



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 5 August 24, 2017

SUBJECT: Variance Application No. 4021

Allow a 19-foot, 6-inch front-yard setback (where 25 feet is required) to construct a new 256 square-foot roof structure over an existing deck on a 9,093 square-foot parcel in the R-1-C(m) (Single-Family Residential, 9,000 square-foot minimum parcel size, Mountain Overlay) Zone District.

LOCATION: The project site is located on the east side of Redwood Road, at its intersection with Robin Road within the unincorporated community of Shaver Lake (41733 Redwood Road) (SUP. DIST. 5) (APN 120-183-13).

**OWNER/
APPLICANT:** Keith David Gibson

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

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Approve Variance No. 4021 with recommended Findings and Conditions; 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. Variance Maps
6. Site Plans and Detail Drawings
7. Floor Plans and Elevations
8. Applicant’s Submitted Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Mountain Residential	No change
Zoning	R-1-C(m) (Single-Family Residential, 9,000 square-foot minimum parcel size, Mountain Overlay) Zone District	No change
Parcel Size	9,093 square feet	Lot No. 6, Block 45 of Shaver Lake Heights No. 5
Project Site	APN 120-183-13 (Lot No. 6, Block 45 of Shaver Lake Heights No. 5): 9,093 square feet	N/A
Structural Improvements	A 1,659 square-foot single-family residence with a 768 square-foot detached garage	The addition of a 256 square-foot roof over an existing deck, which will entail an approximately 58 square-foot encroachment into the front-yard setback
Nearest Residence	10 feet north of the subject residence	No change
Surrounding Development	North: Residential East: Residential South: Residential West: Residential	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15305 of the California Environmental Quality Act (CEQA) guidelines that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 96 property owners within 600 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

PROCEDURAL CONSIDERATIONS:

A Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F 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:

This Variance request proposes to allow a 19-foot, 6-inch front-yard setback to allow the construction of a roof extension over an existing 320 square-foot deck. The proposed new roof will entail an approximately 58 square-foot encroachment into the front-yard setback. The existing deck was constructed in 1961, and encroaches approximately 5 feet, 6 inches into the front-yard setback, however, this encroachment is allowed up to six feet into the front yard per the County Zoning Ordinance Section 822.5.E.5.b which states:

Uncovered, unenclosed porches, platforms or landing places which do not extend above the level of the first floor of the building may extend into any front yard a distance of not more than six (6) feet,, and may extend into any side or rear yard not more than three (3) feet. An open work railing may be installed or constructed on any such porch, platform or landing place provided it does not exceed thirty-six (36) inches in height.

The subject parcel was originally created as Lot No. 6, Block 45 of the Shaver Lake Heights Subdivision No. 5 recorded as Tract No. 1036 on July 12, 1949. According to County records, the existing single-family residence was constructed prior to March 1 of 1958 and therefore did not require building permits. In 1961, permits were issued for the existing deck addition.

In addition to the subject application, there have been six other recent variance applications relating to setbacks near the subject property, five of those within one quarter-mile. Of those six, all were approved by the Planning Commission as shown in the following table.

Although there have been previous variance requests in the area of the subject property, each variance request is considered on its own merit, based on site conditions and circumstances.

Application/Request	Date of Action	Staff Recommendation	Final Action
VA No. 3572: Allow a six-foot side-yard setback to accommodate an addition to a single-family residence.	5/1/1997	Approval	Approved by Planning Commission
VA No. 3790: Allow nine-foot, three-inch and ten-foot, three-inch side-yard setbacks for an attached garage addition.	9/2/2004	Denial	Approved by Planning Commission
VA No. 3839: Allow a 13-foot front-yard setback for a detached carport addition to an existing single-family residence.	3/23/2006	Denial	Approved by Planning Commission
VA No. 3869: Allow a four-foot rear-yard setback for an addition to an existing commercial building.	4/26/2007	Approval	Approved by Planning Commission
VA No. 3885: Allow a six-foot rear-yard setback and waive the requirement for a wall along the property line as required by Section 836.5-H of the Fresno County Ordinance.	12/18/2008	Approval	Approved by Planning Commission
VA No. 3988: Allow a single-family residence with 53.7 percent lot coverage, a one-foot side-yard setback, and a zero-foot rear-yard setback.	5/26/2016	Denial	Approved by Planning Commission

DISCUSSION:

Findings 1 and 2: There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and

Such variance is necessary for the preservation 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 (west) 25 feet	Front (west) 17 feet, six-inches	No
	Rear (east) 20 feet	No change	Yes
	Side(north and south) 7 feet	No change	Yes
Parking	One parking space for each residence	No change	Yes
Lot Coverage	40 percent	No change	Yes
Space Between Buildings	Six feet minimum between main and accessory buildings	No change	Yes
Wall Requirements	No requirement	No requirement	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agency/Department Comments Regarding Site Adequacy:

Fresno County Department of Public Health, Environmental Health Division: No comments.

Development Engineering Section of the Fresno County Department of Public Works and Planning: A grading permit or voucher may be required for any grading proposed with this application.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Roads within the Shaver Lake Heights tract are Local roads and no additional right-of way is required.

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

Analysis:

In support of Findings 1 and 2, the Applicant states that the subject parcel is smaller than most others within the subdivision at 0.21 acre, and is asymmetrical in shape, unlike most of the other parcels in the area, which are rectangular. This condition is due to the parcel having frontage on a portion of Redwood Road that makes a slight turn to the northeast in front of the subject parcel. Additionally, there is a public utility easement running across the southwest corner of the property along the road frontage, which further diminishes the front-yard area, and contributes

to the asymmetrical shape. Additionally, the construction of the new roof structure would create the additional benefit to the homeowner of being able to utilize the existing front porch/deck without having to remove accumulated snow, and provide access to the side yard during the winter months.

Staff analysis of area Assessor's maps revealed that there are a number of other properties that, due to the configuration of the road, are irregularly shaped. Staff recognizes that a public utilities easement traverses the frontage of all of the properties along the east side of Redwood Road; however, the bend to the northeast of Redwood Road in front of the subject property does create a circumstance that reduces the front yard area of the subject parcel. In addition, the existing residence and deck are oriented such that the encroaching corner of the deck is much closer to the property line than it would otherwise be were the residence parallel to the property line. The lot is substandard in depth for the R-1-C(m) Zone District, however, the majority of the lots in the Shaver Lake Heights No. 5 tract are less than the 110-foot standard depth for this Zone District.

With regard to Finding 2, the approval of a variance request is intended to correct the deficit of a property right of the Applicant. The Applicant proposes to build a roof structure over an existing deck in order that the deck may be usable during the snow season. The property right at issue is the Applicant's inability to use the deck when there is snow accumulation. Staff recognizes that the ability to use the existing deck during inclement weather could be considered a substantial property right that is not currently realized by the Applicant and that the addition of the roof structure would correct this deficit of a property right.

A consideration in addressing Findings 1 and 2 is whether there are alternatives available that would avoid the need for the Variance. One alternative would be to reduce the size of the proposed roof structure such that it will not encroach into the front yard; currently, the proposed roof structure will create an approximately 58 square-foot encroachment into the front-yard setback. However, this would require an asymmetrically-shaped roof structure, leave a portion of the existing deck uncovered and effectively unusable during periods of snowfall, and create a safety hazard, as the uncovered portion would be directly adjacent to the main entry to the residence.

Based on the above analysis staff believes that there are exceptional circumstances and conditions applicable to the subject property that do not generally apply to other properties in the vicinity. Staff also concurs that a substantial property right is at issue (the use of the existing front deck during adverse weather conditions) that would require a variance to be preserved.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 1 and 2 can be made.

Reviewing Agency/Department Comments:

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

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North	0.27 acres	Single-family residence	R-1-C	10 feet
South	0.23 acres	Single-family residence	R-1-C	15 feet
East	0.22 acres	Single-family residence	R-1-C	20 feet
West	0.32 acres	Single-family residence	R-1-C	100 feet

Reviewing Agency/Department Comments:

Fresno County Fire Protection District: The project will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.

Building and Safety Section of the Fresno County Department of Public Works and Planning: The Applicant should provide verification that the 270 square-foot roof cover, Permit No. 06-100735, was not constructed, as the permit expired on September 5, 2008 with no work started. If said roof was constructed, permits and inspections will be required.

Development Engineering Section of the Fresno County Department of Public Works and Planning: A grading permit or voucher may be required for any grading proposed with this application.

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

Analysis:

In support of Finding 3, the Applicant’s submitted Findings state that the requested Variance will not have an adverse effect on surrounding properties, as impacts would be limited to the subject parcel. Further, the proposed roof structure will enhance the outward appearance of the existing front deck and entry. Additionally, given that the proposed roof structure will only encroach approximately 58 square feet into the front-yard setback, it will not obstruct any existing views from neighboring properties and will have minimal aesthetic impact on the character of the neighborhood.

In analyzing this proposal, staff considered the intent of restrictions to yard setbacks. A primary purpose of the setback standard is to protect the aesthetic character of an area by providing an offset of structures from the adjacent properties. In this case, the proposed roof would require minimal encroachment into the front-yard setback.

Staff notes that the aesthetic character of Shaver Lake Heights is such that there is substantial variation in housing style and size, as well as variation in the natural topography of the area which is characterized by mountains, existing trees and rock outcroppings, which impact the design of housing and layout of streets.

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

Recommended Conditions of Approval:

None

Conclusion:

Finding 3 can be made.

Finding 4: That the proposed development is consistent with the General Plan.

Relevant Policies:	Consistency/Considerations:
Shaver Lake Community Plan Policy 609-03:5.00: (a) Aesthetic standards should be developed in order to maintain the mountain character and to minimize adverse impacts on the natural setting; (b) New residential and commercial development shall reflect the mountain character of the area; and (c) Outstanding scenic views and panoramas should be preserved wherever possible.	No reviewing agencies/departments expressed any concerns about this proposal with regard to aesthetics. Further, staff did not identify any potential adverse impacts where any aesthetic or existing scenic views would be obstructed by the proposed roof. Additionally, the existing residence is situated such that the proposed roof would not obstruct sight lines from adjacent properties.
General Plan Policy LU-F-14a.2: Front-yard setbacks should be staggered with varied roofline treatment and housing. The street pattern should utilize curving streets, cul-de-sacs, and parking bays to improve the appearance of the neighborhood.	No reviewing agencies expressed concerns regarding front-yard setbacks. The location of the existing residence on the subject parcel is such that it is staggered.

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: Policy Planning has determined that there are no Agricultural Land Conservation Committee or General Plan issues with this application and has no further comments.

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

Analysis:

In support of Finding 4, the Applicant's submitted Findings state that no change in residential density or building separation is proposed with this application. The subject parcel is designated Mountain Residential in the County Adopted Shaver Lake Community Plan. The Shaver Lake Community Plan Policy 609-03:5.00 addresses aesthetic standards and preservation of scenic views. General Plan Policy LU-F-14a.2 addresses the staggering of front-yard setbacks and the varying of roofline treatments (see discussion in preceding table under Finding 4 on Page 8 of this Staff Report). The existing residence is consistent with this policy with respect to its

placement at an angle to the property frontage, differentiating it from neighboring properties, its unique roofline, and its architectural style. Staff notes that much of the housing is similar in architectural style, keeping with the mountain character of the area, however the housing styles do vary in color, exterior treatments and construction materials. Appendix G of the General Plan contains policies that specifically address property development standards in each zone district. The subject property is currently in compliance with the standards of the R-1-C Zone District, with the exception of the minimum lot depth (see analysis under Findings 1 and 2 on Page 6 of this Staff Report). Accordingly, approval of this Variance request will not be in conflict with the goals of the Shaver Lake Community Plan or the County General Plan.

Based on these factors, staff believes the proposal is consistent with the General Plan and is therefore able to make Finding 4.

Recommended Conditions of Approval:

None

Conclusion:

Finding 4 can be made.

PUBLIC COMMENT:

None

CONCLUSION:

Based on the factors cited in the analysis, staff believes the required Findings for granting the Variance can be made. Staff therefore recommends approval of Variance No. 4021, subject to the recommended Conditions.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine the required Findings can be made and move to approve Variance No. 4021, 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.

Alternative Motion (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Variance No. 4021; and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

**Variance Application No. 4021
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development shall be in substantial compliance with the site plan, floor plan and elevations, as approved by the Planning Commission.

Conditions of Approval reference recommended Conditions for the project.

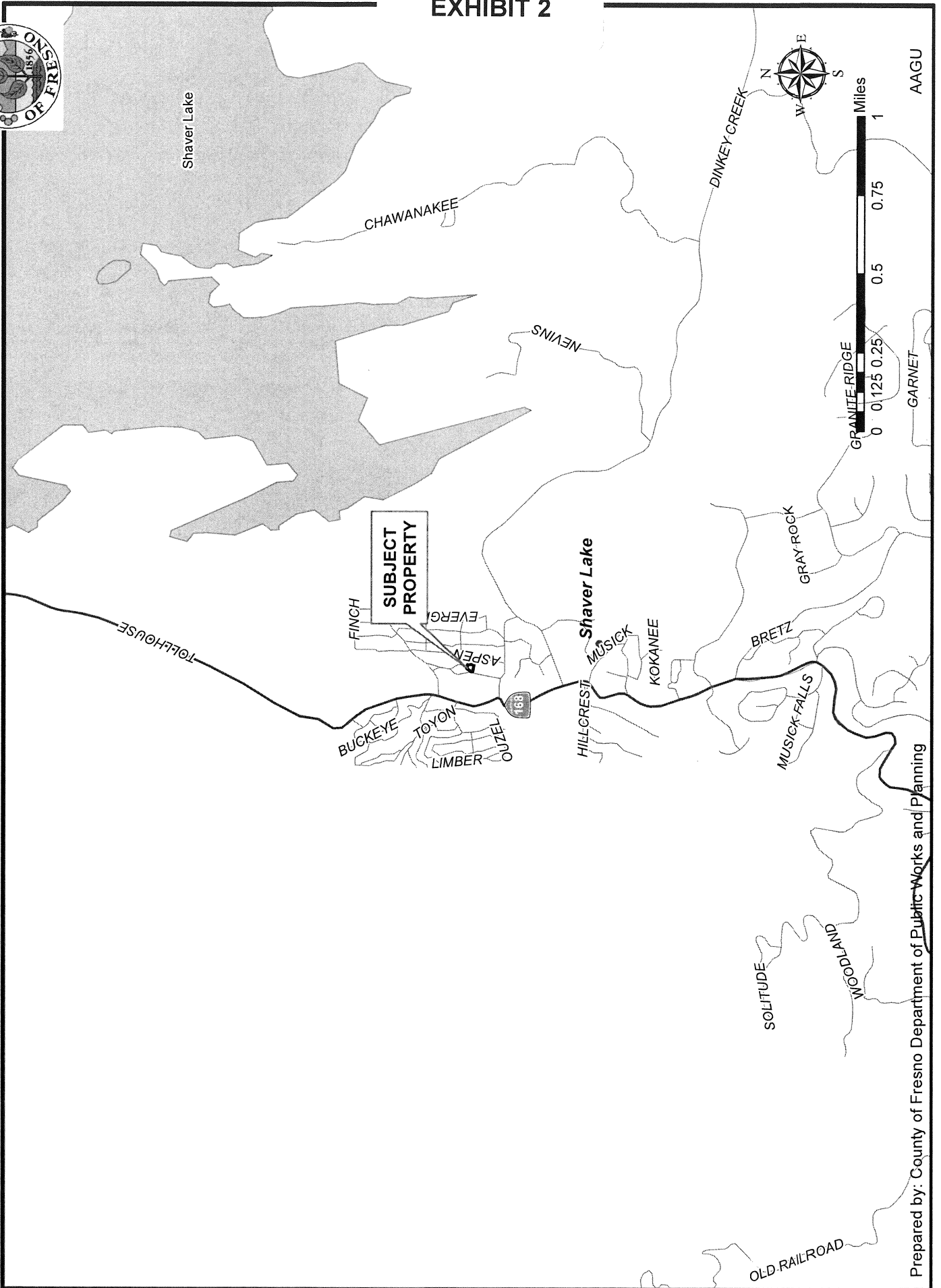
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Plans related to construction of the project shall be submitted to the Development Services Division of the Fresno County Department of Public Works and Planning for review and approval in order to acquire building and installation permits, and necessary inspections.
2.	Any additional runoff generated by the proposed development cannot be drained across property lines and must be retained on site or disposed of per County Standards.
3.	A Grading Permit or Voucher shall be required for any grading activity associated with this proposal.
4.	Provide verification that the 270 square-foot roof cover, Permit No.06-100735, was not constructed. This permit expired on September 5, 2008 with no work started. If the roof cover was constructed, new permits and inspections will be required.



LOCATION MAP

VA 4021

EXHIBIT 2

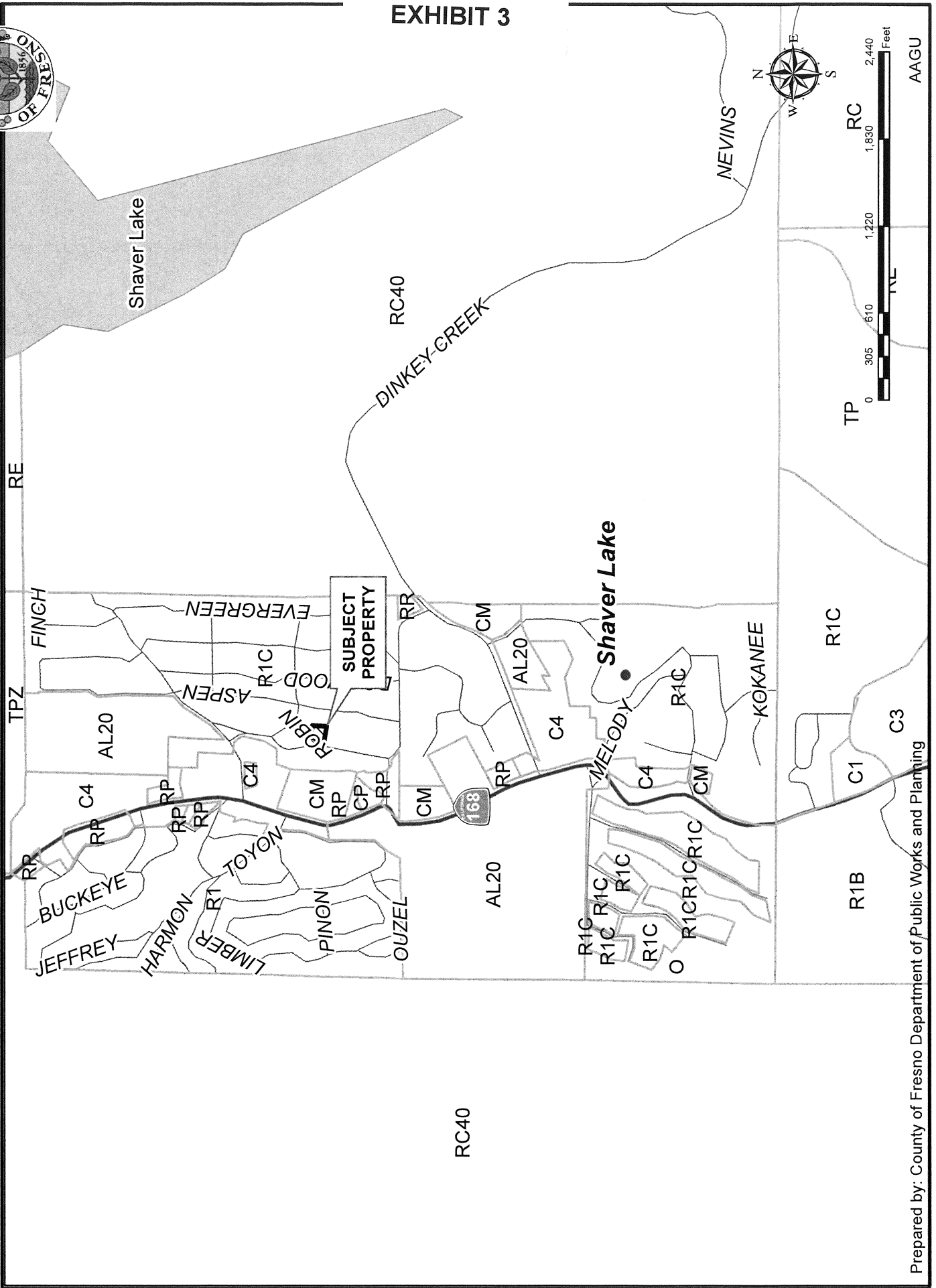


VA 4021
STR 35 - 9/24

EXISTING ZONING MAP



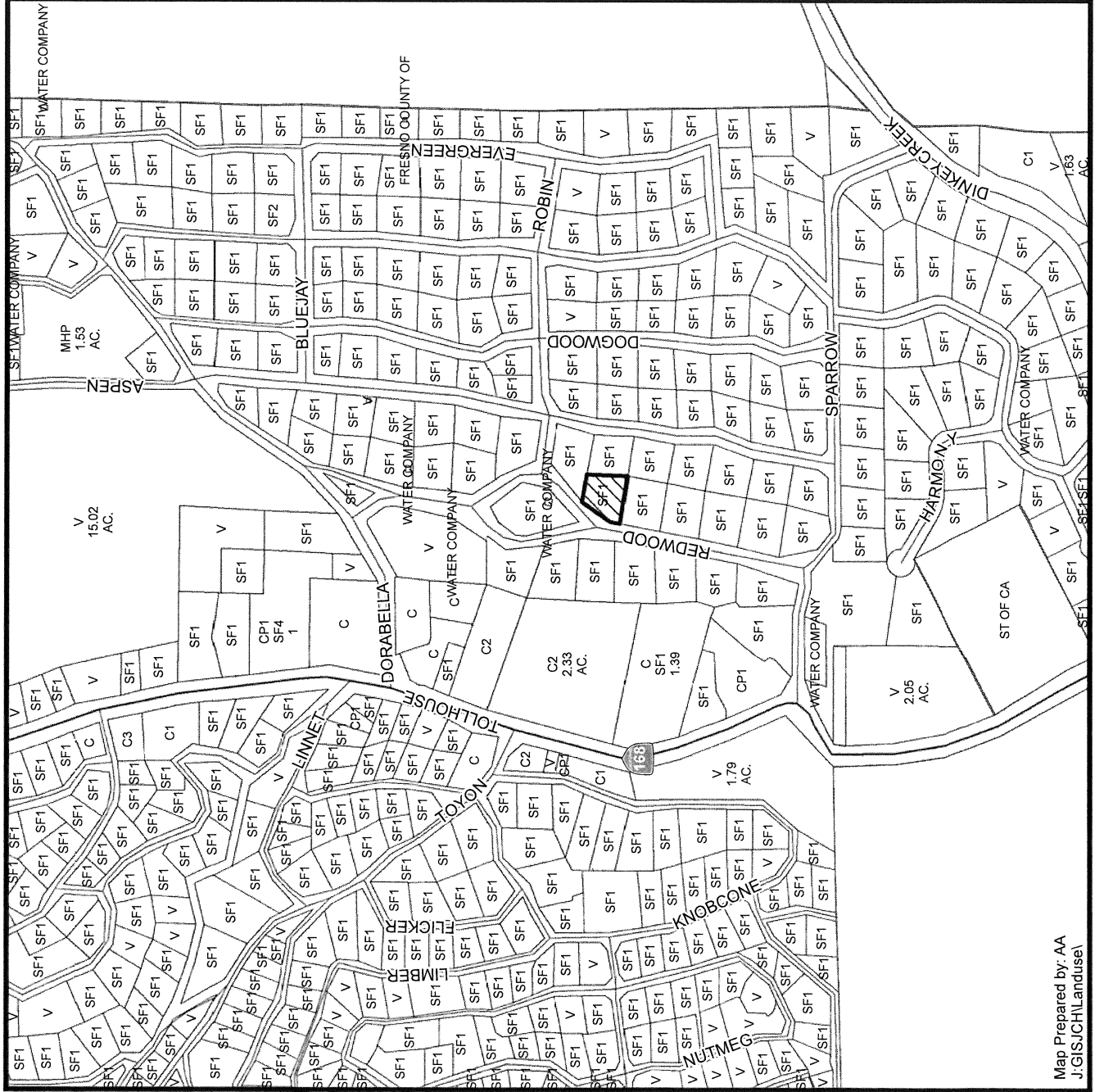
EXHIBIT 3





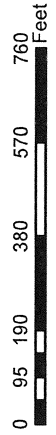
EXISTING LAND USE MAP

VA 4021



LEGEND
C - COMMERCIAL
C# - COMMERCIAL
CP# - OFFICE COMM./PROF
MHP - MOBILE HOME PARK
SF# - SINGLE FAMILY RESIDENCE
V - VACANT

LEGEND:
 Subject Property

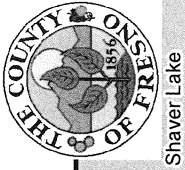


Department of Public Works and Planning
 Development Services Division

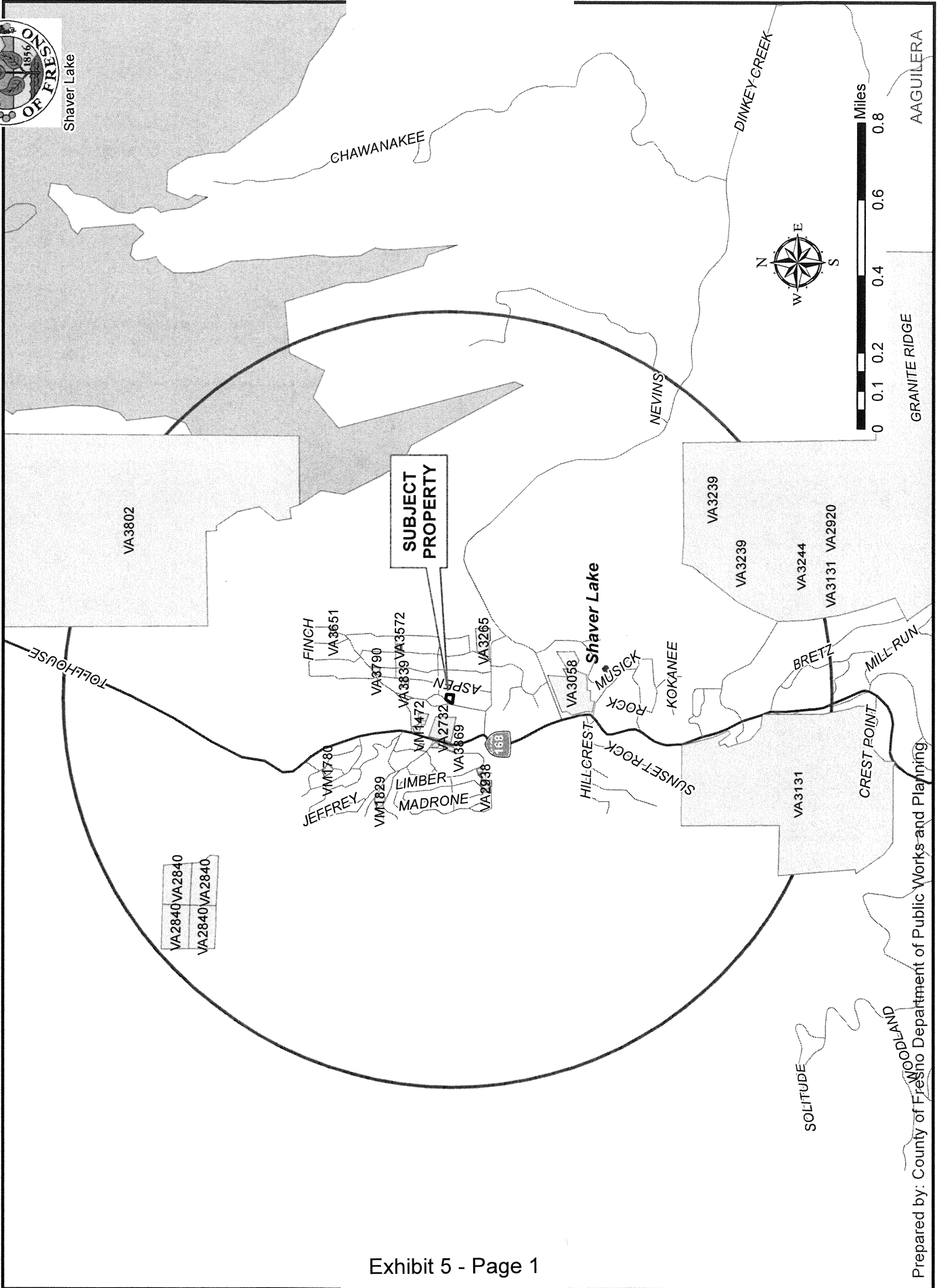
EXHIBIT 4

APPROVED VARIANCES WITHIN A ONE MILE RADIUS

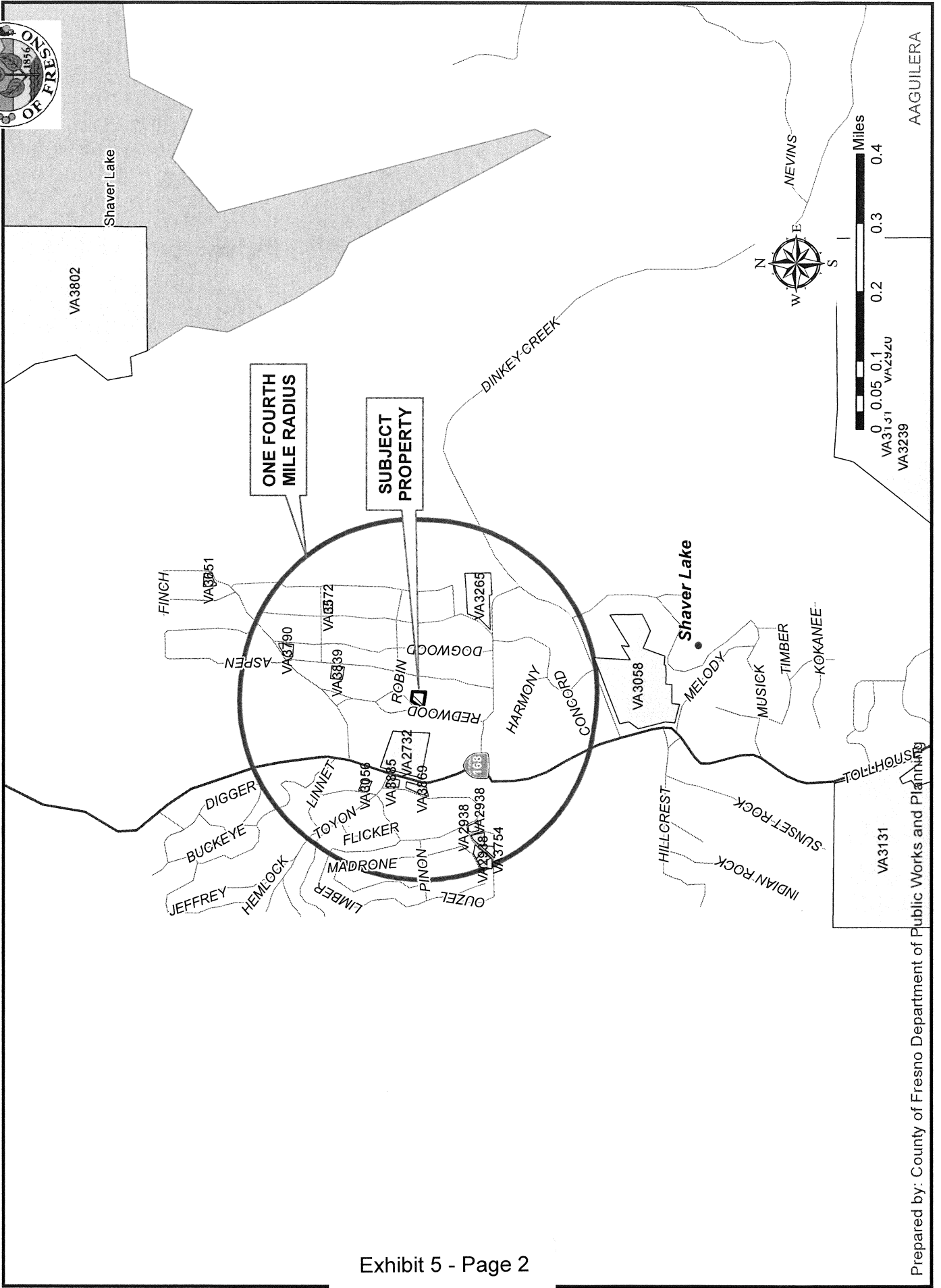
EXHIBIT 5



Shaver Lake



VA 4021 APPROVED VARIANCES WITHIN ONE FOURTH MILE RADIUS



AAGUILERA

EXHIBIT 7

BLUE LINE DESIGNS

PROPOSED
PLAN VIEW, ELEVATIONS
AND SECTIONS

7/9/02
1 15

8/25/02

3

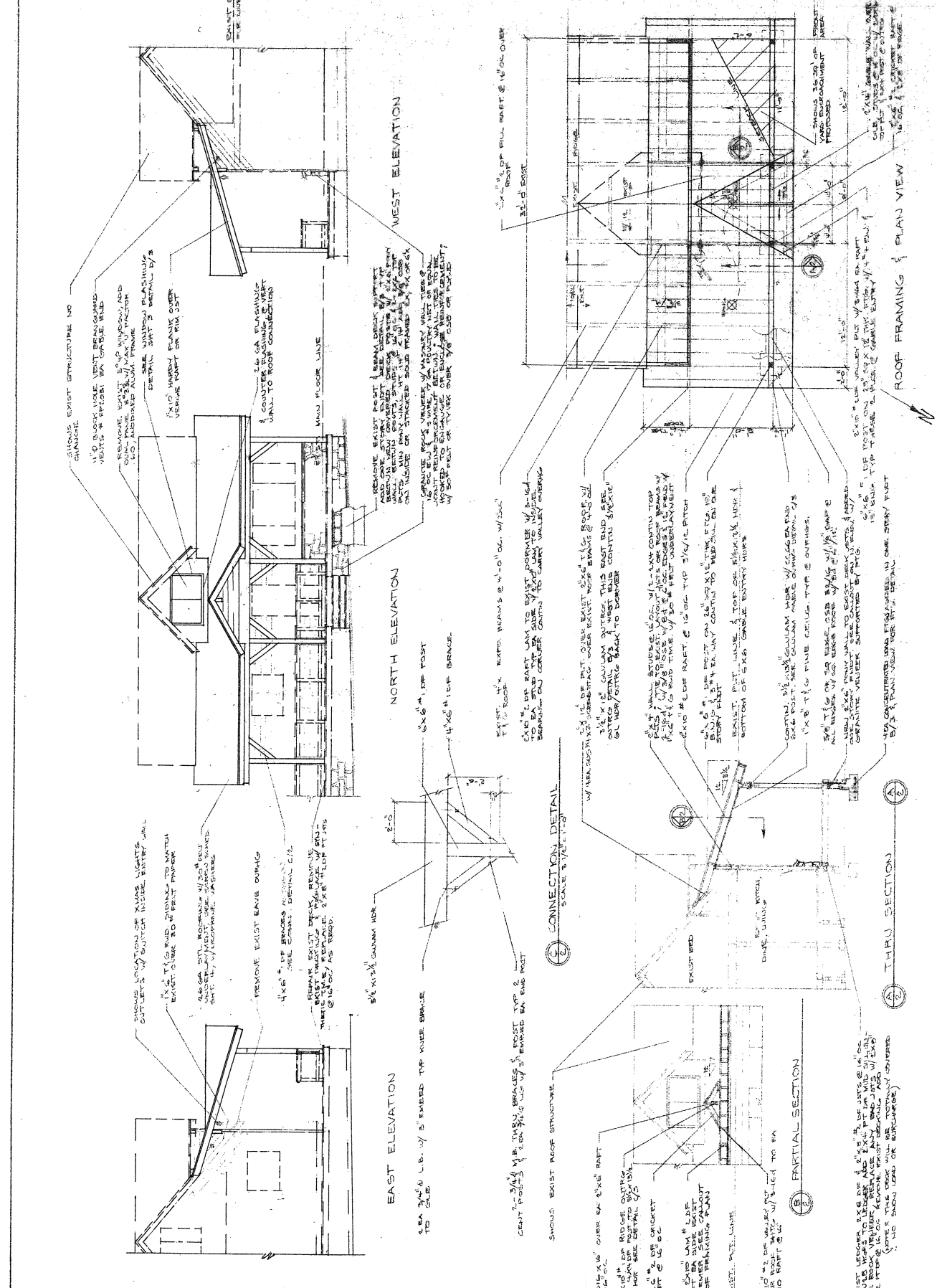


EXHIBIT 8

41733 Redwood Road, Shaver Lake, CA APN 120-183-13, Variance.

Required findings necessary for the granting of the Variance application:

1) This house was constructed in 1957 before building permits were required. The 8'x40' entry deck in question was constructed in 1961, encroaching into the front yard setback area. Over this existing deck footprint we propose to construct a roof structure as laid out in subsequent points. Wayne Gault, got involved with this project in 1979, as the designer for the building permit of the rebuilding of the 8'x40' entry deck.

The property is a corner lot, with a front yard setback of 25 feet, side yard setbacks of 7 feet and a rear yard setback of 20 feet. Being a lot corner however, it does not have a 15 foot street side yard setback. There is a Public Utility Easement added to the lot, making the setback greater than 25 feet. A 33'x54' portion off Robin. There is an island parcel across the street to the north with APN 120-183-34, circumvented by Redwood and Robin Road. This condition, added to the 25 foot front yard setback requirement, gives the impression that the front yard is larger than actual.

There are exceptional and extraordinary circumstances applicable to this property, which do not apply generally to other properties in the vicinity. These are the following compounding factors;

- I. With an 0.21 acres area, this property is one of the smallest in area of the subdivision.
- II. The parcel is trapezoidal in shape, whereas most other properties have symmetrically rectangular shapes.
- III. The parcel is a corner lot.
- IV. The existing cabin structure is diagonally placed on the parcel.
- V. The front deck is unusable during the snow season.
- VI. Limiting the porch structure to the current front yard setback requirements, will create an asymmetrical cover, but having the existing deck below at the same time protrude the front yard setback. An asymmetrical porch will be disadvantageous to the property value, compared to values in the vicinity.
- VII. Currently, as stated above, there is a deck occupying the same footprint as the proposed porch, constructed in 1961.

2) Under like conditions, on properties in similar zoning classification, because of the points brought up under finding 1, this property warrants a variance under the following arguments:

The North entry elevation of the residence sheds snow to each side of the existing 4'x6' covered entry, making use of the 8'x40' deck difficult without removing the snow after each storm. The designer, Wayne Gault, obtained a building permit for a covered deck on May 2nd, 2006, for the owner at that time. In these proposed construction documents, the porch was omitted in the area protruding into the front yard setback. Construction was never started and the permit expired. The cabin was then sold to the current owner, Mr. Gibson.

A variance for a porch structure over the existing deck will create access to the side yard of the deck, during the snow months. It will also eliminate points V and VI in finding 1, aforementioned.

3) The granting of this variance will enhance the appearance of the roof over the entire existing entry deck. The aforementioned condition of the diagonally opposed situated island parcel, with its circumventing street, does create a physical space, in which a triangular protrusion of 5 feet in the front yard setback of 25' will be unnoticeable. Added to the points brought up in findings 1 and 2, granting the variance will not be materially detrimental to the public welfare or injurious to property and improvement in the vicinity.

4) With the existing deck encroaching into the front yard setback area from the original construction into the exact same area by 36 sq ft. (not including roof overhang) the granting of this variance will not be contrary to the objectives of the general plan.