



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 5 Hearing Date, 2022

- SUBJECT:** Variance Application No. 4115
- DESCRIPTION:** Allow a waiver of the minimum lot size requirement into three lots and a minor variance to reduce the width of parcel A (2.25-acre) and parcel C (2.25-acre) by 6% from the development plans for parcel B (2.7-acre) and allow for a mapping procedure for the creation of three parcels from an existing 7.18-acre parcel in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District.
- LOCATION:** The subject parcel is located on the south side of E. Behymer Avenue 1,000 feet east of N. Sunnyside Avenue, approximately 0.43 miles southwest of the City of Clovis (APN: 557-011-63) (5187 E. Behymer Ave.) (Sup. Dist. 5).
- OWNER:** Ronald Silva
- APPLICANT:** Dale Mell
- STAFF CONTACT:** Elliot Racusin, Planner
(559) 600-4245

David Randall, Senior Planner
(559) 600-4052
- RECOMMENDATION:**
- Deny Variance Application No. 4115; 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. Variance Applications within a Mile-Radius Map
6. Site Plans and Detail Drawings
7. Arial View of Subject Property
8. Applicant's Variance Findings

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Rural Residential	No Change
Zoning	AL-20 (Limited Agricultural, 20-acre minimum parcel size)	No Change
Parcel Size	7.18-acres	Parcel A: 2.25-acres Parcel B: 2.70-acres Parcel C: 2.25-acres
Structural Improvements	N/A	N/A
Nearest Residence	Single family Residential (approximately 364 feet eastward)	N/A
Surrounding Development	Fully developed single-family residential neighborhood	No Change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) guidelines: (*Review for Exemption*) that the proposed project will not have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 58 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. There have not been any public correspondences submitted.

PROCEDURAL CONSIDERATIONS:

A Variance may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

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

BACKGROUND INFORMATION:

The subject parcel is in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District which requires a minimum lot size of 20-acres.

In addition to the subject application, there are records of six other variance applications within one mile of the subject property that have requested the waiver of parcel size, and/or lot depth. Two (2) were withdrawn and four (4) of which were determined by the Planning Commission. Two (2) were approved subject to the conditions of approval and two (2) were denied based on the applicant’s inability to justify the variance finding. The following table provides a brief summary of these Variance applications and final actions.

Application/Request:	Date of Action:	Staff Recommendation:	Final Action:
VA No. 3106: Allow the creation of two five-acre parcels (20-acres required) from a ten-acre parcel of land in the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District.	October 27, 1987	Denial	Denied by the Planning Commission
VA No. 3353: Allow the creation of three parcels ranging in size from four to nine acres (20-acres required) with said parcels having no public road frontage (165 feet required) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.	December 5, 1991	Denial	Approved by the Planning Commission
VA No. 3589: Allow the creation of two 2.28-acre parcels with no public road frontage (165 feet required, the third 2.28-acre parcel has adequate public road frontage) from an existing 6.84-acre parcel of land in the R-R (Rural Residential, two-acre minimum parcel size) District.	September 4, 1997	Denial	Denied by the Planning Commission
VA No. 3595: Allow the creation of a 2.40-acre parcel and a 2.60-acre parcel (20 acres required), having no public road frontage (165-foot required) from an existing 5.00-acre parcel.	February 19, 1998	Denial	Approved 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.

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Setbacks	Front: 35 feet Side: 20 feet Street Side: 35 feet Rear: 20 feet	Reduce the width of parcel A (2.25-acre) and parcel C (2.25-acre) by 6%	Y
Lot Dimensions	Lot width: 165 feet Lot depth: 180 feet (170 feet for lot sizes less than 5-acres)	Parcel A: Width: 154.91 feet Depth: 631.94 feet Parcel B: Width: 184.91 feet Depth: 631.94 feet Parcel C: Width: 154.91 feet Depth: 631.94 feet	Parcel A: N Parcel B: N Parcel C: N
Parking	One covered parking space	No change	Y
Lot Coverage	30% lot coverage	No change	Y
Space Between Buildings	6-feet	No change	Y
Wall Requirements	6-feet	No change	Y
Septic Replacement Area	100 percent of the existing system	No change	Y
Water Well Separation	Building sewer/septic tank: 50 feet; Disposal field: 100 feet; Seepage pit/cesspool: 150 feet	Domestic well to be shared by parcel A & B	Y

Reviewing Agency/Department Comments:

There were no comments from reviewing agencies or County Departments regarding exceptional or extraordinary circumstances.

Finding 1 Analysis:

In support of Finding 1, the applicant asserted the 7.2-acre parcel is too large to maintain as a single-family residence and is too small for profitable agriculture use. The soil conditions, they maintain, are poor in nature and are not well suited for productive agriculture use, nor do water yield tests suggest adequacy for extensive farming purposes.

To make Findings 1, an extraordinary circumstance relating to the property that does not apply to other properties in the same zone classification must be demonstrated.

The applicant has failed to clarify any extraordinary circumstance that creates a unique circumstance in which the variance is needed to alleviate. Additionally, the applications basis for the finding that the parcels are “too small for profitable agriculture” is not a unique circumstance.

The creation of smaller parcels and subsequent residential development have the potential to increase residential density beyond what is allowed in the AE-20 Zone District, especially considering the potential for adding second residences by discretionary approval.

Recommended Conditions of Approval:

None

Finding 1 Conclusion:

The applicant proposed undue hardship and inability to use the land in an agricultural manner. As stated above, the condition of the subject parcel does not appear to be exceptional, and the conditions are applicable to the property involved which do not apply generally to other properties in Fresno County.

Finding 1 cannot be made as there are not any extraordinary circumstances relating to the property that does not apply to other properties in the area with the same zone 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.*

Reviewing Agency/Department Comments:

There were no comments from reviewing agencies or County Departments regarding the protection or a deficit of a substantial property rights.

Finding 2 Analysis:

The applicant states “the development of this area from agricultural use to rural residential use started back in 1966 when the first Parcel Map was filed. In the years following, subdivision maps and parcel maps have been filed resulting in the creation of 250 lots under 10 acres in size, bounded on the north by Copper Avenue, Shepard Avenue to the south, Armstrong Avenue to the east, and Sunnyside Avenue to the west, approximately 80% or more of these parcels are zoned AL-20. In 1983, the (applicant’s) site parcel was created by parcel map dividing a 10-acre parcel into a 2.39-acre parcel land a 7.18- acre (subject to) AE-20- acre zoning. Granting of the Minor Variance ensures the owners right to build in substantial

conformance with current Development Standards.

Staff concurs there are parcels similar in size to existing parcels to lots north, and east of the parcel indicate the lots have similar characteristics to the proposed lot split (lots split running north to south). However, the existence of other smaller parcels in the area, or the granting of two variances over twenty years ago does not establish a precedent or a substantial property right. Previous adopted development standards zoning designations do not continue to be applied in perpetuity when ordinances and or zoning is changed. Rezoning of an area with a mix of existing smaller acreage parcels to larger acreage zoning is often used to arrest the previous allowed smaller parcellation patterns and preserve agriculture or other purposes and characteristics of the new zoning classification.

Variances can only be used to provide relief to preserve the “substantial property right” to be able to utilize a property for the intended use of the zoning. If regulations and unique physical attributes prohibit properties from developing use of the property consistent with zoning classification, a Variance would be appropriate to preserve the “substantial property right”. Being able to divide your property to a smaller acreage than allowed by the zoning classification to match other substandard parcels in the area is not a “substantial Property right”. The surrounding properties zoned AL-20 all have the ability to be developed and utilized for agricultural uses and up to two residences. The property enjoys the same significant property right, it can and has been used for the intended use of the zone classification including a residence and agricultural activities.

Recommended Conditions of Approval:

None

Finding 2 Conclusion:

Finding 2 cannot be made as the property enjoys the same substantial property rights as the surrounding properties with the same zoning classification, a deficit of a substantial property right enjoyed by other owners in the vicinity with the same zoning classification has not been identified.

Finding 3: *That the proposed use will have no adverse effect on abutting property and surrounding neighborhood or the permitted use thereof.*

Surrounding Parcels

	Size:	Use:	Zoning:	Nearest Residence*:
North:	0.16-acre	Single Family Residential	R-1 (NB)	55 feet
West:	0.17-acre	Single Family Residential	AL-20	62 feet
	0.3-acre	Single Family Residential		85 feet
South:	0.36-acre	Single Family Residential	R-1B (NB)	116 feet
East:	0.69-acre	Vacant	AL-20	N/A

Reviewing Agency/Department Comments:

The Water & Natural Resources Division has determined the proposed parcels are located within a low water area of Fresno County. According to General Plan Policy PF-C.17, the County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation.

If ground water for the parcels is to be used: A hydrogeologic investigation may be required to confirm the availability of water in amounts necessary to meet project demand.

If surface water for the parcels is to be used: The water must come from a reliable source and the supply must be made “firm” by water banking or other suitable arrangement.

In addition to the origin of water to be used, (ground water vs surface water), the proposal must not have a significant negative impact on water nor on water users in Fresno County.

There must be a plan structured that is: economically, environmentally, and technically feasible, while long term and irreversible physical impacts or economic hardship.

Finding 3 Analysis:

In reviewing a proposal to create small parcels within agricultural areas, the potential impact on nearby agricultural parcels needs to be considered since any increase in population density in an agricultural area increases the likelihood of conflict with normal farming operations. Changing the residential density could conflict with the nearby farming operations. However, given its proximity to the city and adjacent smaller parcels, the limited scale of the impacts would not be materially detrimental. Recommended Conditions of Approval: None. Finding 3 Conclusion: Finding 3 can be made as the granting of a Variance is not materially detrimental to public welfare or injurious to property and

Finding 3 Analysis:

The applicant states “the addition of two residential parcels will have no significant increase on traffic for East Behymer Avenue nor the intersections of Fowler Avenue to the east or Minnewawa to the west, improved with full 12-foot HMA travel lanes with paved or gravel shoulders. One of the proposed parcels will share the existing domestic well; the third parcel will have their own private domestic well thereby minimizing the development of new Agricultural or domestic wells. The development of the land as residential and non-agricultural will reduce the demand on the water table from the surrounding residential properties.

In regard to Finding 3, a proposal to create small parcels within an agricultural area has the potential to impact nearby agricultural parcels due to increase in residential population density which increases the likelihood of conflict with normal farming operations. However, given the limited scale of this project the impacts may not be materially detrimental.

Recommended Conditions of Approval: None. Finding 3 Conclusion: Finding 3 can be made as the granting of a Variance is not materially detrimental to public welfare or injurious to property and

As the subject parcel is within a water-short area, the potential for impacts to neighboring wells exists. Accordingly, a Condition of Approval has been included, requiring that the property owner of each resultant parcel is to provide a water well and Well Yield Certification prior to the

issuance of Building Permits, subject to approval by the Fresno County Department of Public Works and Planning. A groundwater supply report was conducted and approved on March 30, 2022. The Water and Natural Resources Division has determined that adequate water supply is available to serve the proposed parcels based on available records.

Staff concurs, with the hydro report, that the project has an adequate and sustainable supply of groundwater to meet the needs of the project and that future groundwater utilization on the property would not result in significant pumping-related impacts to surrounding properties.

Recommended Conditions of Approval:

None.

Finding 3 Conclusion:

Finding 3 can be made as the granting of a Variance is not materially detrimental to public welfare or injurious to property.

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

Finding 4 Reviewing Agency Comments:

Relevant Policies:	Consistency/Considerations:
<p><i>Policy LU-E.3:</i></p> <p><i>The County shall maintain two (2) acres as the minimum permitted lot size, exclusive of all road and canal rights-of-way, recreation easements, permanent water bodies, and public or quasi-public common use areas, except as provided for in policies LU-E.6 and LU-E.7.</i></p>	<p>Inconsistent. See discussion at the Analysis portion of Findings 1 and 2, and further discussion below.</p>
<p><i>Policy LU-E.10</i></p> <p><i>The County shall require new subdivisions within areas designated Rural Residential be designed to utilize individual on-site sewer and water systems. All proposals shall be reviewed by the County Geologist and the County Health Officer to determine the appropriate minimum lot size based on local hydro-geological conditions. Community systems and lots less than two (2) acres may be permitted only in conjunction with a Planned Residential Development pursuant to Policy LU-E.7; where consistent with the policies of the Sierra-North and Sierra-South Regional Plans; or where a graduated transition of density is needed to protect existing rural residential developments from land use conflicts at the interface with urban</i></p>	<p>Consistent. Review of this project by the Water/Geology/Natural Resources Section determined that there were no water concerns related to this application.</p>

Relevant Policies:	Consistency/Considerations:
<i>development on land outside and adjacent to the sphere-of-influence of a city.</i>	
<p>Policy LU-E.11 <i>The County shall require subdividers of rural residential lots to install, provide, or participate in an effective means for utilization of available surface water entitlements for the area included in the subdivision, such as:</i></p> <p><i>a. Facilities to deliver surface water to each parcel</i></p> <p><i>b. To develop a single recharge basin for the entire development (with necessary arrangements for its operation and maintenance); or</i></p> <p><i>c. To participate in the activities of a public agency to recharge the available supplies for the beneficial use of the properties within the development and the FCMA. The division shall not render inoperative any existing canal.</i></p> <p><i>As an alternative to the proposed variance, the applicant may want to consider re-zoning the subject parcel to RR which would allow parcels similar in size to existing parcels to east and south of the subject parcel bounded by Behymer to the north, Perrin to the south and Fowler to the east.</i></p>	<p>Consistent. Review of this project by the Water/Geology/Natural Resources Section determined that there were no water concerns related to this application.</p>

Finding 4 Analysis:

The Applicant states that the proposed addition is not contrary to the objectives of the Fresno County General Plan. The Applicant states that the granting of this Variance would be in accordance with the objectives of the General Plan.

The parcel is zoned AL-20. In addition, the parcel’s land use designation under Fresno County’s General Plan is Rural Residential (2-acre minimum parcel size) zone district under the Northeast Rural-Residential East Plan. Therefore, the project is consistent with the General Plan.

Recommended Conditions of Approval:

None.

Finding 4 Conclusion:

Finding 4 can be made as the application is consistent with the General Plan as discussed above.

PUBLIC COMMENT:

No public comment was received as of the date of preparation of this report.

SUMMARY CONCLUSION:

Granting of the variance could be construed as inconsistent with Government code section 65906 which prohibits granting of unqualified variances and states in part "...shall constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated."

A consideration in addressing Variance applications is whether there are alternatives available that would avoid the need for the Variance. A rezone of the subject parcel to the R-R (Rural Residential) would allow the parcel to have a minimum lot size of two acres which could allow a parcel split. Additional General Plan policies would be applicable if the parcel were to be rezoned. This alternative is not preferred by the Applicant because an Amendment Application costs considerably more than a Variance Application. There are no other alternatives available that would meet the Applicant's proposal that would avoid the need for the Variance.

Based on the factors cited in the analysis, Staff has concluded that the required Findings 1 and 2 for granting the Variance Application cannot be made as there are no exceptional or extraordinary circumstances or conditions applicable to the property nor is the variance 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.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that the required Findings 1 and 2 cannot be made (as stipulated in the Staff Report) and move to deny Variance Application No. 4115; 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 Application No. 4115, subject to the Conditions of Approval listed in Exhibit 1; and
- Direct the Secretary to prepare a resolution documenting the Commission's action

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

ER:jp
G:\4360Devs&PIn\PROJSEC\PROJDOCS\VA\4100-4199\4115\Staff Report\VA 4115 SR.docx

EXHIBIT 1

**Variance Application No. 4115
(Including Conditions of Approval and Project Notes)**

Conditions of Approval	
1.	Development shall be in accordance with the site plan as approved by the Planning Commission.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Development will be subject to the requirements of the current Fire Code and Building Code when a building permit or certificate of occupancy is sought.
2.	For property within flood zone shaded x, any future/proposed building pad must be elevated above the existing ground to at least a minimum of twelve inches (12") and/or the finish floor elevation must be elevated above the crown of the adjacent street. Furthermore, any future/proposed associated electrical equipment/electrical system components (e.g., panels, meters, switches, outlets, electrical wiring, walk-in equipment cabinets, generators, bottom of the lowest edge of the solar array, pool-associated motors and water heater, receptacles, junction boxes, inverter, transformers, etc.) in the shaded flood zone x must be elevated above the finish floor elevation. All electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. All sides of the future/proposed building shall be sloped 2% for 5' to provide positive drainage away from the building.
3.	Any additional storm water runoff generated by future development of this site cannot be drained across property lines or into the County road right-of-way, and must be retained on- site, per County Standards unless FMFCD specifies otherwise.
4.	Any existing or future access driveway should be set back a minimum of 10' from the property line.
5.	Any existing or future entrance gate should be set back a minimum of 20' from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.
6.	A 10' x 10' corner cut-off should be improved for sight distance purposes at any existing driveway accessing Behymer Avenue if not already present.
7.	A grading permit or voucher is required for any future grading proposed with this application
8.	If the variance is approved, a parcel map application will have to be filed with Fresno County in order to affect the property division.
9.	It is recommended that the applicant consider having the existing septic tanks pumped and have the tank and leach lines evaluated by an appropriately licensed contractor if it has 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.
10.	Any new sewage disposal systems shall be installed under permit and inspection by the Department of Public Works and Planning Building and Safety Section. Contact Department of Public Works and Planning at (559) 600-4540 for more information.
11.	The future construction project has the potential to expose nearby residents to elevated noise levels. Consideration should be given to the County of Fresno noise ordinance and the City of Clovis Municipal Code.

Notes

12.	At such time the applicant or future property owner decides to construct a water well, the water well contractor selected by the applicant will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Public Health, Environmental Health Division. Please be advised that only those persons with a valid C-57 contractor's license may construct wells. For more information, contact the Water Surveillance Program at (559) 600-3357.
13.	As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.
14.	Should any underground storage tank(s) be found during the project, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.
15.	Should the structures have an active rodent or insect infestation, the infestation should be abated prior to demolition of the structures to prevent the spread of vectors to adjacent properties.
16.	In the process of demolishing the existing structures, the contractor may encounter asbestos containing construction materials and materials coated with lead-based paints.
17.	If asbestos containing materials are encountered, contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000 for more information.
18.	If the structures were constructed prior to 1979 or if lead-based paint is suspected to have been used in these structures, then prior to demolition and/or remodel work the contractor should contact the following agencies for current regulations and requirements: California Department of Public Health, Childhood Lead Poisoning Prevention Branch, at (510) 620-5600 United States Environmental Protection Agency, Region 9, at (415) 947-8000 State of California, Industrial Relations Department, Division of Occupational Safety and Health, Consultation Service (CAL-OSHA) at (559) 454-5302.
19.	If approved, the subdivision will require a that a Tentative Parcel Map be prepared in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. The Tentative Parcel Map application shall expire two years after the approval of said Tentative Parcel Map
20.	Upon approval and acceptance of the Tentative Parcel Map and any Conditions imposed thereon, a Final Parcel Map shall be prepared and by a Professional Land Surveyor or Registered Civil Engineer authorized to practice Land Surveying in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. Recordation of the Final Parcel Map shall take place within two years of the acceptance of the Tentative Parcel Map unless a Map extension is received prior to the expiration date of the approved Tentative Parcel Map. Failure to record the Final Parcel Map prior to the expiration of said Tentative Parcel Map may void the Parcel Map application.
21.	If surface water is proposed, it must come from a reliable source and the supply must be made "firm" by water banking or other suitable arrangement. If groundwater is proposed, a hydrogeologic investigation may be required to confirm the availability of water in amounts necessary to meet project demand. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required.
22.	If use of surface water is proposed, its use must not have a significant negative impact on agriculture or other

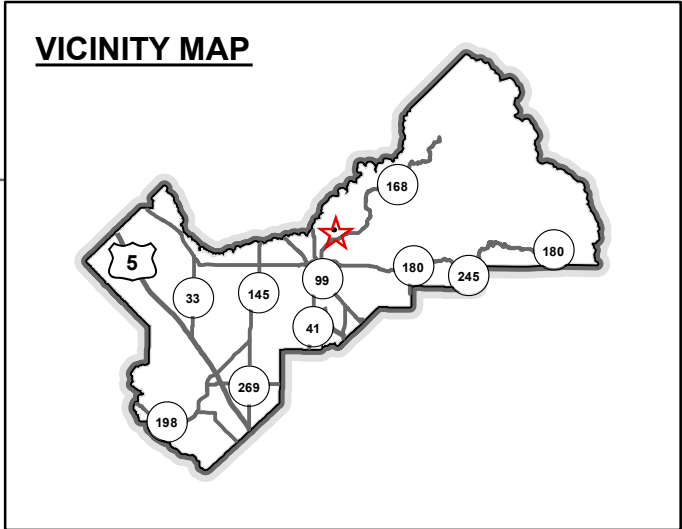
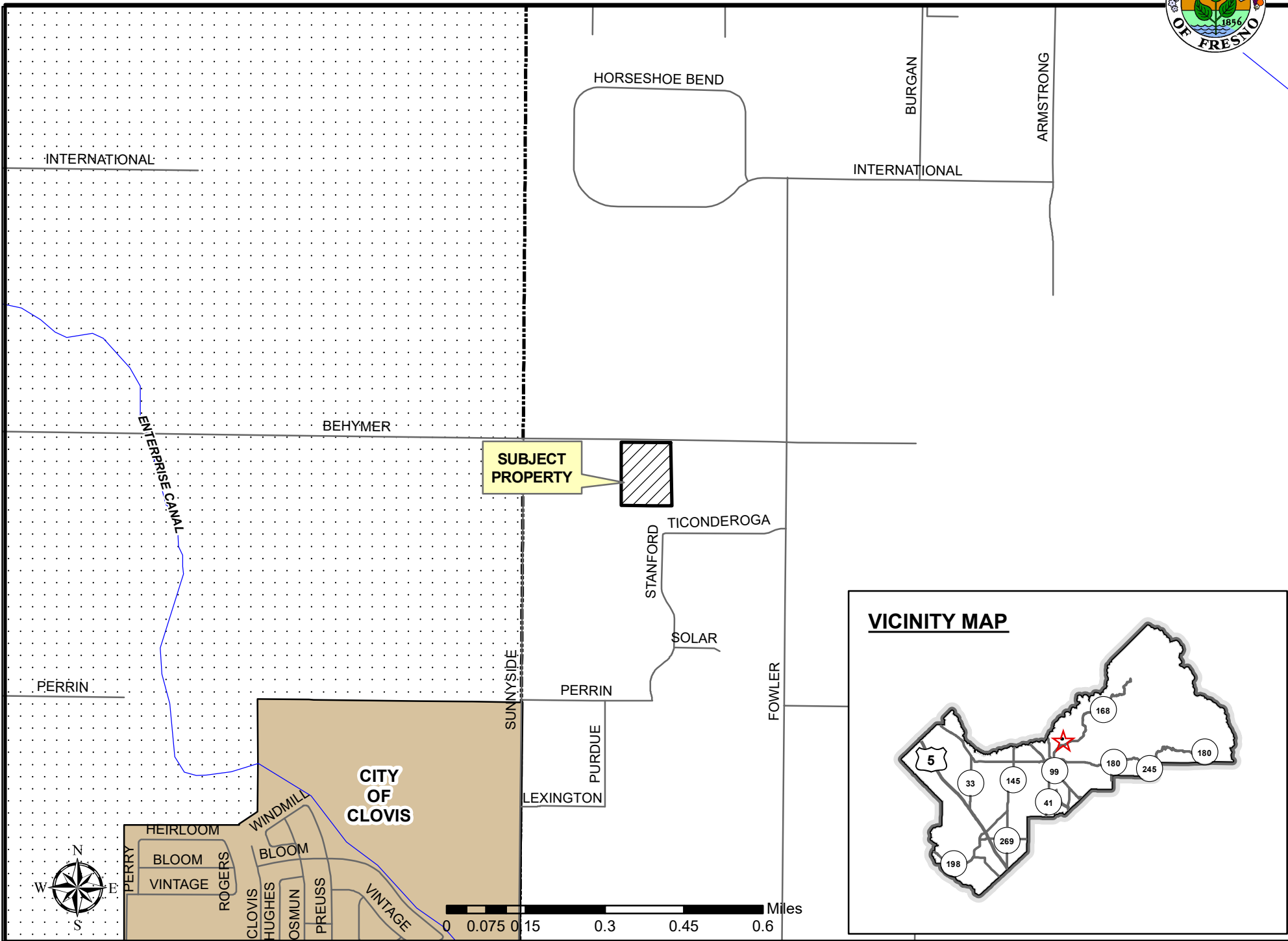
Notes	
	water users within Fresno County. If use of groundwater is proposed, a hydrogeologic investigation may be required. If the lands in question lie in an area of limited groundwater, a hydrogeologic investigation shall be required. Should the investigation determine that significant pumping-related physical impacts will extend beyond the boundary of the property in question, those impacts shall be mitigated.
23.	A determination that the proposed water supply is sustainable or that there is an acceptable plan to achieve sustainability. The plan must be structured such that it is economically, environmentally, and technically feasible. In addition, its implementation must occur prior to long-term and/or irreversible physical impacts, or significant economic hardship, to surrounding water users.
24.	For property within flood zone shaded x, any future/proposed building pad must be elevated above the existing ground to at least a minimum of twelve inches (12") and/or the finish floor elevation must be elevated above the crown of the adjacent street.
25.	Any work performed within the County Road right-of-way will require an encroachment permit.

ER:

G:\4360Devs&PIn\PROJSEC\PROJDOCS\VA\4100-4199\4115\Staff Report\VA 4115 Conditions.docx

EXHIBIT 2
LOCATION MAP

VA 4115



EXISTING ZONING MAP

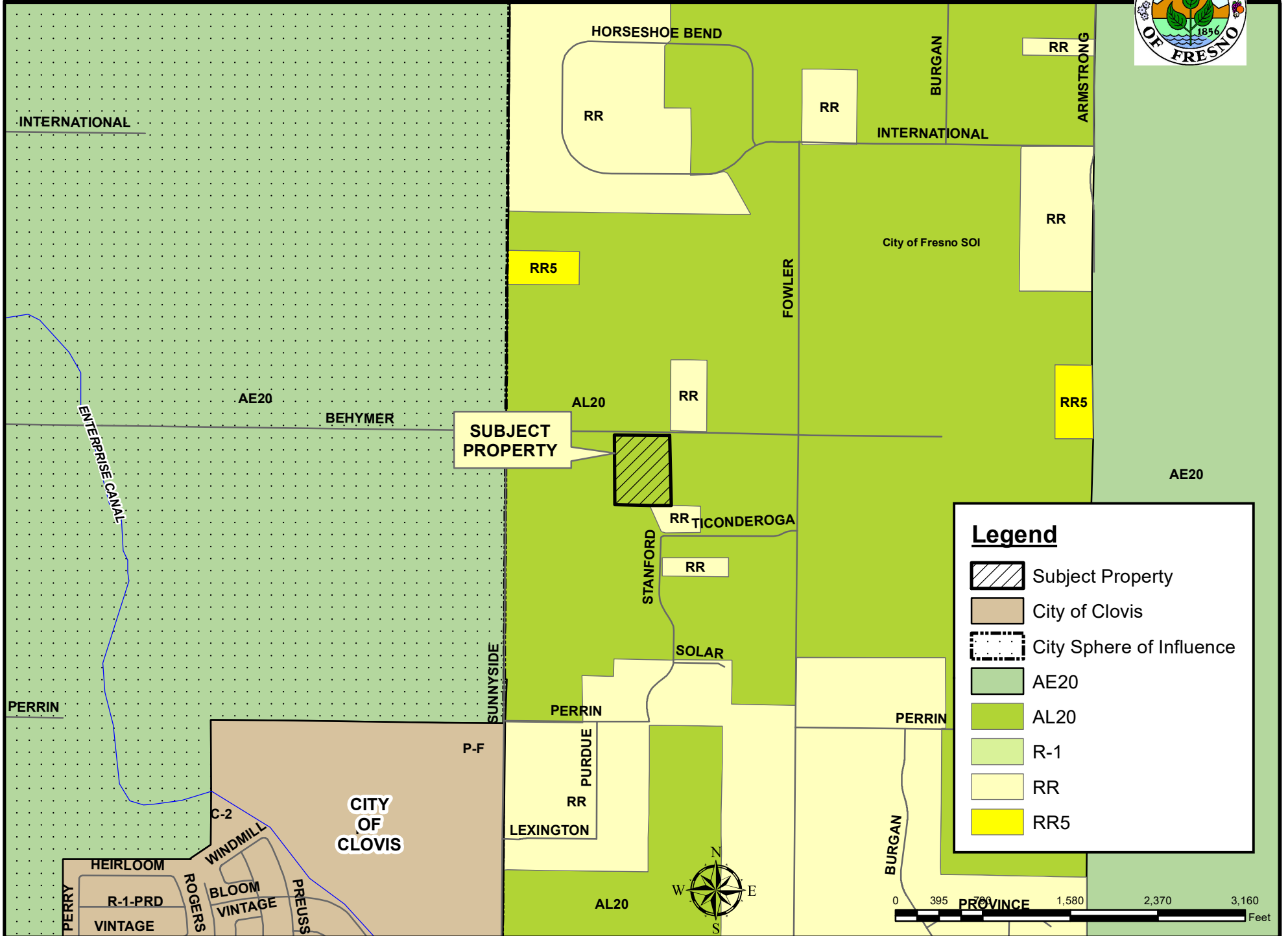
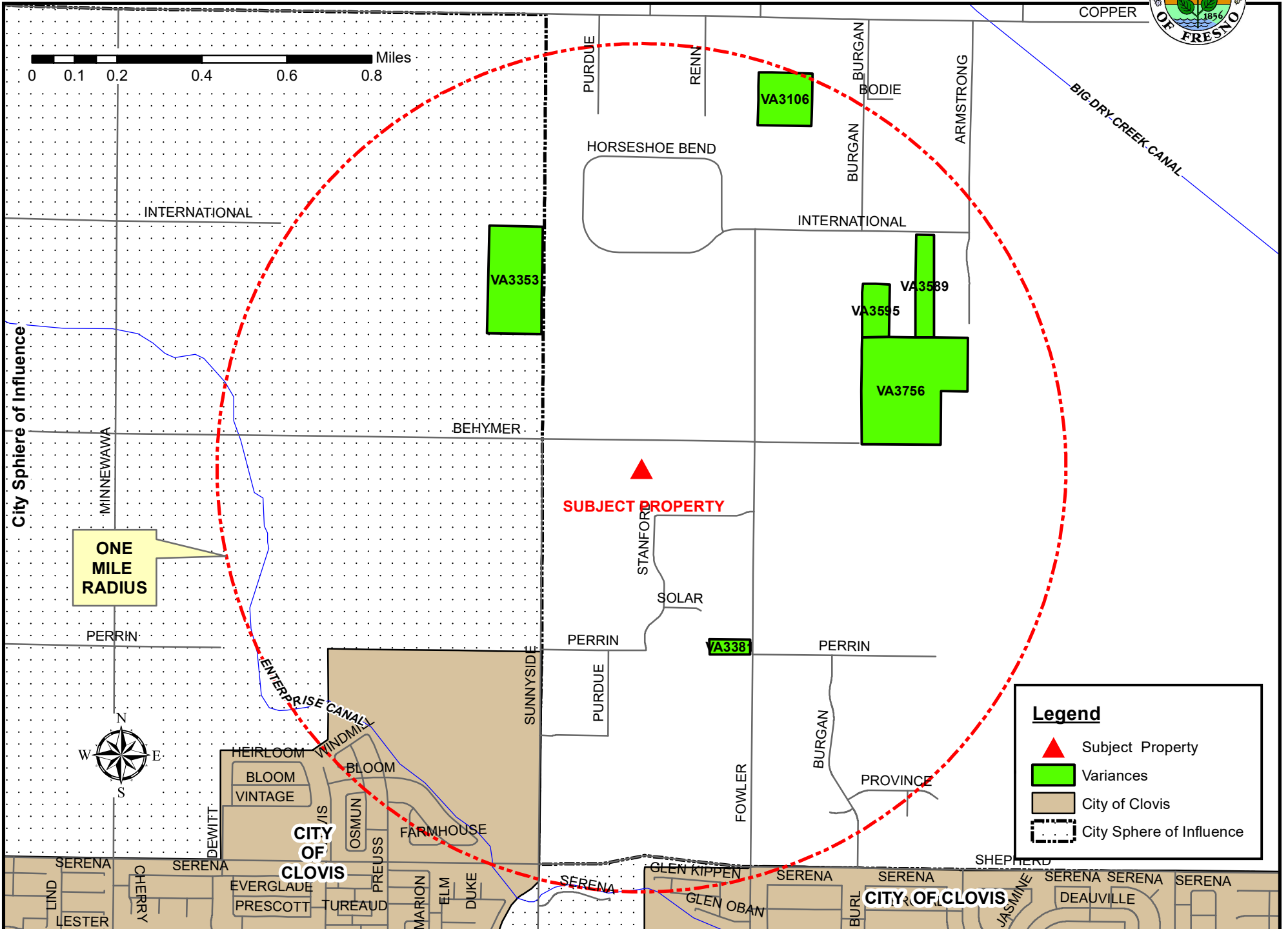
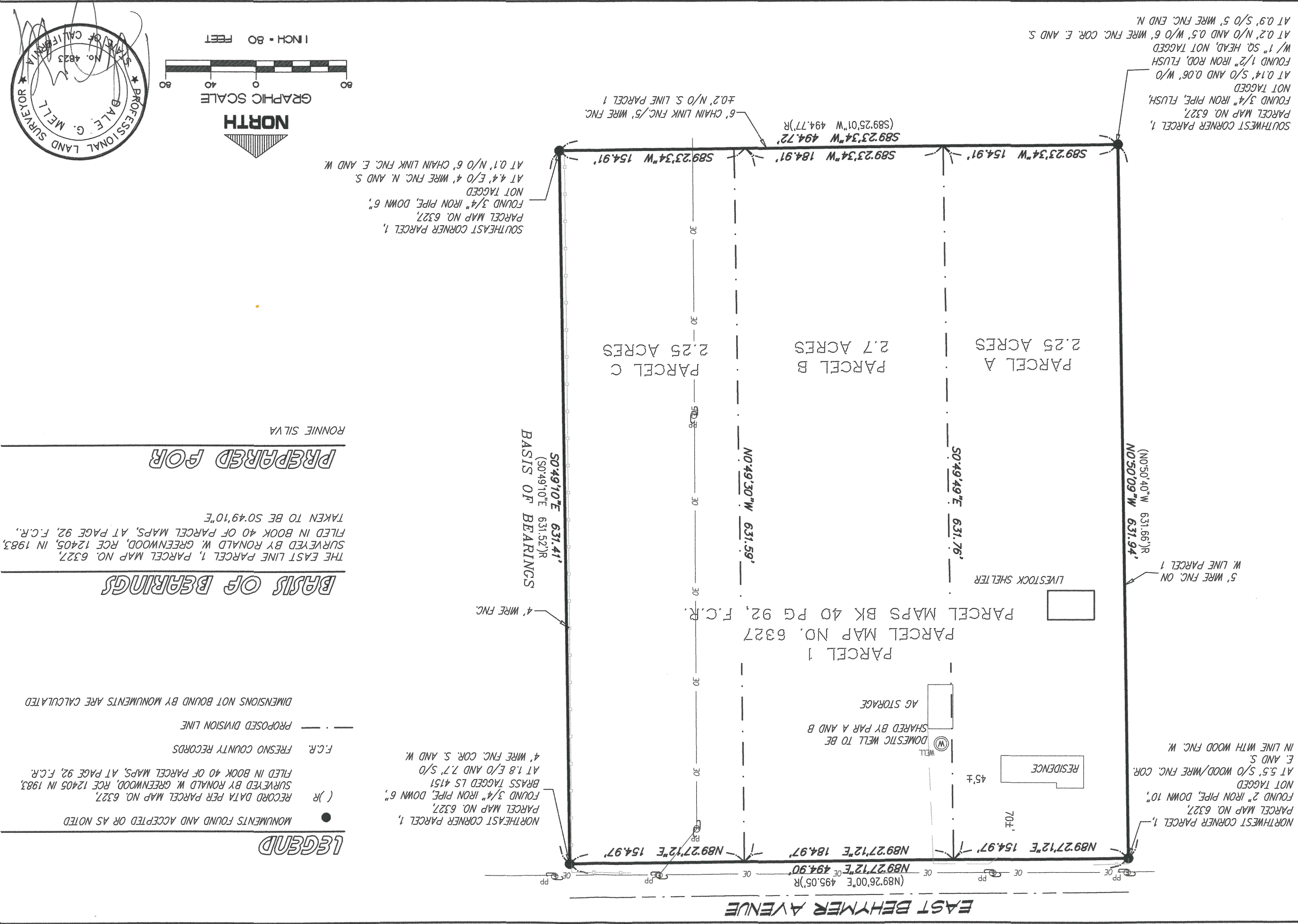


EXHIBIT 3

APPROVED VARIANCES WITHIN A ONE MILE RADIUS





SHEET 1 OF 1

PREPARED BY:
DALE G. MELL
& ASSOCIATES
ENGINEERING & SURVEYING SERVICES
2090 NORTH WINERY AVENUE, FRESNO, CALIFORNIA 93703
(559) 292-4046 • FAX 251-9220 • EMAIL: STAFF@DALEMELL.COM

TENTATIVE PARCEL MAP

SITE LOCATION:
5187 EAST BEHMER AVENUE, CLONS, CA 93619
ASSESSOR'S PARCEL NO(S):
557-011-63

BING A PORTION OF SECTION 21,
TOWNSHIP 12 SOUTH, RANGE 21 EAST,
MOUNT DIABLO BASE & MERIDIAN

SOUTHWEST CORNER PARCEL 1,
PARCEL MAP NO. 6327,
FOUND 3/4" IRON PIPE, FLUSH,
NOT TAGGED
AT 0.14' S/O AND 0.06' W/O
FOUND 1/2" IRON ROD, FLUSH
W/ 1" SQ. HEAD, NOT TAGGED
AT 0.2' N/O AND 0.5' W/O 6" WIRE FNC. COR. E. AND S.
AT 0.9' S/O 5" WIRE FNC. END N.

SOUTHEAST CORNER PARCEL 1,
PARCEL MAP NO. 6327,
FOUND 3/4" IRON PIPE, DOWN 6",
NOT TAGGED
AT 4.4' E/O 4" WIRE FNC. N. AND S.
AT 0.1' N/O 6" CHAIN LINK FNC. E. AND W.

NORTHEAST CORNER PARCEL 1,
PARCEL MAP NO. 6327,
FOUND 3/4" IRON PIPE, DOWN 6",
BRASS TAGGED LS 4151
AT 1.8' E/O AND 7.7' S/O
4" WIRE FNC. COR. S. AND W.

NORTHWEST CORNER PARCEL 1,
PARCEL MAP NO. 6327,
FOUND 2" IRON PIPE, DOWN 10",
NOT TAGGED
AT 5.5' S/O WOOD/WIRE FNC. COR.
E. AND S.
IN LINE WITH WOOD FNC. W.

(N050'40"W 631.66)R
5" WIRE FNC. ON
W. LINE PARCEL 1

S049'49"E 631.76'

N049'30"W 631.59'

S049'10"E 631.41'
(S049'10"E 631.52)R
BASIS OF BEARINGS

S89.23'34"W 154.91'
S89.23'34"W 184.91'
S89.23'34"W 494.72'
(S89.25'01"W 494.77)R
6' CHAIN LINK FNC./5' WIRE FNC.
±0.2' N/O S. LINE PARCEL 1

PARCEL A 2.25 ACRES
PARCEL B 2.7 ACRES
PARCEL C 2.25 ACRES

PARCEL 1
PARCEL MAP NO. 6327, F.C.R.
PARCEL MAPS BK 40 PG 92, F.C.R.

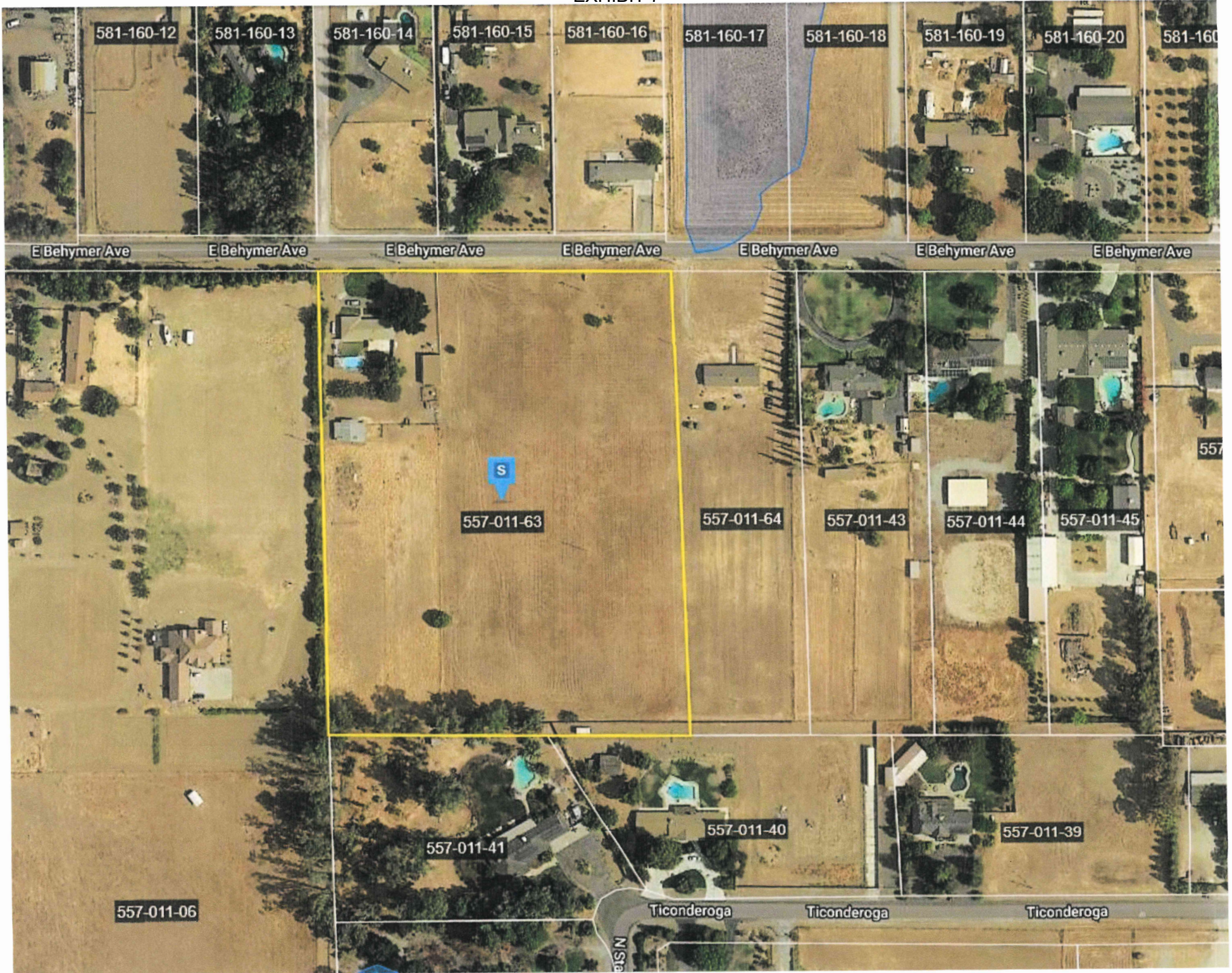
AG STORAGE
SHARED BY PAR A AND B
DOMESTIC WELL TO BE

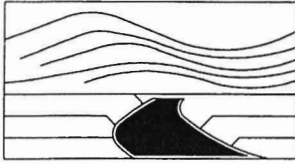
RESIDENCE

70'±
45'±

N89.27'12"E 154.97'
N89.27'12"E 184.97'
N89.27'12"E 494.90'
(N89.26'00"E 495.05)R

EXHIBIT 7





DALE G. MELL & ASSOCIATES

ENGINEERING & SURVEYING SERVICES

2090 N. WINERY AVENUE · FRESNO, CALIFORNIA 93703 · PH (559) 292-4046 · FAX (559) 251-9220

Supplemental Application Findings for Variance and Minor Variance

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

The first extraordinary circumstance would be the fact that the majority of the area has been divided into 2-acre parcels. The subject site is a 7.2-acre parcel. A parcel of this size is too large to maintain as a single-family residence and is too small for profitable agriculture use. The soil conditions are poor and not well suited for productive agricultural use and water well yields are marginal at best for agricultural use.

A minor Variance is also requested for the reduced width of proposed Parcels 1 (2.25 ac) and 3 (2.25 ac) by 6% from the Development Standard (165') due to the extended depth of the original parcel and owners development plans for Parcel 2

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;**

Development of this area from agriculture use to rural residential use started back in 1966 when the first Parcel Map was filed. In the years following, subdivision maps and parcel maps have been filed resulting in creation of 250 lots under 10 acres in size, bounded on the north by Copper Avenue, Shepherd Avenue to the south, Armstrong Avenue to the east and Sunnyside Avenue to the west, approximately 80% or more of these parcels are zoned AL20. In 1983 the submit site parcel was created by parcel map dividing a 10-acre parcel into a 2.39 acre parcel and a 7.18 acres parcel with AE20 acre zoning. Granting of the Minor Variance ensures the owners right to build in substantial conformance with current Development Standards.

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;**

The addition of two residential parcels will have no significant increase on traffic for East Behymer Avenue or the intersections of Fowler Avenue to the east or Minnewawa to the west, improved with full 12-foot HMA travel lanes with paved or gravel shoulders. One of the proposed parcels will share the existing domestic well; the third parcel will have

their own private domestic well thereby minimizing the development of new Ag or Domestic wells. The development of the land as residential and not agricultural will reduce the demand on the water table from the surrounding residential properties. Granting of the Minor Variance, a reduction in parcel width will have no effect on the public welfare, improvements or property in the vicinity, all of the remaining Development Standards can be met, including well and septic setbacks on-site as well as with setbacks of existing development.

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

As described in General Plan Section 817:

“The “AL” District is a limited agricultural district. It is intended to protect the general welfare of the agricultural community by limiting intensive uses in agricultural areas where such uses may be incompatible with, or injurious to, other less intensive agricultural operations. The District is also intended to reserve and hold certain lands for future urban use by permitting limited agriculture and by regulating those more intensive agricultural uses which, by their nature, may be injurious to non-agricultural uses in the vicinity or inconsistent with the express purpose of reservation for future urban use.”

Therefore granting of this Variance and Minor Variance is consistent with the intent to reserve for future urban use and the use of this property for agriculture would be injurious to surrounding residential uses by impacting the ground water table.