



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 April 25, 2019

SUBJECT: Variance Application No. 4055

Allow a reduced rear-yard setback of 4 feet (20-foot minimum required) and reduced minimum required space between buildings to 3 feet (6-foot minimum required) to allow the conversion of an existing detached garage to an accessory living quarters on a 0.17-acre parcel in the R-1(nb) (Single-Family Residential, 6,000 square-foot minimum parcel size, Neighborhood Beautification Overlay) Zone District.

LOCATION: The subject parcel is located on the east side of Ninth Street approximately 79 feet north of its intersection with Laurite Avenue, within a County island in the City of Fresno (2469 S. Ninth Street, Fresno, CA) (Sup. Dist. 3) (APN 480-273-18).

OWNER: Ana Maria Escalante, Sandra Godinez Romero & Silvia Escalante
APPLICANT: Maria Navarro

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

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Deny Variance Application No. 4055; 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. One-Mile Radius Variance Map
6. Site Plans and Detail Drawings
7. Applicant's Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Roosevelt Community Plan – Low-Density Residential	No change
Zoning	R-1(nb) (Single-Family Residential, 6,000 sq. ft. minimum parcel size, Neighborhood Beautification Overlay)	No change
Parcel Size	0.17 acre	No change
Project Site	N/A	N/A
Structural Improvements	Single-Family Residence, Detached Garage, and Storage Buildings	Detached Garage converted to Accessory Living Quarters
Nearest Residence	Approximately 57 feet north	No change
Surrounding Development	Single-Family Residences and Accessory Buildings	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential	No change
Lighting	Residential	No change
Hours of Operation	N/A	N/A

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

Violation File No. 16-109737 was opened on the property on November 18, 2016. The violation was for remodeling a garage into living quarters without permits and the addition of two structures without permits. The owners were notified of the violations and are attempting to abate the violation by applying for the Variance and necessary permits.

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15305 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 109 property owners within 600 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:

After applications for building permits for the accessory living quarters were received, staff noted that the detached garage was originally permitted and was allowed to encroach into the rear- and side-yard setbacks, as the Zoning Ordinance allows non-residential accessory building to encroach into required yard setbacks as long as they do not exceed 500 square feet inside the setbacks and that the accessory building is 85 feet or more from the front property line. Due to the fact that the applicant is applying to convert the detached garage into an accessory living quarters, the aforementioned development standards do not apply, as the building is now being considered for living space.

There are two additions built onto the proposed accessory living quarters, one to the south and one to the east. The proposed accessory living quarters is encroaching into the rear-yard setback by 16 feet, and the southern addition has been built within 3 feet of an existing storage building. The Fresno County Zoning Ordinance requires that accessory buildings shall be a minimum of 6 feet from main buildings. The proposed accessory living quarters will be considered a main building based on Section 855.N.1.a. of the Fresno County Zoning Ordinance, which states that where an accessory building is part of or joined to the main building by a common wall, or where any accessory building has sleeping or living accommodations, said accessory building shall be deemed a main building for purposes of applying the property development standards of this Division. Due to these two ordinance requirements, the owners were notified that an approved Variance would be required to move forward with the conversion of the garage into an accessory living quarters. Additionally, the Applicant applied for a carport permit to meet parking requirements for the zone district prior to applying for the Variance.

The subject property first appears on November 9, 1914, in recorded Sunset Heights map as lot No. 34 and 35. The project site was zoned R-3 (Medium-Density Multiple-Family Residential, 7,500 sq. ft. minimum parcel size) on June 8, 1960. The Fresno County Board of Supervisors then adopted the Roosevelt Community Plan on December 17, 1979 and designated the project site Low-Density Residential. The property was then rezoned via Amendment Application No. 3148 on September 29, 1980 from the R-3 Zone District to an R-1 (Single-Family Residential, 6,000 square-foot minimum parcel size) Zone District.

The current residence and detached garage were permitted on July 19, 2007. Several additions to the detached garage and the conversion of the detached garage into accessory living quarters occurred between the time the building permits were finalized and the opening of the violation file.

There has been one (1) Variance that has been applied for within a one-mile radius of the project site that is related to the subject application.

Application/Request	Date of Action	Staff Recommendation	Final Action
VA No. 3880 – Allow a zero-yard setback (10 feet minimum required) and waive masonry wall requirements in the C-1 District.	N/A	N/A	Applicant withdrew their application.

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 property in the vicinity having the identical zoning classification.*

Finding 2: *Such Variance is necessary to the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under the conditions in the vicinity having the identical zoning classification.*

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 20 feet Side: 5 feet, Accessory buildings may encroach into the setbacks up to an aggregate area of 500 square feet granted that the accessory building is located 85 feet from the front property line. Rear: 20 feet, Accessory buildings may encroach into the setbacks up to an aggregate area of 500	Front: 20 feet Side: 5 feet Rear: 4 feet (Note: The garage, which is approximately 115 feet from the front property line, is being converted to an Accessory Living Quarters, which makes the building ineligible for	N

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
	square feet granted that the accessory building is located 85 feet from the front property line.	the 500 square-foot aggregate area rule.)	
Parking	One parking space in a garage or carport for every dwelling unit. These spaces shall be on the same lot with the main building which they are intended to serve and be located to the rear of the required front yard, except for hillside lots.	The existing detached garage is being converted to Accessory Living Quarters. A permitted carport will be utilized to meet the parking standard.	Y
Lot Coverage	Maximum lot coverage by buildings and structures shall not exceed forty (40) percent of the total lot area.	No change	Y
Space Between Buildings	Accessory buildings shall be a minimum of six feet from the main building. Accessory buildings connected to the main building by a breezeway roof shall also maintain a minimum six-foot separation.	The proposed accessory living quarters will be considered a main building and has a three-foot separation from an existing storage building, thus requiring a Variance.	N
Wall Requirements	Where lots are one acre or less, a fence or wall not less than five feet nor greater than six feet in height shall be constructed.	Existing fence not to exceed six feet.	Y
Septic Replacement Area	N/A	N/A	Y
Water Well Separation	N/A	N/A	Y

Reviewing Agency/Department Comments Regarding Site Adequacy:

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

Analysis:

In support of Finding 1, the Applicant's findings state that substantial improvements have been made to the parcel and that having this separate living space detached from the main house makes this property unique. Family members utilize the space so that they can be close by to care for their mother who is the occupant of the main house.

In support of Finding 2, the Applicant's findings state that the proposed accessory living quarters will be utilized as a private family space. The space allows family members to stay in or near the house while allowing their mother to continue living in the house. Without the space, the Applicant states that there would not be adequate room for the family to stay, which could result in having to move the mother away from the home. The Applicant states that strict compliance with zoning laws would cause undue hardship on the property owner.

A consideration in addressing Variance applications is whether there are alternatives available that would avoid the need for the Variance. The only alternative that is available that would avoid the need for the Variance would be to convert the accessory living quarters back into a garage. This conversion would classify the structure as an accessory building and would allow the building to encroach into the rear-yard setback and also reduce the minimum spacing between buildings, as the accessory building would not be considered a main building. The Applicant has indicated that the improvements have already been made to the structure, and converting it back into an accessory building (in the case of this application, a detached garage) would not be feasible for them compared to applying for the building permits to convert the detached garage to accessory living quarters.

In regard to Finding 1, staff research indicates that the project site is an interior lot and that the parcel configuration is similar to other interior lots within the vicinity of the project area. Staff would also like to note that the single-family residence and garage are configured in a similar manner compared to the surrounding development. The detached garage was permitted in July 19, 2007 with the modifications occurring between the time that the garage permit was finalized and when the violation file was opened by Code Enforcement in 2016. Ownership change did not occur in between those times. It is possible that the owner made the modifications to the garage without knowledge that building permits or approval of the modifications were required, however, this type of situation would not be considered an extraordinary or unusual circumstance. Therefore, staff believes that Finding 1 cannot be made.

In regard to Finding 2, the Applicant has indicated that the property is being utilized for private family space and that the approval of the Variance will preserve their property right to continue utilizing the property as such. As staff has noted before, the lot and the structures are configured similarly to other properties in the vicinity of the project site. Additionally, a single-family residence is already available to provide private family space. Considering the lot configuration, development standards and the available private family space provided by the existing single-family residence, staff does not believe that the granting of the Variance will preserve a substantial property right that other property owners with similarly-zoned properties in the vicinity have. Therefore, staff believes Finding 2 cannot be made.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 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	0.17 acre	Single-Family Residence	R-1(nb)	Approximately 56 feet
South	0.17 acre	Single-Family Residence	R-1(nb)	Approximately 55 feet
East	0.17 acre	Single-Family Residence	R-1(nb)	Approximately 108 feet
	0.17 acre	Single-Family Residence	R-1(nb)	Approximately 112 feet
West	0.17 acre	Single-Family Residence	R-1(nb)	Approximately 198 feet
	0.17 acre	Single-Family Residence	R-2-A(nb)	Approximately 195 feet

Reviewing Agency/Department Comments:

Fresno Metropolitan Flood Control District: No onsite retention of storm water runoff is required provided the developer can verify to the County of Fresno that runoff can be safely conveyed to the Master Plan inlet(s). **This shall be included as a Project Note.**

Drainage from the site shall be directed to Ninth Street. **This shall be included as a Project Note.**

No surface runoff shall be directed toward the alley. **This shall be included as a Project Note.**

The drainage fee reflects a reduction credit of fifty-five percent (55%) of the drainage fee amount otherwise payable by the proposed development of County VAR 4055. This credit is applied to development entitlements within Drainage Areas “RR” and “II1”, which are obligated under ordinance to pay a “full cost” drainage fee, but which are also subject to an increased Benefit Assessment on their annual property tax bill for completion of the Drainage Area “RR” and “II1” systems. As this increased levy will fund a portion of a project which will complete the storm drain facilities in Drainage Areas “RR” and II1”, the “full cost” drainage fee rates for these drainage areas can be, and are by this fifty-five percent (55%) reduction, proportionately reduced.

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 the result of the Variance will have no effect on the use of the land and no new land use will occur. The Applicant also states that the parcel will

not be used in any manner that will be materially detrimental to the public welfare or injurious to neighboring properties. The Applicant states that the proposed structure will still look like a garage from the front, neighbor's yard and alleyway, therefore the Applicant believes that no detrimental effect will occur if the Variance is approved.

In regard to Finding 3, if approved, the Variance will allow the Applicant to proceed with their building application to allow the conversion of the existing detached garage to an accessory living quarters, as accessory living quarters are subject to more strict development standards compared to an accessory building. Staff concurs with the Applicant's finding that the Variance request will not change the existing land use and will not be detrimental to public welfare or injurious to neighboring properties. Approval of the request will allow the Applicant to convert the garage into an accessory living quarters, which is an allowed use along with single-family residential use. Based on this information and no concerns being brought forth from reviewing agencies, staff believes Finding 3 can be made.

Recommended Conditions of Approval:

None.

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.

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: No comment.

City of Fresno Development and Resources Management: No comment.

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

Analysis:

In support of Finding 4, the Applicant states that the granting of the Variance will have no impact on the existing land uses and would not impact surrounding properties.

The subject property is designated Low-Density Residential in the Roosevelt Community Plan. There are no General Plan policies, nor any policies in the Roosevelt Community Plan, that specifically address setbacks and space between buildings. The proposal is therefore consistent with the applicable community plan and the County General Plan.

Based on these factors, the proposal is consistent with the General Plan.

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 that required Findings 1 and 2 for granting the Variance cannot be made. Staff therefore recommends denial of Variance No. 4055.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 4055; 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. 4055, 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.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

TK:ksn

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**Variance Application No. 4055
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan and Elevations approved by the Planning Commission.

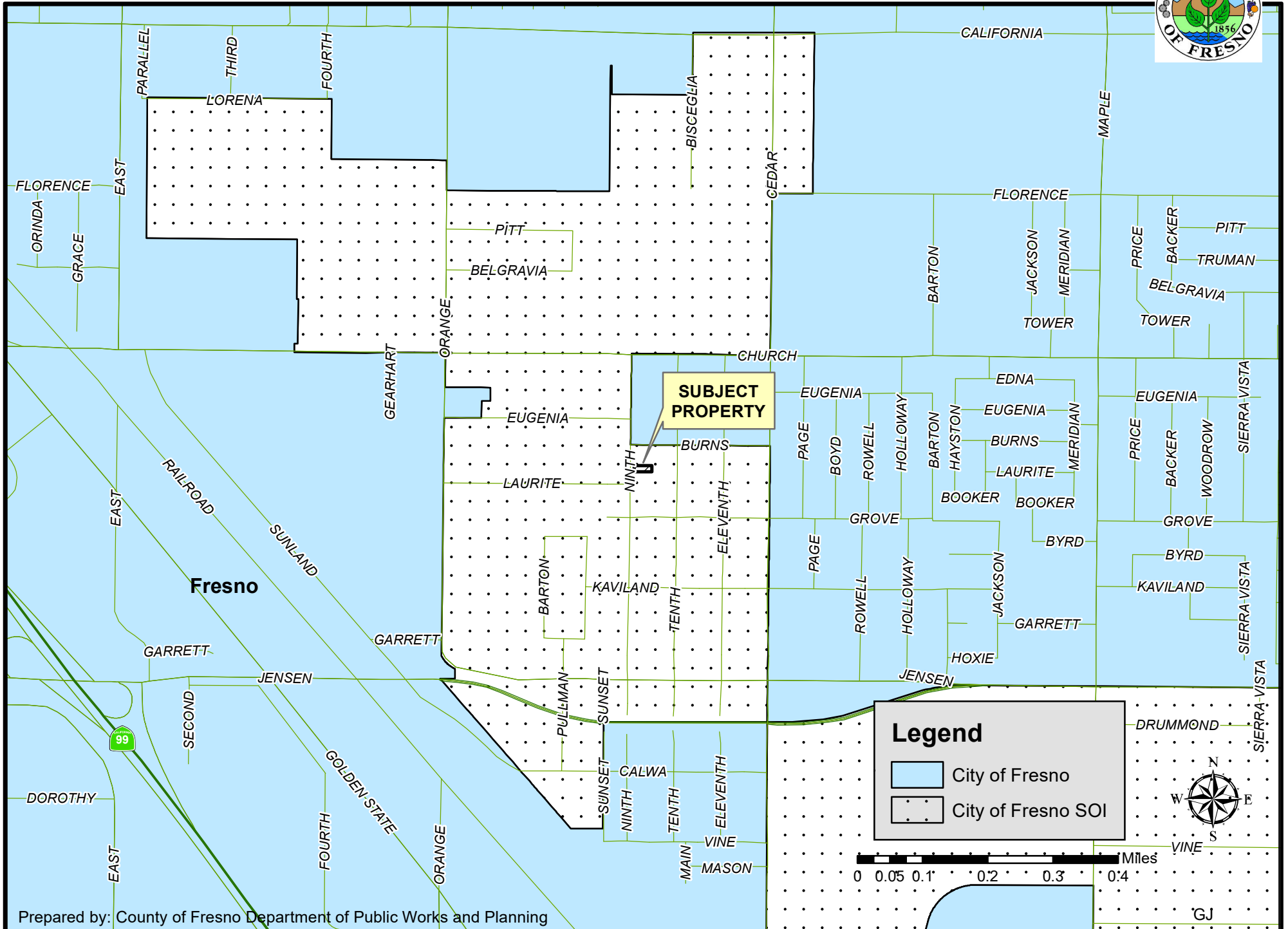
Conditions of Approval reference recommended Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Fresno Metropolitan Flood Control District: <ul style="list-style-type: none">• No onsite retention of storm water runoff required, provided the developer shall verify to the County of Fresno that runoff can be safely conveyed to the Master Plan inlet(s).• Drainage from the site shall be directed to Ninth Street.• No surface runoff shall be directed toward the alley.

TK:ksn

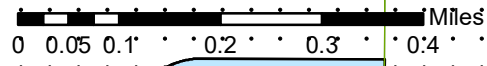
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LOCATION MAP

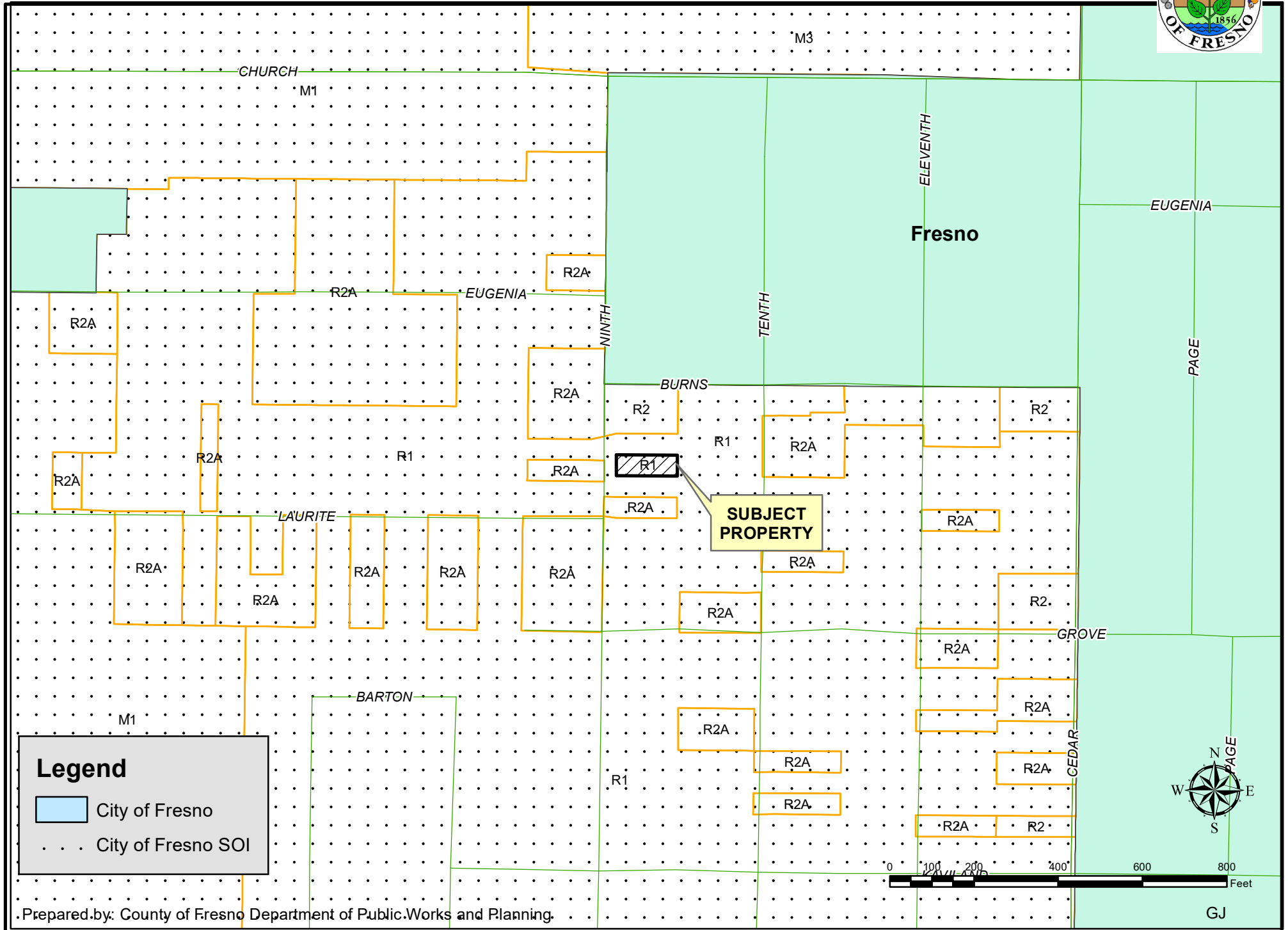


Legend

- City of Fresno
- City of Fresno SOI



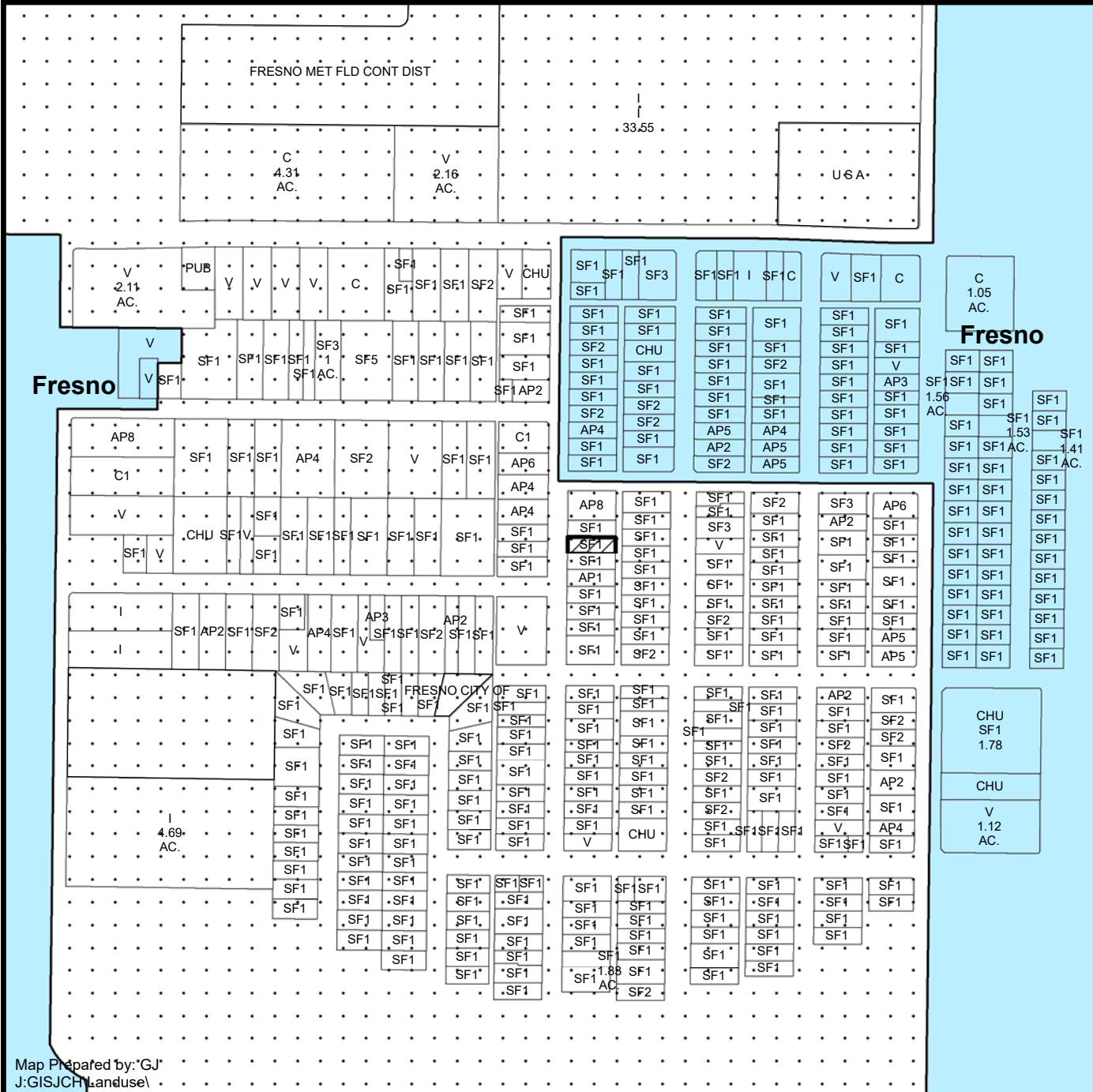
EXISTING ZONING MAP



Legend


- City of Fresno
- City of Fresno SOI


EXISTING LAND USE MAP

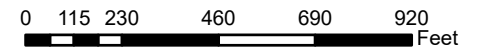


LEGEND	
CP#	- OFFICE COMM./PROF
AP1	- APARTMENT
C	- COMMERCIAL
C#	- COMMERCIAL
CHU	- CHURCH
I	- INDUSTRIAL
PUB	- PUBLICLY OWNED
SF#	- SINGLE FAMILY RESIDENCE
V	- VACANT

LEGEND:

 Subject Property

 City of Fresno SOI



Department of Public Works and Planning
Development Services Division

Map Prepared by: GJ
J:GISJCH Landuse

APPROVED VARIANCES WITHIN A ONE MILE RADIUS

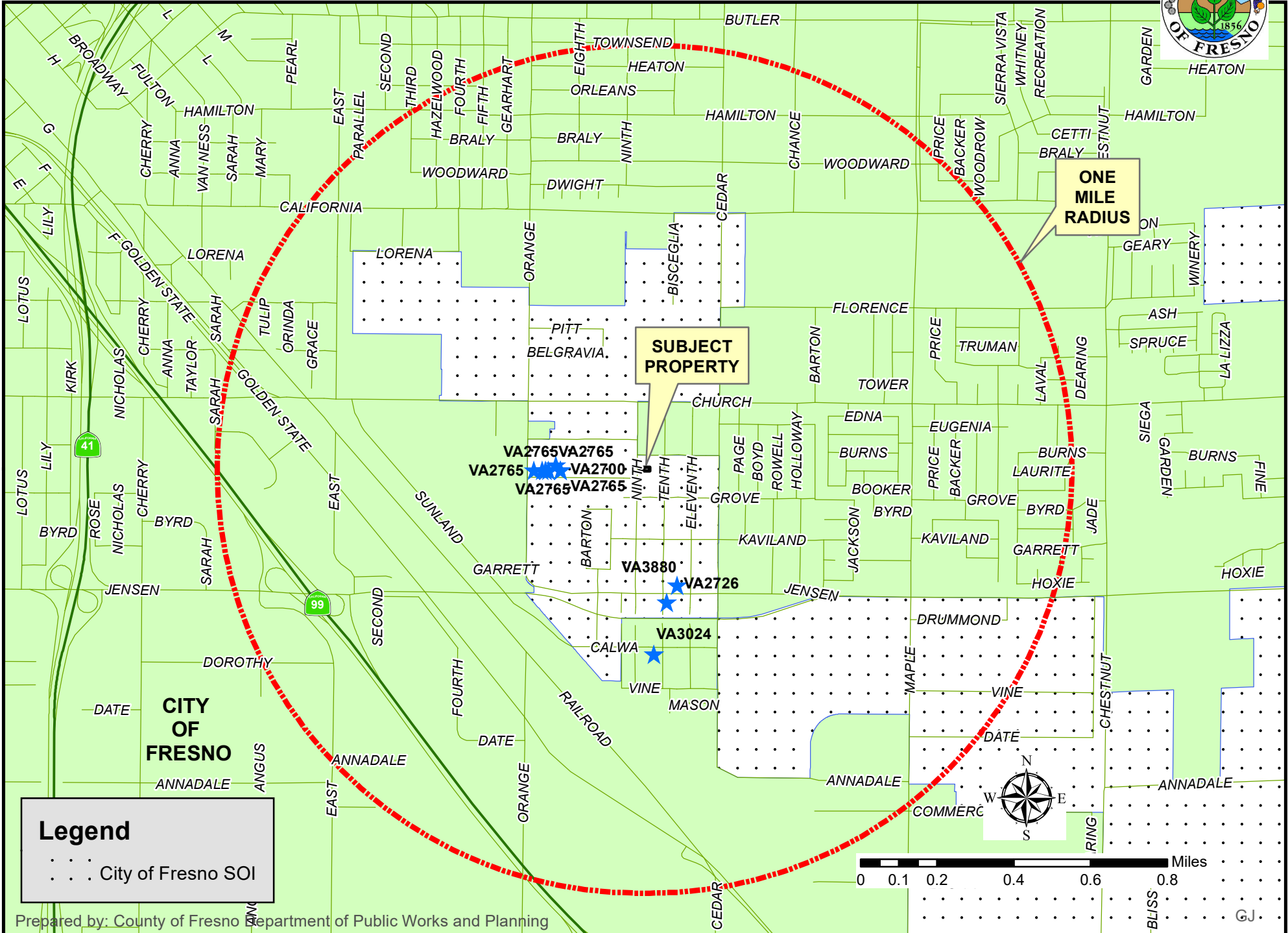
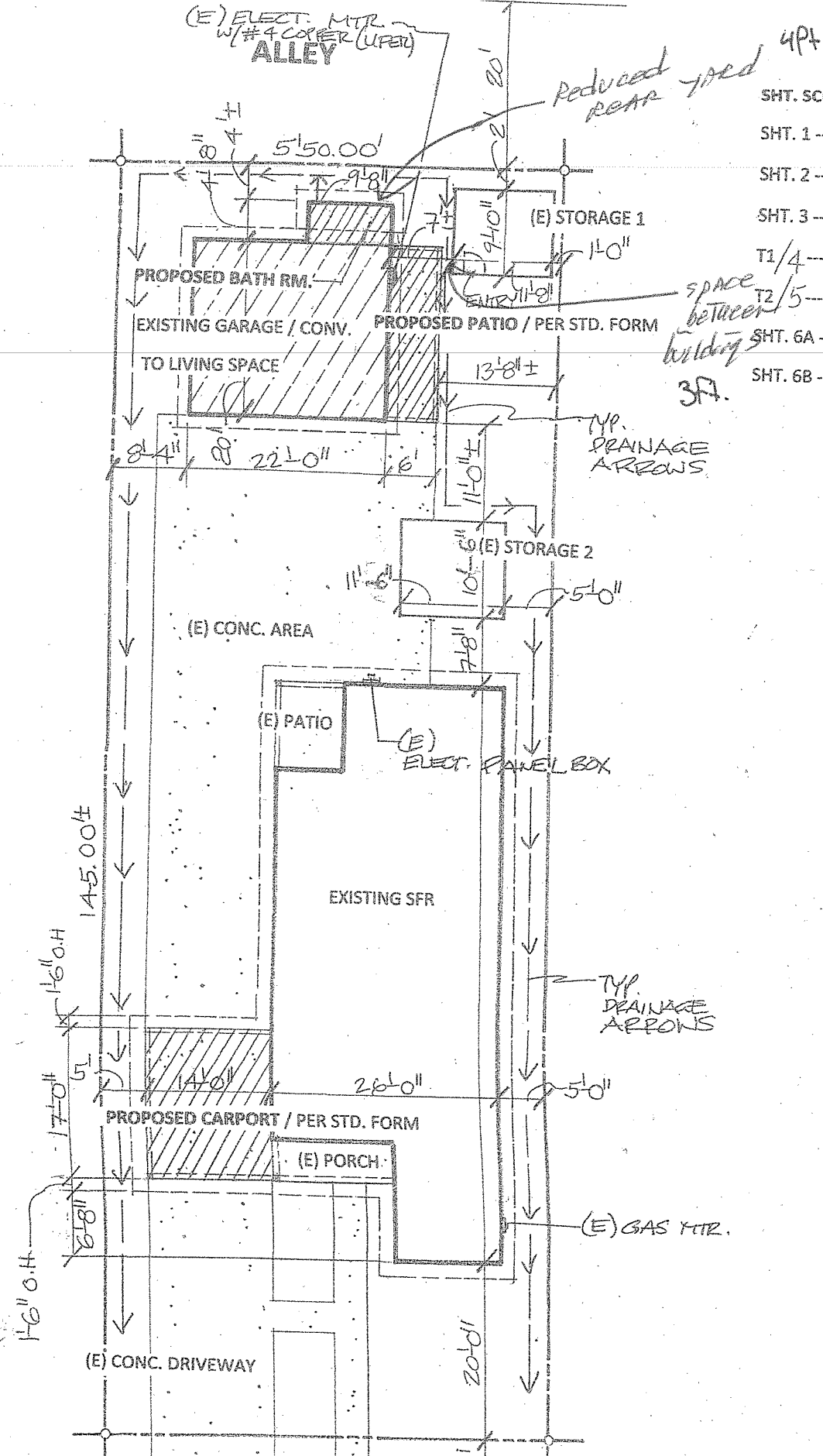


EXHIBIT 5



4PT.
 SHT. SCHE
 SHT. 1 ---
 SHT. 2 ---
 SHT. 3 ---
 T1/4 ---
 T2/5 ---
 SHT. 6A ---
 SHT. 6B ---

Reduced rear yard

space between building
 3A.

TYP. DRAINAGE ARROWS

TYP. DRAINAGE ARROWS

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 AND PLANNING
 DEVELOPMENT SERVICES DIVISION
 VA4055
 ER7515

EXHIBIT 6

Variance Application

1. Substantial improvements have been made to the parcel. Having to modify the house to meet these requirements would be a great expense and effect the aesthetics of the house. This property is unique in that it has a separate living space detached from the main house. This allows space for us to be close to and care for a family member who would not be able to live by herself.
2. The parcel has been used and maintained and continues to be used as a private family space. To the East of the house is an alleyway, for this reason it does not affect neighbors. This space allows family members to stay at the house to be close to the current homeowner (our mother) to be able to take care of her while allowing her to remain in her home. Without this space, there would not be adequate room for family to stay which could result in our mother having to move from her home that she has lived in for many many years. This space allows family staying with her to have a comfortable place to sleep. Strict compliance with zoning laws would cause undue hardship on the property owner.
3. The parcel will not be used in any manner that will be materially detrimental to the public welfare or injurious to neighboring properties. These uses are fully consistent with the public welfare. The Variance will have no effect on the use of the land and no new land use will occur because of the Variance. The granting of the variance would not result in a hazardous condition and strict compliance would be an unreasonable hardship. Leaving the structure as it is would be the least intrusive solution possible. From the front of the house, the neighbor's yards, and the alleyway it appears to be a garage, therefore the space does not have any detrimental effect on the public or any surrounding neighbors.
4. The Parcel would have no impact on the existing land uses and would not impact surrounding properties. This space would not alter the essential character of the neighborhood. Therefore, we do not believe the granting of such variance will not be contrary to the objectives of the Fresno County General Plan.

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