



# County of Fresno

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

## ADDENDUM

### **Planning Commission Staff Report Agenda Item No. 2 December 8, 2016**

**SUBJECT:** Variance Application No. 4002

Allow the creation of a 22-acre parcel and a 12.25-acre parcel (minimum 20 acres required) from an existing 34.25-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:**

- Approve 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	34.25 acres	Two parcels measuring approximately 22 acres and 12.25 acres
Project Site	34.25-acre parcel planted with raisin grapes; single-family residence; agriculture shop building	No new development proposed. Existing single-family residence and shop building to be located on Parcel A.
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 for the October 20, 2016 hearing, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance. Since the Planning Commission set the next hearing date as December 8, 2016 for this item as part of its motion to continue, it was not re-noticed to the public.

## **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:**

At the Planning Commission's regularly-scheduled hearing of October 20, 2016, the Commission approved a motion to continue this item to allow the Applicant time to revise the proposed configuration of parcels in order to achieve greater conformity with the General Plan. The original application proposed to allow the creation of three parcels in the AE-20 Zone District where two of the parcels (10 acres and 2 acres) were less than the minimum parcel size of 20 acres. The current request proposes to allow the creation of two parcels (12.25 and 22 acres). If approved, the canal which bisects the property would serve as the new property line between Parcel A (22 acres) and Parcel B (12.25 acres). A variance is required to allow the creation of the 12.25-acre parcel because the minimum parcel size is 20 acres.

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 an 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, two 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 the 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 Parcel 1 (APN 015-091-79S).

The APN map shows a parcel on the eastern edge of Parcel 1, which 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. Revisions to the project removed the request to create a two-acre parcel isolating these structures from the farming operation, and if this Variance is approved, they will remain on the proposed Parcel A (22 acres).

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 acres):</u> Front: ±500 feet Side (east): 85 feet Side (west): ±1,000 feet Rear: ±250 feet  <u>Parcel B (12.25 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
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 Section of the Fresno County Department of Public Works and Planning: 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 the 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 many properties. 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 eastern property line.

The Applicant has the right to farm his property without traversing the canal. The strict interpretation of the Zoning Ordinance prevents the Applicant from dividing the parcel around the canal because there is a minimum parcel size of 20 acres and the existing parcel contains 34.25 acres. If this Variance were granted, the Applicant would be allowed to create two parcels which could be farmed or sold independently of each other.

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 address the Applicant's right to farm the property as a single unit, but these alternatives do not provide any significant variation to the analysis of the existing proposal, and staff believes that the proposed division at the canal provides the best utility for the parcels as economic farming units.

**Recommended Conditions of Approval:**

See recommended Conditions of Approval attached as Exhibit 1.

**Conclusion:**

Findings 1 and 2 can 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 Section of the Fresno County Department of Public Works and Planning: 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 separate farming operations, as they have historically done.

However, staff would like to note that the approval of this Variance also permits the by-right construction of an additional residence on Parcel B, since parcels are always entitled to at least one home. The addition of traffic trips from the additional home 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>
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.	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 a parcel with less than 20 acres. Staff believes that the proposed Parcel B (12.25 acres) would be consistent with this policy. See analysis below.
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.	The minimum parcel size for the subject parcel is 20 acres. Staff believes that the proposed Parcel B (12.25 acres) would be consistent with this policy. See analysis below.

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<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>	<p>Parcel A will have more than 20 acres and Policy LU-A does not apply. Parcel B will have 12.25 acres and will remain a viable farming unit. Homesite retention does not apply. See analysis below.</p> <p>The Applicant’s original proposal included a homesite parcel, but this provision is no longer relevant with the current revision. As such, the full text of Policy LU-A.9 is not included in this Report.</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: 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.

Policy LU-A.6 relates to the required zoning of agricultural land. The current application is requesting a Variance from this requirement, but since there is no rezoning of land to a smaller minimum acreage, this application is consistent with this policy.

LU-A.7 relates specifically to variance requests to create parcels with less than the minimum parcel size required by LU-A.6. The intention of LU-A.7 is to reduce conflict between residential and agricultural uses and maintain viable economic farming units within Fresno County. Parcel A is more than 20 acres in size and is consistent with the General Plan. Parcel B is 12.25 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 allow the owner of Parcel B to farm all the way up to the canal, consistent with the existing use of the property. While approval of this Variance would allow an additional residence to be built on Parcel B, since all parcels are entitled to one home by right, approval would not reduce the viability of the parcel and the proposal is consistent with this policy.

Since Parcels A and B will remain viable economic units, they are not subject to the provisions of LU-A.9, which relates to the creation of homesite parcels.

Based on the above analysis, staff can make Finding 4.



**Recommended Conditions of Approval:**

None.

**Conclusion:**

Finding 4 can be made.

**PUBLIC COMMENT:**

None.

**CONCLUSION:**

Staff believes the required Findings for granting the Variance can be made based on the factors cited in the analysis. Staff therefore recommends approval of Variance No. 4002.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to determine the required Findings can be made 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.

**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. 4002; 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. 4002  
Conditions of Approval and Project Notes

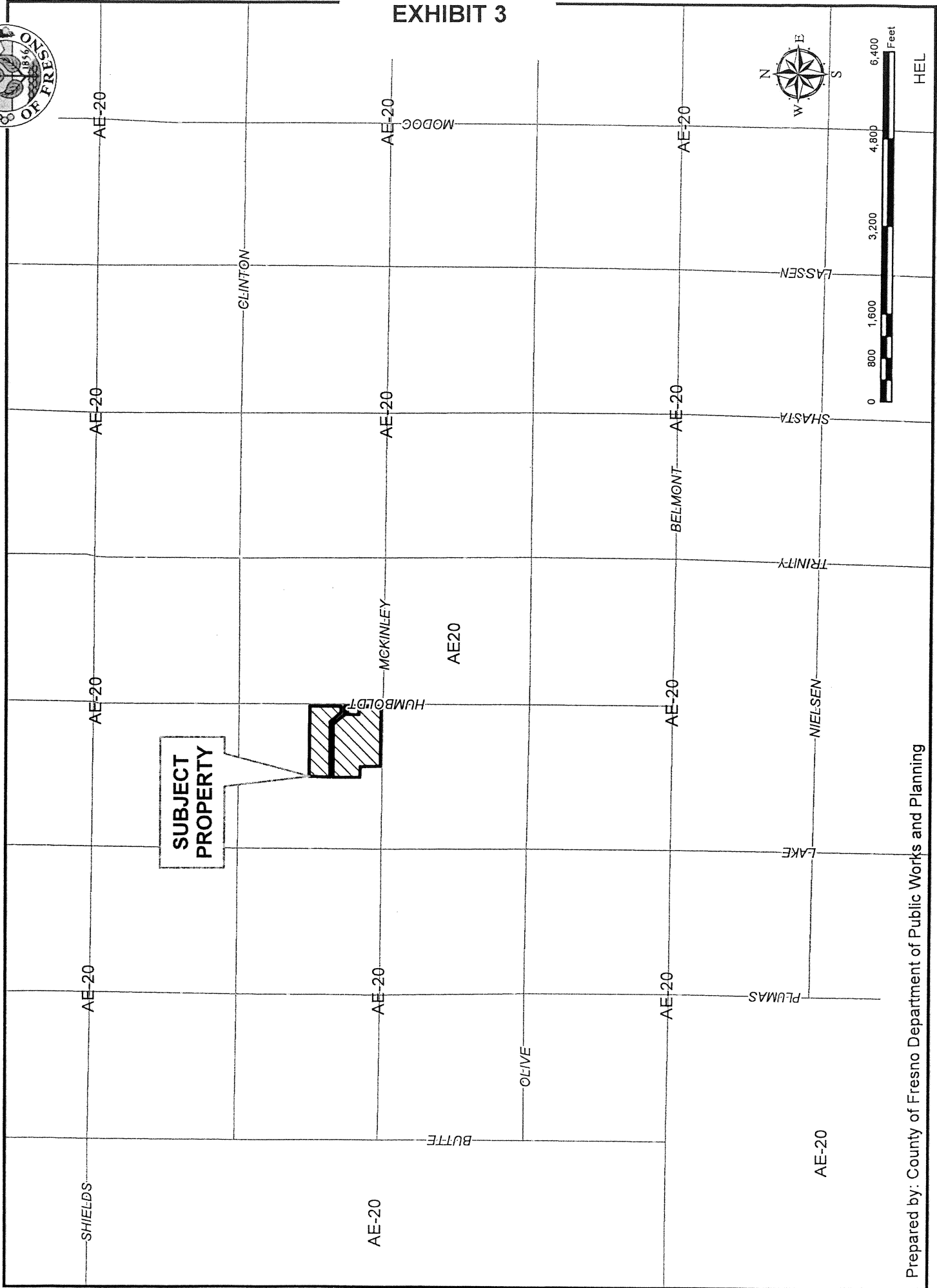
Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan approved by the Planning Commission.
Conditions of Approval reference recommended Conditions for the project.	
Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies 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 22-acre and a 12.25-acre parcel.
2.	Pre-Certificate of Compliance (PCOC) 3110 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.



# EXISTING ZONING MAP



## EXHIBIT 3



SUBJECT  
PROPERTY

# EXISTING LAND USE MAP

VA 4002



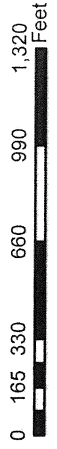
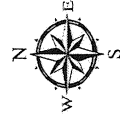
## EXHIBIT 4

### LEGEND

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

### LEGEND:

-  Subject Property
-  Ag Contract Land



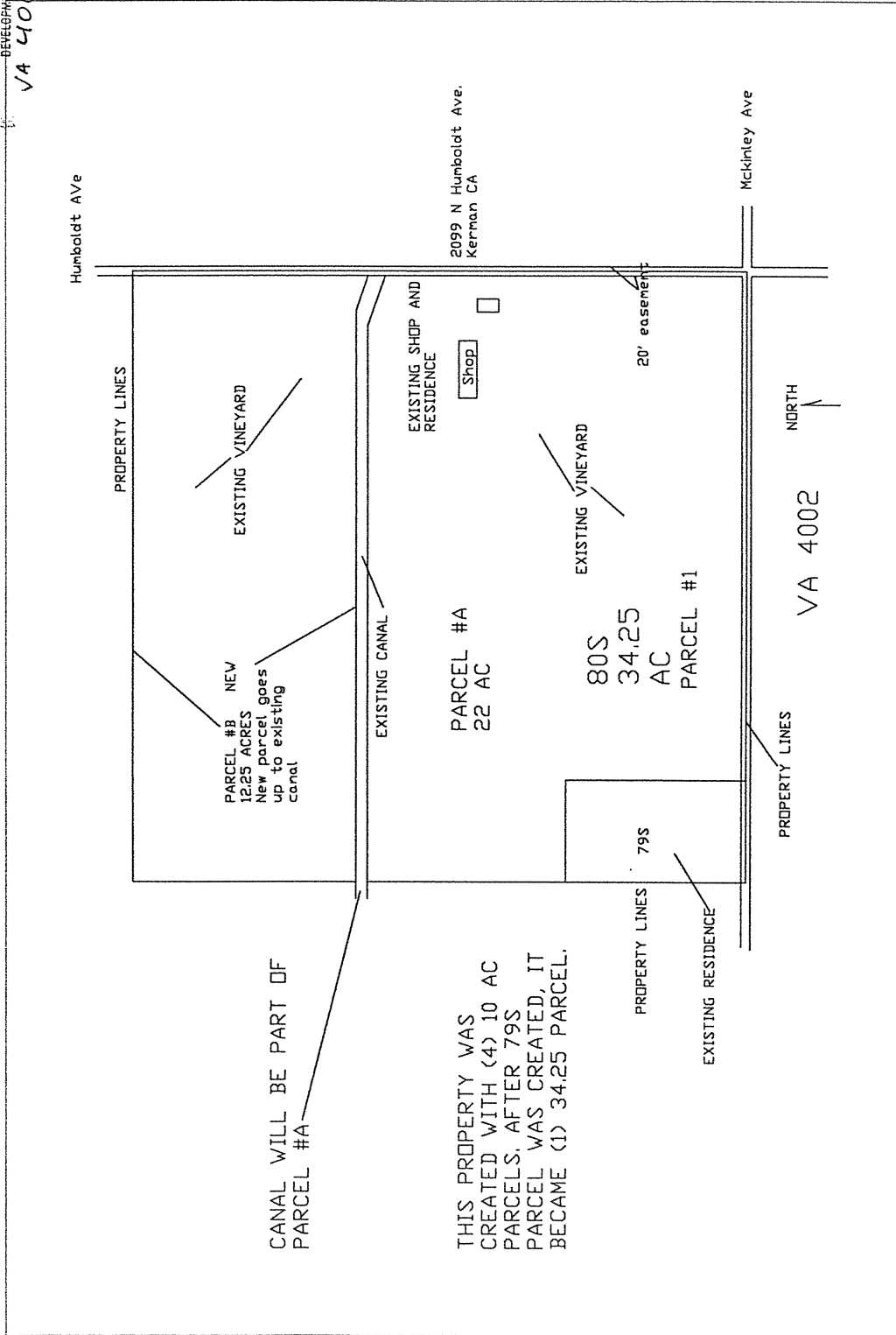
Department of Public Works and Planning  
Development Services Division



EXHIBIT 5

RECEIVED  
COUNTY OF FRESNO  
NOV 17 2016

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION  
VA 4002



CANAL WILL BE PART OF  
PARCEL #A

THIS PROPERTY WAS  
CREATED WITH (4) 10 AC  
PARCELS. AFTER 79S  
PARCEL WAS CREATED, IT  
BECAME (1) 34.25 PARCEL.

## 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.