



County of Fresno

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

Planning Commission Staff Report Agenda Item No. 3 November 17, 2022

SUBJECT: Variance Application No. 4076 and a proposed Mitigated Negative Declaration based on Initial Study No. 7677.

To allow creation of a substandard 3.56-acre parcel and a 23.95-acre parcel from an existing 27.51-acre parcel that is dual zoned AL-20 and R-C-40 (Resource Conservation, 40-acre minimum parcel size)

LOCATION: The subject parcel is located on the south side of Rainbow Avenue, approximately 1,204 feet west of its nearest intersection with Riverbend Avenue and is approximately 1.37 miles northeast of the nearest city limits of the City of Sanger (APNs: 333-021-91 & 92) (746 S Rainbow Ave.) (Sup. Dist. 5).

OWNER: Gerdts Family Trust (Marvin H. Gerdts and Janice B. Gerdts)

APPLICANT: Kerry Gerdts

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

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Variance Application No. 4076 based on the analysis of the required findings in the Staff Report; 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. 1-Mile Radius Map of Variance Applications
6. Site Plans and Detail Drawings
7. Applicant's Variance Findings
8. Summary of Initial Study Application No. 7677

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agricultural and Open Space per the Kings River Regional Plan	No change
Zoning	AL-20 (Limited Agricultural, 20-acre minimum parcel size) and R-C-40 (Resource Conservation, 40-acre minimum parcel size)	No change
Parcel Size	27.50 acres	Parcel "A": 3.56 acres Parcel "B": 23.95 acre (Remainder)
Project Site	N/A	N/A
Structural Improvements	Agriculture Related Storage Buildings	No change
Nearest Residence	Approximately 75 feet	No change
Surrounding Development	Agricultural and Residential	No change
Operational Features	N/A	N/A
Employees	N/A	N/A
Customers	N/A	N/A
Traffic Trips	Agricultural	No change
Lighting	N/A	N/A
Hours of Operation	N/A	N/A

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

ENVIRONMENTAL ANALYSIS:

Initial Study No. 7677 was prepared for the project by County staff in accordance with the provisions of the California Environmental Quality Act (CEQA). Based on the Initial Study, staff has determined that a Negative Declaration is appropriate. A summary of the Initial Study is included as Exhibit 7. Notice of Intent of Negative Declaration publication date: April 29, 2021.

PUBLIC NOTICE:

Notices were sent to 25 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 Application may be approved only if four Findings specified in the Fresno County Zoning Ordinance, Section 877-A are made by the Planning Commission.

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

BACKGROUND INFORMATION:

The subject parcel was included in Variance Application No. 3883, which allowed creation of two parcels less than the minimum required parcels. The Planning Commission approved VA 3883 on July 17, 2008. The referenced approved Variance application and subsequent mapping procedure reflects the current configuration of the subject site.

In addition to the subject application, there have been eight (8) other Variance applications within one-mile of the subject property that have similar proposals to the project. The following table provides a brief summary of these Variance applications and their final actions.

Application/Request	Date of Action	Staff Recommendation	Final Action
VA 2708: Recognize three 5-acre created parcels in the AE-20 Zone District.	June 10, 1982	Deferred to Planning Commission	PC Approved
VA 2995: Allow creation of a 0.52-acre parcel having a width and frontage of 128 (165 feet required) feet, a depth of 143 feet (170 feet required), and a side yard setback of 14 feet (20 feet required) from a 29.32-acre parcel of land in the AE-20 Zone District.	April 24, 1986	Approval	PC Approved

Application/Request	Date of Action	Staff Recommendation	Final Action
VA 3315: Allow creation of a 2.50-acre parcel without public road frontage (165 feet required) from a 20-acre parcel of land.	March 28, 1991	Approval	PC Approved
VA 3703: Allow creation of a 2.5-acre gift deed parcel without public road frontage from a 27.70-acre parcel in the AL-20 Zone District.	July 12, 2001	Approval	PC Approved
VA 3782: Allow creation of two 4.9-acre parcels and a 5.2-acre parcel from an existing 15-acre parcel in the R-C-40 Zone District.	July 1, 2004	Denial	PC Approved
VA 3881: Allow the creation of two 4.9-acre parcels and a 5.2-acre parcel from an existing 15-acre parcel in the R-C-40 Zone District (same parcel as VA 3782).	June 10, 2010	Denial	PC Approved with modified Conditions
VA 3883: Allow creation of two parcels less than the minimum required parcel size allowed in the R-C-40 and AL-20 Zone District as result of the Property Line Adjustment between two existing parcels (includes subject parcel).	July 17, 2008	Denial	PC Approved
VA 4015: Allow the creation of an 8.66-acre parcel and an 8.67-acre parcel from an existing 17.24-acre parcel in the AE-20(c)	April 27, 2017	Denial	PC Approved with modified Conditions

Application/Request	Date of Action	Staff Recommendation	Final Action
Zone District.			
VA 4040: Allow the division of a 107-acre parcel to create a 96-acre parcel and an 11-acre parcel in the AL-20 and O Zone Districts.	April 12, 2018	Denial	PC Approved

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

REQUIRED FINDINGS:

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	AL-20 Front: 35 feet Side: 20 feet Rear: 20 feet R-C-40 Front: 35 feet Side: 20 feet Rear: 20 feet	No change	Y
Parking	N/A	N/A	Y
Lot Coverage	AL-20: No requirement R-C-40: For lots 10 acres or larger, permitted buildings and structures shall not exceed one percent (1%)	No change	Y
Space Between Buildings	No requirement	No change	Y
Wall Requirements	No requirement	No change	Y
Septic Replacement Area	100% replacement area	No change	Y

	Current Standard:	Proposed Operation:	Is Standard Met (y/n)
Water Well Separation	Septic Tank: 100 feet Disposal Field: 100 feet Seepage Pit: 150 feet	No change	Y

Reviewing Agency/Department Comments Regarding Site Adequacy:

None.

Finding 1 Analysis:

In support of Finding 1, the Applicant states that the subject property has three distinct geographical types. The top level (table), a lower level (river bottom), and a sloping hill (bluff) that divides the two levels. The parcel is dual zoned with the top level (table) zoned AL-20 (Limited Agricultural, 20-acre minimum parcel size), and the lower level (river bottom) zoned R-C-40 (Resource Conservation, 40-acre minimum parcel size) Zone District. The current use of the site is for agricultural cultivation, specifically transitioning from plum orchards to pistachio orchards. The Applicant indicates that due to the western boundary with its sharp angular shape and presence of the bluff will become a problem for maneuvering pistachio harvesting equipment, which under current circumstances, would become vacant to allow safe maneuverability of farming equipment. Under the proposal, a portion of the proposed parcel will remain in plum production with the remainder utilized as a homesite. The proposal would keep as much land under agricultural production. The land that would be unfarmable would be utilized for the homesite. The Applicant also notes that they help manage the orchards on the property.

A consideration in addressing Variance applications is whether there are alternatives available that would avoid the need for the Variance. The Applicant indicates that the remainder parcel will continue to be utilized for agricultural purposes and that the Applicant will help the property owner whom he is related to, with the existing agricultural operation. Based on the Applicant's discussion, the project could be revised for the creation of a homesite, not to be greater than 2.5 acres as a lot intended for conveyance exclusively for use by a person related to the owner by adoption, blood, or marriage within the second degree of consanguinity and only for persons involved in the farming operation. This, however, would not create a separate parcel and be subject to execution of a Declaration of Intent and Acknowledgement of Penalty for Unlawful Conveyance per Section 817.5.A.2.c. If the Applicant intends to construct a single-family residence, a parcel split is not necessary to construct the residence as the parcel is not currently improved with a residence and per the Zoning Ordinance, single-family dwelling units are an allowed use.

The topography cited by the applicant does not preclude the use of the property for its intended use, it has been previously farmed and the suitability for a particular agriculture crop is not a unique situation. Other properties in the area also have similar geographic features.

Recommended Conditions of Approval:

None

Finding 1 Conclusion:

Finding 1 cannot be made. Staff does acknowledge through aerial imagery and photos of the project site, that the site is configured in the described way with the top level, lower level, and sloping hill present. Although the existing parcel shape and topography are unique, staff does not believe that an exceptional or extraordinary circumstance or condition has been described to justify the Variance as the parcel can still be improved with a single-family residence in the referenced location without the mapping procedure.

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

Reviewing Agency/Department Comments:

No comments specific to Finding 2 were expressed by reviewing Agencies or Departments.

Finding 2 Analysis:

In support of Finding 2, the Applicant describes the natural environment surrounding the property and the enjoyment of that natural environment from the subject parcel. The Applicant also references the presence of homesite parcels located to the south of the subject site that also enjoy the natural environment. These described property rights are not hindered and do not require the Variance to enjoy those features. If the Applicant wishes to improve the parcel as a homesite to enjoy the natural environment, there are no restrictions to improving the parcel with a single-family residence in its current condition under the development standards of the underlying zone district.

The existence of smaller parcels in the area is not a bases for Variance, while there are substandard size parcels in the area, they have also are precluded from further division due to the size limitation. If a substandard parcel are created by approval of a Variance request, that would still not create a property right issue as each Variance request must be considered under their own merits. Therefore, Staff does not believe a substantial right is at risk, that the subject Variance request would preserve.

Recommended Conditions of Approval:

None

Finding 2 Conclusion:

Finding 2 cannot be made, there is not a substantial property right at risk, that the requested Variance would preserve.

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	58 acres	Field Crop and Single-Family Residence	AE-20	Approximately 650 feet
	3.01 acres	Field Crop and Single-Family Residence	AL-20	
	4.63 acres	Field Crop	AL-20 and R-C-40	
South	41.47 acres	Grazing	AL-40	Approximately 570 feet
East	41.47 acres	Grazing	AL-40	Approximately 110 feet
West	15.44 acres	Field Crop	R-C-40	Approximately 510 feet

Reviewing Agency/Department Comments:

No comments specific to Finding 3 were expressed by reviewing Agencies or Departments.

Finding 3 Analysis:

In support of Finding 3, the Applicant states that the proposed Variance will not be detrimental to the public welfare. The Variance site is adjacent to Rainbow Avenue therefore, no additional easements or right-of-way is needed to access the property. The proposed home site would not conflict with continued agricultural operation of the remaining agricultural acreage nor any adjacent parcels. Although the Variance site would be removed from the Williamson Act, agricultural production from the subject site would still occur. The Applicant also intend to preserve the bluff in its natural state, allowing wildlife and existing plants and trees to thrive in their habitat.

While the impact of this singular variance may not constitute a materially detrimental impact, staff notes that the creation the separate legal non-conforming parcels has the potential to increase residential density in the area by allowing an additional single-family residence on each parcel through the Director Review and Approval process. Cumulatively this and other such increases in residential density has the potential to conflict with adjacent agricultural operations in the area, The minimum acreage requirement of the AE20 Zone district is intended to arrest this parcellation pattern and limit the potential conflicts between residential agricultural activities. However, the limited scale of this individual request by itself is not a significant material detriment to properties in the vicinity.

Recommended Conditions of Approval:

None

Finding 3 Conclusion:

Finding 3 can be made, the limited scale of this individual request by itself is not a significant material detriment to properties in the vicinity.

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

Relevant Policies:	Consistency/Considerations:
<p>General Plan Policy LU-A.6: <i>The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10 and LU-A.11. The County may require parcel sizes larger than twenty (20) acres based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.</i></p>	<p>The Variance would allow creation of a 3.56-acre parcel in the AL-20 Zone District, which has a minimum parcel size of 20 acres. The creation of a 3.56-acre parcel in the AL-20 Zone District is inconsistent with Policy LU-A.6. Further, the proposed project does not qualify for an exception under Policies LU-A.9, LU-A.10, or LU-A.11:</p> <ul style="list-style-type: none"> • Policy LU-A.9: The lot is not for a financing parcel, gift lot, or owned by the property owner prior to the date the policies were implemented. • Policy LU-A.10: The proposed parcel is not proposing development of an agricultural commercial center. • Policy LU-A.11: The proposed parcel is not proposing development of an oil and gas exploration and extraction operation.
<p>General Plan Policy LU-A.7: <i>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 that 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.</i></p>	<p>The Variance proposal requests to allow creation of a 3.56-acre parcel in the AE-20 Zone District. The AL-20 Zone District requires a minimum 20-acre parcel size, therefore, the proposal is not consistent with General Plan Policy LU-A.7.</p>

Reviewing Agency Comments:

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

The subject parcel is designated as Agricultural and Open Space in the Kings River Regional Plan.

The existing parcel is enrolled in the Williamson Act Program under Contract No. 5834. Pursuant to the Fresno County Williamson Act Program Guidelines, parcels that are enrolled in the program are required to have at least 20 acres of Prime soil and an active agricultural operation, or at least 40 acres of Non-Prime soil and an active agricultural operation to be eligible to remain in the Williamson Act Program. The proposed 3.56-acre parcel does not qualify to remain in the program and must be removed from the program through the contract cancellation process. A petition for Partial Cancellation of Williamson Act Contract No. 5834 with the Policy Planning Unit has been filed. Prior to recordation of the final map, final approval of the Williamson Act Contract cancellation will be required. **This shall be included as a Condition of Approval.**

No other comments specific to General Plan Policy were expressed by reviewing Agencies or Departments.

Finding 4 Analysis:

In support of Finding 4, the Applicant states that the Fresno County General Plan and related Zoning Ordinance allows for a variety of uses to occur in agriculturally zoned properties including the ability for landowners to create home sites. The proposed Variance will not change or adversely impact the agricultural production of the subject property. Granting the proposed Variance is a logical consequence of allowing home sites in the AL-20 Zone District and will continue the objective of the General Plan. The Applicant states that the vast majority of agricultural production will continue while wildlife habitat will be left undisturbed. The Applicant proposes to build a single-family residence that will occupy vacant land near the bluff edge.

The General Plan Policy LU-A.6 and LU-A.7 indicate that the project proposal conflicts with the Fresno County General Plan. The identified policies provide guidance in the preservation of agriculturally viable parcels. The underlying zone district of AL-20 requires that the minimum parcel size of the property be 20 acres. Staff would like to note that due to the parcels dual zoning, the existing parcel currently does not meet the minimum parcel requirements of both the AL-20 Zone District and R-C-40 Zone District. The proposed parcel is located solely in the AL-20 Zone District. The project proposal would further split the site and create additional nonconforming parcels.

Recommended Conditions of Approval:

None

Conclusion Finding 4:

Finding 4 cannot be made.

PUBLIC COMMENT:

None

SUMMARY CONCLUSION:

The existence of other small parcels in the area is not a basis for granting a variance. Granting of the variance could be construed as inconsistent with Government code section 65906 which prohibits granting of unqualified variances and states in part "...shall constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated." There are no provisions in the ordinance to create substandard parcels when you no longer wish to continue agricultural activities.

Based on the factors cited in the analysis, the required Findings for granting the Variance Application cannot be made:

- There are no exceptional or extraordinary circumstances or conditions applicable to the property,
- The variance is not 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, and
- The application is contrary to the goals and policies of the General Plan.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine that required Findings 1, 2, & 4 cannot and move to deny Variance Application No. 4076; and
- Direct the Secretary to prepare a Resolution documenting the Commission's Action.

Alternative Motion (Approval Action)

- Move to adopt the Negative Declaration prepared for Initial Study Application No. 7677; and
- Move to determine the required Findings can be made (state basis for making the Findings) and move to approve Variance Application No. 4076, 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.

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EXHIBIT 1

**Variance Application No. 4076
Conditions of Approval and Project Notes**

Conditions of Approval	
1.	Development of the property shall be in accordance with the Site Plan approved by the Planning Commission.
2.	The existing parcel is enrolled in the Williamson Act Program under Contract No. 5834. Pursuant to the Fresno County Williamson Act Program Guidelines, parcels that are enrolled in the program are required to have at least 20 acres of Prime soil and an active agricultural operation, or at least 40 acres of Non-Prime soil and an active agricultural operation to be eligible to remain in the Williamson Act Program. The proposed 3.56-acre parcel does not qualify to remain in the program and must be removed from the program through the contract cancellation process. A petition for Partial Cancellation of Williamson Act Contract No. 5834 with the Policy Planning Unit has been filed. Prior to recordation of the final map, final approval of the Williamson Act Contract cancellation will be required.

Conditions of Approval reference recommended Conditions for the project.

Notes	
The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.	
1.	Rainbow Route is classified as a collector road in the County's General Plan requiring road right-of-way of 84 feet, 42 feet on each side of the section line. Currently, there is 60 feet of right-of-way on Rainbow Route, requiring an additional 12 feet along parcel frontage. Any setbacks for new construction should be based on the ultimate right-of-way for Rainbow Route.
2.	Typically, an access driveway should be set back a minimum of ten feet from the side yard property line.
3.	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.
4.	If not already present, 10-foot by 10-foot corner cutoffs should be provided for sight distance purposes at the exiting driveway onto Rainbow Avenue.
5.	Typically, any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of, per County Standards.
6.	A grading permit or voucher is required for any grading work that has been done without a permit and any grading proposed with this application. Projects exceeding 1,000 cubic yards may require an engineered grading and drainage plan.
7.	Typically, if the subject property is within the City of Sanger Sphere of Influence, the City of Sanger should be consulted regarding their requirements for any future off-site improvements and driveway placement relative to the property line

EXHIBIT 1

Notes	
8.	It is recommended that the applicant consider having the existing septic tank pumped, and have the tank and leach field evaluated by an appropriately licensed contractor if they have not been serviced and/or maintained within the last five years. The evaluation may indicate possible repairs, additions, or require the proper destruction of the system(s).
9.	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 Fresno County Department of Public Health, Environmental Health Division.
10.	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 the destruction of agricultural wells, a sample of the upper most fluid in the well column should be sampled 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 materials for destruction. The "oily water" removed from the well must be handled in accordance with federal, state and local government requirements.

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LOCATION MAP

VA 4076

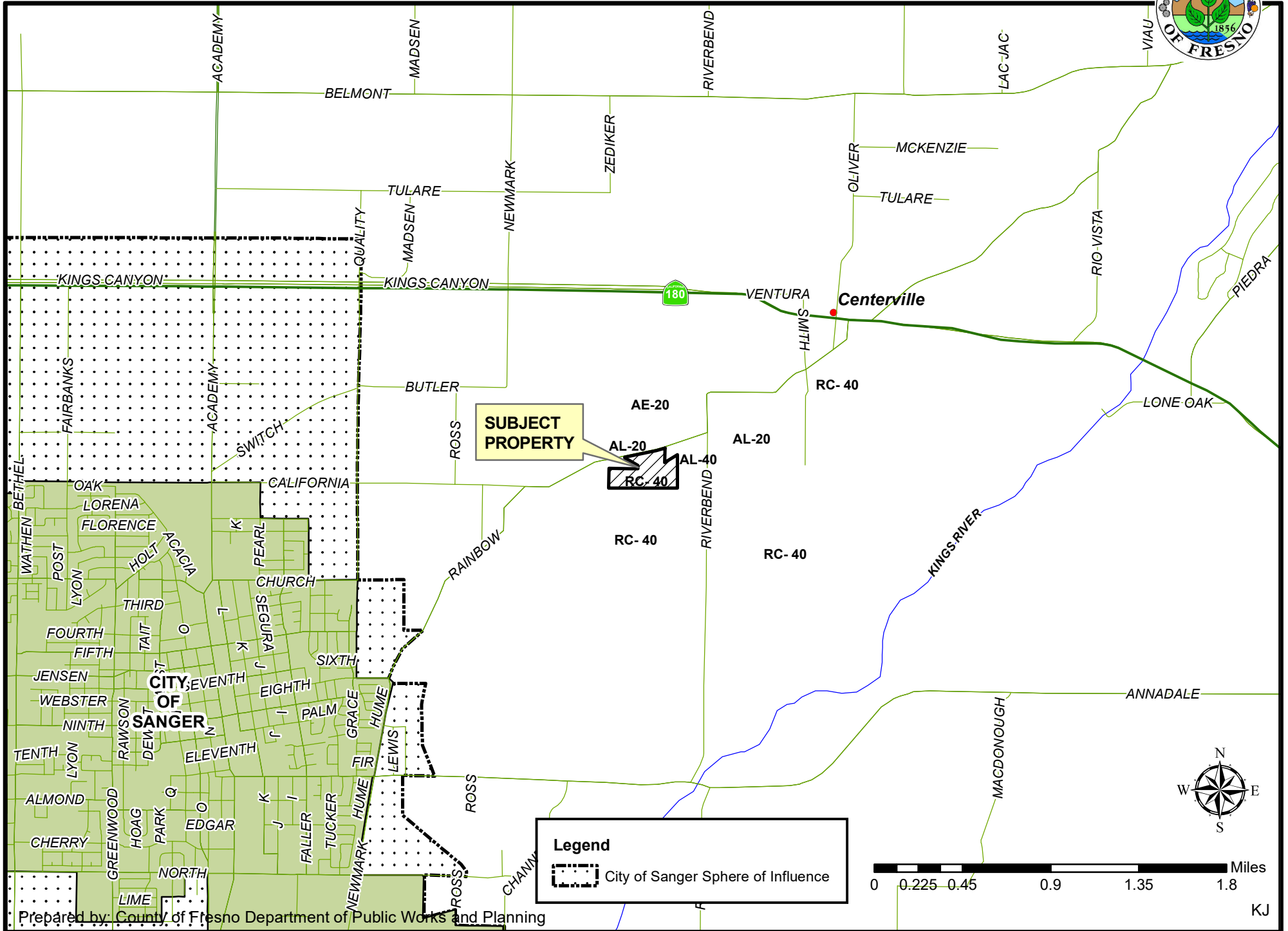
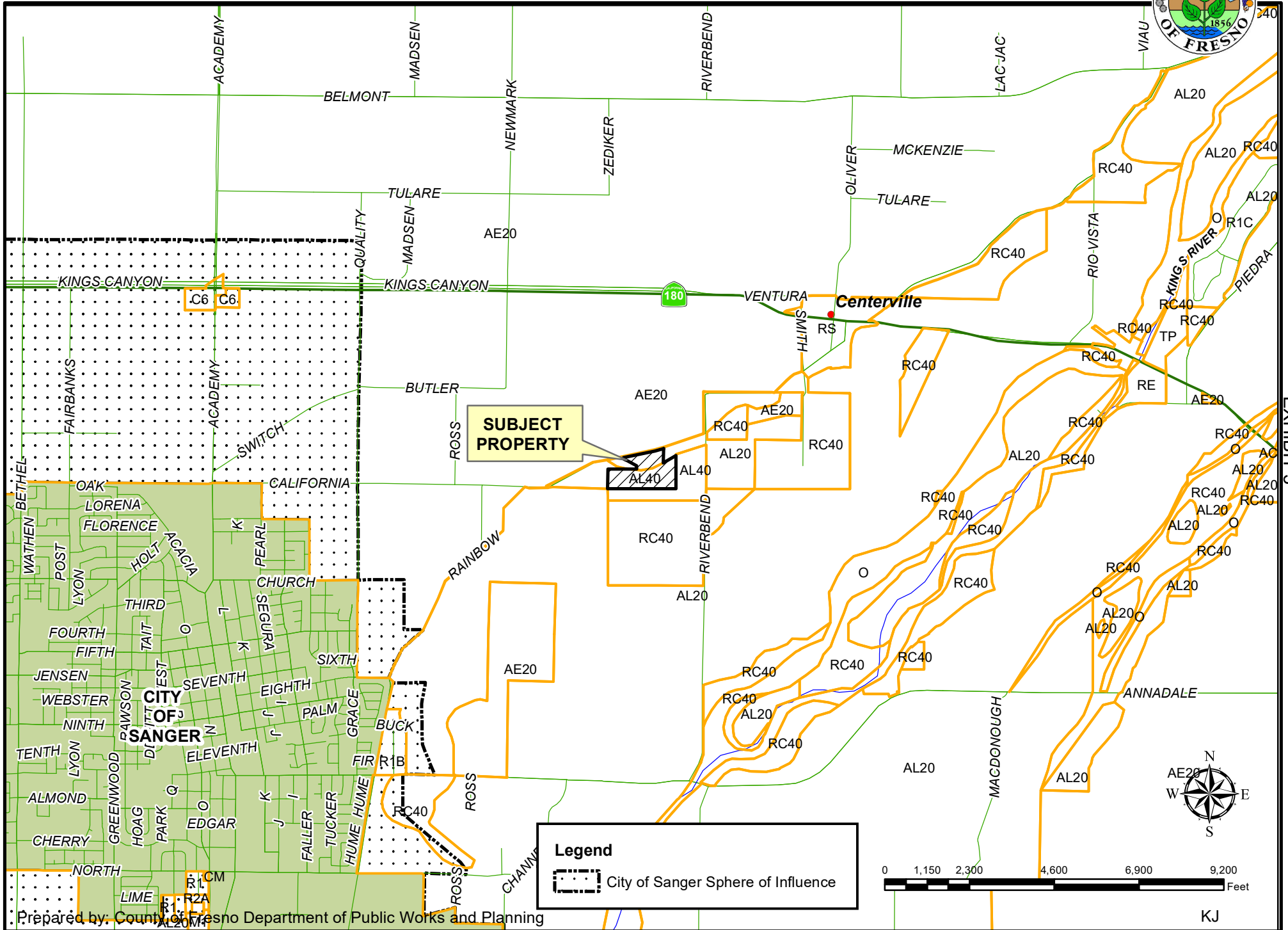


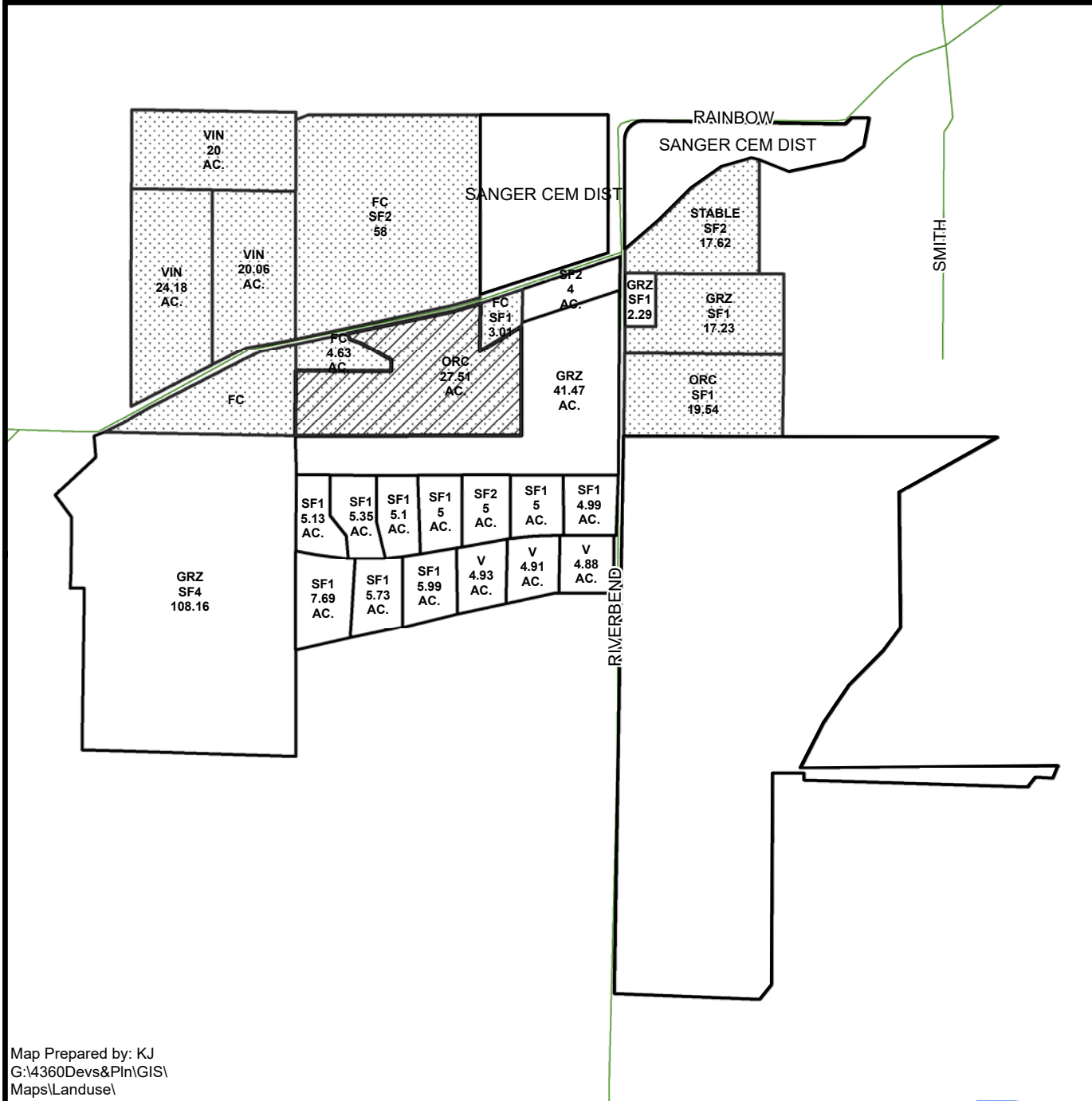
EXHIBIT 2

EXISTING ZONING MAP





EXISTING LAND USE MAP

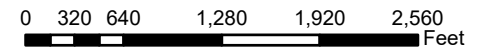
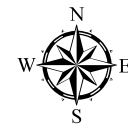
VA 4076



LEGEND	
FC	FIELD CROP
GRZ	GRAZING
ORC	ORCHARD
SF#	SINGLE FAMILY RESIDENCE
V	VACANT
VIN	VINEYARD

LEGEND:

-  Subject Property
-  Ag Contract Land



Department of Public Works and Planning
Development Services Division

APPROVED VARIANCES WITHIN A ONE MILE RADIUS

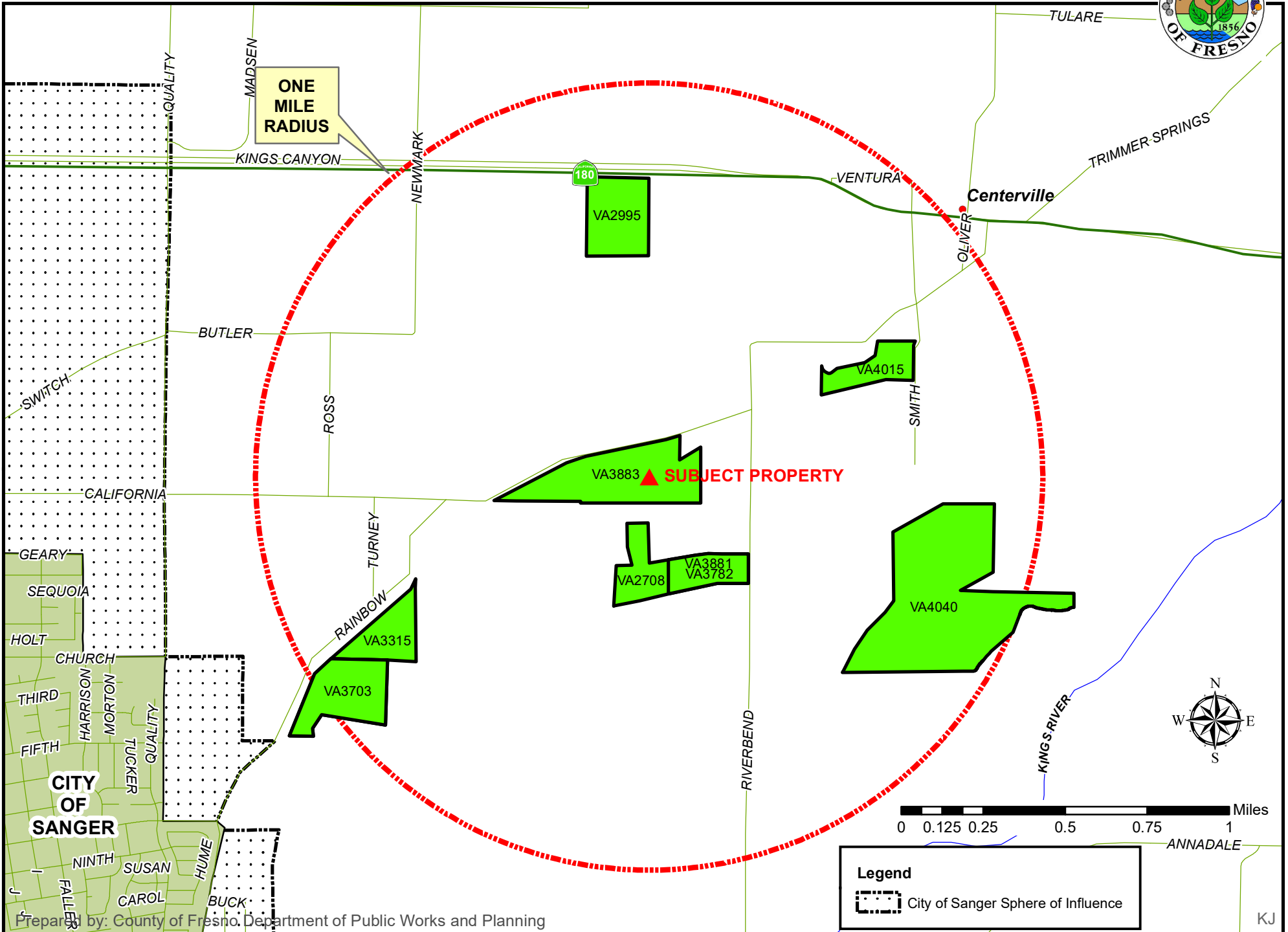


EXHIBIT 6

RECEIVED
COUNTY OF FRESNO

JUL 18 2019

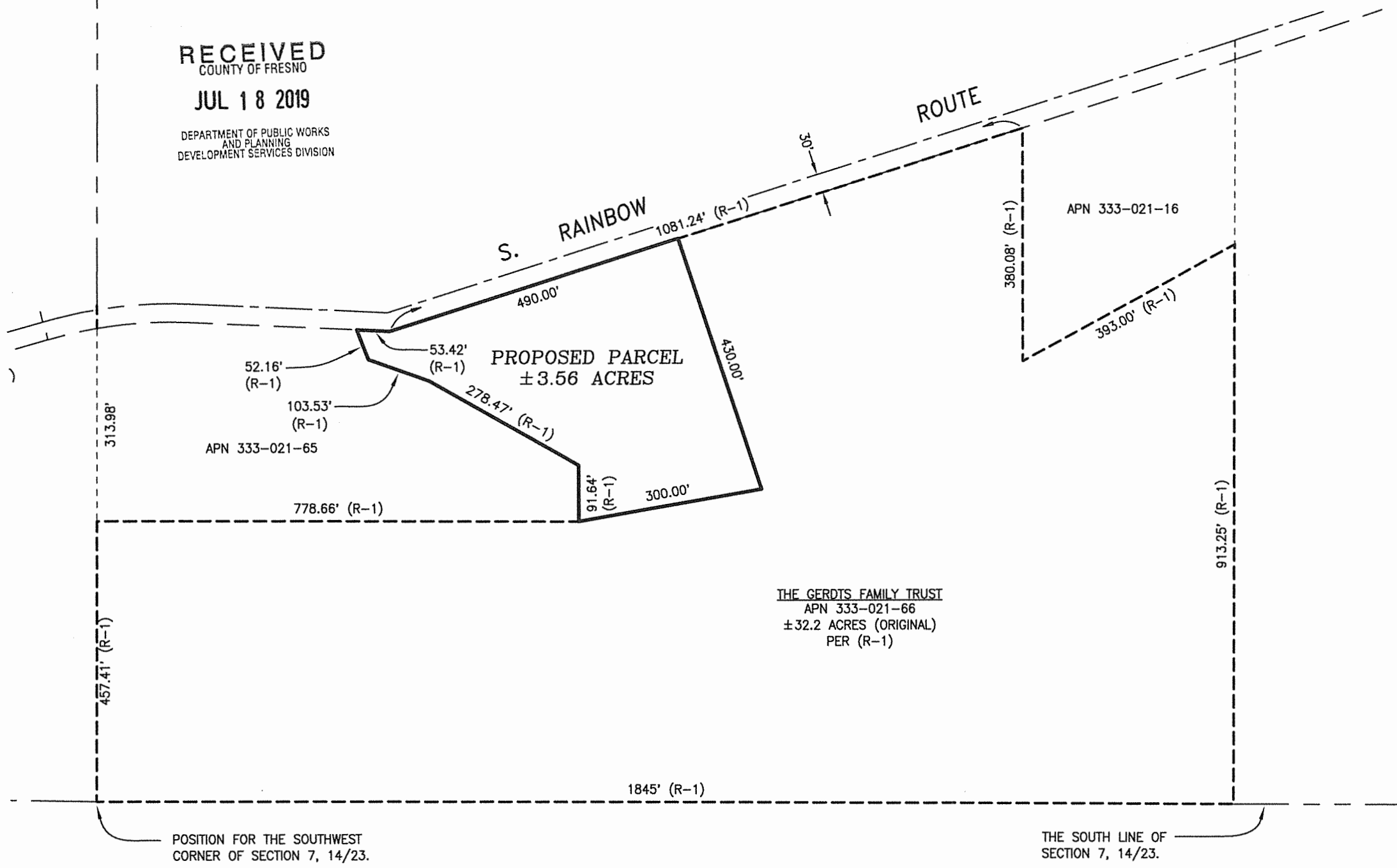
DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION

**SITE PLAN
VARIANCE APP.**

No. _____

PRE-APPLICATION REVIEW No. 39698

BEING A PORTION OF THE SOUTHWEST 1/4 OF
SECTION 7, T. 14 S., R. 23 E., M.D.B.M.
IN THE COUNTY OF FRESNO,
STATE OF CALIFORNIA



LEGEND:

- SECTION LINE.
- - - - - RIGHT OF WAY.
- EXIST. PROPERTY LINE.
- NEW PROPERTY LINE.

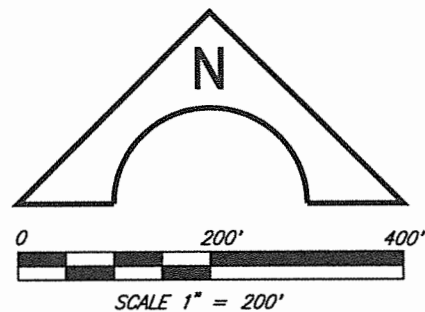
NOTE: THERE ARE NO STRUCTURES,
WELLS, OR SEPTIC SYSTEMS ON
THE SUBJECT PARCEL.

(R-1) RECORD DATA PER DOCUMENT
No. 2008-0156863, RECORDED
ON NOV. 10, 2008, OFFICIAL
FRESNO COUNTY RECORDS.

RECORD OWNERS:

THE GERDTS FAMILY TRUST
APN 333-021-66

PROJECT INFORMATION			
NAME: GERDTS SITE PLAN	CLIENT: KERRY GERDTS		
TWP, RNG, SEC: 142307 MDB&M	COUNTY OF: FRESNO	STATE OF: CALIFORNIA	



<p>ESP SURVEYING 2598 N. MIAMI AVE. FRESNO, CA Tel. 559.442.0883 Fax 559.442.0884 www.espls.com</p>	DATE OF SURVEY	N/A
	ESP JOB No.	19049
	DRAWN BY	6335
	DRAWN DATE	6/28/2019
	REV. 1	7/11/2019

EXHIBIT 6

EXHIBIT 6

VARIANCE APPLICATION FINDINGS

Kerry V. Gerdts

June 2019

Owner:

The Gerdts Family Trust
Marvin H. & Janice B. Gerdts
700 S. Rainbow Ave
Sanger, CA 93657

RECEIVED
COUNTY OF FRESNO
AUG 20 2020
DEPARTMENT OF PUBLIC WORKS
AND PLANNING
DEVELOPMENT SERVICES DIVISION
VA4076

Applicant:

Kerry V. Gerdts

REVISED COPY

Property Location:

746 S. Rainbow Ave
Sanger, CA 93657
(South side of Rainbow Ave)

APN:

333-021-66

Existing Zone Designation:

AL-20 & RC-40

Existing Plan Land Use Designation:

Agriculture (above bluff) & Resource Conservation (below bluff)

Request:

The applicant, Kerry V. Gerdts, seeks approval of a Variance which will allow the creation of a residential parcel of 3.56 acres from the existing 27.51-acre parcel located in the northwest

corner of the property. Mr. Gerdts parents, Marvin and Janice Gerdts, have lived in the adjoining property since 1968. A few years later they bought the adjoining property in order to farm stone fruit. They also raised four children on the property and their roots there are as deep as the trees they have planted there. It is the wish of Kerry V. Gerdts to build a modest home near his parents so he can assist them as they age, as well as help his father with the daily operations of the farm.

Mr. Kerry V. Gerdts' intentions are to build an approximately 2000 square foot barn house, which not only pays homage to his upbringing but will also blend in with the farmland that surrounds it. He intends to build the house where no fruit trees exist. This area is mostly inaccessible to most farm equipment to navigate. Since part of the home site adjoins Marvin and Janice Gerdts' orchard, Kerry V. Gerdts will leave the remainder of the orchard intact. The applicant desires to keep the farm in the family for not only Marvin and Janice's children and grandchildren, but for many generations to come.

Background:

Reference is made to the site plan of the subject property prepared by ESP Surveying Inc.

The subject site and the associated farm were purchased by the Gerdts Family in 1971. The property has continuously been in tree fruit production and is currently transitioning from plum orchards to pistachios. The farm and variance site have two elevation levels and two zoning designations (AL20 & RC40). The two zones are separated by a steep bluff. The farm and variance site are under the Williamson Act Contract No. Sanger #23. The variance site would no longer be under the Williamson Act because it's less than the required acreage.

The farm contains a shop building and two equipment sheds but no residence building. These structures are not within the variance site area.

The variance site is a triangular shape with a steep bluff extending along the west and south westerly boundaries.

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 zoning classifications.

The Gerdts Family Trust Property has three distinct geographical types. There is a top level (table), lower level (river bottom), and a sloping hill (bluff) that divides the two levels. The table acreage is zoned AL-20. The river bottom is zoned RC-40. The bluff area dividing the zones is un-farmable due to the steepness. As the farm is transitioned from plums to pistachios, the western boundary with its sharp angular shape and bluff will become a problem for maneuvering pistachio mechanical harvesting equipment. To eliminate this problem a portion of the land would become vacant to allow for mobility. Instead, we propose to separate the triangular shaped parcel, and have it remained in plum production and a home site. As much land as possible would remain in agricultural production. The bluff area would remain in its natural state with valley oaks and wildlife habitats. This proposal is to include the bluff as well as the triangular portion of the parcel in the proposed 3.56 acres in deeded land. The plan is to use the un-farmable land for the home site, keeping as much land as possible for agricultural use. It should be mentioned that the applicant helps manage all the orchards on the property.

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 classifications.

The topography of the subject property lends itself to many beautiful and unobstructed views that only a lucky few are able to enjoy. To the south and below the bluff (RC-40) are pistachio and plum orchards that are owned by the Gerdts Family Trust. The orchard's beauty is ever-changing with the seasons. Beyond the orchard is the lushness of the Sanger River Bottom with its native oak and sycamore trees shadowing alongside Collins Creek. Ten homes and two small parcels are nestled under the trees in this area, which was also once zoned as RC-40. To the east is Campbell Mountain with the iconic "S", for Sanger, proudly labeling the landmark. Beyond that, to the east and southeast, are the majestic peaks of the Mineral King and Sierra Nevada Mountain Range. The sunrise and sunsets from this parcel, and the views in general are absolutely breathtaking.

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:

Granting the proposed Variance will not be detrimental to the public welfare or surrounding properties for the following reasons:

- a) The Variance site is adjacent to Rainbow Avenue. No easements or right-of-ways are necessary to access the property.
- b) The proposed home site would not be in conflict with continued agricultural operation of the remaining agricultural acreage nor adjacent acreage.
- c) The Variance site would be removed from the Williamson Act but would remain in agricultural production.
- d) The applicant intends to preserve the bluff in its natural state, allowing wildlife and oak trees to thrive in their natural habitats.

Finding 4:

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

The Fresno County General Plan and related zoning ordinance allow for a variety of uses to occur in agriculturally zoned properties. Including in the ability of landowners to create home sites. The proposed Variance will not change or adversely impact the agricultural production capability of the subject property. Granting the proposed Variance is a logical consequence of allowing home sites in an AL-20 zone district and will continue the objective of the General Plan.

The vast majority of agricultural production will continue. Wildlife habitat will be undisturbed, if not benefited by the new resources the applicant will offer (ie: bluff enhancement with plant cover which will provide protection for quail, etc.). The modest home, the applicant proposes to build, will occupy vacant land near the bluff edge.

For these reasons, the proposed Variance will not conflict with the policies of the Fresno County General Plan.



County of Fresno

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

EVALUATION OF ENVIRONMENTAL IMPACTS

- APPLICANT:** Kerry Gerdts
- APPLICATION NOS.:** Initial Study Application No. 7677 and Variance Application No. 4076-R
- DESCRIPTION:** Reduce the minimum parcel size within the AL-20 (Limited Agricultural, 20-acre minimum parcel size) Zone District to allow the creation of an approximately 2.5-acre parcel from an existing 27.51-acre parcel that is dual zoned AL-20 and R-C-40 (Resource Conservation, 40-acre minimum parcel size).
- LOCATION:** The subject parcel is located on the south side of Rainbow Avenue, approximately 1,204 feet west of its nearest intersection with Riverbend Avenue, and is approximately 1.37 miles northeast of the nearest city limits of the City of Sanger (APN 333-021-66) (SUP. DIST. 5).

I. AESTHETICS

Except as provided in Public Resources Code Section 21099, would the project:

- A. Have a substantial adverse effect on a scenic vista; or
- B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

FINDING: NO IMPACT:

No scenic vista or scenic resource has been identified on or near the project site. According to Figure OS-2 of the Fresno County General Plan, there are no scenic roadways fronting the project site.

- C. In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Based on the Applicant's Findings and description of the project, a single-family residence could be proposed on the created parcel at a later date. The remainder portion of the parcel will continue to be utilized for agricultural purposes. If the Variance application is approved, development of both parcels can occur in the future that can degrade the existing visual character or quality public views of the site and its surroundings, but will not have a substantial impact as the underlying zone districts only allow certain uses by right, with additional more intensive uses allowed subject to a discretionary land-use permit. Per the Applicant, there are three separate areas of the project site. An at-grade area even with Rainbow Avenue, a sloping bluff, and a below-grade area. The property is utilized as an agricultural operation improved with orchards. The proposed parcel will be located at the at-grade area fronting Rainbow Avenue. Therefore, based on the proposed development from the Applicant, and future development of the site subject to the Zoning Ordinance, a less than significant impact is seen.

- D. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The subject application will not directly create a new source of light or glare. The project would allow the creation of a new parcel from the existing parcel and will allow both parcels to be developed. The Applicant has stated that development of the new parcel towards a homesite will occur which can create a new source of lighting. Based on the project proposal, and the mention of development of a single-family residence, the project is not expected to be a source of substantial light of glare which would adversely affect day or nighttime views in the area. The project is seen as having a less than significant impact.

II. AGRICULTURAL AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology in Forest Protocols adopted by the California Air Resources Board. Would the project:

- A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use; or

- B. Conflict with existing zoning for agricultural use, or a Williamson Act Contract?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The existing parcel is enrolled in the Williamson Act Program under Contract No. 5834. Pursuant to the Fresno County Williamson Act Program Guidelines, parcels that are enrolled in the Program are required to have at least 20 acres of Prime Soil and an active agricultural operation, or at least 40 acres of Non-Prime Soil and an active agricultural operation to be eligible to remain in the Williamson Act Program. The proposed 2.5-acre parcel does not qualify to remain in the Program and must be removed from the Program through the contract cancellation process. A recommendation for cancellation from the Agricultural Land Conservation Committee and/or approval of the cancellation from the Board of Supervisors is required to allow the subject proposed parcel to cancel their Williamson Act Contract.

- C. Conflict with existing zoning for forest land, timberland or timberland zoned Timberland Production; or
- D. Result in the loss of forest land or conversion of forest land to non-forest use?

FINDING: NO IMPACT:

The project site is not located in forest land, timberland, or timberland zoned Timberland Production. The project will not result in the loss of forest land or conversion of forest land to non-forest use.

- E. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use or conversion of forest land to non-forest use?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The proposed parcel split will not involve changes to the existing environment that could result in conversion of Farmland to non-agricultural use. The subject parcel is actively farmed; however, the Applicant has indicated that the proposed parcel may be improved with a single-family residence. The remainder of the proposed parcel would still be utilized for agricultural production and would not substantially change the nature of the use or affect surrounding parcels.

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:

- A. Conflict with or obstruct implementation of the applicable Air Quality Plan; or

- B. Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under a Federal or State ambient air quality standard?

FINDING: NO IMPACT:

The project is to allow creation of a parcel under the minimum parcel size standard of the underlying zone district from an existing parcel. The project will not conflict with or obstruct implementation of the applicable Air Quality Plan and will not result in a cumulatively considerable net increase of any criteria pollutant.

- C. Expose sensitive receptors to substantial pollutant concentrations; or
- D. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

FINDING: NO IMPACT:

The project site is currently utilized as an agricultural operation with the property improved with orchards. Per the Applicant, the created parcel may be improved with a single-family residence. Both the agricultural operation and the potential single-family residence are not uses that are associated with substantial pollutant generation and will not expose sensitive receptors to substantial pollutant concentrations. The project will not result in other emissions adversely affecting a substantial number of people.

IV. BIOLOGICAL RESOURCES

Would the project:

- A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

FINDING: NO IMPACT:

According to the California Natural Diversity Database, the project site is not located within any reported occurrence areas of a special status species. The proposal is to create a new parcel from an existing parcel. The subject parcel is actively being farmed. The Applicant has stated that the created parcel may be improved with a single-family residence with the remainder parcel continuing to be used for agricultural purposes. Based on current conditions, the parcel experiences disturbance that would deter special status species from inhabiting the subject parcel. In considering current conditions, the project proposal, and potential future development, the project will not substantially adversely affect any special status species directly or through habitat modification.

- B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service; or
- C. Have a substantial adverse effect on state or federally-protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

FINDING: LESS THAN SIGNIFICANT IMPACT:

According to the National Wetlands Inventory, the subject parcel is located along the boundaries of identified wetlands. Although the subject parcel is located near the identified wetlands, the proposed parcel will not have an adverse effect on the wetland as the parcel is separated by a grade difference and potential development is subject to the setbacks of the underlying zone district. Also, it appears that the identified wetland occurs on the adjacent parcel, Fresno County requires that drainage of a parcel be confined so as not to drain on neighboring properties. Based on these factors, the project is not expected to adversely affect any identified wetlands. There are no riparian or other sensitive natural community identified on or near the subject parcel.

- D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

FINDING: NO IMPACT:

The project will not interfere substantially with the movement of any native resident or migratory fish or wildlife species. No native resident or migratory wildlife corridor or native wildlife nursery site has been identified on the subject parcel. The subject parcel is currently being utilized for agricultural purposes and disturbance of the site has deterred wildlife species from inhabiting the site.

- E. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- F. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?

FINDING: NO IMPACT:

The project will not conflict with any local, state, or federal policies or ordinances protecting biological resources. The project also will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan.

V. CULTURAL RESOURCES

Would the project:

- A. Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5; or
- B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5; or
- C. Disturb any human remains, including those interred outside of formal cemeteries?

FINDING: NO IMPACT:

The project proposes to create a parcel from an existing property. The property is currently utilized for agricultural and has experienced ground disturbance from the agricultural use. As no historical or archaeological resources has been identified on or near the project, and considering past ground disturbing activities related to the existing agricultural use, no impact is seen on Cultural Resources.

VI. ENERGY

Would the project:

- A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation; or
- B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

FINDING: NO IMPACT:

The project proposes to create a parcel from an existing parcel. The project will not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resource as there is not project construction or operation proposed. The Applicant has stated that a single-family residence could be built at a later date. If a single-family residence is built, the residence will be required to abide by the California Building Code which include meeting energy efficiency standards. Therefore, the project will not conflict with or obstruct a state or local plan for renewable energy or energy efficiency.

VII. GEOLOGY AND SOILS

Would the project:

- A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:

1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault?

FINDING: NO IMPACT:

According to the Earthquake Zone Application administered by the California Department of Conservation, the proposed parcels are not located within a rupture of a known earthquake fault. Additionally, per Figure 9-3 of the Fresno County General Plan Background Report (FCGPBR), the parcel is not located near any other identified Earthquake Hazard Zones.

2. Strong seismic ground shaking?
3. Seismic-related ground failure, including liquefaction?

FINDING: NO IMPACT:

According to Figure 9-5 of the FCGPBR, the subject parcel is not located in an area identified as being in a probabilistic seismic hazard area. Based on this, the project site not likely to be subject to strong seismic ground shaking or seismic-related ground failure due to the strong seismic shaking.

4. Landslides?

FINDING: NO IMPACT:

According to Figure 9-6 of the FCGPBR, the project site is not located in identified Landslide Hazard areas.

- B. Result in substantial soil erosion or loss of topsoil?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project proposal requests creation of a parcel from an existing parcel. The existing parcel is actively farmed. The Applicant per the submitted findings indicate that the proposal 2.5-acre parcel is intended to still be farmed, but also be utilized as a homesite. In considering the Applicant's intent, development of the proposed parcel will result in loss of topsoil. Although a loss of topsoil is considered with development of the parcel, development will be subject to the most current building code standards, which will reduce developmental impacts resulting from the loss of topsoil. The project will not result in substantial soil erosion.

- C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Existing terrain of the project site includes an area level with public right-of-way, a bluff, and a lower level at the bottom of the bluff. The proposed parcel will consist of a portion of the street level area and the bluff, and does not contain any portion of the lower level. Development of the subject site is subject to the current building code and will reduce any impacts development may have if located on or near the bluff. Reviewing agencies and departments did not express concern to indicate that the soil of the project site is unstable or would become unstable as a result of the project.

- D. Be located on expansive soil as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

FINDING: NO IMPACT:

Per Figure 7-1 of the Fresno County General Plan Background Report (FCGPBR), the subject parcel is not located in identified Expansive Soil areas.

- E. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project proposal is specifically to create a parcel with no development being included with this proposal. The Applicant has indicated that the subject proposal would be utilized for the existing agricultural operation and for a future homesite. If the proposed parcel were to be developed, the project site would be subject to building permits including for any proposed septic system or alternative waste water disposal system. No reviewing agencies and departments indicated that the subject site would not be able to adequately support the use of septic tanks or alternative waste water disposal systems.

- F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

FINDING: NO IMPACT:

There are no identified unique paleontological resource or unique geologic feature identified on the project site.

VIII. GREENHOUSE GAS EMISSIONS

Would the project:

- A. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or

- B. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

FINDING: LESS THAN SIGNIFICANT IMPACT:

The project proposal will allow creation of a substandard parcel and a remainder parcel. The Applicant has indicated that the proposed parcel will be utilized as a home site, but currently, there are no plans for development of the site. The project proposal will not directly generate greenhouse gas emissions, but if development of the parcel were to occur, by-right uses under the Limited Agricultural (AL) Zone District are not expected to generate greenhouse gas emissions that would have a significant impact on the environment. Additional uses subject to land-use permits would address impacts related to the proposed use. The San Joaquin Valley Air Pollution Control District (SJVAPCD) has been given the opportunity to review and provide comments on the project. There were no expressed concerns from SJVAPCD to indicate that the project proposal would conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gas emissions.

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

- A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials; or
- B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

FINDING: NO IMPACT:

The project proposal is to allow creation of a substandard parcel from an existing 27.51-acre parcel. The existing parcel is actively farmed. The proposal will not create a significant hazard to the public through the transport, use, or disposal of hazardous materials, nor will it create a significant hazard to the public or environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

- C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

FINDING: NO IMPACT:

The project site does not emit hazardous emissions or handle hazardous materials and is not located within one-quarter mile of an existing or proposed school site.

- D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

FINDING: NO IMPACT:

Per a NEPAssist report generated for the project site, there are no hazardous material sites located on or near the project site.

- E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

FINDING: NO IMPACT:

The project site is not located within an airport land use plan or within two miles of a public airport or public use airport.

- F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan; or
- G. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concerns to indicate that the project would impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. The project will not expose people or structures to a significant risk of loss, injury, or death involving wildland fires.

X. HYDROLOGY AND WATER QUALITY

Would the project:

- A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality; or
- B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

FINDING: NO IMPACT:

The Water and Natural Resources Division and the State Water Resources Control Board did not express concerns that the project proposal would violate water quality standards or waste discharge requirements, nor were concerns expressed to indicate

that the project would substantially decrease groundwater supplies or interfere with groundwater recharge. The project proposes to create a substandard parcel from an existing 27.51-acre parcel. There is no development of the site being proposed that is directly linked to the Variance request. Any development that would occur if the Variance request is approved would be subject to permits and review that will address water usage.

- C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would result in substantial erosion or siltation on or off site?
1. Result in substantial erosion or siltation on- or off-site;
 2. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?
 3. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or
 4. Impede or redirect flood flows?

FINDING: NO IMPACT:

The project proposes to create a substandard parcel from the existing 27.51-acre parcel. There is no development being proposed directly with the Variance request. The project will not result in the altering of drainage patterns of the site or alter any course of a stream or river. The project will not result in substantial erosion or siltation. The rate or amount of surface runoff will not increase from the project proposal. Per Fresno County standards, stormwater runoff should not be drained across property lines and be kept onsite. There are no planned stormwater drainage systems that service the project area. The project will not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems and will not provide additional sources of polluted runoff. Per FEMA FIRM Panel 2140H, the project site is not subject to flooding from the 100-year storm, therefore the project will not impede or redirect flood flow.

- D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

FINDING: NO IMPACT:

Per FEMA FIRM Panel 2140H, the project site is not subject to flooding from the 100-year storm. There are not bodies of water near the project site that would indicate the site is at increased risk from tsunami or seiche zones.

- E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concern with the project to indicate that the proposal would conflict with or obstruct implementation of a water quality control plan or sustainable management plan.

XI. LAND USE AND PLANNING

Would the project:

A. Physically divide an established community?

FINDING: NO IMPACT:

The project proposal will not physically divide an established community.

B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

FINDING: LESS THAN SIGNIFICANT IMPACT:

Development in Fresno County is required to be consistent with the Fresno County General Plan. Goal LU-A reads "To promote the long-term conservation of productive and potentially productive agricultural lands and to accommodate agricultural-support services and agriculturally-related activities that support the viability of agriculture and further the County's economic development goals." This goal relates to the environmental impacts of the loss of farmland and is supported by the following policies:

- LU-A.6: The County shall maintain twenty acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in Policies LU-A.9, LU-A.10, and LU-A.11. The County may require parcel sizes larger than twenty (20) acres, based on zoning, local agricultural conditions, and to help ensure the viability of agricultural operations.
- 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...the decision-making body shall consider the negative incremental and cumulative effects such land divisions have on the agricultural community.

The above-mentioned policies are intended to address the environmental concern that an increase in the number of homesite parcels and general decrease in parcel size in Fresno County could lead to a conversion of productive agricultural land.

This application is not consistent with the above policies because the proposed 2.5-acre parcel does not qualify for any of the exemption under Policy LU-A.9 (financing parcel; gift to family to assist with farming; or ownership prior to adoption of AE-20 Zoning), LU-A.10 (agricultural commercial center), or LU-A.11 (resource recovery location). However, these policies are codified in the Fresno County Zoning Ordinance under Section 816.5.A, where this Variance application is requesting relief from the 20-acre minimum parcel size.

The subject parcel is enrolled in the Williamson Act Program. The proposed substandard parcel does not qualify to remain in the Williamson Act Program and must be removed from the Program through the contract cancellation process. A Notice of Non-Renewal has been filed by the Applicant for the proposed parcel as a requirement for cancellation. The Agricultural Land Use Committee will determine if the requested early cancellation of the Contract should be granted and make a recommendation to the Board of Supervisors for a final decision. If the cancellation request is not granted, the Variance request will not be effective, since the proposed parcel would not meet the minimum acreage requirements for the Contract. This application is for a Variance from the minimum parcel size required by the Zone District; however, no Variance is available in regard to the Williamson Act.

If the cancellation request is approved, the contract will be cancelled, and the property owner will no longer be limited to compatible uses stated under the Williamson Act. The parcel would be allowed to split into the proposed 2.5-acre parcel. No immediate development is associated with the application, but the property owners would no longer be obligated to maintain the existing agricultural operation and would be permitted to develop the proposed parcel following approval of the Variance application and mapping application.

Although the project proposal is in conflict with the identified policies, this is not considered to be a significant environmental impact as the nonrenewal of the contract establishes a 10-year wind-down period during which time that applicant is still subject to the terms of the agreement. The Applicant has already filed for non-renewal, so the contract will end either through the early cancellation process or through expiration of the last day of December 29, 2029. The loss of 2.5 acres of active farmland on this parcel is not a significant loss of agricultural resources and has a less than significant impact on conflict with plans and policies adopted to avoid an environmental effect.

XII. MINERAL RESOURCES

Would the project:

- A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or
- B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local General Plan, Specific Plan or other land use plan?

FINDING: NO IMPACT:

According to Figure 7-7 of the Fresno County General Plan Background Report (FCGPBR) the project site is not located on or near any identified mineral resource locations. Additionally, the project proposal does not directly indicate development of the project site that would result in the lost of availability of a known mineral resource or resource recovery site.

XIII. NOISE

Would the project result in:

- A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies; or
- B. Generation of excessive ground-borne vibration or ground-borne noise levels?

FINDING: NO IMPACT:

The project proposes to create a 2.5-acre parcel from an existing 27.51-acre parcel. There is no development or proposed use involved with this project that would result in generation of substantial noise levels, ground-borne vibrations, or ground-borne noise levels. Existing land uses for the surrounding area are agricultural or residential in nature. The subject parcel is utilized for orchard cultivation and does not produce noise in excess of the standard noise generation associated with agricultural uses.

- C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels; or

FINDING: NO IMPACT:

The project site is not located within two miles of a private airstrip, airport land use plan, public airport or public use airport.

XIV. POPULATION AND HOUSING

Would the project:

- A. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?; or
- B. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

FINDING: NO IMPACT:

The project proposal will not result in substantial population growth, nor does it propose any development that would induce substantial population growth. The project site is utilized for agricultural cultivation with no residence onsite. The project proposes to split the subject parcel into two parcels and will not displace people or housing.

XV. PUBLIC SERVICES

Would the project:

- A. Result in substantial adverse physical impacts associated with the provision of new or physically-altered governmental facilities, or the need for new or physically-altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services?

- 1. Fire protection;

FINDING: NO IMPACT:

The Fresno County Fire Protection District (FCFPD) reviewed the subject application and did not express concerns to indicate that the proposal would result in adverse impacts on service ratios, response times, or other performance objectives.

- 2. Police protection;

- 3. Schools;

- 4. Parks; or

- 5. Other public facilities?

FINDING: NO IMPACT:

Reviewing agencies did not express concerns to indicate that the project would result in impacts on service ratios, response times, or other performance objectives to the listed services.

XVI. RECREATION

Would the project:

- A. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated; or

- B. Include recreational facilities or require the construction or expansion of recreational facilities, which might have an adverse physical effect on the environment?

FINDING: NO IMPACT:

The project will not result in an increase use of existing neighborhood and regional parks or other recreational facilities and will not require the construction or expansion of recreational facilities.

XVI. TRANSPORTATION

Would the project:

- A. Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concern to indicate that the proposal conflicts with a program, plan, ordinance or policy addressing the circulation system.

- B. Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

FINDING: NO IMPACT:

There is no increase in traffic trip generation or vehicle miles traveled associated with the project proposal. The project site is currently utilized for agricultural cultivation with traffic generation associated with the agricultural operation. There is no direct development proposed with the project. Potential development of the site associated with by-right uses of the underlying zone district are not expected to conflict with or be inconsistent with CEQA Guidelines.

- C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?; or
- D. Result in inadequate emergency access?

FINDING: NO IMPACT:

Reviewing agencies and departments did not express concerns regarding the design features of the project or regarding emergency access to indicate that the project will result in hazards or inadequate emergency access.

XVIII. TRIBAL CULTURAL RESOURCES

Would the project:

- A. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
1. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

FINDING: NO IMPACT:

Per Assembly Bill 52 (AB 52) participating California Native American Tribes were notified of the subject application and given the opportunity to enter into consultation with the County on discussing the presence of tribal cultural resources on or near the project site. No participating California Native American Tribe expressed concern with the project proposal. Additionally, the subject parcel has historically been in agricultural use and has experienced ground disturbance resulting from the use. There is no development directly associated with the subject application. Therefore it can be seen that the project does not have an impact on tribal cultural resources.

XIX. UTILITIES AND SERVICE SYSTEMS

Would the project:

- A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years; or
- C. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments; or
- D. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals; or

- E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

FINDING: NO IMPACT:

The project proposes to create a 2.5-acre parcel from an existing 27.51-acre parcel. There is no development proposed with this project, although the Applicant indicates that future residential development may occur. Future residential development would be subject to all applicable federal, state, and local standards. As there is no development directly involved with the subject application, the project will not require the relocation or construction of water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities. The subject site has been historically utilized for agricultural purposes. There is no direct development proposed with this application, therefore no change in water usage will occur. The project will not produce wastewater, therefore no impact will occur on capacity. Solid waste generation will not increase as a result of the project, therefore the project will comply with federal, state and local management and reduction statutes and regulation.

XX. WILDFIRE

If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:

- A. Substantially impair an adopted emergency response plan or emergency evacuation plan, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects; or
- B. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire; or
- C. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment; or
- D. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

FINDING: NO IMPACT:

According to the 2007 Fresno County Fire Hazard Severity Zones in LRA Map by the California Department of Forestry and Fire Protection (Cal Fire), the project site is not located in or near a state responsibility area or land classified as very high fire hazard severity zone. According to the map, the project site is located on or near area designated as being a moderate severity zone. If future development of the site were to occur, development would be subject to applicable fire and building code standards. The project will not result in adverse impacts associated with wildfires.

XXI. MANDATORY FINDINGS OF SIGNIFICANCE

Would the project:

- A. Have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

FINDING: NO IMPACT:

Based on the project scope, no proposal for new development associated with the application, and current agricultural use, the project does not have the potential to substantially degrade the quality of the environment or reduce the habitat of a fish or wildlife species.

- B. Have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

FINDING: NO IMPACT:

There are no cumulatively considerable impacts identified from the analysis of the subject proposal.

- C. Have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

FINDING: NO IMPACT:

There were no identified environmental effects that could substantially cause adverse effects on human beings.

CONCLUSION/SUMMARY

Based upon the Initial Study prepared for Variance Application No. 4076, staff has concluded that the project will not have a significant effect on the environment. It has been determined that there would be no impacts to Air Quality, Cultural Resources, Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities and Service Systems, and Wildfire.

Potential impacts related to Aesthetics, Agricultural and Forestry Resources, Biological Resources, Geology and Soils, Greenhouse Gas Emissions, and Land Use Planning have been determined to be less than significant.

A Negative Declaration is recommended and is subject to approval by the decision-making body. The Initial Study is available for review at 2220 Tulare Street, Suite A, street level, located on the southwest corner of Tulare and "M" Street, Fresno, California.

TK

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