



# County of Fresno

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

## Planning Commission Staff Report Agenda Item No. 5 July 26, 2018

**SUBJECT:** Variance Application No. 4047

Recognize three nonconforming parcels as to front-yard setback, and allow the creation of a 15.1-acre parcel, a 21,184 square-foot parcel, 4,563 square-foot parcel, and a 19,621 square-foot parcel from an existing 15.4-acre parcel, 16,245 square-foot parcel, 4,301 square-foot parcel and 9,287 square-foot parcel within the AE-160 (Exclusive Agricultural, 160-acre minimum parcel size) and RS (Rural Settlement) Zone District.

**LOCATION:** The project site is located at the southeast corner of Orchard Drive and Dunlap Road, approximately 15.5 miles northeast of the nearest city limits of the City of Orange Cove (45914 Orchard Drive, 45961 Dunlap Road, 46011 Dunlap Road, 46019 Dunlap Road and 46023 Dunlap Road, Miramonte, CA) (Sup. Dist. 5) (APN 195-290-01T, 195-273-11, 195-273-03, 04, 05, 06).

**OWNER:** Kings Canyon Unified School District - Miramonte School  
Jerry D. Barr  
Don Mercer and Anita Mercer

**APPLICANT:** John Quinto

**STAFF CONTACT:** Thomas Kobayashi, Planner  
(559) 600-4224

Marianne Mollring, Senior Planner  
(559) 600-4569

### RECOMMENDATION:

- Approve Variance No. 4047 with recommended Findings and Conditions; 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. Assessor’s Parcel Map
6. Site Plans and Detail Drawings
7. Applicant’s Submitted Findings
8. Approved Variances within a 1-mile radius

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Eastside Rangeland Rural Settlement	No Change
Zoning	AE-160 and RS	No Change
Parcel Size	Parcel A: 15.4-acre Parcel B : 16,245 square-feet Parcel C: 4,301 square-feet Parcel D: 9,287 square-feet	Parcel A: 15.1-acre Parcel B: 21,184 square-feet Parcel C: 4,563 square-feet Parcel D: 19,621 square-feet
Project Site	N/A	N/A
Structural Improvements	Parcel A: Miramonte School Campus, Outbuilding, Deck, Domestic Well Parcel B: Single-Family Residence, 5 Outbuildings, and Abandoned Outbuilding Parcel C: Abandoned Outbuilding Parcel D: Single-Family Residence and Two Outbuildings	Parcel A: Miramonte School Campus Parcel B: No change Parcel C: No change Parcel D: Single-Family Residence, Two Outbuildings, Deck, and Domestic Well.
Nearest Residence	Approximately 110 feet to the north	No Change
Surrounding Development	Single-Family Residences and Undeveloped Land	No Change
Operational Features	N/A	N/A

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential	N/A
Lighting	Residential	N/A
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 57 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 four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

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

**BACKGROUND INFORMATION:**

The existing 15.4-acre parcel (Miramonte School) does not currently conform to the 160-acre minimum parcel size established by the AE-160 (Exclusive Agricultural, 160-acre minimum parcel size) Zone District. The properties to the north that are included in the proposed Property Line Adjustment are located in the RS (Rural Settlement) Zone District and currently do not conform with RS minimum parcel size. The proposed Variance to waive minimum parcel size if approved will create three new substandard lots in the AE-160 Zone District and will be considered legal nonconforming lots.

According to the Applicant, Fresno County surveying crews made it known to the residential owners that their improvements were encroaching onto the adjacent northern property line of the Kings Canyon Unified School District Miramonte School campus. Kings Canyon Unified School District (KCUSD) investigated the claims and confirmed that certain improvements were built over property lines. KCUSD and the owners of the residential properties with encroaching improvements met and concluded that the encroachment was not intentional and that finding a resolution to the encroachments were in the best interest of all parties.

On March 4, 1972, the Fresno County Parcel Map Ordinance went into effect requiring a mapping procedure to be completed for the subdivision of land into four or less parcels. Prior to the implementation of the Parcel Map Ordinance, a parcel of any size and dimension could be created through the recordation of a Deed. However, parcels created in such a manner were still subject to the development standards prescribed by the Zoning Ordinance.

The subject parcels were first depicted in Plat Book No. 8 page 38 through 42 and were accepted by the Board of Supervisors on August 6, 1918. Staff would like to note that although the lots have not been subdivided to the extent of what the Plat Book shows, the basic layout of the lots are shown. The KCUSD parcel (APN 195-290-01T) was deeded to Miramonte School District (later being absorbed by KCUSD) on October 9, 1956. In its current state, the KCUSD parcel includes Lot 16 and 17 of the recorded Miramonte Map, Plat Book No. 8 page 38 through 42. The parcel underwent a zone change on April 21, 1980 from A-1 to AE-40. On September 25, 1984 the Board initiated AE-160 zoning for the Eastside Rangeland land use designation for the Sierra-South Regional Plan. The AE-160 Zone District is the current zoning designation in effect for the KCUSD parcel. The existing 15.4-acre KCUSD parcel is considered nonconforming, as the parcel is under the minimum 160-acre parcel size the AE-160 Zone District requires. The Mercer parcel (APN 195-273-11) is comprised of Lots 1 through 4 in Block 3 of the Miramonte Map Plat Book No. 8 page 38 through 42. The current owner's deed shows ownership being recorded on October 6, 1988. The Barr parcels (APN 195-273-03 through 06) consist of Lots 5 through 14 of Block 3 of the Miramonte Map Plat Book No. 8 Page 38 through 42. Although there is no recorded map specifically creating the Barr and Mercer parcels, the configurations of the parcels are the same as Assessor's Parcel Maps from the 1971-1972 rolls. Staff therefore believes that the parcels were deeded and created prior to March 4, 1972. The Barr and Mercer parcels underwent a zone change on April 21, 1980 from A-1 to AE-40. On September 25, 1984, the adoption of the Sierra-South Regional Plan changed the zoning of the Barr and Mercer parcels from AE-40 to RS.

Building permit records show that the Barr residence was constructed in 1973. The Mercer parcel did not having any building permit records for the residence, but Assessor records indicate that the Mercer residence was built around the 1930s, well before the County started requiring building permits during 1958. Both residences were later sold to the current owners, who were unaware of the property line discrepancy. Building permits were not located for the school site, as those types of permits are typically sought through the state. Approval of the Variance will allow adjustment of the property lines between the school and the residential properties so that the residence improvements belonging to each property owner are entirely on those property owners' parcels. A subsequent Parcel Map Application would be required to adjust the property lines.

There has been one variance approved within a one-mile radius of the project site.

<b>Application/Request</b>	<b>Date of Action</b>	<b>Staff Recommendation</b>	<b>Final Action</b>
VA No. 3684 – Allow creation of a 17.31-acre parcel between a 119.69-acre and 20-acre parcel.	October 19, 2000	Approval	PC Approved

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

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

**Finding 2:** *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.*

	<b>Current Standard:</b>	<b>Proposed Configuration:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	AE-160 Front: 35 feet Side: 20 feet Street Side: 35 feet Rear: 20 feet	Parcel A (KCUSD) AE-160 Zone District: Front (West property line): 39 feet Side (South property line): 30 feet Rear (West property line): Approximately 600 feet.	Y
	RS Front: 35 feet Side: 10 feet Street Side: 25 feet Rear: 20 feet	Parcel B (Mercer) RS Zone District: Front (North property line): 15 feet Side (West property line): 24 feet Rear (South property line): 39 feet.	N
		Parcel C (Barr) RS Zone District: Front (North property line): 24 feet Side (West property line): 39 feet Rear (South property line): 52 feet	N
		Parcel D (Barr) RS Zone District: Front (North property line): Approximately 30 feet Side (West property line): None Rear (South property line): 54 feet	N
Parking	N/A	N/A	N/A
Lot Coverage	AE-160: No Requirement	No Change	Yes
	RS: Devoted to Residential, not to exceed 30%	No Change	Yes

	<b>Current Standard:</b>	<b>Proposed Configuration:</b>	<b>Is Standard Met (y/n)</b>
Space 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
Water Well Separation	Building sewer/septic tank: 50 feet; disposal field: 100 feet; seepage pit/cesspool: 150 feet	No change	Yes

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

Fresno County Department of Public Health, Environmental Health Division: After modification of the property lines, it is imperative that each parcel can accommodate the existing sewage disposal systems and expansion areas meeting the mandatory setback requirements as established in the California Well Standards Ordinance and California Plumbing Code.

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.

Development Engineering Section of the Fresno County Department of Public Works and Planning: No Comment

Fresno County Department of Agriculture: No Comment

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 residential parcels have existed for decades prior to the adoption of the County Zoning Ordinance. The Applicant would also like to note that neither of the current owners of the residential parcel constructed the encroaching improvements. Now that the encroachments have been identified, the Applicant states that the most logical solution is to modify property lines in order to accommodate and effectively eliminate the encroachments. The Applicant believes that the Property Line Adjustment alternative is the simplest and most cost-effective method that would remedy the existing issue and that the physical improvements represent a physical circumstance that necessitates approval of the proposed Variance.

In support of Finding 2, the Applicant states that various options are available to resolve the encroachment issue. An alternative to the Variance would be for the residential property owners to remove or relocate the improvements, which would create an extreme hardship on those property owners. KCUSD is willing to modify their property boundary to resolve this issue

in the least intrusive and least expensive manner possible.

The subject properties are located at/near the intersection of Orchard Drive and Dunlap Road. The 15.4-acre property belonging to KCUSD was improved with two education-related buildings. An existing single-family residence encroaches over the northern property line approximately 6 feet and an existing outbuilding encroaches over the northern property line approximately 15 feet. A 9,287 square-foot property (APN 195-273-11) has been improved with a single-family residence and two outbuildings, with the single-family residence (built after 1930) and one outbuilding encroaching on KCUSD's northern property line. The 16,245 square-foot property (APN 195-273-03 and 04) has been improved with a single-family residence and six outbuildings. The 4,301 square-foot property (APN 195-273-05 and 06) has been improved sharing an outbuilding over the west property line and owned by the same property owner. If the Variance request is approved, the resultant parcels will have corrected improvement encroachments. In addition, all three residential parcels were developed with front-yard setbacks which do not meet the 35-foot standard of the RS Zone District. Records indicate that the Mercer property was improved with the existing residence in the 1930's before permits were required. The Barr property received permits for the mobile home in 1973. The property during the time was in the A-1 (Agricultural) Zone District and had a front-yard setback of 35 feet. The original permit for the mobile home indicated that the mobile home was to be placed 35 feet from the property line, meeting zoning standards at the time. Due to an error in placement of the mobile home, as indicated by the submitted plans, a portion of the mobile home is encroaching into the front-yard setback by 11 feet (24 feet from the property line). Staff would like to note that the mobile home was placed on the property before the current owner took ownership. Approval of this Variance will recognize that the Mercer property was developed prior to the implementation of the Zoning Ordinance and will become legally nonconforming, and that due to an error in the placement of the mobile home on the Barr property, it will also be considered legally nonconforming.

The minimum parcel size that may be created in the AE-160 Zone District is 160 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 uses of the parcels do not exempt the property owners from the 160-acre minimum established to protect productive farming units.

The minimum parcel size that may be created in the RS Zone District is 2 acres. A property owner may not create parcels with less than the 2-acre minimum parcel size unless the substandard-size parcel is approved through the Variance process. The existing uses of the parcels do not exempt the property owner from the 2-acre minimum established.

With regard to Finding 1 and 2, staff notes that three of the residential parcels currently have single-family residences or structures located thereon. For the Mercer parcel (APN 195-273-11), although building permit records do not exist, residential building records attained from the Fresno County Assessor's Office suggest that the residence and encroaching building have been present since the 1930's, before building permits were required by the County. The Barr parcels received permits for the mobile home in 1973. There is no exact date for the creation of these parcels. Staff would like to note that the parcels were first identified in the Miramonte Map Plat Book 8, page 38-42, but were never subdivided into the configuration depicted in the Plat Book. The KCUSD parcel was likely created on or before October 9, 1956 with the recordation of a grant Deed on the aforementioned date. Staff believes that the residential parcels were created prior to 1972 due to a combination of the parcels showing the same configuration as the 1971-72 rolls of the Assessor Parcel Maps and subsequent building permits.

The approval of this Variance request will correct an encroachment that occurred on the property and went unchecked due to an unknown factor and will recognize the substandard front-yard setbacks.

A consideration in addressing Variance applications is whether there are alternatives available that would avoid the need for the Variance. An alternative would be that the residential property owners remove or relocate the encroaching improvements. However, staff does not believe this alternative is plausible, as the subject parcels and improvements have been conveyed to different owners multiple times since the nonconforming situation and encroachment occurred on or before the year 1930 (according to Assessor Residential Building Records), and it would cause an extreme hardship to those owners.

Based on the above analysis, and considering the lack of an alternative that would avoid the need for the Variance, staff does believe that there are exceptional circumstances present and that the Applicant’s proposal will restore substantial property rights to all parties included.

**Recommended Conditions of Approval:**

*None*

**Conclusion:**

Finding 1 and 2 can be made.

**Finding 3:** *The granting of the 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.*

<b>Surrounding Parcels</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	2.57 acres	Single-Family Residence Commercial	AE-160 C6-MC RS	815 feet
	1.18 acres	Vacant	AE-160	N/A
	1.09 acres	Single-Family Residence	RS	710 feet
South	62 acres	Grazing Single-Family Residential	AE-160	1,740 feet
East	Parcels ranging from 0.05 acres to 1.29 acres	Vacant Single-Family Residential	RS AE-160	755 feet
West	38.05 acres	Single-Family Residence Grazing	AE-160	560 feet



**Reviewing Agency/Department Comments:**

Water and Natural Resources Division, Building and Safety Section, Design Division, and Zoning Section of the Fresno County Department of Public Works and Planning: No comment.

Fresno County Fire Protection District: The location is outside of the Fresno County Fire Protection District area and in the State Responsibility Area (SRA) of Fresno County. The County will be the lead for Fire Protection Code requirements, and since the subject property is within the SRA, Title 15.60 will apply.

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

**Analysis:**

In support of Finding 3, the Applicant states that there will be no changes to the project site as a result of the Variance. Each parcel is served by its own well and septic tank leach field system. No modifications to those systems are proposed. The Applicant also states that Dunlap Road and Orchard Drive are public roads with adequate width and pavement to serve the proposed reconfigured lots.

In regard to Finding 3, if approved, the Variance will simply rectify a long-existing property line error and recognize substandard front-yard setbacks. Staff concurs with the Applicant’s assessment that the proposal will not be detrimental to the public welfare, that there will be no aesthetic impact, and no adverse effects on surrounding properties if the Variance is granted.

**Recommended Conditions of Approval:**

*None*

**Conclusion:**

Finding 3 can be made.

*Finding 4: That the proposed development is consistent with the General Plan*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
Sierra-South Regional Plan Section 406-01:1.00.b: Eastside Rangeland shall mean land designated for grazing and other agricultural operations, wildlife habitats, various non-intensive recreational activities, and other appropriate open space functions.	The proposed Variance does not propose any new development. The current use of the parcel is a school site with much of the eastern portion of the parcel being used for open space and recreational purposes for the school. The proposed Variance will utilize an existing creek to act as a natural boundary and correct encroachment issues identified on the northern residential properties. Staff believes that due to no new development being proposed, the proposal is consistent with the Sierra-South Regional Plan.
Sierra-South Regional Plan Section 406-01:1.00.e: Rural Settlement Area shall	The proposed Variance will not augment any of the parcels located in the Rural Settlement

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
mean a nonurban community in the rural areas designated for residential and supportive commercial uses serving the rural settlement and surrounding rural areas.	Area. The parcels located in the Rural Settlement Area are being used as single-family residential sites and the density and intensity of the use will not change; therefore staff believes that the proposal is consistent with the Sierra-South Regional Plan.

**Reviewing Agency Comments:**

Fresno County Department of Public Works and Planning Policy Planning: If this Variance is approved, the three residential parcels will have split zoning and dual General Plan designations.

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

**Analysis:**

In support of Finding 4, the Applicant states no changes in density or intensity of any of the involved parcels will occur. The Applicant also states that the proposed Variance will not affect the production of agriculture, as no agricultural use of the property is occurring or has occurred in the past decades. The only parcel capable of being a viable economic unit is the KCUSD parcel that is used for a school campus and open space. For these reasons the Applicant believes that the proposed Variance does not conflict with the policies of the Fresno County General Plan.

With regard to Finding 4, staff concurs with the Applicant's statement that the density and intensity of the involved parcels will not change. Since no development is being proposed on the Rural Settlement parcels and since the current uses for all involved parcels are not changing, staff agrees with the Applicant's findings that the proposed Variance application is consistent with the General Plan and Sierra-South Regional Plan. The areas of split zoning and dual General Plan designations are minimal and will not likely have any impact on future development, as the parcels are already improved.

**Recommended Conditions of Approval:**

*None*

**Conclusion:**

Finding 4 can be made.

**PUBLIC COMMENT:**

*None*

**CONCLUSION:**

Based on the factors cited in the analysis, staff believes the required Findings for granting the Variance can be made. Staff therefore recommends approval of Variance No. 4047, subject to

the recommended Conditions of Approval.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to determine the required Findings can be made and move to approve Variance No. 4047, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Variance No. 4047; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Mitigation Measures, recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

TK:ksn

G:\4360Devs&PIn\PROJSEC\PROJDOCS\VA\4000-4099\4047\SR\VA 4047 SR.docx

**Variance Application No. 4047  
Conditions of Approval and Project Notes**

<b>Conditions of Approval</b>	
1.	Development of the property shall be in accordance with the Site Plan approved by the Planning Commission to allow the property line adjustment resulting in a 15.1-acre parcel, a 21,184 square-foot parcel, a 4,563 square-foot parcel and a 19,621 square-foot parcel.

Conditions of Approval reference recommended Conditions for the project.

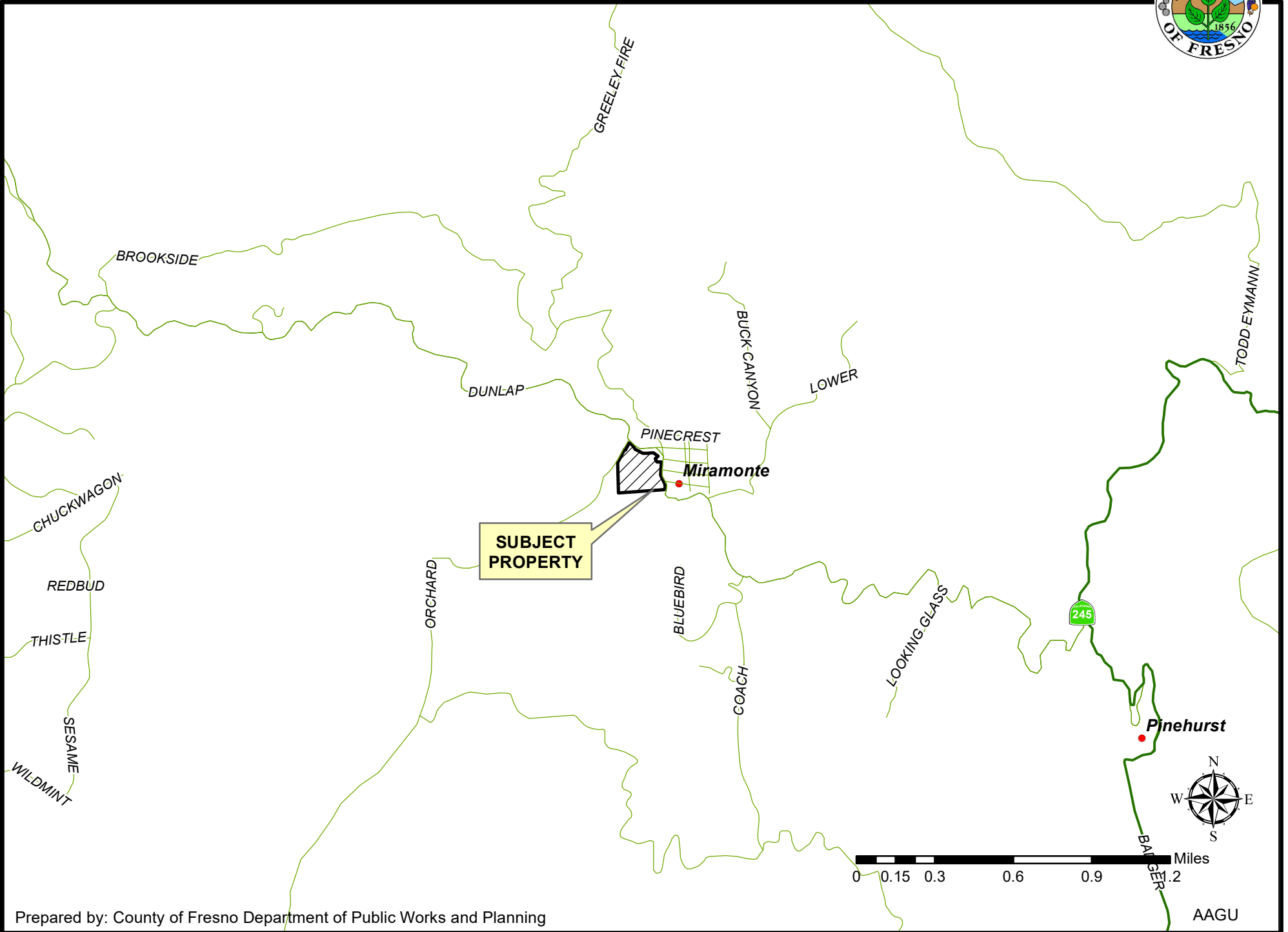
<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	Division of the property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Property Line Adjustment Application shall be filed to adjust property lines in accordance with the approved Site Plan.
3.	After modification of the property lines, it is imperative that each parcel can accommodate the existing sewage disposal systems and expansion areas, meeting the mandatory setback requirements as established in the California Well Standards Ordinance, the California Plumbing Code, and the Local Area Management Plan (LAMP).
4.	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.
5.	The location is outside of the Fresno County Fire Protection District area and in the unprotected area of Fresno County. The County will be the lead for Fire Protection Code requirements. Since the property is within the SRA, Title 15.60 will apply.

TK  
G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4000-4099\4047\SR\VA 4047 Conditions & PN.docx

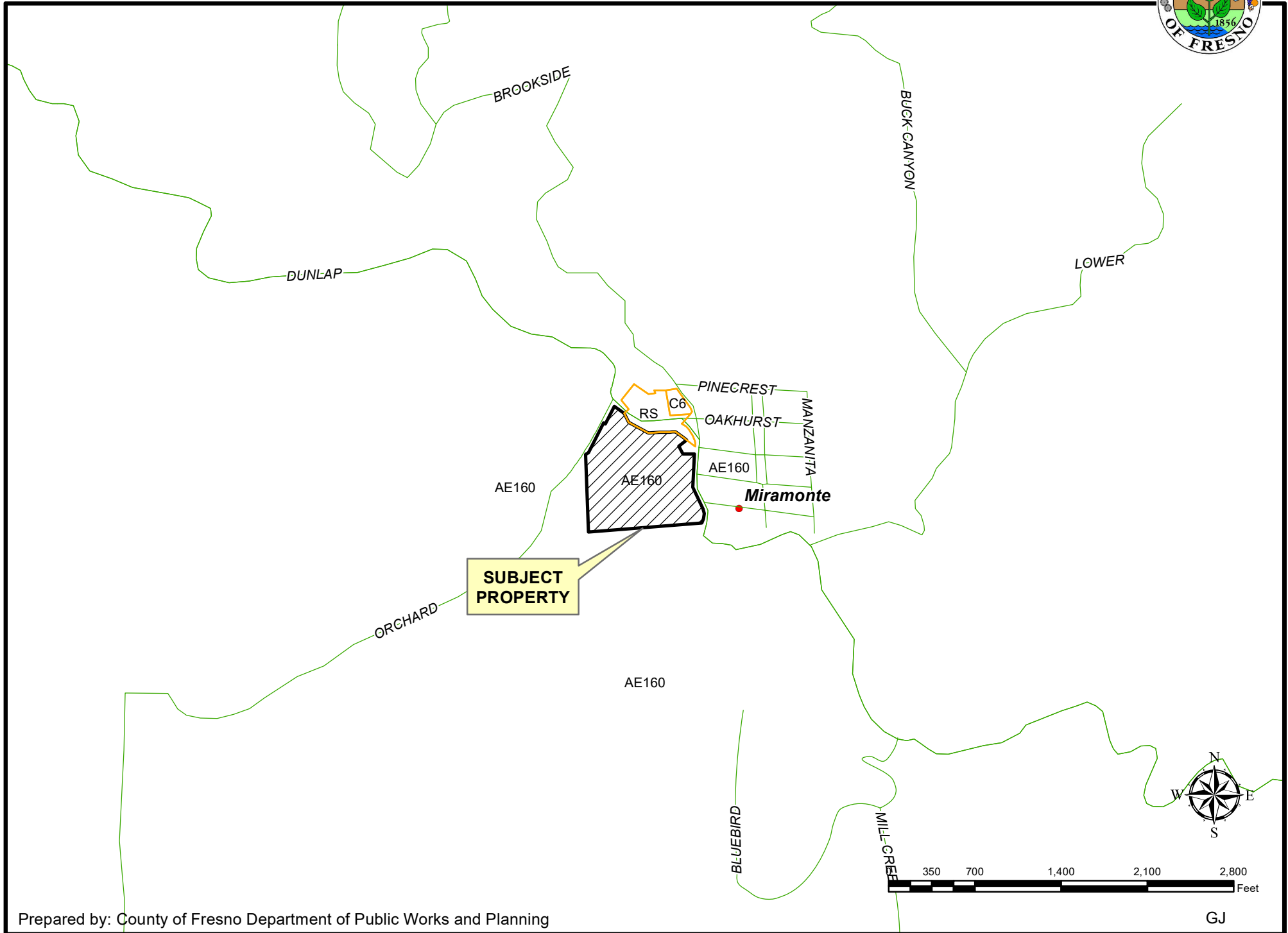
**EXHIBIT 1**

**EXHIBIT 1**

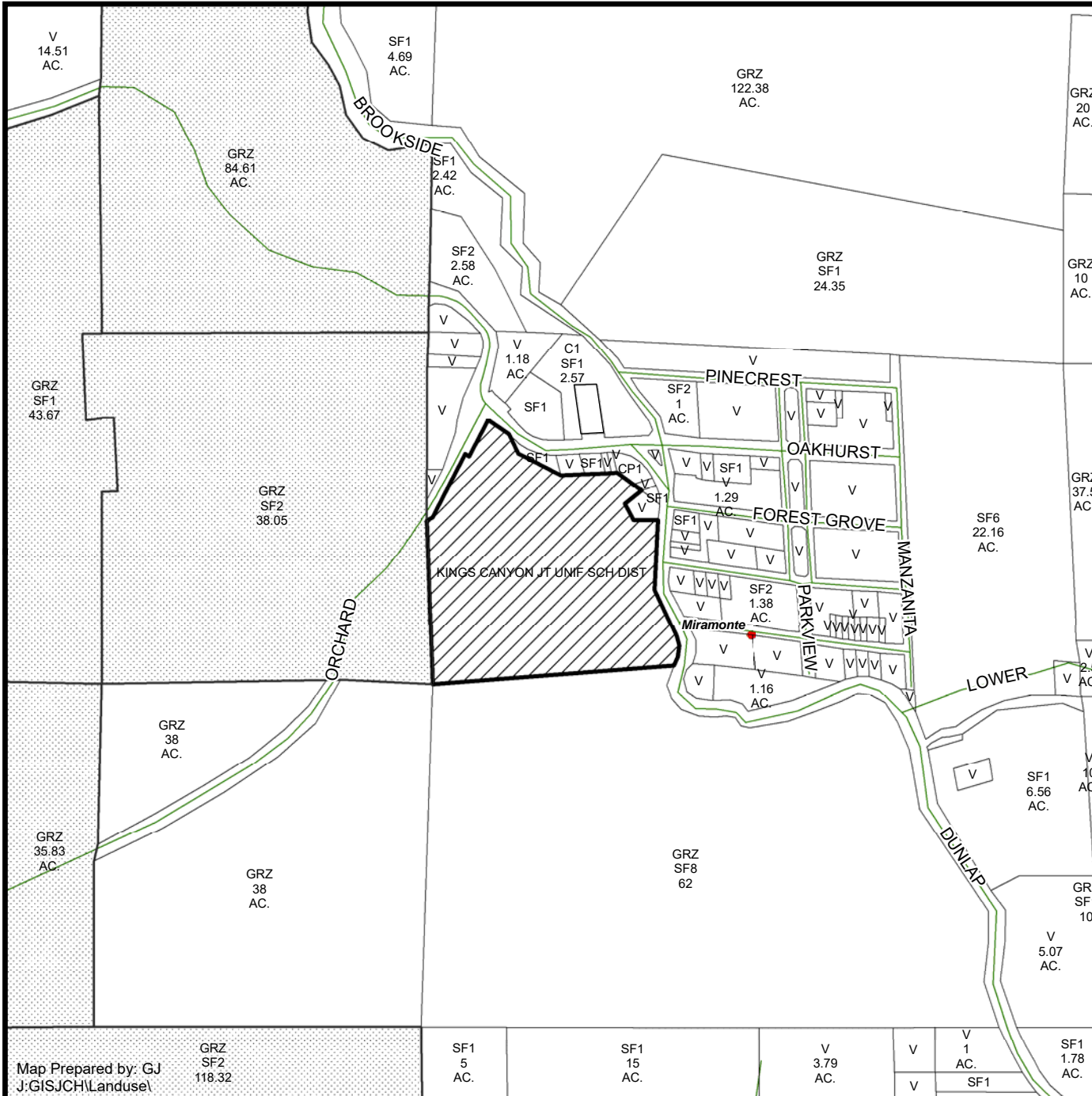
# LOCATION MAP



# EXISTING ZONING MAP



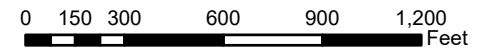
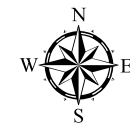
# EXISTING LAND USE MAP



LEGEND	
C#	- COMMERCIAL
CP#	- OFFICE COMM./PROF
GRZ	- GRAZING
SF#	- SINGLE FAMILY RESIDENCE
V	- VACANT

**LEGEND:**

- Subject Property
- Ag Contract Land



Map Prepared by: GJ  
J:GISJCH\Landusel

GRZ  
SF2  
118.32

SF1  
5  
AC.

SF1  
15  
AC.

V  
3.79  
AC.

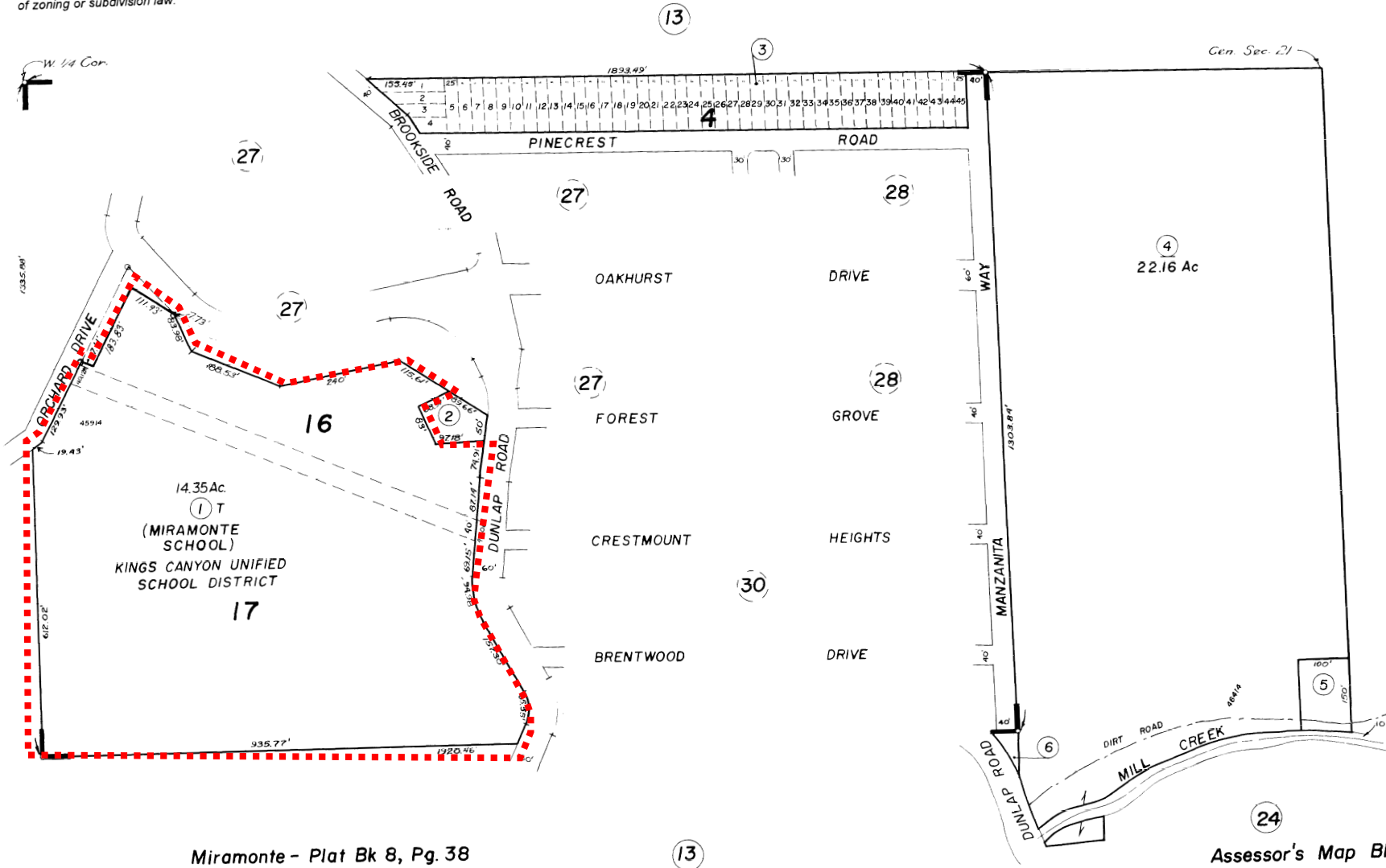
V  
1  
AC.  
SF1

SF1  
1.78  
AC.

Department of Public Works and Planning  
Development Services Division

**SUBDIVIDED LAND & POR. SEC. 21 T. 14 S., R. 27 E., M.D.B. & M.**

— NOTE —  
This map is for Assessment purposes only.  
It is not to be construed as portraying legal  
ownership or divisions of land for purposes  
of zoning or subdivision law.



Miramonte - Plat Bk 8, Pg. 38

Assessor's Map Bk. 195 - Pg. 29  
County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses  
Assessor's Parcel Numbers Shown in Circles

1965

**EXHIBIT 5**



RECEIVED  
COUNTY OF FRESNO

APR 17 2018

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

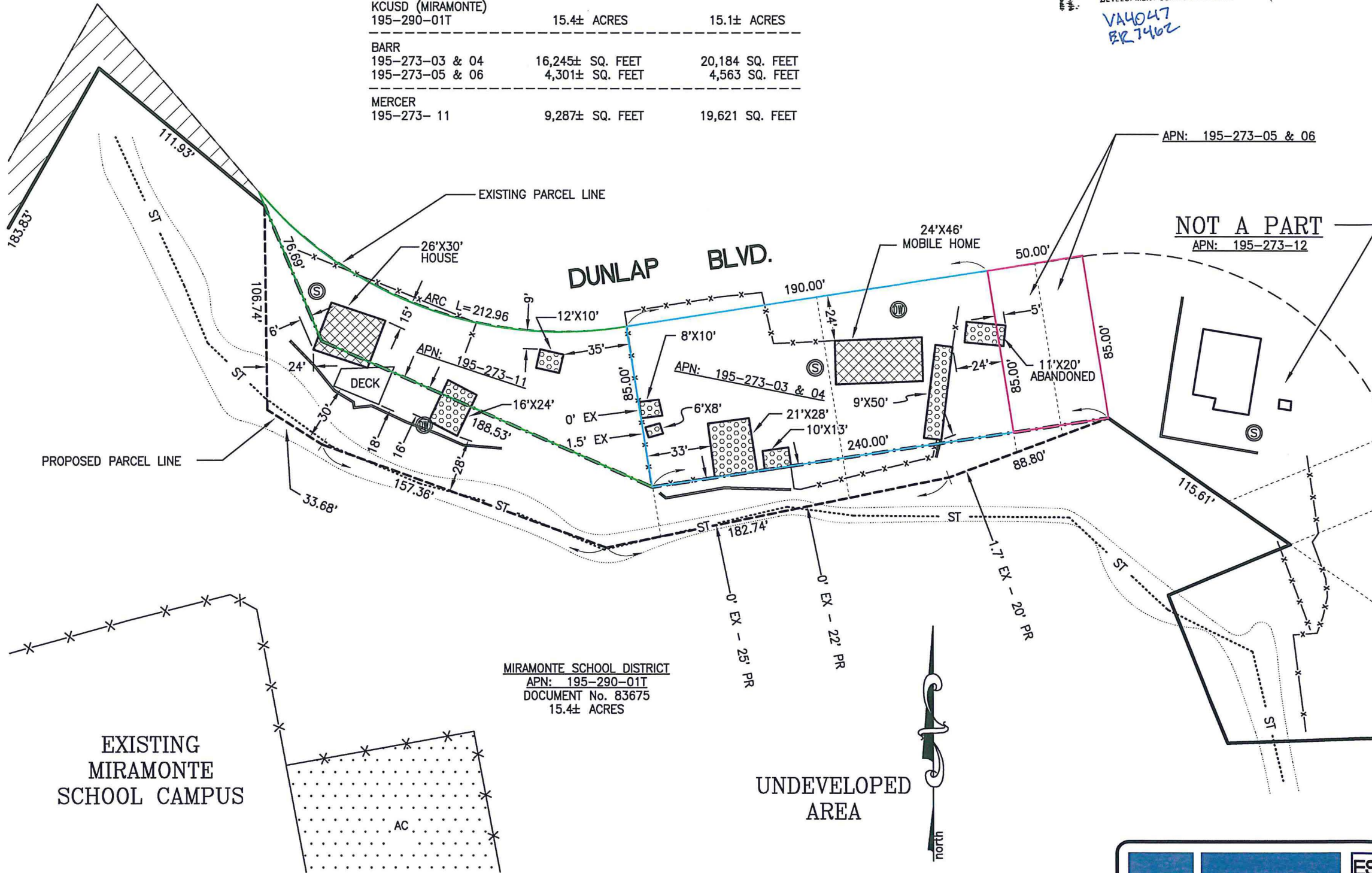
VA4047  
BR 7462

# VARIANCE APPLICATION

No. \_\_\_\_\_

SHEET 3 OF 3

OWNER	EXISTING LOT SIZE	PROPOSED LOT SIZE
KCUSD (MIRAMONTE) 195-290-01T	15.4± ACRES	15.1± ACRES
BARR 195-273-03 & 04 195-273-05 & 06	16,245± SQ. FEET 4,301± SQ. FEET	20,184 SQ. FEET 4,563 SQ. FEET
MERCER 195-273-11	9,287± SQ. FEET	19,621 SQ. FEET



**LEGEND:**

- SECTION LINE.
- PROPERTY LINE.
- - - RIGHT OF WAY.
- - - - NEW PROPERTY LINE.
- - - - - LINE TO BE REMOVED.
- X-X-X- FENCELINE
- X---X---X--- ROCK/RETAINING WALL.
- - - - - ST - - - - - STREAM CENTERLINE.
- [Cross-hatched] RESIDENCE
- [Dotted] OUTBUILDINGS
- [Dotted with AC] ASPHALT CONCRETE
- [Circle with T] DOMESTIC WELL
- [Circle with S] SEPTIC
- EX EXISTING SETBACK
- PR PROPOSED SETBACK

**RECORD OWNERS:**

195-273-11	DON AND ANITA MERCER.
195-273-03,04,05,06	JERRY D. BARR.
195-290-01T	MIRAMONTE SCHOOL DIST.

MIRAMONTE SCHOOL DISTRICT  
APN: 195-290-01T  
DOCUMENT No. 83675  
15.4± ACRES

EXISTING  
MIRAMONTE  
SCHOOL CAMPUS

UNDEVELOPED  
AREA

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

DATE OF SURVEY	xxxx
ESP JOB No.	17101
DRAWN BY	WJB
REVISION DATE	03/05/2018
REV. 1	.

EXHIBIT 6

**VARIANCE APPLICATION FINDINGS**

**Kings Canyon Unified School District**

**March 15, 2018**

**APPLICANT/OWNER:**

Kings Canyon Unified School District  
c/o Dr. John Quinto  
1502 "I" Street  
Reedley, CA 93654

Don Mercer and Anita Mercer  
45961 Dunlap Road  
Miramonte, CA 93641

Jerry D. Barr  
46011 Dunlap Road  
Miramonte, CA 93641

**RECEIVED**  
COUNTY OF FRESNO

**APR 17 2018**

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

**REPRESENTATIVE:**

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

**Property Owner / Address / APN / Zone Designation / General Plan Land Use Designation:**

Kings Canyon Unified School District  
Miramonte School  
45914 Orchard Drive  
Miramonte, CA 93641  
APN 195-290-01T / AE-160 / Exclusive Agricultural

Don and Anita Mercer  
45961 Dunlap Road  
Miramonte, CA 93641  
APN 195-273-11 /RS / Rural Settlement

Jerry D. Barr  
46011 Dunlap Road. 46019 Dunlap Road and 46023 Dunlap Road  
Miramonte, CA 93641  
APN 195-273-03, 4, 5 & 6 /RS / Rural Settlement

**REQUEST:**

Grant a Variance to allow the realignment of property lines for two parcels adjacent to the Miramonte School campus of the Kings Canyon Unified School District (KCUSD) in the AE-160 Zone.

**BACKGROUND:**

The adjacent agricultural rural residential parcels were created in the early 1900's. Apparently during the Fresno County improvements to the bridge at Dunlap Blvd. and Orchard Dr. county survey crews determined that the Mercer and Barr parcels' improvements encroached onto adjacent property lines. Based on that information, KCUSD retained ESP Surveying to perform a boundary survey of the KCUSD Miramonte School site and the adjoining Mercer and Barr properties. The ESP survey confirmed the encroachments of improvements over property lines from the Mercer and Barr properties onto the KCUSD Miramonte School campus property.

KCUSD staff met with the Mercers and Barr and concluded that since the encroachments were not intentional and a resolution of the encroachments were in the best interest of the community. Therefore, KCUSD would process the subject Variance to allow for modifications to the existing property lines, to address the encroachments.

Rather than removing the encroaching improvements and causing hardship to the agricultural rural lot owners, KCUSD is working cooperatively with the adjoining neighbors and have proposed a Property Line Adjustment (PLA) to adjust property lines in order to accommodate the encroaching improvements.

Upon approval of the proposed Variance Application, the four affected parcels will deviate in size and setbacks as noted below:

**DEVIATION OF PROPERTY AREA (Before and After PLA)**

<u>Owner/APN(s)</u>	<u>Existing Parcel Area</u>	<u>Proposed Parcel Area</u>
<b>KCUSD</b> APN 195-290-01T	15.4± Acres	15.1± Acres
<b>Don and Anita Mercer</b> APN 195-273-11	9,287± sq. ft.	19,621± sq. ft.
<b>Jerry Barr</b> APN 195-273-03 & 04	16,245± sq. ft.	20,184± sq. ft.
<b>Jerry Barr</b> APN 195-273-05 & 06	4,301± sq. ft.	4,563± sq. ft.

**DEVIATION OF PROPERTY SETBACKS (Before and After PLA)**

**NOTE:** Distances in parenthesis () denote that structure extends beyond current property line.

<u>Owner/APN(s)</u>	<u>Existing Rear Yard</u>	<u>Proposed Side Yard</u>
<b><u>Don and Anita Mercer</u></b> APN 195-273-11	<b><u>26' X 30' Residence</u></b>	
	(6') Existing	(6') Existing
	39' Proposed	24' Proposed
	<b><u>16' X 24' Outbuilding</u></b>	
	(16') Existing	83' Existing
	28' Proposed	Unchanged
	<b><u>10' x 12' Outbuilding</u></b>	
	32' Existing	35' Existing
	76' Proposed	Unchanged
<b><u>Jerry Barr</u></b> APN 195-273-03, 04, 05, 06	<b><u>24' X 46' Residence (Mobile Home)</u></b>	
	33' Existing	39' Existing
	52' Proposed	Unchanged
	<b><u>8' x 10' Outbuilding</u></b>	
	36' Existing	0' Existing
	62' Proposed	Unchanged
	<b><u>21' x 28' Outbuilding</u></b>	
	0' Existing	33' Existing
	25' Proposed	Unchanged

**DEVIATION OF PROPERTY SETBACKS (Before and After PLA) (continued)**

<b><u>Owner/APN(s)</u></b>	<b><u>Existing Rear Yard</u></b>	<b><u>Proposed Side Yard</u></b>
<b><u>Jerry Barr (cont.)</u></b> APN 195-273-03, 04, 05, 06	<b><u>10' X 13' Outbuilding</u></b>	
	0' Existing	59' Existing
	22' Proposed	Unchanged
	<b><u>9' x 50' Outbuilding</u></b>	
	2' Existing	24' Existing
	20' Proposed	Unchanged
	<b><u>11 x 20 Outbuilding (abandoned)</u></b>	
	45' Existing	(5') Existing
	54' Proposed	Unchanged

**REQUIRED FINDINGS**

**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 special circumstances applicable to the property, including its size, shape, topography, location or surroundings?*

The Mercer and Barr parcels have existed for decades prior to the adoption of the county zoning ordinance. Neither the Mercer nor Barr improvements were constructed by the current owners.

Information suggests that the Mercer home was likely built in the 1930's. For unknown reasons property improvements were constructed over the property lines. Now that the encroachments have been identified, the most logical solution is to modify property lines in order to accommodate and effectively eliminate the aforementioned encroachments. The applicants believes that the Property Line Adjustment alternative is the simplest and most cost-effective method that would remedy the existing issue and that the physical improvements represent a physical circumstance that necessitates approval of the proposed Variance Application.

The proposed Variance will allow the existing development pattern and intensity of the subject property to remain as it has for many years.

## REQUIRED FINDINGS (continued)

### 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?*

Various options are available to resolve the encroachments. One such option would be to remove or relocate the improvements. However, this option is particularly burdensome by causing an extreme hardship to the Mercer and Barr families. Thankfully, the KCUSD is amenable to modifying their property boundary to resolve this issue in the least intrusive and least expensive manner possible.

Mill Creek exists between the KCUSD site and the Mercer and Barr parcels. The creek represents a logical boundary between the Mercer/Barr parcels and the KCUSD parcel. No changes or alterations to Mill Creek will occur. The creek will not be crossed or altered in any way. The creek represents a physical circumstance that supports the proposed Variance.

### 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 sites are fully improved. No changes in improvements to the sites will occur as a result of this Variance.

Each parcel is served by its own well and septic tank leach field system. No modifications to those systems are proposed.

Dunlap Road and Orchard Drive are public roads of adequate width and pavement to serve the proposed reconfigured lots. No other property development standards will be modified.

No agricultural use of the parcels occurs.

### FINDING 4:

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

The proposed Variance seeks to slightly modify the lot configurations of three parcels in order to avoid the corresponding parcel owners from removing structures placed on the KCUSD property. No changes in density or intensity of any of the involved parcels will occur.

The proposed Variance will not adversely affect the production of agriculture as no agricultural use of the property is occurring now or has occurred in the past decades. The only parcel capable of being a viable economic unit is the KCUSD that is used for a school campus open space. For these reasons, the proposed Variance does not conflict with the policies of the Fresno County General Plan.

# APPROVED VARIANCES WITHIN A ONE MILE RADIUS

