



City of Los Banos

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AGENDA

PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

JULY 13, 2016

If you require special assistance to attend or participate in this meeting, please call the Planning Secretary @ (209) 827-7000 extension 118 at least 48 hours prior to the meeting.

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Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 extensión 118 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Deshabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Planning Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

Cualquier escritura o los documentos proporcionaron a una mayoría del Departamento de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Secretaria del Departamento de Planificación del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en www.losbanos.org.

1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (Planning Commission Members)

Cates __, Faktorovich __, Limon __, Llamas __, McCoy __, Spada __,
Toscano __

4. APPROVAL OF AGENDA.

Recommendation: Approve the agenda as submitted.

5. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF MAY 25, 2016.

Recommendation: Approve the minutes as submitted.

6. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JUNE 22, 2016.

Recommendation: Approve the minutes as submitted.

7. PUBLIC FORUM: Members of the public may address the Commission on any item of public interest that is within the jurisdiction of the Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.

8. PUBLIC HEARINGS: If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City at, or prior to, the public hearing.

A. Public Hearing – to Consider Annexation and Pre-Zone #2014-01, General Plan Amendment #2015-03, Pre-Annexation Development Agreement, and associated Mitigated Negative Declaration (SCH #2015061056) for the Presidential Estates East Area Plan and Annexation of Approximately 106 Acres of Unincorporated Lands Lying North of Pioneer Road, West of Merced Springs Road (SR 165), and East of Eleventh Street, More Precisely Identified as Assessor's Parcel Numbers: 026-290-001, 002, 003, 004, 005, 083-120-012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 027, and 028.

1) Planning Commission Resolution No. 2016-31 – Recommending Adoption of a Mitigated Negative Declaration (SCH #2015061056) and Associated Mitigation Monitoring and Reporting Program to the Los Banos City Council for the Presidential Estates East Area Plan.

2) Planning Commission Resolution No. 2016-32 – Recommending Approval of Annexation #2014-01, General Plan Amendment #2015-03, and Pre-Zone #2014-02 to the Los Banos City Council for the Presidential Estates East Area Plan.

3) Planning Commission Resolution No. 2016-33 – Recommending Approval of a Pre-Annexation Development Agreement for Stonefield Communities, Inc. to the Los Banos City Council for the Project Commonly Known as the Presidential Estates East Area Plan.

- 4) Planning Commission Resolution No. 2016-34 – Recommending Approval of a Pre-Annexation Development Agreement for the Manuel M. Cardoza Life Estate to the Los Banos City Council for the Presidential Estates East Area Plan.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolutions as submitted.

- B. Public Hearing – to Consider Site Plan Review #2016-05 for O'Reilly's Auto Enterprises, LLC for the Construction of a New 8,712 Square Foot Auto Parts Store on 1.06 Acres Located within the Highway Commercial Zoning District at the Northwest Corner of Pacheco Boulevard and Sixth Street, More Specifically Identified as Assessor's Parcel Numbers: 026-044-041, 042, 043, and 044 (**Continued from June 22, 2016**).

Recommendation: Open the continued public hearing, receive public comment, and close the public hearing.

9. DESIGN REVIEW STUDY SESSION – THE CONSTRUCTION OF A NEW 9,536 SQUARE FOOT MULTI-TENANT RETAIL BUILDING WITH A DRIVE-THRU ON 1.22 ACRES AT 1420 E. PACHECO BOULEVARD IN THE HIGHWAY-COMMERCIAL ZONING DISTRICT.

Recommendation: Receive staff report and provide initial feedback to the applicant.

10. COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT.

11. COMMISSIONER REPORTS.

- A. Cates
- B. Faktorovich
- C. Limon
- D. Llamas
- E. McCoy
- F. Spada
- G. Toscano

12. ADJOURNMENT.

APPEAL RIGHTS AND FILING PROCEDURES

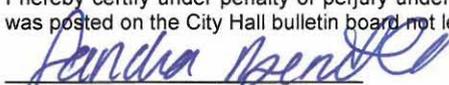
Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filing written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on

which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of \$150.00 must accompany the notice of appeal.

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.


Sandra Benetti, Planning Technician

Dated this 8th day of July 2016

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
MAY 25, 2016**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER. Chairperson Spada called the Planning Commission Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Commissioner Toscano.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, Erik Limon, Palmer McCoy, Tom Spada, and Susan Toscano; Arkady Faktorovich and Refugio Llamas absent.

STAFF MEMBERS PRESENT: Senior Planner Stacy Elms, Planning Technician Sandra Benetti, and City Attorney William Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by McCoy, seconded by Limon to approve the agenda with changes in the order of public hearings to hear items in the following order: items 7E, 7B, 7A, 7C, and 7D. The motion carried by the affirmative action of all Planning Commission Members present; Faktorovich and Llamas absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF MARCH 23, 2016. Motion by McCoy, seconded by Cates to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Faktorovich and Llamas absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE ADJOURNED PLANNING COMMISSION MEETING OF MAY 16, 2016. Motion by Cates, seconded by McCoy to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Faktorovich and Llamas absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. Chairperson

Spada opened the public forum. JOYCE MEZA, Los Banos, thanked those that she has spoken to regarding a situation that pertains to her, spoke of how she understands that she has to handle her concerns on her own and communicate with those involved in the Villas project, and thanked the Planning Commission for their time.

No one else came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER VESTING TENTATIVE TRACT MAP #2016-01, FINAL DEVELOPMENT PLAN #2016-01, AND EAST CENTER AREA PLAN AMENDMENT FOR THE VILLAS CONSISTING OF THE SUBDIVISION OF APPROXIMATELY 58.8 ACRES INTO 378 SINGLE-FAMILY RESIDENTIAL LOTS RANGING FROM CUSTOM AND SEMI-CUSTOM HOMES TO PRODUCTION HOMES; APPROXIMATELY 51 ACRES OF THE PROJECT SITE WILL BE CONTAINED WITHIN A PRIVATE GATED-COMMUNITY WITH A FOUR ACRE PARK/DETENTION BASIN; THE FINAL DEVELOPMENT PLAN CONSISTS OF SITE DESIGN AND CONCEPTUAL ARCHITECTURE TO IMPLEMENT THE PLANNED DEVELOPMENT ZONING; THE PROJECT SITE IS LOCATED EAST OF CENTER AVENUE, SOUTH OF THE CRESTHILLS #1 SUBDIVISION, WEST OF CRESTHILLS #2 SUBDIVISION, AND NORTH OF PIONEER ROAD AND THE CITY LIMIT LINE; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBERS: 431-270-010 AND 431-270-004 (CONTINUED FROM MAY 11, 2016; CONTINUE TO JUNE 8, 2016). Senior Planner Elms noted that staff would like to continue the public hearing to July 27, 2016.

Mr. Jeff Roberts, Granville Homes, spoke on behalf of the applicant and respectfully requested that the Planning Commission continue the public hearing to July 27, 2016 due to the applicant’s desire to accommodate some redesign issues and the meet with some residents.

Chairperson Spada opened the public hearing. TED MEZA, Los Banos, thanked the applicant for requesting a continuance, thanked the Planning Commission for listening to his concerns, and spoke of his hope to talk to the developer regarding his concerns.

No one else came forward to speak.

Motion by McCoy, seconded by Limon to continue the Public Hearing – to Consider Vesting Tentative Tract Map #2016-01, Final Development Plan #2016-01, and East Center Area Plan Amendment for The Villas Consisting of the Subdivision of Approximately 58.8 Acres into 378 Single-family Residential Lots Ranging from Custom and Semi-custom Homes to Production Homes; Approximately 51 Acres of the Project Site Will be Contained within a Private Gated-community with a Four Acre Park/Detention Basin; the Final Development Plan Consists of Site Design and Conceptual Architecture to Implement the Planned Development Zoning; the Project Site is Located East of Center Avenue, South of the Cresthills #1 Subdivision, West of Cresthills #2 Subdivision, and North of Pioneer Road and the City Limit Line; More Specifically Identified as Assessor’s Parcel Numbers: 431-270-010 and 431-270-004 to

July 27, 2016. The motion carried by the affirmative action of all Planning Commission members present; Faktorovich and Llamas absent.

PUBLIC HEARING – TO CONSIDER A CONDITIONAL USE PERMIT AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CATEGORICAL EXEMPTION TO ALLOW ST. JOHN’S LUTHERAN CHURCH TO OPERATE A PAROCHIAL SCHOOL FOR CHILDREN AGES 3-5 YEARS OLD LOCATED AT 250 WEST ADAMS STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 027-161-047. Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that the applicant was present to answer any questions.

Chairperson Spada opened the public hearing.

LARRY GOODGER, St. John’s Lutheran Church representative, thanked staff for their work on this project and spoke of how he is looking forward to this coming to fruition.

No one else came forward to speak and the public hearing was closed.

Motion by Toscano, seconded by Limon to adopt Planning Commission Resolution No. 2016-23 – Approving Use Permit #2016-08 to Operate a Parochial Preschool in the Low Density Residential Zoning District (R-1) Located at 250 W. Adams Avenue, More Specifically Identified as Assessor’s Parcel Number: 027-161-047. The motion carried by the affirmative action of all Planning Commission members present; Faktorovich and Llamas absent.

PUBLIC HEARING – TO CONSIDER A CONDITIONAL USE PERMIT AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CATEGORICAL EXEMPTION TO ALLOW THE OPERATION OF A PAINT SPRAY BOOTH FOR AUTOMOTIVE REPAIR AND RESTORATION TO BE OPERATED BY ARNOLD AND TANYA JORGE (D.B.A AJ’S CUSTOMS) LOCATED AT 557 F STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 025-072-004. Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that the applicant was present to answer any questions.

Chairperson Spada opened the public hearing. TANYA JORGE, Los Banos, spoke of opening this automotive repair facility and their desire to expand their business to include paint spray, spoke of working with the County and State to meet all their licensing requirements, and thanked the Planning Commission.

No one else came forward to speak and the public hearing was closed.

Motion by McCoy, seconded by Limon to adopt Planning Commission Resolution No. 2016-22 – Approving Conditional Use Permit #2016-07 to Allow the Operation of an Automotive Paint Spray Booth for AJ’s Customs Located at 557 F Street. The motion

carried by the affirmative action of all Planning Commission members present; Faktorovich and Llamas absent.

PUBLIC HEARING – TO CONSIDER SITE PLAN REVIEW #2016-03 AND CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) CATEGORICAL EXEMPTION FOR A NEW DENTAL OFFICE FOR DOCTORS RONALD AND JEFFREY CARTER INCLUDING THE DEMOLITION OF AN EXISTING 1,960 SQUARE FOOT BUILDING AND THE CONSTRUCTION OF A NEW 2,790 SQUARE FOOT BUILDING LOCATED WITHIN THE HIGHWAY COMMERCIAL ZONING DISTRICT ON THE NORTHWEST CORNER OF SOUTH SIXTH STREET AND WASHINGTON AVENUE AT 1317 SOUTH SIXTH STREET; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR’S PARCEL NUMBER: 026-063-014. Senior Planner Elms presented the staff report, which included a PowerPoint presentation, and noted that the applicant was present to answer any questions.

Commissioner Cates inquired about existing parking.

Senior Planner Elms stated that there was less than 11 parking spots, how they are utilizing 4 spaces facing Washington Avenue and a couple more that may get them to 9 but not 11, how this also includes the trash enclosure which takes away from parking, and how once its paved there will be more room for parking.

Commissioner Cates stated that this would set a precedent if we approve parking in lieu of and inquired what was the ordinance logic to make it 1 space per 200 square feet.

Senior Planner Elms responded that it was possibly copy/pasted from another City when writing the ordinance, how it can be burdensome, comparing apples to oranges, how not all medical facilities are the same, how the applicant is asking for relief for unusable area, how it would be setting a precedent only if another project met these types of conditions, and how this is on our list of ordinances that need to get fixed and updated.

City Attorney Vaughn stated that the main purpose of off-street parking ordinance is to mitigate congestion and traffic hazards that a use may generate due to a particular use of project, this relief is taking into account the surrounding area wouldn't be that intense of a need for off-street parking, the ordinance doesn't state and give specifics on relief, how paying an in lieu fee was never adopted by City Council, several downtown businesses don't have off street parking, staff has taken a look at the purpose of the ordinance which is to make sure use isn't creating an undue burden on city streets in terms of off-street parking, precedent is on a case by case basis, leaves ability to look at parking and the ordinance on a case by case basis, thinks several studies were done that evaluated the number of parking spaces based on square footage of the development in addition to the use that's going in, and how staff has been able to find some relief thru the intent of ordinance.

Chairperson Spada opened the public hearing.

Chairperson Spada asked the applicant's representative how many work stations were in this office.

Rich Murdoch, general contractor, responded that dental offices are unique in that patients move from one room to another based on their needs.

Chairperson Spada stated that based on having at most five patients at a time with a staff of five or six would be right around eleven so he thinks parking would be fine, how the design and the office is fabulous, and this is an asset to the community for sure.

No one else came forward to speak and the public hearing was closed.

Commissioner McCoy spoke of having no issue with project but how he has an issue that City has variations in how we deal with it, condoning off street parking, issue with Hot City BBQ and 7-11 using off street parking already, the need to be cognizant of this issue, how this building won't be a dentist office forever, the need to be aware of this, how these rules are for a reason, the need to take into account what is around there, and how we do control where this goes and how it ends up.

Motion by Cates, seconded by Toscano to adopt Planning Commission Resolution No. 2016-24 – Approving Site Plan Review #2016-03 for the Construction of a New 2,790 Square Foot Dental Office Located at 1317 South Sixth Street, More Specifically Identified as Assessor's Parcel Number: 026-063-014. The motion carried by the affirmative action of all Planning Commission members present; Faktorovich and Llamas absent.

PUBLIC HEARING – TO CONSIDER A RECOMMENDATION TO THE LOS BANOS CITY COUNCIL FOR A PROPOSED GENERAL PLAN AMENDMENT THAT WOULD UPDATE THE HOUSING ELEMENT OF THE LOS BANOS GENERAL PLAN PURSUANT TO STATE LAW (CONTINUE TO JUNE 8, 2016). Senior Planner Elms noted that staff would like to continue the public hearing to June 8, 2016 due to being in correspondence with the Department of Housing & Community Development and consultant is still revising the document, how there is a tight timeline to get back to state and needs to come back to Planning Commission then to City Council for their final approval, and how the item should come back on June 8th.

Chairperson Spada opened the public hearing. No one came forward to speak.

Motion by McCoy, seconded by Limon to continue the Public Hearing – to Consider a Recommendation to the Los Banos City Council for a Proposed General Plan Amendment that Would Update the Housing Element of the Los Banos General Plan Pursuant to State law to June 8, 2016. The motion carried by the affirmative action of all Planning Commission members present; Faktorovich and Llamas absent.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT. Senior Planner Elms spoke of the grand opening of the 99 Cent Only Store that happened today, how they are employing about 40 people, spoke of how the City Council will be holding budget workshop on May 31st at 5:00 p.m., invited the Planning Commission to attend, and how the Planning Commission will be having full agendas all through the end of July.

PLANNING COMMISSION MEMBER REPORTS.

CATES: Spoke of how great staff is, thanked staff for working with the applicants the way that they do, how staff is digging up stuff in ordinances that have huge generalist gaps and being diligent in their research, and his appreciation of staff's work.

FAKTOROVICH: Absent.

LIMON: Thanked staff for their work.

LLAMAS: Absent.

McCOY: No report.

SPADA: Spoke of knowing how busy staff is, hopes to see the new City Manager give the department some part-time help, and inquired if there was any chance of getting a link to the budget book.

Senior Planner Elms responded that it would be available hopefully by Friday and how she will forward the link when it is released.

Chairperson Spada gave kudos to City Attorney Vaughn & Senior Planner Elms for their work every Wednesday for Planning Commission and City Council meetings.

TOSCANO: Inquired if Ross was coming to town.

Senior Planner Elms spoke of there being no official notice on who is coming to the former Lowe's and K-Mart buildings and said that staff will post our information on our Facebook page as it comes to our knowledge.

ADJOURNMENT: The meeting was adjourned at the hour of 7:58 p.m.

APPROVED:

Tom Spada, Chairperson

ATTEST:

Sandra Benetti, Planning Technician

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
JUNE 22, 2016**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER. Chairperson Spada called the Planning Commission Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Commissioner Faktorovich.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members John Cates, Arkady Faktorovich, Palmer McCoy, and Tom Spada; Erik Limon, Refugio Llamas, and Susan Toscano absent.

STAFF MEMBERS PRESENT: Senior Planner Stacy Elms, Planning Technician Sandra Benetti, and City Attorney William Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by McCoy, seconded by Cates to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present; Limon, Llamas, and Toscano absent.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF JUNE 8, 2016. Motion by Cates, seconded by McCoy to approve the minutes as revised. The motion carried by the affirmative action of all Planning Commission Members present; Limon, Llamas, and Toscano absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. Chairperson Spada opened the public forum. No one came forward to speak and the public forum was closed.

PUBLIC HEARING – TO CONSIDER A CONDITIONAL USE PERMIT TO ALLOW THE USE OF A TYPE 41 ALCOHOL LICENSE FOR THE ON-SALE OF BEER AND WINE IN CONJUNCTION WITH AN EATING PLACE FOR TAQUERIA 152 LOCATED AT 1041 W. PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS

ASSESSOR'S PARCEL NUMBER: 026-182-003. Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Chairperson Spada opened the public hearing. No one came forward to speak and the public hearing was closed.

Motion by Faktorovich, seconded by Cates to adopt Planning Commission Resolution No. 2016-29 – Recommending Approval of Conditional Use Permit #2016-12 to the Los Banos City Council for the Use of a Type 41 Alcohol License for the On-sale of Beer and Wine in Conjunction with an Eating Place for Taqueria 152 Located at 1041 Pacheco Boulevard. The motion carried by the affirmative action of all Planning Commission Members present; Limon, Llamas, and Toscano absent.

PUBLIC HEARING – TO CONSIDER CONDITIONAL USE PERMIT TO ALLOW THE OPERATION OF A MORTUARY IN THE HIGHWAY COMMERCIAL ZONING DISTRICT (H-C) FOR WAYNE BYNUM (D.B.A. BYNUM'S LOS BANOS MORTUARY) LOCATED AT 285 MERCY SPRINGS ROAD, SUITES C & D, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 025-121-025.

Senior Planner Elms presented the staff report, which included a PowerPoint presentation, noting that the address is 285 Mercey Springs Road, Suites C&D.

Commissioner Cates inquired how bodies are transferred to and from the building.

Chairperson Spada opened the public hearing. Wayne Bynum, Bynum's Mortuary and applicant, responded that human remains will arrive in an unmarked panel van at the west side entrance in which there will be an awning cover, spoke of how there is no visibility of human remains being transported in and out, and handed out brochures to each Commissioner.

No one else came forward to speak and the public hearing was closed.

Senior Planner Elms asked that the Planning Commission add a condition that an awning be provided at the western entrance.

Motion by McCoy, seconded by Cates to adopt Planning Commission Resolution No. 2016-30 – Approving Conditional Use Permit #2016-13 for Bynum's Los Banos Mortuary Located at 285 Mercey Springs Road, Suites C&D, More Specifically Identified as Assessor's Parcel Number: 025-121-025 with the additional condition that an awning be provided at the western entrance. The motion carried by the affirmative action of all Planning Commission Members present; Limon, Llamas, and Toscano absent.

PUBLIC HEARING – TO CONSIDER SITE PLAN REVIEW #2016-05 FOR O'REILLY'S AUTO ENTERPRISES, LLC FOR THE CONSTRUCTION OF A NEW 8,712 SQUARE FOOT AUTO PARTS STORE ON 1.06 ACRES LOCATED WITHIN THE HIGHWAY COMMERCIAL ZONING DISTRICT AT THE NORTHWEST CORNER OF PACHECO BOULEVARD AND SIXTH STREET, MORE SPECIFICALLY

IDENTIFIED AS ASSESSOR'S PARCEL NUMBERS: 026-044-041, 042, 043, AND 044 (CONTINUE TO JULY 13, 2016). Senior Planner Elms noted that the public hearing would need to be continued to the next meeting date.

Chairperson Spada opened the public hearing. No one came forward to speak.

Motion by Cates, seconded by McCoy to continue the Public Hearing – to Consider Site Plan Review #2016-05 for O'Reilly's Auto Enterprises, LLC for the Construction of a New 8,712 Square Foot Auto Parts Store on 1.06 Acres Located within the Highway Commercial Zoning District at the Northwest Corner of Pacheco Boulevard and Sixth Street, More Specifically Identified as Assessor's Parcel Numbers: 026-044-041, 042, 043, and 044 to July 13, 2016. The motion carried by the affirmative action of all Planning Commission Members present; Limon, Llamas, and Toscano absent.

DESIGN REVIEW STUDY SESSION – THE CONSTRUCTION OF A NEW 8,712 SQUARE FOOT AUTO PARTS STORE LOCATED AT THE NORTHWEST CORNER OF PACHECO BOULEVARD AND SIXTH STREET IN THE HIGHWAY-COMMERCIAL ZONING DISTRICT (CONTINUED FROM JUNE 8, 2016). Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Justin Petersburg, Esterly Schneider & Associates, was present on behalf of the applicant.

Commissioner Faktorovich spoke of being critical of the design before, happy to see the Pacheco Boulevard elevation is more balanced, some improvement needed still for eastern elevation, how Los Banos has Sixth Street as a central hub to the City, understands the logistics but touchy about the looks at this location, and how this location requires more jazz and more thought to the building.

Mr. Petersburg stated that the second entrance suggestion was declined by the client, how a surface-applied option which would give an appearance of an additional storefront is an option, the client has used in the past, and if that is acceptable then he can propose that to the client.

Commissioner McCoy spoke have spending a lot of time reviewing this item, wanted to know what happened and why the changes weren't made, how the community has to live with the look of this building, the importance of the southern and eastern elevations, and his disappointment in seeing that it wasn't changed.

Commissioner Cates spoke of representing the citizens, how this would be perfect in a brand new commercial shopping center but this is located at the entrance to downtown and needs to be mindful of the characteristics of the historic downtown, and suggested that an inexpensive faux design on the east elevation would be suitable.

Chairperson Spada spoke of his disappointment in the revised plans, how Senior Planner didn't get to review the plans timely before the agenda was dispersed, how she

is a great resource for applicants, how this doesn't look like a building he would want at this location, this being one of the most important corners of the City, not concerned about the east elevation but it all has to match and bring out that feel of downtown Los Banos, and the need for it to blend in.

Mr. Petersburg stated that he would take these comments back to the applicant.

Senior Planner Elms asked that the Commission provide solutions and directions to the architect.

Chairperson Spada spoke of the need to reflect early 1900s mission style and how it needs to represent Los Banos.

Commissioner Faktorovich suggested that the colors were not good for that location, the thick columns can be further dressed up with Styrofoam, how this is not that expensive, the walls are higher but flat, the flat box is overdone in the City and not needed here at this location, and how very inexpensive flat pylons made out of Styrofoam are and can mimic columns.

Kathy Ballard, Los Banos, came forward and spoke of how this location cuts off downtown because of how the building is facing Pacheco Boulevard, how the location of the building is on Pacheco and not assimilated to downtown, its cut off from downtown, and how they are trying to make it look downtown but its more associated with Pacheco Boulevard.

Commissioner McCoy spoke of how it was mentioned at the last meeting about having the east elevation blend in and join more with the alleyway, that's a main traffic area on the alleyway, how whoever is designing this didn't walk around and take pictures of the area, and the need to look at what is around there.

Chairperson Spada suggested rotating the building or resizing to help get a design to work.

Commissioner Faktorovich stated that the Commission is not in the business of designing, how they spoke loud and clear and should let the applicant approach from a different angle, and how the Commission should not advise to rotate the building.

Mr. Petersburg stated the he would take this information back and work with the applicant.

Senior Planner Elms stated that a comment was made on the color palette, asked the architect if there was another color palette that could work with downtown, suggested that the brick can be done in more of a vintage color, and suggested addressing the awnings with the addition of timber or something natural.

Commissioner Cates stated that the Miller and Lux building is a great example to look at as well with marble and columns, the need to make sure that we are clear in what we would like to see, the need to understand everything verbatim in what they are asking to be considered, and how the changes were only about 2% of what was talked about.

Commissioner McCoy stated that the Commission previously spoke of the far east side in which there was a pretty wide area and adding river rock.

Senior Planner Elms responded that she didn't receive a revision for that but we would like to see that, how multispeed was initially planned for that location but due to drought restrictions our Public Works Department would not allow turf, and how it needs to be drought tolerant like decomposed granite or mulch.

Commissioner Cates suggested providing an actual transcript of the previous meeting to the applicant for their reference.

Senior Planner Elms stated that those minutes were approved and staff can make a copy of the audio for the applicant.

Initial feedback provided to applicant, no action taken.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT REPORT. Senior Planner Elms reported that City Manager Alex Terrazas will be starting on July 1, 2016 and noted that he has an economic development background, spoke of working on several new projects, and how the Presidential East Annexation will come forward on July 13th.

Commissioner McCoy inquired about the former Lowe's building status.

Senior Planner Elms responded that no new tenants have been confirmed, how Fitness Evolution has opened, Hobby Lobby is looking to open around September or October, how the Savemart project at the former K-Mart building is also moving along well, no other tenant have been confirmed for that location either, how we have received an application for development of a multi-tenant commercial center just west of Espana's but no secured tenants, how staff gave them recommendations, and how they will work aggressively to secure tenants.

PLANNING COMMISSION MEMBER REPORTS.

CATES: Spoke of the progress on the Sleep Train Mattress Store, how the Fitness Evolution parking lot was packed when he drove by, and how he is looking forward to seeing other construction projects come to life.

FAKTOROVICH: No report.

LIMON: Absent.

LLAMAS: Absent.

McCOY: Thanked staff for their quickness in responding to emails and inquired about Prime Shine.

Senior Planner Elms responded that the developer has a construction period and the project is in the next cue for permits, and they are hoping to start construction this fall.

Commissioner McCoy spoke of being happy the new courthouse is here and stated that hopefully that cement slab will be removed soon.

SPADA: Inquired about the Villas project.

Senior Planner Elms responded that it will come forward to the Planning Commission at the last meeting in July but staff is waiting on the submittal.

Chairperson Spada inquired about the Southpointe project.

Senior Planner Elms responded that the applicant hasn't moved forward yet,

Chairperson Spada inquired about the number of building permits issued for single-family residences so far this year.

Senior Planner Elms responded that about 130 have been issued thru the end of May.

Chairperson Spada thanked staff and the City Attorney.

TOSCANO: Absent.

ADJOURNMENT: The meeting was adjourned at the hour of 8:03 p.m.

APPROVED:

Tom Spada, Chairperson

ATTEST:

Sandra Benetti, Planning Technician



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN SPADA AND PLANNING COMMISSIONERS

FROM: STACY SOUZA ELMS, SENIOR PLANNER 

FOR: JULY 13, 2016

**SUBJECT: PRESIDENTIAL ESTATES EAST MITIGATED NEGATIVE
DECLARATION (SCH#2015061056), AREA PLAN AND ANNEXATION
#2014-01, GENERAL PLAN AMENDMENT #2015-03, PRE-ZONE #2014-
02, AND PRE-ANNEXATION DEVELOPMENT AGREEMENT**

RECOMMENDATIONS:

1. That the Planning Commission adopt Resolution No. 2016-31 recommending adoption of a Mitigated Negative Declaration (SCH #2015061056) for the Presidential Estates East Area Plan; and
2. That the Planning Commission adopt Resolution No. 2016-32 recommending approval of General Plan Amendment #2015-03, Area Plan and Annexation #2014-01, and Pre-Zone #2014-02; and
3. That the Planning Commission adopt Resolution No. 2016-33 recommending authorization of a Pre-Annexation Development Agreement for Stonefield Communities, Inc.; and
4. That the Planning Commission adopt Resolution No. 2016-34 recommending authorization of a Pre-Annexation Development Agreement for Manuel M. Cardoza Life Estate.

BACKGROUND:

On August 26, 2015, the Los Banos Planning Commission held a public hearing to consider the Presidential Estates East Annexation that consisted of incorporating 106 acres into the City of Los Banos consistent with the Los Banos 2030 General Plan. The Planning Commission recommended unanimous approval to the Los Banos City Council of the proposed Area Plan and Annexation, Pre-Zone and Pre-Annexation

Development Agreement.

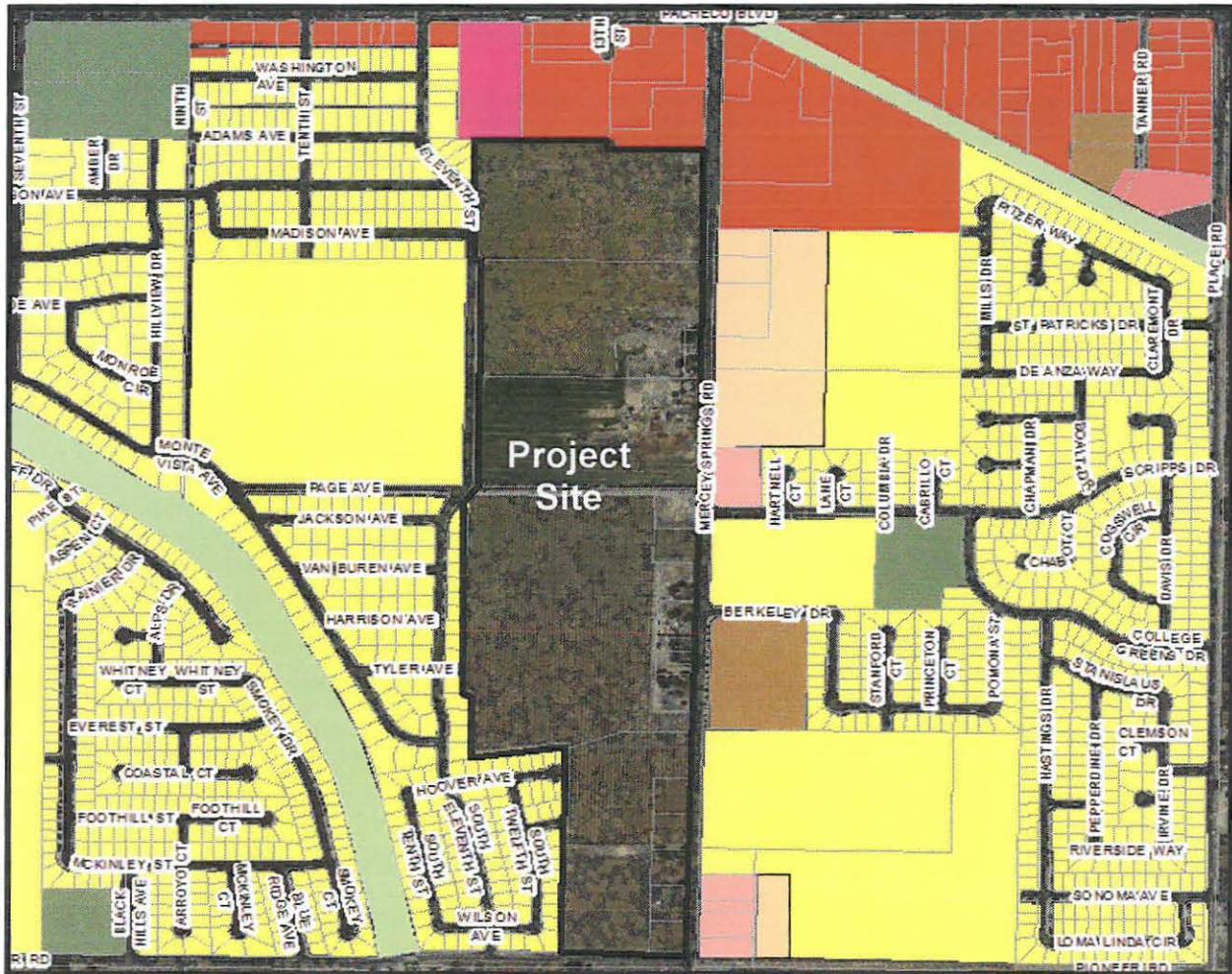
On October 7, 2016, the Los Banos City Council held a public hearing to consider the Presidential Estates East Annexation. Based on discussion, the City Council recommended the applicant prepare a General Plan Amendment to designate the entire project area as Low Density Residential. The applicant agreed to the recommendation and has amended their application to provide for a General Plan Amendment to redesignate the project site from Professional Office, Commercial and Medium Density Residential land uses in the northern half of the Area Plan to Low Density Residential for the entire Area Plan.

DESCRIPTION:

The project proposal is for the consideration of a General Plan Amendment, Area Plan and Annexation of approximately 106 acres of unincorporated lands lying north of Pioneer Road, west of Mercey Springs Road (SR 165), and east of Eleventh Street. These lands currently constitute an undeveloped peninsula of land surrounded by existing urban development and the City limits of the City of Los Banos on three sides (north, east, and west). From a City perspective, this is an undesirable boundary as it sits right now. The land use proposed for the project area is Low Density Residential.

LOCATION AND ACCESS:

The Project site is located adjacent to the City of Los Banos in Merced County. As depicted on the map below, the project site is surrounded by the City boundaries on three sides (colored areas). The annexation area is approximately 106 acres and is bound by Pioneer Road to the south (unincorporated), developed residential property to the west, developed commercial property to the north, and Mercey Springs Road (SR 165) to the east. The project is currently held by two large landowners. The majority of the northern portion (north of Page Avenue) is controlled by the Manuel M. Cardoza Life Estate, which is currently used for agricultural pasture land. The majority of the southern portion (south of Page Avenue) is controlled by the project proponent, Stonefield Communities, Inc. The project area also consists of one acre residential parcels along Mercey Springs Road, which through this entitlement process will be brought into the City limits as well. The existing agricultural uses will be allowed to be used until such time the property owners are ready for development.



ENVIRONMENTAL ASSESSMENT:

Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, an Initial Study was prepared to identify and assess potential environmental impacts as a result of this project. Through the Initial Study, staff determined that the project would not result in any significant adverse effects with the incorporation of mitigation measures.

Staff prepared a Notice of Intent to adopt a Mitigated Negative Declaration (SCH #2015061056) which was posted at the Merced County Clerk's Office and sent to the State Clearinghouse for circulation and review by various agencies on June 10, 2016 and closed on July 11, 2016. The Notice of Intent was also published in the Merced Sun-Star on June 11, 2016, to allow the public to comment on the proposed Initial Study/Mitigated Negative Declaration. One comment letter was received, as of the date of this staff report from the California Department of Transportation. A copy of this letter is attached under Attachment 6 of this staff report.

A Mitigated Negative Declaration is appropriate when an initial study has been prepared and a determination can be made that no significant environmental effects will occur

because mitigation measures will be implemented which will reduce all potentially significant impacts to less than significant levels.

Applicable mitigation measures have been incorporated into the Mitigation Monitoring Program and have reduced any potential impacts to less than significant.

ANNEXATION ANALYSIS

The proposed annexation provides a logical boundary, as required by Merced County LAFCo annexation policies. The annexation area is an in-fill of an area north of Pioneer Road. Land to the east, north, and west of the property are already within the City limits, and the project site is presently the only area on the north side of Pioneer Road between Place Road and Black Hills Avenue that is not within the City limits. The annexation request includes the entire right-of-way width of Pioneer Road. If the City approves the annexation request, a formal application will be made to LAFCo for annexation.

Existing General Plan Land Use and Zoning Designations

While the project site is currently located outside the City of Los Banos' jurisdictional boundary, it is within the City's Sphere of Influence. The City of Los Banos General Plan land use designations for the Project site is mostly made up of Low Density Residential, with exceptions in the northeast area of the project site being listed as Medium Density Residential, Office/Professional and Commercial. As part of this project, the applicant is proposing a General Plan Amendment for the entire project area as Low Density Residential. Residential land uses and build-out are assumed using the average density in accordance with the City's 2030 General Plan Update.

Land Use Designation	Average Density	Acreage	Units
Low Density Residential	4 units/acre	106	424
Total		106	424 units

Proposed Water

Domestic water will be distributed throughout the project site via the City water distribution grid, by connecting to the existing water distribution line located in the Presidential Estates subdivision to the west. An eighteen (18) inch water line is designated for installation in the Pioneer Road right-of-way and the new residential development within the project site will include the installation of eight (8) inch water lines to provide service to individual residential units.

The existing one acre residential parcels along Mercey Springs currently utilize water wells for domestic consumption. The property owners will be allowed to continue the use of their wells until such time they fail or become non-operational. At that time, the property owners will be required to connect to City water services.

Proposed Wastewater

Wastewater will be treated at the City's wastewater treatment plant (WWTP) located

northeast of the City. Wastewater flows from the project site will be conveyed via an existing fifteen (15) inch sewer line that extends easterly of the project site at the future Madison Avenue connection/extension.

The existing one acre residential parcels along Mercey Springs currently utilize septic systems for wastewater purposes. The property owners will be allowed to continue the use of their existing septic systems until such time they fail or become non-operational. At that time, the property owners will be required to connect to City wastewater services.

Proposed Storm Drainage

Storm water runoff is proposed to be contained in dual use park/basin facilities. The system designed for the proposed project will gravity drain to the existing storm water collection system in State Route 165/Mercey Springs Road.

Parks and Open Space

Future development within the proposed project will include dual use park/detention basins. The dual use park/detention basins will be sized in accordance with the City's 2030 General Plan and based on determinations made by the City's Public Works Director.

Community Amenity Fee

Resolution 5045 was adopted by the Los Banos City Council July 2008 that establishes an amenity fee for new annexations into the City of Los Banos. The resolution states that the City will support annexation proposals based upon the overall benefit to the City. Options to address City benefit include the following strategies:

- a) Payment of a Community Amenity Fee to be used for financing or constructing community facilities as determined by the City Council, or
- b) Construction or financing of public improvements which add to the quality of life for the existing and future residents of the City, or
- c) Other amenities or contributions as may be approved by the City Council, or
- d) Development of industrial or regional retail land uses, or
- e) Contribution towards meeting the City's non-market rate housing needs as stated in the Housing Element, or
- f) A combination of the above.

Upon development of the Project, each residential dwelling unit will be required to pay a Community Amenity Fee in the amount of \$5,000 to be used for the benefit of the community as determined by the Los Banos City Council.

Pre-Annexation Development Agreement

The Pre-Annexation Development Agreement is a vehicle to provide for conditions of development which sets forth the requirements for the property to develop. It assures developers that they may proceed with their projects with the assurance that approvals granted by the City will not change during the period of development. The special

conditions within the Agreement (Exhibit D) not only require payment of the Community Amenity fee, but the Agreement also specifies that the applicant is to form or annex into a Community Facilities District (CFD) for public safety and also into a Lighting and Landscape District (L&LD). The CFD and L&LD are both taxing mechanisms to cover City cost for providing services.

PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise and notices were mailed out to property owners within a 300' radius of the project site on July 1, 2016, for the hearing on July 13, 2016. All comment letters are attached as Attachment 6 of this staff report

RECOMMENDATION:

5. That the Planning Commission adopt Resolution No. 2016-31 recommending adoption of Mitigated Negative Declaration (SCH #2015061056) for the Presidential Estates East Area Plan; and
6. That the Planning Commission adopt Resolution No. 2016-32 recommending approval of General Plan Amendment #2015-03, Area Plan and Annexation #2014-01, and Pre-Zone #2014-02; and
7. That the Planning Commission adopt Resolution No. 2016-33 recommending authorization of a Pre-Annexation Development Agreement for Stonefield Communities, Inc.; and
8. That the Planning Commission adopt Resolution No. 2016-34 recommending authorization of a Pre-Annexation Development Agreement for Manuel M. Cardoza Life Estate.

ATTACHMENTS:

1. Resolution 2016-31 – Mitigated Negative Declaration
 - Exhibit A: CEQA Findings
 - Exhibit B: Initial Study/Mitigated Negative Declaration
 - Exhibit C: Mitigation Monitoring and Reporting Program
2. Resolution 2016-32
 - Exhibit A: Findings for Approval
 - Exhibit B: Conditions of Approval
3. Resolution 2016-33
 - Exhibit A: Pre-Annexation Development Agreement (Stonefield Communities)
4. Resolution 2016-34
 - Exhibit A: Pre-Annexation Development Agreement (Cardoza)
5. Presidential Estates East Area Plan – January 2016
6. Comment Letters
7. Public Hearing Notice – July 1, 2016

RESOLUTION NO. 2016-31

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING ADOPTION OF A MITIGATED NEGATIVE DECLARATION (SCH #2015061056) AND ASSOCIATED MITIGATION MONITORING AND REPORTING PROGRAM TO THE LOS BANOS CITY COUNCIL FOR THE PRESIDENTIAL ESTATES EAST AREA PLAN

WHEREAS, Stonefield Communities, Inc., initiated consideration of an Annexation, General Plan Amendment and Pre-Zone application with the City of Los Banos; and

WHEREAS, pursuant to the California Environmental Quality Act and the City of Los Banos Environmental Quality Guidelines, the project environmental impacts were evaluated in an Initial Study/Mitigated Negative Declaration (Exhibit B) incorporated herein by this reference; and

WHEREAS, a Notice of Intent was posted and the Mitigated Negative Declaration was made available for public review on June 10, 2016, thru July 11, 2016; and

WHEREAS, the Presidential Estates East Area Plan and Annexation (ANX #2014-01), General Plan Amendment (GPA #2015-03), Pre-Zone (ZC #2014-02), and the associated Development Agreements were found not to have a significant effect on the environment, and all impacts were found to be less than significant; and

WHEREAS, the Presidential Estates East Area Plan and Annexation (ANX #2014-01), General Plan Amendment (GPA #2015-03), Pre-Zone (ZC #2014-02), and the associated Development Agreements were reviewed and examined by City of Los Banos staff; and

WHEREAS, a public hearing was duly noticed for July 13, 2016, in accordance with California Government Code Section 65091 by advertisement in the Los Banos Enterprise and by mail to property owners within 300 feet of the project boundaries on July 1, 2016, to consider and take testimony regarding the Presidential Estates East Area Plan and Annexation (ANX #2014-01), General Plan Amendment (GPA #2015-03), Pre-Zone (ZC #2014-02), and the associated Development Agreements; and

WHEREAS, at the July 13, 2016, meeting the Los Banos Planning Commission heard and considered testimony of all persons desiring to be heard; reviewed the project proposal and staff report; studied the compatibility of the applicant's request with

adjacent land uses; has considered the applicant's request in accordance with the criteria established in Section 9-3.2314 of the Los Banos Municipal Code.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Los Banos has reviewed the Presidential Estates East Area Plan Mitigated Negative Declaration (SCH #2015061056)(Exhibit B), CEQA Findings (Exhibit A), and Mitigation Monitoring and Reporting Program (Exhibit C), incorporated herein by reference; and

BE IT FURTHER RESOLVED, that the City Council of the City of Los Banos does hereby adopt the Mitigated Negative Declaration (SCH #2015061056) for the Presidential Estates East Area Plan and Annexation (ANX #2014-01), General Plan Amendment (GPA #2015-03), Pre-Zone (ZC #2014-02), and the associated Development Agreements.

The foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 13th day of July, 2016, by Planning Commissioner _____ who moved its adoption, which motion was duly seconded by Planning Commissioner _____ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Tom Spada, Chairman

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR PRESIDENTIAL ESTATES EAST AREA PLAN AND ANNEXATION #2014-01, GENERAL PLAN AMENDMENT #2015-03, PRE-ZONE #2014-02, AND THE ASSOCIATED DEVELOPMENT AGREEMENTS

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos Planning Commission hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, the Presidential Estates East Area Plan, Annexation #2014-01, General Plan Amendment #2015-03, Pre-Zone #2014-02, and the associated Development Agreements were evaluated in an Initial Study which determined that the project would not involve any significant environmental effects, provided that the mitigation measures described in the Initial Study were implemented and a Mitigated Negative Declaration (SCH#2015061056) was prepared.
2. The Mitigated Negative Declaration was adequately noticed and circulated for public review and comment on the proposed Mitigated Negative Declaration. The City distributed the Notice of Intent with copies of the Mitigated Negative Declaration, and posted the Notice of Intent at the Merced County Clerk's office on June 10, 2016.
3. On the basis of the whole record, including the Mitigated Negative Declaration and public comment, there is no substantial evidence that the Project may have a significant effect on the environment with proper mitigation.
4. The Mitigated Negative Declaration was prepared in compliance with CEQA and on the basis of the whole record, there is no substantial evidence of significant new information or changes in the environmental setting have occurred that would result in new or greater significant effects not studied in the Initial Study/Mitigated Negative Declaration.
5. The Mitigated Negative Declaration reflects the independent judgment and analysis of the City of Los Banos.
6. The City of Los Banos Community and Economic Development Department, located at 520 J Street in Los Banos, is the custodian of the documents that

constitute the record of proceedings upon which the determination to adopt the Mitigated Negative Declaration is based.

7. Upon approval of the project analyzed in the Mitigated Negative Declaration, the City of Los Banos will monitor the implementation of the mitigation measures in accordance with the Mitigation Monitoring Program which have been adopted as conditions of approval.
8. Prior to considering the proposed Project, the City of Los Banos Planning Commission considered the Mitigated Negative Declaration.



City of
Los Banos
At the Crossroads of California

**NOTICE OF INTENT TO ADOPT MITIGATED NEGATIVE DECLARATION
AND NOTICE OF PUBLIC MEETING**

**Presidential Estates East
Application Nos. ANX 2014-01 and GPA 2015-03**

Notice is hereby given that the City of Los Banos has prepared an Initial Study (IS) of environmental effects, and intends to adopt a Mitigated Negative Declaration (MND), for the Presidential Estates East Annexation, Application Nos. ANX 2014-01 and GPA 2015-03. The proposed project consists of a General Plan Amendment, Area Plan, and Annexation of approximately 106 +/- acres of unincorporated lands lying north of Pioneer Road and west of Mercey Springs Road (SR 165).

The IS/MND has analyzed the potential environmental effects of the project in the range of environmental subject areas specified in the California Environmental Quality Act (CEQA) and the CEQA Guidelines. On the basis of this analysis, the IS/MND finds that the project will not involve any significant environmental effects, provided that the mitigation measures described in the IS/MND are implemented. The City will consider the adoption of the Mitigated Negative Declaration, and proposed mitigation measures in a Mitigation Monitoring/Reporting Plan before approval of the proposed improvement project.

Copies of the IS/MND are available for public review at the City of Los Banos City Hall at 520 J Street, Los Banos, California 93635.

The City of Los Banos will accept public and agency comments on the IS/MND during a 30-day review period that will begin on June 10, 2016 and end on July 11, 2016. Comments may be sent to the City of Los Banos, 520 J Street, Los Banos, CA 93635, Attn: Stacy Souza Elms, Senior Planner.

In addition, notice is hereby given that the Los Banos Planning Commission will consider adoption of the IS/MND and a Mitigation Monitoring/Reporting Plan for the project at a public meeting scheduled for July 13, 2016 at 7:00 PM in the Council Chambers at Los Banos City Hall, 520 J Street, Los Banos, CA 93635.


Stacy Souza Elms, Senior Planner

June 9, 2016

**INITIAL STUDY /
MITIGATED NEGATIVE DECLARATION**

for the

**PRESIDENTIAL EAST ESTATES
AREA PLAN, GENERAL PLAN AMENDMENT AND ANNEXATION
APPLICATION NOs. ANX 2014-01 and GPA 2015-03**

City of Los Banos

June 2016

Prepared for:

City of Los Banos
Community and Economic Development Department
520 J. Street
Los Banos, CA 93635

Prepared by:



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MITIGATED NEGATIVE DECLARATION

Lead Agency:

City of Los Banos
520 J Street
Los Banos, California 93635

PROJECT NAME:

Presidential East Estates – Area Plan, General Plan Amendment, and Annexation 2015-03

PROJECT PROPONENT AND LEAD AGENCY:

Project Proponent: Stonefield Communities
923 Pacheco Boulevard, Suite C
Los Banos, California 93635

Lead Agency: City of Los Banos
Community and Economic Development Department
520 J Street
Los Banos, California 93635

PROJECT LOCATION:

The proposed project is located within the City of Los Banos, County of Merced. Specifically, the proposed project consists of 106± acres (APN Nos. 083-120-012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 027 & 028; 026-290-001, 002, 003, 004 & 005) and is bounded by the following:

North: Commercial Developments within the City of Los Banos

South: Agricultural lands

East: Single-family residences and Vacant Land

West: Los Banos High School and Single-family residences

PROJECT DESCRIPTION:

The proposed project is for the consideration of an Area Plan and annexation of approximately 106± acres of unincorporated lands lying north of Pioneer Road and west of Mercey Springs Road (SR 165). These lands currently constitute an undeveloped peninsula of land virtually surrounded by existing urban development and the City limits of the City of Los Banos. This project will also include a General Plan Amendment which will designate the entire 106± acre project site as Low-Density Residential (LDR). Presently, under the City’s 2030 General Plan, only 82± acres of the project site are designated as LDR.

To the extent feasible, the environmental analysis contained in the Initial Study that will be prepared for the proposed project will be tiered from the City of Los Banos 2030 General Plan EIR (approved July 15, 2009).

The current City of Los Banos General Plan land use designations for the 106± acre site is mostly made up of Low Density Residential, with a small portion in the northeast area of the project site of approximately 15± acres designated as Medium Density Residential, Office/Professional and Commercial. As stated above, the applicant is requesting to modify the General Plan designation of the project site to solely allow for Low-Density Residential uses. As part of this project, the applicant has also asked the City of Los Banos to pre-zone the project site as both Planned-Development (P-D) and Unclassified (U). The difference between these residential zoning designations is to distinguish between those properties which have executed a Pre-Annexation Development Agreement (zoned P-D), and those which have not executed a Pre-Annexation Development Agreement (zoned U). The proposed Low-Density Residential land uses and build-out are assumed using the average density in accordance with the City’s 2030 General Plan irrespective of the different zoning designations.

Below, Table 1-1, Land Use Matrix, provides land use assumptions provided by the City’s General Plan and potential development included as part of the applicant’s request:

Table 1-1 Land Use Matrix

Land Use Designation	Average Density	Acreage	Units
Low Density Residential	4 Units/Acre	106±	424

The County of Merced currently has the project site designated as “Agricultural - (A)” in its General Plan. The County’s zoning designation is listed as Single-Family Residential (R-1).

As noted above, the Applicant has also submitted an Area Plan for consideration by the City of Los Banos, which is also included as part of this Initial Study. At full build-out, the proposed project will include the construction of the roadways, including underground utilities in those roadways, as needed to serve the project, consistent with City standards and infrastructure master plans.

The following is a general description of the proposed project's plans for providing public utilities and parks and open space:

Domestic Water:

The Presidential Estates Area Plan is subject to the provisions of the City of Los Banos 2010 Water Master Plan (WMP) and will conform to its requirements, including payment of applicable water impact fees and construction of system improvements consistent with the City's Standards & Specifications to serve future development. Development projects will be served by connecting to existing water distribution lines in adjacent subdivisions. Service will be provided by extending the grid system consistent with the WMP. All water mains, local lines and other system improvements will conform to the WMP.

Water will be distributed throughout the plan area via the City water distribution grid, by connecting to existing water distribution line located in the Presidential Estates subdivision to the west. An 18" water line is designated for installation in the Pioneer Road ROW corridor; new residential development will include 8" water distribution lines to provide service to individual residential units. Water system improvements will be consistent with the WMP and Standard Specifications.

Wastewater Infrastructure:

Wastewater will be treated at the City's wastewater treatment plant (WWTP) located northeast of the City, to be fed by a gravity system with lift station. Wastewater flows from the project site will be conveyed via an existing fifteen (15) inch sewer line that extends east of the plan area at the future Madison Avenue connection/extension. All system improvements will be consistent with the City's Improvement Standards & Specifications.

Total estimated daily sewage discharge from the plan area is 170,000 gpd, with peak flows of 0.8 cfs and 510,000 gpd.

Storm Drainage:

The Presidential Estates Area Plan site currently drains to the northeast. The plan area is located within the City of Los Banos "Central City" Storm drainage watershed. Storm runoff will be collected in the dual-use park/basin facilities. The system will be designed to gravity-drain to the existing collection system in SR 165 / Mercy Springs Road.

Within the plan area, north of the Page Avenue extension, all storm drainage system improvements (transmission lines and pump discharge stations) will be designed according to City Standards & Specifications, and the City's Storm Drainage Master Plan. Development will comply with the Phase II Storm Water Regulations as well. Storm drainage infrastructure will be installed and dedicated to the City for operation and maintenance. A Drainage Maintenance District is proposed to accommodate the maintenance and operation of these storm drainage facilities. South of future Page Avenue within the

Area Plan boundary, utilities, facilities and infrastructure will be privately owned, operated and maintained.

Parks and Open Space:

Development within the Area Plan boundary will incorporate dual-use park/detention basins. Some examples of features that could be designed into these public park facilities include recreational fields and play structures. Any traffic arriving at parks from other neighborhoods would use on-street parking to access the park(s) from public residential streets. Consistent with the General Plan policy stating new development must contribute to the City's Park facilities by providing 5 acres of parkland per 1,000 residents; this proposal is expected to include adequate parkland to meet this requirement.

Agricultural Preservation:

As part of the project, the applicant has also recorded a perpetual agricultural preservation restriction that vests to the benefit of the public on January 1, 2017, on two parcels totaling approximately 100 acres in Merced County. (See Merced County Recorder, Doc. No. 2016012724.) The proposed properties are located seven miles southeast of the City of Los Banos near Cotton Gin Road at APNs 088-180-059 and -060. The properties are identified as "Farmland of Statewide Importance" under the California Farmland Mapping and Monitoring Program.

ENVIRONMENTAL DETERMINATION:

The Lead Agency has prepared an Initial Study, following, which considers the potential environmental effects of the proposed project. The Initial Study shows that there is no substantial evidence, in light of the whole record before the Lead Agency, that the project may have a potentially significant effect on the environment, provided that the following mitigation measures are included in the project.

MITIGATION MEASURES:

The following mitigation measures shall be incorporated into the proposed project:

CULTURAL RESOURCES

Mitigation Measure V-1:

In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:

1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until;

- a) The coroner of the County in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required; and,
- b) If the coroner determines the remains to be Native American:
 1. The coroner shall contact the Native American Heritage Commission within 24 hours.
 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.

HAZARDS AND HAZARDOUS MATERIALS

Mitigation Measure VIII-1:

Prior to the approval of any subsequent development/re-development of project site, the applicant and/or project proponent, shall submit to the City a Phase I/Environmental Site Assessment (ESA) prepared by an Environmental Professional consistent with the requirements of ASTM E1527-05. The recommendations of the Phase I/ESA shall be incorporated into the proposed project, as deemed necessary by City staff.

TRANSPORTATION/TRAFFIC

Mitigation Measure XVI-1:

Project proponents shall install applicable intersection improvements when frontage improvements are constructed at the SR 165 / Pioneer Road intersection. The scope and design of these intersection improvements shall be identified and approved by the City and Caltrans prior to the approval of the first Tentative Subdivision Map.

Mitigation Measure XVI-2:

Project proponents shall pay the cost of neighborhood traffic calming measures on neighborhood streets such as Page Avenue, Madison Avenue, Jefferson Avenue between 4th Street and 11th Street. The traffic calming measures shall be developed through the preparation and adoption of a Neighborhood Traffic Calming Program development by the City of Los Banos and with input from the neighborhood.

Mitigation Measure XVI-3:

The City's Transportation Master Plan addresses the SR 152/11th Street intersection, and suggests that traffic signal may be installed. To determine the need for a traffic signal, Caltrans shall conduct a Screenline ICE assessment to identify a feasible control alternative if mainline traffic on SR 152 is to be stopped, install the traffic signal when needed based on satisfaction of traffic warrants as determined by Caltrans, or install a barrier to left turning traffic that prohibits left turns. The Project proponents shall contribute fair share to the cost of intersection improvements at Pacheco Blvd (SR 152) / 11th Street. The fair share contribution shall be agreed upon by the City and the Project Proponent prior to the approval of the first Tentative Subdivision Map within the proposed project.

Mitigation Measure XVI-4:

The City's Transportation Master Plan address the SR 165/Scripps Drive/Page Avenue intersection, and a traffic signal at this intersection is included in the City's traffic impact fee program. To determine the need for a traffic signal, Caltrans shall conduct a Screenline ICE assessment to identify a feasible control alternative prior to extending Page Avenue to SR 165, install the traffic signal when needed based on satisfaction of traffic warrants as determined by Caltrans, and receive fee program reimbursement for costs beyond the project's fair share. The Project proponents shall install improvements to SR 165 (Mersey Springs Road) / Scripps Drive intersection. The fair share contribution shall be agreed upon by the City and the Project Proponent prior to the approval of the first Tentative Subdivision Map within the proposed project.

Therefore, the Lead Agency proposes to adopt a Mitigated Negative Declaration for the project, in accordance with the provisions of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines.



Ms. Stacy Souza Elms, Senior Planner

6/9/16

Date

SECTION 1.0

INTRODUCTION

PROJECT TITLE

Presidential Estates East Area Plan, General Plan Amendment and Annexation (Application No. 2015-03)

LEAD AGENCY NAME AND ADDRESS

City of Los Banos
Community Development Department
520 J Street
Los Banos, California 93635

CONTACT PERSON AND PHONE NUMBER

Ms. Stacy Souza Elms, Senior Planner
(209) 827-7000
Stacy.elms@losbanos.org

PROJECT SPONSOR'S NAME AND ADDRESS

Stonefield Communities
923 Pacheco Boulevard, Suite C
Los Banos, California 93635

PROJECT LOCATION AND SETTING

The proposed project is located within the City of Los Banos, County of Merced. Specifically, the proposed project consists of 106± acres (APN Nos. 083-120-012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 027 & 028; 026-290-001, 002, 003, 004 & 005) and is bounded by the following:

North: Commercial Developments within the City of Los Banos

South: Agricultural lands

East: Single-family residences, Mercey Springs Elementary, and Vacant Land

West: Los Banos High School and Single-family residences

Figure 1 - Location Map, and Figure 2 - Area Map, provides an illustration of the proposed project's location.

The proposed project site was historically utilized for agricultural purposes. The northern portion of the site does not currently produce any agricultural crops, but the southern portion of the project site is currently being farmed with almond trees. Urban development (primarily single-family development) has occurred on the north, east and west sides of the project site, along with associated street and utility improvements. Topography of the site is relatively flat. There are trees located along an abandoned irrigation ditch as well as small vegetation located throughout the project site. These trees

and other vegetation may be removed as part of any future development/construction of the project site but it is important to note that no development is being proposed at this time.

GENERAL PLAN AND ZONING DESIGNATIONS

General Plan: Low Density Residential (LDR), Medium Density Residential (MDR), Professional Office (PO), and Commercial (COM)

Zoning: R-1, Low Density Residential

PROJECT DESCRIPTION

The proposed project is for the consideration of an Area Plan and annexation of approximately 106± acres of unincorporated lands lying north of Pioneer Road and west of Mercey Springs Road (SR 165). These lands currently constitute an undeveloped peninsula of land virtually surrounded by existing urban development and the City limits of the City of Los Banos. This project will also include a General Plan Amendment which will designate the entire 106± acre project site as Low-Density Residential (LDR). Presently, under the City’s 2030 General Plan, only 82± acres of the project site are designated as LDR.

To the extent feasible, the environmental analysis contained in the Initial Study that will be prepared for the proposed project will be tiered from the City of Los Banos 2030 General Plan EIR (approved July 15, 2009).

The current City of Los Banos General Plan land use designations for the 106± acre site is mostly made up of Low Density Residential, with a small portion of approximately 15± acres in the northeast area of the project site designated as Medium Density Residential, Office/Professional and Commercial. As stated above, the applicant is requesting to modify the General Plan designation of the project site to designate the entire site as Low-Density Residential. As part of this project, the applicant has also asked the City of Los Banos to pre-zone the project site as both Planned-Development (P-D) and Unclassified (U). The difference between these residential zoning designations is to distinguish between those properties which have executed a Pre-Annexation Development Agreement (zoned P-D), and those which have not executed a Pre-Annexation Development Agreement (zoned U). The proposed Low-Density Residential land uses and build-out are assumed using the average density in accordance with the City’s 2030 General Plan irrespective of the different zoning designations.

Below, Table 1-1, Land Use Matrix, provides land use assumptions provided by the City’s General Plan and potential development included as part of the applicant’s request:

Table 1-1 Land Use Matrix

Land Use Designation	Average Density	Acreage	Units
Low Density Residential	4 Units/Acre	106±	424

The County of Merced currently has the project site designated as "Agricultural - (A)" in its General Plan. The County's zoning designation is listed as Single-Family Residential (R-1).

As noted above, the Applicant has also submitted an Area Plan for consideration by the City of Los Banos, which is also included as part of this Initial Study. At full build-out, the proposed project will include the construction of the roadways, including underground utilities in those roadways, as needed to serve the project, consistent with City standards and infrastructure master plans.

The following is a general description of the proposed project's plans for providing public utilities and parks and open space:

Domestic Water:

The Presidential Estates Area Plan is subject to the provisions of the City of Los Banos 2010 Water Master Plan (WMP) and will conform to its requirements, including payment of applicable water impact fees and construction of system improvements consistent with the City's Standards & Specifications to serve future development. Development projects will be served by connecting to existing water distribution lines in adjacent subdivisions. Service will be provided by extending the grid system consistent with the WMP. All water mains, local lines and other system improvements will conform to the WMP.

Water will be distributed throughout the plan area via the City water distribution grid, by connecting to existing water distribution line located in the Presidential Estates subdivision to the west. An 18" water line is designated for installation in the Pioneer Road ROW corridor; new residential development will include 8" water distribution lines to provide service to individual residential units. Water system improvements will be consistent with the WMP and Standard Specifications.

Wastewater Infrastructure:

Wastewater will be treated at the City's wastewater treatment plant (WWTP) located northeast of the City, to be fed by a gravity system with lift station. Wastewater flows from the project site will be conveyed via an existing fifteen (15) inch sewer line that extends east of the plan area at the future Madison Avenue connection/extension. All system improvements will be consistent with the City's Improvement Standards & Specifications.

Total estimated daily sewage discharge from the plan area is 170,000 gpd, with peak flows of 0.8 cfs and 510,000 gpd.

Storm Drainage:

The Presidential Estates Area Plan site currently drains to the northeast. The plan area is located within the City of Los Banos "Central City" Storm drainage watershed. Storm runoff will be collected in the

dual-use park/basin facilities. The system will be designed to gravity-drain to the existing collection system in SR 165 / Mercy Springs Road.

Within the plan area, north of the Page Avenue extension, all storm drainage system improvements (transmission lines and pump discharge stations) will be designed according to City Standards & Specifications, and the City's Storm Drainage Master Plan. Development will comply with the Phase II Storm Water Regulations as well. Storm drainage infrastructure will be installed and dedicated to the City for operation and maintenance. A Drainage Maintenance District is proposed to accommodate the maintenance and operation of these storm drainage facilities. South of future Page Avenue within the Area Plan boundary, utilities, facilities and infrastructure will be privately owned, operated and maintained.

Parks and Open Space:

Development within the Area Plan boundary will incorporate dual-use park/detention basins. Some examples of features that could be designed into these public park facilities include recreational fields and play structures. Any traffic arriving at parks from other neighborhoods would use on-street parking to access the park(s) from public residential streets. Consistent with the General Plan policy stating new development must contribute to the City's Park facilities by providing 5 acres of parkland per 1,000 residents, this proposal is expected to include adequate parkland to meet this requirement.

Agricultural Preservation:

As part of the project, the applicant has also recorded a perpetual agricultural preservation restriction that vests to the benefit of the public on January 1, 2017, on two parcels totaling approximately 100 acres in Merced County. (See Merced County Recorder, Doc. No. 2016012724.) The proposed properties are located seven miles southeast of the City of Los Banos near Cotton Gin Road at APNs 088-180-059 and -060. The properties are identified as "Farmland of Statewide Importance" under the California Farmland Mapping and Monitoring Program.

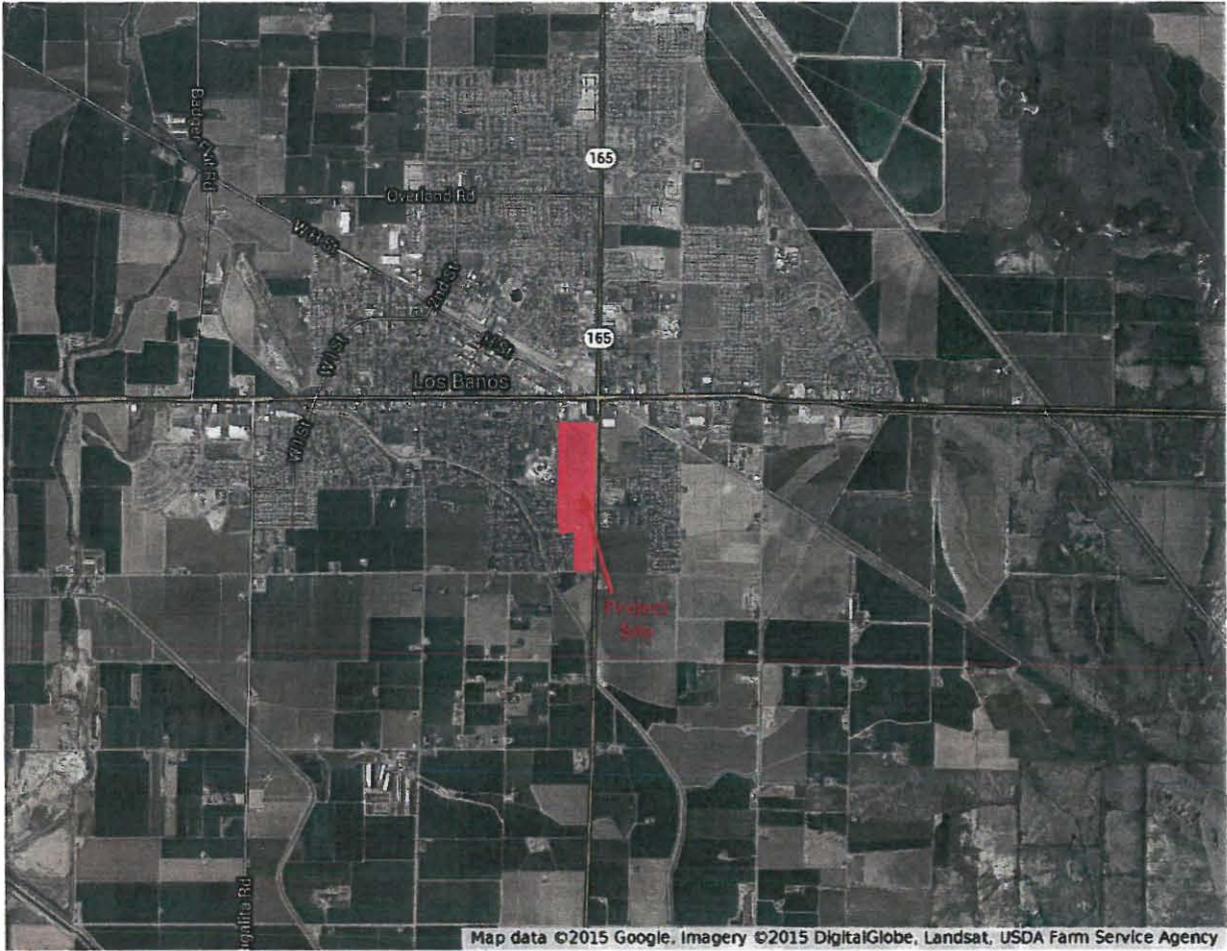


Figure 1 – Location Map



Figure 2 – Area Map

OTHER PUBLIC AGENCIES WHOSE APPROVAL IS REQUIRED (E.G., PERMITS, FINANCING APPROVAL, OR PARTICIPATION AGREEMENT.)

Merced Local Agency Formation Commission (LAFCO)
 City of Los Banos City Council

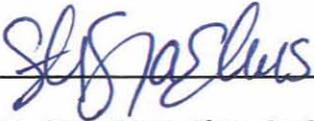
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture and Forestry Resources		Air Quality
	Biological Resources	X	Cultural Resources		Geology and Soils
	Greenhouse Gas Emissions	X	Hazards and Hazardous Materials		Hydrology and Water Quality
	Land Use and Planning		Mineral Resources		Noise
	Population and Housing		Public Services		Recreation
X	Transportation/Traffic		Utilities and Service Systems		Mandatory Findings of Significance

LEAD AGENCY DETERMINATION:

On the basis of this initial evaluation:

	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
X	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.
<hr/>	
 Ms. Stacy Souza Elms, Senior Planner	<u>6/9/16</u> Date

SECTION 2.0 EVALUATION INSTRUCTIONS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures, which were incorporated or

refined from the earlier document and the extent to which they address site-specific conditions for the project.

- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance

SECTION 3.0

INITIAL STUDY CHECKLIST

This section of the Initial Study incorporates the most current Appendix "G" Environmental Checklist Form, contained in the CEQA Guidelines.

I. AESTHETICS -- WOULD THE PROJECT:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?			X	

DISCUSSION:

- I-a) According to the City of Los Banos 2030 General Plan and Environmental Impact Report (EIR), the proposed project area is not considered a scenic vista. The project site consists of open land and scattered single family residences. The public views from the site to the west and north are of urban uses. To the east is a mixture of urban uses and open ground in the City, and to the south is open ground within the County. Aesthetic qualities of the area would change as future development occurs. Any future development will be consistent with development currently existing or approved around the site. Therefore, the proposed project will have a less than significant impact.
- I-b) The proposed project is located within the City of Los Banos, and is not located on a state designated highway. Based on a review of the California Department of Transportation website (<http://www.dot.ca.gov/hq/LandArch/scenic/schwy.htm>), the nearest state scenic highway is Interstate 5, between the Merced County line and San Joaquin County line. The proposed project is not located on or adjacent to Interstate 5, and therefore will have no impact to a state scenic highway.

- I-c) The proposed project is comprised of 106±-acres in Merced County, adjacent to the City of Los Banos and is nearly surrounded by urban development that is within the City. The existing visual character of the proposed project and its surroundings consists of single-family residential and commercial development. In addition, the City of Los Banos, through its General Plan, has designated the proposed project site for development consistent with commercial, office, and low to medium density residential. The project proposes to designate the entire project site Low Density Residential, which is less intense than the current General Plan Land Use designations therefore will have a less than significant impact to the project site's visual character and its surroundings.

- I-d) All exterior lighting installed as a part of any future development of the site will be required to be designed in such a way as to minimize glare and light spill in order to preserve existing day-time/night-time views. As such, this project will have a less than significant impact on light or glare that would affect daytime or nighttime views.

MITIGATION MEASURES:

Mitigation is not required for this topic.

II. AGRICULTURE AND FORESTRY RESOURCES: WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?			X	
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?			X	
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104 (g))?			X	
d) Result in the loss of forest land or conversion of forest land to non-forest use?			X	
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?			X	

DISCUSSION:

II-a) The proposed project seeks to annex and pre-zone a peninsula of unincorporated land approximately 106 acres in size, and surrounded on three sides by the current City limits. The proposed project would convert land that is currently agricultural pasture land in the northern half and used for almond crop production on the southern half to low-density residential land uses. According to the most recent data provided by the Natural Resources Conservation Service (NRCS), the majority of the site's soils are classified as Woo Clay Loam (0 to 2 percent slopes, Storie Index I). This soil type is considered to be Prime Farmland when irrigated.

The 2030 General Plan identified this site, among many others, as targeted for future urban growth as the City builds out its General Plan between its adoption and 2030. The City's 2030 General Plan Draft Program EIR ("GP DEIR")(SCH #2006121055) analyzed the General Plan's impact on agricultural lands due to conversion to urban uses resulting from the City's planned growth. The GP DEIR identified a loss of nearly 3,000 acres of prime farmland as a result of

buildout of the City's proposed General Plan. The GP DEIR identified several General Plan policies that were intended to reduce the project's impact on farmland, such as incorporating an Urban Growth Boundary where growth will occur (GP Policy LU-I-1), working with the County of Merced and the Grasslands Water District to preserve agricultural uses outside the Urban Growth Boundary (GP Policy LU-I-3), working with the Central California Irrigation District to retain water rights in annexed areas to allow agricultural production to continue until the time of development of the property (GP Policy POSR-I-35). (2030 GP DEIR, pgs. 41-43.) In addition, the GP DEIR proposed one mitigation measure:

2030 General Plan DEIR Mitigation Measure

Conversion of agricultural land to urban use is not directly mitigable, aside from preventing development altogether. In order to minimize the impact of converting prime agricultural lands, the City may consider requiring conservation easements on agricultural land of similar quality to that within the proposed development sites. Although this mitigation measure would not reduce the amount of acreage converted under buildout of the proposed General Plan, it would help ensure protection of remaining agricultural acreage.

Despite the addition of several policies and the mitigation measure, the City's GP DEIR still found the impact on farmland to be significant and unavoidable. The City considered the GP DEIR, GP Final EIR, and the project at a public hearing where the Council: (1) adopted a smaller overall project that would result in approximately 1,900 acres of prime farmland conversion, approximately 1,100 acres less than the GP DEIR analyzed; and (2) adopted findings for approval and a statement of overriding considerations.

Project Site

While the GP DEIR determined that buildout of the City's proposed General Plan would convert nearly 3,000 acres of prime farmland to urban uses, the maps used in the GP DEIR inadvertently identified the project site as "Urban and Built-Up Land." The 2006 State Farmland Mapping and Monitoring Program map identified the project site as predominately "Prime Farmland," with some small areas of "Rural Residential Land" and "Urban and Built-Up Land."

It is unclear whether the map was a scrivener's error or whether the underlying data was incorrect. Even if the City assumes the most conservative scenario, adding approximately 106± acres of prime farmland converted as a result of the project to the City's adopted General Plan's finding that approximately 1,900 acres of prime farmland conversion would occur, brings the total converted prime farmland to approximately 2,000 acres as a result of buildout of the City's adopted 2030 General Plan. The additional impact of 106± acres of farmland conversion is not substantially more severe than the impact from the City's adopted 2030 General Plan, because

the site was already anticipated for urban development and amounts to an approximate increase of only 5% to the total amount of prime farmland to be converted.

The applicant, in an effort to conserve valuable farmland in the County of Merced, has voluntarily recorded a "Restrictive Covenant" on two parcels totaling 100 acres of valuable farmland within the County. (See Merced County Recorder, Document No. 2016012724) The properties are identified as "Farmland of Statewide Importance" under the California Farmland Mapping and Monitoring Program. The voluntary recording of the Covenant was completed by the applicant and will "offset" the conversion (to urban uses) of all of the land within the project area.

For all of these reasons, the proposed project's impacts from the conversion of farmland are less than significant.

- II-b,c) The proposed project is seeking to annex and adopt an Area Plan that would allow low-density residential uses. Although currently zoned for agricultural uses by the County of Merced, the project site was evaluated by the City's 2030 General Plan/EIR and identified as being "Urban and Built-up Land", and therefore, is not considered to be agricultural or forest land. In addition, a Williamson Act Contract does not exist for the project site. Therefore, the proposed project will have a less than significant impact.
- II-d) The proposed project is located on existing agricultural pasture land, as well as land currently in production for almond crops, and is bounded by existing residential land uses to the north, east, and west. The project site is not situated on lands considered to be forest land. Therefore, the proposed project will have a less than significant impact.
- II-e) As noted above, a portion proposed project is located on existing agricultural pasture land as well as land that is currently in production for agricultural crops. The southern portion is currently being farmed with almond trees. The project site is bounded by existing residential land uses to the north, east, and west, and it is designated for residential land uses by the City of Los Banos 2030 General Plan. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

III. AIR QUALITY -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?			X	
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?			X	
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?			X	
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?			X	

BACKGROUND DISCUSSION:

The proposed project is located in west Merced County, which is a portion of the San Joaquin Valley Air Basin (SJVAB). Air quality management under the federal and state Clean Air Acts is the responsibility of the San Joaquin Valley Air Pollution Control District (SJVAPCD).

The federal and state governments have adopted ambient air quality standards (AAQS) for the primary air pollutants of concern, known as "criteria" air pollutants. Air quality is managed by the SJVAPCD to attain these standards. Primary standards are established to protect the public health; secondary standards are established to protect the public welfare. The attainment status of the SJVAB for Merced County with respect to the applicable AAQS are shown in the following table.

The SJVAB is considered non-attainment for ozone and particulate matter (PM10 and PM2.5), because the AAQS for the pollutants are sometimes exceeded. The SJVAB is Attainment/Unclassified for carbon monoxide, but select areas, not including the City of Los Banos, are required to abide by adopted carbon monoxide maintenance plans.

The California Air Resources Board (CARB) through the Air Toxics Program is responsible for the identification and control of exposure to air toxics, and notification of people that are subject to

significant air toxic exposure. A principal air toxic is diesel particulate matter, which is a component of diesel engine exhaust.

The SJVAPCD has adopted regulations establishing control over air pollutant emissions associated with land development and related activities. These regulations include:

- Regulation VIII (Fugitive Dust Rules)
- Rule 4101 (Visible Emissions)
- Rule 9510 (Indirect Source Review)

**SAN JOAQUIN VALLEY FEDERAL AND STATE
AAQS ATTAINMENT STATUS**

Pollutant	Designation / Classification	
	Federal Standards ^a	State Standards ^b
Ozone, 1-hour	No federal standard ^f	Nonattainment / Severe
Ozone, 8-hour	Nonattainment / Extreme ^e	Nonattainment
PM10	Attainment ^c	Nonattainment
PM2.5	Nonattainment ^d	Nonattainment
Carbon Monoxide	Attainment / Unclassified	Attainment / Unclassified
Nitrogen Dioxide	Attainment / Unclassified	Attainment
Sulfur Dioxide	Attainment / Unclassified	Attainment
Lead (particulate)	No designation	Attainment
Hydrogen Sulfide	No federal standard	Unclassified
Sulfates	No federal standard	Attainment
Visibility-Reducing Particles	No federal standard	Unclassified
Vinyl Chloride	No federal standard	Attainment

^aSee 40 CFR Part 81

^bSee CCR Title 17 Sections 60200-60210

^cOn September 25, 2008, EPA redesignated the San Joaquin Valley to Attainment for the PM10 National AAQS and approved the PM10 Maintenance Plan

^dThe SJV is designated nonattainment for the 1997 PM2.5 NAAQS. EPA designated the SJV as nonattainment for the 2006 PM2.5 on November 13, 2009 (effective December 14, 2009).

^eThough the SJV was initially classified as serious nonattainment for the 1997 8-hour ozone standard, EPA approved reclassification of the SJV to extreme nonattainment in the Federal Register on May, 2010 (effective June 4, 2010).

^fEffective June 15, 2005, the EPA revoked the federal 1-hour ozone standard, including associated designations and classifications. EPA has previously classified the SJV as extreme nonattainment for this standard. EPA approved the 2004 Extreme Ozone Attainment Demonstration Plan on March 8, 2010 (effective April 7, 2010). Many applicable requirements for extreme 1-hour ozone nonattainment areas continue to apply to the SJVAB.

The SJVAPCD has adopted a CEQA impact analysis guideline titled *Guide for Assessing and Mitigating Air Quality Impacts* (GAMAQI). The GAMAQI is utilized in the following air quality impact analysis where

applicable. The GAMAQI establishes impact significance thresholds for the non-attainment pollutant PM10 and precursors to the non-attainment pollutant ozone: reactive organic gases (ROG) and oxides of nitrogen (NOx).

ROG 10 tons/year
NOx 10 tons/year
PM10 15 tons/year

Projects that do not generate emissions in excess of these thresholds are considered to have less than significant air quality impacts. As the proposed project is limited to the annexation and pre-zoning of the site, no possibility of exceeding emission thresholds are expected to occur at this time.

Future site development and construction will be subject to SJVAPCD rules related to control of construction emissions, including the various rules comprising Regulation VIII and SJVAPCD Rule 9510 Indirect Sources. Future development associated with the proposed project site will exceed the thresholds triggering the requirements of Rule 9510 and comply with the Indirect Source Review (ISR) process with the SJVAPCD. Compliance with Rule 9510 will require the Project Proponent to complete the ISR process prior to the issuance of the first building permit within the proposed project area.

In addition to compliance with the rules and regulations listed above, an independent CEQA analysis may be required prior to the project site being developed and the potential air quality impacts would be evaluated at that time.

DISCUSSION:

III-a) The City of Los Banos is located within the San Joaquin Valley Air Basin. The air quality impacts for the project have been analyzed within the General Plan EIR. Although no construction or development is proposed, it is important to note that implementation of General Plan policies would reduce the impact of future construction activity associated with the project site. General Plan Policy "POSR-I-48" requires the implementation of Best Management Practices to reduce air pollutant emissions due to construction work and/or operation of equipment. Therefore, the impact is considered to be less than significant.

III-b-c) The 2030 General Plan EIR determined that air quality impacts associated with the development of the General Plan area would be significant and unavoidable, and as such a statement of overriding consideration was adopted. Although this project is not proposing or authorizing immediate development, the proposed "pre-zone" designations are at similar densities and designations as those considered in the General Plan and EIR. Based on the foregoing, the project would generate similar or lower air quality impacts than considered and overridden in the General Plan EIR, therefore the project's impact on air quality is less than significant.

- III-d) The proposed project will not result in short-term air quality impacts resulting from construction as the proposed project consists of an Area Plan, General Plan Amendment, Pre-Zoning, and Annexation.. However, in addition to future CEQA evaluation of the project site prior to development, General Plan Policy POSR-I-50 requires the City to use the SJVAPCD Guidelines in the review of development proposals. Compliance with SJVAPCD Regulation VIII and implementation of General Plan Policy POSR-I-50 would reduce future development and construction emissions to a less than significant level.
- III-e) The proposed project does not involve any features that will generate odors. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

IV. BIOLOGICAL RESOURCES -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?			X	
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?			X	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?				X
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

DISCUSSION:

IV-a) As noted previously, the proposed project is located on undeveloped land, and is surrounded by urban development on the north, east, and west sides. Based on a review of the City's 2030 General Plan/EIR, and most notably, Figure 3.8-1 of the EIR, the proposed project is not located within an area known for the potential of containing any species identified as a candidate,

sensitive, or special status species by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service. As such, the proposed project will have a less than significant impact.

- IV-b) Based on a review of the City's 2030 General Plan and EIR, the proposed project is not located within an area known to contain riparian habitat. Most, if not all, of the riparian habitat located within the City is located along the Los Banos Creek corridor. The proposed project is not located within, or adjacent to, Los Banos Creek. Therefore, the proposed project will have a less than significant impact.
- IV-c) Based on a review of the City's 2030 General Plan and EIR, there are no identified wetlands within the project site. Therefore, the proposed project will have a less than significant impact.
- IV-d) Based on a review of the City's 2030 General Plan and EIR, significant impacts to wildlife corridors, as a result of the build out of the General Plan Planning Area, occur with construction of the Highway 152 bypass. It is also noted that new development would cause an increase in both vehicular traffic levels and nighttime light levels, which would serve to deter wildlife movement. However, the proposed project is not located within the Highway 152 bypass area. Additionally, the proposed project is surrounded by existing city development on the north, east, and west sides. Therefore, new development created as a result of the proposed project would have minimal impacts to wildlife corridors as surrounding urban development already exist. Therefore, the proposed project will have a less than significant impact.
- IV-e) As noted previously, the proposed project is consistent with the City's 2030 General Plan and Zoning Ordinance. Additionally, while future development within the proposed project area will require the removal of trees, the City does not have an adopted Tree Preservation Ordinance that would apply. Therefore, the proposed project will have no impact.
- IV-f) As evaluated and noted in the City's 2030 General Plan and EIR, the City of Los Banos, including the proposed project site, is not located within an adopted Habitat Conservation Plan or Natural Community Plan. Therefore, the proposed project will have no impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

V. CULTURAL RESOURCES -- Would the project:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?			X	
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?			X	
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			X	
d) Disturb any human remains, including those interred outside of formal cemeteries?		X		

DISCUSSION:

V-a) Based on a review of the City's 2030 General Plan EIR, there are thirteen (13) historic resource sites within the City's Planning Area, primarily in the downtown area. None of these sites include the proposed project. As such, there are no historic resources or sites as defined by Section 15064.5 of the Government Code within the proposed project area. Therefore, the proposed project will have a less than significant impact.

V-b) Based on a review of the City's 2030 General Plan and EIR, *"there are seventeen recorded prehistoric archaeological sites and two historic archaeological sites within the Planning Area. Features of the prehistoric archaeological sites include prehistoric villages, occupational sites containing tools and milling equipment, burial grounds, and human skull fragments. The General Plan identifies the Los Banos Creek area as a highly sensitive area for potential archaeological sites."*

The proposed project is not located within the Los Banos Creek area, and therefore, potential impacts to archaeological resources are considered to be minimal. Therefore, the proposed project will have a less than significant impact.

V-c) The City's 2030 General Plan and EIR does not identify any unique paleontological resources or sites or unique geologic features within the proposed project area. As noted in the 2030 General Plan, paleontological resources have been typically identified within the Los Banos Creek area. Therefore, the proposed project will have a less than significant impact.

V-d) It is not anticipated that the proposed project will disturb any human remains. However, future development and construction of the proposed project site, human remains may be identified, particularly during activities requiring ground disturbance (i.e. grading, trench digging, etc.). As such, the proposed project shall incorporate Mitigation Measure No. V-1, specified below, in accordance with Section 15064.5(e) of the CEQA Guidelines, to reduce any potentially significant impacts to a level of less than significant.

MITIGATION MEASURES:

The following mitigation measure shall be incorporated into the proposed project:

Mitigation Measure V-1:

In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:

1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until;
 - a) The coroner of the County in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required; and,
 - b) If the coroner determines the remains to be Native American:
 1. The coroner shall contact the Native American Heritage Commission within 24 hours.
 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.

VI. GEOLOGY AND SOILS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:			X	
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?			X	
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?			X	
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?			X	
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?				X
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

DISCUSSION:

- VI-a) No known earthquake faults are located on the project site. According to the City's 2030 General Plan there are two known earthquake faults near the City of Los Banos; the Calaveras and the Ortigalita faults which are both located near Interstate 5. The Los Banos General Plan has policies such as S-I-8 that require new and existing development to conform to existing State and federal regulations. With the General Plan policies set in place, the potentially significant impact is reduced to a less than significant level.

- VI-b) The proposed project does not include any grading of the site. Thus, no activity is proposed that could result in the loss of topsoil. However, any future development of the project site will be required to obtain a Grading Permit from the City of Los Banos. The Grading Permit process will ensure the proposed project is graded in accordance with City of Los Banos standards and specifications, as well as the conclusions and recommendations identified in the future project's Preliminary Geotechnical Investigation. Therefore, the proposed project will have a less than significant impact.

- VI-c) As previously mentioned, this project is not proposing any construction or development on the site. Future applications consisting of tentative subdivision maps, Final Development Agreements, etc. will be evaluated in order to determine that the site's soils are able to support the type of development proposed, and said soils are deep, well drained and stable. Therefore, the impact is less than significant.

- VI-d) The existing terrain is relatively flat and is not conducive to land slippage. In addition, the site is not shown on published landslide maps; therefore, there is no impact.

- VI-e) As noted above, this project is not proposing any construction or development on the site. Future site development of residential and commercial uses will be served by City of Los Banos sanitary sewer services and system. The use of septic tanks, or alternative waste water systems are not part of the proposed project. Therefore, the proposed project will have no impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

VII. GREENHOUSE GAS EMISSIONS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?				X
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			X	

BACKGROUND DISCUSSION:

Human-generated emissions greenhouse gases (GHGs) are understood to be an important cause of global climate change, which is a subject of increasing scientific, public concern, and government action. Atmospheric concentrations of GHGs that trap heat in the earth’s atmosphere and lead to a variety of effects, including increasing temperature, changes in patterns and intensity of weather and various secondary effects resulting from those changes, including potential effects on public health and safety.

California AB 32 identifies global climate change as a “serious threat to the economic well-being, public health, natural resources and the environment of California.” As a result, global climate change is an issue that needs to be considered under CEQA.

GHGs include carbon dioxide (CO2), the most abundant GHG, as well as methane, nitrous oxide and other gases, each of which have GHG potential that is several times that of CO2. GHG emissions result from combustion of carbon-based fuels; major GHG sources in California include transportation (40.7%), electric power generation (20.5%), industrial (20.5%), agriculture and forestry (8.3%) and others (8.3%).

The State of California is actively engaged in developing and implementing strategies for reducing GHG emissions. State programs for GHG reduction include a regional cap-and-trade program, new industrial and emission control technologies, alternative energy generation technologies, advanced energy conservation in lighting, heating, cooling and ventilation, reduced-carbon fuels, hybrid and electric vehicles, and other methods of improving vehicle mileage reduction programs. Using these and other strategies, the State’s Global Climate Change Scoping Plan, adopted in December 2008, proposes to achieve a 29% reduction in projected business-as-usual emission levels for 2020.

The City of Los Banos 2030 General Plan and EIR includes policies and mitigation measures that reduce the impact level that is less than significant. Policies POSR-I-46, 52, 53, and C-I-4 of the City’s 2030 General Plan include measures, that upon implementation, help reduce the amount of greenhouse gases generated per capita in the City.

The SJVAPCD adopted a Climate Change Action Plan in 2008, and issued guidance for development project compliance with the plan in 2009. The guidance adopted an approach that relies on the use of Best Performance Standards to reduce GHG emissions. Projects implementing Best Performance Standards would be determined to have a less than cumulatively significant impact. For projects not implementing Best Performance Standards, demonstration of a 29% reduction in GHG emissions from business-as-usual conditions is required to determine that a project would have a less than cumulatively significant impact.

DISCUSSION:

- VII-a) Because this project would not directly result in any construction and/or operation, no emissions of GHG are anticipated to occur as a result of this project, beyond what has previously been identified in the City's 2030 General Plan and EIR document. As such, the proposed project would have no impact due to greenhouse gas emissions. Furthermore, the proposed project is considered to be less intense than the land uses that were considered within the 2030 General Plan, and will comply with the Policies noted in the discussion above.

- VII-b) The proposed project will not involve any known conflict with any adopted plan, policy, or regulation for reducing greenhouse gas emissions. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

VIII. HAZARDS AND HAZARDOUS MATERIALS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?		X		
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			X	
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X	
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?				X
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			X	
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?				X
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?			X	

DISCUSSION:

- VIII-a) The Area Plan, Annexation and Pre-Zoning of an area (project site) to allow for residential uses does not typically involve the transport, use, or disposal of hazardous materials. However, the project site has historically been utilized for agricultural purposes, and as such, there may be hazardous materials within the soil. Therefore, prior to the approval of any subsequent development/re-development of the project site, the applicant and/or project proponent shall prepare and submit to the City a Phase I/Environmental Site Assessment (ESA). The recommendations of the Phase I/ESA shall be incorporated into the subsequent proposed project, as necessary. Therefore, the proposed project will have a less than significant impact with mitigation incorporated. *(Refer to Mitigation Measure VIII-1, below)*
- VIII-b) It is not anticipated that through the Area Plan, Annexation, and Pre-Zoning of the proposed project site, any foreseeable upset and accident conditions will occur. Subsequent development of the proposed project area will comply with all Federal, State, and local policies and regulations related to the construction of the proposed project. Therefore, the proposed project will have a less than significant impact.
- VIII-c) The proposed project is located less than one-quarter mile of Los Banos High School, which is located at 1966 South 11th Street, west of the project site. However, as noted above in VIII-a, the action of annexation and the pre-zoning of an area does not typically involve the emission or handling of hazardous materials. If, through future construction of the proposed project site, hazardous materials are identified, all Federal, State, and local policies and regulations related to hazardous materials shall be complied with. Therefore, the proposed project will have a less than significant impact.
- VIII-d) Appendix A of the City's 2030 General Plan provides a list of hazardous sites within the City of Los Banos. Based on a review of Appendix A, the proposed project is not located on a site identified as hazardous. Therefore, the proposed project will have no impact.
- VIII-e) The Los Banos Municipal Airport is located within the City of Los Banos. The Los Banos Municipal Airport is a general aviation facility with a single paved runway 3,800 feet in length. According to the Merced County Airport Land Use Compatibility Plan, adopted June 21, 2012, the proposed project is located outside of the airport's "Airport Influence Area." Therefore, the proposed project will have a less than significant impact.
- VIII-f) The proposed project is not located within the vicinity of any documented or known private airstrips. Therefore, the proposed project will have no impact.

- VIII-g) As previously stated, this project, the annexation and pre-zoning of the project site, is not proposing any development that would result in modifications or impacts to any adopted emergency response plan or emergency evacuation plan. As such, this project has no impact. However, it is important to note that future development, including all on-site circulation patterns, designs and improvements may be subject to Los Banos Fire Department approval to ensure adequate access for emergency response situations.
- VIII-h) The proposed project is located within a pocket of an urban area and is surrounded by existing City of Los Banos development on the north, east, and west sides. As such, no wild lands exist within or adjacent to the proposed project. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

The following mitigation measure shall be incorporated into the proposed project:

Mitigation Measure VIII-1:

Prior to the approval of any subsequent development/re-development of project site, the applicant and/or project proponent, shall submit to the City a Phase I/Environmental Site Assessment (ESA) prepared by an Environmental Professional consistent with the requirements of ASTM E1527-05. The recommendations of the Phase I/ESA shall be incorporated into the proposed project, as deemed necessary by City staff.

IX. HYDROLOGY AND WATER QUALITY -- WOULD THE PROJECT:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?			X	
d) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?			X	
e) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?			X	
f) Otherwise substantially degrade water quality?			X	
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X	
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X	
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			X	
j) Inundation by seiche, tsunami, or mudflow?			X	

Discussion:

- IX-a) The proposed project will not violate any Federal, State, or local water quality standards or waste discharge requirements. Under the existing General Construction Permit requirements of the National Pollutant Discharge Elimination System (NPDES), any reasonably foreseeable future construction of a site in the proposed annexation area will require preparation of a storm-water pollution prevention plan (SWPPP) that incorporates water quality control Best Management Practices (BMPs). The implementation of water quality control BMPs would minimize water quality impacts from future construction to a level that is considered less than significant. Therefore, the proposed project will have a less than significant impact.

- IX-b) According to the City's 2030 General Plan, the project area is identified as being designated for development of various residential uses. According to Section 8.2 of the City's 2030 General Plan, *"the 2008 Urban Water Management Plan estimates that this supply is sufficient to meet city needs through 2030."* Therefore, it is anticipated that the City has sufficient supply to meet the potential demands of the proposed project area. As such, the proposed project will have a less than significant impact.

- IX-c) The proposed project will not alter the existing drainage pattern of the site by way of construction and converting the site from raw ground to urban development. However, any future development of the project site may do so and as such, any storm drainage design, will need to comply with the City's Drainage Design Manual and City standards and specifications. Compliance will be ensured through the future proposed project's Improvement Plan process at the time development of the site occurs. Therefore, the proposed project will have a less than significant impact.

- IX-d) The proposed project will not substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site. Future development in the proposed annexation area could potentially result in an increase in surface water runoff due to reduced absorption from the addition of impervious surfaces, however, storm water quality and quantity treatment would be provided in accordance with the State NPDES requirements, verified by the City of Los Banos during building plan check review and subsequent site inspections. As such, the impact is considered to be less than significant.

- IX-e) The proposed project will not degrade water quality within the vicinity of the project site. Therefore, the proposed project will have a less than significant impact.

- IX-f) Please refer to the discussion and determination above, for IX-a.

- IX-g,h) Based on a review of the Flood Insurance Rate Map (FIRM) No. 06047C0850G, dated December 12, 2008, which includes the proposed project, the proposed project is not located within a 100-year flood plain. Therefore, the proposed project will have a less than significant impact.
- IX-i) The proposed project site is located within the Planning Area as it is defined in the 2030 General Plan. According to Section 7.2 of the City's 2030 General Plan, *"three dams close to Los Banos have the potential of inundating portions or the whole of the Planning Area. Flood zone mapping by the U.S. Army Corps of Engineers indicates that all of the Planning Area is located within the San Luis Reservoir dam inundation area. Northern portions of the Planning Area are also located within the Los Banos Detention Reservoir and the Little Panoche Reservoir Dam inundation area."* All three dams are owned by the Bureau of Reclamation, and are inspected regularly for their structural integrity. In response to the potential of inundation by a result of dam failure, the City has adopted General Plan policies, which include coordination with the U.S. Army Corps of Engineers on potential flooding risks, and ensuring that City staff and Emergency Response Services are trained to respond to catastrophic dam failure. Therefore, the proposed project will have a less than significant impact.
- IX-j) The City of Los Banos, including the proposed project, is located approximately sixty-six (66) miles east of the Pacific Ocean. Exposure of future residents within the proposed project to the risk of seiches, tsunami, or mudflows is minimal. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

X. LAND USE AND PLANNING - Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Physically divide an established community?			X	
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?				X

DISCUSSION:

- X-a) The proposed project is located adjacent to the City of Los Banos, which is an urbanized City located along the Interstate 5 corridor. Specifically, the proposed project is located in a peninsula of unincorporated land surrounded by existing City development on the north, east, and west sides of the project site. Subsequent development shall connect to existing streets and services within the City. Therefore, the proposed project would not physically divide the established community, and would have a less than significant impact.

- X-b) Presently, the proposed project site is designated for Commercial, Residential, and Professional Office land uses by the City of Los Banos 2030 General Plan. The proposal will modify the General Plan to allow for the entire site to be designated as low-density residential. As such, the proposed project, if approved, will be consistent with the City’s 2030 General Plan and will therefore have a less than significant impact.

- X-c) The proposed project is not located within an adopted Habitat Conservation Plan or Natural Community Conservation Plan. Therefore, the proposed project will have no impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XI. MINERAL RESOURCES -- WOULD THE PROJECT:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

DISCUSSION:

XI-a,b) Section 5.6 of the City of Los Banos 2030 General Plan, dated July 15, 2009, states, *“according to the Department of Conservation: Mines and Geology, there are no known significant mineral resources located within the Planning Area. The Planning Area contains parts of San Luis Ranch alluvium and Modesto alluvium, known mineral occurrences of underdetermined mineral resources significance. According to the State Office of Mine Reclamation, sand and gravel is currently mined within portions of the Los Banos Creek Fan, located southwest of the Planning Area. Although further exploration of the Planning Area could result in the reclassification of specific localities, no mineral resources have been historically exploited or are being currently exploited commercially within the Planning Area.”*

The proposed project is located within the Planning Area as it is defined in the 2030 General Plan, and is consistent with “urban” land uses prescribed by the General Plan. The proposal will modify the General Plan to allow for low-density residential in place of the current “Commercial/Office” type of uses. Therefore, the proposed project will have no impact to mineral resources of Statewide or local importance.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XII. NOISE -- WOULD THE PROJECT RESULT IN:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			X	
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?			X	

DISCUSSION:

XII-a) Within the City of Los Banos, a primary source of noise is vehicle traffic. Under the City of Los Banos 2030 General Plan noise standards, the maximum allowable noise exposure to ground transportation is 60 dB CNEL for outdoor activity areas in residential, transient lodging, medical facilities, and church land uses. These land uses, which include the proposed project's intended use (residential), require a maximum allowable noise level of 45 dB CNEL for interior spaces. Although development is not included in this project, future construction/development of the project area will increase the number of vehicle trips within the project area which could potentially lead to an increase in noise levels. However, based on a review of Figure 3.11-3 of the City's 2030 General Plan EIR, the proposed project is not located within an area identified as exceeding the City's General Plan noise standard upon build-out of the City's "Planning Area."

Therefore, the proposed project will not exceed the 2030 General Plan noise standards, and will have a less than significant impact.

- XII-b) The proposed Area Plan, annexation and pre-zoning, is not expected to expose persons to or generate excessive ground borne vibration or ground-borne noise levels. Any future development /construction of the project area will be required to comply with the City's Noise Control Ordinance, Article 27. Therefore, the proposed project will have a less than significant impact.

- XII-c,d) The City's 2030 General Plan EIR states, "*the future noise contours suggest that even at build-out there is virtually no land, other than directly on the roadways, being exposed to noise levels above 60dB.*" Figure 3.11-3 of the 2030 General Plan EIR further illustrates areas within the City that would be exposed to noise levels above the City's standard. Future development of the proposed project site may increase noise levels in the project area. However, the proposed project is not located within an area anticipated to generate noise levels above the standard identified in the City's 2030 General Plan. Therefore, the proposed project will have a less than significant impact.

XIII. POPULATION AND HOUSING -- Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?				X
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?			X	

DISCUSSION:

XIII-a) Development of the annexation area pursuant to City designations/zoning and development standards (including road and infrastructure improvements) was considered by the City's General Plan, where community-wide impacts of the entire General Plan area "build-out" was evaluated. Upon annexation, the population growth associated with development of the project area is considered to be less than significant. The table below outlines the specific growth, expected on the project site.

LAND USE	ACREAGE	UNITS
Low Density Residential*	106±	424
Totals	106±	424 Units
*Assumes average density of 4 units/acre.		

XIII-b) The proposed project will not require significant displacement of existing housing which would necessitate the construction of replacement housing. Therefore, the proposed project will have no impact.

XIII-c) Minor displacement of people within the project area may occur as properties within the annexation area undergo development/redevelopment. Given the small number of individuals who would be displaced, this impact is considered to be a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XIV. PUBLIC SERVICES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:			X	
Fire protection?			X	
Police protection?			X	
Schools?			X	
Parks?			X	
Other public facilities?			X	

DISCUSSION:

XIV-a) Fire and police protection are provided by the City of Los Banos via the Los Banos Fire Department and Los Banos Police Department. To offset any potential impacts to fire and police services as a result of the proposed project, the proposed project will be required to pay the appropriate Capital Facilities Fees at the time development occurs and/or a Building Permit is issued. In addition, when development occurs within the project area, any development will be required to annex into a Community Facilities District (CFD), which is an annual tax assessed to each new parcel within the proposed project area. Therefore, potential impacts to fire and police protection services will be offset by payment of the applicable Capital Facilities Fees and annexing into the appropriate CFD. Therefore, the proposed project will have a less than significant impact to Fire and Police protection services.

Once construction and development of the proposed project area begins, it is expected that the area will generate new students (impacts to school district). Further evaluation of these impacts may be studied at the time that a formal proposal is made to the City. It is important to note that at this time, this current project is an Area Plan proposal and annexation/pre-zoning request with no submissions to develop the project site at this time. However, it should be noted that the Los Banos Unified School District charges development impact fees to offset the

cumulative costs of providing additional school facilities, once such facilities required. Furthermore, an agreement titled, *"School Impact Mitigation Agreement Between The Los Banos Unified School District And Ranchwood Homes"* is currently in effect and specifically covers new development on the project site. This mitigation agreement was established in 2004 and outlines the "Developer's Commitment to School Facilities Financing" with specific requirements that address the potential impacts to the local school district and their ability to accommodate the impacts (new students) created by any new development. With the current project being an Annexation only, the requirements of the above agreement will be triggered once a formal development proposal is made on the project site. Therefore, the current project impact would be considered to be less than significant.

The City provides parkland through a requirement of parkland dedication and/or improvement, or the requirement that a project pay park fees, or a combination of the two. Once development occurs, the project will be required to meet its General Plan park requirements by these methods, as determined at the time of review and approval of any development requests such as site plan approvals or tentative maps. Based on the requirements of the City's General Plan, the Area Plan identifies that the parkland dedication requirements may be met by a minimum of 2.50± acres and a maximum of 9.0± acres of open space. As such, the current annexation request's impact on park land is less than significant.

The City of Los Banos collects development impact fees to offset the cumulative costs of providing additional public facilities. The appropriate fees will be collected once development of the site occurs but, as stated previously, the current request is for annexation of the project area with no construction proposals at this time. Therefore, the proposed project would have a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XV. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			X	
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			X	

DISCUSSION:

XV-a) The proposed project will not directly result in an increase in the use of existing park facilities in the City. All future development of the site will be required to pay the applicable Capital Facilities Fees, which include park facilities, at the time of building permit issuance. This Capital Facilities Fee is intended to offset impacts of new development to public services, including parks and park facilities. Therefore, the proposed project will have a less than significant impact.

XV-b) The proposed project does not consist of the development of new recreational facilities, nor will it necessitate the construction or expansion of existing recreational facilities. As noted above, future development of the site will be required to pay the applicable Capital Facilities Fee at the time of building permit issuance. The intent of the Capital Facilities Fee is to offset any potential impacts to public services and facilities, including parks and recreational facilities, as a result of new development. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XVI. TRANSPORTATION/TRAFFIC -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?		X		
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?		X		
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?			X	
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
e) Result in inadequate emergency access?			X	
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?			X	

DISCUSSION:

As part of this Initial Study, a Traffic Impact Analysis, dated April 18, 2016, was prepared by KD Anderson and Associates, Inc. The discussion below summarizes the findings provided in this Traffic Impact Analysis. The Traffic Impact Analysis is included in this Initial Study as Appendix B.

The Traffic Impact Analysis concluded that the proposed project will result in 4,036 daily vehicle trips, with 318 trips in the AM Peak Hour, and 424 trips in the PM Peak Hour. The land uses prescribed under the City's General Plan for this area could generate approximately 9,320 average daily vehicle trips. The intersections and roadways evaluated by the Traffic Impact Analysis include the following:

1. Pacheco Boulevard (SR 152)/11th Street
2. SR 152/Mercey Springs Road (SR 165)
3. SR 165/Madison Avenue (future)
4. 11th Street/Page Avenue
5. SR 165/Scripps Drive
6. Pioneer Road/New Collector (future)
7. Pioneer Road/SR 165

The Traffic Impact Analysis concluded that the development of the proposed project will be expected to complete frontage improvements that are consistent with City of Los Banos requirements for all new development in the City. At full built out, the following improvements will have been made:

1. Widening the west side of Mercey Springs Road (SR 165) to half of its ultimate four lane section, including left turn lanes at new intersections.
2. Widening of Pioneer Road to half its ultimate section along the project frontage, including development a left turn lane on eastbound Pioneer Road and a westbound right turn lane, similar to the improvements installed at the 11th Street / Pioneer Road intersection.

XVI-a) The Traffic Impact Analysis identified two safety-related potentially significant impacts. The first impact noted revolved around the intersection on SR 165/Pioneer Road and the potential need for the installation of a northbound left turn lane. However, it appears that the volume of current/anticipated traffic is not at the threshold to require a turn lane to be installed, based on the current AASHTO guidelines. The Traffic Analysis noted that Cal-Trans may require this issue to be resolved prior to issuing any future encroachment permits at this intersection. As such, Mitigation Measure XVI-1 has been incorporated into this project to reduce any potential impacts to a less than significant level.

The second impact cited in the Traffic Impact Analysis was the potential effects to the "neighborhood" streets within and adjacent to the project site. Particularly noted were the

neighborhood streets: Page Avenue, Madison Avenue, and Jefferson Avenue between 4th Street and 11th Street. While the measurement of LOS was not identified as part of the proposed project's Traffic Impact Analysis, the analysis notes that, ".....development of the Presidential Estates East Area Plan will generate traffic that may use local streets to travel west, especially if a traffic signal is not installed at the SR 152/11th Street intersection." The Traffic Impact Analysis concludes that traffic calming measures, developed with neighborhood consensus, could be installed to alleviate increased traffic on the identified neighborhood streets. The analysis also concludes that a Neighborhood Traffic Calming Program should be developed with neighborhood input to address and clarify the specific traffic calming measures to be implemented, or installed on these neighborhood roads.

As such, Mitigation Measure XVI-2 has been incorporated into this project to reduce any potential impacts to a less than significant level.

- XVI-b) The City of Los Banos' standard for Level of Service (LOS) is D, or better. Table 8 of the Traffic Impact Analysis summarizes the existing LOS for the intersections evaluated as part of the proposed project, as well as the LOS created as a result of the proposed project.

As noted in the Traffic Impact Study, the proposed project will result in an LOS D or better for the roads/intersections evaluated, with the improvements that are a result of this project. Without the project improvements, the intersections at Pacheco Blvd/11th Street, and SR 165/Scripps Drive have the potential to drop below the minimum LOS of D during peak hours, therefore this is considered to be a significant impact. The City of Los Banos Transportation Master Plan does identify future upgrades to the Pacheco Blvd/11th Street and SR 165/Scripps Avenue intersection (traffic light, roundabout...etc.).The Transportation Master Plan identifies and collects fees towards the improvement of the Pacheco Blvd/11th Street and SR 165/Scripps Drive, which the developer will need to contribute towards and/or install the improvements, once warranted by the City/Cal-Trans.

With the mitigation measures (XVI-4 through XVI-5) incorporated, the proposed project will have a less than significant impact.

- XVI-c) The proposed project will not result in the change of air patterns, most notably from the Los Banos Municipal Airport. Therefore, the proposed project will have a less than significant impact.
- XVI-d) No street improvements are included as part of the proposed project. As such, hazards due to a design feature are not anticipated to occur. Therefore, the proposed project will have a less than significant impact.

- XVI-e) The proposed project provides multiple points of access. Having multiple points of access allows sufficient emergency access to future residents within the proposed project. Therefore, the proposed project will have a less than significant impact.
- XVI-f) The proposed project's Traffic Impact Study determined that impacts to pedestrian facilities, bicycle facilities, and transit service would be less than significant as it will be developed in accordance with the City's adopted Transportation Master Plan, and ultimately, the Circulation Element of the City's General Plan. Standard frontage improvements (i.e. sidewalks) and connectivity to existing streets will allow for non-motorized transportation and access to the project. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

The following mitigation measure shall be incorporated into the proposed project:

Mitigation Measure XVI-1:

Project proponents shall install applicable intersection improvements when frontage improvements are constructed at the SR 165 / Pioneer Road intersection. The scope and design of these intersection improvements shall be identified and approved by the City and Caltrans prior to the approval of the first Tentative Subdivision Map.

Mitigation Measure XVI-2:

Project proponents shall pay the cost of neighborhood traffic calming measures on neighborhood streets such as Page Avenue, Madison Avenue, and Jefferson Avenue between 4th Street and 11th Street. The traffic calming measures shall be developed through the preparation and adoption of a Neighborhood Traffic Calming Program development by the City of Los Banos and with input from the neighborhood.

Mitigation Measure XVI-3:

The City's Transportation Master Plan address the SR 152/11th Street intersection, and suggests that traffic signal may be installed. To determine the need for a traffic signal, Caltrans shall conduct a Screenline ICE assessment to identify a feasible control alternative if mainline traffic on SR 152 is to be stopped, install the traffic signal when needed based on satisfaction of traffic warrants as determined by Caltrans, or install a barrier to left turning traffic that prohibits left turns. The Project proponents shall contribute fair share to the cost of intersection improvements at Pacheco Blvd (SR 152) / 11th Street. The fair share contribution shall be agreed upon by the City and the Project Proponent prior to the approval of the first Tentative Subdivision Map within the proposed project.

Mitigation Measure XVI-4:

The City's Transportation Master Plan address the SR 165/Scripps Drive/Page Avenue intersection, and a traffic signal at this intersection is included in the City's traffic impact fee program. To determine the need for a traffic signal, Caltrans shall conduct a Screenline ICE assessment to identify a feasible control alternative prior to extending Page Avenue to SR 165, install the traffic signal when needed based on satisfaction of traffic warrants as determined by Caltrans, and receive fee program reimbursement for costs beyond the project's fair share. The Project proponents shall install improvements to SR 165 (Mercey Springs Road) / Scripps Drive intersection. The fair share contribution shall be agreed upon by the City and the Project Proponent prior to the approval of the first Tentative Subdivision Map within the proposed project.

XVII. UTILITIES AND SERVICE SYSTEMS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?			X	
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?			X	
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?			X	
f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?			X	
g) Comply with federal, state, and local statutes and regulations related to solid waste?			X	

DISCUSSION:

- XVII-a) Although this project does not include any construction, future development of the project site will need to connect to the City's existing sanitary sewer system. The Area Plan submitted by the applicant, identifies the project site (at full build-out) as generating an estimated 170,000 gallons per day (gpd) of wastewater with a peak flow of no more than 510,000 gpd. As noted in the Area Plan, the City's Wastewater Treatment Plant (WWTP) has a combination of current capacity and future expansion capacity to serve the future needs of the entire build-out of the City's General Plan area, which includes the project site. Furthermore, according to City Public Works staff, the City has sufficient capacity to accommodate any wastewater needs and will not exceed any treatment requirements imposed by the Regional Water Quality Control Board. Therefore, the proposed project will have a less than significant impact.
- XVII-b) The Area Plan identifies potential connection locations and a general layout for the public water, wastewater, and storm drainage facilities within the project site. Although, the proposed project is not proposing to connect to the City's existing water and sanitary sewer system at this time, future development will need to connect to the City's infrastructure and will be required to pay the applicable Capital Facilities Fees, which include water and sanitary sewer fees, at the time of Building Permit issuance. Therefore, the proposed project will have a less than significant impact.
- XVII-c) The proposed project is not proposing construction which would connect to the City's existing storm drainage system. However, the Area Plan does identify the appropriate infrastructure needed to connect the project site to the City of Los Banos "Central City" drainage system. The Area Plan also discusses that development within the project site will need to incorporate dual-use park/basin facilities to detain stormwater runoff. All future development including the design and installation of the proposal's storm drainage system will be done in accordance with the City's Drainage Design Manual. Therefore, the proposed project will have a less than significant impact.
- XVII-d) Potable water services within the City are provided by the City of Los Banos, Public Works Department Water Services. The City is located within the San Joaquin River Hydrologic Region (groundwater basin) and extracts its water supply from groundwater aquifers via a series of thirteen (13) municipal water wells with most of the wells concentrated in the southwest area of the City. In addition to the thirteen (13) water wells, the City also has an elevated storage tank with a capacity of 100,000 gallons, and a 5 million gallon surface mounted storage tank equipped with 4 booster pumps, which are utilized to pump additional water during high demand periods. City water users total approximately 12,730 connections, split between residential, commercial and industrial land uses. According to the City's Water Master Plan (2011), it is anticipated that the City has sufficient groundwater supply to provide potable water

services to meet the expected future demands based on the buildout assumptions made in the 2030 General Plan. Therefore, the proposed project will have a less than significant impact.

- XVII-e) Wastewater services within the City are provided by the City of Los Banos, Public Works Department. The City's most recently adopted Wastewater Master Plan describes the City's wastewater capacity as 4.0 million gallons per day ("mgd"). Current flows through the City's wastewater system are approximately 3.0 mgd, leaving the City with current wastewater capacity of over 1.0 mgd. Therefore, the City has adequate capacity to the serve the proposed addition of 424 dwelling units.

- XVII-f) Solid waste in the City of Los Banos is managed by the Merced County Association of Governments. The majority of the City's solid waste is taken to Billy Wright Landfill and additional waste is taken to Highway 59 Landfill. The City's 2030 General Plan EIR determined that there are sufficient options for expansion or relocation of services to meet the demand created by future growth in Los Banos. As noted previously, the proposed project is consistent with the 2030 General Plan, and as a result, consistent with the determinations made in the 2030 General Plan EIR. Therefore, the proposed project will have a less than significant impact.

- XVII-g) The proposed project will comply with all Federal, State, and local statutes and regulations related to solid waste. Therefore, the proposed project will have a less than significant impact.

MITIGATION MEASURES:

Mitigation is not required for this topic.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

DISCUSSION:

XVIII-a) Finding (a) is checked as "Less Than Significant Impact" on the basis of the proposed project's potential impacts on biological resources, as described in Section 3.0-IV of this Initial Study. Potential impacts were identified in this issue area but they were identified to be less than significant.

XVIII-b) As described in this Initial Study, the potential environmental effects of the proposed project will either be less than significant, or will have no impact at all. Where the proposed project involves potentially significant impacts, these impacts would have a less than significant impact with mitigation measures incorporated.

The potential environmental impacts identified in this Initial Study have been considered in conjunction with each other as to their potential to generate other potentially significant impacts. The various potential environmental impacts of the

proposed project will not combine to generate any potentially significant cumulative impacts.

The City of Los Banos 2030 General Plan and EIR comprehensively account for ongoing and foreseeable urban development within the City's "Planning Area" and the cumulative environmental impacts of planned development. Future urban development in Los Banos includes the provision of roads, utilities, schools, and recreational facilities needed to serve City residents and visitors as their demands for urban services increase over time.

The proposed project will contribute to planned urban development in the City of Los Banos, by annexing an area identified in the General Plan as being appropriate for residential uses. The potential environmental impacts associated with the proposed project represent a portion of the environmental consequences of the planned growth and development permitted by the 2030 General Plan. The proposed project may involve a minor addition to the potential environmental impacts identified in the 2030 General Plan EIR, but the proposed project will not result in any substantial contribution to any of the significant cumulative impacts identified in the 2030 General Plan EIR.

XVIII-c)

This Initial Study has considered the potential environmental impacts of the proposed project in the discrete issue areas outlined in the CEQA Environmental Checklist. During the environmental analysis, the potential for the proposed project to result in substantial impacts on human beings in these issue areas, as well as the potential for substantial impacts on human beings to occur outside of these issue areas, was considered, and no other such impacts were identified.

SECTION 4.0

REFERENCES

In accordance with Section 15063(a)(3) of the CEQA Guidelines, the following expert opinion, technical studies, and substantial evidence has been referenced and/or cited in the discussion included in Section 3.0, Initial Study Checklist:

1. City of Los Banos 2030 General Plan, dated July 2009.
2. City of Los Banos 2030 General Plan Environmental Impact Report (EIR), dated July 2009.
3. City of Los Banos Zoning Ordinance.
4. City of Los Banos Noise Control Ordinance, Article 27.
5. Merced County Airport Land Use Compatibility Plan, adopted June 21, 2012, prepared by the Merced County Airport Land Use Commission.
6. California Department of Transportation Online Database of State Scenic Highways (www.dot.ca.gov/hq/LandArch/scenic/cahisys.htm).
7. California Department of Conservation Farmland Mapping and Monitoring Program, published October 2007.
8. Guide for Assessing and Mitigating Air Quality Impacts, adopted August 20, 1998, and as revised January 10, 2002, prepared by the San Joaquin Valley Air Pollution Control District.
9. Guidance for Valley Land-use Agencies in Addressing GHG Emission Impacts for New Projects under CEQA, dated December 17, 2009, prepared by the San Joaquin Valley Air Pollution Control District.
10. Flood Insurance Rate Map (FIRM) No. 06047C0850G, dated December 12, 2008, prepared by the Federal Emergency Management Association (FEMA).
11. Traffic Impact Analysis, dated April 18, 2016, prepared by KD Anderson & Associates.

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SECTION 5.0 APPENDICES

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APPENDIX A

Presidential Estates East – Area Plan, dated January 2016, prepared by O’Dell Engineering

APPENDIX B

Traffic Impact Analysis, dated April 18, 2016, prepared by KD Anderson & Associates

TRAFFIC IMPACT ANALYSIS

For

PRESIDENTIAL ESTATES EAST AREA PLAN

Los Banos, CA

Prepared For:

J.B. Anderson Land Use Planning
139 S. Stockton Avenue
Ripon, CA 95366

Prepared By:

KD Anderson & Associates, Inc.
3853 Taylor Road, Suite G
Loomis, CA 95650
(916) 660-1555

April 18, 2016

0475-06

Presidential Estates East.rpt

KD Anderson & Associates, Inc.

Transportation Engineers

**TRAFFIC IMPACT ANALYSIS FOR
PRESIDENTIAL ESTATES EAST AREA PLAN
Los Banos, CA**

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April 18, 2016

**TRAFFIC IMPACT ANALYSIS FOR
PRESIDENTIAL ESTATES EAST AREA PLAN
Los Banos, CA**

INTRODUCTION

This report summarizes **KD Anderson & Associates** analysis of the potential traffic impacts associated with development of **Presidential Estates East Area Plan**. Figure 1 displays the location of the 106 acre project in the area west of SR 165 between Pacheco Blvd (SR 152) and Pioneer Road. This development area allows for development of approximately 424 residences, as shown in Figure 2.

Study Scope

The purpose of this analysis is to identify potential project specific and cumulative traffic impacts that could accompany implementation of the project. The analysis includes an evaluation of existing circulation conditions in the area based on recent data collected by the consultant. To develop a baseline condition against which each project can be evaluated, an “Existing Plus Approved Projects” traffic volume scenario was created based on information from the City of Los Banos regarding other approved but as yet unconstructed projects. To assess the specific impacts of each area plan, the characteristics of the proposed project have been determined, including estimated trip generation, and the directional distribution / assignment of the project traffic. “Existing Plus Approved Projects Plus Area Plan” conditions were then evaluated.

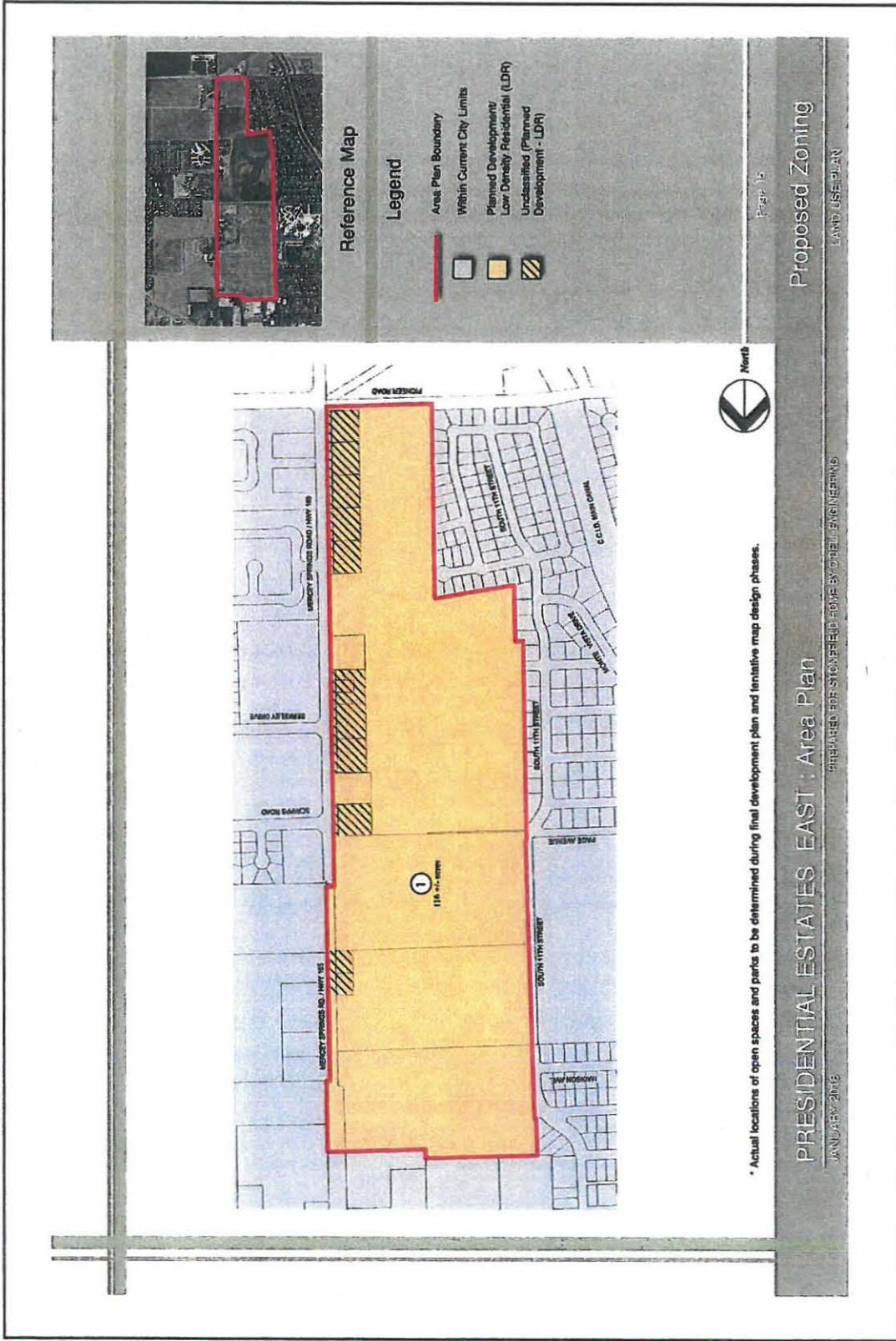
To address cumulative impacts this study considers long term conditions occurring in Year 2030 under the Los Banos General Plan. Information contained in the City of Los Banos Transportation Master Plan based on the citywide travel demand forecasting model is the basis for this analysis.

A total of six (6) existing intersections have been identified as study area intersections, and two (2) other study intersections will be created as the area is developed. Existing study intersections include:

1. Pacheco Blvd (SR 152) / 11th Street
2. Pacheco Blvd (SR 152) / Mercey Springs Road (SR 165)
3. Mercey Springs Road (SR 165) / Madison Avenue (future)
4. 11th Street / Page Avenue
5. Mercey Springs Road / Scripps Drive
6. Pioneer Road / 11th Street
7. Pioneer Road / New Collector (future)
8. Pioneer Road / Mercey Springs Road (SR 165)

Daily traffic volumes have been identified on key segments of the streets providing access to the project, including Pioneer Road, Pacheco Boulevard (SR 152), Mercey Springs Road (SR 165) and 11th Street.





SITE PLAN

figure 2

EXISTING SETTING

Existing Street System

Regional access to Los Banos is provided by State Route 152 (Pacheco Boulevard) and State Route 165 (Mercey Springs Road), and to a lesser extent by Pioneer Road. Access to Presidential Estates East will be via new intersections on SR 165 and via 11th Street and on the local streets in the existing Presidential Estates neighborhood to the west.

The text that follows describes these existing and proposed facilities. Functionally, study area streets are classified as Arterials, Collectors or Local Streets. The applicable designation is presented in the Los Banos General Plan Circulation Element.

Two state highways serve Los Banos:

Pacheco Boulevard (SR 152). SR 152 is a Major Arterial roadway providing important east/west circulation through Los Banos. This highway also provides regional access to the community, as the highway extends from an intersection with Highway 1 in Watsonville on the Pacific Coast easterly to an interchange on Highway 99 near Merced. In between, the highway connects Los Banos residents with Interstate 5, which lies about 6 miles west of the City. Through the City of Los Banos, Pacheco Boulevard is a five lane arterial street controlled by traffic signals at major intersections. In the area west and east of Los Banos, SR 152 becomes a divided four-lane expressway with limited access.

The most recent daily traffic counts reported by Caltrans (2014) indicate that Pacheco Boulevard carried an *Annual Average Daily Traffic (AADT)* volume of 23,000 to 33,500 vehicles per day through the City, with the volume west of Mercey Springs Road reported to be 28,000 AADT and the volume east of the intersection at 33,500 AADT. Trucks comprise 10% of the daily traffic on SR 152 through Los Banos.

Mercey Springs Road (SR 165). SR 165 is an Arterial road providing north/south circulation to the eastern portion of Los Banos. The highway also provides regional access to the north to SR 99 and the City of Turlock and to the south to an interchange on Interstate 5. Currently Mercey Springs Road is a two-lane road in the vicinity of the project south of the existing commercial area along Pacheco Boulevard. The road is ultimately planned to be a five-lane facility and construction to this standard has been completed near the SR 152 intersection and in those locations where recent development has occurred. The most recent Caltrans traffic counts reveal that SR 165 carries about 4,300 AADT south of Pioneer Road, 6,700 AADT between Pioneer Road and Scripps Drive and 12,000 AADT in the commercial areas immediately south of Pacheco Blvd. Trucks comprise 8% of the daily traffic on SR 165.

The study area includes important north-south streets:

11th Street extends southerly from Pacheco Blvd into the existing residential neighborhood west of the Presidential Estates East site. This two lane road continues southerly to an intersection on

Pioneer Road, and Los Banos High School is located on the east side of 11th Street midway between SR 152 and Pioneer Road. Recent traffic counts (2015) indicated that when school is in session, 11th Street carries 2,285 vehicles per day in the area north of the high school and 1,688 vehicles per day between the high school and Pioneer Road. Those volumes drop to 933 and 914 vehicles per day respectively on days when school is closed.

Important east-west streets addressed by this study include:

Madison Avenue is a two lane local street that runs parallel to Pacheco Blvd in the area north of the Main Canal. Portions of Madison Avenue extend from Center Avenue easterly to Hillview Drive and from an intersection on Jefferson Avenue to 11th Street. The segment of Madison Avenue between 11th Street and SR 165 is planned for construction as part of the Presidential Estates East area.

Scripps Drive is a two-lane Collector street that extends easterly from SR 165 to Place Road. Scripps Drive provides access to the Mercey Springs Elementary School and to the developing residential area in southeastern Los Banos.

Page Avenue is a Local street that links Madison Avenue and 11th Street in the area immediately south of Los Banos High School. This two lane road is planned for extension to the SR 165 / Scripps Drive intersection as part of the Presidential Estates East area. Page Avenue carries about 955 ADT west of 11th Street (11/14/02).

Pioneer Road is a two-lane east/west Arterial street serving the developing south Los Banos area. Pioneer Road begins at an intersection with Volta Road west of Los Banos and continues easterly through the study area to an intersection on SR 165. Pioneer Road will be extended across Place Road to Ward Road under the Los Banos General Plan. While the road may function as an arterial street much of Pioneer Road is a two-lane rural road. The traffic counts completed for this study indicate that Pioneer Road carries about 5,697 vehicles per day west of Mercey Springs Road (SR 165) when school is in session, with the volume totaling 4,564 on a non-school day.

Existing Study Intersections

The geometric configuration and traffic controls at study intersections are discussed in the text which follows:

The **Pacheco Blvd / 11th Street** intersection is controlled by stop signs on the northbound and southbound (Chevron Station) approaches. A continuous two-way left turn lane exists on Pacheco Blvd in this area, but the 11th Street intersection is relatively close to the signalized H Street intersection roughly 500 feet further east. A crosswalk is striped across Pacheco Blvd on the west side of the intersection.

The **Pacheco Blvd (SR 165) / Mercey Springs Road (SR 165)** intersection is the “widest” intersection in Los Banos. Each approach to this signalized intersection has two through lanes

and separate left turn lanes. The northbound Mercey Springs Road approach has dual left turn lanes. Separate right turn lanes are provided on the Pacheco Blvd approaches and on the southbound Mercey Springs Road. Crosswalks are striped on each leg of the intersection.

The **11th Street / Page Avenue** intersection is a “tee” controlled by stop signs on each approach. Single lane approaches exist today.

The **West I Street / Cardoza Road** intersection is controlled by stop signs on the eastbound and westbound Cardoza Road approaches. Single lane approaches exist today. The alignment of the south 11th Street leg approaches the intersection on an angle of roughly 60 degrees. Crosswalks are striped on each leg of the intersection.

The **Mercey Springs Road (SR 165) / Scripps Drive** intersection is controlled by a stop sign on the westbound Scripps Drive approach. A southbound left turn lane exists on Mercey Springs Road. The westbound Scripps Drive approach is striped as a single lane but is wide enough to permit right turns around vehicles waiting to turn left. An in-ground illuminated crosswalk is available across the north leg of the intersection to provide access to a trail leading to Los Banos High School.

The **Pioneer Road / 11th Street** intersection is controlled by a stop sign on the southbound 11th Street approach. Pioneer Road has been widened in this area to provide an eastbound left turn lane and a westbound right turn lane.

The **SR 165 / Pioneer Road** intersection is a “tee” intersection controlled by a stop sign on the westbound Pioneer Road approach. Each approach is a single lane at this intersection.

Non - Automotive Circulation

Transit service and facilities in Los Banos include both private and public operations. Private operations are limited to taxi and limo services, while public transportation is provided by Merced County Transit (MCT). The MCT operates both regularly scheduled fixed-route and Dial-A-Ride (door-to-door) transit services throughout Merced County. The fixed route bus service operates five routes that traverse major nodes in the city. It is available on weekdays between 7 a.m. to 6 p.m. and on Saturday from 9:30 a.m. to 5:30 p.m. There is no service on Sunday. The frequency between buses during both peak and off-peak hours of operation is 30 minutes. The busses have fixed stops along their designated routes but patrons may wave down the bus anywhere along the route to take advantage of transit opportunities. Recently, the MCT has equipped all buses with bike racks to encourage biking. Many of the outlying residential areas are not served by transit.

The Dial-A-Ride service is provided by a fleet of 16 vehicles throughout Merced County. In Los Banos, it is reserved for the exclusive use by the elderly (age 60 and older) and the handicapped. All Dial-A-Ride users must register for Dial-A-Ride service and pay the same fare as fixed route users.

Pedestrian / Bicycle Facilities

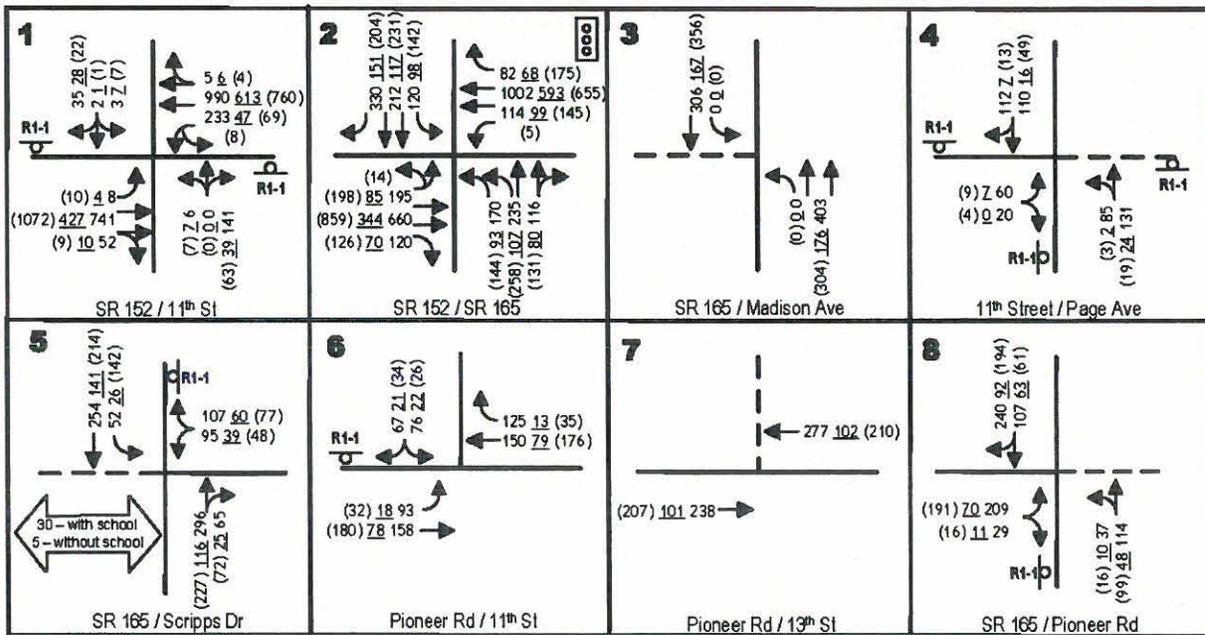
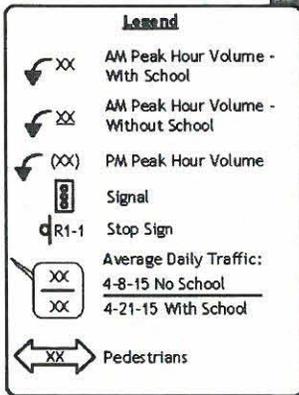
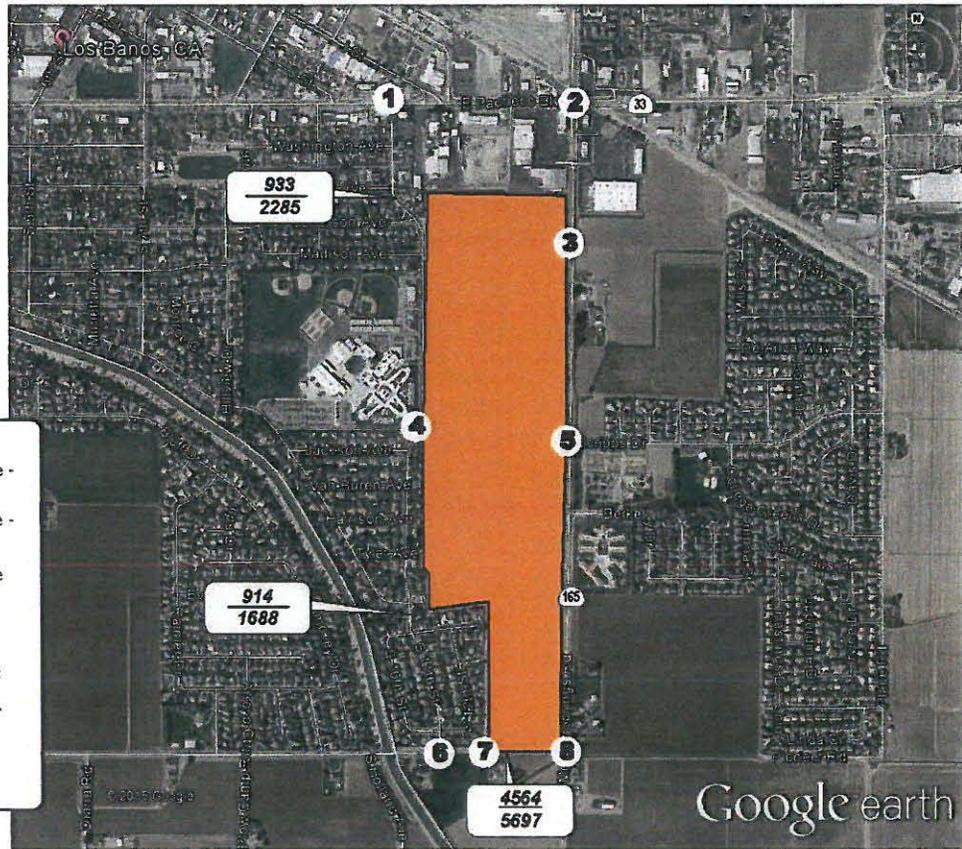
Today pedestrian and bicycle facilities are typically developed as new development proceeds. Sidewalk exists along the developed neighborhoods near Los Banos High School west of the project. Sidewalk exists on the west side of SR 165 north of the project site, but there is no sidewalk along the project's frontage on SR 165, 11th Street or Pioneer Road.

An improved pedestrian route does exist between the 11th Street / Page Avenue intersection and the SR 165 / Scripps Drive intersection. This route leads to a crosswalk across SR 165, and Caltrans intends to install a HAWK pedestrian crossing system at this location within the next year.

The Los Banos General Plan Circulation Element notes that bicycle lanes will be developed along SR 165, Page Avenue, Pioneer Road and Scripps Drive.

Existing Traffic Volumes

To quantify existing traffic conditions, a.m. and p.m. peak hour traffic counts were made by the consultant in April 2015 at the existing study area intersections. These peak hours were selected as being representative of "Worst Case" background traffic conditions, based on review of daily traffic counts in the City of Los Banos and based on the highest hour of project trip generation. This approach is consistent with the analyses contained in other environmental documents in Los Banos. Because of the project's location proximity to Los Banos High School morning peak counts were conducted on two separate days when schools were alternatively open and closed. Pedestrians were also counted at the Mercey Springs Road / Scripps Drive intersection. Figure 3 displays the a.m. and p.m. peak hour counts at the study intersections.



**EXISTING TRAFFIC VOLUMES
AND LANE CONFIGURATIONS**

Level of Service Calculation

To quantitatively evaluate traffic conditions and to provide a basis for comparison of operating conditions with and without project generated traffic, "Levels of Service" were determined at study area intersections.

"Level-of-Service" (LOS) is a quantitative measure of traffic operating conditions whereby a letter grade "A" through "F" is assigned to an intersection. LOS "A" through "F" represents progressively worsening traffic conditions. The characteristics associated with the various LOS for intersections are presented in Table 1. LOS "E" and "F" are associated with severe congestion and delay and are unacceptable to most motorists. The City of Los Banos strives to maintain Level of Service D, and the LOS "D" standard has been employed for this analysis at major intersections.

**TABLE 1
LEVEL OF SERVICE DEFINITIONS**

Level of Service	Signalized Intersection	Unsignalized Intersection	Roadway (Daily)
"A"	Uncongested operations, all queues clear in a single-signal cycle. Delay ≤ 10.0 sec	Little or no delay. Delay ≤ 10 sec/veh	Completely free flow.
"B"	Uncongested operations, all queues clear in a single cycle. Delay > 10.0 sec and ≤ 20.0 sec	Short traffic delays. Delay > 10 sec/veh and ≤ 15 sec/veh	Free flow, presence of other vehicles noticeable.
"C"	Light congestion, occasional backups on critical approaches. Delay > 20.0 sec and ≤ 35.0 sec	Average traffic delays. Delay > 15 sec/veh and ≤ 25 sec/veh	Ability to maneuver and select operating speed affected.
"D"	Significant congestions of critical approaches but intersection functional. Cars required to wait through more than one cycle during short peaks. No long queues formed. Delay > 35.0 sec and ≤ 55.0 sec	Long traffic delays. Delay > 25 sec/veh and ≤ 35 sec/veh	Unstable flow, speeds and ability to maneuver restricted.
"E"	Severe congestion with some long standing queues on critical approaches. Blockage of intersection may occur if traffic signal does not provide for protected turning movements. Traffic queue may block nearby intersection(s) upstream of critical approach(es). Delay > 55.0 sec and ≤ 80.0 sec	Very long traffic delays, failure, extreme congestion. Delay > 35 sec/veh and ≤ 50 sec/veh	At or near capacity, flow quite unstable.
"F"	Total breakdown, stop-and-go operation. Delay > 80.0 sec	Intersection blocked by external causes. Delay > 50 sec/veh	Forced flow, breakdown.
Sources: 2000 <u>Highway Capacity Manual</u> .			

Levels of Service were calculated for different intersection control types using the respective methods in the following sources:

- **Signalized and Unsignalized Intersections.** 2000 Highway Capacity Manual (HCM) Update

Local / Collector Street Segments. The City of Los Banos Improvement Standards suggest approximate daily traffic volume thresholds that are theoretically associated with satisfactory traffic operations. These thresholds are presented in Table 2.

**TABLE 2
CITY OF LOS BANOS STREET STANDARDS**

Street Classification	R/W, Curb-Curb Width (in feet)		Standard Configuration	Design Speed (in MPH)	Daily Traffic Volume Range	
Private Residential			2 lanes	25 mph	0	500
Local Residential	56	40	2 lanes	30 mph	0	4,000
Minor Collector	60	44	2 lanes	35 mph	500	4,000
Major Collector	72	56	2 lanes with left turn lanes	40 mph	4,000	7,500
Industrial (local)	66	48	2 lanes	40 mph	0	14,000
Minor Arterial	84	68	4 lanes	50 mph	7,500	---
Major Arterial	96	80	4 lanes w/ left turn lane / median	55 mph	---	25,000

Improvement Implementation Guidelines

The extent to which particular traffic controls or auxiliary lanes may be needed at intersections can be determined quantitatively. Two guidelines have been employed in this analysis.

Left Turn Channelization. The American Association of State Transportation and Highway Officials (AASHTO) has identified guidelines for the installation of left turn lanes in their publication *A Policy on Geometric Design of Highways and Streets*. These guidelines, which are presented in their Exhibit 9-75 and Table 3 base the need for a left turn lane on the volume of traffic on the mainline road and the relative percentage of that traffic that turns. These criteria are applicable to intersections where the major street traffic proceeds freely and side street traffic is controlled by stop signs.

**TABLE 3
TRAFFIC VOLUMES JUSTIFYING LEFT TURN LANES**

Opposing Volume (veh/hr)	Advancing Volume (veh/hr)			
	5% Left Turns	10% Left Turns	20% Left Turns	30% Left Turns
40-mph operating speed				
800	330	240	180	160
600	410	305	225	200
400	510	380	275	245
200	640	470	350	305
100	720	515	390	340
50-mph operating speed				
800	280	210	165	135
600	350	260	195	170
400	430	320	240	210
200	550	400	300	270
100	615	445	335	295
60-mph operating speed				
800	230	170	125	115
600	290	210	160	140
400	365	270	200	175
200	450	330	250	215
100	505	370	275	240

Source: *A Policy on Geometric Design of Highway and Streets, AASHTO, 2004.*

Peak Hour Traffic Signal Warrants. The extent to which a traffic signal is an applicable traffic control device at a particular location is assessed based on the traffic signal warrant criteria contained in the *California Manual of Uniform Traffic Control Devices (MUTCD)*. While nine separate warrants are considered in a complete warrant evaluation, based on available information this analysis is limited to consideration of the status of Warrant 3 Peak Hour Volumes.

Current Peak Hour Traffic Conditions

Levels of Service (LOS) were calculated at existing study intersections (Refer to Appendix for calculation worksheets) under "Existing" conditions. Current LOS at the study intersections are presented on Table 4.

The Level of Service at study intersections vary. As shown, the signalized Pacheco Blvd (SR 152) / Mercey Springs Road (SR 165) intersection currently operates within the City of Los Banos' LOS D minimum. However, conditions on approaches at some un-signalized intersections fall below the standard. On SR 152, motorists waiting to turn left onto the State highway at intersections such as 11th Street can sometimes experience long delays during peak hours due to the large volume of traffic on SR 152. This is particularly true during the a.m. peak hour before the beginning of the school day at Los Banos High School.

The significance of poor Levels of Service at unsignalized intersections is also determined based on the extent to which existing or projected traffic volumes satisfy traffic signal warrant requirements. The approach volumes traffic at the SR 152 / 11th Street intersection are large enough to satisfy warrant requirements, but because nearly all of side street traffic turns right, the need for a traffic signal is greatly lessened.

As noted earlier, traffic conditions near Los Banos' schools can be poor during the peak period before and after the beginning of the school day, even though the Level of Service measured over the course of the hour is acceptable. Conditions near schools are also affected by factors that are unrelated to the physical capacity of the streets, such as double parking by parents. Thus, while the Level of Service at the 11th Street / Page Avenue intersection is calculated at LOS C over the length of the hour, short periods of congestion and delay already occur before and after school.

**TABLE 4
EXISTING PEAK HOUR INTERSECTION LEVELS OF SERVICE**

Location	Control	AM Peak Hour		PM Peak Hour	
		Average Delay	LOS	Average Delay	LOS
1. SR 152 (Pacheco Blvd) / 11 th Street NB Stop SB Stop	NB/SB Stop	37.0 sec	E	25.2 sec	D
		68.0 sec	F	31.5 sec	D
2. SR 152 / Mercey Springs Rd (SR 165)	Signal	39.0 sec	D	30.3 sec	C
4. 11 th Street / Page Avenue	All-Way Stop	15.1 sec	C	7.2 sec	A
5. SR 165 / Scripps Drive	WB Stop	15.4 sec	C	18.8 sec	C
6. Pioneer Road / 11 th Street	SB Stop	18.7 sec	C	10.8 sec	B
8. SR 165 / Pioneer Road	EB Stop	17.3 sec	C	11.2 sec	B
Level of Service at unsignalized intersections is indicative of "worst case" conditions on side street approach					

Status of Improvement Criteria. Current peak hour traffic volumes at un-signalized intersections were compared to traffic signal warrants to determine whether traffic signals might be appropriate today. None of the study intersections carry volumes that justify signalization. Technically, the approach volumes traffic at the SR 152 / 11th Street intersection are large enough to satisfy warrant requirements, but because nearly all of side street traffic turns right, the need for a traffic signal is lessened.

The volume of traffic at the Mercey Springs Road (SR 165) / Pioneer Road intersection was compared to AASHTO guidelines for left turn lane channelization. The volume of traffic occurring today falls below the level that would warrant a separate northbound left turn lane.

PROJECT CHARACTERISTICS

The characteristics of the development in the plan area are discussed in this report section.

Land Use

The project proposes changes to the land use designations identified for the project area in Los Banos General Plan. While the proposed project is 100% low density residential, the General Plan identifies a mix of low and medium density residential, along with office and commercial sites.

Trip Generation

To quantify the amount of vehicular traffic generated by the project and the uses under the General Plan, daily and a.m. / p.m. peak hour trip generation rates presented in the Institute of Transportation Engineers (ITE) publication Trip Generation Ninth Edition (2012) were employed. These rates are presented in Table 5. As shown, because no development plans exist for the site under current General Plan designations, “per acre” trip generation rates have been identified for the office and commercial areas.

**TABLE 5
TRIP GENERATION RATES**

Land Use	Unit	Daily Trip Rate	AM Peak Hour			PM Peak Hour		
			% In	% Out	Rate	% In	% Out	Rate
Single Family Residential	du's	9.52	25%	75%	0.75	64%	36%	1.00
Multiple Family Residential	du's	6.62	18%	84%	0.51	67%	33%	0.62
Office Park	acre	195.11	92%	8%	25.65	15%	85%	28.28
Neighborhood Commercial	acre	858.33	61%	39%	20.00	48%	52%	75.08
Per acre commercial rate based on ITE Shopping Center rates and FAR of 0.25 on 6 acre site								

Table 6 summarizes trip generation estimates for development within the plan area. As noted, the Presidential Estates East Area Plan is projected to generate 4,036 daily trips, with 318 trips in the a.m. peak hour and 424 trips in the p.m. peak hour.

The land uses identified in the General Plan for this area could generate about 9,320 daily trips, with 645 trips occurring in the a.m. peak hour and 944 trips generated during the p.m. peak hour.

**TABLE 6
TRIP GENERATION**

Land Use	Quantity	Daily	AM Peak Hour			PM Peak Hour		
			In	Out	Total	In	Out	Total
<i>Presidential Estates East Area Plan</i>								
Low Density Residential	424	4,036	80	238	318	271	153	424
<i>General Plan Designations</i>								
Single Family Residential	328	3,123	62	184	246	210	118	328
Multiple Family Residential	84	556	9	34	43	34	17	51
Office Park	11 acres	2,146	260	22	282	47	264	311
Commercial	6 acres	5,150	74	46	120	216	234	450
Subtotal		10,975	405	286	691	507	633	1,140
Internal 2x5% of residential		<368>	<14>	<14>	<28>	<19>	<19>	<38>
Less Retail pass-by 25% daily, 15% a.m. and 35% p.m.		<1,287>	<11>	<7>	<18>	<76>	<82>	<158>
Total New Trips		9,320	380	265	645	412	532	944

Trip Distribution and Assignment

The distribution of project trips will reflect the distribution of employment, shopping and schools in the Los Banos area. For this analysis, project trip distribution was based on the location of complimentary land uses, existing travel patterns and the General Plan traffic model distribution, as presented in Table 7.

Locally, a key issue is the schools attendance areas for children living in Presidential Estates East. Under current Los Banos Unified School District (LBUSD) policies, the project site is served by Los Banos ES and Miano ES. While Mercey Springs ES is directly across SR 165 from the project site, that school's attendance boundary is drawn along the state highway. Recent analysis conducted for the expansion of Mercey Springs ES indicates that this policy is expected to remain in the future¹. Consistent with this policy, this analysis assumes that children living in Presidential Estates East will not attend Mercey Springs ES.

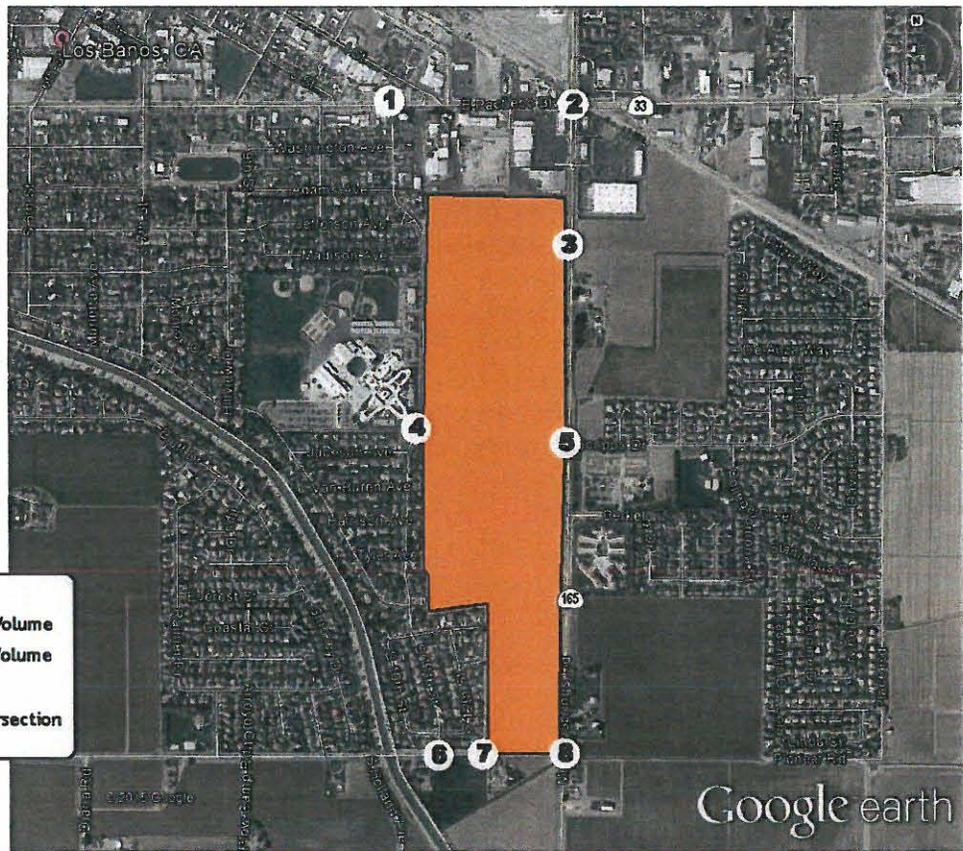
¹ Traffic Impact Analysis for Mercey Springs E.S Expansion, KDA, 2015

**TABLE 7
SHORT TERM - DIRECTIONAL TRIP DISTRIBUTION**

Direction	Route	Percentage of Project Trips	
		AM Peak Hour	PM Peak Hour / Daily
North	Mercey Springs Road (SR 165)	15%	10%
East	Pacheco Blvd (SR 152)	15%	20%
	Scripps Drive	2 ½ %	2½%
West	Pioneer Road	7½ %	7½%
	Page Avenue	20%	2½%
	Pacheco Blvd (SR 152)	30%	42½%
South	Mercey Springs Road (SR 165)	10%	7½%
Local	Mercey-Pacheco Area Retail	0%	7½%
Total		100%	100%

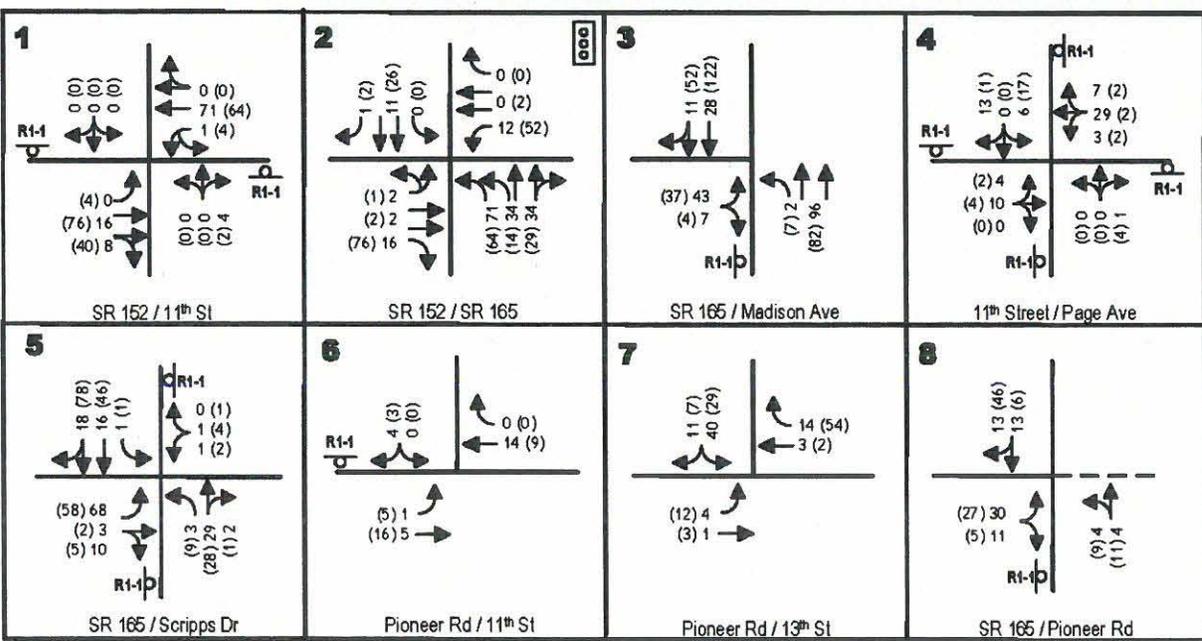
Trip Assignment

Using the trip generation and distribution assumptions described above, the trips generated by development in the plan area were assigned to the study area street system assuming development of the new roads anticipated under the area plan. Figure 4 presents peak hour and daily traffic volumes associated with the land uses in the project area. These forecasts assume no private access to Mercey Springs Road and Pioneer Road, although the actual access permitted by the City of Los Banos and Caltrans will be determined when development proposals are brought forward.



Legend

- XX AM Peak Hour Volume
- (XX) PM Peak Hour Volume
- ◻ R1-1 Stop Sign
- ◻ Signalized Intersection



PROJECT ONLY TRAFFIC VOLUMES AND LANE CONFIGURATIONS

EXISTING PLUS PROJECT IMPACTS

Existing Plus Project Volumes

Development of new roads will also create the opportunity for diversion of existing traffic already occurring in eastern Los Banos. The extension of Page Avenue through the site to the Mercey Springs Road (SR 165) / Scripps Road intersection will provide an alternative route for existing residents and for students and parents traveling to Los Banos High School. Similarly, extending Madison Avenue from 11th Street to Mercey Springs Road will provide a new route. The amount of background traffic diverted to new roads has been estimated based on review of current travel patterns around the high school and at study area intersections.

Figure 5 presents the sum of current traffic volumes with school in session, diverted background traffic and project trips and is the "Existing Plus Project" condition assessed in this analysis.

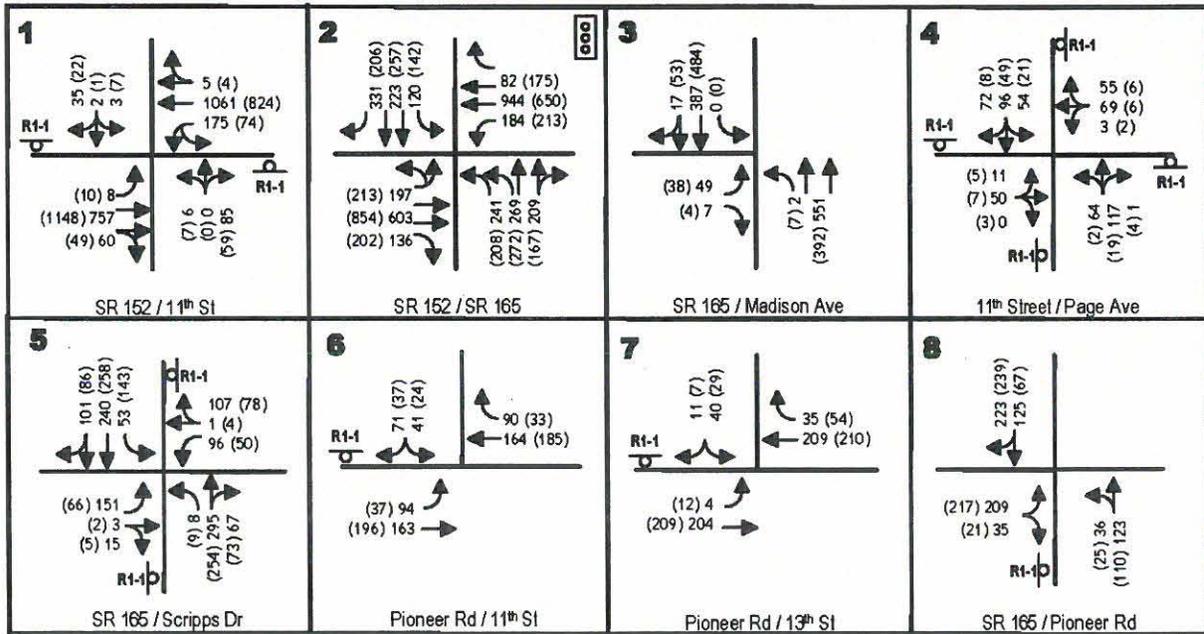
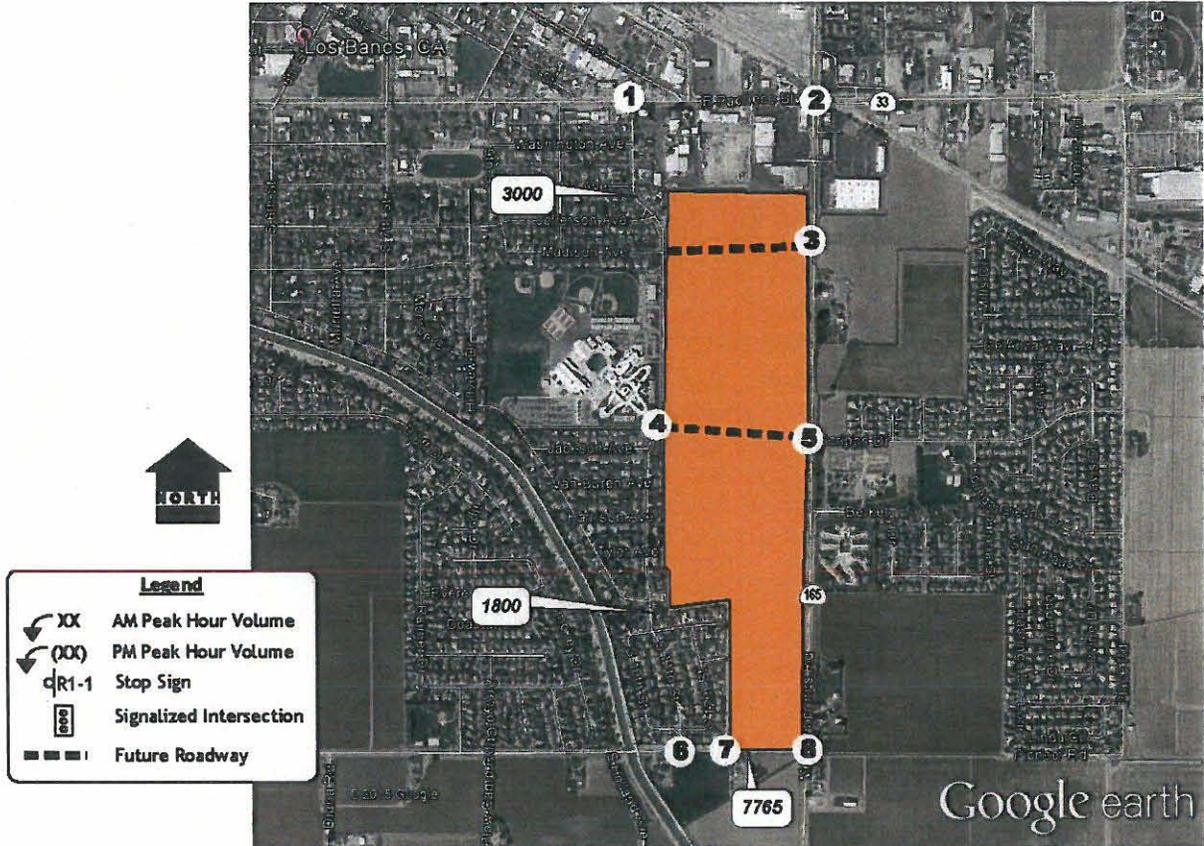
Anticipated Improvements. Development in the project area will be expected to complete frontage improvements that are consistent with City of Los Banos requirements for all new development in the community. By the time the area is built out, the following improvements will have been made:

1. Widening the west side of Mercey Springs Road (SR 165) to half of its ultimate four lane section, including left turn lanes at new intersections.
2. Widening of Pioneer Road to half its ultimate section along the project frontage, including development a left turn lane on eastbound Pioneer Road and a westbound right turn lane, similar to the improvements installed at the 11th Street / Pioneer Road intersection.

Existing Plus Project Impacts Based on Level of Service

Table 8 compares current and Existing Plus Project Levels of Service at study area intersections. As shown, two intersections will operate with Levels of Service that exceed the minimum LOS D goal:

Motorists attempting to turn left onto Pacheco Blvd at the **Pacheco Blvd (SR 152) / 11th Street** intersection will still experience long delays that are indicative of LOS F. However, because the Page Avenue extension provides additional access to the area the length of delays may be shorter than those that exist today. This intersection's proximity to the signalized H Street intersection precludes installing a traffic signal at this location, and as a result, it is likely that prohibiting left turns will eventually be the necessary improvement whether the proposed project proceeds or not.



**EXISTING PLUS PROJECT
TRAFFIC VOLUMES AND LANE CONFIGURATIONS**

**TABLE 8
EXISTING PLUS PROJECT PEAK HOUR INTERSECTION LEVELS OF SERVICE**

Location	Control	AM Peak Hour				PM Peak Hour			
		Existing		Existing Plus Project		Existing		Existing Plus Project	
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	Average Delay	LOS
1. SR 152 (Pacheco Blvd) / 11 th Street NB left+thru+right SB left+thru+right	NB/SB Stop	37.0 sec 68.0 sec	E F	30.7 sec 51.1 sec	D F	25.2 sec 32.6 sec	C D	31.5 37.8	D E
	Prohibit left turns								
2. SR 152 / Mercey Springs Rd (SR 165)	Signal	39.0 sec	D	45.7	D	30.3 sec	C	32.4	C
3. SR 165 / Madison Avenue	EB Stop	-	-	15.9	C	-	-	15.1	C
4. 11 th Street / Page Avenue	All-Way Stop	15.1 sec	C	20.6	C	7.2 sec	A	7.3	A
5. SR 165 / Scripps Drive WB left+thru+right turn EB left+thru+right turn	EB/WB Stop	15.4 sec -	C -	15.6 76.3	C F	18.8 sec	C	15.1 38.1	C E
	Signal			16.5	B				
6. Pioneer Road / 11 th Street	SB Stop	18.7 sec	C	15.1	C	10.8 sec	B	11.0	B
7. Pioneer Road / Collector	SB Stop	-	-	11.6	B	-	-	11.7	B
6. SR 165 / Pioneer Road	EB Stop	17.3 sec	C	18.6	C	11.2 sec	B	12.1	B
Level of Service at unsignalized intersections is indicative of "worst case" conditions on side street approach BOLD values exceed the minimum LOS Goal. Highlighted values are a significant impact									

The City's *Transportation Master Plan* addresses the Pacheco Blvd (SR 152) / 11th Street intersection. That document suggests that a traffic signal may be installed. If this were to be the case, it will be necessary for the City of Los Banos and Caltrans to:

1. Conduct a Screenline ICE assessment to identify a feasible control alternative if mainline traffic on Pacheco Blvd is to be stopped.
2. Install the traffic signal or roundabout when needed based on satisfaction of traffic warrants as determined by Caltrans, or
3. Install a barrier to left turning traffic that prohibits left turns.

Mitigation 1: Project proponents shall contribute fair share to the cost of intersection improvements at Pacheco Blvd (SR 152) / 11th Street.

The **Mercey Springs Road (SR 165) / Scripps Drive / Page Avenue** intersection's new eastbound approach is projected to operate at LOS F in the a.m. and LOS E in the p.m. peak hour. As this exceeds the minimum LOS D goal, this is a significant impact. Peak hour traffic signal warrants are satisfied in the morning peak hour, and it is likely that a traffic signal will be needed at that time. However, the p.m. peak hour volume does not satisfy warrants, and it is likely that a full warrant analysis will prove that a traffic signal is not justified.

Caltrans plans to install a HAWK Hybrid Pedestrian Crossing Beacon later this year. That device was applicable for a "tee" intersection but would not provide an improved Level of service and may be problematic for a four way intersection.

Current Caltrans police requires that an *Intersection Control Evaluation (ICE)* be prepared when it is determined that traffic on the state highway needs to be stopped. That assessment would consider the feasibility of all-way stop control, traffic signals or a roundabout intersection. While a traffic signal would deliver adequate Level of Service and may be desirable to control pedestrian activity at this location adjoining Mercey Springs Elementary School a decision regarding applicable traffic control will be made by Caltrans, and the resulting solution would be incorporated into project design.

The City's *Transportation Master Plan* addresses the Mercey Springs Road (SR 165) / Scripps Drive / Page Avenue intersection, and a traffic signal at this intersection is included in the City's traffic impact fee program. Thus, development in the project area is not responsible for all of the cost to install a traffic signal or roundabout. It will be necessary for development in the project area to:

1. Conduct a Screenline ICE assessment to identify a feasible control alternative prior to extending Page Avenue to Mercey Springs Road (SR 165)
2. Install the traffic signal or roundabout when needed based on satisfaction of traffic warrants as determined by Caltrans.
3. Receive fee program reimbursement for costs beyond the project's fair share.

Mitigation 2: Install improvements to Mercey Springs Road (SR 165) / Scripps Drive intersection.

Project Impacts Based on Safety

The need for separate left turn lanes at study area intersections has been evaluated based on city standards and AASHTO guidelines. Left turn lanes will be required at the new access on Pioneer Road as part of standard City of Los Banos requirements, as was the case at the 11th Street intersection. Review of projected traffic volumes reveals that AASHTO guidelines for a northbound left turn lane will not be satisfied at the SR 165 / Pioneer Road intersection; however, it is likely that Caltrans will ask that this issue be reconsidered as part of an encroachment permit for frontage improvements at the intersection.

Mitigation 3: Install applicable intersection improvements when frontage improvements are constructed.

Project Impacts to Neighborhood Streets Such as Page Avenue, Madison Avenue, Jefferson Avenue between 4th Street and 11th Street

The area south of SR 152 is served by a system of local streets that feature direct residential access and on-street parking. Many segments of these streets are narrower than current City standard (i.e., less than 40' curb to curb). Today these streets provide the primary access to Los Banos High School and provide the primary circulation through the old Presidential Estates Area. While the volume of traffic on these streets is not an issue with regard to Level of Service, increasing traffic volumes do have an effect on the "quality of life" that is perceived by area residents. In the past the Los Banos City Council has frequently received requests for installation of measures to control the speed and volume of traffic through this area.

The development of the Presidential Estates East Area Plan will affect conditions on these streets in both positive and negative ways. On the positive side, the development of the Page Avenue extension and the Madison Avenue extension will provide additional access to Los Banos High School. Thus, the existing volume of traffic occurring on some of these streets during the periods immediately before and after school should decrease. These road extensions will also provide alternative access for existing residents of Presidential Estates. However development of the Presidential Estates East Area Plan will generate traffic that may use local streets to travel west, especially if a traffic signal is not installed at the SR 152 / 11th Street intersection.

Measures to control the flow of traffic on streets west of Presidential Estates might be considered as the balance of the area street system is developed and new access opportunities allow these streets to serve a more "local" function. Alternatives that may be implemented include:

1. ***Implementation of traffic calming measures on selected streets (i.e., undulations).***
This action would help reduce the speed of traffic through the area and may discourage through traffic. Historically, calming measures on these streets have been rejected by the City based on recommendations from emergency service providers. It is possible with the development of additional access to the area that calming measures could be considered.

Implementation of a Neighborhood Traffic Calming Program preceded by a specific study addressing alternatives with neighborhood input has been made a mitigation measure of other large development proposals in other communities. This action, rather than a CEQA mitigation requirement to install specific improvements, is preferable as the process for developing community consensus can be promoted and the needs of the local residents can be addressed. The developer could be required to provide funding for the process and provide funding for implementation of the final program.

2. **One-Way streets.** Another alternative that could be pursued once additional access to the area is created is the development of one-way streets, either singly or in “couplets”. Couplets have the advantage of moving more traffic by reducing conflicting movements, primarily at intersections, and if completed in pairs, they tend to maintain traffic volumes. However, speeds can be higher on one-lane one-way streets than on two-way streets, and if only one street is made one-way, the volume on other streets will increase.

In this case, Page Avenue has been discussed as a potential one-way street. Page Avenue extends diagonally from an intersection on Madison Avenue west of the High School towards the south end of the campus and an intersection with 11th Street. While the narrow portion of Page Avenue between Madison Avenue and Hillview Drive could be made one-way, any traffic diverted from Page Avenue would move to Madison Avenue and Monroe Avenue. The diversion would probably be in the range of 500 to 600 ADT. Alternatively, Page Avenue and Madison Avenue could be made a one-way couplet in this area, but this action would not reduce the volume of traffic on either street and would likely increase speeds.

As with consideration of traffic calming measures, a decision regarding one-way streets within the context of Presidential Estates East should be made after the Page Avenue extension is constructed to SR 165.

3. **Street Closures / Diversions.** Some communities have fully or partially closed off intersections to discourage through traffic. These actions tend to induce outside motorists to use other streets but are an inconvenience to local residents. For example, once additional access to the area is created it may be possible to partially close the Page Avenue / 6th Street intersections so as to send eastbound traffic back to Madison Avenue.

As with consideration of traffic calming measures, a decision regarding street closures within the context of Presidential Estates East should be made after the Page Avenue extension is constructed to SR 165.

Mitigation 4: Contribute fair share to the cost of neighborhood traffic calming measures.

CUMULATIVE TRAFFIC IMPACTS

The relative traffic impacts of the proposed project have also been assessed within the context of future traffic conditions that account for long term development in Los Banos. This analysis assumes Year 2030 conditions with the Los Banos Bypass forecast in the City's Transportation Master Plan based on development of the community under the current General Plan.

Methodology

The City of Los Banos' regional travel demand forecasting model was employed to create the traffic volumes presented in the Master Plan, and those volumes are the basis for cumulative analysis contained in other traffic studies. However, the traffic model itself is not available, and it is necessary to interpolate volumes at other locations or for other scenarios. This analysis makes use of data presented in the following sources:

- Pacheco Blvd (SR 152) / Mercey Springs Road (SR 165): *Walmart Expansion EIR Traffic Study*
- Mercey Springs Road (SR 165) / Scripps Drive / Page Avenue: *Transportation Master Plan*
- Mercey Springs Road (SR 165) / Pioneer Road: *Transportation Master Plan*
- Pioneer Road / 11th Street: *Transportation Master Plan*

Review of the land use data employed for the Transportation Master Plan indicates that the East Presidential Estates Area Plan's development was assumed. Thus, the available data includes trips anticipated from the project site.

The Cumulative No Project condition would assume no site development, as well as no construction of the plan area roads. Under this scenario neither Page Avenue nor Madison Avenue would be extended to SR 165, nor would the new north-south local street between 11th and SR 165 be constructed. Because the city-wide traffic model is unavailable, a manual approach was taken to create the "No Project" volumes. The trips associated with the Presidential Estates East land uses were subtracted from the future volumes, subsequently, the remaining background traffic that would have used the new streets were re-assigned to the balance of the area street system.

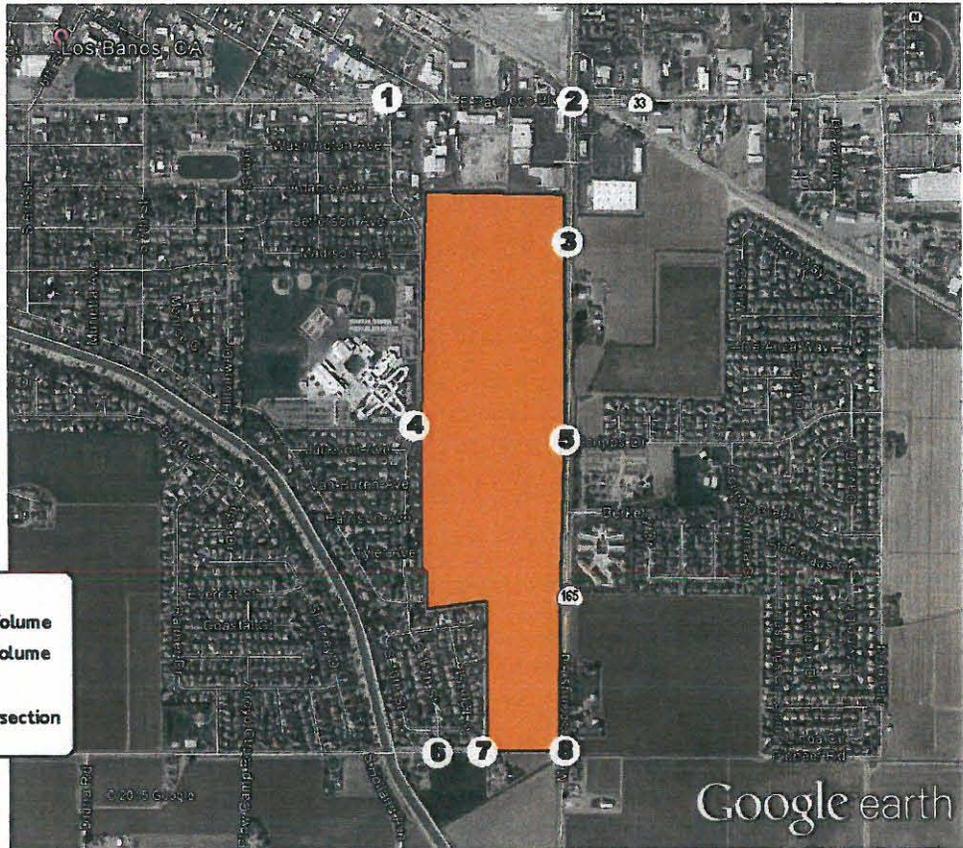
In the immediate vicinity of the project LBUSD has recently approved expansion of Mercey Springs ES to 900 students. The cumulative analysis assumes this student population.

Traffic Volume Forecasts

Figures 6 and 7 present the resulting Cumulative No Project and Cumulative Plus Project traffic volumes.

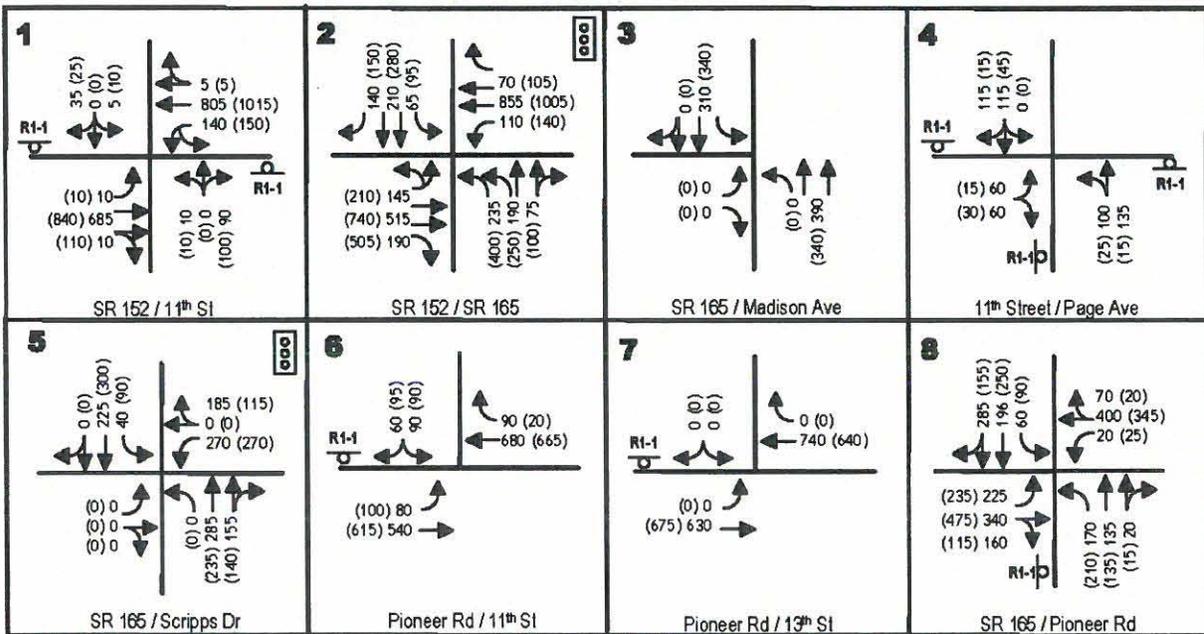
Cumulative Circulation System Improvements

The City of Los Banos General Plan and City of Los Banos Transportation Master Plan both include appreciable regional circulation system improvements that have been assumed in other environmental documents. These include the SR 152 Los Banos Bypass and the extension of Pioneer Road from SR 165 to Ward Road. Locally, SR 165 is assumed to be a four lane facility through the Pioneer Road intersection north. Local improvements to study area intersections are identified in Figures 6 and 7.

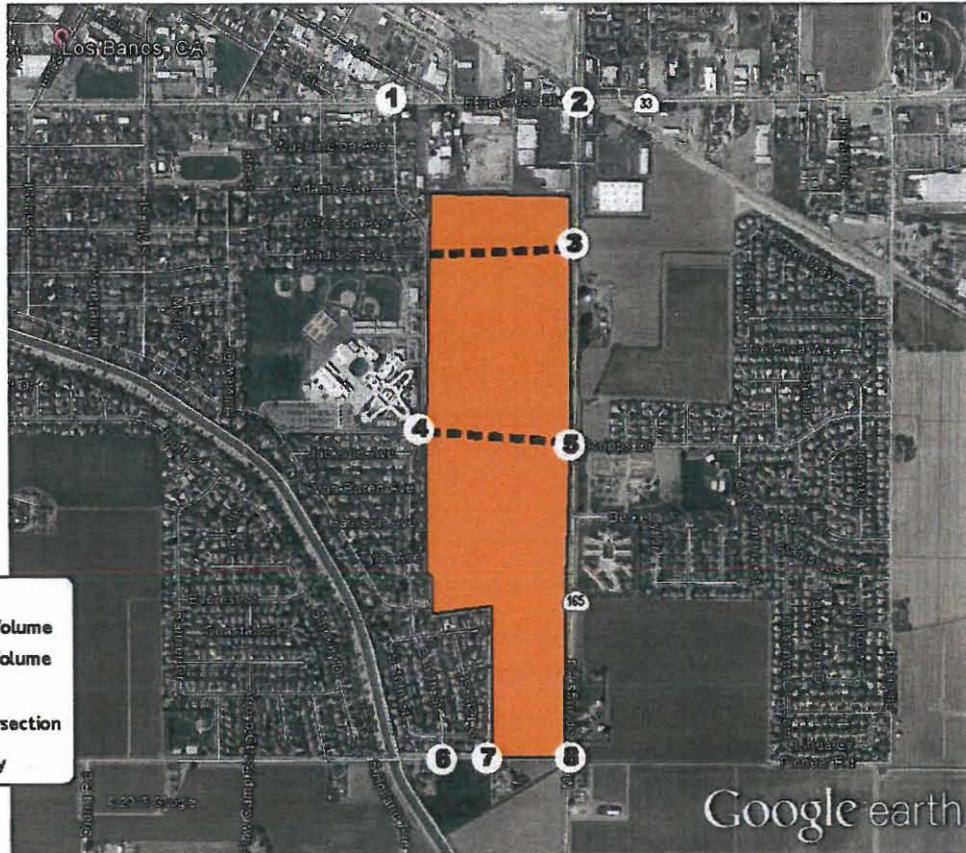


Legend

- XX AM Peak Hour Volume
- (XX) PM Peak Hour Volume
- R1-1 Stop Sign
- Signalized Intersection

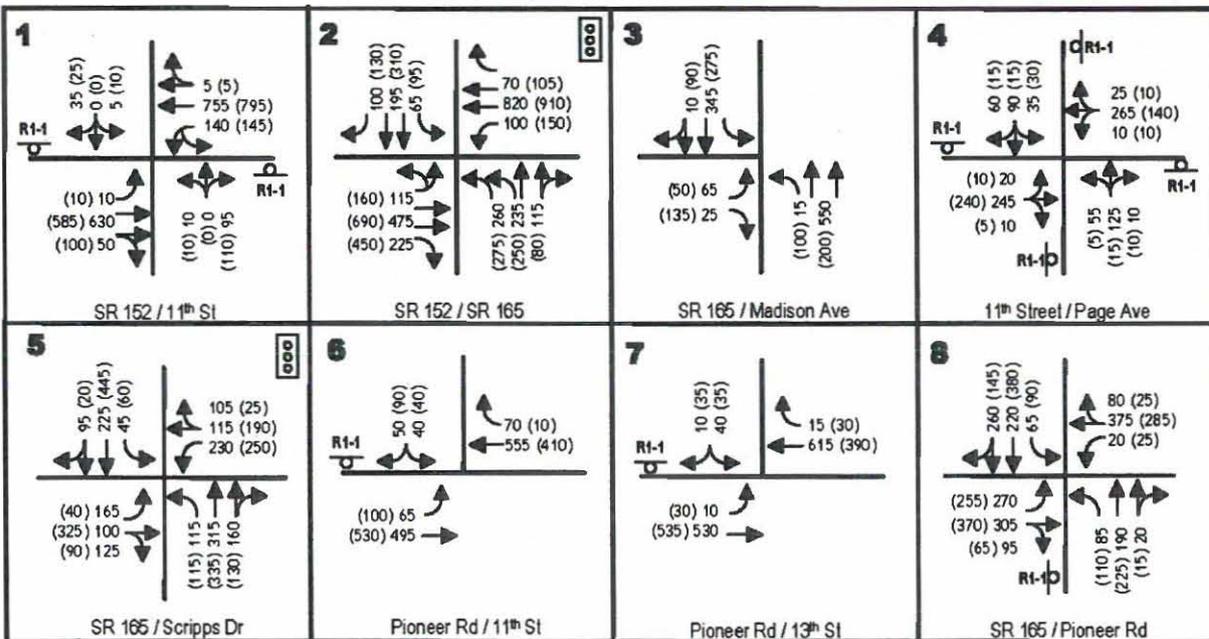


**CUMULATIVE NO PROJECT
TRAFFIC VOLUMES AND LANE CONFIGURATIONS**



Legend

- XX AM Peak Hour Volume
- (XX) PM Peak Hour Volume
- R1-1 Stop Sign
- Signalized Intersection
- Future Roadway



**CUMULATIVE PLUS PROJECT
TRAFFIC VOLUMES AND LANE CONFIGURATIONS**

Cumulative Traffic Impacts

Study area intersection Levels of Service assuming Cumulative traffic volumes and planned improvements are noted in Table 9.

Cumulative No Project Conditions. As shown, if anticipated improvements are constructed but Page Avenue is not extended to SR 165, then all but two locations will operate with Levels of Service that satisfy the LOS D minimum. Southbound traffic at the **SR 152 / 11th Street intersection** is projected to experience delays that are indicative of LOS F in the p.m. peak hour. As was discussed under Existing Plus Project conditions, it may eventually be necessary to eliminate left turns at this intersection in order to deliver adequate Level of Service.

The southbound approach at the **Pioneer Road / 11th Street intersection** is projected to operate at LOS F in the a.m. peak hour and LOS E in the p.m. peak hour. Both conditions exceed the LOS D minimum, and a traffic signal may eventually be justified. That conclusion is however, dependent on the status of the Page Avenue Extension as this feature reduces the volume of traffic on 11th Street.

Cumulative Plus Project Conditions. If the project area is developed and its streets are constructed then all but one study location would satisfy the LOS D minimum. If the volume of traffic on Page Avenue increases as forecast, then the **11th Street / Page Avenue intersection** is projected to experience delays that are indicative of LOS F in the a.m. peak hour during the period before the school day at Los Banos HS. However, conditions in the p.m. peak hour would be adequate with the anticipated all-way stop control, and the traffic volumes do not satisfy traffic signal warrants.

This is a potentially significant impact that is not the direct result of development in Presidential Estates East but is the combined effect of the project, extending Page Avenue and other regional growth east of SR 165.

As noted in Table 9, a traffic signal would deliver LOS A, although this result is probably overly optimistic due to the effects of peak period pedestrian activity. However, a signal is not included in the current city traffic fee program. A roundabout intersection would also deliver Level of Service C, which also satisfies City standards.

While the alignment of the intersection is not standard, a roundabout could be made to fit. The skewed alignment of the intersection combined with the existing residence on the southwest corner would likely result in the need to acquire a small amount of right of way on the northwest corner of the intersection from LBUSD. A roundabout would include pedestrian crossings on all four legs that would be used before and after school.

Because a roundabout can be installed whether traffic signal warrants are satisfied or not and would operate adequately under near term and long term conditions, this is the preferred strategy. The roundabout would need to be installed when the connection to 11th Street is made unless an "interim" connection is installed for the period until Page Avenue reaches SR 165.

Because this is a cumulative impact, the project proponents would not be responsible for 100% of the cost of this improvement. However, there is no identified source of funds for the balance of the improvement cost.

Mitigation 5: Install improvements to the 11th Street / Page Avenue intersection.

**TABLE 9
CUMULATIVE PLUS PROJECT PEAK HOUR INTERSECTION LEVELS OF SERVICE**

Location	Control	AM Peak Hour				PM Peak Hour			
		Cumulative Without Project		Cumulative With Project		Cumulative Without Project		Cumulative With Project	
		Average Delay	LOS	Average Delay	LOS	Average Delay	LOS	Average Delay	LOS
1. SR 152 (Pacheco Blvd) / 11 th Street NB left+thru+right SB left+thru+right	NB/SB Stop	23.4 sec	C	21.4 sec	D	33.0 sec	D	18.0	C
		24.6 sec	C	22.0 sec	C	69.2 sec	F	31.7	D
2. SR 152 / Mercey Springs Rd (SR 165)	Signal	28.6 sec	C	25.4	C	34.9 sec	C	27.9	C
3. SR 165 / Madison Avenue	EB Stop	-	-	13.0	B	-	-	11.3	B
4. 11 th Street / Page Avenue	All-Way Stop	19.6 sec	C	78.3	F	7.2 sec	A	9.1	A
	Signal			9.8	A				
	Roundabout			23.9	C				
5. SR 165 / Scripps Drive	Signal	15.9	C	28.8	C	22.3 sec	C	46.2	D
6. Pioneer Road / 11 th Street	SB Stop	153.2 sec	F	29.8	D	39.5 sec	E	23.0	C
7. Pioneer Road / Collector	SB Stop	---	-	17.4	C	---	-	18.4	C
8. SR 165 / Pioneer Road	Signal	49.4	D	43.1	D	44.7 sec	D	38.5	C
Level of Service at unsignalized intersections is indicative of "worst case" conditions on side street approach BOLD values exceed the minimum LOS Goal. Highlighted values are a significant impact									

City of Los Banos
Presidential East Area Plan, Annexation, and Pre-Zone 2014-01
Mitigation Monitoring & Reporting Program
SCH# 2015061056

Environmental Issue	Proposed Mitigation	Mitigation Monitoring Reporting Responsibility and Timing	Mitigation Reporting and/or Monitoring Program
Cultural Resources	<p>In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:</p> <ol style="list-style-type: none">1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until;<ol style="list-style-type: none">a) The coroner of the County in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required; and,b) If the coroner determines the remains to be Native American:<ol style="list-style-type: none">1. The coroner shall contact the Native American Heritage Commission within 24 hours.	Public Works Department, During Project Construction	During project construction, the Project Engineer and Construction Manager shall monitor construction activities for any discovery of human remains.

	<ol style="list-style-type: none"> 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American. 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98. 		
Hazards and Hazardous Materials	Prior to the approval of the proposed project's Improvement Plans and Final Map, the applicant, or project proponent, shall prepare and submit to the City a Phase I/Environmental Site Assessment (ESA). The recommendations of the Phase I/ESA shall be incorporated into the proposed project, as deemed necessary by City staff.	Public Works Department, Prior to Approval of Improvement Plans and Final Map	Prior to approval of the Project's Improvement Plans and Final Map, the Project Proponent shall submit a Phase I/Environmental Site Assessment to the City's Public Works Department.
Transportation/Traffic	Project proponents shall install applicable intersection improvements when frontage improvements are constructed at the SR 165 / Pioneer Road intersection.	Public Works Department and Caltrans prior to the approval of the first Tentative Subdivision Map	Concurrent to the installation of frontage improvements at the intersection of SR 165/Pioneer Road, the Project Proponent shall install applicable intersection improvements as approved by City Public Works staff.

Transportation/ Traffic	Project proponents shall contribute fair share to the cost of neighborhood traffic calming measures on neighborhood streets such as Page Avenue, Madison Avenue, Jefferson Avenue between 4th Street and 11th Street.	Public Works Department, Prior to Approval of Improvement Plans and Final Map	The Project Proponent shall contribute the fair share cost of neighborhood traffic calming measures. This fair share cost shall be reviewed and approved by City Public Works staff.
Transportation/ Traffic	Project proponents shall contribute fair share to the cost of intersection improvements at Pacheco Blvd (SR 152) / 11th Street.	Public Works Department, Prior to Approval of first Tentative Subdivision Map	The Project Proponent shall contribute the fair share cost towards future improvements at the intersection of SR 152/11 th Street. This fair share cost shall be reviewed and approved by City Public Works staff.
Transportation/ Traffic	Project proponents shall install improvements to SR 165 (Mercey Springs Road) / Scripps Drive/ Page Avenue intersection.	Public Works Department, Prior to Approval of first Tentative Subdivision Map	Specific timing of the installation of these improvements shall be determined concurrent to the processing of the first Tentative Subdivision Map application within the Area Plan.

RESOLUTION NO. 2016-32

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING APPROVAL OF ANNEXATION #2014-01, GENERAL PLAN AMENDMENT #2015-03, AND PRE-ZONE #2014-02 TO THE LOS BANOS CITY COUNCIL FOR THE PRESIDENTIAL ESTATES EAST AREA PLAN

WHEREAS, Stonefield Communities, Inc initiated consideration of a General Plan Amendment, Annexation, and Pre-Zone application with the City of Los Banos to annex approximately 106 acres of property located north of Pioneer Road and west of Mercey Springs Road, and designate the entire project site as Low Density Residential; and

WHEREAS, pursuant to the California Environmental Quality Act and the City of Los Banos Environmental Quality Guidelines, the project environmental impacts were evaluated in the Initial Study/Mitigated Negative Declaration (SCH #2015061056) incorporated herein by this reference; and

WHEREAS, the Planning Commission of the City of Los Banos finds that the subject property site is within the Los Banos Sphere of Influence (SOI); and

WHEREAS, the Planning Commission has considered the long range land use needs for the City of Los Banos by balancing the need for residential, commercial, and public uses, and the need to minimize urban and agricultural land use conflicts; and

WHEREAS, a public hearing was duly noticed for July 13, 2016, in accordance with California Government Code Section 65091 by advertisement in the Los Banos Enterprise and by mail to property owners within 300 feet of the project boundaries on July 1, 2016, to consider and take testimony regarding the Presidential Estates East Annexation and General Plan Amendment; and

WHEREAS, on July 13, 2016, the Los Banos Planning Commission, heard and considered testimony, if any, of all persons desiring to be heard; reviewed the project proposal and staff report; studied the compatibility of the applicant's request with adjacent land uses; has considered the applicant's request in accordance with the criteria established in Section 9-3.2314 of the Los Banos Municipal Code.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Los Banos that it does hereby recommend approval of General Plan Amendment (GPA #2015-03), Area Plan and Annexation (ANX #2014-01) and Pre-Zone (ZC #2014-02) for the annexation of approximately 106 acres into the incorporated City limits of the

City of Los Banos for future development for the Presidential Estates East Area Plan and General Plan Amendment to designate the entire project site as Low Density Residential in accordance with the Project Findings (Exhibit A), and subject to the conditions of approval (Exhibit B), incorporated herein by reference.

The foregoing Resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 13th day of July 2016, by Commissioner _____ who moved its adoption, which motion was duly seconded by Commissioner _____ and the Resolution recommended for approval by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Tom Spada, Chairman

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

PROJECT FINDINGS FOR PRESIDENTIAL ESTATES EAST AREA PLAN

The City of Los Banos Planning Commission hereby finds as follows:

1. The Los Banos General Plan was adopted by the City on July 15, 2009, and the Project was prepared in accordance with it;
2. The Project is within the adopted Sphere of Influence of the City of Los Banos;
3. The annexation, general plan amendment, and pre-zoning will not be detrimental to the health, safety, comfort, or general welfare of the persons residing or working in the City of Los Banos, or injurious to property or improvements in the surrounding neighborhoods or within the City;

EVIDENCE: The low density residential land use and circulation plan: (1) are consistent with adjacent residential uses in the vicinity of the project site; and (2) will improve circulation in the area by completing a roadway between Page Avenue and Scripps Drive and will extend Madison Avenue to Mercey Springs Road which connects City neighborhoods on both sides of the project site.

4. The use is compatible with the adjacent uses, properties, and neighborhoods, and will not be detrimental or injurious to property or improvements in the neighborhood or to the general welfare of the City and will not result in detrimental effects to neighboring properties or to City services;

EVIDENCE: The project will enhance the surrounding area, because: (1) it will annex contiguous property nearly surrounded by the current City limits on three sides and largely surrounded by urban development, (2) it will improve circulation in the area by completing a roadway between Page Avenue and Scripps Drive and will extend Madison Avenue which connects City neighborhoods on both sides of the project site; and (3) it was analyzed in an Initial Study/Mitigated Negative Declaration that determined that all potentially significant impacts on neighboring properties are reduced to a less than significant level by the incorporation of Mitigation Measures.

5. The proposed annexation is consistent with LAFCO annexation policies.

EVIDENCE: The City has adequate fire and police services and a mitigation fee program that ensures continued adequate services. The City provides wastewater services, and there is adequate capacity at the City's wastewater treatment plant and the City has initiated a two phase expansion and study of the fee structure to ensure that adequate capacity and funding to finance the expansion will be available before the existing capacity is exhausted. The City provides water services, and the quantity of the City's groundwater reserves is adequate for planned growth within the Sphere of Influence. The City requires developers to improve street frontages and to pay a traffic impact fee to ensure

that the City's transportation infrastructure is adequate to the extent feasible. The majority of significant transportation deficiencies in the City involve Pacheco Boulevard, and improvements to traffic conditions on Pacheco Boulevard are contingent on the State's construction of the State Route 152 bypass, which is outside the control of the City.

EXHIBIT B

CONDITIONS OF APPROVAL FOR THE PRESIDENTIAL ESTATES EAST AREA PLAN

1. The property and use shall be in substantial conformance with the Presidential Estates East Area Plan and associated Pre-Annexation Development Agreements and conditions of approval.
2. The applicant or successor(s) in interest agrees as a condition and in consideration of the approval of this and related approvals that it shall defend, indemnify and hold harmless the City of Los Banos or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable.
3. The applicant or successor(s) in interest shall reimburse the City for any court costs and attorney's fees that the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. An agreement to this effect shall be recorded upon demand of City Council concurrent with the issuance of permits or use of the property, whichever occurs first and as applicable. The City shall promptly notify the applicant of any such claim, action or proceeding, and the City shall cooperate fully in the defense thereof. If the City fails to promptly notify the applicant of any such claim, action, or proceeding or fails to cooperate fully in the defense thereof, the applicant shall not thereafter be responsible to defend, indemnify, or hold the City harmless.
4. Developer shall receive approval by the City of a Master Plan prior to any application for further entitlements, building permits or other development. The Master Plan shall include a land use and circulation system concept for the Master Plan area that is consistent with the goals and policies of the General Plan, compatible with the environment, and capable of being served by existing and planned public facilities and utilities, topographical data of the Master Plan area, proposed site plans, architectural guidelines, proposed development schedule, and any proposed Conditions, Covenants, and Restrictions, subject to review and approval by the City Attorney. Site plans for a project within the approved Master Plan area shall only be accepted for review if they are consistent with the approved Master Plan, and with all other applicable requirements of the Los Banos Municipal Code.
5. Developer shall pay five thousand dollars (\$5,000.00) per residential unit for purposes of ensuring that there are sufficient funds to improve and enhance the community as determined by the City Council of the City of Los Banos. In lieu of payment of the Community Amenity Fee the City Council has the option but not

the obligation to accept an in kind contribution from the Developer which in the sole discretion of the City Council furthers the stated intention of the community amenity fee on terms mutually agreeable to the parties. The fee shall be payable at the time each building permit is issued and shall be subject to annual adjustment on April 1 of each year, commencing 2009, based on the percentage changes in the City Construction Cost Index, published by the Engineering News Record. In the event the CCI is no longer published the City Finance Director shall use a similar index to calculate the annual adjustment. The City Council may allocate the Community Amenity Fee in its sole discretion as it determines to be in the community's best interest. The City shall establish a fund for the deposit and expenditure of the Community Amenity Fee and shall provide an accounting of the use and expenditure of funds each year in accordance with Government Code Section 66006.

6. Prior to approval of any final or parcel map, Developer shall form or annex the Property to a community facilities district created for the purposes of funding public safety, as authorized by Government Code section 53313(a) and (b). The form, terms and conditions and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.
7. Prior to approval of any final or parcel map, the Developer shall form or annex the Property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the Property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the Developer.
8. The Developer shall implement all Mitigated Measures identified in the Mitigation Monitoring and Reporting Plan for the project (SCH #2015061056), incorporated herein by this reference.

Notice: The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code section 66020(d)(1), these conditions constitute a written notice of the amount of such fees, and a description of the dedications, reservations, and other exactions. The applicant is hereby notified that the 90-day protest period commences

from the date of approval of the project. If the applicant fails to file a protest regarding any of the fees, dedication requirements, reservation requirements, or other exactions contained in this notice, complying with all the requirements of section 66020, the applicant will be legally barred from challenging such exactions.

RESOLUTION #2016-33

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING APPROVAL OF A PRE-ANNEXATION DEVELOPMENT AGREEMENT FOR STONEFIELD COMMUNITIES, INC., TO THE LOS BANOS CITY COUNCIL FOR THE PROJECT COMMONLY KNOWN AS THE PRESIDENTIAL ESTATES EAST AREA PLAN

WHEREAS, in order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (§ 65864, *et seq.* of the Government Code); and

WHEREAS, the Development Agreement Law and annexation law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure, including but not limited to roads, sewers, fire protection facilities, will be available at the time development projects come on line; and

WHEREAS, Stonefield Communities, Inc., ("Developer") has filed an application with the City of Los Banos ("City") to Annex and Pre-Zone approximately 106 acres and a General Plan Amendment to designate the entire project area Low Density Residential (LDR) located north of Pioneer Road and west of Mercey Springs Road (SR 165), Merced County, California, more specifically identified as Assessor's Parcel Numbers: 083-120-012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024, -027 & -028 and 026-290-001, -002, -003, -004 & -005 ("Project"); and

WHEREAS, Developer desires to proceed with site planning with the City after completion of the annexation proceedings. Inasmuch as the Developer has not submitted development plans, and that the City has not had any opportunity to review any specific proposals, the parties agree that the Pre-Annexation Agreement ("Agreement") can and should create only limited vested rights, as defined by the terms of the Agreement for the property identified as Assessor's Parcel Numbers: 083-120-014, -024, -027 & -028 ("Subject Property"); and

WHEREAS, the parties have, in good faith, negotiated the terms which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development of the Subject Property; and

WHEREAS, in support of the Entitlements described herein, and in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and approved a Mitigated Negative Declaration for the foregoing entitlements and this Agreement; and

WHEREAS, parcel maps, vesting tentative subdivision maps, tentative subdivision maps, general and final development plans, final subdivision maps, design review, improvement plans, issuance of building permits, or any other entitlements necessary for the development of the Subject Property, shall be subject to prior approval of (a) a Master Plan for the entire Subject Property; and

WHEREAS, development of the Subject Property pursuant to the terms and conditions of the Agreement, pre-zoning, the master plan, and appropriate environmental determinations will provide for orderly growth and development consistent with the City's General Plan and other development policies and programs; and

WHEREAS, having duly considered the Agreement and having held the noticed public hearings, City finds and declares that the provisions of the Agreement are consistent with the maps and text of the City's General Plan.

WHEREAS, the Planning Commission of the City of Los Banos scheduled and duly noticed a public hearing in accordance with California Government Code Section 65091 by advertisement and notices by mail to property owners within a 300 foot radius of the project boundaries on July 1, 2016 to consider and take testimony regarding these matters on July 13, 2016.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby recommend approval of the Pre-Annexation Development Agreement for Stonefield Communities, Inc., for the Presidential Estates East Area Plan more specifically identified as Assessor's Parcel Numbers: 083-120-014, -024, & -028.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 13th day of July 2016, by Planning Commissioner _____, who moved its adoption, which motion was duly seconded by Planning Commissioner _____, and the Resolution is hereby adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Tom Spada, Planning Commission Chair

ATTEST:

Sandra Benetti, Planning Commission Secretary

Recording requested by
and when recorded, mail to

City Clerk
City of Los Banos
520 J Street
Los Banos, CA 93635

No Recording Fee

**PRE-ANNEXATION
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
STONEFIELD COMMUNITIES, INC.,
RELATIVE TO THE
PRESIDENTIAL ESTATES EAST ANNEXATION**

(Date)

THIS DOCUMENT, INCLUDING EXHIBITS, TOTALS _____ PAGES.
EACH PAGE IS "BATES STAMPED" SEQUENTIALLY IN THE LOWER RIGHT HAND CORNER.

**PRE-ANNEXATION
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
STONEFIELD COMMUNITIES, INC.,
RELATIVE TO THE
PRESIDENTIAL ESTATES EAST ANNEXATION**

THIS PRE-ANNEXATION DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2016, by and between the CITY OF LOS BANOS, a municipal corporation (“City”), and **STONEFIELD COMMUNITIES, INC.**, (“Developer”), pursuant to the authority of Article 2.5, Chapter 4, Division 1, Title 7 (§ 65864, *et seq.* of the Government Code) relating to Development Agreements, and pursuant to annexation law.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (§ 65864, *et seq.* of the Government Code).

2. The Development Agreement Law and annexation law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure, including but not limited to roads, sewers, fire protection facilities, will be available at the time development projects come on line.

3. Developer desires to proceed with site planning with the City after completion of annexation proceedings. Inasmuch as the Developer has not submitted development plans, and that the City has not had any opportunity to review any specific proposals, the parties agree that this Agreement can and should create only limited vested rights, as defined by the terms of the Agreement.

4. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development of the Subject Property.

5. Developer owns in fee or has an equitable interest in that certain real property, more particularly described on **Exhibit “A”** hereto, located adjacent to the City of Los Banos.

6. City, in response to Developer's applications, after public hearings and extensive environmental analysis, has granted approval of the adoption of an area plan, general plan amendment and pre-zoning for the Subject Property (hereinafter the "Entitlements").

7. In support of the various Entitlements described in paragraph 6 above, and in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and approved the Initial Study/Mitigated Negative Declaration, prepared by J.B. Anderson, on _____, 2016.

8. Vesting tentative subdivision maps, tentative subdivision maps, general and final development plans, final subdivision maps, design review, improvement plans, issuance of building permits, or any other entitlements necessary for the development of the Subject Property, shall be subject to approval of a second tier Development Agreement or other permits or approvals issued by the City.

9. Development of the Subject Property pursuant to the terms and conditions of the pre-zoning, the area plan, and appropriate environmental determinations will provide for orderly growth and development consistent with the City's General Plan and other development policies and programs.

10. On _____, 2016, the City Planning Commission considered this Agreement, and recommended its adoption to the City Council.

11. Having duly considered this Agreement and having held the noticed public hearings, City finds and declares that the provisions of this Agreement are consistent with the maps and text of the City's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is the area plan, annexation, and pre-zoning for the potential development of approximately 106 acres of land located north of Pioneer Road and west of SR 165 (Mercy Springs Road). The Project consists of 106 acres of single-family residential uses with an average density of four (4) units per acre, for a total of approximately 424 residences. Those lands which have executed a Pre-Annexation Development Agreement will be zoned Planned Development ("P-D") and those which have not executed a Pre-Annexation Development Agreement will be zoned Unclassified ("U").

Section 1.2. Subject Property. The Subject Property is a portion of the Project area consisting of approximately 47.5 acres identified as Merced County Assessor's Parcel Numbers 083-120-014, -024, -027 & -028, generally located north of Pioneer Road and west of SR 165 (Mercy Springs Road). The Subject Property is more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by this reference and made a part of this Agreement.

Section 1.3. Definitions. As used in this Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) **Adopting Ordinance** means Ordinance Number _____ entitled: Pre-Annexation Development Agreement By and Between the City of Los Banos and Stonefield Communities, Inc., relative to the Presidential Estates East Annexation, dated _____, and effective _____, which approves this Agreement as required by Government Code section 65867.5.

(b) **Assumption Agreement** means an agreement substantially conforming to the model assumption agreement described in **Exhibit "B,"** or other agreement in a form approved by the City Attorney, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(c) **CEQA** means the California Environmental Quality Act section 21000 *et seq.*, of the Public Resources Code of the State of California.

(d) **City** means the Los Banos City Council, or its designee.

(e) **City Laws** means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by City, or by its electorate through the initiative or referendum process.

(f) **Developer** means Stonefield Communities, Inc., or successor in interest.

(g) **Director** means the Planning Director for the City of Los Banos.

(h) **Effective Date** means the effective date of the Adopting Ordinance.

(i) **Entitlements** shall mean those approvals listed in Recital 6 including any and all conditions of approval and mitigation measures.

(j) **General Plan** means the General Plan of the City, including the text and maps, as may have been amended in connection with the Project.

(k) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(l) **Reserved Powers** shall mean those powers explicitly reserved to the City by this Agreement.

(m) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

Section 1.4. Exhibits. Exhibits to this Agreement are as follows:

Exhibit "A" Subject Property

Exhibit "B" Assumption Agreement

Exhibit "C" Special Conditions and Requirements

Exhibit "D" Sample Notice of Termination

Section 1.5. Incorporation of Exhibits and Recitals. Exhibits A – D and Recitals 1 through 11 are incorporated herein, including all exhibits referred to in said Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. Parties to Agreement. The parties to this Agreement are:

(a) **The City of Los Banos.** A municipal corporation exercising general governmental functions and powers. The principal office of the City is located at 520 J Street, Los Banos, California 93635.

(b) **Developer.** Developer owns in fee or has an equitable interest in the Subject Property. The principal office of Developer is 923 E. Pacheco Blvd., Ste. C, Los Banos, CA 93635.

(c) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement. Pursuant to California Government Code section 65865 (b), this Agreement shall not become operative unless annexation proceedings annexing the Subject Property to the City are completed within two years of the Effective Date of the Adopting Ordinance. If the annexation is not completed within the time specified herein, this Agreement shall be null and void unless extended by the City Council. Upon becoming operative, this Agreement shall continue in force for a period of twenty (20) years from the Effective Date unless terminated as provided herein. Following the expiration of the term, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of Developer or Landowner, if any.

Section 1.9. Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide City with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the City Attorney, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assumption Agreement attached hereto as **Exhibit "B"** and incorporated herein by this reference, or such other form as shall be approved by the City Attorney.

Section 1.10. Covenants Running With the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the City for occupancy, this Agreement shall automatically terminate.

Section 1.11. Amendment to Agreement (Developer and City). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the City and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and City). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and City as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the City and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.13. Releases. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the City Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to City and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6. Notice to the City shall be to the attention of both the City Manager and the Director. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of City. Developer agrees to reimburse City for reasonable and actual expenses over and above fees paid by Developer as an applicant for costs specifically incurred by City for the preparation of this Agreement, including recording fees, publishing fees, and reasonable staff, City Attorney, Special Counsel, and consultant costs not otherwise included within application fees then due and payable to the City. Such reimbursement shall be paid to the City prior to execution of this Agreement by the City. Developer shall also pay any and all installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The City Clerk shall cause a copy of this Agreement to be recorded with the Merced County Recorder not later than ten (10) days following execution of this Agreement by the City. Developer hereby covenants that during the period following execution and the recording of this Agreement by the City, Developer shall not, without prior written approval by the City Attorney, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the City for the development of the Subject Property, the parties and any Landowner agree to cooperate with each other in good faith. City may elect to tender the defense of any lawsuit filed by a third

person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "City" shall include all employees, consultants and agents acting on behalf of the City. Neither party shall settle any such lawsuit without the consent of the other party. The City may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the City for its litigation costs and fees, including the retention of outside legal counsel. It is the intent of the Parties that the City's participation not result in unnecessary duplication of legal services, but rather that the City's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the City, involve broader City concerns than those immediately affecting the Landowner and/or Developer. Upon written demand of the City, Developer and/or Landowner shall deposit with the City such sums as may be specified by the City as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the City elects to settle a claim, and Developer refuses to also settle, City at its sole option, may require Developer to post security in a form and amount reasonably acceptable to the City, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from City, fails to post this security, the Developer shall settle the claim on terms as previously approved by the City.

Section 1.20. Fees. Developer shall be subject to all fees currently adopted by the City, including scheduled or periodic increases as provided for in the adopting ordinances or resolutions ("Current Fees"). Developer shall pay, without protest or without challenge, Current Fees in effect at the time of the issuance of a requested permit or entitlement.

In addition, Developer agrees to pay any new fees adopted by the City, or the recalculation of existing fees ("New Fees") in effect at the time of the issuance of a requested building permit. Developer shall retain the right to challenge the New Fees as permitted by law.

Section 1.21. Reserved Powers. Notwithstanding any other provision of this Agreement, including Sections 2.1, 2.2 and 2.3, and without limitation as to any other requirements or exceptions contained in this Agreement, the City shall retain the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the City Council to adopt regulations to protect the City and its citizens from an immediate adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt or increase utility charges in accordance with applicable laws and regulations; and

(c) As set forth in Section 1.20, increase and apply Current Fees, and adopt and apply New Fees.

(d) Adopt revised subdivision, building design (residential and non-residential), and development improvement standards, provided, however, no such revised standards shall apply to the Project earlier than the 366th day following the date the City Council adopts the revised standard.

(e) Land use regulations, ordinances, policies, programs, resolutions or fees adopted or undertaken by City in order to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(f) City land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the City Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

(g) In the event that the LAFCO imposes conditions on annexation which are, in the sole discretion of the City Council, unacceptable, the City shall have no responsibility to complete annexation.

Section 1.22. Waiver of Claims. Except as may be permitted by Section 1.20, Developer waives, as to the Subject Property only, any and all existing claims that may have against the City, its agents, employees and consultants arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

ARTICLE 2

PROJECT DEVELOPMENT

Section 2.1. Limited Vested Right. Except as is permitted by Section 2.3, during the term of and subject to the terms of this Agreement, the Developer's rights shall be vested only to density and intensity of use as set forth in the area plan and zoning.

Section 2.2. Permitted Uses and Development Standards. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings for the Subject Property shall be those set forth for the pre-zoning district regulations as set forth in the City Zoning Ordinance in effect on the date of approval of this Agreement.

Section 2.3. Additional Permitted Agricultural Uses and Development Standards.

The permitted uses for the Subject Property shall also be those agricultural, residential and accessory uses existing on the Subject Property as of the Effective Date of this Agreement. This Section 2.3 shall terminate automatically as to that portion of any recorded final map which incorporates any portion of the Subject Property.

Section 2.4. Application, Processing and Inspection Fees. Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within City and are in compliance with State and federal law.

Section 2.5. Obligation and Rights of Mortgage Lenders. The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

ARTICLE 3

DEFAULT

Section 3.1. General Provisions. Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured. During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his option, institute legal proceedings pursuant to this Agreement or give notice of its intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the City implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings,

the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and City regulations implementing said sections by the City within thirty (30) calendar days.

Following consideration of the evidence presented in said review before the City and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. City shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or City Council shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the City Council, respectively, at which such review is undertaken, unless said period is extended by mutual consent of City and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. City may charge, and Developer shall pay a fee for such annual review to defray the cost to the City to process and conduct such annual review.

City shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) calendar days prior to such periodic review. The Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Council. Any appeal must be filed within ten (10) days of the decision to the Director, or the Commission, as the case may be. Developer or Landowner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Council, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by City. In the event City does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the City otherwise defaults under the

terms of this Agreement, Developer and/or Landowner may give written notice thereof to the City and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder. In the event City is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, City, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder.

Section 3.6. Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party or Landowner hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, State or federal laws, regulations, decisions or orders which conflict with this Agreement, or judicial or other governmental agency decisions or orders, directing the City, or which have the effect of requiring the City, to take actions or refrain from taking actions which conflict with the obligations under this Agreement. Any and all extensions of the time of performance shall be limited to thirty-six (36) months. This section 3.6 shall not apply to the twenty-four (24) month term within which this Agreement is required to take effect.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the term or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied. Upon termination of this Agreement, the City shall record a notice of such termination in substantially the form attached hereto as **Exhibit "D."** This Agreement shall automatically terminate and be of no further force or effect as to any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any

of the Developer's obligations to comply with the City general plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes.

Section 4.3. Effect of Termination on City. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the City shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Merced.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

Section 5.4. Supersedes Prior Agreements. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. Captions. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” is permissive.

Section 5.8. Term Includes Extensions. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. Successors and Assigns. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. Modification. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. Other Documents. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. Controlling Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. Time Is of the Essence. Time is of the essence of this Agreement and each covenant and term a condition herein.

Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this agreement with its own legal counsel, and based up on the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the City to reimburse the City for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the City Manager, or his or her designee.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. Consent/Subordination. Unless waived in writing by the City Attorney, Developer shall furnish proof satisfactory to the City, prior to approval of the Agreement, that all persons possessing a legal interest in the property have consented to the recording of this Agreement. Unless waived in writing by the City Attorney, the City shall require subordination by all lenders of record as a condition precedent to the City approval of the Agreement. The City shall have no duty to subordinate its interest in this Agreement.

IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth below.

CITY OF LOS BANOS
A municipal corporation

By: _____
Mayor

Dated _____

ATTEST:

City Clerk

Dated _____

APPROVED AS TO FORM:

City Attorney

Dated _____

STONEFIELD COMMUNITIES, INC.

By: _____

Dated: _____

Its: _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT A

SUBJECT PROPERTY

[Legal Description begins on next page]

EXHIBIT B

[SAMPLE FORM]

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this _____ day of _____, 20__, by and between _____ (hereinafter called "Owner") and, _____ (hereinafter "Assignee").

RECITALS

A. On _____, 20__, the City of Los Banos and Owner entered into that certain agreement entitled "Pre-Annexation Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns, effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: _____

By: _____

ASSIGNEE

By: _____

By: _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

1. **Master Plan.** This Agreement requires that a Master Plan be approved by the City for the entire Subject Property prior to any application for further entitlements, building permits or other development.

A. The specific purposes of the Master Plan shall be to: ensure orderly planning for the development of the entire Subject Property consistent with the General Plan; maintain an environmental equilibrium consistent with existing vegetation, soils, geology, topography, and drainage patterns; avoid premature or inappropriate development that would result in incompatible uses or create public service demands exceeding the capacity of existing or planned facilities; encourage sensitive site planning and design; ensure the provision of utilities, roadways and other public facilities; ensure controlled access into the Subject Property; and ensure the development of custom homes on residential lots within the Master Plan boundaries.

B. Land use regulations for the Subject Property shall be those of the underlying zoning district unless modified by the approved Master Plan, provided that all land use regulations shall be consistent with the General Plan Land Use designation for land within the Master Plan area.

C. Development regulations for the Subject Property shall be those of the underlying zoning district unless modified by the approved Master Plan.

D. The Master Plan shall include a land use and circulation system concept for the entire Subject Property that is consistent with the goals and policies of the General Plan, compatible with the environment, and capable of being served by existing and planned public facilities and utilities.

E. The Master Plan shall include a gate system to control access into the Master Plan area.

F. The purpose of the Master Plan is to create a distinct and unique community of custom home sites. The Master Plan shall allow each residential lot owner to submit a custom building design and site plan of their choosing to the City for approval and will incorporate building design standards that will ensure that residential lots are developed in a manner that encourages the use of a variety of architectural designs, styles, colors and materials.

G. The following plans and materials must be incorporated into the Master Plan submittal. The Community Development Director or his or her designee may require the submission of additional items considered necessary:

1. A map showing proposed Master Plan boundaries and the relationship of the area to uses and structures within a 300-foot radius of the plan area boundaries;
2. A map of the Master Plan area showing sufficient topographical data to indicate clearly the character of the terrain, and the type, location, and condition of mature trees and other natural vegetation;
3. A site plan indicating the existing and proposed uses, gross floor area, lot coverage, height, parking and density, and a circulation plan;
4. Architectural plans indicating exterior elevations, floor plans, colors, material of non-residential buildings and structures;
5. Preliminary development schedule indicating sequence and timing of development; and
6. Guidelines for the physical development of the property, including illustrations of proposed architectural, urban design, and landscape concepts.
7. Proposed Conditions, Covenants, and Restrictions, subject to review and approval by the City Attorney.

H. The application for the approval of the Master Plan shall be processed the same as a zone change pursuant to Title 9 Chapter 3 Article 23 of the Los Banos Municipal Code. In order to approve the Master Plan, the Planning Commission and the City Council shall find that the proposed Master Plan:

1. Conforms to the General Plan;
2. Generally complies with the land use and development regulations of the underlying Zoning District and does not significantly alter the regulations;
3. Can be adequately, reasonably and conveniently served by public services, utilities and public facilities; and
4. Based on the fiscal impact analysis, the Master Plan area will be financially self-sustaining, so that it imposes no additional financial burden on the residents, property owners or taxpayers in other areas of the City, by providing for the payment of all costs for the public facilities and services necessary to serve the Master Plan area.

I. Procedures for an amendment to the adopted Master Plan shall be initiated in the same manner as same as a zone change pursuant to Title 9 Chapter 3 Article 23 of the Los Banos Municipal Code. Substantial amendments to the adopted Master Plan may trigger the requirement for a revised fiscal impact analysis.

J. The approved Master Plan shall run with the land and be binding on any subsequent owners, heirs or assignees acknowledging and agreeing to comply with the approved Master Plan. The approved Master Plan shall expire and become void five years following the date of approval, unless building permits have been issued for 25% of the estimated building square footage of the Master Plan as authorized in the approved Master Plan. The approved Master Plan may specify adherence to a development staging or phasing program. The approved Master Plan may be renewed for a period approved by the City Council after a duly noticed public hearing, by the Planning Commission and City Council.

Application for renewal shall be made in writing between thirty (30) and ninety (90) days prior to the lapse of the original approval.

K. Site plans for a project within the approved Master Plan area shall only be accepted for review if they are consistent with the approved Master Plan, and with all other applicable requirements of this Agreement and the Los Banos Municipal Code.

2. **Community Amenity Fee.** Developer agrees and consents to pay five thousand dollars (\$5,000.00) per residential unit for purposes of ensuring that there are sufficient funds to improve and enhance the community as determined by the City Council of the City of Los Banos. In lieu of payment of the Community Amenity Fee the City Council has the option but not the obligation to accept an in kind contribution from the Developer which in the sole discretion of the City Council furthers the stated intention of the community amenity fee on terms mutually agreeable to the parties. The fee shall be payable at the time each building permit is issued and shall be subject to annual adjustment on April 1 of each year, commencing 2009, based on the percentage changes in the City Construction Cost Index, published by the Engineering News Record. In the event the CCI is no longer published the City Finance Director shall use a similar index to calculate the annual adjustment. The City Council may allocate the Community Amenity Fee in its sole discretion as it determines to be in the community's best interest. The City shall establish a fund for the deposit and expenditure of the Community Amenity Fee and shall provide an accounting of the use and expenditure of funds each year in accordance with Government Code Section 66006.
 3. **Participation in a Community Facilities District.** Upon approval of the annexation by LAFCO the Developer shall form or annex the Subject Property to a community facilities district created for the purposes of funding public safety, as authorized by Government Code section 53313(a) and (b). The form, terms and conditions and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.
 4. **Participation in a Lighting and Landscaping District.** Prior to approval of any final or parcel map, the Developer shall form or annex the Subject Property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the Subject Property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the Developer.
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EXHIBIT D

[SAMPLE FORM]

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this day of _____, 20__, by the City of Los Banos (hereinafter called "City") for the benefit of _____, (hereinafter "Owner").

1. On _____, 20__, the City of Los Banos and _____ entered into that certain agreement entitled "Pre Annexation Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section of the Pre Annexation Development Agreement, the Pre Annexation Development Agreement is no longer in effect with respect to the Released Property.

CITY OF LOS BANOS

By: _____
City Manager or Designee

SIGNATURES MUST BE NOTARIZED

PROPERTY OWNER'S CONSENT
[APNs 083-120-014, 083-120-024, 083-120-027 & 083-120-028]

I/We, the undersigned am/are the owner(s) of record of APNs 083-120-014, 083-120-024, 083-120-027 & 083-120-028 that property described in Exhibit A to this Pre Annexation Agreement by and between the City of Los Banos and Stonefield Communities, Inc., relative to the project known as the Presidential Estates East Annexation. I/We hereby consent to all the terms and conditions of said agreement and agree that my/our property as described herein shall be bound by all of the terms and conditions of said agreement.

Dated:

A & H Investments

Dated:

Dated:

Dated:

SIGNATURES MUST BE NOTARIZED

RESOLUTION #2016-34

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS RECOMMENDING APPROVAL OF A PRE-ANNEXATION DEVELOPMENT AGREEMENT FOR THE MANUEL M. CARDOZA LIFE ESTATE TO THE LOS BANOS CITY COUNCIL FOR THE PRESIDENTIAL ESTATES EAST AREA PLAN

WHEREAS, in order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (§ 65864, *et seq.* of the Government Code); and

WHEREAS, the Development Agreement Law and annexation law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property owners that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of the agreement. Cities and counties are equally assured that costly infrastructure, including but not limited to roads, sewers, fire protection facilities, will be available at the time development projects come on line; and

WHEREAS, Stonefield Communities, Inc., (“Developer”) has filed an application with the City of Los Banos (“City”) to Annex and Pre-Zone approximately 106 acres located north of Pioneer Road and west of Mercey Springs Road (SR 165), Merced County, California, more specifically identified as Assessor’s Parcel Numbers: 083-120-012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024, -027 & -028 and 026-290-001, -002, -003, -004 & -005 (“Project”); and

WHEREAS, the property owner does not have pending development plans, and the City has not had any opportunity to review any specific proposals, the parties agree that the Pre-Annexation Agreement (“Agreement”) can and should create only limited vested rights, as defined by the terms of the Agreement for the property identified as Assessor’s Parcel Numbers: 026-290-001, -002 & -005 (“Subject Property”); and

WHEREAS, the parties have, in good faith, negotiated the terms which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development of the Subject Property; and

WHEREAS, in support of the Entitlements described herein, and in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and approved a Mitigated Negative Declaration for the foregoing entitlements and this Agreement; and

WHEREAS, parcel maps, vesting tentative subdivision maps, tentative subdivision maps, general and final development plans, final subdivision maps, design review, improvement plans, issuance of building permits, or any other entitlements necessary for the development of the Subject Property, shall be subject to prior approval of (a) a Master Plan for the entire Subject Property; and

WHEREAS, development of the Subject Property pursuant to the terms and conditions of the Agreement, pre-zoning, the master plan, and appropriate environmental determinations will provide for orderly growth and development consistent with the City's General Plan and other development policies and programs; and

WHEREAS, having duly considered the Agreement and having held the noticed public hearings, City finds and declares that the provisions of the Agreement are consistent with the maps and text of the City's General Plan; and

WHEREAS, the Planning Commission of the City of Los Banos scheduled and duly noticed a public hearing in accordance with California Government Code Section 65091 by advertisement and notices by mail to property owners within a 300 foot radius of the project boundaries on July 1, 2016, to consider and take testimony regarding these matters on July 13, 2016.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of Los Banos does hereby recommend approval of the Pre-Annexation Development Agreement for the Manuel M. Cardoza Life Estate for the Presidential Estates East Area Plan, more specifically identified as Assessor's Parcel Numbers: 026-290-001, -002, and -005.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 13th day of July 2016 by Planning Commissioner _____, who moved its adoption, which motion was duly seconded by Planning Commissioner _____, and the Resolution is hereby adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Tom Spada, Planning Commission Chair

ATTEST:

Sandra Benetti, Planning Commission Secretary

Recording requested by
and when recorded, mail to

City Clerk
City of Los Banos
520 J Street
Los Banos, CA 93635

No Recording Fee

**PRE-ANNEXATION
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
MANUEL M. CARDOZA LIFE ESTATE,
RELATIVE TO THE
PRESIDENTIAL ESTATES EAST ANNEXATION**

(Date)

THIS DOCUMENT, INCLUDING EXHIBITS, TOTALS _____ PAGES.
EACH PAGE IS "BATES STAMPED" SEQUENTIALLY IN THE LOWER RIGHT HAND CORNER.

**PRE-ANNEXATION
DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF LOS BANOS AND
MANUEL M. CARDOZA LIFE ESTATE,
RELATIVE TO THE
PRESIDENTIAL ESTATES EAST ANNEXATION**

THIS PRE-ANNEXATION DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2016, by and between the CITY OF LOS BANOS, a municipal corporation (“City”), and **MANUEL M. CARDOZA LIFE ESTATE**, (“Developer”), pursuant to the authority of Article 2.5, Chapter 4, Division 1, Title 7 (§ 65864, *et seq.* of the Government Code) relating to Development Agreements, and pursuant to annexation law.

RECITALS

1. In order to strengthen the public land use planning process, to encourage private participation in the process, to reduce the economic risk of development and to reduce the waste of resources, the Legislature adopted the Development Agreement Law (§ 65864, *et seq.* of the Government Code).

2. The Development Agreement Law and annexation law permits cities and counties to contract with private interests for their mutual benefit in a manner not otherwise available to the contracting parties. Such agreements, as authorized by the Development Agreement Law and by common law, assure property developers that they may proceed with their projects with the assurance that approvals granted by public agencies will not change during the period of development. Cities and counties are equally assured that costly infrastructure, including but not limited to roads, sewers, fire protection facilities, will be available at the time development projects come on line.

3. Developer desires to proceed with site planning with the City after completion of annexation proceedings. Inasmuch as the Developer has not submitted development plans, and that the City has not had any opportunity to review any specific proposals, the parties agree that this Agreement can and should create only limited vested rights, as defined by the terms of the Agreement.

4. The parties have, in good faith, negotiated the terms hereinafter set forth which carry out the legislative purpose set forth above and will assure the parties to this Agreement of mutually desirable development of the Subject Property.

5. Developer owns in fee or has an equitable interest in that certain real property, more particularly described on **Exhibit “A”** hereto, located adjacent to the City of Los Banos.

6. City, in response to Developer's applications, after public hearings and extensive environmental analysis, has granted approval of the adoption of an area plan, general plan amendment and pre-zoning for the Subject Property (hereinafter the "Entitlements").

7. In support of the various Entitlements described in paragraph 6 above, and in accord with the California Environmental Quality Act (CEQA) and State and City guidelines, City has accepted and approved the Initial Study/Mitigated Negative Declaration, prepared by J.B. Anderson, on _____, 2016.

8. Vesting tentative subdivision maps, tentative subdivision maps, general and final development plans, final subdivision maps, design review, improvement plans, issuance of building permits, or any other entitlements necessary for the development of the Subject Property, shall be subject to approval of a second tier Development Agreement or other permits or approvals issued by the City.

9. Development of the Subject Property pursuant to the terms and conditions of the pre-zoning, the area plan, and appropriate environmental determinations will provide for orderly growth and development consistent with the City's General Plan and other development policies and programs.

10. On _____, 2016, the City Planning Commission considered this Agreement, and recommended its adoption to the City Council.

11. Having duly considered this Agreement and having held the noticed public hearings, City finds and declares that the provisions of this Agreement are consistent with the maps and text of the City's General Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

GENERAL PROVISIONS

Section 1.1. The Project. The Project is the area plan, annexation, general plan amendment and pre-zoning for the potential development of approximately 106 acres of land located north of Pioneer Road and west of SR 165 (Mercy Springs Road). The Project consists of 106 acres of single-family residential uses with an average density of four (4) units per acre, for a total of approximately 424 residences. Those lands which have executed a Pre-Annexation Development Agreement will be zoned Planned Development ("P-D") and those which have not executed a Pre-Annexation Development Agreement will be zoned Unclassified ("U").

Section 1.2. Subject Property. The Subject Property is a portion of the Project area consisting of approximately 50.5 acres identified as Merced County Assessor's Parcel Numbers 026-290-001, -002 & -005, generally located north of Pioneer Road and west of SR 165 (Mercy Springs Road). The Subject Property is more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by this reference and made a part of this Agreement.

Section 1.3. Definitions. As used in this Agreement, the following terms, phrases and words shall have the meanings and be interpreted as set forth in this Section.

(a) **Adopting Ordinance** means Ordinance Number _____ entitled: Pre-Annexation Development Agreement By and Between the City of Los Banos and Manuel M. Cardoza Life Estate, relative to the Presidential Estates East Annexation, dated _____, and effective _____, which approves this Agreement as required by Government Code section 65867.5.

(b) **Assumption Agreement** means an agreement substantially conforming to the model assumption agreement described in **Exhibit "B,"** or other agreement in a form approved by the City Attorney, executed by a Landowner with the Developer, expressly assuming various obligations relating to the development of the Project, or portion thereof.

(c) **CEQA** means the California Environmental Quality Act section 21000 *et seq.*, of the Public Resources Code of the State of California.

(d) **City** means the Los Banos City Council, or its designee.

(e) **City Laws** means ordinances, resolutions, rules, regulations, policies, motions, directives, mitigation measures, conditions, standards, specifications, dedications, fees, taxes (including without limitation general, special and excise taxes), assessments, liens, other exactions and impositions, and any other actions having the force of law, that are enacted or adopted by City, or by its electorate through the initiative or referendum process.

(f) **Developer** means Manuel M. Cardoza Life Estate, or successor in interest.

(g) **Director** means the Planning Director for the City of Los Banos.

(h) **Effective Date** means the effective date of the Adopting Ordinance.

(i) **Entitlements** shall mean those approvals listed in Recital 6 including any and all conditions of approval and mitigation measures.

(j) **General Plan** means the General Plan of the City, including the text and maps, as may have been amended in connection with the Project.

(k) **Landowner** is a party who has acquired any portion of the Subject Property from the Developer who, unless otherwise released as provided in this Agreement, shall be subject to the applicable provisions of this Agreement.

(l) **Reserved Powers** shall mean those powers explicitly reserved to the City by this Agreement.

(m) **Subject Property** means the property described in Section 1.2, or the remaining portions thereof after releases from the provisions of this Agreement have been executed as authorized by this Agreement.

Section 1.4. Exhibits. Exhibits to this Agreement are as follows:

Exhibit "A" Subject Property

Exhibit "B" Assumption Agreement

Exhibit "C" Special Conditions and Requirements

Exhibit "D" Sample Notice of Termination

Section 1.5. Incorporation of Exhibits and Recitals. Exhibits A – D and Recitals 1 through 11 are incorporated herein, including all exhibits referred to in said Recitals. In the event of inconsistency between the Recitals and the provisions of Articles 1 through 5, the provisions of Articles 1 through 5 shall prevail.

Section 1.6. Parties to Agreement. The parties to this Agreement are:

(a) **The City of Los Banos.** A municipal corporation exercising general governmental functions and powers. The principal office of the City is located at 520 J Street, Los Banos, California 93635.

(b) **Developer.** Developer owns in fee or has an equitable interest in the Subject Property. The principal office of Developer is 6020 Mulberry Avenue, Atwater, CA 95301.

(c) **Landowner.** From time to time, as provided in this Agreement, Developer may sell or otherwise lawfully dispose of a portion of the Subject Property to a Landowner who, unless otherwise released, shall be subject to the applicable provisions of this Agreement related to such portion of the Subject Property.

Section 1.7. Project is a Private Undertaking. It is agreed among the parties that the Project is a private development and that the City has no interest therein except as authorized in the exercise of its governmental functions.

Section 1.8. Term of Agreement. This Agreement shall commence upon the Effective Date of the Adopting Ordinance approving this Agreement. Pursuant to California Government Code section 65865 (b), this Agreement shall not become operative unless annexation proceedings annexing the Subject Property to the City are completed within two years of the Effective Date of the Adopting Ordinance. If the annexation is not completed within the time specified herein, this Agreement shall be null and void unless extended by the City Council. Upon becoming operative, this Agreement shall continue in force for a period of twenty (20) years from the Effective Date unless terminated as provided herein. Following the expiration of the term, or if sooner terminated, this Agreement shall have no force and effect, subject however, to post-termination obligations of Developer or Landowner, if any.

Section 1.9. Assignment and Assumption. Developer shall have the right to sell, assign, or transfer this Agreement with all the rights, title and interests therein to any person, firm or corporation at any time during the term of this Agreement. The conditions and covenants set forth in this Agreement and incorporated herein shall run with the land and the benefits and burdens shall bind and inure to the benefit of the parties. Developer shall provide City with a copy of the Assumption Agreement. Express written assumption by such purchaser, assignee or transferee, to the satisfaction of the City Attorney, of the obligations and other terms and conditions of this Agreement with respect to the Subject Property or such portion thereof sold, assigned or transferred, shall relieve the Developer selling, assigning or transferring such interest of such obligations so expressly assumed. Any such assumption of Developer's obligations under this Agreement shall be deemed to be to the satisfaction of the City Attorney if executed in the form of the Assumption Agreement attached hereto as **Exhibit "B"** and incorporated herein by this reference, or such other form as shall be approved by the City Attorney.

Section 1.10. Covenants Running With the Land. Each and every purchaser, assignee or transferee of an interest in the Subject Property, or any portion thereof, shall be obligated and bound by the terms and conditions of this Agreement, and shall be the beneficiary thereof and a party thereto, but only with respect to the Subject Property, or such portion thereof, sold, assigned or transferred to it. Any such purchaser, assignee or transferee shall observe and fully perform all of the duties and obligations of a Developer contained in this Agreement, as such duties and obligations pertain to the portion of the Subject Property sold, assigned or transferred to it. Provided however, notwithstanding anything to the contrary above, if any such sale, assignment or transfer relates to a completed residential unit or non-residential building which has been approved by the City for occupancy, this Agreement shall automatically terminate.

Section 1.11. Amendment to Agreement (Developer and City). This Agreement may be amended by mutual consent of the parties in writing, in accordance with the provisions of Government Code section 65868, provided that: any amendment which relates to the term, permitted uses, density, intensity of use, height and size of proposed buildings, or provisions for reservation and dedication of land shall require a noticed public hearing before the parties may execute an amendment. Unless otherwise provided by law, all other amendments may be approved without a noticed public hearing.

Any amendment entered into between the City and the Developer shall require the signature of each owner of any portion of the Subject Property to the extent the amendment modifies this Agreement as to that other owner's property.

Section 1.12. Amendment to Agreement (Landowner and City). This Agreement may also be amended, subject to the provisions of Government Code section 65868, between a Landowner who has acquired a portion of the Subject Property from Developer and City as to the portions of the Subject Property then owned by Landowner.

Any amendment entered into between the City and a Landowner shall require the signature of each Landowner of any portion of the Subject Property or the Developer to the extent the amendment modifies the Agreement as to that Landowner's or the Developer's property.

Section 1.13. Releases. Developer, and any subsequent Landowner, may free itself from further obligations relating to the sold, assigned, or transferred property, provided that the City Clerk receives a copy of the Assumption Agreement provided for in Section 1.9.

Section 1.14. Notices. Notices, demands, correspondence, and other communication to City and Developer shall be deemed given if dispatched by prepaid first-class mail to the principal offices of the parties as designated in Section 1.6. Notice to the City shall be to the attention of both the City Manager and the Director. Notices to subsequent Landowners shall be required to be given by the City only for those Landowners who have given the City written notice of their address for such notices. The parties hereto may, from time to time, advise the other of new addresses for such notices, demands or correspondence.

Section 1.15. Reimbursement for Agreement Expense of City. Developer agrees to reimburse City for reasonable and actual expenses over and above fees paid by Developer as an applicant for costs specifically incurred by City for the preparation of this Agreement, including recording fees, publishing fees, and reasonable staff, City Attorney, Special Counsel, and consultant costs not otherwise included within application fees then due and payable to the City. Such reimbursement shall be paid to the City prior to execution of this Agreement by the City. Developer shall also pay any and all installments of property tax then due for the Subject Property.

Section 1.16. Recordation of Agreement. The City Clerk shall cause a copy of this Agreement to be recorded with the Merced County Recorder not later than ten (10) days following execution of this Agreement by the City. Developer hereby covenants that during the period following execution and the recording of this Agreement by the City, Developer shall not, without prior written approval by the City Attorney, cause or allow to be recorded against the Subject Property any instrument affecting the priority, validity or enforceability of this Agreement.

Section 1.17. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

Section 1.18. Invalidity of Agreement/Severability. If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which became effective after the Effective Date, the remaining provisions shall continue in full force and effect.

Section 1.19. Third Party Legal Challenge. In the event any legal action or special proceeding is commenced by any person or entity other than a party or a Landowner, challenging this Agreement, the Entitlements or any approval subsequently granted by the City for the development of the Subject Property, the parties and any Landowner agree to cooperate with each other in good faith. City may elect to tender the defense of any lawsuit filed by a third

person or entity to Developer and/or Landowner(s) (to the extent the litigation, in part or in whole, seeks to overturn or invalidate this Agreement, the Entitlements or any subsequent approval granted for the Subject Property held by or granted to Developer and/or Landowner), and, in such event, Developer and/or such Landowner(s) shall hold the City harmless from and defend the City from all costs and expenses incurred in the defense of such lawsuit, including, but not limited to, damages, attorneys' fees and expenses of litigation awarded to the prevailing party or parties in such litigation. For purposes of this section only, "City" shall include all employees, consultants and agents acting on behalf of the City. Neither party shall settle any such lawsuit without the consent of the other party. The City may elect to participate in the litigation, in which case the Developer and/or Landowner agree to reimburse the City for its litigation costs and fees, including the retention of outside legal counsel. It is the intent of the Parties that the City's participation not result in unnecessary duplication of legal services, but rather that the City's active involvement in the litigation be limited to supervising the preparation of the administrative record or discovery as applicable, monitoring of litigation, and responsive pleadings regarding issues which, in the sole opinion of the City, involve broader City concerns than those immediately affecting the Landowner and/or Developer. Upon written demand of the City, Developer and/or Landowner shall deposit with the City such sums as may be specified by the City as its estimated litigation costs and fees for the following thirty day period. Both parties shall act in good faith, and shall not unreasonably withhold consent to settle. In the event that the City elects to settle a claim, and Developer refuses to also settle, City at its sole option, may require Developer to post security in a form and amount reasonably acceptable to the City, for the performance of Developer's duties under this section. If the Developer, within 30 days of receiving written notice from City, fails to post this security, the Developer shall settle the claim on terms as previously approved by the City.

Section 1.20. Fees. Developer shall be subject to all fees currently adopted by the City, including scheduled or periodic increases as provided for in the adopting ordinances or resolutions ("Current Fees"). Developer shall pay, without protest or without challenge, Current Fees in effect at the time of the issuance of a requested permit or entitlement.

In addition, Developer agrees to pay any new fees adopted by the City, or the recalculation of existing fees ("New Fees") in effect at the time of the issuance of a requested building permit. Developer shall retain the right to challenge the New Fees as permitted by law.

Section 1.21. Reserved Powers. Notwithstanding any other provision of this Agreement, including Sections 2.1, 2.2 and 2.3, and without limitation as to any other requirements or exceptions contained in this Agreement, the City shall retain the authority to take the following actions and apply the same to the Subject Property:

(a) The authority of the City Council to adopt regulations to protect the City and its citizens from an immediate adverse risk to health and safety. This shall include, but not be limited to, lack of sufficient sewer and/or water facilities, but not school facilities.

(b) Adopt or increase utility charges in accordance with applicable laws and regulations; and

(c) As set forth in Section 1.20, increase and apply Current Fees, and adopt and apply New Fees.

(d) Adopt revised subdivision, building design (residential and non-residential), and development improvement standards, provided, however, no such revised standards shall apply to the Project earlier than the 366th day following the date the City Council adopts the revised standard.

(e) Land use regulations, ordinances, policies, programs, resolutions or fees adopted or undertaken by City in order to comply with state or federal laws, or regulations, provided that in the event that such state or federal laws or regulations prevent or preclude compliance with one or more provisions of this Agreement, such provision or provisions shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

(f) City land use regulations, ordinances, policies, programs or resolutions adopted after the Effective Date, which are in conflict with the City Laws, but the application of which to the development of the Subject Property has been consented to in writing by the Developer and/or the applicable Landowner by later separate document, which consent Developer and/or Landowner may withhold in their sole and exclusive discretion.

(g) In the event that the LAFCO imposes conditions on annexation which are, in the sole discretion of the City Council, unacceptable, the City shall have no responsibility to complete annexation.

Section 1.22. Waiver of Claims. Except as may be permitted by Section 1.20, Developer waives, as to the Subject Property only, any and all existing claims that may have against the City, its agents, employees and consultants arising out of the adoption and/or application of development requirements and standards, impact fees, the adoption of this Agreement or approval of the Entitlements and all of the proceedings, acts or determinations made prior thereto.

ARTICLE 2

PROJECT DEVELOPMENT

Section 2.1. Limited Vested Right. Except as is permitted by Section 2.3, during the term of and subject to the terms of this Agreement, the Developer's rights shall be vested only to density and intensity of use as set forth in the area plan and zoning.

Section 2.2. Permitted Uses and Development Standards. The permitted uses, the density and intensity of use, the maximum height and size of proposed buildings for the Subject Property shall be those set forth for the pre-zoning district regulations as set forth in the City Zoning Ordinance in effect on the date of approval of this Agreement.

Section 2.3. Additional Permitted Agricultural Uses and Development Standards.

The permitted uses for the Subject Property shall also be those agricultural, residential and accessory uses existing on the Subject Property as of the Effective Date of this Agreement. This Section 2.3 shall terminate automatically as to that portion of any recorded final map which incorporates any portion of the Subject Property.

Section 2.4. Application, Processing and Inspection Fees. Application fees, processing fees, and inspection fees that are revised during the term of this Agreement shall apply to the development pursuant to this Agreement, provided that such revised fees apply generally to similar private projects or works within City and are in compliance with State and federal law.

Section 2.5. Obligation and Rights of Mortgage Lenders. The holder of any mortgage, deed of trust or other security instrument with respect to the Subject Property, or any portion thereof, shall not be obligated under this Agreement to construct or complete improvements or to guarantee such construction or completion, but, in the event said holder takes title to the Subject Property through foreclosure of a mortgage or a deed of trust, or deed-in-lieu of such foreclosure, said holder shall be bound by all of the terms and conditions of this Agreement which pertain to the Subject Property or such portion thereof in which it holds an interest. Any such holder who comes into possession of the Subject Property, or any portion thereof, pursuant to a foreclosure of a mortgage or a deed of trust, or deed in lieu of such foreclosure, shall take the Subject Property, or such portion thereof, subject to any pro rata claims for payments or charges against the Subject Property, or such portion thereof, which accrue prior and subsequent to the time such holder comes into possession. Nothing in this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Subject Property, or any portion thereof, to any uses, or to construct any improvements thereon, other than those uses and improvements provided for or authorized by this Agreement, subject to all of the terms and conditions of this Agreement.

ARTICLE 3

DEFAULT

Section 3.1. General Provisions. Subject to extensions of time by mutual consent in writing, failure or delay by either party or Landowner not released from this Agreement to perform any term or provision of this Agreement, shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party or Landowner not less than sixty (60) days notice in writing specifying the nature of the alleged default and the manner in which said default may be cured. During any such sixty (60) day period, the party or Landowner charged shall not be considered in default for purposes of termination or institution of legal proceedings.

After notice and expiration of the sixty (60) day period, if such default has not been cured or is not being diligently cured in the manner set forth in the notice, the other party or Landowner to this Agreement may, at his option, institute legal proceedings pursuant to this Agreement or give notice of its intent to terminate this Agreement pursuant to California Government Code section 65868 and any regulations of the City implementing said Government Code section. Following notice of intent to terminate, or prior to instituting legal proceedings,

the matter shall be scheduled for consideration and review in the manner set forth in Government Code sections 65865, 65867, and 65868 and City regulations implementing said sections by the City within thirty (30) calendar days.

Following consideration of the evidence presented in said review before the City and an additional 30-day period to cure, either party alleging the default by the other party or Landowner may institute legal proceedings or may give written notice of termination of this Agreement to the other party; provided, however, a Landowner may only give such notice with respect to such portion of the Subject Property in which Landowner owns an interest.

Section 3.2. Annual Review. City shall, at least every twelve (12) months during the term of this Agreement, review the extent of good faith substantial compliance by Developer and Landowner with the terms of this Agreement. Such periodic review by the Director, unless referred to the Planning Commission or City Council shall be limited in scope to compliance with the terms of this Agreement pursuant to California Government Code section 65865.1. Each said review shall be completed within sixty (60) days of the first meeting of the Planning Commission and the City Council, respectively, at which such review is undertaken, unless said period is extended by mutual consent of City and Developer. Failure to complete said review within the prescribed period shall be deemed a finding of good faith substantial compliance. Notice of such annual review shall include the statement that any review may result in amendment or termination of this Agreement. City may charge, and Developer shall pay a fee for such annual review to defray the cost to the City to process and conduct such annual review.

City shall deposit in the mail or fax to Developer and/or Landowner a copy of all staff reports and, to the extent practical, related exhibits concerning contract performance at least seven (7) calendar days prior to such periodic review. The Developer or Landowner shall be entitled to appeal a determination of the Director to the Commission and then to the Council. Any appeal must be filed within ten (10) days of the decision to the Director, or the Commission, as the case may be. Developer or Land owner shall be permitted an opportunity to be heard orally and/or in writing regarding its performance under this Agreement before the Commission, Council, and/or Director, as the case may be.

Section 3.3. Developer Default Limited to Property/Entity; Separate Obligations of Owners. Except as specified herein in Section 3.1, no default hereunder in performance of a covenant or obligation with respect to a particular portion of the Subject Property shall constitute a default applicable to any other portion of the Subject Property, and any remedy arising by reason of such default shall be applicable solely to the portion of Subject Property where the default has occurred. Similarly, the obligations of the Developer and Landowners shall be severable and no default hereunder in performance of a covenant or obligation by any one of them shall constitute a default applicable to any other owner who is not affiliated with such defaulting owner, and any remedy arising by reason of such default shall be solely applicable to the defaulting owner and the portion of the Subject Property owned thereby.

Section 3.4. Default by City. In the event City does not accept, review, approve or issue necessary development permits or entitlements for use in a timely fashion as defined by this Agreement, or as otherwise provided in this Agreement, or the City otherwise defaults under the

terms of this Agreement, Developer and/or Landowner may give written notice thereof to the City and if not cured within sixty (60) days following receipt of such notice, Developer shall have all rights and remedies provided herein or under applicable law, including without limitation the right to pursue actions for mandamus, specific performance, or injunctive or declaratory relief to enforce this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from any other party as a result of any breach or alleged breach of such other party's obligations hereunder. In the event City is in default under the terms of this Agreement, any resulting delays in Developer's performance caused thereby shall not constitute grounds for termination or cancellation of this Agreement.

Section 3.5. Cumulative Remedies of Parties/Waiver of Right to Damages. In addition to any other rights or remedies, City, Developer and any Landowner may institute legal or equitable proceedings to cure, correct or remedy any default, to specifically enforce any covenant or agreement herein, to enjoin any threatened or attempted violation of the provisions of this Agreement. Notwithstanding the foregoing sentence, the City, Developer and Landowner each waives any and all rights to seek monetary damages from the other party as a result of any breach or alleged breach of such other party's obligations hereunder.

Section 3.6. Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either party or Landowner hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, casualties, acts of God, State or federal laws, regulations, decisions or orders which conflict with this Agreement, or judicial or other governmental agency decisions or orders, directing the City, or which have the effect of requiring the City, to take actions or refrain from taking actions which conflict with the obligations under this Agreement. Any and all extensions of the time of performance shall be limited to thirty-six (36) months. This section 3.6 shall not apply to the twenty-four (24) month term within which this Agreement is required to take effect.

ARTICLE 4

TERMINATION

Section 4.1. Termination Upon Completion of Development. This Agreement shall terminate upon the expiration of the term or when the Subject Property has been fully developed and all of the Developer's obligations in connection therewith are satisfied. Upon termination of this Agreement, the City shall record a notice of such termination in substantially the form attached hereto as **Exhibit "D."** This Agreement shall automatically terminate and be of no further force or effect as to any single-family residence, any other residential dwelling unit(s), or any non-residential building, and the lot or parcel upon which such residence or building is located, when it has been approved by the City for occupancy.

Section 4.2. Effect of Termination on Developer Obligations. Termination of this Agreement as to the Developer of the Subject Property or any portion thereof shall not affect any

of the Developer's obligations to comply with the City general plan and the terms and conditions of any applicable zoning, or subdivision map or other land use entitlements approved with respect to the Subject Property, any other covenants or any other development requirements specified in this Agreement to continue after the termination of this Agreement, or obligations to pay assessments, liens, fees, or taxes.

Section 4.3. Effect of Termination on City. Upon any termination of this Agreement, as provided for under the terms and conditions of this Agreement, as to the Developer of the Subject Property, or any portion thereof, the entitlements, conditions of development, limitations on fees and all other terms and conditions of this Agreement shall no longer be vested hereby with respect to the Subject Property affected by such termination (provided vesting of entitlements, conditions or fees applicable to the Subject Property shall be governed by planning and zoning law) and the City shall no longer be limited, by this Agreement, to make any changes or modifications to such entitlements, conditions or fees applicable to such property.

ARTICLE 5

STANDARD TERMS AND CONDITIONS

Section 5.1. Venue. Venue for all legal proceedings shall be in the Superior Court for the County of Merced.

Section 5.2. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the party so waiving.

Section 5.3. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

Section 5.4. Supersedes Prior Agreements. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations or agreements, written or oral, between the parties hereto.

Section 5.5. Captions. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

Section 5.6. Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

Section 5.7. Mandatory and Permissive. “Shall” and “will” and “agrees” are mandatory. “May” is permissive.

Section 5.8. Term Includes Extensions. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

Section 5.9. Successors and Assigns. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

Section 5.10. Modification. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification is in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

Section 5.11. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

Section 5.12. Other Documents. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

Section 5.13. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

Section 5.14. Controlling Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

Section 5.15. Time Is of the Essence. Time is of the essence of this Agreement and each covenant and term a condition herein.

Section 5.16. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

Section 5.17. Document Preparation. This Agreement will not be construed against the party preparing it, but will be construed as if prepared by all parties.

Section 5.18. Advice of Legal Counsel. Each party acknowledges that it has reviewed this agreement with its own legal counsel, and based up on the advice of that counsel, and freely entered into this Agreement.

Section 5.19. Estoppel Certificate. Within thirty (30) days following any written request which either party may make from time to time, and upon payment of a fee to the City to reimburse the City for its reasonable expenses associated herewith, the other party to this Agreement shall execute and deliver to the requesting party a statement certifying that:

(a) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications; and

(b) there are not current uncured defaults under this Agreement or specifying the date, nature of any default and manner of cure.

This certificate may be executed by the City Manager, or his or her designee.

Section 5.20. Attorneys Fees and Costs. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such party may be entitled.

Section 5.21. Consent/Subordination. Unless waived in writing by the City Attorney, Developer shall furnish proof satisfactory to the City, prior to approval of the Agreement, that all persons possessing a legal interest in the property have consented to the recording of this Agreement. Unless waived in writing by the City Attorney, the City shall require subordination by all lenders of record as a condition precedent to the City approval of the Agreement. The City shall have no duty to subordinate its interest in this Agreement.

IN WITNESS WHEREOF, this Agreement was executed by the parties thereto on the dates set forth below.

CITY OF LOS BANOS
A municipal corporation

By: _____
Mayor

Dated _____

ATTEST:

City Clerk

Dated _____

APPROVED AS TO FORM:

City Attorney

Dated _____

MANUEL M. CARDOZA LIFE ESTATE

By: _____

Dated: _____

Its: _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT A

SUBJECT PROPERTY

[Legal Description begins on next page]

EXHIBIT B

[SAMPLE FORM]

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter "this Agreement") is entered into this _____ day of _____, 20__, by and between _____ (hereinafter called "Owner") and, _____ (hereinafter "Assignee").

RECITALS

A. On _____, 20__, the City of Los Banos and Owner entered into that certain agreement entitled "Pre-Annexation Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

B. Owner entered into a purchase and sale agreement whereby a portion of the Subject Property will be sold to Assignee, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel(s)").

C. Owner desires to assign all of its interests, rights and obligations under the Agreement with respect to the Assigned Parcel(s).

D. Assignee desires to assume all Owner's rights and obligations under the Agreement with respect to the Assigned Parcel(s).

NOW, THEREFORE, Owner and Assignee hereby agree as follows:

1. Owner hereby assigns, effective as of Owner's conveyance of the Assigned Parcel(s) to Assignee, all of the rights, interest, burdens and obligations of Owner under the Agreement with respect to the Assigned Parcel(s). Owner retains all the rights, interest, burdens and obligations under the Agreement with respect to all other property within the Subject Property owned thereby.

2. Assignee hereby assumes all of the burdens and obligations of Owner under the Agreement, and agrees to observe and fully perform all of the duties and obligations of Owner under the Agreement, and to be subject to all the terms and conditions thereof, with respect to the Assigned Parcel(s), it being the express intention of both Owner and Assignee that, upon the execution of this Agreement and conveyance of the Assigned Parcel(s) to Assignee, Assignee shall be come substituted for Owner as the "Developer" under the Agreement with respect to the Assigned Parcel(s).

3. All of the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ASSIGNOR / OWNER

By: _____

By: _____

ASSIGNEE

By: _____

By: _____

SIGNATURES MUST BE NOTARIZED

EXHIBIT C

SPECIAL CONDITIONS AND REQUIREMENTS

1. **Master Plan.** This Agreement requires that a Master Plan be approved by the City for the entire Subject Property prior to any application for further entitlements, building permits or other development.

A. The specific purposes of the Master Plan shall be to: ensure orderly planning for the development of the entire Subject Property consistent with the General Plan; maintain an environmental equilibrium consistent with existing vegetation, soils, geology, topography, and drainage patterns; avoid premature or inappropriate development that would result in incompatible uses or create public service demands exceeding the capacity of existing or planned facilities; encourage sensitive site planning and design; ensure the provision of utilities, roadways and other public facilities.

B. Land use regulations for the Subject Property shall be those of the underlying zoning district unless modified by the approved Master Plan, provided that all land use regulations shall be consistent with the General Plan Land Use designation for land within the Master Plan area.

C. Development regulations for the Subject Property shall be those of the underlying zoning district unless modified by the approved Master Plan.

D. The Master Plan shall include a land use and circulation system concept for the entire Subject Property that is consistent with the goals and policies of the General Plan, compatible with the environment, and capable of being served by existing and planned public facilities and utilities.

E. The following plans and materials must be incorporated into the Master Plan submittal. The Community Development Director or his or her designee may require the submission of additional items considered necessary:

1. A map showing proposed Master Plan boundaries and the relationship of the area to uses and structures within a 300-foot radius of the plan area boundaries;
 2. A map of the Master Plan area showing sufficient topographical data to indicate clearly the character of the terrain, and the type, location, and condition of mature trees and other natural vegetation;
 3. A site plan indicating the existing and proposed uses, gross floor area, lot coverage, height, parking and density, and a circulation plan;
 4. Architectural plans indicating exterior elevations, floor plans, colors, material of buildings and structures;
 5. Preliminary development schedule indicating sequence and timing of development; and
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6. Guidelines for the physical development of the property, including illustrations of proposed architectural, urban design, and landscape concepts.
7. Proposed Conditions, Covenants, and Restrictions, subject to review and approval by the City Attorney.

F. The application for the approval of the Master Plan shall be processed the same as a zone change pursuant to Title 9 Chapter 3 Article 23 of the Los Banos Municipal Code. In order to approve the Master Plan, the Planning Commission and the City Council shall find that the proposed Master Plan:

1. Conforms to the General Plan;
2. Generally complies with the land use and development regulations of the underlying Zoning District and does not significantly alter the regulations;
3. Can be adequately, reasonably and conveniently served by public services, utilities and public facilities; and
4. Based on the fiscal impact analysis, the Master Plan area will be financially self-sustaining, so that it imposes no additional financial burden on the residents, property owners or taxpayers in other areas of the City, by providing for the payment of all costs for the public facilities and services necessary to serve the Master Plan area.

G. Procedures for an amendment to the adopted Master Plan shall be initiated in the same manner as same as a zone change pursuant to Title 9 Chapter 3 Article 23 of the Los Banos Municipal Code. Substantial amendments to the adopted Master Plan may trigger the requirement for a revised fiscal impact analysis.

H. The approved Master Plan shall run with the land and be binding on any subsequent owners, heirs or assignees acknowledging and agreeing to comply with the approved Master Plan. The approved Master Plan shall expire and become void five years following the date of approval, unless building permits have been issued for 25% of the estimated building square footage of the Master Plan as authorized in the approved Master Plan. The approved Master Plan may specify adherence to a development staging or phasing program. The approved Master Plan may be renewed for a period approved by the City Council after a duly noticed public hearing, by the Planning Commission and City Council. Application for renewal shall be made in writing between thirty (30) and ninety (90) days prior to the lapse of the original approval.

I. Site plans for a project within the approved Master Plan area shall only be accepted for review if they are consistent with the approved Master Plan, and with all other applicable requirements of this Agreement and the Los Banos Municipal Code.

2. **Community Amenity Fee.** Developer agrees and consents to pay five thousand dollars (\$5,000.00) per residential unit for purposes of ensuring that there are sufficient funds to improve and enhance the community as determined by the City Council of the City of Los Banos. In lieu of payment of the Community Amenity Fee the City Council has the option but not the obligation to accept an in kind contribution from the Developer which in the sole
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discretion of the City Council furthers the stated intention of the community amenity fee on terms mutually agreeable to the parties. The fee shall be payable at the time each building permit is issued and shall be subject to annual adjustment on April 1 of each year, commencing 2009, based on the percentage changes in the City Construction Cost Index, published by the Engineering News Record. In the event the CCI is no longer published the City Finance Director shall use a similar index to calculate the annual adjustment. The City Council may allocate the Community Amenity Fee in its sole discretion as it determines to be in the community's best interest. The City shall establish a fund for the deposit and expenditure of the Community Amenity Fee and shall provide an accounting of the use and expenditure of funds each year in accordance with Government Code Section 66006.

3. **Participation in a Community Facilities District.** Upon approval of the annexation by LAFCO the Developer shall form or annex the Subject Property to a community facilities district created for the purposes of funding public safety, as authorized by Government Code section 53313(a) and (b). The form, terms and conditions and the tax rate for the formation of the Mello-Roos district, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. District formation or annexation shall be at the sole cost of the Developer.

 4. **Participation in a Lighting and Landscaping District.** Prior to approval of any final or parcel map, the Developer shall form or annex the Subject Property to a Lighting and Landscaping District created for purposes of maintaining public landscape areas, signage and public lighting including a share of traffic signal maintenance costs as authorized pursuant to the Landscape and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code, and Article XIID of the California Constitution. The form, terms and conditions and the tax rate for the formation of the Lighting and Landscaping District, or in the alternative the annexation of the Subject Property to an existing district, shall be as approved by the City Council, as determined in its sole and exclusive discretion. It is the intent of the parties that the assessment of the Subject Property will be apportioned to each parcel in proportion to the special benefit it receives. District formation or annexation shall be at the sole cost of the Developer.
-

EXHIBIT D

[SAMPLE FORM]

NOTICE OF TERMINATION

THIS NOTICE OF TERMINATION (hereinafter "this Notice") is given this day of _____, 20__, by the City of Los Banos (hereinafter called "City") for the benefit of _____, (hereinafter "Owner").

1. On _____, 20__, the City of Los Banos and _____ entered into that certain agreement entitled "Pre Annexation Development Agreement," approved by Ordinance _____ (hereinafter "Agreement"), relative to the development known as the _____ (hereinafter "Subject Property").

2. Owner has fully performed all its duties with respect to that portion of the Subject Property, which portion of the Subject Property is identified and described in **Exhibit "A,"** attached hereto and incorporated herein by this reference (hereinafter the "Released Property").

3. Pursuant to Section of the Pre Annexation Development Agreement, the Pre Annexation Development Agreement is no longer in effect with respect to the Released Property.

CITY OF LOS BANOS

By: _____
City Manager or Designee

SIGNATURES MUST BE NOTARIZED

PROPERTY OWNER'S CONSENT
[APNs 026-290-001, 026-290-002 & 026-290-005]

I/We, the undersigned am/are the owner(s) of record of APN 026-290-001, 026-290-002 & 026-290-005 that property described in Exhibit A to this Pre-Annexation Agreement by and between the City of Los Banos and Manuel M. Cardoza Life Estate, relative to the project known as the Presidential Estates East Annexation. I/We hereby consent to all the terms and conditions of said agreement and agree that my/our property as described herein shall be bound by all of the terms and conditions of said agreement.

Dated: _____

Dated: _____

Dated: _____

Dated: _____

SIGNATURES MUST BE NOTARIZED

STONEFIELD HOME

Presidential
Estates East
Area Plan

Los Banos, California



Prepared: January 2016
By: O'Dell Engineering
Modesto, California



Applicant:

**Stonefield Home
923 East Pacheco Blvd., Suite C
Los Banos, CA 93635
(209) 826-6200**



Engineering/Surveying/Planning/Landscape

**O'Dell Engineering
1165 Scenic Drive, Suite B
Modesto, CA 95350
209.571.1765**

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Introduction/Project Description



Purpose of This Document

The Presidential Estates East Area Plan will guide the future development of 116 acres located along the west side of Mercey Springs Road / SR 165, north of Pioneer Road. This Area Plan document is intended to facilitate annexation to the City of Los Banos, pre-zoning, describe circulation & transportation systems, and illustrate conceptual utility designs. The project will be an extension of existing neighborhoods, east of Presidential Estates, Hoover Court, and Virginia Estates subdivisions. Future plan area development will be accessed from Pioneer Road on the south, and a future extension of Page Avenue / Scripps Road from Mercey Springs Road to the west. The proposed Pioneer Road extension will run east/west at the southerly boundary of the plan area.

Subsequent Approvals/Amendments

The Presidential Estates East Area Plan has been prepared for the City of Los Banos as a tool to facilitate annexation and future development of plan area properties. Vesting Tentative Tract Maps (VTTM), Development Agreements, Final Development Plans (FDP), and rezonings from the Unclassified (U) zoning designation to a residential type zoning designation, will implement the provisions of this Area Plan. Future development proposals will be consistent with the provisions contained within the approved Area Plan document.

Environmental Review

Pursuant to the California Environmental Quality Act and the City of Los Banos environmental review procedures, an Initial Study was prepared for the project. The City determined that the proposed project could have potentially significant impacts, and as such, mitigation has been incorporated into the proposed project to reduce said impacts to a level of less than significant.

Existing Conditions

The project site is presently undeveloped, mainly used for various agricultural and some limited residential purposes. The existing agricultural uses are active, and will continue until such time as future development occurs. The plan area is currently zoned A-1 (Agricultural) per the Merced County zoning map.

Proposed Zoning / Land Use

A variety of land use designations are applied to plan area properties by the City's General Plan: Low-Density Residential, Medium-Density Residential, Commercial and Professional Office. The plan area is surrounded by lands within the City limits, which are zoned R-1 (Low-Density Residential), C-2 (General-Commercial), H-C (Highway-Commercial), R-3 (High-Density Residential) and P-D (Planned-Development).

The proposed zoning within the Area Plan boundary is for the residential properties Planned-Development (P-D) and Unclassified (U). The distinction between the residential zoning designations is to distinguish between those properties which have executed a Pre-Annexation Development Agreement (zoned P-D), and those which have not executed a Pre-Annexation Development Agreement (zoned U).

The Planned-Development (P-D) zoning designation is utilized to facilitate specific development standards and detailed project designs and to ensure that new neighborhoods are compatible and functional. The P-D zone district is consistent with the underlying LDR land use designation per the City of Los Banos General Plan. Following annexation and reclassification to PD, Final Development Plans (FDP) will be established. The FDPs will document specific development standards and requirements, such as building architecture and specific structure setbacks, to implement the P-D zoning.

The U zoning designation is utilized to identify areas for which future residential development is expected, but is not as far along in the process. Prior to development of land with a U zoning designation, a rezoning to Planned-Development (P-D) or, one or a combination of the City standard Residential Zoning Districts (e.g. R-1, R-2, etc.) will be required. At the time of submittal of any request for rezoning from U to another residential zoning designation, the Planning Commission and City Council will evaluate the request for consistency with the General Plan, the Area Plan, and City Policy, including policies related to community benefit. Within the Area Plan, and prior to development, a Final Development Plan (FDP) will be required for all lands rezoned from U to P-D or R-1, R-2, etc. The FDPs will document the specific development standards and requirements, such as building architecture and specific structure setbacks.

Residential densities shown on the Proposed Zoning exhibit are estimated averages. At the time of preparation of the Final Development Plan, the actual development intensity for Area Plan sub-areas will be identified. It is expected that some areas will develop at density averages slightly higher or lower than shown on the Proposed Zoning exhibit.

Regardless, the overall unit count for the Area Plan will not exceed the upper limit examined in the Initial Study.

Population / Housing

The table below outlines the specific growth expected on the project site using the “build-out” assumptions provided by the City’s General Plan.

Land Use Designation	Average Density	Acreage	Units
Low Density Residential	4 Units/Acre	116	464

Parks / Open Space

Development within the Area Plan boundary will incorporate dual-use park / detention basins. Some examples of features that could be designed into these public park facilities include recreational fields and play structures. Any traffic arriving at parks from other neighborhoods will be able to take advantage of on-street parking, as the park(s) will be accessed from public residential streets.

There are other parks and play facilities in the southeast part of the City, so traffic to the park(s) is expected to be minimal. As a result, adequate parking for the facilities will be available. Detention basins will be sized and designed based on engineering calculations consistent with City ordinances.

The actual land to be dedicated to the City for parks and recreational use is determined by the Director of Public Works based on the general plan zoning designations, and the Los Banos municipal code land for parks and recreation ordinance.

Public Utilities

Water

The Presidential Estates Area Plan is subject to the provisions of the City of Los Banos 2010 Water Master Plan (WMP) and will conform to its requirements, including payment of applicable water impact fees and construction of system improvements consistent with the City's Standards & Specifications to serve future development. Development projects will be served by connecting to existing water distribution lines in adjacent subdivisions. Service will be provided by extending the grid system consistent with the WMP. All water mains, local lines and other system improvements will conform to the WMP.

Water for fire protection and residential service will be provided by increasing the City's municipal water supply. The project proposes an increase in pumping of existing wells, in addition to expanding the distribution system into newly developed areas. Water infrastructure will be installed by the applicant and dedicated to the City for operation and maintenance. Water lines will be located within public street rights-of-way. The project will include ground re-charge activities through use of open spaces, mandated conservation practices, and assistance in pursuing surface water rights and contracts. In this way, it is anticipated that the water supply and distribution system will meet the needs of future phases of the project and the general needs of the City as a whole.

The Water Supply Assessment (WSA) prepared for the Presidential Estates East Area Plan concludes that the project will generate demand for 269 acre-feet of water per year at final buildout. According to the WSA, the maximum daily demand for water when the future development is completed will be 333 gpm. The project will use increasing increments of the annual demand, which will rise as successive phases of development are built. The WSA concludes that sufficient water will be available to serve the ultimate Area Plan buildout.

Water will be distributed throughout the plan area via the City water distribution grid, by connecting to existing water distribution line located in the Presidential Estates subdivision to the west. An 18" water line is designated for installation in the Pioneer Road ROW corridor; new residential development will include 8" water distribution lines to provide service to individual residential units. Water system improvements will be consistent with the WMP and Standard Specifications. Refer to the Water Distribution Exhibit, Page 17.

Wastewater Infrastructure

Wastewater will be treated at the City's wastewater treatment plant (WWTP) located northeast of the City, to be fed by a gravity system with lift stations. Wastewater flows from the plan area will be conveyed via an existing 15" sewer line that extends east of the plan area at the future Madison Avenue connection / extension. All system improvements will be consistent with the City's Improvement Standards & Specifications. Please see the Sanitary Sewer Exhibit on page 16.

Total estimated daily sewage discharge from the plan area is 170,000 gpd, and the peak flow should not exceed 0.8 cfs and 510,000 gpd. The WWTP has a combination of current capacity and planned expansion capacity to serve the needs of the buildout of the Los Banos General Plan, including the Presidential Estates Area Plan.

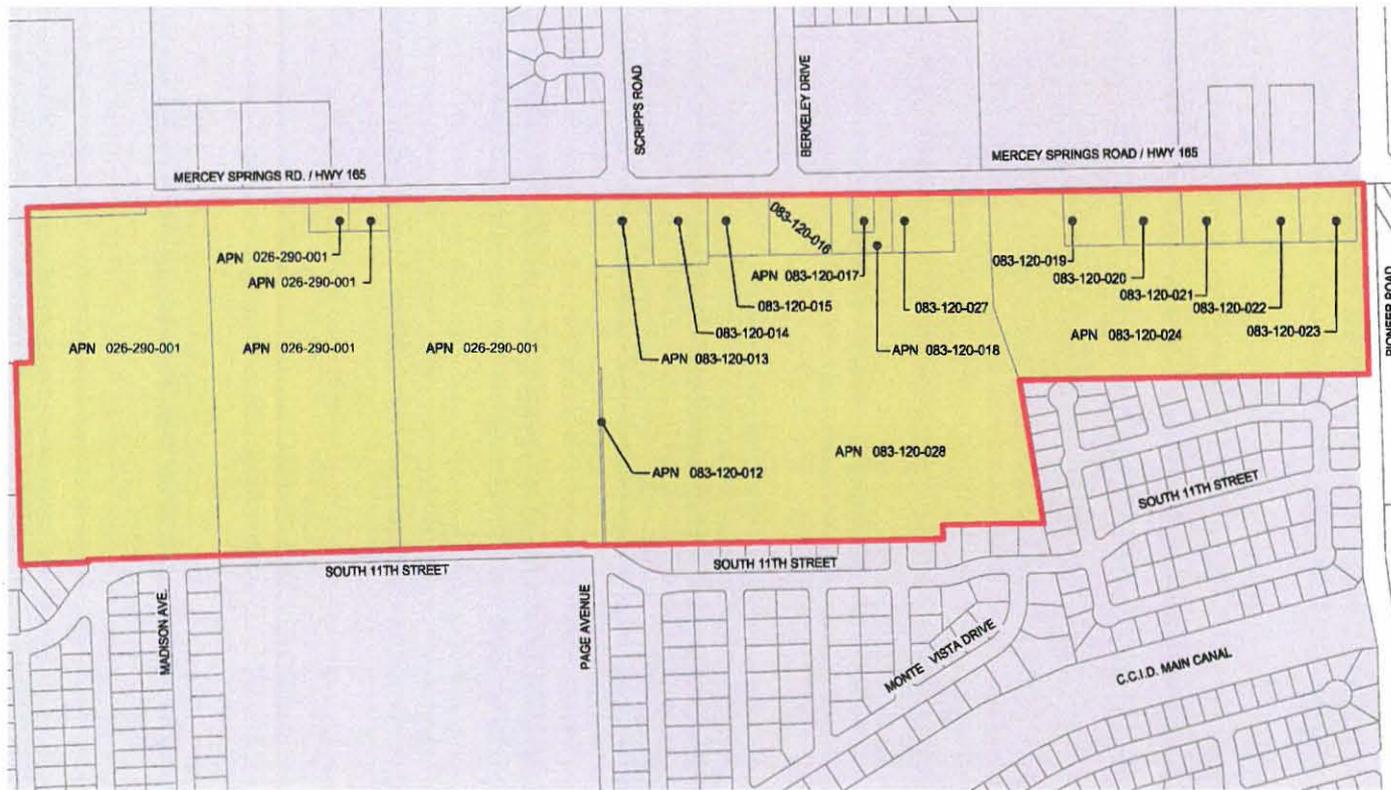
Storm Drainage

The Presidential Estates Area Plan site currently drains to the northeast. The plan area is located within the City of Los Banos "Central City" Storm drainage watershed. Storm runoff will be detained in dual-use park/basin facilities. The system will be designed to gravity-drain to the existing collection system in SR 165 / Mercey Springs Road.

Applying the "TR-55 Urban Hydrology for Small Watersheds" model, a 10-year storm event would generate 4.7 acre-feet of runoff. Within the plan area, north of the Page Avenue extension, all storm drainage system improvements (transmission lines and pump discharge stations) will be designed according to City Standards & Specifications, and the City's Storm Drainage Master Plan. Development will comply with the Phase II Storm Water Regulations as well. Storm drainage infrastructure will be installed and dedicated to the City for operation and maintenance. The City will create a Drainage Maintenance District to accommodate the maintenance and operation of these storm drainage facilities. South of future Page Avenue within the Area Plan boundary, utilities, facilities and infrastructure will be privately owned, operated and maintained. For additional information and detail, refer to the Storm Drainage Exhibit on page 18.

Circulation & Street Design

Graphic representations of the circulation system can be found on page 19.



Reference Map

Legend

-  Area Plan Boundary
-  Within Current City Limits





Reference Map

Legend

— Area Plan Boundary

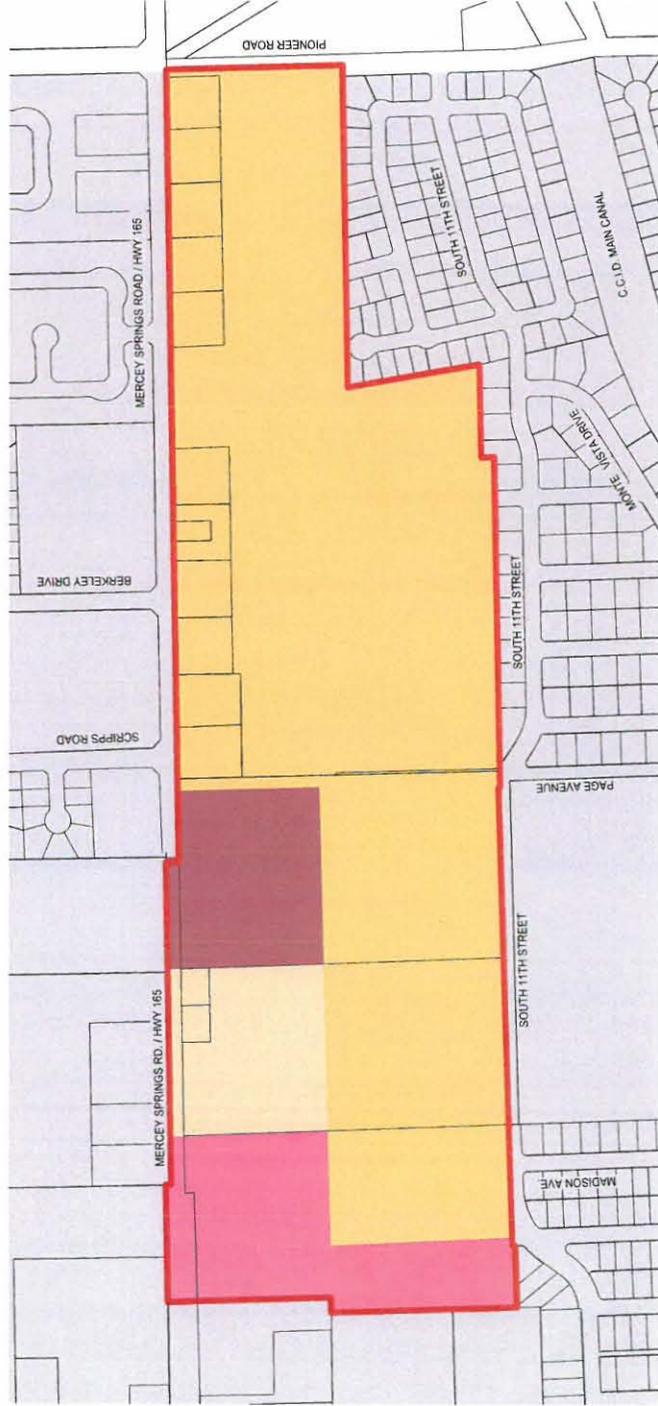




Reference Map

Legend

-  Area Plan Boundary
-  Compatibility Zone D



Reference Map

Legend

-  Area Plan Boundary
-  Within Current City Limits
-  Low Density Residential
-  Medium Density Residential
-  Commercial
-  Professional Office



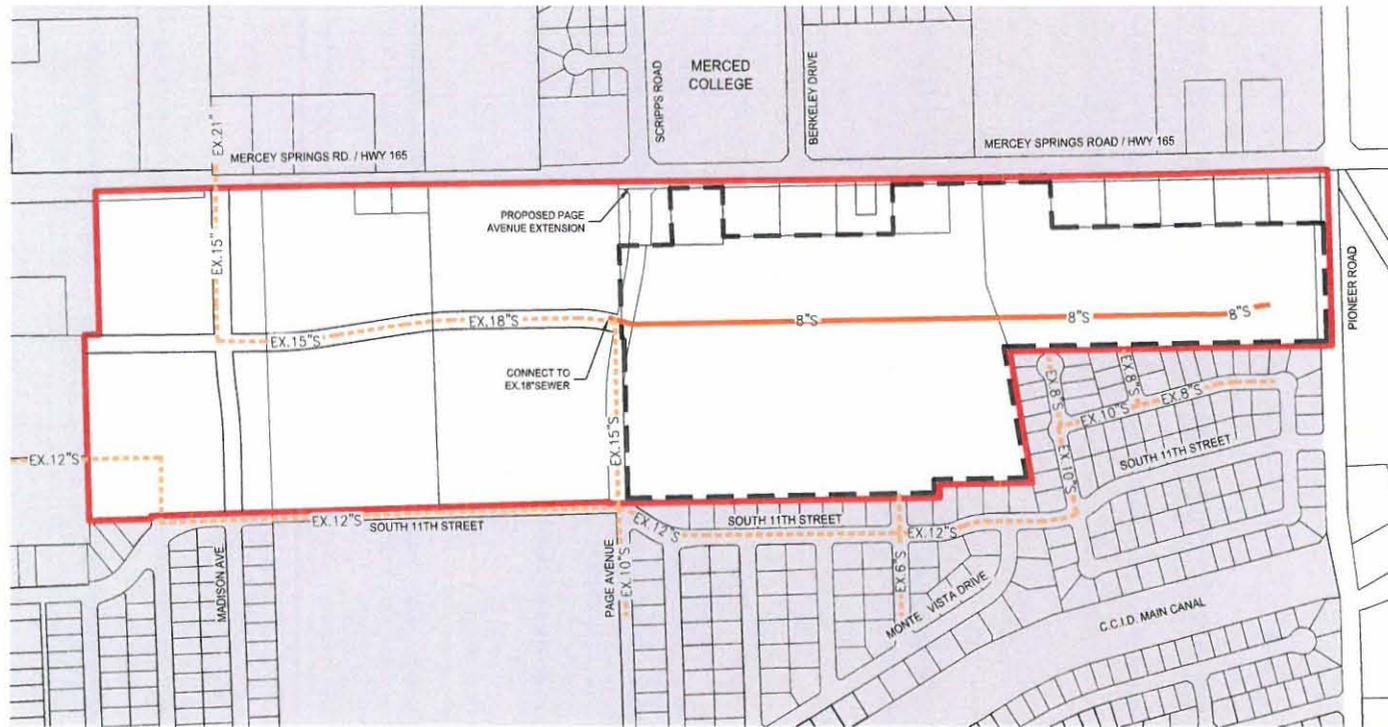
Reference Map

Legend

-  Area Plan Boundary
-  Within Current City Limits
-  Planned Development/ Low Density Residential (LDR)
-  Unclassified (Planned Development - LDR)

* Actual locations of open spaces and parks to be determined during final development plan and tentative map design phases.





Reference Map

Legend

-  Within Current City Limits
-  Area Plan Boundary
-  Conceptual Development Plan Boundary
-  8" Proposed Sewer
-  EX. 12" Existing Sewer

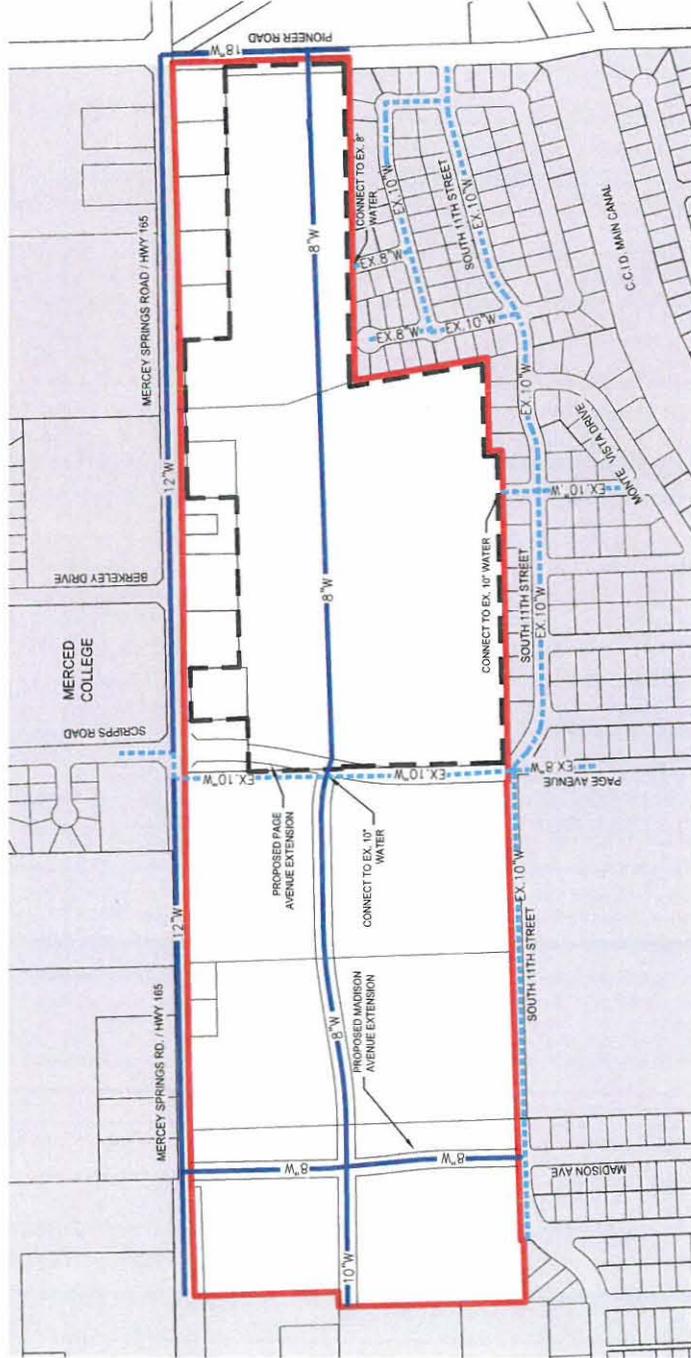




Reference Map

Legend

- Within Current City Limits
- Area Plan Boundary
- Conceptual Development Plan Boundary
- Proposed Water
- Existing Water



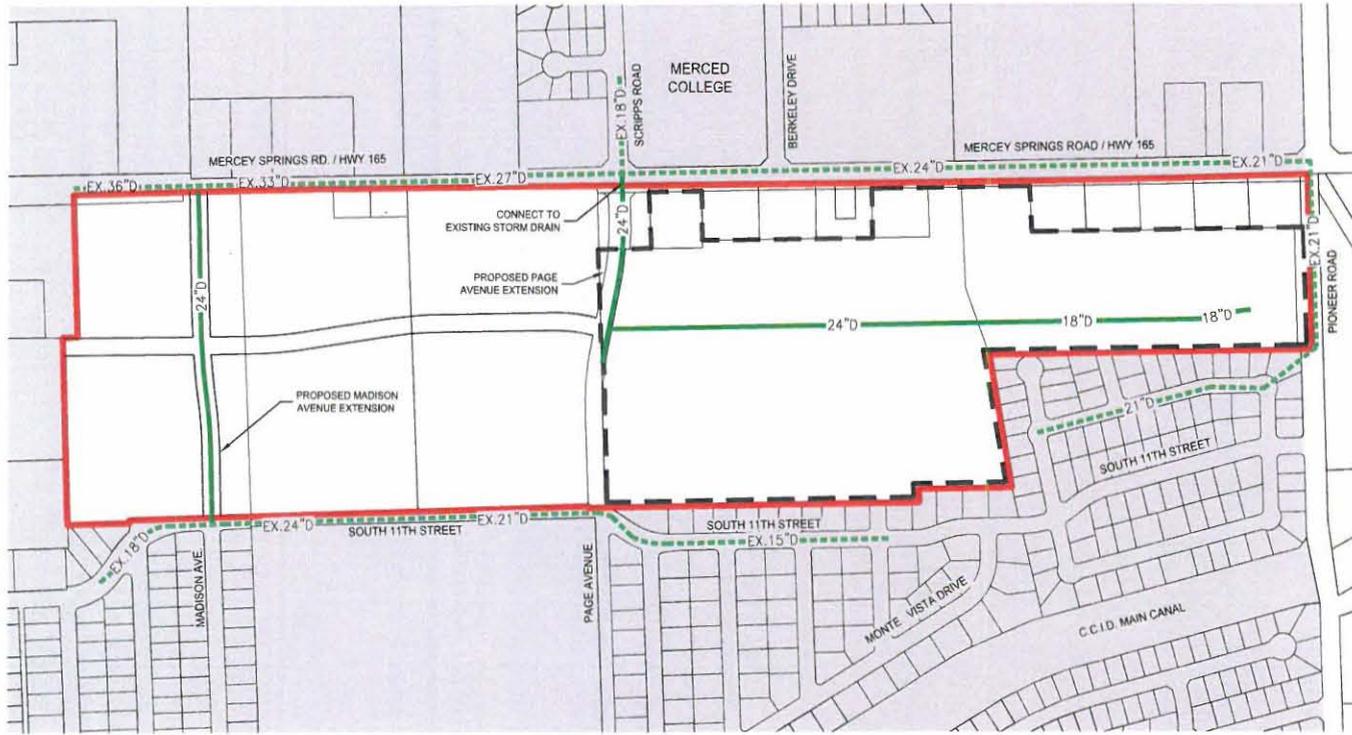
PRESIDENTIAL ESTATES EAST : Area Plan

JANUARY 2016

PREPARED FOR STONEFIELD HOME BY O'DELL ENGINEERING

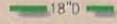
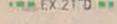
Water Distribution

EXHIBIT



Reference Map

Legend

-  Within Current City Limits
-  Area Plan Boundary
-  Conceptual Development Plan Boundary
-  Proposed Storm Drainage
-  Existing Storm Drainage



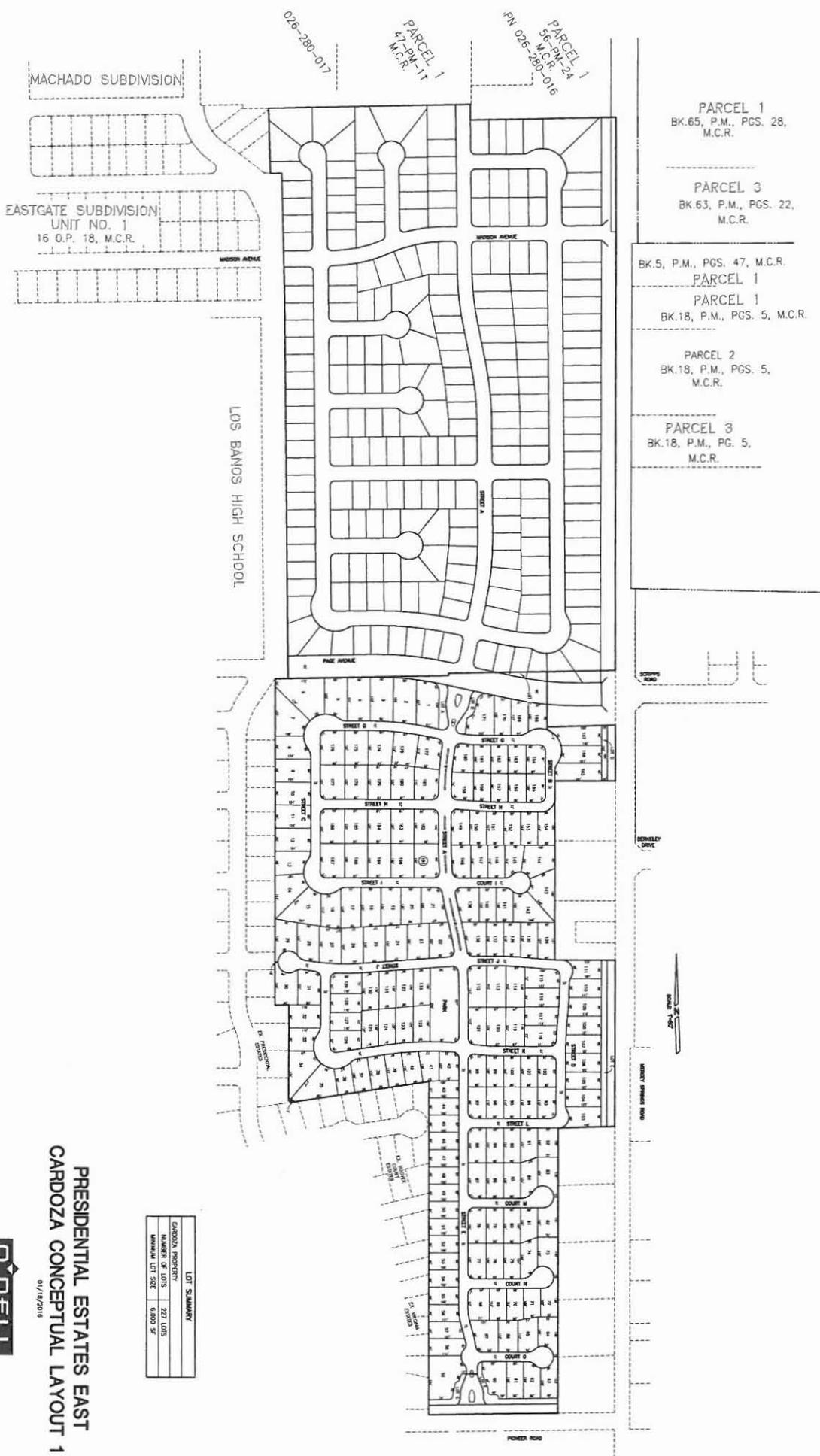


Reference Map

Legend

-  Within Current City Limits
-  Schools
-  Area Plan Boundary
-  Conceptual Development Plan Boundary
-  Arterial
-  Collector
-  Proposed Class 1 Bike Path
-  Proposed Class 2 Bike Path





PARCEL 1
BK.65, P.M., PGS. 28,
M.C.R.

PARCEL 3
BK.63, P.M., PGS. 22,
M.C.R.

BK.5, P.M., PGS. 47, M.C.R.
PARCEL 1

PARCEL 1
BK.18, P.M., PGS. 5, M.C.R.

PARCEL 2
BK.18, P.M., PGS. 5,
M.C.R.

PARCEL 3
BK.18, P.M., PG. 5,
M.C.R.

LOT SUMMARY	
CARDOZA PROPERTY	277 LOTS
MINIMUM LOT SIZE	6,000 SF

**PRESIDENTIAL ESTATES EAST
CARDOZA CONCEPTUAL LAYOUT 1**

0/1/18/2018



026-280-017

PARCEL 1
47 P.M.-11
M.C.R.

PARCEL 1
367 P.M.-24
M.C.R.
PN 026-280-016

MACHADO SUBDIVISION

EASTGATE SUBDIVISION
UNIT NO. 1
16 O.P. 18, M.C.R.

LOS BANOS HIGH SCHOOL



DEPARTMENT OF TRANSPORTATION

OFFICE OF THE DISTRICT 10 DIRECTOR
P.O. BOX 2048, STOCKTON, CA 95201
(1976 E. DR. MARTIN LUTHER KING JR. BOULEVARD 95205)
PHONE (209) 948-7943
FAX (209) 948-3670
TTY 711
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*Serious drought.
Help save water!*

July 7, 2016

10-MER-165 PM 007.782
State Clearinghouse # 2015061056
Presidential Estates East Area Plan
and Annexation – Initial Study

Ms. Stacy Souza Elms
Senior Planner
City of Los Banos - Community Development Department
520 J. Street
Los Banos, CA 93635

Dear Ms. Souza Elms:

Thank you for the opportunity to review the above-referenced document, the Initial Study for the Presidential Estates East Area Plan and Annexation (SCH# 2015061056). The Department has the following comments:

The Department concurs with the provided Traffic Impact Analysis, dated April 18, 2016, prepared by KD Anderson & Associates.

The list of all the improvement for this proposed project should be completed with the following Mitigation Measures:

Mitigation 1: Project proponents shall contribute fair share to the cost of intersection improvements at Pacheco Blvd. (SR 152) / 11th Street.

The City's Transportation Master Plan addresses the Pacheco Blvd. (SR 152) / 11th Street intersection. That document suggests that a traffic signal may be installed. If this were to be the case, it will be necessary for the City of Los Banos and the Department to:

1. Conduct a Screenline Intersection Control Evaluation (ICE) assessment to identify a feasible control alternative if mainline traffic on Pacheco Blvd. is to be stopped.
2. Install a traffic signal or roundabout when needed based on satisfaction of traffic warrants as determined by the Department, or
3. Install a barrier to left turning traffic that prohibits left turns.

Mitigation 2: Install improvements to Mercey Springs Road (SR 165) / Scripps Drive intersection.

The Mercey Springs Road (SR 165) / Scripps Drive / Page Avenue intersection's new eastbound approach is projected to operate at LOS F in the a.m. and LOS E in the p.m. peak hours. As this exceeds the minimum Level of Service (LOS) D goal, this is a significant impact. Peak hour traffic signal warrants are satisfied in the morning peak hour, and it is likely that a traffic signal will be needed at that time. However, the p.m. peak hour volume does not satisfy warrants, and it is likely that a full warrant analysis will prove that a traffic signal is not justified.

The Department plans to install a High-Intensity Activated Crosswalk (HAWK) Hybrid Pedestrian Crossing Beacon later this year. That device was applicable for a "tee" intersection but would not provide an improved LOS and may be problematic for a four-way intersection.

Current Caltrans policy requires that an Intersection Control Evaluation (ICE) be prepared when it is determined that traffic on the state highway needs to be stopped. The assessment would consider the feasibility of all-way stop control, traffic signals or a roundabout intersection. While a traffic signal would deliver adequate LOS and may be desirable to control pedestrian activity at this location adjoining Mercey Springs Elementary School a decision regarding applicable traffic control will be made by the Department, and the resulting solution would be incorporated into project design.

The City's Transportation Master Plan addresses Mercey Springs Road (SR 165) / Scripps Drive / Page Avenue intersection, and a traffic signal at this intersection is included in the City's traffic impact fee program. Thus, development in the project area is not responsible for all of the cost to install a traffic signal or roundabout. It will be necessary for development in the project area to:

1. Conduct a Screenline ICE assessment to identify a feasible control alternative prior to extending Page Avenue to Mercey Springs Road (SR 165)
2. Install the traffic signal or roundabout when needed based on satisfaction of traffic warrants as determined by the Department.
3. Receive fee program reimbursement for costs beyond the project's fair share.

Ms. Souza Elms
July 7, 2016
Page 3

Project Impact Based on Safety:

Mitigation 3: Install applicable intersection improvements when frontage improvement are constructed.

The need for separate left turn lanes at the study area intersections has been evaluated based on city standards and AASHTO guidelines. Left turns lanes will be required at the new access on Pioneer Road as a part of standard City of Los Banos requirements, as was the case at the 11th Street intersection. Review of projected traffic volumes reveals that AASHTO guidelines for a northbound left turn lane will not be satisfied at the SR 165 / Pioneer Road intersection; however, it is likely that the Department will ask that this issue be reconsidered as part of an encroachment permit for frontage improvements at the intersection.

Mitigation 4: Contribute fair share to the cost of neighborhood traffic calming measures.

Project impacts to neighborhood streets such as; Page Avenue, Madison Avenue, and Jefferson Avenue between 4th Street and 11th Street.

The improvements based on the above listed mitigations for these intersections needs to be provided with this encroachment permit.

We suggest that the City continue to coordinate and consult with the Department to identify and address potential cumulative transportation impacts that may occur from this project and other developments near this geographical location. If you have any questions, please contact Steven Martinez at (209) 948-7936 (email: steven.r.martinez@dot.ca.gov) or me at (209) 941-1921. We look forward to continuing to work with you in a cooperative manner.

Sincerely,



FOR

TOM DUMAS, Chief
Office of Metropolitan Planning

c: State Clearinghouse



City of
Los Banos
At the Crossroads of California

COMMUNITY DEVELOPMENT DEPARTMENT

Date: July 1, 2016

Regarding: Notice of Public Hearing

Proposal: Presidential Estates East Area Plan and Annexation Mitigated Negative Declaration (SCH #2015061056), Annexation and Prezone #2014-01, General Plan Amendment #2015-03, and Pre-Annexation Development Agreement

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider Annexation and Prezone #2014-01, General Plan Amendment #2015-03, Pre-Annexation Development Agreement, and associated Mitigated Negative Declaration (SCH #2015061056) for the Presidential Estates East Area Plan and Annexation. The project proposal is for the consideration of a General Plan Amendment, Area Plan, and Annexation of approximately 106 acres of unincorporated lands lying north of Pioneer Road, west of Merced Springs Road (SR 165), and east of Eleventh Street. The site is more precisely described as Assessor's Parcel Numbers: 026-290-001, 002, 003, 004, 005, 083-120-012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, 027, and 028.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos Planning Commission on Wednesday, July 13, 2016 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza Elms, Senior Planner at City Hall or at (209) 827-7000, Ext. 133.

Persons wishing to provide oral comments on the proposed project may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. Please be advised that should the action by the City Council be challenged in court, you may be limited to only those issues raised at the hearings or by written comment per Government Code Section 65009.

THE CITY OF LOS BANOS

Stacy Souza Elms
Senior Planner



DESIGN REVIEW STUDY SESSION

TO: Chairman Spada and Planning Commissioners

FROM: Stacy Souza Elms, Senior Planner 

DATE: July 13, 2016

SUBJECT: Project Study Session Review – OA Holdings No. 1, LLC
1420 E. Pacheco Blvd.

Project Description

The applicant, OA Holdings No. 1, LLC, is proposing to build a new 9,536 square foot multi-tenant retail building with a drive-thru on 1.22 acres at 1420 E. Pacheco Blvd. The project site is located east of the Los Banos Marketplace Shopping Center and west of Espana's Restaurant. The Los Banos Marketplace Shopping Center currently consists of American Mattress Store, UPS, AT&T, Walgreens, Jack in the Box, Starbucks, and Quiznos. The proposed building itself would cover approximately 18% of the site.



The Community and Economic Development Department has referred the project to the Planning Commission for a study session on the aesthetic aspects related to the proposed project pursuant to Section 9-3.2318(a) of the Design Review Ordinance. The proposed project will require final site plan approval by the Planning Commission through a public hearing at a later date.

Planning Commission Project Study Session Review

Pursuant to Section 9-3.2318(a) of the Design Review Ordinance, the purpose of the study session is to provide the applicant with feedback from the Planning Commission early on in the design process, before becoming overly invested in a design. The review is in the nature of a discussion between the Planning Commission and the applicant concerning the aesthetic aspects of a proposal, and does not constitute a final decision by the Planning Commission concerning the proposed development.

Pursuant to Section 9-3.2318(b) of the Design Review Ordinance, the Planning Commission's scope during the study session is to review, consider, and provide feedback on the following design aspects of the proposed project in light of the City's General Plan and applicable policies:

- Architecture;
- Landscaping; and
- Lighting.

Architecture

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following architectural elements:

- Architectural style and consistency;
- Height;
- Bulk;
- Area;
- Color of buildings;
- Types of construction materials;
- Physical and architectural relationships with existing and proposed structures;
- Materials and variations of boundary walls;
- Fences;
- Exterior elevations of all sides of the buildings or structures; and
- Methods used to screen mechanical equipment from public view.

The preferred style along Pacheco Boulevard is Spanish/Mission. Some of the characteristics of the Community Design Standards incorporated in the elevations include a low pitched red-tiled tower and a parapeted gable roof. In addition to the Community Design Standard requirements, the applicant has incorporated varied roof heights and fabric awnings to further enhance the elevations.

The height of the proposed building is in keeping with the surrounding area with a general height of 24 feet and the highest point at the tower being 32 feet. The proposed building will have minimal impacts to the existing structures in the Los Banos Marketplace Shopping Center as it will sit further back from Quiznos and will have parking in the front and the rear of the proposed building. The proposed building will be adjacent to the landscape area in the front of Espana's which has minimal impact to the existing building. The orientation of the building provides for open circulation between the Los Banos Marketplace Shopping Center and Espana's. The applicant has indicated that the existing fence along the rear of the property will remain.

A moderate use of contrasting colors is proposed on different surfaces to provide visual interest and to further articulate the building's mass. The rooftop equipment will be screened by the parapet roof and the downspouts have been integrated into the building's architecture. The proposed building will be using similar colors and materials of the existing Los Banos Marketplace Shopping Center to blend with its surroundings.

Landscaping

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following landscaping and site treatment elements:

- Types of planting and vegetation;
- Rock groupings; and
- Topography and location of landscaping areas.

The proposed landscape plan shows planting areas with various tree, shrub, vine, and ground cover species. The main planting area is Pacheco Blvd. and consists of shrubs and ground cover species such as Huntington Carpet Rosemary, Ballerina Indian Hawthorn, Mexican Feathergrass, and Deer Grass. The trash enclosure will be screened with Japanese Creeper. Chinese Pistache trees will be used throughout the site for shading as well as Valley Oak, and Strawberry trees for ornamental purposes.

The proposed landscape plan meets the City minimum standard of 4% gross landscape area and will be verified through the improvement plan stage to meet the the 50% shade tree canopy ordinance. Landscaping will be required to be irrigated in a manner that focuses on water conservation, with properly designed and installed low-volume irrigation.

Lighting

Pursuant to Section 9-3.2318(c) of the Design Review Ordinance, the Planning Commission shall evaluate and provide feedback on the following lighting elements:

- Aesthetics of exterior lighting

The project proposes to utilize the same parking lot lighting fixtures existing in the Los Banos Marketplace Shopping Center. In addition, the building will consist of decorative wall mounted accent light fixtures on key areas such as the sidewalk level, entrances, accent architectural features, and corners. All lighting will be directed downward and shielded.

Project Review Board

The proposed project will be reviewed by the Project Review Board (PRB) for these aspects:

- Building layout;
- Location;
- Orientation of all new and existing structures and the relationship to one another and surrounding properties
- Methods of landscape irrigation;
- Location and design of facilities for physically disabled persons;
- Location of fencing and other screening;
- Location and screening of refuse facilities;
- Traffic circulation on-site and off-site;
- Pedestrian and bicycle circulation and safety;
- Arrangement of off-street parking and loading facilities;
- Location and intensity of all onsite lighting; and
- Provision of municipal and public services.

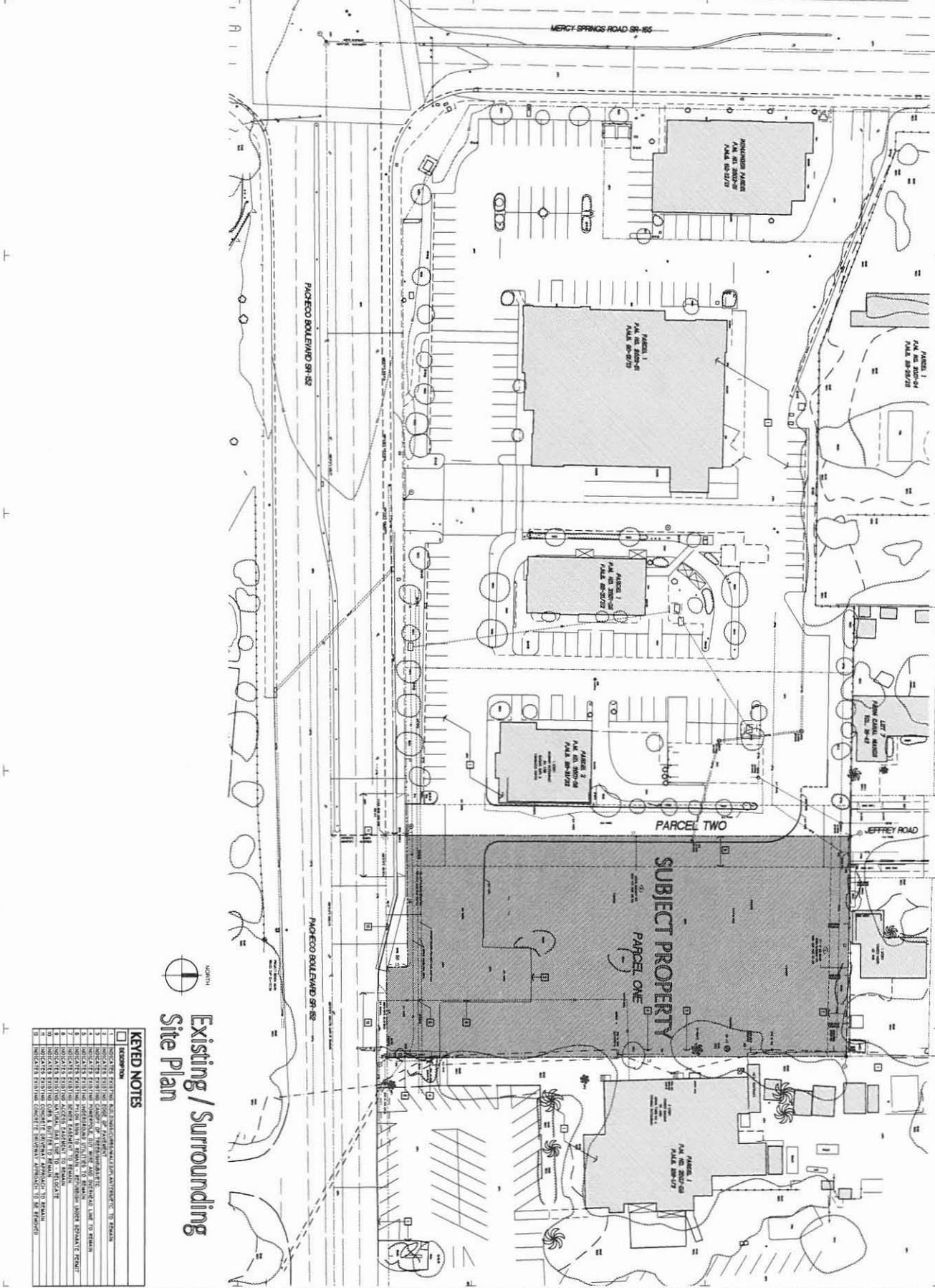
The PRB will be providing a formal recommendation to the Planning Commission concerning the scope of their review during the Site Plan Review process.

Recommendation

Planning staff has worked closely with the application on the initial design of the proposed project. Staff is requesting that the Planning Commission evaluate the architectural considerations, landscape and site treatment, and lighting elements as described above and provide initial feedback to the applicant on the proposed design. No formal action will be taken at this time.

Attachment

Site Plan
Landscape Plan
Site Photos



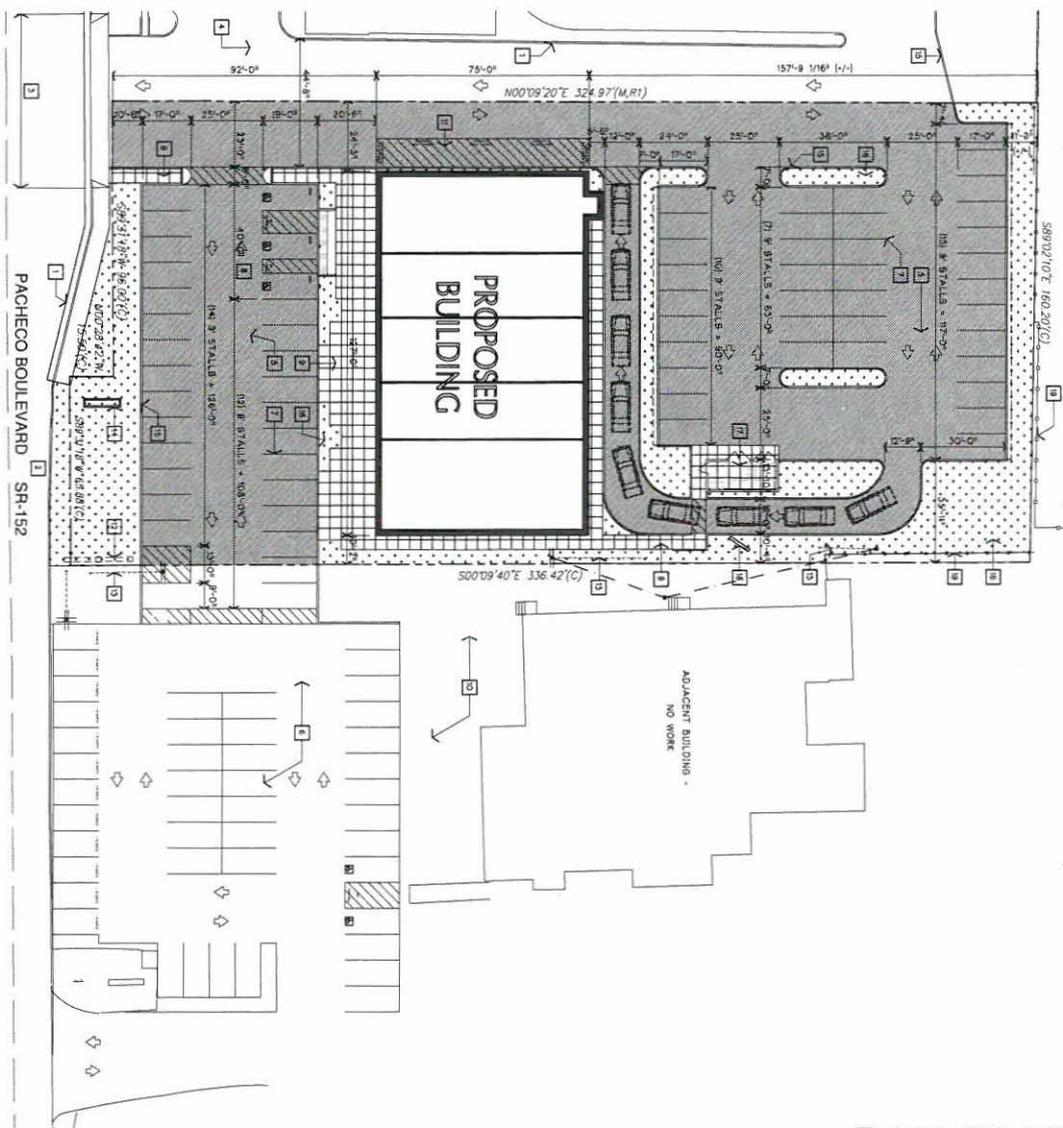
Existing / Surrounding
 Site Plan

KEYED NOTES

KEY	DESCRIPTION
1	INDICATE EXISTING BUILDING FOOTPRINTS TO REMAIN
2	INDICATE EXISTING DRIVEWAYS TO REMAIN
3	INDICATE EXISTING DRIVEWAYS TO BE REMOVED
4	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED
5	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB
6	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK
7	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY
8	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE
9	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING
10	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE
11	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE
12	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES
13	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY
14	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY AND ART
15	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY AND ART AND WATER
16	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY AND ART AND WATER AND AIR
17	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY AND ART AND WATER AND AIR AND SOIL
18	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY AND ART AND WATER AND AIR AND SOIL AND VEGETATION
19	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY AND ART AND WATER AND AIR AND SOIL AND VEGETATION AND CLIMATE
20	INDICATE EXISTING DRIVEWAYS TO BE RECONSTRUCTED WITH CURB AND SIDEWALK AND BIKEWAY AND LANDSCAPE AND LIGHTING AND SIGNAGE AND FURNITURE AND UTILITIES AND SECURITY AND ART AND WATER AND AIR AND SOIL AND VEGETATION AND CLIMATE AND ENERGY

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<p>A1.1</p>	<p>A Proposed New RETAIL SHELL BUILDING East Pacheco Blvd near Mercy Springs Rd Los Banos, California 93635 APN : 428-140-030</p>		<p>OROSCO 10 Harris Court, Ste B-1 Monterey, California 93940 V: 831.649.0220</p>
	<p>Adam T. Henry, P.E. 06/24/16 P = 300-00 2016/06/24</p>	<p>Scale</p>	<p>Project No.</p>



Proposed Site Plan

PROPERTY INFORMATION

PROJECT ADDRESS / LOCATION	East Pacheco Blvd near Mersey Springs Rd Los Banos, California 93835
ASSESSORS PARCEL NUMBER	428-340-030
CURRENT ZONING	H-C
OCCUPANCY	N/A-2
CONSTRUCTION TYPE	V-S-2
TOTAL LAND AREA	53,042.78 sq-ft (-) 1.22 Acres (-+)
TOTAL BUILDING AREA	95,530 sq-ft
TOTAL UNIMPAVED AREA	5,042.78 sq-ft
TOTAL PAVED AREA	1,220,000 sq-ft
TOTAL PAVEMENT AREA	20,980.10 sq-ft
PAVEMENT AREA RATIO	16.40%

BUILDING SIZE & PARKING REQUIREMENTS

Land Area	33,042.78 sq-ft (-) 1.22 Acres (-+)	Required per Maximum Code	53 (Options 9-2, 2014 Code Sheet (Parking))
Shop	A (Restaurant)	2,500.00 sq-ft @ 1/100	25
Auto	B (Retail)	1,500.00 sq-ft @ 1/300	5
Auto	C (Retail)	1,612.00 sq-ft @ 1/300	9
Auto	D (Retail)	2,000.00 sq-ft @ 1/150	13
Auto	E (Retail)	2,000.00 sq-ft @ 1/150	13
Auto	F (Retail)	2,000.00 sq-ft @ 1/150	13
TOTAL		9,572.00 sq-ft	63

Required per Maximum Code: 53 (Options 9-2, 2014 Code Sheet (Parking))
 Actual Paved Provided: 5,042.78 sq-ft

KEYED NOTES

1. EXISTING BUILDING TO REMAIN AS SHOWN ON THE EXISTING SITE PLAN.
2. EXISTING BUILDING TO REMAIN AS SHOWN ON THE EXISTING SITE PLAN.
3. EXISTING BUILDING TO REMAIN AS SHOWN ON THE EXISTING SITE PLAN.
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19. EXISTING BUILDING TO REMAIN AS SHOWN ON THE EXISTING SITE PLAN.
20. EXISTING BUILDING TO REMAIN AS SHOWN ON THE EXISTING SITE PLAN.

THE USE OF THE PLANS AND SPECIFICATIONS IS RESTRICTED TO THE ORIGINAL SITE FOR WHICH THEY WERE PREPARED AND PUBLICATION THEREOF IS EXPRESSLY LIMITED TO SUCH USE. REUSE, REPRODUCTION OR PUBLICATION BY ANY METHOD IN WHOLE OR IN PART IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE ENGINEER. THE ENGINEER ASSUMES NO LIABILITY FOR ANY DAMAGE TO PERSONS OR PROPERTY CAUSED BY THE USE OF THESE PLANS AND SPECIFICATIONS. THE ENGINEER'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY HIMSELF OR HIS FIRM. THE ENGINEER'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY HIMSELF OR HIS FIRM. THE ENGINEER'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED BY HIMSELF OR HIS FIRM.

A1.2

APN: 428-340-030
 Project: A Proposed New Retail Shell Building
 East Pacheco Blvd near Mersey Springs Rd
 Los Banos, California 93835
 APN: 428-140-030

A Proposed New RETAIL SHELL BUILDING
 East Pacheco Blvd near Mersey Springs Rd
 Los Banos, California 93835
 APN: 428-140-030

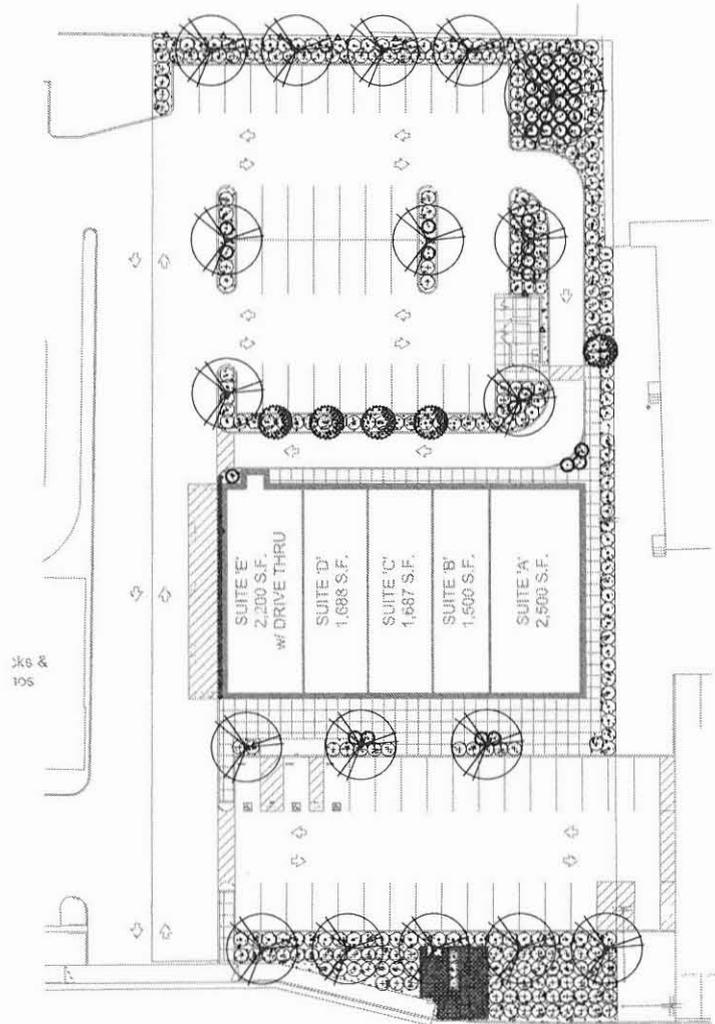


OROSCO
 10 Harris Court, Ste B-1
 Monterey, California 93940
 V: 831.649.0220



011918

FRONT ELEVATION ALONG PACHECO BLVD.



PACHECO BOULEVARD SR-152

REFERENCE NOTES SCHEDULE

SYMBOL	EROSION CONTROL DESCRIPTION	QTY	DETAIL
	MULCH	01.99 CY	

PLANT SCHEDULE

TREES	BOTANICAL NAME / COMMON NAME	CONT	QTY
	ARBUTUS UNEDO / STRAWBERRY TREE	15 GAL	5
	PISTACIA CHINENSIS 'KEITH DAVEY' / KEITH DAVEY CHINESE PISTACHE	15 GAL	17
	QUERCUS LOBATA / VALLEY OAK	15 GAL	1
SHRUBS	BOTANICAL NAME / COMMON NAME	SIZE	QTY
	MUHLENBERGIA RIENS / DEER GRASS	1 GAL	49
	NASSELLA TENUISSIMA 'PONY TAILS' / MEXICAN FEATHERGRASS	4" POT	281
	PARTHENOISSUS TRICUSPIDATA / JAPANESE CREEPER	1 GAL	11
	RHAPHIOLEPIS INDICA 'BALLERINA' / BALLERINA INDIAN HAWTHORN	1 GAL	153
	ROSMARINUS OFFICINALIS 'HUNTINGTON CARPET' / HUNTINGTON CARPET ROSEMARY	1 GAL	149

project:
**LOS BANOS
RETAIL
CENTER**

1420 E. Pacheco Blvd.
Los Banos, CA 93635

client:
**OA HOLDINGS
No. 1, LLC**

10 Harris Ct. Ste B-1
Monterey, CA 93940

designlab **252**

P.O. Box 27616 Fresno, CA 93729
Phone: 559.472.9808 Fax: 559.472.9869



drawn by: **KJ** checked by: **PB**

submittal: **No. 1** date: **05-18-2016**
No. 2 **XX/XX/XXXX**
No. 3
No. 4

scale: 1" = 20'-0"

sheet title:

**CONCEPTUAL
PLANTING
PLAN**

sheet no.

C-1

project no. **16-04-004**

