

INTRODUCTION

1
2 1. Real Parties in Interest Ventana South, LLC, Highway 33 Pistachios, Assemi
3 Brothers LLC, and Assemi Group, Inc. (collectively “Ventana”) propose to build a massive
4 pistachio processing facility on prime farmland in Fresno County. The project, as defined by
5 Ventana, includes over 300,000 square feet of buildings, 240 silos of 65 feet in height, over 1
6 million gallons of water tanks, and 104 twenty-seven-million btu/hour natural gas fired column
7 dryers plus other major infrastructure (the “Project”). The Project is proposed to be located
8 along West Kamm Avenue, between Interstate 5 and Highway 33 in an unincorporated area of
9 Fresno County (the “Project Site”).

10 2. Unsurprisingly, this massive facility requires multiple discretionary approvals
11 from Fresno County before it can be built. As a result, the County is required to comply with
12 California’s landmark environmental protection law, the California Environmental Quality Act
13 (“CEQA”), before issuing any approvals that further the facility’s construction. Ventana knows
14 this. The County knows this. However, the County is ignoring the law.

15 3. Despite CEQA’s mandates, the County issued construction permits in furtherance
16 of the Project with full knowledge that discretionary permits were required for the Project, with
17 full knowledge that the discretionary permits had not been approved, and with full knowledge
18 that CEQA compliance was required. The County has refused to revoke these construction
19 permits for the Project. In fact, the County has continued to process additional approvals for the
20 facility in violation of CEQA.

21 4. Having received construction permits in violation of the County Code and in
22 violation of CEQA, Ventana doubled down and proceeded to build a number of silos that are at
23 least 60 feet in height *without any permits at all*. Ventana constructed these silos for the Project
24 on foundations built in violation of the law.

25 5. After Petitioner advised the County of the illegal construction on October 22,
26 2019, the County issued a limited stop work order pertaining only to the unpermitted work.
27 However, to date, the County has refused to revoke the illegally issued permits or to require
28 Ventana to remove the illegal construction. The County’s failure to revoke the illegally issued

1 permits and to require the illegal construction’s removal violates the County’s mandatory duty
2 under state law and the County Code.

3 6. Despite the significant potential of this massive industrial agricultural operation to
4 have irreversible adverse impacts on the environment, the County has not completed the required
5 CEQA review prior to issuing permits to authorize work in furtherance of the Project.

6 7. The County knew that it was required to comply with CEQA prior to the issuance
7 of any permits in furtherance of the Project. The County knew that necessary discretionary
8 permits were required for the Project before any construction could commence. Notwithstanding
9 this knowledge, the County has illegally issued permits for construction activities in furtherance
10 of the Project and turned a blind eye to on-going construction activities on the Project Site that
11 violate the County’s Zoning Code (“Zoning Code”). In addition, the County has violated CEQA
12 by allowing continued construction work on a major development with potentially severe
13 environmental impacts prior to completing any of the required analysis of those impacts.

14 8. Continued construction at the Project Site could result in irrevocable adverse
15 environmental impacts and render the County’s compliance with CEQA a mere post-hoc
16 rationalization for approving the Project—i.e., a meaningless paperwork exercise.

17 **PARTIES**

18 9. Petitioner Wonderful Nut Orchards LLC (“Petitioner”) is a Delaware limited
19 liability company that owns pistachio farms and coordinates with related entities to process
20 pistachios in the County. Petitioner is committed to farming in a manner that minimizes
21 environmental impacts by employing sustainable farming practices including responsible water
22 management, careful soil maintenance, and a responsible integrated pest management program,
23 including employment of bio-rational pest control measures.

24 10. Respondent and Defendant County of Fresno and its Department of Public Works
25 and Planning (collectively the “County”) has land use jurisdiction over the unincorporated areas
26 of the County, including the Project Site.

27 11. Real Party in Interest Ventana South, LLC is a California limited liability
28 company that, on information and belief owns the Project Site. Ventana is listed as the property

1 owner on the various application materials submitted to the County associated with the Project.

2 12. Real Party in Interest Highway 33 Pistachios is listed as the applicant on the
3 Initial Study Application submitted to the County.

4 13. Real Party in Interest Assemi Brothers LLC is a California limited liability
5 company. Assemi Brothers LLC is listed as the address of Ventana on Construction Permit No.
6 19-104360-GR and Construction Permit No. 19-107012-FC.

7 14. Real Party in Interest Assemi Group, Inc. is a California Corporation. Petitioner
8 is informed and believes that Assemi Group, Inc. completed a pre-application review of the
9 Project with staff from the County's Department of Public Works and Planning prior to
10 submitting applications.

11 15. Petitioner is unaware of any other parties that CEQA or other applicable law
12 requires as named real parties or the true names and capacities of Real Parties in Interest
13 fictitiously named herein as Does 1 through 50, inclusive, and sues each of the Real Parties in
14 Interest by fictitious names. Petitioner will amend this Petition to allege the fictitiously named
15 Real Parties in Interest's true names and capacities if ascertained.

16 **JURISDICTION AND VENUE**

17 16. This Court has jurisdiction to issue the relief requested pursuant to Code of Civil
18 Procedure sections 526, 1060, and 1085 and Public Resources Code sections 21168 and 21168.5.

19 17. Venue in this court is proper pursuant to Code of Civil Procedure sections 393
20 and 394, because the Project site is located in the unincorporated territory under the County's
21 land use jurisdiction.

22 18. Petitioner has performed all conditions precedent to filing this Petition, including,
23 but not limited to, exhausting all administrative remedies or otherwise being excused therefrom
24 such requirement by futility, lack of jurisdiction, and/or unavailability of any other timely
25 review. Pursuant to Public Resources Code section 21167.5, Petitioner provided Respondent
26 County with notice of intent to file this action on December 3, 2019. A true and accurate copy of
27 that notice is attached hereto as Exhibit 1.

28 19. Petitioner has standing to assert these claims because it has a material interest in

1 ensuring that the County properly analyzes and mitigates the effects associated with the Project
2 and otherwise complies with the law. Petitioner seeks to vindicate the substantial public interest
3 in protection of the environment and other interests alleged herein. Petitioner has no plain,
4 speedy, or adequate remedy at law.

5 **CALIFORNIA ENVIRONMENTAL QUALITY ACT**

6 20. CEQA is not merely a procedural statute. CEQA imposes clear and substantive
7 responsibilities on agencies. CEQA requires that public agencies not approve projects that harm
8 the environment unless and until all feasible mitigation measures are employed to minimize that
9 harm. (Pub. Resources Code §§ 21002, 21002.1, subd. (b).)

10 21. CEQA defines a project as “the whole of an action, which has a potential for
11 resulting in either a direct physical change to the environment, or a reasonably foreseeable
12 indirect physical change in the environment.” (Guidelines § 15378, subd. (a).)¹ “Where a
13 project involves an approval that contains elements of both a ministerial action and a
14 discretionary action, the project will be deemed to be discretionary and will be subject to the
15 requirements of CEQA.” (*Id.*, § 15268, subd. (d).)

16 22. Agencies shall not undertake actions that could have a significant adverse effect
17 on the environment, or limit the choice of alternatives or mitigation measures, before complying
18 with CEQA. (Guidelines § 15004, subd. (b)(2).)

19 23. Under the CEQA Guidelines, “all phases of project planning, implementation, and
20 operation” must be considered in a project’s Initial Study. (Guidelines § 15063, subd. (a)(1).)
21 The “lead agency” is the public agency that has the principal responsibility for carrying out the
22 project and is responsible for conducting an Initial Study to determine, in consultation with other
23 relevant state agencies, whether an environmental impact report, a negative declaration, or a
24 mitigated negative declaration will be prepared for a project. (Pub. Resources Code §§ 21067;
25 21080.1, subd. (a); 21083, subd. (a).) Accordingly, public agencies may not “take any action”
26 that furthers a project “in a manner that forecloses alternatives or mitigation measures that would

27 _____
28 ¹ The CEQA Guidelines are codified at California Code of Regulations, title 14, sections 15000
et seq. and are hereafter referred to as the “Guidelines.”

1 ordinarily be part of CEQA review of that public project.” (*Save Tara v. City of West Hollywood*
2 (2008) 45 Cal.4th 116, 138.)

3 24. Thus, CEQA does not permit the postponement of environmental review “to the
4 point where the ‘bureaucratic and financial momentum’” has built up “irresistibly behind a
5 proposed project ‘thus providing a strong incentive to ignore environmental concerns.’” (*Save*
6 *Tara, supra*, 45 Cal.4th at 135.)

7 25. Failure either to comply with CEQA’s substantive requirements or to carry out the
8 full CEQA procedures so that complete information as to a project’s impacts is developed and
9 publicly disclosed constitutes a prejudicial abuse of discretion that requires invalidation of the
10 public agency action regardless of whether full compliance would have produced a different
11 result. (Pub. Resources Code § 21005.)

12 GENERAL ALLEGATIONS

13 **A. Project Site**

14 26. The Project Site, located at 34411 West Kamm Avenue in the Cantua Creek area
15 of the County, is under the land use jurisdiction of Respondent County of Fresno. The Project
16 Site is located less than one mile southwest of the California Aqueduct. The Project Site is a
17 generally unimproved, flat parcel surrounded by farms and other currently fallow farmland.

18 27. The Project Site is zoned AE-20. The AE zone, or Exclusive Agricultural
19 District, limits allowable uses to agricultural operations and uses necessary to support
20 agricultural production. The “-20” suffix indicates that the minimum lot size within the AE-20
21 zone is 20 acres.

22 28. In the AE Zone, Zoning Code (section 816.3) requires a Conditional Use Permit
23 for commercial pistachio processing.

24 29. Building height in the AE Zone is limited to 35 feet. (Zoning Code, § 816.5(D).)

25 **B. Ventana Proposes the World’s Single Largest Pistachio Processing Facility**

26 30. Pursuant to the Project’s applications, Ventana proposes to develop the project in
27 four phases.

28 31. The first phase of the Project would include a 120,000 square-foot

1 processing/packing building with a 10,000 square-foot canopy and truck dock, a 15,133 square-
2 foot cold storage building, a 11,520 square-foot admin office building, a 8,300 square-foot
3 breakroom/supervisor office building, seventy 48-foot by 65-foot storage silos, a 21,600 square-
4 foot huller canopy, a 6,570 square-foot shop building with a 2,920 square-foot canopy, six sand
5 and media filters, a 323,266 gallon water storage tank, a 324 square-foot fire pump house, a
6 1,624 square-foot main scale house/guard shack and truck scale, a 200 square-foot scale house
7 and truck scale, two 1,200 square-foot MCC buildings, four 510 square-foot equipment canopies,
8 and seventeen 27 MMbtu/hour natural gas fired column dryers.

9 32. The second phase consists of the development of a 120,000 square-foot
10 processing/packing building with a 10,000 square-foot canopy and truck dock, seventy 48-foot
11 by 65-foot storage silos, twenty 27 MMbtu/hour natural gas fired column dryers, a 21,600
12 square-foot huller canopy, a 353,000 gallon water storage tank, two sand and media filters, two
13 processed water separators, and an 80-foot truck scale.

14 33. The third phase consists of the development of seventy 48-foot by 65-foot storage
15 silos, twenty 27 MMbtu/hour natural gas fired column dryers, a 21,600 square-foot huller
16 canopy, a 353,000 gallon water storage tank, a 6,570 square-foot shop building with a 2,920
17 square-foot canopy, two sand and media filters, two processed water separators, and an 80-foot
18 truck scale.

19 34. The fourth phase consists of the development of seventy 48-foot by 65-foot
20 storage silos, twenty 27 MMbtu/hour natural gas fired column dryers, a 21,600 square-foot huller
21 canopy, a 353,000 gallon water storage tank, two sand and media filters, two processed water
22 separators, and an 80-foot truck scale.

23 35. If all four phases of the Project are developed as proposed, Petitioner is informed
24 and believes that the Project would be the single largest pistachio processing facility in the
25 world.

26 **C. The County Illegally Issues Permits for Forty-Nine Silo Foundations**

27 36. The County knew about the Project's scale and the requirements for discretionary
28 review and approval as early as March of 2019.

1 37. On or about March 27, 2019, the County issued a letter addressed to a
2 representative from Real Party Assemi Group, Inc. related to proposed development on the
3 Project Site. The letter stated that the applicant would be required to obtain a Director Review
4 and Approval, a Classified Conditional Use Permit, and a Variance to authorized the proposed
5 development. In addition, the letter stated that an Initial Study (pursuant to CEQA) would be
6 completed as part of the County’s review of the proposed development. A true and correct copy
7 of the March 27, 2019 letter is attached hereto as Exhibit 2.

8 38. On or about April 25, 2019, Ventana submitted a Pre-application Review
9 Disclosure/Disclaimer form to the County waiving the option for pre-application review. The
10 form states that Ventana is accepting the risk of costs or delays associated with changes needed
11 to the application materials after submittal. A true and correct copy of this Pre-application
12 Review Disclosure/Disclaimer form obtained from the County is attached hereto as Exhibit 3.

13 39. On or about June 12, 2019, despite the County’s prior statements that both
14 discretionary approvals were required and environmental review was required, the County issued
15 Construction Permit No. 19-104360-GR. This permit authorized Ventana to “Grade A level pad
16 for stag[e]ing area on the south side of road 1 mile w/o derrick” at the Project Site. A true and
17 correct copy of Construction Permit No. 19-104360-GR obtained from the County is attached
18 hereto as Exhibit 4. Real Party Assemi Brothers is listed as the address of Ventana South on
19 Construction Permit No. 19-104360-GR. Ventana South is listed as the property owner on the
20 various application materials submitted to the County associated with the Project.

21 40. On or about September 6, 2019, the County issued a second construction permit –
22 Construction Permit No. 19-107012-FC. This second permit was for the “Special Inspection for
23 a foundation only, installing 49 silos” at the Project Site. A true and correct copy of
24 Construction Permit No. 19-107012-FC obtained from the County is attached hereto as Exhibit
25 5. As with Construction Permit No. 19-104360-GR, Real Party Assemi Brothers is listed as the
26 address of Ventana South on Construction Permit No. 19-107012-FC. (Construction Permit No.
27 19-104360-GR and Construction Permit No. 19-107012-FC, collectively the “Construction
28 Permits.”)

1 **D. Ventana Applies for a Conditional Use Permit and Height Variance**

2 41. On or about August 29, 2019, Ventana submitted a Classified Conditional Use
3 Permit application (CUP No. 3658) and a Variance application (VA No. 4070) with
4 accompanying plans and findings for each application. True and correct copies of Classified
5 Conditional Use Permit application (CUP No. 3658) and Variance application (VA No. 4070)
6 obtained from the County are attached hereto as Exhibit 6.

7 42. The findings submitted in support of the Classified Conditional Use Permit and
8 Variance describe the Project and state that the Project will be developed in four phases.

9 43. On or about August 29, 2019, Ventana, through Real Party in Interest Highway 33
10 Pistachios, submitted Initial Study Application (IS No. 7707). An Initial Study is a lead agency’s
11 preliminary CEQA review of a proposed project, including all phases of construction and
12 operation, to determine whether the project may result in environmental impacts and what level
13 of CEQA analysis of those potential impacts is required. A true and correct copy of Initial Study
14 Application (IS No. 7707) obtained from the County is attached hereto as Exhibit 7. Real Parties
15 Ventana South, Highway 33 Pistachios, and Assemi Brothers list the same address on the various
16 application forms submitted to the County.

17 44. On or about September 5, 2019, Ventana submitted updated findings in support of
18 the Classified Conditional Use Permit application and Variance application. True and correct
19 copies of these findings obtained from the County are attached hereto as Exhibit 8. In particular,
20 Ventana requests a Variance to authorize the construction of structures, including silos, that will
21 exceed the 35-foot height limit within the AE-20 zone.

22 45. On or about September 5, 2019, the County’s Department of Public Works and
23 Planning’s Development Services and Capital Projects Division circulated a cover letter to
24 various other County departments requesting written comments on the Project to aid in the
25 Department’s review of the Classified Conditional Use Permit and Variance applications and to
26 prepare the required CEQA review. A true and correct copy of the cover letter requesting
27 comment from other County departments obtained from the County is attached hereto as Exhibit
28 9. The letter attached the applications, the submitted plans, and the revised findings. The letter

1 noted that that comments must be submitted by September 13, 2019.

2 46. On or about October 30, 2019, Ventana submitted revised application materials to
3 the County, including an updated Initial Study Application.

4 47. On or about October 31, 2019, the County's Department of Public Works and
5 Planning's Development Services and Capital Projects Division circulated a revised cover letter
6 to various other County departments requesting written comments on the Project to aid in the
7 Department's review of the Classified Conditional Use Permit and Variance applications and to
8 prepare the required CEQA review. A true and correct copy of the revised cover letter
9 requesting comment from other County departments obtained from the County is attached hereto
10 as Exhibit 10. The letter attached the applications, the submitted plans, and the revised findings.
11 The letter noted that that comments must be submitted by November 11, 2019, and stated that
12 this limited comment period would be the only opportunity for other departments to provide
13 written comments related to the Project.

14 **E. The County Fails to Undertake Required Corrective Actions**

15 48. In the summer of 2019, Petitioner became aware that construction was occurring
16 on the Project Site. This work included grading and earthmoving activities utilizing heavy-duty
17 construction equipment.

18 49. On or about October 22, 2019, counsel for Petitioner submitted a Building
19 Codes/Zoning Ordinance Violation Complaint Form to the County detailing the illegal activities.
20 A true and correct copy of this form is attached as Exhibit 11. The complaint stated that
21 earthmoving and testing activities in furtherance of the Project were on-going on the Project Site
22 and requested that the County revoke the previously issued construction permits and issue a stop-
23 work order until all required CEQA review was completed.

24 50. On or about October 23, 2019, counsel for Petitioner submitted to the County
25 another letter providing additional information related to the construction permits that the County
26 had issued to authorize construction work on the Project Site and again requesting that the
27 County revoke the previously issued permits and issue a stop-work order. A true and correct
28 copy of this letter is attached hereto as Exhibit 12.

1 51. On or about October 30, 2019, counsel for Petitioner received a letter from
2 William M. Kettler, Division Manager of the County’s Department of Public Works and
3 Planning’s Development Services and Capital Projects Division stating that the Department was
4 in the process of reviewing Initial Study Application No. 7707, Classified Conditional Use
5 Permit Application No. 3658, and Variance Application No. 4070. A true and correct copy of
6 this letter is attached hereto as Exhibit 13. The letter stated that on October 28, 2019, the
7 Department issued a stop-work order for all unpermitted construction at the Project Site. The
8 letter also stated that it was Mr. Kettler’s belief that “no work ... is currently taking place at that
9 address.”

10 52. The October 30, 2019, letter took the position that Construction Permit No. 19-
11 107012 “was issued because the property owner is entitled as a matter of right to have ‘farm
12 buildings of all kinds’” and that “the Department is required by law to issue this ministerial
13 permit.”

14 53. On or about October 31, 2019, representatives for Petitioner documented
15 construction on the Project Site, including earthmoving work and the erection of silos and other
16 buildings. Heavy duty construction equipment was on the Project Site, indicating that work was
17 on-going.

18 54. On or about October 31, 2019, counsel for Petitioner provided additional legal
19 authority demonstrating that no construction work associated with the Project could proceed
20 prior to the County’s completion of the required CEQA analysis and issuance of required
21 discretionary permits as required by the Zoning Code. A true and correct copy of this letter is
22 attached hereto as Exhibit 14. In this correspondence, counsel for Petitioner provided photos
23 demonstrating that illegal structures were constructed on the Project Site.

24 55. As shown in the below photograph taken on or about October 31, 2019, Ventana
25 has already illegally constructed multiple 60-foot tall silos, other structures, and related
26 infrastructure on the Property.

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28



F. The County Continues to Process Approvals in Furtherance of The Project

56. On or about August 30, 2019, Ventana submitted a petition to the County to cancel Agricultural Land Conservation Contract No. 1839 and partially cancel Agricultural Land Conservation Contract No. 365 which are associated with the Project Site (collectively, the “Contracts”). A true and correct copy of that petition obtained from the County is attached hereto as Exhibit 15.

57. The County reviewed Ventana’s petition and prepared a staff report for presentation to the County’s Agricultural Lands Conservation Committee that recommended approval of the requested cancellation of the Contracts. The staff report makes clear that the cancellation of the Contracts is a necessary step in connection with the construction of the Project. A true and correct copy of the staff report obtained from the County is attached hereto as Exhibit 16.

58. Petitioner is informed and believes that on November 6, 2019, the County’s Agricultural Lands Conservation Committee held a hearing at which they voted to recommend the cancellation of the Contracts. A true and correct copy of the agenda obtained from the County is attached hereto as Exhibit 17. This hearing occurred after counsel for the Petitioner had alerted the County to potential violations of CEQA associated with processing Project-related approvals prior to completing the necessary environmental review.

1 **FIRST CAUSE OF ACTION**

2 (Violation of CEQA – Pub. Res. Code §§ 21000 et. seq.)

3 59. Petitioner incorporates by reference each of the allegations contained in
4 paragraphs 1 through 58, inclusive, as if set forth fully herein in full.

5 60. At all times relevant to this action, Respondent County was the lead agency
6 responsible for reviewing the Project pursuant to CEQA.

7 61. The County violated CEQA by failing to complete the required CEQA
8 compliance prior to authorizing construction work in furtherance of the Project. The County
9 issued Construction Permit No. 19-107012 *after* Ventana had submitted applications for
10 discretionary approval to authorize the conditional use permit for the Project and *before* the
11 County had issued such discretionary approval.

12 62. Work authorized under the Construction Permits is in furtherance of the Project.
13 The County was aware that Ventana was planning to develop the Project and the County had
14 advised that the Project would require discretionary approvals. The County was also aware that
15 the County had not issued such Project discretionary approvals before the County issued the
16 Construction Permits.

17 63. The Project is a “project” under CEQA. The Guidelines define a project as “the
18 whole of an action, which has a potential for resulting in either a direct physical change to the
19 environment, or a reasonably foreseeable indirect physical change in the environment”
20 (Guidelines, § 15378 subd. (a)) and require that “all phases of project planning, implementation,
21 and operation” must be considered in the Initial Study for a project (Guidelines, § 15063 subd.
22 (a)(1)) prior to issuing a discretionary approval.

23 64. CEQA analysis, including any EIR, “should be prepared as early in the planning
24 process as possible to enable environmental considerations to influence project, program, or
25 design.” (*Bozung v. LAFCo.* (1975) 13 Cal.3d 263, 282.) CEQA review and the application of
26 CEQA procedures must be followed at all stages of project consideration, to carry out the
27 legislative intent “to compel government at all levels to make decisions with environmental
28 consequences in mind.” (*Id.* at 283.)

1 65. Where an approval is “an essential step leading to ultimate environmental impact
2 [] it is therefore ... a ‘project’ within the scope of CEQA. (*Fullerton Joint Union High School*
3 *Dist. v. State Bd. of Education* (1982) 32 Cal.3d 779, 797.)

4 66. “[T]he later the environmental review process begins, the more bureaucratic and
5 financial momentum there is behind a proposed project.” (*Laurel Heights Improvement Assn. v.*
6 *Regents of the University of California* (1988) 47 Cal.3d 376, 395.)

7 67. CEQA Guidelines section 15004 subd. (b)(2)(B) provides that public agencies
8 should not “take any action which gives impetus to a planned or foreseeable project in a manner
9 that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review
10 of that public project.”

11 68. While “[m]inisterial projects are exempt from the requirements of CEQA”
12 (CEQA Guidelines section 15268, subd. (a)), “[w]here a project involves an approval that
13 contains elements of both a ministerial action and a discretionary action, the project will be
14 deemed to be discretionary and will be subject to the requirements of CEQA.” (Guidelines §
15 15268, subd. (d).)

16 69. A discretionary project is “a project which requires the exercise of judgment or
17 deliberation when the public agency or body decides to approve or disapprove a particular
18 activity.” (Guidelines, § 15357.) “Approval” is defined as “the decision by a public agency
19 which commits the agency to a definite course of action in regard to a project intended to be
20 carried out by any person.” (*Id.*, § 15352, subd. (a).) CEQA requires that “[b]efore any approval
21 of a project subject to CEQA” that the lead agency shall consider final CEQA determination.

22 70. CEQA Guidelines section 15063, subd. (a)(1), requires that “[a]ll phases of
23 project planning, implementation, and operation must be considered in the initial study of the
24 project.”

25 71. Construction Permit No. 19-107012-FC authorized the development of
26 foundations for 49 silos on the Project Site that are part of the Project. Construction Permit No.
27 19-104360-GR authorized construction of a staging area pad for the Project.

28 72. The issuance of Construction Permit No. 19-107012-FC and Construction Permit

1 No. 19-104360-GR are necessary components of the County’s discretionary review of the
2 Project.

3 73. The Project’s proposed silos require a Variance to deviate from the 35-foot height
4 limit in the AE-20 zone.

5 74. The Project’s proposed use requires a Classified Conditional Use Permit to
6 authorize the commercial pistachio processing facility at the Project Site.

7 75. The County has confirmed that no building permits should issue for the
8 processing facility because “CUP 3658 must be approved prior to permits.” Yet, the County did
9 issue Construction Permit No. 19-107012-FC and Construction Permit No. 19-104360-GR in
10 violation of CEQA, and its own Codes. Despite requests by Petitioner to revoke the
11 Construction Permits, the County has not revoked such illegally issued permits.

12 76. The County violated CEQA and failed to proceed in the manner required by law,
13 committed a prejudicial abuse of discretion, and acted arbitrarily and capriciously in its issuance
14 of Construction Permit No. 19-107012-FC because, without limitation, the County failed to
15 subject Construction Permit No. 19-107012-FC and the Project to an Initial Study or other
16 environmental assessment as CEQA requires.

17 **SECOND CAUSE OF ACTION**

18 (Violation of Zoning Ordinance of the County of Fresno § 864)

19 77. Petitioner incorporates by reference each of the allegations contained in
20 paragraphs 1 through 76, inclusive, as if set forth fully herein in full.

21 78. Zoning Code section 864 states that “[b]efore commencing any work pertaining to
22 the erection, construction, reconstruction, moving, conversion or alteration of any building, or
23 any addition to any building, a permit shall be secured from the Division of Building and Safety
24 of the Department of Resources and Development by any owner or his agent for said work, and it
25 shall be unlawful to commence any work until and unless such permit shall have been obtained.”

26 79. Construction has commenced on the Project Site. Based on information and
27 belief, construction activities have proceeded well beyond what the County illegally authorized
28 under Construction Permits 19-104360-GR and 19-107012-FC. For example, silos and related

1 infrastructure have been erected on the Project Site while the issued permits limited authorized
2 activities to grading and the construction of foundations.

3 80. The Real Parties violated the Zoning Code by undertaking construction activities
4 that were not authorized by the permits that had been issued.

5 81. Further, the County failed to discharge its ministerial duties under Zoning Code
6 section 864 by allowing unpermitted construction activities to commence and continue on the
7 Project Site. Petitioner is informed and believes that the County was aware of the illegal
8 construction of silos and related facilities at the Project Site.

9 82. The County has a ministerial duty to ensure that the County Code is fully
10 implemented. The County has failed to do so and has permitted Real Parties' illegal construction
11 to remain.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Petitioner respectfully prays for the following:

14 A. For a writ of mandate directing the County to comply with the law and:

15 a. Directing the County to refrain from issuing any permits for the Project or any
16 other actions in furtherance of the project until such time that all required environmental review
17 is completed in compliance with CEQA;

18 b. Directing the County to rescind Construction Permit No. 19-104360-GR and
19 Construction Permit No. 19-107012-FC No. within 10 days of issuance of the writ and refrain
20 from re-issuance of such permits until such time that all required environmental review is
21 completed in compliance with CEQA;

22 B. For a temporary restraining order, preliminary injunction, or permanent injunction
23 against the County its departments, elected officials, and employees, enjoining them from
24 authorizing additional construction permits for construction work at the Project Site until such
25 time that all required environmental review is completed in compliance with CEQA

26 C. For a temporary restraining order, preliminary injunction, or permanent injunction
27 against Real Parties enjoining them from additional construction work at the Project Site until
28 such time that all required environmental review is completed in compliance with CEQA and

- 1 directing them to remove all structures illegally erected;
- 2 D. An award to Petitioner of its reasonable costs prosecuting this action;
- 3 E. An award to Petitioner of reasonable attorneys' fees pursuant to Code of Civil
- 4 Procedure section 1021.5 and/or any other applicable law; and
- 5 F. Any other legal or equitable relief that the Court deems just and proper.
- 6

7 Dated: December 3, 2019

Respectfully submitted,

LATHAM & WATKINS LLP
James L. Arnone
Benjamin J. Hanelin
Lauren Glaser

10
11 By 
12 Benjamin J. Hanelin
13 Attorneys for Petitioner
14 Wonderful Nut Orchards LLC

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VERIFICATION

I, Craig Cooper, am Senior Vice President for the Petitioner in the above-titled matter. I have read the foregoing VERIFIED COMPLAINT FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF. I know the contents thereof and the same is true of my own knowledge, except as to matters therein stated on information and belief, which as to those matters I believe to be true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on December 2, 2019, at Los Angeles, California.



Craig Cooper
Wonderful Nut Orchards LLC

TABLE OF EXHIBITS

Ex.	Description
1.	Notice of Intent to Commence Action
2.	Pre-Application Guidance Letter, dated March 27, 2019
3.	Pre-Application Review Disclosure/Disclaimer, dated April 25, 2019
4.	Construction Permit No. 19-104360-GR for grading, issued June 12, 2019
5.	Construction Permit No. 19-107012-FC for special inspection for foundations, issued September 6, 2019
6.	CUP 3658 and ZA VA4070 Applications
7.	Initial Study Application, dated August 29, 2019
8.	Revised findings from Touchstone Pistachio Co. to County of Fresno
9.	Cover letter, dated September 5, 2019 from County of Fresno regarding Initial Study, Classified CUP, and Variance Applications
10.	Cover letter, dated October 31, 2019 from County of Fresno regarding Initial Study, Classified CUP, and Variance Applications
11.	Building Code/Zoning Ordinance Violation Complaint Form, dated October 22, 2019
12.	Letter to County of Fresno, dated October 23, 2019
13.	Letter from County of Fresno, dated October 30, 2019 in response to October 22, 2019 and October 23, 2019 letters
14.	Letter to County of Fresno, dated October 31, 2019
15.	Williamson Act Petition, dated March 27, 2019
16.	Agricultural Land Conservation Committee (ALCC) Staff Report from hearing of November 6, 2019, Item Number 2
17.	Agenda from November 6, 2019 ALCC Hearing

Exhibit 1

355 South Grand Avenue, Suite 100
Los Angeles, California 90071-1560
Tel: +1.213.485.1234 Fax: +1.213.891.8763
www.lw.com

LATHAM & WATKINS^{LLP}

December 3, 2019

VIA U.S. Mail

Bernice E. Seidel, Clerk
County of Fresno Board of Supervisors
2281 Tulare Street, Room 301
Fresno, CA 93721

FIRM / AFFILIATE OFFICES

Beijing	Moscow
Boston	Munich
Brussels	New York
Century City	Orange County
Chicago	Paris
Dubai	Riyadh
Düsseldorf	San Diego
Frankfurt	San Francisco
Hamburg	Seoul
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

Re: Notice of Commencement of Action to Challenge the County of Fresno's Actions
Related to the Ventana South, LLC Pistachio Processing Facility

Dear Ms. Seidel:

Pursuant to Public Resources Code section 21167.5, please take notice that Wonderful Nut Orchards LLC intends to file a petition for writ of mandate and complaint for declaratory and injunctive relief challenging the County of Fresno's actions in furtherance of the Ventana South, LLC pistachio processing facility under the California Environmental Quality Act and other laws. This petition and complaint will be filed in the County of Fresno Superior Court, Eastern Branch, 1130 O Street, Fresno, CA 93721 on or before December 6, 2019.

Very truly yours,



Benjamin J. Hanelin
of LATHAM & WATKINS LLP

Exhibit 2



County of Fresno

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

March 27, 2019

Jeffrey T. Roberts
1396 W. Herndon Avenue
Fresno, CA 93711

Dear Mr. Roberts:

Pre-Application Review No. 39674

Subject Assessor's Parcel No. 038-300-17S

Project Location: The subject parcel is located on the south side of W. Kamm Avenue, approximately one mile west of its intersection with S. Derrick Avenue.

Proposal: Allow the development of a pistachio processing facility with 36 silos, standing 54 feet in height, and a large day nursery on a 155.76-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

A Director Review and Approval (DRA) is required to allow a large day nursery in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. A Classified Conditional Use Permit (CUP) is required to allow a value-added agricultural facility not specified in the AE-20 Zone District, to include the proposed pistachio processing facility. A Variance (VA) is required to allow any development in the AE-20 Zone District that exceeds 35 feet in height, to include the proposed silos. I am enclosing the necessary forms to return for a complete application.

Per the California Environmental Quality Act (CEQA), your project will require the preparation of an Initial Study. An Initial Study form has been enclosed. This form provides information from the California Department of Fish & Wildlife (CDFW) regarding legislation and determinations of "no effect". Staff of the Development Services and Capital Projects Division cannot make a "De Minimis" Finding allowing an exception to CDFW fees involved with the preparation and posting of environmental documents. Should you believe your project has no effect on resources under the purview and/or protection of CDFW, it will be necessary for you to contact that agency directly to obtain a written determination of no effect prior to completion of your environmental document.

Your property is enrolled in the Agricultural Land Conservation (Williamson Act) Program. As such, the uses permitted under Contract are restricted. Please contact the Policy Planning Section of the Development Services and Capital Projects Division at (559) 600-4022 regarding the steps you must take to identify and resolve any conflicts between your proposed uses and the existing Contract. Our staff will not be able to complete our review of the proposed applications without a determination from the Policy Planning Section that all necessary steps

have been taken to ensure that there are no conflicts between the Contract and the proposed uses.

You should be aware that in order to approve a Conditional Use Permit, the Fresno County Ordinance Code requires that four mandatory Findings of Fact must exist before a Conditional Use Permit may be granted (see Conditional Use Permit Findings on the back of the application form). Additionally, in order to approve a Director Review and Approval or Variance, the Fresno County Ordinance Code requires that four mandatory Findings of Fact, specific to each project, exist before approval may be granted (see enclosed Director Review and Approval and Variance handouts). Your application will be reviewed and a staff recommendation will be made based upon these mandatory Findings.

Your property is located in an area of agricultural land use. As such, the proposal will be routed to the Fresno County Department of Agriculture for review and comment by staff of the Agricultural Commissioner's Office. A Project Review Fee of \$152.00 will be charged for review by this Department.

You are located within the jurisdiction of the Fresno County Fire Protection District.

The Fresno County Fire Protection District conducts plan reviews on all projects to confirm that certain fire and life safety issues are addressed. Some examples of fire and life safety issues are fire apparatus access, fire lanes, gates, water supply systems, fire suppression systems, fire alarm systems, high-piled storage, evacuation plans, exiting systems, and hazardous materials storage.

It is suggested that you contact the Fresno County Fire Protection District at (559) 493-4359 to schedule a meeting to discuss the specific fire protection requirements for the project during the design stage of the project.

Below are the filing requirements for your project:

Application Form: This application is a green form. Please fully complete the owner, applicant, and representative portions of the application. All owners included on the Grant Deed must sign the application. An electronic version of the form is available. Please contact us via email to receive the electronic version.

Initial Study Application: This application form is a stapled, blue, five-page form. Please complete and sign.

Pre-Application Review: This is the single blue sheet that has been completed and returned to you with this letter. Please return the completed blue Pre-Application Review sheet with your formal application submittal. The information provided on this sheet will be needed to complete the application. **(Note: The Pre-Application Fee of \$247.00 will be applied to the Filing Fee if a formal application is submitted within six months of the date on the Pre-Application form. The following Filing Fee information assumes that the application will be filed within the six-month time period.)**

Filing Fees:

Conditional Use Permit (CUP) Application	\$ 4,569.00
Director Review and Approval (DRA) Application	\$ 2,660.00
Variance (VA) Application	\$ 6,049.00
Initial Study (IS) Application	\$ 3,901.00
Agricultural Commissioner Review	\$ 152.00
Public Health Environmental Review	\$ <u>1,789.00</u>
Minus the \$247.00 Pre-Application Credit	\$ <u>- 247.00</u>
Please make check payable to "Fresno County" for:	\$ <u>18,873.00</u>

Legal Description: Submit a copy of the Grant Deed to the property with the legal description. (Note: The legal description must correlate with the property boundaries depicted on the Site Plan drawing.)

Site Plans, Floor Plans and Elevations: Four (4) folded copies of a detailed Site Plan are required. We route projects for comments electronically, therefore we request that electronic versions of all drawings be submitted in PDF format. If that is not possible, we require one black-line print in either 8½"x11" or 11"x17" size so that it can be scanned. Please refer to the back of the application for detailed requirements on preparing Site Plans. It is important that all requirements are met in order for the Site Plan to be acceptable. Therefore, you may wish to review the Site Plan with a Planner prior to submitting the application. In addition, four (4) folded copies of the Floor Plan and Elevations are required, as well as an electronic PDF version or reduction as described above.

Variance Findings: Please submit a detailed, typed document that addresses each of the four Variance Findings that appear on the reverse side of the application. Generally, applicants will address each finding individually. **These findings should be tailored to the portion of your project that requires a Variance** (constructing silos that are more than 35 feet in height). Please call me if you have questions regarding the Variance Findings. The Planning Commission must find that all four apply to your project in order for it to be approved.

Project Description/Operational Statement: Please provide a complete, detailed description of the proposed use. Enclosed is a checklist of considerations that must be addressed. The Operational Statement must be on a separate sheet of paper and should be typed.

Photographs: Provide labeled photos of panoramic views of the property (north, south, east, and west).

As prescribed by the Zoning Ordinance, the Planning Commission will make a decision on the application following a public hearing. The Planning Commission hearing should occur

Jeffrey T. Roberts
March 27, 2019
Page 4

approximately four to six months from the date the application is submitted; however, this time frame will be extended if reviewers request additional information, or if review by the State Clearinghouse is needed. Please note that if review comments are not received from certain key reviewing agencies in response to our initial request for comments, staff will continue to pursue formal comments from those agencies so as to provide for the most complete project analysis possible. This may result in additional processing time. Also, please note that an appeal of the Planning Commission's decision would add additional time because it would necessitate a hearing before the Board of Supervisors, who would then make the final decision.

In order to save time processing your application, we recommend that you or your representative schedule a meeting to review your application submittal prior to filing a formal application.

If you have any questions regarding the information described in this letter, or wish to schedule a meeting concerning the filing of an application, please contact me at dacrider@fresnocountyca.gov or (559) 600-9669.

Sincerely,



Danielle Crider, Planner
Development Services and Capital Projects Division

DTC:ksn
G:\4360Devs&Pln\PROJSEC\PRE-APPS\2019\39674 (CUP, VA, DRA)\39674 (CUP, VA, DRA) Ltr.docx

Enclosures

Exhibit 3



County of Fresno

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

PRE-APPLICATION REVIEW DISCLOSURE/DISCLAIMER

Completion of a Pre-Application Review is no longer a mandatory step necessary in order to submit a land use or mapping application to the Fresno County, Department of Public Works and Planning, Development Services Division for processing. The purpose of the Pre-Application Review is to allow the customer and staff to exchange information and confirm the necessary application process, required fees, and submittal material prior to the customer paying the actual application fees. Specifically, during the Pre-Application Review process, staff researches and provides the following information:

- If the proposed use is allowed based on the zoning of the subject parcel; the type(s) of application(s) required to permit the proposal to be processed.
- If the subject site is a legal parcel (Note: If the parcel is not legally created, no land use/mapping application can be processed until the legality issue is resolved).
- The anticipated level of environmental review.
- If the project site is under the Williamson Act Contract and if the proposed use is permitted under the Contract.
- If the site is located within a special district and if special considerations may be applicable to the project.
- Required application forms, filing fees, and filing requirements/materials.

While the Pre-Application Review is an option for any prospective application, in those cases where an applicant opts not to file for completion of a Pre-Application Review; the information research noted above that typically results from the Pre-Application Review process may not be realized until after the application fees have been accepted and the project has been routed for comment. This being the case, unexpected issues may arise that could impact the processing timeline and cost of the application and/or impact the determination as to whether the application can even continue to be processed as originally submitted. *Please note that if the application cannot be processed as submitted, the processing fees expended thus far will not be refunded.*

By opting out of the Pre-Application Review process, I hereby acknowledge the potential for additional application processing delays and costs.

Mark Sherrill
PRINT NAME

PRINT NAME

[Signature]
SIGNATURE

SIGNATURE

4/25/19
DATE

DATE

G:\4360Devs&Pin\FORMS\F227 Pre-App Review Waiver 2016.docx

Exhibit 4



GRADING PERMIT / VOUCHER APPLICATION

COUNTY OF FRESNO
 DEVELOPMENT SERVICES DIVISION
 MAILING ADDRESS: 2220 TULARE STREET, 6th FLOOR FRESNO, CA 93721
 OFFICE LOCATION: SOUTHWEST CORNER OF TULARE
 & 'M' STREETS, SUITE B

ACTIVE PERMITS YES NO
 PHONE NUMBERS
 24-HR REQUEST LINE
 600-4131
 LOCAL: 600-4560
 TOLL FREE: 800-742-1011
 FAX: 600-4201

Ref #: GP# 14941

Ref #: GP# 14941 & SEC 23 16/14 CA

Project Address SEC 23 16/14 CA	Cross Street DERRICK AVE (HWY 33)	Project Description GRADE A LEVEL PAD FOR STAGGING AREA ON THE SOUTH SIDE OF ROAD 1 MILE W/O DERRICK	
19-104360-GR	Issued on: June 12, 2019	APN: 03830017S	
Owner: VENTANA SOUTH LLC	Applicant: AVISON CONSTRUCTION, INC. *LOUIS AVILA*	Contractor: AVISON CONSTRUCTION, INC. *LOUIS AVILA*	
Address: % ASSEMI BROTHERS LLC 1396 W HERNDON #101 FRESNO CA 93711	Address: 40434 BRICKYARD DR. MADERA, CA 93636	Address: 40434 BRICKYARD DR. MADERA, CA 93636	
Phone:	Phone: Primary: (559)-431-0317 Cellular: (559)-994-3580	Phone: Primary: (559)-431-0317 Cellular: (559)-994-3580	
	License #: 823535	License #: 823535	

PROJECT INFORMATION

Big Dry Creek Basin: No Does fill exceed 12" in vertical depth?: Yes Earthwork (cubic yards): Fill: 7600 End Date of Work: Dec 12, 2019 Grading Inspection: NO Is a Map of Flood Hazard Area Required?: No Plan Check & Inspection: Site Plan Slope Ratio: Cut - Horizontal: 2 Slope Ratio: Fill - Horizontal: 2 Start Date of Work: Jun 12, 2019 Workers Compensation Declaration:	Does cut exceed 24" in vertical depth?: Yes Earthwork (cubic yards): Cut: 2100 Earthwork (cubic yards): Total: 7600 Flood Zone Designation: X Grading Plan Check: No Is an Elevation Certificate Required?: No Retaining Wall Required?: No Slope Ratio: Cut - Vertical: 1 Slope Ratio: Fill - Vertical: 1 Vertical Fill to Support Structure?: Yes Zoning: AE20
---	---

Information on File

<p>Project Conditions</p>	 <p>Louis Avila President lavila@avisoninc.com Cell: 559-994-3580</p> <p style="font-size: small;">8(a), MBE, SDB, DBE CA License 823535</p> <p style="font-size: small;">40434 Brickyard Drive Madera, CA 93636 Phone: 559-431-0317 Fax: 559-431-0321 www.avisoninc.com</p>
----------------------------------	---

ANY FILL TO SUPPORT A STRUCTURE MUST BE COMPACTED TO A MINIMUM OF 90 PERCENT RELATIVE COMPACTION (CERTIFIED COMPACTION REPORT REQUIRED).

COMPACTED FILL MATERIAL GREATER THAN 12 INCHES REQUIRES A GEOTECHNICAL REPORT.

- A. PARCELS EAST OF FRIANT KERN CANAL OR WEST OF I-5 MUST MEET ALL SRA REQUIREMENTS.
- B. A GEOTECHNICAL REPORT MAY BE REQUIRED. PLEASE CONTACT BUILDING & SAFETY SECTION AT (559) 600-4231/4232 FOR THEIR REQUIREMENTS.
- C. COMPACTION REPORTS TO BE SUBMITTED TO DEVELOPMENT ENGINEERING SECTION.

WORKER'S COMPENSATION DECLARATION

I hereby affirm under penalty of perjury on of the following declarations:

I have and will maintain a certificate on consent to self-insure for workers' compensation as provided for by Section 3700 of the Labor code, for the performance of the work for which this permit is issued.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code for the performance of the work for which this permit is issued.

My workers' compensation insurance carrier and policy number :
 Carrier _____ Policy # _____ (This section does not need to be completed if the permit is for one hundred dollars (\$100) or less.)

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California and agree that if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Applicant _____

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3097, Div. C).

Lenders Name _____ Address _____

City _____ State _____

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes.

Applicant Or Agent *[Signature]*

Date 6/12/19

THIS PERMIT SHALL EXPIRE BY LIMITATION AND BECOME NULL AND VOID IF THE WORK IS NOT COMMENCED OR IF NO INSPECTIONS ARE COMPLETED WITHIN 180 DAYS.

County of Fresno
 REG-RECEIPT: 9558-119939
 CASHIER ID: DJOHNSON Jun 12, 2019
 Date Printed: Jun 12, 2019 2:27 PM

Invoice
 County of Fresno
 Department of Public Works & Planning
 Mailing Address: 2220 Tulare Street, 6th Floor Fresno, CA 93721
 24-HR REQUEST LINE: 600-4131 LOCAL: 600-4560
 TOLL FREE: 800742-1011 FAX: 600-4201



INVOICE TO: AVISON CONSTRUCTION, INC.

19104360 GR \$1,277.50

 SubTotal \$1,277.50
 GST \$0.00
 PST \$0.00
 TOTAL DUE \$1,277.50

INVOICE NO: 119843
 INVOICE DATE: June 12, 2019
 PERMIT #: Folder 19 104360 000 00 GR
 REFERENCE #: GP# 14941

RECEIVED FROM:
 AVISON CONSTRUCTION, INC. (LOUIS
 AVILA)
 CCARD \$1,277.50

 TOTAL TENDERED \$1,277.50

 CHANGE DUE \$0.00

PROJECT LOCATION: SEC 23 16/14 CA
 PROJECT DESCRIPTION: GRADE A LEVEL PAD FOR
 STAGGING AREA
 ON THE SOUTH SIDE OF ROAD 1 MILE W/O DERRICK

FEE DESCRIPTION	AMOUNT	COMMENT
Grading Permit	\$1,277.50	
TOTAL		\$1,277.50
SUMMARY		
OTHER	\$1,277.50	
TOTAL		\$1,277.50
Total Billed:		\$1,277.50
Payment Received:		\$0.00
Balance Due:		\$1,277.50

FORM OF PAYMENT:
 _____ Check
 _____ Credit Card
 _____ Cash
 _____ Roads Charge-Acct#
 _____ DrawDown-Acct#
 Submitted by: _____ Ext: _____

Cut/Fill Report

Generated: 2019-06-12 10:04:48

By user: ASoto

Drawing: F:\Dwgs\Data\2800's\2813 Morris Pistachio Processing plant Kamm Ave\MASTERS\F:\Dwgs\Data\2800's\2813 Morris Pistachio Processing plant Kamm Ave\MASTERS\2813 Design.dwg

Volume Summary							
Name	Type	Cut Factor	Fill Factor	2d Area (Sq. Ft.)	Cut (Cu. Yd.)	Fill (Cu. Yd.)	Net (Cu. Yd.)
FUT BLDG VS EX SURFACE	full	1.000	1.000	130000.00	2124.42	7646.68	5522.26<Fill>

Totals				
	2d Area (Sq. Ft.)	Cut (Cu. Yd.)	Fill (Cu. Yd.)	Net (Cu. Yd.)
Total	130000.00	2124.42	7646.68	5522.26<Fill>

* Value adjusted by cut or fill factor other than 1.0



May 10, 2019

Project No. 19G-0194-0

Mr. Tony Morris
Morris General Contracting, Inc.
14451 West Whitesbridge Avenue
Kerman, California 93630

Subject: Final Geotechnical Feasibility Report
Maricopa Orchards Pistachio Processing Plant
APNs 038-300-017S and 038-300-030S
Fresno County, California 93608

Dear Mr. Morris:

In accordance with your request, we have performed a geotechnical feasibility study for the subject project. This work was performed in accordance with Section 1803 of the 2016 California Building Code. The results of our geotechnical feasibility study are presented in the accompanying report, which includes a general description of site conditions and potential geotechnical hazards, results of our field exploration and laboratory testing, conclusions, and preliminary recommendations.

We appreciate this opportunity to be of continued service to you. If you have any questions regarding this report, please do not hesitate to contact us at your convenience.

Respectfully submitted,
RMA GeoScience, Inc.

Megan J. Stewart, GIT
Staff Geologist

Josue Montes, PE|GE
Principal Geotechnical Engineer



Distribution: Addressee (4 Originals and one pdf copy to tony@morrisgeneralinc.com)
Mr. Dan Jauregui, Tri City Engineering, Inc. (one pdf copy to danj@tricityengineering.com)

Exhibit 5



CONSTRUCTION PERMIT
COUNTY OF FRESNO
DEVELOPMENT SERVICES DIVISION
 MAILING ADDRESS: 2220 TULARE STREET, 6th FLOOR FRESNO, CA 93721
 OFFICE LOCATION: SOUTHWEST CORNER OF TULARE
 & 'N' STREETS, SUITE A

ACTIVE PERMITS YES NO
 PHONE NUMBERS
 24-HR REQUEST LINE
 800-4131
 LOCAL: 600-4560
 TOLL FREE: 800-742-1011
 FAX: 600-4201

Ref #OTC

<u>Project Address</u> 34411 W KAMM AVE CANTUA CREEK CA 93640		<u>Cross Street</u> DERRICK AVE (HWY 33)		<u>Project Description</u> SPECIAL INSPECTION FOR A FOUNDATION ONLY. INSTALLING 49 SILO'S.	
Permit #: 19-107012-FC		Issued on: September 06, 2019		APN: 03830017S	
<u>Owner:</u> VENTANA SOUTH LLC		<u>Applicant:</u> ASSEMI GROUP, INC.		<u>Contractor:</u>	
<u>Address:</u> % ASSEMI BROTHERS LLC 1396 W HERNDON #101 FRESNO CA 93711		<u>Address:</u> 1396 W HERNDON AVE SUITE 110 FRESNO CA 93711		<u>Address:</u>	
<u>Phone:</u>		<u>Phone:</u>		<u>Phone:</u>	
		<u>License #:</u>		<u>License #:</u>	
<u>Approvals</u>		<u>Approved By</u>		<u>Date</u>	
Application Requirements		Carsey, Rod		September 06, 2019	
Zoning Review		Anders, James		September 06, 2019	
<u>Zoning District</u>	<u>Required Setbacks:</u>	<u>Front</u>		<u>Side</u>	
AE20		<u>Min</u>	<u>Max</u>	<u>Interior</u>	<u>Street</u>
		35		20	
					<u>Rear</u>
					20
PROJECT INFORMATION					
Big Dry Creek Basin: No			Consolidated Permit?: No		
FMFCD Rural Streams: No			MWEO Occupancy Pending: NO		
Occupancy Pending RTMF: No			Other Construction Area: 195393		
Other Construction Description: FOUNDATION ONLY			Owner Builder Declaration: Contractor		
Roof Classification: Class C or better			Soil Bearing Capacity(psf): 500		
Submittal Method: Walk-in			Valuation of Construction: 2344716		
WMP Occupancy Pending: NO			Workers Compensation Declaration: Information on File		
MECHANICAL					
ELECTRICAL					
PLUMBING					
LICENSED CONTRACTOR'S DECLARATION					
I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 8 of the Business and Professions Code, and my license is in full force and effect.Lic.					
Number _____		Class _____		Contractor ASSEMI GROUP, INC. FOR OWNER BUILDER SEE FORM F174 ATTACHE	
WORKER'S COMPENSATION DECLARATION					
I hereby affirm under penalty of perjury on of the following declarations.					
<input type="checkbox"/> I have and will maintain a certificate of consent to self-insure for workers' compensation as provided for by Section 3700 of the Labor code, for the performance of the work for which this permit is issued.					
<input checked="" type="checkbox"/> I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code for the performance of the work for which this permit is issued.					
My worker's compensation plan is Carrier and policy number _____					
"no" "no" "no" "no" "no" "no" (This section does not need to be completed if the permit is for one hundred dollars (\$100) or less.)					
I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California and agree to become subject to the workers compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.					
ASSEMI GROUP, INC.					
I SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.					
CONSTRUCTION LENDING AGENCY			I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above described property for inspection purposes.		
Lending agency for the performance of the work for which this permit is issued			Applicant Or Agent _____		
Address _____			Date: 09-06-19		
DO NOT BECOME NULL AND VOID IF THE WORK IS NOT COMMENCED OR IF NO INSPECTIONS ARE COMPLETED WITHIN 180 DAYS.					



POST THIS TO DEPARTMENT OFFICE: 2220 TULARE ST FRESNO, CA 93721

CARD IN A CONSPICUOUS PLACE
 DEPARTMENT OF PUBLIC WORKS AND PLANNING
 SERVICES AND CAPITAL PROJECTS DIVISION
 Street, Suite A, Fresno, CA 93721
 3) 600-4560 or 1 (800) 742-1011 FAX: (559) 600-4201



24 HOUR INSPECTION REQUEST
 (559) 600-4131
 Before 2:30 p.m. for next-day inspection
 This is your record of field inspection

ADDRESS: SEC 23 - 34411 W. KAMM PERMIT NUMBER: 19-107012

BUILDING			CORRECTIONS		REMARKS
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Flood Prone-Elevation			AG	9/24/19	Revised Vertical Elevation from 2
Foundation: Forms & Setback					Silos highlighted on plans 9/24/19
Foundation / Patio Piers					
Floor Girders & Joists					
Shear Panel Nailing					
Pre-Roof					
Roof Sheathing					
Roof Battan/Felt					
Roof Covering					
Exterior Lath/Sliding					
Fireplace Damper					
Fireplace: Roof					
Frame					
Insulation					CASH DEPOSIT
Shower Wall Over Tub					Temporary Power
Shower Pan & Walls					Occupancy
Bond Beam & Steel					APPROVED TO POST
					BY:
					DATE
Pool Steel, Bonding & Setback					APPROVED FOR REFUND
Pre-Deck					BY:
Pool Fencing & Gates					REFUNDED
					BY:
					DATE
FINAL INSPECTION					
CERTIFICATE OF OCCUPANCY					
ELECTRICAL			CORRECTIONS		
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Conduit: PVC/Galv. Interior					
Conduit: PVC/Galv. Exterior					
Rough Wiring					
Elec. Main Panel Amps					
Temporary Meter					
Temporary Power Pole					
Ufer Location/Driven Ground					
Water Pipe Bond Location					
Wiring To Well					
Pool Equipment Bonding					
FINAL INSPECTION					
PLUMBING			CORRECTIONS		
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Ground Plumbing: Soil					
Water Pipe - Under Floor					
Water Pipe - Above Floor					
Vents & Top Out					
Gas Pipe - Interior					
Gas Test - Interior					
Gas Test - Exterior					
Second Floor Tub Test					
Septic System					
House Sewer					
Water Service PVC/Galv.					
Well Seal Pad					
FINAL INSPECTION					
MECHANICAL			CORRECTIONS		
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Ducts Underfloor					
Ducts Overhead					
Wood Burning Appliance					
Refrigeration Unit/Furnace					
Evaporative Cooler					
Gas Pipe					
Gas Test					
FINAL INSPECTION					
					MOBILE HOME
					TYPE OF INSPECTION
					APPROVED BY
					DATE
					Perm Foundation/Tie-down
					Flood Prone-Elevation
					Forms & Setbacks
					Piers/Anchors
					Steps/Landings
					Elec. Service Amps
					Grounding Electrode
					Wiring To Well
					Continuity Test
					Conduit/Feeders
					Gas Test - Exterior
					Gas Test Monometer
					Sewer
					Waste Piping
					Septic System
					Interior Water Pipe
					Water Service
					Well Seal Pad
					FINAL INSPECTION
					Certificate of Occupancy
					OTHER DEPARTMENT CONDITIONS
					GRADING
					FINAL
					G.V. #
					G.P. #
					FIRE DEPARTMENT
					ENVIRONMENTAL HEALTH
					ROADS
					C.U.P. #
					S.P.R. #
					ALL CONDITIONS MET FOR PROJECT (BUILDING INSPECTOR INITIAL)

County of Fresno
 REG-RECEIPT: 9834-123010
 CASHIER ID: DIJOHNSON Sep 06, 2019
 Date Printed: Sep 06, 2019 12:41 PM

Invoice
 County of Fresno
 Department of Public Works & Planning
 Mailing Address: 2220 Tulare Street, 6th Floor Fresno, CA 93721
 24-HR REQUEST LINE: 600-4131 LOCAL: 600-4560
 TOLL FREE: 800742-1011 FAX: 600-4201



INVOICE TO: ASSEMI GROUP, INC.

19107012 FC \$10,471.77

 SubTotal \$10,471.77
 GST \$0.00
 PST \$0.00
 TOTAL DUE \$10,471.77

RECEIVED FROM:
 JENNIFER LAKE
 CCARD \$10,471.77

 TOTAL TENDERED \$10,471.77

 CHANGE DUE \$0.00

INVOICE NO: 122542
 INVOICE DATE: September 06, 2019
 PERMIT #: Folder 19 107012 000 00 FC
 REFERENCE #:

PROJECT LOCATION: SEC 23 16/14 CA

PROJECT DESCRIPTION: SPECIAL INSPECTION FOR A
 FOUNDATION ONLY. INSTALLING 49 SILO'S.

FEE DESCRIPTION	AMOUNT	COMMENT
Building Construction Permit	\$9,594.75	S2344716 Valuation
Workers Comp.	\$7.50	
Microfilm/Copies	\$49.00	7 sheets
Special Service	\$70.00	
CA Bldg Standards Comm. Fee (SB-1473)	\$94.00	
SMI	\$656.52	

SUMMARY	TOTAL
BUILDING PERMIT	\$9,594.75
OTHER	\$877.02

TOTAL	\$10,471.77
Total Billed:	\$10,471.77
Payment Received:	\$0.00
Balance Due:	\$10,471.77

FORM OF PAYMENT:

- _____ Check
- _____ Credit Card
- _____ Cash
- _____ Roads Charge-Acct#
- _____ DrawDown-Acct#

Submitted by: _____ Ext: _____

DEVELOPMENT SERVICES DIVISION
SPECIAL INSPECTION FOR FOUNDATION SYSTEM

PROJECT
ADDRESS: APN: 038-300-175

PROJECT
DESCRIPTION: Construction of 49 Silo Foundations

We, the undersigned have applied for a special inspection of a foundation system at this address prior to completion of Fresno County's review of the plans for this project. It is understood that Fresno County has not reviewed this foundation system for code compliance and installation of the foundation based on this submittal is completely at the risk of the undersigned.

Allowed Types of Structures:

Special inspections for foundations are limited to below grade footings and at grade concrete slabs, foundation walls below grade, basement walls, retaining walls, and any plumbing and electrical installed under concrete slabs. Special inspection permits are not issued for single or multi-family residential structures. Projects located within a Special Flood Hazard Area, will require an approved Pre-Construction Elevation Certificate. In addition, projects located within a Seismic Design Category (SDC) of "D" or higher may require a geotechnical report prior to a special inspection permit being issued.

Drawings have been provided showing the exact locations and size of all allowed plumbing or electrical conduit. I understand that these systems must be installed exactly as shown on the drawing approved for this foundation. Any changes to these plans must be approved by the Development Services office prior to approval in the field.

Quality of Drawings:

Two sets of drawings prepared by a California licensed architect or engineer have been submitted showing both plan and detail views of all items to be installed in or under footings and slabs. Plumbing and/or electrical conduit are shown on the foundation plan. All hold-downs, anchor bolts, footing steel, footing details and plan dimensions are shown. All drawings, details and notes not associated with the special foundation inspection have been omitted from these drawings.


Drawings showing all allowed work have been cleared and stamped by the County and the actual construction shall match those drawings. If on submittal of complete building plans subsequent code reviews indicate non-compliance with applicable codes or designs the undersigned shall bear full burden of rectifying code deficiencies by any authorized combination of re-design, reconstruction or removal.

Installation of the foundation system shall match the County stamped drawings exactly. No other work is authorized by this agreement. Any work done beyond this approval will be subject to a violation fee as allowed by County Ordinance Code, Title 15.

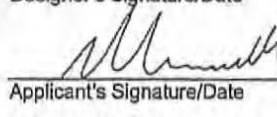
We, the undersigned, have read and understand the above listed conditions for obtaining a special inspection for foundations and agree to abide by such conditions.


Owner's Signature/Date

Farshad Assemi
Print Name


Designer's Signature/Date

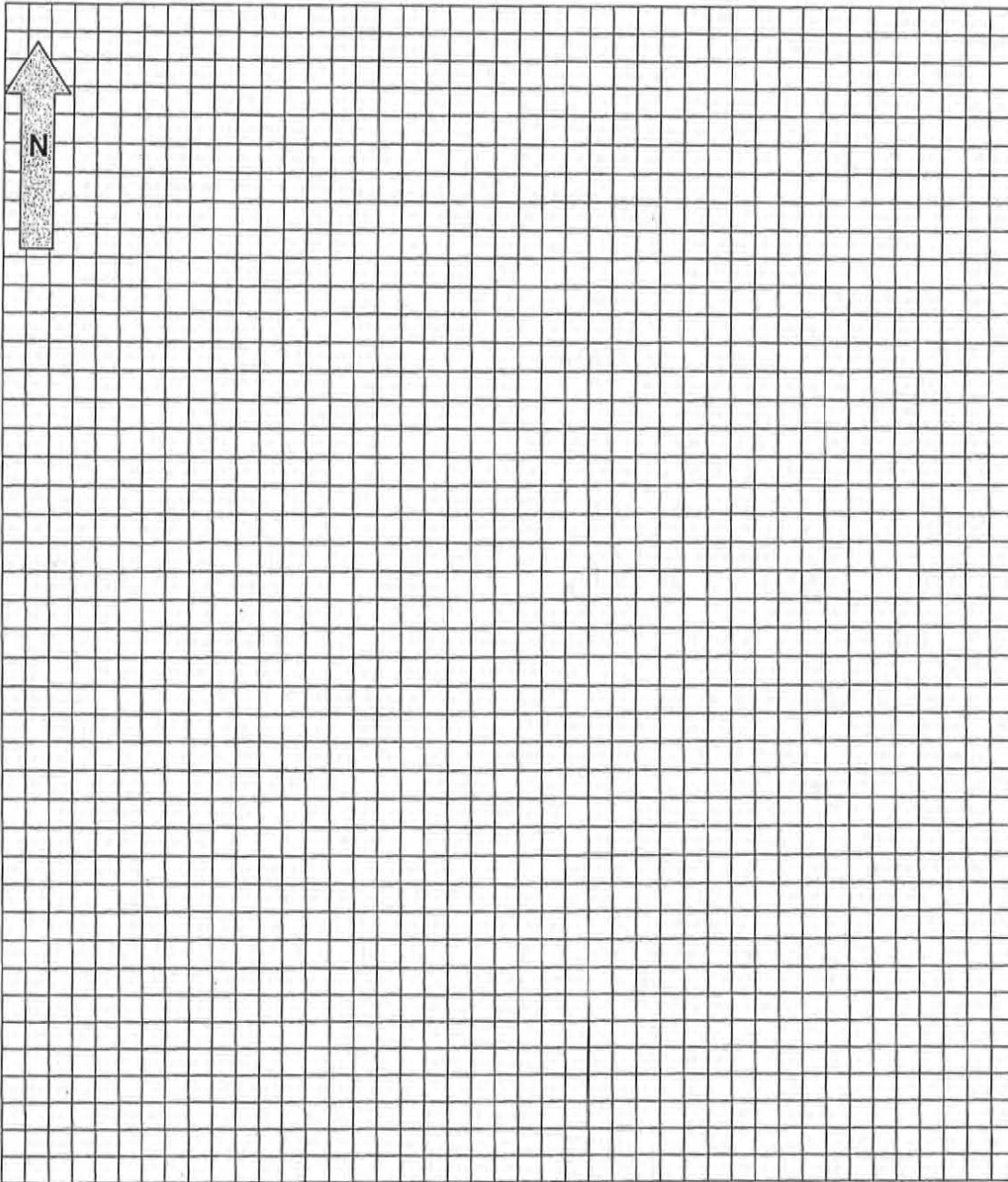
G. A. METZ
Print Name


Applicant's Signature/Date

Moksharath
Print Name

G:\4360Devs&P\I\FORMS\F323 Spec Insp Foundation_rev 12_16.doc

Job Address: _____



NOTE: Plot water well location

SEWAGE DISPOSAL SYSTEM SPECIFICATIONS

CONTRACTOR: _____

TANK TYPE:	TANK SIZE:	SEEPAGE PITS:	LEACHING FIELD
<input type="checkbox"/> CONCRETE	DIA. 1 ST COMP _____	NUMBER _____	TOTAL LENGTH _____ FT.
<input type="checkbox"/> METAL	2 ND COMP _____	DIAMETER _____ FT.	TOTAL WIDTH _____ IN.
<input type="checkbox"/> OTHER	3 RD COMP _____	DEPTH _____ FT.	NO. OF LINES _____
_____	LIQUID DEPTH _____	DIST. TO WELL _____ FT.	ROCK UNDER PIPE _____ IN.
			DIST. TO WELL _____ FT.
	TOTAL LIQUID:		
	CAPACITY _____ GAL.	SQUARE FEET _____	SQUARE FEET _____

MANUFACTURER: _____

PLOTTED BY: _____ DATE: _____

FOUNDATION ONLY
 09/05/19

PROJECT: SILIOS
 WEST KANM AVENUE

DESIGNED BY: GMA
 GMA CONSULTANTS & ASSOCIATES, INC.
 1000 WEST 10TH AVENUE, SUITE 100
 DENVER, CO 80202

PROJECT NUMBER: 19-001
 SHEET: 19-001-01

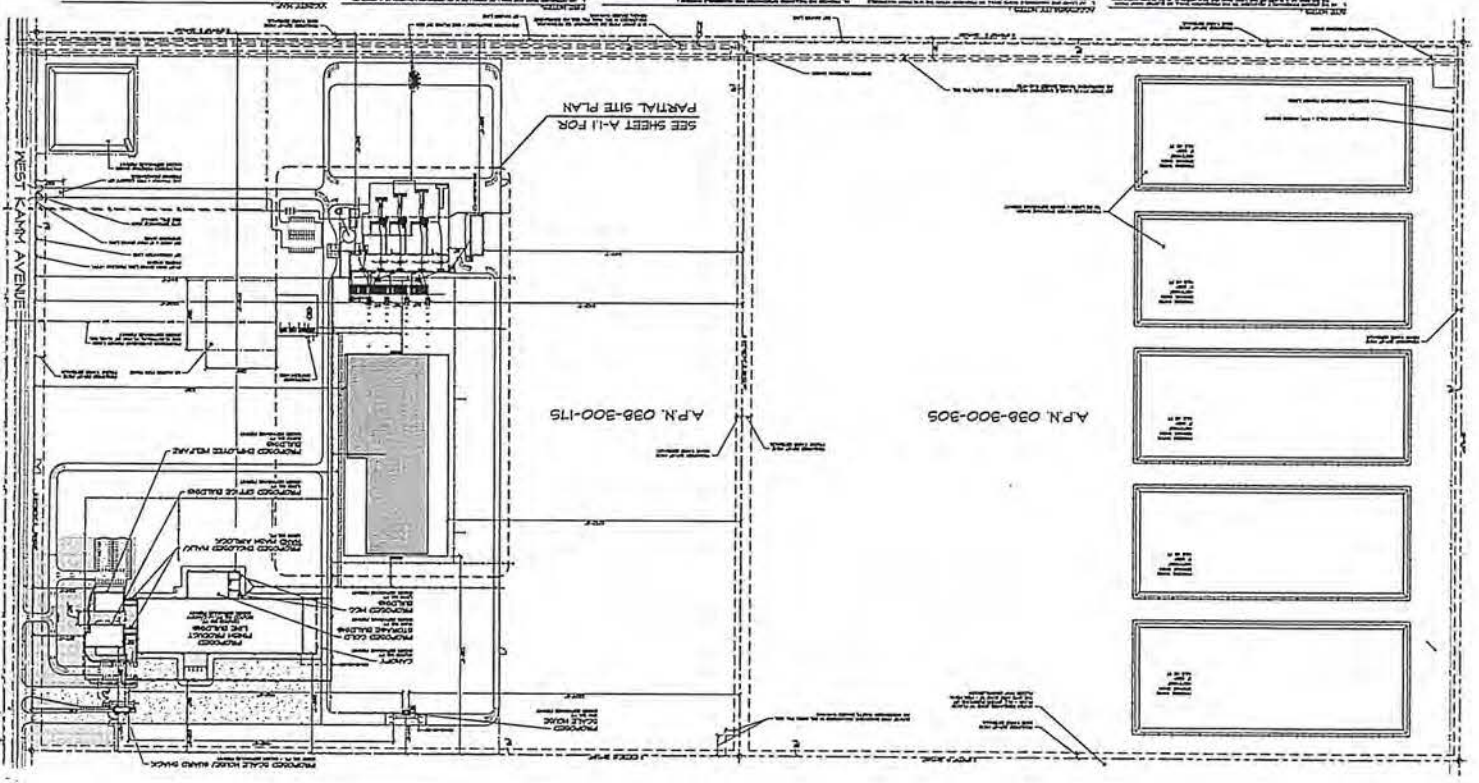
DATE: 09/05/19

DRAWN BY: J. SMITH
 CHECKED BY: M. JONES
 DATE: 09/05/19

SCALE: 1/8" = 1'-0"

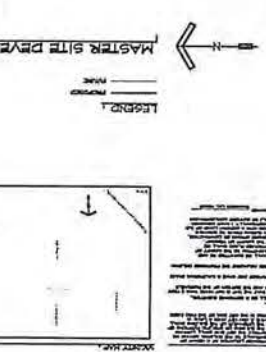


ALL FOUNDATION WORK SHALL BE IN ACCORDANCE WITH THE 2015 INTERNATIONAL FOUNDATION CONSTRUCTION CODE (IFC) AND THE 2015 INTERNATIONAL RESIDENTIAL CODE (IRC). THE DESIGNER HAS ASSUMED THAT ALL SOILS ARE OF THE MEDIUM TO STIFF CLAY TYPE (SM) AS SHOWN ON THE GEOTECHNICAL REPORT. THE DESIGNER HAS ASSUMED THAT ALL FOUNDATION WORK SHALL BE CONSTRUCTED ON A FIRM, UNDISTURBED SUBGRADE. THE DESIGNER HAS ASSUMED THAT ALL FOUNDATION WORK SHALL BE CONSTRUCTED ON A FIRM, UNDISTURBED SUBGRADE. THE DESIGNER HAS ASSUMED THAT ALL FOUNDATION WORK SHALL BE CONSTRUCTED ON A FIRM, UNDISTURBED SUBGRADE.



PROJECT NO. 177
 DATE: 09/05/19
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 SCALE: AS SHOWN
 SHEET NO. 1 OF 1

PREPARED FOR: TOUCHSTONE
 PROJECT: SILOS
 SIGNED BY: GMA
 GMA CONSULTANTS & ASSOCIATES, INC.
 1000 WEST 10TH AVENUE, SUITE 100
 DENVER, CO 80202



ALL INFORMATION CONTAINED HEREIN IS THE PROPERTY OF GMA CONSULTANTS & ASSOCIATES, INC. AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. ANY REUSE OR MODIFICATION OF THIS INFORMATION WITHOUT THE WRITTEN CONSENT OF GMA CONSULTANTS & ASSOCIATES, INC. IS STRICTLY PROHIBITED.

THE INFORMATION CONTAINED HEREIN IS BASED ON THE DATA PROVIDED BY THE CLIENT AND IS NOT TO BE USED FOR ANY OTHER PURPOSE. THE ENGINEER HAS CONDUCTED VISUAL GENERAL VERIFICATION OF THE DATA AND HAS NOT CONDUCTED ANY FIELD SURVEY OR INVESTIGATION. THE ENGINEER DOES NOT WARRANT THE ACCURACY OF THE DATA OR THE RESULTS OF THE VERIFICATION.

THIS PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE. THE ENGINEER'S LIABILITY IS LIMITED TO THE PROFESSIONAL SERVICES PROVIDED HEREIN AND DOES NOT EXTEND TO ANY OTHER MATTER.

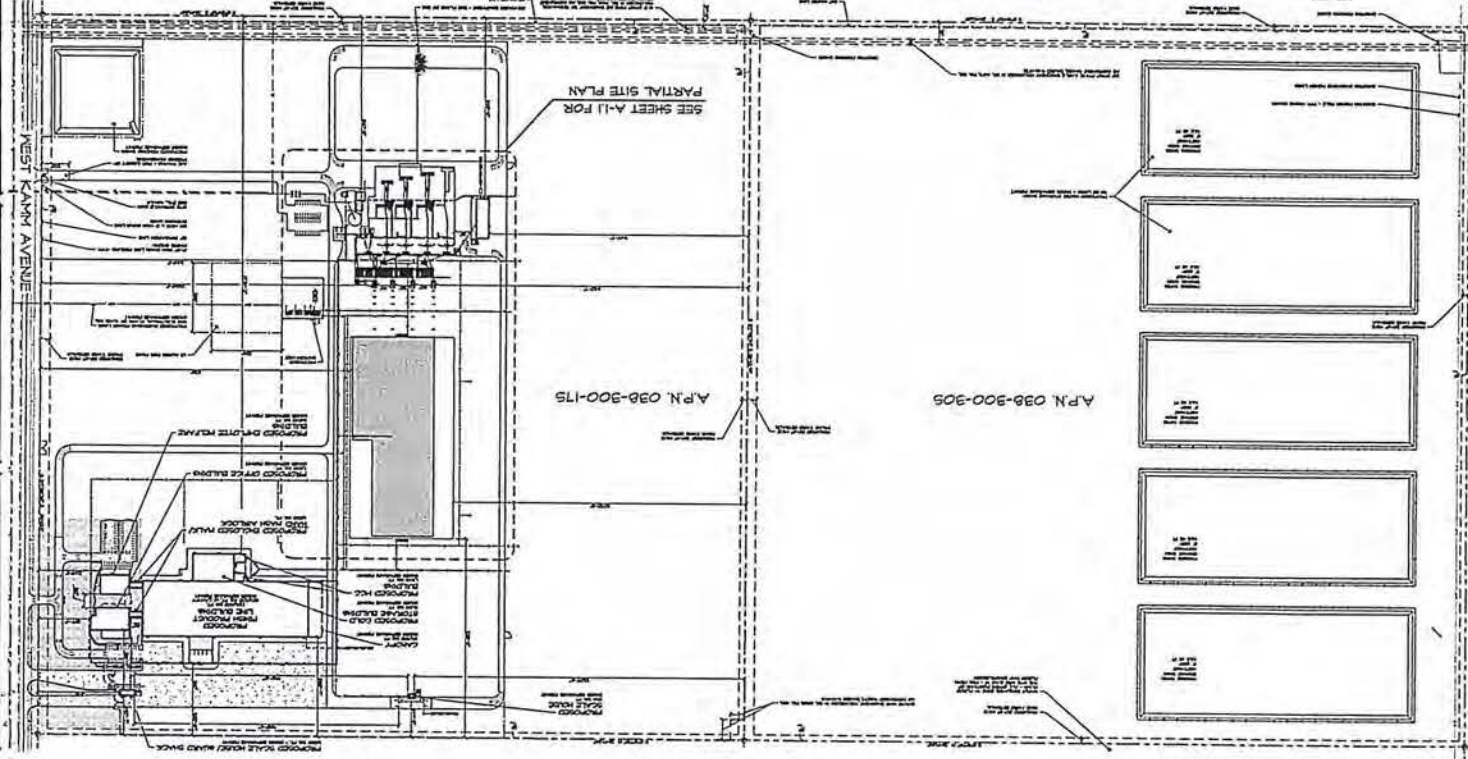


Exhibit 6



Date Received: CUP3658
(Application No.)

Fresno County Department of Public Works and Planning

MAILING ADDRESS:
 Department of Public Works and Planning
 Development Services Division
 2220 Tulare St., 6th Floor
 Fresno, Ca. 93721

LOCATION:
 Southwest corner of Tulare & "M" Streets, Suite A
 Street Level
 Fresno Phone: (559) 600-4497
 Toll Free: 1-800-742-1011 Ext. 0-4497

APPLICATION FOR:

- Pre-Application (Type) _____
- Amendment Application Director Review and Approval
- Amendment to Text for 2nd Residence
- Conditional Use Permit Determination of Merger
- Variance (Class)/Minor Variance Agreements
- Site Plan Review/Occupancy Permit ALCC/RLOCC
- No Shoot/Dog Leash Law Boundary Other _____
- General Plan Amendment/Specific Plan/SP Amendment)
- Time Extension for _____

DESCRIPTION OF PROPOSED USE OR REQUEST:

CUP to allow for a Commercial Pistachio Processing Facility that includes/requires a Variance for overweight structures

CEQA DOCUMENTATION: Initial Study PER N/A

PLEASE USE FILL-IN FORM OR PRINT IN BLACK INK. Answer all questions completely. Attach required site plans, forms, statements, and deeds as specified on the Pre-Application Review. Attach Copy of Deed, including Legal Description.

LOCATION OF PROPERTY: South side of Kanun Ave.
 between Highway 99 and Interstate 5
 Street address: N.A.

APN: 028-300-173 Parcel size: 155.76 Ac. Section(s)-Twp/Rg: S 23 - T 16 S/R 14 E
 ADDITIONAL APN(s): 028-300-309 (160 Ac) (Total 315.76 Ac.)

I, [Signature] (signature), declare that I am the owner, or authorized representative of the owner, of the above described property and that the application and attached documents are in all respects true and correct to the best of my knowledge. The foregoing declaration is made under penalty of perjury.

Ventana South LLC (see below)
 Owner (Print or Type) Address City Zip Phone
Samantha Ens - Project Coordinator
 Applicant (Print or Type) Address City Zip Phone
Jeffrey T. Roberts 1396 W. Herndon #110 Fresno, Ca. 93711
 Representative (Print or Type) Address City Zip Phone

CONTACT EMAIL: jroberts@assemigroup.com (559) 440-8308

OFFICE USE ONLY (PRINT FORM ON GREEN PAPER)

Application Type / No.: CUP 3658 Fee: \$ 2,278.⁰⁰
 Application Type / No.: _____ Fee: \$ _____
 Application Type / No.: _____ Fee: \$ _____
 Application Type / No.: _____ Fee: \$ _____
 PER/Initial Study No.: IS 7707 Fee: \$ 3,642.⁰⁰
 Ag Department Review: _____ Fee: \$ 34.⁰⁰
 Health Department Review: _____ Fee: \$ 992.⁰⁰
 Received By: EJAZ Invoice No.: _____ TOTAL: \$ 6,946.⁰⁰

UTILITIES AVAILABLE:

WATER: Yes / No
 Agency: _____
 SEWER: Yes / No
 Agency: _____

STAFF DETERMINATION: This permit is sought under Ordinance Section: _____ Sect-Twp/Rg: _____ - T _____ S/R _____ E

Related Application(s): VA 4070 APN # _____ - _____ - _____
 Zone District: AE-20' APN # _____ - _____ - _____
 Parcel Size: 155.76 & 160 acres APN # _____ - _____ - _____



Fresno County Department of Public Works and Planning

Date Received:

VA 4070

(Application No.)

MAILING ADDRESS:
Department of Public Works and Planning
Development Services Division
2220 Tulare St., 6th Floor
Fresno, Ca. 93721

LOCATION:
Southwest corner of Tulare & "M" Streets, Suite A
Street Level
Fresno Phone: (559) 600-4497
Toll Free: 1-800-742-1011 Ext. 0-4497

APPLICATION FOR:

- Pre-Application (Type)
Amendment Application
Amendment to Text
Conditional Use Permit
Variance (Class)/Minor Variance
Site Plan Review/Occupancy Permit
No Shool/Dog Leash Law Boundary
General Plan Amendment/Specific Plan/SP Amendment
Time Extension for
Director Review and Approval
for 2nd Residence
Determination of Merger
Agreements
ALCC/RLCC
Other

DESCRIPTION OF PROPOSED USE OR REQUEST:

Variance to allow for building, storage tanks, and equipment to exceed 35' maximum height in the AE-20 Zone District

CEQA DOCUMENTATION: Initial Study PER N/A

PLEASE USE FILL-IN FORM OR PRINT IN BLACK INK. Answer all questions completely. Attach required site plans, forms, statements, and deeds as specified on the Pre-Application Review. Attach Copy of Deed, including Legal Description.

LOCATION OF PROPERTY: South side of W. Kamm Ave
between Interstate 5 and Highway 99
Street address: NA

APN: 380-300-179 Parcel size: 155.76 Section(s)-Twp/Rg: 5 23 - T 16 S/R 14 E

ADDITIONAL APN(s): 380-300-303 - 160 Acres (315.76 Ac. TOTAL)

I, [Signature] (signature), declare that I am the owner, or authorized representative of the owner, of the above described property and that the application and attached documents are in all respects true and correct to the best of my knowledge. The foregoing declaration is made under penalty of perjury.

Ventana South, LLC 1306 W. Herndon #101 Fresno, CA
Owner (Print or Type) Address City Zip Phone

Samantha Ens - Project Coordinator 93711
Applicant (Print or Type) Address City Zip Phone

Jeffrey T. Roberts 1396 W. Herndon #110 Fresno, CA 93711
Representative (Print or Type) Address City Zip Phone

CONTACT EMAIL: jroberts@assemigroup.com (599) 440-8308

OFFICE USE ONLY (PRINT FORM ON GREEN PAPER)

Application Type / No.: VA 4070 Fee: \$
Application Type / No.: Fee: \$
Application Type / No.: Fee: \$
Application Type / No.: Fee: \$
PER/Initial Study No.: Fee: \$
Ag Department Review: Fee: \$
Health Department Review: Fee: \$
Received By: Invoice No.: TOTAL: \$

UTILITIES AVAILABLE:

WATER: Yes [] / No []
Agency:
SEWER: Yes [] / No []
Agency:

STAFF DETERMINATION: This permit is sought under Ordinance Section:

Sect-Twp/Rg: - T S/R E

Related Application(s): CUP 3658

APN # - - -

Zone District: AE-20

APN # - - -

Parcel Size: 155.76; 160 Acres

APN # - - -

APN # - - -

Exhibit 7



County of Fresno

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

INITIAL STUDY APPLICATION

INSTRUCTIONS

Answer all questions completely. An incomplete form may delay processing of your application. Use additional paper if necessary and attach any supplemental information to this form. Attach an operational statement if appropriate. This application will be distributed to several agencies and persons to determine the potential environmental effects of your proposal. Please complete the form in a legible and reproducible manner (i.e., USE BLACK INK OR TYPE).

OFFICE USE ONLY	
IS No.	<u>7707</u>
Project No(s)	<u>0183658/VA4070</u>
Application Rec'd.	<u>08/30/19</u>

GENERAL INFORMATION

- Property Owner: Ventana South LLC Phone/Fax: _____
Mailing Address: 1306 W. Herndon #101 Fresno, Ca. 93711
Street City State/Zip
- Applicant: Highway 33 Pistachios Phone/Fax: 440-8350
Mailing Address: 1306 W. Herndon #101 Fresno, Ca. 93711
Street City State/Zip
- Representative: Jeffrey T. Roberts Phone/Fax: 440-8308
Mailing Address: 1396 W. Herndon #110 Fresno, Ca. 93711
Street City State/Zip
- Proposed Project: Pistachio Hulling and Processing Facility
- Project Location: South side of W. Kamm Ave between Interstate 5 and Highway 33
- Project Address: N.A.
- Section/Township/Range: 23/16S/14E 8. Parcel Size: 3.15.76 Ac.
- Assessor's Parcel No. 038-300-179, 305 OVER.....

DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200
The County of Fresno is an Equal Employment Opportunity Employer

10. Land Conservation Contract No. (If applicable): 365 / 1839

11. What other agencies will you need to get permits or authorization from: PLCC 1002

- | | | |
|--|-------------------------------------|---|
| <input type="checkbox"/> LAFCo (annexation or extension of services) | <input checked="" type="checkbox"/> | SJVUAPCD (Air Pollution Control District) |
| <input type="checkbox"/> CALTRANS | <input type="checkbox"/> | Reclamation Board |
| <input type="checkbox"/> Division of Aeronautics | <input type="checkbox"/> | Department of Energy |
| <input checked="" type="checkbox"/> Water Quality Control Board | <input type="checkbox"/> | Airport Land Use Commission |
| <input type="checkbox"/> Other _____ | | |

12. Will the project utilize Federal funds or require other Federal authorization subject to the provisions of the National Environmental Policy Act (NEPA) of 1969? Yes No

If so, please provide a copy of all related grant and/or funding documents, related information and environmental review requirements.

13. Existing Zone District: AE-20

14. Existing General Plan Land Use Designation: Agriculture

ENVIRONMENTAL INFORMATION

15. Present land use: Vacant
Describe existing physical improvements including buildings, water (wells) and sewage facilities, roads, and lighting. Include a site plan or map showing these improvements:

Describe the major vegetative cover: None

Any perennial or intermittent water courses? If so, show on map: No

Is property in a flood-prone area? Describe:
No

16. Describe surrounding land uses (e.g., commercial, agricultural, residential, school, etc.):

North: Pistachio Trees

South: Pistachio Trees

East: Pistachio Trees

West: Vacant

17. What land use(s) in the area may be impacted by your Project?: None Known

18. What land use(s) in the area may impact your project?: None Known

19. Transportation:

NOTE: The information below will be used in determining traffic impacts from this project. The data may also show the need for a Traffic Impact Study (TIS) for the project.

A. Will additional driveways from the proposed project site be necessary to access public roads?
 Yes No

B. Daily traffic generation:

I. Residential - Number of Units 0
Lot Size 0
Single Family 0
Apartments 0

II. Commercial - Number of Employees 130 Average / 320 peak
Number of Salesmen 2
Number of Delivery Trucks 6-8 Average / 180 peak
Total Square Footage of Building 140,000 max.

III. Describe and quantify other traffic generation activities: Peak (Harvest)
Season August - October (6 weeks)
Off Peak is November - July

20. Describe any source(s) of noise from your project that may affect the surrounding area: Construction Noise / Truck Traffic

21. Describe any source(s) of noise in the area that may affect your project: NA

22. Describe the probable source(s) of air pollution from your project: Construction pre cleaning, silo heaters, fumigation, mobile equip.

23. Proposed source of water:
() private well
() community system³ - name: Supplier Westlands Water Dist OVER.....

24. Anticipated volume of water to be used (gallons per day)²: Up to 2,300,000 gpd
(Peak Season)

25. Proposed method of liquid waste disposal:
() septic system/individual
() community system³-name _____

26. Estimated volume of liquid waste (gallons per day)²: Up to 2,300,000 gpd

27. Anticipated type(s) of liquid waste: Domestic wastewater to septic system
Hulling water to supplement adjacent farmland

28. Anticipated type(s) of hazardous wastes²: NA

29. Anticipated volume of hazardous wastes²: NA

30. Proposed method of hazardous waste disposal²: NA

31. Anticipated type(s) of solid waste: Trash to landfill / Hulls & Shells

32. Anticipated amount of solid waste (tons or cubic yards per day): TBD

33. Anticipated amount of waste that will be recycled (tons or cubic yards per day): TBD

34. Proposed method of solid waste disposal: Compost - Green Waste / Biomass-
shells / recycling and landfill - refuse & cardboard

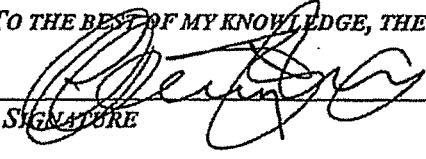
35. Fire protection district(s) serving this area: F.C.F.P.D.

* 36. Has a previous application been processed on this site? If so, list title and date: VARIANCE,
SPR 814 / WILLIAMSON ACT EARLY CANCELLATION

37. Do you have any underground storage tanks (except septic tanks)? Yes _____ No

38. If yes, are they currently in use? Yes _____ No

TO THE BEST OF MY KNOWLEDGE, THE FOREGOING INFORMATION IS TRUE.


SIGNATURE

8-29-2019
DATE

¹Refer to Development Services and Capital Projects Conference Checklist

²For assistance, contact Environmental Health System, (559) 600-3357

³For County Service Areas or Waterworks Districts, contact the Resources Division, (559) 600-4259

(Revised 12/14/18)

NOTICE AND ACKNOWLEDGMENT

INDEMNIFICATION AND DEFENSE

The Board of Supervisors has adopted a policy that applicants should be made aware that they may be responsible for participating in the defense of the County in the event a lawsuit is filed resulting from the County's action on your project. You may be required to enter into an agreement to indemnify and defend the County if it appears likely that litigation could result from the County's action. The agreement would require that you deposit an appropriate security upon notice that a lawsuit has been filed. In the event that you fail to comply with the provisions of the agreement, the County may rescind its approval of the project.

STATE FISH AND WILDLIFE FEE


State law requires that specified fees (effective January 1, 2019: \$3,271.00 for an EIR; \$2,354.75 for a Mitigated/Negative Declaration) be paid to the California Department of Fish and Wildlife (CDFW) for projects which must be reviewed for potential adverse effect on wildlife resources. The County is required to collect the fees on behalf of CDFW. A \$50.00 handling fee will also be charged, as provided for in the legislation, to defray a portion of the County's costs for collecting the fees.

The following projects are exempt from the fees:

1. All projects statutorily exempt from the provisions of CEQA (California Environmental Quality Act).
2. All projects categorically exempt by regulations of the Secretary of Resources (State of California) from the requirement to prepare environmental documents.

A fee exemption may be issued by CDFW for eligible projects determined by that agency to have "no effect on wildlife." That determination must be provided in advance from CDFW to the County at the request of the applicant. You may wish to call the local office of CDFW at (559) 222-3761 if you need more information.

Upon completion of the Initial Study you will be notified of the applicable fee. Payment of the fee will be required before your project will be forwarded to the project analyst for scheduling of any required hearings and final processing. The fee will be refunded if the project should be denied by the County.


Applicant's Signature

8-29-2019
Date

G:\4360DEVS\PLN\PROJSEC\PROJDOCS\TEMPLATES\IS-CEQA TEMPLATES\INITIAL STUDY APP.DOTX

Exhibit 8



RECEIVED
COUNTY OF FRESNO

SEP 05 2019

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

*CUP3658.
(Revised
Op. Stat.)*

County of Fresno
Planning Department
2220 Tulare St.
Fresno, CA 93721

Touchstone Pistachio Co
Operational Statement

To whom it may concern,

The applicant proposes to construct a pistachio processing plant. The proposed pistachio processing plant will be located on Assessor's Parcel Number 038-300-17S and 038-300-30S. An address has not been assigned to the site to date.

Construction of this plant will enable the applicant to hull, dry, process, store and package pistachios. Currently, the applicant's pistachios are taken to another processing plant over 21 miles away. Processing them at the proposed plant would significantly reduce the quantity of emissions that are produced through the transportation of the product. The full build-out will be in 4 phases.

The proposed plant consists of the following structures for Phase 1:

- (1) 120,000 sq. ft. processing/packing building with a 10,000 sq. ft. canopy and a truck dock
- (1) 15,133 sq. ft. cold storage building
- (1) 11,520 sq. ft. admin office building
- (1) 8,300 sq. ft. breakroom/supervisor office building
- (70) 48' dia. x 65' tall storage silos
- (1) 21,600 sq. ft. huller canopy
- (1) 6,570 sq. ft. shop building with a 2,920 sq. ft. canopy
- (6) sand and media water filters
- (1) 323,266 gal. water storage tank
- (1) 324 sq. ft. fire pump house
- (1) 1,624 sq. ft. main scale house/guard shack and truck scale
- (1) 200 sq. ft. scale house and truck scale
- (2) 1,200 sq. ft. MCC buildings
- (4) 510 sq. ft. equipment canopies
- (17) 27 MMBtu/hr. natural gas fired column dryers



The following structures will be added during proposed Phase 2:

- (70) 48' dia. x 65' tall storage silos
- (13) 27 MMbtu/hr. natural gas fired column dryers
- (1) 21,600 sq. ft. huller canopy
- (1) 323,266 gal. water storage tank
- (2) sand and media water filters

The following structures will be added during proposed Phase 3:

- (1) 120,000 sq. ft. processing/packing building with a 10,000 sq. ft. canopy and a truck dock
- (70) 48' dia. x 65' tall storage silos
- (13) 27 MMbtu/hr. natural gas fired column dryers
- (1) 21,600 sq. ft. huller canopy
- (1) 323,266 gal. water storage tank
- (1) 6,570 sq. ft. shop building with a 2,920 sq. ft. canopy
- (2) sand and media water filters

The following structures will be added during proposed Phase 4:

- (70) 48' dia. x 65' tall storage silos
- (13) 27 MMbtu/hr. natural gas fired column dryers
- (1) 21,600 sq. ft. huller canopy
- (1) 323,266 gal. water storage tank
- (2) sand and media water filters

The proposed plant will also include processing equipment, onsite roadways, parking lots, signage, and landscaping in front of the main processing building. There will be a 6'-0" black chain link fencing along the entire perimeter of the plant with several gates on the north and south borders, and one on the east border. The proposed structures will not cause an unsightly appearance that is uncommon to agricultural uses, or produce dust, noise, glare or any odors. The plant will not utilize an outdoor sound amplification system.



In Phase 1, from January to the start of harvest, around the beginning of September, there will be 60 full-time employees operating the processing equipment over (2) 8-hour shifts, 5 days a week.

During harvest, roughly September to mid-October, there will be 60 full-time employees operating the processing equipment over (2) 12-hour shifts, 7 days a week. There will be 40 additional employees operating the receiving, hulling, and drying equipment over (2) 12-hour shifts per day, 7 days a week.

After harvest ends in October to December, there will be 60 full-time employees operating the processing equipment over (2) 8-hour shifts, 5 days a week.

In Phases 2-4, the shift hours and days will remain the same, but the number of employees will increase as shown in the table below.

	Processing		Huller (Seasonal)		Daily Total Employees
	# Employees	# Shifts	# Employees	# Shifts	
Phase 1					
Jan-Aug	30	2	0	0	60
Sept-Oct*	30	2	20	2	100
Nov-Dec	30	2	0	0	60
Proposed Phase 2					
Jan-Aug	60	2	0	0	120
Sept-Oct*	60	2	40	2	200
Nov-Dec	60	2	0	0	120
Proposed Phase 3					
Jan-Aug	90	2	0	0	180
Sept-Oct*	90	2	60	2	300
Nov-Dec	90	2	0	0	180
Proposed Phase 4					
Jan-Aug	120	2	0	0	240
Sept-Oct*	120	2	80	2	400
Nov-Dec	120	2	0	0	240

*Exact start and end dates of harvest season varies; Harvest is approximately 6 weeks long



There are no caretakers living on site.

Regular traffic to and from the site will consist of 4 types of vehicles:

- 1) Employee vehicles
- 2) Harvest trucks (bring raw product on-site)
- 3) Shipping trucks (take processed product off-site)
- 4) Delivery vehicles

Employee Vehicles

From January to August, there will be 60 employees entering the site 5 days a week.

During harvest, there will be 100 employees entering the site 7 days a week.

After harvest ends in October to December, there will be 60 employees entering the plant 5 days a week.

Given the distance of the site from any major towns plus only a single shift per workday, the rideshare rate is expected to be approximately 69%.

Harvest Trucks

During harvest, 200 harvest trucks will enter the site daily. These trucks will be routed from the source orchard to Highway 33 or I5, then to the plant via West Kamm Avenue. There will not be any harvest trucks received during the off-season.

Shipping Trucks

From harvest to December the company expects to receive 12 shipping trucks a day, 7 days a week. Following harvest season, this will decrease to 3 shipping trucks per day, 5 days a week. This quantity will be maintained throughout the year until the beginning of harvest in September the following year.

Delivery Vehicles

There will be an estimated 10 delivery vehicles received per day at the site during Phase 1. This includes visitors, delivery trucks (UPS, FedEx, etc.), and regularly scheduled private trash service vehicles.



In Phases 2-4, the number of trips per day will increase as shown below.

Daily Trip Calculation (Numbers represent inbound only)					
Phase 1					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	60	0	3	10	73
September – October	100	200	12	10	322
November – December	60	0	3	10	73
Proposed Phase 2					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	120	0	6	15	141
September – October	200	400	15	15	630
November – December	120	0	6	15	141
Proposed Phase 3					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	180	0	9	21	210
September – October	300	600	18	21	939
November – December	180	0	9	21	210
Proposed Phase 4					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	240	0	12	26	278
September – October	400	800	21	26	1247
November – December	240	0	12	26	278

Truck access to the site will be via two paved drives off West Kamm Avenue. Employees will enter through a separate paved drive off West Kamm Avenue.



Water for the site will be provided by Westlands Water District. During harvest, the water will be used primarily by the hullers. Outside of harvest, the water will be utilized primarily by the roaster. See the below table for water use during and outside of harvest per phase.

Water Use Per Day During Harvest and Non-Harvest				
	Phase 1	Proposed Phase 2	Proposed Phase 3	Proposed Phase 4
Harvest	4,000,000	8,000,000	12,000,000	16,000,000
Non-Harvest	40,000	40,000	40,000	40,000

Once utilized, the water will be collected by a floor conveyance system and pumped through a bank of parabolic screens to remove large solids and into (2) fenced on-site settling basins. Water basins will be expanded as needed for future phases. The water will then be pumped into an existing irrigation line to be discharged onto orchards.

Sewage from the plant will be connected to new septic systems. Defrost water and storm water runoff will be directed to a fenced ponding basin on the northeast corner of the property.

The plant will recycle as much paper and cardboard waste as possible. The recyclable materials and trash are taken off-site by a private trash service. The hulls from the pistachios will be pressed to reduce the moisture percentage and then shipped out and sold as cattle feed. Twigs, leaves, and chaff from harvesting will be composted and used or sold as mulch.

Respectfully submitted,

Touchstone Pistachio Co



GERALD A. MELE, PE, SE
 MARTIN R. INESS, PE, SE
 BRAD S. EDWARDS, PE, SE
 ROBERT A. SANDERS, ARCHITECT

GERALD MELE & ASSOCIATES, INC.
 7337 N. FIRST ST., SUITE 110 FRESNO, CA. 93720 (559)435-1411 FAX (559)435-1169

CONSULTING ENGINEERS AND ARCHITECTS

Findings for the Variance Request for:

Touchstone Pistachio Company

1306 W. Herndon, Suite 101
 Fresno, CA

Site Location: South Side of Kamm Avenue, 1.68 miles West of Highway 33
 APN #:038-300-17s

Description of Variance Request:

Highway 33 Pistachios LLC, (Highway 33) is requesting a height variance to allow the construction of a pistachio processing plant on APN # 038-300-17s. The nature of the equipment used in processing and storing the pistachios requires construction of a building with a 47'-2" above grade ridge height, with two Bag houses 67'-7" above grade, silos 54'-11" above grade and conveyors and equipment at the silos with a maximum height of 64'-8" above grade.

Finding 1

The AE zone district allows the development of produce processing such as the proposed nut processing facility, so the use is consistent with the zone district. Highway 33 owns and farms approximately 8000 acres in the adjacent area. So, the location of this facility is the ideal choice for the proposed plant. Most nut plants have equipment taller than the 35' height limitation. At this plant, due to the size of the farming operations, the equipment used to handle the crops is taller than some other installations. It is a better utilization of land to increase the height of the tanks for increased capacity (and related equipment) than to spread out the plant and utilize more farm land. It is also more cost-effective.

What differentiates this property from other similarly zoned properties is the unique location surrounded by the 8000 acres of farm land owned and farmed by the owners of this property. The volume of product grown nearby is uniquely large.

Finding 2

Building the plant is allowed by Fresno County Ordinance Section 816.1.F. This is a right enjoyed by other property owners in district. The construction of the project exceeding the height limitations will allow the user the right to cost-effectively build the plant. Without the granting of this variance, the construction would require more land to be taken out of agricultural production. The 35' height is typically exceeded in most nut processing plants as would be constructed within the zone district.

RECEIVED
 COUNTY OF FRESNO

SEP 05 2019

DEPARTMENT OF PUBLIC WORKS
 AND PLANNING
 DEVELOPMENT SERVICES DIVISION

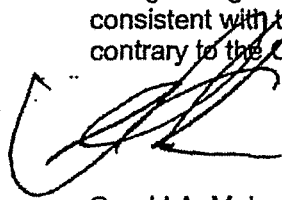
VA 4070
 (Revised Findings)

Finding 3

The site is located within the central area of the owners 8000 acres of pistachios. By granting the variance and allowing the plant to be constructed cost-effectively on this site will reduce truck emissions in the area. Currently the pistachios are transported by truck to facilities over 21 miles away. Most of the harvest will be transported less than 5 miles to the new facility. Much of the transportation will be on ranch roads and not the public way. Thus, the Granting of this variance will not be detrimental to the public welfare or injurious to neighboring properties in the vicinity.

Finding 4

The granting of the variance will allow the best use of the land for an ag-related use consistent with the County's General plan, therefore; the granting of the variance is not contrary to the County's General Plan.



Gerald A. Mele, PE, SE
President
Gerald Mele & Associates, Inc.
Consulting Engineers *and* Architect

Professional Representative for touchstone pistachio company

Exhibit 9



filed 8/29/19
out for renewal agreement 9/5/19
renewed operating statement 9/5/19

Need: Vance (height) **County of Fresno**
CUP

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

? William Act

Revised Routing
(Revisions are in Bold & Underlined)

Water: Westlands

DATE: September 5, 2019

TO: Development Services and Capital Projects, Attn: William M. Kettler, Division Manager
Development Services and Capital Projects, Attn: Chris Motta, Principal Planner
Development Services and Capital Projects, Current Planning, Attn: Marianne Mollring, Senior Planner
Development Services and Capital Projects, Policy Planning, ALCC, Attn: Mohammad Khorsand, Senior Planner
Development Services and Capital Projects, Zoning & Permit Review, Attn: Tawanda Mtunga
Development Services and Capital Projects, Site Plan Review, Attn: Hector Luna
Development Services and Capital Projects, Building & Safety/Plan Check, Attn: Chuck Jonas
Development Engineering, Attn: Laurie Kennedy, Grading/Mapping
Road Maintenance and Operations, Attn: John Thompson/Wendy Nakagawa
Design Division, Transportation Planning, Attn: Brian Spauhurst
Water and Natural Resources Division, Attn: Glenn Allen, Division Manager
Department of Public Health, Environmental Health Division, Attn: Deep Sidhu/Steven Rhodes
Agricultural Commissioner, Attn: Fred Rinder
Southern San Joaquin Valley Information Center, Attn: ssjvic@csub.edu
U.S. Fish and Wildlife Service, Attn: Sarah Yates
CA Regional Water Quality Control Board, Attn: centralvalleyfresno@waterboards.ca.gov; Alexander Mushegan
CA Department of Fish and Wildlife, Attn: R4CEQA@wildlife.ca.gov
State Water Resources Control Board, Division of Drinking Water, Fresno District, Attn: Jose Robledo
Dumna Wo Wah Tribal Government, Attn: Robert Ledger, Tribal Chairman/Eric Smith, Cultural Resources Manager/Chris Acree, Cultural Resources Analyst
Picayune Rancheria of the Chuckchansi Indians, Attn: Tara C. Estes-Harter, THPO/Cultural Resources Director
Santa Rosa Rancheria Tachi Yokut Tribe, Attn: Ruben Barrios, Tribal Chairman/Hector Franco, Director/Shana Powers, Cultural Specialist II
Table Mountain Rancheria, Attn: Robert Pennell, Cultural Resources Director/Kim Taylor, Cultural Resources Department/Sara Barnett, Cultural Resources Department
San Joaquin Valley Unified Air Pollution Control District (PIC-CEQA Division), Attn: PIC Supervisor,
Fresno County Fire Protection District, Attn: Jim McDougald, Division Chief
Wetlands Water District, Attn: Russ Freeman

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FROM: Ejaz Ahmad, Planner  -
Development Services and Capital Projects Division

SUBJECT: Initial Study Application No. 7707; Classified Conditional Use Permit Application No. 3658; Variance Application No. 4070

APPLICANT: Samantha Ens

DUE DATE: September 13, 2019

The Department of Public Works and Planning, Development Services Division is reviewing the subject applications: CUP to allow for a commercial pistachio processing facility and VA to allow for buildings, storage tanks, and equipment to exceed 35 feet maximum height (**proposed height: buildings 47'-2"; silos 64'-8"; bag houses 67'-7"**). The subject proposal is located on two contiguous parcels totaling 315.76 acres in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District (APN: 038-300-17S & 30S).

The Department is also reviewing for environmental effects, as mandated by the California Environmental Quality Act (CEQA) and for conformity with plans and policies of the County.

Based upon this review, a determination will be made regarding conditions to be imposed on the project, including necessary on-site and off-site improvements.

We must have your comments by **September 13, 2019**. Any comments received after this date may not be used.

NOTE - THIS WILL BE OUR ONLY REQUEST FOR WRITTEN COMMENTS. If you do not have comments, please provide a "NO COMMENT" response to our office by the above deadline (e-mail is also acceptable; see email address below).

Please address any correspondence or questions related to environmental and/or policy/design issues to me, Ejaz Ahmad, Planner, Development Services and Capital Projects Division, Fresno County Department of Public Works and Planning, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721, or call (559) 600-4204, or email eahmad@fresnocountyca.gov.

EA:
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Activity Code (Internal Review): 2381

Enclosures

Exhibit 10



County of Fresno

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

Revised Routing
(Revisions are in **Bold & Underlined**)

DATE: **October 31, 2019**

TO: Development Services and Capital Projects, Attn: William M. Kettler, Division Manager
Development Services and Capital Projects, Attn: Chris Motta, Principal Planner
Development Services and Capital Projects, Current Planning, Attn: Marianne Mollring, Senior Planner
Development Services and Capital Projects, Policy Planning, ALCC, Attn: Mohammad Khorsand, Senior Planner
Development Services and Capital Projects, Zoning & Permit Review, Attn: Tawanda Mtunga
Development Services and Capital Projects, Site Plan Review, Attn: Hector Luna
Development Services and Capital Projects, Building & Safety/Plan Check, Attn: Chuck Jonas
Development Engineering, Attn: Laurie Kennedy, Grading/Mapping
Road Maintenance and Operations, Attn: John Thompson/Wendy Nakagawa
Design Division, Transportation Planning, Attn: Brian Spaunhurst
Water and Natural Resources Division, Attn: Glenn Allen, Division Manager
Department of Public Health, Environmental Health Division, Attn: Deep Sidhu/Steven Rhodes
Agricultural Commissioner, Attn: Fred Rinder
Southern San Joaquin Valley Information Center; Attn: ssjvic@csub.edu
U.S. Fish and Wildlife Service, Attn: Sarah Yates
CA Regional Water Quality Control Board, Attn: centralvalleyfresno@waterboards.ca.gov; Alexander Mushegan
CA Department of Fish and Wildlife, Attn: R4CEQA@wildlife.ca.gov
State Water Resources Control Board, Division of Drinking Water, Fresno District, Attn: Jose Robledo
Dumna Wo Wah Tribal Government, Attn: Robert Ledger, Tribal Chairman/Eric Smith, Cultural Resources Manager/Chris Acree, Cultural Resources Analyst
Picayune Rancheria of the Chuckchansi Indians, Attn: Tara C. Estes-Harter, THPO/Cultural Resources Director
Santa Rosa Rancheria Tachi Yokut Tribe, Attn: Ruben Barrios, Tribal Chairman/Hector Franco, Director/Shana Powers, Cultural Specialist II
Table Mountain Rancheria, Attn: Robert Pennell, Cultural Resources Director/Kim Taylor, Cultural Resources Department/Sara Barnett, Cultural Resources Department
San Joaquin Valley Unified Air Pollution Control District (PIC-CEQA Division), Attn: PIC Supervisor;
Fresno County Fire Protection District, Attn: Jim McDougald, Division Chief
Wetlands Water District, Attn: Russ Freeman

FROM: Ejaz Ahmad, Planner 
Development Services and Capital Projects Division

SUBJECT: Initial Study Application No. 7707; Classified Conditional Use Permit Application No. 3658; Variance Application No. 4070

APPLICANT: Samantha Ens

DUE DATE: **November 11, 2019**

The Department of Public Works and Planning, Development Services Division is reviewing the subject applications: CUP to allow for a commercial pistachio processing facility and VA to allow for buildings, storage tanks, and equipment to exceed 35 feet maximum height (proposed height: buildings 47'-2"; silos 64'-8"; bag houses 67'-7"). The subject proposal is located on two contiguous parcels totaling 315.76 acres in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District (APN: 038-300-17S & 30S). **The subject proposal would also allow processed water from the facility to irrigate 2,654 acres of farmlands planted in pistachios.**

The Department is also reviewing for environmental effects, as mandated by the California Environmental Quality Act (CEQA) and for conformity with plans and policies of the County.

Based upon this review, a determination will be made regarding conditions to be imposed on the project, including necessary on-site and off-site improvements.

We must have your comments by **November 11, 2019**. Any comments received after this date may not be used.

NOTE - THIS WILL BE OUR ONLY REQUEST FOR WRITTEN COMMENTS. If you do not have comments, please provide a "NO COMMENT" response to our office by the above deadline (e-mail is also acceptable; see email address below).

Please address any correspondence or questions related to environmental and/or policy/design issues to me, Ejaz Ahmad, Planner, Development Services and Capital Projects Division, Fresno County Department of Public Works and Planning, 2220 Tulare Street, Sixth Floor, Fresno, CA 93721, or call (559) 600-4204, or email eahmad@fresnocountyca.gov.

EA:

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Activity Code (Internal Review): 2381

Enclosures

Exhibit 11



Development
Services
Division

Building Codes / Zoning Ordinance Violation Complaint Form

Department of Public Works and Planning

The Fresno County Development Services Division processes violations of the County Building Code and Zoning Ordinance on a "complaint" basis. If you would like to submit a complaint, please complete this form and return it to us.

Department staff will review your complaint and the applicable County Ordinances. If additional information is required, we will contact you to discuss the matter. If it is determined that the alleged activity could be in violation of the building code or zoning ordinance, a violation case is opened to investigate the matter.

We cannot open a file unless the complaint form is completed & signed. If you have any evidence (e.g., photograph, newspaper ad, business card, etc.) that might help document the violation, please enclose it with this completed complaint form. **ALL INFORMATION ON THIS COMPLAINT FORM IS CONFIDENTIAL.**

VIOLATION COMPLAINT

Address of Violation: 34411 West Kamm Avenue, Cantua Creek, CA 93608

Nature of Violation: See attached

Reason Complaint is Being Submitted: See attached

If this violation requires legal action would you be willing to testify in court, if necessary? Yes No

REPORTED BY (PLEASE PRINT)

George J. Mhlsten
(NAME)


(SIGNATURE) (please sign if filling by hand & mailing)

355 South Grand Avenue, Suite 100, Los Angeles, CA 90071
(MAILING ADDRESS - INCLUDE CITY & STATE)

E-mail address: george.mhlsten@lw.com

213-891-8196
(DAYTIME PHONE NO.)

October 22, 2019
(DATE)

Office Use Only

APN: _____ Zone District: _____ Ordinance Section: _____

Received By: _____ Violation No.: _____

E-mail: zoning@co.fresno.ca.us
Mailing Address: 2220 Tulare Street, Sixth Floor-Fresno, CA 93721 (Attn: Code Enforcement Unit)
Physical Address: 2220 Tulare Street-Suite A (Southwest corner of Tulare & "M" Streets)
Phone: (559) 600-4540 / FAX: (559) 600-4200

October 22, 2019

VIA EMAIL AND U.S. MAIL

Ejaz Ahmad, Planner
Development Service and Capital Projects Division
The County of Fresno
2200 Tulare Street, Sixth Floor
Fresno, CA 93721

Re: Ventana South, LLC Commercial Pistachio Processing Facility

Dear Mr. Ahmad:

We are writing regarding the commercial pistachio processing facility Ventana South, LLC (“Ventana”) has proposed along West Kamm Avenue, between Interstate 5 and Highway 33 (“Project Site”).

We understand that your office is currently preparing an Initial Study (Initial Study Application No. 7707) associated with Classified Conditional Use Permit Application No. 3658 and Variance Application No. 4070 for Ventana’s proposed facility (the “Project”). We also understand that earthmoving and testing at the Project Site in furtherance of the Project is ongoing. We are informed by the County of Fresno (“County”) Building and Safety Code Enforcement that two permits have been issued to authorize this work.

The County’s issuance of these permits was improper. The County has not completed environmental review pursuant to the California Environmental Quality Act (“CEQA”). Because the County has not completed environmental review, the County cannot issue any permits, ministerial or otherwise, for the Project. Therefore, we respectfully request that the County revoke these permits and order all work stopped until the County has completed the required environmental review.

A. Environmental Review Must Precede the Issuance of ALL Project Permits

We are concerned that the work authorized by the issued permits represents the first step in the Project’s development. If this is the case, environmental review must be completed prior to implementation of any activities in furtherance of the Project, including preliminary development activities that the County has already authorized and are currently underway. A failure to consider the full environmental impacts of Ventana’s massive Project as a whole would constitute improper piecemealing in violation of CEQA.

It appears that Ventana is attempting to fast-track development of the Project and avoid any meaningful environmental review by commencing development of the Project prior to the County's approval of the discretionary actions required to authorize it. As the issued permits authorize work that is part of the larger Project, the required CEQA review must be conducted for the entire Project prior to the continuance of those activities. Here, the County has not even completed an Initial Study to identify the appropriate level of CEQA review, yet Ventana has already commenced construction activities for the Project.

The CEQA analysis, and any EIR "should be prepared as early in the planning process as possible to enable environmental considerations to influence project, program, or design." (*Bozung v. LAFCo.* (1975) 13 Cal.3d 263, 282.) Where an approval is "an essential step leading to ultimate environmental impact [] it is therefore ... a 'project' within the scope of CEQA." (*Fullerton Joint Union High School Dist. v. State Bd. of Education* (1982) 32 Cal.3d 779, 797.) The Supreme Court has also held "that the later the environmental review process begins, the more bureaucratic and financial momentum there is behind a proposed project." (*Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal.3d 376, 395.) For those reasons, the CEQA Guidelines at section 15004 subdivision (b)(2)(B), provide that public agencies should not "take any action which gives impetus to a planned or foreseeable project in a manner that forecloses alternatives or mitigation measures that would ordinarily be part of CEQA review of that public project."

CEQA, the Guidelines, and long-standing precedent make clear that CEQA review must precede, and not follow, public agency action to move forward with a planned project. The Guidelines define a project as "the whole of an action, which has a potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment" (Guidelines §15378 subd. (a)), and require that "all phases of project planning, implementation, and operation" must be considered in the Initial Study for a project (Guidelines, §15063 subd. (a)(1), emphasis added). CEQA review and the application of CEQA procedures must be followed at all stages of project consideration, to carry out the legislative intent "to compel government at all levels to make decisions with environmental consequences in mind." (*Bozung, supra*, 13 Cal.3d 263, 283.)

The Guidelines are clear that a "project" may require multiple government approvals, but that it is the overall activity, and not each individual approval, that is the "project" for CEQA purposes. (Guidelines §15378 subd. (c).) CEQA's requirements become applicable with the taking of the first significant step towards overall approval of the project, rather than solely at final project approval; the first step in the approval process, not the last step, is when the CEQA process first applies: "EIR's should be prepared as early in the planning process as possible to enable environmental considerations to influence project, program or design." [citation]." (*Bozung, supra*, 13 Cal.3d 263, 282.) Any other approach could result in the freezing in place of project characteristics without examining or mitigating their potential to harm the environment, and the locking out of consideration of project alternatives that are identified by later environmental review. "Decisions reflecting environmental considerations could most easily be made when other basic decisions were being made, that is, during the early stage of project conceptualization, design and planning." (*Citizens for Responsible Government v. City of Albany* (1997) 56 Cal.App.4th 1199, 1221 (quotations omitted).)

The law is clear – neither a lead agency nor a project applicant can piecemeal a single, integrated development into smaller parts to avoid conducting a comprehensive CEQA assessment of the entire project. Where, as in the case here, a project applicant makes clear that it has a comprehensive development plan and ministerial and discretionary approvals are necessary to complete that development, the lead agency is required to consider all ministerial actions in conjunction with the project’s discretionary approvals and conduct the environmental review required by CEQA. This means that no permits, ministerial or otherwise, may issue until environmental review for the entire Project is complete.

B. The County Must Also Analyze the Future Discretionary Actions Required for the Project’s Development

CEQA’s Guidelines define “project” as “the whole of an action.” (CEQA Guidelines § 15378 subd. (a).) This definition includes all phases of a project that are reasonably foreseeable, and all related activities that are directly linked to the project. (CEQA Guidelines § 15378 subd. (a), subd. (c)-(d).) Thus, any future phases of the Project and any approvals required to authorize those development activities must be evaluated. (Pub. Res. Code § 21065; CEQA Guidelines § 15378 subd. (a); *Citizens Assn. for Sensible Development of Bishop Area v. County of Inyo* (1985) 172 Cal.App.3d 151, 166-167.)

In *Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 396, the California Supreme Court set forth a two-part test for determining when future actions must be included within the definition of a “project” for purposes of CEQA: “(1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.” In *Laurel Heights*, the University of California planned to transfer medical laboratories to an office building located within a residential neighborhood. Initially, the laboratories were to occupy 100,000 square feet of a 354,000-square-foot building. The University claimed that it had not formally decided to occupy the entire building, but the court noted that statements by the chancellor in the final EIR, public releases in newsletters, public meeting minutes, and private correspondence all indicated the University’s intent to occupy the entire building when another agency’s lease expired in several years. Accordingly, there was “credible and substantial evidence” that the University’s occupancy of the entire building was a reasonably foreseeable consequence of the decision to move into the building. (*Id.* at 398.)

Here, development of the subsequent phases of the Project are a reasonably foreseeable consequence of the issued permits. The applicant has described these subsequent development activities within the Conditional Use Permit and Variance application submittals. The four phases of development will result in a massive processing facility that clearly has the potential to severely impact the environment without required mitigation. CEQA requires that this larger Project be analyzed now and prior to the issuance of any permits in furtherance of its construction. Thus, the County must undertake a comprehensive CEQA analysis of the entire Project now and before any additional development activities are allowed to continue.

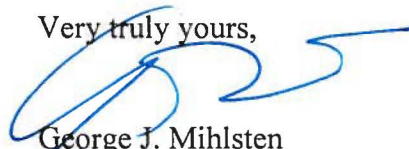
LATHAM & WATKINS^{LLP}

C. Conclusion

We understand that the County has requested additional information from Ventana related to the Project to aid it in conducting the required CEQA review. Ventana must not be allowed to continue any development activities prior to the County's completion of that required CEQA review.

We respectfully request that the County revoke all issued permits and order Ventana to stop development activities immediately. The County must also complete the Initial Study and any required CEQA analysis prior to reinstating the issued permits or granting any additional actions associated with the Project.

Very truly yours,



George J. Mhlsten
of LATHAM & WATKINS, LLP

cc: Daniel C. Cederborg, County Counsel
William Kettler, Division Manager, Development Services and Capital Projects,
Department of Public Works and Planning

Exhibit 12

October 23, 2019

VIA EMAIL AND U.S. MAIL

Ejaz Ahmad, Planner
Development Service and Capital Projects Division
The County of Fresno
2200 Tulare Street, Sixth Floor
Fresno, CA 93721

Re: Ventana South, LLC Commercial Pistachio Processing Facility

Dear Mr. Ahmad:

Yesterday we sent you a letter regarding the ongoing construction work related to the commercial pistachio processing facility (“Project”) proposed by Ventana South, LLC (“Ventana”) at 34411 West Kamm Avenue, Cantua Creek, CA (“Project Site”). As we understand, Ventana submitted for a Classified Condition Use Permit, a Variance, and an Initial Study on or near the end of August 2019. We are now in receipt of a copy of Construction Permit No. 19-107012-FC, which was issued by the County on September 6, 2019 and relates to construction of foundations for 49 silos on the Project Site. This permit was issued after Ventana submitted its applications and while those applications were under review by the County.

We also are in receipt of a Plan Check Triage sheet for Plan Check No. 19-0679, which is associated with the Project Site. This form relates to a permit request submitted on September 25, 2019 and includes a note stating that Conditional Use Permit Application No. 3658 (the application for Ventana’s Project) must be approved prior to issuance of permits. On this sheet, the County notes that no permits for work associated with the Project can be issued prior to the approval of the entitlements requested to authorize the Project.

As the Plan Check Triage makes clear and the County clearly understood, no permits can be issued prior to the approval of the Classified Condition Use Permit. Consistent with the acknowledgement on the Plan Check Triage sheet, the issuance of Construction Permit No. 19-107012-FC was improper and it should be revoked.

We understand that earthmoving and testing activities are ongoing on the Project Site in furtherance of the Project. It is unclear whether those activities have been authorized by Construction Permit No. 19-107012-FC or any other permit issued by the County. We respectfully reiterate our request that the County promptly revoke Construction Permit No. 19-107012-FC and any other permits issued for development activities relating to the Project. We

LATHAM & WATKINS^{LLP}

also request that the County order Ventana to immediately stop all development activities on the Project Site.

Very truly yours,



George J. Mihalsten
of LATHAM & WATKINS, LLP

cc: Daniel C. Cederborg, County Counsel
William Kettler, Division Manager, Development Services and Capital Projects,
Department of Public Works and Planning



CONSTRUCTION PERMIT
COUNTY OF FRESNO
DEVELOPMENT SERVICES DIVISION
 MAILING ADDRESS: 2220 TULARE STREET, 6th FLOOR FRESNO, CA 93721
 OFFICE LOCATION: SOUTHWEST CORNER OF TULARE & N' STREETS, SUITE A

ACTIVE PERMITS YES NO
 PHONE NUMBERS
 24-HR REQUEST LINE
 800-4131
 LOCAL: 600-4560
 TOLL FREE: 800-742-1011
 FAX: 600-4201

Ref #OTC

<u>Project Address</u> 34411 W KAMM AVE CANTUA CREEK CA 93640		<u>Cross Street</u> DERRICK AVE (HWY 33)		<u>Project Description</u> SPECIAL INSPECTION FOR A FOUNDATION ONLY. INSTALLING 49 SILO'S.	
Permit #: 19-107012-FC		Issued on: September 06, 2019		APN: 03830017S	
<u>Owner:</u> VENTANA SOUTH LLC		<u>Applicant:</u> ASSEMI GROUP, INC.		<u>Contractor:</u>	
<u>Address:</u> % ASSEMI BROTHERS LLC 1396 W HERNDON #101 FRESNO CA 93711		<u>Address:</u> 1396 W HERNDON AVE SUITE 110 FRESNO CA 93711		<u>Address:</u>	
<u>Phone:</u>		<u>Phone:</u>		<u>Phone:</u>	
		<u>License #:</u>		<u>License #:</u>	
<u>Approvals</u>		<u>Approved By</u>		<u>Date</u>	
Application Requirements		Carsey, Rod		September 06, 2019	
Zoning Review		Anders, James		September 06, 2019	
<u>Zoning District</u>	<u>Required Setbacks:</u>	<u>Front</u>		<u>Side</u>	
AE20		<u>Min</u>	<u>Max</u>	<u>Interior</u>	<u>Street</u>
		35		20	
					<u>Rear</u>
					20
PROJECT INFORMATION					
Big Dry Creek Basin: No			Consolidated Permit?: No		
FMFCD Rural Streams: No			MWEO Occupancy Pending: NO		
Occupancy Pending RTMF: No			Other Construction Area: 195393		
Other Construction Description: FOUNDATION ONLY			Owner Builder Declaration: Contractor		
Roof Classification: Class C or better			Soil Bearing Capacity(psf): 500		
Submittal Method: Walk-in			Valuation of Construction: 2344716		
WMP Occupancy Pending: NO			Workers Compensation Declaration: Information on File		
MECHANICAL					
ELECTRICAL					
PLUMBING					
LICENSED CONTRACTOR'S DECLARATION					
I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 8 of the Business and Professions Code, and my license is in full force and effect.Lic.					
Number _____		Class _____		Contractor ASSEMI GROUP, INC. FOR OWNER BUILDER SEE FORM F174 ATTACHE	
WORKER'S COMPENSATION DECLARATION					
I hereby affirm under penalty of perjury on of the following declarations.					
<input type="checkbox"/> I have and will maintain a certificate of consent to self-insure for workers' compensation as provided for by Section 3700 of the Labor code, for the performance of the work for which this permit is issued.					
<input checked="" type="checkbox"/> I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code for the performance of the work for which this permit is issued.					
My worker's compensation plan is carrier and policy number _____ (This section does not need to be completed if the permit is for one hundred dollars (\$100) or less.)					
I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the worker's compensation laws of California and agree to become subject to the workers compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.					
ASSEMI GROUP, INC.					
I SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.					
CONSTRUCTION LENDING AGENCY			I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above described property for inspection purposes.		
Lending agency for the performance of the work for which this permit is issued			Applicant Or Agent _____		
Address _____			Date: 09-06-19		
DO NOT BECOME NULL AND VOID IF THE WORK IS NOT COMMENCED OR IF NO INSPECTIONS ARE COMPLETED WITHIN 180 DAYS.					

JOB #

POST THIS TO THE PERMITTING DEPARTMENT 2220 Tulare Office 195

CARD IN A CONSPICUOUS PLACE
 DEPARTMENT OF PUBLIC WORKS AND PLANNING
 SERVICES AND CAPITAL PROJECTS DIVISION
 Street, Suite A, Fresno, CA 93721
 3) 600-4560 or 1 (800) 742-1011 FAX: (559) 600-4201



24 HOUR INSPECTION REQUEST
 (559) 600-4131
 Before 2:30 p.m. for next-day inspection
 This is your record of field inspection

ADDRESS: SEC 23 - 34411 W. KAMM PERMIT NUMBER: 19-107012

BUILDING			CORRECTIONS		REMARKS
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Flood Prone-Elevation			AG	9/24/19	Revised Vertical Elevation from 2
Foundation: Forms & Setback					Silos highlighted on plans 9/24/19
Foundation / Patio Piers					
Floor Girders & Joists					
Shear Panel Nailing					
Pre-Roof					
Roof Sheathing					
Roof Battan/Felt					
Roof Covering					
Exterior Lath/Sliding					
Fireplace Damper					
Fireplace: Roof					
Frame					
Insulation					CASH DEPOSIT
Shower Wall Over Tub					Temporary Power
Shower Pan & Walls					Occupancy
Bond Beam & Steel					APPROVED TO POST
					BY:
					DATE
Pool Steel, Bonding & Setback					APPROVED FOR REFUND
Pre-Deck					BY:
Pool Fencing & Gates					REFUNDED
					BY:
					DATE
FINAL INSPECTION					
CERTIFICATE OF OCCUPANCY					
ELECTRICAL			CORRECTIONS		
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Conduit: PVC/Galv. Interior					
Conduit: PVC/Galv. Exterior					
Rough Wiring					
Elec. Main Panel Amps					
Temporary Meter					
Temporary Power Pole					
Ufer Location/Driven Ground					
Water Pipe Bond Location					
Wiring To Well					
Pool Equipment Bonding					
FINAL INSPECTION					
PLUMBING			CORRECTIONS		
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Ground Plumbing: Soil					
Water Pipe - Under Floor					
Water Pipe - Above Floor					
Vents & Top Out					
Gas Pipe - Interior					
Gas Test - Interior					
Gas Test - Exterior					
Second Floor Tub Test					
Septic System					
House Sewer					
Water Service PVC/Galv.					
Well Seal Pad					
FINAL INSPECTION					
MECHANICAL			CORRECTIONS		
TYPE OF INSPECTION	APPROVED BY	DATE	INSPECTOR	DATE	
Ducts Underfloor					
Ducts Overhead					
Wood Burning Appliance					
Refrigeration Unit/Furnace					
Evaporative Cooler					
Gas Pipe					
Gas Test					
FINAL INSPECTION					
					MOBILE HOME
					TYPE OF INSPECTION
					APPROVED BY
					DATE
					Perm Foundation/Tie-down
					Flood Prone-Elevation
					Forms & Setbacks
					Piers/Anchors
					Steps/Landings
					Elec. Service Amps
					Grounding Electrode
					Wiring To Well
					Continuity Test
					Conduit/Feeders
					Gas Test - Exterior
					Gas Test Monometer
					Sewer
					Waste Piping
					Septic System
					Interior Water Pipe
					Water Service
					Well Seal Pad
					FINAL INSPECTION
					Certificate of Occupancy
					OTHER DEPARTMENT CONDITIONS
					GRADING
					FINAL
					G.V. #
					G.P. #
					FINAL INSPECTION
					FIRE DEPARTMENT
					ENVIRONMENTAL HEALTH
					ROADS
					C.U.P. #
					S.P.R. #
					ALL CONDITIONS MET FOR PROJECT (BUILDING INSPECTOR INITIAL)

County of Fresno
 REG-RECEIPT: 9834-123010
 CASHIER ID: DIJOHNSON Sep 06, 2019
 Date Printed: Sep 06, 2019 12:41 PM

Invoice
 County of Fresno
 Department of Public Works & Planning
 Mailing Address: 2220 Tulare Street, 6th Floor Fresno, CA 93721
 24-HR REQUEST LINE: 600-4131 LOCAL: 600-4560
 TOLL FREE: 800742-1011 FAX: 600-4201



INVOICE TO: ASSEMI GROUP, INC.

19107012 FC \$10,471.77

 SubTotal \$10,471.77
 GST \$0.00
 PST \$0.00
 TOTAL DUE \$10,471.77

RECEIVED FROM:
 JENNIFER LAKE
 CCARD \$10,471.77

 TOTAL TENDERED \$10,471.77

 CHANGE DUE \$0.00

INVOICE NO: 122542
 INVOICE DATE: September 06, 2019
 PERMIT #: Folder 19 107012 000 00 FC
 REFERENCE #:

PROJECT LOCATION: SEC 23 16/14 CA

PROJECT DESCRIPTION: SPECIAL INSPECTION FOR A
 FOUNDATION ONLY. INSTALLING 49 SILO'S.

FEE DESCRIPTION	AMOUNT	COMMENT
Building Construction Permit	\$9,594.75	S2344716 Valuation
Workers Comp.	\$7.50	
Microfilm/Copies	\$49.00	7 sheets
Special Service	\$70.00	
CA Bldg Standards Comm. Fee (SB-1473)	\$94.00	
SMI	\$656.52	

SUMMARY	TOTAL
BUILDING PERMIT	\$9,594.75
OTHER	\$877.02

TOTAL	\$10,471.77
Total Billed:	\$10,471.77
Payment Received:	\$0.00
Balance Due:	\$10,471.77

FORM OF PAYMENT:

- _____ Check
- _____ Credit Card
- _____ Cash
- _____ Roads Charge-Acct#
- _____ DrawDown-Acct#

Submitted by: _____ Ext: _____

DEVELOPMENT SERVICES DIVISION
SPECIAL INSPECTION FOR FOUNDATION SYSTEM

PROJECT
ADDRESS: APN: 038-300-175

PROJECT
DESCRIPTION: Construction of 49 Silo Foundations

We, the undersigned have applied for a special inspection of a foundation system at this address prior to completion of Fresno County's review of the plans for this project. It is understood that Fresno County has not reviewed this foundation system for code compliance and installation of the foundation based on this submittal is completely at the risk of the undersigned.

Allowed Types of Structures:

Special inspections for foundations are limited to below grade footings and at grade concrete slabs, foundation walls below grade, basement walls, retaining walls, and any plumbing and electrical installed under concrete slabs. Special inspection permits are not issued for single or multi-family residential structures. Projects located within a Special Flood Hazard Area, will require an approved Pre-Construction Elevation Certificate. In addition, projects located within a Seismic Design Category (SDC) of "D" or higher may require a geotechnical report prior to a special inspection permit being issued.

Drawings have been provided showing the exact locations and size of all allowed plumbing or electrical conduit. I understand that these systems must be installed exactly as shown on the drawing approved for this foundation. Any changes to these plans must be approved by the Development Services office prior to approval in the field.

Quality of Drawings:

Two sets of drawings prepared by a California licensed architect or engineer have been submitted showing both plan and detail views of all items to be installed in or under footings and slabs. Plumbing and/or electrical conduit are shown on the foundation plan. All hold-downs, anchor bolts, footing steel, footing details and plan dimensions are shown. All drawings, details and notes not associated with the special foundation inspection have been omitted from these drawings.


Drawings showing all allowed work have been cleared and stamped by the County and the actual construction shall match those drawings. If on submittal of complete building plans subsequent code reviews indicate non-compliance with applicable codes or designs the undersigned shall bear full burden of rectifying code deficiencies by any authorized combination of re-design, reconstruction or removal.

Installation of the foundation system shall match the County stamped drawings exactly. No other work is authorized by this agreement. Any work done beyond this approval will be subject to a violation fee as allowed by County Ordinance Code, Title 15.

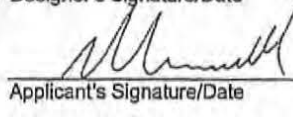
We, the undersigned, have read and understand the above listed conditions for obtaining a special inspection for foundations and agree to abide by such conditions.


Owner's Signature/Date

Farshad Assemi
Print Name


Designer's Signature/Date

G. A. METZ
Print Name


Applicant's Signature/Date

Mokshereh
Print Name

G:\4360Devs&P\I\FORMS\F323 Spec Insp Foundation_rev 12_16.doc

PLEASE USE BLACK INK
THIS FORM IS TO BE MICROFILMED
COUNTY OF FRESNO
DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION

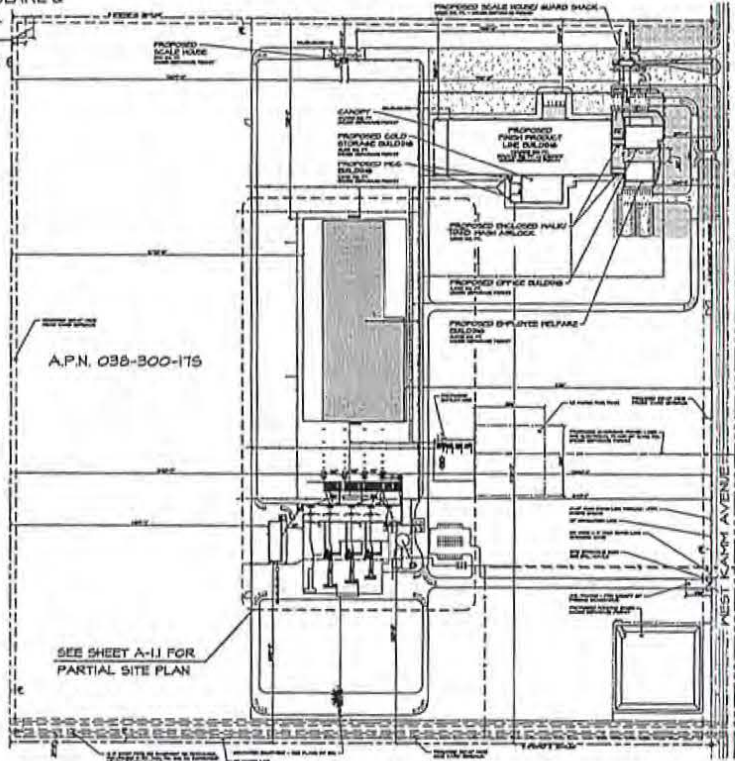
24 HOUR INSPECTION REQUEST
 ANSWERING SERVICE
 (559) 600-4131

2220 TULARE ST., SIXTH FLOOR
 FRESNO, CA 93721
 LOCATION:
 SOUTHWEST CORNER OF TULARE &
 "M" STREET - STREET LEVEL

PLOT PLAN

742-1011

NOTE: Please show the



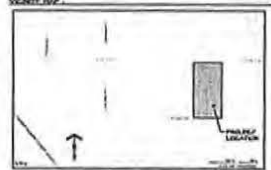
A.P.N. 038-300-175

PC #

ADDRESS: 34411 W Kamar Ave

LEGEND
 --- PROPOSED
 --- EXISTING

FOUNDATION ONLY
 09/05/18



NOTE: All setbacks are measured from the property lines unless otherwise indicated. APN: 038-300-175

Approved By: *[Signature]* Date: 9/6/19 Bldg. Permit # 19-107012

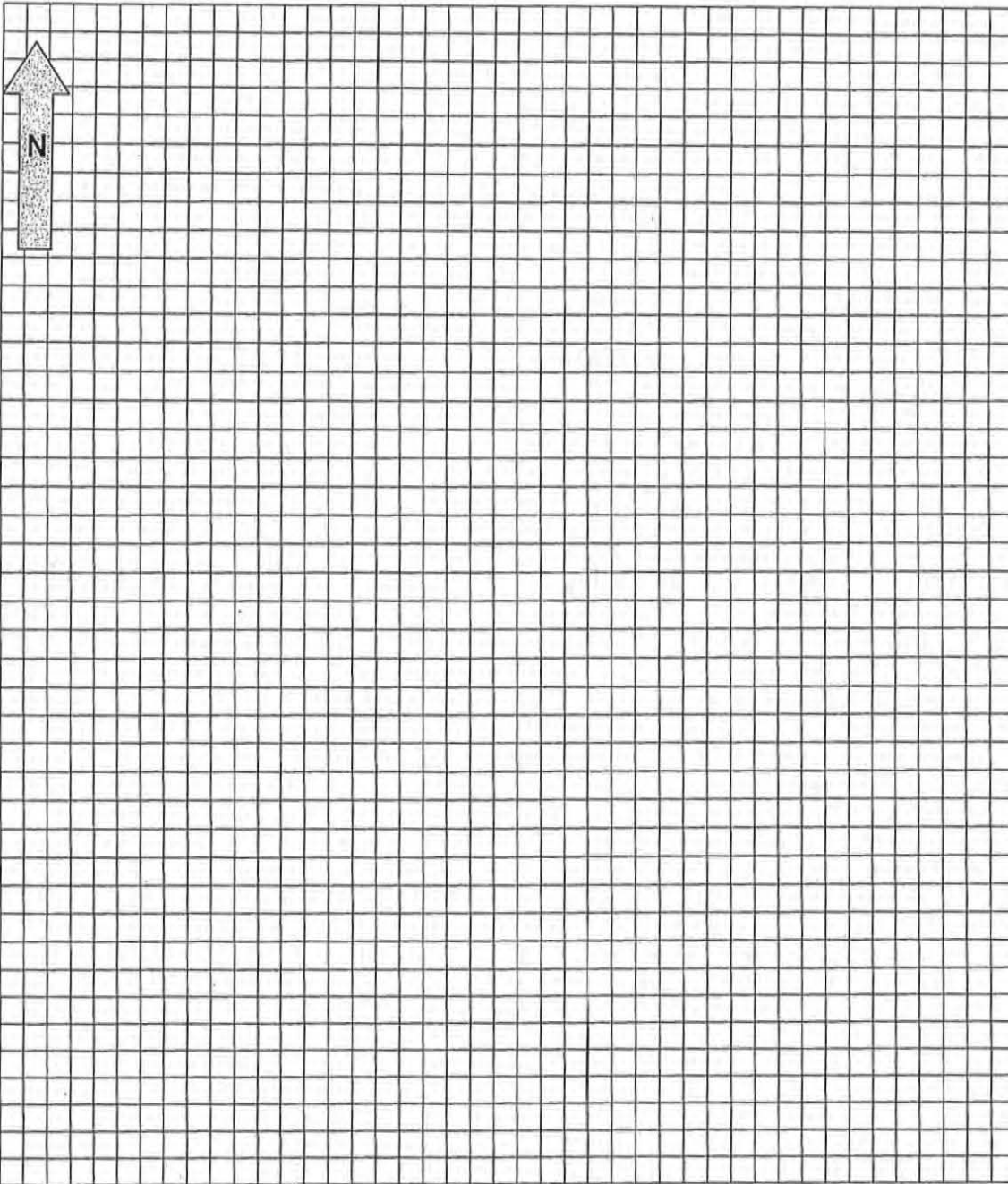
PROJECT ADDRESS: 34411 W Kamar Ave
 OWNER: Vertana South LLC MAIL ADDRESS: 1396 W Henderson Ave #16
 CITY: Fresno STATE: CA ZIP: 93721 TEL NO:

SEWAGE DISPOSAL SPECIFICATIONS: () Community Sewer () Engineered System () Septic TYPE OF USE TO BE SERVED _____ NO. BEDROOMS _____ OR NO. FIXTURE UNITS _____ MIN. SEPTIC TANK _____ GAL LEACHING FACTOR _____ SQ FT./100 GAL NO. TEST HOLES INSPECTED _____	COMMENTS: <i>Foundation Only - At Risk</i> _____ _____ ON SITE INSPECTION BY: _____ DATE: _____
WATER WELL SPECIFICATIONS WELL LOG NO. _____ DATE: _____ GPM: _____	

This plot plan accurately shows all existing and proposed structures buildings and mobile units on the property and their relationship to property lines and each other. I hereby state that the information above is correct. I understand that a permit must be obtained before any construction is started and that an inspection of all work is required, including underground work prior to backfilling.

Signature: *[Signature]* Date: 09-6-19

Job Address: _____



NOTE: Plot water well location

SEWAGE DISPOSAL SYSTEM SPECIFICATIONS

CONTRACTOR: _____

TANK TYPE:	TANK SIZE:	SEEPAGE PITS:	LEACHING FIELD
<input type="checkbox"/> CONCRETE	DIA. 1 ST COMP _____	NUMBER _____	TOTAL LENGTH _____ FT.
<input type="checkbox"/> METAL	2 ND COMP _____	DIAMETER _____ FT.	TOTAL WIDTH _____ IN.
<input type="checkbox"/> OTHER	3 RD COMP _____	DEPTH _____ FT.	NO. OF LINES _____
_____	LIQUID DEPTH _____	DIST. TO WELL _____ FT.	ROCK UNDER PIPE _____ IN.
			DIST. TO WELL _____ FT.
	TOTAL LIQUID:		
	CAPACITY _____ GAL.	SQUARE FEET _____	SQUARE FEET _____

MANUFACTURER: _____

PLOTTED BY: _____ DATE: _____

19-107620 B
 19-107619 A
 19-107621 C

PLAN CHECK TRIAGE

Plan Check Number 19-0679 APN: 038-300-175

	<u>Date</u>	<u>Entered By</u>
Initial Submittal	<u>9/25/19</u>	<u>MAH</u>
WMP Required	Yes <u>X</u>	No _____
MWELo Required	Yes _____	No <u>X</u>
HSR	Yes _____	No <u>X</u>
Zoning Triage Review	<u>9/26/19</u>	<u>MC</u>
RTMF Required	Yes <u>X</u>	No _____
Site Assessment	Yes <u>X</u>	No _____
Grading Triage Review	<u>9/26/19</u>	<u>ST</u>
FEMA Flood Zone	Yes _____	No <u>✓</u>
SRA	Yes _____	No <u>✓</u>
Inspector Triage Review	<u>9/26/19</u>	<u>PC</u>
Plan Checker Triage Review	<u>9/26/19</u>	<u>PC</u>
Code Enforcement Triage Review	<u>9-26-19</u>	<u>JRA</u>
Violation	Yes _____	No <u>(X)</u>
Fire District	<u>FLFD</u>	

Triage Review Notes

- Cap 3658 must be approved prior to permits. re 9/26/19
 Also see SPR-8141 & VA4070.

- Name on plans does not match AMANDA / Prout C.
 ASK FOR DEED TO VERIFY PO.

Exhibit 13



County of Fresno

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

October 30, 2019

George J. Mhlsten, Esq. Sent via email to george.mhlsten@lw.com and U.S. Mail
Latham & Watkins, LLP
355 South Grand Avenue, Suite 100
Los Angeles, CA 90071-1560

Subject: 34411 West Kamm Avenue

Dear Mr. Mhlsten:

The Department of Public Works and Planning (Department) is in receipt of your three letters, dated October 22, 23, and 24, 2019 regarding the above address. The first two letters request the Department to take certain action. The third letter is a detailed request for public records under the Public Records Act. This letter responds to your October 22 and 23 letters.

The Department is processing Initial Study Application No. 7707, Classified Conditional Use Permit Application No. 3658, and Variance Application No. 4070, proposing to allow a commercial pistachio processing facility with land application of process water, and will not issue permits for any work covered by those applications until they are approved and the required environmental review is completed with appropriate mitigation incorporated and adopted.

On October 28, 2019, the Department issued stop-work notices for all unpermitted construction that was occurring at 34411 West Kamm Avenue (Please see Attachment "A"). No work, to my knowledge, is currently taking place at that address.

Building Permit No. 19-107012 issued by the Department on September 6, 2019, is a ministerial action that allows construction of foundations for 49 silos. It does not include any use requiring a conditional use permit or discretionary approval. Permit No. 19-107012 was issued because the property owner is entitled as a matter of right to have "farm buildings of all kinds" on property within the County's AE-20 zone district. We believe that the Department is required by law to issue this ministerial permit.

Based on your letters, it appears that you believe that Permit No. 19-107012 was issued improperly, and you refer to general CEQA law based on a general understanding of what you perceive. We would like to know whether there are specific facts that you believe we should know about or specific legal authority that says that the Department may not issue this ministerial permit. This would help the Department give an informed reply to your first two letters. However, you informed our attorney within the County Counsel's Office, that you will be filing a lawsuit on behalf of your client, the Wonderful Company, within the next two days.

George J. Mhlsten, Esq.
October 30, 2019
Page 2

Because the Department already issued stop-work notices for the property, and because we are still open to a dialog on this matter, the Department believes this lawsuit is premature. As a result, we ask that you delay filing the lawsuit. Please send your reply to this request to Deputy County Counsel Bryan Rome at brome@fresnocountyca.gov.

Sincerely,



William M. Kettler, Manager
Development Services and Capital Projects Division

Attachment

Copy (via email): Steven E. White, Director of Public Works and Planning
 Bernard Jimenez, Assistant Director of Public Works and Planning
 Bryan D. Rome, Deputy County Counsel

G:\4360Devs&Pln\Kettler\Letters\34411 West Kamm Avenue.doc



**Development Services - Capital Projects
Division**

**FRESNO COUNTY
DEPARTMENT OF PUBLIC WORKS AND PLANNING
DEVELOPMENT SERVICES DIVISION**

TO: Ventanna South LLC. **DATE/TIME:** October 28, 2019
JOB ADDRESS: 34411 W. Kamm, Cantua Creek, CA 93640 **PERMIT NO.** _____

STOP WORK ORDER

YOU ARE HEREBY NOTIFIED TO STOP WORK IMMEDIATELY ON THIS PROJECT

Construction procedures upon this project are not in accordance with the requirements of adopted Fresno County Building Codes and/or Fresno County Ordinance Code, Title 15, in the following particulars:

Construction of multiple structures without permits, approvals, or inspection.

Building Inspector
(559) 600-4560 (8:00-8:30 & 4:00-4:30 daily)

Chief Building Inspector
(559) 600-4217 (8:00 - 5:00 daily)

F069

Exhibit 14

October 31, 2019

VIA EMAIL AND U.S. MAIL

Bryan Rome, Deputy County Counsel
County of Fresno
2200 Tulare Street, Fifth Floor
Fresno, CA 93721

William Kettler, Manager
Development Services and Capital Projects
County of Fresno Department of Public Works and Planning
2200 Tulare Street, Sixth Floor
Fresno, CA 93721

Re: Ventana South, LLC Commercial Pistachio Processing Facility

Dear Mr. Rome and Mr. Kettler:

Thank you for your letter dated October 30, 2019 regarding the unpermitted construction work occurring at 34411 West Kamm Avenue (“Project Site”). We appreciate your swift attention to this matter and are writing in response to your letter.

We believe that all work on the Project Site, whether being done pursuant to an issued building permit or otherwise, must stop immediately to allow the County of Fresno to comply with CEQA and the County Code. Please confirm that this has occurred and that there is no construction work occurring at the Project Site.

As to the issuance of Building Permit No. 19-107012, the County issued it in error for several reasons. Your letter states that the issuance of a permit for foundations for 49 silos is a ministerial permit. Putting aside whether or not that is the case under the County Code, CEQA is clear that where a project requires both a ministerial and discretionary permit the project is subject to CEQA. CEQA Guidelines Section 15268(d) is explicit on this point.

Where a project involves an approval that contains elements of both a ministerial action and a discretionary action, the project will be deemed to be discretionary and will be subject to the requirements of CEQA.

Whether the building permit for foundations for 49 silos is ministerial or discretionary, it is part of the Ventana South project, and it should not have been issued until the CEQA review process was completed (as well as the associated land use actions).

Moreover, the courts have confirmed that a municipality's classification of a certain approval process as ministerial is not conclusive. "The applicability of CEQA cannot be made to depend upon the unfettered discretion of local agencies, for local agencies must act in accordance with state guidelines and the objectives of CEQA." (*Day v. City of Glendale* (1975) 51 Cal.App.3d 817, 822.) In fact, the silos and their related foundations require discretionary approvals as is evidenced by the County Code and by the applicant's own admission for at least two reasons.

First, the silos exceed the 35-foot height limitation established by the County in the AE-20 zone. Recognizing this, Ventana South has applied for a variance to permit the 65-foot tall silos. A variance is a discretionary process under the County Code. (See Section 877.) Because the silos require a discretionary approval in addition to building permits, they are a project subject to CEQA. Since no CEQA review has been completed for the discretionary variance, nor has the variance been issued, Building Permit No. 19-107012 was issued in error.

Second, the silos are part of an industrial facility that requires a discretionary conditional use permit. Ventana South has applied for a conditional use permit. Ventana South describes the pistachio processing plant as including 280 48' x 65' tall storage silos. (See attached Exhibit 1.) Ventana South submitted its application to the County **before** the County issued Building Permit No. 19-107012. Therefore, the County was aware that the preliminary silo foundation work was part of a larger development requiring a discretionary conditional use permit. Again, since no CEQA review has been completed for the discretionary conditional use permit, nor has the conditional use permit been issued, Building Permit No. 19-107012 was issued in error.

The County has already recognized that permits that may otherwise be ministerial cannot be issued for the processing facility because "CUP 3658 must be approved prior to permits." (See attached Exhibit 2.) Building Permit No. 19-107012 is no different. Because the County issued it in error, it must be revoked and all work pursuant to it or any other permit must remain stopped until the County completes its discretionary review and complies with CEQA.


Lastly, we note that Building Permit No. 19-107012 only authorized "construction of 49 silo foundations." Per the attached pictures attached as Exhibit 3, silos have been illegally constructed at the Project Site. To the best of our knowledge, the County never issued a permit for the construction of these silos (and other associated facilities which appear to have been constructed on the Project Site). Building Permit No. 19-107012 confirms that "[n]o other work is authorized" by the permit. Further, the County's Zoning Code requires that permits must be secured for all construction work prior to commencement of those activities. (Zoning Ordinance of the County of Fresno, Section 864.)

Because Ventana South undertook construction without a permit, in addition to stopping all work, we respectfully request that you order Ventana South to remove the illegally constructed silos and related facilities.

LATHAM & WATKINS^{LLP}

Thank you again for your prompt attention to his matter. Please do not hesitate to contact us with any questions.

Very truly yours,



Benjamin J. Hanelin
of LATHAM & WATKINS, LLP

cc: Daniel C. Cederborg, County Counsel

Exhibit 1



RECEIVED
COUNTY OF FRESNO
SEP 05 2019

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

CUP3658.
(Revised
Op. Stat.)

County of Fresno
Planning Department
2220 Tulare St.
Fresno, CA 93721

Touchstone Pistachio Co
Operational Statement

To whom it may concern,

The applicant proposes to construct a pistachio processing plant. The proposed pistachio processing plant will be located on Assessor's Parcel Number 038-300-17S and 038-300-30S. An address has not been assigned to the site to date.

Construction of this plant will enable the applicant to hull, dry, process, store and package pistachios. Currently, the applicant's pistachios are taken to another processing plant over 21 miles away. Processing them at the proposed plant would significantly reduce the quantity of emissions that are produced through the transportation of the product. The full build-out will be in 4 phases.

The proposed plant consists of the following structures for Phase 1:

- (1) 120,000 sq. ft. processing/packing building with a 10,000 sq. ft. canopy and a truck dock
- (1) 15,133 sq. ft. cold storage building
- (1) 11,520 sq. ft. admin office building
- (1) 8,300 sq. ft. breakroom/supervisor office building
- (70) 48' dia. x 65' tall storage silos
- (1) 21,600 sq. ft. huller canopy
- (1) 6,570 sq. ft. shop building with a 2,920 sq. ft. canopy
- (6) sand and media water filters
- (1) 323,266 gal. water storage tank
- (1) 324 sq. ft. fire pump house
- (1) 1,624 sq. ft. main scale house/guard shack and truck scale
- (1) 200 sq. ft. scale house and truck scale
- (2) 1,200 sq. ft. MCC buildings
- (4) 510 sq. ft. equipment canopies
- (17) 27 MMBtu/hr. natural gas fired column dryers



The following structures will be added during proposed Phase 2:

- (70) 48' dia. x 65' tall storage silos
- (13) 27 MMbtu/hr. natural gas fired column dryers
- (1) 21,600 sq. ft. huller canopy
- (1) 323,266 gal. water storage tank
- (2) sand and media water filters

The following structures will be added during proposed Phase 3:

- (1) 120,000 sq. ft. processing/packing building with a 10,000 sq. ft. canopy and a truck dock
- (70) 48' dia. x 65' tall storage silos
- (13) 27 MMbtu/hr. natural gas fired column dryers
- (1) 21,600 sq. ft. huller canopy
- (1) 323,266 gal. water storage tank
- (1) 6,570 sq. ft. shop building with a 2,920 sq. ft. canopy
- (2) sand and media water filters

The following structures will be added during proposed Phase 4:

- (70) 48' dia. x 65' tall storage silos
- (13) 27 MMbtu/hr. natural gas fired column dryers
- (1) 21,600 sq. ft. huller canopy
- (1) 323,266 gal. water storage tank
- (2) sand and media water filters

The proposed plant will also include processing equipment, onsite roadways, parking lots, signage, and landscaping in front of the main processing building. There will be a 6'-0" black chain link fencing along the entire perimeter of the plant with several gates on the north and south borders, and one on the east border. The proposed structures will not cause an unsightly appearance that is uncommon to agricultural uses, or produce dust, noise, glare or any odors. The plant will not utilize an outdoor sound amplification system.



In Phase 1, from January to the start of harvest, around the beginning of September, there will be 60 full-time employees operating the processing equipment over (2) 8-hour shifts, 5 days a week.

During harvest, roughly September to mid-October, there will be 60 full-time employees operating the processing equipment over (2) 12-hour shifts, 7 days a week. There will be 40 additional employees operating the receiving, hulling, and drying equipment over (2) 12-hour shifts per day, 7 days a week.

After harvest ends in October to December, there will be 60 full-time employees operating the processing equipment over (2) 8-hour shifts, 5 days a week.

In Phases 2-4, the shift hours and days will remain the same, but the number of employees will increase as shown in the table below.

	Processing		Huller (Seasonal)		Daily Total Employees
	# Employees	# Shifts	# Employees	# Shifts	
Phase 1					
Jan-Aug	30	2	0	0	60
Sept-Oct*	30	2	20	2	100
Nov-Dec	30	2	0	0	60
Proposed Phase 2					
Jan-Aug	60	2	0	0	120
Sept-Oct*	60	2	40	2	200
Nov-Dec	60	2	0	0	120
Proposed Phase 3					
Jan-Aug	90	2	0	0	180
Sept-Oct*	90	2	60	2	300
Nov-Dec	90	2	0	0	180
Proposed Phase 4					
Jan-Aug	120	2	0	0	240
Sept-Oct*	120	2	80	2	400
Nov-Dec	120	2	0	0	240

*Exact start and end dates of harvest season varies; Harvest is approximately 6 weeks long



There are no caretakers living on site.

Regular traffic to and from the site will consist of 4 types of vehicles:

- 1) Employee vehicles
- 2) Harvest trucks (bring raw product on-site)
- 3) Shipping trucks (take processed product off-site)
- 4) Delivery vehicles

Employee Vehicles

From January to August, there will be 60 employees entering the site 5 days a week.

During harvest, there will be 100 employees entering the site 7 days a week.

After harvest ends in October to December, there will be 60 employees entering the plant 5 days a week.

Given the distance of the site from any major towns plus only a single shift per workday, the rideshare rate is expected to be approximately 69%.

Harvest Trucks

During harvest, 200 harvest trucks will enter the site daily. These trucks will be routed from the source orchard to Highway 33 or I5, then to the plant via West Kamm Avenue. There will not be any harvest trucks received during the off-season.

Shipping Trucks

From harvest to December the company expects to receive 12 shipping trucks a day, 7 days a week. Following harvest season, this will decrease to 3 shipping trucks per day, 5 days a week. This quantity will be maintained throughout the year until the beginning of harvest in September the following year.

Delivery Vehicles

There will be an estimated 10 delivery vehicles received per day at the site during Phase 1. This includes visitors, delivery trucks (UPS, FedEx, etc.), and regularly scheduled private trash service vehicles.



In Phases 2-4, the number of trips per day will increase as shown below.

Daily Trip Calculation (Numbers represent inbound only)					
Phase 1					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	60	0	3	10	73
September – October	100	200	12	10	322
November – December	60	0	3	10	73
Proposed Phase 2					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	120	0	6	15	141
September – October	200	400	15	15	630
November – December	120	0	6	15	141
Proposed Phase 3					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	180	0	9	21	210
September – October	300	600	18	21	939
November – December	180	0	9	21	210
Proposed Phase 4					
Months	Employee Trips	Harvest Trucks	Shipping Trucks	Delivery Vehicles	Total
January – August	240	0	12	26	278
September – October	400	800	21	26	1247
November – December	240	0	12	26	278

Truck access to the site will be via two paved drives off West Kamm Avenue. Employees will enter through a separate paved drive off West Kamm Avenue.



Water for the site will be provided by Westlands Water District. During harvest, the water will be used primarily by the hullers. Outside of harvest, the water will be utilized primarily by the roaster. See the below table for water use during and outside of harvest per phase.

Water Use Per Day During Harvest and Non-Harvest				
	Phase 1	Proposed Phase 2	Proposed Phase 3	Proposed Phase 4
Harvest	4,000,000	8,000,000	12,000,000	16,000,000
Non-Harvest	40,000	40,000	40,000	40,000

Once utilized, the water will be collected by a floor conveyance system and pumped through a bank of parabolic screens to remove large solids and into (2) fenced on-site settling basins. Water basins will be expanded as needed for future phases. The water will then be pumped into an existing irrigation line to be discharged onto orchards.

Sewage from the plant will be connected to new septic systems. Defrost water and storm water runoff will be directed to a fenced ponding basin on the northeast corner of the property.

The plant will recycle as much paper and cardboard waste as possible. The recyclable materials and trash are taken off-site by a private trash service. The hulls from the pistachios will be pressed to reduce the moisture percentage and then shipped out and sold as cattle feed. Twigs, leaves, and chaff from harvesting will be composted and used or sold as mulch.

Respectfully submitted,

Touchstone Pistachio Co

Exhibit 2

19-107620 B
19-107619 A
19-107621 C

PLAN CHECK TRIAGE

Plan Check Number 19-0679 APN: 038-300-175

	<u>Date</u>	<u>Entered By</u>
Initial Submittal	<u>9/25/19</u>	<u>AM</u>
WMP Required	Yes <u>X</u>	No _____
MWELo Required	Yes _____	No <u>X</u>
HSR	Yes _____	No <u>X</u>
Zoning Triage Review	<u>9/26/19</u>	<u>TC</u>
RTMF Required	Yes <u>X</u>	No _____
Site Assessment	Yes <u>X</u>	No _____
Grading Triage Review	<u>9/26/19</u>	<u>ST</u>
FEMA Flood Zone	Yes _____	No <u>✓</u>
SRA	Yes _____	No <u>✓</u>
Inspector Triage Review	<u>9/26/19</u>	<u>PC</u>
Plan Checker Triage Review	<u>9/26/19</u>	<u>PC</u>
Code Enforcement Triage Review	<u>9-26-19</u>	<u>JRA</u>
Violation	Yes _____	No <u>(X)</u>
Fire District	<u>FLFD</u>	_____

Triage Review Notes

- Cap 3658 must be approved prior to permits. No 9/26/19
Also see SPR-8141 & VA4070.

- Name on plans does not match AMANDA / Front C.
ASK FOR DEED TO VERIFY PO.

Exhibit 3







Exhibit 15



Fresno County Department of Public Works and Planning

Mailing Address: Department of Public Works & Planning Development Services Division 2220 Tulare Street, 6th Floor, Fresno, CA 93721

Location: Southwest corner of Tulare & "M" Street, Suite B Courtyard Level Fresno Phone: (559) 600-4022

WILLIAMSON ACT APPLICATION

Re-Submitted

RECEIVED COUNTY OF FRESNO

AUG 30 2019

DEPARTMENT OF PUBLIC WORKS AND PLANNING DEVELOPMENT SERVICES DIVISION

RLCC 1002

Ag Contract: AP 365 / AP 1839

APN: 038-300-179

APN: _____

APN: 038-300-309

APN: _____

Nonrenewal (check below if Partial) Partial Nonrenewal (AP 365)

Declaration for Building Permits Review of Mapping Application

Location of Property: Street Address _____

SOUTH side of KAMM AVE. between HIGHWAY 33 and INTERSTATE 5

OWNER(S)/APPLICANT(S) (Print or Type) ADDRESS CITY ZIP PHONE VENTANA SOUTH LLC 1396 W. HERNDON #106 FRESNO, 93711

REPRESENTATIVE (Print or Type) ADDRESS CITY ZIP PHONE JEFFREY T. ROBERTS 1396 W. HERNDON #110 FRESNO, 93711

Please attach the following:

- X A copy of your grant deed or current ownership documentation. X A complete legal description with the areas which will be affected. A notarized Statement of Intended Use if applying for a Declaration for Building Permit *If owner(s) or applicant(s) is under partnership, trust, corporation, etc., documentation needs to be provided showing individual names and titles.

(559) 440-8308 (559) 440-8350 CELL (559) 288-0688

I/We, JEFFREY T. ROBERTS (print), declare that I/we own, or represent the owner, of the above described property and that the application and attached documents are in all respects true and correct to the best of my knowledge.

Signature [Handwritten Signature]

Date 3-27-2019

OFFICE USE ONLY

Date Received: _____ Received by: _____ Deed or current ownership information _____ Legal Description (current) _____ Statement of Intent _____

Exhibit 16



County of Fresno

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

Agricultural Land Conservation Committee Staff Report Agenda Item No. 2 November 6, 2019

SUBJECT: Review and make recommendation to the Board of Supervisors regarding petition for **CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 1839** and **PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 365 (RLCC NO. 1002)** to remove a 155.76-acre parcel and a 160.00-acre parcel from the Williamson Act program to establish a pistachio processing facility on the subject parcels as an alternative use. The subject parcels contain soils classified as "Local Importance".

LOCATION: The subject parcels are located on the south side of Kamm Avenue, between State Route 33 (Derrick Avenue) and Interstate Highway 5, approximately four and one quarter-miles northwest of the unincorporated community of Cantua Creek (Sup. Dist. 1) (APNs 038-300-17s, 038-300-30s).

OWNER/APPLICANT: Ventana South, LLC

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

Mohammad Khorsand, Senior Planner
(559) 600-4230

RECOMMENDATION:

Staff believes that the required Five Findings under Government Code Section 51282(b) can be made and therefore, recommends that the Agricultural Land Conservation Committee (Committee) recommend that the Board of Supervisors approve the petition for cancellation of Agricultural Land Conservation Contract No. 1839 and partial cancellation of Agricultural Land Conservation Contract No. 365, subject to the following conditions:

1. The landowner shall obtain the necessary land use approvals, including Classified Conditional Use Permit Application No. 3658 and Site Plan Review Application No. 8141.
2. The applicant shall pay the Cancellation Fee as determined by the County Assessor and certified by the Board of Supervisors for issuance of a Certificate of Cancellation by the Board. The Cancellation Fee shall be paid and a Certificate of Cancellation issued prior to approval of the Site Plan Review for the proposed facility.

BACKGROUND:

The Agricultural Land Conservation Committee reviews petitions for cancellation of Agricultural Land Conservation Contracts for consistency of the petition with the purposes of the Williamson Act, pursuant to Section 51282 of the Government Code, and makes a recommendation to the Board of Supervisors to approve or deny the petition.

This petition for cancellation of Williamson Act Contract No. 1839 and partial cancellation of Williamson Act Contract No. 365 was filed in conjunction with Classified Conditional Use Permit (CUP) Application No. 3658 and associated Initial Study (IS) Application No. 7707, which proposes development and operation of a pistachio processing facility on a 155.76-acre parcel identified as Assessor's Parcel Number (APN) 038-300-17s and a contiguous 160.00-acre parcel identified as APN 038-300-30s.

The subject 155.76-acre parcel as well as the western 80 acres of the subject 160.00-acre parcel are enrolled in the Williamson Act program under Contract No. 365. The eastern 80 acres of the subject 160.00-acre parcel is enrolled in the Williamson Act program under Contract No. 1839.

An agricultural processing facility could be considered a compatible use on land enrolled in the Williamson Act program when said facility is processing products grown on the same parcel, is secondary to an onsite bona fide agricultural operation, and meets the principles of compatibility listed under Government Code Section 51238.7(a). In this case, the proposed facility is not going to process products grown on the subject parcels because there is no agricultural operation on the subject parcels. Therefore, the proposed facility does not qualify as a compatible use and the parcels involved in the CUP must be removed from the Williamson Act program.

The subject parcels are located on the south side of Kamm Avenue, between State Route 33 (Derrick Avenue) and Interstate Highway 5, approximately four and one quarter-miles northwest of the unincorporated community of Cantua Creek [see Location Map (Exhibit "A"), Existing Zoning Map (Exhibit "B"), Existing Land Use Map (Exhibit "C"), Assessor's Parcel Map (Exhibit "D"), and Aerial Photograph (Exhibit "E")].

DISCUSSION:

The Williamson Act program is a voluntary program whereby private landowners enter into contract with local governments for the purpose of restricting parcels of land to commercial agricultural uses or qualified open space uses. Certain other uses that are determined by the local governing body to be compatible uses on land enrolled in the Williamson Act program are also allowed. In return, landowners receive property tax assessments that are lower than normal because the assessments are based on farming and open space uses rather than full-market property value. The purpose of the Williamson Act is to provide an incentive for keeping land in agricultural use, at least for the duration of the contract, which is typically ten (10) years.

TERMINATION OF A WILLIAMSON ACT CONTRACT:

Under state law, the preferred method of contract termination is non-renewal. Williamson Act contracts are terminated by filing a notice of non-renewal either by the landowner or the local government that has jurisdiction over the contracted parcel. The landowner must give the County written notice of their desire not to renew the contract by October 1 (at least 90 days prior to the January 1 renewal date). The contract will then terminate nine (9) years from the January 1 renewal date following the recording of the notice of non-renewal.

Cancellation is an option under limited circumstances and conditions set forth in Government Code Section 51280(b). To grant tentative cancellation, the Board of Supervisors must make specific findings that are supported by substantial evidence to ensure the cancellation is consistent with the purposes of the Williamson Act. The owner's desire to use the property for another use is not sufficient justification for cancellation. In addition, the unprofitable nature of an existing agricultural use shall not, by itself, be a sufficient reason to cancel a contract.

The petition for cancellation must contain a proposal for a specific alternative use for the property. If the Board of Supervisors grants tentative cancellation, the landowner is required to pay a cancellation fee equal to 12.5% of the unrestricted, current fair market valuation of the property as determined by the County Assessor and certified by the Board of Supervisors. The applicant will be required to satisfy certain conditions prior to the Board issuing a "Certificate of Cancellation", including payment in full of the cancellation fee and obtaining all permits necessary to commence the alternative use of the property.

Per Government Code Section 51282(b), cancellation of a contract is consistent with the provisions of the Land Conservation Act of 1965 if the Board can make all of the findings listed under said Government Code Section. Staff's evaluation of the proposed petition against the required findings are discussed below:

1. *That the cancellation is for land on which a Notice of Nonrenewal has been served pursuant to Section 51245 of the Government Code.*

An executed Notice of Nonrenewal for Williamson Act Contract No. 1839 was accepted by the County Recorder on September 20, 2019, and was assigned Document No. 2019-0108490. Said Nonrenewal is for the eastern 80 acres of the 160.00-acre parcel subject to this petition for cancellation.

An executed Notice of Partial Nonrenewal for Williamson Act Contract No. 365 was also accepted by the County Recorder on September 20, 2019, and was assigned Document No. 2019-0108489. Said Partial Nonrenewal is for the 155.76-acre parcel and the western 80 acres of the 160.00-acre parcel subject to this petition for partial cancellation.

Based on the facts stated above, Department staff believes that Finding No. 1 can be made.

2. *That the cancellation is not likely to result in the removal of adjacent lands from agricultural use.*

The Natural Resources Conservation Service (NRCS) soil survey identifies portions of the subject parcels as Storie Index rating Grade 1 and Grade 2. Grade 1 and Grade 2 soils are equivalent to Prime and Statewide Importance soil classifications.

The subject parcels contain soil that is classified as Farmland of Local Importance on the California Department of Conservation (DOC) Important Farmland Map. This classification applies to lands that are non-irrigated properties that are either currently producing crops or have the capacity of production. This category includes dryland grain, dairies, and other agriculturally-zoned land that is not classified as Prime, Statewide Importance or Unique Farmland, and could be important to the local economy due to its productivity.

Staff would like to note that the DOC's mapping unit downgrades the soil classification of parcels if the parcels have not been irrigated during the four years prior to the mapping date.

The applicant acquired the subject parcels in 2011 and has not utilized the parcels for commercial agricultural purposes. Aerial photographs dating back to 2009 show no agricultural use on the subject 155.76-acre parcel, and aerial photographs dating back to 2006 show no agricultural use on the subject 160.00-acre parcel.

Surrounding parcels are designated as Agricultural in the County General Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size), are actively farmed, and are enrolled in the Williamson Act program to be preserved for farming operation. The potential for future conversion of neighboring farmlands to other similar non-farming uses exist. However, the neighboring parcels are restricted by Williamson Act contracts. If the alternative use is not a permitted or a compatible use, removal of land from the Williamson Act contract would require removal of the site from the Williamson Act program, similar to this project, which is a discretionary approval process.

Based on the above discussion, Department staff believes the proposed cancellation will not likely result in the removal of adjacent lands from agricultural use and therefore, Finding No. 2 can be made.

3. *That the cancellation is for an alternative use that is consistent with the provisions of the County General Plan.*

This petition for cancellation of Williamson Act Contract No. 1839 and partial cancellation of Williamson Act Contract No. 365 have been filed in conjunction with Classified Conditional Use Permit (CUP) Application No. 3658 and associated Initial Study (IS) Application No. 7707, which proposes development and operation of a pistachio processing facility on a 155.76-acre parcel and a contiguous 160.00-acre parcel. The subject parcels are designated as Agricultural in the County General Plan and are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size).

The Agriculture and Land Use Element of the General Plan sets goals and policies promoting long-term conservation of the County's productive agricultural lands.

General Plan Policy LU-A.3 states that the County may allow by discretionary permit in areas designated Agriculture, special agricultural uses and agriculturally-related activities, including value-added processing facilities and certain non-agricultural uses subject to the following criteria: a) The use shall provide a needed service to the surrounding agricultural area which cannot be provided more efficiently within urban areas or requires location in a non-urban area because of unusual site requirements or operational characteristics; b) The use should not be sited on productive agricultural lands if less productive land is available in the vicinity; c) The operational or physical characteristics of the use shall not have a detrimental impact on water resources or the use or management of surrounding properties within at least one quarter (1/4)-mile radius. General Plan Policy LU-A.12 requires protection of agricultural activities from encroachment of incompatible uses. General Plan Policy LU-A.13 states that the County shall protect agricultural operations from conflicts with non-agricultural uses. General Plan Policy LU-A.14 states that the County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agricultural land and that mitigation be required where appropriate.

The applicant acquired the subject parcels in 2011 and has not utilized the parcels for commercial agricultural purposes. Aerial photographs dating back to 2009 show no agricultural use on the subject 155.76-acre parcel, and aerial photographs dating back to 2006 show no agricultural use on the subject 160.00-acre parcel. Further, according to the applicant, there are no water wells located on the subject parcels, nor do the subject parcels receive any surface water allocation. Therefore, with regard to Policies LU-A.3, LU-A.12, LU-A.13 and LU-A.14, this proposal entails the establishment of a commercial pistachio processing facility on agricultural parcels that have been enrolled in the Williamson Act program but have not been used by the applicant for commercial agricultural operation. Therefore, the subject parcels are not qualified to be enrolled in the Williamson Act program. Additionally, the proposed alternative use will be processing agricultural products that are grown in Fresno County.

Based on the above discussion, Department staff believes that the proposed alternative use is consistent with the County General Plan and therefore, believes Finding No. 3 can be made.

4. *That the cancellation will not result in discontinuous patterns of urban development.*

The proposed pistachio processing facility will not result in any discontinuous patterns of urban development, should the proposed cancellation be approved. The subject parcels are located in a rural area away from any city or unincorporated community, and neighboring parcels are designated as Agricultural in the County General Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and are actively farmed.

Based on the facts stated above, Department staff believes that Finding No. 4 can be made.

5. *That there is no proximate non-contracted land that is both available and suitable for the use to which it is proposed that the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.*

County staff provided a map and list of similar-size non-contracted parcels within a 5-mile radius of the subject parcels and asked that the applicant address why the identified non-contracted parcels could not be used for the proposed alternative use. Additionally, Department staff sent letters to the owners of these non-contracted parcels requesting that said owners notify Department staff if their parcels are for sale. The Policy Planning Unit staff was not contacted by any of the landowners within the five-mile radius about the availability of their parcels for the proposed use. Further, the applicant provided information as to why each parcel identified by Department staff is not suitable for the proposed use (see Exhibit F). Reasons provided for lack of suitability included: parcels being too small, parcels being too far from a canal water source, topographical challenges, and parcels already developed with uses such as solar power generation facilities.

Based on staff's inquiry and the applicant's reasons for unsuitability, staff believes there is no non-contracted parcel that can be used for the alternative use, and therefore, Finding No. 5 can be made.

ENVIRONMENTAL DETERMINATION:

Initial Study (IS) Application No. 7707 being processed for Classified Conditional Use Permit (CUP) Application No. 3658 will address the potential environmental impacts associated with the cancellation of the contracts. The IS will be completed and circulated prior to the Planning Commission hearing for the Classified Conditional Use Permit application.

OTHER REVIEWING AGENCIES:

As of January 1, 2001, Government Code Section 51284.1(a) requires notification to be provided by the County to the Director of the California Department of Conservation (DOC) when a cancellation petition has been accepted as complete. Under Government Code Section 51284.1(c), DOC comments, if provided, are required to be considered by the Board of Supervisors before acting on the proposed cancellation.

The petition was forwarded to the California Department of Conservation (DOC) on September 5, 2019. Staff received a response from the DOC on September 30, 2019 stating that the DOC has no substantive comments to offer and has therefore elected not to comment on this petition. However, the DOC response states that the County consider elaborating on Finding No. 5 to more clearly demonstrate for the record that no other proximate land not under contract is both suitable and available for the proposed use.

CONCLUSION:

Based upon staff's analysis of the proposed alternative use against the consistency findings listed under Government Code 51282(b), staff believes all the findings can be made, and therefore recommends approval of the cancellation of Agricultural Land Conservation Contract No. 1839 and partial cancellation of Agricultural Land Conservation Contract No. 365, subject to the conditions listed on page one of this staff report.

However, if the Committee believes that the required findings cannot be made, the Committee should recommend that the Board of Supervisors deny the cancellation of Agricultural Land

ALCC Agenda Item No. 2
November 6, 2019
Page 7 of 7

Conservation Contract No. 1839 and partial cancellation of Agricultural Land Conservation
Contract No. 365.

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Exhibit 17



County of Fresno

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

AGENDA AGRICULTURAL LAND CONSERVATION COMMITTEE

November 6, 2019

2:30 p.m. – 4:30 p.m.

Fresno County Farm Bureau
1274 West Hedges
Fresno, California 93728

CALL TO ORDER

ROLL CALL

REGULAR AGENDA

1. Approve the October 3, 2019 minutes.
2. Review and make recommendation to the Board of Supervisors regarding **CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 1839 and PARTIAL CANCELLATION OF AGRICULTURAL LAND CONSERVATION CONTRACT NO. 365 (RLCC NO. 1002)** to remove a total of 315.76 acres from the Williamson Act program to develop a pistachio processing facility on the subject land as an alternative use.
 - Contact person, Derek Chambers (559) 600-4205,
Email: dchambers@fresnocountyca.gov
3. **REVIEW AND DISCUSS** recent and upcoming Board of Supervisors' Agenda items regarding the Williamson Act program.
 - Contact person, Mohammad Khorsand (559) 600-4230,
Email: mkhorsand@fresnocountyca.gov
4. **INTRODUCTION AND CONFIRMATION of Ms. Kayleena Speakman as alternate member for committee member Ryan Jacobsen.**
5. **PUBLIC PRESENTATIONS:** (This portion of the meeting is reserved for persons desiring to address the Agricultural Land Conservation Committee on any matter within the Committee's jurisdiction and not on this Agenda.)
6. **NEXT ALCC HEARING:** December 4, 2019
7. **ADJOURNMENT**

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