Stanislaus County

PLANNING AND COMMUNITY DEVELOPMENT

1010 10th Street, Suite 3400
Modesto, CA 95354

November 5, 2026

MEMO TO: Stanislaus County Planning Commission

FROM: Department of Planning and Community Development

SUBJECT: STAFF APPROVAL APPLICATION NO. PLN2026-0026 – BRAZIL FIRST HOME

DISCUSSION

The subject application is a request to place a single-family dwelling, which will be a first home, on a 1.17± acre parcel in the General Agriculture (A-2) zoning district, located at 4800 Woodland Avenue, between Clark Road and Dakota Avenue, in the Modesto area (see Attachment A – *Maps*). The parcel is currently improved with two accessory structures; a 50'x25' barn and a 20'x12' shed.

The Planning Commission is being asked to advise the Planning Director on whether this project can meet the findings required for approval. Per Section 21.100.050(C) of the County's Zoning Ordinance, the following findings must be met:

1. The dwelling would be consistent with the County's General Plan;
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
3. The dwelling will not be substantially detrimental to or in conflict with agricultural use of the property in the vicinity.

A staff approval permit is required for the development of a single-family dwelling on a parcel of less than 20 acres in size when located in the A-2-40 or A-2-160 zoning district. As detailed in the Background section below, the requirement was established to address impacts to agricultural land from the development of antiquated subdivisions. The Background section also provides an overview of the lot line adjustment (LLA) that established the parcels current configuration.

If approved, the parcel would also be permitted the development of up to one (1) accessory dwelling unit (ADU) and one (1) junior accessory dwelling unit (JADU) in accordance with Chapter 21.74 – ADUs of the County's Zoning Ordinance.

BACKGROUND

On October 24, 2000, the Board of Supervisors adopted an amendment to the County's Zoning Ordinance requiring parcels less than 20 acres in size and zoned A-2-40 or A-2-160 to obtain a use permit or staff approval permit prior to construction of the first dwelling (see Attachment B – *Stanislaus County Board of Supervisors Board Reports and Stanislaus County Planning Commission Memos*). Parcels created on or before March 4, 1972, were subject to a use permit and those created after that date were subject to a staff approval permit. The ordinance amendment became effective on November 23, 2000, 30 days after adoption.

At that time, and continuing today, one of the biggest threats to Stanislaus County's agricultural economy is the potential creation of hundreds of ranchettes within antiquated subdivisions. Antiquated subdivisions are subdivisions created prior to the enactment of local zoning requirements, the State Subdivision Map Act, and the California Environmental Quality Act (CEQA). Consequently, the subdivisions underwent no formal evaluation of their potential economic or environmental impacts on the County.

Numerous antiquated subdivisions are located throughout Stanislaus County, involving more than 3,000 parcels ranging in size from 3,250 square feet to 20 acres or more. If these lots were sold and developed, the loss of agricultural land coupled with the impact on surrounding agricultural operations could be devastating to the long-term viability of the agricultural economy.

When the County's first General Plan Agricultural Element was adopted in 1992, it included a policy encouraging the merger of antiquated subdivisions through a county developed and adopted merger ordinance. Such an ordinance was never developed. The 2007 update to the Agricultural Element recognized adoption of the 2000 ordinance amendment and established the Objective/Policy/Implementation Measure, which are reflected as follows in the current Agricultural Element:

> **Objective Number 2.5**: Limit the impact of Antiquated Subdivisions
>
> **Policy 2.2**: Construction of a dwelling on an antiquated subdivision parcel shall only be allowed when such development does not create a concentration of residential uses or conflict with agricultural uses of other property in the vicinity.
>
> **Implementation Measure 1**.: The County shall continue to implement existing zoning provisions addressing antiquated subdivisions.

While there had been discussions during the 2000 ordinance amendment of having the General Plan Update Committee study and develop a cluster ordinance, the cluster

ordinance was never pursued, and the 1992 Agricultural Element's Cluster Development policy was eliminated as part of the 2007 update.

As part of the 2007 update, the Board of Supervisors further amended the Zoning Ordinance to require a staff approval permit in lieu of a use permit for parcels created on or before March 4, 1972. The amendment to allow for a staff level application followed numerous use permits presented to the Planning Commission which had become routine in nature with approvals being granted. The 2007 change in the required permit type did not alter the findings required for approval.

The 1.17± acre subject parcel is comprised of Lot 25 and the north 18 feet of Lot 24 of Block 2 of the McKinzie Tract, which is an antiquated subdivision created in 1947. The McKinzie Tract consisted of 120 lots, also defined as parcels, primarily ranging in size from 32,260 square feet (.0.74 acres) to 40,000 square feet (0.92 acres) in size (see attachment C – *McKinzie Tract [16-M-28]*.

On March 16, 2000, property owners John M Travao, et.al, submitted a merger application (Merger Application No. 2000-02 – McKinzie Tract) requesting to merge 80 of the 120 parcels of the McKinzie Tract into a total of 38 parcels, ranging in size from 64,520 square feet (1.5 acres) to 80,000 square feet (1.85 acres). The merged lots would have met the County's minimum parcel size of one-acre for development of a new single-family dwelling on a parcel served by a private onsite well and septic system. The merger application never proceeded after it was determined by the County that an Environmental Impact Report (EIR) was required due to the potential environmental impacts that the creation of 38 new developable parcels would have on the surrounding environment. At that time, the merged parcels would have been entitled to develop with one single-family dwelling each without any further discretionary review. Consequently, the merger application became the catalyst for the 2000 ordinance amendment which has established a discretionary review process for antiquated subdivisions.

On April 3, 2000, property owners John, Joe, and Mathew Travao, submitted a LLA application (Lot Line Adjustment Application No. 2000-17 – John, Joe, and Mathew Travao ET UX & ET AL) requesting to adjust eight (8) parcels of the McKinzie Tract into five (5) parcels, ranging in size from 50,965 square feet (1.17 acres) to 61,419 square feet (1.41 acres). The reduction of three (3) parcels was a merger by LLA. The LLA was approved by staff and recorded on November 22, 2000, one day prior to the ordinance amendment becoming effective. At the time of approval, three (3) of the five (5) parcels, Lots "B", "D", and "E", were already developed with single-family dwellings. (see Attachment D - *LLA 2000-17)* The subject parcel which is Lot "C" of the LLA, along with Lot "A", were not developed with any single-family dwellings at the time of the LLA as shown in Attachment D.

Following recording of the LLA, on January 29, 2001, property owners Michael and Teresa Brazil, submitted a staff approval (SAA) permit application (Staff Approval Permit Application No. 2001-06 – Michael and Teresa Brazil) requesting to develop Lot "A" of the 2000 Travao LLA, with a single-family dwelling. The SAA permit was approved by staff one day after submittal, on January 30, 2001, with a note on the permit that it was being approved because the 2000 Travao LLA had been received prior to the 2000 ordinance amendment having been adopted. Thus, at that time, staff determined that the parcel was subject to a SAA based on the parcels 2000 Travao LLA configuration and not the 1947 McKinzie Track date that created the original parcel that was adjusted. With the 2007 update, the original parcel creation date vs. the LLA date is no longer in question, the trigger for a SAA is just a parcel in the A-2-40 or A-2-160 being less than 20-acres in size.

Of the five (5) parcels established by the 2000 Travao LLA, the 1.17± acre subject parcel is the only parcel not developed with a dwelling. The parcel was assigned an address in 2021 in response to a request made by the property owner.

CONCENTRATION OF RESIDENTIAL USES IN THE VICINITY

The remaining 108 of the 120 parcels of the McKinzie Tract are still legal parcels which are located to the south of the project site (contained on APNs 081-030-054 and 081-030-032) and subject to a staff approval permit for development of a dwelling (see Attachment E – *McKinsie Tract Map with APNs*). As most of the parcels do not meet the required one-acre size for development with water/septic, any request for development will be subject to a LLA and/or merger to increase the parcel sizes to at least one-acre. Given the history of the McKinzie Tract, staff would consider any request to develop any of the remaining parcels of the McKinzie Tract, unless merged to meet the current 40-acre minimum parcel size for the zoning district, to be inconsistent with the County's General plan as the development of a dwelling would have the potential to induce similarly situated parcels to become developed, creating a concentration of residential uses, that could be detrimental to or in conflict with agricultural use of the property in the vicinity.

Staff's evaluation of undeveloped parcels in the surrounding area, in addition to the McKinzie Tract parcels, found six (6) parcels; consisting of a 1.2± acre parcel, two 9.72± acre parcels, a 17.18± acre parcel, a 18.47± acre parcel, and a 19.20± acre parcel (see Attachment F – *Map of Undeveloped Parcels in the Surrounding Area*).

The concern with this request is that it might set a precedent that would allow for other McKinzie Tract parcels to develop, as it involves a parcel that originated from the McKinzie Tract. However, staff does believe that this request is unique due to this parcel being the only remaining undeveloped McKinzie Tract parcel that was included in the 2000 Travao LLA. Accordingly, Staff does not believe that development of the subject parcel, along with the other six (6) undeveloped parcels located outside of the

McKinzie Tract, would create a concentration due to the limited nature of the number of developable parcels remaining and their scattered locations.

ENVIRONMENTAL REVIEW

In accordance with Title 14, California Code of Regulations, Section 15061(b)(3), if the findings necessary for approval of this request can be made, staff will consider the request to be exempt from the California Environmental Quality Act (CEQA) under the Common Sense exemption.

ACTION BEING REQUESTED OF PLANNING COMMISSION

The Planning Commission is being asked to advise the Planning Director on whether this project can meet the findings required for approval.

Staff believes there is justification to approve this request based on the project site being the only remaining parcel not developed with a dwelling of the five (5) parcels created by the 2000 Travao LLA; however, the concern is the precedence approval could set to justify support for residential development of the remaining McKinzie Tract parcels.

Any decision made by staff will be appealable to the Planning Commission within 10 days of the decision. Notice of the public hearing for this item has been provided to the surrounding landowners in accordance with the County's noticing policy for discretionary actions.

It is the intent of the Planning Director to make a final decision on this item on November 10, 2026, based on the advice provided by the Planning Commission and any community feedback received from surrounding landowners.

PROPERTY OWNER AND REPRESENTATIVE INFORMATION

Applicant/Agent: Rachel Baxter, Baxter Homes Inc.
Property Owner: Michael and Teresa Brazil

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Contact Person: Shante Ruiz, Assistant Planner, (209) 525-6330

Attachments:
Attachment A – Maps
Attachment B – Stanislaus County Board of Supervisors Board Reports and Stanislaus County Planning Commission Memos*
1. October 24, 2000, Board Report
2. October 19, 2000, Planning Commission Memo

3. October 10, 2000, Board Report
4. August 17, 2000, Planning Commission Memo

Attachment C – McKinzie Tract (16-M-28)
Attachment D - LLA 2000-17
Attachment E – McKinzie Tract Map with APNs
Attachment F – Map of Undeveloped Parcels in the Surrounding Area

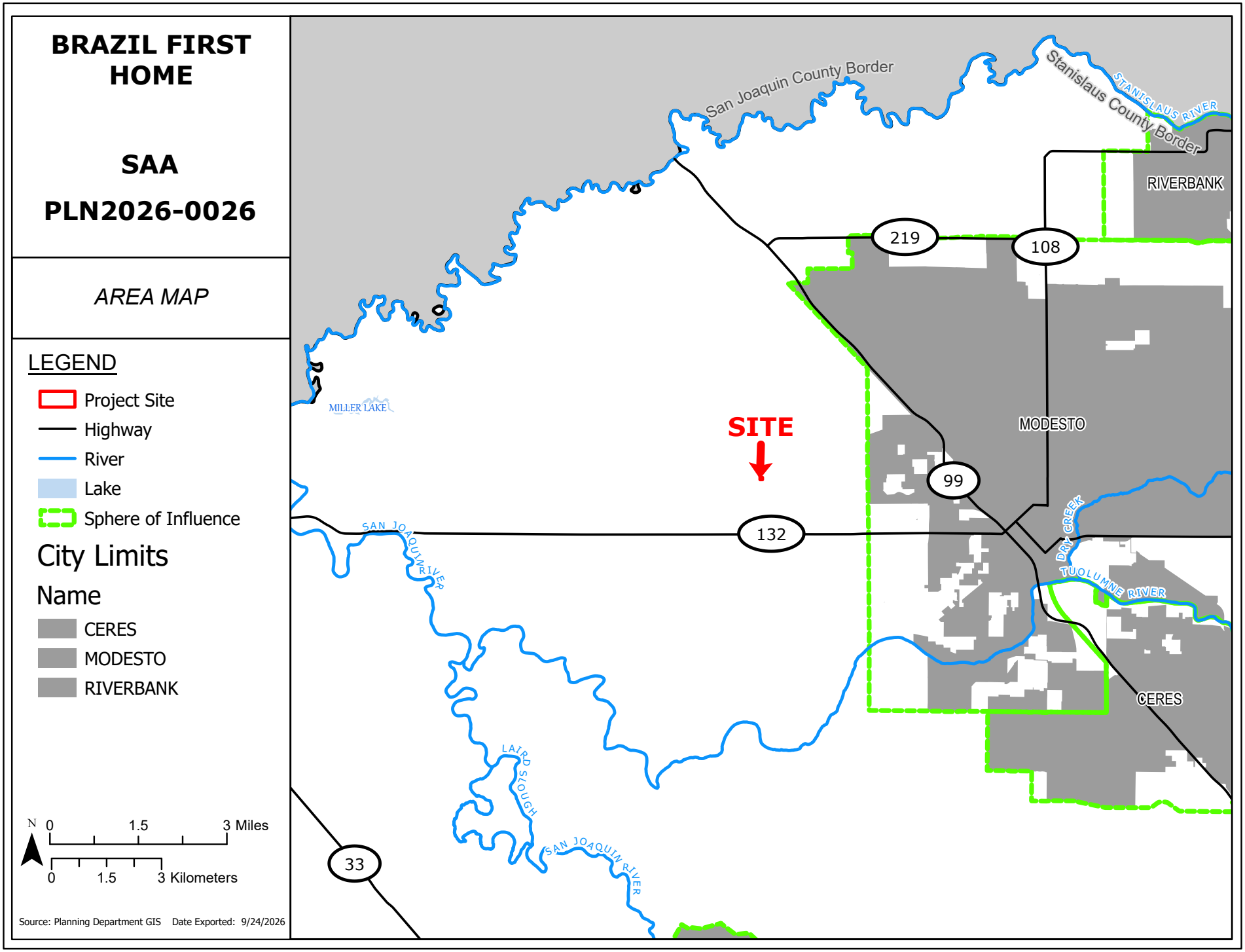
*Note: Attachments to Reports and Memos not provided.

BRAZIL FIRST HOME

SAA

PLN2026-0026

AREA MAP



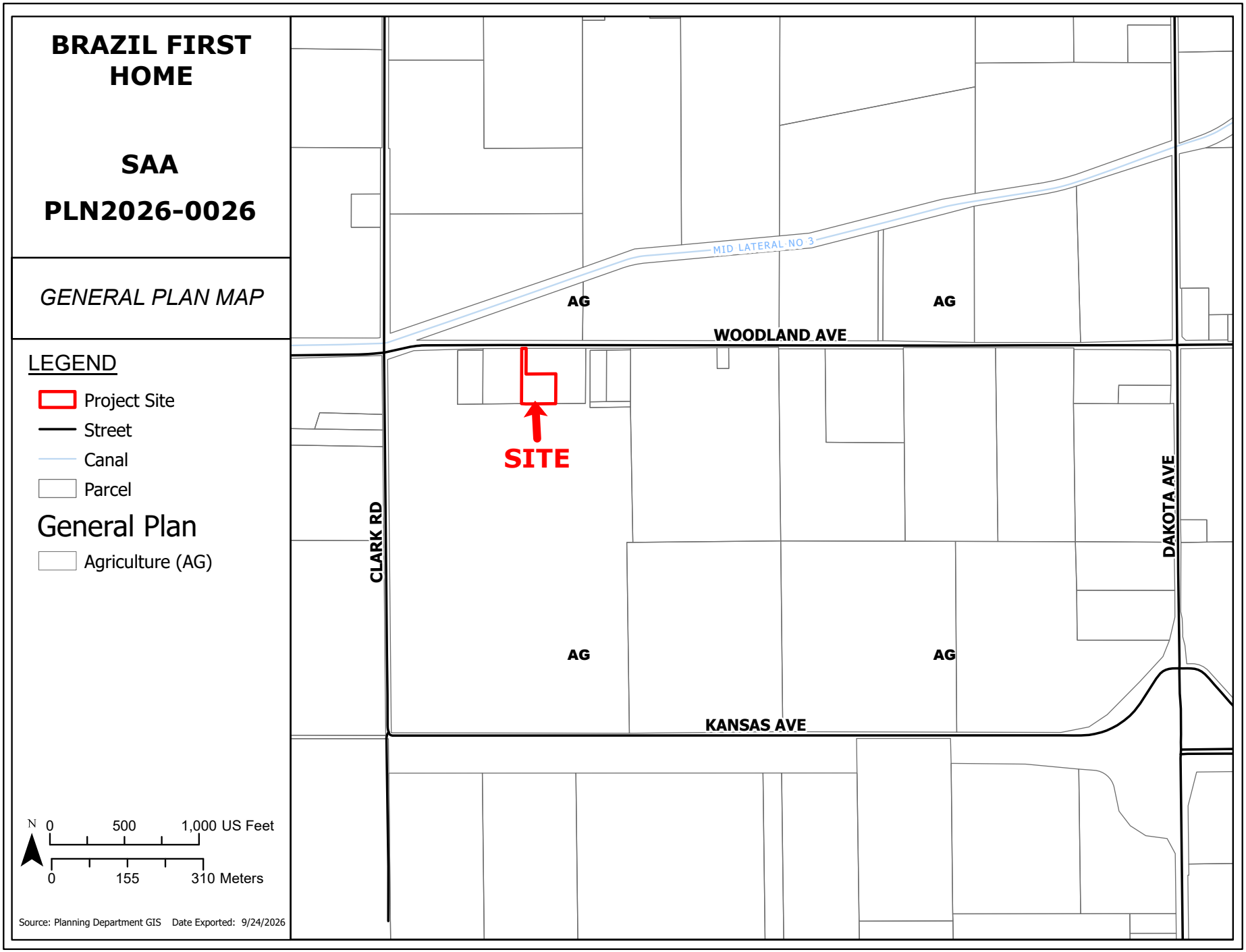
ATTACHMENT A-1

BRAZIL FIRST HOME

SAA

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GENERAL PLAN MAP



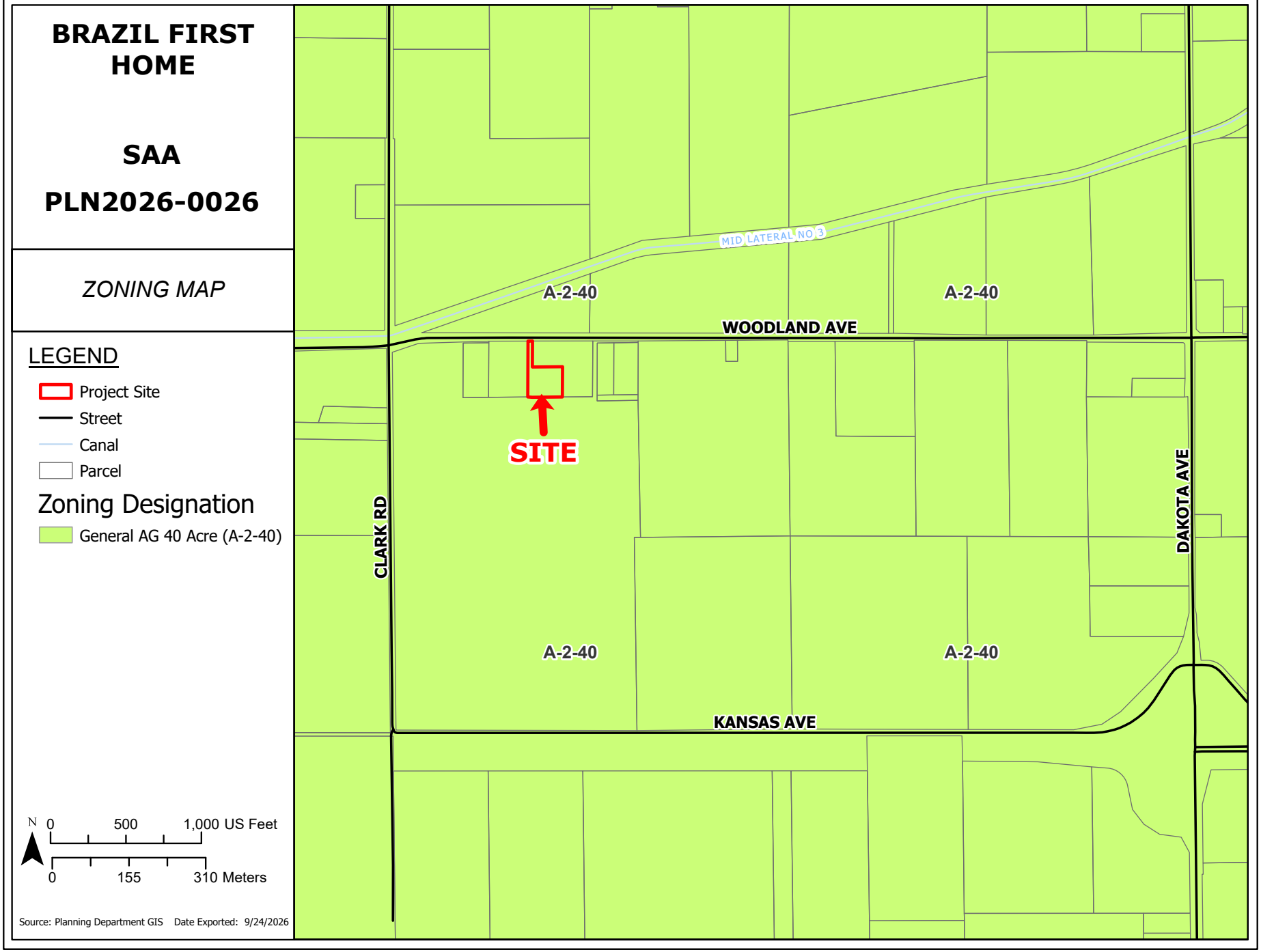
ATTACHMENT A-2

BRAZIL FIRST HOME

SAA

PLN2026-0026

ZONING MAP



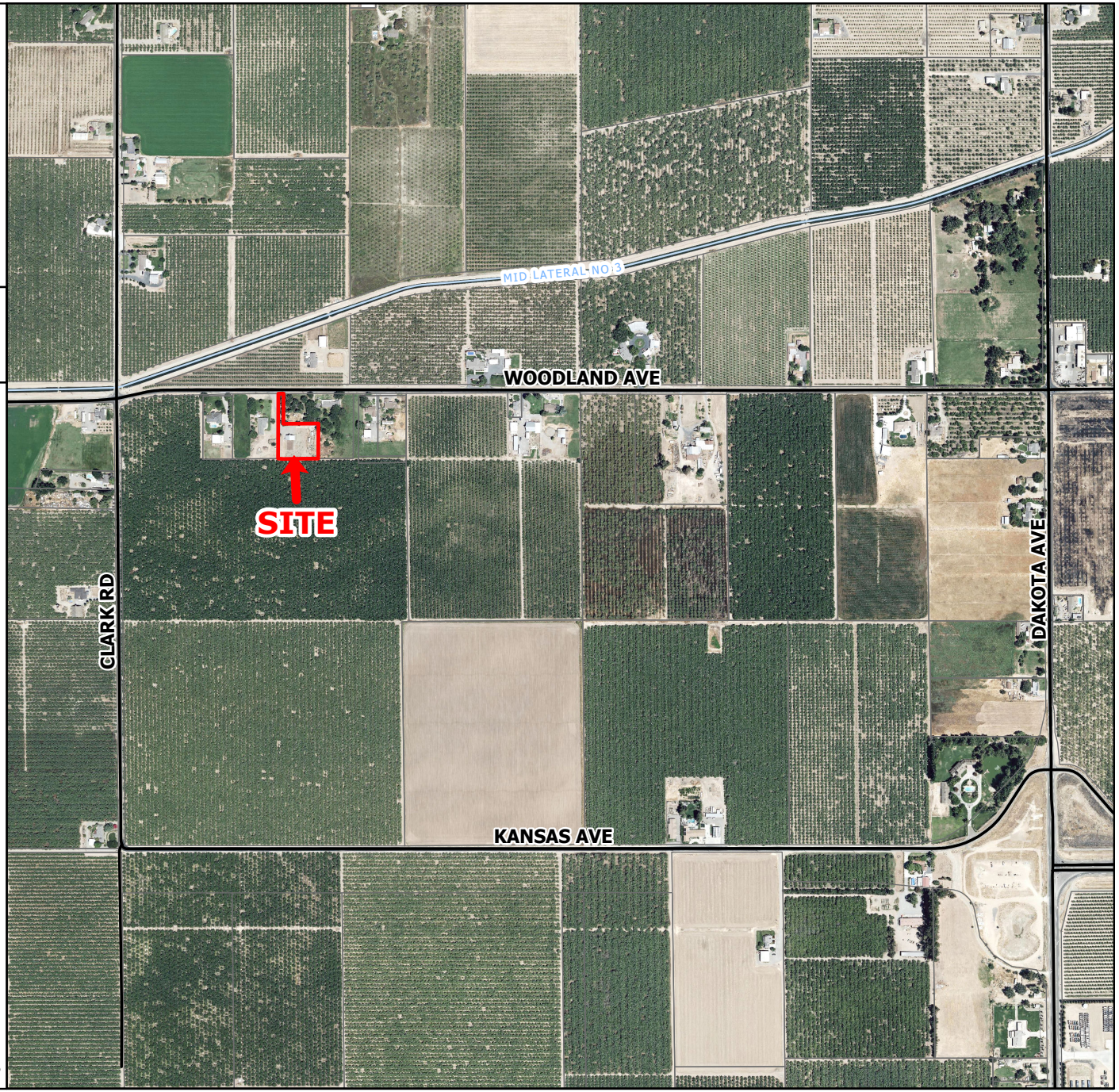
ATTACHMENT A-3

BRAZIL FIRST HOME

SAA

PLN2026-0026

2025 AERIAL AREA MAP



LEGEND

- Project Site
- Street
- Canal
- Parcel

N 0 500 1,000 US Feet

0 155 310 Meters

Source: Planning Department GIS Date Exported: 9/24/2026

ATTACHMENT A-4

BRAZIL FIRST HOME

SAA

PLN2026-0026

2025 AERIAL SITE MAP



LEGEND

- Project Site
- Street
- Parcel

N 0 50 100 US Feet

0 13 25 Meters

Source: Planning Department GIS Date Exported: 9/24/2026

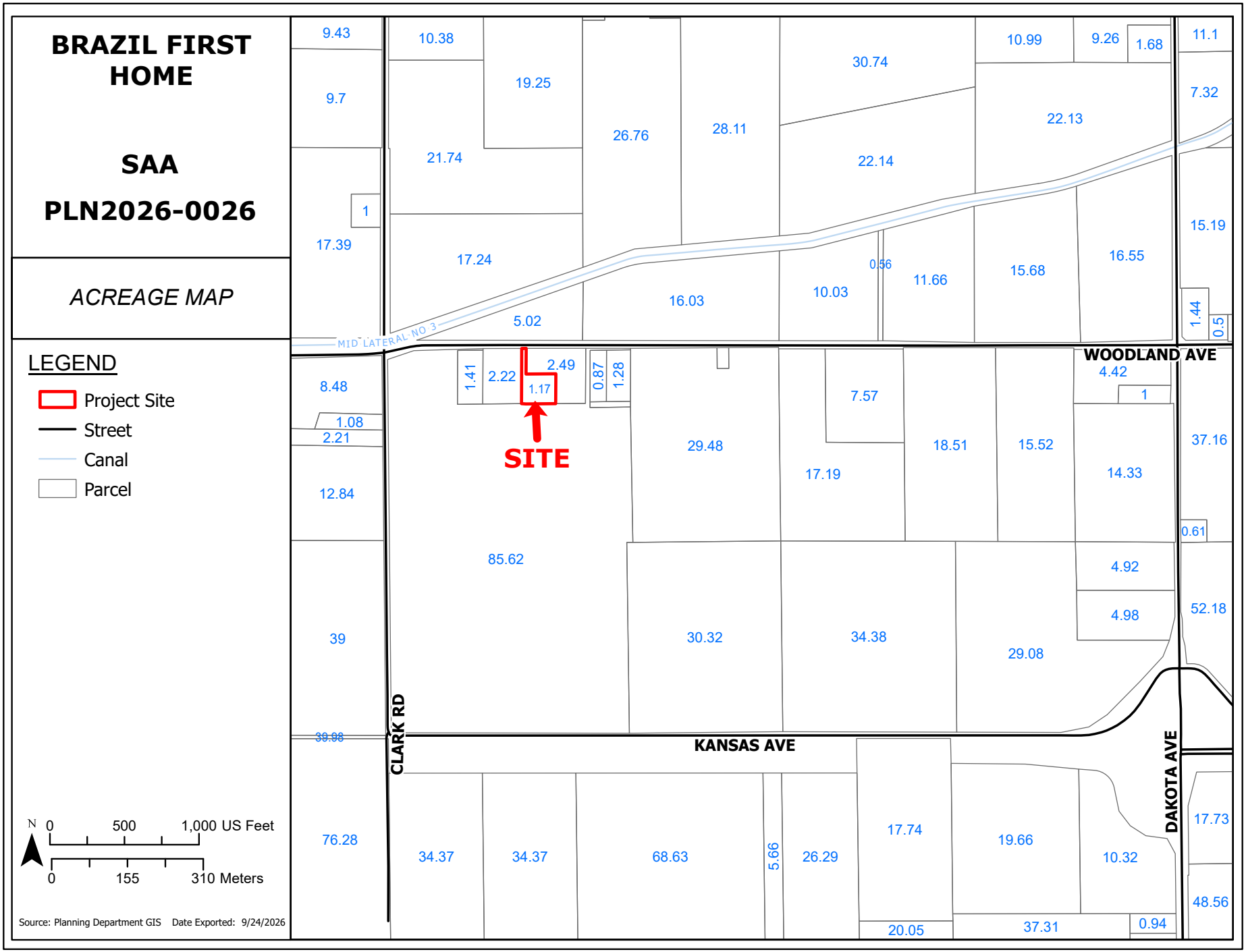
ATTACHMENT A-5

BRAZIL FIRST HOME

SAA

PLN2026-0026

ACREAGE MAP



ATTACHMENT A-6

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

DEPT: Planning & Community Development
Urgent _____ Routine __X__
CEO Concurs with Recommendation YES____ NO_____
(Information Attached)

BOARD AGENDA # 9:20 a.m.
AGENDA DATE: October 24, 2000
4/5 Vote Required YES ____ NO__X__

SUBJECT:
CONTINUATION FOR THE INTRODUCTION, WAIVING OF THE READING AND ADOPTION OF PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT ORDINANCE AMENDMENT NO. 2000-02 - ANTIQUATED SUBDIVISIONS - REVISED REQUIREMENTS FOR DWELLINGS IN THE A-2 (GENERAL AGRICULTURE) ZONE AND RELATED AMENDMENTS TO THE SUBDIVISION ORDINANCE

STAFF AND PLANNING COMMISSION RECOMMENDATION:

1. RECEIVE THE REPORT FROM THE PLANNING COMMISSION;

2. INTRODUCE, WAIVE THE READING AND ADOPT THE ATTACHED PLANNING COMMISSION RECOMMENDATION FOR ORDINANCE AMENDMENT NO. 2000-02 - ANTIQUATED SUBDIVISIONS - REVISED REQUIREMENTS FOR DWELLINGS IN THE A-2 (GENERAL AGRICULTURE) ZONE AND RELATED AMENDMENTS TO THE SUBDIVISION ORDINANCE;

3. FIND THAT THIS ORDINANCE WILL NOT HAVE ANY EFFECT ON THE ENVIRONMENT AND CEQA SECTION 15061(B)(3) APPLIES;

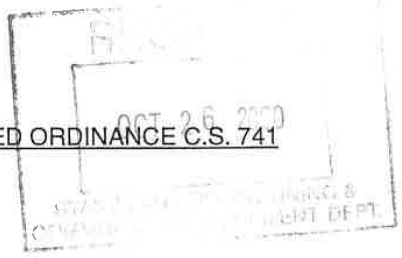
FISCAL IMPACT:

No direct fiscal impact is anticipated.

BOARD ACTION **No.** 2000-854

On motion of Supervisor Blom , **Seconded by Supervisor** Simon
and approved by the following vote,
Ayes: Supervisors: Paul, Mayfield, Blom, Simon, and Chairman Caruso
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None
1) __X__ **Approved as recommended**
2) _____ **Denied**
3) _____ **Approved as amended**
Motion:

INTRODUCED, WAIVED THE READINGS, AND ADOPTED ORDINANCE C.S. 741



File No. ORD-54-F-12

ATTEST: REAGAN M. WILSON, Clerk By: Deputy

ATTACHMENT B-1

DISCUSSION: The Board received this item at its October 10, 2000 meeting and considered the Planning Commission's recommendation along with a Staff recommendation which was different from the Planning Commission's discussion and recommendation. At the conclusion of the hearing your Board referred this item to the Planning Commission for a report and recommendation. In addition, the Board requested staff develop possible options for the Planning Commission to consider and to make recommendations with respect to those options.

The Planning Commission considered this item at its October 19, 2000 meeting and on a 5-3 (McWilliams, Cusenza and Souza) vote has recommended revised requirements for dwellings in the A-2 (General Agriculture) zone and related amendments to the Subdivision Ordinance.

Specific recommendations of the Planning Commission are:

1. It will only apply in areas zoned A-2-40 and A-2-160, in that these designations are for long-term agriculture.

2. Lands zoned A-2-3, A-2-5, A-2-10 and A-2-20 are in areas which have either been recognized for ranchettes or are in "Urban Transition" designations or are in areas that have been developed to the 20 acre minimum. These are not subject to this ordinance, therefore, the owner can build a dwelling if it meets minimum lot size requirements for wells and septic tanks irrespective of the zoning and parcel size.

3. If the undersized parcel is 20 acres or greater, irrespective of zoning, up to two dwellings may continue to be constructed.

4. This section does not apply to parcels created under the "homesite" provision which "sunsetted" on December 31, 1999. Parcels created under this provision may continue to build dwelling units as permitted uses on both parcels.

5. Provides that a dwelling may be constructed on undersized parcels created prior to March 4, 1972, after approval of a use permit by the Planning Commission. If the Planning Commission denies the request, the proponent could appeal the request to the Board of Supervisors.

6. Provides that a dwelling may be constructed on undersized parcels created after March 4, 1972, after the approval of a staff approval permit. If staff denies the request, the proponent could appeal the request to the Planning Commission.

7. Development of a clustering ordinance by the General Plan Update Committee and a recommendation to the Planning Commission and Board of Supervisors.

DISCUSSION CONTINUED: As you will recall, this is essentially the same recommendation that staff presented to your Board at your October 10, 2000 hearing. There is one change from that recommendation, which is the elimination of the A-2-20 from the area regulated under the proposed ordinance.

While it was not a public hearing before them, the Planning Commission listened to twelve speakers with respect to this ordinance. Almost all of the speakers were not in favor of adopting an ordinance regulating dwellings on antiquated subdivision lots. Their concerns centered around several items:

1. Landowners may be losing value by not having the right to construct a dwelling as a permitted use in the A-2-40 and A-2-160 zones on parcels less than 20 acres.

2. Some of the small parcels can support various types of intensive agriculture consistent with residential uses and should not be regulated.

3. Not all of the antiquated subdivisions are alike.

4. Lack of public involvement in the process.

Some of the speakers while not in favor of the ordinance recognize that something needs to be done and the options given were credible and needed to be pursued. Some speakers felt that Farm Bureau was not speaking for all farmers in the County. Several indicated while they were not in favor of the ordinance, they felt that the "clustering" concepts were good, and that they should be pursued further.

Options

At the conclusion of your hearing on October 10, you requested that staff develop several options that the Commission could consider and make a recommendation to your Board with respect to those options.

The first option offered to the Commission was with respect to the area in which this proposed ordinance would apply. You recall that the recommendation applied in the A-2-20, A-2-40 and A-2-160 zoned lands. An option that was offered was that the ordinance only apply to lands zoned A-2-40 and A-2-160, dropping out the A-2-20 zoned lands. A-2-20 zoning exists in only one portion of the County and reflects a subdivision of 20 acre parcels and smaller which has been extensively developed in its original configuration. The Commission felt this is a reasonable option and has recommended that the A-2-20 area be dropped out of the proposed ordinance.

DISCUSSION CONTINUED: The second option involves lands within the sphere of influence. Most of the land within a sphere of influence is designated as "Urban Transition" and it does not apply as these lands are zoned A-2-10. However, there is some land in a sphere of influence designated as "Agriculture" and consequently zoned A-2-40. An option presented to the Planning Commission is that lands within a sphere of influence not be included in this ordinance, they did not take action on this item.

The third option is "clustering" and the development of an ordinance that would allow for clustering in the agricultural zone. This option is also listed in the Agricultural Element to the General Plan. As mentioned in the attached staff report to the Planning Commission, there are two ways to accomplish clustering. First is through a planned development rezone which is available today, and the second would be to develop a clustering ordinance. They felt the clustering ordinance should be in addition to and not in lieu of the first option.

The Planning Commission, in its recommendation to you, has recommended that a clustering ordinance be considered and that it be sent to the General Plan Update Committee for further study and development. Upon drafting of a "clustering" ordinance, it would be presented to the Planning Commission and ultimately on to your Board.

The fourth option the Commission considered and which is open to people at this time, is that of rezonings. It may be appropriate that some of the antiquated subdivisions be rezoned to reflect the parcel sizes that are within those subdivisions. If the subdivision is in a location which would be appropriate for ranchette development, not cause problems to surrounding agricultural uses and even urban uses, it may be appropriate to rezone the subject area.

The fifth option which the Commission felt had some merit, was the idea of transfer of development rights. This is an option which is used on the east coast and would require a substantial amount of study to implement.

Additional Information

On October 10, 2000, your Board requested additional information with respect to the number of lots by various zones. Staff has produced the attached chart entitled "Antiquated Subdivisions" which lists by zoning type, the size of lots that were created by subdivisions and the lots that could be developed. As can be seen from the chart, approximately 6,862 lots were created and of that number, 4,225, remain in their original configuration that possibly could be developed. The vast majority of those lots are in the A-2-40 zone. Also included is a chart listing the findings required for approval of a use permit or a staff approval permit.

DISCUSSION CONTINUED: Your Board requested some of the locations of some antiquated subdivisions. We have provided a map that shows the location of some antiquated subdivisions. The important thing to notice is that they are located all over the County. They are not concentrated in a particular area of the County.

Planning Commission Decision

After listening to testimony from the audience, the Commission discussed this item and on a motion by Commissioner Byrd, seconded by Commissioner Griffin, the Commission voted 6-2 (McWilliams and Wetherbee) that the ordinance only apply in A-2-40 and A-2-160 zones. They felt there is a rational basis upon which to eliminate the A-2-20 area as a separate and distinct area and that the A-2-20 area exhibits special characteristics that are similar to those found in the A-2-3, A-2-5, and A-2-10 zoned areas. The Commission then discussed the issue of the entire ordinance, the Commission was not unanimous and somewhat divided. Some felt they had a clear grasp of what was being done, others felt they did not. The majority of the Commission felt they needed to send this on to the Board, there had been ample discussion and that there is a need to protect the economic viability of agriculture and move the item forward. The Commission was particularly disturbed by the impacts that ranchettes have on commercial agriculture with respect to the establishment of legitimate agriculturally-related uses that lead to vertical integration. They were concerned that use permits for packing sheds, employee housing, installation of scales and other uses have received substantial opposition from residents of ranchettes. This demonstrates that residences on small parcels may be in conflict with agricultural uses under some circumstances.

At the conclusion of the discussion, on a motion of Commissioner Wetherbee, seconded by Commissioner Byrd, and on a 5-3 vote (McWilliams, Cusenza and Souza) recommended that your Board adopt the ordinance as proposed by staff, exempting the A-2-20 area and encouraging study and development of a clustering ordinance by the General Plan Update Committee and a recommendation to the Planning Commission and Board.

POLICY ISSUES: Policy issue to be considered is the implementation of the Agricultural Element in the General Plan and the Board's goal of economic development.

STAFFING IMPACT: There may some increase in activity that could impact staffing levels with the requirements for use permits and staff approvals in certain areas.

Stanislaus County
Striving to be the Best

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10th Street, Suite 3400, Modesto, CA 95354
Phone: 209.525.6330 Fax: 209.525.5911

October 19, 2000

TO: Stanislaus County Planning Commission

FROM: Ron E. Freitas, Director of Planning & Community Development

SUBJECT: REFERRAL FROM AND REPORT AND RECOMMENDATION TO BOARD OF SUPERVISORS ON PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT ORDINANCE AMENDMENT NO. 2000-02 - ANTIQUATED SUBDIVISIONS - REVISED REQUIREMENTS FOR DWELLINGS IN THE A-2 (GENERAL AGRICULTURE) ZONE AND RELATED AMENDMENTS TO THE ZONING ORDINANCE

DISCUSSION

On October 10, 2000, the Board of Supervisors received the attached report from the Department of Planning & Community Development regarding your action and recommendations regarding antiquated subdivisions and staff analysis and recommendation. After continuing their hearing to October 24, 2000, the Board referred this matter to your Commission.

This item is being referred to the Planning Commission for two reasons. The first is Government Section 65857 which requires the legislative body to refer changes in a recommendation from the Planning Commission back to the Planning Commission for a report. Pursuant to the law, this is a referral and the Planning Commission is specifically not required to hold a public hearing.

The second reason for the referral is to consider possible options the Planning Commission may feel appropriate for the Board to consider.

As the Commission will recall, you considered Ordinance Amendment 2000-02 at your August 17, 2000 meeting. At the conclusion of the public hearing and discussion, a revised recommendation was developed and sent on to the Board. After the Planning Commission hearing staff and counsel analyzed your recommendation. Please refer to the attached October 10, 2000 report to the Board of Supervisors. As stated in the Board report, staff had several concerns with the Planning Commission recommendation and in this rare instance, proposed the Board adopt a revised staff recommendation and not the Planning Commission recommendation.

ATTACHMENT B-2

STAFF RECOMMENDATION TO THE BOARD OF SUPERVISORS

The original staff recommendation to your Commission and your recommendation to the Board of Supervisors and the revised staff recommendation to the Board all contain a central theme. That theme is that all three recommendations do not challenge the legality of these lots and do not constitute an unlawful taking of private property rights. The courts have determined that antiquated subdivision lots/parcel are legal. They can be bought, sold, traded etc. These proposals seek to control by land use methods and primarily zoning, the construction of dwellings on small parcels. The law and the courts clearly state that cities and counties can regulate the use of land. Counsel has thoroughly researched the law on the subject and the staff recommendation is designed so there is no unlawful taking of private property rights, as construction of a dwelling is not a right but a privilege.

The recommendation to the Board of Supervisors contains the following provisions:

1. Will only apply in areas zoned A-2-20, A-2-40 and A-2-160 since lands in these designations are designated for long-term agriculture.

2. Land zoned A-2-3, A-2-5 and A-2-10 are in areas which have been recognized for ranchettes or are in the "Urban Transition" designation and are not subject to this ordinance. Therefore, the owner can build a dwelling if it meets minimum lot size requirements for wells and septic tanks.

3. If the undersized parcel is twenty (20) acres or greater irrespective of the zoning, up to two dwelling units may continue to be constructed.

4. This section does not apply to parcels created under the "homesite split" provision which "sunsetted" on December 31, 1999. Parcels created under this provision may continue to build dwelling units as permitted uses.

5. Provides that a dwelling may be constructed on undersized parcels created prior to March 4, 1972 after the approval of a use permit by the Planning Commission. If the Planning Commission denies the request, the proponent could appeal the denial to the Board of Supervisors.

6. Provides that a dwelling may be constructed on undersized parcels created after March 4, 1972 after the approval of a "staff approval" permit. If staff denied the request, the proponent could appeal the denial to your Commission.

The key provision is number one above, which states the ordinance applies only in the A-2-20, A-2-40 and A-2-160 zones. The ordinance will allow construction of a dwelling (actually 2 dwellings) on parcels which are 20 acres or greater, even though they do not meet the minimum zoning requirements. For example, a 20 acre parcel in the A-2-40 zone will be allowed to construct up to two dwellings. When a parcel is in one of these zones and it is less

than 20 acres in area and was created prior to March 4, 1972, a dwelling may be constructed after approval of a use permit by the Planning Commission. If the parcel was created after March 4, 1972, a dwelling may be constructed after approval of a staff approval permit. Specific findings will have to be made in each individual case involving these use permits and staff approvals.

COMMENTS AT THE BOARD OF SUPERVISORS PUBLIC HEARING

The comments against regulating antiquated subdivisions received at the Board hearing focused on several themes including: 1) taking of private property rights - many feel it is a "right" to be able to construct a dwelling on a parcel (as discussed above, it is not a "right", but a privilege); 2) many landowners have maintained their land as a retirement nest egg; 3) there are other options such as clustering that can be considered and employed; and, 4) the use permit and staff approval permit findings are too subjective.

The themes mentioned in comments in favor of the ordinance are: 1) incompatibility of dwellings on small parcels with the long-term viability of commercial agriculture; 2) agriculture as an industry deserves the same protection as lands zoned for "industrial" and "commercial" uses where dwellings are not generally allowed; and, 3) the proposed ordinance is "balanced" (fair).

OPTIONS

The Board, in its referral to the Commission, has requested your suggestions for options that may be appropriate.

As previously discussed, the staff recommendation which the Board is considering applies only to lands which are zoned A-2-20, A-2-40 and A-2-160. One option may be to have the ordinance only apply to A-2-40 and A-2-160. Thereby dropping out A-2-20 zoned lands. A-2-20 zoned lands are only located in the Patterson Colony. An argument might be made that so much of the A-2-20 portions of the Colony have been sold and built upon that not much can be salvaged. Staff will present maps of the Patterson Colony at the meeting for your further information.

A somewhat related concept may be that the ordinance would not apply within LAFCO adopted city spheres of influence irrespective of the specific A-2 zoning classification. The thinking here is that the spheres are already committed to non-agricultural uses in the future and are considered to be not a most productive agricultural area by the General Plan. Utilizing the sphere of influence would create an easily understood and definable boundary between land devoted to long-term agriculture, and that which is eventually planned for urban development.

Another option to consider, and one that is mentioned in the Agricultural Element of the General Plan, is "clustering." There may be a couple of methods to accomplish "clustering."

One is by the development and adoption of a specific ordinance regarding clustering. The other is through our current P-D rezoning process although Williamson Act restrictions could complicate the process. It is suggested that the Board adopt the proposed ordinance now and the concept of a clustering ordinance be referred to the General Plan Update Committee then to the Planning Commission and Board. Presently, a landowner has the ability to apply for a "Planned Development" which can accomplish "clustering".

Another option that will require a substantial amount of work and cooperation from cities (within the County) is a transfer of development rights type program. This is a program that has been employed primarily on the east coast. Conceptually, it works by a landowner "transferring" (typically selling) their rights to develop a piece of property to an individual who has a "receptor" parcel to which to add development. There are several issues which would need to considered and developed. Again, it is our recommendation that the Board adopt the proposed ordinance and that this item also be referred to the General Plan Update Committee.

A fourth option available is to rezone the subject parcel to a zoning classification that meets the size of the parcels in the antiquated subdivision. This option may be considered when the subdivision is located on the fringe of a city and after talking with the city.

RECOMMENDATION

It is recommended your Commission: 1) review the staff recommended ordinance to the Board of Supervisors; 2) consider the themes comments of the comments to the Board; 3) consider the options discussed in this report and any others you feel worthy; and, 4) return this item to the Board with your comments and recommendation for any additional options the Board should consider.

I:\STAFFRPT\OA\2000-02 memo.wpd

Attachments:
- Board of Supervisors Report, October 10, 2000
- Chart, Affect of the Ordinance on the Ability to Construct a Dwelling by Parcel Size and Zone Classification
- Findings Required for Approval of a Use Permit or Staff Approval Permit

ACTION AGENDA SUMMARY

DEPT: Planning & Community Development

Urgent _____ Routine X

CEO Concurs with Recommendation YES____ NO_____
(Information Attached)

BOARD AGENDA # 9:30 a.m.

AGENDA DATE: October 10, 2000

4/5 Vote Required YES ____ NO X

SUBJECT:

INTRODUCTION, WAIVING OF THE READING AND ADOPTION OF PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT ORDINANCE AMENDMENT NO. 2000-02 - ANTIQUATED SUBDIVISIONS - REVISED REQUIREMENTS FOR DWELLINGS IN THE A-2 (GENERAL AGRICULTURE) ZONE AND RELATED AMENDMENTS TO THE SUBDIVISION ORDINANCE.

STAFF RECOMMENDATION:

1. INTRODUCE, WAIVE THE READING AND ADOPT THE ATTACHED PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT'S STAFF RECOMMENDED OPTION ORDINANCE AMENDMENT NO. 2000-02 - ANTIQUATED SUBDIVISIONS - REVISED REQUIREMENTS FOR DWELLINGS IN THE A-2 (GENERAL AGRICULTURE) ZONE AND RELATED AMENDMENTS TO THE SUBDIVISION ORDINANCE; AND,

2. FIND THIS ORDINANCE AMENDMENT WILL NOT HAVE ANY EFFECT ON THE ENVIRONMENT AND CEQA SECTION 15061 (b) (3) APPLIES.

FISCAL IMPACT:

No direct fiscal impact to the County budget is anticipated.

ATTACHMENT B-3

DISCUSSION: As described in the attached report to the Planning Commission and in the Agriculture Element of the General Plan, one of the biggest threats to Stanislaus County's agricultural economy is the potential creation of thousands of ranchettes (homesites) in antiquated subdivisions and parcels not in compliance with minimum zoning requirements.

Generally, antiquated subdivisions were created in the first half of the 20th century. These subdivisions exist on paper but have never been fully developed or sold as individual lots. There are numerous antiquated subdivisions located throughout Stanislaus County involving more than 3,000 lots which range in size from 3,500 square feet to 20 acres or more. These subdivisions are scattered primarily on the valley floor with no real concentration in any one area. These subdivisions were created prior to the enactment of local zoning requirements, the State Subdivision Map Act and the California Environmental Quality Act (CEQA). Consequently, they were created without any kind of formal review to evaluate their compatibility with the County's zoning or their economic and environmental consequences to the County. They are legal parcels and may be sold or transferred.

The development of these subdivisions could have a devastating impact to the long-term viability of this County's agricultural economy. The loss of productive agricultural land and the impact to surrounding agricultural operations would be significant. In addition to the adverse impacts to agriculture, the development of antiquated subdivisions pose a variety of impacts to groundwater from concentrations of on-site septic systems and the generation of dust and auto emissions from increased traffic on unimproved access roads. The County's ability to provide emergency services such as sheriff protection, fire protection, and emergency services also could be adversely affected. Similarly, potential impacts of antiquated subdivisions on roads, streets, schools, parks and recreation have never been fully evaluated.

The General Plan Update Committee spent time reviewing this issue and with staff, developed a recommendation to the Planning Commission. The recommendation to the Planning Commission would change the county ordinance to preclude the wholesale development of these antiquated subdivisions and parcels not in compliance with minimum zoning requirements, due to the devastating impact they could have on the County's ability to promote and protect its most vital industry, agriculture. As indicated above, many of these antiquated subdivisions and parcels are located in intensively farmed areas and their development through added traffic, dust potential, impact on groundwater, and potential septic system impacts would be significant to the agricultural economy.

DISCUSSION CONTINUED:

STAFF RECOMMENDATION TO THE PLANNING COMMISSION

The recommendation of staff and the General Plan Update Committee consisted of the following amendments:

1. The specific recommended ordinance changes include the addition of *Section 20.04.15 Development Standards* which requires all ordinances to be complied with and that it is declarative of existing law.

2. Section 20.76.020 **MINIMUM AREA COMPLIANCE** is amended to state that no parcel created within a subdivision for which a final map of 5 or more parcels has been recorded prior to March 4, 1972 shall be allowed to develop a dwelling unless the parcel complies with the minimum area requirements of the zoning district in which it is located or the parcel consists of at least 20 acres. In addition, this section adds a notification requirement for the seller of a parcel which is less than 20 acres that a development permit for a dwelling may not be issued.

3. Chapter 21.20, General Agriculture Zoning Classification and the following sections are amended. Section 21.20.020.B, **PERMITTED USES**, is amended to read that a single family dwelling is permitted on all parcels that meet or exceed the minimum zoning requirements and that on all parcels 20 acres or more, regardless of the zoning requirement may have up to two single family dwellings.

4. Section 21.20.030.A.5 is added to the Section **USES REQUIRING USE PERMIT** which allows the construction of a single family dwelling on legally created parcels that are less than 20 acres and not in compliance with the minimum requirements of the zoning district in which it is located. The addition of this provision provides the opportunity to build a house on a less than 20 acre parcel when specific findings can be established without detriment to agriculture.

5. Section 21.20.060.B.2 allows for the construction of a house on a parcel less than 20 acres when that parcel was created under the "homesite" provision which recently "sunsetted" on December 31, 1999.

DISCUSSION CONTINUED:

PLANNING COMMISSION RECOMMENDATION TO THE BOARD OF SUPERVISORS

The Planning Commission heard the preceding recommendations at their August 17, 2000 meeting. Commissioners expressed their support for doing something, as the threat of homesites and ranchettes in the agricultural area would destroy the agricultural economy of the County. They however, were not unanimous in support of the staff recommendation and they recommended changes to the staff's recommendation.

The Planning Commission recommendation modified the staff recommendation with the following deletions, changes, and additions:

1. Requires that before a dwelling can be constructed on a parcel, that it meet the requirements of the zoning district, Section 20.76.020.

2. Added a sentence to Section 21.04.030 regarding interpretation of the Zoning Ordinance which reads:

   "Nothing in this title shall be applied in a matter that constitutes a taking of private property in violation of the federal or state law". Will follow the first sentence which reads: "When interpreting and applying the provisions of this title, they shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare".

3. Eliminate the requirement for a use permit Section 21.20.030(A)(5) and added to 21.20.020(B) the following language:

   "and however, there may be constructed and maintained one single-family dwelling on a parcel legally created that is less than 20 acres, not in compliance with the minimum area requirements where the parcel is located and that does not qualify for the exception in Section 21.20.060 B.2 if as August 17, 2000 either (a) the parcel's owner owned no contiguous parcels, or (b) the parcel and all other contiguous parcels owned by the same owner total less than the minimum area requirements of the zoning district and the contiguous parcels include deed restrictions prohibiting a single-family dwelling on each contiguous parcel."

DISCUSSION CONTINUED:

4. Eliminated wording in Section 20.76.020(B) which states: "that meets the criteria of this section."

The Commission on a 4-2 (Souza and McWilliams) vote, recommended your Board Adopt the ordinance as amended.

STAFF CONCERNS AND REASONS FOR NOT SUPPORTING THE PLANNING COMMISSION'S RECOMMENDATION.

The Planning Commission recommendation requires, at the time there is a request for a building permit on an undersized parcel in the A-2 Zone, for the building official to determine the status of the applicant's title as of August 17, 2000, as to whether or not the applicant has an ownership interest in contiguous undersized parcels. If the applicant claims no ownership interest in contiguous undersized parcels, he will be entitled to a building permit, since under these circumstances it is a permitted use. If the applicant has contiguous parcels that are undersized, he will only be given a building permit on one of the undersized parcels after he has provided proof that he has placed deed restrictions on all of his other contiguous undersized parcels, prohibiting future dwellings from being built.

The building official is left as the one who must decide whether or not building permits should be issued. This raises a question as to whether or not he will have the information, ability or expertise to assure that the ordinance is uniformly applied. If there is a dispute between the applicant and the building official as to whether or not a permit should be issued or deed restrictions imposed, the building official's decision may be appealed to the Planning Commission.

Some may argue that a special privilege is going to be given to undersized parcels that have owners that don't own contiguous parcels. Only one building permit will be given to owners of undersized parcels that have contiguous undersized parcels, but only after they have been forced to deed restrict all of their other contiguous undersized parcels so that no future dwellings may be constructed. A concern is that undersized parcels are going to be treated differently, not based on the impacts that a residence will have on the surrounding farmland, but based on the status of the parcel owner's title. It may be hard to argue that some undersized parcels under this proposal are not going to be given a special privilege.

There are no sound land use factors that are being applied: one parcel will be allowed to build because of the status of the parcel's title and others will either be prohibited or limited to one parcel with the requirement that other parcels owned shall be deed restricted so that no single family dwelling can be built in the future. The impact that the construction of the dwelling will have on the neighbors will not be a factor considered. This may lead to legal uncertainty and

DISCUSSION CONTINUED:

could become difficult to administer. There is also no guarantee that undersized parcels cannot be developed. If a bunch of undersized parcels are in separate ownership or claimed to be in separate ownership as of August 17, 2000, all of them could be entitled to build as a matter of right. There is also the possibility that these provisions could induce landowner's to manipulate title so that the measure's provisions could become difficult to administer and enforce. Future owners could take steps to eliminate deed restrictions without the building official's knowledge.

The purpose for zoning is to identify areas that will have land uses that are compatible. Generally, zoning ordinances list the uses that are permitted in a zone. Permitted uses are allowed as a matter of right with no discretionary approval because they are considered to be compatible with one another. Other uses, may or may not be compatible, depending on circumstances that are unique to each individual parcel. Certain uses may be allowed with a conditional use permit upon a determination that the use proposed is compatible with the other property in the zone.

The reason that ancient subdivisions are a threat to the A-2-20, 40 and 160 acre zones is not that they are ancient, it is due to the fact that the undersized parcels may not be compatible with surrounding farmland usage and their development can have adverse affects on the farmland and uses that the A-2 Zone is attempting to protect and preserve.

STAFF RECOMMENDED OPTION TO THE BOARD OF SUPERVISORS

Since the Planning Commission hearing, staff has been meeting with Counsel regarding their recommendation and some of the concerns expressed during the meeting. In this rare instance, we are offering a staff option. This option, we feel, is superior to the staff recommendation to the Planning Commission and avoids the status of title and the parcel deed restriction administrative problems that the recommendation of the Planning Commission could cause.

Our current zoning ordinance has failed to recognize the fact that undersized parcels may be incompatible with the zone where they are located and their development may adversely affect farmland. The staff's recommended option addresses this issue head on by suggesting that the problem be resolved by following traditional zoning criteria. Development of single-family residences on undersized parcels should not be allowed, if it is going to adversely affect the farmland that the zone is designed to protect. However, if a single-family dwelling on an undersized parcel created before March 4, 1972, can be found to be compatible with the adjacent agricultural land within the zone, it may be allowed to develop upon the obtaining of a Conditional Use Permit. The use permit process provides a vehicle to objectively determine whether or not it is appropriate for an undersized parcel to develop a dwelling. For undersized parcels created after March 4, 1972, a staff approval permit may be issued to allow a dwelling unit if it can be determined to be compatible with the adjacent agricultural land within the zone.

DISCUSSION CONTINUED:

The owners of undersized parcels generally have no vested right to build single-family dwellings on their parcels. The county's zoning has allowed this. However, the law is clear that zoning can be changed so long as the change is based upon a rational basis (promotes public health, safety, and welfare). By following staff's recommendation, all undersized parcels will be treated uniformly and only the ones which can develop without adversely affecting the surrounding farmland will be allowed to build single family dwellings. There would be no taking because those parcels that do not qualify for a dwelling could continue to exercise all of the permitted uses that are authorized in the zone where they are located.

Staff believes that the A-2-3, A-2-5 and A-2-10 zones already allow parcels so small that the development of undersized parcels in these zones will not adversely affect the neighboring parcels. The staff option allows small parcels in the A-2-3, A-2-5 and A-2-10 zones that meet the site criteria in Ordinance Code Section 21.080.050 to develop as a matter of right without acquiring conditional use or staff approval permits.

Existing dwellings on undersized parcels would be allowed to be replaced, if destroyed by an act of God, under the Legal Non-Conforming use provisions of the Zoning Ordinance. The salient points of the option are:

1. It will only apply in areas zoned A-2-20, A-2-40 and A-2-160 since lands in these designation are designated for long-term agriculture. Lands zoned A-2-3, A-2-5 and A-2-10 are in areas which have been recognized for ranchettes or are in the sphere of influence of a city.

2. If the undersized parcel is twenty (20) acres or greater irrespective of the zoning, up to two dwelling units may continue to be constructed.

3. This section does not apply to parcels created under the homesite provision which "sunsetted" on December 31, 1999. Parcels created under this provision may continue to build dwelling units as permitted uses.

4. Provides that a dwelling may be constructed on undersized parcels created prior to March 4, 1972 after the approval of a use permit by the Planning Commission.

5. Provides that a dwelling may be constructed on a parcel created after March 4, 1972 after the approval of a "staff approval" permit.

DISCUSSION CONTINUED:

Staff and counsel have spent considerable time reviewing and discussing the recommendation to the Planning Commission and the Planning Commission's recommendation to your Board. In arriving at the above option, staff and counsel were attempting to implement the intent of both recommendations. The staff recommendation will not allow the development of undersized parcels to adversely affect the farmland in the A-2-20, 40 and 160 acre zones that the zoning is attempting to preserve and protect; however, if findings can establish that a dwelling unit may be compatible with the surrounding property, it is flexible enough to allow such a use where appropriate. Also, the criteria is uniform and staff believes that the ordinance can effectively be administered without putting an undue burden on County building permit officials.

POLICY ISSUES:

The policy issue to be considered is the implementation of the Agricultural Element of the General Plan and the Board's goal of economic development.

STAFFING IMPACT:

Irrespective of which option is adopted, there will be some increase in activity that could impact staffing levels.

Stanislaus County
Striving to be the Best

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

1010 10th Street, Suite 3400, Modesto, CA 95354
Phone: 209.525.6330 Fax: 209.525.5911

August 17, 2000

TO: Stanislaus County Planning Commission

FROM: Ron E. Freitas, Director of Planning & Community Development

SUBJECT: ORDINANCE AMENDMENT NO. 2000-02 - ANTIQUATED SUBDIVISIONS - REVISED REQUIREMENTS FOR DWELLINGS IN THE A-2 (GENERAL AGRICULTURE) ZONE AND RELATED AMENDMENTS TO THE SUBDIVISION ORDINANCE

BACKGROUND

One of the biggest threats of Stanislaus County's agricultural economy is the potential creation of thousands of ranchettes in antiquated subdivisions and parcels not in compliance with minimum zoning requirements. Antiquated subdivisions are subdivisions created in the early part of this century and generally are more than sixty years old. These subdivisions exist on paper but have never been developed or sold as individual lots. There are numerous antiquated subdivisions located throughout Stanislaus County involving more than 3,000 lots which range in size from 3,250 square feet to 20 acres or more. If these lots were sold and developed, the loss of agricultural land, coupled with the impact on surrounding agricultural operations, could be devastating to the long-term viability of the County's agricultural economy. In addition, some of these antiquated subdivisions have Williamson Act contracts placed on them. These subdivisions were created prior to the enactment of local zoning requirements, the State Subdivision Map Act and the California Environmental Quality Act. Therefore, these subdivisions were created without any kind of formal review to evaluate their economic and environmental consequences to the County.

In addition to having adverse impacts on agriculture, antiquated subdivisions pose a variety of environmental threats including groundwater contamination and degradation from the concentration of on-site septic systems and the generation of dust and auto emissions from increased traffic on unimproved access roads. The County's ability to provide emergency services such as fire protection, sheriff, and ambulance services also could be adversely affected. Similarly, potential impacts of antiquated subdivisions on roads, streets, schools, parks, and recreation have never been fully evaluated.

When the Agricultural Element was adopted, a section was devoted to a discussion of antiquated subdivisions. It was suggested the County adopt a merger ordinance or provide some method for dealing with the antiquated subdivisions. In that document, it was suggested that five points be considered when developing a merger ordinance.

ATTACHMENT B-4

1. The subdivision involves more than five (5) lots;
2. The property is under one ownership;
3. The property consists of productive agricultural land;
4. The lot sizes of the antiquated subdivision are small enough to pose a threat to the groundwater in the area based on the determination of the Department of Environmental Resources; and,
5. Implementation of a subdivision would clearly be inconsistent with the agricultural-related policies of the Land Use, Open-Space/Conservation, and Agricultural Elements of the County General Plan.

DISCUSSION

The County's General Plan Update Committee has been in the process of reviewing this issue and is recommending changes be made to the county ordinance that would preclude the wholesale development of these antiquated subdivisions and parcels not in compliance with minimum zoning requirements, due to the devastating impact they could have on the County's ability to promote and protect its most vital industry, agriculture. As indicated in the Background section, many of these antiquated subdivisions and parcels are located in intensively farmed areas and their development through added traffic, dust potential, impact on groundwater, and potential septic system impacts would be significant to the agricultural economy.

Staff has investigated what other agencies have done, and along with County Counsel, have attempted to develop ordinance amendments that are tailored to our situation and would curtail the development of these antiquated subdivisions and parcels.

The specific recommended ordinance changes include the addition of *Section 20.04.15 Development Standards* which requires all ordinances to be complied with and that it is declarative of existing law.

Section 20.76.020 **MINIMUM AREA COMPLIANCE** is amended to state that no parcel created within a subdivision for which a final map of 5 or more parcels has been recorded prior to March 4, 1972 shall be allowed to develop a dwelling unless the parcel complies with the minimum area requirements of the zoning district in which it is located or the parcel consists of at least 20 acres. In addition, this section adds a notification requirement for the seller of a parcel which is less than 20 acres that a development permit for a dwelling may not be issued.

Chapter 21.20, General Agriculture Zoning Classification and the following sections are amended. Section 21.20.020.B, **PERMITTED USES**, is amended to read that a single family dwelling is permitted on all parcels that meet or exceed the minimum zoning requirements and that on all parcels 20 acres or more, regardless of the zoning requirement may have up to two single family dwellings.

Section 21.20.030.A.5 is added to the Section **USES REQUIRING USE PERMIT** which allows the construction of a single family dwelling on legally created parcels that are less than 20 acres and not in compliance with the minimum requirements of the zoning district in which it is located. The addition of this provision provides the opportunity to build a house on a less than 20 acre parcel when specific findings can be established without detriment to agriculture.

Section 21.20.060.B.2 allows for the construction of a house on a parcel less than 20 acres when that parcel was created under the "homesite" provision which recently "sunsetted" on December 31, 1999.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REVIEW

The proposed ordinance changes implement policies in the County General Plan whose goal is to limit the residential development of small agriculturally zoned paper subdivisions that have been created in the past without any CEQA review or conditions imposed to assure modern infrastructure improvements. These general plan policies were subject to CEQA review when the agricultural element of the General Plan was adopted. The ordinance changes limit the development of dwelling units when the parcels are less than 20 acres and are smaller than the minimum size requirements for the zone. The elimination of the right to develop dwelling units without any environmental review or discretionary approval on small parcels in the A-2 zone cannot have any adverse environmental impact. The zoning changes will protect against adverse impact that may be caused by dwelling proliferation on farm land. Since it can be seen with certainty that there is no possibility that the ordinance changes proposed may have a significant effect on the environment, CEQA Guidelines Section 15061(b)3 applies; therefore, the ordinances are not subject to CEQA.

STAFF RECOMMENDATION

It is recommended the Planning Commission: 1) find this ordinance will not have any effect on the environment and CEQA Guidelines Section 15061(b)3 applies; and 2) recommend the Board of Supervisors adopt the proposed amendments.

I:\STAFFRPT\OA\2000-02 sr

We the undersigned, owners of the land shown on the accompanying map do hereby consent to the making and filing of the same and do hereby dedicate and donate to the public for public use all streets, avenues and other public places as shown on this map.

Bernardine L. McCarthy
Florence M. McCarthy
Trustees under the will of
Mary E. McCarthy Deceased.

George H McKinzie
Dorothy M. McKinzie
Bernardine L. McCarthy
Alvin Joseph McCarthy
Helen M. McCarthy
Florence M. McCarthy

State of California } ss.
County of Stanislaus }

On the 27 day of Jan. 1947, before me a Notary Public in and for said County and State, personally appeared George H. McKinzie and Dorothy M. McKinzie, his wife, and Florence M. McCarthy (a single woman), Helen M. McCarthy (a single woman), ~~Bernardine L. McCarthy (a single woman)~~ and Florence M. McCarthy ~~and Bernardine L. McCarthy~~ as Trustees under the will of Mary E. McCarthy Deceased, known to me to be the persons whose name are subscribed to the above instrument, and they acknowledged to me that they executed the same.

Witness my hand.

Art Pickard
Notary Public for California, Stanislaus Co.

State of California }
County of Alameda }

On the 23rd day of January, 1947, before me a Notary Public in and for said County and State, personally appeared Alvin Joseph McCarthy, and Bernardine L. McCarthy (a single woman), and Bernardine L. McCarthy as Trustee under the will of Mary E. McCarthy, deceased, known to me to be the persons whose names are subscribed to the above instrument and they acknowledged to me that they executed the same

Leon A. Lecard
Notary Public for Alameda County
State of California.

This is to certify that this map, duly acknowledged and certified as required by law, having been presented to the Board of Supervisors, Stanislaus Co. State of California, which is the governing body having control of the roads, avenues, byways, alleys, lanes and way places, etc., in the territory shown on this map and it is ordered that all roads, avenues, byways, alleys, lanes, places, etc., be rejected on behalf of the public, except those heretofor declared to be public hyways, otherwise this map is approved. Dated this 11th day of February 1947.

Leo C Hammett
Chairman Co. Board of Supervisors.

Ed. Eastin
Clerk Stanislaus Co. Board of Supervisors

By M. C. Wilson
Deputy.

Modesto Title Company, Trustee under a Deed of trust affecting the land embraced within the area shown on this map do hereby consent to the making and filing the same.

Modesto Title Company

By Harold H. Schulenberg President.

By Kenneth Zachorias Secretary.

State of California } ss.
County of Stanislaus }

On Feb 19th 1947, before me Helen L. Heinz, a Notary Public in and for said County and State, personally appeared Harold H. Schulenberg and Kenneth B. Zachorias, known to me to be President and Secretary of the Corporation that executed the within instrument as Trustee, and also known to me to be the Persons who executed it on behalf of such Corporation and acknowledged to me that such corporation executed the same as Trustee.

Helen L Heinz
Notary Public for Stanislaus County
State of California

I hereby certify that the land shown on the attached map is not subject to any special assessments that have been paid off in full, other than special assessments collected as taxes, but this certificate does not include any assessment district bonds which have not yet become lien, Dated Feb. 17, 1947.

Geo D Macumber
County Surveyor.

This is to certify that the owners of the property shown on the accompanying map, have filed with the Board of Supervisors a bond approved by said board conditioned for the payment of taxes and special assessments collected as taxes which are not at the time of filing this map a lien against said property or any part thereof. Dated this day of 1947

Stanislaus Co. Clerk.

This is to certify that there are no liens for any unpaid State, County, School, municipal, or Irrigation taxes against the land shown on this map.

As to County, State or School Taxes, Dated January 13, 1947.

J. Hazard
County Auditor.

As to Irrigation Taxes,

Modesto Irrigation District.

By A. C. Tither
Tax Collector.

This is to certify that this map is approved in accordance with the requirements of the land subdivision act of 1937 and with Stanislaus County ordinance No. 18, and as to such matters is correct. Dated this 17 day of Feb 1947.

Geo. D. Macumber
County Surveyor.

Approved by the Stanislaus County Planning Commission in accordance with requirements of law in a duly authorized meeting held on the day of January 13, 1947.

Leo C Hammett

MAP OF

Mc KINZIE TRACT

SITUATE IN
W½ OF NW¼, SE¼ OF NW¼ AND W½ OF W½ OF NE¼ OF NW¼
SEC. 27, T.3S.R.8E.

16-28

ATTACHMENT C

16-28



MAP OF
McKINZIE TRACT

SITUATE IN
W½ OF NW¼, SE¼ OF NW¼ AND W½ OF W½ OF NE¼ OF NW¼
SEC. 27, T. 3 S. R. 8 E. M. D. B. & M.

SURVEYED BY E. B. HENRY L.S. 2367.
SCALE. — 200 FT. TO 1 IN.

The north line of the NW¼ of section 27, T3SR8E was found to have a bearing of S89°15'W by solar observation. This line was taken for the base of this survey. All four corners of said NW¼ were found in place, with bearings and distances as shown on this map.

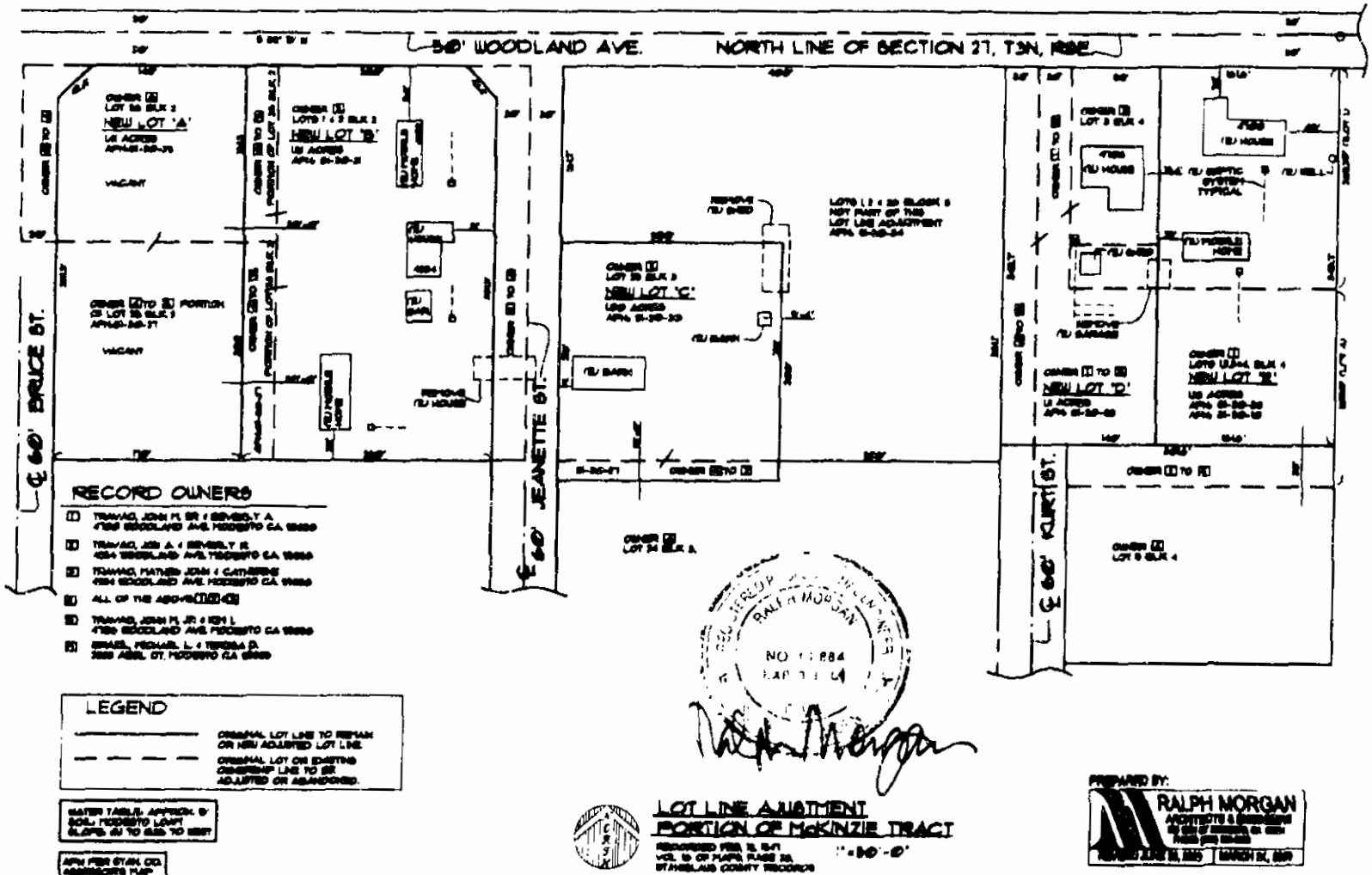
I, E.B. Henry, a duly licensed surveyor in the State of California, certify that I have surveyed the land shown on the accompanying map and that said map shows correctly the physical conditions portrayed also all monuments are set durable and sufficient to retrace said survey.

E.B. Henry
L.S. No. 2367.

Instrument No. 4422
Recorded Feb. 19, 1947
Stanislaus County Records
Vol 16 of Maps page 28.
Fee 5.00 paid.
R.G. WARING
County Recorder
By [signature]
Deputy

Restrictions 4453 - 1947 Vol. 855, Page 354.

16-28



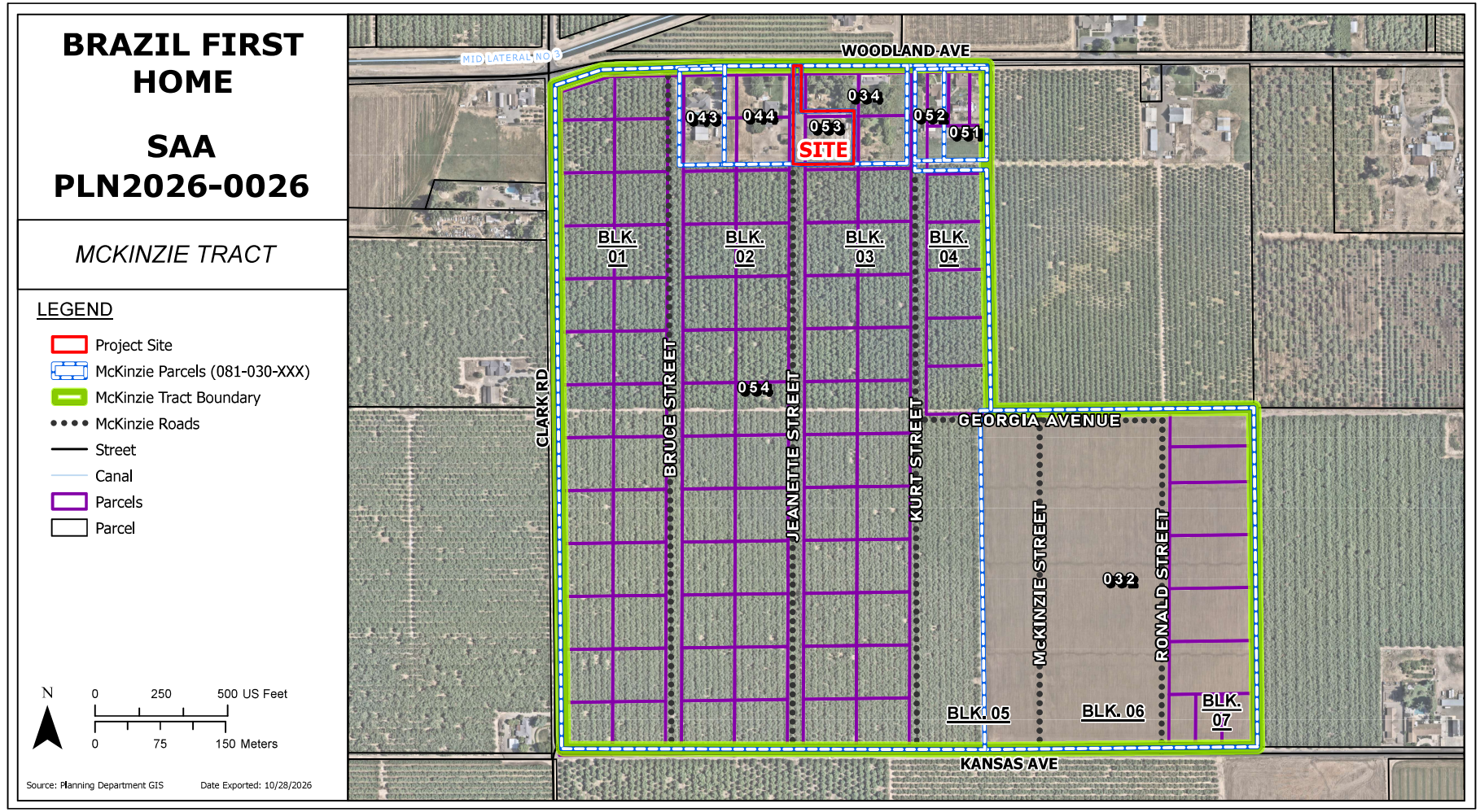
ATTACHMENT D

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BRAZIL FIRST HOME

SAA PLN2026-0026

MCKINZIE TRACT

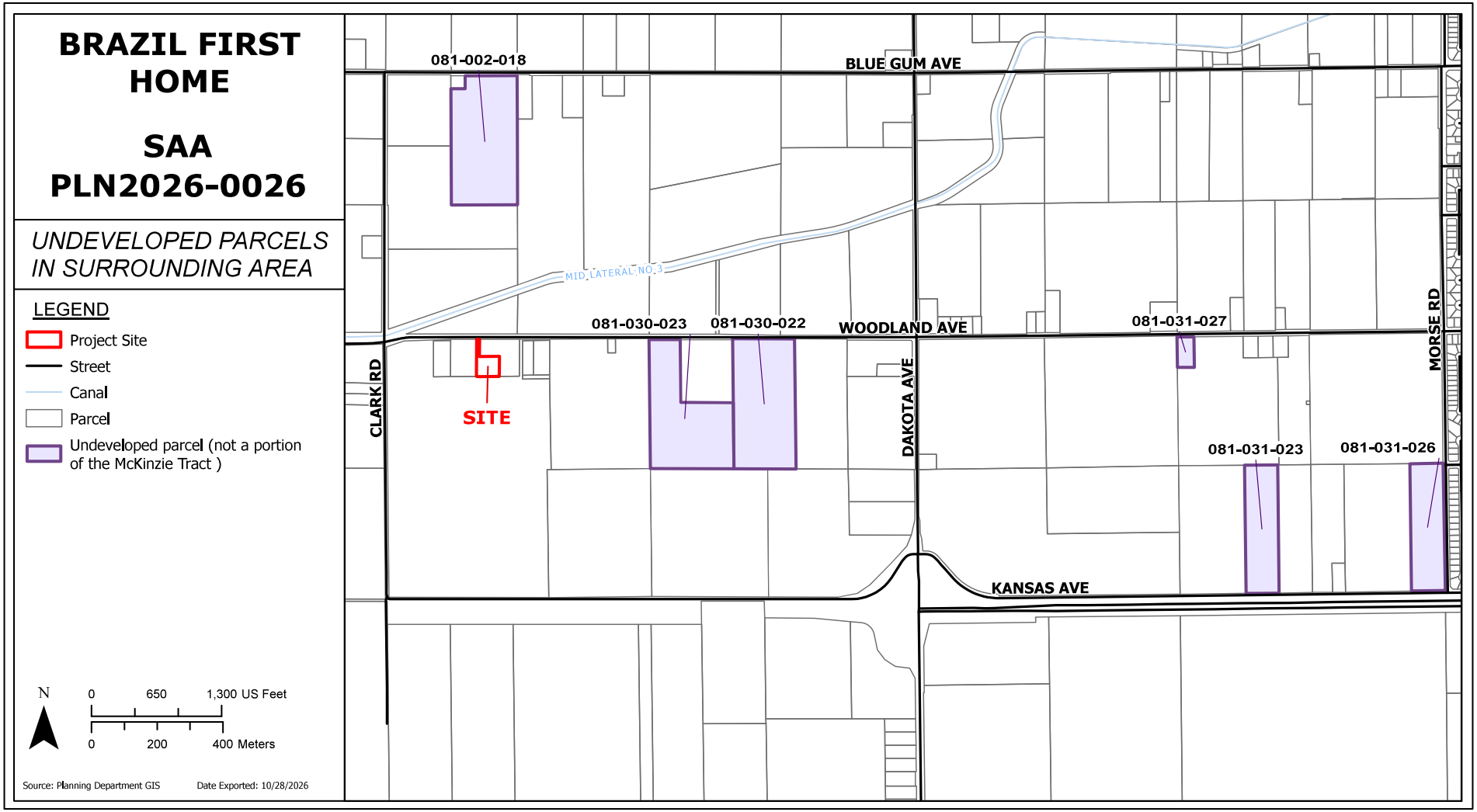


ATTACHMENT E

BRAZIL FIRST HOME

SAA PLN2026-0026

UNDEVELOPED PARCELS IN SURROUNDING AREA



ATTACHMENT F

SAA PLN2026-0026

BRAZIL FIRST HOME

Planning Commission
November 5, 2026

Overview

- Request to obtain a staff approval permit to place the first dwelling on a 1.17± acre parcel, in the General Agriculture (A-2-40) zoning district.
  - A staff approval permit is required for the development of a single-family dwelling on parcels less than 20 acres in size when located in the A-2-40 or A-2-160 zoning district.

BRAZIL FIRST HOME

SAA

PLN2026-0026

AREA MAP

LEGEND

- Project Site
- Highway
- River
- Lake
- Sphere of Influence

City Limits

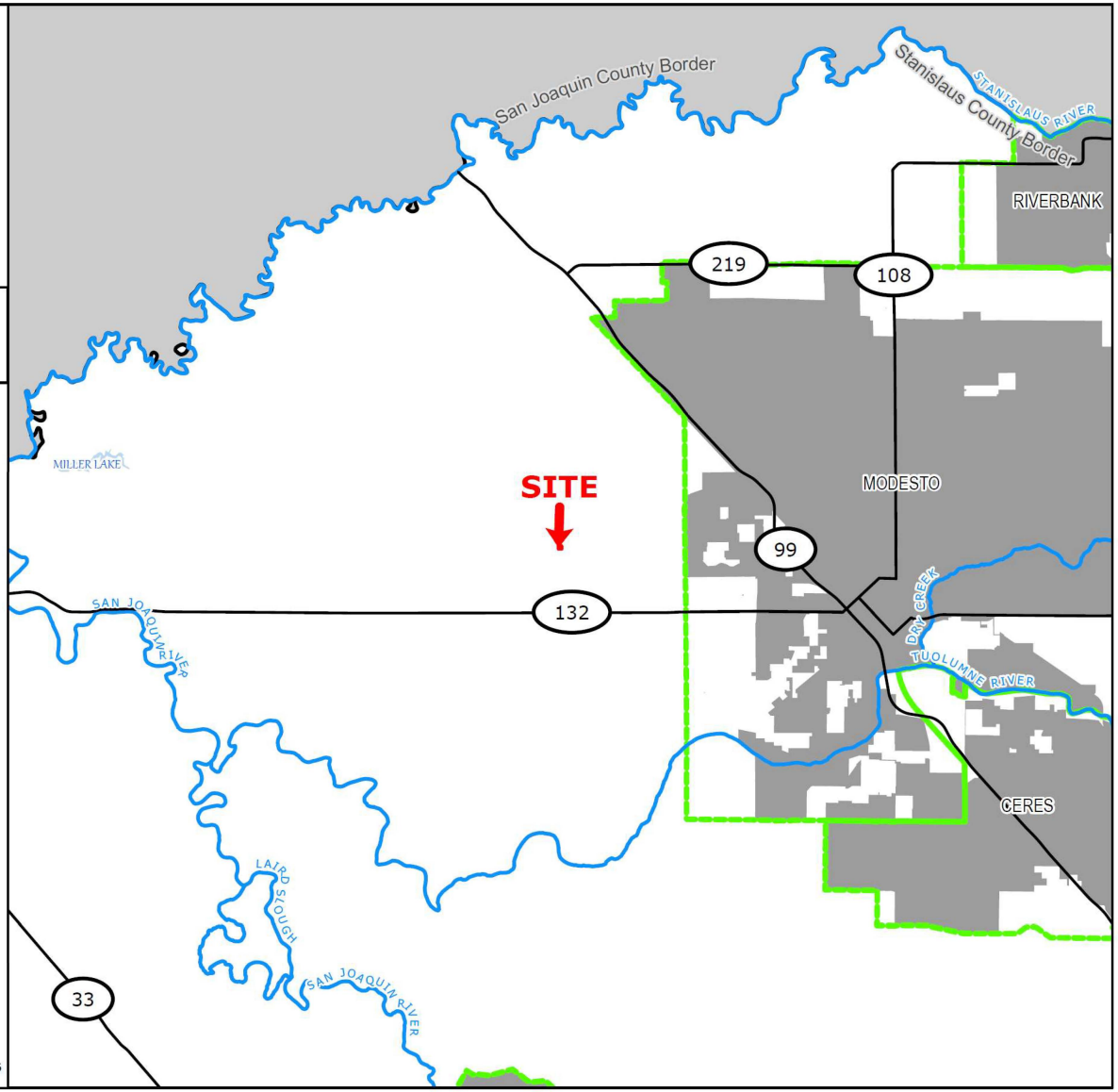
Name

- CERES
- MODESTO
- RIVERBANK

N 0 1.5 3 Miles

0 1.5 3 Kilometers

Source: Planning Department GIS Date Exported: 9/24/2026

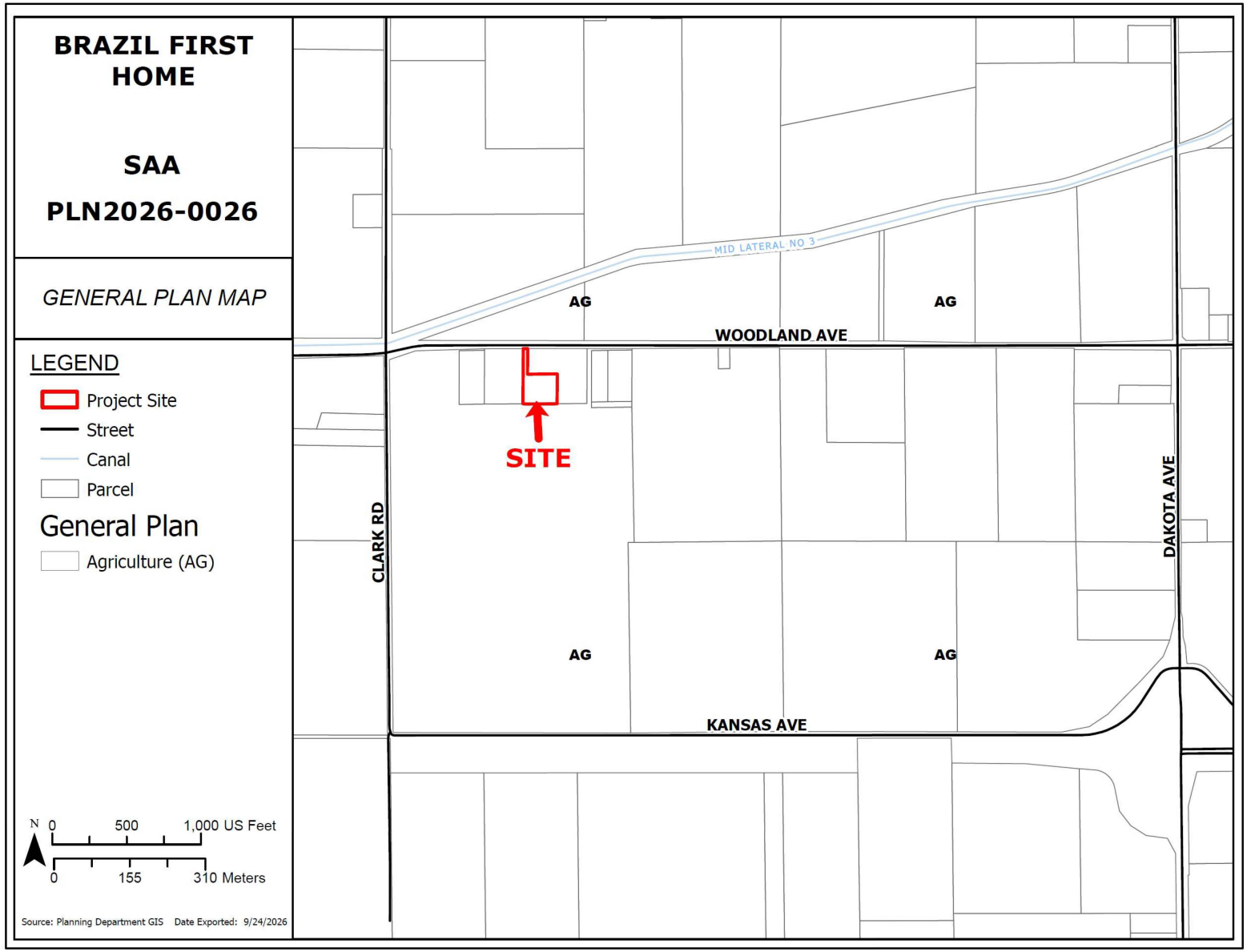


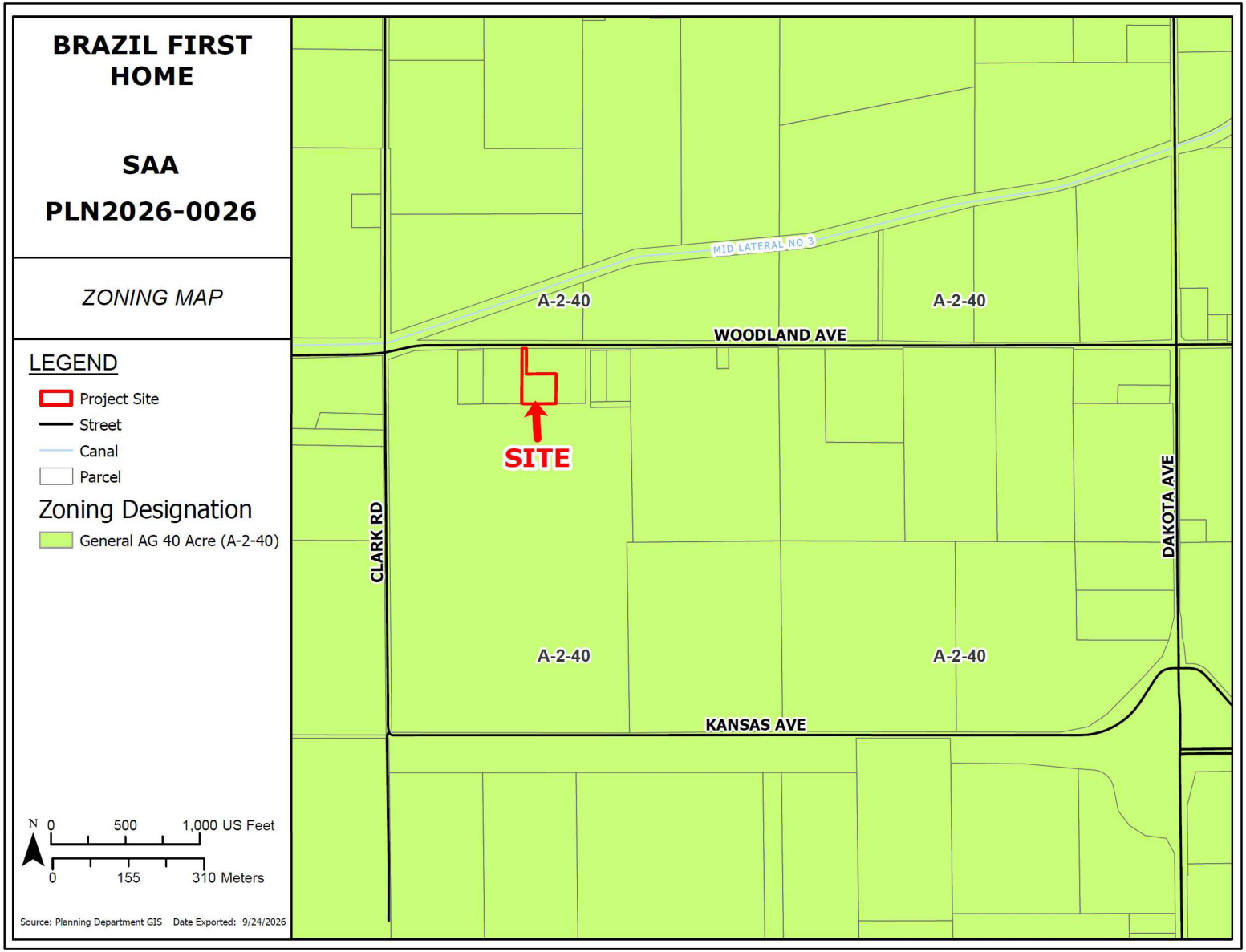
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PLN2026-0026

GENERAL PLAN MAP



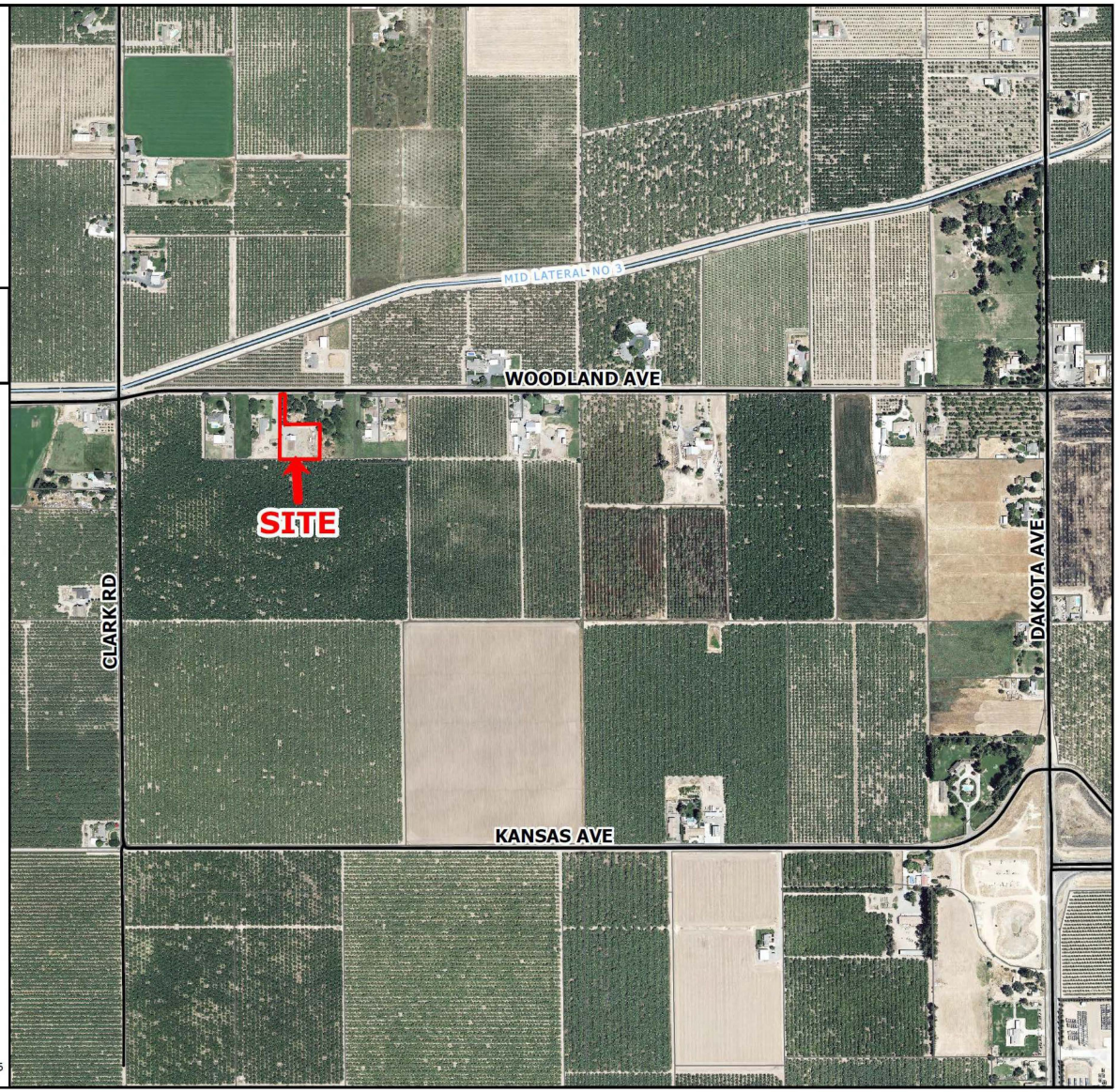

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PLN2026-0026
ZONING MAP
LEGEND
Project Site
Street
Canal
Parcel
Zoning Designation
General AG 40 Acre (A-2-40)
N
0
500
1,000 US Feet
0
155
310 Meters
Source: Planning Department GIS Date Exported: 9/24/2026
MID LATERAL NO 3
A-2-40
A-2-40
WOODLAND AVE
SITE
CLARK RD
DAKOTA AVE
A-2-40
A-2-40
KANSAS AVE

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PLN2026-0026

2025 AERIAL AREA MAP



LEGEND

- Project Site
- Street
- Canal
- Parcel

N 0 500 1,000 US Feet

0 155 310 Meters

Source: Planning Department GIS Date Exported: 9/24/2026

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PLN2026-0026

2025 AERIAL SITE MAP

LEGEND

- Project Site
- Street
- Parcel



N 0 50 100 US Feet

0 13 25 Meters

Source: Planning Department GIS Date Exported: 9/24/2026

Discussion

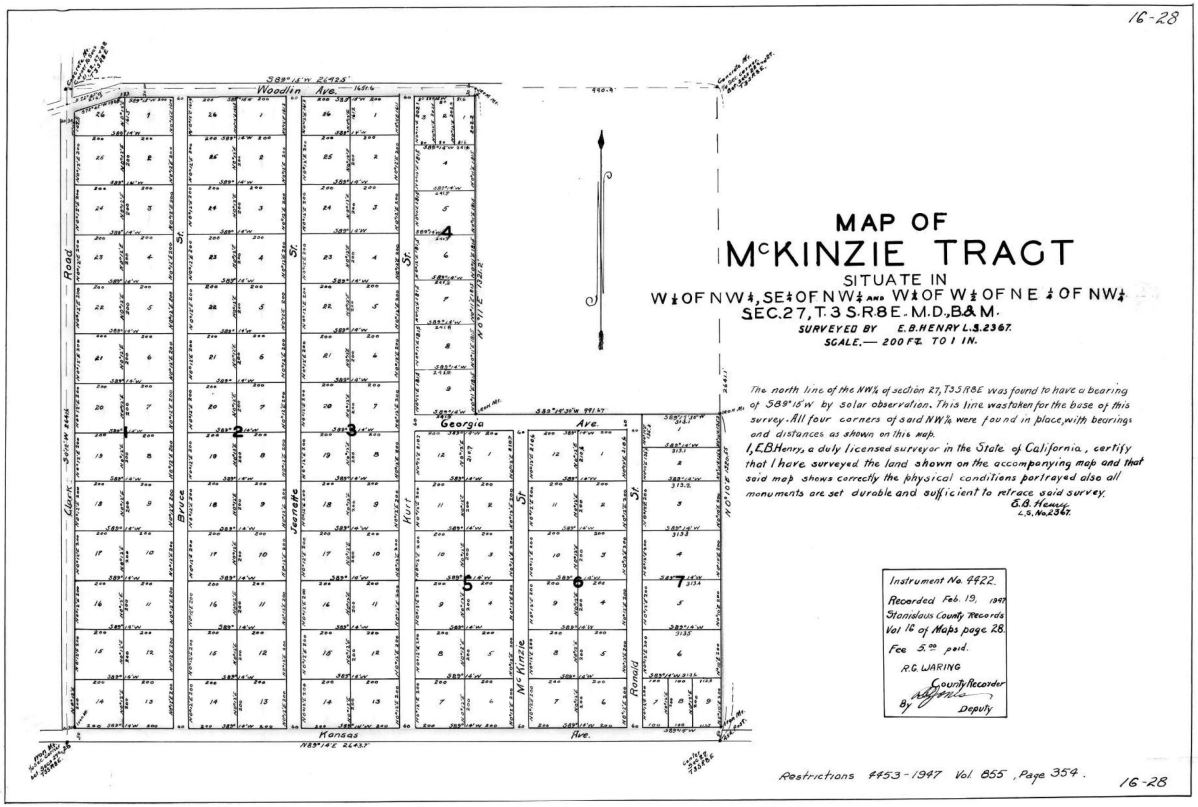
- The Planning Commission is being asked to advise the Planning Director on whether or not the project can meet the findings required for approval per section 21.100.50 (C) of the County's Zoning Ordinance the following findings must be met:
  - The dwelling would be consistent with the County's General Plan;
  - 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
  - The dwelling will not be substantially detrimental to or in conflict with agricultural use of the property or in the vicinity

Discussion

- Antiquated subdivisions were created prior to the enactment of local zoning requirements and were never formally evaluated of their potential economic or environmental impacts on the County.
- There are over 3,000 parcels that are located within these antiquated subdivisions, that are considered legal lots which can be sold and developed.

Background

- On March 16, 2000 a merger application was submitted to merge 80 of the 120 parcels of the McKinzie Tract to create a total of 38 parcels.
  - The merged lots would have met the County's minimum parcel size of one acre for development of a new single-family dwelling.
  - The merger application never proceeded due to the County making the determination that an Environmental Impact Report was required.

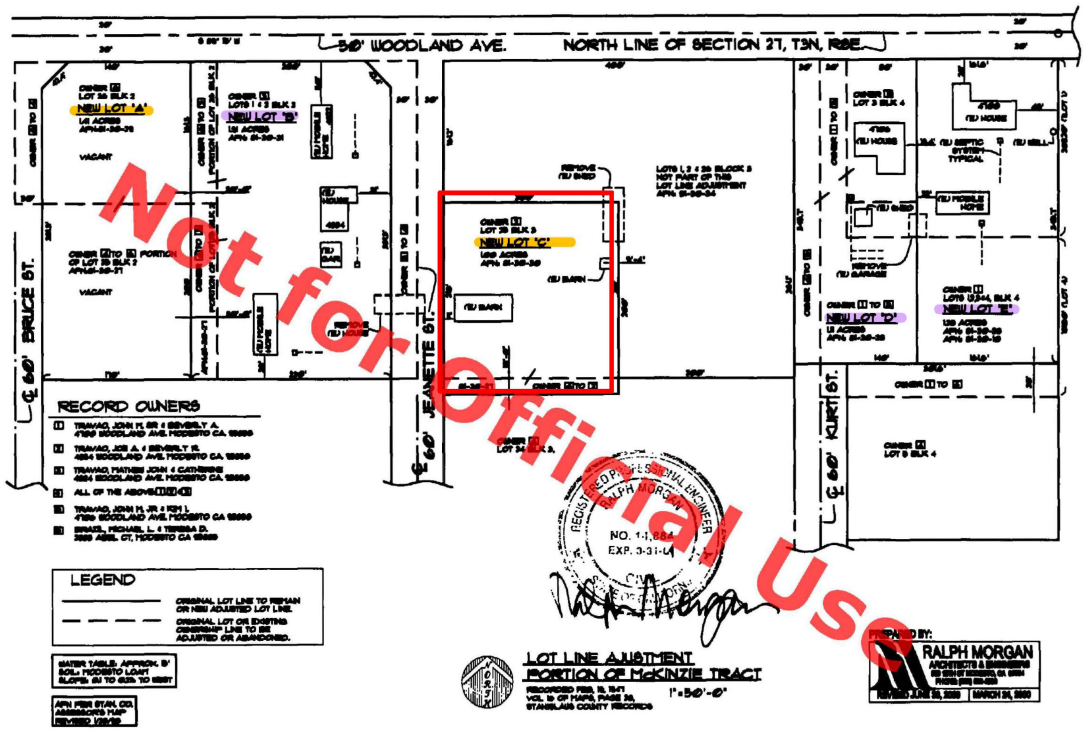


Background

- On October 24, 2000 the Board of Supervisors adopted an amendment to the County's Zoning Ordinance.
  - The ordinance amendment required a use permit or staff approval permit on parcels under 20 acres in the A-2-40 or A-2-160 zoning district.
  - Parcels created on or before March 4, 1972 required a use permit and those created after that date required a staff approval permit.

Background

- On April 3, 2000 a lot line adjustment was submitted to adjust eight parcels into five parcels .
  - Three out of the five parcels were already developed with single-family dwellings.
  - The LLA was recorded on November 22, 2000.
    - One day prior to the ordinance amendment.



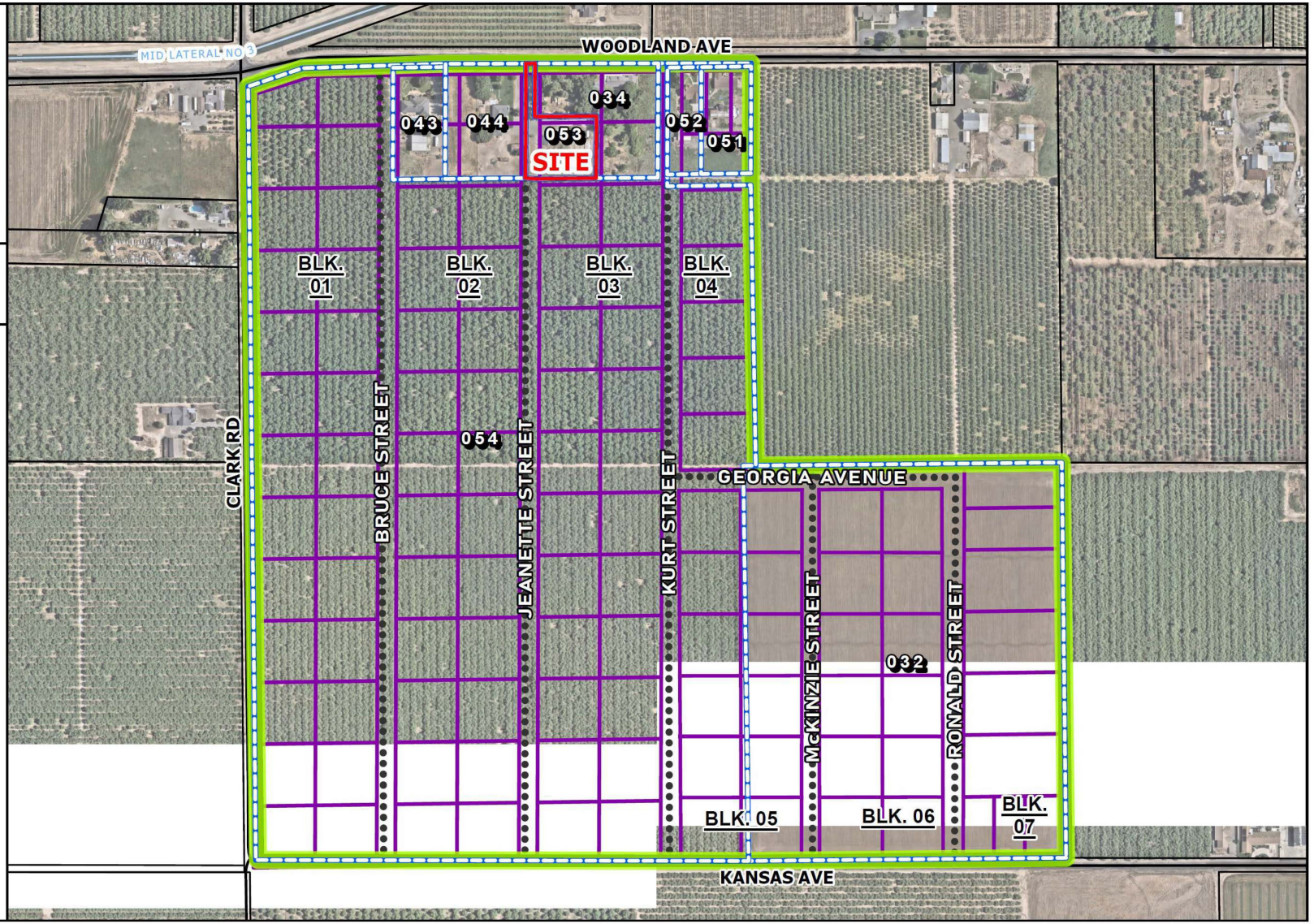
Background

- On January 29, 2001 the property owners of parcel A of the LLA, submitted a staff approval permit application to place the first dwelling on the parcel.
  - Staff approved the SAA one day after submittal on January 30, 2001.
  - At the time staff made this determination due to the LLA being approved prior to ordinance amendment being approved.

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SAA PLN2026-0026

MCKINZIE TRACT



LEGEND

- Project Site
- McKinzie Parcels (081-030-XXX)
- McKinzie Tract Boundary
- McKinzie Roads
- Street
- Canal
- McKinzie Lots
- Parcel

N

0 250 500 US Feet

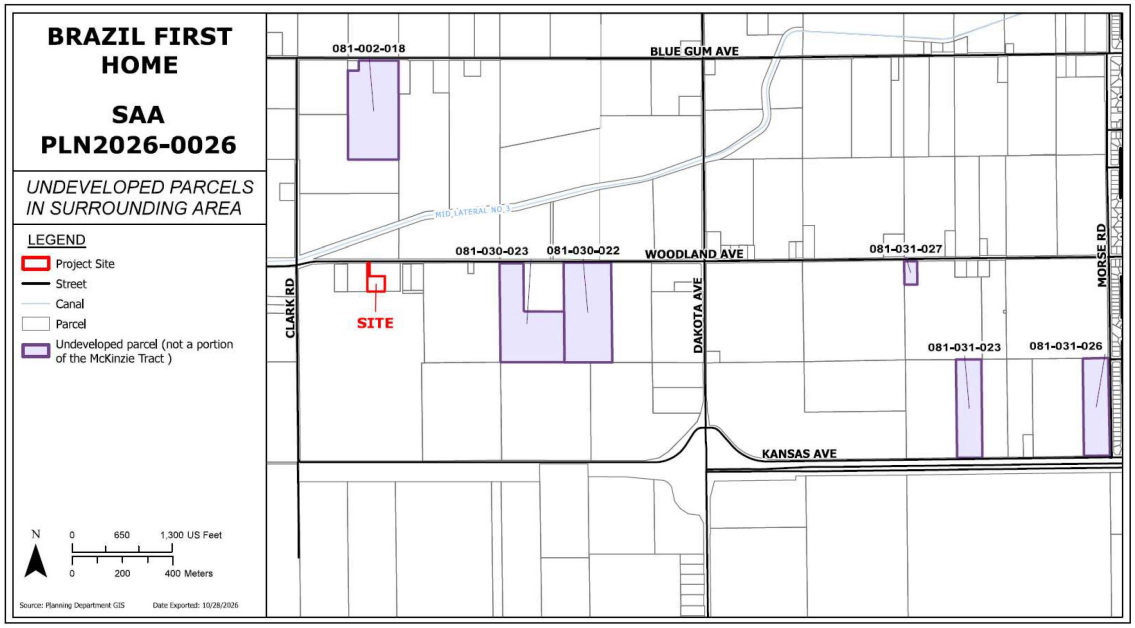
0 75 150 Meters

Source: Planning Department GIS

Date Exported: 11/5/2026

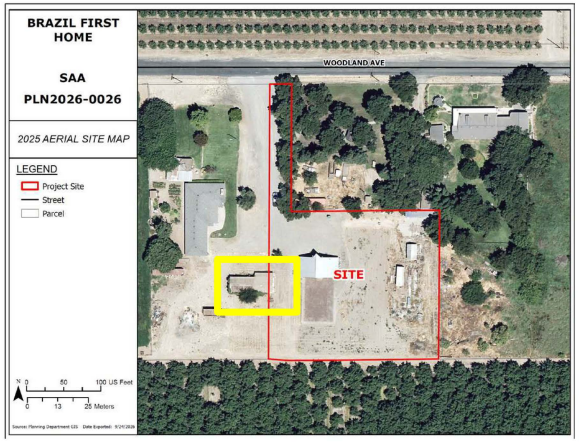
Staff Approval Application Processing

- Consideration of application in conformance with 21.100.50 (C) of the County's Zoning Ordinance the following findings must be met:
  - Staff reviewed potential parcels that could be developed
    - No concentration potential found outside of McKinzie Tract parcels



Correspondence Too Late for the Agenda

- An email was received on Monday, November 2, 2026
  - Mathew Travao emailed with concerns regarding an existing dwelling that located on his parcel, which is adjacent to the project site.
  - The existing dwelling encroaches the subject parcel.
  - Mathew Travao is requesting that the existing dwelling be removed.





Environmental Review

- CEQA Guidelines Section 15061
  - Common Sense exemption.

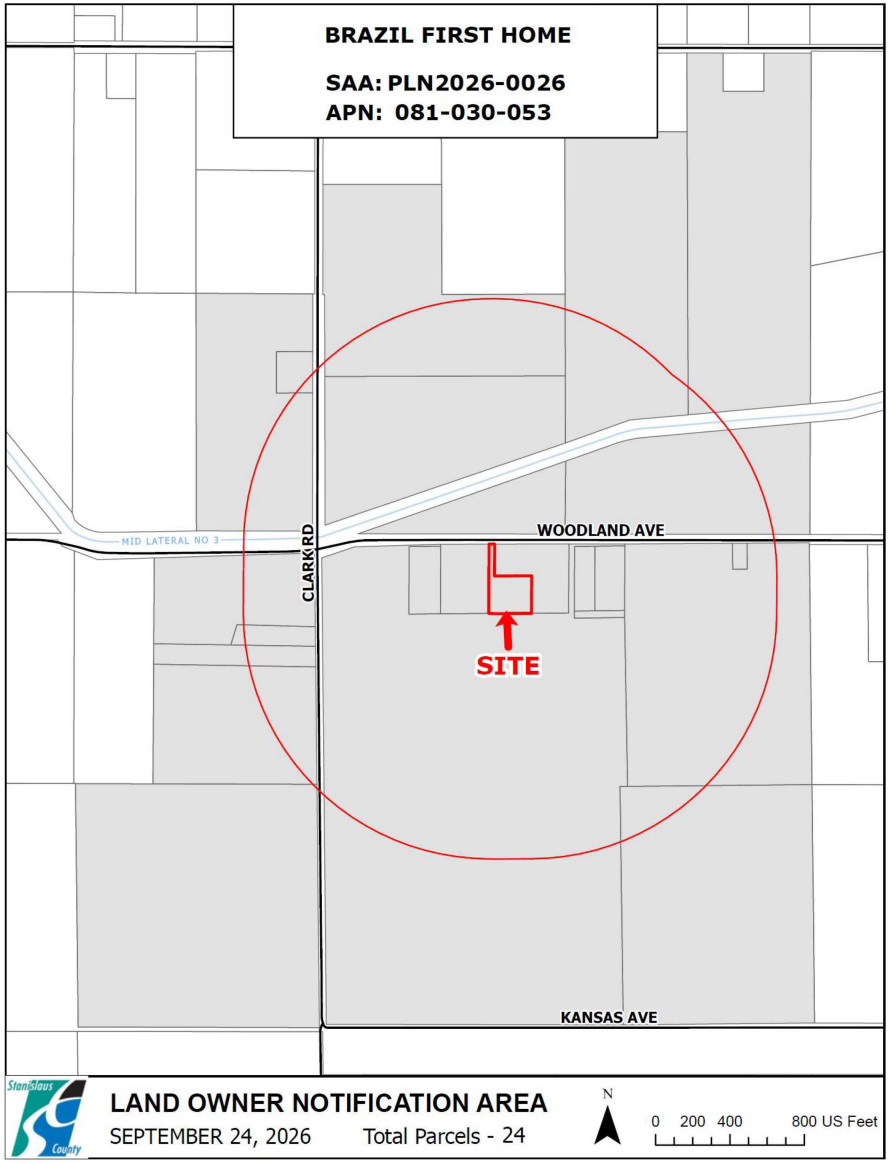
Action Being Requested

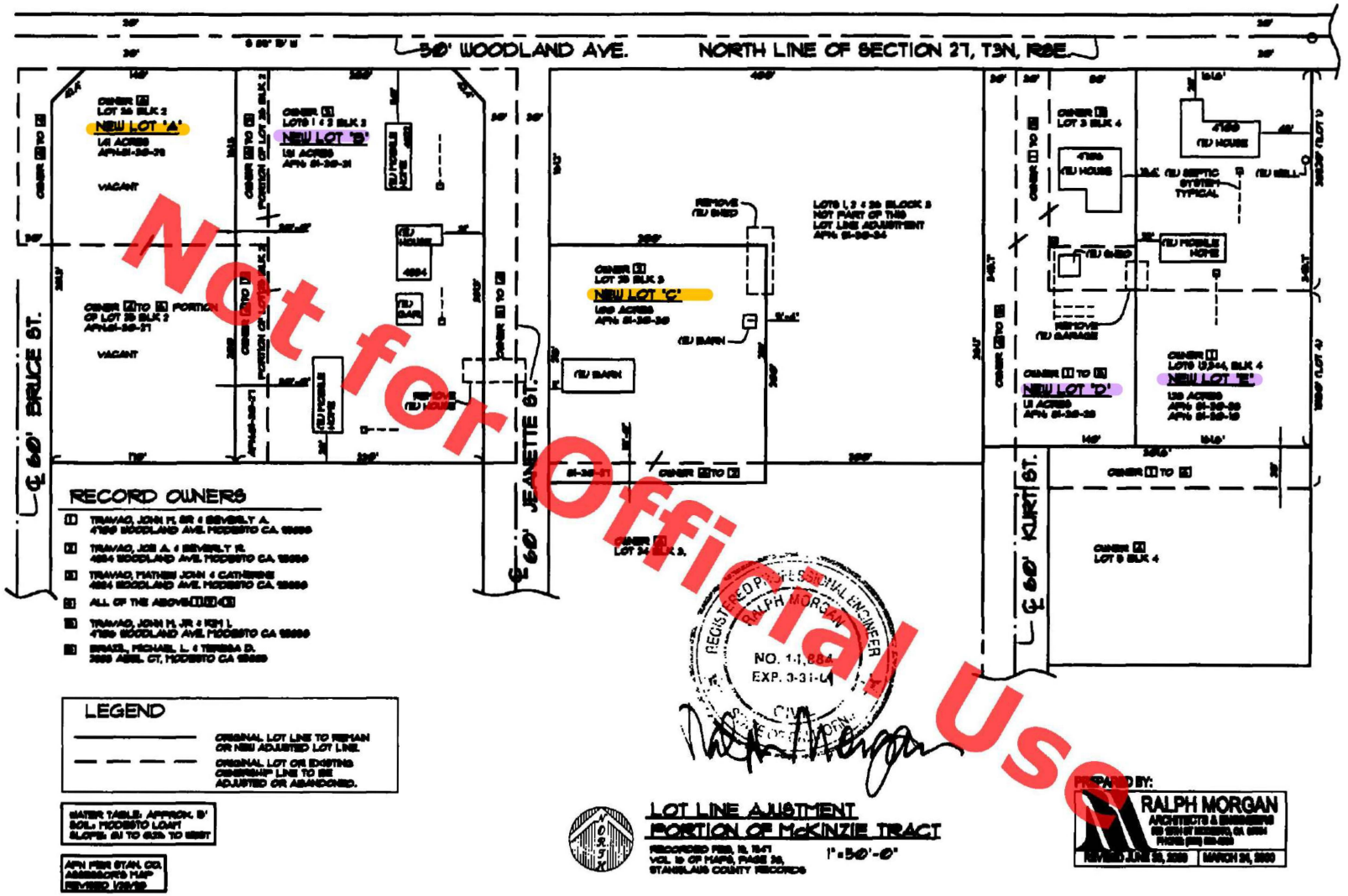
- The Planning Commission is being asked to advise the Planning Director whether or not this project can meet the findings required for approval:
  - Be consistent with the County's General Plan;
  - Would not likely create a concentration of residential uses; and
  - Will not be substantially detrimental to or in conflict with agricultural use
- It is the intent of the Planning Director to make a final decision on this item based on the advice provided by the Planning commission and any community feedback received from surrounding landowners.
  - Conditions of approval may be applied to the permit

Action Being Requested

- Staff believes there is justification to approve the request based on the project site being the last parcel of the 2000 LLA that is not developed.
  - The concern is, this request might set a precedent that would allow for other McKinzie Tract parcels to develop.

Questions?


BRAZIL FIRST HOME
SAA: PLN2026-0026
APN: 081-030-053
MID LATERAL NO 3
CLARK RD
WOODLAND AVE
SITE
KANSAS AVE
LAND OWNER NOTIFICATION AREA
SEPTEMBER 24, 2026
Total Parcels - 24
N
0 200 400 800 US Feet



Not for Official Use

BRAZIL FIRST HOME

SAA

PLN2026-0026

SITE PLAN

N 0 1.5 3 Miles

0 1.5 3 Kilometers

Source: Planning Department GIS Date Exported: 9/24/2026

SITE PLAN

4800 Woodland Ave
Modesto, CA 95358
Parcel ID: 081-030-053-000
Lot area: 1.17 Acres
Paper Size: 8.5"x11"

N

scale 1"=50'

