



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 7 October 20, 2016

SUBJECT: Variance Application No. 4012

Allow the creation of a 2.74-acre parcel without public road frontage and a 2.43-acre parcel without public road frontage and depth-to-width ratio greater than four-to-one from an existing 5.17-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The project site is located west of Auberry Road between Reno Avenue and Garrone Avenue approximately 0.8 miles northeast of the City of Fresno (12517 N. Auberry Road) (Sup. Dist. 5) (APN 580-010-30S).

OWNER: Thomas and Susanne Brocks, Trustees
APPLICANT: Susanne Bateman

STAFF CONTACT: Daniel Brannick, Planner
(559) 600-4297

Chris Motta, Principal Planner
(559) 600-4227

RECOMMENDATION:

- Deny Variance No. 4012; 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
6. Applicant's Statement of Variance Findings
7. Resolution and Staff Report for Variance No. 3579 approved July 10, 1997

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	5.17 acres	Parcel A: 2.74 acres Parcel B: 2.43 acres
Project Site	5.17-acre parcel developed with a 2,420 square-foot single-family residence plus 840 square-foot detached garage and a 3,075 square-foot single-family residence	2,420 square-foot residence and detached garage to be located on 2.74-acre parcel; 3,075 square-foot residence to be located on 2.43-acre parcel
Structural Improvements	See Project Site	See Project Site
Nearest Residence	20 feet east	No change
Surrounding Development	Agricultural uses and low-density residential development	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Sections 15061(b)(3) 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 51 property owners within one quarter-mile 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 Zoning Ordinance Section 877 are made by the Planning Commission.

Specifically related to a Variance Application, in order to make Findings 1 and 2, a determination must be made that the property is subject to an exceptional or extraordinary physical circumstance that does not apply to other properties in the same Zone District, and a substantial property right held by other property owners of like-zoned parcels in the area must be identified.

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

BACKGROUND INFORMATION:

This proposal entails a request to allow the creation of a 2.74-acre parcel and a 2.43-acre parcel, both without public road frontage, from an existing 5.17-acre parcel. Section 816.5.A of the Zoning Ordinance requires a minimum parcel size of 20 acres for properties located in the AE-20 Zone District. Additionally, Section 816.5.B.1 states that parcels less than 20 acres located within the AE-20 Zone District are subject to the provisions of Section 820.5.B, which require parcels to have public road frontage and a lot width-to-depth ratio not greater than four-to-one.

The project site is located west of Auberry Road approximately eight-tenths of a mile northeast of the nearest city limits of the City of Fresno. The surrounding area is comprised of low-density residential uses plus some parcels used for agricultural and grazing purposes. The subject parcel is currently developed with a 3,075 square-foot single-family residence and a 2,420 square-foot single-family residence with an 840 square-foot detached garage. The existing parcel does not have public road frontage and is accessed via a private section of Garrone Avenue.

A substantially similar land use proposal affecting the same parcel was previously filed by the same property owner in 1997. Variance Application (VA) No. 3579 sought to allow creation of a 2.74-acre parcel without public road frontage and a 2.43-acre parcel without public road frontage from a 5.17-acre parcel. While County staff recommended to deny the proposed Variance based on the inability to make any of the required Variance Findings, the Planning Commission voted to approve VA No. 3579 on July 10, 1997. However, the approval expired before any action was ever taken on the project. The Resolution and Staff Report for VA No. 3579 are included as Exhibit 7.

County records indicate that at least 18 variance applications have been previously filed within a one-mile radius of the subject property involving the creation of substandard-sized parcels within the AE-20 Zone District. A number of these prior variance proposals also included allowances to waive public road frontage requirements. A summary of the variance application history for the area is listed below:

Application No.	Project Description	Status	Date of Action
VA No. 3952	Allow creation of two 5.0-acre parcels	PC Approved	1/9/14
VA No. 3932	Allow creation of a 3.4-acre parcel and two 4.9-acre parcels	PC Approved, BOS Approved on appeal	6/3/14
VA No. 3905	Allow creation of a 3.12-acre parcel, a 3.12-acre parcel without public road frontage, and 3.41-acre parcel with less than the minimum public road frontage	PC Approved	4/8/10
VA No. 3895	Allow creation of two 2.0-acre parcels	PC Approved	7/16/09
VA No. 3882	Allow creation of a 5.88-acre parcel and a 6.29-acre parcel	PC Denied, BOS Denied on appeal	9/18/08, 11/4/08
VA No. 3815	Allow creation of four parcels measuring from 3.9 acres to 5.0 acres without public road frontage	PC Approved	10/12/06
VA No. 3773	Allow creation of two 2.0-acre parcels	PC Denied	3/4/04
VA No. 3771	Allow creation of a 3.11-acre parcel and a 1.74-acre parcel without public road frontage	PC Denied	4/22/04
VA No. 3666	Allow creation of a 2.5-acre gift-deed parcel without public road frontage	PC Approved	4/6/00
VA No. 3618	Allow creation of three parcels from an 8.64-acre parcel	PC Denied, BOS Denied on appeal	11/12/98, 12/15/98
VA No. 3596	Allow a 6.5-acre parcel resulting from a Property Line Adjustment	PC Approved	10/16/97
VA No. 3590	Allow creation of a 2.5-acre parcel and a 5.1-acre parcel without public road frontage	PC Approved	11/6/97
VA No. 3579*	Allow creation of a 2.74-acre parcel and a 2.43-acre parcel without public road frontage	PC Approved	7/10/97
VA No. 3556	Allow creation of four 5.0-acre parcels	PC Approved	4/3/97

VA No. 3483	Allow creation of four 5.0-acre parcels	PC Denied, BOS Approved on appeal	3/16/95, 4/18/95
VA No. 3413	Allow reduction of parcel from 5.0 acres to 4.0 acres	PC Approved	5/20/93
VA No. 2990	Allow creation of two 2.5-acre parcels	PC Denied	4/24/86
VA No. 2847	Allow creation of a 5.0-acre parcel and a 10-acre parcel	PC Approved	8/24/84

*Previous Variance Application affecting same property as current proposal

Although there is a history of variance requests within proximity of the subject property, each variance request is considered on its own merit, based on unique site conditions and circumstances.

ANALYSIS/DISCUSSION:

Finding 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.*

Finding 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	<u>Parcel 1:</u> Front: 35 feet Side: 20 feet Rear: 20 feet <u>Parcel 2:</u> Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Parcel 1:</u> Front: Yes Side: Yes Rear: Yes <u>Parcel 2:</u> Front: Yes Side: Yes Rear: Yes
Parking	N/A	N/A	N/A
Lot Coverage	No requirement	No change	Yes
Separation Between Buildings	N/A	N/A	N/A
Wall Requirements	N/A	N/A	N/A

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Septic Replacement Area	100 percent of the existing system	N/A	N/A
Water Well Separation	Building sewer/septic tank: 50 feet; disposal field: 100 feet; seepage pit/cesspool: 150 feet	N/A	N/A

Reviewing Agency/Department Comments Regarding Site Adequacy:

Zoning Section of the Fresno County Department of Public Works and Planning: The second parcel exceeds the maximum depth-to-width ratio of four-to-one and will need to be included in the Variance. A separate mapping application is required if the Variance is approved.

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 Well Standards Ordinance and California Plumbing Code. Building permit records indicate the existing sewage disposal systems were installed in 1977 and 1997. It is recommended that the Applicant consider having the existing septic tanks pumped, and have the tanks 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).

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 Variance Findings (included as Exhibit 6) indicate an exceptional circumstance is present in that the subject parcel is in an area that has functioned as a residential estate enclave for over 40 years, and also that the land to the south and west of the project site which had previously been designated and zoned for agricultural purposes is now being urbanized. Further, the Applicant’s findings state that other parcels located in the area have been divided in the manner, size, and without public road frontage as what is entailed with the subject proposal, and that the Applicant should have the same property rights as those enjoyed by her neighbors.

Regarding Finding 1, staff is unable to find that the presence of other parcels similar in size to those proposed with this Variance request is an extraordinary physical characteristic which merits the requested parcel configurations. While staff concurs with the characterization as presented in the Applicant’s Variance Findings of the residential development in the surrounding area and notes that the subject parcel is completely surrounded by parcels that are less than the 20-acre minimum size and developed with residential uses, much of the surrounding residential development can be distinguished by differences in zoning. Specifically, the parcels in the Monte Verdi subdivision are zoned R-1-B (which has a 12,500 square-foot minimum parcel size) and the parcels in the Chelsea Downs subdivision are zoned R-R (which has a two-acre minimum parcel size). Both R-1-B and R-R are residential zone districts, while AE-20 is an agricultural zone district. Of the parcels in the immediate area that are zoned AE-20, the

majority are five acres in size or larger, and the few that are less than five acres are fronted by public roads.

Regarding Finding 2, it has not been demonstrated to staff that the parcel split proposed here is necessary to preserve and enjoy a substantial property right enjoyed by other property owners in the AE-20 Zone District. The requirement for a 20-acre minimum parcel size in the AE District is applied Countywide. Even though the existing parcel is already well below the minimum 20-acre size requirement, staff is unable to find that the Applicant's desire to divide the existing parcel into two independent parcels constitutes a substantial property right issue.

Based on the analysis above, staff believes that an exceptional circumstance and preservation of substantial property rights do not apply, and that Findings 1 and 2 cannot be made.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Findings 1 and 2 cannot be made.

Finding 3: The proposal will not be materially detrimental to the public welfare or injurious to property and improvements in the vicinity in which the property is located.

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North	10.0 acres	Single-family residences (2)	AE-20	300 feet
East	4.73 acres	Single-family residence	AE-20	260 feet
	2.3 acres	Single-family residence	AE-20	20 feet
	2.3 acres	Single-family residence	AE-20	235 feet
South	2.0 acres	Vacant	R-R	N/A
West	10.0 acres	Pasture w/ single-family residence	AE-20	75 feet

Reviewing Agency/Department Comments:

Development Engineering Section of the Fresno County Department of Public Works and Planning: The project site is fronted by Garrone Avenue, which is a private road with a 60-foot public utility easement. There are no existing natural drainage channels adjacent to or running through the parcel. According to FEMA FIRM Panel 1040H, the subject parcel is not subject to flooding from the one-percent-chance storm. A grading permit or voucher may be required for any grading that may be proposed with this application.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No comments.

Design Division of the Fresno County Department of Public Works and Planning: No comments.

Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning: There are no concerns with the proposal, as no additional water usage is described in this Variance.

Fresno County Fire Protection District: No comments.

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

Analysis:

In support of Finding 3, the Applicant's findings state that granting the Variance will not be detrimental to surrounding properties, as no change in the use of the property in size or intensity would result from the proposed Variance. Further, the Applicant's findings state the existing homes have frontage onto Garonne Avenue, which is a private road easement of adequate width and pavement to serve the proposed parcels and provide functional and safe ingress and egress to Auberry Road.

Regarding Finding 3, the subject proposal would result in a 2.74-acre parcel and a 2.43-acre parcel, each with a single-family residence located on it. As mentioned above, the existing character of the surrounding area is already primarily residential and the proposal does not appear to pose any conflicts with regard to either aesthetics or uses of neighboring properties. Staff notes that development of a second residence with up to 2,000 square-feet of living space would be permissible on each parcel if sought through the Director Review and Approval process.

The subject property is located within a water-short area; however, this proposal was reviewed by the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning, which did not identify any water quantity concerns with this proposal since no additional water usage is described in the Variance.

In regard to road frontage, staff notes that the existing 5.17-acre parcel is not fronted by a public road. Additionally, Garrone Avenue (the private road which connects the project area to Auberry Road) is subject to a covenant requiring that the road be maintained to a County public road standard. Staff notes the subject parcel was previously part of a County Service Area (CSA 35 BK) for road maintenance, but the CSA was dissolved in 2005. No concerns were expressed by reviewing agencies concerning the creation of an additional parcel without public road frontage.

Given the presence of surrounding residential land uses and undersized parcels, as well as potential for additional future residential development, staff believes that there will be no adverse effects on surrounding properties as a result of the Variance, with adherence to the recommended Conditions of Approval and Project Notes.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 3 can be made.

Finding 4: Granting of this variance will not be contrary to the objectives of the General Plan.

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-A.6: County shall maintain 20 acres as the minimum permitted parcel size in areas designated Agriculture; the County shall generally deny requests to create parcels less than this minimum 20-acre parcel size.	Due to the subject Variance request proposing to create two parcels less than 20 acres in the AE-20 Zone District, staff believes this proposal is inconsistent with the General Plan.
General Plan Policy LU-A.7: County shall generally deny requests to create parcels less than the minimum size and directs the decision-making body to consider the negative incremental and cumulative effects of such land divisions on the agricultural community.	Due to the subject Variance request proposing to create two parcels less than 20 acres in the AE-20 Zone District, staff believes this proposal is inconsistent with the General Plan.
General Plan Policy PF-C.17: County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include a determination of water sustainability and a determination that the use will not have a detrimental impact upon other water users in the County.	According to the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning, the subject property is located within a water-short area; however, there will be no water quantity concerns. Further, a Condition of Approval has been included requiring a Well Yield Certification to be provided prior to the issuance of Building Permits for any proposed parcel on which Building Permits are requested. The proposal is consistent with this Policy.

Reviewing Agency Comments:

Policy Planning Section of the Development Services Division: The subject property is designated Agriculture in the Fresno County General Plan. The Agriculture and Land Use Element of the General Plan maintains 20 acres as the minimum parcel size in areas designated for Agriculture. Policies LU-A.6 and LU-A.7 state that the County shall generally deny requests to create parcels less than the minimum size specified in areas designated Agriculture. Policy PF-C.17 requires that a discretionary project undertake a water supply evaluation to determine water availability and sustainability for the use.

Analysis:

In support of Finding 4, the Applicant's findings state that the main purpose of the 20-acre minimum lot size is to prohibit the creation of parcels that cannot effectively produce an agricultural product, and while the subject site is designated in the Fresno County General Plan for Agricultural uses and the site's current zoning is consistent with that designation, nothing

about the subject property or its surroundings – aside from its designation and zoning – lends itself to an agricultural use. The Applicant's findings also state that the subject parcel's current size will not allow the production of a viable agricultural product, the site is essentially surrounded by urbanization, and the potential incremental and cumulative effects to agriculture have already occurred.

The subject property is designated Agriculture in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). Therefore, Policies LU-A.6 and LU-A.7 are applicable, and staff believes this proposal is inconsistent with these Policies.

According to Policies LU-A.6 and LU-A.7, the creation of parcels less than the minimum size specified by the Agriculture designation is discouraged due to a concern that such parcels are less viable economic farming units, and that the resultant increase in residential density may conflict with normal agricultural practices on adjacent properties. Additionally, the uneconomic farming nature of a property as a result of size or soil conditions shall not be the sole basis for granting an exception.

Policy LU-A.7 also states that the decision-making body shall consider the negative incremental and cumulative effects land divisions have on the agricultural community. In regard to the subject Variance request, increasing parcelization in the area is creating additional inventory of parcels under five acres in size, which could be viewed as *de facto* rural residential parcelization, and is generally not supported by General Plan Policy. Regarding the residential developments in the vicinity of the subject parcel (specifically Monte Verdi and Chelsea Downs), staff notes that these areas are distinguishable from the subject parcel in that they have been designated for residential land use (either Rural Residential or Low-Density Residential) in the County General Plan. Additionally, Monte Verdi is served by a community water and sewer system maintained through County Service Area (CSA) 41-D, while the parcels proposed here would not receive community water or sewer services.

In regard to General Plan Policy PF-C.17, the subject property is located within a water-short area and the well serving the existing mobile home is located on a southerly-adjacent parcel that is not associated with this Variance request. However, this proposal was reviewed by the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning, which commented that there will be no water quantity concerns with this proposal, as no new development is proposed at this time.

Based on this information, staff finds that the granting of this Variance would be inconsistent with the objectives of General Plan.

Recommended Conditions of Approval:

See recommended Conditions of Approval attached as Exhibit 1.

Conclusion:

Finding 4 cannot be made.

PUBLIC COMMENT:

None.

CONCLUSION:

Based on the factors cited in the analysis, staff is unable to make Findings 1, 2, and 4 needed for approval of this Variance. Staff therefore recommends denial of Variance No. 4012.

In the event that the Commission determines that the required Findings can be made for this proposal and elects to approve the Variance, staff has included recommended Conditions of Approval and Project Notes attached as Exhibit 1.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings cannot be made based on the analysis in the Staff Report, and move to deny Variance No. 4012; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Alternative Motion (Approval Action)

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4012, subject to any Conditions and Notes imposed; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

DB:ksn

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**Variance Application (VA) No. 4012
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development shall be in accordance with the Site Plan as approved by the Commission.

Conditions of Approval reference recommended Conditions for the project.

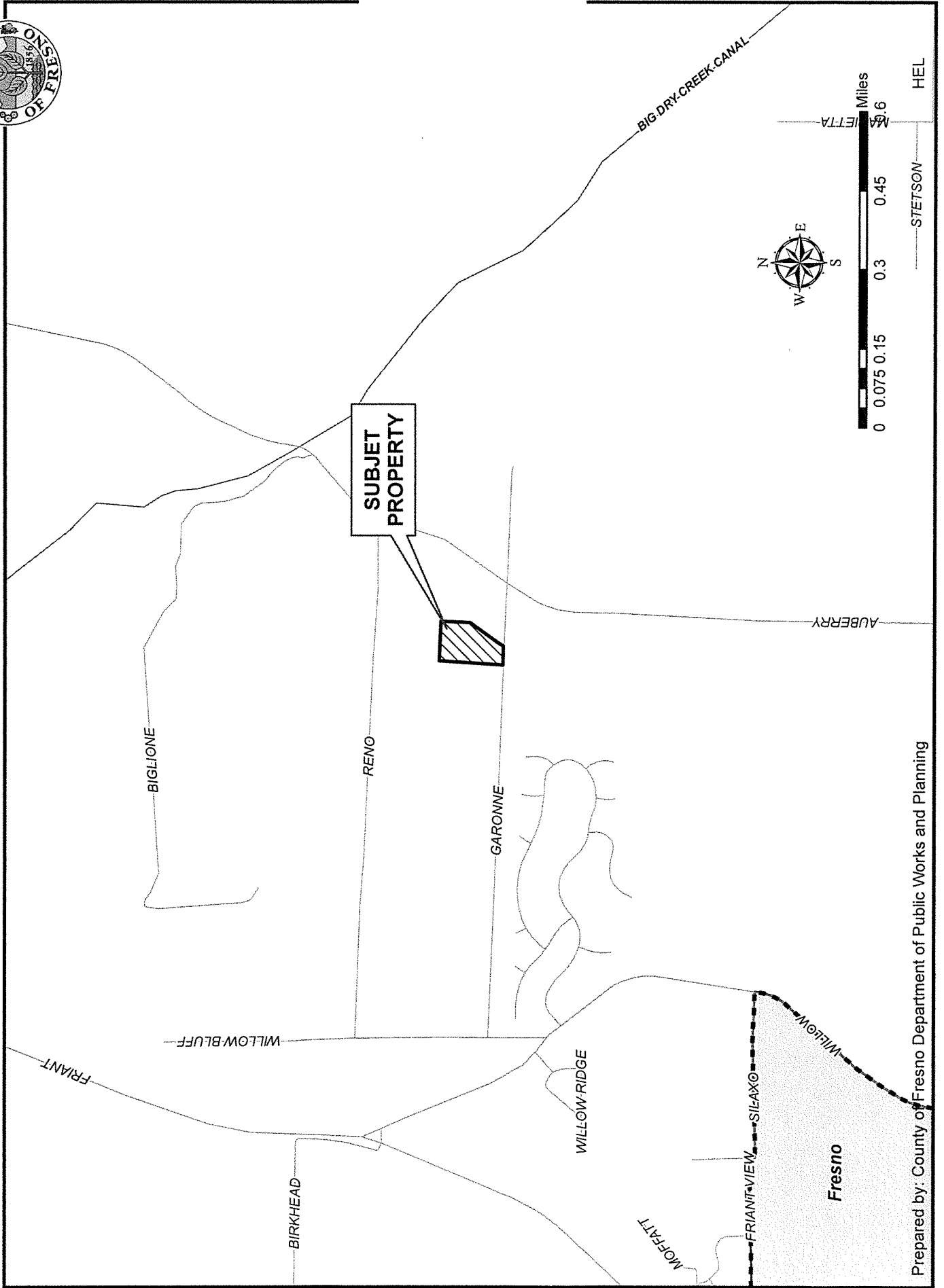
Notes	
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The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create a 2.74-acre parcel and a 2.43-acre parcel. The Map shall comply with the requirements of Title 17.72.
2.	The property is subject to a covenant to maintain the private road to a standard acceptable to the owners or acceptable to the Director of the Department of Public Works and Planning.
3.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance (Ordinance Code Section 17.72) and may include requirements for access, roadway construction, and maintenance. Deviation from standards may be approved through a subdivision exception request during the processing of the required mapping application.
4.	Any future development should be done in accordance with the applicable State Responsibility Area (SRA) Fire Safe Regulations.
5.	A Grading Permit or Voucher may be required for any grading proposed with this application.
6.	It is recommended that the Applicant consider having the existing septic tank pumped, and have the tank and drain 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(s).

EXHIBIT 2

LOCATION MAP

VA 4012



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

VA 4012
STR 6 - 12S/21E

EXISTING ZONING MAP



EXHIBIT 3

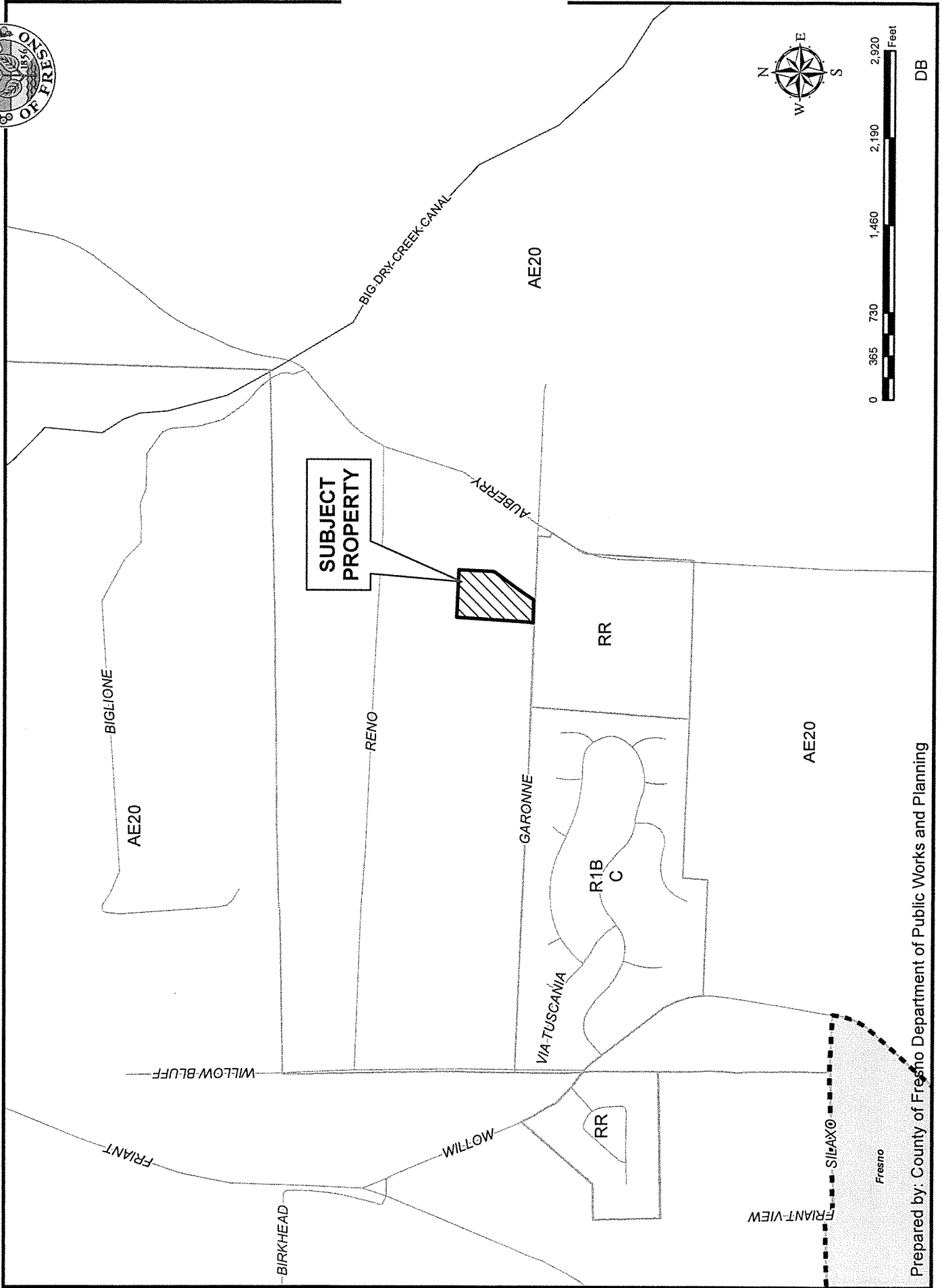
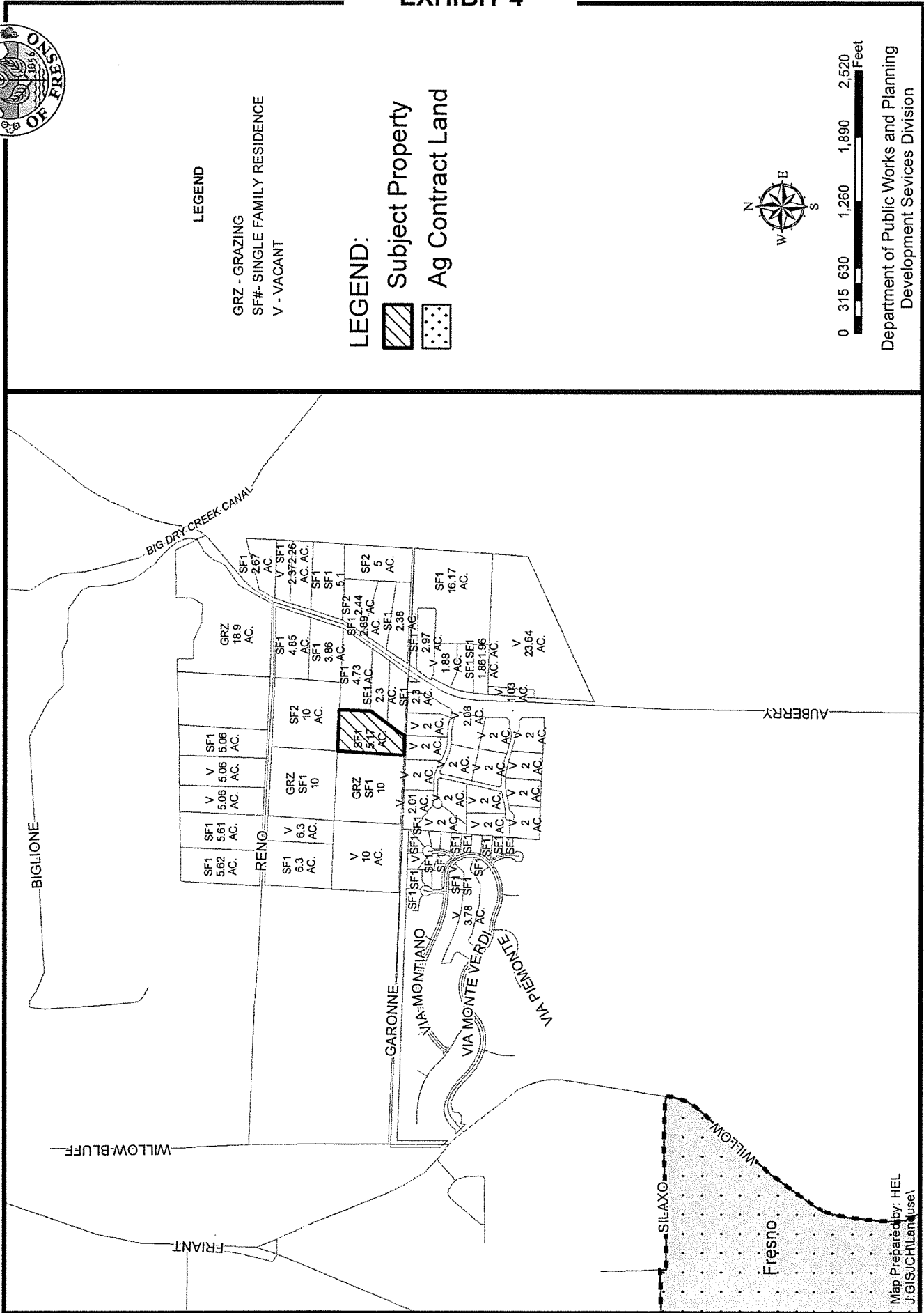




EXHIBIT 4

EXISTING LAND USE MAP



VA 4012

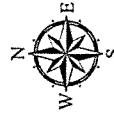


LEGEND:

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

LEGEND:

 Subject Property
 Ag Contract Land



Department of Public Works and Planning
 Development Services Division

Map Prepared by: HEL
 J. GISUCHI (Land Use)

EXHIBIT 5

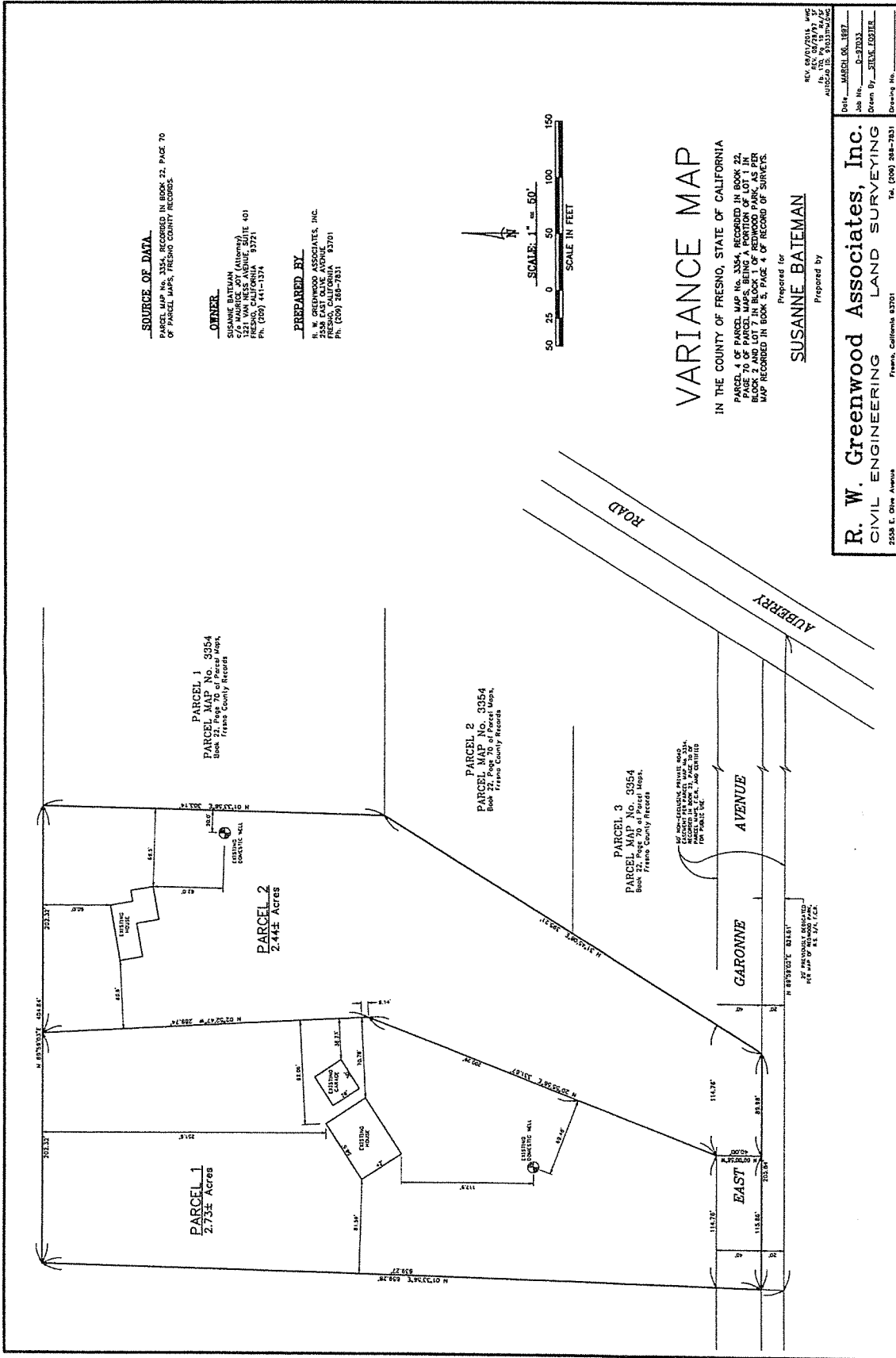


EXHIBIT 6

VARIANCE APPLICATION FINDINGS

Ms. Susanne Bateman

August 10, 2016

Owner:

Ms. Susanne Bateman
12517 N. Auberry Rd.
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:

12517 N. Auberry Rd. located on the north side of Garonne Ave. between Willow Bluff and Auberry Rd.

APN:

580-010-305
~~APN 301-110-50~~

Existing Zone Designation:

AE-20

Existing General Plan Land Use Designation:

Agriculture

Request:

Allow the creation of a 2.74-acre parcel and a 2.43-acre parcel having no public road frontage from an existing 5.17-acre parcel in the AE-20 Exclusive Agricultural District.

Background:

The Brocks Family Trust acquired subject property in 1990 and sold it in 1996 to Sue Bateman and her husband Tom Brock, John Brocks son. In 1998, the house at 12519 Auberry Road was built on the property by Leo Wilson with all proper permits from Fresno County including the well. The home at 12519 Auberry Road is occupied by Erin Minenna and her family. Erin is the daughter of John Brock and Tom Brock's sister.

Reference is made to the site plan of the subject property and its improvements prepared by R.W. Greenwood & Associates of Fresno. In 1997, the applicant was granted Variance No. 3579 for the identical proposal under consideration by this Variance. The planning commission also supported a finding that a Mitigated Negative Declaration was in order as recommended by Environmental Assessment Application No. 4339. The applicant also obtained approval of Tentative Parcel Map No. 7719 which did not record and has since expired. For a variety of reasons, the applicant did not pursue the aforementioned previously approved Variance No. 3579 nor recordation of Tentative Parcel Map No. 7719 created that would have two parcels as allowed under the aforementioned Variance.

The subject proposal seeks to obtain approval of the previously granted Variance to create 2 home sites similar in size and shape as other parcels indirect proximity to the subject site. The subject site fronts on Garonne Ave. which is technically a 20 ft. wide private road easement. A dedication of right-of-way was made to Fresno County years ago but not accepted into the county maintained road system. Please see the attached copy of Fresno County road dedications for said area.

The project site plan illustrates two houses exist on the subject 5.1-acre site. One house exists at 12517 Auberry Rd. which was built in 1977. That home is owned by the applicant Ms. Susanne Bateman. A second home built in 1998 owned by Erin Minenna also exists on the subject site. An on-site well that produces approximately 40 gpm serves both residences. The well has an excellent record of production.

The Garonne Ave. roadway width and pavement condition have been evaluated by the project engineer Mr. Mark Greenwood of R. W. Greenwood and Associates. It is Mr. Greenwood's opinion that the Garonne Ave. in its current configuration meets the vehicular needs of present and future users. Please see the attached letter from Mr. Mark Greenwood dated July 12, 2016.

The proposed Variance will not require additional improvements to Garonne Ave. as said improvements would necessitate removal of some mature and very attractive eucalyptus trees that create a unique character to the neighborhood. None of the adjacent property owner support the aforementioned eucalyptus trees being removed. In addition, should the road be widened, the electrical power line that runs along the north side of Garonne Ave. would also need to be relocated and likely necessitate the removal of other eucalyptus trees.

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?

The subject 5.17-acre site is located in an area where other parcels have been granted Variances to create parcels similar in size and without public road frontage as requested by the applicant. While the area is zoned for agricultural uses, it has functioned as a residential estate enclave for over 40 years. Property immediately to the south (Mc Donald Chelsea Downs) was previously designated and zoned for agricultural purposes and is now being urbanized. Property to the west (Monte Verdi) was also designated for agricultural purposes and has urbanized. The use and location of the area in which the subject site is located for non-agricultural purposes over the past 40 years is an exceptional circumstance that supports the proposed request.

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?

Surrounding properties have been divided in the manner, size and without public road frontage as requested by the applicant. The applicant should have the same property rights as those enjoyed by its neighbors. Although the site is designated as Exclusive Agriculture, the subject site is not prime agricultural land and provides no grazing opportunity due to its size, shape and poor soils. In fact, the residential enclave in which the subject parcel is located has functioned as a residential estate area with large homes and other related estate type improvements for over 40 years.

Finding 3:

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

Granting the proposed Variance will not be detrimental to surrounding properties for various reasons. The site is improved with two homes and related improvements. The existing homes have frontage including a driveway onto Garonne Ave. which is a private road easement of adequate width and pavement to serve the proposed home sites.

No variations in other development standards are required. The two homes are served by a well produces 40 gpm. Historically, there has been no issue with well production or septic tank leach field capability.

The existing homes are well maintained and would not be in conflict with the surrounding properties. No change in the use of the property, either in size or intensity would be affected by the proposed Variance. The historical development pattern and related lot sizes make it

impossible that an agricultural use will be reestablished on the property. Therefore, there will be no adverse impact to surrounding agricultural uses.

Garonne Ave. provides a functional and safe ingress and egress to Auberry Road. The applicant has consulted with Cal Fire and confirmed that Garonne Ave. will provide adequate access for fire protection purposes. Please see the attached *Map of Topography* prepared by R. W. Greenwood & Associates which details, among other things, acceptable vehicular “turn outs”.

As part of the process to record Parcel Map No. 7719, the applicant entered into a covenant for Road Maintenance Purposes and a covenant for Fire Protection measures with Fresno County. The aforementioned recorded covenants are attached. It is noted that the residents on the subject site currently use Garrone Ave. in a safe and efficient manner. The applicant and other adjacent property owners have maintained Garrone Ave. at their own expense over the past many decades.

Finding 4:

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

The main purpose of the 20-acre minimum lot size is to prohibit the creation of parcels that cannot effectively produce an agricultural product. The subject site is designated in the adopted Fresno County General Plan for Exclusive Agricultural uses. The site’s current zoning is consistent with that designation. Aside from the designation and zoning, nothing about the subject property or its surroundings lends itself to an agricultural use. The subject parcel size will not allow the production of a viable agricultural product.

General Plan Policy LU-A-7 directs that, among other things, consideration of *the negative incremental and cumulative effects* of substandard sized land divisions shall have on the agricultural community. The site is essentially surrounded by urbanization. The surrounding properties development pattern would prohibit any economically viable agricultural use of the subject property. In addition, an agricultural use of the subject site would be a typical of the other parcels developed for residential purposes for over 40 years.

The Monti Verdi and Chelsea Downs projects both converted agricultural lands to urban residential purposes. Many parcels in direct proximity to the subject site are of the size proposed by the applicant. Therefore, such potential *incremental or cumulative effects* to agriculture occurred long ago in the immediate area as agricultural properties converted to residential uses.

General Plan Policy LU-A-13 directs that the county shall protect agricultural operations from conflicts with non-agriculture uses by *requiring buffers between proposed nonagricultural uses and adjacent agricultural operations*. As mentioned above, the subject site is essentially surrounded by intensive urbanization. Surrounding urbanized parcels are the buffer to whatever agricultural operations may exist some distance away.

No information suggests that the creation of this parcel would have an adverse impact on agriculture as those impacts occurred decades ago. No information exists to suggest the creation

of the two parcels without public road frontage would be inconsistent with the general plan. For these reasons, the proposed Variance will not conflict with the policies of the Fresno County General Plan.

EXHIBIT 7



Inter Office Memo

DATE: July 10, 1997

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 11240 - ENVIRONMENTAL ASSESSMENT
APPLICATION NO. 4339, VARIANCE APPLICATION NO. 3579

APPLICANT: Suzanne Bateman

REQUEST: Allow the creation of a 2.74-acre parcel and a 2.43-acre parcel (20 acres required), having no public road frontage (165 feet required) from an existing 5.17-acre parcel in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) District.

LOCATION: The north side of E. Garonne Avenue between Willow Bluff and Auberry Roads. (12517 N. Auberry Road) (SUP. DIST.: 5) (APN: 301-110-50s)

PLANNING COMMISSION ACTION:

At its hearing of July 10, 1997, the Commission considered the Staff Report and testimony (summarized on Exhibit "A"), and discussed various issues related to the required findings.

Commissioner King then made a motion to adopt the required findings, to approve the Mitigated Negative Declaration, and to approve Variance Application No. 3579, subject to the mitigation measure and the conditions recommended in the staff report, as set forth in Exhibit "B". This motion, seconded by Commissioner Peters, passed on the following vote:

VOTING: Yes: Commissioners King, Peters, Eaton, Wilcox, Molen

No: Tokmakian

Absent: Commissioners Abrahamian, Cucuk, Laub

EXHIBIT "A"

Staff: The Fresno County Planning Commission accepted the Staff Report dated July 10, 1997, without a presentation.

Applicant: The applicant's representatives presented information in support of the project as summarized below:

- In 1977 this area was zoned A-1 which allowed lots 100,000 square feet in size.
- The applicant's father lives on a parcel located east of the subject parcel.
- The family wants to split the parcel so that the daughter can live on the site. The parcels will become a family compound.
- The deed restrictions in the area allow only family members to purchase parcels.
- The parcel to the west has been split by a variance, but the map has not been recorded yet.
- Staff sent 31 notices to property owners within a one-quarter mile radius of the site. This shows that the area is not agricultural but densely populated.
- We feel the findings can be made. Finding 1 can be made because the area is densely populated. Finding 2 can be made because the property owner should have the same rights as those enjoyed by other owners in the area. Finding 3 can be made because the division will not have an adverse affect on the neighboring properties. Finding 4 can be made because the size of the proposed parcels is similar to that of neighboring parcels.
- Garonne Avenue does not go through to Willow Bluff Road from Auberry Road.

EXHIBIT "B"
CONDITIONS OF APPROVAL
VARIANCE NO. 3579

1. The division of the subject property shall be in substantial conformance with the site plan approved by the Commission.
2. The access road serving the proposed parcels shall be improved to the County's A-15 private road standard.
3. A covenant running with the land shall be recorded requiring the current property owner, and subsequent owners, to share in the proportionate cost for upgrading the access road to a public road standard at such time that the majority of the property owners served by the road agree to make the improvements.
4. The owner of the subject property shall record a document irrevocably offering the private road easement on the subject property to the County of Fresno for future public road purposes.

NOTE: A preliminary title report or lot book guarantee is required before the irrevocable offer of dedication can be processed. The owner is advised that where deeds of trust or any other monetary liens exist on the property, the cost of obtaining a partial reconveyance or any other document required to clear title to the property shall be borne by the owner or developer. The County will prepare the irrevocable offer of dedication upon receipt of a processing fee which is currently \$120.00.

- *5. Creation of the parcels under the provisions of the Subdivision Ordinance shall be subject to placement of a note on an additional map sheet indicating that the project area may be subject to groundwater quantity limitations.

*MITIGATION MEASURE - A measure specifically applied to the project to mitigate potential adverse environmental effect identified in the environmental document. A change in the condition may affect the validity of the current environmental document, and a new or amended environmental document may be required.

AGENDA ITEM NO. 3
STAFF REPORT
TO
THE FRESNO COUNTY PLANNING COMMISSION
Environmental Assessment Application No. 4339
Variance Application No. 3579
July 10, 1997

Applicant: Suzanne Bateman

Request: Allow the creation of a 2.74-acre parcel and a 2.43-acre parcel (20 acres required), having no public road frontage (165 feet required) from an existing 5.17-acre parcel in the AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) District.

Location: The north side of E. Garonne Avenue between Willow Bluff and Auberry Roads (12517 N. Auberry Road)

Present Zoning: AE-20 (Exclusive Agriculture, 20-acre minimum parcel size) District.

A. AREA, EXISTING LAND USE, SURROUNDING ZONING, AND PUBLIC NOTICING

1. Approximate Area: 5.17 acres
2. Use of Subject Property: Single-family residence
3. Use of Surrounding Area: Residences, church, grazing, field-crops, orchards, vineyards, vacant (see Existing Land Use Map, Exhibit 1)
4. Surrounding Zoning: AE-20, R-1-B(c) (see Existing Zoning Map, Exhibit 2)

D. STAFF ANALYSIS/RECOMMENDED FINDINGS OF FACT

A Variance may be approved only if the following findings specified in the Zoning Ordinance are made by the Planning Commission:

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

The applicant has provided the following information in support of Finding 1:

"The subject 5.1 acres is located in an area that has parcels which have been divided by the variance process. The properties to the East and West have been divided, either by the variance process, or subdivision map process. The land to the North has also been divided into 5 acres, or less, which is compatible with the properties on both sides of Auberry Road. These parcels range in size from 2 to 5 acres."

Finding 2: *The Variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners under like conditions in the vicinity having the identical zoning classification.*

The applicant has provided the following information in support of Finding 2:

"Due to the fact the surrounding properties have been divided in a manner requested by the Applicant, the findings of fact can be made that the owner of the subject site should have the same substantial property rights as those enjoyed by the neighbors. Although designated as AE-20, the subject property is not prime agricultural land, nor is it grazing land."

In order to make Findings 1 and 2, an exceptional circumstance relating to the physical characteristics of the

subject parcel may not be prime agricultural or grazing land based on the soil types, this is not a unique condition because similar soils exist on other surrounding properties in the area. Staff does not believe that the applicant has provided adequate information to demonstrate that an exceptional or extraordinary circumstance exists or that a substantial property right would be lost if the variance is not granted. Therefore, it does not appear that Findings 1 and 2 can be made.

Finding 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.*

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

The applicant has provided the following information in support of Finding 3 and 4:

"As the properties surrounding the subject site were parcelized by either variance or subdivision, the egress and ingress have been established by prior property divisions. The proposed division of the subject site will not adversely affect the surrounding area, but is compatible with entire area."

"The division of the subject site should not adversely impact the goals and policies of the General Plan, because the proposed project is located amid many small parcels.

The Findings of Fact can be made."

The subject 5.17-acre parcel, which is developed with a residence, is designated Agriculture on the General Plan and is zoned AE-20. Surrounding properties are subject to the same land use designation and zoning with the exception of a 81.60-acre parcel approximately one-quarter mile to the west that is designated Low Density Residential. The surrounding agricultural-designated parcels range in size from 2.30

foothill areas. This requirement is necessary to restrict the creation of landlocked parcels and to ensure that roads serving properties are adequately constructed and maintained. Waiving the public road frontage requirement generally places additional traffic on a private road and, therefore, impacts property owners who currently depend on the road for access.

In this case, access to the subject property is from Auberry Road via a 60-foot wide private road easement along E. Garonne Avenue. Approval of the variance would authorize one additional homesite parcel, thus adding traffic to the private road. Improvement of the road in accordance with the County's A-15 private road standard will be addressed under the parcel map process if the variance is approved. As a point of information, this standard was applied to the parcel map on the 20.00-acres immediately to the west which was authorized by Variance Application No. 3482 to be divided into two five-acre parcels and one 10-acre parcel. The potential need to upgrade the road in the future also needs to be addressed. To deal with this issue, a condition should be imposed requiring that the owner, or any subsequent owners, share a proportionate cost for upgrading the access road to a public road standard at such time that the majority of the property owners served by the road agree to make the improvements. In addition, Staff recommends a condition requiring that the private road easement across the subject property be irrevocably offered to the County of Fresno for future public road purposes.

Based on the issues discussed above, Staff does not believe that Findings 3 and 4 can be made.

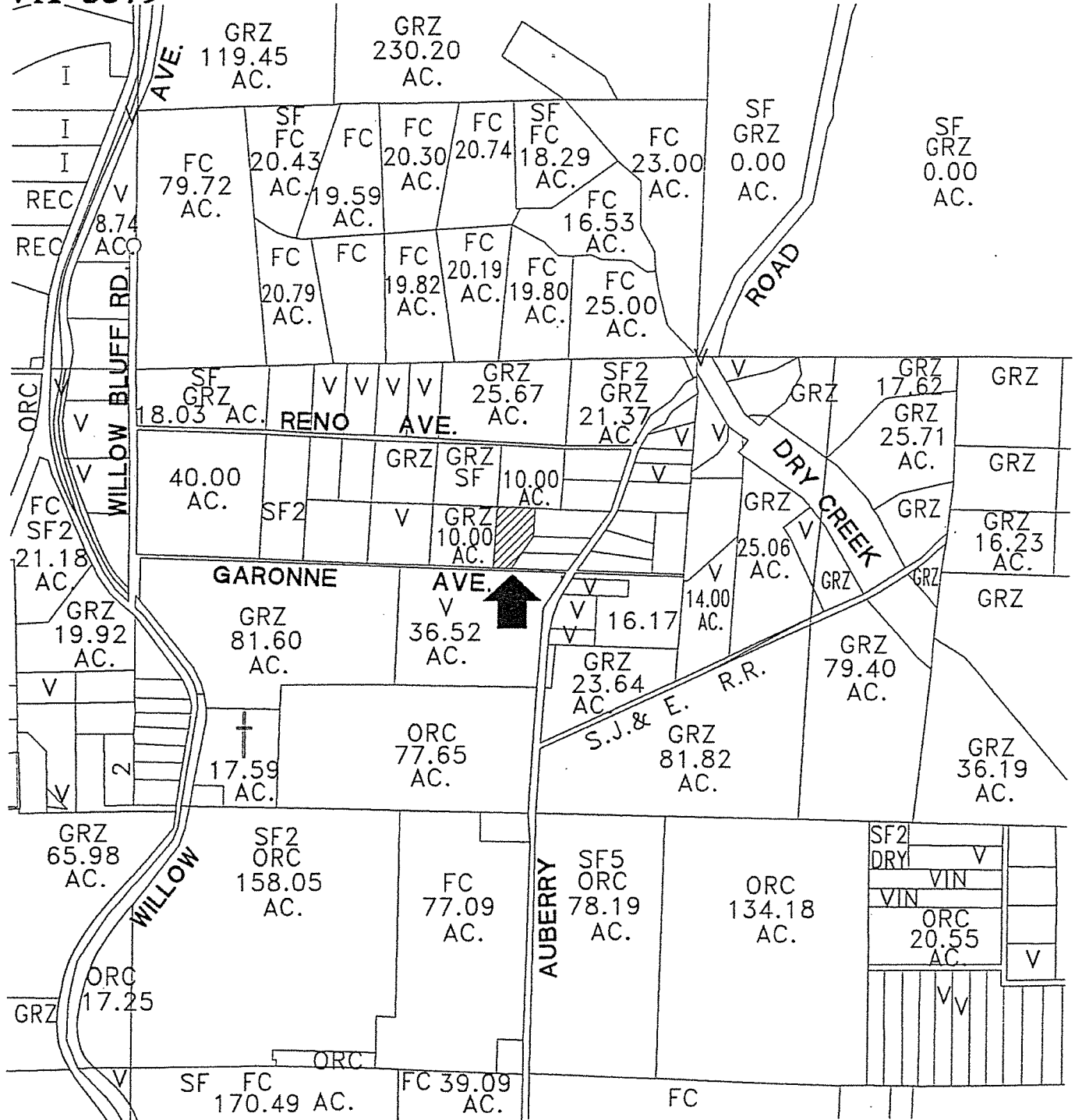
E. STAFF RECOMMENDATION

Staff recommends approval of the Negative Declaration (including the mitigation measure) prepared for this project, if the Commission is inclined to approve the project.

Staff does not believe that the required Findings can be made, and therefore, recommends denial of Variance Application No. 3579.

EXHIBIT "1"
EXISTING LAND USE

VA 3579

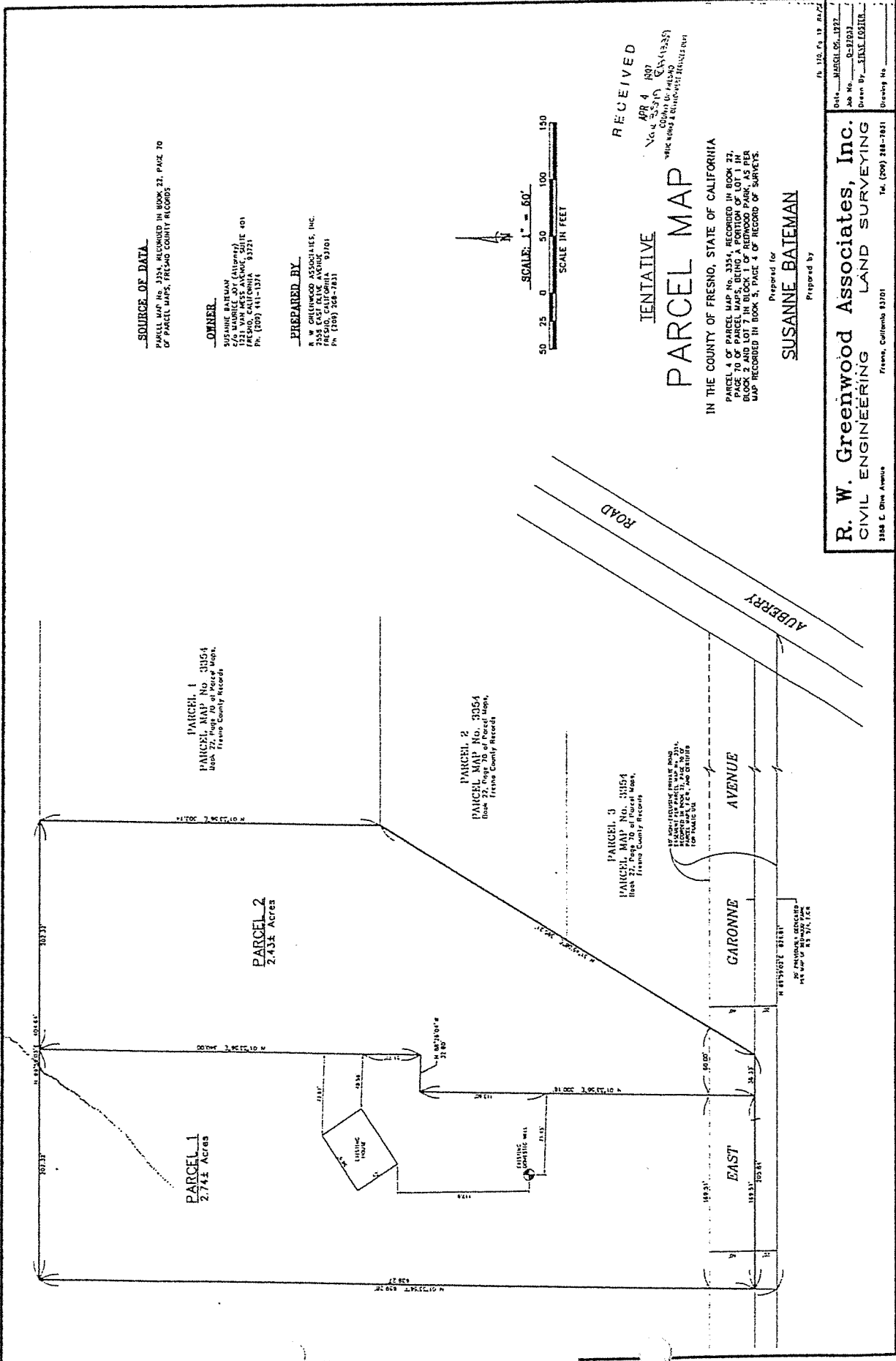


LEGEND

NOTE: ALL PARCEL(S) NOT LABELED ARE SINGLE FAMILY RESIDENTIAL

- | | |
|--------------------------------|----------------------|
| † — CHURCH | I — INDUSTRIAL |
| SF — SINGLE FAMILY RESIDENTIAL | VIN — VINEYARD |
| FC — FIELD CROP | GRZ — GRAZING |
| ORC — ORCHARD | # — NUMBER OF UNITS |
| V — VACANT | ▨ — SUBJECT PROPERTY |

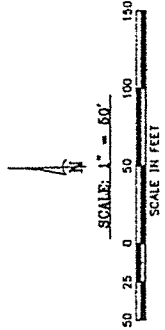




SOURCE OF DATA
 PARCEL MAP No. 3354, RECORDED IN BOOK 22, PAGE 70
 OF PARCEL MAPS, FRESNO COUNTY RECORDS

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 FRESNO COUNTY RECORDS

**INTENTATIVE
 PARCEL MAP**

IN THE COUNTY OF FRESNO, STATE OF CALIFORNIA
 PARCEL 1 OF PARCEL MAP No. 3354, RECORDED IN BOOK 22,
 PAGE 70 OF PARCEL MAPS, FRESNO COUNTY RECORDS,
 BLOCK 2 AND LOT 7 IN BLOCK 1 OF REDWOOD PARK, AS PER
 MAP RECORDED IN BOOK 3, PAGE 4 OF RECORD OF SURVEYS.

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