



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 4 May 17, 2018

SUBJECT: Variance Application No. 4044

Allow the creation of a 2.08-acre parcel and a 133.43-acre parcel from existing 22.1-acre and 111-acre parcels in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the north side of W. Davis Avenue on the northeast corner of its intersection with S. Cornelia Avenue, approximately 15 miles southwest of the nearest city limits of the City of Selma (4870 W. Davis Avenue) (SUP. DIST. 4) (APN: 053-070-61S, -58S).

APPLICANT: Mary L. Couto

STAFF CONTACT: Danielle Crider, Planner
(559) 600-9669

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Deny Variance No. 4044; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Condition of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Proposed Parcel Configuration (Site Plan)
6. Variances within Five Miles
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	Parcel A: 22.1 Parcel B: 111 (Net Acreage)	Parcel A: 2.08 Parcel B: 133.43 (Gross Acreage)
Project Site	N/A	N/A
Structural Improvements	Parcel 1: None Parcel 2: Two single-family residences, one mobile home, two sheds, one barn	Parcel 1: One single-family residence, one barn, one shed Parcel 2: One single-family residence, one mobile home, one shed
Nearest Residence	1,830 feet to the west	No change
Surrounding Development	Agricultural uses	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential/Agricultural	No change
Lighting	Residential/Agricultural	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 12 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 (VA) may be approved only if the 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 existing 22.1-acre (southern) parcel and 111-acre (northern) parcel currently conform to the 20-acre minimum parcel size standard established for the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The southern parcel will be considered a legal non-conforming parcel if the proposed Variance to waive the minimum parcel size is approved. The proposed Lot Line Adjustment to create the 2.08-acre parcel will result in the parcel having two residential structures, a conventional home and a mobile home, on site. Prior to the completion of the Lot Line Adjustment or mapping action, the Applicant will be required to remove the mobile home (under inspection), per the County Zoning Ordinance.

Historically, the 22.1-acre (southern) parcel has been used for a productive dairy operation, but the dairy ceased operation in 2013. The Applicant has owned the southern parcel since the early 1980’s and wishes to retain her residence while merging the remaining land into the parcel to the north so that it may be sold to the adjacent property owner and used for agricultural production once again. The northern 111-acre parcel is currently engaged in agricultural production.

In addition to the subject application, there have been 22 other variance applications within five miles of the subject property, six of which were to allow the creation of parcels with substandard sizes in agricultural zone districts. The following table provides a brief summary of the other variance (VA) applications and final actions.

Application/Request:	Date of Action:	Staff Recommendation:	Final Action:
VA No. 3806: Allow the creation of one 19.89-acre, one 6.74-acre, and two 5.31-acre parcels from an existing 37.25-acre parcel in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) Zone District.	June 9, 2005	Denial	Denied by the Planning Commission
VA No. 3747: Allow the creation of a 2.01-acre parcel and a 1.0-acre parcel in the AE-20, (Exclusive Agriculture, 20-acre minimum parcel size) Zone District and allow parcel widths of 110 feet (165 feet required) and parcel depth of 136 feet (170 feet required).	April 10, 2003	Denial	Approved by the Planning Commission
VA No. 3692: Allow the creation of a 6-acre parcel and a 14-acre	April 17, 2001	Denial	Denied by the Planning

parcel from a 20-acre parcel in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) Zone District.			Commission
VA No. 3670: Allow creation of a 1.70-acre parcel from an existing 80.75-acre parcel of land in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) Zone District.	July 6, 2000	Denial	Approved by the Planning Commission
VA No. 2986: Allow the creation of a 10.35-acre and a 1.95-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. Waive lot width and depth to width ratio requirements.	March 13, 1986	Denial	Approved by the Planning Commission
VA No. 2748: Allow the creation of a 1.5-acre homesite from a 10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.	January 13, 1983	Approval	Approved by the Planning Commission

Although there is a history of variance requests within proximity of the subject parcel, each variance request is considered on its own merit, based on unique site conditions and circumstances.

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 a 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 Configuration:	Is Standard Met (y/n):
Setbacks	Front: 35 feet Side: 20 feet Street Side: 35 Rear: 20 feet	<u>Parcel 1:</u> Front (south property line): 76 feet Side (west property line): 76.5 feet Side (east property line): 443 feet Rear (north property line): 1,645 feet <u>Parcel 2:</u> Front (south property line):	Parcel 1 (Y) Parcel 2 (Y)

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
		48 feet Street Side (west property line): 272 feet Side (east property line): 37.6 feet Rear (north property line): 32.9 feet from residence -unpermitted shed is located inside rear setback, approximately 130 feet from the front property line	Unpermitted shed in rear setback of Parcel 2: Per section 816.5-E.3 and E.4, accessory buildings more than 100 feet from the front property line may be located along the rear and side property lines if the total of all accessory structures is no greater than 500 square feet
Parking	No Requirement	No Requirement	N/A
Lot Coverage	No Requirement	No Requirement	N/A
Separation Between Buildings	No animal or fowl pen, coop, stable, barn, or corral shall be located within 40 feet of any dwelling or other building used for human habitation.	No change	Yes
Wall Requirements	No Requirement	No Requirement	Yes
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agencies/Department Comments Regarding Site Adequacy:

Fresno County Department of Agriculture: No comments.

Design Division of the Fresno County Department of Public Works and Planning: No comments.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Davis Avenue is classified as a Local road with an existing 30-foot right-of-way north of the section line along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way north of the section line is 30 feet.

Davis Avenue is a County-maintained road. Records indicate this section of Davis Avenue, from Brawley Avenue to Cornelia Avenue, has an ADT of 400, pavement width of 17.8 feet, structural section of 0.3 feet RMS, and is in fair condition.

Cornelia Avenue is classified as a Local road with an existing 30-foot right-of-way east of the centerline along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way east of the centerline is 30 feet.

Cornelia Avenue is a County-maintained road. Records indicate this section of Cornelia Avenue, from Elkhorn Avenue to Davis Avenue, has an ADT of 200, pavement width of 22.4 feet, structural section of .32 feet AC, and is in fair condition.

According to FEMA, FIRM Panel 2875J, the parcels are not subject to flooding from the 100-year storm.

According to U.S.G.S. Quad Maps, there are no existing natural drainage channels adjacent or running through the parcel.

Environmental Health Division of the Fresno County Department of Public Health: In the case of this application, it appears the 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. It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank 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 system. This recommendation has been included as a Project Note.

At such time as the Applicant or future property owner(s) decide to construct a water well, the water well contractor will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division. This mandatory requirement has been included as a Project Note.

Zoning Section of the Fresno County Department of Public Works and Planning: The unpermitted mobile home will require a special inspection once removed to verify that it has been removed, or it will need to go through the permitting process. This mandatory requirement has been included as a Project Note.

There are no permit records for two sheds on the site plan. If these sheds are greater than 120 square feet, they will require permits prior to the acceptance of any subsequent mapping application unless the owner can show that they are pre-1958 structures or that permits have been issued and the structures have been inspected. This mandatory requirement has been included as a Project Note.

Analysis:

In support of Finding 1, the Applicant states that she has owned the parcel for nearly 35 years, and wishes to continue to live in her home for the remainder of her life while relinquishing ownership of the rest of the land so that it can be utilized in a productive agricultural operation once more. The 22.1-acre parcel was historically used as a dairy, but the dairy operation was terminated by 2014. The Applicant purchased the property in the early 1980's, which makes her ineligible for a homesite parcel, however, this is the intent of her request.

In support of Finding 2, the Applicant states that the ability to live in the house that she has lived in for nearly 35 years is a substantial property right. Additionally, many variances throughout the County have been approved for similar purposes and circumstances.

With regard to Finding 1 and Finding 2, staff could not identify any unique physical circumstances that apply to the subject property and do not apply to other properties in the area. The nearest comparable variance is over three miles away from the subject property. However, staff would like to note that if the owner of the property had owned the land prior to August 31, 1976, this application would meet that limitation, and she would be permitted to create a homesite parcel by right. Denying this application would not deny the Applicant of any right enjoyed by any other property owners in the AE-20 Zone District because all property owners in the District are held to the same development standards and the property was originally purchased under the existing zoning ordinance.

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 could choose to sell the home with the fallow agricultural land and move to a smaller parcel. The Applicant could also choose to enter into a Life Estate agreement with potential buyers of the land, which would allow her to continue to live in the current residence on the property without the responsibility of maintaining the agricultural operation.

Recommended Condition of Approval:

See recommended Condition 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:	157.89 acres	Vineyard	AE-20	N/A
South:	24.24 acres	Vineyard	AE-20	N/A
	320 acres	Orchard	AE-20	N/A
East:	80 acres	Orchard	AE-20	N/A
	76.2 acres	Orchard	AE-20	N/A
West:	20.00 acres	Dairy/Single-Family Residence	AE-20	1,830 feet

Reviewing Agencies/Department Comments:

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No Comment.

Analysis:

In support of Finding 3, the Applicant states that the current owner of the subject parcel would like to create a smaller parcel to retain her single-family home. No other development is proposed and the land use on the property will not change. As a result, the granting of the Variance should not have an impact on the public welfare or be injurious to properties and improvements in the area.

In regard to Finding 3, staff notes that the combined number of permitted residences allowed on the two parcels will not change as a result of the proposed Variance when the two existing pre-1958 residences are taken into account. The Applicant will be required to remove the unpermitted mobile home prior to the mapping procedure. The low-density residential and agricultural nature of the area would not be significantly impacted by the proposed project. There will be no aesthetic impact because no new development is proposed.

It can be detrimental to a property owner and their surrounding community if they find themselves unable to access potable water. The proposed Variance will separate the two existing single-family residences onto separate parcels, but these homes will continue to share a water well across property lines. To mitigate the risk of the single-family residence on the proposed 2.08-acre parcel from losing access to water as a result of no longer having a well on their own parcel, a Condition of Approval requiring the construction of a new well on the 2.08-acre parcel or the establishment of a shared well agreement will be required.

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:
<p>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 subject property is zoned AE-20, with a 20-acre minimum parcel size. The proposed project does not qualify for an exception under Policies LU-A.9, LU-A.10, or LU-A.11:</p> <ul style="list-style-type: none"> - LU-A.9: The lot is not for a financing parcel, gift lot, or owned by the property owner prior to the date the policies were implemented. - LU-A.10: The request is not to allow for the development of an agricultural commercial center. - LU-A.11: The request is not to allow the recovery of mineral resources, oil, or gas. <p>The subject proposal is requesting a</p>

Relevant Policies:	Consistency/Considerations:
	variance from compliance with this policy and the zoning regulations that support it (Section 816.5, minimum of 20 acres).
<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 parcels 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 proposed parcel is too small to present any viable economic farming opportunities. Some of the yard space retained by the proposed parcel appears to have been used previously as a part of the agricultural operation. It does not seem likely that it would be used for agricultural purposes again if included in the proposed 2.08-acre parcel. This could contribute to negative incremental and cumulative effects in the agricultural community.</p>
<p>Policy LU-A. 8: The County shall allow by right on each parcel designated Agriculture and zoned for agricultural use one (1) single-family residential unit. One (1) additional single-family residential unit shall be allowed for each twenty (20) acres in excess of twenty (20) acres where the required minimum parcel size is twenty (20) acres. The County may, by discretionary permit, allow a second unit on parcels otherwise limited by this policy to a single unit.</p>	<p>The minimum parcel size in the AE-20 Zone District is 20 acres and this application is requesting a variance to allow the creation of a 2.08-acre parcel with the remainder to create a 133.43-acre parcel. Currently, one single-family residence is allowed by right on the 22.1-acre parcel and five single-family residences are allowed on the 111-acre parcel. There are currently two pre-1958 residences and an unpermitted mobile home on the 22.1-acre parcel. If this variance is approved, there will be one single-family residence on the 2.08-acre parcel and no additional residences will be allowed by right. There will also be one single-family residence on the 133.43-acre parcel and five more will be allowed by right. This is one more residence allowed by right than was previously allowed on this parcel. However, it is the same total number of residences allowed on the two parcels when the existing pre-1958 residences are taken into account.</p>
<p>Policy PF-C. 17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation.</p>	<p>The project is not in a low-water area. No new development or change in land use is proposed with this application.</p>

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcels are not subject to a Williamson Act Contract.

Water and Natural Resources Division of the Fresno County Department of Public Works and Planning: No comments.

Analysis:

In support of Finding 4, the Applicant states that the General Plan's intent in allowing the creation of homesite parcels from large agricultural parcels is to retain the residences of longtime owners once they are no longer able or willing to engage their land in a productive agricultural operation. While the property does not qualify for a homesite retention parcel, the owner believes that their request is in line with the intent of the policy document.

In regard to the Applicant's statements, staff notes that the parcel would be eligible for a homesite if the land had been purchased by the family prior to August 31, 1976. However, the parcel was purchased after this date, so the proposed project is not in conformance with the General Plan.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 cannot be made.

PUBLIC COMMENT:

None.

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. 4044.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance Application No. 4044; 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. 4044; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Condition of Approval and Project Notes:

See attached Exhibit 1.

Variance Application No. 4044
Conditions of Approval and Project Notes

Conditions of Approval	
1.	Development shall be in substantial compliance with the site plan, floor plan and elevations, as approved by the Planning Commission.
2.	A separate permitted water well shall be established and connected to each of the individual residences on the two proposed parcels prior to recordation of a subsequent mapping action or Lot Line Adjustment to authorize the proposed parcelization. Should the property owners desire to retain the shared water well to serve the two existing single-family residences, a Shared Well Agreement shall be required to be completed and approved by the Development Engineering Section of the Fresno County Department of Public Works and Planning prior to recordation of a subsequent mapping action or Lot Line Adjustment to authorize the proposed parcelization.
3.	Within 90 days from the effective date of approval of this variance application, the existing manufactured home located on Parcel 2 and identified for removal on the approved site plan shall be removed. Certification of removal and certification that proper demolition and/or abandonment of any unutilized septic systems associated with the unit shall be established by special inspection (subject to a special inspection fee) by the Building & Safety Section of the Development Services and Capital Projects Division of the Department of Public Works and Planning. These certifications of removal must be confirmed prior to the acceptance of any subsequent mapping application associated with the variance.

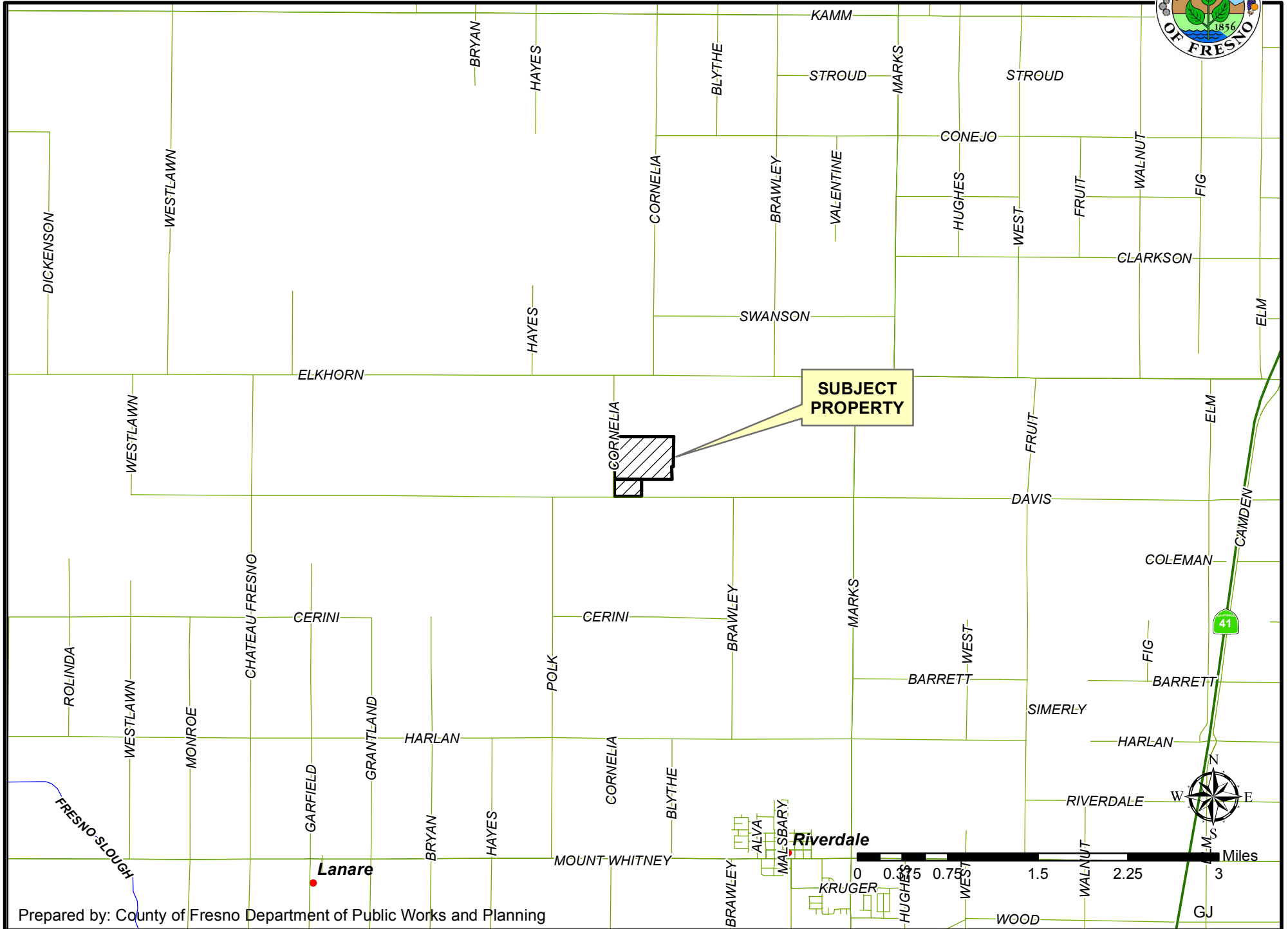
Conditions of Approval reference recommended Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank 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 system.
2.	At such time as the Applicant or future property owner(s) decide to construct a water well, the water well contractor will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division.
3.	There are no permit records for two sheds on the site plan. If these sheds are greater than 120 square-feet, they will require permits prior to the acceptance of any subsequent mapping application unless the owner can show that they are pre-1958 structures or that permits have been issued and the structures have been inspected.
4.	Contact the Building & Safety Section of the Department of Public Works and Planning at (559) 600-4540 regarding requirements for submitting removal plans for the mobile home, obtaining permits, and scheduling a special inspection. The special inspection fee is currently \$140.00, and this fee will be due prior to the scheduling of an inspection.

DTC:

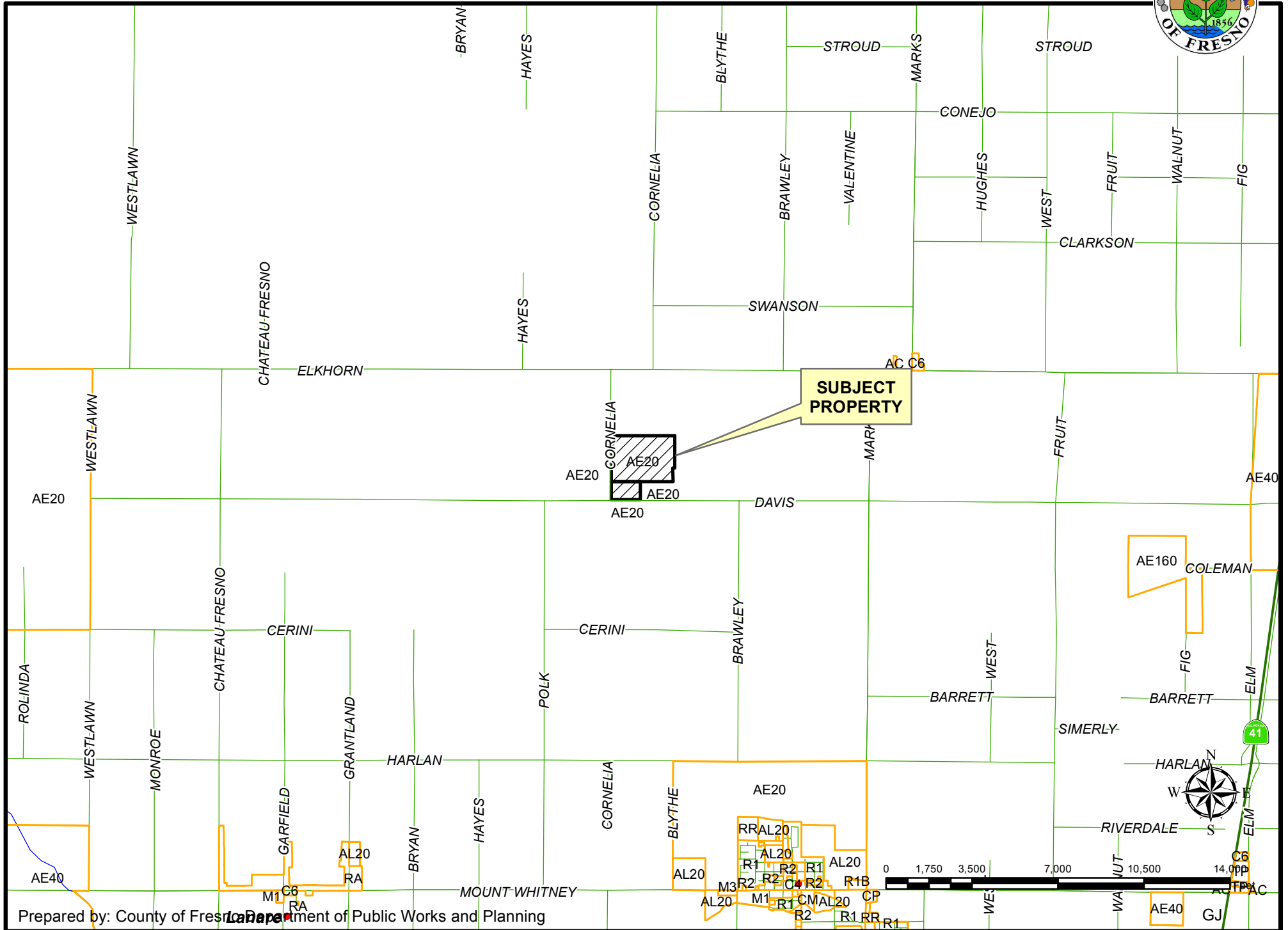
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LOCATION MAP



Prepared by: County of Fresno Department of Public Works and Planning

EXISTING ZONING MAP



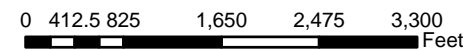
EXISTING LAND USE MAP



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

LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning
Development Services Division

Map Prepared by: GJ
J:GISJCH\Landuse\

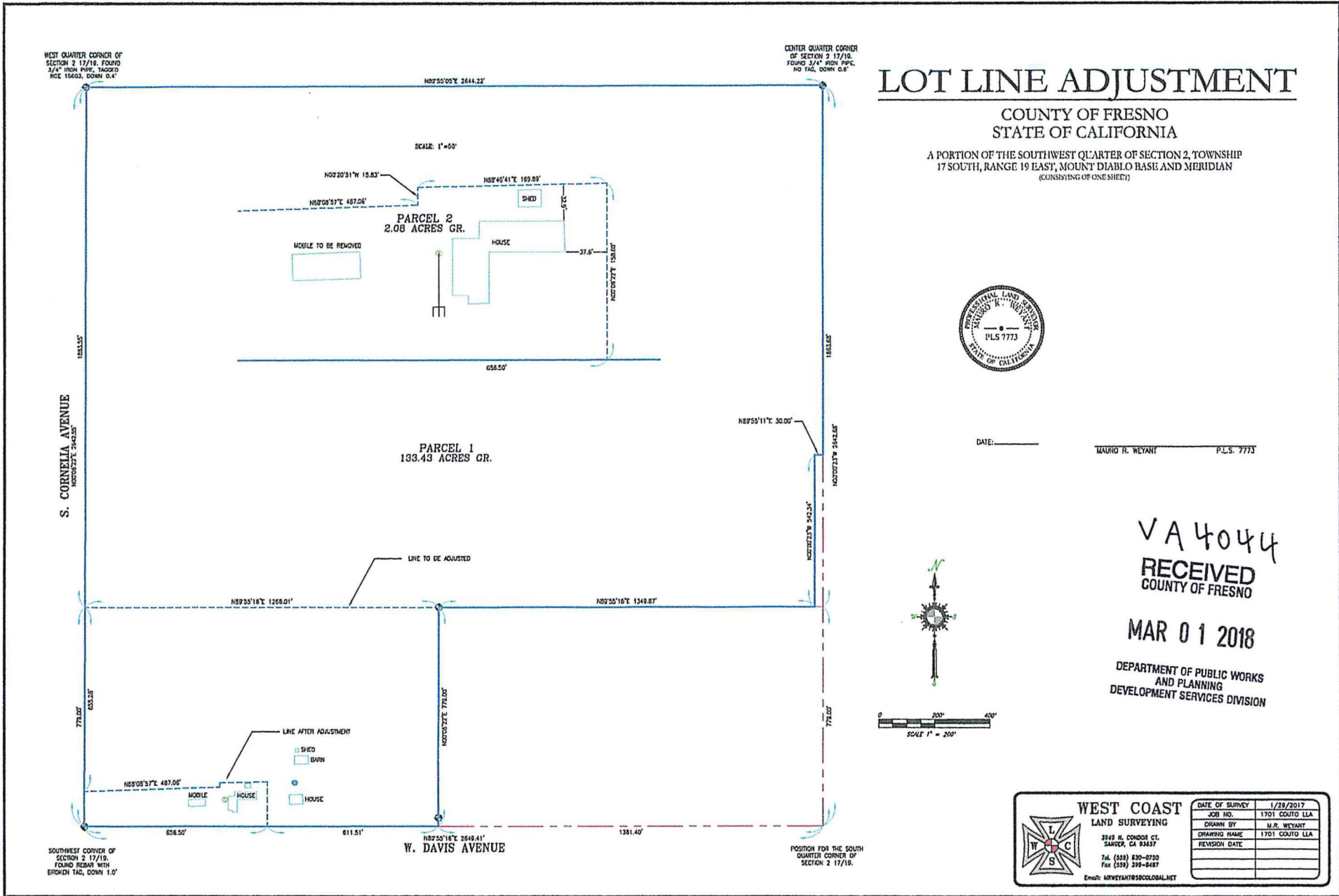
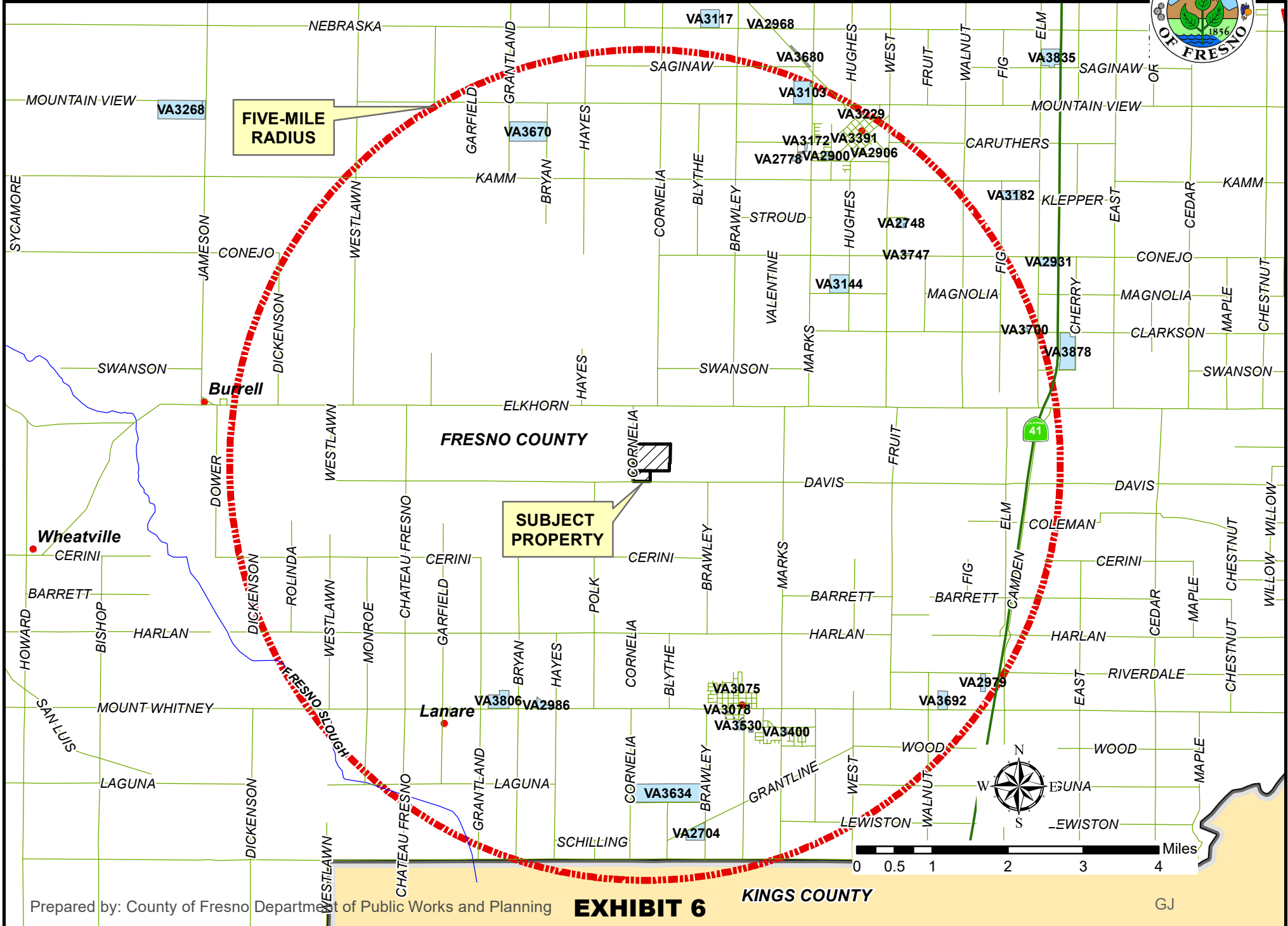


EXHIBIT 4

APPROVED VARIANCES WITHIN A FIVE-MILE RADIUS



Couto Variance Application Statement of Findings

Owner/Applicant:

Mary L. Couto
4870 W. Davis Avenue
Riverdale, CA 93656

Representative:

Mauro Weyant
West Coast Land Surveying
3849 N. Condor Court
Sanger, CA 93657

VA 4044

RECEIVED
COUNTY OF FRESNO

MAR 01 2018

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

General Information:

Assessor's Parcel Number: 053-070-61s

Acreage (Existing): 22.10 acres

Acreage (Proposed): 2.08 acres and 20.02 acres be conveyed to APN 050-070-58s

Property Location: Northeast corner of West Davis Avenue and South Cornelia Avenue in Section 2, Township 17S, Range 19E, M.D.B.&M.

Existing Zoning Designation: AE-20 (Exclusive Agriculture with 20 acres minimum parcel size)

Proposed Project:

Variance application to allow the creation of a 2.08-acre parcel from an existing 22.10-acre parcel with the balance to be adjusted (added) to APN 050-070-58s through a subsequent property line adjustment application.

Property History and Project Description:

On August 31, 1976, Amendment Application No. 2870, initiated by the Board of Supervisors as a broad scale action, was approved to rezone the subject property to the current zoning designation of Agricultural Exclusive (AE-20) twenty acres minimum parcel size. Ms. Couto and her husband (deceased) purchased the property in the early 1980s and has owned it continuously for nearly thirty-five years. The property has been in continuous agriculture (dairy) production for a majority of years of their ownership up until the last few years when the dairy operation closed.

Ms. Couto lives on the property in a 2,383 square foot home that according to title records, was originally constructed in 1935 with some additions added later. The property also has a mobile home

that is proposed to be removed and another home that will be included in the transfer to APN 053-070-58s if the application approved.

Having owned the property for nearly 35 years, the applicant wishes to create a homesite sized parcel and live out her remaining life in the home she has known for so long. Not being able to keep the dairy operation in production has caused the land to become fallow. By allowing the creation of the homesite, the balance of the property will be adjusted to the adjacent property (APN 053-070-58s) owned by Terra Linda Farms, a reputable and successful farming operation in the Central Valley.

It's important to point out that approval of this variance application will not result in the creation of additional parcels but would rather allow for the adjustment of two parcels into one larger (111.10 increased to 131.12 acres) and one smaller parcel (22.10 reduced to 2.08 acres).

The subject property and the property to which the balance of the 22.10 acres will be adjusted to are both not subject to Williamson Act Land Conservation Contracts.

Findings:

Finding No. 1: There is an exceptional or extraordinary circumstance or condition applicable to the property involved which does not apply generally to other property in the vicinity having identical zoning classification.

This application is proposing the creation of a 2.08-acre parcel in the AE-20 Zone District to allow the property owner to create a parcel that will allow her to continue to live in the home she has owned for nearly 35 years and convey the balance to an adjoining property owner in order for the land to be placed back into production agriculture. The majority of the subject property is the remnant of a dairy operation that has been out of production for a number of years and the current owner is unable to reestablish it or any other agricultural production.

The creation of homesites in agriculturally zoned districts are allowed under the Fresno County Zoning Ordinance subject to specific conditions. One such condition where they are allowed is if the present owner owned the property prior to adoption of the Exclusive Agricultural Zone District (Fresno County Zoning Ordinance Section 816.5 (A)(2)(b)(3)). Having purchased the property in the early 1980s and the AE-20 zoning designation being adopted in 1976, the applicant does not meet that condition.

Although not meeting the specific letter of the ordinance, we believe the finding is supported by the continuous ownership of the property for nearly 35 years and we also believe the circumstance meets the intent of ordinance.

The proposed variance will enhance the nature of the subject property by allowing the fallowed land to be converted back into successful production agriculture. The nature of the homesite will remain unchanged with the exception of the removal of the mobile home.

Finding No. 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 vicinity having the identical zoning classification.

The creation of the homesite will allow the applicant to continue to live in the house and on the property, she has lived on for nearly 35 years. Approval is necessary for the preservation and enjoyment of this most substantial property right. Although there may not be many owners under like condition in the vicinity of the subject property, many property owners in the AE Zone Districts throughout the County have utilized this variance process for the same purpose with many not owning the property for as long as the applicant.

With the condition of the aforementioned homesite provision requiring ownership prior to 1976 in the case of those lands subject to the broad scale rezone, applicants would have had to have owned the property for 42 years today and longer as the years pass. Fewer and fewer people qualify for this provision and after a while, none may qualify.

The applicant's continuous ownership and desire to live out her remaining years in her home supports the finding that the variance is necessary for the preservation and enjoyment of a substantial property right.

Finding No. 3: The granting of a Variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity in which the property is located.

The proposed homesite is already developed with no additional residential development proposed. The existing mobile home on the property is proposed to be removed reducing the density of residential development on the property which could be considered a positive for the area. The remainder of the property which is proposed to be added to the adjacent parcel will be placed back into production agriculture which will be a positive for the area. The existing residential development will not hinder that process.

As previously stated, it's important to point out that approval of this variance application will not result in the creation of additional parcels but would rather allow for the adjustment of two parcels into one larger (111.10 increased to 131.12 acres) and one smaller parcel (22.10 reduced to 2.08 acres).

Finding No. 4: The granting of such a Variance will not be contrary to the objectives of the General Plan.

The property today is consistent with objectives of the General Plan (Agriculture Designation) and uses allowed in the Zoning Ordinance (Agriculture, homesites). The existing development within the proposed homesite parcel will remain unchanged, with the exception of the removal of the mobile home. The balance of the property will be restored back to production agriculture which is consistent with the objectives of the General Plan. No significant changes other than the changes in parcel sizes will occur with this application.

Homesites of up to 2.5 acres are allowed subject to certain conditions originally established by ordinance in 1977 (Section 816.5(A)(2)(b)). Those homesites are considered consistent with the General Plan (LU-A.9). The need to file a variance application to accomplish what would have been considered allowable if the applicant had owned the property only a few years earlier is the unfortunate product of timing.

The objective of the General Plan is to establish broad planning guidelines to achieve the County's growth and development goals. No land use is proposed with this application that is contrary to the objectives of the General Plan as the proposed homesite property is already developed and the

proposed land use on the remainder is production agriculture. We believe the creation of the homesite sized parcel is not contrary to the objectives and is consistent with the intent of the General Plan.