



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
ALAN WEAVER, DIRECTOR

## Planning Commission Staff Report Agenda Item No. 3 October 22, 2015

**SUBJECT:** Variance Application No. 3978

Allow creation of a 2.2-acre parcel from an existing 26.66-acre parcel in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

**LOCATION:** The subject property is located on the southeast corner of W. Olive Avenue and N. Jameson Avenue, approximately three and three quarter-miles southwest of the nearest city limits of the City of Fresno (SUP. DIST. 1) (APN 016-160-31).

**OWNER/APPLICANT:** Mark E. and Susanna J. Nazaroff

**STAFF CONTACT:** Derek Chambers, Planner  
(559) 600-4205

Eric VonBerg, Senior Planner  
(559) 600-4569

**RECOMMENDATION:**

- Deny Variance Application No. 3978; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

**EXHIBITS:**

1. Condition of Approval and Project Notes
2. Location Map
3. Existing Zoning Map
4. Existing Land Use Map
5. Assessor’s Map
6. Applicant’s Submitted Findings
7. Site Plan

**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	26.66 acres	Parcel A: 2.2 acres  Parcel B: 24.46 acres
Project Site	3,953 square-foot single-family residence with 1,068 square-foot attached garage and septic system (under construction); water well; orchard	Parcel A: 2.2-acre parcel; 3,953 square-foot single-family residence with 1,068 square-foot attached garage and septic system (under construction); water well  Parcel B: 24.46-acre parcel; orchard
Structural Improvements	3,953 square-foot single-family residence with 1,068 square-foot attached garage and septic system (under construction)	Parcel A (2.2 acres): 3,953 square-foot single-family residence with 1,068 square-foot attached garage and septic system (under construction)  Parcel B (24.46 acres): None
Nearest Residence	Approximately 63 feet to the south	Approximately 63 feet south of the southern property line of proposed Parcel B

<b>Criteria</b>	<b>Existing</b>	<b>Proposed</b>
Surrounding Development	Mixed residential and agricultural land uses dispersed throughout area	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Residential traffic	Parcel A: Residential traffic Parcel B: N/A (no structural improvements)
Lighting	Residential lighting	Parcel A: Residential lighting Parcel B: N/A (no structural improvements)
Hours of Operation	N/A	N/A

**EXISTING VIOLATION (Y/N) AND NATURE OF VIOLATION: No**

**ENVIRONMENTAL DETERMINATION:**

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 11 property owners within 1,320 feet of the subject property, exceeding the 300-foot minimum notification requirements prescribed by the California Government Code and County Zoning Ordinance.

**PROCEDURAL CONSIDERATIONS:**

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

Specifically related to a VA, in order to make Findings 1 and 2, a determination must be made that the property is subject to an exceptional or extraordinary physical circumstance that does not apply to other properties in the same Zone District, and a substantial property right held by other property owners of like-zoned parcels in the area must be identified.

The decision of the Planning Commission on a VA is final unless appealed to the Board of Supervisors within 15 days of the Commission's action.

**BACKGROUND INFORMATION:**

This proposal entails a request to allow the creation of a 2.2-acre parcel from an existing 26.66-acre parcel where a 20-acre minimum parcel size is required for the creation of new lots. The proposed 2.2-acre parcel is the site where the Applicants are constructing a single-family residence. According to the Applicants, it is their desire to create the 2.2-acre property in order to separate their home from their farming operation, which is located on the balance of the existing 26.66-acre parcel.

The existing 26.66-acre parcel was originally zoned A-1 (Agricultural), which required a minimum parcel size of 100,000 square feet. However, on April 4, 1972, the existing 26.66-acre parcel and surrounding area were rezoned from A-1 (Agricultural) to AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) by means of Amendment Application No. 2277, which was initiated by the County. The Applicants acquired ownership of the existing 26.66-acre parcel on November 29, 2011, well after the County-initiated rezone.

There have been no other Variance applications requesting reduced parcel size requirements in the AE-20 Zone District filed within a mile of the subject property. The nearest Variance application requesting a reduced parcel size in the AE-20 Zone District was filed approximately one and a quarter-miles south of the subject property. That Variance request, Variance Application No. 3120, was filed to allow creation of a 3.5-acre parcel and a 4.4-acre parcel from an existing 7.9-acre parcel designated Agriculture in the General Plan and Zoned AE-20. In that instance, staff deferred to the Planning Commission as to whether the required Variance Findings could be made, and on December 17, 1987, the Planning Commission approved the Variance request.

Although the Planning Commission approved a similar Variance request for a property located approximately one and a quarter-miles south of the subject property, each Variance request is considered on its own merit, based on unique site conditions and circumstances.

**DISCUSSION:**

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

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

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
Setbacks	Front: 35 feet Side: 20 feet Rear: 20 feet	<u>Parcel A (2.2 acres):</u> Front (north property line): 179 feet Side (east property line): 107 feet Side (west property line): 74 feet Rear (south property line): 73 feet	<u>Parcel A (2.2 acres):</u> Yes  <u>Parcel B (24.46 acres):</u> N/A (no structural improvements)

	<b>Current Standard:</b>	<b>Proposed Operation:</b>	<b>Is Standard Met (y/n)</b>
		<u>Parcel B (24.46 acres):</u> N/A (no structural improvements)	
Parking	No requirement	<u>Parcel A (2.2 acres):</u> Attached garage under construction  <u>Parcel B (24.46 acres):</u> N/A (no structural improvements)	<u>Parcel A (2.2 acres):</u> Yes  <u>Parcel B (24.46 acres):</u> N/A (no structural improvements)
Lot Coverage	No requirement	No requirement	N/A
Separation Between Buildings	Six feet minimum (75 feet minimum between human habitations and structures utilized to house animals)	<u>Parcel A (2.2 acres):</u> N/A (single structure under construction)  <u>Parcel B (24.46 acres):</u> N/A (no structural improvements)	N/A
Wall Requirements	No requirement	No requirement	N/A
Septic Replacement Area	100 percent	No change	Yes
Water Well Separation	Septic tank: 50 feet; Disposal field: 100 feet; Seepage pit: 150 feet	No change	Yes

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

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. Therefore, a Variance is required to allow an exception to the Zoning Ordinance to create smaller parcels than allowed.

**Analysis:**

In support of Findings 1 and 2, the Applicants state that they are requesting the same parcelization as several other properties in the vicinity of the subject property.

With regard to Finding 1, staff acknowledges that there are other parcels in the area of the proposal that are smaller than 20 acres. As identified on the Assessor's Map provided by the Applicants with their Variance Findings, ten of these parcels range in size from 16,000 square feet to 2.50 acres; however, none of these parcels were created by means of a Variance Application. The three smallest of these parcels, which range in size from 16,000 square feet to 25,320 square feet, were created prior to 1971, prior to the area being rezoned to AE-20 in

1972. Additionally, the seven other parcels identified by the Applicants with their Variance Findings, which range in size from 0.99 acres to 2.50 acres, were created by-right as Homesite Retention Parcels per Section 816.5-A of the Zoning Ordinance. Further, staff does not believe that the presence of other parcels similar in size to that proposed with this Variance request is an extraordinary physical characteristic of the subject property which demonstrates a circumstance meriting the requested 2.2-acre parcel configuration.

With regard to Finding 2, denial of this Variance request would not deprive the Applicants 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.

**Noteworthy Recommended Conditions of Approval:**

*None.*

**Conclusion:**

Findings 1 and 2 cannot be made.

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

Surrounding Parcels				
	Size:	Use:	Zoning:	Nearest Residence:
North:	40.00 acres	Single-family residence Vineyard	AE-20	Approximately 1,040 feet to the north
South:	26.67 acres	Single-family residence Mobile home Vineyard	AE-20	Approximately 63 feet to the south
East:	26.06 acres	Single-family residence Orchard	AE-20	Approximately 1,185 feet to the east
West:	75.25 acres	Single-family residence Vineyard	AE-20	Approximately 193 feet to the southwest

**Reviewing Agencies/Department Comments:**

Design Division of the Fresno County Department of Public Works and Planning: No concerns with the proposal.

Development Engineering Section of the Fresno County Department of Public Works and Planning: Olive Avenue and Jameson Avenue are County-maintained roads classified as local roads. The minimum total width for a local road right-of-way is 60 feet. Olive Avenue has a prescriptive right-of-way at the subject property. Jameson Avenue has a total existing right-of-way of 60 feet at the subject property, with 30 feet east and 30 feet west of the section line. A ten-foot by ten-foot corner cutoff shall be maintained for sight distance purposes at the existing driveway accessing Olive Avenue. This requirement has been included as a Project Note.

According to FEMA FIRM Panel 1540H, the subject property is not subject to flooding from the 100-year storm. If this Variance request is approved, a Parcel Map Application shall be filed with the Fresno County Department of Public Works and Planning in order to effect the property division. This requirement has been included as a Project Note.

Fresno County Department of Public Health, Environmental Health Division: It appears that each proposed parcel can accommodate individual sewage disposal systems meeting the mandatory setback requirements established in the California Plumbing Code and California Well Standards Ordinance. The building permits issued for the single-family residence and septic system under construction on the proposed 2.2-acre parcel identify the septic system in a location different from that identified on the Site Plan provided for this Variance application. The location of the septic system as identified on the building permits places a disposal field across the western property line of the proposed 2.2-acre parcel in violation of the California Plumbing Code (CPC). As such, the sewage disposal system for the single-family residence under construction shall be installed within the boundaries of the proposed 2.2-acre parcel in accordance with the CPC and applicable setback requirements. This requirement has been included as a Project Note.

Fresno County Department of Agriculture (Agricultural Commissioner's Office): No concerns with the proposal.

North Central Fire Protection District: No concerns with the proposal.

Fresno Irrigation District (FID): FID's Kennedy #2 No. 366 canal traverses the eastern property line of the existing 26.66-acre parcel. As such, FID recommends that the Applicants be required to place this canal underground by means of a 24-inch diameter Rubber Gasketed Reinforced Concrete Pipe, and grant FID a pipeline easement with a minimum width of 20 feet. If the Applicants are not required to underground the Kennedy #2 No. 366 canal, FID requests that the Applicants be required to grant FID an easement for the canal in accordance with FID District Canal Right-of-Way Requirements.

### **Analysis:**

In support of Finding 3, the Applicants state that this Variance will not be materially detrimental to the public welfare or injurious to property or improvements in the vicinity of the proposal.

With regard to Finding 3, if approved, the granting of this Variance request will result in the creation of a 2.2-acre parcel with a single-family residence located thereon, and a 24.46-acre parcel devoid of structural improvements on which a residence could be established as a matter of right. Such use is complimentary to and compatible with existing residential land uses in the vicinity of the proposal. Further, staff notes that a secondary residence could not be established on either the proposed 2.2-acre parcel or the associated 24.46-acre parcel as a matter of right. Considering the existing nature of the residence located on the proposed 2.2-acre parcel and the surrounding residential land uses, staff believes that there will be no adverse aesthetic impact and no adverse effects on surrounding properties if the Variance is granted.

With regard to road right-of-way, the proposed 2.2-acre parcel will have frontage on a section of Olive Avenue that does not have an existing right-of-way. Due to Olive Avenue being classified as a local road, Olive Avenue has an ultimate right-of-way of 60 feet at the subject property, with 30 feet north and 30 feet south of the center line. As such, an irrevocable offer of 30 feet of right-of-way dedication is needed from the northern side of the proposed 2.2-acre parcel which abuts Olive Avenue. This requirement has been included as a Condition of Approval.

With regard to the request made by the Fresno Irrigation District (FID) for the Applicants to place FID Kennedy #2 No. 366 canal underground or grant FID an easement of undetermined width to accommodate said canal, the proposed 2.2-acre parcel is located approximately 476 feet west of FID Kennedy #2 No. 366 canal. Considering this distance, and the fact that no alteration of the canal would result from the approval of this Variance request, staff does not believe a nexus exists to require the Applicants to modify the canal or grant FID an easement.

**Noteworthy Recommended Conditions of Approval:**

*The owner of the proposed 2.2-acre parcel shall record a document irrevocably offering 30 feet of the subject parcel to the County of Fresno as future right-of-way for Olive Avenue (no right-of-way existing). The southern line of said offer shall establish the building setback line for future development.*

*Note: A preliminary title report or lot book guarantee may be 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 reconveyance, or any other document required to clear title to the property, shall be borne by the owner or developer. The County will prepare the irrevocable offer of dedication free of charge.*

**Conclusion:**

Finding 3 can be made.

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

<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>General Plan Policy LU-A.6: County shall maintain 20 acres as the minimum permitted parcel size in areas designated Agriculture; the County may require parcel sizes larger than 20 acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</p>	<p>As this Variance request proposes to create a parcel smaller than 20 acres in an area designated Agriculture and zoned AE-20, staff believes this proposal is inconsistent with the General Plan.</p>
<p>General Plan Policy LU-A.7: 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>As this Variance request proposes to create a parcel smaller than 20 acres in an area designated Agriculture and zoned AE-20, staff believes this proposal is inconsistent with the General Plan.</p>



<b>Relevant Policies:</b>	<b>Consistency/Considerations:</b>
<p>General Plan Policy PF-C.17: County shall, prior to consideration of any discretionary project related to land use, undertake a water supply evaluation. The evaluation shall include a determination of water sustainability and a determination that the use will not have a detrimental impact upon other water users in the County.</p>	<p>This proposal was referred to the Water/Geology/Natural Resources Section of the Fresno County Department of Public Works and Planning for review, which expressed no concerns with the proposal. Further, the subject property is not located in a water-short area.</p> <p>Staff believes the proposal is consistent with this Policy.</p>

**Reviewing Agencies/Department Comments:**

Policy Planning Section of the Fresno County Department of Public Works and Planning: The Agriculture and Land Use Element of the General Plan maintains 20 acres as the minimum parcel size in areas designated for Agriculture. General Plan Policies LU-A.6 and LU-A.7 state that the County shall generally deny requests to create parcels less than the minimum size specified in areas designated Agriculture.

**Analysis:**

In support of Finding 4, the Applicants state that their single-family residence will be located on the proposed 2.2-acre parcel, and their farming operation will be located on the associated 24.46-acre parcel.

With regard to Finding 4, the subject property is designated Agriculture in the County General Plan and is zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size). As this Variance request entails a proposal to create a 2.2-acre parcel, Policies LU-A.6 and LU-A.7 are applicable, and staff believes this proposal is inconsistent with these Policies.

**Noteworthy Recommended Conditions of Approval:**

*None.*

**Conclusion:**

Finding 4 cannot be made.

**PUBLIC COMMENT:**

None.

**CONCLUSION:**

Based on the factors cited in the analysis, staff is unable to make Findings 1, 2 and 4. Therefore, staff recommends denial of Variance Application No. 3978.

## **PLANNING COMMISSION MOTIONS:**

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

- Move to determine that the required Findings cannot be made and move to deny Variance Application No. 3978; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

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

- Move to determine that the required Findings can be made (state basis for making the Findings) and move to approve Variance Application No. 3978, subject to the Conditions and Notes listed below; and
- Direct the Secretary to prepare a Resolution documenting the Commission's action.

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

See attached Exhibit 1.

DC:ksn  
C:\Users\knovak\Desktop\VA3978 SR.docx

**Variance Application (VA) No. 3978  
(Conditions of Approval and Project Notes)**

<b>Conditions of Approval</b>	
1.	Development shall be in accordance with the Site Plan as approved by the Planning Commission.
2.	A ten-foot by ten-foot corner cutoff shall be maintained for sight distance purposes at the existing driveway accessing Olive Avenue.
3.	<p>The owner of the proposed 2.2-acre parcel shall record a document irrevocably offering 30 feet of the subject parcel to the County of Fresno as future right-of-way for Olive Avenue (no right-of-way existing). The southern line of said offer shall establish the building setback line for future development.</p> <p>Note: A preliminary title report or lot book guarantee may be 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 reconveyance, or any other document required to clear title to the property, shall be borne by the owner or developer. The County will prepare the irrevocable offer of dedication free of charge.</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.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. For more information, contact the Department of Public Works and Planning, Development Engineering Section at (559) 600-4022.
2.	The sewage disposal system for the single-family residence under construction on the proposed 2.2-acre parcel shall be installed within the boundaries of the proposed 2.2-acre parcel in accordance with the California Plumbing Code and applicable setback requirements.



# EXISTING ZONING MAP

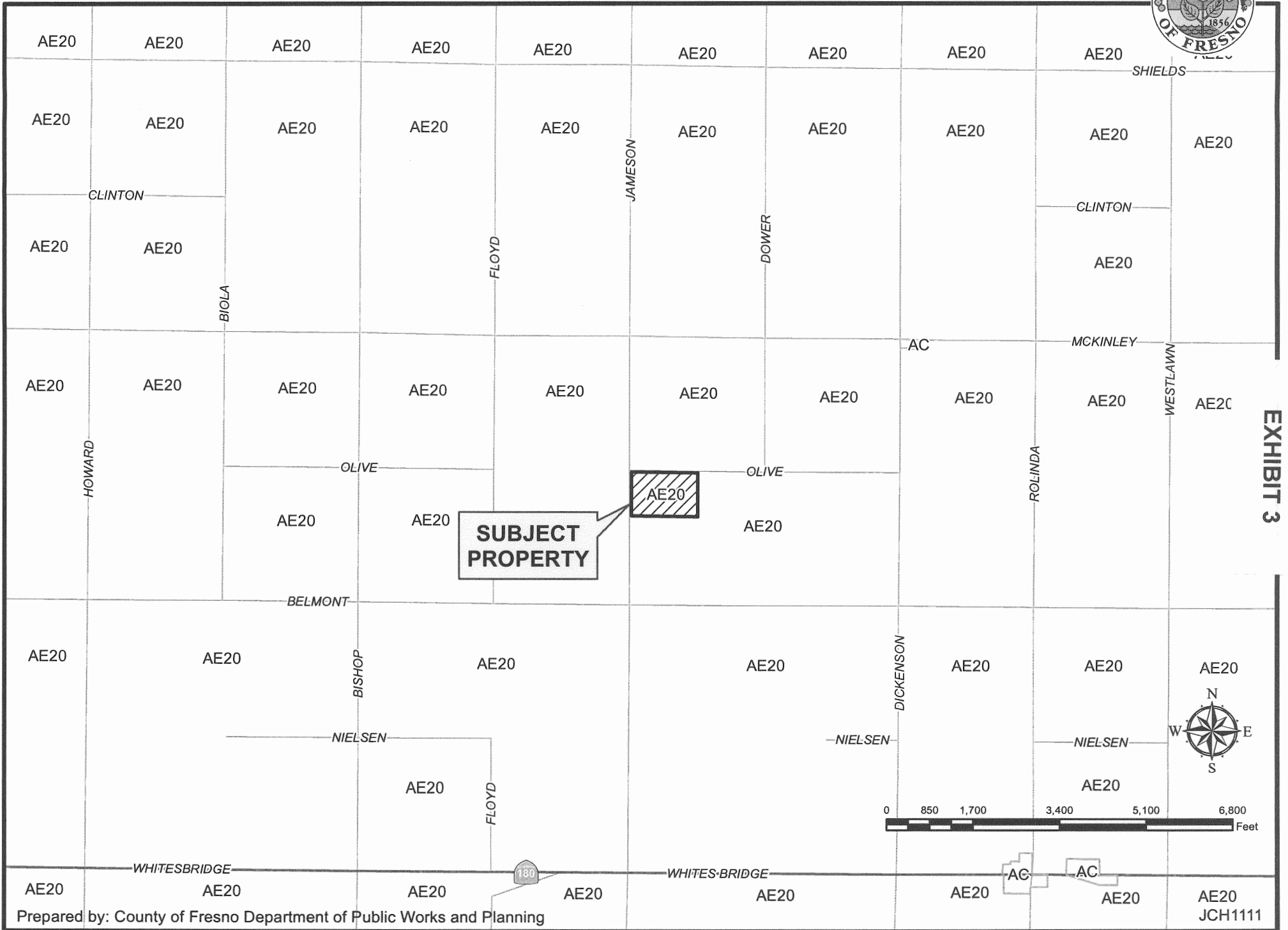
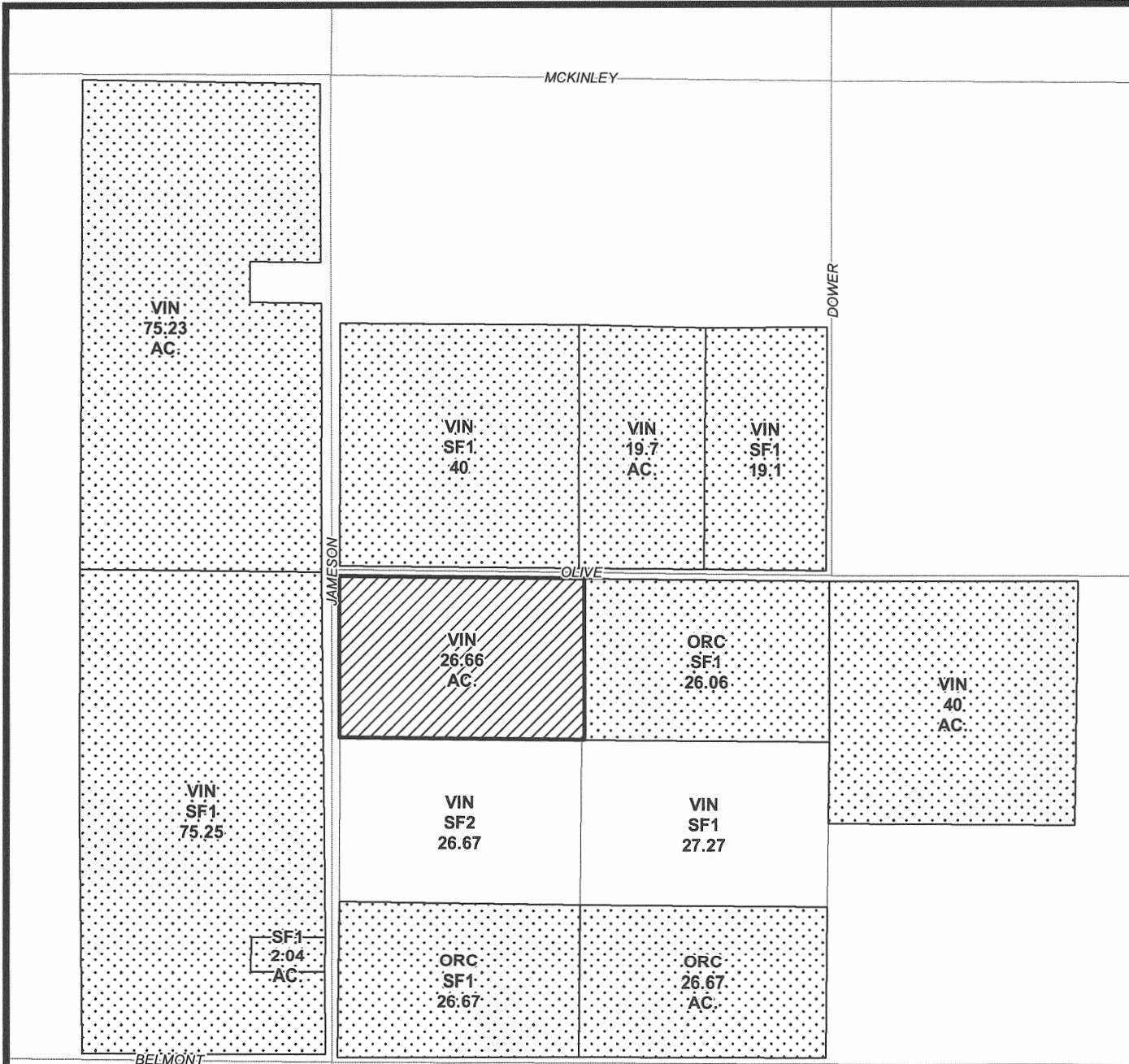


EXHIBIT 3

# EXISTING LAND USE MAP



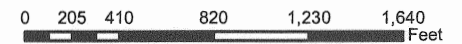
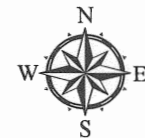
### LEGEND

- ORC - ORCHARD
- SF#- SINGLE FAMILY RESIDENCE
- VIN - VINEYARD
- V - VACANT

### LEGEND:

- Subject Property
- Ag Contract Land

EXHIBIT 4



SUBDIVIDED LAND IN POR. SEC.'S 35 & 36 T.13S., R.18E., M.D.B. & M.

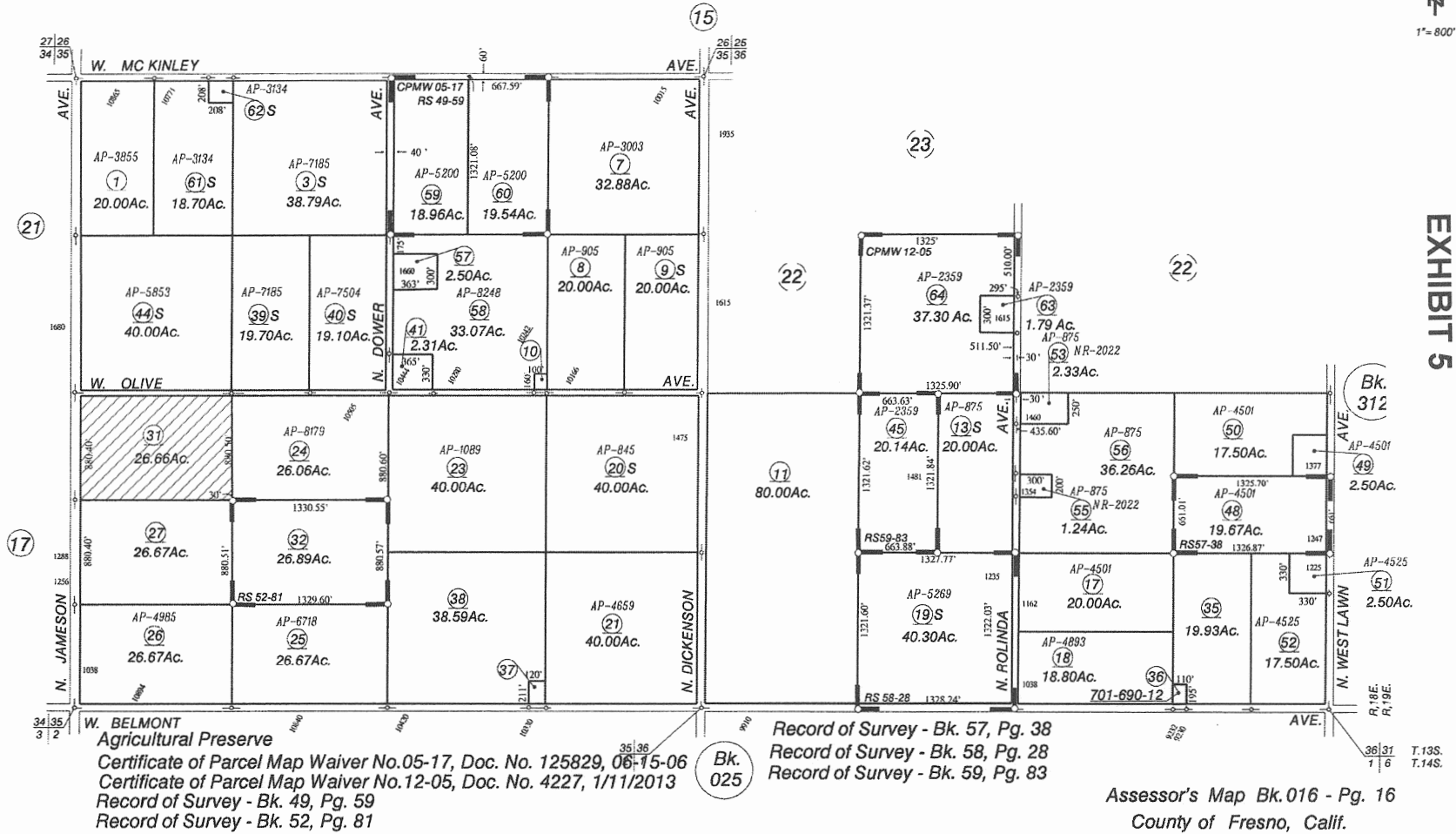
Tax Rate Area  
62-001  
62-007

016-16

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



EXHIBIT 5



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

## EXHIBIT 6

To: Lisa Elgin

Fresno County Development Services Division

Variance Finding

Name: Mark E. Nazaroff & Susanna J. Nazaroff

Mailing Address: Po Box 25 Biola, Ca 93606

APN: 016-160-31

1) What are the 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? We are asking for the exact split request of several properties in the general vicinity of our property (see Assessor's map).

2) Which rights possessed by other property owners under like conditions in the vicinity having the identical zoning classification am I not receiving that will be remedied by the granting of a variance? Please see attached the parcel map for this property (red rectangle) and neighboring properties which shows at least 10 other properties with similar small splits of land (red circles).

3) Will the granting of a variance be materially detrimental to the public welfare or injurious to property and improvements in the vicinity in which the property is located? No.

4) Will the granting of such variance be contrary to the objectives of the General Plan? Not in our opinion. The new parcel will contain a single family residence and our farming operation will remain on the larger parcel.

Conclusion: In support of the variance, the proposed division is consistent with lot sizes of many surrounding parcels in the area and that allowing the creation of the 1.64 acre parcel would allow natural development in the area without imposing on the use of the remaining surrounding property. Other than allowing a home site, the proposed use of the property will remain unchanged as it is planted with almond trees.

Regards,

Mark E. Nazaroff



SUBDIVIDED LAND IN POR. SEC.'S 35 & 36 T.13S., R.18E., M.D.B. & M.

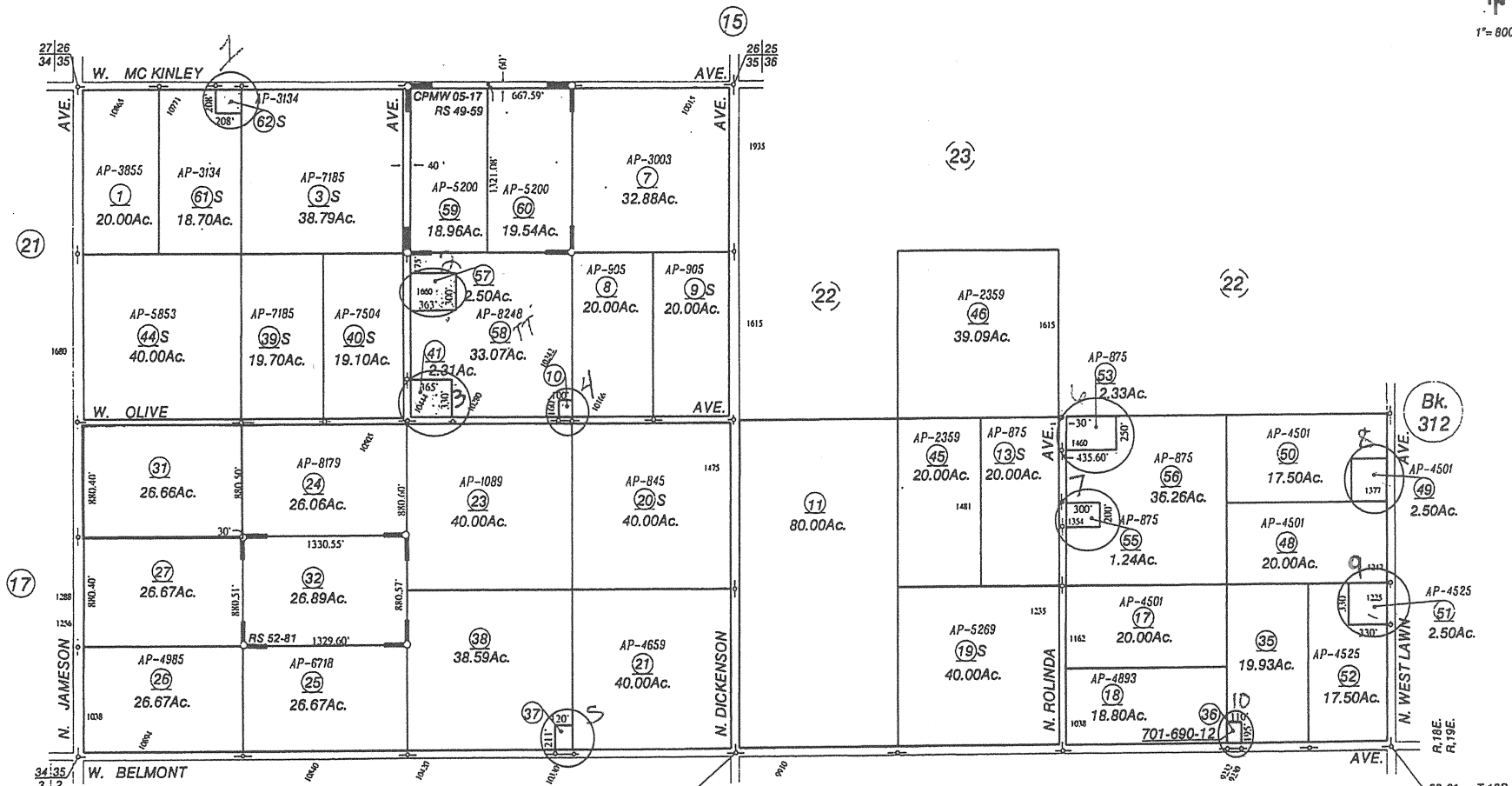
Tax Rate Area  
62-001  
62-007

016-16

--- NOTE ---  
This map is for Assessment purposes only.  
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purposes of zoning or subdivision law.

1" = 800'

Exhibit 6 - Page 2

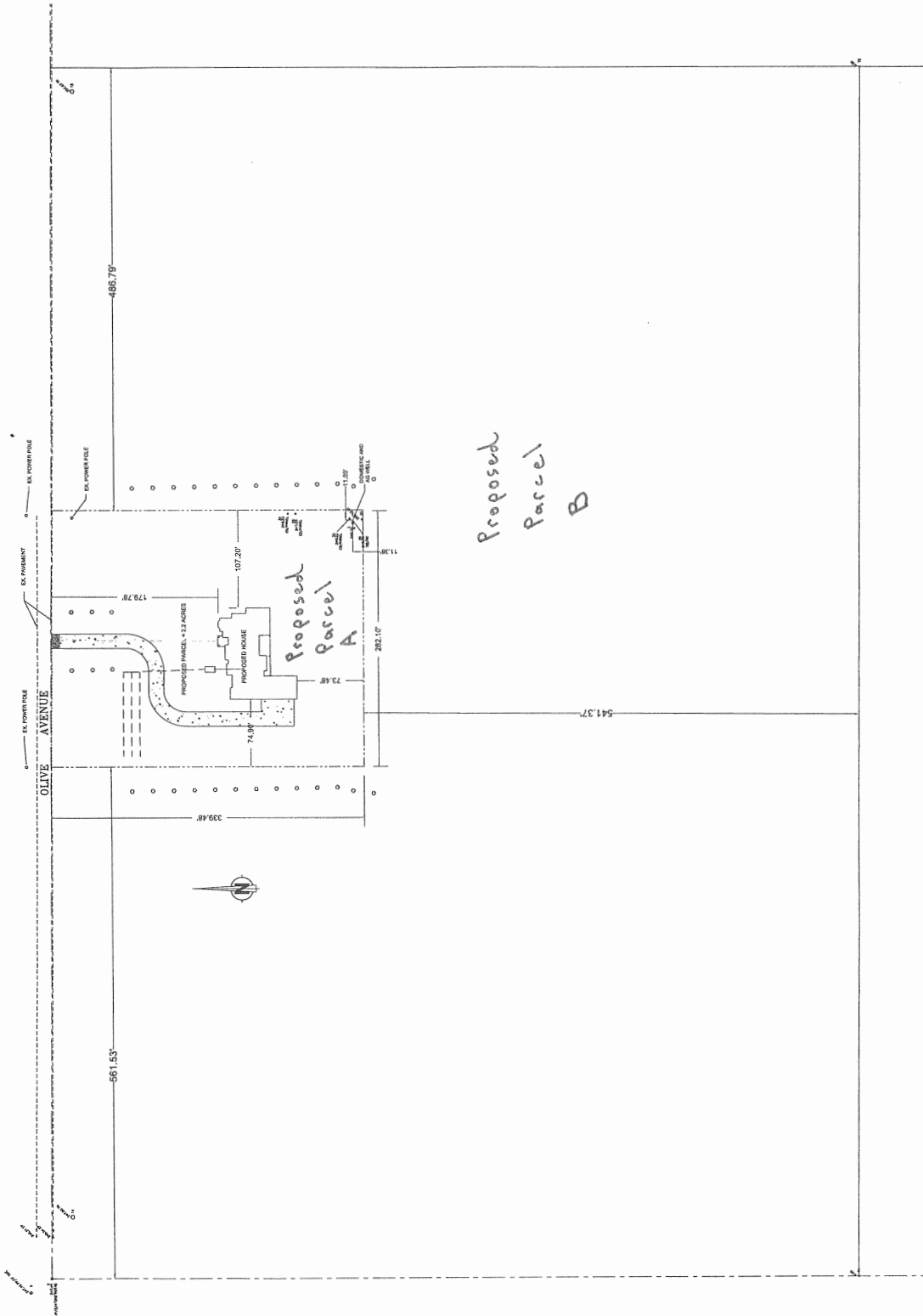


Agricultural Preserve  
Certificate of Parcel Map Waiver No.05-17, Doc. No. 125829, 06-15-06  
Record of Survey - Bk. 49, Pg. 59  
Record of Survey - Bk. 52, Pg. 81.

Assessor's Map Bk.016 - Pg. 16  
County of Fresno, Calif.

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

SEP 30 2009



3978  
 CEIVED  
 CITY OF FRESNO  
 26 2015  
 DIVISION OF PUBLIC WORKS  
 AND PLANNING  
 CITY SERVICE DIVISION

**EXHIBIT 7**