



County of Fresno

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

Planning Commission Staff Report Consent Agenda Item No. 1 August 13, 2020

SUBJECT: Variance No. 4038 - First Time Extension

Grant a one-year time extension to exercise Variance No. 4038, which allows the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues (3637 S. Valentine Avenue, Fresno, CA 93706) (Sup. Dist. 4) (APNs 327-061-47 and -46; Previously: 327-061-27S).

OWNER/APPLICANT: Duane and Karen Soares Living Trust

STAFF CONTACT: Chrissy Monfette, Planner
(559) 600-4245

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Approve a first one-year Time Extension for Variance No. 4038; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

EXHIBITS:

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Planning Commission Resolution and Staff Report dated August 8, 2019
5. Variance Time Extension Request Letter

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15162 of the California Environmental Quality Act (CEQA) guidelines that the proposed time extension does not require new or supplemental environmental review.

PUBLIC NOTICE:

Notices were sent to 44 property owners within 1,320 feet of the subject parcels, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

The Fresno County Zoning Ordinance requires that a Variance shall become void when substantial development has not occurred within one (1) year after approval of the Variance. The Zoning Ordinance authorizes the Planning Commission to grant a maximum of two (2) one-year Time Extensions when it can be demonstrated that circumstances beyond the control of the Applicant have caused delays which do not permit compliance with the original time limitation. The request for time extension must be filed prior to the expiration of the Variance.

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

BACKGROUND INFORMATION:

Variance No. 4038 was approved by the Planning Commission on August 8, 2019 and became effective 15 days later as prescribed by law.

The Applicant filed the time extension request on June 8, 2020, one month prior to the expiration of the Variance proposal. If this first time extension request is granted, the Applicant will have until August 8, 2021 to complete the mapping action.

ANALYSIS/DISCUSSION:

Variance No. 4038 was approved by the Planning Commission on August 8, 2019 based on the determination that the required findings could be made. Attached is a copy of the Planning Commission Resolution (Exhibit 4) documenting the Conditions imposed on the project.

According to the Applicant's Time Extension request letter (Exhibit 5), additional time is needed to resolve a legal dispute related to the payment of the Williamson Act Cancellation Fees. The Applicant noted that he hopes to have the matter resolved by October 22, 2020. Staff notes that cancellation of the Williamson Act Contract on the proposed 2.5-acre parcel is required in order to perfect the mapping application because the proposed homesite does not meet the minimum acreage requirements for the Act.

Approval of a Time Extension request for a Variance is appropriate if circumstances beyond the control of the Applicant have caused delays which do not permit compliance within the one-year time limit established by the Zoning Ordinance. It should be noted that the Planning Commission's jurisdiction in evaluating this request is limited to determining whether the Applicant should be granted an additional year to exercise the Variance as approved.

This request was routed to those agencies who reviewed the original application. No reviewing agencies or departments expressed any concerns with this proposed time extension request.

PUBLIC COMMENT:

None.

CONCLUSION:

Staff believes the first one-year Time Extension for Variance No. 4038 should be approved based on factors cited in the analysis above. Approval of this Time Extension will extend the expiration date to August 8, 2021.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

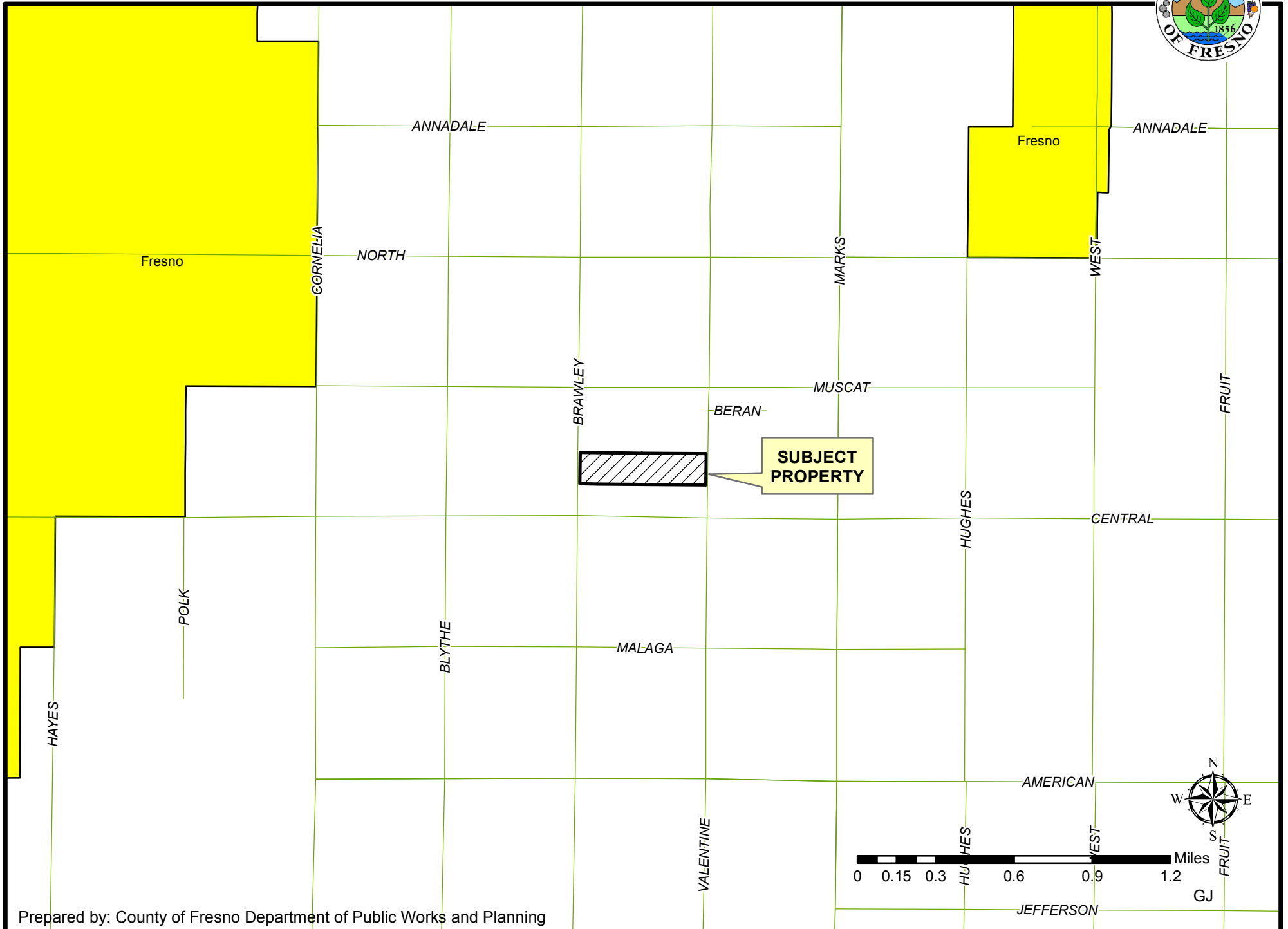
- Move to approve the first one-year Time Extension for Variance No. 4038; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Denial Action)

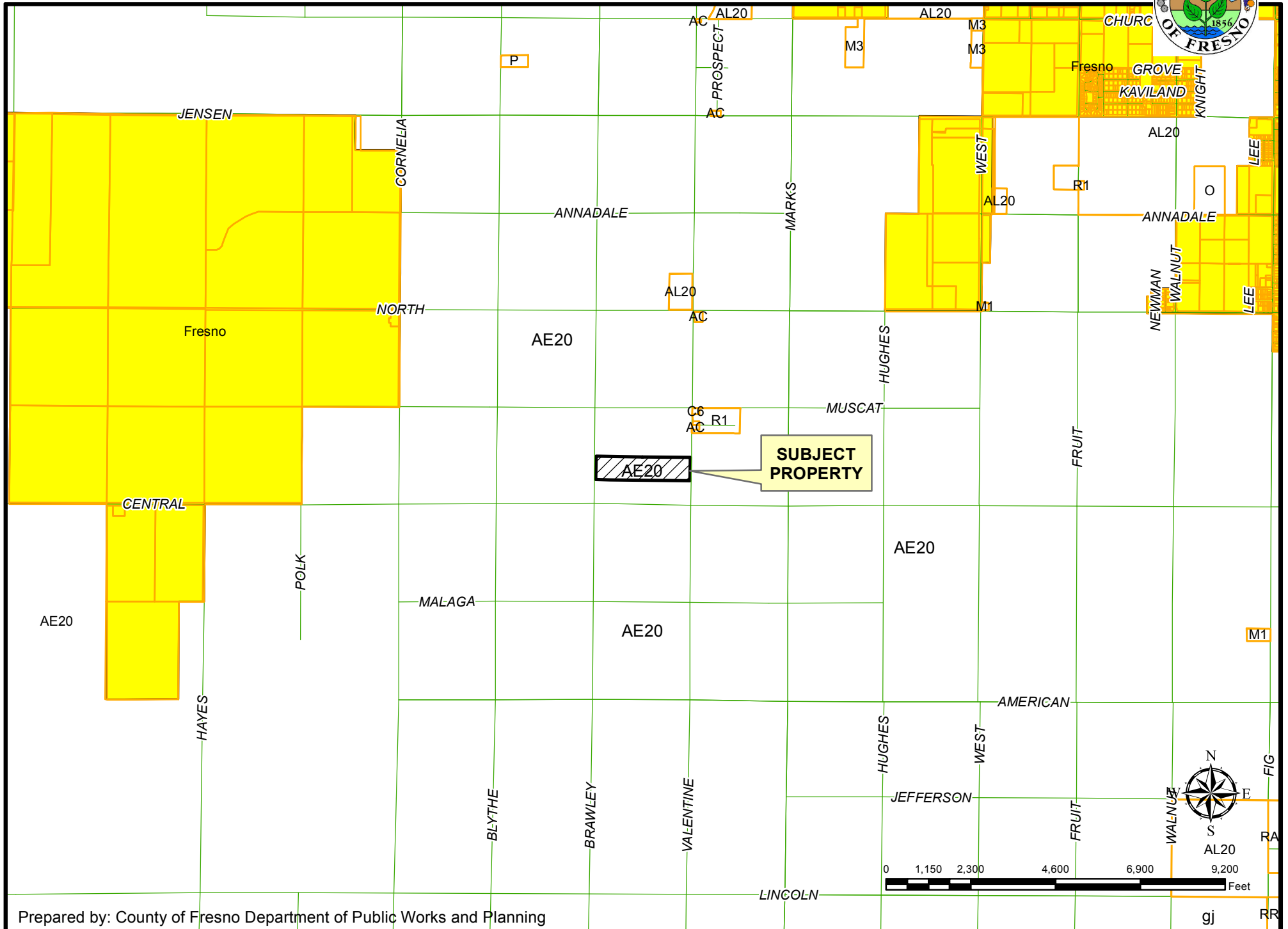
- Move to deny the first one-year Time Extension request for Variance No. 4038 (state reasons for denial); and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

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LOCATION MAP



EXISTING ZONING MAP



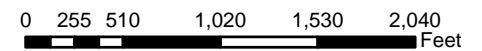
EXISTING LAND USE MAP



LEGEND	
	C - COMMERCIAL
	C# - COMMERCIAL
	FC - FIELD CROP
	ORC - ORCHARD
	SF# - SINGLE FAMILY RESIDENCE
	V - VACANT
	VIN - VINEYARD

LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning
Development Services Division



Inter Office Memo

DATE: August 8, 2019
TO: Board of Supervisors
FROM: Planning Commission
SUBJECT: RESOLUTION NO. 12792 - VARIANCE APPLICATION NO. 4038

APPLICANT/
OWNER:

Duane & Karen Soares Living Trust

REQUEST:

Allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.

LOCATION:

The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues, addressed as 3637 S. Valentine Avenue, Fresno, CA 93706 (APNs: 327-061-47 and -46; Previously: 327-061-27S) (SUP. DIST. 4).

PLANNING COMMISSION ACTION:

At its hearing of August 8, 2019, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Chairman Abrahamian and seconded by Commissioner Eubanks to determine the required Findings of Fact could be made, stating that Finding 1 could be made because the Applicant's family owned the parcel prior to the implementation of AE-20 Zoning in the area, Finding 2 could be made because the Applicant's grandmother, who originally purchased the property, would have had the right to a homesite parcel if it had not been sold to her grandson, and Finding 4 can be made because an agreement has been reached with a neighbor to continue farming the larger parcel. Based on the ability to make all four required findings, a motion was made to approve Variance No. 4038, subject to the Conditions listed in Exhibit B.

RESOLUTION NO. 12792

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Abrahamian, Eubanks, Burgess, Chatha, Delahay, Ede, Hill, Lawson and Vallis
	No:	None
	Absent:	None
	Abstain:	None

STEVEN E. WHITE, DIRECTOR
Department of Public Works and Planning
Secretary-Fresno County Planning Commission

By:



William M. Kettler, Manager
Development Services and Capital Projects Division

WMK:ksn

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NOTE: The approval of this project will expire one year from the date of approval unless the required mapping application to create the parcels is filed in accordance with the Parcel Map Ordinance. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Variance.

Attachments

RESOLUTION NO. 12792

EXHIBIT A

Variance Application No. 4038

- Staff: The Fresno County Planning Commission considered the Staff Report dated August 8, 2019, and heard a summary presentation by staff.
- Applicant: The Applicant did not concur with the Staff Report and the recommended Conditions of Approval. He described the project and offered the following information to clarify the intended use:
- This parcel was purchased by my maternal grandparents in 1948.
 - The residential area has been historically used as a homesite for this parcel.
 - I purchased the property in 2004, but it has been our primary residence since 1997.
 - We have reached an agreement with a neighboring property owner to continue farming the agricultural portion of the parcel.
- Others: No other individuals presented information in support of or in opposition to the application.
- Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

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**Initial Study Application No. 7385 and Variance Application No. 4038
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Division of the property shall be in conformance with the Site Plan (Exhibit 5) approved by the Commission.
2.	Prior to the approval of the mapping application, the Applicant shall remove or obtain permits for all structures which were built after March 1, 1958, including the shade structures shown on application photos.
3.	Prior to approval of the mapping application, if it is determined that a Fresno Irrigation District-owned stand and/or structure is located on the subject parcel, the Applicant shall provide an easement to the Fresno Irrigation District in the underlying area.

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. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
2.	This Variance will become void unless there has been substantial development within one year of the effective date of approval.
3.	No records are available for the existing septic systems. It is recommended that the property owner consider having the septic tanks pumped and leach fields evaluated by an appropriately-licensed contractor if they have not been serviced and/or maintained within the last five years. Such inspection may indicate possible repairs or additions, or require the proper destruction of the systems.
4.	If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto South Valentine Avenue.

EXHIBIT B



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 4 August 8, 2019

SUBJECT: Initial Study Application No. 7385 and Variance Application No. 4038

Allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.

LOCATION: The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues, addressed as 3637 S. Valentine Avenue, Fresno, CA 93706 (APNs: 327-061-47 and -46; Previously: 327-061-27S) (Sup. Dist. 4).

**OWNER/
APPLICANT:** Duane and Karen Soares Living Trust

STAFF CONTACT: Chrissy Monfette, Planner
(559) 600-4245

Marianne Mollring, Senior Planner
(559) 600-4569

RECOMMENDATION:

- Deny Variance No. 4038; 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. Site Plans and Detail Drawings
6. Applicant's Findings
7. Summary of Initial Study Application No. 7385
8. Public Comment

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	39.1 acres	Parcel A: 2.5 acres Parcel B: 36.6 acres
Project Site	N/A	N/A
Structural Improvements	Single-family residence and sheds/shade structures	Structures to remain on Parcel A with no proposed improvements on Parcel B
Nearest Residence	141 feet east of eastern property line	No change
Surrounding Development	Large parcels improved with orchards and field crops; scattered residential development	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	N/A	N/A
Lighting	N/A	N/A

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

ENVIRONMENTAL ANALYSIS:

An Initial Study was prepared for the project by County staff in conformance with the provisions of the California Environmental Quality Act (CEQA). Based on the Initial Study, staff has determined that a Negative Declaration is appropriate. A summary of the Initial Study is included as Exhibit 7.

PUBLIC NOTICE:

Notices were sent to 44 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) Application may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

A request to cancel an existing Williamson Act Contract requires that the Applicant first submit a Notice of Non-renewal, which starts a nine-year period during which the tax rate on the area of non-renewal will steadily increase to standard rates. The Applicant has applied for non-renewal on the 2.5-acre area where the residence has been developed, and their Cancellation request was recommended for approval. A final decision on the Cancellation request must be made by the Board of Supervisors. Because the remainder of the parcel is proposed to remain under contract, it will continue to receive the tax benefits associated with the Williamson Act. The Assessor's Parcel Numbers (APNs) are prepared by the Assessor's Office and revised when necessary to facilitate the accurate collection of property taxes. As a result, the proposed Parcel A has a separate APN because it is subject to a different tax rate, but would not be considered a separate legal parcel until and unless a parcel map application has been completed. Such application is contingent upon the Planning Commission's ability to make the four Findings associated with this Variance Application to allow a parcel map application which includes a parcel of substandard size.

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:

In 1938, the project site and all parcels in the area were zoned Intermediate A-2, a temporary zoning designation for agricultural parcels which establishes two acres as the minimum parcel size. This zone district was removed and replaced with A-1 (Agricultural) in 1962, which provided more stringent development standards, including required road frontage. With the adoption of the Fresno General Plan in 1958, the County was required to zone parcels appropriately. On November 30, 1965, this parcel was rezoned to its current AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

On September 14, 2017, the subject application was submitted to the County requesting a variance from the 20-acre minimum parcel size required by the Zone District. After review of the project by the Policy Planning Section, it was determined that the proposed 2.5-acre parcel

would not meet the 20-acre minimum parcel size requirements for the Williamson Act and that a cancellation would be necessary. The remainder parcel continues to meet the 20-acre minimum parcel size, and therefore was not subject to cancellation.

There are two variances within one mile of the project site, one of which related to the request to create a parcel of substandard size.

While there may be a history of variances in the area, each application must be considered on its own merits.

Project	Description	Recommendation	Action
VA No. 2912	Allow the installation of a six-foot fence on the property line of a house which is in construction, where three feet is the maximum permitted height for a fence within the front-yard setbacks	Denial	PC Denied BOS Approved
VA No. 3027	Divide an 8.31-acre parcel into two 4.15-acre parcels in the AE-20 Zone District where 20 acres is the minimum parcel size	Denial	PC Approved

Findings 1 & 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.*

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 Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Rear: 20 feet Side: 20 feet	Front (east): 88 feet Rear (west): 150 feet North side: 145 feet South side: 116 feet	Y Y Y Y
Parking	At least two spaces for residential use	No change	Y
Lot Coverage	N/A	N/A	N/A
Space Between Buildings	No animal or fowl pen, coop, stable, barn, or corral shall be located within 40 feet of any dwelling.	No change	Y
Wall Requirements	N/A	N/A	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Septic Replacement Area	100%	No change	Y
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Y

Reviewing Agency/Department Comments Regarding Site Adequacy:

Building and Safety Section of the Fresno County Department of Public Works and Planning: Prior to approval, permits must be obtained for shade structures shown on application photos.

Development Engineering Section of the Fresno County Department of Public Works and Planning: South Valentine Avenue is a County-maintained road classified as a Local road with an existing 30-foot right-of-way west of the section line. The minimum width for a Local road right-of-way west of the section line is 30 feet. South Valentine Avenue has a structural section of .26 feet asphalt concrete and an average daily traffic (ADT) of 700 vehicles per day. It is in fair condition.

South Brawley Avenue is a County-maintained road classified as a Local road with an existing 30-foot right-of-way east of the section line along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way east of the section line is 30 feet. South Brawley Avenue has a structural section of .29 feet road mix surfacing and an ADT of 900. It is in good condition.

Typically, any access driveway should be set back a minimum of ten feet from the property line. If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto South Valentine Avenue.

According to FEMA, FIRM Panel No. 06019C2125H, the parcel is not subject to flooding from the 100-year storm, and according to U.S.G.S. quad maps, there are no existing natural drainage channels adjacent to or running through the parcel.

A grading permit or voucher may be required for any grading that has been done without a permit and any grading proposed with this application.

Fresno Irrigation District (FID): FID’s Valentine Avenue No. 555 Pipeline runs southerly and crosses Muscat Avenue approximately 1,300 feet north of the subject property and terminates at the northeast corner of the subject property, and may be impacted by future development of the parcel. FID’s records do not indicate a recorded easement, but an easement does exist, as shown on FID maps. The plans for this portion of the Valentine Avenue No. 555 Pipeline indicate this section of the pipeline was installed in 1949 as 18-inch inside diameter ASTM C-118 non-reinforced concrete pipe with mortar joints. NRCP-M is a non-reinforced concrete pipe that is easily damaged, extremely prone to leakage, and does not meet FID’s minimum standards for developed parcels or rural uses. Because the exact location of the property line is not known at this time, it is possible that part of the Valentine Avenue No. 555 Pipeline is located on the subject parcel. If it is determined that FID structures or equipment is on the subject parcel, the Applicant shall grant an easement to FID in the underlying area.

FID identified several other canals which are located within 1,000 feet of the subject parcel. Development near those pipelines would require additional FID review; however, no development is proposed with this application.

Fresno County Fire Protection District: Fresno County Fire Protection District (FCFPD) has received notice of this project and has not identified any significant concerns. FCFPD has no comment for this project at this time. If future development is sought, the project shall annex to Community Facilities District No. 2010-01 of the Fresno County Fire Protection District. The project/development will also be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

Analysis:

In support of Finding 1, the Applicants state that the property has been in their family since 1948, when it was purchased by their grandmother. The Applicants purchased the property from her in 1997. The Applicants also state that they have entered into a lease agreement with neighboring property owners to farm the south half of the subject quarter section, keeping the active farmland in production.

With regard to Finding 1, staff notes that the parcel must show exceptional or extraordinary circumstances or conditions which do not apply to other parcels under the same zoning classification. In the case of this application, there are no physical circumstances on the property which do not apply to other properties in the vicinity. The development of a homesite alongside agriculture is typical of development in the AE-20 Zone District and this area specifically. The Zoning Ordinance requires that an Applicant must have owned the property at the time that the AE-20 designation was applied to the parcel in order for the Applicant to retain the right to create a separate homesite parcel from the existing farming operation. The AE-20 Zoning was adopted on November 30, 1965, which was before the property was purchased by the Applicants in 1997. This restriction applies to all properties which are zoned AE-20 and does not present an exceptional circumstance on this parcel.

In support of Finding 2, the Applicants state that there are several rural residential lots of various sizes within a one-mile radius of the project site. They state that some of these rural residential lots are occupied by property owners of the adjacent property, similar to what is proposed by this application.

With regard to Finding 2, staff notes that the granting of a variance must preserve a substantial property right which the Applicants would otherwise be denied if the variance were not to be granted. In this case, it is not a right of property owners to own a homesite parcel and adjacent farmland. In regard to the claim that there are other parcels in the area which have a legally separate homesite, staff would like to note that (with the exception of Beran's Tract) the majority of homesite parcels in this area do not exist as separate legal parcels, despite the separate APNs. It is likely, based on the existing Williamson Act Contracts on the larger parcels, that the separate APNs were assigned to facilitate the collection of taxes at a different rate (see Procedural Considerations for additional detail).

There is one area of rural residential development in the vicinity of this parcel. This development is known as Beran's Tract and was established in October 1945, prior to the adoption of the AE-20 zoning in this area. When the agricultural zoning was proposed, the County recognized the

residential density of this area and applied residential zoning consistent with the use. Due to the dissimilar zoning of Beran’s Tract with the subject application, it does not qualify for consideration regarding the denial of similar property rights under Finding 2.

Recommended Conditions of Approval:

See recommended Conditions of Approval and Project Notes attached as Exhibit 1.

Conclusion:

Findings 1 and 2 cannot be made.

Finding 3: *The granting of the Variance will not be materially detrimental to the public welfare or injurious to property and improvements in the vicinity in which the property is located.*

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence*:
North	38.2 acres 36.49 acres	Orchard Orchard	AE-20	None 1,080 feet north
South	4.33 acres 32.98 acres	Residential Field Crops	AE-20	445 feet south None
East	1.25 acres 18.3 acres	Residential Field Crops/Residential	AE-20	145 feet east 115 feet east
West	38.85 acres	Field Crops	AE-20	None

*As measured from the edge of the nearest property line of the subject parcel to the nearest point of the residence

Reviewing Agency/Department Comments:

Fresno County Department of Public Health, Environmental Health Division: No building permit records were available for the existing sewage disposal system. It is recommended that the Applicant consider having the existing septic tank pumped and have the tank and leach field/seepage pits 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.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Valentine Avenue is classified as a Local road with 60 feet of road right-of-way. No additional right-of-way is required from this parcel. If any work is done in the road right-of-way to improve the drive approaches for the existing residence, an encroachment permit will be required.

Zoning Section of the Fresno County Department of Public Works and Planning: An aerial review of structures on the parcel indicates that several were constructed without permits. Permits are required for all structures built after March 1, 1958.

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

Analysis:

In support of Finding 3, the Applicants state that the northeastern corner of the property has always been a homesite and there will be no physical changes to the site. The addition of another 2.5-acre parcel will have minimal impact on surrounding property owners, as there are several existing residential lots in the area.

In regard to Finding 3, staff concurs with the Applicants that there will be no adverse impact on surrounding properties due to the fact that there are not any physical changes associated with this application. In addition, the proposal will not increase the residential density of this area because the size of the original parcel already permits two residences to be developed. However, staff would also like to clarify that there are only two residentially-sized lots within one mile which are zoned AE-20; as previously discussed, some homesites are given separate APNs to facilitate the collection of taxes, but are not considered to be separate legal parcels.

Based on the above information, staff believes the proposal would not have an adverse effect upon surrounding properties.

Recommended Conditions of Approval:

See recommended Conditions of Approval and Project Notes 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>Policy LU-A.6: <i>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.</i></p>	<p>Not Consistent: The project does not qualify for any of the exemptions identified in policies LU-A.9, LU-A.10, or LU-A.11, and therefore, the proposed 2.5-acre parcel is not consistent with this policy.</p>
<p>Policy LU-A.7: <i>The 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</i></p>	<p>This application proposes to allow the creation of a 2.5-acre parcel where the zone district requires a minimum parcel size of 20 acres. County staff recommends denial of this application, consistent with the direction of this policy, and based on an inability to make Findings 1, 2, and 4. Because this policy relates to actions taken by the Planning Commission, there is no</p>

Relevant Policies:	Consistency/Considerations:
<i>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.</i>	preliminary consistency finding.
Policy PF-C.17: <i>The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation.</i>	Consistent: The project site is not in a water-short area and no development is proposed by this application. The Water and Natural Resources Division of the Fresno County Department of Public Works and Planning reviewed the proposal and expressed no concerns related to water usage or sustainability.

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is restricted by Williamson Act Contract No. AP-6142 and contains soil designated as Prime farmland. The minimum parcel size to be enrolled in the Williamson Act program is 20 acres for prime soil and 40 acres for non-prime soil. It appears that the Variance proposes to create a substandard size approximately 2.5-acre homesite parcel that must be removed from contract restrictions by the cancellation process per the County’s Interim Guidelines.

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

Analysis:

In support of Finding 4, the Applicants state that the north half of this quarter section is planted in walnuts and the south half will be planted with almonds within the next two years. The Applicants estimate that 94% of this quarter section will be in agricultural production for the next twenty to thirty years, and that this quarter section has a higher percentage of production than surrounding sections, showing consistency with the General Plan’s goals to preserve productive agricultural farmland.

In regard to Finding 4, staff recognizes that this proposal will not remove any farmland from active production and that the retention of the existing farmland in active production is consistent with the goals of the General Plan. However, General Plan Policies LU-A.6 and LU-A.7 focus on minimum parcel size for a given zone district rather than percentages of agricultural production for a section or quarter section. Policy LU-A.7 establishes that even when a proposed parcel is not considered to be a viable economic farming unit, the minimum parcel size must be observed. The concerns raised by LU-A.7 relate to the potential for conflicts between the agricultural production on adjacent parcels and typical residential use, usually due to the farmers’ need to perform activities which could conflict with common residential uses, such as operation of loud equipment during early morning hours or the application of pesticides near their property lines. Therefore, the proposal to create a stand-alone residentially sized

parcel in the AE-20 Zone District is not consistent with the General Plan, regardless of the percentage of agricultural land which remains active in this section.

Based on these factors, the project is not consistent with the General Plan.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 cannot be made.

PUBLIC COMMENT:

Two letters were provided in support of this application. They are attached as Exhibit 8. In general, the letters indicate that the neighboring property owners are in support of this application because it will not be detrimental to agriculture and it would allow the Applicants to retain their family home.

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Variance cannot be made. Staff therefore recommends denial of Variance No. 4038.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 4038; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to adopt the Negative Declaration prepared for Initial Study Application No. 7385; and
- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4038, subject to the Conditions of Approval and Project Notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

CMM:ksn
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**Initial Study Application No. 7385 and Variance Application No. 4038
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Division of the property shall be in conformance with the Site Plan (Exhibit 5) approved by the Commission.
2.	Prior to the approval of the mapping application, the Applicant shall remove or obtain permits for all structures which were built after March 1, 1958, including the shade structures shown on application photos.
3.	Prior to approval of the mapping application, if it is determined that a Fresno Irrigation District-owned stand and/or structure is located on the subject parcel, the Applicant shall provide an easement to the Fresno Irrigation District in the underlying area.

Conditions of Approval reference recommended Conditions for the project.

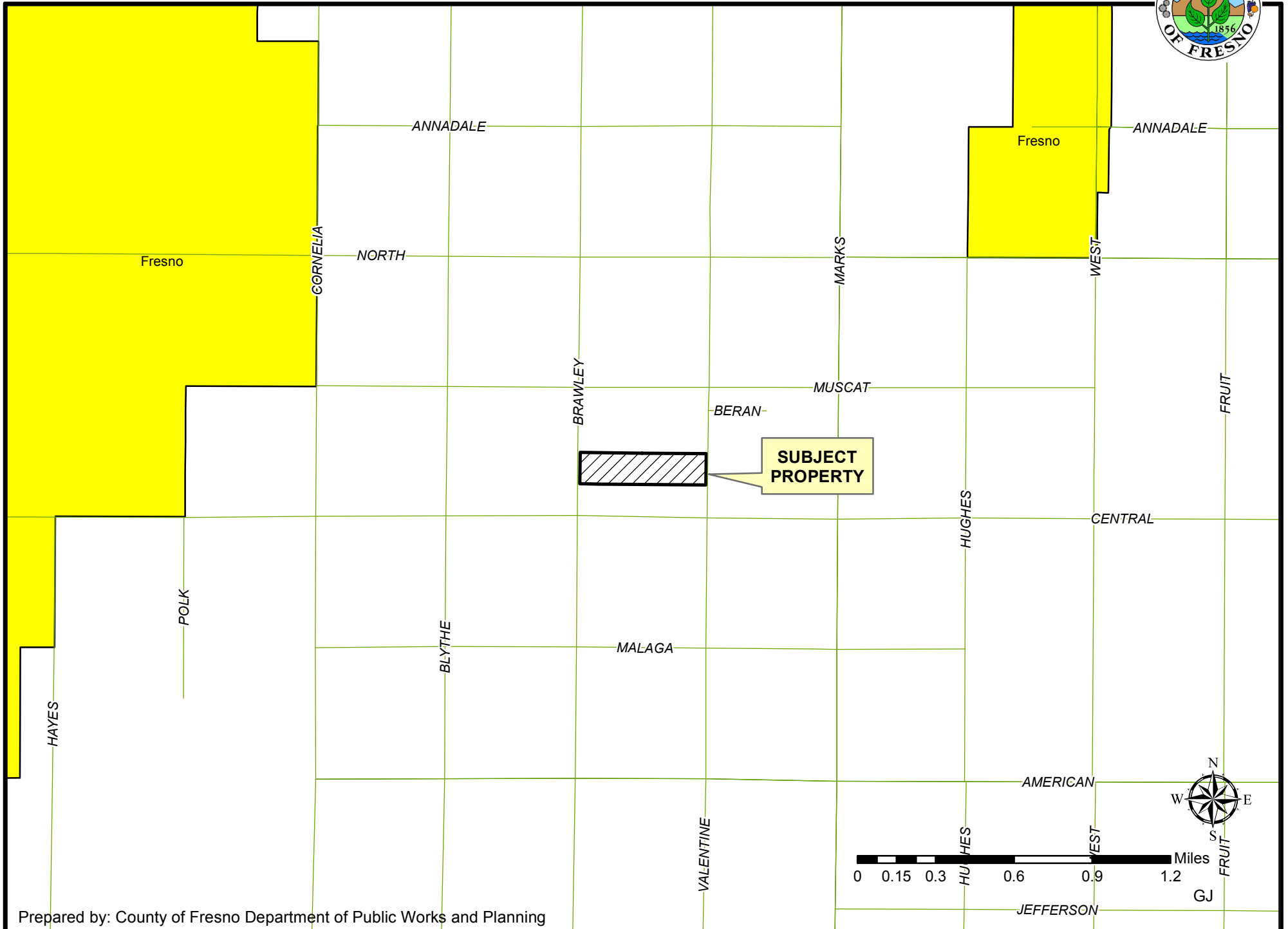
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
2.	This Variance will become void unless there has been substantial development within one year of the effective date of approval.
3.	No records are available for the existing septic systems. It is recommended that the property owner consider having the septic tanks pumped and leach fields evaluated by an appropriately-licensed contractor if they have not been serviced and/or maintained within the last five years. Such inspection may indicate possible repairs or additions, or require the proper destruction of the systems.
4.	If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway onto South Valentine Avenue.

CMM:ksn

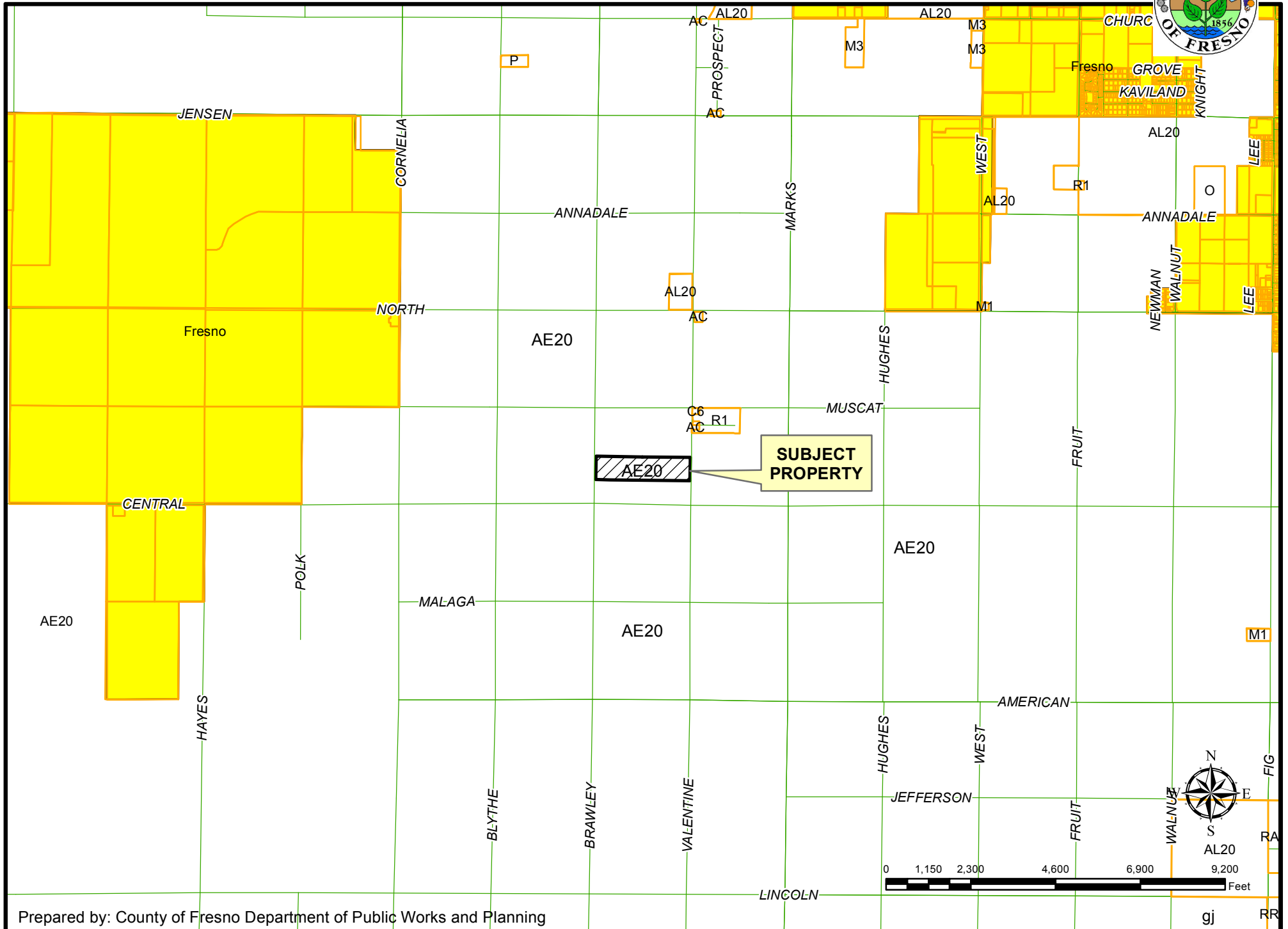
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EXHIBIT 1

LOCATION MAP



EXISTING ZONING MAP



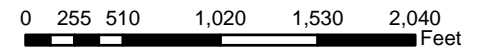
EXISTING LAND USE MAP



LEGEND	
C	COMMERCIAL
C#	COMMERCIAL
FC	FIELD CROP
ORC	ORCHARD
SF#	SINGLE FAMILY RESIDENCE
V	VACANT
VIN	VINEYARD

LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning
Development Services Division

SITE PLAN

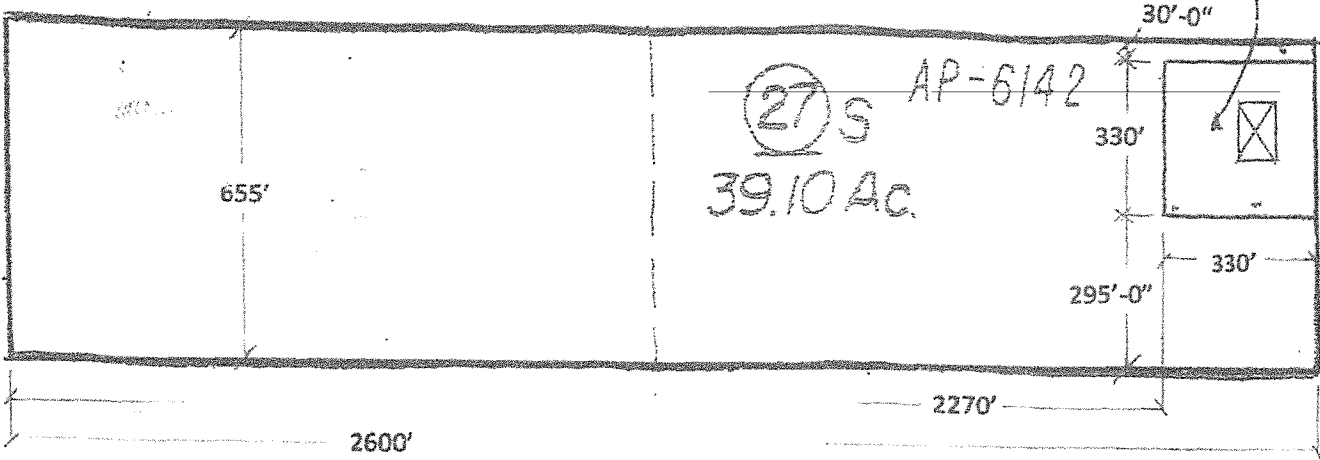
RECEIVED
COUNTY OF FRESNO

SEP 21 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

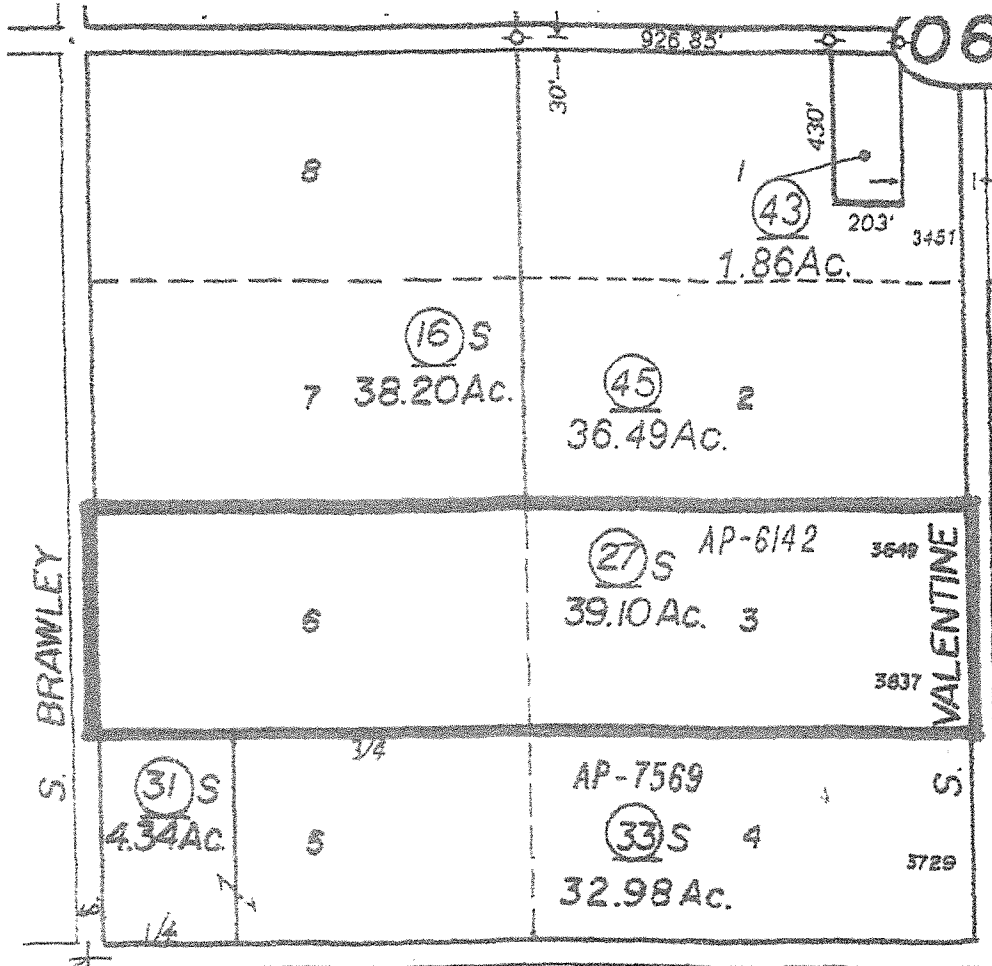
VA 4036
See Detail A

Brawley



VALENTINE Ave.

W. MUSCAT



W. CENTRAL

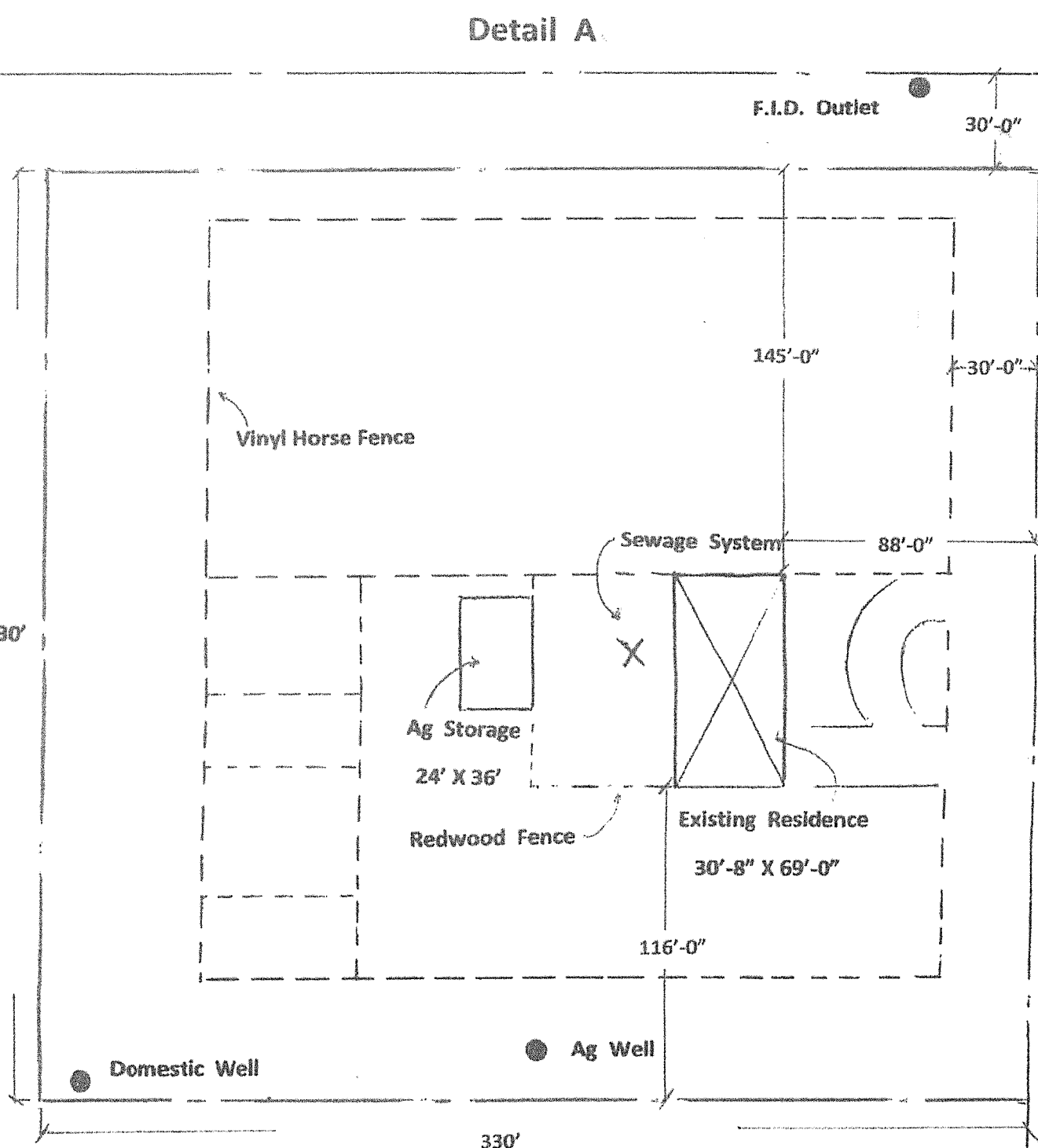
Detail A

N

1" = 50'

Scale

330'



F.I.D. Outlet

30'-0"

Existing Property Lines

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DEVELOPMENT SERVICES DIVISION

VA 4038

Valentine Ave

Vinyl Horse Fence

145'-0"

30'-0"

Sewage System

88'-0"

Ag Storage

24' X 36'

Redwood Fence

Existing Residence

30'-8" X 69'-0"

116'-0"

Domestic Well

Ag Well

330'

VARIANCE APPLICATION FINDINGS

Duane and Karen Soares

OWNER:

Duane Lee and Karen Lee Soares Revocable Living Trust

PROPERTY LOCATION:

3637 South Valentine Ave.

APN: 327-061-27S

EXISTING ZONE DESIGNATION: AE-20

REQUEST: Grant a Variance to allow the creation of a 2.50 acre home site from a 39.1 acre parcel in a AE-20 Zone.

#1 This property has been our families primary residence since 1997 and we purchased the property from Deloris Coito, my maternal grandmother in 2004. My grandparents Fred and Deloris Coito purchased this property around 1948. We have entered a lease/purchase agreement with the property owners too our north and south. The south half of this quarter section will be planted in almonds within the next two years. This property has been in my family for almost 70 years and we would like to kept the home site in our family for many more years.

#2 There are several Rural Residential lots of various sizes within a one mile radius of this property on Valentine Ave., Central Ave. and on Muscat. Some of these Rural Residential lots are occupied by property owners of the adjacent property and share the same conditions as this variance application.

#3 The north-east corner of this property has always been a home site and there will be no physical changes to the site. The addition of another 2.5 acers of Rural Residential lot will have a very minimal impact on the surrounding property owners since there are several existing residential lots in the area.

#4 The north half of this quarter section is planted in Walnuts and the south half will be planted in Almonds within the next two years. There is a total of 152.83 acers in this quarter section. There will be a total of 8.70 acers of Rural Residential if this Variance is approved. There will be 94% of this quarter section in agricultural production for the next 20 to 30 years. In addition, there will be no loss of agricultural producing acreage. The percentage of acers in agricultural production for this quarter section is higher than some of the surrounding sections. Therefore, this quarter section is consistent with the County General Plan to preserve productive farm land.

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DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

VA 4038



County of Fresno

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

EVALUATION OF ENVIRONMENTAL IMPACTS

APPLICANT: Duane and Karen Soares Living Trust

APPLICATION NOS.: Initial Study Application No. 7385 and
Variance Application No. 4038

DESCRIPTION: Allow the creation of a 2.50-acre parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.

LOCATION: The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues, addressed as 3637 S. Valentine Avenue, Fresno, CA 93706 (APNs: 327-061-47 and -46; Previously: 327-061-27S). (Sup. Dist. 4)

I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- A. Have a substantial adverse effect on a scenic vista; or
- B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway; or
- C. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality; or
- D. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

FINDING: NO IMPACT:

This application proposes to allow the creation of a 2.5-acre parcel in the AE-20 Zone District where 20 acres is the minimum parcel size. The proposed 2.5-acre parcel is currently developed with a single family residence. No immediate changes would occur to the aesthetic properties of the area as a result of this variance request.

DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200
The County of Fresno is an Equal Employment Opportunity Employer

Due to the size of the original parcel, a second residence could be developed without the need for additional discretionary review; this is allowed by Zoning Ordinance Section 816.5 subsection B.2 which allows that “not more than one (1) additional residence may be constructed or placed upon a parcel of land for ... each twenty (20) acres in excess of twenty (20) acres in the AE-20 District...”. The subject parcel was considered to have 40 acres (gross) prior to this variance request and therefore was permitted to develop up to two residences. Therefore, there is no change in the number of permitted residences and no potential impact to aesthetic resources as a result of additional residential development.

II. AGRICULTURAL AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology in Forest Protocols adopted by the California Air Resources Board. Would the project:

- A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use; or
- B. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The entirety of the subject parcel was restricted by Williamson Act Contract at the time this application was submitted. The County’s Policy Planning Division determined that the proposed 2.5-acre parcel would not be consistent with the usage limitations or minimum acreage and the Contract was therefore required be cancelled in the area of the proposed 2.5-acre parcel. The remainder/farming parcel continues to meet usage and acreage requirements. The property owner filed a notice of non-renewable for the 2.5-acre parcel and received a favorable recommendation from the Agricultural Land Use Committee at its March 6, 2019 hearing. Such recommendation will be carried forth to the Board of Supervisors for a final decision if the Planning Commission acts to approve this variance request.

This does not present a significant impact to Prime Farmland, Unique Farmland, or Farmland of Statewide Importance because all of the active farmland on the subject parcel remains under contract. It is only the area which was developed as 2.5 acres of residential use which had to be removed. Therefore, no farmland would be converted to

non-agricultural uses and there are no conflicts with agricultural use or Williamson Act Contracts.

The potential for additional farmland to be removed from the parcel to accommodate an additional residence on the remainder parcel also presents no impact to existing agricultural zoning because, as discussed above, this site currently has the right to develop a second residence without discretionary approval.

- C. Conflict with existing zoning for forest land, timberland or timberland zoned Timberland Production; or
- D. Result in the loss of forest land or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

This project is not located in an area of timberland production or forestland and therefore will have no impacts on potential losses thereof.

- E. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The applicant indicates that his family has farmed the subject parcel for almost 70 years; however if this project is approved, the residential development will separate from the farming operation due to the creation of a 2.5-acre parcel. Future landowners may purchase the home unaware of the fact that farming operations can occur early in the morning or at other times that are not convenient to typical residential use. Such complaints have the potential to interfere with agricultural operations; therefore, in order to prevent a conflict of uses between residential and agricultural, the Applicant will be required to sign an acknowledgement of the "Right to Farm", which informs the property owner that noise and dust may occur as a result of the adjacent operations. The Right to Farm notice will be presented to any future property owners prior to finalization of the land purchase agreement. No other changes will occur as a result of this application which could result in the conversion of farmland to a non-agricultural use.

There is no impact on the conversion of forestland to a non-forest use because the project site is not located in the vicinity of any forestland or timberland.

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

- A. Conflict with or obstruct implementation of the applicable Air Quality Plan; or

- B. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard; or
- C. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a Federal or State ambient air quality standard; or
- D. Expose sensitive receptors to substantial pollutant concentrations; or
- E. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

FINDING: NO IMPACT:

Approval of this variance request would allow the applicant to file a mapping application to allow the developed residential portion of this parcel to function a legally separate parcel from the remaining agricultural area. No new development is authorized by the variance, directly or indirectly, and therefore no change in the baseline of the release of criteria pollutants will occur.

IV. BIOLOGICAL RESOURCES

Would the project:

- A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- C. Have a substantial adverse effect on state or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means; or
- D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites; or
- E. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?

FINDING: NO IMPACT:

There are no physical effects associated with the actions taken on this project and therefore no potential to cause adverse impacts to special-status species. Further, the project site does not contain riparian habitat and the use of the parcel for agricultural purposes generally limits use by animals to foraging only. No nesting or denning sites are available due to the disturbed ground and lack of trees in and around the project site. The project site is not subject to a local, regional, or state Conservation Plan.

V. CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or
- B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- C. Disturb any human remains, including those interred outside of formal cemeteries?

FINDING: NO IMPACT:

No development or earthmoving is proposed as part of this application. As discussed in further detail in Section XVIII *Tribal Cultural Resources*, the County engaged in Tribal Consultation under the provisions of Assembly Bill 52 to determine if known resources were located on the site. No such resources were identified and therefore, no impacts to Cultural Resources will occur as a result of this project. No cultural resources which were not associated with local Native American Tribes, such as residences of historical figures, were identified on the subject parcel. Further, the site has been subject to farming practices for more than 50 years, reducing the probability that surficial resources would be present.

VI. ENERGY

Would the project:

- A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or
- B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

FINDING: NO IMPACT:

Following approval of this application, there will be no change in the baseline energy usage at the project site. The applicant indicates that the remainder parcel may be leased to an adjacent farmer, which could result in a minor increase in energy efficiency

by allowing for greater economies of scale if the parcel is farmed in coordination with neighboring fields. If the property is not leased, or is continued to be farmed separately, then there would be no change from the baseline because the 2.5 acres proposed for residential use are already developed with a single family residence, storage building, fence, and lawn prior to the filing of this application.

VII. GEOLOGY AND SOILS

Would the project:

- A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - 1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?
 - 2. Strong seismic ground shaking?
 - 3. Seismic-related ground failure, including liquefaction?
 - 4. Landslides?
- B. Result in substantial soil erosion or loss of topsoil; or
- C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

FINDING: NO IMPACT:

The project would not directly or indirectly cause adverse effects associated with the rupture of a known fault, strong groundshaking, seismic-related ground failure or landslides because there is no change in the baseline usage of the parcel. Following the variance request, the Applicant will continue to reside in the onsite residence and farming operations will continue on the remainder of the subject parcel.

- D. Be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property; or
- E. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

FINDING: NO IMPACT:

A septic system has been installed to serve the existing single-family residence on the proposed 2.5-acre parcel. No new development is proposed and there is no need for

additional or expanded septic systems. Therefore, there is no concern that new construction could occur on expansive soils.

- F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

FINDING: NO IMPACT:

No ground-disturbing activities are proposed as part of this application and no paleontological resources are present on site. No physical changes will occur which could cause damage to a paleontological resource, site, or geologic feature.

VIII. GREENHOUSE GAS EMISSIONS

Would the project:

- A. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or
- B. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

FINDING: NO IMPACT:

Approval of this Variance request would allow the applicant to file a mapping application to separate the existing residential use on the project site from the acreage which is used as farmland. There are no physical changes associated with this request and therefore no increase to the amount of greenhouse gas produced at the project site. As a result, the project will have no impact on the generation of greenhouse gas emissions and will not conflict with plans, policies, or regulations adopted for the purpose of reducing the emissions of greenhouse gases.

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or
- B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment; or
- C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school; or

- D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment; or
- E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area; or
- F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- G. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

FINDING: NO IMPACT:

There will be no increase in the use of hazardous materials at the project site as a result of this application. The parcel is currently used to cultivate alfalfa, silage corn, and winter forage and includes a 2.5-acre residential area. Approval of this proposal would allow that residential unit to function as a separate legal parcel. There will be no increase to the risk of persons on site or in the vicinity due to use of hazardous materials on site or at a nearby location. Similarly, there is no change from the baseline regarding airport noise, compliance with an emergency evacuation plan, or risk of wildfire. Therefore, this project will have no impacts on Hazards and Hazardous Materials.

X. HYDROLOGY AND WATER QUALITY

Would the project:

- A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality; or
- B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin; or
- C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on or off site?
 - 1. Result in substantial erosion or siltation on- or off-site;
 - 2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?

3. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
 4. Impede or redirect flood flows?
- D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation; or
- E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

FINDING: NO IMPACT:

No increase in the amount of waste water produced by the project site is anticipated as a result of this application. Approval of the variance will permit the property owner to file a mapping application which will allow the residential development to function as a separate legal parcel. No new structures are proposed that could affect run-off direction or quality and therefore will not expose additional persons or hazardous materials to risk of inundation due to flood hazard, tsunami, or seiche.

XI. LAND USE AND PLANNING

Would the project:

- A. Physically divide an established community?

FINDING: NO IMPACT:

The project site is not located in an established community and does not propose any physical changes. Therefore, the project will have no impact on the physical division of established communities.

- B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Development in Fresno County is required to be consistent with the Fresno County General Plan. Goal LU-A reads “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.” This goal relates to the environmental impacts of the loss of farmland and is supported by the following policies:

- LU-A.6: The County shall maintain twenty 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.

- LU-A.7: The 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...the decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.

The above-mentioned policies are intended to address the environmental concern that an increase in the number of homesite parcels and general decrease in parcel size in Fresno County could lead to a conversion of productive agricultural land (see Section II: Agricultural and Forestry Resources).

This application is not consistent with the above policies because the proposed 2.5-acre parcel does not qualify for any of the exemptions at LU-A.9 (financing parcel; gift to family to assist with farming; or ownership prior to adoption of AE-20 Zoning), LU-A.10 (agricultural commercial center), or LU-A.11 (resource recovery location). However, these policies are codified in Zoning Ordinance Section 8.16.A, where this variance application is requesting relief from the 20-acre minimum parcel size. The applicant's findings indicate that his family has owned the subject parcel since before implementation of the AE-20 zoning; however LU-A.9 does not extend to family members who inherited or purchased the property after the zoning had been established.

While this application is not consistent with this policy, its noncompliance will not result in a significant adverse environmental effect. The original parcel size (prior to road dedication, i.e. gross) was 40 acres and due to its location in the AE-20 Zone district, one residence is allowed (by right) for each 20 complete acres (Zoning Ordinance Section 816.C subsection 1). Typical residential development in Fresno County covers an area up to 2.5 acres; this leaves approximately 17.5 acres of a typical 20-acre Agricultural Parcel for farming purposes and road dedication. In this case, the remainder parcel will have 36.6 acres remaining for farming purposes. The Applicant's findings indicate that a lease agreement is in place for a neighbor to farm this acreage; however, even if it were sold to someone who developed a 2.5-acre residential area on the parcel, approximately 34.1 acres would remain in agricultural production. Considering that 0.9 acres of the subject parcel have been dedicated to the County as right-of-way, the percentage of farmland that would remain in agricultural production would be consistent with typical usage in the AE-20 district on typical 20-acre parcels. Further division of this parcel would increase the residential density in this area; however, such requests would be subject to a new variance application and additional CEQA review.

Therefore, the project would not lead to an increase in residential densities or a reduction in the amount of available farmland, despite lack of consistency with General Plan Policies. This project will have less than significant impacts on conflicts with plans,

policies, and regulations adopted for the purpose of mitigating or avoiding environmental impacts.

XII. MINERAL RESOURCES

Would the project:

- A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, Specific Plan or other land use plan?

FINDING: NO IMPACT:

No physical changes are proposed by this application and therefore no impacts will occur regarding the availability of known mineral resources or the loss in availability of a locally-important mineral resource.

XIII. NOISE

Would the project result in:

- A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- B. Generation of excessive ground-borne vibration or ground-borne noise levels; or
- C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

FINDING: NO IMPACT:

There is no proposed increase in activities as a result of this application. There is the chance that new farming practices on the remainder parcel will create a variation from the existing baseline; however, no uses which would produce ground-borne vibration or noise levels are proposed. New farming practices would be restricted to the by-right uses of the AE-20 Zone District, which is the current level of restriction on the parcel. The project will have no impacts on the generation of temporary or permanent noise levels.

XIV. POPULATION AND HOUSING

Would the project:

- A. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

FINDING: NO IMPACT:

Approval of this variance request would not directly induce substantial unplanned population growth. However, the incremental contribution of residentially-sized parcels in an area designated by the General Plan for Agricultural uses could lead to an increase in population growth in an area that was previously not contemplated. There is one existing homesite parcel across from the proposed 2.5-acre and approximately 45 parcels less than one acre in size located at the corner of Muscat and Valentine, approximately 660 feet north of the project site. This collection of parcels is known as Beran's Tract. A lack of recent records relating to these parcels suggests that they were created during the time that these parcels were zoned residential (1965 to 1985), when no variance would have been required to create small parcels. A number of these parcels have been developed with single-family residences and two have commercial uses: Clem's Hall which is an event center, and the West Park Market, a convenience store.

The approval of this variance would allow a new 2.5-acre lot to be created more than 600 feet south of Beran's Tract and adjacent to existing agricultural uses. Due to the availability of space within Beran's Tract, the proximity of West Park Market to the residentially-sized parcels, and the discussion in Section XI regarding the failure of this project to increase residential densities, there will be no impact on increases to unplanned population growth in the area.

- B. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

FINDING: NO IMPACT:

This project proposes to create a separate legal parcel for an existing residence, separate from the existing farming operation. The applicant currently lives in the subject residence. No other homes are impacted and no persons will be displaced.

XV. PUBLIC SERVICES

Would the project:

- A. Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities, or the need for new or physically-altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

- 1. Fire protection;

2. Police protection;
3. Schools;
4. Parks; or
5. Other public facilities?

FINDING: NO IMPACT:

Approval of this application does not authorize any increase to use at the project site and therefore would not result in adverse physical impacts associated with new or altered government facilities. The 2.5-acre parcel will continue to function as a single-family residence and the farming operation will continue to produce agricultural products. No increase in numbers of persons at the site will occur, precluding the need for additional police and fire protection services. Similarly, no new homes will be built which could result in an increase in school-age children in the area. As a result, no new schools or parks would be required by this project. Other public facilities, such as light and power will continue to serve the existing residence.

XVI. RECREATION

Would the project:

- A. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or
- B. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

FINDING: NO IMPACT:

The project site is located in an area dedicated to agricultural production. There are no parks or recreational facilities in the vicinity of the project.

XVI. TRANSPORTATION

Would the project:

- A. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities; or
- B. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?; or
- C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?; or

D. Result in inadequate emergency access?

FINDING: NO IMPACT:

No increase to traffic is anticipated as a result of this application. There are no road improvements or expansions proposed to support this application and no new equipment is proposed to be used or transported over any existing roads. Therefore, the project will have no impacts to programs, plans, or policies regarding the circulation system. The project is consistent with CEQA Guidelines section 15064.3, subdivision (b), which discusses the need to quantify the amount of vehicle miles traveled (VMT); there is no increase to the baseline of vehicles that will arrive and depart the project site and therefore no impact to VMT.

XVIII. TRIBAL CULTURAL RESOURCES

Would the project:

- A. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

FINDING: NO IMPACT:

There is no development proposed as part of this application and therefore no opportunity to excavate previously unknown resources. Continuous use of this parcel for farming purposes for at least the past 70 years precludes the possibility that above-ground or surficial resources are present at the site.

On October 12, 2017, under the Provisions of Assembly Bill 52 (AB 52), the County provided notice regarding this project to the following Tribal Governments: Santa Rosa Rancheria Tachi Yokut Tribe, Table Mountain Rancheria, and the Dumna Wo Wah. Notification was sent to the Picayune Rancheria of Chukchansi Indians on November 2, 2017. The separate timing for that notice was due to the fact that the Picayune Rancheria requested notification under AB 52 after the original notices had been sent. Table Mountain Rancheria declined consultation in a letter dated October 23, 2017 and

Dumna Wo Wah requested consultation in a letter dated October 25, 2017. The other two Tribal Governments did not respond within 30 days of receipt of the notice and were therefore presumed to have declined consultation. Staff engaged with the Dumna Wo Wah by email on March 21, 2018, requesting information relating to any known resources at the site and inviting the Tribe to an in-person meeting to discuss the project. Additional emails were sent with no answer from the representative. Due to a lack of responsiveness from the Dumna Wo Wah, the County concluded consultation on June 11, 2018. With such conclusion, the County completed its requirements under Assembly Bill 52 and determined that mitigation would not be necessary to avoid impacts to Tribal Cultural Resources as a result of this project.

XIX. UTILITIES AND SERVICE SYSTEMS

Would the project:

- A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years; or
- C. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or
- D. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or
- E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

FINDING: NO IMPACT:

No changes are proposed to the function of either proposed parcel. The 2.5-acre parcel will continue to operate as a residence for the applicant and the remainder parcel will continue to be farmed. The agricultural well shown on the site plans on the 2.5-acre parcel has been decommissioned and will not serve either proposed parcel.

It is possible that a new well installed on the remainder parcel; however, this would not impact the amount of water used onsite and therefore there will be no impacts on water quality or availability. Similarly, there will be no increase in the production of solid waste and therefore no impacts associated with federal, state, or local management and reduction statutes.

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- A. Substantially impair an adopted emergency response plan or emergency evacuation plan, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; or
- C. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- D. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

FINDING: NO IMPACT:

The project site is not in an area that is at high risk of damage from wildfire and the lack of development on the parcel would preclude offsite impacts to areas determined to be within a very high fire hazard severity zone.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

- A. Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

FINDING: NO IMPACT:

There are no physical changes associated with this project, which is located in an area of active agricultural production. The opportunity for special-status species to be present at the project site is low and there will be no increase in the level of ground disturbance and farming activities. Therefore, no impacts to special status species or the habitats of special status species will occur as a result of this variance application.

- B. Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are

considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

FINDING: LESS THAN SIGNIFICANT IMPACT:

In accordance with the Fresno County General Plan, cumulative impacts of the loss of farmland and the conversion of large agricultural parcels to single-family residential usage, must be considered on a project-by-project case. As discussed in Section XI, homesites on farming parcels are typically developed up to 2.5 acres. Further, this parcel would have been allowed to develop two residences prior to the mapping application which would be authorized by this Variance request. Therefore, this project contributes no increase in the potential density in this area. The remainder parcel would be allowed to develop only the one homesite by right following the mapping application.

- C. Have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: NO IMPACT:

Approval of this application would allow the property owner to file request to create a parcel with less than the required acreage for the zone district. No environmental effects which would cause substantial adverse impacts to human beings were identified as part of this application; primarily due to the fact that there is no change in the baseline operations at the project site, with the exception of the removal of the 2.5-acre from the Williamson Act Contract. That action will have no impact on the baseline at the project site because the area of residential development was not considered agricultural land; the usage was considered to be a compatible use because the residence was occupied by farmers.

CONCLUSION/SUMMARY

Based upon the Initial Study prepared for Variance Application No. 4038, staff has concluded that the project will not have a significant effect on the environment.

It has been determined that there would be no impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire. Potential impacts related to Agricultural and Forestry Resources; and Land Use and Planning have been determined to be less than significant. Mitigation Measures were not necessary to reduce any impact to less than significant.

A Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.



County of Fresno

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

NOTICE OF DETERMINATION

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

County Clerk, County of Fresno
2221 Kern Street
Fresno, CA 93721

From: Fresno County Department of Public Works and Planning, Development Services and Capital Projects
2220 Tulare Street (corner of Tulare and "M") Suite "A", Fresno, CA 93721

Subject: Filing of Notice of Determination in compliance with Section 21152 of the Public Resource Code

Project: Initial Study Application No. 7385 and Variance No. 4038

Location: The project site is located on the east side of S. Valentine Avenue, between W. Muscat and W. Central Avenues, addressed as 3637 S. Valentine Avenue, Fresno, CA 93706 (APNs: 327-061-47 and -46; Previously: 327-061-27S). (Sup. Dist. 4)

Sponsor: Duane and Karen Soares Living Trust

Description: Allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.

This is to advise that the County of Fresno (Lead Agency Responsible Agency) has approved the above described project on August 8, 2019, and has made the following determination:

1. The project **will** **will not** have a significant effect on the environment.
2. An Environmental Impact Report (EIR) **was not** prepared for this project pursuant to the provisions of CEQA. / A Negative Declaration **was** prepared for this project pursuant to the provisions of CEQA.
3. Mitigation Measures **were** **were not** made a condition of approval for the project.
4. A statement of Overriding Consideration **was** **was not** adopted for this project.

This is to certify that the Initial Study with comments and responses and record of project approval is available to the General Public at Fresno County Department of Public Works and Planning, 2220 Tulare Street, Suite A, Corner of Tulare and "M" Streets, Fresno, California.

Christina Monfette, Planner
(559) 600-4245 / EMAIL cmonfette@fresnocountyca.gov

Date

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DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200
The County of Fresno is an Equal Employment Opportunity Employer

File original and one copy with: Fresno County Clerk 2221 Kern Street Fresno, California 93721		Space Below For County Clerk Only. CLK-2046.00 E04-73 R00-00	
Agency File No: IS 7385	LOCAL AGENCY PROPOSED NEGATIVE DECLARATION		County Clerk File No: E-
Responsible Agency (Name): Fresno County	Address (Street and P.O. Box): 2220 Tulare St. Sixth Floor	City: Fresno	Zip Code: 93721
Agency Contact Person (Name and Title): Christina Monfette, Planner	Area Code: 559	Telephone Number: 600-4245	Extension: N/A
Project Applicant/Sponsor (Name): Duane and Karen Soares Living Trust	Project Title: Variance Application No. 4038		
Project Description: Allow the creation of a 2.50-acre homesite parcel from an existing 39.10-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District where a minimum of 20 acres is required.			
Justification for Negative Declaration: It has been determined that there would be no impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Energy, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire. Potential impacts related to Agricultural and Forestry Resources; and Land Use and Planning have been determined to be less than significant. Mitigation Measures were not necessary to reduce any impact to less than significant.			
FINDING: The proposed project will not have a significant impact on the environment.			
Newspaper and Date of Publication: Fresno Business Journal – June 14, 2019		Review Date Deadline: Planning Commission – August 8, 2019	
Date:	Type or Print Signature: Marianne Mollring, Senior Planner	Submitted by (Signature): Christina Monfette, Planner	

State 15083, 15085

County Clerk File No.: _____

**LOCAL AGENCY
NEGATIVE DECLARATION**

RECEIVED
COUNTY OF FRESNO

OCT 26 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION
VA 4038

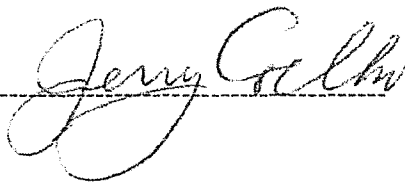
To: Fresno County Planning Commission

SUBJECT: Duane and Karen Soares Variance Application #VA4038

Dear Commissioners,

I am a neighbor to Duane and Karen Soares and have discussed their Variance Proposal to allow a home site on the property Duane's family has owned for 70 years. I fully support the Soares Variance Application request because it is not detrimental to agricultural preservation and allows them to keep their hereditary home site.

Sincerely,



Address: 3451 Valentine
Fresno, Ca.

RECEIVED
COUNTY OF FRESNO

OCT 26 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION
VA 4038

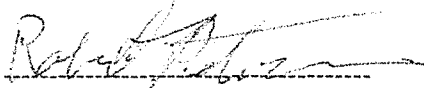
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Sincerely,



Address: 3664 S. Valentina

Fresno, Ca. 93706

Duane and Karen Soares Living Trust
3637 S Valentine Ave
Fresno CA 93706

To: Fresno County Planning Commission

Subject: Time Extension for Variance No. 4038

Thank you for approving Zoning Variance Application No. 4038 on August 8, 2019, granting us the ability to create a 2.50 acre homesite parcel. Property Line Adjustment application 20-10 was submitted on 12-12-2019. On 12-18-2019 PLA 20-10 was put on hold and can not be recorded until the \$12,500 Williamson Act Cancellation fee is paid.

On October 22, 2019 I personally petitioned the Fresno County Board of Supervisors to reduce or not require the Cancellation fee, due to it being financially punitive. In the Act, a material breach of the contract is the only legal reason for a punitive fee. We did not breach the contract, and we did not violate the act or the spirit of the act in any way. There was no loss of productive farmland or new development due to this PLA. The response from the Board was that they were mandated by the State of California to collect the Cancellation Fee and could not or would not help with this matter. Then voted to approve the fee.

On October 25, 2019 I contacted Assemblymen Joaquin Arambula office for information and assistance. I did not receive a response until February 28, 2020. They stated that Fresno County determines and approves the fee, so I need to resolve this matter with them.

I have hired Mr. Christopher Campbell of Baker, Manock and Jensen Attorneys at Law for legal assistance. We will be petitioning Fresno County and or the Fresno County Board of Supervisors to resolve this issue on or before October 22, 2020.

We would greatly appreciate an extension of time to this Variance to resolve the issue with the Williamson Act Cancellation fee.

Thank you

Duane Soares



Karen Soares