

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

DEPT: Planning and Community Development

BOARD AGENDA # 9:25 a.m.

Urgent Routine

AGENDA DATE June 26, 2007

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Public Hearing to Consider an Appeal of the Planning Commission's Decision to Deny Variance Application No. 2006-03 and Lot Line Application No. 2006-47 - Hardister

PLANNING COMMISSION ACTIONS AND STAFF RECOMMENDATIONS:

After a duly advertised public hearing on May 17, 2007, the Planning Commission, on a 6-1 (Navarro) vote, denied Variance Application No. 2006-03 and Lot Line Adjustment Application No. 2006-47, Hardister.

Staff recommends the Board support the Planning Commission's original determination and deny the appeal.

If following the public hearing the Board decides to approve the project, staff recommends the Board take the recommended actions listed on page 4 of this report.

FISCAL IMPACT:

There are no fiscal impacts associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2007-519

On motion of Supervisor DeMartini, Seconded by Supervisor Grover
and approved by the following vote.

Ayes: Supervisors: Mayfield, Grover, Monteith, DeMartini, and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended
- 4) Other:

MOTION: Based upon testimony received, board comments, and staff report, the Board upheld the Planning Commission's decision and **denied** the appeal of the Planning Commission's decision to deny Variance Application No. 2006-03 and Lot Line Application No. 2006-47, Hardister for the reasons set forth on pages 5 and 6 of the Planning Commission Staff Report

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

DISCUSSION:

This is an appeal of a Planning Commission decision to deny a request to adjust parcel lines of three parcels (0.05, 2.7 and 608.75 acres) to form three parcels ranging in size from 5.4, 5.9 and 601 acres. The two smaller proposed parcels (5.4 and 5.9 acres) would be spilt-zoned between A-2-5 and A-2-40 (General Agriculture) zoning districts. The variance is needed to allow the 5.4 and 5.9 acre parcels to be below the minimum lot size of 40 acres.

The main issue is the encroachment of two homes onto the A-2-40 zoned parcel (currently used for grazing) outside the A-2-5 zone district. The County ordinance allows one single family home on each parcel in the A-2-5 zoning district. The ordinance also allows up to two homes in the A-2-40 zoning district, provided that the parcel that is located on is greater than 20 gross acres. Anything less than 20 acres, the applicant must get a Staff Approval or a Use Permit Approval depending on when the parcel(s) were created.

In this case, the applicant wants to complete a lot line adjustment by readjusting the lot lines to take acreage from the 608.75 acre parcel to the north to create two 5-acre parcels (from the .05 (2,178 sq. ft.) and the 2.7 acre parcels) and build a home on each one of them. The proposed lot line will cross over the Tulloch Lateral and onto the 608.75 acre parcel that is zoned A-2-40, thus "split zoning" both parcels. Each of the new parcels would be zoned both A-2-5 and A-2-40. The Lot Line Adjustment can only be approved if the Planning Commission or Board of Supervisors approves the variance application.

As currently configured, two homes would be allowed on the 608-acre parcel and one home could be constructed on the 2.7-acre parcel. It is unlikely that a home could be constructed on the 0.05-acre parcel as this parcel only contains 2178 square feet, and is not large enough to support any development. A lot line adjustment was approved in 2003, creating the 2.7 acre parcel and an adjacent 2.8 acre parcel specifically to build a residential building within the A-2-5 zone.

The attached Planning Commission Staff Report (Attachment 1) provides more details concerning the project, the history of the parcels and the project site, and also provides discussions regarding the three specific variance findings that are required and the lot line adjustment for the project.

Staff recommended denial of this request based on seven specific reasons outlined on pages 5 and 6 in the Planning Commission Staff Report, but primarily because the applicant failed to provide sufficient evidence required to support the findings for approval of the variance. The only justification for the lot line adjustment and variance provided by the applicant would be to align parcel boundaries to allow for residential development on the higher ground overlooking Orange Blossom Road. There are no agricultural reasons for adjusting the parcel boundaries as proposed.

On May 17, 2007, a duly publicized public hearing was conducted by the Stanislaus County Planning Commission. At the hearing, no one people spoke in opposition to the proposal, three spoke in favor. Those speaking in favor reiterated the details of their proposal and spoke of the desire to construct high quality homes on the bluff rather than on the two smaller parcels adjacent to the road. They argued that they would be making the parcels better for residential development and would bring two undersized parcels into compliance with the A-2-5 zone minimum size. One neighbor also spoke in favor of the proposal.

The Planning Commissioners were concerned about the design of the parcels, especially regarding the fact that the Tulloch Lateral bisects the proposed parcels. The Lateral is owned in fee title by the Oakdale Irrigation District (OID) and Commissioners were concerned about having a separately owned property bisecting both of the parcels. The Commissioners were also concerned about "split-zoning" the property and carving a portion of A-2-40 zoned land out for residential development.

Ultimately, the Commission determined that the landowner had failed to provide suitable evidence to make the findings for the Variance request, that the encroachment of residential development into the A-2-40 grazing lands was not appropriate in this case, and that approval of the Variance would constitute a special privilege because both parcels were currently in the same configuration as they were when the applicant purchased the property in 2006.

Based on the staff report, information presented, and testimony, a motion to deny the variance and lot line adjustment was approved 6-1 (Navarro).

Appeal

The applicant representative, Mid Valley Engineering, submitted an appeal letter (Attachment 3). The letter provides four reasons why the applicants believe the denial of their project should be overturned.

First, they believe that no modified or revised proposal would be looked upon more favorably by Staff than the existing proposal. Next, they believe the Board of Supervisors may view the proposed lot line adjustment as more favorable and as an improvement to the neighborhood. Thirdly, they suggest the staff report to the Commission contained inconsistencies (although they do not identify those inconsistencies). And finally, they have submitted revised findings that were submitted too late to be included in the Staff Report. (These findings were provided to the Planning Commission at the public hearing.)

Recommendation

Staff recommends the Board of Supervisors support the Planning Commission's original determination and deny the appeal.

If, however, the Board of Supervisors decides to approve the appeal and can make the Variance findings, the following actions are recommended:

1. Find the project is categorically exempt from the California Environmental Quality Act (CEQA) and order the filing of the Notice of Exemption; and
2. Find:
 - A. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this Chapter will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
 - B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.
 - C. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.
3. Approve Variance Application No. 2006-03 and Lot Line Adjustment Application No. 2006-47 - Hardister, subject to the attached Conditions of Approval.

POLICY ISSUES:

The Board should determine whether the granting of the appeal furthers the Board's Priority of ensuring a strong agricultural economy and heritage.

STAFFING IMPACT:

None.

ATTACHMENTS:

1. Planning Commission Staff Report, May 17, 2007
2. Planning Commission Minutes, May 17, 2007
3. Appeal Letter, Mid Valley Engineer, Inc., May 29, 2007
4. Applicants New Findings Statement, dated May 4, 2007

STANISLAUS COUNTY PLANNING COMMISSION

May 17, 2007

STAFF REPORT

VARIANCE APPLICATION NO. 2006-03
LOT LINE ADJUSTMENT APPLICATION NO. 2006-47
HARDISTER

REQUEST: TO ADJUST PARCEL LINES OF THREE PARCELS (0.05, 2.7 AND 608.75 ACRES) TO FORM THREE PARCELS RANGING IN SIZE FROM 5.4, 5.9 AND 601 ACRES. TWO PROPOSED PARCELS (5.4 AND 5.9 ACRES) ARE SPILT-ZONED BETWEEN A-2-5 AND A-2-40 (GENERAL AGRICULTURE) ZONING DISTRICTS. THE VARIANCE IS NEEDED TO ALLOW THE 5.4 AND 5.9 ACRE PARCELS TO BE BELOW THE MINIMUM LOT SIZE OF 40 ACRES.

APPLICATION INFORMATION

Applicant:	Ben Hardister
Property Owner:	Land Owner Group
Engineer/Representative:	Mid Valley Engineering, Inc - David Mensonides
Location:	Northeast corner of Orange Blossom and Rodden Roads, east of Oakdale
Section, Township, Range:	4-2-11
Supervisory District:	One (Supervisor O'Brien)
Assessor's Parcel:	010-047-030, 002-023-010, 002-023-011, 010-049-001, and 010-027-008
Referrals:	See Exhibit "E" Environmental Review Referrals
Area of Parcel:	Existing 0.05, 2.7 and 608.75 acres
Water Supply:	Private Water Well
Sewage Disposal:	Private Septic/Leach Field System
Existing Zoning:	A-2-5 and A-2-40 (General Agricultural)
General Plan Designation:	Agricultural
Community Plan Designation:	Not Applicable
Williamson Act Contract No:	Not Applicable
Environmental Review:	Exempt
Present Land Use:	Fallow Grazing Land
Surrounding Land Use:	Ranchettes to the south, east and west; pasture land to the north

PROJECT DESCRIPTION

This is a request to adjust parcel lines of three parcels (0.05, 2.7 and 608.75 acres) to form three parcels ranging in size from 5.4, 5.9 and 601 acres. The two smaller proposed parcels (5.4 and 5.9 acres) would be spilt-zoned between A-2-5 and A-2-40 (General Agriculture) zoning districts. The variance is needed to allow the 5.4 and 5.9 acre parcels to be below the minimum lot size of 40 acres.

SITE DESCRIPTION AND BACKGROUND

The property is located on the northeast corner of Rodden and Orange Blossom Roads, east of Oakdale.

The site is designated "Agricultural" in the County General Plan. The project area has two different zoning designations, the smaller parcels are zoned A-2-5 (5 acre minimum) and the larger property is zoned A-2-40 (40 acre minimum). The Tulloch lateral separates the A-2-5 and the A-2-40 zoning district, with the A-2-5 falling south of the lateral, and the A-2-40 zoning district to the north of the lateral. The project's General Plan and Zoning designations are consistent. However, the zoning is not consistent with the project which is why the applicant is requesting a variance to "spilt zone" the two smaller parcels.

Currently, neither A-2-5 zoning parcels meet the minimum 5 acre lot size requirements (.05 and 2.7 acres respectfully). The 608.75 acre parcel does meet the A-2-40 acre requirement. The A-2-5 zoned parcels were created in 1956 when this area was not zoned. In 1967, the County rezoned a large area south of the Tulloch lateral, north of the Stanislaus River "A-2-3". In October 1983 the area was rezoned to the present A-2-5 zoning. The large 608-acre parcel was rezoned from A-1 (unclassified) to A-2-10 in July 1972, and later rezoned to A-2-40 in May 1983. Therefore, the variance needs to be approved before the Lot Line Adjustment to extend the existing A-2-5 parcels into the A-2-40 zoning district, since the parcel sizes would not be consistent with the Zoning Ordinance. A lot line adjustment was approved in 2003, creating the 2.7 acre parcel and an adjacent 2.8 acre parcel specifically to build a residential building within the A-2-5 zone.

The applicant had two choices to make with this application, a Rezone application and Lot Line Adjustment or a Variance and Lot Line Adjustment. Staff expressed concerns about both options, but the applicant chose to submit an application for a variance and lot line adjustment.

DISCUSSION & FINDINGS

The applicant is requesting a variance to the zoning ordinance Section 21.20.060, minimum lot size in the Agricultural zone. The main issue is the possibility of placing two homes outside the A-2-5 zone district. The county ordinance allows one single family home on each parcel in the A-2-5 zoning district. The ordinance also allows up to two homes in the A-2-40 zoning district, provided that the parcel that is located on is greater than 20 gross acres. Anything less than 20 acres, the applicant must get a Staff Approval or a Use Permit Approval depending on when the parcel(s) were created.

In this case, the applicant wants to complete a lot line adjustment by readjusting the lot lines to take acreage from the 608.75 acre parcel to the north to create two 5-acre parcels (from the .05 and the 2.7 acre parcels) and build a home on each one of them. The issue is that part of the proposed lot line will cross over the Tulloch Lateral and onto the 608.75-acre parcel that is zoned A-2-40, thus "split zoning" both parcels. Each of the new parcels would be zoned both A-2-5 and A-2-40. The Lot Line Adjustment can only be approved if the Planning Commission approves the variance application.

Variances are authorized where practical difficulties, unnecessary hardships, and results inconsistent with the general purpose of the County Zoning Ordinance may result from the strict application of certain provisions of the Zoning Ordinance. Stanislaus County requires the Planning Commission to make findings in order to approve the variance application. The findings and the reasons for the Planning Commission to approve this project are:

1. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this Chapter will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
2. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.
3. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.

The applicant has listed several reasons to make the necessary findings (Exhibit A):

1. The existing lots are located along a steep hillside, with little depth from their frontage on Rodden and Orange Blossom Roads. As such, the topography and lot shapes, combined with non-conforming acreage, eliminates development opportunities afforded to adjacent properties with similar zoning characteristics.
2. The County's existing zoning boundary for the subject properties follows the Tulloch Lateral easement and the existing lots delineated by the County create two parcels whose existing acreage do not conform to the minimum allowable area for a lot within the A-2-5 and A-2-40 zoning districts. Upon the approval of the LLA the resultant parcels will adhere to the minimum A-2-5 zoning lot size requirements as required by the County's zoning designation. The granting of a variance to allow dual zoning currently already exists in that location. Additionally, the ultimate development of the parcels does not contemplate any improvement beyond that which would be allowable under typical A-2-5 zoning standards.

3. The existing bifurcation of these properties creates mixed zoning designation within individual parcel. This variance request permits the development of two lots that are in accordance with the A-2-5 minimum lot size standards while identified as having a split zoning designation.
4. The enhanced parcel configuration resulting from adjustment of the lot lines, creates lot sizes that are properly designed for permissible uses within the existing zoning categories. Adjacent, permissible uses will not lose their operational vested rights or be impinged upon by the future development that is permitted under the A-2-5 zoning category. This variance request will not increase the residential density currently permitted within the existing A-2-5 zoning designation, maintaining the area's density at 1 dwelling unit (single-family residence) per 5 acres. The adjoining properties and the public welfare will in fact benefit from the superior placement of access points in relation to the intersection of Rodden Road and Orange Blossom Road. Without incorporation of the additional property, it is inevitable that existing trees would have to be removed to accommodate improvements.
5. The variance requested is not detrimental to or in conflict with agricultural or residential uses of adjacent and surrounding property.

These findings statements have put staff into a difficult position. In March 2007, Staff raised concerns about the findings that were submitted, with the applicant's representative, Mid-Valley Engineering. The representative wanted Staff to help them craft their findings. Staff did not have any suggestions, but was willing to read any new findings. No new findings were ever produced. This is a very difficult application and variance applications are not suppose to be easy. The required variance findings are written in a way to make them difficult. Staff does not feel that these findings fully address the requirements. The applicant did address the finding that it is not detrimental to public welfare. The applicant has three parcels, the two smaller parcels have a steep terrain behind them. The applicant can submit a proposal to construct two houses on top of the bluff already without a lot line adjustment or variance approval, but it will be on the existing 608.75 acre parcel.

LOT LINE ADJUSTMENT

If the requested variance is granted, staff will prepare a tentative approval letter for the lot line adjustment. This is a standard packet for lot line adjustments. This packet gives all the information that is needed to record a lot line adjustment. Those requirements are: an existing and new legal description, a map of the lot line adjustment to be done by a California licensed surveyor, and all property owners and security holder(s) need to sign the "Certificate of Lot Line Adjustment", with all signatures needing to be notarized. This document will be recorded by Planning Staff.

ENVIRONMENTAL REVIEW

This project was referred to the various agencies for general review and there were no significant issues raised. Staff is considering it exempt under CEQA Guidelines "General Rule 15061C", Section 15305, and Section 15270 of California Code of Regulations (State CEQA Guidelines) also

addresses the ability of an agency to determine CEQA does not apply to a project which is disapproved. If the Planning Commission wishes to approve this project, the Lot Line Adjustment is exempt under CEQA, the lot line itself does not have any "Environmental Review" however, since the applicant requested to build houses on the A-2-40 portion of the property, a Staff Approval is required and addition environmental review might be needed.

Staff received requests by two agencies requesting Conditions of Approval on this application. Oakdale Irrigation District requested review and compliance of the lot line adjustment (signature block). Staff believes that the District is a little confused in their wording since this project is not a parcel map. However, since resulting parcels would cross over an OID pipeline, Staff feels it is appropriate and has a "nexus" for this particular project and added it to the conditions listed in the Conditions of Approval. The second request is from the Oakdale Rural Fire Department requesting fees if a house is built. This request is not part of this application (building a house or two), however, this is a standard fee that must be paid even if this application is denied and the applicant chose to build a home on it, they would still need to pay all current development fees.

The Planning Department has added an additional condition that states any home located on the A-2-40 zoned portion of the property, and the property is less than 20 acres, a Staff Approval shall be required prior to issuance of a building permit. This is consistent with the county's ordinances for building homes in the A-2-40 zoning district.

RECOMMENDATION

Staff is recommending denial of this request for the following reasons:

1. The applicant has failed to provide sufficient evidence required to support the findings for approval of the variance.
2. The only justification for the lot line adjustment and variance provided by the applicant would be to align parcel boundaries to allow for residential development on the higher ground overlooking Orange Blossom Road. There are no agricultural reasons for adjusting the parcel boundaries as proposed.
3. Approving the Variance would result in encroachment of additional residential development into an existing viable grazing parcel in the A-2-40 zoning district. One of the existing parcels (2.7 acres) is currently allowed a single house, the 0.05 acre parcel cannot be built upon, and the 608.75 acre parcel is allowed 2 houses. The current configuration of the parcels allows for three (3) residences.

With approval of the application as proposed, each 5 acre parcel would be allowed a single residence, and the 603 acre parcel would still be allowed two (2) residences, for a total of four (4) residences. Two additional residences would be allowed to be constructed in the A-2-40 zone, and would encroach upon viable grazing land rather than in an area identified as suitable for smaller parcels.

4. A Lot Line Adjustment, approved in 2003, re-aligned one of the existing parcels (2.7 acres) specifically to allow for development of the parcel and an adjacent 2.8 acre parcel to the east - both with access off of Orange Blossom Road. The Adjustment was approved assuming that the site could be and would be built upon with the current configuration consistent with the A-2-5 zone.
5. Staff believes that approval of the Variance would provide a special privilege for this landowner as both existing parcels are in the exact configuration they were in when the applicant purchased the property in 2006. (The zoning is the same, and the ability to construct or build improvements is the same.)
6. The size, topography and location of the properties are the same as they were when purchased, and no substantial property rights enjoyed by other properties in the vicinity and under the same A-2-5 zoning classification are being deprived. The existing 2.7 acre parcel can be built upon similar to others in the area, and other 0.05 acre parcels zoned A-2-5 (or A-2-3, A-2-10, A-2-20, A-2-40, or A-2-160), if there are any, would likely not be able to be built upon either and would be limited in their development possibilities. The existing property rights that existed in 2006 when the parcels were purchased are preserved, and a variance is not necessary for the preservation or enjoyment of those rights.
7. The Tulloch Lateral is owned in fee title by the Oakdale Irrigation District (OID) and bisects the two proposed smaller parcels. Portions of each parcel would be located both to the north and to the south of the separate OID Tulloch Lateral parcel. Although OID in their letter dated March 19, 2007 has no objections to the lot line adjustment, Staff is not in the habit of approving lot line adjustments that result in parcels bisected by other fee title parcels, and does not recommend doing so in this case.

Based on the discussion above, Staff does not believe the applicant can make the findings for the lot line adjustment and recommends the project be denied.

1. Deny Variance Application No. 2006-03, Lot Line Adjustment Application No.2006-47 - Hardister, due to lack of evidence to support findings required for approval.

If the Planning Commission determines to approve the project and can make the Variance findings, Staff recommends that the Planning Commission make the following action:

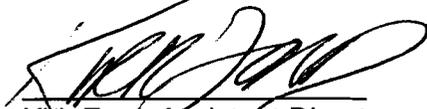
1. Find the project is categorically exempt from the California Environmental Quality Act (CEQA) and order the filing of the Notice of Exemption; and
2. Find:
 - A. That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this Chapter will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.

- B. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights of the petitioner and will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.
 - C. That the granting of such application will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of this particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood.
3. Approve Variance Application No. 2006-03 and Lot Line Adjustment Application No. 2006-47 - Hardister, subject to the attached Conditions of Approval.

Report written by: Bill Carlson, Senior Planner, April 30, 2007

Attachments: Exhibit A - Applicant's Project Description and Findings
 Exhibit B - Maps
 Exhibit C - Variance Conditions of Approval
 Exhibit D - Notice of Exemption
 Exhibit E - Environmental Review Referrals

Reviewed by:


Kirk Ford, Assistant Director

I:\Staffrpt\VAR\2006\VAR 2006-03 - Hardister\Staff Report.wpd



APPLICATION QUESTIONNAIRE

<p>Please Check all applicable boxes APPLICATION FOR: <i>Staff is available to assist you with determining which applications are necessary</i></p> <table border="0"> <tr> <td><input type="checkbox"/> General Plan Amendment</td> <td><input type="checkbox"/> Subdivision Map</td> </tr> <tr> <td><input type="checkbox"/> Rezone</td> <td><input type="checkbox"/> Parcel Map</td> </tr> <tr> <td><input type="checkbox"/> Use Permit</td> <td><input type="checkbox"/> Exception</td> </tr> <tr> <td><input checked="" type="checkbox"/> Variance</td> <td><input type="checkbox"/> Williamson Act Cancellation</td> </tr> <tr> <td><input type="checkbox"/> Historic Site Permit</td> <td><input checked="" type="checkbox"/> Other <u>Lot Line Adjustment</u></td> </tr> </table>	<input type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Subdivision Map	<input type="checkbox"/> Rezone	<input type="checkbox"/> Parcel Map	<input type="checkbox"/> Use Permit	<input type="checkbox"/> Exception	<input checked="" type="checkbox"/> Variance	<input type="checkbox"/> Williamson Act Cancellation	<input type="checkbox"/> Historic Site Permit	<input checked="" type="checkbox"/> Other <u>Lot Line Adjustment</u>	<p>PLANNING STAFF USE ONLY: Application No(s): _____ Date: _____ S _____ T _____ R _____ GP Designation: _____ Zoning: _____ Fee: _____ Receipt No. _____ Received By: _____ Notes: _____</p>
<input type="checkbox"/> General Plan Amendment	<input type="checkbox"/> Subdivision Map										
<input type="checkbox"/> Rezone	<input type="checkbox"/> Parcel Map										
<input type="checkbox"/> Use Permit	<input type="checkbox"/> Exception										
<input checked="" type="checkbox"/> Variance	<input type="checkbox"/> Williamson Act Cancellation										
<input type="checkbox"/> Historic Site Permit	<input checked="" type="checkbox"/> Other <u>Lot Line Adjustment</u>										

In order for your application to be considered COMPLETE, please answer all applicable questions on the following pages, and provide all applicable information listed on the checklist on pages i – v. Under State law, upon receipt of this application, staff has 30 days to determine if the application is complete. We typically do not take the full 30 days. It may be necessary for you to provide additional information and/or meet with staff to discuss the application. Pre-application meetings are not required, but are highly recommended. An incomplete application will be placed on hold until all the necessary information is provided to the satisfaction of the requesting agency. An application will not be accepted without all the information identified on the checklist.

Please contact staff at (209) 525-6330 to discuss any questions you may have. Staff will attempt to help you in any way we can.

PROJECT INFORMATION

PROJECT NAME: Hardister Lot Line Adjustment
(Desired name for project, if any)

CONTACT PERSON: Who is the primary contact person for information regarding this project?

Name: David Mensonides **Telephone:** (209) 526-4214

Address: 1117 "L" Street, Modesto, CA 95354

Fax Number: (209)526-0803 **email address:** dmensonides@mve.net

(Attach additional sheets as necessary)
PROPERTY OWNER'S NAME: Land Owner Group

Mailing Address 7104 Del Rio Drive
Modesto, CA 95356

Telephone: _____ Fax: _____

APPLICANT'S NAME: Ben Hardister

Mailing Address 7104 Del Rio Drive, Modesto, CA 95356

Telephone: _____ Fax: _____

ENGINEER / APPLICANT: Mid-Valley Engineering, Inc. - David Mensonides

Mailing Address 1117 "L" Street, Modesto, CA 95354

Telephone: (209) 526-4214 Fax: (209) 526-0803

PROJECT DESCRIPTION: (Describe the project in detail, including physical features of the site, proposed improvements, proposed uses or business, operating hours, number of employees, anticipated customers, etc. – Attach additional sheets as necessary)

**Please note: A detailed project description is essential to the reviewing process of this request. In order to approve a project, the Planning Commission or the Board of Supervisors must decide whether there is enough information available to be able to make very specific statements about the project. These statements are called "Findings". It is your responsibility as an applicant to provide enough information about the proposed project, so that staff can recommend that the Commission or the Board make the required Findings. Specific project Findings are shown on pages 16 – 18 and can be used as a guide for preparing your project description. (If you are applying for a Variance or Exception, please contact staff to discuss special requirements).*

The project proposes a Lot Line Adjustment involving three parcels, two of which are currently non conforming in lot area with existing zoning. The adjustment of the lot lines will bring the two lots closer to minimum lot area conformance without creating a greater number of lots than originally existed. All resultant parcels connected with the adjustment will maintain their original agricultural design characteristics. The adjustment will materially increase the ability to use respective parcels for agricultural purposes. Other property owners within the vicinity of the project will experience no adverse impact in their ability to utilize their property in an agricultural manner. The project area is not under Williamson Act contract.

It should also be noted that all three lots appear to contain multiple zoning as the zoning lines follow the OID easement rather than the parcels lines for the lots. This lot line adjustment does not contemplate any alteration of the zoning boundaries as they currently exist nor does the applicant propose land uses inconsistent with uses allowable under the existing zoning designations. A variance is requested in conjunction with utilizing lands currently designated as A-2-40 for the purpose of bringing the two smaller A-2-5 lots into size conformance. (Please also reference the attached cover letter for findings)

PROJECT SITE INFORMATION

Complete and accurate information saves time and is vital to project review and assessment. Please complete each section entirely. If a question is not applicable to your project, please indicated this to show that each question has been carefully considered. Contact the Planning & Community Development Department Staff, 1010 10th Street – 3rd Floor, (209) 525-6330, if you have any questions. Pre-application meetings are highly recommended.

ASSESSOR'S PARCEL NUMBER(S): Book 010 Page 047 Parcel 030

Additional parcel numbers: 002-023-010, 011; 010-049-001; 010-027-008

Project Site Address
or Physical Location: Site is located adjacent to intersection of Rodden and Orange Blossom Roads.

Property Area: Acres: approx 620 or Square feet: 26.6 million

Current and Previous Land Use: (Explain existing and previous land use(s) of site for the last ten years)

Site is and has been used as fallow grazing land. Terrain is generally too rough for any intensive cultivation.

List any known previous projects approved for this site, such as a Use Permit, Parcel Map, etc.: (Please identify project name, type of project, and date of approval)

None Known.

Existing General Plan & Zoning: A-2-40; A-2-5

Proposed General Plan & Zoning: No amendments proposed
(if applicable)

ADJACENT LAND USE: (Describe adjacent land uses within 1,320 feet (1/4 mile) and/or two parcels in each direction of the project site)

East: Rural residential / Agriculture

West: Rural residential / Agriculture

North: Agriculture - pasture

South: Agriculture/Rural Residential

WILLIAMSON ACT CONTRACT:

Yes No

Is the property currently under a Williamson Act Contract?

Contract Number: _____

If yes, has a Notice of Non-Renewal been filed?

Date Filed: _____

Yes No

Do you propose to cancel any portion of the Contract?

Yes No

Are there any agriculture, conservation, open space or similar easements affecting the use of the project site. (Such easements do not include Williamson Act Contracts)

If yes, please list and provide a recorded copy: _____

SITE CHARACTERISTICS: (Check one or more) Flat Rolling Steep

VEGETATION: What kind of plants are growing on your property? (Check one or more)

Field crops Orchard Pasture/Grassland Scattered trees
Shrubs Woodland River/Riparian Other

Explain Other: _____

Yes No

Do you plan to remove any trees? (If yes, please show location of trees planned for removal on plot plan and provide information regarding transplanting or replanting.)

GRADING:

Yes No

Do you plan to do any grading? (If yes, please indicate how many cubic yards and acres to be disturbed. Please show areas to be graded on plot plan.) _____

STREAMS, LAKES, & PONDS:

Yes No

Are there any streams, lakes, ponds or other watercourses on the property? (If yes, please show on plot plan)

Yes No

Will the project change any drainage patterns? (If yes, please explain – provide additional sheet if needed) _____

Yes No

Are there any gullies or areas of soil erosion? (If yes, please show on plot plan)

Yes No

Do you plan to grade, disturb, or in any way change swales, drainages, ditches, gullies, ponds, low lying areas, seeps, springs, streams, creeks, river banks, or other area on the site that carries or holds water for any amount of time during the year? (If yes, please show areas to be graded on plot plan)

Please note: If the answer above is yes, you may be required to obtain authorization from other agencies such as the Corps of Engineers or California Department of Fish and Game.

STRUCTURES:

Yes No Are there structures on the site? (If yes, please show on plot plan. Show a relationship to property lines and other features of the site.)

Yes No Will structures be moved or demolished? (If yes, indicate on plot plan.)

Yes No Do you plan to build new structures? (If yes, show location and size on plot plan.)

Yes No Are there buildings of possible Historical significance? (If yes, please explain and show location and size on plot plan.) _____

PROJECT SITE COVERAGE: Not applicable

Existing Building Coverage: _____ Sq. Ft. Landscaped Area: _____ Sq. Ft.

Proposed Building Coverage: _____ Sq. Ft. Paved Surface Area: _____ Sq. Ft.

BUILDING CHARACTERISTICS: Not Applicable

Size of new structure(s) or building addition(s) in gross sq. ft.: (Provide additional sheets if necessary) _____

Number of floors for each building: _____

Building height in feet (measured from ground to highest point): (Provide additional sheets if necessary) _____

Height of other appurtenances, excluding buildings, measured from ground to highest point (i.e., antennas, mechanical equipment, light poles, etc.): (Provide additional sheets if necessary) _____

Proposed surface material for parking area: (Provide information addressing dust control measures if non-asphalt/concrete material to be used) _____

UTILITIES AND IRRIGATION FACILITIES:

Yes No Are there existing public or private utilities on the site? Includes telephone, power, water, etc. (If yes, show location and size on plot plan)

Who provides, or will provide the following services to the property?

Electrical: PG&E

Sewer*: None

Telephone: SBC

Gas/Propane: PG&E

Water**: None

Irrigation: Oakdale Irrigation District (OID)

***Please Note: A "will serve" letter is required if the sewer service will be provided by City, Sanitary District, Community Services District, etc.**

****Please Note: A "will serve" letter is required if the water source is a City, Irrigation District, Water District, etc., and the water purveyor may be required to provide verification through an Urban Water Management Plan that an adequate water supply exists to service your proposed development.**

Will any special or unique sewage wastes be generated by this development other than that normally associated with resident or employee restrooms? Industrial, chemical, manufacturing, animal wastes? (Please describe:)

Not applicable to this application

Please Note: Should any waste be generated by the proposed project other than that normally associated with a single family residence, it is likely that Waste Discharge Requirements will be required by the Regional Water Quality Control Board. Detailed descriptions of quantities, quality, treatment, and disposal may be required.

Yes No Are there existing irrigation, telephone, or power company easements on the property? (If yes, show location and size on plot plan.)

Yes No Do the existing utilities, including irrigation facilities, need to be moved? (If yes, show location and size on plot plan.)

Yes No Does the project require extension of utilities? (If yes, show location and size on plot plan.)

AFFORDABLE HOUSING/SENIOR:

Yes No Will the project include affordable or senior housing provisions? (If yes, please explain)

RESIDENTIAL PROJECTS: (Please complete if applicable – Attach additional sheets if necessary) **Not Applicable**

Total No. Lots: _____ Total Dwelling Units: _____ Total Acreage: _____

Net Density per Acre: _____ Gross Density per Acre: _____

<i>(complete if applicable)</i>	Single Family	Two Family Duplex	Multi-Family Apartments	Multi-Family Condominium/Townhouse
Number of Units:	_____	_____	_____	_____
Acreage:	_____	_____	_____	_____

COMMERCIAL, INDUSTRIAL, MANUFACTURING, RETAIL, USE PERMIT, OR OTHER PROJECTS: (Please complete if applicable – Attach additional sheets if necessary)

Square footage of each existing or proposed building(s): **Not Applicable**

Type of use(s): _____

Days and hours of operation: _____

Seasonal operation (i.e., packing shed, huller, etc.) months and hours of operation: _____

Occupancy/capacity of building: _____

Number of employees: (Maximum Shift): _____ (Minimum Shift): _____

Estimated number of daily customers/visitors on site at peak time: _____

Other occupants: _____

Estimated number of truck deliveries/loadings per day: _____

Estimated hours of truck deliveries/loadings per day: _____

Estimated percentage of traffic to be generated by trucks: _____

Estimated number of railroad deliveries/loadings per day: _____

Square footage of:

Office area: _____ Warehouse area: _____

Sales area: _____ Storage area: _____

Loading area: _____ Manufacturing area: _____

Other: (explain type of area) _____

Yes No Will the proposed use involve toxic or hazardous materials or waste? (Please explain)

ROAD AND ACCESS INFORMATION:

What County road(s) will provide the project's main access? (Please show all existing and proposed driveways on the plot plan)

The project site is adjacent to Rodden Road and Orange Blossom Road.

- Yes No Are there private or public road or access easements on the property now? (If yes, show location and size on plot plan)
- Yes No Do you require a private road or easement to access the property? (If yes, show location and size on plot plan)
- Yes No Do you require security gates and fencing on the access? (If yes, show location and size on plot plan)

Please Note: Parcels that do not front on a County-maintained road or require special access may require approval of an Exception to the Subdivision Ordinance. Please contact staff to determine if an exception is needed and to discuss the necessary Findings.

STORM DRAINAGE: Not Applicable

How will your project handle storm water runoff? (Check one) Drainage Basin Direct Discharge Overland
 Other: (please explain) _____

If direct discharge is proposed, what specific waterway are you proposing to discharge to? _____

Please Note: If direct discharge is proposed, you will be required to obtain a NPDES permit from the Regional Water Quality Control Board, and must provide evidence that you have contacted them regarding this proposal with your application.

EROSION CONTROL: Not Applicable

If you plan on grading any portion of the site, please provide a description of erosion control measures you propose to implement.

Not applicable to this application

Please note: You may be required to obtain an NPDES Storm Water Permit from the Regional Water Quality Control Board and prepare a Storm Water Pollution Prevention Plan.

ADDITIONAL INFORMATION:

Please use this space to provide any other information you feel is appropriate for the County to consider during review of your application. (Attach extra sheets if necessary)

This project proposes only the adjustment of property lines to facilitate the utilization of the individual lots.

No improvement to the resulting parcels is contemplated by this application at this time.

September 26, 2006

Stanislaus County Planning Department
1010 10th Street, Suite 3400
Modesto, CA 95354

Subject: Variance Statement of Findings
Hardister Property

The following Statement of Findings provides evidence for the justification of the attached Variance Request for the Hardister properties (property IDs 002-023-010 & 011; 010-049-001; 010-027-008). The project site is located at the northeastern corner of the intersection of Rodden and Orange Blossom Roads.

In lieu of rezoning these existing dual zoned (A-2-5 & A-2-40) lots into a single zoning category the applicant requests that a variance be approved in conjunction with a Lot Line Amendment. This variance request enables the applicant to incorporate adequate A-2-40 zoned land to create two distinct lots that are in conformance with the A-2-5 minimum lot size requirements as outlined in the County's Zoning Ordinance and that complement development and use patterns on adjacent lots. The subject land to be incorporated is to be provided by a larger tract of land zoned A-2-40. The two newly created lots will be consistent in their permitted uses as detailed by the zoning designations for A-2-5 and A-2-40 lots and their existing acreage will conform to the minimum lot acreage requirements identified in the Stanislaus County Zoning Ordinance - Section 21.20.060. Currently the County's minimum allowable lot area requirements deny the potentially highest and best use of the lots by eliminating the property owner's ability to provide complementary development that is congruent with adjacent rural residential development. This request enhances the applicant's opportunity to utilize the existing property at its highest and best use afforded in the A-2-5 zoning category and provides the property with privileges enjoyed by surrounding property with similar zoning.

This Variance Request is in accordance with adjacent residential development and permits a development style that complements the existing improvements on surrounding properties. The Variance also allows for the continued agricultural activities found throughout adjacent properties.

This Variance Request is substantiated by the following findings:

1. The lots are located along a steep hillside, with little depth from their frontage on Rodden and Orange Blossom Roads. As such, the topography and lot shapes, combined with non-conforming acreage, eliminates development opportunities afforded to adjacent properties with similar zoning characteristics.

2. The County's existing zoning boundary for the subject properties follows the historical Tulloch Lateral easement and the existing lots delineated by the County create two parcels whose existing acreages do not conform to the minimum allowable area for a lot within the specified A-2-5 or A-2-40 zoning categories (Zoning Ordinance - Section 21.20.060.B.2). Upon the approval of the LLA the resultant parcels will adhere to the minimum A-2-5 lot size requirements as required by the County's zoning designation. The granting of a variance to allow dual zoning within the enhanced lots does not represent a special privilege as dual zoning currently already exists in that location. Additionally, the ultimate development of the parcels does not contemplate any improvement beyond that which would be allowable under typical A-2-5 zoning standards.
3. The existing bifurcation of these properties creates mixed zoning designations within individual parcels. This variance request permits the development of two lots that are in accordance with the A-2-5 minimum lot size standards while identified as having a split zoning designation.
4. The enhanced parcel configuration resulting from adjustment of the lot lines, creates lot sizes that are properly designed for permissible uses within the existing zoning categories. Adjacent, permitted uses will not lose their operational vested rights or be impinged upon by the future development that is permitted under the A-2-5 zoning category. This variance request will not increase the residential density currently permitted within the existing A-2-5 zoning designation, maintaining the area's density at 1 dwelling unit (single-family residence) per 5 acres. The adjoining properties and the public welfare will in fact benefit from the superior placement of access points in relation to the intersection of Rodden Road and Orange Blossom Road. Without incorporation of the additional property, it is inevitable that existing trees would have to be removed to accommodate improvements.
5. The variance requested is not detrimental to or in conflict with agricultural or residential uses of adjacent and surrounding property.

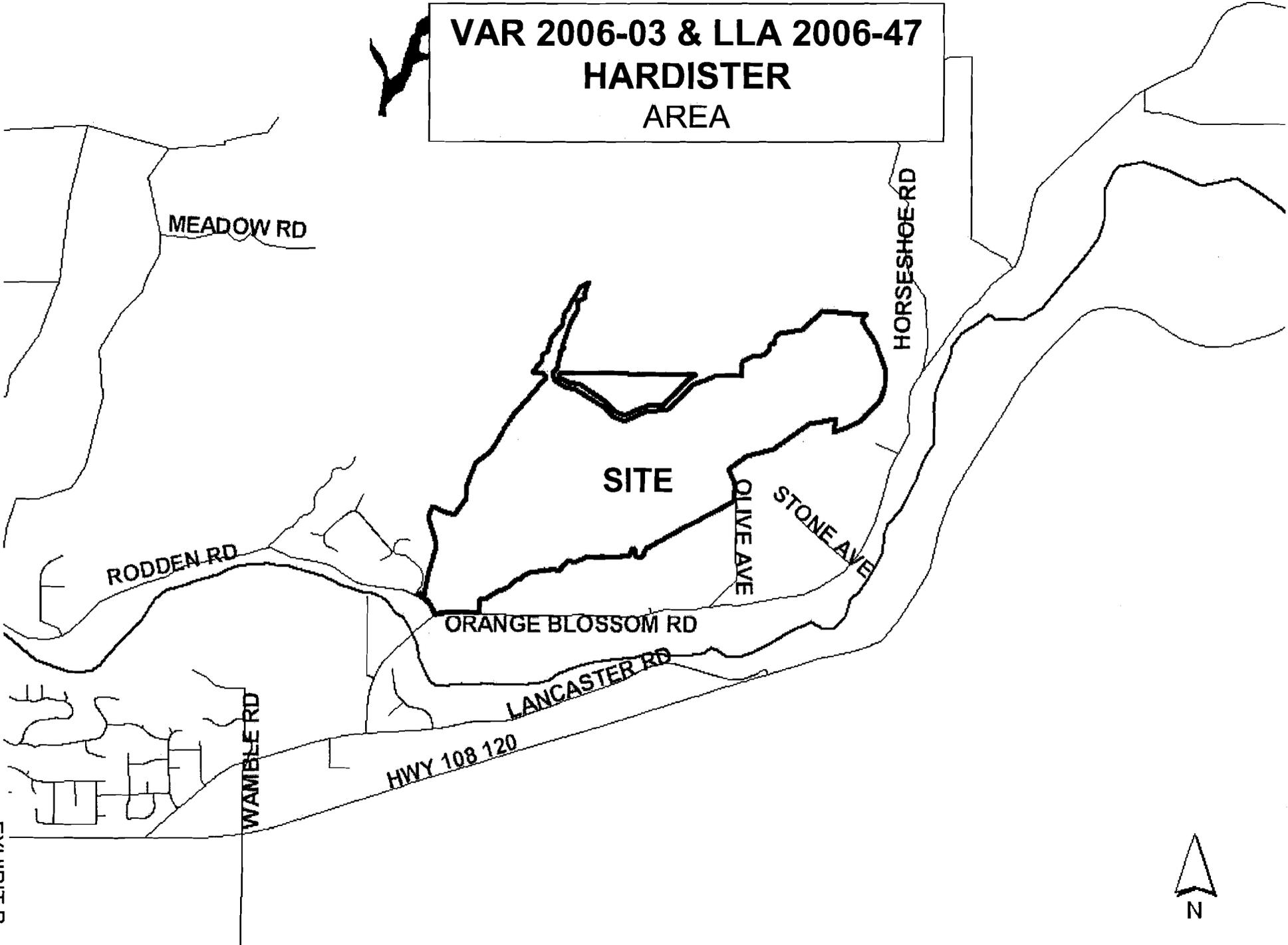
We respectfully request the County's approval of this Variance Request with the intent that the lots are provided the development opportunities provided in the A-2-5 zoning category bring the lots in accordance with the Stanislaus' County General Plan and Zoning Ordinance and providing the applicant its highest and best use.

Please contact me if you have questions or concerns relating to this Variance Request or to discuss any items associated with this request.

Regards,

David Mensonides
Project Manager
MVE
P: 209-526-4214
F: 209-526-0803
dmensonides@mve.net

**VAR 2006-03 & LLA 2006-47
HARDISTER
AREA**



MEADOW RD

HORSESHOE RD

SITE

RODDEN RD

OLIVE AVE

STONE AVE

ORANGE BLOSSOM RD

LANCASTER RD

HWY 108 120

WAMBLE RD



**VAR 2006-03 & LLA 2006-47
HARDISTER
GENERAL PLAN**

MEADOW RD

AG

HORSESHOE RD

SITE

OLIVE AVE

STONE AVE

ORANGE BLOSSOM RD

EST
AG

LDR

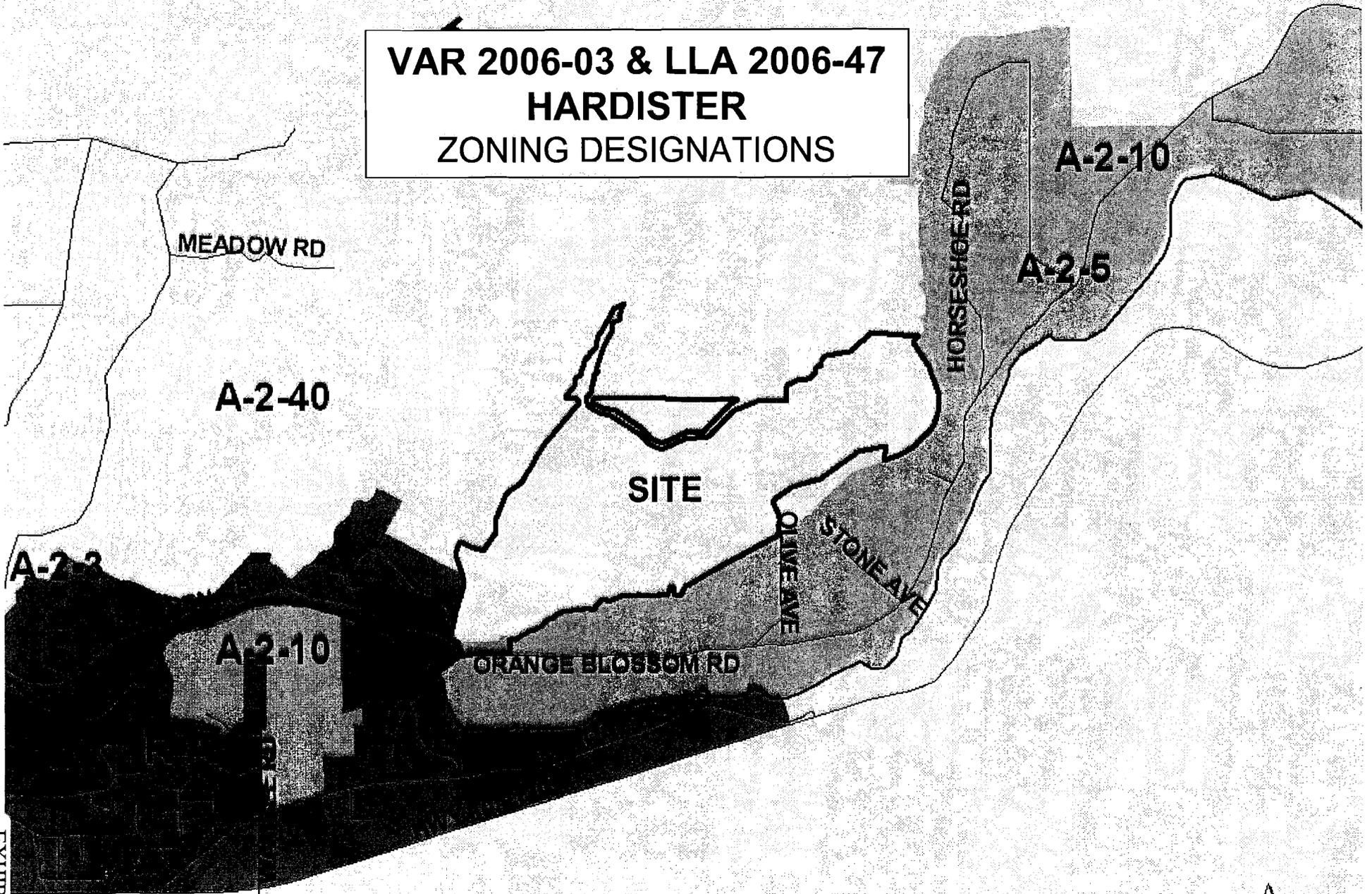
SE RD



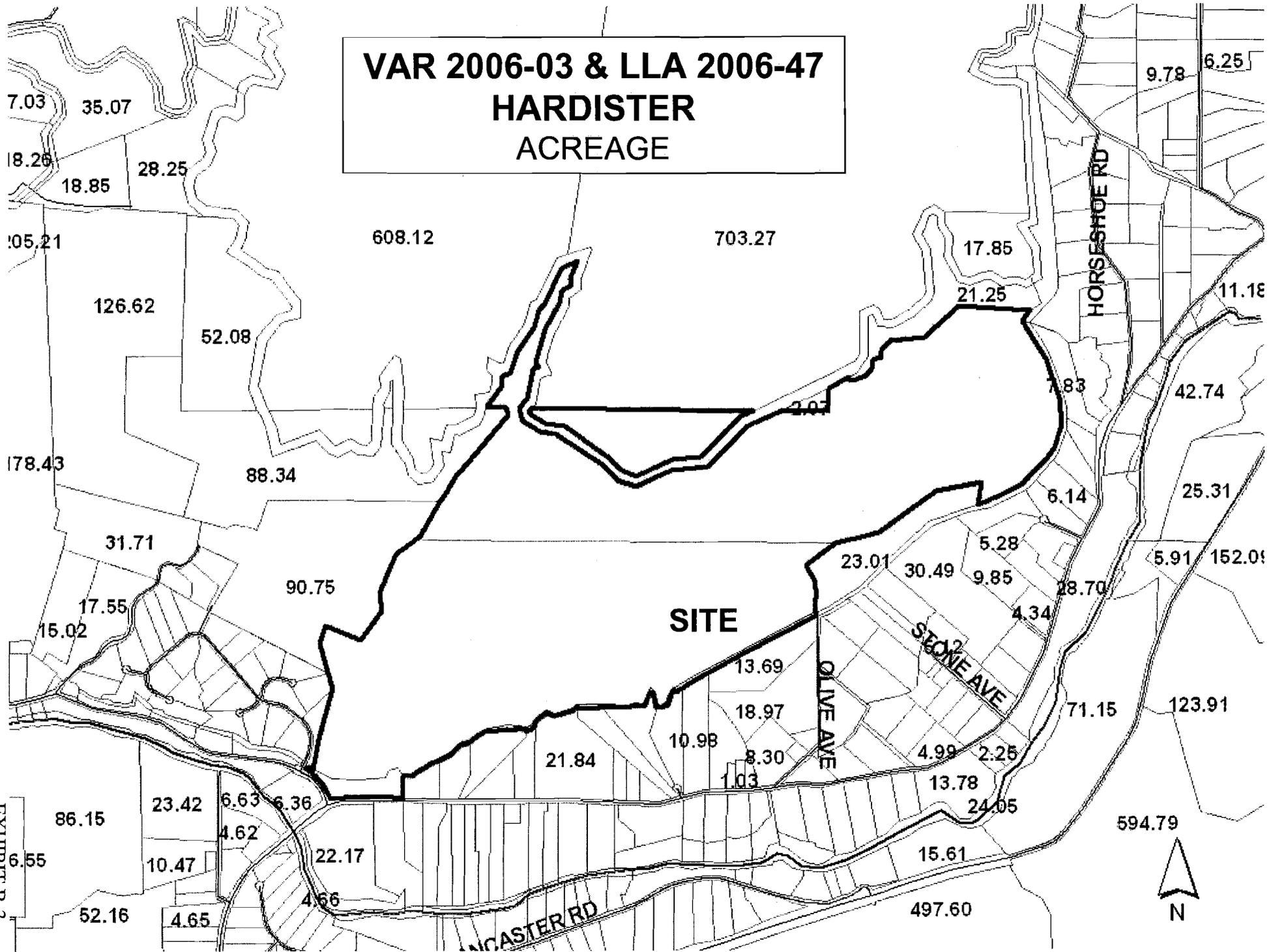
19

EXHIBIT B-1

**VAR 2006-03 & LLA 2006-47
HARDISTER
ZONING DESIGNATIONS**



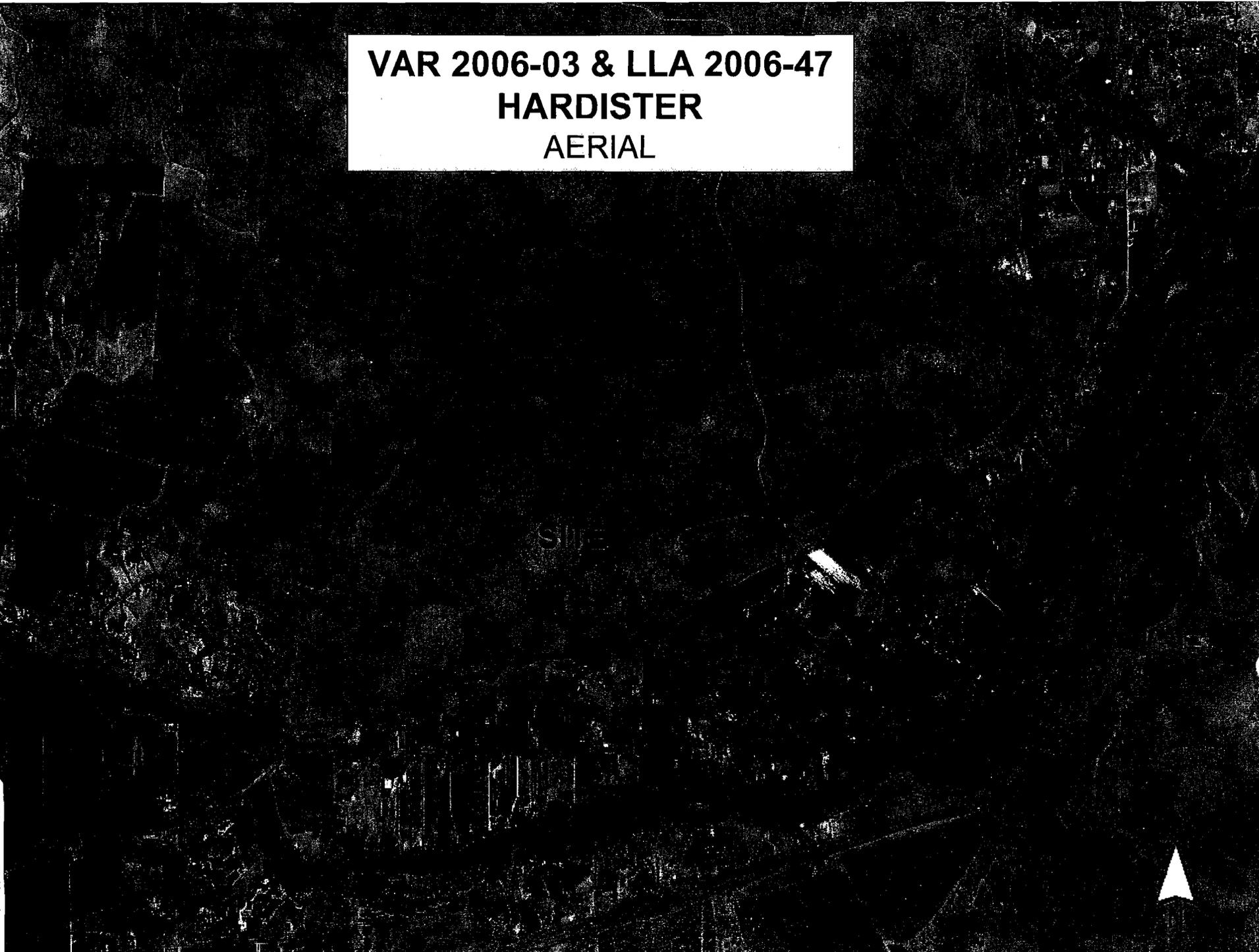
**VAR 2006-03 & LLA 2006-47
HARDISTER
ACREAGE**



21

EXHIBIT B-3

**VAR 2006-03 & LLA 2006-47
HARDISTER
AERIAL**



VARIANCE CONDITIONS OF APPROVAL

**VARIANCE APPLICATION NO. 2006-03
LOT LINE ADJUSTMENT APPLICATION NO. 2006-47
HARDISTER**

Planning and Community Development

1. Following Planning Commission approval, all parties of interest in the subject parcels, including security holders, shall sign a Certificate of Lot Line Adjustment.
2. A deed shall be prepared and recorded for all parcels which reflect the lot line adjustment.
3. A Record of Survey shall be filed if required by Section 8762 of the Business and Professions Code.
4. 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.
5. Within five days of final approval by the Planning Commission or Board of Supervisors, a \$57.00 check made payable to the "**Stanislaus County Clerk/Recorder**" shall be submitted to the Department of Planning and Community Development for the purpose of recording the Notice of Exemption.
6. Construction of any homes on the A-2-40 zone portion of the property will require a Staff Approval application after the Certificate of Lot Line Adjustment and new grant deeds are recorded. All development fees will be required during this application process.
7. The Department of Planning and Community Development shall record a Notice of Administrative Conditions and Restrictions with the County Recorder's Office within 30 days of project approval. The Notice includes: Conditions of Approval/Development Standards and Schedule; any adopted Mitigation Measures; and a project area map.

Oakdale Irrigation District

8. The applicant shall receive the approval from OID prior to any Lot Line Adjustment being recorded.

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

NOTICE OF EXEMPTION

MEMO TO: Stanislaus County Clerk/Recorder

FROM: Stanislaus County
Department of Planning and Community Development

SUBJECT: FILING OF NOTICE OF EXEMPTION

PROJECT TITLE: VARIANCE APPLICATION NO. 2006-03, LOT LINE ADJUSTMENT
APPLICATION NO. 2006-47 - HARDISTER

PROJECT LOCATION (include county): Northeast corner of Orange Blossom and Rodden Roads, East of Oakdale, Stanislaus County. APN: 010-047-030, 002-023-010, 002-023-011, 010-049-001, and 010-027-008

PROJECT DESCRIPTION: A request to adjust parcel lines of three parcels (0.05, 2.7 and 608.75 acres) to form three parcels ranging in size from 5.4, 5.9 and 601 acres. Two proposed parcels (5.4 and 5.9 acres) are spilt-zoned between A-2-5 and A-2-40 (General Agriculture) zoning districts. The variance is needed to allow the 5.4 and 5.9 acre parcels to be below the minimum lot size of 40 acres.

Name of Agency Approving Project: Stanislaus County Planning Commission

Exempt Status: (check one)

- Ministerial (Section 21080(b)(1); 15268);
- Declared Emergency (Section 21080(b)(3); 15269(a));
- Emergency Project (Section 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: 15305
- Statutory Exemptions. State code number: General Rule 15061C

Reasons why project is exempt: Lot Line Adjustment

Lead Agency
Contact Person: Bill Carlson, Senior Planner Telephone: (209) 525-6330

Date Received for Filing: _____

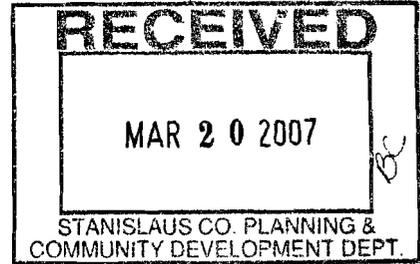
Title

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS
PROJECT: VARIANCE APPLICATION NO. 2006-03, LOT LINE ADJUSTMENT APPLICATION NO. 2006-47
- HARDISTER

REFERRED TO:	PUBLIC HEARING NOTICE	RESPONDED		RESPONSE			MITIGATION MEASURES		Conditions		
		YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	No	
DATE: OCTOBER 25, 2006											
AGRICULTURE COMMISSIONER	X		X								
AIRPORT LAND USE COMMISSION											
BUILDING PERMITS DIVISION	X		X								
CA DEPT OF FORESTRY											
CALTRANS DISTRICT 10	X	X	X								
CENTRAL CALIF. INFO. CENTER - CSUS											
CITY OF											
COMMUNITY SERVICES/SANITARY											
CORPS OF ENGINEERS											
COUNTY COUNSEL	X		X								
DEPARTMENT OF CONSERVATION											
ENVIRONMENTAL RESOURCES	X		X			X		X			X
FIRE PROTECTION DIST: Oakdale Rural	X	X	X			X					
STANISLAUS FIRE PREVENTION BUREAU	X	X	X								
FISH & GAME	X	X	X								
HOSPITAL DISTRICT: OAK VALLEY	X	X	X								
IRRIGATION DISTRICT: OAKDALE	X	X	X				X			X	
LAFCO	X										
MOSQUITO DISTRICT: EASTSIDE	X	X	X								
MOUNTAIN VALLEY EMERGENCY MEDICAL	X	X	X								
MUNICIPAL ADVISORY COUNCIL:											
PARKS & FACILITIES	X		X								
P.G. & E.	X	X	X								
PUBLIC WORKS	X		X				X				
PUBLIC WORKS - TRANSIT	X		X								
REDEVELOPMENT											
REGIONAL WATER QUALITY	X	X	X								
StanCOG	X	X	X								
SCHOOL DISTRICT 1: OAKDALE	X	X	X								
SCHOOL DISTRICT 2:											
SHERIFF	X		X								
STANISLAUS COUNTY FARM BUREAU	X	X	X								
STANISLAUS ERC	X		X				X				X
STATE CLEARINGHOUSE											
STATE LANDS BOARD											
SUPERVISORIAL DISTRICT 1 : O'BRIEN	X		X								
TELEPHONE COMPANY: AT&T	X	X	X								
TUOLUMNE RIVER PRESERVATION TRUST											
UNITED CEREBRAL PALSY	X	X	X								
US FISH & WILDLIFE	X	X	X								
US MILITARY 4 AGENCIES (SB 1462)											
VALLEY AIR DISTRICT	X	X	X								
WATER DISTRICT											
DEPT. OF WATER RESOURCES											



OAKDALE IRRIGATION DISTRICT



March 19, 2007

Mr. Bill Carlson, Planner
Stanislaus County Planning Department
1010 10th Street, Suite 3400
Modesto, California 95354

Re: Variance Application 2006-03/Lot Line Adjustment Application No. 2006-47
APNs: 010-047-030/031, 010-049-001 - Tulloch Lateral

Dear Mr. Carlson:

Thank you for the opportunity to review the above-noted project referral. The Oakdale Irrigation District's (OID) original response to this project was provided to you in a letter dated November 9, 2006. A copy of that letter is enclosed for your referral. Since the initial project review, OID has had several meetings with the landowner and representatives of Mid-Valley Engineering to discuss the issue of the Tulloch Lateral. All parties concerned have agreed that the Tulloch Lateral is a fee-title strip of land from the Original System Purchase of the OID, in 1907.

The proposed lot line adjustments defined in the latest revision of the Tentative Map are acceptable to OID because no property lines are crossing the Tulloch Lateral and the area of the Tulloch Lateral is not used to provide the required acreages for the proposed parcels to comply with the Stanislaus County zoning ordinances.

OID requires a signature block for the proposed subdivision map with the following language:

OAKDALE IRRIGATION DISTRICT

This map has been reviewed for compliance with Oakdale Irrigation District Subdivision Parcel Map Policy and project approval conditions. The recorded rights of way and/or easements for Oakdale Irrigation District as shown on this map meet the conditions of approval and Oakdale Irrigation District approves of the filing of this map.

By: Steve Knell, P. E.
General Manager

Date:

Mr. Bill Carlson, Planner
March 19, 2007
Page Two

OID has no objection to this project and will provide the landowner access easements to cross the Tulloch Lateral as the parcels are developed, if this project is approved by Stanislaus County. OID will also quitclaim the existing Grants of Easement from the OID PL-984 project. If OID can be of any further assistance, please do not hesitate to call me at (209) 847-0341, extension 237.

Sincerely,

OAKDALE IRRIGATION DISTRICT

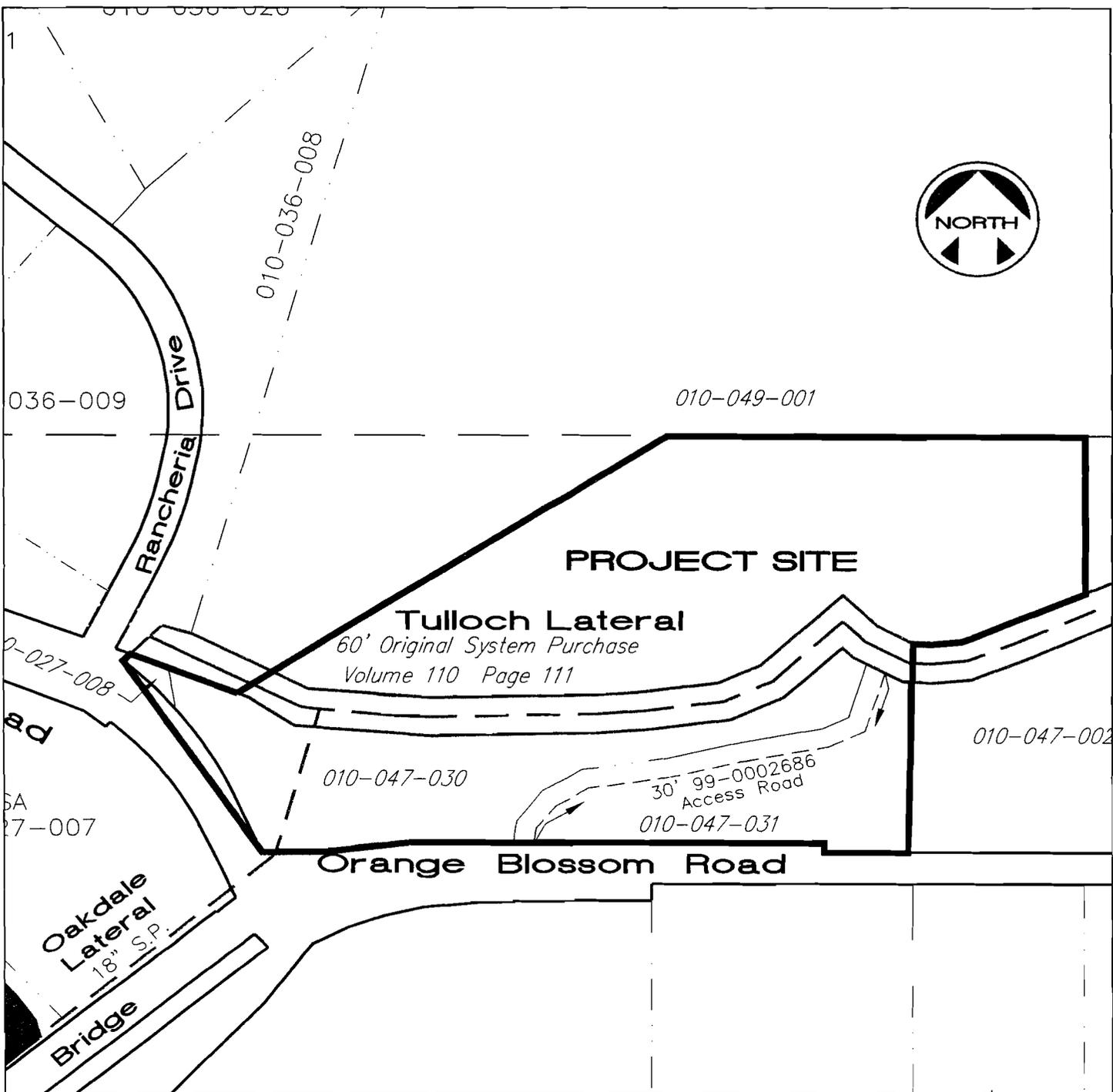


John B. Davids
Assistant, Engineer and
Support Services Manager

Enclosure: Project Site Map

cc: Administration Files

K:\Engineering\Joe Fos\CEQA\StanislausCounty\010-027-008bCEQA.doc



OAKDALE IRRIGATION DISTRICT
1205 EAST F STREET
OAKDALE CALIFORNIA 95361

PROJECT SITE MAP
TENTATIVE LOT-LINE ADJUSTMENT MAP
APN 010-049-001/010-047-030/031

DATE: Mar. 12, 2007
DRAWN BY: JDF
CHECKED BY: JBD

TULLOCH LATERAL

CAD FILE No.
2007-03-12-002
DWG. No. 1 of 1

- D. **VARIANCE APPLICATION NO. 2006-03 AND LOT LINE ADJUSTMENT APPLICATION NO. 2006-47 - HARDISTER** - This is a request to adjust parcel lines of three parcels (0.05, 2.7 and 608.75 acres) to form three parcels ranging in size from 5.4, 5.9 and 601 acres. Two proposed parcels (5.4 and 5.9 acres) are spilt-zoned between A-2-5 and A-2-40 (General Agriculture) zoning districts. The variance is needed to allow the 5.4 and 5.9 acre parcels to be below the minimum lot size of 40 acres. The property is located on the northeast corner of Rodden and Orange Blossom Roads, east of Oakdale. This project is exempt from CEQA. APN: 010-047-030, 002-023-010, 002-023-011, 010-049-001, and 010-027-008
Staff Report: Bill Carlson Recommends **DENIAL**.

7:20 p.m. Recessed
7:25 p.m. Reconvened

Public hearing opened.

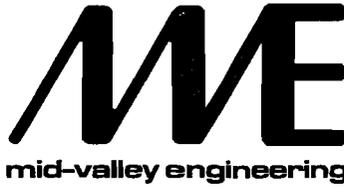
IN FAVOR OF PROJECT: David Mensonides, 710 Castle Street, Modesto; Ben Hardister, 7104 Del Rio Drive, Modesto; Virgil Thompson, 12311 Horseshoe Road, Oakdale.

AGAINST PROJECT: No one spoke.

Public hearing closed.

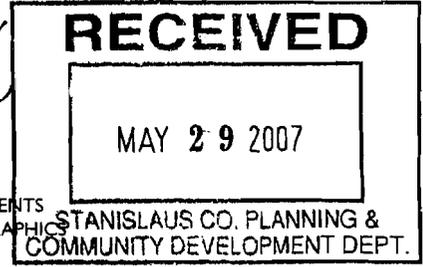
Assali/Gammon, 6-1 (Navarro), **APPROVED THE STAFF RECOMMENDATIONS AS OUTLINED IN THE STAFF REPORT AND DENIED THE PROJECT.**

<p style="text-align: center;">EXCERPT</p> <p style="text-align: center;">PLANNING COMMISSION</p> <p style="text-align: center;">MINUTES</p> <p style="text-align: center;"></p> <hr/> <p style="text-align: center;">Secretary, Planning Commission</p> <p style="text-align: center;"><u>JUNE 19, 2007</u></p> <hr/> <p style="text-align: center;">Date</p>



PROJECT MANAGEMENT • URBAN DESIGN • LAND PLANNING • ENTITLEMENTS
ENGINEERING • SURVEYING • CONSTRUCTION STAKING • MARKETING & GRAPHICS

*Je #108
#580
EROSION*



May 29, 2007

Chairman William O'Brien
Stanislaus County Board of Supervisors
1010 Tenth Street
Modesto, CA 95354

Subject: Variance Application No. 2006-03
Lot Line Adjustment Application No. 2006-47 – Hardister

Dear Chairman O'Brien,

On behalf of our client, Ben Hardister, we wish to appeal the decision to deny the above mentioned applications made by the Planning Commission at their regular meeting on May 17, 2007. Please refer to the following list of reasons to back up our request:

1. It is our opinion that any revised or modified proposal for a lot line adjustment or rezone would not receive more favorable consideration or recommendation from the planning department. Planning staff has not been supportive of this project since its submittal and has stated that to our client and members of our staff on numerous occasions.
2. We believe that the Board of Supervisors will view the proposed lot line adjustment as a more favorable option over the existing lot configuration, improving the neighborhood. Other parcels in the vicinity have the same type of land use with the same zoning and general plan designations, which proves a common theme among the neighborhood.
3. The staff report to the Planning Commission contained inconsistencies. It is our opinion that these inconsistencies may have led to bias against the project therefore necessitating the variance request. (Planning Commission Staff Report from May 17, 2007)
4. A letter from Mid-Valley Engineering containing revised findings was provided to the planning department that may strengthen the support for the findings. Unfortunately, the letter was submitted too late to be included as a part of the staff report. Our client was unwilling to continue the hearing because it was not believed that any favorable recommendation could be gained from the Planning Department.

I have attached a copy of the letter of findings that was submitted to Bill Carlson, Senior Planner for your reference. It is our belief that after a thorough review of the Planning Department's staff report and the additional findings letter, the Board of Supervisors will have adequate information to make an informed decision. Please do not hesitate to contact our office should you need additional information or have questions regarding this appeal.

Sincerely,

Julie M. Silva

Julie M. Silva
Director of Land Planning & Entitlements
Mid-Valley Engineering

CC: Ben Hardister



mid-valley engineering

PROJECT MANAGEMENT • URBAN DESIGN • LAND PLANNING • ENTITLEMENTS
ENGINEERING • SURVEYING • CONSTRUCTION STAKING • MARKETING & GRAPHICS

May 4, 2007

Bill Carlson
Stanislaus County Planning Department
1010 10th Street, Suite 3400
Modesto, CA 95354

Subject: Variance Statement of Findings
Hardister Property

The following Statement of Findings provides evidence for the justification of a variance request permitting a lot line adjustment between parcels 010-049-001; 010-047-030; 010-047-031. The project site is located at the northeastern corner of the intersection of Rodden and Orange Blossom Roads.

In lieu of rezoning 2 existing A-2-5 lots into a new zoning category the applicant requests that a variance be approved in conjunction with a lot line adjustment. This variance request enables the applicant to incorporate a portion of an adjacent lot zoned A-2-40 to modify two undersized parcels that are not in conformance with their designated A-2-5 zoning minimum lot size requirements. Adding this additional acreage will provide the applicant with two conforming A-2-5 zoned properties that complement lot sizes and development patterns on adjacent parcels. The subject land area to be incorporated is to be provided by a larger parcel with A-2-40 zoning. Approval of the lot line adjustment will provide the applicant with two parcels that are consistent in area as detailed by the zoning designations for A-2-5 parcels. The adjacent A-2-40 lot will remain zoned A-2-40 and will continue to conform to the minimum A-2-40 acreage requirements identified in the Stanislaus County Zoning Ordinance - Section 21.20.060. Currently, the County's minimum allowable lot area requirements deny the potentially highest and best use of the lots by eliminating the property owner's ability to provide complementary development that is congruent with adjacent rural residential development. This request enhances the applicant's opportunity to utilize the existing property at its highest and best use afforded in the A-2-5 zoning category and provides the property with privileges enjoyed by surrounding property with similar zoning.

This variance request is in accordance with adjacent residential development and permits a development style that complements the existing improvements on surrounding properties. The variance also allows for the continued agricultural activities found throughout adjacent properties.

This variance request is substantiated by the following findings:

1. The lots are located along a steep hillside with little depth from their frontage on Rodden and Orange Blossom Roads. As such, the topography and lot shape, combined with non-conforming acreage, eliminates development opportunities afforded to adjacent properties with similar zoning characteristics.

1117 L Street, Modesto, CA 95354 • 209.526.4214 • 209.526.0803 Fax • www.mve.net
CORPORATE: 200 W. Roseburg Avenue, Suite B2, Modesto, CA 95350 • 866.526.4214 • 209.526.0803 Fax
Modesto CA • Stockton CA • Reno NV • Scottsdale AZ

2. The County's existing zoning boundary for the subject properties follows the historical Tulloch Lateral easement and the existing lots delineated by the County create two parcels whose existing acreages do not conform to the minimum allowable area for a lot within the specified A-2-5 or A-2-40 zoning categories (Zoning Ordinance - Section 21.20.060.B.2). Upon the approval of the LLA, the resultant parcels will adhere to the minimum A-2-5 lot size requirements as required by the County's zoning designation. The granting of a variance to allow dual zoning within the enhanced lots does not represent a special privilege as dual zoning currently already exists in that location. Additionally, the ultimate development of the parcels does not contemplate any improvement beyond that which would be allowable under typical A-2-5 zoning standards.
3. The existing bifurcation of these properties creates mixed zoning designations within individual parcels. This variance request permits the development of two lots that are in accordance with the A-2-5 minimum lot size standards while identified as having a split zoning designation.
4. The enhanced parcel configuration resulting from adjustment of the lot lines, creates lot sizes that are properly designed for permissible uses within the existing zoning categories. Adjacent, permitted uses will not lose their operational vested rights or be impinged upon by the future development that is permitted under the A-2-5 zoning category. This variance request will not increase the residential density currently permitted within the existing A-2-5 zoning designation, maintaining the area's density at 1 dwelling unit (single-family residence) per 5 acres. The adjoining properties and the public welfare will in fact benefit from the superior placement of access points in relation to the intersection of Rodden Road and Orange Blossom Road. Without incorporation of the additional property, it is inevitable that existing trees would have to be removed to accommodate improvements.
5. The variance request is not detrimental to or in conflict with agricultural or residential uses of adjacent and surrounding property.

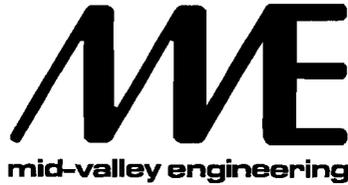
We respectfully request the County's approval of this variance request with the intent that the lots are provided the development opportunities provided in the A-2-5 zoning category, which brings the lots in accordance with the Stanislaus County General Plan and Zoning Ordinance and providing the applicant its highest and best use.

Please contact me if you have questions or concerns relating to this variance request or to discuss any items associated with this request.

Regards,
Mid-Valley Engineering

Scott Phillips
Senior Land Planner

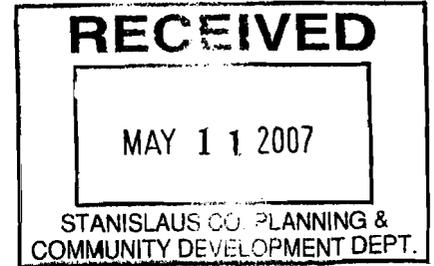
cc: Ben Hardister
Brian Hall



PROJECT MANAGEMENT • URBAN DESIGN • LAND PLANNING • ENTITLEMENTS
ENGINEERING • SURVEYING • CONSTRUCTION STAKING • MARKETING & GRAPHICS

May 4, 2007

Bill Carlson
Stanislaus County Planning Department
1010 10th Street, Suite 3400
Modesto, CA 95354



Subject: Variance Statement of Findings
Hardister Property

The following Statement of Findings provides evidence for the justification of a variance request permitting a lot line adjustment between parcels 010-049-001; 010-047-030; 010-047-031. The project site is located at the northeastern corner of the intersection of Rodden and Orange Blossom Roads.

In lieu of rezoning 2 existing A-2-5 lots into a new zoning category the applicant requests that a variance be approved in conjunction with a lot line adjustment. This variance request enables the applicant to incorporate a portion of an adjacent lot zoned A-2-40 to modify two undersized parcels that are not in conformance with their designated A-2-5 zoning minimum lot size requirements. Adding this additional acreage will provide the applicant with two conforming A-2-5 zoned properties that complement lot sizes and development patterns on adjacent parcels. The subject land area to be incorporated is to be provided by a larger parcel with A-2-40 zoning. Approval of the lot line adjustment will provide the applicant with two parcels that are consistent in area as detailed by the zoning designations for A-2-5 parcels. The adjacent A-2-40 lot will remain zoned A-2-40 and will continue to conform to the minimum A-2-40 acreage requirements identified in the Stanislaus County Zoning Ordinance - Section 21.20.060. Currently, the County's minimum allowable lot area requirements deny the potentially highest and best use of the lots by eliminating the property owner's ability to provide complementary development that is congruent with adjacent rural residential development. This request enhances the applicant's opportunity to utilize the existing property at its highest and best use afforded in the A-2-5 zoning category and provides the property with privileges enjoyed by surrounding property with similar zoning.

This variance request is in accordance with adjacent residential development and permits a development style that complements the existing improvements on surrounding properties. The variance also allows for the continued agricultural activities found throughout adjacent properties.

This variance request is substantiated by the following findings:

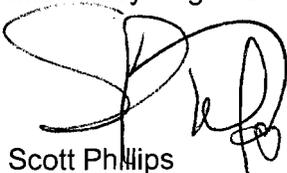
1. The lots are located along a steep hillside with little depth from their frontage on Rodden and Orange Blossom Roads. As such, the topography and lot shape, combined with non-conforming acreage, eliminates development opportunities afforded to adjacent properties with similar zoning characteristics.

2. The County's existing zoning boundary for the subject properties follows the historical Tulloch Lateral easement and the existing lots delineated by the County create two parcels whose existing acreages do not conform to the minimum allowable area for a lot within the specified A-2-5 or A-2-40 zoning categories (Zoning Ordinance - Section 21.20.060.B.2). Upon the approval of the LLA, the resultant parcels will adhere to the minimum A-2-5 lot size requirements as required by the County's zoning designation. The granting of a variance to allow dual zoning within the enhanced lots does not represent a special privilege as dual zoning currently already exists in that location. Additionally, the ultimate development of the parcels does not contemplate any improvement beyond that which would be allowable under typical A-2-5 zoning standards.
3. The existing bifurcation of these properties creates mixed zoning designations within individual parcels. This variance request permits the development of two lots that are in accordance with the A-2-5 minimum lot size standards while identified as having a split zoning designation.
4. The enhanced parcel configuration resulting from adjustment of the lot lines, creates lot sizes that are properly designed for permissible uses within the existing zoning categories. Adjacent, permitted uses will not lose their operational vested rights or be impinged upon by the future development that is permitted under the A-2-5 zoning category. This variance request will not increase the residential density currently permitted within the existing A-2-5 zoning designation, maintaining the area's density at 1 dwelling unit (single-family residence) per 5 acres. The adjoining properties and the public welfare will in fact benefit from the superior placement of access points in relation to the intersection of Rodden Road and Orange Blossom Road. Without incorporation of the additional property, it is inevitable that existing trees would have to be removed to accommodate improvements.
5. The variance request is not detrimental to or in conflict with agricultural or residential uses of adjacent and surrounding property.

We respectfully request the County's approval of this variance request with the intent that the lots are provided the development opportunities provided in the A-2-5 zoning category, which brings the lots in accordance with the Stanislaus County General Plan and Zoning Ordinance and providing the applicant its highest and best use.

Please contact me if you have questions or concerns relating to this variance request or to discuss any items associated with this request.

Regards,
Mid-Valley Engineering



Scott Phillips
Senior Land Planner

cc: Ben Hardister
Brian Hall