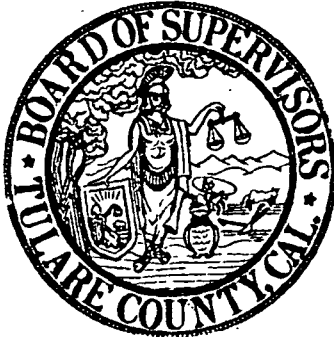


**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF APPEAL OF THE )  
PLANNING COMMISSION APPROVAL OF ) Resolution No. 2018-0445  
SPECIAL USE PERMIT NO. PSP 18-022 )  
FOR AN ASSISTED LIVING FACILITY )  
(THE MAGNOLIA GROUP) )

UPON MOTION OF SUPERVISOR CROCKER, SECONDED BY SUPERVISOR  
ENNIS, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT  
AN OFFICIAL MEETING HELD JUNE 12, 2018, BY THE FOLLOWING VOTE:

AYES: SUPERVISORS CROCKER, SHUKLIAN, WORTHLEY, AND ENNIS  
NOES: SUPERVISOR VANDER POEL  
ABSTAIN: NONE  
ABSENT: NONE



ATTEST: MICHAEL C. SPATA  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: Mary Rodello  
Deputy Clerk

\* \* \* \* \*

1. Held Public Hearing at 9:30 A.M. or shortly thereafter.
2. Based on the findings set forth in the attached "Exhibit A" made a part hereof, denied the appeal filed by Kristine Herd, et al, and affirmed the Planning Commission's approval of Special Use Permit No. PSP 18-022 for an Assisted Living Facility (the Magnolia Group) located on a 2.06-acre parcel in the RA-100 (Rural Residential – 100,000 sq. ft. minimum) Zone, east of the City of Tulare.

RMA, I

HAR  
06/12/2018



**RESOURCE  
MANAGEMENT AGENCY  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One

PETE VANDER POEL  
District Two

AMY SHUKLIAN  
District Three

J. STEVEN WORTHLEY  
District Four

MIKE ENNIS  
District Five

**AGENDA DATE:** June 12, 2018

Public Hearing Required	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Published Notice Required	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Advertised Published Notice	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
County Counsel Sign-Off	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Contract via Streamline	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Celeste Perez

PHONE: 559-624-7010

**SUBJECT:** Appeal of the Planning Commission approval of Special Use Permit No. PSP 18-022 for an Assisted Living Facility (the Magnolia Group)

**REQUEST(S):**

That the Board of Supervisors:

Request that the Board of Supervisors:

1. Hold a Public Hearing at 9:30 A.M. or shortly thereafter.
2. Based on the findings set forth in the attached "Exhibit A" made a part hereof, deny the appeal filed by Kristine Herd, et al, and affirm the Planning Commission's approval of Special Use Permit No. PSP 18-022 for an Assisted Living Facility (the Magnolia Group) located on a 2.06-acre parcel in the RA-100 (Rural Residential – 100,000 sq. ft. minimum) Zone, east of the City of Tulare.

**SUMMARY:**

Kristine Herd, et al, (Appellant(s)) filed this appeal on May 22, 2018 citing the reasons for their appeal as being: a) inconstant zoning, b) increased traffic, and c) increased water usage. Staff's Responses to Appellants concerns are found in Exhibit "A" along with the initial Request for Appeal, Attachment 1.

The Appellants initially appeared before the Planning Commission (PC) on May 9, 2018 in opposition to the project. They were given time to address the Commission prior the Planning Commission deliberating and making a decision on the Project.

**SUBJECT:** Appeal of the Planning Commission Approval of Special Use Permit 18-022 for an Assisted Living Facility (the Magnolia Group)  
**DATE:** June 12, 2018

The Planning Commission approved PSP 18-022 through Resolution 9445, by a unanimous vote of 6-0, on May 9, 2018 (see PC Resolution 9445, Attachment No. 2).

Appellee (Arnulfo & Esperanza Gonzalez, the Magnolia Group, 121 E. Main Street, Suite 303, Visalia, CA 93291) submitted building permits for the "Assisted Living Facility" based on an existing use permit on the site PSP – 08-057 (ZA) for a "contractor's storage yard." Applicant was informed through the building permit process that an additional entitlement would be required for an "Assisted Living Facility". Applicant made application for Project Review Committee, (PRC) No. 18-007. The matter was discussed by the PRC on February 15, 2018.

It was determined by the PRC that an assisted living facility is allowed in the Rural Residential zone, with a Special Use Permit. Entitlement is found in Section 16.II.B, Special Use Permits: Hospital, sanitarium and nursing home is allowed use in the R-A Zone, upon approval of a special use permit. The building permits were initially placed on hold pending Planning Commission approval, but the applicant desired and needed to move forward "at risk" based on their own funding requirements.

The Public Hearing regarding PSP 18-022 held during the May 9, 2018, Planning Commission meeting was legally noticed according to law on Thursday, April 26, 2018, in the Visalia Times-Delta. No letters were initially submitted in opposition to this project. (See Attachment No. 3 Planning Commission Agenda Item).

**FISCAL IMPACT/FINANCING:**

There is No Net County Cost to the General Fund. The Applicant is charged for processing the Special Use Permit, and subsequent appeal, on a full cost recovery basis.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

The County's five-year strategic plan includes the "Economic Well Being Initiative - to promote economic development opportunities, effective growth management and a quality standard of living"; the "Quality of Life Initiative – to promote public health and welfare, educational opportunities, natural resource management and continued improvement of environmental quality." The approval of this project helps fulfill these initiatives by:

- Encouraging growth consistent with the County General Plan;
- Creation of good paying jobs; and,
- Supporting economic development projects.

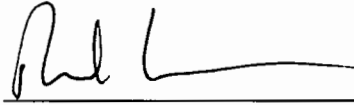
**SUBJECT:** Appeal of the Planning Commission Approval of Special Use Permit 18-022 for an Assisted Living Facility (the Magnolia Group)

**DATE:** June 12, 2018

**ADMINISTRATIVE SIGN-OFF:**



Michael Washam  
Associate Director



Reed Schenke, PE  
Director

cc: County Administrative Office

Exhibit "A" – Findings and Conclusions / Denial of Appeal

Attachment 1 – Appeal Letter

Attachment 2 – Planning Commission Resolution No. 9445 approving PSP 18-022

Attachment 3 – Planning Commission (PC) Agenda Packet (May 9, 2018)

Attachment 4 – Notice of Exemption

## **Exhibit "A"**

### **Findings and Conclusions Denial of Appeal of Kristine Herd, et al, (Appellant(s))**

The Board of Supervisors bases their decision for the Denial of Appeal and Affirmation of the Planning Commission's Decision on the following Findings, Clarifications and Declarations. With respect to the Appeal of the Planning Commission's decision of May 9, 2018 to Special Use Permit (PSP 18-022), the Tulare County Board of Supervisors, hereby incorporates all the records by reference, certifies the record, denies this appeal and affirms the Planning Commission's Agenda, Staff Presentation, and Resolution No. 9445, and to the Agenda Item, based on substantial evidence, and hereby finds and concludes as follows:

The below Findings and Clarifications are of the Board of Supervisor's Decision on June 12, 2018 for the Appeal and Affirmation of the Planning Commission's Decision, which was approved by a Vote of (6-0), to Approve the Project on May 9, 2018.

#### **Summary**

Overall, the Board denies the appeal and affirms the Planning Commission's Decision of May 9, 2018. The Board finds that there was no error or abuses of discretion by the Planning Commission when they approved the Special Use Permit for an 18 Bed, "Assisted Living Facility" under the R-A-100 Zone. The application for an Assisted Living Facility, with a Notice of Exemption complies and Zoning Code District R-A-100 Rural Residential Zoning (Rural Residential – 100,000 sq. ft. minimum) Zone, with the Zoning Code Section 16.II.B, Special Use Permits. The Project's facility is proposed on a 2.06 - acre property that currently is being constructed and will be made in compliance with the Zoning Code by this Resolution of the Board of Supervisors.

Although the Board is concerned with all citizens of Tulare County, and the ability to make its citizens comply with all the laws of the County, it is noted for the record that the enforcement of its building codes and zoning codes has occurred through the process to bring the Project into compliance.

#### **Findings and Clarifications**

- A. Staff has responded to all comments made by Appellant, below. As stated in findings backed by substantial evidence throughout the record, the Board hereby finalizes and concludes with its decision of denial and affirmation of the Planning Commission's Project Approval, per the following clarifications and responses to appellant that:

**(a) Inconsistent Zoning. Allowing the "categorical exemption" would be inconsistent with surrounding zoning.**

The requested "special use permit" is to allow an 18-bed assisted living facility (nursing home) in the R-A-100 (Rural residential – 100,000 sq. ft. minimum) Zone on a 2.06-acre parcel located at 1333 Lewis Lane, on the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare (APN 150-200-001).

The Board finds that Appellant misuses the term "categorical exemption" in relation to the nature of the decision for a "use permit" and finds that Appellant is not the lead agent or interpreter of its zoning code. The County's expertise and experience is in its Resource Management Agency, and in its Planning Commissioners.

Appellant's suggestion to not allow that "categorical exemption" for an Assisted Living Facility, for 24 hours, would be inconsistent with the Tulare County Zoning Code's provisions for Special Use Permits. The project lies within the County Urban Area Boundary and City Urban Area Boundary of the City of Tulare (who had no comment), and it is surrounded by properties zoned R-A-100 (32 properties), AE-20 (2 properties) and AE-40 (6 properties that are not in compliance with the acreage requirement of the AE-40 Zone). Staff has found the Project to be consistent with the Tulare County General Plan, Zoning Code, and precedent. All of which allows commercial uses in rural residential zones. Especially, since this property had an existing use permit for a "contractor's storage yard", as do the surrounding properties. There have been a few attempts at other Use Permits in the neighborhood but of those two (2) were for 2<sup>nd</sup> residences, a voided old kennel use permit and a building permit for a personal use shop, after a Project Review Committee meeting.

The Board has historically allowed similar uses in the R-A Zones, under Section 16 of the Zoning Code; therefore, to not allow this project would be contrary to the zoning code and precedent. This is especially true when the Zoning Code would allow hospitals and sanitariums, which are much more intensive health related services.

Ordinance No. 352, the Zoning Ordinance does not specifically site "Assisted Living Facility" in Section 16: Variances and Special Use Permits; instead, it refers to "Hospital, Sanitarium, and Nursing Home" as being an allowed use in the R-A Zone, upon approval of a special use permit. Nursing Home is not defined in Section 2 of Ordinance No. 352: Definitions.

The Merriam-Webster Dictionary defines nursing home as "a public or private residential facility providing a high level of long-term personal or nursing care for persons (such as the aged or the chronically ill) who are unable to care for themselves properly." Assisted living facility is a synonym for nursing home (which has fallen out of use); therefore, the entitlement for this project is correct in that it was obtained via Section 16.II.B: Hospital, sanitarium and nursing home being allowed in the R-A Zone by means of an approved special use permit.

Under Health and Safety Code Section 1267, et seq., licensed group home facilities with 6 or fewer residents is a permitted use in all zones under State Law. The facility will require licensing through the State Community Care Licensing Division, and will meet all Title 22 Regulations with regard to Community Care Licensing.

**(b) Increased Traffic. (i) Commercial, 24 hour, care facility in a rural residential area increases 24-hour traffic from caregivers, family, and friends. (ii) Property accessible from Prosperity (heavily traveled “connector road”), Oakmore Street (heavily traveled connects to Tulare and Visalia / several recent accidents), and Lewis Lane.**

The Board finds that for the record, the Chief Environmental Planner of the County found the Project to be consistent with CEQA, as a Categorical Exemption, because of its limited potential impacts. Specifically, the Planning Commission found the project is Categorically Exempt from the California Environmental Quality Act (CEQA) and the State CEQA Guidelines for the Implementation of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15301, Class 1, pertaining to Existing Facilities. The use of Section 15301, Class 1 is applicable and appropriate, as the project is compatible with this exemption because the project will utilize the existing facilities, with interior improvements to meet the health care requirements. No “new” development is proposed.

- i. Currently there is existing parking area space for upwards of 50 vehicles on the existing asphalt and concrete. The existing contractor storage permit allows 15 employees / 44 vehicle trips per day. This project includes 18 beds with 12 employees on various shifts to assure the 24/7 coverage, with limited visitation by family and friends and use of emergency vehicles only under limited circumstances (with sirens off). The estimated 24 employee, with 10 guest/ emergency vehicles will be a reduction in vehicle trips per day for this site.

For clarification, the Project does not generate enough traffic to exceed even the General Plan’s threshold of 100 peak hour trips, or Caltrans 50 peak hour trips, to warrant a traffic study under CEQA. And given the area is highly developed and the Project already existed, so it would not necessarily increase any of its existing baseline conditions to generate any greater impacts to be studied; therefore, CEQA is satisfied with a Categorical Exemption. This project was circulated through the Public Works Dept., who had no comment about the Project, or even the impacts to the roadways, even after apprised of all the facts. The County maintains all roadways considered within the Right of Way of the County.

- ii. The City of Tulare General Plan considers Prosperity Avenue (East of Blackstone) and Oakmore Street (Road 124) to be major arterials, not collectors, and are expected to have average daily traffic of over 10,000 vehicles per day (City of Tulare, General Plan 3-6). The City General Plan allows for industrial, commercial, and/or high-density residential access to a

major arterial (with site plan review), and the Project has been approved through the County's Planning Commission. In addition, there were no recommendations for or by the City, which they had a right to do under their Memorandum of Understanding with the County.

The current traffic counts on Prosperity according to Tulare County Association of Government's 2014 Highway Performance Monitoring System (HPMS) 2014 is 5,089 Annual Average Daily Trips (AADT) to the west and 6,234 AADT to the West (in the 16/17 HPMS model). At Oakdale / Oakmont Ave. traffic counts were at 1,693 Still less than the 10,000 trips that designates a major arterial.

Latest traffic accident data is unavailable from appellant. Without any substantial statistical evidence as to how the Project will have an effect on traffic safety, the issue raised is speculative. The farmers on either side of the project location allow cars for their employees to park along Prosperity, and policing could remedy and remove any potential safety concerns. Appellant's suggestion that there have been accidents "a mile away" make it uncertain as to whether or not the Project will have any effect at all on safety issues. Both access points are available, and the majority of the limited access to the site will be from Prosperity and on Lewis Lane on a limited basis.

**(c) Increased Water Usage. A 24 hour facility would increase water usage that went dry three (3) years ago, and 90% had to drill new wells. Current drought requires continued water conservation and not increase water usage in the area.**

The site has an existing 5-hp pump and the patients sleeping patterns would typically and dramatically reduce night use of water. The landscaping will also have to comply with the County's Model Water Efficiency Landscape Ordinance, which will further reduce water usage 50%. The existing baseline water usage of a contractor's storage yard includes the employee bathroom (for 15 employees) and vehicle cleaning, and would be dramatically less than surrounding agricultural uses. The Building Permit will require water conservation measures compliant with the State Building Code. Over time, the effect of the State Groundwater Management Act should reduce the effects of long term drought on the area over all.

Determination of Denial of the Appeal of Kristine Herd in the Matter of PSP 18-022 (The Magnolia Group)



Given the above findings and clarifications, the Board finds and concludes as follows:

That the Board Denies the Appeal of Kristine Herd made May 22, 2018 and Affirms the decision of the Planning Commission to approve the Project on May 9, 2018 for PSP 18-022 by Resolution No. 9445 and further declares that:

**Affirmative Statement of Tulare County General Plan (GP), Zoning Compliance and Procedural Adequacy.**

The Board affirmatively states that the Project is compliant with the County's General Plan. The Board states that the Board's and Planning Commission's Land Use Authority and Responsibilities were fully utilized and that both Tulare County Land Use Authority's Discretionary Bodies found that staff carefully and methodically brought the Project into compliance, presented and analyzed the Project. The Board states that the Project complies with all of the General Plan and Zoning Code and Procedural policies, as stated in the Agenda, Planning Commission Resolution, and this Board's Findings. These include all policies under the (2012) Tulare County 2030 General Plan, the Special Use Permit for Hospitals, Sanitariums, and Nursing Homes as it applies to Assisted Living Facilities, as provided in Section 16 of said Ordinance No. 352, and as provided in Section 65905 of the Government Code and Health and Safety Code Section 1267 of the State of California, and the Code Enforcement Procedures of Tulare County.

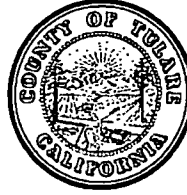
**Certification of the Record.**

Therefore, on this date, June 12, 2018, the Board of Supervisors hereby incorporates all the records by reference, certifies the record, denies this appeal and affirms the Planning Commission's Agenda and Resolution No. 9445 based on substantial evidence, and the Board's Findings and Conclusions and Staff's Response to Comment as found in this Exhibit A, as stated above.

# **Attachment “1”**

## **Appeal Letter**

# County of Tulare



Clerk of the Board

Michael C. Spata  
County Administrative Officer  
Clerk of the Board

Melinda Benton  
Interim Chief Clerk

May 22, 2018

TO: Michael Washam, Resource Management Agency

FROM: Melinda Benton, Chief Clerk *Melinda B*  
Clerk of the Board

SUBJECT: Appeal regarding Special Use Permit PSP 18-022

Cc: Celeste Perez, Resource Management Agency  
County Counsel

---

Attached is the appeal that was filed in our office by Kris & Kristine Herd, et al. regarding Special Use Permit PSP 18-022.

THE ABOVE APPEAL WILL APPEAR ON THE BOARD'S AGENDA

TO CONDUCT A PUBLIC HEARING ON **June 12, 2018 AT 9:30 A.M.**

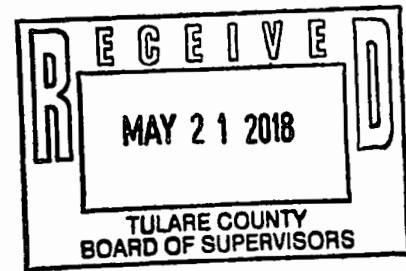
Please forward the original and six copies of all back-up material by the agenda deadline prior to the meeting in which this appeal will be heard. Also, please publish the public hearing notice.

Thank you for your assistance.

Attachments

May 21, 2018

Tulare County Board of Supervisors  
Steve Worthley, Chairman  
2800 W. Burrel Avenue  
Visalia, CA 93291



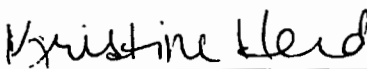
Mr. Chairman:

We are writing to appeal Special Use Permit No. PSP 18-022 which was approved on May 9, 2018 by the Tulare County Planning Commission.

The above Special Use Permit is for a ***Categorical Exemption and Special Use Permit to allow an 18-bed assisted living facility in the R-A-100 Rural-Residential zone.*** The subdivision borders are Prosperity Avenue/Lewis Lane, Lewis Lane/Oakmore Street and Prosperity Avenue/Oakmore Street (see attached subdivision map). We are appealing the special use permit based on the following:

- a) **Inconsistent Zoning.** All of the surrounding properties are zoned R-A-100, AE-20 and AE-40. Approving the categorical exemption and special use permit is inconsistent with the immediate and surrounding area which is zoned Rural Residential and Exclusive Agriculture. Allowing the categorical exemption would be inconsistent with the zoning in the area (see attached Tulare County Rural Residential Zoning Regulations and Ordinance). The R-A Rural Residential Zone does not provide for the use of the land for a commercial 24-hour facility for assisted living purposes.
- b) **Increased Traffic.** A commercial, 24-hour care facility in a rural residential area will bring increased 24-hour traffic from the employees, additional caregivers brought in for specialized treatment, as well as family and friends of the residents. This property is accessible not only from Prosperity, but from Oakmore Street as Lewis Lane intersects with both main artery streets. There is already an influx of traffic on Prosperity Avenue because it is a heavily traveled connector road for Visalia residents traveling to Tulare from Lovers Lane. Oakmore Street is also heavily traveled as it connects Tulare to Visalia. There have been several recent fatal accidents on Oakmore Street less than a mile north and is in need of improvements as well.
- c) **Increased Water Usage.** Adding a commercial 24-hour facility would bring increased water usage to our area; an area that went dry less than three years ago and 90% of our lots had to drill new wells. Our current and ongoing drought dictates that we need to continue to conserve our water and not increase water usage in the area.

Signed:



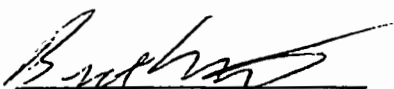
Kris & Kristine Herd  
1425 Lewis Ln, Tulare



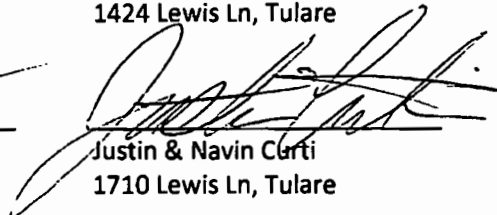
Tony & Becky Peichoto  
1424 Lewis Ln, Tulare



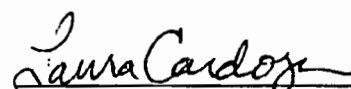
Robert & Wanda Carpenter  
1506 Lewis Ln, Tulare



Bret & Darlene Winger  
3326-A E. Prosperity, Tulare



Justin & Navin Curti  
1710 Lewis Ln, Tulare



Shawn & Laura Cardoza  
1845 Lewis Ln, Tulare

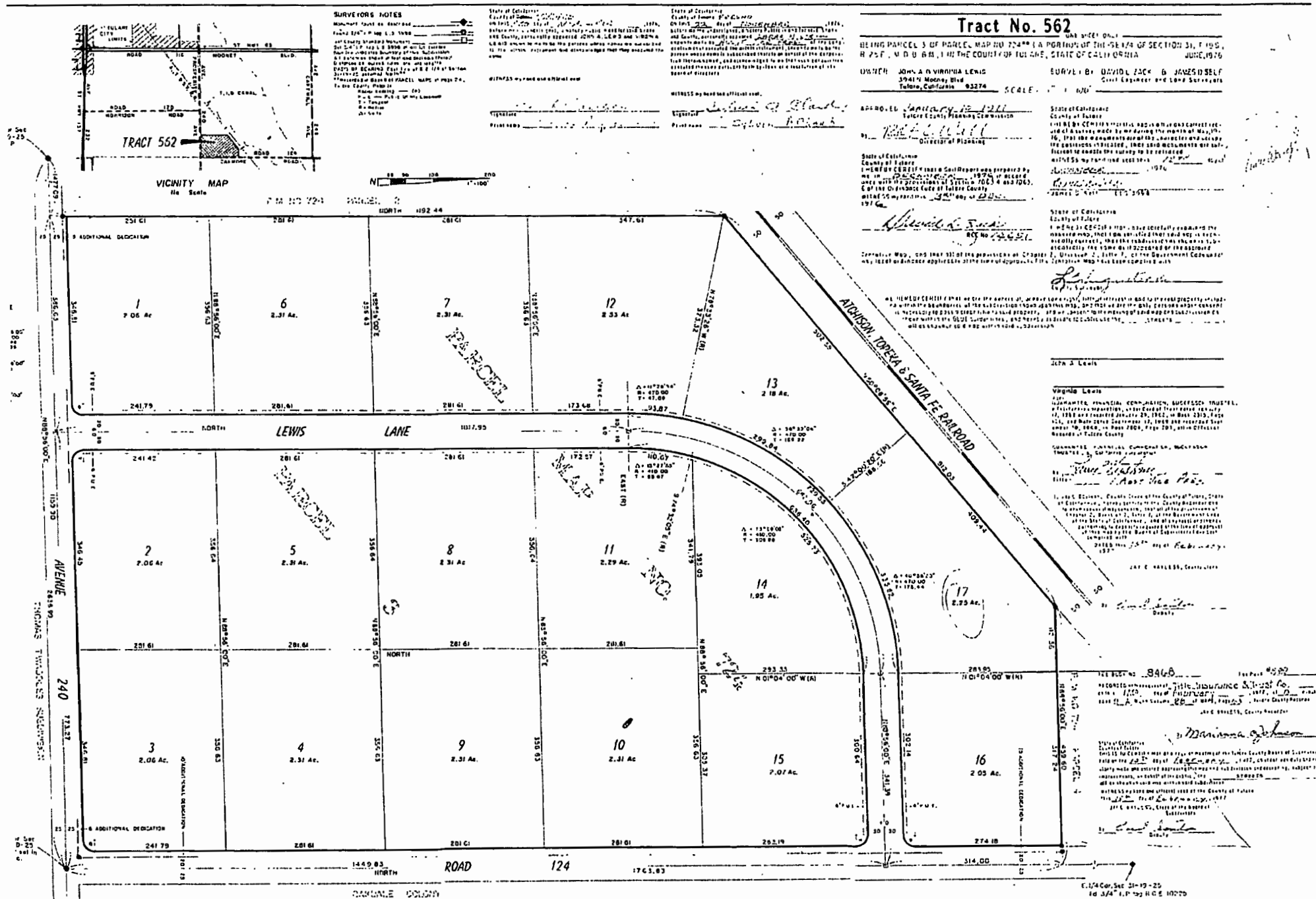
*Darrell Ward Janis Curti*

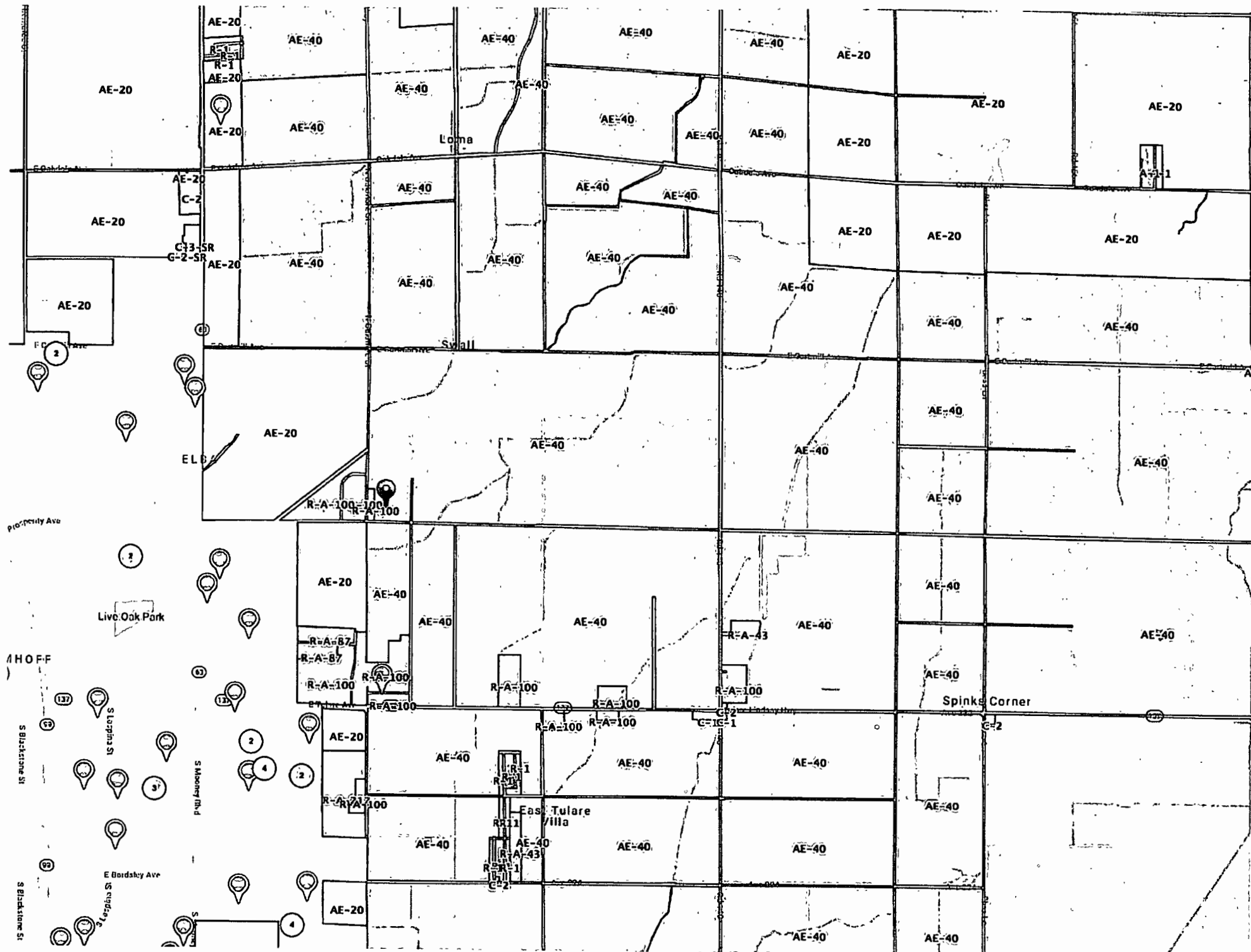
Darrell Ward  
3326-B E. Prosperity, Tulare

Philip & Janice Curti  
1599 Lewis Ln, Tulare

Bill Westbrook  
3326 E. Prosperity, Tulare

*Bill Westbrook*





## **SECTION 4: "R-A" RURAL RESIDENTIAL ZONE**

The following regulations shall apply in the "R-A" Rural Residential Zone unless otherwise provided in this Ordinance:

### **USE A.**

- 1. One-family dwellings** of a permanent character placed in permanent locations and one-family manufactured homes installed on a foundation system pursuant to Section 18551 of the California Health and Safety Code which comply with Subsection H of this Section. Additional housing for not more than nine (9) farmworkers and employees who work on the property, provided that the buildings therefor are not located within the required front, side or rear yard areas, and provided further that such housing for farmworkers or employees be permitted on sites of ten (10) acres or more. Private garages to accommodate not more than three (3) cars. (Amended by Ord. No. 2873, effective 4-20-89; amended by Ord. No. 3009, effective 9-24-92.)
- 1.1 Transitional/Supportive Housing** (Added by Ord. No. 3473, effective 7-30-15.)
- 2. Growing and harvesting of field crops**, fruit and nut trees, vines, vegetables, horticultural specialties and timber, and the operation of plant nurseries and greenhouses for producing trees, vines and other horticultural stock. (Amended by Ord. No. 703, effective 8-27-59; amended by Ord. No. 1152, effective 8-10-67.)
- 2.2 Raising and slaughter of rabbits and other fur bearing animals.** To determine the total number of said animals that can be raised, the total number of square feet in the entire property shall be divided by twelve thousand five hundred (12,500). If the quotient is not a whole number, it shall be increased to the next higher whole number. Said quotient shall then be multiplied by twenty-four (24) and the product is the number of said animals that can be raised on the property. In addition, any offspring of the animals allowed under this paragraph may be retained until they are weaned. (Added by Ord. No. 1152, effective 8-10-67.)
- 2.4 Raising and slaughter of poultry.** To determine the total number of poultry that can be raised, the total number of square feet in the entire property shall be divided by twelve thousand five hundred (12,500). If the quotient is not a whole number, it shall be increased to the next higher whole number. Said quotient shall then be multiplied by twenty-four (24) and the product is the number of poultry that can be raised on the property. (Added by Ord. No. 1152, effective 8-10-67.)
- 2.6 Raising of sheep, goats, horses, mules, swine, bovine animals and other similar domesticated quadrupeds**, subject to the following restrictions: (Added by Ord. No. 1152, effective 8-10-67.)
  - a. None of the aforementioned animals may be raised if there is less than twelve thousand five hundred (12,500) square feet in the entire property.
  - b. One (1) of the aforementioned animals may be raised if there is twelve thousand five hundred (12,500) square feet in the entire property and one (1) additional animal may be raised for each additional full twelve thousand five hundred (12,500) square feet in the entire property. Any offspring of the animals allowed under this subparagraph may be retained until they reach the normal age for weaning.
  - c. No feed lots may be maintained.



3. **One (1) unlighted sign not exceeding six (6) square feet in area** pertaining only to the sale, lease, or hire of only the particular building, property or premises upon which displayed. No other advertising signs, structures or devices of any character shall be permitted in any "R-A" Rural Residential Zone except one sign not larger than three (3) feet by four (4) feet, identifying and advertising products produced on the premises as permitted by this Ordinance.
4. **Storage of petroleum products** for use on the premises.
5. **The keeping of household pets**, such as dogs and cats, provided that no kennel shall be permitted unless a special use permit has been approved in the manner provided in Section 16, Part II. (Added by Ord. No. 2828, effective 3-31-88.)
6. **Bed and Breakfast Home** with one or two guest rooms. (Added by Ord. No. 3222, effective 4-22-99.)
7. **Family Day Care Home, small.** (Added by Ord. No. 3222, effective 4-22-99.)

#### **BUILDING HEIGHT B.**

Two and one half (2-1/2) stories and not to exceed thirty-five (35) feet to uppermost part of roof, except as provided in Sections 15 and 16.

#### **FRONT YARD C.**

There shall be a front yard of not less than twenty-five (25) percent of the depth of the lot provided such front yard need not exceed twenty-five (25) feet except, where lots comprising forty (40) percent or more of the frontage on one side of a street between intersecting streets are developed with buildings having an average front yard with a variation of not more than six (6) feet, no building hereafter erected or structurally altered shall project beyond the average front yard line so established.

#### **SIDE YARD D.**

On interior lots there shall be a side yard on each side of a building of not less than ten (10) percent of the width of the lot, provided that such side yard shall be not less than three (3) feet and need not exceed five (5) feet in width. On corner lots the side yard regulation shall be the same as for interior lots except in the case of a reversed corner lot. In this case, there shall be a side yard on the street side of the corner lot of not less than fifty (50) percent of the front yard required on the lots in the rear of such corner lot, and no accessory building on said corner lot shall project beyond the front yard line on the lots in the rear; provided, further, that this regulation shall not be so interpreted as to reduce the buildable width (after providing the required interior side yard) of a reversed corner lot of record at the time this Ordinance becomes effective, to less than twenty-eight (28) feet, nor to prohibit the erection of an accessory building where this regulation cannot reasonably be complied with.

#### **REAR YARD E.**

There shall be a rear yard of not less than twenty-five (25) percent of the depth of the lot, provided such rear yard need not exceed twenty-five (25) feet.

#### **LOT AREA PER FAMILY F.**

Every main building hereafter erected or structurally altered shall have a lot area of not less than six thousand (6,000) square feet per family. Provided, however, that where a lot has less area than

herein required and was of record at the time this Ordinance became effective, said lot may be occupied by not more than one family.

#### **DISTANCES BETWEEN STRUCTURES G.**

The minimum distance between a structure used for human habitation and a pen, coop, stable, barn, corral, or other structure housing livestock or poultry shall be forty (40) feet. (Added by Ord. No. 1152, effective 8-10-67.)

#### **STANDARDS FOR MANUFACTURED HOMES H.**

1. The installation of a manufactured home in accordance with Subsection A of this Section shall not be permitted if more than ten (10) years have elapsed between the date of manufacture of the manufactured home and the date of issuance of a permit to install the manufactured home.
2. Every manufactured home installed after the effective date of this subsection shall comply with the following architectural requirements.
  - a. Roof overhang: Shall be not less than 12 inches around the entire perimeter of the manufactured home as measured from the vertical side of the home. The overhang requirement may be waived where an accessory structure is attached to the manufactured home.
  - b. Roof material: Shall consist of material customarily used for conventional one-family dwellings, such as tile, composition shingles, and wood shakes and shingles (if permitted by County fire regulations). If shingles or wood shakes are used, the pitch of the roof shall be not less than a nominal 3 inches vertical to 12 inches horizontal.
  - c. Siding material: Shall consist of exterior material customarily used for conventional one-family dwellings, such as stucco, wood, brick, stone or decorative concrete. Metal siding, if utilized, shall be non-reflective and horizontally lapping. Siding material utilized as skirting shall be the same as the material used on the exterior wall surface of the manufactured home. (Subsection H added by Ord. No. 2873, effective 4-20-89.)

ORDINANCE NO. 3473

AN ORDINANCE AMENDING ORDINANCE NO. 352, THE ZONING ORDINANCE OF TULARE COUNTY, PERTAINING TO AMEND SECTION 2, 4, 5, 6, 7, 8 AND 15 OF ORDINANCE NO. 352, THE ZONING ORDINANCE, BY ADDING OR AMENDING THE TRANSITIONAL HOUSING, SUPPORTIVE HOUSING, TARGET POPULATION, FAMILY AND EMERGENCY SHELTER DEFINITIONS AND ADD TRANSITIONAL/SUPPORTIVE HOUSING AS A PERMITTED USE TO SECTION 4, 5, 6, 7 AND 8 (R-A, R-O, R-1, R-2, R-3 ZONES). AMEND SECTION 15.A.6.c SECOND UNIT ORDINANCE FROM AN ADMINISTRATIVE USE PERMIT TO MINISTERIAL.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE DO ORDAIN AS FOLLOWS:

Section 1. Definitions for Transitional Housing, Supportive Housing, Target Population, Family and Emergency Shelters are hereby added to Tulare County Ordinance No. 352, Section 2, as amended from time to time, to read as follows:

Transitional Housing:

"Transitional housing" and "transitional housing development" means buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

Transitional housing is a residential use.

Supportive Housing:

Housing with no limit on length of stay and is linked to on- or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and  
Supportive housing is a residential use.

Target Population:

Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health conditions, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

Family:

An individual, or two(2) or more persons related by blood or marriage, and/or grouped of not more than (6) persons, excluding servants, who are not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit. (Added by Ord. No. 1459, effective 10-1-71.)

One or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit.

Emergency Shelter

"Emergency shelter" means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person. No individual or household may be denied emergency shelter because of an inability to pay.

Section 2. Add Transitional/Supportive Housing as a permitted use to Section 4, 5, 6, 7 and 8 (R-A, R-O, R-1, R-2, R-3 Zones) as follows.

Transitional/Supportive Housing

Section 3. Amend Section 15A.6.c, Second Unit Ordinance as follows:

Second units which are not otherwise allowed by this Ordinance, are ministerially permitted in all residential zones (R-A, R-O, R-1, R-2 and R-3 and MR) ~~only if an administrative use permit is first secured pursuant to the procedures referred to in Subsection G of Part II of Section 16 of~~

~~this Ordinance.~~ Such second units may exceed the allowable density for the lot on which located and shall constitute a residential use compatible with general plan and zoning for the lot. Such second units shall comply with the following regulations:

Section 4. This Ordinance shall take effect thirty (30) days from the date of the passage hereof, or if published more than 15 days after the date of passage, then 30 days after publication, whichever is later, and, shall be published once in the Visalia Times-Delta, a newspaper printed and published in the County of Tulare, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the 30<sup>th</sup> day of June, 2015, at a regular meeting of said Board, duly and regularly convened on said day, by the following roll call vote:

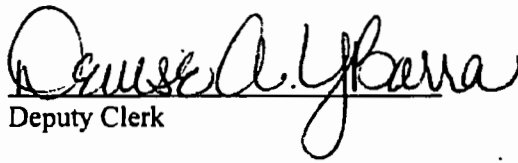
COUNTY OF TULARE

By:

  
Chairman, Board of Supervisors

ATTEST: JEAN M. ROUSSEAU  
County Administrative Officer/  
Clerk, Board of Supervisors

By:

  
Deputy Clerk



## **Attachment “2”**

**Planning Commission Resolution No. 9445 approving  
PSP 18-022**

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF SPECIAL USE PERMIT	)	
NO. PSP 18-022 FOR AN ASSISTED LIVING	)	
FACILITY IN THE R-A-100 ZONE	)	RESOLUTION NO. 9445
THE MAGNOLIA GROUP	)	

Resolution of the Planning Commission of the County of Tulare accepting the Categorical Exemption and conditionally approving Special Use Permit No. PSP 18-022 requested by The Magnolia Group (Arnulfo Gonzalez), 121 E. Main Street, Suite 305, Visalia, CA 93291 to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) Zone, located at 1333 Lewis Lane, on the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare (APN 150-200-001).

WHEREAS, an application for a Special Use Permit has been filed pursuant to the regulations contained in Section 16 of Ordinance No. 352, the Zoning Ordinance, and

WHEREAS, the Planning Commission has given notice of its intention to consider the granting of a Special Use Permit as provided in Section 18 of said Ordinance No. 352 and as provided in Section 65905 of the Government Code of the State of California, and

WHEREAS, Staff has performed necessary investigations, prepared a written report and recommended approval of this application subject to certain conditions of approval, and

WHEREAS, all attached exhibits are incorporated by reference herein; and

WHEREAS, on April 25, 2018, a Notice of Public Hearing by the Tulare County Planning Commission was duly published in the Visalia Times-Delta, a newspaper of general circulation in Tulare County to consider the proposed Project; and

WHEREAS, a public hearing was held and an opportunity for public testimony was provided at a regular meeting of the Planning Commission on May 9, 2018, and

WHEREAS, at the May 9, 2018 meeting of the Planning Commission public testimony was received and recorded from Arnulfo Gonzalez and Esperanza Gonzalez in support of the project and Bret Wininger, Darrell Ward, Bill Westbrook, Becky Peichoto, and Kristine Herd spoke in opposition to the project.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Planning Commission hereby certifies that the Commission has reviewed and considered the information contained in the report for the proposed project together with any comments received during the public review process, in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Quality Act of 1970 prior to taking action on the project.

B. This Planning Commission hereby adopts the following findings of fact as to the reasons for approval of this application:

1. The applicant has requested a Special Use Permit to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) Zone, located at 1333 Lewis Lane, on the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare.
2. Entitlement is found in Section 16.II.B: Hospital, sanitarium and nursing home is an allowed use in the R-A Zone, upon approval of a special use permit.
3. The Project site is located within the Urban Area Boundary of the City of Tulare and the Land Use Designation is “Agriculture.” The following General Plan Policies are relevant to the project: (1) AG-1.14 Right-to-Farm Noticing; (2) PF-4.19 Future Land Use Entitlements in a CACUAB; (3) LU-1.6 Permitting Procedures and Regulations; (4) Housing Guiding Principle 1.4; (5) Housing Guiding Principle 1.5; (6) Housing Policy 1.52; (7) Housing Policy 5.21; (8) HS-1.9 Emergency Access; (9) HS-1.10 Emergency Services Near Assisted Living Housing; (10) HS-6.7 Water Supply System. The Project is consistent with the Tulare County General Plan 2030.
4. The project site is located in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) Zone and contains one single-family dwelling w/garage, pool, barn, and shop. The surrounding properties contain residences and agriculture.
5. This site was created as Lot 1 of Tract 562, Recorded in Book 28, page 63 of maps on February 17, 1977. There is an existing special use permit, PSP 08-057 (ZA) that allowed a contractor’s storage yard on the property.

The City of Tulare received a Consultation Notice regarding this proposal. The City had “no comment.”

6. The project is an Assisted Living Facility on a 2.06-acre parcel in the R-A-100 Zone. The site contains one single-family dwelling w/garage, pool, barn, and shop. Aerial photos indicate that the property is nicely maintained with hard scape throughout the front and back areas for ease of maintenance. There is a circular drive with access from Lewis Lane and another driveway off Prosperity Avenue. The surrounding properties contain single-family residences and orchards. The number of beds/persons to be served by the facility is eighteen (18). The hours and days would be 24/7/365. The



number of employees at this facility will be twelve on various shifts to assure the 24/7 coverage. The Site Plan does not indicate that any new construction would need to occur; and only an interior remodel is proposed.

7. The facility will require licensing through the State Community Care Licensing Division and will meet all Title 22 Regulations with regard to Community Care Licensing. There is parking for upwards of 50 vehicles on the existing asphalt and concrete; it is sufficient for all residents, staff, visitors, and emergency vehicles. Liquid waste will utilize an existing 2,000 gallon septic tank with leach line infiltrator unit. Water will be provided by an existing domestic well with a 5-hp pump.
8. The environmental determination is a Categorical Exemption consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities. The use of Section 15301 is applicable and appropriate because only interior alterations are proposed with regard to this project.
9. The Board of Supervisors, at their regular meeting of November 30, 2010, adopted by Resolution 2010-0927, a Notice of Intent to Collect Tulare County Public Facility Fees, also known as Development Impact Fees. New Development may be subject to County Development Impact fees.

C. This Planning Commission, after considering all of the evidence presented, found that the establishment, maintenance, and operation of the use of building or land applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

AND, BE IT FURTHER RESOLVED as follows:

D. This Planning Commission hereby finds said Special Use Permit to be categorically exempt, consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities.

E. This Planning Commission hereby approves Special Use Permit No. PSP 18-022, subject to the following conditions:

**Standard Conditions of Approval:**

1. Development shall be in accordance with the plan(s) as submitted by the applicant and/or as modified by the Planning Commission and with the Site Plan Development Standards pertaining to a use of this type adopted by the Planning Commission on February 20, 1970. (Exhibit "A")

2. Regardless of Condition No. 1 above, and in accordance with Section 18 (Minor Modifications-Director's Approval) of the Zoning Ordinance, the Planning Director is authorized to approve minor modifications in the approved plans upon a request by the applicant, or his successors as long as said modifications do not materially affect the determination of the Planning Commission. Such modifications shall be noted on the approved plans and shall be initialed by the Planning Director.
3. All exterior lighting shall be hooded and adjusted so as to deflect direct rays away from public roadways and adjacent properties.
4. The facility shall be maintained and operated in accordance with all State and County health regulations.
5. Any structures built shall conform to the building regulations and the building line setbacks of the Ordinance Code of Tulare County insofar as said regulations and setbacks are applicable to such structures.
6. The conditions set down herein which require construction of improvements shall be complied with before the premises shall be used for the purposes applied for, in order that the safety and general welfare of the persons using said premises, and the traveling public, shall be protected. The Planning Director may grant exceptions to this condition upon request by the applicant.
7. This Special Use Permit shall automatically become null and void two (2) years after the date upon which it is granted by the Planning Commission, unless the applicant, or his/her successor, has actually commenced the use or variance authorized by the permit within said two year period. The Planning Commission may grant one or more extensions of said two year time, upon request by the applicant.
8. This Special Use Permit will not be effective until ten (10) days after the date upon which it is granted by the Planning Commission. During the ten day appeal period, County staff will mail, to the applicant's most recent known address, the following forms to sign - an "Acceptance" of conditions of approval and, if applicable, a Right to Farm Notice. Within ten (10) days of the action taken by the Planning Commission, the applicant shall be required to sign and return all documents related to the Special Use Permit. Upon receipt, Staff shall file all appropriate documents with the County Recorder. Failure to sign all required documents may cause the application to be considered null and void.
9. All standard conditions and all special conditions of approval of this Special Use Permit must be complied with at all times in order to continue the use or uses allowed. Compliance with such conditions is subject to review at any time. Normally, an initial review of compliance shall be conducted by the Tulare County Planning Commission twelve (12) months after the granting of said permit; however, the Planning

Commission may schedule the review sooner under certain circumstances. Additional reviews may be undertaken at the discretion of the Planning Commission.

10. The applicant(s), at their sole cost and expense, shall defend, indemnify and hold harmless the County of Tulare, its agents, legislative body, officers or employees in any legal or administrative action, claim or proceeding concerning approval of Special Use Permit No. PSP 18-022; or, at its election and in the alternative, shall relinquish such approval. The applicant(s) shall assume the defense of the County in any such legal or administrative action, claim or proceeding with legal counsel paid for in the entirety by the applicant(s), but subject to the County's reasonable approvals. The applicant shall also reimburse the County, its agents, its legislative body, officers or employees for any judgments, amounts paid in the settlements court costs and attorney's fees with the County, its agents, legislative body, officers or employees may be required to pay at court as a result of such action, claim or proceeding. The County may, at its sole discretion, participate at its own expense in the defense of any such action, claim or proceeding, but such participation shall not relieve the applicant(s) of their obligations under this condition."

**Planning Conditions:**

11. The property owner shall sign and return the Right to Farm Notice to the Resource Management Agency in order for it to be recorded with the Resolution. (Exhibit "B")
12. A Compliance Reporting and Monitoring Schedule has been established for this project pursuant to Section 22 of the Tulare County Zoning Ordinance. A fee in the amount of \$130.00 is required to defray the expenses incidental to the compliance reporting and monitoring, must be deposited into a Compliance Reporting and Monitoring Account prior to recordation of the Resolution. The Planning Commission requested quarterly monitoring for the first year. (Exhibit "C")
13. All on-site parking areas and driveways shall be surfaced for all-weather conditions and be maintained so that dust and mud do not create conditions detrimental to surrounding roadways.

**Environmental Health Services Conditions:**

13. An engineered septic design report must be submitted to Tulare County Environmental Health Services Division (TCEHSD). The proposed use will increase the daily waste effluent flow for the existing, on-site septic system. The report shall address the potential need for expansion of the septic system. Two copies of the design report must be submitted to TCEHSD, along with payment of review fees.
14. If the water system will serve 25 or more people, for at least 60 days out of the year, then the system will require registration/permitting with the State Water Resources Control Board.

15. The proposed facility will be exempt from submission of food facility plans to TCEHSD, if the facility meets the definition of a “residential care facility for the elderly”, as defined in Section 1569.2(p) of the California Health & Safety Code.

**Fire Department Conditions:**

16. The facility may be classified as an R-2.1 or an I-2, depending on whether or not medical care will be provided. It is recommended that the owners request a pre-licensing inspection of the facility by the Tulare County Fire Department in order to determine the proper classification. Contact the Prevention Bureau at 559-802-9807 to pay the appropriate fee and schedule the inspection
17. A licensed 24-hour care facility in an occupancy group R-2.1 shall conform to the requirements of section 435 of the 2018 California Building Code, including fire protection and exiting requirements.
18. An institutional facility in an occupancy group I-2 shall meet the requirements of section 407 of the 2016 California Building Code, including fire protection.
19. Any tenant improvement or new construction would require the submittal of complete plans from a design professional determining the occupancy classification, building requirements, fire protection requirements, and a statement of intent.

**Planning Commission Conditions:**

20. Signage shall be in the form of a monument, be no higher than three feet, and be down-lighted.

The foregoing resolution was adopted upon motion of Commissioner Whitlatch, seconded by Commissioner Dias, at a regular meeting of the Planning Commission on May 9, 2018, by the following roll call vote:

AYES: Elliott, Aguilar, Whitlatch, Millies, Gong, Dias

NOES: None

ABSTAIN: None

ABSENT: Pitigliano

TULARE COUNTY PLANNING COMMISSION

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Michael Washam, Secretary

# **Attachment “3”**

**Planning Commission (PC) Agenda Packet  
(May 9, 2018)**



# **RESOURCE MANAGEMENT AGENCY COUNTY OF TULARE PLANNING COMMISSION SUMMARY**

5961 S. Mooney  
Blvd  
Visalia, CA 93277  
624-7000 Phone  
730-2653 Fax

## **PLANNING COMMISSION**

**CHAIRMAN:** Gil Aguilar  
**VICE-CHAIR:** Wayne Millies

**COMMISSIONERS:**  
Melvin Gong  
Bill Whitlatch  
Ed Dias  
John Elliott  
Vacant  
Nancy Pitigliano

## **AIRPORT LAND USE COMMISSIONERS (ALUC)**

Bill Whitlatch  
Steve Dwelle

<b>Project Number:</b> Special Use Permits No. PSP 18-022	<b>Agenda Date:</b> May 9, 2018	
<b>Applicant:</b> The Magnolia Group	<b>Agenda Item Number:</b>	4C
<b>Agent:</b> N/A	<b>AGENDA ITEM TYPE</b>	
<b>Subject:</b> Special Use Permit to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) zone, east of the City of Tulare.	Presentation	
	Consent Calendar	
	Unfinished Business	
	New Business	
	Public Hearing	X
	Continued Public Hearing	
<b>Exceptions:</b> N/A	Discussion	
<b>Waiver:</b> N/A	<b>ACTION REQUESTED</b>	
<b>Environmental Review:</b> Categorical Exemption: Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities	Resolution – Board of Supervisors	
	Resolution – Planning Commission	X
<b>Motion(s):</b> One Motion	Decision - Director	
<b>Contact Person:</b> Dana Mettlen		

## **RECOMMENDATIONS:**

### **That the Planning Commission:**

1. Hold a public hearing
2. Approve a Categorical Exemption consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities; **and** conditionally approve Special Use Permit No. PSP 18-022.

## **PLANNING COMMISSION ALTERNATIVES:**

**Alternative No. 1:** Move to approve, subject to modifications as discussed by the Planning Commission

**Alternative No. 2:** Move to deny

**Alternative No. 3:** Refer back to Staff for further study and report

**Alternative No. 4:** Close the public testimony portion of the public hearing and continue the public hearing to a date certain.

## **PROJECT OVERVIEW:**

Categorical Exemption and conditional approval of Special Use Permit No. PSP 18-022 requested by The Magnolia Group (Arnulfo Gonzalez), 121 E. Main Street, Suite 305, Visalia, CA 93291 to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft.

**SUBJECT:** PSP 18-022 – The Magnolia Group

minimum) Zone, located at 1333 Lewis Lane, on the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare (APN 150-200-001).

**ENVIRONMENTAL SUMMARY:**

Categorical Exemption consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities. The use of Section 15301 is applicable and appropriate because only interior alterations are proposed with regard to this project.

**ENTITLEMENT(S):**

Section 16.II.B: Hospital, sanitarium and nursing home is an allowed use in the R-A Zone, upon approval of a special use permit.

**GENERAL PLAN UPDATE 2030 CONSISTENCY:**

The Project site is located within the Urban Area Boundary of the City of Tulare and the Land Use Designation is "Agriculture." The following General Plan Policies are relevant to the project: (1) AG-1.14 Right-to-Farm Noticing; (2) PF-4.19 Future Land Use Entitlements in a CACUAB; (3) LU-1.6 Permitting Procedures and Regulations; (4) Housing Guiding Principle 1.4; (5) Housing Guiding Principle 1.5; (6) Housing Policy 1.52; (7) Housing Policy 5.21; (8) HS-1.9 Emergency Access; (9) HS-1.10 Emergency Services Near Assisted Living Housing; (10) HS-6.7 Water Supply System. The Project is consistent with the Tulare County General Plan 2030.

**HISTORY:**

This site was created as Lot 1 of Tract 562, Recorded in Book 28, page 63 of maps on February 17, 1977. There is an existing special use permit, PSP 08-057 (ZA) that allowed a contractor's storage yard on the property.

The City of Tulare received a Consultation Notice regarding this proposal. The City had "no comment."

**PROJECT SUMMARY:**

The project is an Assisted Living Facility on a 2.06-acre parcel in the R-A-100 Zone. The site contains one single-family dwelling w/garage, pool, barn, and shop. Aerial photos indicate that the property is nicely maintained with hard scape throughout the front and back areas for ease of maintenance. There is a circular drive with access from Lewis Lane and another driveway off Prosperity Avenue. The surrounding properties contain single-family residences and orchards.

The number of beds/persons to be served by the facility is eighteen (18). The hours and days would be 24/7/365. The number of employees at this facility will be twelve on various shifts to assure the 24/7 coverage. The Site Plan does not indicate that any new construction would need to occur; and only an interior remodel is proposed.

The facility will require licensing through the State Community Care Licensing Division and will meet all Title 22 Regulations with regard to Community Care Licensing.

There is parking for upwards of 50 vehicles on the existing asphalt and concrete; it is sufficient for all residents, staff, visitors, and emergency vehicles.

Liquid waste will utilize an existing 2,000 gallon septic tank with leach line infiltrator unit.

**SUBJECT:** PSP 18-022 – The Magnolia Group

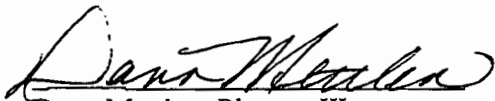
Water will be provided by an existing domestic well with a 5-hp pump.

**PUBLIC NOTICE:**

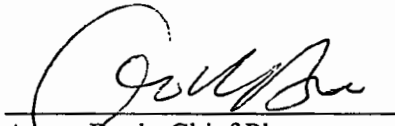
Government Code §65009(b) requires the County to include in any public notice pursuant to Government Code, Title 7, Planning and Land Use, a notice substantially stating all of the following: “If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the County of Tulare at, or prior to, the public hearing.”



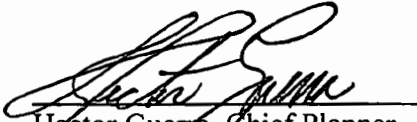
**SUBJECT:** PSP 18-022 – The Magnolia Group



Dana Mettlen, Planner III  
Project Processing Division  
Economic Development & Planning Branch



Aaron Bock, Chief Planner  
Project Processing Division  
Economic Development & Planning Branch



Hector Guerra, Chief Planner  
Environmental Planning Branch  
Economic Development & Planning Branch



Michael Washam, Associate Director

**ATTACHMENTS:**

- Attachment No. 1 – Draft Resolution approving PSP 18-022
  - Exhibit “A” – Site Plan
  - Exhibit “B” – Right to Farm Notice
  - Exhibit “C” – Compliance Monitoring and Reporting Schedule
- Attachment No. 2 – Graphics
- Attachment No. 3 – Consulting Agency List and Correspondence
- Attachment No. 4 – Location and Property Ownership Map for Hearing Notification
- Attachment No. 5 – Public Hearing Notice
- Attachment No. 6 – Notice of Exemption

# ATTACHMENT NO. 1

BEFORE THE PLANNING COMMISSION

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF SPECIAL USE PERMIT	)	
NO. PSP 18-022 FOR AN ASSISTED LIVING	)	
FACILITY IN THE R-A-100 ZONE	)	RESOLUTION NO.
THE MAGNOLIA GROUP	)	

Resolution of the Planning Commission of the County of Tulare accepting the Categorical Exemption and conditionally approving Special Use Permit No. PSP 18-022 requested by The Magnolia Group (Arnulfo Gonzalez), 121 E. Main Street, Suite 305, Visalia, CA 93291 to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) Zone, located at 1333 Lewis Lane, on the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare (APN 150-200-001).

WHEREAS, an application for a Special Use Permit has been filed pursuant to the regulations contained in Section 16 of Ordinance No. 352, the Zoning Ordinance, and

WHEREAS, the Planning Commission has given notice of its intention to consider the granting of a Special Use Permit as provided in Section 18 of said Ordinance No. 352 and as provided in Section 65905 of the Government Code of the State of California, and

WHEREAS, Staff has performed necessary investigations, prepared a written report and recommended approval of this application subject to certain conditions of approval, and

WHEREAS, all attached exhibits are incorporated by reference herein; and

WHEREAS, on ~, 2018, a Notice of Public Hearing by the Tulare County Planning Commission was duly published in the Visalia Times-Delta, a newspaper of general circulation in Tulare County to consider the proposed Project; and

WHEREAS, a public hearing was held and an opportunity for public testimony was provided at a regular meeting of the Planning Commission on ~, 2018, and

WHEREAS, at the ~, 2018 meeting of the Planning Commission public testimony was received and recorded from ~ in support of the project and ~ spoke in opposition to the project.

NOW, THEREFORE, BE IT RESOLVED as follows:

A. This Planning Commission hereby certifies that the Commission has reviewed and considered the information contained in the report for the proposed project together with any comments received during the public review process, in compliance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Quality Act of 1970 prior to taking action on the project.

B. This Planning Commission hereby adopts the following findings of fact as to the reasons for approval of this application:

1. The applicant has requested a Special Use Permit to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) Zone, located at 1333 Lewis Lane, on the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare.
2. Entitlement is found in Section 16.II.B: Hospital, sanitarium and nursing home is an allowed use in the R-A Zone, upon approval of a special use permit.
3. The Project site is located within the Urban Area Boundary of the City of Tulare and the Land Use Designation is “Agriculture.” The following General Plan Policies are relevant to the project: (1) AG-1.14 Right-to-Farm Noticing; (2) PF-4.19 Future Land Use Entitlements in a CACUAB; (3) LU-1.6 Permitting Procedures and Regulations; (4) Housing Guiding Principle 1.4; (5) Housing Guiding Principle 1.5; (6) Housing Policy 1.52; (7) Housing Policy 5.21; (8) HS-1.9 Emergency Access; (9) HS-1.10 Emergency Services Near Assisted Living Housing; (10) HS-6.7 Water Supply System. The Project is consistent with the Tulare County General Plan 2030.
4. The project site is located in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) Zone and contains one single-family dwelling w/garage, pool, barn, and shop. The surrounding properties contain residences and agriculture.
5. This site was created as Lot 1 of Tract 562, Recorded in Book 28, page 63 of maps on February 17, 1977. There is an existing special use permit, PSP 08-057 (ZA) that allowed a contractor’s storage yard on the property.

The City of Tulare received a Consultation Notice regarding this proposal. The City had “no comment.”

6. The project is an Assisted Living Facility on a 2.06-acre parcel in the R-A-100 Zone. The site contains one single-family dwelling w/garage, pool, barn, and shop. Aerial photos indicate that the property is nicely maintained with hard scape throughout the front and back areas for ease of maintenance. There is a circular drive with access from Lewis Lane and another driveway off Prosperity Avenue. The surrounding properties contain single-family residences and orchards. The

number of beds/persons to be served by the facility is eighteen (18). The hours and days would be 24/7/365. The number of employees at this facility will be twelve on various shifts to assure the 24/7 coverage. The Site Plan does not indicate that any new construction would need to occur; and only an interior remodel is proposed.

7. The facility will require licensing through the State Community Care Licensing Division and will meet all Title 22 Regulations with regard to Community Care Licensing. There is parking for upwards of 50 vehicles on the existing asphalt and concrete; it is sufficient for all residents, staff, visitors, and emergency vehicles. Liquid waste will utilize an existing 2,000 gallon septic tank with leach line infiltrator unit. Water will be provided by an existing domestic well with a 5-hp pump.
8. The environmental determination is a Categorical Exemption consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities. The use of Section 15301 is applicable and appropriate because only interior alterations are proposed with regard to this project.
9. The Board of Supervisors, at their regular meeting of November 30, 2010, adopted by Resolution 2010-0927, a Notice of Intent to Collect Tulare County Public Facility Fees, also known as Development Impact Fees. New Development may be subject to County Development Impact fees.

C. This Planning Commission, after considering all of the evidence presented, found that the establishment, maintenance, and operation of the use of building or land applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

AND, BE IT FURTHER RESOLVED as follows:

D. This Planning Commission hereby finds said Special Use Permit to be categorically exempt, consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities.

E. This Planning Commission hereby approves Special Use Permit No. PSP 18-022, subject to the following conditions:

**Standard Conditions of Approval:**

1. Development shall be in accordance with the plan(s) as submitted by the applicant and/or as modified by the Planning Commission and with the Site Plan Development Standards pertaining to a use of this type adopted by the Planning Commission on February 20, 1970. (Exhibit "A")

2. Regardless of Condition No. 1 above, and in accordance with Section 18 (Minor Modifications-Director's Approval) of the Zoning Ordinance, the Planning Director is authorized to approve minor modifications in the approved plans upon a request by the applicant, or his successors as long as said modifications do not materially affect the determination of the Planning Commission. Such modifications shall be noted on the approved plans and shall be initialed by the Planning Director.
3. All exterior lighting shall be hooded and adjusted so as to deflect direct rays away from public roadways and adjacent properties.
4. The facility shall be maintained and operated in accordance with all State and County health regulations.
5. Any structures built shall conform to the building regulations and the building line setbacks of the Ordinance Code of Tulare County insofar as said regulations and setbacks are applicable to such structures.
6. The conditions set down herein which require construction of improvements shall be complied with before the premises shall be used for the purposes applied for, in order that the safety and general welfare of the persons using said premises, and the traveling public, shall be protected. The Planning Director may grant exceptions to this condition upon request by the applicant.
7. This Special Use Permit shall automatically become null and void two (2) years after the date upon which it is granted by the Planning Commission, unless the applicant, or his/her successor, has actually commenced the use or variance authorized by the permit within said two year period. The Planning Commission may grant one or more extensions of said two year time, upon request by the applicant.
8. This Special Use Permit will not be effective until ten (10) days after the date upon which it is granted by the Planning Commission. During the ten day appeal period, County staff will mail, to the applicant's most recent known address, the following forms to sign - an "Acceptance" of conditions of approval and, if applicable, a Right to Farm Notice. Within ten (10) days of the action taken by the Planning Commission, the applicant shall be required to sign and return all documents related to the Special Use Permit. Upon receipt, Staff shall file all appropriate documents with the County Recorder. Failure to sign all required documents may cause the application to be considered null and void.
9. All standard conditions and all special conditions of approval of this Special Use Permit must be complied with at all times in order to continue the use or uses allowed. Compliance with such conditions is subject to review at any time.

Normally, an initial review of compliance shall be conducted by the Tulare County Planning Commission twelve (12) months after the granting of said permit; however, the Planning Commission may schedule the review sooner under certain circumstances. Additional reviews may be undertaken at the discretion of the Planning Commission.

10. The applicant(s), at their sole cost and expense, shall defend, indemnify and hold harmless the County of Tulare, its agents, legislative body, officers or employees in any legal or administrative action, claim or proceeding concerning approval of Special Use Permit No. PSP 18-022; or, at its election and in the alternative, shall relinquish such approval. The applicant(s) shall assume the defense of the County in any such legal or administrative action, claim or proceeding with legal counsel paid for in the entirety by the applicant(s), but subject to the County's reasonable approvals. The applicant shall also reimburse the County, its agents, its legislative body, officers or employees for any judgments, amounts paid in the settlements court costs and attorney's fees with the County, its agents, legislative body, officers or employees may be required to pay at court as a result of such action, claim or proceeding. The County may, at its sole discretion, participate at its own expense in the defense of any such action, claim or proceeding, but such participation shall not relieve the applicant(s) of their obligations under this condition."

**Planning Conditions:**

11. The property owner shall sign and return the Right to Farm Notice to the Resource Management Agency in order for it to be recorded with the Resolution. (Exhibit "B")
12. A Compliance Reporting and Monitoring Schedule has been established for this project pursuant to Section 22 of the Tulare County Zoning Ordinance. A fee in the amount of \$130.00 is required to defray the expenses incidental to the compliance reporting and monitoring, must be deposited into a Compliance Reporting and Monitoring Account prior to recordation of the Resolution. (Exhibit "C")
13. All on-site parking areas and driveways shall be surfaced for all-weather conditions and be maintained so that dust and mud do not create conditions detrimental to surrounding roadways.

**Environmental Health Services Conditions:**

13. An engineered septic design report must be submitted to Tulare County Environmental Health Services Division (TCEHSD). The proposed use will increase the daily waste effluent flow for the existing, on-site septic system. The report shall address the potential need for expansion of the septic system. Two copies of the design report must be submitted to TCEHSD, along with payment of review fees.

14. If the water system will serve 25 or more people, for at least 60 days out of the year, then the system will require registration/permitting with the State Water Resources Control Board.
15. The proposed facility will be exempt from submission of food facility plans to TCEHSD, if the facility meets the definition of a “residential care facility for the elderly”, as defined in Section 1569.2(p) of the California Health & Safety Code.

**Fire Department Conditions:**

16. The facility may be classified as an R-2.1 or an I-2, depending on whether or not medical care will be provided. It is recommended that the owners request a pre-licensing inspection of the facility by the Tulare County Fire Department in order to determine the proper classification. Contact the Prevention Bureau at 559-802-9807 to pay the appropriate fee and schedule the inspection
17. A licensed 24-hour care facility in an occupancy group R-2.1 shall conform to the requirements of section 435 of the 2018 California Building Code, including fire protection and exiting requirements.
18. An institutional facility in an occupancy group I-2 shall meet the requirements of section 407 of the 2016 California Building Code, including fire protection.
19. Any tenant improvement or new construction would require the submittal of complete plans from a design professional determining the occupancy classification, building requirements, fire protection requirements, and a statement of intent.

The foregoing resolution was adopted upon motion of Commissioner ~, seconded by Commissioner ~, at a regular meeting of the Planning Commission on ~, 2018, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

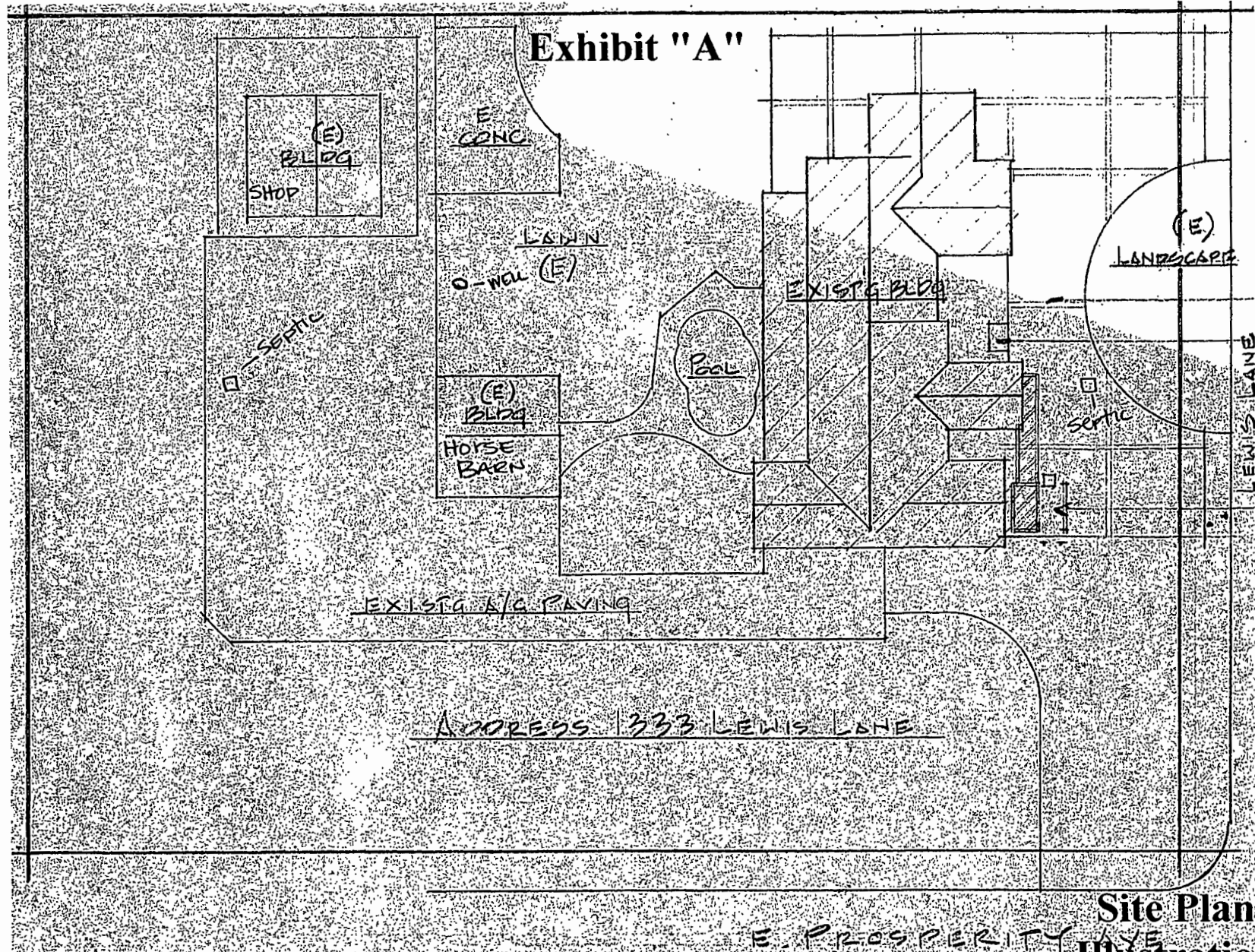
TULARE COUNTY PLANNING COMMISSION

---

Michael Washam, Secretary



# Exhibit "A"



No Scale

Site Plan  
Illustration  
PSP 18-022



EXHIBIT B

**RIGHT TO FARM NOTICE**

RE: Use Permit No. PSP 18-022

or

Parcel Map No. \_\_\_\_\_

or

Subdivision Map No. \_\_\_\_\_

or

Mining and Reclamation Plan No. \_\_\_\_\_

In accordance with Section 7-29-1070(a) of the Tulare County Ordinance Code; and as a condition of approval of the above-referenced use permit, parcel map, subdivision map or mining and reclamation plan, the undersigned hereby acknowledges that:

It is the declared policy of Tulare County to conserve, enhance and encourage agricultural operations within the County. Residents of property on or near agricultural land should be prepared to accept the inconveniences and discomfort associated with agricultural operations, including, but not necessarily limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Consistent with this policy, California Civil Code Section 3482.5 provides that no agricultural operation, as defined and limited by that section, conducted and maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three years if it was not a nuisance at the time it began.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

## EXHIBIT C

### **COMPLIANCE REPORTING AND MONITORING** **SCHEDULE AND FEE NOTICE**

CASE NO. PSP 18-022

Section 22 of the Tulare County Ordinance mandates a program to monitor and ensure compliance with conditions imposed as part of approval of this project. It also mandates that fees be imposed to defray the expense incidental to any monitoring and compliance reviews. The following is the adopted fee schedule:

Compliance review fees are based on an hourly rate as adopted by the Tulare County Board of Supervisors. The minimum deposit is based on the estimated number of inspections for the compliance review process.

A Compliance Reporting and Monitoring Schedule was established and imposed as a condition of your use permit. **The first compliance review of your project is schedule for 12 months from the date of approval.** If the use is to commence prior to this first scheduled inspection, you must call (559) 624-7000 to reschedule the first inspection.

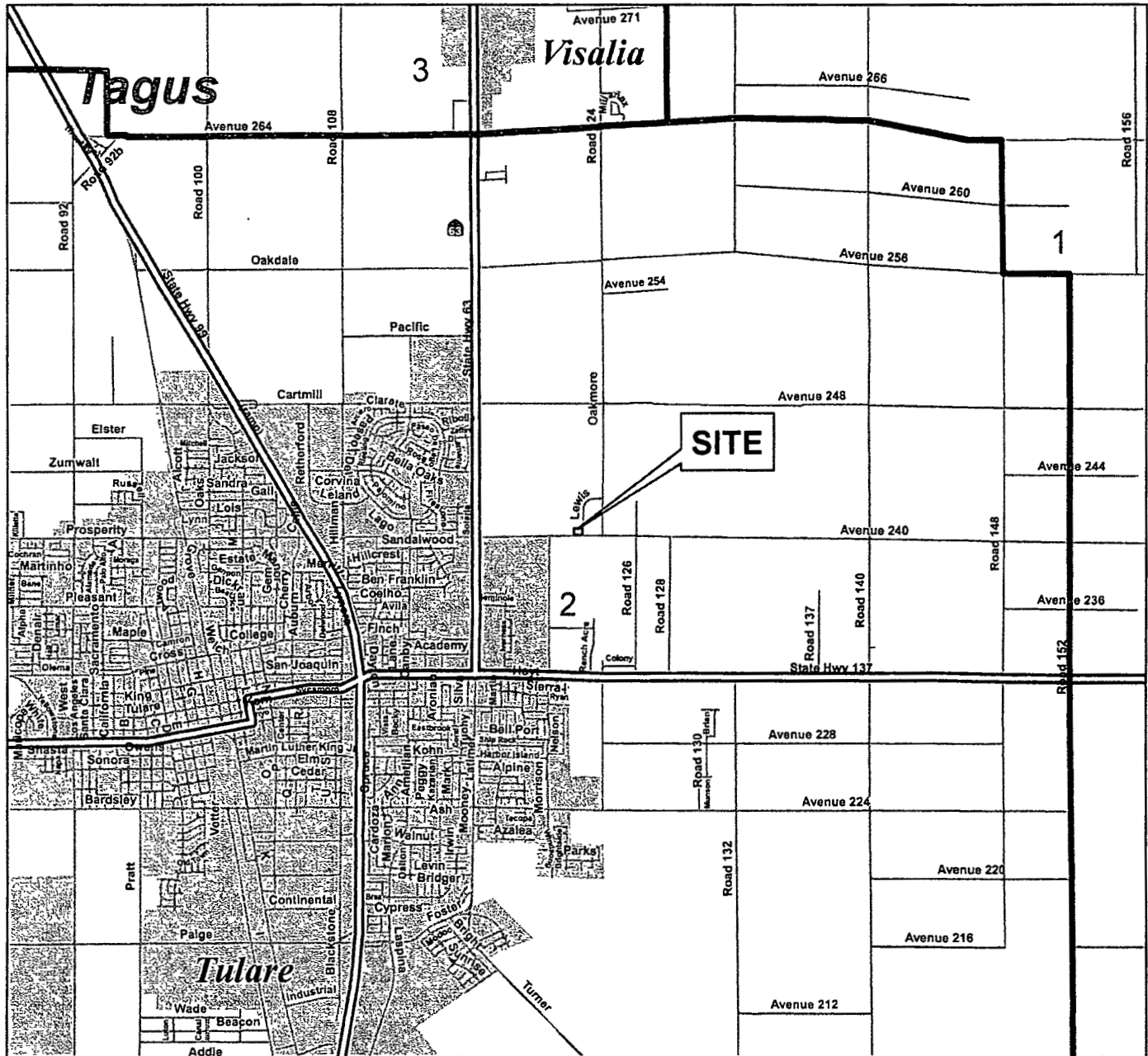
**Prior to recording the Resolution/Decision and Acceptance Form, a deposit of \$ 130.00 must be made to the Compliance Reporting and Monitoring Account.** This deposit can be made at the Tulare County Resource Management Agency offices located at 5961 S. Mooney Blvd., Visalia. Additional deposits may be required if the account is depleted. If the use has not commenced and an extension of time is needed, an additional deposit is required with the extension of time request.

Upon completion of the project and/or termination of the compliance reporting and monitoring schedule, the deposit account will be reviewed to determine if excess fees exist. A written request is required for a refund of excess fees remaining in the account. These fees are also subject to waiver or refund under Sections 130 and 135 of the Tulare County Ordinance Code.

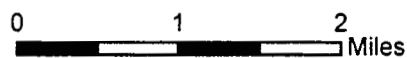
If there are any questions regarding this notice, please contact Building Inspection/Code Compliance staff at (559) 624-7000.



# Vicinity Map for PSP 18-022



Supervisorial District: 2



-  SITE
-  Supervisorial Districts



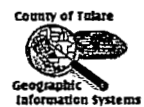
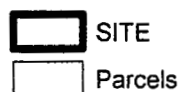


# Aerial Photograph for PSP 18-022



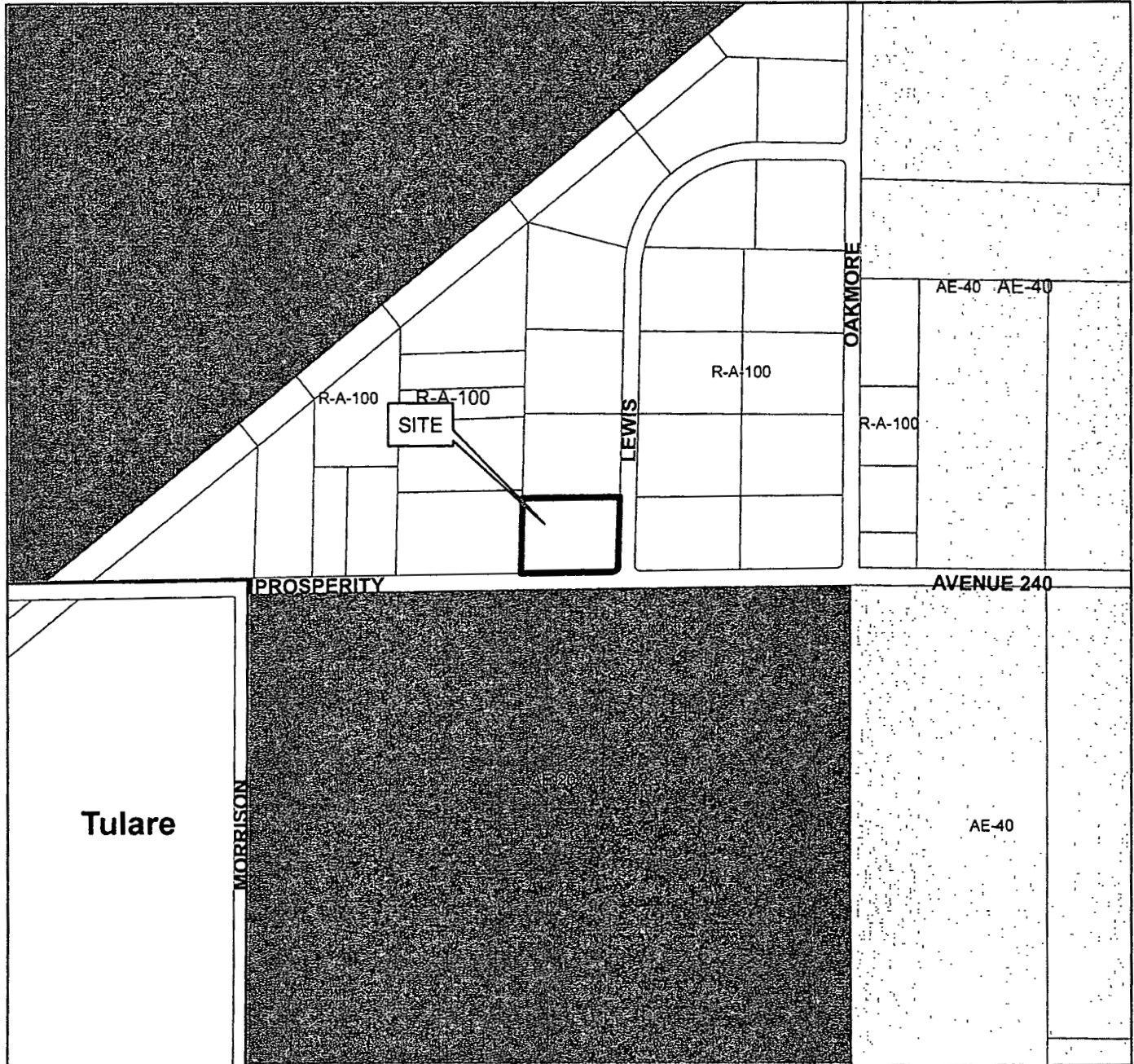
Owner: The Magnolia Group  
Address: 121 E. Main Street, Ste. 305  
City, State, ZIP: Visalia, CA 93291  
Applicant: same  
Agent: Larry Lewis  
Supervisory District: 2  
Assessors Parcel: 150-200-001

0 250 Feet

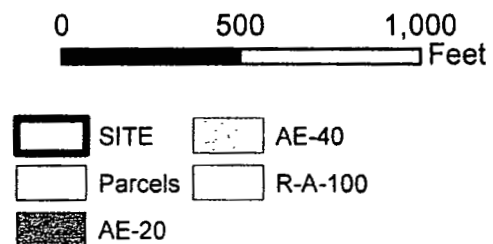




# Existing Zoning Map for PSP 18-022

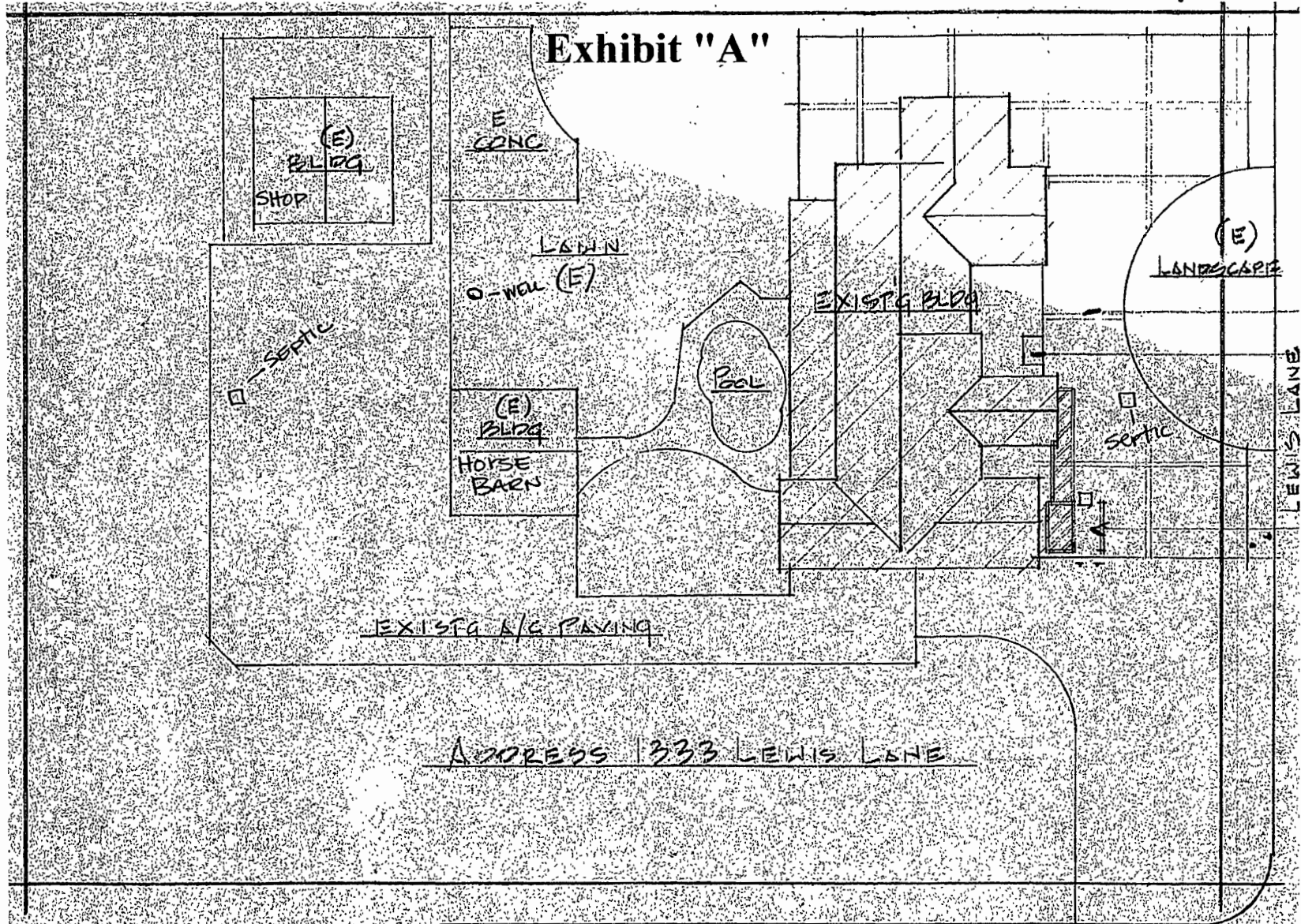


Owner: The Magnolia Group  
Address: 121 E. Main Street, Ste. 305  
City, State, ZIP: Visalia, CA 93291  
Applicant: same  
Agent: Larry Lewis  
Supervisory District: 2  
Assessors Parcel: 150-200-001





# Exhibit "A"

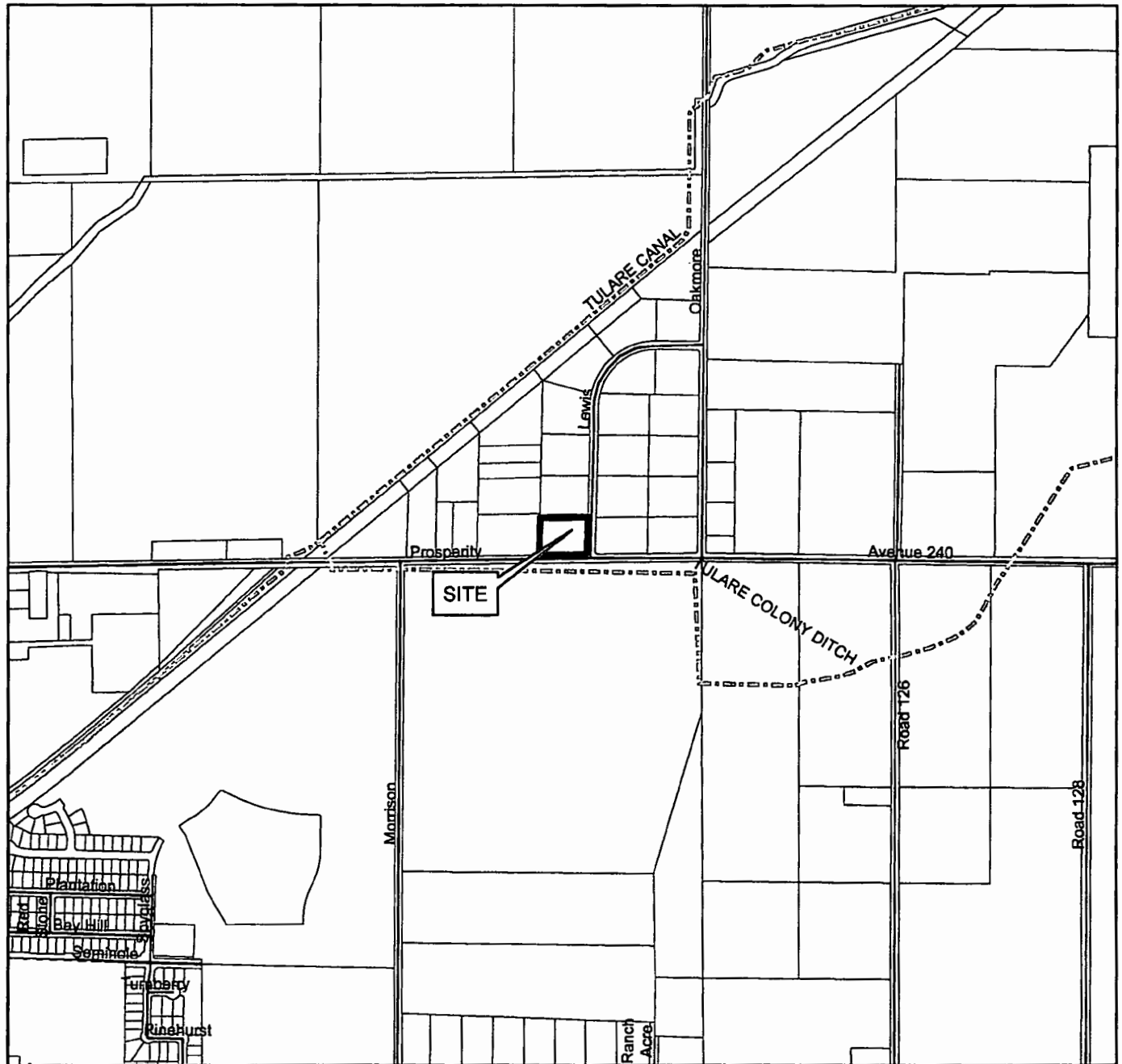


No Scale

Site Plan  
Illustration  
PSP 18-022



# Waterways Map for PSP 18-022



Waterways

 SITE

 Parcels

0 2,000 Feet

County of Tulare  
Geographic Information Systems





## RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD.  
VISALIA, CA. 93277  
PHONE (559) 624-7000  
FAX (559) 730-2653

Reed Schenke	Public Works
Sherman Dix	Fiscal Services
Michael Washam	Ec Dev & Planning

REED SCHENKE, P.E., DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

DATE: 03/22/2018

### PROJECT REVIEW - CONSULTATION NOTICE

To: Interested Agencies (see next page)

From: Dana Mettlen, Project Planner

Subject: Case No. \_\_\_\_\_ Special Use Permit No. PSP 18-022: Assisted Living Facility on a 2-acre parcel north of Tulare;  
Ref: PRC 18-007

The Tulare County Resource Management Agency, Development Services Branch, has received an application for a land development permit. A copy of the application package is attached for your information.

Please review this project and provide any comments and/or recommendations that you feel are appropriate including any scientific or factual information that would be useful in our evaluation. Please indicate in your response which CEQA document this department should prepare:

☒ Categorical Exemption: Class 15301, Class 1 pertaining to existing facilities

☐ Negative Declaration:

☐ Mitigated Negative Declaration

☐ Environmental Impact Report

☐ Other: \_\_\_\_\_

To all local agencies wishing to make recommendations, all comments must be received by our office 04/11/2018, in order to be considered during the review process.

Special Notice to Agencies: Notice of a public hearing for this project will be mailed at least ten (10) days prior to the hearing. If your agency will be significantly affected by this project with respect to your ability to provide essential facilities and/or services, and you wish to receive notice of the public hearing, please state this in your response.

Our office appreciates your time and assistance with this project review. Please direct all correspondence to the Project Planner and Case Number referenced above for this project.



**CASE NO. PSP18-022**  
**CONSULTING AGENCY LIST**

**TULARE COUNTY AGENCIES**

- ☒ R.M.A. - Building Division
- ☐ R.M.A. - Code Compliance Division
- ☒ R.M.A. - Environmental Coordinator
- ☐ R.M.A. - Community Dev./Redevelopment Division
- ☒ R.M.A. - Flood/Permits/Subdivisions Division
- ☐ R.M.A. - Parks and Recreation Division
- ☐ R.M.A. - Building Services Division
- ☐ R.M.A. - General Services Division
- ☐ R.M.A. - Transportation/Utilities Division
- ☐ R.M.A. - Solid Waste Division
- ☒ H.H.S.A. - Environmental Health Services Division
- ☐ H.H.S.A. - HazMat Division
- ☒ Fire Chief (2 copies)
- ☐ Sheriff's Department - Visalia Headquarters
- ☐ Traver Substation
- ☐ Oroshi Substation
- ☐ Pixley Substation
- ☐ Porterville Substation
- ☐ Agricultural Commissioner
- ☐ Education Department
- ☐ Airport Land Use Commission
- ☐ Supervisor District
- ☐ Assessor
- ☐ Supervising Agricultural Standards Inspector - Gas Stations

**LOCAL AGENCIES**

- ☐ Levee Dist. No 1\*
- ☐ Levee Dist. No 2\*
- ☒ Tulare Irrigation Dist\*
- ☐ Pub Utility Dist\*
- ☐ Comm. Service Dist\*
- ☐ Town Council\*
- ☐ Elem. School Dist\*
- ☐ High School Dist\*
- ☒ City of Tulare \*
- ☐ County of \_\_\_\_\_ \*
- ☐ Tulare Lake Basin Water Storage Dist\*
- ☐ Advisory Council\*
- ☐ Fire District\*
- ☐ Mosquito Abatement\*
- ☒ Kaweah Delta Water Cons. District\*
- ☒ SJV Air Pollution Control Dist
- ☐ \_\_\_\_\_ \*

**FEDERAL AGENCIES**

- ☐ Army Corps of Engineers
- ☐ Fish & Wildlife
- ☐ Bureau of Land Management
- ☐ Natural Resources Conservation Dist.
- ☐ Forest Service
- ☐ National Park Service
- ☐ \_\_\_\_\_

**STATE AGENCIES**

- ☒ Dept. of Fish & Wildlife Dist 4
- ☐ \_\_\_\_\_, DFG Area Biologist
- ☐ Alcoholic Beverage Control
- ☐ Housing & Community Development
- ☐ Reclamation Board
- ☐ Regional Water Quality Control Board - Dist. 5
- ☐ Caltrans Dist. 6\*
- ☐ Dept. of Water Resources\*
- ☐ Water Resources Control Board\*
- ☐ Public Utilities Commission
- ☐ Dept. of Conservation
- ☐ State Clearinghouse (15 copies)
- ☐ Office of Historic Preservation
- ☐ Dept. of Food & Agriculture
- ☐ State Department of Health
- ☐ State Lands Commission
- ☐ State Treasury Dept. - Office of Permits Assist.
- ☐ \_\_\_\_\_

**OTHER AGENCIES**

- ☐ U.C. Cooperative Extension
- ☐ Audubon Society - Condor Research
- ☐ Native American Heritage Commission
- ☐ District Archaeologist (Bakersfield)
- ☐ TCAG (Tulare Co. Assoc. of Govts)
- ☐ LAFCo (Local Agency Formation Comm.)
- ☐ Pacific Bell (2 copies)
- ☐ GTE (General Telephone) (2 copies)
- ☐ P.G. & E. (2 copies)
- ☐ Edison International (2 copies)
- ☐ The Gas Company (2 copies)
- ☒ Tulare County Farm Bureau
- ☐ Archaeological Conservancy (Sacramento)



TULARE COUNTY  
HEALTH & HUMAN SERVICES AGENCY  
Public Health Branch

Jason T. Britt, M.S.  
Agency Director

April 9, 2018

DANA METTLEN  
RESOURCE MANAGEMENT AGENCY  
5961 SOUTH MOONEY BLVD  
VISALIA CA 93277

Re: PSP 18-022

Dear Ms. Mettlen:

This office has reviewed the above referenced matter. Based upon our review, we have the following comments for this project:

1. An engineered septic design report must be submitted to Tulare County Environmental Health Services Division (TCEHSD). The proposed use will increase the daily waste effluent flow for the existing, on-site septic system. The report shall address the potential need for expansion of the septic system. Two copies of the design report must be submitted to TCEHSD, along with payment of review fees.
2. If the water system will serve 25 or more people, for at least 60 days out of the year, then the system will require registration/permitting with the State Water Resources Control Board.
3. The proposed facility will be exempt from submission of food facility plans to TCEHSD, if the facility meets the definition of a "residential care facility for the elderly", as defined in Section 1569.2(p) of the California Health & Safety Code.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Martin".

Ted Martin  
Environmental Health Specialist  
Environmental Health Services Division

**From:** Jimmy Herrera  
**To:** Dana Mettlen; [esperanza@magnoliapark.net](mailto:esperanza@magnoliapark.net)  
**Date:** 02/20/2018 9:06 AM  
**Subject:** Re: Fwd: Re: PRC 18-007 - The Magnolia Group

Dana,

In regards to PRC 18-007 (The Magnolia Group), the Tulare County Fire Department has the following recommendations:

- 1) The facility may be classified as an R-2.1 or an I-2 depending on whether or not medical care will be provided. It is recommended that the owners request a pre-licensing inspection of the facility by the Tulare County Fire Department in order to determine the proper classification. Contact the Prevention Bureau at 559-802-9807 to pay the appropriate fee and schedule the inspection.
- 2) A licensed 24-hour care facility in an occupancy group R-2.1 shall conform to the requirements of section 435 of the 2016 California Building Code including fire protection and exiting requirements.
- 3) An institutional facility in an occupancy group I-2 shall meet the requirements of section 407 of the 2016 California Building Code including fire protection.
- 4) Any tenant improvement or new construction would require the submittal of complete plans from a design professional determining the occupancy classification, building requirements, fire protection requirements, and a statement of intent.

Please let me know if you have any questions.

Jimmy Herrera, Fire Inspector  
Tulare County Fire Department  
5961 S. Mooney Blvd  
Visalia, CA 93277  
559.624.7058 Office  
559.285.2115 Cell

>>> Dana Mettlen 2/16/2018 6:59 AM >>>

Jimmy,

18 beds

Dana Mettlen, Planner III  
Project Processing  
Economic Development and Planning Branch  
Tulare County Resource Management Agency  
5961 S. Mooney Blvd.  
Visalia, CA 93277

559-624-7106 [dmettlen@co.tulare.ca.us](mailto:dmettlen@co.tulare.ca.us)

>>> Esperanza Hansen <[esperanza@magnoliapark.net](mailto:esperanza@magnoliapark.net)> 02/15/2018 3:47 PM >>>

**From:** Josh McDonnell <jmcdonnell@tulare.ca.gov>  
**To:** "dmettlen@co.tulare.ca.us" <dmettlen@co.tulare.ca.us>  
**Date:** 04/03/2018 9:54 AM  
**Subject:** Special Use Permit PSP 18-022, Ref: PRC 18-007

Hi Dana,

Thank you for the opportunity to review the Special Use Permit information for the above referenced project. The City of Tulare has no comment.

Thanks,

Josh McDonnell| City of Tulare

Community & Economic  
Development Director

O: 559-684-4210

City of Tulare  
411 East Kern  
Tulare, CA 93274

F: 559-685-2339

[jmcdonnell@tulare.ca.gov](mailto:jmcdonnell@tulare.ca.gov)<mailto:jmcdonnell@tulare.ca.gov>

[cid:image001.jpg@01CF6552.786EE190]

# RESOURCE MANAGEMENT AGENCY



## INTEROFFICE MEMORANDUM

---

March 26, 2018

**TO:** Dana Mettlen, Project Planner

**FROM:** Craig Anderson, Engineer III

A handwritten signature, likely of Craig Anderson, is written in black ink. It consists of a stylized capital 'C' followed by a capital 'A'.

**SUBJECT:** Case No. PSP 18-022

**APPLICANT:** The Magnolia Group

**APN:** 150-200-001

The subject Case No. PSP 18-022 has been reviewed. The following comments and recommendations are submitted for consideration in processing this matter.

The subject site is not located within the Tulare Urban Improvement Area or Urban Development Boundary whichever is applicable.

The subject site is not located within the boundaries of any Specific Plan.

### **Flood Information:**

The following flood zone information is based on our interpretation of the Federal Emergency Management Agency (FEMA) National Flood Insurance Program Flood Insurance Rate Map for Community Number 065066 dated June 16, 2009, Panel No. 1275. The subject site is located within Zone X.

Construction within Zone X requires no specific flood mitigation measures.

### **Right-of-way Information:**

The proposed parcels lies on the west side of Lewis Lane. The existing right of way on Lewis Lane is 60 feet (30 feet on the west side and 30 feet on the east side). Ultimate right of way on Lewis Lane is 60 feet.

**Road Information:**

According to the county's maintained mileage maps, Lewis Lane is a county maintained road.

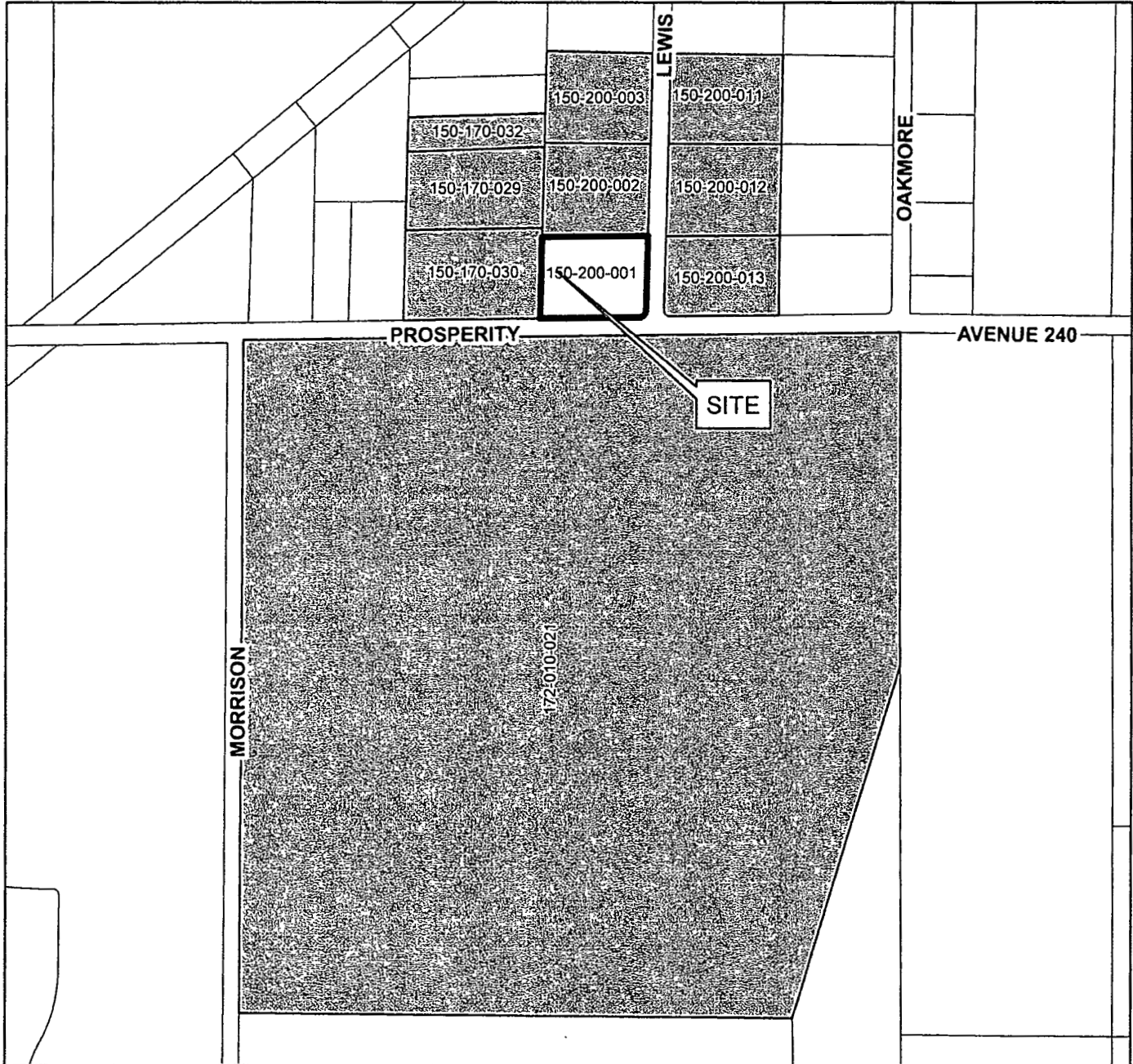
Based on the 2015 Pavement Management System database, the existing pavement width on Lewis Lane is 36 feet. The pavement type on Lewis Lane is road mix asphalt surfacing.

We have no recommended conditions for the subject case.

CA



# Location and Property Ownership Map for Hearing Notification for PSP 18-022



Owner: The Magnolia Group  
Address: 121 E. Main Street, Ste. 305  
City, State, ZIP: Visalia, CA 93291  
Applicant: same  
Agent: Larry Lewis  
Supervisory District: 2  
Assessors Parcel: 150-200-001

0 0.1 0.2 Miles

SITE  
Prop within 300'  
Parcels

County of Tulare  
Geographic Information Systems



NOTICE OF PUBLIC HEARING AND AVAILABILITY  
OF ENVIRONMENTAL DOCUMENT

A **Categorical Exemption for Special Use Permits No. PSP 18-022** has been approved for public review by the Tulare County Environmental Assessment Officer. Copies are available for review and comment at the Resource Management Agency, Permit Center, 5961 South Mooney Blvd., Visalia, California 93277-9394. Comments and recommendations on the adequacy of the environmental document may be filed at the aforementioned address during the public review period established for the project.

**PROJECT:** Special Use Permits No. PSP 18-022

**APPLICANT/AGENT:** The Magnolia Group (Arnulfo Gonzalez)

**LOCATION:** On the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare.

**PROJECT DESCRIPTION:** Categorical Exemption and Special Use Permit to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) zone.

**ENVIRONMENTAL DOCUMENT:** Categorical Exemption consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines pursuant to Title 14, Cal. Code Regulations Section 15301, Class 1, pertaining to Existing Facilities.

**REVIEW PERIOD:** 10 days until Monday, May 7, 2018 at 5:00 p.m.

**PUBLIC HEARING:** Planning Commission on Wednesday, May 9, 2018, at 9:00 a.m.

All meetings are held at the Board of Supervisors Chambers, 2800 West Burrell Avenue, Visalia, California 93291.

All interested parties are invited to attend and be heard. For further information regarding this project, please call **Dana Mettlen (559) 624-7000** or for environmental questions please call Hector Guerra, Chief Environmental Planner at 624-7121.

If you challenge the decision on any of the foregoing matters in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Tulare County Resource Management Agency, Economic Development and Planning Branch, within the review period described herein.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in meetings call (559) 624-7000 48-hours in advance of the meeting.

HECTOR GUERRA, CHIEF ENVIRONMENTAL PLANNER  
REED SCHENKE, ENVIRONMENTAL ASSESSMENT OFFICER

---

TO BE PUBLISHED ONCE ONLY ON: Thursday, April 26, 2018

SEND BILL AND TEAR SHEET TO:  
TUL CO RESOURCE MGMT.  
5961 SOUTH MOONEY BLVD.  
VISALIA, CA 93277-9394

SEND TO: VTD



# **Attachment “4”**

## **Notice of Exemption**

# Notice of Exemption

To: ☐ Office of Planning and Research  
1400 Tenth Street, Room 121  
Sacramento, CA 95814

☒ Tulare County Clerk  
Room 105, Courthouse  
221 South Mooney Boulevard  
Visalia, California 93291

<p>FILED TULARE COUNTY</p> <p>MAY 14 2018</p> <p>ROLAND P. HILL ASSESSOR/CLERK RECORDER BY:</p>
<p>Date Filed with Tulare County Clerk</p>

**Lead Agency:** Tulare County - Resource Management Agency  
5961 South Mooney Blvd.  
Visalia, CA 93277  
Ph: 559-624-7000  
Attn: hguerra@co.tulare.ca.us

**Applicant(s):** The Magnolia Group  
121 E. Main Street, Suite 305  
Visalia, Ca 93291  
559-972-3638

**Activity/Project Title:** Special Use Permit No. PSP 18-022

**Activity/Project Location:** 1333 Lewis Lane, on the northwest corner of Lewis Lane and Prosperity Avenue, east of the City of Tulare (APN 150-200-001).

**Activity/Project Location- Section, Township, Range:** Section 31, Township 19 S, Range 25 E, MDB&M

**Project Location - City:** N/A

**Project Location - County:** Tulare

**Description of Nature, Purpose, and Beneficiaries of Project:** Special Use Permit to allow an 18-bed assisted living facility on a 2.06-acre parcel in the R-A-100 (Rural Residential – 100,000 sq. ft. minimum) Zone,

**Exempt Status:** (check one)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- ☐ General Rule: CEQA guidelines (14 Cal. Code Regs. Section 15061 (b)(3)) (No Possibility of Significant Impact)
- ☒ Categorical Exemption: Title 14, Cal. Code Regulations Guideline § 15301, Class 1 pertaining to Existing Facilities
- ☐ Statutory Exemptions:

**Reasons Why Activity/Project is exempt from CEQA:** The use of Section 15301 is applicable and appropriate because only interior alterations are proposed with regard to this project.

**Name of Public Agency Approving Activity/Project:** County of Tulare Resource Management Agency

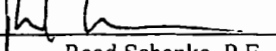
**Activity/Project Representative** Dana Mettlen

**Area Code/Telephone:** 559-624-7106

**Signature:**   
Hector Guerra

**Date:** 4/17/18

**Title:** Chief Environmental Planner

**Signature:**   
Reed Schenke, P.E.

**Date:** 4/16/18

**Title:** Environmental Assessment Officer

☒ Signed by Lead Agency

**Date received for filing at OPR:** N/A

# *Appeal of Special Use Permit 18-022*

*Appellant Kristine Herd, et al,  
v. Appellee the Magnolia Group  
(Arnulfo & Esperanza Gonzalez)  
Assisted Living Facility in the R-A-100 Zone*



*COUNTY OF TULARE  
BOARD OF SUPERVISORS  
JUNE 12, 2018*

# Background

2

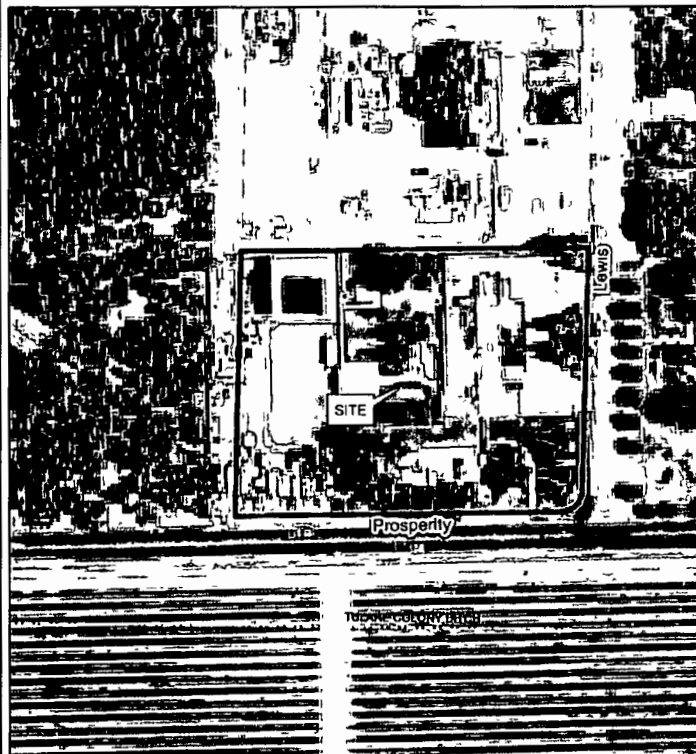
1. Property purchased because of its existing use permit for a "contractors storage yard" on the site at Lewis Lane & E. Prosperity – east of the City of Tulare
2. Magnolia Group started the building permit process
3. Project was sent to PRC on Feb. 15, 2018 for consideration of a new use permit for an 18 bed assisted living facility
4. Heard before the Planning Commission on May 9, 2018, where several of the appellants showed up to voice their concerns and stand in opposition to the project
5. The Project was unanimously approved by the PC
6. Kristine Herd appealed the decision on May 22, 2018
7. The Board Passed Proclamation of Critical shortage of health care facilities in Tulare County - June 5, 2018

# Location and Surrounding Neighborhood

3



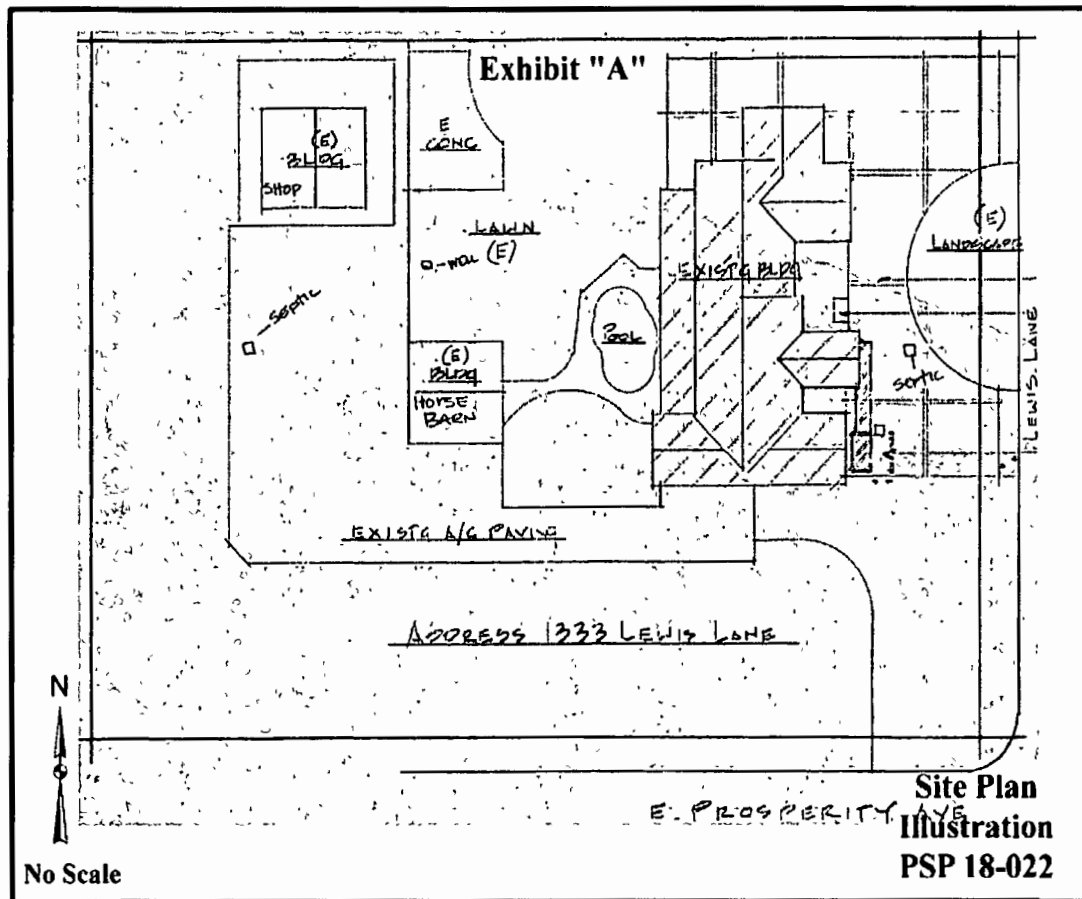
Aerial Photograph  
for  
PSP 18-022



Owner: The Magnolia Group  
Address: 121 E. Main Street, Ste. 305  
City, State, ZIP: Visalia, CA 93291  
Applicant: same  
Agent: Larry Lewis  
Supervisory District: 2  
Assessor's Parcel: 150-200-001

0 250 Feet

☐ SITE  
☐ Parcels



Site Plan  
Illustration  
PSP 18-022

Aerial

2013



4

2017



# Appellant's allegations

5

## 1. Inconsistent Zoning

- States that the Cat. Exemption is inconsistent with the RA zone

## 2. Increased Traffic

- States that "24" hour care facility employees and emergency services will create traffic and safety issues

## 3. Increased Water Usage

- 90% of the neighbors had to sink their wells deeper during drought

# Response #1 - Inconsistent Zoning

1. A categorical exemption is the appropriate document under CEQA and does fit the zoning as no "new development is proposed" & no comment from City
2. R-A Zone under Section 16.11.B allows Hospitals and Sanitariums with a Use Permit
  - A living care facility is a less intensive use
3. Although not spelled out in Section 16
  - Definition - a public or private residential facility providing a high level of long-term personal or nursing care for persons (such as the aged or the chronically ill) who are unable to care for themselves properly."



## Response #2 - Increased Traffic

7

- ❑ Current use permit allows for parking for approximately 15 employees; 50 vehicles including construction / trailer / water storage vehicles ; and allowed 44 trips per day
  - New Project: Estimated 24 employee trips and 10 guest trips per day plus occasional emergency vehicles
  - A reduction from currently allowed

# Response #2 - Increased Traffic LTS Impact

8

## ☐ Major Arterials (not “collectors”)

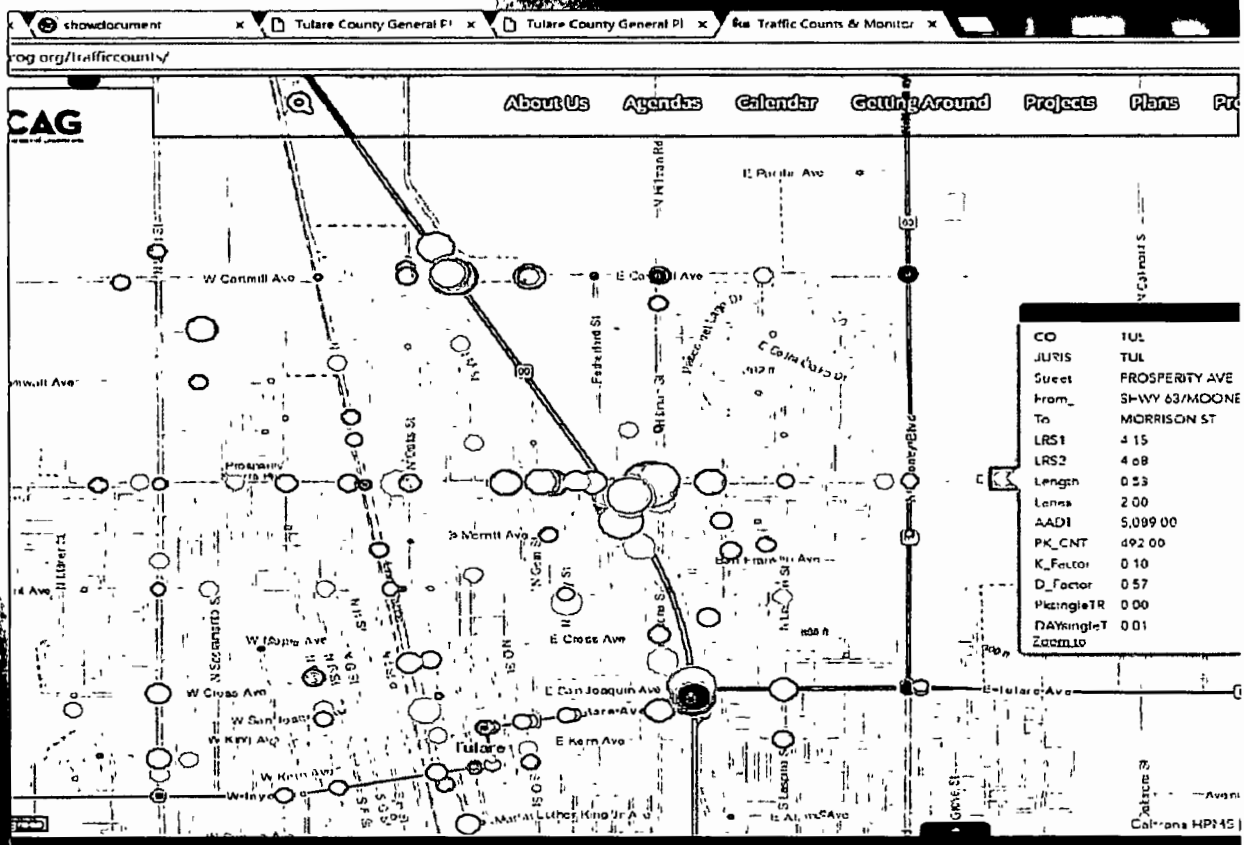
- Oakdale Avenue (Ave 256) ♦ Oakmore Street (Rd 124) ♦ Prosperity Avenue (east of Blackstone) – City of Tulare 2035 General Plan
- Arterials are moderate-speed through streets with average daily traffic over 10,000 vehicles per day (allowing direct access for non residential and high density) – City GP
- Tulare County GP LOS is C (acceptable) with a 2 lane collector at 13,800 Avg. Daily Trips

# Response #2 - Increased Traffic TCAG

9

## □ Highway Performance Monitoring System

- Prosperity 5,089 trips (2014)
- Prosperity 6,234 trips (2017)
- Oakdale / Oakmont Ave. at 1,693 trips



## Response #2 - Increased Traffic Safety

10

- ❑ No evidence of accidents in record by appellant; previous use had full size trailers accessing site

## Response #3 - Increased Water Usage

- Existing site has a 5 hp pump and served water storage vehicles and equipment requiring cleaning.
- Current use includes two bathrooms for 15 employees
- Current building code (for new project) requires water conservation fixtures and landscaping.

# Request

11

1. Hold a Public Hearing at 9:30 A.M. or shortly thereafter.
2. Based on the findings set forth in the attached "Exhibit A" made a part hereof, deny the appeal filed by Kristine Herd, et al, and affirm the Planning Commission's approval of Special Use Permit No. PSP 18-022 for an Assisted Living Facility (the Magnolia Group) located on a 2.06-acre parcel in the RA-100 (Rural Residential – 100,000 sq. ft. minimum) Zone, east of the City of Tulare.



# RESOURCE MANAGEMENT AGENCY

5961 SOUTH MOONEY BLVD

VISALIA, CA 93277

PHONE (559) 624-7000

FAX (559) 730-2653

Michael Washam

Reed Schenke

Sherman Dix

Economic Development and Planning

Public Works

Fiscal Services

REED SCHENKE, DIRECTOR

MICHAEL WASHAM, ASSOCIATE DIRECTOR

## MEMORANDUM OF STATEMENT OF APPELLEE RESPONSE AND INVESTIGATIONS

DATE: JUNE 7, 2018

TO: BOARD OF SUPERVISORS

FROM: AARON R. BOCK, CHIEF PLANNER, PROJECT PROCESSING

RE: APPELLEE STATEMENT AND INVESTIGATION OF SURROUNDING PROPERTIES

The attached is a letter from the appellee to the Board. (See attached letter from the Appellee). During the Planning Commission hearing, there was a statement that there were several other use permits throughout the neighborhood (including the existing use permit on this site – see Exhibit A), but that this specific use would not fit the neighborhood. Therefore, RMA has conducted the attached research to verify that there are minimally two-second residences, and a cleared violation (see Exhibit B). There is also an incomplete use permit for an interior office that completed the PRC process. However, it has not started the Use Permit Process for a contractor storage yard, directly to the north of this project (see Exhibit C).



On May 22, 2018 at approximately 6:45pm, I started my neighbor outreach with Kristine Ward and then Laura Cardoza. While conversing with Kristine Ward, she informed me that it was Becky Peichoto who initiated the appeal. I then inquired about another statement made to us. The statement "The real concern is that we don't want Mexican workers coming to work in our neighborhood at various hours of the day 24/7" At which point Mrs. Ward demanded I leave her property. She stated: "Your presence in my property offends me. Leave now before I call the cops" I did apologize to Mrs. Ward. I reassured her that our employees are finger printed with DOJ and FBI clearance. Yes, I am of Hispanic descent who does not discriminate against anyone who has a heart for my mamas and papas.

A little about me, I came to the Central Valley when I was 16 years old. I spoke no English. I worked in the fields. I then went on to study in the Tulare high schools. Then after two years, I transferred to COS where I graduated from the nursing program. Today, I care for many elderly. I became a hospice nurse in 1999. I am willing to provide any documentation that may be asked of me.

I believe that any human in any culture of any race or color is not to be defined by the color on the surface of their skin. Rather, we are to be accepted by the substance of character in our being. I understand that in a world of diversity there will always be adversity with some people deficient of spirit but who will never define the content of another whose spirit has transcended human fragility through the lives of many who have entrusted their lives and suffering journeys. It is a privilege and honor to be entrusted by so many during my caring journey. I count it an honor to serve the greatest generation; the very ones who have helped make this country great. Caring for my mamas and papas during their times of sickness and vulnerability is precisely what I was born to do. I very much appreciate the chance to. I appreciate your kind consideration in this matter. I shared this with Mrs. Cardoza. The following paragraph details the real reason for the appeal according to her.

In my conversation with Mrs. Cardoza, I offered the same transparency I had offered Mrs. Ward as well my resume, education and references. Mrs. Cardoza informed me that while she did not want to get involved, she knew their true concerns. She asked that I speak to her husband Shawn Cardoza and gave me his cell number. She stated he signed the petition NOT her. She assured me that he knew his subject well in zoning. She continued, "however, we are all concerned of the coming and going of the Mexican workers parking and working in our neighborhood" I did call Mr. Cardoza hoping he could share his vast zoning knowledge. Unfortunately, he did not answer any of my calls or texts the next day. Also the next morning, I re-read the appeal notice containing the names and addresses as well as the signatures of same. I discovered it was **Mrs. Cardoza** who had signed. Not Mr. Cardoza. Enclosed please see Mr. Cardoza's text message.

**Joy McGuire**  
**514 Americas Way #8010**  
**Box Elder, SD 57719**  
[joysfate@sbcglobal.net](mailto:joysfate@sbcglobal.net)  
559-972-7780

June 1, 2018

TO: Tulare County Board of Supervisors  
RE: Elder Care Facility in Tulare

I lived in Tulare for over thirty years. It is my understanding that there has been some opposition to to a home care facility for the elderly going in at 1333 Lewis Lane in Tulare, California. I can't imagine why anyone would object, and I'd like to explain why:

When my father's health deteriorated to a point where he needed full time skilled nursing care, my brother and I were frantic to find a good care facility that met our needs. Since the majority of his family resides in Tulare, that is where we looked first. Unfortunately, there were zero beds available at ANY facility in Tulare, so we moved on to Visalia.

The *very few* beds that were available in Visalia were in places that were unpleasant at best. Basically we found institutions where the elderly were dumped to die. It broke our hearts to think of moving our father to a place like that. Then we visited Magnolia In Home Care Services on Douglas Ave in Visalia. Our first impressions were amazing. There were residents outside enjoying the beautiful gardens, everything was homey and pleasant and very much **un-**like a hospital or institution.

Then we met the owner, Esperanza Hanson, and her husband Arnold. We were more than impressed. Esperanza's philosophy of holistically treating the patient was a breath of fresh air. Her emotional caring for the patients was immediately evident. When we moved our father in, Arnold and the staff went above and beyond to make sure his room was comfortable for him.

My father's health continues to be of concern, but we know that Esperanza is going above and beyond to bring the quality of his life back. I cannot stress enough what genuine and personal care she's given him and the entire family.

As for the facility, it is clean, homey, quiet, beautifully and peacefully landscaped, and centered on the patients needs. The residents are happy, the staff is friendly, sincere,



June, 5<sup>th</sup> 2018

To Whom it may concern,

Esperanza Hansen has helped me in a multitude of ways.

As a friend and as a business partner.,

I had a serious accident, I was hit by a car while riding my bicycle, and I was rushed to the hospital. She stayed by my side and helped my family feel empowered regarding my health care. It is a very intimidating experience to deal with a loved one in critical condition and her strength and wisdom as a medical practitioner gave my family the confidence to challenge the doctors regarding my care, which quite possibly saved my life.

Subsequently, she has helped me become an advocate for my own health care.

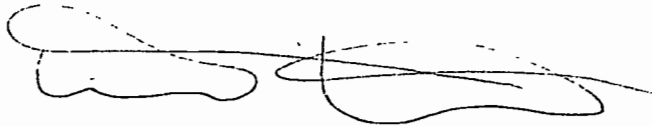
Esperanza helped me to work with my primary physicians to correct my diagnoses, that were misdiagnosed prior, to her becoming involved as my health care advocate. She has introduced me to a number of quality physicians, medical professionals and alternate Holistic procedures that has enhanced the quality of my life.

I appreciate the way that Esperanza has challenged me to rethink certain aspects of my life and the results of her doing this have been very beneficial.

Esperanza's unselfish way that she cares and educates has had a lasting impact not only for myself but for my entire family.

Mike Minder

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Michael Minder', with a large, stylized flourish extending to the right.

Michael Minder

BEFORE THE ZONING ADMINISTRATOR

COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF SPECIAL USE PERMIT )

DECISION NO. 3004

APPLICATION NO. PSP 08-057 (ZA) )

Decision of the Zoning Administrator of the County of Tulare, approving a Special Use Permit requested by Larry Cottrell, 1333 Lewis Lane, Tulare, CA 93274 to allow a contractor's storage yard (paving equipment) on a 2.06-acre parcel in the R-A-100 (Rural Residential-100,000 sq. ft. minimum) Zone, on the northwest corner of Lewis Lane and Avenue 240 (Prosperity Avenue), east of Tulare.

The Zoning Administrator hereby determines the following findings were relevant in evaluating this application:

1. An application for a Special Use Permit has been filed pursuant to the regulations contained in Section 16 of Ordinance No. 352, the Zoning Ordinance.
2. Under Board of Supervisors' Resolution No. 83-459, as amended, and Section 16 of the Tulare County Zoning Ordinance, the Zoning Administrator is authorized to approve or deny requests for special use permits for contractor's storage yards except when an environmental impact report is required.
3. Staff has given notice of the Zoning Administrator's intention to consider the granting of a Special Use Permit as provided in Section 16 of said Ordinance No. 352 and as provided in Section 65905 of the Government Code of the State of California.
4. Staff has performed necessary investigations, prepared a written report and recommended certain conditions of approval if this application is approved by the Zoning Administrator.
5. Public hearings were conducted on October 23, 2008, October 30, 2008 and November 13, 2008 in the Commission Meeting Room of the Resource Management Agency Offices in order to receive public testimony on the proposed application. Larry Cottrell (applicant) and David Mathias (applicant's attorney) appeared at the public hearings in order to give testimony in support of the proposal and no one appeared at the hearing and spoke in opposition to the project. Susan Simon (Planner representing the City of Tulare) appeared at the public hearing on November 13, 2008, and provided testimony in support of the recommendations stated in correspondence provided by the City.

Tulare's 2030 Urban Development Boundary and Sphere of Influence and is designated "Rural Residential." The response indicates that the use of the site as a contractor's storage yard would not be compatible with the Rural Residential designation if the site is within the City boundaries. The City of Tulare requests that the use permit be limited to the number of trucks and equipment as proposed by the applicant, that driveways and parking areas be maintained to minimize dust, that the permit expire after five years and that drive approaches be limited to Lewis Lane. Additionally, the City of Tulare requests that the applicant file an irrevocable offer of dedication to the City of Tulare in the amount of 26 feet of right-of-way across the project site's frontage along Avenue 240 (Prosperity Avenue), with a 20-foot corner radius at the northwest corner of Prosperity Avenue and Lewis Lane.

Response: Tulare County's Urban Boundaries Amendment No. GPA 94-006 indicates the site is located within Tulare's Urban Area Boundary, but not within the Urban Development Boundary. According to the Urban Boundaries Element, a component of the Tulare County General Plan, in order to officially alter an Urban Development or Urban Area Boundary, all agencies which administer policies and programs related to the boundaries shall agree on the change, including the Tulare County Board of Supervisors. The County has not adopted the Urban Development Boundary as identified in the City of Tulare 2030 General Plan Update. Therefore, the County is not obligated to take into consideration the development standards of the City of Tulare in accordance with the policies identified in the Tulare County Urban Boundaries Element when reviewing the proposal.

In regards to the request from the City of Tulare that the drive approach along Avenue 240 be relinquished, staff inquired with the Tulare County RMA – Engineering Division about whether any hazards could potentially result from allowing the existing drive approach on Avenue 240 to remain. The Engineering Division stated that the existing drive approach did not conflict with any County policies and a review of County records indicates that the drive approach was permitted and approved by the Engineering Division, Encroachment Permit No. 97-101, dated March 19, 1997. The subject site is not within the City of Tulare Urban Development Boundary therefore, the County is not obligated to require the proposal to be developed to the City of Tulare's standards regarding drive approaches. Furthermore, the Tulare County RMA – Code Compliance division requests that the access to the site for employees, equipment and trucks be limited to the existing drive on Avenue 240. Conditions of approval have been included as requested by the City of Tulare that require all on-site parking areas and driveways to be surfaced and continually maintained as to not create conditions detrimental to the surrounding roadways and which limit the number of trucks and equipment as outlined by the applicant.

daily trips to and from the subject site. The response received from the City of Tulare dated October 27, 2008 does not provide a clear nexus between the proposal and the conditions recommended by the City of Tulare to require the applicant to file for an irrevocable offer of dedication in conjunction with a corner radius in favor of the City of Tulare. It was determined that the conditions described above were recommended with the intentions to accommodate future growth rather than avoid any adverse impacts to traffic levels that may result from approval of the project.

In regards to the recommendation by the City of Tulare to require that the special use permit expire in five years, it was determined that the response received from the City of Tulare dated October 27, 2008, did provide a reasonable nexus between the proposal and the recommended condition for consideration by the Zoning Administrator. However, the applicant has completed extensive improvements of the subject site to accommodate the proposed use and therefore, it was determined that limiting the use to five years could not be justified in the event that the subject site is not annexed by the city within that time period. Although the proposed use is not consistent with the City's "Rural Residential" designation of the site if it were located within the City of Tulare boundaries, the proposal is subject to conditions of approval which will reduce any adverse affects to the surrounding areas if the use continues to exist at the site. Furthermore, at such time that widening of Avenue 240 (Prosperity Avenue) occurs as stated in correspondence received from the City, a large portion of the site primarily utilized for the storage of equipment would be greatly reduced. Upon widening of Avenue 240, it is very unlikely that the site could be feasibly reconfigured to allow the use to exist in its current capacity or at all.

Additionally, it was also determined that approval of the special use permit will promote economic development opportunities, which is a goal linked to the Economic Well-Being initiative of Tulare County's Strategic Business Plan 2006-2011.

12. At the public hearing on October 23, 2008, the applicant requested that the number of employee vehicles allowed to park be increased to 15 or 20 vehicles. The applicant stated that on occasion, some employees travel out of town for work related to the paving business. At times, when employees travel out of town, they often park their personal vehicles at the subject site and then travel in company vehicles to a job out of the local area where they sometimes remain for one to two weeks. The applicant stated that if the number of employee vehicles allowed to park on-site is limited to six there may not be enough spaces for employees that are working in the local area to park on-site while they take a company vehicle to a local

The storage area will be screened from public view by existing and proposed 6-foot tall slatted cyclone fences, mature landscaping comprised of trees, oleanders and a walnut grove to the west. A condition of approval is included to ensure compliance with this contractor storage yard requirement.

The Zoning Administrator, after considering all of the evidence presented hereby finds that the proposal complies with the following contractor's storage yard requirements:

- (a) Only minor repairs related to the maintenance of vehicles are to be completed on site. No commercial repair work or servicing of vehicles of any kind shall be conducted in the parking area, except in the case of emergency. Only minor repairs of a routine maintenance nature of vehicles, equipment, and trucks and trailers associated with the operation shall be allowed.

Response: The proposal is to store trucks and equipment utilized for the applicant's paving business. Maintenance and repair of the trucks and equipment is done at an off-site commercial shop and no repairs or related maintenance are proposed to take place at the site. A condition of approval has been included to ensure compliance with this requirement.

- (b) The use shall not become a nuisance by reason of odor, visual aesthetic, dust, smoke, noise, vibrations, or may impose a health hazard to health or property.

Response: See (c) below.

- (c) No equipment or process shall be used which creates excessive noise, vibration, glare, fumes, or odor detrimental to the use health, safety, peace, morals, comfort and general welfare of persons residing in the neighborhood.

Response: The proposal is to allow storage of trucks and equipment utilized for the applicants paving business. Truck and tractor engines are known to be a source of odors, smoke and vibrations. The proposed parking area is located near the southern boundary of the 2.06-acre parcel and is approximately 200 feet from the closest neighboring residence which will significantly reduce any nuisance pertaining to noise, odor, smoke or vibration to the surrounding properties.

The project was evaluated under air quality emission thresholds set forth in the San Joaquin Valley Air Pollution Control District's (SJVAPCD) "Guide for Assessing and Mitigating Air Quality Impacts". The Guide describes the level of quantitative emissions analysis recommended for various sizes and types of land use projects.

500 gallons in capacity to be located a minimum distance of 10 feet from any public right of way and any lot line of the subject property where such tank is stored. The Zoning Administrator has also imposed additional criteria for storage of such tanks such as increased distances from lot lines and minimum distances from nearby wells when deemed necessary.

- (g) All parking and internal circulation shall be designed so that the vehicles enter or exit the site by moving forward. No parked vehicles shall extend into the public right of way or impeded traffic flow.

Response: The project site has sufficient space for a truck attached to a trailer and large vehicles to enter and exit the site moving forward. Furthermore, the proposed parking location is more than 200 feet from the drive approaches located on Avenue 240 and Lewis Lane which provides ample space for parking of trucks and equipment without extending into the right of way or impeding traffic flow. A condition of approval has been included to ensure compliance with this requirement.

- 14. The project was determined to be exempt from the provision of the California Environmental Quality Act (CEQA), pursuant to Section 15303, Class 3 pertaining to installation of small, new equipment and facilities in small structures and conversion of the use of small existing structures.

The Zoning Administrator further finds there is no substantial evidence that the proposed Special Use Permit will have a significant effect on the environment and determines that the project is Categorical Exempt in accordance with the California Environmental Quality Act and the State Guidelines for the Implementation of the California Environmental Quality Act of 1970 by Article 19, Section 15303, pertaining to installation of small, new equipment and facilities in small structures and conversion of the use of small existing structures.

The Zoning Administrator, after considering all of the evidence presented, found that the establishment, maintenance, and operation of the use of building or land applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood or to the general welfare of the County.

NOW, THEREFORE, BE IT DETERMINED AS FOLLOWS:

The Zoning Administrator of the County of Tulare hereby approves Special Use Permit No. PSP 08-057 (ZA), subject to the following conditions:

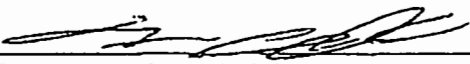
- 1. Standardized conditions as set forth in Zoning Administrator Decision No. 2271 shall be applicable to this project (see Attachment No. 1).

dust, vector harborage, and vector breeding

8. If the site will handle or store quantities of hazardous materials in excess of 55 gallons, 500 pounds, or 300 cubic feet of a compressed gas or any hazardous waste, the facility will be required to submit a Hazardous Materials Business Plan to the Tulare County Environmental Health Services Division (TCEHSD) prior to the approval of the special use permit.
9. The applicant shall install (1) 4A:60BC portable fire extinguisher every 75 feet along the vehicle parking and storage building.
10. All on-site parking areas and driveways shall be surfaced for all-weather conditions and be continually maintained so that dust and mud do not create conditions detrimental to the surrounding roadways.
11. The intensity and nature of the use, as a contractor's storage yard (paving business), shall not be expanded or modified beyond that approved herein unless the applicant applies for and receives approval of a minor modification or amendment to this special use permit.
12. No manufacture, fabrication or retail sales of construction materials or equipment shall be allowed on-site.
13. The contractor's storage yard shall clearly be an accessory use to the dwelling unit occupied by the owner of the facility and shall not change the residential character thereof.
14. The use of the site as a contractor's storage yard is contingent upon the requirement that the owner of the contractor's storage yard facility must occupy the on-site dwelling.
15. The proposed storage area shall be restricted to an area surrounded and screed by a solid wall or fence or compact evergreen hedge (with solid gates where necessary) not less than 6 feet in height, provided that no materials shall be stored to a height greater than that of the wall, fence or hedge. Gate entrances to the site shall remain closed when not in use.

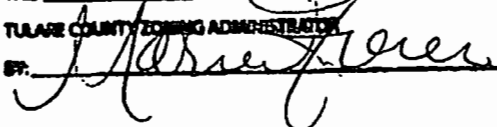
27. No employee vehicles or trucks and equipment utilized for the paving business shall be permitted to park within any public right of way adjacent to the subject site.
28. All solid waste shall be recycled or disposed of at a County approved landfill. Waste products shall not be allowed to accumulate on-site.
29. All landscaped areas shall contain fertile, friable soils with adequate subsurface drainage, contain provisions for convenient irrigation in the form of hose bibs and/or sprinkler systems and be permanently maintained in a neat and viable condition.
30. No landscape material shall be used that constitutes a threat to human safety, nor shall any landscape material be located in such a manner as to impair the vision of motorists or endanger the life and safety of pedestrians.

TULARE COUNTY ZONING ADMINISTRATOR

  
David Claxton, Zoning Administrator

Date Approved: 11/20/05

nh

STATE OF CALIFORNIA  
COUNTY OF TULARE SS  
I, David Claxton TULARE COUNTY ZONING ADMINISTRATOR,  
DO HEREBY CERTIFY THAT THE ATTACHED DECISION TO BE A  
FULL TRUE AND CORRECT COPY OF AN ORIGINAL.  
DECISION MADE AND ENTERED BY ME 11-20-05  
AS THE SAME APPEARS OF RECORD AND ON FILE IN MY OFFICE.  
WITNESS MY HAND,  
THIS 2 DAY OF April 20 09  
TULARE COUNTY ZONING ADMINISTRATOR  
BY: 



ATTACHMENT NO. 2

RIGHT TO FARM NOTICE

RE: Use Permit No. PSP 08-057(ZA)

or

Parcel Map No. \_\_\_\_\_

or

Subdivision Map No. \_\_\_\_\_

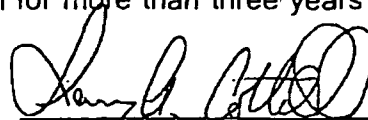
or

Mining and Reclamation Plan No. \_\_\_\_\_

In accordance with Section 7-29-1070(a) of the Tulare County Ordinance Code; and as a condition of approval of the above-referenced use permit, parcel map, subdivision map or mining and reclamation plan, the undersigned hereby acknowledges that:

It is the declared policy of Tulare County to conserve, enhance and encourage agricultural operations within the County. Residents of property on or near agricultural land should be prepared to accept the inconveniences and discomfort associated with agricultural operations, including, but not necessarily limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides. Consistent with this policy, California Civil Code Section 3482.5 provides that no agricultural operation, as defined and limited by that section, conducted and maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, as established and followed by similar agricultural operations in the same locality, shall be or become a nuisance, private or public, due to any changed condition in or about the locality, after the same has been in operation for more than three years if it was not a nuisance at the time it began.

Dated: 4-02-09

  
(Signature)

\_\_\_\_\_  
(Print Name)

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

ACCEPTANCE

I/We, LARRY A. COTTRELL, do hereby accept the Special Use Permit granted by the foregoing decision of the Tulare County Zoning Administrator and agree that said I/we, my/our heirs, executors, administrators and assigns will well and faithfully observe all of the conditions and qualifications to said Special Use Permit as set forth in the foregoing decision of the Tulare County Zoning Administrator-attached thereto, and I/we acknowledge and agree that should I/we, my/our heirs, executors, administrators or assigns, fail to observe any of the said conditions or qualifications to said Special Use Permit, the Tulare County Zoning Administrator or any body or officer designated by law or ordinance may, on its own motion, revoke or modify said Special Use Permit pursuant to the procedure established by law or ordinance and said Special Use Permit shall thereupon be null and void and of no further effect.

Larry A. Cottrell

(Signatures)

State of California )

County of Tulare )

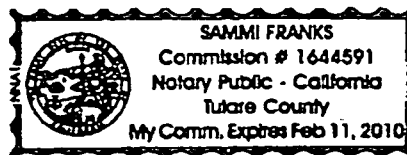
On 4-2-09 before me, Sammi Franks, Notary Public  
(date) (name and title of officer)  
Notary Public, personally appeared Larry A. Cottrell  
(name of person signing)

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sammi Franks  
Signature of Notary Public



DO NOT RECORD UNTIL THIS SECTION HAS BEEN SIGNED OFF BY  
THE RESOURCE MANAGEMENT AGENCY

Compliance fees \$ 200.00 Received by JM Receipt No. R0901208 Date 04/02/09

<b>Agricultural Preserve/Contract?</b>	N/A
<b>Preliminary Environmental Review Determination:</b>	Categorical Exemption per Section 15303 – New Construction or Conversion of Small Structures.
<b>Subdivision Ordinance/ State Map Act Consistency:</b>	N/A
<b>Other Facts: (history of site, flood zone, airport, hazard zones, water test for wells, etc.)</b>	<p>Created as Lot 6 of Tract 562, R.M. 28-63</p> <p>Building permits – A1303218 for 7,500 s.f. metal shop building with restroom, A1603662 fire sprinkler system installation for shop, A1700672 reroof single family residence. (An ag exempt 1,152 s.f. barn built as A9501977 was demolished per A1301891.)</p> <p>FEMA Flood Zone X</p> <p>Hanford Sandy Loam, Prime Class I if irrigated, low shrink-swell, moderate septic tank absorption</p> <p>Tulare Irrigation District, Tulare City Elementary and Joint Union High School Districts, Tulare Quad.</p>

Please review this proposal and forward electronically any comments and/or recommendations, along with any suggested development requirements, conditions of approval, design criteria, and/or improvement standards that you feel are necessary and/or relevant to this proposal prior to 9/19/17, so that the information can be included for discussion at the PRC meeting.

**Attachments:** Application  
Site Plan  
Operational Statement (if required or included as part of the application)  
Preliminary Conditions of Approval – *after consultation responses*  
Graphics  
Site Photographs (if available)

**TULARE COUNTY RESOURCE MANAGEMENT AGENCY – ECONOMIC DEVELOPMENT & PLANNING BRANCH**

  
\_\_\_\_\_  
April Hill, Project Planner

9/6/17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Aaron Bock, Chief Planner  
Project Processing Division

9.6.17  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Michael Washam, RMA Associate Director

9/3/17  
\_\_\_\_\_  
Date

for the 2013 shop building permit, the Fire Inspector required an on-site water tank for fire suppression operations. However, sprinklers were installed instead.

6. The project may be eligible for Categorical Exemption from the California Environmental Quality Act (CEQA), per Section 15301 for Existing Facilities and Section 15303, which exempts New Construction and Conversion of Small Structures. Additional information will be required in the use permit application and may be requested by the planner, in order to determine whether the project might have an impact on the environment. If the project impacts Biological resources, the State Fish and Wildlife Department may require a fee of \$2,216.25. (2017 fee, will increase in 2018.)
7. Applicant may choose to apply for a use permit and pay a deposit of \$3,268, which includes application fee deposit the fee for filing a Notice of Exemption from CEQA, a compliance monitoring deposit, and a recording fee deposit. Additional staff time may be charged at \$100/hour. If the project is not approved, a refund may be requested for Fish and Game fee, recording fee, and compliance monitoring deposit. County staff time would still be due.
8. The site plan should be revised to add the locations of the existing 25'x50' wash rack, drainage pond, pasture, and of the proposed swimming pool (to also be used for fire suppression).

Comments and conditions from other departments were provided to the applicant before the September 21, 2017 meeting. At the meeting, the applicant was provided with

1. Contractor Storage Yard Ordinance
2. Tentative conditions of approval
3. Blank application form for all needed processes
4. Indemnification and Cost Recovery Agreement

**Disclaimer:** This information is provided as a convenience to the project applicant(s) and is in no way intended to be a final recommendation or a guarantee of project completeness. This information does not constitute final approval of the proposed project. All processing of projects required in the Tulare County Ordinance Code and Zoning Ordinance are required to be carried out in the manner prescribed by law. Modifications to suggested conditions and additional conditions of approval can be incorporated into the project at any time up until final approval. These comments shall expire if the required applications are not submitted within 180 calendar days of the date of the Project Review Committee meeting if the required applications for further processing are not submitted to the Tulare County Resource Management Agency.



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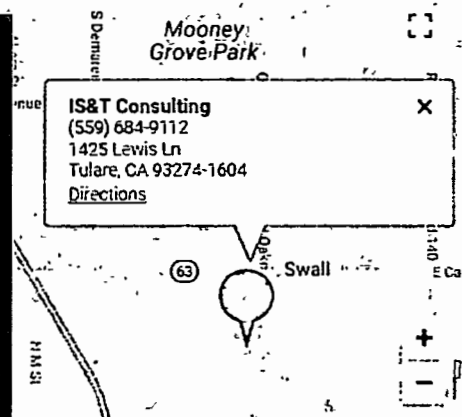


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*K Squared Incorporated*

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Tulare, CA 93274

Phone:  Show Number

Web: [www.istconsulting.net](http://www.istconsulting.net)

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Is&T Consulting is a privately held company in Tulare, CA and is a Single Location business.

Categorized under Business Consultants. Our records show it was established in 2001 and incorporated in California. Current estimates show this company has an annual revenue of 775000 and employs a staff of approximately 5.



### Contact

*Is this your business? Claim This Profile*

**Is&T Consulting**

Phone: (559) 684-9112

Web: [www.istconsulting.net](http://www.istconsulting.net)

Name: Kris Herd

Call Company

California-Central Valley-Sacramento, Fresno, Bakersfield / Television-Closed Circuit/Security

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Portfolio

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Construction Qualifications

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Tulare, California 93275

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### Locations

#### IS & T Consulting

Main

<http://www.istconsulting.net>

P.O. Box 1239

Tulare, CA 93275

Business Hours:

Not Provided

Kris Herd

Pres.

View Phone

(\*\*\*).\*\*\*.\*\*\*\*

### Service Areas

We service the following areas in California.

California: Counties

Tulare County

## Kristine Herd

---

**From:** Laura Cardoza <wellnessbylaura@hotmail.com>  
**Sent:** Monday, June 11, 2018 8:17 PM  
**To:** kristine@istconsulting.net  
**Subject:** Esperanza Gonzales

On Tuesday May 22nd at approximately 8:10pm, I witnessed Esperanza Gonzales driving several times up and down my street in her vehicle. She then drove onto my property (I was outside with my 4 year old daughter) at approximately 8:20pm and asked if I know the mayor of Visalia. I told her that I do not. She asked if my name is Cardoza, and I told her yes my last name is Cardoza. She then asked why is it that I wrote an email saying that I don't want Mexicans in my neighborhood. I was very confused and asked what this is about. She stated that she owns a home down the street and is trying to open up a live-in facility for the elderly and that she knows that I wrote an email stating I am against it because she is Mexican. I told her that is ridiculous and that all I know is that some of the neighbors are against changing the zoning of our neighborhood, and that we (my husband and I) signed a petition against it. I explained that my friend down the street, Kris, had asked me our thoughts on it a week or two prior, but that I had her speak to my husband about it because I felt he would know more about the issues, as he is in real estate. She just kept asking me over and over again why I don't like Mexicans and why I don't want to help the elderly. I told her I have nothing against any race, and that this is only a zoning issue, and that she needs to talk to my husband if she has questions, and not me, because I don't know all the details of the situation. I told her that none of our neighbors are "against Mexicans" as she kept saying, and that our neighborhood is made up of families of all different races, and that her continuing to make that statement was ridiculous and unfounded. I asked her why she asked me if I know the mayor of Visalia. She stated that she is on a board with him and that he is in some way involved. I gave her my husband's phone number and told her to call him, that I didn't want to discuss it, and that I didn't appreciate her coming onto my property making racial accusations. She finally left after about 10 minutes.

Esperanza then called my husband's cell phone and left a length voicemail. He stated that I told her that I don't want Mexican workers in our neighborhood for their business and she would like to know why. Several minutes after leaving the voicemail, she sent several long text messages. Kris has printed these text messages that she sent my husband, as well as the one message that he sent her.

I was very upset by Esperanza's accusations. I was also confused as to why she mentioned being on a board and in association with the Visalia Mayor, Warren Gubler. On Thursday, May 24th, I called Mr. Gubler's office and let his secretary know of the situation and that I wanted to know if he knows Esperanza Gonzales. He called me back less than 5 minutes later and told me that he has no idea who this person is, and that he doesn't appreciate her throwing his name around, especially in a situation such as this.

About a week after the first incident, my husband was told by his broker that Esperanza had talked to him regarding this situation and that she wants him to know that we are liars and racist. She told him that she has a press release ready to send to the newspaper.

We believe that she is now trying to slander our name in the community. We don't appreciate her untrue accusations, her extreme lack of professionalism as a business owner, and her unethical use of names in order to somehow try to intimidate and manipulate. This whole situation is simply a neighborhood of families that doesn't want the zoning changed for her business. We want the CC&R's of our neighborhood upheld and her business plan doesn't conform to that. The reasons have nothing to do with any other reasons or issues.



5/23/18

11:58



+1 (559) 901-9021

Text Message  
Today 8:27 AM

Good morning

I am confused. Your wife Laura told me in person you were the one opposing us. Further she stated that she was not the one comOlsoning that we are if Mexican heturage. Yet her signature is on the petition. Laura stated you were the one who signed that petition. If you all are not against us because of our race than why not speak with the truth. It hurts to be called a nd told



Text Message



11:58



+1 (559) 901-9021

Please help me  
understand.  
Do you guys want a  
resume of us.  
We don't belong to any  
gangs and we are not  
drug dealers or thieves.

The originator of the  
appeal is severely  
wrong.  
However she feels  
supported by all of you.  
Let me know what  
references you need of  
us.

Also We live in a very  
small world.  
I was the nurse for the  
Curtis...father and  
grandfather in the 90s.



Text Message



11:58



+1 (559) 901-9021

Also We live in a very  
small world.  
I was the nurse for the  
Curtis...father and  
grandfather in the 90s.  
Tulare hospital in the  
medical floor in room  
107

Today 11:10 AM

Your wife Laura also  
shared that there was a  
real concern about the  
Mexican workers who  
will be coming to work.  
It is very troubling and  
hurtful that you all  
signed the petition with  
the sentiment against  
our nationality or race.



Text Message



11:58



+1 (559) 901-9021

I'm sorry I don't know who you are. I don't like the way you're talking. In regards to an 18 bed commercial facility moving into an agricultural residential neighborhood and trying to change the zoning of the property in our neighborhood would highly be negative to the future of the neighborhood And surrounding agricultural area. You will have an opportunity to speak before the County Council and that is your time to do that. You have no right to come to any of us and



Text Message



11:58



+1 (559) 901-9021

You have no right to come to any of us and accuse us of racism. That will work opposite for you and I don't recommend it. Documentation of these text messages will be brought before county council of the unprofessionalism and the racial accusations you were placing on my family and the surrounding property owners. We were simply approached regarding somebody trying to change the zoning in our neighborhood. We are highly against that and



Text Message



11:58



+1 (559) 901-9021

regarding somebody  
trying to change the  
zoning in our  
neighborhood. We are  
highly against that and  
did choose to sign the  
petition against  
changing the zoning.  
This is an agricultural  
community and that is  
where it needs to stay.  
Not commercial. So  
again I am asking and  
telling you do not  
contact me or my family.  
Instead go speak before  
county council and  
plead your case. No  
more contact.

Your texts will be exhibit

C



Text Message





5593331395

CALL MORE

Friday, May 25, 2018



Shawn just had a meeting with the lead broker from Keller Williams Visalia because that Esperanza lady told him how Shawn is a racist and has been sending her racial text messages and that I am a liar and lied to her face when she came to kindly talk to me about it. She also said that she has an article all written up to send to the newspaper about this mistreatment she is receiving.

2:11 PM



I don't understand why she is targeting Shawn and I.

2:19 PM

TEXTS FROM LAURA CARDOZA

Tuesday, June 5, 2018

L

Shawn said we are out because of the threats that Esperanza made to Shawn's broker and saying she was going to the paper. He said no we aren't going and not getting anymore involved. If she contacts us again, he said we will make a police report for harassment. I'm sorry 😞

On another note, we have some hay bales that are looking too yucky for the horses if you would like them. There are I think 4-6 of them.

MMS  
7:21 AM



Esperanza Gonzalez (she never said her name, but I recognized her from the Planning Commission meeting as the property owner) showed up at my house on 5/22/18 at approximately 7:49 pm. I initially saw her standing at my front fence on my property several minutes prior while I was out on the back half of my property with my animals. She disappeared and I did not see where she went. I continued with what I was doing and when I went back up to my house and was in my backyard I saw her again at my fence on my property. She stood at my property fence and called out to me while I was in my fenced backyard. I finally walked closer to my backyard fence to try and hear what she was saying and she asked if she could ask me a question and I told her I was busy at the moment. She then asked when would be a good time so I told her "just a moment".

I met her in my driveway and she immediately started stating that the reasons behind the appeal was because "they were Mexican". I told her that it had nothing to do with that and she kept saying that it was because they were Mexican and that they had an accent. She said yes, I do have an accent and I didn't say anything in response to that. She continued to state that she received an e-mail "from someone in the neighborhood" and that it states that "three of us" have said that it was because they were Mexican. She also stated that she didn't know the names of the people, to which I replied, "I don't even know your name" and she did not respond nor did she ask me my name. I repeatedly told her that it had nothing to do with that and that I never said that. She indicated that she didn't know who the e-mail was from but that she was going to find out. She continued to say the same thing over and over and I told her that I was offended that she came to my house, accused me of saying those things, that I did not say those things and she kept on and on saying it was me. I told her that I was no longer going to talk to her if she was going to continue to accuse me of saying that.

She then stated that her real estate agent told them that she (realtor) talked to "all the neighbors" and that "no one has a problem with it". I took it that she was saying that her realtor went door to door to ask if it was okay that an assisted living facility came to the neighborhood before the house sold. I told her that I have never spoken to her real estate agent.

She then said "I find it peculiar that your husband has discussed video surveillance cameras with my husband" and then said something to the effect that my husband said that he doesn't have a problem with us. I didn't respond.

She then pointed to the house across the street from hers saying that it was either her or me that said that. I told her that I didn't know the corner neighbor that lives across the street from her and that I've never spoken to her. I told her that no one (neighbors) that I had spoken to about the issue has said anything about race.

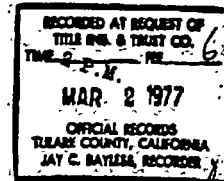
She continued on with the alleged e-mail at which time I told her again I was offended and that she needed to get off of my property if she was going to continue to accuse me of saying that. She continued and I had to ask her again to leave and to get off my property. She continued and I walked away while she was still trying to talk to me.

It was approximately 7:52pm when she left.

I received a text from neighbor Laura Cardoza at approximately 8:35 pm asking if I was home. I called Laura and she proceeded to tell me that she showed up at her house with the same accusations, but with some differing information in regards to the e-mail and that "we" wrote the e-mail saying that we

10683

Vol. 3395 Page 663



DECLARATION OF RESTRICTIONS  
TRACT 562

This Declaration made this 16th day of February 1977 by the undersigned, hereinafter referred to as the "Declarants".

WITNESSETH

That whereas, "Declarants" are the owners or have an interest in all that certain real property situate in the County of Tulare, State of California, particularly described as follows, to-wit:

Lots 1 to 17 inclusive, of Tract No. 562 as per map recorded in Book 28 page 63 of maps in the office of the County Recorder of Tulare County.

And whereas, all of the real property hereinabove described is hereinafter referred to as the "Tract".

And whereas, the "Declarants" intend to develop the "Tract" with a general plan or scheme of improvements, and to that end desire to make salutary and beneficial conditions and restrictions upon the use of said "Tract":

Now therefore, said "Declarants" hereby declare that said "Tract" and each lot and parcel thereof is and shall be conveyed and held subject to the covenants, conditions and restrictions hereinafter contained as follows, to-wit:

FIRST: RESIDENTIAL AREA COVENANTS. The residential area covenants in this first part in their entirety shall apply to Tract No. 562.

A. LAND USE. All lots are to be used for residential use only.

B. BUILDING TYPES. Single family residences and the necessary barns, buildings, and shelters required for the allowed animals and storage of feeds and agricultural equipment shall be allowed. No mobile homes or move-on type structures shall be allowed.

C. ARCHITECTURAL CONTROL. No building shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to

quality of workmanship and materials, harmony of external design with respect to topography and finish grade elevation. Approval shall be as provided in Part "Second".

D. DWELLING COST, QUALITY AND SIZE. No dwelling shall be permitted on any lot at a cost of less than \$24,000 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1,200 square feet for a one-story dwelling, nor less than 1,200 square feet for a dwelling of more than one story.

E. BUILDING LOCATION. No building shall be located on any lot in such a manner which will not conform with the Tulare County Building Code.

F. LOT AREA. No lot shall be resubdivided or split for a period of ten years from the recording date of this declaration.

G. TEMPORARY STRUCTURES. No structures of any temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

H. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than 8 square feet advertising the property for sale or rent or advertising for sale the produce of the property.

I. LIVESTOCK AND POULTRY. No livestock or poultry shall be raised in sufficient quantity as to create a noxious or offensive activity on any lot. No hogs or swine are to be allowed in any quantity on any lot. All poultry such as chickens, rabbits, turkeys and pigeons shall not be permitted in quantities exceeding 50 each or 150 collectively.

J. GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash or garbage shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

K. SEWAGE DISPOSAL. No individual sewage-disposal system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Tulare County Health Department, approval of such system as installed shall be obtained from such authority.

SECOND: ARCHITECTURAL CONTROL COMMITTEE

A. MEMBERSHIP. The Architectural Control Committee is composed of JOHN A LEWIS and VIRGINIA LEWIS, whose address is 1300 S. Mooney Blvd., Visalia, CA 93277. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

B. PROCEDURE. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

THIRD: GENERAL PROVISIONS.

A. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty five years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of five years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

B. ENFORCEMENT. Enforcement shall be by proceedings at a law or in equity against any persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

C. SEVERABILITY. In validation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

D. BREACH OF RESTRICTIONS. The breach of the foregoing conditions and restrictions or any entry by reason of such breach shall not defeat or render invalid the lien of any deed of trust or mortgage on said premises made in good faith but in case of foreclosure and sale thereunder the purchaser shall take title subject to all of the said restrictions and said conditions.

BY John A. Lewis  
John A. Lewis, Owner-Subdivider

TO 1844 CA (10-74)  
(Individual)



STATE OF CALIFORNIA  
COUNTY OF Tulare ss.

On March 1, 1977 before me, the undersigned, a Notary Public in and for said State, personally appeared John A. Lewis

to be the person whose name is known to me  
to the within instrument and acknowledged that he subscribed  
executed the same.

WITNESS my hand and official seal.

Signature Lawrence J. Brown



(This area for official notarial seal)