



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 6 October 20, 2016

SUBJECT: Variance Application No. 3990 and Director Review and Approval Application No. 4454

Allow the creation of three parcels (minimum 20 acres in size where minimum 40 acres is required) from an existing 63.65-acre parcel without public road frontage (minimum 165 feet required), and allow an existing residence to remain as a permanent second residence on one of the resulting parcels in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the east side of N. Madsen Avenue alignment approximately 3,665 feet north of its intersection with Tollhouse Road and 5.2 miles east of the nearest city limits of the City of Clovis (11214, 11268, 11272 N. Madsen Avenue, Clovis) (SUP. DIST. 5) (APN 150-031-27).

**OWNERS/
APPLICANTS:** Vern Pletz/Herb Falk/Chris Falk

STAFF CONTACT: Ejaz Ahmad, Planner
(559) 600-4204

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Deny Variance Application No. 3990;
- Deny Director Review and Approval Application No. 4454; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

DEVELOPMENT SERVICES DIVISION

2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 FAX 600-4200
Equal Employment Opportunity • Affirmative Action • Disabled Employer

EXHIBITS:

1. Conditions of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Proposed Parcel Configuration (Site Plan)
6. Approved Variances within One-Mile Radius
7. Applicants' Statement of Variance Findings
8. Floor Plans/Elevations/Photographs of Existing Residences on the Proposed Parcel 1

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Eastside Rangeland in the Sierra-North Regional Plan	No change
Zoning	AE-40 (Exclusive Agricultural, 40-acre minimum parcel size)	No change
Parcel Size	63.65 acres	22.77 acres (Parcel 1) 20.87 acres (Parcel 2) 20.01 acres (Parcel 3)
Project Site	<ul style="list-style-type: none"> • 2,647 square-foot Single-Family Residence • 2,998 square-foot Single-Family Residence • 4,047 square-foot Single-Family Residence • Detached garages, barns, shade structures, arena, storage structure, well, perimeter fencing 	No change
Structural Improvements	<ul style="list-style-type: none"> • 2,647 square-foot Single-Family Residence • 2,998 square-foot Single-Family Residence • 4,047 square-foot Single-Family Residence • Detached garages, barns, shade structures, storage structure 	No change
Nearest Residence	1,195 feet east of the proposal	No change

Criteria	Existing	Proposed
Surrounding Development	Second residence	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential	No change
Lighting	Residential	No change
Hours of Operation	N/A	N/A

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

ENVIRONMENTAL ANALYSIS:

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

PUBLIC NOTICE:

Notices were sent to 10 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 873-F are made by the Planning Commission.

The decision of the Planning Commission on a VA Application is final, unless appealed to the Board of Supervisors within 15 days of the Commission's action.

A Director Review and Approval (DRA) Application may be approved only if four Findings specified in Zoning Ordinance Section 872.C necessary for granting of a DRA are made. The four Findings for DRA approval include: adequacy of site, streets and highways; no detrimental effects on neighboring properties; and project compliance with the General Plan. Variance applications are required to be brought before the Commission for consideration, however, most DRA applications are not. The Zoning Ordinance provides that the Director, at his discretion, may refer a DRA Application directly to the Planning Commission for a public hearing and decision. In this case, both Applications (VA and DRA) are being brought before the Commission for consideration, as they represent an inter-related request for a single project.

BACKGROUND INFORMATION:

County records indicate that the subject 63.56-acre property was zoned A-1 (Agricultural District, 36,000 square-foot minimum parcel size) on September 25, 1962. On April 21, 1980

the subject property and several other properties in the area were rezoned (Amendment Application No. 3140) from the A-1 Zone District to an AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District. The current zoning on the property is AE-40.

The proposed Parcel 1 contains a 2,647 square-foot single-family residence and a 2,998 square-foot single-family residence, built in 1999/2000 and 2001/2002, respectively. Additional improvements on the parcel include barns, storage structures, shade structures, detached garage, trailers, water well and swimming pool built during various time periods. The proposed Parcel 2 contains a 4,047 square-foot single-family residence built in 1998. Related improvements on the parcel include a barn, detached garage, shade structures, swimming pool and water well. The proposed Parcel 3 is undeveloped with no improvements. A private road serves the parcels and connects to Madsen Avenue at the southwest corner of the property.

A Variance Application is required to allow the creation of three parcels (22.77 acres, 20.87 acres, 20.01 acres) as separate legal parcels in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District from the subject 63.65-acre parcel. The proposed parcelization will allow two existing residences on the proposed Parcel 1 (22.77 acres), thereby generating the need for the subject DRA Application, and one existing residence on the proposed Parcel 2 (20.87 acres). Parcel 3 (20.01 acres) will have no improvements. Should this Variance be approved, a subsequent Parcel Map Application would be required to create the subject parcels as separate legal parcels for sale, lease or financing.

County Zoning Ordinance Section 816.1 allows for one residence by right and one residence through Director Review and Approval on AE-zoned properties. In this instance, a DRA Application is required to allow the smaller of the two residences to remain as a permanent second residence on Parcel 1, subject to meeting the requirements of Zoning Ordinance Section 872. The subject Director Review and Approval (DRA) Application No. 4454 has been filed to recognize and permit the existing second residence on the property, and Variance Application (VA) No. 3990 has been filed to allow the parcelization of the subject property.

It should be noted that the Commission should take action on both Applications together. Since the DRA request is connected to the Variance request, denial of the VA will automatically deny the DRA request. Approval of both Applications will allow three substandard-size parcels in the AE-40 Zone District and one parcel (Parcel 1) with two single-family residences. Both Applications are subject to the Conditions of Approval and mandatory project requirements included as Project Notes in Exhibit 1 of this report.

Regarding the VA, one parcel-size Variance Application was filed within a one-mile radius of the subject property (see Exhibit 6). Staff notes that every variance is considered on its own merit, based upon the four required Findings and physical circumstances of the property. The following table provides a brief summary of the Variance request, staff recommendation, and final action:

Application/Request:	Date of Action:	Staff Recommendation:	Final Action:
VA No. 3765: Allow the creation of a 20.98-acre parcel (minimum 40 acres required) from a 24.25-acre parcel as a result of a property line adjustment between three existing parcels totaling 28.11 acres in the AL-40 District	Planning Commission August 14, 2003	Approval (All four Findings could be made by Staff)	Approved

The following analysis addresses each of the required Findings for Variance Application (VA) No. 3990 and Director Review and Approval (DRA) No. 4454:

ANALYSIS/DISCUSSION - VARIANCE APPLICATION NO. 3990

Findings 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; and

Findings 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.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	No change to existing setbacks	Parcel 1: Yes Parcel 2: Yes Parcel 3: Yes
Parking	No requirement for residential development	No change	N/A
Lot Coverage	No Requirement	N/A	N/A
Separation Between Buildings	No animal or fowl pen, coop, stable, barn, or corral shall be located within 40 feet of any dwelling or other building used for human habitation.	N/A	N/A
Wall Requirements	Height of perimeter fence or wall shall be determined by the Board in relation to the danger or hazard involved (Section 855-H)	Parcel 1: No change Parcel 2: No change Parcel 3: No change	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agencies/Department Comments:

Zoning Section of the Fresno County Department of Public Works and Planning: AE-40 Zone District requires a minimum parcel size of 40 acres and a minimum public road frontage of 165 feet. A Variance is required to waive these requirements.

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

Analysis:

In support of Finding 1, the Applicants state that several parcels in the vicinity of the proposal are less than 20 acres in size; the site has not been farmed and therefore will not remove productive agricultural land; and the site is developed with single-family residences and related improvements. The Applicants regard these as exceptional circumstances that do not generally apply to other AE-40-zoned properties in the vicinity of the proposal.

In support of Finding 2, the Applicants state that they have a right to be granted the same ability to use their property as others have under the same zone district in the vicinity of the proposal. Variances have been granted to other properties less than 20-acres in size in the vicinity, and the existing improvements on the property will remain unchanged and unaffected by this proposal.

In order to make Findings 1 and 2, an extraordinary circumstance relating to the property that does not apply to other properties in the same zone classification and the preservation of a substantial property right must be demonstrated.

Background information in the Applicants' Findings states that the underlying land on which all three existing single-family residences are located are jointly owned by Plitz and Falk families. The current joint ownership is hindering the owners' ability to convey and finance the existing homes.

With regard to Finding 1, staff notes that although the Applicants have cited other properties in the area less than 20 acres in size, information indicating shape or topography or other unusual exceptional circumstance in relation to the subject 63.65-acre project site has not been provided. Staff notes that with the exception of one parcel noted in the "Background Information" of this report, all other substandard-sized parcels within a one-mile radius of the subject property were not created by variances. Many of these parcels, however, were presumably created prior to September 25, 1962 when the area was zoned A-1 (Agricultural District). The previous A-1 Zone District allowed parcels as small as 6,000 square feet in June 8, 1960 (Ordinance No. 490) to 2.29 acres in November 19, 1968 (Ordinance No. 490.52). Upon analyzing the site aerial photo, the proposed parcelization (Site Plan) and comments from reviewing agencies, staff has concluded that there are no physical circumstances or constraints that justify the need for this Variance. There are no elevation changes, rock outcroppings, wetlands, and/or public easements that create significant hardships for the Applicants.

The Applicants' argument in reference to the existence of other smaller parcels in the area, the subject property being unfarmed and developed with single-family residences, coupled with the need to create separate lots for future conveyances and financing of the homes, is not a physical characteristic demonstrating a circumstance which merits the requested parcel configuration proposed with the Variance request, and as such does not support meeting

Finding 1. Staff also believes the proposal does not give validity to the loss of substantial property right to support meeting Finding 2, in that denial of this Variance request would not necessarily deprive the Applicants of any right enjoyed by other property owners in the AE-40 Zone District since all property owners in said District are subject to the same development standards.

In reference to the above discussion, the following facts should also be considered:

The project site is currently zoned AE-40 (Limited Agricultural, 40-acre minimum parcel size) in the County Ordinance and is surrounded by lands devoid of farming activities and ranging in size from 20 acres to 160 acres. Adjacent parcels to the east and south are developed with single-family residences and range from 19.7 acres to 40 acres in size. The proposed parcels are comparable in size and use to other parcels in the area.

This Application also involves waiving of public road frontage requirements for the proposed parcels per the development standards of the AE-40 Zone District which require a minimum 165 feet of public road frontage. The subject 63.65-acre parcel is served by a public road (Madsen Avenue). Access to the site and to all three homes on the property is provided by a paved private road which connects to Madsen Avenue to the south of the property. This private road will continue to provide access to the proposed parcels and will be improved according to the parcel map requirements. As such, waiving of the public road frontage requirements for this proposal will not result in any changes to the current access to the property.

A consideration in addressing Findings 1 and 2 is whether there are alternatives available that would avoid the need for the Variance. Given the circumstances described by the Applicants in “Applicants’ Findings” (Exhibit 7), there appears to be no other alternative that would meet the Applicants’ desire to create a 22.77-acre, 20.87-acre and 20.01-acre parcel without public road frontage and meet the lot size required of the AE-40 Zone District.

Based on the above analysis and considering the lack of a physical circumstance warranting the proposed parcel configuration and loss of a substantial property right, staff believes Findings 1 and 2 cannot be made.

Recommended Condition of Approval:

None

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:	156.3 acres	Vacant	AE-40	None
South:	20 acres	Vacant	AE-40	None

Surrounding Parcels				
East:	19.7 & 39.4 acres	Single-Family Residences	AE-40	1,195 feet
West:	160 acres	Single-Family Residence	AE-40	2,712 feet

Reviewing Agencies/Department Comments:

Development Engineering Section of the Fresno County Department of Public Works and Planning: 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 22.77-acre, a 20.87-acre and a 20.01-acre parcel. The Map shall comply with the requirements of Title 17.72 and may include dedication, acquisition of access easement, roadway improvements, and roadway maintenance.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: The access easement provided for the new parcels shall be a minimum of 60 feet wide and be acquired prior to approval of a parcel map. The access easement shall be improved to a standard necessary to meet the needs of the users and to a standard acceptable to the fire district serving the area. The users of the access easement should sign a covenant agreeing to maintain their proportionate share of the access easement to the appropriate standards. If a gate is provided on the private road, it shall include a Knox box or other appropriate means of access as approved by the fire district serving the area. Note: These requirements will be satisfied through Parcel Map application and have been included as Project Notes in Exhibit 1 of this report.

Building and Safety Section of the Fresno County Department of Public Works and Planning: Plans, permits and inspections may be required for the existing structures that may be impacted by the Variance, including retaining walls and other site improvements.

San Joaquin Valley Air Pollution Control District; Fresno County Department of Agriculture; Water/Geology/Natural Resources Section, Building and Safety Section, and Design Division of the Fresno County Department of Public Works and Planning: No comments.

Analysis:

In support of Finding 3, the Applicants state that the granting of the Variance will not be detrimental to surrounding properties. The project site is developed with single-family homes provided with separate water wells and septic systems. Furthermore, the Variance will not change the intensity or the current use of the property; the proposed parcels will be provided with access to a public road; and will not hinder or impact agricultural operations on surrounding lands.

Staff notes that the subject parcel is located in an area devoid of farming activities. Most parcels in the area are unfarmed and developed with single-family residences. No distinctive scenic vista or scenic resources exist in the vicinity of the proposal. If approved, no change to the existing improvements on the resulting parcels would occur, as they will remain in residential use without any foreseeable impact on surrounding properties.

Staff notes that the granting of this Variance may result in the establishment of a single-family residence through Director Review and Approval (DRA) on Parcel 2 and one primary residence by right and one secondary residence through DRA on Parcel 3. However, such uses are not

incompatible with the existing residential use on farmland in the vicinity of the proposal. In regard to future development on Parcel 3, the Applicants have offered compliance with a Condition of Approval which would require no homes to be built on Parcel 3. A Condition of Approval stipulating this has been included in Exhibit 1 of this report.

Considering the compatibility of the existing uses with the surrounding area and with the proposed parcel configuration and adherence to the Condition of Approval and mandatory Project Notes, the proposal would not be materially detrimental to the properties and improvements in the area. Finding 3 can be made.

Recommended Conditions of Approval:

See Conditions of Approval and mandatory Project Notes attached as Exhibit 1.

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>Sierra-North Regional Plan-Policy 6.02 (a)(1) states that the minimum lot size shall be 40 acres, and part (d) lists exception to the minimum parcel size as follows: 1) a lot less than 40 acres is required for financing a residence to be owned and occupied by the owner of the abutting property; 2) the lots to be created are intended to be conveyed exclusively for use by a person related to the owner by adoption, blood, or marriage, within the third degree of consanguinity, there is only one lot per related person, and there is no more that one conveyance per each 10 acres; or 3) the present owner owned the property at the time of implementation of the policies and wished to retain his home site and sell the remaining acreage for grazing or other agricultural purposes.</p>	<p>The subject property is designated Eastside Rangeland in the Sierra-North Regional Plan and is zoned AE-40, requiring minimum parcel size to be 40 acres. The proposed parcels are less than 40 acres in size and do not constitute financing parcels, are not intended to be conveyed for use by a person related to the owner, nor were they owned by the property owners prior to the date the policies were implemented. The proposal does not qualify for Policy 6.02 (a)(1) or (d) 1. 2.</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. Policy 6.02 (a)(1) requires the minimum lot size to be 40 acres unless a lot less than 40 acres is a financing parcel, parcel for conveyance to a relative for agricultural operation, or owned by the property owner prior to the date the policies were implemented.

Analysis:

In support of Finding 4, the Applicants state that the subject 63.65-acre parcel is not part of any viable agricultural operation, the existing improvements on the parcel have had no impact on farming in the area, site soil characteristics are unsuitable for farming and no irrigation district

serves the site. Furthermore, if the property converts from its current residential use to a farming use, the 20-acre parcel size will be a viable agricultural unit.

The subject property is designated Eastside Rangeland in the Sierra-North Regional Plan of Fresno County and is zoned AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) in the County Zoning Ordinance. The subject proposal is inconsistent with Sierra-North Regional Plan Policy 6.02 (a)(1) which requires minimum parcel size to be 40 acres. The proposal is also inconsistent under the exceptions granted by the policy and discussed above.

As a point of note, staff does concur with the Applicants on the fact that the subject property has not previously been farmed, but used for limited grazing in past years (as noted by the Applicants), is in a low-water area, and is not served by any irrigation district. Staff also notes that the property is surrounded by lands devoid of farming activities.

Recommended Conditions of Approval:

None

Conclusion:

Finding 4 cannot be made.

CONCLUSION:

Based on the factors cited in the analysis, staff is unable to make Findings 1, 2, and 4. Therefore, staff recommends denial of Variance No. 3990.

ANALYSIS/DISCUSSION - DIRECTOR REVIEW AND APPROVAL APPLICATION NO. 4454

Finding 1: The site is adequate in size and shape to accommodate the proposed use

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	Parcel 1 Front (south property line): 1,405 feet Side (east property line): 228 feet Side (west property line): 348 feet Rear (south property line): 580 feet	Yes
Parking	No requirement for residential development	No change	N/A
Lot Coverage	No Requirement	N/A	N/A
Separation Between Buildings	No animal or fowl pen, coop, stable, barn, or corral shall be located	N/A	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (y/n):
	within 40 feet of any dwelling or other building used for human habitation.		
Wall Requirements	Height of perimeter fence or wall shall be determined by the Board in relation to the danger or hazard involved (Section 855-H)	Parcel 1: No change	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

Reviewing Agency/Department Comments:

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

Analysis:

The proposed second residence on the proposed Parcel 1 sits approximately 1,405 feet from the south property line (35 feet required), 228 feet from the east property line (20 feet required) 348 feet from the west property line (20 feet required), and 580 feet from the north property line (20 feet required). The said residence meet setbacks required of the AE-40 Zone District and meets the parking requirement of the Ordinance Code, Section 855-N, and the AE-40 Zone District.

Based on the above consideration, the project site is adequate in size and shape to accommodate the proposed second residence.

Recommended Condition of Approval:

None

Conclusion:

Finding 1 can be made.

Finding 2: *Streets and Highways are adequate in width and size to accommodate the proposed use*

Description		Existing Conditions	Proposed Operation
Public Road Frontage	Yes	Madsen Avenue	N/A
Direct Access to Public Road	Yes	Madsen Avenue	N/A
Road Average Daily Traffic (ADT)		N/A	N/A
Road Classification		Local	No change
Traffic Trips		Residential traffic	No change
Traffic Impact Study (TIS) Prepared	No	Residential traffic	Not required
Road Improvements Required		No	No change to Madsen Avenue

Reviewing Agency/Department Comments:

Development Engineering Section of the Fresno County Department of Public Works and Planning: The subject parcel is located within the State Responsibility Area (SRA). Any future developments shall be in accordance with the applicable SRA Fire Safe Regulations as they apply to driveway construction and access. Also see comments included in Finding 3 of VA No. 3990.

Road Maintenance and Operations/Design Divisions of the Fresno County Department of Public Works and Planning: See comments included in Finding 3 of VA No. 3990.

Analysis:

Madsen Avenue leads to the subject property, and is a paved Local road maintained by the County. The existing improvements on the property are currently served by a private road. This private road will continue to provide access to proposed parcels and will require improvements according to the requirements of the Parcel Map to accommodate the proposal. The proposed second residence on Parcel 1 is an existing residence and therefore will not generate any additional traffic to the site.

Based on the above consideration and adherence to mandatory Project Notes, staff believes that Madsen Avenue is adequate in size and pavement type to accommodate the proposed use.

Recommended Condition of Approval:

See mandatory Project Notes attached as Exhibit 1.

Conclusion:

Finding 2 can be made.

Finding 3: *The proposed use will have no adverse effects upon surrounding properties.*

See analysis above in the **ANALYSIS/DISCUSSION - VARIANCE APPLICATION NO. 3990** table of this staff report.

Reviewing Agency/Department Comments:

Zoning Section of the Fresno County Department of Public works and Planning: A Director Review and Approval is required to allow an existing residence to remain as a permanent second residence on the proposed Parcel 1. Building permits shall be required for the two existing storage buildings, one barn/shed, one garage, one shed, and 15 shed structures on the property.

Fresno County Department of Public Health, Environmental Health Division: It is recommended that the Applicants consider having the septic tanks pumped, and have the tanks and leach fields 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.

Development Engineering Section of the Fresno County Department of Public Works and Planning: According to FEMA, FIRM Panel 1070H, portions of the subject parcel are in Flood Zone A, which is subject to flooding from the one-percent-chance storm. Any development within the area identified as Zone A must comply with the County Flood Hazard Ordinance (Title 15.48). The U.S.G.S. Quad Map shows that the Dry Creek Canal is near the north westerly property line of the subject parcel and Sales Creek is near the south easterly property line of the subject parcel. Any improvements constructed near the canal shall be coordinated with the owners of the canal.

San Joaquin Valley Air Pollution Control District; Design Division and Building and Safety Section of the Department of Public Works and Planning; Fresno County Department of Agriculture: No concerns with the proposal

Analysis:

According to site and aerial photographs, the subject property is located in an area comprised of open fields with sparse single-family residences. Floor plans, elevations and photographs of the primary and secondary residential units show that the two units are complementary and compatible with surrounding land uses. The primary residence (existing) is a conventional home with beige-colored stucco siding and a light brown-colored tile roof, and the proposed second residence (existing) is also a conventional residence with beige-colored stucco siding and a light brown-colored tile roof. The nearest residence is approximately 526 feet east of the proposed second residence on the proposed Parcel 2. The primary residence on Parcel 1 is approximately 140 feet south of the proposed second residence. Overall, visibility concerns are minimal due to the distances between improvements on the properties.

The primary residence is 2,998 square feet and the proposed secondary residence is 2,647 square feet in size. Since the second residence exceeds the 2,000 square-foot size limit for homes on parcels over two acres in size, no increase in the size of the secondary residence is allowed at this time, and in the event of destruction, one of the two residences cannot be built to exceed 2,000 square feet. This requirement has been included as a Condition of Approval in Exhibit 1 of this report.

Based on the above consideration and with adherence to the aforementioned requirement included as mandatory Project Notes, staff believes that the proposal will not have an adverse effect upon surrounding properties.

Recommended Conditions of Approval:

See mandatory Project Notes attached as Exhibit 1.

Conclusion:

Finding 3 can be made.

Finding 4: General Plan Consistency

Relevant Policies:	Consistency/Considerations:
Policy LU-H.4: County shall allow second dwellings, not to be sold as a separate unit, subject to a discretionary permit in areas designated for low-, medium-, and medium-high-density residential use, rural residential use, and agricultural or rangeland use. Also, the second dwelling shall be clearly subordinate in size to the primary dwelling.	The proposed DRA is a discretionary permit to allow the proposed second residence. A Covenant will require that one of the two residences shall be occupied by the property owner and thereby cannot be sold separately. The proposed secondary dwelling is 2,647 square feet and the primary residence is 2,998 square feet in size.
Policy PF-D.6: County shall permit on-site sewage disposal systems on parcels that have the area, soils and other characteristics that permit installation of such systems without threatening groundwater quality or posing health hazards.	This proposal was routed to the Fresno County Health Department's Environmental Health Division which expressed no concerns with the existing sewage disposal system for existing residences on the property, except that such system should be evaluated for possible repairs, additions, or proper destruction of the system.
Policy PF-C.17: In order for a DRA to be approved, adequate water quantity must be approved by the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning.	The property is not located in a water-short area of Fresno County. The Fresno County Water/Geology/Natural Resources Section reviewed the Application and expressed no concerns with the proposal.

Reviewing Agency/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject property is designated Eastside Range in the Sierra-North Regional Plan. Policy LU-H.4 requires second dwelling units not to be sold as a separate unit, be subject to a discretionary permit and be clearly subordinate in size to the primary dwelling. Policy PF-D.6 requires soils and other characteristics to permit installation of on-site sewage disposal systems without threatening groundwater quality. Policy PF-C.17 requires water availability and sustainability for the use. The subject property is not restricted under an Agricultural Land Conservation Contract.

Analysis:

California State Law mandates that opportunities for second dwellings be provided within residential zone districts. On May 24, 1983 the Fresno County Ordinance Code was amended to provide second residence opportunities within Residential and Agricultural Zone Districts, subject to an approved Director Review and Approval and subject to specified Development Standards set forth in Section 855-N-25. Such Standards regulate on-site parking, occupancy requirements, water and sewer requirements, and design features and considerations.

The subject property is designated Eastside Range in the Sierra-North Regional Plan and is zoned AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) in the County Zoning Ordinance. The Zoning Ordinance allows for second residences subject to the approval of a Director Review and Approval Application and through the provisions of the Zoning Ordinance. These provisions are met by this Application.

Based on the above information, the proposed use is consistent with the General Plan.

Recommended Conditions of Approval:

None

Conclusion:

Finding 4 can be made.

CONCLUSION:

Staff believes the required findings for granting the Director Review and Approval can be made based on factors cited in the analysis. Staff further believes the required Findings 1, 2, and 4 for granting the Variance cannot be made, based on the factors cited in the analysis. Therefore, staff recommends denial of Variance No. 3990. Denial of VA No. 3990 also constitutes denial of DRA No. 4454.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine the required Findings cannot be made and move to deny Variance No. 3990; 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. 3990 with recommended Findings and Conditions; and
- Move to approve Director Review and Approval No. 4454 with recommended Findings and Conditions; and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

Recommended Condition of Approval and Project Notes:

See attached Exhibit 1.

EA:ksn
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**Variance Application (VA) No. 3990/Director Review and Approval No. 4454
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development shall be in accordance with the Site Plans, Floor Plans, and Elevation Drawings (Exhibit 5 & Exhibit 8) as approved by the Commission.
2.	The proposed second residence shall be substantially the same as the unit depicted in the architectural drawings submitted by the Applicants.
3.	No additions shall be allowed to the proposed second residence identified as a 2,647 square-foot structure, and in event of destruction, one of the two homes on Parcel 1 cannot exceed 2,000 square feet. This requirement shall be stipulated in a Covenant between the County and the Applicants and recorded with the County Recorder's office. Note: Our Department will prepare the Covenant upon receipt of the standard Processing Fee, which is currently \$243.50.
4.	A Covenant running with the land between the County and the owner shall be recorded requiring that one of the dwelling units shall be occupied by the property owners or another owner of record. Note: Our Department will prepare the Covenant upon receipt of the standard Processing Fee, which is currently \$243.50.
5.	As agreed upon by the Applicants, no single-family residence shall be built on the proposed 20.01-acre parcel (Parcel 3).
Conditions of Approval reference recommended Conditions for the project.	
Notes	

EXHIBIT 1

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Plans, permits and inspections may be required for the existing structures that may be impacted by the Variance, including retaining walls and other site improvements.
2.	Building permits are required for existing improvements on the property, which include two storage buildings, one barn/shed, one garage, one shed, and 15 shed structures. Contact the Building and Safety Section of the Fresno County Department of Public Works and Planning at (559) 600-4540 for permits and inspections.
3.	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 22.77-acre, a 20.87-acre and a 20.01-acre parcel. The Map shall comply with the requirements of Title 17.72 and may include dedication, acquisition of access easement, roadway improvements, and roadway maintenance.
4.	Per the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: <ul style="list-style-type: none"> • The access easement provided for the new parcels shall be a minimum of 60 feet wide and would have to cross a parcel that is not a part of this Variance Application and shall be acquired prior to approval of a parcel map.

Notes

- The access easement shall be improved to a standard necessary to meet the needs of the users and to a standard acceptable to the fire district serving the area.
- The users of the access easement should sign a covenant agreeing to maintain their proportionate share of the access easement to the appropriate standards.
- If a gate is provided on the private road, it shall include a Knox box or other appropriate means of access as approved by the fire district serving the area.

Note: These requirements will be satisfied through recordation of a parcel map to create three parcels subsequent to the approval of the Variance. The Applicants may apply for an exception request from the road standards through the parcel map process.

5. It is recommended that the Applicants consider having the existing septic tank pumped, and have the tank and leach fields 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.

6. According to FEMA, FIRM Panel 1070H, portions of the subject parcel are in Flood Zone A, which is subject to flooding from the one-percent-chance storm. Any development within the area identified as Zone A must comply with the County Flood Hazard Ordinance (Title 15.48).

7. The USGS Quad map shows that the Dry Creek Canal is near the north westerly property line of the subject parcel and Sales Creek is near the south easterly property line of the subject parcel. Any improvements constructed near the canal shall be coordinated with the owners of the canal.

8. The subject parcel is located within the State Responsibility Area (SRA). Any future developments shall be in accordance with the applicable SRA Fire Safe Regulations as they apply to driveway construction and access.

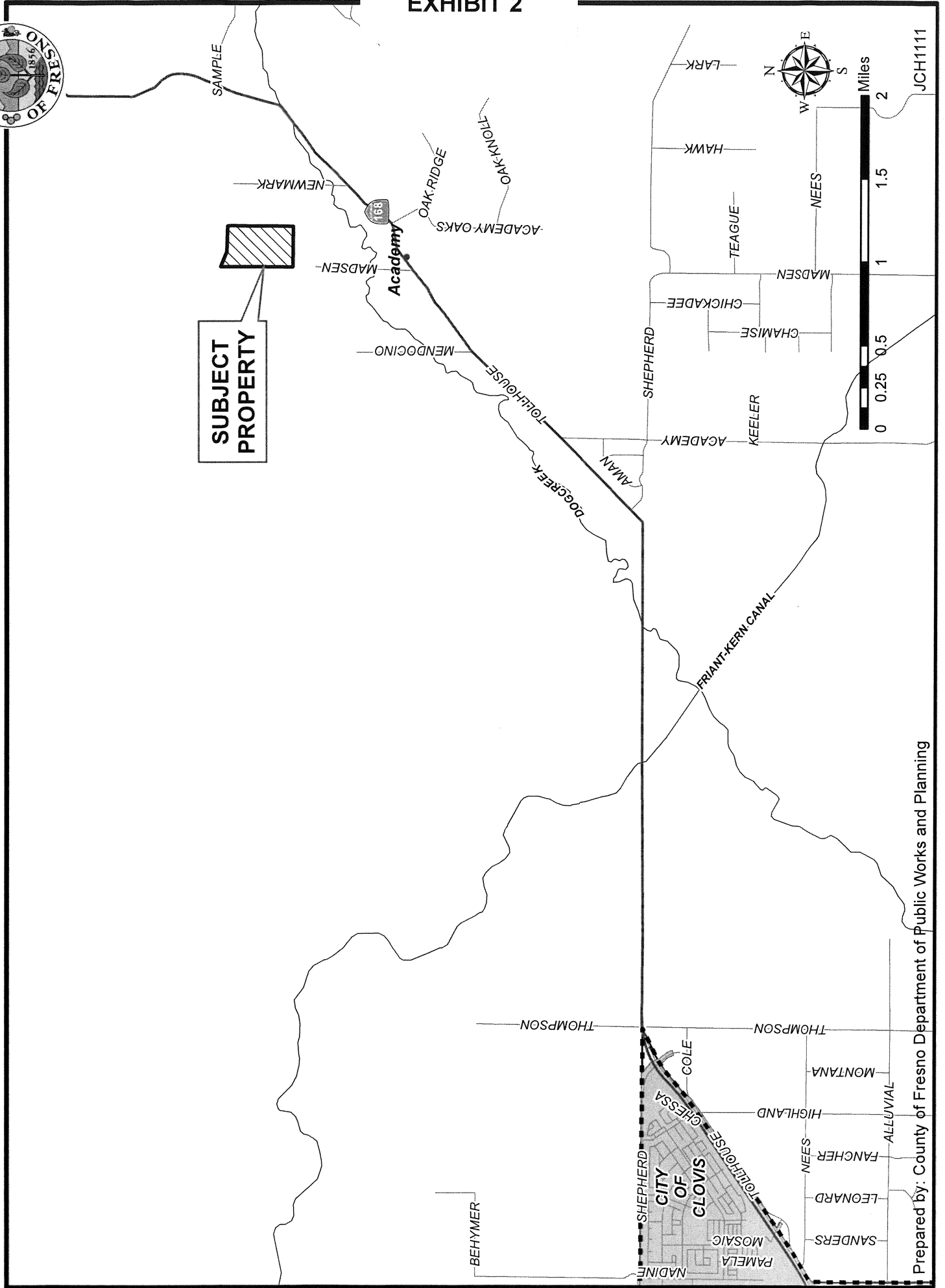
9. A Grading Permit or Voucher shall be required for any grading proposed with the subject applications.

LOCATION MAP

DRA 4454



EXHIBIT 2



**SUBJECT
PROPERTY**

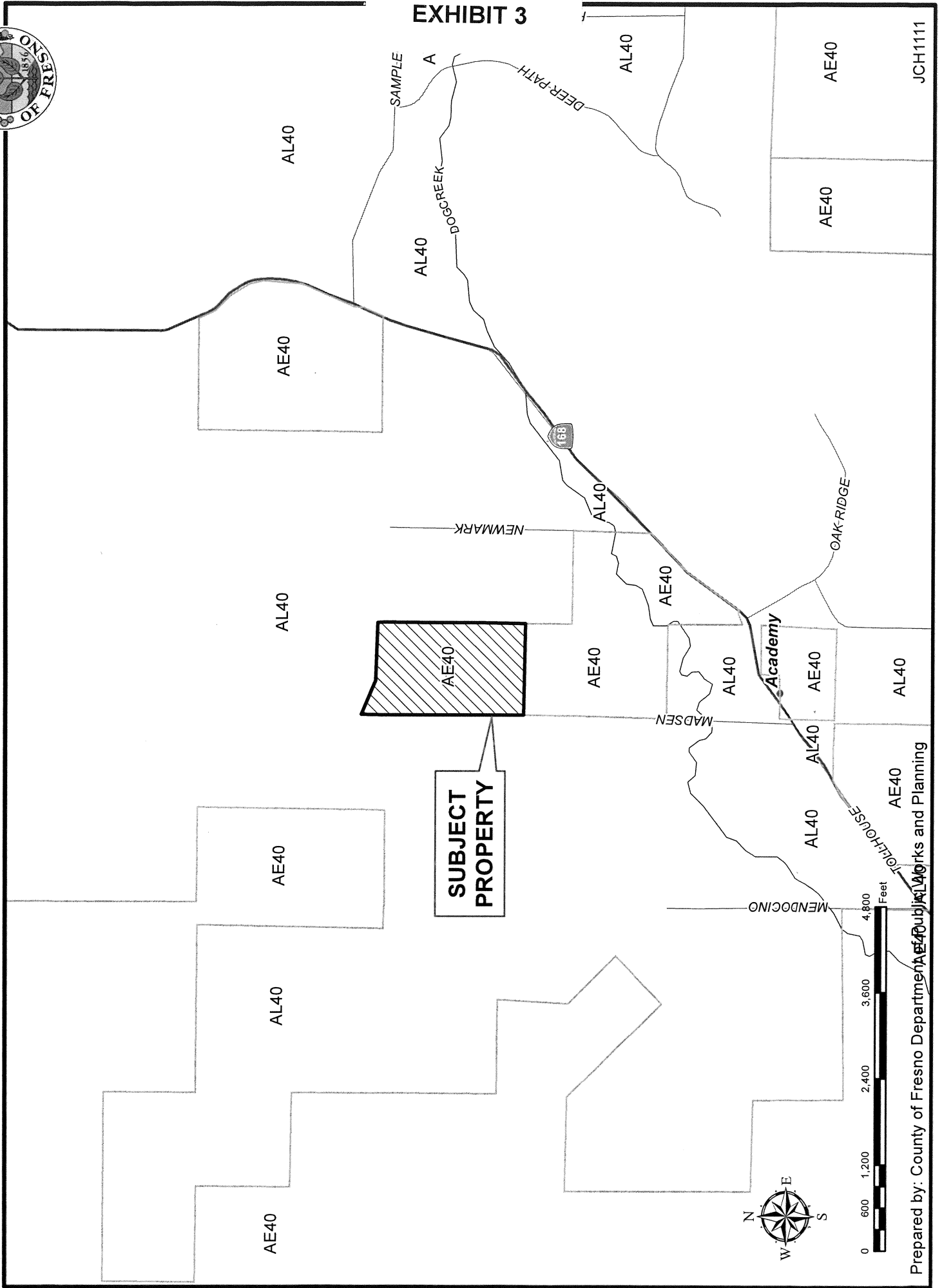
Prepared by: County of Fresno Department of Public Works and Planning

JCH1111

EXISTING ZONING MAP



EXHIBIT 3



EXISTING LAND USE MAP

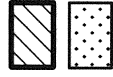
DRA 4454



EXHIBIT 4

LEGEND
 SF#- SINGLE FAMILY RESIDENCE
 V - VACANT
 GRZ - GRAZING

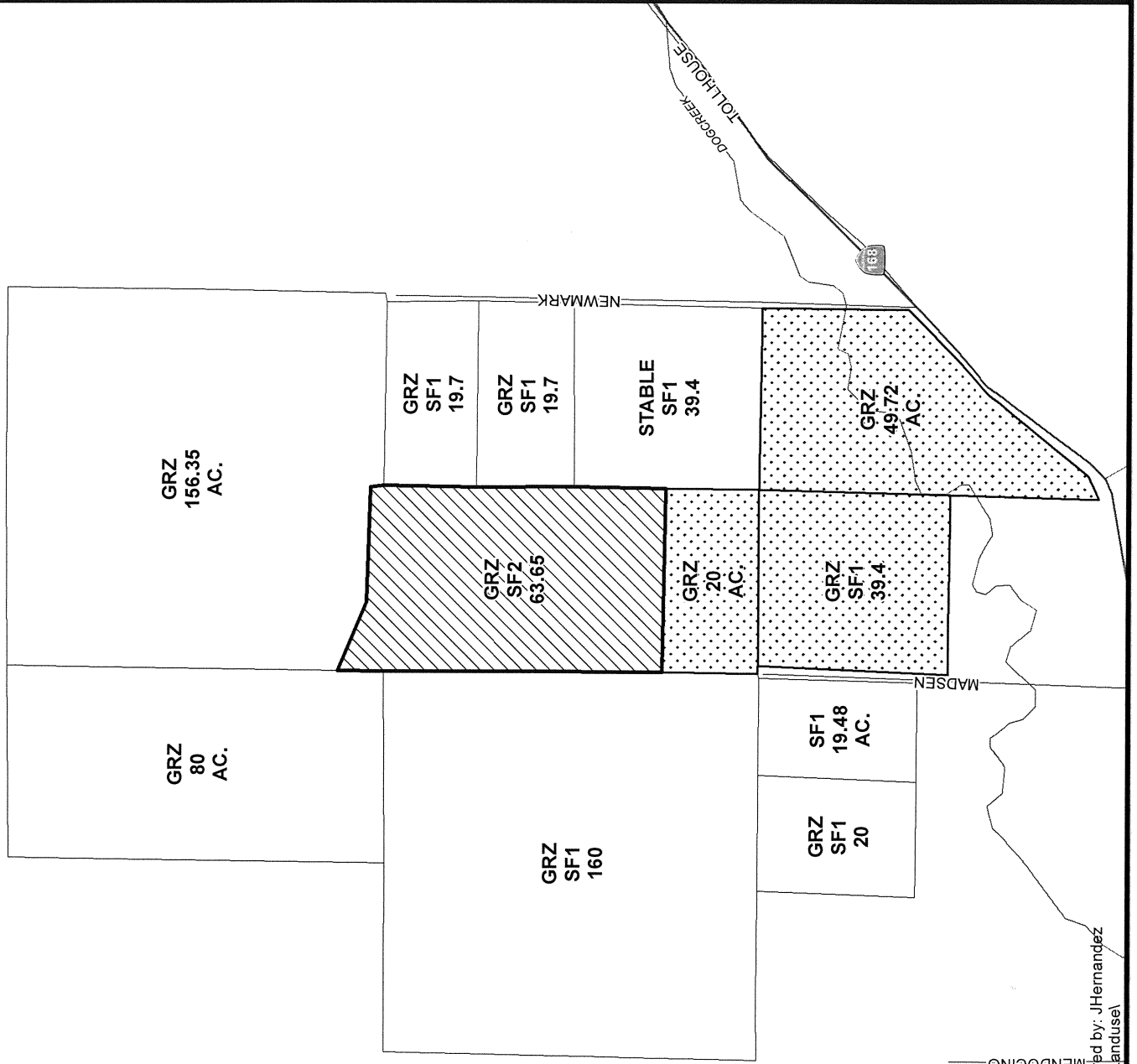
LEGEND:



Subject Property
 Ag Contract Land



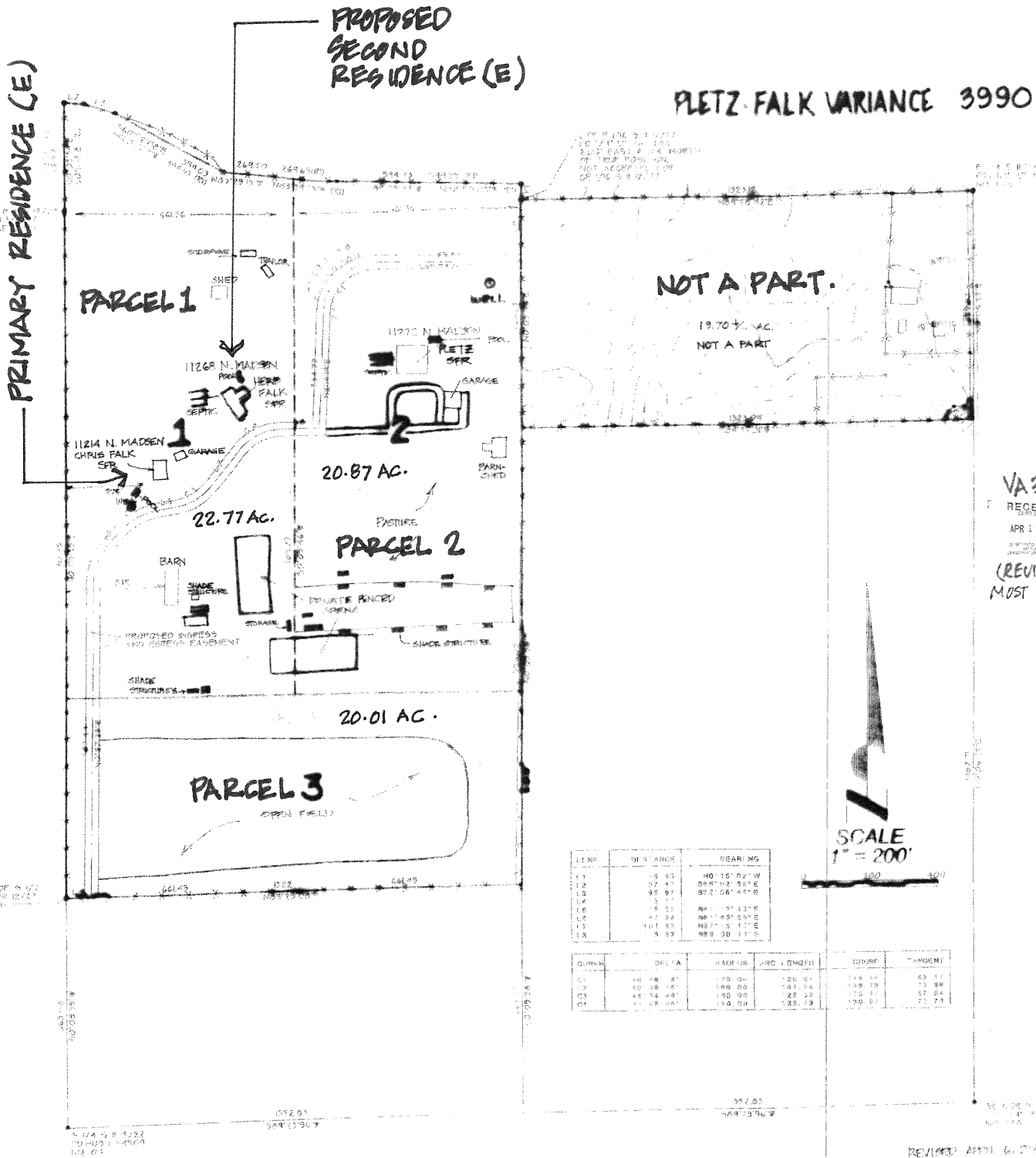
Department of Public Works and Planning
 Development Services Division



MENDOCINO

Map Prepared by: JHernandez
 J.GIS@CHLlanduse!

EXHIBIT 5



VA 3990
RECEIVED
APR 19 2016
(REVISED)
MOST CURRENT

LINE	DISTANCE	BEARING
1.1	18.93	N0° 15' 02" W
1.2	32.41	S89° 02' 55" E
1.3	95.97	S72° 06' 45" E
1.4	5.11	
1.5	18.22	N41° 31' 13" W
1.6	47.24	N83° 49' 55" E
1.7	101.93	N83° 05' 17" E
1.8	15.92	N88° 00' 17" E

CURVE	DELTA	RADIUS	ARC LENGTH	CHORD	TANGENT
C1	40.46 8"	170.00	125.95	118.16	63.17
C2	40.28 18"	168.00	125.74	118.18	73.88
C3	44.14 48"	185.00	128.23	123.17	57.84
C4	17.45 64"	150.00	135.13	120.61	71.28

SITE PLAN

REVISION APRIL 6, 2016
APRIL 14, 2016
APRIL 19, 2016

APPROVED VARIANCES WITHIN ONE MILE RADIUS

VA 3990



EXHIBIT 6

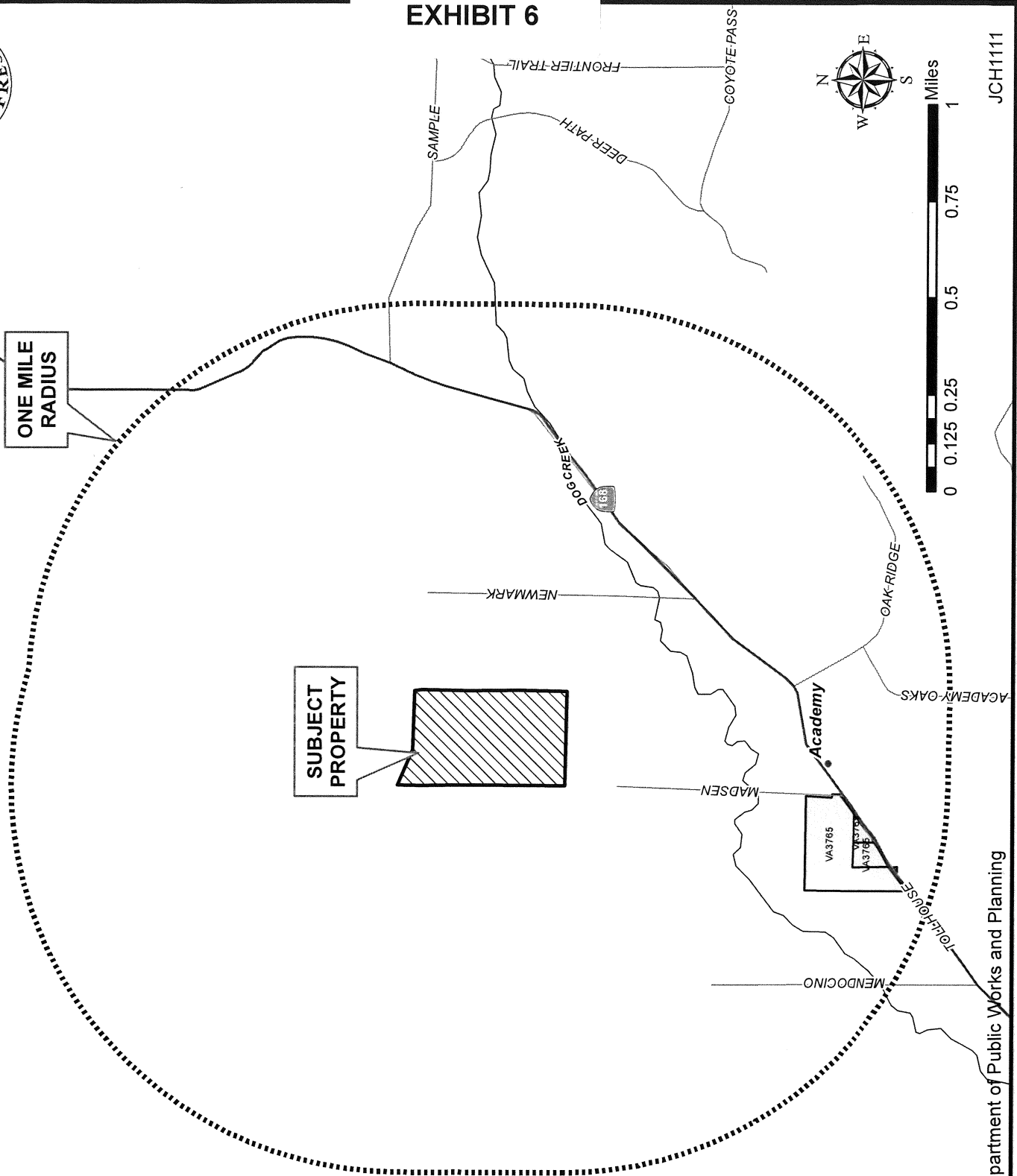


EXHIBIT 7

Pletz & Falk Variance Request

February 5, 2016

Owner:

Vern & Hedy Pletz/Herb & Joan Falk
11272 N. Madsen Ave.
Clovis, CA 93619

Applicant:

Same as above

Representative:

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

Property Location:

11214, 11268 & 11272 N. Madsen Ave. Clovis, CA.

APN:

APN 150-031-27 & 23

Existing Zone Designation:

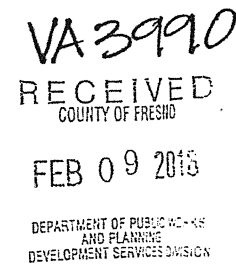
AE-40

Existing General Plan Land Use Designation:

Eastside Rangeland

Request:

Approve a Variance to allow the creation of three parcels of 20. + acres from an existing 63.65 +/- gross acre parcel in the AE-40 Zone.



Background:

Reference is made to the attached site plan of the subject property and its improvements prepared by the applicant. Said plan also details site and related improvements.

According to the Fresno County records the applicant's properties were zoned from A-1 to AE-40 on April 21, 1980. The subject 63.65+/- acre site is not subject to Williamson Act Contract restrictions.

The applicant owns the adjacent 19.70 +/- acre parcel identified as APN 150-031-23 that is zoned AL-40 and not subject to a Williamson Act Contract. The applicant purchased the 19.70+/- acre parcel in hopes that it could be used to merge with the subject 63.65+/- acre parcel to create adequate area to create the proposed parcels. The applicant was not aware that the 19.70+/- acre parcel has a different land use designation than the subject 63.65+/- acre parcel so a merger was not possible.

Review of official county plats indicate numerous parcels exist in the vicinity of the subject site that are similar to the size proposed by the applicant. In fact, three parcels immediately adjacent to the subject site are 20 acres or under. Other parcels in the same assessor's page are under 20 acres.

The applicants are lifelong friends and have owned the subject property since 1990. Although the subject site is zoned for agricultural purposes it has functioned as a rural residential home site for the applicants since its purchase. As noted above three residences exist on site all constructed with appropriate building permits. However, because the aforementioned Falk and Pletz residences exist on the subject 63.65+/- acre parcel, the underlying land on which the homes are located are owned jointly hindering the ability to convey and finance the homes.

No crops have ever been grown on the site. The previous owner did not utilize the site for agricultural activities, in fact, he leveled the site for residential purposes.

Over the years of the Falk and Pletz ownership there has been no grazing activity except no more than 25 head of cattle being on the site for a few weeks was an accommodation to the applicant's neighbor. No such grazing activity has occurred for the past 25 years. The previous owner did not graze cattle on the site. By any measure, the parcel has never been a productive agricultural unit.

The southern 20+/- acre portion of the subject site has been utilized as a private horse riding facility since 1990. The aforementioned horse facility includes the construction of a grass field where the applicant utilizes the aforementioned portion of the property for private recreational purposes.

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?

Various parcels exist proximate to the subject property smaller than the size proposed by the applicant. In fact, three such parcels are immediately adjacent to the subject site of 20 acres or less. Three individual residences exist on the subject parcel all with productive domestic wells, paved driveways serving the homes with adequate septic disposal systems. The proposed Variance will not change the character of the site whether or not the Variance is granted.

This request is not the same as taking out productive agricultural land and creating a new home site where no residence exists or related improvements exist. In fact, the site has never been in agricultural production.

It is noted that the applicant could attempt to redesignate the subject site or the adjacent 19.70+/- acre parcel from its current designation to a unified land use designation. This process, if approved, would be extremely costly and would not result in a different use of the property or a different configuration of the property than is proposed.

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 applicant has a right to be granted the same ability to use his property as others have under the same zone district in the vicinity of the subject property. As stated above, the applicant has owned the parcel for many years. Also noted above, 3 parcels of less than 20 acres are immediately adjacent to the subject site.

The proposed Variance will allow the existing development improvements and intensity of the subject property to remain as it has for many years.

Variances have been granted for properties proximate to the subject site for similar lot size modifications.

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:

- a) The site is improved with 3 single family residences. The existing homes have a paved driveway which is of adequate width and pavement to serve the proposed home sites. No variations in development standards such as setbacks etc. are required.
- b) Each homes have its own individual well that has historically produced adequate water for all purposes. Historically, there has been no issues with well production or septic tank leach field capability on the subject site.
- c) The proposed parcels will not be in conflict with the continued agricultural operation of adjacent properties as the subject site has never been in agriculturally productive.
- d) No change in the use of the property, either in size, intensity or use will be affected by the proposed Variance.
- e) Surrounding agricultural uses have continued without adverse impacts form the subject site's use as a rural home sites for approximately 45 years.
- f) An easement will be created to provide all parcel owners access to the public road.

Finding 4:

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

The proposed Variance will not change or adversely affect the agricultural production capability of the subject property as it has had no viable agricultural activity since the applicant purchased the property in 1990. The 3 existing homes and related recreational improvements have functioned without conflicts with adjacent agriculture for many years. The site is not subject to a Williamson Act contract.

The premise of the protection of agricultural land is to promote the use of those lands designated as productive to be so used for agricultural purposes. Regardless of a plan designation, some property owners purchase property for reasons other than producing an agricultural product or an income stream usually to build a home in a rural area on a much larger lot for privacy or other life style choices.

In this request, the applicant simply desires to memorialize the historic use of the property for rural residential/nonagricultural purposes of *this* property. Those properties in the vicinity under like zoning that have an economically viable agricultural use can continue as they have without being adversely affected by this request in the manner and intensity as the property has been used for approximately 45 years.

Site soils characteristics of hardpan and rocky substrata are not conducive to plating new trees. No irrigation district serves the site. Further, typical grazing formulas of one head for each 6 acres means that the site has a maximum grazing yield of about 10 head of cattle.

A twenty acre lot size has long been established as the minimum acreage necessary to sustain a viable agricultural operation. The proposed Variance would allow the creation of parcels that are

theoretically still viable agricultural units. Nonetheless, in the very unlikely event that the property ever be converted from its rural residential use, said 20 acre parcel size could allow an agricultural use of the property.

For these reasons, the proposed Variance is consistent with the policies of the Fresno County General Plan.

EXHIBIT 8

Falk Directors Review and Approval for Second Residence

11268 and 11214 N. Madsen Ave.

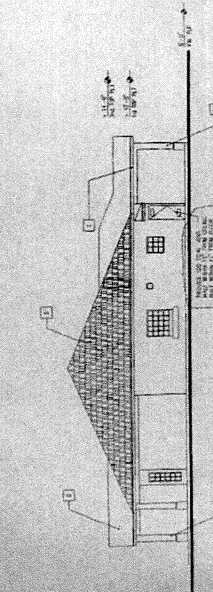
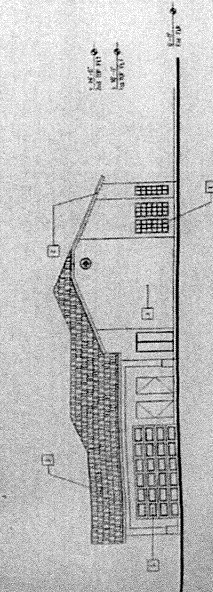
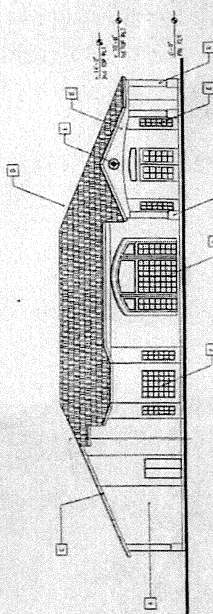
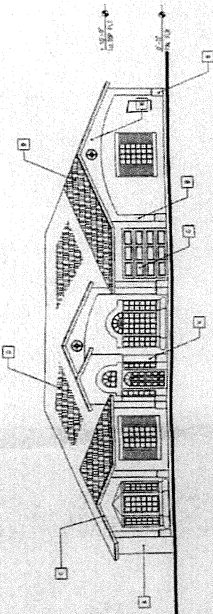
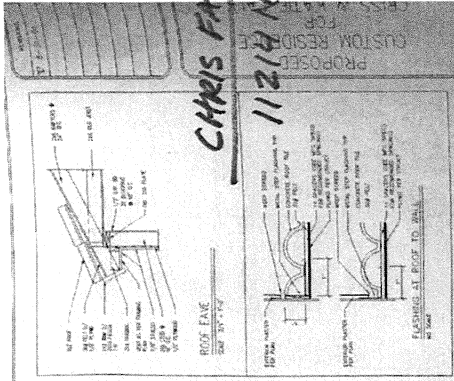
The applicant Mr. Herb Falk has resided at 11268 N. Madison Ave. since 1991. According to Fresno County records the Herb Falk home was built in 1980 and remodeled in 1999 was constructed in accordance building permits issued by Fresno County. Residential floor area including the garage, porch, patio and other areas totals 2,647 ft.².

Mr. Chris Falk, the son of Mr. Herb Falk, has resided at 11214 N. Madsen Ave. since 2002. The residence at 11214 N. Madsen Ave. totals approximately 2,998 ft.². Said residence was also constructed in accordance with building permits issued by Fresno County in September of 2001.

Existing wells and septic tanks have operated without issue over the aforementioned period of time. Said improvements were also built in accordance with building permits issued by Fresno County.

A deeded access easement along the western property line provides access to the aforementioned residences.

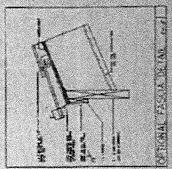
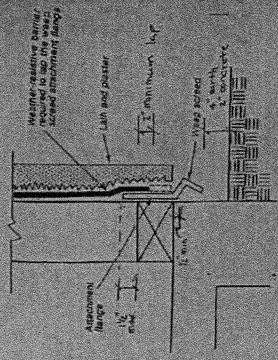
CHRIS FALK
 11214 N. MADSEN



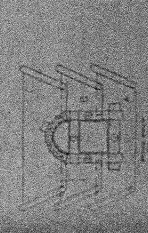
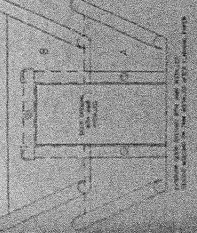
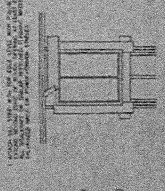
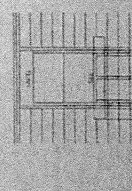
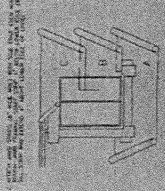
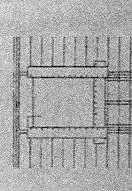
EXTERIOR ELEVATIONS

MARQUEZ ARCHITECTURE

required to be approved by the jurisdictional authority. Special attention should be given to the type of product and how the product will be installed. The contractor shall be responsible for obtaining all necessary permits. This will be determined during the construction phase of the project.



- KEY NOTES:
1. All exterior finishes shall be in accordance with the approved specifications.
 2. All exterior finishes shall be in accordance with the approved specifications.
 3. All exterior finishes shall be in accordance with the approved specifications.
 4. All exterior finishes shall be in accordance with the approved specifications.
 5. All exterior finishes shall be in accordance with the approved specifications.
 6. All exterior finishes shall be in accordance with the approved specifications.



SAATCHI WALL SCHEDULE

SYMBOL	DESCRIPTION	BASE SHEAR
A	2" X 4" WOOD STRUCTURAL PANEL W/MS COMMON @ 8" O.C. EDGES - 12" O.C. F.L.D.	12" X 12" LONG ANCHOR BOLTS @ 48" O.C.
B	2" X 4" WOOD STRUCTURAL PANEL W/MS COMMON @ 8" O.C. EDGES - 12" O.C. F.L.D.	12" X 12" LONG ANCHOR BOLTS @ 24" O.C.
C	2" X 4" WOOD STRUCTURAL PANEL W/MS COMMON @ 8" O.C. EDGES - 12" O.C. F.L.D.	12" X 12" LONG ANCHOR BOLTS @ 18" O.C.
D	2" X 4" WOOD STRUCTURAL PANEL W/MS COMMON @ 8" O.C. EDGES - 12" O.C. F.L.D.	12" X 12" LONG ANCHOR BOLTS @ 12" O.C.

Hold Down Schedule

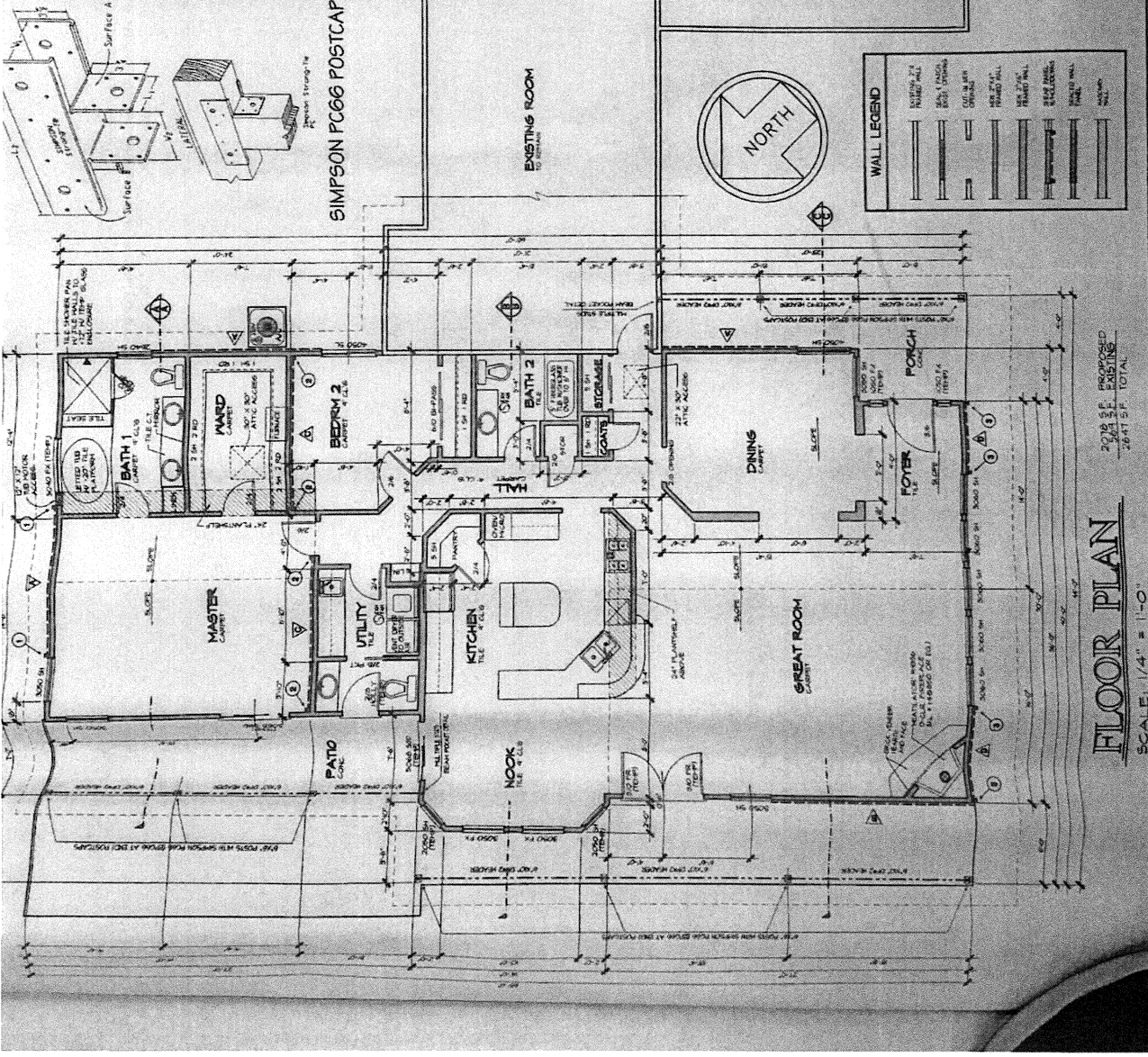
SYMBOL	DESCRIPTION	REINFORCEMENT BARS
1	#4 @ 12" WITH DOUBLE 2" X 5" HD	#4 @ 20" W/MS COMMON WALLS
2	#4 @ 12" WITH DOUBLE 2" X 5" HD	#4 @ 20" W/MS COMMON WALLS
3	#4 @ 12" WITH DOUBLE 2" X 5" HD	#4 @ 20" W/MS COMMON WALLS

SHEAR WALL NOTES:

1. ALL SHEAR WALLS SHALL BE CONCRETE ON 4" MIN. SAND FILL. ALL WALLS SHALL BE 8" THICK UNLESS OTHERWISE NOTED.

2. ALL WALLS SHALL BE FINISHED WITH 1/2" GYPSUM BOARD OVER 1/2" POLYSTYRENE INSULATION. ALL WALLS SHALL BE FINISHED WITH 1/2" GYPSUM BOARD OVER 1/2" POLYSTYRENE INSULATION.

3. ALL WALLS SHALL BE FINISHED WITH 1/2" GYPSUM BOARD OVER 1/2" POLYSTYRENE INSULATION. ALL WALLS SHALL BE FINISHED WITH 1/2" GYPSUM BOARD OVER 1/2" POLYSTYRENE INSULATION.

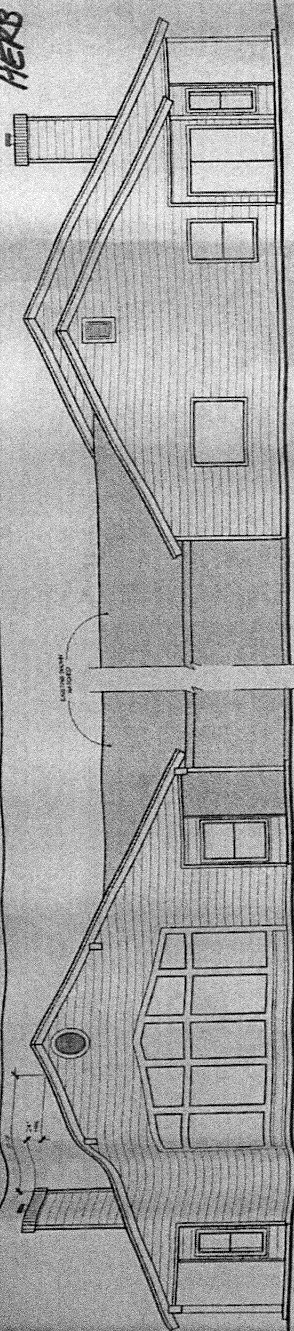


FLOOR PLAN
 SCALE: 1/4" = 1'-0"
 2018 S.F. PROPOSED
 2641 S.F. EXISTING
 2641 S.F. TOTAL

**SECONDARY RESIDENCE
 (HERB FALK)**

11268 N. MADSEN

HERB FALK

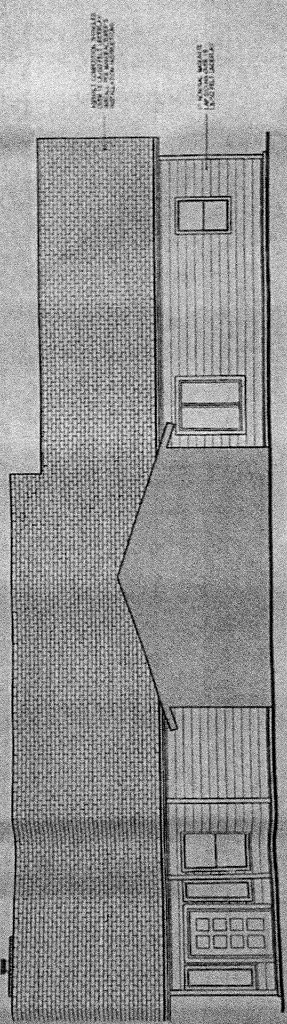


FRONT ELEVATION

SCALE 1/4" = 1'-0"

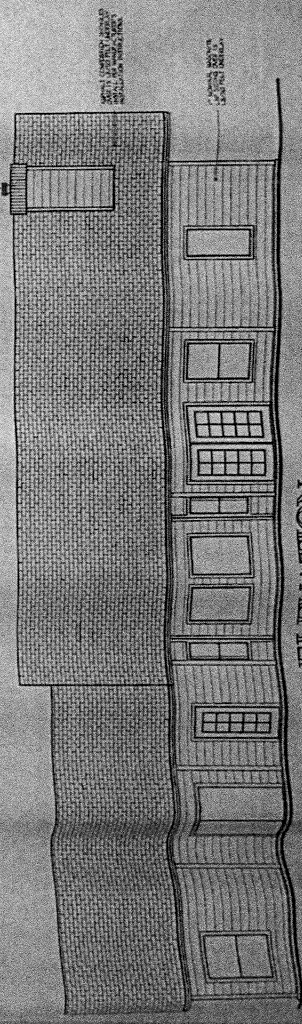
BACK ELEVATION

SCALE 1/4" = 1'-0"



RIGHT ELEVATION

SCALE 1/4" = 1'-0"



LEFT ELEVATION

SCALE 1/4" = 1'-0"

FINISH NOTES
1. ALL FINISHES TO BE AS SHOWN ON THE DRAWINGS.
2. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTRUCTIONS.
3. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES.
4. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL BUILDING SPECIFICATIONS.
5. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL ELECTRICAL CODE.
6. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL PLUMBING CODE.
7. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL MECHANICAL CODE.
8. ALL FINISHES TO BE INSTALLED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL FIRE PROTECTION ASSOCIATION'S FIRE AND MARINE SPRINKLER SYSTEMS MANUAL.

94
NEED AND INSTALLATION
PLANS HAVE BEEN PREPARED
BY HERB FALK, INC. FOR
PERMITS ONLY.

APPROVING AUTHORITY

DATE: 02-22-99
C W F DESIGNS
3097 MILLER ST. #12
CA 93817
298-6434

PROPOSED RESIDENCE FOR:
HERB FALK
11268 N. MADSEN
CLONING

CMB
ARCHITECTS
11268 N. MADSEN
CLONING

SHEET



CLUBS ENIK (PRIMARY RESIDENCE) .

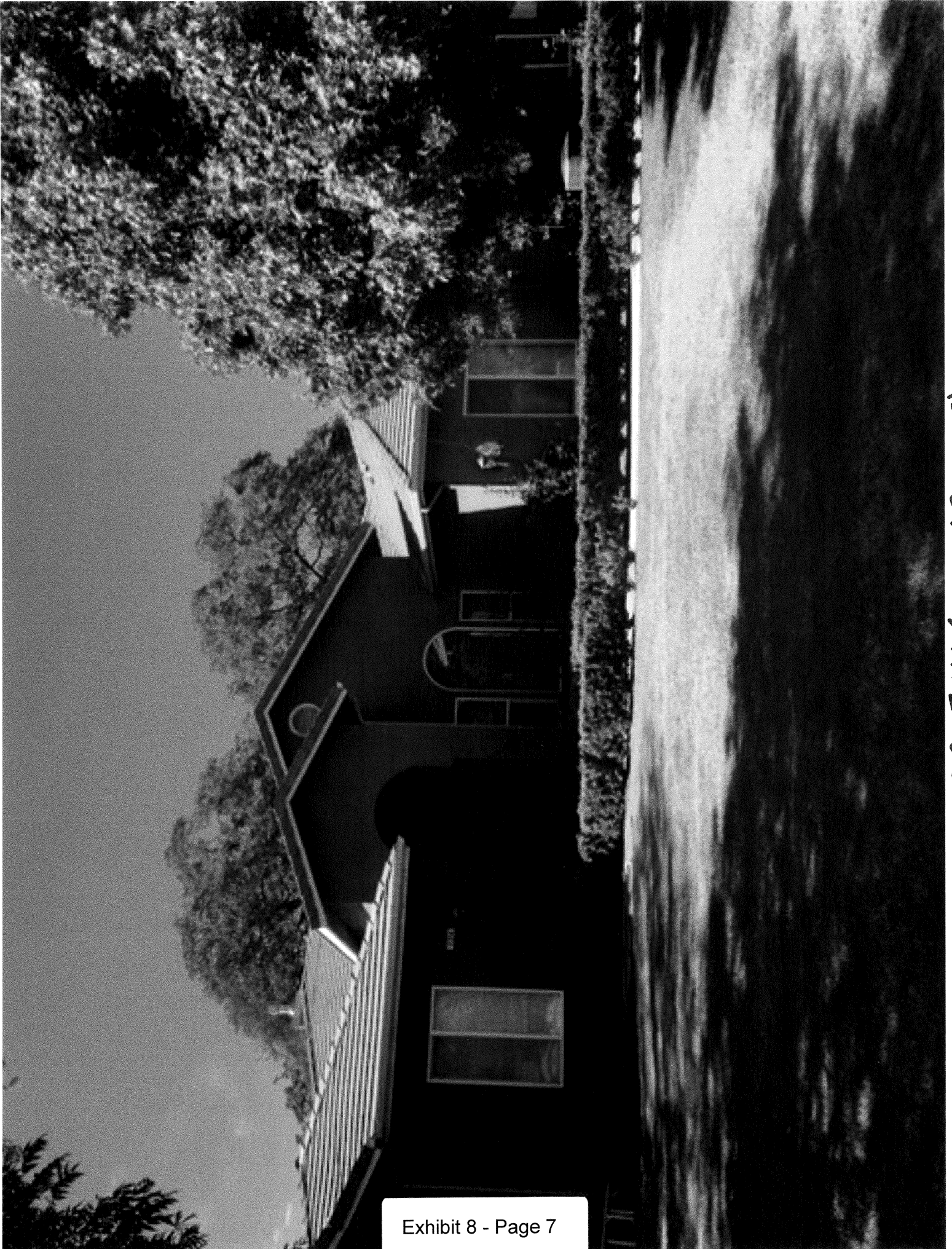
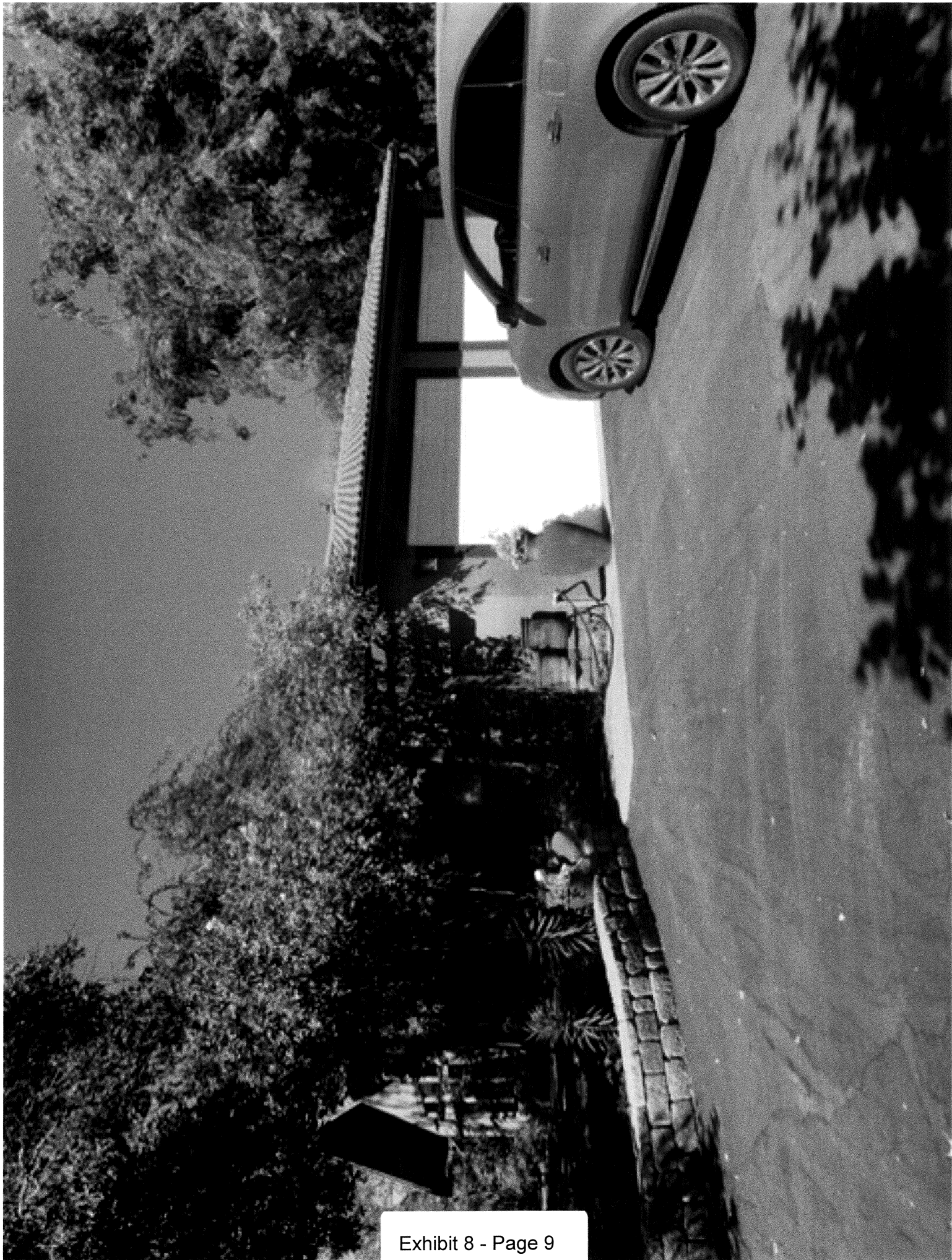


Exhibit 8 - Page 7

THIS IS FRILY FORMARY RESHINEME.)





HERR FAI K (SECONDARY RESIDENCE)