

IV. 1.



LEGAL UPDATE

TO: All Young Wooldridge Public Agency Clients
FROM: Water Law & Special Districts Department
DATE: September 22, 2021
RE: AB 361 – Relaxed Brown Act Teleconference Rules during State of Emergency Conditions

On September 16, 2021, Governor Newsom signed Assembly Bill (AB) 361, which adds to the Brown Act relaxed teleconference¹ rules similar to those in effect under the Executive Order (N-29-20), which expires on September 30, 2021. AB 361 took effect immediately and sunsets on January 1, 2024. This update summarizes some key provisions of AB 361 and how they differ from the existing Brown Act teleconference rules applicable in non-emergency conditions.

Key Ways AB 361 Teleconference Rules Differ from Non-Emergency Teleconference Rules

- 1. Not required to post agendas at each teleconference location.
- 2. Not required to identify each teleconference location in meeting notice or agenda.
- 3. Not required to make each teleconference location available for public attendance.
- 4. Not required to have a quorum of the legislative body (Board) members participate from locations within the public agency’s jurisdictional boundaries or territory.

Requirements to Invoke AB 361 relaxed teleconference procedures for the first time

- 1. There is in existence a Proclaimed State of Emergency pursuant to Section 8625 of the California Emergency Services Act, e.g., the Governor’s March 4, 2020 State of Emergency Declaration (currently in effect), **and**:
- 2. State or local officials have imposed or recommended measures to promote social distancing, **or**
- 3. A majority of the legislative body is meeting to determine whether, as a result of the emergency, meeting in person would present imminent risks to health or safety of attendees, **or**
- 4. The legislative body by majority vote determines, as a result of the emergency, meeting in person would present imminent risk to the health or safety of attendees.

AB 361 Meeting Relaxed Teleconference Procedures (similar to Executive Order)

- 1. Give notice of the meeting and post agendas as otherwise required by Brown Act.

¹ “Teleconference” defined in the Brown Act as: “a meeting of a legislative body [Board], the members of which are in different locations, connected by electronic means, through either audio or video, or both.” Gov. Code, § 54953(b)(4).

LEGAL UPDATE

2. Provide members of the public access to the meeting and ability to provide public comment via a call-in option or an internet-based service option as identified along with access instructions on the agenda.
3. Conduct teleconference meetings in a manner that protects statutory and constitutional rights of the parties and public attending.
4. If disruption prevents broadcasting or comments, in general, action cannot be taken on any agenda items until public access is restored.
5. All votes taken at a teleconference meeting shall be by **rollcall vote**.
6. The agency cannot require advance public comment; must offer real-time option.
7. If agency uses third-party provider broadcasting service not under agency's control, a registration log-in requirement is permissible.
8. If timed public comment, must not move to another item until full designated time has elapsed.

The Following Requirements Must Exist for the **Second Time and Subsequent** Use of AB 361 Relaxed Teleconference Procedures

1. The state of emergency is still in effect, **or**
2. State or local officials continue to impose or recommend measures to promote social distancing, **and**
3. No later than 30 days after the first AB 361 teleconference meeting, and every 30 days thereafter, the legislative body by majority vote **finds** that:
 - a) The legislative body has reconsidered the circumstances of the emergency, **and**
 - 1) The state of emergency continues to directly impact the ability of the members to meet safely in person; **or**
 - 2) State or local officials continue to impose or recommend measures to promote social distancing.

Sample Agenda Language for Meeting Held Under AB 361

NOTICE: Pursuant to Government Code section 54953(e) (AB 361), and due to the State of Emergency declared by Governor Newsom on March 4, 2020, this meeting will be conducted by teleconference. The public may attend the meeting and offer public comments by phone and/or video, using the call-in number or link below.

If you have any questions or would like specific advice on these procedures or any other matter, please contact an attorney in our Department by email or cell phone.

**RESOLUTION INITIALLY AUTHORIZING REMOTE
TELECONFERENCE MEETINGS UNDER AB361**

WHEREAS, meetings of the Board of Directors (“Board”) of Del Puerto Water District (“District”) and its committees are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the District’s legislative bodies conduct their business;

WHEREAS, Government Code section 54953(e), as amended by Assembly Bill 361 (2021) (“AB361”), signed by the Governor on September 16, 2021, provides for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, the District wishes to invoke the provisions of AB361 to authorize teleconference meetings subject to the modified standard of Government Code section 54953(e);

NOW, THEREFORE, BE IT RESOLVED that:

Section 1. Findings. The Board hereby finds as follows:

- (a) As required by Government Code section 54953(e)(1), a proclaimed state of emergency exists under the California Emergency Services Act, as declared by the Governor on March 4, 2020.
- (b) Option 2 As a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Section 2. Procedures for Teleconference Meetings. The District and its committees shall hold teleconference meetings pursuant to the requirements of Government Code section 54953(e).

Section 3. Effective Date. This resolution shall take effect immediately upon its adoption.

Section 4. Renewal. Pursuant to Government Code section 54953(e)(3), the District will reconsider the state of emergency every 30 days.

PASSED AND ADOPTED by the Board of Directors of Del Puerto Water District on October 5, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Ivan E. Bays, President

I HEREBY CERTIFY that the foregoing is the resolution of said District as duly passed and adopted by said Board of Directors at a meeting thereof duly called and held on this 5th day of October, 2021.

Anthea G. Hansen, Secretary

RESOLUTION AUTHORIZING AN APPLICATION TO THE BUREAU OF RECLAMATION'S WATERSMART DROUGHT RESPONSE PROGRAM: DROUGHT RESILIENCY PROJECTS FOR FY 2022

WHEREAS, the District desires to implement a real-time flow monitoring system to allow customers and the District to track groundwater use throughout its service area to accomplish the monitoring goals of its Water Management Plan and Groundwater Sustainability Plan, as well as, minimize impacts of ongoing and future droughts to water users in the District service area. The District desires to obtain a grant from the Bureau of Reclamation's WaterSMART Drought Response Program for such purposes.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. That, after review, the Board approves of the technical proposal titled "Del Puerto Water District Groundwater Well Remote Telemetry Program".
2. That the District submit an application to the Bureau of Reclamation for a grant to be funded from the WaterSMART Drought Response Program: Drought Resiliency Projects for FY 2022, for the aforementioned proposal.
3. That the District provide the additional funding specified in the funding plan of the proposal.
4. That the District will work with Reclamation to meet the established deadlines for entering into a cooperative agreement.
5. That Adam Scheuber, Deputy General Manager -- Water Operations for the District, is hereby authorized and directed to sign and file such application with the Bureau of Reclamation.

BE IT FURTHER RESOLVED:

That Anthea G. Hansen, General Manager of the District, is hereby authorized to execute the resultant grant funding agreement, and any amendments thereof, for the purpose of securing grant funds.

PASSED AND ADOPTED this 5th day of October, 2021 at a special meeting of the Board of Directors.

Ivan E, Bays, President

Attest:

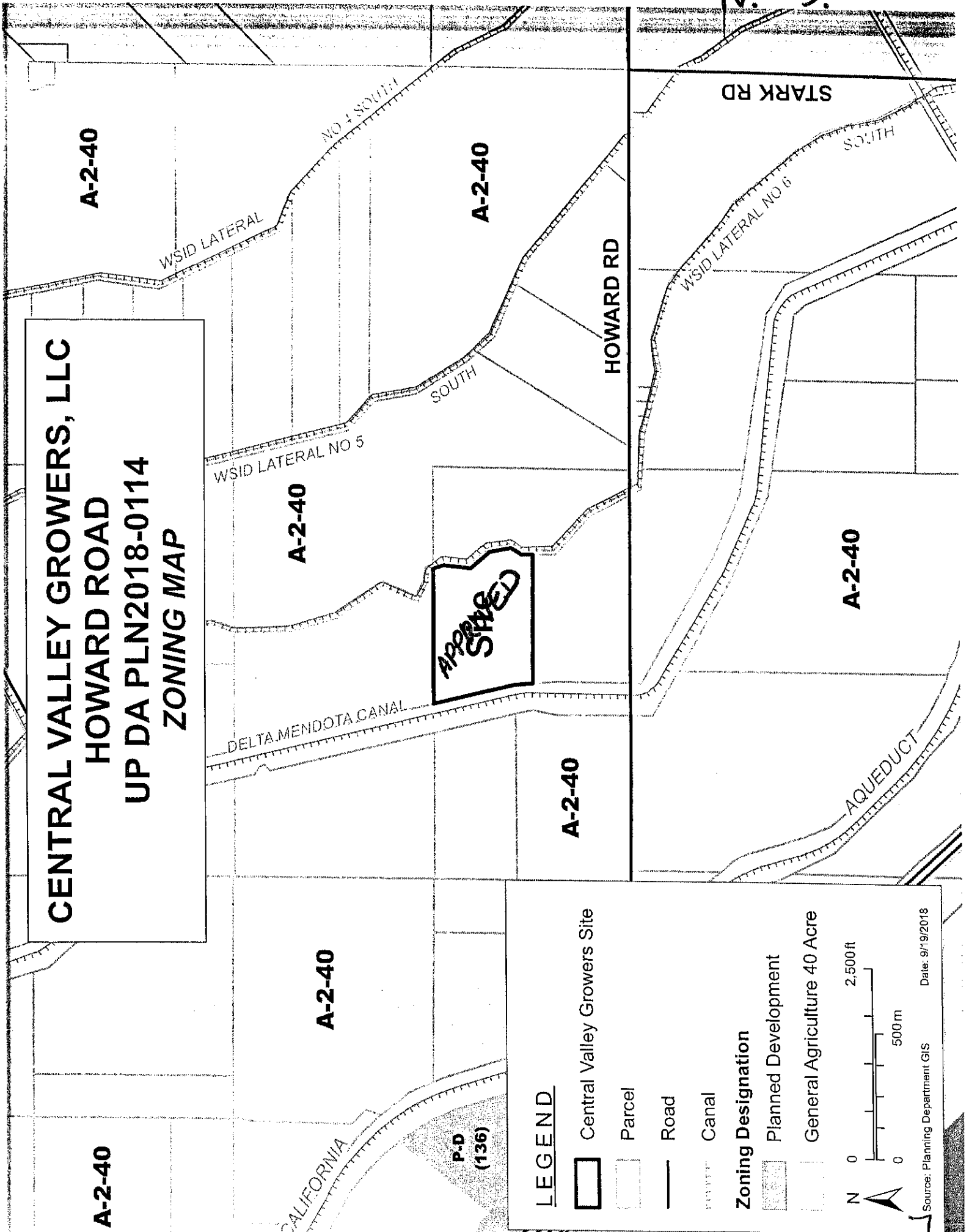
Anthea G. Hansen, Secretary

I HEREBY CERTIFY that the foregoing is the resolution of said District as duly passed and adopted by said Board of Directors at a meeting thereof duly called and held on this 5th day of October, 2021.







Anthea G. Hansen, Secretary

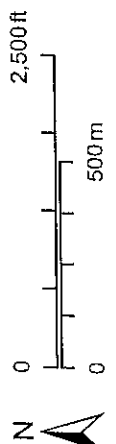
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**CENTRAL VALLEY GROWERS, LLC
 HOWARD ROAD
 UP DA PLN2018-01114
 ZONING MAP**



LEGEND

-  Central Valley Growers Site
-  Parcel
-  Road
-  Canal
- Zoning Designation**
-  Planned Development
-  General Agriculture 40 Acre



CENTRAL VALLEY GROWERS, LLC

UP & DA PLN2019-0094

GENERAL PLAN MAP

LEGEND

Project Site

Parcel

Road

Canal

General Plan

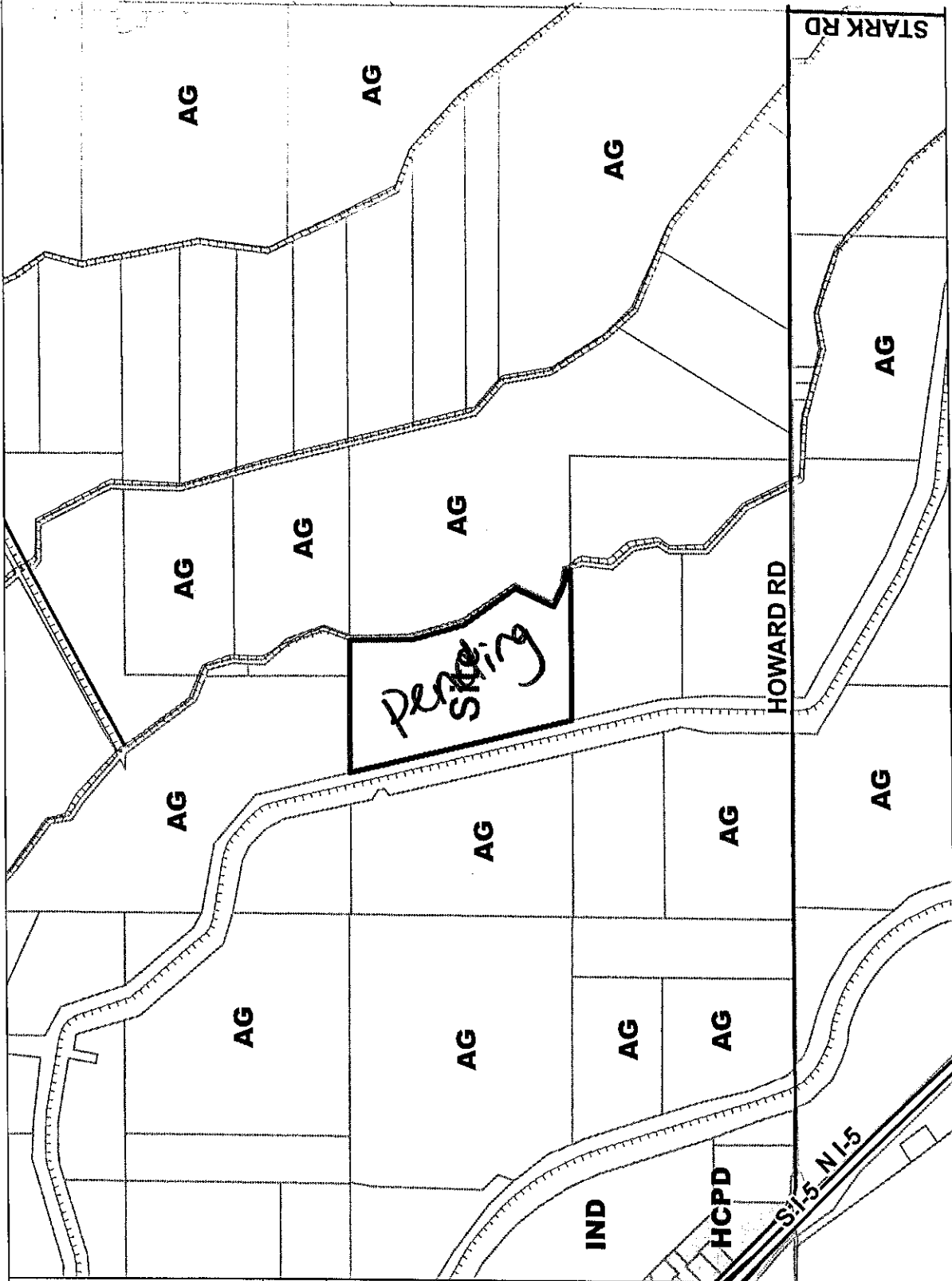
Agriculture

Industrial

Highway Commercial /
Planned Development



Prepared by: Planning Department GIS Date: 11/7/2019

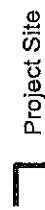


CENTRAL VALLEY GROWERS LLC

UP & DA PLN2019-0095

ACREAGE MAP

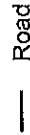
LEGEND



Project Site



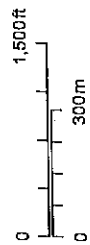
Parcel/Acres



Road

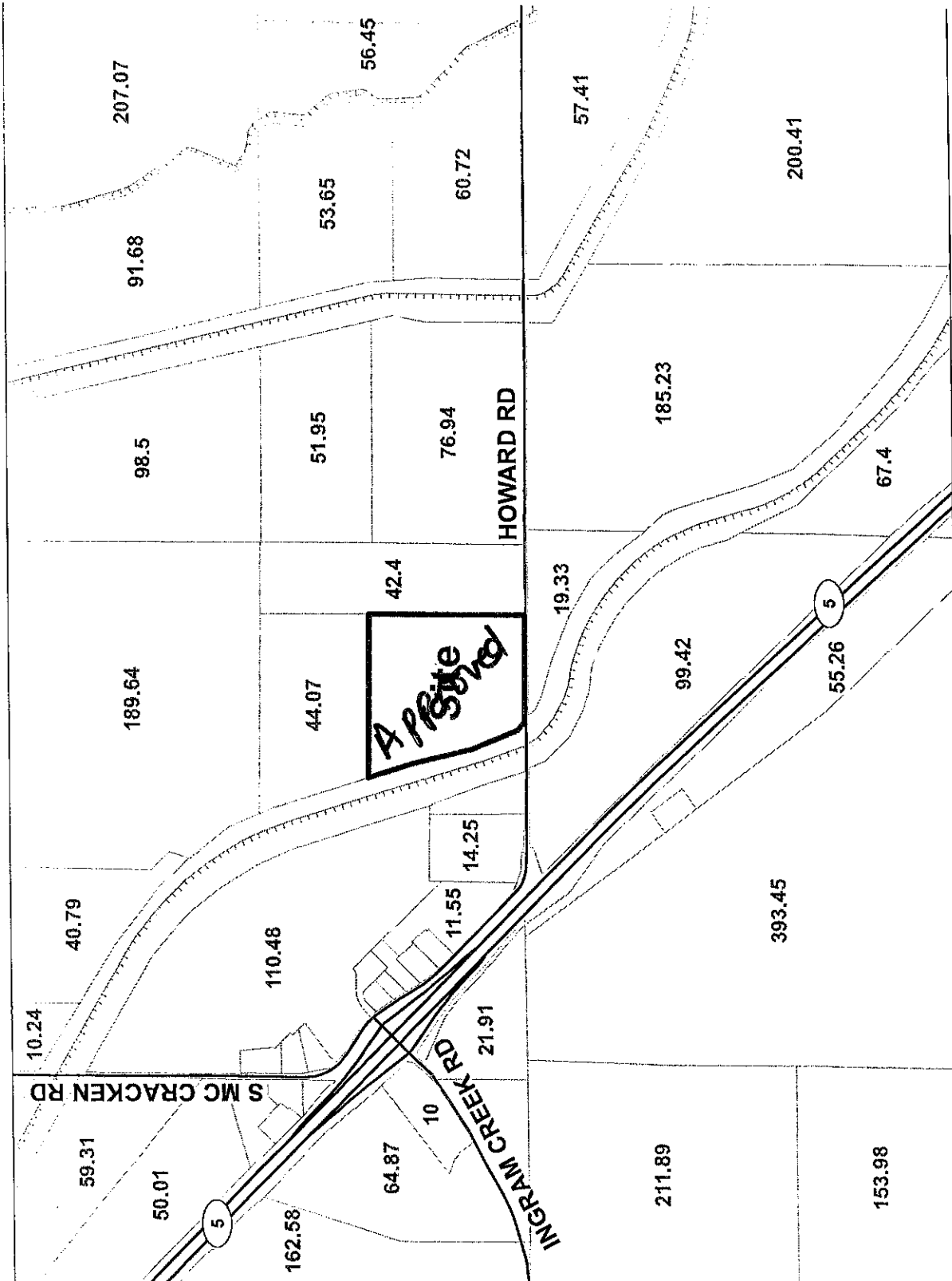


Canal



rec: Planning Department GIS

Date: 11/7/2019



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**STANCO FAMILY
FARMS**

**UP & DA App
PLN2020-0010**

ACREAGE MAP

GEND

Project Site

Sphere of Influence

City of

Parcel/Acres

Road

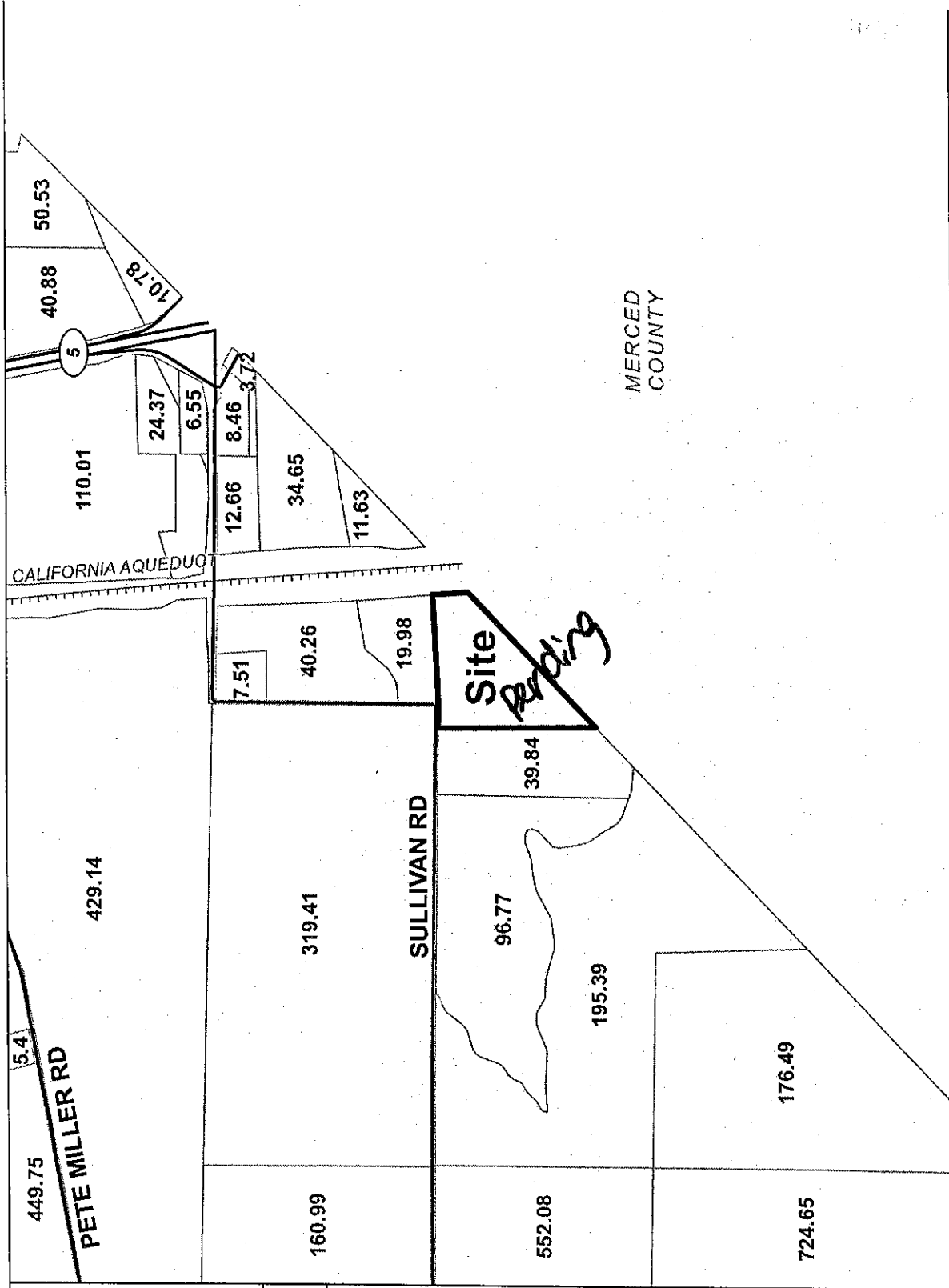
River

Canal



Planning Department GIS

Date: 3/2/2020



MERCED COUNTY



P.O. Box 1596 Patterson, CA 95363-1596

Phone (209) 892-4470 • Fax (209) 892-4469

Stanislaus County Planning & Community Development
1010 10th Street, Suite 3400
Modesto, CA 95354

December 11, 2018

Subject: Use Permit and Development Agreement Application No. PLN2018-00114 – Central Valley Growers, LLC – Howard Rd.

Dear Sir/Madam:

Thank you for the opportunity to provide comments on the project referenced above.

As a California Water District and federal water service contractor, the jurisdictional responsibilities and expertise of the District are in the area of surface water management and distribution for agricultural purposes. The District has also assumed certain responsibilities over local groundwater supplies through the adoption of an AB3030 "Groundwater Management Plan for the Northern Delta-Mendota Canal Subbasin" and more recently through its local Groundwater Sustainability Agency, DM-II. The District further assists its agricultural landowners and water users in complying with the requirements of the California Regional Water Quality Control Board's Irrigated Lands Regulatory Program (ILRP) for the Central Valley Region through its participation in the Westside San Joaquin River Watershed Coalition.

As the agency currently responsible for providing these services to these and the surrounding agricultural lands, the District has some concerns about the proposed project and offers the following specific comments on issues of interest to the District:

1. In keeping with the District's policy on changed land use, the irrigable acreage associated with the development area will be reclassified as "removed from service" by the District and any associated water allocations, annual water availability charges, and other District related costs will be accordingly reduced.
2. Concurrent with its development, the project area will be removed from the Westside San Joaquin River Watershed Coalition. The District will require the landowners to provide it with a copy of its Waste Discharge Permit or Conditional Waiver upon issuance, and keep the District current with any future revisions thereof. We note that the proponents have indicated the intent to obtain a County permit for a septic system; Insofar as the proposed

project presents a potential impact to shared surface creeks and underground bodies of water, we request that the County and the landowner be required to coordinate all wastewater discharge activities and reporting with the Coalition.

3. Due to the projects' sole reliance on groundwater, appropriate potential SGMA-related requirements should be a condition of the projects approval, including well metering and reporting of use, water quality testing and reporting of results, and the requirement to abide by any future conditions placed upon well owners within the DM-II GSA and the multi-agency GSP being developed for this region.
4. Delivery of supplies originating from the District's CVP Water Service Contract with the USBR or conveyed in and through Federal facilities is prohibited for the cultivation of cannabis, which is not recognized as legal by the USA nor considered an agricultural crop by Stanislaus County. The District requests that the landowner be required to provide documentation (written and pictorial) that water supplies delivered to the proposed project and the remainder parcel (if farmed) are kept segregated at all times.

We recognize and appreciate the responsibilities presented to the County when considering proposals that potentially generate new or possibly unforeseen impacts due to their lack of historical "experience". The District stands ready to work with the County and other local agencies, and the project proponents to ensure a thorough vetting of the possible effects on the environment and the activities of concern within the District's jurisdictional service area.

Please do not hesitate to contact me at any time should you wish to discuss the letter or if you need any further information.

Sincerely,



Anthea G. Hansen
General Manager

CC: Robert Pierce – West Stanislaus ID
Andrew Garcia – SGMA Coordinator – San Luis & Delta-Mendota Water Authority
Bob Martin – Engineering Manager - San Luis & Delta-Mendota Water Authority
Joe McGahan – Westside San Joaquin River Watershed Coalition