

Avenues Neighborhood Tentative Map

pres. by The Surland Companies

Tracy City Council

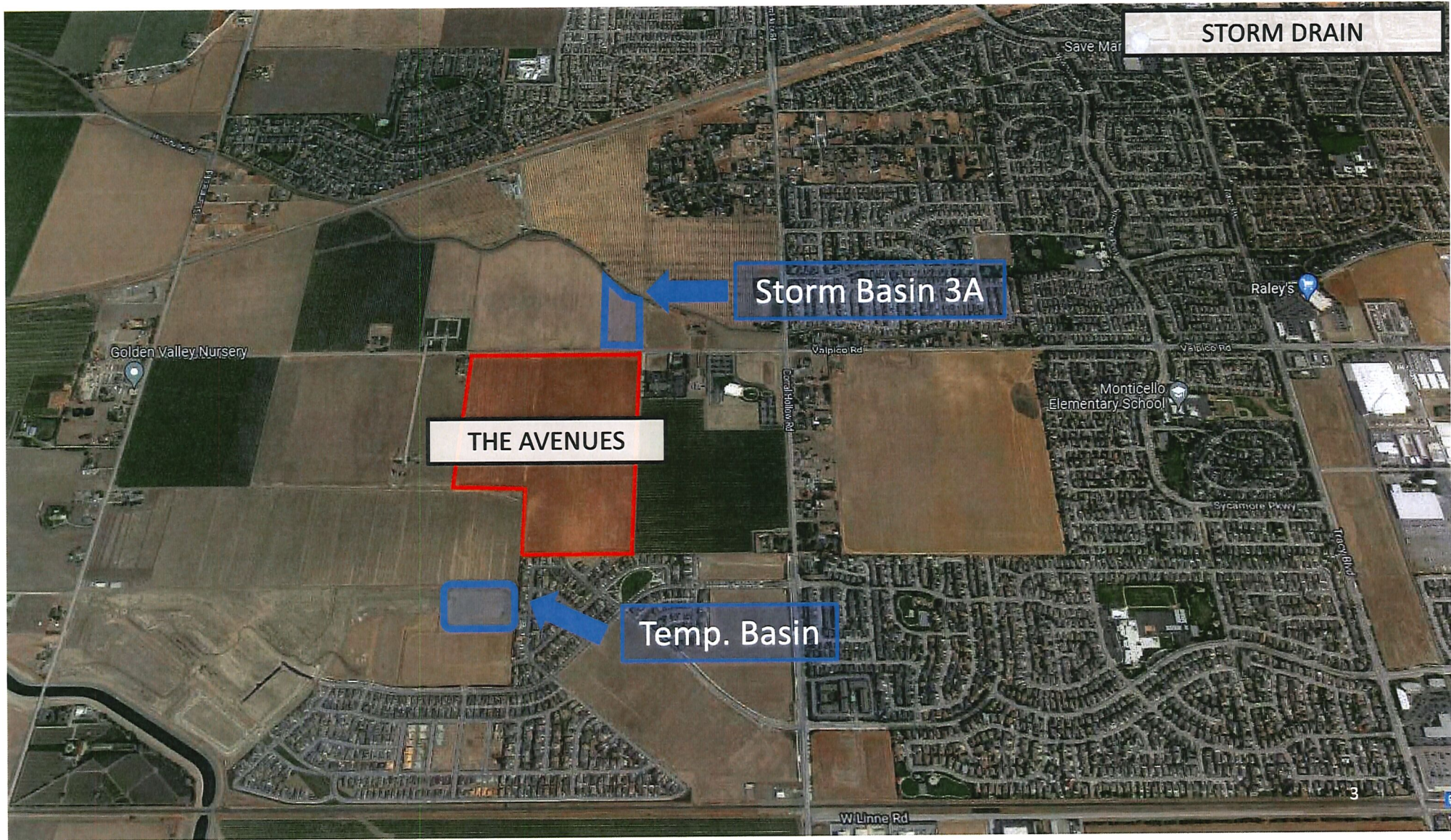
3-29-2022

2025

AVENUES INFRASTRUCTURE



THE AVENUES

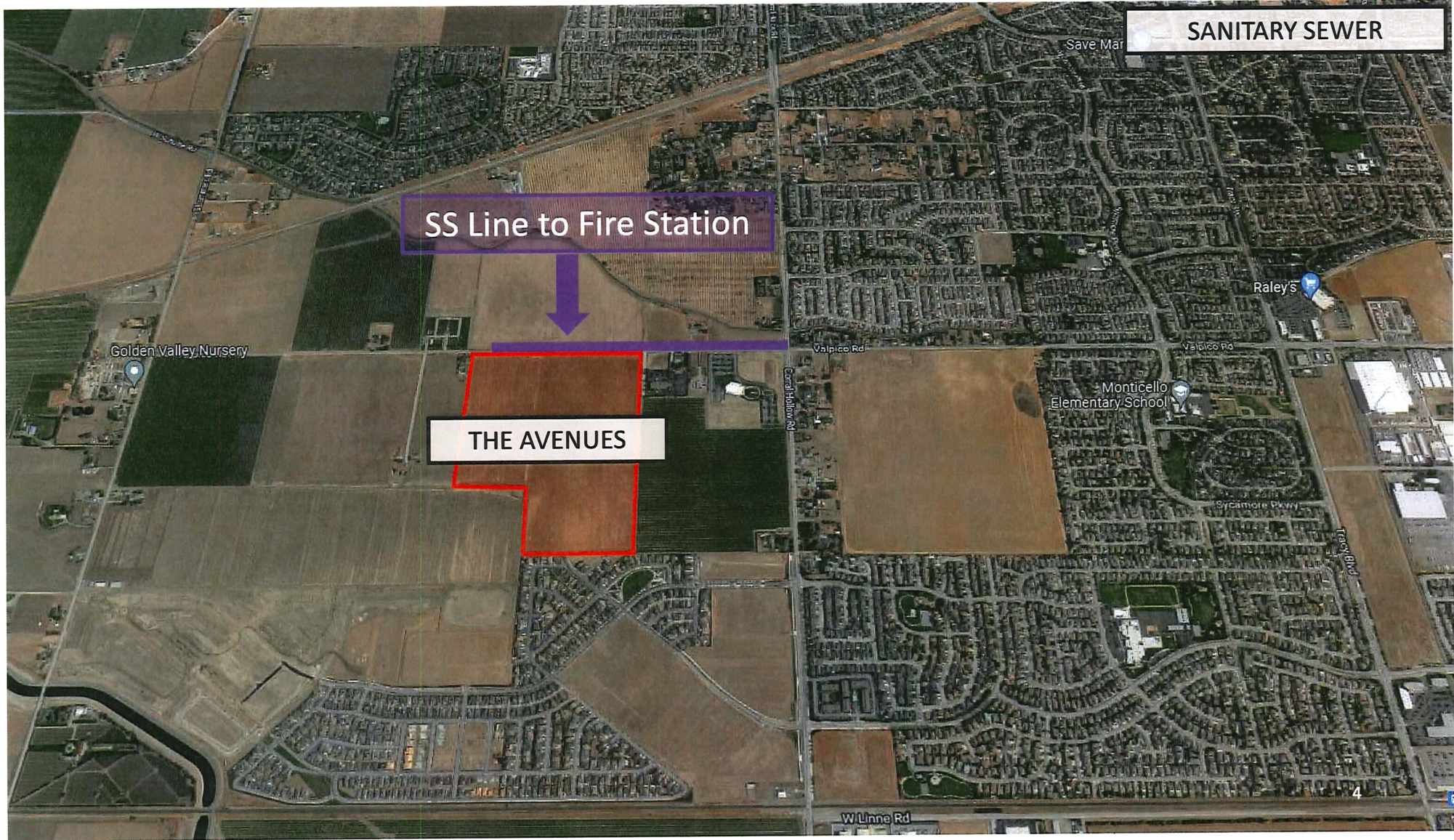


STORM DRAIN

Storm Basin 3A

THE AVENUES

Temp. Basin



SANITARY SEWER

SS Line to Fire Station

THE AVENUES

Golden Valley Nursery

Monticello Elementary School

Raley's

Save Mar

Valpico Rd

Valpico Rd

Sycamore Pkwy

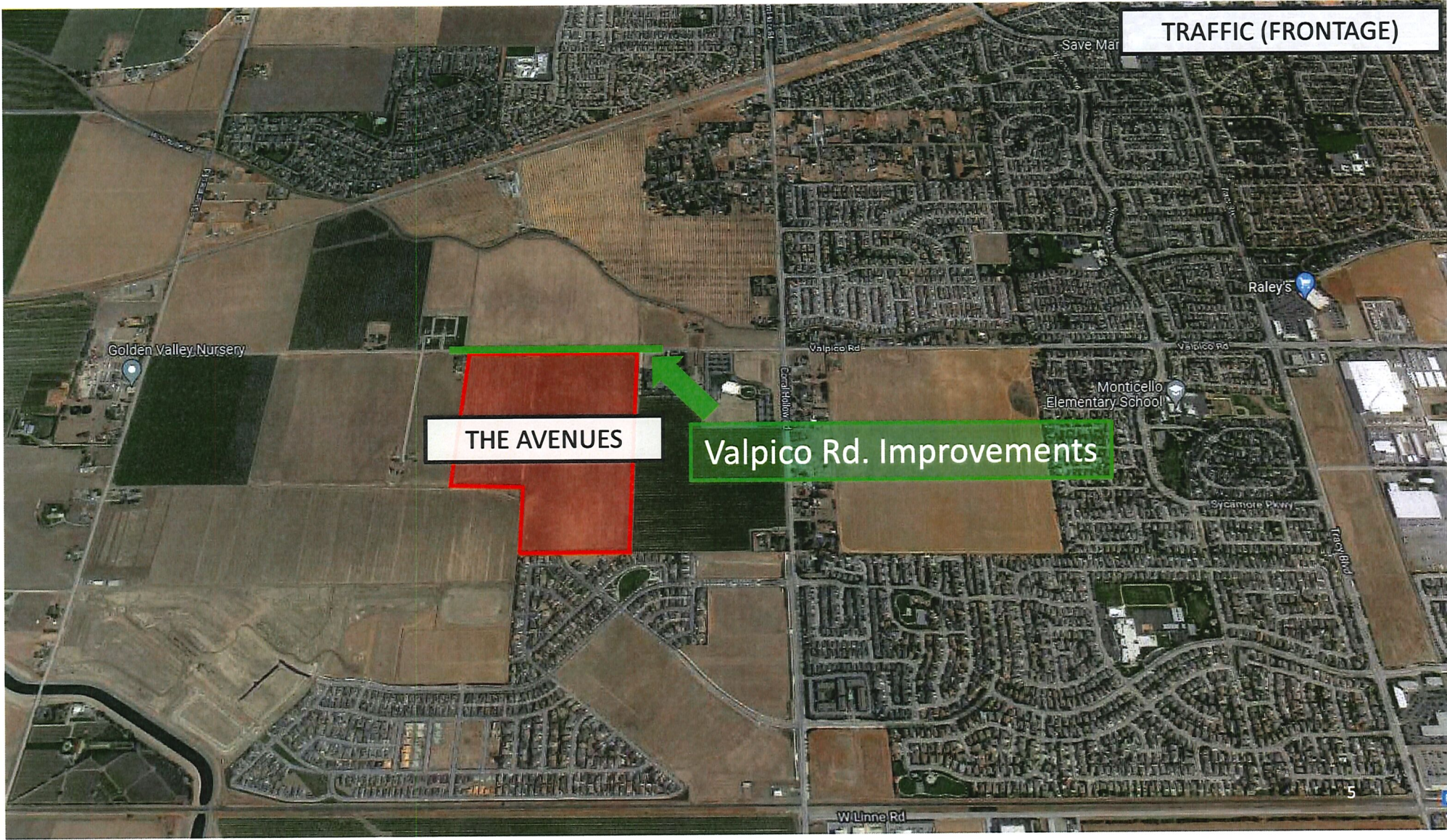
Track Blvd

W Linne Rd

TRAFFIC (FRONTAGE)

THE AVENUES

Valpico Rd. Improvements





TRAFFIC (OFFSITE)

Lammers/Schulte

Lammers/Valpico

THE AVENUES

Valpico/Tracy Blvd

Corral Hollow/Linne

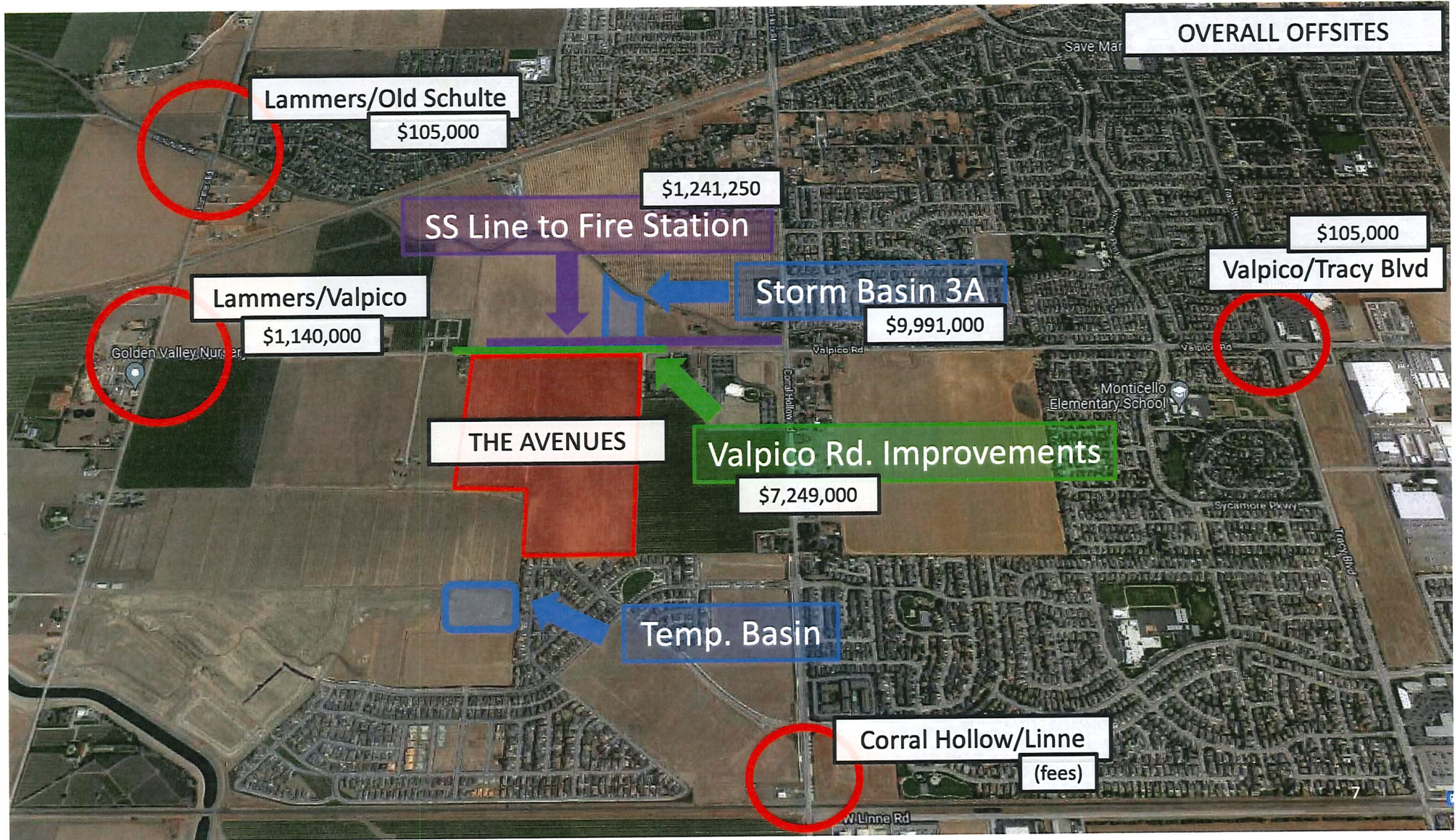
Golden Valley Nursery

Monticello Elementary School

Valpico Rd

Sycamore Pkwy

W Linne Rd



INFRASTRUCTURE CONTRIBUTIONS

- City & County Traffic Impact Fees:
 - \$5,379,321+

- Prepaid Wastewater Fees:
 - \$4,780,320+

- Prepaid Public Safety/Facilities:
 - \$2,934,240+

The proposed project would not result in a significant impact to any public services or facilities. The annexation and development of the Avenues had been evaluated in the City's General Plan and its Municipal Service Review. The Avenues project will participate in the implementation of the City's Master Plans or Ellis Program by payment of fees, and/or the construction of improvements, which will include credit and reimbursement agreements to ensure adequate services are provided to the annexation site.

The proposed project would not result in a significant impact to any public services or facilities.

The proposed action will not have an effect on any social interests or any effect on economic interests as the landowner applied for annexation. There will be no effect of the proposed action on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

Section 56377 requires that the Commission, in reviewing proposals that would reasonably induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses, to consider the following policies and priorities:

Fire: The project site will detach from the Tracy Rural Fire District and the City of Tracy will become responsible for fire services. The City will provide fire services through the South San Joaquin County Fire Authority (SSJCFA), a Joint Powers Authority whose membership includes the City of Tracy and Tracy Rural. The City and Tracy Rural share the costs of providing fire service according to a cost-

that the annual loss of revenue to Tracy Rural Fire as a result of detachment is \$763.80. Tracy Rural Fire has not indicated that it would be negatively impacted by the Avenues annexation. Tracy Rural

the detaching fire district. LAFCo's policies state that the Commission will consider any significant adverse effect upon other services recipients serving the area. Significant adverse effects shall include the effect of proposals that negatively impact special districts' budgets or service or require the continuation of service without the provision of adequate funding. The Auditor's office has indicated

that the annual loss of revenue to Tracy Rural Fire as a result of detachment is \$763.80. Tracy Rural Fire has not indicated that it would be negatively impacted by the Avenues annexation. Tracy Rural expects that its revenues will continue to grow from service charges, property taxes, sales and uses taxes, etc. as development continues to occur on properties annexed to the City but were not detached from Tracy Rural. The City's MSR determined that both the City and Tracy Rural have the financial ability to provide fire services within the City and its sphere of influence.

Station 99 is estimated to cost \$6.6 million to design, construct, and equip. Of this amount, \$1.1 million will be funded by the advancement of public safety fees by Ellis and Avenues developments and the remaining fees will be collected from developments within the coverage area over a long

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As discussed in Chapter 5, the City and the Rural Fire District have demonstrated financial capacity to provide fire services, including the relocation of fire stations, construction of new fire stations, and funding for operations and maintenance.

Similar to the provision of police services discussed below, Objective PF-1.1 states that the City

As discussed in Chapter 5, the City and the Rural Fire District have demonstrated financial capacity to provide fire services, including the relocation of fire stations, construction of new fire stations, and funding for operations and maintenance.

(Objective PF-1.2, P5).



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March 29, 2022

VIA E-MAIL

Nancy Young, Mayor
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
E-Mail: tracycitycouncil@cityoftracy.org

Re: The Avenues Housing Development Project (TSM21-0001)

Dear Mayor Young and Honorable Councilmembers:

This firm represents Surland Communities, LLC and Greystone Land Investment Partners, LLC (collectively, "Surland") in connection with Surland's development of The Avenues, a 480-unit housing development project with an approximately 4.39-acre park parcel, and associated streets, alleys, and common landscape parcels ("Project") located south of Valpico Road and west of Corral Hollow Road in Tracy ("Project Site").

As explained in the resolution accompanying tonight's staff report, the Project is consistent with the City's General Plan, the Ellis Specific Plan, and the zoning ordinance and was fully analyzed in an adopted Initial Study/Mitigated Negative Declaration (SCH No. 2018072045). As a result, under the provisions of the Housing Accountability Act ("HAA") (Gov. Code § 65589.5),¹ as further explained below, the City cannot lawfully disapprove the Project. Instead, the City Council has a legal obligation to approve the Project and a failure to do so would expose the City to a range of severe remedies.

The Project is a "housing development project" (§ 65589.5(h)(2)) under the HAA, which applies to every city and county in California. The purpose of the HAA, as it has continually evolved over nearly 40 years, is "to significantly increase the approval and construction of new housing for all economic segments of California's communities by meaningfully and effectively curbing the capability of local governments to deny, reduce the density for, or render infeasible housing development projects (§ 65589.5(a)(2)(K)). Moreover, the HAA includes a statewide policy mandating "that this section be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and

¹ All statutory references are to the California Government Code.

provision of, housing.” (§ 65589.5(a)(2)(L)). The HAA provides severe legal remedies where an agency violates the statute’s controlling and preemptive provisions (§§ 65589.5(k)(1)(A) and (k)(2)). In addition, courts are required to award attorney’s fees and costs of suit to a successful plaintiff in and HAA lawsuit. (§ 65589.5(k)(1)(A)(ii)).

As relevant here, subdivision (j) of the HAA provides that a decision to disapprove or reduce the density of a project that complies with “applicable, objective general plan, zoning, and subdivision standards and criteria, including design review standards” must be based on written findings supported by a preponderance of the evidence that (1) the project would have “a specific, adverse impact upon the public health or safety” *and* (2) that there is no feasible method to satisfactorily mitigate or avoid this adverse impact. (§ 65589.5(j)(1)). The HAA defines a “specific, adverse impact” to mean “a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.” (§ 65589.5(j)(1)(A)).

Section 65589.5(j) thus requires cities to determine whether a project complies with the applicable, *objective* general plan, zoning, subdivision, and design standards. The HAA defines the term “objective” to mean “involving no personal or subjective judgment by a public official and being uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official.” (§ 65589.5(h)(8)). Cities must make this determination based on a “reasonable person” standard:

“For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity.”
(§ 65589.5(f)(4)).

Accordingly, an agency’s subjective standards are irrelevant. If a project complies with applicable, objective general plan, zoning, subdivision, and design standards in the eyes of a reasonable person, the project cannot be disapproved or conditioned on a lower density unless, based on a preponderance of the evidence in the record, it would have a “specific, adverse impact” upon public health or safety and there is no feasible way to mitigate that impact. If a city’s disapproval or conditional approval is challenged in court, the burden is on the City to prove its decision conformed to all the conditions specified in the HAA. (§ 65589.6).

The courts have explained that the HAA’s findings constitute the “only” grounds for a lawful disapproval of a housing development project. (*North Pacifica, LLC v. City of Pacifica* (N.D.Cal. 2002) 234 F.Supp.2d 1053, 1059-60, disapproved on other

Nancy Young, Mayor
March 29, 2022
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grounds in *North Pacifica LLC v. City of Pacifica* (2008) 526 F.3d 478; see also *Sequoyah Hills Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 715-16). Moreover, the HAA creates such a "substantial limitation" on the government's discretion to deny a permit that it amounts to a constitutionally protected property interest. (*North Pacifica, LLC v. City of Pacifica, supra*, 234 F.Supp.2d at 1059).

Although the courts are the primary authority that enforces the HAA through lawsuits filed by aggrieved applicants, the California Department of Housing and Community Development ("HCD") can find that a city has taken an action in violation of the HAA. (§ 65585). In such a case, after notifying the city of the violation, HCD would refer the violation to the Office of the Attorney General, who could also file a petition against the city in the superior court. (§ 65585(j)). There is much more we could say about the HAA's rigorous remedies but we trust that will not be necessary.

As you know, City staff and the Planning Commission recommend that the City Council approve the Vesting Tentative Map for the Project. Moreover, the resolution accompanying tonight's staff report explains that *the Project is consistent with the General Plan, Ellis Specific Plan, and zoning ordinance* and concludes that the Project is exempt from further environmental review pursuant to CEQA. Given the HAA provisions outlined above, all of which apply here, there is no lawful way for the City to disapprove the Project. Instead, the City Council has a legal obligation to approve the Project.

We appreciate the opportunity to communicate about this important Project and trust that no Councilmember will run the risk of causing the City of Tracy to violate the HAA.

Please do not hesitate to let us know if you have any questions.

Sincerely,

MILLER STARR REGALIA

Bryan W. Wenter

Bryan W. Wenter, AICP

BWW/kli

cc: Michael Rogers, City Manager
Sheena Stephens, Assistant to the City Manager
Gregory J. Rubens, Interim City Attorney
Adrienne Richardson, City Clerk
Daniel P. Doport, Consulting Attorney
Les Serpa
Steve Herum, Esq.

From: Jim Bridges <jbridges@jsdtracy.com>
Sent: Tuesday, March 29, 2022 3:10 PM
To: Tracy City Council <tracycitycouncil@cityoftracy.org>
Subject: Item 3.A Tentative Map for the Avenues

Dear Mayor Young and City Council,

Regarding Item 3.A. tentative map for the Avenues neighborhood, the Jefferson School District supports both the Planning Commission's and Staff recommendation to Council to approve the tentative map for the Avenues Neighborhood. Development of the Avenues neighborhood brings the critical infrastructure necessary for the construction of the Franklyn Cole Elementary School the District has planned for at Ellis, and the approval of this map is critical to the schedule for preparation of the school site and construction of the school. The current school site is being used as the development's retention basis and we can't get State approval of the project until the site is filled in.

The Jefferson School District strongly encourages the Council to approve this item, and we look forward to providing a needed new K-8 school for Tracy residents.

Sincerely,

Jim Bridges



James W. Bridges, Ed.D.

Superintendent | Jefferson School District

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email: jbridges@jsdtracy.com

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