



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 2 October 26, 2017

SUBJECT: Variance Application No. 4027

Allow the creation of a 2.5-acre parcel from an existing 37.17-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject property is located on the northeast corner of S. Bethel and E. Rose Avenues approximately one mile east of the nearest city limits of the City of Selma (12030 E. Rose Avenue, Selma, CA) (SUP. DIST. 4) (APN 393-031-27S).

**OWNER/
APPLICANT:** Brent Nagao

STAFF CONTACT: Ejaz Ahmad, Planner
(559) 600-4207

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Deny Variance Application No. 4027; 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. Proposed Parcel Configuration (Site Plan)
6. Approved Variances within One-Mile Radius
7. Applicant's Statement of Variance Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	37.17 acres (net)	Parcel 1: 2.5 acres Parcel 2: 34.67 acres (36.15 gross)
Project Site	<ul style="list-style-type: none">• Single-family residence• Office• Barns• Wood sheds	Parcel 1: 2.5 acres Parcel 2: 34.67 acres (36.15 gross)
Structural Improvements	<ul style="list-style-type: none">• Single-family residence• Office• Barns• Wood sheds	No change to the single-family residence on the proposed 2.5-acre parcel
Nearest Residence	10 feet east	No change
Surrounding Development	Single-family residences, orchards, vineyards	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential	N/A

Lighting	Residential	No change
Hours of Operation	N/A	N/A

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 23 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.

PROCEDURAL CONSIDERATIONS:

A Variance 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 prior to August 31, 1976 the subject 37.17-acre parcel and other parcels in the area were zoned A-1 (Agricultural District; 100,000 square feet minimum parcel size required). Amendment Application (AA) No. 2870 approved on August 31, 1976 (Ord. No. 490-A-1586) rezoned the parcels from the A-1 District to an AE-20 ((Exclusive Agricultural, 20-acre minimum parcel size) District. The current zoning on the parcel is AE-20. The parcel is currently developed with a single-family residence and meets the lot size requirement of the AE-20 Zone District.

The subject proposal would allow the creation of a 2.5-acre parcel (Parcel 1) where a minimum 20 acres is required from an existing 37.17-acre parcel in the AE-20 Zone District. The remainder 34.67-acre parcel (Parcel 2) will be a conforming parcel in the AE Zone District.

In addition to the subject application, there have been four variance applications pertaining to lot size filed within a one-mile radius of the subject property (Exhibit 6). Although there is a history of variance requests within proximity of the subject property, each variance request is considered on its own merit, based upon physical circumstances. The following table provides a brief summary of other variance (VA) applications and final actions.

Application/Request	Staff Recommendation	Final Action	Date
VA No. 3517 – Allow the creation of a 2.49-acre parcel	Approval or denial at Planning	Approved by Planning	April 4, 1996

from an existing 22.34-acre parcel in the AE Zone District.	Commission discretion	Commission	
VA No. 3348 - Allow the creation of a 1.38-acre parcel and a 8.53-acre parcel from a 9.91-acre parcel in the in the AE-20 Zone District.	Denial	Denied by Planning Commission Approved by the Board of Supervisors	August 22, 1991 October 8, 1991
VA No. 3240 – Allow the creation of a 1.38-acre parcel without public road frontage from an existing 20-acre parcel in the AE-20 Zone District.	Approval or denial at Planning Commission discretion	Approved by Planning Commission	January 25, 1990
VA No. 2776 – Allow the creation of a 1.2-acre homesite parcel with 137-foot lot width and 140 feet of public road frontage from a 19.7-acre parcel in the AE-20 Zone District.	Approval	Approved by Planning Commission	June 23, 1983

ANALYSIS/DISCUSSION:

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; and*

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.*

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	2.5-acre parcel Front (south property line): 40 feet Side (east property line): 106 feet Side (west property line): 66 feet Rear (north property line): 300 feet	Yes
Parking	No requirements for residential development	N/A	N/A
Lot Coverage	No requirement	N/A	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Separation Between Buildings	N/A	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent of the existing system	No change	Yes
Water Well Separation	Building sewer/septic tank: 50 feet; disposal field: 100 feet; seepage pit/cesspool: 150 feet	No change	Yes

Reviewing Agencies/Department Comments:

Zoning Section of the Fresno County Department of Public Works and Planning: AE-20 Zone Districts require a minimum parcel size of 20 acres. A Variance is required to allow a 2.5-acre parcel in the AE-20 Zone District.

Analysis:

In support of Finding 1, the Applicant’s findings state that four parcels immediately to the east and 10 parcels within one mile of the subject proposal are non-conforming to the zone district. The Applicant regards presence of these non-conforming (less than 20-acre) parcels in the area as extraordinary conditions that justify the creation of the subject 2.5-acre parcel.

In support of Finding 2, the Applicant’s findings state that the Applicant has the right to be granted the same ability to use the property as others have near the subject proposal. Further, the County has granted entitlements and Variances to allow lots smaller than the required 20-acre lot size for owners to develop homesites immediately east of the subject property.

In order to make Findings 1 and 2, an extraordinary circumstance relating to the property that does not apply to other properties in the same zone classification and the preservation of a substantial property right must be demonstrated.

Background information in the Applicant’s Findings states that the Applicant desires to create a homesite retention parcel for himself and sell the remainder, with the farming operation, to settle his parent’s estate with his sibling.

With regard to Finding 1, staff notes that the Applicant has cited other properties in the area less than 20 acres in size, but has not provided information indicating shape or topography or other unusual exceptional circumstance in relation to the subject 37.17-acre parcel. Staff notes that with the exception of four parcels noted in the “Background Information” of this report, not all other substandard-sized parcels within a one-mile radius of the subject property were created by Variances. Many of these parcels, however, were presumably created prior to August 31, 1976 when the area was zoned A-1 (Agricultural District). The A-1 Zone District allowed parcels as small as 6,000 square feet in June 8, 1960 (Ordinance No. 490) to 2.29 acres in November 19, 1968 (Ordinance No. 490.52). Upon analyzing the site aerial photo, the proposed parcelization (Exhibit 6) and comments from reviewing agencies, staff has concluded that there

are no physical circumstances or constraints that justify the need for this Variance. There are no elevation changes, rock outcroppings, wetlands, and/or public easements that create significant hardships for the Applicant.

The Applicant's argument in reference to the existence of other smaller parcels in the area and his desire to retain a homesite parcel and sell the remainder to settle his parent's estate with a family member is not a physical characteristic demonstrating a circumstance which merits the requested parcel configuration proposed with the Variance request, and as such does not support meeting Finding 1. Staff also believes the proposal does not give validity to the loss of substantial property right to support meeting Finding 2, in that denial of this Variance request would not necessarily deprive the Applicant of any right enjoyed by other property owners in the AE-20 Zone District since all property owners in said District are subject to the same development standards.

In reference to the above discussion, the following facts should also be considered:

The subject 37.17-acre parcel is currently zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) in the County Zoning Ordinance and is planted in orchard with a single-family residence. Parcels adjacent to and east of the subject parcel are less than 2.5 acres in size and have also been developed with single-family residences. The proposed 2.5-acre homesite parcel is comparable in size and use to those parcels in the area.

A consideration in addressing Findings 1 and 2 is whether there are alternatives available that would avoid the need for the Variance. Given the circumstances described by the Applicant in the Applicant's Findings (Exhibit 7), there appears to be no other alternative that would meet the Applicant's desire to create a 2.5-acre parcel and meet the lot size required of the AE-20 Zone District.

Based on the above analysis and considering the lack of an exceptional physical circumstance warranting the proposed parcel configuration and loss of a substantial property right, staff believes Findings 1 and 2 cannot be made.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Findings 1 and 2 cannot be made.

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	19.7 acres	Single-Family Residence Vineyard	AE-20	650 feet
East	2.37 acres 19.8 acres	Single-Family Residence Vineyard	AE-20	10 feet

Surrounding Parcels				
South	1.27 acres 17.6 acres	Single-Family Residence Vineyard	AE-20	88 feet
West	1.38 acres 18.5 acres	Single-Family Residence Vineyard	AE-20	265 feet

Reviewing Agencies/Department Comments:

Development Engineering Section of the Fresno County Department of Public Works and Planning: If not already present, a 30-foot by 30-foot corner cut off shall be provided at the intersection of Rose and Bethel Avenues.

Fresno County Department of Public Health, Environmental Health Division: Building permit records indicate the existing septic system was installed in 1978. It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank and leach field evaluated by an appropriately-licensed contractor if they have 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(s).

Fresno Irrigation District (FID): FID's active Little Teague No. 415 Pipeline runs southerly and traverses the west side of the property. The Applicant shall grant FID a 20-foot-wide exclusive easement for the portion of the pipeline traversing the subject property. Any improvements built within FID's easement, and all private facilities that encroach into FID's easement, shall require FID's review and approval. The easement shall be shown on the Parcel Map for the project and any grading and drainage plan shall require FID's review and approval.

Road Maintenance and Operations (RMO) Division of the Fresno County Department of Public Works and Planning: Both Rose and Bethel are classified as Arterial roads in the County's General Plan, requiring an ultimate right-of-way for each road of 106 feet (53 feet each side of the section line), including a 30-foot by 30-foot corner cutoff at the intersection of Bethel and Rose Avenues. Driveways accessing the on-site single-family residence shall include turnaround capabilities so that no vehicle exiting the site shall have to back out into the roadway. Any drive approach improvements within the road right-of-way shall require an encroachment permit from the RMO.

Fresno County Fire Protection District: Future development on the property shall require annexation to Community Facilities District No. 2010-01 of the Fresno County Fire Protection District and be subject to the requirements of the current Fire and Building Codes when a building permit or certificate of occupancy is sought.

Zoning Section of the Fresno County Department of Public Works and Planning: Building permits shall be obtained for an existing office, three woodsheds, the well pump shed and additions to the wood barn and barn.

The aforementioned requirements have been included as Project Notes.

Fresno County Agricultural Commissioner's Office; Building and Safety Section and Water and Natural Resources Division of the Fresno County Department of Public Works and Planning: No comments.

Analysis:

In support of Finding 3, the Applicant's Findings state that the granting of the Variance will not be detrimental to surrounding properties. The homesite has a domestic well and a septic system that serves the residence separate from the agricultural operation. Additionally, right-of-way for public road purposes for Rose and Bethel Avenues has been granted to the County.

Staff notes that the subject parcel is located in an area comprised of farmland planted in vineyard and orchard with sparse single-family residences. No distinctive scenic vista or scenic resources exist near the proposal. The proposed homesite parcel will not change the existing physical characteristics of the property. The homesite parcel (Parcel 1) will remain in residential use and the remainder parcel (Parcel 2) will remain in farming operation without any foreseeable impact on surrounding properties.

Staff notes that the granting of this Variance may result in the establishment of a single-family residence through Director Review and Approval (DRA) on the 2.5-acre homesite parcel (Parcel 1) and one primary residence by right and one secondary residence through DRA on the 34.67-acre parcel (Parcel 2). However, such uses are compatible with the existing residential use on farmland near the proposal.

Considering the compatibility of the existing uses with the surrounding area and with the proposed parcel configuration and adherence to the mandatory Project Notes, staff believes the proposal would not be materially detrimental to the properties and improvements in the area. Finding 3 can be made.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 3 can be made.

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

Relevant Policies:	Consistency/Considerations:
Policy LU-A.6: The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policy LU-A.9.	The subject property is zoned AE-20, with a 20-acre minimum parcel size. The subject Variance request proposing to create a 2.5-acre homesite parcel which is less than 20 acres in the AE-20 Zone District is inconsistent with this policy. The proposal does not qualify for an exception under Policy LU-A.9. The proposed parcels do not constitute a financing parcel or gift lot, nor were they owned by the property owner prior to the date the policies were implemented.

Relevant Policies:	Consistency/Considerations:
<p>Policy LU-A. 7: The 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 incremental and cumulative effects such land divisions have on the agricultural community.</p>	<p>As noted above, 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 parcelization of farmland into smaller size parcels which are economically less viable farming units and could potentially allow single-family homes through discretionary approvals on the proposed homesite parcel. Such increase in residential density in the area may conflict with normal agricultural practices on adjacent properties.</p>
<p>General Plan Policy PF-C.17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include the following: a determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question. If surface water is proposed, it must come from a reliable source. If groundwater is proposed, a hydrological investigation may be required. If the land in question lies in an area of limited groundwater, a hydrologic investigation shall be required.</p>	<p>The project site is not in a low-water area of Fresno County and utilizes an on-site well to provide water to the existing residence. The Water and Natural Resources Division of the Fresno County Department of Public Works and Planning reviewed the proposal and expressed no water-related concerns for existing or future improvements on the property. The proposal is consistent with this Policy.</p>

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County 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 and LU-A.7 state that the County shall generally deny requests to create parcels less than the minimum size specified in areas designated Agriculture and Policy PF-C.17 states that adequate water supply shall be provided for the proposal.

Analysis:

In support of Finding 4, the Applicant states that the Variance will not be in conflict with farming practices in the area. The proposed remainder parcel (Parcel 2) will continue to be utilized for agricultural operations.

The subject parcel is designated Agriculture in the Fresno County General Plan. General Plan Policies LU-A.6 and LU-A.7 require a minimum parcel size of 20 acres as a means of encouraging continued agricultural production and minimizing the amount of land converted to non-agricultural uses. The subject proposal would create a 2.5-acre homesite parcel from an existing 37.17-acre parcel (net) which is less than the minimum parcel size required in the AE-

20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. As such, the proposal is inconsistent with Policies LU-A.6 and LU-A.7. However, the proposal is consistent with General Plan Policy PF-C.17 as discussed above.

Based on the above analysis, the proposal to allow the creation of a 2.5-acre parcel from an existing 37.17-acre parcel is inconsistent with the County General Plan Policy LU-A.6 and LU-A.7. As such, staff is unable to make Finding 4.

CONCLUSION:

Staff believes the required Findings 1, 2 and 4 for granting the Variance cannot be made based on the factors cited in the analysis. Staff therefore recommends denial of Variance Application No. 4027.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance Application No. 4027; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine that the required Findings can be made (state basis for making the Findings) and move to approve Variance Application No. 4027; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

EA:ksn

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**Variance Application (VA) No. 4027
Conditions of Approval and Project Notes**

EXHIBIT 1

Conditions of Approval

1.	Development shall be in accordance with the Site Plan (Exhibit 5) as approved by the Commission.
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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.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance (Ordinance Code 17.72) and may include requirements for access, roadway construction, and maintenance.
2.	Building permits shall be obtained for an office, three woodsheds, well pump shed and additions to the wood barn and barn. Contact the Building and Safety Section of the Fresno County Department of Public Works and Planning at (559) 600-4540.
3.	If not already present, a 30-foot by 30-foot corner cut off shall be provided at the intersection of Rose and Bethel Avenues.
4.	The Applicant should consider having the existing septic tank pumped, and have the tank and leach field evaluated by an appropriately-licensed contractor if they have 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(s).
5.	To minimize the project impact, the Fresno Irrigation District (FID) requires the following: <ul style="list-style-type: none"> • FID's active Little Teague No. 415 Pipeline runs southerly and traverses the west side of the property. The Applicant shall grant FID a 20-foot-wide exclusive easement for the portion of the pipeline traversing the subject property. • Any improvements built within FID's easement, and all private facilities that encroach into FID's easement, shall require FID's review and approval. • Show the easement on the Parcel Map for the project. • Any grading and drainage plan shall require FID's review and approval.
6.	Driveways accessing the homesite parcel shall include turnaround capabilities so that no vehicle exiting the site shall have to back out into the roadway.
7.	An encroachment permit shall be obtained from the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning for any drive approach improvements within the County road right-of-way.
8.	Future development on the property shall require annexation to Community Facilities District No. 2010-01 of the Fresno County

Exhibit 1 - Page 1

Notes

Fire Protection District and be subject to the requirements of the current Fire and Building Codes when a building permit or certificate of occupancy is sought.

EA:ksn

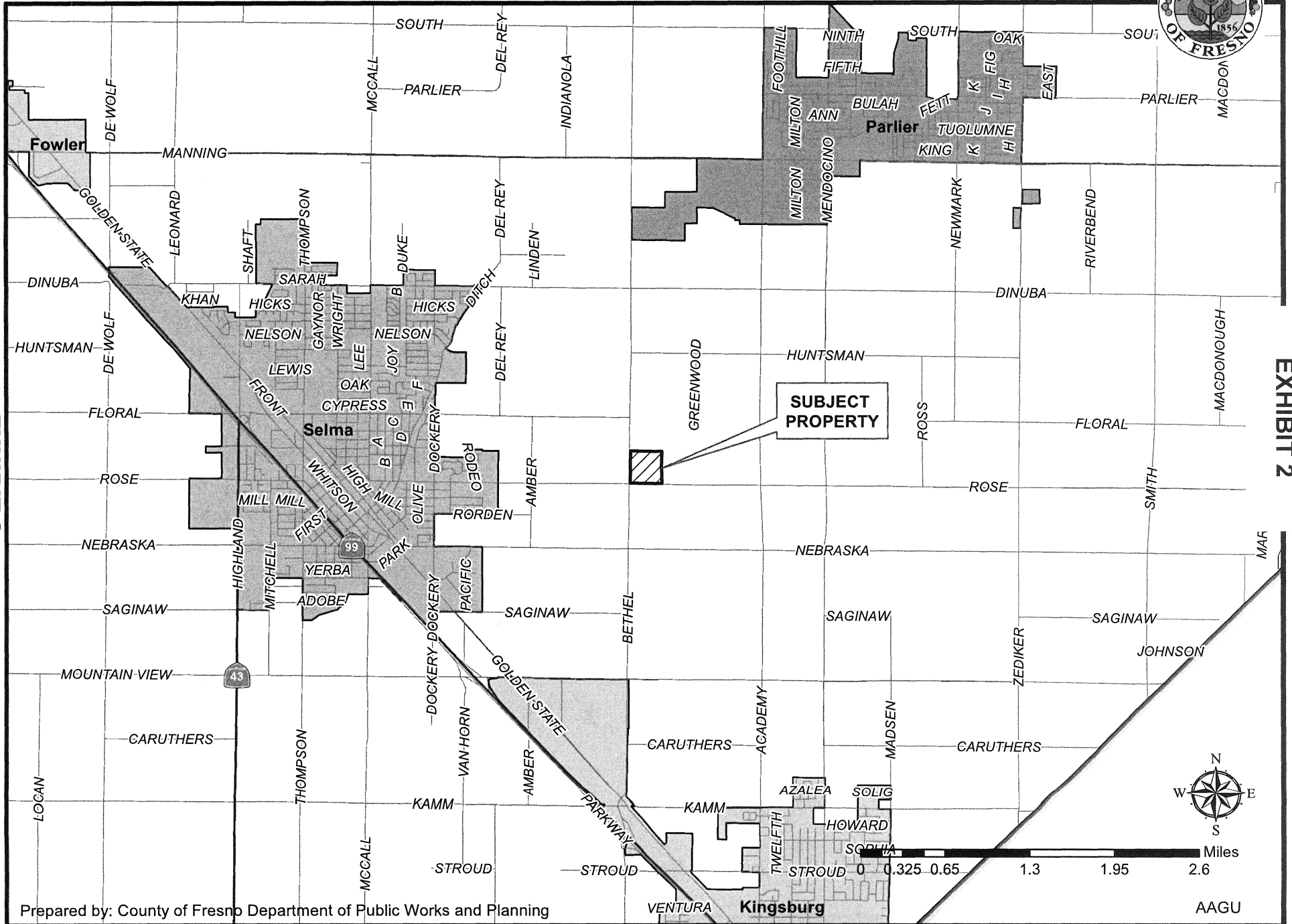
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LOCATION MAP



EXHIBIT 2

EXHIBIT 2

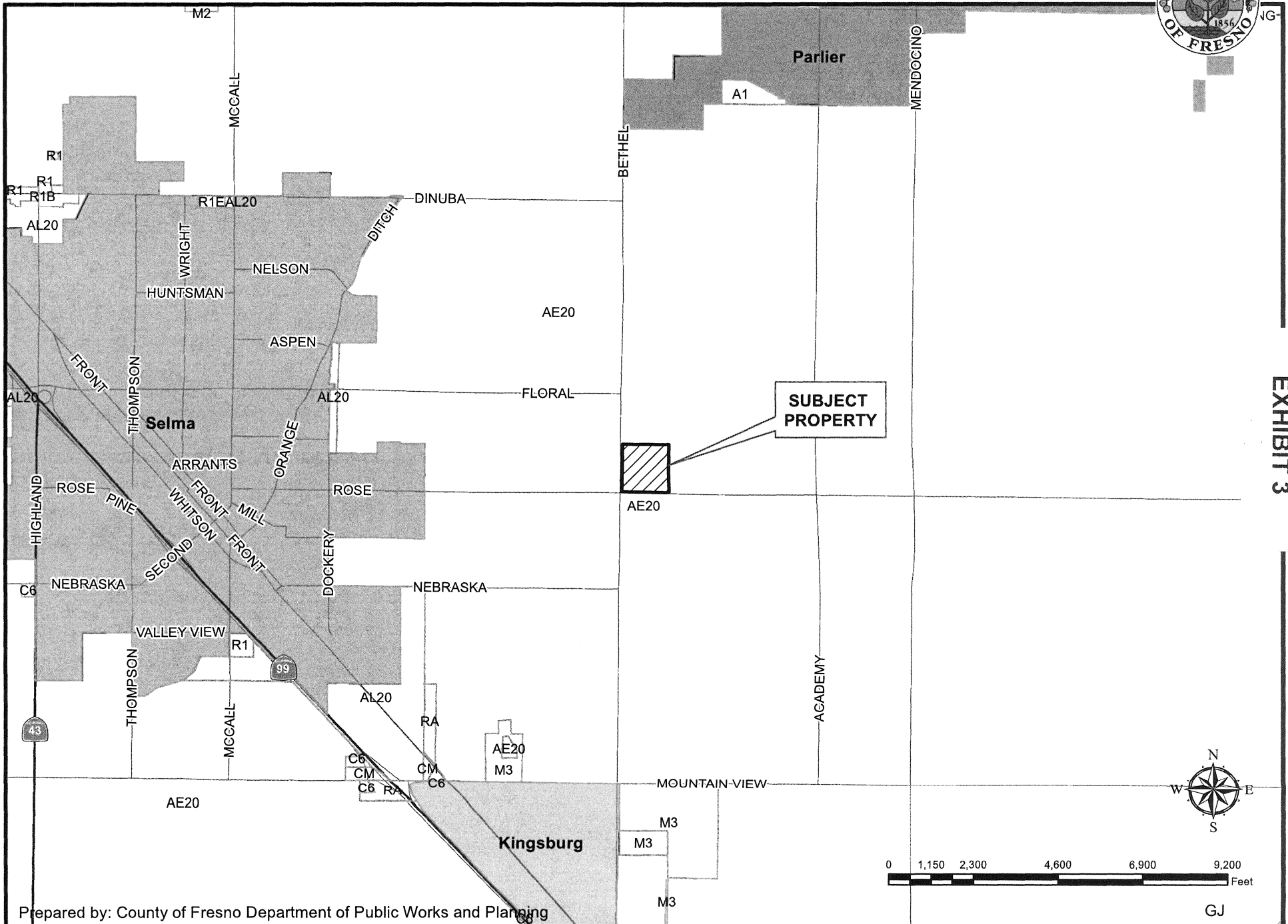


EXISTING ZONING MAP



EXHIBIT 3

EXHIBIT 3



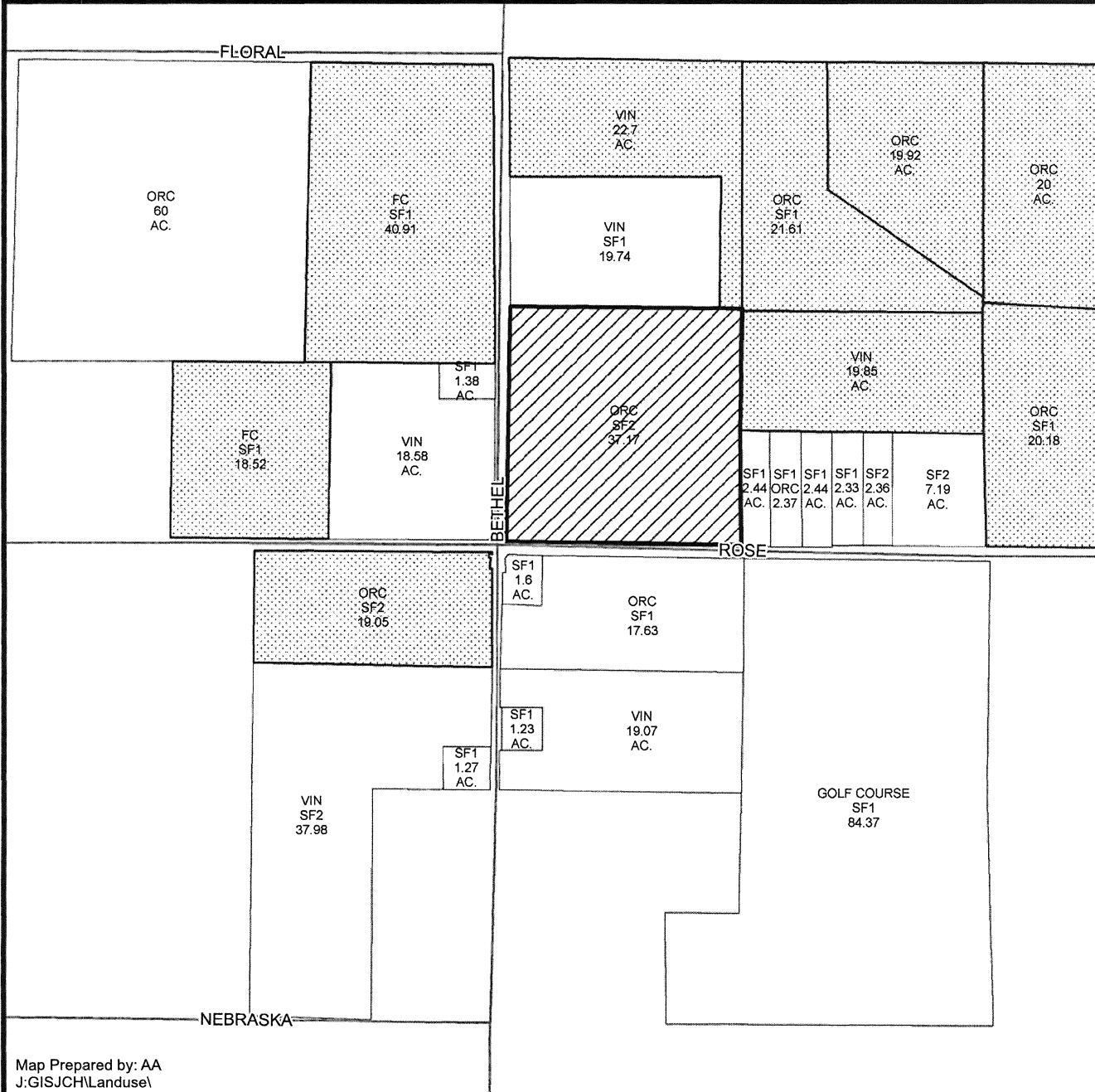
VA 4027

EXISTING LAND USE MAP



EXHIBIT 4

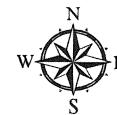
EXHIBIT 4



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

LEGEND:

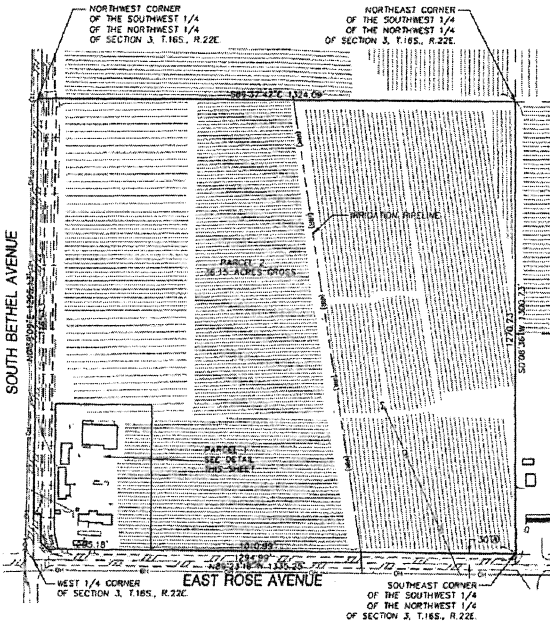
-  Subject Property
-  Ag Contract Land



0 212.5 425 850 1,275 1,700 Feet

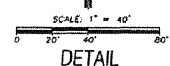
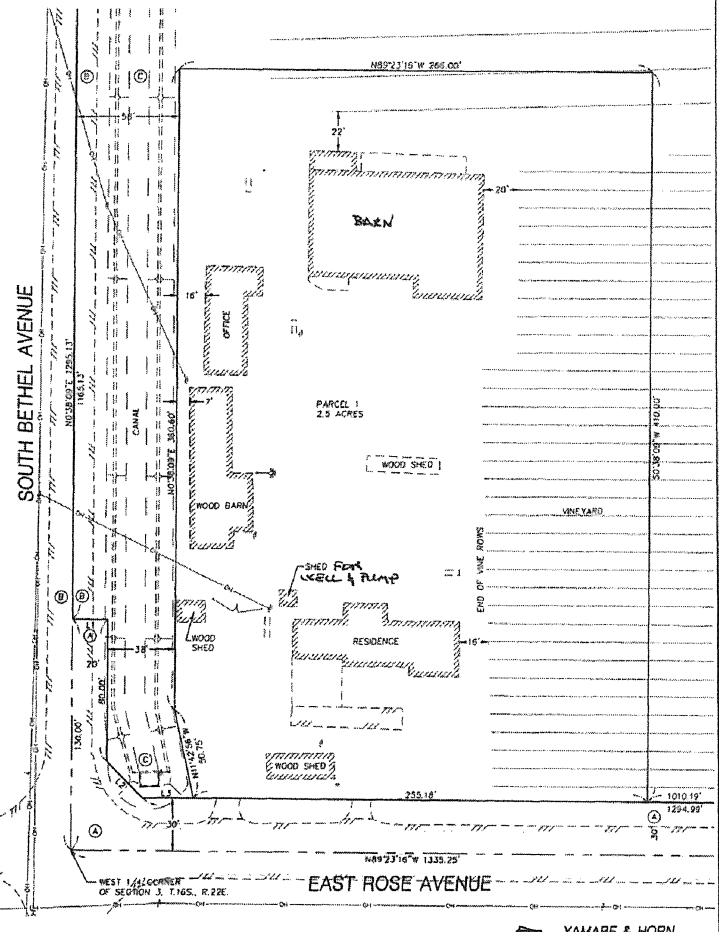
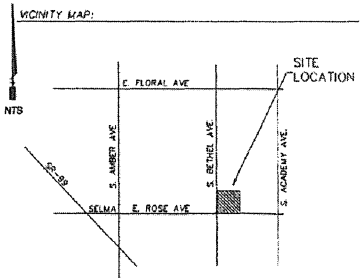
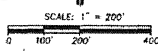
Department of Public Works and Planning
Development Services Division

TENTATIVE PARCEL MAP NO. _____
 IN THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SECTION 3
 TOWNSHIP 16 SOUTH, RANGE 22 EAST, M.D.B.&M.
 FOR NAGAO



- LEGEND**
- SECTION LINE
 - - - PROPOSED PARCEL LINE
 - LIMITS OF SUBDIVISION
 - EXISTING PROPERTY LINE
 - EXISTING EASEMENT LINE
 - EXISTING FENCE
 - EXISTING EDGE OF PAVEMENT
 - EXISTING IRRIGATION LINE
 - OVERHEAD WIRE
 - EXISTING TOP OF CANAL
 - EXISTING TOE OF CANAL
 - EXISTING CONCRETE
 - UNYIARD
 - F.C.R. FRESNO COUNTY RECORDS
 - O.R.F.C. OFFICIAL RECORDS FRESNO COUNTY
- EXISTING AREA LIGHT
 - EXISTING POWER POLE
 - EXISTING MAIL BOX
 - SIGN
- ① PREVIOUSLY GRANTED IN FEE TO FRESNO COUNTY FOR PUBLIC ROAD PURPOSES.
 - ② PRESCRIPTIVE RIGHT OF WAY.
 - ③ CANAL EASEMENT FOR THE BERRELL DITCH PER VOL. 256, PG. 156 OF DEEDS, F.C.R.

LINE TABLE	
LINE	BEARING DISTANCE
L1	S89°23'16"E 20.00
L2	S44°22'34"E 28.28
L3	N89°23'16"W 28.62



SITE INFORMATION

EXISTING ZONING	SOURCE OF TELEPHONE	OWNER
AE20-EXCLUSIVE AGRICULTURE	ATT	BRENT NAGAO
PLANNED LAND USE	SOURCE OF ELECTRICITY	12030 E. ROSE AVENUE SELMA, CA 93662
SINGLE FAMILY RESIDENTIAL	PG&E	
SOURCE OF WATER	SITE AREA	
WELL	38.65 ACRES (GROSS)	
SOURCE OF SEWER	APN 393-030-275	
SEPTIC SYSTEM	DOC. NO. 96015213, O.R.F.C.	

NOTE
 SOURCE OF DATA: FIELD SURVEY OF SUBJECT PROPERTY FOR SOURCE OF PARCEL MAP TO BE FILED TO CREATE THE HOMESITE RETENSION PARCEL.

BASIS OF BEARINGS.
 THE GEODEIC OBSERVATION OF THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 16 SOUTH, RANGE 22 EAST, MOUNT DIABLO BASE & MERIDIAN, TAKEN TO BE NORTH 89°23'16" WEST.

LEGAL DESCRIPTION - APN 393-030-275

THE SOUTHWEST QUARTER OF THE FRACTIONAL NORTHWEST QUARTER OF FRACTIONAL SECTION 3, TOWNSHIP 16 SOUTH, RANGE 22 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA, ACCORDING TO THE UNITED STATES TOWNSHIP PLATS, APPROVED BY THE SURVEYOR GENERAL DECEMBER 21, 1854.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF AS DESCRIBED IN THE GRANT DEED TO THE COUNTY OF FRESNO, DATED DECEMBER 22, 1980 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

- BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE**
- (1) NORTH 00°21'45" WEST, ALONG THE WEST BOUNDARY OF SAID SOUTHWEST QUARTER, 130.00 FEET; THENCE
 - (2) NORTH 89°36'27" EAST PARALLEL WITH THE SOUTH BOUNDARY OF SAID SOUTHWEST QUARTER, 20.00 FEET; THENCE
 - (3) SOUTH 00°21'45" EAST, 280.00 FEET; THENCE
 - (4) SOUTH 45°22'40" EAST, 28.28 FEET TO A LINE 30.00 FEET NORTH (AT RIGHT ANGLES) AND PARALLEL WITH SAID
 - (5) SOUTH BOUNDARY; THENCE
 - (6) NORTH 09°36'27" EAST ALONG SAID LINE, 1294.51 FEET TO THE EAST BOUNDARY OF SAID SOUTHWEST QUARTER; THENCE
 - (7) SOUTH 09°36'27" EAST ALONG SAID EAST BOUNDARY, 30.00 FEET TO SAID SOUTH BOUNDARY; THENCE
 - (8) SOUTH 89°36'27" WEST, 1334.77 FEET TO THE POINT OF BEGINNING.

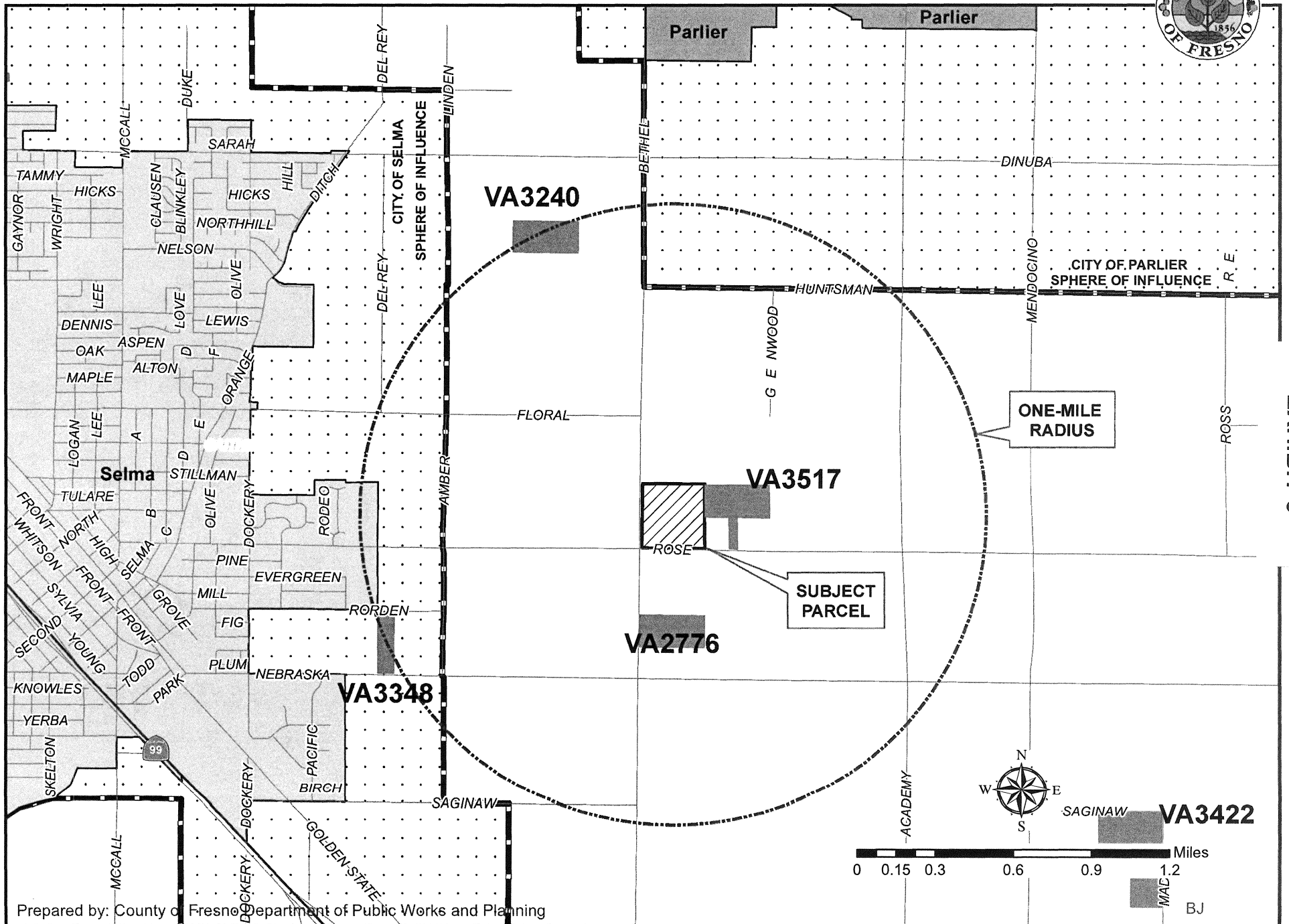
YAMABE & HORN ENGINEERING, INC.
 2805 N. BURN AVE.
 SUITE 101
 FRESNO, CA 93727
 TEL (558) 244-3123
 FAX (559) 244-3120

APPROVED VARIANCES WITHIN A ONE MILE RADIUS



EXHIBIT 6

EXHIBIT 6



MAE BJ

EXHIBIT 7

**VARIANCE APPLICATION FINDINGS
AND OPERATIONAL STATEMENT**

**12030 E. Rose Avenue
Selma, CA 93662
APN 393-031-27S
April 24, 2017**

Applicant/Owner:

Brent and Sophia Nagao
12030 E. Rose Avenue
Selma, CA 93662

Representative:

Yamabe & Horn Engineering, Inc.
2985 N. Burl Avenue, Ste. 101
Fresno, CA 93727
559-244-3123

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COUNTY OF FRESNO
MAY 18 2017
DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

Property Location:

12030 E. Rose Avenue
Selma, CA 93662

APN:

APN 393-031-27S

Existing Zone Designation:

AE-20

Existing General Plan Land Use Designation:

Agricultural

Community Plan Area:

Valley Floor

Request:

Authorization to allow a variance for creation of a 2.5 acre home site retention parcel,
(20 acre required- 2.5 acre proposed).

Background:

The land in question APN 393-031-27S has been in a continuous farming operation by the Nagao family since the 1930's prior to its purchase by the applicant's grandfather once the California Alien Land Law was struck down by the California Supreme Court in 1952 and it was then legal for Americans of Japanese descent to own farm property in this state.

Title to the parcel was held by the applicant's father and mother until being put into their living trust agreement in February 1992 with the power of attorney for the successor agent being passed to the applicant and his sister Sherri Elliston in August 2011.

In order to settle the estate after the passing of both parents of Brent and Sherri, a mediated settlement to disburse the property has been agreed upon by the parties involved.

The settlement agreement entails Brent Nagao's desires to create a home site retention parcel where he and his family have resided his entire life. The remainder of the farming operation is to be sold enabling Brent to generate the funding for the monetary appraisal value of the property for payment to his sister for her share of the estate.

The property comprises 38.65 gross acres with .97 acres of the original parcel having been granted in fee to the County of Fresno for public road purposes in December of 1980.

Finding 1:

Does the strict application of the Zoning Ordinance deprive this property of privileges enjoyed by other properties in the vicinity and in an identical zoning district due to the special circumstances applicable to the property, including its size, shape, topography, location or surroundings?

The home site is located in the Northwest quarter of Section 3, Township 16 South, Range 22 East, at the Northeast corner of East Rose Avenue and South Bethel Avenue, in an AE-20 zone district. The City Limit Line of the City of Selma is one mile west of the property. Immediately east of the property on the north side of East Rose Avenue are six non-conforming parcels to the zoning district. There are an additional 10 non-conforming parcels located within on-half mile of the property, with an average size of 1.25 acres.

For the reasons stated above, the property has exceptional and extraordinary circumstances that support the requested variance.

Finding 2:

Would this variance grant a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is located?

The applicant has the right to be granted the same ability to use the property as others have in the vicinity of the subject home site.

After creation of the AE-20 Zoning District the County has granted numerous entitlements and variances to allow lots smaller than the required 20 acre lot size for owners to develop home sites immediately east of the subject property.

Finding 3:

If granted, would the requested variance be detrimental to the public welfare or injurious to property or improvements in the area to which the property is located?

Granting the proposed variance will not be detrimental to surrounding properties for various reasons. The home site has a domestic well and septic system that services the residence separate from the agricultural operation. Right of way for public road purpose improvements were granted previously by the applicant's father for East Rose Avenue and a portion of South Bethel Avenue that adjoins the property.

Home sites currently exist on three of the four corners of the intersection of East Rose Avenue and South Bethel Avenue.

Finding 4:

If granted, would the requested variance be in conflict with established general and specific plans and policies of the county?

If approved, the variance would not be in conflict with farming practices in the area based on that all the portions of the existing and proposed remainder parcel is currently utilizing and will continue to utilize the parcel for agricultural operation purposes.

No general plan policies apply to this variance.