

1 BEFORE THE BOARD OF SUPERVISORS
2 OF THE
3 COUNTY OF FRESNO, STATE OF CALIFORNIA
4

5 APPROVAL OF CLASSIFIED CONDITIONAL USE)
6 PERMIT NO. 3632 FOR AN AGRICULTURAL COMMERCIAL) RESOLUTION
7 CENTER WITH CONDITIONS OF APPROVAL)

8 WHEREAS, Luis Bravo (Applicant/Appellant) made an application to the Fresno County
9 Planning Commission (Planning Commission) for approval of Classified Conditional Use Permit
10 (CUP) No. 3632, and adoption of Mitigated Negative Declaration prepared for Initial Study No. 7568
11 in relation to a agricultural commercial center with a flea market; and

12 WHEREAS, the flea market will provide service to the rural area east of the city of Coalinga
13 on property located at 23436 W. Jayne Avenue, Coalinga, on the north side of W. Jayne Avenue,
14 approximately 2,556 feet west of its intersection with El Dorado Avenue (the Site); and

15 WHEREAS, the Site, is located in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel
16 size) Zone District; and

17 WHEREAS, on February 13, 2020, the Planning Commission denied CUP No. 3632; and

18 WHEREAS, Applicant/Appellant made a timely appeal to the Board of Supervisors (Board) of
19 the County, pursuant to County Zoning Ordinance Section 873(G); and

20 WHEREAS, County Zoning Ordinance Section 873(H) requires that the Board hold a *de*
21 *novo* public hearing on the Planning Commission's denial of an unclassified conditional use permit;
22 and

23 WHEREAS, Pursuant to County Zoning Ordinance Section 873(F), in order for the Board to
24 approve CUP No. 3632, the Board must make the following findings:

- 25 1. That the Site for the proposed use is adequate in size and shape to accommodate
26 said use and all yards, spaces, walls and fences, parking, loading, landscaping and
27 other features required by this Division to adjust said use with land and uses in the
28 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 have no adverse impact on abutting property and surrounding neighborhood or permitted use thereof.
4. That the proposed development is consistent with the General Plan.
5. That the conditions stated in the resolution are deemed necessary to protect the public health, safety, and general welfare.

WHEREAS, on April 14, 2020, the Board held a public hearing with respect to the proposed agricultural commercial center, as described herein; and

WHEREAS, after duly giving all required public notices, and an opportunity for the public to speak and present evidence for and against the proposed agricultural commercial center with flea market, as described herein, and having complied with all applicable requirements of the law, including the County Zoning Ordinance, the Board hereby resolves and takes the following actions, including making the following findings.

NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the Site for 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 (Finding 1), and, in light of such requirement, the Board hereby makes the following findings:

- The proposed project exceeds the minimum building setback requirements of the County of Fresno AE-40 Zone District.
- The proposed facility will be set back approximately 220 feet from the front property line, 1,960 feet from the rear property line, 740 feet from the west side property line and 120 feet from the east side property line.
- Based the foregoing facts, which this Board has found, the Applicant/Appellant has satisfied Finding 1.

1 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the Site
2 for the proposed use relates to streets and highways adequate in width and pavement type to carry
3 the quantity and kind of traffic generated by the proposed use (Finding 2), and, in light of such
4 requirement, the Board hereby makes the following findings:

- 5 • Site access will be from Jayne Avenue and ample area is available on the Site for
6 circulation and parking.
- 7 • Jayne Avenue has sufficient width and capacity to serve the Site with the addition of
8 improvements listed in the Mitigation Monitoring and Reporting Program.
- 9 • Based the foregoing facts, which this Board has found, the Applicant/Appellant has
10 satisfied Finding 2.

11 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the
12 proposed use will have no adverse impact on abutting property and surrounding neighborhood or
13 permitted use thereof (Finding 3), and, in light of such requirement, the Board hereby makes the
14 following findings:

- 15 • The agricultural commercial center will not have an adverse effect on abutting
16 property because it is grazing land that is remote from development and residences.
- 17 • The Mitigation Measure for aesthetics requires that all outdoor lighting shall be
18 hooded and directed so as not to shine toward adjacent properties and public streets.
- 19 • The Mitigation Measures for air quality require that consistent with San Joaquin
20 Valley Air Pollution Control District Regulation VIII (Fugitive PM10 Prohibitions), the
21 following measures shall be implemented for dust control during grading and
22 construction:

- 23 1. The area disturbed by clearing, grading, earth moving, or excavation
24 operations shall be minimized to prevent excessive amounts of dust.
- 25 2. Pre-grading/excavation activities shall include watering the area to be
26 graded or excavated before commencement of grading or excavating
27 activities. Application of water should penetrate sufficiently to minimize fugitive
28 dust during grading activities.

1 3. Fugitive dust produced during grading, excavation, and construction
2 activities shall be controlled by the following activities:

- 3 a. All trucks shall be required to cover their loads as required by
4 California Vehicle Code Section 23114.
5 b. All graded and excavated material, exposed soil areas, and
6 active portions of the construction site, including unpaved
7 onsite roadways, shall be treated to prevent fugitive dust.
8 c. Treatment shall include, but not necessarily be limited to,
9 periodic watering, application of environmentally-safe soil
10 stabilization materials, and/or roll compaction as appropriate.
11 Watering shall be done as often as necessary by using
12 reclaimed water whenever possible.

13 4. Graded and/or excavated inactive areas of the construction site shall
14 be monitored at least weekly for dust stabilization. Soil stabilization
15 methods shall be periodically applied to portions of the construction
16 site that are inactive for over four days. If no further grading or
17 excavation operations are planned for the area within three weeks, it
18 shall be seeded and watered until grass growth is evident, or
19 periodically treated with environmentally-safe dust suppressants, to
20 prevent excessive fugitive dust.

21 5. Signs shall be posted on site, limiting traffic to 15 miles per hour or
22 less.

23 6. During periods of high winds, all clearing, grading, earth moving, and
24 excavation operations shall be curtailed to the degree necessary to
25 prevent fugitive dust from being an annoyance or hazard, either off site
26 or on site.
27
28

7. Adjacent streets and roads shall be swept at least once per day, preferably at the end of the day, if visible soil material is carried over to adjacent streets and roads.
8. Personnel involved in grading operations, including contractors and subcontractors, shall wear respiratory protection in accordance with California Division of Occupational Safety and Health regulations.
9. Rumble strips/shaker plates or base rock shall be installed at all truck exits from the site.
10. Dust-control requirements shall be shown on all grading plans.

The following shall be implemented during construction to minimize emissions of ozone precursors:

- a. Construction contractors shall minimize equipment idling time throughout construction. Engines shall be turned off if idling would be for more than five minutes.
- b. Equipment engines shall be maintained in good condition and in proper tune as per manufacturers' specifications.
- c. The number of pieces of equipment operating simultaneously shall be minimized.
- d. Construction contractors shall use alternatively-fueled construction equipment (such as compressed natural gas, liquefied natural gas, or electric) when feasible.
- e. The engine size of construction equipment shall be the minimum practical size.
- f. Heavy-duty diesel-powered construction equipment manufactured after 1996 (with federally-mandated clean diesel engines) shall be utilized wherever feasible.

1 g. During the smog season (May through October), the
2 construction period should be lengthened.

- 3 • The Mitigation Measures for biological resources require a qualified biologist shall
4 conduct a habitat assessment in advance of project implementation to determine if
5 the project area or its immediate vicinity contains suitable habitat for San Joaquin kit
6 fox (SJKF), assess presence/absence of SJKF by conducting surveys following the
7 USFWS "Standardized Recommendations for Protection of SJKF Prior to or During
8 Ground Disturbance" (2011), and upon SJKF detection, consult with CDFW to
9 discuss how to avoid take, or if avoidance is not feasible, acquire an Incidental Take
10 Permit (ITP) prior to the project activities, pursuant to Fish and Game Code Section
11 2081 (b).
- 12 ○ A qualified biologist shall conduct a habitat assessment in advance of project
13 implementation to determine if the Project area or its immediate vicinity
14 contains suitable habitat for Blunt-nosed leopard lizard (BNLL). If suitable
15 habitat is present, prior to initiating any project activities, conduct surveys in
16 accordance with the "Approved Survey Methodology for the Blunt-nosed
17 Leopard lizard" (CDFG 2004). Complete BNLL surveys no more than one year
18 prior to initiation of ground disturbance. Protocol-level surveys must be
19 conducted on multiple dates during late spring, summer, and fall, and that
20 within these time periods there are specific protocol-level date, temperature,
21 and time parameters which must be adhered to. If BNLL is detected during
22 protocol level surveys, CDFW shall be consulted to discuss how to implement
23 project activities and avoid take.
- 24 ○ A qualified biologist shall conduct a habitat assessment in advance of project
25 implementation to determine if the project area or its immediate vicinity
26 contains suitable habitat for San Joaquin Antelope Squirrel (SJAS). In areas
27 of suitable habitat, a qualified biologist shall conduct focused daytime visual
28 surveys for SJAS using line transects with 10- to 30-meter spacing. These

1 surveys shall be conducted between April 1 and September 20, during
2 daytime temperatures between 68-86° F (CDFG 1990). If suitable habitat is
3 present and surveys or trapping are not feasible, a 50-foot minimum no-
4 disturbance buffer shall be maintained around all small mammal burrows of
5 suitable size for SJAS. If SJAS is detected, CDFW shall be consulted to
6 discuss how to avoid take, or if avoidance is not feasible, to acquire an
7 Incidental Take Permit (ITP) prior to ground-disturbing activities, pursuant to
8 Fish and Game Code Section 2081 (b).

- 9 ○ A qualified wildlife biologist shall conduct surveys for nesting raptors following
10 the survey methodology developed by the Swainson's Hawk (SWHA)
11 Technical Advisory Committee (SWHA TAC 2000) prior to project initiation
12 and assure that these surveys extend to a one half-mile radius surrounding
13 the project area. If project activities take place during the normal bird breeding
14 season (February 1 through September 15), additional pre-construction
15 surveys for active nests shall be conducted by a qualified biologist no more
16 than 10 days prior to the start of construction. If an active SWHA nest is
17 found, a minimum one half-mile no-disturbance buffer shall be provided until
18 the breeding season has ended or until a qualified biologist has determined
19 that the birds have fledged and are no longer reliant upon the nest or parental
20 care for survival. If SWHA are detected and the one half-mile no-disturbance
21 nest buffer is not feasible, the California Department of Fish and Wildlife shall
22 be consulted to determine if the project can avoid take. If SWHA cannot be
23 avoided, an ITP prior to vegetation or ground-disturbing' activities is necessary
24 to comply with the California Endangered Species Act.
- 25 ○ A qualified biologist shall conduct a habitat assessment in advance of project
26 implementation to determine if the project area or its immediate vicinity
27 contains suitable habitat for Giant Kangaroo Rat (GKR) and Short-nosed
28 Kangaroo Rat (SNKR). If suitable habitat is present, a trapping plan for

determining presence of GKR and SNKR shall be submitted to and approved by CDFW prior to subsequent trapping efforts. These surveys shall be conducted by a qualified biologist who holds a Memorandum of Understanding with the California Department of Fish and Wildlife (CDFW) for GKR and SNKR, and be conducted between April 1 and October 31, when kangaroo rats are most active. If suitable habitat is present and trapping is not feasible, a 50-foot minimum no-disturbance buffer shall be established around all small mammal burrows. If GKR or SNKR are found within the project area during pre-construction surveys or construction activities, CDFW shall be consulted to discuss how to implement the project and avoid take; or if avoidance is not feasible, to acquire an Incidental Take Permit for GKR prior to any ground-disturbing activities, pursuant Fish and Game Code Section 2081(b).

- The project site shall be surveyed for special-status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities" (CDFW 2018). In the absence of protocol-level surveys being performed, additional surveys may be necessary. The special-status plant species shall be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then the California Department of Fish and Wildlife (CDFW) shall be consulted to determine appropriate minimization and mitigation measures for impacts to special-status plant species. If a California Endangered Species Act (CESA)-listed plant species is identified during botanical surveys, CDFW shall be consulted to determine if the project can avoid take. If take cannot be avoided, take authorization may be warranted. Take authorization would occur through issuance of an Incidental Take Permit by CDFW, pursuant to Fish and Game Code Section 2081(b).

- A qualified biologist shall conduct a habitat assessment in advance of project implementation, to determine if the project area or its vicinity contains suitable habitat for Burrowing Owl (BUOW). If suitable habitat is present on or in the vicinity of the project area, a qualified biologist shall conduct surveys following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012). Three or more surveillance surveys shall be conducted during daylight with each visit occurring at least three weeks apart during the peak breeding season (April 15 to July 15), when BUOW are most detectable. In addition, the surveys shall include a 500-foot buffer around the Project area. No-disturbance buffers, as outlined in the "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) shall be implemented prior to and during any ground-disturbing activities. Specifically, any impacts to occupied burrows shall be avoided in accordance with the following table unless a qualified biologist approved by the California Department of Fish and Wildlife verifies through non-invasive methods that either: 1) the birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.
- If Burrowing Owl (BUOW) are found within these recommended buffers and avoidance is not possible, burrow exclusion shall be conducted according to the Staff Report (CDFG 2012) by qualified biologists and only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. Also, occupied burrows shall be replaced with artificial burrows at a ratio of 1 burrow collapsed to 1 artificial burrow constructed (1:1) as mitigation for the potentially-significant impact of evicting BUOW.

- A qualified biologist shall conduct a habitat assessment in advance of project implementation, to determine if the project area or its immediate vicinity contain suitable habitat for Loggerhead shrike, LeConte's thrasher, American badger, San Joaquin coachwhip, western spadefoot, California legless lizard, California glossy snake, coast horned lizard, and American badger. If suitable habitat is present, a qualified biologist shall conduct focused surveys for applicable species and their requisite habitat features to evaluate potential impacts resulting from ground and vegetation disturbance. Avoidance whenever possible is encouraged via delineation and observance a 50-foot no-disturbance buffer around dens of mammals like the American badger as well as burrows which can provide refuge for small mammals, reptiles, and amphibians, and 100 feet around nests of special-status bird species.
- In addition to consultation with the California Department of Fish and Wildlife's (CDFW) Regional California Endangered Species Act staff, CDFW's Regional Ecological Reserve Management Unit staff shall also be consulted in advance of project initiation to demonstrate accurate delineation of property boundaries to prevent encroachment on CDFW-owned lands. Consultation is also recommended to discuss planned ingress and egress to the project area for the purposes of preventing encroachment on CDFW-owned lands. John Battistoni, Regional Ecological Reserve Management Unit Supervisor, shall be contacted via email at John.Battistoni@wildlife.ca.gov. or via telephone at 559-243-4014 extension 219.

To mitigate impact to natural lands, the project proponent shall do the following:

- a. To mitigate for permanent impacts to natural lands by permanently conserving similar vegetation communities (grassland, saltbush scrub) that provide habitat for San Joaquin kit fox, San Joaquin antelope squirrel, and short-nosed kangaroo rat, provide one acre of mitigation land for each acre of development authorized.

- b. Permanently protect mitigation land through a conservation easement deeded to a nonprofit conservation organization or public agency with a conservation mission.
- c. Develop and implement a mitigation land management plan to address long-term ecological sustainability and maintenance of the site.
- d. Fund the maintenance and management of mitigation land by establishing a long-term funding mechanism such as an endowment.
- e. Mitigation lands shall be on, adjacent to, or near the Project site where possible.
- f. Where there is insufficient habitat on, adjacent to, or near the Project site, acquire mitigation lands with habitat for San Joaquin kit fox, San Joaquin antelope squirrel and short-nosed kangaroo rat away from the Project site.
- g. Alternatively, if the project site is within the service area of a California Department of Fish and Wildlife-approved conservation bank, purchase available conservation bank credits from that bank.
- o To protect brittlescale, crownscale, San Joaquin woollythreads, and recurved larkspur, a qualified biologist shall survey the project site during the flowering period (February–May for San Joaquin woollythreads and recurved larkspur; June–October for brittlescale; March–October for crownscale) for these species following the Protocols for Surveying and Evaluating Impacts to Special Status Plant Populations and Sensitive Natural Communities (CDFW 2018b). If any of these species is present, the qualified biologist shall stake and flag no-disturbance exclusion zones of 100 feet around these plants prior to construction activities. These exclusion zones shall remain in place throughout construction activities. If these exclusion zones cannot be maintained, the project proponent shall consult with the CDFW to determine

appropriate measures to implement to minimize or mitigate impacts to special-status plants.

- To protect San Joaquin coachwhip and California glossy snake, a qualified biologist shall conduct pre-construction surveys where suitable habitat is identified within proposed work areas immediately prior to ground-disturbing activities. If either species is found, work shall not begin until the animal has moved out of the work area on its own. During construction, a qualified biologist shall inspect open trenches, pits, and construction equipment and materials left on site for snakes each morning prior to the start of work and at the end of each workday.
- To protect blunt-nosed leopard lizard, a qualified biologist shall establish no-disturbance exclusion zones of 50 feet around all occupied or potentially-occupied burrows. A qualified biologist shall inspect open trenches for blunt-nosed leopard lizards each day prior to the start of work and at the end of each workday. If a blunt-nosed leopard lizard is found, all construction activities shall halt until it has moved out of the work area on its own. If ground-disturbing activities cannot avoid burrows, surveys following the methods described in Approved Survey Methodology for the Blunt-nosed Leopard Lizard (CDFG 2004) shall be conducted within one year of ground-disturbing activities to determine whether the species is present or absent. The results of these surveys shall be submitted to the California Department of Fish and Wildlife (CDFW). If a blunt-nosed leopard lizard is found at any time in the Project area, the project proponent shall consult with the CDFW to discuss how to implement the Project to avoid take.
- To protect Loggerhead shrike, construction shall be scheduled to avoid the nesting season, which extends from February through August. If it is not possible to schedule construction between September and January, pre-construction surveys for nesting birds shall be conducted by a qualified

1 biologist to ensure that no active nests will be disturbed during Project
2 implementation. A pre-construction survey shall be conducted no more than
3 14 days prior to the initiation of construction activities. During this survey, the
4 qualified biologist shall inspect all potential nest substrates in and immediately
5 adjacent to the impact areas for nests. If an active nest is found close enough
6 to the construction area to be disturbed by these activities, the qualified
7 biologist shall determine the extent of a construction-free buffer to be
8 established around the nest. If work cannot proceed without disturbing the
9 nesting birds, work may need to be halted or redirected to other areas until
10 nesting and fledging are completed, or the nest has otherwise failed for non-
11 construction-related reasons.

- 12 ○ To protect San Joaquin antelope squirrel, a qualified biologist shall conduct
13 pre-construction surveys for the species (Harris and Stearns 1991). If the
14 species is detected near active work areas, the qualified biologist shall
15 establish an exclusion zone of 50 feet around occupied or potentially-occupied
16 burrows. If work must take place in the exclusion zone, the project proponent
17 must consult with the California Department of Fish and Wildlife to determine if
18 take can be avoided. If take cannot be avoided, an Incidental Take Permit
19 pursuant to California Fish and Game Code Section 2081 must be obtained to
20 comply with the California Endangered Species Act.
- 21 ○ To protect short-nosed kangaroo rat, a qualified biologist shall flag occupied or
22 potentially-occupied burrows and establish 50-foot exclusion zones for
23 avoidance. If these exclusion zones cannot be maintained, the project
24 proponent shall consult with the California Department of Fish and Wildlife
25 (CDFW) to determine appropriate measures to implement to minimize or
26 mitigate impacts to short-nosed kangaroo rat.
- 27 ○ To protect American badger, a qualified biologist shall conduct a
28 preconstruction survey for the species. If American badger or American

1 badger activity (e.g., dens, diggings) are detected, the qualified biologist shall
2 establish no-disturbance exclusion zones of 50 feet between active dens and
3 the work area. If these exclusion zones cannot be maintained, the project
4 proponent shall consult with the California Department of Fish and Wildlife to
5 determine appropriate measures to implement to minimize or mitigate impacts
6 to American badger.

- 7 ○ To protect San Joaquin kit fox, a qualified biologist shall conduct a
8 preconstruction survey to identify potential dens, including potential atypical
9 dens (i.e., manmade structures), in the Project area. If potential San Joaquin
10 kit fox dens are present, their disturbance and destruction shall be avoided. If
11 potential dens are located within the proposed work area and cannot be
12 avoided during construction, a qualified biologist shall determine if the dens
13 are occupied following the U.S. Fish and Wildlife Service Standardized
14 Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior
15 or During Ground Disturbance (USFWS 2011). If unoccupied, the qualified
16 biologist will remove these dens by hand, excavating them in accordance with
17 USFWS procedures (USFWS 2011). When occupied or potentially-occupied
18 San Joaquin kit fox dens are adjacent to the work area, exclusion zones shall
19 be implemented following USFWS procedures. Exclusion zones shall be
20 determined based on the type of den and current use: Potential Den: 50 feet;
21 Known Den: 100 feet; Natal or Pupping Den: to be determined on a case-by-
22 case basis in coordination with USFWS and CDFW. All pipes greater than 4
23 inches in diameter stored on the construction site shall be capped and exit
24 ramps shall be installed in trenches and other excavations to avoid direct
25 mortality. When possible, construction shall be conducted from October 1 to
26 November 30, outside of the breeding season. If occupied dens cannot be
27 avoided, the project proponent shall consult with the U.S. Fish and Wildlife
28 Service and California Department of Fish and Wildlife to determine whether

1 Incidental Take Permits may be needed to comply with the Federal
2 Endangered Species Act and California Endangered Species Act.

- 3 ○ The project proponent shall ensure that all activities related to the flea market
4 operation remain within the limits of the project boundaries as shown on the
5 approved Site Plan and must not encroach upon the 0.99 acre of potential
6 waters/wetlands located within the outermost northwesterly corner of the
7 project site as identified by Aquatic Resource Delineation Report prepared by
8 Argonaut Ecological Consulting, Inc., and dated December 3, 2019.
- 9 ○ To the extent practicable, construction shall be scheduled to avoid the nesting
10 season, which extends from February through August.
- 11 ○ If it is not possible to schedule construction between September and January,
12 pre-construction surveys for nesting birds shall be conducted by a qualified
13 biologist to ensure that no active nests will be disturbed during Project
14 implementation. A pre-construction survey shall be conducted no more than
15 14 days prior to the initiation of construction activities. During this survey, the
16 qualified biologist shall inspect all potential nest substrates in and immediately
17 adjacent to the impact areas for nests. If an active nest is found close enough
18 to the construction area to be disturbed by these activities, the qualified
19 biologist shall determine the extent of a construction-free buffer to be
20 established around the nest. If work cannot proceed without disturbing the
21 nesting birds, work may need to be halted or redirected to other areas until
22 nesting and fledging are completed or the nest has otherwise failed for non-
23 construction-related reasons.
- 24 • The Mitigation Measure for cultural resources requires that in the event that cultural
25 resources are unearthed during ground-disturbing activities, all work shall be halted in
26 the area of the find. An Archeologist shall be called to evaluate the findings and make
27 any necessary mitigation recommendations. If human remains are unearthed during
28 ground-disturbing activities, no further disturbance is to occur until the Fresno County

1 Sheriff-Coroner has made the necessary findings as to origin and disposition. All
2 normal evidence procedures shall be followed by photos, reports, video, etc. If such
3 remains are determined to be Native-American, the Sheriff-Coroner must notify the
4 Native American Commission within 24 hours.

- 5 • The Mitigation Measures for hazards and hazardous materials require that If buildings
6 or other structures are to be demolished on any project sites included in the proposed
7 project, prior to the issuance of building permits, surveys shall be conducted for the
8 presence of lead-based paints or products, mercury, asbestos-containing materials,
9 and polychlorinated biphenyl caulk. Removal, demolition and disposal of any of the
10 above-mentioned chemicals shall be conducted in compliance with California
11 environmental regulations and policies. In addition, sampling near current and/or
12 former buildings shall be conducted in accordance with DTSC's 2006 Interim
13 Guidance Evaluation of School Sites with Potential Contamination from Lead-Based
14 Paint, Termiticides, and Electrical Transformers.
 - 15 ○ If any projects initiated as part of the proposed project require the importation
16 of soil to backfill any excavated areas, prior to the issuance of building
17 permits, proper sampling shall be conducted to ensure that the imported soil is
18 free of contamination and the imported materials be characterized according
19 to DTSC's 2001 Information Advisory Clean Imported Fill Material.
 - 20 ○ If any sites included as part of the proposed project have been used for
21 agricultural, weed abatement or related activities, prior to issuance of building
22 permits, the current and former agricultural lands shall be evaluated in
23 accordance with DTSC's 2008 Interim Guidance for Sampling Agricultural
24 Properties (Third Revision).
- 25 • The Mitigation Measure for hydrology and water quality requires that prior to the
26 issuance of building permits and at the time of Site Plan Review for the proposed
27 facility, the project proponent shall complete all water-related requirements for the
28 project as required by and to the satisfaction of the State Water Resources Control

1 Board (SWRCB), Division of Drinking Water (DDW). The project proponent shall also
2 obtain permits from SWRCB-DDW prior to operating a public water system.

- 3 • The Mitigation Measures for transportation require that prior to occupancy being
4 granted to the proposed facility, the project proponent shall obtain the necessary
5 right-of-way, design and construct an eastbound left-turn lane of such length as
6 recommended by a traffic engineer and approved by the County on Jayne Avenue
7 into the patron access driveway, at the developer's expense. Additional pavement
8 construction and dedication of road right-of-way to the County may be required for the
9 widening of Jayne Avenue to accommodate the left-turn lane. Design documents and
10 an encroachment permit application shall be submitted to the Road Maintenance and
11 Operations Division for approval prior to construction.

- 12 ○ Should traffic impacts be observed for either the northbound or southbound
13 off-ramp at the Interstate 5 and Jayne Avenue interchange, the project
14 proponent shall prepare a Transportation Management Plan to alleviate such
15 impacts. The plan, prior to its implementation, shall be reviewed and approved
16 by the California Department of Transportation (Caltrans).

- 17 ○ Prior to the issuance of building permits, and at the time of Site Plan Review,
18 the Applicant shall develop a Traffic Management Plan (TMP) for review and
19 approval by the Road Maintenance and Operations Division of the Fresno
20 County Department of Public Works and Planning. The TMP shall include a
21 220-foot-long driveway off Jayne Avenue as a queueing area, excluding visitor
22 checkpoint/fee collection and the existing 60-foot right-of-way north of Jayne
23 Avenue.

- 24 • Based the foregoing facts, which this Board has found, the Applicant/Appellant has
25 satisfied Finding 3.

26 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the
27 proposed development is consistent with the General Plan (Finding 4), and, in light of such
28 requirement, the Board hereby makes the following findings:

- The Site is located within an agricultural area, which is compatible agricultural commercial centers.
- Through the Mitigation Measures included in the Initial Study, and Conditions of Approval, potential environmental impacts on existing land uses in the area will be reduced to a less than significant level.
- Based the foregoing facts, which this Board has found, the Applicant/Appellant has satisfied Finding 4.

NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the conditions stated in the resolution are deemed necessary to protect the public health, safety, and general welfare (Finding 5), and, in light of such requirement, the Board hereby finds that the following conditions are deemed necessary to protect the public health, safety, and general welfare:

- Development of the Site shall be in accordance with the Site Plan, Floor Plans, Elevations, and Operational Statement approved by the Board.
- Any public access to the parcel shall be provided with right- and left-turn lanes off Jayne Avenue, and be improved as part of the frontage improvements.
- The 220-foot-long public access driveway prior to entry into the visitor parking area shall be paved the entire 220-foot length and include a paved drive approach that ties into Jayne Avenue.
- The vendor access drive shall be paved for the first 100 feet and shall include a paved drive approach that ties into Jayne Avenue.
- Onsite signs shall indicate that vendor access is for vendors only and be restricted for use only during the set-up operations at the start of the day, and the tear-down operations at the end of the day. All other times during the day, traffic shall be confined to the patron entrance only.
- The patrons' parking and circulation areas shall be surfaced with base rock and be covered with either asphalt concrete grindings or road oil.

- The Applicant shall acknowledge the Fresno County Right-to-Farm Ordinance regarding the inconveniences and discomfort associated with normal farm activities surrounding the proposed development.
- Based the foregoing conditions, which this Board has deemed necessary to protect the public health, safety, and general welfare, the Applicant/Appellant has satisfied Finding 5.

NOW, THEREFORE, IT IS ORDERED AND RESOLVED that Classified Conditional Use Permit No. 3632, for the wireless communications facility, is hereby approved subject to the conditions of approval in Finding 5, above.

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its adoption by the Board.

THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this _____ day of _____, 2020, to wit:

AYES:

NOES:

ABSENT:

ABSTAINED:

Ernest Buddy Mendes, Chairman of the Board of
Supervisors of the County of Fresno

ATTEST:

Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____
Deputy