

STANISLAUS COUNTY PLANNING COMMISSION

June 7, 2007

STAFF REPORT

USE PERMIT APPLICATION 2007-09 EUGENE & DOROTHY WAINWRIGHT

REQUEST: TO CONSTRUCT A 4,500 SQUARE FOOT SINGLE-FAMILY DWELLING ON A 10-ACRE PARCEL IN THE A-2-40 (GENERAL AGRICULTURE) ZONING DISTRICT. THE PROPERTY IS LOCATED ON THE NORTH SIDE OF SERVICE ROAD, WEST OF TULLY ROAD, EAST OF MOUNTAIN VIEW ROAD, HUGHSON AREA.

APPLICATION INFORMATION

Owner/Applicant:	Eugene Wainwright
Location:	North side of Service Road, approximately 650 feet east of Mountain View Road, in the Hughson area
Section, Township, Range:	16-4-10
Supervisory District:	District Two (Supervisor Mayfield)
Assessor's Parcel:	018-050-028
Referrals:	See Exhibit "D"
Area of Parcel:	10 acres
Water Supply:	Private well
Sewage Disposal:	Septic tank/leach field system
Existing Zoning:	A-2-40 (General Agriculture)
General Plan Designation:	Agriculture
Williamson Act:	93-4245
Environmental Review:	Categorically Exempt
Present Land Use:	Almond Orchard
Surrounding Land Use:	Mixture of small to medium sized properties containing dwellings, mostly planted in almonds and peaches.

PROJECT DESCRIPTION

This Use Permit is being requested for the purpose of allowing construction of a 4,500 square foot single-family dwelling on a 10-acre site located in the A-2-40 (General Agriculture) zoning district. The applicants, Eugene & Dorothy Wainwright, are the owners of the land. The house would be served with private well and septic tank. As shown on the plot plan, the new home would be placed near the southwest corner of the parcel, placing it nearest to the existing access easement that runs through the adjoining site (APN: 018-050-029) and gives the property access to Service Road. Service Road, which is a County maintained road, provides indirect access to this parcel. The remainder of the site is planted in almonds.

Records submitted by the applicants show this parcel was created in 1909 and acquired by the present owners last year. There are quite a number of parcels of less than 20 acres in the vicinity. As can be seen on the "Exhibit A" aerial photo with existing residences, most of these parcels already have houses on them. It is, therefore, unlikely this use permit, if granted, would lead to additional requests for development of small parcels.

SITE DESCRIPTION

The property is level land used to produce almonds. It is located south of the City of Hughson. The area contains a significant number of small and medium sized parcels, but there, nevertheless, is a significant amount of it devoted to agriculture, with almonds being a predominant crop in the neighborhood. Although the attached aerial photograph (Exhibit A) indicates the site is entirely vacant, the property is planted in almonds.

DISCUSSION

In October of 2000, the Board of Supervisors adopted language designed to resolve concerns about the numerous antiquated subdivisions scattered around the unincorporated area of Stanislaus County. The language adopted by the Board states that single-family dwellings on parcels less than 20 acres in the A-2-40 (General Agriculture, 40-acre minimum) and A-2-160 (General Agriculture, 160-acre minimum) are no longer non-discretionary permitted uses as they had been. According to Section 21.20.030 (E), one single-family dwelling on a parcel legally created prior to March 4, 1972 and less than 20 acres can be approved if the following Tier Three Use permit findings are made:

1. The dwelling would be consistent with the County's General Plan;

The "Agriculture" designation within the Stanislaus County General Plan allows dwelling units provided they do not conflict with the primary use. Since this is a small parcel it will not conflict with the Agricultural designation and would be consistent with the General Plan. Furthermore, the location of the proposed residence was selected to provide the least impact to the agricultural use.

2. The dwelling would not likely create a concentration of residential uses in the vicinity or induce other similarly situated parcels to become developed with single-family dwellings; and

Staff has reviewed the surrounding area in order to identify underlying parcels which are affected by the Antiquated Ordinance. Please note the aerial photograph within "Exhibit A" which shows this parcel is in an area already containing a mixture of parcel sizes, a great majority of which already have houses on them. There are no underlying subdivisions which could have development triggered by approval of this permit. Staff recommends approval of the subject request since it will not establish a precedent resulting in a concentration of single-family dwellings on small parcels.

3. The dwelling will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity.

Although the parcel is in the Williamson Act, this project will not conflict with any bonafide agricultural activities in the area and/or other lands enrolled under the Williamson Act. The proposed parcel will be restricted by the General Agriculture (A-2) zoning district to on-site residential development which is incidental to the agricultural use of the land.

Additionally, to approve the use permit, Section 21.96.050 of the Stanislaus County Zoning Ordinance requires that:

“In order to obtain a use permit, the applicant must introduce evidence in support of his application sufficient to enable the Planning Commission to find that the establishment, maintenance and operation of the proposed use or building applied for is consistent with the general plan and will not, under the circumstances of the particular case, be detrimental to the health, safety and general welfare of persons residing or working in the neighborhood of the use and that it will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.”

Because of the property's location, size, and the surrounding land uses, staff believes that all the findings can be made and this request for a single-family dwelling can be approved.

ENVIRONMENTAL REVIEW

This parcel is considered categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the California Code of Regulations and no mitigation measures can be imposed on the project. This project was referred to the various agencies for general review and there were no significant issues raised (see Exhibit “D” - Environmental Review Referrals). Conditions of Approval have been placed on the project (Exhibit “B”).

RECOMMENDATION

1. Find the project is categorically exempt from the California Environmental Quality Act (CEQA) and order the filing of the Notice of Exemption;
2. Find that:
 - a) The dwelling would be consistent with the County's General Plan;
 - b) The dwelling would not likely create a concentration of residential uses in the vicinity or induce other similarly situated parcels to become developed with single-family dwellings;
 - c) The dwelling will not be substantially detrimental to or in conflict with agricultural use of other property in the vicinity.

UP 2007-09
Staff Report
June 7, 2007
Page 4

3. Approve Use Permit Application No. 2007-09 - Eugene & Dorothy Wainwright, subject to the attached Conditions of Approval.

Report written by: Dana McGarry, AICP, Senior Planner, June 7, 2007

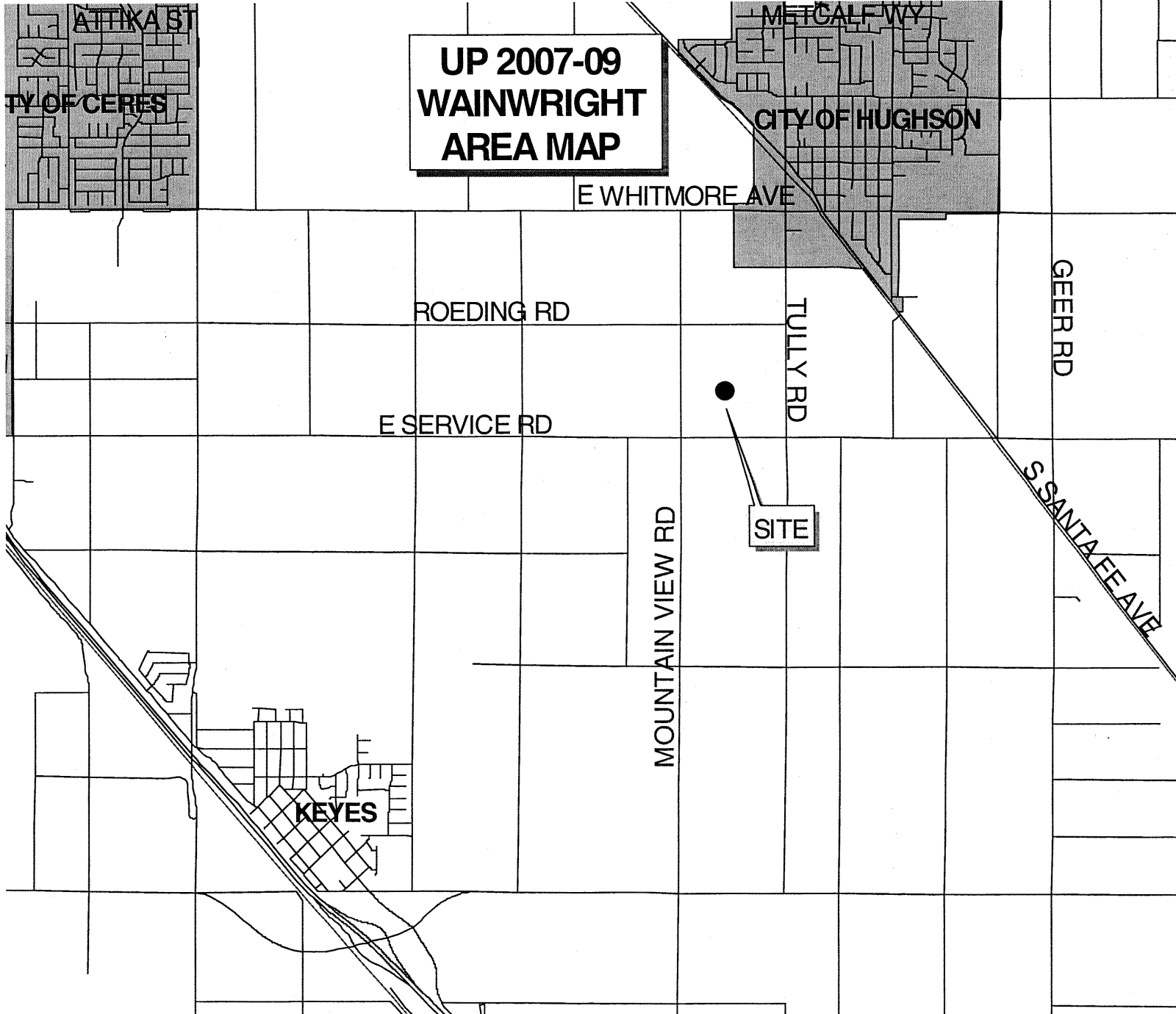
Attachments: Exhibit A - Maps
 Exhibit B - Conditions of Approval
 Exhibit C - Notice of Exemption
 Exhibit D - Environmental Review Referrals

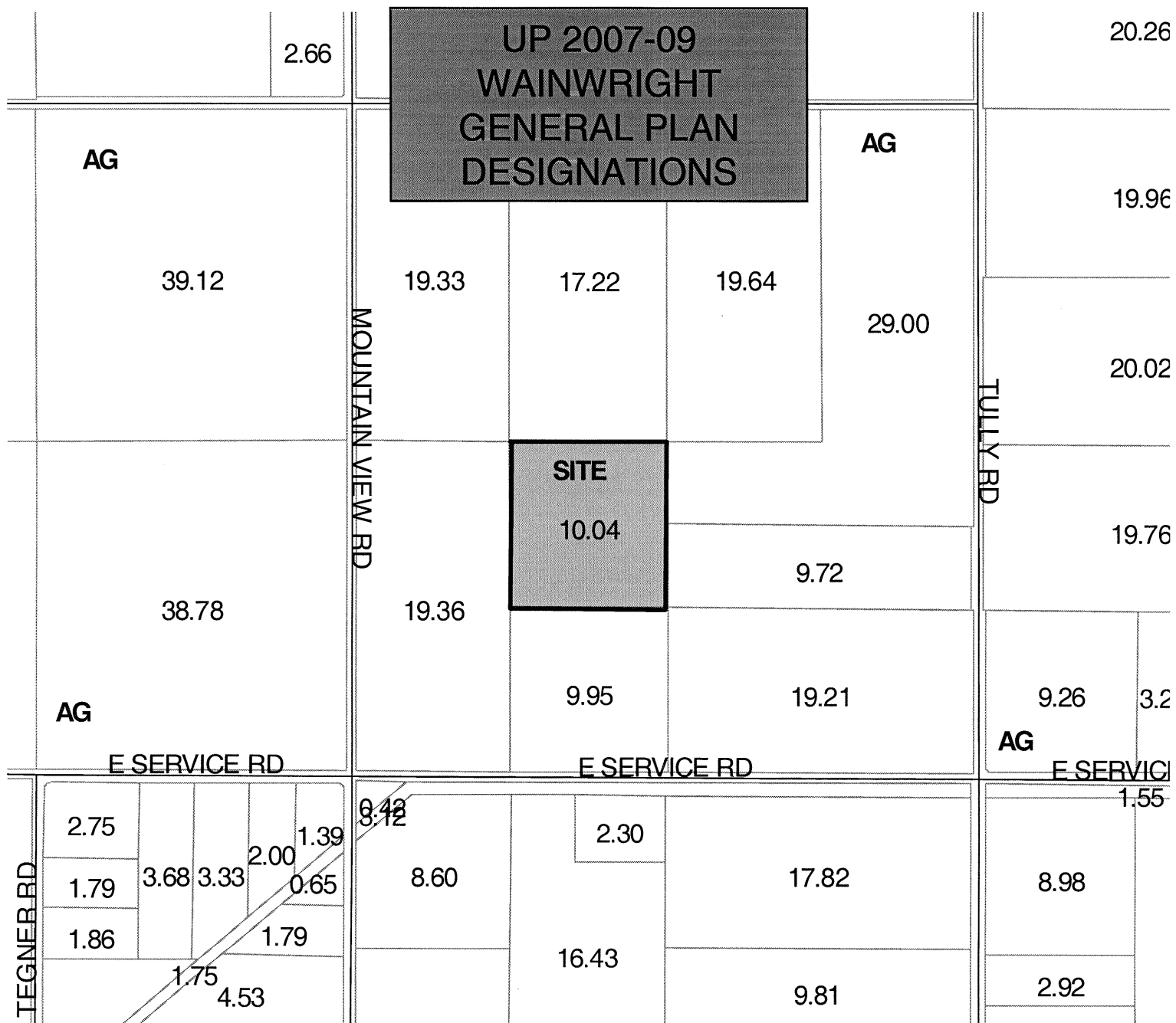
Reviewed by:

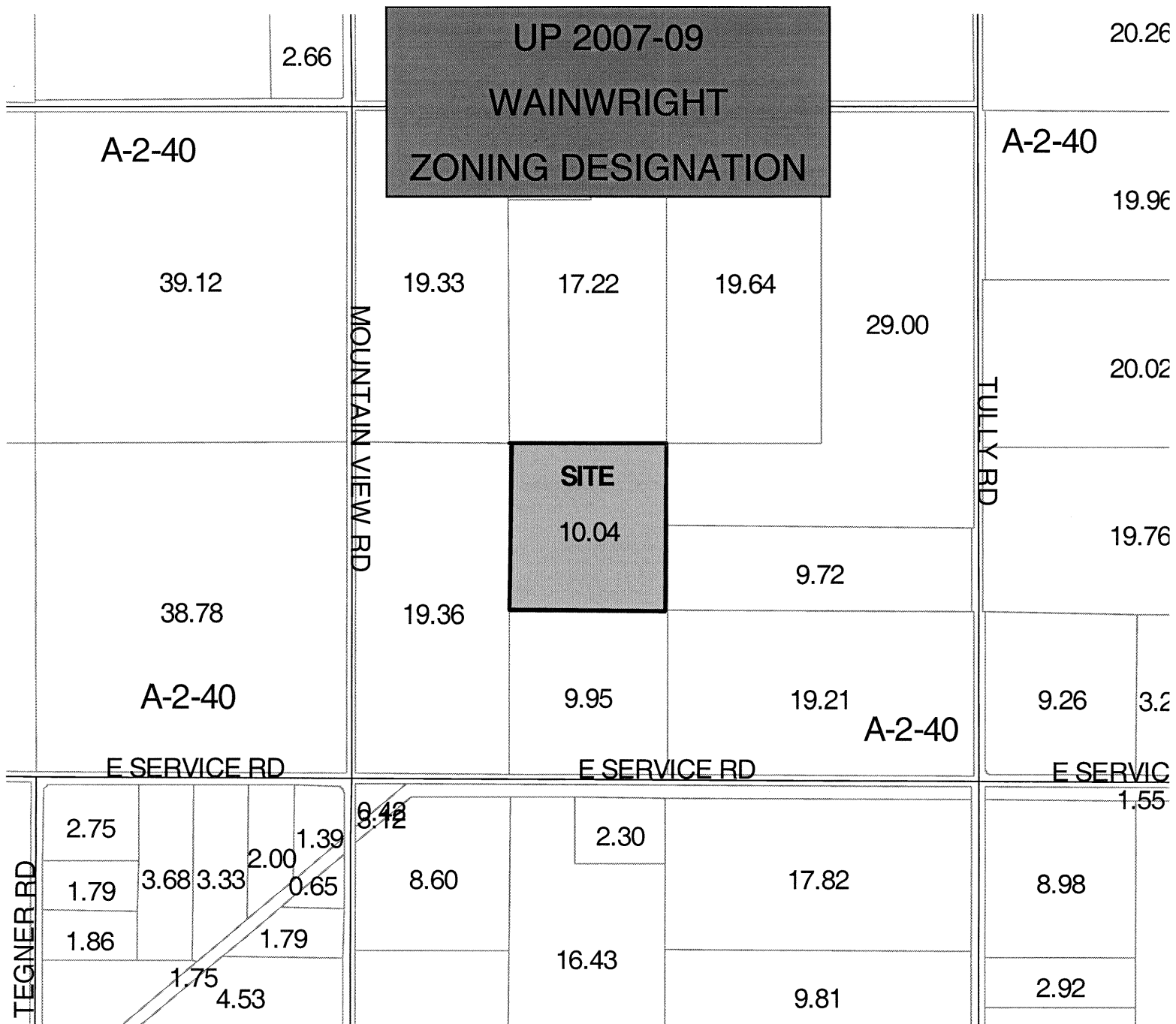


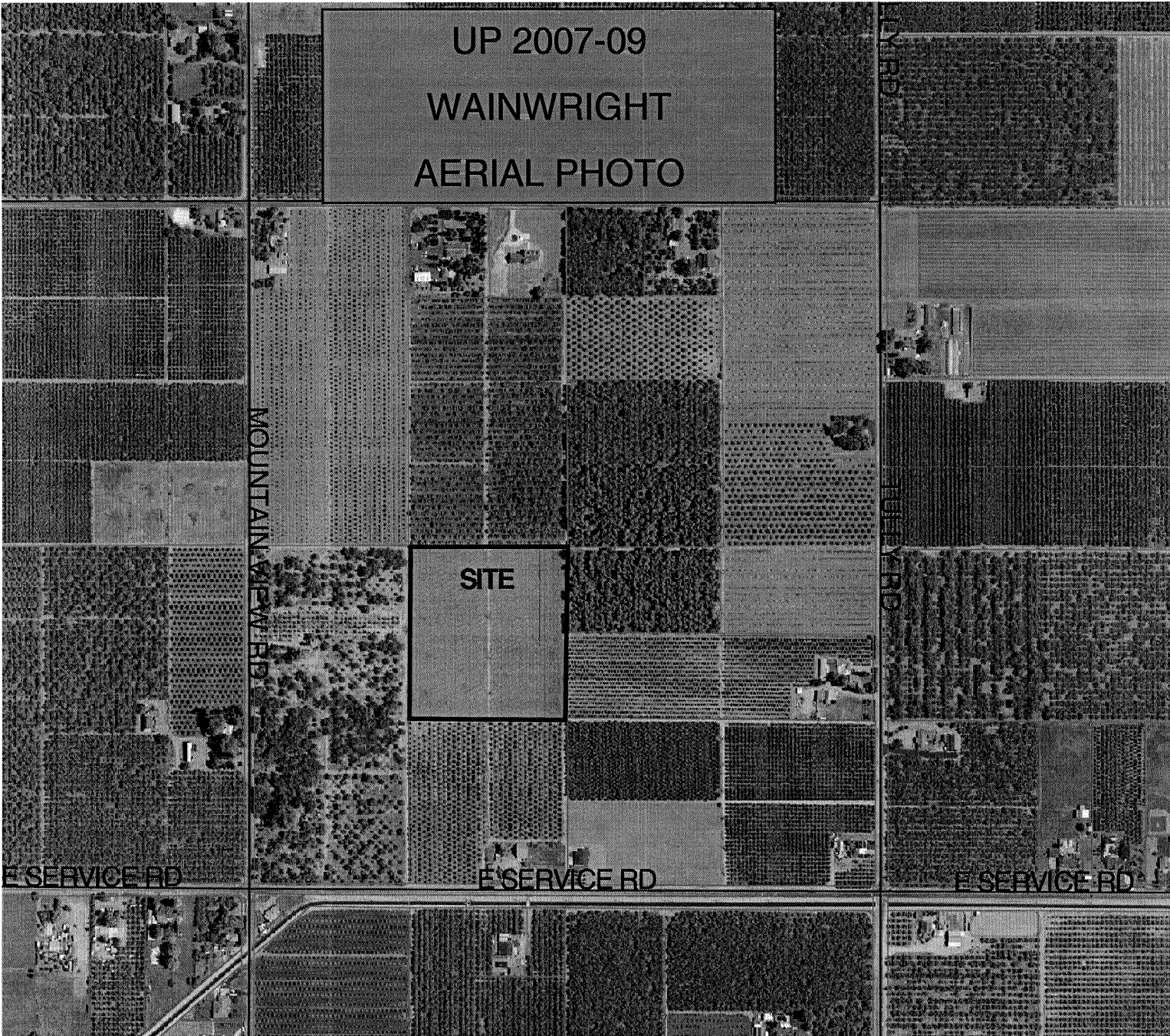
Bill Carlson, Senior Planner

(I:\Staffrpt\UP\2007\UP 2007-09 - WAINWRIGHT - HUGHSON AREA\Wainwright Staff Report.wpd)

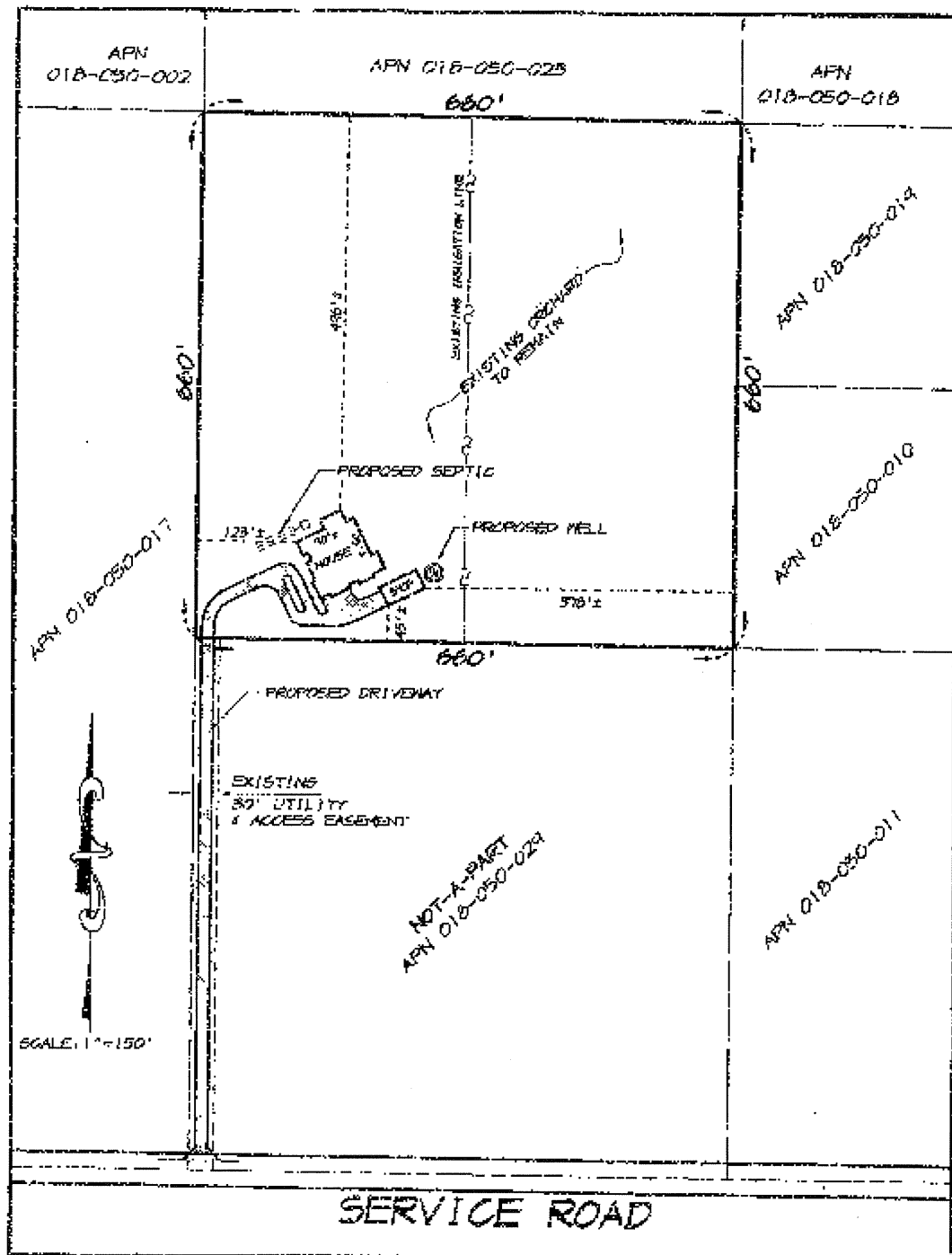


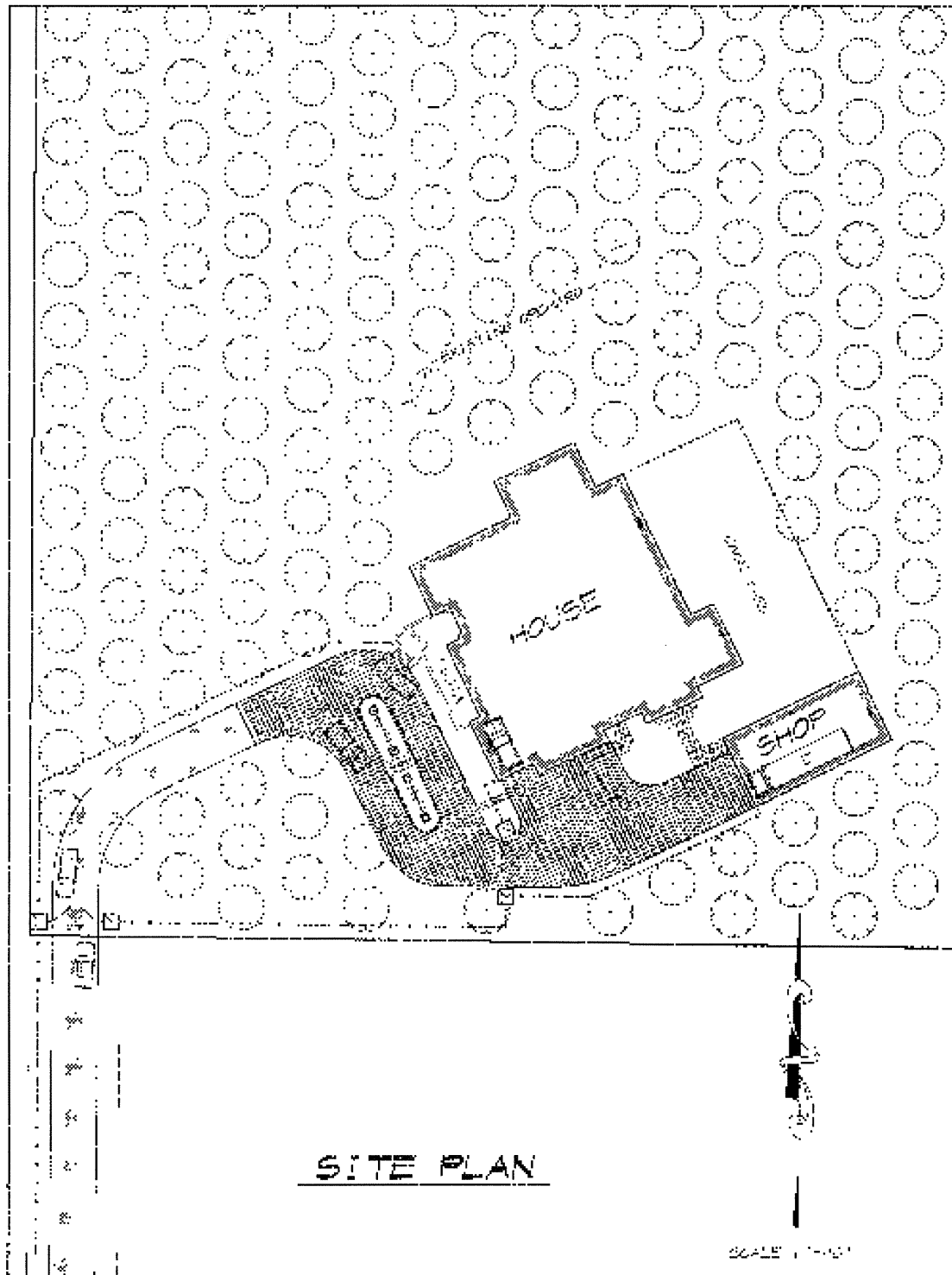


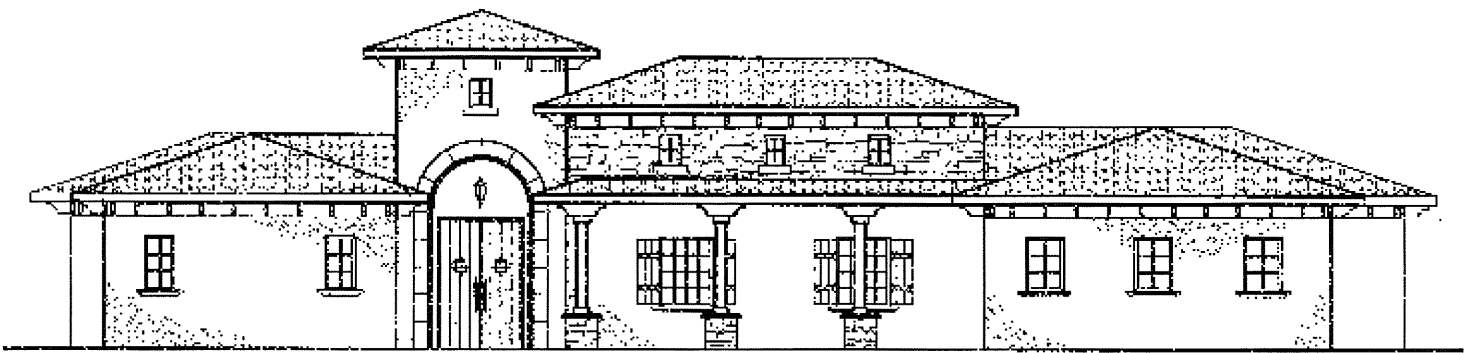












FRONT ELEVATION

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

**USE PERMIT APPLICATION NO. 2007-09
EUGENE & DOROTHY WAINWRIGHT**

Department of Planning and Community Development

1. This use shall be conducted as described in the application and supporting information (including the plot plan) as approved by the Planning Commission and/or Board of Supervisors and in accordance with other laws and ordinances.
2. A Certificate of Occupancy shall be obtained from the Building Inspection Division prior to occupancy, if required. (UBC Section 307)
3. 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 the building permit for any construction in the development project and shall be based on the rates in effect at the time of building permit issuance.
4. Prior to the issuance of building permits for a dwelling, the owner/developer shall pay a fee of \$339.00 per dwelling to the County Sheriff's Department.
5. The applicant is required to defend, indemnify, or hold harmless the County, its officers and employees from any claim, action, or proceedings against the County to set aside the approval of the project which is brought within the applicable statute of limitations. The County shall promptly notify the applicant of any claim, action, or proceeding to set aside the approval and shall cooperate fully in the defense.
6. 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.
7. Pursuant to Section 404 of the Clean Water Act, prior to construction, the developer shall be responsible for contacting the US Army Corps of Engineers to determine if any "wetlands," "waters of the United States," or other areas under the jurisdiction of the Corps of Engineers are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from the Corps, including all necessary water quality certifications, if necessary.

8. Pursuant to Section 1600 and 1603 of the California Fish and Game Code, prior to construction, the developer shall be responsible for contacting the California Department of Fish and Game and shall be responsible for obtaining all appropriate streambed alteration agreements, permits or authorizations, if necessary.
9. Prior to construction: The developer shall be responsible for contacting the California Regional Water Quality Control Board to determine if a "Notice of Intent" is necessary, and shall prepare all appropriate documentation, including a Storm Water Pollution Prevention Plan. Once complete, and prior to construction, a copy of the Storm Water Pollution Prevention Plan shall be submitted to the Stanislaus County Department of Planning and Community Development.
10. Pursuant to the federal and state Endangered Species Acts, prior to construction, the developer shall be responsible for contacting the US Fish and Wildlife Service and California Department of Fish and Game to determine if any special status plant or animal species are present on the project site, and shall be responsible for obtaining all appropriate permits or authorizations from these agencies, if necessary.
11. 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.

Building Permit Division

12. The proposed development must comply with current adopted Title 24 Building Codes.

Environmental Review Committee (ERC)

13. Applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER), that a site containing (or formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I and II studies) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.

Turlock Irrigation District (TID)

14. Existing private irrigation pipeline on site must be protected from damage during construction of residence.
15. Developed property adjoining irrigated ground must be graded so that finished grading elevations are at least six (6") inches above irrigated ground.

16. An easement benefitting APN 018-050-029 and the existing irrigation pipeline, should be dedicated to the District to facilitate maintenance of the pipeline.
17. The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.
18. The District's electrical utility will require an electrical easement be granted in order to serve the parcel with electric power once the alignment is determined.

* * * * *

*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: Use Permit - No. 2007-09 Eugene & Dorothy Wainwright
Eugene & Dorothy Wainwright 4253 Mountain View Road
Hughson, CA 95326
(209) 883-4441

PROJECT LOCATION (include county): North side of Service Road, east of Mountain View Road, in the Hughson area, Stanislaus County. (APN: 018-050-028).

PROJECT DESCRIPTION: Request to construct a single-family home on a 10-acre parcel in the A-2-40 (General Agriculture) zoning district.

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: Class 3, Section 15303
- ☐ Statutory Exemptions. State code number:

Reasons why project is exempt: This project will not have a significant impact on the site or on the surrounding area. It will add a single family residence, accessory to the primary agricultural use that exists on the property

Lead Agency

Contact Person: Dana McGarry, AICP, Senior Planner

Telephone: (209) 525-6330

Date Received for Filing: _____

Title

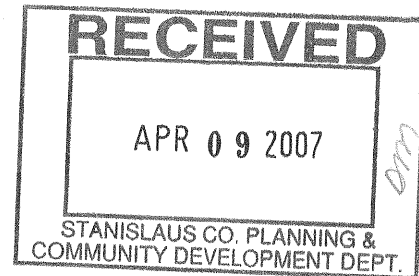
SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS
PROJECT: USE PERMIT APPLICATION NO. 2007-09 - EUGENE & DOROTHY WAINWRIGHT

REFERRED TO:			RESPONDED		RESPONSE			MITIGATION MEASURES		Conditions	
DATE: April 6, 2007		PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	No
AGRICULTURE COMMISSIONER	X			X							
AIRPORT LAND USE COMMISSION											
BUILDING PERMITS DIVISION	X		X				X			X	
CA DEPT OF FORESTRY											
CALTRANS DISTRICT 10	X	X	X				X		X		X
CENTRAL CALIF. INFO. CENTER - CSUS											
CITY OF HUGHSON	X	X		X							
COMMUNITY SERVICES/SANITARY											
CORPS OF ENGINEERS											
COUNTY COUNSEL	X			X							
DEPARTMENT OF CONSERVATION											
ENVIRONMENTAL RESOURCES	X		X				X				X
FIRE PROTECTION DIST: HUGHSON	X	X		X							
STANISLAUS FIRE PREVENTION BUREAU	X	X		X							
FISH & GAME	X	X		X							
HOSPITAL DISTRICT:											
IRRIGATION DISTRICT: TURLOCK	X	X	X				X		X	X	
LAFCO	X			X							
MOSQUITO DISTRICT: TURLOCK				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		X		
PUBLIC WORKS - TRANSIT	X		X				X		X		X
REDEVELOPMENT											
REGIONAL WATER QUALITY	X	X		X							
StanCOG	X	X		X							
SCHOOL DISTRICT 1: HUGHSON	X	X		X							
SCHOOL DISTRICT 2:											
SHERIFF	X			X							
STANISLAUS COUNTY FARM BUREAU	X	X		X							
STANISLAUS ERC	X		X				X		X	X	
STATE CLEARINGHOUSE											
STATE LANDS BOARD											
SUPERVISORIAL DISTRICT 2: MAYFIELD	X			X							
TELEPHONE COMPANY: AT&T	X	X		X							
TUOLUMNE RIVER PRESERVATION TRUST											
UNITED CEREBRAL PALSY	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											

From: Saeed Erfan <saeed_erfan@dot.ca.gov>
To: <Planning@mail.co.stanislaus.ca.us>
Date: 4/6/07 3:09 PM
Subject: UP 2007-09 - W Eugene and Dorothy L Wainwright

UP 2007-09 - W Eugene and Dorothy L Wainwright_____ Caltrans Comment :
No comment

**STANISLAUS COUNTY
CEQA REFERRAL RESPONSE FORM**



TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: BUILDING PERMIT DIV.

SUBJECT: USE PERMIT APPLICATION NO. 2007-09 - W EUGENE AND DOROTHY L WAINWRIGHT

Based on this agencies particular field(s) of expertise, it is our position the above described project:

- ☐ Will not have a significant effect on the environment.
☐ May have a significant effect on the environment.
☒ No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

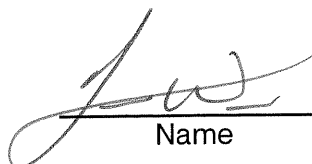
Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):*

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

DEVELOPMENT TO COMPLY WITH CURRENT ADOPTED
BUILDING LIVES TITLE 24.

Response prepared by:

	C.B.O.	4.9.07
Name	Title	Date

**STANISLAUS COUNTY
CEQA REFERRAL RESPONSE FORM**

TO: Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

FROM: Mountain Valley Envs

SUBJECT: USE PERMIT APPLICATION NO. 2007-09 - W EUGENE AND DOROTHY L WAINWRIGHT

Based on this agencies particular field(s) of expertise, it is our position the above described project:

- ☒ Will not have a significant effect on the environment.
☐ May have a significant effect on the environment.
☐ No Comments.

Listed below are specific impacts which support our determination (e.g., traffic general, carrying capacity, soil types, air quality, etc.) - (attach additional sheet if necessary)

- 1.
- 2.
- 3.
- 4.

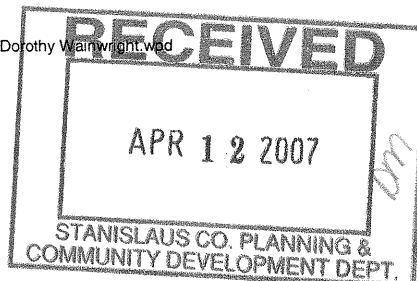
Listed below are possible mitigation measures for the above-listed impacts: *PLEASE BE SURE TO INCLUDE WHEN THE MITIGATION OR CONDITION NEEDS TO BE IMPLEMENTED (PRIOR TO RECORDING A MAP, PRIOR TO ISSUANCE OF A BUILDING PERMIT, ETC.):*

- 1.
- 2.
- 3.
- 4.

In addition, our agency has the following comments (attach additional sheets if necessary).

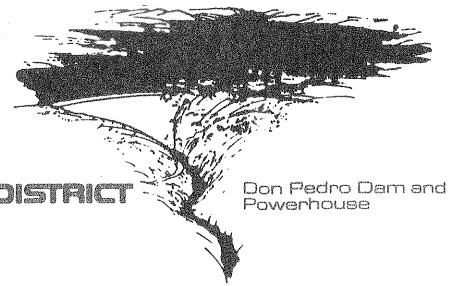
Response prepared by:

Maureen Smith Resp & Trans Coord. 4/10/07
Name Title Date



April 17, 2007

TURLOCK IRRIGATION DISTRICT
333 EAST CANAL DRIVE
POST OFFICE BOX 949
TURLOCK, CALIFORNIA 95381
(209) 883-8300



Stanislaus County
Department of Planning and Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

RE: Use Permit Application 2007-09; Wainwright (APN 018-050-028)

Dear Sir or Madam:

The Engineering Department of the Turlock Irrigation District (District) acknowledges the opportunity to review and comment on the referenced project. District standards require development occurring within the District's boundary, that impacts irrigation and electric facilities, to meet the District's requirements.

A private irrigation pipeline runs from north to south at the approximate midpoint of the subject parcel. This pipeline must be protected from damage during the construction phase of the residence.

Developed property adjoining irrigated ground must be graded so that finished grading elevations are at least 6 inches higher than irrigated ground.

In order to maintain access to irrigation water, a 25-foot irrigation easement, centered on the pipeline should be dedicated for the benefit of the adjacent parcel to the south (APN 018-050-029).

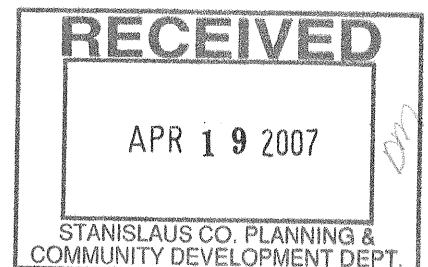
The owner/developer must apply for a facility change for any pole or electrical facility relocation. Facility changes are performed at developer's expense.

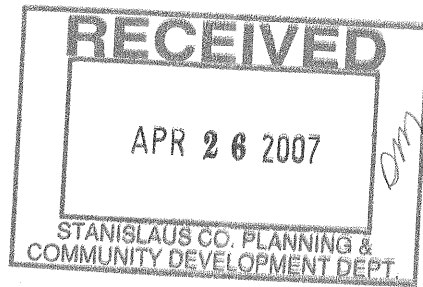
The parcel appears to be land-locked. The District's electric utility will require that an electrical easement be granted in order to be able to serve the parcel with electric power once the alignment is determined.

If you have any questions concerning irrigation system requirements or electric utility requirements, please contact me at (209) 883-8384 or Paul Rodriguez at (209) 883-8438 respectively.

Sincerely,

Arie W. Vander Pol
Engineering Technician, Civil
CF: 2007040





CHIEF EXECUTIVE OFFICE
Richard W. Robinson
Chief Executive Officer

Patricia Hill Thomas
Chief Operations Officer/
Assistant Executive Officer

Monica Nino-Reid
Assistant Executive Officer

Stan Risen
Assistant Executive Officer

1010 10th Street, Suite 6800, Modesto, CA 95354
P.O. Box 3404, Modesto, CA 95353-3404
Phone: 209.525.6333 Fax 209.544.6226

STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

April 24, 2007

Dana McGarry, Senior Planner
Stanislaus County Planning Department
1010 10th Street, Suite 3400
Modesto, CA 95354

**SUBJECT: ENVIRONMENTAL REFERRAL – USE PERMIT APPLICATION NO. 2007-09 –
W EUGENE AND DOROTHY L WAINWRIGHT**

Ms. McGarry:

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has the following comment(s):

- Applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER), that a site containing (or formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I study and Phase II study if necessary) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of the DER.
- Fire code requirements and access and water supply for fire protection will be evaluated and required at the time of building permit application.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

Raul Mendez, Senior Management Consultant
Environmental Review Committee

cc: ERC Members