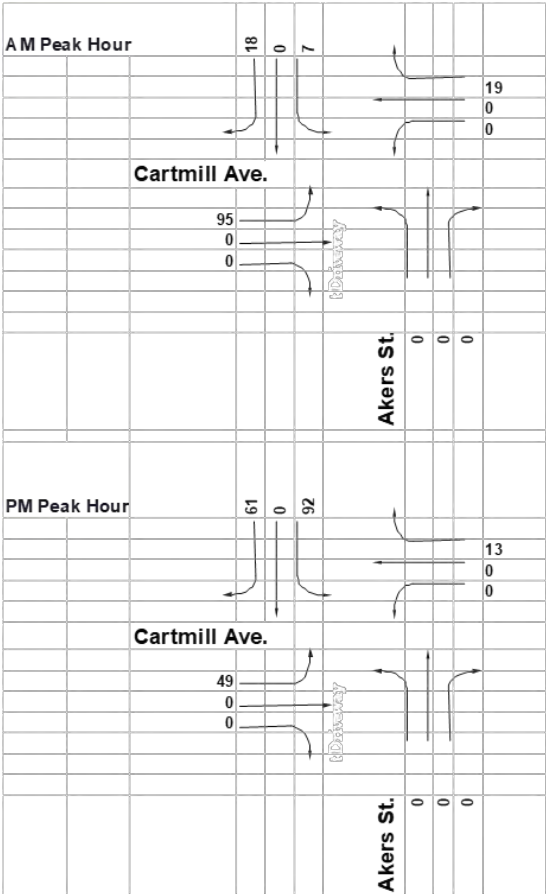


FIGURE 7: Akers Business Park Trip Assignment

Comment #16. Alternative transportation policies should be applied to the development. An assessment of multi-modal facilities should be conducted. This assessment should be used to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City of Tulare. The assessment should include the following:

- a. Pedestrian walkways should link this proposal to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.

Response:

The Akers Business Project will include the appropriate internal pedestrian pathways that will be developed to integrate buildings, parking areas and the pedestrian facilities that may be located on both Akers and Oakdale.

b. The consideration of bicycles as an alternative mode of transportation needs more attention. The project should consider bicycles as an alternative mode of transportation and offer internal amenities to encourage bicycle use which should include parking, security, lockers, and showers.) However, internal bicycle paths should be coordinated with local and regional pathways to further encourage the use of bicycles for commuter and recreational purposes.

Response:

The Akers Business Park will provide on-site bicycle facilities as required by the County of Tulare.

c. The Project might also consider coordinating connections to local and regional bicycle pathways to further encourage the use of bicycles for commuter and recreational purposes.

Response:

The Akers Business Park will also provide appropriate bicycle facilities along its frontage with Akers Street and Oakdale Avenue.

d. If transit is not available within ¼-mile of the site, transit should be extended to provide services to what will be a high activity center

Response:

As discussed in the Traffic Study, no transit routes currently provide direct service to or near the Project's site. The closest service is provided via Tulare Regional Transit's Route 5 which is located approximately 1.5 miles south of the Project. The determination of location and level of transit service is within the purview of Tulare Regional Transit and the City of Tulare. At such time as they determine transit service is feasible in this area, the Akers Business Park will coordinate that service with the land use activities within the Park.

Thank you for the opportunity to provide these responses. Please feel free to contact me if you have any questions or need any additional information.

Sincerely,

Charles Clouse
Principal

[https://d.docs.live.net/1908e84e76e68192/Desktop/C2 Consult/Projects/1341.10 Nunley Development - Akers Bus TA/Correspondence/Response to Caltrans Comments.docx](https://d.docs.live.net/1908e84e76e68192/Desktop/C2%20Consult/Projects/1341.10%20Nunley%20Development%20-%20Akers%20Bus%20TA/Correspondence/Response%20to%20Caltrans%20Comments.docx)

Attachment 9

Response provided by
Rutan & Tucker, LL
Alisha Patterson

April 5, 2023

Planning Commission
County of Tulare
5961 South Mooney Blvd.
Visalia, California 93277

Re: April 12, 2023 Planning Commission Public Hearing – Response to GSEJA
Comments on Akers Business Park MND (SCH NO. 2023020373)

Dear Honorable Commissioners:

This office represents NFDI, LLC, the applicant (“Applicant”) for the development of the Akers Business Park (“Project”), a 65.45 acre commercial business park located at the southwest corner of Road 100 and Oakdale Avenue, east of State Highway 99 (APN 149-090-006) in the County of Tulare (“County”). The Project will include a General Plan Amendment to change the Land Use Designation from “Valley Agriculture” to “Mixed Use,” a Zone Change (“PZC”) to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3- MU (Service Commercial with a Mixed-Use Overlay Zone), and a Tentative Parcel Map subdividing the 65.45-acre parcel to facilitate the development of the proposed Project. The Project will include the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the Project, contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

In connection with the Project, an Initial Study and Mitigated Negative Declaration (“MND”) was prepared and circulated for public review analyzing the Project’s impacts on the environment pursuant to CEQA. On March 13, 2023, Golden State Environmental Justice Alliance (“GSEJA”) sent a letter (“Letter”) to the County commenting on the MND. The Letter stated that several sections were inadequately analyzed and that an EIR is required for the Project. As discussed below, GSEJA’s comments are without merit. An EIR is not required.

I. Procedural Background

On February 9, 2023 County Staff found that, “although the proposed project could have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because revisions in the project have been made or agreed to by the project proponent.” (MND, p. 8.) Therefore, a “**MITIGATED NEGATIVE DECLARATION** will be prepared.” (*Id.*) Thereafter, on February 15, 2023, a Notice of Intent to adopt the MND for the Project was published in the Sun Gazette. The Notice provided for a review period of 30 days, starting February 15, 2023, and ending March 17, 2023. Any written comments on the MND were required to be sent to the County

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by this date. After the close of the public comment review period, the Project was set for public hearing before the Tulare County Planning Commission (“Planning Commission”) at its regular scheduled meeting to be held on April 12, 2023. This letter responds to GSEJA’s comments in their March 13th Letter.

II. The Mitigated Negative Declaration Complies with CEQA

The MND carefully analyzes all of the Project’s impacts and concludes that, after Project revision and mitigation, all impacts of the Project would be less than significant. The MND’s analysis and conclusion is based on substantial evidence in the record, including technical studies prepared by expert consultants, as well as County’s Resource Management Agency staff’s (“Staff’s”) considerable experience and expertise.

Nonetheless, GSEJA asserts that the MND is flawed in several respects and an EIR must be prepared and circulated for review. Most of these assertions are supported by nothing more than brief arguments from GSEJA’s attorney, without reference to any evidence, including no opinions or analysis from an environmental consultant or other expert that has the necessary qualifications to review the MND’s conclusion that the Project’s impacts are less than significant. The only section of the MND where GSEJA provides its own technical analysis and consultation is in regards to air quality and greenhouse gas (“GHG”) emissions. As explained below, this analysis can be disregarded. GSEJA’s Letter does not provide any factual or legal basis to reject the well-founded conclusions in the proposed the MND.

A. The Project Does Not Meet the Legal Standard for Requiring an EIR

As a threshold matter, an EIR is only required if “substantial evidence supports a fair argument” that the Project may have a significant environmental impact, which is known as the fair argument standard of review. (*Citizens Comm. To Save Our Village v. Claremont* (1995) 37 Cal.App.4th 1157, 1171; *League for Protec. V. Oakland* (1997) 52 Cal.App.4th 896, 904.) GSEJA has the burden of making this showing. (*Porterville Citizens v. City of Porterville* (2007) 157 Cal.App.4th 885, 901.)

“The operative words in the so-called fair argument standard are ‘substantial evidence.’” (*Citizens Comm.*, 37 Cal.App.4th at 1171 [emphasis added].) Evidence is only “substantial” if it is legally relevant, significant, credible, and of solid value. (Pub. Res. Code § 21080(c)(1); 14 Cal. Code Regs. § 15384(a).) The determination of whether or not evidence is “substantial” involves a weighing and balancing process. As stated in the leading treatise on the subject:

An agency’s determination whether information in the record constitutes ‘substantial evidence’ boils down to a determination not only that the information is relevant and material but also that it is sufficiently reliable to have solid evidentiary value. To determine the reliability of the evidence, a lead agency may

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consider several factors. . . . agency may find that hearsay is not sufficiently reliable to be treated as substantial evidence. . . . Evidence may also be found to be not credible because the witness has a personal interest in the matter.

(Practice Under the Environmental Quality Act (2d Ed. Cal. CEB 2008) at § 6.39, pp. 344-45 [emphasis added].)

Importantly, any reviewing court would defer to the County on issues of credibility. (*Quail Botanical Gardens v. Encinitas* (1994) 29 Cal.App.4th 1597, 1603.) Additionally, CEQA expressly excludes the following from the definition of substantial evidence: “**argument, speculation, unsubstantiated opinion or narrative**, evidence that is clearly inaccurate or erroneous, or evidence of social or economic impacts that do not contribute to, or are not caused by, physical impacts on the environment.” (Pub. Res. Code § 21080(e)(2) [emphasis added].)

Here, GSEJA’s comments are almost entirely based on nothing more than arguments from its attorney, and accordingly, the comments are not supported by any substantial evidence as a matter of law. By contrast, the County’s professional planning staff’s opinions – even without any other supporting evidence – constitute substantial evidence: “expert planning personnel may be entitled to conclude without additional evidence or consultation that a project will not have a particular environmental impact.” (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1380 [citing *Leonoff v. Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1345].) Further, the “lack of study, standing alone, does not give rise to a fair argument that the Project will in fact have significant . . . effects.” (*Gentry*, 36 Cal.App.4th 1359, 1382; *see also*, *Leonoff*, 222 Cal.App.3d at 1354 “[t]he lack of study is hardly evidence that there will be a significant impact”).) In other words, generalized speculation about possible environmental impacts does not constitute substantial evidence of fair argument that the Project may have a significant environmental impact. (*See Citizen Action v. Thornley* (1990) 222 Cal.App.3d 748, 756.)

B. The MND’s Project Description is Accurate and Adequate and Plans are Not Required

GSEJA argues that an EIR must be prepared to include a detailed site plan, floor plan, and grading plans, elevations, and project narrative for public review. However, the Letter cites to no section of the California Code or CEQA Guidelines that states such plans are required. This is because they are, in fact, not required under CEQA. There is good reason for this. The types of approvals at issue here (i.e., a General Plan Amendment, Zone Change, and subdivision map) are high-level, long-range planning documents that are often approved long before more granular aspects of a site’s intended use are known to the applicant and agency. There is no requirement that an applicant submit detailed site plans, floor plans, grading plans, and elevations at this time. The current Project narrative/description has the necessary detail and specificity to inform the public and decision makers of the project being proposed. GSEJA’s opposition to the Project description is the first in a long line of unsubstantiated arguments.

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C. The MND Adequately Discloses and Analyzes the Project's Potential Impacts Relating to Air Quality, Energy, and Greenhouse Gases Emissions

The MND analyzes and discloses all of the emissions of criteria pollutants that would occur during both the construction and operation of the Project. (MND, pp. 34-35.) All of the Project's emissions are below the significance thresholds set by the San Joaquin Valley Air Pollution Control District ("SJVAPCD"), without any mitigation required, and therefore the Project's impacts from emissions of criteria pollutants are less than significant. (*Id.*; *see also*, pp. 32-33 & 36-39.)¹

However, GSEJA faults the MND's air quality and GHG emissions analysis because it purportedly does not address the impacts on Disadvantaged Communities. GSEJA's comment Letter summarizes existing air quality and other related conditions within the broader census tract in which the Project is located using data obtained from the California Environmental Protection Agency (CalEnviroScreen 4.0) and the California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA). The Letter also claims that the Project is located in proximity to several other census tracts that are classified by the State of California as "Disadvantaged Communities" and asserts that air pollution from the Project will create an environmental justice problem.

There are several legal and factual errors in GSEJA's claims. First, although CEQA advances environmental justice and protects vulnerable communities from a variety of adverse health and welfare impacts of development projects, "environmental justice" is not a distinct topic that CEQA requires an MND or EIR to evaluate. (See CEQA Guidelines Sections 15120-15132 [Contents of Environmental Impact Reports].) However, in this case, the MND's air quality analysis demonstrates the Project – even with conservative assumptions – would not expose any receptor, *which includes receptors located in Disadvantaged Communities*, to substantial concentrations of localized criteria pollutants or diesel particulate matter, and instead all such impacts would be less than significant. (MND, pp. 32-39.) Although GSEJA presents their own technical analysis and consultation on air quality and GHG emissions, any reviewing court will defer to the County on issues of credibility between the two analyzes. (*Quail Botanical Gardens v. Encinitas* (1994) 29 Cal.App.4th 1597, 1603.)

GSEJA's Letter additionally argues that the MND fails to including cumulative analysis of impacts from the Project. This is blatantly untrue. The geographic area of the cumulative analysis covers the entire San Joaquin Valley Air Basin. (MND, p. 39.) Ultimately, "[t]he proposed Project's less-than-significant contribution to air quality violations and its adherence to applicable rules and regulations would allow the proposed Project to remain consistent with the [Air Quality

¹ The County is afforded significant deference in determining the applicable threshold of significance. (CEQA Guidelines § 15064.7; *Save Cuyama Valley v. County of Santa Barbara* (2013) 213 Cal.App.4th 1059, 1067-1068.)

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Plan]; therefore, the cumulative impact would be less than significant.” (*Id.*) As shown in Table 3-5 and Table 3-6 of the MND, the proposed Project’s regional emissions would not exceed the applicable regional criteria pollutant emissions quantitative thresholds. (*Id.*) Therefore, the proposed Project would not result in significant cumulative health impacts, it would not exceed SJVAPCD localized emission daily screening levels for any criteria pollutant, and it would not be a significant source of toxic air contaminant emissions during construction- or operation-related activities. (*Id.*)

Moreover, GSEJA incorrectly asserts that the use of the CalEEMod software package to estimate the Project’s energy demand was inappropriate. The Letter states that California’s Building Energy Code Compliance Software should have been used in the analysis in place of CalEEMod. The MND and underlying technical studies correctly utilize CalEEMod which estimates energy demand based on construction- and operational-related estimates generated from Air Quality Analysis Memorandum. Because the ultimate user(s) of the Project is unknown at this time, and information about the future user(s) energy use also is not available at this time, it is appropriate to defer to the CalEEMod default assumptions which have been derived by the California Air Pollution Control Officers Association (CAPCOA) and which are supported by the SJVAPCD. The energy demand calculations provided for the Project are adequate, supported by substantial evidence, and are consistent with other development projects in the County; therefore, no revisions to the MND are necessary.

Lastly, the MND also quantifies and discloses the GHG emissions that would result from the Project. (MND, pp. 34-35, 85-88.) The MND further explains that the Project’s GHG emissions would not result in a significant impact, and the Project’s low emissions comply with all SJVAPCD’s guidance and other statewide, regional and local policies and regulations. (*Id.*)

D. The MND Contains Analysis of the Project’s Potential Cumulative Impacts

GSEJA’s assertion that “[t]here is no analysis of any cumulative impact of the Project, as required under CEQA” is simply wrong. Instead, the MND contains cumulative air quality and GHG analyses (MND, pp. 39, 88), and also generally analyzes whether any otherwise limited impacts would be cumulatively considerable for all impact categories, as shown in the MND’s mandatory findings of significance. (*Id.*, pp. 152-155)

Further, even if the MND did not contain cumulative analyses, the lack of study would not constitute substantial evidence of a fair argument the Project may have a significant impact on the environment. (*Gentry*, 36 Cal.App.4th 1359, 1382; *Leonoff*, 222 Cal.App.3d at 1354.) Indeed, GSEJA has presented ***no evidence*** that there are any cumulative impacts, and does not even mention a single cumulative project that the MND should have analyzed. GSEJA’s vague argument is nothing more than part of its overall strategy to throw everything at the wall, hoping something sticks.

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E. The Project Has a Less than Significant Impact Related to General Plan Agricultural Policies

GSEJA argues that the Rural Valley Lands Plan (“RVLP”) Parcel Evaluation Checklist included in Attachment E of the MND, as part of the General Plan Initiation (“GPI”) No. 22-003 staff report, is erroneous and unsupported by substantial evidence to conclude the Project is compliant with Policy RVLP-1.4. Specifically, GSEJA argues that the RVLP Checklist concludes the number of points accumulated is less than what realistically should have been tallied.

As stated earlier, GSEJA’s comments are based on nothing more than arguments from its attorney, and accordingly, the comments are not supported by any substantial evidence as a matter of law. By contrast, County’s professional planning staff’s opinions – even without any other supporting evidence – constitute substantial evidence: “expert planning personnel may be entitled to conclude without additional evidence or consultation that a project will not have a particular environmental impact.” (*Gentry v. City of Murrieta* (1995) 36 Cal.App.4th 1359, 1380 [citing *Leonoff v Monterey County Bd. of Supervisors* (1990) 222 Cal.App.3d 1337, 1345].)

Here, professional planning staff made a determination that the RVLP evaluation only produced 9 points and thus, the parcel could be considered for non-agricultural zoning. Staff’s decision constitutes substantial evidence and should be given great deference. The points calculation by GSEJA’s attorney is nothing more than an attempt to stop the Project and promote GSEJA’s own agenda.

F. The Project Complies with the Policies Set Forth in the County’s General Plan

GSEJA argues that because the MND did not state whether the Project site is located within one of the areas that the General Plan allows for the Mixed Use designation, then an EIR must be prepared to provide this information. However, what GSEJA fails to realize is that the Project calls for a General Plan Amendment (“GPA”). Thus, whether the Mixed Used designation is currently allowed at the Project site under the current County General Plan is irrelevant, as it will be updated through the GPA.

Additionally, they argue that the MND does not include a consistency analysis with all land use plans, policies, or regulations, such as the General Plan. Not only is this not a requirement for an MND, County Staff concluded “the proposed GPI (1) will be consistent with Tulare County’s General Plan; and (2) will promote the public interest as a greatly needed economic opportunity project in the Planning Area; and (3) The proposed GPA and [P]roject are consistent with the Tulare County General Plan; would further the goals, objectives, and policies of that Plan, and would not obstruct their attainment.” (MND, p. 106.) As mentioned previously, Staff’s findings and opinions constitute substantial evidence. Additionally, the County is the ultimate decision-maker on whether the Project complies with the plans, policies, and regulations in place. It is not for an outside organization to determine that the Project is not consistent with

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the County's General Plan policies that the organization regurgitate in a comment Letter without any substantial arguments or evidence to conclude the Project is not consistent.

Ultimately, GSEJA's assertions regarding the Project's technical analyses are incorrect and unsupported by evidence, and instead consist solely of unsubstantiated argument, opinion and speculation. The MND presented a clear and accurate picture of the Project's potential environmental effects and the conclusions presented in the MND – including the conclusion that the Project would be consistent with the General Plan – are valid and supported by substantial evidence.

G. The Project's Noise Impact Will Be Less Than Significant

GSEJA argues that the MND underreports the Project's potentially significant noise impacts and thus, an EIR must be prepared with a project-specific quantified technical noise analysis of the Project's construction and operational noise impact. However, it is important to mention, the closest sensitivity receptor is 0.5 miles away. (MND, p. 115.) Related to construction noise, the Project will be required to adhere to the County's noise policies, to ensure that impacts remain less than significant through the entire construction process. (*Id.*) These policies include *HS-8.11 Peak Noise Generators*; *HS-8.18 Construction Noise*; and *HS-8.19 Construction Noise Control*, as appropriate and feasible to reduce construction-related noise-impacts on surrounding land uses. (*Id.*) In terms of operational noise, it was determined through Staff's expertise that the expected operational noise would be below Tulare County General Plan noise standard of 75Ldn/CNEL at the exterior of the nearby residences. (*Id.*) This is consistent with how far away these receptors are located. Therefore, a technical noise analysis is not required.

H. The Project will Not Result in an Increase in Population or Need for Housing

GSEJA's attorney claims the MND is inadequate because there is no quantification of the construction employees needed to construct the Project. In addition to the fact that this is not a requirement under CEQA, there is also no need to have this quantification. As the MND states, construction employees are temporary and are anticipated to be part of the existing workforce in Tulare County. (MND, p. 120.) Therefore, because these employees already live in the area surrounding the Project, workers will not need to be moved into the area for construction. Therefore, the Project's construction will not result in an increased population or need for housing in the area. GSEJA argues that it is misleading the public and decision makers to state that workers would already reside in the County. This argument makes zero sense, as if workers already reside in the County, it is not misleading to state the population and need for housing in the County will not increase.

GSEJA further argues that the MND does not provide any quantified analysis for the Project's operational employees. However, they then contradict themselves by stating "Table 2 Land Use Profile within the Traffic Evaluation and Vehicle Miles Traveled Assessment in

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Attachment D concludes the [P]roject will generate 1,171 employees.” This table provides analyze of how many operational employees will be required for the Project. Again, most if not all of these employees will come from within the County of Tulare and other nearby cities where they are already considered part of the County’s population, thus not resulting in any increase or need for housing.

Lastly, GSEJA briefly argues that the vehicle miles traveled (“VMT”) analysis is flawed. However, all the Letter points to is that an EIR must be prepared to reflect the longer trip distances that employees will travel to the Project. The Letter then cites three random cities, all more than 25 miles away from the Project that employees would come from. This is a blatant attempt to overestimate the distance employees will travel to the Project. Employees will most likely come from within 20 miles of the Project site, including from the nearby cities of Tulare, Visalia, Goshen, and Hanford, in addition to unincorporated County areas surrounding the Project. Ultimately, this small increase in employees is well within the range for determining that the Project will not have any significant impact on VMT, housing, or population.

* * *

In closing, my client would like to thank the County for its hard work and professionalism in processing this Project, and looks forwarding to developing this brand new, state-of-the-art business park to better serve the County and nearby residents. We respectfully request that the Planning Commission recommend adoption of the MND to the Board of Supervisors, thus adopting the recommendation made by the County’s professional planning staff. We look forward to answering any questions you may have at the April 12, 2023 public hearing.

Sincerely,

RUTAN & TUCKER, LLP

A handwritten signature in black ink, appearing to read 'Alisha Patterson', with a stylized, flowing script.

Alisha Patterson

AP:el

cc: Hector Guerra, Chief Environmental Planner

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF GENERAL PLAN AMENDMENT)
NO. GPA 22-003 TO CHANGE THE LAND USE) RESOLUTION NO. 10069
DESIGNATION OF APN: 149-090-006 FROM “VALLEY)
AGRICULTURE” TO “MIXED USE”)
(NFDI, LLC))

Resolution of the Planning Commission of the County of Tulare recommending that the Board of Supervisors approve a Mitigated Negative Declaration (“MND”) consistent with the California Environmental Quality Act (“CEQA”) and the Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) and approve General Plan Amendment No. GPA 22-003, requested by NFDI, LLC, 1878 N. Mooney Blvd., Suite J, Tulare, CA 93274 (Owner: J & M Thomas Ranch, Inc., C/O Michael Thomas, 715 E. Oakdale Avenue, Tulare, CA 93274), to change the County’s land use designation on approximately 65.45-acres from “Valley Agriculture” to “Mixed Use”, located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006. It is noted that this application has been filed in conjunction with Change of Zone No. PZC 22-010 and Tentative Parcel Map No. PPM 23-007.

WHEREAS, the Planning Commission has given notice of the proposed amendment to the General Plan as provided in Sections 65353 and 65090 of the Government Code of the State of California and as provided for in the County’s California Environmental Quality Act Guidelines; and

WHEREAS, staff has made such investigation of fact bearing upon the proposed General Plan Amendment to assure action consistent with the procedures and purposes set forth in the California Government Code, the State General Plan Guidelines, and the Tulare County General Plan; and

WHEREAS, staff has performed necessary investigations, prepared a written report (made a part hereof), and recommended approval of this proposed General Plan Amendment; and

WHEREAS, the Planning Commission recognizes the need and desirability to conduct reviews of, and consider amendments to, the General Plan to accommodate the changing needs of the County; and

WHEREAS, on March 29, 2023, a Notice of Public Hearing for General Plan Amendment No. GPA 22-003 was duly published in the Sun Gazette, a newspaper of general circulation in Tulare County; and

WHEREAS, a duly noticed public hearing was held, and an opportunity for public testimony was provided, at a regular meeting of the Planning Commission on April 12, 2023; and

WHEREAS, at that meeting of the Planning Commission public testimony was received and recorded from Darlene Mata and Jayson Parsons in support of the project and from nobody in opposition to the project.

WHEREAS, the action recited herein is found to be essential for the preservation of public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Planning Commission hereby recommends that the Board of Supervisors certify that the Board has reviewed and considered the information contained in the Staff Report for the proposed project together with any comments received during the public review process, in compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines for the Implementation of the California Environmental Quality Act of 1970 prior to taking action on the General Plan Amendment.

B. This Planning Commission hereby recommends that the Board of Supervisors adopt the following findings of fact as to the reasons for approval of this General Plan Amendment:

1. The proposed Project (“Akers Business Park”) consists of the development of a commercial business park on approximately 65.45-acres located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006. The proposed Project includes a General Plan Amendment (“GPA”) to change the Land Use Designation from “Valley Agriculture” to “Mixed Use,” a Zone Change (“PZC”) to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone), and a Tentative Parcel Map (“PPM”) to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park. The proposed Project is a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.
2. On August 30, 2022, the Tulare County Board of Supervisors adopted Resolution No. 2022-0770, which approved General Plan Initiation No. GPI 22-003 and authorized the Applicant to proceed with the project by filing an application for a General Plan Amendment.
3. The subject parcel, APN: 149-090-006, is presently zoned Exclusive Agriculture – 20-acre minimum. The site is currently planted to walnuts, except at the southernmost portion of the site which currently has an RV sales development. Surrounding areas include agricultural production, light industrial, and SR 99 is immediately west of the site. Surrounding land uses to the north include agriculture (row crops). Surrounding land uses to the south include commercial (RV sales). Surrounding land uses to the east include agriculture (orchard). Surrounding land uses to the west include commercial/agriculture/State Route 99 (SR-99).
4. An Initial Study / Mitigated Negative Declaration (IS / MND) has been completed for this project (GPA 22-003, PZC 22-010, & PPM 23-007). This project will not have a significant effect on the environment with mitigation and has been determined to be consistent with the California Environmental Quality Act (CEQA) and the State

CEQA Guidelines pursuant to Title 14, Cal. Code Regulations, Section 15063(c)(3)(D). The IS/MND is hereby incorporated by reference and can be found at:

<https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/mitigated-negative-declaration-for-the-akers-business-park-gpa-22-003-pzc-22-010-ppm-23-007/>

The MND was submitted to the State Clearinghouse on February 15, 2023, and the 30-day public review period was requested to begin on Wednesday, February 15, 2023, and ends on Friday, March 17, 2023. The MND was posted by the State Clearinghouse on Wednesday, February 15, 2023, initiating the 30-day public review period beginning on Wednesday, February 15, 2023, and ending on Friday, March 17, 2023.

5. The project site (APN: 149-090-006) is located within the Tulare Urban Area Boundary (“UAB”) and the General Plan Land Use designation is “Valley Agriculture”.

The proposed General Plan Amendment No. GPA 22-003, requests to change the Land Use Designation from “Valley Agriculture” to “Mixed Use,” is consistent with relevant policies of the Tulare County General Plan, including ED-2.2 Land Requirements; ED-3.1 Diverse Economic Base; ERM-2.9 Compatibility; PF-1.1 Maintain Urban Edges; PF-1.2 Location of Urban Development; PF-1.3 Land Uses in UDBs/HDBs; PF-1.4 Available Infrastructure; PF-4.18 Future Land Use Entitlements in a CACUDB; PF-4.19 Future Land Use Entitlements in a CACUAB; PF-4.21 Application of the RVLP Checklist to Control Development in a CACUAB; PF-2.7 Improvement Standards in Communities; LU-1.2 Innovative Development; LU-1.8 Encourage Infill Development; LU-1.10 Roadway Access; LU-4.6 Commercial Storage Facilities; LU-5.1 Industrial Developments; and LU-5.4 Surrounding Land Use.

The Project site (APN: 149-090-006) is located within the Tulare Urban Area Boundary (“UAB”) and is subject to a Memorandum of Understanding with the City of Tulare [Tulare County Agreement No. 25815 was entered into on December 13, 2012, by and between the City of Tulare (“City”) and the County of Tulare (“County”)]. The RVLP does not apply within a County Adopted City Urban Development Boundary (“CACUDB”) and is only advisory within a County Adopted City Urban Area Boundary (“CACUAB”).

Concerning Future Land Use Entitlements in a CACUAB, Policy PF-4.19 on (Part I) Page 2-53 of the Tulare County General Plan (“TCGP”) states “As an exception to the County policies that the Rural Valley Lands Plan (RVLP) does not apply within CACUDBs and is only advisory within CACUABs, the County may work with an individual city to provide that no General Plan amendments or rezonings will be considered to change the current land use designation or zoning classification of any parcel within a CACUAB unless appropriate under the requirements of the Rural Valley Lands Plan (RVLP) or similar checklist or unless the County has worked with the city to identify and structure an acceptable alternative General Plan land use designation or zoning classification.” Based on Policy PF-4.19, an RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare did not request an RVLP analysis because the proposed Project is

consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan shows for the proposed Project site. Therefore, an RVLP analysis is not required.

Policy PF-4.21 on (Part I) Page 2-54 of the TCGP states “As an exception to the County policies that the Rural Valley Lands Plan is only advisory within CACUABs, the County may work with an individual city to provide that the requirements of the RVLP will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUAB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area.” Based on Policy PF-4.21, an RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare, did not request an RVLP analysis because the proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the proposed Project site. Therefore, an RVLP analysis is not required.

Section 2. Planning Framework of the TCGP on (Part 1) Pages 2-3 to 2-4 states “In the past, the County used three key planning tools to guide urban development in all unincorporated areas of the County. The first was the Urban Boundaries Element; the second are the Area Plans; the third are the General Plans for identified incorporated cities and Community Plans for unincorporated communities. For discussion of the Area Plans which include the Rural Valley Lands Plan, Corridors Framework Plan, Foothill Growth Management Plan, and Mountain Framework Plan, please see Part II. The Urban Boundaries Element, first adopted in 1974, identified two types of boundaries: Urban Area Boundaries (UABs) and Urban Improvement Areas (UIAs). At the time of the Urban Boundaries Element adoption, the UIAs were defined as the twenty-year growth boundaries and the UABs were defined as the ultimate growth boundary for each city and community. In 1983, the Urban Boundaries Element was amended to replace the UIAs with UDBs, and to modify the UAB model to include a “comment” area around incorporated cities, keeping UABs as the next logical area for urban expansion. In addition, UABs were no longer established around unincorporated communities.”

Section 2. Planning Framework of the TCGP on (Part 1) Page 2-5 states “The County has adopted County Adopted City General Plans for all eight incorporated cities to guide County land use decisions outside the city limits within the County UDB and UAB. The eight incorporated cities are:

- Dinuba
- Exeter
- Farmersville
- Lindsay
- Porterville
- Tulare
- Visalia
- Woodlake”

The project site is located within the UAB for the City of Tulare, and the project site is within an area titled Community that allows the “Mixed Use” Land Use Designation. LU-1.2 on (Part I) Page 4-22 states “The County shall promote flexibility and innovation through the use of planned unit developments, development agreements, specific plans, Mixed Use projects, and other innovative development and planning techniques.”

Section 15070 of the California Environmental Quality Act (“CEQA”) states “A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
- (b) The initial study identifies potentially significant effects, but:
 - (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
 - (2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.”

Section 15071 of CEQA states “A Negative Declaration circulated for public review shall include:

- (a) A brief description of the project, including a commonly used name for the project, if any;
- (b) The location of the project, preferably shown on a map, and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;
- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.”

CEQA and the Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) do not require that a MND include a consistency analysis with all land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, such as the County General Plan. Section 15071 of CEQA states “A Negative Declaration circulated for public review shall include:

- (a) A brief description of the project, including a commonly used name for the project, if any;
- (b) The location of the project, preferably shown on a map, and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;

- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.”

Policy PF-1.2 of the TCGP states “The County shall ensure that urban development only takes place in the following areas:

1. Within incorporated cities and CACUDBs;
2. Within the UDBs of adjacent cities in other counties, unincorporated communities, planned community areas, and HDBs of hamlets;
3. Within foothill development corridors as determined by procedures set forth in Foothill Growth Management Plan;
4. Within areas set aside for urban use in the Mountain Framework Plan and the mountain sub-area plans; and
5. Within other areas suited for non-agricultural development, as determined by the procedures set forth in the Rural Valley Lands Plan.”

Area No. 5 of Policy PF-1.2 is the only Area Number that applies to the proposed Project. Rural Valley Lands Plan (“RVLP”) requirements are discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21.

Policy LU-1.3 of the TCGP states “The County shall discourage the intrusion into existing urban areas of new incompatible land uses that produce significant noise, odors, or fumes.” The proposed Project is consistent with this policy because it does not result in a new incompatible land use intruding into existing urban areas. Instead, the proposed Project establishes a mixed-use commercial development in an area that is planned for commercial use. Furthermore, the proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site.

Policy LU-1.4 of the TCGP states “The County shall actively support the development of compact mixed use projects that reduce travel distances.” The applicability to the proposed Project is the potential for a combination of commercial and/or light industrial uses that would be within the vicinity of a market area (i.e., a population) that could patronize this location.

Policy LU-1.8 of the TCGP states “The County shall encourage and provide incentives for infill development to occur in communities and hamlets within or adjacent to existing development in order to maximize the use of land within existing urban areas, minimize the conversion of existing agricultural land, and minimize environmental concerns associated with new development.” The applicability to the proposed Project is not limited to infill; rather, the proximity of the City of Tulare’s northern city limit provides a logical location for the extension of both shopping and employment opportunities in an area where the landowner desires to discontinue his/her agricultural activities.

Policy PF-1.5 of the TCGP states “County policies reflect the unique attributes of the various locations and geographic areas in the County. As such, there are policies applicable to one area of the County that are not applicable to others based on natural setting, topography, habitat, existing development, or other attributes which are unique within the planning context of the County.” Based on Policy PF-1.5, it would not be appropriate to prepare a consistency analysis with all General Plan policies because each project site is unique and a Policy that is appropriate for one area will not be appropriate to apply to all areas due to different conditions at each unique

location.

Policy PF-1.6 of the TCGP states “The County shall utilize the Land Use Element and adopted CAC General Plans, Community Plans, Hamlet Plans, Planned Communities, Corridor Areas, or Area Plans to designate land uses and intensities that reflect and maintain the appropriate level of urbanized development in each CAC General Plan, Community Plan, Hamlet Plan, Planned Community, Corridor Area, or Area Plan.” The proposed Project is consistent with Policy PF-1.6 because the County utilized the Land Use Element of the General Plan and adopted CAC General Plan for the City of Tulare. as discussed above on page 4 concerning Section 2. Planning Framework of the TCGP on (Part 1) Page 2-5.

The purpose of Policy PF-4A of the TCGP is “To provide the means to further manage urban development within CACUDBs and CACUABs of existing incorporated cities while ensuring that the limitation on development is in the best interests of the County and its residents in both the incorporated and unincorporated areas and enhances the County’s ability to provide adequate County facilities and countywide social, health, safety and welfare services impacted by development in the cities and County.” Rural Valley Lands Plan (“RVLP”) requirements are discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21.

Policy AG-1.1 of the TCGP states “The County shall maintain agriculture as the primary land use in the valley region of the County, not only in recognition of the economic importance of agriculture, but also in terms of agriculture’s real contribution to the conservation of open space and natural resources.” When this policy is examined individually, it provides the impression that maintaining any land that is currently in agricultural production is required. This is not the case. There are additional policies that need to be considered and they can provide situations where maintaining an existing agricultural use is not required as discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21 regarding RVLP.

Policy AG-1.7 of the TCGP states “The County shall promote the preservation of its agricultural economic base and open space resources through the implementation of resource management programs such as the Williamson Act, Rural Valley Lands Plan, Foothill Growth Management Plan or similar types of strategies and the identification of growth boundaries for all urban areas located in the County.” The County does promote the preservation of its agricultural economic base and open space implementation of the Williamson Act, RVLP, Foothill Growth Management Plan, etc. In this case the proposed Project site is not restricted by a Williamson Act Contract and Rural Valley Lands Plan (“RVLP”) requirements are discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21.

Policy LU-4.3 of the TCGP states “The County shall provide for commercial service businesses such as warehouses, repair services, business support services, furniture sales, and building materials sales where they will not adversely affect surrounding properties, typically in areas serving occasional needs rather than day-to-day needs. Criteria to be used in siting commercial service areas are:

1. Provide good access to highways or major collectors,
2. Buffer existing or planned residential areas,

3. Develop in-depth rather than in a strip fashion along the access road to provide adequate room for parking, buffering, etc., and
4. Encourage development as integrated planned areas in conjunction with community commercial areas or with common architectural and site development features.”

The proposed Project complies with Policy LU-4.3 as it would provide commercial service businesses at State Route 99, E. Oakdale Avenue, and Akers Street. The proposed Project site would develop in-depth and would provide adequate room for parking, buffering, etc. The proposed Project is a mixed-use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone. The development would serve occasional needs rather than day-to-day needs. The proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site.

Policy LU-4.5 of the TCGP states “The County shall encourage that new commercial development is consistent with the existing design of the surrounding community or neighborhood by encouraging similar façades, proportionate scale, parking, landscaping, and lighting.” As the proposed Project is within the Urban Development Boundary of the City of Tulare (City), the proposed Project will be required to comply with City development standards, designs, features, etc.

Policy LU-4.6 of the TCGP states “The County shall require that commercial storage facilities, including “mini” storage, indoor and outdoor storage facilities, and contractor’s materials storage be screened from view through landscape buffers or other natural landscapes.” The proposed Project is a mixed-use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone. Although allowed in the C-3-MU Zone, the application for the proposed Project does not include “mini” storage, indoor and outdoor storage facilities, or contractor’s materials storage. It also does not include an industrial park use, industrial land use, manufacturing uses, or warehousing uses as noted by the commenter. Therefore, Policy LU-4.6 is not applicable to the proposed Project.

Policy Numbers LU-5.1, LU-5.2, LU-5.3, LU-5.4, LU-5.5, LU-5.6, and LU-5.7 of the TCGP are not applicable to the proposed project because it is not an Industrial Park Development. Instead, the proposed project is a mixed use commercial development.

Policy AQ-1.3 of the TCGP states “The County shall require development to be located, designed, and constructed in a manner that would minimize cumulative air quality impacts. Applicants shall be required to propose alternatives as part of the State CEQA process that reduce air emissions and enhance, rather than harm, the environment.” The proposed Project is a mixed-use commercial development. A Condition of Approval requiring additional evaluation of proposed Project design elements are included in the Project. This condition includes the following requirements: 1) Prior to issuance of

building permits, a site plan map and building plans will be submitted to the Tulare County Resource Management Agency (RMA) Planning Division for review; 2) The site map will be evaluated for consistency with Air District recommendations for evaluation of potential health risks based on Project design, including travel routes, location of loading docks and truck queuing areas; and 3) Building plans will be evaluated for consistency with the California Green Building Standards Code (CALGreen) and for consistency with the Tulare Climate Action Plan (CAP).

Policy AQ-1.4 of the TCGP states “The County shall evaluate the compatibility of industrial or other developments which are likely to cause undesirable air pollution with regard to proximity to sensitive land uses, and wind direction and circulation in an effort to alleviate effects upon sensitive receptors.” At the time of submittal of the final site plan map and building plans, Tulare County RMA Planning Division staff will review the project for consistency with Air District recommendations for evaluation of potential health risks based on proposed Project design, including location of travel routes, loading docks and truck queuing areas.

Policy AQ-1.5 of the TCGP states “The County shall ensure that air quality impacts identified during the CEQA review process are consistently and reasonably mitigated when feasible.” Consistent with the Mitigated Negative Declaration prepared for the proposed Project (SCH# 2023020373), the proposed Project does not require mitigation to reduce air quality impacts to a less than significant level. Consistent with Policy AQ-1.3, a Condition of Approval requiring additional evaluation of proposed Project design elements to ensure development of the proposed Project would be consistent with the Tulare County CAP and will not pose significant health risks is included in the project.

If the Board of Supervisors approves GPA 22-003 and changes the Land Use Designation of the project site from “Valley Agriculture” to “Mixed Use”, then the Zoning would be required to be changed from the AE-20 (Exclusive Agricultural – 20 Acre Minimum) Zone to a Zone that is compatible with the “Mixed Use” Land Use Designation in order to be consistent with California Government Code §65860. Changing the Zoning to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone) would be compatible with the Mixed Use Land Use Designation. Since the project includes a General Plan Amendment, a RVLP analysis is not required in order to change the AE-20 Zone to the C-3-MU Zone.

On April 6, 2022, a Project Review Committee Consultation and Fact Sheet was distributed to request comments on the proposed project. The City of Tulare was sent the Project Review Committee (“PRC”) Consultation and Fact Sheet and provided an opportunity to review and comment on the proposed project. The City of Tulare did not provide written comments on the proposed project, and they did not request a Rural Valley Lands Plan (“RVLP”) analysis. On May 5, 2022, a Microsoft Teams Virtual PRC Meeting was held, which the City of Tulare participated in. During the PRC Meeting the City of Tulare did not request a RVLP analysis and they stated that the proposed project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan shows for the Project site.

The Board of Supervisors adopted Resolution No. 2022-0770, approving General Plan Initiation (GPI) No. 22-003 for this project on August 30, 2022, to authorize the applicant

to file an application for a General Plan Amendment to change the land use designation on approximately 65-acres from Agriculture to Service Commercial and to change the zoning from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with Mixed-Use Overlay).

6. The applicant also filed Change of Zone No. PZC 22-010 to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone).
 - a. Policy RVLP-1.2 of the Rural Valley Lands Plan (RVLP) requires the County to consider the re-zoning of existing parcels less than the minimum required by agricultural zoning, if found to not be viable for agricultural purposes as per the RVLP checklist and if such re-zoning would not impinge upon current or future agricultural uses in the area. A RVLP Parcel Evaluation was performed for the only parcel included in the zone change at this time. After all the factors were applied to the parcel, the project received a score of 9 points under the RVLP evaluation. Parcels that accumulate 17 or more points according to the RVLP Development Criteria are not allowed to be re-zoned. If the number of points accumulated is 11 or less, the parcel may be considered for non-agricultural zoning. According to Policy RVLP-1.4 “Determination of Agriculture Land”, if the number of points accumulated is between 12 to 16 points, then it shall be determined to have fallen within a “gray” area in which no clear-cut decision is readily apparent. In such instances, the Planning Commission and Board of Supervisors shall make a decision based on the unique *circumstances pertaining to the particular parcel of land, including factors not covered by this system*.
7. The applicant also filed Tentative Parcel Map No. PPM 23-007 to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park.
8. The Board of Supervisors, at their regular meeting of November 30, 2010, adopted by Resolution No. 2010-2927, a Notice of Intent to Collect Tulare County Public Facilities Fees, also known as Developer Impact Fees; therefore, new development may be subject to County Development Impact Fees.

C. This Planning Commission, after considering all of the evidence presented, found that the proposed General Plan Amendment will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

AND, BE IT FURTHER RESOLVED as follows:

D. This Planning Commission hereby recommends the Board of Supervisors approve General Plan Amendment No. GPA 22-003 (Exhibit “A”) to change the County’s land use designation on approximately 65.45-acres from “Valley Agriculture” to “Mixed Use”.

The foregoing resolution was adopted upon motion of Commissioner Aleman, seconded by Commissioner Millies, at a regular meeting of the Planning Commission on April 12, 2023, by the following roll call vote:

AYES: Aleman; Millies; Dias; Brown; Lehman

NOES: None

ABSTAIN: Whitlatch

ABSENT: Aguilar, McElroy

TULARE COUNTY PLANNING COMMISSION



Michael Washam, Secretary

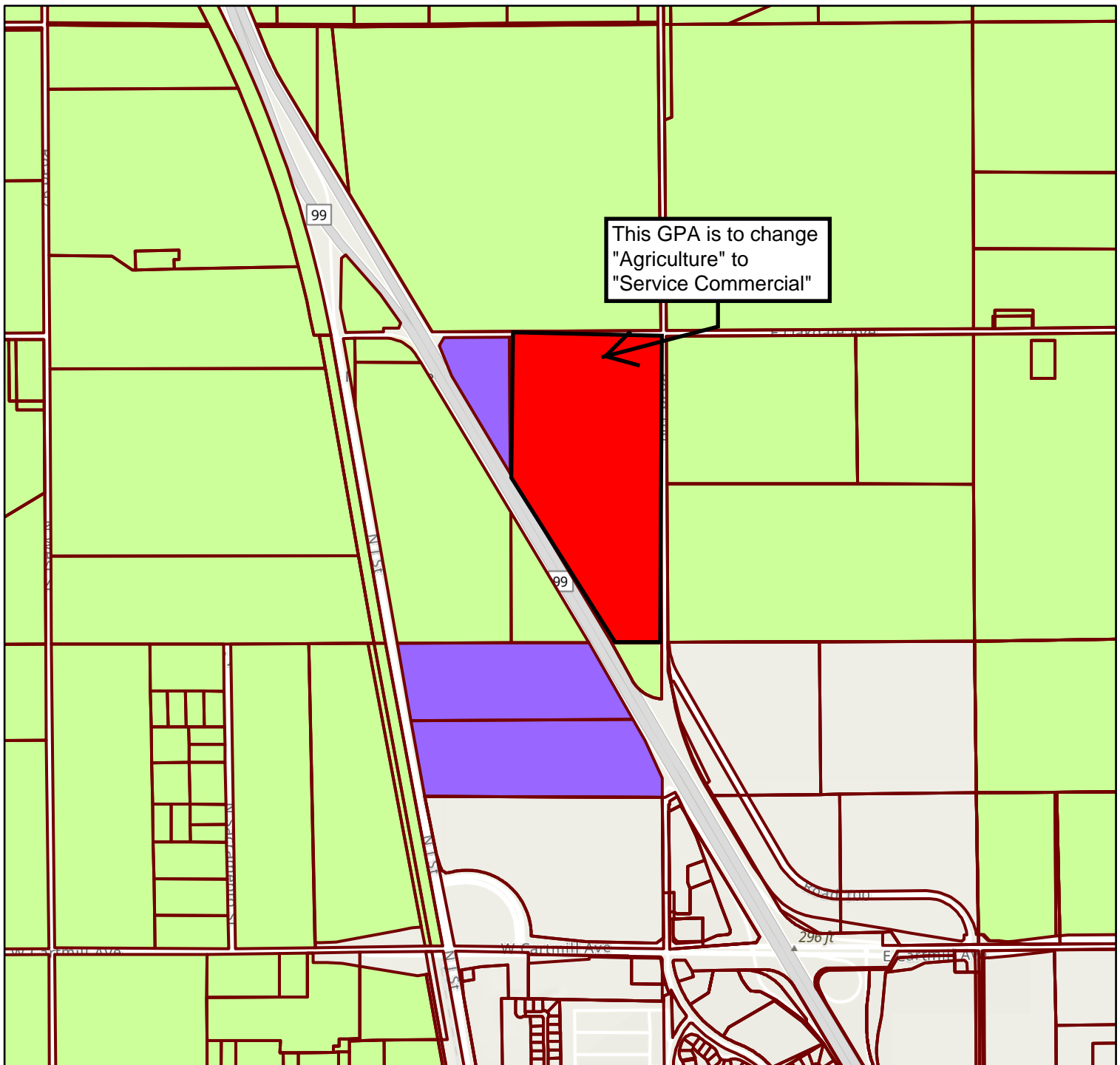
Exhibit “A”	GPA 22-003 General Plan Land Use Designation Change to Mixed Use
Exhibit “B”	Figure 2.4-7
Exhibit “C”	Tulare County Planning Areas – Figure 4-1
Exhibit “D”	Government Code Section 65860
Exhibit “E”	PF-4.19 and PF-4.21
Exhibit “F”	2035 Tulare General Plan Map






Exhibit "A"

General Plan Designation For

Case Number: GPA 22-003

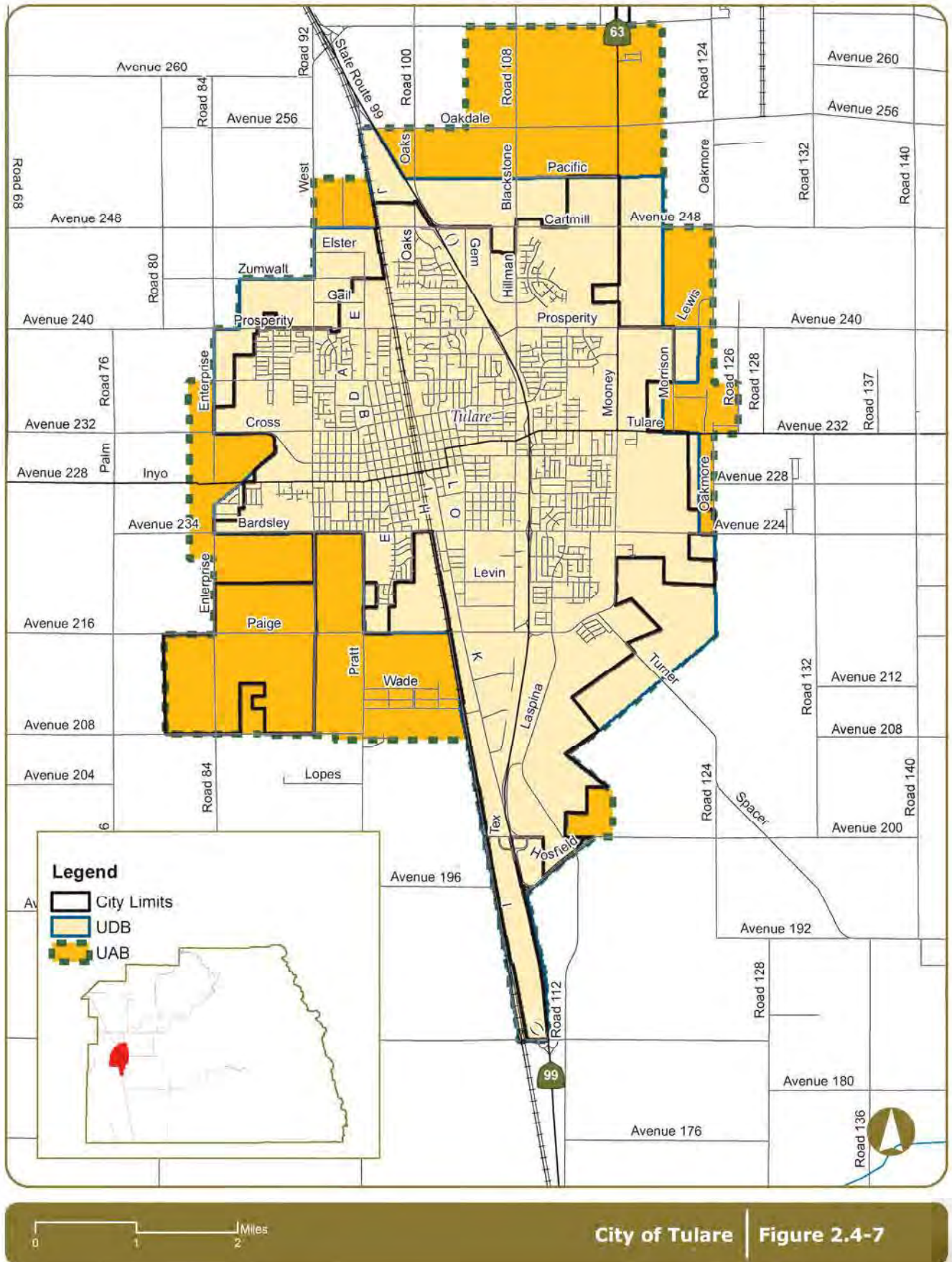


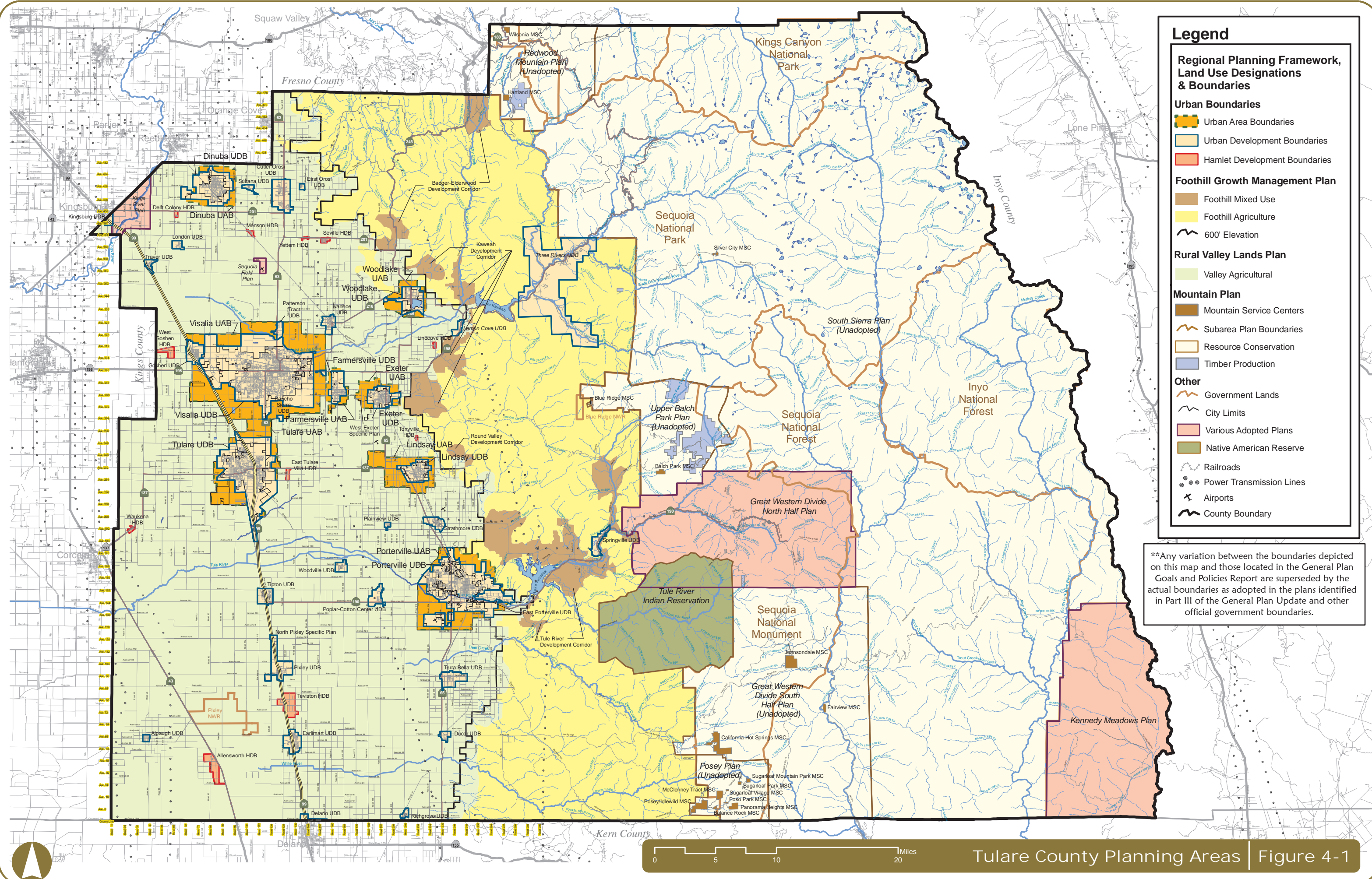
Owner: Michael Thomas
Address: 715 E. Oakdale Ave
City, State, ZIP: Tulare, CA 93274
Applicant: NFDI LLC
Agent:
Supervisory District: 2
Assessors Parcel: 149-090-006

 Agriculture
 Light Industrial
 Tulare City Limits



Tulare County General Plan





Legend

Regional Planning Framework, Land Use Designations & Boundaries

Urban Boundaries

- Urban Area Boundaries
- Urban Development Boundaries
- Hamlet Development Boundaries

Foothill Growth Management Plan

- Foothill Mixed Use
- Foothill Agriculture
- 600' Elevation

Rural Valley Lands Plan

- Valley Agricultural

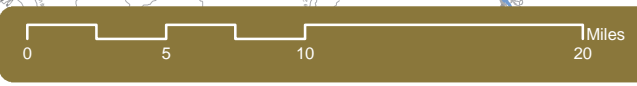
Mountain Plan

- Mountain Service Centers
- Subarea Plan Boundaries
- Resource Conservation
- Timber Production

Other

- Government Lands
- City Limits
- Various Adopted Plans
- Native American Reserve
- Railroads
- Power Transmission Lines
- Airports
- County Boundary

**Any variation between the boundaries depicted on this map and those located in the General Plan Goals and Policies Report are superseded by the actual boundaries as adopted in the plans identified in Part III of the General Plan Update and other official government boundaries.



Tulare County Planning Areas | Figure 4-1



State of California

GOVERNMENT CODE

Section 65860

65860. (a) County or city zoning ordinances shall be consistent with the general plan of the county or city by January 1, 1974. A zoning ordinance shall be consistent with a city or county general plan only if both of the following conditions are met:

(1) The city or county has officially adopted such a plan.

(2) The various land uses authorized by the ordinance are compatible with the objectives, policies, general land uses, and programs specified in the plan.

(b) Any resident or property owner within a city or a county, as the case may be, may bring an action or proceeding in the superior court to enforce compliance with subdivision (a). Any such action or proceeding shall be governed by Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure. No action or proceeding shall be maintained pursuant to this section by any person unless the action or proceeding is commenced and service is made on the legislative body within 90 days of the enactment of any new zoning ordinance or the amendment of any existing zoning ordinance.

(c) In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.

(d) Notwithstanding Section 65803, this section shall also apply to a charter city.

(Amended by Stats. 2018, Ch. 856, Sec. 6. (SB 1333) Effective January 1, 2019.)

- would not include any rezonings outside that allowed in this policy. However, revision of processes and procedures and simplification of existing ordinances may occur.]
8. This policy would not apply to a comprehensive update of a CAC General Plan, including rezoning there under, in cooperation with the affected city.
 9. This policy would not apply where the County has worked with the city to identify and structure a mutually acceptable alternative General Plan land use designation or zoning classification.

PF-4.19 Future Land Use Entitlements in a CACUAB

As an exception to the County policies that the Rural Valley Lands Plan (RVLP) does not apply within CACUDBs and is only advisory within CACUABs, the County may work with an individual city to provide that no General Plan amendments or rezonings will be considered to change the current land use designation or zoning classification of any parcel within a CACUAB unless appropriate under the requirements of the Rural Valley Lands Plan (RVLP) or similar checklist or unless the County has worked with the city to identify and structure an acceptable alternative General Plan land use designation or zoning classification. This policy will not apply to amendments or changes to a County unincorporated UDB, Hamlet Development Boundary (HDB), or Corridor Plan area boundary line, including where the boundary line may increase an overlap area with a CACUDB area, or to any General Plan amendment adopting a new UDB, an HDB, or Corridor Plan area that may fall within a CACUDB area. This policy shall not apply within a County unincorporated UDB, an HDB, or Corridor Plan area where that area overlaps a CACUAB area. Development of County corridor development nodes in an affected city's UAB would only occur after the County has provided written consultation and has allowed for a reasonable timed response from the affected city prior to decision making and before the adoption of the Corridor Plan. New development in a city's UAB would be subject to adopted plan lines and setback standards. Adopted facility plans and legally adopted General Plans will be considered during the development review process. Small "stand alone," non urban projects which are defined as residential projects of four or fewer lots or non-residential projects smaller than two acres do not need city standards but shall respect city utility and street master plans for setbacks. Large urban-style projects include residential projects of five or more lots averaging less than one acre per lot and non-residential projects two acres or larger will use uniform urban development standards, financing mechanisms, consent to annexation, application of reciprocal development impact fees and city streets/utility setbacks/disclosure requirements unless the County and the city have identified and structured acceptable alternatives that will reasonably ensure that these projects should conform to city development standards upon future annexation.

PF-4.20 Application of the RVLP Checklist to Control Development in a CACUDB

As an exception to the County policies that the Rural Valley Lands Plan does not apply within CACUDBs, the County may work with an individual city to provide that the requirements of the RVLP or similar checklist will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUDB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area. Such a special use permit, variance, or division of land will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors as well as compliance with any County adopted urban or city development standards and with the city's General Plan policies as reflected in the CAC General Plan.

Tulare County General Plan

PF-4.21 Application of the RVLP Checklist to Control Development in a CACUAB

As an exception to the County policies that the Rural Valley Lands Plan is only advisory within CACUABs, the County may work with an individual city to provide that the requirements of the RVLP will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUAB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area. Such a special use permit, variance, or division of land will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors.



Also see Part II-Policy RVLP-1.4: Determination of Agriculture Land and Section 1.3: Rural Valley Lands Plan Criteria and Evaluation Matrix.

PF-4.22 Reuse of Abandoned Improvements in a CACUDB

In accordance with other policies in this General Plan, the County may work with a city to provide that any alternative land uses within a CACUDB not otherwise allowed under a particular zoning classification but which are allowed by County policies due to the existence of abandoned structures or improvements with no other available, viable economic uses on the parcel will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors. For agricultural related uses, reoccupation and/or expansion is limited not to exceed 20% of the site and/or building square footage subject to special use permit with city consultation. Conversion to non-agricultural uses requiring a zone change is limited not to exceed 20% of the site and/or building square footage or as mutually agreed upon by the city and County. Any expansions are subject to a special use permit.

PF-4.23 Reuse of Abandoned Improvements in a CACUAB

In accordance with other policies in this General Plan, the County may work with a city to provide that any alternative uses within a CACUAB not otherwise allowed under a particular zoning classification but which are allowed by County policies due to the existence of abandoned structures or improvements with no other available, viable economic uses on the parcel will be reviewed in light of impacts on such regional concerns as water and sewage disposal availability and preservation of transportation and utility corridors expansion or re-occupation will require irrevocable consents to annex, and accommodation for setbacks and other standards for future streets and utilities. The RVLP will be used to determine if non-agricultural use is appropriate.

PF-4.24 Annexations to a City within the CACUDB

In addition to the County's current policies on development within a CACUDB, the County may work with a city to provide that urban development projects within a city's Sphere of Influence (SOI) as set by the Tulare County Local Agency Formation Commission will be referred to the affected city for consideration of annexation in accordance with, but not limited to, the following concepts:

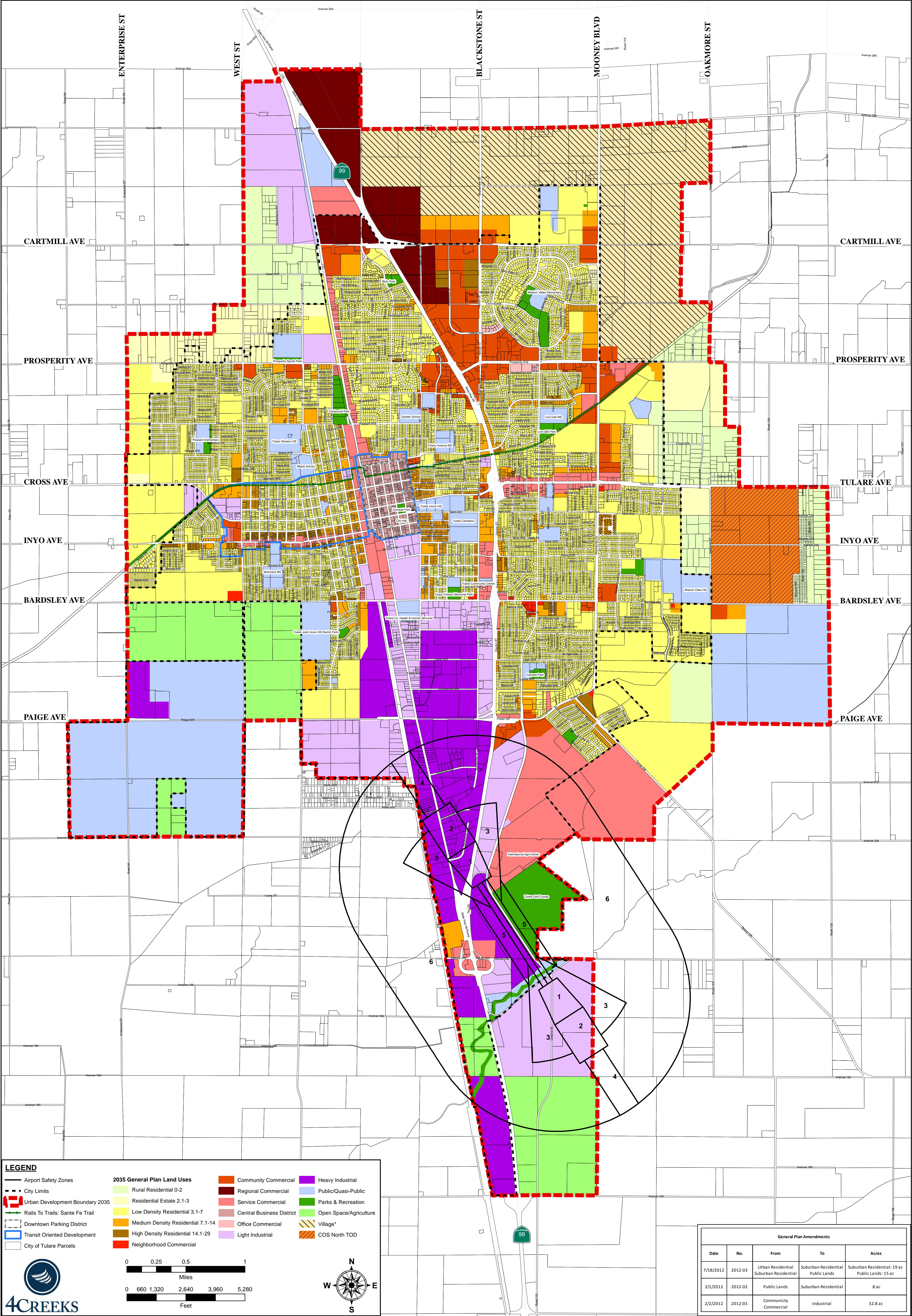
1. Urban development projects, to which the referral policy applies, would be those projects for which a discretionary permit is required. Any urban development project not subject to special use permit requirements would still comply with County adopted city development standards, CAC General Plans and zoning and any County adopted city long-range infrastructure plan.
2. The referral would, at least, be subject to the requirement that the city inform the County within three (3) months that it is or is not able and willing to commence annexation



CITY OF TULARE

2035 General Plan

*The General Plan Map was compiled and integrated from the most current and accurate sources generally available at the time of publication. Please contact the Community Development Department for any interpretations or clarifications of zoning boundaries when in question.



BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF AMENDMENT TO THE)	
ZONING REGULATIONS, CASE NO. PZC 22-010)	RESOLUTION NO. 10070
(NFDI, LLC))	

Resolution of the Planning Commission of the County of Tulare recommending that the Board of Supervisors approve a Mitigated Negative Declaration (“MND”) consistent with the California Environmental Quality Act (“CEQA”) and the Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) and approve Change of Zone No. PZC 22-010, requested by NFDI, LLC, 1878 N. Mooney Blvd., Suite J, Tulare, CA 93274 (Owner: J & M Thomas Ranch, Inc., C/O Michael Thomas, 715 E. Oakdale Avenue, Tulare, CA 93274), to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) Zone to C-3-MU (Service Commercial with a Mixed-Use Overlay) Zone, located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006. It should be noted that this application has been filed in conjunction with General Plan Amendment No. 22-003 and Tentative Parcel Map No. PPM 23-007.

WHEREAS, a petition has been filed pursuant to the regulations contained in Section 17 of Ordinance No. 352, the Zoning Ordinance; and

WHEREAS, the Planning Commission has given notice of the Ordinance Amendment as provided in Section 18 of said Ordinance No. 352 and Section 65854 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report (made a part hereof), and recommended approval of this Ordinance Amendment; and

WHEREAS, all attached exhibits are incorporated by reference herein; and

WHEREAS, on March 29, 2023, a Notice of Public Hearing for the April 12, 2023, meeting of the Tulare County Planning Commission was mailed to owners of parcels that are located within a 300-foot radius of the project site, and said Notice was also duly published in the Sun Gazette (a newspaper of general circulation in Tulare County) to consider the proposed Project; and

WHEREAS, a public hearing was held and an opportunity for public testimony was provided at a regular meeting of the Planning Commission on April 12, 2023; and

WHEREAS, at that meeting of the Planning Commission public testimony was received and recorded from Darlene Mata and Jayson Parsons in support of the project and from no one in opposition to the project.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Planning Commission hereby recommends that the Board of Supervisors certify that the Board has reviewed and considered the information contained in the Mitigated Negative Declaration that was prepared for the project and is applicable to the project site and the Change of Zone, together with any comments received during the public review process, consistent with the CEQA and the CEQA Guidelines, prior to taking action on the Change of Zone.

B. This Planning Commission hereby recommends that the Board of Supervisors determine that the following findings are relevant in evaluating this application:

1. The applicants have requested a Change of Zone No. PZC 22-010 to change the Zone from the AE-20 (Exclusive Agricultural – 20 Acre Minimum) Zone to the C-3-MU (Service Commercial with a Mixed-Use Overlay) Zone to facilitate the development of the proposed Akers Business Park. The proposed Project is a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

The Project site (APN: 149-090-006) is located within the Tulare Urban Area Boundary (“UAB”) and is subject to a Memorandum of Understanding with the City of Tulare [Tulare County Agreement No. 25815 was entered into on December 13, 2012, by and between the City of Tulare (“City”) and the County of Tulare (“County”)]. The RVLP does not apply within a County Adopted City Urban Development Boundary (“CACUDB”) and is only advisory within a County Adopted City Urban Area Boundary (“CACUAB”).

Concerning Future Land Use Entitlements in a CACUAB, Policy PF-4.19 on (Part I) Page 2-53 of the Tulare County General Plan (“TCGP”) states “As an exception to the County policies that the Rural Valley Lands Plan (RVLP) does not apply within CACUDBs and is only advisory within CACUABs, the County may work with an individual city to provide that no General Plan amendments or rezonings will be considered to change the current land use designation or zoning classification of any parcel within a CACUAB unless appropriate under the requirements of the Rural Valley Lands Plan (RVLP) or similar checklist or unless the County has worked with the city to identify and structure an acceptable alternative General Plan land use designation or zoning classification.”

Based on Policy PF-4.19 a RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare did not request a RVLP analysis because the proposed project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan shows for the Project site. Therefore, a RVLP analysis is not required.

Policy PF-4.21 on (Part I) Page 2-54 of the TCGP states “As an exception to the County policies that the Rural Valley Lands Plan is only advisory within CACUABs, the County may work with an individual city to provide that the requirements of the RVLP will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUAB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area.”

Based on Policy PF-4.21 a RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare did not request a RVLP analysis because the proposed project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site. Therefore, a RVLP analysis is not required.

2. The site is currently planted to walnuts, except at the southernmost portion of the site which currently has an RV sales development. Surrounding areas include agricultural production, light industrial, and SR 99 is immediately west of the site. Surrounding land uses to the north include agriculture (row crops). Surrounding land uses to the south include commercial (RV sales). Surrounding land uses to the east include agriculture (orchard). Surrounding land uses to the west include commercial/agriculture/State Route 99 (SR-99).
3. A MND identified potentially significant effects on the environment and a Mitigation Monitoring and Reporting Plan (“MMRP”) was prepared, indicating that, although the project may have a significant effect on the environment, mitigation measures were incorporated into the project that would reduce any impact to a point where clearly no significant effect on the environment could occur and there is no substantial evidence that the Project would have a significant effect on the environment.

Information about the environmental determination for the Akers Business Park was provided in a Notice of Intent (“NOI”) to Adopt a Mitigated Negative Declaration (“MND”) that was published in the Sun Gazette and mailed to local agencies, state agencies, federal agencies, and interested parties on February 15, 2023, for a thirty-day public review period beginning on February 15, 2023, and ending on March 17, 2023. In addition, a Notice of Public Hearing was published in the Sun Gazette and mailed to surrounding property owners on March 29, 2023, for a ten-day review period.

The MND was posted on the Tulare County Resource Management Agency website on February 15, 2023, at the following link: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/mitigated-negative-declaration-for-the-akers-business-park-gpa-22-003-pzc-22-010-ppm-23-007/>. The MND is hereby incorporated by reference.

The MND was submitted to the State Clearinghouse on February 15, 2023, and the 30-day public review period was requested to begin on Wednesday, February 15, 2023, and ends on Friday, March 17, 2023. The MND was posted by the State Clearinghouse on Wednesday, February 15, 2023, initiating the 30-day public review period beginning on Wednesday, February 15, 2023, and ending on Friday, March 17, 2023.

4. The Project site (APN: 149-090-006) is located within the Tulare Urban Area Boundary (“UAB”) and subject to the Memorandum of Understanding with the City of Tulare, and the Land Use Designation is “Valley Agricultural.” The proposed project is consistent with relevant policies of the Tulare County General Plan, including ED-2.2 Land Requirements; ED-3.1 Diverse Economic Base; ERM-2.9 Compatibility; PF-1.1 Maintain Urban Edges; PF-1.2 Location of Urban Development; PF-1.3 Land Uses in

UDBs/HDBs; PF-1.4 Available Infrastructure; PF-4.18 Future Land Use Entitlements in a CACUDB; PF-4.19 Future Land Use Entitlements in a CACUAB; PF-4.21 Application of the RVLP Checklist to Control Development in a CACUAB; PF-2.7 Improvement Standards in Communities; LU-1.2 Innovative Development; LU-1.8 Encourage Infill Development; LU-1.10 Roadway Access; LU-4.6 Commercial Storage Facilities; LU-5.1 Industrial Developments; and LU-5.4 Surrounding Land Use.

5. The applicant also filed General Plan Amendment No. GPA 22-003, Planning Commission Resolution No. 10068, to change the County's land use designation on approximately 65.45-acres from "Valley Agriculture" to "Mixed Use", located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006.
6. The applicant also filed Tentative Parcel Map No. PPM 23-007, Planning Commission Resolution No. 10071, to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park.
7. The Board of Supervisors, at their regular meeting of November 30, 2010, adopted by Resolution No. 2010-2927, a Notice of Intent to Collect Tulare County Public Facilities Fees, also known as Developer Impact Fees; therefore, new development may be subject to County Development Impact Fees.

C. This Planning Commission, after considering all of the evidence presented, hereby recommends that the Board of Supervisors find that the proposed Ordinance amendment and Zoning Map (Exhibit A) is consistent with the purpose of Ordinance No. 352 and further find that the petition is in conformance with the adopted General Plan for the County of Tulare.

AND, BE IT FURTHER RESOLVED as follows:

D. This Commission hereby recommends that the Board of Supervisors find that the Mitigated Negative Declaration is the appropriate environmental determination and recommends that the Board approve an Amendment to the Tulare County Zoning Ordinance, No. 352 via Case No. PZC 22-010 to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay).

The foregoing resolution was adopted upon motion of Commissioner Aleman, seconded by Commissioner Millies, at a regular meeting of the Planning Commission on April 12, 2023, by the following roll call vote:

AYES: Aleman; Millies; Dias; Brown; Lehman

NOES: None

ABSTAIN: Whitlatch

ABSENT: Aguilar, McElroy

TULARE COUNTY PLANNING COMMISSION



Michael Washam, Secretary

Exhibit "A"

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE NO. 352, THE ZONING ORDINANCE OF TULARE COUNTY, BEING AN ORDINANCE ESTABLISHING AND REGULATING LAND USES WITHIN CERTAIN ZONES IN THE COUNTY OF TULARE.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE DO ORDAIN AS FOLLOWS:

Section 1. Paragraph B of Section 3 of Ordinance No. 352 of the County of Tulare is hereby amended by the adoption of an amended map of a portion of Section 27, Township 19 South, Range 24 East, Mount Diablo Base and Meridian, being a subdivision of Part 179 of the Official Zoning Maps. A map showing Zone Change No. PZC 22-010 approved for approximately 65.45 acres is attached hereto and incorporated herein by reference. The new zoning will be C-3-MU (Service Commercial with a Mixed-Use Overlay Combining Zone).

Section 2. The property affected by the zoning reclassification from AE-20 (Exclusive Agriculture – 20 Acre Minimum), filed as is briefly described as follows: Being a 65.45-acre site, located on Tulare County Assessor Parcel Number (APN) 149-090-006. The subject property is located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, north of Tulare, CA.

Section 3. This Ordinance shall take effect thirty (30) days from the date of the passage hereof, or if published more than 15 days after the date of passage, then 30 days after publication, whichever is later, and, shall be published once in the Sun-Gazette, a newspaper printed and published in the County of Tulare, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

Exhibit "A"

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the _____ day of _____, 2023, at a regular meeting of said Board, duly and regularly convened on said day, by the following roll call vote:

AYES:
NOES:
ABSENT:

Chair, Board of Supervisors

ATTEST: Jason T. Britt
County Administrative Officer/Clerk
Board of Supervisors

By: _____
Deputy

149-010-040

AE-40

22

Exhibit "A"

AE-40

23

149-210-001

OAKDALE

149-090-007
M-1

149-220-001

149-090-006

AE-20

27

OAKS

AE-20

26

149-090-010

AE-20

149-220-003

STATE HWY 99

149-090-008

149-080-008

M-1

C-3

149-230-021

APN: 149-090-006

APROX. 0.5 ac

Zone Change from AE-20 (Exclusive Agricultural -
20 Acre Minimum) to C-3-MU (Service Commercial
with a Mixed-Use Overlay Combining Zone)

(PZC 22-010)

0 110 220 330 440 550 660 Feet

ORDINANCE NO. _____
AMENDING A PORTION OF MAP PART 179,
PART OF SEC. 27, T 19 S, R 24 E, M.D.B. & M.

OF

**OFFICIAL ZONING MAP
COUNTY OF TULARE, CA.**

TULARE COUNTY BOARD OF SUPERVISORS

ADOPTED: ____ / ____ / ____

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF TENTATIVE PARCEL)	
MAP NO. PPM 23-007)	RESOLUTION NO. 10071
(NFDI, LLC))	

Resolution of the Planning Commission of the County of Tulare recommending that the Board of Supervisors approve Tentative Parcel Map No. PPM 23-007, requested by NFDI, LLC, 1878 N. Mooney Blvd., Suite J, Tulare, CA 93274 (Owner: J & M Thomas Ranch, Inc., C/O Michael Thomas, 715 E. Oakdale Avenue, Tulare, CA 93274), to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park, located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006. It should be noted that this application has been filed in conjunction with General Plan Amendment No. GPA 22-003 and Zone Change No. PZC 22-010.

WHEREAS, the Planning Commission has given public notice of the proposed Tentative Parcel Map as provided in Section 7-01-2305 of the Ordinance Code of Tulare County; and

WHEREAS, staff has performed necessary investigations, prepared a written report and recommended approval of this application subject to certain conditions of approval; and

WHEREAS, the Planning Commission considered the staff report and found the facts and findings contained therein to be essentially true and correct; and

WHEREAS, all attached exhibits are incorporated by reference herein; and

WHEREAS, on March 29, 2023, a Notice of Public Hearing by the Tulare County Planning Commission was mailed to surrounding property owners and duly published in the Sun-Gazette, a newspaper of general circulation in Tulare County, to consider the proposed Project; and

WHEREAS, a public hearing was held and an opportunity for public testimony was provided at a regular meeting of the Planning Commission on September 22, 2021; and

WHEREAS at that meeting of the Planning Commission, public testimony was received and recorded from Darlene Mata and Jayson Parsons in support of the proposal and no one spoke in opposition to the proposal; and

WHEREAS, the Planning Commission reviewed said Parcel Map for conformity to the regulations contained in Sections 7-01-1000 to 7-01-2855 of the Ordinance Code of Tulare County.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Planning Commission hereby recommends that the Board of Supervisors certify that the Board has reviewed and considered the information contained in the Mitigated Negative

Declaration that was prepared for the project, and is applicable to the project site and the Tentative Parcel Map, together with any comments received during the public review process, consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, prior to taking action on the Tentative Subdivision Map.

B. This Planning Commission, after considering all the evidence presented, hereby recommends that the Board of Supervisors determine that the following findings are relevant in evaluating this application:

1. The applicants have proposed Tentative Parcel Map No. PPM 23-007 to divide a 65.45-acre parcel into twenty-one (21) parcels that range in size from 0.84-acres to 11-91-acres, located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006.
2. The project site (APN: 149-090-006) is located within the Tulare Urban Area Boundary (“UAB”) and the General Plan Land Use designation is “Valley Agriculture”.

The proposed General Plan Amendment No. GPA 22-003, requests to change the Land Use Designation from “Valley Agriculture” to “Mixed Use,” is consistent with relevant policies of the Tulare County General Plan, including ED-2.2 Land Requirements; ED-3.1 Diverse Economic Base; ERM-2.9 Compatibility; PF-1.1 Maintain Urban Edges; PF-1.2 Location of Urban Development; PF-1.3 Land Uses in UDBs/HDBs; PF-1.4 Available Infrastructure; PF-4.18 Future Land Use Entitlements in a CACUDB; PF-4.19 Future Land Use Entitlements in a CACUAB; PF-4.21 Application of the RVLP Checklist to Control Development in a CACUAB; PF-2.7 Improvement Standards in Communities; LU-1.2 Innovative Development; LU-1.8 Encourage Infill Development; LU-1.10 Roadway Access; LU-4.6 Commercial Storage Facilities; LU-5.1 Industrial Developments; and LU-5.4 Surrounding Land Use.

The Project site (APN: 149-090-006) is located within the Tulare Urban Area Boundary (“UAB”) and is subject to a Memorandum of Understanding with the City of Tulare [Tulare County Agreement No. 25815 was entered into on December 13, 2012, by and between the City of Tulare (“City”) and the County of Tulare (“County”)]. The RVLP does not apply within a County Adopted City Urban Development Boundary (“CACUDB”) and is only advisory within a County Adopted City Urban Area Boundary (“CACUAB”).

Concerning Future Land Use Entitlements in a CACUAB, Policy PF-4.19 on (Part I) Page 2-53 of the Tulare County General Plan (“TCGP”) states “As an exception to the County policies that the Rural Valley Lands Plan (RVLP) does not apply within CACUDBs and is only advisory within CACUABs, the County may work with an individual city to provide that no General Plan amendments or rezonings will be considered to change the current land use designation or zoning classification of any parcel within a CACUAB unless appropriate under the requirements of the Rural Valley Lands Plan (RVLP) or similar checklist or unless the County has worked with the city to identify and structure an acceptable

alternative General Plan land use designation or zoning classification.” Based on Policy PF-4.19 a RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare did not request an RVLP analysis because the proposed project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan shows for the Project site. Therefore, an RVLP analysis is not required.

Policy PF-4.21 on (Part I) Page 2-54 of the TCGP states “As an exception to the County policies that the Rural Valley Lands Plan is only advisory within CACUABs, the County may work with an individual city to provide that the requirements of the RVLP will apply to applications for special use permits (including special use permits for the expansion of a non-conforming use), variances considered under Government Code § 65906, or to the extent allowed by law, divisions of land within a CACUAB except in those areas that overlap with a County unincorporated UDB, an HDB, or Corridor Plan area.” Based on Policy PF-4.21 an RVLP analysis is not mandatory in a CACUAB, and in this case the City of Tulare did not request an RVLP analysis because the proposed project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site. Therefore, an RVLP analysis is not required.

Section 2. Planning Framework of the TCGP on (Part 1) Pages 2-3 to 2-4 states “In the past, the County used three key planning tools to guide urban development in all unincorporated areas of the County. The first was the Urban Boundaries Element; the second are the Area Plans; the third are the General Plans for identified incorporated cities and Community Plans for unincorporated communities. For discussion of the Area Plans which include the Rural Valley Lands Plan, Corridors Framework Plan, Foothill Growth Management Plan, and Mountain Framework Plan, please see Part II. The Urban Boundaries Element, first adopted in 1974, identified two types of boundaries: Urban Area Boundaries (UABs) and Urban Improvement Areas (UIAs). At the time of the Urban Boundaries Element adoption, the UIAs were defined as the twenty-year growth boundaries and the UABs were defined as the ultimate growth boundary for each city and community. In 1983, the Urban Boundaries Element was amended to replace the UIAs with UDBs, and to modify the UAB model to include a “comment” area around incorporated cities, keeping UABs as the next logical area for urban expansion. In addition, UABs were no longer established around unincorporated communities.”

Section 2. Planning Framework of the TCGP on (Part 1) Page 2-5 states “The County has adopted County Adopted City General Plans for all eight incorporated cities to guide County land use decisions outside the city limits within the County UDB and UAB. The eight incorporated cities are:

- Dinuba
- Exeter
- Farmersville
- Lindsay
- Porterville

- Tulare
- Visalia
- Woodlake”

The project site is located within the UAB for the City of Tulare, and the project site is within an area titled Community that allows the “Mixed Use” Land Use Designation. LU-1.2 on (Part I) Page 4-22 states “The County shall promote flexibility and innovation through the use of planned unit developments, development agreements, specific plans, Mixed Use projects, and other innovative development and planning techniques.”

Section 15070 of the California Environmental Quality Act (“CEQA”) states “A public agency shall prepare or have prepared a proposed negative declaration or mitigated negative declaration for a project subject to CEQA when:

- (a) The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
- (b) The initial study identifies potentially significant effects, but:
 - (1) Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
 - (2) There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.”

Section 15071 of CEQA states “A Negative Declaration circulated for public review shall include:

- (a) A brief description of the project, including a commonly used name for the project, if any;
- (b) The location of the project, preferably shown on a map, and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;
- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.”

CEQA and the Guidelines for Implementation of the California Environmental Quality Act (“CEQA Guidelines”) do not require that a MND include a consistency analysis with all land use plans, policies, or regulations adopted for the purpose of avoiding or mitigating an environmental effect, such as the County General Plan. Section 15071 of CEQA states “A Negative Declaration circulated for public review shall include:

- (a) A brief description of the project, including a commonly used name for the project, if any;
- (b) The location of the project, preferably shown on a map, and the name of the project proponent;
- (c) A proposed finding that the project will not have a significant effect on the environment;
- (d) An attached copy of the Initial Study documenting reasons to support the finding; and
- (e) Mitigation measures, if any, included in the project to avoid potentially significant effects.”

Policy PF-1.2 of the TCGP states “The County shall ensure that urban development only takes place in the following areas:

- 1. Within incorporated cities and CACUDBs;
- 2. Within the UDBs of adjacent cities in other counties, unincorporated communities, planned community areas, and HDBs of hamlets;
- 3. Within foothill development corridors as determined by procedures set forth in Foothill Growth Management Plan;
- 4. Within areas set aside for urban use in the Mountain Framework Plan and the mountain sub-area plans; and
- 5. Within other areas suited for non-agricultural development, as determined by the procedures set forth in the Rural Valley Lands Plan.”

Area No. 5 of Policy PF-1.2 is the only Area Number that applies to the proposed Project. Rural Valley Lands Plan (“RVLP”) requirements are discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21.

Policy LU-1.3 of the TCGP states “The County shall discourage the intrusion into existing urban areas of new incompatible land uses that produce significant noise, odors, or fumes.” The proposed Project is consistent with this policy because it does not result in a new incompatible land use intruding into existing urban areas. Instead, the proposed Project establishes a mixed-use commercial development in an area that is planned for commercial use. Furthermore, the proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site.

Policy LU-1.4 of the TCGP states “The County shall actively support the development of compact mixed use projects that reduce travel distances.” The applicability to the proposed Project is the potential for a combination of commercial and/or light industrial uses that would be within the vicinity of a market area (i.e., a population) that could patronize this location.

Policy LU-1.8 of the TCGP states “The County shall encourage and provide incentives for infill development to occur in communities and hamlets within or adjacent to existing development in order to maximize the use of land within existing urban areas, minimize the conversion of existing agricultural land, and

minimize environmental concerns associated with new development.” The applicability to the proposed Project is not limited to infill; rather, the proximity of the City of Tulare’s northern city limit provides a logical location for the extension of both shopping and employment opportunities in an area where the landowner desires to discontinue his/her agricultural activities.

Policy PF-1.5 of the TCGP states “County policies reflect the unique attributes of the various locations and geographic areas in the County. As such, there are policies applicable to one area of the County that are not applicable to others based on natural setting, topography, habitat, existing development, or other attributes which are unique within the planning context of the County.” Based on Policy PF-1.5, it would not be appropriate to prepare a consistency analysis with all General Plan policies because each project site is unique and a Policy that is appropriate for one area will not be appropriate to apply to all areas due to different conditions at each unique location.

Policy PF-1.6 of the TCGP states “The County shall utilize the Land Use Element and adopted CAC General Plans, Community Plans, Hamlet Plans, Planned Communities, Corridor Areas, or Area Plans to designate land uses and intensities that reflect and maintain the appropriate level of urbanized development in each CAC General Plan, Community Plan, Hamlet Plan, Planned Community, Corridor Area, or Area Plan.” The proposed Project is consistent with Policy PF-1.6 because the County utilized the Land Use Element of the General Plan and adopted CAC General Plan for the City of Tulare. as discussed above on page 4 concerning Section 2. Planning Framework of the TCGP on (Part 1) Page 2-5.

The purpose of Policy PF-4A of the TCGP is “To provide the means to further manage urban development within CACUDBs and CACUABs of existing incorporated cities while ensuring that the limitation on development is in the best interests of the County and its residents in both the incorporated and unincorporated areas and enhances the County’s ability to provide adequate County facilities and countywide social, health, safety and welfare services impacted by development in the cities and County.” Rural Valley Lands Plan (“RVLP”) requirements are discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21.

Policy AG-1.1 of the TCGP states “The County shall maintain agriculture as the primary land use in the valley region of the County, not only in recognition of the economic importance of agriculture, but also in terms of agriculture’s real contribution to the conservation of open space and natural resources.” When this policy is examined individually, it provides the impression that maintaining any land that is currently in agricultural production is required. This is not the case. There are additional policies that need to be considered and they can provide situations where maintaining an existing agricultural use is not required as discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21 regarding RVLP.

Policy AG-1.7 of the TCGP states “The County shall promote the preservation of its agricultural economic base and open space resources through the

implementation of resource management programs such as the Williamson Act, Rural Valley Lands Plan, Foothill Growth Management Plan or similar types of strategies and the identification of growth boundaries for all urban areas located in the County.” The County does promote the preservation of its agricultural economic base and open space implementation of the Williamson Act, RVLP, Foothill Growth Management Plan, etc. In this case the proposed Project site is not restricted by a Williamson Act Contract and Rural Valley Lands Plan (“RVLP”) requirements are discussed above on pages 3 and 4 in relation to Policy PF-4.19 and Policy PF-4.21.

Policy LU-4.3 of the TCGP states “The County shall provide for commercial service businesses such as warehouses, repair services, business support services, furniture sales, and building materials sales where they will not adversely affect surrounding properties, typically in areas serving occasional needs rather than day-to-day needs. Criteria to be used in siting commercial service areas are:

1. Provide good access to highways or major collectors,
2. Buffer existing or planned residential areas,
3. Develop in-depth rather than in a strip fashion along the access road to provide adequate room for parking, buffering, etc., and
4. Encourage development as integrated planned areas in conjunction with community commercial areas or with common architectural and site development features.”

The proposed Project complies with Policy LU-4.3 as it would provide commercial service businesses at State Route 99, E. Oakdale Avenue, and Akers Street. The proposed Project site would develop in-depth and would provide adequate room for parking, buffering, etc. The proposed Project is a mixed-use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone. The development would serve occasional needs rather than day-to-day needs. The proposed Project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan Map shows for the Project site.

Policy LU-4.5 of the TCGP states “The County shall encourage that new commercial development is consistent with the existing design of the surrounding community or neighborhood by encouraging similar façades, proportionate scale, parking, landscaping, and lighting.” As the proposed Project is within the Urban Development Boundary of the City of Tulare (City), the proposed Project will be required to comply with City development standards, designs, features, etc.

Policy LU-4.6 of the TCGP states “The County shall require that commercial storage facilities, including “mini” storage, indoor and outdoor storage facilities, and contractor’s materials storage be screened from view through landscape buffers or other natural landscapes.” The proposed Project is a mixed-use commercial development that includes the expansion of the existing Magic Touch Recreational

Vehicle Sales facility at the south end of the proposed project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone. Although allowed in the C-3-MU Zone, the application for the proposed Project does not include “mini” storage, indoor and outdoor storage facilities, or contractor’s materials storage. It also does not include an industrial park use, industrial land use, manufacturing uses, or warehousing uses as noted by the commenter. Therefore, Policy LU-4.6 is not applicable to the proposed Project.

Policy Numbers LU-5.1, LU-5.2, LU-5.3, LU-5.4, LU-5.5, LU-5.6, and LU-5.7 of the TCGP are not applicable to the proposed project because it is not an Industrial Park Development. Instead, the proposed project is a mixed use commercial development.

Policy AQ-1.3 of the TCGP states “The County shall require development to be located, designed, and constructed in a manner that would minimize cumulative air quality impacts. Applicants shall be required to propose alternatives as part of the State CEQA process that reduce air emissions and enhance, rather than harm, the environment.” The proposed Project is a mixed-use commercial development. A Condition of Approval requiring additional evaluation of proposed Project design elements are included in the Project. This condition includes the following requirements: 1) Prior to issuance of building permits, a site plan map and building plans will be submitted to the Tulare County Resource Management Agency (RMA) Planning Division for review; 2) The site map will be evaluated for consistency with Air District recommendations for evaluation of potential health risks based on Project design, including travel routes, location of loading docks and truck queuing areas; and 3) Building plans will be evaluated for consistency with the California Green Building Standards Code (CALGreen) and for consistency with the Tulare Climate Action Plan (CAP).

Policy AQ-1.4 of the TCGP states “The County shall evaluate the compatibility of industrial or other developments which are likely to cause undesirable air pollution with regard to proximity to sensitive land uses, and wind direction and circulation in an effort to alleviate effects upon sensitive receptors.” At the time of submittal of the final site plan map and building plans, Tulare County RMA Planning Division staff will review the project for consistency with Air District recommendations for evaluation of potential health risks based on proposed Project design, including location of travel routes, loading docks and truck queuing areas.

Policy AQ-1.5 of the TCGP states “The County shall ensure that air quality impacts identified during the CEQA review process are consistently and reasonably mitigated when feasible.” Consistent with the Mitigated Negative Declaration prepared for the proposed Project (SCH# 2023020373), the proposed Project does not require mitigation to reduce air quality impacts to a less than significant level. Consistent with Policy AQ-1.3, a Condition of Approval requiring additional evaluation of proposed Project design elements to ensure development of the proposed Project would be consistent with the Tulare County CAP and will not pose significant health risks is included in the project.

If the Board of Supervisors approves GPA 22-003 and changes the Land Use Designation of the project site from “Valley Agriculture” to “Mixed Use”, then the Zoning would be required to be changed from the AE-20 (Exclusive Agricultural – 20 Acre Minimum) Zone to a Zone that is compatible with the “Mixed Use” Land Use Designation in order to be consistent with California Government Code §65860. Changing the Zoning to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone) would be compatible with the Mixed Use Land Use Designation. Since the project includes a General Plan Amendment, a RVLP analysis is not required in order to change the AE-20 Zone to the C-3-MU Zone.

On April 6, 2022, a Project Review Committee Consultation and Fact Sheet was distributed to request comments on the proposed project. The City of Tulare was sent the Project Review Committee (“PRC”) Consultation and Fact Sheet and provided an opportunity to review and comment on the proposed project. The City of Tulare did not provide written comments on the proposed project, and they did not request a Rural Valley Lands Plan (“RVLP”) analysis. On May 5, 2022, a Microsoft Teams Virtual PRC Meeting was held, which the City of Tulare participated in. During the PRC Meeting the City of Tulare did not request a RVLP analysis and they stated that the proposed project is consistent with the “Regional Commercial” Land Use Designation that the City of Tulare 2035 General Plan shows for the Project site.

The Board of Supervisors adopted Resolution No. 2022-0770, approving General Plan Initiation (GPI) No. 22-003 for this project on August 30, 2022, to authorize the applicant to file an application for a General Plan Amendment to change the land use designation on approximately 65-acres from Agriculture to Service Commercial and to change the zoning from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with Mixed-Use Overlay).

3. The subject site is in the AE-20 (Exclusive Agricultural – 20 Acre Minimum) Zone, but a Zone Change from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone) would allow for the subdivision of a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park. The proposed Project is a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

Policy RVLP-1.2 of the Rural Valley Lands Plan (“RVLP”) requires the County to consider the re-zoning of existing parcels less than the minimum required by agricultural zoning, if found to not be viable for agricultural purposes as per the RVLP checklist and if such re-zoning would not impinge upon current or future agricultural uses in the area. A RVLP Parcel Evaluation was performed for the only parcel included in the zone change at this time. After all the factors were applied to the parcel, the project received a score of 9 points under the RVLP evaluation. Parcels that accumulate 17 or more points according to the RVLP Development Criteria are not allowed to be re-zoned. If the number of points accumulated is 11

or less, the parcel may be considered for non-agricultural zoning. According to Policy RVLP-1.4 “Determination of Agriculture Land”, if the number of points accumulated is between 12 to 16 points, then it shall be determined to have fallen within a “gray” area in which no clear-cut decision is readily apparent. In such instances, the Planning Commission and Board of Supervisors shall make a decision based on the unique *circumstances pertaining to the particular parcel of land, including factors not covered by this system.*

4. A Mitigated Negative Declaration (“MND”) identified potentially significant effects on the environment and a Mitigation Monitoring and Reporting Plan (“MMRP”) was prepared, indicating that, although the project may have a significant effect on the environment, mitigation measures were incorporated into the project that would reduce any impact to a point where clearly no significant effect on the environment could occur and there is no substantial evidence that the Project would have a significant effect on the environment.

Information about the environmental determination for the Akers Business Park was provided in a Notice of Intent (“NOI”) to Adopt a Mitigated Negative Declaration (“MND”) that was published in the Sun Gazette and mailed to local agencies, state agencies, federal agencies, and interested parties on February 15, 2023, for a thirty-day public review period beginning on February 15, 2023, and ending on March 17, 2023. In addition, a Notice of Public Hearing was published in the Sun Gazette and mailed to surrounding property owners on March 29, 2023, for a ten-day review period.

The MND was posted on the Tulare County Resource Management Agency website on February 15, 2023, at the following link: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/mitigated-negative-declaration-for-the-akers-business-park-gpa-22-003-pzc-22-010-ppm-23-007/>. The MND is hereby incorporated by reference.

The MND was submitted to the State Clearinghouse on February 15, 2023, and the 30-day public review period was requested to begin on Wednesday, February 15, 2023, and ends on Friday, March 17, 2023. The MND was posted by the State Clearinghouse on Wednesday, February 15, 2023, initiating the 30-day public review period beginning on Wednesday, February 15, 2023, and ending on Friday, March 17, 2023.

5. The project site is not restricted by a California Land Conservation Act (“Williamson Act”) Contract.
6. The applicant also filed General Plan Amendment No. GPA 22-003, Planning Commission Resolution No. _____, to change the County’s land use designation on approximately 65.45-acres from “Valley Agriculture” to “Mixed Use”, located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006.

7. The applicant also filed Zone Change No. PZC 22-010, Planning Commission Resolution No. _____, to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) Zone to C-3-MU (Service Commercial with a Mixed-Use Overlay) Zone, located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006.
8. The Planning Commission, after consideration of all evidence presented, found that approval of said Tentative Parcel Map will promote the orderly growth of the unincorporated portions of the County and will assure the health, safety, and welfare of the people of the County.
9. The Board of Supervisors, at their regular meeting of November 30, 2010, adopted by Resolution 2010-0927, a Notice of Intent to Collect Tulare County Public Facility Fees, also known as Developer Impact Fees. New Development may be subject to County Development Impact fees.

C. This Planning Commission further recommends that the Board of Supervisors determine that the proposed project, together with the provisions for its design and improvements, is consistent with the Tulare County General Plan, as amended, and

D. This Planning Commission, after considering all evidence presented, recommends that the Board of Supervisors find that approval of said tentative parcel map will promote the orderly growth of the County and will assure the health, safety and welfare of the people of the County.

AND, BE IT FURTHER RESOLVED as follows:

E. This Commission hereby recommends that the Board of Supervisors find that the Mitigated Negative Declaration is the appropriate environmental determination and approve Tentative Parcel Map No. PPM 23-007 subject to the following conditions:

GENERAL CONDITIONS

1. Failure to cause the recording of a Parcel Map, an approved or conditionally approved Tentative Parcel Map within two (2) years after the date of its approval or conditional approval shall cause the Tentative Parcel Map to expire, in accordance with the Tulare County Subdivision Ordinance. However, upon application by the owner or his authorized agent, the time at which the approval of Tentative Parcel Map expires may be extended for a period or periods not exceeding a total of five years by the Planning Commission.
2. The applicant(s), at their sole cost and expense, shall defend, indemnify and hold harmless the County of Tulare, its agents, legislative body, officers or employees in any legal or administrative action, claim or proceeding concerning approval of Tentative Parcel Map No. PPM 23-007 or, at its election and in the alternative, shall relinquish such approval. The applicant(s) shall assume the defense of the County in any such legal or administrative action, claim or proceeding with legal counsel paid for in the entirety by the applicant(s), but subject to the County's reasonable approvals. The applicant shall also reimburse the County, its agents, its legislative

body, officers or employees for any judgments, amounts paid in the settlements court costs and attorney's fees with the County, its agents, legislative body, officers or employees may be required to pay at court as a result of such action, claim or proceeding. The County may, at its sole discretion, participate at its own expense in the defense of any such action, claim or proceeding, but such participation shall not relieve the applicant(s) of their obligations under this condition.

PLANNING CONDITIONS

3. In accordance with Section 7-29-1070(a) of the Tulare County Ordinance Code, the content of the Right to Farm Notice (Exhibit "B") shall be placed in a prominent location on the Parcel Map for acknowledgment by the subdivider; or, the Notice itself shall be signed by the subdivider and recorded as a separate sheet to accompany the Parcel Map.
4. Liquid waste disposal is by means of individual septic systems. Existing septic system will be subject to the Local Agency Management Program requirements per Part VII, Chapter 1, Articles 1-9, Ordinance of Tulare County, pertaining to Sections 7-01-1320 through 7-15-1575. Installation of new, on-site septic systems will require a site evaluation and soils testing. This evaluation must be done by a Qualified Professional, with the appropriate licensure (PE, PG, CHG, REHS, or CPSS). The report of this evaluation must be submitted to Tulare County Environmental Health Services Division (TCEHSD) for review, before approval can be granted for any building permits.
5. If, during construction or grading activities on the site, any resources of an historic or prehistoric nature are discovered, the applicant, his heirs and assigns shall ensure that all construction or grading is immediately ceased, and the Tulare County Resource Management Agency Director is immediately notified of the discovery. Further development shall not continue until the Tulare County Resource Management Agency Director determines that appropriate and necessary recovery measures have been completed.
6. Prior to recording the Parcel Map for PPM 23-007 the Board of Supervisors shall approve GPA 22-003 and PZC 22-010.
7. Prior to the issuance of the first building permit a site plan map and building plans shall be submitted to the Tulare County Resource Management Agency ("RMA") Planning Division for review.
 - a. The site map will be evaluated for consistency with Air District recommendations for evaluation of potential health risks based on Project design, including travel routes, location of loading docks and truck queuing areas
 - b. Building plans will be evaluated for consistency with the California Green Building Standards Code (CALGreen) and for consistency with the Tulare Climate Action Plan (CAP)
8. Prior to the issuance of building permits a copy of a completed Phase I Environmental Site Assessment I be submitted to the Tulare County RMA" Planning Division for

review. If the Phase I ESA identifies contaminated soils within the proposed Project boundary then a Phase II ESA will be required before building permits will be issued.

9. The Project shall comply with all applicable rules and regulations of the San Joaquin Valley Air Pollution Control District (see Exhibit “C”).
10. The Project shall comply with applicable rules and regulations of Caltrans (see Exhibit “D”).
11. The Project shall comply with applicable rules and regulations of the State Water Resources Control Board (see Exhibit “E”).
12. The Project shall comply with applicable rules and regulations of the California Department of Conservation Geologic Energy Management Division (see Exhibit “F”).
13. All mitigation measures in the Mitigated Negative Declaration and the MMRP for PPM 23-007 are adopted as conditions of approval as follows:

AGRICULTURAL AND FOREST RESOURCES

- 2-1 The applicant will be required to create an agricultural land conservation easement at a ratio of 1 acre of developed property for 1 acre of conserved agricultural land (a 1:1 ratio). This amount of 1:1 will be represented by 12 acres within the County. Any replacement acreage will be to the satisfaction of the Planning Director of Tulare County. The applicant will purchase an agricultural land conservation easement, of like agricultural land within the County, on the entire 12 acres to be maintained and kept in agriculture in perpetuity. The “ultimate” agricultural easement shall be placed on other suitable and agriculturally compatible property, of the same soil types and arability, within Tulare County; at a replacement ratio of 1:1, and to be established as an agricultural land conservation easement in perpetuity.

BIOLOGICAL RESOURCES

- 4-1 **Pre-construction survey(s) plants:** A qualified biologist/botanist will conduct pre-construction surveys for special status plant species in accordance with the California Department of Fish and Wildlife (CDFW) Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (2009). This protocol includes identification of reference populations to facilitate the likelihood of field investigation occurring during the appropriate floristic period. Surveys should be timed to coincide with flowering periods for species that could occur (March-May). In the absence of protocol-level surveys being performed, additional surveys may be necessary.

- If special status plant species are not identified during preconstruction surveys, no further action is required.

- If special status plant species are detected during preconstruction surveys, plant population shall be avoided with the establishment of a minimum 50-foot no disturbance buffer from the outer edge of the plant population. If buffers cannot be maintained, the Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW shall be contacted immediately to identify the appropriate minimization actions to be taken as appropriate for the species identified and to determine permitting needs.

- 4-2 **Pre-construction animal surveys (San Joaquin kit fox, nesting raptors/birds, burrowing owl):** If Project activities must occur during the nesting season (February 1-August 31), a qualified biologist will conduct preconstruction surveys for active raptor and migratory bird nests within 30 days of the onset of these activities. The survey will include the proposed work area(s) and surrounding lands within 500 feet for all nesting raptors and migratory birds save Swainson's hawk; the Swainson's hawk survey will extend to ½-mile outside of work area boundaries. If no nesting pairs are found within the survey area, no further mitigation is required.
- 4-3 **Employee education program:** Prior to the start of construction, the applicant shall retain a qualified biologist/botanist to conduct a tailgate meeting to train all construction staff that will be involved with the project on the special status species that occur, or may occur, on the project site. This training will include a description of the species and its habitat needs; a report of the occurrence of the species in the project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of the measures being taken to reduce impacts to the species during project construction and implementation.
- 4-4 **Avoidance** A standardized pre-construction/pre-activity survey shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities or any Project activity likely to impact the San Joaquin kit fox. Surveys shall identify kit fox habitat features on the Project site and evaluate use by kit fox and, if possible, assess the potential impacts to the kit fox by the proposed activity. The status of all dens shall be determined and mapped. Written results of pre-construction/pre-activity surveys must be received by the USFWS within five days after survey completion and prior to the start of ground disturbance and/or construction activities.
- 4-5 **Minimization.** Construction activities shall be carried out in a manner that minimizes disturbance to kit fox. Minimization measures include, but are not limited to: restriction of project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of kit foxes; restriction of rodenticide and herbicide use; and proper disposal of food items and trash.

- 4-6 **Mortality Reporting:** The Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW will be notified in writing within three working days in case of the accidental death or injury of a San Joaquin kit fox during Project-related activities. Notification must include the date, time, location of the incident or of the finding of a dead or injured animal, and any other pertinent information. core avoidance areas. Any unauthorized take of Special Status species will be immediately reported to DFW by the monitor. The monitor will also notify the Project Coordinator who will stop work until corrective measures are implemented.
- 4-7 **Avoidance.** In order to avoid impacts to nesting birds, construction will occur, where possible, outside the nesting season, or between September 16 and January 31.
- 4-8 **Buffers.** If active nests are found within the survey areas a qualified biologist will establish appropriate no-disturbance buffers based on species tolerance of human disturbance, baseline levels of disturbance, and barriers that may separate the nest from construction disturbance. These buffers will remain in place until the breeding season has ended or until the qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.
- 4-9 **Mortality reporting.** The Sacramento Field Office of the USFWS and the Fresno Field Office of CDFW will be notified in writing within three working days in case of the accidental death or injury of a special status nesting raptor or migratory bird during Project-related activities. Notification must include the date, time, location of the incident or of the finding of a dead or injured animal, and any other pertinent information. core avoidance areas. Any unauthorized take of Special Status species will be immediately reported to DFW by the monitor. The monitor will also notify the Project Coordinator who will stop work until corrective measures are implemented.

CULTURAL RESOURCES AND GEOLOGY/SOILS (PALEONTOLOGICAL RESOURCES)

- 5-1 In the event that historical, archaeological or paleontological resources are discovered during site excavation, the County shall require that grading and construction work on the Preferred/ Proposed Project site be immediately suspended until the significance of the features can be determined by a qualified archaeologist or paleontologist. In this event, the specialists shall provide recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recover, excavation analysis, and curation of archaeological or paleontological materials. County staff shall consider such recommendations and implement them where they are feasible in light of Project design as previously approved by the County.

- 5-2 The property owner shall avoid and minimize impacts to paleontological resources. If a potentially significant paleontological resource is encountered during ground disturbing activities, all construction within a 100-foot radius of the find shall immediately cease until a qualified paleontologist determines whether the resources requires further study. The project proponent shall include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. The paleontologist shall notify the Tulare County Resource Management Agency and the project proponent of the procedures that must be followed before construction is allowed to resume at the location of the find. If the find is determined to be significant and the Tulare County Resource Management Agency determines avoidance is not feasible, the paleontologist shall design and implement a data recovery plan consistent with applicable standards. The plan shall be submitted to the Tulare County Resource Management Agency for review and approval. Upon approval, the plan shall be incorporated into the project.
- 5-3 Consistent with Section 7050.5 of the California Health and Safety Code and (CEQA Guidelines) Section 15064.5, if human remains of Native American origin are discovered during project construction, it is necessary to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (Public Resources Code Sec. 5097). In the event of the accidental [that is, unanticipated] discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:
1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - a. The Tulare County Coroner/Sheriff must be contacted to determine that no investigation of the cause of death is required; and
 - b. If the coroner determines the remains to be Native American:
 - i. The coroner shall contact the Native American Heritage Commission within 24 hours.
 - ii. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
 - iii. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code section 5097.98, or
 2. Where the following conditions occur, the landowner or his/her authorized representative shall rebury the Native American human

remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.

- a. The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
- b. The descendant fails to make a recommendation; or
- c. The landowner or his authorized representative rejects the recommendation of the descendent.

TRANSPORTATION/TRAFFIC (TO BE IMPLEMENTED AS A CONDITION OF APPROVAL

- 17-1 To be determined as it would be speculative to identify specific uses and square footage of future which have not been determined. As development proposals occur, each will be evaluated to determine potential impact and appropriate/applicable mitigation as needed. Mitigation could include roadway improvements, signalization, VMT fees, etc.

TRIBAL CULTURAL RESOURCES

See Mitigation Measures 5-3 through 5-3.

CODE COMPLIANCE CONDITIONS

14. No active code violation exists on the parcel. For all new construction to be done in the future, building plans must be submitted and permits obtained prior to construction.

FIRE CONDITIONS

15. Fire apparatus access, minimum 20 around all structures.
16. Posted address on the driveway, min. 4" tall x 3" wide by .5" line width, Visible from roadway.
17. Approved Fire alarm system shall be installed and inspected as required by Fire Code.
18. Knox box for buildings.
19. Fire lanes shall be marked and painted.
20. A licensed professional is required to designed and submit plans for all improvements to property.
21. Blue reflective marker adjacent to Fire hydrants or Fire Department Connections. (NFPA 1142, sec. 8.4.7)
22. Fire hydrant location shall be approved prior to grading.

23. Fire extinguishers shall be provided where required by the Fire Code.
24. Emergency exit/lighting shall be installed where required.
25. Occupancy signs shall be posted where required.
26. Fire final - All fire protection features shall be installed and inspected before fire final.

**Note, this checklist does not exclude builder / owner from all required applicable codes. If something was missed in the plan check process, the owner / builder will be expected to comply with the applicable code, regulation or ordinance.*

ENVIRONMENTAL HEALTH SERVICES DIVISION CONDITIONS

27. New septic system installations will require submission of a site evaluation report (for each proposed parcel). The report shall be submitted to the Tulare County Environmental Health Services Division (TCEHSD) for review, before approval can be granted for any building permits. This evaluation must be done by a Qualified Professional. Qualified Professionals must possess the appropriate State licensure (PE, PG, CHG, REHS or CPSS).
28. If any of the proposed parcels will ever handle or store quantities of hazardous materials in excess of 55 gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of a compressed gas, or any amount of a hazardous waste, then the facility operator(s) will be required to submit a Hazardous Materials Business Plan to TCEHSD. The property owner shall immediately contact the TCEHSD if any facility/operation ever meets these threshold quantities.

TULARE IRRIGATION DISTRICT CONDITIONS

29. The applicant shall preserve access to the existing Tulare Irrigation District canal running along the west site of the project site and shall not place any structures, fences, signs or landscaping within 16-feet of the canal top of bank.

B. This Planning Commission recommends that the Board of Supervisors direct the Secretary of the Planning Commission to file this resolution, along with the site plan (attached as Exhibit "A") and the Right to Farm Notice (attached as Exhibit "B") for Tentative Parcel Map No. PPM 23-007, for the record with the Recorder of the County of Tulare, pursuant to Section 7-01-2365.

The foregoing resolution was adopted upon motion of Commissioner Aleman, seconded by Commissioner Millies, at a regular meeting of the Planning Commission on April 12, 2023, by the following roll call vote:

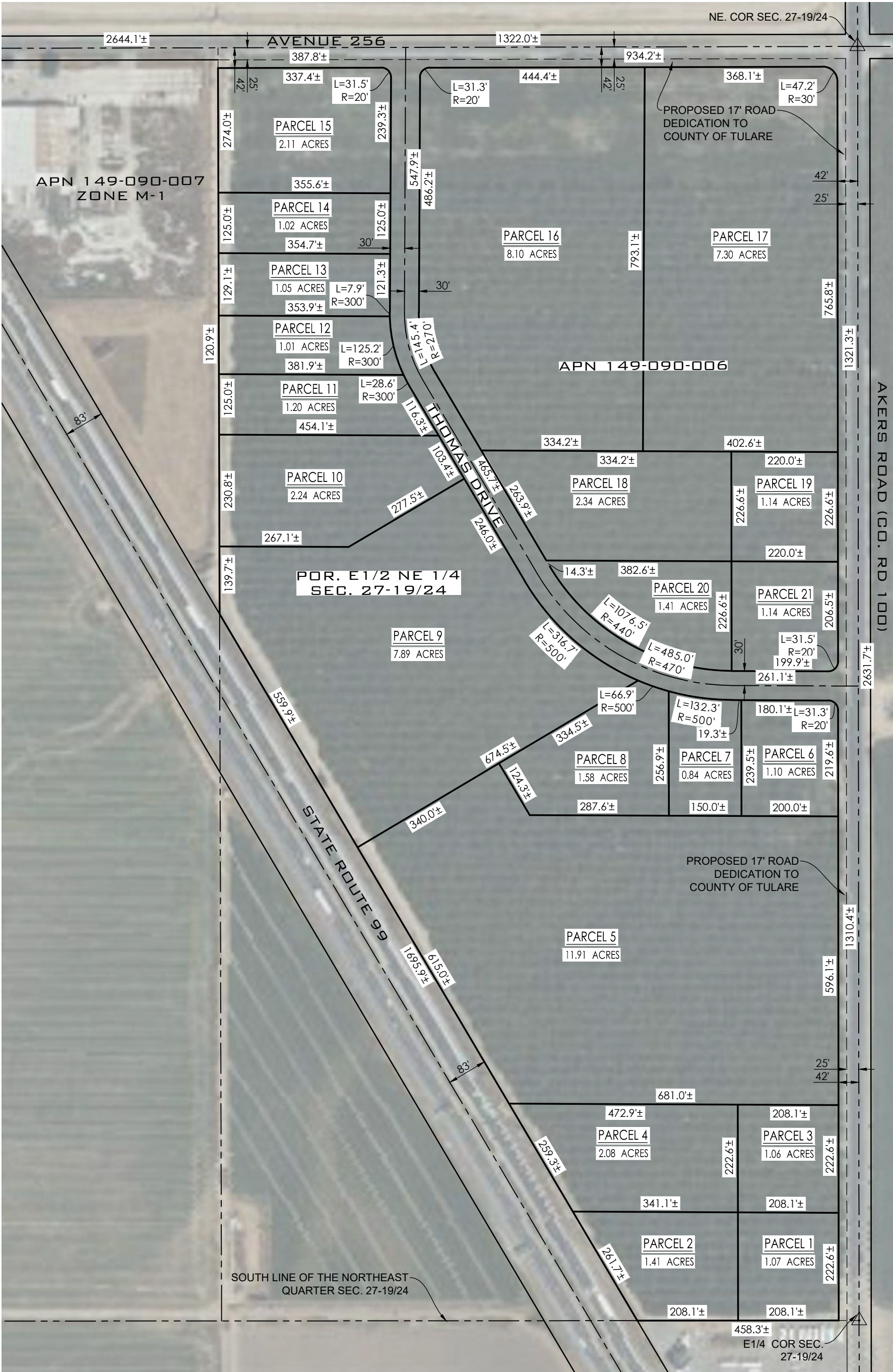
AYES: Aleman; Millies; Dias; Brown; Lehman
NOES: None
ABSTAIN: Whitlatch
ABSENT: Aguilar, McElroy

TULARE COUNTY PLANNING COMMISSION



Michael Washam, Secretary

Exhibits: Exhibit "A" Site Plan
Exhibit "B" Right to Farm Notice
Exhibit "C" SJVAPCD Comment Letter
Exhibit "D" Caltrans Comment Letter
Exhibit "E" State Water Resources Control Board Comment Letter
Exhibit "F" California Department of Conservation Geologic Energy Management
Division Comment Letter



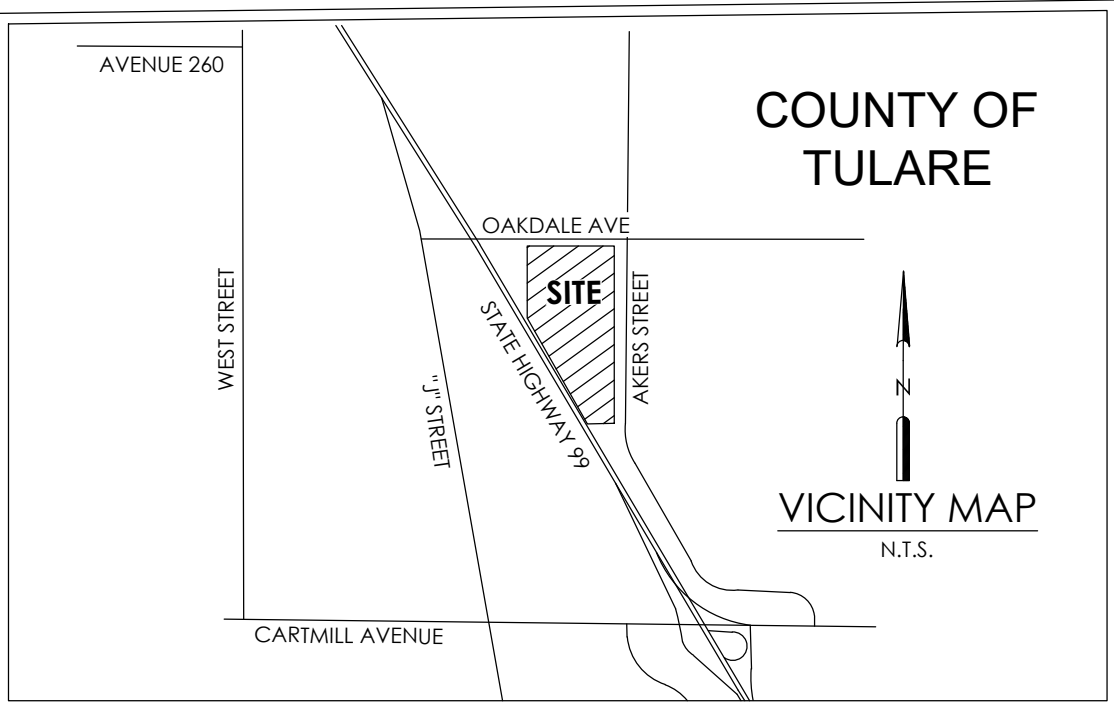
NOTE:
AERIAL IMAGERY IS FOR INFORMATIONAL PURPOSES ONLY
AND PROVIDED BY MICROSOFT.

BOUNDARY LINES SHOWN HEREON IS CALCULATED FROM
RECORD DATA

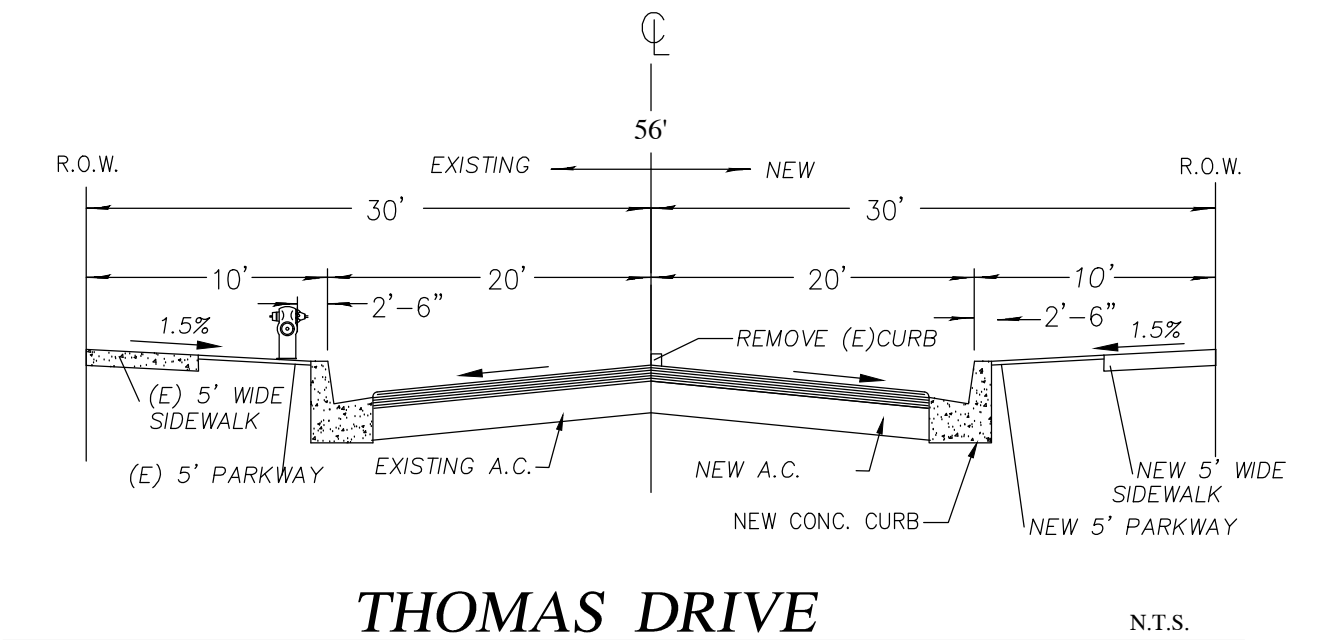
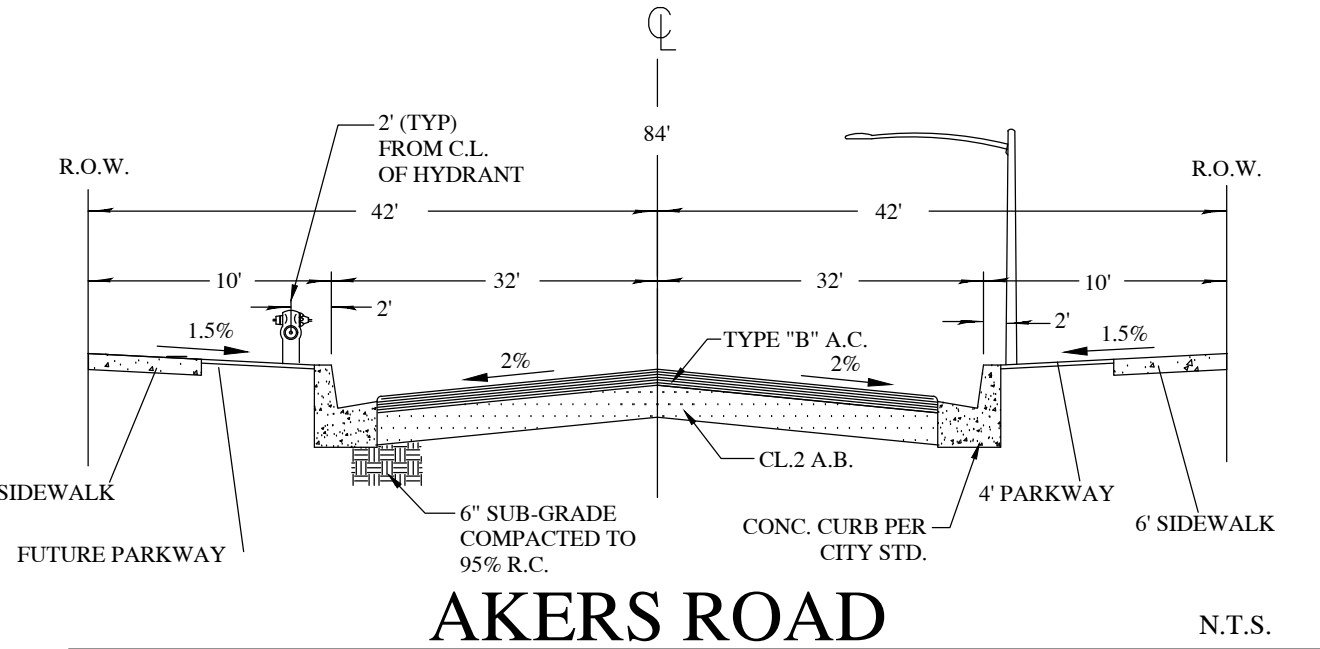
AKERS BUSINESS PARK COMMERCIAL TENTATIVE PARCEL MAP

BEING A DIVISION OF A PORTION OF THE EAST HALF OF THE NORTHEAST
QUARTER OF SECTION 27, TOWNSHIP 19 SOUTH, RANGE 24 EAST MOUNT DIABLO
MERIDIAN IN THE COUNTY OF TULARE, STATE OF CALIFORNIA.

NOVEMBER 2022



OWNER J&M THOMAS RANCH, INC. A CALIFORNIA CORP 1539 E. OAKDALE TULARE, CA 93274	AUTHORIZED AGENT AW ENGINEERING 810 W. ACEQUIA AVE VISALIA, CA 93291 (559) 713-6139	LAND SURVEYOR BRIAN S. BORUM LS 1445 W. GRAND AVE STE C GROVER BEACH, CA 93433 (805)270-4154
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SITE DATA
ADDRESS: 2587 HILLMAN ST.
APN: 149-090-006
ZONING DESIGNATION: AE20
EXISTING USE: AGRICULTURE
PROPOSED USED: COMMERCIAL
TOTAL AREA : 65.3 AC ± GROSS
FLOOD ZONE: ZONE X
ELECTRICITY: SOUTHERN CALIFORNIA EDISON
WATER: TULARE IRRIGATION DISTRICT
SEWER: NONE
REFUSE: NONE
TELEPHONE: AT&T

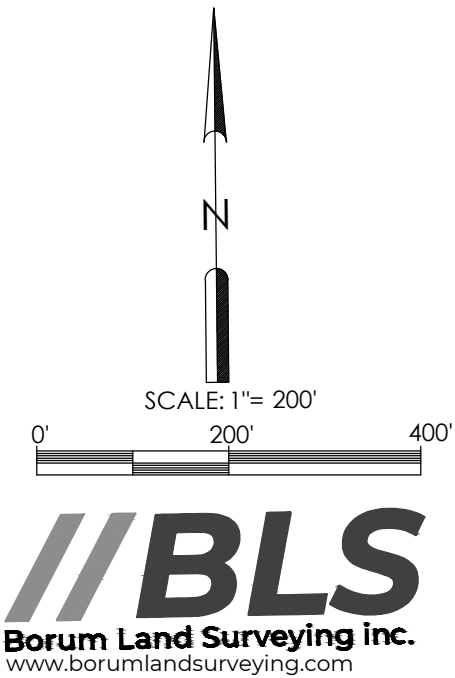


Exhibit "B"

RIGHT TO FARM NOTICE

RE: Special Use Permit No. _____

or

Parcel Map No. PPM 23-007

or

Subdivision Map No. _____

or

Mining and Reclamation Plan No. _____

In accordance with Section 7-29-1070(a) of the Tulare County Ordinance Code; and as a condition of approval of the above-referenced use permit, parcel map, subdivision map or mining and reclamation plan, the undersigned hereby acknowledges that:

It is the declared policy of Tulare County to conserve, enhance and encourage agricultural operations within the County. Residents of property on or near agricultural land should be prepared to accept the inconveniences and discomfort associated with agricultural operations, including, but not necessarily limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Consistent with this policy, California Civil Code Section 3482.5 provides that no agricultural operation, as defined and limited by that section, conducted and maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three years if it was not a nuisance at the time it began.

Dated: _____

(Signature)

(Print Name)

Dated: _____

(Signature)

(Print Name)



April 22, 2022

Sandy Roper
County of Tulare
Department of Resource Management
5961 S. Mooney Blvd
Visalia, CA 93277

Project: Acres Business Park - PRC 22-014

District CEQA Reference No: 20220444

Dear Sandy Roper:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Project Review Committee Consultation and Fact Sheet (PRC/CFS) from the County of Tulare (County). Per the PRC/CFS, the Project consists of a General Plan Amendment to change the Land Use Designation from valley agriculture to mixed use to subdivide a 65.45-acre parcel and develop a business park as a mixed use commercial project that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the project, contractor offices, boat sales, and other related uses (Project). The Project is located on the south west corner of Acres Road and Avenue 256 in Tulare CA.

The District offers the following comments regarding the Project:

1) Project Related Emissions

At the federal level under the National Ambient Air Quality Standards (NAAQS), the District is designated as extreme nonattainment for the 8-hour ozone standards and serious nonattainment for the particulate matter less than 2.5 microns in size (PM_{2.5}) standards. At the state level under California Ambient Air Quality Standards (CAAQS), the District is designated as nonattainment for the 8-hour ozone, PM₁₀, PM_{2.5} standards.

The documents submitted to the District does not provide sufficient information to allow the District to assess the Project's potential impact on air quality. As such, the environmental review should include a Project summary detailing, at a minimum, the land use designation, project size, estimates of potential mobile and stationary

Samir Sheikh
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: (661) 392-5500 FAX: (661) 392-5585

Exhibit "C"

emission sources, and proximity to sensitive receptors and existing emission sources. The District recommends that a more detailed preliminary review of the Project be conducted for the Project's construction and operational emissions.

1a) Construction Emissions

To reduce impacts from construction emissions sources, the County consider the feasibility of incorporating the below measure into the Project.

Recommended Measure: To reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment, including the latest tier equipment.

1b) Operational Emissions

Operational (ongoing) air emissions from mobile sources and stationary sources should be analyzed separately. For reference, the District's significance thresholds are identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts:

<https://www.valleyair.org/transportation/GAMAQI.pdf>.

Recommended Mitigation Measure: At a minimum, project related impacts on air quality should be reduced to levels of significance through incorporation of design elements such as the use of cleaner Heavy Heavy-Duty (HHD) trucks and vehicles, measures that reduce Vehicle Miles Traveled (VMTs), and measures that increase energy efficiency. More information on transportation mitigation measures can be found at:

<http://www.valleyair.org/transportation/Mitigation-Measures.pdf>.

1c) Recommended Model for Quantifying Air Emissions

Project-related criteria pollutant emissions from construction and operational sources should be identified and quantified. Emissions analysis should be performed using the California Emission Estimator Model (CalEEMod), which uses the most recent CARB-approved version of relevant emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com.

2) Health Risk Screening/Assessment

The County should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

Exhibit "C"

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

To assist land use agencies and project proponents with Prioritization analyses, the District has created a prioritization calculator based on the aforementioned CAPCOA guidelines, which can be found here:

http://www.valleyair.org/busind/pto/emission_factors/Criteria/Toxics/Utilities/PRIORITIZATION-CALCULATOR.xls

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/ project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA. This step will ensure all components are addressed when performing the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the project-related health impacts would exceed the District's significance threshold of 20 in a million for carcinogenic risk, or 1.0 for either the Acute or Chronic Hazard Indices.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a

Exhibit "C"

significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww3.arb.ca.gov/ch/handbook.pdf>.

3) **Ambient Air Quality Analysis**

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant.

An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website: www.valleyair.org/ceqa.

4) **Truck Routing**

Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

The District recommends the County evaluate HHD truck routing patterns for the Project, with the aim of limiting exposure of residential communities and sensitive

Exhibit "C"

receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

5) Reduce Idling of Heavy-Duty Trucks

The goal of this strategy is to limit the potential for localized PM_{2.5} and toxic air contaminant impacts associated with failure to comply with the state's Heavy-Duty anti-idling regulation (e.g., limiting vehicle idling to specific time limits). The diesel exhaust from excessive idling has the potential to impose significant adverse health and environmental impacts.

Since the Project may have the potential to result in HHD truck trips, the County should consider deploying strategies to ensure compliance of the anti-idling regulation, especially near sensitive receptors, and discuss the importance of limiting the amount of idling.

Recommended Measure: Construction and operational fleets limit vehicle idling pursuant to 13 CCR § 2485 and 13 CCR § 2480.

6) Vegetative Barriers and Urban Greening

There is a business located west of the Project. The District suggests the county consider the feasibility of incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., businesses).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the uptake of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

7) Clean Lawn and Garden Equipment in the Community

Since the Project consists commercial development, gas-powered commercial lawn and garden equipment have the potential to result in an increase of NO_x and PM_{2.5}

Exhibit "C"

emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment. More information on the District CGYM program and funding can be found at: <http://www.valleyair.org/grants/cgym.htm> and <http://valleyair.org/grants/cgym-commercial.htm>.

8) On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the County consider incorporating solar power systems as an emission reduction strategy for the Project.

9) Electric Vehicle Chargers

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the County and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit www.valleyair.org/grants/chargeup.htm for more information.

10) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm. To identify other District

Exhibit "C"

rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (661) 392-5665.

10a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (661) 392-5665.

10b) District Rule 9510 - Indirect Source Review

The purpose of District Rule 9510 is to reduce the growth in both NO_x and PM emissions associated with development and transportation projects from mobile and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The Rule requires developers to mitigate their NO_x and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

The Project is subject to District Rule 9510 when it receives a project-level discretionary approval from a public agency and will equal or exceed 2,000 square feet of commercial space.

When subject to the rule, an Air Impact Assessment (AIA) application is required no later than applying for project-level approval from a public agency. In this case, if not already done, please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510.

Exhibit "C"

An AIA application is required and the District recommends that demonstration of compliance with District Rule 9510, before issuance of the first building permit, be made a condition of Project approval.

10c) District Rule 9410 (Employer Based Trip Reduction)

Individual employers within the Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more "eligible" employees. District Rule 9410 requires employers with 100 or more "eligible" employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about District Rule 9410 can be found online at:
www.valleyair.org/tripreduction.htm.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

10d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at:
<http://www.valleyair.org/busind/comply/asbestosbultn.htm>.

10e) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500

Exhibit "C"

cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at:

<https://www.valleyair.org/busind/comply/PM10/forms/DCP-Form.docx>

Information about District Regulation VIII can be found online at:

http://www.valleyair.org/busind/comply/pm10/compliance_pm10.htm

10f) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

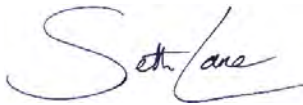
11) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

If you have any questions or require further information, please contact Patrick Chimienti by e-mail at Patrick.Chimienti@valleyair.org or by phone at (559) 230-6139.

Sincerely,

Brian Clements
Director of Permit Services

A handwritten signature in blue ink, appearing to read "Mark Montelongo".

For: Mark Montelongo
Program Manager

Exhibit "D"

DISTRICT 6 OFFICE
1352 WEST OLIVE AVENUE | P.O. BOX 12616 | FRESNO, CA 93778-2616
(559) 981-1041 | FAX (559) 488-4195 | TTY 711
www.dot.ca.gov

May 9, 2022

TUL-99-32.89
PRC 22-014
GPA / ZC / TSM
AKERS BUSINESS PARK
AKERS & OAKDALE AVENUE
GTS #: [#36435](#)

SENT VIA EMAIL

Mr. Sandy Roper, Planner IV
Project Processing Division
Economic Development & Planning Branch
Tulare Co. Resource Management Agency
5961 S. Mooney Blvd.
Visalia CA 93277

Dear Mr. Roper:

Caltrans has completed review of Project Review Committee (PRC) 22-014 for a General Plan Amendment (GPA) to the Mixed-Use designation, a Zone Change (ZC) to the C-3-MU (Service Commercial) and a Tentative Subdivision Map (TSM) to subdivide the 65.45-acre site for the proposed Akers Business Park (Project). The Project site is located at the southwest corner of the Akers Street and Oakdale Avenue intersection, approximately ¼ mile east of the State Route (SR) 99 and Oakdale Avenue Northbound On-ramp intersection, and approximately ½ mile north of the SR 99/Cartmill Avenue Interchange, north of the City of Tulare.

The mission of Caltrans is to provide a safe and reliable transportation network that serves all people and respects the environment. Caltrans provides the following comments consistent with the State's smart mobility goals that support a vibrant economy and sustainable communities:

1. The Project proposes access to Oakdale Avenue (Avenue 256) via 2 driveways and a new road connection which also connects to Akers Street.
2. As a point of information, Oakdale Avenue turns into the Northbound On-ramp for SR 99.
3. In the vicinity of the Project, Caltrans has an improvement project to widening SR 99 from 4-lanes to 6-lanes, that is currently in construction. Construction of the new lanes will be located within the SR 99 *median area*.

Exhibit "D"

4. However, this SR 99 widening project requires the **closure and removal of the Northbound on-ramp for SR 99 at Oakdale Avenue**.
5. Alternatively, access to SR 99 would be available at the recently upgraded SR 99/Cartmill Avenue interchange, south of the Project or at the SR 99/Avenue 264 interchange, north of the Project.
6. The proposed Akers Business Park will be developed as a mixed-use commercial project that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the project site, contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.
7. The site plan shows 3, 100,000 square foot (sf) buildings, an 84,925-sf building, a 23,000-sf building, and 6 lots for future development. Land uses for these proposed buildings are not indicated.
8. Caltrans **requests** the Project provide the proposed land uses for all buildings and trip generation rate to determine the Project-related vehicle trips.
9. Caltrans **requests** that the Project provide a trip distribution map that estimates the percentage of Project vehicle trips that will potentially use the SR 99 interchanges.
10. Any advertising signs within the immediate area outside the State right-of-way need to be cleared through the Caltrans Division of Traffic Operations, Office of Outdoor Advertising. The project proponent must construct and maintain the advertising signs without access to the State Routes. Please contact the Outdoor Advertising Program, P.O. Box 942874, MS-36, Sacramento, CA 94274-0001, Phone (916) 654-6473, FAX (916) 651-9359 for additional information or to obtain a sign permit application. Additional information on Caltrans Outdoor Advertising Permit requirements may also be found on the Internet at www.dot.ca.gov/hq/oda.
11. According to the Caltrans Transportation Concept Report (CTR), segment 15 of SR 99 in the vicinity of the proposed Project is currently a 4-lane conventional highway and ultimately planned to be a 6-lane facility with potential Auxiliary Lanes within a total of 160 to 200 feet of right-of-way (80 - 100 feet from the centerline). Caltrans right-of-way maps shows this segment of SR 99 existing at 166 feet with approximately 83 feet from the centerline on the east side of SR 99.
12. The southwest portion of the Project site is directly adjacent to SR 99. The site plan did not provide the distance the proposed buildings are setback from the southwest property line along SR 99. Please update the site plan accordingly.
13. Caltrans request all Project buildings be **setback 25 feet from SR 99** to accommodate future widening for Auxiliary Lanes as indicated in the SR 99 TCR.
14. As a point of information, the setback area can be used for landscaping, parking or

Exhibit "D"

non-permanent structures. The property owner understands that any improvements, upon, over, and across said real property within the setback area shall be removed at owners' expense when the State accepts title of the property for widening and construction of the future Auxiliary Lanes.

15. Alternative transportation policies should be applied to the development. An assessment of multi-modal facilities should be conducted to develop an integrated multi-modal transportation system to serve and help alleviate traffic congestion caused by the project and related development in this area of the City or County. The assessment should include the following:
 - a. Pedestrian walkways should link this proposal to an internal project area walkway, transit facilities, as well as other walkways in the surrounding area.
 - b. The Project might also consider coordinating connections to local and regional bicycle pathways to further encourage the use of bicycles for commuter and recreational purposes.
 - c. If transit is not available within ¼-mile of the site, transit should be extended to provide services to what will be a high activity center.
16. Caltrans recommends the Project implement "smart growth" principles regarding parking solutions, providing alternative transportation choices to residents and employees. Alternative transportation choices may include but are not limited to parking for carpools/vanpools, car-share and/or ride-share programs.
17. Based on Caltrans VMT-Focused Transportation Impact Study Guide, dated May 20, 2020, and effective as of July 1, 2020, Caltrans seeks to reduce single occupancy vehicle trips, provide a safe transportation system, reduce per capita Vehicle Miles Traveled (VMT), increase accessibility to destinations via cycling, walking, carpooling, transit and reduce greenhouse gas (GHG) emissions. Caltrans recommends that the project proponent continue to work with the City or County to further implement improvements to reduce vehicles miles traveled and offer a variety of transportation modes for its employees.
18. Caltrans recommends the project provide charging stations for electric vehicles as part of the statewide efforts to reduce greenhouse gas emissions.

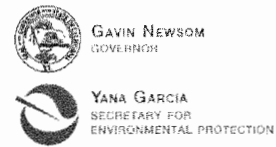
If you have any other questions, please call David Deel, Associate Transportation Planner at (559) 981-1041.

Sincerely,



Ms. Lorena Mandibles, Branch Chief,
Transportation Planning – South

Exhibit "E"



State Water Resources Control Board

March 7, 2023

Tulare County
Attn: Hector Guerra
200 W. Oak Avenue
Visalia, CA 93291

TULARE COUNTY (COUNTY), MITIGATED NEGATIVE DECLARATION (MND), FOR THE AKERS BUSINESS PARK (GPA 22-003 & PZC 22-003 & PPM 23-007) PROJECT (PROJECT); STATE CLEARINGHOUSE # 2023020373

Dear Mr. Hector Guerra:

Thank you for the opportunity to review the MND for the proposed Project. The State Water Resources Control Board, Division of Drinking Water (State Water Board, DDW) is responsible for issuing water supply permits pursuant to the Safe Drinking Water Act. The Project is within the jurisdiction of the State Water Board DDW's Tulare District. The Tulare District issues a domestic water supply permit to the public water systems serviced with a new or modified source of domestic water supply or new domestic water system components pursuant to Waterworks Standards (Title 22 CCR chapter 16 et. seq.). A public water system requires a new water supply permit if it includes the creation of a new public water system. The Project water system may need to apply for a water supply permit for this Project.

If the above noted project results in the formation of a new public water system or multiple new public water systems, an application must be submitted, and a permit must be obtained from the Division before water can be provided for human consumption.

A public water system, as defined in the California Health and Safety Code, division 104, part 12, chapter 4, article 1, section 116275(h), is "a system for the provision of water for human consumption through pipes or other constructed conveyances that has 15 or more service connections or regularly serves at least 25 individuals daily at least 60 days out of the year...." (e) "Human consumption" means "the use of water for drinking, bathing or showering, hand washing, oral hygiene, or cooking, including, but not limited to, preparing food and washing dishes."

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

Exhibit "E"

Mr. Hector Guerra

- 2 -

March 7, 2023

The State Water Board, DDW, as a responsible agency under CEQA, has the following comments on the County's MND:

- The Proposed Project is less than a quarter mile from the City of Tulare's municipal water system and should consider connecting to that water system in the environmental document.
- A public water system requires a domestic water supply permit to operate. Please indicate if the Project could create a new public water system.
 - New public water systems are being limited under Senate Bill 1263, effective January 1, 2017. Senate Bill 1263 requires that any person submitting a permit application for a proposed new public water system must first submit a technical report to the State Water Board, DDW at least six months prior to initiating construction of any drinking water-related improvement. The technical report must include an examination of the possibility of consolidation with an existing public water system.
- If the Project will create a new public water system, please add:
 - A description of all new potable water system components that will be installed or constructed. In addition to the three proposed wells, please also discuss any tank, pump stations, and treatment systems, that may be needed.
 - A map of and/or description of where the components will be located within the Project's defined site (PDF page 3).
 - "The State Water Resources Control Board, Division of Drinking Water" to the list of agencies whose approvals is required for the Project.
 - Clarification on if the Project description will include a convenience store (with gas station) and self-storage (mini-warehouses) (PDF page 101).
 - Clarification on the water budget for the Project, including how much water the development will use and the resulting savings from not growing walnut trees (PDF page 108).

If a DDW Water Supply permit will be required, once the MND is adopted, please forward the following items in support of the public water system's permit application to the State Water Board, DDW Tulare District Office at DWPDIST24@waterboards.ca.gov:

- Copy of the draft and final MND with any comment letters received and the lead agency responses as appropriate.
- Copy of the Resolution or Board Minutes adopting the MND, and
- Copy of the date stamped Notice of Determination filed at the Tulare County Clerk's Office and the Governor's Office of Planning and Research, State Clearinghouse.

Please contact Lori Schmitz of the State Water Board at (916) 449-5285 or Lori.Schmitz@waterboards.ca.gov, if you have any questions regarding this comment letter.

Sincerely,

Lori Schmitz
Digitally signed by Lori Schmitz
Date: 2023.03.07 16:43:38
08'00'

Exhibit "E"

Mr. Hector Guerra

- 3 -

March 7, 2023

Lori Schmitz
Environmental Scientist
Division of Financial Assistance
Special Project Review Unit
1001 I Street, 16th floor
Sacramento, CA 95814

Cc:

Office of Planning and Research, State Clearinghouse

Kristin Willet
District Engineer
Tulare District

Exhibit "E"

From: [Schmitz, Lori@Waterboards](mailto:Schmitz.Lori@Waterboards)
To: [Danielle Folk](mailto:Danielle.Folk)
Cc: [Pierce, Wendy@Waterboards](mailto:Pierce.Wendy@Waterboards); [Machado, Lisa@Waterboards](mailto:Machado.Lisa@Waterboards)
Subject: Tulare County, Akers Business Park (GPA 22-003, PZC 22-010, & PPM 23-007)
Date: Thursday, February 16, 2023 8:23:43 AM

This Message Is From an External Sender

This message came from outside your organization.

Danielle,

Lisa Machado received your email on the Tulare County, Akers Business Park (GPA 22-003, PZC 22-010, & PPM 23-007) MND that is in circulation. She, however, would not be the correct contact. If you have a list of contacts you send all your County's CEQA documents to for review, you can remove Lisa Machado and add Lori Schmitz (Lori.Schmitz@waterboards.ca.gov)

Thanks!

Lori Schmitz

Lori Schmitz
State Water Resources Control Board
Division of Financial Assistance
Special Project Review Unit
Lori.Schmitz@waterboards.ca.gov

From: Danielle Folk <DFolk@tularecounty.ca.gov>
Sent: Wednesday, February 15, 2023 4:58 PM
To: SoCal Gas (envreview@semprautilities.com) <envreview@semprautilities.com>; Cal Rossi <calvin.rossi@sce.com>; CEQA Division (CEQA@valleyair.org) <ceqa@valleyair.org>; WB-RB5F-CentralValleyFresno <CentralValleyFresno@waterboards.ca.gov>; Machado, Lisa@Waterboards <Lisa.Machado@Waterboards.ca.gov>; Harper, Kyle@Waterboards <Kyle.Harper@Waterboards.ca.gov>; Torres, Lisseth@Waterboards <Lisseth.Torres@Waterboards.ca.gov>; NAHC@NAHC <NAHC@nahc.ca.gov>; bor@cpuc.ca.gov (bor@cpuc.ca.gov) <bor@cpuc.ca.gov>; Mendibles, Lorena@DOT <lorena.mendibles@dot.ca.gov>; Deel, David@DOT <david.deel@dot.ca.gov>; CDFW Tracking (R4CEQA@wildlife.ca.gov) <r4ceqa@wildlife.ca.gov>; DLRP@DOC <DLRP@conservation.ca.gov>; CGS Headquarters@DOC <cgshq@conservation.ca.gov>
Cc: Jessica R Willis <JWillis@tularecounty.ca.gov>
Subject: MND for the Akers Business Park (GPA 22-003, PZC 22-010, & PPM 23-007)

EXTERNAL:

Good afternoon.

Exhibit "E"

The Mitigated Negative Declaration for Akers Business Park (GPA 22-003, PZC 22-010, & PPM 23-007) Project is available for review. The 30-day public review period begins Wednesday, February 15, 2023, 2023, and ends on Friday, March 17, 2023. Attached is the Notice of Intent (NOI) that was published in the Sun-Gazette on Wednesday, February 15, 2023. The NOI contains the link the County's website; however, for your convenience the MND and NOI can both be found on the County's website at <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/>

Comments on the MND should be emailed to Mr. Hector Guerra, Chief Environmental Planner, at hguerra@tularecounty.ca.gov or by mail at Tulare County RMA, 5961 S. Mooney Blvd., Visalia, CA 93277.

Please feel free to contact me if I can be of further assistance.

Danielle Folk

Planner III
Tulare County Resource Management Agency
(559) 624-7029
Dfolk@tularecounty.ca.gov



California
Department of Conservation
Geologic Energy Management Division

Gavin Newsom, Governor
David Shabazian, Director
715 P Street, MS 1803
Sacramento, CA. 95814
T: (916) 445-5986

03/01/2023

Hector Guerra
5961 S Mooney Blvd, Visalia, CA 93277, USA
hguerra@tularecounty.ca.gov

Construction Site Well Review (CSWR) ID: 1012722

Assessor Parcel Number(s): 149090006

Property Owner(s): NFDI LLC

Project Location Address: Southwest corner of Road 100 (Akers/Oaks) and Ave 256 (Oakdale Ave),
Tulare, California 93274

Project Title: Akers Business Park - SCH # 2023020373

Public Resources Code (PRC) § 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project dated 2/28/2023. To assist local permitting agencies, property owners, and developers in making wise land use decisions regarding potential development near oil, gas, or geothermal wells, the Division provides the following well evaluation.

The project is located in Tulare County, within the boundaries of the following fields:

N/A

Our records indicate there are no known oil or gas wells located within the project boundary as identified in the application.

- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Not Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Projected to Be Built Over or Have Future Access Impeded by this project: 0
- Number of wells Abandoned to Current Division Requirements as Prescribed by Law and Not Projected to Be Built Over or Have Future Access Impeded by this project: 0

As indicated in PRC § 3106, the Division has statutory authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources; damage to underground oil, gas, and geothermal deposits; and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to the Division's authority to order work on wells pursuant to PRC §§ 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC §§ 3236, 3236.5, and 3359 for violations within the Division's jurisdictional authority. The Division does not regulate grading, excavations, or other land use issues.

If during development activities, any wells are encountered that were not part of this review, the property owner is expected to immediately notify the Division's construction site well review engineer in the Inland district office, and file for Division review an amended site plan with well casing diagrams. The District office will send a follow-up well evaluation letter to the property owner and local permitting agency.

Should you have any questions, please contact me at (661) 201-8607 or via email at Victor.Medrano@conservation.ca.gov.

Sincerely, *Cristian Garcia*
Cristian Garcia for
Chris Jones
Acting District Deputy

cc: Hector Guerra - Submitter

Attachment “4”

Notices

**TULARE COUNTY RESOURCE MANAGEMENT AGENCY
NOTICE OF INTENT TO ADOPT
A MITIGATED NEGATIVE DECLARATION
Akers Business Park (GPA 22-003, PZC 22-010 & PPM 23-007)**

NOTICE IS HEREBY GIVEN that Tulare County intends to adopt a Mitigated Negative Declaration (MND) for the Akers Business Park (GPA 22-003, PZC 22-003, and PPM 23-007) Project. The MND has been approved for public review by the Tulare County Environmental Assessment Officer. Copies are available for review and comment at the Resource Management Agency, Permit Center, 5961 South Mooney Blvd, Visalia, California 93277-9394. Comments and recommendations on the adequacy of the environmental document may be filed at the aforementioned address during the public review period established for the project.

1. **PROJECT:** Akers Business Park (GPA 22-003, PZC 22-010 & PPM 23-007)
2. **APPLICANT/AGENT:** NFDI, LLC
1878 N Mooney Blvd
Tulare, CA 93724
3. **LOCATION:** The site is located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route 99. The site is located on Tulare County APN 149-090-006, and is located within the City of Tulare Urban Area Boundary (UAB). The site is located in Section 27, Township 19 South, Range 24 East, MDB&M.
4. **PROJECT DESCRIPTION:** The proposed Project consists of the development of a commercial business park and includes a General Plan Amendment to change the Land Use Designation from “Valley Agriculture” to “Mixed Use,” a Zone Change to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone), and a Tentative Parcel Map to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park as a mixed use commercial project. The proposed Project includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility immediately south of the proposed Project site (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.
5. **ENVIRONMENTAL DOCUMENT:** The MND can be viewed at the Resource Management Agency office located at the address above; at the Visalia Main Branch Library at 200 W. Oak Ave, Visalia, CA 93291, (559) 713-2700; the Tulare Public Library at 411 E. Kern Ave, Tulare, CA 93274, or on the County website at <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/>.
6. **REVIEW PERIOD:** February 15, 2023 – March 17, 2023, at 5:00 p.m.
7. **CONTACT FOR MORE INFORMATION:** Hector Guerra, Chief Environmental Planner at (559) 624-7121 or HGuerra@tularecounty.ca.gov (para Español llame (559) 624-7000).

The MND has a review period of **30 days**, starting on **Wednesday, February 15, 2023**, and ending on **Friday, March 17, 2023**, which has been approved by the State of California, Office of Planning and Research. Any written comments on the MND should be sent to the Tulare County Resource Management Agency at the address noted above, to the attention of: Hector Guerra, Chief Environmental Planner.

After the close of the public comment review period on the MND established by this notice, this matter will be set for public hearing before the **Tulare County Planning Commission** on at the regularly scheduled meeting to be held on **April 12, 2023**. The meeting will be held at the Tulare County Board of Supervisors Chambers, 2800 West Burrel Avenue, Visalia, California 93291, starting at 9:00 a.m.

Please take notice that - pursuant to Public Resource Code Section 21177, Government Code Section 65009, and other applicable law - if you challenge the proposed action described above in court, then you may be limited to raising only those issues or objections you or someone else raised during the public comment period or the public hearing, or in written correspondence delivered to the Tulare County Resource Management Agency within the review period, or to the Planning Commission during the public hearing.

REED SCHENKE, P.E., ENVIRONMENTAL ASSESSMENT OFFICER

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TO BE PUBLISHED ONCE ONLY ON: February 15, 2023

SEND BILL AND TEAR SHEET TO:
TUL CO RESOURCE MGMT.
5961 SOUTH MOONEY BLVD.
VISALIA, CA 93277-9394

SEND TO: Exeter Sun-Gazette

NOTICE OF PUBLIC HEARING AND AVAILABILITY
OF ENVIRONMENTAL DOCUMENT

A **Mitigated Negative Declaration** for **General Plan Amendment No. GPA 22-003, Change of Zone No. PZC 22-010, & Tentative Parcel Map No. PPM 23-007** has been approved for public review by the Tulare County Environmental Assessment Officer. Copies are available for review and comment at the Resource Management Agency, Permit Center, 5961 South Mooney Blvd., Visalia, California 93277-9394 (559) 624-7000, (Monday – Thursday: 9:00 am to 4:30 pm and Friday: 9:00 am to 11:00 am). For further information regarding this project, please call Sandy Roper at (559) 624-7101, or email him at SRoper@tularecounty.ca.gov. Comments and recommendations on the adequacy of the environmental document may be filed at the aforementioned address during the public review period established for the project.

PROJECT: General Plan Amendment No. GPA 22-003, Zone Change No. PZC 22-010, and Tentative Parcel Map No. PPM 23-007.

APPLICANT/AGENT: NFDI, LLC

LOCATION: Located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006.

PROJECT DESCRIPTION: The proposed Project (“Akers Business Park”) consists of the development of a commercial business park on approximately 65.45-acres located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006. The proposed Project includes a General Plan Amendment (“GPA”) to change the Land Use Designation from “Valley Agriculture” to “Mixed Use,” a Zone Change (“PZC”) to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone), and a Tentative Parcel Map (“PPM”) to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park. The proposed Project is a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration

REVIEW PERIOD: 10 days until Monday, April 10, 2023, at 5:00 p.m.

PUBLIC HEARING: Planning Commission on Wednesday, April 12, 2023, at 9:00 a.m.

All meetings are currently held at the Board of Supervisors Chambers, 2800 West Burrell Avenue, Visalia, California 93291. PLANNING COMMISSION meetings start at 9:00 a.m. All interested parties are invited to attend and be heard. Meeting Agendas, Documents, Live Broadcasts and Archived Recordings are available at the following link:

<https://tularecounty.ca.gov/rma/planning-building/planning-commission/>

For environmental questions, please call Hector Guerra, Chief Environmental Planner at 624-7000. If you challenge the decision on any of the foregoing matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Tulare County Resource Management Agency, Economic Development and Planning Branch, within the review period described herein. In compliance with the Americans with Disabilities Act, if you need special assistance to participate in meetings call (559) 624-7000 48-hours in advance of the meeting.

HECTOR GUERRA, CHIEF ENVIRONMENTAL PLANNER
REED SCHENKE, ENVIRONMENTAL ASSESSMENT OFFICER

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TO BE PUBLISHED ONCE ONLY ON: March 29, 2023

SEND BILL AND TEAR SHEET TO:

TUL. CO. RESOURCE MGMT., 5961 SOUTH MOONEY BLVD., VISALIA, CA 93277-9394

SEND TO: Sun Gazette on 3-23-2023

NOTICE OF PUBLIC HEARING
AKERS BUSINESS PARK GENERAL PLAN AMDNEDMENT,
ZONE CHANGE, AND TENTATIVE PARCEL MAP

NOTICE IS HEREBY GIVEN that the Tulare County Board of Supervisors will hold a public hearing on Tuesday, May 2, 2023, at 9:30 a.m., or as soon thereafter as it can be heard, in the Chambers of the Board of Supervisors, Administration Building, County Civic Center, 2800 West Burrel, Visalia, California.

The hearing pertains to an Initial Study (IS) / Mitigated Negative Declaration (MND) for General Plan Amendment No. GPA 22-003, Zone Change No. PZC 22-010, and Tentative Parcel Map No. PPM 23-007. The MND can be viewed at the Resource Management Agency office located at the address above; at the Visalia Main Branch Library at 200 W. Oak Ave, Visalia, CA 93291, (559) 713-2700; or on the County website at: <https://tularecounty.ca.gov/rma/planning-building/environmental-planning/mitigated-negative-declarations/akers-business-park/mitigated-negative-declaration-for-the-akers-business-park-gpa-22-003-pzc-22-010-ppm-23-007/>

The proposed Project consists of the development of a commercial business park on approximately 65.45 acres located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route 99 (SR-99), APN 149-090-006. The proposed Project includes a General Plan Amendment (“GPA”) to change the Land Use Designation from “Valley Agriculture” to “Mixed Use,” a Zone Change (“PZC”) to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone), and a Tentative Parcel Map (“PPM”) to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park. The proposed Project is a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone. The appropriate environmental determination is a Mitigated Negative Declaration for GPA 22-003, PZC 22-010, and PPM 23-007, consistent with the California Environmental Quality Act (CEQA) and the CEQA Guidelines pursuant to § 21082.1 of CEQA and §15070 to § 15075 of the CEQA Guidelines. For further information regarding this project, please call Sandy Roper (559) 624-7101 or email him at sroper@tularecounty.ca.gov.

All interested parties may appear and be heard at said time and place.

If you challenge the decision of the Board of Supervisors on the foregoing matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Supervisors of the County of Tulare at, or prior to, the public hearing. Judicial review of this Board of Supervisors decision is appealable pursuant to §1094.6 of the Code of Civil Procedure.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting contact Tulare County Resource Management Agency by telephone at (559) 624-7000, 48-hours in advance of this meeting.

Jason T. Britt County Administrative Officer/Clerk, Board of Supervisors

Attachment “5”
Notice of Determination

NOTICE OF DETERMINATION

To: ☒ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

☒ Tulare County Clerk
Room 105, Courthouse
221 South Mooney Blvd.
Visalia, CA 93291

Lead Agency: Tulare County Resource Management Agency
5961 South Mooney Blvd
Visalia, CA 93277 (559) 624-7000
Attn: hguerra@tularecounty.ca.gov and jwillis@tularecounty.ca.gov

DATE RECEIVED FOR FILING AT TULARE COUNTY CLERK'S OFFICE

Applicant(s): NFDI, LLC
1878 N. Mooney Blvd., Suite J
Tulare, CA 93274 (559) 799-6990

Subject: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code

Project Title: Akers Business Park, GPA 22-003, PZC 22-010, & PPM 23-007

State Clearinghouse Number: 2023020373

Contact Person: Hector Guerra, Chief Environmental Planner

Telephone Number: 559-624-7121

Project Location: The parcel is located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006.

Project Description: The proposed Project ("Akers Business Park") consists of the development of a commercial business park on approximately 65.45-acres located at the southwest corner of Road 100 (Oaks Street) and Oakdale Avenue, east of State Route (SR) 99, APN 149-090-006. The proposed Project includes a General Plan Amendment ("GPA") to change the Land Use Designation from "Valley Agriculture" to "Mixed Use," a Zone Change ("PZC") to change the Zone from AE-20 (Exclusive Agricultural – 20 Acre Minimum) to C-3-MU (Service Commercial with a Mixed-Use Overlay Zone), and a Tentative Parcel Map ("PPM") to subdivide a 65.45-acre parcel to facilitate the development of the proposed Akers Business Park. The proposed Project is a mixed use commercial development that includes the expansion of the existing Magic Touch Recreational Vehicle Sales facility at the south end of the proposed Project (3567 N. Oaks St. Tulare, CA 93274), contractor offices, boat sales, and other related uses allowed in the C-3-MU Zone.

This is to advise that the **TULARE COUNTY BOARD OF SUPERVISORS**, as ☒ Lead Agency ☐ Responsible Agency, has approved the above-described project on _____ **2023**, and has made the following determinations regarding the above-described project:

1. The project [☐ will ☒ will not] have a significant adverse impact on the environment.
2. ☒ A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation Measures [☒ were ☐ were not] made a condition of approval of this project.
4. A Mitigation Monitoring and Reporting Plan [☒ was ☐ was not] adopted for this project.
5. A Statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provision of CEQA.

This is to certify that the environmental document and record of project approval is available to the General Public and may be examined at: Tulare County Resource Management Agency, 5961 S Mooney Blvd., Visalia CA 93277.

Signature: _____ Date: _____ Title: Chief Environmental Planner
Hector Guerra

Signature: _____ Date: _____ Title: Environmental Assessment Officer
Reed Schenke, P.E. RMA Director

☒ Signed by Lead Agency

☒ Dept. of Fish & Wildlife Fees Required

☐ EIR

☒ MND

☐ ND

☐ Dept. of Fish & Wildlife Fees Not Required – Fees Paid

Receipt Number: _____

Cc: California. Dept. of Fish & Game, 1416 Ninth St., 12th Floor, Sacramento, CA 95814

Note: Authority cited: Section 21083, Public Resource Code; Reference: Sections 21108, 21152 and 21167, Public Resource Code.