



Inter Office Memo

ATTENTION: FOR FINAL ACTION OR MODIFICATION TO OR ADDITION OF CONDITIONS, SEE FINAL BOARD OF SUPERVISORS' ACTION SUMMARY MINUTES.

DATE: February 16, 2017

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12627 - DIRECTOR REVIEW AND APPROVAL
APPLICATION NO. 4465

APPLICANT/
OWNER:

Charles Maxwell

REQUEST:

Allow operational modification of an existing commercial horse arena authorized by Director Review and Approval (DRA) No. 4112 on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District in order to increase the number of authorized event days from 12 event days per year to 26 event days per year, allow event days to occur year-round whereas event days are currently limited to April 1 through September 30, and increase hours of operation for event days from 8:00am until 5:00pm to 8:00am until 6:00pm.

LOCATION:

The subject parcel is located on the west side of Rusty Spur Lane (a private road), approximately 710 feet south of its intersection with Millerton Road, approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Lane) (SUP. DIST. 5) (APN 138-061-49).

PLANNING COMMISSION ACTION:

At its hearing of February 16, 2017, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Woolf and seconded by Commissioner Abrahamian to deny Director Review and Approval No. 4465 based on an inability to make Finding No. 3 due to testimony provided by those in opposition at the public hearing, letters of opposition received related to the request, and concerns about traffic, dust and noise.

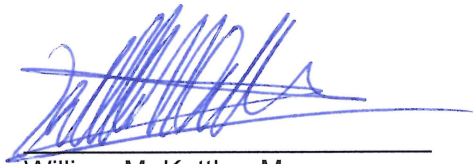
RESOLUTION # 12627

This motion passed on the following vote:

VOTING: Yes: Commissioners Woolf, Abrahamian, Chatha, Hill, and Mendes
 No: Commissioners Eubanks and Lawson
 Absent: Commissioners Borba and Pagel
 Abstain: None

STEVEN E. WHITE, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By:



William M. Kettler, Manager
Development Services Division

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Attachments

EXHIBIT A

Director Review and Approval Application No. 4465

Staff: The Fresno County Planning Commission considered the Staff Report dated February 16, 2017, and heard a summary presentation by staff.

Applicant: The Applicant's representative concurred with the Staff Report and the recommended Conditions. He described the project and offered the following information to clarify the intended use:

- Every item raised by the opposition regarding the prior land use application was adjudicated in litigation in favor of the Applicant.
- This request is using the prior environmental document prepared for Director Review and Approval (DRA) Application No. 4112 and has been reviewed again by several agencies with none of the reviewing agencies expressing concern.
- All of the improvements at the facility exist.
- There is a 2,600-foot queuing distance from Millerton Road to Rusty Spur.
- The Applicant planted 70 trees and installed a 10 to 12 foot-high masonry wall around the arena.

The Applicant provided the following additional information in support of his request:

- We are the closest property to Millerton Road.
- We held 11 events last year and we only seek to increase the number of commercial events.
- We operate primarily for the kids.
- I personally built the bridge on Rusty Spur and eight individuals are obligated to pay for its upkeep; people are building homes beyond my property and construction traffic could be contributing to bridge damage.

RESOLUTION # 12627

Others:

One other individual (the Applicant's legal counsel) presented additional information in support of the application stating that the arguments being made against this request were the same as those made for DRA No. 4112, that there is no indication that events associated with the arena have contributed to vehicular or bicycle accidents in the area, and that the Applicant can have private events on his property in addition to events associated with the commercial use of the arena.

Three individuals presented information in opposition to the application indicating:

- We have to live with these events and the Planning Commission, in its prior action to approve DRA No. 4112, voted to take our properties without compensation.
- Rusty Spur is a private road and the Applicant doesn't pay for its upkeep.
- The Board of Supervisors limited the number of events at the site and we believe the Applicant has exceeded those limits.
- There should be an insurance policy in place that protects members of the public from mishaps that could occur at the facility.
- Traffic on Millerton Road is more congested now.
- During event days windows and doors have to be closed due to noise and dust.
- The parking area at the arena has never been watered during events.
- By allowing 26 events, our quiet and seclusion will be negatively affected.
- It's deceiving to have a plan approved and then ask to amend it later.
- Grading activities at the arena site leveled the top of a mountain and current grading does not retain water on site which violates the 2011 conditions of approval.

Correspondence:

No letters were presented to the Planning Commission in support of or in opposition to the application.

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EXHIBIT "B"

ATTACHMENT
TO
AGENDA ITEM

FISCAL IMPACT STATEMENT

Director Review and Approval Application No. 4465

Listed below are the fees collected for the land use applications involved in this Agenda Item:

Non-Residential Director Review and Approval Application (Amendment):	\$ 1,330.00 ¹
Health Department Review:	432.00 ²
Preliminary Environmental Review:	259.00 ³
Agricultural Commissioner Review:	<u>25.00⁴</u>
Total Fees Collected	\$ <u>2,046.00</u>

¹ Includes project routing, coordination with reviewing agencies, preparation and incorporation of analysis into Staff Report.
² Review of proposal by the Department of Public Health, Environmental Health Division to provide comments.
³ Review proposal to provide appropriate California Environmental Quality Act (CEQA) Exemption and include documentation for project file.
⁴ Review of proposal by the Agricultural Commissioner's Office to provide comments.



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
STEVEN E. WHITE, DIRECTOR

Planning Commission Staff Report Agenda Item No. 3 February 16, 2017

SUBJECT: Director Review and Approval Application No. 4465

Allow operational modification of an existing commercial horse arena authorized by Director Review and Approval (DRA) No. 4112 on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District in order to increase the number of authorized event days from 12 event days per year to 26 event days per year, allow event days to occur year-round whereas event days are currently limited to April 1 through September 30, and increase hours of operation for event days from 8:00am until 5:00pm to 8:00am until 6:00pm.

LOCATION: The subject parcel is located on the west side of Rusty Spur Lane (a private road), approximately 710 feet south of its intersection with Millerton Road, approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Lane) (SUP. DIST. 5) (APN 138-061-49).

OWNER/APPLICANT: Charles Maxwell

STAFF CONTACT: Derek Chambers, Planner
(559) 600-4205

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Accept, per Section 15162 of the California Environmental Quality Act, the Mitigated Negative Declaration previously adopted by the Board of Supervisors for Initial Study No. 6062; and
- Approve Director Review and Approval (DRA) No. 4465 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Conditions of Approval
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Site Plans Provided for DRA Application No. 4465
6. Site Plans Approved for Site Plan Review No. 7814
7. Opposition Location Maps Provided for DRA Application No. 4465
8. Operational Statement Provided for DRA Application No. 4465
9. Board of Supervisors Agenda Item dated September 27, 2011
10. Planning Commission Staff Report dated December 10, 2009
11. Amended Judgement After Trial by Superior Court
12. Public Correspondence (opposition letters)

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Specific Plan Reserve in the County-adopted Sierra-North Regional Plan	No change
Zoning	AL-40 (Limited Agricultural, 40-acre minimum parcel size)	No change
Parcel Size	40.05 acres	No change
Project Site	40.05-acre parcel; 3,760 square-foot single-family residence with 846 square-foot attached garage and 1,390 square-foot covered patio and septic system; in-ground swimming pool; water well; 6,000 square-foot barn; 5,000-gallon water storage tank; commercial horse arena with unpaved driveway; 310 square-foot restroom building with septic system	No change
Structural Improvements	3,760 square-foot single-family residence with 846 square-foot attached garage and 1,390 square-	No change

Criteria	Existing	Proposed
	foot covered patio; in-ground swimming pool; 6,000 square-foot barn; commercial horse arena; 310 square-foot restroom building	
Nearest Residence	510 feet east of the subject parcel (1,600 feet southeast of the subject horse arena)	No change
Surrounding Development	Single-family residences	No change
Operational Features	Commercial horse arena hosting six equestrian event days per year for youth and six equestrian event days per year for adults Event days occur between April 1 and September 30. Events are conducted between the hours of 8:00 am and 5:00 pm. There is no on-site boarding of horses that are not owned by the Applicant. The selling of alcohol is not allowed on site. Camping is not allowed on site.	Commercial horse arena hosting six equestrian event days per year for youth, six equestrian event days per year for adults, and 14 additional equestrian event days per year which will be primarily youth-focused Event days to occur year-round (no longer restricted to April 1 through September 30) Events to be conducted between the hours of 8:00 am and 6:00 pm There is no on-site boarding of horses that are not owned by the Applicant. The selling of alcohol is not allowed on site. Camping is not allowed on site.
Employees	None (the commercial horse arena is operated by the owner of the subject parcel)	No change
Customers	Up to 60 guests per event day; 12 event days per year	No change other than 14 additional event days per year
Traffic Trips	Up to 120 one-way guest trips per event day (60 round trips per event	No change other than 14 additional event days per

Criteria	Existing	Proposed
	day); 12 event days per year	year
Lighting	Residential; personal use of exterior light standards	No change
Hours of Operation	8:00am until 5:00pm on event days	8:00am until 6:00pm on event days

EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N

ENVIRONMENTAL ANALYSIS:

A Mitigated Negative Declaration (MND) prepared for Initial Study No. 6062 was adopted by the Board of Supervisors in accordance with the California Environmental Quality Act (CEQA) with approval of Director Review and Approval (DRA) No. 4112 on September 27, 2011.

According to Section 15162(a) of the CEQA Guidelines, when an MND is adopted for a project, no subsequent MND shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following: 1) substantial changes are proposed in the project which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; 2) substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; and 3) new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted, shows any of the following: (A) the project will have one or more significant effects not discussed in the previous MND; (B) significant effects previously examined will be substantially more severe than shown in the previous MND; (C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or (D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

The current proposal, DRA Application No. 4465, was routed to those agencies that previously commented on the Initial Study prepared for DRA No. 4112. No specific concerns were noted. The area and project are substantially the same and there have not been any changes in circumstances or new information provided by the appropriate agencies contacted. Therefore, it has been determined that no subsequent Mitigated Negative Declaration shall be undertaken for this project per Section 15162 of the California Environmental Quality Act. A summary of Initial Study No. 6062 is included in the Planning Commission Staff Report dated December 10, 2009, which is attached as Exhibit 10.

PUBLIC NOTICE:

Notices were sent to 18 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A Director Review and Approval (DRA) may be approved only if four Findings specified in Zoning Ordinance Section 872 can be made.

The Zoning Ordinance provides that the Director of the Department of Public Works and Planning, at their discretion, may refer a DRA Application directly to the Planning Commission for a public hearing and decision. The decision of the Planning Commission on a DRA Application referred in this manner is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

BACKGROUND INFORMATION:

On December 10, 2009, the Fresno County Planning Commission considered and voted to approve Director Review and Approval (DRA) No. 4112, allowing a commercial horse arena on the subject parcel.

Public testimony during the December 10, 2009 Planning Commission Hearing included those in opposition to the proposal citing concerns regarding decreased property values, increased traffic levels, use of Rusty Spur Lane (a private road) for commercial purposes, increased noise and light levels and other aesthetic concerns, and possible negative impacts to wildlife. Those in support of the proposal cited that equestrian events provide a benefit to the community for both youth and adults, and the proposed commercial horse arena would be a local resource that does not require great travel distances to reach.

On December 28, 2009, an appeal of the Planning Commission's approval of DRA No. 4112 was filed with the Clerk to the Fresno County Board of Supervisors, and the appeal was originally scheduled before the Board at the February 23, 2010 Board Hearing. At that Hearing, the Board voted to continue the appeal pending the outcome of a civil lawsuit filed against the Applicant by the Appellants of DRA No. 4112, which sought to prohibit the commercial horse arena use by prohibiting the Applicant from utilizing the existing site access for access to the commercial horse arena.

On August 8, 2011, the Fresno Superior Court filed its judgement in favor of the Applicant, confirming the Applicant's legal ability to utilize the existing site access in conjunction with the commercial horse arena use. A summary of this Fresno Superior Court judgement is included in the Board of Supervisors Agenda Item dated September 27, 2011, which is attached to this Staff Report as Exhibit 9, and is also detailed by the Amended Judgement after Trial by Superior Court, which is attached to this Staff Report as Exhibit 11.

On September 27, 2011, the Board of Supervisors denied the appeal filed against the Planning Commission's approval of DRA No. 4112, and approved the commercial horse arena use (see Exhibit 9).

With regard to Site Plan Review (SPR), on July 20, 2012, SPR No. 7814 was administratively approved for the commercial horse arena use. On August 16, 2012, an appeal of the administrative approval of SPR No. 7814 was filed for Planning Commission decision; however, the Commission denied the appeal on September 13, 2012. Subsequently, on September 28, 2012, an appeal of the Planning Commission's denial of the appeal filed on August 16, 2012 was filed with the Clerk to the Fresno County Board of Supervisors. On December 4, 2012, the

Board of Supervisors denied the appeal filed against the Planning Commission's denial of the appeal filed on August 16, 2012.

The current proposal, DRA Application No. 4465, entails a request to allow operational modification of the commercial horse arena authorized by DRA No. 4112 in order to increase the number of authorized event days from 12 event days per year to 26 event days per year, allow event days to occur year-round whereas event days are currently limited to April 1 through September 30, and increase hours of operation for event days from 8:00am until 5:00pm to 8:00am until 6:00pm.

Finding 1: *That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping, and other features required by this Division, to adjust said use with land and uses in the neighborhood.*

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Front (east property line): 243 feet Side (north property line): 41 feet Side (south property line): 270 feet Rear (west property line): 63 feet	Yes
Parking	<u>Places of Assembly:</u> Uses without a building require one standard parking space for each five persons attending and one standard parking space for every two permanent employees <u>California Building Code:</u> At least one parking space for the physically handicapped per every 25 parking spaces at a facility	40 unpaved parking spaces for trucks and trailers; seven unpaved standard parking spaces; two paved parking spaces for the physically handicapped	Yes
Lot Coverage	No requirement	No requirement	N/A
Space Between Buildings	Six feet minimum (75 feet minimum between human habitations and structures utilized to house animals)	16 feet between existing barn and existing single-family residence	Yes (existing barn and existing single-family residence were constructed with permits prior to the

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
			processing of DRA No. 4112)
Wall Requirements	No requirement	No requirement	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agency/Department Comments Regarding Site Adequacy:

Zoning Section of the Fresno County Department of Public Works and Planning: The existing improvements satisfy the setback requirements of the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

Analysis:

Staff review of the Site Plans provided for Director Review and Approval (DRA) No. 4112, Site Plan Review (SPR) No. 7814, and DRA Application No. 4465 demonstrates that the existing improvements satisfy the setback requirements of the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District. It is also noted by staff that no additional structural improvements are proposed with DRA Application No. 4465.

With regard to off-street parking, land uses involving places of assembly in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District that do not utilize an auditorium or meeting hall are required to provide at least one standard parking space for each five persons attending the use and one standard parking space for every two permanent employees, per Zoning Ordinance Section 855-I.2.b. Further, California Building Code requires the provision of at least one parking space for the physically handicapped per every 25 parking spaces at a facility. In this case, the existing commercial horse arena has up to 60 guests per event day, and has no employees, as the owner of the subject parcel is also the operator of the commercial horse arena use. As such, the existing commercial horse arena needs to have at least 12 total parking spaces, one of which must be provided for the physically handicapped. The existing commercial horse arena has 40 unpaved parking spaces for trucks and trailers, seven unpaved standard parking spaces, and two paved parking spaces for the physically handicapped.

Staff finds that the subject parcel is adequate in size and shape to accommodate the proposed operational modifications.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 1 can be made.

Finding 2: *That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.*

		Existing Conditions	Proposed Operation
Private Road	Yes	Rusty Spur Lane	No change
Public Road Frontage	No	N/A	No change
Direct Access to Public Road	No	N/A	No change
Road ADT		Rust Spur Lane: Unknown (private road)	No change
Road Classification		Rusty Spur Lane: Private road (60-foot-wide non-exclusive access easement)	No change
Road Width		Rusty Spur Lane: 60-foot wide non-exclusive access easement	No change
Road Surface		Rusty Spur Lane: Paved (pavement width ranges from 17 to 22 feet)	No change
Traffic Trips		Up to 120 one-way guest trips per event day (60 round trips per event day); 12 event days per year	No change other than 14 additional event days per year
Traffic Impact Study (TIS) Prepared	No	N/A	Not required by the Design Division of the Fresno County Department of Public Works and Planning
Road Improvements Required		N/A	None required

Reviewing Agency/Department Comments Regarding Adequacy of Streets and Highways:

Design Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

Analysis:

The existing commercial horse arena is accessed from Rusty Spur Lane via an unpaved driveway on the subject parcel. Rusty Spur Lane is a private road that exists as a 60-foot-wide non-exclusive access easement that has a pavement width ranging from 17 to 22 feet.

On December 28, 2009, an appeal of the Planning Commission's approval of DRA No. 4112 was filed with the Clerk to the Fresno County Board of Supervisors, and the appeal was originally scheduled before the Board at the February 23, 2010 Board Hearing. At that Hearing, the Board voted to continue the appeal pending the outcome of a civil lawsuit filed against the Applicant by the Appellants of DRA No. 4112, which sought to prohibit the commercial horse arena use by prohibiting the Applicant from utilizing Rusty Spur Lane to access the commercial horse arena.

On August 8, 2011, the Fresno Superior Court filed its judgement in favor of the Applicant, confirming the Applicant's legal ability to utilize the existing site access in conjunction with the commercial horse arena use. A summary of this Fresno Superior Court judgement is included in the Board of Supervisors Agenda Item dated September 27, 2011, which is attached to this Staff Report as Exhibit 9, and is also detailed by the Amended Judgement after Trial by Superior Court, which is attached to this Staff Report as Exhibit 11.

Considering the existing nature of the commercial horse arena and its existing site access in conjunction with the fact that no additional site access routes are being proposed, the surrounding streets serving the subject parcel will remain adequate to accommodate the proposed operational modifications.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 2 can be made.

Finding 3: *That the proposed use will not be detrimental to the character of the development in the immediate neighborhood or the public health, safety, and general welfare.*

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North	50.19 acres	Grazing land	AL-40	None
South	39.64 acres	Grazing land	AL-40	None
East	40.00 acres	Single-family residence	AE-40	510 feet

Surrounding Parcels				
West	160.00 acres	Grazing land	AE-40	None

Reviewing Agency/Department Comments:

Building and Safety Section of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

California Regional Water Quality Control Board: No concerns with the proposal.

Fresno County Department of Agriculture (Agricultural Commissioner's Office): No concerns with the proposal.

Fresno County Department of Public Health, Environmental Health Division: The proposed operational modifications are within the scope of the Mitigated Negative Declaration (MND) prepared for Initial Study No. 6062.

Fresno County Fire Protection District (Fire District): The subject parcel should annex into Community Facilities District (CFD) No. 2010-01 of the Fresno County Fire Protection District.

Resources Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

San Joaquin Valley Unified Air Pollution Control District (Air District): No concerns with the proposal.

No other comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

Analysis:

The current proposal, Director Review and Approval (DRA) Application No. 4465, entails a request to allow operational modification of the commercial horse arena authorized by DRA No. 4112 in order to increase the number of authorized event days from 12 event days per year to 26 event days per year, allow event days to occur year-round whereas event days are currently limited to April 1 through September 30, and increase hours of operation for event days from 8:00am until 5:00pm to 8:00am until 6:00pm. It is also noted that no additional structural improvements are proposed with DRA Application No. 4465.

This proposal was routed to the same agencies that reviewed Initial Study (IS) No. 6062 and DRA No. 4112, and no concerns were identified by said agencies regarding the proposed operational modifications. The area and use are substantially the same, and there have not been any changes in circumstances or new information provided by the reviewing agencies. As such, staff did not require a subsequent Mitigated Negative Declaration (MND) to be undertaken for the proposed operational modifications per Section 15162 of the California Environmental Quality Act. A summary of IS No. 6062 is included in the Planning Commission Staff Report dated December 10, 2009, which is attached to this Staff Report as Exhibit 10.

Based on the above information, and with adherence to the Mitigation Measures, Conditions of Approval and mandatory Project Notes identified in IS No. 6062 prepared for DRA No. 4112, except as modified by DRA Application No. 4465, staff finds that the proposal will not have an

adverse effect upon surrounding properties.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 3 can be made.

Finding 4: *That the proposed development be consistent with the General Plan.*

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-A.3: County may allow by discretionary permit in areas designated Agriculture, certain agricultural uses and agriculturally-related activities, including certain non-agricultural uses, subject to the following Criteria: a) Use shall provide a needed service to the surrounding area which cannot be provided more efficiently within urban areas or which requires location in a non-urban area because of unusual site requirements or operational characteristics; b) Use should not be sited on productive agricultural lands if less productive land is available in the vicinity; c) Use shall not have a detrimental impact on water resources or the use or management of surrounding properties within a one quarter-mile radius; d) A probable workforce should be located nearby or readily available; h) When approving a discretionary permit for an existing commercial use, the criteria listed above shall apply except for Criteria b.	With regard to Criteria “a”, this proposal entails an amendment to Director Review and Approval (DRA) No. 4112 that would allow operational modification of an existing commercial horse arena authorized by DRA No. 4112 on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District. The proposed operational modifications include an increase in the number of authorized event days from 12 event days per year to 26 event days per year, allow event days to occur year-round whereas event days are currently limited to April 1 through September 30, and increase hours of operation for event days from 8:00am until 5:00pm to 8:00am until 6:00pm. With regard to Criteria “c”, the subject parcel is located in a designated Water-Short area; however, this proposal was referred to the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning, which did not identify any concerns regarding the proposed operational modifications. Additionally, approval of DRA No. 4112 required installation of a 2,500-gallon water storage tank on the subject parcel, whereas the Applicant installed a 5,000-gallon water storage tank on the subject parcel. Further, with adherence to the Conditions of Approval, Mitigation Measures and Project Notes identified in the Initial Study (IS) prepared for DRA No. 4112, this proposal will not have a detrimental impact on the use or management of surrounding properties. With regard to Criteria “d”, the commercial horse arena does not utilize employees, as

Relevant Policies:	Consistency/Considerations:
	the use is operated by the owner of the subject parcel.
General Plan Policy PF-C.17: County shall undertake a water supply evaluation, including determinations of water supply adequacy, impact on other water users in the County, and water sustainability.	The subject parcel is located in a designated Water-Short area; however, this proposal was referred to the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning, which did not identify any concerns regarding the proposed operational modifications. Further, approval of DRA No. 4112 required installation of a 2,500-gallon water storage tank on the subject parcel. It is noted by staff that the Applicant has installed a 5,000-gallon water storage tank on the subject parcel.
General Plan Policy PF-D.6: County shall permit individual on-site sewage disposal systems on parcels that have the area, soils, and other characteristics that permit installation of such disposal facilities without threatening surface or groundwater quality or posing any other health hazards and where community sewer service is not available and cannot be provided.	The existing commercial horse arena utilizes a 310 square-foot restroom building with septic system that was constructed with permits. Further, the Environmental Health Division of the Fresno County Department of Public Health reviewed this proposal and did not identify any concerns regarding the proposed operational modifications.

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is designated Specific Plan Reserve in the County-adopted Sierra-North Regional Plan, and is not enrolled under an Agricultural Land Conservation Contract (Williamson Act Contract). According to General Policy LU-A.3, certain agricultural uses and agriculturally-related activities, including certain non-agricultural uses, may be allowed by means of a discretionary use permit subject to a number of specific criteria.

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

Analysis:

As discussed above, the operational modifications proposed for the existing commercial horse arena are consistent with the General Plan Policies applicable to the use. Further, with adherence to the Conditions of Approval, Mitigation Measures and Project Notes identified in the Initial Study (IS) prepared for DRA No. 4112, this proposal will not have a detrimental impact on the use or management of surrounding properties.

Based on the above information, the proposed modified use is consistent with the Fresno County General Plan.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

Six letters in opposition to the application (Exhibit 12).

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the subject Director Review and Approval can be made. Staff therefore recommends approval of Director Review and Approval No. 4465, subject to the recommended Conditions.

PLANNING COMMISSION MOTIONS:**Recommended Motion** (Approval Action)

- Move to accept the Mitigated Negative Declaration previously adopted by the Board of Supervisors for Initial Study (IS) No. 6062; and
- Move to determine the required Findings can be made and move to approve Director Review and Approval No. 4465, subject to the Mitigation Measures, Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Director Review and Approval No. 4465; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Mitigation Measures, recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

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Director Review and Approval (DRA) No. 4465 Conditions of Approval

Conditions of Approval	
1.	All Conditions of Approval, Mitigation Measures and Project Notes for Director Review and Approval (DRA) No. 4112 shall remain in full force and effect, except as modified with the approval of DRA No. 4465.
2.	There shall be no more than 26 event days per year consisting of at least six youth-focused equestrian event days and at least six adult-focused equestrian event days.

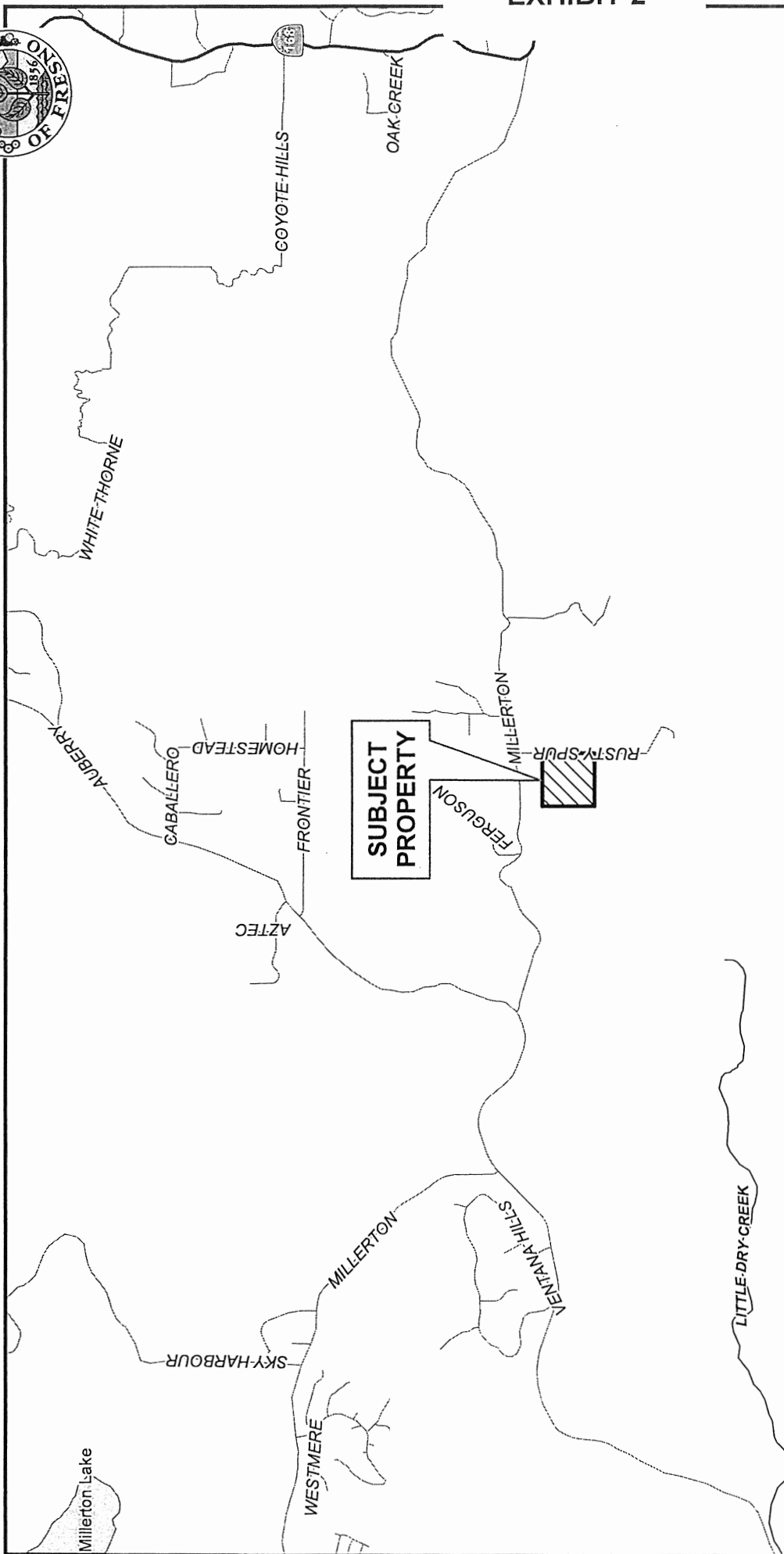
Conditions of Approval reference recommended Condition for the project.

DC:ksn
G:\4360Devs&Pin\PROJSEC\PROJDOCS\DR\4400-4499\4465\SR\DR\4465 Conditions (Ex 1).docx



LOCATION MAP

DRA 4465



EXISTING ZONING MAP



EXHIBIT 3

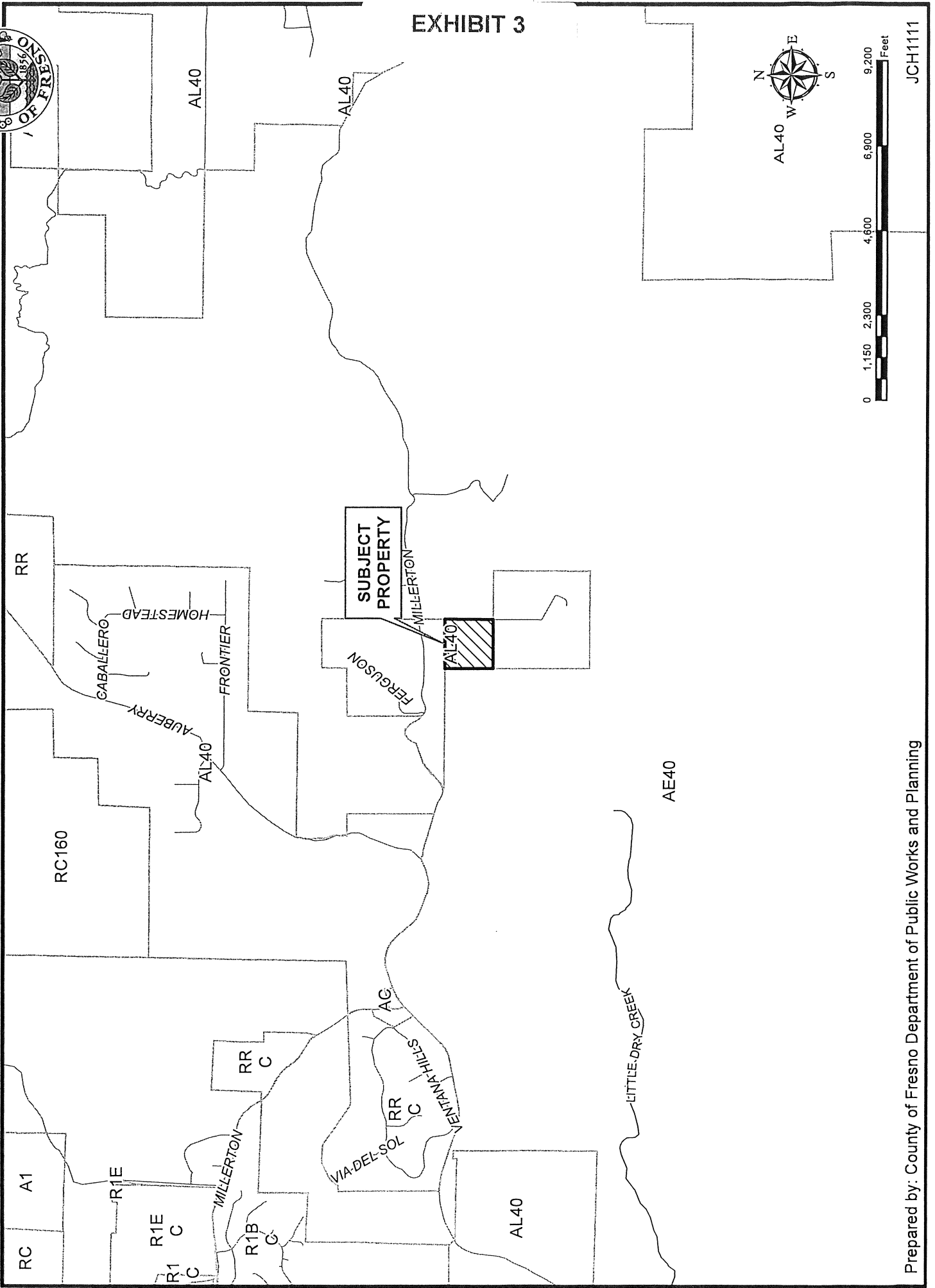
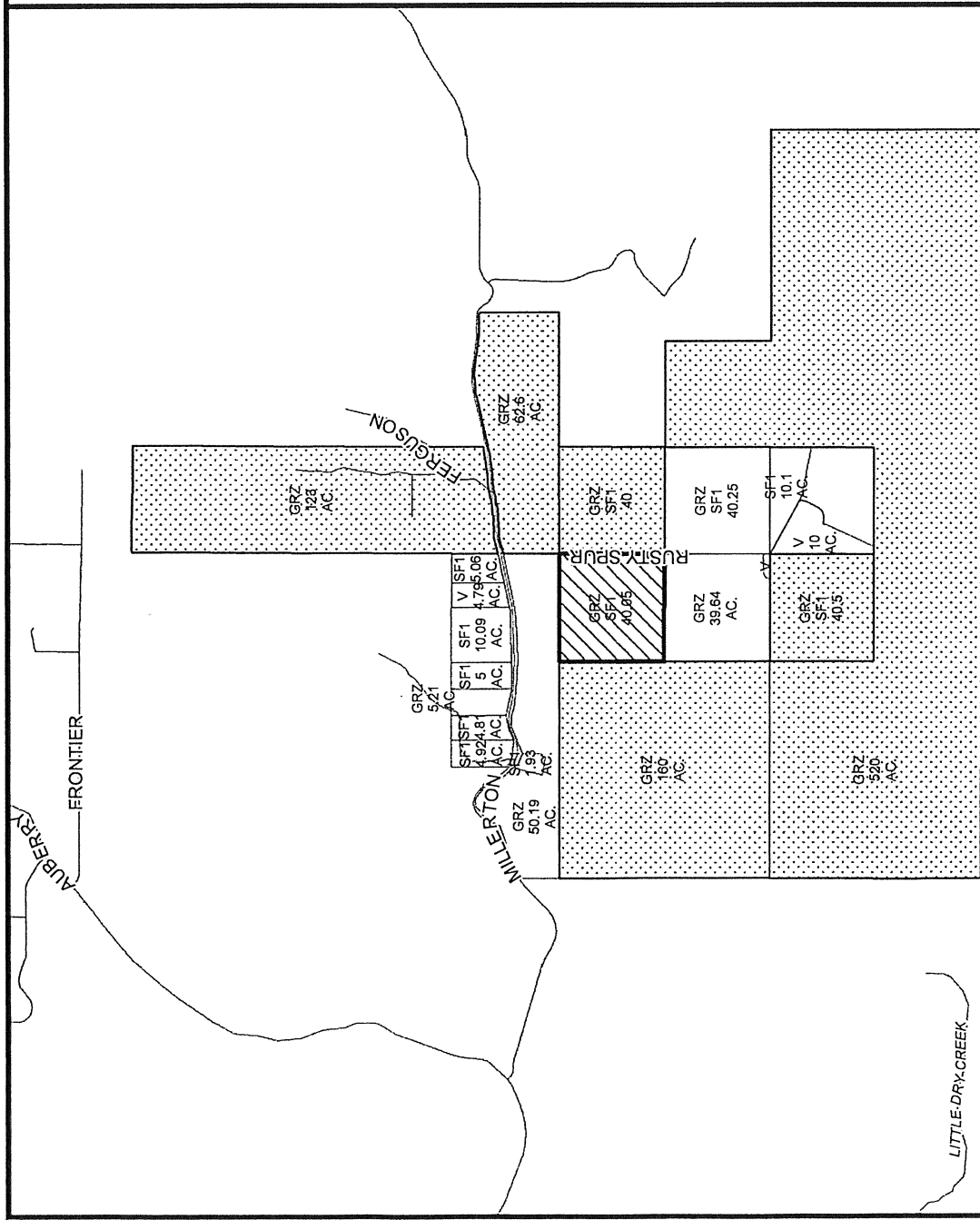




EXHIBIT 4

EXISTING LAND USE MAP

DRA 4465

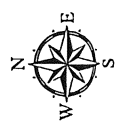


LEGEND	
GRZ - GRAZING	
SF# - SINGLE FAMILY RESIDENCE	
V - VACANT	

LEGEND:

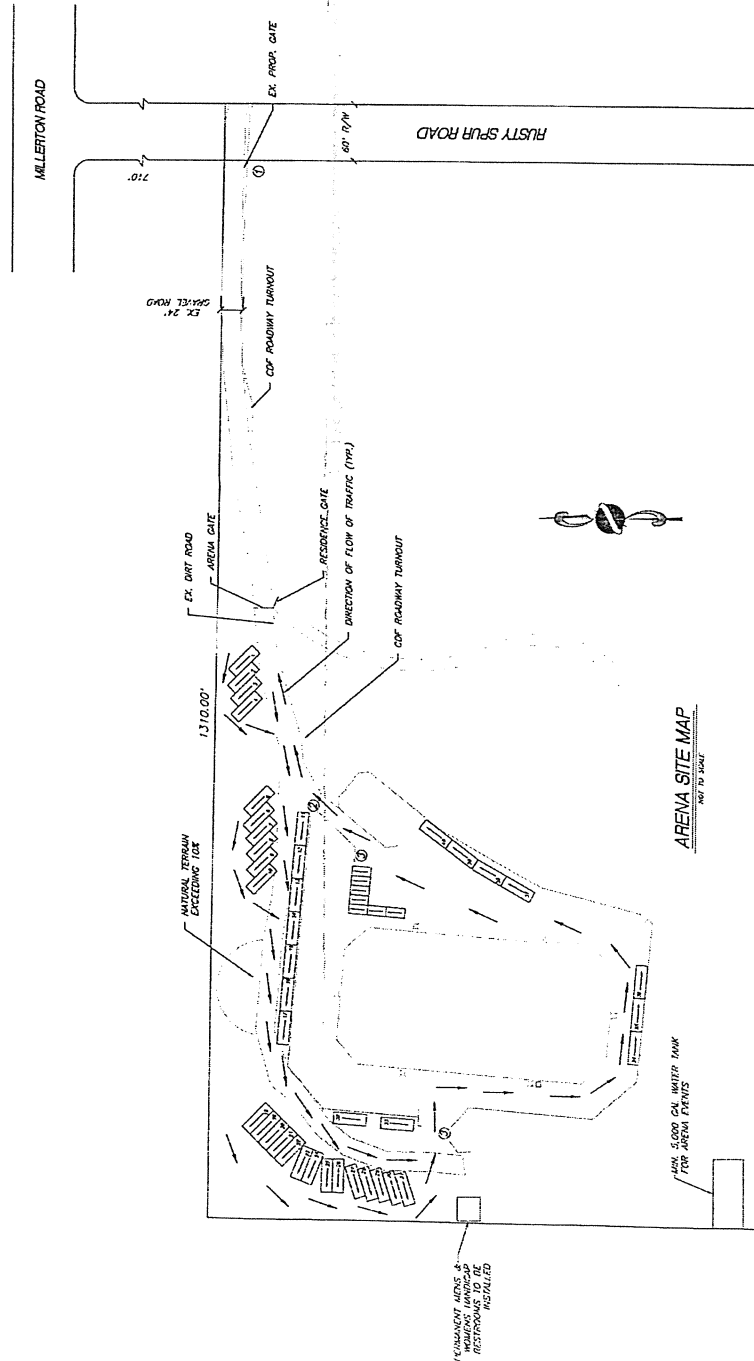
Subject Property

Ag Contract Land



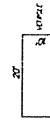
Department of Public Works and Planning
Development Services Division

FRESNO COUNTY DRA 4112 SHEET 2 OF 3 ARENA SITE MAP



ARENA SIGNAGE

1. SIGNAGE SHALL BE PLACED AT THE ENTRANCE TO THE ARENA AND AT THE ENTRANCE TO THE ARENA FROM THE SPUR ROAD.
2. SIGNAGE SHALL BE PLACED AT THE ENTRANCE TO THE ARENA FROM THE SPUR ROAD.
3. SIGNAGE SHALL BE PLACED AT THE ENTRANCE TO THE ARENA FROM THE SPUR ROAD.
4. SIGNAGE SHALL BE PLACED AT THE ENTRANCE TO THE ARENA FROM THE SPUR ROAD.
5. SIGNAGE SHALL BE PLACED AT THE ENTRANCE TO THE ARENA FROM THE SPUR ROAD.



TYPICAL ARENA PARKING STALL

TURNING ON MAIN STREET SHOULD BE DONE IN THE MIDDLE OF THE STALL

ARENA FACTS

1. GATE CHARGES SHALL BE \$10.00 PER HOUR.
2. GATE CHARGES SHALL BE \$10.00 PER HOUR.
3. GATE CHARGES SHALL BE \$10.00 PER HOUR.
4. GATE CHARGES SHALL BE \$10.00 PER HOUR.
5. GATE CHARGES SHALL BE \$10.00 PER HOUR.

TRAFFIC CIRCULATION AND PARKING NOTES

1. ARENA SHALL BE DESIGNED AS A ONE-WAY STREET.
2. ARENA SHALL BE DESIGNED AS A ONE-WAY STREET.
3. ARENA SHALL BE DESIGNED AS A ONE-WAY STREET.
4. ARENA SHALL BE DESIGNED AS A ONE-WAY STREET.
5. ARENA SHALL BE DESIGNED AS A ONE-WAY STREET.

CALIFORNIA DEPARTMENT OF FORESTRY

THE CALIFORNIA DEPARTMENT OF FORESTRY HAS REVIEWED THIS PROJECT AND HAS DETERMINED THAT IT IS IN ACCORDANCE WITH THE CALIFORNIA FORESTRY ACT AND THE CALIFORNIA FORESTRY REGULATIONS.

APPROVED PLAN	
DATE	7/1/2014
BY	JOHN J. JONES
FOR	JOHN J. JONES
NOTED	JOHN J. JONES
REVISION	JOHN J. JONES

**Know what's below.
Call before you dig.**

HW-ARJIT DASH/CHIEF MANAGER/CALCULATED 7/18/2012 10:50:09 AM

PLANNING & ENGINEERING & CIVIL ENGINEERING
1025 RUSTY SPUR RD. CALIFORNIA 95319
TEL: 925-454-4300 FAX: 925-454-4315
WWW.P&EENGINEERING.COM



EXHIBIT 7

CHARLIE MAXWELL
1025 RUSTY SPUR RD.
CLONIS, CA 95819

PROJECT NO.

DATE

BY

CHECKED BY

APPROVED BY

PROJECT NO.

DATE

BY

CHECKED BY

APPROVED BY

1 OF 1
10/20/11

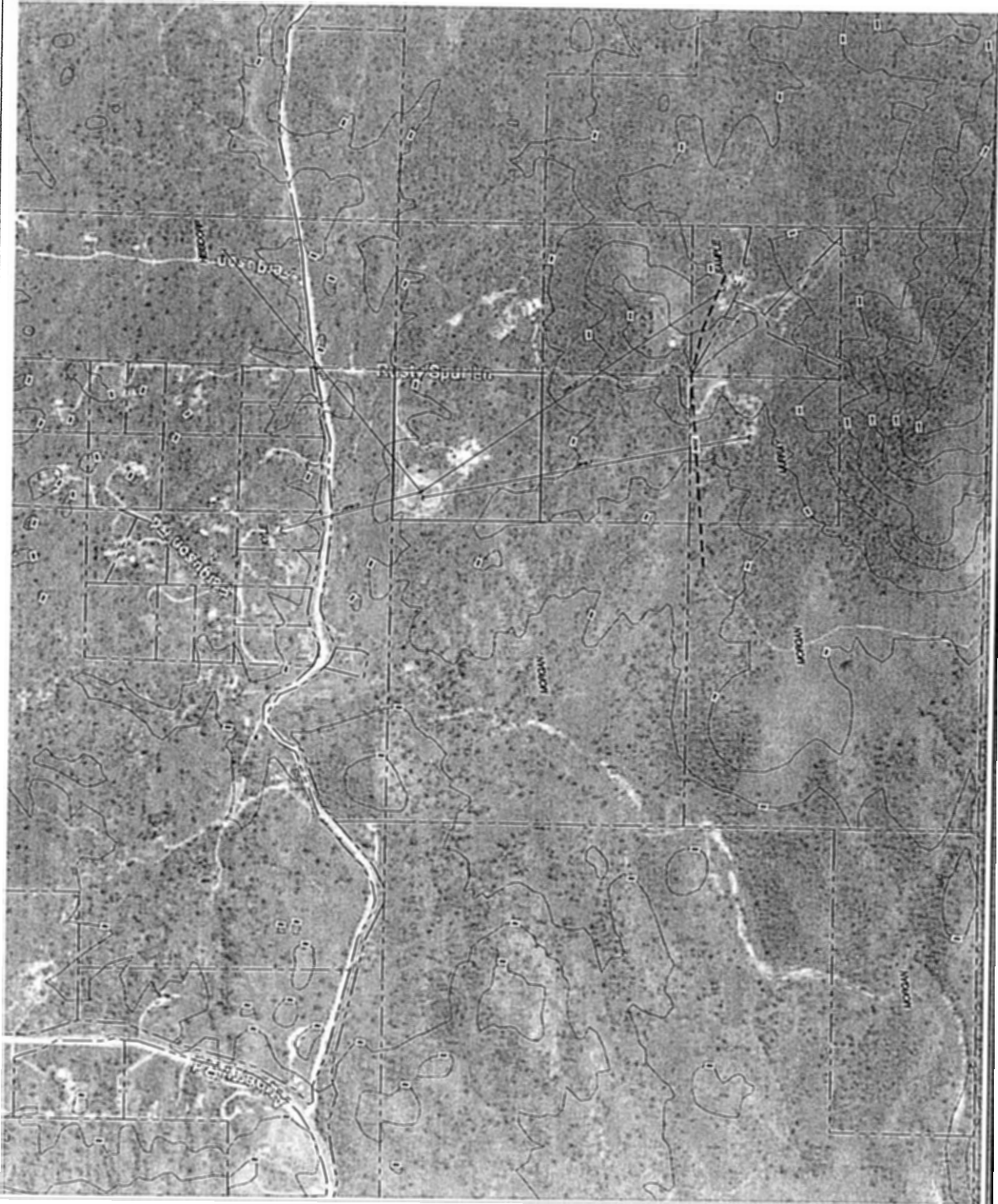
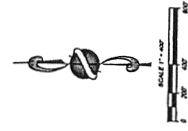


EXHIBIT 8

MAXWELL RUSTY SPUR ARENA

OPERATIONAL STATEMENT for DIRECTORS REVIEW AND APPROVAL NO. 4465

A LIMITED MODIFICATION OF DIRECTORS REVIEW AND APPROVAL NO. 4112
and INITIAL STUDY NO. 6062

October 27, 2016

PROPERTY OWNERS

Charlie & Tammy Maxwell
10925 Rusty Spur Lane
Clovis, CA 93619

PROJECT APPLICANTS

Rusty Spur Arena, Inc. a nonprofit corporation
c/o Charlie & Tammy Maxwell
10925 Rusty Spur Lane
Clovis, CA 93619

REPRESENTATIVE

Dirk Poeschel Land Development Services, Inc.
923 Van Ness Ave., No. 200
Fresno, CA 93721
559-445-0374
E-Mail: dirk@dplds.com

PROJECT LOCATION

10925 Rusty Spur Lane, Clovis

APN 138-061-49

PROJECT DESCRIPTION

Amend Directors Review & Approval (DRA) No. 4112 and Initial Study No. 6062 which allows operational commercial horse arena on a 40.05 +/- acre parcel in the AL-40 Zone District.

1. BACKGROUND

The applicants have owned the subject site is 1992. Since their acquisition have made improvements to the site for his personal use and enjoyment of equestrian activities. In 2007

DRA 4465
RECEIVED
COUNTY OF FRESNO

OCT 27 2016

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Amend DRA 4112

REVISED COPY

applicant submitted DRA No. 4112 requesting to allow the specified number of events principally to raise funds for neighboring youth equestrian events and training.

DRA No. 4112 and Initial Study No. 6062 were processed by the Fresno County Resources & Development Department with the recommendation for approval. Subsequently, the matter was appealed to the Fresno County Planning Commission who approved the proposed use.

On September 27, 2011 the Fresno County Board of Supervisors approved the project on appeal granting the aforementioned DRA finding the initial study was an appropriate evaluation of the potential impacts associated with the project. Site Plan Review No. 7814 was subsequently approved which established further project details and improvement requirements. The applicant is in compliance with all project related conditions.

As with the previous DRA the project will PROHIBIT:

- Boarding of horses.
- Sale of alcoholic beverages.
- Camping

The applicants propose three, limited modifications to the previously approved DRA No. 4112 and Initial Study No. 6062 which are:

- a) Expand the number of day time public events from 12 to 26 per calendar year.
- b) Allow events all year. The current permits limit events between April 1 and September 30 per calendar year.
- c) Add *Rusty Spur Arena* in 12-inch-tall letters and related directional arrows on an existing decorative masonry wall west of Rusty Spur Lane and the applicant's private driveway.

2. Operational Time Limits

There shall be no more than 26 days of planned public events per calendar year. The previous limitation of events period between April 1 and September 30 of any calendar year is eliminated. Sign-ups start at 8am with events commencing at 9am and ceasing at 6pm. Typical events will cease at 3:00pm.

3. Number of customers or visitors

There will be no change in visitor intensity from the previous approvals. The facility will host a maximum of 50 to 60 riders and 30 trailers.

4. Number of employees

There will be no change from the previous approvals. There will be no employees, however with the youth events there would be people, including retired CDF employees who will volunteer.

5. Service and delivery vehicles

There will be no change from the previous approvals. No large service or delivery trucks will visit the site.

6. Access to the site

There will be no change from the previous approvals. The arena is located as the first residence off of Rusty Spur Lane, which connects to the public roadway of Millerton Road. Per Site Plan Review No. 7814 the access drive has been graded to conform to country standards. Prior to events, the applicant uses an on-site permanent irrigation system to water down the access roads to prevent dust from potentially annoying nearby property owners or attendees. Cal Fire has assessed and approved site access and other related fire protection measures.

7. Number of parking spaces for employees, customers, and service/delivery vehicles.

There will be no change from the previous approvals. The arena is located on a forty-acre parcel with the arena being located in the extreme north/west portion of the parcel. Per Site Plan Review No. 7814, parking was approved on native grass or compacted native earth which will be watered. The design of the arena and surrounding parking area adjacent to the arena would be limited to sixty trailers. All parking stalls will be chalked or painted per county standards.

8. Are any goods to be sold on-site?

There will be no change from the previous approvals. This is primarily a youth activity and numerous groups have offered to sell food and drinks to support their youth activities and the activities of the arena. The applicant will not cook or produce food for any public event.

9. What equipment is used?

There will be no change from the previous approvals. The applicant's tractors and related equipment is used on the property.

10. What supplies or materials are used and how are they stored?

There will be no change from the previous approvals. Event equipment is utilized in the arena on the day of the event and stored in a personal on site storage building.

11. Does the use cause an unsightly appearance?

There will be no change from the previous approvals. By design, the arena was placed in the extreme north/west corner of the property. The location is as far as possible removed from any other residences on Rusty Spur Lane. The neighbors to the north are separated from the arena by an 80 acre parcel, a public roadway (Millerton Road) and a seasonal stream (Little Dry Creek.)

Sixty Afghan Pines, five Bradford Pears and five Raywood Ash were planted in strategic

locations to block views into the site, provide shade and block lighting emitted from the site. Said trees are on an existing irrigation system.

An earthen berm exists along the south and south boundaries of the arena. This berm provides a visual and anesthetic barrier to project activities. In addition, a solid masonry decorative block wall was installed in accordance with Site Plan Review No. 7814 that provides an additional noise and aesthetic barrier to surrounding properties.

The distance from the neighbor's home to the north to the center of the arena is approximately 1,350 feet or 450 yards. Odor and dust are both controlled by an existing arena watering system and the roadway to the arena will be watered as required to mitigate dust impacts.

As previously approved the arena is lighted per county standards.

Personal usage at night is limited. Arena lights have directional hoods to control the glare. During event days, an arena public announcing system will be utilized and controlled by the applicant to assure compliance with county noise standards. Further, the speakers are enclosed in a metal directional hood to force noise energy downward.

12. List any solid or liquid wastes to be produced.

There will be no change from the previous approvals. On event days there is very little animal waste generated because the participant's animals are not eating. On event days the arena is disced at the end of the day disposing of any waste or urine into the arena surface. A fully accessible ADA compliant restroom building was constructed in accordance with Site Plan Review No. 7814 in a location consistent with applicable regulations for such restroom facilities. Said restrooms have ADA compliant parking.

The subject site is served by Ponderosa Disposal that the contract region established by Fresno County for waste collection. The applicant complies with all disposal and recycling requirements mandated by law. In addition, the applicant has installed approximately thirty, 50-gallon waste collection drums for the ease of attendees to dispose of small waste such as paper plates etc.

13. Estimated volume of water to be used (gallons per day)

An irrigation system is used to water the arena to reduce dust. A 5,000 gallon potable water storage tank has been installed south of the arena approximately 145 feet above the arena floor. This water system will allow the arena to be watered completely with minimum effort to allow for maximum dust control. The facility uses approximately 2,000 gallons of water on event days. The water is provided from an on-site well which has sufficient capacity to allow for this usage and more.

14. Describe any proposed advertising including size, appearance, and placement.

To improve traffic circulation and reduce the potential for traffic inadvertently crossing

other parcels, the applicant has installed a decorative masonry wall 120 feet long and four feet in height. Said decorative wall begins on the west side of Rusty Spur Lane and the applicant's private driveway. The aforementioned decorative wall will have *Rusty Spur Arena* in 12-inch-tall letters and related directional arrows. No other signage is required for proposed. All signage will be in accordance with county standards.

15. Will existing buildings be used or will new buildings be constructed?

There will be no change from the previous approvals. As indicated on the attached project site plan, all buildings exist and are operational consistent with county approvals. All such improvements and structures were constructed with building permits associated with Site Plan Review No. 7814.

16. Explain which buildings or what portion of buildings will be used in the operation.

There will be no change from the previous approvals. Only the existing barn will be used for storage of the event timing equipment.

17. Will any outdoor lighting or an outdoor sound amplification system be used?

There will be no change from the previous approvals. As previously approved the arena is lighted for personal use only.

A conjunctive lighting and sound pole system has been installed by the applicant that utilizes lighting and sound on the same pole. The lighting system is hooded and directed downwards will avoid annoying nearby property owners. In addition, the applicant has calculated the height of the aforementioned poles to optimize lighting and reduce the potential for light to annoying adjacent properties.

The sound amplification speakers are encased in a metal shield that directs sound downward to assure that nearby property owners are not annoying by the arena. In addition, the applicant has established the height and location of the aforementioned poles to optimize the sound system's efficiency without annoying nearby property owners. In addition, the applicant monitors all noise amplification levels to confirm compliance with Fresno County noise standards.

18. Landscaping or fencing proposed?

There will be no change from the previous approvals. Sixty Afghan Pines, five Bradford Pears and five Raywood Ash were planted in strategic locations to block views into the site, provide shade and block lighting emitted from the site. Said trees are on an existing irrigation system.

A series of fences and gates exist on the subject site to segregate private residence from the arena area. The arena fencing was specifically designed and constructed to restrict movement on and off the applicant's property so visitors or guests will not wander onto adjacent parcels.

Per Site Plan Review No. 7814, the applicant will open the electric access gate that serves the

subject site and adjacent properties on Rusty Spur Lane. The aforementioned management of the emergency access gate by the applicant will prohibit visitors vehicles from backing onto the public roadway by facilitating direct access onto the applicant's property.

19. Any other information that will provide a clear understanding of the project or operation.

A primary goal or propose of the project to "give back" to the community the same enjoyment that our children and numerous other foothill children enjoyed while growing up. Numerous families and community groups have approached the applicant with the idea of providing safe, clean fun activities for the children of this community such as the American Legion youth equestrian training program. Handicapped children would be especially welcomed. This program is designed around the goals of having all participants be a winner and win prizes that will be donated from the local merchants of this community.

The applicant has extensive experience in equestrian riding and training of children and young adults. There is a large unmet need for such equine activities in the Clovis/Sierra Foothills area that the applicant desires to address. Incidental riding lessons, training and proper handling of horses will also be provided to participants.

The applicant has hosted fundraising events for children charities to raise money for Sierra High School and a variety of other events to raise money for social and equestrian charities and will continue to do so.

As noted, the site and related uses were fully evaluated as part of the approval of DRA No. 4112 and Site Plan Review No. 7814. No responsible agency raised issues with the aforementioned project including California Fish & Game and the California Division of Forestry.

20. Identify all Owners

Charlie and his wife Tammy Maxwell are the property owners of the Rusty Spur Arena, Inc. a non-profit corporation.

SUPPLEMENTAL INFORMATION

Agriculture Resources:

The proposed use is allowed with approval of a Directors Review and Approval. Since Directors Review & Approval (DRA) No. 4112 was approved, the site remains generally surrounded by rural residential uses on 40 acre parcels. No agricultural product has been grown on the site for decades.

Air Quality:

The development will comply with all San Joaquin Unified Air Pollution Control District standards and pay applicable fees as required. Said District evaluated the previous entitlements and expressed no concerns.

Biological Resources:

All site improvements exist. The site is in a rural, agricultural area substantially disturbed by general equestrian and typical rural, weed and fire prevention activities that have occurred on the site for decades. California Department of Fish and Game evaluated the previous entitlements and expressed no concerns therefore no impacts were identified.

Cultural Resources:

All site improvements exist. General equestrian and typical rural, weed and fire prevention activities have occurred on the site for decades. Therefore, there will be no impacts to prehistoric or historic subsurface cultural resources that have not already occurred

Geology and Soils:

All site improvements exist. The project complies with all applicable building and development codes that have proven to be effective in addressing potential impacts to geology and soils. The site is not in an active seismic safety zone or an Alquist Priolo zone. All site improvements requiring a building permit comply with mandatory soils and geologic construction requirements.

Land Use and Planning:

As was previously determined, the proposed project is consistent with the site's adopted land use designation and zoning. The subject property remains designated Specific Plan Reserve area in the county adopted Sierra North Regional Plan. According to general plan policy LU.A-3, certain agriculturally related activities such as commercial horse arenas may be allowed by means of a discretionary use permit.

Other general plan policies were evaluated as part of the review and approval process for Directors Review & Approval (DRA) No. 4112. The county staff, planning commission and Board of Supervisors determined the project was consistent with the general plan.

As was the status when Directors Review & Approval (DRA) No. 4112 was approved, the subject property is not subject to an agricultural land conservation contract. Said site is not located with any clear zone or other protection surface of a public use or private use airport or within an identified airport noise contour. The site is not within a Mineral Resource Zone (MRZ) area.

None of the aforementioned information has changed since Directors Review & Approval (DRA) No. 4112 was approved.

Traffic:

Initial Study No. 6062 evaluated potential environmental impacts associated with the approval of Directors Review & Approval (DRA) No. 4112. As part of the environmental analysis associated with that project, Fresno County Traffic Engineering staff determined that a formal traffic study was not required per Fresno county standards due to the location, type and kind of traffic and low volume of Millerton Road traffic.

County staff visited the subject site and evaluated the curvilinear nature, bridges and road conditions that provide access to and from the site on Millerton Road. Traffic counts developed by Fresno County staff in 2011 indicate 600 daily trips east of Auberry Road on Millerton Road west of the subject site and 400 daily trips on Millerton Road east of the subject site. County staff evaluated the aforementioned roadway characteristics and project details and concluded that said traffic would not result in a significant increase in vehicle or traffic congestion nor exceed established levels of service standards.

County staff also evaluated site access and determined that site visibility in both directions met applicable standards. County staff also determined queuing of traffic coming into and out of the site met applicable standards. The applicant's operational statement identified that the project's existing gate would be maintained open at all times during events and that a queuing distance of over 2,600 feet was available from Rusty Spur Lane onto the applicant's property from Millerton Rd. Therefore, the potential for project traffic to back up on to Millerton Road was not reasonably probable.

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Agenda Item 14

DATE: September 27, 2011

TO: Board of Supervisors

FROM: Alan Weaver, Director
Department of Public Works and Planning *Alan Weaver*

SUBJECT: Resolution No. 12182 – Initial Study Application No. 6062 and Director Review and Approval Application No. 4112 filed by Charlie Maxwell – Appellant: Wade and Rhonda Haines

RECOMMENDED ACTION:

Consider and take action on appeal filed by Wade and Rhonda Haines of the Planning Commission's approval of Director Review and Approval Application No. 4112 and Initial Study Application No. 6062, to allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District. The project site is located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road, approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (Sup. Dist.: 5) (APN: 138-061-49). (Continued from February 23, 2010)

FISCAL IMPACT:

There is no net County cost associated with the recommended action.

IMPACTS ON JOB CREATION:

Approval of the recommended action should not impact the creation of jobs in Fresno County.

BACKGROUND / DISCUSSION:

This item comes to your Board on appeal of the Planning Commission's approval of the subject application. This item was originally heard by your Board on February 23, 2010. At that hearing, your Board voted to continue this item pending the outcome of a civil lawsuit filed against the

ADMINISTRATIVE OFFICE REVIEW

BOARD ACTION: DATE September 27, 2011

APPROVED AS RECOMMENDED

Page 1 of 2

OTHER



Official Action of
Board of Supervisors

Deputy

SEE PAGE THREE FOR BOARD ACTION

UNANIMOUS _____ ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POCHIGIAN _____

Applicant by the Appellants of the subject application regarding access rights to the subject and surrounding properties. On August 8, 2011, Fresno Superior Court filed its judgment in favor of the Applicant, confirming the Applicant's legal ability to utilize the existing site access in conjunction with the proposed use.

On December 10, 2009, the Planning Commission considered the subject application filed by the Applicant. Testimony included those in opposition to the proposal citing concerns regarding decreased property values, increased traffic levels and the use of Rusty Spur Road (private road) for commercial purposes, increased noise and light levels and other aesthetic concerns, and possible negative impacts to wildlife. Those in support of the proposal cited that horse events provide a benefit to the community for both youth and adults, and that this would be a local resource that does not require great travel distances to reach.

After considering the information in the Staff Report, staff's presentation, and public testimony from the Applicant, the Commission voted six to one to adopt Resolution No. 12182 approving Director Review and Approval Application No. 4112. The Planning Commission stated their concurrence with staff's recommendation that the required Findings could be made with the inclusion of two additional conditions limiting the number of events to six youth-focused events and six adult-focused events annually, and a provision for a landscaping buffer adjacent to the southern and eastern boundaries of the arena to assist in screening views of the arena area from adjacent properties.

If your Board determines to uphold the Planning Commission's approval of the project, a simple denial motion denying the appeal and upholding the Commission's approval would be appropriate. If your Board were inclined to grant the appeal, a motion to uphold the appeal thus denying the project would be appropriate with clarification and reasoning as to which Findings cannot be made.

A copy of the August 8, 2011 Fresno County Superior Court Judgment in favor of the Defendant is attached as Exhibit "A". The February 23, 2010 Board Action including the recommended Conditions of Approval is attached as Exhibit "B".

Notices of the subject hearing were sent to 22 property owners within 600 feet of the subject property exceeding the minimum notification requirements prescribed by the California Government Code and the Fresno County Zoning Ordinance.

REFERENCE MATERIAL

BAI #18, February 23, 2010

CM:cwm
G:\4360Devs&Pin\ADMIN\BOARD\Board Items\2011\09-27-11\DRA 4112_AI.doc

CONDUCTED HEARING; RECEIVED PUBLIC TESTIMONY; CLOSED HEARING; DENIED
APPEAL; ADOPTED FINDINGS AND APPROVED INITIAL STUDY APPLICATION NO. 6062
AND DIRECTOR REVIEW AND APPROVAL APPLICATION NO. 4112, SUBJECT TO
CONDITIONS RECOMMENDED IN THE STAFF REPORT, INCLUDING STAFF'S
MODIFICATION TO CONDITION NO. 2 RELATING TO LANDSCAPING TO REQUIRE
TREES ALONG THE NORTHERN AND WESTERN PERIMETER OF THE ARENA (RATHER
THAN TREES AND SHRUBS ALONG THE SOUTHERN AND EASTERN PERIMETER) AND
THE FOLLOWING ADDITIONAL CONDITION: "APPROVAL OF THE USE PERMIT SHALL
NOT BE VALID UNLESS/UNTIL THE APPLICANT ENTERS INTO AN AGREEMENT
INDEMNIFYING THE COUNTY FOR LEGAL COSTS ASSOCIATED WITH APPROVAL OF
THE PROJECT." FURTHER DIRECTED STAFF TO COORDINATE WITH THE CALIFORNIA
HIGHWAY PATROL TO DISCUSS POSSIBLE NEED FOR SPEED LIMIT AND SIGNAGE
CONTROL MEASURES ALONG MILLERTON ROAD

Motion by:	Anderson	Second by:	Case
Ayes:	Anderson, Case, Perea, Larson	Noes:	Poochigian
Abstentions:	None	Absentees:	0

EXHIBIT 'A'

FILED

AUG 08 2011

FRESNO COUNTY SUPERIOR COURT

By _____ DEPT. 503 - DEPUTY

JONES HELSLEY PC
265 E. Riverpark Circle, Third Floor, Suite 310
P.O. Box 28340
Fresno, California 93729
Telephone: (559) 233-4800
Facsimile: (559) 233-9330

Timothy Jones #119841
John P. Kinsey #215916
Timothy A. Bennett #249600

Attorneys for: Defendants/Cross-Complainants, Charlie Maxwell, Tamara Maxwell, Terry Hall
and Teri Hall

SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO - UNLIMITED CIVIL

WADE HAINES, an individual, and
RHONDA HAINES, an individual,
BIRCHWOOD PARK, LLC, a California
limited liability company; WHITE
PROPERTIES, INC., a California
corporation; and JACK MURRAY, an
individual

Plaintiffs,

v.

CHARLIE MAXWELL, an individual;
TAMARA MAXWELL, an individual;
BIRCHWOOD PARK, LLC, a California
limited liability company; JOHN
SAMPLE, an individual; DORINDA
SAMPLE, an individual; TERRY HALL,
an individual; TERRI HALL, an
individual; and DOES 1 through 50,
inclusive,

Defendants.

AND RELATED CROSS-ACTION

Case No. 09 CE CG 02582 AMS

[PROPOSED] JUDGMENT AFTER
TRIAL BY SUPERIOR COURT

Judge: Hon. Alan M. Simpson
Dept.: 503

(7009/002/00324535.DOC)

1

[PROPOSED]

Exhibit 9 - Page 4

SUPERIOR COURT

EXHIBIT

A

1 The cause came on regularly for trial on July 13, 14, 18, 19 and 20, 2011, in
2 Department 503 of the above-entitled court, the Honorable Alan M. Simpson presiding,
3 sitting without a jury, a jury having been duly waived. Plaintiffs and Cross Defendants
4 Wade Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack
5 Murray appeared by their attorneys, Jason Helsel and David Richards of the law firm of
6 FOWLER/HELSEL; Defendants and Cross-Complainants Charlie Maxwell, Tamara
7 Maxwell, Terry Hall and Teri Hall appeared by their attorneys, Timothy Jones and Timothy
8 A. Bennett of the law firm of JONES HELSLEY PC. Evidence, both oral and documentary,
9 having been presented by both parties, the cause having been argued and submitted for
10 decision, the court having issued its decision on July 20, 2011, and no request having been
11 made by any party for a Statement of Decision.

12 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

13 As to the Second Amended Complaint filed in this action by Plaintiffs Wade
14 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, the
15 original of which was filed on September 10, 2010, and an amended version of which was
16 filed July 19, 2011, with leave to amend having been granted by the Court during trial
17 (collectively the "Second Amended Complaint"):

18 1. Plaintiffs Wade Haines, Rhonda Haines, Birchwood Park, LLC; White
19 Properties, Inc. and Jack Murray shall take nothing by reason of their Second Amended
20 Complaint against Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall;
21 and that judgment shall be and hereby is entered in favor of Defendants Charlie Maxwell,
22 Tamara Maxwell, Terry Hall and Teri Hall on the Second Amended Complaint on each of
23 the declarations sought therein; and

24 2. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
25 Teri Hall are the prevailing parties as against Plaintiffs Wade Haines, Rhonda Haines,
26 Birchwood Park, LLC; White Properties, Inc. and Jack Murray on their Second Amended
27 Complaint; and
28

1 3. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
2 Teri Hall shall recover their costs in an amount to be determined pursuant to the timely filing
3 of a memorandum of costs and the Court shall retain jurisdiction to entertain a motion for
4 attorneys fees by the prevailing party in accordance with the laws of the State of California.

5 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:**

6 As to the Cross-Complaint filed by Cross-Complainants Charlie Maxwell,
7 Tamara Maxwell, Terry Hall and Teri Hall on May 7, 2010, and as amended on July 20,
8 2011, with leave to amend having been granted by the Court ("Cross-Complaint"):

9 1. That Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry
10 Hall and Teri Hall hereby prevail on their Cross-Complaint against Cross-Defendants Wade
11 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, and
12 that the Court makes the following declarations:

13 A. The Sohm Easement does not limit the purpose of the trips for
14 the types of uses on the properties serviced by the easement,
15 whether residential, commercial or otherwise;

16 B. The Roadway Maintenance Agreement does not limit vehicle
17 trips to personal residential trips and allows vehicular trips for
18 any lawfully permitted uses by the County, including
19 commercial agricultural uses such as a the Proposed Project;

20 C. The Roadway Maintenance Agreement recorded against the
21 Hall Property is unenforceable as a matter of law and shall be
22 removed from Hall's chain of title;

23 2. That judgment shall be and hereby is entered in favor of Cross-
24 Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall as set forth
25 herein;

26 3. Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall
27 and Teri Hall are the prevailing parties against Cross-Defendants Wade Haines, Rhonda
28

1 Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray as to the Cross-
2 Complainants Cross-Complaint; and

3 4. That Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry
4 Hall and Teri Hall shall recover their costs in an amount to be determined pursuant to the
5 timely filing of a memorandum of costs and the Court shall retain jurisdiction to entertain a
6 motion for attorneys fees by the prevailing party in accordance with the laws of the State of
7 California.

8 DATED: August 8, 2011.

ALAN M. SIMPSON

Honorable Alan M. Simpson
Judge of the Superior Court

12 APPROVED AS TO FORM:

14 DATED: August __, 2011.

Jason Helsel, Attorney for Plaintiffs and
Cross-Defendants Wade Haines, Rhonda Haines,
Birchwood Park, LLC; White Properties, Inc. and
Jack Murray

Inter Office Memo



DATE: February 23, 2010

TO: Board of Supervisors

FROM: Alan Weaver, Director *Alan Weaver*
Department of Public Works and Planning

SUBJECT: Initial Study Application No. 6062 and Director Review and Approval
Application No. 4112 (Charlie Maxwell) – Appellant: Wade and Rhonda
Haines

RECOMMENDED ACTION

Consider and take action on appeal filed by Wade and Rhonda Haines of the Planning Commission's approval of Director Review and Approval Application No. 4112 and Initial Study No. 6062, to allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) District located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road, approximately three miles east of the unincorporated community of Friant. (10925 Rusty Spur Road) (SUP. DIST.: 5) (APN: 138-061-49).

BACKGROUND / DISCUSSION

This item comes to your Board on appeal of the Planning Commission's approval of the subject application.

The Fresno County Zoning Ordinance contains provisions that allow the Director of the Department of Public Works and Planning, at his discretion, to refer a Director Review and Approval (DRA) Application directly to the Planning Commission for a public hearing and decision. The decision of the Planning Commission on a DRA Application referred in this manner is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action. In the case of the subject application, the Director determined that the application be referred to the Commission for action based on concerns expressed by neighboring property owners regarding the proposed use.

On December 10, 2009, the Planning Commission considered the subject application filed by the Applicant. Testimony included those in opposition to the proposal citing concerns regarding decreased property values, increased traffic levels and the use of Rusty Spur Road for commercial purposes, increased noise and light levels and other aesthetic concerns, and possible negative impacts to wildlife. Those in support of the proposal cited that horse events provide a benefit to the community for both youth and adults, and that this would be a local resource that does not require great travel distances to reach.

After considering the information in the Staff Report, staff's presentation, and public testimony from the Applicant, the Commission voted six to one to adopt Resolution No.

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Board of Supervisors
February 23, 2010
Page 2

12182 approving Director Review and Approval Application No. 4112. The Planning Commission stated their concurrence with staff's recommendation that the required Findings could be made with the inclusion of two additional conditions limiting the number of events to six youth-focused events and six adult-focused events annually, and a provision for a landscaping buffer adjacent to the southern and eastern boundaries of the arena to assist in screening views of the arena area from adjacent properties.

If your Board determines to uphold the Planning Commission's approval of the project, a simple denial motion denying the appeal and upholding the Commission's approval would be appropriate. If your Board were inclined to grant the appeal, a motion to uphold the appeal thus denying the project would be appropriate with clarification and reasoning as to which Findings cannot be made.

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18

Agenda Item

DATE: February 23, 2010
TO: Board of Supervisors
FROM: Planning Commission
SUBJECT: Resolution No. 12182 - Initial Study Application No. 6062 and Director Review and Approval Application No. 4112

Applicant / Owner: Charlie and Tamara Maxwell

REQUEST: Allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) District.

LOCATION: The site is located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road. The site is approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (SUP. DIST. 5) (APN: 138-061-49).

PLANNING COMMISSION ACTION:

At its hearing of December 10, 2009, the Commission considered the Staff Report and testimony (summarized in Exhibit "A"). A motion was made by Commissioner Abrahamian and seconded by Commissioner Ferguson to adopt the required Findings and approve Director Review and Approval Application No. 4112, subject to the Conditions listed in Exhibit "B" with inclusion of additional Conditions limiting the annual number of events to six youth-focused events and six adult-focused events and provision for a landscaping buffer adjacent to the southern and eastern boundaries of the arena.

ADMINISTRATIVE OFFICE REVIEW

DATE: February 23, 2010

APPROVED AS RECOMMENDED

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OTHER ☒



Official Action of
Board of Supervisors

Deputy

UNANIMOUS

**CONDUCTED HEARING; RECEIVED PUBLIC TESTIMONY; CLOSED HEARING;
CONTINUED AGENDA ITEM 18 UNTIL THE PENDING LAWSUIT USAGE OF THE
PRIVATE ROAD HAS BEEN DETERMINED AND FINALIZED**

ANDERSON

CASE

LARSON

PEREA

POOCHIGIAN

Board of Supervisors
February 23, 2010
Page 2

This motion passed on the following vote:

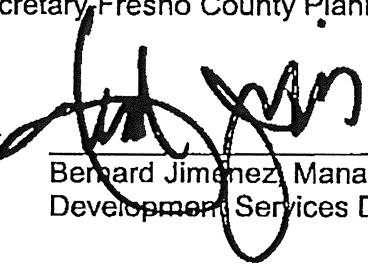
VOTING: Yes: Commissioners Abrahamian, Ferguson, Mendes,
 Niswander, Rocca, Yancey

 No: Commissioner Goodman

 Absent: Commissioners Gill, Woolf

 Abstain: None

ALAN WEAVER, DIRECTOR
Department of Public Works and Planning
Secretary Fresno County Planning Commission

By: 
Bernard Jimenez, Manager
Development Services Division

Attachments

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EXHIBIT "A"

Initial Study Application No. 6062
Director Review and Approval Application No. 4112

- Staff:** The Fresno County Planning Commission considered the Staff Report dated December 10, 2009, and heard a summary presentation by staff.
- Applicant:** The Applicants' representative concurred with the Staff Report and the recommended Conditions. He described the project and offered the following information to clarify the intended use:
- The Applicants wish to host non-profit equestrian events.
 - No outdoor lighting is necessary for events as all proposed events will be conducted during daylight hours.
 - The road maintenance agreement established for Rusty Spur Road does not restrict land uses allowed on properties utilizing this private road for access.
 - Topographic features around the site will help to limit visibility of the events from neighboring properties.
 - There will be no boarding of horses allowed on the property.
- Others:** Five other individuals presented information in support of the application and 14 individuals presented information in opposition to the application citing concerns regarding traffic, reduction of property values, aesthetics, noise, and the use of Rusty Spur Road (a private road) for commercial purposes.
- Correspondence:** The Applicants' representative presented 99 letters of support for the proposal to the Planning Commission in addition to six letters of support included as Exhibit 9 in the Staff Report.
- Five letters of opposition to the proposal were presented to the Planning Commission in addition to 31 letters of opposition included as Exhibit 8 in the Staff Report, citing concerns regarding traffic, reduction of property values, aesthetics, noise, and the use of Rusty Spur Road for commercial purposes.

RESOLUTION NO.: 12182

EXHIBIT "B"

Conditions of Approval

Initial Study Application No. 6062
Director Review and Approval Application No. 4112

1. There shall be no more than 12 event days per year consisting of six youth-focused event days and six adult-focused event days to be conducted on weekends between the months of April and September.
2. Additional landscaping, including trees and shrubs, to provide a vegetative screen shall be established and maintained along the southern and eastern perimeters of the arena. As part of the required Site Plan Review, a Landscaping and Irrigation Plan shall be submitted to and approved by Fresno County with said Landscaping Plan incorporating a landscape buffer no less than five feet in width, consisting of drought-tolerant evergreen shrubs and trees as approved by Fresno County's Department of Public Works and Planning. All landscaping shall be planted prior to operation.
3. The commercial horse arena shall be operated in substantial compliance with the Site Plan and Operational Statement as approved by the Planning Commission.
4. A Site Plan Review shall be submitted for review and approval by the Director of the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include but are not limited to design of parking and circulation, access, grading and drainage, and fire protection.
5. To address potential on-site dust impacts, active parking, circulation areas, and the riding arena shall be treated with a dust palliative as necessary to minimize creation of dust by vehicles and animals.
6. An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility.
- *7. Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis prepared by a qualified Acoustical Consultant with experience in evaluating community noise levels and standards. The Acoustical Analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The Acoustical Analysis shall be submitted to the Department of Public Health,

Environmental Health Division for review and approval. Mitigation Measures that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.

- *8. A 2,500-gallon water storage tank shall be provided in order to provide sufficient water supply for events.
- *9. The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.

*MITIGATION MEASURE – Measures specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

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RESOLUTION NO. 12182

EXHIBIT "C"

ATTACHMENT
TO
AGENDA ITEM

FISCAL IMPACT STATEMENT

Initial Study Application No. 6062
Director Review and Approval Application No. 4112

Listed below are the fees collected for the land use applications involved in this Agenda Item:

Initial Study Application:	\$ 3,901.00
Director Review and Approval Application:	\$ 2,660.00
Health Department Review:	<u>\$ 770.00</u>
Total Fees Collected	<u>\$ 7,331.00</u>

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County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER
DIRECTOR

Planning Commission Staff Report Agenda Item No. 3 December 10, 2009

SUBJECT: Initial Study Application No. 6062 and
Director Review and Approval Application No. 4112

Allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The site is located on the west side of Rusty Spur Road (a private road), approximately 710 feet south of its intersection with Millerton Road. The site is approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (SUP. DIST.: 5) (APN: 138-061-49).

Applicant / Owner: Charlie and Tamara Maxwell
Representative: Dirk Poeschel

STAFF CONTACT: Derek Chambers, Planner
(559) 262-4321

Chris Motta, Senior Planner
(559) 262-4241

RECOMMENDATION:

- Adopt the Negative Declaration prepared for Initial Study No. 6062; and
- Approve Director Review and Approval Application No. 4112 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

IMPACTS ON JOB CREATION:

The Commission's action will not have any substantial effect on job creation.

EXHIBITS:

1. Location Map
2. Surrounding Zone Map
3. Land Use Map
4. Applicant's Submitted Operational Statement
5. Evaluation of Environmental Impacts
6. Site Plan
7. Required Findings Necessary for the Granting of a Director Review and Approval Application, as specified in Zoning Ordinance Section 872.
8. Public Correspondence – Opposition
9. Public Correspondence – Support

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
G.P. Designation	Specific Plan Reserve in the Sierra-North Regional Plan	N/A
Zoning	AL-40 (Limited Agricultural, 40-acre minimum parcel size)	N/A
Parcel Size	40.05 acres	N/A
Project Site	Single-Family Residence; swimming pool; barn; corral; block wall; outdoor lighting standards	Restroom facility; water storage tank; 35 parking stalls
Structural Improvements	Single-Family Residence; swimming pool; barn; corral	625 square-foot restroom facility

Criteria	Existing	Proposed
Nearest Residence	One-quarter mile to the southeast; 200 feet northwest of the on-site residence	No change
Surrounding Development	Single-Family Residences, grazing land	No change
Operational Features	N/A	Six competitive equestrian events for youth and 12 competitive equestrian events for adults hosted annually. Said events will occur between the months of April and September and will be conducted between the hours of 8:00 am and 5:00 pm, negating the need for outdoor lighting. There shall be no boarding of horses not owned by the applicant.
Employees	N/A	None
Customers	N/A	60 per event day; 18 event days per year
Traffic Trips	N/A	60 daily
Lighting	Residential lighting; personal use of exterior light standards	No change
Hours of Operation	N/A	8:00 am – 5:00 pm Saturdays; 10:00 am – 5:00 pm Sundays

EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N

ENVIRONMENTAL ANALYSIS:

An Initial Study (IS) was prepared for the project by County staff, in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the IS,

staff has determined that a Mitigated Negative Declaration is appropriate. A summary of the Initial Study is below and included as Exhibit 5.

Notice of Intent of Mitigated Negative Declaration publication date: November 20, 2009.

PUBLIC NOTICE:

Notices were sent to 23 property owners within 600 feet of the subject property, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS/BACKGROUND INFORMATION:

A Director Review and Approval (DRA) Application may be approved only if four Findings specified in Zoning Ordinance Section 872.C are made by the Planning Commission (Exhibit 7).

The Zoning Ordinance provides that the Director, at his discretion, may refer a DRA Application directly to the Planning Commission for a public hearing and decision. The decision of the Planning Commission on a DRA Application referred in this manner is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

The Director has determined that, based on concerns expressed by neighboring property owners regarding the proposed use, that this application be referred to the Commission for action.

ANALYSIS / DISCUSSION:

Finding 1: *Adequacy of the Site*

	Current Standard:	Proposed Operation:	Is Standard Met (Y/N)
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	No change	Yes
Parking	Two parking spaces for the disabled	35 standard parking spaces	Yes
Lot Coverage	No requirement	No requirement	N/A
Separation Between Buildings	Six feet minimum	No change	Yes
Wall Requirements	No requirement	No requirement	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (Y/N)
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agency/Department Comments Regarding Site Adequacy:

No comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

Analysis:

With adherence to a Site Plan Review, which shall be required as a Condition of Approval, staff believes the site is adequate to accommodate the proposed use, vehicle circulation, and ingress/egress.

Recommended Condition of Approval:

A Site Plan Review shall be submitted for review and approval by the Director of the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include but are not limited to design of parking and circulation, access, grading and drainage, and fire protection.

Conclusion:

Finding 1 can be made.

Finding 2: *Adequacy of Streets and Highways*

		Existing Conditions	Proposed Operation
Public Road Frontage	No	N/A	N/A
Direct Access to Public Road	No	N/A	N/A
Road ADT		N/A	N/A
Road Classification		Rusty Spur Road: private	No change

		Existing Conditions	Proposed Operation
Traffic Trips		N/A	60 per event day; 18 event days per year
TIS Prepared	No	Insignificant increase	Not required; number of trips generated below threshold of 100 daily trips or 10 peak hour trips
Road Improvements Required		None required – private road	No change

Reviewing Agency/Department Comments Regarding Adequacy of Streets and Highways:

Development Engineering Section of the Development Services Division: A ten-foot by ten-foot corner cutoff shall be maintained for sight distance purposes at the driveway accessing Rusty Spur Road and a 20-foot by 20-foot corner cutoff shall be maintained for sight distance purposes at the intersection of Millerton Road and Rusty Spur Road. These requirements have been included as project Notes.

Design Division: The number of trips generated by this proposal is below the threshold of 100 daily trips or 10 peak hour trips which would require preparation of a Traffic Impact Study. Peak hour trips are defined as 7:00 am to 9:00 am and 4:00 pm to 6:00 pm. In order to preclude queuing of vehicles on Millerton Road awaiting access to Rusty Spur Road, the Applicant shall be required to open the gate providing access to Rusty Spur Road from Millerton Road during arrival times for the events associated with this proposal. This requirement has been included as a Mitigation Measure.

Road Maintenance and Operations Division: Upon review of a certification prepared by James B. Preble, a licensed Civil Engineer, staff determined that the existing culvert crossing located on Rusty Spur Road is structurally adequate to accommodate the proposed use.

No other comments specific to the adequacy of streets and highways were expressed by reviewing Agencies or Departments.

Analysis:

Based on the above information, including confirmation that the culvert crossing is adequate for the use proposed and the level of traffic to be generated by the proposal will be limited to 18 events per year, staff believes that the section of Rusty Spur Road providing access to the site is adequate to accommodate the proposed use.

Recommended Condition of Approval:

- The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.

Conclusion:

Finding 2 can be made.

Finding 3: *Adverse Effects upon Surrounding Properties*

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North:	50.19 acres	Grazing	AL-40	None
South:	39.64 acres	Grazing	AL-40	None
East:	40.00 acres	Single-Family Residence; Grazing	AE-40	510 feet east
West:	160.00 acres	Grazing	AE-40	None

Reviewing Agency/Department Comments:

Fresno County Department of Agriculture: No concerns regarding the proposal.

Site Plan Review Section of the Development Services Division: Two parking spaces shall be provided for the disabled and shall be placed as near as practical to restroom facilities. These development standards shall be addressed during the aforementioned Site Plan Review required as a Condition. All active parking, circulation areas, and the riding arena shall be treated with a dust palliative, as necessary, to minimize creation of dust by vehicles and animals. This requirement shall be included as a Condition.

Fresno County Department of Public Health, Environmental Health Division: Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis to the Environmental Health Division for review and approval. Actions to reduce noise that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance. This requirement has been included as a Mitigation Measure.

A separate sewage disposal system shall be installed for the proposed permanent restroom facility under permit and inspection by the Department of Public Works and Planning, Building and Safety Section. This requirement has been included as a Condition. In the project area, a test hole and inspection is required prior to the issuance of Construction Permits for sewage disposal systems. Should the test hole evaluation result in a requirement for an engineered septic system, such a system, following an on-site investigation, must be designed and installation certified by a California registered Geologist or a registered Civil Engineer who is knowledgeable and experienced in the field of septic tank-leaching system design and installation. This requirement has been included as a project Note.

All stockpiles of manure shall be kept in a dry condition and shall be managed and disposed of in accordance with California Code of Regulations, Title 14, Chapter 3, Article 8, Agricultural Solid Waste Management Standards, or another manner acceptable to the Department of Public Health. This requirement has been included as a project Note.

Food sales by service groups shall be limited to only commercially pre-packaged, non-potentially hazardous foods. Food preparation shall not be allowed except by Mobile Food Facilities or Mobile Food Preparation Units, or catering firms permitted by the Environmental Health Division and operating within the scope of their permit. Should the Applicant wish to allow food preparation beyond these parameters, a permanent food preparation facility shall be required and complete food facility plans and specifications shall be provided to the Environmental Health Division for review and approval. Additionally, prior to operation of the food facility, the Applicant shall apply for and obtain a permit to operate said facility from the Environmental Health Division. These requirements have been included as project Notes.

Fresno County Fire Protection District: A preliminary review of the project did not identify any concerns regarding the proposal.

San Joaquin Valley Air Pollution Control District (Air District): No concerns regarding the proposal.

Water/Geology/Natural Resources Section of the Development Services Division: No water related concerns regarding the proposal with the installation of a water storage tank with a minimum 2,500-gallon capacity. This requirement has been included as a Mitigation Measure.

Development Engineering Section of the Development Services Division: According to FEMA FIRM Panel 1055 F, the northeast quarter of the subject property is in Flood Zone A which is subject to flooding from the 100-year storm. Any work performed within the designated Flood Zone shall conform to the provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance. The U.S.G.S. Quad Map shows intermittent streams may be present within the subject property. Any development near a stream shall require clearance from the California Department of Fish and Game. Any additional run-off generated by development cannot be drained

across property lines and must be retained on-site per County Standards. A Grading Permit or Voucher shall be required for any grading activity resultant of this proposal. The subject property is located in the State Responsibility Area (SRA) boundary and development shall be conducted in accordance with all applicable SRA Fire Safe Regulations. These requirements have been included as project Notes.

California Department of Fish and Game: No concerns regarding the proposal.

U.S. Department of the Interior, Fish and Wildlife Service: Upon review of the Biological Resources Report prepared by Live Oak Associates, Inc. on September 30, 2009, the Fish and Wildlife Service determined the project would not likely impact any listed threatened, endangered, or candidate species.

Analysis:

The subject property is located in an area of mixed agricultural and residential land uses, and has been previously improved with a barn, residence, and swimming pool which were permitted for personal use, and the corral associated with this proposal which does not require a Construction Permit, as it does not exceed six feet in height. Existing mature trees located throughout the subject property coupled with the rolling topography of the area help to mask the view of the proposal from neighboring properties. Given the agricultural nature of the proposed use and the visual screening provided by native vegetation and topography, staff believes the proposal will not have a negative visual impact upon surrounding properties.

Based on the above information and with adherence to the Conditions, project Notes, and Mitigation Measures, staff believes that the proposal will not have an adverse effect upon surrounding properties.

Recommended Conditions of Approval:

- *To address potential on-site dust impacts, active parking, circulation areas, and the riding arena shall be treated with a dust palliative, as necessary, to minimize creation of dust by vehicles and animals.*
- *Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis prepared by a qualified Acoustical Consultant with experience in evaluating community noise levels and standards. The Acoustical Analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The Acoustical Analysis shall be submitted to the Department of Public Health, Environmental Health Division for review and approval. Mitigation Measures that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.*

- *An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility.*
- *A 2,500-gallon water storage tank shall be provided in order to provide sufficient water supply for events.*

Conclusion:

Finding 3 can be made.

Finding 4: *General Plan Consistency*

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-A.3: County may allow by discretionary permit in areas designated Agriculture, certain agricultural uses and agriculturally-related activities, including certain non-agricultural uses, subject to following criteria: a) Use shall provide a needed service to surrounding ag area, which cannot be provided within urban areas; b) Use shall not be sited on productive ag lands if less productive lands available; c) Use shall not have a detrimental impact on water resources or the use or management of surrounding properties within ¼-mile radius; d) Probable workforce located nearby or readily available.	With regard to Criteria "a", this proposal entails the utilization of an existing corral in a commercial capacity for the hosting of equestrian events 18 times per year and is located in an agricultural area. With regard to Criteria "b", the project site and surrounding area is designated Grazing Land on the Fresno County Important Farmland Map 2002 and the subject property is neither subject to Williamson Act Contract nor agriculturally productive. With regard to Criteria "c", this proposal was reviewed by the Water/Geology/Natural Resources Section of the Development Services Division, who expressed no concerns with the project with the provision of a water storage tank with minimum capacity of 2,500 gallons. With regard to Criteria "d", no employees are to be utilized with the proposed use. The proposal is consistent with these Criteria.
General Plan Policy PF-C.17: County shall undertake a water supply evaluation, including determinations of water supply adequacy, impact on other water users in the County, and water sustainability.	This proposal was reviewed by the Water/Geology/Natural Resources Section of the Development Services Division, who expressed no concerns with the project with the provision of a water storage tank with minimum capacity of 2,500 gallons. The proposal is consistent with this policy.

Relevant Policies:	Consistency/Considerations:
General Plan Policy PF-D.6: County shall limit on-site sewage disposal systems to parcels of adequate area, size, and characteristics as to not threaten water quality or pose health hazards.	According to the Fresno County Department of Public Health, Environmental Health Division, a test hole and inspection shall be required prior to the issuance of Construction Permits for additional sewage disposal systems. Should the test hole evaluation result in a requirement for an engineered septic system, such a system, following an on-site investigation, must be designed and installation certified by a California registered Geologist or a registered Civil Engineer who is knowledgeable and experienced in the field of septic tank-leaching system design and installation. The proposal is consistent with this policy.

Reviewing Agency/Department Comments:

Policy Planning Section of the Development Services Division: The subject property is designated Specific Plan Reserve Area in the County adopted Sierra-North Regional Plan. According to General Policy LU-A.3, certain agriculturally-related activities, such as commercial horse arenas, may be allowed by means of a Discretionary Use Permit. The subject property is not subject to an Agricultural Land Conservation Contract and is not located within any clear zone or other imaginary surface of a public use airport as described under FAR Part 77 or within an identified airport noise contour.

Analysis:

Based upon the above considerations, staff believes this proposal is consistent with the General Plan.

Recommended Conditions of Approval:

None

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

Letters of opposition (Exhibit 8) were received from 31 individuals and letters of support (Exhibit 9) were received from 16 individuals. Those in opposition to the proposal cited concerns regarding decreased property values, increased traffic levels, increased noise and light levels, and possible negative impacts to wildlife.

Letters in support of the proposal cited that horse events provide a benefit to the community and that this would be a local resource that does not require great travel distances to reach and would provide opportunities for children.

CONCLUSION:

Staff believes the required Findings for granting the Director Review and Approval Application can be made based on the factors cited in the analysis and the recommended Conditions of Approval and project Notes regarding mandatory requirements. Staff therefore recommends adoption of the Mitigated Negative Declaration prepared for the project and approval of Director Review and Approval Application No. 4112 subject to the recommended Conditions.

PLANNING COMMISSION MOTIONS:

Recommended Motion (approval action)

- Move to adopt the Mitigated Negative Declaration prepared for Initial Study No. 6062; and
- Move to determine the required Findings can be made and move to approve Director Review and Approval Application No. 4112, subject to the Conditions and Notes listed below; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (denial action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Director Review and Approval Application No. 4112; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval:

1. The commercial horse arena shall be operated in substantial compliance with the Site Plan and Operational Statement as approved by the Planning Commission.

2. A Site Plan Review shall be submitted for review and approval by the Director of the Department of Public Works and Planning in accordance with Section 874 of the Fresno County Zoning Ordinance. Conditions of the Site Plan Review may include but are not limited to design of parking and circulation, access, grading and drainage, and fire protection.
 3. To address potential on-site dust impacts, active parking, circulation areas, and the riding arena shall be treated with a dust palliative as necessary to minimize creation of dust by vehicles and animals.
 4. An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility.
 - *5. Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the Applicant shall either refrain from utilizing sound amplification equipment or submit an Acoustical Analysis prepared by a qualified Acoustical Consultant with experience in evaluating community noise levels and standards. The Acoustical Analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The Acoustical Analysis shall be submitted to the Department of Public Health, Environmental Health Division for review and approval. Mitigation Measures that may be identified in the Acoustical Analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.
 - *6. A 2,500-gallon water storage tank shall be provided in order to provide sufficient water supply for events.
 - *7. The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.
- * MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

NOTES:

The following Notes reference mandatory requirements of Fresno County or other agencies, and are provided as information to the project Applicant:

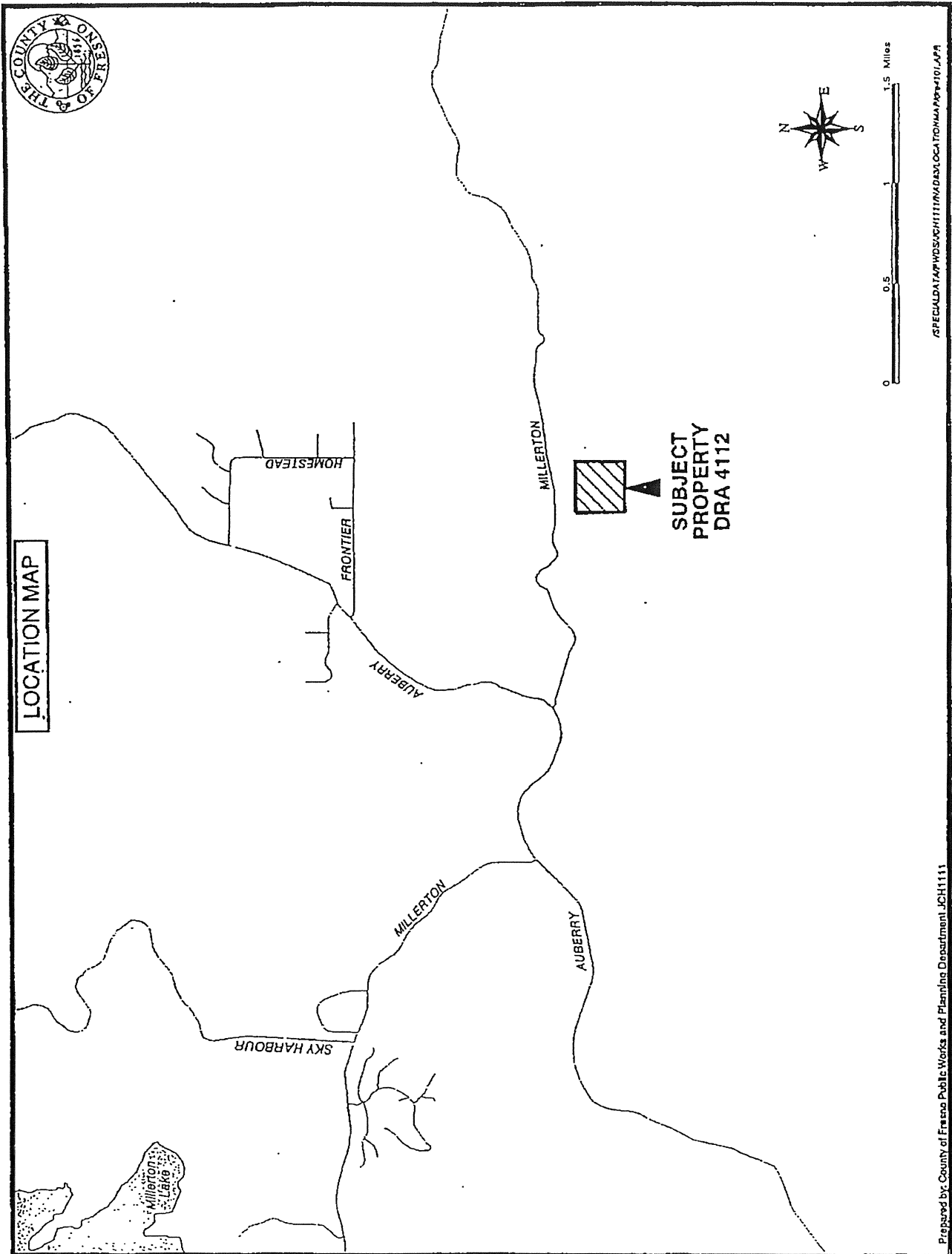
1. This approval shall become void if there has been a cessation of the use for a period in excess of two years.

2. A ten-foot by ten-foot corner cutoff shall be maintained for sight distance purposes at the driveway accessing Rusty Spur Road.
3. A 20-foot by 20-foot corner cutoff shall be maintained for sight distance purposes at the intersection of Millerton and Rusty Spur Roads.
4. In this area, a test hole and inspection is required prior to the issuance of Construction Permits. The test hole evaluation may result in a requirement for an engineered septic system. Such a system, following an on-site investigation, must be designed and installation certified by a California registered Geologist or a registered Civil Engineer who is knowledgeable and experienced in the field of septic tank-leaching system design and installation. Whenever possible, test hole procedures should be conducted during the Spring runoff period in order to accurately assess seasonal high ground water conditions:
5. All stockpiles of manure shall be kept in a dry condition. The manure shall be managed and disposed of in accordance with California Code of Regulations, Title 14, Chapter 3, Article 8, Agricultural Solid Waste Management Standards, or any other manner acceptable to the Department of Public Health.
6. Food sales by service groups shall be limited to only commercially pre-packaged, non-potentially hazardous foods.
7. Food preparation shall not be allowed except by Mobile Food Facilities or Mobile Food Preparation Units, or catering firms permitted by the Environmental Health Division and operating within the scope of their permit. Should the Applicant wish to allow food preparation beyond these parameters, a permanent food preparation facility shall be required and complete food facility plans and specifications shall be provided to the Environmental Health Division for review and approval
8. Prior to operation of a food preparation facility, the Applicant shall apply for and obtain a permit to operate a food facility from the Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 445-3392 for more information.
9. According to FEMA FIRM Panel 1055 F, the northeast quarter of the subject property is in Flood Zone A which is subject to flooding from the 100-year storm. Any work performed within the designated Flood Zone shall conform to the provisions established in Chapter 15.48 Flood Hazard Areas of the Fresno County Ordinance.
10. The U.S.G.S. Quad Map shows intermittent streams may be present within the subject property. Any development near a stream shall require clearance from the California Department of Fish and Game.
11. Any additional run-off generated by development cannot be drained across property lines and must be retained on-site per County Standards. Provisions

shall be made to maintain natural drainage throughout the development in a manner that will not significantly change the existing drainage characteristics of those parcels adjacent to the development.

12. A Grading Permit or Voucher shall be required for any grading activity associated with the proposed use.
13. The subject property is located in the State Responsibility Area (SRA) boundary and development shall be conducted in accordance with all applicable SRA Fire Safe Regulations.

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DRA 4112
STR 20 - 11/22

EXISTING ZONING MAP

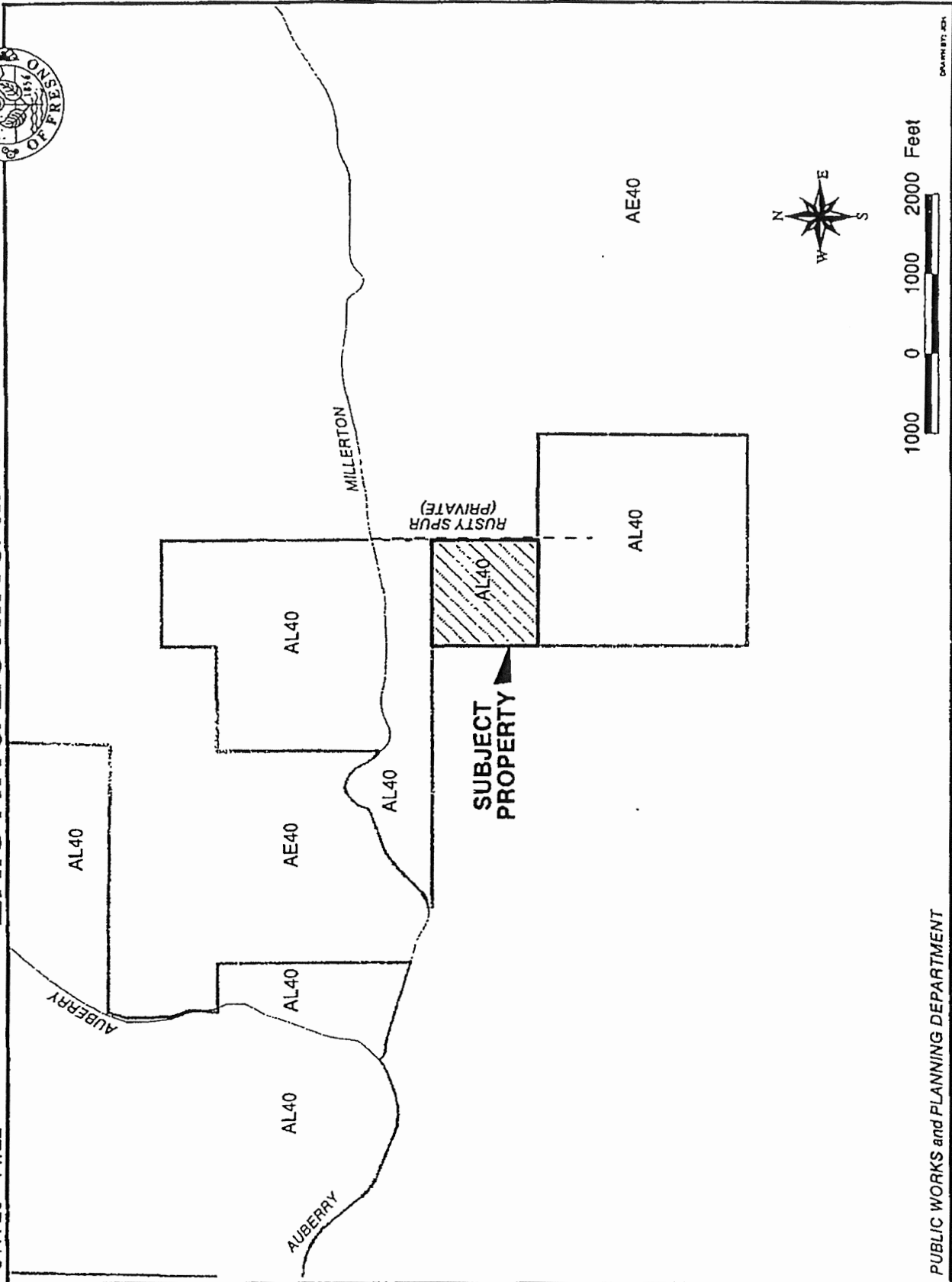
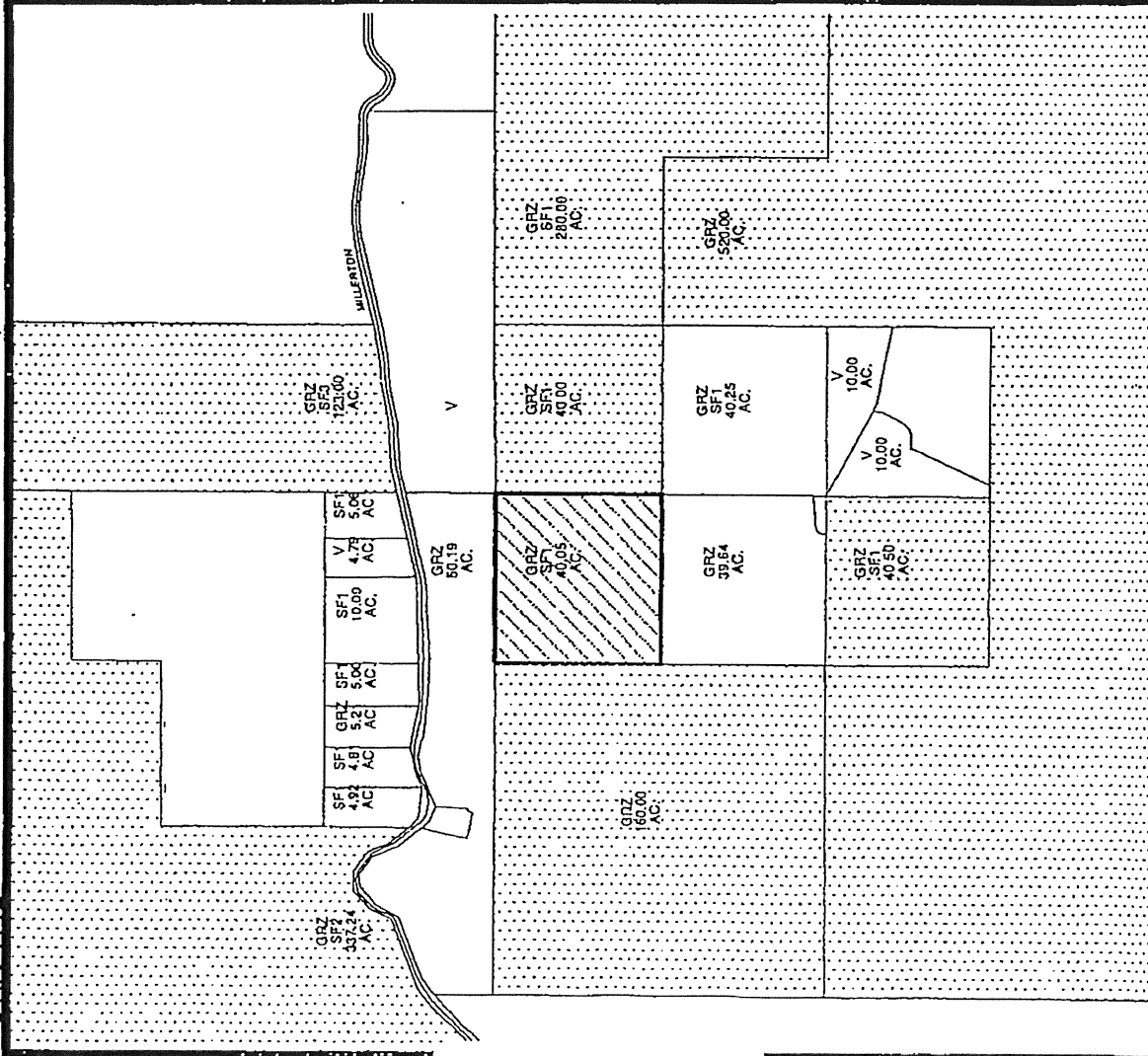


EXHIBIT 10



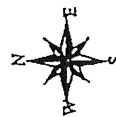
EXISTING LAND USE MAP

DRA 4112



Legend
GRZ - GRAZING
SF# - SINGLE FAMILY RESIDENCE
V - VACANT

Subject Property
Ag Contract Land



300 0 300 600 900 Feet

Prepared by: County of Fresno The Department of Public Works and Planning JCH1111

**Mr. CHARLIE MAXWELL
OPERATIONAL STATEMENT
Revised December 4, 2009**

PROJECT REQUEST

To allow a commercial horse arena on a 40.05 +/- acre parcel in the AL-40 Zone District

PROJECT APPLICANT

Mr. Charlie Maxwell
10925 Rusty Spur Road
Clovis, CA 93619

REPRESENTATIVE

Dirk Poeschel Land Development Services, Inc.
923 Van Ness Ave., #200
Fresno, CA 93721
559-445-0374
E-Mail: dpoeschel@dplds.com

PROJECT LOCATION

10925 Rusty Spur Road, Clovis
APN 138-061-49

PROJECT DESCRIPTION

1. Nature of Operation

Development of an equestrian (horse) facility in which youth events will be featured. No horses would be boarded other than my personal horses. Events would be patterned after youth "gymkhana" events that took place at the American Legion Post throughout the nineteen ninety's. This type of events for children was extremely popular and a benefit to all the young adults in the foothill area. The entire program is to feature youth and have all event riders become winners and receive prizes. Handicap riders would also be featured. Six youth events throughout the summer would be featured. Twelve adult events would be featured at a later time (2011, 2012) including roping and adult gymkhana events. This is eighteen days out of 365 days. Functions would start at 8:00 AM and conclude around 5:00 PM on Saturday and from 10:00 AM to 5:00 PM on Sunday. On event days the arena will be watered and the roadway to the arena watered for dust control. Event days for youths would feature approximately 50 to 60 riders and thirty vehicles, and possibly the same for adults. The applicant offers the following supplemental mitigation measures:

1. There shall be no boarding of horses not owned by the applicant on the subject property.
2. No alcoholic beverages shall be sold on the site.
3. There shall be no overnight camping.
4. In a manner acceptable to the Director of Public Works and Planning, a dust control plan shall be submitted and approved which detail the means that dust from event activities shall not adversely affect adjacent properties. All recommendations of that dust control plan shall be implemented and maintained by the applicant. The arena will be covered with 500 tons of sand for dust control.
5. The project shall comply with all Cal Fire *Fire Safe Guidelines*.
6. In a manner acceptable to the Director of Public Works and Planning, the site shall be kept clean and well maintained. All waste shall be disposed of to prohibit vectors and odors. Appropriate measures shall be implemented to assure Rusty Spur Road is free of debris and litter that would have an aesthetic impact or be detrimental to the roadway itself following event days.

2. Operational Time Limits

There shall be no more than 18 days of events per calendar year. Events shall be limited to the period between April 1 and September 30 of any calendar year. The facility could open at 8:00 AM on Monday through Saturday event days and conclude at 5:00 PM, and open at 10:00 AM on Sunday event days and conclude at 5:00 PM.

3. Number of customers or visitors

The facility could host an untold number of vehicles and trailers, however from past practice usually 50 to 60 riders and 30 trailers is an accurate assessment.

4. Number of employees

There will be no employees, however with the youth events there would be people, including retired CDF employees who would like to volunteer.

5. Service and delivery vehicles

No large service or delivery trucks.

6. Access to the site

The arena is located as the first residence off of Rusty Spur Road, which connects to the

public roadway of Millerton Road.

7. Number of parking spaces for employees, customers, and service/delivery vehicles.

The arena is located on a forty-acre parcel with the arena being located in the extreme north/west portion of the parcel. The parking is on native grass which would be mowed and on natural dirt which would be watered. The design of the arena and surrounding area adjacent to the arena would allow in excess of sixty to seventy trailers to be parked.

8. Are any goods to be sold on-site?

This is primarily a youth activity and numerous groups have offered to sell lunch food and drinks to support their youth activities and the activities of the arena.

9. What equipment is used?

Arena tractors and related equipment that is currently used on the property. Horses and related tack. Event timing equipment, gymkhana poles and arena chalk.

10. What supplies or materials are used and how are they stored?

Event equipment is utilized in the arena on the day of the event and stored in a personal barn currently on-site.

11. Does the use cause an unsightly appearance?

The arena by design was placed in the extreme north/west corner of the property. The location is as far as possible removed from any other residences on Rusty Spur Road as possible. The neighbors to the north are separated from the arena by a public roadway (Millerton Road) and a seasonal stream (Little Dry Creek.) The distance from the neighbor's home to the north to the center of the arena is approximately 1,350 feet or 450 yards. Odor and dust are both controlled by an arena watering system and the roadway to the arena will be watered. The arena is lighted, however no public events will occur at night, personal usage at night is limited and the arena lights have direction hoods to control the glare. During event days an arena public announcing system will be utilized and controlled below the decibel level allowed by the county. The applicant has installed nine trees around the arena and fifteen additional trees are to be planted to reduce aesthetic impacts. The existing exterior block wall adjacent to the street will be painted to blend with its surroundings.

12. List any solid or liquid wastes to be produced.

On event days there is very little animal waste generated because the participant's animals are not eating. On event days the arena is disced at the end of the day disposing of any waste or urine into the arena surface. A restroom building permit would be applied for

and placed in the north/west corner of the property for participant's usage.

13. Estimated volume of water to be used (gallons per day)

A water system is being developed to water the arena by a gravity system to reduce dust. The holding tanks will be placed south of the arena approximately 145 feet above the arena floor. This system will allow the arena to be watered completely with minimum effort to allow for maximum dust control. We anticipate using 2000 gallons of water on event days. The water is provided from our current well, which has sufficient capacity to allow for this usage and more.

14. Describe any proposed advertising including size, appearance, and placement.

A small sign at Rusty Spur Road and the driveway will read "Rusty Spur Arena" and include an arrow indicating the direction of travel. An arena layout sign near the entrance to the arena will depict the arena layout, various parking places, and how to easily exit the arena and property upon departure. (The arena has sufficient room to circle the entire arena for exiting, therefore eliminating most vehicle backing.)

15. Will existing buildings be used or will new buildings be constructed?

Existing barn for storage, and one new restroom building to be constructed per county requirements.

16. Explain which buildings or what portion of buildings will be used in the operation.

Only the current barn would be used for storage of the event timing equipment.

17. Will any outdoor lighting or an outdoor sound amplification system be used?

Outdoor lighting will not be used for any events. A sound amplification system will be used and controlled below the county decibel levels.

18. Landscaping or fencing proposed?

The entire arena is to be surrounded by mature tree's to help with dust, and noise, while providing shade for the participants. The applicant has installed nine trees around the arena and fifteen additional trees are to be planted to reduce aesthetic impacts. The entire forty-acre parcel is currently fenced, with the arena being fenced with used well piping. Numerous day pens would also be constructed of well piping to provide safe "parking" spaces for participant's horses, along with numerous "hitching" rails and block wall "hitching" rings.

19. Any other information that will provide a clear understanding of the project or operation.

Currently no youth arena exists for the pure enjoyment of youth and related horse or

horse gymkhana events. The entire goal or propose to give back to the community the same enjoyment that our children and numerous other foothill children enjoyed while being a part of the foothill community. Numerous families and community groups have approached us with the same idea of providing safe, clean fun activities for the children of this community. As with the American Legion program handicapped children would be especially welcomed. This program is designed around the goals of having all participants be a winner and win prizes that will be donated from the local merchants of this community. In subsequent years the adult events would only serve as a vehicle for funding to provide more awards to the youth activity.

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EXHIBIT 10



County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR

EVALUATION OF ENVIRONMENTAL IMPACTS

APPLICANT: Charlie Maxwell

APPLICATION NOS: Initial Study Application No. 6062 and Director Review and Approval Application No. 4112

DESCRIPTION: Allow a commercial horse arena on a 40.05-acre parcel in the AL-40 (Limited Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The site is located on the west side of Rusty Spur Road, approximately 710 feet south of the intersection of Millerton Road and Rusty Spur Road, and is approximately three miles east of the unincorporated community of Friant (10925 Rusty Spur Road) (SUP. DIST.: 5) (APN No: 138-061-49).

I. AESTHETICS

- A. Would the project have a substantial adverse effect on a scenic vista;
- B. Would the project substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway;
- C. Would the project substantially degrade the existing visual character or quality of the site and its surroundings; or

FINDING: NO IMPACT:

This proposal entails allowing the utilization of an existing corral in a commercial capacity. No additional structures or improvements associated with the use are proposed. The subject property is located in an area of mixed agricultural and residential land uses and has been previously improved with a barn, residence, swimming pool, and the corral associated with the proposed use. These improvements are aesthetically compatible with the surrounding land uses due

DEVELOPMENT SERVICES DIVISION

2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 262-4497 / 262-4022 / 262-4029 / 262-4211 FAX 262-4893
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to their residential and agricultural nature. Therefore, approval of this proposal will not degrade the visual character of the site or its surroundings.

- D. Would the project create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?**

FINDING: NO IMPACT:

Existing outdoor lighting on the subject property is for personal use and is not proposed to be utilized in conjunction with the proposed commercial use. Additionally, the subject corral will only be utilized in a commercial capacity from April 1 through September 30th and associated events will cease at 5:00pm. Therefore the use of outdoor lighting in conjunction with this proposal is unnecessary.

II. AGRICULTURAL RESOURCES

- A. Would the project convert prime or unique farmlands or farmland of statewide importance to non-agricultural use;**
- B. Would the project conflict with existing agricultural zoning or Williamson Act contracts; or**
- C. Would the project involve other environmental changes which, due to their location or nature, could result in conversion of farmland to non-agricultural use?**

FINDING: NO IMPACT:

The subject property is designated as Grazing Land on the Fresno County Important Farmland Map 2002. However, the subject property is not being utilized for agricultural purposes and is not subject to Williamson Act Contract.

III. AIR QUALITY

- A. Would the project conflict with or obstruct implementation of the applicable air quality plan?**
- B. Would the project isolate any air quality standard or contribute to an existing or projected air quality violation;**

- C. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a federal or state ambient air quality standard; or
- D. Would the project expose sensitive receptors to substantial pollutant concentrations?

FINDING: NO IMPACT:

The San Joaquin Valley Air Pollution Control District (Air District) has reviewed this proposal and expressed no concerns.

- E. Would the project create objectionable odors affecting a substantial number of people?

FINDING: NO IMPACT:

This proposal was reviewed by the Fresno County Department of Public Health, Environmental Health Division who expressed no odor-related concerns.

IV. BIOLOGICAL RESOURCES

- A. Would the project have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special-status species?
- B. Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFG or USFWS?
- C. Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption or other means?
- D. Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?
- E. Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

- F. Would the project Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local regional, or state habitat conservation plan?**

FINDING: NO IMPACT:

The subject 40.05-acre parcel has been previously improved with a single family residence and accessory structures thereto. Upon review of a Biological Survey prepared for this proposal by Live Oak Associates, Inc., the United States Fish and Wildlife Service did not express any concerns related to the project. This proposal was also referred to the California Department of Fish and Game, who also did not express any concerns. Therefore, no impacts were identified in regards to 1.) Any candidate, sensitive, or special-status species, 2.) Any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Dept. of Fish and Game or U.S Fish and Wildlife Service, 3.) Federally protected wetlands as defined by Section 404 of the Clean Water Act, and 4.) The movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. This proposal will not conflict with any local policies or ordinances protecting biological resources or any provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

V. CULTURAL RESOURCES

- A. Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?**
- B. Would the project cause of substantial adverse change in the significance of an archeological resource pursuant to Section 15064.5?**
- C. Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?**
- D. Would the project disturb any human remains, including those interred outside of formal cemeteries?**

FINDING: NO IMPACT:

The project site is located within an area designated to be moderately sensitive for archeological resources. However, this proposal is limited in scope as the corral associated with the requested use is existing and no additional structures or improvements are proposed for this project. Additionally, the subject property has been previously disturbed with improvements including a barn, residence, and swimming pool.

VI. GEOLOGY AND SOILS

- A. Would the project expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:**

- 1. Rupture of a known earthquake?**
- 2. Strong seismic ground shaking?**
- 3. Seismic-related ground failure, including liquefaction?**
- 4. Landslides?**

FINDING: NO IMPACT:

The project site is not located within a fault zone or area of known landslides.

- B. Would the project result in substantial erosion or loss of topsoil?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

Potential erosion impacts from this proposal will be minor in that permanent improvements will not cause significant changes in absorption rates, drainage patterns and the rate and amount of surface run-off, with adherence to the Grading and Drainage Sections of the County Ordinance Code.

- C. Would the project result in on-site or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?**
- D. Would the project be located on expansive soils creating substantial risks to life or property?**

FINDING: NO IMPACT:

The project is not located within an area of known risk of landslides, lateral spreading, subsidence, liquefaction, or collapse, or within an area of known expansive soils.

- E. Would the project have soils incapable of adequately supporting the use of septic tanks or alternative disposal systems where sewers are not available for wastewater disposal?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject property is currently served by an existing on-site sewage disposal system. An additional on-site sewage disposal system shall be required for the proposed permanent restroom facility. This requirement will be included as a condition of approval. Additionally, this proposal was reviewed by the Fresno County Department of Public Health, Environmental Health Division who expressed no concerns in regard to soils.

VII. HAZARDS AND HAZARDOUS MATERIALS

- A. Would the project create a significant public hazard through routine transport, use or disposal of hazardous materials?**
- B. Would the project create a significant hazard involving accidental release of hazardous materials into the environment?**
- C. Would the project emit hazardous materials within one-quarter mile of a school?**

FINDING: NO IMPACT:

This proposal does not involve storage of hazardous materials and no hazardous materials impacts were identified in the project analysis. Additionally, there are no schools within one-quarter mile of the project site.

- D. Would the project be located on a hazardous materials site?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

No hazardous materials sites were identified in the project analysis. Animal waste shall be handled in accordance with California Code of Regulations, Title 14, Chapter 3, Article 8,

Agricultural Solid Waste Management Standards. This requirement will be included as a project note.

- E. Would a project located within an airport land use plan or, absent such a plan, within two miles of a public airport or public use airport, result in a safety hazard for people residing or working in the project area?
- F. Would a project located within the vicinity of a private airstrip result in a safety hazard for people residing or working in the project area?

FINDING: NO IMPACT:

The project site is not within an airport land use plan or in the vicinity of a public or private airport or airstrip.

- G. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

FINDING: NO IMPACT:

This proposal will not impair the implementation of, or physically interfere with an adopted emergency response plan.

- H. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

FINDING: NO IMPACT:

The project site is not located within a wildland area.

VIII. HYDROLOGY AND WATER QUALITY

- A. Would the project violate any water quality standards or waste discharge requirements or otherwise degrade water quality?

FINDING: NO IMPACT:

This proposal was referred to the California Regional Water Quality Control Board who did not express any concerns.

- B. Would the project substantially deplete groundwater supplies or interfere substantially with groundwater recharge so that there would

be a net deficit in aquifer volume or a lowering of the local groundwater table?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

According to the Water/Geology/and Natural Resources Section of the Department of Public Works and Planning, Development Services Division, the installation of a 2,500 gallon water storage tank is sufficient to ensure an adequate water supply for the proposed use. The requirement to install said water storage tank will be included as a mitigation measure. No other water related concerns were expressed by the Water/Geology/and Natural Resources Section.

*** Mitigation Measure**

1. *A 2,500 gallon water storage tank shall be provided in order to provide sufficient water supply for events.*

C. **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on or off site?**

D. **Would the project substantially alter existing drainage patterns, including alteration of the course of a stream or river, in a manner which would result in flooding on or off-site?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the Development Engineering Section of the Fresno County Department of Public Works and Planning, Development Services Division, a U.S.G.S. Quad Map shows existing intermittent streams may be present within the subject property. Any development near a stream shall require clearance from the California Department of Fish and Game. This requirement has been included as a project note.

E. **Would the project create or contribute runoff which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

This proposal is limited in scope as the corral associated with this request is existing and any resultant ground disturbance activities will be minimal. However, any future construction and grading associated with this project will be required to comply with the Building and Grading Sections of the County Ordinance Code and permit requirements, thereby reducing potential impacts to a level of insignificance. These requirements will be included as project notes.

F. Would the project otherwise substantially degrade water quality?

FINDING: NO IMPACT:

No additional water quality impacts were identified in the analysis.

G. Would the project place housing within a 100-year floodplain?

FINDING: NO IMPACT

No additional housing is proposed with this project.

H. Would the project place structures within a 100-year flood hazard area that would impede or redirect flood flows?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to FEMA FIRM Panel 1055 F, the northeast corner of the subject property is in Flood Zone A which is subject to the 100-year storm. Any work performed within designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance. This requirement will be included as a project note.

I. Would the project expose persons or structures to levee or dam failure?

J. Would the project inundation by seiche, tsunami or mudflow?

FINDING: NO IMPACT:

No such impacts were identified in the analysis.

IX. LAND USE AND PLANNING

A. Will the project physically divide an established community?

FINDING: NO IMPACT:

This proposal will not physically divide an established community.

B. Will the project conflict with any land use plan, policy or regulation of an agency with jurisdiction over the project?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Provisions for the operation of agriculturally-related activities and certain non-agricultural uses are provided for in the Fresno County Zoning Ordinance and General Plan. Such uses are therefore conditionally compatible with the agriculture land use designation. The proposed use is not in conflict with Policy LU-A.3 which states that the County may allow agriculturally-related and certain non-agricultural uses by discretionary use permit; Policy PF-C.17, County shall undertake a water supply evaluation prior to consideration of discretionary uses; or Policy PF-D.6, County shall verify the adequacy of a property for on-site sewage disposal systems.

C. Will the project conflict with any applicable Habitat Conservation Plan or Natural Community Conservation Plan?

FINDING: NO IMPACT:

This proposal will not conflict with any habitat conservation plan or natural community conservation plan. No such plans were identified in the analysis.

X. MINERAL RESOURCES

A. Would the project result in the loss of availability of a known mineral resource?

B. Would the project result in the loss of availability of a locally-important mineral resource recovery site designated on a general plan?

FINDING: NO IMPACT:

No mineral resource impacts were identified in the analysis.

XI. NOISE

- A. Would the project result in exposure of people to severe noise levels?
- B. Would the project result in ground borne vibration?
- C. Would the project cause a substantial permanent increase in ambient noise levels in the project vicinity?
- D. Would the project result in a substantial temporary or periodic increase in ambient noise levels?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Outdoor sound amplification will be utilized with the proposed use. Therefore, upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division the applicant shall either refrain from utilizing sound amplification equipment or submit an acoustical analysis to the Environmental Health Division for review and approval. Actions to reduce noise that may be identified in the acoustical analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance. Adherence to this requirement, which has been included as a mitigation measure, will reduce potential noise-related impacts to a level of insignificance.

*** Mitigation Measure**

1. *Upon receipt and validation of noise complaints by the Fresno County Department of Public Health, Environmental Health Division, the applicant shall either refrain from utilizing sound amplification equipment or submit an acoustical analysis prepared by a qualified acoustical consultant with experience in evaluating community noise levels and standards. The acoustical analysis shall address potential impacts to nearby noise sensitive receivers from the proposed operation of arena events. The acoustical analysis shall be submitted to the Department of Public Health, Environmental Health Division for*

review and approval. Mitigation measures that may be identified in the acoustical analysis shall be implemented within 30 days of the on-site measurements to ensure conformance with the standards of the Fresno County Noise Ordinance.

- E. Would the project expose people to excessive noise levels associated with a location near an airport, or a private airstrip?
- F. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?

FINDING: NO IMPACT:

The project site is not in the vicinity of an airport and is not impacted by airport noise.

XII. POPULATION AND HOUSING

- A. Would the project induce substantial population growth either directly or indirectly?
- B. Would the project displace substantial numbers of existing housing?
- C. Would the project displace substantial numbers of people, necessitating the construction of housing elsewhere?

FINDING: NO IMPACT:

This proposal will not result in an increase of housing, nor will it otherwise induce population growth.

XIII. PUBLIC SERVICES

- A. Would the project result in physical impacts associated with the provision of new public services in the following areas:

1. Fire protection

FINDING: NO IMPACT:

The preliminary review of this proposal by the Fresno County Fire Protection District (Cal Fire) did not identify any concerns with its approval.

2. Police protection
3. Schools
4. Parks
5. Other public facilities?

FINDING: NO IMPACT:

No impacts on the provision of other services were identified in the analysis.

XIV. RECREATION

- A. Would the project increase the use of existing neighborhood and regional parks?
- B. Would the project require expansion of recreational facilities?

FINDING: NO IMPACT:

No such impacts were identified in the analysis.

XV. TRANSPORTATION/CIRCULATION

- A. Would the project result in increased vehicle or traffic congestion?
- B. Would the project exceed the established level of service standards?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed use entails the commercial utilization of an existing corral for up to 60 horses for 18 event days per year. However, increased traffic levels resultant of this project will not cause a significant impact as the proposal does not generate over 100 daily trips or 10 peak hour trips. This proposal was reviewed by the Design Division of the Fresno County Department of Public Works and Planning, which expressed no concerns regarding volume of traffic.

- C. Would the project result in a change in air traffic patterns?

FINDING: NO IMPACT:

This proposal will not result in a change in air traffic patterns.

D. Would the project substantially increase traffic hazards due to design features?

FINDING: LESS THAN SIGNIFICANT IMPACT WITH MITIGATION INCORPORATED:

Rusty Spur Road is a private road with gated access from Millerton Road, a County maintained road. In order to preclude queuing of vehicles on Millerton Road awaiting access to Rusty Spur Road, the applicant shall be required to open the gate providing access to Rusty Spur Road from Millerton Road during arrival times for the events associated with this proposal. This requirement will reduce potential traffic hazards to a level of insignificance.

*** Mitigation Measure**

1. *The gate providing access to Rusty Spur Road from Millerton Road shall remain open during arrival times on event days to preclude vehicle queuing on Millerton Road.*

E. Would the project result in inadequate emergency access?

FINDING: NO IMPACT:

No emergency access issues were identified in the analysis.

F. Would the project result in inadequate parking capacity?

FINDING: LESS THAN SIGNIFICANT IMPACT:

This proposal is limited in scope to allowing the commercial utilization of an existing corral. Given the limited number of event days associated with this proposal, potential negative impacts to parking capacity will be less than significant.

G. Would the project conflict with adopted plans, policies or programs supporting alternative transportation?

FINDING: NO IMPACT:

This proposal will not conflict with any adopted transportation plans.

XVI. UTILITIES AND SERVICE SYSTEMS

- A. Would the project exceed wastewater treatment requirements?**
- B. Would the project require construction of new water or wastewater treatment facilities?**

FINDING: NO IMPACT:

See discussion under **Section VI.E Geology and Soils**

- C. Would the project require construction of new storm water drainage facilities?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion under **Section VIII.E Hydrology and Water Quality**

- D. Would the project have sufficient water supplies available from existing entitlements and resources, or are new or expanded entitlements needed?**

FINDING: LESS THAN SIGNIFICANT IMPACT:

See discussion under **Section VIII.B Hydrology and Water Quality**

- E. Would the project result in a determination of inadequate wastewater treatment capacity to serve project demand?**

FINDING: NO IMPACT:

See discussion under **Section VI.E Geology and Soils**

- F. Would the project be served by a landfill with sufficient permitted capacity?**

- G. Would the project comply with federal, state and local statutes and regulations related to solid waste?**

FINDING: NO IMPACT:

No such impacts were identified in the analysis.

XVII. MANDATORY FINDINGS OF SIGNIFICANCE

- A. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California prehistory or history?**

FINDING: NO IMPACT:

No such impacts on biological resources were identified in the analysis.

- B. Does the project have impacts that are individually limited, but cumulatively considerable?**

FINDING: NO IMPACT:

No cumulatively considerable impacts were identified in the analysis.

- C. Does the project have environmental impacts which will cause substantial adverse effects on human beings, either directly or indirectly?**

FINDING: NO IMPACT:

No substantial adverse impacts on human beings were identified in the analysis.

CONCLUSION/SUMMARY

Based upon the Initial Study prepared for Director Review and Approval Application No. 4112, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to aesthetics, agricultural resources, air quality, biological resources, cultural resources, mineral resources, population and housing, public services, and recreation.

Potential impacts related to geology and soils, hazards and hazardous materials, land use and planning, and utilities and service systems have been determined to be less than significant. Potential impacts to hydrology and water quality, noise, and transportation and circulation have been determined to be less than significant with the identified mitigation measures.

A Mitigated Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, Street Level, located on the southeast corner of Tulare and "M" Street, Fresno, California.

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EXHIBIT 6

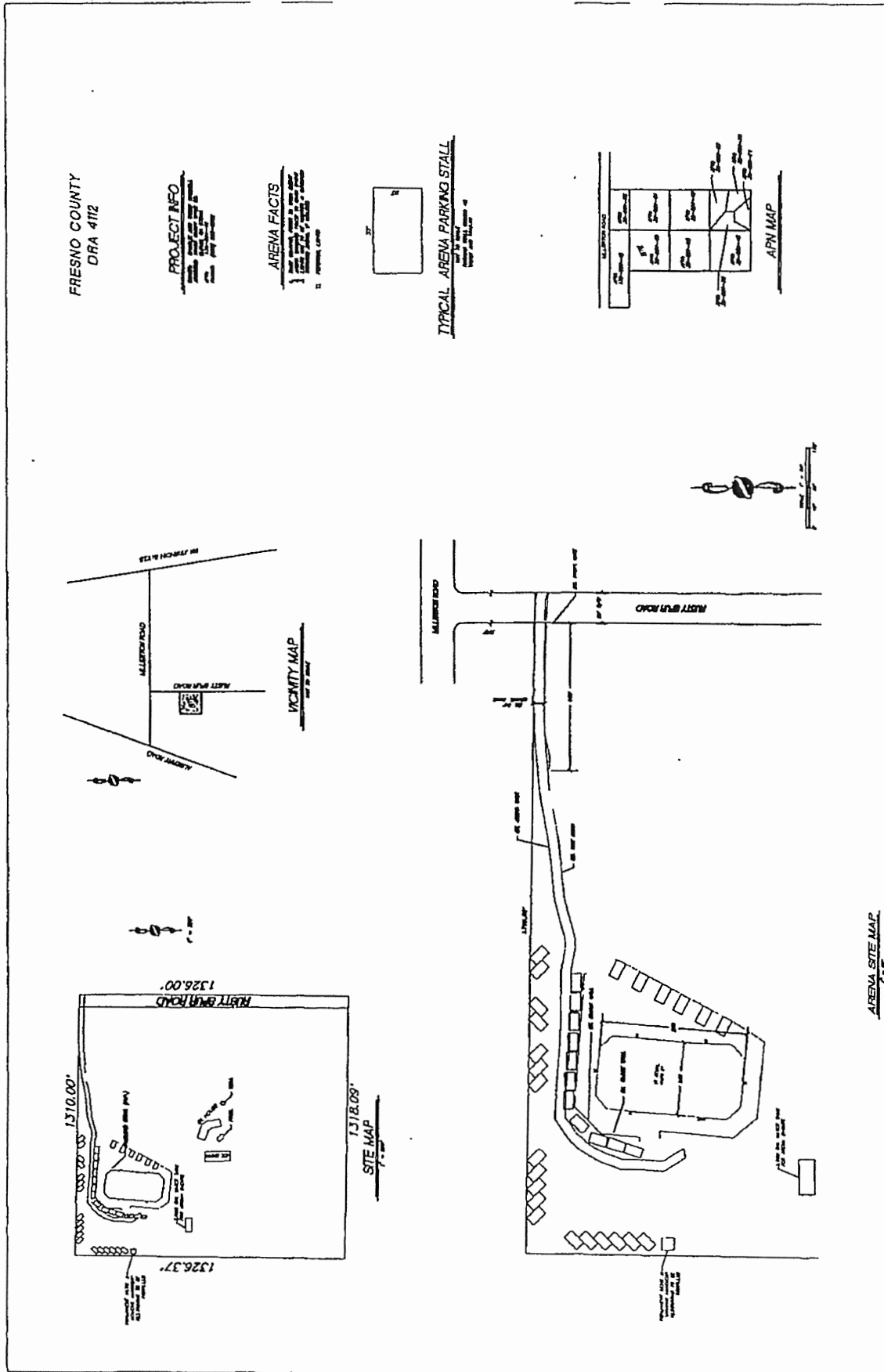


EXHIBIT 7

REQUIRED FINDINGS NECESSARY FOR THE GRANTING OF A DIRECTOR REVIEW AND APPROVAL APPLICATION AS SPECIFIED IN ZONING ORDINANCE SECTION 872

1. That the site of the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this Division, to adjust said use with land and uses in the neighborhood.
2. That the site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use.
3. That the proposed use will not be detrimental to the character of the development in the immediate neighborhood or the public health, safety, and general welfare.
4. That the proposed development be consistent with the General Plan.

EXHIBIT 8

JACK B. MURRAY III
3911 N. BLATTELLA LANE • FRESNO, CALIFORNIA 93727

TELEPHONE
(559) 454-8993

FACSIMILE
(559) 454-8478

E-MAIL
usfund@sbcglobal.net

RECEIVED
MAY 07 2009
FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

May 5, 2009

Mr. Ray Jimenez
Public Works and Planning Department
County of Fresno
2220 Tulare Street, 6th Floor
Fresno, CA 93721-2104

RE: Charles Maxwell Property APN 138-061-49

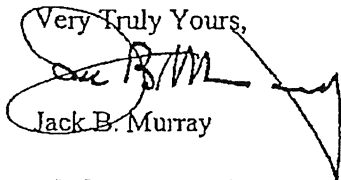
Dear Mr. Jimenez,

In early 2008 we were noticed by the County of an application by Mr. Maxwell to allow commercial use of this Ag.40 Zoned property. As an adjacent property owner, along with everyone surrounding, Mr. Maxwell we filed a strenuous objection to that application.

To date we have heard nothing from the County regarding Mr. Maxwell's application. Would you please inform me of its status. If it was approved we intend to file an appeal and do not want to violate the time limitations to do so.

Thank you for a quick response. You may do so by fax or e-mail if that is more convenient.

Very Truly Yours,


Jack B. Murray

APN 138-061-45

From: Jare Chick <jandjchick@accessbee.com>
Subject: **Commercial application**
Date: January 31, 2009 11:30:28 AM PST
To: dchambers@co.fresno.ca.us

RECEIVED
FEB 03 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir: I have received information from a neighbor of an application for a commercial horse arena in the AL-40 zone district.

The applicant is Mr. Charlie Maxwell of 10925 Rusty Spur, Clovis, CA. 93619.

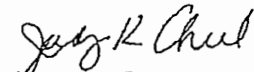
I feel I have a valid complaint concerning this application by allowing commercial use on this zone. Our roads are very
twisty and narrow, with many blind spots. By allowing a commercial zoning you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, trash, property devaluation, effects on the habitat.

~~We moved to this area 10 years ago for the quiet. It has been bad enough with Mr.~~
Maxwell's police/military "play-days",
but I don't feel he needs to move commercial activities to this area on a regular basis.

Therefore, on all accounts, I am definitely NOT for the approval of the application'

Sincerely,



Judy K. Chick
10724 Ferguson Road
Clovis, CA. 93619
559-299-4028

From: Jare Chick <jandjchick@accessbee.com>
Subject: **Commercial application in AL-40 zone**
Date: January 31, 2009 11:24:17 AM PST
To: dchambers@co.fresno.ca.us

RECEIVED
FEB 03 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir:

I have received information of an application for a commercial horse arena in the AL-40 zone district. The applicant is Mr Charlie Maxwell of 10925 Rusty Spur, Clovis. CA. 93619

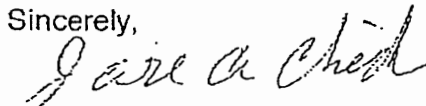
I feel I have valid concerns regarding this application. Our roads are very twisty and narrow, with many blind spots. By allowing commercial zoning, you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, trash, property devaluation, and the effect on wild habitat.

We moved to this area 10 years ago to escape the noise of Fresno. It has been bad enough with Mr Maxwell's police/military "play-days", that I don't feel he needs to create a commercial adventure on a regular basis, at his neighbors cost.

Therefore, on all accounts, I am definitely NOT for the approval of this application.

Sincerely,



Jare A. Chick
10724 Ferguson Road
Clovis, CA 93619

Chambers, Derek

From: Jare Chick [jandjchick@accessbee.com]
Sent: Saturday, January 31, 2009 11:30 AM
To: Chambers, Derek
Subject: Commercial application

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir: I have received information from a neighbor of an application for a commercial horse arena in the AL-40 zone district.

The applicant is Mr. Charlie Maxwell of 10925 Rusty Spur , Clovis, CA. 93619.

I feel I have a valid complaint concerning this application by allowing commercial use on this zone. Our roads are very

twisty and narrow, with many blind spots. By allowing a commercial zoning you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, trash, property devaluation, effects on the habitat.

We moved to this area 10 years ago for the quiet. It has been bad enough with Mr Maxwell's police/military "play-days",

but I don't feel he needs to move commercial activities to this area on a regular basis.

Therefore, on all accounts, I am definitely NOT for the approval of the application'

Sincerely,

Judy K. Chick
10724 Ferguson Road
Clovis, CA. 93619
559-299-4028

Chambers, Derek

From: Jare Chick [jandjchick@accessbee.com]
Sent: Saturday, January 31, 2009 11:25 AM
To: Chambers, Derek
Subject: Commercial application in AL-40 zone

January 31, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno

Sir:

I have received information of an application for a commercial horse arena in the AL-40 zone district. The applicant is Mr Charlie Maxwell of 10925 Rusty Spur, Clovis. CA. 93619

I feel I have valid concerns regarding this application. Our roads are very twisty and narrow, with many blind spots. By allowing commercial zoning, you are creating additional traffic and more possibility of accidents.

I am also concerned about lighting, loudspeakers, crash, property devaluation, and the effect on wild habitat.

We moved to this area 10 years ago to escape the noise of Fresno. It has been bad enough with Mr Maxwell's police/military "play-days", that I don't feel he needs to create a commercial adventure on a regular basis, at his neighbors cost.

Therefore, on all accounts, I am definitely NOT for the approval of this application.

Sincerely,

Jare A. Chick
10724 Ferguson Road
Clovis, CA 93619

Chambers, Derek

From: Tom Whitting [tom@theavianhome.com]
Sent: Wednesday, January 28, 2009 11:36 AM
To: Chambers, Derek
Subject: RE: DRA Application No. 4112

Good morning Mr. Chambers:

After reviewing your response and the Notice of Application dated 12/29/2008, my wife and I wish to comment on Charlie Maxwell's request. He had come to our home to discuss what he wanted to do. Basically to have an arena for kids to compete on horse back, up to 6 times a year. But then he added another 12 events some of which were to raise funds.

We agree with the intent of having a place for kids to "Rodeo", but are opposed to a commercial rezoning for stadium type lights, a public address system which would effect neighbors, and fund raising. We think the activities could be held in the day time until sunset with out lights. He discussed only maybe a 100 people in attendance, so a public address system would not be necessary.

Best regards,

Tom and Jimmie Lee (Cricket) Whitting

Our properties are APN #138-061-74, 138-061-75 and a parcel in trust for Whitting, Pavich and Hopkins 138-061-73.

My address is:
2480 Richert Ave.
Clovis, Ca 93611

I can be reached @ 559-291-9114, or 559-291-6843

Tom Whitting

Chambers, Derek

From: Wade Haines [wade@hainesinc.com]
Sent: Wednesday, January 28, 2009 5:27 PM
To: Chambers, Derek
Cc: Jack Murray; Chris A. Brown
Subject: from Wade Haines re: Application #4112

Dear Derek,

You may recall that I was one of the neighbors who received notice of the Charlie Maxwell application #4112.

Based on overwhelming feedback my wife and I received from many neighbors who share our opposition to the Charlie Maxwell application, I would guess that the County has probably received quite a few letters from those same neighbors offering their comment.

It our fervent hope that the County will see fit to immediately deny this ridiculous application without further ado. However, in the event the County does decide to forward this matter to a public hearing, we would like to kindly request that ALL neighbors who would equally concerned about this application, are notified of any hearing date/time.

Also, upon my receipt of the Notice of Application, you had graciously sent me a list of notice recipients. IF the County does NOT immediately reject the application as we hope they will, I will also forward a list of addresses of concerned residents in very close proximity to the applicants address who have conveyed their serious concern with this application. If a hearing is the eventuality, I would want to know who the County notifies (again) to enable opportunity for attendance by all concerned residents.

I once again thank you for your assistance in this matter, which has given us all fair opportunity to confront this worrisome application.

Very Sincerely,

Wade M. Haines
11248 Rusty Spur Lane
Clovis, CA 93619
(559) 451-0100
wade@hainesinc.com

RECEIVED
JAN 27 2009

Bonnie E. Golden
10558 East Millerton Road
Clovis, California 93619
(559) 299-5796
Email: bonnieebone@yahoo.com

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 23, 2009

Derek Chambers, Planner
Development Services Division
County of Fresno
2220 Tulare Street, Sixth Floor
Fresno, California 93721

Re: Director Review and Approval Application No. 4112
Initial Study Application No. 6062

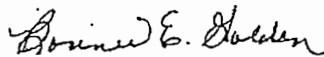
Dear Mr. Chambers:

In response to this application I wish to object to approval based on the following:

1. The major County road to access Rusty Spur Lane is from Millerton Road lying between Auberry Road and Tollhouse. It is a narrow, winding country road unable to support horse trailer and additional vehicular traffic without a serious reduction in safety to current residential users.
2. In the initial Study Application question 19A the answer is misleading. The applicants parcel has no public road access.
3. Noise from any amplification system as well as group events carries very clearly in our open area as well as the additional traffic congestion will adversely affect the quiet-use and enjoyment of the adjacent properties as well as create traffic congestion on Millerton Road.
4. The property in question is viewed directly across from our property and creating a commercial horse area would directly impact our quiet enjoyment.
5. Dust would also be a direct factor.
6. Property values would decrease due to a commercial enterprise which would also entail signs displayed and vendor operations.
7. The application is not limited to day time use only and lighting at night would adversely affect neighboring residential properties.

Should you have any questions, please feel free to contact me at your convenience.

Very truly yours,



Bonnie E. Golden

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JAN 23 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 22, 2009

Derek Chambers
Department of Public Works and Planning
2220 Tulare Street, 6th floor
Fresno, CA 93721

RE: Charlie Maxwell
Application A Commercial Horse Arena
10925 Rusty Spur

From: Richard W. Looney
10286 Millerton RD
Clovis, CA 93619

I am writing to express my opposition to the above referred proposal.

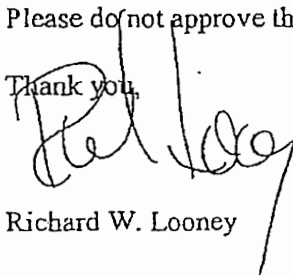
I have enclosed a copy of my letter to my neighbor which indicates my primary concerns. In addition to the items mentioned, it is an encroachment that adds nothing to an already increasingly congested area.

My greatest concern is the commercial use and the potential for further additional commercial uses by others.

The rural agricultural use needs to be protected. A commercial horse arena opens many doors, (i.e. a motor cross track "for the kids").

Please do not approve this requested use.

Thank you,


Richard W. Looney

rw1/
Enclosure

January 22, 2009

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JAN 23 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

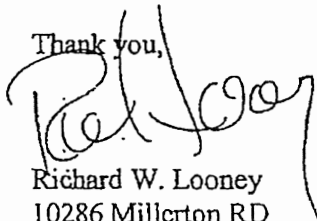
Debbie Poochigian
Fresno County Supervisor
District 5
2281 Tulare, Room #300
Fresno, CA 93721

Dear Supervisor Poochigian,

I have enclosed correspondence regarding a proposed change in land use within your district.

If you can influence this matter, your help is needed and appreciated to maintain our current use and enjoyment of our property.

Thank you,



Richard W. Looney
10286 Millerton RD
Clovis, CA 93619

rw/
Enclosure

CC: Derek Chambers

January 20, 2009

RECEIVED
JAN 23 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Charles Maxwell
10925 Rusty Spur
Clovis, CA 93619

Dear Charley,

Thank you for taking your time to stop by to give me your information regarding your proposed arena.

After considering the information provided I cannot support your intended project for several reasons.

In addition to the fact that I like things better the way they used to be, and no change yet made has been for the better, I do not see that this will do anything but further negatively impact and decrease my enjoyment of where I live.

The largest obstacle is the fact that it just doesn't pass the "Sniff Test".

You have lights but have no plans to have lighted events. Then you don't need lights. I have no control over your changing your mind and having lighted events.

You have a P.A. System, but if it is too loud you say you will not use it. I have no control over your use of the P.A.

You said you will be willing to start with 6 youth events, and reconsider the 12 adult events. I have no control over how many events you may have.

You said it is zoned commercial only because they have no other name for it. It is named what it is ... commercial. I have no control over future commercial use.

The traffic and general nuisance level of the events cannot be mitigated.

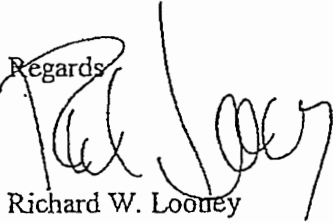
January 20, 2009
Charles Maxwell
Page Two

But to the "Sniff Test". I do not know you well enough to judge your motives. However, I am cynical enough to wonder if you're such a community servant that you would spend over \$7,000 just to permit an arena which you build, maintain and insure against potential liability at additional personal cost just to sponsor 6 events per year so the kids have a place to ride.

This may be a worthy charity but if I follow the money it just doesn't pass the "Sniff Test".

Once the genie is out of the bottle there is no putting it back. So the best course of action is to keep the lid on. I am sure you will appreciate my position, and if the majority feels as I do I hope you will shelve the project as a bad idea.

Regards



Richard W. Looney

Chambers, Derek

From: Chambers, Derek
Sent: Tuesday, January 13, 2009 11:30 AM
To: 'John Sample'
Subject: RE: Application Comments

Received and noted.

Derek Chambers, Planner II
Development Services Division
Fresno County Public Works and Planning
(559) 262-4321 voice
(559) 262-4893 fax

From: John Sample [mailto:littlejohn@gotsky.com]
Sent: Tuesday, January 13, 2009 11:27 AM
To: Chambers, Derek
Cc: John Sample; Dorinda
Subject: Application Comments

January 13th, 2009

To: Derek Chambers @ Fresno County Planning Dept.

SPECIAL NOTE: PLEASE VERIFY THAT YOU RECEIVED THIS EMAIL

re: Charlie Maxwell Application / 10925 Rusty Spur Lane / APN # 138-061-49

Fr: John & Dorinda Sample, 11596 Rusty Spur Lane, Clovis, CA 93619 / 559-324-1662

We strenuously object to having a large commercial enterprise located in our small, residential zoned area, and on our private road. We ask the County to deny this application.

Are objections are as follows:

1) Our single lane - private - road, bridge, and gate were not designed, nor built, to handle the kind of traffic generated by the type & number of large commercial vehicles stemming from this business. For example, our solar gate was designed for only so many uses a day, and would be totally inadequate to support such a commercial venture. Certainly our bridge and road were not built with this type of traffic in mind.

- 2) Our road was paid for, and is maintained by, only 9 lot owners. This commercial venture would financially penalize the other 8 lot owners, who would bear the unfair burden of supporting/subsidizing this applicant with significantly increased repair and/or replacement costs for our bridge, road, and gate. These costs would run into the ten's, if not, hundreds of thousands of dollars.
- 3) This commercial enterprise will create dangerous driving conditions on our single lane road and bridge, again due to the size and types of commercial vehicles involved. This is a narrow, 1 mile, dead-end road, without any turn-arounds or turn outs, until you reach the very end of the road, past all of the homes.
- 4) Dangerous driving conditions would also be created on Millerton Road, which is a public road. Access to Rusty Spur is only available from Millerton Road, which itself is a very narrow 2 lane road. Traffic stalls, and back-ups, around blind curves and hills, will create dangerous situations for the public at large.
- 5) This applicant originally misled his neighbors about the size and type of operation he proposed, and any replies supporting his venture should be investigated before the County lends any credence to such "approval". Neighbors were "sold" on the idea of 2-3 small events per year for disadvantaged kids, not a huge commercial enterprise with events 18 or more times per year - with night time events, lights, sound systems, etc and dealing with several hundred people on a private road.
- 6) We already deal with shooting parties this applicant has on his property, and the new commercial venture would only add to the problems we have experienced.
- 7) The value of our property would be severely damaged by having this commercial venture next door to us.
- 8) The County has knowingly failed in its public duty to adequately notify the nearby residents of the true nature of the operation; "a commercial horse arena" does not come anywhere close; using any reasonable standard, of describing what this operation is actually going to be. Asking people to "vote" their approval / disapproval of a project, without divulging the true nature of the operation is dishonest at best.
- 9) The County has knowingly failed in its public duty by failing to notify neighbors of this project. Even though this commercial operation could have an impact on a wide area, people living right across the street were not notified of the proposed venture.
- 10) The County has knowingly failed in its public duty by letting most, if not all, of the applicant's facilities to be built - prior to approval. . Either the County was negligent in approving permits for all of the commercial structures built, such as covered grandstands, public restrooms, PA systems, etc, or the applicant misled the County as to the true nature of the permits. Any and all facilities built prior to approval must be torn down and / or removed from the premises.

Sincerely,

John & Dorinda Sample
11596 Rusty Spur Lane
Clovis, CA 93619

Date: January 5, 2009

Department of Public Works and Planning
Development Services Division
Mr. Derek Chambers
2220 Tulare Street, Sixth Floor
Fresno, CA 93721

RECEIVED
JAN 07 2009

Re: Notice of Application
Director Review and Approval Application No. 41125
Initial Study Application No. 6062

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

We the signed below oppose the development of a commercial horse arena @ 10925 Rusty Spur for the following reasons:

- 1) Increase traffic on Millerton Road, currently a single lane rural road
- 2) Increase noise pollution from activities held at arena
- 3) Increase light pollution if activities occur at nighttime.
- 4) Decrease of property value

Please keep us informed of any further development in regards to this application.

Thank-you,

David Kyle

Lynn Kyle

10471 Ferguson Road
Clovis, Ca 93619
Phone: (559) 298-4014

January 9, 2009

RECEIVED
JAN 12 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Derek Chambers, Planner
Development Services Division
County of Fresno
2220 Tulare Street
Sixth Floor
Fresno, CA 93721

RE: DIRECTOR REVIEW AND APPROVAL APPLICATION #4112
INITIAL STUDY APPLICATION #6062

**COMMENT IN OPPOSITION OF APPLICATION FILED BY CHARLIE
MAXWELL FOR "COMMERCIAL HORSE ARENA"**

Dear Mr. Chambers and Development Services Division:

We wish to state our steadfast opposition to approval of Mr. Maxwell's application. Our strong objections are already on file with Fresno County via our attorney, Christopher Brown. Perhaps unbeknownst to Fresno County, this facility is already built. Mr. Maxwell only recently applied for a COMMERCIAL USE permit AFTER neighbors confronted him with a lawsuit.

We herewith summarize our objections:

- 1) **RUSTY SPUR LANE IS A PRIVATE ROAD (NEIGHBOR SUBDIVISION DRIVEWAY)!**
 - a) Rusty Spur Lane in its entirety is a PRIVATE road. It is maintained (paid for) by several property owners that adjoin the road for RESIDENTIAL ACCESS ONLY for the entire stretch of Rusty Spur Lane by the property owners. It CANNOT handle any substantial volume of transit by non-resident traffic, especially heavy transport equipment or stock trailers. **Mr. Maxwell's parcel has NO PUBLIC ROAD ACCESS.** Mr. Maxwell has NO legal right to utilize our private road to access a COMMERCIAL USE facility, in the process increasing costs to the neighbors that pay for Rusty Spur Lane maintenance.
 - b) Rusty Spur Lane is protected by a light duty solar gate. The property owners pay to maintain the gate for the purposes of protection against liability, trash, visitation from uninvited guest or solicitors, and provides all neighbors with a barrier of security. Mr. Maxwell's application would necessitate that the gate remain open for an extended time which would expose the neighbors to the very problems the gate was installed to protect against.

(2)

- c) Rusty Spur Lane contains a culvert system fording Dry Creek. That culvert is not designed to withstand any consistent heavy equipment hauling whatsoever, and would sustain wear, damages, or outright collapse. This would impose undue and expensive repair expense onto the neighbors.

2) DANGEROUS TRAFFIC AND CONGESTION ON MILLERTON ROAD.

The only County road to access Rusty Spur Lane, is Millerton Road. Millerton Road is an extremely dangerous, winding, narrow (less than 30' in some areas) easement that is in extremely poor condition. It is not painted, nor does it have any speed limit signs posted. Millerton Road cannot support any substantial vehicle or horse trailer traffic without exposing residents to extreme safety hazard.

3) LIGHT POLLUTION.

The applicant has installed stadium lighting around the arena. His application cites the right to host "Adult Events up until 10:00pm". These lights are large and powerful and would expose all adjoining and surrounding neighbors to severe light pollution (a major nuisance).

4) NOISE.

The application calls for a "SOUND AMPLIFICATION SYSTEM ON EVENT DAYS". Regardless of decibel compliance, the arena is located in a very quiet, serene residential area in foothills where sound carriers at tremendous levels. Neighbors should not be subject to having to listen to a P.A. System that would interrupt day sleepers who work at night, as well as children. The noise would be an incredible nuisance.

5) TRASH AND BLIGHT.

COMMERCIAL EVENTS bring with them TRASH. Applicant cites the sale and utilization of food, snacks and beverages. This would result in TRASH strewn along our private driveway as well as on Millerton Road.

6) ENVIRONMENTAL CONCERNS.

A COMMERCIAL HORSE ARENA would bring about excessive dust and other airborne particulants that are harmful to neighbors. It would also bring about excessive dirt carry-out onto Rusty Spur Lane, which is a pollutant. Mr. Maxwell's arena has eliminated many native Oak Trees, rock formations and native grassland that serves as habitat for native animals such as Bobcats, Wild Turkey, Deer, Eagles, Badgers, Falcons, Redtail Hawks, Quail, Dove and other species that RELY ON the habitat on and around our properties. Granting this application would bring about the aforementioned pollutants and pose considerable negative impact to all native species.

(3)

The arena is located extremely close to Dry Creek, which holds a considerable amount of water in the winter. Dry Creek plays host to many native species as listed, and contributes to our immediate water tables. We have grave concerns about the impact a COMMERCIAL ARENA would have on this.

7) PROPERTY DEVALUATION.

Living near a COMMERCIAL USE facility would have a devastating impact on neighboring parcels and properties that have already been impacted in today's housing market. The resale values of any properties in close proximity of a COMMERCIAL HORSE ARENA where "Adult Activities (Large scale Weddings, Receptions, Dinners, Dances, Jackpot Ropings, etc.) would be held would be absolutely devastated.

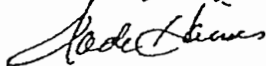
8) NEGATIVE PRECEDENT.

The granting of this application would set a **TERRIBLE** precedent that would enable any property owner residing in an agriculture zoned private residential subdivision, to apply to the County for a COMMERCIAL USE permit for the purposes of locating their COMMERCIAL BUSINESS- and sue Fresno County if it were not granted. This would forever destroy any semblance of the rural lifestyle that makes locating to Fresno County so appealing to so many.

The County of Fresno Development Department should not be swayed by the applicants attempt to tug at the heartstrings by citing his ties to the American Legion and desire to "give back to the Foothill Community" in hosting Youth Horse Events, and paying for them by hosting "Adult Events". There is NO hue and outcry for such a facility, as there are already several locations located in the Central San Joaquin Valley that are equipped to host such events which are directly accessible by major arteries and are located in COMMERCIAL ZONES. The applicant sees this opportunity to use his property as a personal source of income and indulgence in personal hobby- to the tremendous detriment of his neighbors who have paid handsomely for a place of rest and respite. Mr. Maxwell does not have any legal right to host "COMMERCIAL HORSE SHOWS" or other "ADULT ACTIVITIES" for profit or otherwise, at the expense of surrounding neighbor home values and lifestyles.

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR
COMMERCIAL USE OF HIS PROPERTY!

Very Truly Yours,



Wade and Rhonda Haines
11248 Rusty Spur Lane
Clovis, CA 93619

(559) 299-9776

RECEIVED
JAN 27 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10926 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

We appreciate the opportunity to voice our adamant opposition to the Application for a Commercial Horse Arena filed by Mr. Charlie Maxwell. We are shocked at this application as we are opposed to the congestion, light, noise, dust, trash, and blight that Mr. Maxwell's functions would subject all neighbors to. Specifically, our steadfast opposition to this application is based on the following:

1) MR. MAXWELL'S PROPERTY LIES WITHIN A PRIVATELY GATED RESIDENTIAL SUBDIVISION.

Mr. Maxwell's property where he has applied for a Commercial Horse Arena, is located in a private gated neighborhood subdivision that contains very expensive homes on immediate neighboring properties in a very rural setting. These homes and parcels were purchased for the purpose of private, quiet serene residential living ONLY and should never be negatively impacted by any COMMERCIAL endeavor whatsoever.

2) MR. MAXWELL'S PROPERTY IS FED BY A PRIVATE ROAD MANAGED BY A PRIVATE ROAD MAINTENANCE AGREEMENT.

Mr. Maxwell is applying for Commercial Use on his property that is fed by a PRIVATE ROAD that is used only to provide immediate access by several immediate neighbors. This PRIVATE road is named "Rusty Spur Lane" and is privately maintained by those neighbors at their sole expense. The driveway is not designed, nor will it accommodate in any way, the volume of vehicles and stock trailers in the numbers or frequency that Mr. Maxwell has cited in his application. The County should not authorize a Commercial Use permit for a facility that is fed by a private driveway owned by adjoining neighbors.

3) SERIOUS TRAFFIC CONCERNS.

"Rusty Spur Lane" is fed by Millerton Road. Millerton Road is 30' narrow road in very poor condition with no traffic lines or speed limit postings on it. Millerton is not designed to handle more traffic of any kind. Stock trailers traveling on and backed up along Millerton Road would pose a tremendous hazard.

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Mr. Maxwell does not have any legal right to host "Horse Shows" or other "Adult Functions" for profit or otherwise at the expense of surrounding home values and lifestyle!

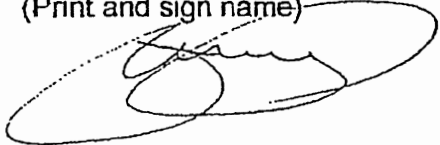
PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

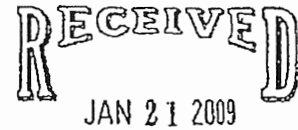
APN (Parcel) Number or Address:

James Pries

(Print and sign name)



Parcel # 138-450-01



January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

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Mr. Maxwell does not have any legal right to host "Horse Shows" or other "Adult Functions" for profit or otherwise at the expense of surrounding home values and lifestyle!

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

Bonnie M Norman

Bonnie M Norman
(Print and sign name)

138-061-17

RECEIVED
JAN 21 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
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Dear Sir:

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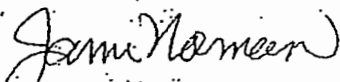
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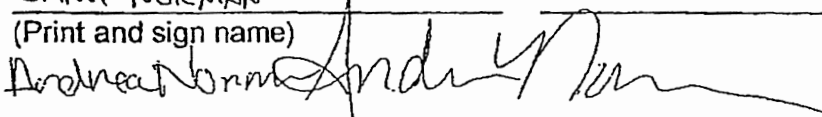
PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,



JAMI NORMAN

(Print and sign name)



APN (Parcel) Number or Address:

12000 MILLERTON RD.

CLOVIS, CA 93619

RECEIVED

JAN 20 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY-SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

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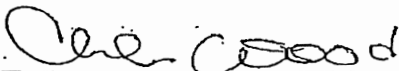
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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

CHARLES WOOD



(Print and sign name)

138-061-80

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

RECEIVED
JAN 20 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

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10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

WAYNE WILHELM

Wayne Wilhelm

(Print and sign name)

10774 MILLERTON RD. CLOVIS, CA

93619

RECEIVED
JAN 16 2009

January 6, 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10926 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

We appreciate the opportunity to voice our adamant opposition to the Application for a Commercial Horse Arena filed by Mr. Charlie Maxwell. We are shocked at this application as we are opposed to the congestion, light, noise, dust, trash, and blight that Mr. Maxwell's functions would subject all neighbors to. Specifically, our steadfast opposition to this application is based on the following:

1) MR. MAXWELL'S PROPERTY LIES WITHIN A PRIVATELY GATED RESIDENTIAL SUBDIVISION.

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2) MR. MAXWELL'S PROPERTY IS FED BY A PRIVATE ROAD MANAGED BY A PRIVATE ROAD MAINTENANCE AGREEMENT.

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"Rusty Spur Lane" is fed by Millerton Road. Millerton Road is 30' narrow road in very poor condition with no traffic lines or speed limit postings on it. Millerton is not designed to handle more traffic of any kind. Stock trailers traveling on and backed up along Millerton Road would pose a tremendous hazard.

(2)

4) RUSTY SPUR LANE IS PROTECTED BY A PRIVATE GATE.

Rusty Spur Lane, the private road that Mr. Maxwell desires to be used to access his property, is protected by a gate that is paid for by the owner neighbors. provides security to the neighbors and serves as a barrier to liability, trash, solicitors and uninvited parties. Keeping the gate open for extended periods would expose the neighbor owners to increased liability and eliminate the security barrier for which the gate was originally purchased and installed, and impose undue wear and tear on the gate which was never designed for heavy duty use.

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Mr. Maxwell has installed **STADIUM LIGHTING** around his arena. This would bring forth severe light pollution problems to all surrounding neighbors up to 10:00pm.

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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

APN (Parcel) Number or Address:

Lorelle Foster Brown

B8-455-05

Lorelle Foster Brown

10298 Old Millerton Rd

(Print and sign name)

Clarks, CA 93612

RECEIVED
JAN 16 2009

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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Very Sincerely,

APN (Parcel) Number or Address:

10296 Millerston Rd

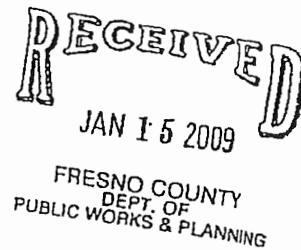
Jeffa Jeannie Kiser

(Print and sign name)

Jeffa Kiser
Jeannie Kiser

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION



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Very Sincerely,

APN (Parcel) Number or Address:

Lawrence P. Byrd
(Print and sign name)
LAWRENCE P. BYRD

138-450-25

RECEIVED
JAN 15 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

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10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

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Very Sincerely,

APN (Parcel) Number or Address:


(Print and sign name)

138-021-96

MATT BARR

RECEIVED
JAN 15 2009

January 6, 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

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10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49

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Very Sincerely,

APN (Parcel) Number or Address:

Jody Hedrick

(Print and sign name)

Jody Hedrick

11557 E. Millerton Rd. Clovis

Ca. 93619

RECEIVED
JAN 14 2009

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

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Very Sincerely,

Duane Duerksen

APN (Parcel) Number or Address:

Duane Duerksen

(Print and sign name)

713-890-45

Genelle Duerksen
Genelle Duerksen

1-12-09

RECEIVED
JAN 14 2009

January 6, 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

We appreciate the opportunity to voice our adamant opposition to the Application for a Commercial Horse Arena filed by Mr. Charlie Maxwell. We are shocked at this application as we are opposed to the congestion, light, noise, dust, trash, and blight that Mr. Maxwell's functions would subject all neighbors to. Specifically, our steadfast opposition to this application is based on the following:

1) MR. MAXWELL'S PROPERTY LIES WITHIN A PRIVATELY GATED RESIDENTIAL SUBDIVISION.

Mr. Maxwell's property where he has applied for a Commercial Horse Arena, is located in a private gated neighborhood subdivision that contains very expensive homes on immediate neighboring properties in a very rural setting. These homes and parcels were purchased for the purpose of private, quiet serene residential living ONLY and should never be negatively impacted by any COMMERCIAL endeavor whatsoever.

2) MR. MAXWELL'S PROPERTY IS FED BY A PRIVATE ROAD MANAGED BY A PRIVATE ROAD MAINTENANCE AGREEMENT.

Mr. Maxwell is applying for Commercial Use on his property that is fed by a PRIVATE ROAD that is used only to provide immediate access by several immediate neighbors. This PRIVATE road is named "Rusty Spur Lane" and is privately maintained by those neighbors at their sole expense. The driveway is not designed, nor will it accommodate in any way, the volume of vehicles and stock trailers in the numbers or frequency that Mr. Maxwell has cited in his application. The County should not authorize a Commercial Use permit for a facility that is fed by a private driveway owned by adjoining neighbors.

3) SERIOUS TRAFFIC CONCERNS.

"Rusty Spur Lane" is fed by Millerton Road. Millerton Road is 30' narrow road in very poor condition with no traffic lines or speed limit postings on it. Millerton is not designed to handle more traffic of any kind. Stock trailers traveling on and backed up along Millerton Road would pose a tremendous hazard.

(2)

4) RUSTY SPUR LANE IS PROTECTED BY A PRIVATE GATE.

Rusty Spur Lane, the private road that Mr. Maxwell desires to be used to access his property, is protected by a gate that is paid for by the owner neighbors. provides security to the neighbors and serves as a barrier to liability, trash, solicitors and uninvited parties. Keeping the gate open for extended periods would expose the neighbor owners to increased liability and eliminate the security barrier for which the gate was originally purchased and installed, and impose undue wear and tear on the gate which was never designed for heavy duty use.

5) SEVERE LIGHT POLLUTION.

Mr. Maxwell has installed **STADIUM LIGHTING** around his arena. This would bring forth severe light pollution problems to all surrounding neighbors up to 10:00pm.

6) SEVERE NOISE POLLUTION.

Mr. Maxwell has cited in his application the use of an "**AMPLIFIED SOUND SYSTEM**", commonly referred to as a PA. This would create tremendous nuisance to all neighbors as well as the additional noise brought about by vehicles, trailers, and human sources.

7) SERIOUS ENVIRONMENTAL CONCERNS.

A Commercial Horse Arena would bring about excessive dust and other airborne particles that are harmful to neighbors. It would also bring about dust and mud carry-out onto Rusty Spur Lane, which is a private road. Mr. Maxwell's arena has eliminated many native Oak Trees, native grassland in the process of removing vital habitat for native species including Bobcats, Wild Turkey, Deer, Badgers, Raccoons, Eagles, Falcons, Red Tailed Hawks, Quail, Dove and numerous other species that are native to our area and **RELY ON** the habitat on and around our properties. Granting a Commercial Horse Arena would bring about the aforementioned pollutions and pose considerable negative impact to all surrounding native species.

The arena is located extremely close to Dry Creek, which holds a considerable amount of water in the winter. Dry Creek is also home to many native species as listed, and contributes to our immediate water tables.

8) DEVALUATING IMPACT ON NEIGHBORING PROPERTIES.

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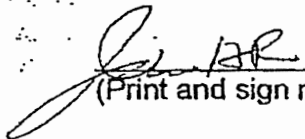
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Mr. Maxwell does not have any legal right to host "Horse Shows" or other "Adult Functions" for profit or otherwise at the expense of surrounding home values and lifestyle!

PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

JAMES BRÖUS


(Print and sign name)

APN (Parcel) Number or Address:

11998-MILLER RD ROAD
CLOVIS CA 93619

RECEIVED
JAN 14 2009

January 6, 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

**RE: COMMENT IN OPPOSITION OF CHARLIE MAXWELL APPLICATION
10925 RUSTY SPUR LANE CLOVIS, CA 93619 APN # 138-061-49**

Dear Sir:

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(2)

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PLEASE- IMMEDIATELY DENY MR. MAXWELL'S APPLICATION FOR A COMMERCIAL HORSE ARENA!!

Very Sincerely,

Mike Chauncey

(Print and sign name)

Nancy Chauncey
Nancy Chauncey

10366 Millerton Rd.
Clovis, CA 93619

APN (Parcel) Number or Address:

10366 Millerton Rd.
Clovis, CA 93619

Parcel # 138-450-04

RECEIVED
JAN 14 2009

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

January 6, 2009

County of Fresno
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721
ATTN: DEREK CHAMBERS, DEVELOPMENT SERVICES DIVISION

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Very Sincerely,

BOB DALE BURNS, SR.

Bob Dale Burns Sr.

(Print and sign name)

MARIE ELLEN BURNS

Marie Ellen Burns

APN (Parcel) Number or Address:

*10836 MILLERTON ROAD
CLOVIS, CA 93619-9644*

PARCEL #138-061-16

January 29, 2009

To Whom It May Concern:

Charlie and Tammy Maxwell requested that we submit a letter in support of the purposed arena at their home on Rusty Spur Lane. We have known the Maxwell's since approximately 1990, when their young daughter used to ride in our arena, which was located in the same rural area. We put on family oriented, horse related events for approximately 3 years. We were also involved in similar activities at the local American Legion Post and at Sierra High School.

Events at our arena included gymkhanas, horse shows, and 4H events. Both competitive and learning events were popular and provided many children and adults an opportunity to enjoy their horses. We never had problems and the events are remembered by many people in the community as some of their favorite experiences.

The events were done during the day; we watered the arena, so we never had dust problems. We used a P.A. system but the noise never carried so far that it bothered anyone.

There was only one person on the road who complained; and he still complains about everything. The rest of the neighbors enjoyed the events, many of them as participants, and some just came to watch and enjoy the activities. To this day we have people asking us to do things in our arena again, so they have a place to go and a chance to give their children the same type of memories.

The Maxwell's facilities far surpass the facilities we had. Their desire to put on horse events at their house should be viewed as a benefit to the community. They are trying to provide a healthy and wholesome environment where children, parents and neighbors may once again enjoy horse related activities. Such places are lacking in our area.

Children of all ages can enjoy horses under adult supervision. We had events for different age groups, beginning at "5 years and Under" and running to adult. We frequently had 40 to 50 riders.

We have both been involved with children of all ages in both our personal lives and in our careers. Larry was a junior high PE teacher and a coach for 30 years. I have been a probation officer, day care provider and substitute teacher. We have been 4H leaders, Junior Rodeo/High School Rodeo parents and sponsors. We have worked all the events, Larry usually announcing and I act as a timer or whatever else needs to be done. Our two sons were both given the opportunity to be involved with horses and cherish memories and skills they acquired. They still both love to ride and can't wait to give the same skills to their own children.

RECEIVED
COUNTY OF FRESNO

FEB 09 2009

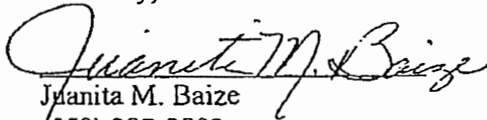
DEPARTMENT OF PUBLIC
AND PLANNING
DEVELOPMENT SERVICES

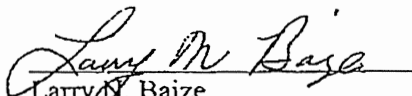
Horses provide an excellent opportunity to teach children responsibility, not only to themselves but for another living creature that depends on them. They learn to be careful, confident and skilled. They learn a work ethic that stays with them throughout life. They learn good sportsmanship and experience camaraderie with other people. They learn to be careful and remember the importance of thinking about what can happen to both themselves and their animals if they are careless. Having the opportunity to participate in horse related events is a wonderful opportunity to learn life lessons.

Having people willing to allow such activities at their home should be considered a resource for the community, just like a playground, baseball field, basketball court or a skateboard park. The equipment is just different. It should not be treated like a hazardous, unhealthy and unwanted neighborhood activity.

Hopefully the Maxwell's will be allowed to operate their arena so as to allow another generation of people an opportunity to experience exciting, healthy, family fun; making wonderful memories for their future. It is hoped that this letter will help them reach their goal.

Sincerely,


Juanita M. Baize
(559) 287-9803


Larry M. Baize
15125 Coyote Hills Lane
Prather, CA 83651
(559) 299-7780

RECEIVED
COUNTY OF FRESNO

FEB 09 2009

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

(559) 262-4321

Mr. Chambers

Please be advised that I have met with Charles Maxwell regarding; Director Review and Approval Application No. 4112 involving a commercial arena to be located on his property. We understand that this arena will be operated to a maximum of eighteen days with 60 to 70 people and will only be operated at night for family and friends. We also understand the arena will be watered prior to any event to control any and all dust.

Thank you *Marie Ellen Burns*

Bob Dale Burne Jr.

Name

10836 Millerton Rd, Clovis, CA 93619-9644

Address

138-06716

APN

Comments; *We signed Mr. Wade Haines' letter
by mistake.*

County of Fresno
Department of Public Works and Planning

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Department of Public Works and Planning
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Thank you

Forest C. Beckham

Name

9584 E. Millerton Rd Clovis, CA. 93619

Address

138-300-17

APN

Comments; Greatest thing that our neighbors could have. A place for kids to gather and have fun, and not have to ~~the~~ travel great distances. No problems or concerns

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
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Thank you

Mary L. Beckham
Name

9590 E. Millerton Rd Clovis, CA 93619
Address

138-300-18
APN

Comments; I do not have any issues concerning Charlie Maxwell's proposed commercial arena. In fact I believe that this will improve our area. Our children in the foothill/ mountains do not have any place to spend good quality time away from their home. This project will give children the opportunity to expand their growth.

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
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Thank you

Charles Wood. Clewood.

Name

9855 Milwerton Road

Address

138-061-80

APN

Comments; NO PROBLEM WITH ME

County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

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Thank you

William B. Braymer ~ William B. Braymer
Name

10441 E. Dillon Road, Clovis, CA 93619
Address

APN

Comments ;

No problem for us. Not against

County of Fresno
Department of Public Works and Planning

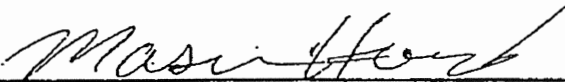
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Thank you



Name

10122 Millerton Rd. Clovis Ca. 93619

Address

13806117

APN

Comments ;

I would like to come + watch

County of Fresno
Department of Public Works and Planning

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Development Service Division
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Thank you



Name

0310 Embarcadero Rd

Address

138061187

APN

Comments ;

WONT Bother me or wife

County of Fresno
Department of Public Works and Planning

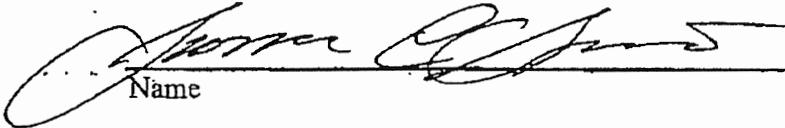
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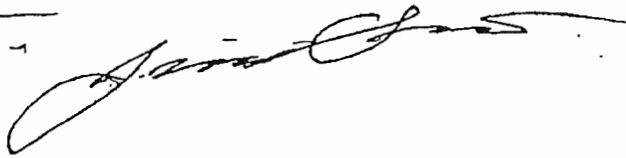

Name

10838 MILLERTON RD
Address

138-061-16
APN

Comments;

I FIND NO PROBLEM WITH
THIS REQUEST.



County of Fresno
Department of Public Works and Planning

Derek Chambers, Planner II
Development Service Division
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, California 93721

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Thank you

Name

Address

APN

Comments;

FOR KID GOOD Deal.

County of Fresno
Department of Public Works and Planning

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Thank you

WADE BRILL
Name

10740 FERROUSON RD
Address

13845017
APN

Comments; GOOD LUCK !

County of Fresno
Department of Public Works and Planning

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Thank you

S J LEACH
Name
11990 millerton Rd.
Address
138-021-88
APN

Comments; Be glad to see horse arena in this area. Arena lights are no better than bunch of house lights.

County of Fresno
Department of Public Works and Planning

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Please be advised that I have met with Charles Maxwell regarding; Director Review and Approval Application No. 4112 involving a commercial arena to be located on his property. We understand that this arena will be operated to a maximum of eighteen days with 60 to 70 people and will only be operated at night for family and friends. We also understand the arena will be watered prior to any event to control any and all dust.

Thank you

LARRY W. BYRD
Name

10708 MILLERTON RD
Address

13845-009
APN

Comments;

Larry W. Byrd

EXHIBIT 11

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF FRESNO

OCT 21 2011

BY _____
DEPUTY

1 **WANGER JONES HELSLEY PC**
265 E. River Park Circle, Suite 310
2 Fresno, California 93720
Telephone: (559) 233-4800
3 Facsimile: (559) 233-9330

4 Timothy Jones #119841
John P. Kinsey #215916
5 Timothy A. Bennett #249600

6 Attorneys for: Defendants/Cross-Complainants, Charlie Maxwell, Tamara Maxwell,
Terry Hall and Teri Hall
7

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF FRESNO - UNLIMITED CIVIL**
10

11 WADE HAINES, an individual, and
RHONDA HAINES, an individual,
12 BIRCHWOOD PARK, LLC, a California
limited liability company; WHITE
13 PROPERTIES, INC., a California
corporation; and JACK MURRAY, an
14 individual

15 Plaintiffs,

16 v.

17 CHARLIE MAXWELL, an individual;
TAMARA MAXWELL, an individual;
18 BIRCHWOOD PARK, LLC, a California
limited liability company; JOHN
19 SAMPLE, an individual; DORINDA
SAMPLE, an individual; TERRY HALL,
20 an individual; TERRI HALL, an
individual; and DOES 1 through 50,
21 inclusive,

22 Defendants.

23 AND RELATED CROSS-ACTION
24

25 ///

26 ///

27 ///

28 ///

Case No. 09 CE CG 02582 AMS

**NOTICE OF ENTRY OF AMENDED
JUDGEMENT AFTER TRIAL BY
SUPERIOR COURT**

Judge: Hon. Alan M. Simpson
Dept.: 503

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TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that on October 19, 2011, the *Amended* Judgment After Trial By Superior Court, regarding above-referenced matter, was signed by the Honorable Alan M. Simpson and entered in favor of Defendants, Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall. A true and correct copy of the *Amended* Judgment is attached hereto as **Exhibit "A."**

DATED: October 20, 2011

WANGER JONES HELSLEY PC

By: _____

Timothy Jones,
Attorneys for Defendants/Cross-Complainants,
Charlie Maxwell, Tamara Maxwell,
Terry Hall and Teri Hall

1 **WANGER JONES HELSLEY PC**
265 E. River Park Circle, Suite 310
2 P.O. Box 28340
Fresno, California 93729
3 Telephone: (559) 233-4800
Facsimile: (559) 233-9330
4

5 Timothy Jones #119841
John P. Kinsey #215916
6 Melissa C. Hunt #267181

7 Attorneys for: Defendants/Cross-Complainants Charlie Maxwell, Tamara Maxwell,
Terry Hall and Teri Hall
8

9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF FRESNO - UNLIMITED CIVIL**

11 WADE HAINES, an individual, and
12 RHONDA HAINES, an individual,
BIRCHWOOD PARK, LLC, a California
13 limited liability company; WHITE
PROPERTIES, INC., a California
14 corporation; and JACK MURRAY, an
individual

15 Plaintiffs,

16 v.

17 CHARLIE MAXWELL, an individual;
TAMARA MAXWELL, an individual;
18 BIRCHWOOD PARK, LLC, a California
limited liability company; JOHN
19 SAMPLE, an individual; DORINDA
SAMPLE, an individual; TERRY HALL,
20 an individual; TERRI HALL, an
individual; and DOES 1 through 50,
21 inclusive,

22 Defendants.

23 **AND RELATED CROSS-ACTION**
24
25
26
27
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FILED

OCT 19 2011

FRESNO SUPERIOR COURT
By _____
DEPT. 503 - DEPUTY

Case No. 09 CE CG 02582 AMS

**[PROPOSED] AMENDED
JUDGMENT AFTER TRIAL BY
SUPERIOR COURT**

Judge: Hon. Alan M. Simpson
Dept.: 503

1 The cause came on regularly for trial on July 13, 14, 18, 19 and 20, 2011, in
2 Department 503 of the above-entitled court, the Honorable Alan M. Simpson presiding,
3 sitting without a jury, a jury having been duly waived. Plaintiffs and Cross Defendants
4 Wade Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack
5 Murray appeared by their attorneys, Jason Helsel and David Richards of the law firm of
6 FOWLER/HELSEL; Defendants and Cross-Complainants Charlie Maxwell, Tamara
7 Maxwell, Terry Hall and Teri Hall appeared by their attorneys, Timothy Jones and Timothy
8 A. Bennett of the law firm of JONES HELSLEY PC. Evidence, both oral and documentary,
9 having been presented by both parties, the cause having been argued and submitted for
10 decision, the court having issued its decision on July 20, 2011, and no request having been
11 made by any party for a Statement of Decision.

12 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

13 As to the Second Amended Complaint filed in this action by Plaintiffs Wade
14 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, the
15 original of which was filed on September 10, 2010, and an amended version of which was
16 filed July 19, 2011, with leave to amend having been granted by the Court during trial
17 (collectively the "Second Amended Complaint"):

18 1. Plaintiffs Wade Haines, Rhonda Haines, Birchwood Park, LLC; White
19 Properties, Inc. and Jack Murray shall take nothing by reason of their Second Amended
20 Complaint against Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall;
21 and that judgment shall be and hereby is entered in favor of Defendants Charlie Maxwell,
22 Tamara Maxwell, Terry Hall and Teri Hall on the Second Amended Complaint on each of
23 the declarations sought therein; and

24 2. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
25 Teri Hall are the prevailing parties as against Plaintiffs Wade Haines, Rhonda Haines,
26 Birchwood Park, LLC; White Properties, Inc. and Jack Murray on their Second Amended
27 Complaint; and

28 ///

1 3. That Defendants Charlie Maxwell, Tamara Maxwell, Terry Hall and
2 Teri Hall shall recover their costs and attorneys' fees as provided below.

3 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED THAT:**

4 As to the Cross-Complaint filed by Cross-Complainants Charlie Maxwell,
5 Tamara Maxwell, Terry Hall and Teri Hall on May 7, 2010, and as amended on July 20,
6 2011, with leave to amend having been granted by the Court ("Cross-Complaint"):

7 1. That Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry
8 Hall and Teri Hall hereby prevail on their Cross-Complaint against Cross-Defendants Wade
9 Haines, Rhonda Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray, and
10 that the Court makes the following declarations:

11 A. The Sohm Easement does not limit the purpose of the trips for
12 the types of uses on the properties serviced by the easement,
13 whether residential, commercial or otherwise;

14 B. The Roadway Maintenance Agreement does not limit vehicle
15 trips to personal residential trips and allows vehicular trips for
16 any lawfully permitted uses by the County, including
17 commercial agricultural uses such as a the Proposed Project;

18 C. The Roadway Maintenance Agreement recorded against the
19 Hall Property is unenforceable as a matter of law and shall be
20 removed from Hall's chain of title;

21 2. That judgment shall be and hereby is entered in favor of Cross-
22 Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall and Teri Hall as set forth
23 herein;

24 3. Cross-Complainants Charlie Maxwell, Tamara Maxwell, Terry Hall
25 and Teri Hall are the prevailing parties against Cross-Defendants Wade Haines, Rhonda
26 Haines, Birchwood Park, LLC; White Properties, Inc. and Jack Murray as to the Cross-
27 Complainants Cross-Complaint; and
28

1 4. That **Defendants and** Cross-Complainants Charlie Maxwell, Tamara
2 Maxwell, Terry Hall and Teri Hall shall recover their costs in an amount of \$12,051.84, and
3 **their attorneys' fees as the prevailing parties in this action in the amount of \$262,036,**
4 **pursuant to Section 1717 of the Civil Code.**

ALAN M. SIMPSON

5 DATED: October 19, 2011.

Honorable Alan M. Simpson
Judge of the Superior Court

PROOF OF SERVICE

My business address is 265 E. River Park Circle, Suite 310, Post Office Box 28340, Fresno, California 93729. I am employed in Fresno County, California. I am over the age of 18 years and am not a party to this case.

On the date indicated below, I served the foregoing document(s) described as **NOTICE OF ENTRY OF AMENDED JUDGEMENT AFTER TRIAL BY SUPERIOR COURT** on all interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Jason A. Helsel
FOWLER/HELSEL
1724 Broadway Street
Fresno, CA 93721
Ph: (559) 840-4450
Fax: (800) 840-9450
E-mail: jason@helsellaw.com

☒

(BY MAIL) I am readily familiar with the business' practice for collection and processing of correspondence for mailing, and that correspondence, with postage thereon fully prepaid, will be deposited with the United States Postal Service on the date noted below in the ordinary course of business, at Fresno, California.

(BY PERSONAL SERVICE) I caused delivery of such envelope(s), by hand, to the office(s) of the addressee(s).

(BY ELECTRONIC MAIL) I caused such documents to be scanned into PDF format and sent via electronic mail to the electronic mail addressee(s) of the addressee(s) designated.

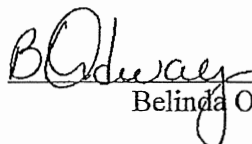
(BY FACSIMILE) I caused the above-referenced document to be delivered by facsimile to the facsimile number(s) of the addressee(s).

(BY OVERNIGHT COURIER) I caused the above-referenced envelope(s) to be delivered to an overnight courier service for delivery to the addressee(s).

EXECUTED ON **October 20, 2011**, at Fresno, California.

☒

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Belinda Ordway

Tech Prep Distribution Points

Application # 4465



Contacts

1. Paul Mrowczynski
Plumas COE
(530) 283-6500 x213
pmrow@jps.net
2. Don Borges
Modesto Jr. College
(209) 575-6449
borgesd@mjc.edu
3. Kay Orrell
Business Ed Resource
Consortium
(805) 922-6966 x3613
korrell@hancockcollege.edu
4. David Deutscher
State Center Consortium
(559) 241-6530
helpdesk@statecenter.com
5. Geri Shapiro
Los Angeles Mission College
(818) 364-7674
shapirga@laccd.edu
6. Carla Cherry
Kern Resource Center
(661) 827-3266
ccherry@khsd.k12.ca.us

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

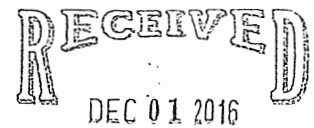
RECEIVED
NOV 29 2016

Dear Mr. Chambers,

We object to this increase in the number of events & hours. This is a very narrow, small quiet country road & we would like to keep it that way. Any event location like this will change the whole environment of this area & my family has had this property for 3 generations & we do not want this area to become commercial. We live on these roads & hope our children can build on this land. If you approve this event we feel it will decrease the value of our land both for us personally & for us financially. Please vote not to approve Charlie Maxwell's plan.

Constance Blasunian Matusoph
11/28/16

November 28, 2016



FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

To: Derek Chambers, Planner / County of Fresno

Fr: John & Dorinda Sample
11596 Rusty Spur Lane
Clovis, CA -93619-

Re: Notice of Application # 4465 / APN 138-061-49

Dear Mr. Chambers,

We are strongly opposed to allowing Charlie Maxwell to continue any of the events he is currently conducting on Rusty Spur, much less agree that he be allowed to expand those operations.

In public meeting I attended, the Board of Supervisors agreed to allow Maxwell to temporarily hold events on his property, limiting such events to 12 per year, in order to access the impact of holding these events on a private road. The Board came to this compromise because 7 of the 8 property owners on Rusty Spur objected to any events, since Rusty Spur is a private road, where property owners have to pay to repair and maintain the road.

Furthermore, 99 % of all people living within 1 mile of Rusty Spur, (that is, those who would be the most impacted by such events), also opposed Maxwell's application.

Next, the applicant has not even adhered to the original regulations set forth by the County, and has held more events than authorized. Just on this alone, his permit should be revoked, not enlarged.

To my knowledge, the Board of Supervisors have done nothing to ascertain whether the applicant is following their orders, or to determine the negative impact these events have had on our property.

In addition to holding an illegal number of events, Maxwell's events have caused traffic delays, dust, air & noise pollution issues, as well as causing damage to our road. Even though Maxwell's house is the first on our road, trucks and trailers attending his events routinely drive the entire road, invading our privacy, and damaging further sections of the road.

Two years ago we had to spend several thousand dollars on repairs to our bridge, and having 40-50 foot trucks with heavy loads going back and forth adds to the wear and tear of our property. Truck and trailer rigs of that size, which are carrying several tons of horses and equipment, will continue to damage the road. Any competent civil engineer will tell you the kind of damage that kind of load will cause to a road such as ours.

Without using eminent domain, as is done for major civic projects, you have simply taken our property, while at the same time abdicating any responsibility for the repair to our property based on your actions. You have offered no compensation for this

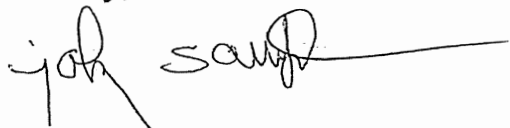
to the property owners on Rusty Spur, or the damage you have caused.

And then, instead of helping your constituents, you thumb your noses at us, by one of the Board members themselves causing damage to our property by holding a campaign event at the Maxwell facility, replicating all of the issues caused by the horse events, with no regard to our property or privacy.

If we had wanted to live next to the fairgrounds, we would have invested our hard earned money to live there, with all the activities expected in such an area. Instead, we invested our hard earned money to live privately in the remote foothills.

We respectfully ask that you revoke Maxwell's permit to hold these events at all, or pay us for the taking of our property, and pay your fair share of road maintenance and repairs.

Sincerely,

A handwritten signature in black ink, appearing to read "John Sample", with a long horizontal line extending to the right.

John & Dorinda Sample

DATE: 12/5/16

TO: County of Fresno
Director of the Department of Public Works and Planning

FROM: James Heisdorf

RE: DRA Application No. 4465 (amending DRA No. 4112)

To whom it may concern,

I am sending this letter in response to Notice of Application for DRA No. 4465, amendment to DRA 4112. I wish to express my concern over the proposed amendments and request that the Director deny the subject application based on the following comments.

This area consists almost exclusively of residential uses. Although there are some commercial grazing operations in the area, grazing is a very low impact activity that does not significantly impact the surrounding properties. A commercial event center does and will impact the use of the surrounding properties in a negative way. The proposed amendment has the potential to increase traffic congestion, generate additional dust, and cause trackout of mud/soil onto Millerton Road in winter months. The current commercial event operation generates a mild to moderate nuisance on event days with its use of a PA system that can be heard 2 miles away. This is something that residents in the area tolerate, and when one considers that only 12 events are currently allowed per year, it should not be cause for substantial complaint. However, allowing events to occur year round, and increasing the number of allowable events to 26 per year, effectively guarantees that these events will be held every other weekend, and potentially EVERY weekend during summer months. This would negatively impact the surrounding properties in a very significant way and would harm the quiet serenity that the residents in the area currently enjoy. Most residents are employed during the work week are only able to enjoy their properties on the weekends, and approval of this application would ensure that 50% of that time would include the background noise of a commercial event.

People typically choose to live in rural areas for the privacy and the quiet lifestyle that it provides. Many if not most people choose to live outside of major urban centers in an effort to avoid the disruption of commercial and industrial operations. In order to preserve the quality of life that residents in this area currently enjoy, I ask that the Director deny this application and allow the current operation to remain as-is.

Thank you for your consideration.

Respectfully,

James Heisdorf
10836 Millerton Road
Clovis, CA 93619
Mailing Address:
1408 Bedford Avenue
Clovis, CA 93611
(559) 905-7735
jaheisdorf@hotmail.com

RECEIVED
COUNTY OF FRESNO

DEC 05 2016

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

RECEIVED
DEC 05 2016

Date: December 1, 2016

Department of Public Works and Planning
Development Services Division
Mr. Derek Chambers
2220 Tulare Street, Sixth floor
Fresno, CA 93721

FRESNO COUNTY
DEPT. OF
PUBLIC WORKS & PLANNING

Re: Notice of Application
Director Review and Approval Application No. 4465
(Amending approved DRA No. 4112)

We the signed below oppose the modification of the approved land use permit to increase the authorized event days from 12 event days to 26 event days per year and to allow the events to occur year-round and oppose the increase in operational hours from 8:00am until 5:00 pm to 8:00 to 6:00 pm @ 10925 Rusty Spur for the following reasons:

- 1) What are the types of additional events being proposed- these events need to be defined further i.e what type, how many vehicles/people
- 2) Increased days of excessive traffic on Millerton Road, currently a single lane rural road.
- 3) Increased days of noise pollution from activities held at the arena.
- 4) Increased visual blight.

Currently the traffic on Millerton Road has increased significantly on event days. Typically an event will have 40 plus truck and trailers and 30 plus single vehicles. The amount of traffic on the event days makes an unsafe environment for bicyclist and joggers who also wish to use the road.

There is an issue of visual blight that was not addressed in the first application. It was a condition of approval that the retaining walls to be painted a natural color, which they were. Currently some walls have been painted white and large (5 x6') sponsorship or advertisement signs in a variety of bright colors have been permanently placed. This issue should also be addressed.

Please keep us informed of any further development in regards to this application.

Thank-you,

David W. Kyle
David Kyle

Lynn H. Kyle
Lynn Kyle

10471 Ferguson Road
Clovis, CA 93619
Phone: (559) 298-4014

JACK B. MURRAY III
3911 N. BLATTELLA LANE ♦ FRESNO, CALIFORNIA 93727

TELEPHONE
(559) 454-8993

FACSIMILE
(559) 454-8478

E-MAIL

RECEIVED
COUNTY OF FRESNO

DEC 05 2016

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

usfund@sbcglobal.net

December 5, 2016

Derek Chambers, Planner
Development Services Division
County of Fresno
2220 Tulare Street, Sixth Floor
Fresno, CA 93721

RE: Notice of Application
DRA Application # 4465

Dear Mr. Chambers,

The application is affecting the 9 owners of Rusty Spur, of which Mr. Maxwell is only one. Any decisions made will cost 9 owners equally 7 of us involuntarily.

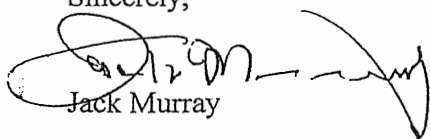
The attached Exhibit "A" is The Road Maintenance Agreement and was a requirement of the County and a Burden placed upon all owners of Rusty Spur which includes pavement, its maintenance and the security gate and attendant solar system. Use of the access by Maxwell and his commercial rodeo activities for profit affects all owners and the proposal will be burdensome on all 9 owners. I do not believe that placing this expense on all the 9 owners could be anything but a "taking" by the County of individual owned property. Factors were considered at the original hearing but not of this magnitude. Mr. Maxwell is creating exuberant costs for his individual profit.

There is wear and tear, liability and privacy consideration that need to be addressed. These rigs for the event weigh upward of 2 tons when loaded. Each passing creates wear and tear that the other owners have to bear in addition to the traffic attending. Millerton Road is a narrow, windy, unsafe two lane County road. There are no turnouts East or West from Auberry Road to Hwy 168. (7miles). This is also frequently travelled by motorcyclists and pedal bikes creating very unsafe conditions, creating conditions that increase that activity are ludicrous to Public Safety.

Safety concerns and maintenance issues that will be borne by the other owners as well as the liability

that will be placed on the other owners in the event of some mishap or worse. We are individual owners and will be individually sued. Some consideration should be given that as well and provided for by Mr. Maxwell.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Murray", with a large, stylized flourish extending from the end of the signature.

APN's 487-062-19, 138-061-63, 13/8-061-72

RECORDING REQUESTED BY

AND WHEN RECORDED MAIL THIS AGREEMENT TO:

Birchwood Park, LLC
5228 E. Pine Ave., Suite A
Fresno, CA 93727

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT TO SHARE ROADWAY MAINTENANCE EXPENSES FOR RUSTY SPUR LANE

This Agreement is entered into this 10th day of June, 1999 between all "Owners" having access to Rusty Spur Lane as listed on the attached Exhibit A incorporated herein and hereinafter referred to as "Owners".

The Owners are owners of tenants in common interests (hereinafter the "Owners' Interests" or Owner's Interest") of a parcel of land commonly known as "Rusty Spur Lane" (hereinafter the "Road"), with each tenant in common having specific rights, duties and obligations to pass over the land held by the other tenants in common pursuant to a "Mutual Easement Agreement For Private Right of Way" recorded to benefit and burden all tenants in common.

The Owners wish to enter into an agreement which provides for the Owners to share in the cost of maintaining and repairing that property described in Exhibit B, commonly known as Rusty Spur Lane. Each of the parties of this agreement agree that their respective Owners' Interests shall be held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, reservations, covenants, conditions, servitudes, liens and charges, all of which are declared and agreed to be in furtherance of and part of the beneficial use of the Road as a private right of way, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and utility of the Road. These provisions are imposed upon the parties hereto, and are for the benefit of such parties, their Owners' Interests, and the properties owned by such parties contiguous to such Owners' Interests, and shall bind the parties hereto. These provisions shall be a burden upon and a benefit to not only the original owners of the Owners' Interests, but also to their successors and assigns with any owners of subsequently subdivided parcels assuming one full share of rights and obligations per assessor's parcel created subject to paragraph 3, below. All covenants are intended as and are declared to be covenants running with the land as well as equitable servitudes upon the land.

TERM

1. This Agreement shall be in effect for a period of three (3) years at which time it shall be automatically extended for subsequent three (3) year periods unless disapproved in writing by all holders of an Owner's Interest. Each holder of an Owner's Interest expressly waives the right to seek judicial partition of the Owner's Interest. Should the election be made to terminate this Agreement, it shall be a mandatory requirement prior to termination that Fresno County accept the maintenance of the roadway in the previously canceled CSA.

AUTHORIZED MAINTENANCE AND REPAIRS

2. This Agreement covers all expenses relative to maintenance or replacement of the road, or replacement of security gate installed, if any, and the crossing over the intermittent stream located near Millerton Road.

COSTS AND EXPENSES

3. The Owners will bear the costs and expenses of the maintenance and repair/replacement work specified in Paragraph 2 of this Agreement as follows:

An annual fee of \$400 per parcel has been agreed to by the Owners. Provided, however, should an Owner subdivide his parcel, no increase in annual fee shall be assessed until such time as the Owner sells a parcel so subdivided. This sum is due no later than August 15 of each year beginning August 15, 1999 and continuing annually thereafter. This sum may be amended from time to time at the annual meeting by vote of a two-thirds majority of Owners whether present, or not, meaning two-thirds of the total number of Owners, whether present or not. The vote may be made by proxy if an Owner is unable to attend the annual meeting.

Should the reserve fund reach a level of \$10,000, annual assessments shall be discontinued until the fund drops below that level, unless a two-thirds majority of the total number of Owners, whether present or not, votes in favor of continuing the assessment to provide for a future anticipated need.

LIENS

4. Unpaid sums assessed to each of the Owner's Interests shall be considered delinquent and bear a late charge of one and one half percent (1.5%) per month if not paid within thirty (30) days of its due date. Such sums, together with reasonable attorney's fees and costs, shall become a lien against the delinquent Owner's Interest upon the recordation in the office of the County Recorder of Fresno County of a Notice of Delinquent Assessment. The notice shall describe the amount of the delinquent assessment, the charges authorized by this agreement, a description of the Owner's Interest, and the name of the Owner, and shall be signed by the Owner Responsible for Record Keeping.

If the delinquent assessment or installment and related charges are paid or otherwise satisfied, by either the Owner or his or her mortgagee, the Owner Responsible for Record Keeping shall record a notice of satisfaction and release of lien.

After the recording of the Notice of Delinquent Assessment, the Owner Responsible for Record Keeping may enforce any assessment lien by filing an action for judicial foreclosure or by recording a notice of default in the form described in the California Civil Code to commence a non-judicial foreclosure. The Owner Responsible for Record Keeping may bid at any foreclosure sale and any amounts in excess of a credit bid shall become an assessment on all remaining holders of Owners' Interests. If the delinquent Owner's Interest is acquired at such foreclosure sale, it shall inure to the benefit of all remaining holders of Owners' Interests, ratably.

ANNUAL AND SPECIAL MEETINGS

5. An annual meeting will be held in May of each year. Owners shall be notified of a place and time for the annual meeting. Business conducted at the meeting shall be decided by a two-thirds majority of the total number of Owners, whether present or not, or by proxy at the annual meeting and such decisions will be transmitted by U.S. mail to all Owners. Obligations for maintenance, repair or replacement of the road and funds required therefore shall be discussed at the annual meeting. Owners unable to attend may be represented by a third party who is to hold a written proxy and shall be authorized to vote on behalf of the absent Owner.

RECORDS KEEPING

At each meeting, an Owner responsible for mailing notices, collection of funds and maintaining an interest bearing account at an insured banking institution shall be designated by a two-thirds majority of the total number of Owners, whether present or not.

At each annual meeting the Owner responsible for records keeping shall provide an accounting of funds on hand, delinquent accounts, if any, and expenses for the previous period. The records keeping Owner shall be entitled to expense reimbursement from funds on hand for secretarial services, copies, costs of mailings, and other expenses necessarily incurred in the performance of those duties.

The records keeping designee shall be authorized by the Owners to represent the interests of the Owners in (i) the procurement of vendors, contractors, and materials for the purpose of this Agreement, (ii) the representation of the Owner's in Court or non-judicially for the pursuit of delinquent assessments, and other acts necessary or convenient to accomplish the spirit and letter of this Agreement. Each Owner hereby grants a special power of attorney to the records keeping designee to implement such duties. Such special power of attorney is specifically limited to matters concerning Rusty Spur Lane and this Road Maintenance Agreement. Such power of attorney (i) may be exercised by the records keeping designee by signing any document with his individual name "as attorney in fact for the Rusty Spur Owners" and (ii) is coupled with an interest and is therefore irrevocable. Any document so executed shall be the joint and several obligation of all holders of Owners' Interests.

No records keeping designee shall be liable to any person or Owner, and each holder of an Owner's Interest shall ratably indemnify such designee, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of and such records keeping designee if such designee acted in good faith and in a manner he or she reasonably believed to be in the best interests of all holders of Owner's Interest.

INSURANCE

6. Should outside vendors be employed to perform services in the maintenance or replacement of any of the roadway components, they must prove evidence of liability and Worker's Compensation Insurance. Owners are responsible to carry insurance to protect their interests as they deem necessary.

Each owner may carry whatever personal liability and property damage liability insurance with respect to his or her Owner's Interest that he or she desires. However, any such policy shall include a waiver of subrogation clause wherein the carrier waives the right to proceed against any of the other holders of Owners' Interests or their mortgagees.

NOTICES

7. Notices to Owners and their mortgagees shall be mailed to the address listed under the Owners signature attached to this Agreement and shall be deemed delivered 72 hours after depositing in United States Postal Service. It is the responsibility of individual Owners and their mortgagees to maintain current mailing addresses on file with the designated Owner responsible for records keeping.

BINDING EFFECT

8. This Agreement shall be binding on the successors and assigns, personal representatives, grantees, and tenants of Owners signatory to this Agreement.

MORTGAGEE PROTECTION

9. Any Owner may encumber his Owner's Interest.

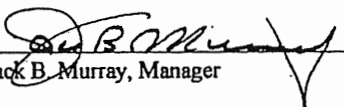
Any lien created or claimed under the provisions of this agreement for delinquent assessments is expressly made subject to and subordinate to the rights of any mortgage that encumbers all or part of the Owner's Interest made in good faith and for value, and no such lien shall in any way invalidate, defeat, or impair the obligation or priority of such mortgage unless the mortgagee expressly subordinates its interest in writing to such lien. If any Owner's Interest is encumbered by a mortgage made in good faith and for value, the foreclosure of any lien created by any provision of this agreement shall not operate to affect or impair the lien of the mortgage. On foreclosure of the mortgage, the lien for assessments shall be subordinate to the lien of the mortgage.

ATTORNEY'S FEES

10. Should any party to this Agreement engage the services of an attorney or bring suit to enforce this Agreement, the prevailing party shall be entitled to recover attorney's fees and costs incurred in such suit.

Dated this 16 day of March, 2000

BIRCHWOOD PARK, LLC


Jack B. Murray, Manager

Assessor's Parcel Number 138-061-45

Address: 5228 E. Pine Ave., Suite A, Fresno, CA 93727

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California
County of Fresno
On 3/6/2000 before me, Mary Ann DeFor
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"
personally appeared JACK B. MURRAY
NAME(S) OF SIGNER(S)

☒ personally known to me -OR- ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.


SIGNATURE OF NOTARY

OPTIONAL SECTION

CAPACITY CLAIMED BY SIGNER

Though statute does not require the Notary to fill in the data below, doing so may prove invaluable to persons relying on the document.

☐ INDIVIDUAL
☐ CORPORATE OFFICER(S)

☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR

☒ OTHER: Manager

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

Birchwood Park, LLC

Chambers, Derek

From: Jare Chick <jandjchick@gmail.com>
Sent: Tuesday, December 06, 2016 5:51 PM
To: Chambers, Derek
Subject: Re: Maxwell info.

On Dec 6, 2016, at 3:56 PM, lynn kyle <lkyleland@aol.com> wrote:

I'm surprised you did not receive this. Derek Chambers said you can still send in a letter or an email expressing your concerns. His email is at the bottom of the attached sheet.

The mailing address is as follows:

Department of Public Works and Planning

Development Services Division

Mr. Derek Chambers

2220 Tulare Street, Sixth Floor

Fresno, CA 93721

I think one of the main concerns is the type of events Maxwell is planning on. There is nothing in the letter giving any guidelines. At this point it is anything he wants to do. Of course it will increase traffic and noise on the event days.

I would let Mr. Chambers know you were not notified of the modification to Maxwell land use permit. You were notified the first time around.

Thanks,

Lynn

Derek Chambers

<Maxwell info.jpeg>

WE STRONGLY DISAPPROVE OF DRA APPLICATION No 4112. We were never notified of this application

Director Review and Approval (DRA) No. 4465
Conditions of Approval

Conditions of Approval	
1.	All Conditions of Approval, Mitigation Measures and Project Notes for Director Review and Approval (DRA) No. 4112 shall remain in full force and effect, except as modified with the approval of DRA No. 4465.
2.	There shall be no more than 26 event days per year consisting of at least six youth-focused equestrian event days and at least six adult-focused equestrian event days.

Conditions of Approval reference recommended Condition for the project.

DC:ksn
G:\4360Devs&P\InADMIN\BOARD\Board Items\2017\4-25-17\DRA 4465 Appeal\Exhibit C DRA 4465 Conditions.docx