

TRANSMITTAL

Received

DATE: 3/9/2022

MAR 09 2022

JOB NO.

Fresno LAFCo

TO: LAFCo
ADDRESS: 2607 Fresno St.
CITY: Fresno
ATTENTION: David Fey
SUBJECT: Chris & Teresa Smith Property

We are forwarding via:

By Fax By Mail By Messenger

No. of Pages	Description
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Remarks: Dear Mr. Fey:
Please see the enclosed letters for the property located
on the northeast corner of S. Academy and E. Butler
Avenues in Fresno County.

If you have any questions, please let me know.

Respectfully,
Maria Spera

This material is sent for:

Checking Correction Your Information
 Other _____

BY: Maria Spera

Copies to: _____

FIKE & BORANIAN
ATTORNEYS AT LAW

David A. Fike
A Professional Corporation
dfike@fikeboranianlaw.com

401 Clovis Avenue, Ste. 202
Clovis, California 93612
Telephone (559) 229-2200
Facsimile (559) 225-5504

Meggin Boranian
mboranian@fikeboranianlaw.com

March 9, 2022

Mr. Steve Brandau, Chairman and Board Members
Fresno County LAFCo
Via hand delivery

SUBJECT: City of Sanger Annexation North Academy Corridor Annexation

Dear Chairman Brandau and Board Members:

My client, Chris and Theresa Smith, own the 7.16-acre parcel at the northeast corner of S. Academy Ave and E. Butler Avenues in the County of Fresno. My client objects to the subject annexation for a variety of reasons set forth below.

As background, please note that my client has owned and operated Academy Feed for the past 28 years at the southeast corner of S. Academy and E. Butler Avenues. Approximately 3 years ago, my client began planning the development of his 17.93-acre property immediately north of his existing feed store and began conversations with the City of Sanger about that project.

Mr. Smith had secured Lyons trucking, a subsidiary of Wawona Fruit, as a potential purchaser of the northern 7.16 acres of his property. Conversations with the City of Sanger regarding development standards development process and the acquisition of water soon became entangled in the City's opposition to the Lyons truck and office facility.

The City attempted to convince Lyons to not develop the site owned by my client. The alternative locations presented to Lyons and my client were unacceptable for variety of reasons, such as the Smith site was immediately adjacent to Academy Ave., which has direct access to State Route 180 and proximate to growers that Lyons served. Nonetheless, the City of Sanger continued to oppose the Lyons trucking office facility.

My client proceeded by submitting to Fresno County Directors Review and Approval No. 4587 to allow the Lyons trucking and office facility and Conditional Use Permit No. 3654 to allow my client to relocate Academy Feed immediately north of its present location. Site plans and elevations of both uses were presented to County staff for review.

Mr. Steve Brandau, Chairman and Board Members
March 9, 2022
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A request was then made to the City of Sanger to provide potable water for Directors Review and Approval No. 4587 and Conditional Use Permit No. 3654, at his expense. Said service would have been in the public interest as a water main line exists adjacent to his property in Academy Ave. By letter to my client dated September 24, 2020, the City declined providing water as they commented, among other issues, *water for this location is not available at this time.* (See attached and related correspondence).

On December 15, 2020, the City of Sanger representatives, including its attorney, appeared before the Fresno County Board of Supervisors and appealed the County Planning Commission's approval of Classified Conditional Use Permit Application No. 3654, Director Review and Approval Application No. 4587, and Variance Application No. 4072; and adoption of the associated Mitigated Negative Declaration and the creation of two, 7.16-acre parcels and an approximately 3.61-acre parcel from an 17.93-acre parcel. The appeal was acrimonious and was denied.

Subsequently, my client pursued recordation of a parcel map in the County legally dividing the 17.93-acre parcel and obtained tentative approval of Site Plan Review No. 8234 for the proposed Lyons trucking office facility. Due to a variety of factors principally associated with Covid and related County staffing issues, Site Plan Review No. 8234 for Lyons, while submitted to the County of Fresno, has not been formally approved. Site Plan Review No. 8256 has been submitted to the County to allow my client's relocated Academy Feed store and is currently under review.

My client's focus has been to assist in the recordation of the parcel map and obtaining approval of the Lyons trucking office facility site plan review. As mentioned previously, Covid pandemic adversely affected County staff's ability to respond in their typical time frames, the extreme price increases in building materials created an environment where building proposal costs could not be refined due to the lack of material and wildly fluctuating costs. For those reasons, my client has not pursued obtaining a Site Plan Review for the 7.16-acre portion that he intends to develop to a feed store.

Unfortunately, Sanger staff has been unnecessarily uncooperative. Mr. Smith's planning consultant attended on April 21, 2021, *zoom* workshop and expressed concerns about the conflict with projects approved or being processed in Fresno County and how the City of Sanger would address such projects. The consultant specifically requested an opportunity to discuss if there was *mitigation* acceptable to the City so that the Smith property could develop. The City of Sanger never tried to discuss the issues raised by my client.

For these reasons, my client respectfully requests that the 7.16-acre parcel owned by he and his wife, be allowed to submit and process building permits with Fresno County for his feed store and that such permitting be under the jurisdiction of Fresno County. This proposal allows the City of Sanger to annex the Academy corridor in accordance with its vision and Mr. Smith to

Mr. Steve Brandau, Chairman and Board Members

March 9, 2022

Page 3

complete the development process he began three years ago to develop his property. Review of the environmental impact report prepared for the proposed corridor annexation indicates that approximately \$35 million of infrastructure will be necessary to make typical sewer, water storm, drain and street improvements within the annexation area. Please see the attached photos of the lack of infrastructure around the Smith property, for your information and review.

It is common knowledge that the City of Sanger does not have the funds available to make these planned improvements so there is no time-sensitive requirement that the Academy corridor and particularly not Mr. Smith's property be annexed at this time. Therefore, we respectfully request the proposed annexation be postponed for 90 days to allow one last opportunity to resolve this issue in good faith between my client and the City of Sanger. Most importantly, this delay will provide the City of Sanger the opportunity to assure availability of potable water and timely delivery of said water to the Smith and Lyons properties at a reasonable cost, otherwise there is no benefit to Mr. Smith in annexation.

Thank you for your consideration of this reasonable and justified request.

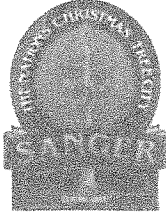
Sincerely,

A handwritten signature in cursive script that reads "Meggin Boranian".

Meggin Boranian, Esq.

Attachments

cc. Mr. Chris Smith



CITY OF SANGER

1700 7TH STREET
SANGER, CALIFORNIA 93657-2804
TELEPHONE: (559) 876-6300, Ext. 1520
FAX: (559) 876-6335

COMMUNITY DEVELOPMENT DEPARTMENT

TOM NAVARRO, DIRECTOR

September 24, 2020

Thomas Kobayashi, Planner
Development Services and
Capital Projects Division,
Fresno County
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721

RE: Comments on Classified Conditional Use Permit Application No. 3654, Variance Application No. 4072, and Director Review and Approval Application No. 4587

Dear Mr. Kobayashi:

The City of Sanger has reviewed the proposed project located at APN 314-070-34, 354 S. Academy Avenue, Sanger, CA 93657. The project includes Classified Conditional Use Permit Application No. 3654, Variance Application No. 4072, and Director Review and Approval Application No. 4587 to allow a truck and trailer storage and maintenance facility for the transportation of agricultural products, supplies, and equipment, and a feed and farm supply store. The City of Sanger has the additional following comments:

1. The proposed project site is located within the North Academy Corridor Master Plan area and within the sphere of influence of the City of Sanger 2035 General Plan. The North Academy Corridor Master Plan and City of Sanger 2035 General Plan were adopted by the City of Sanger City Council in June 2020. The project site is scheduled for annexation in 2020.
2. The City of Sanger General Plan designation of the proposed project site is General Commercial.
3. The City of Sanger General Commercial designation accommodates the City of Sanger C-4, General Commercial zone designation of the proposed project site is.
4. Upon annexation to the City of Sanger, the proposed project site will be assigned the City of Sanger C-4, General Commercial zone designation.
5. The proposed Feed and Farm Supply Store use is permitted in the City of Sanger C-4, General Commercial zone district. The proposed use is required to be conducted in an enclosed building or screened by block wall.

6. The proposed Truck and Trailer Storage and proposed Truck and Trailer Maintenance Facility are not permitted in the City of Sanger C-4, General Commercial zone district. The City is recommending denial of this use. A rezoning application would be necessary to allow the proposed Truck and Trailer Storage and proposed Truck and Trailer Maintenance Facility. A rezoning application requires review and recommendation by the City of Sanger Planning Commission and approval by the City of Sanger City Council. As the General Plan Designation was just recently adopted with the North Academy Corridor Master Plan, staff cannot support a proposed rezoning application.
7. Water for this location is not available at this time. The City is currently committed to providing water to projects that are approved, under construction or have applied for entitlements within the current City limits. Despite the addition of several recent water projects, availability is limited. Any and all projects utilizing City infrastructure will be required to pay the appropriate impact fees for those services.
8. The City of Sanger Building Department cannot inspect projects as approved by other jurisdictions unless those standards and approvals are coordinated with the City to assure future compliance of the project.
9. The result of the proposed project would likely be a County approved project within the new City jurisdiction. The Truck and trailer storage and maintenance facility would not be an allowable use under the City's C-4 General Commercial Zone District. Due to the difference in County and City development standards, change in zone districts and the expected annexation, the City cannot recommend approval of the project. All development with the North Academy Area will be expected to comply with the City's development standards and with the North Academy Master Plan.

If you have any questions regarding this matter, please contact David Brletic, Senior Planner at 559-876-6300, ext. 1540, or dbrletic@ci.sanger.ca.us.

Sincerely,

Tom Navarro
Community Development Director

CC: Tim Chapa, City Manager
John Mulligan, Public Works Director
Josh Rogers, City Engineer

DIRK POESCHEL

Land Development Services, Inc.

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

September 28, 2020

Thomas Kobayashi, Planner
Department of Public Works and Planning
Development Services and Capital Projects Division
2220 Tulare St. 6th Floor
Fresno, CA 93721

SUBJECT: Conditional Use Permit 3654/DRA 4587 & Variance 4072

Dear Mr. Kobayashi:

Over the past few months, my client and I have attempted to negotiate project conditions and or mitigation measures relative to the subject land use entitlements that would ameliorate concerns of the City of Sanger. There have been two phone conferences with the Sanger city planner and city manager and various other conversations prior to those calls.

The City of Sanger objects to the proposed trucking facility and believes there are no mitigation measures or conditions that would ameliorate their concerns. My client and I are disappointed in this outcome as we made a sincere attempt to resolve this matter. If you have any questions, please feel free to contact me.

Sincerely,



Dirk Poeschel, AICP
CalBRE Broker
License No. 01882606

cc. Mr. Chris Smith
Mr. Mark Petersen
Meggin Boranian, Esq.

c:\users\dirk\autotask workplace\current clients\smith, chris-will serve 20-36\correspondence\mitigation measures attempt.docx

DIRK POESCHEL

Land Development Services, Inc.

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

June 17, 2021

Honorable City of Sanger Mayor and Honorable Council members
City of Sanger
1700 7th Street
Sanger, CA 93657
Via mail and e mail

SUBJECT: City of Sanger Academy Avenue Corridor Annexation Zoning Amendment
No. 2021-02 Annexation

Dear Honorable Mayor and Council Members:

Reference is made to the subject pre-zoning of properties generally along the N. Academy Ave., corridor inclusive of my client Chris Smith's property located at the northeast corner of E. Butler and N. Academy Avenues. As you are aware, Fresno County recently approved a project on the Smith property allowing a trucking facility and a feedstore. Mr. Smith is proceeding with development of that project in accordance with county approvals.

Mr. Smith remains concerned that the City of Sanger's plan for the subject area annexation does not provide narrative and related policies as to how to deal with existing and/or pre-approved projects for lands currently in Fresno County. Specifically, the implementation of the contemplated city development standards for this area should reasonably accommodate existing development. My client has other concerns about the City's ability to fund the planned Academy Ave. infrastructure. Nonetheless, my client desires to be a good neighbor and to cooperate with the City to the extent practical.

I participated in the first outreach *Zoom* meeting and was told the City would respond to my concerns. To date, no one has communicated with me regarding these concerns. Nonetheless, I remain optimistic that we can have a positive relationship with the City and have our concerns addressed.

If you have any questions, please feel free to contact me.



Dirk Poeschel, AICP

cc. Mr. Chris Smith
Meggin Boranian, Esq.
Mr. Tom Navarro via e mail
Ms. Rebeca P. Ramirez via e mail



CITY OF SANGER
1700 7th STREET
SANGER, CALIFORNIA 93657
(559) 876-6300 x1540 / Fax (559) 876-6323

July 14, 2021

By USPS and EMAIL to dirk@dplds.com

Mr. Dirk Poeschel
Land Development Services, Inc.
923 Van Ness Avenue, Suite 200
Fresno, CA 93721

RE: Response to June 17, 2021 Letter – Existing Use and Fresno County Entitlement, Northeast Corner of Butler Avenue and N. Academy Avenue, Sanger, CA 93657.

Dear Mr. Poeschel:

Thank you for your inquiry. This letter responds to your June 17, 2021 correspondence regarding the existing feed store and certain approved Fresno County entitlement(s) for development of a trucking facility on property located at the northeast corner of Butler Avenue and N. Academy Avenue, Sanger, CA 93657. As always, please feel free to contact me at the number, below, if you have any additional questions after reviewing this response.

I. Existing Development – Feed Store

Based on all information provided to date, the existing feed store appears to be a legally existing, conforming land use located within the County of Fresno. As such, the use could continue to operate when annexation into the City occurs.

Upon annexation, any existing buildings, structures, and uses will become subject to the City of Sanger's General Plan and the Sanger Code, including the zoning ordinance (collectively "City Regulations"). Any existing buildings, structures, and uses that are not legally conforming could be "grandfathered" upon annexation to the City. However, in order to do so certain conditions must be met.

If the use is one which was lawfully established and maintained prior to annexation, but does not conform with the use regulations of the district in which it is located, then it will be a "legally non-conforming use" subject to Sanger Code section 90-921 et seq. As a practical matter, legally non-conforming uses are essentially "grandfathered" uses. Under current City Regulations a legal non-conforming use may continue operating subject to certain limitations such as those limiting the expansion of the use. The legally non-conforming use may currently also be changed to another nonconforming use provided that the change of use is approved by the Planning Commission in accordance with Sanger Code section 90-925. As with any property within the City, it is also an option to change the use so that it is legally conforming with the district in which it is located.

Additionally, the property may have buildings or structures currently associated with the existing use. The City has not been provided information as to whether such buildings or structures have been lawfully erected consistent with County of Fresno regulations and requirements. Assuming that they have been lawfully erected, even if such buildings and structures do not meet current City standards they would be considered "legally non-conforming" building(s) and structures(s) upon annexation. A lawfully nonconforming building or structure is one which was lawfully erected in the County prior to annexation, but which would not conform with the conditions of lot coverage, yard spaces, building height, space between buildings, or other standards prescribed in the City's Regulations for the district in which the structure is located. Like legally non-conforming uses, legally non-conforming buildings or structures may continue to be used upon annexation to the City, even if inconsistent with the City's existing standards for buildings and structures. Upon annexation there would be some restrictions, such as limits on alternations or expansion, of any legally non-conforming buildings and structures. See Sanger Code section 90-921 et seq. for additional details.

Note that to the extent that any existing use, building, or structure on the property was unlawful when the property was within the County of Fresno, then upon annexation it would remain unlawful and not be entitled to be "grandfathered" if inconsistent with City Regulations. As a result, just as any unlawful uses, buildings, or structures could be subject to code enforcement action when located within the County of Fresno, the same could remain subject to code enforcement action when annexed to be within the City. However, the City is currently unaware of any unlawful use, building, or structure on the property in question.

2. Approved Entitlements

The County of Fresno approved Variance Application No. 4072, Director Review and Approval Application No. 4587, and Classified Conditional Use Permit Application No. 3654 ("Entitlements") at a meeting of the Board of Supervisors on December 15, 2020.

Upon annexation of the property, any active Entitlements will be continued to be recognized by the City subject to the terms and conditions of approval of the Entitlements. For example, the Entitlements are subject to i) mitigation measures; ii) conditions of approval (including the necessity of site plan approval); and iii) other County of Fresno regulations (such as expiration of the Entitlements). If the project has not been completed upon annexation, the City will assume jurisdiction. Among others, this could result in the following:

- CEQA Mitigation Measures: The City's Planning and Public Works Departments will assume "monitoring responsibility" as noted for the two approved mitigation measures.
- A Site Plan Review (SPR) Application is required per the conditions of approval for the Entitlements. If a SPR has not been approved by the County of Fresno prior to annexation, the SPR shall be submitted for approval in accordance with Sanger City Code section 90-1009. City Regulations shall then apply except to the extent expressly authorized by any unexpired Entitlements.
- Building permits, etc.: Building permits, inspections, and certificate(s) of occupancy consistent with the approved Entitlements will need to be sought from the City if not already approved by the County of Fresno prior to annexation.

3. Infrastructure

Your letter expresses potential concerns about the City's ability to fund the planned Academy Avenue infrastructure. It appears this concern is being raised in context of infrastructure for services related to the property and the expanded use proposed by the Entitlements.

As a preliminary matter, it appears the County currently has no immediate plans to install such infrastructure. Practically speaking, annexation promotes consistent and urbanized development that results in the necessary density and intensity of development to support and maintain infrastructure that is currently not available at the property. In other words, the City believes that services and infrastructure will become more readily available to the annexation area as compared to the status quo.

Next, the annexation process contains safeguards including the assessment of the ability to provide all services to the proposed annexation area. This process is subject to Fresno LAFCo oversight, which ensures neutral confirmation of plans or ability to provide infrastructure and municipal services to a proposed annexation area.

Additionally, as is common throughout the Valley, installation of municipal services infrastructure is typically provided or financed through new development. New development is required to pay its fair share for development impacts. To the extent that additional improvements above this amount are required for a development, a developer may be entitled to reimbursement. Reimbursement is typically repaid by subsequent development.

Further, in an effort to streamline infrastructure improvements, the City has applied for an Economic Development Administration grant to install infrastructure necessary to serve the proposed annexation area. If awarded, the grant will likely enable infrastructure improvements to be installed more quickly than as compared to development-funded improvements.

We will work with the County during the annexation process on your inquiry and similar inquiries.

As a final note, the City is not aware of any other entitlements associated with the property other than the existing feed store and the Entitlements approved by the County on December 15, 2020. As such, this letter is limited to those items. If you believe there are other entitlements associated with the property and would like an assessment of the same, please provide them to the City for confirmation.

If you have any questions regarding this matter, please contact me at (559) 876-6300, ext. 1540, or dbrletic@sanger.ca.us

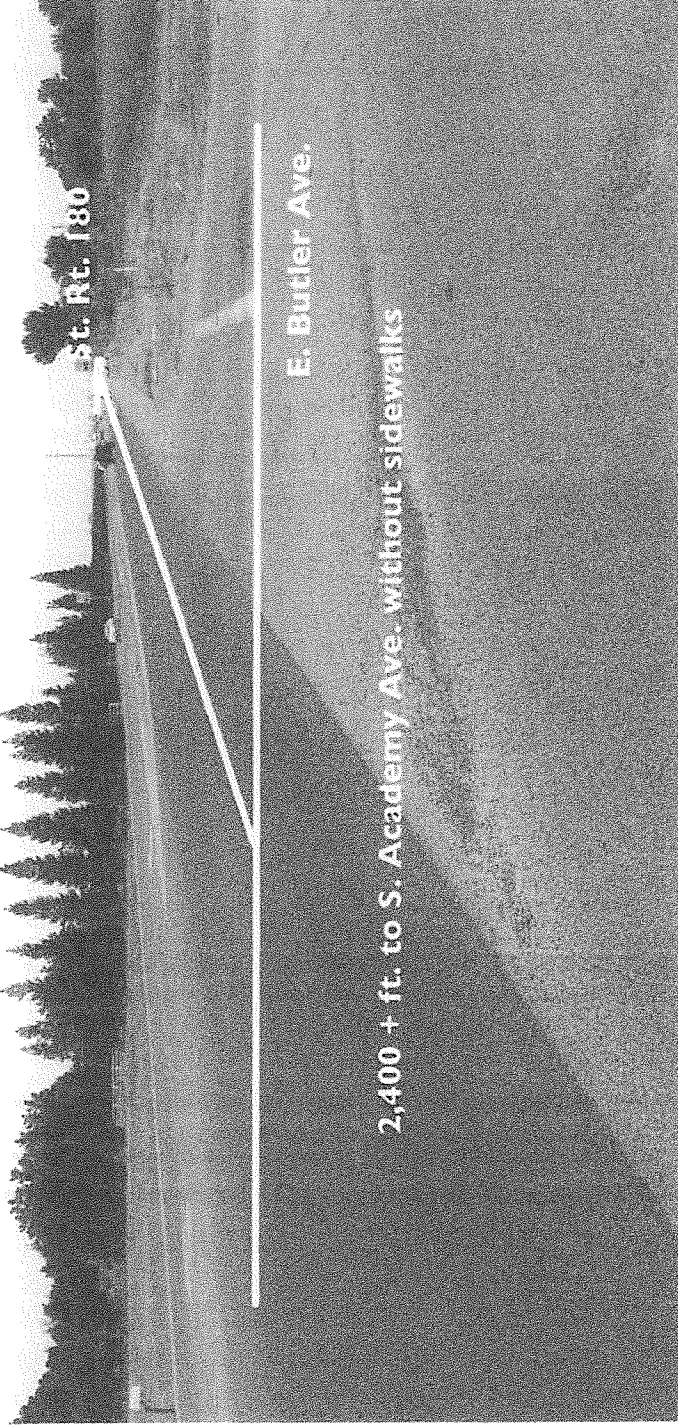
Sincerely,



David Brletic, Senior Planner
Community Development Department

CC: Tim Chapa, City Manager
Tom Navarro, Community Development Director
Hilda Montoy, City Attorney

Looking north on S. Academy Ave.

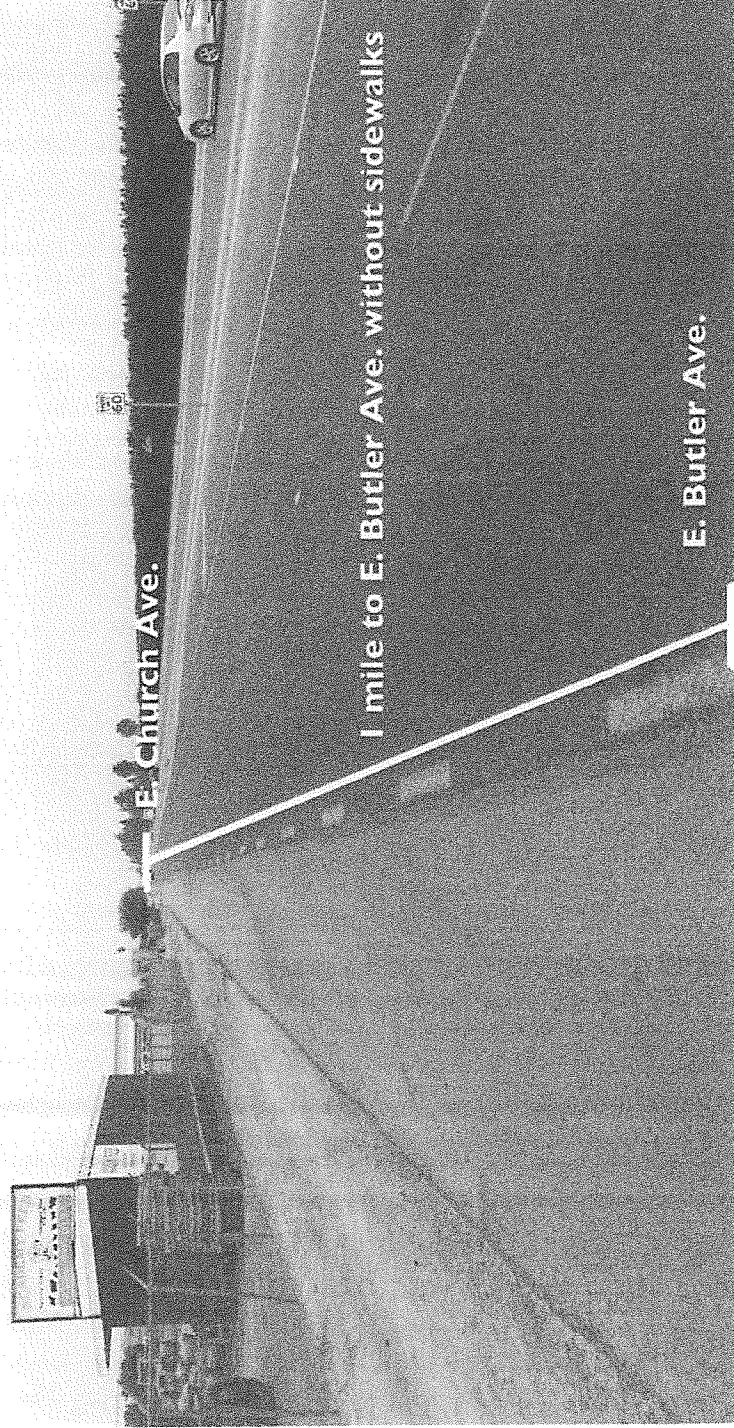


2,400 + ft. to S. Academy Ave. without sidewalks

Looking south on S. Academy Ave.

to

E. Church Ave.



1 mile to E. Butler Ave. without sidewalks

E. Butler Ave.

Fresno County Recorder
Paul Dictos, CPA

2021-0187528

Recorded at the request of:
SIMPLIFILE, PROVO

11/12/2021 08:44 35

Titles: 1 Pages: 3

Fees: \$17.00

CA SB2 Fees:\$0.00

Taxes: \$577.50

Total: \$594.50

RECORDING REQUESTED BY:

Chicago Title Company

Escrow No.: 45001528-450-SM

Title No.: 45001528

**WHEN RECORDED MAIL DOCUMENT AND
TAX STATEMENT TO:**

Minnewawa Land Group LLC

Mark Petersen

3198 Willow Avenue #104

Clovis, CA 93612

APN: 314-070-34 (Ptn)

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned declares exemption under the following:

Exempt from fee per GC 27388.1 (a) (2); recorded in
connection with a transfer subject to the imposition of
documentary transfer tax

Property Address: Parcels 2 & 3 of Parcel Map No. 8228 at 354 S. Academy, Sanger, CA 93657

GRANT DEED

THE UNDERSIGNED GRANTOR(S) DECLARE(S)

- This transfer is exempt from the documentary transfer tax.
- The documentary transfer tax is \$577.50 and is computed on:
- the full value of the interest or property conveyed.
- the full value less the liens or encumbrances remaining thereon at the time of sale.

The property is located IN THE UNINCORPORATED AREA OF Sanger.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Christopher A. Smith and Theresa M. Smith, husband and wife as joint tenants

hereby GRANT(s) to

Minnewawa Land Group LLC, a California limited liability company

the following real property in the County of Fresno, State of CA:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

Dated: November 4, 2021

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below..

Christopher A. Smith

Christopher A. Smith

Theresa M. Smith

Theresa M. Smith

NOTARY ACKNOWLEDGEMENT(S) TO GRANT DEED

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Fresno) SS:

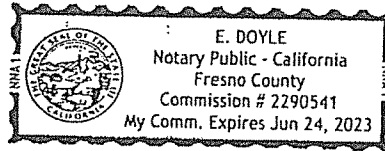
On 11-08-2021 before me, EDOYLE
a Notary Public, personally appeared Christopher A. Smith
Theresa M. Smith

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

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

WITNESS my hand and official seal.

Signature *Edoyle* (Seal)



**EXHIBIT A
LEGAL DESCRIPTION**

For APN/Parcel ID(s): 314-070-34 (Ptn)

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE UNINCORPORATED AREA OF SANGER, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCELS 2 AND 3 OF PARCEL MAP NO. 8228, COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP RECORDED OCTOBER 18, 2021 IN BOOK 76, PAGES 96 AND 97 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL MAP NO. 8228

BEING A PORTION OF THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 22 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, FRESNO COUNTY RECORDS SHEET 1 OF 2

SUBDIVIDER'S STATEMENT

THE UNDERSIGNED BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND WITHIN THIS SUBDIVISION HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THIS MAP, AND:

1) OFFER FOR DEDICATION THAT PORTION OF EAST BUTLER AVENUE AS SHOWN HEREON FOR PUBLIC STREET PURPOSES.

CHRISTOPHER A. SMITH AND THERESA M. SMITH, HUSBAND AND WIFE AS JOINT TENANTS
Christopher A. Smith
CHRISTOPHER A. SMITH
DATED: 9-21-21
THERESA M. Smith
THERESA M. SMITH
DATED: 9-21-21

TAKEGOOD 2001 TRUST DATED FEBRUARY 2, 2001
BY: *John D. Takegood*
TERUGO TAKEGOOD, AS SUCCESSOR TRUSTEE
DATED: 9-22-21

NOTARY ACKNOWLEDGEMENT

I, NOTARY PUBLIC AS OTHER OFFICER, CERTAINTLY THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF Fresno)
ON Sept 21, 2021 BEFORE ME, Sue Meyer, NOTARY PUBLIC, PERSONS WHO APPEARED TO ME AND WHOSE NAMES I MADE KNOWN TO ME AS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER/HER SIGNATURE(S) ON THE INSTRUMENT (THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND
SIGNATURE Sue Meyer NAME Sue Meyer
COUNTY OF Fresno MY COMMISSION EXPIRES 1/10/22
COMMISSION NUMBER 22223237

NOTARY ACKNOWLEDGEMENT

I, NOTARY PUBLIC AS OTHER OFFICER, CERTAINTLY THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF Fresno)
ON Sept 21, 2021 BEFORE ME, Sue Meyer, NOTARY PUBLIC, PERSONS WHO APPEARED TO ME AND WHOSE NAMES I MADE KNOWN TO ME AS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER/HER SIGNATURE(S) ON THE INSTRUMENT (THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND
SIGNATURE Sue Meyer NAME Sue Meyer
COUNTY OF Fresno MY COMMISSION EXPIRES 1/10/22
COMMISSION NUMBER 22223237

THIS PROPERTY IS SUBJECT TO THE FOLLOWING:

- EASEMENT(S) FOR PUBLIC ROAD PURPOSES IN FAVOR OF COUNTY OF FRESNO PER BOOK 32, PAGE 432, OF OFFICIAL RECORDS, RECORDED JUNE 4, 1894.
- EASEMENT(S) FOR WATERWAYS AND SPECIAL USE EASEMENTS, FRANCHISES AND DISTRIBUTION LINES IN FAVOR OF SAN JOAQUIN LIGHT AND POWER CORPORATION IN BOOK 714, PAGE 34, OF OFFICIAL RECORDS, PER DOCUMENT NO. 24342, RECORDED SEPTEMBER 18, 1922.
- EASEMENT(S) FOR PUBLIC ROAD PURPOSES IN FAVOR OF COUNTY OF FRESNO R. BOOK 307, PAGE 1926.
- EASEMENT(S) IN FAVOR OF COUNTY OF FRESNO PER RECORDING NO. 2020-0123335, OF OFFICIAL RECORDS, RECORDED AUGUST 26, 2020.

LEGAL DESCRIPTION

THIS PROPERTY IS SITUATED IN THE UNINCORPORATED AREA, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:
THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 11, TOWNSHIP 14 SOUTH, RANGE 22 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, FRESNO COUNTY RECORDS.

NOTARY ACKNOWLEDGEMENT

I, NOTARY PUBLIC AS OTHER OFFICER, CERTAINTLY THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA)
COUNTY OF Fresno)
ON Sept 21, 2021 BEFORE ME, Sue Meyer, NOTARY PUBLIC, PERSONS WHO APPEARED TO ME AND WHOSE NAMES I MADE KNOWN TO ME AS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME IN HIS/HER AUTHORIZED CAPACITY, AND THAT BY HIS/HER/HER SIGNATURE(S) ON THE INSTRUMENT (THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON ACTED, EXECUTED THE INSTRUMENT.

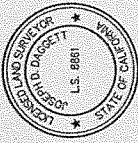
I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND
SIGNATURE Sue Meyer NAME Sue Meyer
COUNTY OF Fresno MY COMMISSION EXPIRES 1/10/22
COMMISSION NUMBER 22223237

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE OF THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

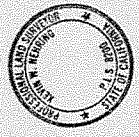
BY: *Joseph D. Taggett*
JOSEPH D. TAGGETT, L.S. 8861
DATED: 9/21/2021



COUNTY SURVEYOR'S STATEMENT

THE SURVEY THAT THIS MAP IS BASED UPON IS SUBSTANTIALLY IN ACCORDANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE OF THE COUNTY OF FRESNO, STATE OF CALIFORNIA, AND IS SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY.

BY: *Steven E. White*
STEVEN E. WHITE, DIRECTOR
DEPARTMENT OF PUBLIC WORKS AND PLANNING
DATED: 09 OCTOBER 2021



COUNTY DIRECTOR'S STATEMENT

I, STEVEN E. WHITE, DIRECTOR, DEPARTMENT OF PUBLIC WORKS AND PLANNING, COUNTY OF FRESNO, DO HEREBY ACCEPT OR REJECT THE HEREIN STATED INTEREST IN REAL PROPERTY ON BEHALF OF THE COUNTY OF FRESNO, IN ACCORDANCE WITH THE AUTHORITY DELEGATED TO ME IN SECTION 17722.4 OF THE FRESNO COUNTY ORDINANCE CODE.

1) ACCEPT OFFER FOR DEDICATION THAT PORTION OF EAST BUTLER AVENUE AS SHOWN HEREON SEPARATELY FROM THE REMAINDER OF THE TRACT.

BY: *Steven E. White*
STEVEN E. WHITE, DIRECTOR
DEPARTMENT OF PUBLIC WORKS AND PLANNING
DATED: 09 OCTOBER 2021




RECORDERS CERTIFICATE

DOCUMENT NO. 2021-01123293 FEE: \$ 10.-
FILED THIS 18 DAY OF October, 2021, AT 8:00 A.M. IN
BOOK 716 OF PARCEL MAPS, AT PAGE 96197, AT THE REQUEST OF
GATEWAY ENGINEERING, INC.
FRESNO COUNTY RECORDER

BY: *Paul*
PAUL DUCOS, CPA
DEPUTY COUNTY RECORDER



DIRK POESCHEL

 Land Development Services, Inc.

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

September 28, 2020

Thomas Kobayashi, Planner
Department of Public Works and Planning
Development Services and Capital Projects Division
2220 Tulare St. 6th Floor
Fresno, CA 93721

SUBJECT: Conditional Use Permit 3654/DRA 4587 & Variance 4072

Dear Mr. Kobayashi:

Over the past few months, my client and I have attempted to negotiate project conditions and or mitigation measures relative to the subject land use entitlements that would ameliorate concerns of the City of Sanger. There have been two phone conferences with the Sanger city planner and city manager and various other conversations prior to those calls.

The City of Sanger objects to the proposed trucking facility and believes there are no mitigation measures or conditions that would ameliorate their concerns. My client and I are disappointed in this outcome as we made a sincere attempt to resolve this matter. If you have any questions, please feel free to contact me.

Sincerely,



Dirk Poeschel, AICP
CalBRE Broker
License No. 01882606

cc. Mr. Chris Smith
Mr. Mark Petersen
Meggin Boranian, Esq.

c:\users\dirk\autotask workplace\current clients\smith, chris-will serve 20-36\correspondence\mitigation measures attempt.docx

DIRK POESCHEL

Land Development Services, Inc.

923 Van Ness Avenue, Suite 200 • Fresno, California 93721

559/445-0374 • Fax: 559/445-0551 • email: dirk@dplds.com

June 17, 2021

Honorable City of Sanger Mayor and Honorable Council members
City of Sanger
1700 7th Street
Sanger, CA 93657
Via mail and e mail

SUBJECT: City of Sanger Academy Avenue Corridor Annexation Zoning Amendment
No. 2021-02 Annexation

Dear Honorable Mayor and Council Members:

Reference is made to the subject pre-zoning of properties generally along the N. Academy Ave., corridor inclusive of my client Chris Smith's property located at the northeast corner of E. Butler and N. Academy Avenues. As you are aware, Fresno County recently approved a project on the Smith property allowing a trucking facility and a feedstore. Mr. Smith is proceeding with development of that project in accordance with county approvals.

Mr. Smith remains concerned that the City of Sanger's plan for the subject area annexation does not provide narrative and related policies as to how to deal with existing and/or pre-approved projects for lands currently in Fresno County. Specifically, the implementation of the contemplated city development standards for this area should reasonably accommodate existing development. My client has other concerns about the City's ability to fund the planned Academy Ave. infrastructure. Nonetheless, my client desires to be a good neighbor and to cooperate with the City to the extent practical.

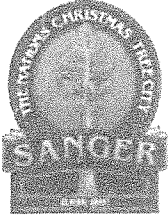
I participated in the first outreach *Zoom* meeting and was told the City would respond to my concerns. To date, no one has communicated with me regarding these concerns. Nonetheless, I remain optimistic that we can have a positive relationship with the City and have our concerns addressed.

If you have any questions, please feel free to contact me.



Dirk Poeschel, AICP

cc. Mr. Chris Smith
Meggin Boranian, Esq.
Mr. Tom Navarro via e mail
Ms. Rebeca P. Ramirez via e mail



CITY OF SANGER
1700 7TH STREET
SANGER, CALIFORNIA 93657-2804
TELEPHONE: (559) 876-6300, Ext. 1520
FAX: (559) 876-6335

COMMUNITY DEVELOPMENT DEPARTMENT

TOM NAVARRO, DIRECTOR

September 24, 2020

Thomas Kobayashi, Planner
Development Services and
Capital Projects Division,
Fresno County
Department of Public Works and Planning
2220 Tulare Street, Sixth Floor
Fresno, CA 93721

RE: Comments on Classified Conditional Use Permit Application No. 3654, Variance Application No. 4072, and Director Review and Approval Application No. 4587

Dear Mr. Kobayashi:

The City of Sanger has reviewed the proposed project located at APN 314-070-34, 354 S. Academy Avenue, Sanger, CA 93657. The project includes Classified Conditional Use Permit Application No. 3654, Variance Application No. 4072, and Director Review and Approval Application No. 4587 to allow a truck and trailer storage and maintenance facility for the transportation of agricultural products, supplies, and equipment, and a feed and farm supply store. The City of Sanger has the additional following comments:

1. The proposed project site is located within the North Academy Corridor Master Plan area and within the sphere of influence of the City of Sanger 2035 General Plan. The North Academy Corridor Master Plan and City of Sanger 2035 General Plan were adopted by the City of Sanger City Council in June 2020. The project site is scheduled for annexation in 2020.
2. The City of Sanger General Plan designation of the proposed project site is General Commercial.
3. The City of Sanger General Commercial designation accommodates the City of Sanger C-4, General Commercial zone designation of the proposed project site is.
4. Upon annexation to the City of Sanger, the proposed project site will be assigned the City of Sanger C-4, General Commercial zone designation.
5. The proposed Feed and Farm Supply Store use is permitted in the City of Sanger C-4, General Commercial zone district. The proposed use is required to be conducted in an enclosed building or screened by block wall.

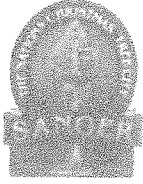
6. The proposed Truck and Trailer Storage and proposed Truck and Trailer Maintenance Facility are not permitted in the City of Sanger C-4, General Commercial zone district. The City is recommending denial of this use. A rezoning application would be necessary to allow the proposed Truck and Trailer Storage and proposed Truck and Trailer Maintenance Facility. A rezoning application requires review and recommendation by the City of Sanger Planning Commission and approval by the City of Sanger City Council. As the General Plan Designation was just recently adopted with the North Academy Corridor Master Plan, staff cannot support a proposed rezoning application.
7. Water for this location is not available at this time. The City is currently committed to providing water to projects that are approved, under construction or have applied for entitlements within the current City limits. Despite the addition of several recent water projects, availability is limited. Any and all projects utilizing City infrastructure will be required to pay the appropriate impact fees for those services.
8. The City of Sanger Building Department cannot inspect projects as approved by other jurisdictions unless those standards and approvals are coordinated with the City to assure future compliance of the project.
9. The result of the proposed project would likely be a County approved project within the new City jurisdiction. The Truck and trailer storage and maintenance facility would not be an allowable use under the City's C-4 General Commercial Zone District. Due to the difference in County and City development standards, change in zone districts and the expected annexation, the City cannot recommend approval of the project. All development with the North Academy Area will be expected to comply with the City's development standards and with the North Academy Master Plan.

If you have any questions regarding this matter, please contact David Brletic, Senior Planner at 559-876-6300, ext. 1540, or dbrletic@ci.sanger.ca.us.

Sincerely,

Tom Navarro
Community Development Director

CC: Tim Chapa, City Manager
John Mulligan, Public Works Director
Josh Rogers, City Engineer



CITY OF SANGER
1700 7th STREET
SANGER, CALIFORNIA 93657
(559) 876-6300 x1540 / Fax (559) 876-6323

July 14, 2021

By USPS and EMAIL to dirk@dplds.com

Mr. Dirk Poeschel
Land Development Services, Inc.
923 Van Ness Avenue, Suite 200
Fresno, CA 93721

RE: Response to June 17, 2021 Letter – Existing Use and Fresno County Entitlement, Northeast Corner of Butler Avenue and N. Academy Avenue, Sanger, CA 93657.

Dear Mr. Poeschel:

Thank you for your inquiry. This letter responds to your June 17, 2021 correspondence regarding the existing feed store and certain approved Fresno County entitlement(s) for development of a trucking facility on property located at the northeast corner of Butler Avenue and N. Academy Avenue, Sanger, CA 93657. As always, please feel free to contact me at the number, below, if you have any additional questions after reviewing this response.

1. Existing Development – Feed Store

Based on all information provided to date, the existing feed store appears to be a legally existing, conforming land use located within the County of Fresno. As such, the use could continue to operate when annexation into the City occurs.

Upon annexation, any existing buildings, structures, and uses will become subject to the City of Sanger's General Plan and the Sanger Code, including the zoning ordinance (collectively "City Regulations"). Any existing buildings, structures, and uses that are not legally conforming could be "grandfathered" upon annexation to the City. However, in order to do so certain conditions must be met.

If the use is one which was lawfully established and maintained prior to annexation, but does not conform with the use regulations of the district in which it is located, then it will be a "legally non-conforming use" subject to Sanger Code section 90-921 et seq. As a practical matter, legally non-conforming uses are essentially "grandfathered" uses. Under current City Regulations a legal non-conforming use may continue operating subject to certain limitations such as those limiting the expansion of the use. The legally non-conforming use may currently also be changed to another nonconforming use provided that the change of use is approved by the Planning Commission in accordance with Sanger Code section 90-925. As with any property within the City, it is also an option to change the use so that it is legally conforming with the district in which it is located.

Additionally, the property may have buildings or structures currently associated with the existing use. The City has not been provided information as to whether such buildings or structures have been lawfully erected consistent with County of Fresno regulations and requirements. Assuming that they have been lawfully erected, even if such buildings and structures do not meet current City standards they would be considered "legally non-conforming" building(s) and structures(s) upon annexation. A lawfully nonconforming building or structure is one which was lawfully erected in the County prior to annexation, but which would not conform with the conditions of lot coverage, yard spaces, building height, space between buildings, or other standards prescribed in the City's Regulations for the district in which the structure is located. Like legally non-conforming uses, legally non-conforming buildings or structures may continue to be used upon annexation to the City, even if inconsistent with the City's existing standards for buildings and structures. Upon annexation there would be some restrictions, such as limits on alternations or expansion, of any legally non-conforming buildings and structures. See Sanger Code section 90-921 et seq. for additional details.

Note that to the extent that any existing use, building, or structure on the property was unlawful when the property was within the County of Fresno, then upon annexation it would remain unlawful and not be entitled to be "grandfathered" if inconsistent with City Regulations. As a result, just as any unlawful uses, buildings, or structures could be subject to code enforcement action when located within the County of Fresno, the same could remain subject to code enforcement action when annexed to be within the City. However, the City is currently unaware of any unlawful use, building, or structure on the property in question.

2. Approved Entitlements

The County of Fresno approved Variance Application No. 4072, Director Review and Approval Application No. 4587, and Classified Conditional Use Permit Application No. 3654 ("Entitlements") at a meeting of the Board of Supervisors on December 15, 2020.

Upon annexation of the property, any active Entitlements will be continued to be recognized by the City subject to the terms and conditions of approval of the Entitlements. For example, the Entitlements are subject to i) mitigation measures; ii) conditions of approval (including the necessity of site plan approval); and iii) other County of Fresno regulations (such as expiration of the Entitlements). If the project has not been completed upon annexation, the City will assume jurisdiction. Among others, this could result in the following:

- CEQA Mitigation Measures: The City's Planning and Public Works Departments will assume "monitoring responsibility" as noted for the two approved mitigation measures.
- A Site Plan Review (SPR) Application is required per the conditions of approval for the Entitlements. If a SPR has not been approved by the County of Fresno prior to annexation, the SPR shall be submitted for approval in accordance with Sanger City Code section 90-1009. City Regulations shall then apply except to the extent expressly authorized by any unexpired Entitlements.
- Building permits, etc.: Building permits, inspections, and certificate(s) of occupancy consistent with the approved Entitlements will need to be sought from the City if not already approved by the County of Fresno prior to annexation.

3. Infrastructure

Your letter expresses potential concerns about the City's ability to fund the planned Academy Avenue infrastructure. It appears this concern is being raised in context of infrastructure for services related to the property and the expanded use proposed by the Entitlements.

As a preliminary matter, it appears the County currently has no immediate plans to install such infrastructure. Practically speaking, annexation promotes consistent and urbanized development that results in the necessary density and intensity of development to support and maintain infrastructure that is currently not available at the property. In other words, the City believes that services and infrastructure will become more readily available to the annexation area as compared to the status quo.

Next, the annexation process contains safeguards including the assessment of the ability to provide all services to the proposed annexation area. This process is subject to Fresno LAFCo oversight, which ensures neutral confirmation of plans or ability to provide infrastructure and municipal services to a proposed annexation area.

Additionally, as is common throughout the Valley, installation of municipal services infrastructure is typically provided or financed through new development. New development is required to pay its fair share for development impacts. To the extent that additional improvements above this amount are required for a development, a developer may be entitled to reimbursement. Reimbursement is typically repaid by subsequent development.

Further, in an effort to streamline infrastructure improvements, the City has applied for an Economic Development Administration grant to install infrastructure necessary to serve the proposed annexation area. If awarded, the grant will likely enable infrastructure improvements to be installed more quickly than as compared to development-funded improvements.

We will work with the County during the annexation process on your inquiry and similar inquiries.

As a final note, the City is not aware of any other entitlements associated with the property other than the existing feed store and the Entitlements approved by the County on December 15, 2020. As such, this letter is limited to those items. If you believe there are other entitlements associated with the property and would like an assessment of the same, please provide them to the City for confirmation.

If you have any questions regarding this matter, please contact me at (559) 876-6300, ext. 1540, or dbrletic@sanjoe.ca.us

Sincerely,



David Brletic, Senior Planner
Community Development Department

CC: Tim Chapa, City Manager
Tom Navarro, Community Development Director
Hilda Montoy, City Attorney