



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 2 January 12, 2017

SUBJECT: Variance Application No. 3985-R

Allow a property line adjustment between two properties which would result in a 125.8-acre parcel and a 7.01-acre parcel (20 acres required) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located east of South Butte Avenue and south of West Jeffrey Avenue, approximately 10.7 miles northeast of the nearest city limits of the City of Huron (SUP. DIST. 4) (APNs 060-100-80S, -79S, and -85S).

OWNERS: Seed Holding, LLC
Joe Coelho Jr.
John Coelho
Gerald Coelho
Susan Coelho Yevick

APPLICANT: S & W Seed Company

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

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Deny Variance No. 3985-R; 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 Plan and Detail
6. Applicant's Submitted Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	Parcel 1 (APNs 060-100-80S and -79S): 39.82 acres Parcel 2 (APN 060-100-85S): 92.9 acres	Parcel A: 7.01 acres Parcel B: 125.8 acres
Project Site	N/A	N/A
Structural Improvements	Parcel 1: Processing Facility, storage buildings, office, canopies, bagging building Parcel 2: None	No change
Nearest Residence	Approximated 350 feet west from the nearest parcel line	No change
Surrounding Development	North: Agriculture East: Agriculture South: Agriculture West: Agriculture	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15061 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 for the November 10, 2016 hearing were sent to five 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-A 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 project was continued by the Planning Commission at its hearing of November 10, 2016 at the request of the Applicant. Staff did not present a summary of the project. The request was granted to allow the Applicant time to correct a mistake where the wrong parcel was proposed for adjustment. Since that time, the Applicant paid a revision fee to change the project to reflect an adjustment between the single legal parcel consisting of APNs 060-100-79S and -80S and the 92.9-acre parcel with APN 060-100-85S.

While there are two Assessor’s Parcel Numbers associated with Parcel 1, they constitute a single legal parcel totaling 39.82 acres. They were created by Document No. 2005-0003134 of Fresno County Records. Parcel 2 was created as part of Parcel Map No. 7942, recorded on June 27, 2006. Both parcels were rezoned from an A-1 (Agricultural, 100,000 square-foot minimum parcel size) Zone District to an AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District when Amendment No. 2870 was approved on August 31, 1976.

At its hearing of April 22, 1982, the Planning Commission approved Conditional Use Permit (CUP) No. 1896 to allow the existing seed conditioning plant. On August 27, 1987, the Planning Commission approved Conditional Use Permit No. 2294, which approved the expansion of that plant. The operation has traditionally been limited to the westerly 5.5 acres of the 39.82-acre parcel that comprise Parcel 1. The remainder of Parcel 1 and all of Parcel 2 have been actively farmed under Williamson Act Contract No. 451. Policy Planning staff processed a partial non-renewal on the 1.6-acre increase to Parcel A. Since the revised proposal does not affect the configuration of Parcel A, no additional hearings before the Agricultural Land Use Commission are necessary.

The subject application proposes to redefine the property lines between the two parcels such that the seed processing plant will be located on a 7.01-acre parcel and the farming operation will be located on a 125.8-acre parcel.

No variances have been approved within a mile of the subject parcels.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front (east): 35 feet Rear (west): 20 feet Side (north and south): 20 feet	Parcel A: No Change Parcel B: No Change	Yes

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Parking	N/A	N/A	N/A
Lot Coverage	N/A	N/A	N/A
Space Between Buildings	Six feet between main and accessory structures	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent	No change	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	N/A

Reviewing Agency/Department Comments Regarding Site Adequacy:

Building and Safety/Plan Check Sections of the Fresno County Department of Public Works and Planning: If approved, plans, permits, and inspections are required, including site development, based upon the California Codes in effect at the time of plan check submittal.

Development Engineering Division of the Fresno County Department of Public Works and Planning: Butte Avenue is a County-maintained road that is classified as a Local with no existing 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. Records indicate this section of Butte Avenue from S.S.R. 145 to Cadillac Road has an Average Daily Traffic (ADT) of 500, pavement width of 20.6 feet, and structural section of 0.33 feet Road Mix Surfacing (RMS), and is in good condition.

According to FEMA, FIRM Panel 3075H, portions of the subject property are in shaded Flood Zone X which is subject to flooding from the 1%-chance storm. According to U.S.G.S. Quad Maps, there are no existing natural drainage channels adjacent to or running though the parcel. A grading permit or voucher is required for grading proposed with this application.

This project was reviewed by the following departments which had “no comment”: Fresno County Department of Agriculture; Caltrans; Fresno County Department of Public Health, Environmental Health Division; Fresno County Fire Protection District; Fresno County Sheriff’s Office; United States Fish and Wildlife Service; Westlands Water District; and the Design Division, Road Maintenance and Operations Division, Water/Geology/Natural Resources Section, and Zoning Section of the Fresno County Department of Public Works and Planning.

Analysis:

In support of Findings 1 and 2, the Applicant states that the site is currently developed and already being utilized as an agricultural processing facility. Requiring the owner to maintain a larger parcel of land than is necessary to operate that facility is a burdensome requirement since there are other facilities which are operated in a similar manner on substandard parcels.

In regard to Findings 1 and 2, staff recognizes that there is an existing use permit on the property which allows the seed processing plant; however, this does not create an exceptional circumstance on the property. The use was approved by CUP Nos. 1896 and 2294 under Ordinance Section 816.3-A. The parcels are typical of others in the area with land that is generally flat and suitable for farming. The 2012 Important Farmlands Map defines the land as a mix of Semi-Agricultural and Rural Commercial Land, Urban and Built-up Land, and Farmland of Statewide Importance. Surrounding parcels are generally Prime Farmland or Farmland of Statewide Importance.

The Applicant states that maintaining a 20-acre minimum parcel size to support the seed processing plant is a burdensome requirement; however, staff notes that the acreage requirement is a burden shared by all neighbors with the same zoning classification. Since the plant was first built in 1949, it has traditionally been associated with the adjacent farming operation.

A consideration in addressing variance applications is whether there are alternatives that would avoid the need for the variance. In this case, the Applicant could choose to redefine the property lines such that Parcel A consisted of 20 acres, which would reduce the burden on the Applicant by more than half (35 acres of farmland to 15 acres of farmland).

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Findings 1 and 2 cannot be made.

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence*:
North	42.08 acres 122.96 acres	Field Crops/9 Residences Field Crops	AE-20	475 feet None
South	23.39 acres 158.18 acres	Residential/Field Crops Vineyard	AE-20	880 feet None
East	122.96 acres	Residential	AE-20	None
West	158.18 acres 158.18 acres	Field Crops Residential/Field Crops	AE-20	None 360 feet

*As measured from the nearest property line of all parcels involved in the application

Reviewing Agency/Department Comments:

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

Analysis:

In support of Finding 3, the Applicant states that the site is already being utilized as an agricultural processing facility and the purpose of this Variance is to allow the creation of a 7.01-acre parcel in which said facility is located. Nothing within the existing agriculture facility or adjacent farmed property is going to change in terms of uses or operation. It is anticipated that the proposed adjustment will have a beneficial impact on the neighboring properties, as it will adjust the lot lines along the current site uses.

Staff concurs that the proposed adjustment of property lines will serve to isolate the seed packaging use from the existing farmland. The site design shows that buildings associated with the seed processing facility are within the proposed boundaries of Parcel B and there is no development proposed as part of this application. The seed processing facility has been in operation since 1949. Staff considered the relationship of the existing buildings to the proposed property lines and determined that no variances for building setbacks would be required as part of this application. Review of this request by the reviewing agencies did not identify any scenic views or resources near the project site.

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:
<i>Policy LU-A.6: The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10 and LU-A.11. The County may require parcel sizes larger than twenty (20) acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</i>	The Applicant is requesting a Variance from the 20-acre minimum parcel size requirement. See discussion below.
<i>Policy 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. Evidence that the affected parcel may be an uneconomic farming unit due to its current size, soil conditions, or other factors shall not alone be considered a</i>	The creation of the 7.01-acre parcel will separate the seed processing facility from the land that is actively farmed. There is no increase to the permitted residential density in the area. See discussion below.

Relevant Policies:	Consistency/Considerations:
<i>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>	
<i>Policy PF-C.17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation.</i>	There are no changes proposed to the land uses on the property.

Reviewing Agency Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject application is proposing to adjust the property lines between two existing parcels consisting of three Assessor’s Parcel Numbers. The subject areas known as APN 060-100-79S and 060-100-85S are subject to Williamson Act Contract No. 451. The subject area known as APN 060-100-80S is not subject to a Williamson Act Contract. The subject application proposes to adjust the existing property lines to create an approximately 125.8-acre parcel and an approximately 7.01-acre parcel in order to more efficiently operate an existing agricultural processing facility. As a result, the property line adjustment would add approximately 1.60 acres of a parcel that is subject to a Williamson Act Contract to a parcel that is not subject to a Williamson Act Contract.

Policy Planning reviewed the revised project description and determined that since the inclusion of APN 060-100-85S instead of APN 060-100-83S does not affect the configuration of the proposed adjusted Parcel A, there were no additional conflicts with Williamson Act Contract No. 451. The 1.60-acre cancellation does not need to be amended and is still required for this project.

Department of Conservation, Division of Land Resource Protection: Should the project be unable to meet the statutory requirements and make the required findings set forth in Government Code (GC) §51257, the Department suggests that the County consider partial non-renewal and cancellation for the area in which this project will impact contracted land.

Analysis:

In support of Finding 4, the Applicant states that the proposed Variance would not affect the existing use of the site, which is consistent with the General Plan. The proposed project would be consistent with Goal LU-A of the Agriculture and Land Use Element: to promote the long-term conservation of productive and potentially-productive agricultural lands and to accommodate agricultural-support service and agriculturally-related activities that support the viability of agriculture and further the County’s economic development goals.

In regard to policy LU-A.6, the subject proposal does not qualify for the creation of a parcel with less than 20 acres based on the policies outlined in LU-A.9 through LU-A.11. In general, these policies provide the following opportunities for landowners: retain a homesite parcel separate from an existing farming operation (LU-A.9), create a parcel of substandard size to operate an agricultural commercial center (LU-A.10), or create a parcel of substandard size to support the recovery of mineral resources and the exploration and extraction of oil and gas. The only opportunity for the creation of a substandard parcel to operate a seed processing facility is through a Variance.

Policy LU-A.7 requires that the County generally deny those applications that request the creation of small parcels on the basis that they are not viable economic farming units and that the creation of additional parcels will increase residential density in the area. The proposed lot line adjustment would memorialize the use of the 7.01-acre parcel as a seed processing facility and separate those uses from the existing farming operation. Since the existing and proposed use of the parcel will support agricultural production and is not proposed as a homesite, staff finds that the application is consistent with this policy.

The Applicant has filed a Notice of Partial Nonrenewal for that portion of that land under Williamson Act Contract No. 451 which is proposed to be included as part of Parcel A.

Based on this analysis, staff is 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 cannot be made. Staff therefore recommends denial of Variance No. 3985-R.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 3985-R; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 3985-R, 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.

**Variance Application No. 3985-R
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan approved by the Planning Commission to allow the property line adjustment resulting in a 7.01-acre parcel and a 125.8-acre parcel.

Conditions of Approval reference recommended Conditions for the project.

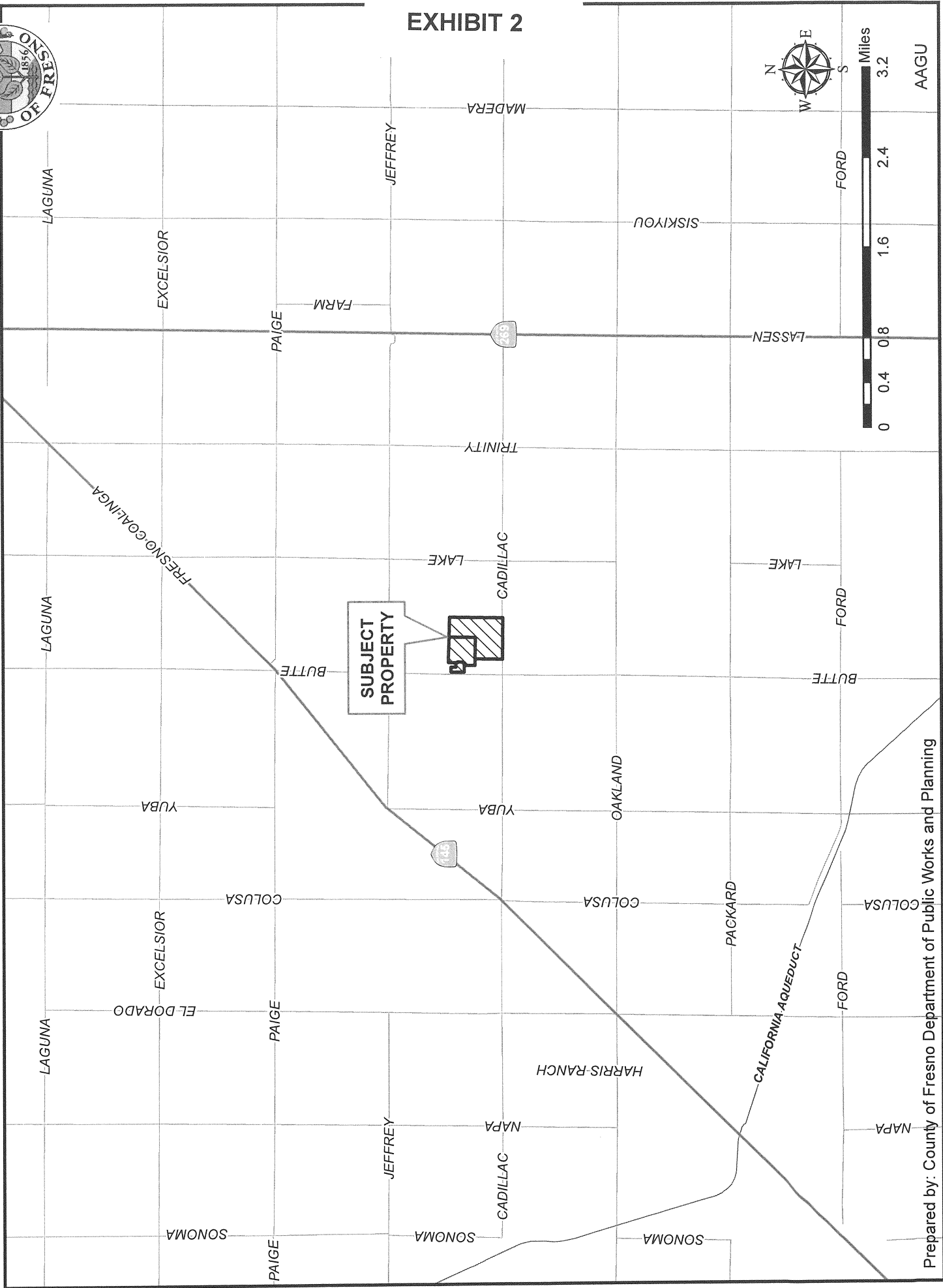
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Property Line Adjustment Application shall be filed to create a 7.01-acre parcel and a 125.8-acre parcel.
2.	Plans, permits, and inspections are required, including site development, based upon the California Codes in effect at the time of plan check submittal.
3.	According to FEMA, FIRM Panel 3075H, portions of the subject property are in shaded Flood Zone X which is subject to flooding from the 1%-chance storm.
4.	A grading permit or voucher is required for grading proposed with this application.

LOCATION MAP

VA 3985 - R



EXHIBIT 2



Prepared by: County of Fresno Department of Public Works and Planning

EXISTING ZONING MAP



EXHIBIT 3

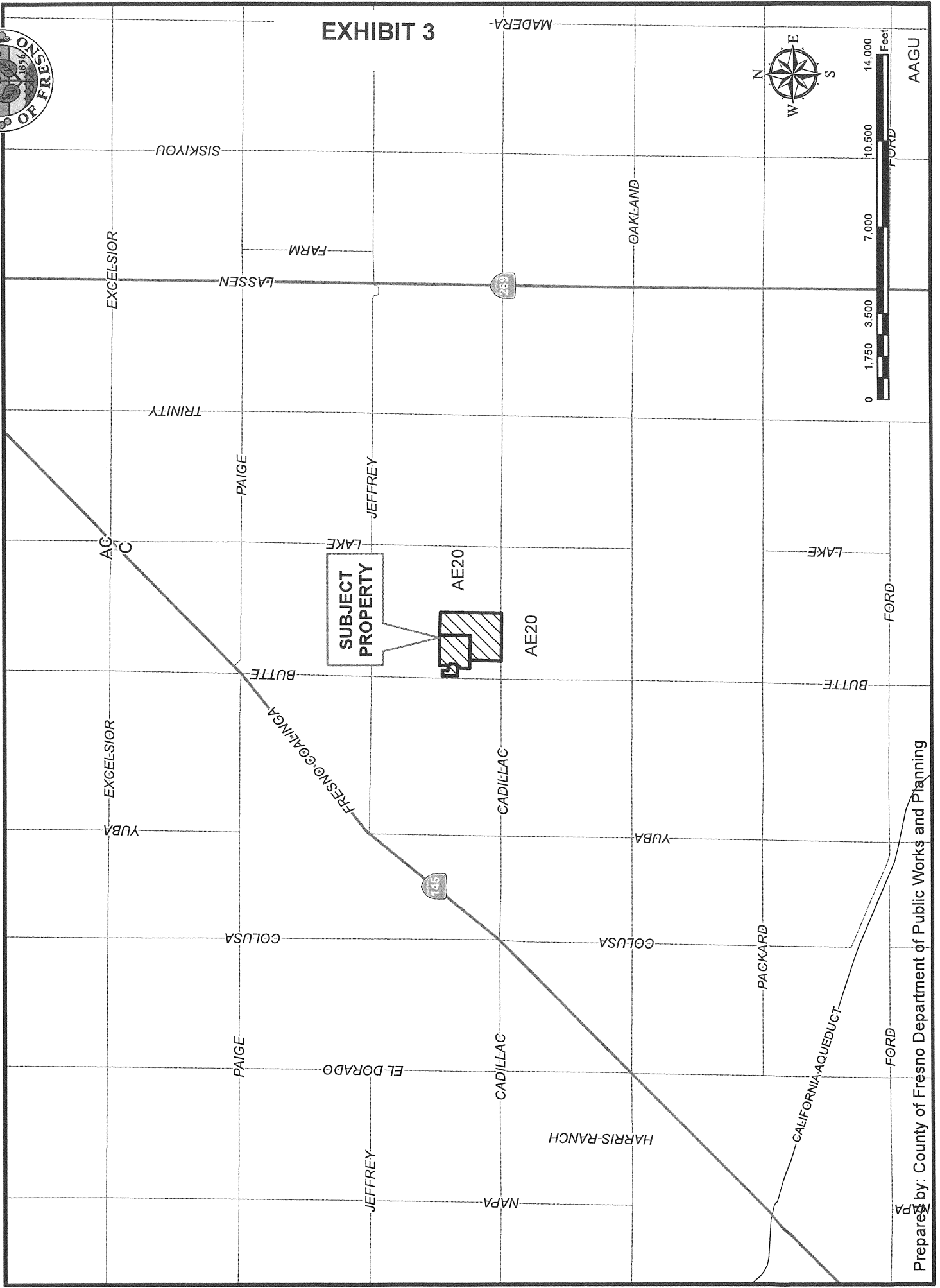
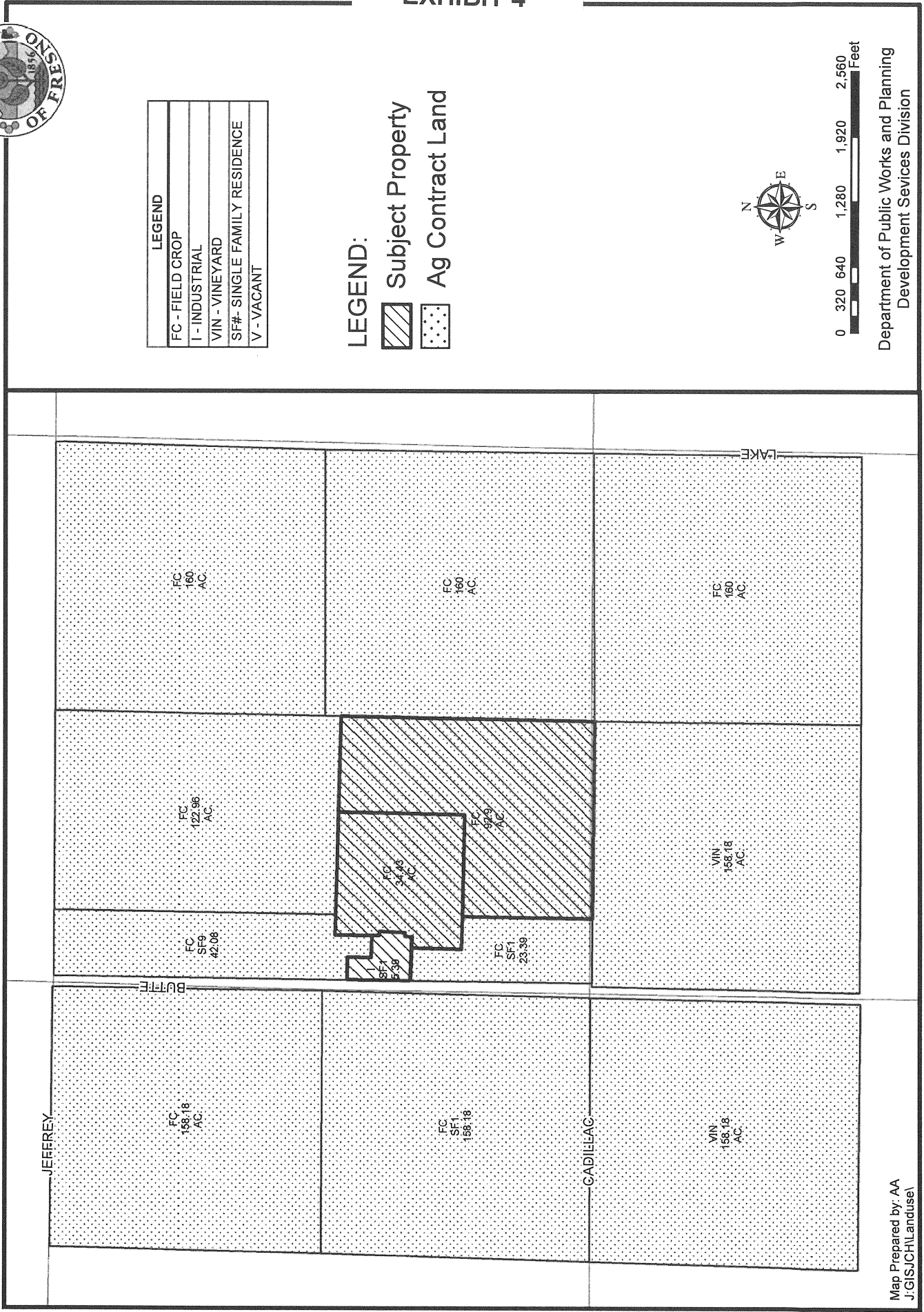




EXHIBIT 4

EXISTING LAND USE MAP

VA 3985 - R



LEGEND	
FC - FIELD CROP	
I - INDUSTRIAL	
VIN - VINEYARD	
SF# - SINGLE FAMILY RESIDENCE	
V - VACANT	

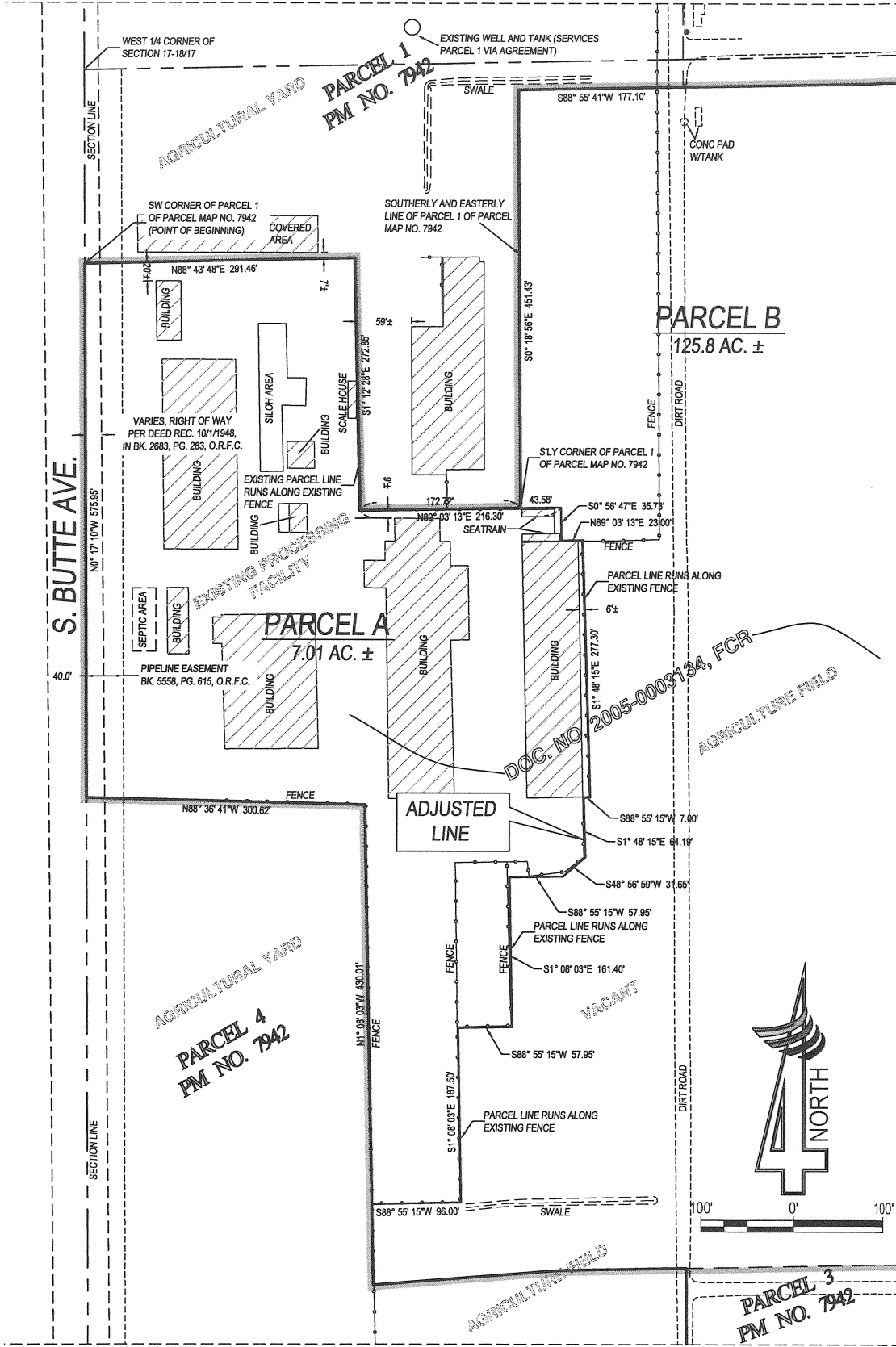
LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning
Development Services Division

Map Prepared by: AA
J:GIS\CH\Landuse\



DETAIL A

1"=100'

EXHIBIT 6

VA 3985
RECEIVED
COUNTY OF FRESNO

Variance Findings (Ordinance Section 877)

NOV 11 2015

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

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

The site is currently developed and already being utilized as an agricultural processing facility. Unlike the adjoining properties which share the same zoning designation, and are large agriculture farming operations that by zoning require a 20 acre minimum parcel size. Furthermore unlike the adjoining neighbors, because this property is an agriculture processing facility which requires less property to operate, it is also being used/operated under a use permit. The purpose of the variance is to allow for the creation of a 7 acre parcel in which said facility is located. The intent of the variance is to create/adjust the existing parcel line configuration, to be more in line with the uses of said parcels.

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.

The purpose of the variance is to allow for the creation of a 7 acre parcel on which said facility is located. The reduction in parcel size is necessary to more efficiently operate, finance, and manage the existing facility. The site is currently developed and already being utilized as an agricultural processing facility. The intent of the variance is to create/adjust the existing parcel line configuration, to be more in line with the uses of subject parcel. Requiring the existing owner to maintain a larger parcel of land that is necessary to operate the facility is an burdensome requirement as other facilities are being operated in similar manners on substandard zoning parcel sizes (like the subject request). The remaining property is going to continue to be used for farming and agricultural production, so the amount of useable land will not vary. The creation of a substandard parcel size within an agricultural use is possible under the existing zoning ordinance to allow for this type of project with the required variance application.

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.

The site is currently developed and already being utilized as an agricultural processing facility. The purpose of the variance is to allow for the creation of a 7 acre parcel in which said facility is located. The intent of the variance is to create/adjust the existing parcel line configuration, to be more in line with the uses of said parcels. Nothing within the existing agriculture facility or adjacent farmed property is going to change in terms of uses or operation. This is simply adjusting existing lot lines to follow the existing operation more accurately than the previous lot lines. As a result since it is anticipated that the proposed property configuration is going to be in line and accommodate the existing uses, this adjustment will have no adverse effect on the abutting or neighboring properties. It is actually anticipated that the proposed adjustment will have a beneficial impact on the neighboring properties, as it will adjust the lot lines along the current site uses.

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

The site is currently developed and already being utilized as a permitted agricultural processing facility. The proposed adjustment is allowable under the current county code (which requires a variance). The proposed adjustment will not affect the existing use of the site, which is already consistent with the General Plan. The proposed project would be consistent with Goal LU-A of the Agriculture and Land Use Element: To promote the

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long-term conservation of productive and potentially-productive agricultural lands and to accommodate agricultural-support service and agriculturally-related activities that support the viability of agriculture and further the County's economic development goals.