

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Planning & Community Development *KF*  
Urgent \_\_\_\_\_ Routine X  
CEO Concurs with Recommendation YES \_\_\_\_\_ NO \_\_\_\_\_  
(Information Attached)

BOARD AGENDA # 6:35 P.M.  
AGENDA DATE: December 16, 2003  
4/5 Vote Required YES \_\_\_\_\_ NO X

**SUBJECT:** PUBLIC HEARING TO CONSIDER GENERAL PLAN AMENDMENT NO. 2003-04 AND REZONE APPLICATION NO. 2003-09 - STAR QUEST- A PROPOSAL TO REZONE AND AMEND THE GENERAL PLAN DESIGNATION OF A 1.5-ACRE LOT FROM PLANNED INDUSTRIAL (PI) TO PLANNED DEVELOPMENT (PD) TO ALLOW A MULTI-SPORT FACILITY TO TEACH GYMNASTICS, CHEER, KARATE, AND TUMBLING FOR CHILDREN. THE PROPERTY IS LOCATED ON THE NORTHEAST CORNER OF PENTECOST DRIVE AND BITRITTO WAY IN THE MODESTO AREA.

**PLANNING COMMISSION RECOMMENDATION:**

FOLLOWING A PUBLIC HEARING AND DISCUSSION ON NOVEMBER 20, 2003, THE PLANNING COMMISSION VOTED 5-1(WHITE) TO RECOMMEND APPROVAL AS FOLLOWS:

(Continued on Page 2)

**FISCAL IMPACT:**

None.

**BOARD ACTION AS FOLLOWS:**

No. 2003-1217

On motion of Supervisor Grover, Seconded by Supervisor Paul  
and approved by the following vote,  
Ayes: Supervisors: Paul, Mayfield, Grover, Caruso, and Chairman Simon  
Noes: Supervisors: None  
Excused or Absent: Supervisors: None  
Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) \_\_\_\_\_ Denied
- 3) \_\_\_\_\_ Approved as amended
- 3) \_\_\_\_\_ Other

MOTION: INTRODUCED, ADOPTED, AND WAIVED THE READING OF ORDINANCE C.S. 865

ATTEST: Christine Ferraro  
CHRISTINE FERRARO TALLMAN, Clerk

SUBJECT: PUBLIC HEARING TO CONSIDER GENERAL PLAN AMENDMENT NO. 2003-04 AND REZONE APPLICATION NO. 2003-09 - STAR QUEST

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**PLANNING  
COMMISSION  
SECOM-  
MENDATION  
CONTINUED:**

1. FIND THE PROJECT TO BE "DE MINIMIS" FOR THE PURPOSES OF COLLECTION OF FISH AND GAME FEES PURSUANT TO CALIFORNIA CODE OF REGULATIONS SECTION 753.5, BY ADOPTING THE FINDINGS OF FACT CONTAINED IN THE ATTACHED CERTIFICATE OF FEE EXEMPTION, THOSE FINDINGS BEING BASED ON THE ANALYSES PRESENTED IN THE INITIAL STUDY, AND ORDER THE FILING OF THE CERTIFICATE OF FEE EXEMPTION WITH THE STANISLAUS COUNTY CLERK-RECORDER'S OFFICE.
2. ADOPT THE MITIGATED NEGATIVE DECLARATION PURSUANT TO CALIFORNIA CODE OF REGULATIONS SECTION 15074(B), BY FINDING THAT ON THE BASIS OF THE WHOLE RECORD, INCLUDING THE INITIAL STUDY AND ANY COMMENTS RECEIVED, THAT THERE IS NO SUBSTANTIAL EVIDENCE THE PROJECT WILL HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT AND THAT THE MITIGATED NEGATIVE DECLARATION REFLECTS STANISLAUS COUNTY'S INDEPENDENT JUDGEMENT AND ANALYSIS.
3. ORDER THE FILING OF A NOTICE OF DETERMINATION WITH THE STANISLAUS COUNTY CLERK-RECORDERS OFFICE PURSUANT TO PUBLIC RESOURCES CODE SECTION 21152 AND CALIFORNIA CODE OF REGULATIONS SECTION 15075.
4. FIND THAT THE PROJECT IS CONSISTENT WITH THE OVERALL GOALS AND POLICIES OF THE STANISLAUS COUNTY GENERAL PLAN; AND THAT THE PROPOSED PLANNED DEVELOPMENT ZONING IS CONSISTENT WITH THE PLANNED DEVELOPMENT GENERAL PLAN DESIGNATION.
5. APPROVE GENERAL PLAN AMENDMENT 2003-04 AND REZONE 2003-09 - STAR QUEST, SUBJECT TO THE ATTACHED DEVELOPMENT STANDARDS AND MITIGATION MEASURES.

**DISCUSSION:**

This project is a request to rezone and amend the General Plan of a 1.5-acre lot to Planned Development (PD) zoning district to allow a multi-sport facility to teach gymnastics, cheer, karate, and tumbling for children. The applicant proposes to operate the facility between the hours of 9:00 a.m. and 8:00 p.m., seven days per week. Classes will be offered only between the hours of 3:30 p.m. and 8:00 p.m. Birthday parties for members of the facilities who attend classes through the week will be held on Saturday and Sunday afternoons only. No classes or events will be held on Saturday and Sunday.

There will be four (4) full-time and between 35 and 40 part-time employees with an estimated sixteen (16) employees at peak time.

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**DISCUSSION  
CONTINUED:**

The peak time customers for the facility are about 275 with 200 children and 75 parents (spectators). The majority of the children will be dropped off and picked up by parents. The applicant will need to provide a total of 81 parking stalls including two handicap stalls (see Exhibit "A").

The site is located on 1.5-acre parcel at the northeast corner of Pentecost Drive and Bitritto Way (see Exhibit "A"). The surrounding area consists of various light industrial uses and vacant parcels. An application to rezone and subdivide a large vacant parcel on the west side of Pentecost Drive (across from the proposed facility) includes additional light industrial uses, an office business park, and Elks Lodge. Additional information about the project and the history of development in the area is provided in the attached staff report to the Planning Commission dated November 20, 2003.

Staff recommended denial of the application to the Planning Commission on the grounds that the project may not represent a logical land use pattern that could potentially be detrimental to existing and future planned land uses in the area. After conducting conversations with four other jurisdictions, staff found that two jurisdictions have either changed, or propose to change, their local policy of permitting gymnastics studios of this nature in light industrial and industrial districts due to safety concerns and concerns about insufficient land available for light industrial and industrial uses. The staff report also notes the letters of support the applicant obtained from existing surrounding light industrial businesses that had no objection to the operation of the proposed facility.

In February 2003, the Board expressed concern to staff about a Planned Development proposal to allow development a church and antique store in a Planned Industrial area located along Highway 99 in the Salida area (Forrest Aarvig) which the Board viewed as more commercial in nature. The Board's primary concern was the reduction of the inventory of light industrial land uses available in the County area. The Board provided direction to staff not to allow further commercial uses within the Planned Industrial areas of the County.

The Planning Commission gave several reasons for overturning the staff recommendation for denial. First, adequate land is available for light industrial uses in the County. Second, the unique building requirements associated with this use (e.g., higher ceilings, larger footprint) make it difficult to find appropriate space in commercial zones in the cities. Third, gymnastics studios have been developed in light industrial and industrial areas in numerous jurisdictions. Fourth, the area needs this type of recreational facilities to avoid having residents travel long distances out-of-county for such services. In approving the project, several Planning Commissioners noted that, while truck traffic and other safety issues can bring opposition to future projects in the area, the need for a facility of this type in the Stanislaus County area outweighs the potential risk associated with approval of this project.

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**POLICY  
ISSUES:**

The issue before the Board is whether a multi-sports facility children constitutes a use that is compatible with Planned Industrial development in the area. The Planning commission in this instance found it to be a compatible use.

**STAFFING**

**IMPACT:** None.

**ATTACHMENTS:**

- Exhibit 1: Letter to Planning Commission from Jerry L. Shelton, Sr.
- Exhibit 2: Letter to Planning Commission from Perfect 10 Booster Club
- Exhibit 3: Letters to Board of Supervisors from Lisa M. Masson, M.D.
- Exhibit 4: Development Standards and Mitigation Measures
- Exhibit 5: Planning Commission Staff Report, November 20, 2003
- Exhibit 6: Planning Commission Minutes, November 20, 2003

Stanislaus County Planning Commission  
Modesto, CA.

RE: Jerry L. Shelton Sr.  
5170 Pentecost Drive  
Modesto, CA. 95356  
Rezone Application 2003-04  
Building Permit #2602-03140

To Whom It May Concern,

My name is Jerry L. Shelton Sr. and I live at 3524 Rexford Drive, Modesto 95356. I am the owner of the aforementioned property at 5170 Pentecost Drive. I have an existing building permit #2602-03140 and construction of this building has begun.

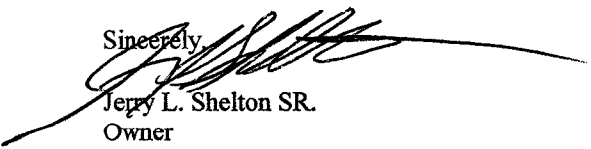
After searching for the proper tenant with the help of my Realtor Mr. Art Martin with Zagarus Realty and Ms. Nancy Reeves with Colliers, I met Mr. Bob Tanon, the owner of Gymstars Gymnastics. After a few months negotiations and getting to know Mr. Tanon and the quality of the organization that he represents, we came to an agreement and entered into a long term lease. I did extensive research before entering into this agreement. The research consisted of looking at other gymnastic facilities and there locations. What I discovered is that Gymstars facility had much more to offer and was much more professional than any other facility I checked. I took one day and visited the Stockton Gymstars facility from 3 PM to 8:30 PM to get a feel for the traffic patterns and how controlled the students were. What I found was a very controlled environment. The children were dropped off or escorted into the building and were not allowed to be outside of the building until there ride home arrived. I also noticed how happy all of the children were and also the level of enthusiasm they had to do the gymnastics or cheerleading. At that time I was convinced that our community is in great need of a facility like this and I am very excited to be a part of that. I have also talked with many people who are very excited to have this quality gymnastics company locating here. Most of them have children who are wanting to get back into gymnastics or cheerleading but have been disillusioned from other experiences. I also discovered that almost all of these facilities are located in industrial areas similar to my location. Part of the reason for this is because of the requirements for a building with very high ceilings such as you would find in a warehouse. Also because of the square footage requirements, it is cost prohibitive in other type areas.

The location of 5170 Pentecost Drive is a perfect location for this quality organization for many reasons. The north side of Modesto is growing very rapidly, this is a very convenient location for not only Modesto but for Salida, Escalon, Riverbank and Oakdale residents. The lot is located on the north east corner of Pentecost and Bitritto and is across the street from other PD properties. Being on the corner it is easy access and is not nestled back in the industrial use areas.

This quality company has much to offer to our community for the development of our youth. How do you keep our children out of trouble and away from drugs? The answer is by giving them something to do and to help them feel good about themselves and their accomplishments.

Mr. Tanon has been trying to find a location in Modesto for the past two years and had not found his home until we met. I believe in his vision and I have designed and engineered this building to accommodate his needs. I have met all of the requirements and conditions as presented to date. For all of the reasons stated herein, I am asking for your approval of this quality establishment to come to Modesto at this location.

Sincerely,

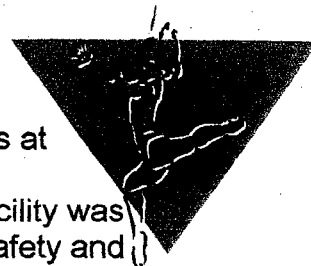


Jerry L. Shelton SR.  
Owner  
Shelton Properties

GymStars Gymnastics, Inc.

# The Perfect 10 Booster Club

Boys & Girls Team Gymnastics

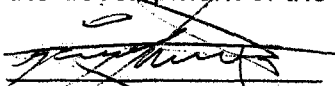


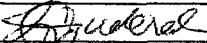
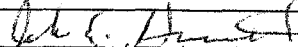

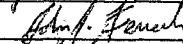

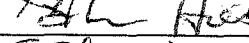
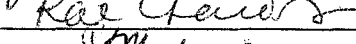
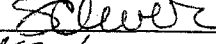
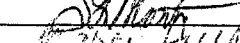

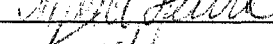
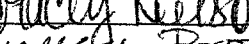
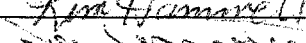
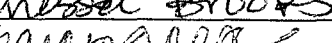

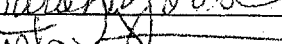


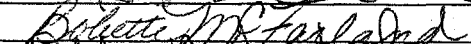
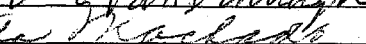

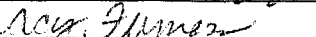


We are the proud parents of the GymStars competitive Gymnasts at GymStars of Stockton. As parents we have searched different Gymnastic facilities in the valley and found that this GymStars facility was the best fit for us; primarily because of the Staffs' dedication to safety and proper training which reduces injuries. Secondly, the facility is kept clean and up to date in terms of education and equipment.

We also have had the opportunity to shop around and experience other gyms. Having more than one gym in the area forces the facilities to maintain its equipment, its rates, and its reputation. We believe that the owners have kept their promises to us the parents and gymnasts for both the recreational and competitive groups.

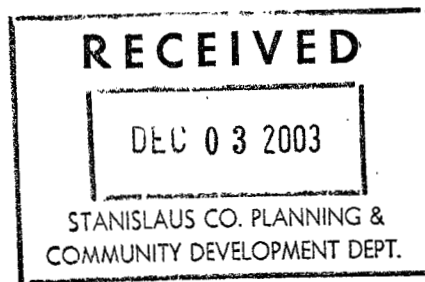
The owners are good business managers and believe in their mission to provide quality gymnastic facilities. After all don't we all want our children to be physically fit, off the streets and out of trouble? This is yet one more avenue for parents and children in your community. There are fewer schools now providing gymnastics as part of their curriculum and the availability of several facilities in our communities fills the void.

We the members of the Perfect 10 Booster club and the parents of the recreational gymnasts at GymStars whole heartedly recommend that you accept the development of the proposed gymnastic facility in Modesto.

  
George M. Khoury, MD  
President of the PTBC

Stanislaus Board of Supervisors  
1010 Tenth Street  
Suite 6500  
Modesto CA 95354



Dear Supervisors,

I would like to express my support of the Gym Stars project in Stanislaus. I am a Family Physician, with added qualifications in both Adolescent and Sports Medicine, but am writing to you as a mother.

For years, I have watched my daughter struggle, work and dream the life of a competitive gymnast. Since the closing of Stanislaus Gymnastics last June, she and many of her friends have been commuting to Gym Stars in Stockton to train. Other displaced gymnasts have chosen facilities in Sacramento and Merced to continue their competitive careers.

Although I am cognizant of the concerns raised by re-zoning, I would urge you to consider our children. Their safety would be enhanced by having a quality facility in their own county. The structural needs of a gym are unique. A "pit" filled with foam is difficult to retrofit into an existing building. These pits are essential for the safe landing while our athletes learn new skills. The ceilings need to be high. These kids BOUNCE. The floor routine requires a large expanse of space uninterrupted by pillars or supports.

I have no doubt that the facility will be a success. Mr. Tanon runs a quality facility in Stockton, and our children will thrive if a sister facility is available locally.

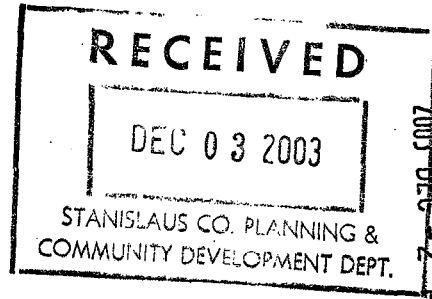
Thank you for your consideration,

Lisa M. Masson M.D.

505 Barringham Lane  
Modesto CA 95350

BOARD OF SUPERVISORS  
2003 DEC -2 P 2:55  
Ray ✓

Ray Simon  
Stanislaus County Board of Supervisors  
1010 Tenth Street  
Suite 6500  
Modesto CA 95354



2003 DEC 2 P 2:50  
BOARD OF SUPERVISORS

Dear Mr. Simon,

I am writing to express my support of the Gym Stars project on Pentecost Avenue. I had the pleasure of meeting you once at El Rosal where I'm afraid I was disturbing your peaceful meal while reading aloud to my three daughters. My middle daughter has been actively involved in competitive gymnastics for years.

Unfortunately, since the closing of her gym last summer, there is no facility in Modesto appropriate for her to train. Along with several other displaced gymnasts, she has been traveling to Stockton three or four times a week for her workouts. This has raised several concerns. The ability of these kids to adequately devote time to both competitive gymnastics and their school work, when hours of commute time are added to their days has been extraordinary. I worry about their safety on Highway 99, especially in these damp winter months.

I know that Mr. Tanon has struggled for over a year to find an appropriate existing building. To accommodate the gym, the building needs foam pits- something like a swimming pool of foam to give the athletes a safe landing place while learning new skills. The ceilings need to be high. (I witnessed a frightening performance last week in Sunnyvale when a Junior Elite gymnast couldn't complete his routine as he was too close to the ceiling). Large uninterrupted space without pillars needs to be available for the floor routines.

In the interest of our children, I hope the board rules favorably. I sincerely believe that this county is in need of a quality sports facility for our children.

Respectfully,

Lisa M. Masson M.D.  
505 Barringham Lane  
Modesto CA 95350

*I regret that I can't attend the 12/16 meeting -  
it's Somerset Winter Concert night!  
Lisa*



**CONDITIONS OF APPROVAL,  
DEVELOPMENT STANDARDS, AND  
MITIGATION MEASURES**

**GENERAL PLAN AMENDMENT APPLICATION NO. 2003-04  
REZONE APPLICATION NO. 2003-09  
STAR QUEST**

**CONDITIONS OF APPROVAL  
DEVELOPMENT STANDARDS**

**Department of Planning and Community Development**

1. This use shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Hours of exterior construction on the site shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
3. A Certificate of Occupancy shall be obtained from the Building Inspection Division prior to occupancy, if required. (UBC Section 307)
4. Fences and landscaping adjacent to roadways shall be in compliance with County policies regarding setbacks, and visibility and obstructions along roadways. A landscaping plan shall be submitted to and approved by the Planning Director prior to issuance of a building permit.
5. Access to SR 219 (Kiernan Avenue) shall be limited consistent with Resolution 2002-32 adopted by the Board on June 25, 2002. Applicant understands and agrees to potential future access limitations pursuant to this resolution.
6. The applicants, and subsequent operators, shall obtain and maintain a valid business license. Application may be made in the Planning Department. (Section 6.04 of the Stanislaus County Ordinance Code)
7. The applicant is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
8. The developer shall pay all Public Facilities Impact Fees and Fire Protection Development Impact Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
9. Prior to the issuance of the Notice of Determination, the applicant shall pay within five

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~~Conditions of Approval~~, Development Standards, and Mitigation Measures

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days, a filing fee of \$50.00 to "**Stanislaus County Clerk/Recorder**" care of the Planning Department. Should the "De Minimis" finding be found invalid for any reason, the applicant/developer shall be responsible for payment of Department of Fish and Game Fees.

10. Prior to construction: The developer shall be responsible for contacting the U.S. Army Corps of Engineers to determine if any "wetlands", "waters of the United States", or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
11. Prior to construction: The developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate streambed alteration agreements permits or authorizations if necessary.
12. Prior to construction: The developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan. Once complete, and prior to construction, a copy of the Storm Water Pollution Prevention Plan shall be submitted to the Stanislaus County Department of Planning and Community Development.

#### **Department of Public Works**

13. A Grading and Drainage Plan with engineering calculations shall comply with county standards for a 50-year storm and be approved or found to be acceptable prior to issuance of any building permit. Percolation test results must be provided to demonstrate the runoff for a 10-year storm can be disposed of within a 48-hour period. All runoff shall be kept on-site, and use of the existing storm drain basin on the United Pentecostal Church of Modesto property is not permitted. The storm drainage system shall be designed in such a manner as to prevent runoff from going onto adjacent properties and the county road right-of-way. The plan shall be implemented prior to final and/or occupancy of the building to be constructed.
14. The owner/developer shall make a "fair share" contribution of \$3,427 to the Department of Public Works towards the future installation of traffic signals at the McHenry/Charity intersection per Condition of Approval No. 11 of Parcel Map Application No. 2001-13 for B&D Industrial Park, prior to issuance of the building permit.
15. An encroachment permit shall be obtained for the installation of all driveways prior to the start of any work within the county right-of-way.
16. All driveway locations and widths shall be approved by the Department of Public Works.
17. No parking, loading or unloading of vehicles shall be permitted within the right-of-ways

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~~Conditions of Approval~~, Development Standards, and Mitigation Measures

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of Pentecost Drive and Bitritto Way. The developer will be required to install or pay for installation of all required signs and/or markings, if warranted.

18. An erosion control plan shall be included with the Grading and Drainage Plan that provides mitigation measures for erosion and sedimentation control. These measures shall prevent dirt from the project site from getting into the road right-of-way. The plan shall be implemented during all phases of construction.
19. A Grading Permit shall be obtained from the Department of Public Works prior to the start of importing, exporting, or otherwise moving any dirt.
20. Prior to the issuance of the Grading Permit or approval of the improvement plans, the subdivider shall file a Notice of Intention (NOI) with the California Regional Water Quality Control Board (CRWQCB) and a Waste Discharge Identification Number must be obtained from CRWQCB and provided to the Department of Public Works.

#### **Caltrans**

21. An encroachment permit shall be required for any work done with the State right-of-way.
22. Caltrans Traffic Operations concurs with and requires implementation of Mitigation Measures #4 and #5. The County Public Works Department shall be responsible for monitoring and/or constructing the left-turn lane on SR 219 (Kiernan Avenue) to Pentecost Drive, when it is warranted prior to construction of the SR 219 widening project. Right-of-way dedication shall be required on SR 219.

#### **Development Services**

23. Engineered plans for grading, site excavation, and all structures shall be submitted to Development Services to obtain building and grading permits per Section 106.1 of the Uniform Building Code.

#### **Environmental Resources**

24. Department of Environmental Resources requires implementation of Mitigation Measures #6 and #7.

#### **Stanislaus Consolidated Fire**

25. Fire department access and water for fire protection shall be provided and maintained in accordance with all applicable codes and ordinances. This shall include fire sprinklers, if applicable. No development shall be approved prior to complying with this condition.
26. Fire protection development/impact fees shall be paid prior to construction.

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~~Conditions of Approval~~, Development Standards, and Mitigation Measures  
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27. Fire access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface as to provide all-weather driving capabilities. Dead-end fire apparatus roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

#### **Salida Fire Protection District**

28. The project will be subject to the CEQA Fire Service Impact Fees as adopted by the District Board of Directors and currently in place at the time of issuance of construction permits.
29. All buildings shall be constructed to meet the District's requirements for on-site water for fire protection and/or fire hydrants and hydrant locations, blue reflective street hydrant markers, sprinkler and alarms systems, key-box rapid entry systems, adherence to all applicable codes and ordinances, and other applicable requirements.
30. All traffic signals installed and/or retrofitted due to the proposed project shall meet the District's requirements for signal preemption.
31. Prior to, and during, combustible construction, the District shall approve provisions for serviceable fire vehicle access and fire protection water supplies.

#### **Modesto City Schools**

32. Applicable school impact fees shall be required on any new construction.

#### **Modesto Irrigation District**

33. During construction of site and road improvements, existing overhead or underground electric facilities within or adjacent to the proposed development shall be protected, relocated, or removed as required by the District's Electric Engineering Department. Appropriate easements for electric facilities shall be granted as required.
34. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.
35. Costs for relocation and/or undergrounding the District's facilities at the request of others shall be borne by the requesting party. Estimates for relocating or undergrounding existing facilities will be supplied upon request.
36. A 10-foot public utility easement shall be granted and recorded along all existing and proposed street frontages.

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~~Conditions of Approval~~, Development Standards, and Mitigation Measures  
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## **DEVELOPMENT STANDARDS FROM PREVIOUS PROJECTS**

1. Incorporate, by reference, all applicable Mitigation Measures and Development Standards, approved by the Board of Supervisors on February 27, 2001, for General Plan Amendment 2000-06, Rezone Application No. 2000-07, and Parcel Map Application No. 2000-10 (Bavaro Industrial Park).
2. Incorporate, by reference, all applicable Mitigation Measures and Development Standards, approved by the Planning Commission on July 19, 2001, for Parcel Map Application No. 2001-13 (B&D Industrial Park).

## **MITIGATION MEASURES**

**(Pursuant to California Public Resources Codes 15074.1:**

**Prior to deleting and substituting for a mitigation measures, the lead agency shall do both of the following:**

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

1. All exterior lighting shall be designed (aimed down and towards the site) to provide adequate illumination without a glare effect.
2. Should any archaeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented.
3. The developer shall pay all applicable Public Facilities Impact Fees and Fire Protection Development/Impact Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The applicant shall pay a "fair share" contribution toward the future installation of a traffic signal at McHenry Avenue (SR 108) and Charity Way in the amount of \$3,427 prior to the issuance of a building permit.
5. The applicant shall pay a fair share contribution toward future highway improvements at Kiernan Avenue (SR 219) and Pentecost Drive prior to the issuance of a building permit.

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~~Conditions of Approval~~, Development Standards, and Mitigation Measures

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6. Water supply for the project is defined by State regulations as a public water system. Water system owner must submit plans for the water system construction or addition; and obtain approval from the Department of Environmental Resources (DER), prior to construction. Prior to final approval of the project, the owner must obtain a Water Supply Permit from the DER. Water Supply Permit issuance is contingent upon water system meeting construction standards and providing water which is acceptable quantity and quality.
  
7. The sewage disposal system shall be an approved aerobic treatment system so as to comply with the Primary and Secondary Treatment Initiative (Measure X).

\*\*\*\*\*

DW:er  
(I:\BOS\general plan amendment\2003\GPA 2003-04 & REZ 2003-09 Revised COAs.wpd)

# STANISLAUS COUNTY PLANNING COMMISSION

November 20, 2003

## STAFF REPORT

**GENERAL PLAN AMENDMENT APPLICATION NO. 2003-04  
REZONE APPLICATION NO. 2003-09  
STAR QUEST**

**REQUEST: TO REZONE AND AMEND THE GENERAL PLAN OF A 1.5-ACRE LOT FROM PLANNED INDUSTRIAL (PI) TO A PLANNED DEVELOPMENT (P-D) TO ALLOW A MULTI-SPORT FACILITY TO TEACH GYMNASTICS, CHEER, KARATE, AND TUMBLING FOR CHILDREN.**

### APPLICATION INFORMATION

Owner:	Shelton Properties - Jerry Shelton Sr.
Applicant:	Harold Callahan
Agent:	R.B. Welty & Associates
Location:	Northeast corner of Pentecost Drive and Bitritto Way, in the Modesto area
Section, Township, Range	32-2-9
Supervisorial District:	Four (Supervisor Simon)
Assessor's Parcel:	004-094-026
Referrals:	See Exhibit "D"
Area of Parcel:	1.54 Acres
Water Supply:	Private well
Sewage Disposal:	Private system meeting Measure "X" Standards
Existing Zoning:	Planned Industrial (PI-20)
General Plan Designation:	Planned Industrial
Community Plan Designation:	Not applicable
Environmental Review:	Mitigated Negative Declaration recommended (see Exhibit "H")
Present Land Use:	Vacant
Surrounding Land Use:	Mixture of uses, industrial uses and vacant land

### PROJECT DESCRIPTION

This is a request to rezone and amend the General Plan of a 1.5-acre lot from "Planned Industrial" to Planned Development (PD) to allow a multi-sport facility to teach gymnastics, cheer, karate, and tumbling for children. The applicant proposes to operate the facility between the hours of 9:00 a.m. and 8:00 p.m., seven days per week. Classes will be offered only between the hours of 3:30 p.m. and 8:00 p.m. Only birthday parties for members of the facilities who attend classes through the week will be held on Saturday and Sunday afternoons only. No classes or events will be held on Saturday and Sunday.

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The applicant shall provide a total of 81 parking stalls including two handicap stalls (see Exhibit "A"). There will be four (4) full-time and between 35 and 40 part-time employees with an estimated sixteen (16) employees at peak time. The peak time customers for the facility are about 275 with 200 children and 75 parents (spectators). The majority of the children will be dropped off and picked up by parents.

### **SITE DESCRIPTION**

The site is located on a 1.5-acre parcel at the northeast corner of Pentecost Drive and Bitritto Way (see Exhibit "A"). The surrounding area consists of various light industrial uses and vacant parcels. An application to rezone and subdivide a large parcel on the west side of Pentecost Drive (across from the proposed facility) includes additional light industrial uses, an office business park, and Elks Lodge.

### **HISTORY OF DEVELOPMENT IN THE AREA**

In the spring of 1992, the Planning Commission and Board of Supervisors approved a Planned Industrial zone and tentative parcel map to create five parcels on 15.37 acres located north of Kiernan Avenue adjacent to the Tidewater Southern/Union Pacific Railroad tracks. The application was primarily designed to provide a site for the Empire Pallet Company to relocate.

Subsequent to that approval, in late 1993, the County approved a similar request on an adjacent parcel to the north for applicant Frank Denis. That rezone to PI (Planned Industrial) involved a 16-lot industrial park on 24.4 acres. Vehicular access was to be through the Empire Pallet site, with a 30-foot wide emergency access to McHenry Avenue. At the same time, the County also adopted an Area Circulation Plan to ensure adequate future vehicle access as the area continues to develop.

In 1995, the Planning Commission approved a parcel map to reconfigure the industrial area into 42 lots. The main entry road, Five Star Drive, also had a slightly modified alignment approved. Since the initial approval of 1992, another Planned Industrial site, and a Planned Development have also been approved in the same area between McHenry Avenue and the railroad. In 1997, the PD zone was amended to PD 233 to allow the southerly portion of the original property to be developed as a large church for the United Pentecostal Church. As that project is proceeding, the major access road, Pentecost Way has been constructed.

Since the original approval on the north side of Kiernan Avenue, the County has approved several other general plan changes and rezones to either PD or to PI to allow the area to gradually convert into a light industrial area.

### **PREVIOUS PROJECTS**

Two previous actions by the Planning Commission and Board of Supervisors resulted in the designation of this parcel as Planned Industrial. In February 2001, the Board of Supervisors approved General Plan Amendment 2000-06 to change the designation from General Agriculture to Planned Industrial. Concurrently, the Board approved Rezone Application 2000-07 to change the zoning district from A-2-40 to Planned Industrial for the Bavaro Industrial Park. At that time, the



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proposed site was part of a larger lot. Water was approved from individual private wells, with sewage disposed of by an on-site facilities meeting Measure X Standards. Storm drainage water will be collected in an on-site drainage basin.

Traffic circulation became a major concern with the Bavaro project. KdAnderson prepared a Traffic Report in August 2000 (see Exhibit "M") that resulted in several Development Standards / Mitigation Measures for the project (see Exhibit "O"). The specific topic of the report and analysis was to determine whether this project itself would trigger the need to use Charity Way, which is as yet not fully constructed, as a second access into the project site. As a result of that study and analysis by the County Public Works Department, a traffic mitigation fee program was established to construct share costs for traffic improvements for this entire developing industrial area, specifically for the construction of a traffic signal at the intersection of Charity Way and SR 108 (McHenry Avenue).

In July 2001, Frank and Delores Bavaro filed a parcel map that created the project site. Conditions of Approval for that parcel map application are provided in Exhibit "P". The proposed project will be required to comply with all Conditions of Approval for the previous projects (see Exhibits "C", "O", and "P")

**CURRENT PROJECT**

The current project proposes to add an additional use to the list provided in the planned industrial zoning district. The question before the Planning Commission is: Is a multi-sport facility for 200 children consistent with the overall goals and objectives of the General Plan and compatible with the light industrial uses in the surrounding area?

**FINDINGS / POLICIES & PLANNING CONSIDERATIONS**

With environmental impacts mitigated to insignificant levels, the keys to approval or denial of general plan amendment (and subsequent rezone) are land use issues. To evaluate this plan change we normally discuss the goals and policies of the General Plan, as adopted by the Board of Supervisors. We must also look at other findings required by the Board for approval of General Plan changes. In this case, we must also look at the purpose and intent of the Board in approving previous General Plan amendments that have lead to the conversion of this area into predominantly light industrial uses.

The consistency of a land use proposal is viewed in light of the jurisdiction's entire General Plan. In this regard, the Office of Planning and Research has provided the following explanation of consistency:

*"Having reviewed court cases involving the question of consistency and conformity, the State Attorney General opinioned that, "Apparently, the term 'consistent with' is used interchangeably with 'conformity with' means 'agreement with; harmonious with'. Webster defines 'conformity with' as meaning harmony, agreement when used with 'with'. The term 'conformity' means in harmony herewith or agreeable to (see 58 Cals.Ops.Atty.Gen. 21,25 (1975)).*

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Based on the wording of the law and various legal interpretations, a general rule for consistency determinations can be stated as follows: An action, program, or project is consistent with the General Plan if, considering all its aspects, it will further the objectives and policies of the General Plan and not obstruct their attainment.

Thus, an "exact match" is not needed between a project and a General Plan, but rather there must be "agreement or harmony" between a project and a General Plan. Greenebaum v. City of Los Angeles (1984) 153 Cal.App.3d 391,406. Ultimately, the Board of Supervisors has the final authority and will exercise its discretion to determine whether the project "furthers" the objectives and policies of the General Plan.

The County General Plan identifies the intent of the Planned Development designation as being "for land which, because of demonstrably unique characteristic, may be suitable for a variety of uses without detrimental effect on other property." The General Plan further identifies the Upper McHenry Avenue area (which lies south of this project site) as an appropriate area for application of this designation. A planned development allows for the flexibility to provide a variety of uses while retaining consistency with the County General Plan as a whole.

Under its current General Plan designation - Planned Industrial - the intent is "to provide location for light industrial development." The purpose of the planned industrial designation is to allow "more control of development to ensure that impacts on adjoining properties are reduced." A key criteria for selecting potential sites to apply this designation is that the proposed site development "shall not cause land use conflicts with surrounding properties."

In making the findings necessary for approval of the General Plan amendment, staff has taken into consideration the current planned industrial designations in the surrounding area, the potential future light industrial uses on the west side of Pentecost Drive, the potential conflicts that may result through re-designation of this parcel to allow the proposed multi-sport facility, and potential future applications to expand these uses to adjacent parcels in the area.

**FINDINGS REQUIRED FOR APPROVAL**

**GENERAL PLAN**

General Plan Amendments affect the entire County and any evaluation must give primary concern to the County as a whole, therefore, a fundamental question must be asked in each case: "Will this amendment, if adopted, generally improve the economic, physical and social well-being of the County in general?" Additionally, the County, in reviewing General Plan Amendments, shall consider the additional costs to the County that might be anticipated (economic, environmental, social) and how levels of public and private service might be affected. In each case, in order to take affirmative action regarding the general plan amendment application, it must be found that:

1. The general plan amendment will maintain a logical land use pattern without detriment to existing and planned land uses.
2. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service.

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In the case of a proposed amendment to the diagram of the Land Use Element, an additional finding must be established.

3. The amendment is consistent with the General Plan goals and policies.

Staff believes that Finding #2 can be made for the project. Through previous actions by the Board, services and infrastructure will be provided to maintain a reasonable level of service to the area. Conditions of Approval and Mitigation Measures have been identified to ensure that the impacts of the project have been minimized to a less than significant level.

The staff has found it difficult to make Findings #1 and #3 for the project. A discussion on each finding follows.

***Finding #1: Logical Land Use Pattern***

The question here is: Does the multi-sport facility represent a logical land use pattern that would not be a detriment to existing and future planned land uses in the area? In February 2003, when considering Rezone Application 2002-32 (Forrest Aarvig) in the Salida area, the Board verbally expressed concern to the staff about allowing commercial land uses for a church and antique store in the Planned Industrial areas. The board expressed concern that this would reduce the inventory of light industrial land available in the county. The Board informally directed staff not to allow further commercial uses within the Planned Industrial areas of the County. In addition, staff has a concern that uses that are more commercial in nature could potentially create future incompatibilities between people-intensive activities (particularly those involving children) and light industrial uses, such as portable welding, petroleum storage, and laboratories.

Staff conducted a survey of other jurisdictions to determine how they have addressed similar issues with respect to a multi-sport facility. The Cities of Modesto and Turlock allow gymnastics studios and similar uses in their industrial zones. While the City of Stockton (where the sister facility is located) currently allows gymnastic facilities in the industrial zone, the City intends to adopt a new zoning ordinance in January 2004 that would exclude such uses from the industrial zones. Likewise, the City of Ceres no longer allows gymnastics studios in the industrial zone.

Two primary reasons were cited by the City of Ceres and the City of Stockton for excluding gymnastics facilities for children from the industrial zones. First, the two cities wish to keep industrial zoning available for industrial uses. Both cities expressed concern that insufficient industrial zoning is available in their respective jurisdictions and that allowing commercial uses into these zones would deplete that inventory. Second, the staff expressed concern about public safety, particularly when potentially large concentrations of children are proposed in the industrial zoning district. County staff has also been concerned that the operation of a multi-sports facility, where children would be dropped off by their parents, could lead to safety concerns and future complaints from parents about the operation of adjacent businesses.

As a counter-point to these concerns, the applicant has provided letters of support from adjacent business owners indicating support for the project (see Exhibit "K"). Staff received a verbal comment from one member of the public expressing support for the project.

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***Finding #3: Consistency with Goals and Objectives of the General Plan***

The project is consistent with a number of goals and policies in the General Plan. The General Plan promotes “diversification and growth of the local economy” (Policy Seventeen). Although the project does not fall within the Sphere of Influence of the City of Modesto, the City has indicated that the project is consistent with their general plan designation for this area.

Staff’s primary concern here is that both the Planned Development and Planned Industrial zones are intended to accommodate uses that would not be detrimental to or conflict with surrounding land uses. Based on the discussion above, staff believes that this finding may be difficult to make for the project.

**REZONE**

To approve a Rezone request, the Planning Commission must find that it is consistent with the General Plan. In this case, staff believes that a Planned Development allowing a multi-sports facility would be inconsistent with the existing Planned Industrial designation. However, if the General Plan Amendment to Planned Development is approved, the proposed zoning would be consistent.

**ENVIRONMENTAL REVIEW**

Pursuant to the California Environmental Quality Act (CEQA) the proposed project was circulated to various agencies (see Exhibit “D”). Mitigation measures have been incorporated into this project as both mitigation measures and conditions of approval. The City of Modesto found the project consistent with the “Village Residential designation, which allows for limited amounts of neighborhood commercial uses” (see Exhibit “E”). Caltrans requested the incorporation of additional mitigation measures to offset impacts to the State Highway System at the intersection of Pentecost Drive and SR 219 (Kiernan Avenue) (see Exhibit “F”).

**RECOMMENDATION**

Based on the foregoing discussion, staff’s position is that the Commission should recommend the Board of Supervisors deny General Plan Amendment Application No. 2003-04 and Rezone Application No. 2003-09 to Planned Development for the uses proposed.

Should the Planning Commission wish to approve the project, it should recommend that:

1. Find the project to be “De Minimis” for the purposes of collection of Fish and Game Fees pursuant to California Code of Regulations Section 753.5, by adopting the findings of fact contained in the attached Certificate of Fee Exemption, those findings being based on the analyses presented in the Initial Study, and order the filing of the Certificate of Fee Exemption with the Stanislaus County Clerk-Recorder’s Office.
2. Adopt the Mitigated Negative Declaration pursuant to California Code of Regulations Section 15074(b), by finding that on the basis of the whole record, including the Initial Study and any comments received, that there is no substantial evidence the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects Stanislaus County’s independent judgement and analysis.

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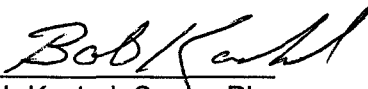
3. Order the filing of a Notice of Determination with the Stanislaus County Clerk-Recorders Office pursuant to Public Resources Code Section 21152 and California Code of Regulations Section 15075.
4. Find that the project is consistent with the overall goals and policies of the Stanislaus County General Plan; and that the proposed Planned Development zoning is consistent with the Planned Development General Plan designation.
5. Approve General Plan Amendment 2003-04 and Rezone 2003-09 - Star Quest, subject to the attached Conditions of Approval, Development Standards, and Mitigation Measures.

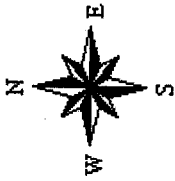
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Report written by: Debra Whitmore, Senior Planner, November 6, 2003

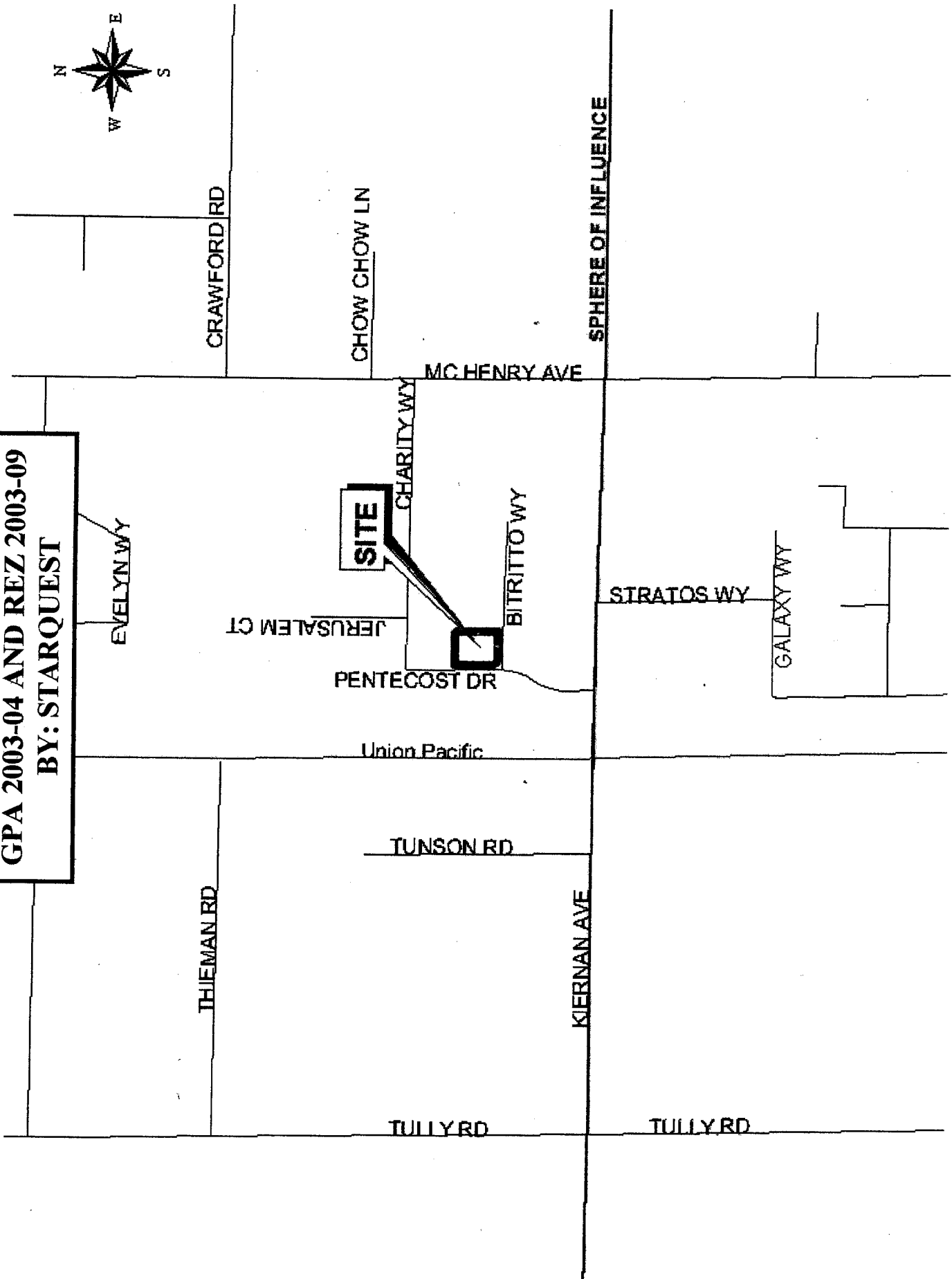
- Attachments:
- Exhibit A - Maps
  - Exhibit B - Applicant's Findings Statements
  - Exhibit C - Conditions of Approval, Development Standards, and Mitigation Measures
  - Exhibit D - Environmental Review Referrals
  - Exhibit E - City of Modesto Referral Response
  - Exhibit F - Caltrans Referral Response
  - Exhibit G - Initial Study
  - Exhibit H - Mitigated Negative Declaration
  - Exhibit I - Mitigation Monitoring Plan
  - Exhibit J - Certificate of Fee Exemption
  - Exhibit K - Letters of Support
  - Exhibit L - Expected Occupancy Loading
  - Exhibit M - August 2000 Traffic Impact Analysis
  - Exhibit N - Supplemental Traffic Counts prepared by Applicant
  - Exhibit O - Conditions of Approval February 2001- Bavaro Industrial Park
  - Exhibit P - Conditions of Approval July 2001- B&D Industrial Park

Reviewed by:

  
 Bob Kachel, Senior Planner



**GPA 2003-04 AND REZ 2003-09  
BY: STARQUEST**



GPA 2003-04 AND REZ 2003-09  
BY: STARQUEST  
GENERAL PLAN DESIGNATIONS



Click Here to Return to Agenda

2.45 AC.

9.67 AC.

3.34 AC.

Union Pacific

PENTECOST DR

BITRITTO WY

1.58  
AC

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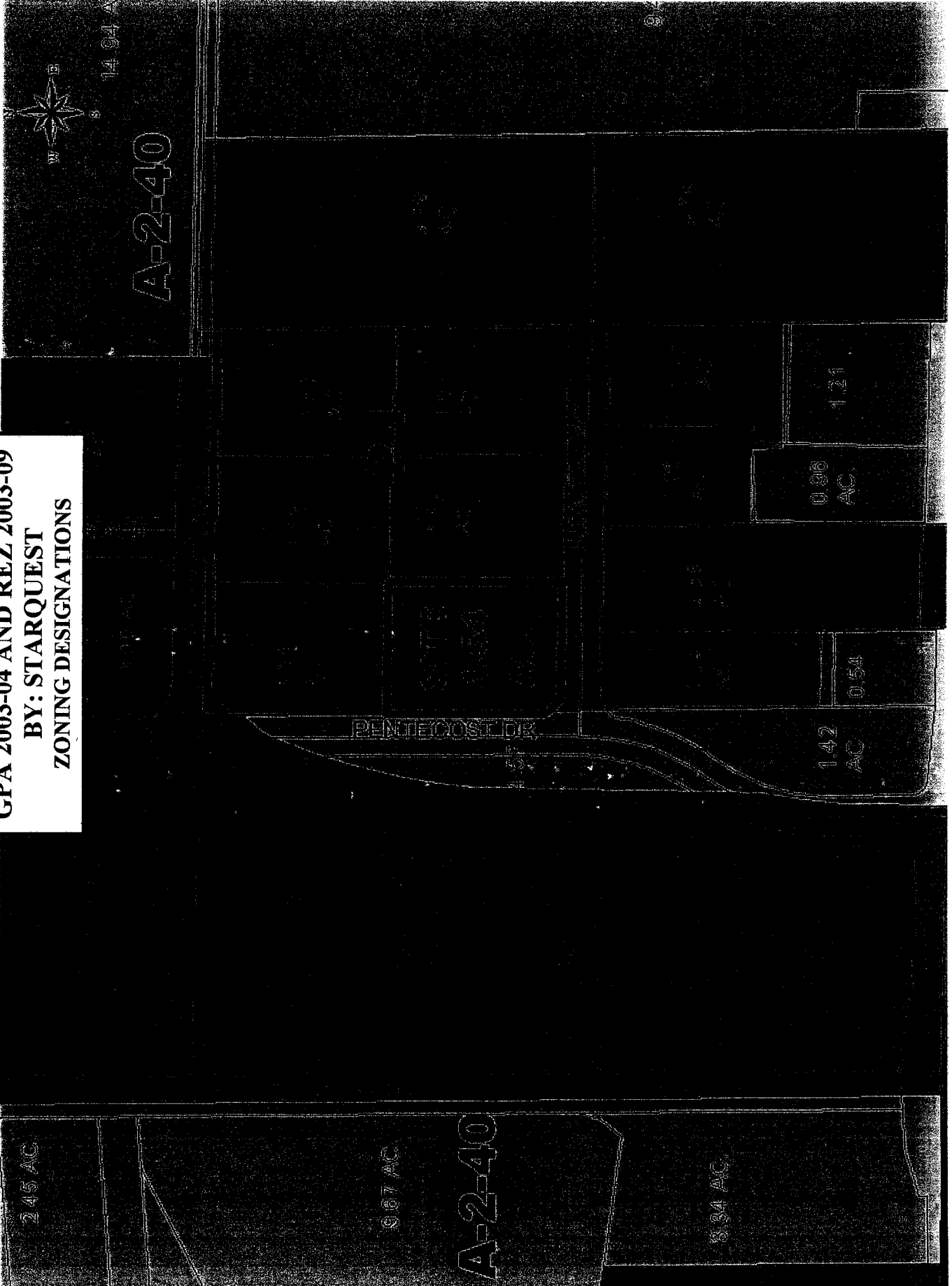
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EXHIBIT A-1

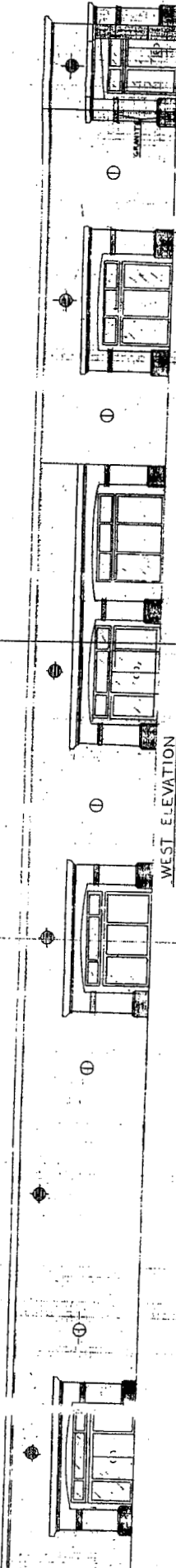
GPA 2003-04 AND REZ 2003-09  
BY: STARQUEST  
ZONING DESIGNATIONS



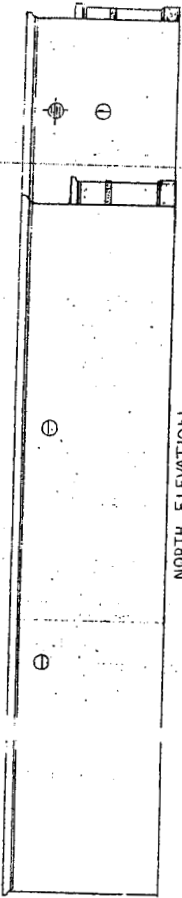




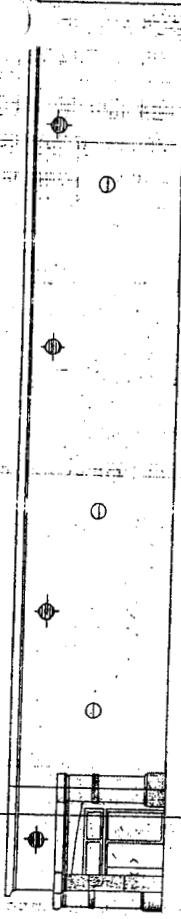




WEST ELEVATION



NORTH ELEVATION



SOUTH ELEVATION



EAST ELEVATION

SHELTON : PROPERTIES	
SCALE: 1/8" = 1'-0"	DATE: 3/27/03
PROJECT: 03-01	DESIGNED BY: JLS
PARCEL 7, BTRITTO WAY, MODESTO, CA.	
AS-1 EXTERIOR ELEVATIONS	

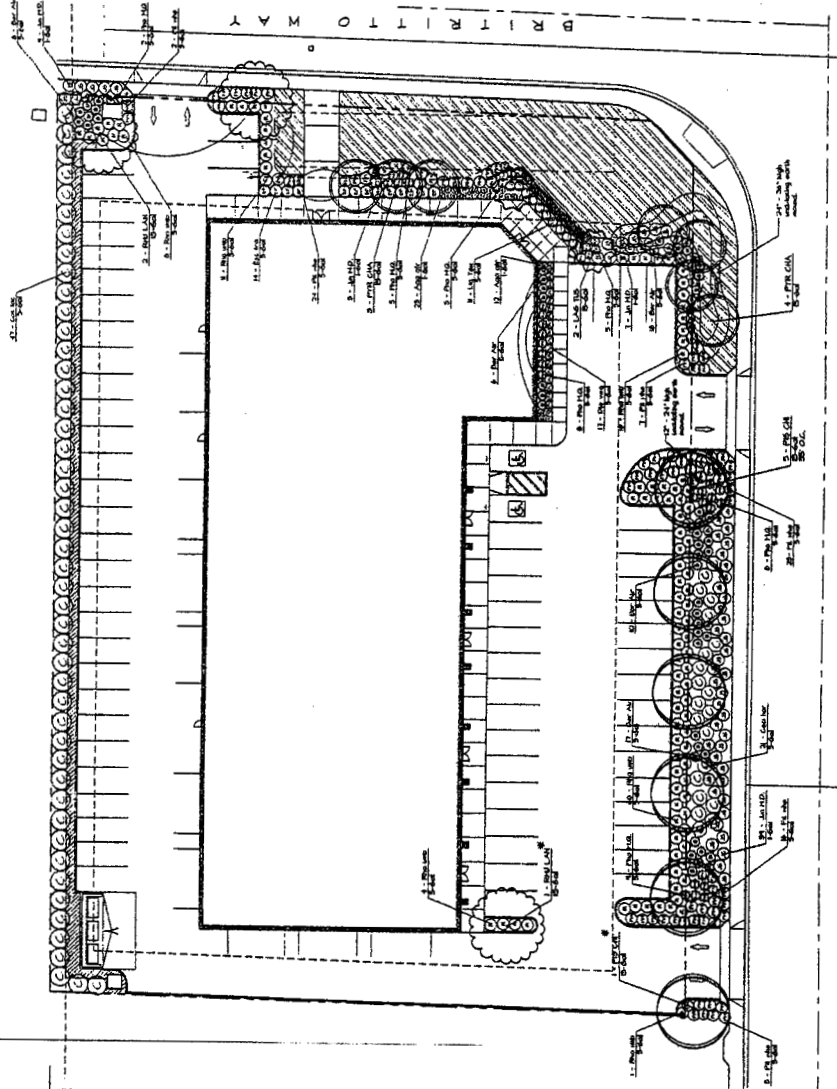


NOV 27 2003  
 02-082  
 Project No.  
 Sheet Number

EXTERIOR DESIGN AND LANDSCAPE ARCHITECTURE  
 KNOX LANDSCAPE ARCHITECTURE

Planting Plan

Scale: 1" = 20'-0"  
 Date: May 27, 2003  
 Drawn/Checked: [Name]  
 Project No.: 02-082  
 Sheet Number: 27



**\* Tree Root Barriers**  
 All trees indicated with an asterisk (\*) are to have DuroRoot  
 installed. The following number of panels are to be installed with each  
 tree per the size of tree as indicated.  
 Sizes not listed above are to be installed with the quantity of  
 panels as specified by the manufacturer.  
 Root solutions fabric may be used on an alternate. Use the  
 same quantity per tree size as listed above. (6000554-01)

PLANTING LEGEND

Symbol	Plant Name	Quantity	Size	Notes
[Symbol]	Agave	37	1-60"	
[Symbol]	Bar	61	2-60"	
[Symbol]	Blue Lilly	41	2-60"	
[Symbol]	Chinese Platane	21	2-60"	
[Symbol]	Concrete Pier	17	2-60"	
[Symbol]	African Tulip	14	2-60"	
[Symbol]	Red Chalkberry	14	2-60"	
[Symbol]	Protea	36	1-60"	
[Symbol]	South Juniper	11	2-60"	
[Symbol]	Japanese Privet	42	2-60"	
[Symbol]	Near Zealand Pine	61	2-60"	
[Symbol]	Prunella	60	2-60"	
[Symbol]	Yucca	60	2-60"	
[Symbol]	Seasonal Flowers	4'	4" x 8" O.C.	High
[Symbol]	Donat dwarf Felice	400	blended	High
[Symbol]	available from Delta Biogray			
[Symbol]	Hypocoon	4'	4" x 8" O.C.	Low

GENERAL PLANTING NOTES

- The contractor shall ensure the conditions of the site prior to commencement of work. All trees to be removed shall be removed prior to the start of the project. The contractor shall be responsible for the removal of all trees to be removed. The contractor shall be responsible for the removal of all trees to be removed. The contractor shall be responsible for the removal of all trees to be removed.
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June 20, 2003

FINDINGS REQUIRED FOR APPROVAL

- A. The General Plan amendment will maintain a logical land use pattern without detriment to existing and planned land uses.  
A good measure of whether the proposed use is logical and non-detrimental to the existing and planned land uses are the opinions of owners of the parcels around the proposed use. Owners of acres surrounding this proposed use have provided signed statements that they "feel the community will benefit greatly from the services offered by All Star Gymnastics and that it will enhance the total development area". In addition two have indicated "if county requirements find it necessary for more parking during peak hours of operation of All Star Gymnastics, I will authorize parking in marked stall on my property after normal business hours".
- B. The County and other affected governmental agencies will be able to maintain levels of service consistent with the ability of the governmental agencies to provide a reasonable level of service.  
Development Fees will be paid consistent with the fee structure in place. There is no reason to believe that with the payment of these fees, that reasonable levels of service cannot be provided.
- C. The amendment is consistent with the General Plan goals and policies.  
The land use element diagram indicates that this area is planned industrial. The attached map shows four gymnastic type facilities in the general vicinity of the proposal – all located in industrial type areas.

Shelton Application  
Parcel 7 – Britritto Way  
Gym Quest Facility

Additional Information in Support of Zone Change from PI to PD  
The establishment, maintenance and operation of the proposed Zone Change applied for is consistent with the General Plan and will not, under the circumstances of the particular case, be detrimental to the health, safety and general welfare of persons residing or working in the neighborhood of the use, and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

The subject property is designated Planned Industrial (PI) on the general plan and is located at the north east corner of Pentecost Drive and Britritto Way. The development proposed is planned to be PD. The area westerly of the subject property across Pentecost Drive is to be Planned Development (PD). The requested Zone Change is to allow a multi-sport facility to teach children walking age to 18 years, gymnastics, cheer, karate, tumbling and dance and on weekends to host birthday parties. The only impact of this facility will be parking which is described in this application and is mitigated through the proposed 79 on site parking places. A main mitigating factor of the proposed use is the peak hours of operation. At 4:30 PM to 5:00 PM when most of the surrounding business is ending their business day the proposed business is estimated to be at only 55 % of it's peak time, with the peak time occurring between 6:00 PM to 6:30 PM. Many of the parents picking up children will not park, but will stop along the street to wait for their children. There is space for about 15 to do that or there is also ample parking available either on site or in the adjacent businesses which have agreed in writing to allow their parking facilities to be used. This facility is expected to enhance the recreational and learning needs of children and there by help fill a need to be a betterment of the general welfare of the surrounding area. The space need for a facility such as this is in the 17,000 to 15,000 SF range making it somewhat difficult to locate such a facility. As a result, per the attached picture showing existing facilities, they are all located in light industrial type areas. Many are near the proposed site. Based on the detailed parking study of the Stockton facility, and the parking plan proposed for the requested site and all other factors considered in the Environment Questionnaire, it

is believed that under the circumstances of this particular case, the proposed zone change will NOT be detrimental to the health, safety and general welfare of persons residing or working in the neighborhood and that it will NOT be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County, and therefore the request is to approve the zone change.

**CONDITIONS OF APPROVAL,  
DEVELOPMENT STANDARDS, AND  
MITIGATION MEASURES**

**GENERAL PLAN AMENDMENT APPLICATION NO. 2003-04  
REZONE APPLICATION NO. 2003-09  
STAR QUEST**

**CONDITIONS OF APPROVAL**

**Department of Planning and Community Development**

1. This use shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. Hours of exterior construction on the site shall be limited to 7:00 a.m. to 6:00 p.m., Monday through Friday.
3. A Certificate of Occupancy shall be obtained from the Building Inspection Division prior to occupancy, if required. (UBC Section 307)
4. Fences and landscaping adjacent to roadways shall be in compliance with County policies regarding setbacks, and visibility and obstructions along roadways. A landscaping plan shall be submitted to and approved by the Planning Director prior to issuance of a building permit.
5. Access to SR 219 (Kiernan Avenue) shall be limited consistent with Resolution 2002-32 adopted by the Board on June 25, 2002. Applicant understands and agrees to potential future access limitations pursuant to this resolution.
6. The applicants, and subsequent operators, shall obtain and maintain a valid business license. Application may be made in the Planning Department. (Section 6.04 of the Stanislaus County Ordinance Code)
7. The applicant is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
8. The developer shall pay all Public Facilities Impact Fees and Fire Protection Development Impact Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.



GPA 2003-04, REZ 2003-09 - Star Quest  
Conditions of Approval, Development Standards, and Mitigation Measures  
November 20, 2003  
Page 2

9. Prior to the issuance of the Notice of Determination, the applicant shall pay within five days, a filing fee of \$50.00 to "**Stanislaus County Clerk/Recorder**" care of the Planning Department. Should the "De Minimis" finding be found invalid for any reason, the applicant/developer shall be responsible for payment of Department of Fish and Game Fees.
10. Prior to construction: The developer shall be responsible for contacting the U.S. Army Corps of Engineers to determine if any "wetlands", "waters of the United States", or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
11. Prior to construction: The developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate streambed alteration agreements permits or authorizations if necessary.
12. Prior to construction: The developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan. Once complete, and prior to construction, a copy of the Storm Water Pollution Prevention Plan shall be submitted to the Stanislaus County Department of Planning and Community Development.

#### **Department of Public Works**

13. A Grading and Drainage Plan with engineering calculations shall comply with county standards for a 50-year storm and be approved or found to be acceptable prior to issuance of any building permit. Percolation test results must be provided to demonstrate the runoff for a 10-year storm can be disposed of within a 48-hour period. All runoff shall be kept on-site, and use of the existing storm drain basin on the United Pentecostal Church of Modesto property is not permitted. The storm drainage system shall be designed in such a manner as to prevent runoff from going onto adjacent properties and the county road right-of-way. The plan shall be implemented prior to final and/or occupancy of the building to be constructed.
14. The owner/developer shall make a "fair share" contribution of \$3,427 to the Department of Public Works towards the future installation of traffic signals at the McHenry/Charity intersection per Condition of Approval No. 11 of Parcel Map Application No. 2001-13 for B&D Industrial Park, prior to issuance of the building permit.
15. An encroachment permit shall be obtained for the installation of all driveways prior to the start of any work within the county right-of-way.
16. All driveway locations and widths shall be approved by the Department of Public Works.

GPA 2003-04, REZ 2003-09 - Star Quest  
Conditions of Approval, Development Standards, and Mitigation Measures  
November 20, 2003  
Page 3

17. No parking, loading or unloading of vehicles shall be permitted within the right-of-ways of Pentecost Drive and Bitritto Way. The developer will be required to install or pay for installation of all required signs and/or markings, if warranted.
18. An erosion control plan shall be included with the Grading and Drainage Plan that provides mitigation measures for erosion and sedimentation control. These measures shall prevent dirt from the project site from getting into the road right-of-way. The plan shall be implemented during all phases of construction.
19. A Grading Permit shall be obtained from the Department of Public Works prior to the start of importing, exporting, or otherwise moving any dirt.
20. Prior to the issuance of the Grading Permit or approval of the improvement plans, the subdivider shall file a Notice of Intention (NOI) with the California Regional Water Quality Control Board (CRWQCB) and a Waste Discharge Identification Number must be obtained from CRWQCB and provided to the Department of Public Works.

#### **Caltrans**

21. An encroachment permit shall be required for any work done with the State right-of-way.
22. Caltrans Traffic Operations concurs with and requires implementation of Mitigation Measures #4 and #5. The County Public Works Department shall be responsible for monitoring and/or constructing the left-turn lane on SR 219 (Kiernan Avenue) to Pentecost Drive, when it is warranted prior to construction of the SR 219 widening project. Right-of-way dedication shall be required on SR 219.

#### **Development Services**

23. Engineered plans for grading, site excavation, and all structures shall be submitted to Development Services to obtain building and grading permits per Section 106.1 of the Uniform Building Code.

#### **Environmental Resources**

24. Department of Environmental Resources requires implementation of Mitigation Measures #6 and #7.

#### **Stanislaus Consolidated Fire**

25. Fire department access and water for fire protection shall be provided and maintained in accordance with all applicable codes and ordinances. This shall include fire sprinklers, if applicable. No development shall be approved prior to complying with this condition.

GPA 2003-04, REZ 2003-09 - Star Quest  
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November 20, 2003  
Page 4

26. Fire protection development/impact fees shall be paid prior to construction.
27. Fire access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface as to provide all-weather driving capabilities. Dead-end fire apparatus roads in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus.

**Salida Fire Protection District**

28. The project will be subject to the CEQA Fire Service Impact Fees as adopted by the District Board of Directors and currently in place at the time of issuance of construction permits.
29. All buildings shall be constructed to meet the District's requirements for on-site water for fire protection and/or fire hydrants and hydrant locations, blue reflective street hydrant markers, sprinkler and alarms systems, key-box rapid entry systems, adherence to all applicable codes and ordinances, and other applicable requirements.
30. All traffic signals installed and/or retrofitted due to the proposed project shall meet the District's requirements for signal preemption.
31. Prior to, and during, combustible construction, the District shall approve provisions for serviceable fire vehicle access and fire protection water supplies.

**Modesto City Schools**

32. Applicable school impact fees shall be required on any new construction.

**Modesto Irrigation District**

33. During construction of site and road improvements, existing overhead or underground electric facilities within or adjacent to the proposed development shall be protected, relocated, or removed as required by the District's Electric Engineering Department. Appropriate easements for electric facilities shall be granted as required.
34. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.
35. Costs for relocation and/or undergrounding the District's facilities at the request of others shall be borne by the requesting party. Estimates for relocating or undergrounding existing facilities will be supplied upon request.
36. A 10-foot public utility easement shall be granted and recorded along all existing and proposed street frontages.

GPA 2003-04, REZ 2003-09 - Star Quest  
Conditions of Approval, Development Standards, and Mitigation Measures  
November 20, 2003  
Page 5

## DEVELOPMENT STANDARDS

1. Incorporate, by reference, all applicable Mitigation Measures and Development Standards, approved by the Board of Supervisors on February 27, 2001, for General Plan Amendment 2000-06, Rezone Application No. 2000-07, and Parcel Map Application No. 2000-10 (Bavaro Industrial Park).
2. Incorporate, by reference, all applicable Mitigation Measures and Development Standards, approved by the Planning Commission on July 19, 2001, for Parcel Map Application No. 2001-13 (B&D Industrial Park).

## MITIGATION MEASURES

**(Pursuant to California Public Resources Codes 15074.1:**

**Prior to deleting and substituting for a mitigation measures, the lead agency shall do both of the following:**

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

1. All exterior lighting shall be designed (aimed down and towards the site) to provide adequate illumination without a glare effect.
2. Should any archaeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented.
3. The developer shall pay all applicable Public Facilities Impact Fees and Fire Protection Development/Impact Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The applicant shall pay a "fair share" contribution toward the future installation of a traffic signal at McHenry Avenue (SR 108) and Charity Way in the amount of \$3,427 prior to the issuance of a building permit.
5. The applicant shall pay a fair share contribution toward future highway improvements at Kiernan Avenue (SR 219) and Pentecost Drive prior to the issuance of a building permit.

GPA 2003-04, REZ 2003-09 - Star Quest  
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November 20, 2003  
Page 6

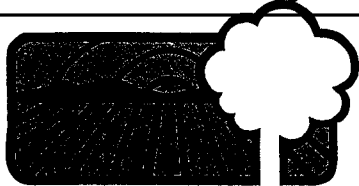
6. Water supply for the project is defined by State regulations as a public water system. Water system owner must submit plans for the water system construction or addition; and obtain approval from the Department of Environmental Resources (DER), prior to construction. Prior to final approval of the project, the owner must obtain a Water Supply Permit from the DER. Water Supply Permit issuance is contingent upon water system meeting construction standards and providing water which is acceptable quantity and quality.
  
7. The sewage disposal system shall be an approved aerobic treatment system so as to comply with the Primary and Secondary Treatment Initiative (Measure X).

\*\*\*\*\*

DW:er  
(I:\Staff\p\GPA 2003.sr\GPA 2003-04.SR.wpd)

**SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS**  
**PROJECT: GPA 2003-04 & REZONE 2003-09 STAR QUEST**

REFERRED TO:	RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS
	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	
AGRICULTURE COMMISSIONER	X							
AIRPORT LAND USE COMMISSION								
CA DEPT OF FORESTRY								
CALTRANS	X			X				X
CENTRAL CALIF. INFO. CENTER								
CITY OF MODESTO	X			X				X
COMMUNITY SERVICES/SANITARY								
CORPS OF ENGINEERS								
COUNTY COUNSEL	X			X				
MODESTO POSTMASTER								
DEPARTMENT OF CONSERVATION								
DEVELOPMENT SERVICES	X			X				X
ENVIRONMENTAL RESOURCES	X			X				X
FIRE PROTECTION DISTRICT: SALIDA	X			X				X
CONSOLIDATED FIRE PROTECTION	X			X				X
FISH & GAME	X			X				
HOSPITAL DISTRICT								
IRRIGATION DISTRICT: MODESTO	X			X				X
LAECO	X			X				
MOSQUITO DISTRICT: EASTSIDE	X			X				
MOUNTAIN VALLEY EMERGENCY MEDICAL	X			X				X
MUNICIPAL ADVISORY COUNCIL								
PARKS & FACILITIES	X			X				
P.G. & E.	X			X				
PUBLIC WORKS	X			X				X
PUBLIC WORKS - TRANSIT	X			X				
REDEVELOPMENT	X			X				
REGIONAL WATER QUALITY	X			X				
RISK MANAGEMENT (COUNTY PROJECTS)								
StanCOG	X			X				
SCHOOL DISTRICT 1: STANISLAUS UNION	X			X				X
SCHOOL DISTRICT 2: MODESTO HIGH	X			X				X
SHERIFF	X			X				X
STANISLAUS COUNTY FARM BUREAU	X			X				
STANISLAUS ERC	X			X				X
STATE CLEARINGHOUSE	X			X				
STATE LANDS BOARD								
SUPERVISORIAL DISTRICT 4: SIMON	X			X				
TELEPHONE COMPANY: SBC	X			X				
TUOLUMNE RIVER PRESERVATION TRUST								
US FISH & WILDLIFE	X			X				
VALLEY AIR DISTRICT	X			X				X
WATER DISTRICT								
UNION PACIFIC RAILROAD	X			X				



CITY of MODESTO

October 31, 2003

Community and  
Economic  
Development

Planning Division

1010 Tenth Street

P.O. Box 642

Modesto, CA 95353

209/577-5267

209/491-5798 Fax

email:

planning@ci.modesto.ca.us

Hearing and Speech

Impaired Only

TDD 209/526-9211

Debra Whitmore, Senior Planner  
Planning & Community Development Department  
Stanislaus County  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, CA 95354

Subject: CEQA Referral Initial Study and Proposed Mitigated Negative Declaration – General Plan Amendment No. 2003-04 and Rezone 2003-09 (Star Quest).

Dear Mrs. Whitmore:

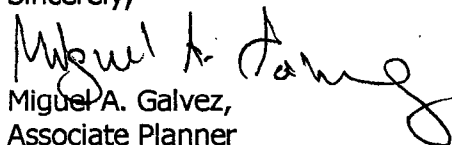
This letter is in response to your agency's CEQA Referral Initial Study and Proposed Mitigated Negative Declaration for the applications listed above, proposing to amend the zoning of the site from Planned Industrial to Planned Development. The site is generally located north of Kiernan Avenue and west of McHenry Avenue at the northeast corner of Pentecost Drive and Bitritto Way.

The subject property is located outside of the City Limits, outside of the City's Sphere of Influence, but within the City's General Plan Area. The City's General Plan Designation for this site is Village Residential. The City desires to submit the following comments regarding this proposal:

1. **The proposed use (a multi-sport facility) is consistent with the City of Modesto's Village Residential designation, which allows for limited amounts of neighborhood commercial uses.**
2. **Kiernan Avenue (Hwy 219) is designated as a Class B Expressway in the Modesto Urban Area General Plan. The proposed improvements along Hwy 219 should be designed and constructed at Expressway B Standards.**
3. **No City utility services are presently available to serve this development.**

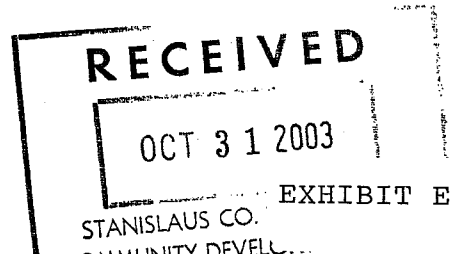
The City of Modesto appreciates the opportunity to respond to this CEQA Initial Study and Proposed Mitigated Negative Declaration. Please contact me at (209) 577-5276, if you have any questions concerning these comments.

Sincerely,

  
Miguel A. Galvez,  
Associate Planner

C: Patrick Kelly, Principal Planner

Citizens First!  
25



**DEPARTMENT OF TRANSPORTATION**

P.O. BOX 2048 (1976 E. CHARTER WAY)  
STOCKTON, CA 95201  
TTY: California Relay Service (800) 735-2929  
PHONE (209) 941-1921  
FAX (209) 948-7194

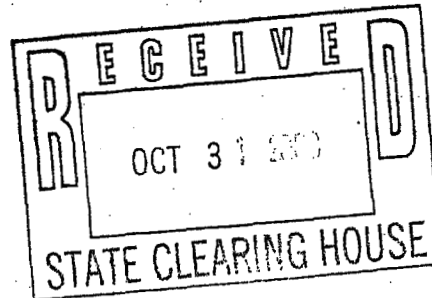


*Flex your power!  
Be energy efficient!*

October 31, 2003

**10-STA-219-PM 4.565  
General Plan Amendment App. No. 2003-04  
Rezone Application No. 2003-09 - Star Quest  
SCH # 2003082012**

Mrs. Debbie Whitmore  
Stanislaus County Planning and  
Community Development Department  
1010 Tenth Street, Suite 3500  
Modesto, CA 95354



Clear  
10-31-03  
&

Dear Mrs. Whitmore:

Thank you for the opportunity to review the General Plan Amendment Application No. 2003-04 and Rezone Application No. 2003-09 - Star Quest. The applicant requests to rezone and amend the General Plan of a 1.5 acre lot to a Planned Development (PD) zoning district to allow a multi-purpose gym for a gymnastics school. The property is located on the northeast corner of Pentecost Drive and Brittrito Way in Modesto (APN: 004-94-19).

I have circulated the project application to the various Caltrans departments and have the following comments:

**TRAFFIC OPERATIONS:**

- All conditions mentioned in our October 7, 2003 letter to the County still remain in effect.
- County will be responsible for monitoring and construction of left-turn lane on State Route (SR) 219 (Kiernan Avenue) to Pentecost Drive, when it is warranted prior to SR 219 widening project.
- Traffic Operations concurs with condition #4 and #5 of Mitigation Monitoring Plan.
- Encroachment permit will be required for any work done with State right-of-way.
- Right-of-way dedication will be required on SR 219.

Please forward all Final Conditions of Approval including any mitigation measures that are being proposed as well as any other documents and reports (i.e. all forms of environmental documents, Traffic Impact Study Reports, site and location maps, etc) on

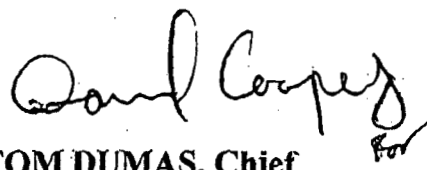


Mrs. Debbie Whitmore  
October 31, 2003  
Page 2

this proposed project for our review, comment, and records. If you are aware of any controversy regarding any of our requirements, please contact us as soon as possible so we may work together to resolve them before submittal to your Board.

If you have any questions or would like to discuss our comments in more detail, please contact David Cooper at (209) 948-7190 (e-mail: [david\\_cooper@dot.ca.gov](mailto:david_cooper@dot.ca.gov)) or myself at (209) 941-1921. We look forward in continuing to work with you in a cooperative manner.

Sincerely,



**TOM DUMAS, Chief**  
**Office of Intermodal Planning**

Mrs. Debbie Whitmore  
October 31, 2003  
Page 3

bc: Vu Nguyen  
Alex Menor  
Arvinder Bajwa

**DEPARTMENT OF TRANSPORTATION**

P.O. BOX 2048 (1976 E. CHARTER WAY)

STOCKTON, CA 95201

TTY: California Relay Service (800) 735-2929

PHONE (209) 941-1921

FAX (209) 948-7194



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October 30, 2003

10-STA-219-PM 4.565

**General Plan Amendment App No. 2003-04  
Rezone Application No. 2003-09 Star Quest  
SCH # 2003082012**

Mrs. Debra Whitmore  
Stanislaus County Planning and  
Community Development Department  
1010 Tenth Street, Suite 3500  
Modesto, CA 95354

Dear Mrs. Whitmore:

In response to your request, we are taking this opportunity to explain the requirement for mitigation associated with this project. The mitigation is to offset the impacts on the state highway and to pay a fair share portion of the costs for improvements to the intersections of State Route 219/Pentecost Drive and State Route 108/Chartity Way.

California Streets and Highways Code contain laws that give Caltrans authority over the state transportation system. In particular, Sections 90 and 92 state "The Department shall have full possession and control of all state highways and all property and rights acquired for state highway purposes" and "The department may do any act necessary, convenient or proper for the construction, improvement, maintenance or use of all highways which are under its jurisdiction, possession or control", respectively. As the Star Quest project will have an adverse impact on the operations of the state highway, the improvements to the intersection will help mitigate the impact. The Star Quest project as well as the other projects in the project area should contribute fairly to the costs of those improvements.

CEQA requires that a Lead Agency must adopt a program for reporting or monitoring mitigation measures that were adopted or made conditions of project approval [Public Resources Code (PRC) Section 21081.6(a); Guidelines Sections 15091 (d), 15097]. The monitoring program is to ensure that the project revisions and/or mitigation measures identified in the environmental document are implemented.

Please forward all Final Conditions of Approval including any mitigation measures that are being proposed as well as any other documents and reports (i.e. all forms of environmental documents, Traffic Impact Study Reports, site and location maps, etc) on this proposed project for our review, comment, and records. If you are aware of any

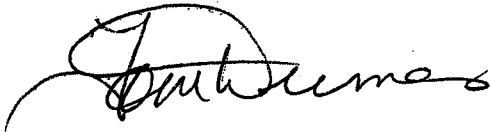
*"Caltrans improves mobility across California"*

Mrs. Debra Whitmore  
October 30, 2003  
Page 2

controversy regarding any of our requirements, please contact us as soon as possible so we may work together to resolve them before submittal to your Board.

If you have any questions or would like to discuss our comments in more detail, please contact David Cooper at (209) 948-7190 (e-mail: [david\\_cooper@dot.ca.gov](mailto:david_cooper@dot.ca.gov)) or myself at (209) 941-1921. We look forward in continuing to work with you in a cooperative manner.

Sincerely,



**TOM DUMAS, Chief  
Office of Intermodal Planning**

DEPARTMENT OF TRANSPORTATION

P.O. BOX 2048 (1976 E. CHARTER WAY)
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TTY: California Relay Service (800) 735-2929
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FAX (209) 948-7194



Flex your power!
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September 30, 2003

10-STA-219-PM 4.565
General Plan Amend. No. 2003-04
Rezone No. 2003-09, Star Quest
SCH # 2003082012

Mrs. Debbie Whitmore
Stanislaus County Planning and
Community Development Department
1010 Tenth Street, Suite 3500
Modesto, CA 95354

Dear Mrs. Whitmore:

Thank you for the opportunity to review the General Plan Amendment Application No. 2003-04 and Rezone Application No. 2003-09 - Star Quest. The applicant request to rezone and amend the General Plan of a 1.5 acre lot to a Planned Development (PD) zoning district to allow a multi-purpose gym for a gymnastics school. The property is located on the northeast corner of Pentecost Drive and Britritto Way in Modesto (APN: 004-94-19).

Per our discussion today and mutual agreement please collect impact fees for this project towards future improvements at the intersection of State Route 219/Pentecost Drive and State Route 108/Charity Way.

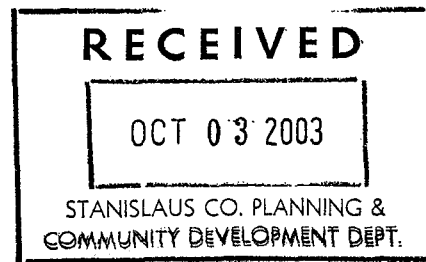
Please forward all Final Conditions of Approval including any mitigation measures that are being proposed as well as any other documents and reports (i.e. all forms of environmental documents, Traffic Impact Study Reports, site and location maps, etc) on this proposed project for our review, comment, and records. If you are aware of any controversy regarding any of our requirements, please contact us as soon as possible so we may work together to resolve them before submittal to your Board.

If you have any questions or would like to discuss our comments in more detail, please contact David Cooper at (209) 948-7190 (e-mail: david\_cooper@dot.ca.gov) or myself at (209) 941-1921. We look forward in continuing to work with you in a cooperative manner.

Sincerely,

Handwritten signature of David Cooper

TOM DUMAS, Chief
Office of Intermodal Planning



"Caltrans improves mobility across California"



# Stanislaus County

## Planning and Community Development

1010 10<sup>th</sup> Street, Suite 3400  
 Modesto, California 95354

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

### CEQA INITIAL STUDY

Adapted from CEQA Guidelines APPENDIX G Environmental Checklist Form, Final Text, October 26, 1998

- |    |  |   |
|----|--|---|
| 1. | <b>Project title:</b>                      | General Plan Amendment 2003-04 and Rezone 2003-09 - Star Quest  |
| 2. | <b>Lead agency name and address:</b>       | Stanislaus County<br>1010 10th Street, Suite 3400<br>Modesto, CA 95354  |
| 3. | <b>Contact person and phone number:</b>    | Debra Whitmore<br>(209) 525-6330  |
| 4. | <b>Project location:</b>                   | Northeast corner Pentecost Drive and Bitritto Way, in the Modesto area (APN: 004-094-026)   |
| 5. | <b>Project sponsor's name and address:</b> | Shelton Properties- Jerry Shelton Sr.<br>3524 Rexford Drive<br>Modesto, California 95356-1853   |
| 6. | <b>General plan designation:</b>           | Planned Industrial  |
| 7. | <b>Zoning:</b>                             | Planned Industrial (PI-20)  |
| 8. | <b>Description of project:</b>             | Request to rezone and amend the General Plan of an 1.5 acre lot to a Planned Development (PD) zoning district to allow a multi-sport facility to teach gymnastics, cheer, karate, tumbling for children, between the hours of 9:00 AM and 8:00 PM during weekdays and to hold birthday parties on Saturday and Sunday. The peak time customers for the facility are about 275 with 200 children and 75 parents. |

9. **Surrounding land uses and setting:**
- The area to the east, north, and south of the property is Planned Industrial. The area to the west across Pentecost Way is Planned Development.

10. **Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.):**

Stanislaus County Public Works Department - Development Services/Building Inspection Division  
 California Department of Transportation (Caltrans)  
 Stanislaus Consolidated Fire  
 Salida Fire Department  
 Eastside Mosquito Abatement District  
 Modesto Irrigation District  
 San Joaquin Valley Air Pollution Control District

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

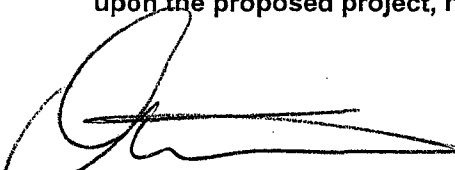
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- Aesthetics
- Agriculture Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology /Soils
- Hazards & Hazardous Materials
- Hydrology / Water Quality
- Land Use / Planning
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities / Service Systems
- Mandatory Findings of Significance

**DETERMINATION: (To be completed by the Lead Agency)**

On the basis of this initial evaluation:

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

  
 \_\_\_\_\_  
 Signature

October 1, 2003  
 \_\_\_\_\_  
 Date

Debra Whitmore, Senior Planner  
 \_\_\_\_\_  
 Printed name

\_\_\_\_\_  
 For

**EVALUATION OF ENVIRONMENTAL IMPACTS:**

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

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

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



ISSUES

I. AESTHETICS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?		X		
<p><b>Discussion:</b> The site itself is not considered to be a scenic resource or a unique scenic vista. The immediate area is generally flat and surrounded by industrial uses. The proposed structure is industrial in nature and is consistent with the visual character of the adjacent buildings. Community standards generally do not dictate the need or desire for architectural review of new buildings. Operation of the facility has the potential to create a new source of light or glare that would affect adjacent properties</p>				
<p><b>Mitigation:</b>                      1. All exterior lighting shall be designed (aimed down and towards the site) to provide adequate illumination without a glare effect.</p>				
<p><b>References:</b> Application information; Stanislaus County General Plan (adopted October 1994); Stanislaus County Zoning Ordinance; County policies; and staff experience.</p>				
II. AGRICULTURE RESOURCES -- In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?			X	
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?				X
<p><b>Discussion:</b> The property is located on land designated "Prime Farmland" by the State Department of Conservation's Farmland Mapping and Monitoring Program. The site has been designated for industrial uses for several years. This project is located on a parcel that was designated in the General Plan as Planned Industrial and zoned PI-20 in February 2001. The area surrounding the parcel is partially developed with industrial uses including a construction company, automobile storage, and various light industrial uses. Designation of this parcel as Planned Development for a multi-sport facility is consistent with the surrounding character of the area.</p>				

**Mitigation:** None.

**References:** Application information; Stanislaus County General Plan (adopted October 1994); Stanislaus County Zoning Ordinance; and the California State Department of Conservation Farmland Mapping and Monitoring Program - Stanislaus County Farmland August 2002.

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

**Discussion:** The project site is within the San Joaquin Valley Air Basin, which has been classified as "nonattainment" by the Environmental Protection Agency and the California Air Resources Board for Ozone and respirable particulate matter (PM-10) as defined by the Federal Clean Air Act. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has been established by the State in an effort to control and minimize air pollution. As such, the District maintains permitting authority over stationary sources of pollutants. Any pollutants generated by this project would be classified as "mobile" sources due to vehicular travel generated by the operation of the multi-sport facility. The SJVAPCD responded during the early consultation indicating that the project would have a less-than-significant impact on the ambient air quality.

**Mitigation:** None.

**References:** San Joaquin Valley Air Pollution Control District referral response (dated August 19, 2003); and the Stanislaus County General Plan (adopted October 1994).

IV. BIOLOGICAL RESOURCES -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?				X

c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?				X
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

**Discussion:** Based on past farming practices and adjacency to industrial uses, there is no evidence to suggest this project will result in impacts to endangered species or habitats, locally designated species, or wildlife dispersal or mitigation corridors. There are no known sensitive or protected species or natural communities located on the site and/or in the surrounding area.

**Mitigation:** None.

**References:** Application information; California Natural Diversity Database (dated October 2002); Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987).

**V. CULTURAL RESOURCES -- Would the project:**

	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?		X		
d) Disturb any human remains, including those interred outside of formal cemeteries?				X

**Discussion:** Cultural resources are not known to exist on the project site. The site has previously been disturbed by previous farming operations in a manner equivalent to the proposed project. However, the lack of surface evidence does not preclude their existence. To address this issue, a standardized mitigation measure has been included in the project to lessen the impact of accidental discovery during the construction phase.

**Mitigation:**

- Should any archaeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented.

**References:** Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987).

VI. GEOLOGY AND SOILS -- Would the project:				
	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?				X
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?				X
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X
<p><b>Discussion:</b> As contained on page 288 of the General Plan Support Documentation (adopted June 1987), the areas of the County subject to significant geologic hazard are located in the Diablo Range, west of Interstate 5. This project is not located within the earthquake fault zones currently identified by the California Department of Conservation. The proposed project is located on a combination soils types classified by the Department of Agriculture as Tujunga loamy sand, 0 to 3 percent slopes. These Class III soils have severe limitations which would reduce the choice of plants or require special conservation practices for farming. An on- and off-site drainage and street improvement plan has been developed for the site as required by the Department of Public Works. Street runoff is to be directed into the existing storm drainage retention basin located on private property and maintained by the United Pentecostal Church of Modesto.</p>				
<p><b>Mitigation:</b> None.</p>				
<p><b>References:</b> Application information; Conditions of Approval for Parcel Map 2001-13 (B&amp;D Industrial Park) dated July 19, 2001; Stanislaus County General Plan (adopted October 1994); Stanislaus County General Plan Support Documentation (adopted June 1987); California Department of Conservation, Division of Mines and Geology, Official Alquist-Priolo Earthquake Fault Zones for the Central Coastal Region (dated 2001); the 1997 Uniform Building Code; and the United States Department of Agriculture, Soil Survey for the Eastern Stanislaus Area (issued September 1964).</p>				
VII. HAZARDS AND HAZARDOUS MATERIALS -- Would the project:				
	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?				X
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?				X
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?				X
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?				X
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?				X

**Discussion:** The County Department of Environmental Resources is responsible for overseeing hazardous materials and has not indicated any particular concerns in this area. Pesticide exposure is a risk in areas located in the vicinity of agricultural. Sources of exposure include contaminated groundwater which is consumed and drift from spray applications. Application of sprays is strictly controlled by the Agricultural Commissioner and can only be accomplished after first obtaining permits. The project site is not located within an airport land use plan or a wildlands area. The groundwater is not known to be contaminated in this area.

**Mitigation:** None.

**References:** County Policies; Stanislaus County General Plan (adopted October 1994); and Stanislaus County General Plan Support Documentation (adopted June 1987).



VIII. HYDROLOGY AND WATER QUALITY -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?		X		

b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?				X
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?				X
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?				X
j) Inundation by seiche, tsunami, or mudflow?				X

**Discussion:** The project site is not located in an area subject to flooding as identified in accordance with the Federal Emergency Management Act. The proposed structures and improvements may generate increased run-off. Street runoff is to be directed into the existing storm drainage retention basin located on private property and maintained by the United Pentecostal Church of Modesto. The Department of Public Works Department is responsible for verifying that all runoff will not produce flooding on adjacent properties. Groundwater will be used for domestic use and landscaping. The County Department of Environmental Resources, that is responsible for overseeing water quality for the County, reviewed and provided comments on the proposed project that have been incorporated as a mitigation measures.

**Mitigation:** (refer to Mitigation Measures #6 and #7)

**References:** FEMA Flood Zone maps; Conditions of Approval for Parcel Map 2001-13 (B&D Industrial Park) dated July 19, 2001; Stanislaus County Department of Environmental Resources referral response (dated August 12, 2003); Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987).



IX. LAND USE AND PLANNING -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Physically divide an established community?				X

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

**Discussion:** The site is designated Planned Industrial in the General Plan and zoned PI-20. The project would amend the General Plan to re-designate the parcel Planned Development to allow the operation of a multi-sport facility. Three findings must be made in support of the General Plan amendment. The applicant submitted a statement to support these findings which are included in the attachments to this Initial Study. General Plan Policy #17 promotes diversification and growth of the local economy and includes an Implementation Measure #5 that allows private recreational uses where they are not found to cause land use conflicts. The applicant has submitted letters from adjacent property owners and business operators demonstrating support for the project. There is no evidence that this project is inconsistent with General Plan policy or would create a conflict with adjacent land uses.

**Mitigation:** None.

**References:** Application information; Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987).

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

**Discussion:** The location of all commercially viable mineral resources in Stanislaus County have been mapped by the State Division of Mines and Geology in Special Report 173. There are no known significant resources in or around the project area.

**Mitigation:** None.

**References:** Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987); and the State Division of Mines and Geology Special Report 173.

XI. NOISE -- Would the project result in:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?				X
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

**Discussion:** The Stanislaus County General Plan identifies noise levels up to 75 dB L<sub>dn</sub> (or CNEL) as the normally acceptable level of noise for agricultural, industrial, manufacturing, and other similar land uses. The project is expected to attract children and adults into an industrial area which would expose them to the higher noise levels. The exposure is likely to occur over a short duration while people move from vehicles to the building. Activities are not proposed to be held outside the buildings. Noise impacts associated with on-site activities and traffic are not anticipated to exceed the normally acceptable level of noise. The construction phase of this project will temporarily increase ambient noise levels; therefore, a standard condition of approval restricting the hours of construction to 7:00 A.M. to 6:00 P.M., Monday through Friday, has been added by the Planning Department to reduce potential construction-related noise impacts.

**Mitigation:** None.

**References:** Stanislaus County General Plan (adopted October 1994); Stanislaus County General Plan Support Documentation (adopted June 1987); and staff experience.

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

**Discussion:** The proposed use of the site will not create significant service extensions or new infrastructure that could be considered growth inducing. No housing or persons will be displaced by the project. Four full-time employees and between 35 and 40 part-time employees are projected to operate the multi-sport facility. Therefore, the project may create pressures for additional new housing to a less than significant level.

**Mitigation:** None.

**References:** Application information; Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987).

XIII. PUBLIC SERVICES:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact



<p>a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:</p>				
<p>Fire protection?</p>		X		
<p>Police protection?</p>		X		
<p>Schools?</p>			X	
<p>Parks?</p>			X	
<p>Other public facilities?</p>		X		
<p><b>Discussion:</b> The County has adopted a standardized mitigation measure requiring payment of all applicable Public Facilities Fees, as well as one for the Fire Facility Fees on behalf of the appropriate fire district, to address impacts to public services. A condition of approval has also been added to ensure that both the existing and proposed structures comply with all applicable fire department standards with respect to access and water for fire protection. The parcel is located within the North McHenry Lighting District.</p>				
<p><b>Mitigation:</b>          3. <i>The developer shall pay all applicable Public Facilities Impact Fees and Fire Protection Development/Impact Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.</i></p>				
<p><b>References:</b> Stanislaus Consolidated Fire referral response (dated August 12, 2003); Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987).</p>				
<p><b>XIV. RECREATION:</b></p>	<p>Potentially Significant Impact</p>	<p>Less Than Significant With Mitigation Included</p>	<p>Less Than Significant Impact</p>	<p>No Impact</p>
<p>a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?</p>				X
<p>b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?</p>				X
<p><b>Discussion:</b> The proposed project will provide a private recreational opportunity for the community and, as such, is not anticipated to significantly increase demand on recreational facilities.</p>				
<p><b>Mitigation:</b> None.</p>				
<p><b>References:</b> Application information; Stanislaus County General Plan (adopted October 1994); and the Stanislaus County General Plan Support Documentation (adopted June 1987).</p>				

XV. TRANSPORTATION/TRAFFIC -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?		X		
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X	
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?				X
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

**Discussion:** A Traffic Impact Analysis was prepared in August, 2000, for the previously approved parcel map that created this lot (see attachments). The Traffic Impact Analysis concluded that Level of Service "F" conditions would result for left turning vehicles from Pentecost Drive to Kiernan Avenue in the p.m. peak hour. Construction of Charity Way east to McHenry was recommended. Conditions of Approval for the previously approved parcel map required payment of a "fair share" contribution for each lot toward the future installation of signals at the McHenry/Charity intersection. The fair share amount calculated for this parcel is \$3,427 that shall be made prior to the issuance of the building permit for each lot. The Department of Public Works also required no parking, loading or unloading of vehicles associated with the subdivision on Bitritto Way, Pentecost Drive, Charity Way, or Kiernan Avenue (State Highway 219). This requirement was incorporated into the project as a condition of approval for the previously approved parcel map.

On September 5, 2003, Caltrans issued a comment letter on this project requesting a revised Traffic Impact Study for the project to determine the scope of improvements required at the intersection of Pentecost Drive and Kiernan Avenue (which also serves as State Highway 219). In their letter dated, September 30, 2003, Caltrans requested fair share contributions to intersection improvements at Charity Way/McHenry Avenue (State Highway 108) and Pentecost Drive/Kiernan Avenue (State Highway 219).

**Mitigation:**

4. *The applicant shall pay a "fair share" contribution toward the future installation of a traffic signal at McHenry Avenue (SR 108) and Charity Way in the amount of \$3,427 prior to the issuance of a building permit.*
5. *The applicant shall pay a fair share contribution toward future highway improvements at Kiernan Avenue (SR 219) and Pentecost Drive prior to the issuance of a building permit.*

**References:** Application information; Caltrans referral responses (dated September 5, 2003 and September 30, 2003); Stanislaus Department of Public Works referral responses (dated September 11, 2003, and September 24, 2003); Stanislaus County General Plan (adopted October 1994); and Stanislaus County General Plan Support Documentation (adopted June 1987).

XVI. UTILITIES AND SERVICE SYSTEMS -- Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Included	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?		X		
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?		X		
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

**Discussion:** The site will be served by private well and septic system. The proposed structures may generate increased run-off. The Department of Public Works Department is responsible for verifying that all runoff will not produce flooding on adjacent properties. An on- and off-site drainage and street improvement plan has been developed for the site as required by the Department of Public Works. Street runoff is to be directed into the existing storm drainage retention basin located on private property and maintained by the United Pentecostal Church of Modesto. Groundwater will be used for domestic use and landscaping. The County Department of Environmental Resources, that is responsible for overseeing water quality for the County, reviewed and provided comments on the proposed project that have been incorporated as mitigation measures.

**Mitigation:**

6. *Water supply for the project is defined by State regulations as a public water system. Water system owner must submit plans for the water system construction or addition; and obtain approval from the Department of Environmental Resources (DER), prior to construction. Prior to final approval of the project, the owner must obtain a Water Supply Permit from the DER. Water Supply Permit issuance is contingent upon water system meeting construction standards and providing water which is acceptable quantity and quality.*
7. *The sewage disposal system shall be an approved aerobic treatment system so as to comply with the Primary and Secondary Treatment Initiative (Measure X).*

**References:** Conditions of Approval for Parcel Map 2001-13 (B&D Industrial Park) dated July 19, 2001; Stanislaus Department of Environmental Resources referral response (dated August 12, 2003); Stanislaus County General Plan (adopted October 1994); and Stanislaus County General Plan Support Documentation (adopted June 1987).

<b>XVII. MANDATORY FINDINGS OF SIGNIFICANCE:</b>	<b>Potentially Significant Impact</b>	<b>Less Than Significant With Mitigation Included</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	
<p><b>Discussion:</b> Review of this project has not indicated any feature(s) which might significantly impact the environmental quality of the site and/or adjacent areas. As such, all identified project-significant impacts have been mitigated to a level of less than significant.</p>				



## MITIGATED NEGATIVE DECLARATION

- NAME OF PROJECT:** General Plan Amendment 2003-04 and Rezone 2003-09 - Star Quest
- LOCATION OF PROJECT:** Northeast corner Pentecost Drive and Bitritto Way, in the Modesto area (APN: 004-94-26)
- PROJECT DEVELOPER:** Shelton Properties - Jerry Shelton Sr.  
3524 Rexford Drive  
Modesto, California 95356-1853
- DESCRIPTION OF PROJECT:** Request to rezone and amend the General Plan of an 1.5 acre lot to a Planned Development (PD) zoning district to allow a multi-sport facility to teach gymnastics, cheer, karate, tumbling for children, between the hours of 9:00 AM and 8:00 PM during weekdays and to hold birthday parties on Saturday and Sunday. The peak time customers for the facility are about 275 with 200 children and 75 parents.

Based upon the Initial Study, dated October 1, 2003 the Environmental Coordinator finds as follows:

1. This project does not have the potential to degrade the quality of the environment, nor to curtail the diversity of the environment.
2. This project will not have a detrimental effect upon either short-term or long-term environmental goals.
3. This project will not have impacts which are individually limited but cumulatively considerable.
4. This project will not have environmental impacts which will cause substantial adverse effects upon human beings, either directly or indirectly.

The aforementioned findings are contingent upon the following mitigation measures (if indicated) which shall be incorporated into this project:

1. All exterior lighting shall be designed (aimed down and towards the site) to provide adequate illumination without a glare effect.
2. Should any archaeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented.
3. The developer shall pay all applicable Public Facilities Impact Fees and Fire Protection Development/Impact Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. The applicant shall pay a "fair share" contribution toward the future installation of a traffic signal at McHenry Avenue (SR 108) and Charity Way in the amount of \$3,427 prior to the issuance of a building permit.
5. The applicant shall pay a fair share contribution toward future highway improvements at Kiernan Avenue (SR 219) and Pentecost Drive prior to the issuance of a building permit.
6. Water supply for the project is defined by State regulations as a public water system. Water system owner must submit plans for the water system construction or addition; and obtain approval from the Department of Environmental Resources (DER), prior to construction. Prior to final approval of the project, the owner must obtain a Water Supply Permit from the DER. Water Supply Permit issuance is contingent upon water system meeting construction standards and providing water which is acceptable quantity and quality.
7. The sewage disposal system shall be an approved aerobic treatment system so as to comply with the Primary and Secondary Treatment Initiative (Measure X).

The Initial Study and other environmental documents are available for public review at the Department of Planning and Community Development, 1010 10<sup>th</sup> Street, Suite 3400, Modesto, California.

Initial Study prepared by: Debra Whitmore, Senior Planner

Submit comments to: Stanislaus County  
Planning and Community Development Department  
1010 10<sup>th</sup> Street, Suite 3400  
Modesto, California 95354

# Stanislaus County

## Planning and Community Development

1010 10<sup>th</sup> Street, Suite 3400  
Modesto, CA 95354

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

### Mitigation Monitoring Plan

Adapted from CEQA Guidelines sec. 15097 Final Text, October 26, 1998

October 1, 2003

- 1. **Project title and location:** General Plan Amendment 2003-04 and Rezone 2003-09 - Star Quest
- 2. **Project Applicant name and address:** Shelton Properties - Jerry Shelton Sr.  
3524 Rexford Drive  
Modesto, California 95356-1853
- 3. **Person Responsible for Implementing Mitigation Program (Applicant Representative):** Shelton Properties - Jerry Shelton Sr.
- 4. **Contact person at County:** Debra Whitmore, Senior Planner  
(209) 525-6330

#### MITIGATION MEASURES AND MONITORING PROGRAM:

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

##### I. AESTHETICS

- No. 1 Mitigation Measure: All exterior lighting shall be designed (aimed down and towards the site) to provide adequate illumination without a glare effect.
  - Who Implements the Measure: Applicant.
  - When should the measure be implemented: During construction and continuously thereafter.
  - When should it be completed: Ongoing.
  - Who verifies compliance: Stanislaus County Planning Department and Development Services.
  - Other Responsible Agencies: None.

##### V. CULTURAL RESOURCES

- No. 2 Mitigation Measure: Should any archeological or human remains be discovered during development, work shall be immediately halted within 150 feet of the find until it can be evaluated by a qualified archaeologist. If the find is determined to be historically or culturally significant, appropriate mitigation measures to protect and preserve the resource shall be formulated and implemented.



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Who Implements the Measure:	Applicant.
When should the measure be implemented:	Any time construction takes place.
When should it be completed:	Upon completion of construction.
Who verifies compliance:	Stanislaus County Planning Department.
Other Responsible Agencies:	None.

**XIII. PUBLIC SERVICES**

No. 3 Mitigation Measure: The developer shall pay all applicable Public Facilities Impact Fees and Fire Protection Development/Impact Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.

Who Implements the Measure:	Applicant.
When should the measure be implemented:	At time of building permit issuance.
When should it be completed:	Prior to issuance of building permit.
Who verifies compliance:	Development Services.
Other Responsible Agencies:	None.

**XV. TRANSPORTATION/TRAFFIC**

No. 4 Mitigation Measure: The applicant shall pay a "fair share" contribution toward the future installation of a traffic signal at McHenry Avenue (SR 108) and Charity Way in the amount of \$3,427 prior to the issuance of a building permit.

Who Implements the Measure:	Applicant.
When should the measure be implemented:	At time of building permit issuance.
When should it be completed:	Prior to issuance of building permit.
Who verifies compliance:	Development Services.
Other Responsible Agencies:	None.

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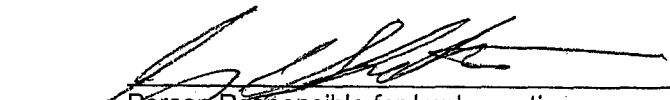
No. <u>5</u> Mitigation Measure:	The applicant shall pay a fair share contribution toward future highway improvements at Kiernan Avenue (SR 219) and Pentecost Drive prior to the issuance of a building permit.
Who Implements the Measure:	Applicant.
When should the measure be implemented:	At time of building permit issuance.
When should it be completed:	Prior to issuance of building permit.
Who verifies compliance:	Development Services.
Other Responsible Agencies:	None.

**XVI. UTILITIES AND SERVICE SYSTEMS:**

No. <u>6</u> Mitigation Measure:	Water supply for the project is defined by State regulations as a public water system. Water system owner must submit plans for the water system construction or addition; and obtain approval from the Department of Environmental Resources (DER), prior to construction. Prior to final approval of the project, the owner must obtain a Water Supply Permit from the DER. Water Supply Permit issuance is contingent upon water system meeting construction standards and providing water which is acceptable quantity and quality.
Who Implements the Measure:	Applicant.
When should the measure be implemented:	At the time of building permit issuance.
When should it be completed:	Prior to issuance of building permit.
Who verifies compliance:	Development Services.
Other Responsible Agencies:	None.

No. <u>7</u> Mitigation Measure:	The sewage disposal system shall be an approved aerobic treatment system so as to comply with the Primary and Secondary Treatment Initiative (Measure X).
Who Implements the Measure:	Applicant.
When should the measure be implemented:	At time of building permit issuance.
When should it be completed:	Prior to issuance of building permit.
Who verifies compliance:	Development Services.
Other Responsible Agencies:	None.

I the undersigned, do hereby certify that I understand and agree to be responsible for implementing the Mitigation Program for the above listed project.

  
\_\_\_\_\_  
Person Responsible for Implementing  
Mitigation Program

9/30/03  
Date

CALIFORNIA DEPARTMENT OF FISH AND GAME  
CERTIFICATE OF FEE EXEMPTION  
De Minimis Impact Finding

**Project Title/Location/Owner Name and address (include county):**

General Plan Amendment 2003-04 and Rezone 2003-09 - Star Quest. Northeast corner of Pentecost Drive and Bitritto Way, in the Modesto area, Stanislaus County. APN: 004-094-026

**Project Description:**

Request to rezone and amend the General Plan of an 1.5 acre lot to a Planned Development (PD) zoning district to allow a multi-sport facility to teach gymnastics, cheer, karate, tumbling for children, between the hours of 9:00 AM and 8:00 PM during weekdays and to hold birthday parties on Saturday and Sunday. The peak time customers for the facility are about 275 with 200 children and 75 parents.

**Findings of Fact:**

The Stanislaus County Planning Commission makes a finding of "De Minimis" on this project for the following reasons:

An initial study has been conducted by the lead agency so as to evaluate the potential for adverse environmental impact; and when considering the record as a whole there is no evidence before the agency that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends. Further, the lead agency has, on the basis of substantial evidence, rebutted the presumption of adverse effect contained in the California Code of Regulations at Title 14 Section 753.5(d). As follows:

Based on the Initial Study, the project will not result in changes to the resources listed below:

- (A) Riparian land, rivers, streams, watercourses, and wetlands under state and federal jurisdiction;
- (B) Native and non-native plant life and the soil required to sustain habitat for fish and wildlife;
- (C) Rare and unique plant life and ecological communities dependent on plant life; and
- (D) Listed threatened and endangered plant and animals and the habitat in which they are believed to reside.
- (E) All species of plant or animals as listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, the Water Code or regulations adopted thereunder.
- (F) All marine and terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside.
- (G) All air and water resources the degradation of which will individually or cumulatively result in a loss of biological diversity among the plants and animals residing in that air and water.

**Certification:**

I hereby certify that the public agency has made the above finding and that the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

\_\_\_\_\_  
(Chief Planning Official)

Title: Planning Director

Lead Agency: Stanislaus County

Date: \_\_\_\_\_

I:\Staff\rpt\GPA 2003.sr\GPA 2003-04.cert.wpd

# ADJACENT LAND USES

As of 5/23/03

- (A) Cabinet Shop
- (B) Single Family Res
- (C) High Lift Equip.
- (D) Const. Co. Office
- (E) Plumbing

- (F) Furniture Warehouse
- (G) Wholesale Signs
- (H) Medical Storage Records

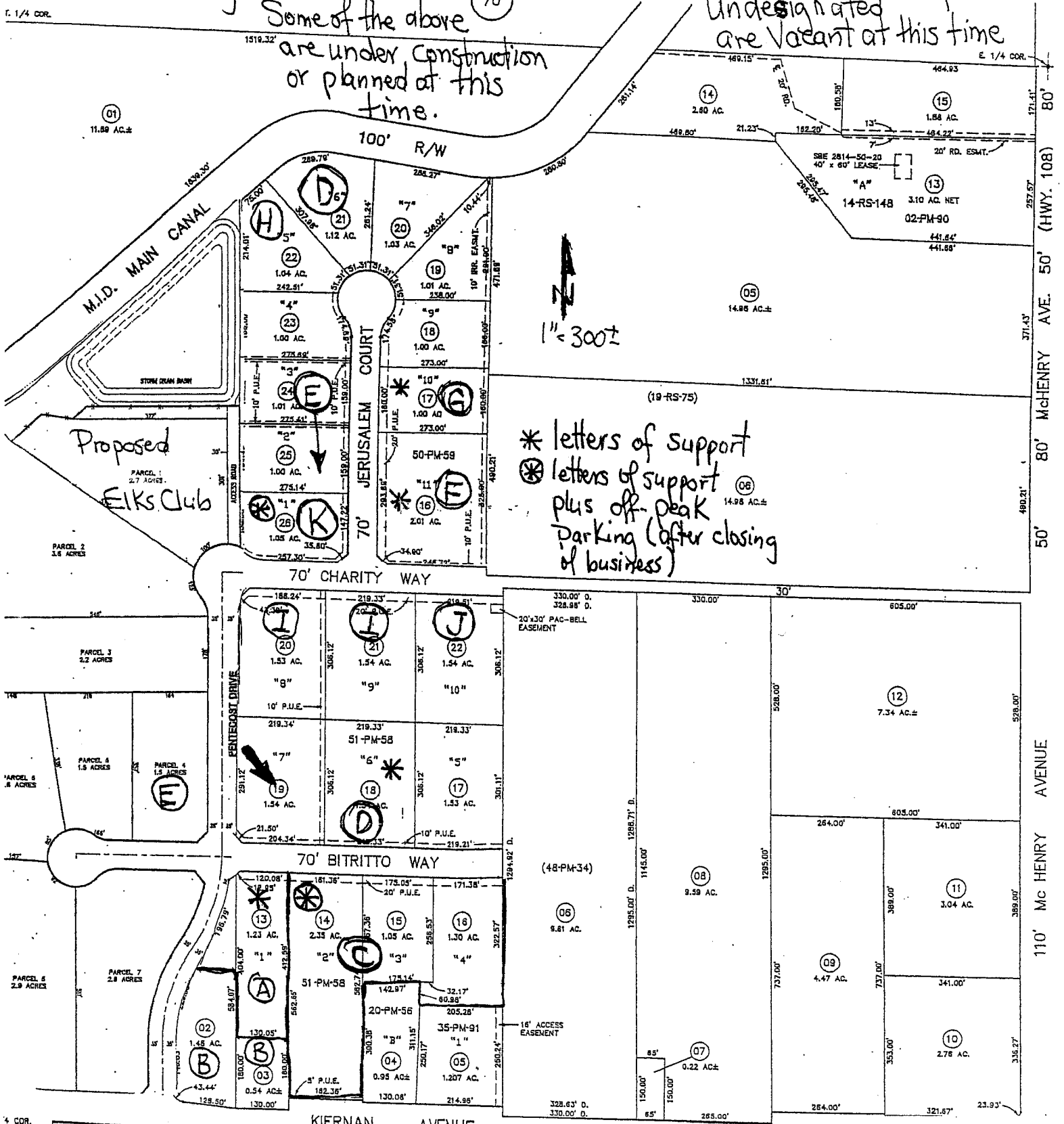
- (I) Unknown light industrial
- (J) Classic Automobiles Storage
- (K) Various - some are vacant

Some of the above are under construction or planned at this time.

Undesignated is optical are vacant at this time

(70)

E. 1/4 COR.



\* letters of support  
 ⊗ letters of support plus off-peak parking (after closing of business)



5260 Jerusalem Ct.  
Modesto, California 95356  
(209) 523-7446 Fax (209) 522-2997

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May 21, 2003

To whom it may concern:

MRG Group is the owner of the property located at 5260 Jerusalem CT., Modesto, CA 95356, Parcel #17. Cal-Sign Wholesale, Inc. occupies the building, which is also our family run business manufacturing electrical signs.

We have reviewed the proposed business use, All Star Gymnastics, on parcel 7 at the corner of Bitritto Way and Pentecost Drive. We have discussed the use with Jerry Shelton, the owner of parcel 7, and have no objections to the operation of All Star Gymnastics at this location. We feel the community will benefit greatly from the services offered by All Star Gymnastics and that it will enhance the total development area.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Johnson", written in a cursive style.

Greg Johnson,  
Owner-President

GJ/co

May 13, 2002

To whom it may concern,

My name is Don Baker and I am the owner of the property known as parcel 6, Bitritto Way, Modesto, California. I have reviewed the proposed business use, All Star Gymnastics, on parcel 7 at the corner of Bitritto Way and Pentecost Drive. I have discussed the use with Jerry Shelton, the owner of parcel 7, and I have no objections to the operation of All Star Gymnastics at this location. I feel that the community will benefit greatly from the services offered by All Star Gymnastics and that it will enhance the total development area.

Sincerely,

Don Baker

A handwritten signature in black ink that reads "Don Baker". The signature is written in a cursive style with a large, stylized initial "D".

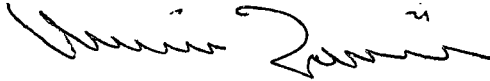
May 20, 2003

To whom it may concern,

My name is Dennis Zanini and I am the owner of Zanini Custom Cabinets and the property known as Parcel 1 located on the corner of Pentecost Drive and Bitritto Way, Modesto, California. I have reviewed the proposed business use, All Star Gymnastics, on parcel 7 at the corner of Bitritto Way and Pentecost Drive. I have discussed the use with Jerry Shelton, the owner of parcel 7, and I have no objections to the operation of All Star Gymnastics at this location. I feel that the community will benefit greatly from the services offered by All Star Gymnastics and that it will enhance the total development area.

Sincerely,

Dennis Zanini

A handwritten signature in black ink, appearing to read "Dennis Zanini", written in a cursive style.



May 22, 2003

To whom it may concern,

My name is Rick Walker and I am the owner Al's Furniture and the property known as parcel 11 on the corner of Jerusalem Court and Charity Way, Modesto, California. I have reviewed the proposed business use, All Star Gymnastics, on parcel 7 at the corner of Bitritto Way and Pentecost Drive. I have discussed the use with Jerry Shelton, the owner of parcel 7, and I have no objections to the operation of All Star Gymnastics at this location. I feel that the community will benefit greatly from the services offered by All Star Gymnastics and that it will enhance the total development area.

Sincerely,

A handwritten signature in black ink that reads "Rick Walker". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Rick Walker

May 23, 2003

To whom it may concern,

My name is Jim Lima and I am the owner of Jim's Optical and the property known 5253 Jerusalem Court, Modesto, California. I have reviewed the proposed business use, All Star Gymnastics, on parcel 7 at the corner of Bitritto Way and Pentecost Drive. I have discussed the use with Jerry Shelton, the owner of parcel 7, and I have no objections to the operation of All Star Gymnastics at this location. I feel that the community will benefit greatly from the services offered by All Star Gymnastics and that it will enhance the total development area.

If county requirements find it necessary for more parking during peak hours of operation of All Star Gymnastics, I will authorize parking in marked parking stalls on my property after our normal business hours.

Sincerely,

Jim Lima

A handwritten signature in black ink, appearing to read "Jim Lima". The signature is written in a cursive style with a large, looping initial "J".

May 21, 2003

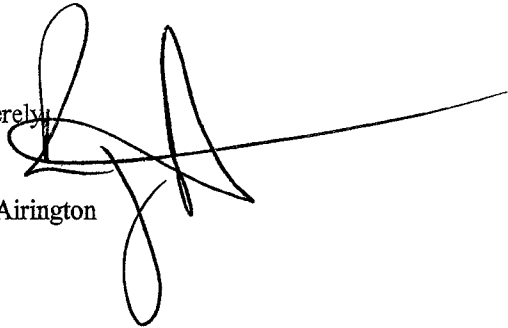
To whom it may concern,

My name is Roy Airington and I am the owner of California High Reach and the property known as parcel 2, Bitritto Way, Modesto, California. I have reviewed the proposed business use, All Star Gymnastics, on parcel 7 at the corner of Bitritto Way and Pentecost Drive. I have discussed the use with Jerry Shelton, the owner of parcel 7, and I have no objections to the operation of All Star Gymnastics at this location. I feel that the community will benefit greatly from the services offered by All Star Gymnastics and that it will enhance the total development area.

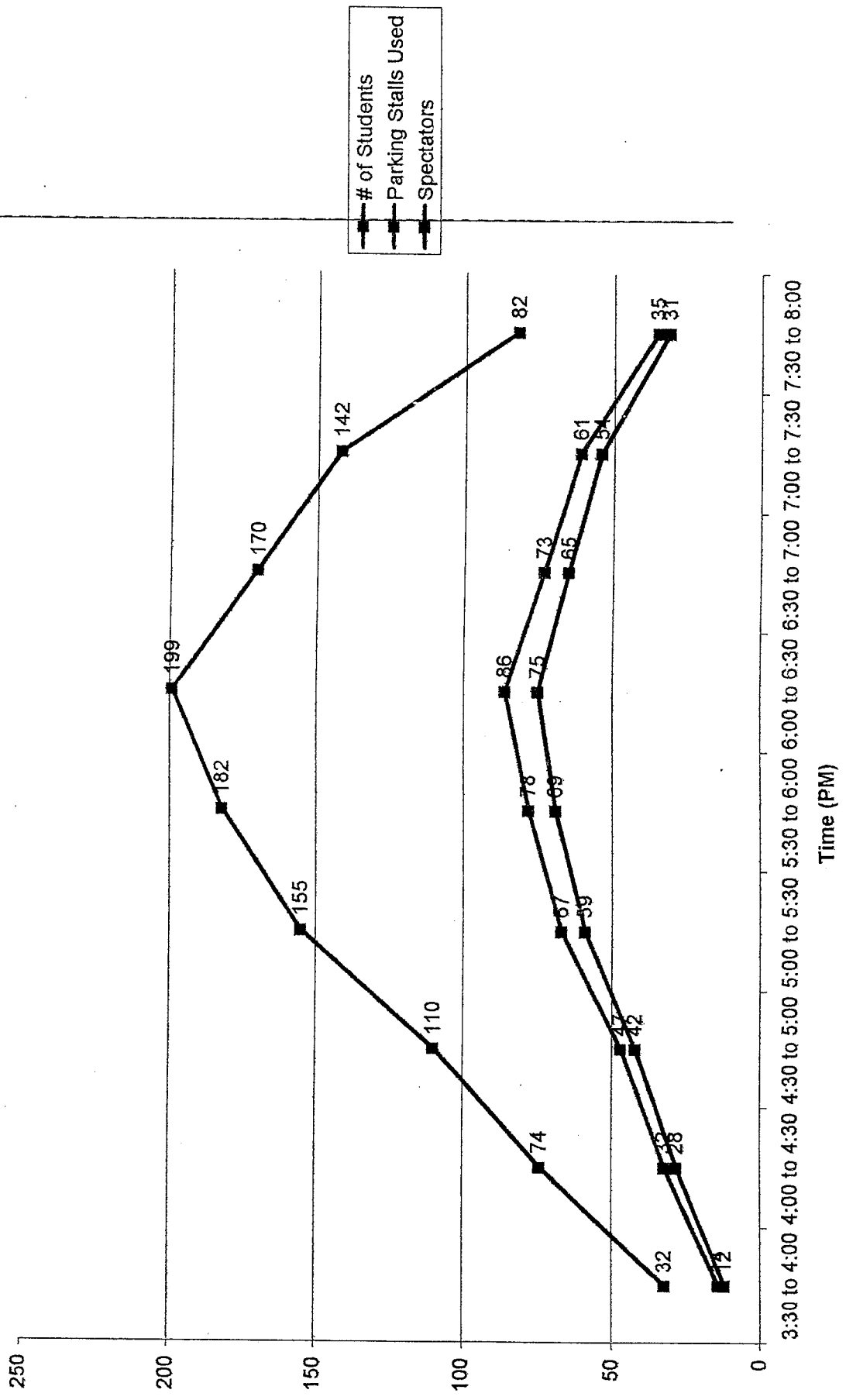
If county requirements find it necessary for more parking during peak hours of operation for All Star Gymnastics, I will authorize parking in marked parking stalls on my property after our normal business hours.

Sincerely,

Roy Airington

A handwritten signature in black ink, appearing to be 'Roy Airington', written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

Expected Occupancy Loading For Gym Stars Facility



Note: These Statistics have been developed from the Stockton facility which is almost identical in size to the proposed Modesto facility

TRAFFIC IMPACT ANALYSIS FOR  
BAVARO INDUSTRIAL PARK

Stanislaus County

Prepared For:  
Frank & Dolores Bavaro  
26312 Jones Road  
Escalon, CA 95320

Prepared By:  
kdANDERSON Transportation Engineers  
417 Oak Street  
Roseville, CA 95678  
(916) 786-5529

August 1, 2000  
Job No. 0830-01

*KD Anderson*

Transportation Engineers

EXHIBIT M

TRAFFIC IMPACT ANALYSIS FOR  
BAVARO INDUSTRIAL PARK

INTRODUCTION

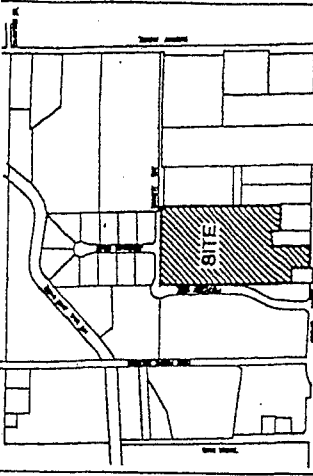
This report documents kdANDERSON Transportation Engineers' assessment of the potential traffic impacts associated with development of an industrial park project north of Kiernan Avenue (SR 219) and west of McHenry Avenue (SR 108) in Stanislaus County. The analysis is intended to quantify the traffic impacts of the project and address circulation needs in the vicinity of the site. The analysis addresses development of the 16.5 acre site (15 acres net) on existing traffic conditions in the area as well as cumulative conditions associated with potential development of other adjacent properties tributary to the local street system in the area.

Toward this end, existing traffic conditions have been evaluated through observation of current weekday a.m. and p.m. peak hour intersection traffic volumes and through review of daily traffic count information available for the area. Current intersection and roadway capacities and operating Levels of Service have been calculated. Probable project trip generation has been estimated by applying appropriate trip generation rates to the proposed land use quantities. Project trips were then assigned to the study area street system based on recognizable least time travel paths to and from the site and using expected origins and destinations of traffic generated by the site. Finally, operating Levels of Service were recalculated to determine the anticipated traffic impacts associated with development of the project. Intersection and street improvements required to provide satisfactory traffic operating conditions have been identified per Stanislaus County guidelines.

Project Description

Development of five (5) industrial parcels totalling 15 acres is proposed for the Bavaro Industrial Park. Parcels range in size from 1.0 to 9.2 acres. Figure 1 displays the Vesting Tentative Map prepared for the site.

**Site Access.** Access to the site will be via Pentecost Drive to Kiernan Avenue. Pentecost Drive is currently under construction and will intersect Kiernan Avenue approximately 425 feet east of the Union Pacific Railroad tracks or about 2,000 feet west of McHenry Avenue. In addition, Charity Way is ultimately planned to extend from Pentecost Drive at the northwest corner of the site east to McHenry Avenue to provide additional local circulation in the area. Charity Way is planned to intersect McHenry Avenue approximately 1,250 feet north of Kiernan Avenue, with the intersection ultimately controlled by a traffic signal.



VICINITY MAP

**STREET SECTION**

**PROPERTY OWNER / SUBMITTER:**  
FRANK & DOLORES BAVARO  
20312 JONES ROAD  
ESCALON, CA 95320  
(209) 836-2451

**ENGINEER:**  
GARCIA-DAVIS-RINGLER ENGINEERING  
P.O. BOX 1037  
CESER, CA 95307  
(209) 538-3360  
FAX 538-2770

- PROJECT SITES:**  
APN 04-71-30 +/-16.0 ACRES  
ZONING / GENERAL PLAN:  
P1 (PLANNED INDUSTRIAL)  
SO EXISTING BUILDINGS  
WATER TYPE: MURICA SANDY LOAM  
WATER DEPTH GREATER THAN 40"  
INFRASTRUCTURE:  
SEWER: ON SITE SEPTIC SYSTEM  
WATER: WELL AND STORAGE FACILITY  
STORM DRAINAGE: MOUND WITH STORM DRAINAGE BASIN  
ON SITE ELEVATION = 100'

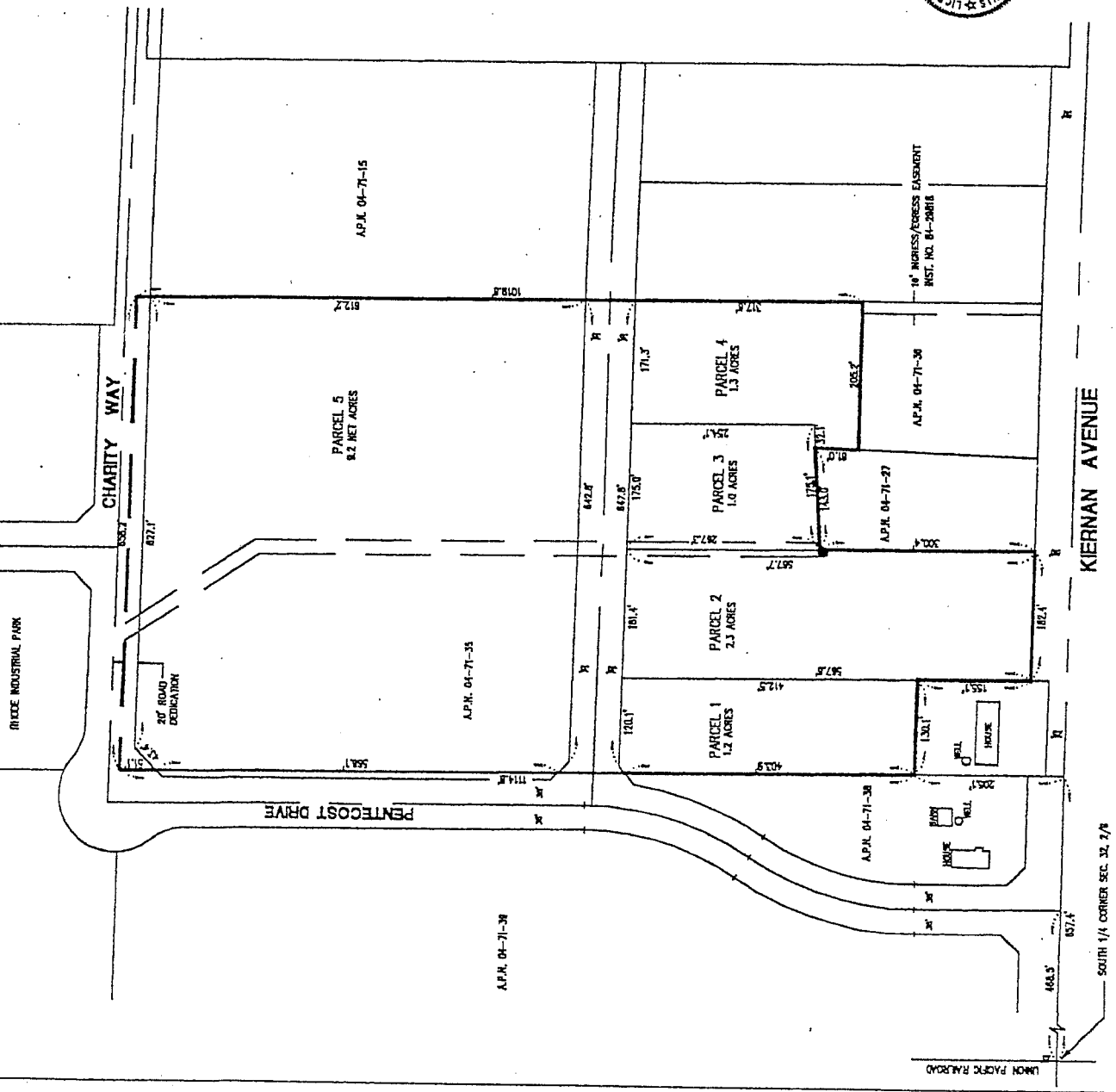
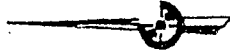
**PROPERTY DESCRIPTION:**  
BEING A DIVISION OF PARCEL 2 AS SHOWN ON THE PARCEL MAP RECORDED IN BOOK 35 OF PARCEL MAPS, PAGE 81, STANISLAUS COUNTY RECORDS, LYING IN THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 2 SOUTH, RANGE 3 EAST, MOUNT Diablo BASE AND MERIDIAN.

**NOTES**

**GARCIA-DAVIS-RINGLER ENGINEERING**  
ENGINEERING/SURVEYING/PLANNING  
3411 MITCHELL ROAD, SUITE D  
CESER, CA 95307  
TELEPHONE: (209) 836-3360 FAX: (209) 538-2770

**VESTING TENTATIVE PARCEL MAP FOR FRANK AND DOLORES BAVARO**

Scale: 1" = 100'	Date: 3/20/00
She. No. 003274A	Sheet 1 of 1
Drawn By: [Signature]	Job No. 00327
Checked By: [Signature]	



**KD Anderson**  
Transportation Engineers

Figure 1

Development of the project site will include construction of a 50 foot wide street constructed to Minor Industrial Street standards which will intersect Pentecost Drive and provide direct access to individual parcels on the site.

**Local Circulation.** The need for Charity Way to be constructed east to McHenry Avenue to accommodate development of the proposed Bavaro Industrial Park is a focus of this study. Charity Way is a planned local circulation improvement and conditions of approval placed on the United Pentecostal Church project required construction of Charity Way east to McHenry Avenue to provide additional circulation to the area in conjunction with phase 2 development of the church. Signalization of the Charity Way / McHenry Avenue intersection is also ultimately planned.

Stanislaus County has indicated that this study for the Bavaro Industrial Park should evaluate whether traffic generated by the proposed project in itself, and/or together with other approved/pending projects in the immediate area, will trigger the need to construct Charity Way to augment the Pentecost Drive connection to the regional street system.

## EXISTING SETTING

Existing traffic conditions in the study area are influenced by commuter travel to/from Highway 99 and by agricultural activity in this area of the County. To adequately assess existing traffic conditions, a program of field investigation, traffic counts and traffic records research was undertaken.

Traffic operations at the Kiernan Avenue / McHenry Avenue intersection, together with the planned intersections of Pentecost Drive and Charity Way to each of these facilities, have been evaluated to quantify traffic operating conditions with and without development of the site.

Kiernan Avenue (State Route 219) is an east-west arterial north of the City of Modesto which links Highway 99 in the west to McHenry Avenue (State Route 108) in the east. East of McHenry Avenue, the facility continues as Claribel Road with no state highway designation. Currently, Kiernan Avenue is primarily a 2-lane facility and carries approximately 11,400 ADT west of McHenry Avenue, with 1,200 vehicles observed by the consultant during the weekday p.m. peak hour. Kiernan Avenue is ultimately envisioned to be improved to a four and six lane expressway by the Year 2015. Planned improvements are identified in the Stanislaus Area Regional Transportation Plan Long Range Improvement Program (RTP) as well as the Regional Expressway Study. In the vicinity of the project site, the south side of Kiernan Avenue has been widened and improved east to McHenry Avenue in conjunction with adjacent development.

KDA



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McHenry Avenue (State Route 108) is a north-south arterial extending from State Route 132 in central Modesto north beyond the Stanislaus County line. The facility is designated as State Route 108 from Highway 132 north to Patterson Road. McHenry Avenue provides four (4) through travel lanes at the Kiernan Avenue intersection, which is signalized. North of Kiernan Avenue, McHenry Avenue transitions to a 2-lane facility. McHenry Avenue currently carries approximately 17,500 ADT south of Kiernan Avenue, with 15,100 ADT experienced north of the intersection. The Modesto General Plan indicates that McHenry Avenue will ultimately be widened to an 8-lane arterial in the vicinity of Kiernan Avenue.

Pentecost Drive is currently under construction and will provide a 50 foot curb to curb width per County standards for a Minor Industrial street. Pentecost Drive will extend for approximately 1,200 feet north from Kiernan Avenue to a 90 degree elbow intersection with Charity Way at the northwest corner of the Bavaro project site.

Charity Way is also currently under construction and will provide a 50 foot paved street section from Pentecost Drive east to Jerusalem Court to access the Rhode Industrial Center project. East of Jerusalem Court, Charity Way is being initially constructed to a 20 foot pavement section to McHenry Avenue to provide emergency access to the area. Ultimately, this latter section will be improved to a 50 foot public street section.

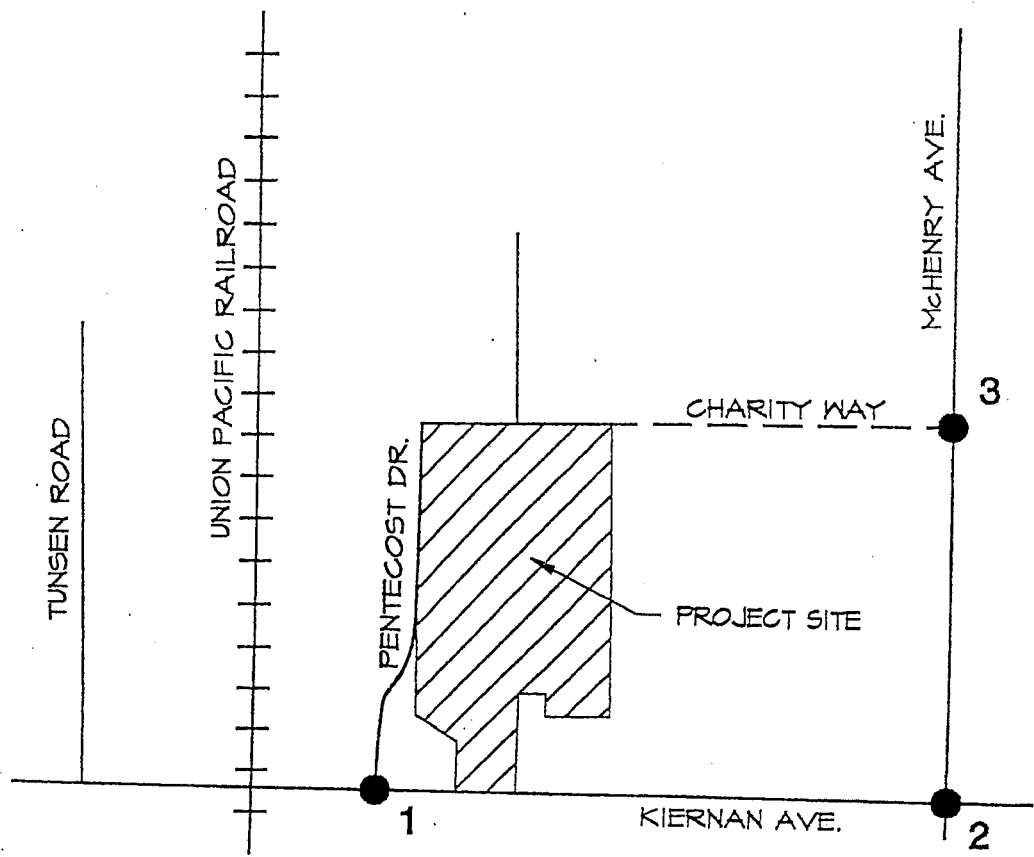
#### Existing Traffic Volumes

Daily traffic volume data was obtained from counts published by Caltrans. In addition, weekday a.m. and p.m. peak hour counts were performed by the consultant within the study area during July 2000. Intersection counts were conducted from 7:00 - 9:00 a.m. and 4:00 - 6:00 p.m. to isolate the peak one hour traffic periods. Figure 2 displays existing traffic volume data used for this analysis.

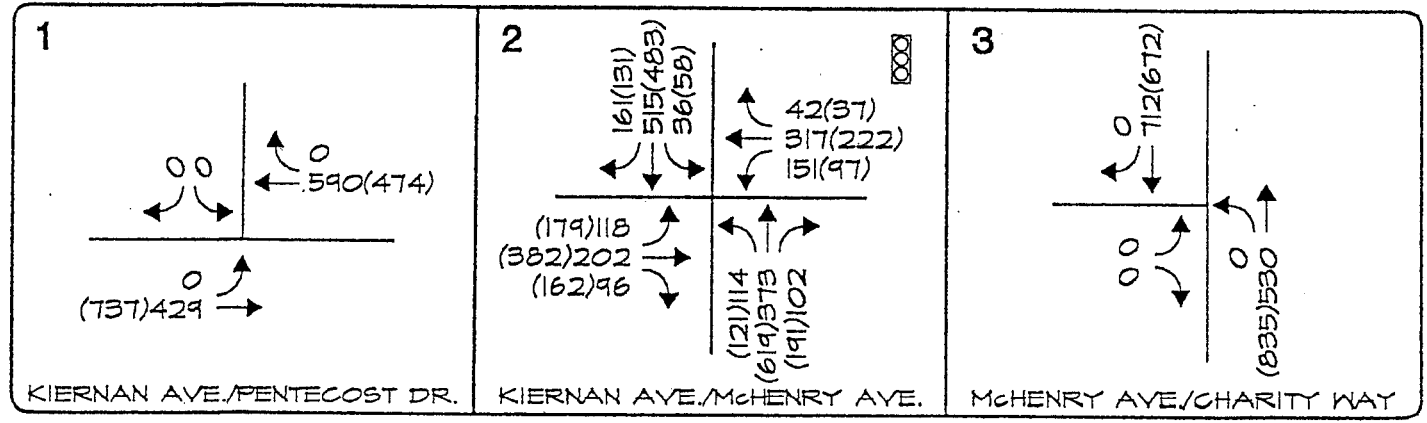
#### Levels of Service - Methodology

To assess the quality of existing traffic conditions, Levels of Service were calculated at study area intersections. "Level of Service" (LOS) is a qualitative measure of traffic operating conditions whereby a letter grade "A" through "F", corresponding to progressively worsening operating conditions, is assigned to an intersection or roadway segment. Table A-1 of the Appendix presents characteristics associated with each Level of Service grade.

**Signalized Intersections.** Procedures used for calculating Levels of Service at signalized intersections utilize a "critical movement" analysis method as presented in Transportation Research Board "Circular 212". Table A-1 of the Appendix presents volume to capacity ratio characteristics associated with each Level of Service grade.



- KEY**
- ↖ XX AM PEAK HOUR TRAFFIC VOLUMES
  - ↖ (XX) PM PEAK HOUR TRAFFIC VOLUMES
  - ☒ SIGNALIZED INTERSECTION
  - ⊥ RI STOP SIGN



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EXISTING PEAK HOUR TRAFFIC VOLUMES

**Unsignalized Intersections.** For unsignalized intersections, gap availability and associated delay are used for Level of Service analysis. Methods used for calculating unsignalized intersection Level of Service are as presented in the latest edition of Transportation Research Board Report 209. Levels of Service at unsignalized intersections controlled by side street stop signs are indicative of the magnitude of the delay incurred by motorists which must yield the right of way at an intersection.

Because these calculations ignore the condition of through traffic flow (which is assumed to flow freely) a supplemental traffic signal warrant analysis is performed to confirm the significance of calculated delays. While the unsignalized Level of Service may indicate long delays (i.e., LOS "E"), traffic conditions are generally not assumed to be unacceptable unless signal warrants are satisfied. The signal warrant criteria employed for this study is as presented in the *Caltrans Traffic Manual*.

### Existing Levels of Service

**Operating Standards.** Stanislaus County utilizes LOS "C" to define acceptable intersection and roadway operations. Beyond this threshold (i.e., LOS D, E, and F), operating conditions are considered deficient and appropriate mitigations should be identified.

Other agencies with specific jurisdiction for particular facilities have also established Level of Service goals or thresholds as well. Caltrans, through their *System Management Plan* has categorized the state highway facilities and established Level of Service goals. On Major Routes, such as SR 99, LOS "C" is the standard. This is also the standard for "Routes of Regional Importance" such as SR 108 (McHenry Avenue). On "Routes of Secondary Significance", such as SR 219 (Kiernan Avenue), LOS "D" is the identified "Concept" Level of Service (i.e., LOS "D" or better considered acceptable).

Table 1 summarizes existing traffic operations and Levels of Service at study area intersections. Operations are further discussed below.

**Kiernan Avenue / McHenry Avenue intersection.** Satisfactory operations are currently experienced at the Kiernan Avenue/McHenry Avenue intersection during the a.m. and p.m. peak traffic hours, categorized by LOS "B" intersection operations. Two through lanes with auxiliary left and right turn lanes are provided at the McHenry Avenue approaches to the intersection. The eastbound Kiernan Avenue approach provides a separate left, right and through lane, with a left turn lane and a shared through plus right turn lane provided at the westbound approach to the intersection.

**TABLE 1  
EXISTING INTERSECTION LEVELS OF SERVICE**

Intersection	Control	AM Peak Hour		PM Peak Hour	
		LOS	V/C	LOS	V/C
Kiernan Ave/ McHenry Ave	Signal	B	0.62	B	0.62

LOS - Level of Service  
V/C - Volume to capacity ratio

**PROJECT IMPACTS**

Trip Generation

The number of automobile trips projected to be generated by development of the site has been estimated using information contained in the Institute of Transportation Engineers (ITE) publication, Trip Generation (Sixth Edition).

ITE category "Industrial Park" provides trip generation data representative of potential uses permitted in the Planned Industrial zoning designation and represents a variety of industrial, office and light manufacturing related uses. This trip generation information has been used in estimating the number of trips which would be expected to be generated by the proposed 15 acre industrial park. As shown in Table 2, the project site is projected to generate approximately 175 a.m. and 187 p.m. peak hour trips, with a total of about 1,300 trips generated over a 24 hour period.

**TABLE 2  
PROJECT TRIP GENERATION**

LAND USE	QUANTITY	DAILY TRIP	PEAK HOUR TRIPS	
			AM IN/OUT	PM IN/OUT
Industrial Park	15 acres	1,314	145/30	39/148

Trip Distribution

Having determined the number of trips that can be anticipated to be generated by development of the site, it is necessary to identify the directional distribution of projected

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traffic. The directional distribution will be influenced by the location of surrounding development in the Modesto area as well as access to the regional freeway system. Table 3 presents the estimated directional distribution for external project generated traffic. As shown, the largest proportion of traffic is projected to be oriented to the west towards State Route 99.

TABLE 3  
DIRECTIONAL DISTRIBUTION - PROJECT GENERATED TRAFFIC

DIRECTION	PERCENT
North via McHenry Avenue	15%
South via McHenry Avenue	25%
West via Kiernan Avenue	55%
East via Claribel Road	5%
	100%

Local Circulation

Pentecost Drive is currently being constructed in conjunction with development of the Rhode Industrial Center project immediately north of the Bavaro project site. The street will be constructed to Minor Industrial Street standards and provide a 50 foot pavement section. Pentecost Drive will terminate at Charity Way at the northwest corner of the Bavaro site. Charity Way is similarly being constructed to a 50 foot street section from Pentecost Drive east to Jerusalem Court to access the Rhode Industrial Center project. East of Jerusalem Court, Charity Way is being initially constructed to a 20 foot pavement section to provide emergency access to the area. Ultimately, this latter section will be improved to a 50 foot public street section.

As previously discussed, conditions of approval placed on the United Pentecostal Church project required construction of Charity Way east to McHenry Avenue to provide circulation to the area in conjunction with phase 2 development of the church. Signalization of the Charity Way / McHenry Avenue intersection is also ultimately planned. It is the consultants understanding that initial development (phase 1) of the United Pentecostal Church facility will include construction of left turn channelization on Kiernan Avenue at Pentecost Drive.

Based upon the above, "existing plus project" conditions evaluated in this report assume that access to the Bavaro project site will initially be provided by Pentecost Drive, with Charity Way providing secondary emergency access to the area.

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### Existing Plus Project Traffic Conditions

Using the directional distribution presented in Table 3, peak hour traffic generated by development of the site was assigned to the adjacent street system. Resulting "Project Only" traffic volumes are displayed in Figure 3 and assume access to the site via Pentecost Drive. Figure 4 displays the project trip assignment assuming access via both Pentecost Drive and Charity Way. This latter information has been provided to display the trip assignment estimated for "cumulative" traffic conditions in the area and is further discussed in proceeding sections of this report.

Project generated trips displayed in Figure 3 were then superimposed onto existing background traffic to represent conditions with development of the site. Figure 5 displays resulting traffic volumes, while Table 4 summarizes projected intersection operations. Existing plus project conditions do not assume development of the approved Rhode Industrial Center, as the timing for buildout of this center is not known. Development of the Rhode Industrial Center is addressed in the Cumulative Traffic Conditions section of this report.

**Kiernan Avenue / McHenry Avenue intersection.** Satisfactory Level of Service "B" operations are projected to continue during the peak traffic hours with development of the project site.

**Kiernan Avenue / Pentecost Drive intersection.** Buildout of the project site is projected to result in LOS "A" to "E" delays at the intersection during the peak traffic hours. Level of Service "D" and "E" delays are projected for left turns out of Pentecost Drive to Kiernan Avenue in the a.m. and p.m. peak hours, respectively. Left turn vehicle queues of up to three vehicles are projected on Pentecost Drive in conjunction with the LOS "E" delays in the afternoon peak hour. Although LOS "E" delays are projected, forecast volumes are not projected to meet minimum volume criteria for signalization of the intersection.

**TABLE 4  
EXISTING PLUS PROJECT INTERSECTION LEVELS OF SERVICE**

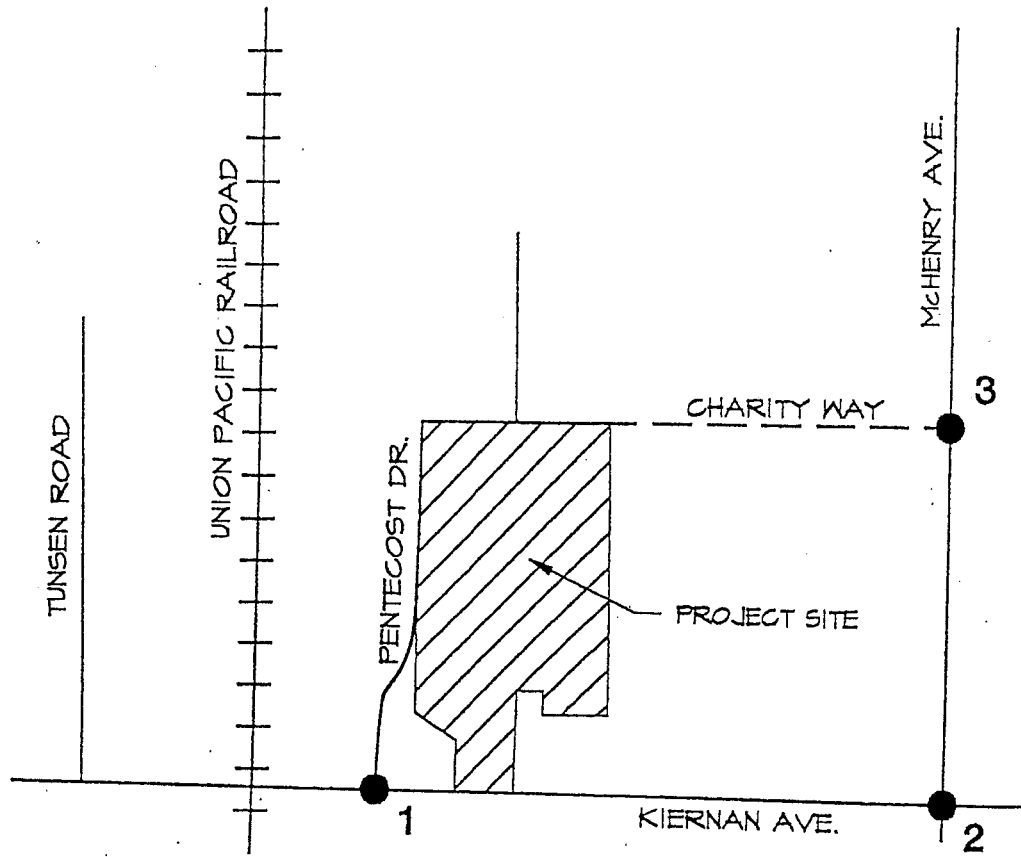
Intersection	Control	Existing Conditions				Existing Plus Project			
		AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
		LOS	V/C, <sup>1</sup> Delay	LOS	V/C, <sup>1</sup> Delay	LOS	V/C, <sup>1</sup> Delay	LOS	V/C, <sup>1</sup> Delay
Kiernan Ave/ McHenry Ave	Signal	B	0.62	B	0.62	B	0.65	B	0.62
Kiernan Ave/ Pentecost Dr	SB Stop	-	-	-	-				
EB Left						B	5.0	A	3.8
SB Left						D	21.7	E	35.1
SB Right						B	5.5	B	5.3

LOS = Level of Service

<sup>1</sup> Volume to Capacity (V/C) ratio calculated at signalized intersections. Average Delay (seconds) calculated at unsignalized stop sign controlled intersections.

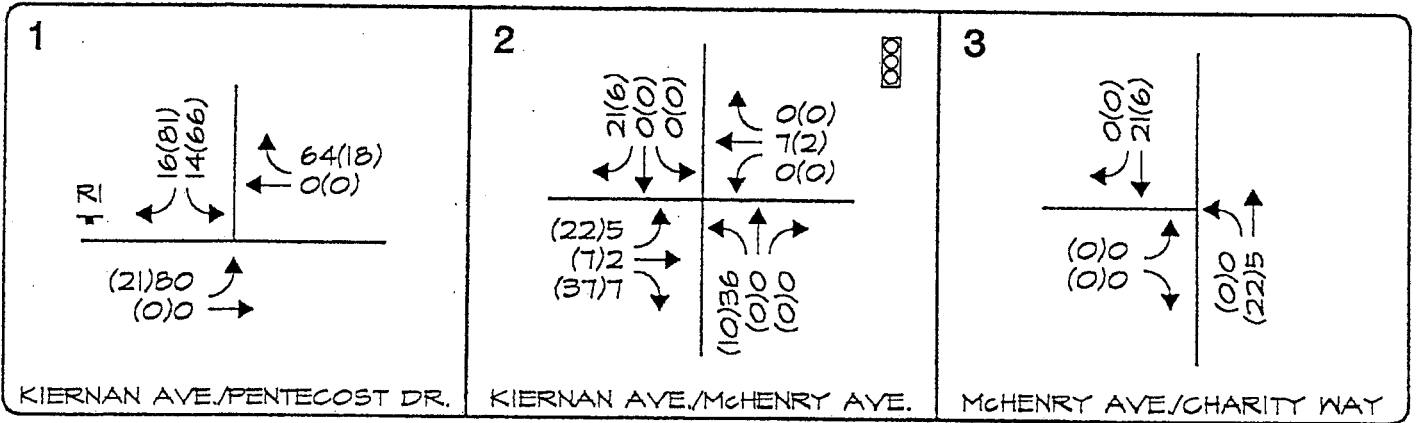
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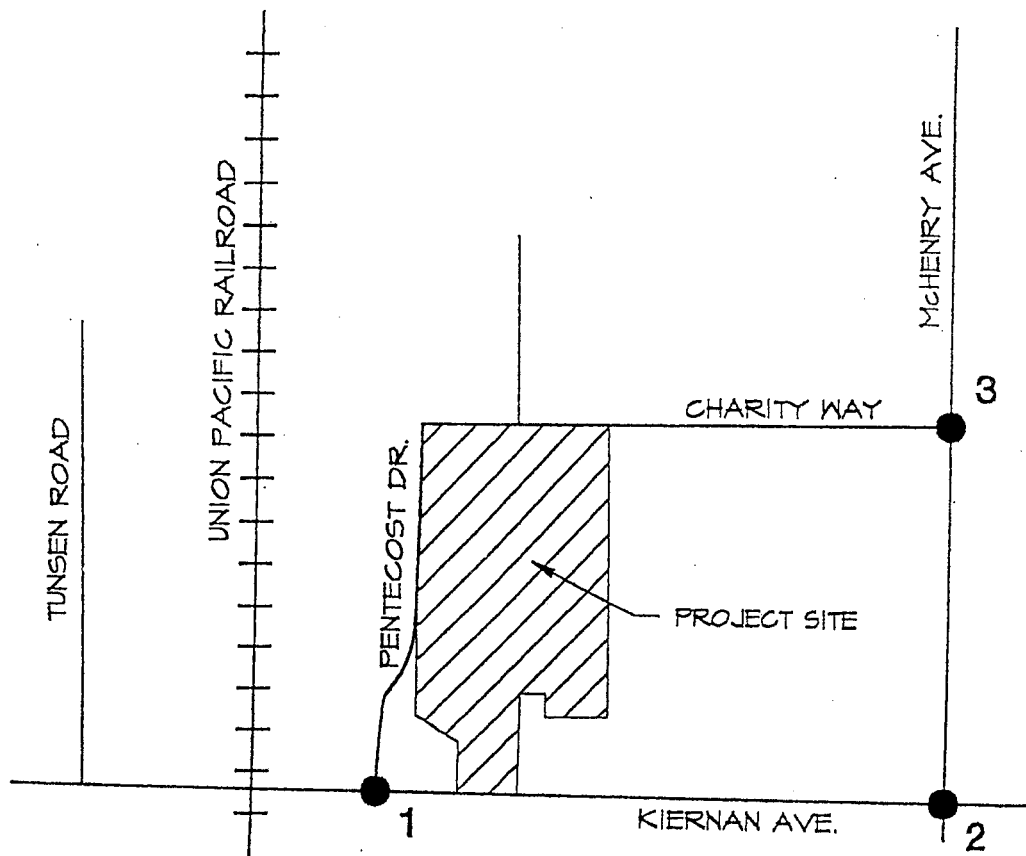




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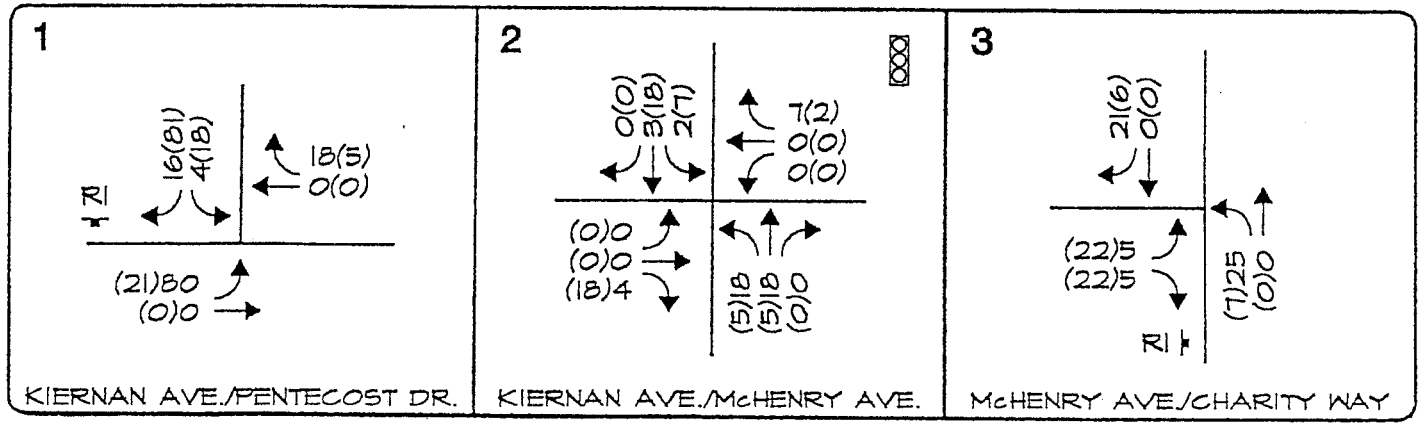
- ↖ XX AM PEAK HOUR TRAFFIC VOLUMES
- ↖ (XX) PM PEAK HOUR TRAFFIC VOLUMES
- ⊠ SIGNALIZED INTERSECTION
- ⊠ RI STOP SIGN





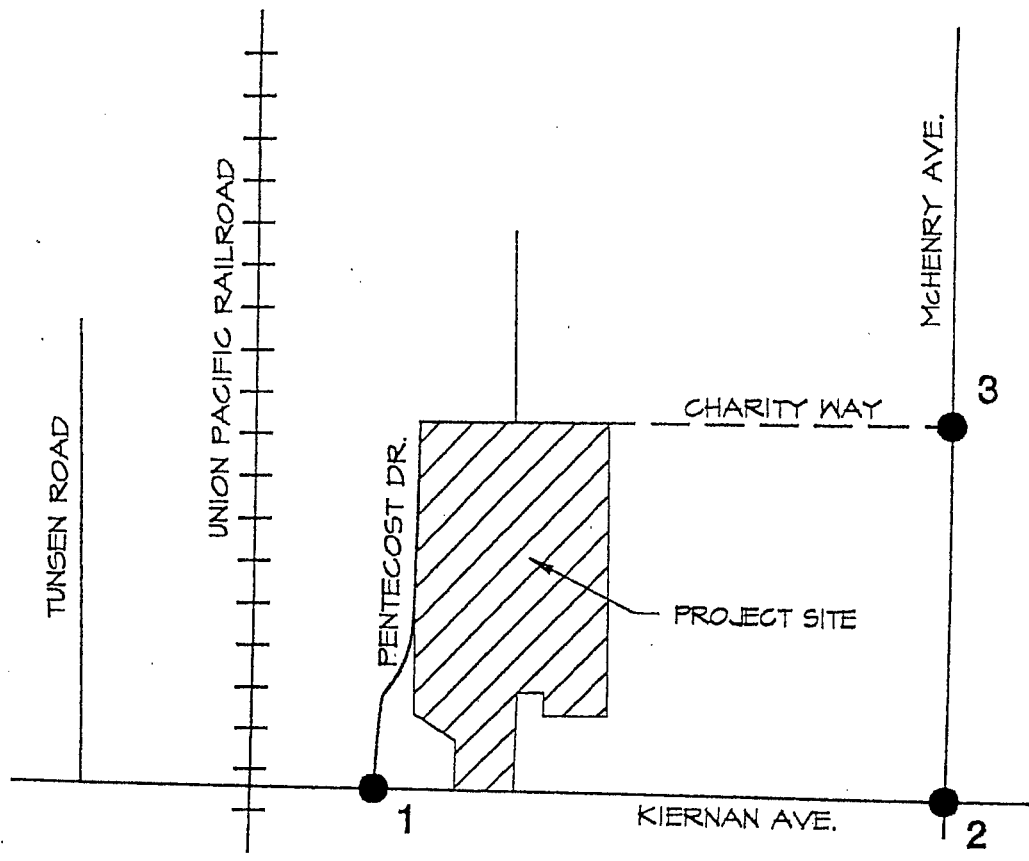
**KEY**

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- ↖ (XX) PM PEAK HOUR TRAFFIC VOLUMES
- ⊠ SIGNALIZED INTERSECTION
- RI STOP SIGN



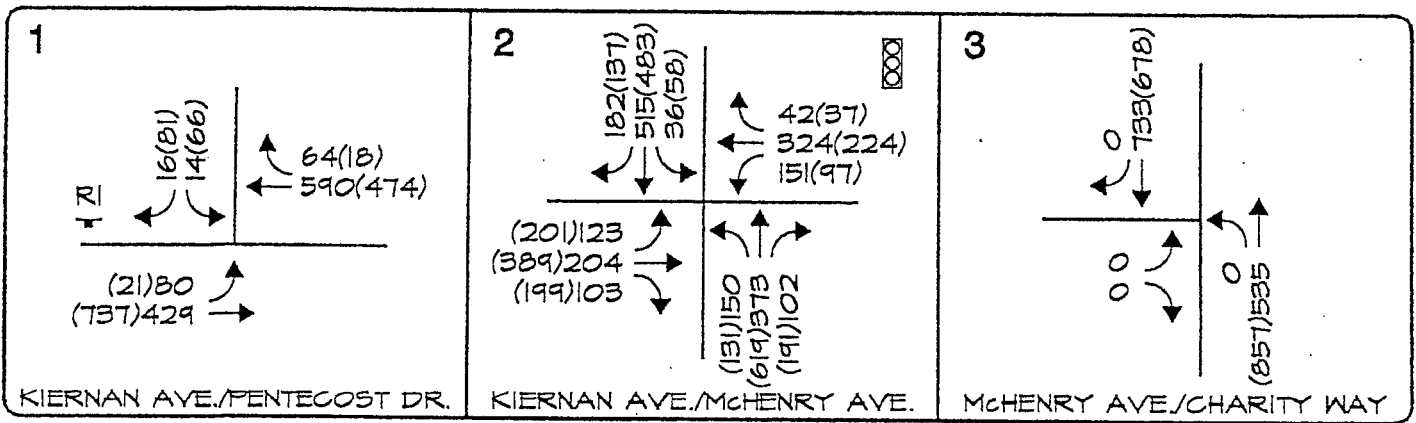
*KD Anderson*  
 Transportation Engineers

PROJECT GENERATED TRAFFIC  
 ACCESS VIA PENTECOST DRIVE & CHARITY WAY



**KEY**

- XX AM PEAK HOUR TRAFFIC VOLUMES
- (XX) PM PEAK HOUR TRAFFIC VOLUMES
- ⊗ SIGNALIZED INTERSECTION
- † R STOP SIGN



## CUMULATIVE TRAFFIC CONDITIONS

Traffic conditions in the area have also been evaluated assuming development of the proposed project together with other approved and/or pending development potential in the area. Traffic volumes expected to be generated by development of the Rhode Industrial Center, the United Pentecostal Church and other undeveloped parcels tributary to Pentecost Drive and Charity Way have been estimated and assigned to the adjacent street system to forecast cumulative traffic conditions in the area. Figure 6 displays the development potential in the area assumed for purposes of this study. Development quantities are based upon discussion with the Stanislaus County Community Development Department.

Development potential displayed in Figure 6 indicates that an additional 74 acres of land in the area might be developed under the Planned Industrial designation. This includes the approved Rhode Industrial Center as well as other undeveloped parcels in the area. Using the industrial park trip generation rates identified for the Bavaro site, buildout of the vacant lands has the potential to generate approximately 650 a.m. and 630 p.m. peak hour trips, with 4,100 trips generated on a daily basis.

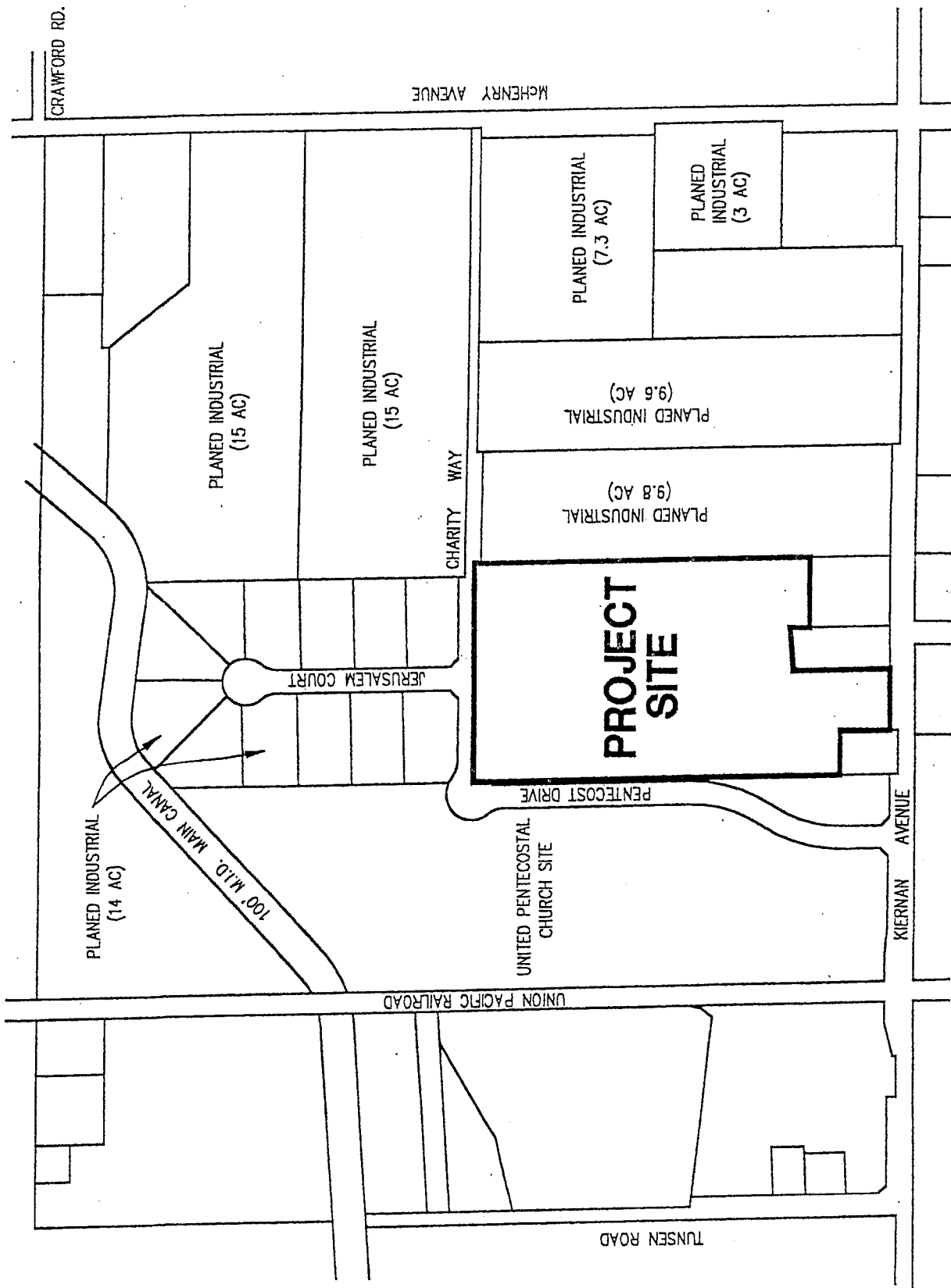
**Background Growth on Regional Roadways.** For purposes of forecasting future short term traffic conditions, the development quantities discussed above have been assumed to occur within a five year planning horizon. As such, the increase in background traffic on the regional roadway network has also been estimated to forecast resulting traffic volumes within the study area for a five year period.

Daily traffic count information published by Caltrans for Kiernan Avenue and McHenry Avenue has been used to estimate the growth in regional background traffic. Traffic count information indicates that volumes have fluctuated both up and down on both facilities in recent years. Since 1989, an annual average increase in traffic volumes on Kiernan Avenue west of McHenry Avenue of just under 2% has occurred, with an annual increase of just over 2% on McHenry Avenue north and south of Kiernan Avenue. Based upon this data, an annual increase of 2% has been used to estimate background traffic increases in the study area for the five year planning horizon.

### Cumulative Intersection Operating Conditions

The 2% annual growth estimate has been applied to current traffic levels to estimate conditions in five years together with traffic generated by the project specific development quantities presented in Figure 6. Development potential within the study area has been assigned to the street system using the regional distribution estimates previously presented in Table 3.

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0830-01/figures.dwg

Figure 6

Traffic impacts associated with development of the Bavaro Industrial Park have been analyzed with respect to traffic projections developed for the five year planning horizon. Forecast intersection operations are summarized in Table 5 and discussed below. Figures 7 and 8 display projected traffic volumes with and without development of the Bavaro project site, respectively.

**Kiernan Avenue / McHenry Avenue intersection.** Satisfactory Level of Service "C" operations are projected at the intersection during the peak traffic hours with or without development of the Bavaro project site. Adequate intersection capacity is available to accommodate forecast traffic increases over the five year planning horizon.

**Kiernan Avenue / Pentecost Drive intersection.** Buildout of identified development potential is projected to result in unsatisfactory LOS "F" delays for left turns out of Pentecost Drive to eastbound Kiernan Avenue. Development of the Bavaro project will further contribute to forecast delays. Additional traffic will likely be diverted to Charity Way as left turn delays from Pentecost Drive increase.

Projected traffic volumes at the intersection will meet minimum volume thresholds for signalization in the afternoon peak hour. However, signalization of the intersection is not estimated to be an acceptable mitigation alternative, as it is inconsistent with the expressway concept planned for the facility.

**McHenry Avenue / Charity Way intersection.** Level of Service "F" delays are similarly projected for left turns out of Charity Way to northbound McHenry Avenue under the five year planning horizon. This assumes stop sign control of Charity Way at McHenry Avenue.

Forecast volumes for the p.m. peak traffic hour will warrant signalization based upon peak hour volume criteria thresholds. As shown in Table 5, signalization of the Charity Way / McHenry Avenue intersection is projected to provide satisfactory LOS "B" to "C" operations with buildout of the study area.

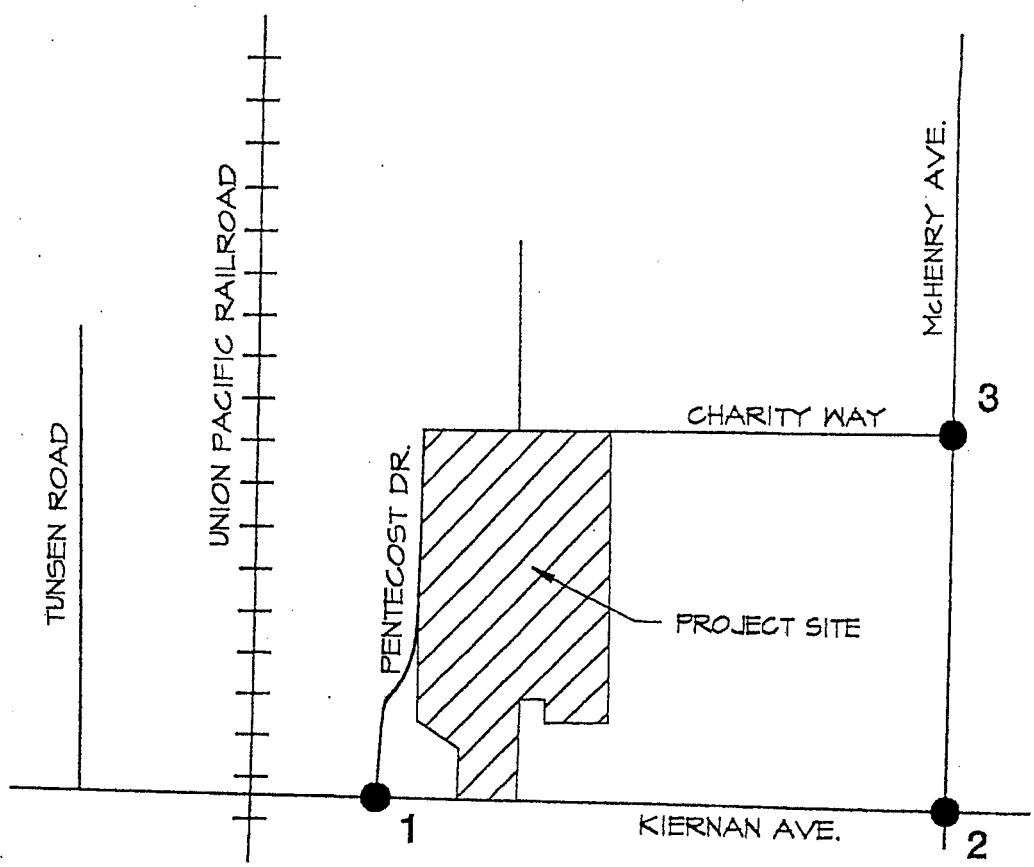
**TABLE 5  
CUMULATIVE PLUS PROJECT INTERSECTION LEVELS OF SERVICE**

Intersection	Control	Cumulative Base				Cumulative Plus Project			
		AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
		LOS	V/C, <sup>1</sup> Delay	LOS	V/C, <sup>1</sup> Delay	LOS	V/C, <sup>1</sup> Delay	LOS	V/C, <sup>1</sup> Delay
Kiernan Ave/ McHenry Ave	Signal	C	0.75	C	0.71	C	0.77	C	0.72
Kiernan Ave/ Pentecost Dr	SB Stop								
EB Left		B	8.9	A	4.3	C	12.0	A	4.4
SB Left		F	63.0	F	57.0	F	125	F	96.5
SB Right		B	6.5	B	8.7	B	6.7	C	11.2
McHenry Ave/ Charity Way	EB Stop								
NB Left		B	6.9	B	5.3	B	7.5	B	5.4
EB Left		E	41.8	F	224	F	52.0	F	570
McHenry Ave/ Charity Way	Signal	B	0.63	B	0.70	B	0.65	C	0.71

LOS = Level of Service

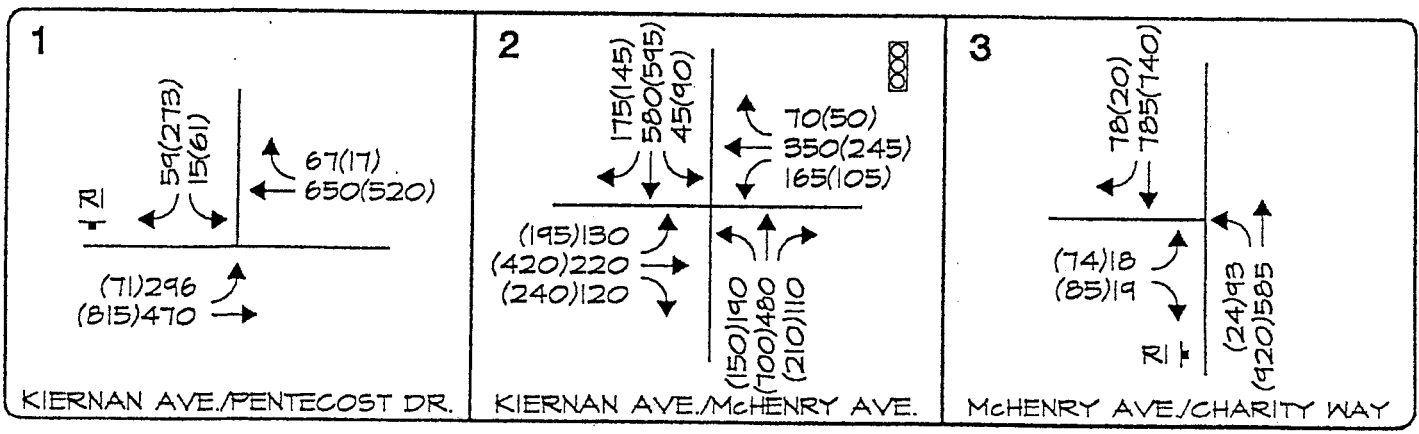
<sup>1</sup> Volume to Capacity (V/C) ratio calculated at signalized intersections. Average Delay (seconds) calculated at unsignalized stop sign controlled intersections.

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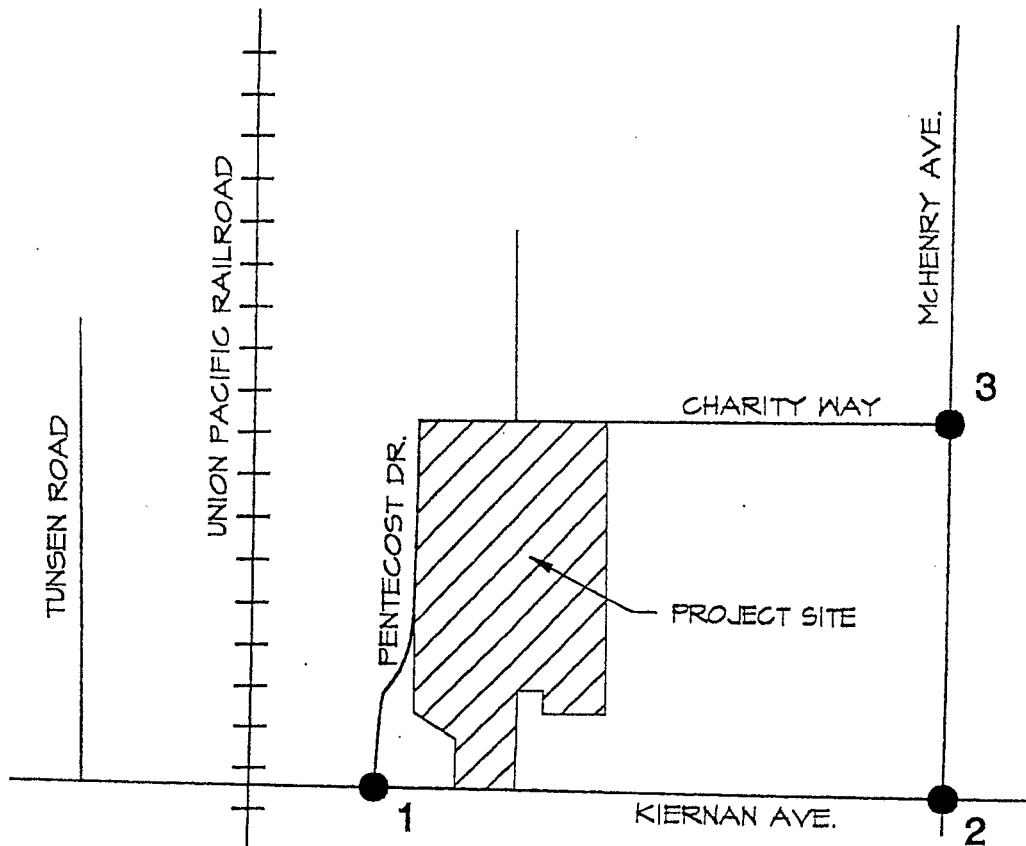
- ↖ XX AM PEAK HOUR TRAFFIC VOLUMES
- ↘ (XX) PM PEAK HOUR TRAFFIC VOLUMES
- ⊠ SIGNALIZED INTERSECTION
- ⊠ RI STOP SIGN



**KD Anderson**  
 Transportation Engineers

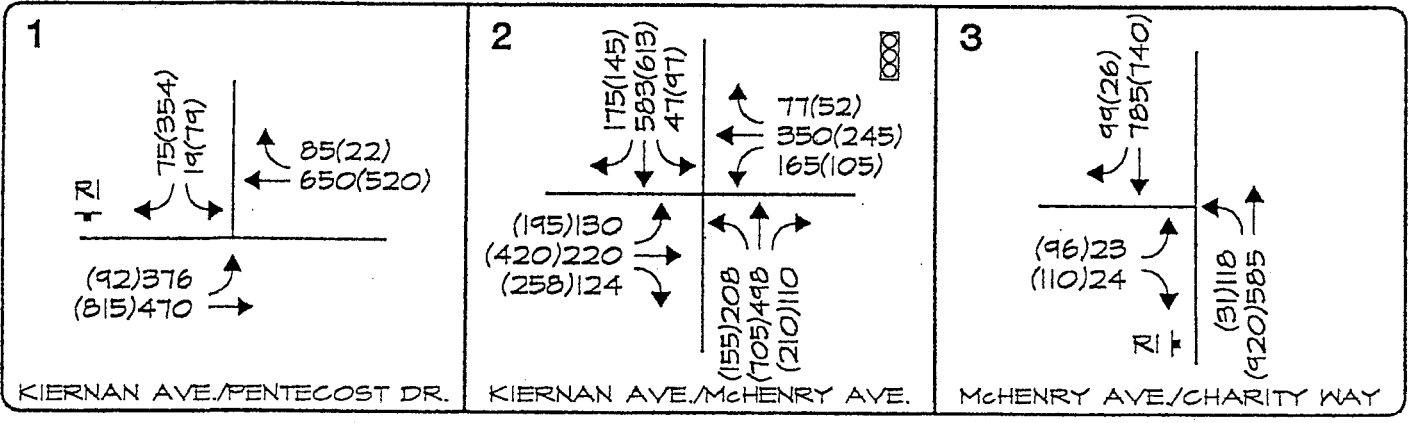
CUMULATIVE BASE PEAK HOUR TRAFFIC VOLUMES  
 BUILDOUT OF ADJACENT PROPERTIES-NO PROJECT





**KEY**

- ↖ XX AM PEAK HOUR TRAFFIC VOLUMES
- ↖ (XX) PM PEAK HOUR TRAFFIC VOLUMES
- ⊠ SIGNALIZED INTERSECTION
- ⊠ STOP SIGN



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CUMULATIVE TRAFFIC WITH PROJECT  
 PEAK HOUR VOLUMES

### Timing of Charity Way Improvements

This section discusses the timing of improvements to Charity Way needed to support development of the study area.

Forecast operating conditions discussed in the preceding sections indicate that the Bavaro site could be developed with access provided by only the Pentecost Drive connection to Kiernan Avenue. This assumes project traffic added to current background traffic levels and is as discussed in the "Existing plus Project" section of this report. Construction of Charity Way would not be required to support development of the site, although LOS "E" delays would be experienced for left turns out of Pentecost Drive during the p.m. peak traffic hour. However, overall intersection operations would be acceptable and LOS "E" delays incurred in accessing an arterial such as Kiernan Avenue is not uncommon.

Under cumulative traffic conditions, buildout of the Bavaro project together with surrounding development potential will require construction of Charity Way and signalization of the Charity Way / McHenry Avenue intersection to accommodate forecast traffic volumes.

Development thresholds have been further analyzed to identify the quantity of development which would trigger the need for construction of Charity Way to McHenry Avenue.

**Methodology for determining improvement needs.** Level of Service "F" delays for left turns at the Pentecost Drive / Kiernan Avenue intersection has been used as a threshold for determining the need for additional access (i.e., Charity Way) to serve the study area. This threshold corresponds to average delays in excess of 45 seconds per vehicle for a particular movement and is judged by the consultant to represent a reasonable benchmark beyond which additional access should be developed. Review of resulting traffic volumes indicates that the LOS "F" threshold is similar to a condition which would satisfy Caltrans' peak hour warrants for signalization of high speed roads. While signalization is not appropriate, this warrant could be used as a mechanism for monitoring traffic in the future.

**Development Thresholds.** While it is possible to suggest that secondary access will eventually be needed, the exact timing is dependent on the type and schedule of development occurring in the area. For comparison purposes, traffic volumes generated by the proposed Bavaro Industrial Park as well as the approved Rhode Industrial Center were initially tested to determine when Charity Way may be needed. For this analysis, the threshold is discussed in terms of buildout of the Bavaro project plus a portion of development of the Rhode project, although the timing for buildout of either of these projects is unknown. It should be noted that traffic projections associated with development of these projects is somewhat interchangeable, as both sites could be developed with the Planned Industrial use designation and the sites are similar in size (i.e., 15 ac Bavaro site, 14 ac Rhode site).

Traffic projections indicate that buildout of either project and about 1/3 of the other would result in LOS "F" delays for left turns from Pentecost Drive to Kiernan Avenue in the p.m. peak traffic hour. Construction of Charity Way is recommended when traffic volumes approach this level. Table 6 summarizes projected operations at the Pentecost Drive / Kiernan Avenue intersection for this development scenario.

**TABLE 6**  
**INTERSECTION LEVELS OF SERVICE**  
**CONDITION - ACCESS VIA PENTECOST DRIVE ONLY,**  
**EXISTING TRAFFIC PLUS BAVARO PROJECT**  
**PLUS 1/3 OF RHODE INDUSTRIAL CENTER**

Intersection	Control	AM Peak Hour		PM Peak Hour	
		LOS	Delay	LOS	Delay
Kiernan Ave/ Pentecost Dr EB Left Turn SB Left Turn	SB Stop	B	5.4	A	3.9
		D	25.9	F	49.6

Table 7 summarizes forecast operating conditions assuming construction of Charity Way to McHenry Avenue and buildout of both the Bavaro and Rhode industrial park projects. Under this development scenario, delays for left turns from Charity Way to McHenry Avenue would increase to LOS "F" conditions and signalization of the intersection should be considered in conjunction with any additional development beyond buildout of the Bavaro and Rhode projects.

**TABLE 7**  
**INTERSECTION LEVELS OF SERVICE**  
**CONDITION - ACCESS VIA PENTECOST DRIVE AND CHARITY WAY,**  
**EXISTING TRAFFIC PLUS BUILDOUT OF BAVARO AND RHODE INDUSTRIAL PARKS**

Intersection	Control	AM Peak Hour		PM Peak Hour	
		LOS	Delay	LOS	Delay
Kiernan Ave/ Pentecost Drive EB Left Turn SB Left Turn	SB Stop	B	5.6	A	3.9
		D	28.1	D	29.2
McHenry Ave/ Charity Way NB Left Turn EB Left Turn	EB Stop	B	5.5	A	4.7
		D	25.3	F	51.0

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## MITIGATION MEASURES

This section summarizes recommended improvements needed to provide satisfactory traffic operating conditions in the study area.

### Existing Conditions

Current intersection operations are considered satisfactory. No improvement needs have been identified. Pentecost Drive is currently being constructed to Minor Industrial street standards which provides for a 50 foot curb to curb width. Left turn channelization on Kiernan Avenue at Pentecost Drive is planned in conjunction with construction of Phase I of the United Pentecostal Church on the west side of Pentecost Drive.

### Existing Plus Project Conditions

Projected intersection operating conditions indicate that the Bavaro Industrial Park project could be developed with access provided by only the Pentecost Drive connection to Kiernan Avenue. This assumes project traffic added to current background traffic levels. Construction of Charity Way is not estimated to be required to support development of the site, although LOS "E" delays would be experienced for left turns out of Pentecost Drive during the p.m. peak traffic hour. However, overall intersection operations would be categorized as acceptable and LOS "E" delays incurred in accessing an arterial such as Kiernan Avenue is not uncommon. Forecast volumes are not projected to meet minimum volume criteria for signalization of the intersection.

### Cumulative Traffic Conditions

Buildout of the Bavaro Industrial Park and the Rhode Industrial Center would result in LOS "F" delays for left turns from Pentecost Drive to Kiernan Avenue in the p.m. peak traffic hour. Construction of Charity Way east to McHenry Avenue is recommended to mitigate conditions associated with this development scenario.

After secondary access is created, with buildout of both the Bavaro and Rhode industrial park projects, delays for left turns from Charity Way to McHenry Avenue would reach LOS "F" conditions. Signalization of the Charity Way / McHenry Avenue intersection is recommended in conjunction with area development beyond buildout of the Bavaro and Rhode projects.

The exact amount of area development that can proceed before reaching the LOS "F" threshold is dependent on the type of businesses developed in the two industrial parks. About 20 acres of typical industrial park uses could be developed before reaching the LOS "F" threshold or satisfying peak hour warrants for signalization. This acreage could be larger if the specific projects that are built have low employee densities.

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Because the schedule for area development is speculative, we recommend that a mechanism be created to spread the cost of identified improvements among all benefitting parties. The mechanism should include monitoring of traffic volumes at the Kiernan Avenue / Pentecost Drive intersection and construction of full time access to McHenry Avenue when thresholds are met. Monitoring of the new McHenry Avenue / Charity Way intersection, with installation of a traffic signal when warranted, is also recommended.

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APPENDIX

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TABLE A-1  
LEVEL OF SERVICE DEFINITIONS

LEVEL OF SERVICE	SIGNALIZED INTERSECTION	UNSIGNALIZED INTERSECTION	ROADWAY (DAILY)
"A"	Uncongested operations, all queues clear in a single-signal cycle. $V/C \leq 0.60$	Little or no delay. Delay $\leq 5$ sec/veh	Completely free flow.
"B"	Uncongested operations, all queues clear in a single cycle. $V/C = 0.61-0.70$	Short traffic delays. Delay $> 5$ sec/veh and $\leq 10$ sec/veh	Free flow, presence of other vehicles noticeable.
"C"	Light congestion, occasional backups on critical approaches. $V/C = 0.71-0.80$	Average traffic delays. Delay $> 10$ sec/veh and $\leq 20$ sec/veh	Ability to maneuver and select operating speed affected.
"D"	Congestion at critical approaches but intersection functional. Cars required to wait through more than one cycle during short peaks. No long queues formed. $V/C = 0.81-0.90$	Long traffic delays. Delay $> 20$ sec/veh and $\leq 30$ sec/veh	Unstable flow, speeds and ability to maneuver restricted.
"E"	Congestion with long standing queues at critical approaches. Traffic queue may block nearby intersections upstream of critical approaches. $V/C = 0.91-1.00$	Very long traffic delays, congestion. Delay $> 30$ sec/veh and $\leq 45$ sec/veh	At or near capacity, flow quite unstable.
"F"	Stop-and-go operation. Extended periods of at capacity operation. $V/C > 1.00$	Delay $> 45$ sec/veh	Forced flow, extended periods of at capacity operation.

Sources: 1994 Highway Capacity Manual, Transportation Research Board (TRB) Special Report 209; TRB Circular 212.

STAR QUEST  
Traffic Analysis

August 13, 2003

Bavaro Industrial Park, which includes the subject parcel, was approved by the Board of Supervisors on February 27, 2001. This project was originally approved as a 15-acre site, which has since been adjusted by lot split to a 15.3-acre site. Originally the site was 5 parcels one of which was split into 6-1.5 acre parcels making a total of 10 parcels. One of these 6 is the subject parcel. 6 parcels including the subject parcel, if approved as submitted, will result in 9.3 of the 15.3-acres being built out with uses, number employees and hours of operation being established as follows.

<u>Business</u>	<u>location</u>	<u>employees</u>	<u>Hours of operation</u>	<u>Acres</u>	<u>PM peak hour traffic</u>	<u>Employee exiting PM Total</u>
<u>California High Reach</u>	Parcel 2	6 office	8am-5pm	4.70	6	6
		12 shop	7am-4pm		0	12
		6 drivers	3am-2pm		0	6
<u>Zaninis Cabinet Shop</u>	Parcel 1	16	7am-4pm	1.50	0	16
<u>DONANN Enterprise</u>	501 Brititto Wy	5	8am-4pm	1.54	0	5
<u>Lee Shelton Flooring</u> <u>Proposed in Shelton Building</u> <u>Star Quest</u>	5170 Pentecost Dr	4	7:30am-5pm	1.54	4	16
		4 full time 35-40 part time 16 employees peak time	9am-8pm		25(1)	
4 Parcels unknown uses		?	?	6.0 total	59(2)	
<b>TOTAL</b>				<b>15.3</b>	<b>94</b>	

- (1) Actual count at Gym-Stars in Stockton – Similar Size facility
- (2) Estimated by KD Anderson – See report dated August 1, 2000

Ken Anderson in his report dated August 1, 2000 predicted 148 PM peak hour traffic exiting the project. The projected traffic leaving in the Peak Hour adjusted for the 0.3-acre lot adjustment is 151. Using the above 94 PM Peak Hour results in predicted traffic at only 62% of that originally predicted. The PM Peak Hour was the most severe impact considered by the Board of Supervisors in their Feb-2001



approval. Therefore the conclusion is that the Star Quest proposal WILL NOT cause traffic impacts greater than originally considered to be mitigated by the project Conditions of Approval. Therefore, it is my professional opinion that the project as submitted and as introduced into the mix of current and anticipated uses will be a less than significant traffic impact.



H.R. Callahan  
Registered Civil Engineer  
No.14977



August 12, 2003

Re: Shelton Properties  
5170 Pentecost Drive  
Modesto, CA.

Traffic Survey

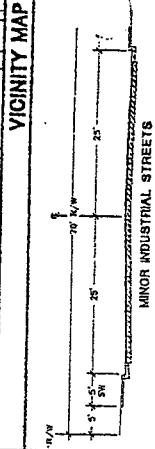
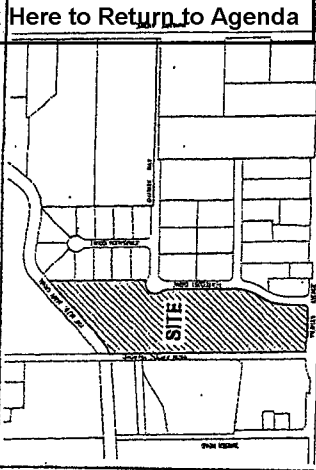
I have recently conducted a survey of operating hours and the number of employees for business in the immediate vicinity to my property at 5170 Pentecost Drive. The findings are as listed herein.

<u>Business</u>	<u>Employees</u>	<u>Hours of Operation</u>
1. Zaninis Cabinet Shop Parcel 1	16	7 AM to 4 PM
2. California High Reach Parcel 2	6 Office 12 Shop 6 Drivers	8 AM to 5 PM 7 AM to 4 PM 3 AM to 2 PM
3. DONANN Enterprises 501 Bitritto Way	5	8 AM to 4 PM
4. Jims Optical 5253 Jerusalem Ct.	12	7 AM to 4 PM
5. Al's Distribution Center 5254 Jerusalem Ct.	17	8 AM to 5 PM
6. Cal Sign, Inc. 5260 Jerusalem Ct.	20	6 AM to 4 PM
7. Shelton Lee Flooring 5170 Pentecost Dr.	4	7:30 AM to 5 PM

This survey was conducted by direct contact with the owner or manager of each business and is stated as factual information received. This survey was conducted in comparison of traffic flow peak hours for Star Quest Gymnastics. This comparison reveals no conflict for traffic flow due to the evening peak hours of Star Quest.

Sincerely,

Jerry L. Shelton Sr.



**STREET SECTION**

**OWNER:**  
UNITED PENTECOSTAL CHURCH  
1425 7TH STREET  
CERES, CA 95304  
(209) 522-3565  
FAX: 522-8783

**ENGINEERS:**  
GDR ENGINEERING, INC.  
P.O. BOX 1033  
CERES, CA 95307  
(209) 538-3380  
FAX: 538-7370

**PROJECT SITE:**  
APN 04-94-01 & 23.4 ACRES  
APN 04-94-29  
ZONING: GENERAL PLANK  
FI (PLANNED INDUSTRIAL)  
NO EXISTING BUILDINGS  
50A TITLE

**DEVELOPER:**  
B & D UNITED BUILDERS, INC.  
C/O DON BAKER  
1004 BENO AVE.  
MODESTO, CA 95351-1127  
(209) 528-5847

- WATER TABLE DEPTH GREATER THAN 40"
- SEWER ON SITE SEPTIC SYSTEM
- WATER: FIRE PROTECTION SYSTEM
- CONNECT TO EXISTING WELL AND STORAGE FACILITY
- DOMESTIC WATER: INDIVIDUAL WELLS
- STORM DRAINAGE: CONNECTION TO EXISTING DRAINAGE BASIN
- SITE ELEVATION - 108'

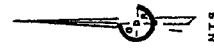
**PROPERTY DESCRIPTION:**  
BEING A DIVISION OF A PORTION OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 7 SOUTH, RANGE 9 EAST, MOUNT DIABLO BASE AND MERIDIAN.

**NOTES**

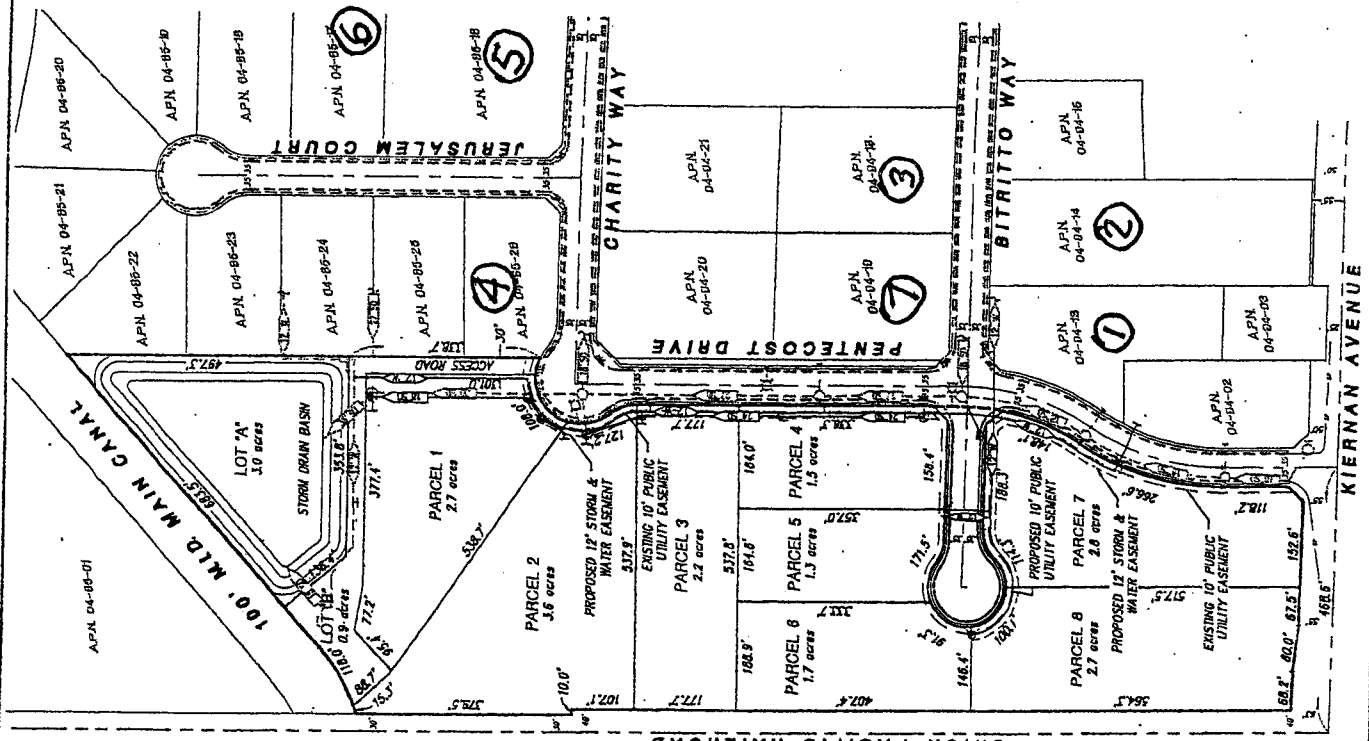
**GDR ENGINEERING, Inc.**  
ENGINEERING/SURVEYING/PLANNING  
3225 MITCHELL ROAD, SUITE G CERES, CA 95307  
TELEPHONE: (209) 538-3380 FAX: (209) 538-7370  
E-MAIL: gdrengineering.com

**VESTING TENTATIVE PAVEL MAP FOR B & D UNITED BUILDERS, INC.**

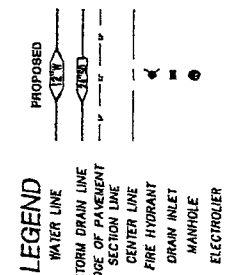
Scale: N.T.S. Date: 07/28/03  
Sheet 1 of 1  
Drawn: S.J. D'S  
Checked: M.G. D'S  
JOB NO.: 03006



*[Signature]*  
PROFESSIONAL ENGINEER  
GARY S. DAVIS  
No. 19358  
Exp. 12/31/05  
4/7/03  
DATE RECORDED



UNION PACIFIC RAILROAD



AS AMENDED BY THE BOARD OF SUPERVISORS  
FEBRUARY 27, 2001

MITIGATION MEASURES/DEVELOPMENT STANDARDS

GENERAL PLAN AMENDMENT APPLICATION NO. 2000-06  
REZONE APPLICATION NO. 2000-07  
PARCEL MAP APPLICATION NO. 2000-10  
BAVARO INDUSTRIAL PARK

Salida Fire Protection District

The Salida Fire Protection District will require that this project be responsible for its share of said impaction by contributing fees for the services provided by the District on a continuing basis, and further said fees shall be those that are currently in place at the time of issuance of construction permits. Fees currently being assessed are:

1. **Equipment:** The Salida Fire Protection District requires that the CEQA Fire Service Impact Mitigation Fees as researched and adopted by the Salida Fire Protection be applied initially as follows:
  - a. Un-sprinkled Residential - \$ .35 per square foot
  - b. Sprinkled Residential - \$ .28 per square foot
  - c. Un-sprinkled Commercial, Industrial - \$ .25 per square foot
  - d. Sprinkled Commercial, Industrial - \$ .18 per square foot
  - e. Unoccupied Agricultural Buildings - \$ .10 per square foot
  - f. Recreational vehicle/Mobile Home Space - \$250.00 per space

To be paid to the District prior to issuance of the building permits.

2. **Manpower:** The District requires the salary for three years (including benefits adjusted annually for inflation) of an Engineer for each additional 1,200 residents or 1,500 jobs ( or fraction thereof). In addition, the District requires the salary of Captain (including benefits adjusted annually for inflation) to be provided for three years for each 3,600 residents or 4,500 jobs (or fraction thereof). Said Manpower Fee will approximate \$325.00 per residential living unit or \$0.158 per square foot on commercial/industrial construction. Said mitigation fees shall be paid prior to issuance of building permits.
3. **General:** All buildings constructed shall meet the Salida Fire Protection Districts requirements for residential, commercial, or industrial uses, i.e.: sprinklers, alarm systems, water supply and flow rates, fire hydrant locations, key-lock entry systems, and compliance with all applicable sections of the Uniform Fire Code and all other applicable codes and ordinances. All fire hydrants will be identified with blue reflective street markers and red painted curbs. In addition, the District requires a paved, all-weather street with all required hydrants in place and with working fire flows supplied to the hydrant system prior to any building construction. All subdivisions must provide for two accesses suitable for fire and emergency apparatus.

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**4. Method of Monitoring and Collection:**

- a. Required action shall be guaranteed by the deposit of said mitigation fees with the Salida Fire Protection District;
- b. Prior to the approval of final map (or other County regulated act), the applicant shall provide a Statement of Compliance from the Salida Fire Protection District stating that the appropriate mitigation measures have been provided and which shall include any written agreements between the applicant and the District concerning the mitigation measures;
- c. Monitoring shall be by one of the following: John A. Brubaker, Fire Chief; Robert L. Driver, SFPD Director; or David E. Boyd, Deputy Chief and Clerk to the Board of Directors.

**Department of Public Works**

5. The recorded parcel map shall be prepared by a licensed land surveyor or a registered civil engineer.
6. All existing non-public facilities and/or utilities that do not have lawful authority to occupy the road right of way shall be relocated onto private property upon the request of the Department of Public Works.
7. All structures not shown on the tentative parcel map shall be removed prior to the parcel map being recorded.
8. Road right-of-way shall be deeded to Stanislaus County to provide for:
  - a) 55 feet of right-of-way north of the centerline of Kiernan Avenue adjacent to Parcel 2;
  - b) 70 feet of right-of-way for the new road east of Pentecost Drive between and parallel to Kiernan Avenue and Charity Way;
  - c) 35 feet of right-of-way south of the centerline of Charity Way adjacent to Parcel "5";
  - d) The chord of a 25 foot radius shall be provided at the intersection of the new road with Pentecost Drive.

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9. A complete set of on and off site grading, drainage, and street improvement plans shall be signed by the Department of Public Works prior to the parcel map being recorded. All roads fronting or within the subdivision, and a positive storm drainage system shall be designed and constructed in conformance with the standards contained in the Stanislaus County Department of Public Works Standards and Specifications, 1998 Edition. The improvements shall include, but not be limited to, street pavement, concrete curb and gutter, sidewalks, street lights, drainage facilities, pavement markings, and road signs. National Geodetic survey vertical (elevation) datum shall be used. If available, 1988 data shall be used.
10. Kiernan Avenue, adjacent to the industrial park property, shall be improved to Caltrans and County standards. The improvements shall include, but not limited to, curb, gutter, sidewalk, pavement, drainage facilities, pavement markings and markers, street lights, and street signs. **These improvements shall be deferred to a later date with the owners signing a street improvement agreement prior to the final parcel map being recorded.**
11. Parcel 2 shall have no direct access to Kiernan Avenue. This restricted access shall be indicated on the final parcel map to be recorded.
12. The road that will intersect Pentecost Drive between Kiernan Avenue and Charity Way shall be constructed to County minor industrial street standards with full street improvements prior to occupancy and/or final inspection of any building.
13. Street improvements including, but not limited to, curb, gutter, sidewalk, pavement, drainage facilities, pavement markings and markers, street lights, and street signs shall be installed along the entire frontage of parcel 5 on Charity Way. Charity Way east of Parcel 5 to McHenry Avenue shall remain as an emergency access. This access shall be shown on the off-site improvement plans as closed to thru traffic. The subdivider shall pay for and install a "Closed to Thru Traffic" sign, or equivalent, near the easterly property line of Parcel 5.
14. ~~Off-site improvement plans for all improvements required within the Kiernan Avenue right-of-way shall be approved by Caltrans prior to the final parcel map being recorded.~~
15. The subdivider shall pay a "fair share" contribution for each lot towards the future installation of signals at the McHenry / Charity intersection. This contribution is based on the project's projected trip generation as stated in the Traffic Impact Analysis for Bavaro Industrial Park dated August 1, 2000, prepared by K D Anderson Transportation Engineers. The "fair share" contribution for a lot shall be made prior to the issuance of the building permit for the particular lot. The "fair share" contribution for each lot is as follows:

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- A. Parcel 1 = \$ 2,783
- B. Parcel 2 = \$ 5,327
- C. Parcel 3 = \$ 2,307
  
- D. Parcel 4 = \$ 2,307
- E. Parcel 5 = \$21,207

Note: Bavaro Industrial Park's contribution is 15 % of the total signal cost. Each parcel's "fair share" is based on its percentage of acreage of the park's total.

- 16. If the "Stan Co. drainage basin" lot shown on the tentative parcel map is not of sufficient size to accommodate a basin conforming to County standards, the lot shall be enlarged as needed to accommodate a basin that conforms to County standards. A 20-foot wide access easement and 20-foot wide paved road shall be provided to the drainage basin.
- 17. There shall be no parking, loading or unloading of vehicles associated with the subdivision on the new road, Pentecost Drive, Charity Way, or Kiernan Avenue. If necessary, no parking signs will be installed at the subdivider's expense.
- 18. Prior to the parcel map being recorded, the subdivider shall sign a "Subdivision Improvement Agreement" and post the required certificates of insurance and subdivision bonds with the Department of Public Works.
- 19. Street monuments and covers shall be installed to County standards.
- 20. The subdivider shall furnish the Department of Public Works three copies of a soils report for the area being subdivided. The report shall also include: (a) sufficient R-value test to establish appropriate road sections, and (b) sufficient test to establish the percolation rate for the drainage basin. The report shall be signed by a California registered civil engineer.
- 21. All existing irrigation lines within the area to be subdivided shall be removed or relocated into easements along lot lines. The irrigation lines shall be reinforced at road crossings and driveways. All irrigation lines or structures which are to be abandoned shall be removed. All work shall be done in accordance with the requirements of the Department of Public Works and the Modesto Irrigation District.
- 22. All new utilities shall be underground and located in public utility easements. A (10) foot wide public utility easement (P.U.E.) shall be located adjacent to all road right-of-ways. The P.U.E. shall be shown on the final map.
- 23. All roads shall have a fog seal applied prior to acceptance by Stanislaus County.
- 24. Prior to the final map being recorded, the area being subdivided shall be annexed to the North McHenry Lighting District. The subdivider shall provide all necessary documents and pay all costs associated with the annexation.
- 25. All street lights shall be installed on steel poles. Prior to the final map being recorded, the subdivider shall deposit the first year's operating and maintenance cost of the street lights with the Department of Public Works.

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26. Prior to issuance of any building permits, the lot grades shall conform to the approved grading plan. Written certification by a civil engineer or geotechnical engineer may be required by the Department of Public Works.
27. A set of Record Drawings shall be provided to and approved by the Department of Public Works prior to acceptance of the subdivision improvements by the County. The drawings shall be on 3 mil mylar with each sheet signed and stamped by the design engineer and marked "Record Drawing".
28. One bench mark (brass cap) shall be established within the subdivision and the elevation shall be shown on the Record Drawing. A copy of the field notes shall be furnished to the Department of Public Works.
29. Stanislaus County will not issue any final inspection and/or Certificate of Occupancy for any structures within the subdivision until all the required subdivision improvements have been completed to the satisfaction of the Department of Public Works.
30. Prior to the Department of Public Works doing any plan review or inspections associated with the subdivision, the subdivider shall sign a "Subdivision Processing/Inspection Agreement" and post a \$7,500.00 deposit with Public Works.

#### **Department of Environmental Resources**

31. Each parcel shall have an approved independent water supply. Prior to ~~recording the parcel map~~ **development**, each parcel shall have it's own well. A drilling permit shall be obtained from the Dept. of Environmental Resources. (Stanislaus County Policy and State Model Well Standards ordinance.) A 300' minimum setback between the existing irrigation well and any new well must be maintained if the existing well lacks an annular seal.
32. The sewage disposal systems for all parcels shall be approved aerobic treatment systems so as to comply with the Primary and Secondary sewage treatment initiative (Measure X).
33. This project and its future use shall not create odors, dust, noise or anything else which could constitute a public nuisance.

#### **Department of Planning and Community Development**

34. This project is to be constructed and operated as described in the application information submitted including submittal modifying the project and including the applicant's own mitigation measures, and including the monitoring/reporting plan and in accordance with other laws and ordinances.



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35. That building permits must be obtained from the Building Inspection Division, (UBC Section 301 and Title 16, Stanislaus County Ordinance Code). No building permits shall be issued until the Department of Environmental Resources has indicated that adequate water and sewage treatment facilities will be available prior to occupancy.
36. Applicant and/or occupants handling hazardous materials or generating hazardous wastes must notify the Department of Environmental Resources relative to: (California Health and Safety Code, Division 20):
  - a. Permits for the underground storage of hazardous substances at new or existing tank facilities;
  - b. Requirements for registering as a handler of hazardous materials in the County;
  - c. Submittal of hazardous materials Business Plans by handlers of hazardous materials in excess of 55 gallons, 500 pounds, or 200 cubic feet of compressed gas;
  - d. Generators of hazardous waste must notify the department relative to the quantities of waste generated, plans for reducing wastes generated, and proposed waste disposal practices.
37. Prior to the occupancy of any building, or operation of the approved use, the applicant shall meet requirements of the Department of Fire Safety.
38. That a Certificate of Occupancy shall be obtained from the Building Inspection Division prior to occupancy of any buildings. (UBC Section 307).
39. That sufficient paved and marked parking spaces be provided as required by Chapter 21.76 of the Stanislaus County Code.
40. That a landscaping plan indicating type of plants, initial plant size, location and method of irrigation shall be submitted and approved by the County Planning Director for each property. Landscaping must be installed prior to occupancy and must be maintained to the satisfaction of the Director of Planning and Community Development at all times. Applicant, or subsequent property owner, shall be responsible for maintaining landscape plants in a healthy and attractive condition. Dead or dying plants shall be replaced with materials of equal size and similar variety. (CEQA, Section 15041).
41. Exterior lighting of the parking areas shall be designed (aimed down and towards the site) to provide adequate illumination without a glaring effect. (Stanislaus County Sheriff's Department, CEQA, Section 15041 and Planning Staff's professional opinion)
42. A plan for any and all proposed signs indicating the location, height, area of the sign and message must be approved by the Planning Director before installation.
43. Trash bins shall be kept in trash enclosures constructed of materials compatible with the architecture of the development. Trash enclosures shall be placed in locations as approved by the refuse collecting agency and the Planning Director.

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44. Prior to issuance of any building permit, the developer shall dedicate public utility easements as required by the utility companies and the Planning Director.
45. Fences and landscaping adjacent to roadways shall be in compliance with the County's "Visibility and Obstructions at Public Intersections" ordinance.
46. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by resolution by the Board of Supervisors. The fees shall be payable at the time of issuance of building permits for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
47. The applicant is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action or proceeding against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action or proceeding to set aside the approval and shall cooperate fully in the defense.
48. If, during construction, cultural resources are encountered, work shall be halted or diverted in the immediate area while a qualified archaeologist evaluates the site and makes a recommendation to the Planning Director.
49. Staff approvals shall be obtained for all uses and businesses proposing to locate within this PI zone.

#### **Department of Fish and Game**

50. Prior to the issuance of the Notice of Determination, the applicant shall pay, within two weeks of Planning Commission approval, a filing fee of \$50.00 to "**Stanislaus County Clerk/Recorder**" care of the Planning Department. Should the "De Minimis" finding be found invalid for any reason, the applicant/developer shall be responsible for payment of Department of Fish and Game Fees.

#### **San Joaquin Valley Air Pollution Control District**

51. That the project proponents comply with District Regulation VIII (Fugitive Dust Prohibition).

#### **Caltrans**

- ~~52. An encroachment permit will be required. Please direct the applicant to include the affected portion of the State right of way in their environmental studies. This avoids the delay of a separate environmental review for the encroachment permit. You and the applicant should review the need for cultural resource, biological resource and hazardous waste studies in our right of way. Review agencies and interest groups frequently challenge Caltrans permits on these issues. Please provide Caltrans with either (1) appropriate studies done by qualified professional staff or (2) the rationale for your CEQA~~

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~~determination that these issues are not of concern in the State right of way. This will expedite our review of the encroachment permit. If engineering plans or drawings will be part of your permit application, they must be prepared in metric units.~~

53. All Final Conditions of Approval should be forwarded to Caltrans District Planning in order to monitor approved local development and implementation of agreed upon mitigation measures.
54. The proposed development, as presented, is not consistent with the Class B Expressway designation of Kiernan Avenue. Driveways should be shared, where possible, and any additional access should be through the existing side street (Stratos Way).
55. Size and location of driveways are not delineated on the site plan included with the document. Therefore, the applicant will have to resubmit suitable engineered plans when applying for an encroachment permit. At that time, the applicant will be informed of any additional requirements.
56. ~~Building setbacks should be cleared with the SR 219 Project Manager, Gary Fromm, at 209-948-7983.~~ **No buildings or structures within the area of this Planned Industrial zone shall be constructed any closer than 87.5 feet from the planned centerline of Kiernan Avenue/State Route 219**

#### LAFCO

57. Previous development in this area was required, as a condition of approval, to form a new County Service Area (CSA) or annex to an existing CSA, for the purpose of maintaining the storm drainage facilities. If this is anticipated for this project, the formation or annexation will require LAFCO approval.

The formation of a new CSA, or annexation to an existing CSA, will require LAFCO to establish a sphere of influence for that district.

Effective January 1, 2001, new State law requires LAFCO, in establishing a sphere of influence (SOI) to conduct a service review for the area and make a written determination with respect to the following:

1. Infrastructure needs or deficiencies;
2. Growth and population projections for the affected area;
3. Financing constraints and opportunities;
4. Cost avoidance opportunities;
5. Opportunities for rate restructuring;
6. Opportunities for shared facilities;
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and,
9. Local accountability and governance.

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The new law would also require the County to prepare a written statement specifying the extent of any functions or classes of service provided by the CSA.

In order to conduct the service review for the establishment of a SOI, the County should provide sufficient information to address the above outlined factors in the written statement required for the CSA.

### **Modesto Irrigation District**

58. In conjunction with related site/road improvement requirements, existing electrical facilities within or adjacent to the proposed development shall be protected or relocated as required by the District's Electric Engineering Department. Appropriate easements for electric facilities shall be granted as required.
59. Cost for relocation and/or undergrounding the Districts facilities at the request of others will be borne by the requesting party. Estimates for relocating or undergrounding existing facilities will be supplied upon request.
60. A 10' PUE is required along all existing and proposed street frontages.
61. Electric service to the site is not available at this time. Customer should contact the District's Electric Engineering Department to arrange for electric service to the project.
62. There is an existing pipeline that runs from north to south approximately down the middle of parcel 004-71-35. That portion of pipeline within the road right-of-way shown on the map must be replaced using Class III R.C.P. unless all land south of the road (the south portion of 004-71-35) is signed off using a "Sign Off of Irrigation Facilities" form.
63. Prior to any development the existing pipeline must be replaced or re-routed using Class III R.C.P. unless sign off form is completed for parcel 004-71-35. A 10' irrigation easement is required along the north property line of proposed parcels 2 and 3 to insure future access to water to parcels 1 and 4 unless a sign off form is completed for those parcels.
64. Prior to any development an irrigation plan must be submitted to and approved by the MID Civil Engineering Department.
65. Prior to construction: The developer shall be responsible for contacting the U.S. Army Corps of Engineers to determine if any "wetlands", "waters of the United States", or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
66. Prior to construction: The developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.

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67. Prior to construction: The developer shall be responsible for contacting the California Department of Fish and Game shall be responsible for obtaining all appropriate streambed alteration agreements permits or authorizations if necessary.
68. Prior to construction: The developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan. Once complete, and prior to construction, a copy of the Storm Water Pollution Prevention Plan shall be submitted to the Stanislaus County Department of Planning and Community Development.

\*\*\*\*

## CONDITIONS OF APPROVAL

### PARCEL MAP APPLICATION NO. 2001-13 B & D INDUSTRIAL PARK (FRANK & DELORES BAVARO)

#### Department of Public Works

1. The recorded parcel map shall be prepared by a licensed land surveyor or a registered civil engineer.
2. All existing non-public facilities and/or utilities that do not have lawful authority to occupy the road right-of-way shall be relocated onto private property upon request of the Department of Public Works
3. All structures not shown on the tentative parcel map shall be removed prior to the parcel map being recorded.
4. Road right-of-way shall be deeded to Stanislaus County to provide for:
  - A. 55 feet of right-of-way north of the centerline of Kiernan Avenue adjacent to Parcel 2;
  - B. 70 feet of right-of-way for the proposed Bitritto Way;
  - C. 35 feet of right-of-way south of the centerline of Charity Way adjacent to Parcels "8", "9", and "10";
  - D. The chord of a 25 foot radius shall be provided at the intersections of Pentecost Drive with Charity Way and the proposed Bitritto Way.
5. A complete set of on and off site grading, drainage, and street improvement plans shall be signed by the Department of Public Works prior to the parcel map being recorded. All roads fronting or within the subdivision, and a positive storm drainage system shall be designed and constructed in conformance with the standards contained in the Stanislaus County Department of Public Works Standards and Specifications, 1998 Edition. The improvements shall include, but not be limited to, street pavement, concrete curb and gutter, sidewalks, street lights, drainage facilities, pavement markings, and road signs. National Geodetic survey vertical (elevation) datum shall be used. If available, 1988 data shall be used.
6. If street runoff will be directed into the existing storm drainage retention basin located on private property and maintained by United Pentecostal Church of Modesto, a copy of a recorded irrevocable agreement between the subdivider and United Pentecostal Church of Modesto to accommodate this runoff shall be provided prior to recording the final parcel map. If no such agreement is provided to the Department of Public Works, a storm drainage retention basin of adequate size shall be shown and deeded to Stanislaus County

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on the final parcel map to be recorded. The retention basin shall be constructed to County standards by the subdivider. A 20-foot wide access easement and 20-foot wide paved road shall be provided to the drainage basin.

- 7. Kiernan Avenue, adjacent to the industrial park property, shall be improved to Caltrans and County standards. The improvements shall include, but not limited to, curb, gutter, sidewalk, pavement, drainage facilities, pavement markings and markers, street lights, and street signs. These improvements may be deferred to a later date with the owners signing a street improvement agreement prior to the final parcel map being recorded.
- 8. Parcel 2 shall have no direct access to Kiernan Avenue. This restricted access shall be indicated on the final parcel map to be recorded.
- 9. The road that will intersect Pentecost Drive between Kiernan Avenue and Charity Way shall be constructed to County minor industrial street standards with full street improvements prior to occupancy and/or final inspection of any building.
- 10. Street improvements including, but not limited to, curb, gutter, sidewalk, pavement, drainage facilities, pavement markings and markers, street lights, and street signs shall be installed along the entire frontage of parcel 8, 9, and 10 on Charity Way. Charity Way east of Parcel 5 to McHenry Avenue shall remain as an emergency access. This access shall be shown on the off-site improvement plans as closed to thru traffic. The subdivider shall pay for and install a "Closed to Thru Traffic" sign, or equivalent, near the easterly property line of Parcel 10.
- 11. The subdivider shall pay a "fair share" contribution for each lot towards the future installation of signals at the McHenry / Charity intersection. This contribution is based on the project's projected trip generation as stated in the Traffic Impact Analysis for Bavaro Industrial Park dated August 1, 2000, prepared by kdANDERSON Transportation Engineers. The "fair share" contribution for a lot shall be made prior to the issuance of the building permit for the particular lot. The "fair share" contribution for each lot is as follows:
 

<ul style="list-style-type: none"> <li>A. Parcel 1 = \$ 2,749</li> <li>B. Parcel 2 = \$ 5,327</li> <li>C. Parcel 3 = \$ 2,307</li> <li>D. Parcel 4 = \$ 2,986</li> <li>E. Parcel 5 = \$ 3,427</li> <li>F. Parcel 6 = \$ 3,427</li> <li>G. Parcel 7 = \$ 3,427</li> <li>H. Parcel 8 = \$ 3,427</li> <li>I. Parcel 9 = \$ 3,427</li> <li>J. Parcel 10 = \$3,427</li> </ul>	<p>Note: B &amp; D Industrial Park's contribution is 15 % of the total signal cost. Each parcel's "fair share" is based on its percentage of acreage of the park's total.</p>
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12. There shall be no parking, loading or unloading of vehicles associated with the subdivision on Bitritto Way, Pentecost Drive, Charity Way, or Kiernan Avenue. If necessary, no parking signs will be installed at the subdivider's expense.
13. Prior to the parcel map being recorded, the subdivider shall sign a "Subdivision Improvement Agreement" and post the required certificates of insurance and subdivision bonds with the Department of Public Works.
14. Street monuments and covers shall be installed to County standards.
15. The subdivider shall furnish the Department of Public Works three copies of a soils report for the area being subdivided. The report shall also include: (a) sufficient R-value test to establish appropriate road sections, and (b) sufficient test to establish the percolation rate for the drainage basin. The report shall be signed by a California registered civil engineer.
16. All existing irrigation lines within the area to be subdivided shall be removed or relocated into easements along lot lines. The irrigation lines shall be reinforced at road crossings and driveways. All irrigation lines or structures which are to be abandoned shall be removed. All work shall be done in accordance with the requirements of the Department of Public Works and the Modesto Irrigation District.
17. All new utilities shall be underground and located in public utility easements. A (10) foot wide public utility easement (P.U.E.) shall be located adjacent to all road right-of-ways. The P.U.E. shall be shown on the final parcel map.
18. All roads shall have a fog seal applied prior to acceptance by Stanislaus County.
19. Prior to the final parcel map being recorded, the area being subdivided shall be annexed to the North McHenry Lighting District. The subdivider shall provide all necessary documents and pay all costs associated with the annexation.
20. All street lights shall be installed on steel poles. Prior to the final parcel map being recorded, the subdivider shall deposit the first year's operating and maintenance cost of the street lights with the Department of Public Works.
21. Prior to issuance of any building permits, the lot grades shall conform to the approved grading plan. Written certification by a civil engineer or geotechnical engineer may be required by the Department of Public Works.
22. A set of Record Drawings shall be provided to and approved by the Department of Public Works prior to acceptance of the subdivision improvements by the County. The drawings shall be on 3 mil mylar with each sheet signed and stamped by the design engineer and marked "Record Drawing".



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23. One bench mark (brass cap) shall be established within the subdivision and the elevation shall be shown on the Record Drawing. A copy of the field notes shall be furnished to the Department of Public Works.
24. Stanislaus County will not issue any final inspection and/or Certificate of Occupancy for any structures within the subdivision until all the required subdivision improvements have been completed to the satisfaction of the Department of Public Works.
25. Prior to the Department of Public Works doing any plan review or inspections associated with the subdivision, the subdivider shall sign a "Subdivision Processing/Inspection Agreement" and post a \$7,500.00 deposit with Public Works.

**Planning and Community Development**

26. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District.
27. Developer shall pay all Public Facilities Impact Fees and Fire Facilities Fees as adopted by Resolution of the Board of Supervisors. The Fees shall be payable at the time of issuance of a building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
28. The subdivider is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action, or proceedings against the County to set aside the approval of the map as set forth in Government Code Section 66474.9. The County shall promptly notify the subdivider of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
29. Prior to the issuance of the Notice of Exemption, the applicant shall pay, within five working days of Planning Commission approval, a filing fee of \$50.00 to "**Stanislaus County Clerk/Recorder**" care of the Planning Department. Should the "De Minimis" finding be found invalid for any reason, the applicant/developer shall be responsible for payment of Department of Fish and Game Fees, if any.
30. That the map comply with all applicable Mitigation Measures/Development Standards of GPA 2000-06 and Rezone 2000-07.

**Salida Fire Protection District**

31. This project will be subject to CEQA Fire Service Impact Mitigation Fees as adopted by the District Board of Directors and currently in place at the time of issuance of construction permits.

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- 32. All buildings constructed shall meet the District's requirements for on-site water for fire protection and/or fire hydrants and hydrant locations, blue reflective street hydrant markers, sprinkler and alarms systems, key-box rapid entry systems, adherence to all applicable codes and ordinances, etc. Complete details will be made available upon request.
- 33. Prior to construction, fully operational fire hydrants and all-weather roads will be installed.

**Modesto Irrigation District**

- 34. In conjunction with related site/road improvement requirements, existing overhead and underground electric facilities within or adjacent to the proposed development shall be protected, relocated or removed as required by the District's Electric Engineering Department. Appropriate easements for electric facilities shall be granted as required.
- 35. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.
- 36. Costs for relocation and/or undergrounding existing facilities will be supplied upon request.
- 37. A 10' PUE is required along all existing and proposed street frontages. Additional easements may be required with development of this property.
- 38. Electric service to the individual lots is not available at this time. Customer should contact the District's Electric Engineering Department to arrange for electric service to the project.
- 39. The existing pipeline running through the subject property must be removed prior to development as noted on the plans. The pipeline must be plugged at the northern most point of improvement but no air vent is needed because the pipeline is now abandoned.
- 40. Prior to any development a demotion plan must be submitted to and approved by the MID Civil Engineering Department.

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Stanislaus County Planning Commission  
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Page 4

- E. **GENERAL PLAN AMENDMENT APPLICATION NO. 2003-04 AND REZONE APPLICATION NO. 2003-09 - STAR QUEST** - Request to rezone and amend the General Plan of a 1.5 acre lot to a Planned Development (PD) zoning district to allow a multi-sport facility to teach gymnastics, cheer, karate, tumbling for children. The property is located on the northeast corner of Pentecost Drive and Bitritto Way, in the Modesto area.  
 APN: 004-94-26  
 Staff Report: Debbie Whitmore Recommends **DENIAL**.  
 Public hearing opened.  
**FAVOR:** Harold Callahan, 3600 Columbine Drive, Modesto; Jerry Shelton, 3524 Rexford Drive, Modesto; Bob Tanon, 4315 Sandal Point, Stockton (Handed out letter signed by parents from the Stockton GymStars); Lisa Pettis, 2975 Waudman, Stockton; Richard Williamsen, 505 Robin Hood, Modesto; Lisa Mason, 505 Barringham Lane, Modesto; Christina Bass, 600 Walnut Woods Court, Modesto; Keith Knudsen, 3825 Hollywood Drive, Ceres; John Hammett, 4710 Erickson Court, Stockton; Leif Juliussen, 86 Rhiannon, Oakdale; Kirk Johnson, 3209 Pleasant Bay Circle, Modesto.  
**OPPOSITION:** No one spoke.  
 Public hearing closed.  
 Cusenza/R. Souza, 5-1 (White), **RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS AS DESCRIBED IN THE STAFF REPORT.**

**EXCERPT**

**PLANNING COMMISSION**

**MINUTES**



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Secretary, Planning Commission

12/8/03

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Date

ORDINANCE NO. C.S. - 865

AN ORDINANCE ADOPTING SECTIONAL DISTRICT MAP NO. 9-110.949 FOR THE PURPOSE OF REZONING A 1.5 ACRE LOT FROM PLANNED INDUSTRIAL TO PLANNED DEVELOPMENT TO ALLOW A MULTI-SPORT FACILITY TO TEACH GYMNASTICS, CHEER, KARATE, AND TUMBLING FOR CHILDREN. THE PROPERTY IS LOCATED ON THE NORTHEAST CORNER OF PENTECOST DRIVE AND BITRITTO WAY, IN THE MODESTO AREA. APN: 004-094-026

The Board of Supervisors of the County of Stanislaus, State of California, ordains as follows:

Section 1. Sectional District Map No. 9-110.949 is adopted for the purpose of designating and indicating the location and boundaries of a District, such map to appear as follows:

(Insert Map Here)

Section 2. This ordinance shall take effect and be in full force thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against same, in the Modesto Bee, a newspaper of general circulation published in Stanislaus County, State of California.

Upon motion of Supervisor Grover, seconded by Supervisor Paul, the foregoing ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 16th day of December, 2003, by the following called vote:

AYES: Supervisors: Paul, Mayfield, Grover, Caruso and Chairman Simon

NOES: Supervisors: None

ABSENT: Supervisors: None

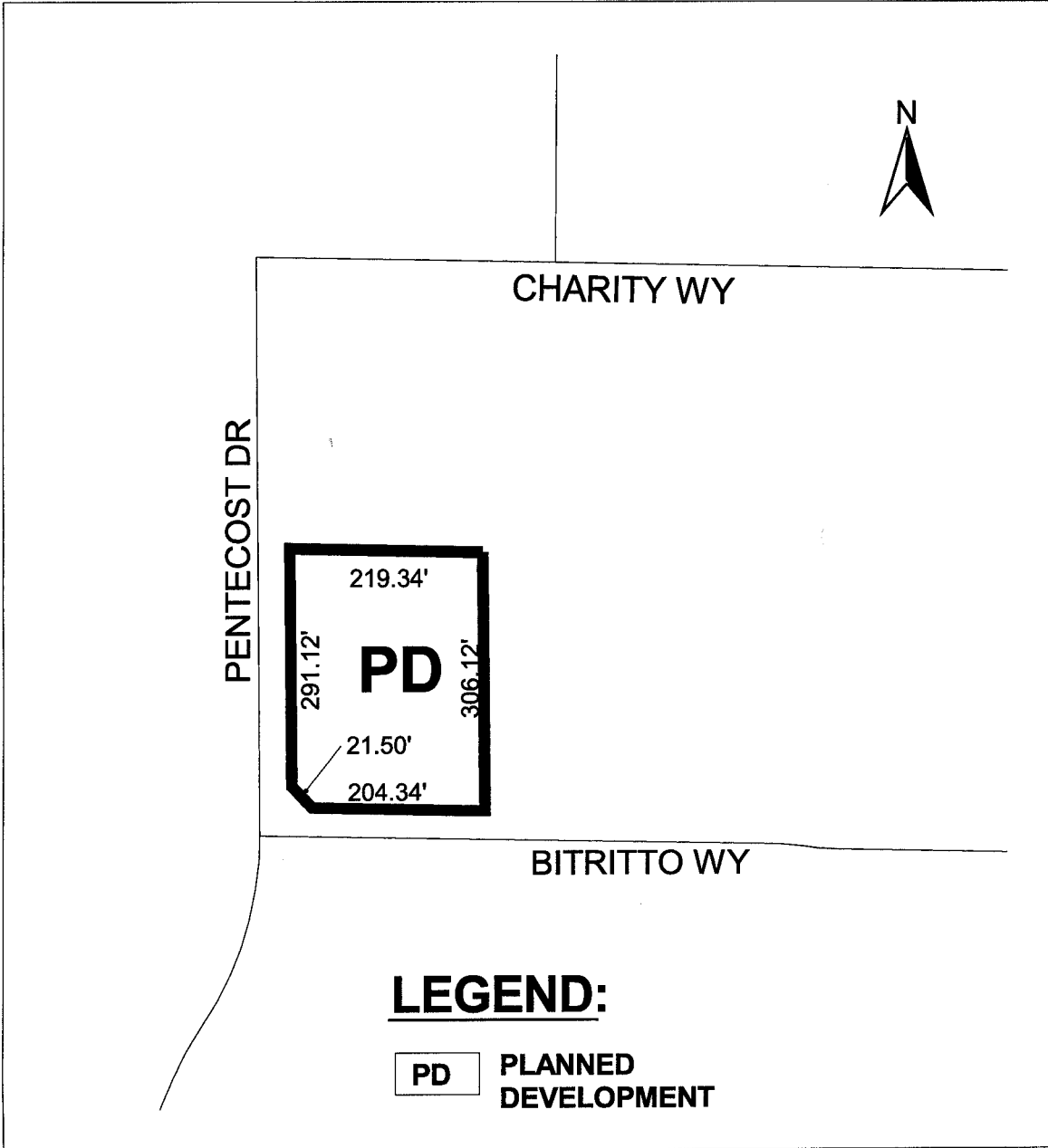
ABSTAINING: Supervisors: None

CHAIRMAN OF THE BOARD OF SUPERVISORS  
of the County of Stanislaus,  
State of California

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk of  
the Board of Supervisors of  
the County of Stanislaus,  
State of California

BY: Elizabeth A. King, Assistant Clerk of the Board

# SECTIONAL DISTRICT MAP NO. 9-110.949



**DECLARATION OF PUBLICATION  
(C.C.P. S2015.5)**

**COUNTY OF STANISLAUS  
STATE OF CALIFORNIA**

I am a citizen of the United States and a resident Of the County aforesaid; I am over the age of Eighteen years, and not a party to or interested In the above entitle matter. I am the printer And Principal clerk of the publisher of **THE MODESTO BEE**, printed and Published in the City of **MODESTO**, County Of **STANISLAUS**, State of California, daily, For which said newspaper has been adjudged a Newspaper of general circulation by the Superior Court of the County of **STANISLAUS**, State of California, under the date of **February 25, 1951, Action No. 46453**; that the notice of which the annexed is a printed copy, has been published in each issue thereof on the following dates, to wit:

**DECEMBER 26, 2003**

I certify (or declare) under penalty of perjury That the foregoing is true and correct and that This declaration was executed at **MODESTO, California** on

**DECEMBER 26, 2003**

*Esther Arney*  
**(Signature)**

2003-1218  
ORDINANCE NO. C.S. - 865  
AN ORDINANCE ADOPTING SECTIONAL DISTRICT MAP NO. 9-110.949 FOR THE PURPOSE OF REZONING A 1.5 ACRE LOT FROM PLANNED INDUSTRIAL TO PLANNED DEVELOPMENT TO ALLOW A MULTI-SPORT FACILITY TO TEACH GYMNASTICS, CHEER, KARATE, AND TUMBLING FOR CHILDREN. THE PROPERTY IS LOCATED ON THE NORTHEAST CORNER OF PENTECOST DRIVE AND BITRITTO WAY, IN THE MODESTO AREA. APN: 004-094-026

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SECTIONAL DISTRICT MAP NO. 9-110.949

Section 2. This ordinance shall take effect and be in full force thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against same, in the Modesto Bee, a newspaper of general circulation published in Stanislaus County, State of California.

Upon motion of Supervisor Grover, seconded by Supervisor Paul, the foregoing ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this 16th day of December, 2003, by the following called vote:

AYES: Supervisors: Paul, Mayfield, Grover, Caruso and Chairman Simon  
NOES: Supervisors: None  
ABSENT: Supervisors: None  
ABSTAINING: Supervisors: None

/S/ RAY SIMON  
CHAIRMAN OF THE BOARD OF SUPERVISORS  
of the County of Stanislaus, State of California  
ATTEST: CHRISTINE FERRARO TALLMAN,  
Clerk of the Board of  
Supervisors of the County of  
Stanislaus, State of  
California

BY: /S/ ELIZABETH KING  
Elizabeth A. King, Assistant Clerk of the Board

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12/16/03 6:35pm