



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 5 July 21, 2022

SUBJECT: Variance Application No. 4123

Proposing to waive public road frontage and lot length to width ratio requirements in the R-R (Rural Residential, 2-acre minimum parcel size) Zone District to allow the creation of three parcels from a 22.98-acre parcel and a 27.1-acre parcel.

LOCATION: The subject parcels are located 0.25 miles north of E. Ashlan Ave west of the Bethel Avenue alignment, approximately 1.77 miles east of the nearest city limits of the City of Clovis (APNs: 308-081-57s & 308-081-61s) (Sup. Dist. 5).

APPLICANT: David Horn, Yamabe & Horn Engineering

OWNER: John Wolf

STAFF CONTACT: Elliot Racusin, Planner
(559) 600-4245

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Approve Classified Variance No. 4123 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 Plans and Detail Drawings

6. Elevations

7. Applicant's Operational Statement

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Rural Residential	No change
Zoning	R-R (Rural Residential, two-acre minimum parcel size)	No change
Parcel Size	13.45-acres	No change
Nearest Residence	N/A	No change
Surrounding Development	Rural Residential	No change

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

ENVIRONMENTAL ANALYSIS:

It has been determined pursuant to Section 15061(b)(3): Common Sense Exemption (Ex: It can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and is not subject to CEQA.

PUBLIC NOTICE:

Notices were sent to 31 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 Classified Variance (VA) may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 873-F are made by the Planning Commission.

California Government code section 65906 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."

The decision of the Planning Commission on a Classified VA 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 parcel was converted to AE-5 (Exclusive Agricultural, 5-acre minimum parcel size) Zone District in 1968 by Ordinance No. 490-A-899 from A-1 (Agricultural) and subsequently converted to its present state of R-R (Rural Residential, 2-acre minimum parcel size) Zone District in 1977 by Ordinance No. 490-A-1615.

The existing two sites are only accessed by private easements from E. Ashlan Avenue, they do not have public road frontage contiguous to them. The shape of the parcels are constrained by the existing pond which covers a majority of the parcels, making conventional lot configuration problematic.

Parcels adjacent to and surrounding the subject parcel range in size from 2.19 acres to 40 acres. A majority of the parcels to the north of the subject parcel consist of single-family residences. In addition, there are many agricultural parcels surrounding the parcel to the east, west and south.

Available records indicate that no variances have been proposed within a ¼ mile radius of the project location.

Application/Request	Staff Recommendation	Final Action	Date
No Variances have been proposed within a ¼ mile radius of site.	N/A	N/A	N/A

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	<u>R-R Zone District</u> Front: 35 feet Side: 20 feet Rear: 20 feet	No Change	Yes
Parking	One parking space covered or uncovered for each dwelling unit	No change	Yes
Road Frontage Requirements	All lots, except curve and cul-de-sac lots, shall have a minimum width of one hundred sixty-five (165) feet.	Waive road frontage requirements to put a 60-foot access easement to allow access to parcel	No
Lot Coverage	No requirements	No change	Yes
Space Between Buildings	Accessory buildings, detached or connected to a main building by a breezeway roof, shall be a minimum of 6 feet from the main building. Where an accessory building is used for garage purposes and	No change	Yes

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
	<p>located with the area defined by the side lines of any main building, the garage shall be not less than 25 feet from the main building.</p> <p>All structures housing livestock and poultry shall be located a minimum of forty (40) feet from all buildings used for human habitation, twenty-five feet from side and rear property lines, and one hundred feet from front property lines.</p>		
Wall Requirements	No requirements	No change	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet Disposal field: 100 feet Seepage pit/cesspool: 150 feet	No change	N/A

Reviewing Agencies/Department Comments:

None.

Finding 1 Analysis:

In support of Finding 1, the Applicant's findings state that the length to width ratio of the subject parcels is disproportionate to other parcels in the area, thus requiring the road easement width to be reduced and a private road easement to be proposed.

The size and shape of the proposed parcel has been maximized to accommodate as much land as possible to efficiently be used for agricultural purposes. Due to the location of the parcel in relation to public streets, no public frontage is feasible. The project site is currently vacant, surrounded by a large pond. The creation of the new lot requires road frontage to be waived due to inaccessibility caused by the pond.

Staff concurs the subject parcel is an unusual shape which creates an extraordinary circumstance as the public frontage is unfeasible due to the location of two water features adjacent to the proposed parcel. The applicant states the 60-foot access easement will allow the proper access to the parcel. This is deemed an extraordinary circumstance relating to the property that does not apply to other properties in the same zone classification.

Recommended Conditions of Approval: *None*

Finding 1 Conclusion:

Finding 1 can be made due to an identifiable extraordinary or exceptional circumstance or condition applicable to the subject property as the shape of the parcel provides a unique circumstance that do not apply generally to other property in the vicinity having the identical zoning classification.

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

Reviewing Agencies/Department Comments:

Roads Maintenance and Operations Department of Public Works and Planning: Proposal to waive road frontage will not impact County maintained roads. As such, Road Maintenance and Operations has no comments on this application.

Finding 2 Analysis:

To make Finding 2 the preservation of a substantial property right must be demonstrated.

In support of Finding 2, the Applicant's justification states that there are unique features on the parcel which deny the Applicant the right to waive road frontage for a parcel smaller than 20 acres. The proposed parcel is 13.45 acres surrounded by agricultural land and crops. The applicant states that the size and shape of the proposed parcel has been maximized to accommodate as much land as possible to be efficiently used for agricultural purposes. Public frontage is unfeasible due to the location of two water features adjacent to the proposed parcel. The applicant states the 60-foot access easement will allow the proper access to the parcel.

Staff acknowledges that the Variance to waive the road frontage requirements and lot width ratio is necessary to protect the substantial property rights of the owners to be able to divide the property within the allowed acreage restrictions for the Zone district, similar to other parcels in the area. The granting of the Variance would not constitute a special privilege, as it is not a special consideration not enjoyed by other properties in the area with the same zoning and physical constraints.

Recommended Conditions of Approval:

None

Finding 2 Conclusion:

Finding 2 can be made, as it is necessary for the preservation and enjoyment of a substantial property right enjoyed by others in the area with the same zoning and physical constraints.

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.*

Surrounding Parcels

	Size:	Use:	Zoning:	Nearest Residence:
East	Parcel A: 10.00 acres	Crops	RR	N/A
	Parcel B: 7.5 acres	Single-Family Residence	RR	600 feet
West	25.77 acres	Ponding Basin	RR	N/A
	50 acres	Recreation	RR	N/A
South	60.08 acres	Single-Family Residence	RR	900 feet
North	Parcel A: 10.55 acres	Single-Family Residence	RR	425 feet
	Parcel B: 2.19 acres	Single-Family Residence	RR	400 feet
	Parcel C: 2.05 acres	Single-Family Residence	RR	100 feet
	Parcel D: 2.01 acres	Single-Family Residence	RR	100 feet
	Parcel E: 2.04 acres	Single-Family Residence	RR	130 feet
	Parcel F: 2.29 acres	Single-Family Residence	RR	125 feet

Reviewing Agencies/Department Comments:

Fresno Metropolitan Flood Control District: Any drainage and grading plan shall be reviewed and approved by the District prior to approval by the County.

Development Engineering Section of the Department of Public Works and Planning: See Conditions of Approval, Project Notes.

Fresno Metropolitan Flood Control District (FMFCD): The District recommends that the County require a temporary on-site storm water storage facility for any additional development or street improvements. Said facility should be located and constructed so that once permanent FMFCD facilities become available, drainage can be directed to the street. See Conditions of Approval, Project Notes for more details.

Finding 3 Analysis:

In support of Finding 3, the Applicant's Findings state that the granting of the Variance would not have any identifiable detrimental impacts to surrounding property. Fresno County Staff concurs as the variance to waive road frontage will not have a significant impact towards the

welfare to the public. Staff concurs that approval of the application would not result in material impacts upon the area.

Recommended Conditions of Approval:

None

Finding 3 Conclusion:

Finding 3 can be made, as the proposed Variance would not have any material detrimental or injurious impacts to surrounding properties.

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

Relevant Policies:	Consistency/Considerations:
Williamson Act Contract	The subject parcels are not enrolled in the Williamson Act Program. As such, the Policy Planning Unit identifies no Williamson Act or General Plan issues.

Reviewing Agencies/Department Comments:

Policy Planning Section of the Fresno County Department of Public Works and Planning:

The subject parcel is in the RR (Rural Residential, two-acre minimum parcel size) Zone District and designated as Rural Residential in the County General Plan. The subject parcels are not enrolled in the Williamson Act Program. As such, the Policy Planning Unit identifies no Williamson Act or General Plan issues.

No other comments specific to General Plan Policy were expressed by reviewing agencies or departments.

Analysis:

In support of Finding 4, the Applicant states that the granting of this Variance will not change the density or objectives of Fresno County General Plan.

The subject property is designated Rural Residential in the Fresno County General Plan. The Rural Residential policies state that the minimum net lot size for a parcel shall be two acres.

The rural residential policies of the General Plan do not specifically address requirements for public road frontage. According to the Transportation Element of the General Plan, the primary function of these local roads is to provide subdivision residents access to homes. The subject parcels are not enrolled in the Williamson Act Program. As such, the Policy Planning Unit identified no Williamson Act or General Plan issues.

Recommended Conditions of Approval:

None.

Finding 4 Conclusion:

Finding 4 can be made as the proposed variances are not inconsistent with any Fresno County General Plan policies.

PUBLIC COMMENT:

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

SUMMARY ANALYSIS / CONCLUSION:

Based on the factors cited in the analysis above, Staff can make the four required Findings necessary for granting the Variance and recommends approval of Variance Application No. 4123.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Approval Action)

- Move to determine that the required Findings can be made and move to approve Variance No. 4123, subject to the Conditions and Project Notes attached as 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. 4123; and
- Direct the Secretary to prepare a Resolution documenting the Commission’s action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

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EXHIBIT 1
Mitigation Monitoring and Reporting Program
Variance Application No. 4123
(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.	Recommend that the County require on-site storm water facility(ies). The location of such facility(ies) should be compatible with existing natural drainage patterns. If the development is a high priority facility (i.e. significant development, automotive repair facility, restaurant, or retail gasoline outlet) as defined in RWQCB Order No. R5-2013-0080 (stormwater permit) and is within the permit's boundaries and does not flow to a District storm water basin, the development is required to follow the specific stormwater runoff mitigation criteria listed in the permit.
2.	The proposed development appears to be located within a 100-year flood prone area as designated on the latest Flood Insurance Rate Maps (FIRM) available to the District, necessitating appropriate flood plain management action (See attached Flood Plain Policy).
3.	All proposed development activity shall reference the Flood Insurance Rate Map to determine if it is in a 100-year flood plain (special flood hazard area inundated by a 100-year flood) "Primary Flood Plain". Any project not located within a FIRM or located in any area where the FIRM is determined to be inaccurate shall be the subject of a detailed hydrological flood hazard investigation to determine the relationship of the proposed development to the primary flood plain; to identify the calculated water surface elevation of the 100-year flood event.
4.	The development shall not cause displacement of any and all floodwaters from that portion of the flood plain to be developed.
5.	Wolf Lakes Tributary (WLT) is an existing channel that traverses the subject parcels, predominantly in a southwesterly direction, through the center of a man-made lake as shown on Exhibit No. 2. The District holds an easement for the entire channel. Grades within the easement shall not be altered. Furthermore, no improvements associated with CO VAR 4123 shall be permitted within the District's existing channel easement.
6.	No County maintained roads front the subject property. Ashlan Avenue is the nearest public maintained road.
7.	The project site is located within the Fresno Metropolitan Flood Control District (FMFCD) Boundary with a rural stream (Wolf Lakes Tribe). Written clearance from FMFCD is required prior to the County issuing a grading permit/voucher for

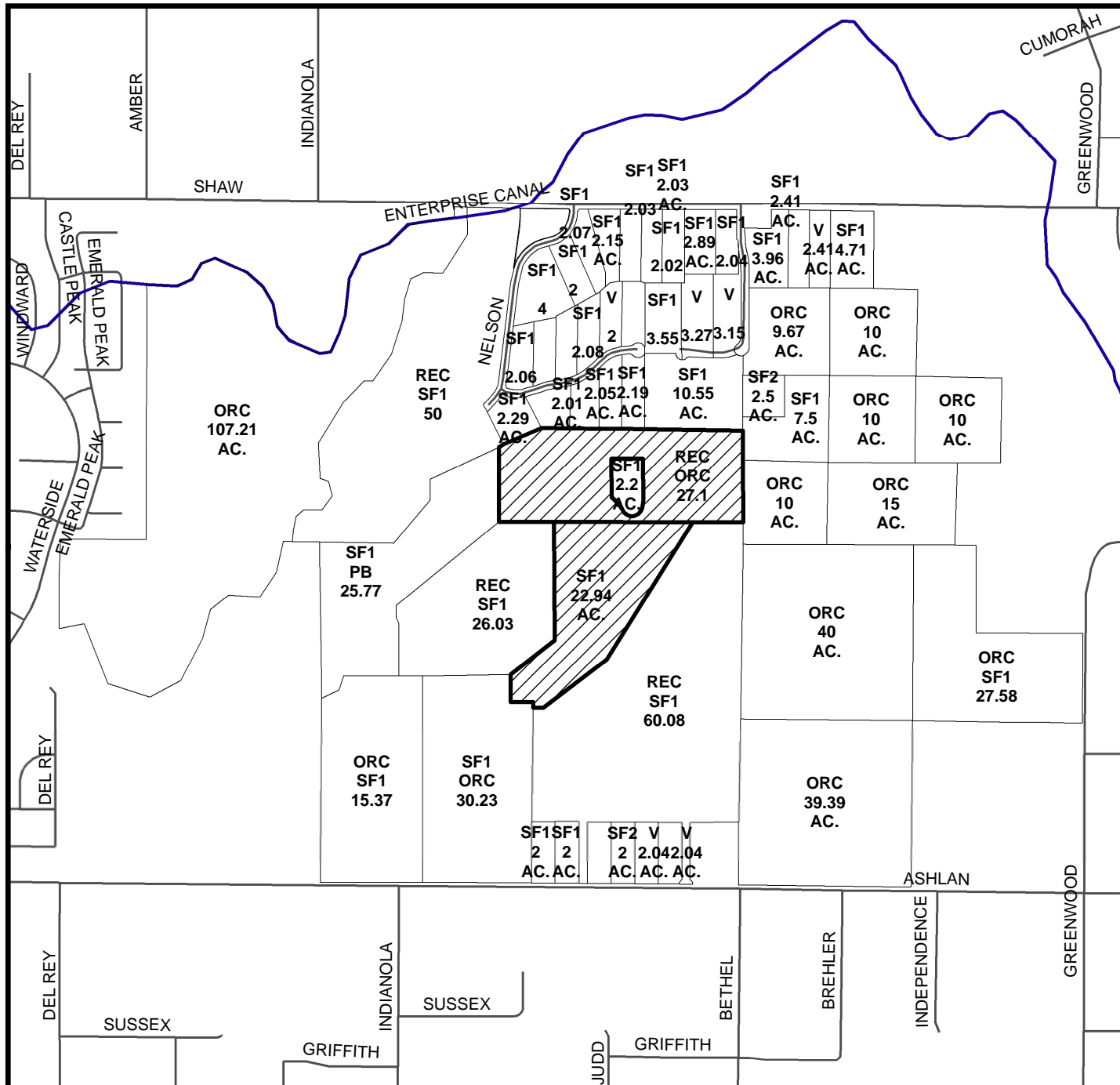
EXHIBIT 1

Notes	
	any future work.
8.	Furthermore, any future work within a stream may require a clearance from California Department of Fish and Wildlife (CDFW) and a Streambed Alteration Agreement (SAA) if the proposed project would result in the alteration or degradation of a stream
9.	According to the U.S.G.S. Quad Map, Gray Colony Ditch traverses the subject property. Any future improvements constructed within or near a ditch should be coordinated with the owners of the ditch/appropriate agency.
10.	Any existing or future access driveway should be set back a minimum of 10-feet from the property line.
11.	Any existing or future entrance gate should be set back a minimum of 20-feet from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.
12.	A 10-foot X 10-foot corner cut-off should be improved for sight distance purposes at any future or existing driveway accessing Ashlan Avenue if not already present.
13.	Any future work done within the County road 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.
14.	A grading permit/voucher is required for any grading that has been done without a permit and any future grading with this application.
15.	If the variance is approved, a parcel map application will have to be filed with Fresno County to affect the property division.
16.	According to FEMA FIRM Panel 1615H, portions of the area of the subject property are found to be under Flood Zone AE, subject to flooding from the 100-year storm. Any future development within the Special Flood Hazard Area shall conform to provisions established in Fresno County Ordinance Code Title 15, Chapter 15.48 Flood Hazard Areas. Any future structure and associated electrical equipment/electrical system components (e.g., service 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.) must comply with the FEMA flood elevation requirements. All electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. Grading import is not allowed within the flood zone. Any dirt material used for grading must be obtained within the designated flood area as to not cause an impact to the determined area of flooding. FEMA Elevation Certificate is required for every future structure to be constructed within the Special Flood Hazard Area. If the future building/structure is near the Special Flood Hazard Area, a certified Map of Survey/Map of Flood Hazard Area (MOS), stamped and signed by a Professional Land Surveyor delineating the distances from proposed structure(s) to the flood zone boundary and at least two property lines will be required. The MOS must show spot elevations within the perimeter of the proposed structure and the flood zone for verification purposes.

Notes	
17.	Should the newly adjusted or created parcel(s) ever be monumented, a Record of Survey shall be required pursuant to Section(s) 8762(b)(4) & (5) of the Professional Land Surveyors Act.

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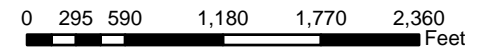
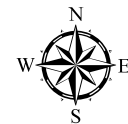
EXISTING LAND USE MAP



LEGEND	
	PONDING BASIN
	ORC - ORCHARD
	REC - RECREATION
	SF#- SINGLE FAMILY RESIDENCE
	V - VACANT

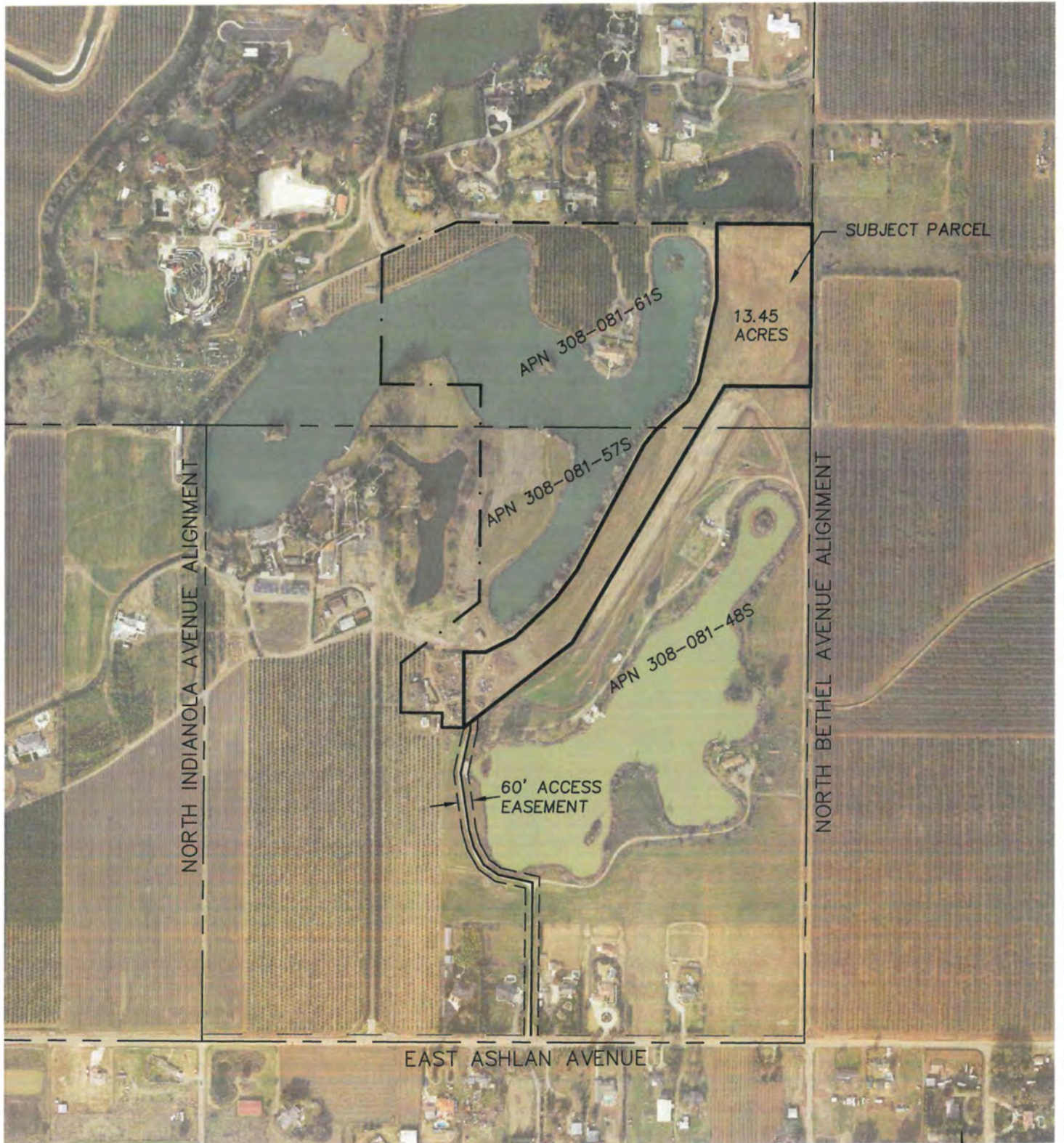
LEGEND:

Subject Property



Department of Public Works and Planning
Development Services Division

VARIANCE SITE PLAN



NOTES:

- 1. NO EXISTING SEPTIC SYSTEM



**Yamabe & Horn
Engineering, Inc.**

CIVIL ENGINEERS • LAND SURVEYORS

2985 N. BURL AVENUE SUITE 101 FRESNO, CA 93727
TEL: (559) 244-3123 WEBSITE: YANDHENG.COM



SCALE: 1" = 600'



EXHIBIT 6

Variance No. 4123 - Site Pictures



North



East



South



West

EXHIBIT 6

**Yamabe & Horn Engineering, Inc.****CIVIL ENGINEERS • LAND SURVEYORS**

October 13, 2021

Fresno County Department of Public Works and Planning
2220 Tulare Street, Ste B
Fresno, CA 93721

RE: Required findings necessary for the granting of a Variance Application

Please accept this Variance Application to waive road frontage for a 13.45-acre parcel within the Rural Residential (RR) Zone District. The following are our comments addressing the required findings:

1. There are exceptional circumstances or conditions that affect said property or the reasonable use thereof.

The subject 13.45-acre parcel is a part of a Parcel Line Adjustment. 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 satisfy said requirement. See attached site plan for a proposed 60.00-foot access easement that will allow access to said subject parcel.

The proposed parcel is being created to conform to an area of land bounded by existing topographic. The size and shape of the proposed parcel has been maximized to accommodate as much land as possible to efficiently be used for agricultural purposes. Due to its location relative to public streets, no public frontage is feasible.

2. The exception is necessary to preserve a substantial property right and permit the enjoyment thereof.

The parcel is located in the RR Zone District which allows for agricultural crops such as fruit trees, nut trees and vines. The proposed parcel has been sized to maximize the potential agricultural use.

3. The granting of the exception will not be detrimental to the public safety, health and welfare.

The proposed parcel and exception for the lack of public frontage will not be detrimental to the public or neighboring parcels as the use and maximized size will be suited for agricultural use. The proposed 60.00-foot access easement is adequate to meet the needs of the users.

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4. The granting of the exception will not be injurious to or prevent the logical development of other property in the immediate area.

The subject parcel although zoned RR has no public road frontage. The requested exception will not hinder any future development. This request for exception is to propose a 60.00-foot access easement to waive road frontage for the subject parcel.

Sincerely,



John Wolf, Owner