



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 October 24, 2019

SUBJECT: Variance Application No. 4078

Allow the creation of two 2.23-acre parcels from an existing 4.46-acre legal non-conforming parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the southeast corner of South Frankwood and East Jefferson Avenues, approximately two and one half-miles north of the nearest city limits of the City of Reedley (5530 South Frankwood Avenue) (SUP. DIST. 4) (APN 360-130-01).

**OWNER/
APPLICANT:** Ray Remy

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

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Deny Variance No. 4078; 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

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 | 4.46 acres | Proposed Parcel A: 2.23 acres Proposed Parcel B: 2.23 acres |
| Project Site | 4.46-acre parcel improved with a single-family residence | See above Parcel Size |
| Structural Improvements | The subject parcel is improved with a 2,106 square-foot single-family dwelling with a 907 square-foot garage | If the Variance is approved, subsequent development would include one additional 1,500 square-foot single-family dwelling unit, with a 1,200 square-foot detached garage on proposed Parcel B, according to the Applicant's site plan and submitted variance findings |
| Nearest Residence | Approximately 220 feet north of the northern boundary of the subject property | 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 22 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 was created as Lot No. 95 of the Columbia Colony Re-subdivision, recorded February 1908 in Book 4, Page 15, Record of Surveys. The subject parcel was rezoned from A-1 (General Agricultural) to its current AE-20 Zoning as part of Amendment Application (AA) No. 2870, which involved a large-scale County-initiated rezone, approved August 31, 1976.

The current Variance request, submitted on August 1, 2019, proposes to allow the division of the subject 4.46-acre parcel into two 2.23-acre parcels, Parcel A and Parcel B. If this Variance is approved, it is the intention of the property owner to build a new single-family dwelling on Parcel B as their new primary residence, leaving Parcel A with the existing single-family dwelling for the owners use or conveyance.

At least 4 variance requests have been processed within one half-mile of the subject property. Those 4 variances are detailed in the table below:

| Application/Request | Staff Recommendation | Final Action | Date of Action |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|---------------------|-----------------------|
| VA No. 2791 – Allow the creation of two (2) 2.57-acre parcels from a 5.14-acre parcel in the AE-20 Zone District. | Denial | PC Denied | September 8, 1983 |
| VA No. 2980 – Allow the creation of a 0.94-acre parcel with a lot width of 116 feet (165 required) from a 21.17-acre parcel, and allow a 16-foot rear-yard setback for an existing residence in the AE-20 Zone District. | Approval | PC Approved | February 13, 1986 |

| | | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------|--------------------|
| VA No. 3142 – Allow a 20-foot front-yard setback for employee housing under construction on a 76.67-acre parcel in the AE-20 Zone District. | Denial | PC Approved | April 4, 1988 |
| VA No. 3588 – Allow the creation of a 1.38-acre parcel from a 27.76-acre parcel in the AE-20 Zone District. | Approval | PC Approved | September 18, 1997 |

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 | AE-20 Zone District: Front: 35 feet Side: 20 feet Rear: 20 feet | <u>Parcel A (Approx. 2.23 acres):</u> Front: 35 feet Side: 20 feet Rear: 20 feet <u>Parcel B (Approx. 2.23 acres):</u> Front: 35 feet Side: 20 feet Rear: 20 feet | <u>Parcel A:</u> Yes <u>Parcel B:</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 | <p>There is currently a septic system on site (proposed Parcel A). There is also a domestic water well located on proposed Parcel A, and if the Variance is approved and the parcel is divided, the existing well will be located approximately 73 feet 6 inches from the proposed property line, and more than 100 feet from the existing septic system.</p> <p>There will be an additional well installed on proposed Parcel B which will be located 73 feet 6 inches from the proposed property line.</p> <p>Any existing or proposed water wells will be required to meet minimum setbacks (separation) from existing or proposed septic systems. Proposed Parcel B will have a new septic system which will meet the minimum 50-foot setback required from a property line bordering private property.</p> | |

Reviewing Agencies/Department Comments:

Zoning and Permit Review Section of the Fresno County Department of Public Works and Planning: If this Variance is approved, a subsequent mapping procedure will be required. Any new septic system or expansion of an existing system will be subject to the provisions of the Fresno County Local Area Management Program (LAMP).

Development Engineering Section of the Fresno County Department of Public Works and Planning: Jefferson Avenue is classified as a Local road with a 20-foot right-of-way south of the centerline along the parcel frontage, per the Plat Book. Jefferson Avenue is County maintained, and records indicate that this section of Jefferson Avenue, from Frankwood Avenue to Columbia Avenue, has an Average Daily Traffic (ADT) count of 300, a paved width of 16 feet, a structural section of 0.25 feet Road Mix Surface (RMS), and is in poor condition.

Frankwood Avenue is classified as a Collector road with a 30-foot right-of-way east of the section line along the parcel frontage, per Plat Book. Frankwood Avenue is County maintained, and records indicate that this section of Frankwood Avenue, from Jefferson Avenue to Lincoln

Avenue, has an Average Daily Traffic (ADT) count of 2,100, a paved width of 24 feet, a structural section of .25 feet AC/.35 feet AB/.8 feet IB and is in good condition.

If not already present, ten-foot by ten-foot corner cut-offs should be improved for sight distance purposes at all driveways accessing Frankwood Avenue and/or Jefferson Avenue.

If not already present, 30-foot by 30-foot corner cutoffs shall be improved at the intersection of Frankwood Avenue and Jefferson Avenue for sight distance purposes.

Access driveways for any new development along a Collector shall provide turnaround facilities so that vehicles do not back out onto the roadway.

Typically, any access driveway should be set back a minimum of ten feet from the street-side property line.

Any work done within the County right-of-way will require an encroachment permit from the Road Maintenance and Operations Division.

According to FEMA, FIRM Panel No. 2190H, portions of the parcel are in Zone A, which is subject to flooding from the one-percent-chance (100-year) storm. If any development is proposed within the area identified a Zone A, it must comply with the County Flood Hazard Ordinance (Title 15.48). 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:

In support of Finding 1, the Applicant's findings state that the subject property has been utilized as a residential and agricultural parcel since 1985, and that an approximately 3.0-acre portion of the property contained a productive stone fruit orchard until fruit production began to decline due to the age of the trees, and there was no longer a viable commercial crop produced. The property owners intended to plant new trees; however, it was discovered that the soil was contaminated with nematodes, which require fumigation, and permits for such fumigation have been denied due to the toxic nature of the fumigant and proximity of other residences. The property is too small to support enough crop yield for viable agricultural production, and soil contamination makes crop production impracticable.

Regarding Finding 1, there is considerable variation in parcel sizes in this area; however there are no obvious physical characteristics particular to the property that are exceptional or extraordinary. The soil contamination may be interpreted as an exceptional condition on the property; however, staff is unable to determine whether the inability to obtain fumigation permits can be remedied in the future, or if there are viable alternatives to addressing the soil contamination, other than fumigation, which would correct the condition. Based on the above analysis, staff is unable to make Finding 1.

In support of Finding 2, the Applicant's findings state that the property owners wish to reside on a portion of the property created by the proposed parcel split. Without the parcel split, the eastern portion of the property will likely remain vacant and unproductive. The parcel split would allow the original residence to remain and enable the construction of another residence on the resultant parcel. Additionally, according to the Applicant's findings, there are approximately 29

parcels of 2.50 acres or smaller being utilized as rural residential homesites within one mile of the subject property; thus, the approval of this Variance would allow the property owner to enjoy the same property rights enjoyed by other property owners in the vicinity residing on similarly-sized parcels.

Regarding Finding 2, staff does not agree that the restriction on being able to subdivide the parcel because a portion of it is not farmable constitutes the deficit of a substantial property right, requiring the granting of a Variance to fulfill. The minimum parcel size that may be created in the AE-20 Zone District is 20 acres; accordingly, a property owner may not create parcels with less than the 20-acre minimum parcel size if they do not meet certain criteria, which are not met and do not apply in this case. Thus, 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, and other property owners in the vicinity are subject to the same requirements and restrictions with respect to the creation of a substandard-size lot.

In this case, staff does acknowledge that the loss of a portion of the subject parcel formerly dedicated to agricultural production due to soil contamination could be interpreted as constituting an economic hardship; however, staff does not believe that it would constitute the deficit of a property right to be rectified by the granting of the Variance.

General Plan Policy LU-A.7 states that the County shall generally deny requests to create parcels less than the minimum size required per the acreage designation in areas designated as Agriculture, based on concerns that these smaller parcels are less viable economic farming units, and that increased residential density would conflict with surrounding agricultural uses; moreover, Policy LU-A.7 states that “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”.

A consideration in addressing variance applications is whether there are alternatives available that would avoid the need for the Variance. In this case, the Applicant could simply leave that portion of the parcel formerly dedicated to the orchard undeveloped. It is unknown whether the current condition of the soil, as described by the Applicant, renders the land unusable for agricultural production indefinitely. See discussion of General Plan Policy LU-A.7 under Finding 4 below.

If this Variance is approved allowing the creation of the two 2.23-acre parcels, each of those resulting parcels could potentially be developed with two residences, with the appropriate discretionary approval, which would increase residential density, thereby conflicting with General Plan Policy as previously discussed .

Therefore, based on the preceding analysis, staff was unable to identify any unique or exceptional circumstances, or conditions 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 | 4.46 acres | Single-Family Residential | AE-20 | Approximately 230 feet |
| South | 2.37 acres | Single-Family Residential | AE-20 | Approximately 215 feet |
| East | 9.65 acres | Orchard/Single-Family Residence | AE-20 | Approximately 250 feet |
| West | 76.67 acres | Orchard | AE-20 | Approximately one half-mile |

*Measured from the existing property lines

Reviewing Agencies/Department Comments:

Fresno County Department of Public Health, Environmental Health Division: The Applicant is proposing to install a new sewage disposal system to serve the new residence. The sewage disposal system shall be installed under permit and inspection by the Department of Public Works and Planning Building and Safety Section. Contact the Department of Public Works and Planning at (559) 600-4540 for more information.

It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank and leach line 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. Contact the Building and Safety Section at (559) 600-4540 for more information.

If any underground storage tank(s) are found during construction, 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.

The water well contractor selected by the Applicant or future property owner will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division. Please be advised that only those persons with a valid C-57 contractor's license may construct wells. For more information, contact the Water Surveillance Program at (559) 600-3357.

In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately-licensed contractor (permits required).

Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should 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 should 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.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Any additional runoff generated by development of the site cannot be drained across property lines and must be retained on site, or be disposed of per County standards.

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. Development exceeding 1,000 cubic yards of material may require an engineered grading and drainage plan.

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

Alta Irrigation District: No comment.

Analysis:

In support of Finding 3, the Applicant's Findings state that the granting of the Variance will not impact other properties in the vicinity because the division of the parcel will result in two parcels of similar size to surrounding properties.

Concerning Finding 3, it is the intention of the Applicant, if this Variance is approved, to divide the existing parcel into two parcels, the second of which will develop with a single-family dwelling. As such, there would be an increase in residential density, necessitating the installation of an additional domestic well and septic system to serve the future development. Staff also notes that the AE-20 Zone District allows for a residential density of not more than one single-family dwelling per unit of acreage designation, e.g., no more than one dwelling unit on a parcel that is less than 5 acres in the AE-5 Zone District, or less than 20 acres in the AE-20 Zone District, except that a second dwelling unit may be allowed subject to discretionary approval, per Section 816.2 of the Zoning Ordinance. Therefore, if this Variance were approved, the owner(s) of each resultant parcel could be allowed a second residence, if so desired, subject to a Director Review and Approval, which could result in up to four (4) residences on the two proposed parcels.

This Variance request, if granted, would allow the division of a 4.46-acre parcel into two equal-size parcels, each containing approximately 2.23 acres. According to the Applicant's Variance Findings, if the Variance is approved, one of the resulting parcels would be developed with a new single-family residence, and an additional well and septic system that 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 two 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 | <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>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> <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> <p>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.</p> <p>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 would extend beyond the boundary of the property in question, those impacts shall be mitigated.</p> <p>c. A determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability. The plan must be structured such that it is economically, environmentally, and technically feasible. In addition, its implementation</p> | <p>Review by the Water and Natural Resources Division has determined that the subject parcel is not in an area defined as being water short.</p> |

| Relevant Policies: | Consistency/Considerations: |
|---------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| must occur prior to long-term and/or irreversible physical impacts or significant economic hardship to surrounding water users. | |

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 not located within an area defined as being water short.

Analysis:

In support of Finding 4, the Applicant states that the subject parcel is already non-conforming with the underlying zoning, and the area around the subject property has been developed over time with the addition of substandard-sized parcels improved with single-family dwellings. These parcels are more consistent with rural residential development than with the underlying agricultural zoning, and development in the area has not been in conformance with the Zoning Ordinance regarding restrictions on the creation of substandard-size parcels. Additionally, the proposal is consistent with the General Plan, which promotes conservation of productive and potentially-agricultural lands, as the subject parcel has limited agricultural potential, and would be better suited to residential uses.

Staff notes that 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.” The subject parcel is designated as Farmland of Statewide Importance, which is described as Farmland similar to Prime Farmland, but with minor shortcomings, such as greater slopes or less ability to store soil moisture.

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 homesite 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. Additionally, 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 (see discussion under Finding 2). Lastly, the proposal to split the parcel is not consistent with General Plan Goal LU-A, as noted above.

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:

Based on the factors cited in the analysis, staff does not believe Findings 1, 2, and 4, required for granting the Variance, can be made. Staff therefore recommends denial of Variance No. 4078.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 4078; 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. 4078, subject to the Conditions and Project Notes attached as Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

JS:ksn

G:\4360Devs&PIn\PROJSEC\PROJDOCS\VA\4000-4099\4078\SR\VA 4078 SR.docx

**Variance Application (VA) No. 4078
Conditions of Approval and Project Notes**

| Conditions of Approval | |
|------------------------|------------------------------------------------------------------------------------------------------------------------|
| 1. | Division of the property shall be in accordance with the site plan (Exhibit 6) as 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. | <p>Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create the two proposed parcels. The Map shall comply with the requirements of Title 17.72.</p> <p>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.” 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.</p> |
| 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. | 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). |

EXHIBIT 1

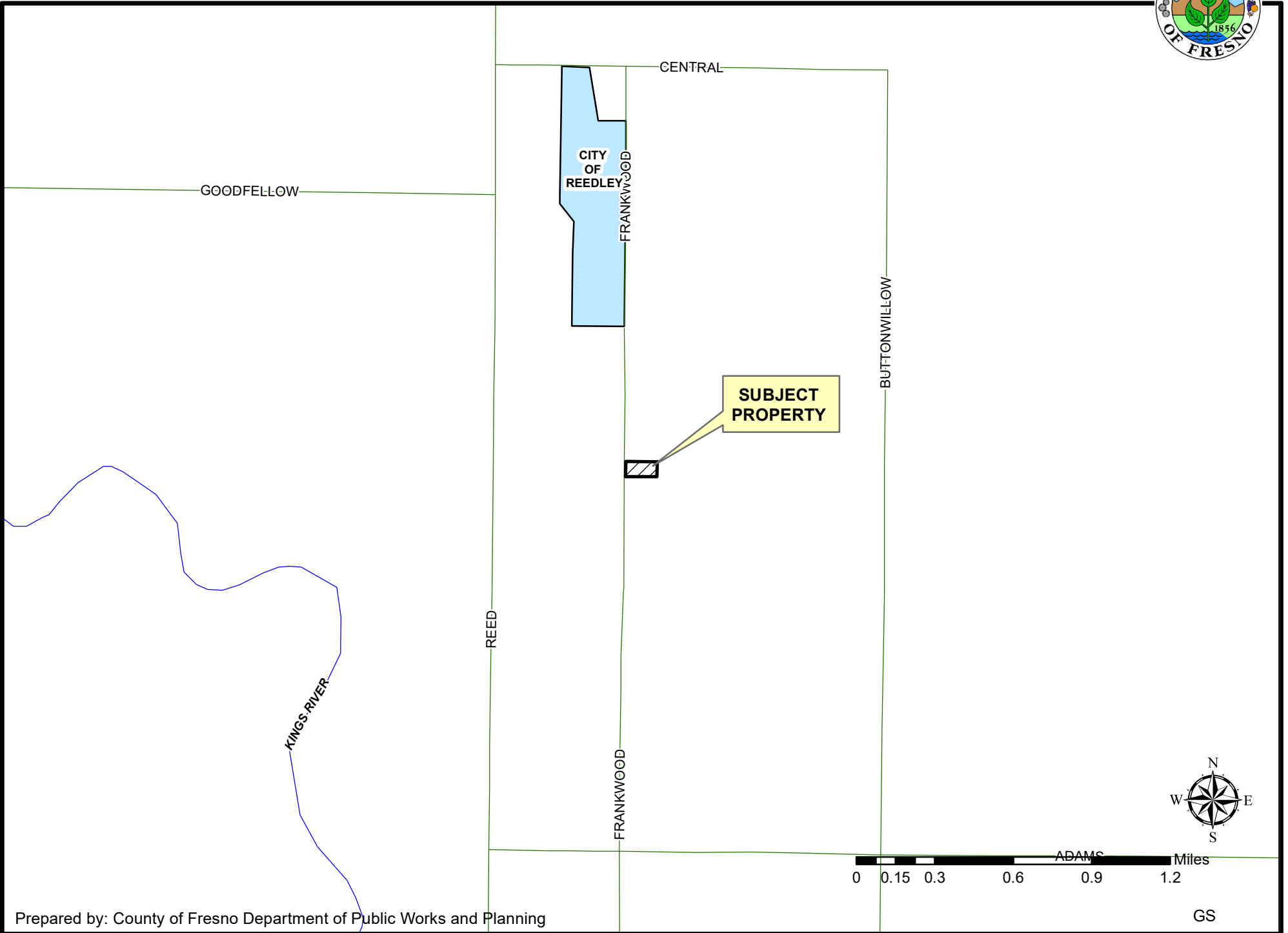
Notes

| | |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. | 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. |
| 8. | An encroachment permit from the Fresno County Road Maintenance and Operations Division will be required for any work proposed within the County road right-of-way. |

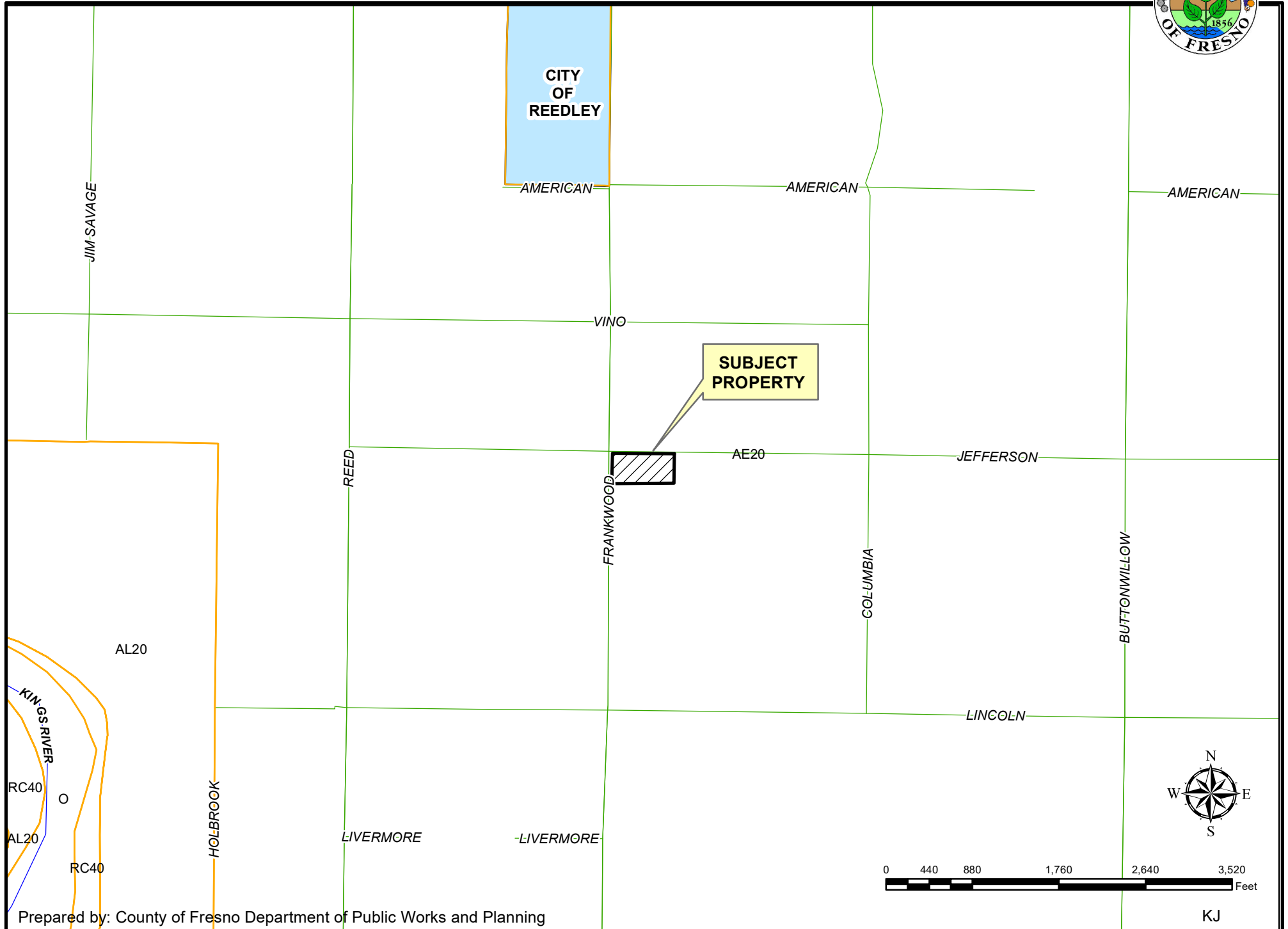
JS:ksn

G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4000-4099\4078\SR\VA 4078 Conditions & PN (Ex 1).docx

LOCATION MAP



EXISTING ZONING MAP



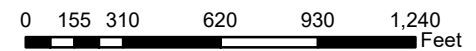
EXISTING LAND USE MAP



| LEGEND | |
|-------------------------------|--|
| ORC - ORCHARD | |
| SF# - SINGLE FAMILY RESIDENCE | |
| V - VACANT | |

LEGEND:

- Subject Property
- Ag Contract Land



Map Prepared by: GS
 G:\4360Devs&PIn\GIS\
 Maps\Landuse\

Department of Public Works and Planning
 Development Services Division

APPROVED VARIANCES WITHIN A HALF MILE RADIUS

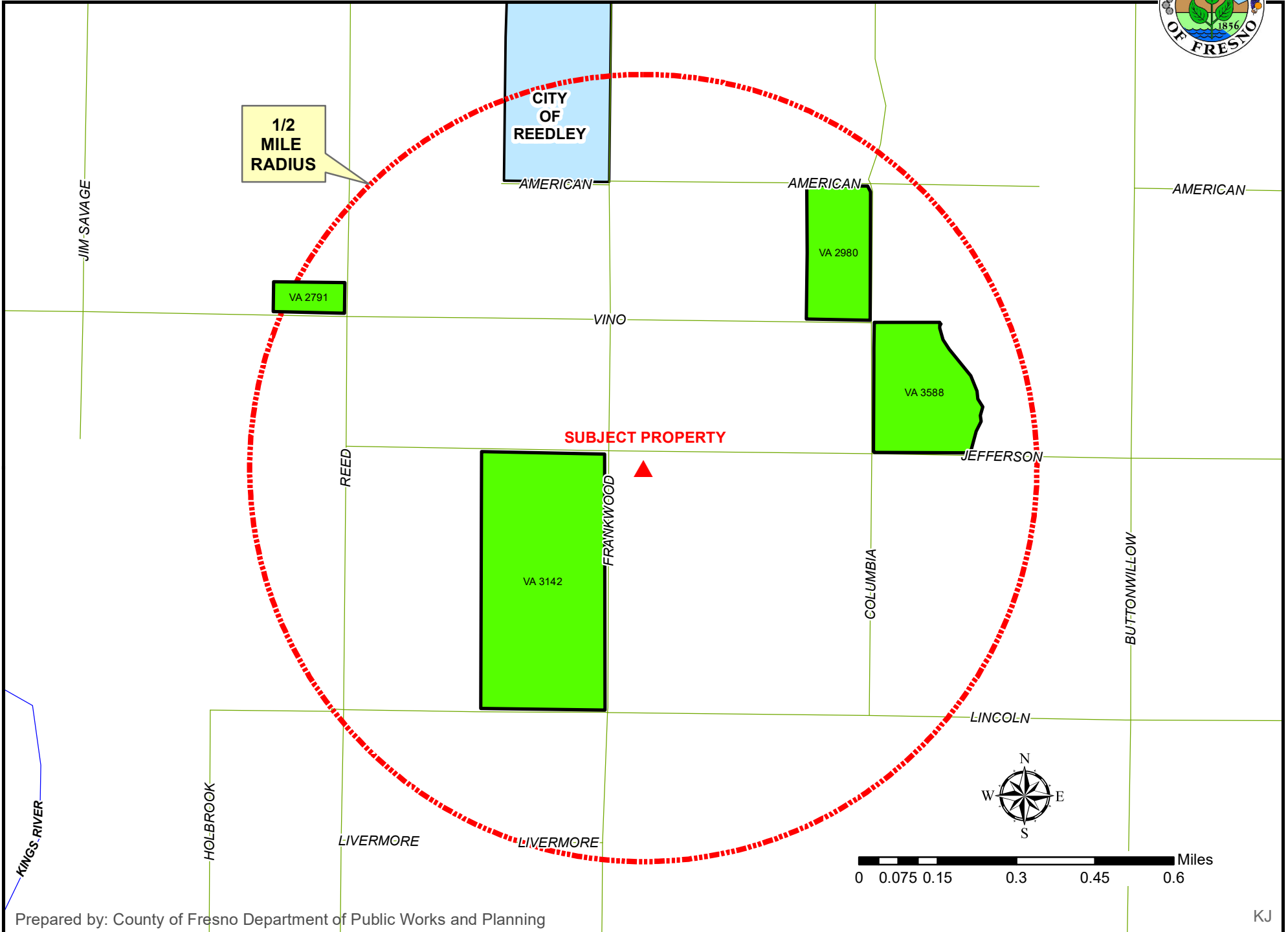


EXHIBIT 5

| REVISIONS | BY |
|-----------|----|
| | |
| | |
| | |

APN 360-130-01
 LOT SQUARE FOOTAGE

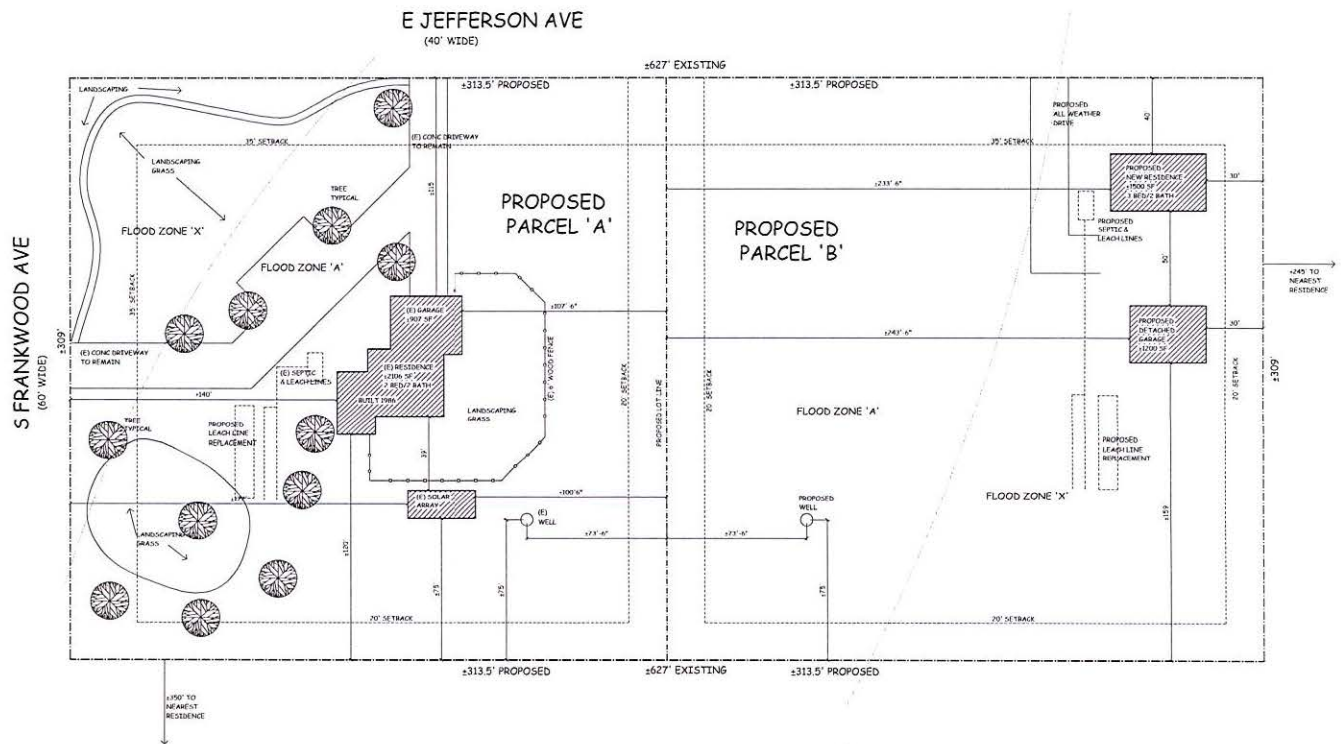
| | |
|---------------------|---------|
| EXISTING | 4.46 AC |
| PROPOSED PARCEL 'A' | 2.23 AC |
| PROPOSED PARCEL 'B' | 2.23 AC |

BARTEL CONSTRUCTION, INC
 42510 ROAD 48, REEBLEY, CA 93864
 PH 559-599-6793
 LIC NO. 952690
RAYMOND BERRY CA 93864
 5530 S FRANKWOOD AVE
 559-285-0200 (RAYMOND)

Melissa F. Camp
 Drafting & Design Services
 (559) 300-7661
 mfc@print3@gmail.com

INDEX

| | |
|--------------|-----|
| PROJECT | MFC |
| TITLE | MFC |
| DATE | |
| SCALE | |
| SHEET NO. | 1 |
| TOTAL SHEETS | 10 |



PROPOSED SITE PLAN
 SCALE 1" = 30'-0"

5530 South Frankwood Avenue, Reedley CA 93654

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.***

The subject +/- 4.38 acre property has been the rural single family residence of the Remy family with a stone fruit orchard since 1985 when the house was built and the +/- 3 acre orchard was planted.

The stone fruit trees were productive for approximately twenty-five years and then, due to the age of the trees, the fruit production amount was reduced until it was no longer viable as a commercial crop.

The property owners planned to plant a new orchard but the soil is contaminated with nematodes which requires fumigation but agricultural permits for soil fumigation have been denied due to the toxic nature of the fumigant and proximity of nearby residences. There are two rural residential parcels immediately adjacent to the south side of the property and several more in the immediate area.

This Finding can be made because the property is too small to support enough crop yields for viable agricultural production operation and the contamination of nematodes makes agricultural crop production impracticable.

- 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.***

The property owners would like to remain living on a portion of their property by building a smaller residence and don't need the +/- 4.38 acres of which, without a parcel split, the majority of the area would be left open and unproductive. The proposed split into two parcels would allow the original residence to remain for another occupant and a smaller residence to be constructed for the property owners.

Within the one mile quadrant, with the center being the intersection of E Jefferson and S Frankwood, (between American, Reed, Lincoln and Columbia) where the property is located, there are at least 29 parcels of +/- 2.50 acres or smaller in size that are rural residential home sites.

This Finding can be made due to fact that with a Variance the property owner will be allowed to preserve and continue to enjoy the property right that numerous property owners in the area possess by residing on a parcel of similar size.

5530 South Frankwood Avenue, Reedley CA 93654

VARIANCE FINDINGS

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.

Since there are numerous similar size parcels in the immediate area of the property, splitting of the +/- 4.38 acre parcel will not adversely affect the use or enjoyment of the other proprieties in the area.

This Finding can be made since the property would be two rural residential home sites, adjacent to two existing of similar size rural residential parcels that are not unlike those in the surrounding area therefore, the split will not be materially detrimental to the public welfare or injurious to properties in the vicinity.

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

The subject parcel is already non-conforming with the underlying zoning and the area around the subject property has been developing over the last three decades with the addition of rural residential parcels which have not been strictly in conformance with the underlying zoning but allowed with Variances for parcel maps and, in one case, a subdivision of ten +/- 2.50 acres parcels.

This Finding can be made although the General Plan “promotes the long-term conservation of productive and potentially productive agricultural lands” the subject parcel has very limited productive agricultural potential, can only yield a limited property tax value for a crop, as such, will be better suited to support an additional rural residential use which is a land use that commonly exists in the general area surrounding of the subject parcel.