ATTACHMENT A

Inter Office Memo

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

DATE: February 23, 2023

TO: Board of Supervisors

FROM: Planning Commission

SUBJECT: RESOLUTION NO. 12977– VARIANCE APPLICATION NO. 4139

APPLICANT: Bret Giannetta

OWNER: Mark Luallen

REQUEST: Allow the creation of a 2.62-acre and a 30.86-acre parcel, from an existing 33.48-acre parcel (gross acreage), in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: The subject parcel is located on the east side of N. Highland Ave., approximately 700 feet north of E. Clinton Ave., approximately one-half mile south of the City of Clovis (APN: 309-200-47) (2768 N. Highland Ave.) (Sup. Dist. 5).

PLANNING COMMISSION ACTION:

At its hearing of February 23, 2023, the Commission considered the Staff Report and testimony (summarized in Exhibit A).

A motion was made by Commissioner Chatha and seconded by Commissioner Carver to deny the Variance request stating that they concurred with staff's analysis that the four required Findings could not be made for Variance No. 4139.

This motion passed on the following vote:

VOTING: Yes: Commissioners Chatha, Carver, Hill, and Woolf

No: Commissioner Abrahamian

Absent: Commissioners Arabian, Ewell, and Zante

Abstain: None

RESOLUTION NO. 12977

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

By: _____
William Kettler, Manager
Development Services and Capital Projects Division

WMK:er:jp
G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4100-4199\4139\Resolution\VA 4139 Resolution.doc

Attachments

EXHIBIT A

Variance Application No. 4139

Staff: The Fresno County Planning Commission considered the Staff Report dated February 23, 2023 and heard a summary presentation by staff.

Presenters: The applicant disagreed with the Staff's recommendation. They described their operation and offered the following information to clarify the intended use:

- Twenty-four (24) notices were mailed without any responses from surrounding property members.
- Finding No.1 presents an unusual circumstance as the property is surrounded by many substandard parcels which do not conform to the twenty-acre parcel size minimum.
- Finding No. 2 can be made made in part due to the fact the surrounding property members from the same zoning classification having one-acre and two-acre parcels.
- Finding No. 4 can be made as the variance will conform to the City of Fresno's Southeast Development Plan Area for Neighborhood Residential, of which is anticipated to be annexed into the City of Fresno at a later date. In the interim, the subdivided land will continue to be used for agricultural purposes.
- With the subdivision in place, the parcels will continue to operate in an agricultural capacity.

Others: No additional individuals presented information in support of or in opposition to the proposal.

Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

WMK:er:jP
G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4100-4199\4139\Resolution\VA 4139 Resolution.doc

RESOLUTION NO. 12977

EXHIBIT "B"

ATTACHMENT
TO
AGENDA ITEM

FISCAL IMPACT STATEMENT

Variance Application No. 4139

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

Variance Application:	$ 6,049.00[1]
Environmental Review:	259.00[2]
Pre- Application Credit	(247.00)[3]
Health Department Review:	365.00[4]
Total Fees Collected	**$ 6,460.00**

[1] Includes project routing, coordination with reviewing agencies, preparation and incorporation of analysis into Staff Report.

[2] Review proposal to provide appropriate California Environmental Quality Act (CEQA) evaluation.

[3] Pre-Application Credit granted if application filed within 6-month timeframe

[4] Review of proposal by the Department of Public Health, Environmental Health Division to provide comments.

ATTACHMENT B

County of Fresno

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

Planning Commission Staff Report
Agenda Item No. 4
February 23, 2023

SUBJECT: **Variance Application No. 4139**

Allow the creation of a 2.62-acre and a 30.86-acre parcel, from an existing 33.48-acre parcel (gross acreage), in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District.

LOCATION: **The subject parcel is located on the east side of N. Highland Ave., approximately 700 feet north of E. Clinton Ave., approximately one-half mile south of the City of Clovis (APN: 309-200-47) (2768 N. Highland Ave.) (Sup. Dist. 5).**

OWNER: **Mark Luallen**

APPLICANT: **Bret Giannetta**

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

David Randall, Senior Planner
(559) 600-4052

RECOMMENDATION:

- Deny Variance Application No. 4139; 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. Zoning Map
4. Land Use Map
5. Variances Map
6. Site Plan
7. Applicant's submitted Findings
8. Photos

SITE DEVELOPMENT AND OPERATIONAL INFORMATION:

Criteria	Existing	Proposed
General Plan Designation	Agriculture	No change
Zoning	AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) Zone District	No change
Parcel Size	31.46 acres	Create a 2.53-acre and a 28.32-acre parcel
Project Site	Single Family Residence and Agriculture	No change
Structural Improvements	Single Family Residence, storage sheds	No change
Nearest Residence	300 feet west	No change
Surrounding Development	Agriculture & Single-Family Residences	No change

ENVIRONMENTAL ANALYSIS:

It has been determined, pursuant to California Environmental Quality Act (CEQA) guidelines Section 15061(b)(3) Common Sense Exemption, that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

PUBLIC NOTICE:

Notices were sent to 24 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.

PUBLIC COMMENT:
There were no comments submitted by the public at the time of submitting this report.

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.

Typical alternatives to a variance application are to either create a homesite parcel or rezone the property to a zone district that allows the project as proposed.

Rezoning, to a higher density Zone which allows smaller parcels would be problematic, as the underling General Plan Land Use Designation of Agriculture would also have to be amended and is not consistent with higher densities.

Homesite parcels are allowed per General Plan Policy LU-A.9. In place of a variance the property owners could create a Homesite parcel if one of the three conditions listed below exists.

1. A lot less than twenty (20) acres is required for financing construction of a residence to be owned and occupied by the owner of abutting property; or

2. The lot or lots to be created are intended for use by persons involved in the farming operation and related to the owner by adoption, blood, or marriage within the second degree of consanguinity, there is only one (1) lot per related person, and there is no more than one (1) gift lot per twenty (20) acres; or

3. The present owner owned the property prior to the date these policies were implemented [1958] and wishes to retain his/her homesite and sell the remaining acreage for agricultural purposes.

The applicants either do not fit the criteria or have elected not to utilize the provision.

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. If approved, the variance will expire one year from the date of the Commission approval unless a mapping application is filed in accordance with the County Ordinance. When circumstances beyond the control of the applicant do not permit compliance with the time limit, the Commission may grant an extension not to exceed one additional year. Extension applications must be filed with the Department of Public Works and Planning before the expiration of the Variance.

BACKGROUND INFORMATION:

The 31.46-acre parcel is located on the east side of Highland Ave. It is currently zoned Agricultural and is not part of any Specific or Community Plans. The subject parcel is currently developed with a single-family residence, a storage shed and agriculture. Surrounding land uses consist of farmland with sparsely located single family residences. The nearest residence is approximately 300-feet west of the subject property.

According to available records there has been one previous Variance request within one half-mile of the subject property for substandard sized lots. That Variance is described below:

Application/Request	Date of Action	Staff Recommendation	Final Action
VA 3791 – Allow the creation of two approximately 5.48-acre parcels from an existing 10.95 in the AE-20 zone district.	September 23, 2004	Denial	Planning Commission Denied

	Current Standard:	Proposed Configuration:	Is Standard Met (y/n):
Setbacks	AE-20 Zone District Front: 35 Feet Side: 20 Feet Rear: 20 Feet	No change	Yes
Parking	For residential use: One parking space for every dwelling unit on the same lot with the main building which they serve and located to the rear of the required front yard, except for hillside lots.	No change	Yes
Lot Coverage	No requirement	No change	N/A
Separation Between Buildings	No requirement for residential or accessory structures, excepting those used to house animals which must be located a minimum of 40 feet from any human-occupied building	No change	Yes
Wall Requirements	Wall required if swimming pool is present	No change	Yes

ANALYSIS/DISCUSSION:

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.***

Reviewing Agencies/Department Comments related to Finding 1:

No comments were received relative to Finding 1.

Finding 1 Analysis:

In support of Finding 1, the Applicant's Findings state that the property has exceptional and extraordinary circumstances due to being purchased by a development company which intends to maintain agriculture, until annexation and development. Applicant also states that the granting of this Variance will allow agriculture to remain, while allowing existing residence to be occupied by a separate owner.

The stated intention to continue agriculture and have the existing residence occupied by a separate owner or the property being purchased by a development company does not constitute an extraordinary circumstance which is unique to the property.

The applicant's proposal is based solely on seeking relief from the development standards to accommodate personal circumstances. There is no unique physical feature about the subject property that causes an unequitable constraint compared to others.

The application does not meet the criteria of an exceptional or extraordinary circumstances that does not apply generally to other property with the same zoning. Granting this variance would be providing the applicant a special right not enjoyed by his neighbors with the same conditions.

Recommended Conditions of Approval: *None*

Finding 1 Conclusion:

Based on the analysis Finding 1 cannot be made. Staff was unable to identify any exceptional or extraordinary physical features or circumstances particular to the subject parcel warranting the granting of the variance.

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

Reviewing Agencies/Department Comments related to Finding 2:

No comments specific to the adequacy of the site were expressed by reviewing Agencies or Departments.

Finding 2 Analysis:

In support of Finding 2, the Applicant's Findings state that other property owners in the immediate vicinity have also created smaller parcels. The applicant also states that one of the parcels is over 20 acres and both parcels will preserve the character and existing uses of the area.

Every variance application is considered on its own merit, based on unique site conditions and circumstances. The approval of other variances in the vicinity of this project does not create a precedent for approval. However, based on records available, there has been only one Variance request within a one-half mile radius proposing to create substandard parcels. The Variance was denied on September 23, 2004.

While there are some parcels less than 20 acres in the area, they were not created by Variances they were legally created when those acreages were allowed by the standards at that time. All the properties have the same acreage constraint that this parcel has and cannot be further divided.

The requested variance is being sought would not be protecting a substantial property right enjoyed by other parcels, it would be a defacto rezoning inconsistent with General Plan Policies and land use designation for the area.

Recommended Conditions of Approval:

None.

Finding 2 Conclusion:

Finding 2 cannot be made, as no deficit of a substantial property right enjoyed by others in the area with the same zoning was identified.

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	19.95 acres	Agriculture	AE-20	Approximately 1,100 feet
South	52.22 acres	Agriculture	AE-20	Approximately 2,400 feet
East	19.11 acres	Agriculture	AE-20	Approximately 1,400 feet
West	20 acres	Agriculture	AE-20	Approximately 1,600 feet

**Distances are approximate and measured from the subject parcel boundaries using a web based aerial imagery application.*

Reviewing Agencies/Department Comments regarding detrimental effects on surrounding property:

No comments specific to land use compatibility were expressed by reviewing Agencies or Departments.

Finding 3 Analysis:

In support of Finding 3, the Applicant's Findings state the existing residential and agricultural uses will remain intact, with no proposal to increase intensity of those uses, this variance will not create any specific circumstances that will harm the public welfare or property rights of others in the vicinity.

While the impact of this singular variance may not constitute a materially detrimental impact, staff notes that the creation of non-conforming parcels has the potential to increase residential density in the area by allowing an additional single-family residence on each parcel and cumulatively may have an impact on the surrounding agriculture. 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, as the Variance, if approved, would not have any materially detrimental impacts on surrounding property.

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

Relevant Policies:	Consistency/Considerations:
General Plan Policy LU-A.6: *The County shall maintain twenty (20) acres as the minimum permitted parcel size in areas designated Agriculture, except as provided in 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.*	The proposed parcel creation is not consistent with this Policy. There are exceptions allowed subject to certain criteria. In this instance, the application either did not meet the criteria or elected not to choose one of the available options for creating a substandard sized parcel.
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.*	The proposed parcel division is not consistent with Policy LU-A.7 as it would create one substandard sized parcel. The creation of a parcel less than 20 acres in the AE-20 Zone District would be inconsistent with Policy LU-A.7 and set a precedent for parcellation of farmland into smaller parcels which are economically less viable farming units and could potentially allow additional single-family homes on the proposed parcels. Such increase in the area, as noted by Fresno County Department of Agriculture, may conflict with normal agricultural practices on

Relevant Policies:	Consistency/Considerations:
	adjacent properties.
General Plan Policy LU-A.12: *In adopting land use policies, regulations and programs, the County shall seek to protect agricultural activities from encroachment of incompatible land uses.*	The creation of a parcel less than 20 acres in the AE-20 Zone District would be inconsistent with Policy LU-A. 12 as smaller parcels could potentially allow a higher density residential area which is inconsistent with the compatibility of the AE-20 zone district.
General Plan Policy LU-A.14: *The County shall ensure that the review of discretionary permits includes an assessment of the conversion of productive agriculture land and the mitigation be required were appropriate.*	In this case, productive agricultural land would not necessarily be converted, rather it would be reallocated between the two subsequent parcels, with the majority of the of the land to be located on proposed parcel B.

Reviewing Agencies/Department Comments regarding General Plan consistency:

Policy Planning Unit, Development Services and Capital Projects Division:

Neighboring parcels are designated as Agricultural in the County General Plan, are zoned AE-20 (Exclusive Agricultural, 20-acre minimum parcel size) and are actively farmed.

Farming and other agricultural land uses such as dairies, feedlots and poultry facilities necessitate location in sparsely populated areas due to the nature of these uses which generate dust, odor and flies, as well as ground and aerial application of herbicides and pesticides to protect crops.

Substandard parcels created for residential use in areas of the County zoned and designated for agricultural use will eventually be occupied by persons who are not involved with agricultural operations and therefore, are not tolerant of the inconveniences associated with the agricultural operations. This would create incompatibility between the agricultural and residential use of lands located in close proximity of each other and may eventually result in removal of adjacent lands from agricultural operation due to complaints from non-farmers residing on substandard parcels created for residential use.

As such, the proposed Variance application 4139 is inconsistent with General Plan policies LU-A.6, LU-A.7.

Finding 4 Analysis:

In support of Finding 4, the Applicant's findings assert that General Plan Policy LU-A.7 generally disallows the creation of parcels less than 20 acres. However, this stipulation is made with the intent of denying a potential increase in residential density and maintaining the feasibility of

agricultural uses. This variance, as proposed, will neither add density nor reduce the amount of acreage currently available on the property for agricultural use. Parcel A was drawn to intentionally minimize the impact to ag uses on Parcel B and will include negligible area that could be used for agriculture. Instead, we are proposing this variance so we can continue to farm on Parcel B and a separate owner can maintain the residential Parcel A, which would offer no possibility for agricultural use.

The applicants' findings do not provide any justification supporting the finding that the proposed parcel division would be consistent with the objectives of the General Plan. The objectives of the General Plan where agriculture is concerned is to protect the agricultural community from encroachments from non-agricultural uses. The creation of 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 and by further dividing these smaller parcels into even smaller parcels, thus creating more single-family residences. 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 AE-20 Zone district is intended to retain this pattern and limit the potential conflicts between residential agricultural activities.

Recommended Conditions of Approval:

None.

Finding 4 Conclusion:

Finding 4 cannot be made as the proposed Variance increases the potential for impacts of non-agricultural use by increasing the number of allowed residential units and is in conflict with General Plan Policies LU-A.6 and LU-A.7.

SUMMARY ANALYSIS / CONCLUSION:

The granting of the variance may be inconsistent with Government Code Section 65906 which prohibits granting of unqualified variances and states in part that variances "shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated". In the case of this application, there is not an identifiable unique physical condition impacting the property, nor is there a substantial property rights being denied, and the variance would be in conflict with the Policies of the County General Plan and Zoning Ordinance.

As cited in the analysis above, the basis for making Findings 1, 2, and 4, necessary for granting the Variance are not met.

PLANNING COMMISSION MOTIONS:

Recommended Motion (Denial Action)

- Move to determine in accordance with the analysis in the staff report that the required Findings 1, 2, and 4 cannot be made, and move to deny Variance No. 4139; 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 the basis for making each of the Findings) and move to approve Variance No. 4139, subject to the Conditions attached as Exhibit 1; and

- Direct the Secretary to prepare a Resolution documenting the Commission's action.

Recommended Conditions of Approval and Project Notes:

See attached Exhibit 1.

ER:jp
G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4100-4199\4139\Staff Reports\VA 4139 Staff Report.docx

Variance Application (VA) No. 4139
Conditions of Approval and Project Notes

Conditions of Approval	
1.	Division of the subject parcels shall be in accordance with the site plan (Exhibit 6) as approved by the Planning Commission.

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.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create the two proposed parcels. The Map shall comply with the requirements of Title 17.72.
2.	The approval of this Variance will expire one year from the date of approval unless the required mapping application to create the parcels is filed in substantial compliance with the Conditions and Project Notes and in accordance with the Parcel Map Ordinance.
3.	It is recommended that the applicant consider having the existing septic tanks pumped and have the tanks and leach lines evaluated by an appropriately licensed contractor if it has not been serviced and/or maintained within the last five years. The evaluation may indicate possible repairs, additions, or require the proper destruction of the system.
4.	Any new development of less than two acres or secondary dwelling may require a nitrogen loading analysis by a qualified professional, demonstrating to the Department of Public Works and Planning (Department) that the regional characteristics are such that an exception to the septic system density limit can be accommodated. The Department will refer any analysis to the Regional Water Quality Control Board, Central Valley Region for their concurrence and input. Any new sewage disposal systems that are proposed, shall be installed under permit and inspection by the Department of Public Works and Planning Building and Safety Section. Contact Department of Public Works and Planning at (559) 600-4540 for more information.
5.	At such time the applicant or property owner(s) decides to construct a new water well, the water well contractor selected by the applicant will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Community Health, Environmental Health Division. Please be advised that only those persons with a valid C-57 contractor's license may construct wells. For more information, contact the Water Surveillance Program at (559) 600-3357.
6.	As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.

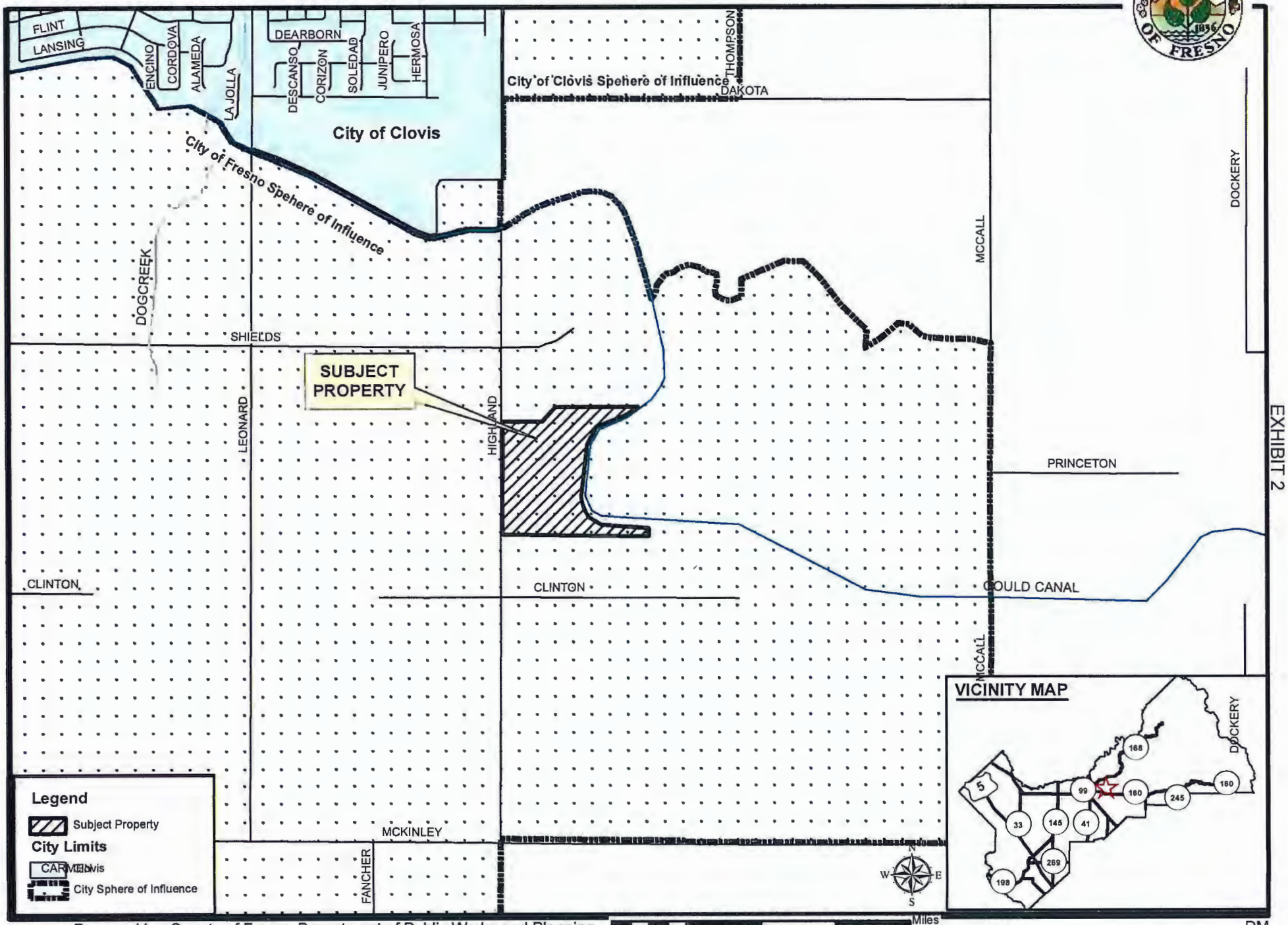
Notes	
7.	If approved, the subdivision will require that a Tentative Parcel Map be prepared in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. The Tentative Parcel Map application shall expire two years after the approval of said Tentative Parcel Map.
8.	Upon approval and acceptance of the Tentative Parcel Map and any Conditions imposed thereon, a Final Parcel Map shall be prepared and by a Professional Land Surveyor or Registered Civil Engineer authorized to practice Land Surveying, in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. Recordation of the Final Parcel Map shall take place within two years of the acceptance of the Tentative Parcel Map unless a Map extension is received prior to the expiration date of the approved Tentative Parcel Map. Failure to record the Final Parcel Map prior to the expiration of said Tentative Parcel Map may void the Parcel Map application.
9.	Prior to site development, all survey monumentation – Property Corners, Centerline Monumentation, Section Corners, County Benchmarks, Federal Benchmarks and Triangulation Stations, etc. - within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
10.	According to FEMA FIRM panel 1595H and 1615H, a northern section of the subject property is within shaded Flood Zone X with Floodway Areas in Zone AE and Flood Zone AE nearby. The shaded flood zone refers to areas of 0.2% annual chance flood, areas of 1 % annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 1 % annual chance flood. Normally, for property within Flood Zone shaded X, any future building pad must be elevated above the existing ground to at least a minimum of twelve inches (12") and/or the finish floor elevation must be elevated above the crown of the adjacent street. Furthermore, any future associated electrical equipment/electrical system components (e.g., service panels, meters, switches, outlets, electrical wiring, walk-in equipment cabinets, generators, bottom of the lowest edge of the solar array, pool-associated motors and water heater, receptacles, junction boxes, inverter, transformers, etc.) in the shaded Flood Zone X must be elevated above the finish floor elevation. All future electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. All sides of any future building shall be sloped 2% for a distance of 5 feet to provide positive drainage away from the building. Floodway Areas in Zone AE refers to the channel of a stream plus adjacent floodplain areas that must be kept free of encroachment so that the 1 % annual chance flood can be carried without substantial increases in flood heights according to FEMA FIRM. The Flood Zone AE is subject to flooding from the 100-year storm. Any future/proposed building/structure near the Special Flood Hazard Area will require a certified Map of Survey/Map of Flood Hazard Area (MOS), stamped and signed by a Professional Land Surveyor, delineating the distances from proposed structure(s) to the flood zone boundary and at least two property lines. The MOS must show spot elevations within the perimeter of the future/proposed and the flood zone for verification purposes.
11.	The subject property is within the City of Fresno SOI (Sphere of Influence). Any future off-site improvements and driveway placement relative to the property line adjacent to road should be consulted with the City regarding their requirements.

Notes	
12.	Any existing or future entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.
13.	Any future work done within the Caltrans state highway right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit/Clearance from Caltrans.
14.	A grading permit/voucher is required for any future grading with this application.
15.	If the variance is approved, a parcel map application will have to be filed with Fresno County to affect the property division.
16.	An encroachment permit is needed from the Road Maintenance and Operations Division for any work done within the road right-of-way of County of Fresno.
17.	According to the U.S.G.S. Quad Map, an intermittent stream may be present within the subject parcel. Any future work within or near a stream will require clearance from California Department of Fish and Wildlife (CDFW). Furthermore, Gould Canal is along the eastern side of the subject parcel according to Assessor's Map Book No. 309 and Page No. 20. Any future improvements constructed within or near a canal should be coordinated with the owners of the canal/appropriate agency.

ER:jp
G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4100-4199\4139\Exhibits\VA 4139 Conditions & PN (Ex 1).docx

VA 4139

LOCATION MAP



Prepared by: County of Fresno Department of Public Works and Planning

DM

VA 4139
STR 30-13/22

EXISTING ZONING MAP

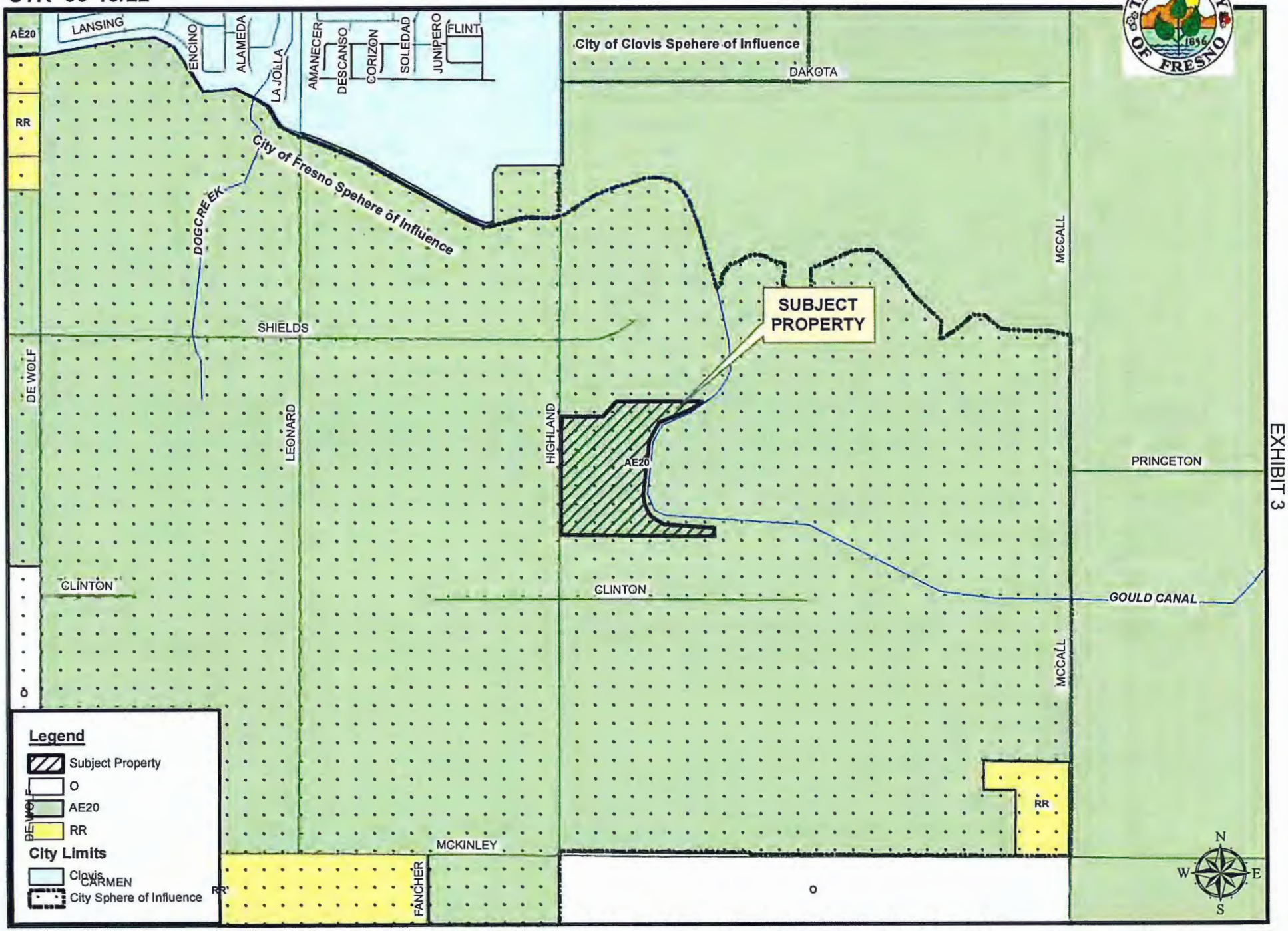


EXHIBIT 3

Prepared by: County of Fresno Department of Public Works and Planning, Development Services Division

0 440 880 1,760 2,640 3,520 Feet

DM

VA 4139

EXISTING LAND USE MAP

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

Legend

- Subject Property
- Ag Contract Land

City Limits

- Clovis
- City Sphere of Influence

N W E S

0 305 610 1,220 1,830 2,440 Feet

Map Prepared by: DM
G:\4360Devs&Pln\GIS\Maps\Landuse\

Department of Public Works and Planning
Development Sevices Division

EXHIBIT 4

EXHIBIT 5

VA 4139

APPROVED VAs IN A HALF-MILE RADIUS

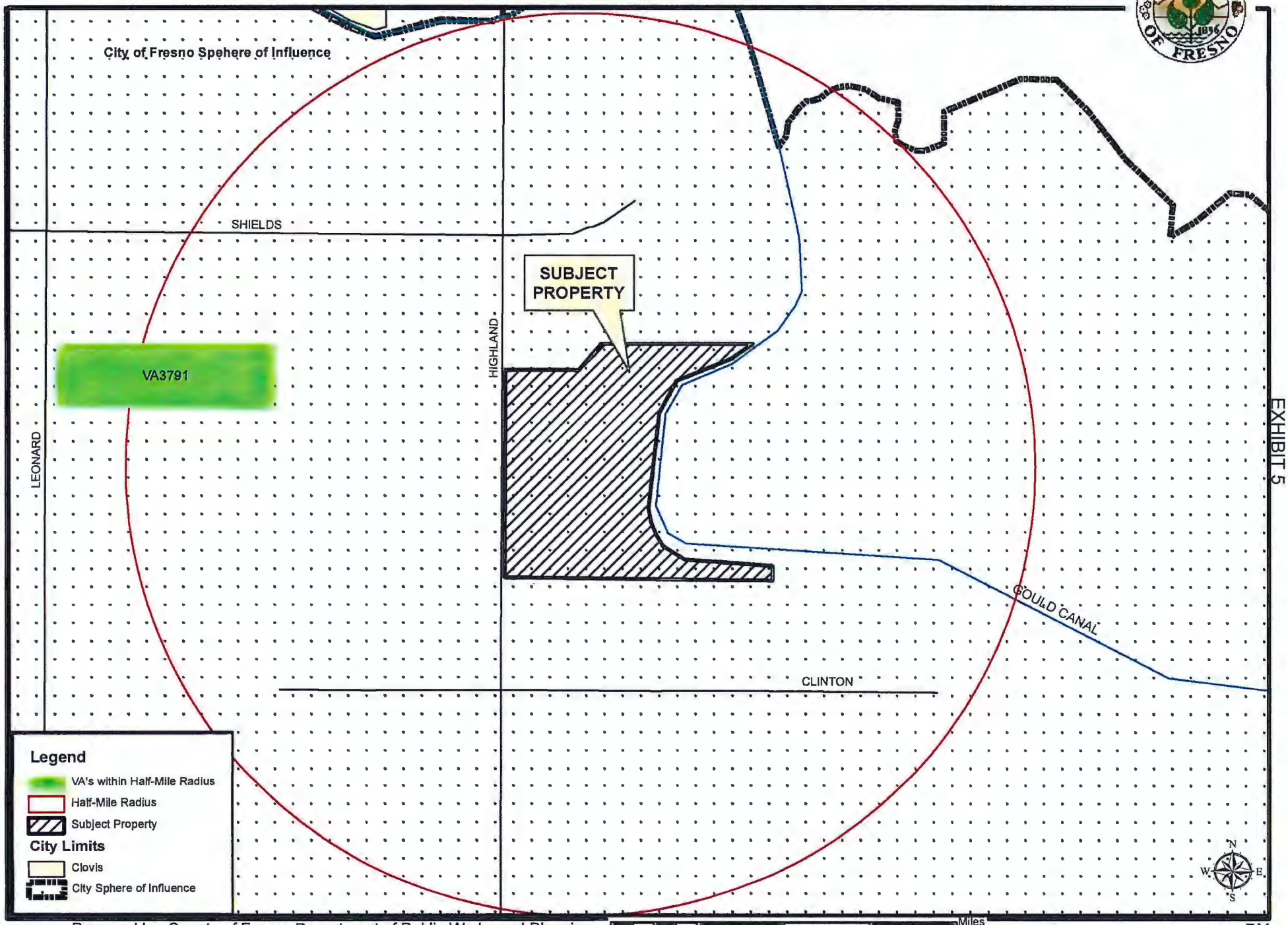
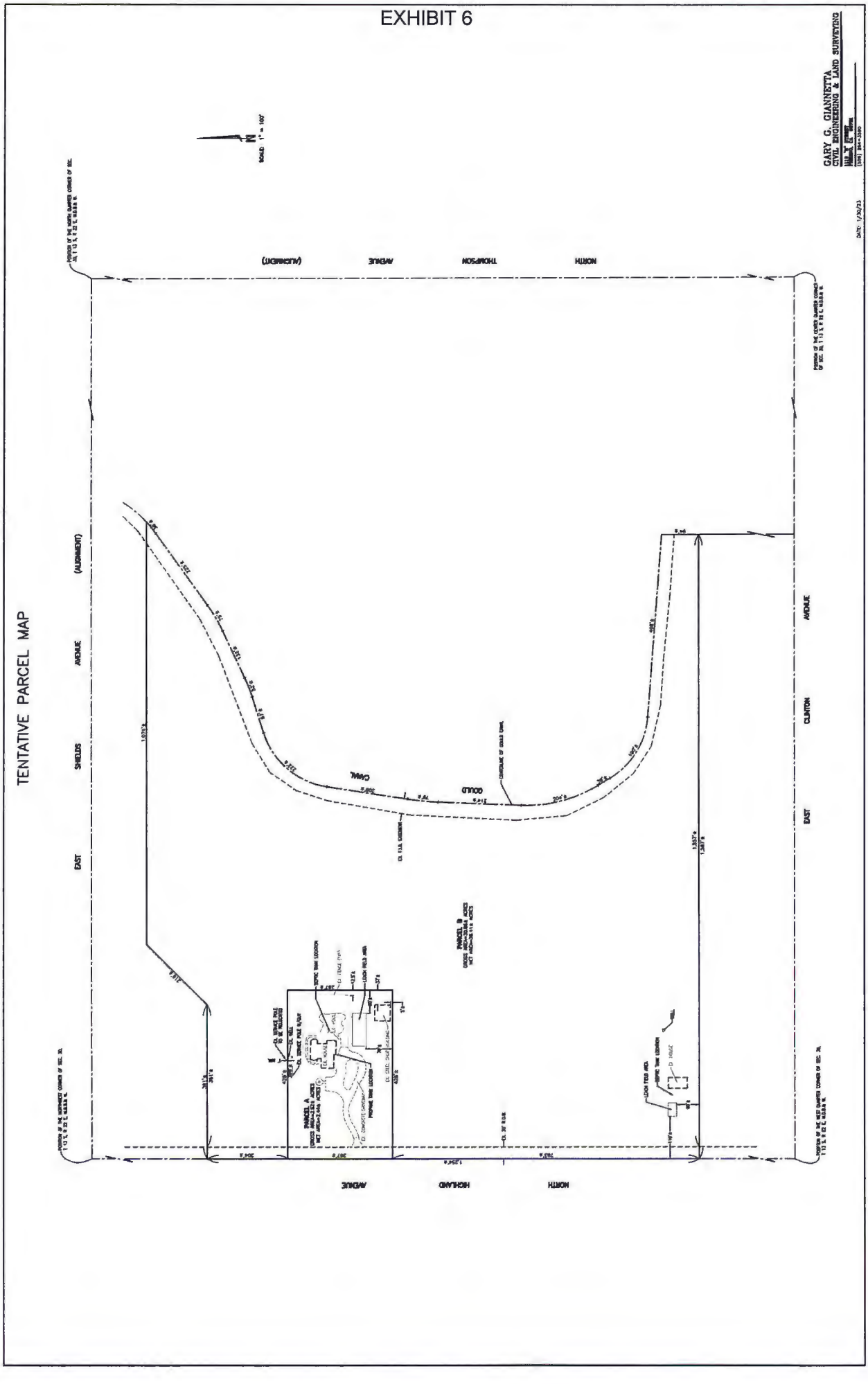


EXHIBIT 5

Prepared by: County of Fresno Department of Public Works and Planning

DM

EXHIBIT 6


TENTATIVE PARCEL MAP
GARY G. GIANNETTA
CIVIL ENGINEERING & LAND SURVEYING
NORTH
THOMPSON
AVENUE
(ALIGNMENT)
EAST
SHIELDS
AVENUE
(ALIGNMENT)
CLINTON
AVENUE
EAST
NORTH
HIGHLAND
AVENUE
GOULD
CANAL
PARCEL A
PARCEL B

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

This property has the unusual circumstance of being in the purchase process by a development company that intends to maintain agricultural uses on the 30.76-acre Parcel B until annexation and development in the City of Fresno is feasible. Other properties in the vicinity that have been purchased with the intent to develop do not always maintain the agricultural intent of the AE-20 zone district. The granting of this variance will allow for this agricultural intent to remain, while allowing the existing primary residence on the property to be occupied by a separate owner, rather than remaining vacant.

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;

As other property owners in the vicinity have done, we are seeking to create a substantially sized parcel for a single-family residential unit (2.72 acres) to retain the upkeep of the residence. This right has been exercised by others in the immediate area. Parcel B will remain over 20 acres and the intent for the near future is to maintain the agricultural use. Both proposed parcels will preserve the character and existing uses of the area.

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;

Since the existing residential and agricultural uses will remain intact, with no proposal to increase intensity of those uses, this variance will not create any specific circumstances that will harm the public welfare or property rights of others in the vicinity.

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

General Plan Policy LU-A.7 generally disallows the creation of parcels less than 20 acres. However, this stipulation is made with the intent of denying a potential increase in residential density and maintaining the feasibility of agricultural uses. This variance, as proposed, will neither add density nor reduce the amount of acreage currently available on the property for agricultural use. Parcel A was drawn to intentionally minimize the impact to ag uses on Parcel B and will include negligible area that could be used for agriculture. Instead, we are proposing this variance so we can continue to farm on Parcel B and a separate owner can maintain the residential Parcel A, which would offer no possibility for agricultural use.


LOOKING NORTHWEST


LOOKING SOUTH


LOOKING NORTHEAST


Looking North


Looking South

ATTACHMENT C

For Office Use Only

Date received: 2-28-23
Copied to: W. Kettler, C. Motta, D. Randall
Date copy sent: 3-1-23 A. Samari
Hearing set for: _____

NOTICE OF APPEAL OF PLANNING COMMISSION DECISION

Date: 2/23/23

Appeal Fee: $508 – Due when filing appeal

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

Project Site Address

2768	N. Highland	Fresno	93737	309-200-47
Number	Street	City	Zip	Assessor's Parcel Number

Appellant's Information

Name: Bret Giannetta

Mailing Address: 1119 S St. Fresno CA 93721

Telephone: 559-264-3590

Applicant's Information ☑ check if same as Appellant)

Name: _____

Mailing Address: _____

Telephone _____

Subject of Appeal

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

Variance Application No.* 4139
Conditional Use Permit No. _____
Director Review and Approval Application No. _____
Tentative Tract Application No. _____
Amendment Application No. _____
Amendment to Text Application No. _____
Other: _____

RECEIVED
FEB 28 2023
CLERK, BOARD OF SUPERVISORS

Date of Planning Commission Action 2/23/23

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

Applicant disagrees with Planning Commission decision that necessary findings for the request could not be made.

Appellant's Signature

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

Please return completed form to Clerk of the Board, 2281 Tulare Street, Room 301, Fresno, CA 93721.

Variance Application (VA) No. 4139
Conditions of Approval and Project Notes

Conditions of Approval	
1.	Division of the subject parcels shall be in accordance with the site plan (Exhibit 6) as approved by the Planning Commission.

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.	Division of the subject property is subject to the provisions of the Fresno County Parcel Map Ordinance. A Parcel Map Application shall be filed to create the two proposed parcels. The Map shall comply with the requirements of Title 17.72.
2.	The approval of this Variance will expire one year from the date of approval unless the required mapping application to create the parcels is filed in substantial compliance with the Conditions and Project Notes and in accordance with the Parcel Map Ordinance.
3.	It is recommended that the applicant consider having the existing septic tanks pumped and have the tanks and leach lines evaluated by an appropriately licensed contractor if it has not been serviced and/or maintained within the last five years. The evaluation may indicate possible repairs, additions, or require the proper destruction of the system.
4.	Any new development of less than two acres or secondary dwelling may require a nitrogen loading analysis by a qualified professional, demonstrating to the Department of Public Works and Planning (Department) that the regional characteristics are such that an exception to the septic system density limit can be accommodated. The Department will refer any analysis to the Regional Water Quality Control Board, Central Valley Region for their concurrence and input. Any new sewage disposal systems that are proposed, shall be installed under permit and inspection by the Department of Public Works and Planning Building and Safety Section. Contact Department of Public Works and Planning at (559) 600-4540 for more information.
5.	At such time the applicant or property owner(s) decides to construct a new water well, the water well contractor selected by the applicant will be required to apply for and obtain a Permit to Construct a Water Well from the Fresno County Department of Community Health, Environmental Health Division. Please be advised that only those persons with a valid C-57 contractor's license may construct wells. For more information, contact the Water Surveillance Program at (559) 600-3357.
6.	As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.
7.	If approved, the subdivision will require that a Tentative Parcel Map be prepared in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. The Tentative Parcel Map application shall expire two years after the approval of said Tentative Parcel Map.

ATTACHMENT D

Notes	
8.	Upon approval and acceptance of the Tentative Parcel Map and any Conditions imposed thereon, a Final Parcel Map shall be prepared and by a Professional Land Surveyor or Registered Civil Engineer authorized to practice Land Surveying, in accordance with the Professional Land Surveyors Act, the Subdivision Map Act and County Ordinance. Recordation of the Final Parcel Map shall take place within two years of the acceptance of the Tentative Parcel Map unless a Map extension is received prior to the expiration date of the approved Tentative Parcel Map. Failure to record the Final Parcel Map prior to the expiration of said Tentative Parcel Map may void the Parcel Map application.
9.	Prior to site development, all survey monumentation – Property Corners, Centerline Monumentation, Section Corners, County Benchmarks, Federal Benchmarks and Triangulation Stations, etc. - within the subject area shall be preserved in accordance with Section 8771 of the Professional Land Surveyors Act and Section 6730.2 of the Professional Engineers Act.
10.	According to FEMA FIRM panel 1595H and 1615H, a northern section of the subject property is within shaded Flood Zone X with Floodway Areas in Zone AE and Flood Zone AE nearby. The shaded flood zone refers to areas of 0.2% annual chance flood, areas of 1 % annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile, and areas protected by levees from 1 % annual chance flood. Normally, for property within Flood Zone shaded X, any future building pad must be elevated above the existing ground to at least a minimum of twelve inches (12") and/or the finish floor elevation must be elevated above the crown of the adjacent street. Furthermore, any future associated electrical equipment/electrical system components (e.g., service panels, meters, switches, outlets, electrical wiring, walk-in equipment cabinets, generators, bottom of the lowest edge of the solar array, pool-associated motors and water heater, receptacles, junction boxes, inverter, transformers, etc.) in the shaded Flood Zone X must be elevated above the finish floor elevation. All future electrical wiring below the flood elevation shall be in a watertight conduit or approved direct burial cable. All sides of any future building shall be sloped 2% for a distance of 5 feet to provide positive drainage away from the building. Floodway Areas in Zone AE refers to the channel of a stream plus adjacent floodplain areas that must be kept free of encroachment so that the 1 % annual chance flood can be carried without substantial increases in flood heights according to FEMA FIRM. The Flood Zone AE is subject to flooding from the 100-year storm. Any future/proposed building/structure near the Special Flood Hazard Area will require a certified Map of Survey/Map of Flood Hazard Area (MOS), stamped and signed by a Professional Land Surveyor, delineating the distances from proposed structure(s) to the flood zone boundary and at least two property lines. The MOS must show spot elevations within the perimeter of the future/proposed and the flood zone for verification purposes.
11.	The subject property is within the City of Fresno SOI (Sphere of Influence). Any future off-site improvements and driveway placement relative to the property line adjacent to road should be consulted with the City regarding their requirements.
12.	Any existing or future entrance gate should be set back a minimum of 20 feet from the road right-of-way line or the length of the longest truck entering the site and shall not swing outward.
13.	Any future work done within the Caltrans state highway right-of-way to construct a new driveway or improve an existing driveway will require an Encroachment Permit/Clearance from Caltrans.

Notes	
14.	A grading permit/voucher is required for any future grading with this application.
15.	If the variance is approved, a parcel map application will have to be filed with Fresno County to affect the property division.
16.	An encroachment permit is needed from the Road Maintenance and Operations Division for any work done within the road right-of-way of County of Fresno.
17.	According to the U.S.G.S. Quad Map, an intermittent stream may be present within the subject parcel. Any future work within or near a stream will require clearance from California Department of Fish and Wildlife (CDFW). Furthermore, Gould Canal is along the eastern side of the subject parcel according to Assessor's Map Book No. 309 and Page No. 20. Any future improvements constructed within or near a canal should be coordinated with the owners of the canal/appropriate agency.

ER:jp
G:\4360Devs&Pln\PROJSEC\PROJDOCS\VA\4100-4199\4139\Exhibits\VA 4139 Conditions & PN (Ex 1).docx