



# County of Fresno

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

## Planning Commission Staff Report Agenda Item No. 5 March 9, 2023

**SUBJECT:** Variance Application No. 4146 & Environmental Review No. 8348

Allow the creation of three parcel (a 1.25-acre parcel, a 4.1-acre parcel, and a remaining 2.01-acre parcel) from an existing 9.86-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The project is located on the east side of N. Locan Avenue, approximately 967-feet south of E. Shields Avenue, adjacent to the city limits of the City of Fresno (APN: 310-260-37) (2744 N. Locan Ave.) (Sup. Dist. 5).

**OWNER:** Henry and Loan Pham

**APPLICANT:** Dale Mell

**STAFF CONTACT:** Elliot Racusin, Planner  
(559) 600-4245

David Randall, Senior Planner  
(559) 600-4052

**RECOMMENDATION:**

- Deny Variance Application No. 4146 based on the analysis of the required findings in the Staff Report; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Variances within half-mile of subject parcel
6. Site Plans and Detail Drawings
7. Applicant’s Variance Findings
8. Photos
9. Letters of Objection

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agricultural	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.	No change
Parcel Size	9.85-acre parcel	Parcel 1: 1.25-acres Parcel 2: 1.25-acres Parcel 3: 1.25-acres Parcel 4: 4.10- acres Remaining Parcel: 2.0-acres
Project Site	Single Family Residence on the southern section, unused area towards the northern section	Split the parcel into four parcels and a “remainder”
Structural Improvements	Single Family Residence	No change
Nearest Residence	200 feet west of the subject parcel	No change
Surrounding Development	Agricultural fields & Single-Family Residences	No change

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION:**

None

**PUBLIC COMMENT:**

*The City of Fresno voiced their concern and is in opposition to the project based on the growth patterns designated within their Southeast Development Area Specific Plan.*

**ENVIRONMENTAL ANALYSIS:**

It has been determined that the proposed project will not have a significant effect on the environment and is not subject to further analysis under the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) : Common Sense Exemption (Ex: It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment)

**PUBLIC NOTICE:**

Notices were sent to 88 property owners within 600 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

A Variance Application may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

The decision of the Planning Commission on a Variance Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

**BACKGROUND INFORMATION:**

County records indicate that the subject 9.86-acre parcel was zoned A-1 (Agricultural District, 36,000 square-foot minimum parcel size required) on June 8, 1960. On August 31, 1976, the subject property and several other properties in the area were rezoned (Amendment Application No. 2870) from the A-1 Zone District to the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The current zoning on the property is AE-20.

The project was routed to the City of Fresno for comment, they provided comments and expressed opposition to the development as discussed later in this report.

There were no relevant variances proposed within a ½ mile of the subject parcel.

***Finding 1:*** ***There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification.***

	<b>Current Standard:</b>	<b>Proposed Configuration:</b>	<b>Is Standard Met (y/n):</b>
Setbacks	<u>AE-20</u> Front: 35 feet Side: 20 feet Rear: 20 feet	No change	Yes
Parking	N/A	N/A	N/A

	<b>Current Standard:</b>	<b>Proposed Configuration:</b>	<b>Is Standard Met (y/n):</b>
Lot Coverage	No requirement	N/A	N/A
Separation Between Buildings	No requirement for residential or accessory structures, excepting those used to house animals which must be located a minimum of 40 feet from any human-occupied building	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent of the existing system	No change	N/A
Water Well Separation	Building sewer/septic tank: 50 feet Disposal field: 100 feet Seepage pit/cesspool: 150 feet	Any existing or proposed water wells will be required to meet minimum setbacks (separation) from proposed septic systems.	Yes

**Reviewing Agency/Department Comments Regarding Site Adequacy:**

Zoning Section of the Department of Public Works and Planning:

A Nitrogen Loading Analysis is required prior to Permit issuance.

Road Maintenance and Operations Division of Public Works and Planning:

Setbacks for new construction shall be based on the ultimate right-of-way.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

**Finding 1 Analysis:**

In support of Finding 1, the Applicant provides information about their proposed development and the adjacent land use patterns and designations in the adjacent city limits of the City of Fresno but makes no distinction how the property is a unique circumstance.

The desire to subdivide a property does not constitute an extraordinary physical characteristic or circumstance which is unique to the property. The City of Fresno's land use plans do not create a unique circumstance. While not directly relevant to the finding, it should be noted the attached comments in Exhibit 9 from the City of Fresno opposes the proposed application.

**Recommended Conditions of Approval:**

- **Setbacks for new construction shall be based on the ultimate right-of-way.**

**Finding 1 Conclusion:**

Finding 1 cannot be made as there are not any extraordinary circumstances relating to the property that do not apply to other properties in the same zone classification.

***Finding 2: Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.***

**Reviewing Agency/Department Comments:**

No comments specific to the preservation of a substantial property right were expressed by reviewing Agencies or Departments.

**Finding 2 Analysis:**

In support of Finding 2, the applicant asserts that the “Variance ensures the owners right to build in substantial conformance with current and future City expansion.”

There is not any property rights for a property to develop in conformity to the City’s development patterns or plans. All parcels contiguous to the City, but not within their boundaries, are still subject to the County’s jurisdiction and standards. Development at the City densities and to their standards can occur once the parcels are annexed into the City’s Jurisdiction. While not directly relevant to the finding, it should be noted the attached comments in EXHIBIT 9 from the City of Fresno oppose the proposed application.

Variances can only be used to provide relief to preserve the “substantial property right” to be able to utilize a property for the intended use of the zoning. If regulations and unique physical attributes prohibit this property from realizing any reasonable use intended under the zoning, a Variance would be appropriate to preserve the “substantial property right” such as the ability to be able to build a home on the site; and staff and/or applicant was unable to identify any situation that would constrain the property and create a deficit of a property right enjoyed by other owners in the vicinity, under the same zoning.

There is no physical characteristic that prevents the property owners from utilizing the land for the allowed uses in the zoning, hence no substantial property right is in jeopardy and a variance is not warranted.

**Recommended Conditions of Approval:**

None.

**Finding 2 Conclusion:**

Finding 2 cannot be made based on the above analysis as subdividing the parcel in this circumstance would not create a situation where it creates a loss of a substantial property right of the applicant, which right is possessed by other property owners under like conditions.

***Finding 3: The granting of a variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.***

**Surrounding Parcels**

	Size:	Use:	Zoning:	Nearest Residence:
North:	9.83-acres	Open land with a single-family residence	AE-20	N/A
South:	5- acres 5- acres	Single-family residence Field crops	AE-20	Approximately 130 feet N/A
East:	44.67-acres	Field crops	AE-20	N/A
West:	0.1-acres 0.1-acres 0.1-acres 0.1-acres 0.1-acres 0.1-acres	SFR SFR SFR SFR SFR SFR	City of Fresno	All parcels +/- 100 feet

**Reviewing Agency/Department Comments:**

No comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

**Finding 3 Analysis:**

In support of Finding 3, the Applicant’s Findings assert the proposed parcels will not substantially increase the density nor place extraordinary burden on the traffic, water, and septic systems. Granting of the Variance will not be detrimental to the public welfare or injurious to property or improvements in the vicinity.

It is the intention of the Applicant, if this Variance is approved, to divide the existing parcel into five smaller parcels, which could be developed separately with single-family dwellings; as such, there would be an increase in residential density beyond the one two dwellings per twenty acres intended for this zone district to allow the potential for ten residences to be developed on this same area. This increase of residential density could be material detrimental to agricultural use in the area.

The minimum acreage requirement of the AE20 Zone district is intended to arrest this parcellation pattern and limit the potential conflicts between residential agricultural activities. When land is preserved in larger sized parcels it can be developed at urban density once annexed into the City. Creating small acreage parcels makes it difficult for a City’s land patterns to be realized. Tracts are more feasibly developed on ten and twenty-acre parcels than on one and two-acre smaller parcels. The City in their correspondence has indicated that the area currently has a planned density of 16 to 30 dwellings per acre, and that the Draft Southeast Development Specific Plan, that is anticipated to be adopted in December of 2023 has a range of 8 -60 dwelling units per acre. For those reason’s the City of Fresno is in opposition to the Variance.

**Recommended Conditions of Approval:**

None.

**Finding 3 Conclusion:**

Finding 3 cannot be made as the increase from the impact of the one existing residence to the potential 10 residences would be materially detrimental to the surrounding agricultural uses. the proposed development could have materially detrimental impacts upon surrounding properties.

**Finding 4:    *The granting of such a variance will not be contrary to the objectives of the General Plan.***

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p><b>General Plan Goal LU-A:</b>  <i>To promote the long-term conservation of productive and potentially productive agricultural lands and to accommodate agricultural-support services and agriculturally related activities that support the viability of agriculture and further the County’s economic development goals.</i></p>	<p><b>Inconsistent:</b> Substandard parcels that are created for residential purposes will likely interfere with agricultural operations on surrounding parcels that are designated and zoned for production of food and fiber and may potentially result in removal of adjacent or neighboring lands from agricultural use. Moreover, it may set a precedent for other landowners to create similar residential parcels in the area, which will compound the incompatibility between the agricultural and residential use of lands located in an area of the County designated and used for agricultural operations.</p>
<p><b>General Plan Policy LU-A.6:</b>  <i>The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in policies LU-A.9, LU-A.10, and LU-A.11. the County may require parcel sizes larger than twenty (20) acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</i></p>	<p><b>Inconsistent:</b> The proposed parcel creation is not consistent with this Policy. There are exceptions allowed subject to certain criteria. In this instance, the application either did not meet the criteria or elected not to choose one of the available options for creating a substandard sized parcel.</p>
<p><b>General Plan Policy LU-A.7:</b>  <i>County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units, and that the resultant increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels. Evidence that the affected parcel may be an uneconomic farming unit due to its current size, soil conditions, or other factors shall not alone be considered a sufficient basis to grant an exception. The decision-making body shall consider the negative</i></p>	<p><b>Inconsistent:</b> The proposed parcel division is not consistent with Policy LU-A.7 as it would create one substandard sized parcel.</p> <p>The creation of a parcel less than 20 acres in the AE-20 Zone District would be inconsistent with Policy LU-A.7 and set a precedent for parcellation of farmland into smaller parcels which are economically less viable farming units and could potentially allow additional single-</p>

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<i>incremental and cumulative effects such land divisions have on the agricultural community.</i>	family homes on the proposed parcels. Such increase in the area, as noted by Fresno County Department of Agriculture, may conflict with normal agricultural practices on adjacent properties.
<p><b>General Plan Policy LU-A.12:</b>  <i>In adopting land use policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.</i></p>	<p><b>Inconsistent:</b> The creation of a parcel less than 20 acres in the AE-20 Zone District would be inconsistent with Policy LU-A. 12 as smaller parcels could potentially allow a higher density residential area which is inconsistent with the compatibility of the AE-20 zone district.</p>
<p><b>General Plan Policy LU-A.14:</b>  <i>The County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agriculture land and the mitigation be required were appropriate.</i></p>	<p><b>Consistent:</b> In this case, productive agricultural land would not necessarily be converted, rather it would be reallocated within the newly created parcels.</p>

**Reviewing Agency Comments:**

Policy Planning Section Department of Public Works and Planning:

The Agriculture and Land Use Element of the General Plan maintains 20 acres as the minimum parcel size in areas designated for Agriculture. Policies LU-A.6 states that the County shall generally deny requests to create parcels less than the minimum size specified in areas designated Agriculture. The creation of additional parcels that will be used for residential purposes could create conflict with agricultural uses in the surrounding area designated and zoned to accommodate agricultural uses.

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

**Finding 4 Analysis:**

The Applicant states the parcel should be rezoned to AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District.

The proposed Variance is not a rezoning application. While we could support an application for rezoning the property to AL-20, it would result in the same minimum parcel size restrictions and would not achieve his proposed development plan.

The proposed project would be contrary to the Goals and policies of the General Plan as described more specifically in the table above.

In general, if the property is to be developed to higher densities than the County’s rural standards allow, it would be advisable to have it annexed into the City where municipal water and sewer services could be provided and higher densities supported.



#### **Finding 4 Conclusion:**

Finding 4 cannot be made as the project would be contrary to General Plan Goal LU-A, Policies LU-A.6, LU-A.7, LU-A.9, and LU-A.12 in the General Plan.

#### **SUMMARY CONCLUSION:**

The existence of personal desires and personal circumstance is not a basis for granting a variance. Granting of the variance could be construed as inconsistent with Government code section 65906 which prohibits granting of unqualified variances and states in part “...*shall constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.*”

Based on the factors cited in the analysis, the required Findings for granting the Variance Application cannot be made as there are no exceptional or extraordinary circumstances or conditions applicable to the property, the variance is not necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity, and the application is contrary to the goals and policies of the General Plan.

#### **PLANNING COMMISSION MOTIONS:**

##### **Recommended Motion** (Denial Action)

- Move to determine that required Findings 1, 2, 3, & 4 cannot be made as stated in the staff report and move to deny Variance Application No. 4146; and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

##### **Alternative Motion (Approval Action)**

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance Application No. 4146, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

##### **Recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

ER:

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EXHIBIT 1

Variance Application (VA) No. 4146 & Environmental Review No. 8348  
 Conditions of Approval and Project Notes

Conditions of Approval	
1.	Division of the subject parcels shall be in substantial accordance with the site plan (Exhibit 6) as approved by the Planning Commission.
2.	Setbacks for new construction shall be based on the ultimate right-of-way.

Conditions of Approval reference recommended Conditions for the project.

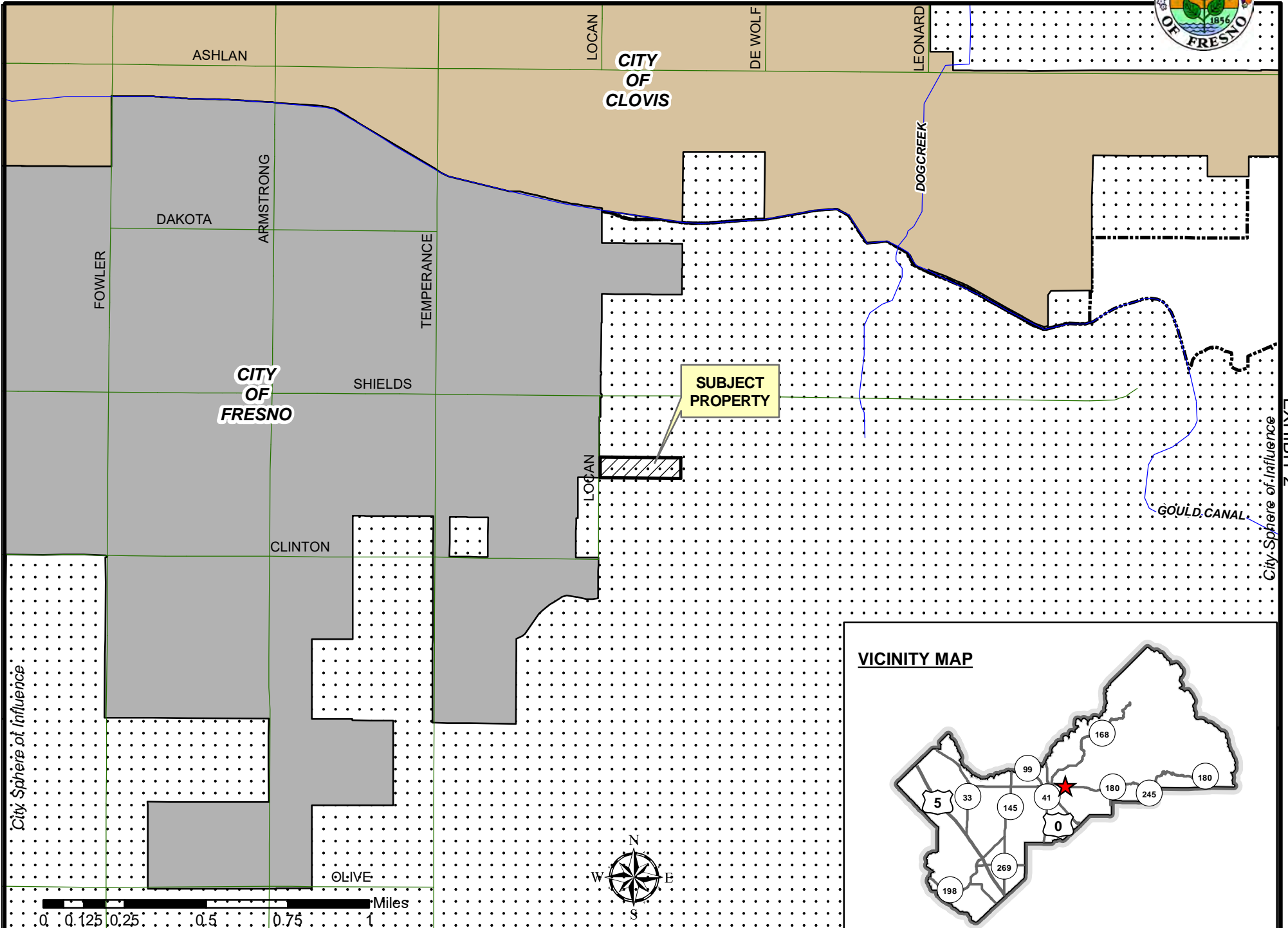
Notes	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create the three proposed parcels. The Map shall comply with the requirements of Title 17.72.
2.	The approval of this Variance will expire one year from the date of approval unless the required mapping application to create the parcels is filed in substantial compliance with the Conditions and Project Notes and in accordance with the Parcel Map Ordinance.
3.	It is recommended that the applicant consider having the existing septic tanks pumped and have the tanks and leach lines evaluated by an appropriately licensed contractor if it has not been serviced and/or maintained within the last five years. The evaluation may indicate possible repairs, additions, or require the proper destruction of the system.
4.	Any new development of less than two acres or secondary dwelling may require a nitrogen loading analysis by a qualified professional, demonstrating to the Department of Public Works and Planning (Department) that the regional characteristics are such that an exception to the septic system density limit can be accommodated. The Department will refer any analysis to the Regional Water Quality Control Board, Central Valley Region for their concurrence and input. Any new sewage disposal systems that are proposed, shall be installed under permit and inspection by the Department of Public Works and Planning Building and Safety Section. Contact Department of Public Works and Planning at (559) 600-4540 for more information.
5.	At such time the applicant or property owner(s) decides to construct a new water well, the water well contractor selected by the applicant will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Community Health, Environmental Health Division. Please be advised that only those persons with a valid C-57 contractor's license may construct wells. For more information, contact the Water Surveillance Program at (559) 600-3357.

EXHIBIT 1

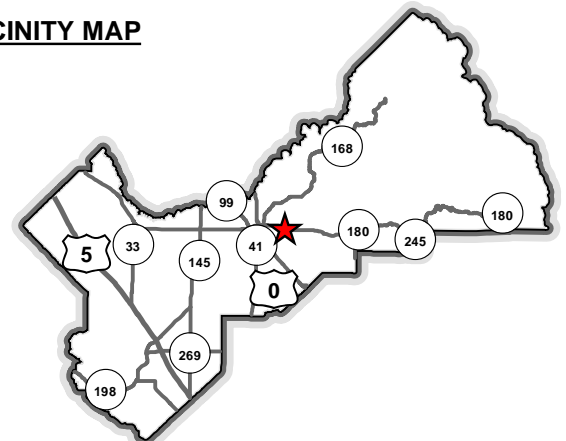
## Notes

6.	As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.
7.	If approved, the subdivision will require that a Tentative Parcel Map be prepared in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. The Tentative Parcel Map application shall expire two years after the approval of said Tentative Parcel Map.
8.	Upon approval and acceptance of the Tentative Parcel Map and any Conditions imposed thereon, a Final Parcel Map shall be prepared and by a Professional Land Surveyor or Registered Civil Engineer authorized to practice Land Surveying, in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. Recordation of the Final Parcel Map shall take place within two years of the acceptance of the Tentative Parcel Map unless a Map extension is received prior to the expiration date of the approved Tentative Parcel Map. Failure to record the Final Parcel Map prior to the expiration of said Tentative Parcel Map may void the Parcel Map application.
9.	Prior to site development, all survey monumentation – Property Corners, Centerline Monumentation, Section Corners, County Benchmarks, Federal Benchmarks and Triangulation Stations, etc. - within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
10.	Any existing or future access driveway should be set back a minimum of 10 feet from the property line.
11.	Any existing or future entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.
12.	Any future work done within the Caltrans state highway right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit/Clearance from Caltrans.
13.	A grading permit/voucher is required for any future grading with this application.
14.	If the variance is approved, a parcel map application will have to be filed with Fresno County to affect the property division.
15.	A Nitrogen Loading Analysis is required prior to Permit issuance.

# LOCATION MAP



## VICINITY MAP





# EXISTING ZONING MAP

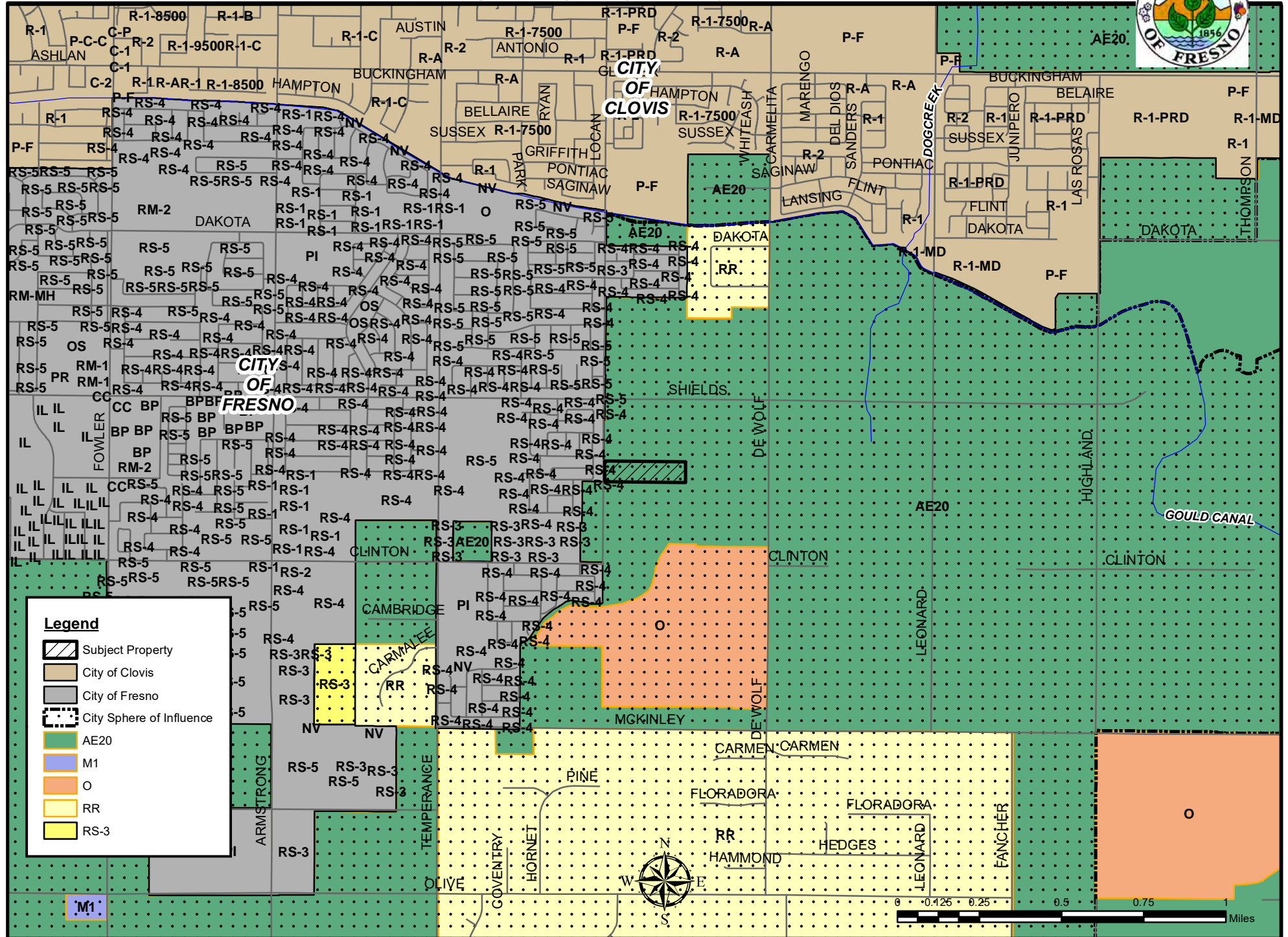


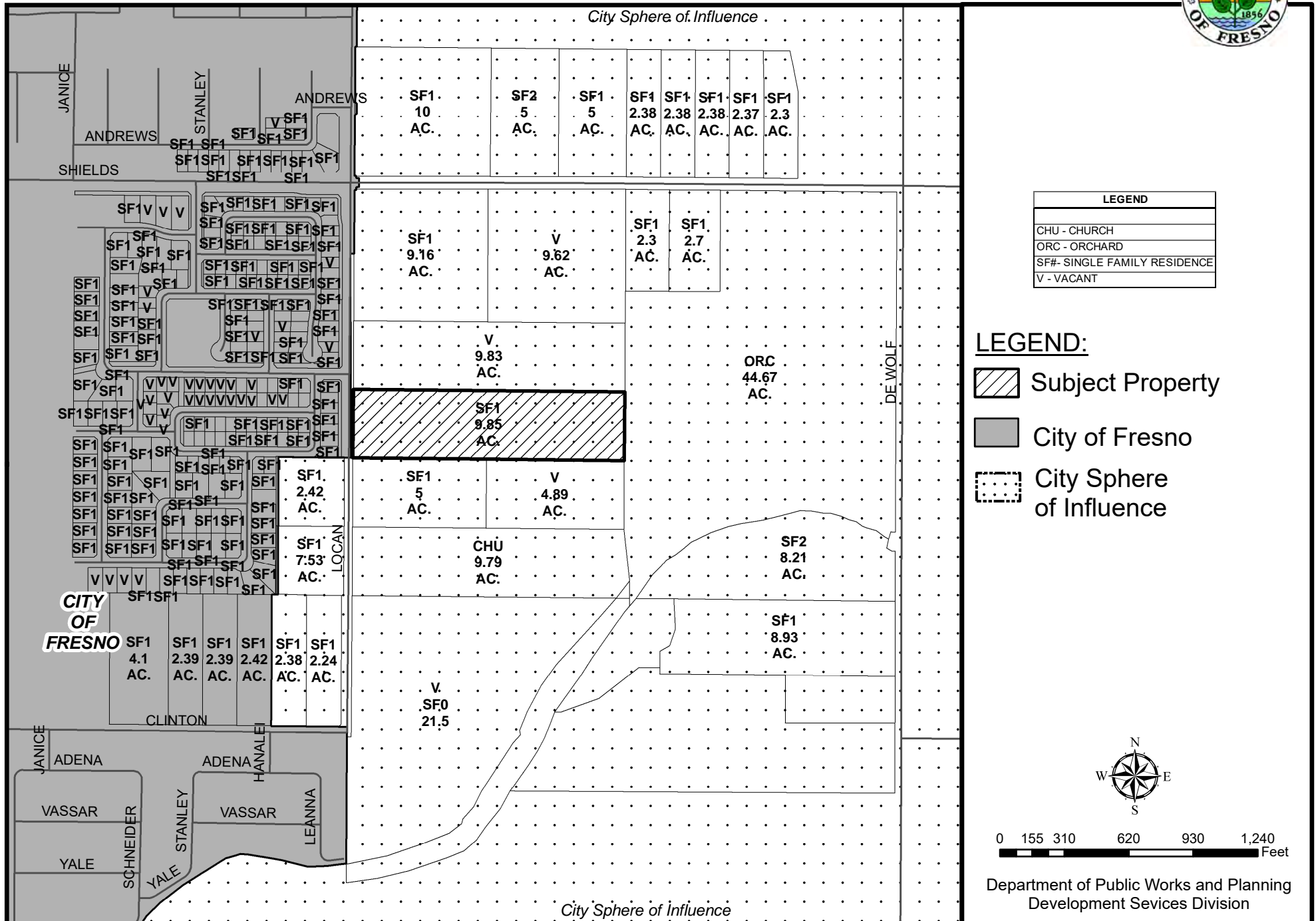
EXHIBIT 3








# EXISTING LAND USE MAP

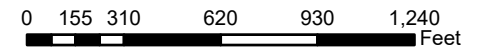
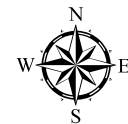
VA 4146



LEGEND	
CHU	- CHURCH
ORC	- ORCHARD
SF#	- SINGLE FAMILY RESIDENCE
V	- VACANT

### LEGEND:

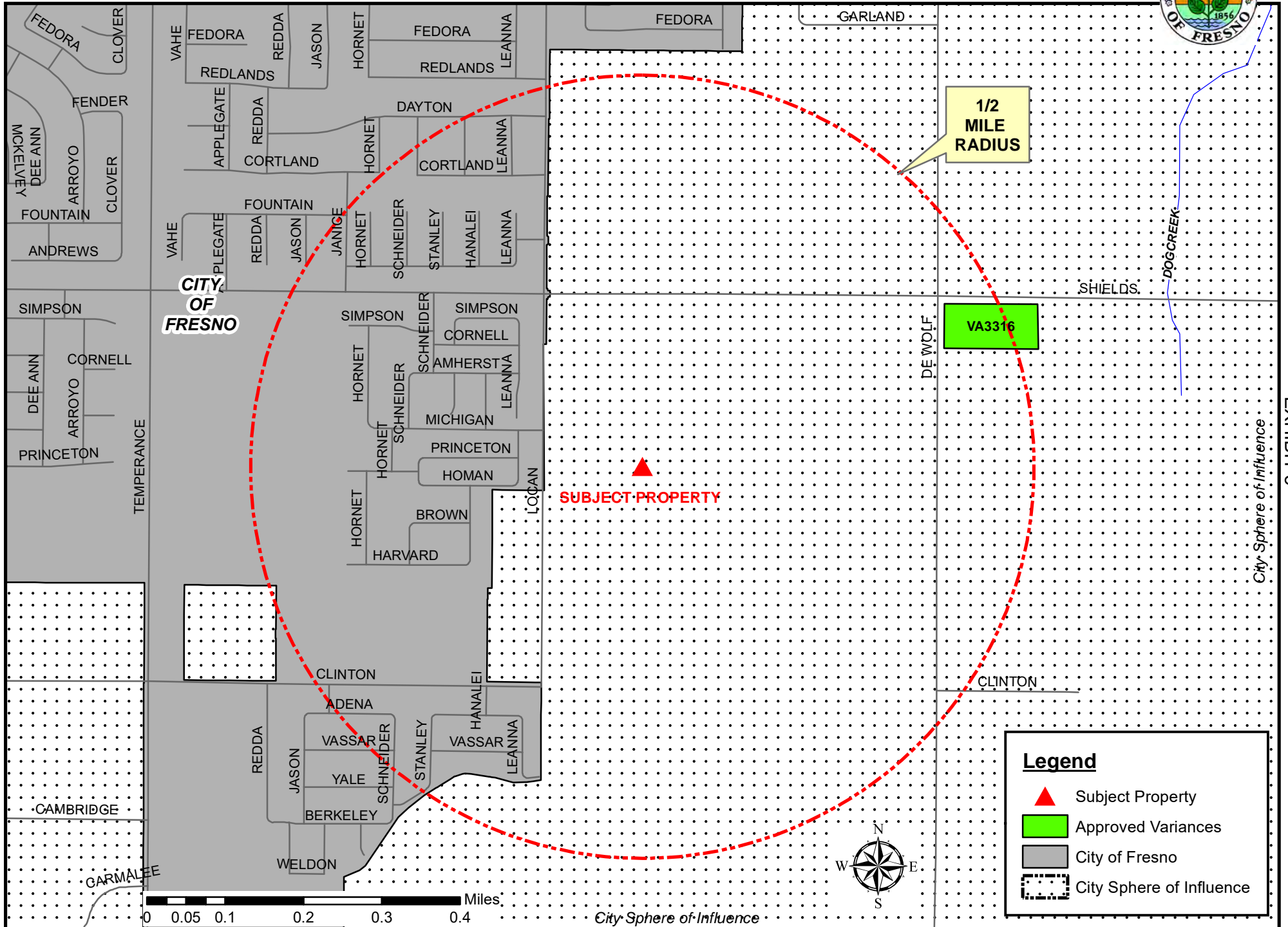
-  Subject Property
-  City of Fresno
-  City Sphere of Influence



Department of Public Works and Planning  
Development Services Division



# APPROVED VARIANCES WITHIN A HALF MILE RADIUS





**LEGAL DESCRIPTION**

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

PARCEL 4 OF PARCEL MAP NO. 3449, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 23 AT PAGE 64 OF PARCEL MAPS, FRESNO COUNTY RECORDS.

**LEGEND**

- SUBJECT PROPERTY BOUNDARY
- PROPOSED PARCEL LINE BY THIS MAP
- PROPOSED EASEMENT
- CITY-COUNTY LIMITS
- WELL
- EXISTING WATER WELL
- EXISTING TELEPHONE RISER
- EXISTING POWER POLE
- EXISTING SEWER STUB

**NOTES**

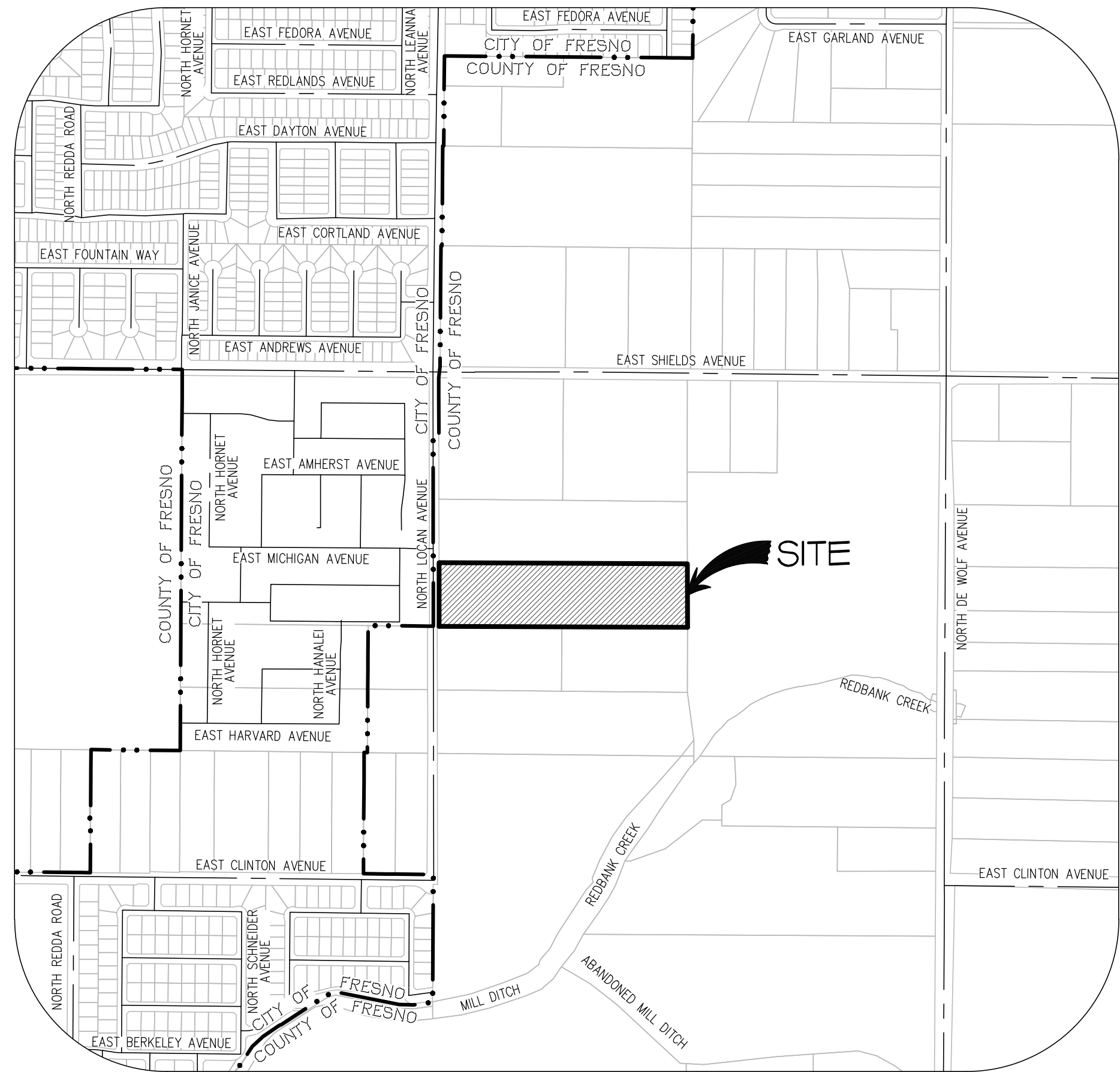
RECORD OR CALCULATED BEARINGS AND DISTANCES PER PARCEL MAP NO. 3449 FILED IN BOOK 23 OF PARCEL MAPS AT PAGE 64, FRESNO COUNTY RECORDS.

**RECORD OWNER**

LOAN PHUONG THI PHAM & HENRY PHAM  
2744 NORTH LOCAN AVENUE  
FRESNO, CA 93737

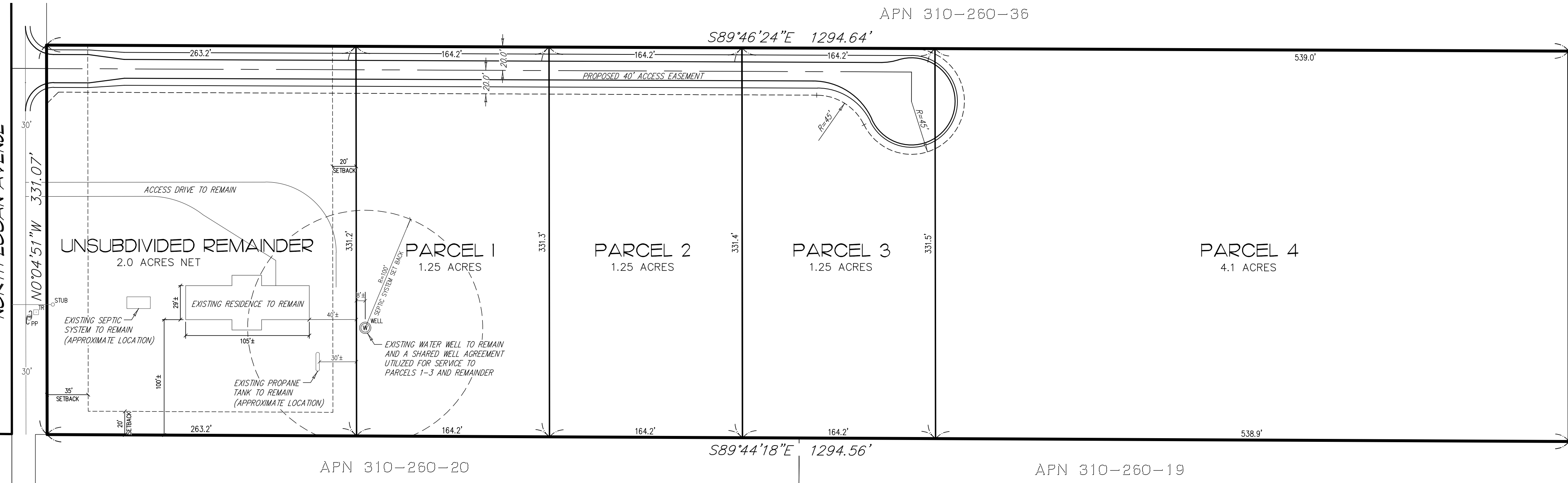
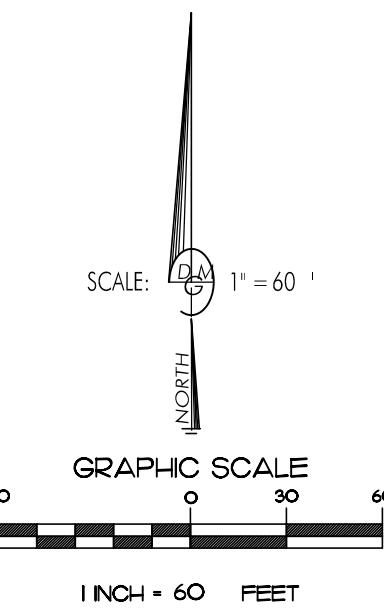
**AREA**

ORIGINAL PARCEL AREA: 9.85± ACRES



**LOCATION MAP**

SCALE: 1" = 600'



**TENTATIVE PARCEL MAP NO. \_\_\_\_\_**

SITE LOCATION:  
2744 NORTH LOCAN AVENUE, FRESNO, CA 93737  
ASSESSOR'S PARCEL NO(S): 310-260-37

PREPARED FOR:  
**LOAN PHUONG THI PHAM & HENRY PHAM**  
2744 NORTH LOCAN AVENUE  
FRESNO, CA 93737

PREPARED BY:  
**DALE G. MELL & ASSOCIATES**  
ENGINEERING & SURVEYING SERVICES  
2090 NORTH WINERY AVENUE, FRESNO, CALIFORNIA 93703  
(509) 292-6646 FAX 251-9520 EMAIL: DGM@DALEMELL.COM

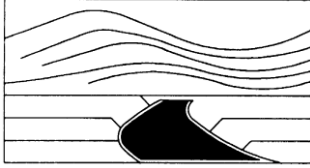


JOB # 22-036  
DRAWN BY: DGM / M.E.  
CHECKED BY: DGM  
SCALE: 1" = 60'  
DATE: 12/14/22  
DWG # 22-036TPM  
FIELD BOOK:  
DATE OF SURVEY:  
LAST REVISED: 03/02/23 \*DGM

**SHEET 1 OF 1**

PLOTTED BY: DALE G. MELL - 12/14/2022 5:06:45 PM V:\PROJECTS\2022\PROJECTS\22-036\DWGS\22-036TPM.DWG





# DALE G. MELL & ASSOCIATES

## ENGINEERING & SURVEYING SERVICES

2090 N. WINERY AVENUE · FRESNO, CALIFORNIA 93703 · PH (559) 292-4046 · FAX (559) 251-9220

### Supplemental Application Findings for Variance APN 310-260-37

1. **There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other properties in the vicinity having the identical zoning classification;**

The applicant proposes to create three 1.25 acre parcels and a 4.1 acre parcel and retain a 2 acre parcel as an unsubdivided remainder. All parcels created will have access from an easement and road developed along the north boundary.

The 9.85 ac parcel was created by Parcel Map in 1976 with 330 lf of frontage on Locan Avenue with current zoning of AE 20. The parcel is contiguous with the Fresno City limits in Locan Avenue and within the City of Fresno sphere of influence to the east of Locan. The development west of Locan is medium density residential and north of Shield are schools and future commercial growth. soil conditions are assumed to be poor since the ground has been fallow for over 40 years.

2. **Such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification;**

City of Fresno residential development is rapidly moving east and the applicant is requesting creation of parcels for family members and the 4.1 ac parcel for sale to a private party.

Granting of the Variance ensures the owners right to build in substantial conformance with current and future City expansion.

3. **The granting of a variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located;**

The addition of three residential parcels will have no significant increase on traffic for North Locan Avenue or the intersection of Shields and Locan Avenue. All three of the proposed parcels will share the existing domestic well with the remainder parcel; future City of Fresno water and sewer will provide the future utility connections. The development of the land as residential and not agricultural will reduce the demand on the water table from the surrounding residential properties.

Granting of the Variance, for parcels under the 20 ac minimum, required by the AE 20 zone district, will have no effect on the public welfare, improvements or property in the vicinity, all of the remaining Development Standards can be met, including well and septic setbacks on-site as well as with setbacks of existing development.

4. **The granting of such variance will not be contrary to the objectives of the Fresno County General Plan.**

As described in General Plan Section 817:

“The “AE” District is an agricultural exclusive district, but considering the site is within the sphere of influence and ultimate annexation by the City of Fresno SE Growth Area, It should be considered AL 20, which is intended to protect the general welfare of the agricultural community by limiting intensive uses in agricultural areas where such uses may be incompatible with, or injurious to, other less intensive agricultural operations. The District is also intended to reserve and hold certain lands for future urban use by permitting limited agriculture and by regulating those more intensive agricultural uses which, by their nature, may be injurious to non-agricultural uses in the vicinity or inconsistent with the express purpose of reservation for future urban use.”

Therefore granting of this Variance for parcels under 20 acres in size and without public road frontage is consistent with the intent to reserve for future urban use.









## PLANNING AND DEVELOPMENT DEPARTMENT

2600 Fresno Street • Third Floor  
Fresno, California 93721-3604  
(559) 621-8277 FAX (559) 498-1026

Jennifer K. Clark, AICP, Director

January 24, 2023

*Please reply to:*  
Israel Trejo  
(559) 621-8044

**SUBJECT: Variance Application No. 4146 & Environmental Review No. 8348**

This correspondence is being provided in response to Variance Application No. 4146 & Environmental Review No. 8348 dated January 6, 2023.

The City of Fresno has the following comments:

1. The subject property is located in Growth Area 2 in Figure IM-2 of the Fresno General Plan.
2. The subject property is currently designated as Residential – Urban Neighborhood within the Fresno General Plan. Said land use designation has a density range of 16-30 dwelling units per acre.
3. The subject property is located in an area with a draft plan in process [Southeast Development Area Specific Plan]. The anticipated completion date is December 2023.
  - a. Note: The Southeast Development Area Specific Plan proposes to change the planned land use of the subject property to Mixed Residential. The Mixed Residential land use designation has a density range of eight (8) – 60 dwelling units per acre. As proposed, the application does not align with the current or proposed planned land use.

For the reasons noted above, but not limited to, the City of Fresno is in opposition to Variance Application No. 4146.

Should the variance application be approved and proceed to submittal of a tentative parcel map (TPM), the City of Fresno requests an opportunity to provide comments on said application. Should this property proceed to submittal of a TPM, Public Works plans to request right-of-way dedication, curb, gutter, streetlight, and sidewalk to City standards.

If you have questions regarding this matter, please contact me by telephone at 559-621-8044 or at [Israel.Trejo@fresno.gov](mailto:Israel.Trejo@fresno.gov).

Cordially,

A handwritten signature in blue ink, appearing to read "Israel Trejo".

Israel Trejo, Planning Manager  
Development Services Division  
Planning and Development Department