



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 2 January 13, 2022

SUBJECT: Variance Application No. 4114

Allow a 15-foot front-yard and 15-foot street side-yard setback where a minimum of 35 feet are required, for the construction of a detached garage, on a 2.51- acre parcel in the R-R (Rural Residential, two-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the north side of Acorn Road between Sugarloaf Road and Old Auberry Road and approximately one-half mile north of the unincorporated community of Meadow Lakes (APN: 128-301-36) (41175 Acorn Road) (Sup. Dist. 5)

**OWNER/
APPLICANT:** Wade Obermann

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

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Variance No. 4114; 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. Variance map
6. Site Plan
7. Floor Plan and Elevations
8. Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Foothill Rural Residential in the County adopted Sierra North Regional Plan	No change
Zoning	R-R (Rural Residential, two-acre minimum parcel size) Zone District	No change
Parcel Size	2.51-acres	No change
Project Site	See above	No change
Structural Improvements	Existing approximately 2,443 square-foot single family dwelling with attached garage, permitted in 2006	Addition of a 1,200 square foot garage
Nearest Residence	Approximately 125 feet to the west	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15305 (a) of the California Environmental Quality Act (CEQA) guidelines: *Minor Alterations in Land Use Limitations*, 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 24 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877 are made by the Planning Commission.

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

BACKGROUND INFORMATION:

The subject property was created as Parcel 1 of Parcel Map 6683, recorded October 17, 1988. According to available permit records, the property is improved with an approximately 2,443 square-foot single-family dwelling with attached garage, permitted in September 2006.

There has been one previous Variance pertaining to reduced yard setbacks processed approved within one mile of the subject property, which is detailed in the following table:

Application/Request	Date of Action	Staff Recommendation	Final Action
VA No. 3502: Allow a 12-foot 8-inch front yard setback (35-feet required) for a residential addition on a .47-acre parcel in the RR-5 (Rural Residential, five-acre minimum parcel size) Zone District.	August 24, 1995	Approval	PC Approved

ANALYSIS/DISCUSSION:

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

	Current Standard:	Proposed Configuration (garage/shop):	Is Standard Met (y/n):
Setbacks	R-R Zone District Front: 35 feet Rear: 20 feet Side: 20 feet	Front (southeast): 15.0 feet Rear (west): 57.6 feet Street Side (north): 80 feet to property line (approximate)/ 15 feet to access easement	No
Parking	For residential use: One parking space for every dwelling unit. Spaces shall be on the same lot with the main building which they serve and located to the rear of the required front yard, except for hillside lots.	No change	Yes
Lot Coverage	Thirty-three (33) percent	N/A	N/A
Separation Between Buildings	No requirements	N/A	N/A
Wall Requirements	No requirements	N/A	N/A
Septic Replacement Area	100 percent	No change	N/A

Reviewing Agencies/Department Comments:

This proposal was reviewed, and a site inspection performed by the Fresno County Fire Protection District/Cal Fire, which determined that the Variance could be supported, provided that a one-hour fire wall be installed on all walls of the proposed building, that are adjacent to reduced setback areas. The property is located in a State Responsibility Area (SRA), which includes special standards for fire safety, and requires that all lawfully permitted buildings and accessory structures have a minimum thirty-foot setback from all property lines; however, the setbacks may be reduced to the minimum required by the Zone District development standards if any of the following conditions exist: (1). The building is served by a community water supply system. (2). A one-hour fire wall is provided for all walls adjacent to the reduced setback area; or (3). The reduced setback area is adjacent to an outlet for open space or similar area where construction of buildings is prohibited and the fuel is modified and maintained for at least on hundred feet, (or to the greatest extent feasible as determined by the authority having jurisdiction), from the building so as to prevent or slow the spread of fire.

There were no other relevant comments from reviewing agencies or County Departments other than advisory statements about required regulations that have been noted under the Project Notes section of Exhibit 1.

Analysis Finding 1:

In support of Finding 1, the Applicant's Findings state that the existing improvements, the moderately sloped topography of the site and the existence of a 35-foot-wide access easement along its northern property boundary, creates a limitation on the buildable area of the property.

Based on site photos, and review of aerial imagery, staff acknowledges that the property is located in a mountainous area where uneven topography and dense stands of trees and vegetation are the norm. The parcel's triangular shape, the uneven slope of the property, and the existence of the access easement traversing the property on the north side, with the required setbacks do in fact limit the buildable area on the property. The easement on the northside creates a situation where the side yard abutting the easement requires the same 35-foot setback as the front yard.

Recommended Conditions of Approval: *None*

Conclusion Finding 1:

Based on the analysis Finding 1 may be made, based on the unique circumstance of the access easement further restricting the site which is also limited by topography.

Finding 2: *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.*

Reviewing Agencies/Department Comments:

None

Analysis Finding 2:

In support of Finding 2, the Applicant's justification states that the Variance is necessary for the preservation of the owner's right and ability to build on their property for personal enjoyment and storage purposes. Additionally, other owners in the vicinity, under the same Zoning, appear to have buildings constructed close to the property line, and to locate the proposed building elsewhere on the property would require excessive grading due to slope, and result in an undesirable alteration to the topography of the site.

Being able to build as much or wherever or you prefer on a property is not a "substantial Property right". Variances can provide relief preserving a "substantial property right" to be able to utilize the property for the intended use of the zoning. If regulations and unique physical attributes prohibit properties from developing any residential development a Variance would be appropriate to preserve the "substantial property right" to build a home in the Rural Residential Zone District. While staff acknowledges that the shape and topography of the site do create an impediment to development of structures, other parcels in the vicinity, under the rural residential zoning, appear have similarly irregular shape according to the assessor's map and topography,

based on their location in a mountainous area. Therefore, staff was unable to identify the deficit of a property right enjoyed by other owners in the vicinity.

Recommended Conditions of Approval:

None

Conclusion Finding 2:

Finding 2 cannot be made, as no deficit of a substantial property right enjoyed by others in the area with the same zoning was identified.

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	160 acres	Sierra National Forest	RC-40	None
South	2.03 acres	Single-Family Residential	R-R	780 feet
East	2.38 acres	Single-Family Residential	R-R	150 feet
West	5.45 acres 3.65 acres	Single-Family Residential	R-R	40 feet

*Distances are approximate and measured from the subject parcel boundaries using a web based aerial imagery application.

Reviewing Agencies/Department Comments:

Fresno County Fire Protection District (CAL FIRE): The property is located within the State Responsibility Area (SRA) which contains minimum setback standards. The requested Variance is inconsistent with these standards. However, after further consultation within the Department, it has been determined that a variance be allowed as set forth in Title 15.60.300 Setbacks for Structures. A one-hour fire wall will be provided for all walls adjacent to the reduced setback areas.

Analysis Finding 3:

In support of Finding 3, the Applicant's Findings state that the granting of the Variance would not have detrimental impacts on the public or property in the vicinity, because the proposed building will not inhibit access for emergency vehicles or infringe on neighboring property uses. Additionally, the proposed garage would be more than 35 feet from the nearest neighboring property boundary, across Acorn Road.

Staff concurs that the granting of the Variance, to allow the construction of the detached garage within the front and street-side yard setbacks, will not have a detrimental impact on surrounding property.

Recommended Conditions of Approval: *None*

Conclusion Finding 3:

Finding 3 can be made, as the Variance, if approved, would not have any identifiable detrimental impacts to surrounding property.

Finding 4: *The granting of such a variance will not be contrary to the objectives of the General Plan.*

Relevant Policies:	Consistency/Considerations:
No applicable General Plan Policies were identified.	N/A

Reviewing Agencies/Department Comments regarding General Plan consistency: *None*

Analysis Finding 4:

In support of Finding 4, the Applicant's findings assert that the granting of this Variance is not contrary to the objectives of the General Plan.

Staff concurs that the Variance would not be contrary to the objectives of the General Plan, or conflict with any general plan policies or policies of the Sierra North Regional Plan.

Recommended Conditions of Approval: *None.*

Conclusion Finding 4:

Finding 4 can be made as there are no General Plan Policies, or Sierra North Regional Plan Policies or Objectives specifically pertaining to setbacks.

PUBLIC COMMENT: None.

SUMMARY ANALYSIS / CONCLUSION:

Based on the factors cited in the analysis above, Staff cannot make Finding No. 2, necessary for granting the Variance and therefore recommends denial of Variance Application No. 4114.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine in accordance with Staff's recommendation that required Finding 2 cannot be made, and move to deny Variance No. 4114; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine that the required Finding No. 2 can be made (state basis for making the Finding No. 2) and move to approve Variance No. 4114, 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:jp

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EXHIBIT 1

**Variance Application (VA) No. 4114
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Variance No. 4114 shall become void if the construction of the garage authorized by said Variance has not commenced within one (1) year after the granting of said Variance or is not pursued diligently to completion, or there is a cessation in the occupancy or use of land or buildings authorized by such Variance for a period in excess of one (1) year. Where circumstances beyond the control of the applicant cause delays, which do not permit compliance with the time limitation established in Section 877-D.2, the Commission may grant an extension of time for a period not to exceed an additional one (1) year period. Applications for such extension of time must set forth in writing the reasons for the extension and must be filed with the Development Services Division, Department of Public Works and Planning.

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.	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.
2.	A one-hour firewall shall be provided for all walls of the proposed detached garage, adjacent to reduced setback areas.
3.	Should a new sewage disposal system be proposed, it shall be installed under permit and inspection by the Department of Public Works and Planning, Building and Safety Section.
4.	As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.
5.	Should any underground storage tank(s) be found during the project, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division.

EXHIBIT 1

LOCATION MAP

VA 4114

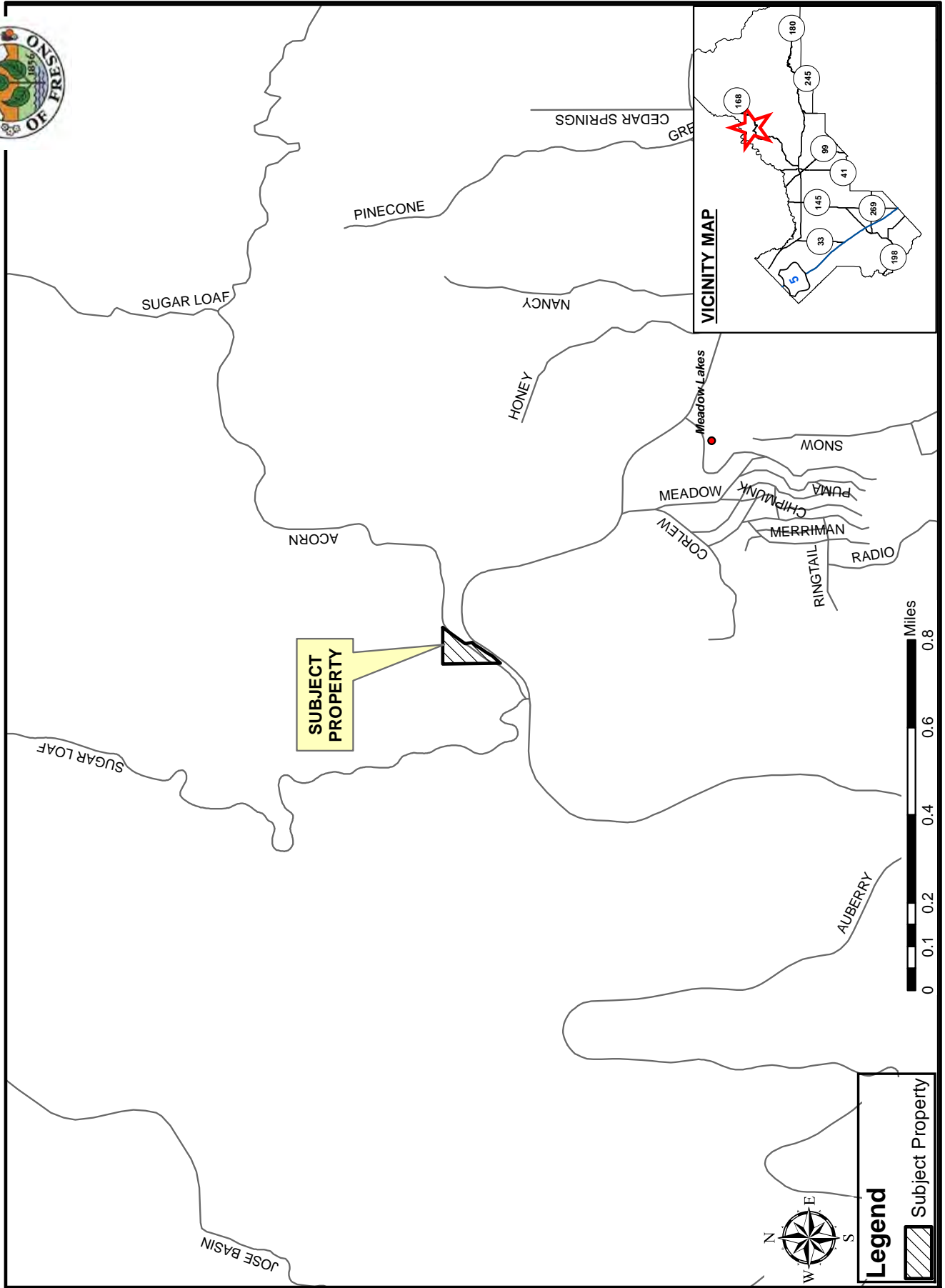


EXHIBIT 3

EXISTING ZONING MAP

VA 4114
STR 2-10/23

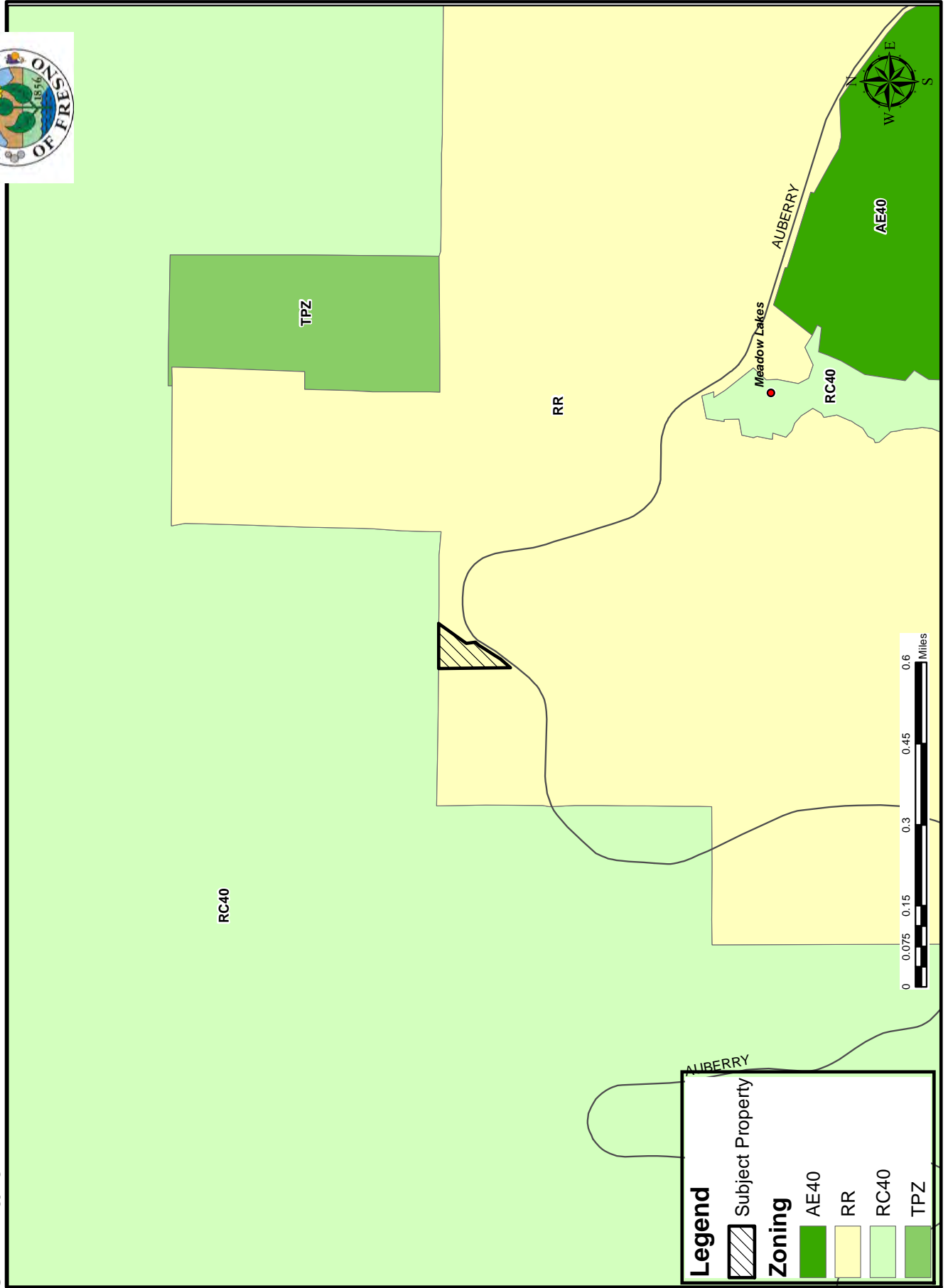


EXHIBIT 5

VA Within 1-Mile Radius

VA 4114

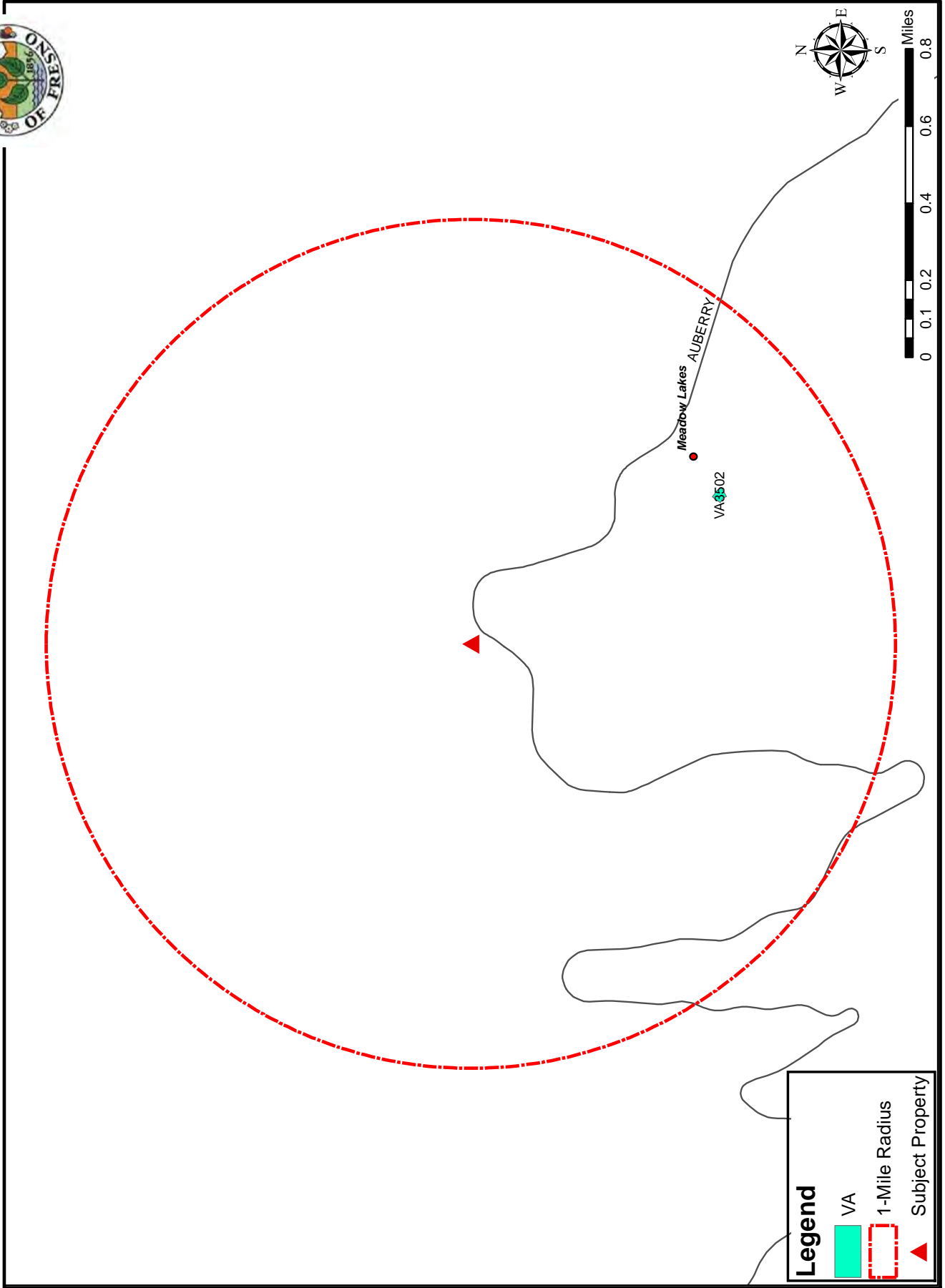
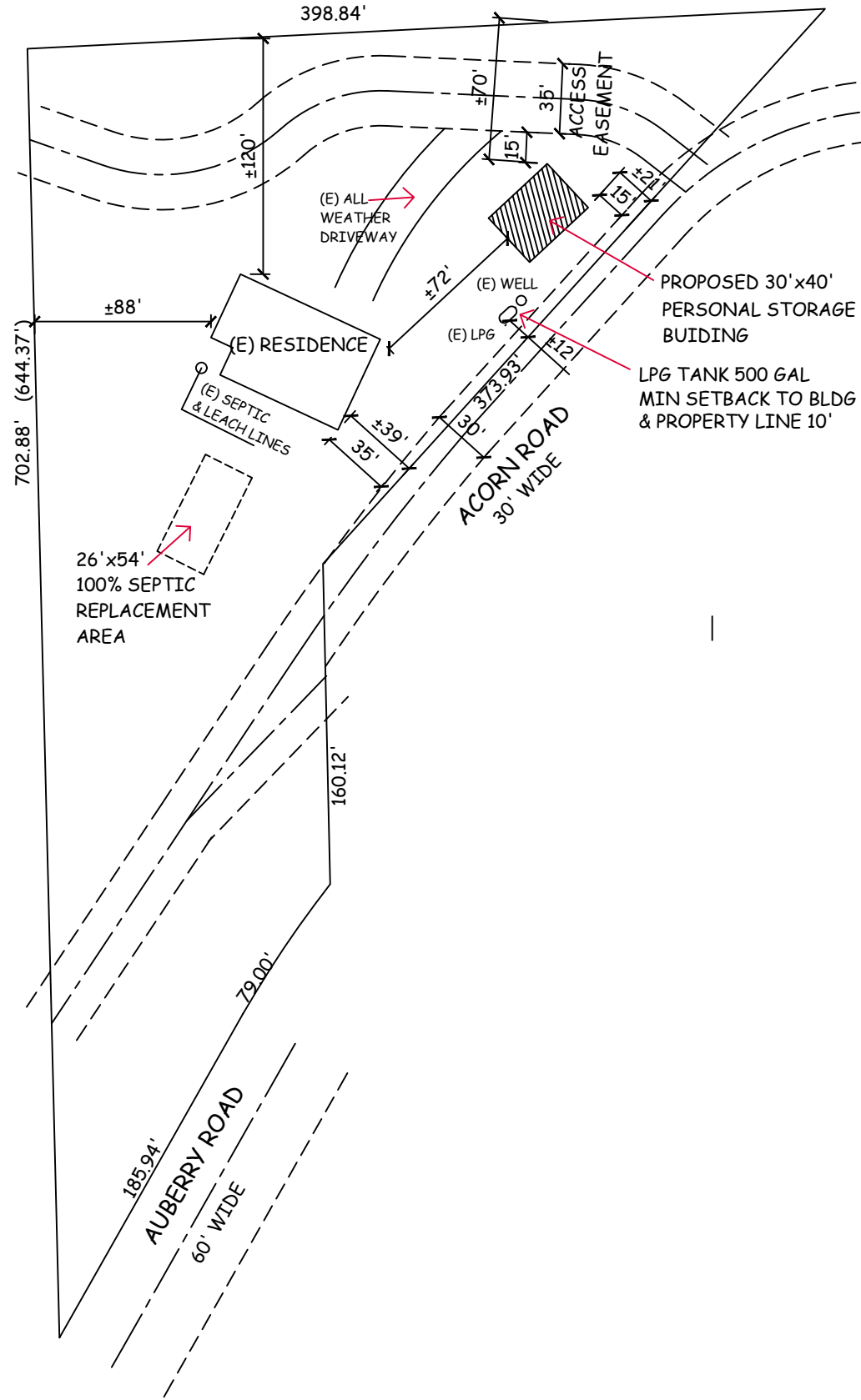


EXHIBIT 6



PROVIDE 2% SLOPE AWAY FROM THE PROPOSED BUILDING FOR A MIN OF 5'
 NO DRAINAGE ONTO ADJACENT PROPERTY
 DRIVEWAYS & PRIVATE ROADS SHALL
 HAVE A MAX SLOPE OF 12%. THE GRADE
 MAY BE INCREASED TO A MAX OF 20%
 FOR PAVED SURFACES

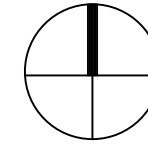
ADDRESS
 41175 ACORN ROAD
 AUBERRY, CA 93602
 FRESNO COUNTY
 APN 128-301-36
 2.51 AC

OWNER
 WADE OBERMAN
 925-586-9303

SITE PLAN

SCALE 1" = 80'-0"

NORTH



<p>CARPORT WADE OBERMAN 41175 ACORN ROAD AUBERRY, CA 93602 303-517-9444</p>	<p>GOLDEN STATE BUILDINGS CA LIC 920785 33179 PUMA LANE SQUAW VALLEY CA 93675 559-351-1626</p>	<p>Melissa F. Camp Drafting & Design Services (559) 300-7661 ask4prints@gmail.com</p>
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MAIN FLOOR

SCALE: 1/4" = 1'-0"

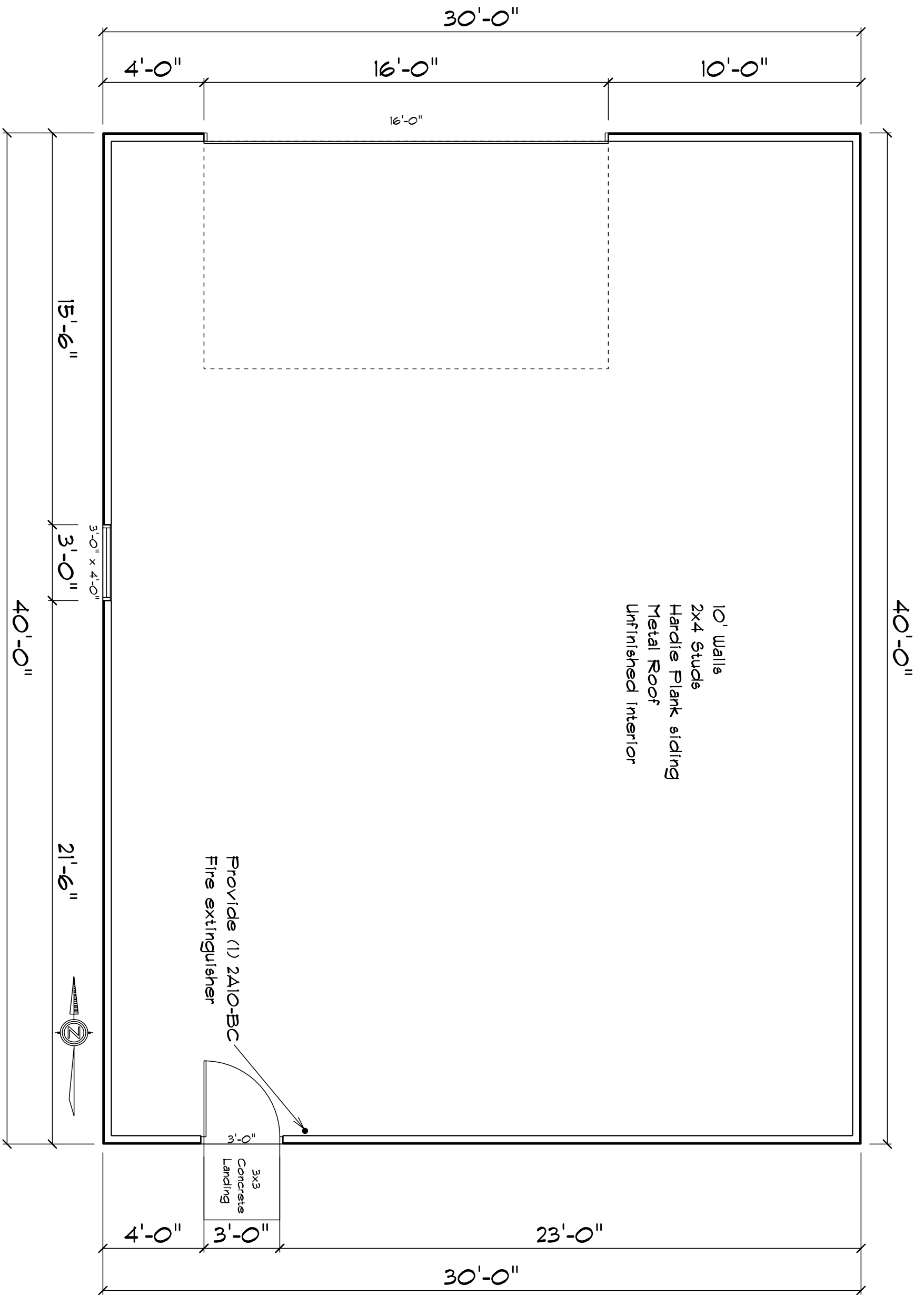


EXHIBIT 7



Project Address
41175 Acorn Rd.
Auberry Ca 93602

Contractor **Golden State Buildings**
36178 E. Kings Canyon Rd. Squaw Valley Ca. 93657
PHONE: 559-351-1626

Wade Obermann

PHONE: **303-517-9444**

DRAWN BY: *Roland Ulrich*

SCALE: 1/4" = 1'-0"

DATE: 7/22/2021

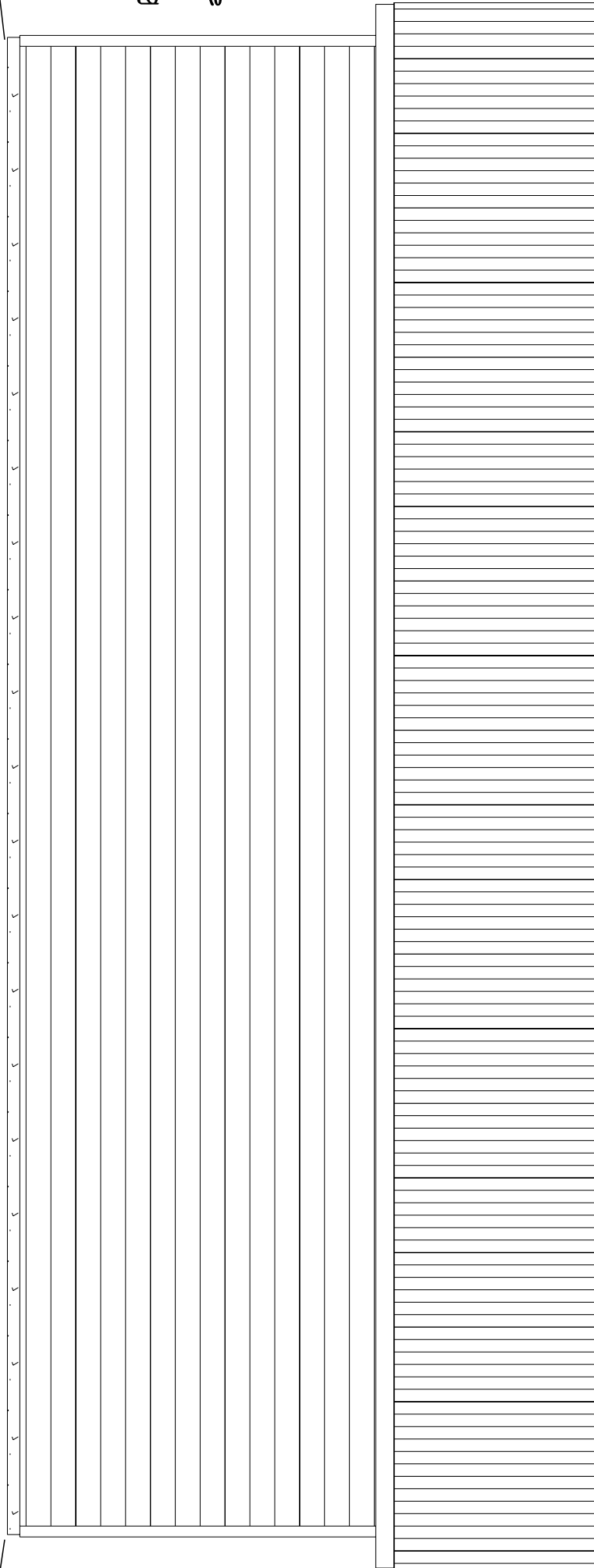
PAGE:

3/11
Floor Plan

East Elevation

Metal Roof

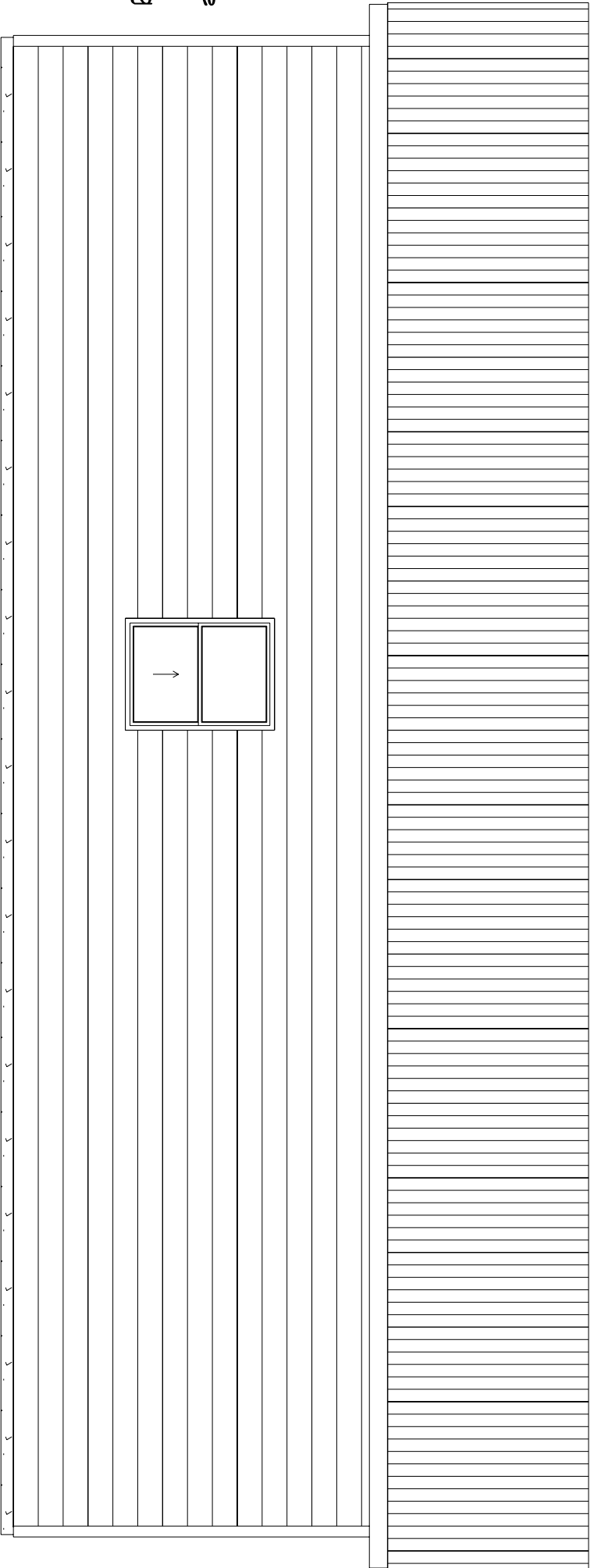
Hardie
Plank
Siding



West Elevation

Metal Roof

Hardie
Plank
Siding



Side Elevations

SCALE: 1/4" = 1'-0"

FINISHED GRADE

FINISHED GRADE

10'-0"

15'-5"

10'-0"

15'-5"

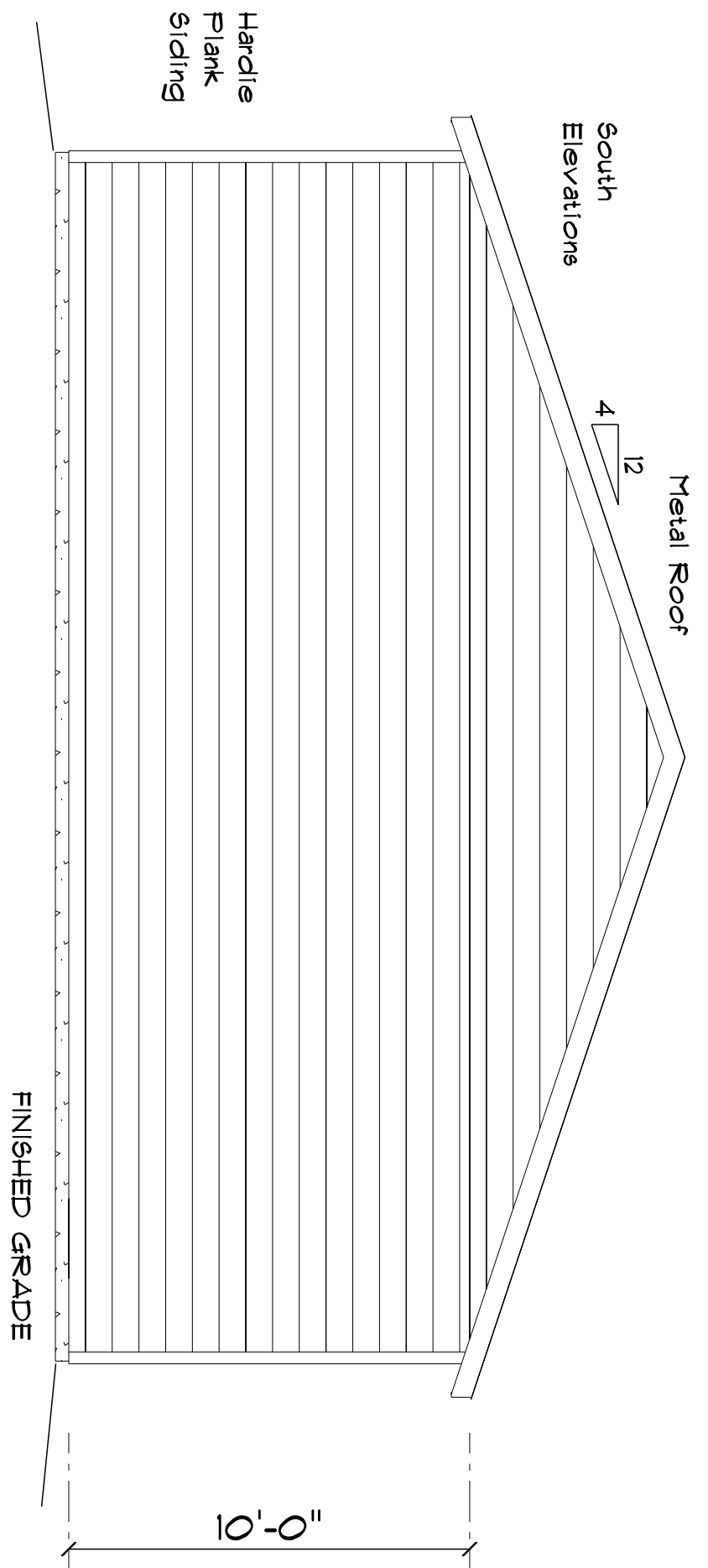
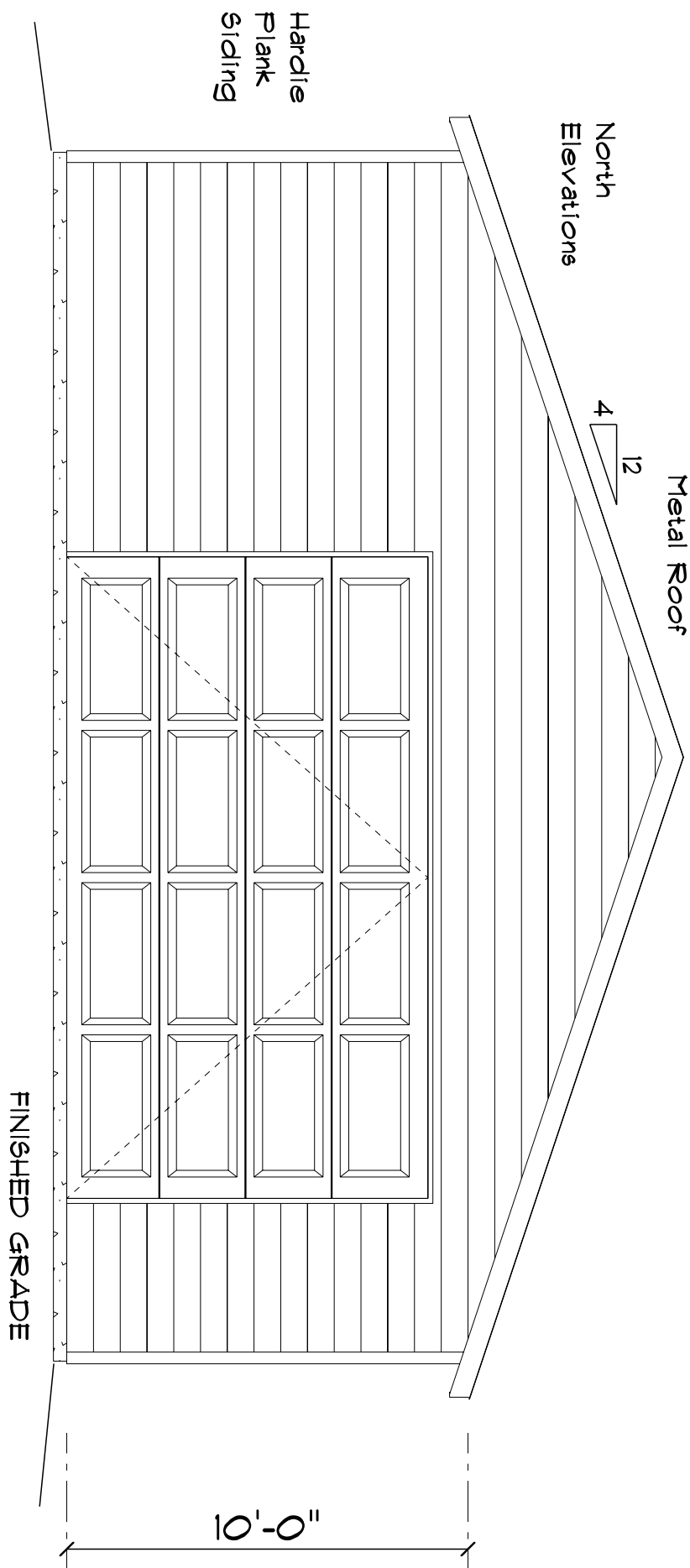


Project Address
41175 Acorn Rd.
Auberry Ca 93602
Contractor **Golden State Buildings**
16178 E. Kings Canyon Rd. Squaw Valley Ca. 93657
PHONE: 559-351-1626

Wade Obermann
PHONE: **303-517-9444**
DRAWN BY: *Roland Ulrich* PAGE:
SCALE: 1/4" = 1'-0" **7/11**
DATE: 7/22/2021 Side Elevations

End Elevations

SCALE: 1/4" = 1'-0"



Project Address
41175 Acorn Rd.
Auberry Ca 93602

Contractor **Golden State Buildings**
16178 E. Kings Canyon Rd. Squaw Valley Ca. 93657
PHONE: 559-351-1626

Wade Obermann
PHONE: **303-517-9444**

DRAWN BY: *Roland Ulrich*
SCALE: 1/4" = 1'-0"
DATE: 7/22/2021

PAGE:
6/11
End Elevations

7/22/21

Re: Variance Findings for Reduction of Setbacks for Proposed Accessory Structures

To Whom it May Concern,

1. The slope of the property layout is such that the proposed variance is needed in order to build this building on the property.
Access is also very limited and makes the proposed site very important.
In addition, the property has an unusual road easement on the north side, which gets used very little, but takes away space that could have been utilized for the proposed project.
2. The proposed variance is necessary for the property owner's ability to build a shop on his property to enjoy his hobbies and for personal storage.
As the photo provided shows neighbors have buildings close to property line, with the same zoning. Any other area on the property would create a need for excessive grading and create an enormous bank due to the slope of the other areas of the property.
3. The variance will not be materially detrimental to the public welfare of injurious to property and improvement in the vicinity in which the property is located.
It will not inhibit access of emergency vehicles and will not infringe on any other neighbors.
With Acorn Rd being to the east, it will still have more than 35' of clearance to the neighbor's property.
4. Granting this variance will not be contrary to or be inconsistent with the objectives of the Fresno County General Plan.