



# County of Fresno

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

## Planning Commission Staff Report Agenda Item No. 2 July 21, 2016

**SUBJECT:** Variance Application No. 3993

Allow the creation of a 2.2-acre parcel without public road frontage in the RR (Rural Residential, two-acre minimum parcel size) Zone District (165 feet of road frontage required).

**LOCATION:** The project site is located off a private access easement approximately 280 feet southeast of the intersection of North Nelson and East Santa Ana Avenues, approximately 2.6 miles east of the city limits of Clovis (Sup. Dist. 5) (APN 308-081-09).

**OWNER/APPLICANT:** Paula and John Wolf

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

Chris Motta, Principal Planner  
(559) 600-4227

**RECOMMENDATION:**

- Approve Variance No. 3993 with recommended Findings and Conditions; 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 Submitted Findings
7. Public Comment Letters

**SITE DEVELOPMENT AND OPERATIONAL INFORMATION:**

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
General Plan Designation	Rural Residential	No change
Zoning	RR (Rural Residential)	No change
Parcel Size	29.34 acres	Parcel A: 2.2 acres Parcel B: 27.14 acres
Project Site	N/A	N/A
Structural Improvements	Single-family residence, well, accessory structures	Parcel A: No change Parcel B: None
Nearest Residence	625 feet north of existing residence	Parcel A: No change Parcel B: 105 feet north of existing property line
Surrounding Development	North: Residential East: Agriculture South: Recreational West: Ponding Basin	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential	No change
Lighting	Residential	No change
Hours of Operation	N/A	N/A

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: N****ENVIRONMENTAL ANALYSIS:**

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

**PUBLIC NOTICE:**

Notices were sent to 39 property owners within 1,320 feet of the subject parcel, exceeding the minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

A Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

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

**BACKGROUND INFORMATION:**

The subject 29.34-acre parcel is a legal conforming parcel that was created by Certificate of Compliance No. 2842. Pursuant to the Fresno County Zoning Ordinance, Section 820.5 B.1.a: public road frontage is not required for parcels that are both west of the Friant-Kern Canal and contain more than 20 acres. Access to the current property and to the proposed parcel configuration would be via an access easement that connects to East Nelson Avenue. The majority of this easement runs along the northern property line.

The Applicant is requesting to split the subject parcel such that Parcel A will contain 2.2 acres, the homesite and all improvements, and the termination of the access easement. The remaining acreage (proposed Parcel B) would fully encompass the proposed Parcel A.

In addition to the subject application, there have been five other Variance applications within a mile of the subject property, four of which were heard by the Planning Commission. Three of those applications pertained to requests to waive or reduce the amount of road frontage required by the Zoning Ordinance for the creation of parcels with less than 20 acres. The following table provides a brief summary of the other Variance applications and final actions.

<b>Application/Request</b>	<b>Date of Action</b>	<b>Staff Recommendation</b>	<b>Final Action</b>
VA No. 2771: Allow the creation of a lot with frontage of 80 feet (165 feet required) from an 18.33-acre parcel of land in the R-R Zone District.	5/12/1983	Approval	Approved by PC with conditions  Development restrictions  Property line adjustment
VA No. 3511: Divide 6.28-acre parcel into 3 2-acre parcels with frontages of less than 165 feet.	11/21/1996	Approval	Approved with conditions
VA No. 3779: Allow creation of 4 parcels ranging in size from 2.8 to 10.5 acres without public road frontage from an existing 21.5-acre parcel	11/4/2004	Approval	Approved with conditions

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

Findings 1 and 2: *There are exceptional or extraordinary circumstances or conditions applicable to the property involved which do not apply generally to other property in the vicinity having the identical zoning classification; and*

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

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	Front (north): 35 feet Rear (south): 20 feet Side (east and west): 20 feet	Front: 194 feet Rear: 23 feet East: 24 feet West: 88 feet	Yes
Parking	One space per unit	Parcel A: One single-family residence with garage Parcel B: No development	Yes
Lot Coverage	No requirements	N/A	N/A
Space Between Buildings	Six feet between main and accessory structures	No new development	N/A
Wall Requirements	No requirements	No requirements	N/A
Septic Replacement Area	100 percent	No change	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	N/A

**Reviewing Agency/Department Comments Regarding Site Adequacy:**

Building and Safety/Plan Check Sections 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; no Traffic Impact Study is required.

Development Engineering Section of the Fresno County Department of Public Works and Planning: According to FEMA, FIRM Panel 1615H, portions of the subject property are found to be within Flood Zone AE and the Floodway Area is in Flood Zone AE. The floodway is the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights, per FEMA FIRM legend. Flood Zone AE and Floodway Areas in Flood Zone AE are

subject to flooding from the 1% chance storm. No net import of fill shall be allowed within the flood zone. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance.

According to U.S.G.S. Quad Maps, there are no existing natural drainage channels adjacent to or running through the subject parcel. Any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.

A grading permit or voucher would be required for any grading proposed with this application.

A 60-foot-wide, non-exclusive private road easement from a public road shall be provided to all parcels being created. The alignment design shall provide for grades not exceeding the requirements of the A-15 Improvement Standard and a minimum centerline curve radius of 125 feet, except the minimum radius may be 75 feet when grade is in excess of ten percent. It will be the duty of the Registered Civil Engineer to attest to compliance with this condition.

The easement shall be constructed to a standard not less than that required by the A-15 County Improvement Standard (18 feet wide).

Environmental Health Division of the Fresno County Department of Public Works and Planning: It appears the parcel can accommodate the sewage disposal systems and expansion areas meeting the mandatory setback requirements as established in the California Plumbing Code and California Well Standards Ordinance.

Building permit records indicate an engineered septic system was installed in 1992. 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.

Fresno County Fire Protection District: No comments.

Fresno Irrigation District (FID): FID does not own, operate, or maintain any facilities located on the subject property. Two FID canals and one private canal operate within 2,000 feet of the property and FID requires that it review any street or utility improvements in the vicinity of their canals.

King's River Conservation District: The Kings River Conservation District has no planned or existing facilities in the project area.

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

Zoning Section of the Fresno County Department of Public Works and Planning: County staff has no records of permits for the structures near the driveway. If these structures were built after March 1, 1958, then permits must be obtained. There is a Declaration of Intent that must be released on this parcel (PCOC 2842) prior to completion of the mapping application.

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 states that there are unique features on the parcel which deny the Applicant the right to create a two-acre parcel. The subject 29.34-acre parcel is approximately 40% lake that is permanently filled by irrigation water or on-site wells. The parcel is located in the RR (Rural Residential, two-acre minimum parcel size) Zone District, which allows property owners to create two-acre parcels by right. The Applicant is denied this right because no public road serves the property and the Zoning Ordinance requires that parcels created in the RR district have 165 feet of road frontage unless they are more than 20 acres in size and located west of the Friant-Kern canal.

In regard to Findings 1 and 2, Staff believes the existing parcel configuration and the presence of the existing body of water present extraordinary circumstances and that the granting of the Variance will preserve the right of the Applicant to create a parcel with a minimum acreage of 2 acres. There are several lakes in the immediate area of the subject parcel, and the lake coverage on the parcel extends over three other adjacent properties. Of these three properties, two experience similar topography, in that about half the property is part of the lake. Development on these parcels is limited to a single-family residence or no improvements and the uses on the land are primarily recreational. These four parcels each qualify under Ordinance Section 820.5.B.1.a, which allows the creation of lots greater than 20 acres west of the Friant-Kern canal.

Variance No. 3779 was approved on November 21, 1996 on the property directly to the north of the subject parcel. The parcels created by that variance have frontage on Santa Ana Avenue, which is a private road. Access to the subject parcel is currently obtained by a private easement that runs along the northern property line and behind this small residential development. No other roads currently provide access to the site.

A consideration in addressing variance applications is whether there are alternatives that would avoid the need for the variance. In this case, the 29.34-acre parcel was legally created without road frontage, and so there is no parcel configuration that would allow the owner to create a 2-acre parcel with sufficient road frontage to avoid the need for a variance.

**Recommended Conditions of Approval:**

*See recommended Conditions of Approval attached as Exhibit 1.*

**Conclusion:**

Findings 1 and 2 can be made.

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

<b>Surrounding Parcels (from east to west)</b>				
	<b>Size:</b>	<b>Use:</b>	<b>Zoning:</b>	<b>Nearest Residence:</b>
North	2.29 acres	Residential	RR	625 feet north of existing residence (on the 2.19-acre parcel)
	2.04 acres	Residential	RR	
	2.01 acres	Residential	RR	
	2.05 acres	Residential	RR	

<b>Surrounding Parcels (from east to west)</b>				
	2.19 acres 10.55 acres	Residential Residential	RR RR	
South	26.03 acres 22.94 acres 60.08 acres	Recreational Residential Recreational	RR RR RR	1,000 feet southwest of existing residence (on the 22.94-acre parcel)
East	7.5 acres 10.00 acres	Residential Residential	RR RR	1,500 feet northeast of existing residence (on the 7.5-acre parcel)
West	25.77 acres	Ponding Basin	RR	None

**Reviewing Agency/Department Comments:**

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

**Analysis:**

In support of Finding 3, the Applicant states that the proposed parcel will confirm to minimum lot area requirements. The residence was built in 1994 and there is no development or alteration of land use proposed with the subject application.

Staff has determined that, excluding the requirement for road frontage, the proposed Parcel A meets all other development standards of the RR Zone District. The configuration of the parcel provides enough depth between the northern property line of the proposed Parcel B and the northern property line of the proposed Parcel A so that if the private access drive were eventually developed into a County road, Parcel B would still meet the minimum depth requirements of the RR Zone District.

**Recommended Conditions of Approval:**

*None*

**Conclusion:**

Finding 3 can be made.

*Finding 4: That the proposed development is consistent with the General Plan.*

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
Policy LU-F.19 The County shall require residential project design to consider natural features, noise exposure of residents, visibility of structures, circulation, access, and the relationship of the project to surrounding uses. Residential densities and lot patterns will be determined by these and other factors.	In this case, the Applicant is considering the natural features in that they must develop around the existing lake. Based on the size of the lake, it may not be possible to realize the maximum density permitted by the RR district.

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
As a result, the maximum density specified by General Plan designations or zoning for a given parcel of land may not be realized.	

**Reviewing Agency Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: The General Plan does not specify any policies related to road frontage in areas designated for Rural Residential.

**Analysis:**

The Fresno County General Plan does not include any policies that relate to road frontage in areas designated as Rural Residential. However, the aforementioned policy LU-F.19 applies and is consistent with this proposal. Staff has determined that the proposed parcel configuration is consistent with the designated residential use of the land and considerate of the existing natural features that distinguish the area. Therefore, the project is consistent with the General Plan.

**Recommended Conditions of Approval:**

*None*

**Conclusion:**

Finding 4 can be made.

**PUBLIC COMMENT:**

Two letters were received in support of the application. No public comment was received in opposition.

**CONCLUSION:**

Based on the factors cited in the analysis, staff believes the required Findings for granting the Variance can be made. Staff therefore recommends approval of Variance No. 3993, subject to the recommended Conditions.

**PLANNING COMMISSION MOTIONS:**

**Recommended Motion** (Approval Action)

- Move to determine the required Findings can be made and move to approve Variance No. 3993, subject to the Conditions of Approval and Project 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. 3993; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**Recommended Conditions of Approval and Project Notes:**

See attached Exhibit 1.

CMM:

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**Variance Application (VA) No. 3993  
Conditions 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.
2.	A 60-foot-wide, non-exclusive private road easement from a public road shall be provided to all parcels being created. The alignment design shall provide for grades not exceeding the requirements of the A-15 Improvement Standard and a minimum centerline curve radius of 125 feet, except the minimum radius may be 75 feet when grade is in excess of ten percent. It will be the duty of the Registered Civil Engineer to attest to compliance with this condition.

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.	County Zoning staff has identified several structures near the access drive which are not currently permitted. Prior to completion of the mapping procedure, the Applicant shall obtain permits for these structures, provide proof that permits were obtained or that the structures were built prior to March 1, 1958, or remove the structures from the property.
2.	PCOC 2842 shall be released prior to completion of the mapping application.
5.	The easement shall be constructed to a standard not less than that required by the A-15 County Improvement Standard (18 feet wide).
6.	The Improvement Standard requires that improvement plans for the easement be submitted for review and approval by the Department of Public Works and Planning, Development Services Division, along with a letter from the Developer's engineer confirming that construction engineering and surveying will be provided to permit construction, in accordance with the approved plan. It also requires payment of an Inspection (Grading Permit) Fee and that the construction be inspected by the County.
7.	According to FEMA, FIRM Panel 1615H, portions of the subject property are found to be within Flood Zone AE and the Floodway Area is in Flood Zone AE. The floodway is the channel of a stream, plus any adjacent floodplain areas, that must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood heights, per FEMA FIRM legend. Flood Zone AE and Floodway Areas in Flood Zone AE are subject to flooding from the 1% chance storm. No net import of fill shall be allowed within the flood zone. Any work within the designated flood zones shall conform to provisions established in Chapter 15.48 Flood Hazard Areas of Fresno County Ordinance.
8.	Any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.

**Notes**

9.	A grading permit or voucher is required for any grading proposed with this application.
10.	Fresno Irrigation District (FID)'s active Enterprise No. 109 Canal runs westerly and crosses Shaw Avenue approximately 1,700 feet north of the subject property. Should this project include any street and or utility improvements along Shaw Avenue or in the canal, FID requires it review and approve all plans.
11.	FID's active Grey Colony Canal runs southerly approximately 1,100 feet southeast of the subject property. Should this project include any improvements along or in the vicinity of the canal, FID requires it review and approve all plans.
12.	A privately-owned pipeline, Nelson No. 109, runs southerly approximately 600 feet north of the subject property. FID does not own, operate, or maintain this private pipeline. FID's records indicate that the pipeline is active and will need to be treated as such. FID can supply the County with a list of known users for this private line upon request.
13.	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.

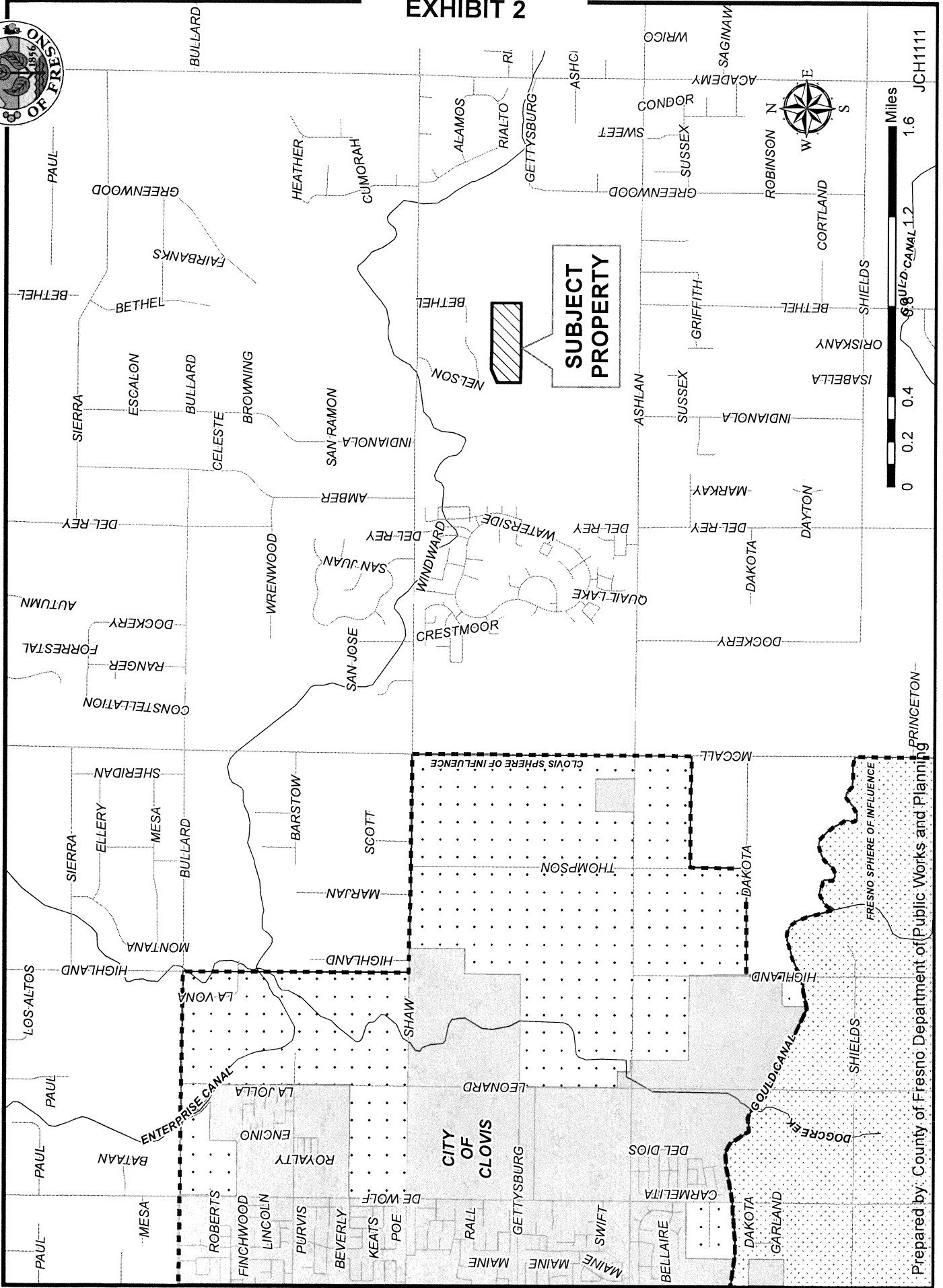
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# LOCATION MAP

## EXHIBIT 2

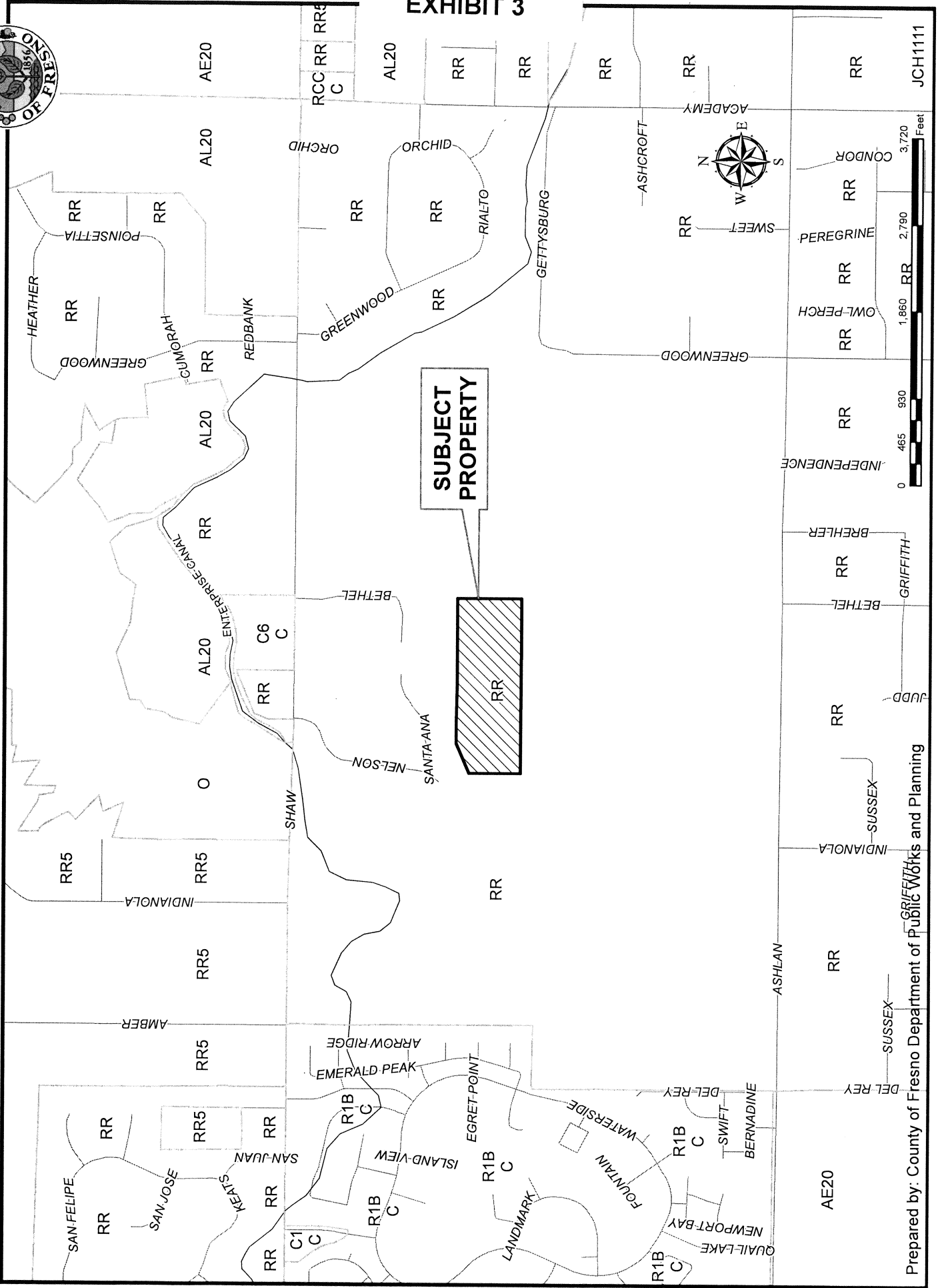
VA 3993



# EXISTING ZONING MAP



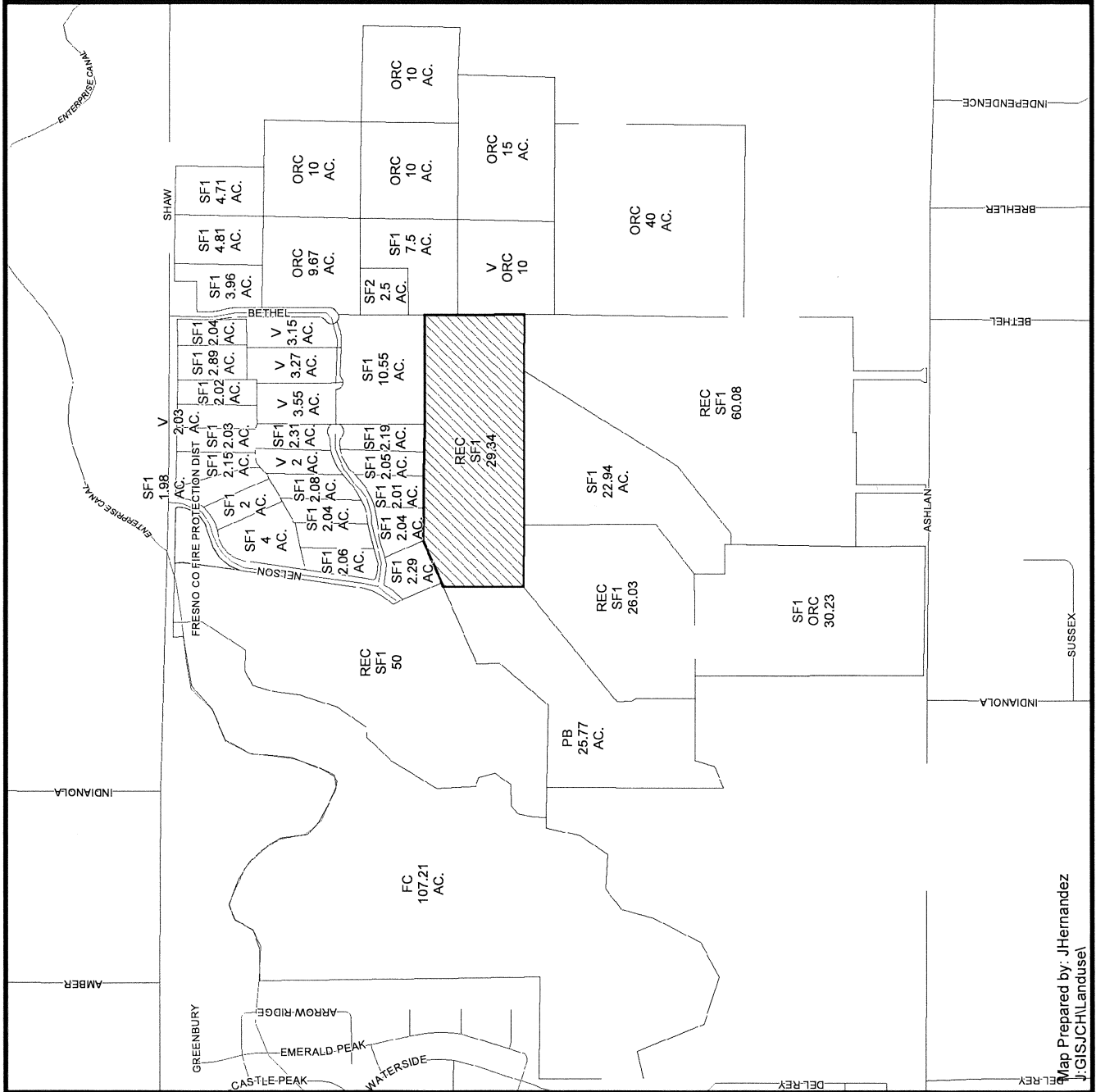
## EXHIBIT 3





# EXISTING LAND USE MAP

VA 3993



**LEGEND**

- FC - FIELD CROP
- ORC - ORCHARD
- PONDING BASIN
- REC - RECREATION
- SF# - SINGLE FAMILY RESIDENCE
- V - VACANT

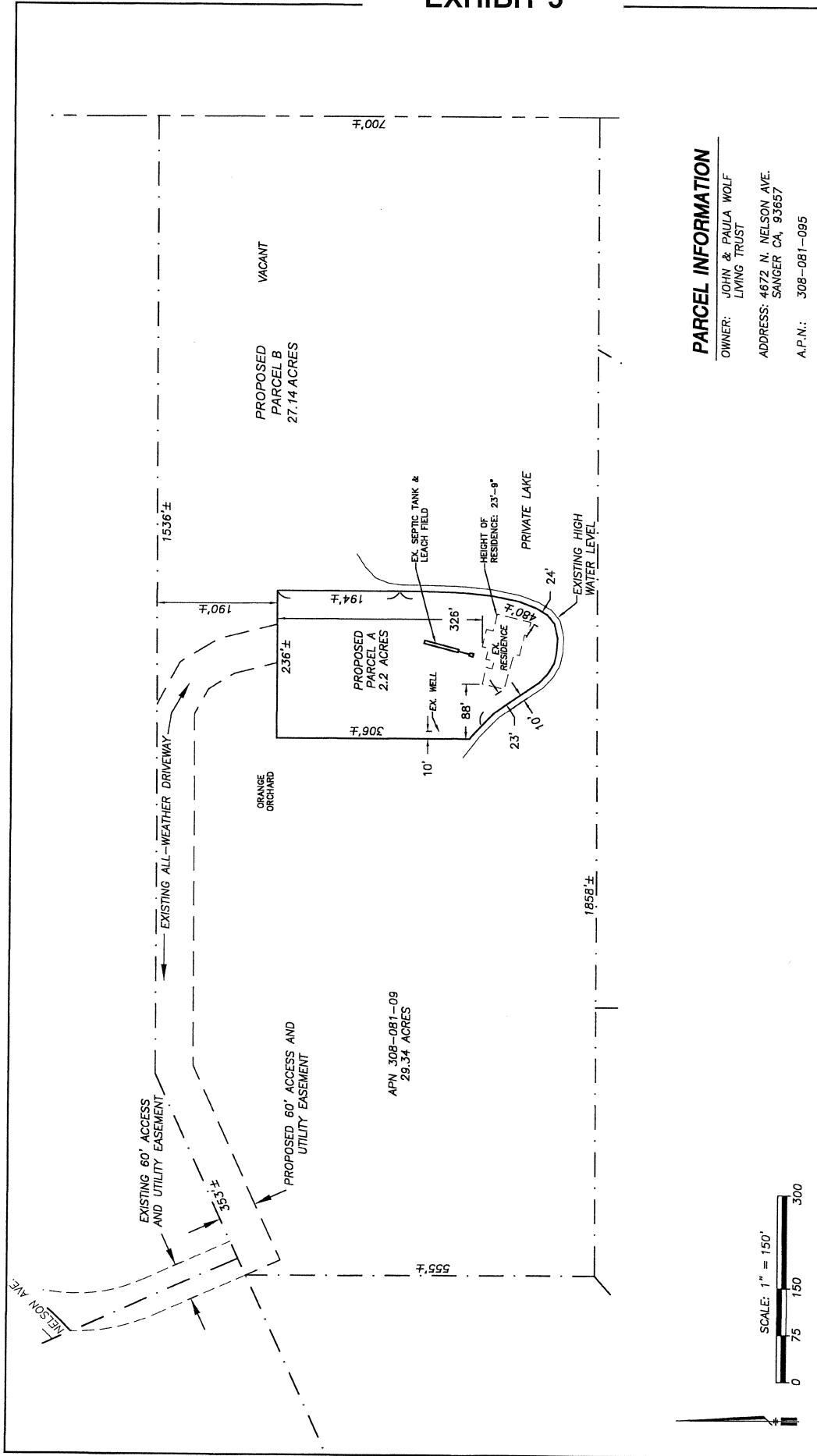
**LEGEND:**

Subject Property



Department of Public Works and Planning  
Development Services Division

# EXHIBIT 5



**PARCEL INFORMATION**  
 OWNER: JOHN & PAULA WOLF LIVING TRUST  
 ADDRESS: 4672 N. NELSON AVE. SANGER CA, 93657  
 A.P.N.: 308-081-095

<b>YAMABE &amp; HORN ENGINEERING, INC.</b> 2985 N. BURL AVENUE SUITE 101 FRESNO, CA 93727 TEL (569) 244-8123 FAX (569) 244-8120	PREPARED BY: <b>JOHN WOLF</b> 4672 N. NELSON AVE. SANGER, CA 93657	<b>Ref. &amp; Rev.</b>	COUNTY OF FRESNO		Dr. By: ER	YH Job No. 10-303
			PROPOSED PARCEL EXHIBIT		Ch. By: DH	Sheet No. 1
PROFESSIONAL LAND SURVEYOR DAY D. HORN No. 8204 STATE OF CALIFORNIA			SCALE: AS NOTED		Date: 03-11-16 of 1 Sheets	

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## EXHIBIT 6

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COUNTY OF FRESNO

APR 18 2016

### VARIANCE FINDINGS

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

VA 2993

*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 subject 29.34 acre parcel is a legal conforming parcel that was created by Certificate of Compliance No. 2842. The Rural Residential (RR) Zone District does not require public road frontage for parcels greater than 20 acres in size. In this case the subject parcel does not have public road frontage and takes access to Nelson Avenue via a 60 foot easement across the adjoining property(ies).

The purpose of this request for a Variance is to allow the creation of a two acre parcel, which meets the minimum lot area requirements of the RR Zone District, and waive the required 165 feet of public road frontage. There is one single family residence on the subject parcel which is located on the proposed 2 acre parcel. The parcel is intended to be conveyed to the daughter of the owner.

Access to the home is currently provided by an all-weather driveway and has served the residence for 22 years. Additional improvements will be made to the access road to meet County and emergency vehicle requirements for private roads.

A look at a view from Google Earth will show the unique features of the subject parcel. Approximately 40% of the parcel is a lake. The lake is permanently filled by irrigation water when available or on-site wells. The remaining 6 acres have been recently planted with citrus. The residence overlooks the lake and with the surrounding lake and orchard the proposed configuration seems the most reasonable. To build a road that meets public road standards merely to access the proposed parcel is an unreasonable burden for the creation of the one home site parcel especially with the subject parcel having no public road frontage at all.

*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.*

The parcel is located in the RR Zone District which allows the creation of parcels with a minimum lot area of 2 acres. The owner desires to create such a parcel for the conveyance to his daughter. The subject parcel unfortunately does not front on a public road.



*3. The granting of a variance will not be materially detrimental to the public welfare or injurious to property and improvements in the vicinity in which the property is located.*

The proposed parcel will conform to minimum lot area requirements. The residence has been in existence since 1994 and no other improvements are proposed at this time. There will actually be no physical changes to the property.

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

The General Plan allows for the creation of two acre parcels in this area for residential purposes. The request at this time is merely to what extent the access road must be improved.

**EXHIBIT 7**

Jim Kelly  
11801 E. Santa Ana  
Clovis, CA 93619  
(559) 392-3468

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COUNTY OF FRESNO

**JUL 13 2016**

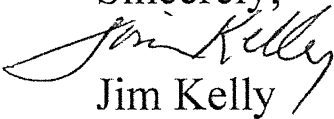
DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

July 6, 2016

To Whom It May Concern:

I live at 11801 E. Santa Ana, Clovis, which is adjacent to the Wolf property. It has come to my attention that the Wolf's are requesting to parcel off two (2) acres of their property. I have no objections to the creation of a two (2) acre parcel without public road.

Sincerely,

  
Jim Kelly

Lawrence & Deborah Johansen  
11777 E Santa Ana Ave  
Clovis Ca 93619  
15591 875-0816

RECEIVED  
COUNTY OF FRESNO

JUL 13 2016

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

July 7, 2016

To whom it may concern:

I live at 11777 E Santa Ana, Clovis  
which is adjacent to the Wolf  
property. We have no problem  
or objections to the creation of a  
2 acre parcel without public road

Sincerely,

Debbie Johansen