

STANISLAUS COUNTY PLANNING COMMISSION

May 19, 2022

STAFF REPORT

USE PERMIT APPLICATION NO. PLN2021-0029
OASIS CARDROOM

REQUEST: TO AMEND PLANNED DEVELOPMENT (P-D) (210), TO ALLOW FOR THE SALE AND SERVICE OF ALCOHOL FOR ON-SITE CONSUMPTION AT AN EXISTING CARDROOM AND RESTAURANT ON A 2.32-ACRE PARCEL.

APPLICATION INFORMATION

Applicant & Property Owner:	Oasis Investments (Anthony M. Bruno, Mathew W. Bruno, and Barbara Bruno)
Agent:	Rick Mummert, Benchmark Engineering, Inc.
Location:	5001 and 5007 McHenry Avenue (State Route 108), on the northwest corner of Kiernan (State Route 219) and McHenry Avenues, in the Modesto area.
Section, Township, Range:	32-2-9
Supervisory District:	District Four (Supervisor Grewal)
Assessor's Parcel:	004-094-010
Referrals:	See Exhibit E Environmental Review Referrals
Area of Parcel(s):	2.32 ± acres
Water Supply:	On-site well (Public Water System)
Sewage Disposal:	Private septic system
General Plan Designation:	Planned Development
Community Plan Designation:	N/A
Existing Zoning:	Planned Development (P-D) (210)
Sphere of Influence:	N/A
Williamson Act Contract No.:	N/A
Environmental Review:	CEQA Guidelines Section 15061 (Common Sense Exemption)
Present Land Use:	Cardroom, apartment complex, and restaurant
Surrounding Land Use:	Light industrial and commercial uses to the west; State Route 108, orchards and RV storage to the east; vacant land, parking lot, legal non-conforming bar and single-family dwellings to the north; and commercial development, State Route 219, and the City of Modesto to the south.

RECOMMENDATION

Based on the discussion below and on the whole of the record provided to the County, Staff is

recommending that the Planning Commission approve this request, as presented in this Staff Report. If the Planning Commission decides to approve the project, Exhibit A provides an overview of all of the findings required for project approval.

PROJECT DESCRIPTION

The project is a request to amend the uses permitted in the Planned Development (P-D) (210) zoning district, to allow for the sale and service of alcohol for on-site consumption at an existing cardroom and restaurant on a 2.32-acre parcel.

The application was originally scheduled for the September 16, 2021 Planning Commission meeting, but was indefinitely continued, at the request of the applicant, to provide the applicant additional time to decide how to proceed with their application. At that time, the application was being requested by Gary Beard, the cardroom operator, and it was only applicable to the cardroom. The property owner is now seeking to amend the uses to allow for on-site alcohol consumption for the existing cardroom and restaurant.

No new construction is proposed as part of this request. The project site is currently improved with 27,005± square feet of building space, consisting of three apartment buildings, a cardroom, and a restaurant (see Exhibit B – *Maps and Site Plan*). The cardroom currently operates 24 hours a day, seven days a week, with a maximum of 14 employees per shift. The restaurant is open Tuesday through Sunday, from 2:30 p.m. to 9:00 p.m., with a maximum of five employees per shift. The hours of operation and number of employees are not being altered as part of this request.

The project site is served by a previously approved Public Water System and septic system and has access to Kiernan Avenue (SR 219) and McHenry Avenue (SR 108).

BACKGROUND

The project site was rezoned to Planned Development (P-D) (210), under Rezone 93-08 – Matthew Bruno, by the Board of Supervisors in 1994. Although the site was already developed with an apartment complex, a banquet room, and restaurant, P-D (210) allowed for uses consistent with the Highway Commercial (H-1) Zoning district, as well as a cardroom for the benefit of a non-profit organization. However, the cardroom did not develop within the approved development schedule, and a subsequent use permit was required prior to operation.

A conditional use permit (Use Permit Application No. 2011-04 – Oasis Investments) was approved by the Planning Commission on July 7, 2011 to allow the establishment of a card room; converting the existing 7,278 square-foot banquet room building, with up to 10 tables. While the site is permitted for 10 tables, the site only operated eight (8) tables due to the site not meeting the required parking stalls for the maximum tables approved. A subsequent Staff Approval Application (SAA No. PLN2020-0100 – Oasis Investments Cardroom) was approved in December of 2021 to reorganize the parking and landscaping requirements for the cardroom; thus, providing the necessary parking to operate up to 10 tables.

On December 14, 2021, the Board of Supervisors approved a General Plan Amendment, Rezone, and Parcel Map request (GPA, REZ, & PM Application No. PLN2020-0102 – M&B Family Development), for a 0.35-acre portion of a parcel, adjoining the Oasis project site along the north, to legalize an unpermitted parking lot that was developed for the use by the cardroom, restaurant, and apartment complex. The parking lot consists of 27 stalls and is in the process of being

developed with a storm drain basin and perimeter landscaping. The parking lot can only access McHenry Avenue via the Oasis project site, through a reciprocal access easement. The parking lot is not exclusive to any single use on the parcel.

SITE DESCRIPTION

The Oasis project site is located at 5001 and 5007 McHenry Avenue, on the northwest corner of Kiernan and McHenry Avenues, in the Modesto area. The site is developed with a 7,278 square-foot commercial building utilized for the cardroom business, a 2,843 square-foot restaurant building, three apartment buildings totaling 11,526 square feet in size, and 86 paved parking stalls. Additionally, the site is developed with curb, gutter, and sidewalk on both Kiernan and McHenry frontages, as well as landscaping along the front of the cardroom building, facing the intersection.

As stated in the *Background* section of the report, the adjacent 27 stall parking lot is utilized by customers and residents of the site via a reciprocal access easement.

ISSUES

No issues were identified as part of this project request.

GENERAL PLAN CONSISTENCY

Consistency with the goals, objectives, and policies of the various elements of the Stanislaus County General Plan must be evaluated when processing all discretionary project requests. The project site's General Plan designation of Planned Development is intended for areas appropriate for land which, because of demonstrably unique characteristics, may be suitable for a variety of uses without detrimental effect on surrounding properties. The existing Planned Development (P-D) (210) zoning district is consistent with the General Plan designation of Planned Development.

Staff believes that the proposed project is consistent with the General Plan. The project site has already been developed with mixed uses of commercial and residential and is adjacent to light industrial and commercial uses. The proposed addition of alcohol service and sales within the existing commercial businesses would be accessory to each previously approved business, thus the project would be consistent with the Planned Development land use designation.

ZONING ORDINANCE CONSISTENCY

The site is currently zoned Planned Development (P-D) (210), which permitted uses consistent with the Highway Frontage (H-1) zoning district. Additionally, a cardroom was permitted to operate under the P-D (210) zoning district by approval of a use permit. The adoption of P-D (210) established development standards, while the 2011 Use Permit further amended the standards for the site, such as parking, landscaping, lighting, and signage. While already permitted to operate commercial businesses such as a cardroom and restaurant on-site, alcohol sales and on-site consumption were not permitted under the original P-D (210) adoption. The H-1 zoning district permits uses that serve the traveling public such as, restaurants, retail establishments, and similar commercial uses. The H-1 zoning district requires a use permit be granted for restaurants and other similar uses with on-site alcohol sale and consumption.

In order to approve a use permit, the Planning Commission shall make a finding 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.

As part of the project processing, a referral was sent to the Stanislaus County Sheriff's Department, who responded that based on the site's history of operation, they have no objection to allowing the sale of alcohol on-site. In addition to the use permit, licensing must be obtained from the State of California Department of Alcoholic Beverage Control (ABC), which is referred to the Stanislaus County Sheriff's Department and the Planning and Community Development Department prior to issuance. A condition of approval has been added to the project to require all appropriate licensing be received prior to commencement of alcohol service.

If this request is approved, development standards for P-D (210), conditions of approval for Use Permit No. 2011-04, and Staff Approval No. PLN2020-0100 will remain in effect in addition to the Conditions of Approval applied to this Use Permit. If a conflict arises between the Development Standards and the Conditions of Approval, the Conditions of this Use Permit shall prevail. This project will maintain zoning consistency by adhering to the approved P-D (210) uses and all applicable Development Standards and Conditions of Approval. Thus, staff believes the proposed project is consistent with the P-D (210) zoning.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (CEQA), the proposed project was circulated to interested parties and responsible agencies for review and comment and no significant issues were raised (see Exhibit E - *Environmental Review Referrals*). Staff has prepared a Notice of Exemption for the project, which declares that the project is exempt from CEQA on the basis of CEQA Guideline Section 15061 - Common Sense Exemption (see Exhibit D - *Notice of Exemption*). The CEQA Guidelines provide that where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed project does not propose any physical changes to the existing cardroom, restaurant, or project site. Conditions of Approval reflecting referral responses have been placed on the project (see Exhibit C - *Conditions of Approval*).

Contact Person: Jeremy Ballard, Associate Planner, (209) 525-6330

Attachments:

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

Findings and Actions Required for Project Approval

1. Find the project is exempt from CEQA, pursuant to CEQA Guidelines Section 15061, Common Sense Exemption, by finding that on the basis of the whole record, including any comments received, 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. Order the filing of a Notice of Exemption with the Stanislaus County Clerk-Recorder's Office pursuant to CEQA Guidelines Section 15062.
3. Find That:
 - a. 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.
4. Approve Use Permit Application No. PLN2021-0029 – Oasis Cardroom, subject to the attached Conditions of Approval.

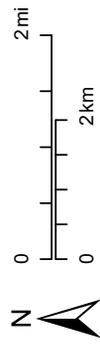
OASIS CARDROOM

UP
PLN2021-0029

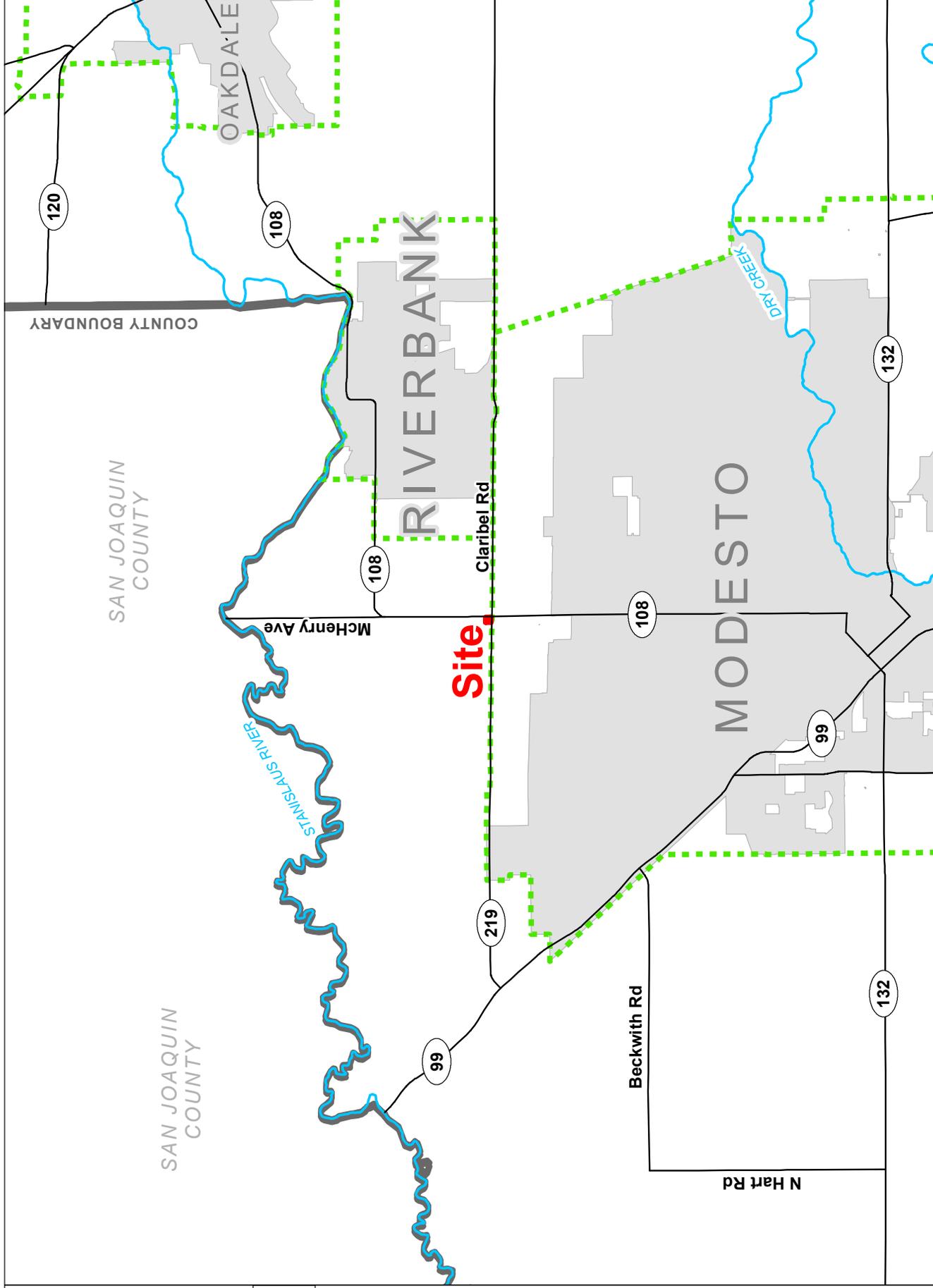
AREA MAP

LEGEND

-  Project Site
-  Sphere of Influence
-  City
-  Road
-  River



Source: Planning Department GIS Date: 4/6/2021



OASIS CARDROOM

UP
PLN2021-0029

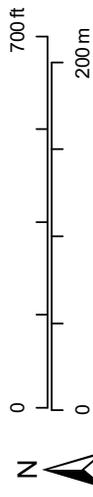
GENERAL PLAN MAP

LEGEND

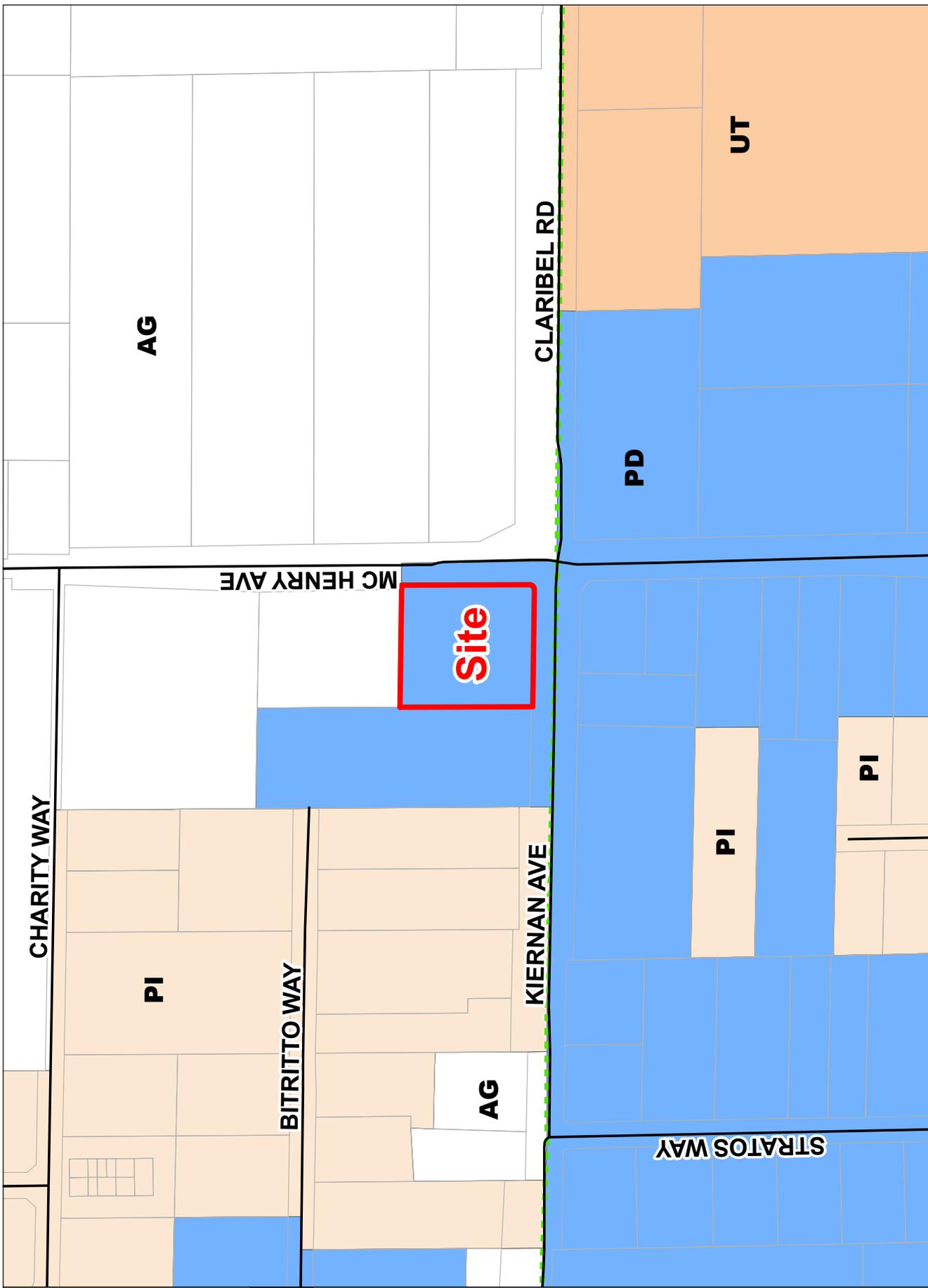
-  Project Site
-  Sphere of Influence
-  Parcel
-  Road

General Plan

-  Agriculture
-  Urban Transition
-  Planned Development
-  Planned Industrial



Source: Planning Department GIS Date: 4/6/2021



OASIS CARDROOM

UP
PLN2021-0029

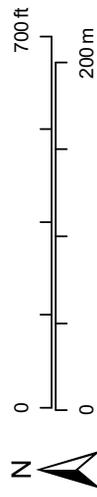
ZONING MAP

LEGEND

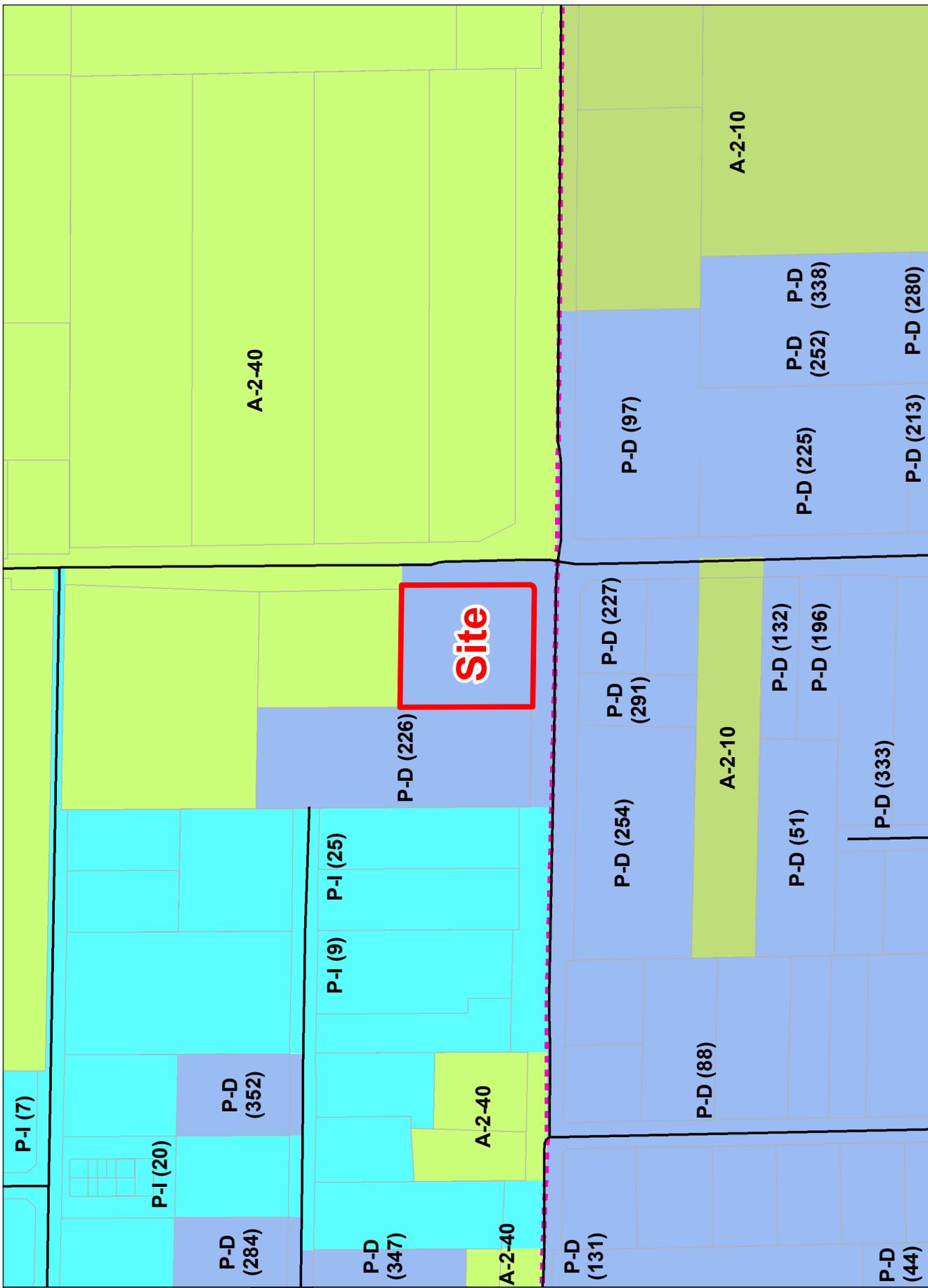
-  Project Site
-  Sphere of Influence
-  Parcel
-  Road

Zoning Designation

-  General Agriculture 10 Acre
-  General Agriculture 40 Acre
-  Planned Development
-  Planned Industrial



Source: Planning Department GIS Date: 4/6/2021



OASIS CARDROOM

UP
 PLN2021-0029

ACREAGE MAP

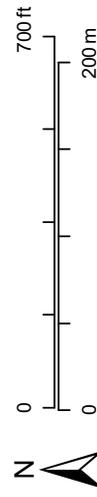
LEGEND

 Project Site

 Sphere of Influence

 # Parcel/Acres

 Road



Source: Planning Department GIS Date: 4/5/2021



OASIS CARDROOM

UP

PLN2021-0029

2017 AERIAL AREA MAP

LEGEND



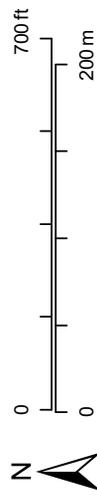
Project Site



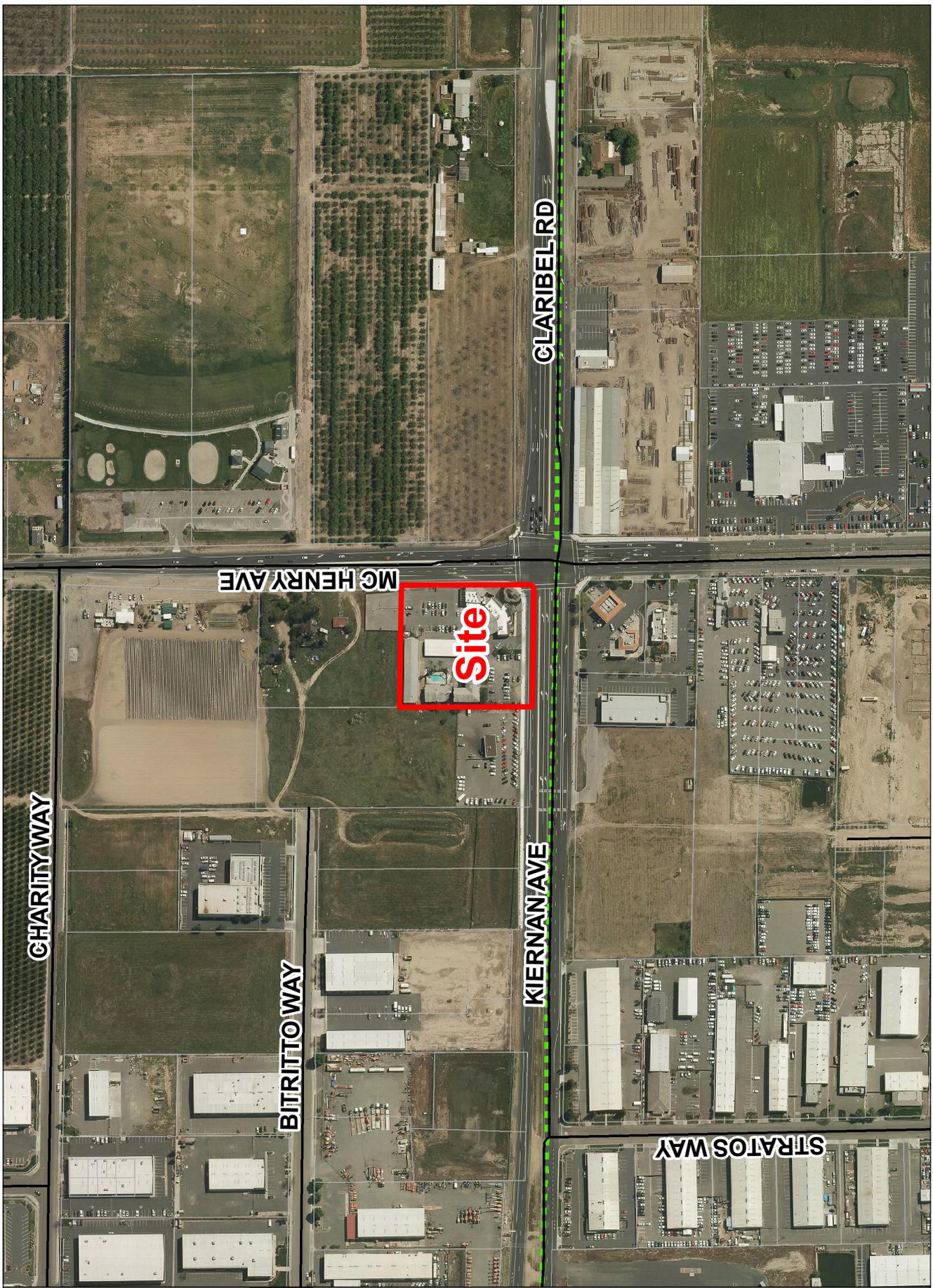
Sphere of Influence



Road



Source: Planning Department GIS Date: 4/6/2021



OASIS CARDROOM

UP

PLN2021-0029

2017 AERIAL SITE MAP

LEGEND



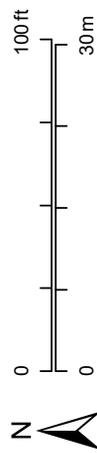
Project Site



Road

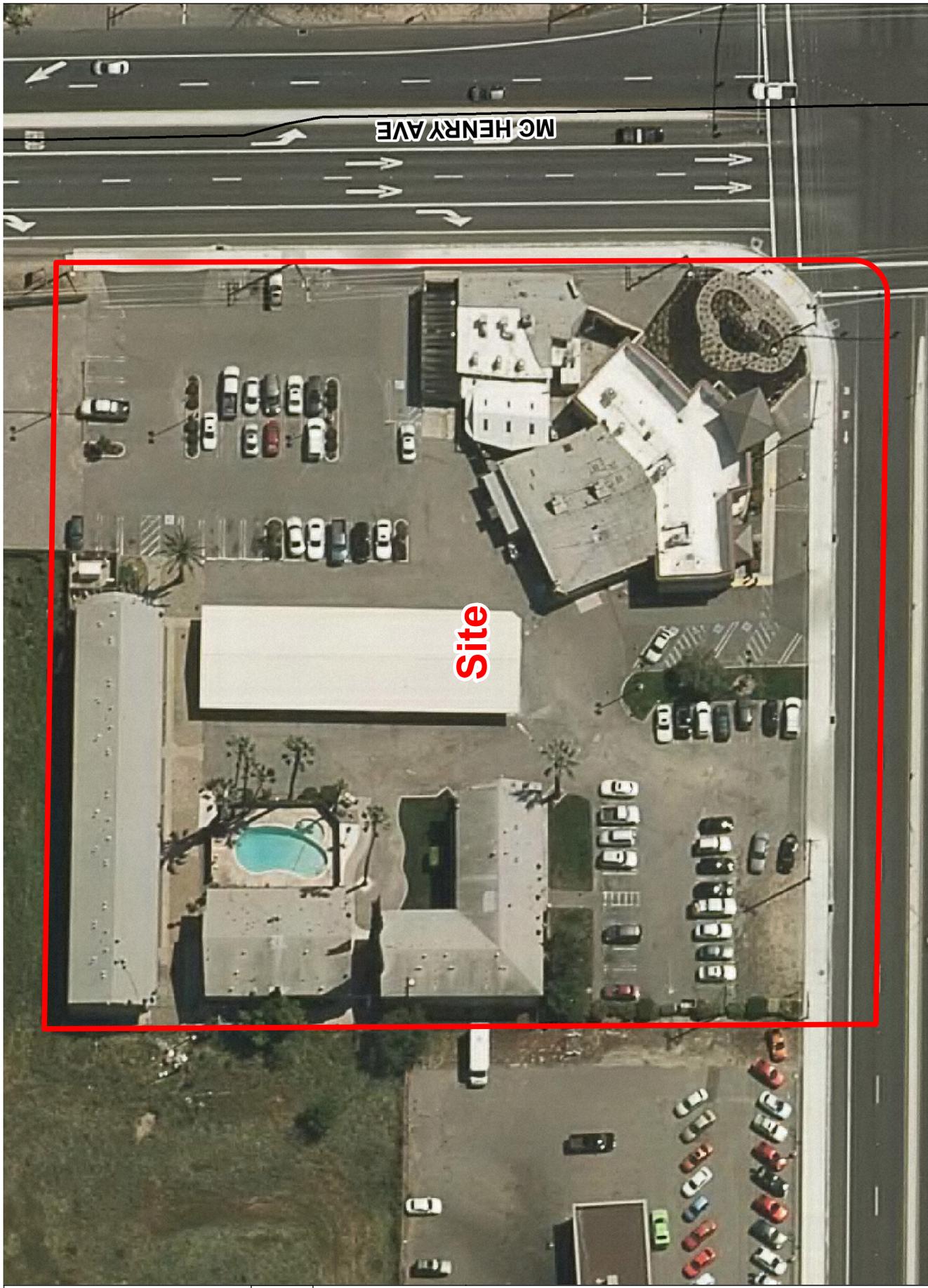


Canal



Source: Planning Department GIS

Date: 4/6/2021



NO.	DESCRIPTIONS	DATE	APPROVED

BENCHMARK ENGINEERING, INC.
 915 17th STREET • MODESTO, CALIFORNIA • 95354
 (209) 548-9300 FAX:(209) 548-9305



OASIS SPORTSMAN CLUB
 MODESTO, CALIFORNIA

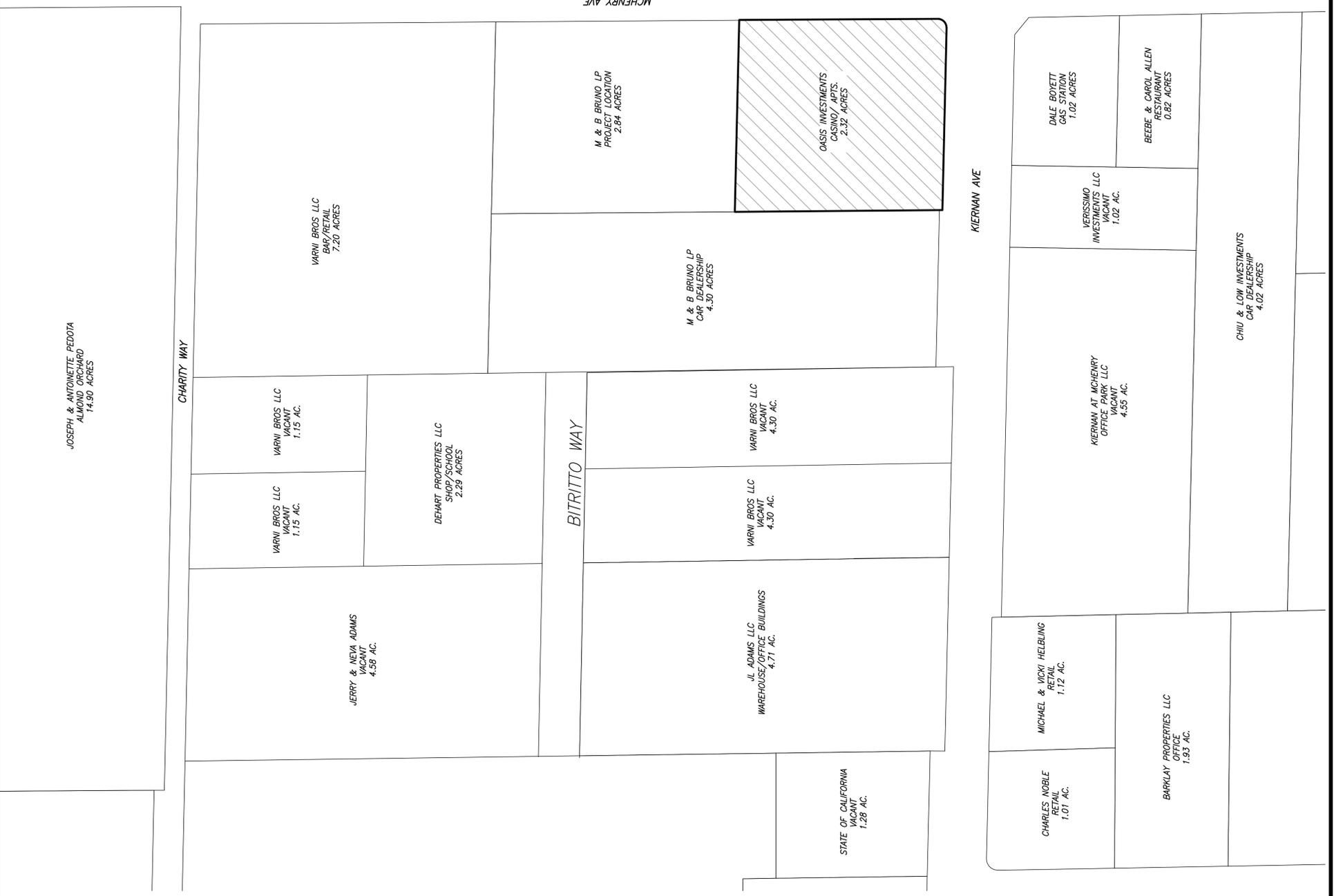
AREA MAP

JOB NO. 154802
 DATE 2/18/21
 DR BY: MR
 CK BY: RM
 SCALE AS SHOWN

SHEET NUMBER **1**
 OF 1 SHEETS



SCALE 1" = 100'



NO.	DESCRIPTIONS	DATE	APPROVED

BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
 915 17th STREET • MODESTO, CALIFORNIA • 95354
 (209) 548-9300 FAX:(209) 548-9305

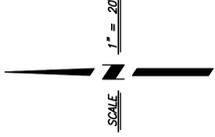
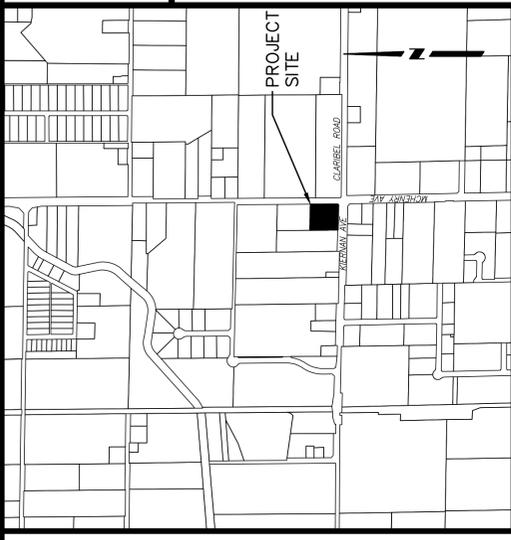


OASIS SPORTSMAN CLUB
 MODESTO, CALIFORNIA

SITE PLAN

JOB NO. 154682
 DATE 2/18/21
 DR BY: MR
 CK BY: RM
 SCALE AS SHOWN

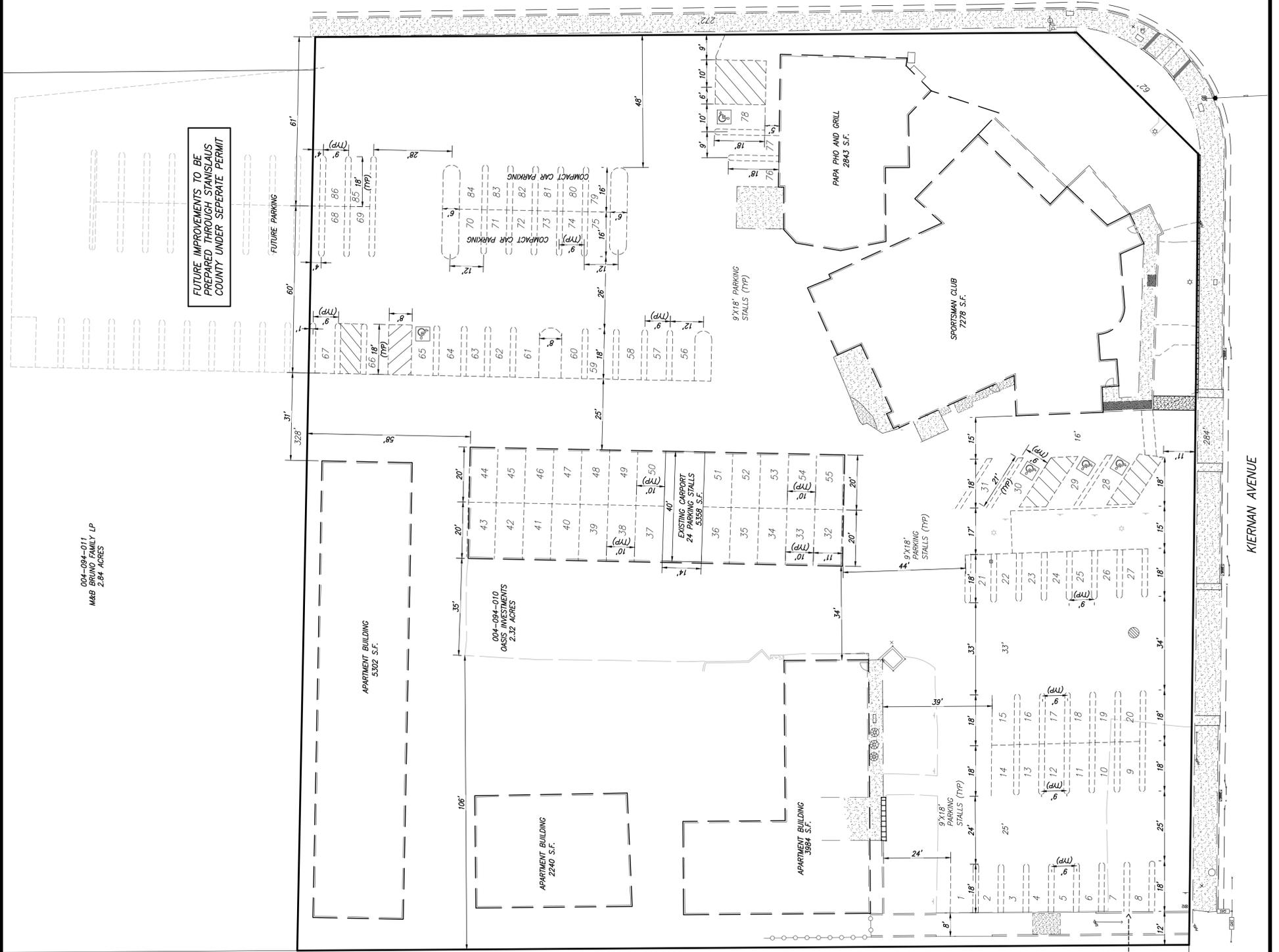
SHEET NUMBER **1**
 OF 1 SHEETS



OWNER:
 OASIS INVESTMENTS
 P.O. BOX 1530
 TURLOCK, CA 95381

NOTES:

1. SITE ADDRESS: 5001 MCHENRY AVE. MODESTO, CA 95356
2. APN: 004-094-010
3. SITE AREA: 2.32 ACRES
4. EXISTING GENERAL PLAN: P-D (PLANNED DEVELOPMENT)
5. EXISTING ZONING: P-D (210)
6. SITE STATISTICS:
 BUILDING AREA: 27,005 SQ.FT.
 PAVING AREA: 47,100 SQ.FT.
 *PAVED AREA FOR MAINTENANCE 1,994 SQ.FT. (4% OF 47,100 SQ.FT.)
 LANDSCAPING/OPEN SPACE: 23,092 SQ.FT.
 PARKING REQUIREMENT: 84
 PARKING PROVIDED: 86
 PARKING ELIMINATED: 14



FUTURE IMPROVEMENTS TO BE PREPARED THROUGH STANISLAUS COUNTY UNDER SEPERATE PERMIT

004-094-011
 M&B BRUNO FAMILY LP
 2.84 ACRES

004-094-010
 OASIS INVESTMENTS
 2.32 ACRES

004-094-009
 M&B BRUNO FAMILY LP
 4.3 ACRES

MAINTENANCE PAVING INSTALLED

319'

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. PLN2021-0029 OASIS CARDROOM

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. All development standards adopted for the Planned Development P-D (210) zoning district, Use Permit No. 2011-04, and Staff Approval No. PLN2020-0100 shall remain in effect. If a conflict arises between the P-D (210) Development Standards or Conditions of Approval for Use Permit No. 2011-04, and Staff Approval No. PLN2020-0100, the Conditions of this Use Permit shall prevail.
2. The Department of Planning and Community Development shall record a Notice of Exemption, and a Notice of Administrative Conditions and Restrictions (NOAC&R) with the County Recorder's Office within 30 days of project approval. The NOAC&R includes: Conditions of Approval and a project area map. Prior to filing, within five days of approval of this project by the Planning Commission or Board of Supervisors, the applicant shall submit to the Department of Planning and Community Development a check for **\$57.00**, made payable to **Stanislaus County**, for the payment of Clerk Recorder filing fees.
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. Prior to operation, all licensing required for the on-site sales and consumption of alcohol shall be obtained. All laws, restrictions, and regulations pertaining to on-site sales and consumption of alcohol shall be met in perpetuity, and the granting of this permit shall not circumvent revocation of any licensing by the relevant authorities.

Department of Environmental Resources

5. If any future modifications to the On-site Wastewater Treatment System (OWTS) are made, it is the applicant's responsibility to notify the Stanislaus County Department of Environmental Resources (DER) of any proposal to modify, upgrade, or replace any portion of the existing OWTS, subject to approval by the DER.

6. If, or when there is an increase to the facility's drainage fixtures or the number of users, the existing OWTS shall be subject to review and required to be upgraded to accommodate the change in wastewater flows.
7. Any future modifications to the OWTS shall be subject to the County Local Agency Management Program (LAMP) standards and required setbacks are to be met.
8. If any modifications to any food facility on-site, the operator shall submit complete, easily readable plans drawn to scale, and specifications to the Stanislaus County Department of Environmental Resources (DER) for review, and shall receive plan approval before starting any new construction or Remodeling of any facility for use as a retail food facility.

Modesto Irrigation District

9. High voltage is present within and adjacent to the project area. This includes 12,000 volts overhead primary, 12,000 volts underground primary, and overhead and underground secondary facilities. Use extreme caution when operating heavy equipment, using a crane, ladders, scaffolding, handheld tools or any other type of equipment near the existing MID electric lines and cables. Workers and equipment should always maintain a distance no less than 10 feet from overhead facilities. Assume all overhead and underground electric facilities are energized.
10. Any trenching shall maintain a 1:1 horizontal distance from any existing pole, determined by the depth of the trench. If trenching encroaches on this requirement, the Contractor shall contact the MID Electric Engineering Department to brace any effected poles during the trenching process. The cost of any required pole bracing will be assumed by the requesting party. The contractor shall verify actual depth and location of all underground utilities prior to the start of construction.
11. All existing overhead easements adjacent to the site shall be maintained. Any future site development shall be cleared by MID to ensure existing overhead easements are not encroached upon.

*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: Use Permit Application No. PLN2021-0029 – Oasis Cardroom

Applicant Information: M&B Family Development (Anthony M. Bruno, Mathew Bruno, and Barbara Bruno), P.O. Box 1530, Turlock, CA 95381.

Project Location: 5001 and 5007 McHenry Avenue (SR 108), northwest of the McHenry Avenue and Kiernan Avenue (SR 219) intersection, in the Modesto area. Stanislaus County APN: 004-094-010.

Description of Project: The project is a request to amend the uses permitted in the Planned Development (P-D) (210) zoning district, to allow for the sale and service of alcohol for on-site consumption at an existing cardroom and restaurant on a 2.32-acre parcel.

Name of Agency Approving Project: Stanislaus County Planning Commission

Lead Agency Contact Person: Jeremy Ballard, Associate 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: _____
- Statutory Exemptions. State code number: _____
- Common Sense Exemption. 15061 (b)(3)

Reasons why project is exempt: The project is considered exempt per CEQA Guidelines Section 15061 (b)(3), Common Sense Exemption, because the proposed project does not propose any physical changes to the existing cardroom, restaurant, or project site, as the request is to include alcohol service at existing commercial businesses.

Dated

Jeremy Ballard
Associate Planner

SUMMARY OF RESPONSES FOR ENVIRONMENTAL REVIEW REFERRALS

PROJECT: UP APP NO. PLN2021-0029 - OASIS CARDROOM

REFERRED TO:				RESPONDED		RESPONSE			MITIGATION MEASURES		CONDITIONS	
	2 WK	30 DAY	PUBLIC HEARING NOTICE	YES	NO	WILL NOT HAVE SIGNIFICANT IMPACT	MAY HAVE SIGNIFICANT IMPACT	NO COMMENT NON CEQA	YES	NO	YES	NO
CA DEPT OF ALCOHOL AND BEVERAGE CONTROL	X		X		X							
CA DEPT OF FISH & WILDLIFE	X		X		X							
CA DEPT OF TRANSPORTATION DIST 10	X		X		X							
CA OPR STATE CLEARINGHOUSE	X		X		X							
CA RWQCB CENTRAL VALLEY REGION	X		X		X							
CA SWRCB:GROUNWATER DIVISION	X		X		X							
CITY OF: MODESTO	X		X	X				X		X		X
COOPERATIVE EXTENSION	X		X		X							
FIRE PROTECTION DIST: SALIDA	X		X		X							
GSA: STAN AND TUOLUMNE RIVERS	X		X		X							
IRRIGATION DISTRICT: MID	X		X	X				X		X	X	
MOSQUITO DISTRICT: EASTSIDE	X		X		X							
MT VALLEY EMERGENCY MEDICAL	X		X		X							
PACIFIC GAS & ELECTRIC	X		X		X							
SCHOOL DISTRICT 1:STANISLAUS UNION	X		X		X							
SCHOOL DISTRICT 2:MODESTO UNION	X		X		X							
STAN CO BUILDING PERMITS DIVISION	X		X		X							
STAN CO CEO	X		X		X							
STAN CO DER	X		X	X				X		X	X	
STAN CO ERC	X		X		X							
STAN CO HAZARDOUS MATERIALS	X		X		X							
STAN CO PUBLIC WORKS	X		X		X							
STAN CO SHERIFF	X		X		X							
STAN CO SUPERVISOR DIST #4:GREWAL	X		X		X							
STAN COUNTY COUNSEL	X		X		X							
StanCOG	X		X		X							
STANISLAUS FIRE PREVENTION BUREAU	X		X		X							
STANISLAUS LAFCO	X		X		X							
SURROUNDING LAND OWNERS			X									
TELEPHONE COMPANY: ATT	X		X		X							
USDA NRCS	X		X		X							