



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 2 March 28, 2019

SUBJECT: Variance Application No. 4058

Allow the creation of a 3.1-acre parcel, a 3.0-acre parcel, and a 2.7-acre parcel from an existing 8.80-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the west side of Willow Bluff Road approximately three quarter-miles north of its intersection with North Willow Avenue, and approximately one mile northeast of the nearest city limits of the City of Fresno (13152 Willow Bluff Road) (SUP. DIST. 5) (APN 300-070-33).

**OWNER/
APPLICANT:** Brian Finegan

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

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Deny Variance No. 4058; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Variances Map
6. Site Plan
7. Applicant's Findings and Operational Statement

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	8.80 acres	Proposed Parcel 1: 3.1 acres Proposed Parcel 2: 2.7 acres Proposed Parcel 3: 3.0 acres
Project Site	Vacant 8.80-acre parcel	See above
Structural Improvements	None	Future development would include one dwelling unit per lot
Nearest Residence	Approximately 85 feet south of the boundary of proposed Parcel 1	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 17 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 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:

According to available records, the subject parcel in its current configuration was created as part of Parcel Map Exemption No. 3592 in 1976, at which time the parcel contained approximately 26.29-acres, and was divided into three parcels. The subject parcel was previously zoned A-1 (General Agricultural); subsequently, on March 8, 1977, the Board of Supervisors approved County-initiated Amendment Application No. 2898, which rezoned a portion of the surrounding area, including the subject parcel, to an AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. The subject parcel is currently vacant, and available County Records indicate that a permit was issued for the demolition of the former single-family dwelling and septic system on December 13, 2017.

The current Variance request, submitted on September 18, 2018, proposes to divide the existing 8.80-acre parcel into three smaller parcels ranging in size from 2.7 to 3.1 acres. A portion of the surrounding area, to the south and southeast, consists of substandard-sized parcels, some of which were created as such, and some were allowed to divide through approval of a Variance. The area to the east and northeast of the subject parcel consists of larger parcels consistent with the minimum acreage designation for the AE-20 Zone District, while the area to the south and southeast contains a number of parcels which are less than 20 acres.

At least 27 variance requests have been processed within one-mile of the subject property for the creation of substandard-size parcels. Of those, 17 were approved and 8 were denied, and 2 were unrelated to a parcel division or mapping procedure. Those 25 variances are detailed in the table below:

Application/Request	Staff Recommendation	Final Action	Date of Action
VA No. 2847 – Allow the creation of a 5-acre and a 10-acre parcel from a 15-acre parcel in the AE-20 Zone District.	Denial	PC Approved	August 2, 1984
VA No. 2990 – Allow the creation of two 2.5-acre parcels from a 5-acre parcel in the AE-20 Zone District.	Denial	PC Denied	April 24, 1986
VA No. 3177 – Allow the creation of an 11.97-acre parcel and a 3.4-acre parcel, without public road frontage, in the AE-20 Zone District. (VA No. 3362)	Denial	PC Approved	January 5, 1989
VA No. 3285 – Allow the creation of two (2) two-acre parcels in the AE-20 Zone District.	Denial	PC Approved	September 20, 1990

		BOS Denied	November, 13, 1990
VA No. 3362 – Allow the creation of a 2.01-acre and a 10.05-acre parcel from a 12.06-acre parcel in the AE-20 Zone District. (VA No. 3177)	Denial	PC Denied BOS Denied	March 26, 1992 June 16, 1992
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 in the AE-20 Zone District.	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. 3509 – Allow the creation of nine lots from a 19.92-acre parcel with a minimum lot size of two acres, with no public road frontage, concurrent with AA No. 3654 (rezone from AE-20 to Rural Residential), TT No. 4710, and EA No. 4195.	Approval	PC Approved BOS Approved	January 11, 1996 February 13, 1996
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 in the AE-20 Zone District. (VA No. 3815)	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. (VA No. 4012)	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	Denial	PC Approved	November 6, 1997

public road frontage (20 acres and 165 feet required) from an existing 7.60-acre parcel of land in the AE-20 Zone District.			
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. (VA No. 3932)	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), in the AE-20 Zone District. (VA No. 3255)	Deferred to Planning Commission	PC Denied BOS Denied	November 12, 1998 December 15, 1998
VA No. 3693 – Allow creation of two 2-acre parcels from a 4-acre parcel in the AE-20 Zone District. (VA No. 3895, VA No. 3773)	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. (VA No. 4025)	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. (VA No. 3895, VA No. 3693)	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. (VA No. 3556)	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 BOS Upheld PC denial	September 18, 2008 November 4, 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. (VA No. 3773, VA No. 3693)	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 in the AE-20 Zone District. (VA No. 3596)	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 an existing 5.17-acre parcel in the AE-20 Zone District. (VA No. 3579)	Denial	PC Approved	October 20, 2016
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. (VA No. 3771)	Denial	PC Denied BOS Approved	August 10, 2017 October 17, 2017
VA No. 4039 – Allow the creation of two 5-acre parcels from an existing 10-acre parcel in the AE-20 Zone District.	Denial	PC Approved W/Cond BOS Upheld approved conditions on appeal	February 15, 2018 May 1, 2018

Note: A summary of VA Nos. 3255 and 3661 shown on the Variance Map (Exhibit 5), is not included in the table above, as both were unrelated to a parcel division or mapping procedure.

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 Configuration:	Is Standard Met (y/n):
Setbacks	<u>AE-20 Zone</u> District: Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Parcel 1 (Approx. 3 acres):</u> Front: 35 feet Side: 20 feet Rear: 20 feet <u>Parcel 2 (Approx. 2.7 acres):</u> Front: 35 feet Side: 20 feet Rear: 20 feet <u>Parcel 3 (Approx. 3.1 acres</u> Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Parcel 1:</u> Yes <u>Parcel 2:</u> Yes <u>Parcel 3:</u> Yes
Parking	N/A	N/A	N/A
Lot Coverage	No requirement	N/A	N/A
Separation Between Buildings	No requirement for residential or accessory structures, excepting those used to house animals which must be located a minimum of 40 feet from any human-occupied building	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent of the existing system	No change	N/A
Water Well Separation	Building sewer/ septic tank: 50 feet; disposal field: 100 feet; seepage pit/cesspool: 150 feet	There is currently no septic system on site. There is an existing water well located on proposed Parcel No. 3. Any existing or proposed water wells will be required to meet minimum setbacks (separation) from proposed septic systems.	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.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Willow Bluff Lane is a private road and is not County-maintained.

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.

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

Analysis:

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 precedent for the approval of this or subsequent variances, but rather each request should be considered on its own merits.

In support of Finding 1, the Applicant's findings describe the subject parcel and surrounding area as having an undulating topography, with former stream channels, and a disconnected system of roads, with larger parcels located east of the subject property. The subject property and others located along the west side of Willow Bluff Road form a transition between the larger parcels to the east and the San Joaquin Flood Plain to the west. The Applicant's findings also assert that while the Fresno County Farmlands Map indicates a grazing classification for much of the surrounding area, the subject parcel itself is classified as rural residential.

With regard to Finding 1, staff does not agree that the location or topography of the subject property creates an extraordinary physical characteristic or circumstance which would require approval of the requested Variance to correct. The creation of smaller parcels and subsequent residential development have the potential to increase residential density beyond what is allowed in the AE-20 Zone District, especially considering the potential for adding second residences by discretionary approval. Additionally, staff does not agree with the Applicant's finding that all ten (10) of the parcels on the west side of Willow Bluff Road have been designated residential; rather, the classification of the subject parcel and a number of parcels to the south and southeast along Reno Road as Rural Residential in the Fresno County Important Farmlands map is likely due to the fact the parcels in question have been historically developed with single-family residences, which precipitated the reclassification of the properties, and does not reflect any change in the underlying soil classification that resulted in the surrounding area being designated as grazing land, nor with the underlying agricultural Zoning designation.

Staff also does not concur with the Applicant's Finding 1, which asserts that the value of the ten (10) existing parcels along the west side of Willow Bluff Road indicates that they are not agricultural parcels. Regardless of the Farmlands map designation, or the current size of the parcel, the underlying Zone District is the primary consideration when considering allowable land uses and property development standards. The fact that Willow Bluff Road does not currently connect with Reno Road does not itself create an exceptional circumstance on the

subject property, and although staff does acknowledge that the existence of the sixty-foot-wide non-exclusive easement running along the east side of the subject property, known as Willow Bluff Road, establishes a boundary which limits the developable area of the property, this condition is common to many other properties in the vicinity.

The subject parcel is one of ten located along the west side of Willow Bluff Road which sit atop an elevated bluff overlooking North Friant Road and the San Joaquin River flood plain to the west. The western boundary of the subject parcel is curved as it follows the adjacent roadway below the bluff, which creates an asymmetrical shape. Additionally, there is an existing Railroad easement running along the bluff, the eastern edge of which forms the western boundary of the subject parcel.

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 creation of smaller parcels. Staff does not consider the existence of other parcels in the area which are similar in size to those proposed with this Variance to be the realization of a substantial property right of those respective property owners, nor should it be considered precedent or justification for the approval of this or subsequent variance requests in the vicinity. 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 on the west side of Willow Bluff Road approximately three quarter-miles north of its intersection with Willow Avenue. The subject parcel is currently vacant, and while there is no development proposed as part of this application, the Applicant's submitted Operational Statement indicates that should this Variance be granted, the intention is to develop each resultant parcel with one single-family dwelling. The AE-20 Zone District allows for a residential density of not more than one single-family dwelling per 20-acres, although, if this Variance is approved, the owner(s) of each resultant parcel would be allowed a second residence, if so desired, subject to discretionary approval through a Director Review and Approval application.

With regard to Finding 2, staff does not believe that further division of the subject parcel, because it is already substandard in size, constitutes an exceptional circumstance that would require a Variance to correct; additionally, this proposal is not consistent with the minimum parcel size designation. At 8.80 acres, the subject parcel is similar to the other parcels along the west side of Willow Bluff Road which range in size from 2.50 acres to 9.60 acres and share a western boundary with either North Willow Avenue or North Friant Road. By contrast, most of the parcels directly east are considerably larger, consistent with the AE-20 Zoning, and range in size from approximately 16 acres to approximately 80 acres, with sparse residential development and limited agricultural production. Suffice it to say there is considerable variation in parcel sizes in this area generally, and there are no obvious 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 the deficit 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.

Staff also acknowledges that although the subject parcel and most of the surrounding area is agriculturally zoned, according to the 2014 Fresno County Important Farmland map, much of the area east of Friant Road is designated as Grazing Land, with some parcels designated as Rural Residential; additionally, review of recent area imagery shows increased residential development even on some of the larger parcels.

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 they do not qualify under the conditions listed in Section 816.5, or unless the substandard-size parcel is approved through the Variance process. The previous residential use and nonconforming status of the subject parcel does not exempt the property from the 20-acre minimum established to protect productive farming units and limit residential density to the standards of the Zone District.

A consideration in addressing variance applications is whether there are alternatives available that would avoid the need for the Variance. In this case, there are no other options for division of the existing parcel into smaller lots which meet the applicable criteria in Section 816 of the Fresno County Zoning Ordinance for the creation of substandard lots. The only other feasible option would be an Amendment Application to re-zone the property to a zone district which would allow the smaller parcel sizes without the approval of a variance; however, such a request would require additional land use evaluation and approval of the Planning Commission and Board of Supervisors.

Per the Applicant’s submitted findings, the stated intention, should the variance be approved, is to create three substandard parcels of similar size, with the potential for each subsequent parcel to be developed with a single-family dwelling, and sold or otherwise conveyed. While it is acknowledged that the subject parcel is already substandard in size, staff does not believe that the ability to further divide the parcel would constitute a substantial property right of the Applicant, the deficit of which would warrant the granting of the Variance to rectify.

Therefore, staff was unable to identify any unique or exceptional circumstances applicable to the subject property, nor the deficit of a substantial property right. 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	8.74 acres	Vacant	AE-20	N/A
South	9.60 acres	Single-Family Residential	AE-20	Approximately 165 feet
East	79.72 acres	Single-Family Residence	AE-20	Approximately 1,500 feet (more than one quarter-mile)

Surrounding Parcels				
West		Vacant/RR Right-of-Way/ Friant Road Right-of-Way	AE-20	
	20.62 acres	Parcel on west side of Friant Road		Approximately one half-mile

*Measured from the existing property lines

Reviewing Agencies/Department Comments:

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: The subject property takes access from Willow Avenue, a public road, via Willow Bluff Road, a private non-exclusive easement, with a recorded 60-foot width. If this Variance is approved, Willow Bluff Road would serve 12 individual lots.

Willow Bluff Road is currently improved with asphalt paving, measuring approximately 12 to 14 feet in width. If this Variance is approved, any subsequent development of the resultant parcels will be subject to State Responsibility Area (SRA) standards.

If the Variance is approved, allowing the creation of the three proposed parcels, the Applicant would be required to execute a covenant, running with the land, agreeing to maintain their proportionate part of the private easement designated as Willow Bluff Road. This will be a Condition of Approval.

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.

Any additional runoff generated by future development cannot be drained across property lines and must be retained or disposed of per County standards.

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 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.

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

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, due to the fact that although agriculturally zoned, adjacent parcels along Willow Bluff Road are not actively farmed, and contain residential development.

In regard to Finding 3, it is the intention of the Applicant, if this Variance is approved, to divide the existing parcel into three smaller parcels, which would likely be developed separately with single-family dwellings; as such, there would be an increase in residential density, necessitating the installation of additional domestic wells and septic systems to serve the future development.

As the subject parcel is within a water-short area, the potential for impacts to neighboring wells exists. Accordingly, a Condition of Approval has been included, requiring that the property owner of each resultant parcel is to provide a water well and Well Yield Certification prior to the issuance of Building Permits, subject to approval by the Fresno County Department of Public Works and Planning. Additionally, the Water and Natural Resources Division has determined that adequate water supply is available to serve the proposed parcels based on available records, review of previously-prepared groundwater evaluation reports, and well yield certifications in the area. These previous tests have confirmed moderate to high levels of well production with generally rapid recovery of water surface elevations after extended periods of pumping between 4 and 72 hours. These previous results and the fact that the subject property shares similar geology based on previous well driller logs support the Division's determination.

With regard to Willow Bluff Road, the County Parcel Map Ordinance provides that property access improvements associated with the division of the subject property are subject to the provisions of the Fresno County Parcel Map Ordinance, including dedication, acquisition of access easement, roadway improvements, and roadway maintenance. These requirements will be satisfied through recordation of a parcel map to create the subject parcels subsequent to the approval of the Variance. The Applicant may apply for an exception request from the road standards through the parcel map process.

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, the Applicant obtains a well yield test certification prior to the issuance of building permits for any proposed development, and that subsequent development of the resultant parcels complies with all applicable State Responsibility Area (SRA) Fire Safe Regulations.

This Variance request, if granted, would allow the division of an 8.80-acre parcel into three smaller parcels containing 2.7, 3.0 and 3.1 acres, respectively. According to the Applicant's Operational Statement and Findings, if the Variance is approved, the resulting parcels would be developed with a single-family residence, each having its own well and septic system which would allow them to function independently of each other.

Staff believes that there will be no adverse impacts on neighboring properties; therefore 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 the three smaller parcels is inconsistent with this policy. See Analysis below.</p>
<p>General Plan Policy LU-A.9: The County may allow the creation of homesite parcels smaller than the minimum parcel size required by Policy LU-A.6 if the parcel involved in the division is at least twenty (20) acres in size, subject to the following criteria:</p> <ul style="list-style-type: none"> a. The minimum lot size shall be sixty thousand (60,000) square feet of gross area, except that a lesser area shall be permitted when the owner submits evidence satisfactory to the Health Officer that the soils meet the Water Quality Control Board Guidelines for liquid waste disposal, but in no event shall the lot be less than one (1) gross acre; and b. One of the following conditions exists: <ul style="list-style-type: none"> 1. A lot less than twenty (20) acres is required for financing construction of a residence to be owned and occupied by the owner of abutting property; or 2. The lot or lots to be created are intended for use by persons involved in the farming operation and related to the owner by adoption, blood, or marriage within the second degree of consanguinity, and there is only one (1) gift lot per twenty (20) acres; or 	<p>Policy LU-A.9 provides for an exception from the requirements of the minimum parcel size designation where those specific criteria are met. In the case of this application, the subject parcel does not meet the required criteria listed under Policy LU-A.9 to allow creation of a substandard size lot or homesite parcel.</p>

Relevant Policies:	Consistency/Considerations:
<p>3. The present owner owned the property prior to the date these policies were implemented and wishes to retain his/her homesite and sell the remaining acreage for agricultural purposes.</p> <p>Each homesite created pursuant to this policy shall reduce by one (1) the number of residential units otherwise authorized on the remainder parcel created from the original parcel. The remainder parcel shall be entitled to no less than one residential unit.</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> <ul 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 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. 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 	<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 at minimum a well yield certification be performed and approved for each well constructed on the three proposed lots, and may require a more thorough hydrologic investigation to determine impacts to surrounding water users prior to the issuance of Building Permits. Additionally, the Division has determined that adequate water supply is available to serve the proposed parcels based on available records, review of previously-prepared groundwater evaluation reports, and well yield certifications in the area. These previous tests have confirmed moderate to high levels of well production with generally rapid recovery of water surface elevations after extended periods of pumping between 4 and 72 hours. These previous results and the fact that the subject property shares similar geology, based on previous well driller logs, supports the Division’s determination.</p>

Relevant Policies:	Consistency/Considerations:
significant economic hardship to surrounding water users.	
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.	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.

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is designated as Agriculture in the General Plan. Policy LU-A.6 states that the County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture. Additionally, General Plan Policy LU-A.7 states 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 subject property 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 development in the area has not been consistent with the General Plan and the Zoning Ordinance regarding restrictions on the creation of substandard-size parcels, and that this proposal would be consistent with the creation of “estate”-size lots which has taken place in the vicinity.

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.” Staff acknowledges that the subject parcel is designated as Rural Residential in the 2014 Fresno County Important Farmland Map, however, this designation is reflective of its historic development with a single-family dwelling, and not a change in the General Plan Designation or underlying Zone District.

Staff does not concur with the Applicant’s statement that the project would not be contrary to the objectives of the General Plan. The General Plan contains certain policy provisions which allow for the creation of substandard-sized lots for the creation of home site parcels, subject to certain specific criteria; specifically, Policy LU-A.9 provides for an exception from the requirements of the minimum parcel size designation where those specific criteria are met. The relevant policies and criteria are listed in the preceding table. In the case of this application, the subject parcel does not meet the required criteria listed under Policy LU-A.9 to allow creation of a substandard size lot.

Policy LU-A.7 restricts the creation of parcels with less than the required acreage for the zone district. Specifically, the Policy states that evidence that the parcel is already not an economic farming unit is not a basis for granting an exception. This parcel had been previously improved with a single-family dwelling, which has since been removed, 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.

Based on the above analysis, Finding 4 cannot be made.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 cannot be made.

PUBLIC COMMENT:

None.

CONCLUSION:

Staff does not believe Findings 1, 2, and 4, required for granting the Variance, can be made, based on the factors cited in the analysis. Staff therefore recommends denial of Variance No. 4058.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 4058; 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. 4058, 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

**Variance Application (VA) No. 4058
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 Planning Commission.
2.	A water well and Well Yield Certification shall be required prior to the issuance of Building Permits for any proposed parcel on which Building Permits are requested.
3.	The property owner shall execute a covenant, running with the land, agreeing to maintain their proportionate part of the private easement designated as Willow Bluff Road.

Conditions of Approval reference recommended Conditions for the project.

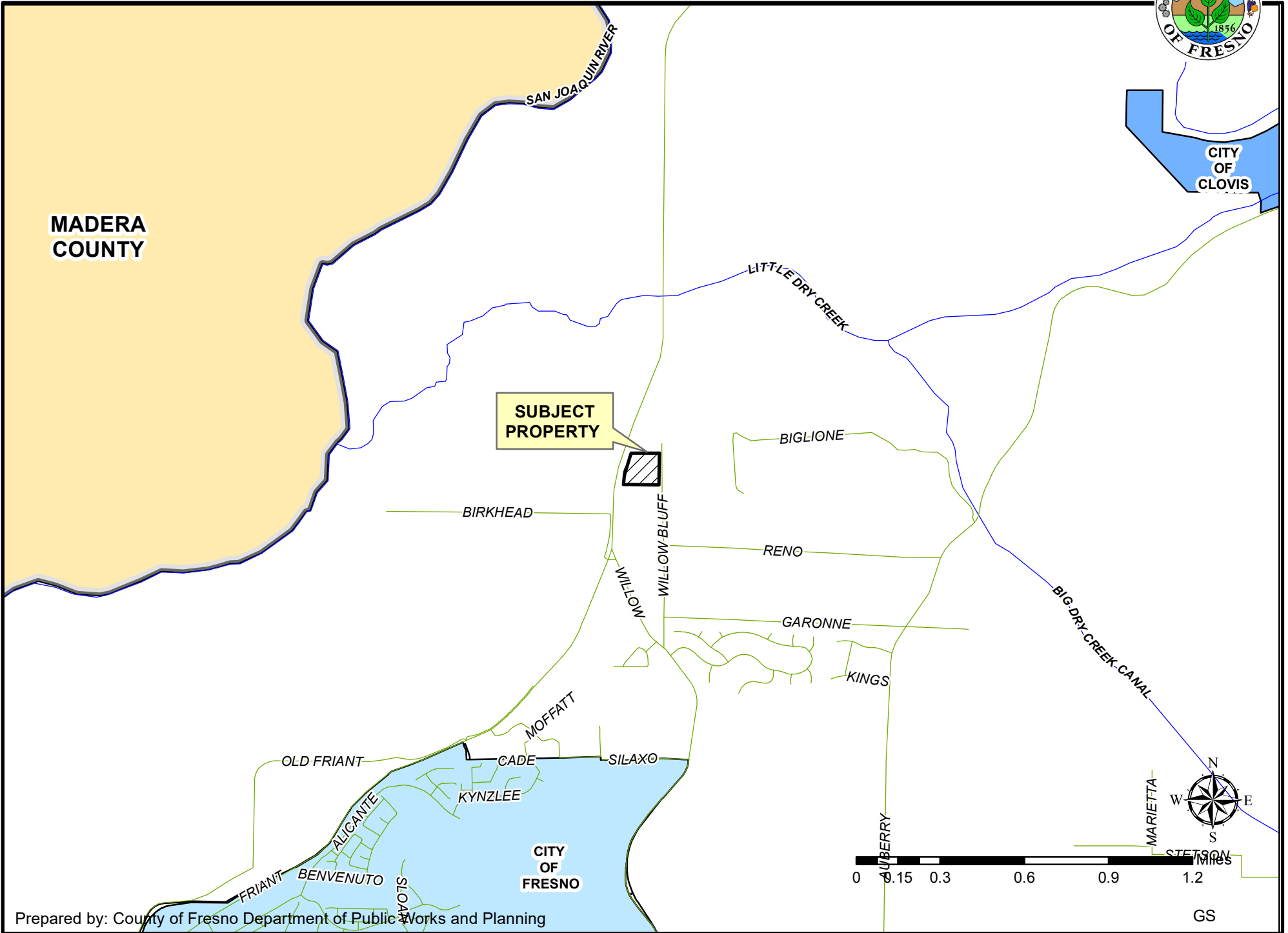
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create the three proposed parcels. The Map shall comply with the requirements of Title 17.72.
2.	The approval of this Variance 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.	All abandoned water wells and septic systems on the subject parcel or resultant parcels shall be properly destroyed by an appropriately-licensed contractor, subject to permits and inspections by the Fresno County Department of Public Works and Planning and the Fresno County Department of Public Health.
4.	Prior to destruction of agricultural wells, a sample of the uppermost fluid in the well column shall be checked for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil shall be removed from the well prior to placement of fill material for destruction. The oily water removed from the well must be handled in accordance with federal, state and local government requirements. Contact the Water Surveillance Program at (559) 600-3357 for more information.
5.	Should any underground storage tank(s) be found during development, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.
6.	The Fresno County Parcel Map Ordinance (County Ordinance Code, Title 17- Divisions of Land) provides that "Property access improvements associated with the division of the subject property are subject to the provisions of the Fresno County Parcel Map Ordinance including dedication, acquisition of access easement, roadway improvements, and roadway maintenance."

EXHIBIT 1

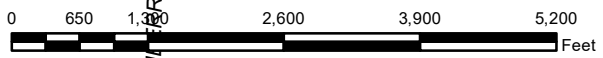
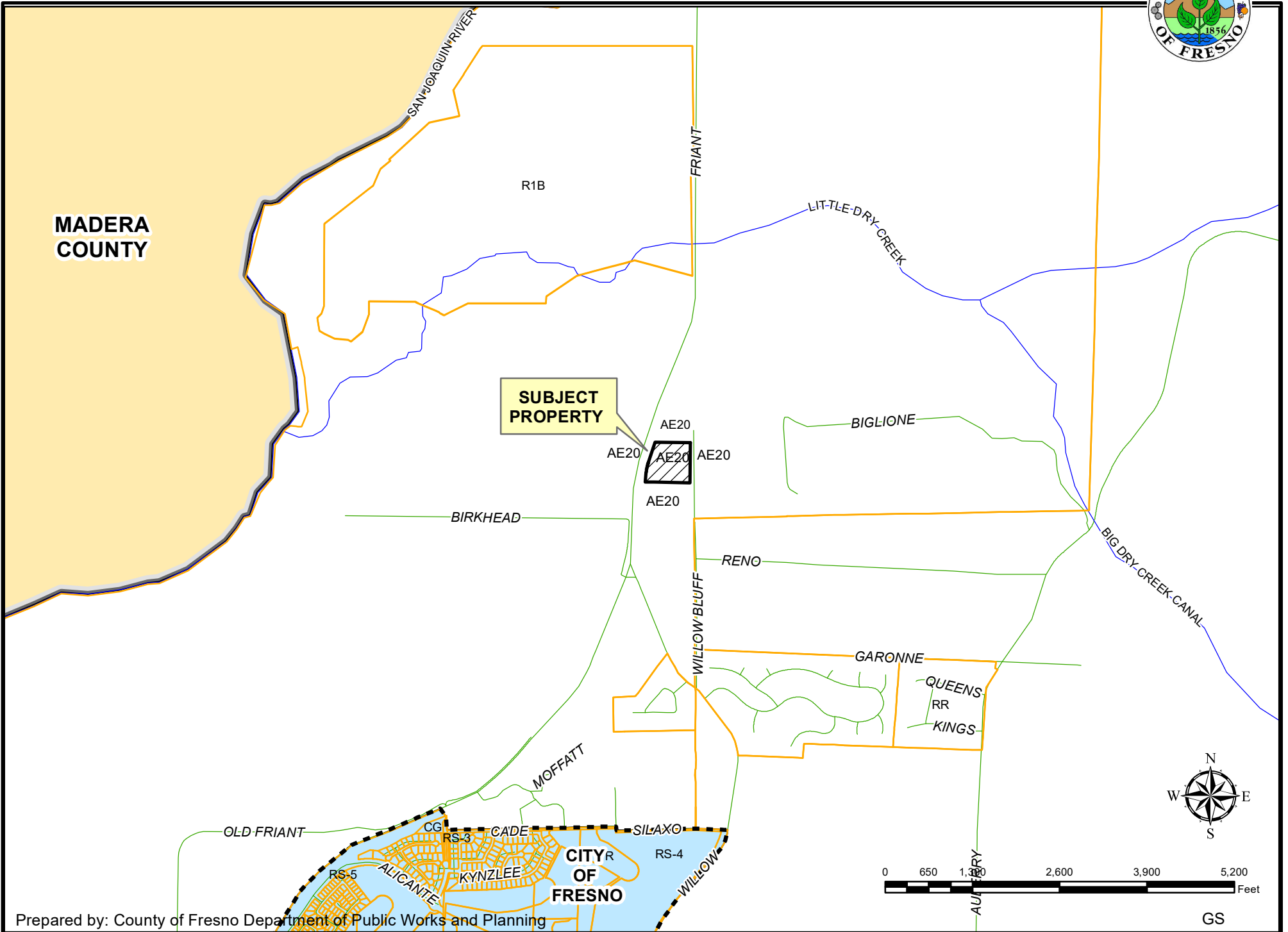
Notes

	These requirements will be satisfied through recordation of a parcel map to create the subject parcels subsequent to the approval of the Variance. The Applicant(s) may apply for an exception request from the road standards through the parcel map process.
7.	A Grading Permit or Voucher shall be required for any grading that has been done without a permit and any grading associated with future development of the existing and proposed parcel(s).
8.	Any additional runoff generated by development of the proposed parcels cannot be drained across property lines and must be retained or disposed of per County standards.
9.	The subject property is located within the California Department of Forestry "State Responsibility Area" (SRA) boundary and is therefore subject to all applicable Fire Safe Regulations and standards, including, but not limited to, building setbacks, driveway construction, turnaround area, gating, display of street address, disposal of flammable vegetation, water supply facilities for fire protection, and roofing materials. Accordingly, any future development of the property or resultant parcels shall be subject to applicable SRA Fire Safe Regulations.

LOCATION MAP



EXISTING ZONING MAP

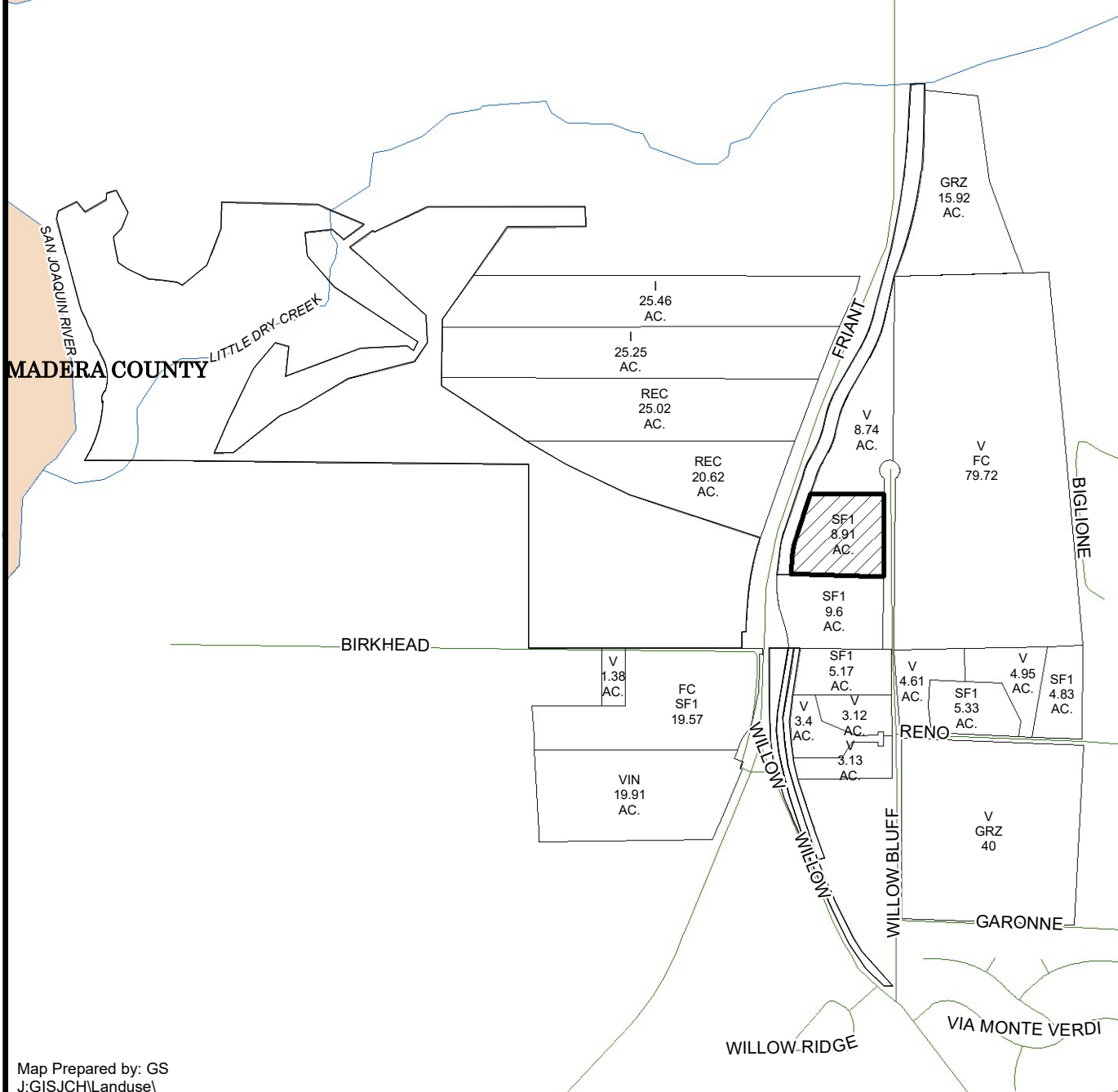


VA4058

EXISTING LAND USE MAP



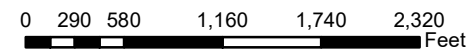
MADERA COUNTY



LEGEND	
FC	FIELD CROP
GRZ	GRAZING
I	INDUSTRIAL
REC	RECREATION
SF#	SINGLE FAMILY RESIDENCE
V	VACANT
VIN	VINEYARD

LEGEND:

- Subject Property
- Ag Contract Land



Map Prepared by: GS
J:GISJCH\Landuse1

Department of Public Works and Planning
Development Services Division

EXHIBIT 4

APPROVED VARIANCES WITHIN A ONE MILE RADIUS

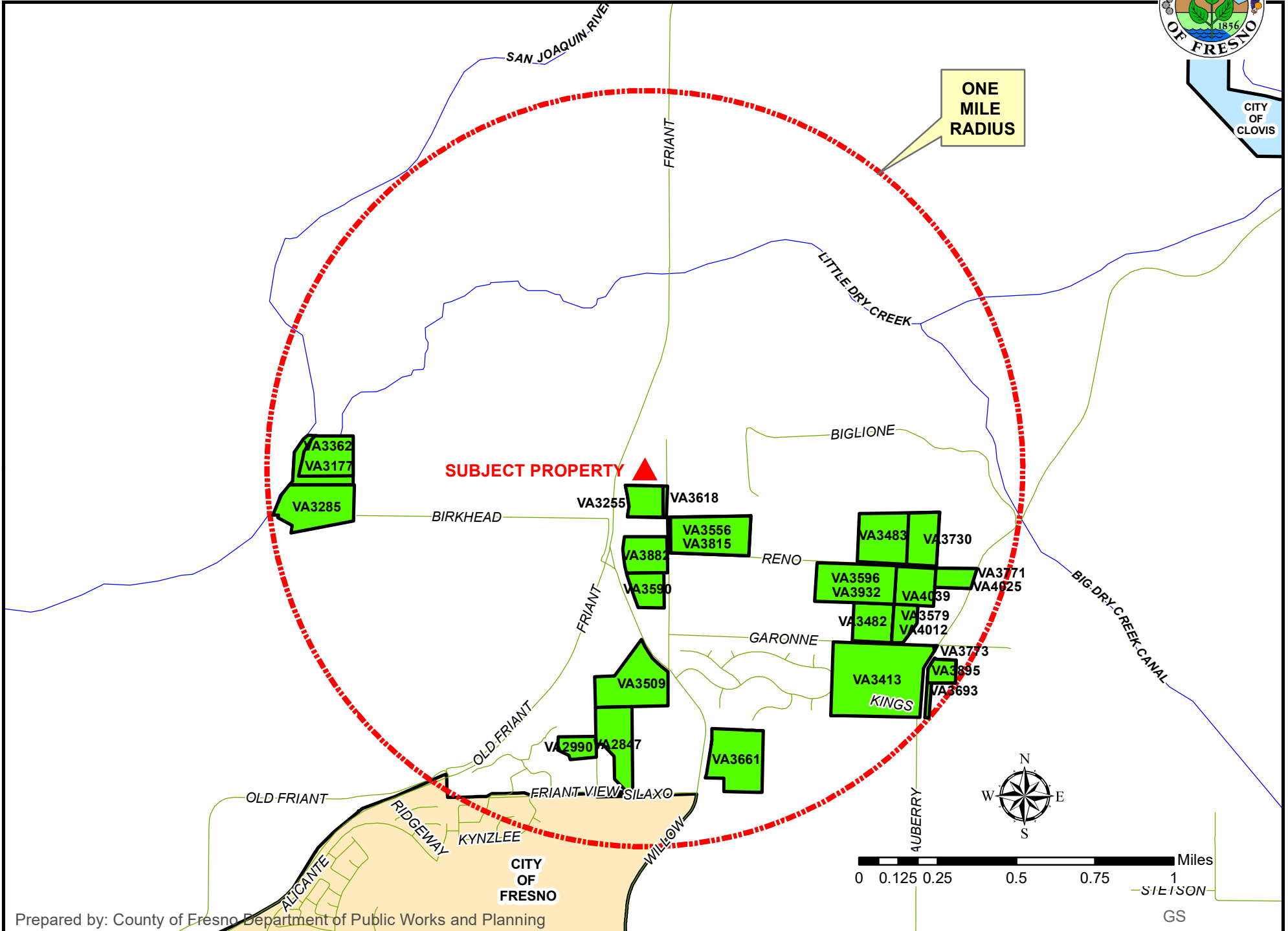


EXHIBIT 5

LEGEND

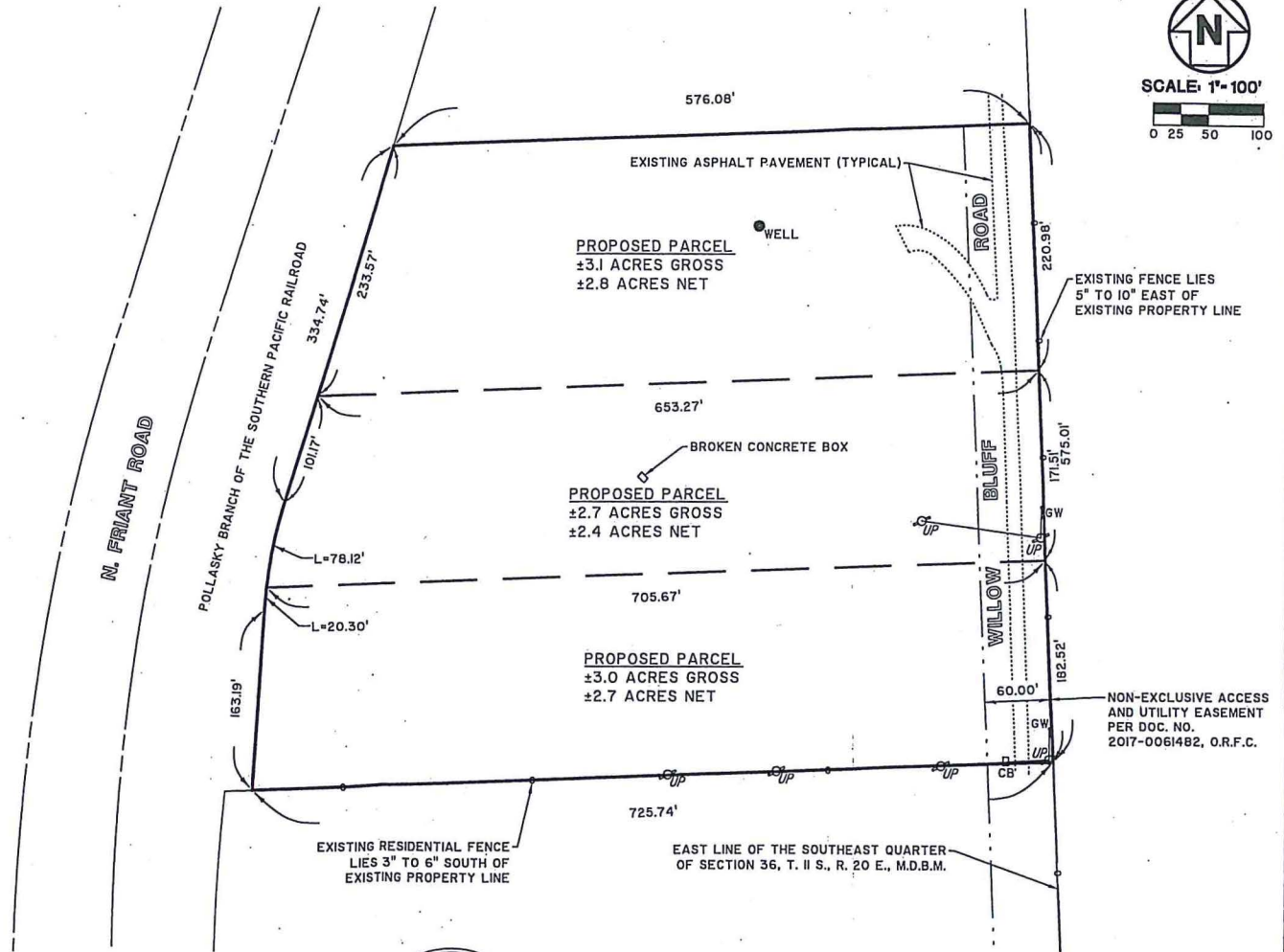
- WELL EXISTING WELL
- UP EXISTING UTILITY POLE
- CB EXISTING CABLE BOX
- GW EXISTING GUY WIRE
- BOUNDARY LINE OF SUBJECT PROPERTY
- - - PROPOSED DIVISION LINE
- - - - - RIGHT-OF-WAY LINE

NOTES

1. NO BUILDINGS EXIST ON SITE.
2. NO SPECIFIC IMPROVEMENTS ARE PLANNED FOR THIS SITE.
3. WATER WILL BE OBTAINED FROM ONSITE WELLS.
4. NO BUILDINGS ENCROACH OVER EXISTING OR PROPOSED PROPERTY LINES.
5. ALL PROPOSED PROPERTY LINES ARE AT LEAST 5" FROM ANY EXISTING FENCES.



SCALE: 1"=100'
0 25 50 100



SITE PLAN FOR VARIANCE APPLICATION

PREPARED FOR:
APN 300-070-33
13152 N. WILLOW BLUFF ROAD
CLOVIS, CA 93619



<p>BEDROCK ENGINEERING A solid foundation for your next project Land Surveying • Civil Engineering • Utility Locating</p>	Mail: P.O. Box 25783 Fresno, Ca 93729	DATE: AUGUST 23, 2015 DRAWN BY: RCS CHECKED BY: MSH PROJECT NO.: 18-4706
	Office: 36961 Avenue 12 Madera, Ca 93636	DRAWING NO.: VARIANCE SITE PLAN
	voice: 559.645.4849 fax: 559.645.4869 www.bedrockeng.com	SHEET NO.: 1
	SHEET 1 OF 1 SHEET(S)	

VARIANCE FINDINGS

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification.

All of the land lying east of N. Friant Avenue alignment can be defined as undulating land with a number of former stream channels and the land east of the Willow Bluff Road is not connected to the Willow Bluff Road parcels because of the interruption of Reno Avenue. The eastern area has larger parcels than the Willow Bluff parcels even though both have underlying agricultural zoning. The 10 Willow Bluff properties are in a unique transition area between the larger parcels to the east and the San Joaquin River Flood plain area to the west and are smaller in size. These parcels also have a commanding 80' to 100' view shed over the river bottom that is not available to parcels to the east.

While the Fresno County Farmland Map suggests that the area be classified as grazing, the Fresno County Assessor designated all 10 parcels as residential and the parcel in question has a value of \$535,000; clearly not an agricultural parcel.

2. Such Variance is necessary for the preservation and enjoyment of a substantial property right of the application, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.

A recent February Planning Commission discussion that analyzed this area in conjunction with parceling to the east primarily related to Reno Avenue frontage found that 19 variances have been processed and 14 have been approved, followed by the approval of the variance being considered.

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 variance will reflect the current land division trend now occurring in the area and the County will require improvements that will meet any service issues that may arise during their evaluation. The parcel in question had a home (which has been demolished) and that home had adequate sewer and water services. Several homes do exist south of the parcel in question with services, one of which was just constructed near the Willow Bluff Road entrance. A possible

extension of the private road may connect in the future to Friant Road at a designated location near the Volcan Sand and Gravel operation.

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

We have an unusual situation here in that the majority of development activity in the surrounding area over the last two decades has not been in keeping with the General Plan designation or underlying zoning. The Board of Supervisors has recognized this and has directed staff to “rethink” their area and make changes that are more reflective of the current activity in the area. We expect that there may be one new designation east of Willow Bluff Road and another on the transition area west of Willow Bluff Road.

Therefore this finding should be judged on the proposed intent of the Board of Supervisors.

Our request would generate 3 parcels, one parcel would be 3.1 gross acres, one would be 3.0 gross acres and one would be 2.7 gross acres. A review of the history of land division finds that the 10 parcels on the west side of N. Willow Bluff Road range in size from 2.5 acres to 9.49 acres at the present time. None of these parcels are reflective of the underlying AE-20 zone district and reflect an evolving change in the area to Estate Size Bluff View lots. The entry to N. Willow Bluff Road is bounded by the 81.60 ac, 125 lot Monte Verdi subdivision, zoned R-1-B, low density on the east side of the road and a rural residential subdivision on the west.

OPERATIONS STATEMENT

Pre-Application Review #39335
Submitted: November 16, 2017
Fees Paid

APN 300-070-33

Location: 13152 N Willow Bluff Road, Clovis, CA 93619

The proposal is to process a variance to reduce the Fresno County lot size requirements to allow the creation of three parcels from a 8.91 acre parcel in the existing AE-20 (Exclusive Agricultural, 20 acres minimum parcel size) Zone District. The three parcels would be developed with one residential unit per parcel. The residential use shall be 24-7 with no customers, employees or service or delivery vehicles. Access to the parcels would be from N. Willow Bluff Road, a private road. No commercial activity would occur on the new parcels. Therefore, no employee parking, goods sold, on site equipment or material storage will occur on site. The residential use will not cause an unsightly appearance and no solid or liquid wastes, other than normal residential amounts will be produced.

Water use is estimated to be 400 gallons per day from on-site pumping.

Construction on the parcels would be standard residential units, size and design to be determined by future owners. There will be no advertising on site and no structures are currently on the site. The previous residential unit has been removed. The future owners will also determine the extent of outdoor lighting, sound amplification, landscaping and fencing.

Ownerships – see attached Grant Deed, Title Report and 2017-18 tax statement.