



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 March 14, 2024

SUBJECT: Variance Application No. 4161 & Environmental Review No. 8526

Allow for the creation of two substandard parcels, a 5.57-acre parcel, and a 13.23-acre parcel from an existing 18.80-acre parcel, where a 20-acre minimum parcel size is required in the AE-20 Zone District.

LOCATION: The subject parcel is located on the northwest corner of the intersection of Madera Avenue and Clinton Avenue, approximately 2.3-miles from the City of Kerman (APN: 015-410-03) (2545 N. Madera Avenue) (Sup. Dist. 1).

**OWNER/
APPLICANT** Alvaro Garcia

REPRESENTATIVE: Dirk Poeschel

STAFF CONTACT: Reymundo Peraza, Planner
(559) 600-4224

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Move to determine that the required Findings can be made and move to approve Variance Application No. 4161 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 one-mile of subject parcel
6. Site Plans and Detail Drawings
7. Applicant’s Variance Findings
8. Photos

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agricultural	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.	No change
Parcel Size	18.80 acres	Parcel A: 13.23-acres Parcel B: 5.57-acres
Project Site	A high intensity park on the northeast section of the parcel, and a plant nursery on the remainder of the parcel.	Split the parcel into two parcels – one legal parcel for the high intensity park and the other legal parcel for the plant nursery.
Structural Improvements	<ul style="list-style-type: none"> • 16,641 square-foot banquet hall • 1,430 and 1,690 square-foot single-family residences • 2,440 square-foot pollen room (frame shop building) • 5,360 square-foot shop (steel garage) to store agricultural material • 7,742 square-foot agricultural equipment repair and storage shop (machine shop) • 936 square-foot portable trailer (modular classroom) • 64 and 108 square-foot bathrooms 	No change

Criteria	Existing	Proposed
	<ul style="list-style-type: none"> • Two 96 square-foot chicken coops • 400 square-foot cow shade 	
Nearest Residence	110 feet to the east of the project site	No change
Surrounding Development	Orchard, field crops, vineyard, single-family residences	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Article 5: Review for Exemption, Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines: The activity is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 14 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PUBLIC COMMENT:

No public comment was received as of the date of preparation of this report.

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:

Kerman High School was previously located on the project site. The school was established on the property in 1912 and was utilized as a high school until 1968, when it was vacated and sold to a private party who operated the site for public and private use. The property was then purchased in 1998 by a private owner and later by the Applicant in August 2014.

The existing improvements on the property include a 16,641 square-foot gymnasium building, 1,430 and 1,690 square-foot single-family residences, 2,440 square-foot pollen room, 7,742 and 5,360 square-foot agriculture equipment and storage shops, 936 square-foot portable trailer, 64 and 108 square-foot bathrooms, two 96 square-foot chicken coops and a 400 square-foot cow shade. According to the County permit records, the Applicant was issued building permits for the remodeling of various building and structures on the property.

On January 11, 2018 the Fresno County Planning Commission approved unclassified conditional use permit No. 3501 to allow a high intensity park with related improvements for special events and meetings.

The high intensity park, outdoor entertainment area with indoor banquet hall, is under construction and almost complete.

The current Variance request, submitted on December 19, 2023, proposes to allow the division of the parcel containing approximately 18.80-acres, into two parcels a 13.23-acre parcel (which will operate the plant nursery) and a 5.57-acre parcel (which will operate the high intensity park), both parcels would be less than the required minimum 20-acre parcel in the AE-20 Zone District. If this Variance is approved, it is the intention of the property owner to continue operating each business.

The subject parcel is not enrolled under a Williamson Act Contract.

Within one mile of the subject property there have been zero variances on record that are relevant to substandard parcel creation.

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.**

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
Setbacks	<u>AE-20</u> Front: 35 feet Side: 20 feet Rear: 20 feet	Front: 35 feet Side: 20 feet Rear: 20 feet	Yes
Parking	N/A	N/A	Yes
Lot Coverage	No requirement	N/A	Yes
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	Yes
Wall Requirements	N/A	N/A	Yes
Septic Replacement Area	100 percent of the existing system.	No change	Yes

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
Water Well Separation	Building sewer/ septic tank: 50 feet Disposal field: 100 feet Seepage pit/cesspool: 150 feet	No Change	Yes

Reviewing Agency/Department Comments:

No 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’s findings state that the property has exceptional and extraordinary circumstances due to the fact that the 16,641 square foot building has historically operated on this property since 1912, previously as Kerman High School gymnasium, and now as a banquet hall as part of the high intensity park. Therefore for the past 111 years, the site has not been sustained as an agricultural use.

With regard to Finding 1, staff would concur that the historical non-agricultural use established by the school in 1912 pre-dating the Zoning Ordinance and which was approved for reuse as a High Intensity Park by the County through CUP 3501 in 2018 is a unique circumstance that creates a situation different from other parcels in the area with AE-20 zoning. The public’s institutional use had substantial buildings and ground improvements that would not be readily utilized for agricultural use. The conflict between the type of uses warrants separating them so the agricultural use is not burdened by the risk and requirements associated with the non-agriculture use. This situation is unique this property as other properties in the area with the same zoning do not have this situation.

Recommended Conditions of Approval:

None.

Finding 1 Conclusion:

Finding 1 can be made as there is 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 Agencies/Department Comments related to Finding 2:

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

Finding 2 Analysis:

In support of Finding 2, the applicants seek to maximize the use of their property, notably the banquet hall and the associated park improvements, having obtained approval for a high intensity park under an Unclassified Conditional Use Permit (CUP 3501). With a vested interest in the 16,641 square foot banquet hall and related facilities, which have been part of the property since 1912, they aim to separate the high intensity park from the existing plant nursery for legal and functional reasons, thus ensuring separate financing, insurance, and protection for each parcel.

Staff would concur that the agricultural portion of the property is hampered by the associated liabilities and operational differences between the two uses. The variance is necessary to allow the agriculture property to be separated from the non-agricultural portion so that the agricultural operations can enjoy the same opportunities and rights to operate unfettered by the non-agricultural operation as other properties with the same agricultural zoning in the area.

Recommended Conditions of Approval:

None.

Finding 2 Conclusion:

Finding 2 can be justified by the fact that a variance is the sole method for the applicant to separate the two uses.

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	20 acres	Vineyard with a single-family residence	AE-20	350 feet
South	20 acres	Vineyard with a single-family residence	AE-20	70 feet
East	1.04 acres 16 acres	Vineyard with a single-family residence	AE-20	110 feet
West	40 acres	Vineyard with a single-family residence	AE-20	1,450 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 state that the granting of the variance will not be detrimental to the public welfare or injurious to property or improvements in the vicinity, all

improvements associated with the high intensity park were previously approved as part of Unclassified Conditional Use Permit 3501.

Staff acknowledges the impact of this singular variance would not constitute a materially detrimental impact. Staff notes that while commonly the creation of two separate legal parcels has the potential to increase residential density in the area by allowing additional single-family residences by right on the new parcels and a 2nd residence through a Director Review, because the smaller parcel is constrained from residential development due to the existing Conditional Use Permit for the high intensity park there would not be any new potential impacts to the surrounding neighborhood.

Recommended Conditions of Approval:

None.

Finding 3 Conclusion:

Finding 3 can be made due to the limited scale of this individual request, the application does not present a significant material detriment to properties in the vicinity.

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

Relevant Policies:	Consistency/Considerations:
<p>General Plan Goal LU-A: <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>Inconsistent: 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>General Plan Policy LU-A.6: <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>Inconsistent: 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>General Plan Policy LU-A.7: <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</i></p>	<p>Inconsistent: The proposed parcel division is not consistent with Policy LU-A.7 as it would create two substandard sized parcel.</p>

Relevant Policies:	Consistency/Considerations:
<p><i>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 incremental and cumulative effects such land divisions have on the agricultural community.</i></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-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>
<p>General Plan Policy LU-A.12: <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>Inconsistent: 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>General Plan Policy LU-A.14: <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>Consistent: In this case, productive agricultural land would not necessarily be converted, rather it would be reallocated between the two subsequent parcels, with the majority of the of the land to be located on proposed parcel B.</p>

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning:
 The policy contained in the table above and concluded that the proposed Variance application is not consistent with General Plan Policies LU-A.6 and LU-A.7.

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

Finding 4 Analysis:

In support of Finding 4, the Applicant states “The proposed variance aligns with Fresno County’s General Plan objectives to protect agricultural land by maintaining agriculturally designated areas and directing urban growth away from valuable agricultural lands. The site’s historical use as Kerman High School since 1912 predates the zoning ordinances aimed at protecting agricultural land. Additionally, the project site’s classification as non-productive farmland and its existing development, including a high intensity park and a plant nursery, indicate that it would not result in the conversion of additional agricultural land. The creation of a 5.57 +/- acre parcel for the high intensity park is justified given the property’s historical and existing use, and it would not contradict the General Plan’s objectives.”

Staff acknowledges that the project may contradict certain Policies of the General Plan. However, segregating the area from other agricultural uses would not negatively impact

surrounding agriculture, as it does not introduce new opportunities for additional homes or uses beyond those already permitted on the property. Any future amendment to the Conditional Use Permit for the High Intensity Park would necessitate a reevaluation of the General Plan as part of the proposed modification. Therefore, the proposed parcel division would not conflict with the General Plan's objectives to protect agriculture.

Finding 4 Conclusion:

Finding 4 can be made as the proposed uses does not provide any potential for new uses that would be in conflict with the General Plan.

CONCLUSION:

Based on the factors cited in the analysis, staff believes that required Findings 1, 2, 3 and 4 for granting the Variance can be made. Staff therefore recommends approval of Variance No. 4161.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine the required Findings can be made and move to approve Variance No. 4161; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine the required Findings cannot be made (state basis for not making the Findings) and move to deny Variance No. 4161; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

RP:jp
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EXHIBIT 1

**Mitigation Monitoring and Reporting Program
Variance No. 4161
(Including 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.	State Route (SR) 145 near the proposal is planned for 160 feet (80 feet measured from centerline) verses existing 60 feet (30 feet measured from centerline). The property owner shall irrevocably offer the easterly 50 feet of the property to the California Department of Transportation as future right-of-way for SR 145.
3.	The 5.57-acre project site shall be fenced with a minimum 6-foot-tall fence to separate the proposed high-intensity park from the remainder of the 20-acre property.

*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document.
Conditions of Approval reference recommended Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	All Conditions previously approved for Conditional Use Permit 3501 and SPR 8154 remain applicable; with one exception to the 5.4-acres High Intensity Park’s 6-foot-tall fence enclosure, to now be a 5.57-acre parcel enclosing the High Intensity Park with a minimum 6-foot-tall fence.
2.	For property within flood zone shaded x, any future/proposed building pad must be elevated above the existing ground to at least a minimum of twelve inches (12") and/or the finish floor elevation must be elevated above the crown of the adjacent street.
3.	Any work performed within the County Road right-of-way will require an encroachment permit.
4.	Clinton Ave currently has an existing 40 feet of road right-of-way and an ultimate right-of-way of 60 feet per the Fresno County General Plan. An additional 10 feet of road right-of-way must be dedicated along the subject parcel to meet the ultimate right-of-way for Clinton Ave. Any setbacks for new construction must be based on the ultimate road right-of-way for Clinton Ave.
5.	Fresno Irrigation District requires that they be able to review, provide comments, and approve the project plans, to protect its infrastructure and the surrounding area(s).
6.	The end of curbed/taper edge of any existing or future access driveway approach should be set back a minimum of 5 feet from the property line.

Notes	
7.	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.
8.	A minimum of 10 feet x 10 feet corner cut-off should be improved for sight distance purposes at any existing or future driveway accessing Clinton Avenue if not already present.
9.	Any future work done within the County Road right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.
10.	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.
11.	A grading permit/voucher may be required for any future grading with this application.
12.	If the variance is approved, a parcel map application will have to be filed with Fresno County to affect the property division.
13.	The applicant shall obtain final construction inspection approval from the Fresno County Department of Public Health, Environmental Health Division. Prior to operation, the applicant shall apply for and obtain a permit to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.
14.	Prior to alcohol service, the applicant shall first obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.
15.	Facilities that use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Your proposed business will handle hazardous materials and/or hazardous waste and will be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95 (http://cers.calepa.ca.gov/). Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.
16.	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.
17.	Any new sewage disposal system proposal 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. It is the responsibility of the property owner, the property buyer, the engineer, and/or the sewage

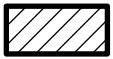
Notes	
	disposal system contractor to confirm required setbacks, separations, and other special requirements or conditions which may affect the placement, location, and construction of the sewage disposal system.
18.	At such time the applicant or property owner(s) decides to construct a water well, the 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.
19.	The proposed project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the Fresno County Noise Ordinance Code.

RP:jp

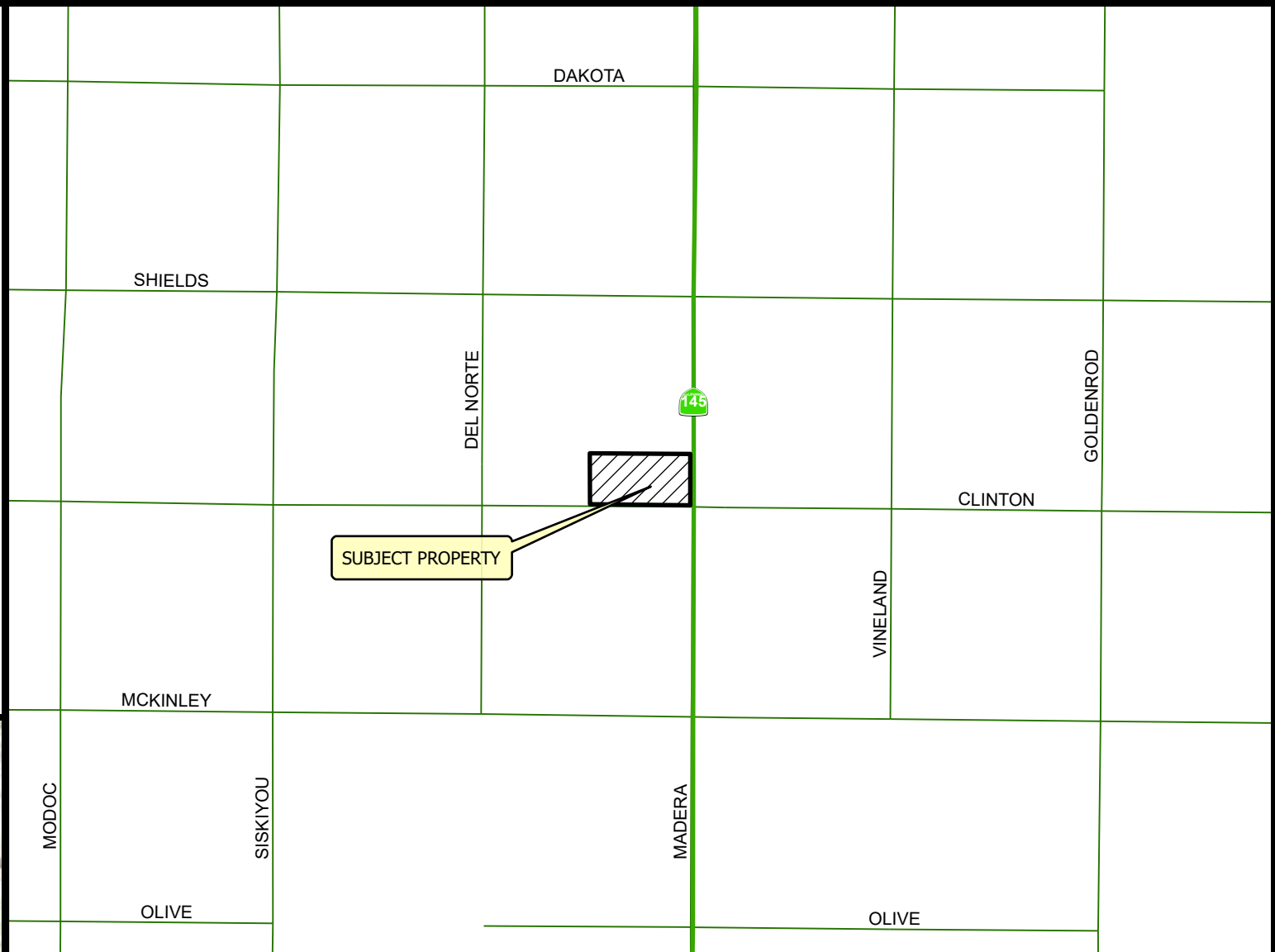
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EXHIBIT 2

Legend

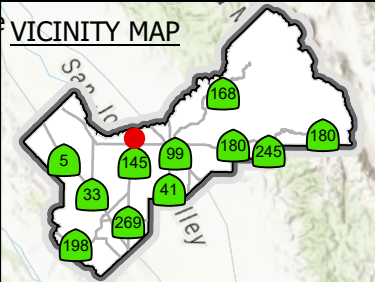


Subject Property



SUBJECT PROPERTY

VICINITY MAP



LOCATION MAP

VA 4161

2024

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : chuang
On Date : 1/19/2024

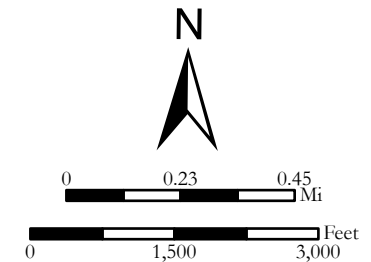




EXHIBIT 2

Legend

-  Subject Property
-  AE20

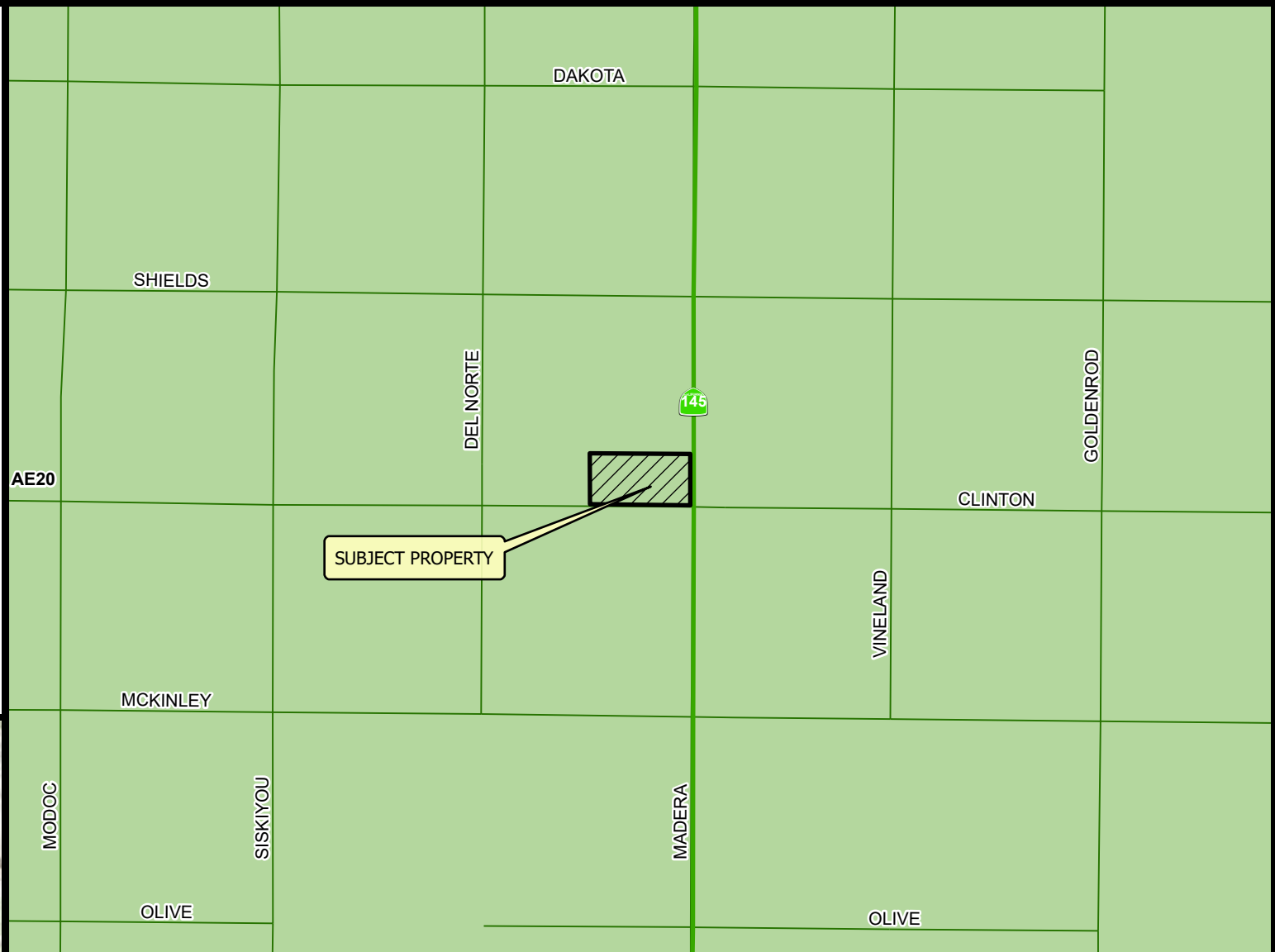
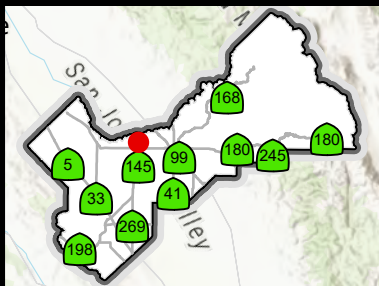


EXHIBIT 3



Existing Zoning Map

VA 4161
STR 25 - 13S / 17E

2024

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
Person Prepared by : chuvang
On Date : 1/19/2024

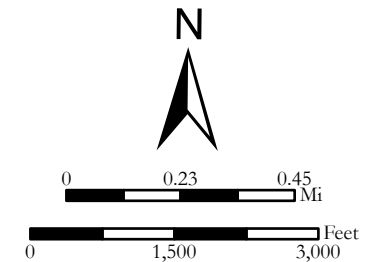




EXHIBIT 4

LEGEND:

-  Subject Property
-  Ag Contract Land

Legend
C# - COMMERCIAL
FC - FIELD CROP
LEGEND
ORC - ORCHARD
SF#- SINGLE FAMILY RESIDENCE
V - VACANT
VIN - VINEYARD

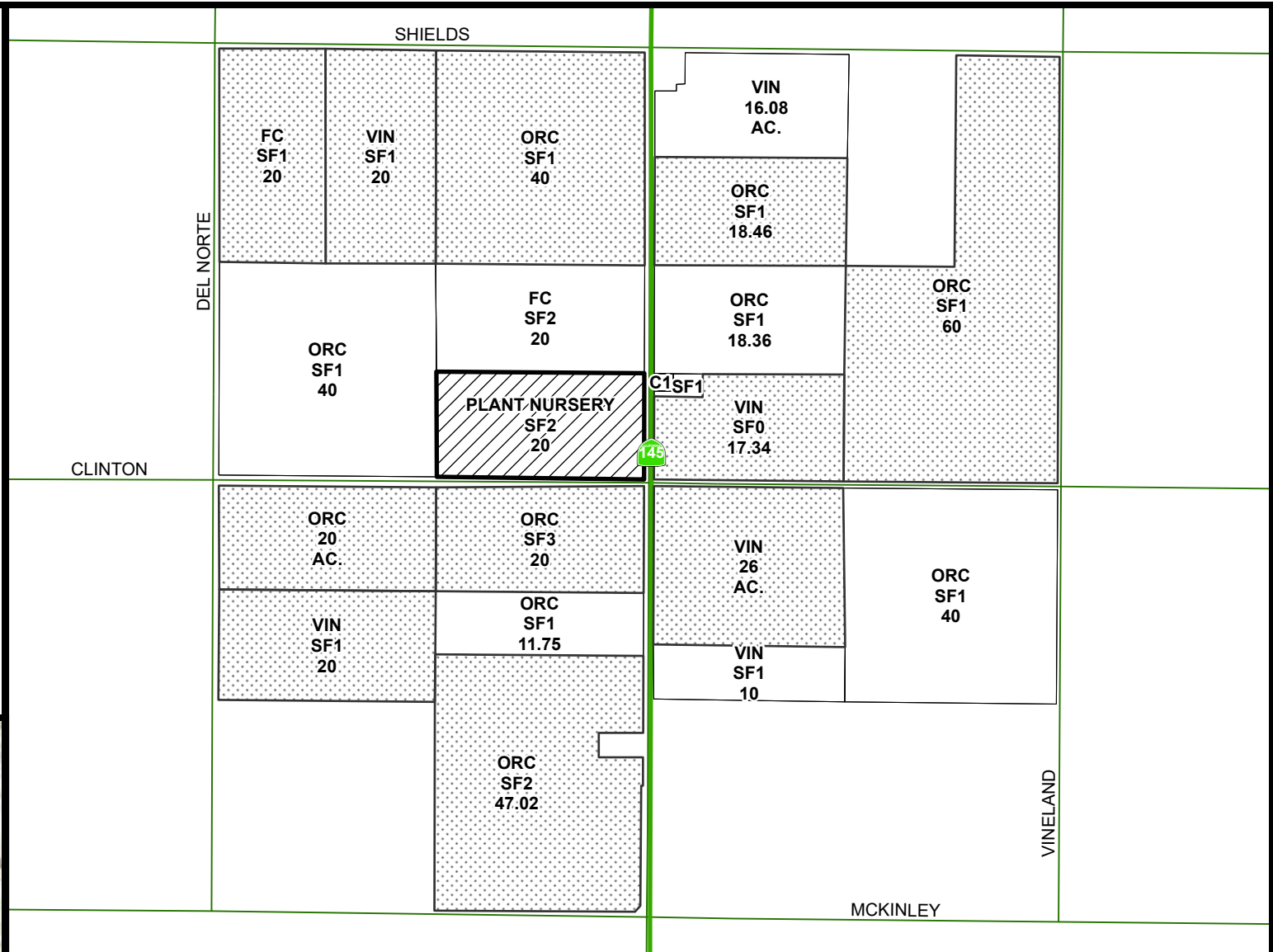
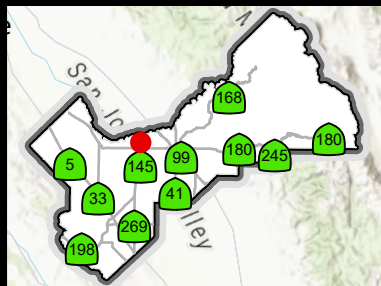


EXHIBIT 4

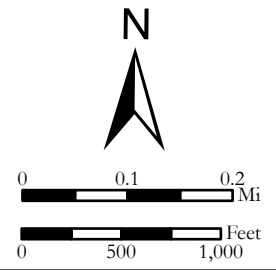


Existing Land Use Map




VA 4161

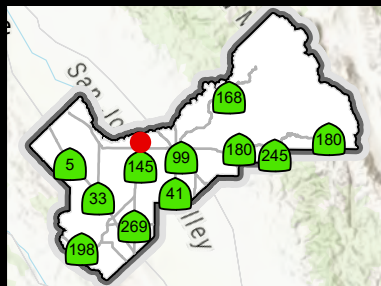
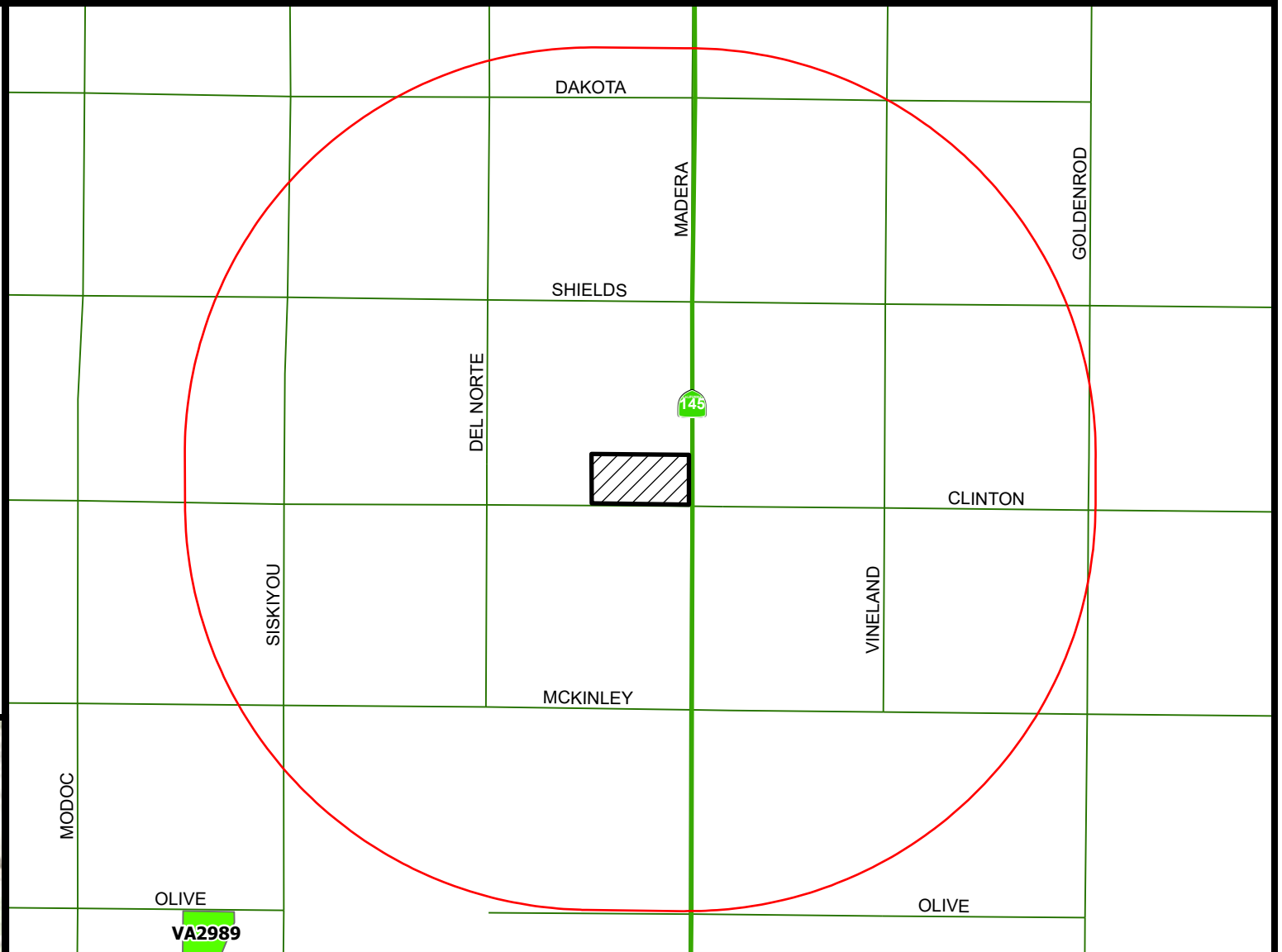
2024

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuang
 On Date : 1/19/2024



Legend

-  1-mile Buffer
-  Subject Property
-  VA Permits



Proximity Map

VA 4161

2024

Prepared by : County of Fresno, Department of Public Works and Planning, Development Services Division
 Person Prepared by : chuang
 On Date : 1/19/2024

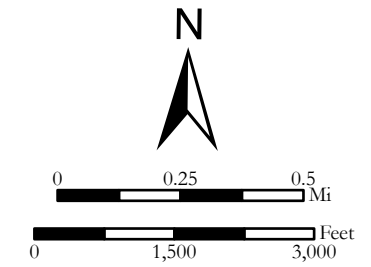
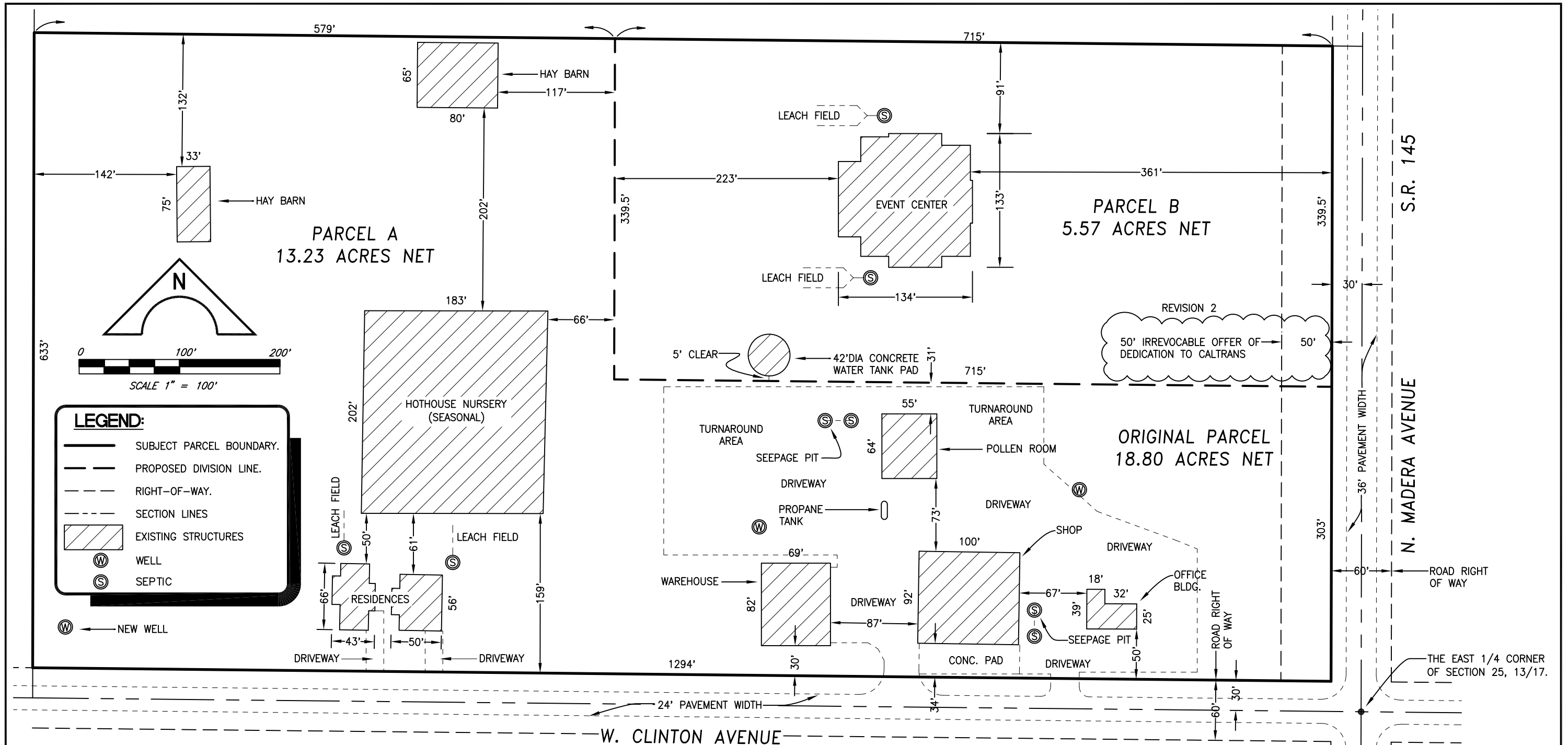


EXHIBIT 6



LEGEND:

- SUBJECT PARCEL BOUNDARY.
- PROPOSED DIVISION LINE.
- RIGHT-OF-WAY.
- SECTION LINES
- EXISTING STRUCTURES
- WELL
- SEPTIC
- NEW WELL

NOTES:

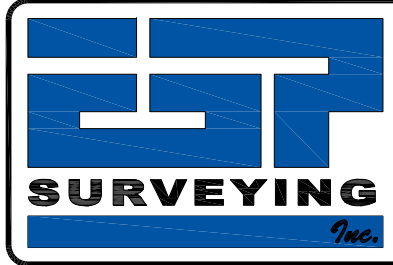
1. PROPERTY OWNER: MADERA PROPERTIES HOLDING LLC, 3621 N. HOWARD AVE., Kerman, CA 93630-9619
2. PREPARED BY: ESP SURVEYING, INC., 559-442-0883, 2598 N. MIAMI AVE., FRESNO, CA 93727
3. PROPERTY ADDRESS: 2673 N. MADERA AVE., Kerman, CA 93630-9772
4. ASSESSOR'S PARCEL No: 015-410-03
5. ORIGINAL PARCEL SIZE: 18.80 ACRES NET

W. CLINTON AVENUE

SITE PLAN VARIANCE
APP. No. 4161

IN THE CITY OF Kerman,
 COUNTY OF FRESNO, STATE OF CALIFORNIA

PROJECT INFORMATION	
NAME: GARCIA SITE PLAN-KERMAN	CLIENT: ALVARO GARCIA
TWP, RNG, SEC: 13, 17, 25, MDB&M	COUNTY OF: FRESNO
	STATE OF: CALIFORNIA



ESP SURVEYING
 2598 N. MIAMI AVE.
 FRESNO, CA
 Tel. 559.442.0883
 Fax 559.442.0884
 www.espls.com

DATE OF SURVEY	9/25/2023
ESP JOB No.	23086
DRAWN BY	6335
DRAWN DATE	10/27/2023
REV 1	11/09/2023
REV 2	02/28/2024

EXHIBIT 6

**Garcia Event Center
VARIANCE FINDINGS
July 31, 2023**

Owner:

Alvaro & Carmen Garcia
3621 N. Howard Ave.
Kerman, CA 93630
(559) 908-0121

Applicant:

Alvaro & Carmen Garcia
3621 N. Howard Ave.
Kerman, CA 93630
(559) 908-0121

Representative:

Dirk Poeschel Land Development Services, Inc.
923 Van Ness Ave., Suite 200
Fresno, CA 93721
(559) 445-0374

Property Location:

2545 N. Madera Avenue (unincorporated Fresno County)

APN:

APN: 015-410-03 (20.0 +/- acres)

Existing Zone Designation:

AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)

Existing General Plan Land Use Designation:

Agriculture

Request:

Grant a variance to allow creation of a separate 5.4 +/- acre parcel at 2545 N. Madera Ave. in Fresno County for an existing high intensity park consisting of a banquet hall and outdoor entertainment area with a 14.6 +/- acre remainder parcel in the AE-20 zone (See attached Map. The banquet hall is an existing structure that was approved as part of Unclassified Conditional Use Permit (CUP) No. 3501.

Background:

The subject property is located at the northwest corner of W. Clinton and N. Madera Avenues approximately 2.3 miles north of the nearest city limits of the City of Kerman (2545 N. Madera Ave., Kerman) (Sup. Dist. 4) (APN 015-410-03). The property was historically home to Kerman High School which was established at this location in 1912. The property was utilized as a high school at this location until 1968 when it was vacated and sold to a private party who operated the site for public and private use. The property was then purchased in 1998 by a private owner and later by the Applicants, Mr. & Mrs. Alvaro Garcia, in August 2014.

The existing improvements on the property include a 16,641 square-foot (sq. ft.) gymnasium building which was formerly part of Kerman High School; two single-family residences (one 1,430 sq. ft. and the other 1,690 sq. ft.); one 2,440 sq. ft. pollen room; two agriculture equipment and storage shops (one 7,742 sq. ft. and the other 5,360 sq. ft.); one 936 sq. ft. portable trailer; two bathrooms (one 64 sq. ft. and the other 108 sq. ft.); two chicken coops 96 sq. ft. each; and one 400 sq. ft. cow shade.

On January 11, 2018, the Fresno County Planning Commission unanimously approved Unclassified CUP No. 3501 to allow a high-intensity park with related improvements for special events and meetings on a 5.4 +/- acre portion of a 20-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

The high intensity park, outdoor entertainment area with indoor banquet hall venue, landscaping and a walkway connecting the outdoor area with the banquet hall, is under construction and almost complete. The 5.4 +/- acre high intensity park site, which is the subject of this variance request, will be fenced with access provided from Madera Ave. (State Route 145).

Finding 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 identical zoning classification.

The Applicant proposes to create a 5.4 +/- acre parcel to allow an existing high intensity park including the existing 16,641 sq. ft. banquet hall, landscaping and a walkway connecting the outdoor area with the banquet hall. The remaining 14.6 +/- acres will continue to be operated as an existing plant nursery by the property owners, Mr. & Mrs. Alvaro Garcia, who are also the applicants in this request.

As noted, the 16,641 sq. ft. building has historically occupied the property since 1912, previously as the Kerman High School gymnasium and now as a banquet hall as part of the high intensity park. Therefore, for the past 111 years, the site has not been sustained as an agricultural use. For the reasons stated above, the property has *exceptional and extraordinary circumstances* that support the proposed variance.

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.

The Applicants have the right to optimize and retain the value of buildings located on their property including the banquet hall and improvements associated with a high intensity park. As previously mentioned, the Applicants purchased the Kerman High School gymnasium which has occupied the property since 1912 and received approval of an Unclassified CUP for the banquet hall which has led them to this variance request.

The Applicants have a vesting interest in the aforementioned because the 16,641 sq. ft. banquet hall with related improvements exist on the property. The Applicants also have a right to separately finance, insure and protect the high intensity park parcel as well as the existing plant nursery. By creating a parcel for the high intensity park, this use can be separated from the remaining plant nursery parcel which will provide both legal protection for the Applicants and memorialize the separation of the high intensity park and the plant nursery which has been functionally on-going for decades.

Finding 3:

The granting of the variance will not be material detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.

Granting the proposed variance to create a 5.4 +/- acre parcel from an existing 20-acre parcel will have no adverse impacts on the public or surrounding property owners. All improvements associated with the high intensity park were previously approved as part of Unclassified CUP No. 3501, Site Plan Review (SPR) No. 8154 and related building permits. The banquet hall is served by an adequate on-site domestic well and septic system.

Granting the proposed variance will not be detrimental to the public welfare of surrounding properties for the following reasons:

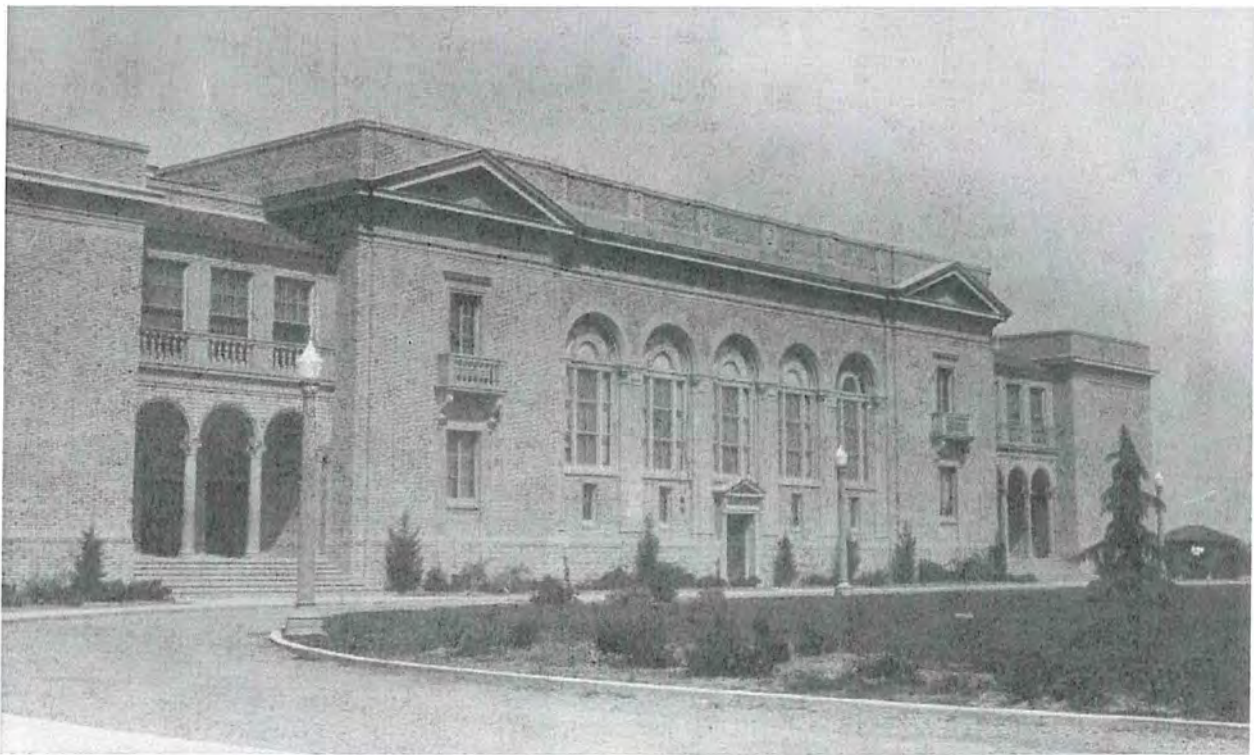
- a) The high intensity park site would not conflict with the continued agricultural operation (i.e., plant nursery) on the remaining 14.6 +/- acre agricultural parcel or other agricultural operations as it has historically been the site of the former Kerman High School.
- b) No new well, septic tank, roads or other improvements are necessary as the banquet hall and associated improvements have been developed and currently occupy the property.
- c) The parcel has historically been used for non-agricultural purposes since 1912 in association with the former Kerman High School location. Therefore, no new potential agricultural uses exist.

Finding 4:

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

The granting of the proposed variance will not contradict the objective of the Fresno County General Plan to protect agricultural land as described below.

Policy LU-A.1 requires that the County maintain agriculturally-designated areas for agriculture uses and direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available. Granting of the proposed variance is consistent with this policy because the existing high intensity park does not require removal of actively farmed land due to the presence of Kerman High School since 1912 or the past 111 years. Fresno County's first zoning ordinance was adopted in 1938 as Ordinance 822 approximately 26 years after Kerman High School was built. Therefore, there were no policies in place to protect agricultural land at the time the high school was built.



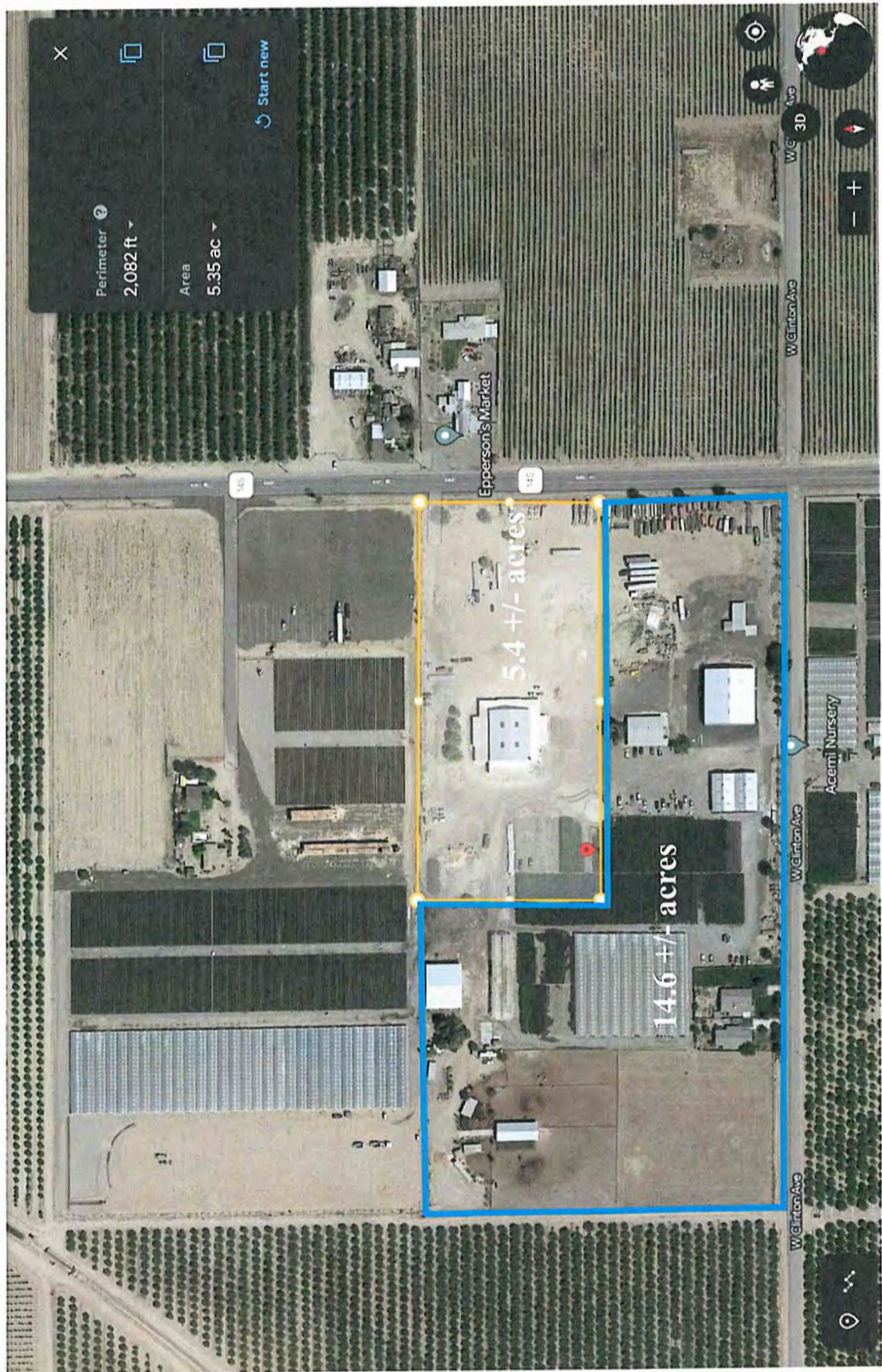
The Old Kerman High School, photo circa 1930

Policy LU-A.3.b. states that the use shall not be sited on productive agricultural land if less productive land is available in the vicinity. The project site is non-productive farmland and is classified as Urban and Built-Up Land on the 2014 Fresno County Important Farmland Map which is consistent with the historical use of the site as the location of Kerman High School. The site is currently developed with a high intensity park, a plant nursery, single-family residences and related improvements and would not result in the conversion of additional agricultural land. This was confirmed on page 12 of the Findings as well as page 3 of the Evaluation of Environmental Impacts, both of which were included Attachment B of the Staff Report (Initial Study Application No. 6986 and Unclassified Conditional Use Permit

Application No. 3501) dated January 11, 2018. Furthermore, based on the property's historic and existing developed use, as well as the lack of irrigation water, the site would not convert back to agriculturally productive land. The project will not affect surrounding farmlands as the existing fencing on the property and State Route 145 (Madera Ave.) separate the site from cultivated lands to the north and the east and has been and has been compatible for over 100 years.

Policy LU-A.7 directs that the County generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 (i.e., 20 acres) based on concerns that such parcels are less viable economic farming units and that the resultant residential density increases would heighten 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 proposed high intensity park is located on a 5.4 +/- acre parcel which is well below the 20-acre minimum and as such is not a viable agricultural unit. Moreover, as noted above, the property has not been actively farmed due to its historic use for the former Kerman High School.

In conclusion, creation of 5.4 +/- acre parcel for the high intensity park would not be contrary to the objectives of the Fresno County General Plan and the remaining 14.6 +/- acre parcel would continue to be used as part of the Applicant's plant nursery operation.





2545 MADERA AVENUE (HWY 14S)

CUNTON AVENUE

5.4 +/- acres

14.6 +/- acres

APN: # 015-410-03
20 ACRES

EXHIBIT 8



View west of Event Center under construction (east side of building).



View of west side of building.



View of south side of building.



View of east side of building for N. Madera Ave.