County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR

DOCKET
06-AFC-5
DATE AUG 0 8 2007
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August 8, 2007

PAO Investments, LLC
46499 W. Panoche Rd.
Firebaugh, CA 93622

Dear Sir or Madam:

SUBJECT: General Plan Conformity Application – Panoche Energy Center LLC

Determine General Plan Conformity of Panoche Energy Center LLC's proposal to develop an electrical power generating facility on a 12.8-acre site in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) District.

LOCATION: The proposed power generating facility is located on the south side of Panoche Road between Interstate 5 and Fairfax Avenue approximately 12.6 miles southwest of the City of Mendota (SUP. DIST.: 1) (APN: 027-060-78s).

APPLICANT: PAO Investments

EXHIBITS:

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Fresno County Adopted General Plan
5. Aerial Photograph of Proposed Power Generating Facility and Surrounding Area
6. Site Plan of Proposed Power Generating Facility

PROJECT DESCRIPTION:

On July 18, 2007, PAO Investments LLC submitted an application for determination of General Plan Conformity on a 12.8-acre parcel for the purposes of establishing a power generating facility. The proposed power generating facility is located on the south side of Panoche Road between Interstate 5 and Fairfax Avenue approximately 12.6 miles southwest of the City of Mendota. The proposed facility would consist of four General Electric LMS100 natural gas-fired Combustion Turbine Generators, with a total net generating capacity of approximately 400 MW.

DEVELOPMENT SERVICES DIVISION
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Other site characteristics include the gas pipeline, 230kV transmission line, expansion area for the PG&E electrical substation, and a basin for storm water retention (Exhibit 6).

BACKGROUND:

On April 24, 2007, the Fresno County Board of Supervisors approved a request for partial cancellation of the Williamson Act Contract, to remove the subject 12.8-acre area from Agricultural Land Conservation Contract No. 367 restrictions. Approval of the partial cancellation request required the Board to make five specified findings. One of the required findings was a determination that the proposed alternate use is consistent with the General Plan. The Board determined that the five findings could be made and, therefore, approved the partial cancellation.

EXISTING LAND USE:

The existing parcel is zoned AE-20 (Exclusive Agriculture, 20-acre minimum parcel size). The site is designated Agriculture in the Fresno County General Plan and is subject to Agricultural Land Conservation Contract No. 367.

The subject site is currently in agricultural use planted in pomegranates. A PG&E electrical substation exists adjacent to the northeast of the project area. Other adjacent land consists of pomegranate orchards.

PROCEDURAL CONSIDERATIONS / PURPOSE OF REPORT:

The California Energy Commission's (CEC) Preliminary Staff Assessment (PSA) regarding the proposed power generating facility indicated that the CEC was unable to determine if the proposed project is consistent with the Fresno County General Plan.

GENERAL PLAN POLICY CONSIDERATIONS

The proposed project and surrounding land is designated for Agriculture in the Fresno County General Plan. As previously-mentioned, the subject site is zoned for agricultural land uses (AE-20). The existing AE-20 zoning (Exhibit 2) is reflective of the County General Plan land use designation for this area.

The Fresno County General Plan contains specific policies related to agricultural land and the protection of those lands as the County's most valuable natural resource and its historical basis of its economy. General Plan Policy LU-A.1 directs urban growth away from valuable agricultural lands to cities and unincorporated communities.

Policy LU-A.3 states that the County shall allow special agricultural uses, agriculturally-related activities and certain non-agricultural uses in areas designated Agriculture. Table LU-3 lists typical uses allowed in areas designated Agriculture. Approval of those and similar uses is subject to a determination that certain criteria can be met. This list is not intended to be inclusive of all uses that can be considered for development. The proposed power generating facility is similar to other allowed uses which provide a needed service to the surrounding community or the larger area. Table LU-3 includes uses which provide a public benefit to the surrounding community or larger area, such as sewage treatment plants, solid waste disposal,

wireless communication facilities and electrical substations. For proposed power generating facilities with a net generating capacity of less than 50 MW, the proposed project requires approval from Fresno County. In those instances, an Unclassified Conditional Use Permit is required to be submitted for review and for a determination before the Fresno County Planning Commission and/or Board of Supervisors. In this case, because the proposed project would have a net generating capacity of 400 MW, an Unclassified Conditional Use Permit was determined to not be required. However, the Fresno County Board of Supervisors has, in the past, approved Unclassified Conditional Use Permits for proposed power generating facilities on land designated for Agriculture and zoned AE-20.

Regarding the criteria to be considered in approval of such uses, as specified in Policy LU-A.3, staff believes the criteria are met sufficiently to determine that the proposed project is consistent with the Fresno County General Plan.

Criterion "a" is met in that the facility is proposed at this non-urban location because of the existing infrastructure installed at the adjacent Pacific Gas and Electric substation and the existing high-volume natural gas lines and 230 kilovolt transmission lines located on the subject parcel. The existing infrastructure allows for efficient interconnection, which reduces impacts on adjacent land. Criterion "b" can be met because a site selection investigation was performed by the applicant, looking for land that was in sufficient proximity to the infrastructure listed above. No less productive agricultural lands were identified within sufficient proximity to serve as a reasonable alternative. The proposed power generating facility is estimated to have a maximum annual groundwater demand of 1,154 acre-feet. Based on the environmental documentation submitted to the California Energy Commission, the proposed facility will not have a significant effect on groundwater resources, and would meet Criterion "c". The proposed facility is located approximately 12.6 miles from the city of Mendota and approximately 13.7 miles from the city of Firebaugh. While a location closer to sources for employees would be preferable, other site requirements preclude such a location.

CONCLUSION:

Table LU-A.3 lists typical uses allowed on land designated for Agriculture in Fresno County. The identified uses are not intended to be an exhaustive listing of all allowed uses, but instead are typical uses allowed. Other similar uses can also be permitted on land designated for Agriculture. It has been determined that the proposed power generating facility is similar to other non-agricultural uses listed in Table LU-3 of the Fresno County General Plan. Further, the Panoche Energy Center facility meets the criteria for allowing such a use as described in Policy LU-A.3 of the General Plan. The development of the proposed use on the subject property is consistent with the Fresno County General Plan.

This determination was supported by the Board of Supervisors on April 24, 2007, when the request for partial cancellation of Agricultural Land Conservation Contract No. 367 was approved.

No additional land use entitlement review by Fresno County is required for the development of the proposed power generating facility.

If you have questions regarding this General Plan Conformity review, please call me at (559) 262-4022.

Sincerely,

Jared Nimer, Planner
Development Services

JN:hr
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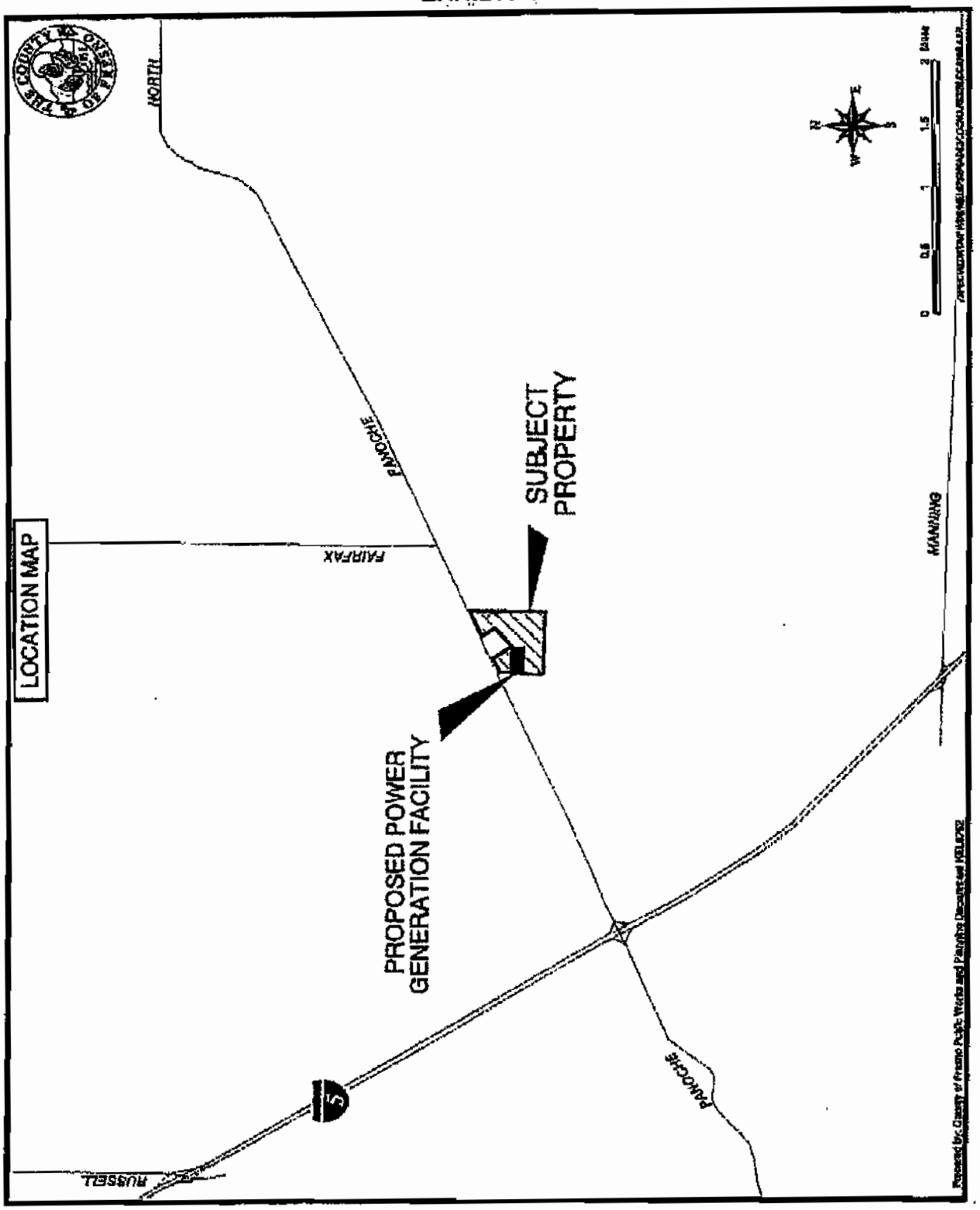
Enclosures

c: Bernard Jimenez, Division Manager
Will Kettler, Principal Manager
Margie McHenry, Senior Planner
Zachary Redmond, Deputy County Counsel
Marcus Magness

EXHIBIT 1


LOCATION MAP
NORTH
FAIRFAX
PANOCHE
SUBJECT PROPERTY
PROPOSED POWER GENERATION FACILITY
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RUSSEL
PANOCHE
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N
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EXHIBIT 2

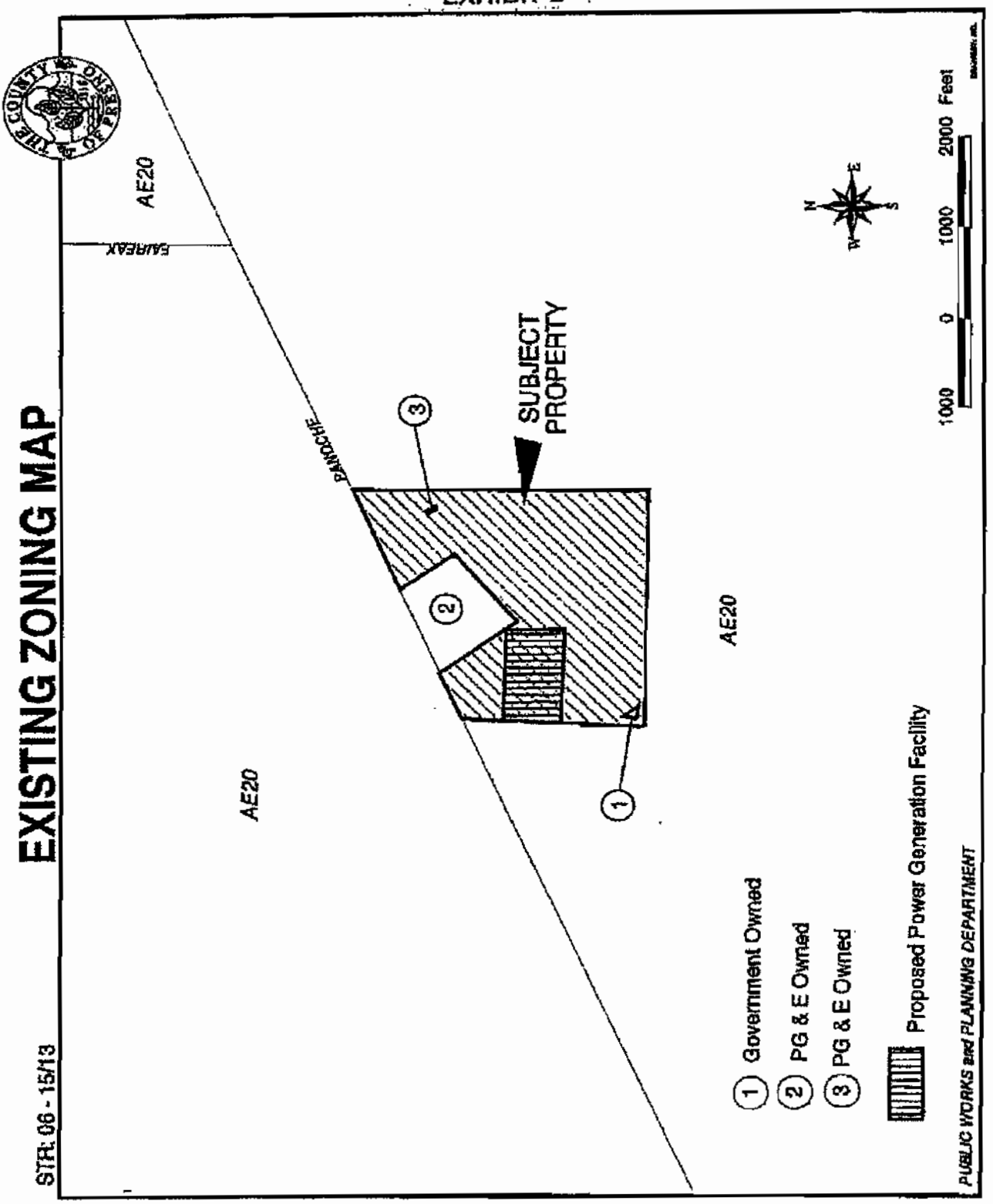
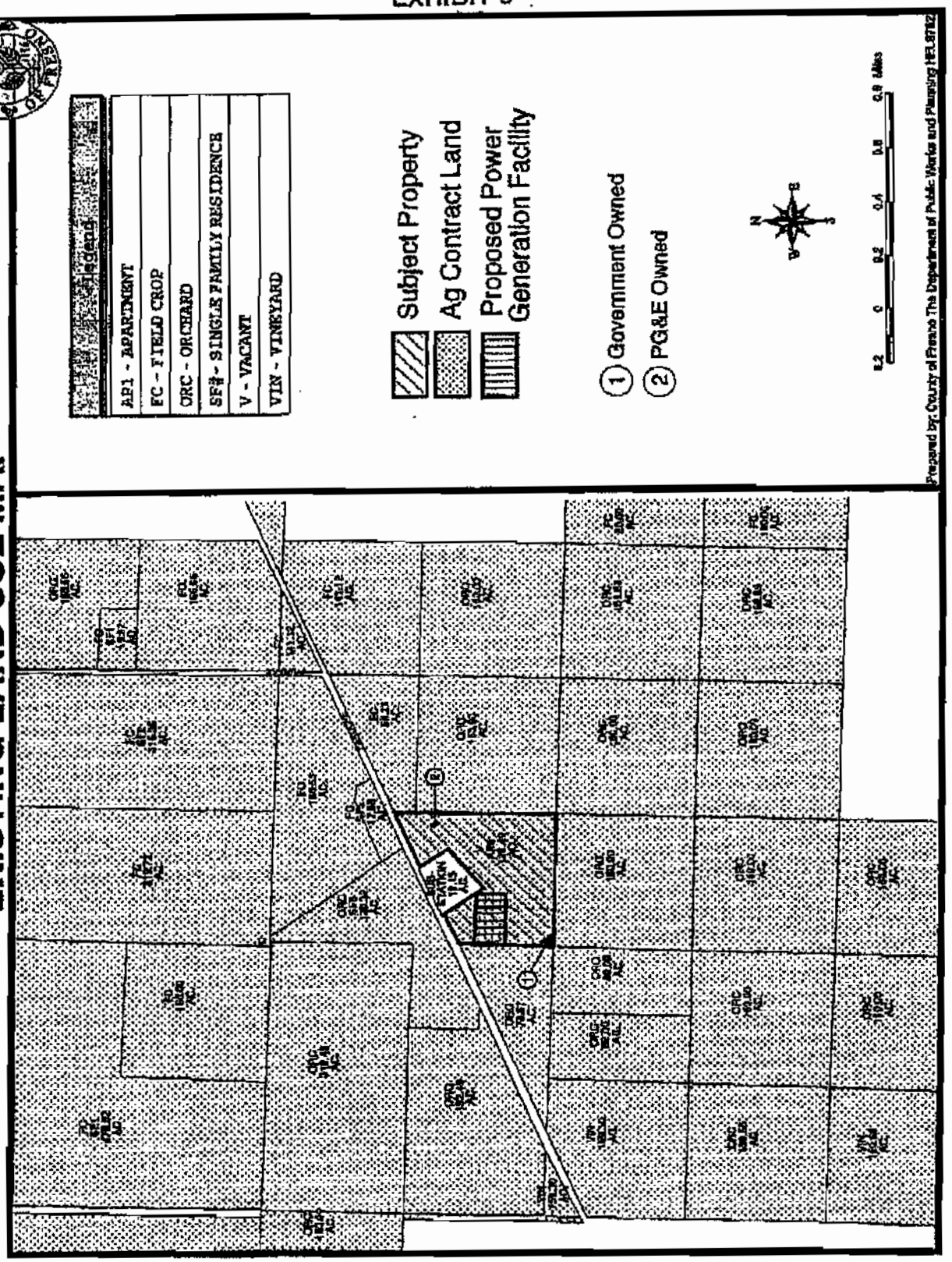

EXISTING ZONING MAP
STR: 06 - 15/13
AE20
SAUREAX
PANOCHE
SUBJECT PROPERTY
AE20
AE20
1
2
3
1 Government Owned
2 PG & E Owned
3 PG & E Owned
Proposed Power Generation Facility
N
E
S
W
1000 0 1000 2000 Feet
PUBLIC WORKS and PLANNING DEPARTMENT

EXHIBIT 3

EXISTING LAND USE MAP



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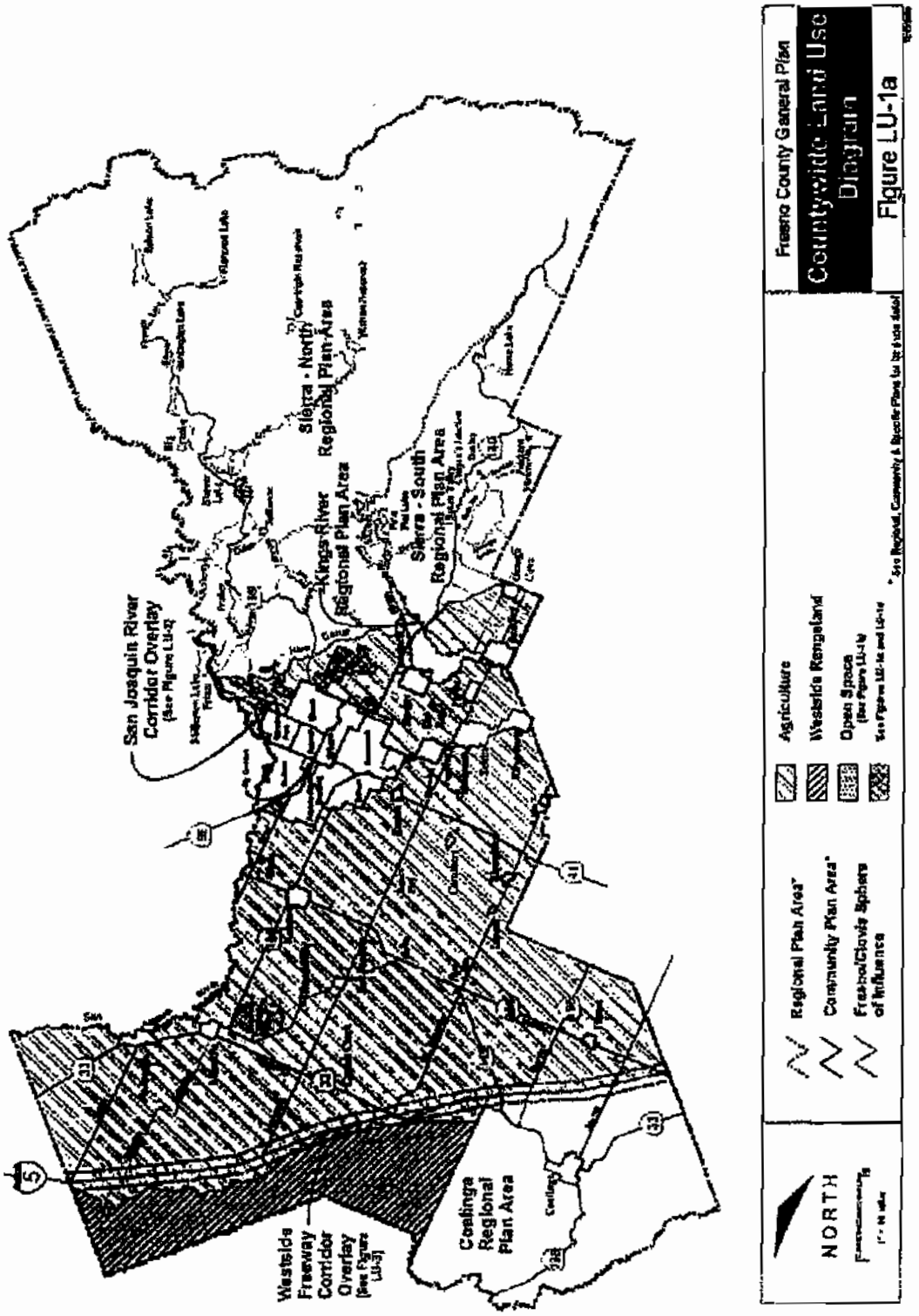
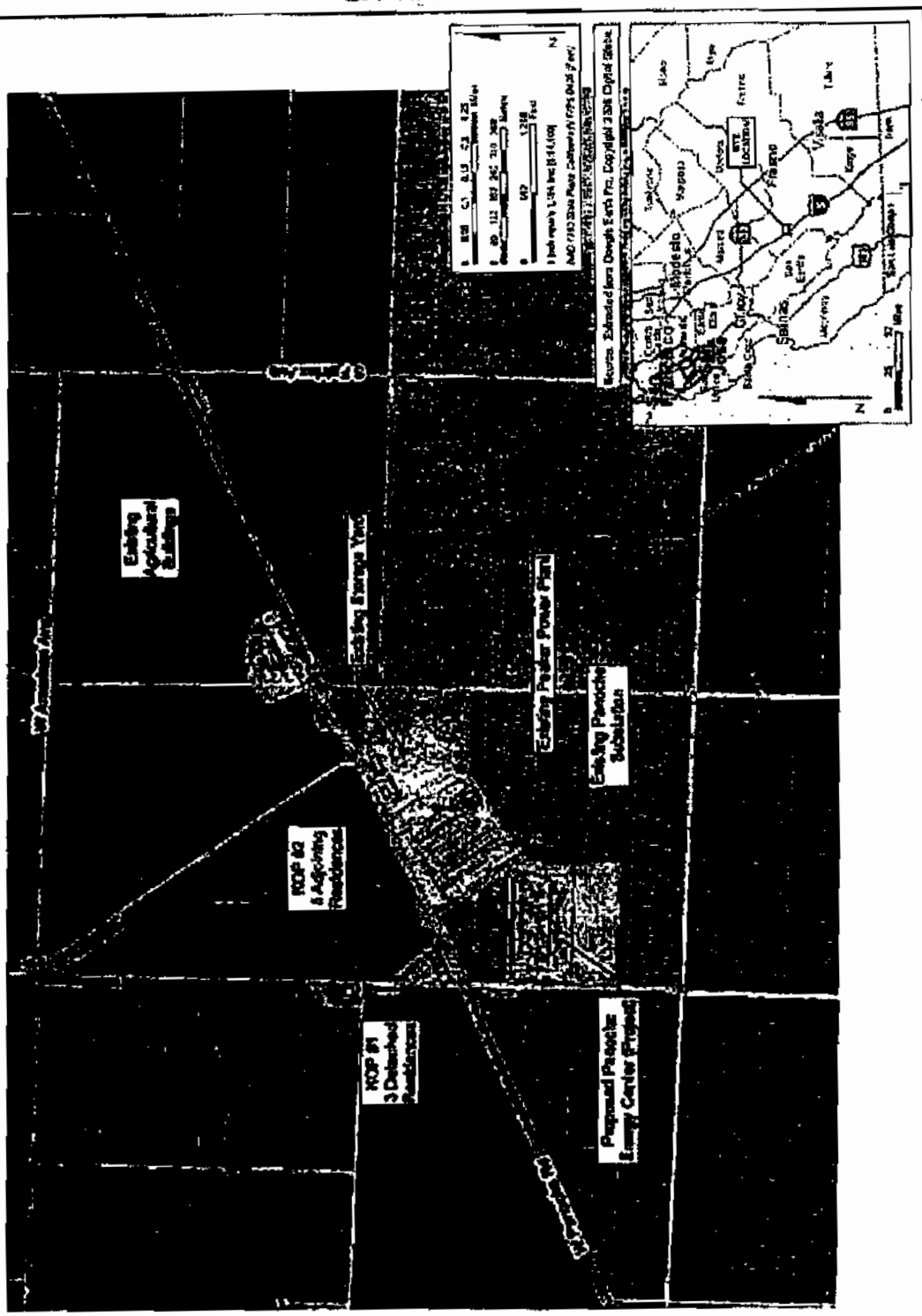
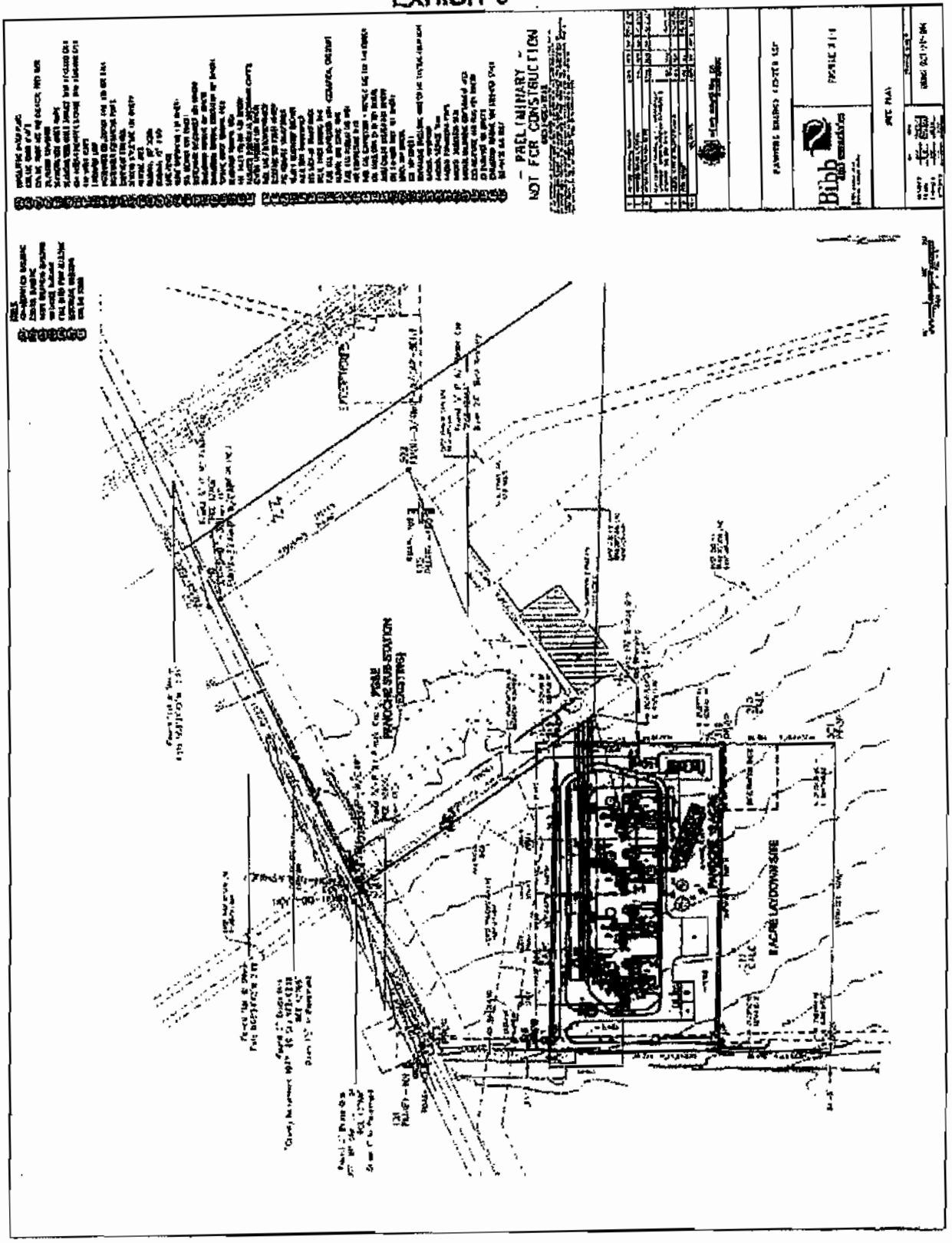

Fresno County General Plan
Countywide Land Use Diagram
Figure LU-1a
NORTH
Regional Plan Area*
Community Plan Area*
Fresno/Clovis Sphere of Influence
Agriculture
Westside Rangeland
Open Space
San Joaquin River Corridor Overlay
Sierra - North Regional Plan Area
Kings River Regional Plan Area
Sierra - South Regional Plan Area
Coalinga Regional Plan Area
Westside Freeway Corridor Overlay

EXHIBIT 5



PAROCHE ENERGY CENTER, LLC | Figure 5.13-5 | AERIAL OF IMMEDIATE PROJECT VICINITY | 2006

EXHIBIT 6


- PRELIMINARY -
NOT FOR CONSTRUCTION
Bibb
PANOCHE SUB-STATION
(EXISTING)
PANOCHE SUBSTATION
BACHE LATDOWN SITE

County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING
ALAN WEAVER, DIRECTOR

August 8, 2007

PAO Investments, LLC
45499 W. Panoche Rd.
Firebaugh, CA 93622

Dear Sir or Madam:

SUBJECT: General Plan Conformity Application – Starwood Power-Midway, LLC

Determine General Plan Conformity of Starwood Power-Midway, LLC's proposal to develop an electrical power generating facility on a 5.6-acre site in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) District.

LOCATION: The proposed power generating facility is located on the south side of Panoche Road between Interstate 5 and Fairfax Avenue approximately 12.6 miles southwest of the City of Mendota (SUP. DIST.; 1) (APN: 027-060-78s).

APPLICANT: PAO Investments

EXHIBITS:

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Fresno County Adopted General Plan
5. Aerial Photograph of Proposed Power Generating Facility and Surrounding Area
6. Site Plan of Proposed Power Generating Facility

PROJECT DESCRIPTION:

On July 18, 2007, PAO Investments LLC submitted an application for determination of General Plan Conformity on a 5.6-acre parcel for the purposes of establishing a power generating facility. The proposed power generating facility is located on the south side of Panoche Road between Interstate 5 and Fairfax Avenue approximately 12.6 miles southwest of the City of Mendota. The proposed facility would consist of two FT8-3 SwiftPac Combustion Turbine Generator units installed in a simple-cycle power plant arrangement, with a total net generating

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capacity of approximately 120 MW. Off-site improvements associated with the project include an approximate 300-foot electric transmission line to tie into the PG&E Substation, a 1,200-foot underground water pipeline connecting the project to the existing CalPeak Panoche plant well adjacent to the project site, 50 feet of new gas transmission line and a gas metering set which will tap into the existing PG&E gas trunkline.

BACKGROUND:

On April 24, 2007, the Fresno County Board of Supervisors approved a request for partial cancellation of the Williamson Act Contract, to remove the subject 5.6-acre area from Agricultural Land Conservation Contract No. 367 restrictions. Approval of the partial cancellation request required the Board to make five specified findings. One of the required findings was a determination that the proposed alternate use is consistent with the General Plan. The Board determined that the five findings could be made and, therefore, approved the partial cancellation.

EXISTING LAND USE:

The existing parcel is zoned AE-20 (Exclusive Agriculture, 20-acre minimum parcel size). The site is designated Agriculture in the Fresno County General Plan and is subject to Agricultural Land Conservation Contract No. 367.

The subject site is currently used as a storage-yard by CalPeak Power. A PG&E electrical substation exists adjacent to the southwest of the project area. Other adjacent land consists of pomegranate orchards.

PROCEDURAL CONSIDERATIONS / PURPOSE OF REPORT:

The California Energy Commission's (CEC) Preliminary Staff Assessment (PSA) regarding the proposed power generating facility indicated that the CEC was unable to determine that the proposed project is consistent with the Fresno County General Plan.

GENERAL PLAN POLICY CONSIDERATIONS

The proposed project and surrounding land is designated for Agriculture in the Fresno County General Plan. As previously-mentioned, the subject site is zoned for agricultural land uses (AE-20). The existing AE-20 zoning (Exhibit 2) is reflective of the County General Plan land use designation for this area.

The Fresno County General Plan contains specific policies related to agricultural land and the protection of those lands as the County's most valuable natural resource and its historical basis of its economy. General Plan Policy LU-A.1 directs urban growth away from valuable agricultural lands to cities and unincorporated communities.

Policy LU-A.3 states that the County shall allow special agricultural uses, agriculturally-related activities and certain non-agricultural uses in areas designated Agriculture. Table LU-3 lists typical uses allowed in areas designated Agriculture. Approval of those and similar uses is subject to a determination that certain criteria can be met. This list is not intended to be inclusive of all uses that can be considered for development. The proposed power generating

facility is similar to other allowed uses which provide a needed service to the surrounding community or the larger area. Table LU-3 includes uses which provide a public benefit to the surrounding community or larger area, such as sewage treatment plants, solid waste disposal, wireless communication facilities and electrical substations. For proposed power generating facilities with a net generating capacity of less than 50 MW, the proposed project requires approval from Fresno County. In those instances, an Unclassified Conditional Use Permit is required to be submitted for review and for a determination before the Fresno County Planning Commission and/or Board of Supervisors. In this case, because the proposed project would have a net generating capacity of 120 MW, an Unclassified Conditional Use Permit was determined to not be required. However, the Fresno County Board of Supervisors has, in the past, approved Unclassified Conditional Use Permits for proposed power generating facilities on land designated for Agriculture and zoned AE-20.

Regarding the criteria to be considered in approval of such uses, as specified in Policy LU-A.3, staff believes the criteria are met sufficiently to determine that the proposed project is consistent with the Fresno County General Plan.

Criterion "a" is met in that the facility is proposed at this non-urban location because of the existing infrastructure installed at the adjacent Pacific Gas and Electric substation and the existing high-volume natural gas lines and 115 kilovolt transmission lines located on the subject parcel. The existing infrastructure allows for efficient interconnection, which reduces impacts on adjacent land. Criterion "b" can be met because a site selection investigation was performed by the applicant, looking for land that was in sufficient proximity to the infrastructure listed above. No less productive agricultural lands were identified within sufficient proximity to serve as a reasonable alternative. The proposed power generating facility is estimated to have a maximum annual groundwater demand of 135.6 acre-feet. Based on the environmental documentation submitted to the California Energy Commission, the proposed facility will not have a significant effect on groundwater resources, and would meet Criterion "c". The proposed facility is located approximately 12.6 miles from the city of Mendota and approximately 13.7 miles from the city of Firebaugh. While a location closer to sources for the two required employees would be preferable, other site requirements preclude such a location.

CONCLUSION:

Table LU-A.3 lists typical uses allowed on land designated for Agriculture in Fresno County. The identified uses are not intended to be an exhaustive listing of all allowed uses, but instead are typical uses allowed. Other similar uses can also be permitted on land designated for Agriculture. It has been determined that the proposed power generating facility is similar to other non-agricultural uses listed in Table LU-3 of the Fresno County General Plan. Further, the Starwood Power-Midway facility meets the criteria for allowing such a use as described in Policy LU-A.3 of the General Plan. The development of the proposed use on the subject property is consistent with the Fresno County General Plan.

This determination was supported by the Board of Supervisors on April 24, 2007, when the request for partial cancellation of Agricultural Land Conservation Contract No. 367 was approved.

No additional land use entitlement review by Fresno County is required for the development of the proposed power generating facility.

If you have questions regarding this General Plan Conformity review, please call me at (559) 262-4022.

Sincerely,

Jared Nimer, Planner
Development Services

JN:hr
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Enclosures

c: Bernard Jimenez, Division Manager
Will Kettler, Principal Planner
Margie McHenry, Senior Planner
Zachary Redmond, Deputy County Counsel
Marcus Magness

EXHIBIT 1

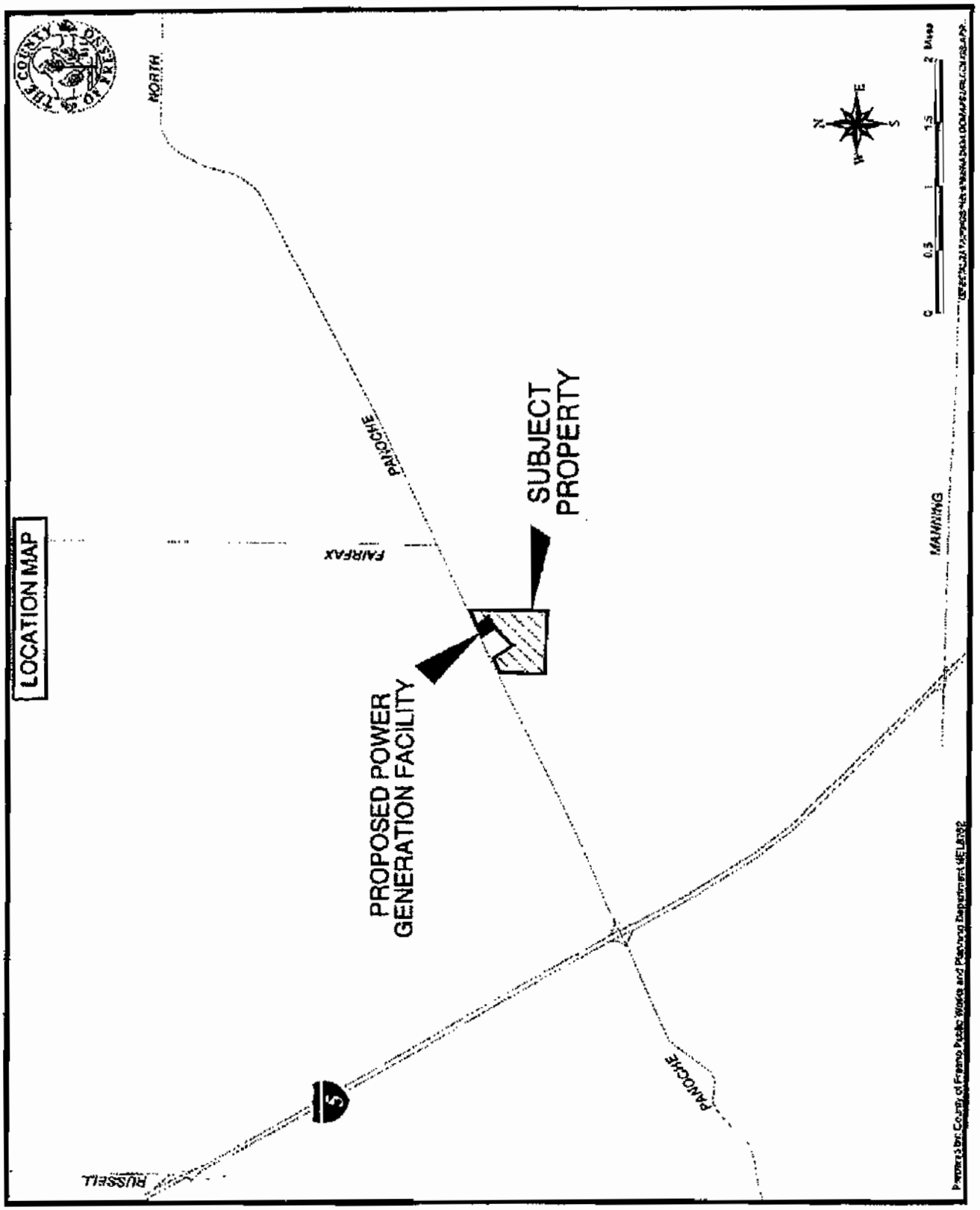
LOCATION MAP
NORTH
PANOCHE
FAIRFAX
SUBJECT PROPERTY
PROPOSED POWER GENERATION FACILITY
MANNING
PANOCHE
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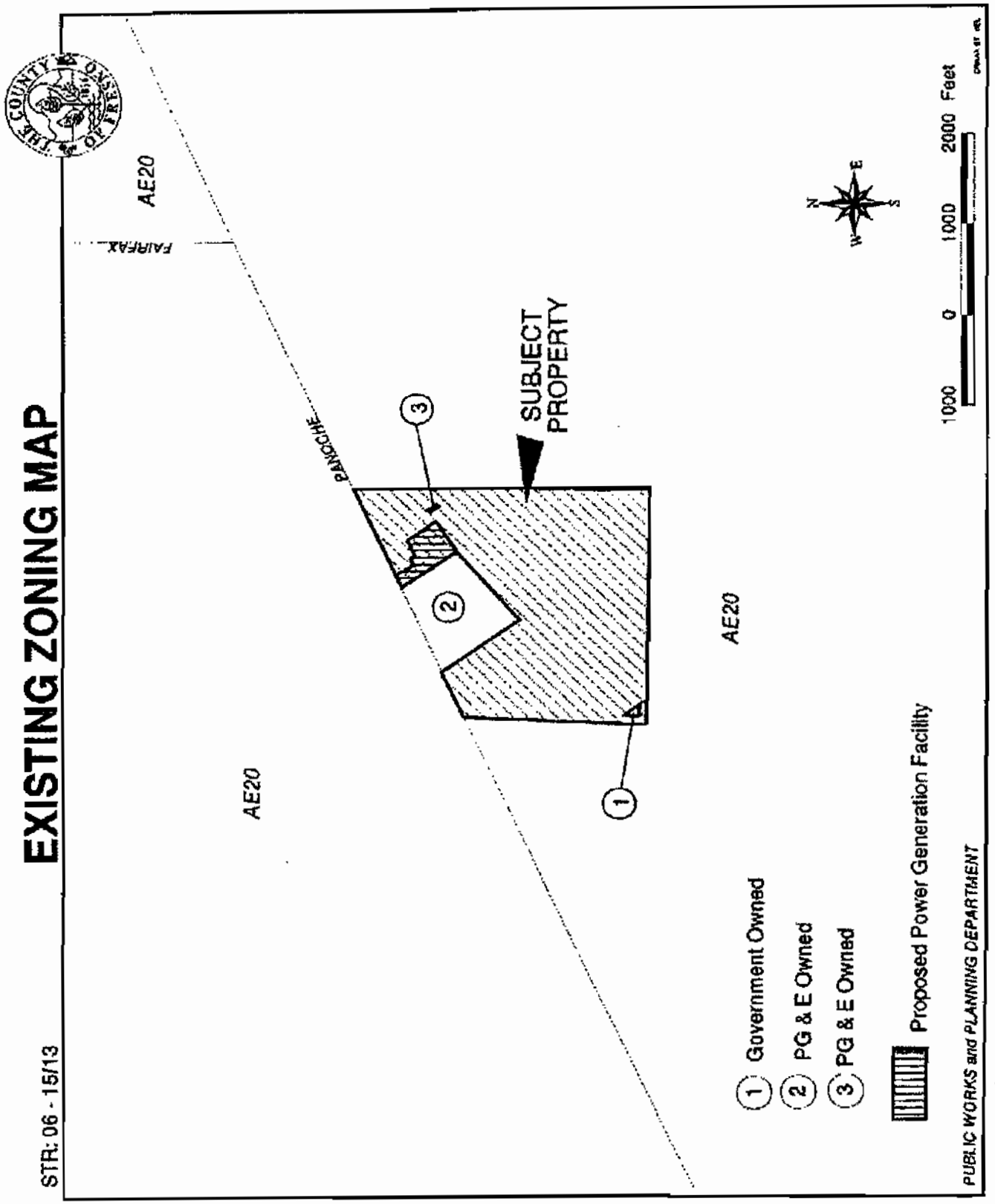
EXHIBIT 2


EXISTING ZONING MAP
STR: 06 - 15/13
AE20
FAIRFAX
PANOCHE
SUBJECT PROPERTY
AE20
AE20
1
2
3
1 Government Owned
2 PG & E Owned
3 PG & E Owned
Proposed Power Generation Facility
1000 0 1000 2000 Feet
N
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W
PUBLIC WORKS and PLANNING DEPARTMENT

EXHIBIT 3

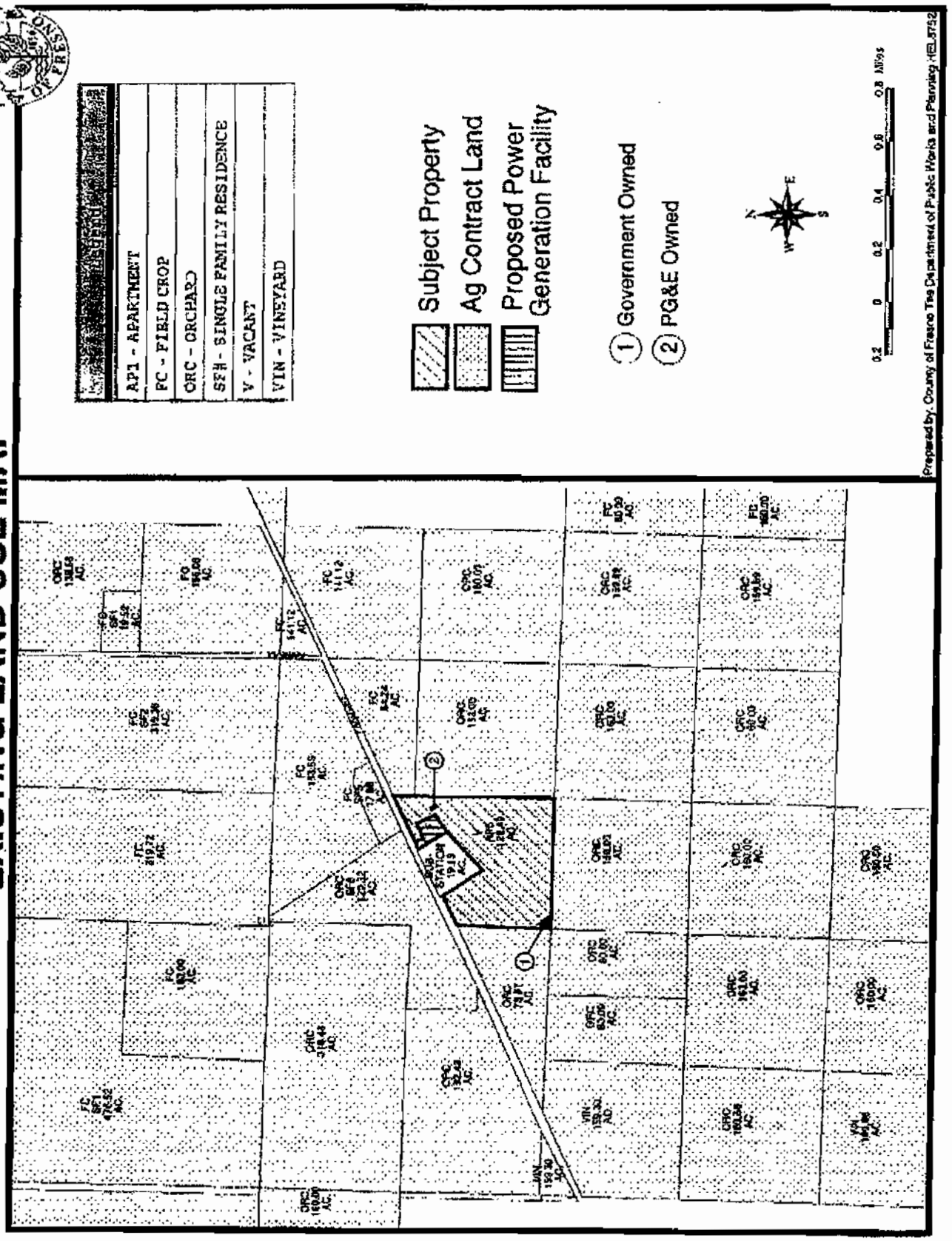

EXISTING LAND USE MAP
LEGEND
AP1 - APARTMENT
FC - FIELD CROP
ORC - ORCHARD
SFH - SINGLE FAMILY RESIDENCE
V - VACANT
VIN - VINEYARD
Subject Property
Ag Contract Land
Proposed Power Generation Facility
1 Government Owned
2 PG&E Owned
N
E
S
W
0.2 0 0.2 0.4 0.6 0.8 Miles
Prepared by County of Fresno Tax Department of Public Works and Planning

EXHIBIT 4

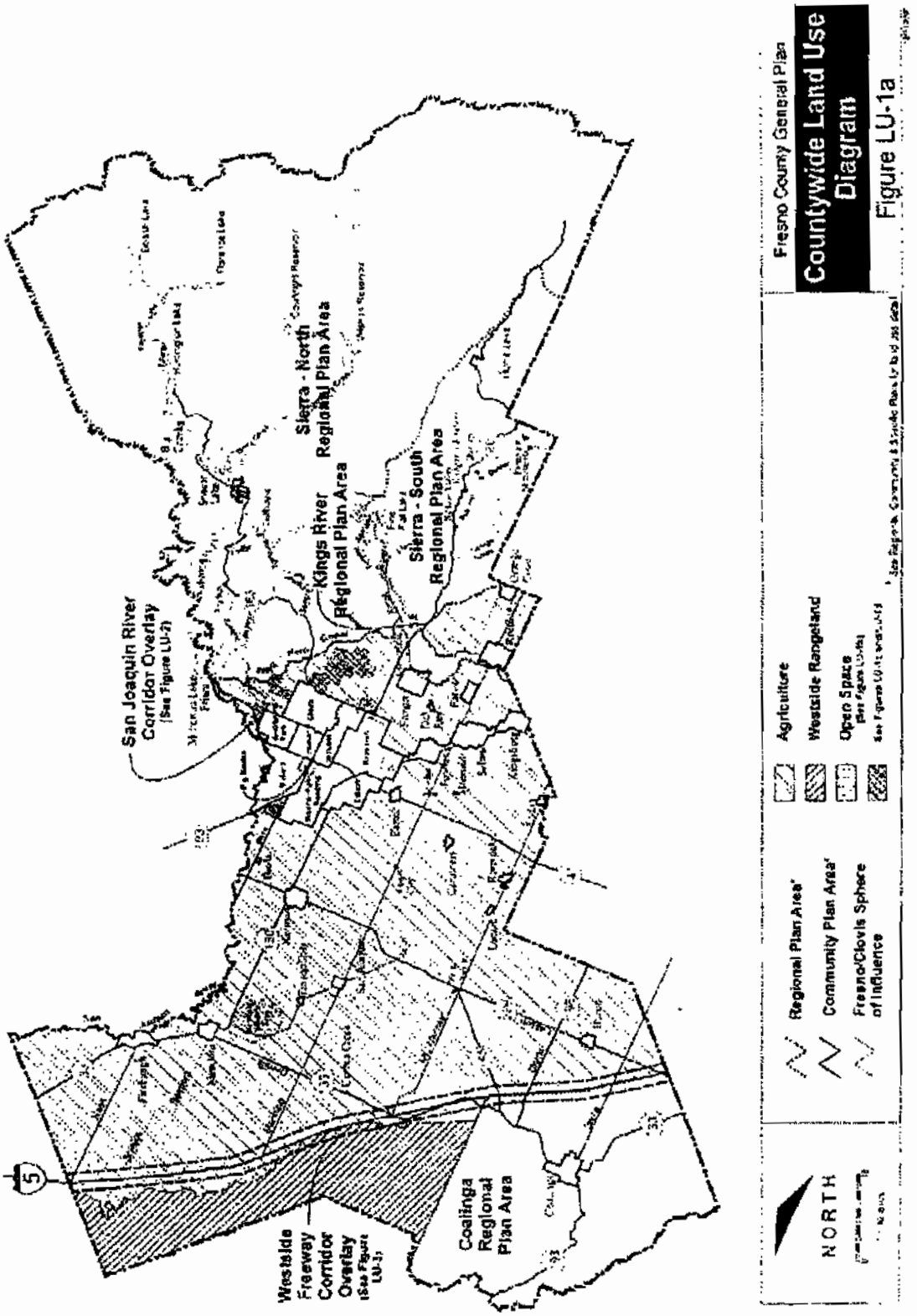
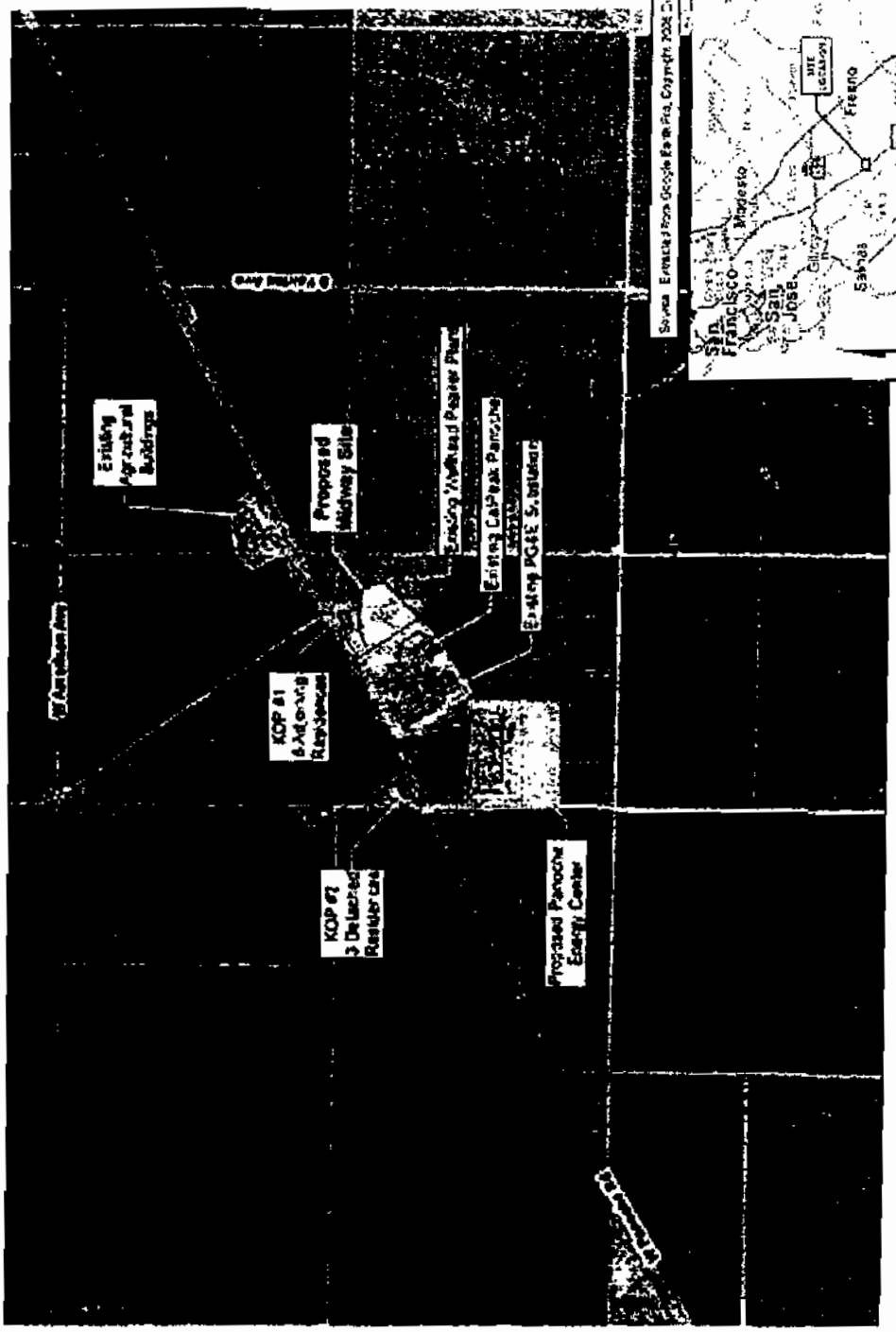

Fresno County General Plan
Countywide Land Use Diagram
Figure LU-1a
Regional Plan Area*
Community Plan Area*
Fresno/Clovis Sphere of Influence
Agriculture
Westside Rangeland
Open Space
NORTH
San Joaquin River Corridor Overlay
Sierra - North Regional Plan Area
Kings River Regional Plan Area
Sierra - South Regional Plan Area
Westside Freeway Corridor Overlay
Coalinga Regional Plan Area
5

EXHIBIT 5



STARWOOD POWER - MIDWAY, LLC PEAKING PROJECT | Figure 5.10-5 | AERIAL OF IMMEDIATE PROJECT VICINITY | 2006

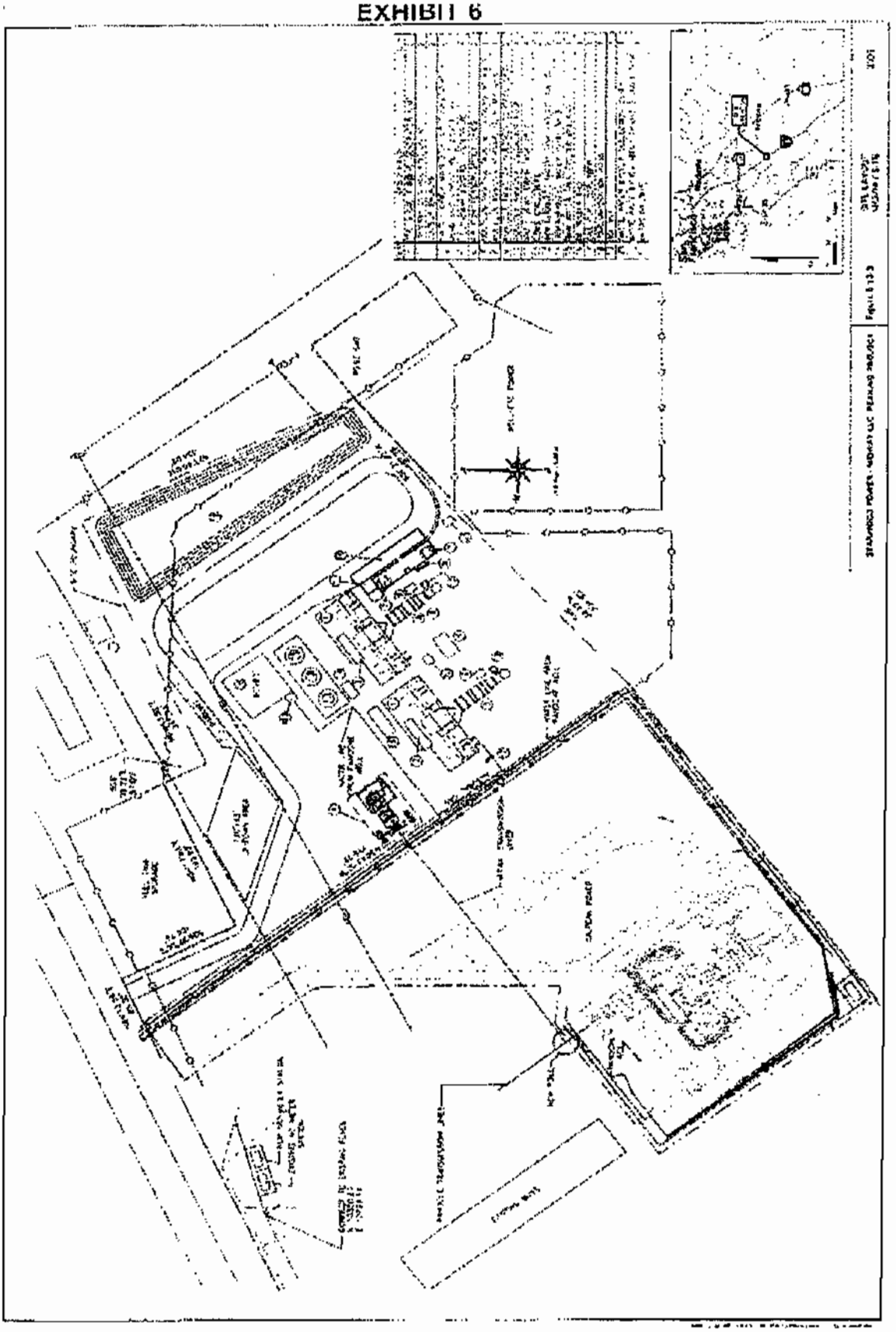



EXHIBIT 6