



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 January 12, 2017

SUBJECT: Variance Application No. 4013

Allow the creation of a 2-acre parcel and an 11.82-acre parcel (minimum 20 acres required) from an existing 13.82-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 South Cove Avenue, approximately 375 feet southeast of its intersection with E. Lincoln Avenue, approximately 1.4 miles northwest of the nearest city limits of the City of Orange Cove (SUP. DIST. 4) (APN 373-061-26).

OWNER: Grupo Citrica
APPLICANT: Roberto Farias

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

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Deny Variance No. 4013; 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 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	13.82 acres	Two parcels measuring (A) 2 acres and (B) 11.82 acres
Project Site	13.82-acre parcel planted with citrus, new irrigation system, 2,300 square-foot residence	(A) Residence and related improvements, (B) citrus orchard with irrigation system
Structural Improvements	See "Project Site" above	See "Project Site" above
Nearest Residence	600 feet south of existing residence	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines: *Review for Exemption* that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 14 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 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:

On August 31, 1976, the subject parcel was rezoned an A-1 (Agricultural, 100,000 square-foot minimum parcel size) Zone District to its current AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District. In February 2015, the parcel was sold to El Ebanito Ranch, LLC, a California limited liability company.

The subject parcel is generally shaped like a triangle where the long edge abuts the Minkler Southern Railway Company’s right-of-way. The southern corner was removed prior to 1971 without the need for a variance. A residence has existed on this parcel since before 1958. The current request now proposes to remove the northern corner of the parcel as a homesite to isolate the residential uses from the agricultural operation. A variance is required because both parcels created by the split will be less than 20 acres where 20 acres is the minimum parcel size required by the zone district.

The current property owner is El Ebanito Ranch, LLC. The Fresno County Zoning Ordinance defines a Property Owner as “...the person to whom property is assessed as shown on the last equalized assessment roll of the County of Fresno. [...]” The definition continues and outlines procedures for change in ownership, which is not relevant to this discussion. Further, the Ordinance defines a Person as “...an individual, firm co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, City, County, special district, or any other group or combination acting as an entity, except that it shall not include the County of Fresno”.

In addition, there have been no variance applications approved within a mile of the subject application.

ANALYSIS/DISCUSSION:

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

Such Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Setbacks	<u>AE-20 Zone District:</u> Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Parcel A (2 acres):</u> Front: 42 feet Side (north): 100+ feet Side (south): 36 feet Rear: 100+ feet <u>Parcel B (11.82 acres):</u> No Development	<u>Parcel A:</u> Yes <u>Parcel B:</u> Yes
Parking	N/A	N/A	N/A
Lot Coverage	No requirement	N/A	N/A
Separation Between Buildings	N/A	N/A	N/A
Wall Requirements	N/A	N/A	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Septic Replacement Area	100 percent of the existing system	No change	Yes
Water Well Separation	Building sewer/septic tank: 50 feet; disposal field: 100 feet; seepage pit/cesspool: 150 feet	No change	Yes

Reviewing Agencies/Department Comments:

Fresno County Department of Public Health, Environmental Health Division: In the case of this application, it appears each parcel can accommodate the sewage disposal systems and expansion areas, meeting the mandatory setback requirements as established in the California Plumbing Code and California Well Standards Ordinance. Building permit records indicate the existing sewage disposal system was installed in 2005. It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank and drain field 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(s).

Development Engineering Section of the Fresno County Department of Public Works and Planning: Cove Avenue is a County-maintained road classified as a Local with an existing 20-foot right-of-way east of the centerline along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way east of the centerline is 30 feet. Records indicate this section of Cove Avenue from Lincoln Avenue to Clayton Avenue has an ADT of 60, pavement width of 24 feet, a structural section of 0.25 feet asphalt concrete (AC), 0.35 feet aggregate base (AB), and 0.85 feet asphalt surfacing (AS), and is in very good condition. If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveway at Cove Avenue.

The U.S.G.S. Quad Maps show that the Santa Fe Railroad is located at the northeast side of the subject property. Any improvement or access across their tracks in this area should be coordinated with the owners of the railroad. According to FEMA, FIRM Panel 2225H, portions of the subject parcel are in the flood Zone A that is subject to flooding from the 1%-chance storm. If any development is within the area identified as Zone A, it must comply with the County Flood Hazard Ordinance (Title 15.48).

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Cove Avenue is classified as a Local in the County's General Plan requiring an ultimate right-of-way of 60 feet. Currently there is 40 feet of right-of-way, 20 feet on each side of the section line. Any work within the County road right-of-way will require that an encroachment permit first be obtained from this division. Staff is not requiring that the Applicant make an irrevocable offer of dedication because there will be no substantial increase in traffic on the roads as a result of this application and no new development is proposed.

No other comments specific to Findings 1 and 2 were expressed by reviewing Agencies or Departments.

Analysis:

In support of Finding 1, the Applicant's findings state that the property owner is a corporation and not an individual and as such does not have the same rights under the Fresno County Zoning Ordinance to create a homesite parcel. In the case of this application, the corporation is essentially controlled by a family or singular individual who should have the same rights of home ownership creation as others. The existence of residential improvements such as the barn, house, and driveway create a unique circumstance on the property.

In support of Finding 2, the Applicant's findings state that the purpose of the Variance is to allow the owner to create the proposed home site. The Applicant is committed to maintaining the agricultural use of the site and has no intention of removing agricultural land out of production. No public policy or social good is enhanced by prohibiting a corporate principal from owning the parcel on which the subject home is located. A review of Fresno County records indicates that similar variances have been granted in the general proximity to the subject site.

Staff does not concur with the Applicant's findings. Section 816.5 of the Fresno County Zoning Ordinance lists several cases under which a homesite may be created with acreage less than the minimum designation. This application qualifies under the first requirement, which sets a minimum and maximum parcel size for proposed homesites. The second requirement is that the project meets one of the following conditions:

- 1) *The parcel is being created as a financing parcel:* Since there is an existing residence, the project does not qualify to remove the site as a financing parcel. Additionally, this approach would not allow the Applicant to sell the parcel as a separate unit.
- 2) *The parcel is being created as a conveyance or devise exclusively for use by a person related to the owner [...] and only for persons involved in the farming operations; the existing lot contains a minimum of 20 acres; and, there is no more than one such lot per 20 acres:* The Applicant does not qualify for this option because the parcel does not have a minimum of 20 acres, and the intent of the Applicant is to separate the farming operation from the residence. This provision is intended to allow for a family member who works on the farm to live nearby and own their home while supporting the agricultural use.
- 3) *The present owner owned the property prior to the adoption of the Exclusive Agricultural Zone District and wishes to retain his homesite...":* As discussed in the Background section of this report, El Ebanito Ranch, LLC would qualify for this provision regardless of its corporate status, had they held ownership of the parcel in 1976. Since it was purchased in 2015, the Applicant may not pursue this option.
- 4) *A homesite is to be retained from an existing lot of less than 15 acres with the remaining acreage to be added to an abutting lot...:* The applicant is proposing the creation of two separate parcels. This criterion is intended to allow a landowner to sell the farmland to a neighbor and retain their homesite. The subject application does not qualify because the Applicant wishes to retain the farming operation, not the homesite, and because the Applicant is not proposing to add the remaining acreage to an adjacent lot.
- 5) *The lot is intended as a life estate:* As discussed previously, the Applicant is proposing to retain the farming operation and this criterion is intended for landowners to retain their homesites. Creation of a life estate would not serve the Applicant's needs.

In every case except life estates, it is the size of the parcel or the date of purchase that is the restricting factor. Even in the case of conveying a lot to a family member, the Applicant must have 20 acres prior to the land division, and as such, this parcel does not qualify.

Regardless of individual or corporate ownership, the property owners would still be required to file for a Variance to remove this homesite from the agricultural parcel. There are no exceptional circumstances on the property and staff could not identify any impacted right of the Applicant that would be relieved by the granting of this Variance. No property owner in the area has the right to create a parcel with less than the 20-acre minimum parcel size if he or she does not qualify under the conditions listed in Section 816.5 unless the substandard-sized parcel is approved through the Variance process. The Applicant's stated intent not to remove more land from agricultural production is consistent with the agricultural zoning in the area and is not unique or exceptional. The residential improvements on the property are similarly not unique or exceptional since single-family residences with driveways and barns are common in this area. While there are a few parcels with small acreage, created prior to the AE-20 zoning, the area surrounding the subject property is mostly agricultural with residential uses secondary to farming on large parcels.

Staff performed a review of all properties within a mile of the subject property and did not identify any variances that had been approved in the area. Additionally, each variance application must be reviewed and judged on its own merit. The approval or denial of other variances in the area should not be considered a precedent for decision in this case.

A consideration in addressing variance applications is whether there are alternatives available that would avoid the need for the Variance. In this case, the Applicant does not have any options for splitting the existing parcel without the approval of a variance. A non-corporate owner would similarly have no other alternatives to remove the homesite from this parcel to continue agricultural production on the remainder.

Staff was unable to identify any unique or exceptional circumstances on the property and could not identify an impacted property right of the Applicant. Findings 1 and 2 cannot be made.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Findings 1 and 2 cannot be made.

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence*:
Northeast	21 acres	Agriculture	AE-20	None
South	20 acres	Agriculture w/single-family residence	AE-20	950 feet

Surrounding Parcels				
Southwest (corner)	1 acre	Single-family residence	AE-20	620 feet
West	38.55 acres	Agriculture	AE-20	None

*Measured from Existing Residence

Reviewing Agencies/Department Comments:

Development Engineering: Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division. A grading permit or voucher may be required for any grading that maybe proposed with this application.

Typically, any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.

Fresno County Fire Protection District: No fire requirements at this time.

Zoning Section of the Fresno County Department of Public Works and Planning: No comment.

Analysis:

In support of Finding 3, the Applicant’s Findings state that the granting of the Variance will not be detrimental to surrounding properties. The existing home is served by a private driveway of adequate width and pavement to serve the proposed home site and specifically the needs of its intended users. No variations in setback development standards are required. No change in the agricultural use of the property, in either size or intensity would be effected by the proposed Variance. The Applicant is committed to maintaining the agricultural use of the site and will farm the remaining acreage. The subject property is not encumbered by a Williamson Act Contract.

In regard to Finding 3, staff concurs with the Applicant’s assessment that the Variance would not be detrimental to surrounding properties. There is no change in land use proposed as part of this application. However, removal of the homesite from this parcel will allow an additional residence to be built by right on the remaining parcel, potentially removing more agricultural land from production.

The Applicant has noted that both the homesite and the remainder parcel are served by individual wells which have historically had enough flow to serve the Applicant’s needs.

The addition of traffic trips from the additional permitted home would not be significant and Finding 3 can be made.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 3 can be made.

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

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy LU-A.6: The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LUA.10, and LU-A.11. The County may require parcel sizes larger than twenty (20) acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</p>	<p>The Applicant is requesting a Variance from the 20-acre minimum parcel size requirement and does not qualify under Policies LU-A.9, LUA.10, and LU-A.11. See Analysis below.</p>
<p>General Plan Policy LU-A.7: County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units, and that the resultant increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels. Evidence that the affected parcel may be an uneconomic farming unit due to its current size, soil conditions, or other factors shall not alone be considered a sufficient basis to grant an exception. The decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.</p>	<p>The minimum parcel size for the subject parcel is 20 acres. Staff believes that the proposed Parcel B (11.82 acres) would be consistent with this policy, but that the proposed Parcel A would not. See Analysis below.</p>
<p>General Plan Policy LU-A.9: The County may allow creation of homesite parcels smaller than the minimum parcel size required by Policy LU-A.6 if the parcel involved in the division is at least twenty (20) acres in size, subject to the following criteria:</p> <ul style="list-style-type: none"> a. The minimum lot size shall be sixty thousand (60,000) square feet of gross area, except that a lesser area shall be permitted when the owner submits evidence satisfactory to the Health Officer that the soils meet the Water Quality Control Board Guidelines for liquid waste disposal, but in no event shall the lot be less than one (1) gross acre; and b. One of the following conditions exists: <ul style="list-style-type: none"> 1. A lot less than twenty (20) acres is required for financing construction of a residence to be owned and occupied by the owner of abutting property; or 2. The lot or lots to be created are intended for use by persons involved in the farming operation and related to the owner by adoption, blood, or 	<p>The subject parcel is 13.82 acres where this policy requires the original parcel to be at least 20 acres. The project is not consistent with this policy.</p> <p>The creation of Parcel A is not consistent with part “b” of this policy:</p> <ul style="list-style-type: none"> 1. The parcel is not being created as a financing parcel. 2. The parcel is not being created as a gift deed.

Relevant Policies:	Consistency/Considerations:
<p>marriage within the second degree of consanguinity; there is only one (1) lot per related person; and there is no more than one (1) gift lot per twenty (20) acres; or</p> <p>3. The present owner owned the property prior to the date these policies were implemented and wishes to retain his/her homesite and sell the remaining acreage for agricultural purposes.</p>	<p>3. The present owner (El Ebanito Ranch, LLC) was granted ownership of the property in 2015. The AE-20 Zone District was adopted for the area in 1976.</p>
<p>General Plan Policy PF-C.17: The County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation.</p>	<p>While the project is in a low-water area, it was reviewed by the Water/Geology/Natural Resources Section, which did not identify any concerns with water quantity.</p>
<p>General Plan Policy PF-D.6: The County shall permit individual on-site sewage disposal systems on parcels that have the area, soils, and other characteristics that permit installation of such disposal facilities without threatening surface or groundwater quality or posing any other health hazards and where community sewer service is not available and cannot be provided.</p>	<p>Review by the Fresno County Department of Environmental Health has determined that the soils of the parcels are adequate to support individual on-site sewage disposal systems.</p>

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is not subject to a Williamson Act Contract.

Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning: No comments.

Analysis:

In support of Finding 4, the Applicant states that the purpose of the 20-acre minimum lot size is to prohibit the creation of parcels that cannot effectively produce an agricultural product. The proposed Variance seeks to memorialize the development pattern and intensity of the subject parcel that has historically existed over time. The proposed Variance will not adversely affect the production of the remaining 11.82 acres, which remains a viable farming unit. Further, the proposed Variance will not reduce agricultural production or its intensity. The owner, El Ebanito Ranch, LLC, is committed to farming the subject property and asserts that the existing homesite will not impair their ability to conduct farming operations on the remaining portion. The subject property is not encumbered by a Williamson Act Contract. Therefore, there is no potential for the proposed homesite creation to cause an adverse precedent for lands which are under contract.

Staff does not concur with the Applicant's interpretation of the relevant General Plan Policies. Goal LU-A from the General Plan is "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.” The abovementioned policies support that goal and relate to this application.

Policy LU-A.6 identifies the minimum parcel size for parcels which are designated for Agriculture, such as the subject parcel, and also identifies those policies which provide for exceptions from that requirement (Policies LU-A.9 through LU-A.12).

As discussed under the heading for Findings 1 and 2, this application does not qualify for homesite retention under the noted criteria. Policy LU-A.9 generally mirrors the Zoning Ordinance discussion under that heading (Section 816.5-A.2). The parcel's size, location, and recent change in ownership disqualifies the owner from pursuing those options.

The text of Policies LU-A.10 and LU-A.11 are not included because they outline exceptions specifically for the creation of an agricultural commercial center (LU-A.10) and the extraction of oil, gas, or mineral resources (LU-A.11). As such, this application does not qualify for an exception under those policies.

Policy LU-A.7 restricts the creation of parcels with less than the required acreage for the Zone District. Specifically, it notes that evidence that the parcel is already not an economic farming unit is not a basis for granting an exception. Therefore, while staff concurs that the creation of Parcel A would not make it less viable as an economic unit, the application is not consistent with this policy. Additionally, approximately 1.8 acres of the homesite parcel are currently planted orange orchard. This proposal could remove that active farmland from the established farming operation.

Removing this homesite from the existing parcel allows another home to be built by right on Parcel B, potentially increasing residential densities. Policy LU-A.7 notes that the creation of such parcels have the potential to conflict with agricultural uses on adjacent parcels. While it is the Applicant's stated intent to farm the land, it is possible that a future owner may desire to retain a homesite, removing more acreage from the remainder parcel.

The subject parcel is not under a Williamson Act Contract; however, this does not make the proposal more consistent with the General Plan. The parcel does not qualify for a Williamson Act Contract due to its size.

Finding 4 cannot be made.

Recommended Conditions of Approval:

None.

Conclusion:

Finding 4 cannot be made.

PUBLIC COMMENT:

None.

CONCLUSION:

Staff believes the required Findings for granting the Variance cannot be made based on the factors cited in the analysis. Staff therefore recommends denial of Variance No. 4013.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 4013; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine that the required Findings can be made (state basis for making the findings) and move to approve Variance No. 4013, 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.

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**Variance Application No. 4013
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.
Conditions of Approval reference recommended Conditions for the project.	
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create a 2-acre parcel and an 11.82-acre parcel.
2.	It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank and drain field 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(s).
3.	Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.
4.	If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the driveway exiting to Cove Avenue.
5.	The U.S.G.S. Quad Maps show that the Santa Fe Railroad is located at the northeast side of the subject property. Any improvement or access across their tracks in this area should be coordinated with the owners of the railroad.
6.	A grading permit or voucher may be required for any grading proposed with this application.
7.	Any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.

LOCATION MAP

VA 4013

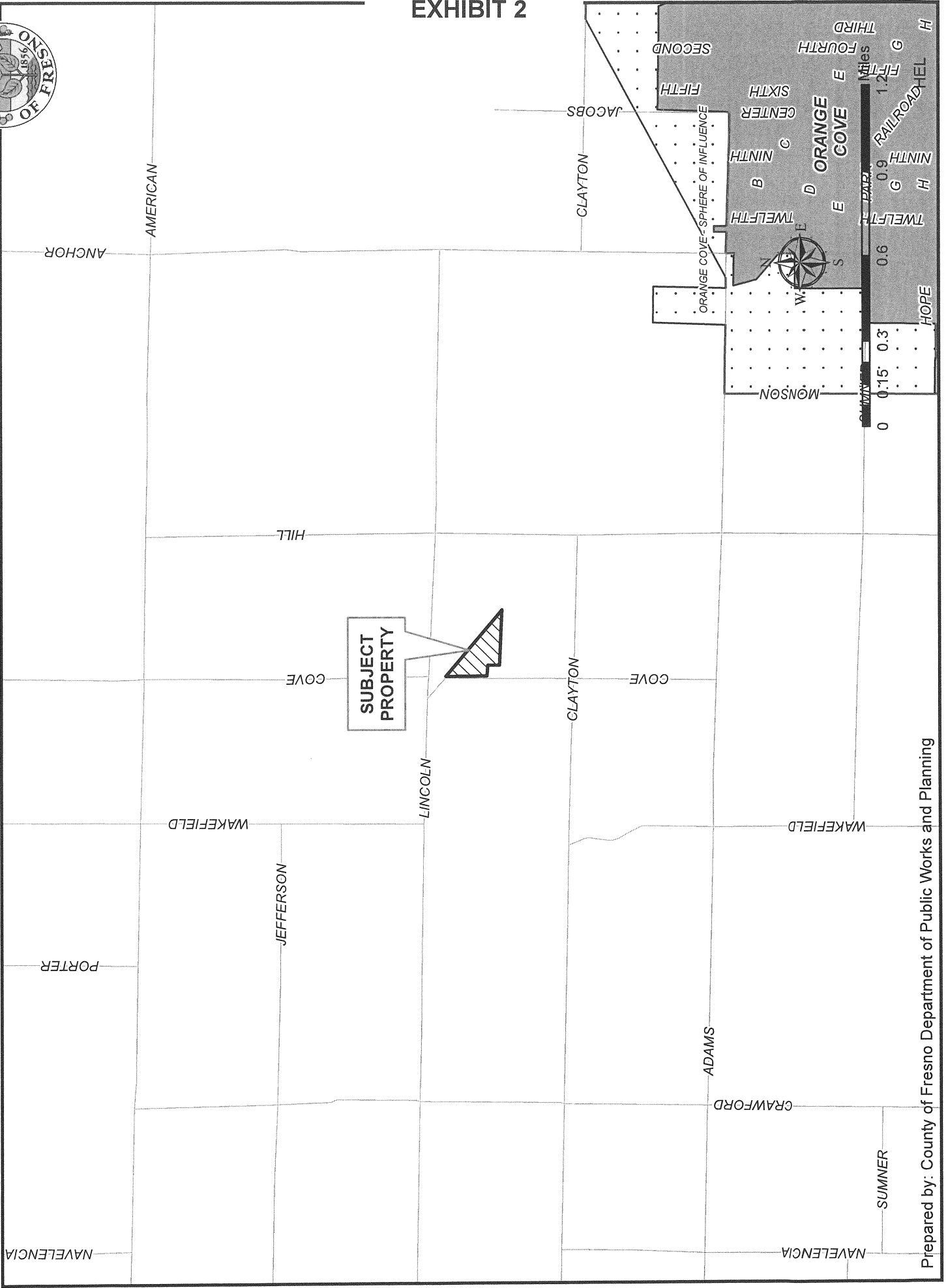


EXHIBIT 2

EXISTING ZONING MAP



EXHIBIT 3

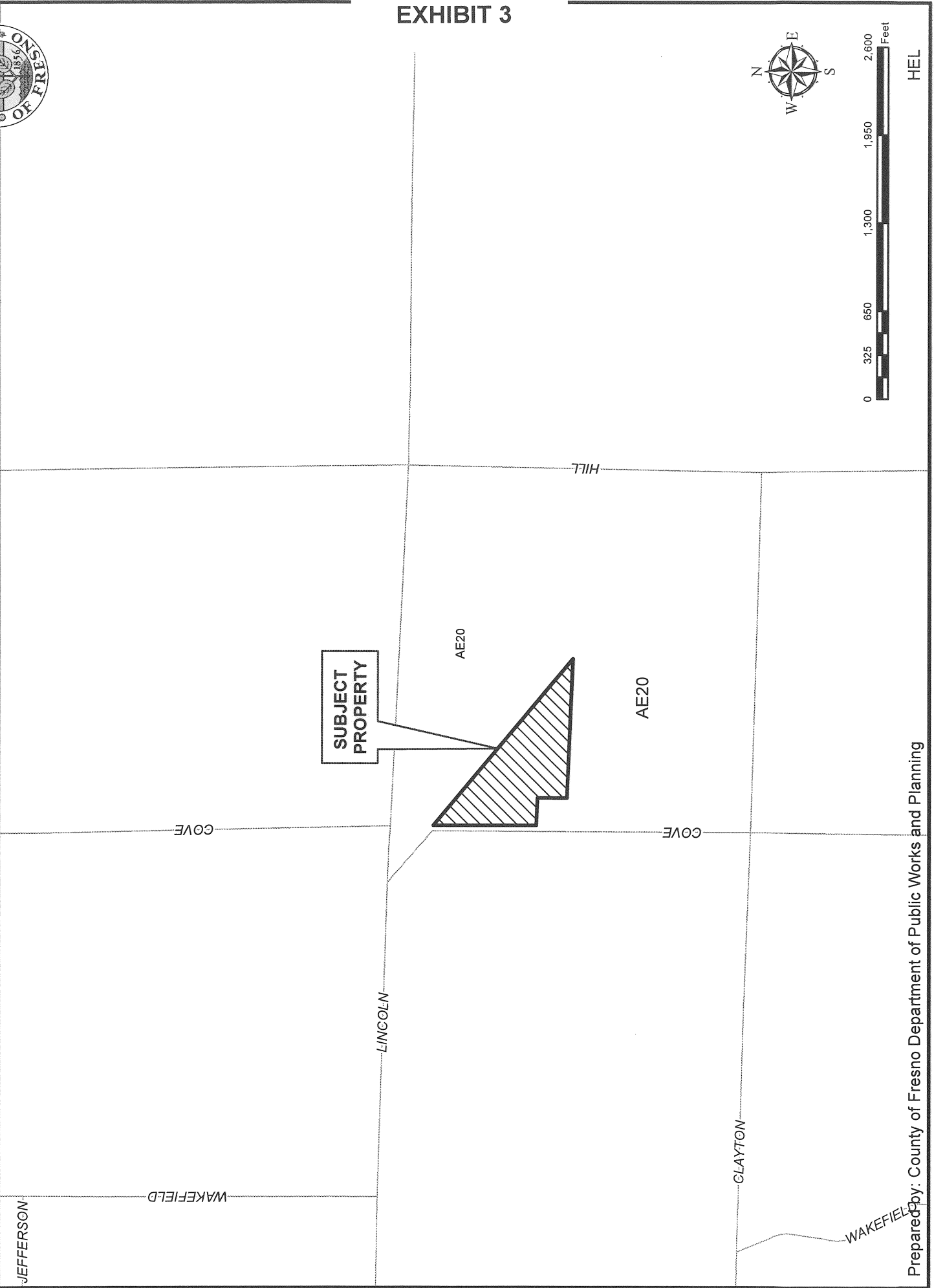




EXHIBIT 4

EXISTING LAND USE MAP

VA 4013

JEFFERSON

WAKEFIELD

COVE

LINCOLN

CLAYTON

LEGEND
 FC - FIELD CROP
 ORC - ORCHARD
 SF#- SINGLE FAMILY RESIDENC
 VIN - VINEYARD
 V - VACANT

LEGEND:
 Subject Property
 Ag Contract Land



Department of Public Works and Planning
 Development Services Division



Map Prepared by: HEL
 J-GISJCH(Landuse)

EXHIBIT 5

SITE PLAN Variance No. 4013

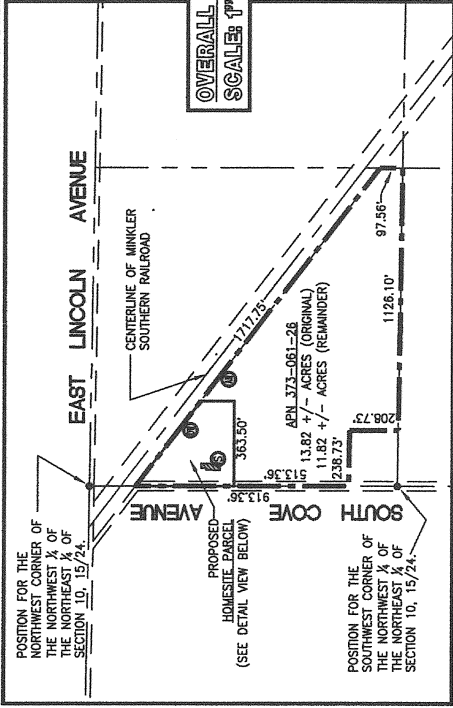
APN 373-061-26
BEING A PORTION OF THE NORTHEAST 1/4 OF
SECTION 10, T. 15 S., R. 24 E., MDBM
IN THE COUNTY OF FRESNO,
STATE OF CALIFORNIA

RECEIVED
COUNTY OF FRESNO

SEP 28 2016

DEPARTMENT OF PUBLIC WORKS
PLANNING SERVICES DIVISION
VA 4013

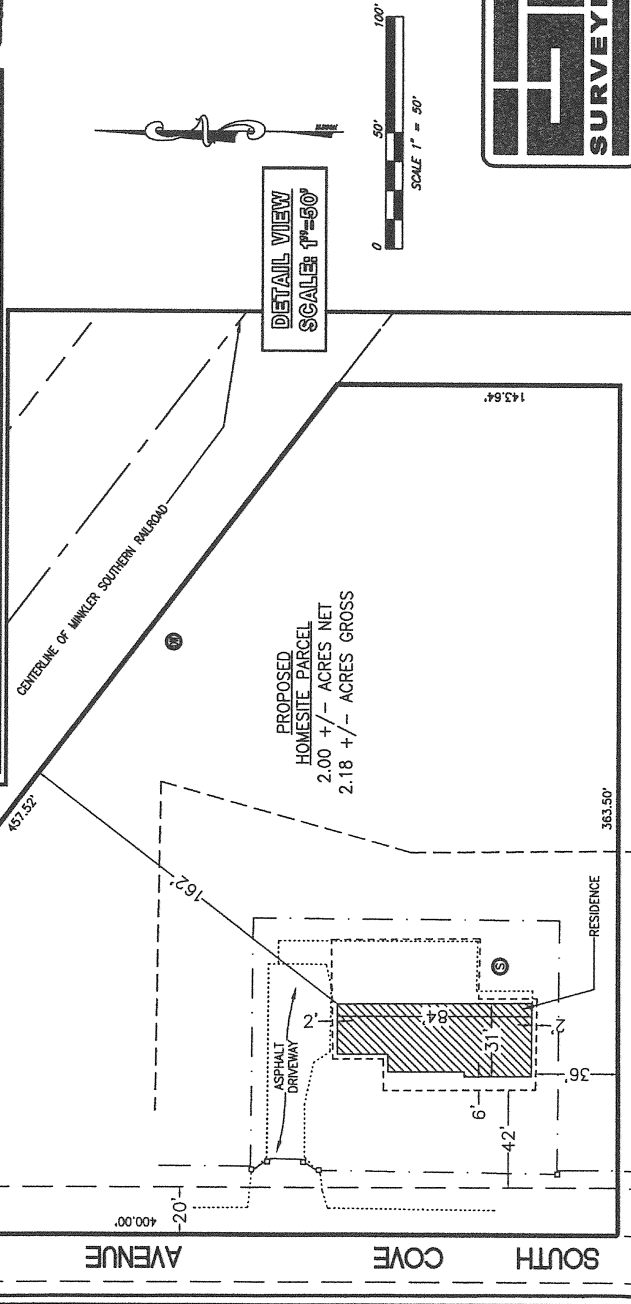
REVISIED COPY



LEGEND:

---	SECTION LINE.
- - - -	PROPERTY LINE.
- - - -	RIGHT OF WAY.
---	PROPOSED HOMESITE
---	5' FENCE
---	BUILDING OVERHANG
▨	BUILDINGS
⊙	DOMESTIC WELL
⊙	AGRICULTURAL WELL
⊙	SEPTIC

RECORD OWNER:
APN 373-061-26
EL. EBANITO RANCH, LLC



ESP SURVEYING

5654 South Elm Ave.
Fresno, CA 93706
Tel. 559.442.0883
Fax 559.442.0884
www.espsurveying.com

DATE OF SURVEY	05/11/2015
ESP JOB No.	16029
DRAWN BY	PSE
REVISION DATE	07/28/2016
REV. 1	09/23/2016
REV. 1	09/27/2016

EXHIBIT 6

VARIANCE APPLICATION FINDINGS

El Ebanito Ranch, LLC

September 28, 2016
REVISED January 3, 2017

Owner:

El Ebanito Ranch, LLC
c/o Roberto Farias
P.O. Box 175
Orosi, CA 93647
(559) 892-7711

RECEIVED
COUNTY OF FRESNO

JAN 03 2017

DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION
VA 4013

Applicant:

Same

Representative:

Dirk Poeschel Land Development Services, Inc.
923 Van Ness Ave., Suite 200
Fresno, CA 93721
559-445-0374

Property Location:

East side of S. Cove Ave. ¼ mile north of the intersection with E. Clayton Ave.

APN:

APN 373-061-26

Existing Zone Designation:

AE-20

Existing General Plan Land Use Designation:

Agriculture

Request:

Grant a Variance to allow the creation of a 2.18 +/- gross acre (2.00 +/- net acre) home site from an 11.82 +/--acre parcel in the AE-20 Zone. Please refer to the site plan of the subject property and its improvements prepared by ESP Surveying.

Background:

The subject site is part of the applicant's citrus properties in the Orange Cove area of Fresno County. The applicant owns and manages all of its properties. In fact, the applicant owns the similarly shaped parcel adjacent and northeast of the subject site and farms that parcel in the same manner as the subject site.

The applicant purchased the subject site in its current configuration and removed 40-year-old mandarin oranges and replaced of them with Tango and Clementines. In addition, the applicant installed all new irrigation with a computer based irrigation system with fan jets, drip irrigation and reservoir.

The existing 2,300 +/- sq. ft. single-family residence was built in 2004 and existed prior to the applicant's purchase of the subject site. The proposed home site is fully developed with landscaping, garage and an existing well. According to the applicant's records, the well on the proposed home site produces adequate water for the existing residence. In addition, the agricultural portion of the site is served by a well that is also of adequate capacity to serve the existing agricultural uses.

Review of official county plats indicate other home sites exist generally north of the subject site that are similar to the size proposed by the applicant.

Finding 1:

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

Please refer to the project site plan prepared by ESP Surveying. The subject site is located on the northern tip of an existing agricultural parcel. The configuration of the area in which the proposed parcel is to be located could best be described as triangular. Within this 2.00 +/- acre proposed home site area is a single-family residence, landscaping and barn.

The property owner is a corporation and not an individual and desires to create a home site within the corporation's agricultural holding. According to the Fresno County Zoning Ordinance, corporations do not have the same rights as individuals to create home sites.' Nonetheless, it is common that corporations such as the one that owns the subject property are essentially controlled by a family or singular individual that should have the same rights of home ownership creation as others.

The existence of the aforementioned improvements including the residents, driveway and landscaping should be considered a unique circumstance. The applicant would not create a home site that would be detrimental to its land holdings by taking agricultural land out of production. The applicant will agree to a condition that no other residence be constructed on either the subject home site or for the adjacent property owned by the applicant.

Finding 2:

Would this variance grant a special privilege inconsistent with the limitations upon other properties in the vicinity and zoning district in which the property is located?

The purpose of the Variance is to allow the owner that is a corporation to create the proposed home site. The applicant which is a regional agricultural company is very committed to maintaining the agricultural use of the site and has no intention of removing agricultural land out of production.

No public policy or social good is enhanced by prohibiting a corporate principal from owning the parcel on which the subject home is located.

A review of Fresno County records indicates that similar variances have been granted in the general proximity to the subject site.

Finding 3:

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

Granting the proposed Variance will not be detrimental to surrounding properties for various reasons. The site is improved with a 2,300 +/- sq. ft. home built sometime after 2004. The existing home is served by a private driveway of adequate width and pavement to serve the proposed home site and specifically the needs of the its intended users. No variations in setback development standards are required.

Adequate water is available to serve the proposed home site. The location of the water well that serves the exiting home is identified on the attached site plan produces 80+ gpm. Historically, there has been no issue with water well production or septic tank leach field capability.

The exiting home site is well maintained and would not be in conflict with the continued agricultural operation of the remaining acreage of the property. The remaining 11.82 +/- acre portion of the property will remain in agricultural use as it has historically occurred.

No change in the agricultural use of the property, either in size or intensity would be affected by the proposed Variance. As noted above, El Ebanito Ranch, LLC a regional agricultural company is committed to maintaining the agricultural use of the site and will farm the remaining acreage. No information exists to suggest that the private driveway or condition of the public road is inadequate to serve the intended users.

The subject property is not encumbered by a Williamson Act contract.

Finding 4:

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

The purpose of the 20-acre minimum lot size is to prohibit the creation of parcels that can not effectively produce an agricultural product. The proposed Variance simply seeks to memorialize the development pattern and intensity of the subject parcel that is historically existed over time.

The proposed Variance will not adversely affect the production of the remaining 11.82 +/- gross acres which remains a viable agriculture unit. Further, the proposed Variance will not reduce agricultural production or its intensity.

The owner of the property, El Ebanito Ranch, LLC is committed to farming the subject property. El Ebanito Ranch, LLC has communicated to county staff that based on their experience, the existing home site will not impair the company's ability to conduct farming operations on the remaining portion of the property.

As mentioned previously, the property owner would not object to a condition of the proposed Variance approval that no other residence be built on the subject or adjacent property owned by the applicant.

The subject property is not encumbered by a Williamson Act contract. Therefore, there is no potential for the proposed home site creation to cause an adverse precedent for lands which are under contract.

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

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