

STANISLAUS COUNTY PLANNING COMMISSION

May 5, 2016

STAFF REPORT

VARIANCE APPLICATION NO. PLN2016-0021
GALLO GLASS – TENAYA DRIVE

REQUEST: A VARIANCE FROM THE REQUIRED SIDE YARD SETBACK FOR A PROPOSED 42,240 SQUARE-FOOT WAREHOUSE EXPANSION.

APPLICATION INFORMATION

Property Owner:	Gallo Glass Co.
Agent:	Rod Hawkins, Hawkins & Associates Engineering Inc.
Location:	Tenaya Drive, east of Santa Rita Avenue, west of S. Santa Cruz Avenue.
Section, Township, Range:	33-3-9
Supervisory District:	Four (Supervisor Monteith)
Assessor's Parcel:	035-012-001; 035-012-002; 035-012-003; 035-012-004; 035 012-005
Referrals:	See Exhibit E Environmental Review Referrals
Area of Parcel(s):	.75± acres
Water Supply:	City of Modesto
Sewage Disposal:	City of Modesto
Existing Zoning:	M (Industrial)
General Plan Designation:	IND (Industrial)
Sphere of Influence:	Modesto
Community Plan Designation:	N/A
Williamson Act Contract No.:	N/A
Environmental Review:	Exempt (CEQA Guidelines Section 15305)
Present Land Use:	Vacant lots, single-family dwelling
Surrounding Land Use:	To the north single-family dwellings, and vacant residential lots; to the east Gallo Glass bulk storage, and multiple-family dwellings; to the south Gallo warehousing; to the west Gallo Glass warehousing.

RECOMMENDATION

Staff recommends the Planning Commission approve this request based on the discussion below and on the whole of the record provided to the County. If the Planning Commission decides to approve the project, Exhibit A provides an overview of all of the findings required for project approval, which includes Variance findings.

BACKGROUND

Gallo Glass Company has been in operation since 1958. The Gallo Glass plant site has been approved for expansion under multiple General Plan Amendment and Rezone requests dating back to the 1980's resulting in blocks of land being re-designated, rezoned for, and developed with industrial uses.

In 2012, Gallo Glass Company applied for a General Plan Amendment and Rezone application (PLN 2012-0037) on a 12.2± property directly south of and adjoining to the project site. The project changed the General Plan designation from IT (Industrial Transition) to Industrial (IND) and rezoned the property from R-1/R-2 (Single-Family and Medium Density Residential) to M (Industrial). The project allowed Gallo Glass to expand its storage operations.

In 2015, Gallo Glass Company applied for a General Plan Amendment and Rezone application (PLN2015-0021) on a 2.5 ± acre site, which includes the current project site. This request changed the General Plan designation from IT (Industrial Transition) to IND (Industrial), and the zoning designation from R-1 (Single-Family Residential) to M (Industrial).

Both the 2012 and 2015 project site areas are reflected in Exhibit B. - *Maps, Site Plan.*

PROJECT DESCRIPTION

The applicant requests a variance from the 10-foot side yard setback requirement of the M zoning district in order to develop a 42,240 square-foot warehouse expansion with an 8.11-foot encroachment into the side yard setback.

SITE DESCRIPTION

The project site is located on the south side of Tenaya Drive, south of Yosemite Boulevard, east of Santa Rita Avenue, and west of S. Santa Cruz Avenue, inside the LAFCO approved Sphere of Influence for the City of Modesto.

The project site consists of five (5) parcels, totaling .75± acres, in addition to a portion of an abandoned alley and road right-of-way. Four (4) of the five (5) parcels are vacant residential lots, while one single-family dwelling remains on the corner of Hermosa Avenue and Tenaya Drive. All five (5) of the project parcels are owned by Gallo Glass Company.

This variance application is being processed concurrently with Lot Merger Application No. PLN2015-0065, which is being prepared administratively by staff. The Merger application would unite nine parcels creating a 10.54± acre parcel, including the project site.

Surrounding land uses include single-family dwellings, vacant residential lots, and a park to the north, a church, Gallo Glass bulk storage, and multiple-family dwellings to the east; Gallo Glass warehousing to the south; and Gallo Glass warehousing to the west.

ISSUES

The following issue has been identified as part of the review of this project:

Street Classification and Disposition

Tenaya Drive is classified as a 60-foot-wide Local Road. Tenaya Drive's current street right-of-way width varies north of the project site, with only 25 feet of the required 30-foot right-of-way south of the centerline having been dedicated along the project site.

Public Works has requested a 5-foot Irrevocable Offer of Dedication along Tenaya Drive to bring the ultimate roadway right-of-way width to a 60 foot wide Local street (30 feet south of the centerline.) The applicant has submitted the variance application, along with a building permit, reflecting only a 25-foot road right-of-way south of the centerline, thus requesting only a 3.11-foot variance. (See Exhibit B, - *Maps, Site Plan.*)

The proposed street improvements (including curb, gutter, and sidewalk) will be installed within the proposed Tenaya road dedication. Public Works has identified that as Gallo continues to expand their industrial operations north of Tenaya Drive, there exist a real potential to formally abandon Tenaya Drive, resulting in no need to exercise an Irrevocable Offer of Dedication. With the understanding of the dedication in place, planning staff views the variance request as an 8.11-foot encroachment into the right-of-way, rather than a 3.11-foot encroachment proposed by the applicant.

As the Gallo Glass and Winery plants expand, Tenaya Drive is expected to be abandoned and incorporated into the plant site – resulting in a temporary development condition that requires approval of a setback variance. A complete discussion of the findings required for approval of a variance are provided in the Variance Findings section of this report below.

GENERAL PLAN CONSISTENCY

The site is currently designated IND (Industrial) in the Stanislaus County General Plan. The intent of this designation is to indicate areas for various forms of light or heavy industrial uses, including, but not limited to, manufacturing and warehousing. Generally, the Industrial designation shall be used in areas where public sewer and water are available. The Beard Tract on the south side of Yosemite is one of several industrial areas in Modesto.

The project site is located within the City of Modesto's Local Agency Formation Commission's (LAFCO) adopted Sphere of Influence. The Implementation Measures for Policy 24 require that all discretionary development proposals within the Sphere of Influence or areas of specific designation of a city shall be referred to that city to determine whether or not the proposal shall be approved and whether it meets its development standards.

Development, other than agricultural uses and churches, which requires discretionary approval and is within the Sphere of Influence of cities or in areas of specific designation created by agreement (e.g., Sperry Avenue and East Las Palmas Corridors), shall not be approved unless first approved by the city within whose Sphere of Influence it lies or by the city for which areas of specific designation were agreed. Development requests within the Spheres of Influence or areas of specific designation of any incorporated city shall not be approved unless the development is consistent with agreements with the cities which are in effect at the time of project consideration. Such development must meet the applicable development standards of the affected city as well as any public facilities fee collection agreement in effect at the time of project consideration. A variance in the industrial zone is an urban, non-agricultural use.

The project was referred to the City of Modesto during the Early Consultation review. The project site is designated Industrial in the City's General Plan Land Use Diagram, therefore City staff has expressed no objection to the variance request.

ZONING ORDINANCE CONSISTENCY

The site is currently zoned M (Industrial). Wholesale and distribution establishments are allowed as permitted uses by right in the M zoning district and only require issuance of a County Business License.

The Stanislaus County Zoning Ordinance limits the placement of structures in excess of three (3) feet in height within the front yard setback, which is the area not less than 45 feet from the existing centerline of a designated Local street (60 feet wide). The side yards of corner lots may be five (5) feet less than the required front yard. In the case of this project, the side yard setback requirement is 40 feet from the centerline of Tenaya Road; 10 feet from the ultimate road right-of way line.

With the exception of the side yard setback requirements, the proposed warehouse meets all other zoning district standards.

VARIANCE FINDINGS

Variances may be approved in situations where property site physical characteristics exists that limit the enjoyment of development rights experienced by other properties within the same zoning designation, resulting in unnecessary hardships, from the strict application of provisions of the Zoning Ordinance. Chapter 21.84 - Variances of the Stanislaus County Zoning Ordinance, requires the Planning Commission determine if it can make certain findings in order to approve a variance application.

The following are the required variance findings along with the applicant's proposed justification, and staff justification for the variance approval:

- (a) That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this title will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.

The proposed warehouse expansion was designed to correspond with the vertical alignment of Gallo's warehousing west of Santa Rita Avenue. These two warehouses may be combined in the future to form one larger warehouse, as Gallo has already partially abandoned Santa Rita Avenue, south of Tenaya Drive. The proposed expansion of the existing warehouse is 192 feet by 220 feet. These dimensions line up symmetrically with the existing warehouse structure to the south. By maintaining the same development pattern to the south, it will result in a 3.11-foot encroachment, or an 8.11 foot with the proposed dedication, into the required exterior side yard setback in the north-eastern corner of the project site.

- (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.

Through the process of expansion and growth in the area, Gallo has, and continues to abandon County-maintained roads. Gallo has already abandoned Hermosa and S. Santa Ana Avenues, which are east of the proposal, and partially abandoned Santa Rita Avenue south of Tenaya, which is west of the project site. Gallo currently owns 11 of 27 residential lots north of Tenaya Drive, south of the MID Lateral. These parcels are currently designated IT (Industrial Transition) meaning that the designation is intended for lands within spheres of influence, which for the most part, are not zoned or developed for industrial usage, but lie in the path of a valid expansion of a contiguous industrial area. As Gallo continues to buy properties north of Tenaya, it will contribute to the expanding industrial development, which could lead to the future abandonment of Tenaya Drive.

- (c) That the granting of the 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 the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

The structure will not affect the health or safety of the neighborhood. The applicant will be installing safety improvements including curb, gutter, and sidewalk as standard development. The loss of 3.11 feet within the setback will come from the landscaped area between the sidewalk and the planned street line.

As discussed earlier, staff views the variance request as an 8.11-foot encroachment and not 3.11 feet due to the additional roadway dedication required as part of the warehouse development. Despite this discrepancy, the setback area lost as a result of this variance will come from the landscaped area between the sidewalk and Tenaya Drive.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to all interested parties and responsible agencies for review and comment and no significant issues were raised. Staff is considering the project Exempt under Section 15305 "Minor Alterations in Land Use Limitations" of the California Code of Regulations (CEQA Guidelines) and no mitigation measures can be imposed on the project. A Notice of Exemption has been prepared for approval as the project meets the criteria for a CEQA categorical exemption. (See Exhibit D – *Notice of Exemption*.) Standard Conditions of Approval have been incorporated into the project. (See Exhibit C - *Conditions of Approval*.)

Contact Person: Timothy Vertino, Assistant Planner, (209) 525-6330

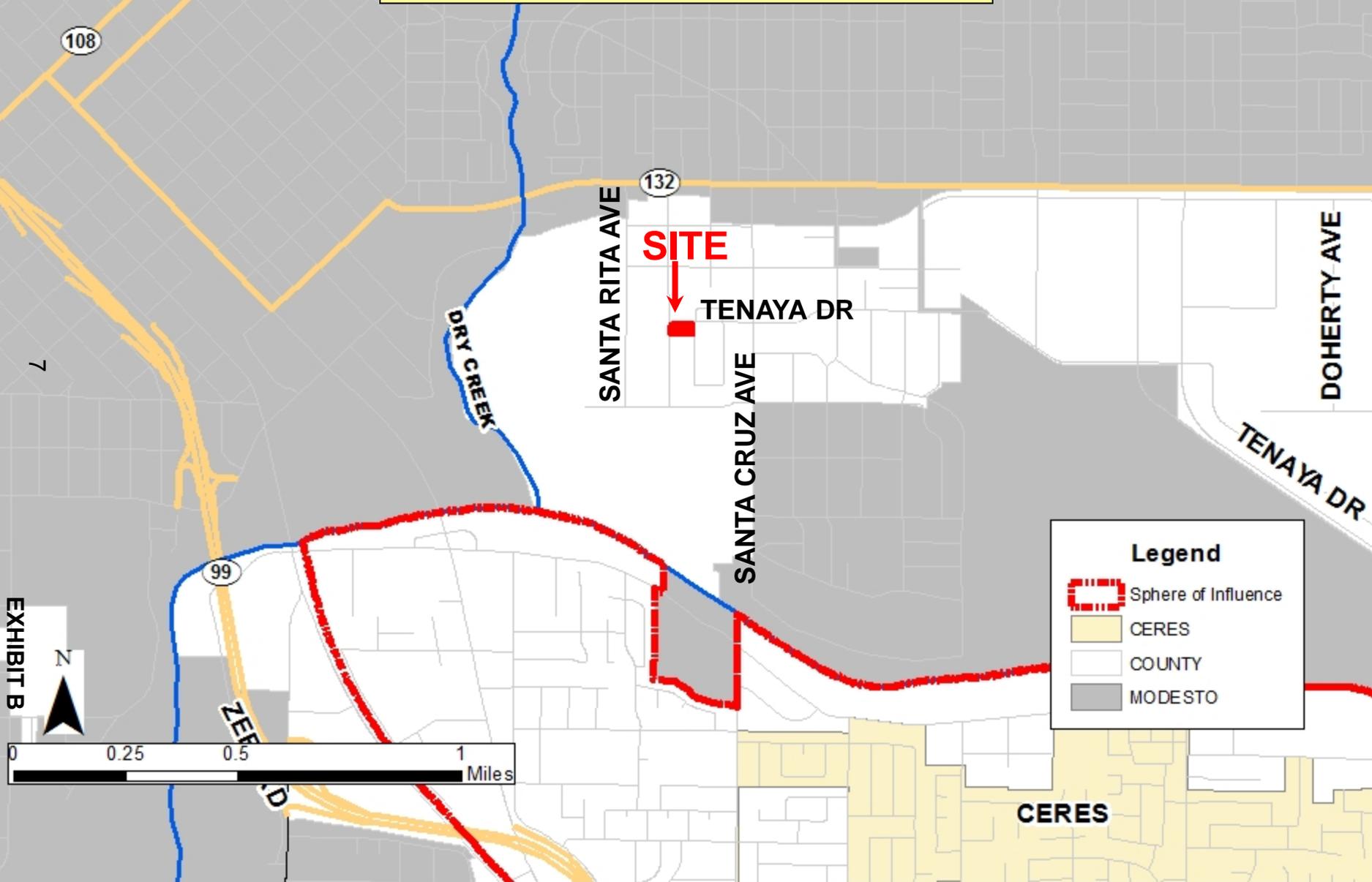
Attachments:

- Exhibit A - Findings and Actions Required for Project Approval
- Exhibit B - Maps, Site Plan
- Exhibit C - Conditions of Approval
- Exhibit D - Notice of Exemption
- Exhibit E - Environmental Review Referral

Exhibit A
Findings and Actions Required for Project Approval

1. Find that there is no substantial evidence the project will have a significant effect on the environment and that the Exemption reflects Stanislaus County's independent judgment and analysis.
2. Find the project is generally exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15035 and order the filing of a Notice of Exemption.
3. Find that:
 - (a) That because of special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, the strict application of this title will deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications.
 - (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 the 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 the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
 - (d) The project will increase activities in and around the project area, and increase demands for roads and services, thereby requiring dedication and improvements.
4. Approve Variance Application No. PLN2016-0021 - Gallo Glass – Tenaya Drive, subject to the attached Conditions of Approval.

**VAR PLN2016-0021
GALLO GLASS – TENAYA DR.
AREA MAP**



Legend

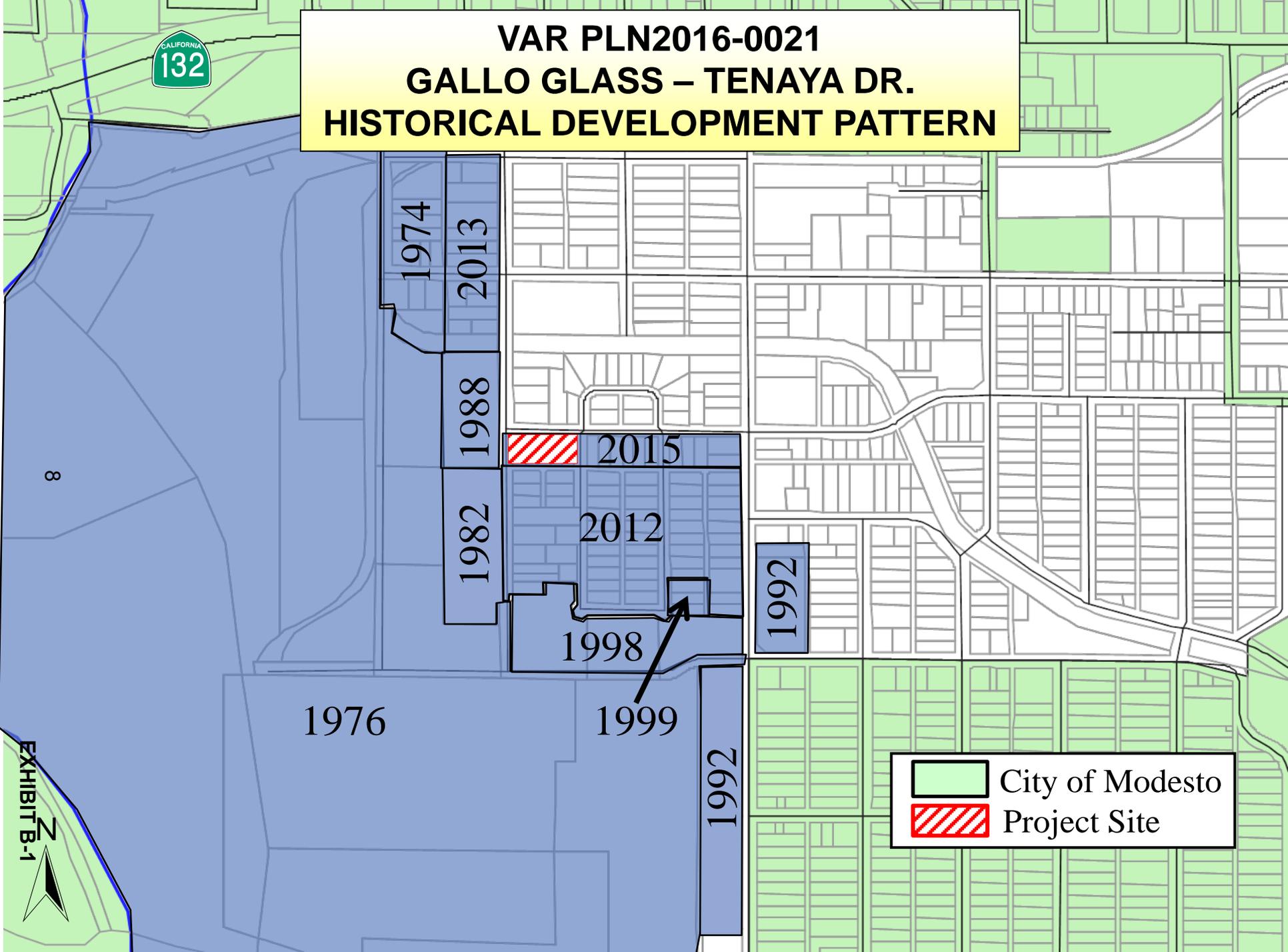
- Sphere of Influence
- CERES
- COUNTY
- MODESTO

EXHIBIT B

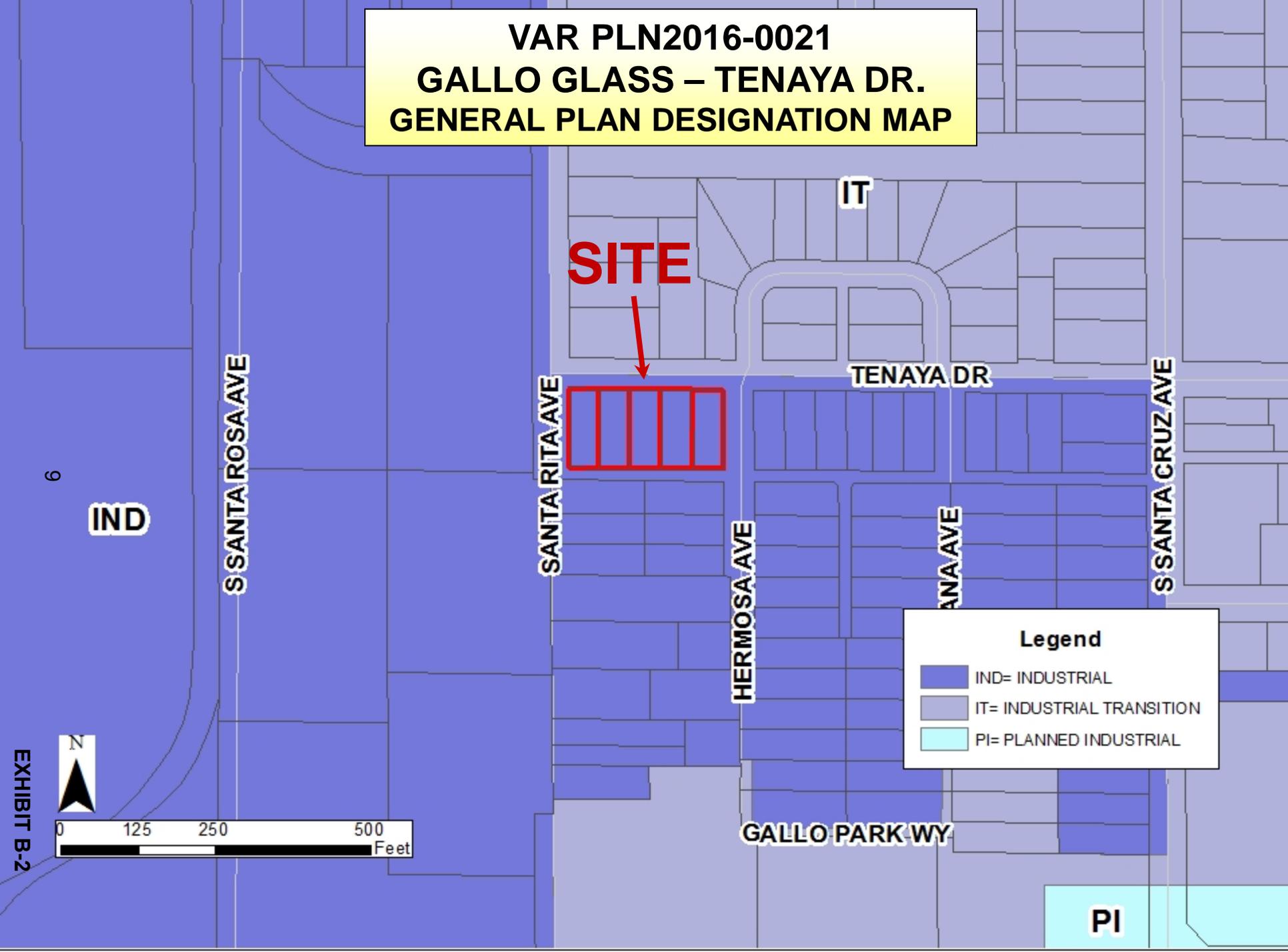
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0 0.25 0.5 1 Miles

**VAR PLN2016-0021
GALLO GLASS – TENAYA DR.
HISTORICAL DEVELOPMENT PATTERN**



**VAR PLN2016-0021
GALLO GLASS – TENAYA DR.
GENERAL PLAN DESIGNATION MAP**



SITE



IT

TENAYA DR

SANTA RITA AVE

HERMOSA AVE

ANA AVE

S SANTA CRUZ AVE

IND

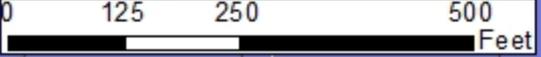
S SANTA ROSA AVE

Legend

- IND= INDUSTRIAL
- IT= INDUSTRIAL TRANSITION
- PI= PLANNED INDUSTRIAL

GALLO PARK WY

PI



6

EXHIBIT B-2

**VAR PLN2016-0021
GALLO GLASS- TENAYA DR.
ZONING DESIGNATION MAP**

SITE



R-1

R-3

TENAYA DR

S SANTA CRUZ AVE

S SANTA ROSA AVE

SANTA RITA AVE

HERMOSA AVE

AVE

GALLO PARK WY

Legend

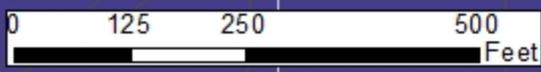
- C-1= NEIGHBORHOOD COMM
- M= INDUSTRIAL
- P-D= PLANNED DEVELOPMENT
- R-1= SINGLE FAMILY RES
- R-3= MULTIPLE FAMILY RES

P-D (192)

C-1

10

M



**VAR PLN2016-0021
GALLO GLASS – TENAYA DR.
2015 COUNTY AERIAL**



TENAYA DR

SANTARITA AVE

HERMOSA AVE

S SANTA ANA AVE

GALLO PARK WY

S SANTA CRUZ AVE

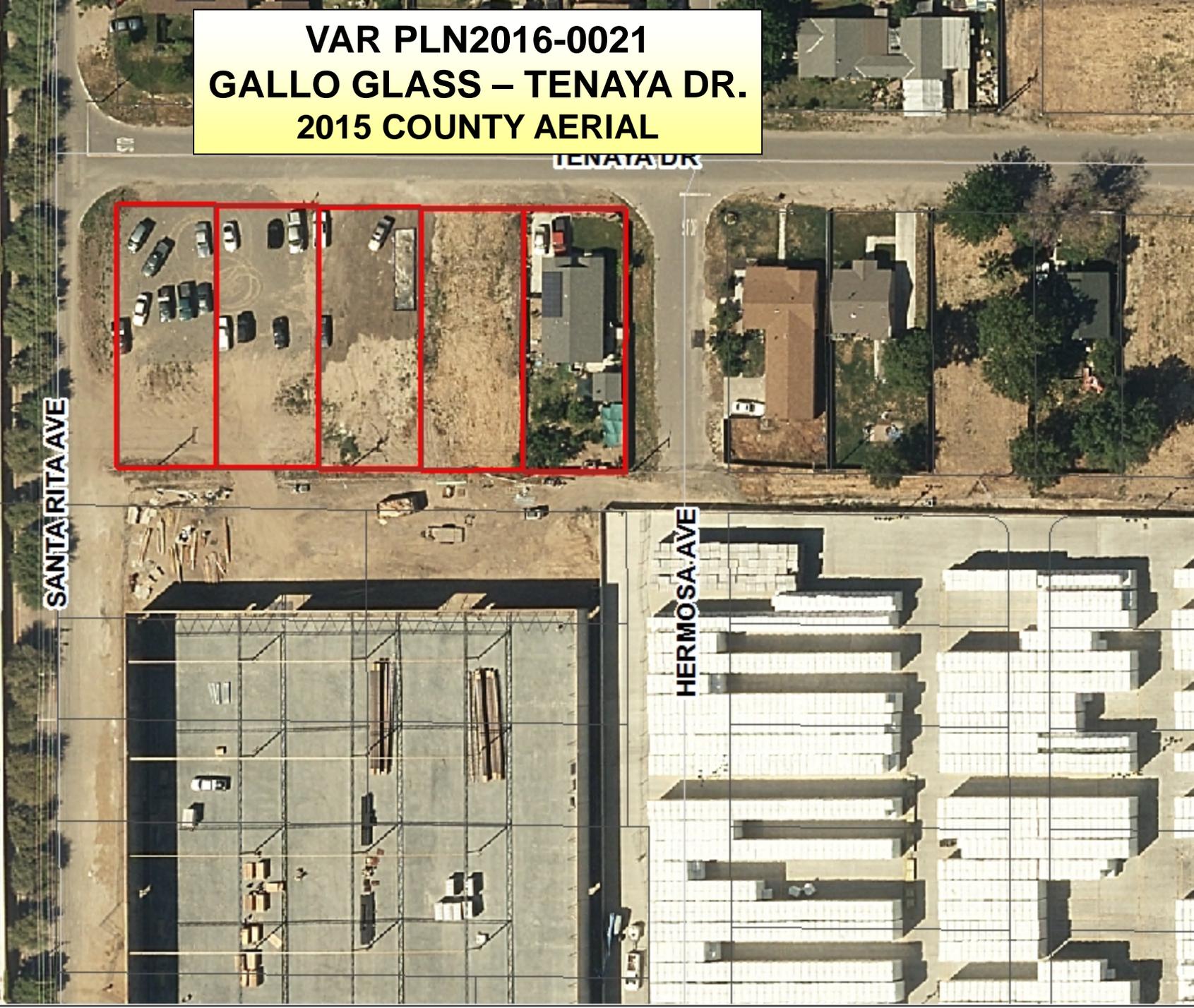
CANAL ST

OREGON DR

11

EXHIBIT B-4

**VAR PLN2016-0021
GALLO GLASS – TENAYA DR.
2015 COUNTY AERIAL**



SANTARITA AVE

TENAYA DR

HERMOSA AVE

**VAR PLN2016-0021
GALLO GLASS – TENAYA DR.
2015 COUNTY AERIAL – AFTER LOT MERGER**



TENAYA DR

SANTA RITA AVE

HERMOSA AVE

S SANTA ANA AVE

S SANTA CRUZ AVE

CANAL ST

GALLO PARK WY

OREGON DR

13

EXHIBIT B-6

VAR PLN2016-0021 GALLO GLASS – TENAYA DR. SITE PLAN

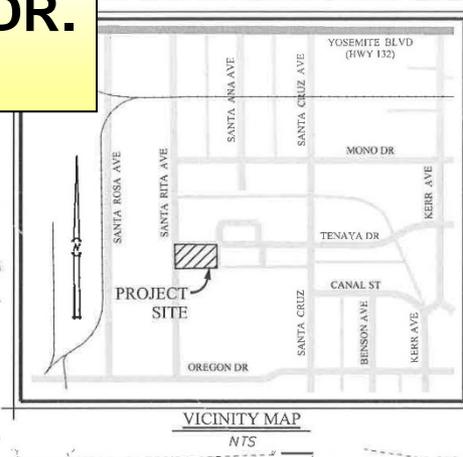
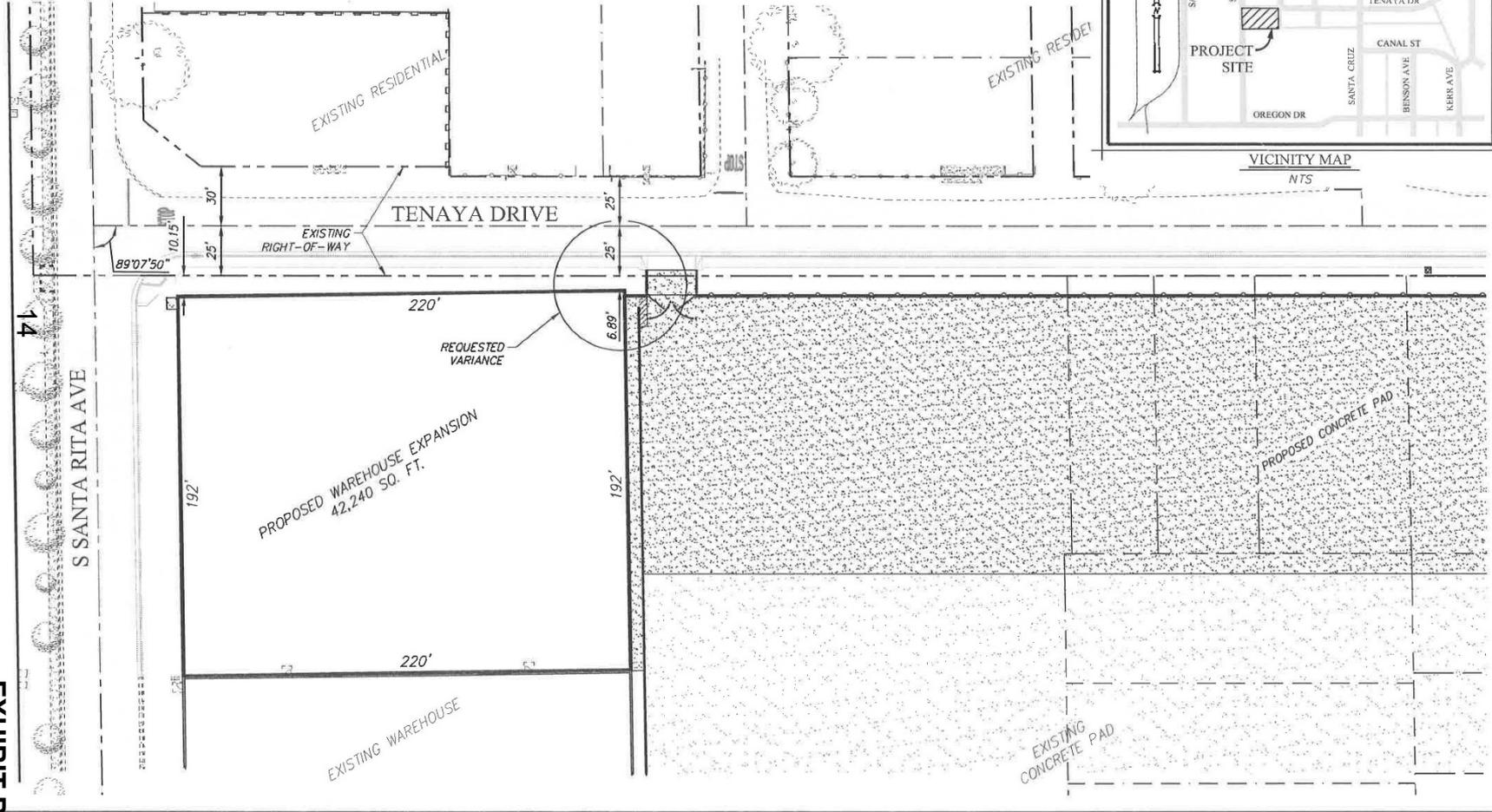


EXHIBIT B-7

BY: RCS
CHK: RHH
DATE: 3/2016
SCALE: 1"=50'

PLOT PLAN
VARIANCE
GALLO GLASS COMPANY
STANISLAUS COUNTY, CALIFORNIA

HAWKINS & ASSOCIATES
ENGINEERING, INC.
436 MITCHELL ROAD
MORISTO, CA 95354
PH: (209) 575-4295
FX: (209) 578-4295

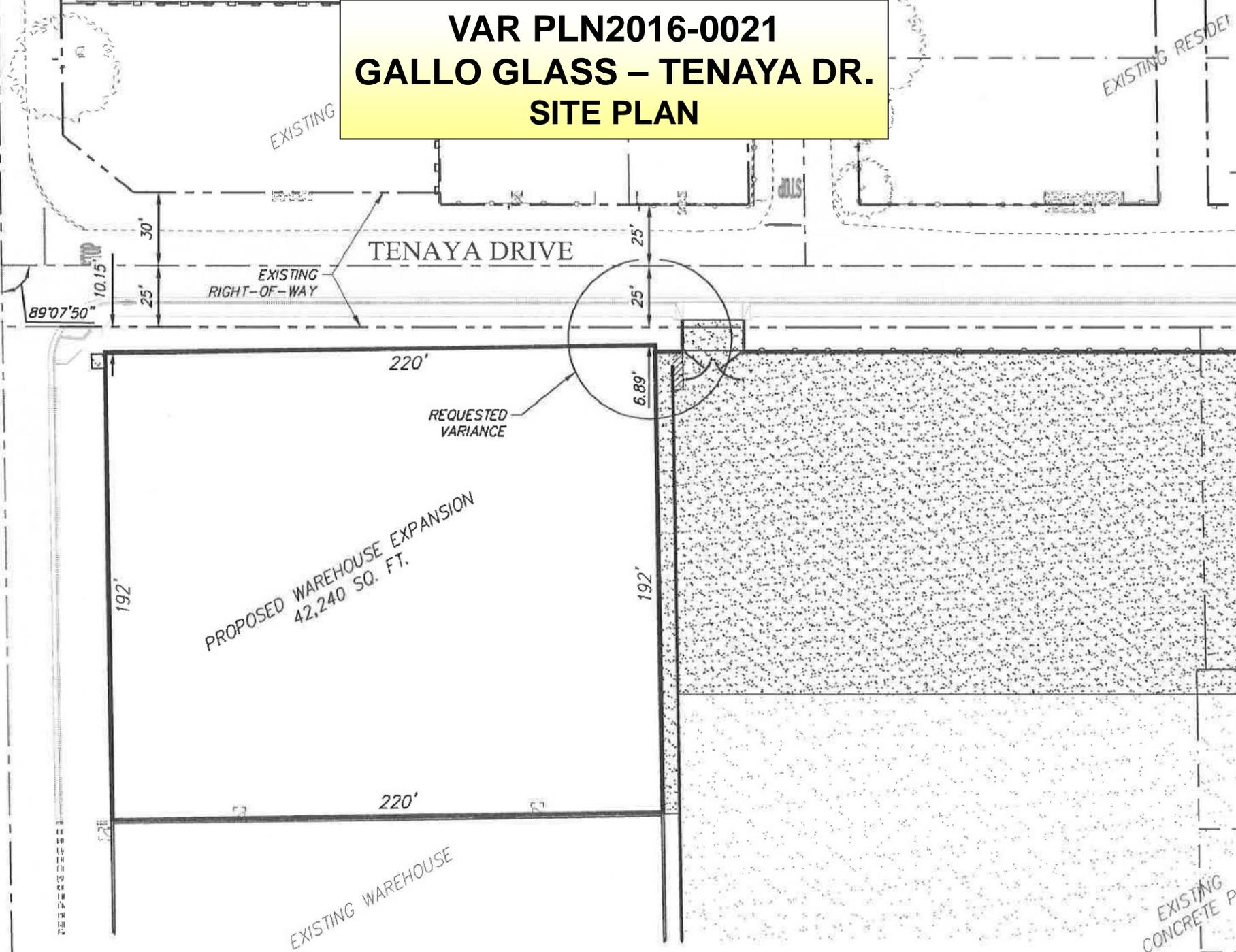
1 OF 1

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**VAR PLN2016-0021
GALLO GLASS – TENAYA DR.
SITE PLAN**

S SANTA RITA AVE

EXHIBIT B-8



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

CONDITIONS OF APPROVAL

VARIANCE APPLICATION NO. PLN2016-0021 GALLO GLASS – TENAYA DRIVE

Department of Planning and Community Development

1. Use(s) shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. 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.
3. The applicant/owner is required to defend, indemnify, or hold harmless the County, its officers, and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
4. All exterior lighting shall be designed (aimed down and toward the site) to provide adequate illumination without a glare effect. This shall include, but not be limited to, the use of shielded light fixtures to prevent skyglow (light spilling into the night sky) and the installation of shielded fixtures to prevent light trespass (glare and spill light that shines onto neighboring properties).
5. Any construction resulting from this project shall comply with standardized dust controls adopted by the San Joaquin Valley Air Pollution Control District (SJVAPCD) and may be subject to additional regulations/permits, as determined by the SJVAPCD.
6. 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.
7. 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. The Central California Information Center shall be notified if the find is deemed historically or culturally significant.

8. Lot Merger (PLN2015-0065) shall be recorded prior to the issuance of a building permit.

Building Permits Division

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

Public Works

10. Tenaya Drive is classified as 60-foot Local Road. The required ½ width of Tenaya Drive is 30 feet wide south of the centerline of the roadway. If 30 feet of the road right-of-way does not exist, then the remainder 30 feet shall be dedicated with an Irrevocable Offer of Dedication for the parcel frontage.
11. No parking, loading or unloading of vehicles will be permitted within the Tenaya Drive right-of-way.

*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.*

STANISLAUS COUNTY
DEPARTMENT OF PLANNING AND
COMMUNITY DEVELOPMENT
1010 10th Street, Suite 3400
Modesto, California 95354

NOTICE OF EXEMPTION

Project Title: VAR APPLICATION NO. PLN2016-0021 – GALLO GLASS – TENAYA DR.

Applicant Information: Rod Hawkins, Hawkins & Associates Engineering Inc.

Project Location: Tenaya Drive, east of Santa Rita Ave, west of S. Santa Cruz Ave, inside the City of Modesto's Sphere of Influence (APN: 035-012-001; 035-012-002; 035-012-003; 035-012-004; 035-012-005).

Description of Project: A variance from the required side yard setback for a proposed 42,240 square-foot warehouse expansion, located at the southeast corner of Tenaya Drive & Santa Rita Avenue. The warehouse would be located 31.89± feet from centerline of Tenaya Drive.

Name of Agency Approving Project: Stanislaus County Planning Commission

Lead Agency Contact Person: Timothy Vertino, Assistant Planner

Telephone: (209) 525-6330

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: Minor Alteration in Land Use Limitations. 15305.
- Statutory Exemptions. State code number: _____
- General Exemption.

Reasons why project is exempt: The proposed variance is in regards to local zoning ordinance setback requirements for a side yard – corner lot. The proposed infill development is consistent with the surrounding industrial character of the area, and will not change any land use, or density.

4-29-2016 _____
Dated

Signature on file. _____
Timothy Vertino
Assistant Planner

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: VARIANCE NO. PLN2016-0021 - GALLO GLASS - TENAYA DR

REFERRED TO:			RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS	
	2 WK	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
CA OPR STATE CLEARINGHOUSE	X	X	X				X		X		X
CITY OF: MODESTO	X	X		X							
FIRE PROTECTION DIST: STAN CONSOLIDATED FIRE	X	X		X							
IRRIGATION DISTRICT: MODESTO	X	X		X							
PACIFIC GAS & ELECTRIC	X	X		X							
RAILROAD: MODESTO & EMPIRE TRACTION	X	X		X							
STAN CO BUILDING PERMITS DIVISION	X	X		X							
STAN CO CEO	X	X		X							
STAN CO DER	X	X		X							
STAN CO ERC	X	X	X						X		X
STAN CO HAZARDOUS MATERIALS	X	X		X							
STAN CO PUBLIC WORKS	X	X	X				X		X	X	
STAN CO SHERIFF	X	X		X							
STAN CO SUPERVISOR DIST 4: MONTEITH	X	X		X							
STAN COUNTY COUNSEL	X	X		X							
STANISLAUS FIRE PREVENTION BUREAU	X	X		X							
STANISLAUS LAFCO	X	X		X							
SURROUNDING LAND OWNERS	X	X		X							