



# County of Fresno

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

## ADDENDUM

### Planning Commission Staff Report Agenda Item No. 2 November 10, 2016

**SUBJECT:** Variance Application No. 3996

Recognize two 2.15-acre parcels from an existing 4.3-acre parcel with 132.6-foot and 151-foot lot width (minimum 165 feet required) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The subject parcels are located on the southeast corner of E. Harlan and S. Elm Avenues approximately 2.5 miles east of the nearest city limits of the City of Riverdale (91 E. Harlan Avenue) (SUP. DIST. 4) (APNs 055-350-22 & 23).

**OWNER:** Juan and Liliana Samano; Tony and Clara Coelho  
**APPLICANT:** Miguel Torres (on behalf of Juan and Liliana Samano)

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

Chris Motta, Principal Planner  
(559) 600-4227

**RECOMMENDATION:**

- Approve Variance No. 3996; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Land Use Application (signed by property owners)
2. Authorization letter signed by property owners
3. Authorization letter from previous owner of Proposed Parcel B
4. Staff Report and Exhibits dated August 25, 2016

**BACKGROUND INFORMATION:**

This item was considered by the Planning Commission at its regularly-scheduled August 25, 2016 hearing. Based on Commissioner comments and testimony from the Applicant's representative and members of the public, the Commission approved a motion on a five (5) to zero vote (four Commissioners absent) to continue the item to a date uncertain to allow staff additional time to work with the Applicant to resolve an ownership dispute among property owners for the subject application.

**DISCUSSION:**

During the August 25<sup>th</sup> testimony, legal ownership of the proposed parcels (Parcel A and Parcel B) was questioned. Disagreements arose between the Applicant's representative claiming that his client owns the proposed 2.15-acre easterly parcel (Parcel B) and the owners of proposed 2.15-acre westerly parcel (Parcel A) claiming that Parcel B is owned by their relative. The owners of Parcel B also indicated they had no prior knowledge of the subject application until they received a notice of public hearing. Staff also informed the Commission of no knowledge of ownership dispute among property owners prior to the hearing and requested that additional time be granted to work with the Applicant to resolve the dispute and produce written confirmation that all owners are in agreement of the subject proposal at the next hearing. The Commission concurred with staff's request, supported by the County Council recommendation to continue the item, and approved a motion granting staff additional time to look into the subject matter and bring the item back for the Commission's consideration on a date uncertain.

As a follow-up, the Applicant has contacted the current owners of the proposed Parcel A and Parcel B (Juan Samano, Liliana Samano, Tony Coelho and Clara Coelho) and requested that they sign the Variance application attached as Exhibit 1 to this report. Their signatures attest that they are the current owners of the proposed parcels. Also, a letter provided by the Applicant and signed by all parties stating that: 1) all owners are in agreement with the subject Variance Application proposing to allow the recognition of two 2.15-acre non-conforming parcels (APNs 055-350-22 & 23) from a 4.33-acre parcel and have no disputes about the legal ownership of said parcels; and 2) the legal owners of APN 055-350-22 are Tony and Clara Coelho and the legal owners of APN 055-350-23 are Juan and Liliana Samano is attached as Exhibit 2. Another letter provided by the Applicant and attached as Exhibit 3 states that the previous owners of Parcel B (Terry and Mary Medeiros) have sold the property to the Applicant's client (Juan and Liliana Samano) and have no legal interest in the parcel nor do they protest the Variance application.

**CONCLUSION:**

As noted above, a Variance application has been signed by the owners of the proposed Parcel A and Parcel B and letters provided by the current and previous owners indicate that they all are

in agreement of the subject application and have no ownership dispute among them. With the information provided and attached to this report, the subject matter has been resolved to the satisfaction of staff, and a decision on the Variance application can be rendered by the Commission. Staff also notes that the Applicant has requested to have all property owners be present during the Planning Commission hearing.

Staff's analysis and recommendation to approve the proposal remain unchanged from the August 25, 2016 analysis (Exhibit 4). Therefore, staff recommends approval of the subject proposal, subject to analysis and Conditions of Approval provided in the Staff Report attached as Exhibit 4.

**PLANNING COMMISSION MOTIONS:**

See Exhibit 4, Page 10 (August 25, 2016 Staff Report) for recommended motion.

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# EXHIBIT 1



Date Received: 5/25/2016

VA3996

(Application No.)

## Fresno County Department of Public Works and Planning

**MAILING ADDRESS:**  
 Department of Public Works and Planning  
 Development Services Division  
 2220 Tulare St., 6<sup>th</sup> Floor  
 Fresno, Ca. 93721

**LOCATION:**  
 Southwest corner of Tulare & "M" Streets, Suite A  
 Street Level  
 Fresno Phone: (559) 600-4497  
 Toll Free: 1-800-742-1011 Ext. 0-4497

**APPLICATION FOR:**

- Pre-Application (Type)
- Amendment Application
- Amendment to Text
- Conditional Use Permit
- Variance (Class )/Minor Variance
- Site Plan Review/Occupancy Permit
- No Shoot/Dog Leash Law Boundary
- General Plan Amendment/Specific Plan/SP Amendment)
- Time Extension for
- Director Review and Approval
- for 2<sup>nd</sup> Residence.
- Determination of Merger
- Agreements
- ALCC/RLCC
- Other

**DESCRIPTION OF PROPOSED USE OR REQUEST:**

Recognize the creation of two 2.15-acre parcels from a 4.3-acre parcel in the AE-20 zone District where 20 acres are required.

CEQA DOCUMENTATION:  Initial Study  PER  N/A

PLEASE USE FILL-IN FORM OR PRINT IN BLACK INK. Answer all questions completely. Attach required site plans, forms, statements, and deeds as specified on the Pre-Application Review. Attach Copy of Deed, including Legal Description.

LOCATION OF PROPERTY: \_\_\_\_\_ side of \_\_\_\_\_  
 between \_\_\_\_\_ and \_\_\_\_\_

Street address: 91 E. Harlan

APN: 055-350-22923 Parcel size: 4.3 AC. Section(s)-Twp/Rg: S 22 - T 17 S/R 20 E

ADDITIONAL APN(s):

X1. Juan Samano Liliana Samano Clara Coelho Tony Coelho  
JUAN SAMANO (signature), declare that I am the owner, or authorized representative of the owner, of the above described property and that the application and attached documents are in all respects true and correct to the best of my knowledge. The foregoing declaration is made under penalty of perjury.

Juan Samano 20707 S Rendell St RIVERDALE, CA 93656  
 Owner (Print or Type) Address City Zip Phone

Miguel Torres 4930 E Yule Ave STE #103 FRESNO, CA 93727 (559) 708-3238  
 Applicant (Print or Type) Address City Zip Phone

Same mike@torresrestate.com  
 Representative (Print or Type) Address City Zip Phone

CONTACT EMAIL:

**OFFICE USE ONLY (PRINT FORM ON GREEN PAPER)**

Application Type / No.: VA 3996 Fee: \$ 6,049.00  
 Application Type / No.: Fee: \$  
 Application Type / No.: Fee: \$  
 Application Type / No.: Fee: \$  
 (PER) Initial Study No.: 7156 Fee: \$ 259.00  
 Ag Department Review: Fee: \$ 34.00  
 Health Department Review: Fee: \$ 365.00  
 Received By: CMM Invoice No.: 66488 TOTAL: \$ 6,707.00

**UTILITIES AVAILABLE:**

WATER: Yes  / No   
 Agency: \_\_\_\_\_

SEWER: Yes  / No   
 Agency: \_\_\_\_\_

STAFF DETERMINATION: This permit is sought under Ordinance Section:

Sect-Twp/Rg: \_\_\_\_\_ - T \_\_\_\_\_ S/R \_\_\_\_\_ E

Related Application(s): \_\_\_\_\_

APN # \_\_\_\_\_

Zone District: AE-20

APN # \_\_\_\_\_

Parcel Size: 4.30 ACRES.

APN # \_\_\_\_\_

APN # \_\_\_\_\_

EXHIBIT 2

August 30, 2016

To: Fresno Planning Commission

From: Juan and Lilliana Samano, Tony and Clara Coelho

RE: Parcel Ownership

We are all in agreeance with Variance Application 3996, which request for the division of two 2.15 acre parcels, APN 055-350-22&23, from a 4.3 acre parcel. We have no dispute amongst ourselves about the legal ownership of said parcels.

The legal owners of APN 055-350-22 are Tony and Clara Coelho. The legal owners of APN 055-350-23 are Juan and Lilliana Samano.

Should you have any questions or concerns we will be happy to address them at the next Planning Commission Board Meeting.

Sincerely;

Juan Samano

Juan Samano 20767 S Pendelton St Riverdale, CA 93656

Lilliana Samano

Lilliana Samano 20767 S Pendelton St Riverdale, CA 93656

Tony Coelho

Tony Coelho ~~91 E Harlan Ave Riverdale, CA 93656~~

Clara Coelho *19947 S. Maple Ave  
Laton, Calif.*

Clara Coelho ~~91 E Harlan Ave Riverdale, CA 93656~~

*19947 S. Maple Ave  
Laton, Ca 93242*

EXHIBIT 3

August 30, 2016

To: Fresno Planning Commission

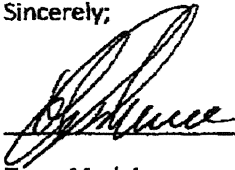
From: Clara Coelho, Terry and Marry Medeiros

RE: Previous Parcels Owners

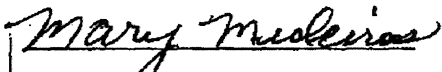
I Terry and Mary Medeiros are the previous owners of APN 055-350-23 and we sold the parcel to Juan and Lilliana Samano. We acquired the parcel from Clara Coelho when we split the original parcel APN 055-350-16 into two equal lots. We have no legal interest in the parcel and have no protest to the variance application.

I Clara Coelho attest to the split of APN 055-350-16 into two equal lots. The ownership of APN 055-350-23 was transferred over to Terry and Mary Medeiros. I have no legal interest in the parcel and furthermore have no issue with the variance application request.

Sincerely;

  
\_\_\_\_\_

Terry Medeiros

  
\_\_\_\_\_

Mary Medeiros

  
\_\_\_\_\_

Clara Coelho



## Planning Commission Staff Report Agenda Item No. 5 August 25, 2016

**SUBJECT:** Variance Application No. 3996

Recognize two nonconforming parcels, each approximately 2.15 acres in size (minimum 20 acres required), created with 132.6-foot and 151-foot road frontage (minimum 165 feet required) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The subject parcels are located on the southeast corner of E. Harlan and S. Elm Avenues approximately 2.5 miles east of the nearest city limits of the City of Riverdale (91 E. Harlan Avenue) (SUP. DIST. 4) (APNs 055-350-22 & 23).

**OWNERS:** Juan and Liliana Samano; Tony and Clara Coelho Life Estate  
**APPLICANT:** Miguel Torres (representing Samano family)

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

Chris Motta, Principal Planner  
(559) 600-4227

**RECOMMENDATION:**

- Approve Variance No. 3996; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Condition of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Assessor's Map/Site Plan
6. Approved Variances within One-Mile Radius
7. Applicant's Statement of Variance Findings

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size)	No change
Parcel Size	Parcel A: 2.15 acres Parcel B: 2.15 acres	No change No change
Project Site	Parcel A: 960 square-foot single-family residence with a 240 square-foot carport; 600 square-foot agriculture-exempt structure Parcel B: Vacant	Recognize two nonconforming parcels, each approximately 2.15 acres in size, as developable properties; construct a single-family residence on Parcel B
Structural Improvements	Parcel A: 960 square-foot single-family residence with a 240 square-foot carport; 600 square-foot agriculture-exempt structure	Construct a single-family residence with related improvements on Parcel B
Nearest Residence	Approximately 374 feet east of Parcel B	No change
Surrounding Development	Single-family residences, orchards, field crops	No change
Operational Features	N/A	N/A
Employees	N/A	N/A



<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
Customers	N/A	N/A
Traffic Trips	Residential traffic	Residential traffic
Lighting	Residential lighting	Residential lighting
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)(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 15 property owners within 1,320 feet of the subject parcels, 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.

**BACKGROUND INFORMATION:**

The subject property is identified by two Assessor's Parcel Numbers. The westerly 2.15-acre parcel (Parcel A) is identified by Assessor's Parcel Number 055-350-22 and the easterly 2.15-acre parcel (Parcel B) is identified by Assessor's Parcel Number 055-350-23 (Exhibit 5). Per the County records, prior to March 4, 1972 these Assessor's Parcel Numbers constituted one 4.04-acre parcel of land identified by Assessor's Parcel Number 055-350-16. As allowed prior to March 4, 1972, the parcel was created through the recordation of a deed.

The Zone District in effect at the time of the creation of the 4.04-acre parcel was R-A (Single-Family Residential Agricultural) which required a 36,000 square-foot minimum parcel size with 130 feet of road frontage. The requirement to have at least 130 feet of road frontage in the R-A Zone District went into effect on June 8, 1960. The subject parcel met Zoning standards for lot size and road frontage in effect at the time of its creation.

On September 25, 1973, the subject parcel and surrounding area were rezoned from the R-A Zone District to an AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District, which is currently in effect. Section 816.5.A.1 of the Fresno County Zoning Ordinance requires a 20-acre minimum parcel size for properties located in the AE-20 Zone District. Further, Section 816.5.B.1 of the Fresno County Zoning Ordinance requires that parcels less than 20-

acres in size located in the AE-20 Zone District have at least 165 feet of road frontage.

According to the 1971/72 property tax roll, the 4.04-acre parcel was owned by Manuel and Louise Diaz who sold it to Mary Medeiros and Clara Coelho as Tenant in Common via a Quitclaim Deed recorded with the County Recorder's office on August 17, 1999 (Doc-1999-0120837). Later, in 2013, Mary Medeiros and Clara Coelho sold Parcel B (APN 055-350-23) to Terry Medeiros and Mary Medeiros via a Grant Deed recorded on May 7, 2013 (DOC-2013-0065810). Per the records, Parcel A is currently under the ownership of Tony and Clara Coelho Life Estate.

In 2012, Terry Medeiros and Mary Medeiros contacted the County to find out if the subject parcels are legal parcels and can be sold separately. The County conducted a Legal Lot Determination to determine the legal status of the parcels, particularly Parcel B owned by Terry Medeiros and Mary Medeiros. In a letter issued on December 12, 2012, the County informed Terry and Mary Medeiros that the Map Act which went into effect on March 4, 1972 required no division of land without zoning approval and a mapping procedure for the subdivision of land into four or less parcels authorized by the local jurisdiction, in this case the County of Fresno. Since an August 17, 1999 deed conveyance showed that Parcel A and Parcel B were held under separate ownership without the zoning approval and mapping procedure as required by the Map Act of 1972, both parcels are constituted as nonconforming parcels for which the building permits could not be issued. Furthermore, for the parcels to be recognized as separate legal nonconforming parcels, a Variance application to waive minimum lot area must be approved and followed by a mapping application to legalize the property division.

In 2013, the owner of record (Medeiros) sold Parcel B to Juan and Liliana Samano, the current property owners, via a Grant Deed recorded on July 10, 2013 (DOC-2013-0096661-00).

In 2014, construction plans for a single-family residence on Parcel B were submitted for plan check on behalf of Juan and Liliana Samano. Plan Check Letter (No. 14-0155) issued to the Applicant's consultant on April 7, 2014 informed the property owner of the nonconforming status of the parcels, with a copy of Dec. 12, 2012 letter to the previous property owners. The subject Variance application was filed on May 25, 2016 to address the issue so that building permits may be issued for the construction of a residence. If approved, this Variance will waive the 20-acre minimum parcel size requirement of the AE-20 Zone District currently in effect by recognizing the subject parcels as legal nonconforming parcels with less than 165 feet of road frontage. Completion of a mapping procedure would also be required to legalize the property division.

One Variance application pertaining to lot size was filed within a one-mile radius of the subject parcel. The following table provides a brief summary of that variance request, staff recommendation, and final action:

<b>Application/Request:</b>	<b>Date of Action:</b>	<b>Staff Recommendation:</b>	<b>Final Action:</b>
VA No. 2979: Allow the creation of a 1.38-acre parcel and a 10-acre parcel (minimum 20 acres required) from a 11.38-acre parcel in the AE-20 Zone District	Planning Commission February 13, 1986	Approval based on Planning Commission discretion	Approved

**ANALYSIS/DISCUSSION:**

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.*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n):</b>
Setbacks	Front: 35 feet Side: 20 feet Street Side: 20 feet Rear: 20 feet	Parcel A:  Front (north): 231 feet Side (east): 50 feet Street Side (west): 114 feet Rear (south): 53 feet	Yes
Parking	No requirement	N/A	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)	N/A	N/A
Septic Replacement Area	100 percent	N/A	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	N/A	N/A

## **Reviewing Agencies/Department Comments:**

Zoning Section of the Fresno County Department of Public Works and Planning: AE-20 Zone District requires a minimum parcel size of 20 acres and minimum public road frontage of 165 feet for parcels less than five acres in size. Therefore, a variance is required to waive the minimum parcel size requirement and road frontage requirement in order to recognize the subject parcels as developable properties.

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

## **Analysis:**

In support of Finding 1, the Applicant states that the property is divided into two different Assessor's Parcel Numbers (Parcel A, being a legal parcel, and Parcel B, being an illegal parcel) were sold by the previous property owners to the current property owners; at the time of the application for construction permit, the County informed the current owners of the illegal parcel subdivision the previous owners had not disclosed. The Applicant regards these as exceptional circumstances, including the fact that the property owners were sold a fictitious illegal parcel that fooled the Title Company and caused the Fresno County Recorder to issue a Grant Deed.

In support of Finding 2, the Applicant states that the property owners will not be able to enjoy the home ownership since the County will not issue a construction permit; several parcels in the area are less than 20 acres in size with multiple homes constructed between the 1970s and the 1990s; and, the owners should be allowed to enjoy their property the same as others in the area without being compliant to current zoning.

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 granting of said Variance will preserve a substantial property right.

Regarding Finding 1, the manner in which a property was sold is an issue of interpersonal circumstances and makes no reference to any tangible physical characteristic of the subject parcels. Both Parcel A and Parcel B are currently held in separate ownership without meeting the requirements of the AE-20 Zone District and Map Act of 1972, and therefore are constituted as nonconforming parcels. Staff notes that the Assessor's Parcel Numbers assigned to Parcel A and Parcel B are for tax purposes only and grants no legal zoning status to the parcels, and that title companies are not required by law to check the legality of the parcels prior to transfer of titles. It is buyer's responsibility to do so by obtaining local justification of where the property is located prior to close of the sale.

In regard to Finding 2, staff notes that with the exception of one parcel noted in the "Background Information" of this report and which was created through a Variance, all other substandard-sized parcels less than 20 acres in size located within a one-mile radius of the subject property were created prior to September 25, 1973 when the area was zoned R-A (Single-Family Residential Agricultural District). The previous R-A Zone District allowed parcels as small as 36,000 square feet with 130 feet of frontage on a public road in June 8, 1960 (Ordinance No. 490). The subject Parcel A and Parcel B match in size and road frontage to those parcels allowed in the R-A Zone District prior to the zone change to AE-20 in September 25, 1973. Several of these neighboring parcels, some as small as less than two acres in size, have been improved with single-family residences. Considering all these factors, it can be argued that this

Variance request has a physical circumstance warranting the recognition of the subject parcels as developable properties comparable in size and road frontage to other properties in the area. Additionally, staff acknowledges that the subject Variance would resolve a unique set of circumstances that are unlikely to establish a precedent due to changes in County Code requiring mapping procedures for the subdivision of land. Further, staff also acknowledges that denial of the subject Variance would preclude the Applicant from developing Parcel B for residential use as neighboring properties have been developed.

A consideration in addressing Variance applications is whether there are alternatives available that would avoid the need for the Variance. In this instance, such alternatives are limited to rescinding ownership of the subject parcel to the property owner who originally created this nonconforming situation. However, staff does not believe this alternative is plausible as it does not serve any purpose to the owners of Parcel B (Juan and Liliana Samano), who purchased the property to be improved with a single-family residence. Without the approval of the subject Variance, the owners retain a parcel which is not legal or developable due to not meeting the zoning and parcel map requirements.

Based on the above analysis, and considering the lack of an alternative that would avoid the need for the Variance, staff believes Findings 1 and 2 can be made.

**Recommended Conditions of Approval:**

None

**Conclusion:**

Findings 1 and 2 can be made.

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

<b>Surrounding Parcels</b>				
	<b>Size:</b>	<b>Use:</b>	<b>Zoning:</b>	<b>Nearest Residence:</b>
North:	8.9 & 19.8 acres	Farmland	AE-20	None
South	4.9 & 19 acres	Single-Family Residence		570 feet
East:	4.9 acres	Single-Family Residence	AE-20	374 feet
West:	13.7 acres	Single-Family Residence	AE-20	908 feet

**Reviewing Agencies/Department Comments:**

Development Engineering Section of the Fresno County Department of Public Works and Planning: If not already present, a 10-foot by 10-foot corner cutoff shall be improved for sight distance purposes at the exiting driveway onto Harlan Avenue. If not already present, a 10-foot by 10-foot corner cutoff shall be improved for sight distance purposes at the exiting driveway onto Elm Avenue. A Grading Permit or Voucher shall be required for any grading proposed with

this application. Any additional runoff generated by the proposed development of the site cannot be drained across property lines and must be retained on site per County Standards.

Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: No more than two points of access to Harlan and Elm Avenues shall be allowed. Prior to any improvements constructed for these access drives within the County road right-of-way, an encroachment permit shall be obtained.

Zoning Section of the Fresno County Department of Public Works and Planning: Building permits shall be required for the existing house and carport on the property (Parcel A) if constructed after March 1, 1958.

Fresno County Department of Public Health, Environmental Health Division: No building permit records were available for the existing septic system. 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).

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

**Analysis:**

In support of Finding 3, the Applicant states that the subject parcels do not encroach onto neighboring parcels or roadways and maintain independent access from public streets. Further, construction of a new residence on the property (Parcel B) will increase local property values and yield new tax revenues.

Staff notes that the subject parcel is located in an area of limited farming activities. Most parcels in the area are vacant, unfarmed, or developed with single-family residences. If approved, the granting of this Variance will result in the recognition of two nonconforming parcels (Parcel A and Parcel B), each approximately 2.15 acres in size as developable parcels with building permits to be issued for the construction of a residence on Parcel B. Such a use is complimentary to and compatible with the existing residential land uses in the vicinity of the proposal. Given the surrounding residential land uses, staff believes that there will be no aesthetic impact and no adverse effects on surrounding properties if the Variance is granted.

Based on the above analysis, staff believes that Finding 3 can be made.

**Recommended Conditions of Approval:**

None

**Conclusion:**

Finding 3 can be made.

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

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>General Plan Policy LU-A.6: County shall maintain 20 acres as the minimum permitted parcel size in areas designated Agriculture; the County shall generally deny requests to create parcels less than this minimum 20-acre parcel size.</p> <p>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.</p>	<p>The subject parcels constituted one 4.04-acre parcel of land created when the R-A (Single-Family Residential Agricultural) Zone District was in effect, which required a 36,000 square-foot minimum parcel size. On September 25, 1973 the 4.04-acre parcel and neighboring properties were rezoned to the AE-20 Zone District. Some of these properties are considerably less than 20 acres in size, and several have been improved with single-family residences. Considering these factors, staff does not believe Policy LU-A.6 is applicable.</p>
<p>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.</p>	<p>The subject Variance request was reviewed by the Water/Geology/Natural Resources Section of the Development Services Division, which expressed no concerns regarding the proposal, as the subject parcel is not located within a water-short area.</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. 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.

**Analysis:**

In support of Finding 4, the Applicant states that the property was zoned R-A prior to current AE-20 zoning enacted Sept. 25, 1973 requiring a 36,000 square-foot minimum parcel size; a nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in the R-A Zone District; approval of the subject request will allow the parcel size to conform with R-A Zone District standards; and, there are several parcels in the area that do not meet the AE-20 standards.

The subject Parcel A and Parcel B are designated Agriculture in the County General Plan and zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) in the County Ordinance. However, at the time they constituted as one 4.04-acre parcel of land created through recordation of a grant deed, the R-A (Single-Family Residential Agricultural) Zone District was in effect, which required a 36,000 square-foot minimum parcel size with 130 feet of road frontage. On September 25, 1973 the subject parcel and the neighboring properties were rezoned from the R-A Zone District to an AE-20 Zone District which required a 20-acre minimum parcel size

with 165 feet of road frontage. Staff notes that there are several parcels in the vicinity of the proposal that are considerably less than 20 acres in size, including some which are comparable in size and road frontage to the proposed parcels and have been improved with single-family residences. Considering these factors, staff does not believe Policies LU-A.6 and LU-A.7 are applicable. As such, the proposal is not inconsistent with the General Plan and, therefore, Finding 4 can be made.

**Recommended Conditions of Approval:**

None

**Conclusion:**

Finding 4 can be made.

**PUBLIC COMMENT:**

None

**CONCLUSION:**

Staff believes the required Findings for granting the Variance can be made based on the factors cited in the analysis. Staff therefore recommends approval of Variance No. 3996.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to determine the required Variance Findings can be made and move to approve Variance No. 3996 subject to the condition and notes listed in Exhibit 1; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Alternative Motion** (Denial Action)

- Move to determine that the required Findings cannot be made (state basis for not making the Findings) and move to deny Variance No. 3996; 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  
G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\3900-3999\3996\SR\VA3996 SR (revised).docx



**Variance Application (VA) No. 3996  
Condition of Approval and Project Notes**

<b>Condition of Approval</b>	
1.	Development shall be in accordance with the Site Plan (Exhibit 5) as approved by the Commission.

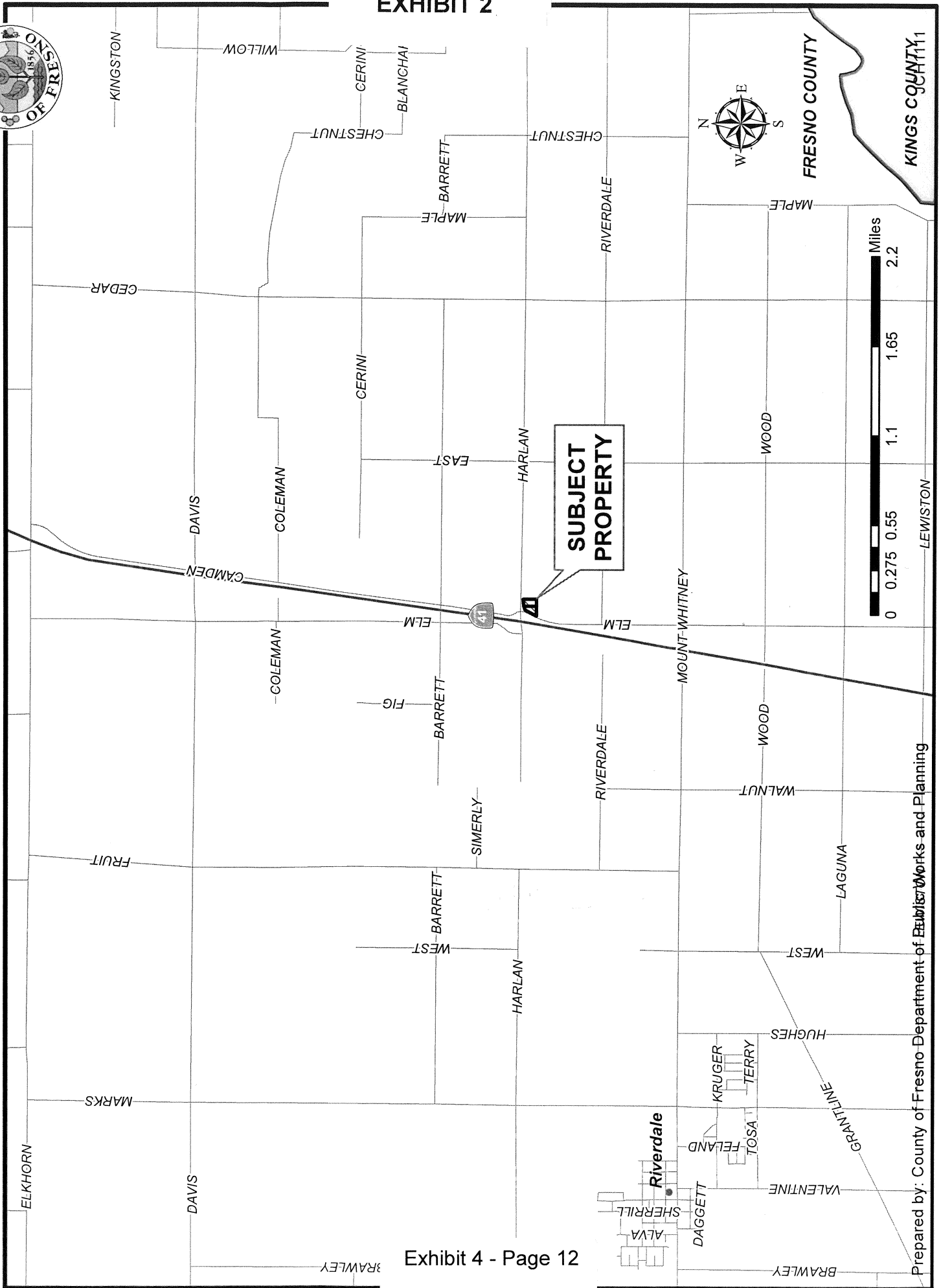
Conditions of Approval reference recommended Conditions for the project.

<b>Notes</b>	
<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create two 2.15-acre parcels. The Map shall comply with the requirements of Title 17.72.
2.	Building permits are required for the existing house and carport on the property (Parcel A) if constructed after March 1, 1958.
3.	According to the Development Engineering Section of the Fresno County Department of Public Works and Planning: <ul style="list-style-type: none"> <li>• If not already present, a 10-foot by 10-foot corner cutoff shall be improved for sight distance purposes at the exiting driveway onto Harlan Avenue.</li> <li>• If not already present, a 10-foot by 10-foot corner cutoff shall be improved for sight distance purposes at the exiting driveway onto Elm Avenue.</li> <li>• A Grading Permit or Voucher is required for any grading proposed with this application.</li> <li>• Any additional runoff generated by the proposed development of the site cannot be drained across property lines and must be retained onsite per County Standards.</li> </ul>
4.	According to the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning: <ul style="list-style-type: none"> <li>• No more than two points of access to Harlan and Elm Avenues are allowed.</li> <li>• Prior to any improvements constructed for these access drives within the County road right-of-way, an encroachment permit is required.</li> </ul>
5.	Per the Fresno County Department of Public Health, Environmental Health Division, no building permit records were available for the existing septic system. 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).

EA:ksn  
G:\4360Devs&Pin\PROJSECI\PROJDOCS\VA\3900-3999\3996\SRVA3996 Conditions & PN (Ex 1).docx

# LOCATION MAP

## EXHIBIT 2

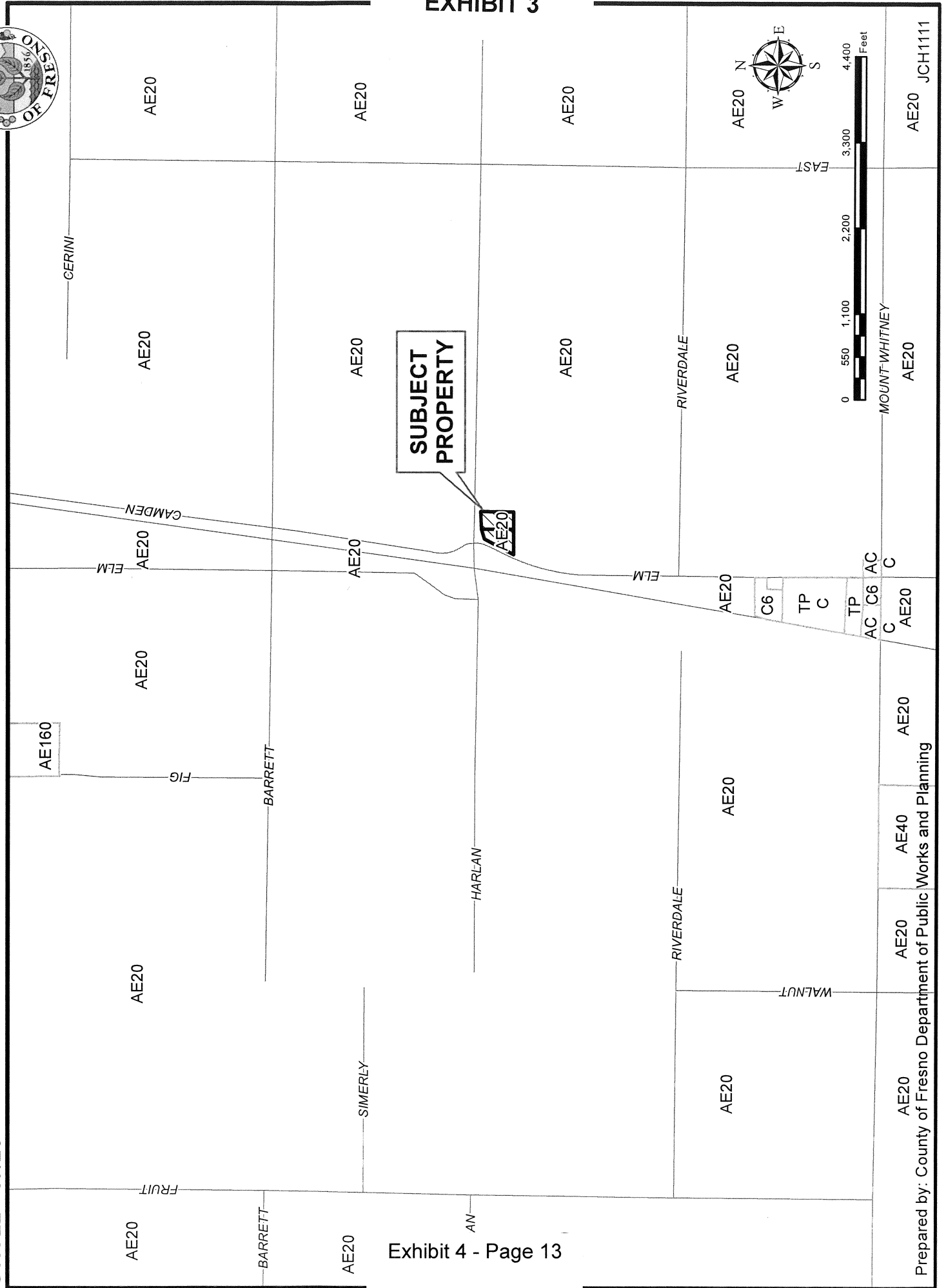


VA 3996

# EXISTING ZONING MAP



## EXHIBIT 3



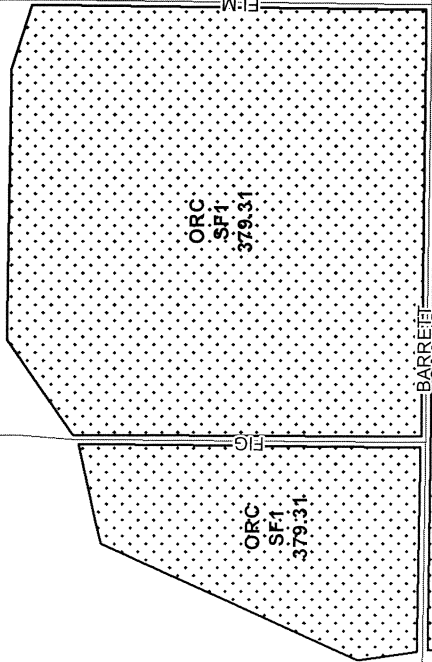
# EXISTING LAND USE MAP

## EXHIBIT 4



VA 3996

CERINI



### LEGEND

- FC - FIELD CROP
- ORC - ORCHARD
- SF# - SINGLE FAMILY RESIDENCE
- V - VACANT

### LEGEND:

- Subject Property
- Ag Contract Land

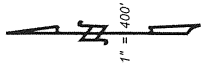


Department of Public Works and Planning  
Development Services Division

Tax Area  
125-004  
170-005

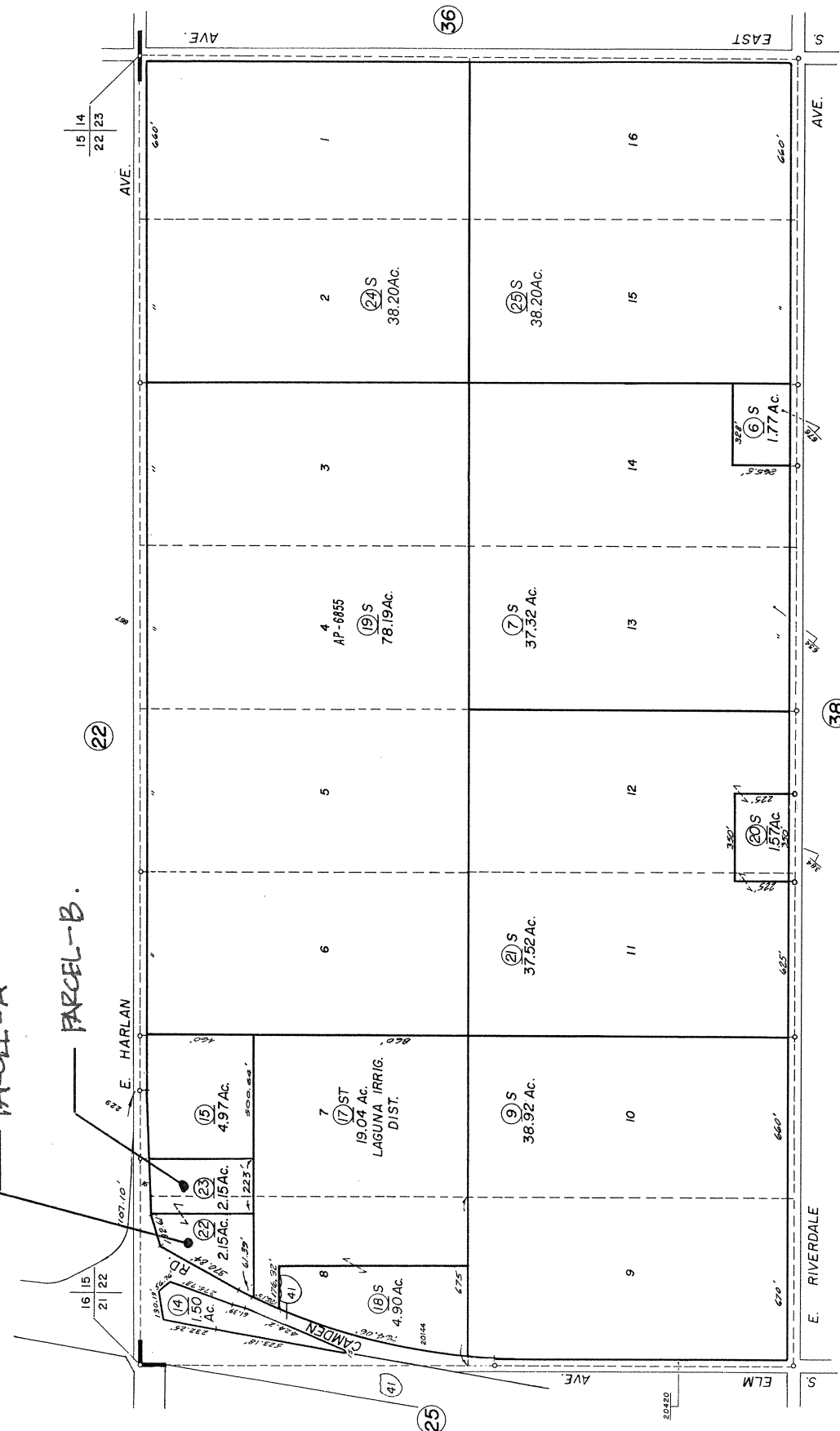
EXHIBIT 5

NOTE - This map is for Assessment purposes only. It is not to be construed as portraying legal ownership or divisions of land for purposes of zoning or subdivision law.



PARCEL - A

PARCEL - B



Assessor's Map Bk. 55 - Pg. 35

Agricultural Preserve  
Laguna DeTache Grant - R.S. Bk. 1, Pg. 73

County of Fresno, Calif.

NOTE - Assessor's Block Numbers Shown in Ellipses.  
Assessor's Parcel Numbers Shown in Circles.

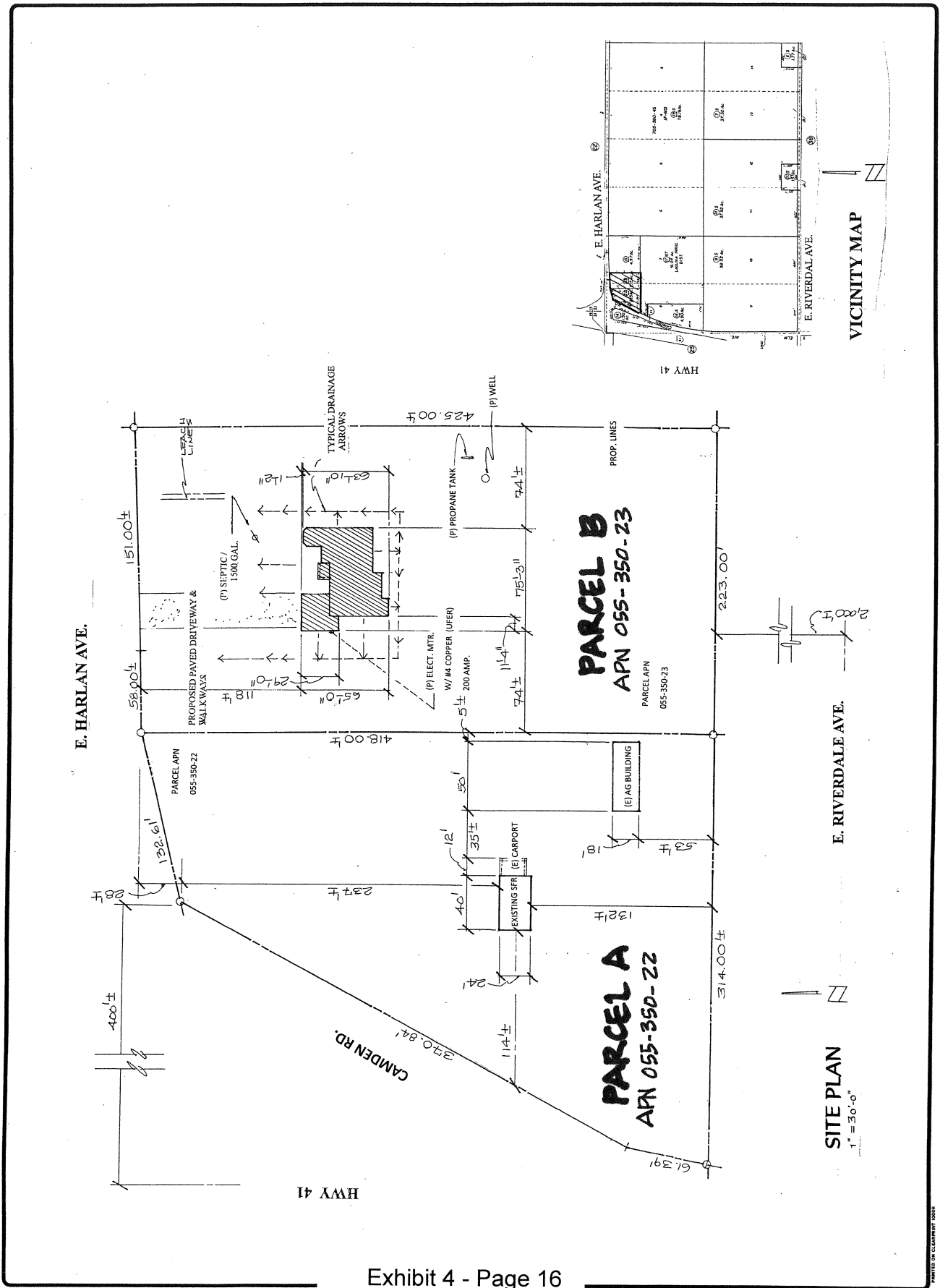
H 12-29-2014 RV 15R

DATE	
BY	
CHECKED	
DATE	
SCALE	
JOB NO.	
SHEET	
DRAWN	

Horita  
 17th Road Ave.,  
 CA 93654  
 398-1421

JOB: PROPOSED SFR  
 APN: 055-350-23  
 E. HARLAN LATORO CA. 932  
 OWNER: JUAN & LILIANA SAMANO  
 2767 S. PENLETON  
 RIVERDALE CA. 93656 (555)

DATE	
SCALE	
JOB NO.	
SHEET	
DRAWN	



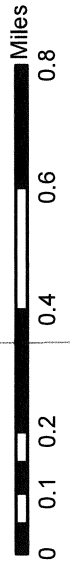
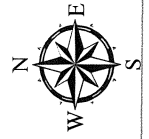
PRINTED ON CLEARPRINT 200S



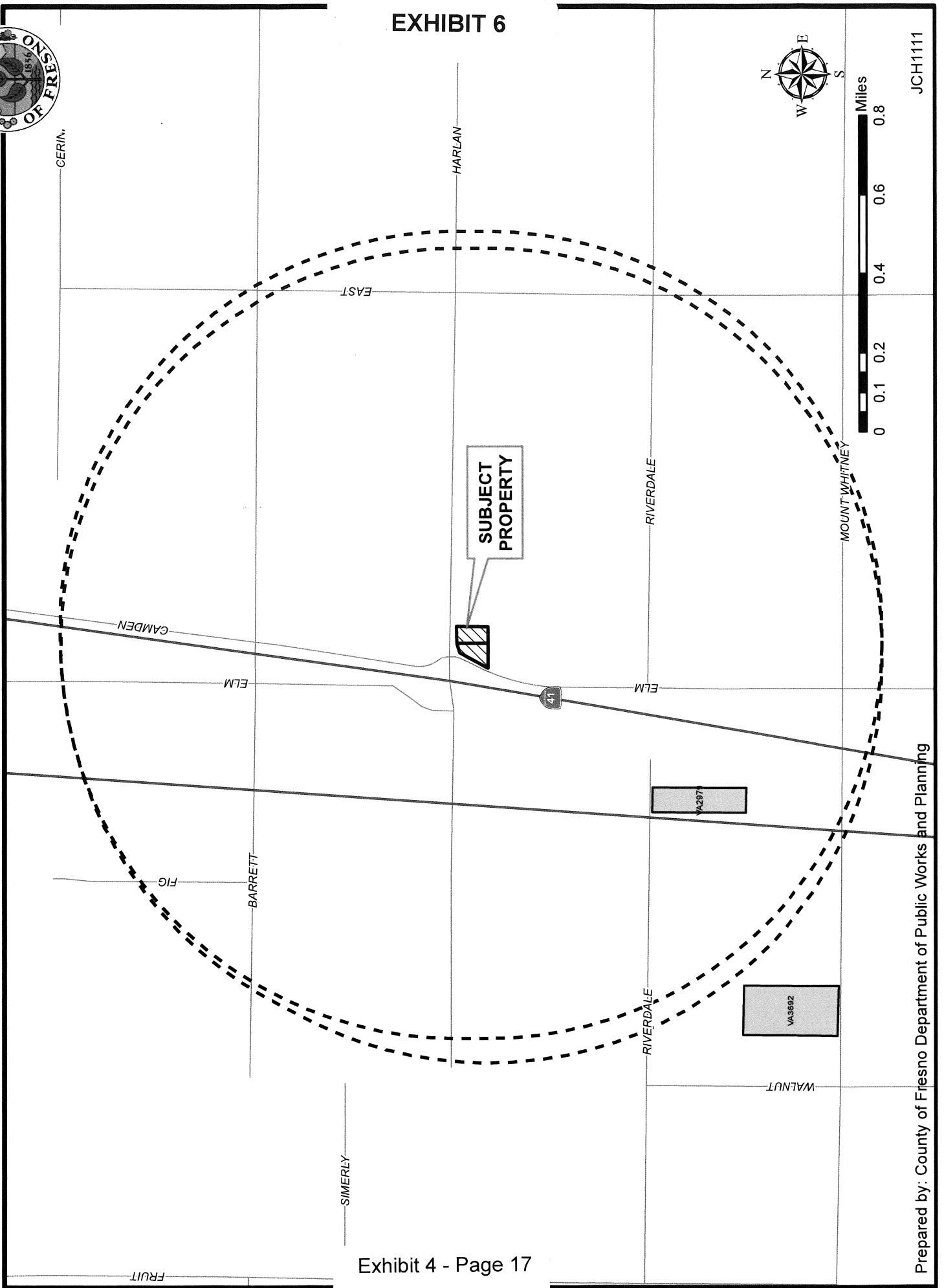
# APPROVED VARIANCES WITHIN ONE MILE RADIUS

VA 3996

## EXHIBIT 6



JCH1111



# EXHIBIT 7

May 3, 2016

## Statement of Variance Findings

There are exceptional extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having identical zoning classifications. The factual situation supporting the findings are:

- a) Parcel numbers 055-350-22 and 055-350-23 on which a variance is sought is already divided into two different parcel numbers. Parcel 055-350-22 is the only legal parcel per county records. Parcel number 055-350-23 is an illegal parcel that transferred ownership from Terry and Mary Medeiros to Juan and Liliana Samano on July 24, 2013.
- b) County record shows Plot map and A.P.N numbers for a subdivided lot shown in Exhibit A. Upon application for construction permits Mr. Samano was made aware of the illegal subdivision.
- c) Terry and Mary Madeiros were fully aware of the illegal parcel status and did not disclose such information to Juan and Liliana Samano. County public record or Exhibit B shows a letter from Albert Aguilar, Planner, detailing the need for a variance in order to build on the parcel in question. Letter is dated December 12, 2012.
- d) The exceptional and extraordinary circumstances are that Juan and Liliana Samano were sold a fictitious parcel which on paper appeared to be legal. Legal enough that he was given a grant deed by the Fresno County Recorder and legal enough to fool title.

Such a 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.

- a) Juan and Liliana Samano purchased this parcel with the hopes of building a home evidenced in the site map. They will never know the enjoyment of home ownership since they will never be granted building rights.
- b) There are a plethora of existing parcels with less than 20 acres that have a single family residences and some even have multiple homes. Many of these homes were built after the rezoning took place back in 1973. Some date as early back as the 90's.
- c) If the other property owners in the area are allowed to enjoy their property without being compliant to current zoning, then Juan and Liliana Samano should get to practice those rights.

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MAY 25 2016

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION



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.

- a) There is currently no encroachment on neighboring parcels or public highways nor will there be any after the variance is granted.
- b) The proposed subdivided lots will have independent access from public streets eliminating any type of easements between the two proposed parcels.
- c) The new home built, if the variance is granted will help increase local property values and yield new tax revenues.

The granting of such variance will not be contrary to the objectives of the General Plan.

- a) The current zoning AE20 was first implemented onto this parcel on September 25, 1973. This lot was in existence before said date and was zoned R-A.
- b) R-A lots were only required to have a minimum of 36,000 square feet according to Section 821. Included in this variance packet is a print out of the R-A zoning guidelines.
- c) According to Section 821.5(Pg. 4 of R-A zoning guidelines)- Property Development Standards: A. Each lot shall have a minimum net area of 36,000 sqft. A non-conforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this district. This section stipulates that if any lot should become non-conforming regardless of when it should occur, it will be bound by these district guidelines.
- d) This variance if granted will not be corrupting its original zoning guidelines. Making this lot legal by the standards set forth by R-A zoning.
- e) Included in this variance packet, we have included with the Lot Pictures A.P.N's that do not meet AE20 standards neighboring the parcel in question, labeled "Neighboring Properties Not Meeting AE20." Some of the homes were even built after zoning was reclassified.

. Enclosed: Exhibit A- Site Map

Exhibit B- Lot Legality Letter

Exhibit C- R-A Zoning Guidelines

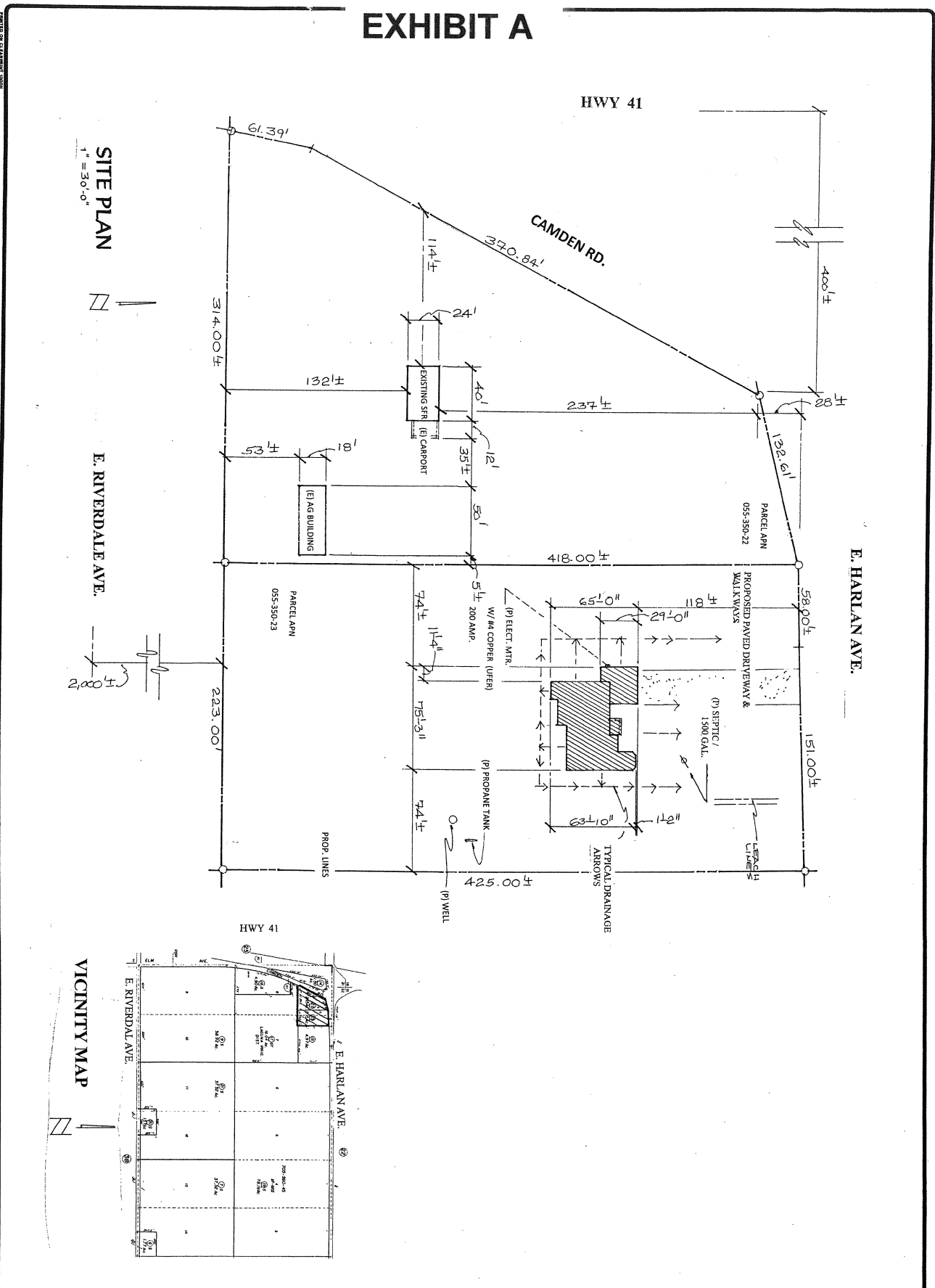
Exhibit D- Neighboring Properties not meeting AE20

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MAY 25 2016

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AND PLANNING  
DEVELOPMENT SERVICES DIVISION

# EXHIBIT A



DATE	BY
SCALE	JOB NO.
REVISION	

**JOB :** PROPOSED SFR  
**APN:** 055-350-23  
**OWNER:** E. HARLAN LATON CA  
 JUAN & LILIANA SAM,  
 2767 S. PENDLETON  
 RIVERDALE CA. 93656

**Exhibit 4 - Page 20**

los Horta,  
 South Reed Ave.,  
 Biley, Ca 93654  
 59) 393-1421

DATE	BY
SCALE	JOB NO.
REVISION	

# Exhibit B

December 12, 2012

Terry Medeiros  
256 Creektrail Ct  
Brentwood, CA 94513

Subject: Legal Lot Determination  
APN 055-350-22 & 23

Dear Ms. Medeiros:

Your request for information regarding the above subject parcels has been reviewed by this Department. The subject parcels are located within the AE20 (Exclusive Agricultural) Zone District. According to our files, the above subject Assessor Parcel Numbers (APN) constituted as one 4.04 acre parcel of land prior to the August 17, 1999 deed conveyance you enclosed in your letter, and therefore, is classified as an illegal non-conforming lot.

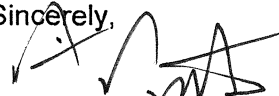
In my research our records show prior to March 4, 1972 your subject parcel (current apn 055-350-23) was part of the abutting parcel to the west known as current APN 055-350-22 consisting of a 4.04 acre lot. On March 4, 1972 the Map Act went into effect where no division of land would be allowed without zoning approval and a mapping procedure authorized by the local jurisdiction, in case would be the County of Fresno.

Since the subject Assessor Parcel Numbers are under separate ownership today. As a result, we cannot issue building permits on property created from an illegal conveyance. In order to recognize these as separate parcels, a Variance application to waive minimum lot area must be approved and all conditions of approval satisfied. A subsequent mapping application to create two parcels must be filed to legalize the property division if the Variance is approved.

In order to request an application, a pre-application fee of \$247.00 must be submitted to our office. Once we receive the fee, we will mail the application packet to you listing the filing fees and filing requirements.

Please call me at (559) 600-4208 should you have any questions.

Sincerely,

  
Albert Aguilar, Planner  
Public Works & Planning Department

G:\4360Devs&Pln\BLD\_SFTY\Zoning\Zoning Determination\91 E. Harlan.doc

VA 3096  
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COUNTY OF FRESNO

MAY 25 2016

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AND PLANNING  
DEVELOPMENT SERVICES DIVISION

# Exhibit C

- B. Country clubs and golf courses.
- C. Boarding, training, breeding, and personal kennels.  
(Amended by Ord. 490.36 adopted 7-25-67)
- D. Day nursery - institutional.  
(Amended by Ord. 490.188 adopted 10-29-79)
- E. Subdivision signs (off-site) subject to conditions of Section 821.5-K.4.
- F. Electric distribution substations.
- G. Radio broadcasting studios in conjunction with radio antenna and transmitters.  
(Added by Ord. 490.9 added 10-7-63)
- H. Swimming lessons - large group, subject to the provisions of Section 855-N.
- I. Public, high intensity parks.  
(Added by Ord. 490.175 re-adopted 5-29-79)
- J. Yard setback reduction or lot dimension modifications for energy conservation purposes on multiple lots, subject to the provisions of Section 855-N.  
(Added by Ord. T-266 adopted 9-6-83)

## SECTION 821.4 - USES EXPRESSLY PROHIBITED

The following uses are expressly prohibited in the "R-A" District.

- A. Advertising structures.
- B. Commercial uses.
- C. Industrial uses.
- D. Multiple family residential uses, except as permitted by Section 821.2.
- E. Temporary and permanent farm labor camps that are not carried on as a secondary function in conjunction with a bona fide agricultural operation.

(Amended by Ord. 490.31 Adopted 1011-66)

## SECTION 821.5 - PROPERTY DEVELOPMENT STANDARDS

Lot Area referenced on Section A of following pg.

The following property development standards and those in Section 855 shall apply to all land and structures in the "R-A" District.

A. LOT AREA

Each lot shall have a minimum net area of thirty-six thousand (36,000) square feet. A nonconforming lot of record under separate ownership at the time it became nonconforming may be used for or occupied by any use permitted in this district.

B. LOT DIMENSIONS

All lots hereafter created shall comply with the following minimum standards and lots now existing may not be reduced below these standards. Each dimension is minimum only. One or both shall be increased to attain the minimum lot area required.

1. Width

- a. Interior lots shall have a minimum width of one hundred thirty (130) feet.
- b. Corner lots and reversed corner lots shall have a minimum width of one hundred thirty (130) feet.
- c. Lots siding on freeways or railroad rights-of-way shall have a minimum width of one hundred sixty (160) feet.
- d. Curve lots and cul-de-sac lots shall have a minimum street frontage width of ninety (90) feet.

(Added by Ord. 490.197 adopted 3-31-80)

2. Depth

All lots shall have a minimum depth of one hundred seventy (170) feet.

C. POPULATION DENSITY

The provisions of Section 821.1 and 821.2 shall apply.

(Amended by Ord. 490.163 adopted 11-14-78)

D. BUILDING HEIGHT

1. No main building or structure erected in this District shall have a height greater than two and one-half (2-1/2) stories, not to exceed thirty-five (35) feet.
2. No accessory building erected in this District shall have a height greater than one (1) story, not to exceed twelve (12) feet, to plate height.

3. Exceptions:

All buildings hereafter designed or erected and existing buildings which may be reconstructed, altered, moved, or enlarged, shall comply with the height regulations of the District in which they may be located, with the following exceptions:

- a. Roof Structures

# Exhibit D

## Neighboring Properties Not Meeting AE20



229 E Harlan APN 055-350-15 4.97 AC 236 FT from PIQ



20144 S Elm Ave APN 055-350-18S 4.9AC 250 FT from PIQ

VA 3996

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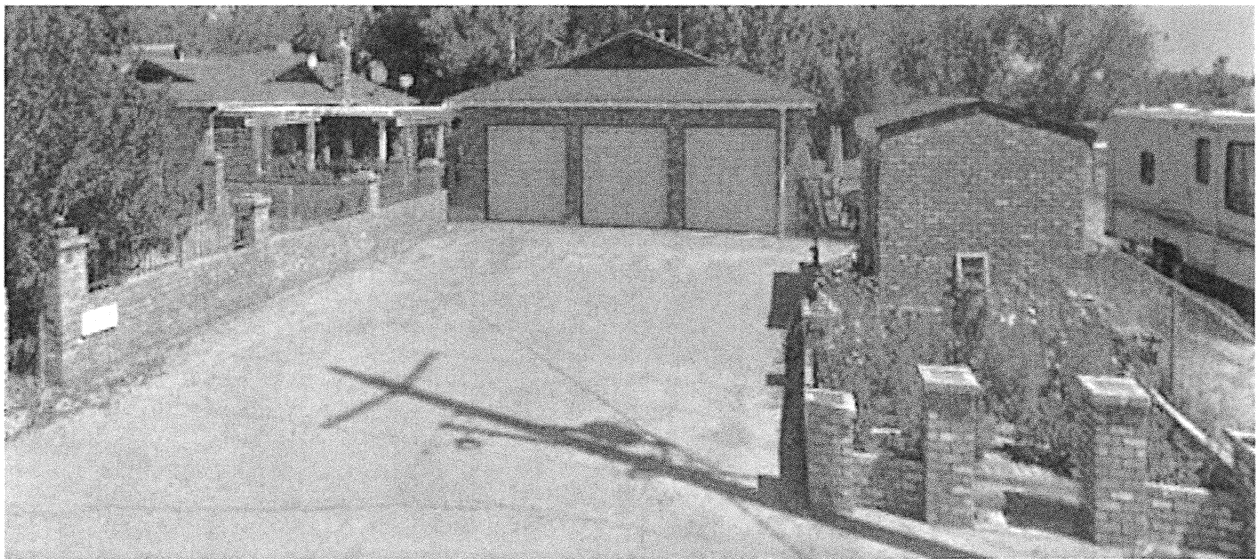
MAY 25 2016

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
EMPLOYMENT SERVICES DIVISION



**20 W Harlan Ave APN 055-220-48S 1.39AC**

**983 FT from PIQ**



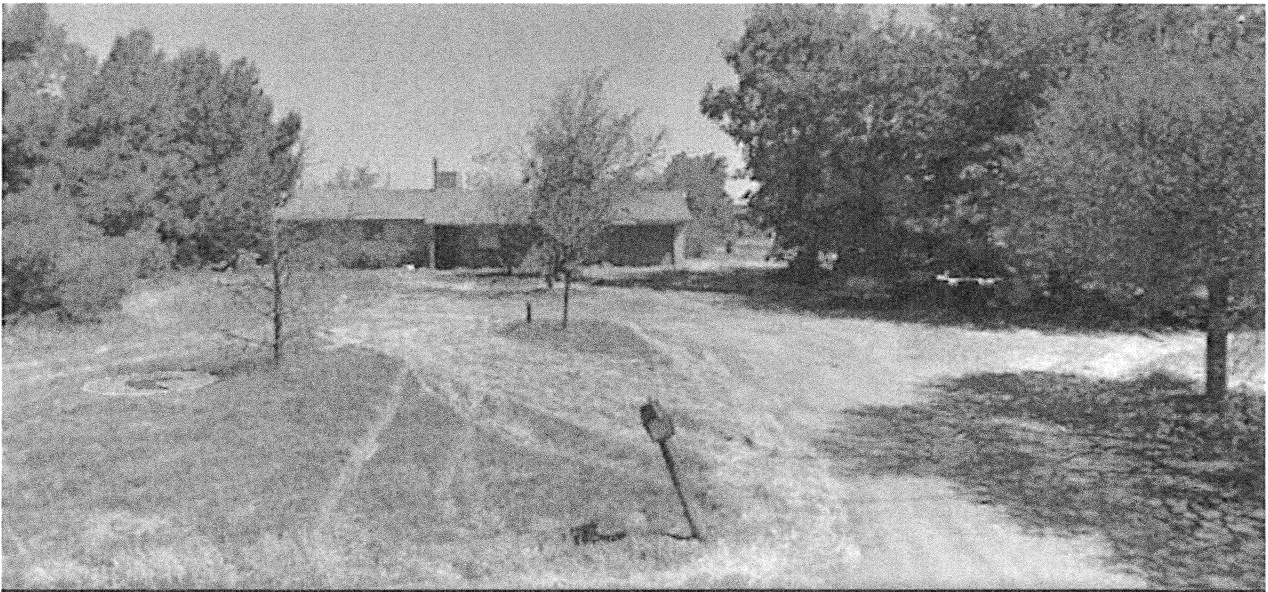
**150 W Harlan Ave APN 055-220-10S 25,600SF**

**1,352 FT from PIQ**



**19890 S Elm Ave APN 055-220-42 1.23AC Built 1993**

**675 Ft from PIQ**



**240 W Riverdale Ave APN 055-250-09 2.99AC**

**2,577 FT from PIQ**

**Exhibit 4 - Page 26**





**267 W Riverdale Ave APN 055-240-61 1.25 AC**

**3,320 FT from PIQ**



**740 W Harlan Ave APN 055-220-51 3.16AC Built 1975**

**4,800 FT from PIQ**



**384 E Riverdale Ave APN 055-350-20S 1.57 AC Built 1977**

**2,280 FT from PIQ**