



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 4 February 15, 2018

SUBJECT: Variance Application No. 4039

Allow the creation of two five-acre parcels from an existing 10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the south side of East Reno Avenue approximately 700 feet west of Auberry Road, and approximately one mile northeast of the nearest city limits of the City of Fresno (12789 Auberry Road) (SUP. DIST. 5) (APN 580-010-24).

**OWNER/
APPLICANT:** Iulia Vorobchevici

STAFF CONTACT: Jeremy Shaw, Planner
(559) 600-4207

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Deny Variance No. 4039; 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. Map of Variances Approved within one mile
6. Site Plan
7. Applicant's Submitted 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	10 acres	Parcel 1: 5.0 acres Parcel 2: 5.0 acres
Project Site	10.00-acre parcel improved with two residences, two wells, and two septic systems	Each parcel will retain one residence, one well, and one septic system
Structural Improvements	An approximately 6,700 square-foot primary residence and an approximately 1,243 square-foot secondary residence	Proposed Parcel 1 will contain the larger primary residence and Proposed Parcel 2 will contain the smaller secondary residence
Nearest Residence	Approximately 75 feet east of the 1,243 square-foot secondary residence	No change

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: *Review for Exemption* 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 39 property owners within 1,320 feet of the subject parcel and an additional 18 property owners in the vicinity, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A Variance (VA) 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:

The subject parcel was originally created as Lot No. 4, in Block 2 of the Redwood Park Subdivision, Record of Survey, recorded in June 17, 1909. The subject parcel was historically a ten-acre parcel, and zoned A-1 (Agricultural), as was the surrounding area. The Board of Supervisors established the A-1 Zoning on June 8, 1960. On March 8, 1977, the Board of Supervisors approved County-initiated Amendment Application No. 2898, which rezoned this area to the current AE-20 (Exclusive Agricultural) Zone District.

The subject parcel is improved with a 6,700 square-foot single-family residence, permitted in October 2013, and a 1,243 square-foot secondary residence, permitted in November 1997. There was a pre-existing dwelling on the property, however the original 1,008 square-foot structure, for which no permit records were available, was lost to fire in 1997.

This Variance request proposes to divide the existing ten-acre parcel into two five-acre parcels. If approved, each newly-created 5-acre parcel will contain one of the existing residences, with the larger primary residence to occupy proposed Parcel 1 and the existing second residence to occupy proposed Parcel 2. The Applicants Findings indicate that should the Variance be approved, the smaller residence on proposed Parcel 2 will ultimately be demolished and replaced with a new larger residence.

Prior to submittal of the current Variance Application (VA No. 4039), the permitting process was started in 2013 for the existing 6,700 square-foot primary dwelling, with the understanding that the 1,243 square-foot secondary dwelling would require authorization via submittal and approval of a Director Review and Approval Application (DRA), conversion to an allowable use, or removal, prior to issuance of permits. The Applicants elected to submit a DRA application, and subsequently began the pre-application process. Through a miscommunication between the property owners, the contractor and the County, permits were issued for the new primary dwelling on August 3, 2015; however, the DRA application was never submitted.

The current Variance request, submitted on September 9, 2017, proposes to divide the 10-acre parcel into two five-acre parcels, each containing one of the existing dwellings. If this Variance is approved, no further action will be required for the second residence. However, in the event the Variance is denied by the Planning Commission or on appeal to the Board of Supervisors, the Applicant will be required to submit a Director Review and Approval application to allow the second residence to remain, remove it, or convert it to an allowable use, under permit and inspection by the Fresno County Department of Public Works and Planning. If one of these conditions is not satisfied within 30 days of the Planning Commission or Board of Supervisors action on Variance Application No. 4039, a Notice of Violation may be issued by the Code Enforcement Section of the Department of Public Works and Planning.

Nineteen variance requests have been processed within one mile of the subject property for the creation of substandard-size parcels. Of those, 14 were approved and 5 were denied. Those 19 variances are detailed in the table below:

Application/Request	Staff Recommendation	Final Action	Date of Action
VA No. 3413 - Allow a Property Line Adjustment between a 38.50-acre parcel and 5.19-acre parcel resulting in the reduction of an existing 5.19-acre parcel to 4 acres.	Approval	PC Approved	May 20, 1993

VA No. 3482 - Allow the creation of two 5-acre parcels from an existing 10-acre parcel in the AE-20 Zone District.	Denial	PC Approved	March 16, 1995
VA No. 3483 - Allow the creation of three 5.20-acre parcels and a 10.06-acre parcel (20 acres required) from a 25.66-acre parcel of land in the AE-20 Zone District.	Denial	PC Denied BOS Approved	March 16, 1995 April 18, 1995
VA No. 3556 - Allow the creation of two 5.0-acre parcels, a 5.1-acre parcel and a 5.2-acre parcel (20-acre minimum required) from a 20.30-acre parcel.	Denial	PC Approved	April 3, 1997
VA No.3579* - Allow the creation of a 2.74-acre parcel and a 2.43-acre parcel, both without public road frontage, from an existing 5.17-acre parcel in the AE-20 Zone District.	Denial	PC Approved Approval expired	July 10, 1997
VA No. 3590 - Allow creation of a 2.50-acre and a 5.10-acre parcel with the smaller parcel having no public road frontage (20 acres and 165 feet required) from an existing 7.60-acre parcel of land in the AE-20 Zone District.	Denial	PC Approved	November 6, 1997
VA No.3596 - Allow a property line adjustment between two 10-acre parcels, resulting in a 6.50-acre parcel and a 13.5-acre parcel, in the AE-20 Zone District.	Deferred to Planning Commission	PC Approved	October 16, 1997
VA No. 3618 - Allow creation of a 3.53-acre parcel, a 2.57-acre parcel, and a 2.62-acre parcel (20 acres required), each parcel having no public road frontage (165 feet required).	Deferred to Planning Commission	PC Denied BOS Denied	November 12, 1998 December 15, 1998
VA No. 3666 - Allow creation of a 2.5-acre homesite parcel without public road frontage (165 feet minimum required) from an existing 10.45-acre parcel of land in the AE-20 Zone District.	Approval	PC Approved	April 6, 2000

VA No. 3693 - Allow creation of two 2-acre parcels from a 4-acre parcel in the AE-20 Zone District.	Denial	PC Denied	August 22, 2002
VA No. 3771** - Allow creation of a 3.11-acre parcel and a 1.74-acre parcel from a 4.85-acre parcel in the AE-20 Zone District and allow the 1.74-acre parcel without road frontage.	Denial	PC Denied	April 22, 2004
VA No. 3773 - Allow creation of two 2-acre parcels from a 4-acre parcel in the AE-20 Zone District.	Denial	PC Denied	March 4, 2004
VA No. 3815 - Allow the creation of four parcels, 3.9, 4.5, 4.6, and 5 acres in size (minimum 20 acres required), allowing three parcels without public road frontage (minimum 165 feet required) from an existing 18.03-acre parcel in the AE-20 Zone District.	Denial	PC Approved	October 12, 2006
VA No. 3882 - Allow creation of a 5.88-acre parcel and a 6.29-acre parcel (minimum 20 acres required) from a 12.17-acre parcel in the AE-20 Zone District.	Denial	PC Denied	September 18, 2008
VA No. 3895 - Allow the creation of two parcels, each approximately 2 acres in size (minimum 20-acres required) from an existing 4.00-acre parcel in the AE-20 Zone District.	Denial	PC Approved	July 16, 2009
VA No. 3932 - Allow creation of an approximately 3.4-acre parcel and two approximately 4.9-acre parcels from an existing 13.09-acre parcel.	Denial	PC Approved	December 12, 2013
VA No. 3952 - Allow the creation of two approximately 5-acre parcels from an existing 9.81-acre parcel, in the AE-20 Zone District	Denial	PC Approved	January 9, 2014
VA No. 4012* - Allow the creation of a 2.74-acre parcel and a 2.43-acre parcel, both without public road frontage, and a lot depth-to-width ratio greater than four-to-one, from	Denial	PC Approved	October 20, 2016

an existing 5.17-acre parcel in the AE-20 Zone District.			
VA No.4025** - Allow the creation of a 2.3-acre parcel and a 2.55-acre parcel from an existing 4.85-acre parcel in the AE-20 Zone District.	Denial	PC Denied BOS Approved	August 10, 2017 October 17, 2017

*Indicates that the two Variance Applications affect the same parcel.
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ANALYSIS/DISCUSSION:

Findings 1 and 2: 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

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	<u>AE-20 Zone District:</u> Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Proposed Parcel 1 (5+/- acres):</u> Primary Residence Front: 80 feet Side (east): 60 feet Side (west): 155 feet (approx.) Rear: 235 feet (approx.) <u>Proposed Parcel 2 (5+/- acres):</u> Secondary residence Front: 100 feet Side (east): 30 feet Side (west): 225 feet (approx.) Rear: 425 feet (approx.)	<u>Parcel 1:</u> Yes <u>Parcel 2:</u> Yes
Parking	N/A	N/A	N/A
Lot Coverage	No requirement	N/A	N/A
Separation Between Buildings	6 feet	No change	Yes
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent of the existing system	No change	Yes

	Current Standard:	Proposed Operation:	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 Agencies/Department Comments:

Fresno County Department of Public Health, Environmental Health Division: In the case of this application, it appears each parcel can accommodate the sewage disposal systems and expansion areas, meeting the mandatory setback requirements as established in the California Plumbing Code and California Well Standards Ordinance.

Building permit records indicate that an existing septic system for 12789 Auberry Road was installed in November 2014, however, no building permit records were available for the second septic system. It is recommended that the Applicant consider having both of the existing septic tanks pumped, and have the tanks and drain fields 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 systems.

Development Engineering Section of the Fresno County Department of Public Works and Planning: East Reno Avenue is a 40-foot-wide private road and is maintained through County Service Area (CSA) 35, Zone AJ. Typically, any access driveway should be set back a minimum of ten feet from the property line. If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto East Reno Avenue.

According to FEMA, FIRM Panel No.1040H, the parcel is not subject to flooding from the one-percent-chance (100-year) storm. According to U.S.G.S. Quad Maps, there are no existing natural drainage channels adjacent to or traversing the subject property.

Typically, If the subject parcel is located within the State Responsibility Area (SRA) boundary, any future development shall be in accordance with the applicable SRA Fire Safe Regulations, as they apply to driveway construction and access.

A grading permit or voucher may be required for any grading that has been done without a permit and any grading proposed with this application.

If the Variance is approved, a parcel map application will have to be filed with Fresno County in order to effect the property division. Development Engineering has no objection to this Variance Application.

No other comments specific to Findings 1 and 2 were expressed by reviewing Agencies or Departments.

Analysis:

In support of Finding 1, the Applicant's findings describe that the subject parcel and surrounding parcels have consisted of various sizes ranging from 7 acres to 40 acres since their original creation as part of the Redwood Park Subdivision. Staff acknowledges that there is variation in parcel size and that the majority have been divided into smaller parcels with Planning Commission or Board of Supervisors approval since their creation. This Variance request for a parcel division will allow the creation of two separate legal parcels, each containing a single-family residence and a domestic water well and septic system, which would allow them to function independently of each other, and be sold or otherwise conveyed if the property owner chooses.

In support of Finding 2, the Applicant's findings state that this request is consistent with such right granted to other property owners in the vicinity, some of which have had variances approved, allowing the division of their property into smaller parcels. The Applicant's findings also state that the soil type underlying the subject property and surrounding area is not ideal for agricultural uses.

The subject parcel is located approximately 700 feet west of Auberry Road, on the south side East Reno Avenue, which has direct access to Auberry Road. The subject parcel has been improved with two single-family dwellings. If this Variance request is approved, the resultant parcels will each contain one of the existing residences, and each with its own well and septic system.

According to Fresno County Assessor's map Book 580, Page 1, updated June 21, 2016, the area on the south side of Reno is comprised of parcels between 2.3 acres and 40 acres, which have been similarly improved with single-family dwellings. The property abutting the subject parcel on the west is approximately 9.70-acres and the two properties abutting the subject parcel on the east side are 4.85-acres and 4.61-acres respectively. There are three parcels directly across East Reno Avenue to the north of the subject parcel. Those three parcels consist of 5.06-acres, 4.95-acres, and 4.63-acres. Of the nine parcels which have frontage on the south side of Reno Avenue, four of those are less than five acres in size. Those parcels on the north side of Reno Avenue across from the subject parcel are mostly five acres +/- in size and are similarly improved with single-family dwellings. Of the 15 parcels that have frontage on the north side of Reno Avenue across from the subject parcel, 13 are between 4.61 and 5.62 acres, and the remaining two are 18.90 acres and 7.60 acres, respectively. Additionally, there is one 2.47-acre parcel, on the northern boundary of the 18.90-acre parcel, without road frontage. Staff notes that there are at least seven parcels on the east side of Auberry Road and within a quarter-mile or less from the subject parcel which are smaller than five-acres.

While staff acknowledges that other property owners in the vicinity have been granted variances allowing the creation of parcels that were less than the minimum 20-acres required, the approval of those other variances should not be considered the fulfillment of a property right, but rather each request should be considered on its own merits. At 10 acres, the subject parcel is consistent in size with other parcels in the vicinity and there are no physical characteristics particular to the property that are exceptional or extraordinary. Additionally, the inability of the property owner to create a parcel or parcels less than the minimum 20-acres required in this zone district does not itself constitute an infringement of a substantial property right. Other property owners in the Vicinity are subject to the same requirements and restrictions with respect to the creation of a substandard size lot.

The minimum parcel size that may be created in the AE-20 Zone District is 20 acres. A property owner may not create parcels with less than the 20-acre minimum parcel size if he or she does not qualify under the conditions listed in Section 816.5, or unless the substandard-size parcel is approved through the Variance process. The existing residential use of the parcel does not exempt the property owner from the 20-acre minimum established to protect productive farming units.

The Applicant’s stated desire to create two five-acre “estate” homesites does not constitute an exceptional circumstance and is not consistent with the agricultural zoning designation. Further, staff does not consider the presence of other parcels similar in size to those proposed with this Variance to be an extraordinary physical characteristic demonstrating a circumstance which merits the requested Variance.

A consideration in addressing variance applications is whether there are alternatives available that would avoid the need for the Variance. In this case, the Applicant does not have any options for splitting the existing parcel without the approval of a Variance under the current zoning. Based on the Applicant’s intention to create two parcels that are approximately equal in size and with each containing one single-family residence, staff does not believe that there is a substantial property right at issue which would warrant the granting of the Variance.

Staff was unable to identify any unique or exceptional circumstances on the property and could not identify an impacted property right of the Applicant. 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	5.06 acres 4.95 acres 4.63 acres	Single-Family Residence Vacant Vacant	AE-20	Approximately 275 feet
South	5.17 acres 4.73 acres	Single-Family Residence Single-Family Residence	AE-20	Approximately 75 feet Approximately 160 feet
East	4.85 acres 3.86 acres	Single-Family Residence Vacant	AE-20	Approximately 450 feet
West	10 acres	Single-Family Residence	AE-20	Approximately 750 feet

*Measured from the existing property lines

Reviewing Agencies/Department Comments:

Development Engineering Section of the Fresno County Department of Public Works and Planning: According to FEMA FIRM Panel 1040H, the parcel is not subject to flooding from the 100-year storm. The project site is located within the Fresno Metropolitan Flood Control District (FMFCD) boundary. Typically, FMFCD should be consulted for their requirements, and any additional runoff generated by future development cannot be drained across property lines.

The subject site is located within an SRA (State Responsibility Area) boundary and any future development shall be in accordance with the applicable SRA Fire Safe Regulations.

Fresno County Fire Protection District: No fire requirements at this time.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: East Reno Avenue is not a County-maintained road. Maintenance of the road is provided through County Service Area (CSA) 35, Zone AJ. If the requested Variance is approved, a parcel map shall be filed to facilitate the proposed parcel division.

East Reno Avenue shall be developed to the County's A-15 road standard for a paved width of 20 feet. The engineer of record shall certify that the road has been built to that standard or design improvements to bring the road into compliance with County standards.

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. Because the two residences and infrastructure are existing, and future development plans entail replacing the smaller secondary residence with a new, larger structure, any additional impacts to the area would be minimal.

In regard to Finding 3, staff concurs with the Applicant's assessment that the Variance would not be detrimental to surrounding properties. There is no change in land use proposed as part of this application. It is the intention of the Applicant, if this Variance is approved, to remove one of the existing residences and replace it with a new, larger single-family residence. Staff concurs that there will be no additional impact to surrounding properties, provided the newly-created parcels meet water supply requirements according to General Plan Policy PF-C.17 pertaining to areas identified as water-short, and the Applicant obtains a well yield test certification prior to the issuance of building permits for any proposed development.

Staff believes that there will be no adverse impacts on neighboring properties. Finding 3 can be made.

Recommended Conditions of Approval:

See recommended conditions, 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:
<p>General Plan 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 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.</p>	<p>The Applicant is requesting a Variance from the 20-acre minimum parcel size requirement and does not qualify under Policies LU-A.9, LU-A.10, and LU-A.11. See Analysis below.</p>
<p>General Plan Policy LU-A.7: 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>The minimum parcel size for the subject parcel is 20 acres. The creation of both parcels is inconsistent with this policy. See Analysis below.</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:</p> <ol style="list-style-type: none"> a. 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 and the supply must be made “firm” by water banking or other suitable arrangement. If groundwater is proposed, a hydrologic investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrologic investigation shall be required. b. A determination of the impact that use of the proposed water supply will have on other water users in Fresno County. If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other water users within Fresno County. If use of groundwater is proposed, a hydrologic investigation may be required. If the lands in question lie in an area of limited groundwater, a 	<p>Review by the Water and Natural Resources Division has determined that, as the subject parcel is in an area defined as being water-short, any future development on the proposed parcels will require that a well yield certification be performed and approved prior to the issuance of Building Permits.</p>

Relevant Policies:	Consistency/Considerations:
<p>hydrologic investigation shall be required. Should the investigation determine that significant pumping-related physical impacts will extend beyond the boundary of the property in question, those impacts shall be mitigated.</p> <p>c. A determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability. The plan must be structured such that it is economically, environmentally, and technically feasible. In addition, its implementation must occur prior to long-term and/or irreversible physical impacts or significant economic hardship to surrounding water users.</p>	
<p>General Plan Policy PF-D.6: The County shall permit individual on-site sewage disposal systems on parcels that have the area, soils, and other characteristics that permit installation of such disposal facilities without threatening surface or groundwater quality or posing any other health hazards and where community sewer service is not available and cannot be provided.</p>	<p>Review by the Fresno County Department of Public Health, Environmental Health Division has determined that the soils of the parcels are adequate to support individual on-site sewage disposal systems.</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 by the acreage designation in agricultural areas. Those policies are detailed in the table above. The subject parcel is not subject to a Williamson Act Contract.

Water and Natural Resources Division of the Fresno County Department of Public Works and Planning: The proposed application is located within an area defined as being water-short. If this Variance request is approved, future requirements for any development on the subject parcel shall include that a well yield certification test be performed and approved prior to the issuance of building permits.

Analysis:

In support of Finding 4, the Applicant states that although the granting of this Variance could be considered inconsistent with the General Plan regarding creation of substandard-size parcels, it is consistent with the creation of “estate”-size lots that has taken place in the vicinity, and due to the fact that there are no currently-existing agricultural operations in the vicinity, as stated under Finding 2, the land would only be considered suitable for grazing were the parcels of sufficient size to support grazing. Review of the Fresno County 2014 Farmlands Map does support the assertion that the soil type in the area is consistent with grazing land, and staff is not aware of a minimum parcel size required to support livestock grazing.

Staff does not concur with the Applicant's statement that the project is consistent the purpose and objective of the General Plan. Goal LU-A is "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." However, staff acknowledges that the subject parcel is considered legal nonconforming because it was already substandard in size when it was rezoned to its present designation of AE-20. Additionally, staff recognizes that much of the surrounding area has been dedicated to residential uses consistent with the smaller parcel sizes, and that any agricultural uses in the vicinity are very limited or non-existent.

Policy LU-A.6 identifies the minimum parcel size for parcels which are designated for Agriculture, such as the subject parcel, and also identifies those policies which provide for exceptions from that requirement (Policies LU-A.9 through LU-A.12).

Policy LU-A.7 restricts the creation of parcels with less than the required acreage for the zone district. Specifically, it states that evidence that the parcel is already not an economic farming unit is not a basis for granting an exception. This parcel has already been improved with two residences, and review of publicly available, historic aerial imagery dating from 1998 to present suggests that it has not been used for agricultural purposes recently.

The subject parcel is not restricted under a Williamson Act Contract. The parcel does not qualify for a Williamson Act Contract due to its size.

Finding 4 cannot be made.

Recommended Conditions of Approval:

See recommended conditions, attached as Exhibit 1

Conclusion:

Finding 4 cannot be made.

PUBLIC COMMENT:

None.

CONCLUSION:

Staff believes the required Findings for granting the Variance cannot be made, based on the factors cited in the analysis. Staff therefore recommends denial of Variance No. 4039.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 4039; 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 No. 4039, subject to the Conditions and Project Notes attached as 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.

JS:ksn

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**Variance Application (VA) No. 4039
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development shall be in accordance with the Site Plan (Exhibit 6) as approved by the Commission.
2.	<p>Prior to approval of the mapping application associated with approval of this Variance, the Applicant shall provide certification to the Department of Public Works and Planning that East Reno Avenue has been improved to not less than the A-15 County Road Improvement Standard across the frontages of proposed Parcel 1 and Parcel 2 to Auberry Road.</p> <p>NOTE: Procedures for development to the A-15 County Improvement Standard are referenced in the mandatory notes below.</p>
3.	<p>Prior to approval of the mapping application associated with approval of this Variance, the Developer shall have provided for the maintenance of the segment of East Reno Avenue extending across the frontages of proposed Parcel 1 and proposed Parcel 2 to Auberry Road by a County Service Area or other method acceptable to the Director of the Fresno County Department of Public Works & Planning.</p> <p>NOTE: Procedures for initiating annexation are referenced in the mandatory notes described below.</p>

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. A Parcel Map Application shall be filed to create the two proposed five-acre parcels. The Map shall comply with the requirements of Title 17.72.
2.	The approval of this project 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.	Any work done within the 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.
4.	If not already present, a ten-foot by ten-foot corner cutoff should be improved for sight distance purposes at any existing or proposed driveway accessing East Reno Avenue.
5.	A Grading Permit or Voucher shall be required for any grading activity associated with this proposal. Storm water runoff due to this development shall be retained on the property being developed in accordance with Fresno County standards. Ponds in excess of 18" in depth shall be fenced.

EXHIBIT 1

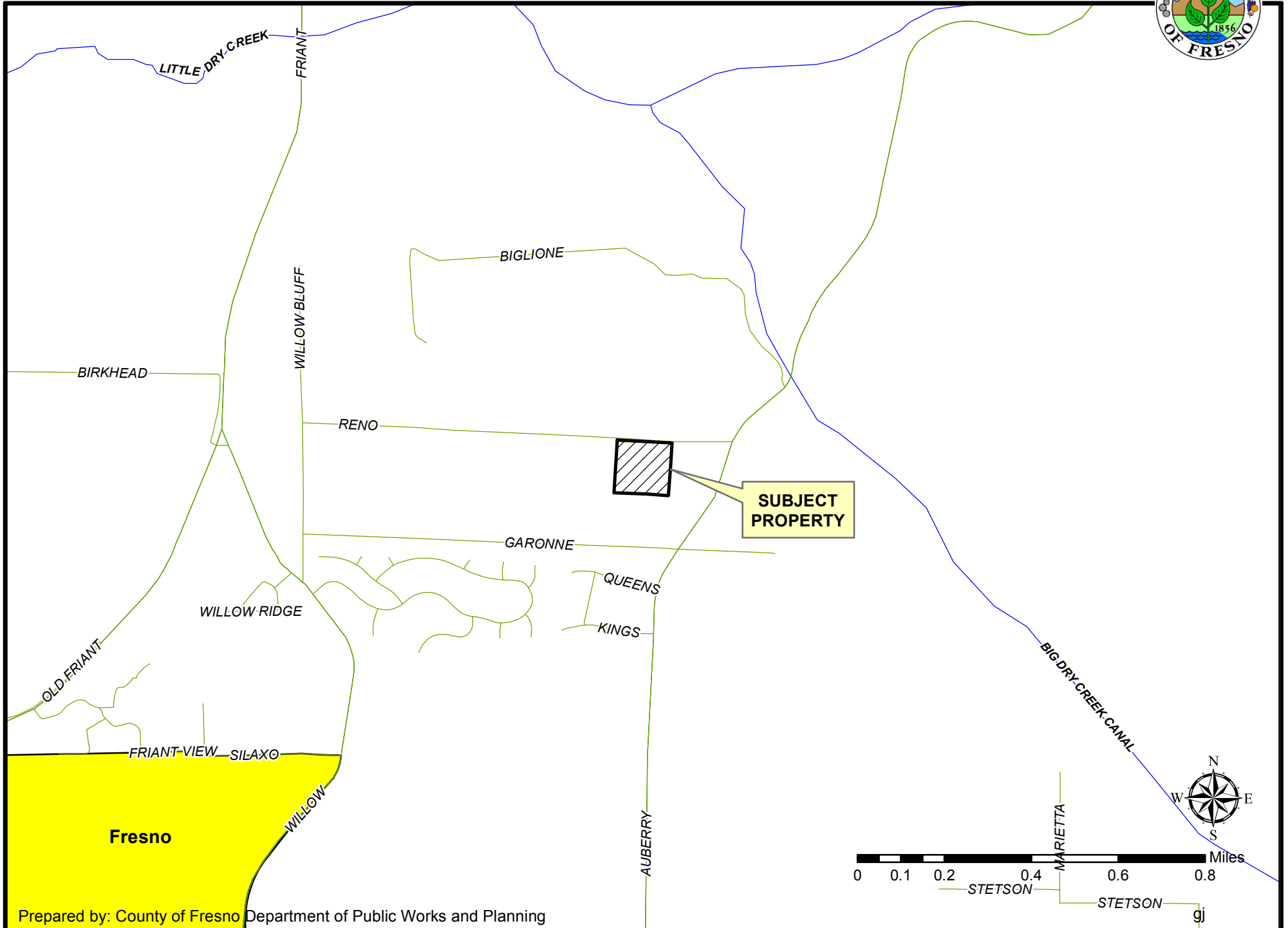
Notes

6.	As the subject parcel is located in an area defined as being water-short, any future development on the proposed parcels will require that a well yield certification be performed and approved prior to the issuance of Building Permits.
7.	Building permit records indicate the existing septic system for 12789 Auberry Road (Primary Residence) was installed in November 2014. It is recommended that the Applicant consider having the existing septic tanks pumped, and have the tanks and drain fields 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 systems.
8.	The subject property is located within the California Department of Forestry "State Responsibility Area" (SRA) boundary and therefore, is subject to standards relating to building setbacks, driveway construction, gating, display of street address, disposal of flammable vegetation, water supply facilities for fire protection, and roofing materials. Any future development shall be in accordance with the applicable SRA Fire Safe Regulations.
9.	To pursue annexation to County Service Area (CSA) 35, Zone AJ, applicable fees and an engineer's report will be required. For more information, contact the Resources Division of the Department of Public Works and Planning at (559) 600-4259.
10.	To meet the A-15 County Improvement Standard, improvement plans must be submitted for review and approval by the Department of Public Works and Planning, Road Maintenance & Operations Division, along with a letter from the Developer's engineer confirming that construction engineering and surveying will be provided to permit construction, in accordance with the approved plan. It also requires payment of an Inspection (Grading Permit) Fee and that the construction is inspected by the County.

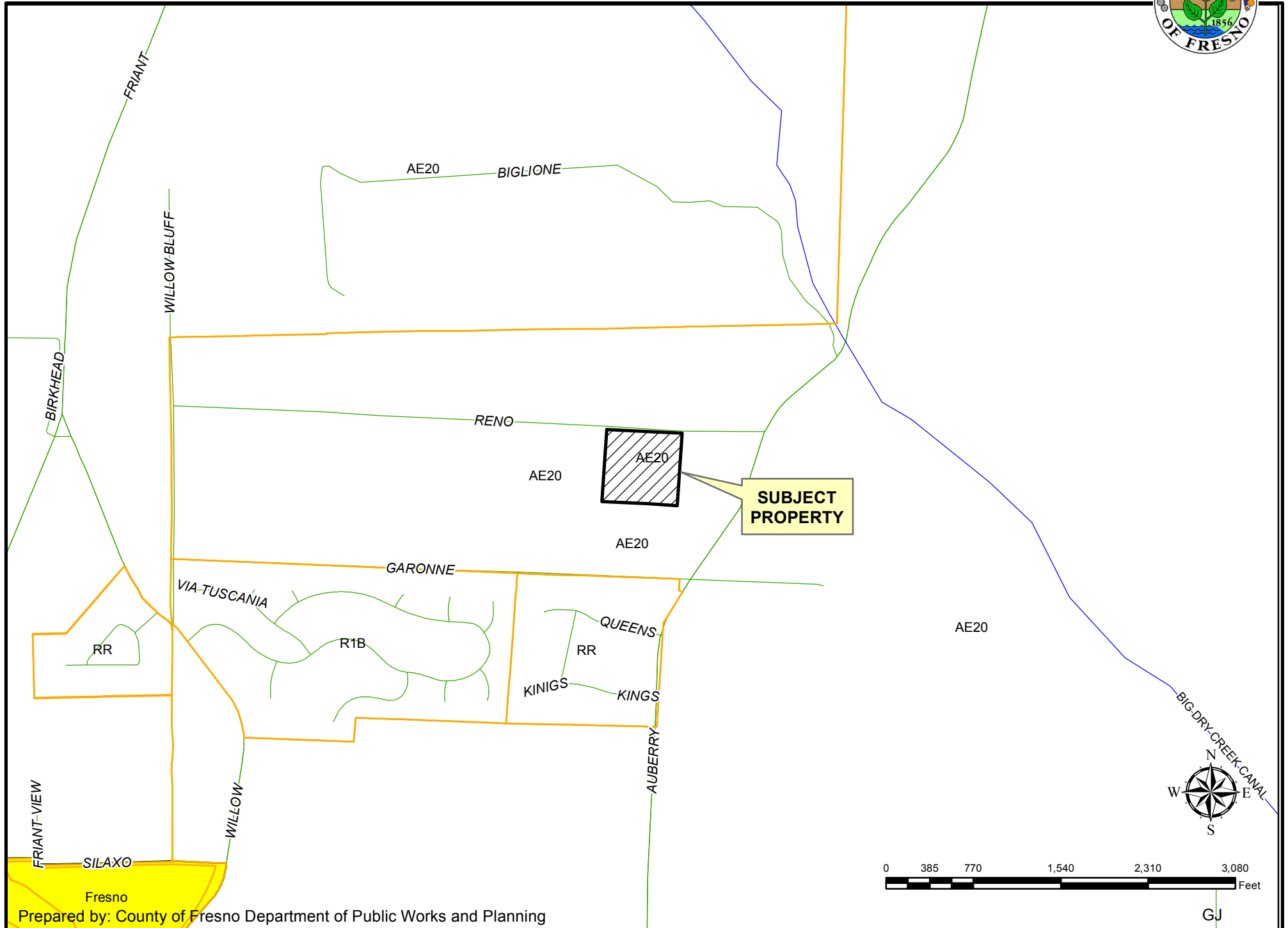
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G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4000-4099\4039\SR\VA4039 Conditions & PN (Ex 1).docx

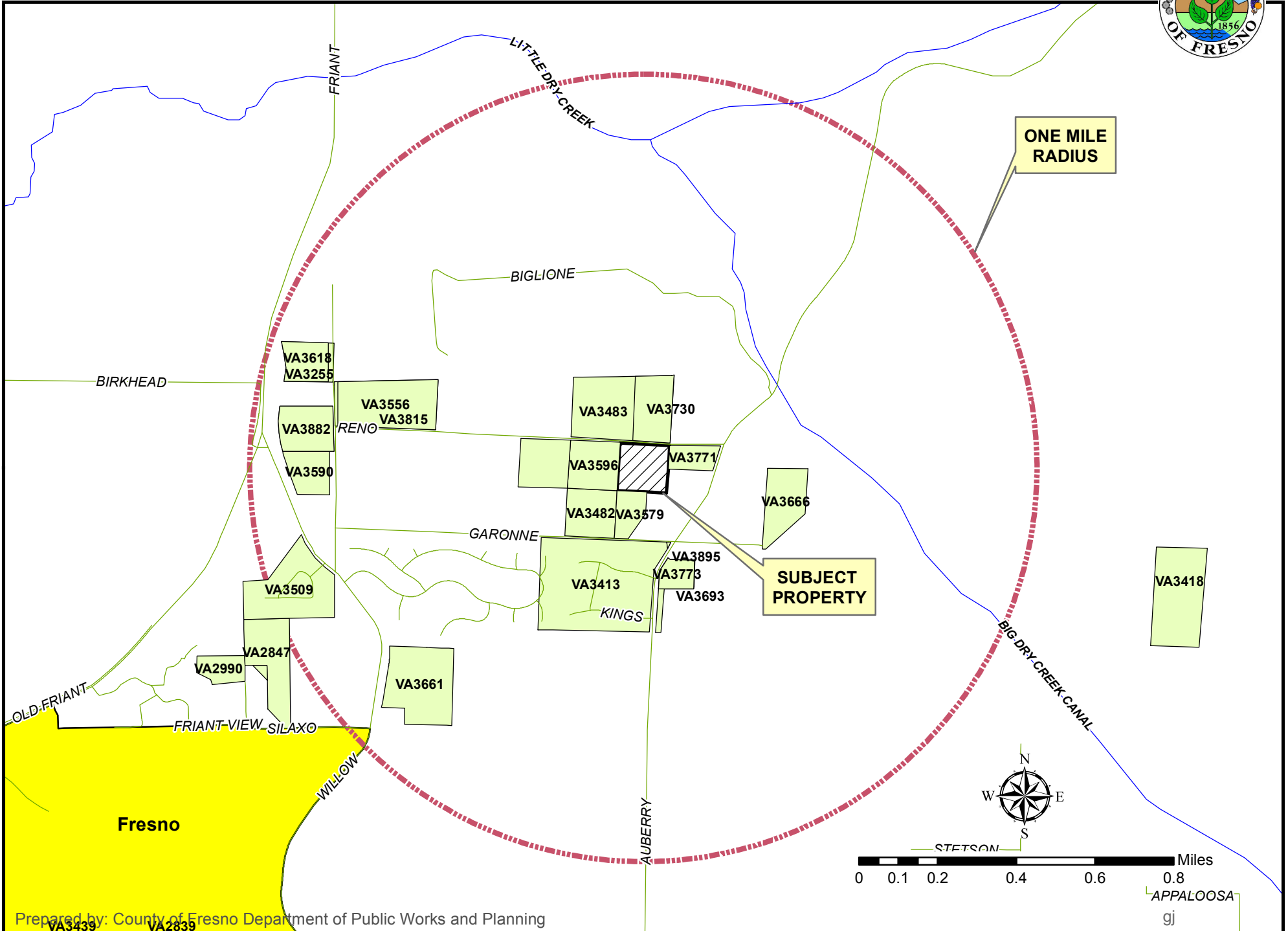
LOCATION MAP



EXISTING ZONING MAP



APPROVED VARIANCES WITHIN A ONE MILE RADIUS



1/24/2018 9:13:53 PM V:\PROJECTS\2017\PROJECTS\17-086\DWGS\17-086EX01.DWG PLOTTED BY: DALE G. MELL

PARCEL MAP NO. 7644

APN: 580-010-09
5.06 AC.

APN: 580-010-10
9.81 AC.

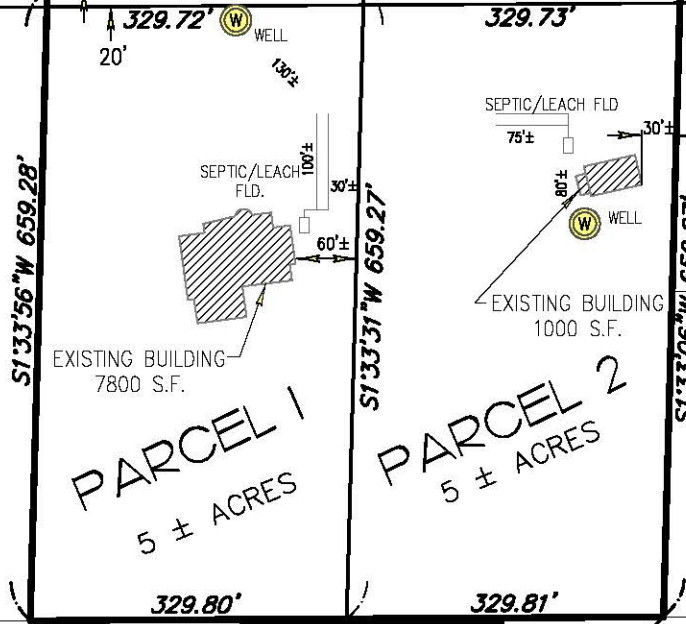
APN: 580-010-08
18.90 AC.

EAST RENO AVENUE

APN: 580-010-22
9.70 AC.

40' DEDICATION PER REDWOOD
PARK-R.S. BOOK 5, PAGE 4

APN: 580-010-25
4.85 AC.



PARCEL 1
5 ± ACRES

PARCEL 2
5 ± ACRES

APN: 580-010-26
4.61 AC.

APN: 580-010-27
4.78 AC.

APN: 580-010-23
10 AC.

APN: 580-010-30
5.17 AC.

PARCEL MAP NO. 3354

APN: 580-010-28
2.30 AC.

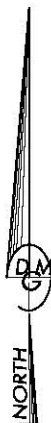
APN: 580-010-29
2.30 AC.

AUBERRY ROAD

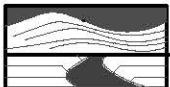
LEGEND

REFERENCE DATA PER RECORD OF SURVEY BOOK
5, PAGE 4, FRESNO COUNTY RECORDS.

SCALE: 1" = 200'



PREPARED BY:



**DALE G. MELL
& ASSOCIATES**

ENGINEERING & SURVEYING SERVICES
2090 NORTH WINERY AVENUE, FRESNO, CALIFORNIA 93703
(559) 292-4046 * FAX 251-9220 * EMAIL: STAFF@DALEMELL.COM

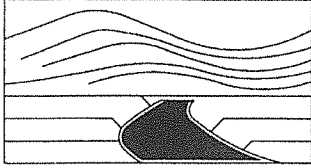
VARIANCE DIAGRAM
FOR
IULIA VOROBICHEVICI

12789 AUBERRY ROAD
CLOVIS, CA 93619

BY: G. MITTEL - 01/24/18

DMA CADFILE: 17-086EX01

FB#



DALE G. MELL & ASSOCIATES

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Findings Variance

1.) Exceptional or extraordinary circumstances or conditions:

One of several original 10 ac. Parcel created in 1909 by the filing of the Redwood Park subdivision creating lots ranging in size from 7 to 40 acres, the majority of which have been before the commission for further division into parcels reducing in size from 2.3 acres to 5 acres.

There are two residence and two wells existing on the property each functioning independent of the other.

2.) Enjoyment of property right enjoyed by others in the vicinity:

The applicant is requesting the right and enjoyment previously granted to the local community to dividing their small zoned properties into 5 acre estate home sites.

The soils are not considered optional for farming and only marginal for seasonal grazing if more acreage was available.

3.) Granting of this minor variance will not be detrimental to the public welfare or injurious to property:

The grading of this variance will not be detrimental to the public welfare of injurious to property and improvements in the vicinity, two residences and infrastructure is existing, the older and smaller residence will ultimately be removed and a larger will be built, additional impact if any would be minimal.

#4 It could be argued that this land, division and residential estate use is not consistent with and therefore contrary to the objectives of the general plan Ag zone, but this variance requested is consistent with the established local community objectives creating estate size resubdivided lots resizing in size from 2 ac to 7 acres.

Agriculture no longer exist in the area and large estate same lots have now defined the local objectives.