



## Inter Office Memo

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**ATTENTION: FOR FINAL ACTION OR MODIFICATION TO OR ADDITION OF CONDITIONS, SEE FINAL BOARD OF SUPERVISORS' ACTION SUMMARY MINUTES.**

DATE: August 8, 2019  
TO: Board of Supervisors  
FROM: Planning Commission  
SUBJECT: RESOLUTION NO. 12790 - VARIANCE APPLICATION NO. 4074

APPLICANT/  
OWNER: SPINO, INC.

REQUEST: Allow the creation of a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from an existing 4.9-acre parcel (gross) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the south side of W. McKinley Avenue, approximately 420 feet east of its intersection with N. Garfield Avenue, and one-mile south of the nearest city limits of the City of Fresno (7605 W. McKinley Avenue, Fresno, CA) (Sup. Dist. 1) (APN 312-290-39).

### PLANNING COMMISSION ACTION:

At its hearing of August 8, 2019, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Vice-Chairman Lawson and seconded by Commissioner Chatha to deny Variance No. 4074 based on staff's recommendation that the required Variance Findings could not be made.

RESOLUTION NO. 12790

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Lawson, Chatha, Abrahamian, Burgess, Delahay, Eubanks, Hill and Vallis
	No:	None
	Absent:	None
	Abstain:	None
	Recused:	Commissioner Ede

STEVEN E. WHITE, DIRECTOR  
Department of Public Works and Planning  
Secretary-Fresno County Planning Commission

By:   
\_\_\_\_\_  
William M. Kettler, Manager  
Development Services and Capital Projects Division

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G:\4360Devs&PIn\ADMIN\BOARD\Board Items\2010-2019\10-22-19\VA 4074 Appeal\VA 4074 Resolution (with Exhibit A).docx

Attachments

EXHIBIT A

Variance Application No. 4074

- Staff: The Fresno County Planning Commission considered the Staff Report dated August 8, 2019, and heard a summary presentation by staff.
- Applicant: The Applicant's representative disagreed with the Staff Report and Staff's recommendation. He described the project and offered the following information to clarify the intended use:
- The subject parcel has been fallow for 29 years and is not used for agricultural or residential purposes; a parcel this size cannot be farmed profitably.
  - A high ratio of parcels in the area are not farmed and do not conform to 20-acre minimum parcel size required in the AE-20 Zone District; within a one-mile radius, 83 percent of the parcels are less than 20-acre in size.
  - The subject parcel is five acres in size and is located in an AE-20 Zone District, which is an unusual circumstance.
  - The parcel has quality groundwater and access from a public road.
  - Parcel 1 will be developed with a single-family residence; the second parcel, with reduced width, can accommodate a well and septic system for a single-family dwelling and will be developed or sold.
- Others: No other individuals presented information in support of or in opposition to the application.
- Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

EXHIBIT "B"

ATTACHMENT  
TO  
AGENDA ITEM

FISCAL IMPACT STATEMENT

Variance Application No. 4074

Listed below are the fees collected for the land use applications involved in this Agenda Item:

Variance Application:	\$ 6,049.00 <sup>1</sup>
Health Department Review:	365.00 <sup>2</sup>
Preliminary Environmental Review:	259.00 <sup>3</sup>
Agricultural Commissioner Review:	<u>59.00<sup>4</sup></u>
<b>Total Fees Collected</b>	<b>\$ <u>6,732.00</u></b>

<sup>1</sup> Includes project routing, coordination with reviewing agencies, preparation and incorporation of analysis into Staff Report.
<sup>2</sup> Review of proposal by the Department of Public Health, Environmental Health Division to provide comments.
<sup>3</sup> Review proposal to provide appropriate California Environmental Quality Act (CEQA) Exemption and include documentation for project file.
<sup>4</sup> Review of proposal by the Department Agriculture to provide comments.



# County of Fresno

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

## Planning Commission Staff Report Agenda Item No. 2 August 8, 2019

**SUBJECT:** Variance Application No. 4074

Allow the creation of a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from an existing 4.9-acre parcel (gross) in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The subject parcel is located on the south side of W. McKinley Avenue, approximately 420 feet east of its intersection with N. Garfield Avenue, and one-mile south of the nearest city limits of the City of Fresno (7605 W. McKinley Avenue, Fresno, CA) (Sup. Dist. 1) (APN 312-290-39).

**OWNER/  
APPLICANT:** Spino, Inc.

**STAFF CONTACT:** Ejaz Ahmad, Planner  
(559) 600-4224

Marianne Mollring, Senior Planner  
(559) 600-4569

**RECOMMENDATION:**

- Deny Variance Application No. 4074; 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. Map of Variances Approved within One Mile

**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	4.9 acres (gross)	2.5 acres (Parcel 1)  2.4 acres (Parcel 2) with a 160-foot road frontage
Project Site	Vacant	Allow the creation of a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from an existing 4.9-acre parcel (gross) in the AE-20 Zone District.
Structural Improvements	None	None
Nearest Residence	30 feet to the west	None
Surrounding Development	Single-family residences; vineyard	N/A
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	N/A	N/A
Lighting	N/A	N/A
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 17 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:**

County records indicate that the subject 4.9-acre parcel and all parcels in the area were zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) on June 20, 1961. The current zoning on the property is AE-20.

A Variance Application is required to allow the creation of a 2.5-acre parcel (Parcel 1) and a 2.4-acre parcel (Parcel 2) having a lot width/frontage of 160 feet (165 feet required) and a lot depth to width ratio of 4.12:1 (4:1 maximum allowed) from a 4.9-acre parcel. Should this Variance be approved, a subsequent Parcel Map Application would be required to create the proposed parcels as separate legal parcels for sale, lease or financing. The Applicant has submitted construction plans for the construction of a single-family residence on Parcel 1. The plans are in plan check process with the Building and Safety Section of the Fresno County Department of Public Works and Planning. Approval or denial of this Variance Application would have no bearing on the issuance of building permits for this by-right use on the property.

County records indicate that three Variance Applications pertaining to lot size were filed within a one-mile radius of the subject property (Exhibit 7). The following table provides a brief summary of those Variance requests, staff recommendations, and final action by the Planning Commission:

<b>Application/Request</b>	<b>Staff Recommendation</b>	<b>Final Action</b>	<b>Date of Action</b>
VA No. 3599 – Allow the creation of two five-acre parcels, each having a lot depth to width ratio of 8:1 (4:1 maximum allowed) and a lot width/frontage of 161.5 feet (165 feet required) in the RR Zone District.	Denial. Findings 1 and 2 cannot be made	Planning Commission Approved	December 18, 1997
VA No. 2881 – Allow the creation of two 2.44-acre parcels and a side-yard setback of 13.6 feet (20 feet required) from a 4.89-acre parcel in the AE-20 Zone District.	Denial or approval per the Planning Commission discretion	Planning Commission Approved	Dec. 20, 1984
VA No. 2797 - Allow the creation of a 9.32-acre parcel and a 0.64-acre parcel (20 acres required) without public road frontage (165 feet required) from a 9.96-acre parcel in the AE-20 Zone District.	Denial. Findings 1 and 2 cannot be made	Planning Commission Approved	Sept. 22, 1983

**Finding 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.*

**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.*

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	Front: 35 feet Sides: 20 feet Rear: 20 feet	N/A; no development proposed by this application	N/A
Parking	Two parking spaces for residential use	N/A	N/A
Lot Coverage	No requirement	N/A	N/A



	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Separation Between Buildings	Six feet	N/A	N/A
Wall Requirements	N/A	N/A	N/A
Septic Replacement Area	100 percent of the existing system	N/A	N/A
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet Seepage pit: 150 feet	N/A	N/A

**Reviewing Agency/Department Comments:**

Zoning Section of the Fresno County Department of Public Works and Planning: The AE-20 Zone District requires a minimum parcel size of 20 acres, lot width of 165 feet and a lot depth to width ratio of four (4) to one (1). A Variance is required to create a 2.5-acre parcel and a 2.4-acre parcel having a lot width/frontage of 160 feet and a lot depth to width ratio of 4.12:1.

No other comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments, including the Fresno County Department of Agriculture.

**Analysis:**

In support of Finding 1, the Applicant states that the project site is a non-prime agricultural land. The Applicant also states that within a one-mile radius, 29 percent of the lots are equal to or under 2 acres, 37 percent of the lots are over 2 acres but under 5 acres, 17 percent of the lots are over 5 acres but under 20 acres, and the remaining 17 percent of parcels are greater than 20 acres.

With regard to Finding 1, staff notes that the 2014 Fresno County Important Farmland map designates the project site as Farmland of Local Importance, which is less than Prime Farmland. Although farming activities do exist on the surrounding land, uncultivated land adjacent to the subject parcel are developed with single-family residences and related improvements.

Staff also notes that the Applicant has cited approximately 83 percent of parcels within the project area are less than 20 acres, while approximately 29 percent of the parcels are equal to or under 2 acres. However, no information was provided regarding exceptional or extraordinary circumstances or conditions that apply to the subject parcel and that do not apply to other parcels under the same zoning classification, as required by Finding 1. Upon analyzing the Applicant's findings, site aerial photos, the proposed parcelization (Site Plan) and comments from reviewing agencies, staff was unable to identify any unique physical circumstances that apply to the subject parcel and do not apply to other properties in the area. Staff notes there are no physical circumstances or constraints such as elevation changes, rock outcroppings, or wetlands that create significant hardships for the Applicant that are applicable to the property itself to justify the need for this Variance. The Applicant's justification (Exhibit 6) in reference to the project site being a non-prime farmland and comparable in size to other parcels in the area

is not a physical characteristics demonstrating circumstances which merit the requested parcel configuration proposed by the Variance request, and as such does not support meeting Finding 1.

In support of Finding 2, the Applicant states that adjoining development to the east, west, and south are residential uses with no farming or cultivation and that the property owner desires to create 2.5-acre homesites conforming to development in the general area.

With regard to Finding 2, staff concurs with the Applicant that adjacent parcels are not in farming operation and the proposed parcels are comparable in size to other parcels in the area. However, those parcels in the area that are substandard to lot size required in the AE Zone District were not created through a Variance process. With the exception of three parcels noted in the "Background Information" of this report, all other substandard parcels within a one-mile radius of the subject property were created prior to June 20, 1961 when the prevailing zoning would have allowed smaller parcels. Staff believes the proposal does not give validity to the loss of a substantial property right to support meeting Finding 2, in that denial of this Variance request would not necessarily deprive the Applicant of any right enjoyed by other property owners in the AE-20 Zone District since all property owners in said District are subject to the same development standards.

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

The subject 4.9-acre parcel is currently zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) in the County Zoning Ordinance. It is a small, uncultivated parcel, similar in size to other AE-zoned parcels near the proposal. The adjoining parcel to the west and several other parcels located 640 feet to the west of the subject parcel range in size from 1.23 acres to 2.31 acres and are developed with single-family residences. Likewise, a 2.25-acre parcel located approximately 40 feet to the north of the subject parcel is developed with a single-family residence. Other parcels ranging in size from one acre to 2.39 acres are located approximately 1,330 feet to the north and 1,615 feet to the south of the subject parcel and are developed with single-family residences. The proposed parcels are comparable in size and use to those parcels in the area.

This application also proposes reduced lot width/frontage for the proposed Parcel 2 in the AE-20 Zone District, which requires a minimum of 165 feet. Parcel 2 proposes a 160-foot lot width, which will increase the lot depth to width ratio by 4.12:1 (4:1 maximum allowed). Staff believes that a five-foot reduction in lot width and 0.12 percent increase (or 20 feet) in lot depth to width ratio will not affect the functionality of Parcel 2 for future residential development.

A consideration in addressing Findings 1 and 2 is whether there are alternatives available that would avoid the need for the Variance. Given the circumstances described by the Applicant in "Applicant's Findings" (Exhibit 6), there appears to be no other alternative that would meet the Applicant's desire to create a 2.5-acre parcel and a 2.4-acre parcel from an existing 4.9-acre (gross) parcel and meet the lot size required in the AE-20 Zone District.

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

**Recommended Condition of Approval:**

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

**Conclusion:**

Findings 1 and 2 cannot be made.

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

<b>Surrounding Parcels</b>				
	Size:	Use:	Zoning:	Nearest Residence:
North	2.25 acres & 20.8 acres	Single-Family Residences and Vineyard	AE-20	145 feet
South	10 acres	Single-Family Residence	AE-20	202 feet
East	4.19 acres	Single-Family Residence	AE-20	65 feet
West	1.26 acres & 8.3 acres	Single-Family Residence	AE-20	30 feet

**Reviewing Agency/Department Comments:**

Development Engineering Section of the Fresno County Department of Public Works and Planning: McKinley Avenue is classified as a Collector road with an existing 30-foot right-of-way width south of the section line per Plat Book. The minimum width for a Collector road south of the section line is 40 feet. (Note: A Condition of Approval would require that the northerly 10 feet of the parcel shall be dedicated for additional right-of-way for McKinley Avenue.)

Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division of the Fresno County Department of Public Works and Planning. If not already present, ten-foot by ten-foot corner cutoffs shall be improved for sight distance purposes at the exiting/proposed driveways onto McKinley Avenue. Any additional runoff generated by the proposed development of this site must be retained or disposed of per County Standards. A grading permit shall be required for any grading completed without a permit and any grading proposed with this application. These requirements will be included as Project Notes.

Fresno County Department of Public Health, Environmental Health Division (Health Dept.): If any underground storage tank(s) are found during construction, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Health Department. In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately-licensed contractor (permits required). Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be checked for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements.

Zoning Section of the Fresno County Department of Public Works and Planning: A mapping procedure (Parcel Map Application) shall be required for the proposed parcels if the Variance is approved.

Fresno Irrigation District (FID): FID's Little Houghton Canal No. 84 runs northwesterly and crosses Garfield Avenue approximately 3,200 feet southeast of the subject property. Any street and/or utility improvements along Garfield Avenue and in the vicinity of the canal crossing shall require FID's review and approval of all plans. FID's Silvia runs southwesterly and crosses McKinley Avenue approximately 2,700 feet west of the subject property. Any street and/or utility improvements along McKinley Avenue and near this canal shall require FID's review and approval of all plans.

The above-mentioned requirements have been included as Project Notes.

Fresno County Department of Agriculture; North Central Fire District; Design, Road Maintenance and Operations, and Water and Natural Resources Divisions and the Building and Safety Section of the Fresno County Department of Public Works and Planning: No concerns regarding the proposal.

**Analysis:**

In support of Finding 3, the Applicant states that creation of one additional parcel will have no effect on the public welfare, property or improvements due to the following: 1) the parcels are fronting on McKinley Avenue, currently developed and in good condition for rural traffic loads and providing safe access; 2) the site is not located within a water shortage area; and 3) the site has good drainage for septic systems.

With regard to Finding 3, staff concurs with the Applicant's assessment that the Variance would not be detrimental to surrounding properties. McKinley Avenue serving the subject property is in good condition, the property is not in a low-water area, and it can accommodate individual septic systems for future residential uses. Although, the subject proposal involves no physical changes to the site, the granting of this Variance may result in the establishment of one by-right single-family residence and one additional residence through discretionary land use approval (Director Review and Approval) on each of the proposed parcels. Such uses would not be incompatible with the existing residential uses that currently exist in the area on both cultivated and non-cultivated land. Given that the potential future residential uses on the subject parcels will match with the existing residential uses in the area, staff believes that the proposal would not have an adverse effect upon surrounding properties. Staff also believes that minor reduction in lot width (160 feet proposed verses 165 feet required) and the slight increase (20 feet) in lot depth to lot width ratio (4.12:1 proposed verses 4:1 maximum allowed) would not affect the optimal use of the property for future residential development.

**Recommended Conditions of Approval:**

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

**Conclusion:**

Finding 3 can be made.

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

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>Policy LU-A.6: The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policy LU-A.9, LU-A.10 and LU-A.11.</p>	<p>The subject proposal is inconsistent with Policy LU-A.6 due to the creation of two parcels less than 20 acres in the AE-20 Zone District. The proposal does not qualify for an exception under Policies LU-A.9, in that the lot is not for a financing parcel, gift lot, or owned by the property owner prior to the date the policies were implemented. The proposal also does not qualify for exemptions provided in Policy LU-A.10 (entails development of an agricultural commercial center) and Policy LU-A. 11 (entails recovery of mineral resources).</p>
<p>Policy LU-A. 7: The County shall generally deny requests to create parcels less than the minimum size specified in Policy LU-A.6 based on concerns that these parcels are less viable economic farming units, and that the resultant increase in residential density increases the potential for conflict with normal agricultural practices on adjacent parcels. Evidence that the affected parcel may be an uneconomic farming unit due to its current size, soil conditions, or other factors shall not alone be considered a sufficient basis to grant an exception. The decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.</p>	<p>This Variance request proposes to create a 2.5-acre and a 2.4-acre parcel where the zone district requires a minimum parcel size of 20 acres. The subject proposal is likely to set a precedent for parcelization of farmland into smaller size parcels, which are economically less viable farming units. Staff recommends denial of the subject Variance based on the inability to make Findings 1, 2, and 4.</p>
<p>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. The evaluation shall include the following: a determination that the water supply is adequate to meet the highest demand that could be permitted on the lands in question. If surface water is proposed, it must come from a reliable source. If groundwater is proposed, a hydrological investigation may be required. If the land in question lies in an area of limited groundwater, a hydrologic investigation shall be required.</p>	<p>The project site is not in a water-short area of Fresno County and no development is proposed by this application. The Water and Natural Resources Division of the Fresno County Department of Public Works and Planning reviewed the proposal and expressed no concerns related to water usage or sustainability.</p>

**Reviewing Agencies/Department Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: The subject parcel is not enrolled in the Williamson Act Program. 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 and Policy PF-C.17 requires adequate water supply for the proposal.

**Analysis:**

In support of Finding 4, the Applicant states that the objectives of the General Plan considered residential uses within the rural setting; the property has been fallow for considerable time. The use of non-prime farmland for residential purposes as proposed by this application preserves prime farmland for agricultural purposes.

With regard to Finding 4, staff notes that the subject parcel is not a prime farmland (the property is designated as Farmland of Local Importance on the 2014 Fresno County Important Farmland map) and is not in farming operation.

The subject parcel is designated 'Agriculture' in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) in the County Zoning Ordinance. As the AE-20 Zone District focuses more on lot size required by that zone district than any other criteria, the subject proposal is inconsistent with General Plan Policies LU-A.6 and LU-A.7, which require a minimum parcel size of 20 acres as a means of encouraging continued agricultural production and minimizing the amount of land converted to non-agricultural uses. The subject 4.9-acre parcel is currently non-conforming to the lot size required in the AE Zone District, and this Variance will allow further parcelization (one 2.5-acre parcel and one 2.4-acre parcel) in the AE-20 Zone District. The increased parcelization in the area will create additional inventory of parcels under three acres in size, which could be viewed as *de facto* rural residential parcelization, and is generally not supported by General Plan policy.

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

The current parcelization in the project area (refer to the discussion in Finding 1 and 2) and the size of the subject parcel (4.9 acres) have effectively eliminated the possibility of the property to be used for agricultural purposes. Considering the property location in the area, the creation of a 2.5-acre parcel and a 2.4-acre parcel are less likely to have adverse effect on those agricultural uses that exist in the area. The Fresno County Department of Agriculture raised no concerns about the effect of the proposed parcelization to agriculture. Likewise, the County General Plan does not address lot width or lot depth to width ratio. As such, any deviation from these standards is not inconsistent with General Plan.

**Recommended Conditions of Approval:**

*None.*

**Conclusion:**

Finding 4 cannot be made.

## **CONCLUSION:**

Based on the factors cited in the analysis, staff believes that required Findings 1, 2 and 4 for granting the Variance cannot be made. Staff therefore recommends denial of Variance No. 4074.

## **PLANNING COMMISSION MOTIONS:**

### **Recommended Motion** (Denial Action)

- Move to determine that the required Findings cannot be made and move to deny Variance No. 4074; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

### **Alternative Motion** (Approval Action)

- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance No. 4074, 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.

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

See attached Exhibit 1.

EA:ksn

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**Variance Application No. 4074**  
**Conditions of Approval and Project Notes**

<b>Conditions of Approval</b>	
1.	Division of the property shall be in conformance with the Site Plan (Exhibit 5) approved by the Commission.
2.	<p>McKinley Avenue is classified as a Collector road with an existing 30-foot right-of-way width south of the section line. The minimum width for a Collector road south of the section line is 40 feet. The owner of the subject property shall record a document irrevocably offering the northerly 10 feet of the subject property to the County of Fresno as future right-of-way for McKinley Avenue.</p> <p>Note: A preliminary title report or lot book guarantee is required before the irrevocable offer of dedication can be processed. The owner is advised that where deeds of trust or any other type of monetary liens exist on the property, the cost of obtaining a partial re-conveyance, or any other document required to clear title to the property, shall be borne by the owner or developer.</p>

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.	This Variance will become void unless there has been substantial development within one year of the effective date of approval.
2.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A mapping procedure shall be required for the proposed parcels. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
3.	<p>The following requirements from the Development Engineering Section of the Fresno County Department of Public Works and Planning shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.</li> <li>• If not already present, ten-foot by ten-foot corner cutoffs shall be improved for sight distance purposes at the exiting/proposed driveways onto McKinley Avenue.</li> <li>• Any additional runoff generated by the proposed development of this site must be retained or disposed of per County Standards.</li> <li>• A grading permit shall be required for any grading that has been done without a permit and any grading proposed with this application.</li> </ul>
4.	<p>The following requirements from the Fresno County Department of Public Health, Environmental Health Division shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• If any underground storage tank(s) are found during construction, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Health Department.</li> </ul>

**EXHIBIT 1**

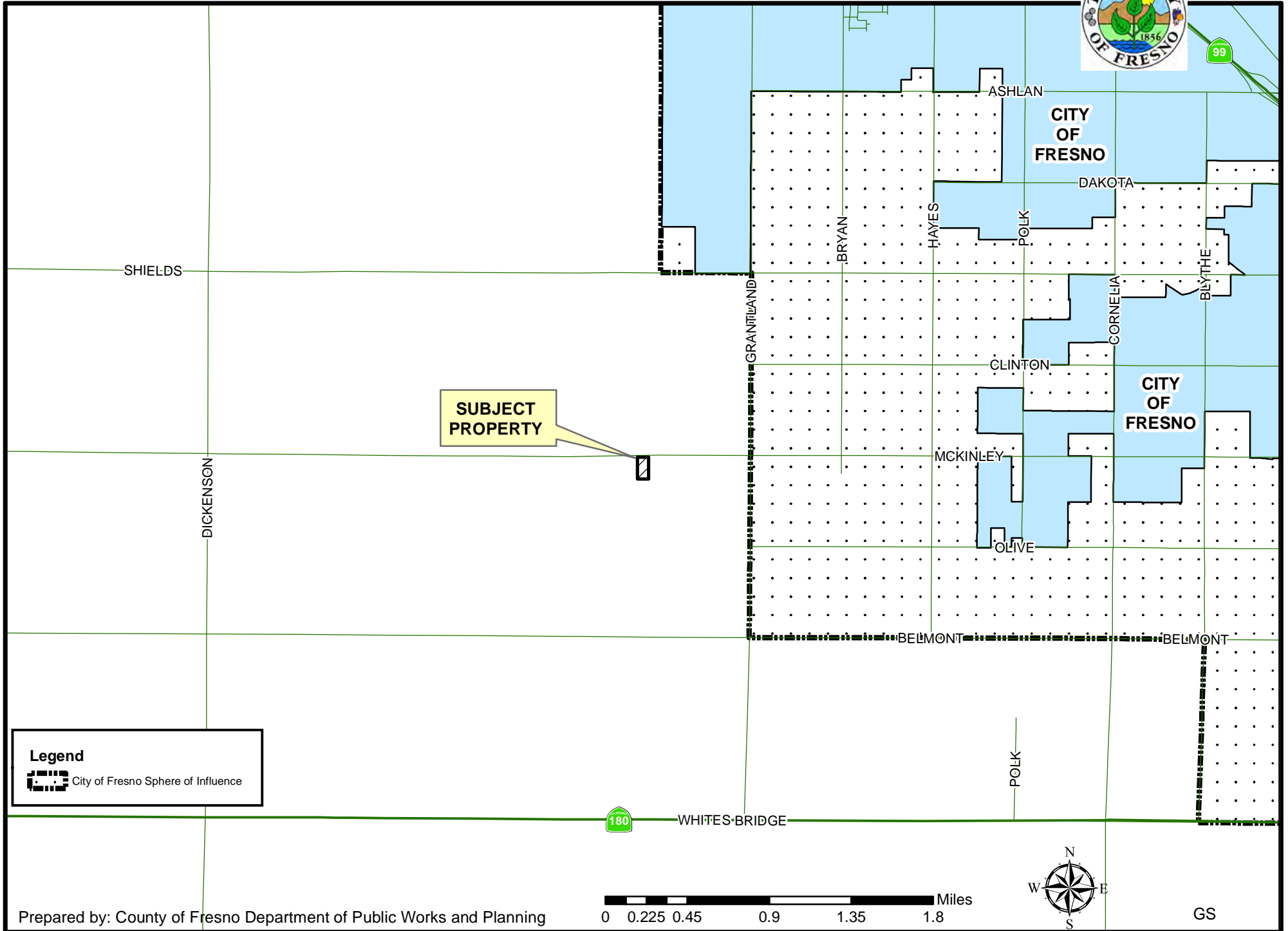


<b>Notes</b>	
	<ul style="list-style-type: none"> <li>• In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately-licensed contractor (permits required).</li> <li>• Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be checked for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements.</li> </ul>
5.	<p>The following requirements from Fresno Irrigation District (FID) shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• FID's Little Houghton Canal No. 84 runs northwesterly and crosses Garfield Avenue approximately 3,200 feet southeast of the subject property. Any street and/or utility improvements along Garfield Avenue and in the vicinity of the canal crossing shall require FID's review and approval of all plans.</li> <li>• FID's Silvia runs southwesterly and crosses McKinley Avenue approximately 2,700 feet west of the subject property. Any street and/or utility improvements along McKinley Avenue and in the vicinity of this canal shall require FID's review and approval of all plans.</li> </ul>

EA:ksn

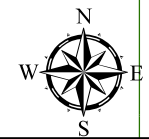
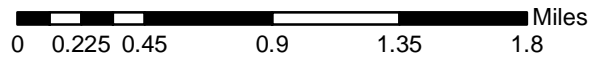
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# LOCATION MAP



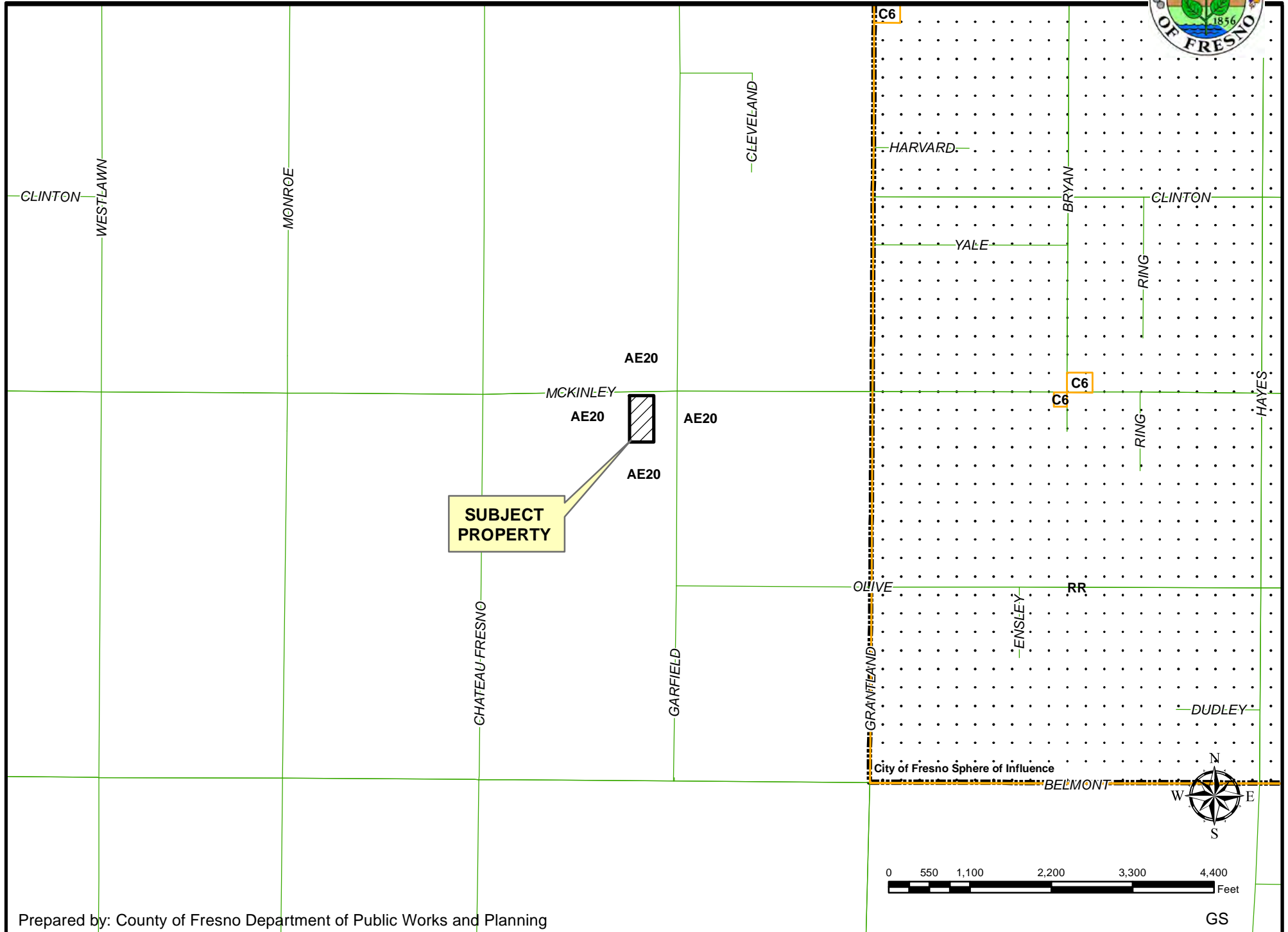
**Legend**

City of Fresno Sphere of Influence

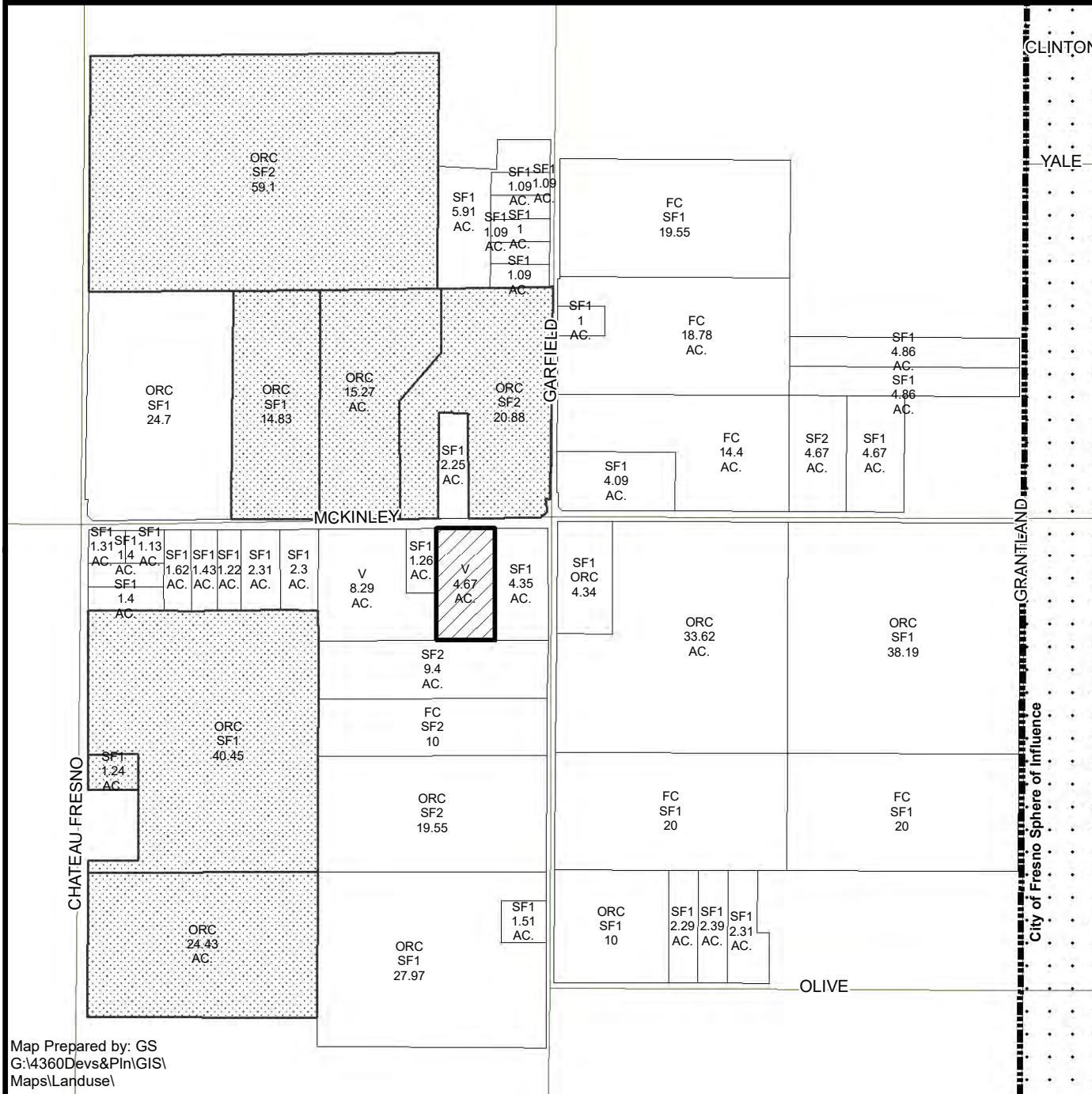


## EXHIBIT 2

# EXISTING ZONING MAP



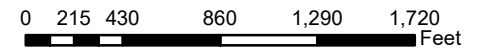
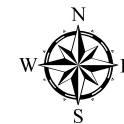
# EXISTING LAND USE MAP



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

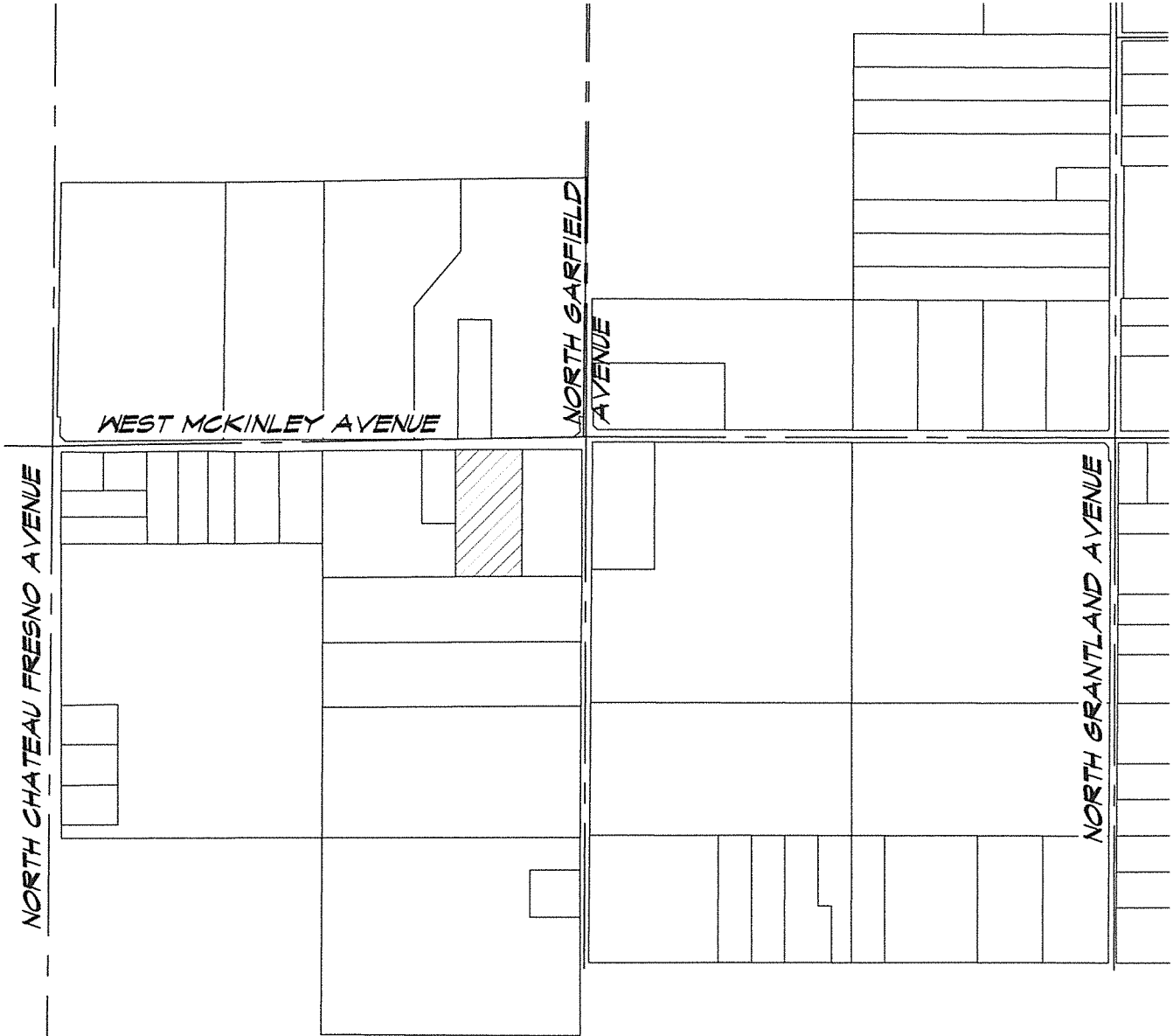
### LEGEND:

- Subject Property
- Ag Contract Land



Department of Public Works and Planning  
Development Services Division

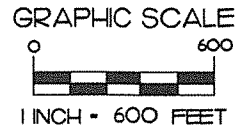
PLOTTED BY: EZRA DELARA - 6/28/2019 10:24:11 AM C:\MY DOCUMENTS\19-019EX01.DWG



RECEIVED  
COUNTY OF FRESNO

JUN 28 2019

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION



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

# VARIANCE DIAGRAM

FOR

**SPINO INC.**

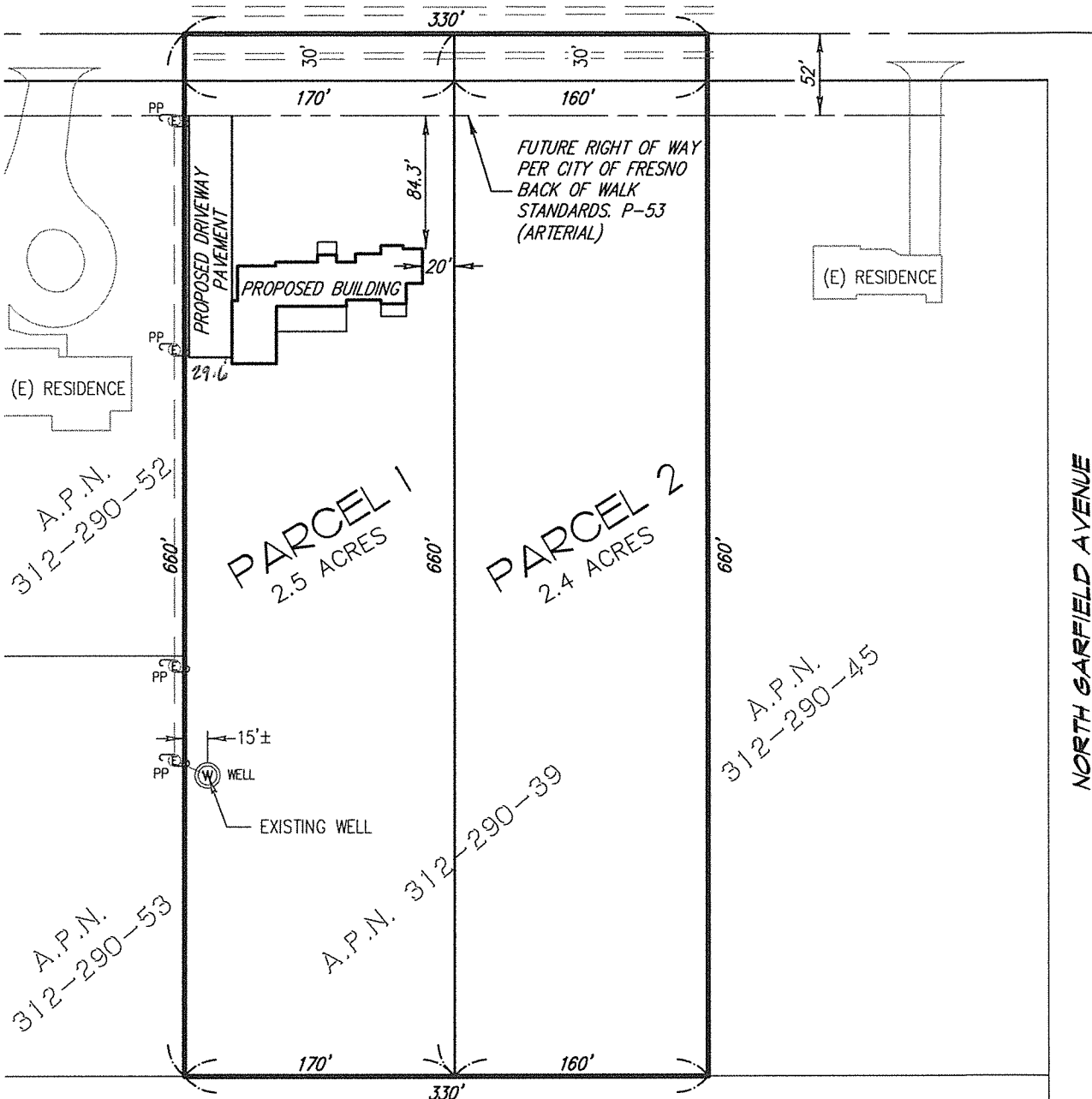
2271 N. GRANTLAND AVENUE  
FRESNO, CA 93723

BY: E.DELARA - 05/15/19

DMA CADFILE: 19-019EX01

FB#

WEST MCKINLEY AVENUE



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COUNTY OF FRESNO

JUN 28 2019

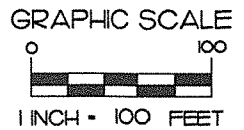
DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION  
PREPARED BY:

### VARIANCE DIAGRAM

FOR

### SPINO INC.

2271 N. GRANTLAND AVENUE  
FRESNO, CA 93723



**DALE G. MELL**  
& ASSOCIATES

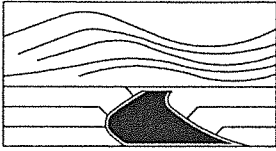
**ENGINEERING & SURVEYING SERVICES**

2090 NORTH WINERY AVENUE, FRESNO, CALIFORNIA 93703  
(559) 292-4046 • FAX 251-9220 • EMAIL: STAFF@DALEMELL.COM

BY: E.DELARA - 06/28/19  
DMA CADFILE: 19-019EX01

FB#

PLOTTED BY: EZRA DELARA - 6/28/2019 10:24:11 AM C:\MY DOCUMENTS\19-019EX01.DWG



# 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

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;**

Site parcel size of 4.67 acres of non-prime ag classification in the AE 20 zone district, Within a one mile radius: 29% of the lots are equal to or under 2 ac, 37% of the lots are over 2 ac and under 5 ac., 17% of the lots are over 5 ac but under 20 ac and the remaining 17% of parcels are greater than 20 acres

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;**

Adjoining development west, south and east are residential uses, no farming or cultivation. Owner desires to create two estate size home sites of 2.5 acres more or less conforming to development in the general area.

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;**

We consider the creation of one additional parcel will have no effect on the public welfare, property or improvements due to the following: 1) the parcels are fronting on McKinley Avenue, currently developed and in good repair for rural traffic loads and providing safe access 2) site is not located within a water shortage area 3) the site has good drainage soil for septic systems.

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

The objectives of the General Plan considered residential uses within the rural setting, the property has been fallow for considerable time.. our proposed residential/ag use of this parcel with a soils classification of "non-prime soil" for residential use preserves the prime production ground for the agricultural purposes as intended by the general plan.

DMA #19-019- Variance Findings  
06/21/19

VA 4074

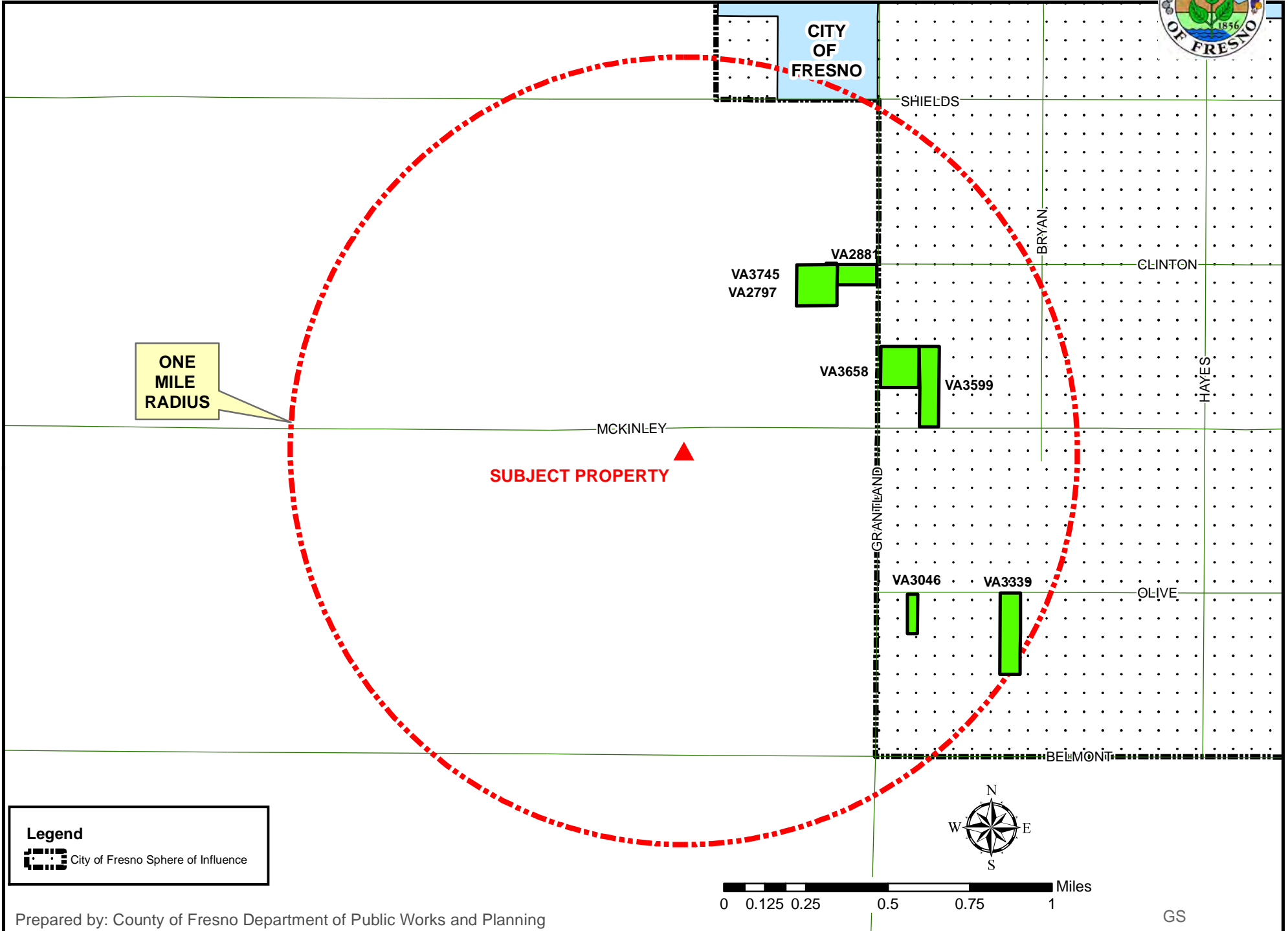
RECEIVED  
COUNTY OF FRESNO

JUL 25 2019

DEPARTMENT OF PUBLIC WORKS  
AND PLANNING  
DEVELOPMENT SERVICES DIVISION

EXHIBIT 6

# VARIANCES WITHIN A ONE MILE RADIUS







RECEIVED  
AUG 23 2019

For Office Use Only	
Date received:	8-23-19
Copied to:	
Date copy sent:	
Hearing set for:	

CLERK. BOARD OF SUPERVISORS

**NOTICE OF APPEAL OF PLANNING COMMISSION DECISION**

Date: 8-23-19

Appeal Fee: \$508 – Due when filing appeal

APPELLANT FILL IN BELOW THIS LINE, THIS SIDE ONLY – PLEASE PRINT OR TYPE

**Project Site Address**

7005 N. McKinley Fresno 937 312-290-39  
 Number Street City Zip Assessor's Parcel Number

**Appellant's Information**

Name: JALE G MELL  
 Mailing Address: 2090 N. Winery  
Fresno Ca. 93703  
 Telephone: 559-292-4080

**Applicant's Information**  check if same as Appellant)

Name: TOM SPINO  
 Mailing Address: 2271 N. GRANITLAND  
FRESNO CA.  
 Telephone: \_\_\_\_\_

**Subject of Appeal**

I wish to appeal the Planning Commission's decision to  Approve  Deny

- Variance Application No.\* 407A
- Conditional Use Permit No. \_\_\_\_\_
- Director Review and Approval Application No. \_\_\_\_\_
- Tentative Tract Application No. \_\_\_\_\_
- Amendment Application No. \_\_\_\_\_
- Amendment to Text Application No. \_\_\_\_\_
- Other: \_\_\_\_\_

Date of Planning Commission Action AUG. 8th

Reason(s) for Appeal (Attach additional sheets if necessary)

5 AC PARCEL IN THE AE20 ZONE DISTRICT IS AN EXCEPTIONAL/  
EXTRAORDINARY CONDITION, TOO SMALL FOR FARMING TOO LARGE  
TO MAINTAIN, COULD HAVE A SECOND RESIDATE W/O RA.  
THE CURRENT PARCEL IS NON-CONFORMING TO POLICY LU-A-10, LU-A-7  
GRANTING THIS VARIANCE WOULD NOT SET A PRECEDENCE TO PARCELS  
THAT DO CONFORM

Appellant's Signature

\* Fresno County Zoning Ordinance § 877(c) requires that any appellant, other than the applicant, County Department Director, or Board of Supervisors member, must be a property owner within a certain distance from the Variance Application property. The Department of Public Works and Planning will verify that the ordinance requirements are met. If the requirements are not met, the appeal fee will be returned and no date for appeal hearing before the Board of Supervisors will be set.

**Attachment D  
Variance Application No. 4074  
Conditions of Approval and Project Notes**

<b>Conditions of Approval</b>	
1.	Division of the property shall be in conformance with the Site Plan (Exhibit 5) approved by the Commission.
2.	<p>McKinley Avenue is classified as a Collector road with an existing 30-foot right-of-way width south of the section line. The minimum width for a Collector road south of the section line is 40 feet. The owner of the subject property shall record a document irrevocably offering the northerly 10 feet of the subject property to the County of Fresno as future right-of-way for McKinley Avenue.</p> <p>Note: A preliminary title report or lot book guarantee is required before the irrevocable offer of dedication can be processed. The owner is advised that where deeds of trust or any other type of monetary liens exist on the property, the cost of obtaining a partial re-conveyance, or any other document required to clear title to the property, shall be borne by the owner or developer.</p>

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.	This Variance will become void unless there has been substantial development within one year of the effective date of approval.
2.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A mapping procedure shall be required for the proposed parcels. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
3.	<p>The following requirements from the Development Engineering Section of the Fresno County Department of Public Works and Planning shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• Any work done within the right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit from the Road Maintenance and Operations Division.</li> <li>• If not already present, ten-foot by ten-foot corner cutoffs shall be improved for sight distance purposes at the exiting/proposed driveways onto McKinley Avenue.</li> <li>• Any additional runoff generated by the proposed development of this site must be retained or disposed of per County Standards.</li> <li>• A grading permit shall be required for any grading that has been done without a permit and any grading proposed with this application.</li> </ul>
4.	<p>The following requirements from the Fresno County Department of Public Health, Environmental Health Division shall apply to future developments on the property:</p> <ul style="list-style-type: none"> <li>• If any underground storage tank(s) are found during construction, the Applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Health Department.</li> </ul>

<b>Notes</b>	
	<ul style="list-style-type: none"> <li>• In an effort to protect groundwater, all abandoned water wells and septic systems on the parcel shall be properly destroyed by an appropriately-licensed contractor (permits required).</li> <li>• Prior to destruction of agricultural wells, a sample of the upper most fluid in the well column should be checked for lubricating oil. The presence of oil staining around the well may indicate the use of lubricating oil to maintain the well pump. Should lubricating oil be found in the well, the oil should be removed from the well prior to placement of fill material for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements.</li> </ul>
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EA:ksn

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