



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 February 13, 2020

SUBJECT: Variance Application No. 4081

Allow the creation of an 0.88-acre parcel, a 1.38-acre parcel and a 2.66-acre parcel (20-acre minimum required) from a 2.39-acre parcel and a 2.53-acre parcel in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcels are located at the southeast corner of West Dakota Avenue and North Blythe Avenue, adjacent to the nearest city limits of and within the Sphere of Influence (SOI) of the City of Fresno (4341 West Dakota and 3384 North Blythe Avenue) (SUP. DIST. 1) (APNs 511-031-54S and 511-031-55S).

OWNER: Dumax Properties LLC
APPLICANT: Roberto Garcia

STAFF CONTACT: Jeremy Shaw, Planner
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Marianne Mollring, Senior Planner
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RECOMMENDATION:

- Deny Variance No. 4081; 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. Zoning Map
4. Land Use Map
5. Variances Map
6. Site Plan
7. Applicant’s Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Reserve Medium-Density Residential in the County-Adopted Fresno High-Roeding Community Plan	No change
Zoning	AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District	No change
Parcel Size(s)	Parcel “A” (511-031-55S): 2.53 acres Parcel “B” (511-031-54S): 2.39 acres	Parcel 1: 0.88 acre Parcel 2: 1.38 acres Parcel 3: 2.66 acres
Project Site	See above Parcel Size	See above Parcel Size
Structural Improvements	APN 511-031-55S is improved with a 2,102 square-foot single-family dwelling unit, a 1,280 square-foot metal accessory storage building, a 484 square-foot wood accessory storage building, a tennis court, and a water well APN 511-031-54S is improved with a 3,712 square-foot single-family dwelling unit, an accessory pool cabana, a swimming pool and a water well	<u>Parcel 1</u> will contain one single-family dwelling unit <u>Parcel 2</u> will contain one single-family dwelling unit, a tennis court, an accessory pool cabana, a swimming pool and a water well <u>Parcel 3</u> will contain two storage buildings and a water well (no dwelling units)
Nearest Residence	<u>APN 511-031-55S</u> : Approximately 15 feet south of the southern parcel boundary <u>APN 511-031-54S</u> : Approximately 46 feet east of the eastern property boundary	<u>Parcel 1</u> : approximately 95 feet west of the western property boundary <u>Parcel 2</u> : approximately 46 feet east of the eastern property boundary

		Parcel 3: Approximately 15 feet south of the southern property boundary
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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 34 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 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 two subject parcels, APN Nos. 511-031-54S and 511-031-55S, in their current configuration, were created as Parcels 1 and 2 of Parcel Map No. 1528, recorded on May 15, 1973. At the time of the recordation of Parcel Map No. 1528, both parcels were zoned R-A (Single-Family Residential Agricultural) with a 36,000 square-foot minimum parcel size; as such, the resultant parcels were conforming as to minimum lot size at that time. Subsequently, the subject parcels were rezoned from the R-A (Single-Family Residential Agricultural, 36,000 square-foot minimum parcel size) Zone District to the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District as part of County-initiated Amendment Application No. 3138 adopted by the Board of Supervisors on July 14, 1981. The rezoning was initiated to make the zoning of the area consistent with the County-Adopted Fresno High-Roeding Community Plan. As a result of the change in zoning classification, the subject parcels became legal non-conforming lots as to minimum lot area. Each of the two subject parcels is improved with one single-family dwelling.

The current request, submitted on November 12, 2019, proposes to allow the division of the two subject parcels containing 2.39 acres and 2.53 acres, respectively, into a three-parcel configuration: a 0.88-acre, a 1.38-acre and a 2.66-acre parcel, where each resultant parcel would meet the minimum lot dimension requirements of the applicable zone district (in this case, the Rural Residential Zone District standards apply for lots less than five acres in size), but not the minimum lot area (acreage designation) of the AL-20 Zone District. If this Variance is approved, a mapping procedure will be required to create the proposed parcels.

Available records indicate that there have been four (4) other variance requests processed within one half-mile of the subject properties. Those variances are detailed in the table below:

Application/Request	Staff Recommendation	Final Action	Date of Action
VA No. 2311* – Allow an existing tennis court and light standards to remain 57 feet from the center of Dakota Avenue and 3 feet from the (east) side property line in the R-A Zone District.	Approval	PC Approved	July 7, 1977
VA No. 2772 - Allow the creation of two 2.5-acre parcels in the AL-20 Zone District.	Denial	BOS Approved	August 2, 1983
VA No. 3118* – Allow a seven-foot side-yard setback for a proposed attached garage on a 2.39-acre parcel in the AL-20 Zone District.	Approval	PC Approved	September 24, 1987
VA No. 3705 – Allow the creation of two 2.4-acre parcels from a 1.03-acre and a 3.79-acre parcel in the AL-20 Zone District.	Variance determined to be unnecessary; processed as a Property Line Adjustment (Ref. PLA No. 01-24)	Staff	August 28, 2001

*Variance involves one of the subject parcels.

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	AL-20 Zone District: Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Parcel 1 - 0.88-acre parcel:</u> Front (north): 69 feet Side (east): 68 feet Street Side (west): 70 feet Rear (south): 34.3 feet <u>Parcel 2 - 1.38-acre parcel:</u> Front (north): 74 feet Side (east): 32.5 feet Side (west): 102 feet Rear (south): 23.5 feet	Parcel 1: Yes Parcel 2: Yes

		Parcel 3 - 2.66-acre parcel: Front (west): 138 feet Side (north): 22 feet Side (south): 54.5 feet Rear (east): 259 feet	Parcel 3: Yes
Parking	The provisions of General Standards, Section 855-I of the Fresno County Zoning Ordinance shall apply	No changes	Yes
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	None	No change	N/A
Septic Replacement Area	N/A	No change	N/A
Water Well Separation	Building sewer/septic tank: 100 feet; disposal field: 100 feet; seepage pit/cesspool: 150 feet	Parcel 1: Will be required to abandon its water well connection and connect to City water service. Parcel 1 is currently connected to City sewer. Parcel 2: Contains a septic system which serves a detached accessory pool cabana structure. The septic system does not appear to meet the minimum setbacks from a water well. Parcel 3: Contains a domestic water well	Yes No: The existing septic system on proposed Parcel 2 will be required to be abandoned under permit and inspection; and a connection to City sewer established. N/A

Reviewing Agencies/Department Comments:

City of Fresno, Department of Public Utilities: The two subject parcels are currently connected to City sewer facilities, and both parcels are served by private domestic water wells. The nearest water main to provide service to the proposed parcels is a 12-inch water main located along West Dakota Avenue and a 14-inch water main located along North Blythe Avenue. Water facilities will be available to provide service.

City of Fresno Planning and Development Department: Due to the existing circumstances of the surrounding area, *i.e.*, substandard lots, the Planning and Development Department of the City of Fresno does not oppose the subject application.

Sewer requirements: City standards and fees shall apply.

Water requirements: For proposed Parcel 1, a new connection to City water services shall be established for the existing dwelling; City standards and fees shall apply. The existing connection to the water well located on proposed Parcel 3 shall be abandoned.

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).

Proposed Parcel No. 1 requires connection to a community water system for service. Proposed Parcel No. 2 requires new sewer connection for the structure (pool cabana) labeled Storage 2A on the site plan. Proposed Parcel No. 3: permit records indicate that one of the two existing structures has permit records; the other does not. Both structures are required to be converted to an approved use for the zone district. The smaller of the two structures for which no permit records were available must be permitted or removed, or evidence provided that the structure was built before March of 1958.

All proposed parcels will be subject to the Mandatory Sewer Connection Regulations contained in the Fresno County Ordinance Code Title 14.12.030.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: West Dakota Avenue is a County-maintained road with an existing 30-foot right-of-way south of the section line. Blythe Avenue is a County-maintained road with an existing 30-foot right-of-way east of the section line.

Dakota Avenue is a County Avenue and is classified as a Collector road, with a paved width of 21.5 feet, with dirt shoulders, Average Daily Traffic (ADT) count of 2,600 vehicles per day (VPD), a pavement condition index (PCI) of 27, and is in poor condition.

Blythe Avenue is classified as an Arterial road, with a paved width of 20 feet, with dirt shoulders, an ADT of 3,700 VPD, a PCI of 67.7 and is in fair condition.

Dakota Avenue is classified as a Collector in the County's General Plan, requiring 84 feet of road right-of-way. Currently, Dakota Avenue has a total right-of-way of 60 feet, 30 feet on each side of the section line. An additional 12 feet of right-of-way is needed along the parcel frontage to meet the ultimate right-of-way for Dakota Avenue. Setbacks for new construction shall be based upon the ultimate right-of-way.

Blythe Avenue is classified as an Arterial in the County's General Plan, requiring 106 feet of road right-of-way. Currently, Blythe Avenue has a total right-of-way of 60 feet. An additional 23 feet of right-of-way is needed along the parcel frontage to meet the ultimate right of way. Setbacks for new construction shall be based upon the ultimate right-of-way.

Access to the parcels shall comply with the specifications spelled out in the General Plan for the designated classifications. Direct access from an Arterial (Blythe Avenue) may be restricted or limited. Turnaround facilities shall be provided on parcels having direct access to Arterials and Collectors so that vehicles do not back out onto the roadway.

An encroachment permit from the Road Maintenance and Operations Division is required for any work within the County road right-of-way. Such work shall be reviewed for compliance with County standards, prior to the issuance of permits.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Blythe Avenue is classified as an Arterial road with an existing 30-foot right-of-way east of the section line along the parcel frontage, per the Plat Book. The minimum width for an Arterial right-of-way east of the section line is 53 feet. Blythe Avenue is a County-maintained road and records indicate that this section of Blythe Avenue, from Shields Avenue to Dakota Avenue, has an Average Daily Traffic (ADT) count of 3,700, a paved width of 20 feet, a structural section of .2 foot Asphaltic Concrete (AC) and is in good condition.

Dakota Avenue is classified as a Collector road with an existing 30-foot right-of-way south of the section line along the parcel's frontage, per the Plat Book. The minimum width for a Collector road right-of-way south of the section line is 40 feet. Dakota Avenue is a County-maintained road and records indicate that this section of Dakota Avenue, from Blythe Avenue to Brawley Avenue, has an ADT of 2,600, a paved width of 30 feet, a structural section of .25 foot AC, and is in good condition.

If not already present, 30-foot by 30-foot corner cutoffs shall be improved at the intersection of Blythe Avenue and Dakota Avenue on the subject property for sight distance purposes. If not already present, 10-foot by 10-foot corner cutoffs shall be improved for sight distance purposes at the exiting driveways onto Blythe Avenue and Dakota Avenue.

According to FEMA, FIRM Panel 1565H, the subject parcels are not subject to flooding from the 100-year storm event.

According to U.S.G.S. Quad Maps, there are no existing natural drainage channels traversing the subject parcels.

Typically, if the subject property is within the City Sphere of Influence (SOI), the City of Fresno should be consulted regarding their requirements for any future off-site improvements and driveway placement relative to the property line.

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 existing subject parcels are similar in size to others in the vicinity that also have the 20-acre minimum parcel size designation of the AL Zone District. Additionally, the subject parcels in their current configuration with concrete

block walls, chain link fencing, trees, sheds, residences and domestic wells are not conducive to the use of the said improvements, nor do they indicate that the rearrangement of the parcel boundaries would allow for better use and enjoyment of the properties by the owners.

The Applicant's Findings also state that other variances have been granted in the vicinity of the subject parcels, and that the subject parcels in their current configuration have structural improvements which hinder the desired use of the property by the owners; and that the alteration of the parcel boundary line will allow for a more efficient and fuller use of the property. No site improvements are proposed with this application.

Regarding Finding 1, staff notes that the subject parcels are classified as legal non-conforming because both contained less than the 20-acre minimum required for the AL-20 Zone District at the time they were rezoned, and that fact may be considered an exceptional circumstance or condition on the property from the perspective of its Limited Agricultural zoning classification being inconsistent with the current residential use of the property. As stated under the Background section above, the subject parcel was previously zoned "R-A" Single-Family Residential Agricultural; the "R-A" Zone District is intended to provide for the development of single-family residential estate homes in a semi-rural environment on lots not less than 36,000 square feet in area.

Although other variances may have been granted to other property owners in the vicinity, each variance must be considered on its own merits. Staff was unable to identify any unusual physical circumstances or conditions on the subject parcel that do not generally apply to others in the vicinity. Based on the above analysis, staff is unable to make Finding 1.

In support of Finding 2, the Applicant's findings state that other owners in the vicinity have been able to enjoy the use of their properties, unhindered by existing property lines.

Regarding Finding 2, staff acknowledges that under the previous zoning of R-A, the Applicant would likely have been able to affect the proposed change in parcel configuration while meeting the minimum lot size and dimension standards of the previous zone district; however, under the current AL-20 zoning, the owner would not be able to create additional substandard parcels without discretionary approval. Staff was unable to identify a substantial property right at issue that would require the granting of the Variance to correct.

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 possibly change the property line configuration of the existing parcels through a Property Line Adjustment without creating an additional parcel. However, if the Applicant's desire is to create an additional parcel, then the Variance request is the only available process in this case.

The Applicant's findings do not indicate a specific reason for wanting to create an additional parcel, only that the proposed three-parcel configuration would allow for better use of the existing improvements on the two existing parcels. It is not apparent that the creation of Parcel 3 would accomplish this goal, as doing so would separate the two accessory buildings currently located on Parcel "A" (APN 511-031-55S) from the existing dwelling, and place the tennis court currently located on Parcel "A" within the boundaries of proposed Parcel 2 (Parcel "B") as shown on the site plan.

If this Variance is approved allowing the creation of the three parcels, each of those resulting parcels could potentially be developed with an additional residence or accessory dwelling unit; or in the case of proposed Parcel 3, one dwelling unit by right and one additional with the

appropriate discretionary approval (Director Review and 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 at issue, requiring the granting of the Variance to rectify. 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 Parcel A	1.30 acres	Single-Family Residential	AL-20	Approximately 100 feet
	1.00 acre	Single-Family Residential		Approximately 130 feet
Parcel B	1.57 acres	Single-Family Residential		Approximately 100 feet
	1.88 acres	Single-Family Residential		Approximately 95 feet
South Parcel A	1.0 acre	Single-Family Residential	AL-20	Approximately 15 feet
Parcel B	3.0 acres	Single-Family Residential		None
East Parcel A	2.39 acres	Single-Family Residential	AL-20	Approximately 45 feet
Parcel B	2.39 acres	Single-Family Residential		Approximately 35 feet
West Parcel A	0.43 acre	Single-Family Residential	AL-20	Approximately 85 feet
Parcel B	2.38 acres	Single-Family Residential		Approximately 180 feet

*Measured from the existing property lines of Parcel A and Parcel B

Reviewing Agencies/Department Comments:

Fresno County Department of Public Health, Environmental Health Division: According to the Applicant's findings, the two existing residences are connected to City of Fresno sewer services and each have a domestic well for water service. The subject property is within the City of Fresno Sphere of Influence for the provision of water and sewer service; any new development should be required to connect to the City of Fresno community water and sewer service.

According to the Applicant's site plan, proposed 0.88-acre Parcel 1 does not have a domestic water well to provide water to the existing residence. Proposed Parcel 1 should be required to connect to City of Fresno community water services. If the Applicant elects to drill a domestic water well on proposed Parcel 1, the water well contractor retained by the Applicant or future 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.

If the Applicant connects to the City of Fresno community water system, 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, and permits will be required.

Prior to the destruction of any 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.

North Central Fire Protection District: No comment.

Fresno Irrigation District: FID does not own operate or maintain any facilities located on the subject property.

Analysis:

In support of Finding 3, the Applicant's Findings state that the granting of the Variance will not have a detrimental impact upon other properties in the vicinity because the existing improvements are consistent with other properties, no additional improvements are proposed with this Variance request, and the property owners intend to connect to City water service and are currently served by City sewer.

With regard to Finding 3, staff agrees that the granting of the Variance to create the three proposed parcels would not detrimentally impact surrounding properties because the division of the parcel will result in three parcels of similar size to surrounding properties, and the two existing parcels are developed similarly to others in the vicinity having a semi-rural residential estate character as was the intent of the previous zoning designation.

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 Reserve Medium-Density Residential in the County-adopted Fresno High-Roeding Community Plan. 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. Relevant 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. Proposed Parcel 1 will be required to abandon its well connection and connect to water service through the City of Fresno.

Analysis:

In support of Finding 4, the Applicant states that because there are no additional improvements proposed and thus no increase in the intensity of the current use, which has been residential in character for many years, the proposed parcel creation will not adversely impact any nearby agricultural production and will not be in conflict with the policies of the General Plan.

Regarding Finding 4, although the subject parcel is zoned AL-20 (Limited Agricultural, 20-acre minimum parcel size), the property was in residential use prior to the zoning change. Per Section 817 of the Zoning Ordinance, the Limited Agricultural zone district is intended to protect the general welfare of the agricultural community by limiting intensive uses in agricultural areas where such uses may be incompatible with or injurious to other less intensive agricultural operations. The AL Zone District is also intended to reserve and hold certain lands for future urban use by permitting limited agriculture and by regulating those more intensive uses which by their nature may be injurious to non-agricultural uses in the vicinity or inconsistent with the express purpose of reservation for future urban use.

Based on review of aerial imagery, the area in the vicinity of the subject parcels consists of predominately residential development at varying densities, with some very limited agricultural parcels to the west and southwest, and the properties are immediately adjacent to the city limits of the City of Fresno. The subject parcels have been in their current configuration and developed with single-family dwellings for more than 40 years, and again based on review of available aerial imagery, the subject parcels do not appear to have been used for agricultural purposes.

Based on the analysis, staff does not believe that this proposal would adversely impact any existing agricultural operations in the vicinity. This proposal was reviewed by the Fresno County Agricultural Commissioners office, which expressed no concerns that it would impact agriculture.

The subject parcels are located within the City of Fresno Sphere of Influence, adopted by the Local Agency Formation Commission (Fresno LAFCo). A sphere of influence is a boundary line surrounding cities and special service districts that defines the area into which the city or district

may expand and extend public services. General Plan Policy LU-G.1 provides that the County acknowledges that the cities have primary responsibility for planning within their LAFCo-adopted spheres of influence and are responsible for urban development and the provision of urban services therein. This proposal was reviewed by the City of Fresno Department of Public Utilities, which did not express any concerns with the proposal. The City's comments have been included under Finding 1 above.

The subject parcels are designated as Reserve Medium-Density Residential in the County-Adopted Fresno High-Roeding Community Plan. "Reserve" is defined as land designated for limited agricultural with an indicated future urban use; "Medium-Density Residential" is defined as land designated for residential development at a density not to exceed one dwelling unit per 6,000 square feet.

Development of the indicated use, noted on the Plan Map, will typically not occur until annexation to the City. In this case, the subject property is already in residential use at a density consistent with its previous R-A zoning of one dwelling unit per 36,000 square feet. Per Table LU-2 of the Fresno County General Plan, Land Use Element, the Medium-Density Residential designation and the Limited Agricultural zone district are considered Conditionally Compatible. Approval of this Variance would result in the creation of three parcels, the smallest of which would exceed 36,000 square feet in area. Additionally, there would be the potential for each of the resultant lots to add a second residence, or in the case of proposed Parcel 3, two residences with the appropriate discretionary review and approval, thereby increasing residential density, exceeding the limitation of the underlying zone district as discussed previously. However, in that event, the resultant increase in density would still be less than what would be allowed with the Medium-Density Residential designation.

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.

While the proposed division of the subject parcels is inconsistent with its current Limited Agricultural zoning, it is consistent with the Reserve Medium-Density Residential land use designation of the Fresno High-Roeding Community Plan. Staff acknowledges that the change in zoning from Single-Family Residential Agriculture to Limited Agricultural created the restriction on creating any new parcels not meeting the minimum acreage. The Land Use Element of the Fresno High-Roeding Community Plan is consistent with the Land Use Element of the County General Plan and therefore subject to Countywide goals, objectives, criteria and standards.

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, and therefore recommends denial of Variance No. 4081.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 4081; 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. 4081, 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\4081\SR\VA 4081 SR.docx

**Variance Application (VA) No. 4081
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Division of the subject parcels shall be in accordance with the site plan (Exhibit 6) as approved by the Planning Commission.
2.	The existing residence addressed as 3384 N. Blythe on proposed Parcel 1 cannot receive water service from the well located on proposed Parcel 3. Prior to approval of the Final Parcel Map, proper abandonment of the water connection to the well and subsequent connection to the City of Fresno public water system will be required.
3.	The existing septic system serving the structure (pool cabana/arbor) labeled Storage 2A** on the site plan crosses the boundary between proposed Parcels 2 and 3. Prior to approval of the Final Parcel Map, the septic system must be properly abandoned, subject to permits and inspections, and a new connection made to the City of Fresno public sewer system.

Conditions of Approval reference recommended Conditions for the project.

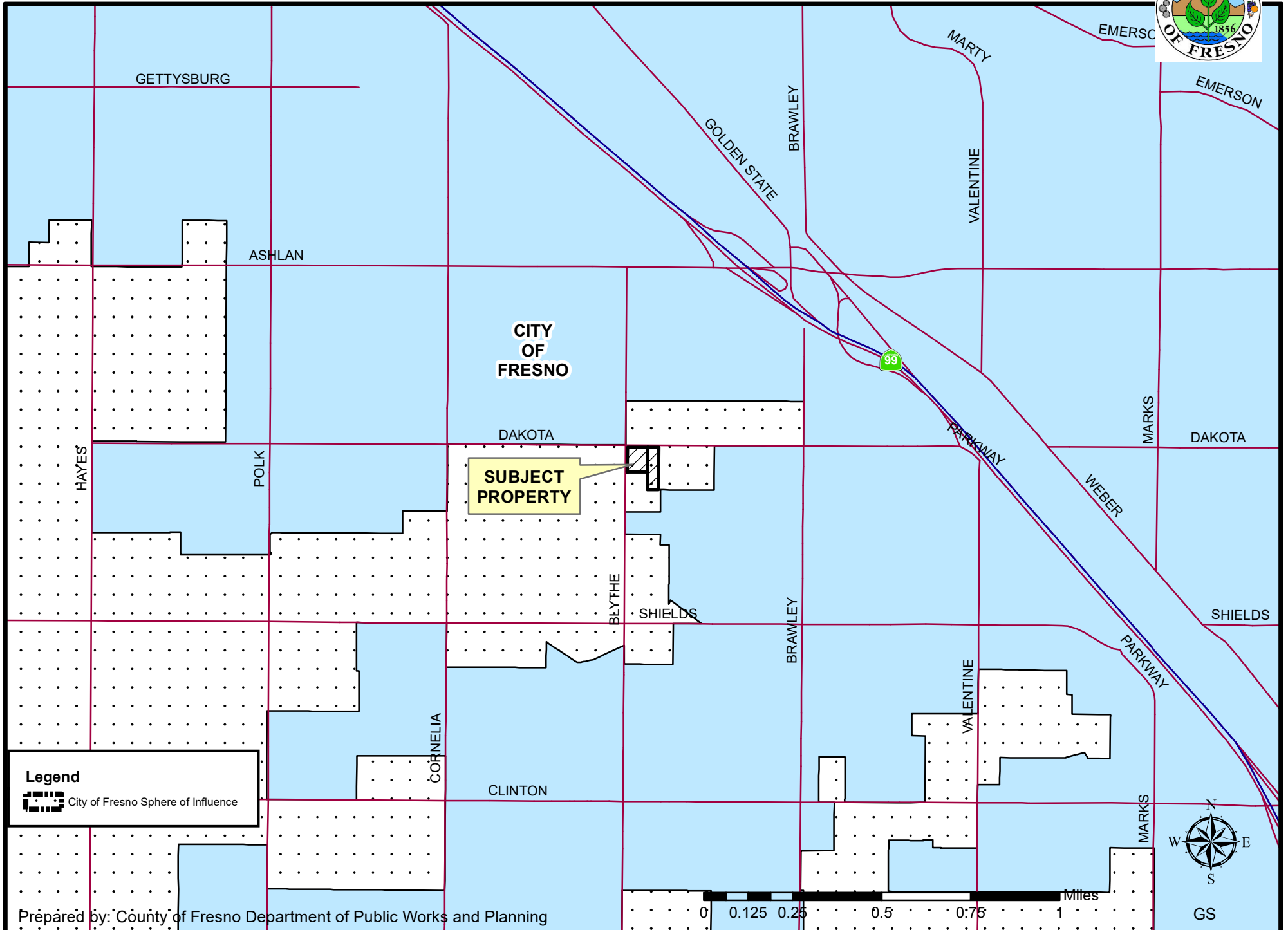
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed 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.	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.
4.	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.
5.	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).
6.	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.

EXHIBIT 1

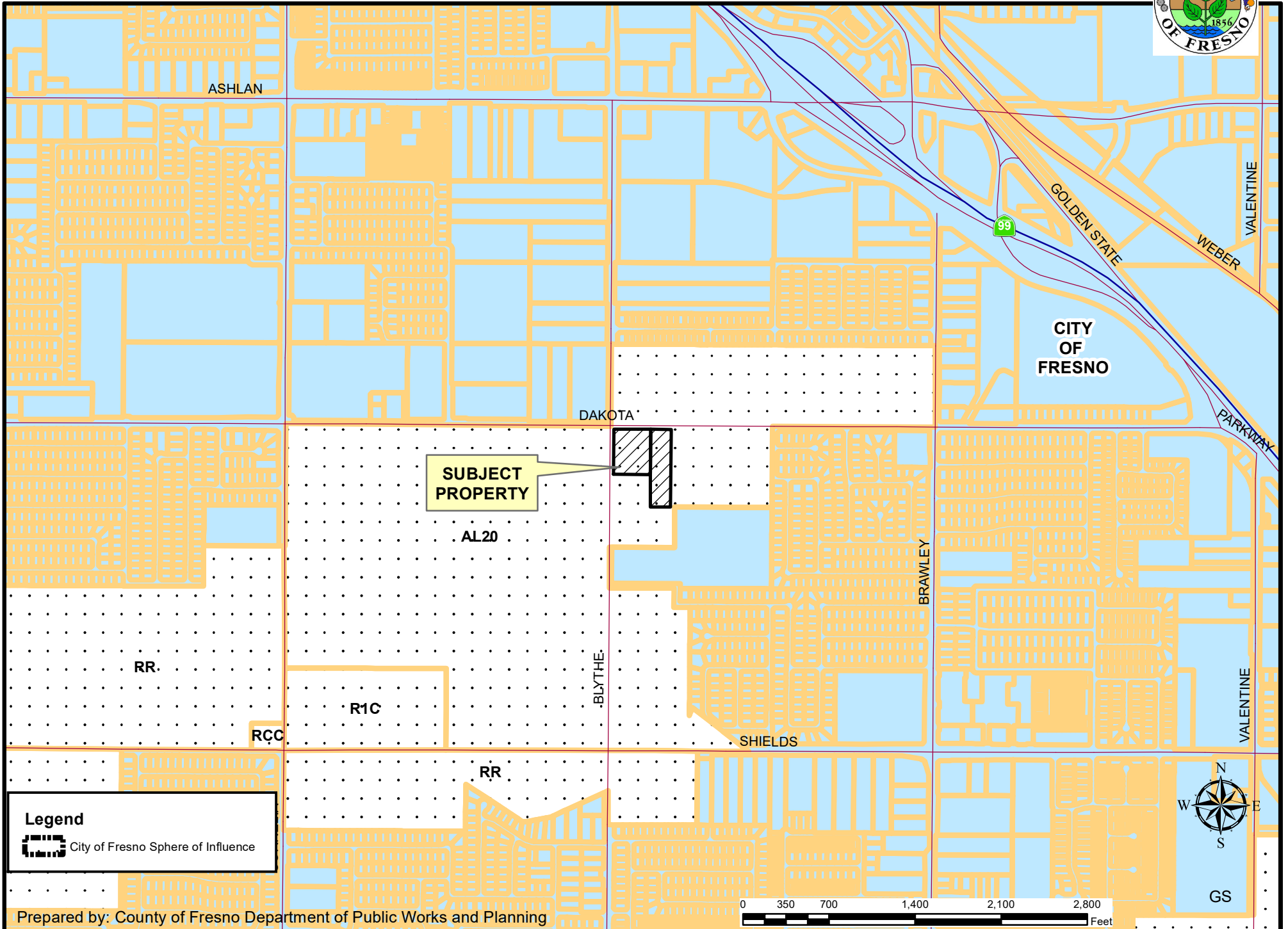
Notes

7.	If not already present, 30-foot by 30-foot corner cutoffs shall be improved at the intersection of Blythe and Dakota on the subject property for sight distance purposes.
8.	If not already present, 10-foot by 10-foot corner cutoffs shall be improved for sight distance purposes at the exiting driveways onto Blythe Avenue and Dakota Avenue.
9.	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.
10.	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).
11.	Any structures on the subject property for which there are no available permit records will require the submission of plans and the issuance of permits, or removal, unless verification of construction prior to March 1958 is provided.
12.	The subject parcels are located within the boundaries of Fresno Metropolitan Flood Control District Drainage Area AK. Prior to approval of the Final Parcel Map, any required drainage fees must be resolved through (FMFCD).


LOCATION MAP



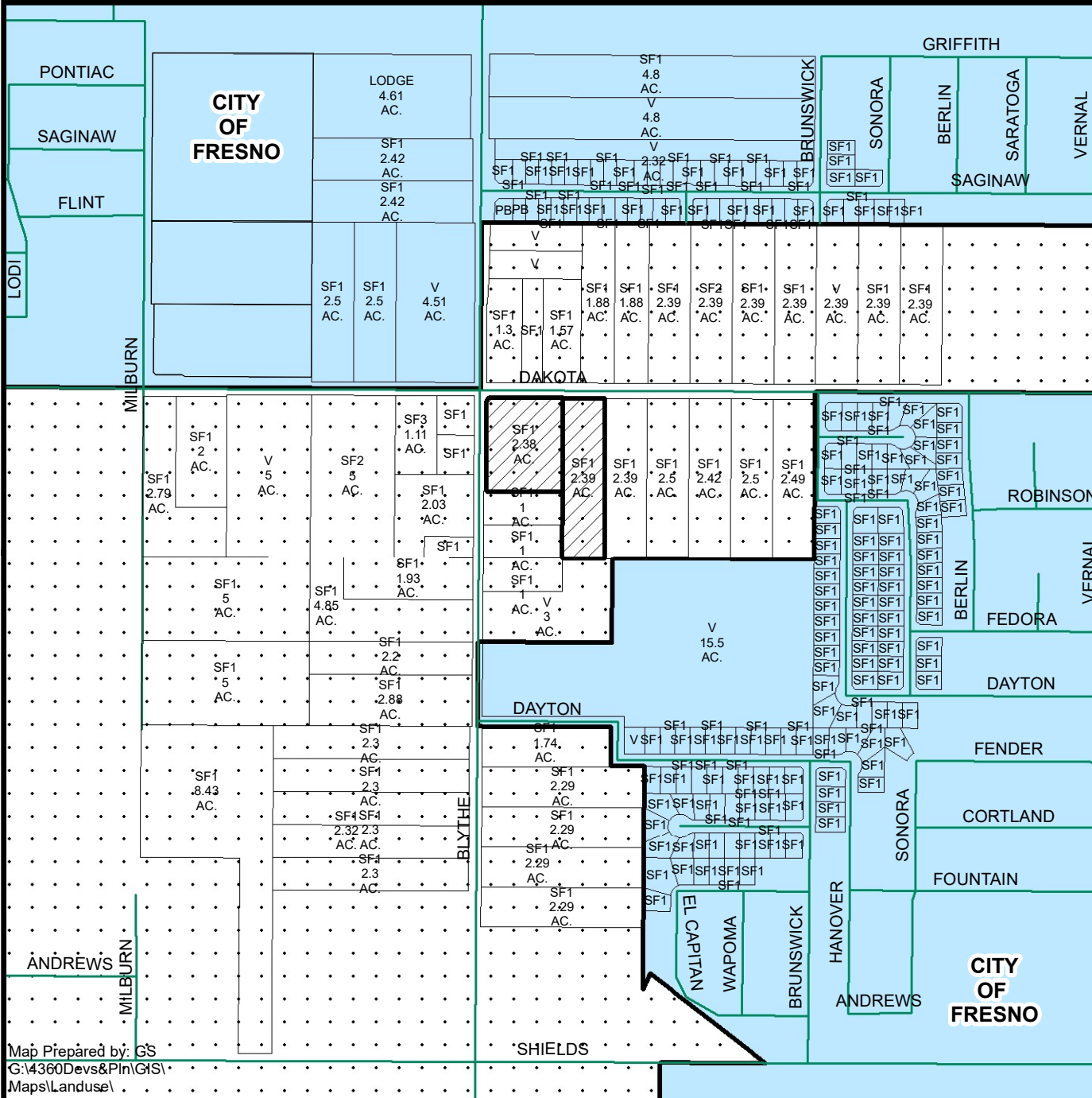
EXISTING ZONING MAP



Legend

 City of Fresno Sphere of Influence

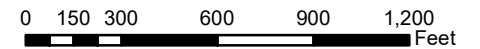
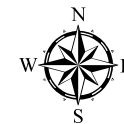
EXISTING LAND USE MAP



LEGEND	
[Symbol]	LODGE
[Symbol]	PB- PONDING BASIN
[Symbol]	SF#- SINGLE FAMILY RESIDENCE
[Symbol]	V - VACANT

Legend

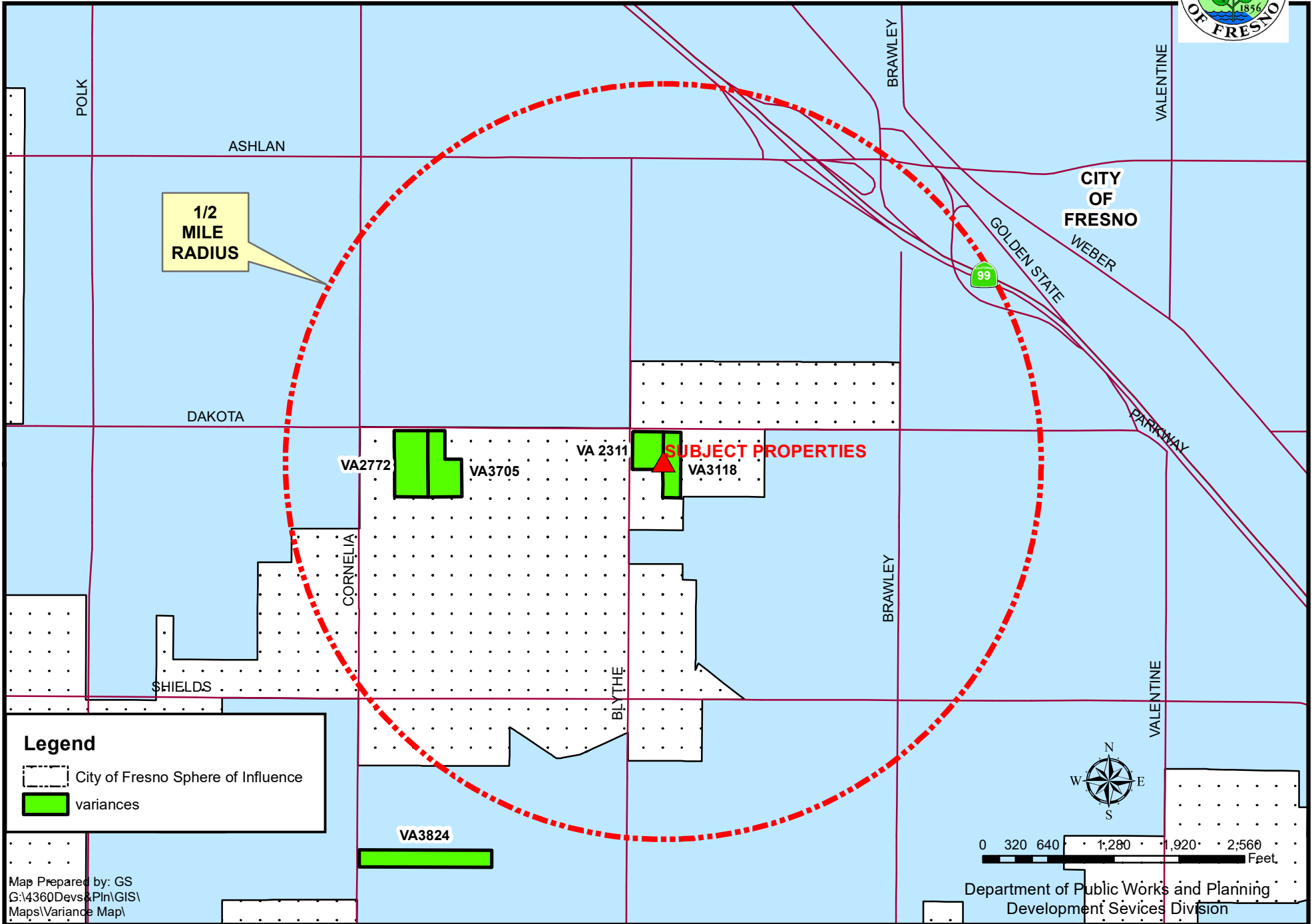
- [Hatched Box] Subject Property
- [Dashed Box] City of Fresno Sphere of Influence



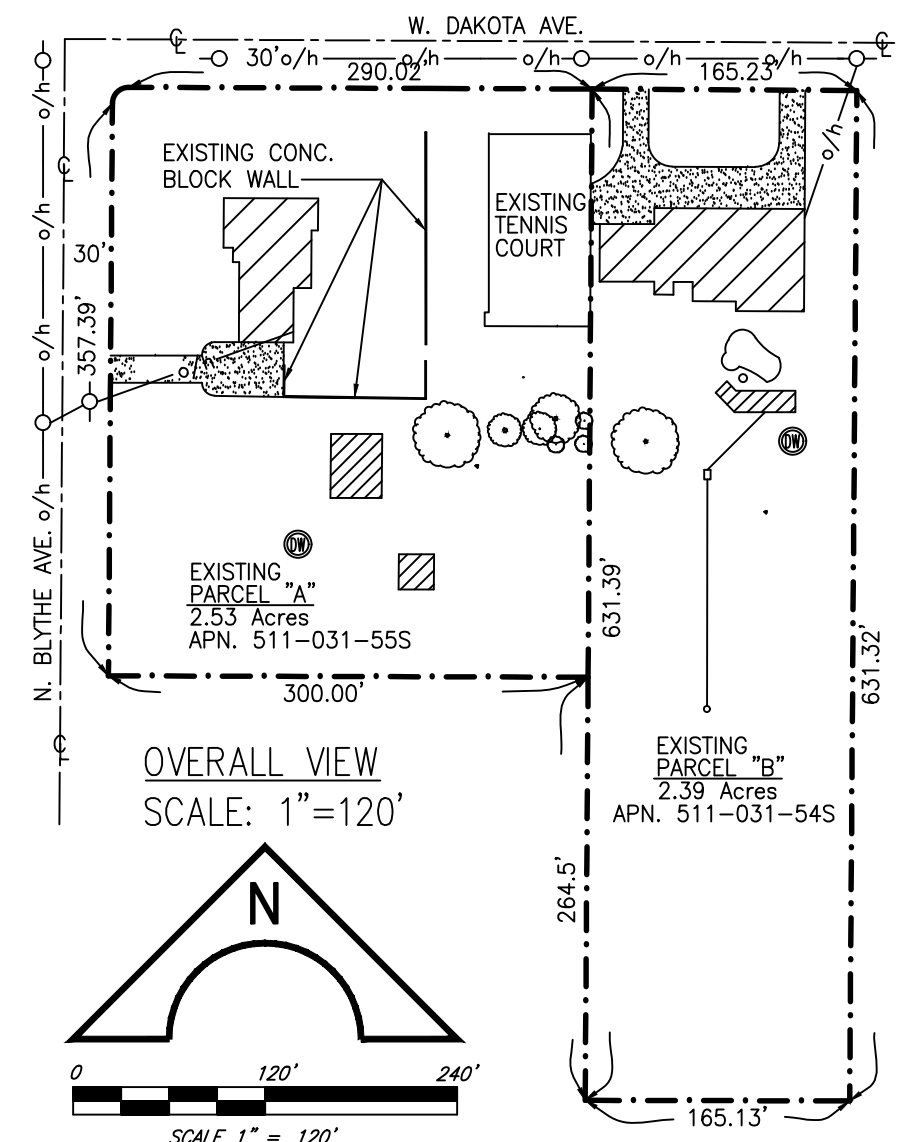
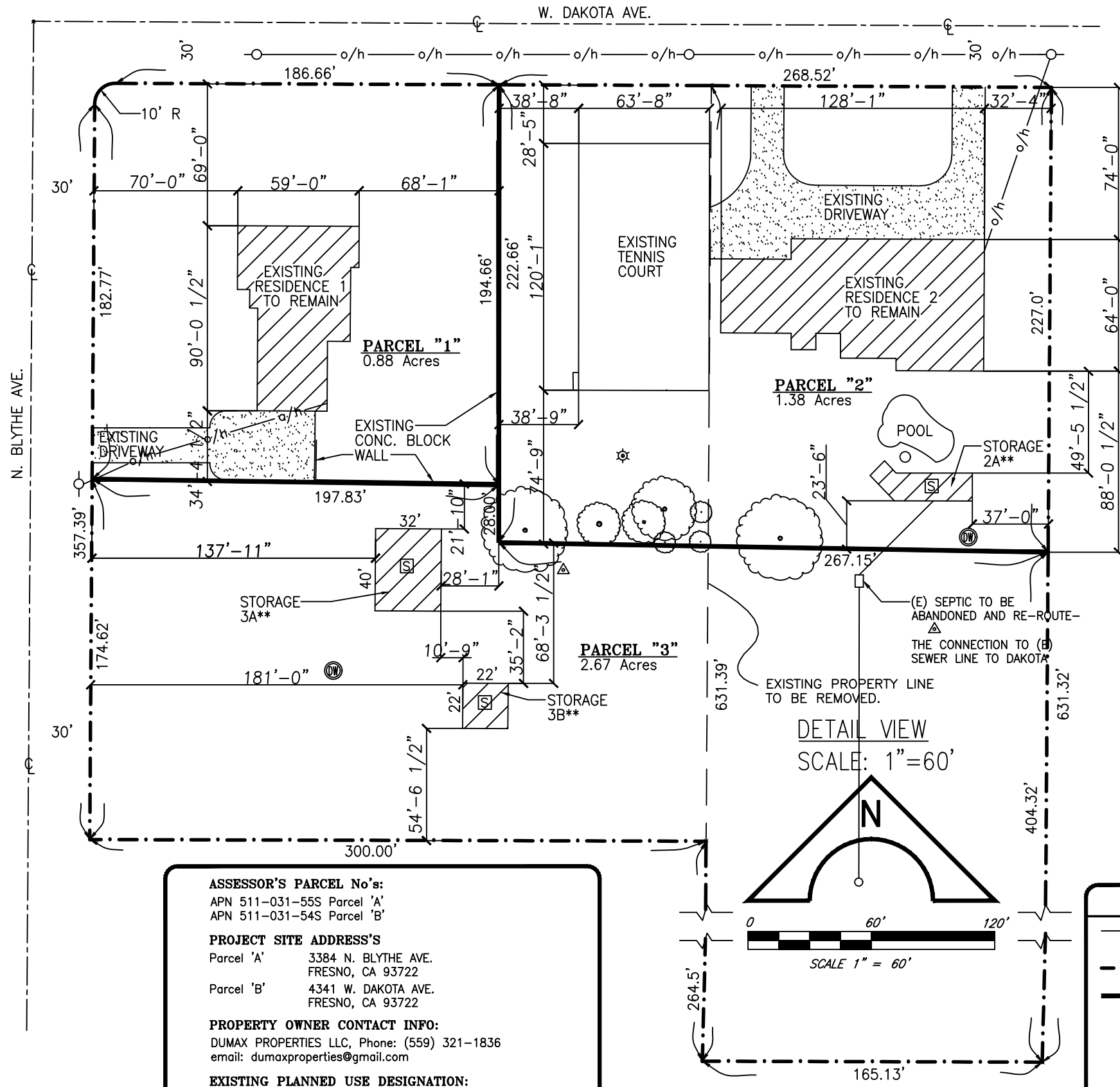
Department of Public Works and Planning
Development Services Division

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

VARIANCES IN A HALF-MILE RADIUS



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



ASSESSOR'S PARCEL No's:
APN 511-031-55S Parcel 'A'
APN 511-031-54S Parcel 'B'

PROJECT SITE ADDRESS'S
Parcel 'A' 3384 N. BLYTHE AVE.
FRESNO, CA 93722
Parcel 'B' 4341 W. DAKOTA AVE.
FRESNO, CA 93722

PROPERTY OWNER CONTACT INFO:
DUMAX PROPERTIES LLC, Phone: (559) 321-1836
email: dumaxproperties@gmail.com

EXISTING PLANNED USE DESIGNATION:
LIMITED AGRICULTURE

EXISTING AND PROPOSED ZONE DIST.:
AL-20

LEGEND			
---	EXISTING PROPERTY LINE. TO BE REMOVED		ASPHALT CONCRETE (AC)
- - - - -	EXISTING PROPERTY LINES.		EXISTING RESIDENCES STRUCTURES(BLDG)
---	PROPOSED NEW PROPERTY LINES		SURVEY CONTROL POINT
	DOMESTIC WELL		AREA LIGHT (SL)
	EXISTING RESIDENCES ARE CONNECTED TO CITY SEWER		UTILITY POLE (UP)
	EXISTING STORAGE STRUCTURES(BLDG)		EXISTING OVERHEAD UTILITY LINE(s)
	TREE		** SEE PHOTOGRAPHS

REVISIONS	
00-00-19	REV 1
00-00-19	REV 2
00-00-19	REV 3
00-00-19	REV 4
00-00-19	REV 5

designer
ROBERTO GARCIA
2045 W. San Ramon
Fresno, CA 93711
559.708.1612
rggcrafting@yahoo.com

SITE PLAN FOR VARIANCE APPLICATION NO.

Drawn By
ROBERTO GARCIA
Checked By
R. Garcia
Date
02/03/20

EXHIBIT 6

VARIANCE APPLICATION FINDINGS

Dumax Properties LLC

October 30, 2019

Owner:

Dumax Properties LLC
3384 N. Blythe Avenue
Fresno, CA 93722-4631

Applicant:

Same as above

Representative:

Roberto Garcia
2045 W. San Ramon Avenue
Fresno, CA 93711
559-708-1612

Property Location:

Subject property is located at the Southeast corner of W. Dakota Avenue and N. Blythe Avenue.
3384 N. Blythe Avenue (Parcel "A", APN 511-031-55S, 2.53 acres)
4341 W. Dakota Avenue, (Parcel "B", APN 511-031-54S, 2.39 acres)

APN's:

APN 511-031-55S (Parcel "A") and APN 511-031-54S (Parcel "B")

Existing Zone Designation:

AL-20

Existing General Plan Land Use Designation:

Limited Agriculture

Request:

Grant a Variance to allow the creation of a 3 parcel configuration (0.88 ac., 1.38 and 2.66 ac. =4.92 ac. Total) from an existing 2 parcel configuration (2.53 ac. and 2.39 ac. =4.92 ac. Total) within the AL-20 Zone District.

Finding 1:

Does the strict application of the Zoning Ordinance deprive this property of privileges enjoyed by other properties in the vicinity and in an identical zoning district due to special circumstances applicable to the property, including its size, shape, topography, location or surroundings?

The project is located on a 2.53 ac. and 2.39 ac. +/- parcel among other smaller and similar sized parcels. Other home sites smaller than the required 20-acre minimum lot size exist in proximity to the subject site.

It is noted other variances have been granted in the vicinity of the subject property and granting of the proposed variance will neither affect nor impact the surrounding. The proposed Variance will allow the existing development pattern and intensity of the subject property to remain as it has for over 75 years.

The subject properties have existing improvements that are not conducive to the existing parcel configuration, such as concrete block walls, chain link fences, trees, sheds, residences and domestic wells. The rearrangement of parcel boundary lines would allow for the better use and enjoyment of the subject properties by the owner.

The applicant proposes no changes to site improvements. Therefore, granting of the proposed variance will have no affect nor impact on the properties intensity of use, as the subject site has generally been developed in its current configuration for over 75 years.

Finding 2:

Is such variance 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?

Other property owners under like conditions in the vicinity having the identical zoning classification possess and enjoy their properties as established by existing improvements and are not hindered by existing parcel lines that are not in synch with said improvements.

The purpose of the Variance is to allow the owner better use and enjoyment of the subject properties which are currently inhibited by the existing improvements that are not conducive to the existing parcel configuration, such as concrete block walls, chain link fences, trees, sheds and domestic well. The rearrangement of parcel boundary lines would allow for the better use and enjoyment of the subject properties by the respective owner. No public policy or social good is enhanced by prohibiting the applicant from the rearrangement of parcel boundary lines.

Finding 3:

If granted, would the requested variance be detrimental to the public welfare or injurious to property or improvements in the area to which the property is located?

Granting the proposed Variance will not be detrimental to surrounding properties for various reasons. The site is improved with a 2102 sq. ft. home built in 1961 (3384 N. Blythe Avenue) and a 3712 sq. ft. home built in 1978 (4341 W. Dakota Avenue). The existing home 2102 sq. ft. home (3384 N. Blythe Avenue) has frontage along N. Blythe Avenue which is a public road of adequate width and pavement to serve the proposed. The existing home 3712 sq. ft. home (4341 W. Dakota Avenue) has frontage along W. Dakota Avenue which is a public road of adequate width and pavement to serve the proposed. No variations in setback development standards are required.

There are currently two on-site water wells for the existing homes. The owner plans to connect to the City of Fresno Water Distribution System and the existing residences are currently connected to the City of Fresno Sewer System.

The existing homes are well maintained and would not be in conflict with the surrounding properties and/neighborhood. The applicant proposes no changes to site improvements. Therefore, granting of the proposed variance will have no affect nor impact on the properties intensity of use, as the subject site has generally been developed in its current configuration for over 75 years. No change in the use of the properties, either in size or intensity would be affected by the proposed Variance.

Finding 4:

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

The applicant proposes no changes to site improvements. Therefore, granting of the proposed variance will have no affect nor impact on the properties intensity of use, as the subject site has generally been developed in its current configuration for over 75 years.

The proposed Variance will not adversely affect nor imact the surrounding properties and/or neighborhood. Further, the proposed Variance will not reduce agricultural production or its intensity.

For these reasons, the proposed Variance will not conflict with the policies of the Fresno County General Plan.