



**PLANNING COMMISSION OF THE CITY OF FOWLER  
MEETING AGENDA  
THURSDAY, JUNE 1, 2023  
6:30 P.M.  
CITY COUNCIL CHAMBER  
128 SOUTH 5TH STREET FOWLER, CA 93625**

In compliance with the Americans with Disabilities Act, if you need assistance or accommodations to access the City Council Chambers or participate in this meeting, please contact the Planning Secretary at (559) 834-3113 x118. Notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility.

Planning Commission meetings are open to the public at the physical address listed above. There are numerous ways to participate in the Planning Commission meetings: you may attend in person, you may appear by telephone as described below, or you may submit written comments via email to [maguilar@ci.fowler.ca.us](mailto:maguilar@ci.fowler.ca.us). Please include your name and reference the agenda item you are commenting on, if any. Written comments received that do not specify an agenda item will be marked for the general public comment portion of the agenda. Emails received by 8:00 am on the date of the meeting will be provided to the Planning Commission at the meeting and made part of the record of proceedings but will not be read aloud.

En cumplimiento con la Acta de Americanos con Discapacidades si necesita asistencia o adaptaciones para acceder a las Cámaras del Concejo de la Ciudad o participar en esta reunión, comuníquese con el secretario de la ciudad al (559) 834-3113 x102. También puede ponerse en contacto con el secretario si necesita servicios de traducción. La notificación al menos 48 horas antes de la reunión permitirá a la Ciudad hacer arreglos razonables para garantizar la accesibilidad.

**The telephone number and Zoom link listed below will provide access to the meeting via teleconference or video conference.**

<https://us06web.zoom.us/j/88323215753?pwd=eFpXUIRXTXJvR05PSE1sZm02a1BsZz09>

**Telephone Number: (253) 215-8782**

**Meeting ID: 883 2321 5753**

**Passcode: 418006**

**Persons accessing the meeting will have an opportunity to provide comments at appropriate times during the meeting. To speak during a public comment period, press \*9 on your phone to raise your hand or click “raise hand” in the webinar. At the appropriate time, you will be prompted to unmute yourself, and asked to identify yourself when providing public comment.**

Any writing or document that is a public record and provided to a majority of the Planning Commission regarding an open session item on the agenda will be made available for public inspection at City Hall, in the City Clerk's office, during normal business hours. In addition, such writings and documents may be posted on the City's website at [www.fowlercivcity.org](http://www.fowlercivcity.org).

Resolutions and Ordinances - With respect to the approval of resolutions and ordinances, the reading of the title thereto shall be deemed a motion to waive a reading of the complete resolution or ordinance and unless there is a request by a Commissioner that the resolution or ordinance be read in full, further reading of the resolution or ordinance shall be deemed waived by unanimous consent of the Planning Commission.

1. Meeting Called to Order
2. Roll Call
3. Public Comment

*This portion of the meeting is reserved for persons desiring to address the Commission on any matter not described on this agenda. Presentations are limited to 5 minutes per person and no more than 15 minutes per topic.*

4. Consent Calendar

Items on the Consent Calendar are considered routine and include a recommended action from Staff and shall be acted on by one motion of the Planning Commission. If a Commissioner requests additional information or would like to pull an item for discussion, that item shall be pulled from the Consent Calendar and acted upon separately. A Commissioner may register an action on an individual item without pulling the item from the Consent Calendar. A motion to approve the Consent Calendar is deemed to include a motion to waive the full reading of any ordinance or resolution on the Consent Calendar. For adoption of ordinances, only those which received a unanimous vote of the Commissioners present at introduction shall be eligible for placement on the Consent Calendar.

- a. Approve minutes of March 2, 2023 Planning Commission Meeting
  - b. Approve minutes of March 28, 2023 Planning Commission Special Meeting
  - c. Approve minutes of April 19, 2023 Planning Commission Meeting
5. Contested Consent Calendar - Items pulled from the Consent Calendar will be heard individually immediately after action is taken on the Consent Calendar.

6. Actions Pertaining Street Vacation 22-18, a request to summarily vacate a portion of the East Sumner Avenue right-of-way that abuts Assessor's Parcel Numbers (APNs) 343-110-12 and 343-340-01.
  - a. ADOPT Resolution No. 689, determining that the proposed vacation is in conformity with the City of Fowler 2040 General Plan and that proposed vacation does not meet the definition of a "project" pursuant to CEQA guidelines Section 15378.
7. Actions Pertaining to Tentative Parcel Map (TPM) 23-01.
  - a. APPROVE Resolution No. 690 approving TPM 23-01, resulting in the land division of Assessor's Parcel Number (APN) 345-180-30 into ten (10) resulting parcels.
8. Actions pertaining to applications by the Fowler Baptist Church at the southeast corner of East Merced and South 3rd Streets to:
  - a. ADOPT Class 1 and Class 5 categorical exemptions from further environmental review pursuant to CEQA Guidelines sections 15301 and 15305.
  - b. APPROVE Lot Line Adjustment ("LLA") 23-09, to merge Assessor Parcel Numbers (APN) 343-182-12 and 343-182-16.
  - c. APPROVE Conditional Use Permit ("CUP") 23-11, an approximately 1,440 (sqft) expansion of the Fowler Baptist Church.
9. Public Hearing to CONSIDER the Revocation of Conditional Use Permit (CUP) 15-04 at 2396 South Golden State Boulevard (APN: 345-110-90)

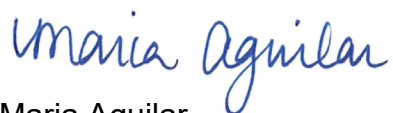
10. Staff Communications

11. Commissioner Reports and Comments

12. Adjourn

*Next Resolution No. 693*

CERTIFICATION: I, Maria Aguilar, Planning Secretary for the City of Fowler, California, hereby certify that the foregoing agenda was posted for public review on Friday May 26, 2023.



Maria Aguilar  
Planning Secretary

***MINUTES OF THE PLANNING COMMISSION OF THE CITY OF FOWLER***  
***Thursday, March 2, 2023***

Chair Mellon called the meeting to order at 6:32 PM. Roll call was taken.

Commissioners Present: Chair Mellon, Vice Chair Kandarian, Prado, Rodriguez

Commissioners Absent: Hammer

City Staff Present: Community & Economic Development Director Gaffery, City Planner Marple, City Attorney Cross, Planning Secretary Aguilar

**3. Public Presentation**

a. None

**4. APPROVE Minutes of the January 2, 2023, Planning Commission Meeting**

Motion made by Vice Chair Kandarian

Seconded by Commissioner Prado

Ayes: Mellon, Kandarian, Prado, Rodriguez

**5. RECOMMEND that the City Council of the City of Fowler accept the 2022 Annual Progress Report for the City of Fowler General Plan and Housing Element, and direct staff to submit the report to the California Office of Planning and Research (OPR), and the California Department of Housing and Community Development (HCD).**

Motion made by Commissioner Prado

Seconded by Vice Chair Kandarian

Ayes: Mellon, Kandarian, Prado, Rodriguez

**6. Actions pertaining to the reconsideration of Conditional Use Permit No. 19-02 for a request to construct a 34-room, two-story hotel and a 2,150-square foot residence, at a 312 West Tuolumne Street (APN: 343-110-13):**

**a. ADOPT a categorical exemption pursuant to the California Quality Act (CEQA) Guidelines Section 15332.**

**b. APPROVE Resolution No. 686 approving Conditional Use Permit No. 19-02.**

Motion made by Vice Chair Kandarian to continue the item to April 6, 2023 Planning Commission meeting.

Seconded by Commissioner Rodriguez

Ayes: Mellon, Kandarian, Prado, Rodriguez



**7. WORKSHOP on the APA California Conference**

No actions taken.

**8. Commissioner Reports and Comments**

No actions taken.

**9. Adjournment**

Motion made Commissioner Prado

Seconded by Commissioner Rodriguez

Motion carried by a voice vote at 6:56 PM

***MINUTES OF THE PLANNING COMMISSION OF THE CITY OF FOWLER***  
***SPECIAL MEETING***  
***Thursday, March 28, 2023***

Chair Mellon called the meeting to order at 6:04 PM. Roll call was taken.

Commissioners Present: Chair Mellon, Hammer, Prado, Rodriguez

Commissioners Absent: Vice Chair Kandarian (arrived at 6:13PM)

City Staff Present: City Manager Tucker, Community & Economic Development Director Gaffery, City Planner Marple, Deputy City Attorney Lear, Planning Secretary Aguilar

**3. Public Comment**

None

**4. PUBLIC HEARING TO CONSIDER the City of Fowler 2040 General Plan Update and City of Fowler 2040 General Plan Environmental Impact Report**

Motion made by Commissioner Rodriguez to approve Resolution No. 687.

Seconded by Commissioner Prado

Ayes: Mellon, Kandarian, Hammer, Prado, Rodriguez

Motion made by Vice Chair Kandarian to approve Resolution No. 688.

Seconded by Commissioner Hammer

Ayes: Mellon, Kandarian, Hammer, Prado, Rodriguez

**5. Staff Communications**

Staff confirmed a Planning Commission Special Meeting on April 19, 2023 at 6:00 PM in the Council Chamber.

**6. Commissioner Reports and Comments**

No actions taken.

**7. Adjournment**

Meeting adjourned at 6:48 by Chair Mellon.

***MINUTES OF THE PLANNING COMMISSION OF THE CITY OF FOWLER***

***Wednesday, April 19, 2023***

Chair Mellon called the meeting to order at 6:00 PM. Roll call was taken.

Commissioners Present: Chair Mellon, Vice Chair Kandarian, Hammer, Prado, Rodriguez

Commissioners Absent: None

City Staff Present: Community & Economic Development Director Gaffery, City Planner Marple, Deputy City Attorney Lear

**3. Public Presentation**

None

**4. Actions pertaining to the reconsideration of Conditional Use Permit No. 19-02 for a request to construct a 34-room, two-story hotel and a 2,150-square foot residence, at 312 West Tuolumne Street (APN: 343-110-13).**

**a. ADOPT a categorical exemption pursuant to the California Quality Act (CEQA) Guidelines Section 15332.**

**b. APPROVE Resolution No. 686 approving Conditional Use Permit No. 19-02.**

Motion to deny made by Commissioner Prado

Seconded by Commissioner Hammer

Ayes: Mellon, Kandarian, Hammer Prado

Nays : Rodriguez

**5. Staff Communications**

No action taken.

**6. Commissioner Reports and Comments**

No action taken.

**7. Adjournment**

Meeting adjourned at 6:39 PM by Chair Mellon



## PLANNING COMMISSION OF THE CITY OF FOWLER

ITEM NO:7

### **REPORT TO THE PLANNING COMMISSION**

June 1, 2023

**FROM** DAWN E. MARPLE, City Planner

### **SUBJECT**

Actions Pertaining Street Vacation 22-18, a request to summarily vacate a portion of the East Sumner Avenue right-of-way that abuts Assessor's Parcel Numbers (APNs) 343-110-12 and 343-340-01.

- a. ADOPT Resolution No. 689, determining that the proposed vacation is in conformity with the City of Fowler 2040 General Plan and that proposed vacation does not meet the definition of a "project" pursuant to CEQA guidelines Section 15378.

### **RECOMMENDATION**

Staff recommends the Planning Commission adopts a resolution finding that the proposed vacation of a portion of the East Sumner Avenue right-of-way abutting APNs 343-110-12 and 343-110-02 conforms to the City of Fowler 2040 General Plan and that proposed vacation does not meet the definition of a "project" pursuant to CEQA guidelines Section 15378.

### **BACKGROUND**

The proposed street vacation is located at the northeast corner of the intersection of North Sumner Avenue and West Merced Street, northwest of the existing Johnny Quik convenience store and Valero gas station. The property owner of APN 343-110-12 has requested that the City consider vacating this portion of the right-of-way in order to eliminate a "paper street", a situation where a right-of-way exists but is not improved. The City has no plans to utilize this portion of the right-of-way due to the previous construction of State Route 99. The width of the proposed vacation is approximately 40 feet.

Streets and Highways Code section 8331 provides that a local agency may summarily vacate a street or highway so long as: (1) the street or highway has been impassable for vehicular travel for a period of five (5) consecutive years, and (2) no public money was used for the maintenance of the street or

highway during such period. The subject right-of-way meets these conditions. Accordingly, a local agency may summarily vacate an excess right-of-way of a street or highway not required for street or highway purposes. (Sts. & Hy. Code § 8334, subd. (a).)

Pursuant to Government Code Section 65402, subdivision (a), the Planning Commission must render a determination as to whether the proposed street vacation is in conformance with the City's General Plan. The Planning Commission shall then forward a report containing that determination to the City Council. The City Council must consider and take action upon the Planning Commission's report within forty (40) days. If ultimately approved, the right-of-way vacation would result in the City quitclaiming approximately half of the width of the right-of-way to each of the two abutting parcels. The two portions of land conveyed to the two owners of these parcels would acquire the planned land use and zoning of the parcel that each portion abuts. APN 343-110-12 is planned for Neighborhood Commercial land uses, while APN 343-110-02 is planned for General Commercial land uses. Both parcels are zoned C-H (Highway Commercial).

The proposed Street Vacation was originally scheduled to be considered at the May 4, 2023 Planning Commission hearing; however it was rescheduled to June 1<sup>st</sup> due to the lack of a quorum at the May 4<sup>th</sup> hearing.

### **General Plan Conformity**

The portion of the East Sumner Avenue right-of-way proposed for vacation is not reflected as one of the four major street types (freeway, expressway, arterial, collector) identified in the Mobility (Circulation) Element of the General Plan and is not illustrated on the circulation diagram. Further, it does not meet the minimum width (60 feet) to qualify as a local street. Accordingly, the easement vacation will not impede the City's ability to meet its general plan goals and policies. Accordingly, staff recommends that the Planning Commission determines that the vacation conforms to and is consistent with the City of Fowler 2040 General Plan.

### **ENVIRONMENTAL FINDINGS**

The Planning Commission's determination of conformity with the City of Fowler 2040 General Plan would not result in a direct physical change or reasonably foreseeable indirect physical change to the environment, nor is the Commission issuing a lease, permit, license, certificate, or other entitlement for use or making a recommendation about any such issuance. Therefore, the Commission's determination does not fall within the definition of a "project" pursuant to CEQA Guidelines Section 15378 and no further environmental review is required.

### **CONFLICT OF INTEREST**

Staff is not aware of any material conflicts of interest; however, Planning Commission Chair Mellon resides within 1,000 feet of the proposed vacation. (2 CCR § 18702.2, subd. (a)(8).)

Attachments:

- Exhibit 1: Street Vacation 22-18
- Exhibit 2: Assessor's Map
- Resolution No. 689

Exhibit 1: Street Vacation 22-18

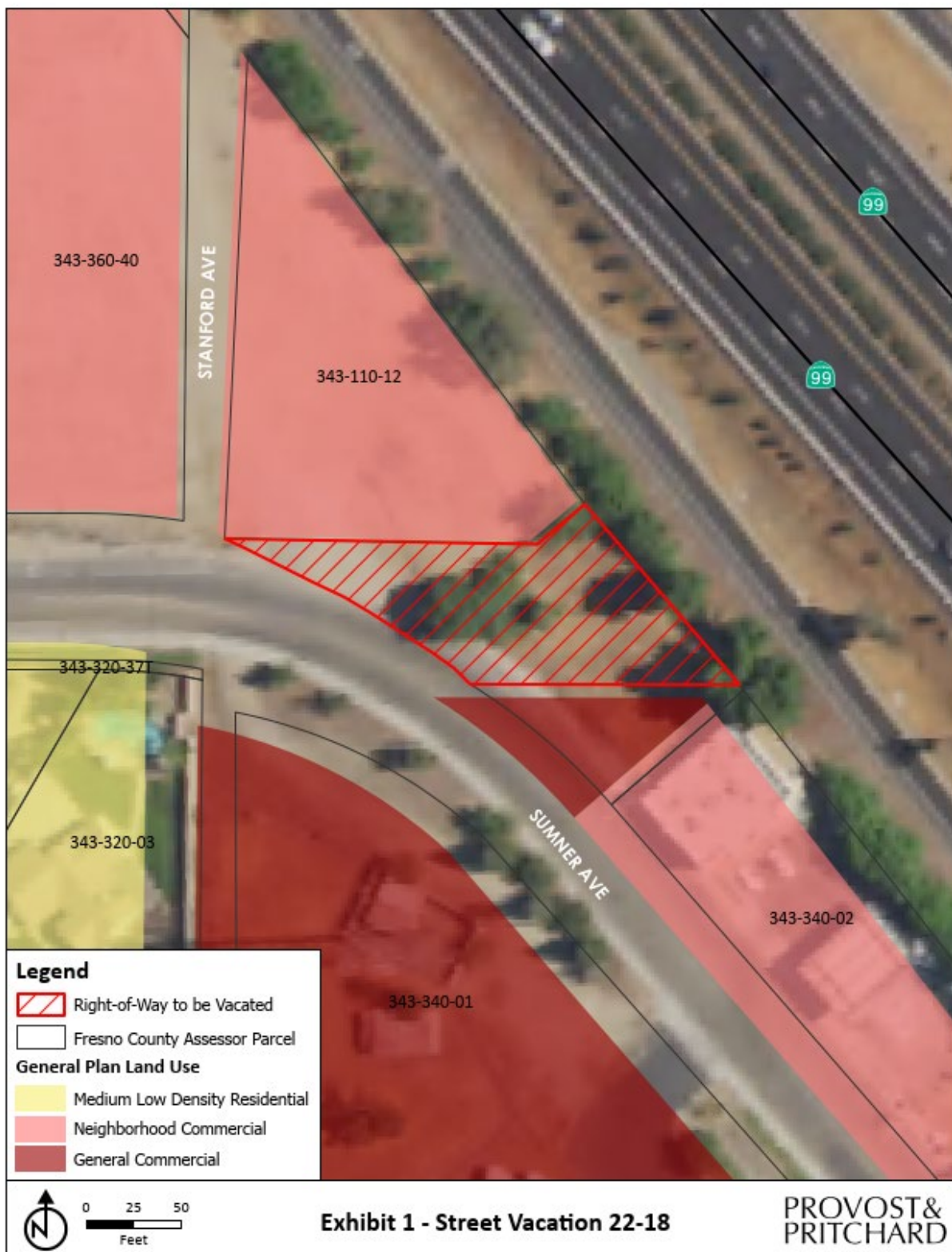


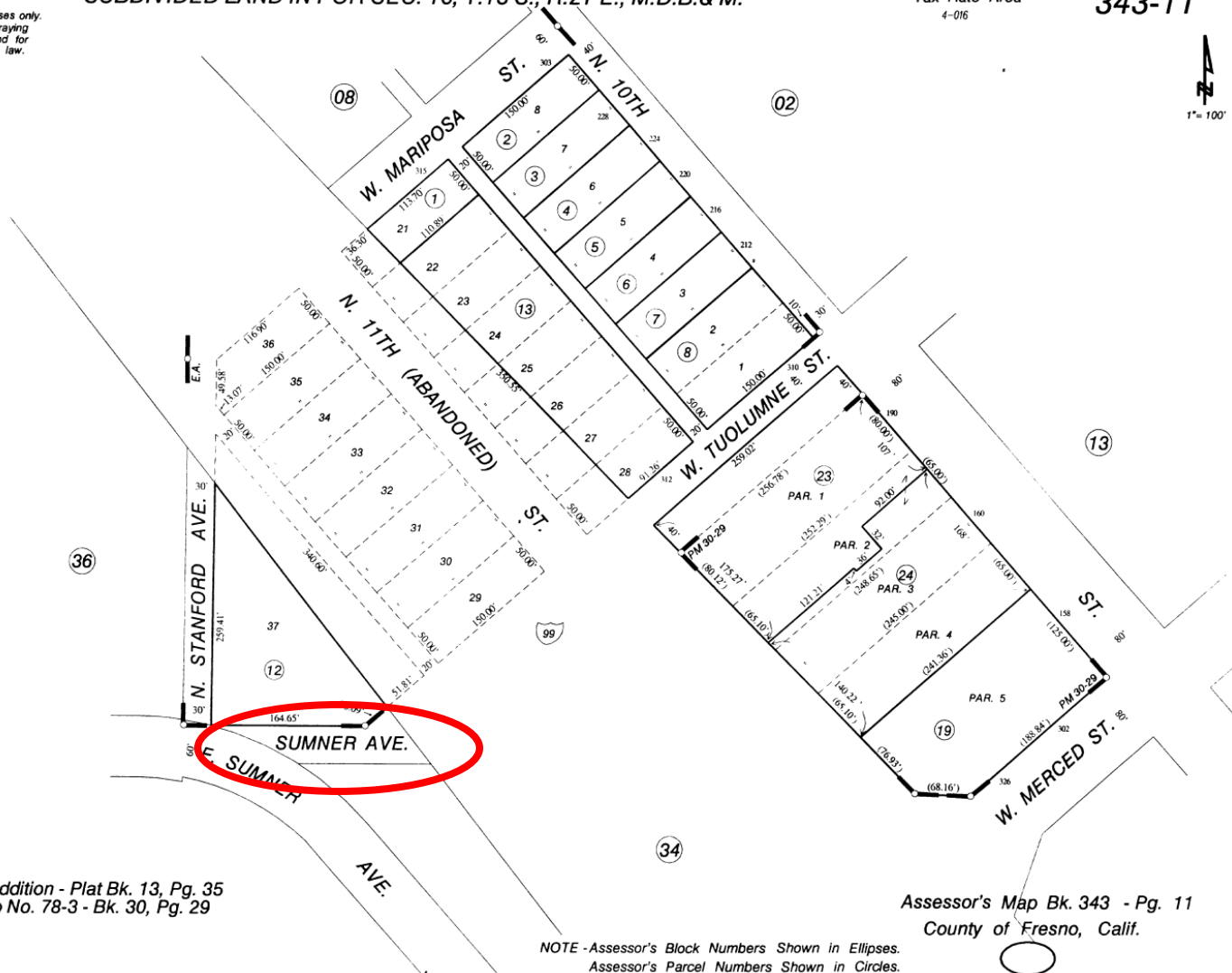
Exhibit 2: Assessor's Map

--- NOTE ---  
This map is for Assessment purposes only.  
It is not to be construed as portraying  
legal ownership or divisions of land for  
purposes of zoning or subdivision law.

SUBDIVIDED LAND IN POR SEC. 16, T.15 S., R.21 E., M.D.B.& M.

Tax Rate Area  
4-016

343-11



Elmerlee Addition - Plat Bk. 13, Pg. 35  
Parcel Map No. 78-3 - Bk. 30, Pg. 29

Assessor's Map Bk. 343 - Pg. 11  
County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses.  
Assessor's Parcel Numbers Shown in Circles.



## **RESOLUTION NO. 689**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FOWLER COUNTY OF FRESNO, STATE OF CALIFORNIA, DETERMINING THAT STREET VACATION 22-18 IS IN CONFORMANCE WITH THE CITY OF FOWLER 2040 GENERAL PLAN AND THAT STREET VACATION 22-18 DOES NOT FALL WITHIN THE DEFINITION OF A “PROJECT” UNDER CEQA GUIDELINES SECTION 15378.**

**WHEREAS**, Streets and Highways Code Division 9, Part 3, Chapter 4 authorizes local agencies to summarily vacate a street or highway in different circumstances, each an independent basis to effect a summary vacation of an easement; and

**WHEREAS**, Streets and Highways Code Section 8331 provides that the legislative body of a local agency may summarily vacate a street or highway if, for a period of five (5) consecutive years, the street or highway has been impassable for vehicular travel and no public money was expended for maintenance of the street or highway during such period; and

**WHEREAS**, Streets and Highways Code section 8334, subdivision (a) provides that the legislative body of a local agency may summarily vacate an excess right-of-way of a street or highway not required for street or highway purposes; and

**WHEREAS**, the owner of Assessor’s Parcel Number (APN) 343-110-12 has requested vacation of the portion of the East Sumner Avenue right-of way that abuts APNs 343-110-12 and 343-110-02; and

**WHEREAS**, the City of Fowler is the sole owner of the easement and the easement does not continue through such ownership or end touching property of another; and

**WHEREAS**, pursuant to Government Code Section 65402, the City of Fowler Planning Commission (Planning Commission) must render a determination as to whether a proposed street vacation is in conformance with the City’s General Plan; and

**WHEREAS**, after the Planning Commission has made its determination, it must provide a report containing its determination to the Fowler City Council. The City Council then must consider and take action upon the Planning Commission’s report within forty (40) days; and

**WHEREAS**, the portion of East Sumner Avenue proposed for vacation is not identified as a planned major street within the Mobility (Circulation) Element of the City of Fowler 2040 General Plan and does not meet the minimum width requirement for a local street pursuant to the Mobility Element; and

**WHEREAS**, the Fowler Planning Commission considered Street Vacation 22-18 at a regular meeting on June 1, 2023; and

**WHEREAS**, the Planning Commission has independently reviewed and considered the proposed street vacation and considered all comments, written and oral, received from persons

who reviewed or otherwise commented on Street Vacation 22-18; and

**WHEREAS**, the Planning Commission’s determination regarding Street Vacation 22-18 would not result in a direct physical change or reasonable foreseeable indirect change to the environment, nor is the Commission issuing a lease, permit, license, certificate, or other entitlement for use or making a recommendation about any such issuance.

**NOW THEREFORE, BASED UPON THE ENTIRE RECORD OF THE PROCEEDINGS, THE PLANNING COMMISSION RESOLVES AS FOLLOWS:**

1. This determination by the Planning Commission regarding Street Vacation 22-18 does not fall within the definition of a “project” under CEQA Guidelines Section 15378.
2. Street Vacation 22-18 is in conformance with the City of Fowler 2040 General Plan.
3. The City Planner is hereby directed to convey a report of this determination to the City Council of the City of Fowler.

**PASSED, APPROVED AND ADOPTED** this 1st day of June 2023, at a Regular Meeting of the Planning Commission of the City of Fowler by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

**APPROVED:**

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Craig Mellon, Chair

**ATTEST:**

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Maria Aguilar, Secretary of the Planning Commission



## **PLANNING COMMISSION OF THE CITY OF FOWLER**

ITEM NO: 8

### **REPORT TO THE PLANNING COMMISSION**

June 1, 2023

**FROM** DAWN E. MARPLE, City Planner

### **SUBJECT**

Actions Pertaining to Tentative Parcel Map (TPM) 23-01.

- a. APPROVE Resolution No. 690 approving TPM 23-01, resulting in the subdivision of Assessor's Parcel Number (APN) 345-180-30 into ten (10) resulting parcels.

### **RECOMMENDATION**

Staff recommends the Planning Commission adopt a resolution conditionally approving TPM 23-01. The decision of the Planning Commission is final unless appealed to the City Council.

### **BACKGROUND**

John Zumwalt, on behalf of Marcelyn and Tom Buford ("Applicant"), proposes to subdivide an approximately 18.72-acre property, generally located at the northwest corner of Manning Avenue and Golden State Boulevard (APN 345-180-30), into ten (10) smaller commercial lots. The project site is located within the C-3 (General Commercial) zone district and is designated for General Commercial land use by the City's General Plan land use map.

On January 9, 2020, Planning Commission approved Conditional Use Permit (CUP) 17-03 and an associated site plan for the subject property. CUP 17-03 proposed the construction of a commercial development, containing a variety of commercial uses which were approved under CUP 17-03. Additionally, the Planning Commission adopted an environmental impact report (EIR) for the development proposed under CUP 17-03. CUP 17-03 and its associated site plan were subsequently given extensions on March 4, 2021, and December 1, 2022. To date, no construction activities have occurred. The Applicant now wishes to subdivide the property in general conformance with the lots depicted on the project's previously approved site plan.

## PROJECT PROPOSAL

TPM 23-01 would result in the subdivision of APN 345-180-30 into ten (10) smaller parcels. Two (2) of the ten (10) resulting parcels would be less than 1,600 square feet in size and would be used to house signage for the larger development. Additionally, one of the resulting parcels is intended to be utilized as a drainage basin, serving the larger development. The site has been previously analyzed under CUP 17-03 for the construction of a commercial development on the 18.72-acre site. Approval of TPM 23-01 would result in the following parcels:

- Parcel 1 – 6.23 acres
- Parcel 2 – 1.13 acres
- Parcel 3 – 2.17 acres
- Parcel 4 – 0.03 acres
- Parcel 5 – 2.49 acres
- Parcel 6 – 1.67 acres
- Parcel 7 – 0.63 acres
- Parcel 8 – 0.92 acres
- Parcel 9 – 1.16 acres
- Parcel 10 - 0.04 acres

Furthermore, a private street (Buford Way) is proposed on-site to connect East Valley Drive to the north of the site, to Manning Avenue to the south of the site. The acreage set aside for the development of this street is approximately 2.10 acres. Acreages contained within this section may differ slightly from the parcel map due to rounding.

Following recordation of TPM 23-01, the property would be developed in general conformance with the site plan approved under CUP 17-03, resulting in a new commercial development built out to C-3 zoning standards.

## TENTATIVE PARCEL MAP FINDINGS

Prior to approving a tentative parcel map, the Planning Commission must make findings as prescribed by Title 3, Section 302 of the City of Fowler Subdivision Ordinance. Should any of the following findings be made, the City may deny the map:

***1. That the proposed subdivision is not consistent with applicable General and specific plans.***

The proposed subdivision is located on land that is planned and zoned for general commercial land uses. The project has been determined to be consistent with the General Plan and would not conflict with any applicable specific plan.

***2. That the design or improvement of the proposed subdivision is not consistent with applicable General and specific plans.***

Staff has reviewed the proposed subdivision and determined that the proposed design and improvements would not create an inconsistency with the General Plan or any applicable specific plan.

**3. *That the site is not physically suitable for the type of development.***

Staff has reviewed the proposed subdivision and determined that it is suitable for commercial development.

**4. *That the site is not physically suitable for the proposed density of development.***

For commercial uses, density is driven by floor area ratio of proposed buildings. Under CUP 17-03, a site plan depicting the square footage and floor area ratio of buildings proposed to be developed were approved. As a result, the site was previously determined to be suitable for the type of development proposed.

**5. *That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.***

The site plan analyzed under CUP 17-03 resulted in the preparation and adoption of an EIR for the subject property. TPM 23-01 would result in the division of lots in general conformance with the site plan that was previously approved. The division of one parcel into 10 smaller parcels would not have a substantial impact on the environment.

**6. *That the design of the subdivision or the type of improvements is likely to cause serious public health concerns.***

The proposed division of land under TPM 23-01 would not have the potential to cause serious public health concerns. Staff has reviewed the proposal and conditioned the project in order to ensure that public health is maintained.

**7. *That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public-at-large, for access through or use of, property within the proposed subdivision.***

All existing easements shall be maintained, and the project has been conditioned to provide an offer of dedication for public utility easements, in addition to an offer of dedication of an easement for sewer purposes for APN 345-180-18, abutting the site to the east. The location of all existing and proposed easements have been reviewed and confirmed by the City Engineer.

**8. *The City shall deny approval of a tentative map, or a tentative parcel map if it finds that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and that the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use.***

The site is located within the City of Fowler and is not located on land that is subject to a Williamson Contract or any other form of a land conservation easement.

## ENVIRONMENTAL FINDINGS

As previously discussed, an EIR was adopted by the Planning Commission for CUP 17-03 and its associated site plan in 2020. Under approval of CUP 17-03 and the site plan, the division of lots and buildout of these lots was previously contemplated and analyzed. TPM 23-01 proposes to formally divide the land in general conformance with the previous approvals. As a result, TPM 23-01 would generally conform to the analysis contained within the previously approved EIR and no further environmental analysis is required. (14 CCR § 15162, subd. (a).)

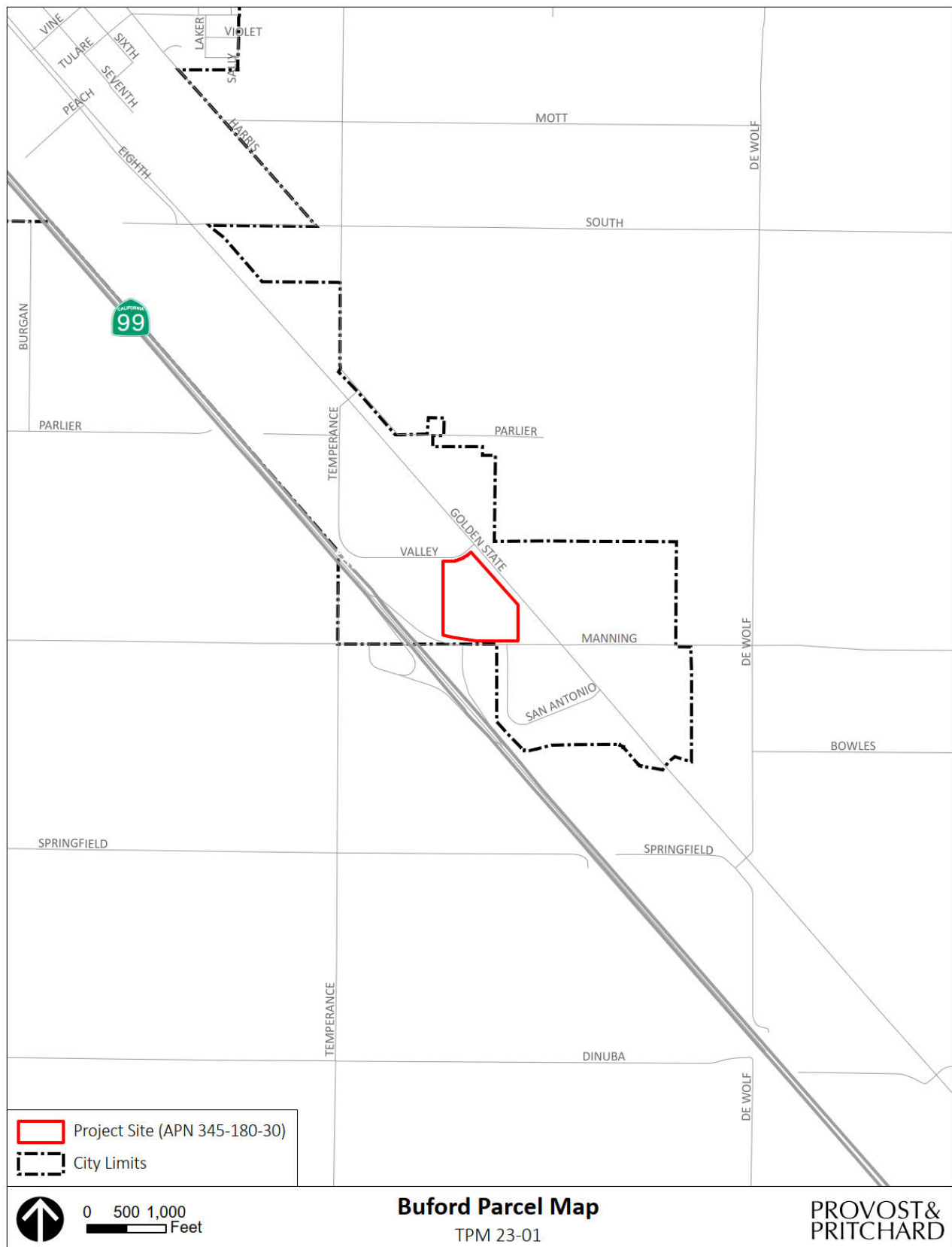
## **CONFLICT OF INTEREST**

Staff is not aware of any conflicts of interest.

### Attachments

- Attachment 1: Regional Vicinity Map
- Attachment 2: Aerial Map
- Attachment 3: Zoning Map
- Attachment 4: General Plan Land Use Map
- Attachment 5: Parcel Map – TPM 23-01
- Planning Commission Resolution 690
- Attachment A: Conditions of Approval & Exhibit 1  
Conditions of Approval CUP No. 17-03

## Attachment 1: Regional Vicinity Map



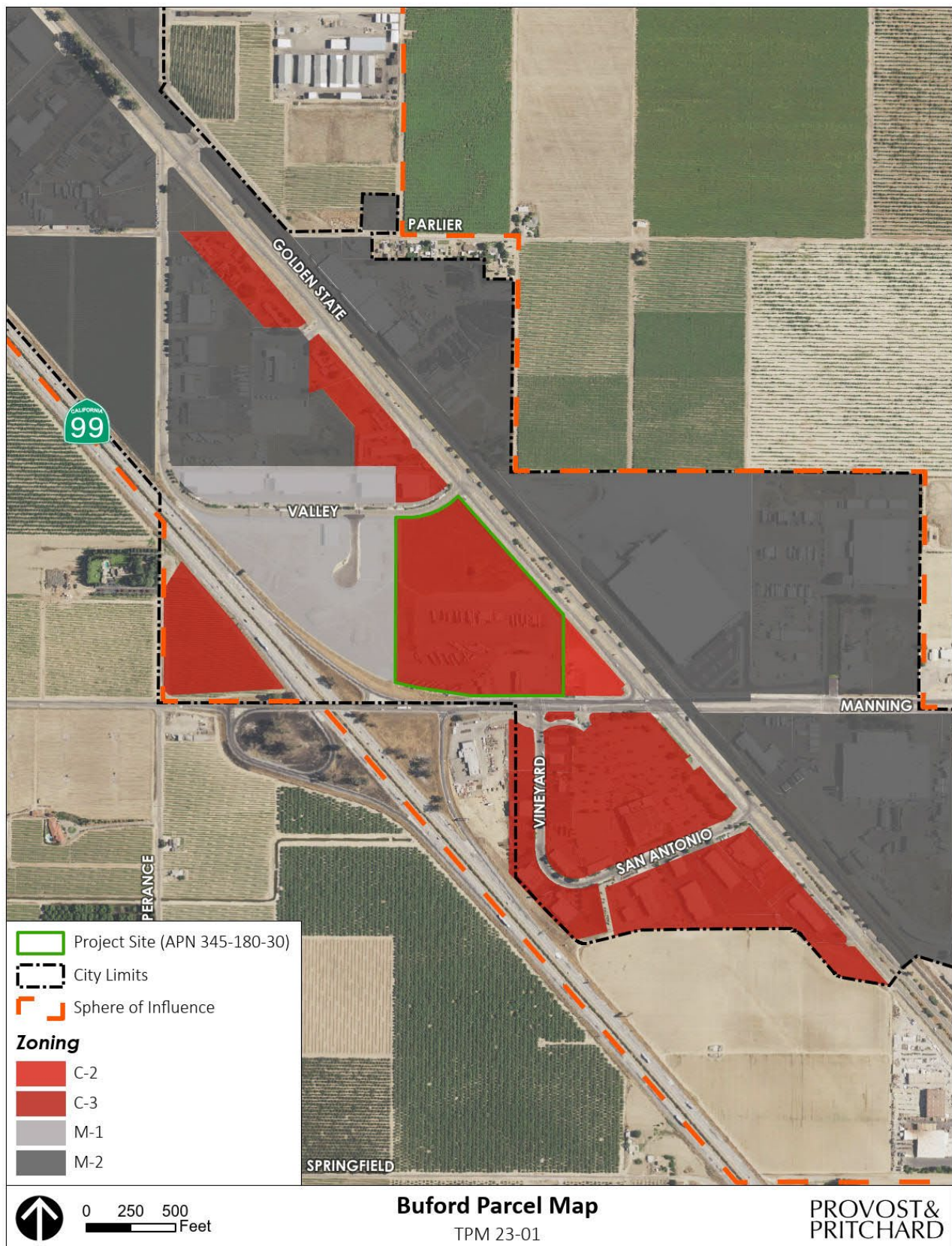


## Attachment 2: Aerial Map



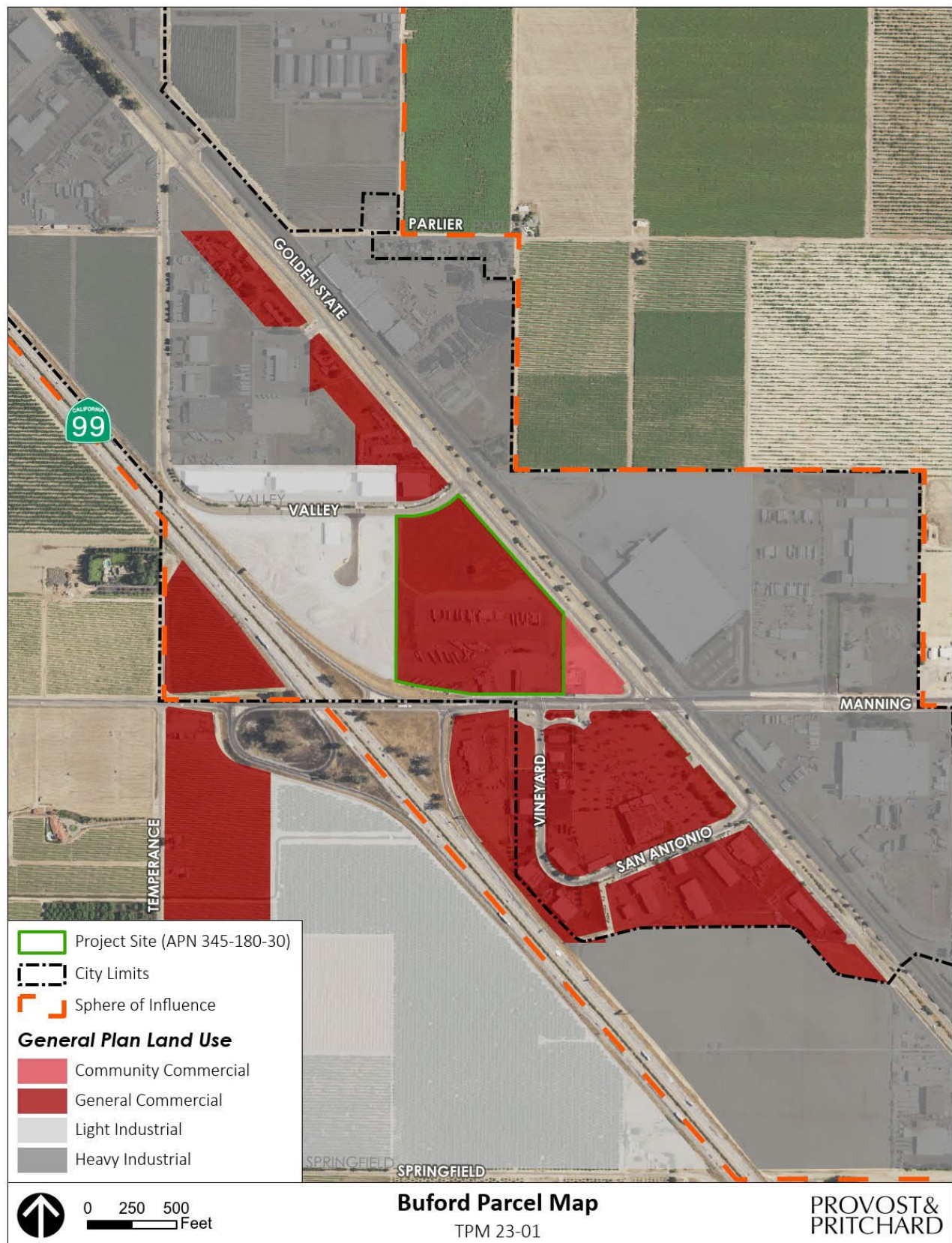


### Attachment 3: Zoning Map

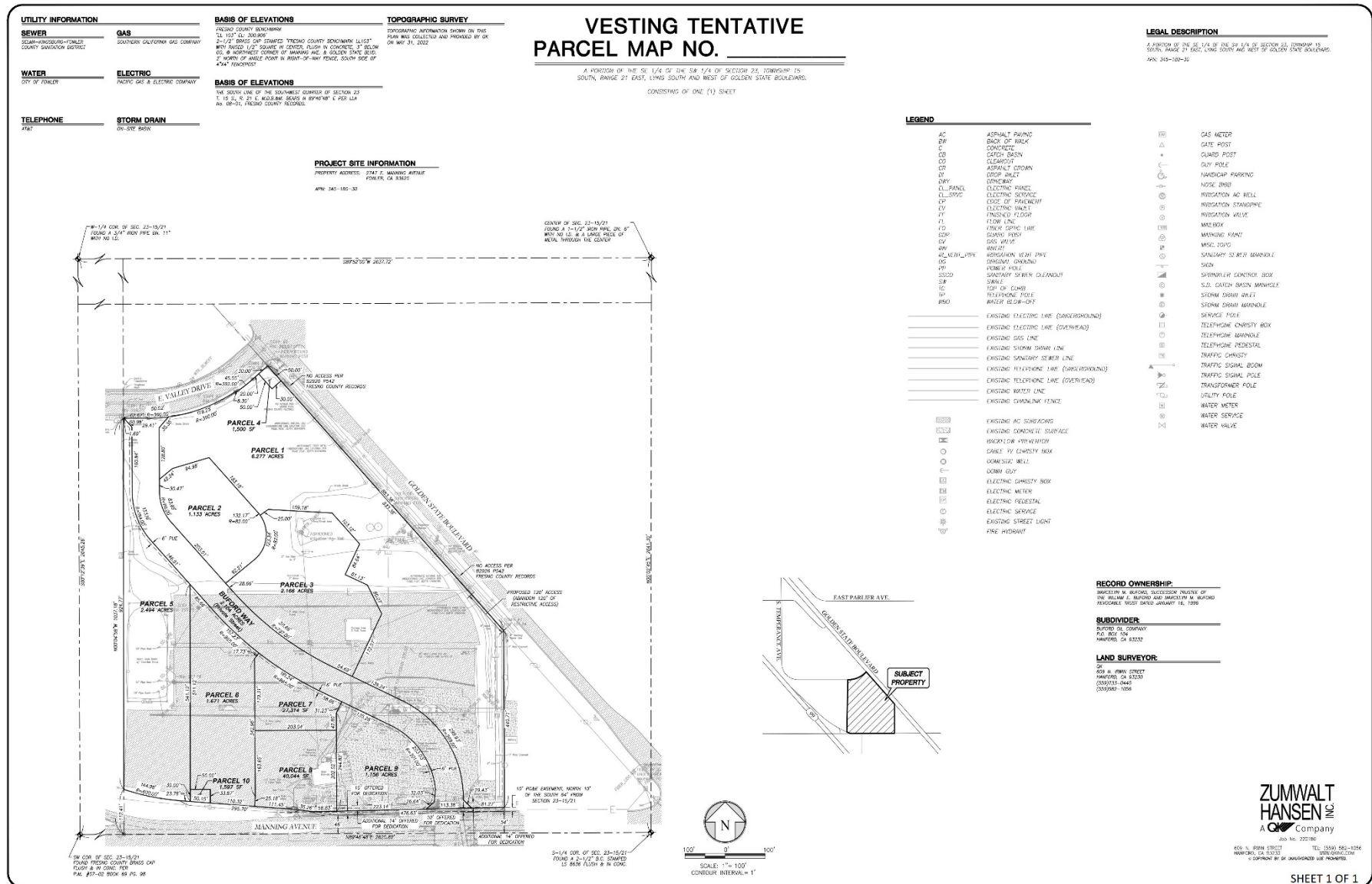




## Attachment 4: General Plan Land Use Map



## Attachment 5: Parcel Map – TPM 23-01



## **RESOLUTION NO. 690**

### **RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FOWLER, COUNTY OF FRESNO, STATE OF CALIFORNIA APPROVING TENTATIVE PARCEL MAP 23-01.**

**WHEREAS**, at a regular meeting on June 1, 2023, the City of Fowler Planning Commission (Planning Commission) conducted a public hearing to consider Tentative Parcel Map (TPM) 23-01; and

**WHEREAS**, notice of said public hearing was published in the May 19, 2023, edition of *The Business Journal*, posted at City Hall and the City's website, and sent to interested parties via email; and

**WHEREAS**, TPM 23-01 proposes to subdivide Assessor's Parcel Number 345-180-30, which is approximately 18.72 acres in size, into ten (10) smaller parcels in accordance with Conditional Use Permit (CUP) 17-03 and its related site plan, which were previously approved by the Planning Commission, as illustrated in Exhibit 1 of Attachment "A" attached hereto and incorporated by reference herein; and

**WHEREAS**, the Planning Commission has made the following findings pursuant to the California Subdivision Map Act and City of Fowler Subdivision Ordinance, said findings substantiated in the record:

1. That the proposed subdivision is not consistent with applicable General and specific plans.
2. That the design or improvement of the proposed subdivision is not consistent with applicable General and specific plans.
3. That the site is not physically suitable for the type of development.
4. That the site is not physically suitable for the proposed density of development.
5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
6. That the design of the subdivision or the type of improvements is likely to cause serious public health concerns.
7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public-at-large, for access through or use of, property within the proposed subdivision.
8. The City shall deny approval of a tentative map, or a tentative parcel map if it finds that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 and that the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use.

**WHEREAS**, approval of a tentative parcel map consists of issuance of an entitlement by a public agency and therefore constitutes a "project" pursuant to the California Environmental Quality Act (CEQA), Public Resources Code Section 21000, et seq.; and

**WHEREAS**, as the agency primarily responsible for carrying out or approving said project, the City of Fowler assumes the role of lead agency pursuant to CEQA; and

**WHEREAS**, under CUP 17-03 an environmental impact report was adopted which is incorporated by reference herein, analyzed a site plan that contemplated the division of lots in general conformance with those proposed under TPM 23-01 and no further environmental analysis is warranted; and

**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Fowler:

1. Approves TPM 23-01, subject to the conditions contained in Attachment “A”.

**PASSED, APPROVED AND ADOPTED** this 1st day of June 2023, at a Regular Meeting of the Planning Commission of the City of Fowler by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

**APPROVED:**

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Craig Mellon, Chair

**ATTEST:**

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Maria Aguilar, Secretary of the Planning Commission



**ATTACHMENT “A”**

**CONDITIONS OF APPROVAL**

**TENTATIVE PARCEL MAP 23-01**

**General Conditions**

1. The conditions of approval for Conditional Use Permit (CUP) 17-03, contained herein as “Exhibit 1” and approved by Planning Commission at a Planning Commission meeting on January 9, 2020, shall remain in full force and effect, unless previously completed and confirmed by City staff. If there is a conflict between the conditions contained herein with any of the previous conditions of approval, the later condition shall apply, as confirmed by the City Planner.
2. All conditions of approval shall be the sole financial responsibility of the Applicant/owner, except where specified in the conditions of approval listed herein or mandated by statutes.
3. **The Applicant shall submit to the City of Fowler Community and Economic Development Department a check in the amount necessary to file a Notice of Determination at the Fresno County Clerk. This amount shall equal the Fresno County filing fee in effect at the time of filing. Such check shall be made payable to the Fresno County Clerk and submitted no later than three (3) days following action on Tentative Parcel Map (TPM) 23-01.**
4. TPM 23-01 shall be valid for a period of 24 months from the date of its conditional approval. Extensions to this period may be requested pursuant to Government Code Section 66452.6(e).
5. Prior to expiration of the approved tentative parcel map, the subdivider may formally submit a final parcel map (Parcel Map), including payment of a fee deposit consistent with the most current City of Fowler Planning Fee Schedule, as may be amended from time to time.
6. The Parcel Map shall be prepared in accordance with Chapter 2, Article 3 of the Subdivision Map Act by a California-licensed land surveyor or civil engineer qualified to perform such service.
7. The Parcel Map submittal shall include parcel closures and a preliminary title report dated no more than thirty (30) days prior to submission to the City Engineer. Copies of all easement documents referenced in the preliminary title report shall accompany the submittal. All parcel map fees and recording fees shall be paid as required by the City of Fowler and the County of Fresno prior to recordation of the map. The owner shall provide the City with a Land Division or Subdivision Guarantee and a Fresno County Tax Compliance Certification Request prior to the City submitting the Parcel Map to the Clerk to the Board of Supervisors.
8. The Parcel Map shall reflect all existing easements.

9. The Parcel Map shall make an irrevocable offer of dedication of an easement for public utilities purposes 10 feet in width and abutting and running the full length of the western right-of-way line of Buford Way.
10. All existing public utilities shall be located within a public utility easement. Should any existing public utilities be located outside of such an easement, an offer of dedication for public utility purposes shall be made to the City at such a width that necessary improvements and repairs may be made, as confirmed by the City Engineer.
11. The Parcel Map shall make an irrevocable offer of dedication of an easement for sewer purposes to Assessor's Parcel Number 345-180-18, the eastern abutting parcel to the site as of June 1, 2023.
12. Approval of TPM 23-01 shall be considered null and void in the event of failure by the Applicant and/or the authorized representative, engineer, or surveyor to disclose and delineate all facts and information relating to the subject property, the proposed use, and the proposed subdivision of the property.
13. Development of the site is subject to the recordation of TPM 23-01 and the acquisition of building permits following recordation of the map.
14. Development of the site shall be in substantial conformance with the plans approved by the Planning Commission for CUP 17-03 and the subject conditions contained herein and as Attachment 1. Minor modifications to the approved plans necessary to meet regulatory, engineering, or similar constraints may be made at the discretion of the Planning Director without amendment to CUP 17-03.
15. Any proposed signs are subject to review and approval by the Director by means of a separate Sign Review process.
16. It shall be the responsibility of the property owner, operator, and/or management to ensure that any required permits, inspections, and approvals from any regulatory agency be obtained from the applicable agency prior to issuance of a building permit and/or the issuance of a certificate of completion, as determined appropriate by the City of Fowler Community and Economic Development Department.
17. All conditions shall be satisfied prior to occupancy approval for any portion of the project. Failure to comply with all conditions of approval shall be grounds for the imposition of penalties, suspension of the permit, modification of the permit, or revocation of the permit.
18. The operator shall keep the exterior premises free of trash and debris. Graffiti shall be removed or covered within 48 hours of its discovery by the Applicant, manager, or any employee.
19. Approval of TPM 23-01 is not an authorization to commence construction. On- and off-site improvements, building construction, sign erection or occupancy shall not be permitted without prior approval of the City through issuance of any required grading or building permits.
20. All business and processes shall be conducted within a completely enclosed structure, except for off-street parking and loading areas, service stations, outdoor dining areas, nurseries, garden shops, signs, Christmas tree sales lots, bus depots, and transit stations, public utility stations and car sales.

21. No use shall be permitted, and no process, equipment or materials shall be used that are found by the City to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibration, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.
22. Development of the property shall conform to the C-3 zone district development standards. Any deviation from these standards shall result in the requirement for a variance.

### **Engineering Conditions**

23. As development occurs, with the exception of parcels 4, 5, and 10, each individual parcel resulting from recordation of TPM 23-01 shall maintain two points of access to a public roadway, as confirmed by the City Engineer.

### **Selma-Kingsburg-Fowler County Sanitation District**

24. All information provided by the District to date has been provided as a preliminary response to describe District planning documents, policies or existing infrastructure. Discussions, information and this letter shall not be considered to be acceptance of any sewer infrastructure plans. Any interested party must submit to the District a detailed set of sewer infrastructure plans or floor and plumbing plans for all buildings. With regard to a detailed set of sewer infrastructure plans or floor and plumbing plans, District staff will review submitted plans, but plans will not be signed off until the annexation has been completed by LAFCo or the property is within the City boundaries. Plan check and inspection fees shall be paid at the time of submittal of plans to the District. The plan check process is not complete until the District has signed off on the plans. All sewer improvements required for a project are identified at completion of the plan check process.
25. On site and off site sewer system facilities must be designed and constructed in accordance with the District's Collection System Construction Standards, the District's Sewer System Master Plan and other requirements as may be specified by the District. The Standards and the Master Plan may be viewed on the District's website at [www.skfcsd.org](http://www.skfcsd.org). Fees and Connection Permit - Applicable District annexation fees must be paid for the entire project prior to completion of annexation or, if the fees have been deferred, at the time the District issues the project's first sewer connection permit. District capacity charges must be paid at the time the District issues a sewer connection permit. District capacity charges are subject to change and must be paid at the rates in effect at the time the sewer connection permit is issued by the District. Sewer system improvements must be constructed, tested and approved by the District prior to the issuance of a sewer connection permit. You must contact the City in which the project is located in order to pay the separate City sewer connection fee and to determine if there are applicable reimbursement fees to be paid.
26. The District's 6-14-07 Will-Serve Letter Policy states "Staff shall issue will-serve letters, with no up-front fee or deposit, at the request or concurrence of a City/County, with the will-serve letters having a time limit of 2 1/2 years, or expiration of tentative map, whichever comes later, with the will-serve letter being good for the life of the final map."
27. The District does not participate financially in the construction of new City sewer collection system infrastructure. Persons interested in possible reimbursement for such



construction must make arrangements in writing with the City in which the infrastructure is constructed and such written arrangements must be made prior to the District signing off on plans.

28. With regard to the construction of new District interceptor system infrastructure, persons interested in possible reimbursement must obtain agreements or District determinations, each in writing, from the District prior to the District signing off on plans.
29. With regard to the refurbishment or replacement of existing City or District sewer system infrastructure, persons interested in possible District financial participation must obtain agreements or District determinations, each in writing, from the District prior to the District signing off on plans. Expenditures are determined by District, to the extent of cash accrued for use in each City.

#### **Other**

30. Approval of this Project is for the benefit of the Applicant. The submittal of applications by Applicant for this Project was a voluntary act on the part of the Applicant not required by the City. Therefore, as a condition of approval of this Project, the Applicant agrees to defend, indemnify and hold harmless the City of Fowler and its agents, officers, consultants, independent contractors and employees ("City") from any and all claims, actions or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the Project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively "Claim").

The City shall promptly notify the Applicant of any Claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the Applicant of any Claim or if the City fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any Claim and the City shall not be required to pay or perform any settlement arising from any such Claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any Claim, and if the City does decide to independently defend a Claim, the Applicant shall be responsible for City's attorneys' fees, expenses of litigation and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any Claim, the Applicant shall not be required to pay or perform any settlement arising from any such Claim unless the Applicant approves the settlement.

Signature of Applicant: \_\_\_\_\_

Dated: \_\_\_\_\_

# **“EXHIBIT 1”**

## **CONDITIONS OF APPROVAL**

### **Conditional Use Permit No. 17-03**

### **(East Manning Avenue between SR 99 and Golden State Boulevard)**

#### **General Conditions**

1. Approval of this conditional use permit and the associated site plan shall be valid for a period not to exceed one year from the date of approval unless a building permit for the facility described herein has been issued by the Building Department and construction is being diligently pursued. The owner may request an extension of up to one additional year via written request to the Planning Department submitted not less than thirty days prior to expiration of this approval. As there are two buildings on the site, once a building permit is facilitated for one of the proposed buildings construction of the second building will not be held to any time limits.
2. Development of the site shall be in substantial conformance with the site plan dated February 27, 2018 except as may be modified by these conditions or the direction of the Planning Commission.
3. All provisions of the C-3 (General Commercial) zone district shall apply.
4. All provisions of the Highway Beautification Overlay District shall apply.
5. Any free standing or occupancy signs are subject to review and approval by the Director by means of a separate Sign Review process.
6. All conditions shall be satisfied prior to occupancy approval for any portion of the project, except as otherwise provided herein. Failure to comply with all conditions of approval shall be grounds for the imposition of penalties, suspension of the permit, modification of the permit, or revocation of the permit.
7. Within 6 months of issuance of occupancy permits for completion of Phase 2, developer shall conduct a traffic study/survey to determine if a traffic signal at the intersection of East Valley Drive and Golden State Boulevard is warranted. To assist the City in determining if a signal is warranted which would be reference fair share condition.

NOTE: The Developer will have already paid their fair share for this intersection based on the traffic study completed for the EIR. If a signal is warranted following the traffic described by Condition No. 7. Those fair share funds will be utilized by the City to construct the intersection improvements.

8. The operator shall keep the exterior premises free of trash and debris. Graffiti shall be removed or covered within 48 hours of its discovery by the applicant, manager, or any employee.
9. Any business operating on the site and all contractors or sub-contractors working in the City

must obtain a business license from the Finance Department at Fowler City Hall.

10. The operator shall report applicable sales tax revenue to the State.
11. All lighting shall be hooded and directed as to not shine towards adjacent properties and public streets.
12. Drive aisles shall be kept unobstructed at all times. Vehicles shall not block driveways.
13. A copy of these conditions must be kept on the premises and be shown to any requesting City official. Failure to comply with all conditions of approval shall be grounds for the imposition of penalties, modification of the permit, or revocation of the permit.
14. All business and processes shall be conducted within a completely enclosed structure, except for off-street parking and loading areas, service stations, outdoor dining areas, nurseries, garden shops, signs, Christmas tree sales lots, bus depots, and transit stations, public utility stations and car sales.
15. No use shall be permitted and no process, equipment or materials shall be used that are found by the City to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibration, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.

## **Property Development Standards**

16. Each site in the C-3 (General Commercial) zone district shall have a minimum area of 10,000 square feet.
17. The minimum front yard shall be fifteen (15) feet. A minimum of ten (10) feet of the required front yard shall be landscaped.
18. The maximum building height shall be fifty (50) feet.

\*\*Please provide elevations of all buildings to the Planning Department for review and approval prior to submittal for building permits.

## **Highway Beautification Overlay Standards**

19. Pursuant to Article 19, Section 9-5.1907 of the Fowler Zoning Ordinance along lot lines adjacent to at-grade or elevated highway sections, a landscaped buffer of no less than 20-feet shall be provided.
20. In accordance with Section 9-5.1907 (L) of the Fowler Zoning Ordinance any building wall visible from the highway shall be detailed and treated equally in terms of appearance to the front of the building.
21. In accordance with Section 9-5.1907 (M) of the Fowler Zoning Ordinance utility and mechanical equipment such as heating units, air conditioners, antennas, satellite dishes, HVAC units, or similar devices shall be integrated into the design of the building or situated on the site so that they are not visible from the highway. When this is not possible, the equipment shall be screened from view of the highway by a masonry wall or other method acceptable by the City.
22. In accordance with Section 9-5.1907 (N) of the Fowler Zoning Ordinance trash and recycling areas shall be situated on the site so that they are not visible from the highway. When this is

not possible, the trash and recycling areas shall be screened from view of the highway by a masonry wall or other method acceptable to the City.

23. In accordance with Section 9-5.1907 (O) of the Fowler Zoning Ordinance loading areas shall be situated on the site so that they are not visible from the highway. When this is not possible, the loading areas shall be screened from view from the highway by a masonry wall or other method acceptable to the City.

## **Off-Street Parking and Loading Standards**

24. Prior to the issuance of a building permit verification of the required number of parking stalls shall be determined adequate by the Planning Department.
25. Improvements shall include handicap parking stalls and an ADA accessible sidewalk providing access to the front door of the buildings the parking lot is serving. These spaces shall meet the State standards.
26. All parking areas shall have adequate ingress and egress to and from a street or alley. Sufficient room for turning and maneuvering vehicles shall be provided on the site. Bumper rails or other barriers shall be provided where needed for safety or to protect property, as determined by the City.
27. Entrances and exits to parking lots and other parking facilities shall be provided only at locations approved by the City.
28. Each parking space shall not be less than 20-feet in length and 9-feet in width, exclusive of aisles and access drives, except that up to thirty (3) percent of all spaces may be provided for compact cars and such spaces not less than 9-feet in width and 16-feet in length, and marked for compact cars.
29. Parking lot lighting shall be deflected away from abutting sites so as not to cause annoying glare.
30. Parking area for the convenient store shall be lit to a foot-candle coverage between 0.5 and 1.5.
31. No commercial repair work or servicing of vehicles shall be conducted on a parking site.
32. In accordance with Section 9-5.2005 of the Fowler Zoning Ordinance every building shall provide for a loading space on the same parcel with such building, as follows:
  - A. Having a gross floor area of 4,000 square feet or less: no requirement
  - B. Having a gross floor area between 4,001 square feet and 40,000 square feet: at least one off-street loading space
  - C. For uses greater than 40,000 square feet: one additional off-street loading space for each 30,000 square feet or major fraction thereof of gross floor area, to a maximum of 5 loading spaces.
33. Every required loading space shall have a minimum length of 40-feet, a minimum width of 12-feet, and a minimum vertical clearance of 14-feet.
34. The required loading space may be within a building.
35. A loading space may occupy a rear or side yard, except such portion required to be landscaped.

36. In accordance with Section 9-5.2007 of the Fowler Zoning Ordinance at all points along streets or sidewalks (excepting points of access to the parking lot or area), a concrete curb or timber barrier not less than 6-inches high shall be installed and maintained. \*Except for truck parking areas as shown on site plan is acceptable.
37. In accordance with Section 9-5.2008 of the Fowler Zoning Ordinance any plan for off-street parking facilities shall be accompanied by a landscape plan. All off-street parking facilities shall conform with the following standards: Except for truck parking areas as shown on site plan is acceptable.
  - A. A plot plan indicating the location of all landscaping.
  - B. Not less than five percent of a parking lot comprising of up to twenty parking spaces shall be landscaped and continually maintained.
  - C. Not less than ten percent of a parking lot comprising of more that twenty parking stalls shall be landscaped and continuously maintained.
  - D. Not more than ten (10) consecutive parking stalls shall be allowed without an approved landscaped tree well of twenty (20) square feet or more.

## **Landscaping Standards**

38. Landscaping shall be provided in accordance with Fowler Zoning Ordinance Section 9-5.21.12. Except for truck parking areas as shown on site plan is acceptable.
39. Landscaping shall be kept free from weeds and litter.
40. Parking Lot Shading. Fifty (50) percent of paved parking lot surfaces shall be shaded by tree canopies within fifteen (15) years of planting. Except for truck parking areas as shown on site plan is acceptable.

## **Drive-Through Facilities Standards**

41. Drive-through facilities require special consideration as their design can significantly impact vehicular circulation on a site. The following requirements apply in accordance with Section 9-5.2009 of the Fowler Zoning Ordinance:
  - A. Each drive-through lane shall be separated from the circulation routes necessary for ingress or egress from the property, or access to any parking space.
  - B. Each drive-through lane shall be striped, marked, or otherwise distinctly delineated.
  - C. The vehicle stacking capacity of the drive-through facility and the design and location of the ordering and pick-up facilities will be determined by the Director based on appropriate traffic engineering and planning data. The applicant shall submit to the City data addressing the following issues:
    1. Nature of the product or service being offered.
    2. Time required to serve a typical customer.
    3. Peak demand hours.
    4. Anticipated vehicles served.

- D. If parallel to and visible from a public street, the drive-through lane shall be appropriately screened with landscaping or other material so as to visually screen vehicles in the drive-through lane from the public right-of-way.

## **Public Works/Fire Department Comments**

- 42. Submit a site plan showing sewer connections and improvements.
- 43. Submit a site plan depicting fire hydrant locations.
- 44. Submit a site plan depicting Fire Department connections (FDC) and backflow devices on both proposed buildings.
- 45. A secondary access point for emergency vehicles measuring no less than 20 feet in width must be developed. The proposed site plan complies.

## **Police Department Comments**

- 46. Install security cameras on the external of the building and the ingress/egress routes of the parking lot in coordination with the Police Chief. Recording shall be maintained on a 7-day loop.

## **Engineering Conditions (Dated December 11, 2017)**

### **General:**

- 47. All proposals of the applicant be conditions of approval, except as further modified below, and subject to modifications to conform to applicable City Standards shall be considered conditions of approval.
- 48. Applicant shall provide on-site lighting. An on-site lighting plan shall be submitted to the City Engineer for review and approval. On-site lighting shall be hooded to prevent off-site glare.
- 49. Fire Department Access shall meet the requirements set forth in Appendix III-D of the California Fire Code.
- 50. Applicant shall construct a concrete masonry trash enclosure with screened gates. The trash enclosures shall be according to City Improvement Standards and reviewed and approved by the Building Official. The enclosures shall be of sufficient size to accommodate containers for refuse, green waste, and recycling.
- 51. Applicant shall pay applicable connection and development fees based upon the rates in effect at the time of payment.
- 52. Two points of access shall be developed for ingress/egress into the site.
- 53. All existing water wells(s) and septic systems that served the property shall be abandoned pursuant to City, County, and State standards.

### **Circulation:**

- 54. Applicant shall dedicate 10 feet along the Manning Avenue frontage for street purposes to encompass the existing curb, gutter and sidewalk area.

55. Applicant shall complete frontage improvements along Manning Avenue (including, but not limited to, curb, gutter, 10' sidewalk, landscaping, and street lighting) in accordance with City standards.
56. Applicant shall pay a fair share towards mitigating significant impacts to the pavement structural section on Manning Avenue between Golden State Boulevard and State Route 99. This fee is outlined in the attached "Project Traffic Fair Shares" as \$45,600.00.
57. Applicant shall provide an irrevocable offer of dedication along Manning Avenue for an additional 14 feet behind the 10 foot dedication described in Condition 54 for future street purposes (widening to a third westbound lane).
58. Applicant shall abandon all existing drive approaches and reconstruct the existing driveway approach closest to Vineyard Avenue along Manning Avenue and reconstruct the drive approaches and those portions of the roadway with curb, gutter and sidewalk per City Standards as shown on the Site Plan. Additionally, a barrier shall be constructed to prevent trucks from accessing the site across the curb and gutter in the drive approaches as shown on the site plan. Existing improvements to be demolished and replaced pursuant to the site plan and per City Standards.
59. The Applicant may maintain the most westerly driveway approach on Manning as right-in / right-out only.
60. The applicant shall develop a right-in/right-out access on Golden State Boulevard at a location acceptable to the City Engineer and/or Public Works Director. Access shall be paved and shall include acceleration and deceleration lanes as directed by the City Engineer.
61. Applicant shall replace existing street lights that have been damaged or removed along the Manning Avenue frontage within the boundaries of this project. A street light plan shall be prepared in accordance with City Standards and shall be submitted for review and approval by the City Engineer prior to work being performed.
62. Developer shall construct American with Disability Act upgrades within the existing public street right of way for streets abutting the project frontages – limited to sidewalk or intersections that are being improved as part of this project- This does not mean changing the primary design features of the existing roadways.
63. Developer shall reconstruct the Vineyard Place / Manning Avenue curb ramps such that a WB-60 design vehicle (large semi-truck) can make turns into and out of the site without traversing curbs or other improvements. Improvements may include, but no be limited to, new curb ramps, pavement, utility adjustments, and traffic signal modifications.
- ~~64. Developer shall prepare a traffic study to identify project impacts and mitigations as identified by the City Engineer. The traffic study shall include and analysis of the following facilities:
  - ~~A. Manning Avenue / SR 99 Interchange Ramp Intersections~~
  - ~~B. Manning Avenue / Vineyard Place Intersection~~
  - ~~C. Manning Avenue / Golden State Boulevard Intersection~~~~
65. Developer shall pay a fair share, construct improvements and/or otherwise mitigate traffic impacts as approved by the City Engineer. This fair share fee is outlined in the attached "Project Traffic Fair Shares" as \$44,660.00.

## **Grading and Drainage:**

- 66. A grading and site improvement plan shall be submitted to the building official for review and approval by the City Engineer. The applicant shall obtain a permit for all on-site grading and site improvement work.
- 67. A project specific geotechnical report shall be prepared and submitted for review by the City Engineer.
- 68. Applicant shall develop or expand on-site drainage facilities including, but not limited to, retention basin, pipelines, manholes, inlets, and any other facility required to convey and store the project storm drainage. Applicant shall submit storm drainage calculations to identify storm drainage flows and hydraulic grade lines of proposed storm drainage facilities.
- 69. Permanent surfacing shall be provided for the site consisting of an asphalt concrete surfacing and/or valley gutter for drainage, with minimum surfacing section to include 2.5" of asphalt concrete over 5" of aggregate base per City Standards. Valley gutters shall be a minimum width of 3' per City Standards.
- 70. The applicant shall obtain an NPDES permit from the Regional Water Quality Control Board. The plan shall provide for the mitigation of soil erosion from the project site during the construction and warranty periods and be submitted to the City prior to the start of construction.
- 71. Applicant shall pay one-half the applicable City's Storm Drainage fee for previously developed parcels and the full storm drainage fee for previously undeveloped parcels. This only applies to areas of the project that would not drain to the on-site basin. If all drainage is kept on-site then there would no fee.

## **Landscaping:**

- 72. Applicant shall submit an on-site and off-site landscape and irrigation plan for review and approval by the City Engineer.
- 73. Landscaping shall be drought tolerant and irrigation system shall be low water consumption, shall only contain drip or micro-spray irrigation, and shall comply with all provisions of AB 1881.

## **Water:**

- 74. The new convenience store shall be provided with separate domestic, fire and landscape water services as approved by the City Engineer.
- 75. Applicant shall provide and install water meters and appropriate backflow devices as required by City ordinances and standards. Replace and Relocate Water Meters to City Easement east of property. Replace and Relocate Backflow Devices as close to Water Meter as possible and to City of Fowler Standards.



76. On-site fire hydrants shall be provided at locations approved by the Fire Chief. On-site water main supplying the fire hydrants shall be a minimum of 8" diameter. Verify size of supply line to onsite fire hydrant and install additional onsite hydrant as determined by the Fire Chief and install a double check detector assembly (DCDA) on private fire line to City of Fowler standards near city easement and water main.

## **Sewer:**

77. Applicant shall submit a plan for sewer service for review and approval by the City Engineer and Selma-Kingsburg-Fowler County Sanitation District (SKF).
78. Applicant shall pay applicable sewer connection fees to SKF based upon the rates in effect at the time of payment.

## **Utilities:**

79. All new electric, cable TV, telephone, internet, etc. services shall be provided to the development shall be undergrounded (including transformers).

## **Irrigation:**

80. That any private irrigation facilities, private and those maintained by CID, be relocated outside of the street right of way, except at street crossings. Any irrigation lines that must remain in service shall be reconstructed with rubber gasket reinforced concrete pipe.
81. That all abandoned irrigation lines serving the property be removed.

## **Mitigation Measures:**

82. BIO-1 (WEAP Training) Prior to initiating construction activities (including staging and mobilization), all personnel associated with Project construction shall attend mandatory Worker Environmental Awareness Program (WEAP) training, conducted by a qualified biologist, to aid workers in identifying special status resources that may occur in the Project area. The specifics of this program shall include identification of the sensitive species and suitable habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and mitigation measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information, along with photographs or illustrations of sensitive species with potential to occur onsite, shall also be prepared for distribution to all contractors, their employees, and all other personnel involved with construction of the Project. All employees shall sign a form documenting that they have attended WEAP training and understand the information presented to them.
83. BIO-2 (General Pre-construction Survey): A pre-construction survey for special status species shall be conducted by a qualified biologist within 30 days prior to the beginning of construction activities. If sensitive biological resources are present onsite, the biologist shall establish an appropriate buffer zone and label sensitive resources or areas of avoidance with flagging, fencing, or other easily visible means. If avoidance is not feasible, CDFW and/or USFWS shall be consulted to determine the best course of action.
84. BIO-3 (Construction Operational Hours): Construction shall be conducted during daylight hours to reduce disturbance to wildlife that could be foraging within work areas.

85. BIO-4a (Avoidance): The Project's construction activities shall occur, if feasible, between September 16 and January 31 (outside of nesting bird season) in an effort to avoid impacts to nesting birds.
86. BIO-4b (Pre-construction Nesting Bird Survey): If activities must occur within nesting bird season (February 1 to September 15), a qualified biologist shall conduct pre-construction surveys for active nests within 30 days prior to the start of construction. The survey shall include the proposed work area and surrounding lands within 0.5 mile. If no active nests are observed, no further mitigation is required. Active nests are generally defined by the presence of eggs or young; however, raptor nests are considered "active" upon the nest-building stage.
87. BIO-4c (Establish Buffers): On discovery of any active nests near work areas, the biologist shall determine appropriate construction setback distances based on applicable CDFW and/or USFWS guidelines and/or the biology of the species in question. Construction buffers shall be identified with flagging, fencing, or other easily visible means, and shall be maintained until the biologist has determined that the nestlings have fledged.
88. BIO-5a (Pre-construction Take Avoidance Survey): A take avoidance survey will be conducted by a qualified biologist for burrowing owls within 30 days prior to initiating ground disturbance activities. This survey will be conducted according to methods described in CDFW's 2012 Staff Report on Burrowing Owl Mitigation.
89. BIO-5b (Avoidance): If an active burrowing owl burrow is detected, the occurrence shall be reported to the local CDFW office and the CNDDDB, and disturbance-free buffers shall be implemented in accordance with CDFW's 2012 Staff Report on Burrowing Owl Mitigation, as outlined in the table below:

Location	Time of Year	Disturbance-Free Buffers	
		Low	Medium
Nesting sites	April 1 – August 15	200 meters	500 meters
Nesting sites	August 16 – October 15	200 meters	200 meters
Nesting sites	October 16 – March 31	50 meters	100 meters

90. BIO-5c (Consultation with CDFW and Passive Relocation): If avoidance of an active burrowing owl burrow is not feasible, CDFW shall be immediately consulted to determine the best course of action, which may include passive relocation during non-breeding season. Passive relocation and/or burrow exclusion shall not take place without coordination with CDFW and preparation of an approved exclusion and relocation plan.
91. BIO-6a (Pre-construction SJKF Burrow Survey): Within 30 days prior to the start of construction, a pre-construction survey for San Joaquin kit fox individuals and suitable burrows shall be conducted on and within 200 feet of proposed work areas. Any burrows within the survey area that are determined to be suitable for use by the SJKF shall be monitored for a period of three days using tracking medium and/or remotely triggered cameras. If an active kit fox den is detected within or adjacent to the Project area, construction will be delayed, and CDFW and USFWS shall be consulted to determine the best course of action.

92. BIO-6b (Minimization): The Project shall observe all minimization and protective measures from the Construction and On-Going Operational Requirements of the USFWS 2011 Standardized Recommendations, including, but not limited to: construction speed limits, covering of pipes, installation of escape structures, restriction of herbicide and rodenticide use, proper disposal of food items and trash, prohibition of pets and firearms, and completion of an employee education program.
93. BIO-6c (Mortality Reporting): The Sacramento Field Office of USFWS and the Fresno Field Office of CDFW will be notified in writing within three working days in the case of the accidental death or injury to a San Joaquin kit fox during construction. Notification must include the date, time, and location of the incident and any other pertinent information.
94. CUL-1 (Archaeological Remains): In the event that archaeological remains are encountered at any time during development or ground-moving activities within the entire project area, all work in the vicinity of the find shall halt until a qualified archaeologist can assess the discovery.
95. CUL-2 (Human Remains) If human remains are uncovered, or in any other case when human remains are discovered during construction, the Fresno County Coroner is to be notified to arrange their proper treatment and disposition. If the remains are identified—on the basis of archaeological context, age, cultural associations, or biological traits—as those of a Native American, California Health and Safety Code 7050.5 and Public Resource Code 5097.98 require that the coroner notify the NAHC within 24 hours of discovery. The NAHC will then identify the Most Likely Descendent who will determine the manner in which the remains are treated.
96. GHG-1 Site design and building placement shall minimize barriers to pedestrian access and interconnectivity. Physical barriers such as walls, berms, landscaping, and slopes between residential and nonresidential uses that impede bicycle or pedestrian circulation are eliminated.
97. GHG-2: The Project shall install Energy Star labeled roof materials.
98. GHG-3: The Project shall optimize building's thermal distribution by separating ventilation and thermal conditioning systems.
99. TRA-1 (East Manning Avenue/SR99): The Project applicant shall provide a signalized intersection with a design life of at least 10-years or convert the northbound off ramp intersection to a two-lane roundabout.

## Other:

100. Approval of this Project is for the benefit of the Applicant. The submittal of applications by Applicant for this Project was a voluntary act on the part of the Applicant not required by the City. Therefore, as a condition of approval of this Project, the Applicant agrees to defend, indemnify and hold harmless the City of Fowler and its agents, officers, consultants, independent contractors and employees ("City") from any and all claims, actions or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the Project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively "Claim").

The City shall promptly notify the Applicant of any Claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the Applicant of any Claim or if the City fails

to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any Claim and the City shall not be required to pay or perform any settlement arising from any such Claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any Claim, and if the City does decide to independently defend a Claim, the Applicant shall be responsible for City's attorneys' fees, expenses of litigation and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any Claim, the Applicant shall not be required to pay or perform any settlement arising from any such Claim unless the Applicant approves the settlement.



## **PLANNING COMMISSION OF THE CITY OF FOWLER**

ITEM NO: 9

### **REPORT TO THE PLANNING COMMISSION**

June 1, 2023

**FROM** DAWN E. MARPLE, City Planner

### **SUBJECT**

Actions pertaining to applications by the Fowler Baptist Church at the southeast corner of East Merced and South 3rd Streets to:

- a. ADOPT Class 1 and Class 5 categorical exemptions from further environmental review pursuant to CEQA Guidelines sections 15301 and 15305.
- b. APPROVE Lot Line Adjustment ("LLA") 23-09, to merge Assessor Parcel Numbers (APN) 343-182-12 and 343-182-16.
- c. APPROVE Conditional Use Permit ("CUP") 23-11, an approximately 1,440 (sqft) expansion of the Fowler Baptist Church.

### **RECOMMENDATION**

Staff recommends the Planning Commission adopt a resolution conditionally approving LLA 23-09, CUP 23-11, and adopting Class 1 and Class 5 categorical exemptions pursuant to CEQA Guidelines sections 15301 and 15305. The decision of the Planning Commission is final unless appealed to the City Council.

### **BACKGROUND**

The Fowler Baptist Church proposes an expansion of approximately 1,440 sqft. The subject property consists of two separate parcels approximately 0.69 acres in size, located on the southeast corner of East Merced and South 3rd Streets (APNs 343-182-12 & 343-182-16). The project site is zoned RM-3

(Multi-family Residential) with a High Density Residential (“HDR”) General Plan land use designation. Churches are conditionally allowed within the RM-3 zone district. While both of the aforementioned APNs are owned by the Fowler Baptist Church, in order to ensure that the construction of the proposed expansion does not occur over parcel lines, LLA 23-09 would merge APN 343-182-12 (0.17 acres) and APN 343-182-16 (0.52 acres) into one contiguous parcel (0.69 acres).

CUP 23-11 proposes the expansion of the Fowler Baptist Church by approximately 1,440 sqft. The expansion would result in additional kitchen space, accessible restrooms, and additional floor space for the existing assembly hall. CUP 23-11 is contingent upon the approval of LLA 23-09.

### **Site Plan**

In order for CUP 23-11 to be considered for approval, a site plan is required to be submitted for review and approval by staff. A site plan, accompanied by a floor plan and elevations, was submitted, depicting the expansion of the existing building by approximately 1,440 sqft. After review by staff, conditions have been placed on the site plan, including the construction of improvements to conformance with City standards.

### **Parking**

As it exists, the Fowler Baptist Church provides ten (10) parking spaces on-site, two (2) of which are ADA accessible. Additionally, along its immediate frontage, there are twenty (20) public parking spaces on both South 3rd Street and East Merced Street that are utilized by the church. After review of the site plan submitted under CUP 23-11, and after consideration of the intended use of the expanded assembly hall, staff has determined the expanded assembly hall would serve as a joint use to the church sanctuary (Fowler Municipal Code Section 9-5.2002(J)).

Under the determination that the expansion of the church’s assembly hall would result in a joint use, the church will not be required to provide the total number of additional parking spaces that would have resulted from an increase in the square footage of the use on the site if it were not a joint use. In order to maintain the designation of a joint use the Fowler Baptist Church is subject to conditions of approval that ensure that parking availability is maintained for the existing spaces and that no substantial conflict will occur as a result of the designation of the expansion area as a joint use.

Additionally, where an existing drive approach along South 3rd Street is proposed to be abandoned, the applicant is required to provide additional on-street parking. Also on South 3rd Street, the project is conditioned to remove striping for the southernmost parking stall as it conflicts with the drive approach along the southeastern property line. Finally, to the southeast of the existing parking area along the alley, the project is required to construct additional parking stalls along the alley where grass currently exists.

### **Landscaping**

The applicant shall submit a landscaping plan to be reviewed and approved prior to building permit issuance.

### **Elevations**

The construction of the building approved under CUP 23-11 is conditioned to conform with the elevation drawings, including the color and materials schedule, submitted and approved by the Planning Commission. The submitted elevations, subject to all conditions of approval, are consistent with the existing Fowler Baptist Church building.



**Public Infrastructure**

The project would be required to construct or make improvements to existing public infrastructure, such as curb and gutter, to meet current City standards. Additionally, the project would result in the requirement of the project proponent to re-construct the alley along the site to current City standards along its frontage. Any sewer connections would be subject to the requirements of the Selma-Kingsburg-Fowler County Sanitation District requirements. Drainage from the site would continue to operate in the way it has in the past and will be confirmed during the site improvement plan process.

**Lot Line Adjustment**

Pursuant to Fowler Subdivision Ordinance Section 107(H), the Planning Commission shall consider a lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created. As discussed above, LLA 23-09 would result in the merger of APNs 343-182-12 and 343-182-16 into one contiguous parcel. APN 343-182-12 is approximately 0.17 acres in size and currently contains a grass lot that has at times in the past contained a storage shed. APN 343-182-16 is approximately 0.52 acres in size and contains the existing Fowler Baptist Church. LLA 23-09 would result in the merger of each of the two parcels into one parcel of approximately 0.69 acres in size.

**Conditional Use Permit**

The Fowler Baptist Church is located within the RM-3 zone district, where churches are conditionally allowed. Within the RM-3 zone district a conditional use permit is required for the expansion, remodeling, or additions to a conditional use that are not considered an incidental or accessory use (Fowler Municipal Code Section 9-5.805E). After review of the proposed expansion, staff determined that the proposal neither qualified as an incidental use, nor an accessory use. As a result, CUP 23-11 is required for the expansion of the church.

**Conditional Use Permit Findings**

- 1. The site for the proposed use is adequate in size and shape to accommodate such use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by the Zoning Ordinance.***

After review of the site plan, staff has determined that the proposed expansion would be located on a site that is of sufficient size and shape to accommodate the proposed use, including in relation to all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by the Zoning Ordinance.

- 2. 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.***

The property's South 3rd Street and East Merced Street frontages are adequate in width to accommodate the proposed expansion. As a joint use, the expansion will be required to meet specific conditions ensuring that there are no substantial parking or roadway conflicts created as a result of the project.

- 3. The proposed use will have no adverse effect upon abutting property or the use thereof.***

Operation of CUP 23-11, subject to the attached conditions of approval, will ensure that the proposed use has no substantial adverse effects upon abutting properties or the uses thereof.

***4. The conditions established by the Planning Commission and stated in the Resolution for the Conditional Use Permit are deemed necessary to protect the public health, safety and general welfare.***

The conditions of approval will serve to accommodate the proposed use while protecting the health, safety, and welfare of the public. Conditions of approval are based upon standards contained within the Fowler General Plan and the Fowler Zoning Ordinance. Further, the proposed conditions of approval will serve to implement the goals and objectives of the General Plan, which itself is intended to provide for logical and orderly development of the City in a manner that is beneficial to its residents.

## **ENVIRONMENTAL FINDINGS**

Staff have performed a preliminary environmental assessment and have determined that the project is subject to Class 1 and Class 5 categorical exemptions pursuant to the California Environmental Quality Act (CEQA). Because the project would only result in the expansion of the existing Fowler Baptist Church by a floor area of less than 50 percent of the existing building and less than 2,500 sqft in total, the project is exempt pursuant to CEQA Guidelines Section 15301 (14 CCR § 15301, subd. (e)(1)). Additionally, the project would only result in the minor alteration of land through the alteration of parcel lines and would not result in any changes in land use or density (14 CCR § 15305, subd. (a)). The project would not result in any potential environmental impacts under CEQA. Further, none of the exceptions under Section 15300.2 of the CEQA Guidelines are applicable to this project.

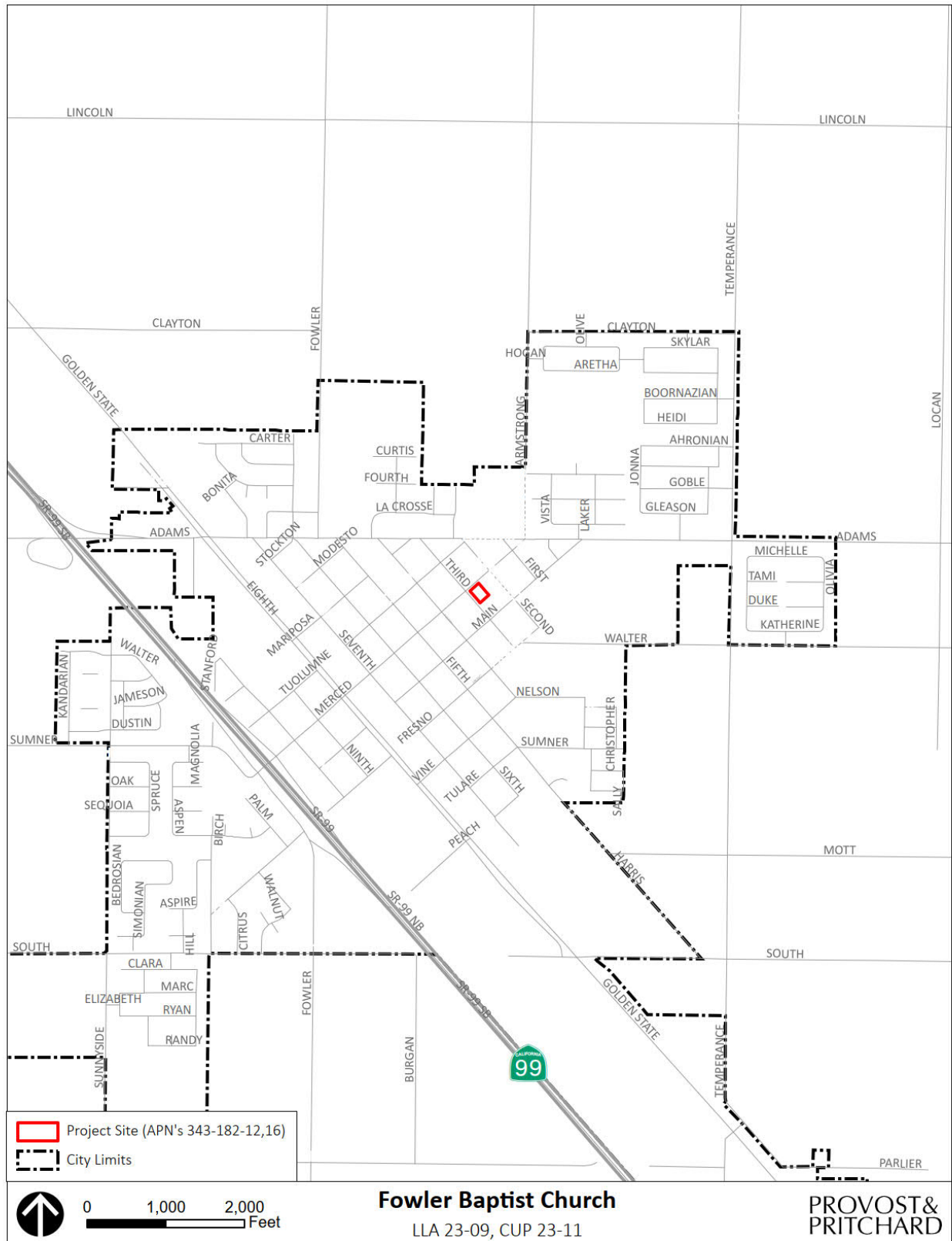
## **CONFLICT OF INTEREST**

Staff is not aware of any conflicts of interest.

### Attachments

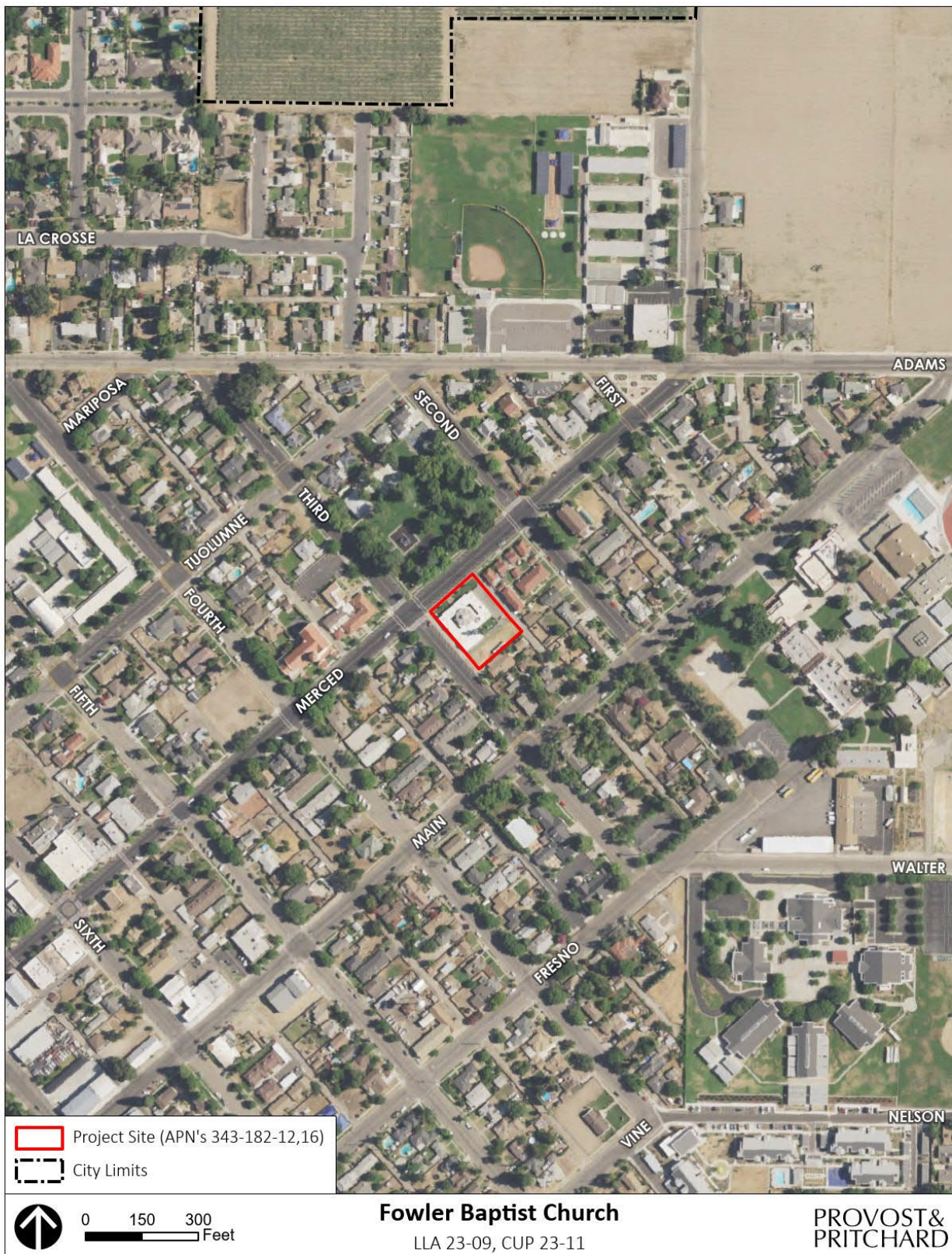
- Attachment 1: Regional Vicinity Map
- Attachment 2: Aerial Map
- Attachment 3: Zoning Map
- Attachment 4: General Plan Land Use Map
- Attachment 5: Lot Merger – LLA 23-09
- Attachment 6: Site Plan
- Attachment 7: Floor Plan
- Attachment 8: Elevations
- Planning Commission Resolution 691
- Attachment A Conditions of Approval

### Attachment 1: Regional Vicinity Map



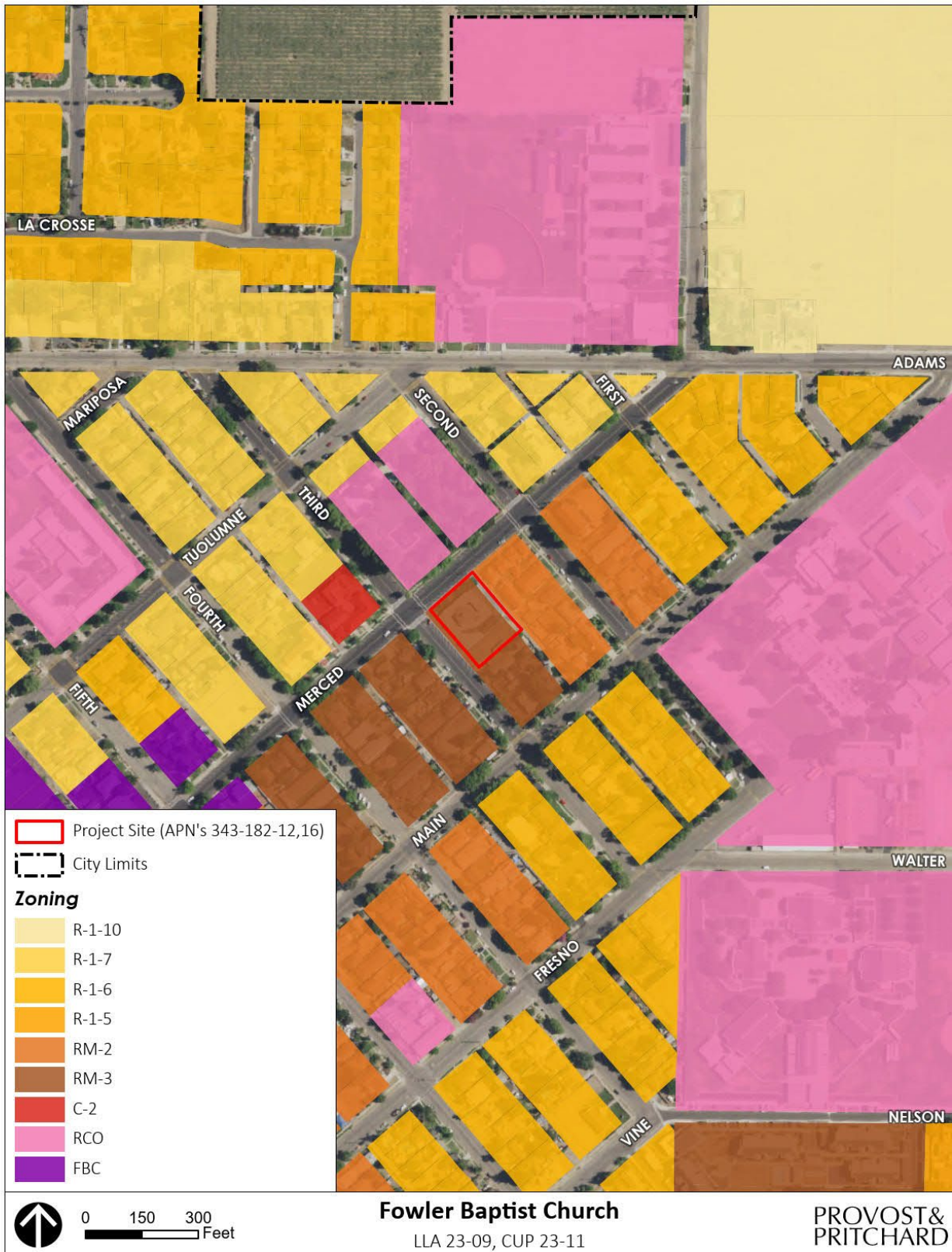


## Attachment 2: Aerial Map



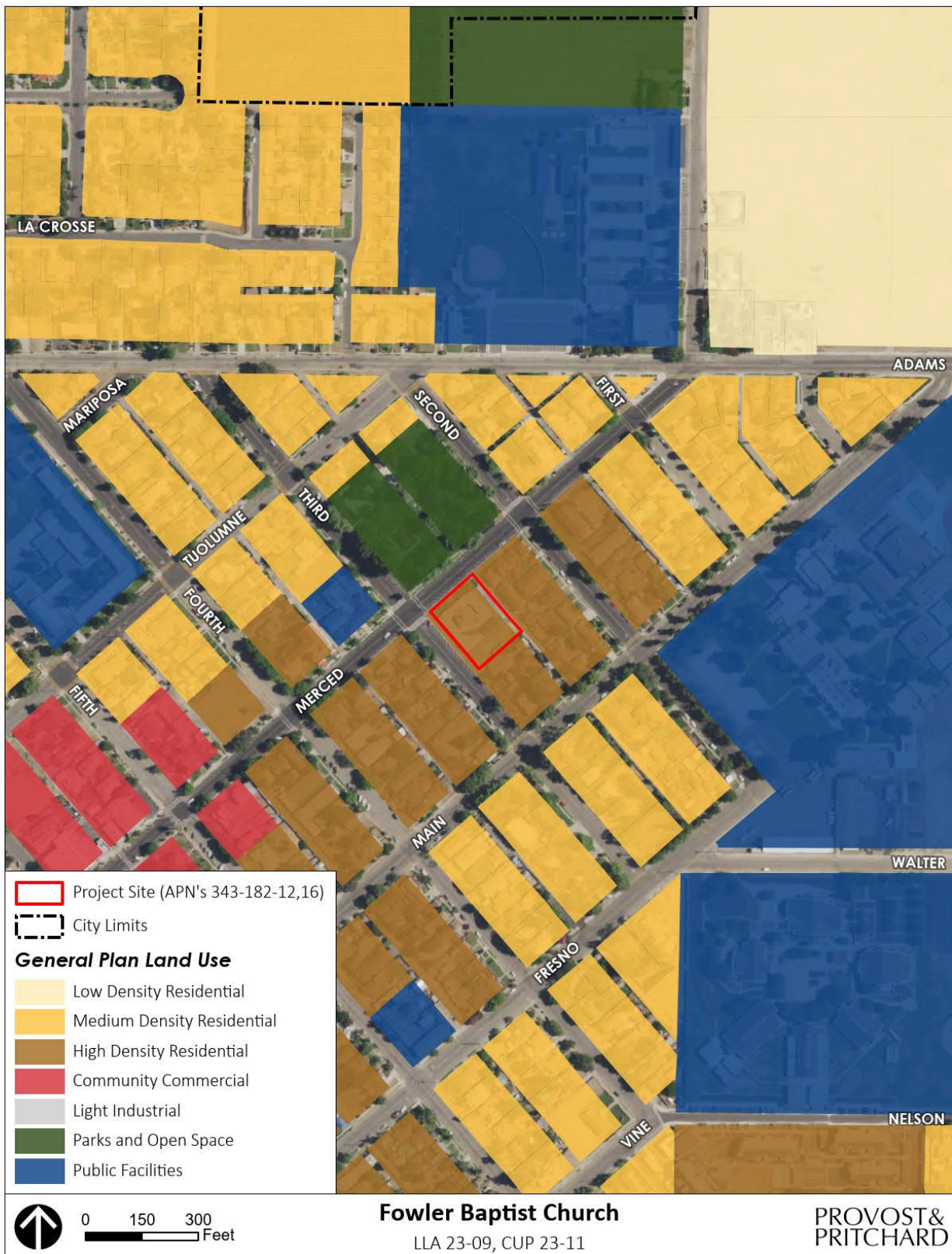


### Attachment 3: Zoning Map



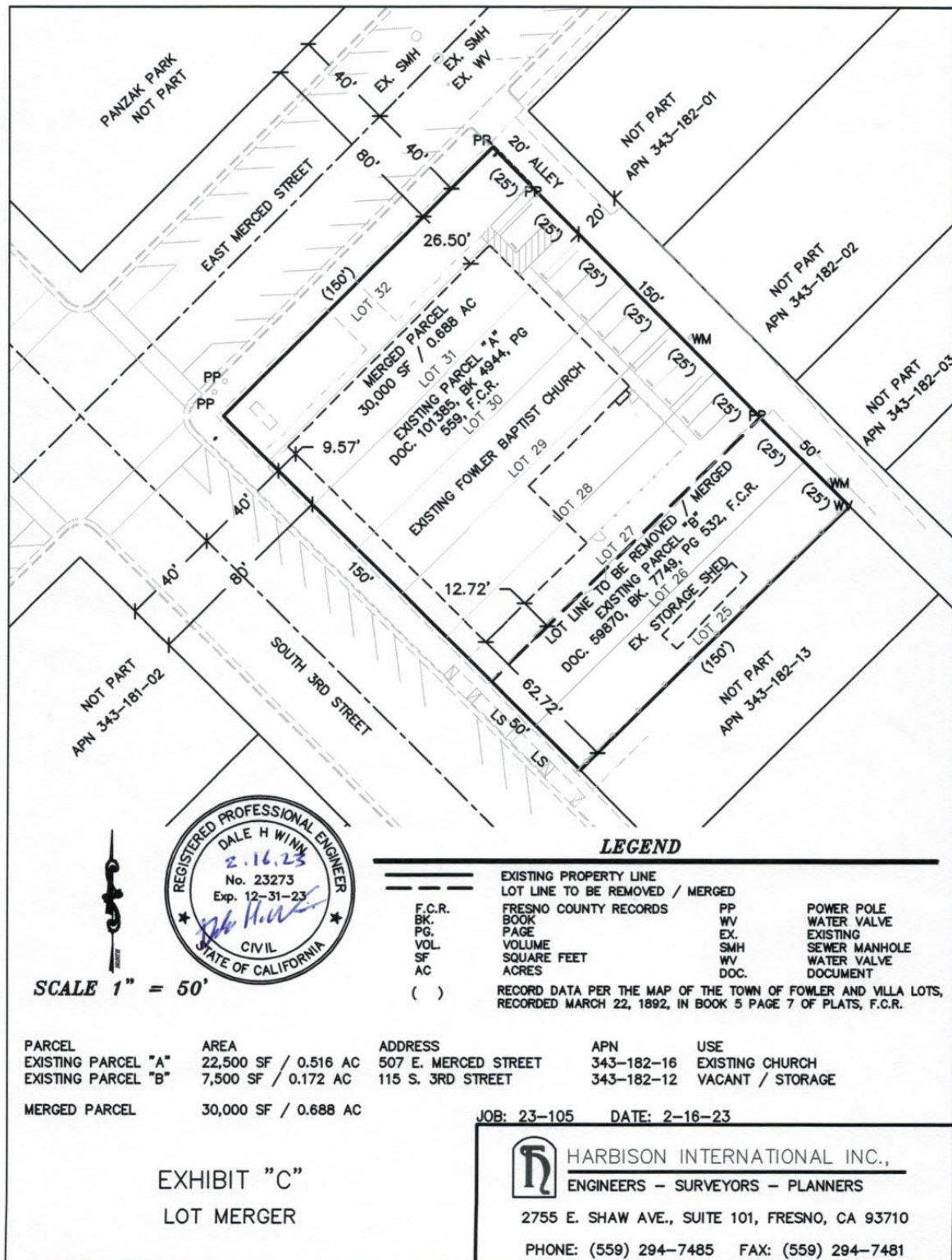


### Attachment 4: General Plan Land Use Map



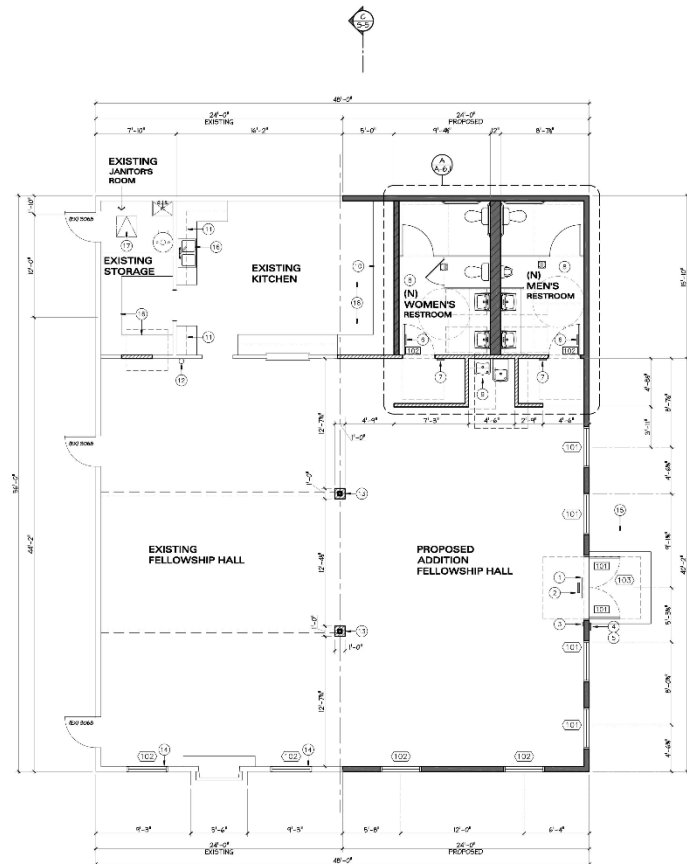


## Attachment 5: Lot Merger – LLA 23-09





## Attachment 7: Floor Plan



- KEY NOTES :**
1. PROVIDE SIGNAGE: THIS DOOR TO REMAIN UNLOCKED WHEN SPACE IS OCCUPIED. 18" TALL LETTERS ON A CONTRASTING BACKGROUND.
  2. LUMINOUS EXIT SIGN WITH BATTERY BACK-UP.
  3. TACTILE EXIT SIGN TO READ "EXIT" MOUNTED AT 4'-0" ABOVE FINISH FLOOR ON LARGE SIDE OF DOOR. SEE DETAIL 61AC-1.
  4. PROVIDE SIGNAGE: "NO SMOKING".
  5. PROVIDE A 6"x6" ACCESSIBLE ACCESS SIGN.
  6. RESTROOM DOOR SIGN. SEE DETAIL 61AC-1.
  7. PROVIDE BRAILLE RESTROOM SYMBOLS. SEE DETAIL 61AC-1.

8. ACCESSIBLE RESTROOM. SEE SHEET 61AC-1.
9. HIGH AND LOW ACCESSIBLE DRINKING FOUNTAIN. SEE DETAIL 61AC-1.
10. 4'-0" HIGH AFF. ACCESSIBLE COUNTER TOP AT CABINETS BELOW. SEE DETAIL 61AC-1.
11. WALL MOUNTED SPHER. CABS. VERIFY DOOR DESIGN WITH MANUFACTURER. TOP FINISH OF LOWER SHELF TO BE 48" AFF.
12. PROVIDE A 44-1/2" FIRE EXTINGUISHER MOUNT AT 48" AFF.
13. 6" DIA. COLUMN MOUNTED IN 24" DIA. HALL.
14. REMOVE EXISTING WARDING AND REPLACE W/ NEW PER PLAN.
15. 6'-0" x 6'-0" CONCRETE LANDING.
16. (N) 24" DEEP PINE SHELVES AT STORAGE.
17. 22'-0" ATTIC ACCESS OPENING W/ INSULATION AND GASKET.
18. PROPOSED ROOF EXPANSION AREA.
19. -
20. -
21. EXISTING MAIN ELECTRICAL PANEL LOCATION.
22. EXISTING BAS PETER LOCATION.

### GENERAL NOTES

PAINTS SHALL BE OPERABLE WITH ONE HAND AND SHALL NOT REQUIRE EXISTING GRAPING FINISHES OR REMOVAL OF THE FINISH AND SHALL NOT REQUIRE A FORCE GREATER THAN 5 LBS TO ACTIVATE THE CONTROLS (SEE 10-20-21 & 10-20-22).

### PLAN SPECIFICATIONS :

PERFORATION IN VALVES SHALL SPACING BE EQUAL OR LESS THAN 0.30  
SOLAR HEAT GAIN COEFFICIENTS (SHGC) SHALL NOT EXCEED 0.25  
HEAT RATER : SEE SHEET 124-1 THROUGH 124-8  
INSULATION  
R-2 BATT INSULATION AT ALL EXTERIOR WALLS  
R-30 BATT INSULATION AT ALL ATTIC SPACES

EXISTING AREA : 1,440 SQ. FT.  
NEW ADDITION AREA : 1,440 SQ. FT.  
NEW TOTAL AREA : 2,880 SQ. FT.

### LEGEND:

- 24" DEEP STEPS AT 8" DIA.
- 8" DIA. BOARD ON EACH EXTERIOR SIDE SEE PLAN FOR GARAGE REQUIREMENTS
- EXTERIOR 24" DEEP STEPS AT 8" DIA. STUCCO FINISH ON THE EXTERIOR SIDE 1/2" GYPSUM BOARD ON THE INTERIOR SIDE
- INTERIOR 24" DEEP STEPS AT 8" DIA.
- EXISTING 24" DEEP TO REMAIN UNCHANGED
- SEE DOOR SCHEDULE, SHEET A-23
- SEE WINDOW SCHEDULE, SHEET A-23

WINDOW SCHEDULE												
WINDOW NO.	FRAME SIZE	TYPE	FRAME		GLASS TYPE	GLASS THICKNESS	FIRE RATING	DETAILS				REMARKS
			MATERIAL	FINISH				HEAD	JAMB	SILL	THRESHOLD	
(101)	4'-0" x 1'-0"	A	ALUM.	W/STAIN	1/2" ALUM.	1/2"	1/2"	2/A-23	2/A-23	2/A-23		
(102)	4'-0" x 4'-0"	B	ALUM.	W/STAIN	1/2" ALUM.	1/2"	1/2"	2/A-23	2/A-23	2/A-23		
(103)	6'-0" x 4'-0"	C	ALUM.	W/STAIN	1/2" ALUM.	1/2"	1/2"	2/A-23	2/A-23	2/A-23		TDH.

DOOR SCHEDULE											
NO.	TYPE	SIZE	FRAME		DOOR		FIRE RATING	DETAILS			REMARKS
			WHL	FTL	WHL	FTL		THRESHOLD	JAMB	HEAD	
101	1	PR-3' x 7'-0" 1-3/4"	AL	NATURAL	AL # 6 EL	NATURAL	-	4IN-20	1IN-20	1IN-20	PROVIDE FRAM. HARDWARE & TINTED GLASS
102	2	3' x 7'-0" 1-3/4"	BR	PT	-	PT	-	4IN-20	3IN-20	2IN-20	



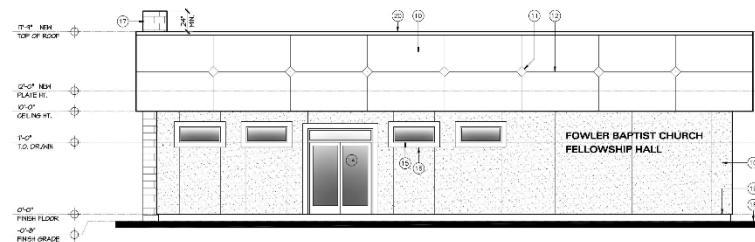
**PROPOSED FLOOR PLAN 1,440 S.F.**  
SCALE: 1/4" = 1'-0"



**FELLOWSHIP HALL ADDITION**  
**FOWLER, CALIFORNIA**  
**EGEN DESIGNS** COMMERCIAL / RESIDENTIAL DESIGN

SHEET NO.  
**A-2.1**  
OF

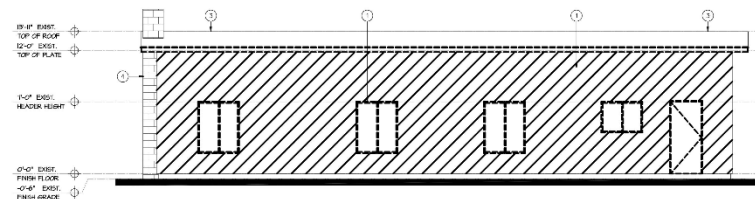
## Attachment 8: Elevations



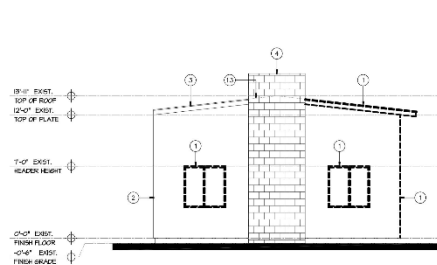
**PROPOSED  
FRONT ELEVATION**

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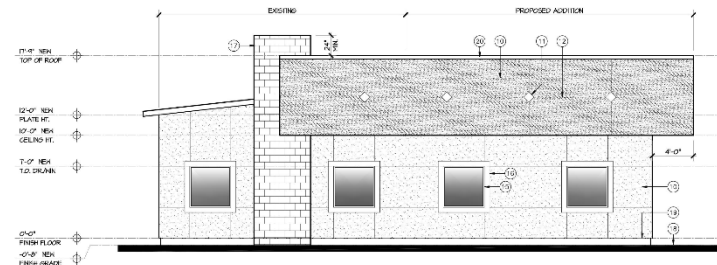
FACING SOUTH-EAST



**EXISTING  
FRONT ELEVATION**  
**FACING SOUTH-EAST**



**EXISTING  
LEFT-SIDE ELEVATION**  
FACING SOUTH-WEST (3RD STREET)



**PROPOSED  
LEFT-SIDE ELEVATION**  
**FACING SOUTH-WEST (3RD STREET)**

## EXTERIOR ELEVATIONS

SCALE = 1/4" = 1'-0"

- ### KEY NOTES:
1. DANGER LINES EXTEND EXISTING TO BE DEMOLISHED AND PROPERTY'S DISCARD.
  2. EXISTING REINFORCED CONCRETE BEAMS.
  3. EXISTING ROOF STRUCTURE TO REMAIN UNCHANGED.
  4. EXISTING ROOF COVER TO REMAIN.
  5. ORIENTED
  6. ORIENTED
  7. ORIENTED
  8. ORIENTED
  9. ORIENTED
  10. RED 5-FOOT STREETS FRONT TO REAR DISTANCE.
  11. EXISTING 30-FOOT STREETS FRONT TO REAR WITH 16' WIDE LANE. EXISTING 16' WIDE BACKSIDE LANE. METALLIC FINISH. 16' WIDE, 16' WIDE SLOPE.
  12. PROVIDE 2-LEVELS OF TYPE 'F' PAVEMENT DISCREPANCY (HERE LATE) TO BE EXTENDED OVER ROOF SKEWINGS.
  13. EXISTING ASPHALT OVER 5-6" THICK REINFORCED IRON ALL LAYERS AND HORIZONTAL EXISTING ROOF.
  14. AN INSTALLATION CAN BE COMPLETED AND LEFT WITH THE BUILDING DEPARTMENT.
  15. EXISTING 16' WIDE STREETS FRONT TO REAR WITH 16' WIDE LANE. EXISTING 16' WIDE BACKSIDE LANE. METALLIC FINISH. 16' WIDE, 16' WIDE SLOPE.
  16. E. COLOR TO MATCH EXISTING.
  17. EXISTING 16' WIDE STREETS FRONT TO REAR WITH 16' WIDE LANE. EXISTING 16' WIDE BACKSIDE LANE. METALLIC FINISH. 16' WIDE, 16' WIDE SLOPE.
  18. 2" STAINLESS STEEL EXPANSION JOINT CHANNEL.
  19. DANGER LINE EXTENDS 10' OF ROOF SLOPE BEYOND.
  20. EXISTING SCENERY DOOR FOR FLOOR BEYOND.
  21. DANGER LINE EXTENDS 10' OF ROOF SLOPE BEYOND.
  22. EXISTING ASPHALT OVER 5-6" THICK REINFORCED IRON ALL LAYERS AND HORIZONTAL EXISTING ROOF.
  23. NO. 1600 GARDEN AT DOOR OF HOUSE HIDEING.
  24. EXISTING 16' WIDE STREETS FRONT TO REAR WITH 16' WIDE LANE. EXISTING 16' WIDE BACKSIDE LANE. METALLIC FINISH. 16' WIDE, 16' WIDE SLOPE.
  25. FINISH COMPACTED GRAVEL.
  26. 2" OF GRADNEY TO BE EXTENDED A MINIMUM OF 24" AROUND IN FRONT.
  27. EXISTING 16' WIDE STREETS FRONT TO REAR WITH 16' WIDE LANE. EXISTING 16' WIDE BACKSIDE LANE. METALLIC FINISH. 16' WIDE, 16' WIDE SLOPE.
  28. EXISTING 16' WIDE STREETS FRONT TO REAR WITH 16' WIDE LANE. EXISTING 16' WIDE BACKSIDE LANE. METALLIC FINISH. 16' WIDE, 16' WIDE SLOPE.

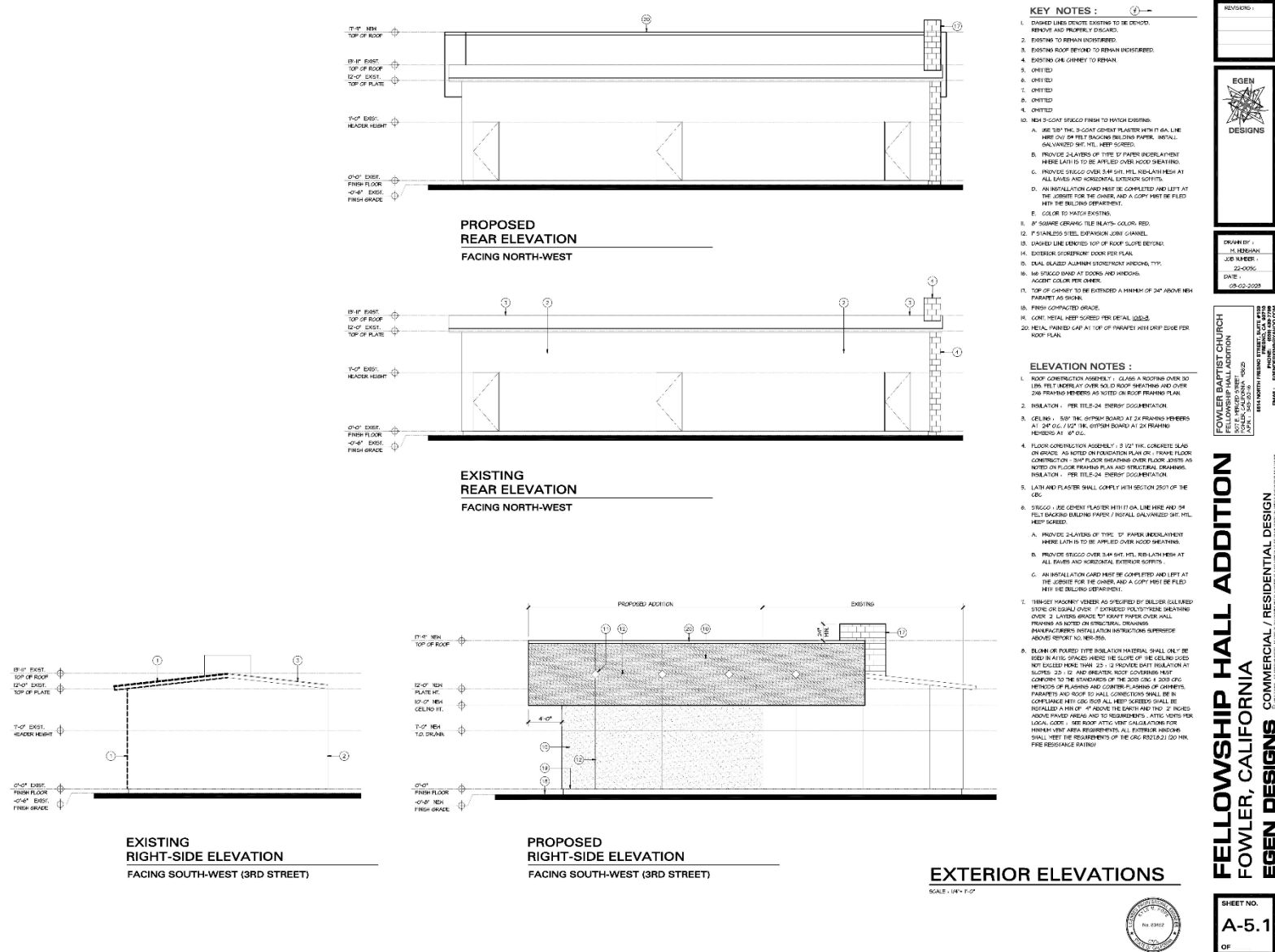
ELEVATION NOTES :

- [illegible]

**FELLOWSHIP HALL ADDITION**  
**FOWLER, CALIFORNIA**  
**EGEN DESIGNS COMMERCIAL / RESIDENTIAL DESIGN**

SHEET NO.  
**A-5.0**  
OF





## **RESOLUTION NO. 691**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FOWLER TO APPROVE LOT LINE ADJUSTMENT 23-09, TO APPROVE CONDITIONAL USE PERMIT 23-11, AND TO ADOPT CATEGORICAL EXEMPTIONS PURSUANT TO CEQA GUIDELINES SECTIONS 15301 AND 15305.**

**WHEREAS**, the City received separate applications for Lot Line Adjustment (LLA) 23-09 and (CUP) Conditional Use Permit 23-11 and have processed both applications concurrently; and

**WHEREAS**, the Fowler Baptist Church is the applicant of both LLA 23-09 and CUP 23-09 (Project); and

**WHEREAS**, the Fowler Baptist Church owns both Assessor's Parcel Numbers (APNs) 343-182-12 (0.17 acres in size) and 343-182-16 (0.52 acres in size) and wishes to merge the two parcels into one contiguous parcel; and

**WHEREAS**, recordation of LLA 23-09 would result in the merger of APNs 343-182-12 and 343-182-16 into one parcel of approximately 0.69 acres in size; and

**WHEREAS**, the Fowler Baptist Church also proposes an expansion of their assembly hall by approximately 1,440 square feet under CUP 23-11; and

**WHEREAS**, recordation of LLA 23-09 must occur before any construction proposed as a part of CUP 23-11 can occur; and

**WHEREAS**, the subject property is located at the southeast corner of East Merced and South 3rd Streets and located on land zoned RM-3 Multi-Family and planned for High Density Residential uses; and

**WHEREAS**, churches are conditionally allowed within the RM-3 zone district; and

**WHEREAS**, the expansion of any use conditionally allowed within the RM-3 zone district requires the approval of a conditional use permit; and

**WHEREAS**, the City has determined that the Project is categorically exempt under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Sections 15301, Existing Facilities, and 15305, Minor Alterations in Land Use Limitations, and that no additional environmental analysis is required; and

**WHEREAS**, at a regular meeting on June 1, 2023, at 6:30pm, the Fowler Planning Commission conducted a public hearing to consider LLA 23-09 and CUP 23-11; and



**WHEREAS**, notice of said public hearing was published in the May 19, 2023, edition of The Business Journal, posted at City Hall, and on the City’s website, and sent to interested parties via email; and

**WHEREAS**, the Planning Commission, after reviewing and considering the staff report, categorical exemptions, and all evidence presented at the Planning Commission’s regular meeting on June 1, 2023, including oral and written public testimony on the Project and the Categorical Exemption, and which is herein incorporated by this reference, did make the following findings with regard to the CUP 23-11 for the Project:

1. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by the Zoning Ordinance.
2. 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. No significant effects on the surrounding street system are anticipated.
3. The proposed use will have no adverse effect upon abutting property or the use thereof.
4. The conditions established by the Planning Commission and attached to this Resolution for CUP 23-11 are deemed necessary to protect the public health, safety and general welfare.

**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Fowler:

1. Adopts a Class 1 and Class 5 categorical exemption from further environmental review pursuant to CEQA Guidelines Sections 15301 and 15305.
2. Approves LLA 23-09, subject to the conditions contained in Attachment “A”.
3. Approves CUP 23-11, subject to the conditions contained in Attachment “A”.

**PASSED, APPROVED AND ADOPTED** this 1st day of June 2023, at a Regular Meeting of the Planning Commission of the City of Fowler by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

**APPROVED:**

\_\_\_\_\_  
Craig Mellon, Chair

ATTEST:

\_\_\_\_\_  
Maria Aguilar, Secretary to the Planning Commission

**ATTACHMENT “A”**

**CONDITIONS OF APPROVAL**

**LOT LINE ADJUSTMENT 23-09 AND**

**CONDITIONAL USE PERMIT 23-11**

**General Conditions**

1. All conditions of approval shall be the sole financial responsibility of the Applicant/owner, except where specified in the conditions of approval listed herein or mandated by statutes.
2. **The Applicant shall submit to the City of Fowler Community and Economic Development Department a check in the amount necessary to file a Notice of Exemption at the Fresno County Clerk. This amount shall equal the Fresno County filing fee in effect at the time of filing. Such check shall be made payable to the Fresno County Clerk and submitted no later than three (3) days following action on Lot Line Adjustment (LLA) 23-09 and Conditional Use Permit (CUP) 23-11.**
3. Recordation of LLA-23-09 shall be completed within one year of the date of approval. Failure to complete the recording process within one year of approval will render the approval null and void. There is no extension.
4. Approval of this conditional use permit and the associated site plan shall be valid for a period not to exceed one year from the date of approval unless a building permit for the facility described herein has been issued by the Building Department and construction is being diligently pursued. The owner may request an extension of up to one additional year via written request to the Community and Economic Development Department submitted not less than thirty days prior to expiration of this approval.
5. Approval of LLA 23-09 and CUP 23-11 and its associated site plan shall be considered null and void in the event of failure by the applicant and/or the authorized representative, engineer, or surveyor to disclose and delineate all facts and information relating to the subject property, the proposed use, and the proposed lot line adjustment.
6. CUP 23-11 and its associated site plan shall be subject to the recordation of LLA 23-09.
7. Development of the site shall be in substantial conformance with the plans approved by the Planning Commission and the subject conditions contained herein. Minor modifications to the approved plans necessary to meet regulatory, engineering, or similar constraints may be made at the discretion of the City Planner without amendment to CUP 23-11.
8. Any proposed signs are subject to review and approval by the City Planner by means of a separate Sign Review process.
9. It shall be the responsibility of the property owner, operator, and/or management to ensure that any required permits, inspections, and approvals from any regulatory agency be obtained from the applicable agency prior to issuance of a building permit and/or the issuance of a certificate of completion, as determined appropriate by the City of Fowler Community and Economic Development Department.
10. All conditions shall be satisfied prior to occupancy approval for any portion of the project.

Failure to comply with all conditions of approval shall be grounds for the imposition of penalties, suspension of the permit, modification of the permit, or revocation of the permit.

11. The operator shall keep the exterior premises free of trash and debris. Graffiti shall be removed or covered within 48 hours of its discovery by the Applicant, manager, or any employee.
12. Approval of LLA 23-09 and CUP 23-11 is not an authorization to commence construction. On- and off-site improvements, building construction, sign erection or occupancy shall not be permitted without prior approval of the City through issuance of any required grading or building permits.
13. A copy of these conditions must be kept on the premises and be shown to any requesting City official. Failure to comply with all conditions of approval shall be grounds for the imposition of penalties, modification of the permit, or revocation of the permit.
14. All business and processes shall be conducted within a completely enclosed structure, except for off-street parking and loading areas, service stations, outdoor dining areas, nurseries, garden shops, signs, Christmas tree sales lots, bus depots, and transit stations, public utility stations and car sales.
15. No use shall be permitted, and no process, equipment or materials shall be used that are found by the City to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, water-carried waste, noise, vibration, illumination, glare, or unsightliness or to involve any hazard of fire or explosion.
16. The project shall conform to the R-3 zone district development standards. Any deviation from these standards shall result in the requirement for a variance.
17. The church sanctuary and assembly hall shall not be rented out at the same time.

### **Lighting**

18. All lighting shall be hooded and directed to not shine towards adjacent properties and public streets.

### **Development Review Committee**

19. Place hedging along South 3rd Street where windows are visible from the street.
20. Relocate doors on the south elevation to be centered on the wall.
21. All elevations shall match the existing roof line and overhang of the building.
22. Replicate the breezeway design along Merced Street on the south elevation of the building.
23. Add a textured design dashing to the south elevation of the building.
24. Signs submitted under a separate sign shall match the existing sign lettering along Merced Street.
25. Use the accent color on the chimney or revert the chimney to the original brick color.

## **Off-Street Parking**

26. A parking analysis shall be submitted for approval by the City Engineer demonstrating that substantial conflict will not exist in the principal hours or periods of peak demand for the joint uses proposed.
27. A written agreement shall be drawn by the Applicant to the satisfaction of the City and executed by all parties concerned assuring the continued availability of the number of stalls designated for joint use.
28. All on-site parking stalls shall be striped to current City standards.
29. All parking areas shall have adequate ingress and egress to and from a street or alley. Sufficient room for turning and maneuvering vehicles shall be provided on the site, pursuant to current City standards.
30. Entrances and exits to parking lots and other parking facilities shall be provided only at locations approved by the City.
31. Each parking space shall not be less than 20-feet in length and 9-feet in width, exclusive of aisles and access drives, except that up to thirty (30) percent of all spaces may be provided for compact cars and such spaces not less than 9-feet in width and 16-feet in length and marked for compact cars.
32. Where the drive approach along South 3rd Street has been proposed to be abandoned, the street shall be restriped to provide for additional on-street parking.
33. The southernmost parking stall along the South 3rd Street project frontage shall be removed as it conflicts with the shared drive approach along the property's southeastern boundary.
34. The Applicant shall construct parking spaces along the alley where grass currently exists. Parking spaces constructed in this area shall not inhibit access to the existing power pole in this area.
35. All restriping and the construction of any new parking stalls shall be reviewed and approved by the City Engineer prior to construction and the acquisition of building permits.

## **Landscaping Standards**

36. Landscaping shall be provided in accordance with Fowler Zoning Ordinance Section 9-5.21.12.
37. Landscaping shall be kept free from weeds and litter.
38. Parking Lot Shading. Fifty (50) percent of paved parking lot surfaces shall be shaded by tree canopies within fifteen (15) years of planting.
39. A landscape and irrigation plan shall be prepared by a licensed Landscape Architect and submitted as part of the submittals for a building permit. Landscape and irrigation plans shall be approved by the Community and Economic Development Department prior to issuance of building permits. Such plans shall indicate the location and type of vegetation existing and proposed on-site.
40. The property owner shall maintain all landscaping in a healthy and well-manicured appearance to achieve and maintain the landscaping design that was approved by the City. This includes, but is not limited to, ensuring properly operating irrigation equipment at all

times, trimming and pruning of trees and shrubs, and replacing dead or unhealthy vegetation with drought-tolerant plantings.

41. Provide landscaping in the open area south of the proposed expansion.

### **Fire Department**

42. A building permit is required for alterations/additions to the structure.
43. A Knox box is required if not existing.
44. One, 2A10BC rated fire extinguisher is required for each 3,000 square feet of floor area.
45. Panic hardware is required including the existing exits.
46. An occupant load sign must be posted.
47. Fire sprinklers and a fire alarm system shall be provided in accordance with the 2022 California Building Code and California Fire Code, including any requirements for the existing structure triggered by the proposed expansion.
48. Emergency Lighting and Exit signs must be provided in accordance with Chapter 10 of the California Building Code.

### **Engineering Conditions**

#### ***General:***

49. All proposals of the Applicant shall be conditions of approval, except as further modified below, and subject to modifications to conform to applicable City Standards.
50. The Applicant shall pay all fees as required by existing ordinances and schedules. The fees to be paid shall be those in effect at the time of payment.

#### ***Circulation:***

51. The Applicant shall pay the Regional Traffic Mitigation Fee to the Fresno Council of Governments.
52. Where the Applicant has proposed to abandon a drive approach along South 3rdal Street, the Applicant shall replace the existing drive approach with curb, gutter, and sidewalk to City standards.
53. The Applicant shall reconstruct the alley along the northeast boundary of the site to current City standards.
54. Parking lot shall be paved with asphalt or concrete, shall be properly lit and landscaped and shall comply with the Fowler Improvement Standards.
55. Drive aisles shall be kept unobstructed at all times. Vehicles shall not block driveways.

#### ***Grading and Drainage:***

56. A Grading and Site Improvement Plan for the proposed on-site improvements shall be submitted for review and approval by the City Engineer. The Applicant shall obtain a Grading and Site Improvement Permit once plans are approved. Improvement plans shall indicate the site, along with the merged parcel, can adequately drain to a City storm drain facility.

***Water/Sewer:***

- 57. A site plan clearly depicting all existing water and sewer connections and valves shall be submitted to the Community and Economic Development Department.
- 58. Any new sewer connections shall be subject to and meet the requirements of the Selma-Kingsburg-Fowler Sanitation District.

**Other**

- 59. Approval of this Project is for the benefit of the Applicant. The submittal of applications by Applicant for this Project was a voluntary act on the part of the Applicant not required by the City. Therefore, as a condition of approval of this Project, the Applicant agrees to defend, indemnify and hold harmless the City of Fowler and its agents, officers, consultants, independent contractors and employees (“City”) from any and all claims, actions or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the Project, including any challenges to associated environmental review, and for any and all costs, attorneys fees, and damages arising therefrom (collectively “Claim”).

The City shall promptly notify the Applicant of any Claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the Applicant of any Claim or if the City fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any Claim and the City shall not be required to pay or perform any settlement arising from any such Claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any Claim, and if the City does decide to independently defend a Claim, the Applicant shall be responsible for City’s attorneys’ fees, expenses of litigation and costs for that independent defense, including the costs of preparing any required administrative record. Should the City decide to independently defend any Claim, the Applicant shall not be required to pay or perform any settlement arising from any such Claim unless the Applicant approves the settlement.

Signature of Applicant: \_\_\_\_\_

Dated: \_\_\_\_\_





## **PLANNING COMMISSION OF THE CITY OF FOWLER**

ITEM NO:10

### **REPORT TO THE PLANNING COMMISSION**

June 1, 2023

**FROM** DAWN E. MARPLE, City Planner

### **SUBJECT**

Public Hearing to CONSIDER the Revocation of Conditional Use Permit (CUP) 15-04 at 2396 South Golden State Boulevard (APN: 345-110-90)

### **RECOMMENDATION**

Staff recommend the Planning Commission adopt a resolution to revoke CUP 15-04.

### **BACKGROUND**

On October 8, 2015, the Fowler Planning Commission approved IRE Pallet Co.'s CUP 15-04. The CUP allows IRE Pallet Co. to store, recycle, and sell wooden pallets at the property located at 2396 South Golden State Boulevard (APN: 345-110-90) (the "Property"), subject to Conditions of Approval. On February 23, 2022, the City's Community Compliance Officer, conducted an initial review and inspection of the Property. During his inspection, the Compliance Officer found that IRE Pallets Co. was not in compliance with the following Conditions of Approval from CUP 15-04: 13, 15, 18, 20, 21, 22, 23, 25, 26, 30, and 31. (A copy of CUP 15-04 Conditions of Approval, is attached hereto for reference.)

On March 8, 2022, the City's Community Compliance Officer, Thunderstorm Vue, sent out the First Notice Regarding Fowler Municipal Code Violations. In this letter the business owner was informed that he had a compliance date of March 18, 2022.

On March 22, 2022, a reinspection pertaining to this notice was conducted. The Community Compliance Officer noted that work to abate the violations had begun but that the property was still neither in compliance with the Fowler Municipal Code nor the Conditions of Approval.

On April 14, 2022, the Community Compliance Officer conducted a follow-up reinspection with Fire Chief Lopez. The previously mentioned violations had still not been remedied at this time. Based on this inspection a Final Notice and Order to Abate City of Fowler Municipal Code Violations ("Final Notice") was prepared.

On April 21, 2022, the City served the business owner with the Final Notice, and provided a new compliance date of May 8, 2022.

On May 16, 2022, the Compliance Officer called to schedule a reinspection on the property, advising the business owner that all code violations needed to be remedied or an Administrative Citation will be issued. A reinspection date was agreed for May 25, 2022.

On May 25, 2022, the Community Compliance Officer, along with the City of Fowler's Building Official, Alfred Vasquez, conducted the scheduled inspection. The violations noted in the Final Notice had not been resolved at this point.

On May 31, 2022, an updated Final Notice was prepared and provided to the business owner via USPS First Class Mail. Within the letter the City listed the existing violations and the corrective action necessary to abate the violations.

On September 9, 2022, a Notice of Violation was issued via USPS First-Class Mail. Within this Notice of Violation, the City listed the existing violations and the corrective actions necessary to abate the violations. The Notice of Violation listed the following Conditions of Approval from CUP 15-04 that IRE Pallet Co. was not in compliance with:

- #13. The entrance gate shall be a minimum of 20 ft wide with either a swinging or sliding gate.
- #15. Concertina or razor wire shall not be used or placed on any fence, building or structures on the premises.
- #18. The applicant shall at all times keep the project free of weeds and other vegetation that could harbor pests or become fire hazards.
- #20. Drive aisles shall be kept unobstructed at all times to allow clear access by the Fire Department. Vehicles shall not block driveways.
- #21. Fire apparatus access road shall be marked with permanent "No parking-fire lane" signs.
- #22. Drive aisles shall be a minimum of 20 ft wide for fire road access.
- #23. No pallets shall be placed within 40 ft of any building or within 20 ft of a trash dumpster.
- #25. Pallets stacks may not exceed 5,000 cubic feet in size.

#26. Stack height over 10 ft shall require approval of the Building Official with additional driveway width required.

#30. The applicant shall prepare a Safety and Evacuation Plan for review and approval by the Fire Chief.

#31. The applicant shall provide a second means of emergency access which shall be approved by the Fire Chief and City Engineer

On February 8, 2023, a follow up letter was prepared and provided to the business owner with a copy also sent to the owner of the Property via USPS First-Class Mail.

On April 12, 2023, an updated Notice of Violation was prepared and provided to the owner of the Property via USPS First-Class Mail.

On May 9, 2023, an updated Final Notice was prepared and provided to the owner of the Property via USPS First-Class Mail.

Subsequent Administrative Citations have been issued through May 9, 2023, these citations were mailed to the owner of the Property via USPS Certified Mail on April 12, 2023 (#6396), May 9, 2023 (#3809), and May 15, 2023 (#3820).

If the Commission takes action to revoke the CUP, the permit's provisions become null and void and all business activity at the location must cease immediately. The Commission may modify the CUP if the violations that would justify revocation can be corrected by imposing new or additional conditions. The decision of the Commission to revoke or modify a CUP may be appealed to the City Council.

## **Analysis**

Article 4 Section 9-5.417 of the Fowler Zoning Ordinance sets forth the procedures for revocation of Conditional Use Permits, including the grounds for revocation. Article 4 Section 9-5.417 any use permit may be revoked:

1. If any of the conditions of such permit are violated; or
2. If the use or its operation violates any applicable provision of the Fowler Municipal Code, or any state or federal law; or
3. If in granting the permit, information was considered that was materially erroneous or misleading, regardless of fault; or
4. If the use is conducted so as to be detrimental to the public health, safety or welfare, or so as to be a nuisance.

As previously stated in the Background section of this report, IRE Pallets Co. was not in compliance with the following Conditions of Approval from CUP 15-04: 13, 15, 18, 20, 21, 22, 23, 25, 26, 30, and 31. Despite numerous inspections and communications from the City, the business owner did not take action to abate the violations on the property. Fowler Zoning Ordinance section 9-5.417, subdivision (B) provides, "[i]f the Commission finds that any one (1) of the grounds listed above exists, the

Commission may revoke the permit, and order the cessation of any use and may further order the removal of any structure thereof that has been permitted by said permit.”

Based on the above, staff recommends the Planning Commission revoke CUP15-04 subject to the findings included at the conclusion of this staff report. Revocation of the CUP is subject to appeal to City Council as established by Article 4, Section 9-5.417, subdivision (B) of the Fowler Zoning Ordinance.

## **Findings**

1. Conditional Use Permit No. CUP 15-04 was approved by the Planning Commission on October 8, 2015 subject to Conditions of Approval.
2. The permitted use, as observed and recorded by the City of Fowler Community Compliance Officer, is conducted in such a way that violates the following Conditions of Approval from CUP 15-04: 13, 15, 18, 20, 21, 22, 23, 25, 26, 30, and 31, and therefore constitutes grounds for revocation of the conditional use permit.
3. The permitted use, as observed and recorded by the City of Fowler Community Compliance Officer, is conducted in such a way as to be potentially detrimental to public health and safety.
4. To date, neither the business owner nor the property owner have timely abated the violations of the Conditions of Approval listed in CUP 15-04, as provided for within the City’s Notice of Violation dated September 9, 2022.
5. A follow up letter to the Notice of Violation was provided to the business owner and property owner on February 8, 2023.
6. A notice of revocation was provided to the business owner and property owner on May 18, 2023, as well as property owners within 300 feet of the project site on May 19, 2023.
7. Substantial evidence within the record supports the finding that several of the Conditions of Approval within CUP 15-04 were violated, and that the business owner’s use of the Property constitutes a public nuisance for operating in violation of the Fowler Municipal Code.

## **ENVIRONMENTAL REVIEW**

The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. (CEQA Guidelines § 15061, subd. (b)(3).)

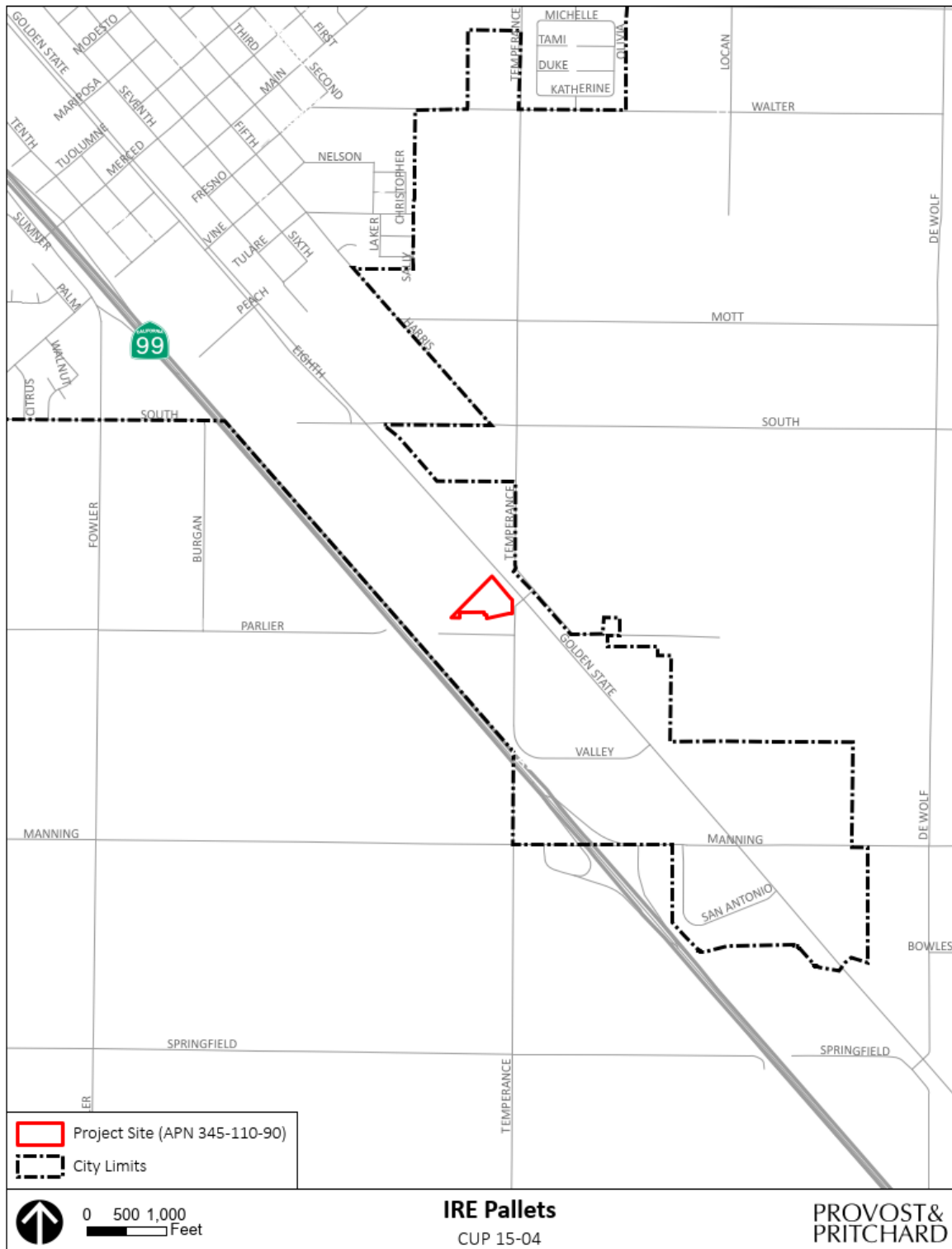
## **CONFLICT OF INTEREST**

Staff is not aware of any potential conflicts of interest.

Attachments

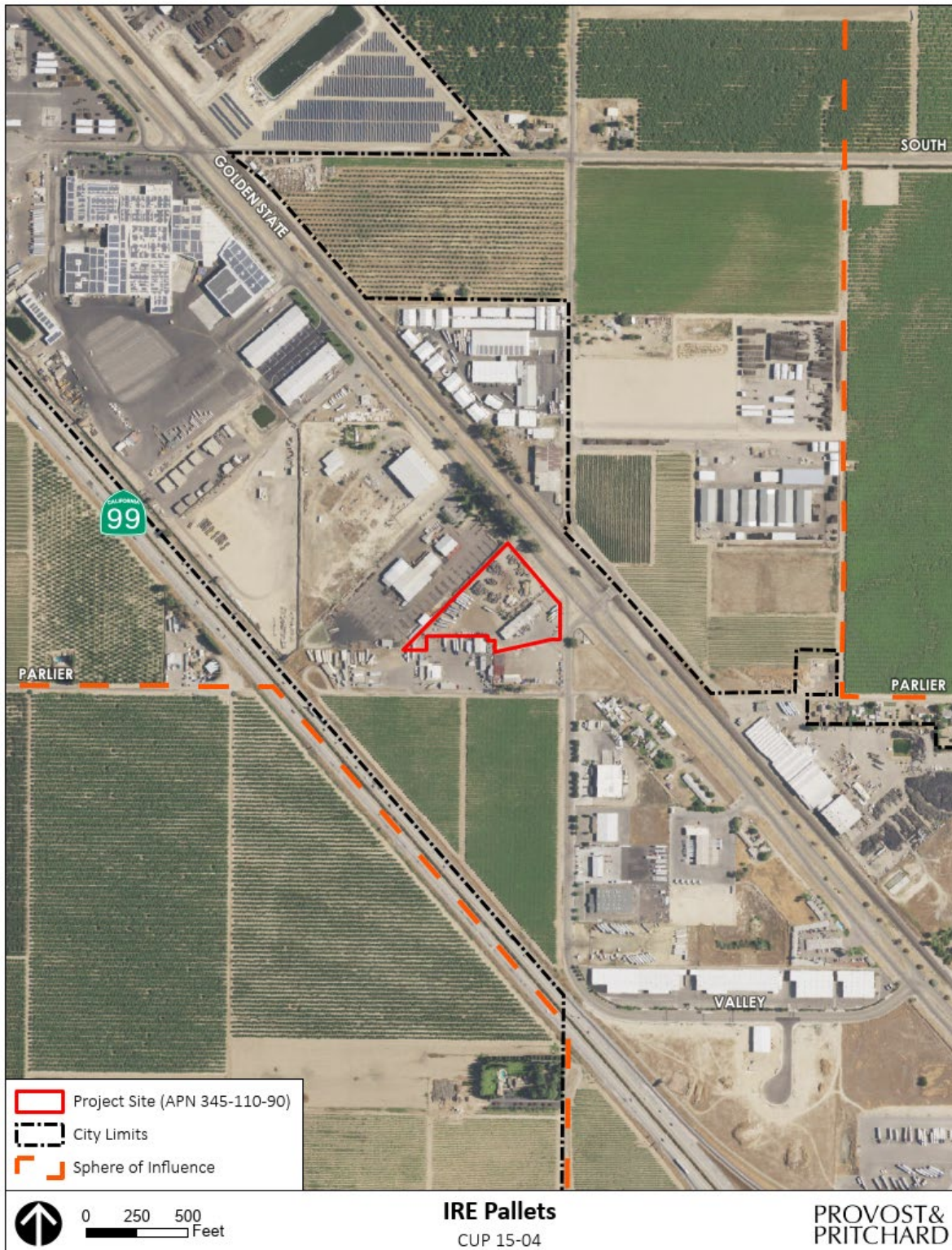
- Attachment 1: Regional Vicinity Map
- Attachment 2: Aerial Map
- Attachment 3: Zoning Map
- Attachment 4: General Plan Land Use Map
- CUP 15-04 Resolution 608 & Attachment A Conditions of Approval
- Planning Commission Resolution 692

### Attachment 1: Regional Vicinity Map



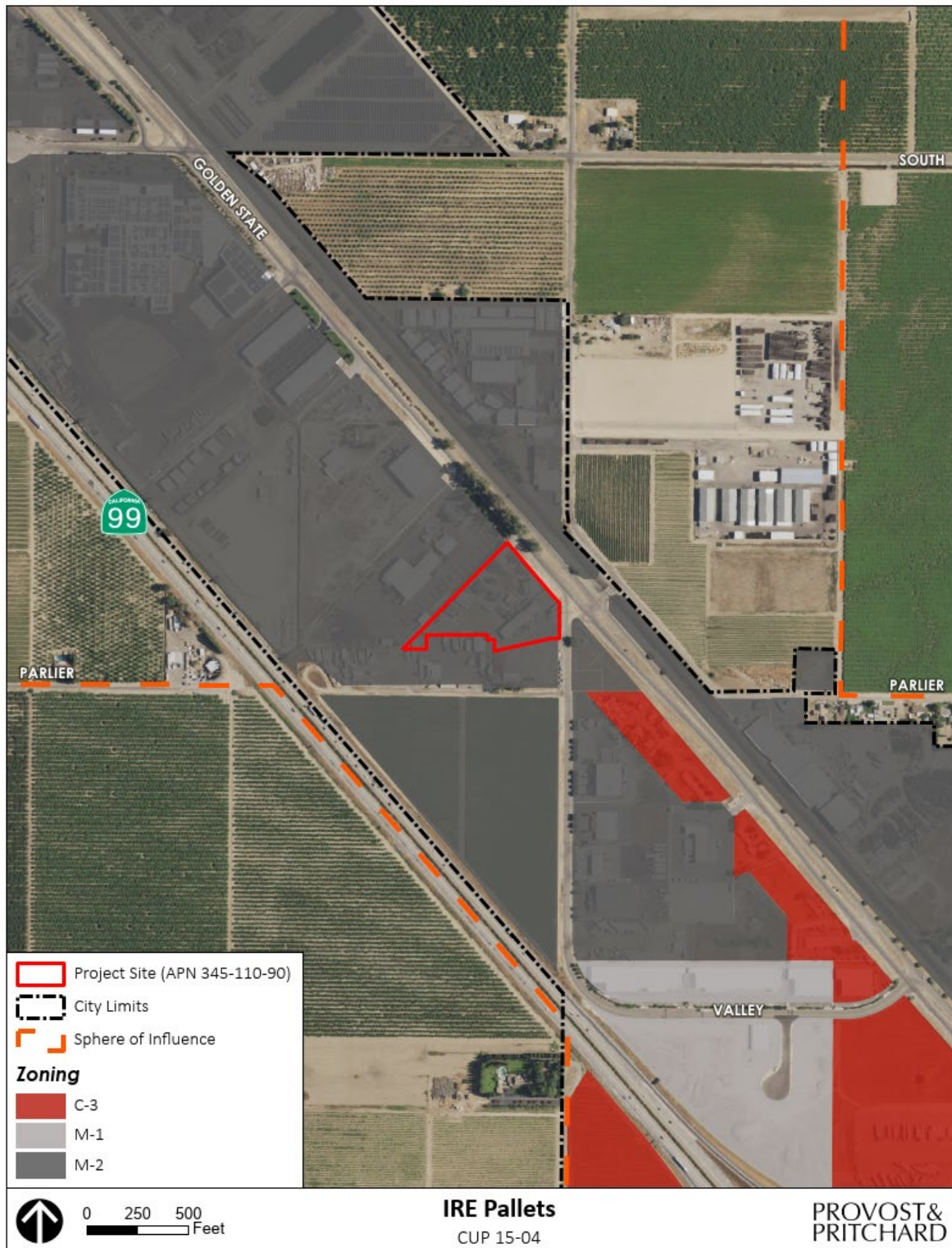


Attachment 2: Aerial Map

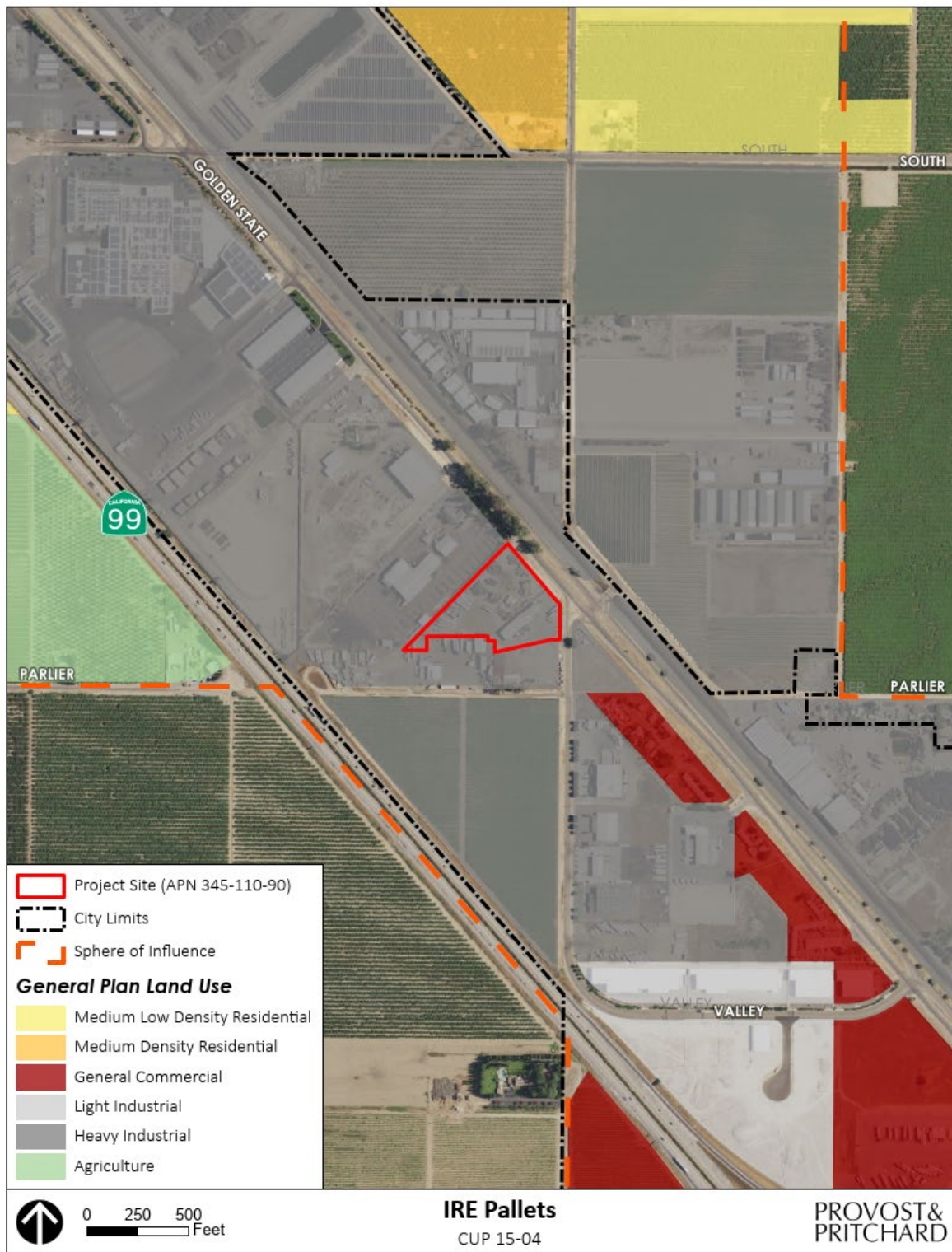




### Attachment 3: Zoning Map



### Attachment 4: General Plan Land Use Map



**RESOLUTION NO. 608**

**RESOLUTION BEFORE THE PLANNING COMMISSION  
OF THE CITY OF FOWLER  
COUNTY OF FRESNO, STATE OF CALIFORNIA**

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**RESOLUTION APPROVING  
CONDITIONAL USE PERMIT APPLICATION NO. 15-04  
(IRE PALLETS CO.)**

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**WHEREAS**, a Conditional Use Permit application has been received to allow wooden pallet storage, recycling and sales in the M-2 zone district located on an approximate 1.80 acre portion of APN 345-110-90 at 2396 S. Golden State Boulevard; and

**WHEREAS**, the subject project requires approval of a Conditional Use Permit in accordance with Article 25 of the Fowler Zoning Ordinance; and

**WHEREAS**, appropriate applications were filed and deemed complete by the Fowler Planning Department; and

**WHEREAS**, the subject application was reviewed for compliance with the Fowler Municipal Code; and

**WHEREAS**, the City has determined that the project is categorically exempt from requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15332, In-fill Development, and that no additional environmental analysis is required; and

**WHEREAS**, the Commission reviewed the proposal at a meeting on October 8, 2015; and

**WHEREAS**, the Commission, after reviewing the staff report prepared pursuant to the request, and which is herein incorporated by this reference, did make the following findings with regard to the CUP:

1. *The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by the Zoning Ordinance.*
2. *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. No significant effects on the surrounding street system are anticipated.*



3. *The proposed use will have no adverse effect upon adjoining or other property.*
4. *The conditions established by the Planning Commission for the Conditional Use Permit are deemed necessary to protect the public health, safety and general welfare.*

**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Fowler does approve Conditional Use Permit No. 15-04 subject to the conditions contained in Attachment "A."

  
Chairman of the Planning Commission

Attest:

  
Secretary of the Planning Commission

I, Corina Burrola, Secretary of the Planning Commission, do hereby certify that the foregoing resolution was adopted at a meeting of the Planning Commission of the City of Fowler, on the motion of Commissioner RODRIQUEZ and <sup>October 20, 2015</sup> seconded by Commissioner MEJIA on the <sup>8<sup>th</sup></sup>~~8<sup>th</sup>~~ day of October, 2015, by the following vote:

AYES: Commissioners: RODRIQUEZ, MEJIA, MELLON, FERNANDEZ

NAYS: Commissioners: MUKAI

ABSTAIN: Commissioners: NONE

ABSENT: Commissioners: NONE

## **Attachment "A"**

### **CONDITIONS OF APPROVAL CUP No. 15-04: Ire Pallets Co.**

1. The use is located in the M-2 zone district and all provisions of that district shall apply.
2. The Conditional Use Permit is approved for wooden pallet storage, recycling and sales on property located on approximately 1.80 acres of APN 345-110-90 at 2396 S. Golden State Boulevard.
3. The Conditional Use Permit shall lapse and become void one (1) year following the effective date unless a certificate of occupancy is issued by the building official or an extension is granted by the Planning Commission. Once in operation, the permit shall become void if the facility ceases operation for one (1) year following the date of any closure.
4. All conditions shall be satisfied prior to occupancy approval for any portion of the project. Failure to comply with all conditions of approval shall be grounds for the imposition of penalties, suspension of the permit, modification of the permit, or revocation of the permit.
5. Use of the property shall be conducted in such a way that it does not constitute a nuisance, and in particular, the use shall not create adverse odor, vector, or dust impacts to adjacent properties. If the City finds at any time that use of the property constitutes a nuisance or is otherwise detrimental to the community, the Planning Commission may revoke or modify the CUP following the procedures in Article 4 of the Zoning Ordinance.
6. Hours of operation shall be limited to 6:00 am to 10:00 pm. No noise (machinery or construction repair) shall occur between the hours of 8:00 pm to 7:00 am unless a special permit is issued by the City.
7. As applicable, the applicant shall install drainage structures, fire hydrants, and other improvements as directed by the City.
8. Any free standing or occupancy signs shall be approved by the Director by means of a separate Sign Review process.
9. The applicant shall keep the exterior premises free from trash and debris. Graffiti shall be removed or covered within 48 hours of its discovery by the applicant, manager, or any employee.



10. All contractors or sub-contractors working in the City must obtain a business license from the Finance Department at Fowler City Hall. The applicant shall report applicable sales tax revenue to the State.
11. Any hazardous waste shall be handled in accordance with requirements set forth in the California Health and Safety Code, Chapter 6.5. This chapter discusses proper labeling, storage and handling of hazardous wastes.
12. The applicant shall comply with and provide all improvements and/or pay all fees required by the Selma-Kingsburg-Fowler County Sanitation District (SKF) and the City.
13. The entrance gate shall be a minimum of 20 feet wide with either a swinging or sliding type gate.
14. The applicant shall provide a "Knox box" with keys in order to provide 24-hour emergency access by public safety personnel. The type of "Knox box" and its placement shall be approved by the City.
15. Concertina or razor wire shall not be used or placed on any fence, building or structures on the premises.
16. All lighting shall be hooded and directed as to not shine towards adjacent properties and public streets.
17. The applicant shall utilize pest control professionals to keep the project site free of rodents at all times.
18. The applicant shall at all times keep the project site free of weeds and other vegetation that could harbor pests or become a fire hazard.
19. The project shall comply with all applicable Air District rules that would apply to this proposal including but not limited to: District Regulation VIII – Fugitive Dust Rules, to address impacts related to PM<sub>10</sub>, and Rule 4102 (Nuisance), to address any source operation that emits air contaminants or other materials.
20. Drive aisles shall be kept unobstructed at all times to allow clear access by the Fire Department. Vehicles shall not block driveways.
21. Fire apparatus access road shall be marked with permanent "No parking – fire lane" signs.
22. Drive aisles shall be a minimum of 20 feet wide for fire road access.

23. No pallets may be placed within 40 feet of any building or within 20 feet of a trash dumpster.
24. The applicant shall provide proof that their hauler for recycled materials is a free service and report to the Building Official the tonnage of materials hauled and where it goes.
25. Pallets stacks may not exceed 5,000 cubic feet in size. For example, a pallet stack height of 10 feet would result in a footprint of 500 square feet with 20 foot drive aisles.
26. Stack height over 10 feet shall require approval of the Building Official with additional driveway width required.
27. Maximum distance from any point on street or road frontage to a fire hydrant shall be 250 feet.
28. Existing water meters and other infrastructure along all property lines shall be kept clear with a minimum 20 foot clearance.
29. A caretaker's residence is approved with this CUP, intended for the caretaker and immediate family. No children may reside on the site.
30. The applicant shall prepare a Safety and Evacuation Plan for review and approval by the Fire Chief.
31. The applicant shall provide a second means of emergency access which shall be approved by the Fire Chief and City Engineer.
32. Hold Harmless and Indemnification Condition. Approval of this Project is for the benefit of the developer/applicant. Therefore, as a condition of approval of this Project, the developer/applicant agrees to defend, indemnify and hold harmless the City of Fowler and its agents, officers, consultants, independent contractors and employees ("City") from any and all claims, actions or proceedings against the City to attack, set aside, void, or annul an approval by the City concerning the Project, and for any and all costs, attorney's fees, and damages arising therefrom (collectively "Claim"). The City shall promptly notify the Developer/applicant of any Claim and the City shall cooperate fully in the defense. If the City fails to promptly notify the developer/applicant of any Claim or if the City fails to cooperate fully in the defense, the developer/applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the City.

Nothing in this condition shall obligate the City to defend any Claim and the City shall not be required to pay or perform any settlement arising from any such Claim not defended by the City, unless the City approves the settlement in writing. Nor shall the City be prohibited from independently defending any Claim, and if the City does decide to independently defend a Claim, the developer/applicant shall be responsible for City's attorney's fees, expenses of litigation and costs for that independent defense. Should the City decide to independently defend any Claim, the developer/applicant shall not be required to pay or perform any settlement arising from any such Claim unless the developer/applicant approves the settlement.

Signature of applicant : \_\_\_\_\_

Dated: \_\_\_\_\_

## **RESOLUTION NO. 692**

### **RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FOWLER, COUNTY OF FRESNO, STATE OF CALIFORNIA REVOKING CONDITIONAL USE PERMIT NO. 15-04**

**WHEREAS**, on October 8, 2015, the City of Fowler Planning Commission (Commission) approved Conditional Use Permit No. 15-04 (CUP 15-04) for IRE Pallets Co. to store, recycle, and sell wooden pallets at the property located at 2396 South Golden State Boulevard (APN 345-110-90); and

**WHEREAS**, the City of Fowler (City) has notified the business owner and property owner of non-compliance with conditions of CUP 15-04, including a Notice of Violation dated September 9, 2022; and

**WHEREAS**, Section 9-5.417, subdivision (B) of the Fowler Zoning Ordinance provides that a proposed revocation of a CUP may be heard by the Commission after giving written notice to the permittee at least ten (10) days prior to the hearing; and

**WHEREAS**, a notice of revocation was provided to the business owner and property owner on May 18, 2023, and the Commission did set the hearing for consideration of the revocation of CUP 15-04 for June 1, 2023; and

**WHEREAS**, the Commission did review the matter at a public hearing on June, 1, 2023; and

**WHEREAS**, Article 4 of the Fowler Zoning Ordinance sets forth the procedures for revocation of Conditional Use Permits, including Section 9-5.417 stipulating the grounds for revocation; and

**WHEREAS**, Section 9-5.417, subdivision (A)(1) states, “Any use permit, variance, or administrative approval granted pursuant to this chapter may be revoked, if any of the conditions of approval are violated.”; and

**WHEREAS**, pursuant to Section 9-5.417, subdivision (A)(1), the Commission found that IRE Pallets Co. was not in compliance with the following Conditions of Approval from CUP 15-04:

#13. The entrance gate shall be a minimum of 20 ft wide with either a swinging or sliding gate.

#15. Concertina or razor wire shall not be used or placed on any fence, building or structures on the premises.

#18. The applicant shall at all times keep the project free of weeds and other vegetation that could harbor pests or become fire hazards.

#20. Drive aisles shall be kept unobstructed at all times to allow clear access by the Fire Department. Vehicles shall not block driveways.

#21. Fire apparatus access road shall be marked with permanent “No parking-fire lane” signs.

#22. Drive aisles shall be a minimum of 20 ft wide for fire road access.

#23. No pallets shall be placed within 40 ft of any building or within 20 ft of a trash dumpster.

#25. Pallets stacks may not exceed 5,000 cubic feet in size.

#26. Stack height over 10 ft shall require approval of the Building Official with additional driveway width required.

#30. The applicant shall prepare a Safety and Evacuation Plan for review and approval by the Fire Chief.

#31. The applicant shall provide a second means of emergency access which shall be approved by the Fire Chief and City Engineer.

**WHEREAS**, Section 9-5.417, subdivision (A)(4) states “Any use permit, variance, or administrative approval granted pursuant to this chapter may be revoked, if the use is conducted so as to be detrimental to the public health, safety or welfare, or so as to be a nuisance”; and

**WHEREAS**, pursuant to Section 9-5.417, subdivision (A)(4), the Commission found that IRE Pallets Co.’s inability to adhere and comply to the fire safety related conditions of approval (#20, 21, 22, 30, and #31) of the conditional use permit constitutes a threat to the public safety, health and welfare; and

**WHEREAS**, the City provided Notices informing the business owner and property owner of the violations from March 8, 2022 to May 9, 2023, and provided the business owner the opportunity to correct and abate the violations; and

**WHEREAS**, it was determined by the City based on the evidence and site inspection that satisfactory progress had not been made to comply with the provisions of CUP 15-04; and

**WHEREAS**, the Commission, as a result of the inspections, investigations, and notices issued by the City of Fowler, and of testimonies offered at said public hearing, incorporated by reference herein, has established that the long-term interests of the City of Fowler and of its residents would be best served by the revocation of CUP 15-04.

**NOW THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Fowler, based on the entire record of the proceedings:

1. Hereby makes the following findings:

- a. Conditional Use Permit No. CUP 15-04 was approved by the Planning Commission on October 8, 2015 subject to Conditions of Approval.
- b. The permitted use, as observed and recorded by the City of Fowler Community Compliance Officer, is conducted in such a way that violates the following Conditions of Approval from CUP 15-04: 13, 15, 18, 20, 21, 22, 23, 25, 26, 30, and 31, and therefore constitutes grounds for revocation of the conditional use permit.
- c. The permitted use, as observed and recorded by the City of Fowler Community Compliance Officer, is conducted in such a way as to be potentially detrimental to public health and safety.
- d. To date, neither the business owner nor the property owner have timely abated the violations of the Conditions of Approval listed in CUP 15-04, as provided for within the City's Notice of Violation dated September 9, 2022.
- e. A follow up letter to the Notice of Violation was provided to the business owner and property owner on February 8, 2023.
- f. A notice of revocation was provided to the business owner and property owner on May 18, 2023, as well as property owners within 300 feet of the project site on May 19, 2023.
- g. Substantial evidence within the record supports the finding that several of the Conditions of Approval within CUP 15-04 were violated, and that the business owner's use of the Property constitutes a public nuisance for operating in violation of the Fowler Municipal Code.

2. Orders that CUP No. 15-04 is hereby revoked.



**PASSED, APPROVED AND ADOPTED** this 1st day of June 2023, at a Regular Meeting of the Planning Commission of the City of Fowler by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

**APPROVED:**

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Craig Mellon, Chair

**ATTEST:**

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Maria Aguilar, Secretary of the Planning Commission