



# County of Fresno

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

## Planning Commission Staff Report Agenda Item No. 4 October 20, 2016

**SUBJECT:** Variance Application No. 4002

Allow the creation of a 22.28-acre parcel, a 10-acre parcel, and a 2-acre parcel (minimum 20 acres required) from an existing 34.28-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The subject property is located at the northwest corner of McKinley Avenue and Humboldt Avenue, approximately three miles northwest of the City of Kerman (1750 N. Humboldt Avenue) (Sup. Dist. 1) (APN 015-091-80S).

**OWNER:** Darlene Mendrin Living Trust  
**APPLICANT:** Steven W. Mendrin

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

Chris Motta, Principal Planner  
(559) 600-4227

**RECOMMENDATION:**

- Deny Variance No. 4002; 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:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	34.28 acres	Three parcels measuring approximately 22.28 acres, 10 acres, and 2.0 acres
Project Site	34.28-acre parcel planted with raisin grapes; single-family residence, and; agriculture shop building	No new development proposed. Existing single-family residence and shop building to be located on Parcel C.
Structural Improvements	See "Project Site" above	See "Project Site" above
Nearest Residence	25 feet southwest	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 16 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 September 13, 1912, the Fresno Irrigation Farms Company Trust recorded the subdivision of Section 28 in Book 8, Page 15 of Records of Surveys. The subject parcel consists of lots 45, 46, 47, and 48 of that subdivision. The Fresno Irrigation District Canal (Sandridge Canal) that divides the parcel is a historical feature of the area. Originally, the parcel was zoned A-1

(Agricultural, 100,000 square-foot minimum parcel size) and it was rezoned as part of County-initiated Amendment Application No. 2870 on August 31, 1976.

In 1998, 2 acres were removed from the property as a gift deed that was granted to the son and daughter-in-law of the owner. As part of the provisions of a gift deed, the owners have agreed not to subdivide either parcel. That Pre-Certificate of Compliance (PCOC 3110) must be released prior to approval of the mapping portion of this application, if this Variance is approved. The gift parcel is located in the southwestern corner of the larger parcel (APN: 015-091-79S).

The parcel on the eastern edge has its own Assessor’s Parcel Number (015-091-54S), but does not represent a legal parcel. APNs are assigned based on how property is taxed, which is not always representative of recorded property lines. Development on this property has been inconsistent with the dimensions as printed on the APN map. A part of this Variance application proposes to create a legal parcel in this location whose property lines support the existing development.

The current application proposes to split the existing parcel (34.28 acres) into three parcels, two of which do not meet the 20-acre minimum required by the Zone District (Parcel A: 22.28 acres, Parcel B: 10 acres, Parcel C: 2 acres). In order to allow the creation of parcels having less than the required acreage, a variance application must be approved.

In addition, there has been only one variance application approved within a mile of the subject application, which related to a reduction of the front-yard setbacks for a farm storage building.

**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.*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n):</b>
Setbacks	<u>AE-20 Zone District:</u> Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Parcel A (22.28 acres):</u> No Development  <u>Parcel B (10 acres):</u> No Development  <u>Parcel 3 (2.0 acres):</u> Front: 44 feet Side (east): 85 feet Side (west): 119 feet Rear: 51 feet	<u>Parcel 1:</u> Yes  <u>Parcel 2:</u> Yes  <u>Parcel 3:</u> Yes
Parking	N/A	N/A	N/A



	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n):</b>
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
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 Regarding Site Adequacy:**

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. No building permit records were available for the existing sewage disposal system. It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank and 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: Humboldt Avenue is a County-maintained road which is classified as a Local with an existing 20-foot right-of-way west of the centerline along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way west of centerline is 30 feet. Records indicate this section of Humboldt Avenue from McKinley Avenue to Clinton Avenue has an Average Daily Traffic (ADT) of 200, pavement width of 14.6 feet, a structural section of 0.25 feet AC, and is in excellent condition.

McKinley Avenue is a County-maintained road which is classified as a Local with an existing 30-foot right-of-way north of the section line along the parcel frontage, per Plat Book. The minimum width for a Local road right-of-way north of the section line is 30 feet. Records indicate this section of McKinley Avenue from Lake Avenue to Humboldt Avenue has an ADT of 200, pavement width of 15.7 feet, a structural section of 0.33 feet RMS, and is in good condition.

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. If not already present, ten-foot by ten-foot corner cutoffs should be improved for sight distance purposes at the exiting driveways at McKinley and Humboldt Avenues.

According to U.S.G.S. Quad Maps, there is a canal traversing the subject parcel. Typically, any improvements constructed near the canal should be coordinated with the owners of the canal.



According to FEMA, FIRM Panel 1525H, the subject parcel is not subject to flooding from the 1%-chance storm.

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's findings state that there is a canal running through the subject property that creates a burden on the overall usability of the property. The Applicant's findings further state there are other properties in the vicinity to the east of the project site where the canal acts as a boundary between parcels, and a number of these parcels contain less than 20 acres.

Staff concurs with the Applicant's assessment that the canal creates an exceptional circumstance on the parcel. While the canal does bisect other parcels in the area with the same zoning classification as the subject parcel, the nonlinear angle of the canal creates a unique circumstance on every property. In the case of this application, the canal runs parallel to the property lines for approximately 1,200 feet until it cuts at an angle near the western property line. There are approximately 13 acres north of the canal and approximately 25 acres south of the canal.

As discussed in "Background Information", Parcel 1 was originally created as lots 45, 46, 47, and 48 of the Fresno Irrigated Farms Co. Tract Subdivision. Lot 45 is completely north of the canal, which runs through the northern half of lot 46. Staff believes that the proposed division of Parcel B (10 acres) along the original lot 45 dimensions would allow for that parcel to be farmed as a single property. However, historically, this land has been farmed up to the point of the canal and staff estimates a loss of approximately 2 acres of farmland between the southern property line of the proposed Parcel B and the canal.

Staff cannot identify any exceptional circumstances relating to the creation of Parcel C (2 acres). The Zoning Ordinance (Section 816.5) contains several opportunities for the retention of homesites; however, this request does not qualify under those provisions. The first opportunity is to create the site as a financing parcel. Parcel C does not qualify since the Applicant has already built a home on the land. The second opportunity to create a homesite parcel is as a conveyance exclusively for the use of a person related to the owner by blood and only for persons involved in the farming operation. Creation of a gift parcel is further limited by the requirement that there is only one such lot per related person and no more than one lot per related person. Review of the deed for APN 015-071-79S shows that the Applicant was granted that property under those provisions in 1998 and may not be granted a second. Creation of a financing or gift parcel does not create a legally separate parcel. Another condition under which a homesite parcel may be created requires that the owner have owned the property prior to the adoption of the AE-20 Zone District on the property. As discussed in the background section, the property was zoned to AE-20 on August 31, 1976. The previous owner (Darlene Mendrin) released the property to ownership of the Darlene Mendrin Living Trust on August 14, 1998.

The Applicant notes that small parcels are common in the area, but a review of the Parcel Map shows that many of these APNs were created under provisions that do not grant the ability for the parcel to be sold separately, such as APN 015-091-54S which is a part of this application. The existing development on the property does not align with the parcel lines as defined by APN 015-091-54S and the proposed Parcel C would fully enclose that development. Currently, the

existing parcel has been developed only in this area and approval of this Variance would completely remove the residential use from the existing parcel.

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. There are other configurations for the split that would alleviate the effect of the canal on the owner’s ability to farm the parcel, such as a divide down the centerline of the canal, but these alternatives do not provide any significant variation to the analysis of the existing proposal.

**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.*

<b>Surrounding Parcels</b>				
	Size:	Use:	Zoning:	Nearest Residence*:
North	29.33 acres	Agriculture w/ single-family residence	AE-20	650 feet
East	38.48 acres	Agriculture w/ single-family residence	AE-20	85 feet
South	47.5 acres	Agriculture w/ single-family residence	AE-20	470 feet
Southwest	2.01 acres	Single-family residence	AE-20	25 feet
West	34.2 acres	Agriculture w/ single-family residence	AE-20	1,155 feet

\*Measured from the nearest property line

**Reviewing Agencies/Department Comments:**

Development Engineering: 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. A grading permit or voucher is required for any grading that maybe proposed with this application.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: Humboldt Avenue across the frontage of the parcels has 40 feet of road right-of-way, 20 feet on each side of the section line. Setbacks should be based on an ultimate right-of-



way along Humboldt Avenue of 30 feet. No additional right-of-way is needed for McKinley Avenue.

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

Zoning Section of the Fresno County Department of Public Works and Planning: There are no construction permit records for the buildings located on the project site.

**Analysis:**

In support of Finding 3, the Applicant’s Findings state that because the property would remain in the same use, it would not be materially detrimental to surrounding properties.

In regard to Finding 3, Staff concurs with the Applicant’s assessment. The size of Parcel A and Parcel B are sufficient to support the farming operations, and the proposed property lines for Parcel C surround the existing residence and shop building, memorializing the residential uses on the property.

However, staff would like to note that the approval of this Variance also permits an additional residence on Parcel A and on Parcel B. The addition of traffic trips from the two permitted homes would not be significant and Finding three 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.*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>General Plan Policy LU-A.6: County shall maintain 20 acres as the minimum permitted parcel size in areas designated Agriculture; the County may require parcel sizes larger than 20 acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</p>	<p>The subject property is designated Agriculture in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). Approval of this Variance request would allow the creation of two parcels with less than 20 acres. Staff believes that the proposed Parcel B (10 acres) would be consistent with this policy, but that the proposed Parcel C would not. 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</p>	<p>The minimum parcel size for the subject parcel is 20 acres. Staff believes that the proposed Parcel B (10 acres) would be consistent with this policy, but that the proposed Parcel C would not. See analysis below.</p>



Relevant Policies:	Consistency/Considerations:
<p>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 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> <ol style="list-style-type: none"> <li>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</li> <li>b. One of the following conditions exists: <ol style="list-style-type: none"> <li>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</li> <li>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 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</li> <li>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.</li> </ol> </li> </ol> <p>Each homesite created pursuant to this policy shall reduce by one (1) the number of residential units otherwise authorized on the remainder parcel created from the original parcel. The remainder parcel shall be entitled to no less than one residential unit.</p>	<p>Parcel A will have more than 20 acres and Policy LU-A does not apply. Parcel B will have 10 acres and will remain a viable farming unit. Homesite retention does not apply. See analysis below.</p> <p>The creation of Parcel C is not consistent with part “b” of this policy:</p> <ol style="list-style-type: none"> <li>1. The parcel is not being created as a financing parcel.</li> <li>2. The parcel is not being created as a gift deed. See analysis under Finding 1.</li> <li>3. The present owner (Darlene Mendrin, Trustee) was granted ownership of the property in 1998. The AE-20 Zone District was adopted for the area in 1976.</li> </ol>

## **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: The parcel is not located in a low-water area.

## **Analysis:**

In support of Finding 4, the Applicant states that the land will continue to be used for agricultural production and would not be contrary to the objectives of the General Plan.

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 above-mentioned policies support that goal and relate to this application.

Parcel A is more than 20 acres in size and is consistent with the General Plan. Parcel B is 10 acres in size; however, farming operations on this land have historically been separated from operations on the proposed Parcel A by the Sandridge Canal. The proposed property lines would prevent Parcel B from farming all the way up to the canal, and Staff estimates the area between the canal and the southern property line as between two and two and a half acres (approximately an 80-foot by 1,300-foot rectangle). This strip of land would be part of Parcel A, which contains 22.28 acres and is consistent with this policy. While it is possible that the owners of Parcel A may farm this area, this Variance is being processed to address the hardship of farming across the canal. Therefore, Staff considers that this area will become non-viable for agricultural production. However, since Parcel B is proposed as lot 45 of the original subdivision and Parcel A will have 20 acres of viable farmland, staff considers this part of the request consistent with LU-A.6 and LU-A.7. Since the creation of Parcels A and B will retain viable economic units, they are not subject to the provisions of LU-A.9, which relates to the creation of homesite parcels.

The creation of Parcel C would remove the existing residential use from the farming parcel and isolate it on two acres. While residential uses preclude the possibility of using this parcel as a viable farming unit, Staff would like to note that this does not provide a basis for exception, as defined by LU-A.7.

Removing this homesite from the existing parcel allows another home to be built by-right on Parcel A, increasing residential densities. Policy LU-A.7 specially notes that the creation of such parcels have the potential to conflict with agricultural uses on adjacent parcels. The original parcel was created with 40 acres, and under the current zoning, the Applicant would be permitted to build two houses by right. Approval of this Variance, when considering the Gift Deed parcel which was also split from this original lot (APN: 015-091-79S), will allow four homes to be built by right in this area, which is twice the intended density of the Zone District.

Based on Staff’s inability to find the creation of Parcel C consistent with the General Plan, 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. 4002.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 4002; 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. 4002, 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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# EXHIBIT 1

## Variance Application No. 4002 Conditions of Approval and Project Notes

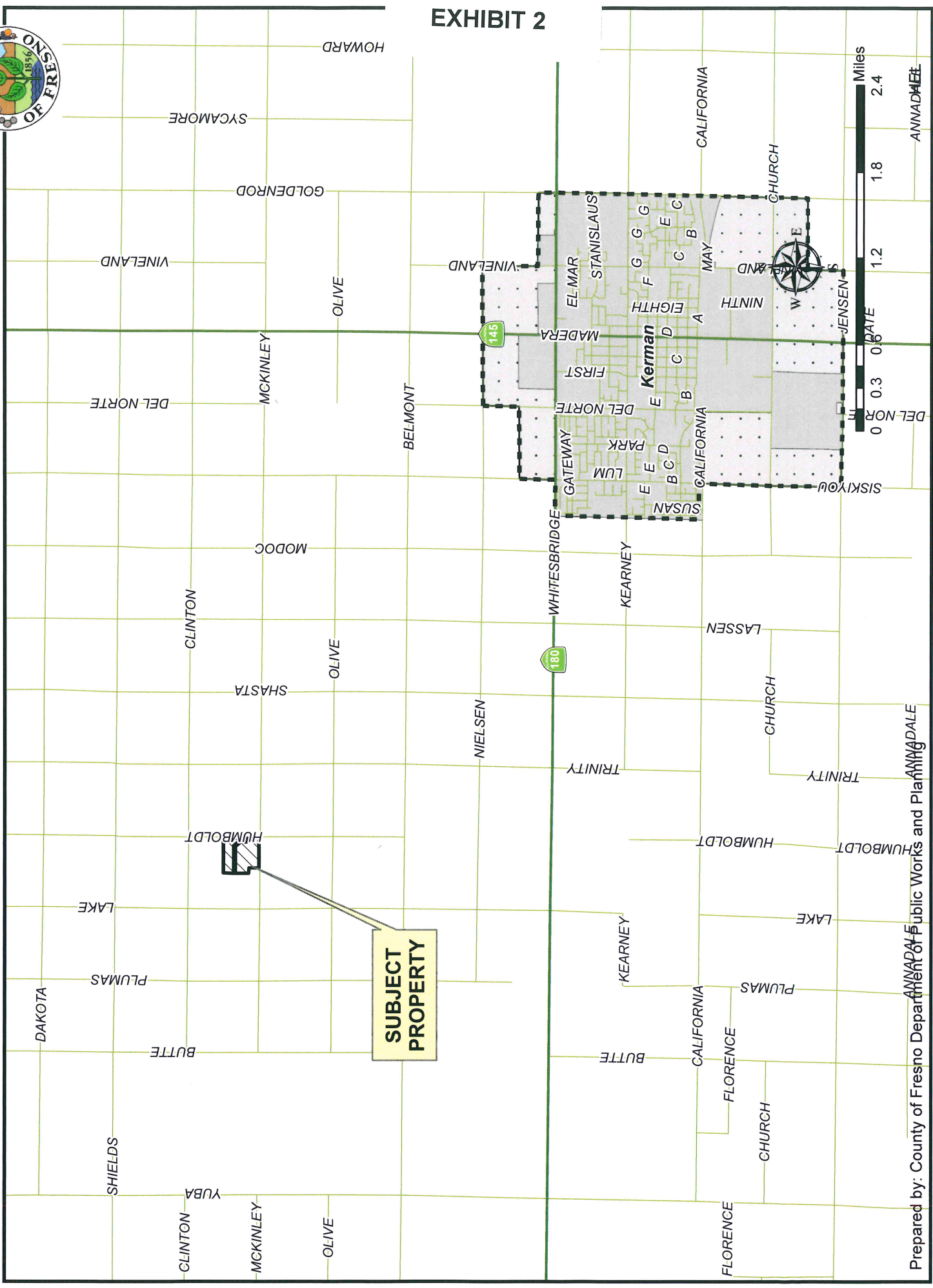
Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan approved by the Planning Commission.
Conditions of Approval reference recommended Conditions for the project.	
Notes	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
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 22.28-acre, a 10-acre, and a 2-acre parcel.
2.	Pre-Certificate of Compliance (PCOC) 31110 shall be released prior to completion of the Mapping Procedure.
3.	Setbacks for additional structures should be based on an ultimate right-of-way of 30 feet for McKinley Avenue.
4.	On-site turnarounds are required for vehicles leaving the site to enter the Arterial in a forward motion so that vehicles do not back out onto the roadway. No new access points are allowed without prior approval, and any existing driveway shall be utilized.
5.	10-foot by 10-foot corner cutoffs shall be improved for sight distance purposes at the exiting driveways onto Humboldt Avenue and McKinley Avenue.
6.	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).
7.	An Encroachment Permit shall be required from the Road Maintenance and Operations Division for any work performed within a County right-of-way.
8.	A grading permit or voucher may be required for any grading proposed with this application.



# EXHIBIT 2

## LOCATION MAP

VA 4002



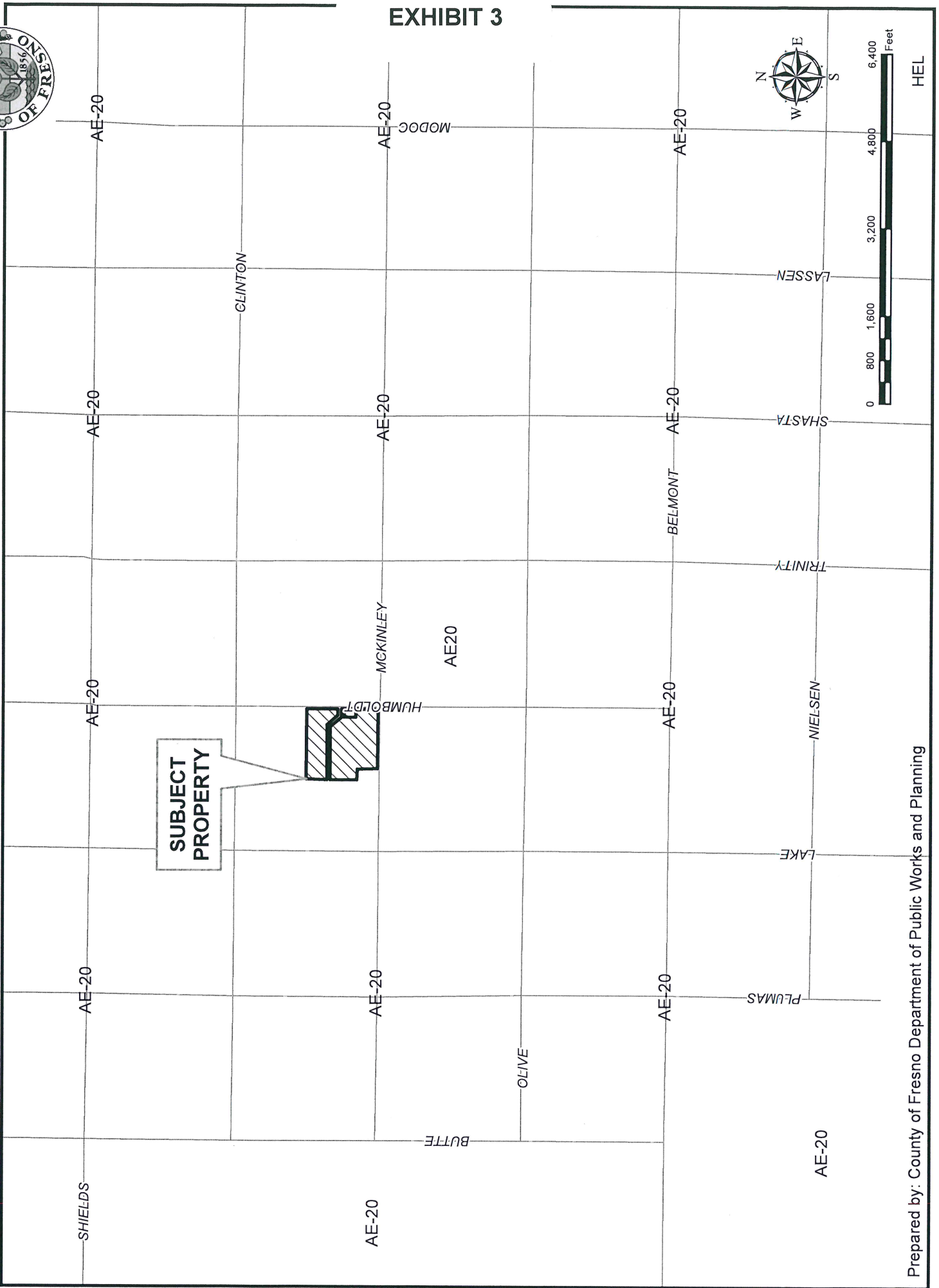
VA 4002

STR 28 - 13S/17E

# EXISTING ZONING MAP



## EXHIBIT 3





# EXISTING LAND USE MAP

VA 4002



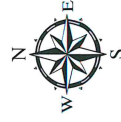
## EXHIBIT 4

### LEGEND

- CHU - CHURCH
- SF# - SINGLE FAMILY RESIDENCE
- V - VACANT
- VIN - VINEYARD

### LEGEND:

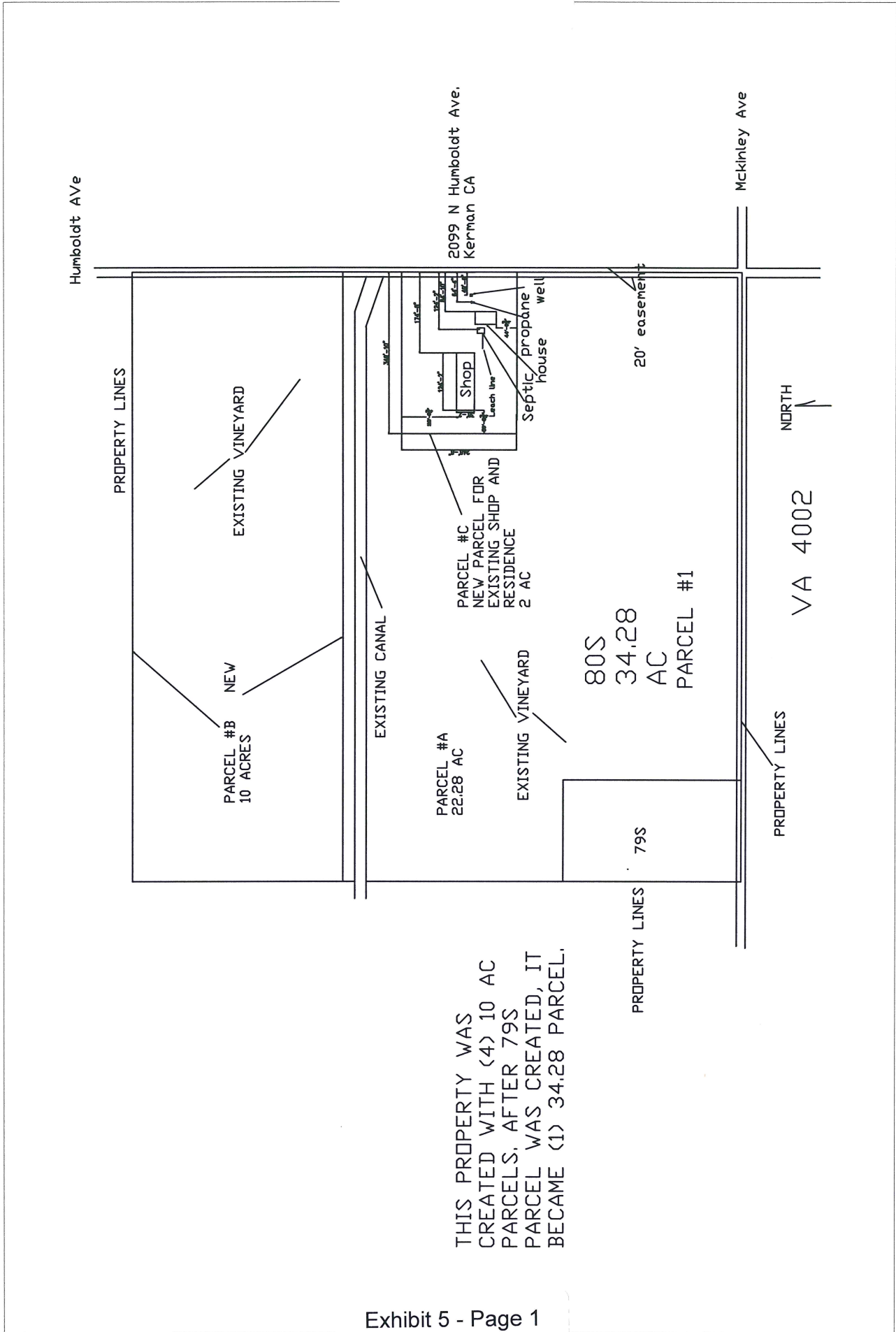
-  Subject Property
-  Ag Contract Land



Department of Public Works and Planning  
Development Services Division

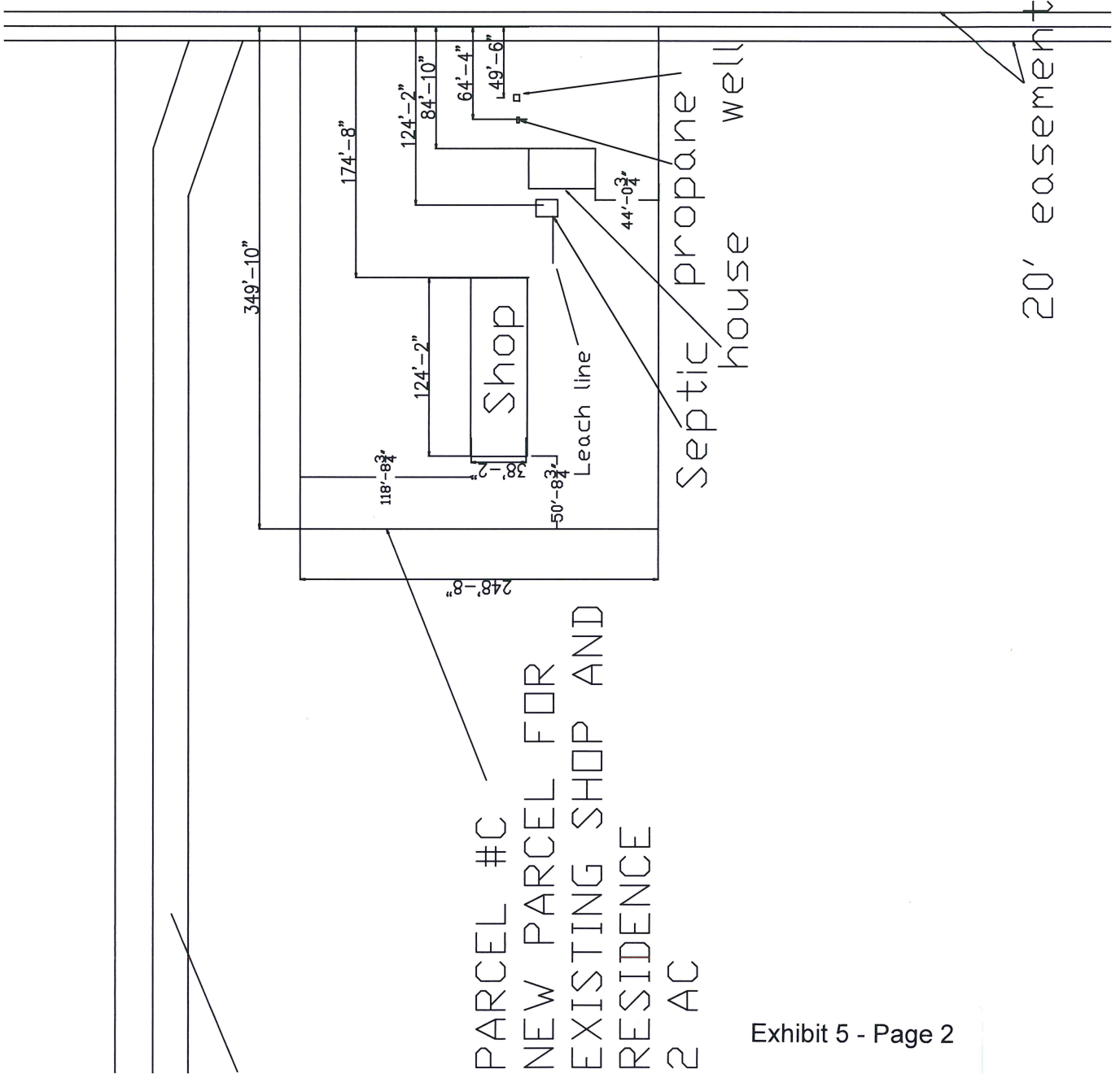


**EXHIBIT 5**



THIS PROPERTY WAS CREATED WITH (4) 10 AC PARCELS. AFTER 79S PARCEL WAS CREATED, IT BECAME (1) 34.28 PARCEL.

2099 N Humboldt Ave.  
Kerman CA



PARCEL #C  
NEW PARCEL FOR  
EXISTING SHOP AND  
RESIDENCE  
2 AC



## EXHIBIT 6

Pre-application review #38884

Parcel # 015-091-80S

Variance findings:

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

There is a canal south of the property running through 2 lots. The canal divides lots 45 and 46 with eleven acres on the original lot 45. This is a unique application creating a burden for the landowners on splitting the property.

- 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 classifications.

APN 53SDue east of the proposed above property, also has the canal running through its property. Properties 48S and 47 S have been affected by the canal and 47S has been created as a 10 acre parcel.

- 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.

The property would remain the same use, agricultural. No other improvements would be created on this site.

- 4) The granting of such variance will not be contrary to the objectives of the Fresno County general plan.

This variance will still abide with the objectives of Fresno county, it would continue to be used as an agricultural land producing area.