

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA
ORDINANCE NO. R- _____ -3852

AN ORDINANCE TO CHANGE THE BOUNDARIES OF CERTAIN ZONES AND THE ZONING DISTRICT OF PROPERTY THEREBY AFFECTED IN ACCORDANCE WITH THE PROVISIONS OF THE ZONING DIVISION OF THE ORDINANCE CODE OF FRESNO COUNTY, AND TO AMEND THE ZONE MAP ESTABLISHED BY SAID DIVISION ACCORDINGLY.

The Board of Supervisors of the County of Fresno ordains as follows:

SECTION 1. This Ordinance is adopted pursuant to California Constitution, Article XI, Section 7, Government Code Sections 65850, 65854-65857, and Sections 811 and 878 of the Ordinance Code of Fresno County.

SECTION 2. All that portion of the unincorporated area of the County of Fresno consisting of a one-acre parcel more particularly described in Exhibit A Fresno County records (APN 570-060-37; 55) which heretofore has been classified with a 15.24-acre parcel and a 21.18-acre parcel from the AE-20 (Exclusive Agricultural; 20-acre minimum parcel size) Zone District, pursuant to the Zoning Division of the Ordinance Code of Fresno County, located on the southeast corner of Friant Road and Willow Avenue, approximately 1,870 feet north of the City of Fresno boundary is hereby changed to the M-1 (c) (Light Manufacturing, Conditional) Zone District as depicted in attached Exhibit B subject to Mitigation Measures and Conditions of Approval listed in Exhibit C.

SECTION 3. Prior to the expiration of fifteen (15) days from the adoption of this Ordinance, it shall be published in accordance with the requirements of Government Code Section 25124 at least one time in the Fresno Business Journal, a newspaper of general circulation in Fresno County.

SECTION 4. In accordance with Government Code Sections 25123, 25131, and 65854-65857, this Ordinance, designated as Ordinance No. R- _____ -3852 shall take effect thirty days after its passage.

1 THE FOREGOING, was passed and adopted by the following vote of the Board of Supervisors
2 of the County of Fresno this _____ day of _____, 2024, to wit:

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4 AYES:

5 NOES:

6 ABSENT:

7 ABSTAINED:
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10 _____
11 Nathan Magsig, Chairman of the
12 Board of Supervisors of the County of Fresno

13 **ATTEST:**
14 BERNICE E. SEIDEL
15 Clerk of the Board of Supervisors
16 County of Fresno, State of California

17 By _____
18 Deputy

19
20 FILE # _____

21 AGENDA # _____

22 ORDINANCE # _____
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EXHIBIT A

That portion of Lot 5 of Malaga Tract, in the County of Fresno, State of California, according to the map thereof recorded in Book 2, Page 17, of Plats, Fresno County records, lying east of the Fresno Irrigation District canal and north of a line that is 377.00 feet south of and parallel to the north line of Section 25, Township 14 south, Range 20 east, Mount Diablo Base and Meridian, also a strip of land 42.5 feet in width lying east of and adjoining said property, formerly included in road, abandoned by the board of supervisors of the county of Fresno, on February 27, 1945, a certified copy of which order was filed for record March 2, 1945, in Book 2256, at Page 354, of official records, as Document No. 8685.

EXHIBIT B

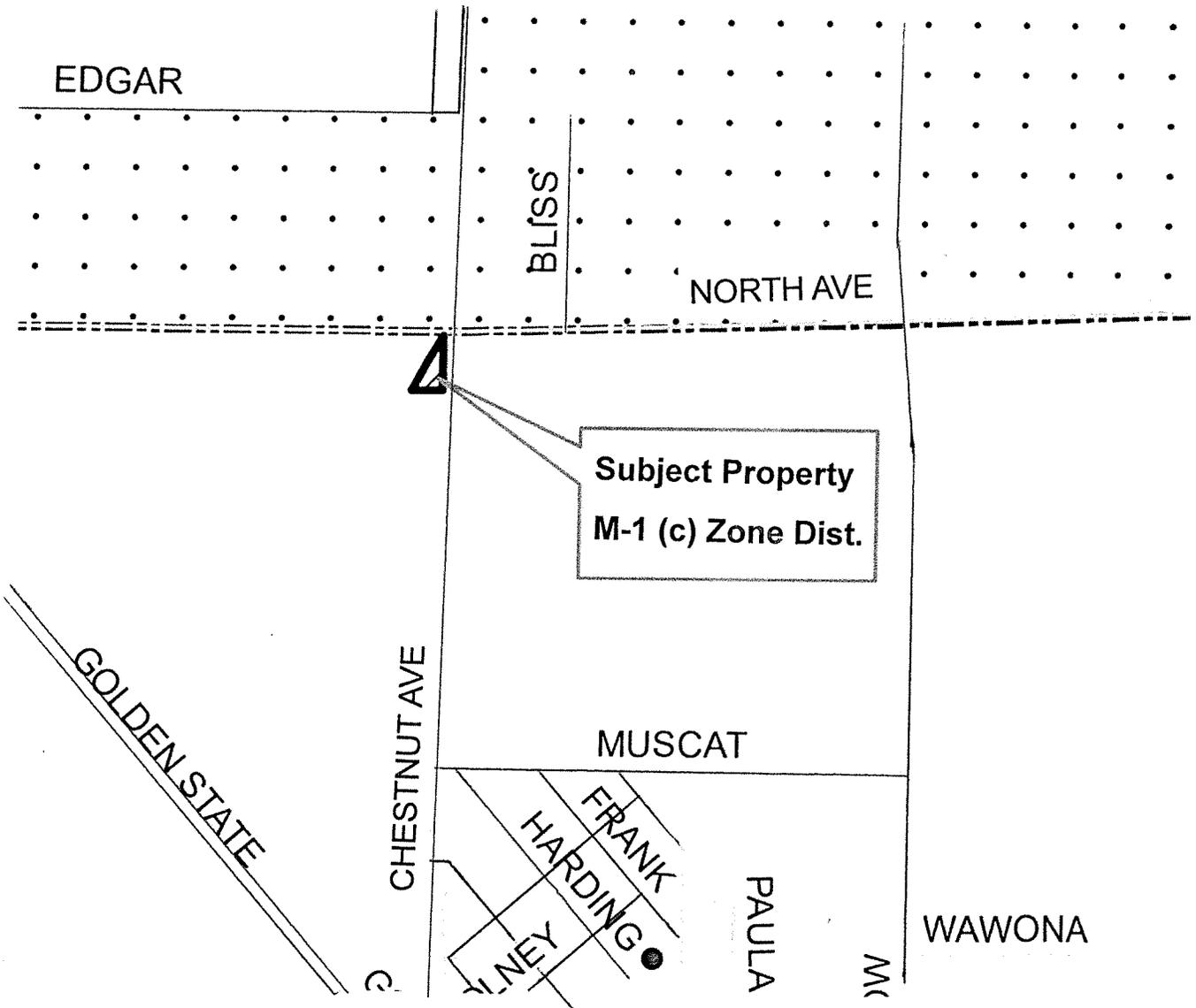


EXHIBIT C

**Mitigation Monitoring and Reporting Program
Initial Study No. 8337; Amendment Application No. 3852;
Variance Application No. 4170; Site Plan Review Application No. 8299**

| IS 8337 Mitigation Measures | | | | | |
|-----------------------------|--------------------|---|-------------------------------|--|---------------------|
| Mitigation Measure No.* | Impact | Mitigation Measure Language | Implementation Responsibility | Monitoring Responsibility | Time Span |
| *1. | Cultural Resources | In the event that cultural resources are unearthed during ground-disturbing activities, all work shall be halted in the area of the find. An Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground disturbing activities, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures shall be followed by photos, reports, video, and etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours. | Applicant | Applicant/ Fresno County Sheriff-Coroner | During construction |
| *2. | Transportation | <ol style="list-style-type: none"> 1. Prior to the issuance of building permits for the uses allowed on M-1 (c) zoned property, the applicant shall enter into an agreement with the County of Fresno agreeing to participate on a pro-rata basis per acreage developed in the funding of future off-site traffic improvement defined in item 'a' below. The traffic improvements and the project's maximum pro-rata share based on 2.5 percent of the construction cost is as follows. <ol style="list-style-type: none"> a. North Avenue and Chestnut Avenue intersection shall be widened. The project's percent fair share for the 2045 weekday peak hour traffic scenario is 2.5 % construction cost or \$46,250, 15% | Applicant | Applicant/PWP | As noted |

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| | | <p>preliminary engineering or \$6,937.50, 15% construction engineering or \$6,937.50, and 3% administrative fee or \$1,803.75, totaling \$61,928.75.</p> <p>The County shall update cost estimates for the above specified improvements prior to execution of the agreement. The Board of Supervisors pursuant to Ordinance Code Section 17.88 shall annually adopt a Public Facilities Fee addressing the updated pro-rata costs. The Public Facilities Fee shall be related to off-site road improvements, plus costs required for inflation based on the Engineering New Record (ENR) 20 Cities Construction Cost Index.</p> <p>2. Sidewalk, curb, and gutter shall be constructed from the subject property to the FID (Fresno Irrigation District) canal at the intersection of Chestnut and North Avenues, as depicted on approved site plan for the project.</p> <p>3. The minimum U-Turn clearance (37 feet) from northbound approach to southbound lanes on Chestnut Avenue at the intersection of North Avenue shall be maintained as noted in Traffic Impact Study, dated January 17, 2024</p> | | | |
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Mitigation Measure – Measure specifically applies to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference recommended conditions for the project.

| <p align="center">Conditions of Approval – Amendment Application No. 3852</p> | |
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| <p>1.</p> | <p>Development of a grocery store shall be in accordance with the Site Plan, Floor Plan, and Operational Statement approved by the Board of Supervisors.</p> |
| <p>2.</p> | <p>The uses allowed on the property shall be limited to the following by-right uses listed in Chapter 816.2, Table 2-8 of Fresno County Zoning Ordinance, dated February 2024:</p> <ul style="list-style-type: none"> • Grocery Store • Electric Equipment Manufacturing |

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| | <ul style="list-style-type: none"> • Plastics and Rubber Products • Printing and Publishing • Electric Supply Houses • Fireworks Stands • Advertising structures • Delicatessens • Offices, Business • Communication Equipment Structures/Buildings • Public Utility Facilities |
| 3. | At the time of development of the proposed grocery store, the applicant shall consult with Malaga County Water District (District) for the site to connect and utilize sewer and water services from the District, construct water and sewer services appropriate to the proposed development and destroy any existing on-site water system (well) or sewer (septic) system in accordance with the Fresno County Health Department. Requirements. |
| 4. | <p>An additional twenty-four (24) feet of right of way shall be irrevocably offered to the County of Fresno as additional right-of-way for North Avenue south of section line. A description of the property to be dedicated shall be prepared by a licensed land surveyor or registered civil engineer. A current Preliminary Title Report along with the description shall be submitted to this Department before the above Irrevocable Offer of Dedication can be processed. The developer is advised that where deeds of trust or any other type of monetary liens exist on the property, the cost of obtaining a partial reconveyance of any other document required to clear title to the property shall be borne by the owner or developer.</p> <p>Note: The County will prepare the document. A processing fee in the amount of \$258.33 will be required at the time of submittal.</p> |
| 5. | Items 6 from Project Notes shall be completed prior to the granting of occupancy for the use. |
| 6. | The project shall adhere to Mitigation Measures, Conditions of Approval and Project Notes prepared for Amendment Application No. 3852 and Site Plan Review Application No. 8299. |
| Project Notes – Amendment Application No. 3852, Site Plan Review Application No. 8299 | |
| 1. | <p>To address impact on public health resulting from permitted uses on the property, the Fresno County Department of Public Health, Environmental Health Division (Health Department) requires the following:</p> <ul style="list-style-type: none"> • Facilities that use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. |

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| | <ul style="list-style-type: none"> • The proposed business will handle hazardous materials and/or hazardous waste and shall be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95 (http://cers.calepa.ca.gov/). • As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area shall be properly destroyed by an appropriately licensed contractor. • If any underground storage tank(s) are found during construction, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. • Prior to issuance of building permits, the applicant shall submit complete food facility plans and specifications and obtain permits to operate a food facility from the health Department. A permit, once issued, is nontransferable. • Prior to alcohol sales, the applicant shall first obtain a license to sell alcoholic beverages from the California Alcoholic Beverage Control Department. • Should any structures have an active rodent or insect infestation, the infestation shall be abated prior to demolition of the structures to prevent the spread of vectors to adjacent properties. • If asbestos containing materials and materials coated with lead-based paints are encountered, the contractor shall contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000. • If the structures were constructed prior to 1979 or if lead-based paint is suspected to have been used in these structures, then prior to demolition work the contractor shall contact the California Department of Public Health, Childhood Lead Poisoning Prevention Branch at (510) 620-5600, United States Environmental Protection Agency, Region 9, at (415) 947-8000, and State of California, Industrial Relations Department, Division of Occupational Safety and Health, Consultation Service at (559) 454-5302. |
| 2. | <p>To address impacts on the Fresno Irrigation District (FID) facilities resulting from permitted uses on the property, FID requires the following:</p> <ul style="list-style-type: none"> • Within the limits of the proposed project [and its remainder], the landowner shall grant an exclusive easement for the land underlying the canal and associated area along the canal required for maintenance pursuant to Water Code Section 22425 and FID policy. • The Fresno Irrigation District's (FID) active Central No. 23 runs southerly along the west side of Chestnut Avenue and crosses North Avenue north of the subject property and traverses the west side of the subject property. To maintain integrity of the canal, all improvement plans including Grading and Drainage Plan shall require FID's review and approval. |

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| | <ul style="list-style-type: none"> • FID's active Fresno Colony No. 24 runs westerly along the north side of North Avenue approximately 100 feet north of the subject property. All improvement plans for street and/or utility improvements along North Avenue, or in the vicinity of the project shall require FID's review and approval. • For informational purposes, FID's active Wilder No. 289 runs westerly and crosses Chestnut Avenue approximately 1,800 feet north of the subject property. Any street and/or utility improvements along Chestnut Avenue, or in the vicinity of this facility, shall require FID's review and approve of all plans. • FID shall review and approve grading and drainage plan to ensure that the proposed development will not endanger the structural integrity of the Canal or result in drainage patterns that could adversely affect FID. • FID shall review and approve all improvement plans which affect its property/easements and canal/pipeline facilities including but not limited to Sewer, Water, Fresno Metropolitan Flood Control District (FMFCD), Street, Landscaping, Dry Utilities, and all other utilities. |
| 3. | <p>To address impacts on the county roadway system, the Road Maintenance & Operations (RMO) Division requires the following:</p> <ul style="list-style-type: none"> • Concrete improvements including curb, gutter, and sidewalk including a curb return at the intersection of North and Chestnut shall be installed. • Proposed drive approach shall be limited to a maximum width of 35 feet per Fresno County Improvement Standard D-3. • Any future work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the RMO Division. |
| 4. | <p>According to FEMA FIRM Panel 2130H, the western portion of the area of the subject property is found to be under Flood Zone AE, subject to flooding from the 100-year storm. Any future development within the Special Flood Hazard Area shall conform to provisions established in Fresno County Ordinance Code Title 15, Chapter 15.48 Flood Hazard Areas. Any future structure and associated electrical equipment/electrical system components (e.g., service panels, meters, switches, outlets, electrical wiring, walk-in equipment cabinets, generators, bottom of the lowest edge of the solar array, pool-associated motors and water heater, receptacles, junction boxes, inverter, transformers, etc.) must comply with the FEMA flood elevation requirements. All electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. Grading import is not allowed within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding. FEMA Elevation Certificate is required for every future structure to be constructed within the Special Flood Hazard Area. If the future building/structure is near the Special Flood Hazard Area; a certified Map of Survey/Map of Flood Hazard Area (MOS), stamped and signed by a Professional Land Surveyor delineating the distances from proposed structure(s) to the flood zone boundary and at least two property lines will be required. The MOS must show spot elevations within the perimeter of the proposed structure and the flood zone for verification purposes.</p> |

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| 5. | The project shall adhere to the requirements of the California Code of Regulations title 24 – Fire Code when building permit or certificate of occupancy is sought and shall annex to Community Facilities District No. 2010-01 of California Fire Protection District. |
| 6. | As required by Article 2, Chapter 818.2-H.3. a. of the Zoning Ordinance, a solid masonry wall of earthen color tone not less than five (5) feet nor more than six (6) feet in height shall be erected along the south property line adjacent to the parking area of the subject property. The wall shall not exceed three (3) in height within the property's 15-foot front yard setback along Chestnut Avenue. |
| 7. | Site Plan Review (SPR 8299) approval shall expire in two years from the date of approval unless substantial development has commenced. |
| 8. | All conditions of approval for AA 3852 shall remain in full force and effect. |
| 9. | An Engineered Grading and Drainage Plan shall be prepared by a Registered Civil Engineer and submitted to the Department of Public Works and Planning in accordance with Section 6731 of the California Business and Professions Code. The Plan shall have an Engineer's Certificate indicating that the grading and drainage will have no adverse effect on the adjoining properties. Contact the Grading Engineer for Grading and Drainage Plan requirements at (559) 600-4022. A grading permit or voucher shall be required for any grading proposed with this application. |
| 10. | A Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) are required to be filed with State Water Resources Control Board (SWRCB) before the commencement of any construction activities disturbing 1.0 acre or more of area. Copies of completed NOI with WDID # and SWPPP shall be provided to Development Engineering prior to any grading work. |
| 11. | Prior to issuance of building permits, the applicant shall obtain a will-serve letter for water services from the Malaga County Water District. |
| 12. | Prior to issuance of building permits, the applicant shall obtain a will-serve letter for sewer services from Malaga County Water District. |
| 13. | Prior to issuance of building permits, the applicant will be required to submit complete food facility plans and specifications the Fresno County Department of Public Health, Environmental Health Division, for review and approval. The applicant shall apply for and obtain permits to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-3357 for more information. |
| 14. | Any driveways and parking areas to be used by motor vehicles shall be designed by an architect or civil engineer in accordance with Fresno County Standards. Engineered plans for construction, including a complete listing of materials, costs and quantities |

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| | <p>in place, shall be submitted to this Department for approval. A fee, based upon construction costs, will be assessed in accordance with Section 879 of the Fresno County Zoning Ordinance and must be collected with the submittal of the Grading and Drainage Plan.</p> |
| 15. | <p>The subject property is located within Fresno Metropolitan Flood Control District (FMFCD) boundary Drainage Zones AZ. The (FMFCD) Drainage Fee is based on the rate in effect at the time the building permit is issued as required by Section 17.64.030 of the Fresno County Ordinance Code. The Owner shall connect to existing FMFCD Master Plan Facilities available to the subject site. Prior to issuance of a Building Permit, the Owner shall pay applicable drainage fee of \$7,116.00 and Review fees of \$194.00 to FMFCD. Evidence of payment shall be submitted to the County of Fresno.</p> <p>Drainage from the site shall be directed to Chestnut Avenue.</p> <p>FMFCD shall approve grading plans for the project prior to county's approval.</p> |
| 16. | <p>Owner shall design and install fire protection measures as required by the Fresno County Fire Protection District, which may include but are not limited to water flow requirements, water storage, fire pumps, fire hydrants, fire sprinkler systems, fire alarm systems and road access. All structures and other applicable facilities shall comply with California Code of Regulations Title 24 – Fire Code. Comments by Fresno County Fire Protection District are attached. The project/development shall annex to Community Facilities District No. 2010-01 of the Fresno County Fire Protection District. The project/development also will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought. Prior to plan submittal to the FCFPD please visit the District's website at www.fresnocountyfire.org and fill out the Fire Permit Application to submit with your plans. It will be the responsibility of the Owner to contact the Fire Protection District for required fire protection improvements. Contact the District at (559) 319-0400 for information.</p> |
| 17. | <p>Fire protection improvements shall be in place and inspected by the Fresno County Fire Protection District prior to occupancy. Contact the District at (559) 319-0400 to arrange for an inspection. Allow 14 to 21 days for the District to complete the inspection.</p> |
| 18. | <p>The project is subject to the following rules of the San Joaquin Valley Air Pollution Control District (District): District Rule 2010 requires to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District, and District Rule 2201 (requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology. Prior to construction, the Project proponent shall submit to the District an application for an ATC.</p> <p>The Project is also subject to District Rule 9510 and shall submit an Air Impact Assessment (AIA) application to the District no later than applying for project-level approval from a public agency.</p> <p>The Project may be subject to District Rule 4002; District Rule 4601 (Architectural coatings). District Rule 4601 and may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities. Should the project result in at least 1-acre in size, the project proponent shall provide</p> |

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| | written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). |
| 19. | The design of the required landscaping shall be reviewed for approval prior to the issuance of building permits. The amount of landscaping will exceed 500 square feet; therefore, the developer shall comply with California Code of Regulations Title 23, Division 2, Chapter 2.7 Model Water Efficient Landscape Ordinance (MWEL0). For more information on MWEL0 requirements visit: https://water.ca.gov/Programs/Water-Use-And-Efficiency/Urban-Water-Use-Efficiency/Model-Water-Efficient-Landscape-Ordinance and for Water Use Classification of Landscape Species (WUCOLS IV): https://ucanr.edu/sites/WUCOLS/Plant_Search/ |
| 20. | A Landscape and Irrigation Audit Report shall be submitted to the Department of Public Works and Planning for review and approval prior to occupancy. |
| 21. | The Fowler Unified School District, in which you are proposing construction, has adopted a resolution requiring the payment of a Development Impact Fee. The County, in accordance with State law, which authorizes the fee, will not issue a building permit without certification from the school district that the fee has been paid. An official certification form will be provided by the County when application is made for a building permit. |
| 22. | The necessary permits for off-site improvements shall be obtained from the Fresno County Department of Public Works and Planning, Road Maintenance and Operations Division, and shall be installed in accordance with Fresno City Improvement Standards. For more information, please contact Road Maintenance and Operations Division at 559-600-4240. |
| 23. | The end of curbed/taper edge of any existing or proposed access driveway approach should be set back a minimum of 5 feet from the property line. |
| 24. | Any encroachment or access over S.P.R.R. (Southern Pacific Railroad Right-of-Way) should require approval from the owner. |
| 25. | Setbacks for new construction must be based on the ultimate road right-of-way for Chestnut and North. |
| 26. | The developer is responsible for relocating those utilities within the road right-of-way to the correct alignment and grade affected by the developer's improvements. |
| 27. | The parking and circulation areas shall be graded, asphalt concrete surfaced, and striped. Off-street parking spaces shall be provided as shown on the approved plan. |
| 28. | ADA stall(s) shall be provided for the physically disabled and shall be served by an access aisle 96 inches wide, minimum, and shall be designated van accessible. ADA stalls shall be concrete, or asphalt concrete paved and must be located on the shortest possible route to the main entrance, so the disabled person does not cross the driveway into the parking lot. |

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| 29. | Any existing or proposed parking areas should comply with the Fresno County Off-Street Parking Design Standards. Stalls should be 18-foot x 9-foot, and backing distance must be a minimum of 29' for 90-degree parking stalls. Also five-foot should be provided beyond the last stall in any row to provide for backing. Any proposed handicap accessible parking stalls and curb ramps shall be in compliance with ADA standards and the maximum surface slope within the disabled parking space(s) and adjacent access aisle(s) shall not exceed 2% in any direction. |
| 30. | Any gate that provides initial access to this site shall be setback from the edge of the road right-of-way a minimum of 20 feet or the length of the longest vehicle to enter the site, whichever is greater. |
| 31. | For unpaved or gravel surface access roads, the first 100 feet off of the edge of the road right-of-way must be graded and asphalt concrete paved or treated with dust palliative. |
| 32. | A 45-degree (45°) corner cut-off of 10-foot by 10-foot shall be maintained to allow clear visual view of vehicular traffic from the driveway within the County right-of-way. |
| 33. | Any outdoor lighting shall be hooded and directed so as not to shine toward public roads or the surrounding properties. |
| 34. | Fire protection improvements shall be in place and inspected by the Fresno County Fire Protection District prior to occupancy. Contact the District at (559) 319-0400 to arrange for an inspection. Allow 14 to 21 days for the District to complete the inspection. |
| 35. | A Regional Transportation Mitigation Fee (RTMF) shall be paid to the RTMF Joint Powers Agency prior to occupancy. The required form will be supplied during the building plan check process. Contact the RTMF Joint Powers Agency at (559) 233-4148 for more information. |
| 36. | The Civil Engineer who prepares the on-site improvement plans shall inspect construction of the facilities and shall certify to the Department of Public Works and Planning that the work conforms to approved plans and specifications. The Fresno County Grading Engineering Section requires the submittal of an As-Built Grading and Drainage Plan. Contact Grading Engineering at (559) 600-4022 for more information. |
| 37. | Permits for structural, electrical, and plumbing work shall be obtained from the Department of Public Works and Planning, Permits Counter, prior to any construction. |
| 38. | All proposed signs shall be submitted to the Department of Public Works and Planning, Permits Counter to verify compliance with the Zoning Ordinance. |
| 39. | If the use of this property should ever change, it is important that the owner or operator verify that the new use would be allowed by all applicable building codes and ordinances of Fresno County. Contact the Fresno County Department of Public Works and Planning, Permits Counter at (559) 600-4540 for information on applicable codes and ordinances. |

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| 40. | Required site improvements may be bonded in accordance with the provisions of Section 854.5 of the Fresno County Zoning Ordinance. |
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