



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 June 13, 2024

SUBJECT: Director Review and Approval Application No. 4760

Allow boarding of 15 horses in covered boarding stalls at an existing commercial horse arena previously authorized by Director Review and Approval No. 4112 located on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the west side of Rusty Spur Lane (a private road), approximately 710 feet south of its intersection with Millerton Road, approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Lane, Clovis) (APN 138-061-49) (Sup. Dist. 5)

OWNER: Charles and Tamara Maxwell

APPLICANT: Rusty Spur Arena, Inc.

STAFF CONTACT: Ejaz Ahmad, Planner
(559) 600-4204

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Accept, per Section 15162 of the California Environmental Quality Act, the Mitigated Negative Declaration previously adopted by the Board of Supervisors for Initial Study No. 6062; and
- Approve Director Review and Approval (DRA) No. 4760 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plan/Boarding Stall
6. Operational Statement
7. Planning Commission Staff Report for DRA 4112 dated December 10, 2009
8. Board of Supervisors Agenda Item dated September 27, 2011
9. Amended Judgement After Trial by Superior Court
10. Conditions of Approval for DRA No. 4465 and DRA No. 4112

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Specific Plan Reserve in the County-adopted Sierra-North Regional Plan	No change
Zoning	AL-40 (Limited Agricultural, 40-acre minimum parcel size)	No change
Parcel Size	40.05 acres	No change
Project Site	Commercial horse arena	<ul style="list-style-type: none"> • Boarding of 15 horses in covered boarding stalls • Nine (9) existing day pens will be converted to boarding stalls. • Six (6) new boarding stalls will be constructed
Structural Improvements	<ul style="list-style-type: none"> • 3,760 square-foot single-family residence with 846 square-foot attached garage • 1,390 square-foot covered patio. • 6,000 square-foot barn • 5,000-gallon water storage tank • 310 square-foot restroom building with septic system. • Horse arena 	15 boarding stalls each measuring 12-foot long, 12-foot wide, and 10-foot high

Criteria	Existing	Proposed
Nearest Residence	Approximately 510 feet east of the project site.	No change
Surrounding Development	Grazing land and single-family residences.	No change
Operational Features	<p>Total of 72 event days</p> <p>10 Roping event days on Fridays from 4:40 PM to 10:00 PM and on Saturdays or Sundays between 7:30 AM and 6:00 PM</p> <p>10 Sorting event days on any day between 7:30 AM to 6:00 PM</p> <p>Three-day roping event between 4:30 PM and 10:00 PM, and 7:30 AM and 6:00 PM</p> <p>Six Gymkhana event days on Saturday or Sunday between 7:30 AM and 6:00 PM</p> <p>10 Trail Course event days any day from 7:30 AM to 6:00 PM with 5 of the 10 days exclusively for Law Enforcement</p> <p>Three-day Trail event Friday from 4:30 PM to 10:00 PM, and on Saturdays and Sundays between 7:30 AM and 6:00 PM</p> <p>Eight Riding Clinics any day from 7:30 AM to 6:00 PM</p> <p>20 Barrel Racing events any day from 4:30 PM to 10:00 PM</p> <p>One dance event from 5:00 PM to 10:00 PM</p> <p>One charity fundraiser event from 5:00 PM to 10:00 PM</p>	No change to the existing operational features
Employees	None. Depending on the event, volunteers could be present.	No change from previous approvals (DRA No. 4112, DRA No. 4465, DRA No. 4602)

Criteria	Existing	Proposed
Customers	20-60 customers for majority of proposed event days with two event days planned for 100 customers	No change in visitor's intensity from previous approvals (DRA No. 4112, DRA No. 4465, DRA No. 4602) except minor increase due to boarding of 15 horses.
Traffic Trips	Up to 120 one-way guest trips for majority of event days (up to 60 round trips per event) and 200 one-way guest trips for two event days (Up to 100 round trips for two event days).	No change from previous approvals (DRA No. 4112, DRA No. 4465, DRA No. 4602) except minor increase due to boarding of 15 horses.
Lighting	Site lighting for the commercial horse arena during night events (30 event days).	No change
Hours of Operation	7:30 AM to 6:00 PM for certain event days 4:30 PM to 10:00 PM for certain event days 5:00 PM to 10:00 PM for certain event days	7:00 a.m. to 10:00 pm (movement of horses from and to the site). 8:00 a.m. to 9:00 p.m. (boarders ride their horses).

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

ENVIRONMENTAL ANALYSIS:

A Mitigated Negative Declaration (MND) prepared for Initial Study No. 6062 was adopted by the Board of Supervisors in accordance with the California Environmental Quality Act (CEQA) with approval of Director Review and Approval (DRA) No. 4112 on September 27, 2011.

DRA No. 4465 was approved on April 25, 2017, with the determination that the area and project are substantially the same and there have not been any changes in circumstances or new information provided by the appropriate agencies contacted. Therefore, no subsequent Mitigated Negative Declaration shall be undertaken for this project per Section 15162 of the California Environmental Quality Act.

According to Section 15162(a) of the CEQA Guidelines, when an MND is adopted for a project, no subsequent MND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:
1) Substantial changes are proposed in the project which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial

increase in the severity of previously-identified significant effects; 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; and 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted, shows any of the following:

(A) The project will have one or more significant effects not discussed in the previous MND;

(B) Significant effects previously examined will be substantially more severe than shown in the previous MND;

(C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or

(D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The current proposal, DRA Application No. 4760, was routed to those agencies that previously commented on DRA No. 4465 and the Initial Study prepared for DRA No. 4112. No specific concerns were noted. The area and project are substantially the same and there have not been any changes in circumstances or new information provided by the appropriate agencies contacted. Therefore, it has been determined that no subsequent Mitigated Negative Declaration shall be undertaken for this project per Section 15162 (a) of the California Environmental Quality Act. A summary of Initial Study No. 6062 is included in the Planning Commission Staff Report dated December 10, 2009, which is attached as Exhibit 7.

PUBLIC NOTICE:

Notices were sent to 19 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PUBLIC COMMENT:

None

PROCEDURAL CONSIDERATIONS:

A Director Review and Approval (DRA) may be approved only if four Findings specified in Zoning Ordinance Section 872 can be made.

The Zoning Ordinance provides that the Director of the Department of Public Works and Planning, at their discretion, may refer a DRA Application directly to the Planning Commission for a public hearing and decision. The decision of the Planning Commission on a DRA Application referred in this manner is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

BACKGROUND INFORMATION:

On December 10, 2009, the Fresno County Planning Commission considered and voted to approve Director Review and Approval (DRA) No. 4112, allowing a commercial horse arena on the subject parcel.

Public testimony during the December 10, 2009, Planning Commission Hearing included those in opposition to the proposal citing concerns regarding decreased property values, increased traffic levels, use of Rusty Spur Lane (a private road) for commercial purposes, increased noise and light levels and other aesthetic concerns, and possible negative impacts to wildlife. Those in support of the proposal cited that equestrian events provide a benefit to the community for both youth and adults, and the proposed commercial horse arena would be a local resource that does not require great travel distances to reach.

On December 28, 2009, an appeal of the Planning Commission's approval of DRA No. 4112 was filed with the Clerk to the Fresno County Board of Supervisors, and the appeal was originally scheduled before the Board at the February 23, 2010, Board Hearing. At that Hearing, the Board voted to continue the appeal pending the outcome of a civil lawsuit filed against the Applicant by the Appellants of DRA No. 4112, which sought to prohibit the commercial horse arena use by prohibiting the Applicant from utilizing the existing site access for access to the commercial horse arena.

On August 8, 2011, the Fresno Superior Court filed its judgement in favor of the Applicant, confirming the Applicant's legal ability to utilize the existing site access in conjunction with the commercial horse arena use. A summary of this Fresno Superior Court judgement is included in the Board of Supervisors Agenda Item dated September 27, 2011, which is attached to this Staff Report as Exhibit 8 and is also detailed by the Amended Judgement after Trial by Superior Court, which is attached to this Staff Report as Exhibit 9.

On September 27, 2011, the Board of Supervisors denied the appeal filed against the Planning Commission's approval of DRA No. 4112 and approved the commercial horse arena use (see Exhibit 8).

Regarding the Site Plan Review (SPR), on July 20, 2012, SPR No. 7814 was administratively approved for the commercial horse arena use. On August 16, 2012, an appeal of the administrative approval of SPR No. 7814 was filed for a Planning Commission decision; however, the Commission denied the appeal on September 13, 2012. Subsequently, on September 28, 2012, an appeal of the Planning Commission's denial of the appeal filed on August 16, 2012, was filed with the Clerk to the Fresno County Board of Supervisors. On December 4, 2012, the Board of Supervisors denied the appeal filed against the Planning Commission's denial of the appeal filed on August 16, 2012.

On April 25, 2017, the Board of Supervisors approved the appeal filed against the Planning Commission's denial of DRA No. 4465 on February 16, 2017, and allowed the increase in number of event days per year and the events to occur year-round.

On May 26, 2020, the Board of Supervisors denied the appeal filed against the Planning Commission's approval of DRA No. 4602 on March 12, 2020 and allowed the increase in the number of authorized event days from 24 event days to 72 event days and changed operational time limits to allow 30 event days to operate during the evening hours from 4:00 PM to 10:00 PM.

The current proposal, DRA Application No. 4760, entails a request to allow boarding of 15 horses in covered boarding stalls on the same parcel as the commercial horse arena authorized by DRA No. 4112.

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

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (east property line): 860 feet Side (north property line): 85 feet Side (south property line): 1231 feet Rear (west property line): 128 feet	Yes
Parking	1 for each 4 persons of the facility's allowed maximum attendance	No change from previous approvals (DRA No. 4112, DRA No. 4465)	Yes
Lot Coverage	No requirement	No requirement	N/A
Space Between Buildings	None	N/A	N/A
Wall Requirements	No requirement	No requirement	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet Disposal field: 100 feet Seepage pit: 150 feet	No change	Yes

Reviewing Agency/Department Comments:

Zoning Section of the Fresno County Department of Public Works and Planning: The proposed improvements meet the building setback requirements of the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District.

No other comments specific to the adequacy of the site were expressed by reviewing agencies or departments.

Finding 1 Analysis:

Staff review of the Site Plan demonstrates that the proposed improvement (boarding stalls) meets the minimum setback requirements of the AL-40 Zone District. The boarding stalls will be set back approximately 860 feet from east property line (35 feet required), 85 feet from north property line (20 feet required), 1,231 feet from south property line (20 feet required), and 128 feet from west property line (20 feet required).

The 40.05-acre project site is adequate in size to accommodate the proposed boarding stalls. Regarding sufficiency of onsite parking, no additional parking is proposed with the subject application.

Recommended Conditions of Approval:

None.

Finding 1 Conclusion:

Based on the above information, staff believes the site is adequate in size and shape to accommodate the proposal.

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

		Existing Conditions	Proposed Operation
Private Road	Yes	Rusty Spur Lane	No change
Public Road Frontage	No	N/A	No change
Direct Access to Public Road	No	N/A	No change
Road ADT		Rusty Spur Lane: Unknown (private road)	No change
Road Classification		Rusty Spur Lane: Private road (60-foot-wide non-exclusive access easement)	No change
Road Width		Rusty Spur Lane: 60-foot-wide non-exclusive access easement	No change
Road Surface		Rusty Spur Lane: Paved (pavement width ranges from 17 to 22 feet)	No change
Traffic Trips		Up to 120 one-way guest trips per event day (60 round trips per event day); 12 event days per year	No change

		Existing Conditions	Proposed Operation
Traffic Impact Study (TIS) Prepared	No	N/A	Not required by the Design Division of the Fresno County Department of Public Works and Planning
Road Improvements Required		N/A	N/A

Reviewing Agency/Department Comments:

Fresno County Road Maintenance and Operations (RMO) Division: No concerns with the project. The project will have minimal effect on County maintained roadways.

Fresno County Transportation Planning Unit: No concerns with the project.

No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

Finding 2 Analysis:

The existing commercial horse arena is accessed from Rusty Spur Lane via an unpaved driveway on the subject parcel. Rusty Spur Lane is a private road that exists as a 60-foot-wide non-exclusive access easement that has a pavement width ranging from 17 to 22 feet.

Considering the existing nature of the commercial horse arena and its existing site access in conjunction with the fact that no additional site access routes are being proposed, the surrounding streets serving the subject parcel will remain adequate to accommodate the proposed operational modifications.

Recommended Conditions of Approval

None.

Finding 2 Conclusion:

Based on the above information, staff believes Rusty Spur Lane can accommodate the traffic generated by this proposal.

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

Surrounding Parcels

	Size:	Use:	Zoning:	Nearest Residence:
North	50.19 acres	Grazing land	AL-40	None
South	39.64 acres	Grazing land	AL-40	None
East	40.00 acres	Single-family residence	AE-40	510 feet
West	160.00 acres	Grazing land	AE-40	None

Reviewing Agency/Department Comments:

Fresno County Department of Public Health, Environmental Health Division (Health Department): The project shall comply with the Fresno County Noise Ordinance Codes. Any new sewage disposal system shall be installed under permit and inspection by Department of Public Works and Planning, Building and Safety Section.

Fresno County Building and safety Section: Permits and inspection shall be required for the proposed horse shade structures. Permits, plans and inspections will be required for the reduction in height of all electrical pole lights to ensure they comply.

Fresno County Fire Protection District: The subject parcel should annex into Community Facilities District (CFD) No. 2010-01 of the Fresno County Fire Protection District.

Fresno County Development Engineering Section: According to FEMA FIRM Panel 1055H, the northeastern portion of the subject property is within the Flood Zone A, subject to flooding from the 100-year storm. Any development within the Special Flood Hazard Area shall conform to provisions established in Fresno County Ordinance Code Title 15, Chapter 15.48 Flood Hazard Areas. Any work within Little Dry Creek or near an intermittent stream that may be present within the subject parcel, a clearance from California Department of Fish and Wildlife shall be obtained. For any development on wetland that may be present within/nearby the subject property, a clearance from U.S. Fish and Wildlife Service and other appropriate agencies shall be obtained.

A grading permit or voucher may be required for any grading proposed with this application.

Fresno Metropolitan Control District (FMFCD): Provide temporary on-site storm water storage facility until permanent FMFCD facilities become available and drainage can be directed to the street. Obtain drainage and grading plan approval by the FMFCD prior to approval by the County. Pay drainage fees at the time of development based on the fee rates in effect at that time.

The above-noted regulatory requirements have been included as Project Notes.

Fresno County Road Maintenance and Operations Division, Water and Natural Resources Division, Zoning Department, and Policy Planning; San Joaquin Valley Air Pollution Control District; Table Mountain Rancheria: No concerns with the project.

Finding 3 Analysis:

The subject property is in an area of mixed agricultural and residential land uses, and has been previously improved with a barn, residence, and swimming pool which were permitted for personal use. Existing mature trees located throughout the subject property coupled with the rolling topography of the area help to mask the view of the proposed boarding stalls from neighboring properties. The use is an extension of improvements in support of the existing horse arena operations and will not be a substantially different than what is currently operating, given the agricultural nature of the proposed use and the visual screening provided by native vegetation and topography, staff believes the proposal will not have a negative visual impact upon surrounding properties.

Recommended Conditions of Approval:

Development should conform with the approved plan, previous conditions remain in full force.

Finding 3 Conclusion:

Based on the above information, staff believes that the proposal will have no adverse effect upon surrounding properties.

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

Reviewing Agency Comments:

Fresno County Policy Planning Section: No General Plan issues with the proposed Director Review and Approval Application No. 4760.

Finding 4 Analysis:

Per the Policy Planning Section, there are no reportable General Plan issues with the proposed Director Review and Approval No. 4760. As such, no comments on this application were made by that Section.

Recommended Conditions of Approval:

None

Finding 4 Conclusion:

Based on the above information, staff believes that the project is consistent with the General Plan policies.

SUMMARY CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the subject Director Review and Approval can be made.

SUMMARY RECOMMENDATION:

Staff therefore recommends approval of Director Review and Approval Application No. 4760, subject to the recommended Conditions and Project Notes.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine that the Mitigated Negative Declaration previously adopted by the Board of Supervisors based on Initial Study (IS) No. 6062 is adequate for the project per Section 15162 of the California Environmental Quality Act; and
- Move to determine the required Findings can be made and move to approve Director Review and Approval No. 4760, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Director Review and Approval No. 4760; and

- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Mitigation Measures, Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

EA:ec:jp

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EXHIBIT 1
Conditions of Approval and Project Notes
Director Review and Approval No. 4760

Conditions of Approval	
1.	All Mitigation Measures and Conditions of Approval for Director Review and Approval (DRA) No. 4112, 4465 and 4602 shall remain in full force and effect, except as modified with the approval of DRA No. 4760.
2.	Development of the property shall be in accordance with the Site Plan and Operational Statement as approved by Planning Commission.

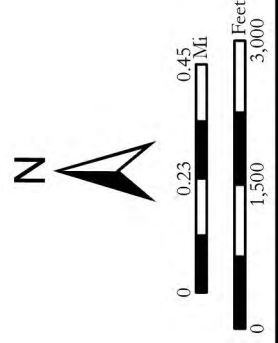
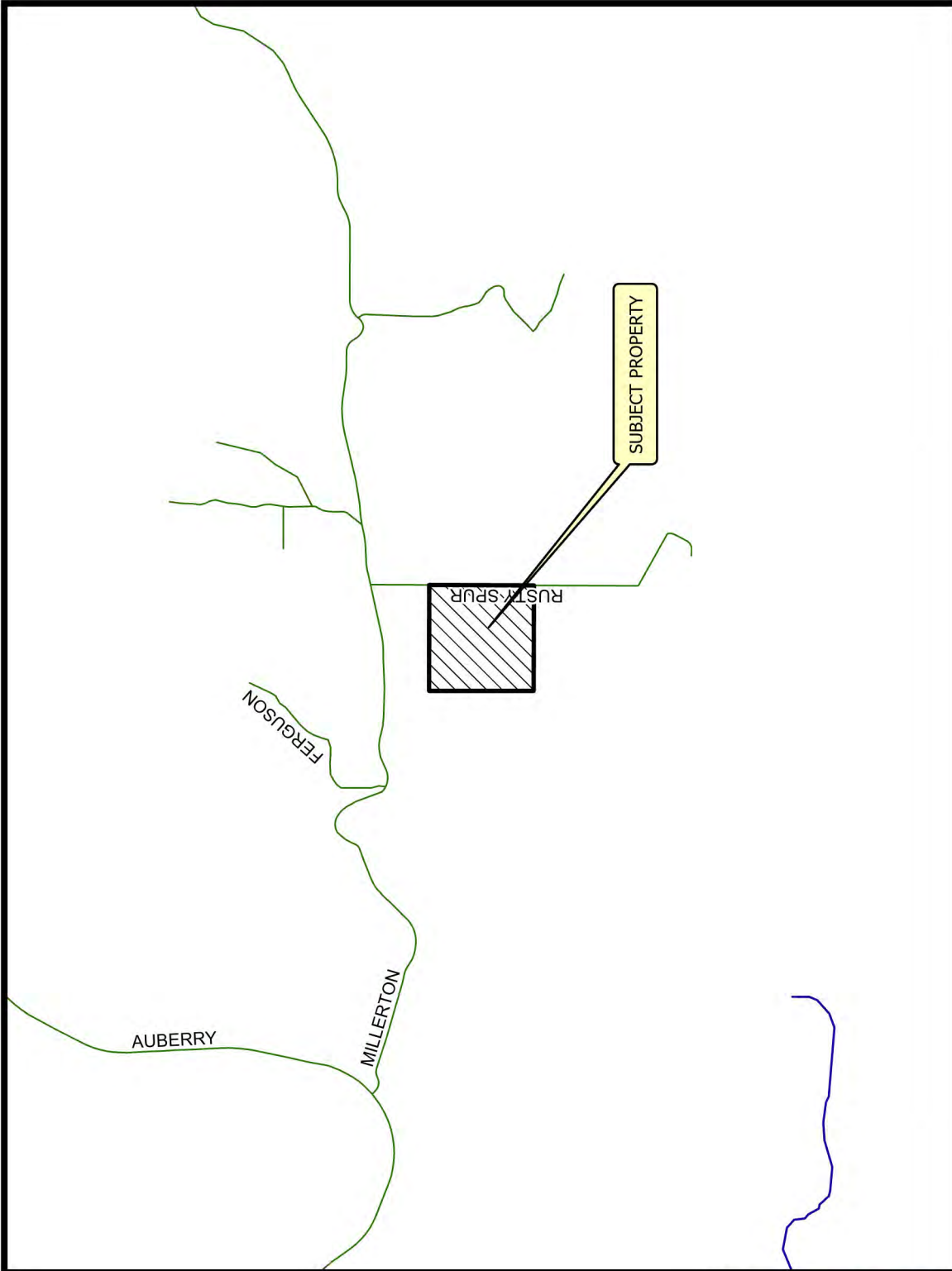
Conditions of Approval reference recommended Conditions for the project.

Project Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Permits and inspection shall be required for the proposed horse shade structures. Permits, plans and inspections will be required for the reduction in height of all electrical pole lights to ensure they comply.
2.	<p>According to Fresno County Department of Public Health, Environmental Health Division (Health Department):</p> <ul style="list-style-type: none"> • Any new sewage disposal system shall be installed under permit and inspection by Department of Public Works and Planning, Building and Safety Section. • The project shall comply with the Fresno County Noise Ordinance Codes. All equipment shall be maintained according to the manufacturer's specifications, and that noise generating equipment be equipped with mufflers/dampening devices.
3.	<p>According to Fresno County Development Services Division:</p> <ul style="list-style-type: none"> • According to FEMA FIRM Panel 1055H, the northeastern portion of the subject property is within the Flood Zone A, subject to flooding from the 100-year storm. Any development within the Special Flood Hazard Area shall conform to provisions established in Fresno County Ordinance Code Title 15, Chapter 15.48 Flood Hazard Areas. Any proposed structure and associated electrical equipment/electrical system components (e.g., service panels, meters, switches, outlets, electrical wiring, walk-in equipment cabinets, generators, bottom of the lowest edge of the solar array, pool-associated motors and water heater, receptacles, junction boxes, inverter, transformers, etc.) in the Special Flood Hazard Area must comply with the FEMA flood elevation requirements. All electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. Grading import is not allowed within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding. Manure pits and waste lagoons that are susceptible to flooding must be consulted with State departments of environmental management or natural resources on how to prevent overflow of these waste treatment facilities into local stream, rivers, or even drinking water supply. FEMA Elevation Certificate is required for every proposed structure to be constructed within the Special Flood Hazard Area. If the future building/structure is near the Special Flood Hazard Area, a certified Map of Survey/Map of Flood Hazard Area (MOS), stamped and signed by a Professional Land Surveyor delineating the distances from proposed structure(s) to the flood zone boundary and at least two property lines and existing structures may be required. The MOS must show spot elevations within the perimeter of the proposed structure and within the flood zones to ensure that the proposed structure will be above the BFE (Base Flood Elevation) and/or outside the Flood Zone A. • For any work within Little Dry Creek or near an intermittent stream that may be present within the subject parcel, a clearance from

Project Notes

	<p>California Department of Fish and Wildlife shall be obtained.</p> <ul style="list-style-type: none">• For any development on wetland that may be present within/nearby the subject property, a clearance from U.S. Fish and Wildlife Service and other appropriate agencies shall be obtained.• A grading permit or voucher may be required for any grading proposed with this application.
4.	<p>The project shall comply with California Code of Regulations Title 24 – Fire Code. Prior to receiving your FCFPD conditions of approval for your project, construction plans shall be submitted to the County of Fresno Public Works and Planning and FCFPD for review. It is the applicant’s responsibility to deliver a minimum of two (2) sets of plans to the FCFPD. The subject parcel should annex into Community Facilities District (CFD) No. 2010-01 of the Fresno County Fire Protection District.</p>

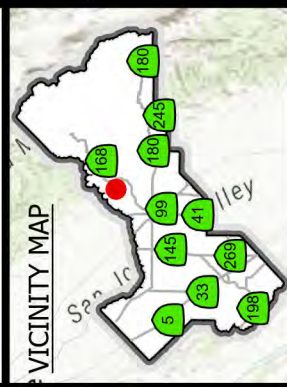
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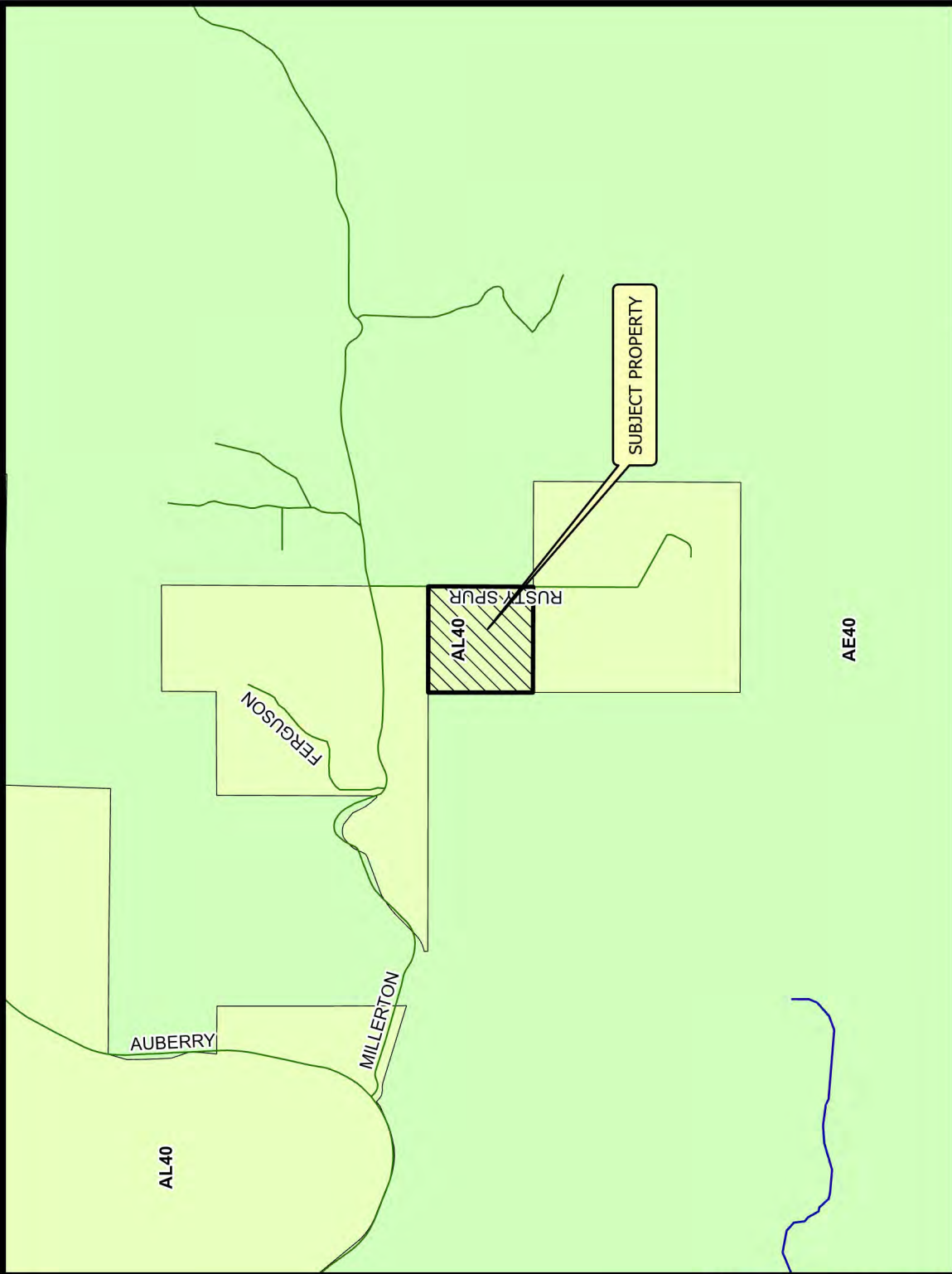


LOCATION MAP

DRA4760 | 2024

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : jocervantes
 On Date : 2/13/2024








Existing Zoning Map

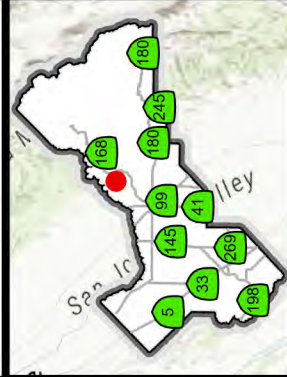
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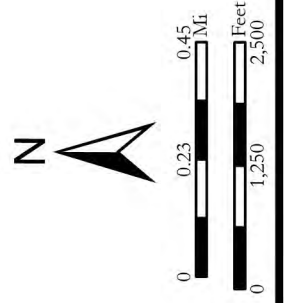
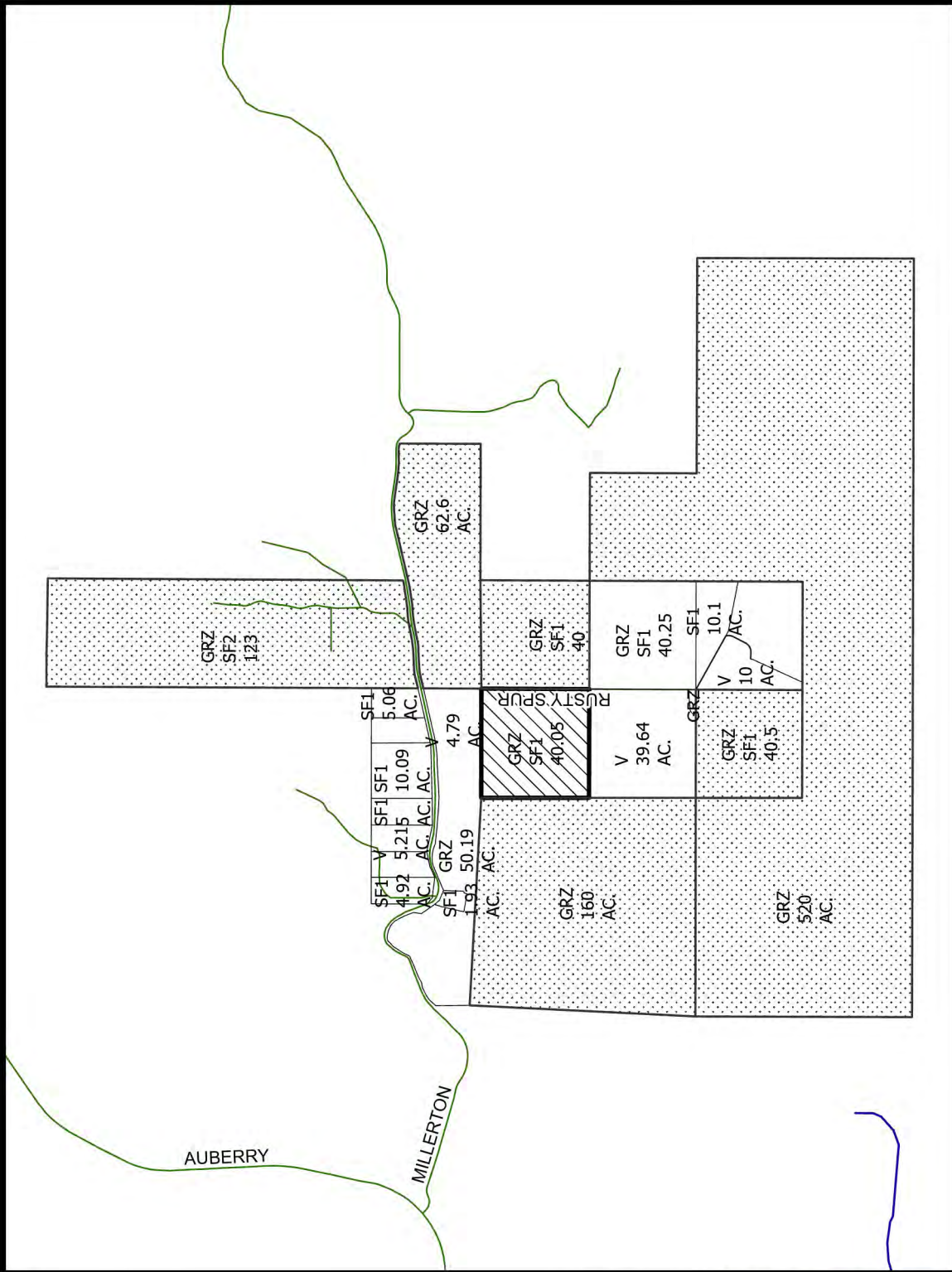
DRA4760
STR 20 - 11S / 22E

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : jocervantes
On Date : 2/13/2024

Legend

-  Subject Property
-  AE40
-  AL40







Existing Land Use Map

2024

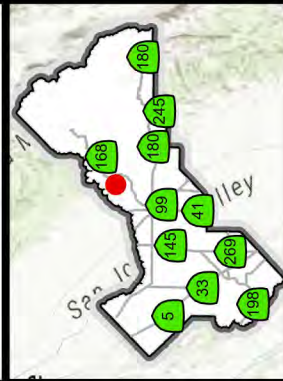
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Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : jocervantes
 On Date : 2/13/2024

LEGEND:

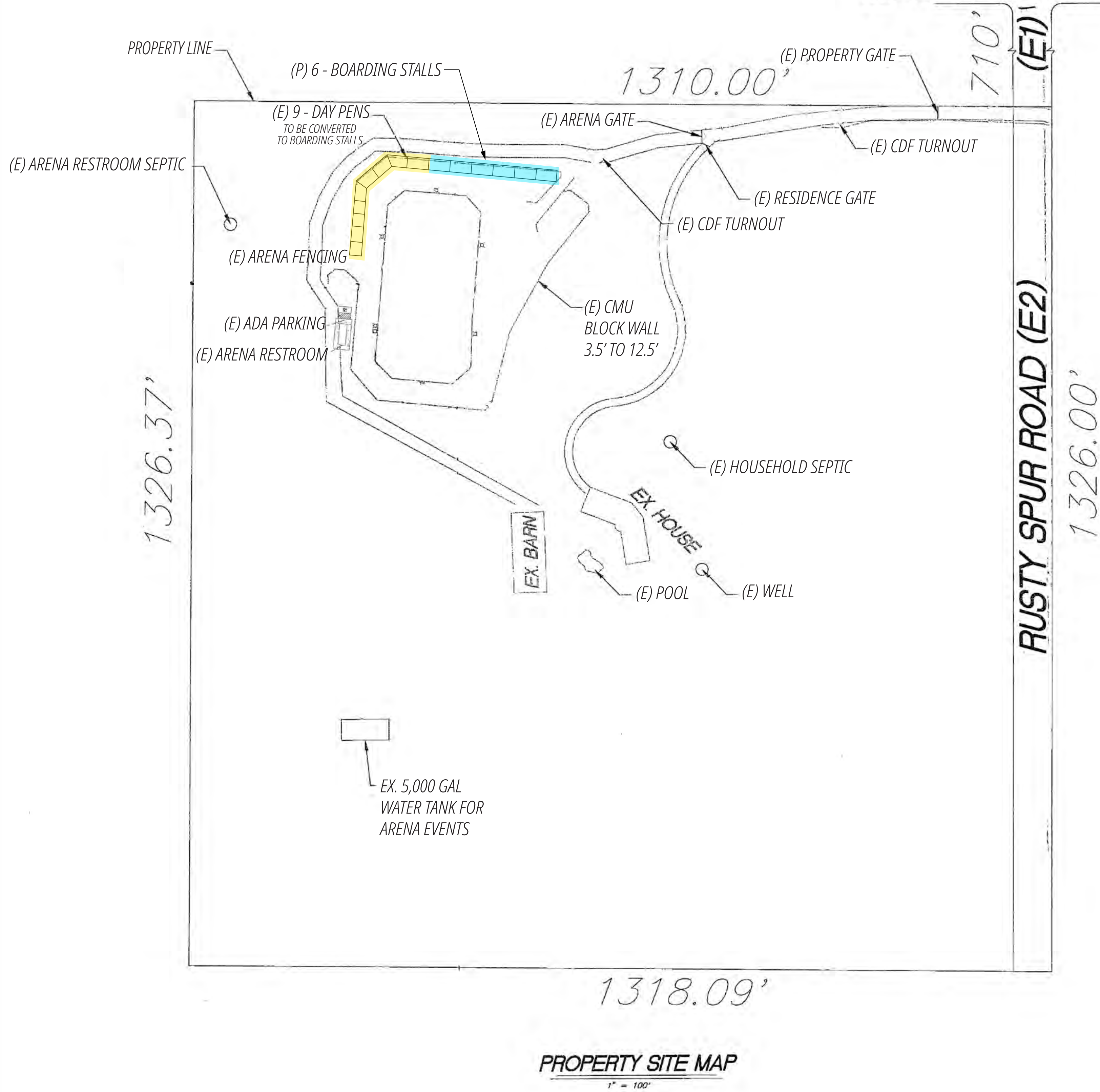
-  Subject Property
-  Ag Contract Land

LEGEND
GRZ - GRAZING
SF#- SINGLE FAMILY RESIDENCE
V - VACANT



FRESNO COUNTY REVISION TO DRA No. 4465

MILLERTON ROAD



PROJECT INFO

OWNER: CHARLIE AND TAMMY MAXWELL
 ADDRESS: 10925 RUSTY SPUR RD.
 CLONES, CA 93619
 APN: 139-061-49
 PHONE: (559) 299-0502

FRESNO COUNTY INFORMATION

DIRECTORS REVIEW APPROVAL #112
 APPROVED SEPTEMBER 27TH 2011 BY FRESNO COUNTY BOARD OF SUPERVISORS
 RUSTY SPUR ROADWAY CREATED BY PARCEL MAP NO. 94-39 CONSISTING OF TWO EASEMENTS:
 E1 FIRST 770' SCHM. FERGUSON, BLASINGAME, UNRESTRICTED EASEMENT,
 E2 RUSTY SPUR ROADWAY UNRESTRICTED EASLMENT VIA PARCEL MAP 94-39
 RUSTY SPUR ROADWAY ASPHALT CONSTRUCTION 17'-22" IN WIDTH
 ARENA GRADING PERMIT GP 10379
 ARENA RETAINING WALL PERMITS B127970, B129411
 ARENA COMMERCIAL RESTROOM PERMIT 12-100809

PROPERTY FENCING

F1 6 STRAND BARB WIRE T-POST 8' ON CENTER, 5' HEIGHT
 F2 2 7/8 IP POST 8' ON CENTER, 4 3/8" FIELD RAILS 4'-6" HEIGHT

PROPOSED PROPERTY IMPROVEMENTS

- (E) EXISTING
- (P) PROPOSED



HANDICAP VAN ACCESSIBLE STALL

NOT TO SCALE

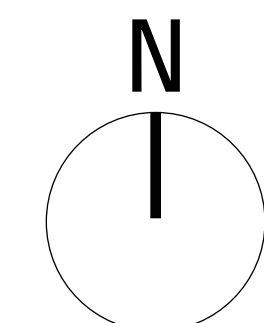
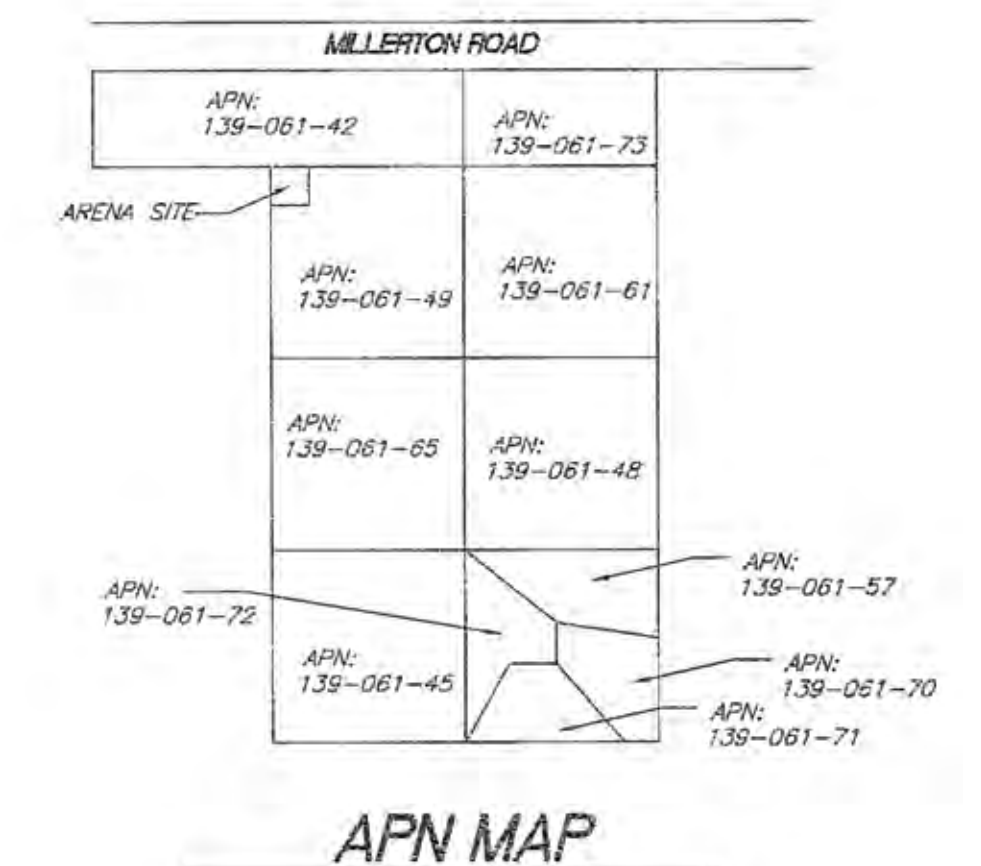
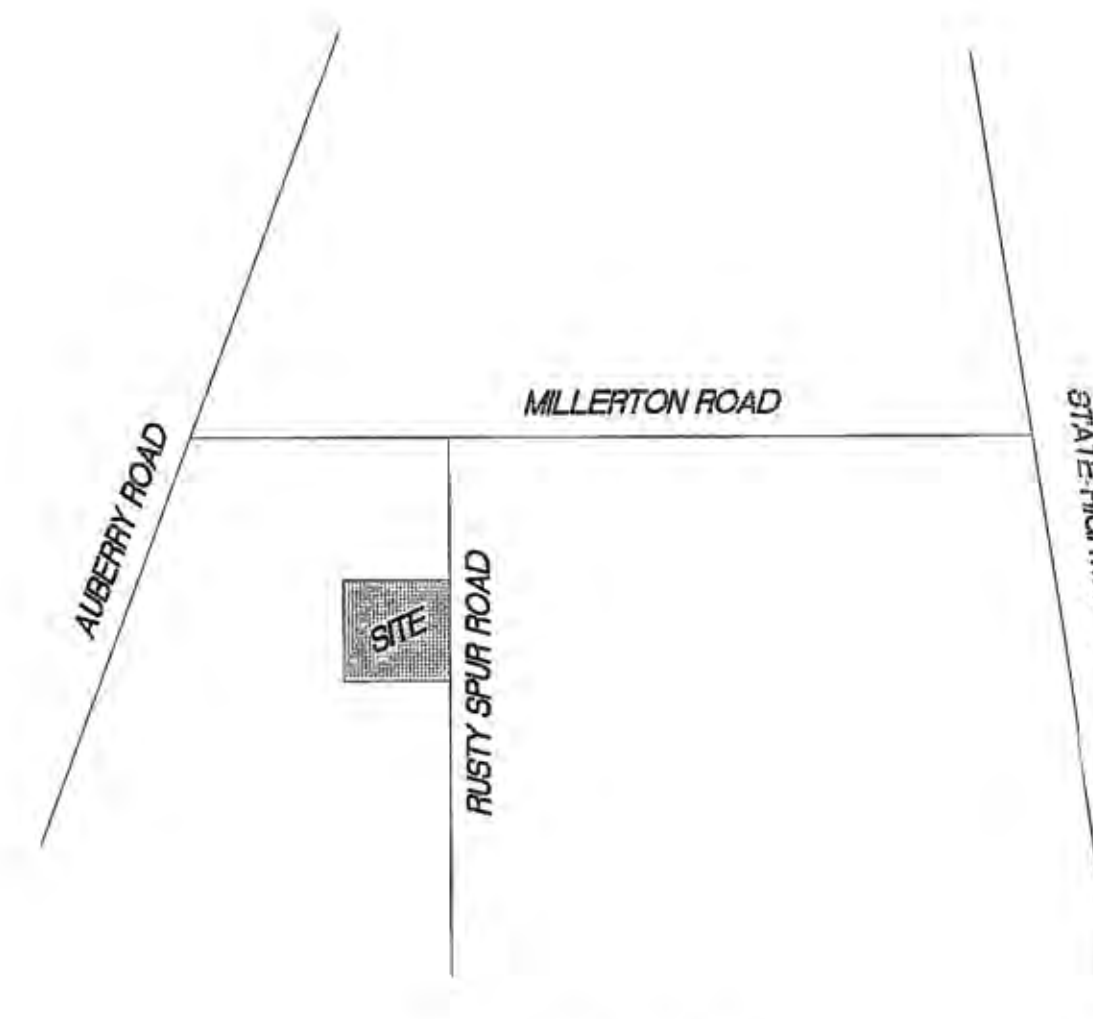


EXHIBIT 5

REVISION TO DRA No. 4465 - SITE PLAN
 CHARLIE & TAMMY MAXWELL
 10925 RUSTY SPUR RD.S, CA 93619

DRAWN BY:	
PROJECT NO.:	
DRAWN:	01/03/2024
REVISED:	
REVISED:	
REVISED:	
SHEET NO.:	1
OF 1 SHEETS	



Typical Boarding Stall

MAXWELL RUSTY SPUR ARENA

**OPERATIONAL STATEMENT
Revising Directors Review and Approval No. 4465**

Revised May 21, 2024

PROPERTY OWNERS

Mr. Charlie & Mrs. Tammy Maxwell
10925 Rusty Spur Ln.
Clovis, CA 93619

PROJECT APPLICANT

Rusty Spur Arena, Inc. a California Nonprofit Corporation
c/o Mr. Charlie & Mrs. Tammy Maxwell
10925 Rusty Spur Ln.
Clovis, CA 93619
(559) 299-0502
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REPRESENTATIVE

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PROJECT LOCATION

10925 Rusty Spur Ln., Clovis, CA
APN: 138-061-49

PROJECT DESCRIPTION

Amend Directors Review & Approval (DRA) No. 4112 and Initial Study No. 6062 which allows operational commercial horse arena on a 40.05 +/- acre parcel in the AL-40 Zone District to allow equestrian boarding.

BACKGROUND

The applicants have owned the subject site since 1992. The site is within an area zoned exclusively for agricultural uses with a 40 acre minimum lot size. For perspective, a 40 acre parcel contains 1,742,200 square feet, theoretically enough room for approximately 139, 12,500 sq. ft. lots zoned Single-Family Residential R-1-B. Subsequent to their acquisition, the applicants made improvements to the site for their personal use and enjoyment of equestrian activities.

On September 27, 2011, Fresno County Board of Supervisors approved DRA No. 4112 for a limited number of commercial equestrian events. Initial Study No. 6062 with Site Plan Review No. 7814 was subsequently approved which established further project details and improvement requirements.

On April 25, 2017, Fresno County Board of Supervisors approved DRA No. 4465 for an increase in the number of commercial event days allowing 24 paying events per year.

On May 26, 2020, Fresno County Board of Supervisors approved DRA No. 4602 for an increase in the number of authorized event days from 24 event days to 72 event days and revised the operational time limits to allow 30 event days to operate during the evening hours from 4:00pm to 10:00pm.

The site remains generally surrounded by rural residential uses on 40 acre parcels. Other than cattle, no agricultural product has been grown on the site for decades.

1. Nature of the operation - what do you propose to do?

The applicant proposes to board 15 horses onsite in covered boarding stalls. Owners of the horses may ride and groom their horses and clean their leased stalls. Movement of the horses from and to the site will be limited to the hours between 7:00 a.m. to 10:00 p.m. Borders may ride their horses from 8:00 a.m. to 9:00 p.m.

No public address or scoreboard lighting will be used during boarding activities.

A vermin and fly eradication program has been implemented by the applicant. That effort will continue.

2. Operational Time Limits

There is no change to the planned public events.

3. Number of customers or visitors

There will be no change in visitor intensity from the previous approvals. The facility will host a maximum of 50 to 60 riders and 30 trailers for all events, with 72 event days limited in the number of participants.

The applicant believes that the arena will attract tourists or participants from outside Fresno

County that will rent rooms and spend other tourism-related dollars on food and lodging. As was previously approved, in some instances, during a limited number of events, participants will stay on the property in their trailers or motorhomes for the limited period of the event and then vacate the premises immediately after the events conclude.

4. Number of employees

There will be no change from the previous approvals. There will be no employees. During youth events there will be volunteers, including retired CDF employees.

5. Service and delivery vehicles

There will be no change from the previous approvals. No large service or delivery trucks will visit the site.

6. Access to the site

There will be no change from the previous approvals. The arena is located at the first residence off of Rusty Spur Lane, which connects to the public roadway of Millerton Road. Per Site Plan Review No. 7814, the access drive has been graded to conform to county standards.

7. Number of parking spaces for employees, customers, and service/delivery vehicles.

There will be no change from the previous approvals. The arena is located on a 40 acre parcel with the arena being located in the extreme north/west portion of the parcel. The applicant is in compliance with parking regulations established by Site Plan Review No. 7814. The applicant has planted native grass to mitigate dust. The design of the arena and surrounding parking area adjacent to the arena would be limited to 60 trailers. Native grass has been planted as dust control for the parking areas.

8. Are any goods to be sold on-site?

There will be no change from the previous approvals. This is primarily a youth activity facility. Numerous groups have offered to sell food and drinks to support their youth activities and the activities of the arena. The applicant will not cook or produce food for any public event.

9. What equipment is used?

There will be no change from the previous approvals. The applicant's tractors and related equipment are used on the property for dust control etc. General boarding operation cleanup is conducted with hand tools.

10. What supplies or materials are used and how are they stored?

There will be no change from the previous approvals. Event equipment is utilized in the arena on the day of the event and stored in a personal on-site storage building.

11. Does the use cause an unsightly appearance?

There will be no change from the previous approvals. By design, the arena was placed in the extreme north/west corner of the property. The location is removed as far as possible from any other residences on Rusty Spur Lane. The neighbors to the north are separated from the arena by a vacant 80 acre parcel, a public roadway (Millerton Road) and a seasonal stream (Little Dry Creek).

Seventy Afghan Pines, five Bradford Pear, five Raywood Ash and eight Chinese Elm trees were planted in strategic locations to block views into the site, provide shade and block lighting emitted from the site. Since the approval of DRA No. 4465, a total of 88 trees have been planted on the subject property which are maintained on an existing irrigation system.

A solid masonry decorative block wall was installed along the north boundary of the arena in accordance with Site Plan Review No. 7814. The wall provides an additional noise and aesthetic barrier to surrounding properties. An earthen berm exists along the south and east boundaries of the arena which provides an additional noise barrier by deflecting event sound upwards. The distance from the neighbor's home to the north to the center of the arena is approximately 1,266 feet or 422 yards. Odor and dust are both controlled by an existing arena watering system.

As previously approved, the arena is lighted per county standards with all lights hooded and directed to not annoy nearby property owners. The boarding of horses is a relatively passive event that does not require amplified voice or music.

12. List any solid or liquid wastes to be produced.

There will be no change from the previous approvals. Event days generate very little animal waste because the participants' animals are not eating. On event days, the arena is disced at the end of each day thereby disposing of any waste or urine by incorporating such matter into the arena surface.

According to the Equine Science Center website, a typical horse will generate an average of 31 lbs. of solid waste per day. It is estimated that 15 horses will generate a total of 465 lbs. of solid waste per day (15 horses x 31 lbs. = 465 lbs.). The 15 horses will also generate 2.4 gallons of urine (15 x 2.4 gal. = 36 ga.) or 36 gallons of urine per day. The solid waste is piled on-site and is made available for pick-up for local farmers to utilize as organic fertilizer.

As a precautionary measure, the applicant has the ability to haul the solid waste to the Republic Service Kerman, CA location.

A fully accessible ADA compliant restroom building exists in accordance with Site Plan Review No. 7814 and is located consistent with applicable regulations for such restroom facilities. Said restrooms have ADA compliant parking.

The subject site is served by Ponderosa Disposal which is under contract with Fresno County for waste collection. The applicant complies with all public health, disposal and recycling requirements mandated by law. In addition, the applicant has installed approximately thirty, 50 gallon waste

collection drums for the ease of attendees to dispose of small waste such as paper plates, cups, etc.

13. Estimated volume of water to be used (gallons per day)

Water consumption of the boarded horses is insignificant. According to the Wholesome Equine Nutrition website, a typical horse will consume 5 to 10 gallons of water per day. Conservatively, the proposed horse boarding will use approximately 200 gallons per day conservatively (15 x 10 gal. = 150 gal. per day).

No change to site irrigation consumption will occur. An irrigation system is used to water the arena to reduce dust. A 5,000 gallon potable water storage tank has been installed south of the arena approximately 145 ft. above the arena floor. This existing water system will allow the arena to be watered completely with minimum effort to allow for maximum dust control.

The facility uses approximately 2,000 gallons of water on event days. The water is provided from an on-site well which has sufficient capacity to allow for this usage and more.

14. Will existing buildings be used or will new buildings be constructed?

The photo directly below illustrates a typical boarding stall. The proposed boarding stalls are about 10 ft. tall with a length and depth of 12 ft. Wind screens will protect the horses from wind and sun. Currently, there are 9 existing day-pens. The existing day-pens measure 9 ft by 8 ft and are uncovered. The 9 existing day-pens will be converted to boarding stalls, which will total the 15 proposed boarding stalls.



Typical Boarding Stall

There will be no other changes from the previous approvals. As indicated on the attached project site plan, all buildings exist and are operational consistent with county approvals. All such improvements and structures were constructed with building permits associated with Site Plan Review No. 7814.

There will be no change from the previous approvals. Only the existing barn will be used for storage of the event timing equipment. The applicant believes that the arena will attract tourists or participants from outside Fresno County that will rent rooms and spend other tourism related dollars on food and lodging. In some cases, during a limited number of events, contestants will stay on the property in their trailers. These vehicles will leave immediately after the events end.

15. Will any outdoor lighting or an outdoor sound amplification system be used?

The existing 35 ft. tall light poles will be reduced in height to 25ft. There will be no other changes from the previous approvals. Arena lighting will be reduced when boarders exercise their horses by turning off every other light or other means to be determined.

A conjunctive lighting and sound pole system has been installed by the applicant that accommodates lighting and electric speakers on the same pole.

The applicant has calculated the height of the poles to optimize lighting and reduce the potential for light to annoy adjacent properties. As the majority of events take place in daylight hours, lighting is only used, as necessary. The lighting system is hooded and directed downwards to avoid annoying nearby property owners.

No sound amplification will occur during any boarding activities. The sound amplification speakers are encased in a metal shield that directs sound downward. In addition, the applicant has established the height and location of the aforementioned poles to optimize the sound system's efficiency without annoying nearby property owners. Precision Engineering of Fresno prepared a noise study for DRA No. 4465 for Fresno County Development Services which determined the arena noise level was in compliance with Fresno County noise standards.

16. Landscaping or fencing proposed?

There will be no change from the previous approvals. Sixty (60) Afghan Pines, five (5) Bradford Pears, five (5) Raywood Ash and eight (8) Chinese elm trees were planted in strategic locations to obstruct views into the site, provide shade and shield light emitted from the site. Eighty-eight (88) additional trees have been planted since the approval of DRA No. 4465. Said trees are on an existing irrigation system.

A series of fences and gates exist on the subject site to segregate the private residence from the arena area. The arena fencing was specifically designed and constructed to restrict movement on and off the applicant's property and prevent visitors and guests from wandering onto adjacent parcels.

Since Site Plan Review No. 7814, an electric gate controlling access to Rusty Spur Lane has been moved 760 feet south of Millerton Road and south of the applicant's driveway. This driveway length allows arena users to enjoy over 2,600 feet of "stacking distance" upon entry to

Rusty Spur Lane prior to parking their vehicles.

17. Any other information that will provide a clear understanding of the project or operation.

The primary goal or purpose of the project is to “give back” to the community the same enjoyment that the applicant’s children and numerous other foothill children enjoyed while growing up. Multiple families and community groups have approached the applicant with the idea of providing safe, clean, and fun activities for the children of this community, such as those involved in the American Legion youth equestrian training program. Children with disabilities are especially welcomed and accommodated at the arena. Select riding clinics and trail events have been designed around the goals of having all participants be a winner and receive prizes that will be donated from the Rusty Spur Arena and local merchants of the surrounding community.

18. Identify all Owners

Charlie Maxwell and his wife Tammy are the property owners of the Rusty Spur Arena, Inc. a California non-profit corporation.

SUPPLEMENTAL INFORMATION

Air Quality:

The development will comply with all San Joaquin Unified Air Pollution Control District standards and pay applicable fees as required. Said District evaluated the previous entitlements and expressed no concerns.

Biological Resources:

All site improvements exist. The site is in a rural, agricultural area substantially disturbed by general equestrian and typical rural, weed and fire prevention activities that have occurred on the site for decades. The California Department of Fish and Game evaluated the previous entitlements and expressed no concerns therefore no impacts were identified.

Cultural Resources:

All site improvements exist. No grading or other site topographic modifications are proposed or required.

General equestrian and typical rural, weed and fire prevention activities have occurred on the site for decades. Therefore, there will be no impacts to prehistoric or historic subsurface cultural resources that have not already occurred.

Geology and Soils:

All site improvements exist. The project complies with all applicable building and development codes that have proven to be effective in addressing potential impacts to geology and soils. The

site is not in an active seismic safety zone or an Alquist-Priolo zone. All site improvements requiring a building permit comply with ministerial soil and geologic construction requirements.

Land Use and Planning:

As was previously determined, the proposed project is consistent with the site's adopted land use designation and zoning. The subject property remains designated Specific Plan Reserve area in the county adopted Sierra North Regional Plan. According to general plan policy LU.A-3, certain agriculturally-related activities, such as commercial horse arenas, may be allowed by means of a discretionary use permit.

Other general plan policies were evaluated as part of the review and approval process for DRA No. 4112. The county staff, planning commission and Board of Supervisors determined the project was consistent with the general plan.

As was the status when DRA No. 4112 was approved, the subject property is not encumbered with an Agricultural Land Conservation Contract. Said site is not located with any clear zone or other protection surface of a public use or private use airport or within an identified airport noise contour. The site is not within the Mineral Resource Zone (MRZ) area. None of the aforementioned information has changed since DRA No. 4112 was approved.

Traffic:

Initial Study No. 6062 evaluated potential environmental impacts associated with the approval of DRA No. 4112. As part of the environmental analysis associated with that project, Fresno County Traffic Engineering staff determined that a formal traffic study was not required per Fresno County standards due to the location, type and kind of traffic and low volume of Millerton Rd. traffic.

County staff visited the subject site and evaluated the curvilinear nature, bridges and road conditions that provide access to and from the site on Millerton Rd. Traffic counts developed by Fresno County staff in 2011 indicate 600 daily trips east of Auberry Rd. on Millerton Rd. west of the subject site and 400 daily trips on Millerton Rd. east of the subject site. County staff evaluated the aforementioned roadway characteristics and project details and concluded that said traffic would not result in a significant increase in vehicle or traffic congestion nor exceed established levels of service standards.

County staff also evaluated site access and determined that site visibility in both directions met applicable standards. County staff also determined queuing of traffic coming into and out of the site met applicable standards. The applicant's operational statement identified that the project's existing residential entry gate would be maintained open at all times during events and that a queuing distance of over 2,600 feet was available from Rusty Spur Lane onto the applicant's property from Millerton Rd. Therefore, the potential for project traffic to back up on to Millerton Rd. is not reasonably probable.

As part of the review of DRA 4465, the county reconfirmed no traffic congestion or other arena related traffic problems have been reported to the California Highway Patrol since approval of

DRA No. 4112. Further the applicant is not aware of any traffic related incidents associated with the arena or its events.

New Project Boarding Traffic

To update existing traffic on Millerton Rd., the applicant accumulated traffic counts on Millerton Rd. for 14 days from Monday November 6, 2023, to Sunday November 12, 2023, and from Monday November 20, 2023, to Sunday November 26, 2023. These counts accounted for bicycles, motorcycles, cars, trucks, trucks with trailers and large industrial vehicles such as cement trucks, etc. Bicycles accounted for 22 trips during the 14 day study period. The original traffic count sheets are attached.

During the observation period, east and west bound travel on Millerton Rd. was observed from 7:00 a.m. to 9:00 a.m. and from 5:00 p.m. to 7 p.m. also in both directions (see Attachment "A"). The results of the traffic counts are detailed on the attached graph FIGURE 1. Observed average AM Peak trips on Millerton Rd. totaled 23.36 AM Peak eastbound trips and 39.93 AM Peak westbound trips whereas average PM Peak trips totaled 49.5 PM Peak eastbound trips and 36.57 PM Peak westbound trips.

No Institute of Traffic Engineers (ITE) studies are available for horse boarding facilities. New project traffic is estimated to include an average of 2 visits per horse per week with those trips typically occurring on Saturdays and Sundays. Therefore, the project horse boarding visitation will generate an average of approximately 30 inbound and 30 outbound trips per week (15 horses X 2 trips/week = 30 inbound and 30 outbound trip ends per week = 60 total trips or an average of approximately 8.5 total new trips per day (60 total inbound and outbound trips ÷ 7 days = 8.57 trip ends per day or approximately 4.25 trips in and 4.25 trips out).

One additional truck delivery (2 trip ends) for hay per month is expected. Two additional trips per week (4 trip ends) are assumed to occur for deliveries. Therefore, 60 boarding related trips, 2 trip ends for hay delivery and 4 trips for deliveries per week will be generated by the proposed boarding for an unadjusted total of 66 trips per week. To be conservative, for purposes of calculating average weekday daily trips, 66 trips are assumed to occur per week or 9.42 trips (use 10) or 10 average trips per day. Using the industry standard that peak trips are 10% of total trips, 1 additional peak trip will be added on average per week by the proposed boarding which is an insignificant contribution to existing traffic on Millerton Rd.

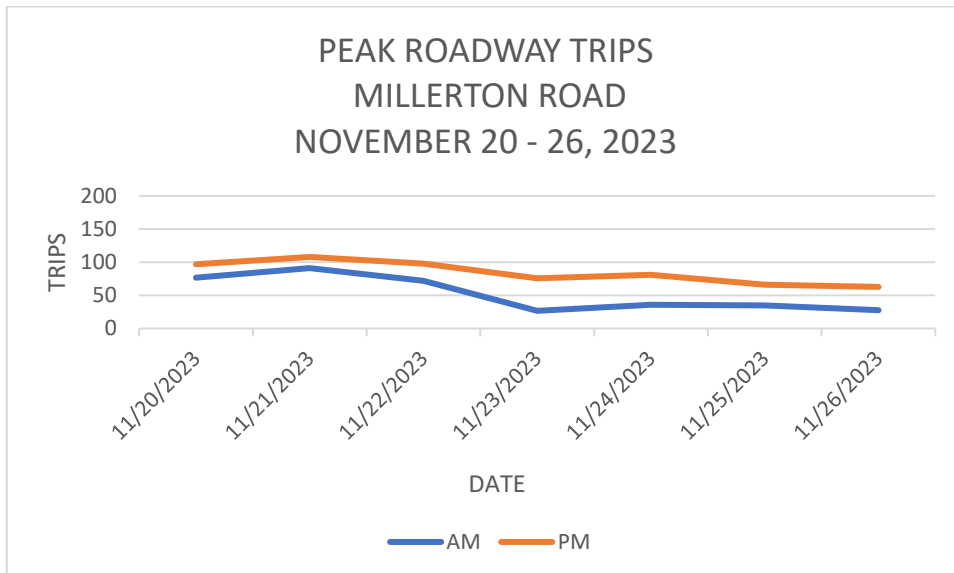
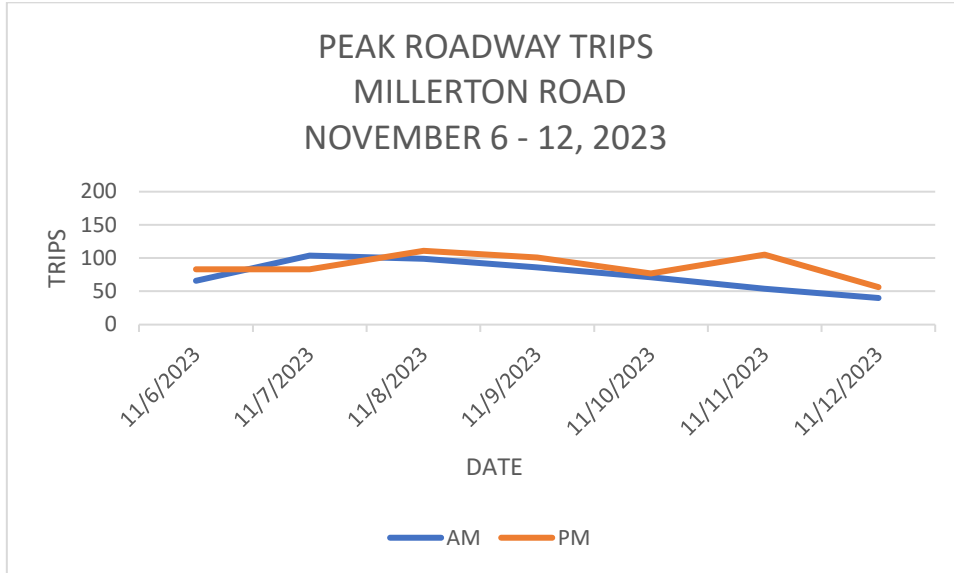
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Attachment "A"

TRAFFIC COUNTS

Date	AM Eastbound	AM Westbound	PM Eastbound	PM Westbound
11/6/2023	43	23	57	26
11/7/2023	39	65	57	26
11/8/2023	28	71	65	46
11/9/2023	30	56	57	44
11/10/2023	16	55	49	28
11/11/2023	20	34	48	57
11/12/2023	12	28	20	36
11/20/2023	34	43	57	40
11/21/2023	31	60	65	43
11/22/2023	26	46	61	37
11/23/2023	12	15	40	36
11/24/2023	11	25	45	36
11/25/2023	16	19	36	30
11/26/2023	9	19	36	27
Total	327	559	693	512

FIGURE 1





County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

Planning Commission Staff Report Agenda Item No. 3 December 10, 2009

SUBJECT: Initial Study Application No. 6062 and
Director Review and Approval Application No. 4112

Allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The site is located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road. The site is approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (SUP. DIST.: 5) (APN: 138-061-49).

Applicant / Owner: Charlie and Tamara Maxwell
Representative: Dirk Poeschel

STAFF CONTACT: Derek Chambers, Planner
(559) 262-4321

Chris Motta, Senior Planner
(559) 262-4241

RECOMMENDATION:

- Adopt the Negative Declaration prepared for Initial Study No. 6062; and
- Approve Director Review and Approval Application No. 4112 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

IMPACTS ON JOB CREATION:

The Commission's action will not have any substantial effect on job creation.

EXHIBITS:

1. Location Map
2. Surrounding Zone Map
3. Land Use Map
4. Applicant's Submitted Operational Statement
5. Evaluation of Environmental Impacts
6. Site Plan
7. Required Findings Necessary for the Granting of a Director Review and Approval Application, as specified in Zoning Ordinance Section 872.
8. Public Correspondence – Opposition
9. Public Correspondence – Support

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
G.P. Designation	Specific Plan Reserve in the Sierra-North Regional Plan	N/A
Zoning	AL-40 (Limited Agricultural, 40-acre minimum parcel size)	N/A
Parcel Size	40.05 acres	N/A
Project Site	Single-Family Residence; swimming pool; barn; corral; block wall; outdoor lighting standards	Restroom facility; water storage tank; 35 parking stalls
Structural Improvements	Single-Family Residence; swimming pool; barn; corral	625 square-foot restroom facility

Criteria	Existing	Proposed
Nearest Residence	One-quarter mile to the southeast; 200 feet northwest of the on-site residence	No change
Surrounding Development	Single-Family Residences, grazing land	No change
Operational Features	N/A	Six competitive equestrian events for youth and 12 competitive equestrian events for adults hosted annually. Said events will occur between the months of April and September and will be conducted between the hours of 8:00 am and 5:00 pm, negating the need for outdoor lighting. There shall be no boarding of horses not owned by the applicant.
Employees	N/A	None
Customers	N/A	60 per event day; 18 event days per year
Traffic Trips	N/A	60 daily
Lighting	Residential lighting; personal use of exterior light standards	No change
Hours of Operation	N/A	8:00 am – 5:00 pm Saturdays; 10:00 am – 5:00 pm Sundays

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

ENVIRONMENTAL ANALYSIS:

An Initial Study (IS) was prepared for the project by County staff, in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the IS,

staff has determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study is below and included as Exhibit 5.

Notice of Intent of Mitigated Negative Declaration publication date: November 20, 2009.

PUBLIC NOTICE:

Notices were sent to 23 property owners within 600 feet of the subject property, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS/BACKGROUND INFORMATION:

A Director Review and Approval (DRA) Application may be approved only if four Findings specified in Zoning Ordinance Section 872.C are made by the Planning Commission (Exhibit 7).

The Zoning Ordinance provides that the Director, at his discretion, may refer a DRA Application directly to the Planning Commission for a public hearing and decision. The decision of the Planning Commission on a DRA Application referred in this manner is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

The Director has determined that, based on concerns expressed by neighboring property owners regarding the proposed use, that this application be referred to the Commission for action.

ANALYSIS / DISCUSSION:

Finding 1: *Adequacy of the Site*

	Current Standard:	Proposed Operation:	Is Standard Met (Y/N)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	No change	Yes
Parking	Two parking spaces for the disabled	35 standard parking spaces	Yes
Lot Coverage	No requirement	No requirement	N/A
Separation Between Buildings	Six feet minimum	No change	Yes
Wall Requirements	No requirement	No requirement	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (Y/N)
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agency/Department Comments Regarding Site Adequacy:

No comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

Analysis:

With adherence to a Site Plan Review, which shall be required as a Condition of Approval, staff believes the site is adequate to accommodate the proposed use, vehicle circulation, and ingress/egress.

Recommended Condition of Approval:

- *A Site Plan Review shall be submitted for review and approval by the Director of the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include but are not limited to design of parking and circulation, access, grading and drainage, and fire protection.*

Conclusion:

Finding 1 can be made.

Finding 2: *Adequacy of Streets and Highways*

		Existing Conditions	Proposed Operation
Public Road Frontage	No	N/A	N/A
Direct Access to Public Road	No	N/A	N/A
Road ADT		N/A	N/A
Road Classification		Rusty Spur Road: private	No change

		Existing Conditions	Proposed Operation
Traffic Trips		N/A	60 per event day; 18 event days per year
TIS Prepared	No	Insignificant increase	Not required; number of trips generated below threshold of 100 daily trips or 10 peak hour trips
Road Improvements Required		None required – private road	No change

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

Development Engineering Section of the Development Services Division: A ten-foot by ten-foot corner cutoff shall be maintained for sight distance purposes at the driveway accessing Rusty Spur Road and a 20-foot by 20-foot corner cutoff shall be maintained for sight distance purposes at the intersection of Millerton Road and Rusty Spur Road. These requirements have been included as project Notes.

Design Division: The number of trips generated by this proposal is below the threshold of 100 daily trips or 10 peak hour trips which would require preparation of a Traffic Impact Study. Peak hour trips are defined as 7:00 am to 9:00 am and 4:00 pm to 6:00 pm. In order to preclude queuing of vehicles on Millerton Road awaiting access to Rusty Spur Road, the Applicant shall be required to open the gate providing access to Rusty Spur Road from Millerton Road during arrival times for the events associated with this proposal. This requirement has been included as a Mitigation Measure.

Road Maintenance and Operations Division: Upon review of a certification prepared by James B. Preble, a licensed Civil Engineer, staff determined that the existing culvert crossing located on Rusty Spur Road is structurally adequate to accommodate the proposed use.

No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

Analysis:

Based on the above information, including confirmation that the culvert crossing is adequate for the use proposed and the level of traffic to be generated by the proposal will be limited to 18 events per year, staff believes that the section of Rusty Spur Road providing access to the site is adequate to accommodate the proposed use.

Recommended Condition of Approval:

- *The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.*

Conclusion:

Finding 2 can be made.

Finding 3: *Adverse Effects upon Surrounding Properties*

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North:	50.19 acres	Grazing	AL-40	None
South:	39.64 acres	Grazing	AL-40	None
East:	40.00 acres	Single-Family Residence; Grazing	AE-40	510 feet east
West:	160.00 acres	Grazing	AE-40	None

Reviewing Agency/Department Comments:

Fresno County Department of Agriculture: No concerns regarding the proposal.

Site Plan Review Section of the Development Services Division: Two parking spaces shall be provided for the disabled and shall be placed as near as practical to restroom facilities. These development standards shall be addressed during the aforementioned Site Plan Review required as a Condition. All active parking, circulation areas, and the riding arena shall be treated with a dust palliative, as necessary, to minimize creation of dust by vehicles and animals. This requirement shall be included as a Condition.

Fresno County Department of Public Health, Environmental Health Division: Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis to the Environmental Health Division for review and approval. Actions to reduce noise that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance. This requirement has been included as a Mitigation Measure.

A separate sewage disposal system shall be installed for the proposed permanent restroom facility under permit and inspection by the Department of Public Works and Planning, Building and Safety Section. This requirement has been included as a Condition. In the project area, a test hole and inspection is required prior to the issuance of Construction Permits for sewage disposal systems. Should the test hole evaluation result in a requirement for an engineered septic system, such a system, following an on-site investigation, must be designed and installation certified by a California registered Geologist or a registered Civil Engineer who is knowledgeable and experienced in the field of septic tank-leaching system design and installation. This requirement has been included as a project Note.

All stockpiles of manure shall be kept in a dry condition and shall be managed and disposed of in accordance with California Code of Regulations, Title 14, Chapter 3, Article 8, Agricultural Solid Waste Management Standards, or another manner acceptable to the Department of Public Health. This requirement has been included as a project Note.

Food sales by service groups shall be limited to only commercially pre-packaged, non-potentially hazardous foods. Food preparation shall not be allowed except by Mobile Food Facilities or Mobile Food Preparation Units, or catering firms permitted by the Environmental Health Division and operating within the scope of their permit. Should the Applicant wish to allow food preparation beyond these parameters, a permanent food preparation facility shall be required and complete food facility plans and specifications shall be provided to the Environmental Health Division for review and approval. Additionally, prior to operation of the food facility, the Applicant shall apply for and obtain a permit to operate said facility from the Environmental Health Division. These requirements have been included as project Notes.

Fresno County Fire Protection District: A preliminary review of the project did not identify any concerns regarding the proposal.

San Joaquin Valley Air Pollution Control District (Air District): No concerns regarding the proposal.

Water/Geology/Natural Resources Section of the Development Services Division: No water related concerns regarding the proposal with the installation of a water storage tank with a minimum 2,500-gallon capacity. This requirement has been included as a Mitigation Measure.

Development Engineering Section of the Development Services Division: According to FEMA FIRM Panel 1055 F, the northeast quarter of the subject property is in Flood Zone A which is subject to flooding from the 100-year storm. Any work performed within the designated Flood Zone shall conform to the provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance. The U.S.G.S. Quad Map shows intermittent streams may be present within the subject property. Any development near a stream shall require clearance from the California Department of Fish and Game. Any additional run-off generated by development cannot be drained

across property lines and must be retained on-site per County Standards. A Grading Permit or Voucher shall be required for any grading activity resultant of this proposal. The subject property is located in the State Responsibility Area (SRA) boundary and development shall be conducted in accordance with all applicable SRA Fire Safe Regulations. These requirements have been included as project Notes.

California Department of Fish and Game: No concerns regarding the proposal.

U.S. Department of the Interior, Fish and Wildlife Service: Upon review of the Biological Resources Report prepared by Live Oak Associates, Inc. on September 30, 2009, the Fish and Wildlife Service determined the project would not likely impact any listed threatened, endangered, or candidate species.

Analysis:

The subject property is located in an area of mixed agricultural and residential land uses, and has been previously improved with a barn, residence, and swimming pool which were permitted for personal use, and the corral associated with this proposal which does not require a Construction Permit, as it does not exceed six feet in height. Existing mature trees located throughout the subject property coupled with the rolling topography of the area help to mask the view of the proposal from neighboring properties. Given the agricultural nature of the proposed use and the visual screening provided by native vegetation and topography, staff believes the proposal will not have a negative visual impact upon surrounding properties.

Based on the above information and with adherence to the Conditions, project Notes, and Mitigation Measures, staff believes that the proposal will not have an adverse effect upon surrounding properties.

Recommended Conditions of Approval:

- *To address potential on-site dust impacts, active parking, circulation areas, and the riding arena shall be treated with a dust palliative, as necessary, to minimize creation of dust by vehicles and animals.*
- *Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis prepared by a qualified Acoustical Consultant with experience in evaluating community noise levels and standards. The Acoustical Analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The Acoustical Analysis shall be submitted to the Department of Public Health, Environmental Health Division for review and approval. Mitigation Measures that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.*

- *An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility.*
- *A 2,500-gallon water storage tank shall be provided in order to provide sufficient water supply for events.*

Conclusion:

Finding 3 can be made.

Finding 4: *General Plan Consistency*

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy LU-A.3: County may allow by discretionary permit in areas designated Agriculture, certain agricultural uses and agriculturally-related activities, including certain non-agricultural uses, subject to following criteria: a) Use shall provide a needed service to surrounding ag area, which cannot be provided within urban areas; b) Use shall not be sited on productive ag lands if less productive lands available; c) Use shall not have a detrimental impact on water resources or the use or management of surrounding properties within ¼-mile radius; d) Probable workforce located nearby or readily available.</p>	<p>With regard to Criteria "a", this proposal entails the utilization of an existing corral in a commercial capacity for the hosting of equestrian events 18 times per year and is located in an agricultural area. With regard to Criteria "b", the project site and surrounding area is designated Grazing Land on the Fresno County Important Farmland Map 2002 and the subject property is neither subject to Williamson Act Contract nor agriculturally productive. With regard to Criteria "c", this proposal was reviewed by the Water/Geology/Natural Resources Section of the Development Services Division, who expressed no concerns with the project with the provision of a water storage tank with minimum capacity of 2,500 gallons. With regard to Criteria "d", no employees are to be utilized with the proposed use. The proposal is consistent with these Criteria.</p>
<p>General Plan Policy PF-C.17: County shall undertake a water supply evaluation, including determinations of water supply adequacy, impact on other water users in the County, and water sustainability.</p>	<p>This proposal was reviewed by the Water/Geology/Natural Resources Section of the Development Services Division, who expressed no concerns with the project with the provision of a water storage tank with minimum capacity of 2,500 gallons. The proposal is consistent with this policy.</p>

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy PF-D.6: County shall limit on-site sewage disposal systems to parcels of adequate area, size, and characteristics as to not threaten water quality or pose health hazards.</p>	<p>According to the Fresno County Department of Public Health, Environmental Health Division, a test hole and inspection shall be required prior to the issuance of Construction Permits for additional sewage disposal systems. Should the test hole evaluation result in a requirement for an engineered septic system, such a system, following an on-site investigation, must be designed and installation certified by a California registered Geologist or a registered Civil Engineer who is knowledgeable and experienced in the field of septic tank-leaching system design and installation. The proposal is consistent with this policy.</p>

Reviewing Agency/Department Comments:

Policy Planning Section of the Development Services Division: The subject property is designated Specific Plan Reserve Area in the County adopted Sierra-North Regional Plan. According to General Policy LU-A.3, certain agriculturally-related activities, such as commercial horse arenas, may be allowed by means of a Discretionary Use Permit. The subject property is not subject to an Agricultural Land Conservation Contract and is not located within any clear zone or other imaginary surface of a public use airport as described under FAR Part 77 or within an identified airport noise contour.

Analysis:

Based upon the above considerations, staff believes this proposal is consistent with the General Plan.

Recommended Conditions of Approval:

None

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

Letters of opposition (Exhibit 8) were received from 31 individuals and letters of support (Exhibit 9) were received from 16 individuals. Those in opposition to the proposal cited concerns regarding decreased property values, increased traffic levels, increased noise and light levels, and possible negative impacts to wildlife.

Letters in support of the proposal cited that horse events provide a benefit to the community and that this would be a local resource that does not require great travel distances to reach and would provide opportunities for children.

CONCLUSION:

Staff believes the required Findings for granting the Director Review and Approval Application can be made based on the factors cited in the analysis and the recommended Conditions of Approval and project Notes regarding mandatory requirements. Staff therefore recommends adoption of the Mitigated Negative Declaration prepared for the project and approval of Director Review and Approval Application No. 4112 subject to the recommended Conditions.

PLANNING COMMISSION MOTIONS:

Recommended Motion (approval action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study No. 6062; and
- Move to determine the required Findings can be made and move to approve Director Review and Approval Application No. 4112, subject to the Conditions and Notes listed below; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (denial action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Director Review and Approval Application No. 4112; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval:

1. The commercial horse arena shall be operated in substantial compliance with the Site Plan and Operational Statement as approved by the Planning Commission.

2. A Site Plan Review shall be submitted for review and approval by the Director of the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include but are not limited to design of parking and circulation, access, grading and drainage, and fire protection.
3. To address potential on-site dust impacts, active parking, circulation areas, and the riding arena shall be treated with a dust palliative as necessary to minimize creation of dust by vehicles and animals.
4. An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility.
- *5. Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis prepared by a qualified Acoustical Consultant with experience in evaluating community noise levels and standards. The Acoustical Analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The Acoustical Analysis shall be submitted to the Department of Public Health, Environmental Health Division for review and approval. Mitigation Measures that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.
- *6. A 2,500-gallon water storage tank shall be provided in order to provide sufficient water supply for events.
- *7. The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.

* MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

NOTES:

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

1. This approval shall become void if there has been a cessation of the use for a period in excess of two years.

2. A ten-foot by ten-foot corner cutoff shall be maintained for sight distance purposes at the driveway accessing Rusty Spur Road.
3. A 20-foot by 20-foot corner cutoff shall be maintained for sight distance purposes at the intersection of Millerton and Rusty Spur Roads.
4. In this area, a test hole and inspection is required prior to the issuance of Construction Permits. The test hole evaluation may result in a requirement for an engineered septic system. Such a system, following an on-site investigation, must be designed and installation certified by a California registered Geologist or a registered Civil Engineer who is knowledgeable and experienced in the field of septic tank-leaching system design and installation. Whenever possible, test hole procedures should be conducted during the Spring runoff period in order to accurately assess seasonal high ground water conditions:
5. All stockpiles of manure shall be kept in a dry condition. The manure shall be managed and disposed of in accordance with California Code of Regulations, Title 14, Chapter 3, Article 8, Agricultural Solid Waste Management Standards, or any other manner acceptable to the Department of Public Health.
6. Food sales by service groups shall be limited to only commercially pre-packaged, non-potentially hazardous foods.
7. Food preparation shall not be allowed except by Mobile Food Facilities or Mobile Food Preparation Units, or catering firms permitted by the Environmental Health Division and operating within the scope of their permit. Should the Applicant wish to allow food preparation beyond these parameters, a permanent food preparation facility shall be required and complete food facility plans and specifications shall be provided to the Environmental Health Division for review and approval
8. Prior to operation of a food preparation facility, the Applicant shall apply for and obtain a permit to operate a food facility from the Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 445-3392 for more information.
9. According to FEMA FIRM Panel 1055 F, the northeast quarter of the subject property is in Flood Zone A which is subject to flooding from the 100-year storm. Any work performed within the designated Flood Zone shall conform to the provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance.
10. The U.S.G.S. Quad Map shows intermittent streams may be present within the subject property. Any development near a stream shall require clearance from the California Department of Fish and Game.
11. Any additional run-off generated by development cannot be drained across property lines and must be retained on-site per County Standards. Provisions

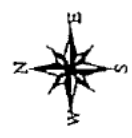
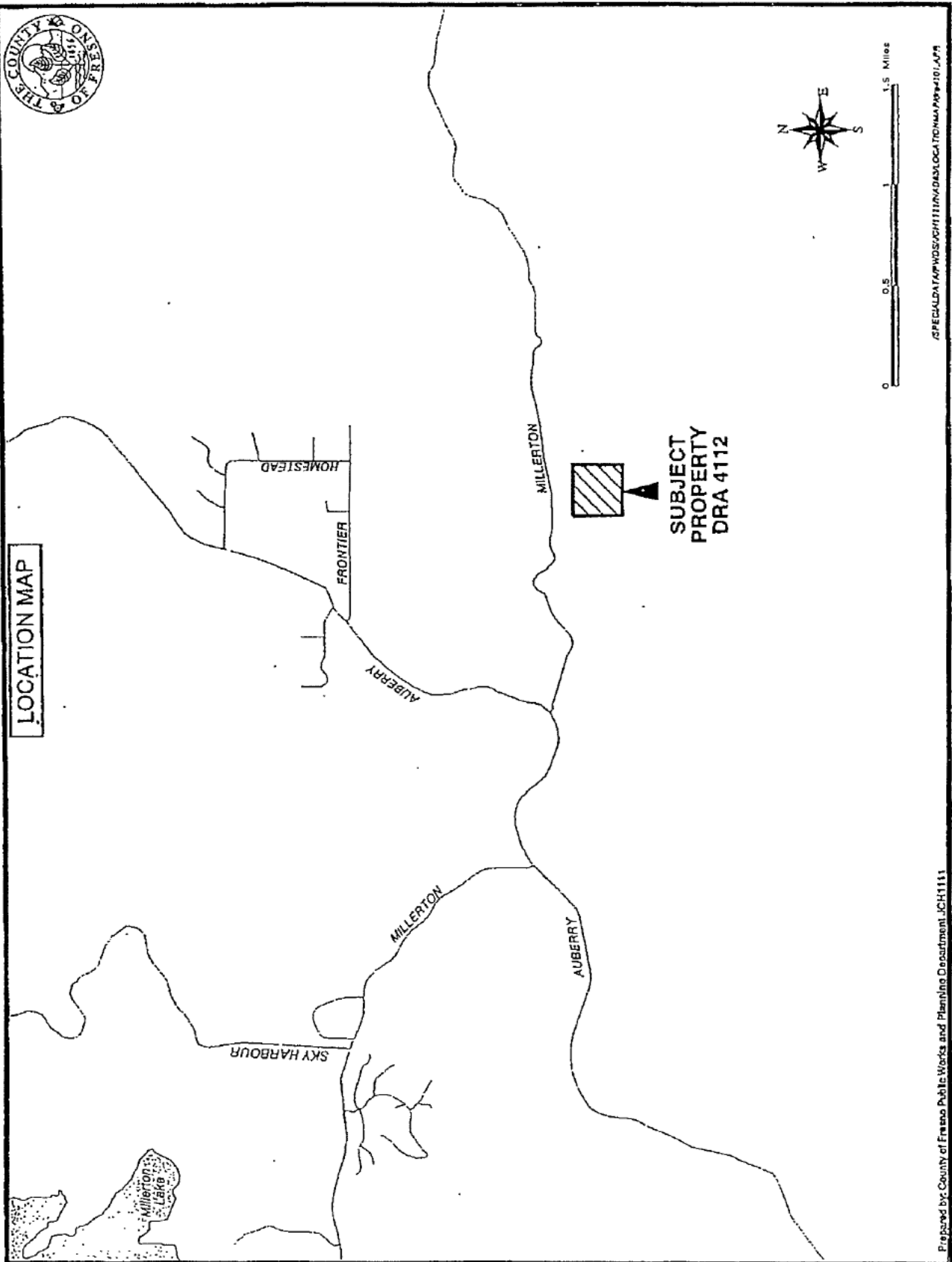
shall be made to maintain natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of those parcels adjacent to the development.

12. A Grading Permit or Voucher shall be required for any grading activity associated with the proposed use.
13. The subject property is located in the State Responsibility Area (SRA) boundary and development shall be conducted in accordance with all applicable SRA Fire Safe Regulations.

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LOCATION MAP



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Prepared by County of Fresno Public Works and Planning Department - JCH1111



EXISTING ZONING MAP

DRA 4112
STR 20 - 11/22

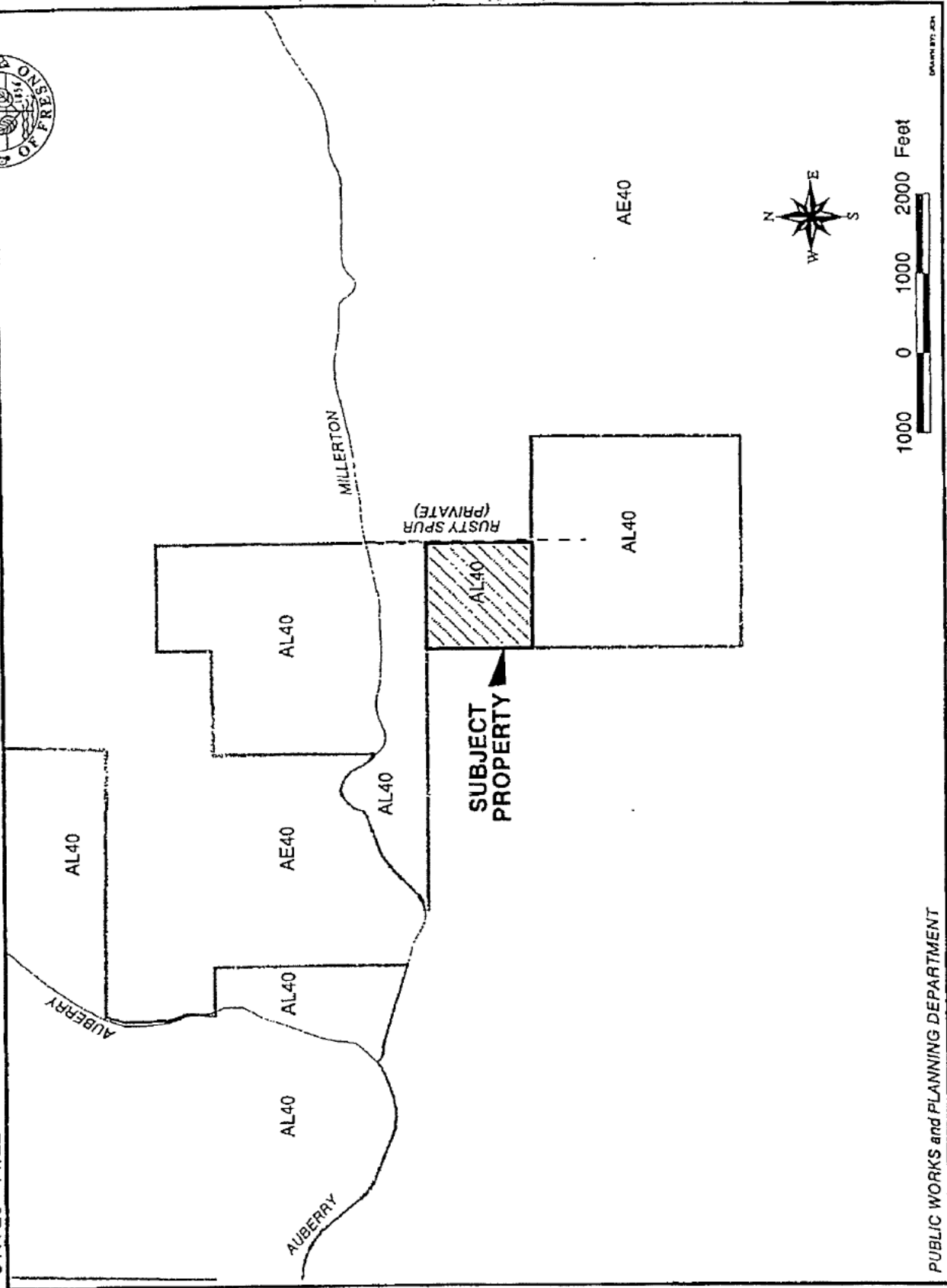


EXHIBIT 10



EXISTING LAND USE MAP

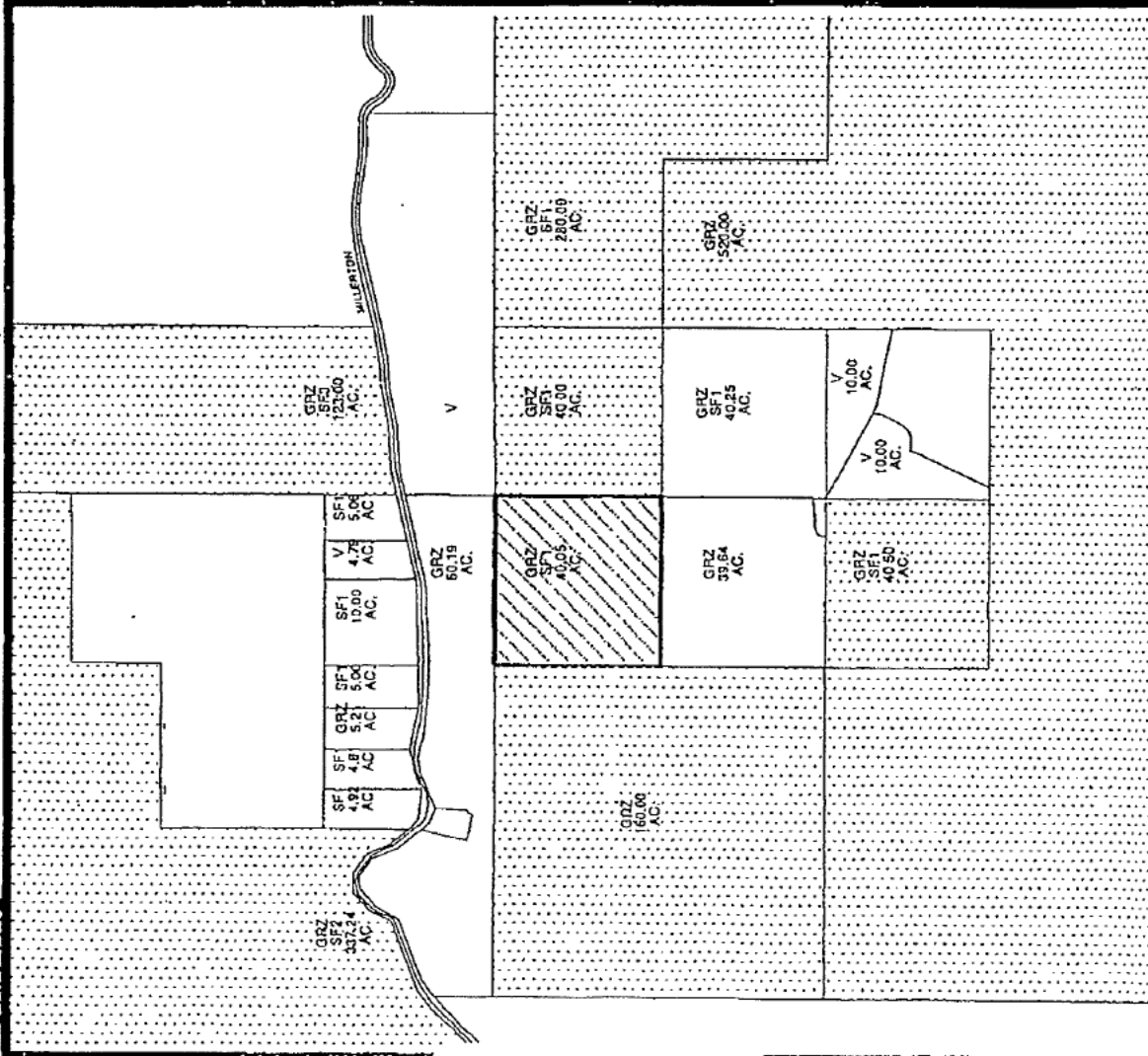
DRA 4112

	GRZ - GRAZING
	SF# - SINGLE FAMILY RESIDENCE
	V - VACANT

Subject Property
 Ag Contract Land



900 0 300 600 900 Feet



Prepared by: County of Fresno The Department of Public Works and Planning JCH1111

Mr. CHARLIE MAXWELL
OPERATIONAL STATEMENT
Revised December 4, 2009

PROJECT REQUEST

To allow a commercial horse arena on a 40.05 +/- acre parcel in the AL-40 Zone District

PROJECT APPLICANT

Mr. Charlie Maxwell
10925 Rusty Spur Road
Clovis, CA 93619

REPRESENTATIVE

Dirk Poeschel Land Development Services, Inc.
923 Van Ness Ave., #200
Fresno, CA 93721
559-445-0374
E-Mail: dpoeschel@dplds.com

PROJECT LOCATION

10925 Rusty Spur Road, Clovis
APN 138-061-49

PROJECT DESCRIPTION

1. Nature of Operation

Development of an equestrian (horse) facility in which youth events will be featured. No horses would be boarded other than my personal horses. Events would be patterned after youth "gymkhana" events that took place at the American Legion Post throughout the nineteen ninety's. This type of events for children was extremely popular and a benefit to all the young adults in the foothill area. The entire program is to feature youth and have all event riders become winners and receive prizes. Handicap riders would also be featured. Six youth events throughout the summer would be featured. Twelve adult events would be featured at a later time (2011, 2012) including roping and adult gymkhana events. This is eighteen days out of 365 days. Functions would start at 8:00 AM and conclude around 5:00 PM on Saturday and from 10:00 AM to 5:00 PM on Sunday. On event days the arena will be watered and the roadway to the arena watered for dust control. Event days for youths would feature approximately 50 to 60 riders and thirty vehicles, and possibly the same for adults. The applicant offers the following supplemental mitigation measures:

1. There shall be no boarding of horses not owned by the applicant on the subject property.
2. No alcoholic beverages shall be sold on the site.
3. There shall be no overnight camping.
4. In a manner acceptable to the Director of Public Works and Planning, a dust control plan shall be submitted and approved which detail the means that dust from event activities shall not adversely affect adjacent properties. All recommendations of that dust control plan shall be implemented and maintained by the applicant. The arena will be covered with 500 tons of sand for dust control.
5. The project shall comply with all Cal Fire *Fire Safe Guidelines*.
6. In a manner acceptable to the Director of Public Works and Planning, the site shall be kept clean and well maintained. All waste shall be disposed of to prohibit vectors and odors. Appropriate measures shall be implemented to assure Rusty Spur Road is free of debris and litter that would have an aesthetic impact or be detrimental to the roadway itself following event days.

2. Operational Time Limits

There shall be no more than 18 days of events per calendar year. Events shall be limited to the period between April 1 and September 30 of any calendar year. The facility could open at 8:00 AM on Monday through Saturday event days and conclude at 5:00 PM, and open at 10:00 AM on Sunday event days and conclude at 5:00 PM.

3. Number of customers or visitors

The facility could host an untold number of vehicles and trailers, however from past practice usually 50 to 60 riders and 30 trailers is an accurate assessment.

4. Number of employees

There will be no employees, however with the youth events there would be people, including retired CDF employees who would like to volunteer.

5. Service and delivery vehicles

No large service or delivery trucks.

6. Access to the site

The arena is located as the first residence off of Rusty Spur Road, which connects to the

public roadway of Millerton Road.

7. Number of parking spaces for employees, customers, and service/delivery vehicles.

The arena is located on a forty-acre parcel with the arena being located in the extreme north/west portion of the parcel. The parking is on native grass which would be mowed and on natural dirt which would be watered. The design of the arena and surrounding area adjacent to the arena would allow in excess of sixty to seventy trailers to be parked.

8. Are any goods to be sold on-site?

This is primarily a youth activity and numerous groups have offered to sell lunch food and drinks to support their youth activities and the activities of the arena.

9. What equipment is used?

Arena tractors and related equipment that is currently used on the property. Horses and related tack. Event timing equipment, gymkhana poles and arena chalk.

10. What supplies or materials are used and how are they stored?

Event equipment is utilized in the arena on the day of the event and stored in a personal barn currently on-site.

11. Does the use cause an unsightly appearance?

The arena by design was placed in the extreme north/west corner of the property. The location is as far as possible removed from any other residences on Rusty Spur Road as possible. The neighbors to the north are separated from the arena by a public roadway (Millerton Road) and a seasonal stream (Little Dry Creek.) The distance from the neighbor's home to the north to the center of the arena is approximately 1,350 feet or 450 yards. Odor and dust are both controlled by an arena watering system and the roadway to the arena will be watered. The arena is lighted, however no public events will occur at night, personal usage at night is limited and the arena lights have direction hoods to control the glare. During event days an arena public announcing system will be utilized and controlled below the decibel level allowed by the county. The applicant has installed nine trees around the arena and fifteen additional trees are to be planted to reduce aesthetic impacts. The existing exterior block wall adjacent to the street will be painted to blend with its surroundings.

12. List any solid or liquid wastes to be produced.

On event days there is very little animal waste generated because the participant's animals are not eating. On event days the arena is disced at the end of the day disposing of any waste or urine into the arena surface. A restroom building permit would be applied for

and placed in the north/west corner of the property for participant's usage.

13. Estimated volume of water to be used (gallons per day)

A water system is being developed to water the arena by a gravity system to reduce dust. The holding tanks will be placed south of the arena approximately 145 feet above the arena floor. This system will allow the arena to be watered completely with minimum effort to allow for maximum dust control. We anticipate using 2000 gallons of water on event days. The water is provided from our current well, which has sufficient capacity to allow for this usage and more.

14. Describe any proposed advertising including size, appearance, and placement.

A small sign at Rusty Spur Road and the driveway will read "Rusty Spur Arena" and include an arrow indicating the direction of travel. An arena layout sign near the entrance to the arena will depict the arena layout, various parking places, and how to easily exit the arena and property upon departure. (The arena has sufficient room to circle the entire arena for exiting, therefore eliminating most vehicle backing.)

15. Will existing buildings be used or will new buildings be constructed?

Existing barn for storage, and one new restroom building to be constructed per county requirements.

16. Explain which buildings or what portion of buildings will be used in the operation.

Only the current barn would be used for storage of the event timing equipment.

17. Will any outdoor lighting or an outdoor sound amplification system be used?

Outdoor lighting will not be used for any events. A sound amplification system will be used and controlled below the county decibel levels.

18. Landscaping or fencing proposed?

The entire arena is to be surrounded by mature tree's to help with dust, and noise, while providing shade for the participants. The applicant has installed nine trees around the arena and fifteen additional trees are to be planted to reduce aesthetic impacts. The entire forty-acre parcel is currently fenced, with the arena being fenced with used well piping. Numerous day pens would also be constructed of well piping to provide safe "parking" spaces for participant's horses, along with numerous "hitching" rails and block wall "hitching" rings.

19. Any other information that will provide a clear understanding of the project or operation.

Currently no youth arena exists for the pure enjoyment of youth and related horse or

horse gymkhana events. The entire goal or propose to give back to the community the same enjoyment that our children and numerous other foothill children enjoyed while being a part of the foothill community. Numerous families and community groups have approached us with the same idea of providing safe, clean fun activities for the children of this community. As with the American Legion program handicapped children would be especially welcomed. This program is designed around the goals of having all participants be a winner and win prizes that will be donated from the local merchants of this community. In subsequent years the adult events would only serve as a vehicle for funding to provide more awards to the youth activity.

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County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR

EVALUATION OF ENVIRONMENTAL IMPACTS

- APPLICANT:** Charlie Maxwell
- APPLICATION NOS:** Initial Study Application No. 6062 and Director Review and Approval Application No. 4112
- DESCRIPTION:** Allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District.
- LOCATION:** The site is located on the west side of Rusty Spur Road, approximately 710 feet south of the intersection of Millerton Road and Rusty Spur Road, and is approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (SUP. DIST.: 5) (APN No: 138-061-49).

I. AESTHETICS

- A. Would the project have a substantial adverse effect on a scenic vista;
- B. Would the project substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway;
- C. Would the project substantially degrade the existing visual character or quality of the site and its surroundings; or

FINDING: NO IMPACT:

This proposal entails allowing the utilization of an existing corral in a commercial capacity. No additional structures or improvements associated with the use are proposed. The subject property is located in an area of mixed agricultural and residential land uses and has been previously improved with a barn, residence, swimming pool, and the corral associated with the proposed use. These improvements are aesthetically compatible with the surrounding land uses due

DEVELOPMENT SERVICES DIVISION

2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 262-4497 / 262-4022 / 262-4029 / 262-4211 FAX 262-4893
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to their residential and agricultural nature. Therefore, approval of this proposal will not degrade the visual character of the site or its surroundings.

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

FINDING: NO IMPACT:

Existing outdoor lighting on the subject property is for personal use and is not proposed to be utilized in conjunction with the proposed commercial use. Additionally, the subject corral will only be utilized in a commercial capacity from April 1 through September 30th and associated events will cease at 5:00pm. Therefore the use of outdoor lighting in conjunction with this proposal is unnecessary.

II. AGRICULTURAL RESOURCES

- A. **Would the project convert prime or unique farmlands or farmland of statewide importance to non-agricultural use;**
- B. **Would the project conflict with existing agricultural zoning or Williamson Act contracts; or**
- C. **Would the project involve other environmental changes which, due to their location or nature, could result in conversion of farmland to non-agricultural use?**

FINDING: NO IMPACT:

The subject property is designated as Grazing Land on the Fresno County Important Farmland Map 2002. However, the subject property is not being utilized for agricultural purposes and is not subject to Williamson Act Contract.

III. AIR QUALITY

- A. **Would the project conflict with or obstruct implementation of the applicable air quality plan?**
- B. **Would the project isolate any air quality standard or contribute to an existing or projected air quality violation;**

- C. **Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a federal or state ambient air quality standard; or**
- D. **Would the project expose sensitive receptors to substantial pollutant concentrations?**

FINDING: NO IMPACT:

The San Joaquin Valley Air Pollution Control District (Air District) has reviewed this proposal and expressed no concerns.

- E. **Would the project create objectionable odors affecting a substantial number of people?**

FINDING: NO IMPACT:

This proposal was reviewed by the Fresno County Department of Public Health, Environmental Health Division who expressed no odor-related concerns.

IV. **BIOLOGICAL RESOURCES**

- A. **Would the project have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special-status species?**
- B. **Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFG or USFWS?**
- C. **Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means?**
- D. **Would the project 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?**
- E. **Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?**

- F. **Would the project Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local regional, or state habitat conservation plan?**

FINDING: NO IMPACT:

The subject 40.05-acre parcel has been previously improved with a single family residence and accessory structures thereto. Upon review of a Biological Survey prepared for this proposal by Live Oak Associates, Inc., the United States Fish and Wildlife Service did not express any concerns related to the project. This proposal was also referred to the California Department of Fish and Game, who also did not express any concerns. Therefore, no impacts were identified in regards to 1.) Any candidate, sensitive, or special-status species, 2.) Any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Dept. of Fish and Game or U.S Fish and Wildlife Service, 3.) Federally protected wetlands as defined by Section 404 of the Clean Water Act, and 4.) 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. This proposal will not conflict with any local policies or ordinances protecting biological resources or any provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

V. **CULTURAL RESOURCES**

- A. **Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?**
- B. **Would the project cause of substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5?**
- C. **Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**
- D. **Would the project disturb any human remains, including those interred outside of formal cemeteries?**

FINDING: NO IMPACT:

The project site is located within an area designated to be moderately sensitive for archeological resources. However, this proposal is limited in scope as the corral associated with the requested use is existing and no additional structures or improvements are proposed for this project. Additionally, the subject property has been previously disturbed with improvements including a barn, residence, and swimming pool.

VI. GEOLOGY AND SOILS

- A. Would the project expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:**

- 1. Rupture of a known earthquake?**
- 2. Strong seismic ground shaking?**
- 3. Seismic-related ground failure, including liquefaction?**
- 4. Landslides?**

FINDING: NO IMPACT:

The project site is not located within a fault zone or area of known landslides.

- B. Would the project result in substantial erosion or loss of topsoil?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

Potential erosion impacts from this proposal will be minor in that permanent improvements will not cause significant changes in absorption rates, drainage patterns and the rate and amount of surface run-off, with adherence to the Grading and Drainage Sections of the County Ordinance Code.

- C. Would the project result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**

- D. Would the project be located on expansive soils creating substantial risks to life or property?**

FINDING: NO IMPACT:

The project is not located within an area of known risk of landslides, lateral spreading, subsidence, liquefaction, or collapse, or within an area of known expansive soils.

- E. Would the project have soils incapable of adequately supporting the use of septic tanks or alternative disposal systems where sewers are not available for wastewater disposal?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject property is currently served by an existing on-site sewage disposal system. An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility. This requirement will be included as a condition of approval. Additionally, this proposal was reviewed by the Fresno County Department of Public Health, Environmental Health Division who expressed no concerns in regard to soils.

VII. HAZARDS AND HAZARDOUS MATERIALS

- A. Would the project create a significant public hazard through routine transport, use or disposal of hazardous materials?**
- B. Would the project create a significant hazard involving accidental release of hazardous materials into the environment?**
- C. Would the project emit hazardous materials within one-quarter mile of a school?**

FINDING: NO IMPACT:

This proposal does not involve storage of hazardous materials and no hazardous materials impacts were identified in the project analysis. Additionally, there are no schools within one-quarter mile of the project site.

- D. Would the project be located on a hazardous materials site?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

No hazardous materials sites were identified in the project analysis. Animal waste shall be handled in accordance with California Code of Regulations, Title 14, Chapter 3, Article 8,

Agricultural Solid Waste Management Standards. This requirement will be included as a project note.

- E. **Would a project located within an airport land use plan or, absent such a plan, within two miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area?**
- F. **Would a project located within the vicinity of a private airstrip result in a safety hazard for people residing or working in the project area?**

FINDING: NO IMPACT:

The project site is not within an airport land use plan or in the vicinity of a public or private airport or airstrip.

- G. **Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?**

FINDING: NO IMPACT:

This proposal will not impair the implementation of, or physically interfere with an adopted emergency response plan.

- H. **Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?**

FINDING: NO IMPACT:

The project site is not located within a wildland area.

VIII. HYDROLOGY AND WATER QUALITY

- A. **Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality?**

FINDING: NO IMPACT:

This proposal was referred to the California Regional Water Quality Control Board who did not express any concerns.

- B. **Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge so that there would**

be a net deficit in aquifer volume or a lowering of the local groundwater table?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

According to the Water/Geology/and Natural Resources Section of the Department of Public Works and Planning, Development Services Division, the installation of a 2,500 gallon water storage tank is sufficient to ensure an adequate water supply for the proposed use. The requirement to install said water storage tank will be included as a mitigation measure. No other water related concerns were expressed by the Water/Geology/and Natural Resources Section.

*** Mitigation Measure**

1. *A 2,500 gallon water storage tank shall be provided in order to provide sufficient water supply for events.*

C. **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site?**

D. **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in flooding on or off-site?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the Development Engineering Section of the Fresno County Department of Public Works and Planning, Development Services Division, a U.S.G.S. Quad Map shows existing intermittent streams may be present within the subject property. Any development near a stream shall require clearance from the California Department of Fish and Game. This requirement has been included as a project note.

E. **Would the project create or contribute runoff which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

This proposal is limited in scope as the corral associated with this request is existing and any resultant ground disturbance activities will be minimal. However, any future construction and grading associated with this project will be required to comply with the Building and Grading Sections of the County Ordinance Code and permit requirements, thereby reducing potential impacts to a level of insignificance. These requirements will be included as project notes.

F. Would the project otherwise substantially degrade water quality?

FINDING: NO IMPACT:

No additional water quality impacts were identified in the analysis.

G. Would the project place housing within a 100-year floodplain?

FINDING: NO IMPACT

No additional housing is proposed with this project.

H. Would the project place structures within a 100-year flood hazard area that would impede or redirect flood flows?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to FEMA FIRM Panel 1055 F, the northeast corner of the subject property is in Flood Zone A which is subject to the 100-year storm. Any work performed within designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. This requirement will be included as a project note.

I. Would the project expose persons or structures to levee or dam failure?

J. Would the project inundation by seiche, tsunami or mudflow?

FINDING: NO IMPACT:

No such impacts were identified in the analysis.

IX. LAND USE AND PLANNING

A. Will the project physically divide an established community?

FINDING: NO IMPACT:

This proposal will not physically divide an established community.

B. Will the project conflict with any land use plan, policy or regulation of an agency with jurisdiction over the project?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Provisions for the operation of agriculturally-related activities and certain non-agricultural uses are provided for in the Fresno County Zoning Ordinance and General Plan. Such uses are therefore conditionally compatible with the agriculture land use designation. The proposed use is not in conflict with Policy LU-A.3 which states that the County may allow agriculturally-related and certain non-agricultural uses by discretionary use permit; Policy PF-C.17, County shall undertake a water supply evaluation prior to consideration of discretionary uses; or Policy PF-D.6, County shall verify the adequacy of a property for on-site sewage disposal systems.

C. Will the project conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?

FINDING: NO IMPACT:

This proposal will not conflict with any habitat conservation plan or natural community conservation plan. No such plans were identified in the analysis.

X. MINERAL RESOURCES

A. Would the project result in the loss of availability of a known mineral resource?

B. Would the project result in the loss of availability of a locally-important mineral resource recovery site designated on a general plan?

FINDING: NO IMPACT:

No mineral resource impacts were identified in the analysis.

XI. NOISE

- A. Would the project result in exposure of people to severe noise levels?
- B. Would the project result in ground borne vibration?
- C. Would the project cause a substantial permanent increase in ambient noise levels in the project vicinity?
- D. Would the project result in a substantial temporary or periodic increase in ambient noise levels?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Outdoor sound amplification will be utilized with the proposed use. Therefore, upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division the applicant shall either refrain from utilizing sound amplification equipment or submit an acoustical analysis to the Environmental Health Division for review and approval. Actions to reduce noise that may be identified in the acoustical analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance. Adherence to this requirement, which has been included as a mitigation measure, will reduce potential noise-related impacts to a level of insignificance.

* Mitigation Measure

1. *Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the applicant shall either refrain from utilizing sound amplification equipment or submit an acoustical analysis prepared by a qualified acoustical consultant with experience in evaluating community noise levels and standards. The acoustical analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The acoustical analysis shall be submitted to the Department of Public Health, Environmental Health Division for*

review and approval. Mitigation measures that may be identified in the acoustical analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.

- E. Would the project expose people to excessive noise levels associated with a location near an airport, or a private airstrip?**
- F. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?**

FINDING: NO IMPACT:

The project site is not in the vicinity of an airport and is not impacted by airport noise.

XII. POPULATION AND HOUSING

- A. Would the project induce substantial population growth either directly or indirectly?**
- B. Would the project displace substantial numbers of existing housing?**
- C. Would the project displace substantial numbers of people, necessitating the construction of housing elsewhere?**

FINDING: NO IMPACT:

This proposal will not result in an increase of housing, nor will it otherwise induce population growth.

XIII. PUBLIC SERVICES

- A. Would the project result in physical impacts associated with the provision of new public services in the following areas:**

- 1. Fire protection**

FINDING: NO IMPACT:

The preliminary review of this proposal by the Fresno County Fire Protection District (Cal Fire) did not identify any concerns with its approval.

2. Police protection
3. Schools
4. Parks
5. Other public facilities?

FINDING: NO IMPACT:

No impacts on the provision of other services were identified in the analysis.

XIV. RECREATION

- A. Would the project increase the use of existing neighborhood and regional parks?
- B. Would the project require expansion of recreational facilities?

FINDING: NO IMPACT:

No such impacts were identified in the analysis.

XV. TRANSPORTATION/CIRCULATION

- A. Would the project result in increased vehicle or traffic congestion?
- B. Would the project exceed the established level of service standards?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed use entails the commercial utilization of an existing corral for up to 60 horses for 18 event days per year. However, increased traffic levels resultant of this project will not cause a significant impact as the proposal does not generate over 100 daily trips or 10 peak hour trips. This proposal was reviewed by the Design Division of the Fresno County Department of Public Works and Planning, which expressed no concerns regarding volume of traffic.

- C. Would the project result in a change in air traffic patterns?

FINDING: NO IMPACT:

This proposal will not result in a change in air traffic patterns.

D. Would the project substantially increase traffic hazards due to design features?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Rusty Spur Road is a private road with gated access from Millerton Road, a County maintained road. In order to preclude queuing of vehicles on Millerton Road awaiting access to Rusty Spur Road, the applicant shall be required to open the gate providing access to Rusty Spur Road from Millerton Road during arrival times for the events associated with this proposal. This requirement will reduce potential traffic hazards to a level of insignificance.

*** Mitigation Measure**

1. *The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.*

E. Would the project result in inadequate emergency access?

FINDING: NO IMPACT:

No emergency access issues were identified in the analysis.

F. Would the project result in inadequate parking capacity?

FINDING: LESS THAN SIGNIFICANT IMPACT:

This proposal is limited in scope to allowing the commercial utilization of an existing corral. Given the limited number of event days associated with this proposal, potential negative impacts to parking capacity will be less than significant.

G. Would the project conflict with adopted plans, policies or programs supporting alternative transportation?

FINDING: NO IMPACT:

This proposal will not conflict with any adopted transportation plans.

XVI. UTILITIES AND SERVICE SYSTEMS

- A. Would the project exceed wastewater treatment requirements?**
- B. Would the project require construction of new water or wastewater treatment facilities?**

FINDING: NO IMPACT:

See discussion under **Section VI.E Geology and Soils**

- C. Would the project require construction of new storm water drainage facilities?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion under **Section VIII.E Hydrology and Water Quality**

- D. Would the project have sufficient water supplies available from existing entitlements and resources, or are new or expanded entitlements needed?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion under **Section VIII.B Hydrology and Water Quality**

- E. Would the project result in a determination of inadequate wastewater treatment capacity to serve project demand?**

FINDING: NO IMPACT:

See discussion under **Section VI.E Geology and Soils**

- F. Would the project be served by a landfill with sufficient permitted capacity?**

- G. Would the project comply with federal, state and local statutes and regulations related to solid waste?**

FINDING: NO IMPACT:

No such impacts were identified in the analysis.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- A. Does the project have the potential to 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, 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 prehistory or history?

FINDING: NO IMPACT:

No such impacts on biological resources were identified in the analysis.

- B. Does the project have impacts that are individually limited, but cumulatively considerable?

FINDING: NO IMPACT:

No cumulatively considerable impacts were identified in the analysis.

- C. Does the project have environmental impacts which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: NO IMPACT:

No substantial adverse impacts on human beings were identified in the analysis.

CONCLUSION/SUMMARY

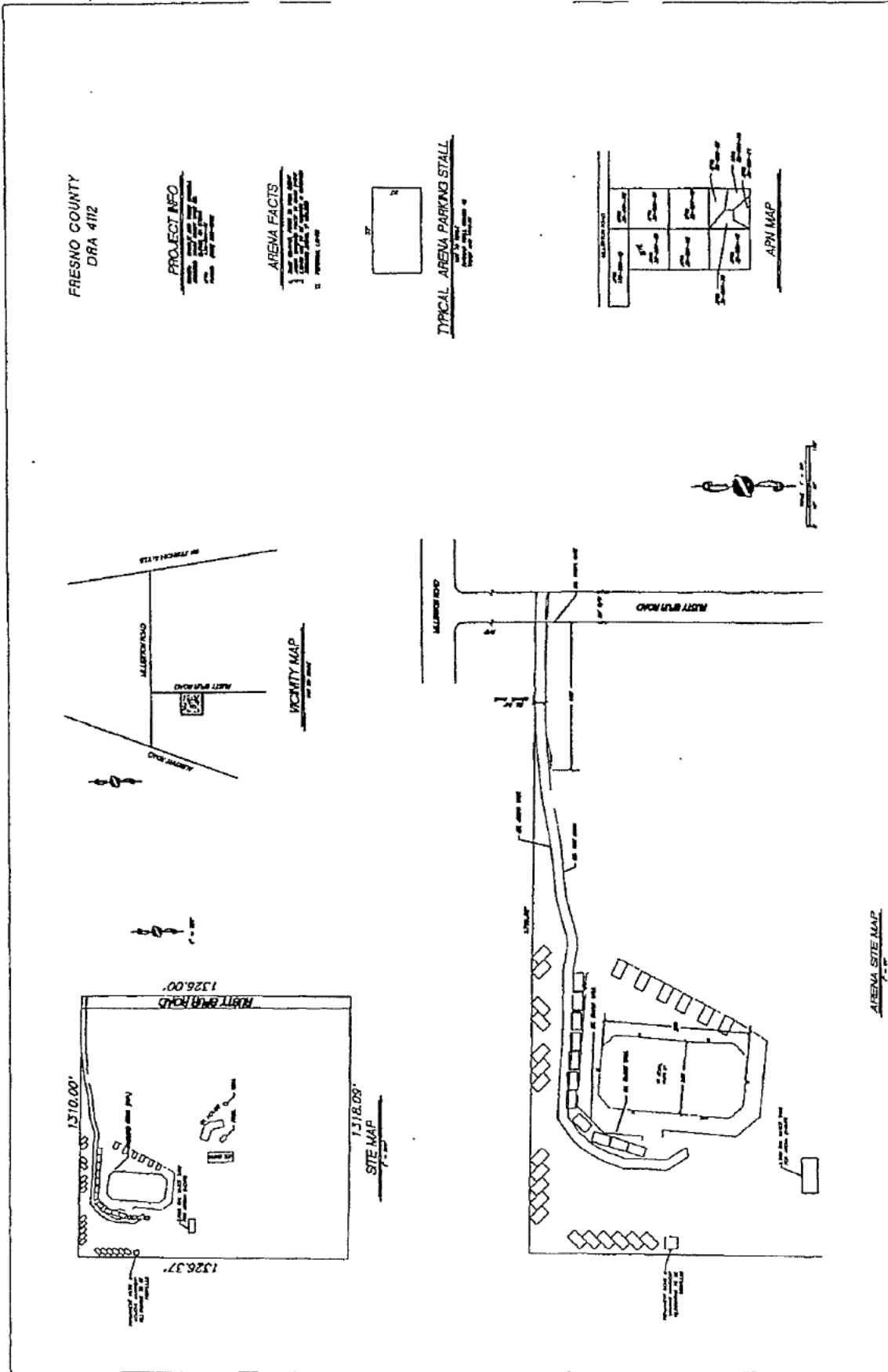
Based upon the Initial Study prepared for Director Review and Approval Application No. 4112, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to aesthetics, agricultural resources, air quality, biological resources, cultural resources, mineral resources, population and housing, public services, and recreation.

Potential impacts related to geology and soils, hazards and hazardous materials, land use and planning, and utilities and service systems have been determined to be less than significant. Potential impacts to hydrology and water quality, noise, and transportation and circulation have been determined to be less than significant with the identified mitigation measures.

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

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EXHIBIT 6



**REQUIRED FINDINGS NECESSARY FOR THE GRANTING OF
A DIRECTOR REVIEW AND APPROVAL APPLICATION
AS SPECIFIED IN ZONING ORDINANCE SECTION 872**

1. That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will not be detrimental to the character of the development in the immediate neighborhood or the public health, safety, and general welfare.
4. That the proposed development be consistent with the General Plan.

EXHIBIT 8

JACK B. MURRAY III
3911 N. BLATTELLA LANE • FRESNO, CALIFORNIA 93727

TELEPHONE
(559) 454-8993

FACSIMILE
(559) 454-8478

E-MAIL
usfund@sbcglobal.net

RECEIVED
MAY 07 2009
FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

May 5, 2009

Mr. Ray Jimenez
Public Works and Planning Department
County of Fresno
2220 Tulare Street, 6th Floor
Fresno, CA 93721-2104

RE: Charles Maxwell Property APN 138-061-49

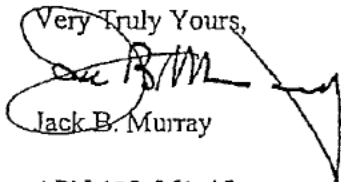
Dear Mr. Jimenez,

In early 2008 we were noticed by the County of an application by Mr. Maxwell to allow commercial use of this Ag.40 Zoned property. As an adjacent property owner, along with everyone surrounding, Mr. Maxwell we filed a strenuous objection to that application.

To date we have heard nothing from the County regarding Mr. Maxwell's application. Would you please inform me of its status. If it was approved we intend to file an appeal and do not want to violate the time limitations to do so.

Thank you for a quick response. You may do so by fax or e-mail if that is more convenient.

Very Truly Yours,



Jack B. Murray

APN 138-061-45

From: Jare Chick <jandjchick@accessbee.com>
Subject: **Commercial application**
Date: January 31, 2009 11:30:28 AM PST
To: dchambers@co.fresno.ca.us

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FEB 03 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir: I have received information from a neighbor of an application for a commercial horse arena in the AL-40 zone district.

The applicant is Mr. Charlie Maxwell of 10925 Rusty Spur , Clovis, CA. 93619.

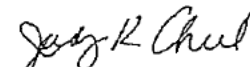
I feel I have a valid complaint concerning this application by allowing commercial use on this zone. Our roads are very
twisty, and narrow, with many blind spots. By allowing a commercial zoning you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, trash, property devaluation, effects on the habitat.

~~We moved to this area 10 years ago for the quiet. It has been bad enough with Mr. Maxwell's police/military "play-days",~~
but I don't feel he needs to move commercial activities to this area on a regular basis.

Therefore, on all accounts, I am definitely NOT for the approval of the application'

Sincerely,


Judy K. Chick
10724 Ferguson Road
Clovis, CA. 93619
559-299-4028

RECEIVED

FEB 03 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

From: Jare Chick <jandjchick@accessbee.com>
Subject: **Commercial application in AL-40 zone**
Date: January 31, 2009 11:24:17 AM PST
To: dchambers@co.fresno.ca.us

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir:

I have received information of an application for a commercial horse arena in the AL-40 zone district. The applicant is Mr Charlie Maxwell of 10925 Rusty Spur, Clovis. CA. 93619

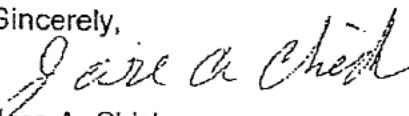
I feel I have valid concerns regarding this application. Our roads are very twisty and narrow, with many blind spots. By allowing commercial zoning, you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, trash, property devaluation, and the effect on wild habitat.

We moved to this area 10 years ago to escape the noise of Fresno. It has been bad enough with Mr Maxwell's police/military "play-days", that I don't feel he needs to create a commercial adventure on a regular basis, at his neighbors cost.

Therefore, on all accounts, I am definitely NOT for the approval of this application.

Sincerely,



Jare A. Chick
10724 Ferguson Road
Clovis, CA 93619

Chambers, Derek

From: Jare Chick [jandjchick@accessbee.com]
Sent: Saturday, January 31, 2009 11:30 AM
To: Chambers, Derek
Subject: Commercial application

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir: I have received information from a neighbor of an application for a commercial horse arena in the AL-40 zone district.

The applicant is Mr. Charlie Maxwell of 10925 Rusty Spur , Clovis, CA. 93619.

I feel I have a valid complaint concerning this application by allowing commercial use on this zone. Our roads are very twisty and narrow, with many blind spots. By allowing a commercial zoning you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, trash, property devaluation, effects on the habitat.

We moved to this area 10 years ago for the quiet. It has been bad enough with Mr Maxwell's police/military "play-days", but I don't feel he needs to move commercial activities to this area on a regular basis.

Therefore, on all accounts, I am definitely NOT for the approval of the application.

Sincerely,

Judy K. Chick
10724 Ferguson Road
Clovis, CA. 93619
559-299-4028

Chambers, Derek

From: Jare Chick [jandjchick@accessbee.com]
Sent: Saturday, January 31, 2009 11:25 AM
To: Chambers, Derek
Subject: Commercial application in AL-40 zone

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir:

I have received information of an application for a commercial horse arena in the AL-40 zone district. The applicant is Mr Charlie Maxwell of 10925 Rusty Spur, Clovis. CA. 93619

I feel I have valid concerns regarding this application. Our roads are very twisty and narrow, with many blind spots. By allowing commercial zoning, you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, trash, property devaluation, and the effect on wild habitat.

We moved to this area 10 years ago to escape the noise of Fresno. It has been bad enough with Mr Maxwell's police/military "play-days", that I don't feel he needs to create a commercial adventure on a regular basis, at his neighbors cost.

Therefore, on all accounts, I am definitely NOT for the approval of this application.

Sincerely,

Jare A. Chick
10724 Ferguson Road
Clovis, CA 93619

Chambers, Derek

From: Tom Whitting [tom@theavianhome.com]
Sent: Wednesday, January 28, 2009 11:36 AM
To: Chambers, Derek
Subject: RE: DRA Application No. 4112

Good morning Mr. Chambers:

After reviewing your response and the Notice of Application dated 12/29/2008, my wife and I wish to comment on Charlie Maxwell's request. He had come to our home to discuss what he wanted to do. Basically to have an arena for kids to compete on horse back, up to 6 times a year. But then he added another 12 events some of which were to raise funds.

We agree with the intent of having a place for kids to "Rodeo", but are opposed to a commercial rezoning for stadium type lights, a public address system which would effect neighbors, and fund raising. We think the activities could be held in the day time until sunset with out lights. He discussed only maybe a 100 people in attendance, so a public address system would not be necessary.

Best regards,

Tom and Jimmie Lee (Cricket) Whitting

Our properties are APN #138-061-74, 138-061-75 and a parcel in trust for Whitting, Pavich and Hopkins 138-061-73.

My address is:
2480 Richert Ave.
Clovis, Ca 93611

I can be reached @ 559-291-9114, or 559-291-6843

Tom Whitting

Chambers, Derek

From: Wade Haines [wade@hainesinc.com]
Sent: Wednesday, January 28, 2009 5:27 PM
To: Chambers, Derek
Cc: Jack Murray; Chris A. Brown
Subject: from Wade Haines re: Application #4112

Dear Derek,

You may recall that I was one of the neighbors who received notice of the Charlie Maxwell application #4112.

Based on overwhelming feedback my wife and I received from many neighbors who share our opposition to the Charlie Maxwell application, I would guess that the County has probably received quite a few letters from those same neighbors offering their comment.

It our fervent hope that the County will see fit to immediately deny this ridiculous application without further ado. However, in the event the County does decide to forward this matter to a public hearing, we would like to kindly request that ALL neighbors who would equally concerned about this application, are notified of any hearing date/time.

Also, upon my receipt of the Notice of Application, you had graciously sent me a list of notice recipients. IF the County does NOT immediately reject the application as we hope they will, I will also forward a list of addresses of concerned residents in very close proximity to the applicants address who have conveyed their serious concern with this application. If a hearing is the eventuality, I would want to know who the County notifies (again) to enable opportunity for attendance by all concerned residents.

I once again thank you for your assistance in this matter, which has given us all fair opportunity to confront this worrisome application.

Very Sincerely,

Wade M. Haines
11248 Rusty Spur Lane
Clovis, CA 93619
(559) 451-0100
wade@hainesinc.com

1/29/2009

RECEIVED
JAN 27 2009

Bonnie E. Golden
10558 East Millerton Road
Clovis, California 93619
(559) 299-5796
Email: bonniebone@yahoo.com

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 23, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno
2220 Tulare Street, Sixth Floor
Fresno, California 93721

Re: Director Review and Approval Application No. 4112
Initial Study Application No. 6062

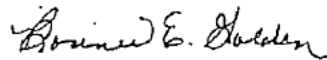
Dear Mr. Chambers:

In response to this application I wish to object to approval based on the following:

1. The major County road to access Rusty Spur Lane is from Millerton Road lying between Auberry Road and Tollhouse. It is a narrow, winding country road unable to support horse trailer and additional vehicular traffic without a serious reduction in safety to current residential users.
2. In the initial Study Application question 19A the answer is misleading. The applicants parcel has no public road access.
3. Noise from any amplification system as well as group events carries very clearly in our open area as well as the additional traffic congestion will adversely affect the quiet-use and enjoyment of the adjacent properties as well as create traffic congestion on Millerton Road.
4. The property in question is viewed directly across from our property and creating a commercial horse area would directly impact our quiet enjoyment.
5. Dust would also be a direct factor.
6. Property values would decrease due to a commercial enterprise which would also entail signs displayed and vendor operations.
7. The application is not limited to day time use only and lighting at night would adversely affect neighboring residential properties.

Should you have any questions, please feel free to contact me at your convenience.

Very truly yours,



Bonnie E. Golden

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JAN 23 2009

January 22, 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Derek Chambers
Department of Public Works and Planning
2220 Tulare Street, 6th floor
Fresno, CA 93721

RE: Charlie Maxwell
Application A Commercial Horse Arena
10925 Rusty Spur

From: Richard W. Looney
10286 Millerton RD
Clovis, CA 93619

I am writing to express my opposition to the above referred proposal.

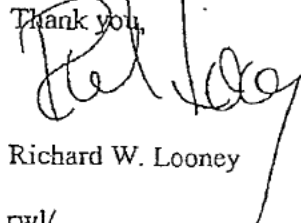
I have enclosed a copy of my letter to my neighbor which indicates my primary concerns. In addition to the items mentioned, it is an encroachment that adds nothing to an already increasingly congested area.

My greatest concern is the commercial use and the potential for further additional commercial uses by others.

The rural agricultural use needs to be protected. A commercial horse arena opens many doors, (i.e. a motor cross track "for the kids").

Please do not approve this requested use.

Thank you,



Richard W. Looney

rwl/
Enclosure

January 22, 2009

RECEIVED
JAN 23 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

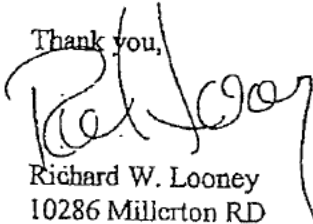
Debbie Poochigian
Fresno County Supervisor
District 5
2281 Tulare, Room #300
Fresno, CA 93721

Dear Supervisor Poochigian,

I have enclosed correspondence regarding a proposed change in land use within your district.

If you can influence this matter, your help is needed and appreciated to maintain our current use and enjoyment of our property.

Thank you,



Richard W. Looney
10286 Millerton RD
Clovis, CA 93619

rwl/
Enclosure

CC: Derek Chambers

January 20, 2009

RECEIVED
JAN 23 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Charles Maxwell
10925 Rusty Spur
Clovis, CA 93619

Dear Charley,

Thank you for taking your time to stop by to give me your information regarding your proposed arena.

After considering the information provided I cannot support your intended project for several reasons.

In addition to the fact that I like things better the way they used to be, and no change yet made has been for the better, I do not see that this will do anything but further negatively impact and decrease my enjoyment of where I live.

The largest obstacle is the fact that it just doesn't pass the "Sniff Test".

You have lights but have no plans to have lighted events. Then you don't need lights. I have no control over your changing your mind and having lighted events.

You have a P.A. System, but if it is too loud you say you will not use it. I have no control over your use of the P.A.

You said you will be willing to start with 6 youth events, and reconsider the 12 adult events. I have no control over how many events you may have.

You said it is zoned commercial only because they have no other name for it. It is named what it is ... commercial. I have no control over future commercial use.

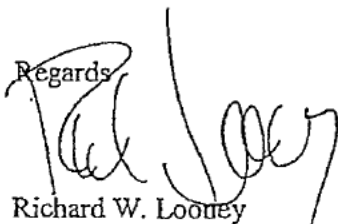
The traffic and general nuisance level of the events cannot be mitigated.

January 20, 2009
Charles Maxwell
Page Two

But to the "Sniff Test". I do not know you well enough to judge your motives. However, I am cynical enough to wonder if you're such a community servant that you would spend over \$7,000 just to permit an arena which you build, maintain and insure against potential liability at additional personal cost just to sponsor 6 events per-year so the kids have a place to ride.

This may be a worthy charity but if I follow the money it just doesn't pass the "Sniff Test".

Once the genie is out of the bottle there is no putting it back. So the best course of action is to keep the lid on. I am sure you will appreciate my position, and if the majority feels as I do I hope you will shelve the project as a bad idea.

Regards

Richard W. Lookey

Chambers, Derek

From: Chambers, Derek
Sent: Tuesday, January 13, 2009 11:30 AM
To: 'John Sample'
Subject: RE: Application Comments

Received and noted.

Derek Chambers, Planner II
Development Services Division
Fresno County Public Works and Planning
(559) 262-4321 voice
(559) 262-4893 fax

From: John Sample [mailto:littlejohn@gotsky.com]
Sent: Tuesday, January 13, 2009 11:27 AM
To: Chambers, Derek
Cc: John Sample; Dorinda
Subject: Application Comments

January 13th, 2009

To: Derek Chambers @ Fresno County Planning Dept.

SPECIAL NOTE: PLEASE VERIFY THAT YOU RECEIVED THIS EMAIL

re: Charlie Maxwell Application / 10925 Rusty Spur Lane / APN # 138-061-49

Fr: John & Dorinda Sample, 11596 Rusty Spur Lane, Clovis, CA 93619 / 559-324-1662

We strenuously object to having a large commercial enterprise located in our small, residential zoned area, and on our private road. We ask the County to deny this application.

Are objections are as follows:

1) Our single lane - private - road, bridge, and gate were not designed, nor built, to handle the kind of traffic generated by the type & number of large commercial vehicles stemming from this business. For example, our solar gate was designed for only so many uses a day, and would be totally inadequate to support such a commercial venture. Certainly our bridge and road were not built with this type of traffic in mind.

1/13/2009

- 2) Our road was paid for, and is maintained by, only 9 lot owners. This commercial venture would financially penalize the other 8 lot owners, who would bear the unfair burden of supporting/subsidizing this applicant with significantly increased repair and/or replacement costs for our bridge, road, and gate. These costs would run into the ten's, if not, hundreds of thousands of dollars.
- 3) This commercial enterprise will create dangerous driving conditions on our single lane road and bridge, again due to the size and types of commercial vehicles involved. This is a narrow, 1 mile, dead-end road, without any turn-arounds or turn outs, until you reach the very end of the road, past all of the homes.
- 4) Dangerous driving conditions would also be created on Millerton Road, which is a public road. Access to Rusty Spur is only available from Millerton Road, which itself is a very narrow 2 lane road. Traffic stalls, and back-ups, around blind curves and hills, will create dangerous situations for the public at large.
- 5) This applicant originally misled his neighbors about the size and type of operation he proposed, and any replies supporting his venture should be investigated before the County lends any credence to such "approval". Neighbors were "sold" on the idea of 2-3 small events per year for disadvantaged kids, not a huge commercial enterprise with events 18 or more times per year - with night time events, lights, sound systems, etc and dealing with several hundred people on a private road.
- 6) We already deal with shooting parties this applicant has on his property, and the new commercial venture would only add to the problems we have experienced.
- 7) The value of our property would be severely damaged by having this commercial venture next door to us.
- 8) The County has knowingly failed in its public duty to adequately notify the nearby residents of the true nature of the operation; "a commercial horse arena" does not come anywhere close, using any reasonable standard, of describing what this operation is actually going to be. Asking people to "vote" their approval / disapproval of a project, without divulging the true nature of the operation is dishonest at best.
- 9) The County has knowingly failed in its public duty by failing to notify neighbors of this project. Even though this commercial operation could have an impact on a wide area, people living right across the street were not notified of the proposed venture.
- 10) The County has knowingly failed in its public duty by letting most, if not all, of the applicant's facilities to be built - prior to approval. . Either the County was negligent in approving permits for all of the commercial structures built, such as covered grandstands, public restrooms, PA systems, etc, or the applicant misled the County as to the true nature of the permits. Any and all facilities built prior to approval must be torn down and / or removed from the premises.

Sincerely,

John & Dorinda Sample
11596 Rusty Spur Lane
Clovis, CA .93619

1/13/2009

Date: January 5, 2009

Department of Public Works and Planning
Development Services Division
Mr. Derek Chambers
2220 Tulare Street, Sixth Floor
Fresno, CA 93721

RECEIVED
JAN 07 2009

Re: Notice of Application
Director Review and Approval Application No. 4125
Initial Study Application No. 6062

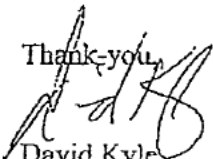
FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

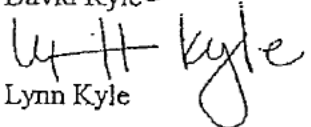
We the signed below oppose the development of a commercial horse area @ 10925 Rusty Spur for the following reasons:

- 1) Increase traffic on Millerton Road, currently a single lane rural road
- 2) Increase noise pollution from activities held at arena
- 3) Increase light pollution if activities occur at nighttime.
- 4) Decrease of property value

Please keep us informed of any further development in regards to this application.

Thank you,


David Kyle


Lynn Kyle

10471 Ferguson Road
Clovis, Ca 93619
Phone: (559) 298-4014

January 9, 2009

RECEIVED
JAN 12 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Derek Chambers, Planner
Development Services Division
County of Fresno
2220 Tulare Street
Sixth Floor
Fresno, CA 93721

RE: DIRECTOR REVIEW AND APPROVAL APPLICATION #4112
INITIAL STUDY APPLICATION #6062

**COMMENT IN OPPOSITION OF APPLICATION FILED BY CHARLIE
MAXWELL FOR "COMMERCIAL HORSE ARENA"**

Dear Mr. Chambers and Development Services Division:

We wish to state our steadfast opposition to approval of Mr. Maxwell's application. Our strong objections are already on file with Fresno County via our attorney, Christopher Brown. Perhaps unbeknownst to Fresno County, this facility is already built. Mr. Maxwell only recently applied for a COMMERCIAL USE permit AFTER neighbors confronted him with a lawsuit.

We herewith summarize our objections:

- 1) **RUSTY SPUR LANE IS A PRIVATE ROAD (NEIGHBOR SUBDIVISION DRIVEWAY)!**
 - a) Rusty Spur Lane in it's entirety is a PRIVATE road. It is maintained (paid for) by several property owners that adjoin the road for RESIDENTIAL ACCESS ONLY for the entire stretch of Rusty Spur Lane by the property owners. It CANNOT handle any substantial volume of transit by non-resident traffic, especially heavy transport equipment or stock trailers. Mr. Maxwell's parcel has NO PUBLIC ROAD ACCESS. Mr. Maxwell has NO legal right to utilize our private road to access a COMMERCIAL USE facility, in the process increasing costs to the neighbors that pay for Rusty Spur Lane maintenance.
 - b) Rusty Spur Lane is protected by a light duty solar gate. The property owners pay to maintain the gate for the purposes of protection against liability, trash, visitation from uninvited guest or solicitors, and provides all neighbors with a barrier of security. Mr. Maxwell's application would necessitate that the gate remain open for an extended time which would expose the neighbors to the very problems the gate was installed to protect against.

(2)

- c) Rusty Spur Lane contains a culvert system fording Dry Creek. That culvert is not designed to withstand any consistent heavy equipment hauling whatsoever, and would sustain wear, damages, or outright collapse. This would impose undue and expensive repair expense onto the neighbors.

2) DANGEROUS TRAFFIC AND CONGESTION ON MILLERTON ROAD.

The only County road to access Rusty Spur Lane, is Millerton Road. Millerton Road is an extremely dangerous, winding, narrow (less than 30' in some areas) easement that is in extremely poor condition. It is not painted, nor does it have any speed limit signs posted. Millerton Road cannot support any substantial vehicle or horse trailer traffic without exposing residents to extreme safety hazard.

3) LIGHT POLLUTION.

The applicant has installed stadium lighting around the arena. His application cites the right to host "Adult Events up until 10:00pm". These lights are large and powerful and would expose all adjoining and surrounding neighbors to severe light pollution (a major nuisance).

4) NOISE.

The application calls for a "SOUND AMPLIFICATION SYSTEM ON EVENT DAYS". Regardless of decibel compliance, the arena is located in a very quiet, serene residential area in foothills where sound carriers at tremendous levels. Neighbors should not be subject to having to listen to a P.A. System that would interrupt day sleepers who work at night, as well as children. The noise would be an incredible nuisance.

5) TRASH AND BLIGHT.

COMMERCIAL EVENTS bring with them TRASH. Applicant cites the sale and utilization of food, snacks and beverages. This would result in TRASH strewn along our private driveway as well as on Millerton Road.

6) ENVIRONMENTAL CONCERNS.

A COMMERCIAL HORSE ARENA would bring about excessive dust and other airborne particulates that are harmful to neighbors. It would also bring about excessive dirt carry-out onto Rusty Spur Lane, which is a pollutant. Mr. Maxwell's arena has eliminated many native Oak Trees, rock formations and native grassland that serves as habitat for native animals such as Bobcats, Wild Turkey, Deer, Eagles, Badgers, Falcons, Redtail Hawks, Quail, Dove and other species that RELY ON the habitat on and around our properties. Granting this application would bring about the aforementioned pollutants and pose considerable negative impact to all native species.

(3)

The arena is located extremely close to Dry Creek, which holds a considerable amount of water in the winter. Dry Creek plays host to many native species as listed, and contributes to our immediate water tables. We have grave concerns about the impact a COMMERCIAL ARENA would have on this.

7) PROPERTY DEVALUATION.

Living near a COMMERCIAL USE facility would have a devastating impact on neighboring parcels and properties that have already been impacted in today's housing market. The resale values of any properties in close proximity of a COMMERCIAL HORSE ARENA where "Adult Activities (Large scale Weddings, Receptions, Dinners, Dances, Jackpot Ropings, etc.) would be held would be absolutely devastated.

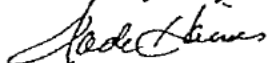
8) NEGATIVE PRECEDENT.

The granting of this application would set a **TERRIBLE** precedent that would enable any property owner residing in an agriculture zoned private residential subdivision, to apply to the County for a COMMERCIAL USE permit for the purposes of locating their COMMERCIAL BUSINESS- and sue Fresno County if it were not granted. This would forever destroy any semblance of the rural lifestyle that makes locating to Fresno County so appealing to so many.

The County of Fresno Development Department should not be swayed by the applicants attempt to tug at the heartstrings by citing his ties to the American Legion and desire to "give back to the Foothill Community" in hosting Youth Horse Events, and paying for them by hosting "Adult Events". There is NO hue and outcry for such a facility, as there are already several locations located in the Central San Joaquin Valley that are equipped to host such events which are directly accessible by major arteries and are located in COMMERCIAL ZONES. The applicant sees this opportunity to use his property as a personal source of income and indulgence in personal hobby- to the tremendous detriment of his neighbors who have paid handsomely for a place of rest and respite. Mr. Maxwell does not have any legal right to host "COMMERCIAL HORSE SHOWS" or other "ADULT ACTIVITIES" for profit or otherwise, at the expense of surrounding neighbor home values and lifestyles.

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR COMMERCIAL USE OF HIS PROPERTY!

Very Truly Yours,



Wade and Rhonda Haines
11248 Rusty Spur Lane
Clovis, CA 93619

(559) 299-9776

RECEIVED
JAN 27 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10926 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49

Dear Sir:

We appreciate the opportunity to voice our adamant opposition to the Application for a Commercial Horse Arena filed by Mr. Charlie Maxwell. We are shocked at this application as we are opposed to the congestion, light, noise, dust, trash, and blight that Mr. Maxwell's functions would subject all neighbors to. Specifically, our steadfast opposition to this application is based on the following:

1) MR. MAXWELL'S PROPERTY LIES WITHIN A PRIVATELY GATED RESIDENTIAL SUBDIVISION.

Mr. Maxwell's property where he has applied for a Commercial Horse Arena, is located in a private gated neighborhood subdivision that contains very expensive homes on immediate neighboring properties in a very rural setting. These homes and parcels were purchased for the purpose of private, quiet serene residential living ONLY and should never be negatively impacted by any COMMERCIAL endeavor whatsoever.

2) MR. MAXWELL'S PROPERTY IS FED BY A PRIVATE ROAD MANAGED BY A PRIVATE ROAD MAINTENANCE AGREEMENT.

Mr. Maxwell is applying for Commercial Use on his property that is fed by a PRIVATE ROAD that is used only to provide immediate access by several immediate neighbors. This PRIVATE road is named "Rusty Spur Lane" and is privately maintained by those neighbors at their sole expense. The driveway is not designed, nor will it accommodate in any way, the volume of vehicles and stock trailers in the numbers or frequency that Mr. Maxwell has cited in his application. The County should not authorize a Commercial Use permit for a facility that is fed by a private driveway owned by adjoining neighbors.

3) SERIOUS TRAFFIC CONCERNS.

"Rusty Spur Lane" is fed by Millerton Road. Millerton Road is 30' narrow road in very poor condition with no traffic lines or speed limit postings on it. Millerton is not designed to handle more traffic of any kind. Stock trailers traveling on and backed up along Millerton Road would pose a tremendous hazard.

(2)

4) RUSTY SPUR LANE IS PROTECTED BY A PRIVATE GATE.

Rusty Spur Lane, the private road that Mr. Maxwell desires to be used to access his property, is protected by a gate that is paid for by the owner neighbors. provides security to the neighbors and serves as a barrier to liability, trash, solicitors and uninvited parties. Keeping the gate open for extended periods would expose the neighbor owners to increased liability and eliminate the security barrier for which the gate was originally purchased and installed, and impose undue wear and tear on the gate which was never designed for heavy duty use.

5) SEVERE LIGHT POLLUTION.

Mr. Maxwell has installed **STADIUM LIGHTING** around his arena. This would bring forth severe light pollution problems to all surrounding neighbors up to 10:00pm.

6) SEVERE NOISE POLLUTION.

Mr. Maxwell has cited in his application the use of an "**AMPLIFIED SOUND SYSTEM**", commonly referred to as a PA. This would create tremendous nuisance to all neighbors as well as the additional noise brought about by vehicles, trailers, and human sources.

7) SERIOUS ENVIRONMENTAL CONCERNS.

A Commercial Horse Arena would bring about excessive dust and other airborne particles that are harmful to neighbors. It would also bring about dust and mud carry-out onto Rusty Spur Lane, which is a private road. Mr. Maxwell's arena has eliminated many native Oak Trees, native grassland in the process of removing vital habitat for native species including Bobcats, Wild Turkey, Deer, Badgers, Raccoons, Eagles, Falcons, Red Tailed Hawks, Quail, Dove and numerous other species that are native to our area and **RELY ON** the habitat on and around our properties. Granting a Commercial Horse Arena would bring about the aforementioned pollutions and pose considerable negative impact to all surrounding native species.

The arena is located extremely close to Dry Creek, which holds a considerable amount of water in the winter. Dry Creek is also home to many native species as listed, and contributes to our immediate water tables.

8) **DEVALUATING IMPACT ON NEIGHBORING PROPERTIES.**

Living near a COMMERCIAL USE facility would devastate neighboring property values that have already been impacted in today's housing market.

Mr. Maxwell's application goes to lengths to describe his desire to hold Youth Horse Shows. However, he also cites the intent to host Adult Functions in order to pay for those shows. There are already many other facilities throughout the Central San Joaquin Valley that can host such events which are accessible by public thoroughfares and are already in COMMERCIAL zones.

The authorization of Mr. Maxwell's application would set a TERRIBLE PRECEDENT that would enable any property owner in any private subdivision, including Rusty Spur Lane, to apply for a COMMERCIAL USE permit and sue Fresno County if it were not granted. This would forever decimate any semblance of rural living that makes living in the County appealing to so many. Mr. Maxwell's application should not be granted at the tremendous cost to his immediate and surrounding neighbors.

Mr. Maxwell does not have any legal right to host "Horse Shows" or other "Adult Functions" for profit or otherwise at the expense of surrounding home values and lifestyle!

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

James Pries

(Print and sign name)



PARCEL # 138-450-01

RECEIVED
JAN 21 2009

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

We appreciate the opportunity to voice our adamant opposition to the Application for a Commercial Horse Arena filed by Mr. Charlie Maxwell. We are shocked at this application as we are opposed to the congestion, light, noise, dust, trash, and blight that Mr. Maxwell's functions would subject all neighbors to. Specifically, our steadfast opposition to this application is based on the following:

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Mr. Maxwell's property where he has applied for a Commercial Horse Arena, is located in a private gated neighborhood subdivision that contains very expensive homes on immediate neighboring properties in a very rural setting. These homes and parcels were purchased for the purpose of private, quiet serene residential living ONLY and should never be negatively impacted by any COMMERCIAL endeavor whatsoever.

2) MR. MAXWELL'S PROPERTY IS FED BY A PRIVATE ROAD MANAGED BY A PRIVATE ROAD MAINTENANCE AGREEMENT.

Mr. Maxwell is applying for Commercial Use on his property that is fed by a PRIVATE ROAD that is used only to provide immediate access by several immediate neighbors. This PRIVATE road is named "Rusty Spur Lane" and is privately maintained by those neighbors at their sole expense. The driveway is not designed, nor will it accommodate in any way, the volume of vehicles and stock trailers in the numbers or frequency that Mr. Maxwell has cited in his application. The County should not authorize a Commercial Use permit for a facility that is fed by a private driveway owned by adjoining neighbors.

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"Rusty Spur Lane" is fed by Millerton Road. Millerton Road is 30' narrow road in very poor condition with no traffic lines or speed limit postings on it. Millerton is not designed to handle more traffic of any kind. Stock trailers traveling on and backed up along Millerton Road would pose a tremendous hazard.

(2)

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Mr. Maxwell has cited in his application the use of an "**AMPLIFIED SOUND SYSTEM**", commonly referred to as a PA. This would create tremendous nuisance to all neighbors as well as the additional noise brought about by vehicles, trailers, and human sources.

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The arena is located extremely close to Dry Creek, which holds a considerable amount of water in the winter. Dry Creek is also home to many native species as listed, and contributes to our immediate water tables.

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Living near a COMMERCIAL USE facility would devastate neighboring property values that have already been impacted in today's housing market.

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The authorization of Mr. Maxwell's application would set a TERRIBLE PRECEDENT that would enable any property owner in any private subdivision, including Rusty Spur Lane, to apply for a COMMERCIAL USE permit and sue Fresno County if it were not granted. This would forever decimate any semblance of rural living that makes living in the County appealing to so many. Mr. Maxwell's application should not be granted at the tremendous cost to his immediate and surrounding neighbors.

Mr. Maxwell does not have any legal right to host "Horse Shows" or other "Adult Functions" for profit or otherwise at the expense of surrounding home values and lifestyle!

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

Bonnie M Norman

Bonnie M Norman
(Print and sign name)

138-061-17

RECEIVED
JAN 21 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

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Very Sincerely,



JAMI NORMAN

(Print and sign name)



APN (Parcel) Number or Address:

12000 MILLERTON RD,
CLOVIS, CA. 93619.

RECEIVED

JAN 20 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

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

ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

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10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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(2)

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Mr. Maxwell does not have any legal right to host "Horse Shows" or other "Adult Functions" for profit or otherwise at the expense of surrounding home values and lifestyle!

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

CHARLES WOOD

Charles Wood

(Print and sign name)

138-061-80

RECEIVED
JAN 20 2009

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY-SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

We appreciate the opportunity to voice our adamant opposition to the Application for a Commercial Horse Arena filed by Mr. Charlie Maxwell. We are shocked at this application as we are opposed to the congestion, light, noise, dust, trash, and blight that Mr. Maxwell's functions would subject all neighbors to. Specifically, our steadfast opposition to this application is based on the following:

1) MR. MAXWELL'S PROPERTY LIES WITHIN A PRIVATELY GATED RESIDENTIAL SUBDIVISION.

Mr. Maxwell's property where he has applied for a Commercial Horse Arena, is located in a private gated neighborhood subdivision that contains very expensive homes on immediate neighboring properties in a very rural setting. These homes and parcels were purchased for the purpose of private, quiet serene residential living ONLY and should never be negatively impacted by any COMMERCIAL endeavor whatsoever.

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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

WAYNE WILHELM

Wayne Wilhelm

(Print and sign name)

10774 MILLERTON RD. CLOVIS, CA

93619

RECEIVED

JAN 16 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

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

ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

RE: **COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION**
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49

Dear Sir:

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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

Lorelle Foster Brown
Lorelle Foster Brown

(Print and sign name)

APN (Parcel) Number or Address:

B8-456-05
10298 Old Millerton Rd
Clovis, CA 93612

RECEIVED

JAN 16 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

10296 Millerston Rd

Jeffa Seannie Kiser

(Print and sign name)

Jeff Kiser
Seannie Kiser

January 6, 2009

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

ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

RECEIVED
JAN 15 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

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Very Sincerely,

APN (Parcel) Number or Address:

Lawrence P. Byrd
(Print and sign name)
LAWRENCE P. BYRD

138-450-25

RECEIVED
JAN 15 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10926 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49

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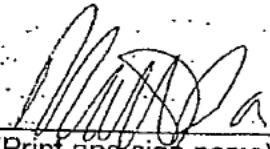
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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:


(Print and sign name)

138-021-96

MATT BARR

RECEIVED
JAN 15 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

RE: **COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION**
10925 RUSTY-SPUR LANE CLOVIS, CA 93619 APN # 138-061-49

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Mr. Maxwell does not have any legal right to host "Horse Shows" or other "Adult Functions" for profit or otherwise at the expense of surrounding home values and lifestyle!

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

Jody Hedrick

(Print and sign name)

Jody Hedrick

11557 E. Millerton Rd Clovis

Ca. 93619

RECEIVED

JAN 14 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

RE: **COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

Duane Duerksen

APN (Parcel) Number or Address:

Duane Duerksen

(Print and sign name)

713-890-45

Genelle Duerksen
Amelle Duerksen

1-12-09

RECEIVED
JAN 14 2009

January 6, 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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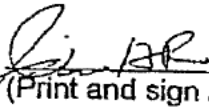
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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

JAMES BROUS


(Print and sign name)

APN (Parcel) Number or Address:

11998 MILLERTON ROAD
CLAVIS CA 93619

RECEIVED

JAN 14 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

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

ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

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10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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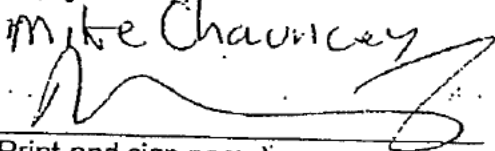
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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

Mike Chauncey


(Print and sign name)

Nancy Chauncey
Nancy Chauncey

10366 Millerton Rd.
Clovis, CA 93619

APN (Parcel) Number or Address:

10366 Millerton Rd.
Clovis, CA 93619

Parcel # 138-450-04

RECEIVED
JAN 14 2009

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

RE: **COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10926 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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Very Sincerely,

BOB DALE BURNS, SR.

Bob Dale Burns Sr.

(Print and sign name)

MARIE ELLEN BURNS

Marie Ellen Burns

APN. (Parcel) Number or Address:

10836 MILLERTON ROAD
CLOVIS, CA 93619-9644

PARCEL #138-061-16

January 29, 2009

To Whom It May Concern:

Charlie and Tammy Maxwell requested that we submit a letter in support of the proposed arena at their home on Rusty Spur Lane. We have known the Maxwell's since approximately 1990, when their young daughter used to ride in our arena, which was located in the same rural area. We put on family oriented, horse related events for approximately 3 years. We were also involved in similar activities at the local American Legion Post and at Sierra High School.

Events at our arena included gymkhanas, horse shows, and 4H events. Both competitive and learning events were popular and provided many children and adults an opportunity to enjoy their horses. We never had problems and the events are remembered by many people in the community as some of their favorite experiences.

The events were done during the day; we watered the arena, so we never had dust problems. We used a P.A. system but the noise never carried so far that it bothered anyone.

There was only one person on the road who complained; and he still complains about everything. The rest of the neighbors enjoyed the events, many of them as participants, and some just came to watch and enjoy the activities. To this day we have people asking us to do things in our arena again, so they have a place to go and a chance to give their children the same type of memories.

The Maxwell's facilities far surpass the facilities we had. Their desire to put on horse events at their house should be viewed as a benefit to the community. They are trying to provide a healthy and wholesome environment where children, parents and neighbors may once again enjoy horse related activities. Such places are lacking in our area.

Children of all ages can enjoy horses under adult supervision. We had events for different age groups, beginning at "5 years and Under" and running to adult. We frequently had 40 to 50 riders.

We have both been involved with children of all ages in both our personal lives and in our careers. Larry was a junior high PE teacher and a coach for 30 years. I have been a probation officer, day care provider and substitute teacher. We have been 4H leaders, Junior Rodeo/High School Rodeo parents and sponsors. We have worked all the events, Larry usually announcing and I act as a timer or whatever else needs to be done. Our two sons were both given the opportunity to be involved with horses and cherish memories and skills they acquired. They still both love to ride and can't wait to give the same skills to their own children.

RECEIVED
COUNTY OF FRESNO

FEB 09 2009

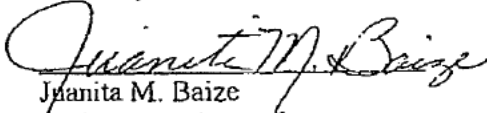
DEPARTMENT OF PUBLIC
AND PLANNING
DEVELOPMENT SERVICES

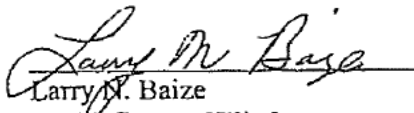
Horses provide an excellent opportunity to teach children responsibility, not only to themselves but for another living creature that depends on them. They learn to be careful, confident and skilled. They learn a work ethic that stays with them throughout life. They learn good sportsmanship and experience camaraderie with other people. They learn to be careful and remember the importance of thinking about what can happen to both themselves and their animals if they are careless. Having the opportunity to participate in horse related events is a wonderful opportunity to learn life lessons.

Having people willing to allow such activities at their home should be considered a resource for the community, just like a playground, baseball field, basketball court or a skateboard park. The equipment is just different. It should not be treated like a hazardous, unhealthy and unwanted neighborhood activity.

Hopefully the Maxwell's will be allowed to operate their arena so as to allow another generation of people an opportunity to experience exciting, healthy, family fun; making wonderful memories for their future. It is hoped that this letter will help them reach their goal.

Sincerely,


Juanita M. Baize
(559) 287-9803


Larry M. Baize
15125 Coyote Hills Lane
Prather, CA 83651
(559) 299-7780

RECEIVED
COUNTY OF FRESNO

FEB 09 2009

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

Mr. Chambers

Please be advised that I have met with Charles Maxwell regarding; Director Review and Approval Application No. 4112 involving a commercial arena to be located on his property. We understand that this arena will be operated to a maximum of eighteen days with 60 to 70 people and will only be operated at night for family and friends. We also understand the arena will be watered prior to any event to control any and all dust.

Thank you *Marie Ellen Burns*

Bob Dale Burns dr.

Name

10836 Millerton Rd, Clovis, CA 93619-9644

Address

138-06716

APN

Comments; *We signed Mr. Wade Haines' letter
by mistake.*

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

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Thank you

Forest C. Beckham

Name

9584 E. Millerton Rd Clovis, CA. 93619

Address

138-300-17

APN

Comments; Greatest thing that our neighbors could have. A place for kids to gather and have fun, and not have to ~~to~~ travel great distances. No problems or concerns

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
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(559) 262-4321

Mr. Chambers

Please be advised that I have met with Charles Maxwell regarding; Director Review and Approval Application No. 4112 involving a commercial arena to be located on his property. We understand that this arena will be operated to a maximum of eighteen days with 60 to 70 people and will only be operated at night for family and friends. We also understand the arena will be watered prior to any event to control any and all dust.

Thank you

Mary L. Beckham

Name

9590 E. Millerton Rd Clovis, CA 93619

Address

138-300-18

APN

Comments; I do not have any issues concerning Charlie Maxwell's proposed commercial arena. In fact I believe that this will improve our area. Our children in the foothill/ mountains do not have any place to spend good quality time away from their home. This project will give children the opportunity to expand their growth.

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

Mr. Chambers

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Thank you

Charles Wood. Clewood.
Name

9855 MILLERSON ROAD
Address

138-061-80
APN

Comments; NO PROBLEM WITH ME

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

Mr. Chambers

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Thank you

William B. Braymer
Name

10441 E. Millerton Road, Clovis, CA 93619
Address

APN

Comments ;

No problem for rec. Not against

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

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Thank you

Masintford
Name

10122 Millerton Rd. Clovis Ca. 93619
Address

13806117
APN

Comments ;

I would like to come + water

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

Mr. Chambers

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Thank you



Name

Address

APN

Comments ;

WONT BOTHER ME OR WREC

County of Fresno
Department of Public Works and Planning

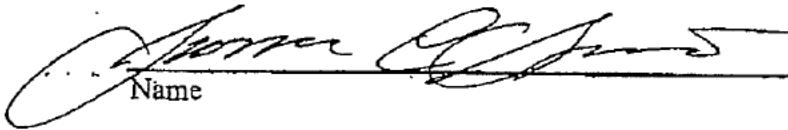
Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

Mr. Chambers

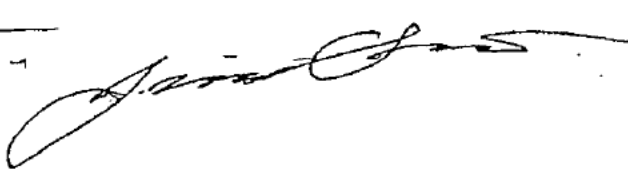
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Thank you


Name

10838 MILLERTON RD
Address

138-061-16
APN

Comments;
I FIND NO PROBLEM WITH
THIS REQUEST.


County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

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Thank you


Name

10677 ARBUSA RD. CLAVIS CA. 93618
Address

13845018
APN

Comments; FOR KID GOOD Deal.

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

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Thank you

WADE BRILL

Name

10740 FERROUSON RD

Address

13845017

APN

Comments;

GOOD LUCK !

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

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Thank you

S J LEACH
Name

11990 millerton Rd.
Address

138-021-88
APN

Comments; Be glad to see horse arena in this area. Arena lights are no better than bunch of house lites.

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

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Thank you

LARRY W. BYRD
Name

10708 MILLERTON RD
Address

13845-009
APN

Comments;

Larry W. Byrd



Agenda Item 14

DATE: September 27, 2011

TO: Board of Supervisors

FROM: Alan Weaver, Director
Alan Weaver
 Department of Public Works and Planning

SUBJECT: Resolution No. 12182 – Initial Study Application No. 6062 and Director Review and Approval Application No. 4112 filed by Charlie Maxwell – Appellant: Wade and Rhonda Haines

RECOMMENDED ACTION:

Consider and take action on appeal filed by Wade and Rhonda Haines of the Planning Commission's approval of Director Review and Approval Application No. 4112 and Initial Study Application No. 6062, to allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District. The project site is located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road, approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (Sup. Dist.: 5) (APN: 138-061-49). (Continued from February 23, 2010)

FISCAL IMPACT:

There is no net County cost associated with the recommended action.

IMPACTS ON JOB CREATION:

Approval of the recommended action should not impact the creation of jobs in Fresno County.

BACKGROUND / DISCUSSION:

This item comes to your Board on appeal of the Planning Commission's approval of the subject application. This item was originally heard by your Board on February 23, 2010. At that hearing, your Board voted to continue this item pending the outcome of a civil lawsuit filed against the

ADMINISTRATIVE OFFICE REVIEW _____ *[Signature]* Page 1 of 2
 BOARD ACTION: DATE September 27, 2011 APPROVED AS RECOMMENDED _____ OTHER _____



Official Action of
 Board of Supervisors
[Signature]
 Deputy

SEE PAGE THREE FOR BOARD ACTION

UNANIMOUS _____ ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POOCHIGIAN _____

Applicant by the Appellants of the subject application regarding access rights to the subject and surrounding properties. On August 8, 2011, Fresno Superior Court filed its judgment in favor of the Applicant, confirming the Applicant's legal ability to utilize the existing site access in conjunction with the proposed use.

On December 10, 2009, the Planning Commission considered the subject application filed by the Applicant. Testimony included those in opposition to the proposal citing concerns regarding decreased property values, increased traffic levels and the use of Rusty Spur Road (private road) for commercial purposes, increased noise and light levels and other aesthetic concerns, and possible negative impacts to wildlife. Those in support of the proposal cited that horse events provide a benefit to the community for both youth and adults, and that this would be a local resource that does not require great travel distances to reach.

After considering the information in the Staff Report, staff's presentation, and public testimony from the Applicant, the Commission voted six to one to adopt Resolution No. 12182 approving Director Review and Approval Application No. 4112. The Planning Commission stated their concurrence with staff's recommendation that the required Findings could be made with the inclusion of two additional conditions limiting the number of events to six youth-focused events and six adult-focused events annually, and a provision for a landscaping buffer adjacent to the southern and eastern boundaries of the arena to assist in screening views of the arena area from adjacent properties.

If your Board determines to uphold the Planning Commission's approval of the project, a simple denial motion denying the appeal and upholding the Commission's approval would be appropriate. If your Board were inclined to grant the appeal, a motion to uphold the appeal thus denying the project would be appropriate with clarification and reasoning as to which Findings cannot be made.

A copy of the August 8, 2011 Fresno County Superior Court Judgment in favor of the Defendant is attached as Exhibit "A". The February 23, 2010 Board Action including the recommended Conditions of Approval is attached as Exhibit "B".

Notices of the subject hearing were sent to 22 property owners within 600 feet of the subject property exceeding the minimum notification requirements prescribed by the California Government Code and the Fresno County Zoning Ordinance.

REFERENCE MATERIAL

BAI #18, February 23, 2010

CM:cwm
G:\4360Devs&Pin\ADMIN\BOARD\Board Items\2011\09-27-11\ORA 4112_AI.doc

CONDUCTED HEARING; RECEIVED PUBLIC TESTIMONY; CLOSED HEARING; DENIED APPEAL; ADOPTED FINDINGS AND APPROVED INITIAL STUDY APPLICATION NO. 6062 AND DIRECTOR REVIEW AND APPROVAL APPLICATION NO. 4112, SUBJECT TO CONDITIONS RECOMMENDED IN THE STAFF REPORT, INCLUDING STAFF'S MODIFICATION TO CONDITION NO. 2 RELATING TO LANDSCAPING TO REQUIRE TREES ALONG THE NORTHERN AND WESTERN PERIMETER OF THE ARENA (RATHER THAN TREES AND SHRUBS ALONG THE SOUTHERN AND EASTERN PERIMETER) AND THE FOLLOWING ADDITIONAL CONDITION: "APPROVAL OF THE USE PERMIT SHALL NOT BE VALID UNLESS/UNTIL THE APPLICANT ENTERS INTO AN AGREEMENT INDEMNIFYING THE COUNTY FOR LEGAL COSTS ASSOCIATED WITH APPROVAL OF THE PROJECT." FURTHER DIRECTED STAFF TO COORDINATE WITH THE CALIFORNIA HIGHWAY PATROL TO DISCUSS POSSIBLE NEED FOR SPEED LIMIT AND SIGNAGE CONTROL MEASURES ALONG MILLERTON ROAD

Motion by:	Anderson	Second by:	Case
Ayes:	Anderson, Case, Perea, Larson	Noes:	Poochigian
Abstentions:	None	Absentees:	0

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JONES HELSLEY PC
265 E. Riverpark Circle, Third Floor, Suite 310
P.O. Box 28340
Fresno, California 93729
Telephone: (559) 233-4800
Facsimile: (559) 233-9330

Timothy Jones #119841
John P. Kinsey #215916
Timothy A. Bennett #249600

Attorneys for: Defendants/Cross-Complainants, Charlie Maxwell, Tamara Maxwell, Terry Hall
and Teri Hall

FILED
AUG 08 2011
FRESNO COUNTY SUPERIOR COURT
By _____
DEPT. 503 - DEPUTY

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO - UNLIMITED CIVIL**

WADE HAINES, an individual, and
RHONDA HAINES, an individual,
BIRCHWOOD PARK, LLC, a California
limited liability company; WHITE
PROPERTIES, INC., a California
corporation; and JACK MURRAY, an
individual

Plaintiffs,

v.

CHARLIE MAXWELL, an individual;
TAMARA MAXWELL, an individual;
BIRCHWOOD PARK, LLC, a California
limited liability company; JOHN
SAMPLE, an individual; DORINDA
SAMPLE, an individual; TERRY HALL,
an individual; TERRI HALL, an
individual; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 09 CE CG 02582 AMS

**[PROPOSED] JUDGMENT AFTER
TRIAL BY SUPERIOR COURT**

Judge: Hon. Alan M. Simpson
Dept.: 503

AND RELATED CROSS-ACTION

(7009/002/00324535.DOC)

[PROPOSED]

SUPERIOR COURT
EXHIBIT A

1 The cause came on regularly for trial on July 13, 14, 18, 19 and 20, 2011, in
2 Department 503 of the above-entitled court, the Honorable Alan M. Simpson presiding,
3 sitting without a jury, a jury having been duly waived. Plaintiffs and Cross Defendants
4 Wade Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack
5 Murray appeared by their attorneys, Jason Helsel and David Richards of the law firm of
6 FOWLER/HELSEL; Defendants and Cross-Complainants Charlie Maxwell, Tamara
7 Maxwell, Terry Hall and Teri Hall appeared by their attorneys, Timothy Jones and Timothy
8 A. Bennett of the law firm of JONES HELSLEY PC. Evidence, both oral and documentary,
9 having been presented by both parties, the cause having been argued and submitted for
10 decision, the court having issued its decision on July 20, 2011, and no request having been
11 made by any party for a Statement of Decision.

12 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

13 As to the Second Amended Complaint filed in this action by Plaintiffs Wade
14 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, the
15 original of which was filed on September 10, 2010, and an amended version of which was
16 filed July 19, 2011, with leave to amend having been granted by the Court during trial
17 (collectively the "Second Amended Complaint"):

18 1. Plaintiffs Wade Haines, Rhonda Haines, Birchwood Park, LLC; White
19 Properties, Inc. and Jack Murray shall take nothing by reason of their Second Amended
20 Complaint against Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall;
21 and that judgment shall be and hereby is entered in favor of Defendants Charlie Maxwell,
22 Tamara Maxwell, Terry Hall and Teri Hall on the Second Amended Complaint on each of
23 the declarations sought therein; and

24 2. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
25 Teri Hall are the prevailing parties as against Plaintiffs Wade Haines, Rhonda Haines,
26 Birchwood Park, LLC; White Properties, Inc. and Jack Murray on their Second Amended
27 Complaint; and

28

(7009/002/00324535.pcc)

2

[PROPOSED]

Y SUPERIOR COURT

1 3. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
2 Teri Hall shall recover their costs in an amount to be determined pursuant to the timely filing
3 of a memorandum of costs and the Court shall retain jurisdiction to entertain a motion for
4 attorneys fees by the prevailing party in accordance with the laws of the State of California.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:**

6 As to the Cross-Complaint filed by Cross-Complainants Charlie Maxwell,
7 Tamara Maxwell, Terry Hall and Teri Hall on May 7, 2010, and as amended on July 20,
8 2011, with leave to amend having been granted by the Court ("Cross-Complaint"):

9 1. That Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry
10 Hall and Teri Hall hereby prevail on their Cross-Complaint against Cross-Defendants Wade
11 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, and
12 that the Court makes the following declarations:

13 A. The Sohm Easement does not limit the purpose of the trips for
14 the types of uses on the properties serviced by the easement,
15 whether residential, commercial or otherwise;

16 B. The Roadway Maintenance Agreement does not limit vehicle
17 trips to personal residential trips and allows vehicular trips for
18 any lawfully permitted uses by the County, including
19 commercial agricultural uses such as a the Proposed Project;

20 C. The Roadway Maintenance Agreement recorded against the
21 Hall Property is unenforceable as a matter of law and shall be
22 removed from Hall's chain of title;

23 2. That judgment shall be and hereby is entered in favor of Cross-
24 Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall as set forth
25 herein;

26 3. Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall
27 and Teri Hall are the prevailing parties against Cross-Defendants Wade Haines, Rhonda
28

1 Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray as to the Cross-
2 Complainants Cross-Complaint; and

3 4. That Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry
4 Hall and Teri Hall shall recover their costs in an amount to be determined pursuant to the
5 timely filing of a memorandum of costs and the Court shall retain jurisdiction to entertain a
6 motion for attorneys fees by the prevailing party in accordance with the laws of the State of
7 California.

8 DATED: August 6, 2011.

ALAN M. SIMPSON

Honorable Alan M. Simpson
Judge of the Superior Court

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APPROVED AS TO FORM:

DATED: August __, 2011.

Jason Helsel, Attorney for Plaintiffs and
Cross-Defendants Wade Haines, Rhonda Haines,
Birchwood Park, LLC; White Properties, Inc. and
Jack Murray

{7009/002/00324535.DOC }

[PROPOSED]-JU

UPERIOR COURT

Inter Office Memo



DATE: February 23, 2010

TO: Board of Supervisors

FROM: Alan Weaver, Director *Alan Weaver*
Department of Public Works and Planning

SUBJECT: Initial Study Application No. 6062 and Director Review and Approval Application No. 4112 (Charlie Maxwell) – Appellant: Wade and Rhonda Haines

RECOMMENDED ACTION

Consider and take action on appeal filed by Wade and Rhonda Haines of the Planning Commission's approval of Director Review and Approval Application No. 4112 and Initial Study No. 6062, to allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) District located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road, approximately three miles east of the unincorporated community of Friant. (10925 Rusty Spur Road) (SUP. DIST.: 5) (APN: 138-061-49).

BACKGROUND / DISCUSSION

This item comes to your Board on appeal of the Planning Commission's approval of the subject application.

The Fresno County Zoning Ordinance contains provisions that allow the Director of the Department of Public Works and Planning, at his discretion, to refer a Director Review and Approval (DRA) Application directly to the Planning Commission for a public hearing and decision. The decision of the Planning Commission on a DRA Application referred in this manner is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action. In the case of the subject application, the Director determined that the application be referred to the Commission for action based on concerns expressed by neighboring property owners regarding the proposed use.

On December 10, 2009, the Planning Commission considered the subject application filed by the Applicant. Testimony included those in opposition to the proposal citing concerns regarding decreased property values, increased traffic levels and the use of Rusty Spur Road for commercial purposes, increased noise and light levels and other aesthetic concerns, and possible negative impacts to wildlife. Those in support of the proposal cited that horse events provide a benefit to the community for both youth and adults, and that this would be a local resource that does not require great travel distances to reach.

After considering the information in the Staff Report, staff's presentation, and public testimony from the Applicant, the Commission voted six to one to adopt Resolution No.

Pg. 1 of 257

Board of Supervisors
February 23, 2010
Page 2

12182 approving Director Review and Approval Application No. 4112. The Planning Commission stated their concurrence with staff's recommendation that the required Findings could be made with the inclusion of two additional conditions limiting the number of events to six youth-focused events and six adult-focused events annually, and a provision for a landscaping buffer adjacent to the southern and eastern boundaries of the arena to assist in screening views of the arena area from adjacent properties.

If your Board determines to uphold the Planning Commission's approval of the project, a simple denial motion denying the appeal and upholding the Commission's approval would be appropriate. If your Board were inclined to grant the appeal, a motion to uphold the appeal thus denying the project would be appropriate with clarification and reasoning as to which Findings cannot be made.

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Agenda Item



DATE: February 23, 2010

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: Resolution No. 12182 - Initial Study Application No. 6062 and Director Review and Approval Application No. 4112

Applicant / Owner: Charlie and Tamara Maxwell

REQUEST: Allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) District.

LOCATION: The site is located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road. The site is approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (SUP. DIST. 5) (APN: 138-061-49).

PLANNING COMMISSION ACTION:

At its hearing of December 10, 2009, the Commission considered the Staff Report and testimony (summarized in Exhibit "A"). A motion was made by Commissioner Abrahamian and seconded by Commissioner Ferguson to adopt the required Findings and approve Director Review and Approval Application No. 4112, subject to the Conditions listed in Exhibit "B" with inclusion of additional Conditions limiting the annual number of events to six youth-focused events and six adult-focused events and provision for a landscaping buffer adjacent to the southern and eastern boundaries of the arena.

ADMINISTRATIVE OFFICE REVIEW Brandi Orth Page 3 of 257
 DATE: February 23, 2010 APPROVED AS RECOMMENDED _____ OTHER X



**CONDUCTED HEARING; RECEIVED PUBLIC TESTIMONY; CLOSED HEARING;
 CONTINUED AGENDA ITEM 18 UNTIL THE PENDING LAWSUIT USAGE OF THE
 PRIVATE ROAD HAS BEEN DETERMINED AND FINALIZED**

UNANIMOUS X ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POCHIGIAN _____

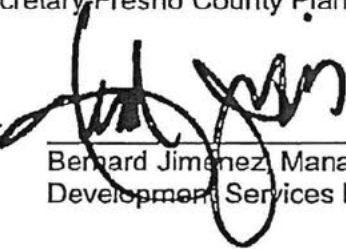
Board of Supervisors
February 23, 2010
Page 2

This motion passed on the following vote:

VOTING: Yes: Commissioners Abrahamian, Ferguson, Mendes,
Niswander, Rocca, Yancey
No: Commissioner Goodman
Absent: Commissioners Gill, Woolf
Abstain: None

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

By:



Bernard Jimenez, Manager
Development Services Division

Attachments

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EXHIBIT "A"

Initial Study Application No. 6062
Director Review and Approval Application No. 4112

- Staff:** The Fresno County Planning Commission considered the Staff Report dated December 10, 2009, and heard a summary presentation by staff.
- Applicant:** The Applicants' representative concurred with the Staff Report and the recommended Conditions. He described the project and offered the following information to clarify the intended use:
- The Applicants wish to host non-profit equestrian events.
 - No outdoor lighting is necessary for events as all proposed events will be conducted during daylight hours.
 - The road maintenance agreement established for Rusty Spur Road does not restrict land uses allowed on properties utilizing this private road for access.
 - Topographic features around the site will help to limit visibility of the events from neighboring properties.
 - There will be no boarding of horses allowed on the property.
- Others:** Five other individuals presented information in support of the application and 14 individuals presented information in opposition to the application citing concerns regarding traffic, reduction of property values, aesthetics, noise, and the use of Rusty Spur Road (a private road) for commercial purposes.
- Correspondence:** The Applicants' representative presented 99 letters of support for the proposal to the Planning Commission in addition to six letters of support included as Exhibit 9 in the Staff Report.
- Five letters of opposition to the proposal were presented to the Planning Commission in addition to 31 letters of opposition included as Exhibit 8 in the Staff Report, citing concerns regarding traffic, reduction of property values, aesthetics, noise, and the use of Rusty Spur Road for commercial purposes.

EXHIBIT "B"

Conditions of Approval

Initial Study Application No. 6062
Director Review and Approval Application No. 4112

1. There shall be no more than 12 event days per year consisting of six youth-focused event days and six adult-focused event days to be conducted on weekends between the months of April and September.
2. Additional landscaping, including trees and shrubs, to provide a vegetative screen shall be established and maintained along the southern and eastern perimeters of the arena. As part of the required Site Plan Review, a Landscaping and Irrigation Plan shall be submitted to and approved by Fresno County with said Landscaping Plan incorporating a landscape buffer no less than five feet in width, consisting of drought-tolerant evergreen shrubs and trees as approved by Fresno County's Department of Public Works and Planning. All landscaping shall be planted prior to operation.
3. The commercial horse arena shall be operated in substantial compliance with the Site Plan and Operational Statement as approved by the Planning Commission.
4. A Site Plan Review shall be submitted for review and approval by the Director of the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include but are not limited to design of parking and circulation, access, grading and drainage, and fire protection.
5. To address potential on-site dust impacts, active parking, circulation areas, and the riding arena shall be treated with a dust palliative as necessary to minimize creation of dust by vehicles and animals.
6. An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility.
- *7. Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis prepared by a qualified Acoustical Consultant with experience in evaluating community noise levels and standards. The Acoustical Analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The Acoustical Analysis shall be submitted to the Department of Public Health,

Environmental Health Division for review and approval. Mitigation Measures that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.

- *8. A 2,500-gallon water storage tank shall be provided in order to provide sufficient water supply for events.
- *9. The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.

*MITIGATION MEASURE – Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

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RESOLUTION NO. 12182

EXHIBIT "C"

ATTACHMENT
TO
AGENDA ITEM

FISCAL IMPACT STATEMENT

Initial Study Application No. 6062
Director Review and Approval Application No. 4112

Listed below are the fees collected for the land use applications involved in this Agenda Item:

Initial Study Application:	\$ 3,901.00
Director Review and Approval Application:	\$ 2,660.00
Health Department Review:	\$ <u>770.00</u>
Total Fees Collected	\$ <u>7,331.00</u>

G:\4360Devs&P\in\ADMIN\BOARD\Board Items\2010\2-23-10\DRA4112_AI.doc

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

OCT 21 2011

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BY _____
DEPUTY

6 Attorneys for: Defendants/Cross-Complainants, Charlie Maxwell, Tamara Maxwell,
7 Terry Hall and Teri Hall

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF FRESNO - UNLIMITED CIVIL**

10

11 WADE HAINES, an individual, and
12 RHONDA HAINES, an individual,
BIRCHWOOD PARK, LLC, a California
limited liability company; WHITE
13 PROPERTIES, INC., a California
corporation; and JACK MURRAY, an
14 individual

Case No. 09 CE CG 02582 AMS

**NOTICE OF ENTRY OF AMENDED
JUDGEMENT AFTER TRIAL BY
SUPERIOR COURT**

15 Plaintiffs,
16 v.

Judge: Hon. Alan M. Simpson
Dept.: 503

17 CHARLIE MAXWELL, an individual;
TAMARA MAXWELL, an individual;
18 BIRCHWOOD PARK, LLC, a California
limited liability company; JOHN
19 SAMPLE, an individual; DORINDA
SAMPLE, an individual; TERRY HALL,
20 an individual; TERRI HALL, an
individual; and DOES 1 through 50,
21 inclusive,

22 Defendants.

23 AND RELATED CROSS-ACTION
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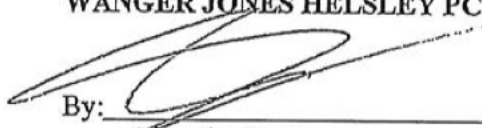
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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on October 19, 2011, the *Amended* Judgment After Trial By Superior Court, regarding above-referenced matter, was signed by the Honorable Alan M. Simpson and entered in favor of Defendants, Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall. A true and correct copy of the *Amended* Judgment is attached hereto as **Exhibit "A."**

DATED: October 20, 2011

WANGER JONES HELSLEY PC

By: 

Timothy Jones,
Attorneys for Defendants/Cross-Complainants,
Charlie Maxwell, Tamara Maxwell,
Terry Hall and Teri Hall

FILED

OCT 19 2011

FRESNO SUPERIOR COURT
By _____
DEPT. 503 - DEPUTY

1 **WANGER JONES HELSLEY PC**
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10 Attorneys for: Defendants/Cross-Complainants Charlie Maxwell, Tamara Maxwell,
11 Terry Hall and Teri Hall

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF FRESNO - UNLIMITED CIVIL**

14 WADE HAINES, an individual, and
15 RHONDA HAINES, an individual,
16 BIRCHWOOD PARK, LLC, a California
17 limited liability company; WHITE
18 PROPERTIES, INC., a California
19 corporation; and JACK MURRAY, an
20 individual

21 Plaintiffs,

22 v.

23 CHARLIE MAXWELL, an individual;
24 TAMARA MAXWELL, an individual;
25 BIRCHWOOD PARK, LLC, a California
26 limited liability company; JOHN
27 SAMPLE, an individual; DORINDA
28 SAMPLE, an individual; TERRY HALL,
an individual; TERRI HALL, an
individual; and DOES 1 through 50,
inclusive,

Defendants.

AND RELATED CROSS-ACTION

Case No. 09 CE CG 02582 AMS

**[PROPOSED] AMENDED
JUDGMENT AFTER TRIAL BY
SUPERIOR COURT**

Judge: Hon. Alan M. Simpson
Dept.: 503

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[PROPOSED] AMENDED JUDGMENT AFTER TRIAL BY SUPERIOR COURT EXHIBIT A

1 The cause came on regularly for trial on July 13, 14, 18, 19 and 20, 2011, in
2 Department 503 of the above-entitled court, the Honorable Alan M. Simpson presiding,
3 sitting without a jury, a jury having been duly waived. Plaintiffs and Cross Defendants
4 Wade Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack
5 Murray appeared by their attorneys, Jason Helsel and David Richards of the law firm of
6 FOWLER/HELSEL; Defendants and Cross-Complainants Charlie Maxwell, Tamara
7 Maxwell, Terry Hall and Teri Hall appeared by their attorneys, Timothy Jones and Timothy
8 A. Bennett of the law firm of JONES HELSLEY PC. Evidence, both oral and documentary,
9 having been presented by both parties, the cause having been argued and submitted for
10 decision, the court having issued its decision on July 20, 2011, and no request having been
11 made by any party for a Statement of Decision.

12 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

13 As to the Second Amended Complaint filed in this action by Plaintiffs Wade
14 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, the
15 original of which was filed on September 10, 2010, and an amended version of which was
16 filed July 19, 2011, with leave to amend having been granted by the Court during trial
17 (collectively the "Second Amended Complaint"):

18 1. Plaintiffs Wade Haines, Rhonda Haines, Birchwood Park, LLC; White
19 Properties, Inc. and Jack Murray shall take nothing by reason of their Second Amended
20 Complaint against Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall;
21 and that judgment shall be and hereby is entered in favor of Defendants Charlie Maxwell,
22 Tamara Maxwell, Terry Hall and Teri Hall on the Second Amended Complaint on each of
23 the declarations sought therein; and

24 2. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
25 Teri Hall are the prevailing parties as against Plaintiffs Wade Haines, Rhonda Haines,
26 Birchwood Park, LLC; White Properties, Inc. and Jack Murray on their Second Amended
27 Complaint; and

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1 3. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
2 Teri Hall shall recover their costs and attorneys' fees as provided below.

3 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:**

4 As to the Cross-Complaint filed by Cross-Complainants Charlie Maxwell,
5 Tamara Maxwell, Terry Hall and Teri Hall on May 7, 2010, and as amended on July 20,
6 2011, with leave to amend having been granted by the Court ("Cross-Complaint"):

7 1. That Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry
8 Hall and Teri Hall hereby prevail on their Cross-Complaint against Cross-Defendants Wade
9 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, and
10 that the Court makes the following declarations:

11 A. The Sohm Easement does not limit the purpose of the trips for
12 the types of uses on the properties serviced by the easement,
13 whether residential, commercial or otherwise;

14 B. The Roadway Maintenance Agreement does not limit vehicle
15 trips to personal residential trips and allows vehicular trips for
16 any lawfully permitted uses by the County, including
17 commercial agricultural uses such as a the Proposed Project;

18 C. The Roadway Maintenance Agreement recorded against the
19 Hall Property is unenforceable as a matter of law and shall be
20 removed from Hall's chain of title;

21 2. That judgment shall be and hereby is entered in favor of Cross-
22 Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall as set forth
23 herein;

24 3. Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall
25 and Teri Hall are the prevailing parties against Cross-Defendants Wade Haines, Rhonda
26 Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray as to the Cross-
27 Complainants Cross-Complaint; and
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4. That Defendants and Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall shall recover their costs in an amount of \$12,051.84, and their attorneys' fees as the prevailing parties in this action in the amount of \$262,036, pursuant to Section 1717 of the Civil Code.

ALAN M. SIMPSON

DATED: October 19, 2011.

Honorable Alan M. Simpson
Judge of the Superior Court

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PROOF OF SERVICE

1
2 My business address is 265 E. River Park Circle, Suite 310, Post Office Box
3 28340, Fresno, California 93729. I am employed in Fresno County, California. I am over the
4 age of 18 years and am not a party to this case.

5 On the date indicated below, I served the foregoing document(s) described as
6 **NOTICE OF ENTRY OF AMENDED JUDGEMENT AFTER TRIAL BY SUPERIOR**
7 **COURT** on all interested parties in this action by placing a true copy thereof enclosed in sealed
8 envelopes addressed as follows:

9 Jason A. Helsel
10 **FOWLER/HELSEL**
11 1724 Broadway Street
12 Fresno, CA 93721
13 Ph: (559) 840-4450
14 Fax: (800) 840-9450
15 E-mail: jason@helsellaw.com

16 (BY MAIL) I am readily familiar with the business' practice for collection
17 and processing of correspondence for mailing, and that correspondence, with
18 postage thereon fully prepaid, will be deposited with the United States Postal
19 Service on the date noted below in the ordinary course of business, at Fresno,
20 California.

21 _____ (BY PERSONAL SERVICE) I caused delivery of such envelope(s), by hand,
22 to the office(s) of the addressee(s).

23 _____ (BY ELECTRONIC MAIL) I caused such documents to be scanned into PDF
24 format and sent via electronic mail to the electronic mail addressee(s) of the
25 addressee(s) designated.

26 _____ (BY FACSIMILE) I caused the above-referenced document to be delivered
27 by facsimile to the facsimile number(s) of the addressee(s).

28 _____ (BY OVERNIGHT COURIER) I caused the above-referenced envelope(s) to
be delivered to an overnight courier service for delivery to the addressee(s).

EXECUTED ON October 20, 2011, at Fresno, California.

(STATE) I declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.

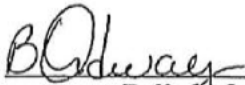

Belinda Ordway

EXHIBIT 10

Mitigation Measures/Conditions of Approval DRA No. 4602

- *1. All outdoor lighting shall be hooded and directed downward away from public streets and adjacent properties to reduce glare.
- *2. In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, videos, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.
- *3. Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an acoustical analysis prepared by a qualified acoustical consultant with experience in evaluating community noise levels and standards. The acoustical analysis shall address potential impacts to nearby noise-sensitive receivers from the proposed operation of arena events. The acoustical analysis shall be submitted to the Department of Public Health, Environmental Health Division for review and approval.

Mitigation Measures that may be identified in the acoustical analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.

- 4. A Traffic Management Plan (TMP) will be required to be submitted for review and approval. The TMP shall be designed to address the largest event and be used for smaller events.
- 5. All Conditions of Approval, Mitigation Measures, and Project Notes for Director Review and Approval (DRA) No. 4112 and 4465 shall remain in full force and effect, except as modified with the approval of DRA No. 4602.
- 6. There shall be no more than 72 event days per year in accordance with the event list provided in the approved Operational Statement.
- 7. The proposed project will meet the definition of a transient noncommunity public water system and must obtain a drinking water supply permit to use the on-site well. If the well has already been drilled, the Applicant shall submit a well driller's log for immediate review. The proposed project is subject to Senate Bill 1263 (SB 1263). SB 1263 requires a person submitting an application for a permit for a proposed new Public Water System (PWS) to first submit a preliminary technical report to the State Board at least 6 months before initiating construction of any water-related improvement. The State Board is authorized to deny the permit of a proposed PWS if it determines that it is reasonably foreseeable that the proposed PWS will be unable to provide affordable safe drinking water in the reasonably foreseeable future.

8. There shall be no overnight camping on the site.

*MITIGATION MEASURE - Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

**Conditions of Approval
DRA No. 4465**

1. All Conditions of Approval, Mitigation Measures and Project Notes for Director Review and Approval (DRA) No. 4112 shall remain in full force and effect, except as modified with the approval of DRA No. 4465.
2. There shall be no more than 24 event days per year consisting of at least six youth-focused equestrian event days and at least six adult-focused equestrian event days.

**Mitigation Measures/Conditions of Approval
DRA No. 4112**

1. There shall be no more than 12 event days per year consisting of six youth-focused event days and six adult-focused event days to be conducted on weekends between the months of April and September.
2. Additional landscaping trees shall be planted along the northern and western perimeter of the arena. As part of the required Site Plan Review, a Landscaping and Irrigation Plan shall be submitted to and approved by Fresno County with said Landscaping Plan incorporating a landscape buffer no less than five feet in width, consisting of drought-tolerant evergreen shrubs and trees as approved by Fresno County's Department of Public Works and Planning. All landscaping shall be planted prior to operation.
3. The commercial horse arena shall be operated in substantial compliance with the Site Plan and Operational Statement as approved by the Planning Commission.
4. A Site Plan Review shall be submitted for review and approval by the Director of the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include but are not limited to design of parking and circulation, access, grading and drainage, and fire protection.
5. To address potential on-site dust impacts, active parking, circulation areas, and the riding arena shall be treated with a dust palliative as necessary to minimize creation of dust by vehicles and animals.
6. An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility.
- *7. Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis prepared by a qualified Acoustical Consultant with experience in evaluating community noise levels and standards. The Acoustical Analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The Acoustical Analysis shall be submitted to the Department of Public Health.
- *8. A 2,500-gallon water storage tank shall be provided in order to provide sufficient water supply for events.
- *9. The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.

*MITIGATION MEASURE - Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document. and a new or amended environmental document may be required.