



CEQA Referral Initial Study
And Notice of Intent to
Adopt a Mitigated Negative Declaration

Date: March 17, 2022
To: Distribution List (See Attachment A)
From: Kristin Doud, Principal Planner, Planning and Community Development
Subject: AMENDMENT TO USE PERMIT APPLICATION NO. PLN2015-0130 – THE FRUIT YARD
Comment Period: March 17, 2022 – April 19, 2022
Respond By: April 19, 2022
Public Hearing Date: May 5, 2022

You may have previously received an Early Consultation Notice regarding this project, and your comments, if provided, were incorporated into the Initial Study. Based on all comments received, Stanislaus County anticipates adopting a Mitigated Negative Declaration for this project. This referral provides notice of a 30-day comment period during which Responsible and Trustee Agencies and other interested parties may provide comments to this Department regarding our proposal to adopt the Mitigated Negative Declaration.

All applicable project documents are available for review at: Stanislaus County Department of Planning and Community Development, 1010 10th Street, Suite 3400, Modesto, CA 95354. Please provide any additional comments to the above address or call us at (209) 525-6330 if you have any questions. Thank you.

Applicant: The Fruit Yard, Joe Traina
Project Location: 7824 Yosemite Boulevard (Hwy 132), at the southwest corner of Yosemite Boulevard and Geer Road, between the Cities of Modesto and Waterford
APN: 009-027-011
Williamson Act Contract: N/A
General Plan: Planned Development
Current Zoning: Planned Development (P-D) (317)

Project Description: Request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). The outdoor amphitheater is located on a 31.12 acre parcel zoned Planned Development (P-D) (317). UP PLN2015-0130 – The Fruit Yard Amphitheater approved an outdoor, fenced, 3,500 person capacity amphitheater event center, a 5,000 square-foot stage, a 5,000 square-foot roof structure, a 4,000 square-foot storage building, a parking lot to the rear of the stage, and an additional 1,302-space temporary parking area. A maximum of 12 amphitheater events are permitted to take place per year. UP PLN2015-0130 also approved a covered seating area of approximately 4,800 square feet and a 1,600 square-foot gazebo in the



eastern half of the park area, east of the outdoor amphitheater, and replacement of the existing pylon freestanding pole sign with an electronic reader board sign. The Mitigation Monitoring Plan approved for the amphitheater, dated May 16, 2017, adopted by the Board of Supervisors on May 23, 2017, is still applicable to the project, as are the development standards applied to P-D (317) and to the 2015 amphitheater use permit. Mitigation Measures No. 1 and 2 of this Mitigation Monitoring Plan replaces Mitigation Measures No. 5 and 6 of the May 16, 2017 Mitigation Monitoring Plan.

Full document with attachments available for viewing at:
<http://www.stancounty.com/planning/pl/act-projects.shtm>



AMENDMENT TO USE PERMIT APPLICATION NO. PLN2015-0130 – THE FRUIT YARD

Attachment A

Distribution List

	CA DEPT OF CONSERVATION Land Resources / Mine Reclamation		STAN CO ALUC
X	CA DEPT OF FISH & WILDLIFE		STAN CO ANIMAL SERVICES
	CA DEPT OF FORESTRY (CAL FIRE)	X	STAN CO BUILDING PERMITS DIVISION
X	CA DEPT OF TRANSPORTATION DIST 10	X	STAN CO CEO
X	CA OPR STATE CLEARINGHOUSE		STAN CO CSA
X	CA RWQCB CENTRAL VALLEY REGION	X	STAN CO DER
X	CA STATE LANDS COMMISSION	X	STAN CO ERC
	CEMETERY DISTRICT	X	STAN CO FARM BUREAU
	CENTRAL VALLEY FLOOD PROTECTION	X	STAN CO HAZARDOUS MATERIALS
X	CITY OF: MODESTO AND WATERFORD	X	STAN CO PARKS & RECREATION
	COMMUNITY SERVICES/SANITARY DIST	X	STAN CO PUBLIC WORKS
X	COOPERATIVE EXTENSION		STAN CO RISK MANAGEMENT
	COUNTY OF:	X	STAN CO SHERIFF
X	FIRE PROTECTION DIST: CONSOLIDATED	X	STAN CO SUPERVISOR DIST #1: CONDIT
	HOSPITAL DIST:	X	STAN COUNTY COUNSEL
X	IRRIGATION DIST: MODESTO	X	StanCOG
X	MOSQUITO DIST: EASTSIDE	X	STANISLAUS FIRE PREVENTION BUREAU
X	MOUNTIAN VALLEY EMERGENCY MEDICAL SERVICES	X	STANISLAUS LAFCO
	MUNICIPAL ADVISORY COUNCIL:	X	SURROUNDING LAND OWNERS/RESPONDING NEIGHBORS (on file w/the Clerk to the Board of Supervisors)
X	PACIFIC GAS & ELECTRIC	X	TELEPHONE COMPANY: AT&T
	POSTMASTER:		TRIBAL CONTACTS (CA Government Code §65352.3)
	RAILROAD:	X	TUOLUMNE RIVER TRUST
X	SAN JOAQUIN VALLEY APCD	X	US ARMY CORPS OF ENGINEERS
X	SCHOOL DIST 1: EMPIRE	X	US FISH & WILDLIFE
X	SCHOOL DIST 2: MODESTO		US MILITARY (SB 1462) (7 agencies)
	STAN ALLIANCE	X	USDA NRCS
X	STAN CO AG COMMISSIONER	X	WATER DIST: MODESTO



STANISLAUS COUNTY CEQA REFERRAL RESPONSE FORM

TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: _____

SUBJECT: AMENDMENT TO USE PERMIT APPLICATION NO. PLN2015-0130 – THE FRUIT YARD

Based on this agency’s particular field(s) of expertise, it is our position the above described project:

- _____ Will not have a significant effect on the environment.
- _____ May have a significant effect on the environment.
- _____ No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) – (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):*

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

Response prepared by:

Name	Title	Date
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CEQA INITIAL STUDY

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, January 1, 2020

1. **Project title:** Amendment to Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater SCH No.2016072019
2. **Lead agency name and address:** Stanislaus County
1010 10th Street, Suite 3400
Modesto, CA 95354
3. **Contact person and phone number:** Kristin Doud, Principal Planner
(209) 525-6330
4. **Project location:** 7824 Yosemite Boulevard (Hwy 132), at the southwest corner of Yosemite Boulevard and Geer Road, between the Cities of Modesto and Waterford (APN: 009-027-011)
5. **Project sponsor's name and address:** The Fruit Yard – Joe Traina
7948 Yosemite Blvd
Modesto, CA 95357
6. **General Plan designation:** Planned Development
7. **Zoning:** Planned Development (PD) (317)
8. **Description of project:**

This is a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). The outdoor amphitheater is located on a 31.12 acre parcel zoned Planned Development (P-D) (317). UP PLN2015-0130 – The Fruit Yard Amphitheater approved an outdoor, fenced, 3,500 person capacity amphitheater event center, a 5,000 square-foot stage, a 5,000 square-foot roof structure, a 4,000 square-foot storage building, a parking lot to the rear of the stage, and an additional 1,302-space temporary parking area. A maximum of 12 amphitheater events are permitted to take place per year. UP PLN2015-0130 also approved a covered seating area of approximately 4,800 square feet and a 1,600 square-foot gazebo in the eastern half of the park area, east of the outdoor amphitheater, and replacement of the existing pylon freestanding pole sign with an electronic reader board sign. The Mitigation Monitoring Plan approved for the amphitheater, dated May 16, 2017, adopted by the Board of Supervisors on May 23, 2017, is still applicable to the project, as are the development standards applied to P-D (317) and to the 2015 amphitheater use permit. Mitigation Measures No. 1 and 2 of this Mitigation Monitoring Plan replaces Mitigation Measures No. 5 and 6 of the May 16, 2017 Mitigation Monitoring Plan.

9. **Surrounding land uses and setting:** Animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection; a drilling company (Masellis Drilling) on the northwest corner; a fire station and church are located to the north; agricultural parcels to the west, south, and east.

10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):** None

11. **Attachments:**

- A. Noise Impact Assessment, prepared by Bollard Acoustical Consultants, Inc., dated May 21, 2021
- B. Peer review response, prepared by Saxelby Acoustics, dated June 18, 2021
- C. UP PLN2015-0130 – The Fruit Yard Amphitheater Development Standards and Mitigation Measures, as adopted by the Board of Supervisors on May 23, 2017

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” as indicated by the checklist on the following pages.

- | | | |
|--|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture & Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input type="checkbox"/> Geology / Soils | <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology / Water Quality | <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources |
| <input checked="" type="checkbox"/> Noise | <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities / Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)
 On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find 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 by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

EVALUATION OF ENVIRONMENTAL IMPACTS:

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, than the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- 4) “Negative Declaration: Less Than Significant With Mitigation Incorporated” applies where the incorporation of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, “Earlier Analyses,” may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration.

Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

- a) **Earlier Analysis Used.** Identify and state where they are available for review.
 - b) **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) **Mitigation Measures.** For effects that are “Less than Significant with Mitigation Measures Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). References to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
 - 7) **Supporting Information Sources:** A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
 - 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project’s environmental effects in whatever format is selected.
 - 9) The explanation of each issue should identify:
 - a) the significant criteria or threshold, if any, used to evaluate each question; and
 - b) the mitigation measure identified, if any, to reduce the impact to less than significant.

ISSUES

I. AESTHETICS – Except as provided in Public Resources Code Section 21099, could the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			X	
c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

Discussion: Aesthetic impacts from the approved Planned Development were addressed as part of the previously approved project, General Plan Amendment Application No. 2007-03 and Rezone Application No. 2007-03. This included landscaping plans, building elevations and a sign plan. Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater, which approved the amphitheater, also approved replacement of the existing on-site pole sign with an electric reader board, landscaping along the amphitheater, and additional street lighting, on-site pole lighting in the back of the amphitheater and parking lot, and stage lighting and ground mounted lighting in the amphitheater. A Mitigation Measure was applied to the use permit that approved the amphitheater to ensure that all proposed lighting will be aimed down to prevent any glaring impacts onto adjacent properties or roadways which address potential impacts associated with future lighting constructed on the site. This mitigation is still applicable to any future additional lighting installed on the site.

The development standards applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to any future activities occurring on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). The Mitigation Monitoring Plan approved for the amphitheater, adopted by the Board of Supervisors on May 23, 2017, is still applicable to the project including the aesthetics mitigation mentioned above. Accordingly, impacts to aesthetics are considered to be less than significant.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; and the Stanislaus County General Plan and Support Documentation¹.

II. AGRICULTURE AND FOREST RESOURCES: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?			X	
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?			X	
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?			X	

Discussion: The property is not currently restricted by a Williamson Act Contract. The project site is classified as Prime Farmland and Urban and Built-Up Land by the Farmland Mapping and Monitoring Program. The soils on site are listed as Hanford fine sandy loams (0-1% and 0-3% slopes, Index Rating of 90-100, Grade 1) and Greenfield sandy loams (0-3% slopes, Index Rating of 68, Grade 2).

The project site is adjacent to an animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection, a drilling company (Masellis Drilling) on the northwest corner, a fire station and church are located to the north. Production Agricultural parcels are to the west, south, and east of the project site. The 45± acre parcel currently supports the existing Fruit Yard produce market, the Fruit Yard restaurant, two separate Gas Fueling facilities, all of which currently have paved parking and landscaping; a concave grass outdoor amphitheater and a park site, where special events are currently held. The remaining part of the property is currently planted in orchard and receive irrigation water from the Modesto Irrigation District. The Planned Development approved for this project, by the Board of Supervisors on August 19, 2008, allowed for the additional development of a 9,000 square-foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing “card lock” fueling facility and construction of a 3,000 square-foot retail shell building, which includes a drive-through establishment of unknown type. The planned development also permitted a 322 space boat/RV mini storage (both covered and uncovered spaces), a 66 space travel trailer park for short term (overnight) stays, a two acre site for retail tractor (large agricultural equipment) sales, and

a new facility for fruit packing and warehousing. The 2015 use permit permitted operation of an outdoor amphitheater, with a maximum capacity of 3,500 persons and the ability to hold up to 12 events per year, and established noise standards for holding amplified music events at the park, amphitheater, and proposed banquet hall.

Although the approved development described above was approved by the Board of Supervisors, which requires finding the project to be compatible with surrounding land uses, including agriculture, and to meet the criteria for agricultural land conversion, the staff report written for the project identified some of the proposed uses included in phase 2 of the project, which are currently planted in orchard, as needing further analysis in terms of potential impacts to surrounding agriculture and whether or not they meet the criteria for agricultural land conversion. Consequently, the project was conditioned to require a Use Permit be obtained prior to implementation of the tractor sales facility and the fruit packing facility identified in phase 2 of the Planned Development.

In December of 2007, Stanislaus County adopted an updated Agricultural Element which incorporated guidelines for the implementation of agricultural buffers applicable to new and expanding non-agricultural uses within or adjacent to the A-2 Zoning District. The purpose of these guidelines is to protect the long-term health of agriculture by minimizing conflicts such as spray drift and trespassing resulting from the interaction of agricultural and non-agricultural uses. The Board of Supervisors found the previously approved General Plan Amendment/Rezone and use permit projects to be consistent with the agricultural buffer requirement.

The Modesto Irrigation District (MID) provided a project referral response regarding irrigation water, which is received from MID to irrigate the orchards on the project site.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to agricultural resources to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site, including a requirement that MID standards be met. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to agricultural resources are considered to be less than significant.

Mitigation: None.

References: Application information; Referral response, dated September 16, 2020, received from the Modesto Irrigation District (MID); General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹; Stanislaus County Agricultural Element¹; Stanislaus County Zoning Ordinance; California State Department of Conservation Farmland Mapping and Monitoring Program - Stanislaus County Farmland 2004; United States Department of Agriculture Soil Survey 1964 - Eastern Stanislaus Area, California.

III. AIR QUALITY: Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			X	
c) Expose sensitive receptors to substantial pollutant concentrations?			X	
d) Result in other emissions (such as those odors adversely affecting a substantial number of people?			X	

Discussion: The proposed project is located within the San Joaquin Valley Air Basin (SJVAB) and, therefore, falls under the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). In conjunction with the Stanislaus Council of Governments (StanCOG), the SJVAPCD is responsible for formulating and implementing air pollution control strategies. The SJVAPCD’s most recent air quality plans are the 2007 PM10 (respirable particulate matter) Maintenance Plan, the 2008 PM2.5 (fine particulate matter) Plan, and the 2007 Ozone Plan. These plans establish a comprehensive air pollution control program leading to the attainment of state and federal air quality standards in the SJVAB, which has been classified as “extreme non-attainment” for ozone, “attainment” for respirable particulate matter (PM-10), and “non-attainment” for PM 2.5, as defined by the Federal Clean Air Act. The Air District has addressed most criteria air pollutants through basin wide programs and policies to prevent cumulative deterioration of air quality within the Basin.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to air quality to be less than significant. As requested by the Air District, through the application of Development Standards the uses approved with P-D (317) and with the 2015 use permit were subject to obtaining all applicable Air District permits, including but not limited to District Rule 9510 and to completing an Air Impact Assessment (AIA) Application. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to air quality are considered to be less than significant.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; San Joaquin Valley Air Pollution Control District - Regulation VIII Fugitive Dust/PM-10 Synopsis; www.valleyair.org; Stanislaus County General Plan and Support Documentation¹.

IV. BIOLOGICAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	

f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			X	
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Discussion: The project is located within the Waterford Quad of the California Natural Diversity Database. There are 15 plants and animals which are state or federally listed, threatened, or identified as species of special concern within the Waterford California Natural Diversity Database Quad (CNDDDB). These species include the Swainson’s hawk, Tricolored Blackbird, Burrowing Owl, Riffle Sculpin, Sacramento Hitch, Hardhead, Sacramento-San Joaquin Tule Perch, Steelhead, Chinook Salmon, Valley Elderberry Longhorn Beetle, Stinkbells, Beaked Clarkia, Colusa Grass, San Joaquin Valley Orcutt Grass, and Greene’s Tuctoria. However, the project site is already developed or planted in orchard making the likelihood for existence of these species on the project site very low. The CNDDDB does not list any special status species on the project site and the nearest special status species siting listed is located 1/2 mile south and southwest of the project site along the Tuolumne River.

The project will not conflict with a Habitat Conservation Plan, a Natural Community Conservation Plan, or other locally approved conservation plans. The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to biological resources to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to biological resources are considered to be less than significant.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; California Department of Fish and Wildlife (formerly the Department of Fish and Game); California Natural Diversity Database; and the Stanislaus County General Plan and Support Documentation¹.

V. CULTURAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in § 15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?			X	
c) Disturb any human remains, including those interred outside of formal cemeteries?			X	

Discussion: A records search conducted by the Central California Information Center (CCIC) in 2009, as part of the 2007 General Plan Amendment and Rezone, stated that no historical, cultural, or archeological resources have been reported for the site and that the site has a low sensitivity for the discovery of such resources.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard applied a mitigation measure which required that should any cultural resources be discovered during construction that all activity be halted until appropriate agencies are contacted and a survey is completed. The environmental review prepared for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to cultural resources to be less than significant and included a Development Standard which required that should any potential cultural resources be discovered with future construction activities all activity shall be halted until appropriate agencies are contacted a survey is completed. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This

project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to cultural resources are considered to be less than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Records search dated May 27, 2009, from the Central California Information Center; Stanislaus County General Plan and Support Documentation¹.

VI. ENERGY. -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			X	
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			X	

Discussion: The CEQA Guidelines Appendix F states that energy consuming equipment and processes, which will be used during construction or operation such as: energy requirements of the project by fuel type and end use, energy conservation equipment and design features, energy supplies that would serve the project, total estimated daily vehicle trips to be generated by the project, and the additional energy consumed per trip by mode, shall be taken into consideration when evaluating energy impacts. Additionally, the project’s compliance with applicable state or local energy legislation, policies, and standards must be considered.

Any future development approved with General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard or Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater would be subject to the mandatory planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency and environmental quality measures of the California Green Building Standards (CALGreen) Code (California Code of Regulations, Title 24, Part 11) and must comply with Air District regulations, including Rule 2201 – New and Modified Stationary Source Review Rule, Rule 4641 – Cutback, Slow Cure, and Emulsified Asphalt, Paving, and Maintenance Operations, Regulation VIII – Fugitive PM10 Prohibitions, and Rule 4601 – Architectural Coatings Construction.

The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site, which includes Development Standards requiring compliance with the CAL Green Code and Air District standards. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to energy are considered to be less than significant.

Mitigation: None.

References: General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; San Joaquin Valley Air Pollution Control District - Regulation VIII Fugitive Dust/PM-10 Synopsis; Stanislaus County Zoning Ordinance; and the Stanislaus County General Plan and Support Documentation¹.

VII. GEOLOGY AND SOILS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?			X	
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?			X	
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	

Discussion: The project site is not located near an active fault or within a high earthquake zone. Landslides are not likely due to the flat terrain of the area. The soils on site are listed as Hanford fine sandy loams (0-1% and 0-3% slopes, Index Rating of 90-100, Grade 1) and Greenfield sandy loams (0-3% slopes, Index Rating of 68, Grade 2). As contained in Chapter 5 of the General Plan, the areas of the County subject to significant geologic hazard are located in the Diablo Range, west of Interstate 5. However, as per the California Building Code, all of Stanislaus County is located within a geologic hazard zone (Seismic Design Category D, E, or F) and a soils test may be required at building permit application. Results from the soils test will determine if unstable or expansive soils are present. If such soils are present, special engineering of the structure will be required to compensate for the soil deficiency. Any structures resulting from this project will be designed and built according to building standards appropriate to withstand shaking for the area in which they are constructed. Any earth moving is subject to Public Works Standards and Specifications, which considers the potential for erosion and run-off prior to permit approval. Stanislaus County Department of Public Works has already reviewed and approved a grading and drainage plan for the amphitheater. As required by the Development Standards applied to P-D (317) and the amphitheater use permit, future grading activities shall also submit grading and drainage plans to the Department of Public Works for review and approval. Likewise, any addition of a septic tank or alternative waste water disposal system would require the approval of the Department of Environmental Resources (DER) through the building permit process, which also takes soil type into consideration within the specific design requirements. These requirements are included in the Development Standards applied to P-D (317) and the amphitheater use permit.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to geology and soils to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project

request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to geology and soils are considered to be less than significant.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; California Building Code (2016); Stanislaus County General Plan and Support Documentation - Safety Element¹.

VIII. GREENHOUSE GAS EMISSIONS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	

Discussion: The principal Greenhouse Gasses (GHGs) are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and water vapor (H₂O). CO₂ is the reference gas for climate change because it is the predominant greenhouse gas emitted. To account for the varying warming potential of different GHGs, GHG emissions are often quantified and reported as CO₂ equivalents (CO₂e). In 2006, California passed the California Global Warming Solutions Act of 2006 (Assembly Bill [AB] No. 32), which requires the California Air Resources Board (ARB) design and implement emission limits, regulations, and other measures, such that feasible and costeffective statewide GHG emissions are reduced to 1990 levels by 2020. Two additional bills, SB 350 and SB32, were passed in 2015 further amending the states Renewables Portfolio Standard (RPS) for electrical generation and amending the reduction targets to 40% of 1990 levels by 2030.

Any future development approved with General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard or Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater would be subject to the mandatory planning and design, energy efficiency, water efficiency and conservation, material conservation and resources efficiency and environmental quality measures of the California Green Building Standards (CALGreen) Code (California Code of Regulations, Title 24, Part 11) and must comply with Air District regulations, including Rule 2201 – New and Modified Stationary Source Review Rule, Rule 4641 – Cutback, Slow Cure, and Emulsified Asphalt, Paving, and Maintenance Operations, Regulation VIII – Fugitive PM₁₀ Prohibitions, and Rule 4601 – Architectural Coatings Construction.

The environmental review prepared for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to greenhouse gas emissions to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site, which includes Development Standards requiring compliance with the CAL Green Code and Air District standards. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts greenhouse gas emissions are considered to be less than significant.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

IX. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			X	
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X	
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				X
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			X	
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?			X	

Discussion: DER is responsible for overseeing hazardous materials and any development on the site must comply with all local, state, and federal regulations and permitting with regards to hazardous materials. Pesticide exposure is a risk in areas located in the vicinity of agriculture. Sources of exposure include contaminated groundwater, which is consumed and drift from spray applications. Application of sprays is strictly controlled by the Agricultural Commissioner and can only be accomplished after first obtaining permits. Spraying activities on adjacent properties will be conditioned by the Agricultural Commissioner's Office. The project site is not located within an airport land use plan or a wildlands area. The project site is not located in a very high or high fire severity zone and is located within the Stanislaus Consolidated Fire District. Standard conditions of approval regarding fire protection were incorporated into the Development Standards applied to P-D (317) and the amphitheater use permit.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to hazards and hazardous materials to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to hazards and hazardous materials are considered to be less than significant.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

X. HYDROLOGY AND WATER QUALITY -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?			X	
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:			X	
(i) result in substantial erosion or siltation on – or off-site;			X	
(ii) substantially increase the rate of amount of surface runoff in a manner which would result in flooding on- or off-site;			X	
(iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or			X	
(iv) impede or redirect flood flows?			X	
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?			X	
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?			X	

Discussion: Areas subject to flooding have been identified in accordance with the Federal Emergency Management Act (FEMA). The project site is located in FEMA Flood Zone X, which includes areas determined to be outside the 0.2% annual chance floodplains. All flood zone requirements will be addressed by the Building Permits Division during the building permit process. The Central Valley Regional Water Quality Control Board (RWQCB) provided an early consultation referral response requesting that the applicant coordinate with their agency to determine if any permits or Water Board requirements must be obtained/met prior to operation. Stanislaus County Department of Public Works has already reviewed and approved a grading and drainage plan for the amphitheater. As required by the Development Standards applied to P-D (317) and the amphitheater use permit, future grading activities shall also submit grading and drainage plans to the Department of Public Works for review and approval. This project is subject to the public water system permit which is issued and monitored through the Department of Environmental Resources (DER). Likewise, any addition of a septic tank or alternative waste water disposal system would require compliance with the Local Agency Management Program (LAMP), which is implemented through DER and requires specific setbacks be maintained between wells and septic systems. The Modesto Irrigation District (MID) provided a project referral response regarding irrigation water, which is received from MID to irrigate the orchards on the project site. These requirements are included in the Development Standards applied to P-D (317) and the amphitheater use permit.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to hydrology and water quality to be less than significant. The development standards and mitigation measures from the previous project approvals, which includes Public Works, DER, and MID standards be met and applicable Regional Water Quality Control Board permits be obtained,

are still applicable to the activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to hydrology and water quality are considered to be less than significant.

Mitigation: None.

References: Application information; Referral response, dated September 21, 2020, from the Central Valley Regional Water Quality Control Board; Referral response, dated September 16, 2020, received from the Modesto Irrigation District (MID); General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Referral response from Stanislaus County Department of Public Works dated November 12, 2009; Stanislaus County General Plan and Support Documentation¹.

XI. LAND USE AND PLANNING -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Physically divide an established community?			X	
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X	

Discussion: The project site is adjacent to an animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection, a drilling company (Masellis Drilling) on the northwest corner, a fire station and church are located to the north. Production Agricultural parcels are to the west, south, and east of the project site. The 45± acre parcel currently supports the existing Fruit Yard produce market, the Fruit Yard restaurant, two separate Gas Fueling facilities, all of which currently have paved parking and landscaping; a concave grass outdoor amphitheater and a park site, where special events are currently held. The remaining part of the property is currently planted in orchard and receive irrigation water from the Modesto Irrigation District. The Planned Development approved for this project, by the Board of Supervisors on August 19, 2008, allowed for the additional development of a 9,000 square-foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing “card lock” fueling facility and construction of a 3,000 square-foot retail shell building, which includes a drive-through establishment of unknown type. The planned development also permitted a 322 space boat/RV mini storage (both covered and uncovered spaces), a 66 space travel trailer park for short term (overnight) stays, a two acre site for retail tractor (large agricultural equipment) sales, and a new facility for fruit packing and warehousing. The 2015 use permit permitted operation of an outdoor amphitheater, with a maximum capacity of 3,500 persons and the ability to hold up to 12 events per year, and established noise standards for holding amplified music events at the park, amphitheater, and proposed banquet hall.

Although the approved development described above was approved by the Board of Supervisors, which requires finding the project to be compatible with surrounding land uses, including agriculture, and to meet the criteria for agricultural land conversion, the staff report written for the project identified some of the proposed uses included in phase 2 of the project, which are currently planted in orchard, as needing further analysis in terms of potential impacts to surrounding agriculture and whether or not they meet the criteria for agricultural land conversion. Consequently, the project was conditioned to require a Use Permit be obtained prior to implementation of the tractor sales facility and the fruit packing facility identified in phase 2 of the Planned Development.

In December of 2007, Stanislaus County adopted an updated Agricultural Element which incorporated guidelines for the implementation of agricultural buffers applicable to new and expanding non-agricultural uses within or adjacent to the A-2 Zoning District. The purpose of these guidelines is to protect the long-term health of agriculture by minimizing conflicts such as spray drift and trespassing resulting from the interaction of agricultural and non-agricultural uses. The Board of Supervisors found the previously approved General Plan Amendment/Rezone and use permit projects to be consistent with the agricultural buffer requirement.

This request will not physically divide an existing community, nor does it conflict with any applicable land use plan, policy, or regulation, or any habitat or natural community conservation plan.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to land use and planning to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to land use and planning are considered to be less than significant.

Mitigation: None.

References: Application information; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

XII. MINERAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?			X	
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?			X	

Discussion: The location of all commercially viable mineral resources in Stanislaus County has been mapped by the State Division of Mines and Geology in Special Report 173. There are no known significant resources on the site.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to mineral resources to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to mineral resources are considered to be less than significant.

Mitigation: None.

References: State Division of Mining & Geology - Special Report 173 (1993); General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

XIII. NOISE -- Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?		X		

b) Generation of excessive groundborne vibration or groundborne noise levels?		X		
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X

Discussion: The site is not located within an airport land use plan. Use Permit PLN2015-0130 – The Fruit Yard Amphitheater approved the site to hold a maximum of 12 amphitheater events per year, ending at 10:00 p.m. Sunday through Thursday, or 11:00 p.m. Friday and Saturday. The previous general plan amendment and rezone for the project (P-D 317) included a condition of approval which required that an acoustical analysis be prepared prior to any outdoor use of amplified sound to ensure noise levels do not exceed the levels allowed by the Stanislaus County Noise Element.

The Stanislaus County General Plan¹ identifies noise levels up to 75 dB L_{dn} (or CNEL) as the normally acceptable level of noise for industrial, manufacturing, utility and agricultural uses; and up to 70 dB L_{dn} (or CNEL) as the normally acceptable level of noise for auditoriums, concert halls, and amphitheatres. Without mitigation in place, noise impacts associated with the use of amplified sound during the amphitheater events have the potential to exceed the normally acceptable levels of noise.

An Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc. (BAC), dated February 3, 2016, was conducted for the 2015 use permit. The study was peer reviewed by Saxelby Acoustics and was subsequently amended on December 28, 2016, based on peer review comments. The amended Environmental Noise Analysis incorporated comments received by Saxelby Acoustics. Saxelby Acoustics reviewed the amended document and determined that it adequately covered all of the concerns they had included in their original peer review response. The revised Environmental Noise Analysis provided a number of recommendations for mitigation measures to be incorporated into the project, ranging from on-going sound monitoring, limits on hours of operation, and methods for corrective actions, to ensure the project meets the noise limits identified both in the Stanislaus County Noise Element of the General Plan and the Noise Ordinance. Based on the recommendation provided in the noise analysis, mitigation measures were incorporated into the 2015 use permit that addressed noise levels resulting from events occurring in the park, future banquet hall, and the amphitheater. Mitigation measures specific to the amphitheater required the following (see Attachment C):

- Construction of a noise berm
- Compliance with the noise level-limits established by the Noise Element of the Stanislaus County General Plan, as described in Table IV-2 – Maximum Allowable Noise Exposure – Stationary Noise Sources, and any subsequent amendments
- Amphitheater sound system output limits, measured at a position located 100 feet from the front of the amphitheater stage:
 - An average of 90 dBA Leq averaged over a five minute period and a maximum of 100 dBA Lmax.
 - An average of 100 dBC Leq averaged over a five minute period and a maximum of 110 dBC Lmax
- Standards for ongoing on-site noise measurements during amphitheater events
- On-site and off-site noise measurements, to be conducted by a qualified Noise Consultant, during the first two large concerts (with 500 or more in attendance) held at the amphitheater and any of the first two events held at the amphitheater (if less than 500 in attendance)
- Hour limits of 10 p.m. Sunday through Thursday, for the events, 11 p.m. for all patrons to be off the premises as of 11:00 p.m., and 12:00 a.m. for all employees and contract staff, associated with the amplified music events.
- If the first two large amplified music events (with 500 or more in attendance) held at the amphitheater Friday and Saturday, met the required noise level limits, then hour limits could be extended to 11 p.m. Friday and Saturday, for the events, 12 a.m. for all patrons, and 1:00 a.m. for all employees and contract staff, associated with the amplified music events.
- Development of a “Good Neighbor Policy” to be approved by the Planning Department
- Process for additional sound controls to be developed by a noise consultant if verified noise complaints were received

- Following removal of orchard trees located on the western and southern portions of the project site (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83) potential changes in noise impacts shall be evaluated by a noise consultant, as described in Mitigation Measure No. 14, and additional noise Mitigation Measures shall be implemented, if determined to be necessary, to ensure compliance with the applicable County noise standards.
- Process for conducting any future additional noise analysis required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation.

Noise monitoring was conducted by BAC staff during the initial two concerts held at the amphitheater. The monitoring indicated that the sound levels measured during those concerts were within compliance with the county's noise standards at the nearest residences to the amphitheater. Noise level measurements conducted by another acoustical consultant during a third concert held at the amphitheater revealed similar results. Reports documenting the detailed results of those sound monitoring programs were prepared by BAC and submitted to the County.

The proposed project requests revisions to two of the project's mitigation measures (Mitigation Measures No. 5 and 6). The requested revisions are to increase the sound level limits at the project mixing booth by 5 dBA and 5 dBC. And to utilize one hour averaging of mixing board sound levels rather than five minute averaging. The adoption of the proposed revisions to the project's Mitigation Measures No. 5 and 6 would effectively allow increased sound generation within the concert venue (at the mixing board) and allow the averaging of those levels over a one hour period, similar to the County's adopted General Plan noise standards. A Noise Impact Assessment was prepared by BAC, dated May 21, 2021, which found that the proposed change would increase levels at nearby residences during amphitheater events, but found that music levels at the nearest residences are still expected to be in substantial conformance with the County General Plan standards at those nearest residences. The Noise Impact Assessment indicated that the current noise mitigation measures required the mixing board sound level limits to be 5 dB more restrictive than necessary to comply with the County's noise standards, so a 5 dB increase in sound limits at the mixing board could be applied without resulting in exceedance of the current General Plan noise standards. The Noise Impact Assessment also stated that it is possible that variations in atmospheric conditions could cause shifts in sound propagation which could occasionally result in music levels temporarily exceeding the County's noise standards. Such exceedances, should they occur, are expected to be minor (approximately 3 dBA or less) and for short durations.

A peer review was completed of the 2021 BAC Noise Impact Assessment by Saxelby Acoustics, who was contracted by the County, on June 18, 2021. The peer review concurred that the existing noise limits placed on the Fruit Yard appear to be more restrictive than necessary to achieve compliance with the County's General Plan noise standards at the surrounding noise-sensitive receptors. Therefore, increasing the limits at the mixing booth by 5 dBA and 5 dBC appears to be reasonable while still ensuring that the County's noise standards are not routinely exceeded at sensitive receptors. The peer review also suggested that monitoring should also be conducted at a stationary point near the identified sensitive receptors and at the mixing booth to verify compliance with the new noise limits.

The Development Standards applied to P-D (317) and to the 2015 amphitheater use permit are also still applicable to on-site activities. The Mitigation Monitoring Plan approved for the amphitheater, adopted by the Board of Supervisors on May 23, 2017, is still applicable to the project including the noise mitigation mentioned above. This project request would amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130), with the Mitigation Measures 1 and 2 below. The Noise Impact Assessment that the on-site noise limits may be increased by dbA and by 5 dbC while still maintaining compliance with the County's noise standards. With mitigation measures in place, the project's noise impacts are considered to be less than significant with mitigation included. (see Mitigation Measures below.)

Mitigation:

- No. 1 To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 95 dBA Leq averaged over an hourly period and a maximum of 105 dBA Lmax at a position located 100 feet from the front of the amphitheater stage.

Park and banquet hall sound system output shall be limited to an average of 75 dBA Leq averaged over an hourly period and a maximum of 85 dBA Lmax at a position located 100feet from the front of the sound

system speakers for the park, and 100feet from outside of the banquet hall. Sound levels up to 80 dBA Leq at the 100 foot reference distance would be acceptable provided the sound system speakers are oriented south or southwest.

No. 2 To control low-frequency sound in the surrounding neighborhood during amphitheater events, C-weighted sound levels shall be limited to 105 dBC Leq averaged over an hourly period and a maximum of 115 dBC Lmax at a position located 100 feet from the front of the Amphitheater stage.

To control low-frequency sound in the surrounding neighborhood during park events, C-weighted sound levels shall be limited to 85 dBC Leq averaged over an hourly period and a maximum of 95 dBC Lmax at a position located 100 feet from the front of the speakers for the park, and 100 feet from outside of the banquet hall.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Noise Impact Assessment, prepared by Bollard Acoustical Consultants, Inc., dated May 21, 2021; Peer review response, prepared by Saxelby Acoustics, dated June 18, 2021; Stanislaus County General Plan and Support Documentation¹.

XIV. POPULATION AND HOUSING -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?			X	

Discussion: The approved use of the site will not create significant service extensions or new infrastructure which could be considered as growth inducing. No housing or persons will be displaced by this project. As the project site is surrounded by agricultural land, it is unlikely that residential development will occur due to the fact that County voters passed the Measure E vote in February of 2008. Measure E, which was incorporated into Zoning Ordinance Chapter 21.118 (the 30-Year Land Use Restriction), requires that redesignation or rezoning of land from agricultural/open space to residential use shall require approval by a majority vote of the County voters at a general or special local election.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to population and housing to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to population and housing is considered to be less than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

XV. PUBLIC SERVICES --	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project result in the substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:			X	
Fire protection?			X	
Police protection?			X	
Schools?			X	
Parks?			X	
Other public facilities?			X	

Discussion: This project was circulated to all applicable school, fire, police, irrigation, and public works departments and districts during the early consultation referral period and no concerns were identified with regard to public services. The project site is served by the Stanislaus Consolidated Fire Protection District and the Stanislaus County Sheriff Department is the main police protection provider for the area. The site is in the Modesto City School District. Parks fees are applicable to residential subdivision, which is not included in this project request. The County has adopted Public Facilities Fees, as well as one for the Fire Facility Fees on behalf of the appropriate fire district, to address impacts to public services. Such fees are required to be paid at the time of building permit issuance. Development Standards were incorporated into General Plan Amendment No. 2007-03 Rezone No. 2007-03 – The Fruit Yard and Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater to insure that the approved development pays all applicable public facility, school, and fire fees and complies with all applicable fire department standards with respect to access and water for fire protection. All construction on the site must be in accordance with the current adopted building and fire codes.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard found impacts to public services to be less than significant. The environmental review prepared for UP PLN2015-0130 – The Fruit Yard Amphitheater found impacts to public services to be less than significant with mitigation and incorporated a mitigation measure which required the operator to submit a security plan for amplified music events to the Sheriff for review and approval, prior to onset of the events. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). The Mitigation Monitoring Plan approved for the amphitheater, adopted by the Board of Supervisors on May 23, 2017, is still applicable to the project including the public services mitigation mentioned above. Accordingly, impacts to public services are considered to be less than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

XVI. RECREATION --	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	

Discussion: The approved project is not anticipated to significantly increase demand on recreational facilities or to have an adverse physical effect on the environment. The existing gas stations, produce market, restaurant and park are open to the public during specified hours. The amphitheater, park, and proposed banquet hall all have approval to hold special events which are for ticket holders or invitees only, although some park events are open to the public.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to recreation to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to recreation are considered to be less than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

XVII. TRANSPORTATION-- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?			X	
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?			X	
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
d) Result in inadequate emergency access?			X	

Discussion: A Traffic Impact Analysis for the 2007 Planned Development project (P-D 317) was prepared by KD Anderson & Associates, Inc., dated December 6, 2007. Based on the traffic analysis prepared, the environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard found the project’s impacts to transportation to be less than significant with mitigation and included two mitigation measures which required roadway dedication along Geer Road and Yosemite Boulevard. A Supplemental Traffic Impact Analysis, prepared by Pinnacle Traffic Engineering, dated February 5, 2016, was prepared for the 2015 Use Permit for the amphitheater, which was reviewed and amended to satisfy input from CalTrans. Based on the supplemental traffic analysis, the environmental review prepared for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found the project’s impacts to transportation to be less than significant with mitigation and included two mitigation measures which required the payment of traffic impact fees and

implementation of an Event Traffic Management Plan, which incorporates event traffic management recommended by CalTrans and the Stanislaus County Department of Public Works.

The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to transportation are considered to be less than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Traffic Impact Analysis prepared by KD Anderson & Associates, Inc., dated November 23, 2016; Supplemental Traffic Impact Analysis, prepared by Pinnacle Traffic Engineering, dated February 5, 2016; Referral response from California Department of Transportation (CalTrans) dated September 14, 2016, and an email dated November 29, 2016; Stanislaus County General Plan and Support Documentation¹.

XVIII. TRIBAL CULTURAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California native American tribe, and that is:			X	
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or			X	
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set for the in subdivision (c) of Public Resource Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.			X	

Discussion: In accordance with SB 18, the 2007 General Plan Amendment was referred to the tribes listed with the Native American Heritage Commission (NAHC) and no tribes responded with a request for consultation or with any project comments. Tribal notification of the project was not referred to any tribes in conjunction with AB 52 requirements, as Stanislaus County has not received any requests for consultation from the tribes listed with the NAHC. A Sacred Lands File Check, completed by the Native American Heritage Commission during the processing of the 2007 Planned Development, indicated that no sacred sites were present within the project site. A records search conducted by the Central California Information Center (CCIC) in 2009, as part of the 2007 General Plan Amendment and Rezone, stated that no historical, cultural, or archeological resources have been reported for the site and that the site has a low sensitivity for the discovery of such resources. Development standards applicable to the 2007 General Plan Amendment and 2015 Use Permit requires that should any potential tribal cultural resources be discovered with future construction activities, all activity shall be halted, until appropriate agencies are contacted a survey is completed.

The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This

project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to tribal cultural resources are considered to be less than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Records search dated May 27, 2009, from the Central California Information Center; Referral response from the Native American Heritage Commission dated November 17, 2009. Stanislaus County General Plan and Support Documentation¹.

XIX. UTILITIES AND SERVICE SYSTEMS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?			X	
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?			X	
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			X	
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?			X	
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?			X	

Discussion: The project site is currently permitted as a public water system and is served by a private on-site septic system. The site receives electricity and irrigation water from the Modesto Irrigation District (MID). The Department of Public Works reviewed and approved on-site grading and drainage plans to ensure all stormwater is managed on-site. Conditions of approval were incorporated into the General Plan Amendment/Rezone and Use Permit projects to reflect standard conditions of approval for on-site water, septic, stormwater management, electrical, and irrigation water services.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to Utilities and Service Systems to be less than significant. The development standards and mitigation measures from the previous project approvals are still applicable to the activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to utilities and service systems are considered to be less than significant.

Mitigation: None.

References: Application; Referral response, dated September 16, 2020, received from the Modesto Irrigation District (MID); General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

XX. WILDFIRE – If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?			X	
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?			X	
c) Require the installation of maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?			X	
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?			X	

Discussion. The terrain of the site is relatively flat, and the site has access to a County-maintained road. The project site is not located in a very high or high fire severity zone and is located within the Stanislaus Consolidated Fire District. Standard conditions of approval regarding fire protection were incorporated into UP PLN2015-0130 – The Fruit Yard Amphitheater and General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard which must be met with any future construction. Additionally, California Building Code establishes minimum standards for the protection of life and property by increasing the ability of a building to resist intrusion of flame and embers. All construction must comply with current adopted fire code, including the payment of fire service impact mitigation fees, on-site water supply and infrastructure for fire protection, and emergency vehicle access.

The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. This project only includes a request to amend Mitigation Measures No. 5 and 6, which specify the on-site noise monitoring for both A-weighted and C-weighted noise measurements for The Fruit Yard Amphitheater (Use Permit No. PLN2015-0130). Accordingly, impacts to wildfire risk and risks associated with postfire land changes are considered to be less-than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Stanislaus County General Plan and Support Documentation¹.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE --	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	

<p>b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)</p>			<p>X</p>	
<p>c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</p>			<p>X</p>	

Discussion: The project site is adjacent to an animal feed and supply business (zoned P-D 268, Planned Development) located on the northeast corner of the intersection, a drilling company (Masellis Drilling) on the northwest corner, a fire station and church are located to the north. Production Agricultural parcels are to the west, south, and east of the project site. The 45± acre parcel currently supports the existing Fruit Yard produce market, the Fruit Yard restaurant, two separate Gas Fueling facilities, all of which currently have paved parking and landscaping; a concave grass outdoor amphitheater and a park site, where special events are currently held. The remaining part of the property is currently planted in orchard and receive irrigation water from the Modesto Irrigation District. The Planned Development approved for this project, by the Board of Supervisors on August 19, 2008, allowed for the additional development of a 9,000 square-foot banquet facility, a new convenience market, relocation of an existing gas station, relocation of the existing “card lock” fueling facility and construction of a 3,000 square-foot retail shell building, which includes a drive-through establishment of unknown type. The planned development also permitted a 322 space boat/RV mini storage (both covered and uncovered spaces), a 66 space travel trailer park for short term (overnight) stays, a two acre site for retail tractor (large agricultural equipment) sales, and a new facility for fruit packing and warehousing. The 2015 use permit permitted operation of an outdoor amphitheater, with a maximum capacity of 3,500 persons and the ability to hold up to 12 events per year, and established noise standards for holding amplified music events at the park, amphitheater, and proposed banquet hall.

Although the approved development described above was approved by the Board of Supervisors, which requires finding the project to be compatible with surrounding land uses, including agriculture, and to meet the criteria for agricultural land conversion, the staff report written for the project identified some of the proposed uses included in phase 2 of the project, which are currently planted in orchard, as needing further analysis in terms of potential impacts to surrounding agriculture and whether or not they meet the criteria for agricultural land conversion. Consequently, the project was conditioned to require a Use Permit be obtained prior to implementation of the tractor sales facility and the fruit packing facility identified in phase 2 of the Planned Development.

Any further development of surrounding area would be subject to a discretionary land use permit, which would require environmental review and a public hearing. The A-2-40 zoning district does allow for agriculturally related uses when a use permit is obtained, which is a discretionary action. For any changes to the zoning or General Plan land use designations of surrounding property, consistency with the goals, objectives, and policies of the various elements of the General Plan must be evaluated when considering the discretionary request. Rezones may be approved without a change in the General Plan designation if the proposed uses are found to be agriculturally-related uses or for uses of a demonstrably unique character, which due to specific agricultural needs or to their transportation needs or to needs that can only be satisfied in the agriculture designation, may be properly located within areas designated as “agricultural” on the General Plan. Any non-agriculturally related uses would require an amendment to the General Plan and would be subject to meeting the findings required for agricultural land conversion which includes finding: the proposal is consistent with the goals and policies of the General Plan; there is evidence on the record to show a demonstrated need for the proposed project based on population projections, past growth rates, and other pertinent data; that no feasible alternative site exists in areas already designated for the proposed uses; that approval of the proposal will not constitute a part of, or encourage, piecemeal conversion of a larger agricultural area to non-agricultural uses, and will not be growth-inducing (as used in the California Environmental Quality Act); that the proposed project is designed to minimize conflict and will not interfere with agricultural operations on surrounding agricultural lands or adversely affect agricultural water supplies; that there is adequate and necessary public services and facilities are available or will be made available as a result of the development; and that the design of the proposed project has incorporated all reasonable measures, as determined during the CEQA review process, to mitigate impacts to agricultural lands, fish and wildlife resources, air quality, water quality and quantity, or other natural resources. There are several other General Plan policies that protect agricultural areas of the county and reserve its use for agriculture or for uses closely related to agriculture. One such policy Measure E, which was approved by majority vote in February of

2008, requires that re-designation or rezoning of land from agricultural/open space to residential use shall require approval by a majority vote of the County voters at a general or special local election. Another policy requires that any conversion of agricultural land to residential purposes provide a permanent agricultural easement in a ratio of 1:1.

The environmental review prepared for General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard and for Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater found impacts to Mandatory Findings of Significance to be less than significant. The Development Standards and mitigation measures applied to P-D (317) and to the 2015 amphitheater use permit are still applicable to activities on the project site. However, no construction is proposed as part of this project request. The request proposes to amend two mitigation measures specific to on-site noise monitoring and does not propose any additional development. Impacts addressed under the Mandatory Findings of Significance section associated with this project are considered to be less-than significant.

Mitigation: None.

References: Application; General Plan Amendment No. 2007-03, Rezone No. 2007-03 – The Fruit Yard; Use Permit No. PLN2015-0130 – The Fruit Yard Amphitheater; Initial Study; Stanislaus County General Plan and Support Documentation¹.

¹Stanislaus County General Plan and Support Documentation adopted in August 23, 2016, as amended. **Housing Element** adopted on April 5, 2016.



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10th Street, Suite 3400, Modesto, CA 95354

Planning Phone: (209) 525-6330 Fax: (209) 525-5911

Building Phone: (209) 525-6557 Fax: (209) 525-7759

Stanislaus County

Planning and Community Development

Mitigation Monitoring and Reporting Program

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, January 1, 2020

March 4, 2022

1. Project title and location: Amendment to Use Permit Application No. PLN2015-0130 – The Fruit Yard Amphitheater

7924 & 7948 Yosemite Blvd. (Hwy 132), at the southwest corner of Yosemite Blvd. and Geer Road, between the cities of Modesto, Waterford, and Hughson. (APN: 009-027-004)
2. Project Applicant name and address: The Fruit Yard, Joe Traina
7948 Yosemite Blvd.
Modesto, CA 95357
3. Person Responsible for Implementing Mitigation Program: The Fruit Yard, Joe Traina
4. Contact person at County: Kristin Doud, Principal Planner
(209) 525-6330

MITIGATION MEASURES AND MONITORING PROGRAM:

List all Mitigation Measures by topic as identified in the Mitigated Negative Declaration and complete the form for each measure.

XIII. NOISE

No. 1 To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 95 dBA Leq averaged over an hourly period and a maximum of 105 dBA Lmax at a position located 100 feet from the front of the amphitheater stage.

Park and banquet hall sound system output shall be limited to an average of 75 dBA Leq averaged over an hourly period and a maximum of 85 dBA Lmax at a position located 100-feet from the front of the sound system speakers for the park, and 100-feet from outside of the banquet hall. Sound levels up to 80 dBA Leq at the 100 foot reference distance would be acceptable provided the sound system speakers are oriented south or southwest.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: On an on-going basis, when events are held.

When should it be completed: On an on-going basis, when events are held.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

No. 2 To control low-frequency sound in the surrounding neighborhood during amphitheater events, C-weighted sounds levels shall be limited to 105 dBC Leq averaged over an hourly period and a maximum of 115 dBC Lmax at a position located 100 feet from the front of the Amphitheater stage.

To control low-frequency sound in the surrounding neighborhood during park events, C-weighted sound levels shall be limited to 85 dBC Leq averaged over an hourly period and a maximum of 95 dBC Lmax at a position located 100 feet from the front of the speakers for the park, and 100 feet from outside of the banquet hall.

Who Implements the Measure: Operator/property owner.
When should the measure be implemented: On an on-going basis, when events are held.
When should it be completed: On an on-going basis, when events are held.
Who verifies compliance: Stanislaus County Planning and Community Development Department.
Other Responsible Agencies: Stanislaus County Department of Environmental Resources - Code Enforcement, and the Stanislaus County Sheriff's Department.

I, the undersigned, do hereby certify that I understand and agree to be responsible for implementing the Mitigation Program for the above listed project. The Mitigation Monitoring Plan, dated May 16, 2017, adopted by the Board of Supervisors on May 23, 2017, is still applicable to the project. Mitigation Measures No. 1 and 2 of this Mitigation Monitoring Plan replaces Mitigation Measures No. 5 and 6 of the May 16, 2017 Mitigation Monitoring Plan.

Signature on File

Person Responsible for Implementing
Mitigation Program






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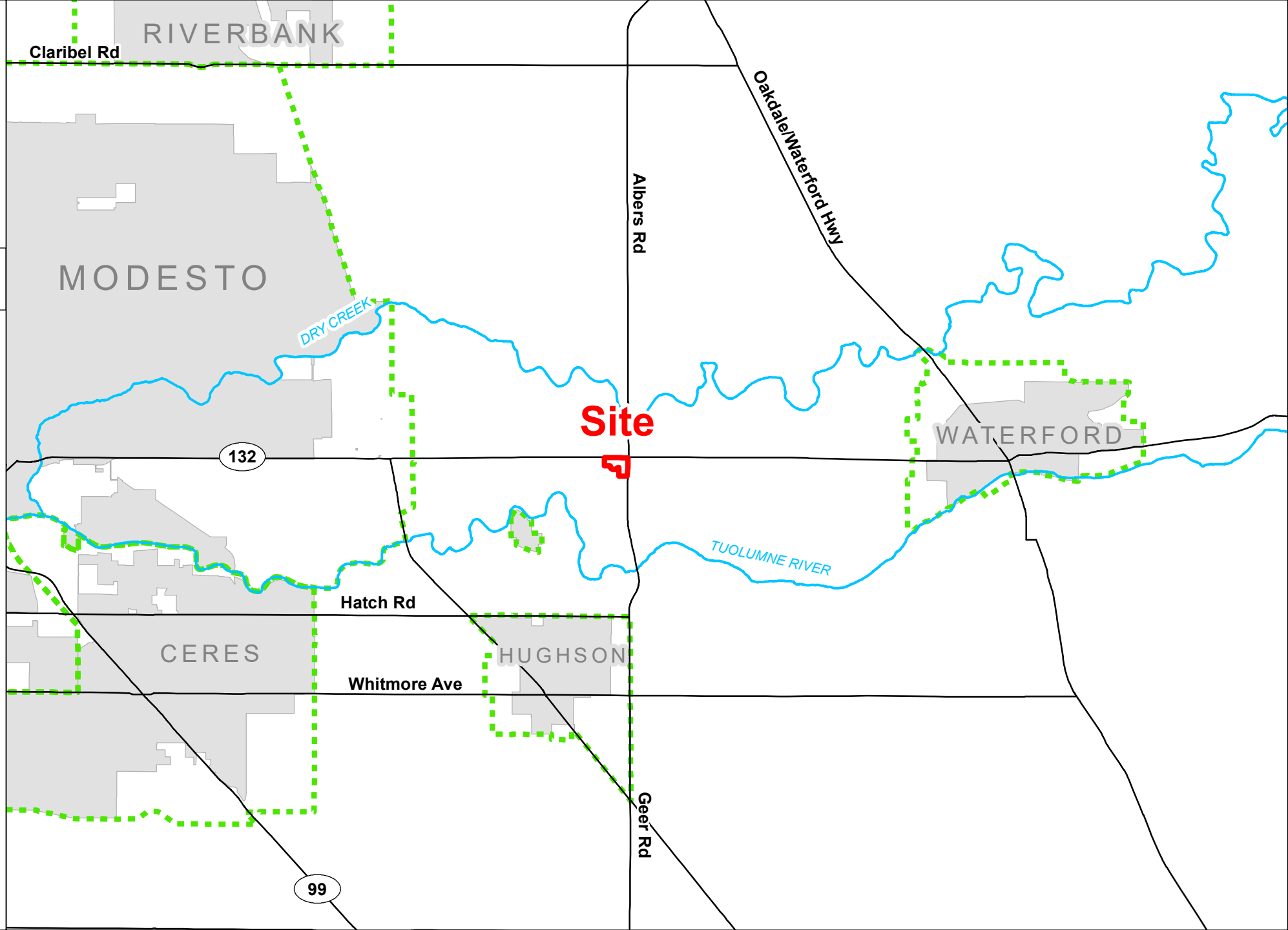
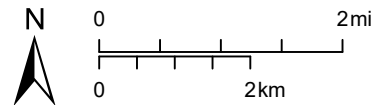
Date

AMENDMENT TO UP PLN2015-0130 THE FRUIT YARD

AREA MAP

LEGEND






-  Project Site
-  Sphere of Influence
-  City
-  Road
-  River





AMENDMENT TO UP PLN2015-0130 THE FRUIT YARD

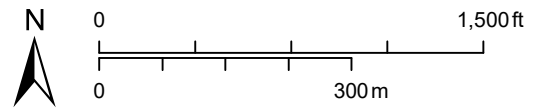
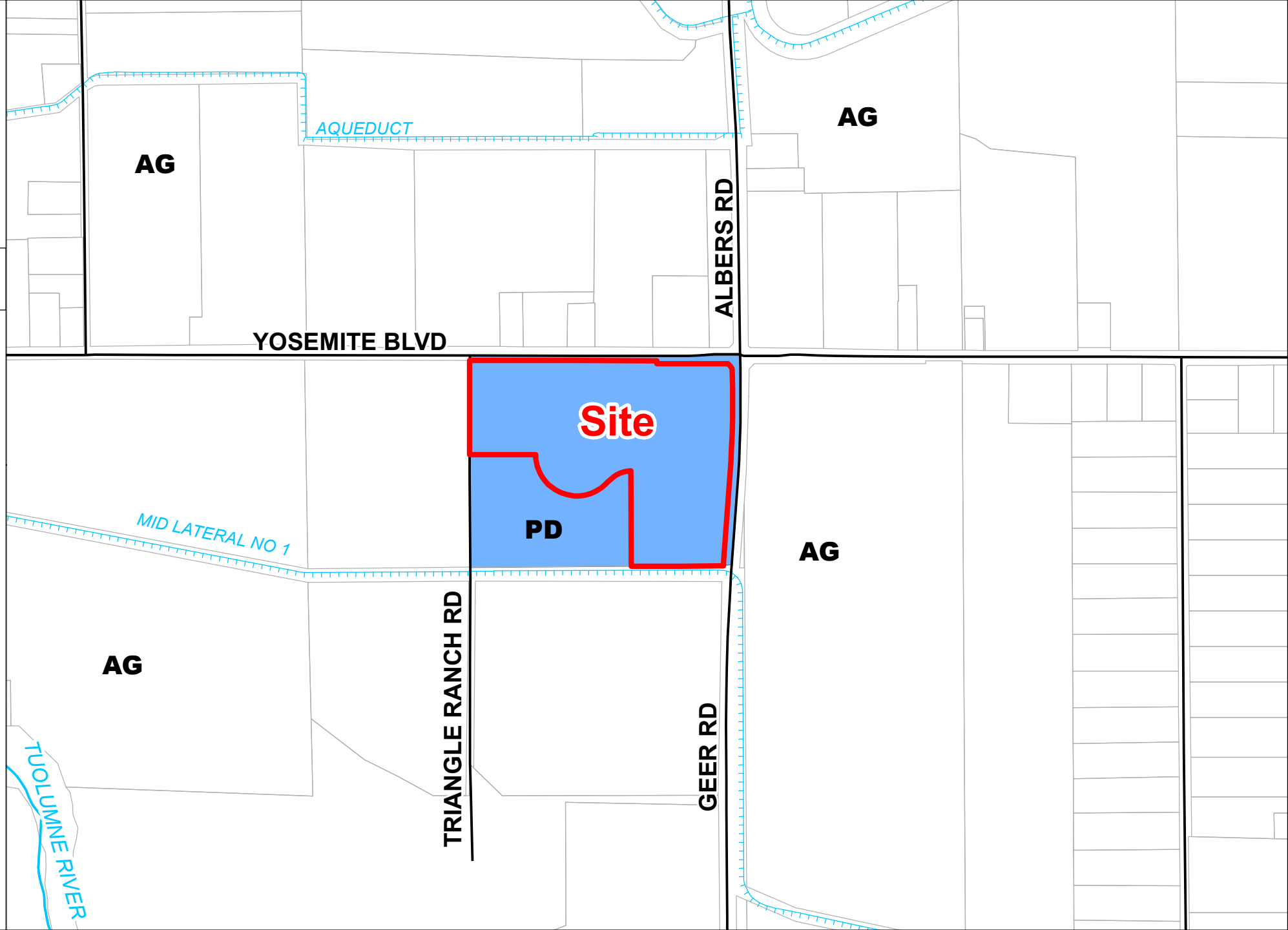
GENERAL PLAN MAP

LEGEND

-  Project Site
-  Parcel
-  River
-  Road
-  Canal

General Plan






-  Agriculture
-  Planned Development





AMENDMENT TO UP PLN2015-0130 THE FRUIT YARD

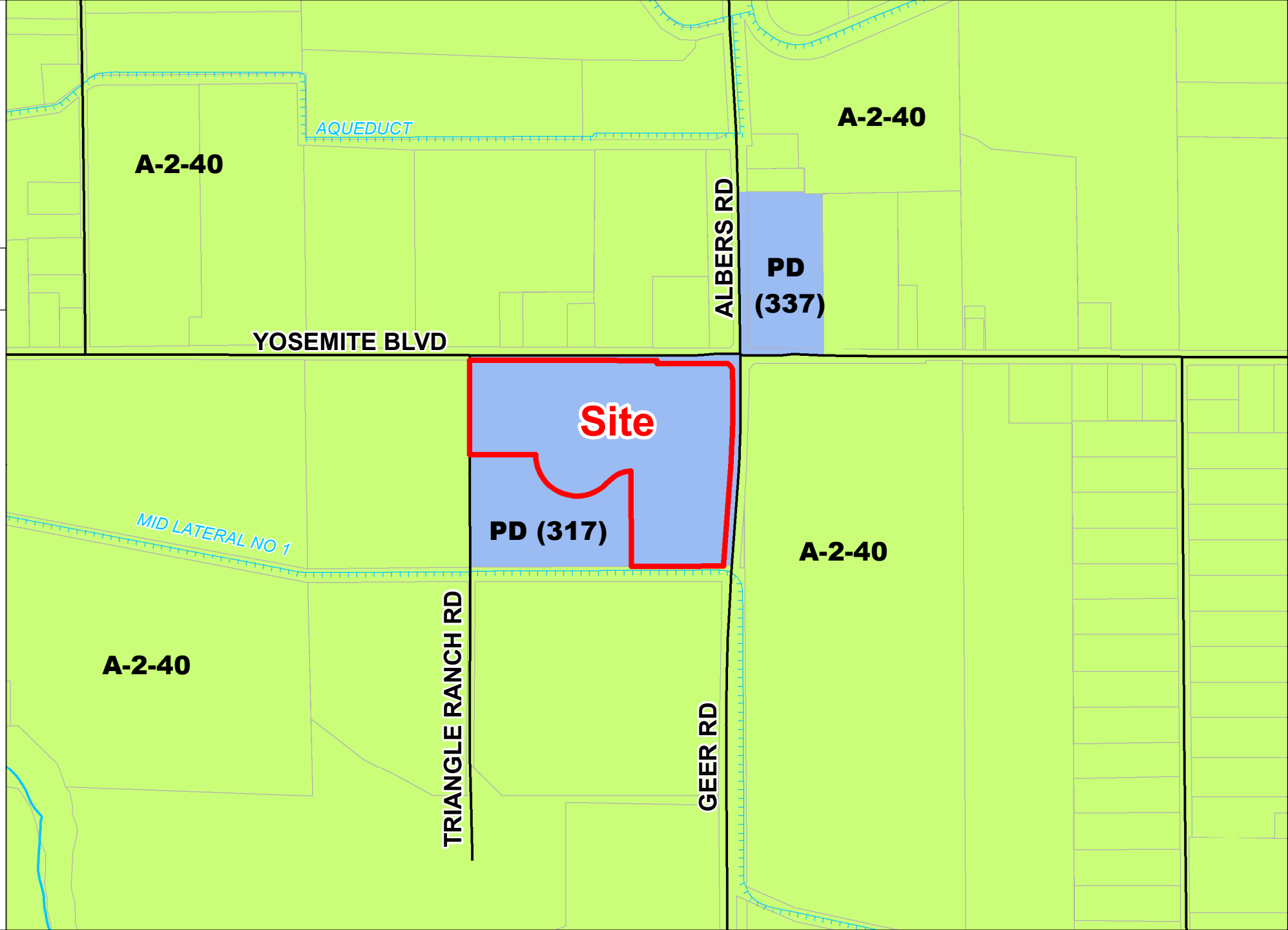
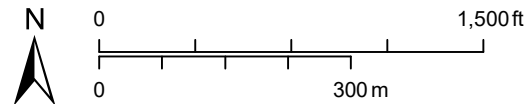
ZONING MAP

LEGEND

-  Project Site
-  Parcel
-  River
-  Canal
-  Road

Zoning Designation





-  Planned Development
-  General Agriculture 40 Acre

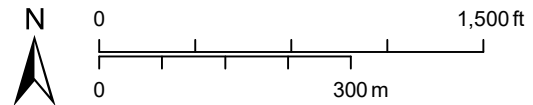


AMENDMENT TO UP PLN2015-0130 THE FRUIT YARD

2017 AERIAL AREA MAP

LEGEND

-  Project Site
-  Road
-  River
-  Canal



Source: Planning Department GIS




Date: 8/6/2020

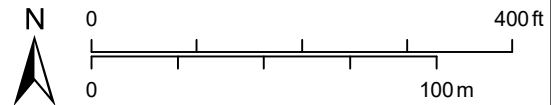


AMENDMENT TO UP PLN2015-0130 THE FRUIT YARD

2017 AERIAL SITE MAP

LEGEND

-  Project Site
-  Road
-  Canal

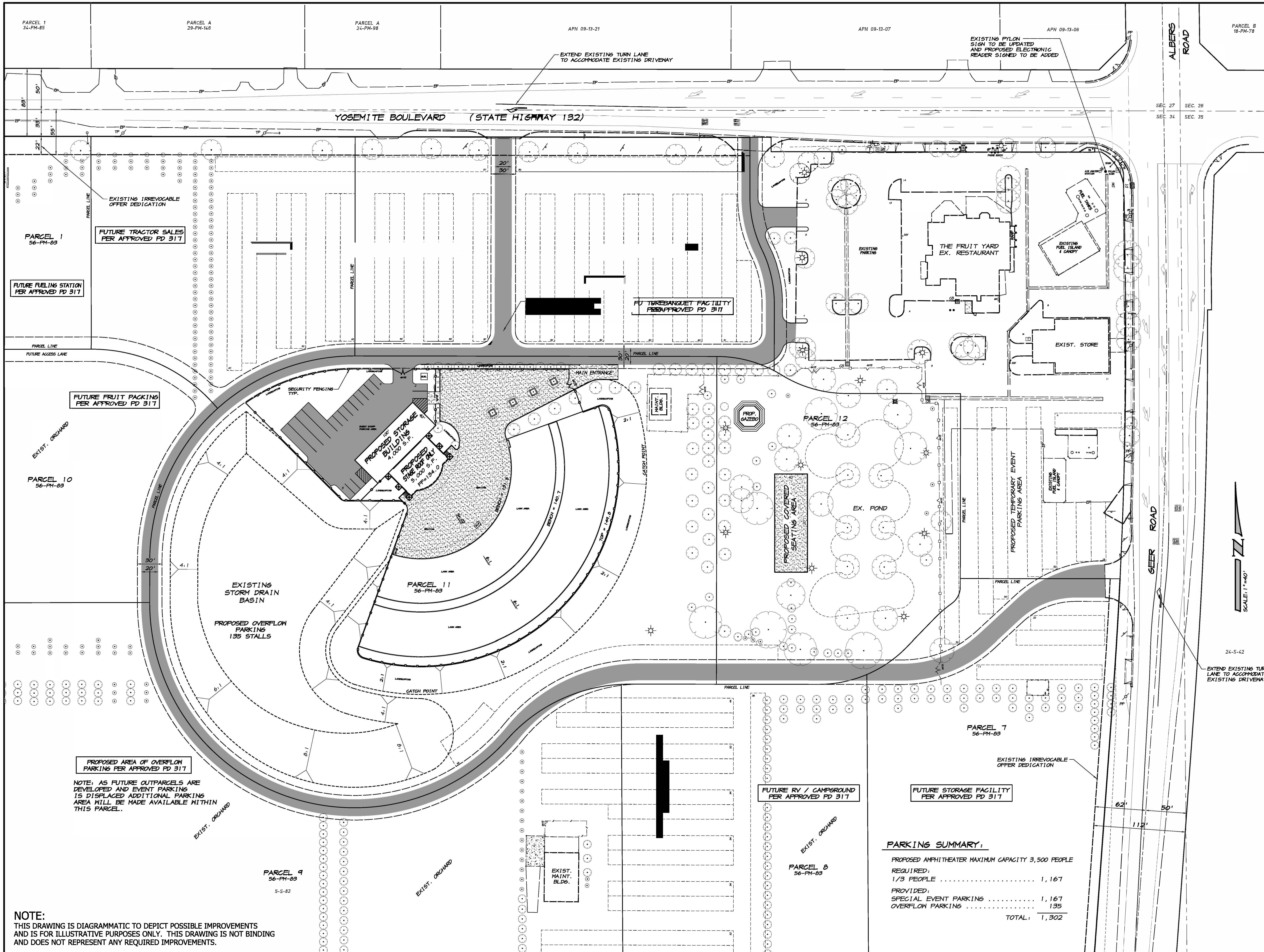


YOSEMITE BLVD

GEER RD

TRIANGLE RANCH RD

Site



NOTE:
 THIS DRAWING IS DIAGRAMMATIC TO DEPICT POSSIBLE IMPROVEMENTS
 AND IS FOR ILLUSTRATIVE PURPOSES ONLY. THIS DRAWING IS NOT BINDING
 AND DOES NOT REPRESENT ANY REQUIRED IMPROVEMENTS.

PARKING SUMMARY:

PROPOSED AMPHITHEATER MAXIMUM CAPACITY	3,500 PEOPLE
REQUIRED:	
1/3 PEOPLE	1,167
PROVIDED:	
SPECIAL EVENT PARKING	1,167
OVERFLOW PARKING	135
TOTAL:	1,302

REVISION	DATE	DESCRIPTION

ASSOCIATED ENGINEERING GROUP
 4208 TECHNOLOGY DRIVE, SUITE 4, MODESTO, CA 95356
 PHONE (209) 545-3380 FAX (209) 545-3975 www.aegeng.com

PARK SITE DEVELOPMENT PLAN
THE FRUIT YARD
 CALIFORNIA
 STANISLAUS COUNTY

RYAN CARREL, R.C.E. 61619
 DAVE SKIDMORE, L.S. 7126

DRAWN BY: J.F.
 DATE: 1/20/17 7:54
 SCALE: 1"=40'
 DWG: 496A UP SITE
 CHECKED:
 JOB #: 496A-15
 SHEET
 OF 1

Noise Impact Assessment

The Fruit Yard Amphitheater Events Modified Conditions of Approval

Stanislaus County, California

BAC Job # 2021-088

Prepared For:

The Fruit Yard Amphitheater

Attn: Joe Traina
7948 Yosemite Boulevard
Modesto, CA 95357

Prepared By:

Bollard Acoustical Consultants, Inc.



Paul Bollard, President

May 21, 2021



Introduction

The Fruit Yard Amphitheater is located at the southwest quadrant of the intersection of Yosemite Boulevard (SR 132) and Geer Road, in unincorporated Stanislaus County, California. The use permit application for the Fruit Yard Amphitheater was approved in 2017 and included conditions related to amplified sound levels.

The project conditions of approval, which are discussed in greater detail later in this report, restrict sound levels at the amphitheater mixing board to levels below those commonly generated during concerts at similarly-sized venues. More specifically, the amphitheater conditions restrict average sound levels at the Fruit Yard mixing board to approximately 10 dB below levels typically generated during concerts at similar venues.

The Fruit Yard mixing board sound restrictions were developed prior to the opening of the amphitheater based on analytical modelling of sound propagation from the amphitheater to the nearest residences in the amphitheater vicinity. Given the considerable public interest in the project, care was taken to apply sufficiently restrictive noise standards to the initial events held within the amphitheater to ensure compliance with the County noise standards. The intent was to allow the collection of data at the nearest residences during the initial events to determine if the mixing board sound level limits were appropriately developed or if they could be increased.

Sound level data collected at the nearest residences during the initial concert events indicated that the sound levels were satisfactory relative to the County's noise standards at those nearest residences. Analysis of the monitoring results indicate that the sound mixing board restrictions could likely be relaxed by approximately 5 dB without causing exceedance of the County's general plan noise standards at those nearest residences.

Because many acts reportedly are unwilling or unable to perform at the Fruit Yard amphitheater due to the atypically restrictive mixing board sound level limits, a modification to the project's use permit is being requested by the Fruit Yard to allow higher sound limits at the mixing board of the venue, and for the assessment of compliance with those limits over a 1 hour period, similar to the averaging period contained in the General Plan.

Bollard Acoustical Consultants, Inc. (BAC) was retained by the Fruit Yard to evaluate whether the proposed revisions to the Fruit Yard event Conditions of Approval could be accommodated without resulting in exceedance of the County's General Plan noise standards at nearby sensitive receptors. This report contains the results of BAC's evaluation.

Acoustic Fundamentals & Terminology

Noise is often defined simply as unwanted sound. Loudness is the human impression of the strength of a sound pressure waves impacting the eardrum. The loudness of a noise does not necessarily correlate with its sound level. Appendix A contains definitions of Acoustical Terminology.

The human ear does not perceive all frequencies equally. For sound levels in the normal range of human hearing, the human ear does not perceive very low and very high frequencies as well as mid-range frequencies. In other words, for two sounds of equal intensity in the normal range of human hearing, a mid-frequency sound is perceived as being louder than a low-frequency or very high frequency sound. This may seem counterintuitive as often times we may hear only low-frequency sounds, such as the bass of music being played in a nearby car or the sound of a distant concert. But this phenomenon is due to the fact that, due to their longer wavelengths, low-frequency sounds pass through barriers more efficiently than mid and high-frequency sounds, as well as the fact that low frequency sounds are not absorbed into the atmosphere as readily as higher frequency sounds (i.e., low frequency sound “carries” further over distance).

To account for the differences in perception of human hearing to different frequencies, the A-weighting scale was developed. A-weighted noise levels are basically linear, or flat, sound pressure levels shaped by a filter. The A-weighting filter adjusts the linear measurement to account for the way in which the ear responds to different frequencies of sound. Measurements in dBA are decibel scale readings that have been adjusted using the A-weighting filter to attempt to take into account the varying sensitivity of the human ear to different frequencies of sound. Researchers have generally agreed that A-weighted sound pressure levels (sound levels) are very well correlated with community reaction to noise for sound levels in the normal range of human hearing.

At very high noise levels, the human ear perceives very low and very high frequency sounds better than at the more moderate ranges of noise levels commonly encountered in society. To better represent the loudness of very high noise levels, the C-weighting scale was developed. The C-weighting scale is quite flat, and therefore includes much more of the low-frequency range of sounds than the A scale. The effect of using a C-weighting scale vs. an A-weighting scale is that the C-weighting scale will report higher noise levels (due to less low-frequency sound being filtered as compared to the A-weighting filter).

The decibel notation used for sound levels describes a logarithmic relationship of acoustical energy, so that sound levels cannot be added or subtracted in the conventional arithmetic manner. For example, a doubling of acoustical energy results in a change of 3 decibels (dB), which is usually considered to be barely perceptible. A 10-fold increase in acoustical energy yields a 10 decibel change, which is subjectively like a doubling of loudness.

Current Noise Standards for Events Held in the Amphitheater

Following extensive analysis of potential noise impacts related to Fruit Yard Amphitheater events involving amplified speech or music, multiple project noise mitigation measures were developed. Those mitigation measures which pertain to amphitheater sound generation limits are summarized as follows:

Development Standards Applicable to Amphitheater Event Noise Levels

13. All noise generated on the 43.86 acre project site shall be subject to the following:
 - a. In accordance with the Noise Element of the Stanislaus County General Plan, noise levels associated with all on-site activities shall not exceed the maximum allowable noise levels as allowed by the Noise Element. The property owner shall be responsible for verifying compliance and for any costs associated with verification.
 - b. Any outdoor use of amplified sound at the amphitheater shall comply with the development standards of this Permit addressing noise levels, as analyzed in the December 30, 2016 Environmental Noise Analysis prepared by Bollard Acoustical Consultants, Inc., unless otherwise amended by the County.
 - c. An acoustical analysis shall be prepared in accordance with the Noise Element of the Stanislaus County General Plan prior to the use of any outdoor blasting devices, including fireworks, to ensure noise levels do not exceed the maximum allowable noise levels as allowed by the Noise Element.

(Note: No blasting devices, including fireworks, have been utilized at any concerts)

Mitigation Measures Applicable to Amphitheater Event Noise Levels

4. All amphitheater events shall maintain compliance with the noise levels limits established by the Noise Element of the Stanislaus County General Plan, as described in Table IV-2 – Maximum Allowable Noise Exposure – Stationary Noise Sources, and any subsequent amendments. In addition, low-frequency noise shall be limited to:
 - a. Daytime and nighttime C-weighted noise level limits of 80 dBC L_{eq} and 70 dBC L_{eq} shall be applied for all amphitheater events. These standards may be adjusted upwards or downwards following C-weighted ambient noise level data collected during noise monitoring, as described in Mitigation Measure No. 8. Before any adjustments are made, a report documenting existing C-weighted ambient noise levels shall be reviewed by a noise consultant, as described in Mitigation Measure No. 14, and approved by the Planning Department. Should the Noise Element be amended to include C-weighted standards, the current standards set forth in the Noise Element shall be met.
5. To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 90 dBA L_{eq} averaged over a five minute period and a maximum of 100 dBA L_{max} at a position located 100 feet from the front of the amphitheater

stage.

6. To control low-frequency sound in the surrounding neighborhood during amphitheater events, C-weighted sound levels shall be limited to 100 dBC L_{eq} averaged over a five minute period and a maximum of 110 dBC L_{max} at a position located 100 feet from the front of the speakers.

8. During the first two large concerts (with 500 or more in attendance) held at the amphitheater and any of the first two events held at the amphitheater (if less than 500 in attendance), on-site and off-site noise levels shall be monitored by a qualified noise consultant, to be procured by the operator/property owner. The on-site monitoring shall be conducted continuously, 100-feet from the front of the stage for the amphitheater. Periodic off-site noise monitoring shall be conducted at the Long-term Ambient Noise Measurement Locations identified on Figure 1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc. (included as Figure 1 in this report). The noise measurements shall include the sound check prior to the concert so the event promoters understand the noise thresholds to be satisfied during the event. The purpose of the measurements is to verify compliance with the project's noise standards, as set forth in Mitigation Measures 4, 5, and 6.

Current Stanislaus County General Plan Criteria

The Stanislaus County General Plan Noise Element establishes acceptable noise level limits for both transportation and non-transportation noise sources. The primary objective of the Noise Element is to prescribe policies that lead to the preservation and enhancement of the quality of life for the residents of Stanislaus County by securing and maintaining an environment free from excessive noise.

For stationary noise sources, such as events held at the Fruit Yard Amphitheater, Stanislaus County regulates the level of noise that may impact adjacent noise-sensitive uses. For this project, the evaluation period is considered to be the worst-case hour during which amplified music or speech would be in use. Noise generated by the project which exceeds the County's noise exposure limits at the closest noise-sensitive uses would require noise mitigation. The County's General noise exposure limits applicable to this project are reproduced below in Table IV-2.

Table IV-2 Maximum Allowable Noise Exposure for Stationary Noise Sources¹ Stanislaus County Noise Element of the General Plan		
Descriptor	Daytime (7:00 a.m. to 10:00 p.m.)	Nighttime (10:00 p.m. to 7:00 a.m.)
Hourly L_{eq} , dBA	55	45
Maximum Level (L_{max}), dBA	75	65
Notes: ¹ Each of the noise level standards specified in Table IV-2 shall be reduced by five (5) dBA for pure tone noises, noise consisting primarily of speech or music, or for recurring impulsive noises. The standards in Table IV-2 should be applied at a residential or other noise-sensitive land use and not on the property of a noise-generating land use. Where measured ambient noise levels exceed the standards, the standards shall be increased to the ambient levels. Source: Stanislaus County Noise Element of the General Plan		

As noted in the Table IV-2 footnote, a -5 dB adjustment is applied to the County’s noise standards for sounds consisting of music. In addition, in areas with elevated ambient conditions, the noise standards are increased to match ambient conditions. While it is clear that a -5 dB offset to the Table IV-2 standards is warranted because the noise source being evaluated in these surveys consists of amplified speech and / or music, an ambient noise survey is required to determine if existing ambient conditions are sufficiently elevated so as to warrant increasing the noise level standards. Ambient conditions in the immediate project vicinity are described in the following section.

It should be noted that the average (L_{eq}) noise standards contained in Table IV-2 are averaged over a 1-hour period. By comparison, the noise standards applicable at the sound board of the amphitheater are specified in terms of 5-minute periods. For consistency, the request for revision to the project’s conditions of approval are to evaluate mixing board limits in terms of hourly periods.

In addition to the noise standards applied to stationary noise sources (Table IV-2 above), the County General Plan also include a figure depicting “Normally Accepted Community Noise Environments” (General Plan Figure IV-2). That figure is reproduced below.

The noise exposure described by General Plan Figure IV-2 is defined in terms of Day/Night Average noise levels (L_{dn}). L_{dn} is computed as the average of the daytime noise exposure plus the average of the nighttime noise exposure after adding 10 dB. As a result, an L_{dn} of 60, which is the normally acceptable noise environment for residential uses in the County, equates to a daytime average of 60 dB and a nighttime average of 50 dB. As a result, the Table IV-2 daytime noise standard applicable to stationary noise sources is essentially 5 dB more restrictive than the Figure IV-2 criteria shown below.

FIGURE IV-2: NORMALLY ACCEPTED COMMUNITY NOISE ENVIRONMENTS

Land Use Category	Exterior Noise Exposure Ldn or CNEL, dBA					
	55	60	65	70	75	80
*Residential – Low Density Single Family, Duplex, and Mobile Homes						
*Multi-Family Residential						
Hotels and Motels						
Schools, Libraries, Museums, Hospitals, Personal Care, Meeting Halls, Churches						
Auditoriums, Concert Halls, and Amphitheaters						
Sports Arena and Outdoor Spectator Sports						
Playgrounds and Neighborhood Parks						
Golf Courses, Riding Stables, Water Recreation, and Cemeteries						
Office Buildings, Business Commercial, and Professional						
Industrial, Manufacturing, Utilities, and Agriculture						

** Residential development sites exposed to noise levels exceeding 60 Ldn shall be analyzed following protocols in Appendix Chapter 12, Section 1208A, Sound Transmission Control, California Building Code.*



NORMAL ACCEPTABLE

Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special insulation requirements.



CONDITIONALLY ACCEPTABLE

Specified land use may be permitted only after detailed analysis of the noise reduction requirements is made and needed noise insulation features included in the design.



NORMALLY UNACCEPTABLE

New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design.



CLEARLY UNACCEPTABLE

New construction or development should generally not be undertaken because mitigation is usually not feasible to comply with noise element policies.

Baseline Ambient Noise Environment in Amphitheater Vicinity

The ambient noise environment in the immediate project vicinity is primarily defined by traffic on Yosemite Boulevard and Geer Road, as well as by local agricultural-related activities. Baseline ambient noise level measurements were conducted immediately prior to the first two concerts held at the Fruit Yard amphitheater in 2019 to determine whether adjustments to the County's noise standards provided in Table IV-2 were warranted. Those measurements indicated that such adjustments were appropriate for several of the monitoring sites, particularly those located in close proximity to Yosemite Boulevard and Geer Road, as baseline traffic noise at those residences significantly masked amphitheater concert sound. At the residences on Weyer Road, however, baseline ambient conditions were lower and fewer adjustments to the standards were warranted.

Initial Concert Sound Monitoring Results

Noise monitoring was conducted by BAC staff during the initial two concerts held at the amphitheater. Those concerts were Amy Grant and Willie Nelson. The monitoring indicated that the sound levels measured during those concerts were within compliance with the county's noise standards at the nearest residences to the amphitheater. Reports documenting the detailed results of those sound monitoring programs were prepared by BAC and submitted to the County.

During the concerts, the sound level measurement results indicated that, due to the substantial noise generation by traffic on Geer Road and Yosemite Boulevard, it was infeasible to measure concert sound levels at 4 of the 9 monitoring sites. At the residences on Weyer Road which are removed from both Geer Road and Yosemite Boulevard, traffic noise levels were significantly lower and it was possible to hear sound generated during the concerts. However, at the Weyer Road residences there was still sufficient background sound from distant traffic, periodic local traffic, and natural sounds (dogs, birds, wind, etc.), to make capturing acoustically "clean" readings of concert sound in the absence of background sounds very difficult. As stated previously, however, the measurement results indicated that the concert sound levels were within compliance with the applicable County noise standards.

Noise level measurements conducted by another acoustical consultant during a third concert held at the amphitheater revealed similar results.

Proposed Revisions to Project Conditions of Approval

The proposed project requests revisions to two of the project conditions of approval. The requested revisions are as follows:

1. Increase the sound level limits at the project mixing booth by 5 dBA and 5 dBC.
2. Utilize 1-hour averaging of mixing board sound levels rather than 5 minute averaging.

The adoption of the proposed revisions to the project conditions of approval would effectively allow increased sound generation within the concert venue (at the mixing board) and allow the averaging of those levels over a 1-hour period, similar to the County's adopted General Plan noise standards.

The higher mixing board noise standards would allow the Fruit Yard greater flexibility in booking various performers. Sound levels at nearby residences would increase during such events, but music levels at the nearest residences are still expected to be in substantial conformance with the County General Plan standards at those nearest residences. The term substantial is used here because monitoring of early events at the amphitheater indicate that levels at the nearest residences were below the County's standards so that increases to the sound output of the Fruit Yard Amphitheater could be accommodated without necessarily causing exceedance of the General Plan standards at the nearest residences. However, it is possible that variations in atmospheric conditions could cause shifts in sound propagation which could occasionally result in music levels temporarily exceeding the County's noise standards. Such exceedances, should they occur, are expected to be minor (approximately 3 dBA or less) and for short durations.

The increased limits at the mixing board would result in increased audibility of music for the duration of the concert. The increase would be less noticeable at residences located along Yosemite Avenue and Geer Road due to the higher background traffic noise environment, but would likely equate to a more noticeable increase at the residences on Weyer Road (i.e. less than 5 dB increase).

The Fruit Yard has demonstrated that it can comply with the existing sound level limits enumerated within the current project conditions of approval, but that compliance is difficult. Testing of early concerts has indicated that the noise limits can be relaxed at the mixing board without causing an exceedance of the County's General Plan noise standards.

Conclusions

This evaluation concludes that the Fruit Yard has demonstrated the ability to comply with the current project conditions of approval pertaining to sound level limits. However, the mixing board sound level limits appear to currently be 5 dB more restrictive than necessary to comply with the County's noise standards, so a 5 dB increase in sound limits at the mixing board could be applied without necessarily resulting in exceedance of the current General Plan noise standards. The requested changes would likely range from barely perceptible to clearly audible, depending on location and atmospheric conditions. Despite marginal increases in audibility, the effects of the requested revisions are expected to be minor given the infrequency of events at the amphitheater and duration of those events.

This concludes BAC's evaluation of the effects of modifying the conditions of approval for events held at the Fruit Yard Amphitheater in Stanislaus County, California. Please contact Paul Bollard at (916) 663-0500 or paulb@bacnoise.com with any questions regarding this report.



June 18, 2021

Mr. Charlie Simpson
BaseCamp Environmental
115 South School Street, Suite 14
Lodi, California 95240
csimpson@basecampenv.com

Subject: NOISE STUDY PEER REVIEW FOR THE AMENDMENT TO USE PERMIT APPLICATION NO. PLN2015-0130 – THE FRUIT YARD

Dear Mr. Simpson:

Saxelby Acoustics has completed our review of the environmental noise analysis prepared for the project by Bollard Acoustical Consultants, Inc. (BAC).¹ The following is a summary of our review and recommendations.

Saxelby Acoustics concurs that the existing noise limits placed on the Fruit Yard appear to be more restrictive than necessary to achieve compliance with the County's General Plan noise standards at the surrounding noise-sensitive receptors. Therefore, increasing the limits at the mixing booth by 5 dBA and 5 dBC appears to be reasonable while still ensuring that the County's noise standards are not routinely exceeded at sensitive receptors. However, as noted by BAC (Page 8, Paragraph 1), under certain atmospheric conditions, exceedance of the County's standards by up to 3 dBA could occasionally occur.

In essence, the requested modification of this condition removes the buffer of protection that was built into the mixing board limits. In other words, the existing limits appear to be more restrictive than necessary, in favor of the surrounding noise-sensitive receptors. Therefore, it is our recommendation that on-going noise monitoring be conducted during concert events to ensure that noise levels from louder concert events do not regularly exceed the County standards. Based upon our review of the various noise studies and previous concert noise monitoring reports, we recommend that a single noise monitoring location be established in a backyard of a residence located on Weyer Road, preferable somewhere in the middle of this roadway segment between Yosemite Blvd. and Jantzen Road. The monitoring should include continuous (hourly) noise monitoring during the concerts. Hourly monitoring should also be conducted at the mixing booth to verify compliance with the new noise limits. We also recommend that the concert noise monitoring be conducted by a consultant selected by and paid by Stanislaus County to ensure surrounding residents that the County's noise limits are being independently verified. Should noise levels be found to regularly exceed the County's noise standards, we would recommend that the County reduce the mixing booth limits by the amount that noise levels are found to routinely exceed the General Plan standards, as determined by the independent consultant's monitoring reports.

Please contact me with any questions or comments.

Sincerely,

Saxelby Acoustics LLC



Luke Saxelby, INCE Bd. Cert.
Principal Consultant
Board Certified, Institute of Noise Control Engineering

¹ *Noise Impact Assessment, The Fruit Yard Amphitheater Events Modified Conditions of Approval*. Bollard Acoustical Consultants, Inc. May 21, 2021.

**As Amended by the Board of Supervisors on
May 23, 2017**

**As Amended by the Planning Commission on
April 20, 2017**

NOTE: Approval of this application is valid only if the following conditions are met. This permit shall expire unless activated within 18 months of the date of approval. In order to activate the permit, it must be signed by the applicant and one of the following actions must occur: (a) a valid building permit must be obtained to construct the necessary structures and appurtenances; or, (b) the property must be used for the purpose for which the permit is granted. (Stanislaus County Ordinance 21.104.030)

DEVELOPMENT STANDARDS

USE PERMIT APPLICATION NO. PLN2015-0130 THE FRUIT YARD AMPHITHEATER

Department of Planning and Community Development

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Pursuant to Section 711.4 of the California Fish and Game Code (effective January 1, 2017), the applicant is required to pay a California Department of Fish and Wildlife (formerly the Department of Fish and Game) fee at the time of filing a "Notice of Determination." Within five (5) days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$2,273.25**, made payable to **Stanislaus County**, for the payment of California Department of Fish and Wildlife and Clerk Recorder filing fees.

Pursuant to Section 711.4 (e) (3) of the California Fish and Game Code, no project shall be operative, vested, or final, nor shall local government permits for the project be valid, until the filing fees required pursuant to this section are paid.
3. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
5. During any future construction, if any human remains, significant or potentially unique, are found, all construction activities in the area shall cease until a qualified archeologist can be consulted. Construction activities shall not resume in the area until an on-site archeological mitigation program has been approved by a qualified archeologist. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

6. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.
7. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
8. A sign plan for all proposed on-site signs indicating the location, height, area of the sign(s), and message must be approved by the Planning Director or appointed designee(s) prior to installation. ~~Flashing, animated, or electronic reader board signs are not permitted.~~
9. Pursuant to Sections 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate stream-bed alteration agreements, permits, or authorizations, if necessary.
10. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.
11. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
12. Pursuant to State Water Resources Control Board Order 99-08-DWQ and National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, prior to construction, the developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan (SWPPP). Once complete, and prior to construction, a copy of the SWPPP shall be submitted to the Stanislaus County Department of Public Works.
13. All Development Standards from Planned Development (317) shall remain in effect. The Development Standards set forth in this Staff Report are considered to be an amendment to the Development Standards from Planned Development (317), and apply in addition to the Development Standards from Planned Development (317). **Specifically, as required by Development Standards No. 8 and 72 of Planned Development 317, all noise generated on the 43.86 acre project site shall be subject to the following:**
 - A. **In accordance with the Noise Element of the Stanislaus County General Plan, noise levels associated with all on-site activities shall not exceed the maximum allowable noise levels as allowed by the Noise Element. The property owner shall be responsible for verifying compliance and for any costs associated with verification.**

- B. Any outdoor use of amplified sound at the park, banquet hall or amphitheater shall comply with the Development Standards of this Permit addressing noise levels, as analyzed in the December 30, 2016 Environmental Noise Analysis prepared by Bollard Acoustical Consultants, Inc., unless otherwise amended by the County.**
14. No street parking associated with the site is permitted. Customers and event attendees shall be made aware via signage that parking is limited to on-site parking only.
15. No alcohol consumption or tail gating is permitted in the parking areas designated for on-site events. Any sale of alcohol on-site must obtain and comply with all of the necessary Alcohol Beverage Control (ABC) Licensing. **No alcohol sales shall be permitted at the amphitheater site after 10 p.m.**
16. Prior to final of any new building permit all outstanding building and grading permits shall be finalized.
17. Parcels 2, 3, 8, 9, and the remainder parcel of Parcel Map 56-PM-83 may not be independently sold until permanent parking is developed. Prior to development of permanent parking facilities, all applicable permits shall be obtained, including but not limited to a Staff Approval or Use Permit, and Building and/or Grading Permit. Proposed permanent parking facilities shall be reviewed and approved by both the Planning and Public Works Departments prior to development.
18. ~~Events are limited to what are allowed under the Planned Development, including the amendments included in this Use Permit. No Outdoor Entertainment Activity Permit may be obtained.~~ **shall be limited, in number and duration, as specified in this condition, with no additional events to be permitted by issuance of a separate Outdoor Entertainment Activity Permit:**
- A. Amphitheater Events: A maximum of 12 events per calendar year. Each day an event is held counts towards the maximum number of events allowed. If an event takes place on multiple days, each day counts as a separate event. Events are restricted to the operating hours described in Mitigation Measures Nos. 9 and 10.**
- B. Banquet Hall Events: Unlimited number of events per year. Events are restricted to the operating hours described in Mitigation Measure No. 9.**
- C. Park Events: Unlimited number of events per year. Events are restricted to the operating hours described in Mitigation Measure No. 9.**
19. Hours of operation may not be extended beyond those included in Mitigation Measure No. 9 **for the banquet hall and park, and Mitigation Measures Nos. 9 and 10 for the amphitheater**, without a public hearing.
20. Prior to ~~approval acceptance~~ of the "Good Neighbor Policy" **required by Mitigation Measure No. 11, and any subsequent amendment**, the Planning Department ~~shall~~ **will** refer the draft document to all surrounding residents, for a two week comment period. The

referral will be sent to **the current property owners of record for all surrounding properties** ~~residents~~ included on the project referral "Landowner Notice" list from Use Permit No. PLN2015-0130 – The Fruit Yard. Any comments received ~~shall~~**will** be taken into consideration. ~~However, the Planning Department maintains the ultimate approval authority.~~

Department of Public Works

21. No parking, loading or unloading of vehicles will be permitted within the Geer Road and Albers Road rights-of-way. The applicant will be required to install or pay for the installation of any signs and/or markings, coordinating the installation of the signs with Public Works Traffic Section.
22. The applicant shall obtain an encroachment permit prior to any work being done in the Stanislaus County road right-of-way.
23. Public Works shall approve the location and width of any new driveway approaches on any County maintained roadway.
24. A grading, drainage, and erosion/sediment control plan for the project site shall be submitted before any grading occurs or building permit for the site is issued which creates a new or larger footprint on the parcel. Public Works will review and approve the drainage calculations. The grading and drainage plan shall include the following information:
 - A. Drainage calculations shall be prepared as per the Stanislaus County Standards and Specifications that are current at the time the permit is issued.
 - B. The plan shall contain enough information to verify that all runoff will be kept from going onto adjacent properties and Stanislaus County road right-of-way.
 - C. The grading, drainage, erosion/sediment control plan shall comply with the current State of California National Pollutant Discharge Elimination System (NPDES) General Construction Permit.
 - D. An Engineer's Estimate shall be submitted for the grading and drainage work.
 - E. The grading, drainage, and associated work shall be accepted by Stanislaus County Public Works prior to a final inspection or occupancy, as required by the building permit.
 - F. The permit applicant shall pay the current Stanislaus County Public Works weighted labor rate for the plan review and all on-site inspections required for the grading, drainage, erosion/sediment control, or building permit plan. The Public Works inspector shall be contacted 48 hours prior to the onset of any grading or drainage work on-site.

Department of Environmental Resources

25. Prior to onset of amphitheater events, and prior the installation of any water infrastructure for the amphitheater, the property owner shall provide to the Department of Environmental Resources an application for amended water supply permit along with a full technical report

demonstrating that the water system will meet all requirements of a Non-transient Non-community water system: capacity, source water, drinking water source assessment, water works standards, and the California Environmental Quality Act (CEQA).

26. All food facilities must operate under a Health Permit, issued by the Department of Environmental Resources.
27. Prior to issuance of any building permit for the construction of the preparation and serving kitchen in the banquet hall, the owner/operator shall provide construction plans to the Department of Environmental Resources for review and approval as required in accordance with California Health and Safety Retail Food Code.
28. All food service offered at The Fruit Yard complex, including but not limited to the amphitheater events area, banquet hall, restaurant, and convenience stores, shall be conducted in compliance with the requirements of California Health and Safety Retail Food Code and shall obtain and comply with all applicable permits through the Department of Environmental Resources.
29. Prior to onset of amphitheater events, On-site Wastewater Disposal System (O.W.T.S.) for amphitheater events must be reviewed and approved by the Department of Environmental Resources. Due to the levels of the nitrates in the existing water system being higher than half of the maximum MCL, any expansion of the on-site waste water system (OWTS) can contribute to groundwater nitrate levels especially with individual OWTS. A wastewater management plan of any flow of 5,000 gallons per day, or greater, must be submitted to the Central Valley Regional Water Quality Control Board (CVRWQCB) for review and approval. A Wastewater Management Plan of any flow of 5,000 gallons per day, or less, must be submitted to the Department of Environmental Resources for review and approval. A centralized O.W.T.S. is highly recommended with proper treatment of the discharge effluent. The quality of the discharge effluent shall meet EPA Secondary Treatment levels. The focus will be on the ability to reduce nitrate, salt, and organic chemical levels, minimizing the impact upon the area's groundwater supply.

Building Permits Division

30. Building permits are required and the project must conform to the California Code of Regulations, Title 24.

Stanislaus Consolidated Fire District

31. Prior to onset of events at the amphitheater, an Event Traffic Management Plan shall be reviewed and approved by the Stanislaus Consolidated Fire District.
32. All proposed structures shall obtain building permits, and shall meet all applicable Building and Fire codes, and shall be reviewed and approved by the Stanislaus Consolidated Fire District.

Modesto Irrigation District

33. In conjunction with related site/road improvement requirements, existing overhead and underground electric facilities within or adjacent to the proposed site shall be protected, relocated, or removed as required by the District's Electric Engineering Department.

- Appropriate easements for electric facilities shall be granted as required.
34. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.
 35. Costs for relocation or installation of MID electrical facilities at the request of others will be borne by the requesting party. Estimates for relocating or installing MID electrical facilities will be supplied upon request.
 36. A 15-foot Public Utility Easement (PUE) is required adjacent to the existing 12,000 volt overhead lines along Geer Road street frontage. The PUE is required in order to protect the existing overhead electric facilities and to maintain necessary safety clearances.
 37. A 10-foot Public Utility Easement (PUE) is required adjacent to existing street frontages, proposed streets and private ingress/egress easements as already shown on Parcel Map 56-PM-83. The PUE's are required in order to protect the future electrical facilities and to maintain necessary safety clearances.
 38. Prior to onset of any construction, contractor shall verify actual depth and location of all underground utilities. Notify "Underground Service Alert" (USA) (Toll Free 1-800-227-2600) before trenching, grading, excavating, drilling, pipe pushing, tree planting, post-hole digging, etc. USA will mark the location of the MID underground electrical facilities.
 39. The Modesto Irrigation District (MID) reserves its future right to utilize its property along the MID canal in a manner it deems necessary for the installation and maintenance of electric and telecommunication facilities. These needs, which have not yet been determined, may consist of new poles, cross arms, wires, cables, braces, insulators, transformers, service lines, control structures, and any necessary appurtenances, as may, in the District's opinion, be necessary or desirable.
 40. A 10 foot OSHA minimum approach distance is required adjacent to the existing 12,000 volt overhead high voltage lines.
 41. An eight foot minimum vertical approach distance is required adjacent to the existing overhead 200 volt secondary lines.
 42. Use extreme caution when operating heavy equipment, backhoes, using a crane, ladders, or any other type of equipment near overhead or underground MID electric lines and cables.
 43. Electric service to the proposed parcels is not available at this time. The Electric Engineering Department has no objections to the proposed amphitheater at this time. However, specific requirements regarding construction issues will be addressed when the amphitheater construction plans are submitted for review to the District's Electric Engineering Department. Contact Linh Nguyen at (209) 526-7438.
 44. Prior to construction, a pre-consultation meeting a pre-consultation meeting to discuss MID irrigation requirements is recommended.

California Department of Transportation

45. An encroachment permit shall be obtained prior to any work within the State right-of-way.

Department of California Highway Patrol

46. Prior to onset of events at the amphitheater, an Event Traffic Management Plan shall be reviewed and approved by the Department of California Highway Patrol.

MITIGATION MEASURES

(Pursuant to California Public Resources Code 15074.1: Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:

- 1) Hold a public hearing to consider the project; and***
2) Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment.)

1. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include but not be limited to: the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and to prevent light trespass (glare and spill light that shines onto neighboring properties). Amphitheater lighting shall be shut off by 11:00 p.m. on Sunday – Thursday, and by midnight on Friday and Saturday evenings.
2. Prior to onset of any amplified music events at the amphitheater, a noise berm shall be constructed. Specifically, the noise berm shall consist of a 100 foot long by 40 foot wide and 20 foot tall building, labeled on the project site plan, the Planning Commission approved as a “storage building” to be located directly behind (northwest) of the stage, as identified as **shown** on the project site plan **included as Exhibit B-6 of the April 20, 2017 Planning Commission Staff Report**. A certificate of occupancy shall be obtained for the noise berm prior to the onset of any amphitheater activity. If the storage building changes in size or shape, or is proposed to be replaced with a backstage sound-wall or other construction to create an adequate noise berm, the modified facility will need to be reviewed and approved by an acoustical consultant, in accordance with Mitigation Measure No. 14, and a determination made that it has adequate sound dampening characteristics so that sound will fall within **allowable** the noise levels, **set forth in Mitigation Measure Nos. 4, 5, and 6** described within this Mitigation Monitoring Plan.
3. Prior to issuance of a building permit for the banquet hall, and prior to the onset of any amplified music event held at the banquet hall, the banquet hall shall be designed and constructed with sound proofing (including sound proofing for the roof, windows, and walls). Sound proofing plans shall be reviewed for full compliance with the **allowable noise levels** approved plans, **set forth in Mitigation Measure Nos. 4, 5, and 6**, by a noise consultant, as described in Mitigation Measure No. 14.
4. All amphitheater, park, and banquet hall events shall maintain **compliance with** the noise levels **limits established by the Noise Element of the Stanislaus County General Plan, as** described in Table IV-2 – **Maximum Allowable Noise Exposure – Stationary Noise Sources, and any subsequent amendments.** ~~1 of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc., and the C-weighted standards described below.~~ **In addition, low-frequency noise shall be limited to:**

Table 1			
Stanislaus County Noise Standards Applied to this Project			
After Adjustment for Elevated Ambient and Noise Source Consisting of Music			
Receptor (See Figure 1)	Noise Metric	Adjusted Daytime	Adjusted Nighttime
		Standard	Standard
		(7 a.m.-10 p.m.)	(10 p.m.-7 a.m.)
A, B, D, F (near busy roadways)	Hourly Leq, dBA	60	55
	Maximum Level (L _{max}), dBA	80	70
C, E (setback from roadways 250-350 feet)	Hourly Leq, dBA	55	50
	Maximum Level (L _{max}), dBA	75	65
G, H, I (isolated from busy roads)	Hourly Leq, dBA	50	40
	Maximum Level (L _{max}), dBA	65	55

Source: Stanislaus County Noise Element of the General Plan adjusted for ambient conditions

In addition to the Table 1 standards, low-frequency noise shall be limited to-

- A. **Daytime and nighttime C-weighted noise level limits of 80 dBC Leq and 70 dBC Leq shall be applied at the nearest residences, existing at the time of the event for all amphitheater, park, and banquet hall events.** These standards may be adjusted upwards or downwards as appropriate following collection of C-weighted ambient noise level data **collected during noise monitoring, as described in mitigation Measure No. 8** near the existing residences immediately before and after the first two large amphitheater events (with 500 or more in attendance). Before any adjustments are made, a report documenting existing C-weighted ambient noise levels shall be reviewed by a noise consultant, as described in Mitigation Measure No. 14, and approved by the Planning Department. **Should the Noise Element be amended to include C-weighted standards which are more restrictive than the standards above, the Noise Element standards shall be met.**
5. To ensure compliance with County noise standards, amphitheater sound system output shall be limited to an average of 90 dBA Leq averaged over a five minute period and a maximum of 100 dBA L_{max} at a position located 100 feet from the **front of the amphitheater stage.**

Park and banquet hall sound system output shall be limited to an average of 75 dBA Leq averaged over a 5-minute period and a maximum of 85 dBA L_{max} at a position located 100-feet from the **front of the sound system speakers for the park, and 100-feet from outside of the banquet hall.** Sound levels up to 80 dBA Leq at the 100 foot reference distance would be acceptable provided the sound system speakers are oriented south or southwest.

~~Noise measurements during the first two amplified music events for each event space (banquet hall, park and amphitheater) shall be conducted by a qualified Noise Consultant to be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.~~

6. To control low-frequency sound in the surrounding neighborhood during amphitheater events, C-weighted sounds levels shall be limited to 100 dBC Leq averaged over a five minute period and a maximum of 110 dBC Lmax at a position located 100 feet from the **front of the Amphitheater stage**. ~~In addition, amplified music shall be limited to an average of 85 dB (Linear) in each of the 1/3 octave band center frequencies from 31.5 to 80 Hertz.~~

To control low-frequency sound in the surrounding neighborhood during park events, C-weighted sound levels shall be limited to 85 dBC Leq averaged over a five minute period and a maximum of 95 dBC Lmax at a position located 100 feet from the **front of the speakers for the park, and 100 feet from outside of the banquet hall**. ~~In addition, amplified music shall be limited to an average of 75 dB (Linear) in each of the 1/3 octave band center frequencies from 31.5 to 80 Hertz.~~

~~Noise measurements during the first two amplified music events for each event space (banquet hall, park, and amphitheater) shall be conducted by a qualified Noise Consultant to be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.~~

7. Prior to any amplified music event at the park, banquet hall, or amphitheater, **not required to be monitored by a qualified Noise Consultant**, the operator/property owner shall obtain a **portable** sound monitoring system **to be used onsite**; which shall be reviewed and approved by a Noise Consultant, as described in Mitigation Measure No. 14, prior to first use. Sound levels shall be monitored during sound check and **continuously** during each amplified music event occurring at the park, banquet hall and amphitheater. ~~Measurement microphones should be placed 100 feet from the midpoint of the main speaker array. The monitoring shall be conducted 100-feet from the front of the stage for the amphitheater, and 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall.~~

Monitoring equipment options include 1) an iOS option available in combination with an iPad/iPhone using microphone and acquisition hardware from AudioControl and software from Studio Six Digital (SSD). SSD software would include the AudioTools and several in-app purchases including SPL Graph and SPL Traffic Light; or 2) an alternative system recommended by noise consultant, in accordance with Mitigation Measure No. 14.

A Type/Class 1 or 2 (per ANSI S1.43) measurement microphone system shall be used and laboratory calibrated prior to first use and field-calibrated at regular intervals (a minimum of

4 times a year). The system shall be laboratory calibrated at intervals not exceeding two years. The system shall be capable of measuring and logging Leq statistics over consecutive five minute intervals in both A and C weighted levels. The system shall also be capable of capturing and logging 1/3-octave band data. For simplification and to minimize equipment costs, sound level limit triggers shall be set to Leq, C-weighting. The sound technician shall locally check both C-weighted and 1/3-octave band results during sound check prior to an event to establish system gain limits and to ensure compliance with the specified limits, **set forth in Mitigation Measure Nos. 4, 5, and 6. Noise level measurement data, including the time and location of the measurement**, shall be maintained for 30 days and made available to the County upon request.

The amphitheater operator/property owner shall make it very clear to event producers what the sound level limits are at the sound stage and the time at which music is required to cease. Suitable measures shall be implemented to both ensure the limits are maintained and penalties established if producers fail to comply with the noise level limits. **If at any time the measurement results indicate that the music levels exceed the allowable noise standards set forth in Mitigation Measure Nos. 4, 5, and 6, additional sound controls shall be implemented until compliance is met. The amphitheater operator/property owner shall be responsible to ensure that event producers comply with all project conditions.**

~~Noise measurements during the first two amplified music events for each event space (banquet hall, park and amphitheater) shall be conducted by a qualified Noise Consultant to be procured by the operator/property owner. The consultant shall provide training to facility staff, on how to measure the noise standards set forth within this Mitigation Monitoring Plan, to ensure that noise is monitored during each event properly. The operator/property owner shall make available to the Planning Department noise measurements and training records, upon request by the County. Noise measurements and training records shall be subject to peer review in accordance with Mitigation Measure No. 14, upon request by the County.~~

8. **During the first two large concerts (with 500 or more in attendance) held at the amphitheater and any of the first two events held at the amphitheater (if less than 500 in attendance), park, or banquet hall, on-site and off-site noise levels shall be monitored by a qualified noise consultant, to be procured by the operator/property owner. The on-site monitoring shall be conducted continuously, from the sound stage (100-feet from the front of the stage) for the amphitheater, 100-feet from the front of the speakers for the park, and 100-feet from outside of the banquet hall. with periodic off-site noise monitoring shall be conducted at the Long-Term Ambient Noise Measurement Locations and Noise-Sensitive Receptor Sites (A-I) identified on Figure 1 of the of the December 30, 2016, Environmental Noise Analysis, conducted by Bollard Acoustical Consultants, Inc. near the closest residences, existing at the time of the event, in all directions surrounding the amphitheater. The noise measurements shall include the sound check prior to the concert so the event promoters understand the noise thresholds to be satisfied during the concert event. The purpose of the measurements is to verify compliance with the project's noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6.**

A report prepared by the noise consultant shall be provided to the Planning Department within 10-days of the second event. The Noise Consultant's report shall provide a conclusion regarding compliance with the projects allowed noise levels and, if necessary, additional measures needing to be implemented for compliance. If

the measurement results indicate that the music levels exceed ~~allowable~~ the noise standards described in this Mitigation Monitoring Plan, additional sound controls shall be developed by a noise consultant in accordance with Mitigation Measure No. 14 **and no further events shall occur until the Planning Department is able to verify that all controls necessary for compliance have been fully implemented. Upon verification, the third event shall be subject to the same noise monitoring requirements as the first two events. If the third event fails to comply with the projects allowed noise levels, a report for the three events shall be presented to the Planning Commission for direction to staff and public notice of the presentation shall be provided to the surrounding property owners.** ~~Implementation of additional sound controls shall be implemented and verified prior to the following concert.~~ **Additional sound control** Such measures ~~shall~~ could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas, and limiting amplified music to before 10:00 p.m.

9. All amplified music events (including the amphitheater, park, and banquet hall events), occurring Sunday through Thursday shall end at or before 10 p.m. All patrons shall be off the premises (including the amphitheater, park, and banquet hall events) as of 11:00 p.m. Employees and contract staff, associated with the amplified music events, shall be off the premises (including the amphitheater, park, and banquet hall events) by 12:00 a.m.
10. The first two large amplified music events (with 500 or more in attendance) held at the amphitheater Friday and Saturday, shall end at or before 10:00 p.m., as described in Mitigation Measure No. 9. If monitoring results of the first two large amphitheater events show that such events are able to maintain levels at or lower than those required, **as set forth in Mitigation Measure Nos. 4, 5, and 6** ~~in this Mitigation Monitoring Plan~~, then amphitheater events on Friday and Saturday may be extended to 11:00 p.m. All patrons shall be off the premises (including the amphitheater, park and banquet hall events) by 12:00 a.m. Employees and contract staff, associated with the amplified music events, shall be off the premises by 1:00 a.m.
11. Operator/property owner shall establish a written "Good Neighbor Policy" to be approved by the Planning Department, which shall establish the permittee's plan to mitigate any ancillary impacts from amplified music events (park, banquet hall or amphitheater) on surrounding properties. The Policy shall include means for neighbors to contact management regarding complaints and steps management will take upon receiving a complaint. The Policy shall be submitted and approved 30 days prior to the first amplified music event. No changes to the Policy shall be made without prior review and approval by the Planning Department.
12. In the event that documented noise complaints are received **by the County** for bass thumping, microphones/public address systems, etc., associated with any use of the property (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83), such complaints shall be investigated to determine if the **allowable noise standards, as set forth in Mitigation Measure Nos. 4, 5, and 6**, ~~in this mitigation monitoring program~~ were exceeded. In the event that the complaint investigation reveals that the noise standards were exceeded ~~at the location where the complaint was received~~, additional sound controls shall be developed by a noise consultant, in accordance with Mitigation Measure No. 14. Implementation of additional sound controls shall be ~~implemented~~ **approved** and verified **by the Planning Department** prior to **any further amplified sound event being held at the**

venue (amphitheater, banquet hall, or park) determined to have exceeded allowable noise standards the following concert. **Additional sound control** Such measures could include reducing the overall output of the amplified sound system, relocating and/or reorienting speakers, use of acoustic curtains along the sides of the speakers to further focus the sound energy into the amphitheater seating areas and limiting amplified music to before 10:00 p.m.

13. Following removal of orchard trees located on the **western and southern portions of the** project site (inclusive of parcels 1-3, 7-12, and the remainder of parcel map 56-PM-83) potential changes in noise impacts shall be evaluated by a noise consultant, as described in Mitigation Measure No. 14, and additional noise Mitigation Measures shall be implemented, if determined to be necessary, to ensure compliance with the applicable County noise standards.
14. Any future additional noise analysis required to be conducted, including review, acceptance, and/or inspection associated with noise mitigation, shall be conducted by a noise consultant, whose contract shall be procured by the Planning Department, and paid for by the operator/property owner. A deposit based on actual cost shall be made with the Planning Department, by the operator/property owner, prior to any work being conducted. The applicant may choose to procure the noise consultant provided they pay the costs for the County to have all work peer reviewed by a third party. If future noise analysis is required, amplified music events will be limited, as determined by the Planning Department, until the noise consultant verifies to the Planning Department that all recommended noise control measures have been completely implemented.
15. Within sixty (60) days of project Use Permit approval, the operator/property owner shall submit for approval a security plan for amplified music events (park, banquet hall or amphitheater) to the Sheriff's Department. The plan shall be approved prior to any use of the amphitheater. Any changes to the security plan shall be approved by the Sheriff's Department.
16. Prior to issuance of a building permit, all applicable traffic impact fees shall be paid to the Department of Public Works.
17. An Event Traffic Management Plan shall be submitted and approved four (4) weeks prior to holding the first event at the amphitheater. Both County Planning and Public Works shall review and approve the plan.
 - A. The Event Traffic Management Plan shall include a westbound left turn lane from Highway 132 to the fourth driveway from the intersection (at Geer and Highway 132);
 - B. This plan shall include all event traffic circulation into and out of the site, including a description of how the different on-site parking areas will be filled;
 - C. Event Staff and signs shall not be in the State or Stanislaus County Right-of-way without an encroachment permit. This shall be addressed as part of the Event Traffic Management Plan. Each individual event shall have an encroachment permit from both the State and Stanislaus County, if applicable;
 - D. If the Event Traffic Management Plan requires updating, the updates shall be accepted both by County Planning and by Public Works, six weeks prior to the next event being held at the amphitheater. This update can be triggered either by the applicant or by Stanislaus County;
 - E. Fees may be collected for amphitheater event parking, provided no queuing of vehicles occurs. Parking fees may be collected as part of the fee collected for the

price of the ticket for the event, or may be collected at a stationary electronic machine, installed in the parking area. Parking fees may not be collected while vehicles are waiting to enter the parking lot;

- F. Prior to the implementation or construction of any additional phases of the approved Plan Development (317), a revised Event Traffic Management Plan shall be submitted to and approved by County Planning and Public Works;
- G. A left turn lane shall be installed on Geer Road for the driveway into the project labeled as D Drive. The plans shall be completed prior to the approval of the Event Traffic Management Plan. This driveway is roughly 575 feet south of the intersection of Geer Road and Yosemite Blvd;
 - i. Improvement plans are to be submitted to County Public Works for approval. These improvement plans shall meet standards set forth within the Stanislaus County Standards and Specifications and the Caltrans Highway Design Manual;
 - ii. An acceptable financial guarantee for the road improvements shall be provided to County Public Works prior to the approval of the Event Traffic Management Plan;
 - iii. An Engineer's Estimate shall be provided for the road improvements so that the amount of the financial guarantee can be determined;
 - iv. The left turn lane shall be installed before the first event is held at the amphitheater.

*Please note: If Development Standards/Mitigation Measures are amended by the Planning Commission or Board of Supervisors, such amendments will be noted in the upper right-hand corner of the Development Standards/Mitigation Measures; new wording is in **bold**, and deleted wording will have a ~~line through it~~.*